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LEGAL PLURALISM AND TEXTUALISM: CONTRASTING APPROACHES TO ISLAMIC INHERITANCE LAW IN INDONESIA AND OMAN

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ABSTRACT

Islamic inheritance law highlights diverse approaches to its interpretation and implementation in Muslim-majority countries such as Indonesia and Oman. These differences arise from a legal gap between the universal principles outlined in the Qur'an and their application within national legal frameworks. In Indonesia, Islamic inheritance law functions within a pluralistic legal system, whereas in Oman, Sharia principles serve as the primary and integral foundation of the judiciary. This article examines how the foundational philosophy of Islamic inheritance law is understood and applied in Indonesia and Oman, two countries with contrasting legal systems, to identify both normative and practical challenges, as well as the implications of these differences for future legal development. Employing a normative and comparative legal approach, the study reviews relevant legislation, fatwas, and court decisions in both countries, alongside an analysis of classical and contemporary Islamic jurisprudence. The findings indicate that Indonesia adopts a conciliatory approach, balancing religious norms with modern social needs, while Oman tends to adhere to a more literal and textual interpretation of inheritance law. These differences reflect the dynamic nature of Islamic inheritance law philosophy in responding to each country's unique social, cultural, and political contexts. This contributes to the ongoing discourse on developing an adaptive and context-sensitive understanding of Islamic inheritance law within various national legal systems.

Keywords: Islamic Inheritance Law, Legal Philosophy, Comparative Study, Indonesia, Oman.

INTRODUCTION

Islamic inheritance law is an integral part of Islamic law which regulates the distribution of the inheritance of a deceased person to the legitimate heirs.[1] This is based on the Qur'an, the Hadith of the Prophet Muhammad SAW, the consensus of scholars, and qiyas. Unlike the inheritance system in other legal traditions, Islamic inheritance law has its own characteristics that reflect distributive justice and the principle of balance between individual rights and the interests of the family and society.[2] The verses of the Qur'an that regulate inheritance, especially in Surah An-Nisa verses 7, 11, 12, and 176, show that Allah SWT has determined in detail the portions of inheritance for certain heirs.[3] This indicates that the regulation of inheritance is not merely a product of human ijtihad, but rather a permanent divine decree.

This philosophy is based on the concept of justice (al-'adl), balance (al-tawazun), compassion (rahmah), and respect for social structures and family relationships.[4] Inheritance distribution in Islam not only takes into account individual rights, but also maintains the stability of the family and society.[5] In this context, the existence of rules regarding wills, debt payments to the testator, and portions for male and female heirs are part of the ethical framework that regulates community life. Therefore, understanding Islamic inheritance law should not be merely textualistic, but must also understand the philosophical and sociological dimensions that underlie it. However, the implementation of Islamic inheritance law cannot be separated from the influence of the socio-cultural and political context in various Muslim countries. Various schools of fiqh have differences in the interpretation and regulation of inheritance, such as the differences in views between the Hanafi, Maliki, Syafi'i, and Hanbali schools of thought. In addition,

[1] Mochammad Arifin and Sokhibul Amin, "Implementasi Studi Waris Islam Di Desa Sumberjo Kecamatan Sanankulon Kabupaten Blitar," *MAQASIDI: Jurnal Syariah Dan Hukum*, June 5, 2024, 106–19, doi:10.47498/maqasidi.v4i1.2321.
[2] Nur Ali and Apik Anitasari Intan Saputri Saputri, "Revitalisasi Hukum Keluarga Islam Untuk Memberdayakan Ekosistem Ekonomi Syariah Yang Adil: Perspektif Normatif Dan Socio Legal," CITIZEN: Jurnal Ilmiah Multidisiplin Indonesia 5, no. 3 (2023): 747–58, file:///C:/Users/USER%20DK/Downloads/871.-revitalizing-islamic-family-law-to-empower-a-just-sharia-economic-ecosystem-a-normative-and-socio-legal-perspective.pdf.
[3] Ishaq Ishaq, "Surah An-Nisa Ayat 6-7, 12, 176 Defenisi Tentang Warisan," *Al-Usrah : Jurnal Al Ahwal As Syakhsiyah* 11, no. 3 (July 30, 2024), doi:10.30821/al-usrah.v11i3.21242.
[4] Hikmatullah Djamud et al., "Keadilan Hukum Waris Islam Versus Hukum Waris Burgerlijk Wetbook Di Indonesia (Analisis Perbandingan)," *Falah: Journal of Sharia Economic Law* 6, no. 1 (July 31, 2024): 1–14, doi:10.55510/fjhes.v6i1.282.
[5] Muchamad Imron and Miftahul Huda, "Fungsionalisme Pembagian Waris Sebelum Pewaris Meninggal Dunia Dalam Keberlanjutan Keluarga," Sakina : Journal Of Family Studies 7, no. 4 (2023): 514–29, https://urj.uin-malang.ac.id/index.php/jfs/article/view/6173.

contemporary Muslim countries also have diverse approaches to the codification and application of Islamic inheritance law. Some countries such as Saudi Arabia and Oman tend to apply Islamic inheritance law literally according to the text of the sharia, while other countries such as Indonesia accommodate the principles of legal pluralism by considering customary law and the needs of modern society.[6] This diversity of approaches shows that the philosophy of Islamic inheritance law is dynamic and can adapt to developments over time, as long as it does not deny the basic principles that originate from the Qur'an and Sunnah.[7]

In Indonesia, Islamic inheritance law regulations are part of Islamic family law which is regulated in the Compilation of Islamic Law (KHI) which was issued through Presidential Instruction No. 1 of 1991.[8] Although not in the form of a law, the KHI has become an important reference in the practice of religious justice in Indonesia. The legal system in Indonesia is pluralistic, where Islamic inheritance law interacts with customary law and civil inheritance law inherited from the Dutch colonial era.[9] As a result, in practice, there are often differences between religious court decisions and inheritance practices in society. One of the main issues is the difference in determining the share of inheritance for women and men, as well as the strong influence of local customs that often ignore the provisions of fiqh.[10] In addition, there is a tendency for compromise between religious norms and the demands of modernity that prioritize gender equality and the protection of children's rights.

For example, many Pengadilan Agama (Religious Court Of Indonesia) decisions allow family deliberation in determining the portion of inheritance, even though in fiqh the portion has been regulated.[11] This approach is taken to maintain family harmony and

[6] Imam Syafiq Arrizal, Abu Yazid al-Bustomi, and Naufal Robbiqis Dwi Asta, "Islam Progresif Abdullah Saeed Dan Relevansinya Terhadap Isu Gender Dan Ekologi Di Indonesia," *Millatuna: Jurnal Studi Islam* 2, no. 01 (February 2, 2025): 176–92, doi:10.33752/mjsi.v2i01.8203.
[7] Mia Siratni, "Pengaruh Perkembangan Politik Hukum Adat Dan Hukum Islam Dalam Ketatanegaraan Republik Indonesia," Ensiklopedia Education Review 4, no. 3 (2022): 268–75, https://jurnal.ensiklopediaku.org/ojs-2.4.8-3/index.php/education/article/view/1582.
[8] Fitra Mulyawan, Kiki Yulinda, and Dora Tiara, "Politik Hukum Dalam Bidang Hukum Keluarga Islam Di Indonesia," *Ensiklopedia Sosial Review* 3, no. 2 (June 13, 2021): 111–22, doi:10.33559/esr.v3i2.764.
[9] Ernik Ernik, Andi Sukmawati Assaad, and Helmi Kamal, "Hukum Waris Islam Dan Pluralisme Hukum," *Maddika : Journal of Islamic Family Law* 4, no. 1 (March 10, 2024): 38–47, doi:10.24256/maddika.v4i1.4861.
[10] Mahmud Ikhwanudin, "Penerapan Kesetaraan Gender Dalam Sistem Pembagian Waris Berdasarkan Hukum Islam Di Indonesia," *Syntax Idea* 5, no. 10 (October 20, 2023): 1734–45, doi:10.46799/syntax-idea.v5i10.2756.
[11] A Maradona, Syahruddin Nawi, and Anzar, "Efektivitas Pelaksanaan Mediasi Dalam Penyelesaian Sengketa Kewarisan," *Journal of Lex Generalis (JLG)* 2, no. 1 (2021): 185–200, http://pasca-umi.ac.id/index.php/jlg/article/view/317.

prevent conflict. However, this has also raised debate among scholars and legal practitioners about whether this compromise approach can be justified from a sharia perspective. In addition, the influence of Western inheritance law, especially the principles of Civil Law that emphasize freedom of will, also influences the perception of urban Muslim communities in Indonesia in managing inheritance.[12]

Meanwhile, in Oman, Islamic inheritance law is applied integrally in the institutionalized sharia justice system under state authority. Oman follows the Ibadi school of thought which has its own characteristics, although in terms of inheritance it tends to follow the general principles of Islamic inheritance law.[13] All inheritance cases are handled by the sharia court, and court decisions are binding without interference from customary law or the influence of other legal systems.[14] However, the challenges facing Oman are more related to the literal application of inheritance law in an increasingly complex modern society. Issues such as joint ownership, family businesses, overseas assets, and women's rights are highlighted in contemporary inheritance law discourse in Oman.

Oman as a country with an absolute monarchy system of government also regulates inheritance law within a more state-controlled framework.[15] There is limited space for modern ijtihad considering the development of global society. This has led to tensions between the provisions of classical fiqh and the legal needs of Omani society, which is beginning to develop into an industrial and global society. Therefore, a study of the philosophy of Islamic inheritance law in the context of Oman is important to understand how sharia principles are interpreted in a more conservative and strictly codified legal system.

A comparison between the practice of Islamic inheritance law in Indonesia and Oman offers insight into how the foundational philosophy of Sharia is operationalized

[12] Moch. Santoso, "Tinjauan Pustaka Atas Prinsip Keadilan Dalam Pembagian Harta Warisan Menurut Hukum Perdata Indonesia," *YUDHISTIRA : Jurnal Yurisprudensi, Hukum Dan Peradilan* 2, no. 2 (June 28, 2024): 42–53, doi:10.59966/yudhistira.v2i2.1171.
[13] Mohammed bin Mahmood bin Zahir Al Hinai, "Enhancing the Rule of Law in Oman through Judicial Reform: Merging (دمج) Ibadi and Western Judicial Thought" (Thesis, PhD Doctor of Philosophy, University St Andrew, 2019), https://research-repository.st-andrews.ac.uk/handle/10023/17820.
[14] Fahad Al Aghbari et al., "Rights of Women in the Establishment and Dissolution of Marriage in Oman: Between CEDAW and Sharia Perspective," *Legality : Jurnal Ilmiah Hukum* 32, no. 1 (February 3, 2024): 33–50, doi:10.22219/ljih.v32i1.31493.
[15] Atilla Öztürk and Ismayil Garibli, "The Characteristics of Monarchy as a Form of Government," *Acta Globalis Humanitatis et Linguarum* 2, no. 2 (March 13, 2025): 117–25, doi:10.69760/aghel.025002101.

and negotiated within two contrasting legal frameworks. A pluralistic legal system open to change on the one hand, and an integral and conservative sharia legal system on the other. Each approach has its own advantages and challenges in realizing justice and maslaha for Muslims in their local context.

The importance of understanding the philosophical dimensions of Islamic inheritance law so as not to be trapped in a purely textual approach, but to be able to see its relevance and application in a constantly changing modern society. By examining practices in Indonesia and Oman, this research provides new insights into the flexibility and firmness of the principles of Islamic inheritance law in facing the challenges of the times. Most studies focus on aspects of application or social impact, but have not thoroughly examined how philosophical principles such as distributive justice and maqasid al-sharia are practiced in each country. In addition, there has been no systematic study linking the development of the interpretation of inheritance law with national political-legal dynamics, both in the pluralistic context of Indonesia and in formal sharia states such as Oman. For instance, Utama Wardi examines how Islamic and customary norms interact in inheritance dispute resolution within Indonesian Religious Courts. The study highlights the role of community deliberation (*musyawarah keluarga*) in modifying the fixed shares determined in classical fiqh. However, this study is domestically focused and does not engage in comparative legal philosophy or broader Islamic jurisprudential principles such as *maqāṣid al-sharī'ah* or distributive justice.[16]

Fahad Al Aghbari analyze the tension between international human rights obligations and Omani family law rooted in Islamic tradition. While the study provides valuable insights into the influence of international norms on Omani family law, it does not focus on inheritance law or analyze the philosophical grounding of Islamic legal principles within Oman's judiciary.[17]

This approach allows for a mapping of how Islamic inheritance law can develop adaptively in various national legal system models. The problem identified in this research is the philosophy of Islamic inheritance law applied in Indonesia and Oman, as

[16] Utama Wardi et al., "Comparative Analysis of Islamic Family Law and Customary Law in the Settlement of Inheritance Disputes in Indonesia," *Hakamain: Journal of Sharia and Law Studies* 3, no. 1 (July 9, 2024): 13–25, doi:10.57255/hakamain.v3i1.330.
[17] Aghbari et al., "Rights of Women in the Establishment and Dissolution of Marriage in Oman: Between CEDAW and Sharia Perspective."

well as efforts at ijtihad and reform of Islamic inheritance law to meet the needs of modern society. Amidst the wave of globalization and the demands of modernization of the legal system, a deeper philosophical understanding is needed so that Islamic inheritance law remains relevant and just in meeting the needs of Muslim society today.

RESEARCH METHOD

This research is a normative-comparative legal study that analyzes the philosophy of Islamic inheritance law and its application in Indonesia and Oman. A normative approach was chosen because the main focus of this research is to examine the applicable legal norms, doctrines, and principles of Islamic law related to inheritance in both countries. A comparative approach is used to understand the differences and similarities in the application of Islamic inheritance law influenced by the national legal system and the social context of each.

Data collection in this research was conducted through library research by examining various primary and secondary legal sources. Primary legal sources include Indonesian legislation such as the Compilation of Islamic Law (KHI), the Marriage Law, and the applicable sharia law in Oman. In addition, fatwas from ulama, decisions from religious courts in Indonesia, and sharia courts in Oman were also used as analytical material. Secondary legal sources include classical and contemporary fiqh literature, books, journal articles, and relevant previous research findings. Data from these various sources were then examined to identify patterns, differences, and trends in the practice of Islamic inheritance law in both countries. Data analysis was conducted qualitatively using descriptive and interpretative analysis methods. Descriptive analysis was used to systematically describe how Islamic inheritance law is regulated and applied in Indonesia and Oman. Interpretative analysis focused on the interpretation of the basic philosophy of Islamic inheritance law reflected in the legal practices of each country. This research also adopted comparative analysis to assess the extent to which social, political, and cultural contexts influence the adaptation and reform of Islamic inheritance law.

RESEARCH OUTCOME AND DISCUSSION

1. The Application of Islamic Inheritance Law in Indonesia and Oman

Islamic inheritance law (al-farā'iḍ) is a deeply rooted component of Islamic legal philosophy,[18] grounded in divine authority and oriented toward justice (al-'adalah), legal certainty (al-qat'iyah), and the public interest (maslaha).[19] This law does not grant full freedom to the testator but instead refers to specific Quranic injunctions that define heirs and their shares, most notably in Surah An-Nisa verses 7, 11–12, and 176. These verses establish not only proportional distribution but also uphold the economic rights of women and orphans—rights that were denied in the pre-Islamic era.[20] Surah An-Nisa: 11, it is mentioned that the share of a man is double that of a woman, because men in Islam have the obligation to provide for their families, pay dowry, and bear the responsibilities of the household.[21]

This distributive justice aligns with the objectives of (maqāṣid al-sharī'ah), especially in preserving property (*ḥifẓ al-māl*) and family welfare (*ḥifẓ al-nasl*). Furthermore, the science of *farā'iḍ* in classical fiqh develops beyond Qur'anic texts through rational elaboration (*'aql*) and Hadith,[22] such as the saying of Prophet Muhammad SAW: "Learn the science of *farā'iḍ* and teach it to the people, for it is half *knowledge." (Hadith narrated by Ibn Majah)*.[23] In this research, these principles are not discussed in isolation but are used to critically assess legal practices—such as when Sharia courts in Oman strictly enforce inheritance formulas that may unintentionally restrict women's agency in property matters. In such contexts, invoking Surah An-Nisa: 11 and broader *maqasid*-based reasoning becomes essential to reflect Islamic law's deeper justice beyond rigid literalism.

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[18] Indra Indra, "Perlindungan Terhadap Produktivitas Hartadalam Sistem Kewarisan Islam (Analisis Terhadap Maqasid Asy-Syari'ah Dan Kalkulasi Fara'id)," *DE LEGA LATA: Jurnal Ilmu Hukum* 4, no. 1 (January 30, 2019): 63–76, doi:10.30596/dll.v4i1.3166.
[19] Guswan Hakim et al., "Penemuan Hukum Terhadap Pembagian Warisan Bagi Anak Laki-Laki Dan Perempuan Di Indonesia Berdasarkan Yurisprudensi Sesuai Dengan Asas Justice as Fairness," *Halu Oleo Legal Research* 5, no. 3 (2023): 950–64, doi:https://doi.org/10.33772/HOLRESCH.V5I3.295.
[20] Holan Riadi, "Kedudukan Perempuan Dalam Pembagian Waris: Perspektif Hukum Keluarga Islam Dan Budaya Lokal," Activa: Jurnal Ekonomi Syariah 7, no. 2 (2024): 1–11, https://jurnal.stitnualhikmah.ac.id/index.php/activa/article/view/2671.
[21] Muhammad Hasnan Nahar, "Re-Thinking Q.S An-Nisa Ayat 11 (Pendekatan Hermeneutika Asghar Ali Engineer)," *AL-MUFASSIR* 3, no. 1 (February 10, 2021): 34–44, doi:10.32534/amf.v3i1.1734.
[22] Indra, "Perlindungan Terhadap Produktivitas Hartadalam Sistem Kewarisan Islam (Analisis Terhadap Maqasid Asy-Syari'ah Dan Kalkulasi Fara'id)."
[23] Inmas, "Faraidh, Bukti Kesempurnaan Syariat Islam," *Aceh.Kemenag.Go.Id*, January 27, 2014, https://aceh.kemenag.go.id/baca/faraidh-bukti-kesempurnaan-syariat-islam.

Indonesia, as a country with diverse religious, cultural, and legal systems, presents unique challenges and characteristics in the implementation of Islamic inheritance law. Indonesia's legal system adheres to the principle of legal pluralism, where state law, religious law, and customary law coexist and interact. In this context, Islamic inheritance law applies specifically to Muslims, but its application is not entirely free from the influence of local culture and the national legal system.[24] This pluralism is reflected in legislation, the jurisprudence of religious courts, and the social practices of Muslim communities in various regions. Although normatively Muslims are subject to Islamic law, in reality inheritance practices are often characterized by compromises between Islamic law and local customs, especially in the context of land inheritance and large family inheritance.[25]

To respond to the legal needs of the Muslim community while maintaining harmony with the national legal system, the Indonesian government compiled the Compilation of Islamic Law (KHI) through Presidential Instruction No. 1 of 1991.[26] The KHI serves as the primary reference for religious courts in handling inheritance cases among Muslims, especially when disputes arise. In Book II of the KHI, Islamic inheritance law is affirmed to be based on the principles of fara'id, as explained in the Quran and classical fiqh.[27] The KHI also stipulates that bequests, gifts, and inheritance distributions before death are still accommodated as long as they do not violate the provisions of Islamic law.[28] However, in its implementation, the KHI is often compromising—for example, allowing family

[24] Nadia Br Saragih, Tania Al Syahra, and Devi Syukri Azhari, "Penerapan Hukum Islam Dalam Konteks Indonesia: Interaksi Dengan Sistem Hukum Nasional Dan Tantangan Pengembangannya," Journal of Multidisciplinary Inquiry in Science, Technology and Educational Research 2, no. 2 (2025): 3026–33, https://jurnal.serambimekkah.ac.id/index.php/mister/article/view/3078.
[25] Amalia Cahya Rachmayanti and Ummu Bissalam, "Dekonstruksi Tradisi Kudus Membaca Larangan Penyembelihan Sapi Dalam Penyembelihan Sapi Dalam Perspektif Pemikiran Mohammad Arkoun," Mukaddimah: Jurnal Studi Islam 10, no. 1 (2025): 81–100, https://ejournal.uin-suka.ac.id/pusat/mukaddimah/article/view/4240.
[26] Saifullah Hendrayani et al., "Kompilasi Hukum Islam (KHI) Sejarah Penyusunan, Dasar Dan Eksistensinya Dalam Tata Urutan Perundang-Undangan Ditinjau Dari Politik Hukum Indonesia," *Journal Scientific of Mandalika (JSM)* 6, no. 3 (2025): 678–84, https://www.ojs.cahayamandalika.com/index.php/jomla/article/view/4210.
[27] Widia Ari Susanti, Hana Wafiqotus Salamah, and Mochammad Zain Al Majid, "Analisis Hukum Islam Terhadap Praktik Adat Wekas Dalam Pembagian Waris Masyarakat Jawa," *Jurnal Sains, Ekonomi, Manajemen, Akuntansi Dan Hukum* 2, no. 3 (June 21, 2025): 180–91, doi:10.60126/sainmikum.v2i3.980.
[28] Widhy Andrian Pratama Widya et al., "Hibah Dan Hak Waris: Studi Perbandingan Undang-Undang Dan Kompilasi Hukum Islam (Khi)," Jurnal Hukum Islam Nusantara 7, no. 2 (2024): 106–20, https://journal.unugiri.ac.id/index.php/almaqashidi/article/view/3458.

consultation in determining a fair inheritance distribution according to all parties, even though this has the potential to deviate from the fixed inheritance shares in the Quran.[29]

The diversity of cultures and customary law in Indonesia also influences how people understand and apply Islamic inheritance law. In some areas, such as Minangkabau, which follows a matrilineal kinship system, inheritance is more often given to women or the mother's side, unlike the patriarchal system of Islamic inheritance distribution.[30] In Bali, even local Muslims sometimes follow customary traditions regarding the inheritance of ancestral land (ulayat).[31] This demonstrates that although Islamic inheritance law has a formal legal framework through the KHI, custom remains a strong variable in actual practice. As a result, the implementation of the philosophy of Islamic inheritance law often has to negotiate with local values, leading to variations in implementation and social acceptance. This is not necessarily a deviation, but rather a manifestation of the adaptation of religious norms to long-established cultural values.

The implementation of Islamic inheritance law must also engage in a dialectic with the state's ideological values, namely Pancasila. The second principle concerning Just and Civilized Humanity, and the fifth principle concerning Social Justice for All Indonesian People, are important parameters in assessing whether a legal system reflects justice.[32] In the context of Islamic inheritance, the provision that men receive twice the share of women is often debated because it is considered to contradict the principle of gender equality, which is also enshrined in the constitution.[33] However, philosophically, Islamic inheritance law is not inherently discriminatory, but rather considers the social and financial responsibilities of each gender. Therefore, a philosophical and contextual approach is needed to explain that justice in Islam is functional, not arithmetic. This is

[29] Muhammad Agung Ilham Affarudin and Darmawan Darmawan, "Implementasi Pasal 183 KHI Dalam Pembagian Harta Waris Pada Surat Perjanjian Bermaterai (Perspektif Maslahah Mursalah)," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 24, no. 2 (December 20, 2021): 385–416, doi:10.15642/alqanun.2021.24.2.385-416.
[30] Micselin Sifa Frisandia and Salsabila Ardila W, "Sistem Pewarisan Menurut Hukum Waris Adat Mengenai Sistem Kekerabatan Yang Berlaku Dalam Masyarakat Adat Indonesia," Synergi: Jurnal Ilmiah Multidisiplin 4, no. 1 (2023): 238–46, https://e-journal.naureendigition.com/index.php/sjim/article/view/1002.
[31] Sherly Evitasari, Agina Syafira, and Raden Deden Dani Saleh, "Pendaftaran Tanah Masyarakat Adat Toraja," *Widya Bhumi* 4, no. 1 (May 3, 2024): 35–54, doi:10.31292/wb.v4i1.54.
[32] Ahmad Muhamad Musain Nasoha et al., "Memahami Pancasila Dalam Algoritma Media Sosial: Analisis Wacana Digital Tentang Ideologi Bangsa," *Jembatan Hukum : Kajian Ilmu Hukum, Sosial Dan Administrasi Negara* 2, no. 2 (May 8, 2025): 55–72, doi:10.62383/jembatan.v2i2.1602.
[33] Chandra Bismo Saputra et al., "Analisis Distribusi Warisan Berdasarkan Gender Dalam Hukum Islam: Telaah Atas Prinsip Keadilan Dan Ekonomi Syari'ah," *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 3, no. 2 (May 1, 2025): 281–90, doi:10.61104/alz.v3i2.981.

where the importance of dialogue between religious norms and state ideological values lies in formulating an inclusive understanding of the law.

Oman is one of the countries in the Muslim world that has unique characteristics in the implementation of Islamic law, including inheritance. This country predominantly adheres to the Ibadi school of thought, a school different from Sunni and Shia, with its distinctive theological and legal approach. In the context of inheritance law, the Ibadi school still refers to the principles of Sharia as found in the Quran and Hadith, but has a different interpretative approach in certain cases. The philosophy of inheritance law in this school still emphasizes distributive justice, the maintenance of family rights, and legal certainty, as seen in Oman's inheritance law structure. Thus, although its legal basis is divine, its implementation adapts to the characteristics of Ibadi society and Oman's modern state system, which highly prioritizes stability and legal clarity.[34]

The application of Islamic inheritance law in Oman is done textually and formally based on the Sharia provisions written in the Omani Personal Status Law (Qanun al-Ahwal al-Shakhsiyyah).[35] This law details the inheritance share of each heir as stipulated in the Quran, specifically in Surah An-Nisa: 11, 12, and 176.[36] In this context, Oman is very strict in maintaining the authenticity of Sharia law without opening much room for progressive or contextual social ijtihad. For example, the shares of men and women still follow the 2:1 rule, and bequests are limited to a maximum of one-third of the inheritor's property. The emphasis on adherence to the nash or text forms the basis for the Omani government in maintaining the purity of Islamic law as an instrument for fair and structured wealth distribution. This philosophy aims to maintain family and societal stability by limiting the potential for disputes through a strict yet consistent system.

Another unique aspect of inheritance law implementation in Oman is the influence of Ibadi theology, which tends to be moderate in social behavior but very literal in legal practice. Ibadis do not allow legal innovation without explicit evidence, so inheritance rules remain absolute. For example, in Ibadi law, inheritance calculations strongly avoid

[34] Hinai, "Enhancing the Rule of Law in Oman through Judicial Reform: Merging (دمج) Ibadi and Western Judicial Thought."
[35] Sharifa Salem Ali Al Said, "The Divorcee's Mut'ah (Compensation), A Jurisprudential Study In The Light Of the Omani Personal Status Law and Its Judicial Applications.," *Sultan Qaboos University Legal Studies Journal* 3, no. 1 (September 26, 2024), doi:10.61191/squlsj.v3i1.5572.
[36] Ishaq, "Surah An-Nisa Ayat 6-7, 12, 176 Defenisi Tentang Warisan."

contextual interpretations such as consultative inheritance distribution or considerations of contemporary social justice. This makes Oman's inheritance law system very stable and not easily changed according to trends or public opinion.[37]

Sharia courts in Oman serve as the primary institution for resolving inheritance cases and formally implementing personal law. These courts operate based on the principles of Ibadi fiqh and the Personal Status Law, where the Sharia judge has full authority to interpret and uphold the law strictly. The judges are specifically trained in Ibadi fiqh and fara'id (inheritance law), enabling them to calculate and determine inheritance rights according to textual provisions without compromise. Furthermore, the courts also function as protectors against rights violations; for example, if a female heir is denied her share by the family, she can sue in court and receive her rightful inheritance according to Sharia.[38] With the strong role of this institution, Oman has successfully upheld the philosophy of Islamic inheritance law based on normative justice and legal certainty, without neglecting the protection of vulnerable parties.

Islamic inheritance law in Indonesia and Oman are both based on the sources of Sharia, namely the Quran and Hadith, but they have different philosophical approaches due to their dissimilar social, cultural, and religious backgrounds. In Indonesia, the philosophical approach to inheritance law is contextual and compromising, where Islamic law is interpreted to be in harmony with legal pluralism and local customs. This is evident in the existence of the Compilation of Islamic Law (KHI), which not only contains Sharia provisions but also allows for family consultation and flexibility in inheritance distribution. Meanwhile, Oman, with its predominantly Ibadi population, tends to be textual and normative, making Sharia law an absolute provision that does not allow much room for social ijtihad. The philosophy of inheritance law in Oman emphasizes certainty and the purity of Sharia, while in Indonesia it leans more towards adaptation to societal dynamics. [39]

In Indonesia, inheritance practices are often influenced by custom and family agreements, so the distribution does not always strictly follow the fara'id structure. This

[37] Andrew D Thompson, "A Study of the Relationship between Ibadi Muslims and Christians in Modern Day Oman." (University of Gloucestershire, 2019), doi:10.46289/THWE4862.
[38] Aghbari et al., "Rights of Women in the Establishment and Dissolution of Marriage in Oman: Between CEDAW and Sharia Perspective."
[39] Ibid.

system is more fluid because it values family harmony, even if it means deviating slightly from the distribution mentioned in the Quran. In many cases, inheritance distribution is carried out through consultation, considering social justice and the needs of each family member. Conversely, in Oman, such flexibility is almost nonexistent. Inheritance law is implemented according to precise Sharia calculations and enforced by the courts without cultural or emotional compromise, because its legal philosophy upholds the authority of revelation above social norms.[40]

In terms of the role of institutions, religious courts in Indonesia function as both conflict resolvers and facilitators of consultation. Judges in Indonesia sometimes encourage disputing parties to resolve issues through family compromise, even if the result does not fully reflect fara'id law, which constitutes a codified system of inheritance distribution in Islam, based on divine revelation that is not subject to alteration.This shows the influence of Pancasila values particularly the principles of *just and civilized humanity* and *social justice for all people of Indonesia*, which are foundational to the country's legal and moral philosophy. These values have shaped the way Islamic law—especially inheritance law, is interpreted and implemented in the Indonesian context. In Oman, the role of the Sharia court is very firm and focused on the enforcement of textual law. There is no room for compromise or consultation that alters Sharia provisions, and the judge is responsible for calculating and determining inheritance shares mathematically based on Quranic verses and Ibadi fiqh tradition.[41]

Philosophically, Indonesia demonstrates a pragmatic tendency in the application of Islamic inheritance law, striving to balance religious norms and the needs of modern society. This is evident in the openness to discussions on gender justice, redistribution, and the protection of vulnerable groups. Oman, conversely, demonstrates a strong ideological commitment to the application of inheritance law based on the literal text of revelation, without adapting to social pressures or progressive discourse. This difference reflects not only two approaches to law, but two perspectives on the meaning of justice and the authority of Sharia. If Indonesia makes inheritance law a dynamic system that can

[40] Hinai, "Enhancing the Rule of Law in Oman through Judicial Reform: Merging (دمج) Ibadi and Western Judicial Thought."
[41] Ibid.

negotiate with societal conditions, then Oman makes it an absolute system that cannot be changed.

Thus, a comparison between Indonesia and Oman shows that the implementation of Islamic inheritance law is greatly influenced by socio-political context and religious schools of thought. Indonesia, as a country with legal pluralism and a diverse society, requires a more flexible and accommodative approach, even if this means not always adhering to the rigid fara'id provisions. Meanwhile, Oman shows how the philosophy of Islamic inheritance law can be implemented strictly and consistently in a society that is homogeneous in terms of its school of thought and religious values. Both approaches have their own advantages and limitations, and demonstrate that Islamic law in practice is not monolithic, but is always shaped by the interaction between text, authority, and social reality.

2. Ijtihad and Reforming Islamic Inheritance Law to Address the Needs of Modern Society in Indonesia and Oman

The history of the regulation of Islamic inheritance law in Indonesia reflects the ongoing development of ijtihad in the face of the diverse socio-cultural context of the nation.[42] The Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), issued through Presidential Instruction No. 1 of 1991, serves as the legal guideline for religious courts in adjudicating inheritance cases among Muslims.[43] The KHI summarizes the principles of inheritance law from classical Sunni fiqh, but with some adjustments to local conditions, such as the recognition of family consultation practices and the implementation of obligatory bequests (wasiat wajibah).[44] In addition to the KHI, fatwas from the Indonesian Ulema Council (MUI) also provide normative direction on inheritance issues, such as bequests for grandchildren from children who have predeceased. At the judicial level, the Supreme Court, through its jurisprudence, has also developed a contextual

[42] Uswatun Hasanah, Faisar Ananda Arfa, and Nurasiah, "Transformasi Hukum Waris Dalam Perspektif Filsafat Hukum Islam," Journal Of Science And Social Research 8, no. 1 (2025): 604–9, https://jurnal.goretanpena.com/index.php/JSSR/article/view/2755.
[43] Anna Muwaffika, "Khi : Upaya Transformasi Hukum Keluarga Islam Kedalam Sistem Hukum Nasional," Alwaqfu: Jurnal Hukum Ekonomi Dan Wakaf 3, no. 1 (2025): 1–17, https://jurnal.alwaqfu.or.id/index.php/alwaqfu/article/view/306.
[44] Endrik Safudin et al., *Memahami Teori Hukum: Percikan Pemikiran Ilmu Hukum Lintas Mazhab*, ed. Abid Rohmanu (Yogyakarta: Q-Media, 2022).

approach, especially in cases involving conflicts between Sharia inheritance and customary law.

Efforts to reform Islamic inheritance law in Indonesia have also received active support from Islamic scholars and organizations, especially Nahdlatul Ulama (NU) and Muhammadiyah. NU tends to maintain the classical fiqh structure of inheritance but provides room for deliberation (musyawarah) and the value of maslaha (public interest) in resolving issues. Muhammadiyah, on the other hand, has issued specific guidelines on inheritance law that are more progressive, including inheritance for adopted children and flexibility in the distribution of inheritance for women.[45] Religious courts play a central role in adopting the results of this ijtihad, as they are the official judicial institutions that handle Muslim inheritance cases. The synergy between scholars, Islamic organizations, and courts has formed a pattern of contextual institutional ijtihad that is quite responsive to the dynamics of modern society.

The influence of Pancasila as the state ideology and the existing legal pluralism in society also shape the direction of ijtihad in inheritance law. Because Indonesia is not a religious state, but also not a secular state, the approach to Islamic law is contextual—while still respecting the values of justice, equality, and humanity in the second and fifth principles of Pancasila. Ijtihad in inheritance law in Indonesia often uses a sociological and philosophical approach, not merely a textual one. This allows for the reinterpretation of inheritance law in order to fulfill the values of social justice, especially in issues of gender equality and the protection of family rights. Therefore, ijtihad in Indonesia develops within a social space that prioritizes harmony between religious norms and national values.

The Ibadi school of thought, which is the official majority school of thought in Oman, significantly determines the direction of Islamic law applied in the country, including inheritance matters. In the Ibadi view, inheritance law is a part of Sharia that is fixed and cannot be changed except on the basis of explicit nash from the Quran or authentic Hadith.[46] Therefore, the fiqh approach in Oman regarding inheritance is very literal and mathematical, following the fara'id distribution structure without opening

[45] Hani Sholihah et al., *Hukum Islam: Teori, Perkembangan Dan Penerapan Hukum Islam Di Indonesia*, ed. Sepriono (Jambi: PT Sonpedia Publishing Indonesia , 2025).
[46] Thompson, "A Study of the Relationship between Ibadi Muslims and Christians in Modern Day Oman."

much room for reinterpretation or family consultation as in some other countries. Oman officially bases its Personal Status Law (Royal Decree No. 32 of 1997) on the principles of Ibadi Sharia.[47] These provisions strictly regulate the shares of heirs based on the text and constitute positive law enforced through Sharia courts.

The role of the state and religious scholars in ijtihad in Oman is top-down and conservative, with the dominance of religious authority being very cautious in opening up space for legal change. Religious institutions such as the Ministry of Endowments and Religious Affairs (MERA) and the Ifta' Council hold the highest authority in issuing fatwas, and only a small number of independent scholars have room to interpret the law progressively.[48] On the state's side, the government maintains this approach as part of social stability and uniformity in family law. With this system, ijtihad is not participatory or inclusive as in countries with Shafi'i and Hanafi madzhab of thought, but rather more controlled within the framework of classical Ibadi fiqh. As a result, the space for reform in inheritance law is very narrow and depends on official decisions from conservative religious institutions.

The strong textual approach in Omani inheritance law presents a significant obstacle to progressive ijtihad. Principles such as contextual justice, maqāṣid al-sharia (the objectives of the Sharia), or the reinterpretation of gender roles have not been fully considered in establishing positive law. For example, the inheritance share of women still follows the 1:2 ratio compared to men.[49] Unlike some other Muslim countries that have introduced obligatory bequests (wasiat wajibah) or alternative inheritance distributions in certain cases, Oman continues to reject this approach because it is considered inconsistent with the nash (explicit textual evidence). Therefore, the desire to reform inheritance law is often hampered by a rigid and dogmatic legal structure.

In the modern era, Islamic inheritance law faces various global challenges, especially in relation to human rights, gender equality, and the diversity of family models. The Universal Declaration of Human Rights (UDHR) and various international

[47] Al Said, "The Divorcee's Mut'ah (Compensation), A Jurisprudential Study In The Light Of the Omani Personal Status Law and Its Judicial Applications."
[48] Khalid M. Al-Azri, *Social and Gender Inequality in Oman* (Routledge, 2012), doi:10.4324/9780203115589.
[49] Fatma Khaled Almohsen, "The Intersection of Shariah Law and Gender Equality in Some Arab State' Constitutions," *Indonesian Journal of International & Comparative Law* 10, no. 3 (2023): 286, https://openurl.ebsco.com/EPDB%3Agcd%3A12%3A13273100/detailv2?sid=ebsco%3Aplink%3Ascholar&id=ebsco%3Agcd%3A175289983&crl=c&link_origin=scholar.google.com.

conventions emphasize the principle of non-discrimination in matters of ownership and inheritance, including between men and women. However, some classical provisions in fara'id—such as the woman's share being half that of a man—are often criticized for being considered contrary to this principle. Furthermore, family structures are now increasingly diverse: there are single-parent families, transnational families, and families with adopted children or without biological ties, which are not fully accommodated by traditional fiqh inheritance structures. Therefore, global pressure for inheritance law reform is unavoidable and requires a flexible and socially just intellectual approach.

In addition to social change, digitalization and the global economy also bring new challenges to the Islamic inheritance law system. The emergence of digital assets such as cryptocurrency, e-wallets, NFTs (non-fungible tokens), and digital accounts makes the category of inherited property more complex and beyond the scope of classical fiqh terminology.[50] Most Islamic inheritance law is based on physical possessions such as land, houses, or gold, while modern assets are server-based, online, or even across international jurisdictions. The same applies to stocks and foreign property, which require cross-border regulation and the recognition of inheritance law from more than one country. This necessitates the development of new methods for classifying, identifying, and distributing inherited property in order to remain consistent with Sharia principles. Inheritance law reform in this context is not enough to be text-based only; it requires an adaptive and multidisciplinary fiqh approach.

To address these challenges, transnational ijtihad is needed, a collaboration between Muslim countries in forming a legal framework for inheritance that is relevant to the global world. International forums such as the International Islamic Fiqh Academy and the Majma' al-Fiqh al-Islami have begun to address contemporary inheritance law issues, but have not yet produced broad consensus that can be implemented in Muslim countries. Differences in schools of thought, religious authority, and legal systems present unique obstacles to forming a collective ijtihad dialogue. Nevertheless, this collective ijtihad model is crucial so that inheritance law reform does not proceed independently and can avoid conflicts between norms in the era of globalization. Cross-national dialogue is also

[50] Agus Wedy, "Refleksi Maqashid Syariah Dalam Penyelesaian Sengketa Waris Digital: Menjawab Tantangan Hukum Keluarga Islam Di Era Teknologi," Litaskunu: Jurnal Hukum Keluarga Islam 1, no. 1 (2025): 1–11, file:///C:/Users/USER%20DK/Downloads/Jurnal+Agus+Wedy+-+LitaskuNU.pdf.

necessary to comprehensively discuss digital assets, differences in inheritance jurisdictions, and contemporary economic challenges.[51]

In the process of inheritance law reform, maqāṣid al-sharia (the objectives of the Sharia) plays an important role as an ethical and methodological framework. Maqāṣid such as the protection of property (hifz al-māl), life (hifz al-nafs), and lineage (hifz al-nasl) can serve as a basis for formulating new rules that do not deviate from the spirit of Islam but remain adaptive to changing times.[52] By making maqāṣid the primary approach, scholars and policymakers can formulate inheritance laws that are more inclusive, especially in the context of gender justice and the protection of orphans or non-biological heirs. Maqāṣid also encourages laws to not only regulate ritual or symbolic aspects, but also provide tangible benefits to the lives of people. Therefore, maqāṣid al-sharia is the key to maintaining continuity between traditional values and the demands of modernization.

The future direction of inheritance law reform should be based on the integration of Sharia texts, maqāṣid al-sharia, and modern principles of justice. This means that the nash or revealed text is still respected, but is read with a contextual lens that considers the current social and economic conditions of the community. This approach has begun to be implemented in several Muslim countries through revisions to family and inheritance laws that remain Islamic but are also progressive. In an era characterized by the complexity of identity, globalization, and digitalization, Islamic inheritance law cannot remain stagnant but must be dynamic, open to change, and remain rooted in the noble objectives of Sharia: justice, maslaha (public interest), and humanity.

CONCLUSION

The application of Islamic inheritance law in Indonesia and Oman demonstrates two different approaches, both of which are based on Sharia principles. In Indonesia, the philosophy of inheritance law is implemented contextually and adaptively, considering legal pluralism, the values of Pancasila, and socio-cultural diversity. This is reflected in

[51] Sholihah et al., *Hukum Islam: Teori, Perkembangan Dan Penerapan Hukum Islam Di Indonesia*.
[52] Agus Anwar Pahutar, Mahyudin Ritonga, and Abdul Halim Hanafi, "Konsep Maqasid Syariah Dalam Mengatasi Tantangan Sosial Dan Budaya Di Era Globalisasi," *Dakwatul Islam* 9, no. 1 (2024): 59–86, https://ojs.diniyah.ac.id/index.php/DakwatulIslam/article/view/1316.

the Compilation of Islamic Law (KHI), which provides space for family consultation and reinterpretation of women's inheritance shares, adapting to the demands of social justice. Meanwhile, Oman applies the philosophy of inheritance law normatively and textually through the Ibadi school of thought, with a more rigid legal structure centered on state and religious scholar authority. This approach emphasizes legal certainty and textual purity but provides less room for adapting contextual justice values in a changing society.

Efforts at ijtihad and reform of Islamic inheritance law are important to address social dynamics and modern challenges such as gender equality, new family structures, and the complexity of digital assets. In Indonesia, ijtihad is carried out through collaboration between religious scholars, Islamic organizations, and the state, resulting in a flexible legal approach based on maqāṣid al-sharia. Meanwhile, in Oman, reform is still limited to the academic and discourse levels, not yet changing the formal legal structure, which remains conservative. Nevertheless, awareness of the need for reform continues to grow, both nationally and internationally, through transnational fiqh dialogue and a maqāṣid approach to maintain the relevance of inheritance law. Thus, ijtihad and reform are not merely options, but necessities to ensure that Islamic inheritance law remains just, inclusive, and contextual amidst the realities of modern society.

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