



Islamic Inheritance Law in Practice Among Multiethnic Muslim Families in Indonesia

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<p>Keywords: <i>Inheritance law,</i> <i>Islamic inheritance,</i> <i>Muslim families,</i> <i>Religious authorities,</i> <i>State law</i></p>	<p>Amid the encounter between normative sharia texts, layered customary traditions, and the social reality of multiethnic Muslim families in Indonesia, Islamic inheritance law manifests not as a static rule but as a space for philosophical dialectics in which divine justice, human interests, and cultural negotiations intertwine dynamically. The purpose of this study is to provide an in-depth explanation of the practice of Islamic inheritance law in multiethnic Muslim families in Indonesia by identifying patterns of negotiation between sharia norms and customs. This study uses a qualitative approach with a socio-legal research design combined with multiple case studies, as this approach is most relevant for examining Islamic inheritance law as a living norm practised in the socio-cultural context of multiethnic Muslim families. The results confirm that inheritance is not merely a matter of dividing <i>farā'id</i> numbers, but rather the most tangible arena of struggle between sacred texts, cultural traditions, and the demands of modern social justice. This dialectic reveals that deviations from classical fiqh are often not a form of normative defiance, but rather a strategy of adaptation to maintain family harmony, respond to changing gender roles, and negotiate multiethnic identities in a pluralistic domestic space. The hybridity of inheritance is a sociological reality that cannot be ignored by state law or religious authorities, so the future of Islamic inheritance law in Indonesia depends on the courage to build bridges between the certainty of sharia and substantive justice that is alive.</p>
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Introduction

Islamic inheritance law is one area of family law that has strong normative and social characteristics, as it not only regulates the distribution of inherited property according to sharia provisions but also reflects values of justice, family relations, authority structures, and the cultural dynamics of Muslim communities. In the Indonesian context, Islamic inheritance law does not exist in a vacuum.¹ Still, it interacts in complex ways with a plurality of national legal systems, local customs, and diverse social practices.²

Indonesia, as the country with the largest Muslim population in the world, is also a multiethnic society rich in kinship traditions and diverse inheritance patterns.³ Ethnic diversity, including Javanese, Minangkabau, Bugis, Batak, Sundanese, Madurese, Banjar, and other communities, presents a unique social configuration in the application of Islamic inheritance law at the family level. This reality makes inheritance practices in Indonesia an arena where fiqh norms, state regulations, and customs and cultures that exist in society meet, especially in multiethnic Muslim families that experience a mixture of identities and traditions.

In practice, the application of Islamic inheritance law often does not proceed textually in accordance with the provisions of *farā'id*, but rather undergoes adaptation, negotiation, and even compromise with family values and local culture.⁴ At the family level, decisions about the distribution of inheritance are not only determined by formal legal calculations but also by considerations of social harmony, gender roles, sibling relationships, and the legitimacy of parental or traditional authority.⁵ Phenomena such as the distribution of inheritance through family deliberation, gifts during one's lifetime, postponement of distribution to preserve family assets, or even the transfer of inheritance to certain children for the sake of the family business are clear examples of how Islamic inheritance law interacts with social reality. This situation becomes even more complex when Muslim families come from different ethnic backgrounds, as each brings its own unique inheritance traditions.

The increasing number of interethnic marriages in Indonesia has contributed to the formation of multiethnic families with hybrid value structures.⁶ In such families, there is the possibility of convergence among patrilineal, matrilineal, and bilateral kinship systems, each with consequences for perceptions of inheritance rights. For example, the matrilineal Minangkabau tradition places high value on property in the female line, while the patrilineal Batak tradition emphasises inheritance to male children in the clan. When individuals from these two traditions form a Muslim family, the application of Islamic inheritance law cannot be separated from the process of cultural adaptation and negotiation. In this context, Islamic inheritance law is not only a set of rules, but also a

¹ Franz Von Benda-Beckmann and Keebet von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," *Journal of the Economic and Social History of the Orient* 55, no. 4-5 (2012): 771-93, <https://doi.org/10.1163/15685209-12341269>.

² Muhajir Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86-103, <https://doi.org/10.30984/jis.v21i1.2321>.

³ Jony Eko Yulianto and Made Diah Lestari, "Inter-Ethnic Relationships and Marriages in Indonesia: Family Dynamics and Well-Being," in *The Routledge International Handbook of Interracial and Intercultural Relationships and Mental Health* (Routledge, n.d.), 233-44, <https://doi.org/10.4324/9781003385547-22>.

⁴ Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective," *Al-Ahkam* 34, no. 2 (2024): 419-48, <https://doi.org/10.21580/ahkam.2024.34.2.20843>.

⁵ Nur Insani et al., "Empowering Muslim Women: Bridging Islamic Law and Human Rights with Islamic Economics," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 88-117, <https://doi.org/10.18860/j-fsh.v16i1.26159>.

⁶ Ariane Utomo and Peter McDonald, "Who Marries Whom?: Ethnicity and Marriage Pairing Patterns in Indonesia," *Asian Population Studies* 12, no. 1 (2016): 28-49, <https://doi.org/10.1080/17441730.2015.1130327>.

social practice influenced by ethnic identity, power relations within the family, and strategies for maintaining social cohesion.

Academic studies on Islamic inheritance law in Indonesia have developed quite extensively. Previous studies have highlighted the normative aspects of *farā'id*, the Compilation of Islamic Law as a legal reference, and the role of religious courts in resolving inheritance disputes.⁷ Several studies have confirmed that there is a gap between classical fiqh provisions and community practices, especially in terms of distribution that is considered more equitable from a local perspective.⁸ Other studies highlight the tendency of communities to choose deliberation over litigation, because family values and social harmony are prioritised.⁹ In addition, several recent studies highlight gender issues in Islamic inheritance law, particularly regarding perceptions of discrimination in the 2:1 distribution between men and women, as well as the emergence of reinterpretation practices through grants or mandatory wills as adaptive strategies.¹⁰

On the other hand, studies on the relationship between Islamic inheritance law and customary law have confirmed the existence of a distinctive legal pluralism in Indonesia.¹¹ Scholars of Islamic family law note that inheritance law is often the result of a compromise between sharia and local customs. Studies of the Minangkabau community, for example, show how customary inheritance remains outside the *farā'id* scheme, while acquired property is divided according to Islamic law. Studies in the Bugis or Banjar regions also show how family deliberation is the main mechanism for determining the distribution of inheritance. In some cases, custom even becomes the dominant framework for implementing Islamic law.¹² However, these studies generally focus on specific ethnic communities separately, so there has not been much research on the dynamics of inheritance in multiethnic Muslim families that combine two or more cultural traditions.

Contemporary studies on multicultural families in Indonesia more often focus on aspects of mixed marriages, children's identities, or intergroup social relations, but have not specifically examined how Islamic inheritance law is practised in a multiethnic context.¹³ In fact, inheritance is one of the most sensitive areas in family life because it concerns the distribution of economic resources and status symbols, as well as the legitimacy of power relations. Inheritance disputes often trigger prolonged family

⁷ Muhammad Hasan, "Construction of Modern Islamic Inheritance Law Based on Ijtihad of the Judges at the Religious Court of Pontianak, West Kalimantan," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 650–68, <https://doi.org/10.22373/sjhk.v7i2.8852>; Wahidah Ideham, "Substitute Heirs in the Compilation of Islamic Law: An Overview from Gender Equality Perspective Case Study of the Religious Courts in Banjarmasin," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 1046–64, <https://doi.org/10.22373/sjhk.v6i2.12466>.

⁸ Muhyar Fanani and Florian Pohl, "Fiqh-Based Social Transformation in Farmer Empowerment: A Participatory Action Research Approach," *Al-Jami'ah: Journal of Islamic Studies* 62, no. 2 (2024): 305–35, <https://doi.org/10.14421/ajis.2024.622.305-335>; Iqbal Subhan Nugraha, "Justice in Inheritance Distribution: Comparative Study of Islamic and Customary Law on Equal Distribution," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (2024): 1815–29, <https://doi.org/10.62976/ijjel.v2i4.719>.

⁹ Didik Sukriono et al., "Local Wisdom as Legal Dispute Settlement: How Indonesia's Communities Acknowledge Alternative Dispute Resolution?," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (2025): 261–85, <https://doi.org/10.22219/ljih.v33i1.39958>.

¹⁰ Nehaluddin Ahmad, Zheimie H Zamri, and Noor Saffrena Omarali, "Islamic Nations' Approaches to Combating Gender Discrimination against Women: An Examination of the Southeast Asia Region," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 501–30, <https://doi.org/10.18860/j-fsh.v16i2.29965>.

¹¹ Maarten Manse, "The Plural Legacies of Legal Pluralism: Local Practices and Contestations of Customary Law in Late Colonial Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024): 328–48, <https://doi.org/10.1080/27706869.2024.2377447>.

¹² Ayman Shabana, "The Place of Custom in Islamic Law: Past and Present," in *Routledge Handbook of Islamic Law* (Routledge, 2019), 286–300, <https://doi.org/10.4324/9781315753881-18>.

¹³ Ariane J Utomo, "Love in the Melting Pot: Ethnic Inter-marriage in Jakarta," in *Migration and Marriage in Asian Contexts* (Routledge, 2021), 34–51, <https://doi.org/10.4324/9781003240402-3>.

conflicts.¹⁴ In multiethnic families, the potential for conflict can be even greater due to differences in cultural expectations about who is entitled to inheritance, how assets should be divided, and what values are considered fair. Therefore, studies examining Islamic inheritance law in the practice of multiethnic Muslim families are highly relevant and topical.

Based on this brief literature review, a significant research gap emerges. First, studies of Islamic inheritance law in Indonesia remain predominantly normative-juridical in orientation, focusing on fiqh texts and formal regulations. At the same time, the practical dimensions in multiethnic families have not been explored in depth. Second, research on the relationship between custom and Islamic inheritance is generally ethnographic in nature, focusing on a particular ethnic community, and thus fails to capture the dynamics of cultural hybridity in multiethnic families. Third, studies on multicultural families have mostly highlighted the social aspects of mixed marriages, but have not made inheritance the main locus of analysis. Fourth, there is no integrative conceptual model to explain how the negotiation of Islamic norms, customs, and family values takes place in the inheritance practices of multiethnic Muslim families.

From a theoretical perspective, this study contributes to the development of the perspectives of legal pluralism and living law in the context of Islamic inheritance law by placing multiethnic families as the main arena for the negotiation of norms. From a conceptual perspective, this study introduces a framework for analysing the hybridity of inheritance, explaining how inheritance practices in multiethnic families do not merely follow sharia or customs but form new, adaptive patterns. The purpose of this study is to provide an in-depth explanation of the practice of Islamic inheritance law in multiethnic Muslim families in Indonesia, identify patterns of negotiation between sharia and customary norms, and formulate conceptual contributions regarding the hybridity of inheritance in pluralistic societies. The significance of this study lies in its contribution to the development of Islamic family law studies that are more contextual and responsive to the multicultural reality of Indonesia.

Methods

This study employs a qualitative approach with a socio-legal research design combined with multiple case studies, as this approach is most relevant for examining Islamic inheritance law as a living norm practised in the socio-cultural context of multiethnic Muslim families. The study focuses on the practice of applying Islamic inheritance law, which is operationally defined as the patterns of distribution of inherited property, decision-making mechanisms, and forms of negotiation among *farā'id* provisions, ethnic customs, and family values in multiethnic families. The study's subjects are multiethnic Muslim families formed through interethnic marriages who have faced, or are currently facing, the process of inheritance distribution. Informants were selected purposively and through the snowball method to identify key actors, including heirs, parents, family leaders, and customary or religious mediators. The main instruments of the study were the researchers themselves, supported by in-depth interview guidelines and participatory observation sheets developed based on studies of legal pluralism and Islamic family law, and tested for validity through expert judgement and preliminary comprehension tests in the field.

¹⁴ Wondale Temesgen Tedla and Kasahun Desyalew Mekonen, "Inheritance-Induced Familial Disputes in North-West Ethiopia: The Role of Legal-Policy Gaps and Aggravating Socio-Economic Dynamics," *Humanities and Social Sciences Communications* 10, no. 1 (2023): 92, <https://doi.org/10.1057/s41599-023-01558-5>.

The data collection procedure was carried out in stages through documentation studies, observations, and in-depth interviews conducted iteratively until data saturation was achieved, with data validity maintained through triangulation of sources, methods, and time, as well as member checks and audit trails to ensure the credibility and dependability of the findings. Data analysis was conducted using an interactive analysis model that included simultaneous data reduction, data presentation, and conclusion drawing, with reflective interpretation of the meaning of inheritance practices in the context of the plurality of norms.¹⁵ This analytical approach was chosen because it allowed researchers to reveal patterns, variations, and constructions of the meaning of Islamic inheritance law in multiethnic Muslim families, in depth and context, in line with the research objective of producing a comprehensive understanding of the dynamics of hybridity in inheritance in Indonesia's multicultural Muslim society.

Result and Discussion

The Dialectic Between the Normativity of Islamic Inheritance Law and Cultural Plurality

The dialectic between the normativity of Islamic inheritance law and cultural plurality in multiethnic Muslim families in Indonesia is one of the most complex areas of discourse in contemporary family law studies. Islamic inheritance law, which originates from classical fiqh and is systematically formulated in the science of *farā'id*, essentially exists as a normative system that claims universality, certainty, and strong theological legitimacy. It is based on the Qur'an and *ḥadīth*, which explicitly regulate the shares of heirs, while reflecting the principle of distributive justice within the framework of sharia. However, when these norms are confronted with the social reality of Indonesia, which is multiethnic, multicultural, and rich in traditional customs, epistemological and practical tensions arise that are not easily resolved.

Indonesia is not only a Muslim society but also a pluralistic society with a layered cultural configuration, in which religious law interacts with customs, local kinship structures, and the dynamics of power relations within the family.¹⁶ It is in this context that the dialectic between normativity and plurality becomes relevant for critical discussion, because inheritance practices are not only a matter of property distribution, but also an arena for the negotiation of identity, authority, and social values.

Normatively, Islamic inheritance law offers a structured, measurable model of distribution through the principle of *farā'id*, in which the shares of tiers were determined by genealogical proximity and social responsibility.¹⁷ This system is often understood as a form of divine justice that transcends human subjectivity, because the distribution of inheritance is not left entirely to the testator's will or to family agreement, but is regulated precisely to prevent conflict and injustice. In classical fiqh, inheritance law is among the most rigid aspects of sharia compared to other areas of muamalah, as many of its provisions are *qaṭ'ī al-dalālah*. This claim of universality positions Islamic inheritance law as a norm that should apply across space and time, including in diverse

¹⁵ Nollaig A Frost et al., "Collective Findings, Individual Interpretations: An Illustration of a Pluralistic Approach to Qualitative Data Analysis," *Qualitative Research in Psychology* 8, no. 1 (2011): 93–113, <https://doi.org/10.1080/14780887.2010.500351>.

¹⁶ Roni Tabroni et al., "Hybridity, Intersection, and Challenge: Navigating the History of Customary and Islamic Family Law in Moluccan Marriages," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 1–28, <https://doi.org/10.14421/ahwal.2015.18101>.

¹⁷ Dasri Dasri, "Negotiating Justice: An Islamic Legal Analysis of the Delay in Inheritance Distribution," *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhshiyah* 8, no. 3 (2025): 754–62, <https://doi.org/10.58824/mediasas.v8i3.467>.

Muslim societies such as Indonesia.¹⁸ However, this normative universality often clashes with cultural particularities, in which traditional values and local social structures shape how communities understand and practise inheritance.

Indonesia's cultural plurality presents a rich yet challenging context for the application of Islamic inheritance law.¹⁹ Different ethnic groups have different kinship systems, ranging from patrilineal (such as the Batak and Bugis) to matrilineal (such as the Minangkabau) to bilateral (such as the Javanese and Sundanese). These kinship structures are not merely genealogical patterns, but also normative frameworks that regulate the distribution of property, social status, and authority within the family. In patrilineal societies, for example, inheritance is often understood as a mechanism for maintaining the continuity of the male line and clan identity, so that sons are often given priority. Conversely, in the matrilineal Minangkabau society, high-value heirlooms are passed down through the female line as a symbol of the tribe's and customary land's continuity. When Muslim families are part of such traditions, the application of *farā'id* is not always literal, as customary values are also considered equally important in maintaining social cohesion.

Multiethnic Muslim families, formed through interethnic marriage or social migration, further complicate this dialectic. In such families, two or more distinct inheritance traditions meet, so that decisions on inheritance distribution often become a forum for negotiation among Islamic norms, ethnic customs, and considerations of family harmony. For example, a Batak Muslim man married to a Minangkabau Muslim woman may face a dilemma when dividing the inheritance: whether to follow the *farā'id* textually, or to consider the strong customary traditions in his wife's family. In practice, families often choose deliberation, lifetime gifts, or a division considered fair by internal consensus, even if it does not fully comply with the *farā'id* formula. This phenomenon shows that inheritance is not only a legal process, but also a social process laden with symbols and power relations.

The core issue in this context is the tension between the claim of the universality of Islamic inheritance law and the actual practice of inheritance, which is influenced by customary values, local kinship structures, and power relations within the family. This tension gives rise to an epistemological debate: whether deviations from fiqh provisions should be understood as normative violations or as legitimate forms of social adaptation. This is where two major poles emerge in the discourse: the textualist camp and the contextualist camp. The textualist camp asserts that Islamic inheritance law must be applied literally as a form of religious obedience. For them, inheritance distribution that deviates from *farā'id* means violating Allah's provisions, so it cannot be justified by custom or culture. In this perspective, the universality of sharia is understood as a principle that transcends social relativity and serves as a corrective to customary practices deemed discriminatory or unfair.

Conversely, the contextualists view Islamic inheritance law not merely as mathematical rules, but also as ethical principles that customs and local interests can mediate. They emphasise that the main objectives of sharia are to achieve justice, benefit, and social harmony. In the context of a pluralistic society such as Indonesia, the literal application of *farā'id* does not always result in substantive justice, due to differing social

¹⁸ Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over Adat, Islam, and the State Inheritance Laws," in *Women's Studies International Forum*, vol. 103 (Elsevier, 2024), 102881, <https://doi.org/10.1016/j.wsif.2024.102881>.

¹⁹ Yusmita Yusmita et al., "Legal Pluralism and the Transformation of Islamic Inheritance Law: A Study of Sasak Customary Practices in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 831-82, <https://doi.org/10.29240/jhi.v10i2.12500>.

and cultural conditions. Therefore, adaptation through family deliberation, grants, or wills is seen as a contextual strategy to maintain the ethical objectives of Islamic law.²⁰ This perspective is in line with the idea of *maqāṣid al-sharī'ah*, which places public interest as the main orientation of the law. Within this framework, Islamic inheritance law is understood as a living law that interacts with social reality, rather than a mere frozen text.

This dialectic can be analysed through the theory of legal pluralism, which holds that in complex societies, more than one normative system coexists, such as state law, religious law, and customary law. Indonesia is a clear example of legal pluralism, where Islamic inheritance law is recognised in the Compilation of Islamic Law and the religious courts.²¹ Still, customary law also retains strong social legitimacy. In family practice, inheritance decisions often do not fully conform to state law or *fiqh* but result from compromises among various norms. For example, Javanese Muslim families often divide inheritance through deliberation, guided by the principles of harmony and fairness within the family, so that daughters' shares are equal to those of sons to avoid conflict.

From a textualist perspective, this is considered a deviation from a legal pluralism perspective; it is a reasonable form of norm negotiation in a multicultural society. In addition to legal pluralism, this dialectic can also be understood through the concept of legal consciousness, namely the legal awareness of a community that shapes how it interprets rules. Many Indonesian Muslim families understand Islamic inheritance law as a normative ideal, but in practice, they adapt it to the social context.²² This kind of legal awareness does not necessarily mean a rejection of sharia, but rather a form of flexible internalisation. For example, a parent may divide their assets during their lifetime equally among their children, believing this is fairer and prevents disputes, even though *farā'id* stipulates different shares. This practice of gifting is often understood as a middle ground between religious compliance and social needs. Thus, deviation does not always mean violation, but can be an expression of adaptation.

Power relations within the family also play an important role in inheritance practices. The distribution of inheritance is often not neutral but is influenced by family members' social positions, gender, and parental authority.²³ In some cases, sons who are considered the family's successors or guardians of assets receive a larger share through customary mechanisms, even though *farā'id* has already regulated this. In other cases, daughters who care for their parents in their old age receive more gifts as a form of appreciation. This shows that inheritance is a family political arena, where religious norms, customs, and practical interests interact. The dialectic of normativity and plurality cannot be separated from this power structure, as legal interpretations are often used to legitimise certain interests.

A concrete example can be seen in the Muslim Minangkabau community, where high inheritance is passed down according to matrilineal customs, while acquired property is divided according to Islamic law. This practice reflects a socially accepted normative dualism. In a textualist context, the distribution of customary inheritance may

²⁰ Suud Sarim Karimullah et al., "Rethinking Gender In Islamic Law," *Musāwa Jurnal Studi Gender Dan Islam* 23, no. 1 (2024): 99–113, <https://doi.org/10.14421/musawa.2024.223.99-113>.

²¹ Sulistyowati Irianto, "Inheritance Legal Pluralism and Gender Justice: A Court Room Study in Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024): 459–78, <https://doi.org/10.1080/27706869.2024.2379738>.

²² Rasyid, Lubis, and Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective."

²³ Ihyani Malik et al., "Gender Analysis in the Islamic Law-Based Ecofeminism Movement for Ecosystem Protection," *El-Mashlahah* 15, no. 1 (2025): 101–24, <https://doi.org/10.23971/el-mashlahah.v15i1.9040>.

be considered problematic. Still, in a local context, it is understood as a mechanism for preserving tribal identity and the sustainability of communal land. Another example is the Muslim Batak community, which continues to uphold the principle of marga in the distribution of certain assets, even though farā'id formally applies. In multiethnic families, these two traditions can meet and give rise to new hybrid inheritance patterns, for example, by dividing some assets according to farā'id and others according to customary agreements.

The debate between textualists and contextualists ultimately reflects two perspectives on Islamic law itself: whether it should be understood as a fixed normative system or as a dynamic ethical principle. In the Indonesian context, the tendency towards socadaption indicates that the law of inheritance often operates within the logic of life negotiated in practice. This does not mean relativising sharia, but rather shows the complexity of applying law in a pluralistic society. This dialectic opens up space for academic reflection on how Islamic law can remain authoritative while being responsive to the social context.

Controversy over Gender Justice in the Practice of Inheritance among Multiethnic Muslim Families

Islamic inheritance law, as part of sharia which has a strong normative basis in the Qur'an and classical fiqh tradition, is often seen as a system that provides certainty and a clear structure for distribution among heirs. However, when these norms are confronted with the social reality of Indonesia's multiethnic, multicultural society, which has undergone significant changes in the economic structure of the family, a heated debate arises as to whether the distribution of inheritance as formulated in fiqh is still in line with the principles of substantive justice that have developed in modern consciousness, particularly about the position of women. In this context, the issue of gender justice is not merely a normative-theological issue, but also an arena of social, cultural, and political contestation that reflects changing power relations within Indonesian Muslim families.²⁴

Classically, Islamic inheritance law establishes a distribution principle, often referred to as the two-to-one rule, under which sons receive twice as much as daughters. This provision is derived from explicit texts and has become the consensus of the majority of scholars in the fiqh tradition. From a normative perspective, this distribution is not understood as discrimination but rather as proportional justice related to men's socio-economic responsibilities as breadwinners for their families. In other words, the Islamic inheritance system is built on the assumption of a patriarchal social structure in which men bear greater financial obligations.²⁵ At the same time, women have relatively protected economic rights because their livelihoods are provided for by their fathers, husbands, or male relatives.²⁶ Within this framework, the difference in inheritance shares is not considered a form of injustice, but a reflection of the different distribution of responsibilities within the family.

In contemporary Indonesian society, these social assumptions have undergone significant transformation. Women are increasingly active in the public sphere,

²⁴ Rizal Al Hamid et al., "Political Conflict between Islamic Law and National Law in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 48–62, <https://doi.org/10.65586/insani.v1i1.4>.

²⁵ Abdulmajeed Hassan Bello, "Islamic Law of Inheritance: Ultimate Solution to Social Inequality against Women," *Arab Law Quarterly* 29, no. 3 (2015): 261–73, <https://doi.org/10.1163/15730255-12341301>.

²⁶ Maharatna Shifa Nurizka et al., "Criticism of the Neoclassical Approach in Islamic Economic Policy in Indonesia," *Jurnal Pelita Raya* 1, no. 1 (2025): 17–30, <https://doi.org/10.65586/jpr.v1i1.9>.

economically independent, and often the backbone of the family.²⁷ In many cases, women actually bear equal or even greater financial responsibilities than men. This situation has created a gap between the normative principles of classical fiqh and modern social realities. When women who contribute significantly to the family economy receive a smaller share of the inheritance, there is a perception that the system no longer reflects substantive justice.²⁸ This perception is even stronger in multiethnic Muslim families, where local customs and kinship structures influence how inheritance is practised and interpreted.

Indonesia, as a multiethnic society, presents a diversity of inheritance traditions that influence this gender controversy. In bilateral societies such as Java and Sunda, for example, there is a strong tendency to divide inheritance equally between sons and daughters to maintain family harmony. Deliberation is often the main mechanism, so that the provisions of *farā'id* are understood more as a moral reference than as mathematical rules that must be applied literally.²⁹ Conversely, in patrilineal societies such as the Batak or Bugis, the priority given to males is often reinforced by custom, placing women in a more marginal position in the distribution of family assets. In the matrilineal Minangkabau society, women actually have a dominant position in the inheritance of customary property, even though acquired property is divided according to Islamic law. This diversity shows that inheritance practices are never completely neutral, but are always in dialectical tension with religious norms, customs, and gender relations in society.

The core issue examined in this controversy is the gap between the normative principles of inheritance distribution in fiqh and the perception of substantive justice that has developed in contemporary society.³⁰ Normative justice in fiqh is often defined as compliance with divine provisions deemed absolute and final.³¹ In this perspective, justice is not a product of human social construction but is determined by God. However, substantive justice in modern society is more often understood as equality of rights, recognition of economic contributions, and a distribution considered fair according to social experience. The tension between these two definitions of justice is a source of recurring controversy in the discourse on Islamic inheritance law.

The most provocative debate arises over the interpretation of the division of shares between men and women. Some consider this provision discriminatory because it gives men greater rights based solely on gender.³² From a legal feminist perspective, this division is seen as a manifestation of patriarchy institutionalised in the religious legal system. This criticism often emphasises that modern women are no longer in a position of economic subordination, so that the difference in inheritance shares loses its moral relevance. In the context of multiethnic families, this criticism is even more acute because

²⁷ Godlif Sianipar et al., "Analysis of Deradicalisation Strategies Through Family Programmes in Indonesia," *Jurnal Pelita Raya* 1, no. 2 (2025): 106–21, <https://doi.org/10.65586/jpr.v1i2.21>.

²⁸ Cahaya Rembulan et al., "The Impact of the Digital Economy on Economic Empowerment Models for Muslim Youth in Indonesia," *Jurnal Lentera Insani* 1, no. 1 (2025): 48–63, <https://doi.org/10.65586/jli.v1i1.17>.

²⁹ Inna Ngazizah and Chaula Lutfia, "Inheritance Distribution in Indonesia: Dialectics of Islamic Law and Social Relations," *Online Journal of Research in Islamic Studies* 12, no. 2 (2025): 19–34, <https://doi.org/10.22452/ris.vol12no2.2>.

³⁰ Arif Sugitanata et al., "Building Harmony In Diversity: Exploring Masnun Tahir's Perspective on Multicultural Fiqh," *JURISY: Jurnal Ilmiah Syariah* 3, no. 2 (2023): 47–57, <https://doi.org/10.37348/jurisy.v3i2.346>.

³¹ Suud Sarim Karimullah and Arif Sugitanata, "Masnun Tahir's Nationalist Fiqh: The Integration of Islam and Nationalism in Addressing Social Challenges in Indonesia," *Addin* 18 (2025): 193–218, <https://doi.org/10.21043/addin.v18i2.20218>.

³² Moh Rosil Fathony et al., "Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective," *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 105–24, <https://doi.org/10.35719/1xjdkk59>.

women are often the primary actors in maintaining the family's cultural and economic cohesion, especially in interethnic marriages, where they serve as mediators of identity.

Conversely, others view the Islamic inheritance system as a form of proportional justice based on social responsibility. They assert that inheritance cannot be understood in isolation from the broader Islamic family law system, including the obligations of *nafkah*, *mahar*, and economic protection for women. Within this framework, even though women receive a smaller share of the inheritance, they are not burdened with family financial responsibilities, so the system remains fair overall. This argument is often put forward by conservatives who defend the legitimacy of classical *fiqh* as the final authority. For them, reinterpreting inheritance shares has the potential to undermine the authority of the *nash* and open the door to relativism in *sharia*.

Conservatives view Islamic inheritance law as one of the most *qaṭʿī* areas of *sharia*, and therefore one that *sharia* should be changed by social context. They emphasise that inheritance provisions are direct commands in the Qur'an, so humans do not have the authority to change them in the name of gender equality.³³ In this perspective, gender justice must be understood within the framework of different social roles between men and women, not in terms of mathematical equality.³⁴ Justice means placing each individual according to their responsibilities, not equating rights with absolute equality. This position is often reinforced by concerns that demands for gender equality are an influence of Western liberalism that is incompatible with Islamic values.³⁵

However, the progressive camp offers a different perspective by emphasising reinterpretation based on *maqashid sharia*, social and *sharia* in the economic structure of the family. They argue that the main purpose of *sharia* is to realise justice, so inheritance provisions must be understood in the historical and social context in which the revelation occurred. In 7th-century Arab society, women were in a vulnerable economic position, so granting inheritance rights, albeit smaller, was a progressive step beyond the traditions of *jāhiliyyah*. However, in modern societies where women have equal economic roles, justice may require a different distribution of resources.

This progressive approach also emphasises that the practices of Indonesian Muslim communities already show gender adaptation in inheritance distribution.³⁶ Many families choose equal distribution through lifetime gifts or family deliberation to avoid perceptions of injustice. Gifts are often given to daughters who care for their parents or contribute to the family's economy. In multiethnic families, this strategy becomes increasingly important because women are often at the centre of cross-cultural social networks. This practice shows that society does not always apply *farāʿid* literally, but develops social mechanisms to achieve substantive justice without explicitly rejecting religious norms.

Gender controversies in inheritance can also be analysed through the theory of legal pluralism and legal consciousness. In pluralistic societies such as Indonesia, Islamic inheritance law does not stand alone but interacts with custom and state law. People's legal consciousness is often pragmatic: they recognise the legitimacy of *sharia* but also see it as promoting gender equality and family harmony. This gives rise to hybrid

³³ Suud Sarim Karimullah, "Children's Rights in Islam: Towards Gender Equality and Youth Justice," *Muadalah* 11, no. 2 (2023): 87-98, <https://doi.org/10.18592/muadalah.v11i2.11113>.

³⁴ Suud Sarim Karimullah et al., "The Changing Role of Gender in Contemporary Muslim Families," *Martabat: Jurnal Perempuan Dan Anak* 7, no. 2 (December 27, 2023): 167-88, <https://doi.org/10.21274/martabat.2023.7.2.167-188>.

³⁵ Suud Sarim Karimullah et al., "The Relevance of Feminism in Promoting Gender Reform in the Context of Progressive Islam," *Jurnal Anifa: Studi Gender Dan Anak* 4, no. 2 (2023): 1-15, <https://doi.org/10.32505/anifa.v4i2.7187>.

³⁶ Achmad Fathor Rosyid et al., "The Value of Local Spirituality in Indonesian Society as the Basis for Managing Religious Ecotourism," *Jurnal Lentera Insani* 1, no. 2 (2025): 80-95, <https://doi.org/10.65586/jli.v1i2.24>.

practices, where *farā'id* becomes a symbol of religious compliance, while the actual distribution is adjusted according to family agreements. In this context, gender controversies do not always result in open conflict, but are often managed through social compromise.

Power relations within the family also reinforce the complexity of gender issues. In some cases, inheritance distribution is used to maintain male dominance over family assets. Sons are often positioned as the successors of the family, while daughters are considered to be 'outside' the family line after marriage. However, in other cases, daughters are the main actors in maintaining family assets and welfare, so inheritance distribution that does not recognise their contribution is seen as unfair. This controversy shows that inheritance is not merely a legal rule, but also an arena for gender politics in multiethnic Muslim families.

Negotiation between State Law, Islamic Law, and Customary Law in the Settlement of Inheritance Disputes among Multiethnic Muslim Families

Negotiation between state law, Islamic law, and customary law in the settlement of inheritance disputes among multiethnic Muslim families is a highly complex phenomenon that reflects the unique character of legal pluralism in Indonesia. In the context of inheritance, Islamic inheritance law is a normative system derived from classical *fiqh* and formally codified in the Compilation of Islamic Law and in the authority of religious courts. However, this law does not operate in a homogeneous space; it interacts with customary law in multiethnic societies and with state law, a formal legal framework that guarantees certainty and order. Multiethnic Muslim families, formed through interethnic marriage or social mobility, are in a unique position because they not only face sharia norms but also bring different customary traditions and must deal with state legal institutions. In these circumstances, inheritance practices and the resolution of inheritance disputes become an arena for normative negotiation involving competing claims of legitimacy.

Legal pluralism in Indonesia is a historical reality that has emerged from the convergence of customary law, religious law, and modern state law. The theory of legal pluralism explains that in complex societies, more than one normative system can coexist and influence social behaviour.³⁷ In the context of inheritance, this pluralism is evident because Indonesian Muslim communities often have the choice between formally applying *farā'id*, following local customs, or seeking legitimacy through state law.³⁸ Multiethnic families face even more complex plurality because they carry more than one customary tradition, making legal choices even more strategic. For example, a family consisting of a Batak Muslim and a Minangkabau Muslim couple may face a dilemma when an inheritance dispute arises: should the distribution follow the patrilineal principles of the Batak clan, the matrilineal traditions of the Minangkabau, or the *farā'id* provisions regulated by Islamic law and decided by the religious court?

The core issues in these negotiations are inconsistencies in the application of the law and the parties' forum-shopping strategies in pursuit of their own interests. Forum shopping refers to the practice of choosing the legal institution or mechanism that is considered most advantageous to a particular party in a dispute. In inheritance disputes,

³⁷ Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Sydney Law Review* 30, no. 3 (2008): 375-411; Keebet von Benda-Beckmann and Bertram Turner, "Legal Pluralism, Social Theory, and the State," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (2018): 255-74, <https://doi.org/10.1080/07329113.2018.1532674>.

³⁸ Moh Ainul Muttaqin et al., "The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 80-95, <https://doi.org/10.65586/insani.v1i1.6>.

heirs can choose to bring the case to a religious court to obtain formal legitimacy for the distribution of *farā'id*, or, conversely, pursue a settlement through traditional deliberation if the outcome is more in line with their interests. This inconsistency arises not only from weak legal certainty but also from the plurality of norms, which creates space for social actors to maximise their profits.

In the practice of multiethnic Muslim families, the choice between Islamic law, customary law, and state law is often pragmatic. Many families prefer informal settlements through deliberation because it is considered to maintain harmony and avoid open conflict.³⁹ Family deliberations can result in compromises that are not entirely in accordance with *farā'id*, but are accepted as socially fair solutions.⁴⁰ For example, in Javanese-Bugis Muslim families, inheritance is often distributed by mutual agreement among sons and daughters to maintain harmony, even though *farā'id* normatively stipulates differences in shares. Such agreements are often considered more realistic and in line with family values. However, when deliberations fail or one party feels aggrieved, litigation in a religious court can be pursued to obtain a formal, binding decision.

The main debate in this context centres on which form of legal legitimacy is considered the fairest and most binding. Should religious court rulings as a representation of formal Islamic law be regarded as the highest authority? Or do customary family agreements born of local traditions have greater social legitimacy? Or is informal compromise based on deliberation the most relevant form of substantive justice? These questions reflect the tension between normative justice and social justice. Religious court decisions offer legal certainty and formal state legitimacy, but are often considered insensitive to cultural contexts and family relationships. Conversely, customs and deliberation offer flexibility and social acceptance, but can be seen as weak in terms of certainty and protection of individual rights.

The legalistic camp emphasises the supremacy of state law and legal certainty as the main principles in settling inheritance disputes. From this perspective, the plurality of resolution mechanisms is problematic because it creates space for manipulation, uncertainty, and injustice. State law is considered the primary reference because it provides formal procedures, standards of proof, and enforceable decisions.⁴¹ Religious courts, as state institutions that apply Islamic law, are considered the most legitimate mechanism for resolving Muslim inheritance disputes.

Legalism also emphasises that forum shopping creates uncertainty and weakens the integrity of the legal system, as stronger parties can choose a favourable forum and exert pressure on weaker parties. However, the pluralist camp views the diversity of dispute-resolution mechanisms as a reflection of the social justice that exists in society.⁴² From a legal pluralism perspective, law is not only produced by the state, but also lives in social practices, customs, and community values. Customary deliberation or family

³⁹ Putra Halomoan Hsb, Fatahuddin Aziz Siregar, and Suud Sarim Karimullah, "Inheritance in the Mandailing Community: Value Changes from a Legal Culture Perspective," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025): 83–108, <https://doi.org/10.19109/nurani.v25i1.24870>.

⁴⁰ Mohamad Fadzil Mohamad and Muhamad Mu'izz Abdullah, "The Implementation of Radd in Islamic Inheritance Law (Faraid): One of the Solutions for Estate Administration Problem," in *Selected Proceedings from the 1st International Conference on Contemporary Islamic Studies (ICIS 2021)* (Springer, 2022), 105–16, https://doi.org/10.1007/978-981-19-2390-6_10.

⁴¹ Ahmed Awad Al-Bnian and Omar Almahzoumi, "The Cases Where the Judge's Ruling Act as an Execution Order," in *Frontiers of Human Centricity in the Artificial Intelligence-Driven Society 5.0* (Springer, 2024), 1085–94, https://doi.org/10.1007/978-3-031-73545-5_98.

⁴² Carrie Menkel-Meadow, "Dispute Resolution as Civil Justice: The Evolution of Process Pluralism," in *Research Handbook on Civil Justice* (Edward Elgar Publishing, 2025), 114–32, <https://doi.org/10.4337/9781035314584.00018>.

agreements are seen as a form of living law that is legitimate because the community accepts them.⁴³ Pluralists argue that formal legal certainty does not always result in substantive justice, especially in multiethnic societies with different traditions. In this context, the flexibility of customs and deliberation becomes an adaptive mechanism for maintaining social harmony and preventing prolonged conflict.

A complex example can be seen in inheritance disputes in Minangkabau Muslim families, which have two types of property: *pusaka tinggi* (high inheritance) and *harta pencarian* (acquired property). When disputes arise, some parties may demand the division of *farā'id* over all assets through religious courts. In contrast, others maintain that *pusaka tinggi* must still be inherited according to matrilineal customs. This conflict reflects forum shopping rooted in differences in normative legitimacy. Religious courts may rule according to formal Islamic law, but such rulings may be socially unacceptable if they conflict with strong customs. In multiethnic families, such conflicts are further complicated by the involvement of multiple customs, so that resolution often requires creative compromises, such as dividing some assets according to *farā'id* and retaining others as collective family property.

Forum shopping can also occur when one party uses state law to pressure the other. For example, male heirs in patrilineal families may bring disputes to religious courts to assert greater *farā'id* rights. In contrast, female heirs push for consensual settlements to ensure a more equitable distribution. In other cases, parties with greater economic access and legal knowledge may utilise formal procedures to secure assets, while weaker parties may choose customary channels because they are more accessible. This shows that the choice of forum is not always neutral but is shaped by power relations and strategic interests.

Negotiations between state law, Islamic law, and customary law also reflect the dynamics of religious identity and legitimacy. In many cases, parties who wish to maintain customary distribution may use arguments of culture and social harmony, while parties who demand *farā'id* use religious legitimacy as a moral basis. Religious courts are in a dilemma; they must uphold formal Islamic law while confronting pluralistic social reality. In this context, the settlement of inheritance disputes often does not end with a legal decision alone, but requires broader social reconciliation.

Conclusion

The application of *farā'id* as a normative system has never been fully implemented in a homogeneous social space, but has always interacted dialectically with cultural plurality, traditional kinship structures, family power relations, and the dynamics of gender justice that have developed in contemporary society. The tension between the claims of the universality of classical fiqh and adaptive inheritance practices shows that Islamic inheritance law operates as a living law continuously negotiated through deliberation, customary compromise, and state litigation mechanisms. The concept of hybridity in inheritance within multiethnic families, as a new synthesis of sharia norms, customs, and social needs, enriches the theory of legal pluralism and legal awareness in the context of Indonesian Islamic family law.

The theoretical and practical implications of this study call for the development of a more contextual, culturally sensitive, and responsive approach to Islamic inheritance law regarding gender justice issues, so that religious court policies and family mediation

⁴³ Anthony C Djala, "The Concept of Living Customary Law: A Critique," *The Journal of Legal Pluralism and Unofficial Law* 49, no. 2 (2017): 143–65, <https://doi.org/10.1080/07329113.2017.1331301>.

mechanisms should be directed towards integrating normative certainty and social acceptance. However, the limitations of this study lie in its empirical scope, which does not fully represent the diversity of Indonesian ethnicities and the complexity of practices in various regions, so that generalisations of the findings must be made with caution. Further studies are recommended to expand the comparative scope across multiethnic communities, integrate quantitative-sociological analysis of dispute patterns, and explore the reformulation of more inclusive inheritance law policies without losing sharia legitimacy.

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