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Legal Recognition, Regulatory Challenges, and Harmonization**

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**Integrating Al-'Urf into Smart Contracts: Addressing  
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# **Cultural Negotiations in the Vernacularization of Islamic Inheritance Law in Indonesia: A Socio-Legal and Maqāṣid al-Sharī‘ah Approach**

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## **Abstract**

Islamic inheritance law is understood as the primary norm for inheritance distribution in Muslim societies, but in practice, it is influenced by local cultural values and family negotiations. This study analyzes inheritance distribution patterns in Muslim families, the negotiation process between Islamic inheritance law and local cultural values in inheritance practices, and reinterprets these practices through the framework of *maqāṣid al-*



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*shari'ah*. Adopting a qualitative method with a socio-legal approach, this study was conducted among Muslim families in Central Java. The findings indicate that inheritance distribution in Muslim families includes several patterns, namely, egalitarian inheritance distribution among heirs, delaying distribution until the parents' death, and transferring assets through a gift mechanism during the parents' lifetime. These pattern variations are influenced by cultural values that emphasize family harmony, respect for parents, avoidance of conflict, and solidarity between siblings but are not the result of customary legal preferences. Rather than representing a deviation from Islamic law, these practices reflect a negotiation process between Islamic legal norms and local cultural values. Using the *maqasid al-shari'ah* framework, this study demonstrates that inheritance practices can be interpreted as contextual efforts to realize the broader objectives of Islamic law, specifically the protection of property (*hifz al-mal*), the enforcement of justice (*'adl*), and the preservation of family harmony as a form of social welfare (*maṣlahah*). This study confirms the adaptive capacity of Islamic inheritance law to respond to dynamic social realities and underscores the importance of the *maqasid al-shari'ah* approach to interpreting contemporary inheritance practices.

**KEYWORDS:** Cultural values; Inheritance practices; Islamic inheritance law; *Maqasid al-shari'ah*; Legal pluralism

### Abstrak

*Hukum Warisan Islam dipahami sebagai norma utama pembagian warisan dalam masyarakat Muslim, tetapi dalam praktiknya dipengaruhi oleh nilai-nilai budaya lokal dan negosiasi keluarga. Studi ini menganalisis pola pembagian warisan pada keluarga Muslim, proses negosiasi antara hukum waris Islam (fara'id) dan nilai-nilai budaya lokal dalam praktik pewarisan, dan mereinterpretasikan praktik-praktik tersebut melalui kerangka maqasid al-shari'ah. Mengadopsi metode kualitatif, dengan pendekatan sosio-legal, penelitian ini dilakukan pada keluarga Muslim di Jawa Tengah. Temuan menunjukkan bahwa pembagian warisan pada keluarga Muslim mencakup beberapa pola, yaitu pembagian warisan secara egaliter di antara ahli waris, penundaan distribusi hingga orang tua meninggal dunia, dan pengalihan aset melalui mekanisme hibah semasa orang tua masih hidup. Variasi pola tersebut dipengaruhi oleh nilai-nilai budaya yang menekankan keharmonisan keluarga, penghormatan kepada orang tua, menghindari konflik, dan solidaritas antar saudara kandung, namun bukan sebagai hasil dari preferensi hukum adat. Alih-alih mewakili penyimpangan dari hukum Islam, praktik-praktik ini mencerminkan proses negosiasi antara norma hukum Islam dan nilai-nilai budaya lokal. Dengan menggunakan kerangka maqasid al-shari'ah, studi ini menunjukkan bahwa praktik pewarisan tersebut dapat diinterpretasikan sebagai upaya kontekstual*

*untuk mewujudkan tujuan yang lebih luas dari hukum Islam, khususnya perlindungan harta benda (ḥifẓ al-mal), penegakan keadilan (‘adl), dan pelestarian keharmonisan keluarga sebagai bentuk kesejahteraan sosial (maṣlaḥah). Studi ini menegaskan kapasitas adaptif hukum warisan Islam dalam merespons realitas sosial yang dinamis, dan menggarisbawahi pentingnya pendekatan maqāṣid al-shari‘ah untuk menafsirkan praktik pewarisan kontemporer.*

**KATA KUNCI:** *Hukum warisan Islam; Maqāṣid al-shari‘ah; Nilai budaya; Praktik pewarisan; Pluralisme hukum*

## Introduction

Inheritance law is an important component of the Islamic family law system<sup>1</sup> because it regulates the distribution of assets, the mechanism for transferring ownership, and the hierarchy of heirs, which are normatively sourced from the Qur’an and Sunnah and then formulated systematically in the discipline of *fara’id* in classical *fiqh* literature.<sup>2</sup> According to Islamic jurists, this system functions not only as a mechanism for wealth distribution but also as an instrument for maintaining familial justice and social balance within Muslim societies<sup>3</sup>. Nevertheless, in practice, the implementation of Islamic inheritance law does not always strictly follow the textual provisions of *fara’id*, as inheritance distribution is often conducted through family deliberation (*musyawarah*), inter vivos gifts (*hibah*), or equal distribution among heirs irrespective of the Qur’anic ratio between male and female shares<sup>4</sup>. This phenomenon reflects the gap

<sup>1</sup> Wahbah al Zuhaili, *Al-Fiqh Al-Islamī Wa Adillatuhu*, 8th ed. (Dimasyq: Dar al-Fikr, 1985), 98.

<sup>2</sup> Mokhamad Rohma Rozikin, "al-Farā’id is half of knowledge: a critical hadith analysis and its juridical implications in Islamic inheritance discourse." *Cogent Arts & Humanities* 13, no. 1 (2026): 2598289. <https://doi.org/10.1080/23311983.2025.2598289>

<sup>3</sup> William Shakespeare, "Reform of Islamic Family Law in Indonesia : Integrating Maqasid Al-Shari’Ah and the Principles of Justice in the Digital Era," *The New Oxford Shakespeare: Critical Reference Edition, Vol. 2* 7, no. 2 (2017): 70, <https://doi.org/https://doi.org/10.30863/as-hki.v7i2.10637>.

<sup>4</sup> I Nengah Pasek Suryawan and Rineke Sara, "Legal Certainty Regarding Pluralism of Inheritance Law in Indonesia in the Transfer of Inheritance Rights in Indonesia," *Indonesian Journal of Multidisciplinary Science* 4, no. 3 (2024): 90, <https://doi.org/10.55324/ijoms.v4i3.1041>.

between doctrinal legal norms and social practices, which are frequently shaped by family relationships, economic considerations, and efforts to preserve familial harmony.

In contemporary Muslim societies, such dynamics are often explained through the perspective of legal pluralism. Many Muslim-majority countries operate within legal systems shaped not only by Islamic law but also by customary and modern state laws<sup>5</sup>. This situation leads to the emergence of inheritance practices due to interactions among multiple legal systems that coexist within society<sup>6</sup>. It means that Islamic inheritance law in social practice does not always function as a self-contained legal system but rather interacts with cultural norms and social practices embedded within the community.

Indonesia is a notable example of a country characterized by strong legal pluralism, particularly in the areas of family and inheritance law. In practice, Indonesian society recognizes several systems of inheritance law that coexist simultaneously, including Islamic inheritance law, customary inheritance law, and Western civil inheritance law, inherited from the colonial legal tradition<sup>7</sup>. The coexistence of these legal systems creates a complex arena of interaction between religious norms, cultural traditions, and state regulations<sup>8</sup>. As a result, the practices of inheritance that develop within society often reflect adaptive forms that reconcile Islamic legal norms with local cultural values.

<sup>5</sup> Siti Ropiah, "Harmonization of Sharia Values in the Modern Inheritance System: Opportunities, Challenges, and Sustainability," *Mizan: Journal of Islamic Law* 09, no. 01 (2025): 670, <https://doi.org/https://doi.org/10.32832/mizan.v13i1>.

<sup>6</sup> Ella Safitri and Ahmat Saiful, "Islamic Inheritance Law in Indonesia: Analysis of Legal Implementation and Compliance Among Muslim Communities," *Responsive Law Journal* 2, no. 1 (2025): 711, <https://doi.org/10.59923/rlj.v2i1.460>.

<sup>7</sup> Agnes Listya Adeline, and Mella Ismelina Farma Rahayu. "The Existence of Inheritance in Indonesia against Customary Inheritance Law and Islamic Inheritance Law." In *3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)*, pp. 4-16. Atlantis Press, 2023. [https://doi.org/10.2991/978-2-38476-164-7\\_2](https://doi.org/10.2991/978-2-38476-164-7_2)

<sup>8</sup> Zainuddin Mappong and Lili, "Right To Self Submission To Western Inheritance Law for the Heirs of Islamic Religion Whom the Property Leaver Has a Different Religion," *Journal of Law and Sustainable Development* 11, no. 2 (2023): 24, <https://doi.org/10.55908/sdgs.v11i2.423>.

Several studies have examined the interaction between Islamic inheritance laws and local cultural practices within Muslim communities in Indonesia. For example, research by Supriyadi and Forbis (2021) in Rembang, Central Java, shows that inheritance distribution practices are influenced by considerations of family harmony and local social structures<sup>9</sup>. A study by Luntajo and Faradila (2025) in Minahasa demonstrates the adaptation of *fara'id* norms to local kinship traditions.<sup>10</sup> Meanwhile, research by Nofialdi and Siska (2024) in Minangkabau confirms the strong influence of the matrilineal customary system on the distribution patterns of inheritance within Muslim families.<sup>11</sup> Putra and Riyanta (2024) in Kampar, Riau, demonstrated that Islamic inheritance law practices develop through a process of *tajdid* (reformation) and selective adaptation (*takhayyur*) to adapt *fara'id* norms to the local social context<sup>12</sup>. Research by Fadani and Muhammad (2024) in Sintang<sup>13</sup> and Yusmita et al. (2025) in Lombok<sup>14</sup> also demonstrates that inheritance practices in Muslim communities are not always carried out literally based on distribution

<sup>9</sup> Supriyadi and Forbis Ahamed, "The Legal Culture In the Distribution of Heritage Property Among the Muslim Community In Karas Kepoh Village, Pancur District, Rembang, Central Java," *Al-'Adalah* 18, no. 1 (2021): 78, <https://doi.org/10.24042/adalah.v18i1.5422>

<sup>10</sup> Mohammad Muzwir Luntajo, and Faradila Hasan. "Inheritance across faiths in Muslim Minahasa families: Legal pluralism and cultural adaptation in Manado, Indonesia." *Journal of Islamic Economics Lariba* 11, no. 1 (2025). <https://doi.org/10.20885/jielariba.vol11.iss1.art24>.

<sup>11</sup> Nofialdi, Nofialdi and Siska Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision," *Mazahib Jurnal Pemikiran Hukum Islam* 23, no. 1 (2024): 271, <https://doi.org/10.21093/mj.v23i1.7257>.

<sup>12</sup> Putra, Deri Eka, and Riyanta Riyanta. "Ignoring Islamic Law for Family Harmony: The Practice of Delaying Inheritance Distribution in the Indigenous Muslim Community of Kampar, Riau." *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 58, no. 1 (2024): 141-173. <https://doi.org/10.14421/ajish.v58i1.1433>

<sup>13</sup> Fadhil Fadani, and Muhammad Adib Alfarisi Adib. "The Harmonization of Customary, State, and Islam in the Practice of Dayak-Muslim Senganan Customary Inheritance in Sintang, Indonesia." *Al-Mazaahib: Jurnal Perbandingan Hukum* 12, no. 2 (2024): 137-164. <https://doi.org/10.14421/al-mazaahib.v12i2.3657>

<sup>14</sup> Yusmita, Iwan Romadhan Sitorus, Laras Shesa, Evy Septiana Rachman, and Sri Lumatus Sa'adah. "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): 831-852. <https://doi.org/10.29240/jhi.v10i2.12500>

formulas in the Quran, but rather through family deliberations that consider aspects of social justice, economic conditions, and the sustainability of family relations. In the context of the Sasak community in Lombok, the customary kinship structure even plays a role in shaping the interpretation of the principle of *fara'id* itself.<sup>15</sup>

Although various studies have examined the relationship between Islamic inheritance law and customary practices in Indonesia, these studies generally focus on the accommodation between sharia norms and local culture, particularly within the framework of conflict or harmonization between custom and *fara'id*. Consequently, attention to how Islamic inheritance law undergoes a process of vernacularization through the localization and negotiation of norms within contemporary Muslim family social practices remains relatively limited, including in explaining how these practices gain social legitimacy and reconstruct the meaning of justice in Islamic inheritance law. Furthermore, the *maqāṣid al-shari'ah* approach has not been widely used to examine inheritance practices as a process of producing legal meaning oriented toward welfare, family welfare, and social harmony. Departing from this gap, this study develops a vernacularization perspective in the study of Islamic inheritance law through an integration of the socio-legal approach and *maqāṣid al-shari'ah*, by viewing inheritance distribution practices not as a deviation from sharia, but as a form of normative negotiation that contextually reshapes the concept of Islamic justice in Indonesian Muslim society.

This study analyzes inheritance practices in Muslim families in Indonesia as a socio-legal phenomenon formed through the interaction between Islamic legal norms and local cultural values in the process of vernacularization of inheritance law. The research focuses on how the normative principles of *fara'id* are understood, interpreted, and adapted in

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<sup>15</sup> Muhammad Fikri, "Reform of The Inheritance System: Between Islamic Law and Tradition of the Sasak Tribe." *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (2024): 197-211. <https://doi.org/10.18860/j-fsh.v16i1.26354>

inheritance distribution practices at the family level while also identifying the social and cultural factors that influence the inheritance patterns that develop in society. Furthermore, this research uses the *maqasid al-shari'ah* approach to evaluate the extent to which these practices align with the substantive objectives of Islamic law, particularly in realizing justice, maintaining family harmony, and improving social welfare. By integrating the socio-legal approach and *maqasid al-shari'ah*, this study offers an analytical framework that bridges the normative and empirical dimensions of contemporary Islamic legal studies.

## Methods

This study adopts a qualitative method with a socio-legal approach that examines inheritance practices as a social phenomenon shaped not only by norms in Islamic legal doctrine but also by cultural dynamics and family relations within Muslim society in Central Java. Data collection techniques were conducted through semistructured interviews with heirs who have direct experience in inheritance distribution, parents who have distributed their property, and community leaders familiar with inheritance practices in the local community. Direct observation was also conducted to obtain data related to family deliberations on inheritance issues, including document studies of relevant legal texts and community records. The collected data were thematically analyzed by identifying recurring patterns in the practices of inheritance distribution and the cultural values underlying these practices. This analysis integrates an anthropological perspective on cultural values with the theoretical framework of *maqasid al-shari'ah* to evaluate whether the observed practices align with the fundamental goals of Islamic law, specifically justice (*al-'adl*), social harmony (*al-ukhuwwah*), and protection of property (*hifz al-mal*).<sup>16</sup> This

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<sup>16</sup> Jasser Auda. *Maqasid Al-Shariah as Philosophy of Islamic Law. Maqasid Al-Shariah as Philosophy of Islamic Law. Washington: The International Institute of Islamic Thought, 2019.*, <https://doi.org/10.2307/j.ctvkc67tg>.

analytical framework allows the study to interpret inheritance practices not only as deviations from doctrinal rules but also as socio-legal processes shaped by negotiations between religious norms and cultural values.

## Discussion

### Inheritance Distribution among Muslim Families in Indonesia: A Socio-Legal Approach

Inheritance distribution among Muslim families demonstrates diverse patterns shaped by family dynamics, cultural values, and practical considerations rather than strict adherence to doctrinal Islamic inheritance rules. Several recent studies show that inheritance distribution is frequently shaped by negotiations among heirs and cultural norms emphasizing family harmony, fairness, and mutual agreement rather than strict adherence to the doctrinal provisions of *fara'id*<sup>17</sup>. In many communities, inheritance is distributed through family deliberation (*musyawarah*) or informal agreements that accommodate the economic conditions and social relationships among heirs<sup>18</sup>. Consequently, inheritance practices often represent a socio-legal process in which Islamic legal norms, cultural values, and practical considerations interact dynamically<sup>19</sup>. Therefore, this overview provides an initial understanding that the patterns of inheritance distribution among Muslim families emerge not only from legal prescriptions but also from the social realities of family life, which shape how inheritance is negotiated and implemented within the community.

<sup>17</sup> Rr Dewi Anggraeni, . "Islamic law and customary law in contemporary legal pluralism in Indonesia: Tension and constraints." *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023).<https://doi.org/10.15408/ajis.v23i1.32549>

<sup>18</sup> Hafidz Taqiyuddin, Rusli, Mohammad Adnan, and Muhammad Alif. "Habitus and Legal Behavior in Islamic Inheritance Practice: A Socio-Legal Analysis in Rural Serang Regency, Indonesia." *El-Usrah* 8, no. 1 (2025): 72–96. <https://doi.org/10.22373/p17zvd18>.

<sup>19</sup> Azni, Muhammad Akhyar Rifqi, Saifunnajar Saifunnajar, Kholil Syu'aib, and Najibah Bt Mohd Zin. "The Timing Analysis of Inheritance Distributions in the Compilation of Islamic Law." In *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan*, vol. 23, no. 2, pp. 258-273. 2023., <https://doi.org/https://doi.org/10.30631/alrisalah.v23i2.1431>.

This study reveals that the distribution of inheritance among Muslim families follows several patterns shaped by family dynamics, cultural values, and practical considerations in managing family property. Rather than strictly applying the doctrinal rules of Islamic inheritance law, families tend to adopt flexible arrangements that they perceive as fair and socially appropriate. Research findings indicate that three major patterns of inheritance distribution, among others: first, distribution of property during the parents' lifetime; second, delayed inheritance until both parents pass away; and third, equal distribution among heirs regardless of gender. These patterns illustrate how inheritance practices evolve through social negotiation within family structures and reflect the broader interaction between Islamic legal norms and local socio-cultural values. Recent socio-legal studies on inheritance practices in Muslim communities similarly demonstrate that inheritance distribution is often shaped by pragmatic considerations within families rather than purely doctrinal legal prescriptions.<sup>20</sup>

**Table 1.** *Inheritance Distribution Patterns*

| <b>Pattern of the Distribution</b>        | <b>Main Characteristics</b>                                     | <b>Social Motivation</b>              |
|-------------------------------------------|-----------------------------------------------------------------|---------------------------------------|
| Distribution during the parents' lifetime | Distribution of property as gifts ( <i>hibah</i> ) before death | Preventing conflict among heirs       |
| Delayed inheritance distribution          | Distribution postponed until both parents pass away             | Respect for the surviving parent      |
| Equal distribution among the heirs        | Same share for male and female heirs                            | Perceived fairness and family harmony |

**Source:** *Author's fieldwork data from 2024.*

Table 1 shows that inheritance distribution practices occur through several patterns influenced by social considerations and family relationships. The first pattern involves the distribution of assets while the

<sup>20</sup> 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): 419-448. <https://doi.org/10.21580/ahkam.2024.34.2.20843>

parents are still alive, with the assets being transferred as gift before the testator's death. This practice is generally carried out to prevent potential conflict among heirs and maintain stable family relationships. The second pattern involves postponing the distribution of inheritance until both parents have died. In this pattern, the distribution of assets is not carried out even after one parent has died, as the family prioritizes respect for the surviving parent and maintaining the authority and continuity of the family structure. The third pattern involves equal distribution of inheritance between male and female heirs. This practice is based on perceptions of justice and effort to maintain family harmony, so the distribution is carried out in an egalitarian manner without adhering to the differences in proportions as stipulated in *fara'id* provisions. These three patterns demonstrate that inheritance practices in Muslim families are not solely determined by formal legal norms but are also shaped by cultural values, social negotiations, and pragmatic needs within the family.

One of the most interesting patterns in this study is the distribution of property during the parents' lifetime, particularly when children begin independent family life, such as after marriage. Although legally, this practice is categorised as a *hibah* (inter vivos gifts) because inheritance in Islamic law only occurs after the death of the property owner, many families perceive and refer to them as inheritance distribution<sup>21</sup>. Parents often choose this approach to determine property allocation directly, minimize potential disputes among heirs, ensure fairness, and maintain family cohesion, reflecting practices commonly found in other Muslim communities as well.

**Table 2.** *Inheritance Distribution among Informant Families*

| Informant   | Number of Heirs | Time of Distribution         | Distribution Model |
|-------------|-----------------|------------------------------|--------------------|
| Informant 1 | 3 children      | During the parents' lifetime | Equal distribution |

<sup>21</sup> Badruddin Hj.Ibrahim, "Hibah (gift inter vivos) by parent in favour of some children to the exclusion of the others under Islamic law." *Arab Law Quarterly* 31, no. 1 (2017): 54-73. <https://doi.org/10.1163/15730255-12341335>

|             |            |                              |                    |
|-------------|------------|------------------------------|--------------------|
| Informant 2 | 4 children | During the parents' lifetime | Equal distribution |
| Informant 3 | 4 children | During the parents' lifetime | 2:1 ratio          |
| Informant 4 | 4 children | After both parents died      | Equal distribution |

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**Source:** *Author's fieldwork data*

Table 2 shows variations in inheritance distribution practices within Muslim families, which are influenced by the timing of distribution and the distribution model chosen by the family. Informants 1 and 2 distributed their assets to their children while they were still alive, with an equal distribution model among all heirs.<sup>22</sup> Informant 3 also distributed assets during the parents' lifetime, but the 2:1 distribution pattern was maintained as stipulated in *fara'id*.<sup>23</sup> In contrast to these three informants, informant 4 delayed inheritance distribution until both parents died but still implemented an egalitarian distribution among all heirs.<sup>24</sup> This variation indicates that inheritance practices within Muslim families are not singular but are flexibly negotiated according to the family's understanding of justice, harmony, and social needs within family relations. This means that inheritance practices represent a dynamic interaction process between Islamic legal norms, local culture, and the family's social rationality, so that inheritance law functions not only as a normative system but also as a social instrument that adapts to societal realities.

Another inheritance pattern identified in this study is the postponement of inheritance distribution until both parents have passed away, as family property is often perceived as jointly owned marital property (*harta gono-gini*) that should remain under the control of the surviving parent to maintain family harmony and ensure their welfare. The pattern of delaying inheritance distribution until both parents die demonstrates that inheritance practices in Muslim families do not operate solely based on the

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<sup>22</sup> Interviews, May 4-5, 2024.

<sup>23</sup> Interview, May 5, 2024.

<sup>24</sup> Interview, May 6, 2024.

normative logic of *fara'id*, but are subject to a family social structure that prioritizes harmony and parental protection. From a socio-legal perspective, inheritance is understood not simply as an object for the distribution of individual rights, but as an instrument for maintaining stable family relations.<sup>25</sup> Therefore, the control of assets by surviving parents often gains social legitimacy that is stronger than the demands for formal inheritance distribution. This practice emphasizes that living law operates through social negotiation, not simply through textual adherence.

Conversely, the practice of equal inheritance distribution demonstrates a shift in the meaning of justice in Islamic inheritance law. Justice is no longer understood mathematically through inheritance share formulas but rather relationally based on economic contributions, family responsibilities, and efforts to maintain solidarity among heirs.<sup>26</sup> In many cases, inheritance distribution is negotiated through family deliberation, including when male heirs voluntarily cede some of their rights to female relatives to achieve a distribution deemed more just and harmonious.<sup>27</sup> This phenomenon shows that Islamic inheritance law at the social level is dynamic and continues to experience vernacularization, where sharia norms are translated adaptively according to the cultural context and needs of contemporary Muslim families.

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<sup>25</sup> Ngazizah, Inna Fauziatal. "Transformation Of Local Norms In Inheritance Division In Pantura: A Sociology Of Law Approach." *Malaysian Journal of Syariah and Law* 13, no. 2 (2025): 591-603. <https://doi.org/10.33102/mjssl.vol13no2.1124>

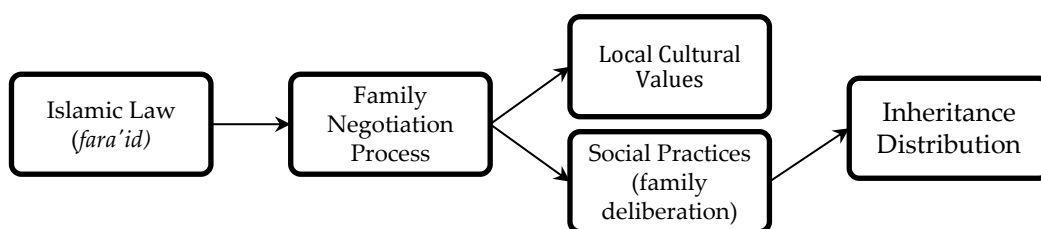
<sup>26</sup> Muhammad Yusuf, and Ismail Suardi Wekke. "Inheritance and gender equality." *Justicia Islamica* 15, no. 1 (2018): 1-12. <https://doi.org/10.21154/justicia.v15i1.1436>

<sup>27</sup> Reni Nur Aniroh, Khoiruddin Nasution, and Ali Sodikin. "The Bilateral Inheritance System in Islamic Family Law: Fairness, Equality, and Mutual Exchange Perspectives." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (2024): 891-911. <https://doi.org/10.22373/sjhk.v8i2.17630>

## Negotiating Islamic Law and Cultural Values in Inheritance Practices

Theoretically, inheritance practices in Indonesian Muslim society can be described as weak legal pluralism. According to Griffiths (1986),<sup>28</sup> this situation occurs when various normative systems—Islamic law, customary law, and social norms—operate side by side in a single social space without a single, exclusively governing hierarchy but rather interact simultaneously in the practices of community life.<sup>29</sup> Although Islamic inheritance law provides doctrinal guidelines regarding heirs' shares and property transfer, its implementation is frequently shaped by local cultural values such as family harmony, collective decision-making, fairness, and respect for parental authority. Empirical findings from this study demonstrate that these normative systems often complement rather than conflict with one another, as families commonly negotiate inheritance distribution through deliberation and mutual agreement to achieve outcomes considered socially legitimate and harmonious. Consequently, inheritance practices are not determined solely by formal legal prescriptions but emerge from the dynamic interaction among religious norms, local cultural values, and everyday social practices within family life.

**Figure 1:** *Interaction of Legal Systems in Inheritance Practices*



**Source:** *author framework*

<sup>28</sup> John Griffiths, "What is legal pluralism?." *The journal of legal pluralism and unofficial law* 18, no. 24 (1986): 1-55. <https://doi.org/10.1080/07329113.1986.10756387>

<sup>29</sup> Brian Z. Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences*. Oxford University Press, 2021. pp 170-172

Inheritance practices within Muslim communities are not shaped solely by formal legal norms but are also deeply influenced by cultural values embedded in social life. Anthropological studies emphasize that cultural values function as normative frameworks guiding social behavior,<sup>30</sup> including decisions concerning family property and inheritance. From Clifford Geertz's perspective (1973),<sup>31</sup> cultural values are a system of symbolic meanings that shape how a society defines justice, respect, and socially appropriate within its community. <sup>32</sup>In the context of inheritance distribution, these values shape how families interpret legal norms and determine acceptable arrangements for distributing property among heirs. Consequently, inheritance decisions are not merely legal acts but also moral and social processes embedded in family relationships. In many Muslim societies, inheritance practices reflect the interaction between Islamic legal norms and cultural values that emphasize harmony, solidarity, and respect for family hierarchy.

Cultural values play a significant role in shaping inheritance practices within Muslim communities, particularly the principles of social harmony (*rukun*), respect for parents, and conflict avoidance<sup>33</sup>. Empirical findings show that inheritance distribution is often arranged through equal sharing, delayed distribution until both parents have passed away, or property transfer during the parents' lifetime (*hibah*) to preserve harmonious relationships among siblings, uphold filial respect, and prevent potential

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<sup>30</sup> Robert A. LeVine "Properties of Culture: An Ethnographic View." Emerald Publishing Limited (2021).<https://doi.org/10.1108/978-1-64802-414-620251008>

<sup>31</sup> Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973), 58–59.

<sup>32</sup> Madeleine Bausch. "Clifford Geertz: Culture as a System of Meaning." In *Landmarks in Intercultural Studies: Biographies. Concepts. Positions*, Wiesbaden: Springer Fachmedien Wiesbaden, 2026, 99–125. [https://doi.org/10.1007/978-3-658-48139-1\\_4](https://doi.org/10.1007/978-3-658-48139-1_4)

<sup>33</sup> Fatma Betül Altıntaş, "An Anatomy of a Tension: The Case of Fadak –The Dispute Between Abū Bakr and Fātima and Its Reflections in the Commentary Tradition–," *Hitit Theology Journal* 24, no. 2 (2025): 1001, <https://doi.org/10.14395/hid.1744620>.

disputes among heirs<sup>34</sup>. Rather than strictly applying doctrinal Islamic inheritance formulas, families frequently negotiate inheritance arrangements through deliberation and mutual agreement based on cultural perceptions of fairness, family solidarity, and parental authority. These practices demonstrate that the distribution of inheritance in Muslim societies is strongly influenced by local cultural ethics and moral values that interact dynamically with Islamic legal norms in shaping socially acceptable and harmonious outcomes.

Value of family solidarity also plays a significant role in shaping inheritance practices. Within many Muslim families, inheritance is not viewed merely as the transfer of property but as part of a broader system of mutual support among family members. Decisions regarding inheritance distribution are often influenced by considerations such as the economic conditions of individual heirs, their contributions to family responsibilities, and their relationships with parents. In some cases, male heirs voluntarily share part of their inheritance with their sisters in order to achieve equal distribution, even when the formal legal rule would grant them a larger share. Such practices illustrate that inheritance distribution is guided not only by legal entitlements but also by moral considerations regarding fairness and collective responsibility within the family. These findings suggest that cultural values serve as the moral foundation guiding inheritance decisions, shaping how families interpret legal norms and negotiate inheritance arrangements in everyday life.

Understanding the influence of cultural values on inheritance practices is essential for explaining why certain inheritance arrangements deviate from formal legal prescriptions while still being considered legitimate within the community. Cultural principles, such as harmony, respect for parents, conflict avoidance, and family solidarity, are ethical guidelines that shape the interpretation and application of inheritance

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<sup>34</sup> Sadaf Jabbar, "The Role of Filial Piety in Shaping Society: A Comparative Study of Confucian and Islamic Thought," *AL RAQIM* 3, no. 2 (2025): 887, <https://journals.iub.edu.pk/index.php/alraqim/article/view/3980>.

norms. These cultural dynamics also illustrate the interpretation of Islamic legal principles within local social contexts. The following section explores how these cultural values interact with Islamic legal norms through family negotiation processes.

Inheritance distribution within Muslim families is rarely determined solely through the mechanical application of legal rules. The empirical findings of this study indicate that inheritance arrangements often emerge through negotiation among family members. These negotiations typically occur through family discussions in which heirs collectively deliberate on how family property should be distributed. In such discussions, legal norms, cultural values, and practical considerations are simultaneously taken into account. Socio-legal scholarship emphasizes that legal norms frequently operate through social negotiation rather than rigid implementation, particularly in family-related matters where emotional relationships and moral considerations play a central role<sup>35</sup>. As a result, inheritance distribution becomes a social process in which legal rules are interpreted and adapted through dialogue among family members.

The negotiation process usually begins when heirs gather to discuss the distribution of family property after the death of a parent or when parents initiate discussions regarding property distribution during their lifetime. Informants reported that these discussions are typically conducted in an informal setting, often facilitated by the eldest sibling or respected family member. During the discussion, each heir may express their views regarding how the inheritance should be divided. Although Islamic inheritance law provides a doctrinal formula for determining the shares of heirs, families frequently reinterpret these rules in light of their social circumstances. In many cases, the negotiation process leads to agreements that balance religious norms with considerations of fairness, economic needs, and family harmony. Studies on Muslim family law similarly show

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<sup>35</sup> Matthias Baier, ed. *Social and legal norms: Towards a socio-legal understanding of normativity*. Routledge, 2016.

that inheritance decisions often result from negotiated agreements rather than strict legal calculation<sup>36</sup>.

The role of consensus in resolving potential disagreements among heirs is another important feature of the negotiation process. Rather than relying on formal legal institutions, such as courts, families often prefer to resolve inheritance matters through mutual agreement. The respondents emphasized that resolving inheritance issues within the family is considered more appropriate because it preserves family dignity and avoids public conflict. Consequently, inheritance negotiations often involve compromises among heirs, where individuals voluntarily adjust their claims to maintain harmonious relationships. For example, male heirs sometimes agree to share a portion of their inheritance with their sisters in order to achieve equal distribution. Such compromises illustrate how inheritance distribution becomes a negotiated outcome shaped by moral considerations and family solidarity rather than purely legal entitlement<sup>37</sup>.

The negotiation process also demonstrates how Islamic legal norms are interpreted flexibly within family contexts. Rather than rejecting Islamic law, families often reinterpret its principles in ways that align with their social values and practical needs. This process reflects what Sally Falk Moore calls the adaptation of legal norms through everyday social practices, where legal rules are contextualized according to the social dynamics of society.<sup>38</sup> Therefore, inheritance negotiations represent a dynamic interaction between normative legal principles and social realities. Through

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<sup>36</sup> Harisah Maimun, Imam Hanafi, and Zubaidi Sulaiman. "Analyzing the Maduranese's Traditional Inheritance from Al-Tûfi's Maslahah Theory." *Al-'Adalah* 18, no. 1 (2021): 35–54. <https://doi.org/10.24042/adalah.v18i1.8649>.

<sup>37</sup> Martin Eidrup, "The Study of Muslim Family Norms in Contemporary Europe: A Systematic Scoping Review," *Oxford Journal of Law and Religion* 14, no. 1 (2025): 1190, <https://doi.org/10.1093/ojlr/rwaf005>.

<sup>38</sup> Sally Falk Moore. "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study." *Law & Society Review* 7, no. 4 (1973): 719–46. <https://doi.org/10.2307/3052967>.

these negotiations, families construct inheritance arrangements that they perceive as both legally legitimate and socially just.

Overall, the findings indicate that inheritance distribution among Muslim families is shaped by a process of negotiation that integrates Islamic legal principles, cultural values, and family relationships. These negotiations allow families to adapt inheritance rules to their specific circumstances while maintaining social harmony and moral legitimacy. Thus, the negotiation process functions as a mechanism through which multiple normative systems—religious law, cultural values, and social practices—are reconciled within family life. This dynamic process further illustrates how inheritance practices operate within a framework of legal pluralism and cultural negotiation.

The inheritance practices observed among Muslim families illustrate a broader process often described in socio-legal scholarship as the vernacularization of Islamic law. The concept of vernacularization introduced by Sally Engle Merry<sup>39</sup> is a process in which universal legal norms are interpreted, adapted, and integrated into the local cultural context so that they can be accepted and practiced in accordance with the values, traditions, and social structures of the local community.<sup>40</sup> Rather than being applied mechanically, Islamic legal principles are translated into locally meaningful practices that align with the social realities of particular communities. In the context of inheritance distribution, this process becomes visible when families reinterpret doctrinal legal rules through the lens of cultural values such as harmony, respect for parents, and family solidarity. Consequently, the application of Islamic inheritance law in everyday life often reflects a contextualized understanding of legal norms shaped by local moral frameworks.

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<sup>39</sup> Sally Engle Merry and Peggy Levitt. "The vernacularization of women's human rights." *Human rights futures* (Cambridge University Press, 2017): 213-236.

<sup>40</sup> Mark Goodale, "Sally Engle Merry: shaping the anthropology of law." *The Journal of Legal Pluralism and Unofficial Law* 53, no. 1 (2021): 4-10. <https://doi.org/10.1080/07329113.2021.1880149>

From a socio-legal perspective, vernacularization does not imply the rejection of Islamic law but rather adaptation within the lived experiences of Muslim communities. Islamic legal principles continue to function as a moral and normative reference for inheritance practices; however, their implementation is negotiated through social interactions and cultural interpretations. In many families studied, heirs expressed a strong commitment to respecting Islamic legal values while simultaneously adapting inheritance arrangements to fit their family circumstances. For instance, equal inheritance distribution was often justified by invoking broader Islamic ethical principles, such as justice (*'adl*) and mutual responsibility within the family. This demonstrates that community members do not necessarily perceive local practices as contradicting Islamic law but rather as contextual interpretations that preserve its moral objectives<sup>41</sup>.

The vernacularization process is also evident in the interaction of Islamic inheritance norms with local cultural ethics. Cultural principles such as *rukun* (social harmony), respect for elders, and the avoidance of conflict provide interpretive frameworks through which families understand and apply legal norms. Instead of viewing legal rules as rigid prescriptions, families interpret them as moral guidelines that must balance social responsibilities within the family. In this sense, inheritance practices represent a dynamic negotiation between normative religious principles and culturally embedded ethical values. Studies on Islamic law in Southeast Asia similarly emphasize that local Muslim communities frequently reinterpret Islamic legal norms in ways that resonate with their social and cultural contexts<sup>42</sup>.

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<sup>41</sup> Tamyiz Mukharrom and Abdi Supriyanto, "Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 01 (2023): 1008, <https://doi.org/https://doi.org/10.22373/sjkh.v7i1.16436>.

<sup>42</sup> Thahir Jamal Kiliyamannil. "Neither global nor local: Reorienting the study of Islam in South Asia." *Asian Journal of Social Science* 51, no. 4 (2023): 244-251. <https://doi.org/10.1016/j.ajss.2023.07.002>

The process of vernacularization demonstrates that Islamic law remains dynamic and relevant amid social change, as legal norms are continually reinterpreted to reflect family needs, economic conditions, and gender relations within society. Inheritance practices, such as equitable distribution of assets and delays in the distribution of inheritance, reflect Muslim families' efforts to maintain religious legitimacy while achieving social justice. This phenomenon demonstrates that the application of Islamic inheritance law is not rigid but rather occurs through cultural negotiations that connect legal doctrine with the social realities of society. Thus, inheritance practices cannot be understood as deviations from Islamic law, but rather as local interpretations of sharia principles within the social context of Muslim communities. Within this framework, vernacularization serves as a mechanism that allows Islamic legal norms to be translated and adapted to local cultures without losing their normative authority.

### **Reinterpreting Inheritance Practices through the *Maqāṣid al-Shari'ah***

The reinterpretation of inheritance practices in this study is grounded in the theoretical framework of *Maqāṣid al-Shari'ah*, which refers to the higher objectives of Islamic law aimed at ensuring the realization of human welfare (*maṣlaḥah*) and the prevention of harm (*mafsadah*). Classical scholars, such as Abu Ishaq al-Shatibi, conceptualized *maqāṣid* as the essential values underlying legal rules, which must be preserved to achieve justice and social order. These objectives are commonly categorized into the protection of religion, life, intellect, lineage, and property, forming a holistic framework for evaluating the purpose and impact of legal norms.

In contemporary legal thought, the *maqāṣid* approach has been further developed by scholars such as Jasser Auda, who emphasize a

systems-based and context-sensitive interpretation of Islamic law<sup>43</sup>. This approach allows legal norms, including inheritance rules, to be understood not merely as rigid prescriptions but as dynamic instruments aimed at achieving substantive justice, dignity, and social harmony. Therefore, the application of *maqāṣid* in inheritance law requires an assessment of whether existing practices align with broader objectives such as fairness, protection of family integrity, and equitable distribution of wealth.

In the context of inheritance law, the *maqāṣid* framework provides an important analytical lens for understanding how inheritance rules should operate within family life. Islamic inheritance law is traditionally structured to ensure the equitable distribution of property among heirs and to prevent disputes that may arise from unclear ownership arrangements. The principle of *ḥifẓ al-mal* (protection of property) is particularly relevant in this regard, as it emphasizes the importance of safeguarding property rights while ensuring that wealth is distributed fairly among family members. At the same time, other *maqāṣid* principles such as justice (*‘adl*), harmony (*ukhuwwah*), welfare (*maṣlaḥah*), and the prevention of harm (*dar’ al-mafṣadah*) also play a crucial role in shaping how inheritance rules are interpreted and applied within society<sup>44</sup>.

By applying the *maqāṣid* framework, the inheritance practices observed in Muslim communities can be interpreted not merely as deviations from doctrinal legal rules but as contextual efforts to realize the broader objectives of Islamic law. Therefore, local practices such as equal inheritance distribution, delayed inheritance distribution, or property transfers during the parents’ lifetime may be understood as attempts by families to achieve fairness, maintain social harmony, and prevent disputes among heirs. These practices reflect the dynamic relationship between legal

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<sup>43</sup> Jasser Auda. *Maqasid Al-Shariah as Philosophy of Islamic Law. Maqasid Al-Shariah as Philosophy of Islamic Law*. Washington: The International Institute of Islamic Thought, 2019

<sup>44</sup> Mohammad Fauzan Ni’ami and Bustamin, “Maqāṣid Al-Syarī’Ah Dalam Tinjauan Pemikiran Ibnu ‘Āsyūr Dan Jasser Auda,” *Juris: Jurnal Ilmiah Syariah* 20, no. 1 (2021): 91, <https://doi.org/10.31958/juris.v20i1.3257>.

doctrine and social realities, illustrating how the objectives of Islamic law can guide the reinterpretation of inheritance practices in contemporary Muslim societies.

One of the central objectives of Islamic law relevant to inheritance practices is the protection of property (*ḥifẓ al-mal*). Within the *maqāṣid al-shari'ah* framework, safeguarding property is considered a fundamental objective that ensures the orderly transfer of wealth and prevents disputes among individuals. Islamic inheritance law was historically formulated to establish clear rules regarding the distribution of property after death, thereby protecting both individual ownership rights and the economic stability of family members. By determining specific shares for heirs, Islamic law aims to prevent conflicts, ensure fairness in property distribution, and maintain social balance within families<sup>45</sup>. From this perspective, inheritance rules serve not only as technical legal formulas but also as mechanisms for safeguarding economic justice and protecting the property rights of family members.

The protection of property becomes particularly significant in family contexts where inheritance represents a primary means of transferring wealth between generations. The Qur'anic system of inheritance was designed to prevent the concentration of wealth within a limited group while guaranteeing that close relatives receive their rightful share. Therefore, contemporary scholars emphasize that the principle of *ḥifẓ al-mal* encompasses not only the protection of ownership rights but also the equitable distribution of wealth among family members<sup>46</sup>. Thus, inheritance law functions as a tool for maintaining economic stability within families and preventing social inequalities that may arise from arbitrary property distribution.

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<sup>45</sup> Asifa Quraishi and Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence, Journal of Law and Religion*, vol. 15 (Cambridge: Islamic Texts Society, 2000), 63, <https://doi.org/10.2307/1051529>.

<sup>46</sup> Wahbah Al-Zuhayli, *Al-Fiqh Al-Islami Wa Adillatuhu* (Damascus: Dar al-Fikr, 2007), 226.

When viewed through the *maqāṣid* framework, the inheritance practices observed in this study can be interpreted as efforts to safeguard property rights while adapting legal norms to local social contexts. For instance, the distribution of property during the parents' lifetime through *hibah* arrangements allows families to clarify ownership and prevent disputes among heirs in the future. By transferring property while parents are still alive, families ensure that the allocation of assets is clearly understood by all heirs, thereby reducing the likelihood of inheritance conflicts after death. Similarly, delayed inheritance distribution may also reflect efforts to protect property rights by ensuring that family assets remain under the control of the surviving parent until the appropriate time for distribution. Such practices demonstrate how families seek to maintain the stability and clarity of property ownership within the household.

Furthermore, the equal distribution among heirs, which was observed in several cases within the study, can also be interpreted through the lens of *ḥifẓ al-mal*. Although classical Islamic inheritance law prescribes different shares for male and female heirs,<sup>47</sup> equal distribution in certain family contexts may reflect a negotiated effort to ensure perceived fairness and maintain economic balance among siblings. In such cases, the objective is not to undermine Islamic legal principles but to achieve equitable outcomes that prevent disputes and maintain family solidarity. Contemporary *maqāṣid*-oriented scholarship argues that the underlying purpose of inheritance law is to ensure justice and social welfare within family relations.<sup>48</sup> Therefore, contextual inheritance practices that promote fairness and prevent conflict may still align with the broader objectives of Islamic law.

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<sup>47</sup> Tekmen, Emre. "Inheritance Law." In *The Palgrave Encyclopedia of Islamic Finance and Economics*, Cham: Springer Nature Switzerland, 2025, 1-7. [https://doi.org/10.1007/978-3-030-93703-4\\_36-1](https://doi.org/10.1007/978-3-030-93703-4_36-1)

<sup>48</sup> Anjar Kususiyanah, "Keadilan Gender Dalam Kewarisan Islam: Kajian Sosiologis Historis," *Al-Mazaahib* 9, no. 1 (2021): 63, <https://doi.org/10.14421/al-mazaahib.v9i1.2293>.

In this regard, the protection of property should be understood not only in a technical legal sense but also as a broader social objective that includes the preservation of family stability and economic security. Inheritance practices that prevent disputes, clarify property ownership, and ensure fair distribution among heirs ultimately contribute to achieving the maqasid objective of safeguarding wealth within society. Consequently, the inheritance practices identified in this study can be interpreted as contextual realizations of *hifz al-mal*, demonstrating how Islamic legal principles continue to guide family decisions while adapting to contemporary social realities.

Beyond property protection, the objectives of Islamic law also emphasize the realization of justice within social relationships. The concept of justice (*'adl*) occupies a central position in Islamic legal thought and serves as an important normative foundation for regulating inheritance. Islamic inheritance law aims to distribute wealth among family members in a manner that ensures fairness and prevents economic inequality within the household. In this sense, inheritance distribution is not only a technical legal procedure but also a mechanism for promoting social justice among heirs<sup>49</sup>. The Qur'anic system of inheritance was historically designed to protect vulnerable family members, including women and children, by guaranteeing them a legally recognized share of family property.

However, within the context of contemporary Muslim societies, the pursuit of justice may take different forms depending on the social and economic circumstances of families. This study's empirical findings indicate that families often interpret justice in inheritance distribution in ways that reflect their understanding of fairness within the household. For instance, equal inheritance distribution among male and female heirs was frequently

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<sup>49</sup> Syifa Mutiara Putri Heriandita, Farah Farouk Alwyni, Mohammad Izdiyan Muttaqin, and Mulawarman Hannase. "The Role of Islamic Inheritance Law with a Maqasid al-Shariah Approach in Addressing the Challenges of Social Justice for Women." *AJIS: Academic Journal of Islamic Studies* 10, no. 1 (2025): 231-252. <https://doi.org/10.29240/ajis.v10i1.11931>

justified by informants as a means of preventing jealousy among siblings and maintaining harmonious family relationships. Rather than perceiving such arrangements as contradicting Islamic law, families viewed them as practical solutions aimed at preserving fairness and stability within the family structure. Similarly, contemporary scholarship on Islamic law emphasizes that justice in Islamic legal interpretation should be understood as a dynamic principle that must respond to changing social conditions.

The concept of justice in inheritance practices often intersects with broader notions of welfare (*maṣlaḥah*) within the family.<sup>50</sup> In some cases, inheritance arrangements were adjusted to accommodate the economic needs of individual heirs, particularly when certain family members faced financial difficulties or had contributed significantly to family responsibilities. These negotiated arrangements illustrate how inheritance practices are shaped by moral considerations regarding fairness and social responsibility rather than solely by formal legal entitlements. Such practices demonstrate that the principle of justice remains a central ethical consideration guiding inheritance decisions in Muslim families.

Another important objective of Islamic law relevant to inheritance practices is to preserve social harmony within family relationships. Islamic legal ethics consistently emphasize the importance of maintaining peaceful relations among family members and preventing disputes that may disrupt social cohesion. In the context of inheritance distribution, conflicts among heirs are widely recognized as a common source of family fragmentation<sup>51</sup>. Consequently, many inheritance practices are structured in ways that minimize the potential for disputes and preserve harmonious relationships

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<sup>50</sup> Djawas, Mursyid, Khairuddin Hasballah, Soraya Devy, Muntasir A. Kadir, and Yusfriadi Abda. "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 207-219. <https://doi.org/10.31958/juris.v21i2.7495>

<sup>51</sup> Rohman, Adi Nur. "Shifting the role of mediation in Islamic inheritance disputes: an overview of Islamic legal philosophy." *Diponegoro Law Review* 7, no. 2 (2022): 230-244. <https://doi.org/10.14710/dilrev.7.2.2022.230-244>

within the family. Families often adopt inheritance arrangements that they believe will maintain unity and prevent conflict among siblings.

The findings reveal that maintaining family harmony constitutes a central consideration in inheritance decision-making. Informants repeatedly emphasized that inheritance disputes could damage long-standing kinship relationships and lead to lasting divisions within families. Consequently, inheritance arrangements were frequently negotiated in ways that prioritized peaceful outcomes over strict adherence to legal formulas. Practices such as equal inheritance distribution or the early transfer of property through *hibah* were commonly justified as strategies for preventing disputes among heirs. These arrangements reflect a broader ethical commitment to preserving family solidarity and avoiding social harm.

**Table 3.** *Inheritance Practices and Maqāṣid al-Shari‘ah Principles*

| Inheritance Practice                                               | Social Objective                                    | Maqāṣid Principle                              |
|--------------------------------------------------------------------|-----------------------------------------------------|------------------------------------------------|
| Equal distribution among the heirs                                 | Preventing jealousy and maintaining harmony         | Justice (‘ <i>adl</i> )                        |
| Delayed inheritance distribution                                   | Respecting parents and maintaining family stability | Family welfare ( <i>maṣlaḥah</i> )             |
| Transfer of property during the parents’ lifetime ( <i>hibah</i> ) | Preventing disputes among heirs                     | Prevention of harm ( <i>dar’ al-maḥṣadah</i> ) |

**Source:** *Author’s fieldwork analysis.*

Table 3 shows that inheritance practices in Muslim families are not only oriented toward the distribution of assets but also toward achieving social goals in line with the principles of *maqāṣid al-shari‘ah*. The equitable distribution of inheritance is practiced to prevent jealousy and maintain family harmony, reflecting the principle of justice (‘*adl*). Delaying inheritance distribution is done as a form of respect for parents while maintaining family stability, thus relating to the principle of family welfare (*maṣlaḥah*). Meanwhile, the transfer of assets through gifts while parents are still alive is understood as an effort to prevent conflict between heirs,

reflecting the principle of preventing harm (*dar' al-mafsadah*). Thus, these inheritance practices demonstrate that society considers not only the normative aspects of Islamic inheritance law but also social goals and welfare in family life.

Within the *maqāṣid* framework, such practices can be interpreted as efforts to achieve *maṣlaḥah* (public welfare) and prevent harm (*dar' al-mafsadah*), both of which are recognized as important objectives of Islamic law. Inheritance arrangements that successfully prevent disputes and preserve family unity align with the broader ethical goals of Islamic law. Contemporary *maqāṣid* scholarship similarly highlights that Islamic legal interpretation should consider the social consequences of legal rules and prioritize outcomes that promote justice, stability, and social harmony<sup>52</sup>.

From this perspective, the observed inheritance practices can be interpreted as contextual realizations of *maqāṣid*-oriented legal reasoning within family life. These practices demonstrate how families seek to implement Islamic legal values within their social realities rather than representing deviations from Islamic law. By prioritizing harmony, fairness, and the prevention of disputes, Muslim families translate the ethical objectives of Islamic law into practical arrangements that reflect both religious principles and cultural values. These findings reinforce the importance of *maqāṣid al-shari'ah* as an analytical framework for understanding how Islamic law operates within plural legal and social environments.

## Conclusion

The inheritance practices among Muslim families should not be understood simply as deviations from the doctrinal rules of Islamic inheritance law. Instead, these practices reflect a dynamic process through which Islamic legal norms interact with cultural values and social realities

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<sup>52</sup> Ni'ami and Bustamin, "Maqāṣid Al-Syarī'Ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda," 95.

within family life. The diversity of inheritance arrangements—such as equal distribution among heirs, delayed inheritance distribution, and property transfers during the parents' lifetime—illustrates how Muslim families negotiate legal norms through culturally embedded principles such as harmony (*rukun*), respect for parents, and avoidance of conflict. These findings reveal that inheritance distribution operates not only as a legal mechanism for transferring property but also as a socially embedded process shaped by ethical considerations and relational dynamics within the family. Through the framework of *maqāṣid al-sharīʿah*, local inheritance practices can be understood as a form of contextualization of the objectives of Islamic law in the social life of society. These practices are not intended to undermine the principles of Islamic law but rather are efforts to realize property protection (*ḥifẓ al-mal*), justice (*ʿadl*), and family harmony as a part of the common good (*maṣlaḥah*). This perspective demonstrates that Islamic inheritance law can adapt to social change. Therefore, it needs to be understood not only as a fixed rule but also as a normative system aimed at creating justice and social stability in Muslim society.

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The authors state that there is no conflict of interest in the publication of this article.

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