

The Dynamics of Islamic Inheritance in Indonesia Between Sharia and Social Realities

Raja Ritonga*
Mahasiswa
Program
Doktoral, Studi
Islam,
Universitas
Muhammadiyah
Sumatera Barat

**Mahyudin
Ritonga**
Universitas
Muhammadiyah
Sumatera Barat

Abstract: This research examines the dynamics of Islamic inheritance in Indonesia, focusing on the interaction between sharia principles and the diverse social realities in various Muslim communities. Indonesia, as the country with the largest Muslim population in the world, offers a unique context in which Islamic inheritance law must adapt to various cultures, customs, and national legal systems. This study aims to identify how sharia provisions on inheritance are applied and adjusted in the inheritance practices prevalent in society. The method used in this research is a form of library research. Library research is conducted by collecting data through the analysis of relevant literature related to the study's theme. This research employs a qualitative approach with a descriptive-analytical method. The results of the study show that although sharia principles provide a clear legal framework, their implementation often needs to be adjusted to local social norms to achieve justice and welfare. Additionally, it emphasizes the importance of flexibility and contextualization in the application of Islamic law, as well as its potential contribution to social harmony and justice in a multicultural society.

Keywords: *Dynamics, Islamic Inheritance, Social Realities, Sharia*

Abstrak: Penelitian ini mengkaji dinamika kewarisan Islam di Indonesia dengan fokus pada interaksi antara prinsip-prinsip syariah dan realitas sosial yang beragam di berbagai komunitas Muslim. Indonesia, sebagai negara dengan populasi Muslim terbesar di dunia, menawarkan konteks yang unik di mana hukum warisan Islam harus beradaptasi dengan berbagai budaya, adat istiadat, dan sistem hukum nasional. Penelitian ini bertujuan untuk mengidentifikasi bagaimana ketentuan-ketentuan syariah mengenai warisan diterapkan dan disesuaikan dalam praktik kewarisan yang berlaku pada masyarakat. Metode yang digunakan dalam penelitian ini adalah bentuk penelitian kepustakaan (library research). Penelitian kepustakaan dilakukan dengan mengumpulkan data melalui analisis bahan-bahan kepustakaan yang relevan dengan tema kajian. Penelitian ini menggunakan pendekatan kualitatif dengan metode deskriptif analisis. Hasil penelitian menunjukkan bahwa meskipun prinsip-prinsip syariah memberikan kerangka hukum yang jelas, implementasinya seringkali harus disesuaikan dengan norma-norma sosial lokal untuk mencapai keadilan dan kesejahteraan. Selain itu, ditekankan bahwa pentingnya fleksibilitas dan kontekstualisasi dalam penerapan hukum Islam, serta kontribusi potensinya terhadap harmoni sosial dan keadilan dalam masyarakat multikultural.

Kata Kunci: *Dinamika, Waris Islam, Syariah, Realitas Sosial*

1. Introduction

The implementation of Islamic law in Indonesia has undergone a significant journey, starting from the Dutch colonial period to the present era of reform.¹ The history records that the application of Islamic law in the Indonesian context was truly realized through Law No. 1 of 1974 on marriage and Law No. 7 of 1989 on religious courts, despite the arduous struggle, particularly by Muslims.² The legal sources that guide law enforcers, practitioners, and related parties, aside from these laws, include fatwas from scholars, documented in both classical and modern fiqh books. These sources remain an important supplement in the process of understanding Islamic law to this day.³

Although the Compilation of Islamic Law (KHI) has been recognized as positive law for Muslims in Indonesia, in practice, some Muslims do not refer to the KHI but choose to follow Sharia provisions.⁴ This creates issues within the community regarding the division of inheritance.⁵ The religious court system, which is an institution for Muslims to resolve various civil disputes, including inheritance cases, is expected to provide just decisions in line with the development of Islamic inheritance law in Indonesia. The hope is that religious courts can address and resolve these issues fairly for Muslims, following the evolution of Islamic inheritance law in Indonesia.⁶

The formulation of fiqh on inheritance is full of legal policies, especially when there is a clash between legal rules.⁷ This is done to accommodate the sense of justice in society.

¹ Jaih Mubarak, *Sejarah Dan Perkembangan Hukum Islam* (Bandung: Remaja Rosda Karya, 2000); hlm. 15-20. Hotmartua Nasution, 'Pembaharuan Hukum Keluarga Islam Tentang Usia Perkawinan Di Indonesia (Studi Atas Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan)', *Jurusan Al-Ahwal Al-Syakhsyah Fakultas Syari'ah Dan Hukum*, 2019.

² Qodariah Barkah, 'Kontekstualisasi Hukum Keluarga Islam Di Indonesia', *JURNAL HUKUM ISLAM*, 2018, 95 <<https://doi.org/10.28918/jhi.v16i1.1397>>; Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia, Antara Fiqh Munakahat Dan Undang-Undang Perkawinan Nasional* (Jakarta: Rineka Cipta, 1994). Hlm, 10-15

³ Aspandi, 'MAHAR DALAM PERKAWINAN ISLAM; Analisis Pelaksanaan Pembayaran Dan Pemegang Hak Mahar', *AL-'ADALAH: Jurnal Syariah Dan Hukum Islam*, 5.2 (2020), 244–57; *Undang-Undang R.I Nomor 1 Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam* (Bandung: Citra Umbara, 2012).

⁴ Afidah Wahyuni, 'Sistem Waris Dalam Perspektif Islam Dan Peraturan Perundang-Undangan Di Indonesia', *SALAM: Jurnal Sosial Dan Budaya Syar-I*, 5.2 (2018), 147–60 <<https://doi.org/10.15408/sjsbs.v5i2.9412>>; Raja Ritonga, 'Penentuan Status Ahli Waris Melalui Hubungan Nasab; Analisis Kewarisan Kakek Dan Nenek', *Al Yasini: Jurnal Keislaman, Sosial, Hukum Dan Pendidikan*, 07.02 (2022), 188–201.

⁵ Ibrahim Ahmad, 'Menyelesaikan Sengketa Pembagian Warisan Melalui Peran Kepala Desa', *Jurnal Legalitas*, 5.1 (2012); Anita Kamilah and Rendy Aridhayandi, 'Kajian Terhadap Penyelesaian Sengketa Pembagian Harta Warisan Atas Tanah Akibat Tidak Dilaksanakannya Wasiat Oleh Ahli Waris Dihubungkan Dengan Buku li Kita Undang-Undang Hukum Perdata Tentang Benda (Van Zaken)', *Jurnal Wawasan Yuridika*, 32.1 (2016), hlm 22–37.

⁶ Syarief Husien and Akhmad Khisni, 'Hukum Waris Islam Di Indonesia (Studi Perkembangan Hukum Kewarisan Dalam Kompilasi Hukum Islam Dan Praktek Di Pengadilan Agama)', *Jurnal Akta*, 5.1 (2018), 75–86 <<https://doi.org/10.30659/akta.v5i1.2533>>; Ahmad Baskam Amrul, Jumadil, 'Kedudukan Kompilasi Hukum Islam Dalam Penyelesaian Perkara Di Pengadilan Agama: Perspektif Sistem Hukum Indonesia', *Al-Azhar Islamic Law Review*, 3.1 (2021), hlm, 11–23.

⁷ Abdul Wahab Khallaf, *Ilmu Ushul Al Fiqh* (Kairo: Dar El Hadith, 2002). hlm, 45-47. Abdul 'Aziz Muhammad 'Azam, *Al-Qowa'id Al-Fiqhiyah* (Kairo: Dar El Hadith, 2005). Hlm, 66.

The legal policies applied by the companions in the context of inheritance can be seen through various forms of resolutions such as 'aul and radd, gharawaian, akdariyah, musyarakah, and al-kharqa'. Policies like these were not only applied and carried out by companions like Umar bin al-Khattab but have also become solutions in several Supreme Court rulings.⁸

Additionally, the desire for justice in society drives the demand that heirs with different religious beliefs should receive a portion of the inheritance, and that this provision be accommodated in the law. However, if such a provision becomes law, it would conflict with Islamic law as the higher law. As a solution, the Supreme Court issued a decision stating that they are entitled to receive a portion of the inheritance, but not in the form of inheritance. With this solution, all parties feel they have gained something.⁹ This decision allows for the fulfillment of societal justice without violating higher law and remains consistent with the unchangeable principles of Islamic law. The result is that all parties, both those demanding equal rights and those who view it as contradictory, feel they have won. Such legal policy forms a decision acceptable to all parties, ensuring no one feels disadvantaged.¹⁰

It is well-known that the entirety of Islamic teachings refer to the Qur'an, which holds a primary position. This is also true for Islamic inheritance law, which is a direct expression from the sacred texts of the Qur'an. Islamic inheritance law is indeed the only form of regulation explicitly detailed through the Qur'an. No other regulation is represented as clearly as inheritance.¹¹

The Qur'an provides very technical and practical explanations regarding the division of the inheritance left by the deceased. These explanations relate to the processes and procedures for its distribution, systematically regulated with preliminary actions as obligations of the heirs toward the deceased's estate. The Qur'an also explicitly confirms

⁸ Nasution; Hasan H Muhammad, 'Hukum Islam Dan Maslahatnya Di Indonesia', *Al Syir'ah*, 11.2 (2013).

⁹ Siah Khosyi'ah dan Aah Tsamrotul Fuadah, 'RECHTVINDING TENTANG WARIS BEDA AGAMA DI PENGADILAN AGAMA KOTA BANDUNG', *Asy-Syari'ah Vol.*, 21.2 (2019), 135–58; Sakirman, 'Konvergensi Pembagian Harta Waris Dalam Hukum Islam', *Al-Adalah*, XIII.2 (2016), 155–64; Wahyuni.

¹⁰ Lalu Junaidi, 'Kajian Sosiologi Hukum Terhadap Adat Kewarisan Masyarakat Desa Mangkung Kecamatan Praya Barat Kabupaten Lombok Tengah', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyah Fakultas Syariah IAIN Mataram*, 9.01 (2017), 66–88 <<https://doi.org/10.20414/alihkam.v9i01.1154>>; Muhammad Shofwanul Mu'minin, 'Konflik Keluarga Akibat Pembagian "Harta Waris" Dengan Hibah Perspektif Kompilasi Hukum Islam', *SAKINA: Journal of Family Studies*, 4.3 (2020), 12.

¹¹ et. al. Raja Ritonga, *Hasil Observasi Dan Wawancara* (Tanjung Julu, 2023); Raja Ritonga, 'Ta'yin; Penentuan Bagian Ahli Waris Sebelum Pembagian Warisan', *Al-Syakhshiyah*, 3.1 (2021), 29–47 <<https://doi.org/10.35673/as-hki.v3i1.1348>>; Raja Ritonga, 'Teori Dan Praktik Penentuan Ahli Waris Ashobah Dalam Konsep Syajarotul Mirats', *Nizham*, 10.1 (2022), 42–57 <<https://doi.org/10.32332/nizham.v10i1.4804>>; Raja Ritonga, 'The Firts Class of Women Heir Member in The Observation of Surah An-Nisa Ayat 11, 12 and 176', *Al- 'A Dalah : Jurnal Syariah Dan Hukum Islam*, 6.1 (2021), 1–17 <<https://doi.org/10.31538/adlh.v6i1.1362>>; Raja Ritonga Sumper Mulia Harahap, Martua Nasution, 'Konsep Dan Metode Penyelesaian Kewarisan Antara Kakek Dengan Saudara Menurut Syekh Ali Ash Shobuni', *Istinbáth*, 21.1 (2022), 57–86; Raja Ritonga Sumper Mulia Harahap, 'Metode Penyelesaian Kasus Waris Islam: Analisis Dan Aplikatif', *Al-Mizan*, 18.1 (2022), 77–98.

with categorical expressions regarding those entitled to inherit and the respective shares of each. This detailed and technical guidance provides a solid foundation in the regulation of inheritance distribution in the context of Islamic inheritance law.¹²

Many argue that the method of inheritance distribution, as regulated by the Qur'anic verses known as *faraid*, is not *qat'iy* (definitive) and final. The essence of legal provisions, including inheritance distribution, is to create justice. How this justice is fully realized depends on temporal and local situations and conditions.¹³

Others state that inheritance matters are an individual right, where the individual entitled can choose to exercise or not exercise their right, or to exercise it in a certain way as long as it does not harm others, according to the standard rules applicable in normal situations. This approach differs from the rights of Allah (or general rights), such as prohibitions against theft, adultery, or murder, where penalties for violations are clear and must be enforced. In these cases, humans do not have the authority to grant tolerance or forgiveness.¹⁴

The purpose of writing this article is to describe the dynamics of Islamic inheritance in Indonesia, focusing on the interaction between Sharia principles and the diverse social realities in various Muslim communities. This study also reviews how Islamic inheritance law is applied in the multicultural and pluralistic context of Indonesian society, and identifies the social, cultural, and legal factors influencing the application and adaptation of Sharia in everyday inheritance practices. Thus, this research is expected to provide insights into how Sharia provisions can be harmonized with local social realities to achieve justice and welfare in the distribution of inheritance.

2. Library Review

a. Islamic Inheritance

In the context of Islam, inheritance (*faraid*) refers to the transfer of the deceased's estate to their living heirs in accordance with Sharia law.¹⁵ The Quran and Hadith serve as the primary basis for establishing inheritance laws.¹⁶ Surah An-Nisa' is the main reference governing the shares of each heir such as children, spouses, parents, siblings, nephews, and uncles. The main principle of Islamic inheritance law is justice and balance, ensuring

¹² Syekh Muhammad Ali Shobuni, *Al Mawarits Fi Asy-Syari'ah Al- Islamiyah Fi Dhoui Al Kitab Wa As Sunnah* (Kairo: Daar Ash Shobuni, 2002). Hlm, 17-25.

¹³ Supriyadi, 'Pilihan Hukum Kewarisan Dalam Masyarakat Pluralistik (Studi Komparasi Hukum Islam Dan Hukum Perdata)', *Al- Adalah*, 12.3 (2015), 553–68.

¹⁴ Nur Atira Ali, 'Pelaksanaan Pembagian Warisan Secara Damai Dalam Bentuk Takharuj Di Pengadilan Agama Makassar Kelas I A', *UIN Alauddin Makassar*, 2018 <<http://www.ncbi.nlm.nih.gov/pubmed/7556065><http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=PMC394507><http://dx.doi.org/10.1016/j.humpath.2017.05.005><https://doi.org/10.1007/s00401-018-1825-z><http://www.ncbi.nlm.nih.gov/pubmed/27157931>>.

¹⁵ Muhammad Taha Abu Al 'Ala Khalifah, *Ahkam Al Mawarits Dirasah Tathbiqiyah* (Kairo: Dar Al Salam, 2005). Hlm, 18.

¹⁶ Ahmad Muhyiddin Al 'Ajuz, *Al Mirats Al 'Adil Fi Al Islam Baina Al Mawarits Al Qadimah Wa Al Haditsah* (Beirut: Muassasah Al Ma'arif, 1986). Hlm, 12.

that each heir receives their rightful share proportionally according to their kinship and responsibilities within the family.¹⁷ Before the distribution of inheritance, the debts of the deceased must be settled, and valid wills must be fulfilled, with the condition that the will does not exceed one-third of the total estate. Distribution of assets is based on specific fractions such as 1/2, 1/4, or 1/8 to ensure fairness. The implementation of Islamic inheritance law varies in different countries depending on the legal system in place, but the goal remains the same: to safeguard family welfare and prevent conflicts by ensuring fair distribution in accordance with the will of Allah.¹⁸

b. Relationship between Sharia and Social Realities

The relationship between Sharia and social realities in Islam is closely intertwined and mutually influential. Sharia, as the Islamic legal system encompassing rules derived from the Quran and Hadith, is designed to regulate all aspects of Muslim life, including worship, muamalah (social and economic relations), and morality.¹⁹ Sharia principles aim to achieve justice, welfare, and balance in society. Social realities, encompassing cultural, economic, and political conditions, influence how Sharia is implemented. For example, in the context of inheritance, Sharia rules emphasize justice and balance, but their application can be adapted to existing social conditions, such as family structure and asset ownership. Conversely, Sharia also serves as a guide to shape and improve social realities, by promoting practices that support welfare and social harmony while avoiding actions that harm individuals or groups in society. Thus, there is a dynamic interaction between Sharia and social realities, where Sharia provides a moral and legal framework while social realities provide the context for the application of these principles.²⁰

3. Research Methods

The method used in this research is a form of library research. Library research is conducted by collecting data through the analysis of relevant literature on the issue being discussed. This study employs a qualitative approach with descriptive analysis methods. The qualitative approach allows researchers to gain a deep understanding of the context and substance of the issue. Meanwhile, descriptive analysis method is used to outline

¹⁷ Abu 'Abdullah Muhammad bin Ahmad bin Abu Bakr Al-Anshari Al-Qurthubi, *Al Jami' Li Ahkami Al Qur'an*, VI (Beirut: AL-Resalah, 2006). Hlm, 130.

¹⁸ Naser Farid Muhammad Washil, *Fiqhu Al Mawarits Wa Al Wasiyah* (Kairo: Dar Al Salam, 1995). Hlm, 16-25.

¹⁹ Ghofar Shidiq, 'Teori Maqashid Al -Syari'ah Dalam Hukum Islam', *SULTAN AGUNG*, XLIV.118 (2009), 117–30 <<https://doi.org/10.1001/archneur.58.4.677>>; Ridwan Jamal, 'Maqashid Al-Syariah Dan Relevansinya Dalam Konteks Kekinian', *Jurnal Ilmiah Al-Syir'ah*, 8.1 (2010), 1–12.

²⁰ A. Rahman Ritonga, 'Memahami Islam Secara Kaffah: Integrasi Ilmu Keagamaan Dengan Ilmu_Illmu Umum', *Islam Realitas: Journal of Islamic & Social Studies*, 2.2 (2016), 118 <https://doi.org/10.30983/islam_realitas.v2i2.183>.

several legal policies related to inheritance distribution in Islamic Inheritance Law in a detailed and comprehensive manner.

4. Results and Discusse

a. Dynamics of Islamic Inheritance Among Indonesian Muslims

Some argue that inheritance distribution is an individual right, where those entitled can decide to utilize or waive their rights, as long as it doesn't harm others according to standard rules. This understanding is linked to the rights of Allah or common rights, such as prohibitions against theft, adultery, or murder, where punishments for violations are clear and must be enforced. In this context, there is no authority for humans to provide tolerance or forgiveness.²¹

As an alternative, a familial settlement method for inheritance distribution is proposed, based on agreements among heirs. This approach is considered a wise solution to address economic disparities among heirs. In this system, heirs who are entitled to a larger share may choose to sacrifice their portion for other heirs who, although receiving a smaller share, may require special attention economically.²²

The key requirement in this approach is the agreement and willingness of the heirs. Furthermore, heirs also have the option to relinquish their rights to inheritance and give them to other heirs. Conversely, if the heirs do not agree or are unwilling to distribute it in a familial manner, then the distribution system is carried out according to the faraid rules outlined by the Quran and Sunnah, or in the Indonesian context, according to the relevant legislation.²³

Inheritance distribution in a familial manner may be driven by considerations of economic disparities among heirs, where some may have better economic conditions than others. This is expected to help improve their living conditions. Other reasons may include considerations that some heirs are more involved in managing the deceased's estate, hence it's logical for them to receive a larger share. However, these principles only apply if all parties agree and understand their respective rights.²⁴

Islamic law teaches the principle of individual inheritance, where estate assets can be divided for individual ownership. Each heir receives their portion separately, without dependence or attachment to other heirs. The entire estate is measured in a certain value that can be divided, and then the amount is given to each heir according to their respective

²¹ Husien and Khisni.

²² Suhairi Suhairi, 'Perdamaian Dalam Pembagian Harta Warisan (Kritik Atas Konsep Qat'iy Dalam Hukum Kewarisan Islam)', *Al-Manahij: Jurnal Kajian Hukum Islam*, 2012, 157–65 <<https://doi.org/10.24090/mnh.v6i1.595>>.

²³ Naskur, 'ASAS-ASAS HUKUM KEWARISAN DALAM ISLAM (Studi Analisis Pendekatan Al-Qur'an Dan Al-Hadis Sebagai Sumber Hukum Islam) Naskur', 2005.

²⁴ Muhammad Muhibin & Abdul Wahid, *Hukum Kewarisan Islam Sebagai Pembaharuan Hukum Positif Di Indonesia* (Jakarta: Sinar Grafika, 2009); Raja Ritonga, 'Sistem Kewarisan Adat Masyarakat Muslim Suku Tengger Perspektif Hukum Islam', *El Ahli: Jurnal Hukum Keluarga Islam*, 1.1 (2020), 1–19.

share.²⁵ This principle is based on the belief that every individual has the ability to receive their rights and fulfill their obligations, known as *ahliyat al-wajib* in *ushul fiqh*. Therefore, each heir has the right to claim their inheritance independently and also has the right to choose not to do so. The individual nature of inheritance is reflected in the rules of the Quran governing the division of inheritance. Surah An-Nisa verses 7, 11, 12, and 176 detail the rights of individual heirs according to their predetermined shares. In uncertain situations, such as the division between male and female children or siblings, the balancing of their portions is also explained.²⁶

In practice, disputes often arise due to dissatisfaction with the distribution of inheritance. Claimants feel aggrieved with what they consider to be an unfair portion, while the opposing party believes that the distribution is fair and proportional, especially because it was based on initial agreements. To resolve disagreements, the community generally chooses to settle them through consensus meetings known as *ishlah*.²⁷

Ishlah is a process of finding a solution through discussions involving elder family members who still have kinship ties with the heirs as mediators. If *ishlah* cannot reach an agreement, the mediators may involve local community leaders and scholars as mediators. The aim of this approach is to create mutual understanding and seek solutions acceptable to all parties involved, in the hope of avoiding larger conflicts within the community.²⁸

The implementation of inheritance law in Indonesia is greatly influenced by three main legal systems, namely Islamic law, customary law, and Western law. This phenomenon is reflected in the absence of national laws specifically regulating inheritance law. As a result, every Indonesian resident uses different legal rules in determining inheritance distribution according to the applicable laws for each individual.²⁹

In this context, if the deceased is part of a community still subject to customary law, then customary law applies in determining inheritance distribution. Conversely, for non-Muslims, civil law applies, while if the deceased is Muslim, Islamic inheritance law applies. Thus, the heterogeneity of these legal systems creates diversity in determining inheritance rights, depending on the background and legal beliefs of the individuals involved.³⁰

²⁵ Naskur, 'Ahli Waris Dalam Kompilasi Hukum Islam', *Jurnal Ilmiah Al-Syir'ah*, 6.2 (2018).

²⁶ Martua Nasution Raja Ritonga, 'Sistem Waris Masyarakat Muslim Batak Angkola Dalam Tinjauan Alqur'an (Studi Komparasi Surah An-Nisa Ayat 11, 12 Dan 176)', *Asy-Syari'ah: Jurnal Hukum Islam*, 7.2 (2021), 209–33 <<https://doi.org/10.36835/assyariah.v7i2.544>>.

²⁷ Muhammad Shofwanul Mu'minin, 'Konflik Keluarga Akibat Pembagian Harta Waris Dengan Hibah Perspektif Hukum Kompilasi Islam' (Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2020).

²⁸ Raja Ritonga and Amhar Maulana Harahap, 'Dinamisasi Kewarisan Islam Pada Kasus Musytarikh Dalam Konsep Syajarotul Mirats', *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, 3.1 (2022), 1–17 <<https://doi.org/10.15575/as.v3i1.17248>>.

²⁹ Raja Ritonga, 'METODE HITUNGAN BAGIAN BANCI DALAM WARIS ISLAM: ANALISIS DAN PRAKTIK', *AL-HUKAMA The Indonesian Journal of Islamic Family Law*, 11.01 (2021), 76–104 <<https://doi.org/10.15642/alhukama.2021.11.01.76-104>>.

³⁰ Mohammad Fauzi, 'Legislasi Hukum Kewarisan Di Indonesia', *Jurnal Pengembangan Masyarakat Islam*, 9.2 (2016), 53–76.

b. Social Reality in Inheritance Distribution

Essentially, law is a social reality because it possesses characteristics that always refer to social realities. Firstly, law desires stability within society. Secondly, law functions as a set of regulations that govern human relationships. Thirdly, law tends to prioritize order. It is acknowledged that in group life, general rules are necessary. This is due to the consideration that every interest in society needs to be accommodated in general rules so that these interests can be maintained and protected. Legal rules, including laws and unwritten legal norms, contain a series of general provisions that provide guidance for individuals in interacting in group life, both in interpersonal relationships and in their interactions with society.³¹

Inheritance law plays a very important role, especially regarding an individual's wealth status. Naturally, the desire to receive a portion of someone's inheritance upon their death is a natural inclination of everyone around them, regardless of whether they are descendants or merely have physical proximity. However, misunderstandings often arise regarding inheritance law, where individuals without inheritance relationships feel entitled to and take control of the deceased's estate at their own discretion. To be a legitimate heir, one must have inheritance relationships determined by Islamic law through three things: lineage, marital relationships, and wala (which no longer applies). The presence of local religious figures such as kiai or ustadz can help determine legitimate heirs.³²

However, problems often arise due to ignorance of inheritance law, estate management, and greed. Ethical and aesthetic issues are also often considered, especially when the inheritance has to be divided in a mourning atmosphere. In such situations, social norms sometimes cause heirs to be reluctant to remind each other about the distribution of the inheritance, even though Islamic inheritance law emphasizes fulfilling the heirs' rights as soon as possible after the deceased's death. Inheritance disputes can occur without clear division, and in some cases, the inherited property may be transferred without the knowledge of the other heirs.³³

These disputes can involve many parties, consuming a lot of time, money, and energy. Dissatisfaction with court decisions and even bloodshed are not uncommon.

³¹ Kholid Saifulloh, 'Aplikasi Kaidah "Al-'Adah Muhakkamah" Dalam Kasus Penetapan Jumlah Dan Jenis Mahar', *Al-MAJALIS: Jurnal Dirasat Islamiyah*, 8.1 (2020), 57–85 <<https://doi.org/10.37397/almajalis.v8i1.153>>.

³² Ahmad Falih Mahruz, 'KEKUATAN HUKUM PENYELESAIAN SENGKETA WARIS MELALUI MEDIATOR TOKOH MASYARAKAT DI DESA WONOSALAM KECAMATAN WONOSALAM KABUPATEN DEMAK', *AL-HUKAMA The Indonesian Journal of Islamic Family Law*, 09.01 (2019), 47–75; Martua Nasution and Raja Ritonga, 'The Concept of Mani ' and Its Application in Islamic Inheritance', *JRSC: Journal of Religious, Social and Cultural Journal*, 01.2 (2023), 1–14; Zainal Muttaqin, 'Hukum Penyegeraan Pelaksanaan Pembagian Harta Warisan (Analisis Ushul Fiqh Terhadap Hadis Alhiqul Faraidh Bi Ahliha)', *Syaksia : Jurnal Hukum Perdata Islam*, 22.2 (2021), 183–96 <<https://doi.org/10.37035/syaksia.v22i2.5515>>.

³³ Kamilah and Aridhayandi; Muhamad Syaifullah Abadi Manangin, Leni Dwi Nurmala, and Nurmin K Martam, 'Pengalihan Atas Harta Warisan Di Indonesia', *DiH: Jurnal Ilmu Hukum*, 16.2 (2020), 177–89 <<https://doi.org/10.30996/dih.v16i2.3345>>.

Therefore, it is important to provide an understanding of inheritance law through formal and informal education approaches. Audits of inherited assets, the role of religious figures, and awareness of legal consequences and dispute risks should be part of community efforts to prevent these problems. Awareness of inheritance law is not just a religious issue but also an indicator of an individual's level of faith, as emphasized in the Quran Surah An-Nisa verse 14.³⁴

The application of Islamic law, especially inheritance law, is not always in line with the textual verses of the Quran. The Quran tends to provide basic regulations, such as the heirs mentioned like fathers, mothers, husbands, wives, and children, while other details such as grandparents, grandchildren, and so on are developed by Islamic legal scholars. In the development of inheritance law, each country or region may be influenced by the cultural customs of the local community, which can be patrilineal, parental, or bilateral.

The influence of kinship cultural customs can create variations in the application of Islamic inheritance law. In Indonesia, which predominantly adopts a parental or bilateral kinship system, inheritance rights are granted to every relative within a certain distance, regardless of gender. Conversely, in cultures that adopt a patrilineal kinship system, inheritance rights are usually limited to male relatives, while females are not recognized as heirs.³⁵

Because the Quran does not provide detailed explanations of heirs other than those mentioned, Islamic legal scholars develop rules based on their *ijtihad*, which is based on an analysis of the cultural customs of each country or region. In Indonesia, inheritance law scholars develop rules based on the parental or bilateral kinship system, while in Arab or Middle Eastern countries that tend to adopt a patrilineal kinship system, the rules are developed according to their cultural context.

Views on grouping heirs in Islamic inheritance law can be divided into three: the view of "ahl al-sunnah wal al-jama'ah" or "Sunni scholars," which is based on an analysis of Arab culture that adheres to patrilineal society. The second view is the Imamiyah Shia doctrine, which is not based on customary cultural customs but rather focuses on honoring Fatimah bint Muhammad and Ali bin Abu Thalib, so inheritance in this view is more parental or bilateral.

³⁴ Raja Ritonga, Aulia Rezi, and Asril Fauzi, 'Transformasi Sosial Dan Hubungannya Dengan Pembagian Harta Warisan Menurut Perspektif Hukum Islam', *QISTHOSIA: Jurnal Syariah Dan Hukum*, 4.2 (2023), 166–77 <<https://doi.org/10.46870/jhki.v4i2.718>>; Khaeron Sirin, 'Analisis Pendekatan Teks Dan Konteks Dalam Penentuan Pembagian Waris Islam', *AHKAM: Jurnal Ilmu Syariah*, 13.2 (2013), 209–24 <<https://doi.org/10.15408/ajis.v13i2.941>>.

³⁵ Sugiri Permana, 'Kesetaraan Gender Dalam Ijtihad Hukum Waris Di Indonesia', *Asy-Syari'ah*, 20.2 (2018), 117–32 <<https://doi.org/10.15575/as.v20i2.3210>>.

5. Conclusion

Although the principles of Islamic law are contained within Shariah, the social reality in Indonesia significantly influences the dynamics of inheritance. There have been changes in inheritance law from the colonial period to the era of change, including the implementation of Islamic inheritance law and the challenges and struggles of Muslims in Indonesia. This development is also influenced by the mix of three legal systems, namely Islamic law, customary law, and Western law, which reflect the cultural diversity in Indonesia. Furthermore, the application of inheritance law often occurs through the interpretation of *ijtihad*, based on the analysis of the local customary and cultural practices. Although Islamic law provides general principles of inheritance, the reality can vary depending on the cultural and social context in each region.

Moreover, conflicts and disputes in the distribution of inheritance, often triggered by dissatisfaction and lack of understanding of inheritance law, can arise. These disputes can lead to *islah* (consensus-building) as a means of resolution, involving family figures, community leaders, and local religious scholars. Thus, the dynamics of Islamic inheritance in Indonesia are not only influenced by Shariah but also by social, cultural, and legal factors. Therefore, the complexity in the application of inheritance law illustrates that the relationship between Shariah and social reality is dynamic and constantly adapting to changes over time.

6. References

- 'Ajuz, Ahmad Muhyiddin Al, *Al Mirats Al 'Adil Fi Al Islam Baina Al Mawarits Al Qadimah Wa Al Haditsah* (Beirut: Muassasah Al Ma'arif, 1986)
- 'Azam, Abdul 'Aziz Muhammad, *Al-Qowa'id Al-Fiqhiyah* (Kairo: Dar El Hadith, 2005)
- Ahmad, Ibrahim, 'Menyelesaikan Sengketa Pembagian Warisan Melalui Peran Kepala Desa', *Jurnal Legalitas*, 5.1 (2012)
- Al-Qurthubi, Abu 'Abdullah Muhammad bin Ahmad bin Abu Bakr Al-Anshari, *Al Jami' Li Ahkami Al Qur'an*, VI (Beirut: AL-Resalah, 2006)
- Ali, Nur Atira, 'Pelaksanaan Pembagian Warisan Secara Damai Dalam Bentuk Takharruj Di Pengadilan Agama Makassar Kelas I A', *UIN Alauddin Makasar*, 2018
<<http://www.ncbi.nlm.nih.gov/pubmed/7556065><http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=PMC394507><http://dx.doi.org/10.1016/j.humpath.2017.05.005><https://doi.org/10.1007/s00401-018-1825-z><http://www.ncbi.nlm.nih.gov/pubmed/27157931>>
- Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia, Antara Fiqh Munakahat Dan Undang-Undang Perkawinan Nasional* (Jakarta: Rineka Cipta, 1994)
- Amrul, Jumadil, Ahmad Baskam, 'Kedudukan Kompilasi Hukum Islam Dalam Penyelesaian Perkara Di Pengadilan Agama: Perspektif Sistem Hukum Indonesia', *Al-Azhar Islamic Law Review*, 3.1 (2021), 11–23

- Aspandi, 'MAHAR DALAM PERKAWINAN ISLAM; Analisis Pelaksanaan Pembayaran Dan Pemegang Hak Mahar', *AL-'ADALAH: Jurnal Syariah Dan Hukum Islam*, 5.2 (2020), 244–57
- Barkah, Qodariah, 'Kontekstualisasi Hukum Keluarga Islam Di Indonesia', *JURNAL HUKUM ISLAM*, 2018, 95 <<https://doi.org/10.28918/jhi.v16i1.1397>>
- Fauzi, Mohammad, 'Legislasi Hukum Kewarisan Di Indonesia', *Jurnal Pengembangan Masyarakat Islam*, 9.2 (2016), 53–76
- Fuadah, Siah Khosyi'ah dan Aah Tsamrotul, 'RECHTVINDING TENTANG WARIS BEDA AGAMA DI PENGADILAN AGAMA KOTA BANDUNG', *Asy-Syari'ah Vol.*, 21.2 (2019), 135–58
- Husien, Syarief, and Akhmad Khisni, 'Hukum Waris Islam Di Indonesia (Studi Perkembangan Hukum Kewarisan Dalam Kompilasi Hukum Islam Dan Praktek Di Pengadilan Agama)', *Jurnal Akta*, 5.1 (2018), 75–86 <<https://doi.org/10.30659/akta.v5i1.2533>>
- Jamal, Ridwan, 'Maqashid Al-Syariah Dan Relevansinya Dalam Konteks Kekinian', *Jurnal Ilmiah Al-Syir'ah*, 8.1 (2010), 1–12
- Junaidi, Lalu, 'Kajian Sosiologi Hukum Terhadap Adat Kewarisan Masyarakat Desa Mangkung Kecamatan Praya Barat Kabupaten Lombok Tengah', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyah Fakultas Syariah IAIN Mataram*, 9.01 (2017), 66–88 <<https://doi.org/10.20414/alihkam.v9i01.1154>>
- Kamilah, Anita, and Rendy Aridhayandi, 'Kajian Terhadap Penyelesaian Sengketa Pembagian Harta Warisan Atas Tanah Akibat Tidak Dilaksanakannya Wasiat Oleh Ahli Waris Dihubungkan Dengan Buku li Kita Undang-Undang Hukum Perdata Tentang Benda (Van Zaken)', *Jurnal Wawasan Yuridika*, 32.1 (2016), 22–37
- Khalifah, Muhammad Taha Abu Al 'Ala, *Ahkam Al Mawarits Dirasah Tathbiqiyah* (Kairo: Dar Al Salam, 2005)
- Khallaf, Abdul Wahab, *Ilmu Ushul Al Fiqh* (Kairo: Dar El Hadith, 2002)
- Mahruz, Ahmad Falih, 'KEKUATAN HUKUM PENYELESAIAN SENGKETA WARIS MELALUI MEDIATOR TOKOH MASYARAKAT DI DESA WONOSALAM KECAMATAN WONOSALAM KABUPATEN DEMAK', *AL-HUKAMA The Indonesian Journal of Islamic Family Law*, 09.01 (2019), 47–75
- Manangin, Muhamad Syaifullah Abadi, Leni Dwi Nurmala, and Nurmin K Martam, 'Pengalihan Atas Harta Warisan Di Indonesia', *DiH: Jurnal Ilmu Hukum*, 16.2 (2020), 177–89 <<https://doi.org/10.30996/dih.v16i2.3345>>
- Mu'minin, Muhammad Shofwanul, 'Konflik Keluarga Akibat Pembagian "Harta Waris" Dengan Hibah Perspektif Kompilasi Hukum Islam', *SAKINA: Journal of Family Studies*, 4.3 (2020), 12
- Mubarok, Jaih, *Sejarah Dan Perkembangan Hukum Islam* (Bandung: Remaja Rosda Karya, 2000)
- Muhammad, Hasan H, 'Hukum Islam Dan Maslahatnya Di Indonesia', *Al Syir'ah*, 11.2 (2013)
- Muttaqin, Zainal, 'Hukum Penyegeraan Pelaksanaan Pembagian Harta Warisan (Analisis Ushul Fiqh Terhadap Hadis Alhiqul Faraidh Bi Ahliha)', *Syaksia: Jurnal Hukum Perdata Islam*, 22.2 (2021), 183–96 <<https://doi.org/10.37035/syaksia.v22i2.5515>>
- Naskur, 'Ahli Waris Dalam Kompilasi Hukum Islam', *Jurnal Ilmiah Al-Syir'ah*, 6.2 (2018)
- , 'ASAS-ASAS HUKUM KEWARISAN DALAM ISLAM (Studi Analisis Pendekatan Al-Qur'an Dan Al-Hadis Sebagai Sumber Hukum Islam) Naskur',

2005

- Nasution, Hotmartua, 'Pembaharuan Hukum Keluarga Islam Tentang Usia Perkawinan Di Indonesia (Studi Atas Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan)', *Jurusan Al-Ahwal Al-Syakhsiyah Fakultas Syari'ah Dan Hukum*, 2019
- Nasution, Martua, and Raja Ritonga, 'The Concept of Mani ' and Its Application in Islamic Inheritance', *JRSC: Journal of Religious, Social and Cultural Journal*, 01.2 (2023), 1–14
- Permana, Sugiri, 'Kesetaraan Gender Dalam Ijtihad Hukum Waris Di Indonesia', *Asy-Syari'ah*, 20.2 (2018), 117–32 <<https://doi.org/10.15575/as.v20i2.3210>>
- Raja Ritonga, et. al., *Hasil Observasi Dan Wawancara* (Tanjung Julu, 2023)
- Raja Ritonga, Martua Nasution, 'Sistem Waris Masyarakat Muslim Batak Angkola Dalam Tinjauan Alqur ' an (Studi Komparasi Surah An-Nisa Ayat 11, 12 Dan 176)', *Asy-Syari'ah: Jurnal Hukum Islam*, 7.2 (2021), 209–33 <<https://doi.org/10.36835/assyariah.v7i2.544>>
- Ritonga, A. Rahman, 'Memahami Islam Secara Kaffah: Integrasi Ilmu Keagamaan Dengan Ilmu_Illmu Umum', *Islam Realitas: Journal of Islamic & Social Studies*, 2.2 (2016), 118 <https://doi.org/10.30983/islam_realitas.v2i2.183>
- Ritonga, Raja, 'METODE HITUNGAN BAGIAN BANCI DALAM WARIS ISLAM : ANALISIS DAN PRAKTIK', *AL-HUKAMA The Indonesian Journal of Islamic Family Law*, 11.01 (2021), 76–104 <<https://doi.org/10.15642/alhukama.2021.11.01.76-104>>
- , 'Penentuan Status Ahli Waris Melalui Hubungan Nasab ; Analisis Kewarisan Kakek Dan Nenek', *Al Yasini: Jurnal Keislaman, Sosial, Hukum Dam Pendidikan*, 07.02 (2022), 188–201
- , 'Sistem Kewarisan Adat Masyarakat Muslim Suku Tengger Perspektif Hukum Islam', *El Ahli: Jurnal Hukum Keluarga Islam*, 1.1 (2020), 1–19
- , 'Ta'yin; Penentuan Bagian Ahli Waris Sebelum Pembagian Warisan', *Al-Syakhshiyah*, 3.1 (2021), 29–47 <<https://doi.org/10.35673/as-hki.v3i1.1348>>
- , 'Teori Dan Praktik Penentuan Ahli Waris Ashobah Dalam Konsep Syajarotul Mirats', *Nizham*, 10.1 (2022), 42–57 <<https://doi.org/10.32332/nizham.v10i1.4804>>
- , 'The Firts Class of Women Heir Member in The Observation of Surah An-Nisa Ayat 11, 12 and 176', *Al- ' A Dalah : Jurnal Syariah Dan Hukum Islam*, 6.1 (2021), 1–17 <<https://doi.org/10.31538/adlh.v6i1.1362>>
- Ritonga, Raja, Aulia Rezi, and Asril Fauzi, 'Transformasi Sosial Dan Hubungannya Dengan Pembagian Harta Warisan Menurut Perspektif Hukum Islam', *QISTHOSIA: Jurnal Syariah Dan Hukum*, 4.2 (2023), 166–77 <<https://doi.org/10.46870/jhki.v4i2.718>>
- Ritonga, Raja, and Amhar Maulana Harahap, 'Dinamisasi Kewarisan Islam Pada Kasus Musytarikah Dalam Konsep Syajarotul Mirats', *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, 3.1 (2022), 1–17 <<https://doi.org/10.15575/as.v3i1.17248>>
- Saifulloh, Kholid, 'Aplikasi Kaidah "Al-'Adah Muhakkamah" Dalam Kasus Penetapan Jumlah Dan Jenis Mahar', *Al-MAJALIS : Jurnal Dirasat Islamiyah*, 8.1 (2020), 57–85 <<https://doi.org/10.37397/almajalis.v8i1.153>>
- Sakirman, 'Konvergensi Pembagian Harta Waris Dalam Hukum Islam', *Al-'Adalah*, XIII.2 (2016), 155–64
- Shidiq, Ghofar, 'Teori Maqashid Al -Syari'ah Dalam Hukum Islam', *SULTAN*

- AGUNG, XLIV.118 (2009), 117–30
<<https://doi.org/10.1001/archneur.58.4.677>>
- Shobuni, Syekh Muhammad Ali, *Al Mawarits Fi Asy-Syari'ah Al- Islamiyah Fi Dhoui Al Kitab Wa As Sunnah* (Kairo: Daar Ash Shobuni, 2002)
- Shofwanul Mu'minin, Muhammad, 'Konflik Keluarga Akibat Pembagian Harta Waris Dengan Hibah Perspektif Hukum Kompilasi Islam' (Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2020)
- Sirin, Khaeron, 'Analisis Pendekatan Teks Dan Konteks Dalam Penentuan Pembagian Waris Islam', *AHKAM: Jurnal Ilmu Syariah*, 13.2 (2013), 209–24
<<https://doi.org/10.15408/ajis.v13i2.941>>
- Suhairi, Suhairi, 'Perdamaian Dalam Pembagian Harta Warisan (Kritik Atas Konsep Qat'iy Dalam Hukum Kewarisan Islam)', *Al-Manahij: Jurnal Kajian Hukum Islam*, 2012, 157–65 <<https://doi.org/10.24090/mnh.v6i1.595>>
- Sumper Mulia Harahap, Martua Nasution, Raja Ritonga, 'Konsep Dan Metode Penyelesaian Kewarisan Antara Kakek Dengan Saudara Menurut Syekh Ali Ash Shobuni', *Istinbáth*, 21.1 (2022), 57–86
- Sumper Mulia Harahap, Raja Ritonga, 'Metode Penyelesaian Kasus Waris Islam: Analisis Dan Aplikatif', *Al-Mizan*, 18.1 (2022), 77–98
- Supriyadi, 'Pilihan Hukum Kewarisan Dalam Masyarakat Pluralistik (Studi Komparasi Hukum Islam Dan Hukum Perdata)', *Al-Adalah*, 12.3 (2015), 553–68
- Undang-Undang R.I Nomor 1 Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam* (Bandung: Citra Umbara, 2012)
- Wahid, Muhammad Muhibin & Abdul, *Hukum Kewarisan Islam Sebagai Pembaharuan Hukum Positif Di Indonesia* (Jakarta: Sinar Grafika, 2009)
- Wahyuni, Afidah, 'Sistem Waris Dalam Perspektif Islam Dan Peraturan Perundang-Undangan Di Indonesia', *SALAM: Jurnal Sosial Dan Budaya Syar-I*, 5.2 (2018), 147–60 <<https://doi.org/10.15408/sjsbs.v5i2.9412>>
- Washil, Naser Farid Muhammad, *Fiqhu Al Mawarits Wa Al Wasiyah* (Kairo: Dar Al Salam, 1995)