

Legal Implications of Inheritance Distribution in Multicultural Families under Indonesia's Islamic Law

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Abstract

Inheritance distribution within multicultural families presents legal challenges due to the interaction between Islamic law, customary law, and civil law in Indonesia's plural legal system. Although the Compilation of Islamic Law (KHI) provides normative guidance for inheritance distribution among Muslims, its implementation frequently encounters socio-cultural dynamics that influence legal outcomes. Previous studies have primarily focused on normative Islamic inheritance law or legal pluralism in general, while limited attention has been given to the legal consequences of inheritance distribution in multicultural families under the KHI framework. This study aims to analyze the legal consequences of inheritance distribution in multicultural families from the perspective of the Compilation of Islamic Law. Employing normative legal research, the study applies statutory, conceptual, and case approaches, with qualitative analysis of legal materials comprising legislation, judicial decisions, and relevant legal doctrines. The findings reveal that inheritance distribution in multicultural families operates within a plural legal framework where Islamic law, civil law, and customary law interact dynamically. In practice, inheritance settlement frequently relies on family deliberation rather than strict adherence to the KHI, resulting in greater flexibility but reduced legal predictability. The study further demonstrates that judicial interpretation, including the application of wasiat wajibah, functions as an adaptive mechanism to reconcile legal certainty with substantive justice. This research contributes by linking normative inheritance provisions with social adaptation practices in multicultural family structures and offers a conceptual framework for balancing legal certainty and substantive justice within Indonesia's plural legal system. The findings enrich the discourse on Islamic inheritance law and provide practical guidance for resolving inheritance disputes in culturally diverse societies.

Keywords: *Islamic Inheritance Law; Compilation of Islamic Law; Multicultural Families; Legal Certainty; Substantive Justice.*

Abstrak

Pembagian warisan dalam keluarga multikultural menghadirkan tantangan hukum karena interaksi antara hukum Islam, hukum adat, dan hukum perdata dalam sistem hukum plural Indonesia. Meskipun Kompilasi Hukum Islam (KHI) memberikan panduan normatif untuk pembagian warisan di kalangan umat Islam, implementasinya sering menghadapi dinamika sosial-budaya yang mempengaruhi hasil hukum. Studi sebelumnya terutama berfokus pada hukum warisan Islam normatif atau pluralisme hukum secara umum, sementara perhatian terbatas diberikan pada konsekuensi hukum dari distribusi warisan dalam keluarga multikultural di bawah kerangka KHI. Penelitian ini bertujuan untuk menganalisis konsekuensi hukum dari pembagian warisan pada keluarga multikultural dari perspektif Kompilasi Hukum Islam. Menggunakan penelitian hukum normatif, penelitian ini menerapkan pendekatan undang-undang, konseptual,



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dan kasus, dengan analisis kualitatif materi hukum yang terdiri dari undang-undang, keputusan yudisial, dan doktrin hukum yang relevan. Temuan ini mengungkapkan bahwa distribusi warisan dalam keluarga multikultural beroperasi dalam kerangka hukum plural di mana hukum Islam, hukum perdata, dan hukum adat berinteraksi secara dinamis. Dalam praktiknya, penyelesaian warisan sering kali bergantung pada musyawarah keluarga daripada kepatuhan ketat terhadap KHI, menghasilkan fleksibilitas yang lebih besar tetapi mengurangi prediktabilitas hukum. Studi ini lebih lanjut menunjukkan bahwa interpretasi yudisial, termasuk penerapan wasiat wajibah, berfungsi sebagai mekanisme adaptif untuk mendamaikan kepastian hukum dengan keadilan substantif. Penelitian ini berkontribusi dengan menghubungkan ketentuan warisan normatif dengan praktik adaptasi sosial dalam struktur keluarga multikultural dan menawarkan kerangka konseptual untuk menyeimbangkan kepastian hukum dan keadilan substantif dalam sistem hukum plural Indonesia. Temuan ini memperkaya wacana tentang hukum warisan Islam dan memberikan panduan praktis untuk menyelesaikan sengketa warisan dalam masyarakat yang beragam budaya.

Kata Kunci: Hukum Warisan Islam; Kompilasi Hukum Islam; Keluarga Multikultural; Kepastian Hukum; Keadilan Substantif.

PENDAHULUAN

Indonesia is a country with a plural legal system that recognizes the existence of Islamic law, customary law, and civil law as a source of regulating civil relations, including in the field of inheritance. Legal pluralism is a consequence of the social, cultural, religious, and customary diversity that lives in society.¹ In practice, the settlement of inheritance disputes is not only determined by positive legal provisions, but also influenced by social, cultural, and justice considerations that develop in the community. This condition makes inheritance law one of the most complex areas of law because it involves the interaction between formal legal norms and social norms that live in society.²

This complexity is increasingly emerging as the phenomenon of multicultural families increases as a result of social mobility, inter-tribal marriage, and increasingly intensive cross-cultural interaction.³ The diversity of religious, cultural, and value systems in multicultural families poses its own challenges in determining the legal system used for the distribution of inheritance. For the Muslim community, the Compilation of Islamic Law (KHI) is a normative guideline in settling inheritances.⁴ However, the implementation of KHI in practice is often not carried out textually, but is adjusted through a family deliberation mechanism to maintain the harmony of family relations and accommodate the social needs of the heirs.⁵

¹ Munawir, *Hukum Perkawinan dan Waris Dalam Sistem Hukum Nasional dan Syariah Di Indonesia* (Sumatera Barat: Serasi Media Teknologi, 2025).

² Ahmad Nurrohm dkk., "Waris Islam dalam Dinamika Sosial Kontemporer: Perspektif Living law di Daerah Istimewa Yogyakarta," *PESHUM : Jurnal Pendidikan, Sosial dan Humaniora* 5, no. 2 (Februari 2026): 3266–76, <https://doi.org/10.56799/peshum.v5i2.15473>.

³ Abdul Ali Mutammima Amar Alhaq dkk., "Pluralism and Justice in Indonesian Inheritance Law: A Comparative Analysis of Customary, Islamic, and Civil Systems," *KALOSARA: Family Law Review* 5, no. 2 (September 2025): 43–50, <https://doi.org/10.31332/kalosara.v5i2.11434>.

⁴ Aris dan Muhammad Sabir, "HUKUM ISLAM DAN PROBLEMATIKA SOSIAL; TELAAH TERHADAP BEBERAPA HUKUM PERDATA ISLAM DALAM KOMPILASI HUKUM ISLAM DI INDONESIA," *DIKTUM: Jurnal Syariah Dan Hukum* 18, no. 2 (Desember 2020): 283–95, <https://doi.org/10.35905/diktum.v18i2.1608>.

⁵ Hugh Macintosh dan Janet Voight, "Deep-sea wood-boring bivalves (Xylophagaidae) from southeast Australia, with a new species described," *Molluscan Research* 41 (Januari 2021), <https://doi.org/10.1080/13235818.2020.1861681>.

A number of previous studies have examined Islamic inheritance law from various perspectives. Part of the research focuses on normative analysis of the position of the heirs, the share of each heir, and the principles of inheritance as stipulated in the Qur'an, hadith, and the Compilation of Islamic Law.⁶ Another study examines legal pluralism in Indonesia by highlighting the interaction between Islamic law, customary law, and civil law in the settlement of inheritance disputes. These findings suggest that inheritance practices in Indonesia do not always follow one legal system exclusively, but are influenced by social and cultural dynamics of society.⁷

However, previous studies are still dominated by normative discussions of inheritance law or general studies of legal pluralism. Studies that specifically analyze the legal consequences of inheritance distribution in multicultural families based on the perspective of the Compilation of Islamic Law are still relatively limited.⁸ In fact, in practice, multicultural families often face a dilemma between the application of formal inheritance norms and the need to achieve substantive justice through family agreements. The limitations of the study show that there is a need to explain how Islamic legal norms are implemented in the reality of a pluralistic society and how its legal implications are for legal certainty for heirs.

Based on these gaps, this research offers novelty by linking the normative provisions of inheritance in the Compilation of Islamic Law with the practice of social adaptation that develops in multicultural families. This study not only examines the compatibility between legal norms and inheritance distribution practices, but also analyzes the legal consequences that arise when inheritance settlement prioritizes family deliberation rather than the full application of normative provisions.⁹ This approach is expected to provide a more comprehensive understanding of the relationship between legal pluralism, legal certainty, and substantive justice in the settlement of inheritance disputes.¹⁰

Theoretically, this study uses the concept of legal consequences and the theory of legal certainty as the framework of analysis. The concept of legal consequences is used to explain the juridical implications of the transfer of rights to inherited property to heirs based on the provisions of the Compilation of Islamic Law, including changes due to the law that arise due to social agreements in multicultural families.¹¹ Meanwhile, the theory of legal certainty is used to analyze the extent to which the implementation of KHI

⁶ I. Suryawan dan 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 (Desember 2024): 145–54, <https://doi.org/10.55324/ijoms.v4i3.1041>.

⁷ Hani Sholihah et al., *Islamic Law: Theory, Development and Application of Islamic Law in Indonesia* (PT. Sonpedia Publishing Indonesia, 2025).

⁸ Mumpuni Gati Lintang, "Sinkronisasi Hukum Negara dengan Hukum Islam dalam Konteks Pluralisme Hukum di Indonesia," *Journal of Society and Scientific Studies* 1, no. 1 (Juni 2025): 20–32, <https://doi.org/10.62504/scientiva5>.

⁹ Taufik Firmanto, Apriyanto Apriyanto, and Rahma Melisha Fajrina, *Reference Book of Legal Basics: Theory and Concept* (PT. Sonpedia Publishing Indonesia, 2024).

¹⁰ Jibril Hafidz dan Muhammad Haikal Khadafi Harahap, "Reconceptualizing Inheritance Law in Indonesia's Islamic Compilation (KHI): A Normative Reassessment Through the Lens of Ibn Mas'ud's Jurisprudence," *Sakina: Journal of Family Studies* 9, no. 3 (September 2025): 272–92, <https://doi.org/10.18860/jfs.v9i3.16043>.

¹¹ Yunita Maria Magdalena Hartawati, Felicitas Sri Marniati, and Yuliana Setiadi, "Buying and Selling Joint Property Without the Consent of Legal Spouses: An Analysis of Legal Sanctions in the Perspective of Legal Consequences Theory," *Politica: Journal of Constitutional Law and Islamic Politics* 12, no. 1 (September 2025): 411–28, <https://doi.org/10.32505/politica.v12i1.12498>.

provisions is able to provide legal certainty, consistency, and predictability in the midst of inheritance distribution practices influenced by social, cultural, and family deliberation values. The integration of these two perspectives allows for a more comprehensive analysis of the relationship between normative law and social reality in pluralistic societies.¹²

Based on this description, this study aims to analyze the legal consequences of the distribution of inheritance in multicultural families based on the perspective of the Compilation of Islamic Law and evaluate the implementation of inheritance norms in a pluralistic society. This research is expected to make a theoretical contribution through the development of a conceptual framework on the balance between legal certainty and substantive justice in a plural legal system, as well as provide practical contributions as a consideration for judges, legal practitioners, and policymakers in formulating inheritance dispute resolution that is adaptive to the dynamics of multicultural society in Indonesia.

RESEARCH METHODS

This research is a normative legal research that focuses on the study of legal norms for the distribution of inheritance in the Compilation of Islamic Law. This research uses several approaches, namely the statute approach, the conceptual approach, and the case approach. The legislative approach is used to examine the positive legal provisions that govern inheritance, especially in the Compilation of Islamic Law and other related regulations. A conceptual approach is used to analyze relevant legal concepts and principles, such as the concept of legal consequences and legal certainty. Meanwhile, the case approach is used to examine the application of legal norms in court decisions, especially religious court decisions related to inheritance disputes.

The legal materials in this study consist of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations, especially the Compilation of Islamic Law, the Civil Code, and Supreme Court decisions relevant to inheritance cases. The secondary legal materials include law books, scientific journal articles, and expert opinions (doctrines) related to inheritance law and legal pluralism. The collection of legal materials is carried out through library research, both through print and digital sources that can be accounted for academically.

The legal materials that have been collected are then analyzed qualitatively using a normative juridical approach through deductive reasoning. This analysis was carried out by examining the conformity between the applicable legal norms and the practices that occur in society, as well as identifying the legal implications arising from the division of inheritance in multicultural families. Through this method, the research aims to build systematic legal arguments and formulate solutions to the problems studied.

RESULTS AND DISCUSSION

Legal Pluralism in the Distribution of Inheritance Among Multicultural Families

Legal pluralism is a fundamental characteristic of the Indonesian legal system that provides space for the implementation of various legal regimes in regulating civil relations, including in the field of inheritance. The existence of Islamic inheritance law, civil law, and customary law shows that the settlement of inheritance distribution is not built on a single legal system, but through the interaction of various norms living in society. This condition is a consequence of the diversity of religions, cultures, and kinship systems that characterize Indonesian society. In this context, legal pluralism is understood not only as the coexistence of several legal systems, but also as an interaction process that

¹² Antoinette Miranda, *Embracing the Academic Life with All Its Highs and Lows* (2020), 239–57, https://doi.org/10.1007/978-3-030-43543-1_11.

allows each system to influence each other in the practice of resolving inheritance disputes. Therefore, the application of inheritance law cannot be separated from the social reality that develops in society, especially in families with diverse cultural backgrounds and values.¹³

Normatively, the Compilation of Islamic Law (KHI) has established comprehensive provisions regarding inheritance for Muslims, starting from the determination of heirs, the share of each heir, to the dispute resolution mechanism. The regulation aims to create legal certainty and ensure the implementation of the principle of justice as formulated in Islamic law. However, this normative certainty is not always directly proportional to its implementation in the field.¹⁴ In multicultural families, the application of KHI provisions often deals with social values, family traditions, and local customs that develop in the family environment. As a result, normative provisions that have provided juridical certainty are often adjusted through mutual agreement so that the results of inheritance distribution can be accepted by all family members. This phenomenon shows that the effectiveness of a legal norm is not only determined by the clarity of its regulation, but also by the level of public acceptance of the norm.¹⁵

On the other hand, the civil law system sourced from the *Burgerlijk Wetboek* is built on the principle of equal status of heirs regardless of gender or religion. This approach places individual rights as the main basis in the distribution of inheritance so as to provide relatively equal protection to each heir. Meanwhile, customary law has a more flexible character because it is strongly influenced by the kinship system and cultural values that develop in a community. In societies that adhere to patrilineal, matrilineal, and parental systems, the mechanism of inheritance distribution can differ according to the prevailing social structure. The flexibility of customary law allows for the creation of solutions that are more adaptive to the needs of the community, but at the same time it can produce a wide enough variety of practices that the legal certainty becomes relative. The difference in orientation of the three systems shows that each has a different purpose, namely Islamic law emphasizes normative certainty, civil law is oriented towards formal equality, while customary law prioritizes social balance and family harmony.¹⁶

The findings of the study show that multicultural families generally do not apply one of these legal systems exclusively. Inheritance distribution is more often carried out through a family deliberation mechanism that combines legal provisions with social, economic, and emotional considerations between family members. The resulting agreement usually takes into account the real conditions of the heirs, such as economic needs, contributions to the parents during life, responsibility for caring for the heirs, and

¹³ Sahrul Gunawan and Muh Ahsan Kamil, "COMPARATIVE ANALYSIS OF ISLAMIC LAW, CUSTOMARY LAW AND POSITIVE LAW IN THE DISTRIBUTION OF INHERITANCE," *Integrative Perspectives of Social and Science Journal* 2, no. 01 February (January 2025): 144–61.

¹⁴ Hilman Syahril Haq, "Legal Pluralism and Inheritance Rights: Resolving Conflicts Between Local Customs and National Law in Indonesia," *Kosmik Hukum* 25, no. 1 (Januari 2025): 148–59, <https://doi.org/10.30595/kosmikhukum.v25i1.23727>.

¹⁵ Thomas Febria, Beatrix Benni, and Dendi Kurniawan, "The Relevance of the Principles of Justice and Legal Certainty in the Distribution of Inheritance According to Islamic Law and Indonesian Positive Law," *Journal of Legality* 3, no. 2 (August 2025): 80–95, <https://doi.org/10.58819/jle.v3i2.174>.

¹⁶ Micselin Sifa Frisandia and Salsabila Ardila W, "INHERITANCE SYSTEM ACCORDING TO CUSTOMARY INHERITANCE LAW REGARDING THE KINSHIP SYSTEM THAT APPLIES IN INDONESIAN INDIGENOUS PEOPLES," *Synergy: Multidisciplinary Scientific Journal* 1, no. 04 (2024): 238–46.

efforts to maintain family harmony.¹⁷ Thus, deliberation not only functions as a dispute resolution mechanism, but also as an instrument of legal adaptation that allows formal norms to be implemented in a more contextual manner. This practice shows that in multicultural societies, justice is often understood as an acceptable outcome, not merely as a textual application of legal norms.

However, the dominance of the deliberative mechanism also presents juridical consequences that cannot be ignored. Agreements that are not based on an adequate understanding of the legal provisions have the potential to reduce the protection of certain heirs' rights, especially if there is an imbalance in bargaining positions among family members. In such a situation, a decision that appears to be the result of consensus does not necessarily reflect the free will of all parties. In fact, it is possible that social and cultural pressures arise that cause some heirs to receive distributions that are not in accordance with their normative rights. Therefore, flexibility in inheritance settlement must remain placed in the legal corridor so that the principle of deliberation does not turn into an instrument that legitimizes injustice.

Legal pluralism also opens up space for forum shopping, which is the tendency to choose the legal system that is considered the most profitable for the interests of certain parties. In multicultural family inheritance disputes, the choice of Islamic law, customary law, or civil law is often not based on the suitability of the characteristics of the case, but rather on the opportunity to obtain a larger share of the inheritance or a more favorable legal position. This kind of practice has implications for a decrease in legal certainty because the outcome of the settlement becomes highly dependent on the chosen legal system. In addition, forum shopping has the potential to prolong disputes due to differences of opinion regarding the law that should be applied. These findings suggest that legal pluralism, while providing flexibility, also leaves challenges in maintaining consistency in the application of the law and the protection of the rights of heirs.¹⁸

From the perspective of legal certainty theory, this condition shows that legal certainty in the distribution of inheritance cannot be understood only as certainty against written norms, but must also consider certainty in the settlement process and protection of the rights of the parties. Meanwhile, from the point of view of legal consequences, any form of deviation or adjustment to the normative provisions of the KHI will give birth to juridical consequences that affect the status of the heirs' rights and the binding force of the results of the distribution of inheritance. Therefore, the existence of legal pluralism should not be seen as an obstacle, but rather as a reality that requires a harmonized mechanism between Islamic law, customary law, and civil law. The harmonization needs to be directed at creating a balance between legal certainty, substantive justice, and legal usefulness so that the settlement of inheritance in multicultural families not only has social legitimacy, but also acquires strong juridical legitimacy.

Challenges to Legal Certainty in the Compilation of Islamic Law

Legal certainty is one of the fundamental goals in every legal system because it provides clear guidelines regarding legal rights, obligations, and consequences arising

¹⁷ Istiqomah Sinaga, Nurhayati, dan Hazrul Affendi Mohamad Razali, "Legal Pluralism in the Context of the Distribution of Women's Inheritance: Constellation of State, Islamic and Customary Laws," *Mazahibuna: Jurnal Perbandingan Mazhab*, 12 November 2022, 107–31, <https://doi.org/10.24252/mh.vi.29786>.

¹⁸ Arif Sugitanata and Ihda Shofiyatun Nisa', "MASLAHAH ANALYSIS IN BUILDING THE HARMONIZATION OF LEGAL PLURALISM IN A PLURALISTIC SOCIETY," *Al-Muqaronah: Journal of Comparative Madzhab and Law* 2, no. 2 (December 2023): 69–77, <https://doi.org/10.59259/am.v2i2.115>.

from a legal event. In the context of Islamic inheritance in Indonesia, this function is realized through the Compilation of Islamic Law (KHI) which systematically regulates the subject of law, the position of the heirs, the share of each heir, and the mechanism for resolving inheritance disputes. As a positive legal instrument that applies to Muslims, KHI is basically designed to create uniformity in the application of inheritance law while ensuring the predictability of decisions in dispute resolution.¹⁹ However, the effectiveness of these norms is not only determined by the clarity of their arrangements, but also by their ability to adapt to the increasingly plural social dynamics of society.

The findings of the study show that in multicultural families, the implementation of inheritance provisions in KHI does not always take place normatively as formulated in the regulations. The division of inheritance is more often carried out through family deliberations that consider the emotional relationships, the economic conditions of the heirs, the contribution of each family member to the heirs, and the cultural values that develop in the social environment. Thus, the settlement of inheritance is not solely based on the proportions of the shares as specified in the KHI, but is the result of social negotiations oriented towards the creation of family harmony. This practice shows that legal norms undergo a process of adaptation when dealing with the reality of a multicultural society, so that the resulting legal consequences are not always identical to the juridical consequences that have been formulated normatively.²⁰

This phenomenon shows the tension between legal certainty and substantive justice. From the perspective of legal certainty theory, consistency in the application of norms is the main prerequisite for the creation of legal protection, because each legal subject can predict his rights and obligations based on the applicable rules. However, in the practice of multicultural family inheritance, this certainty is often compromised in order to reach a settlement that is considered fairer by the parties. Family agreements are seen as able to accommodate concrete conditions that are not always reachable by normative arrangements, such as differences in the level of economic needs, parental devotion, or social relationships between family members.²¹ As a result, legal certainty becomes relative because the results of inheritance distribution depend heavily on the process of deliberation and agreement of the heirs, not solely on the application of standard norms.

From the perspective of legal pluralism, these conditions reflect the dynamic interaction between state law, Islamic law, and customary law. In many cases, the three legal systems do not run separately, but rather influence each other in determining the form of inheritance settlement that is considered most acceptable by society. The choice of the deliberation mechanism shows that society does not always place positive law as the only source of legitimacy, but also considers living social norms as the basis for

¹⁹ Sinaga, Nurhayati, dan Razali, "Legal Pluralism in the Context of the Distribution of Women's Inheritance."

²⁰ Sri Hariati, *The Application of Islamic Hereditary Law After the Enactment of the Compilation of Islamic Law in Indonesia* | *JOURNAL OF SOCIO-ECONOMICS AND HUMANITIES*, December 15, 2024, <https://jseh.unram.ac.id/index.php/jseh/article/view/666>.

²¹ Marufin Marufin, "IMPLEMENTATION OF MEDIATION FOR THE SETTLEMENT OF INHERITANCE CASES IN REALIZING LEGAL CERTAINTY IN RELIGIOUS COURTS," *Aktualita (Legal Journal)* 2, no. 2 (December 23, 2019): 719–34, <https://doi.org/10.29313/aktualita.v2i2.5197>; Sofyan Munawar and Nilman Ghofur, "ISLAMIC INHERITANCE LAW IN THEORETICAL STUDIES (The Politics of Islamic Family Law Against Heirs of Different Religions)," *Sahaja* 2, no. 1 (May 29, 2023): 129–41, <https://doi.org/10.61159/sahaja.v2i1.95>.

resolving disputes.²² This phenomenon shows that the effectiveness of a legal norm is not only determined by its formally binding power, but also by the level of public acceptance of the substance of the norm. The higher the gap between legal norms and growing social values, the more likely society is to choose settlement mechanisms outside of the available normative provisions.²³

This condition also raises questions about the compatibility of KHI with the multicultural family structure. Conceptually, KHI is built on the assumption that there is a common religious identity and value orientation in Muslim families. In social reality, these assumptions are not always fulfilled as more and more families are formed from different cultural, ethnic, and even legal traditions. This diversity affects the way heirs view the concepts of justice, equality, and the mechanism of distributing inheritance.²⁴ Therefore, the textual implementation of KHI often faces resistance if it is seen as unable to accommodate the social needs of the parties. These findings show that the main challenge lies not in the weakness of the KHI norm as a legal instrument, but in the limited space for adaptation of these norms to changes in the increasingly heterogeneous social structure of society.

Another implication that arises is the increased potential for juridical conflicts due to the existence of more than one legal system that can be used as a basis for settling inheritance. Differences in legal options have the potential to cause uncertainty regarding the status of the heirs, the amount of each heir's share, and the dispute resolution mechanism if family deliberations do not reach an agreement. In such a situation, judges have a strategic role to interpret the law that is not only oriented towards the certainty of formal law, but also considers the values of justice that live in society. The practice of applying mandatory wills in several religious court rulings shows that judicial institutions have sought to develop more progressive interpretations to bridge the need for legal certainty with the demands of substantive justice. This approach simultaneously confirms that the renewal of inheritance law does not always have to be carried out through changes in norms, but can also develop through judicial interpretations that are responsive to the dynamics of society.

Based on these findings, it can be understood that the challenge to legal certainty in the implementation of KHI is not solely caused by the pluralism of the legal system, but by the need to balance normative certainty with the social realities of multicultural societies. KHI retains an important position as the basis for inheritance law for Muslims, but its implementation requires a more contextual approach to accommodate diversity

²² Syaiful Mubarak, "The Enforcement of Qanun Jinayat Law in Aceh in Relation to Legal Pluralism," *Jurnal Hukum Lex Generalis* 6, no. 2 (February 22, 2025), <https://doi.org/10.56370/jhlg.v6i2.637>; Dedy Sumardi, "Islam, Legal Pluralism and Reflection of a Homogeneous Society," *Ash-Syir'ah: Journal of Sharia and Law* 50, no. 2 (December 1, 2016): 481–504, <https://doi.org/10.14421/ajish.v50i2.240>; E Efrizon et al., "Reform of Agrarian Law and Protection of Indigenous Peoples' Rights," *Locus Journal of Academic Literature Review* 4, no. 2 (2025).

²³ Belinda Pudjilianto and Emy Handayani, "The Application of Legal Pluralism in Society," *Diponegoro Law Journal* 11, no. 2 (2022); Sartika Intaning Pradhani, "Approach to Legal Pluralism in the Study of Customary Law: The Interaction of Customary Law with National and International Law," *Law: Journal of Law* 4, no. 1 (June 5, 2021): 81–124, <https://doi.org/10.22437/ujh.4.1.81-124>.

²⁴ Irma Nafingatul Fitri, Joko Sriwidodo, and Felicitas Sri Marniati, "Legal Protection of Heirs Related to Grants That Harm the Absolute Rights of Heirs," *Indonesian Multidisciplinary Journal* 2, no. 2 (February 27, 2023): 268–87, <https://doi.org/10.58344/jmi.v2i2.163>; Ni Luh Tanzila Yuliasri, "The Position of the Heirs of Khuntsa in Islamic Heirs," *Mimbar Keadilan* 14 (2019); Salma Suroyya, Yuni Yanti, and Yunanto Mulyadi, "DISTRIBUTION OF INHERITANCE TO HEIRS OF DIFFERENT RELIGIONS AND ITS LEGAL CONSEQUENCES," *Diponegoro Law Journal* 5, no. 3 (2016).

without compromising the basic principles of Islamic law. Thus, legal certainty is no longer understood as the rigid application of norms, but as the ability of the legal system to provide clear guidelines while producing a settlement that is fair, acceptable to the parties, and relevant to the development of a plural society in Indonesia.

Substantive Justice and Judge Adaptation through Mandatory Wills

The implementation of inheritance law in multicultural families shows that the achievement of justice is not always synonymous with the textual application of norms. Although the Compilation of Islamic Law (KHI) has systematically established the structure of inheritance, the amount of shares, and the conditions of inheritance, the practice of settlement of inheritance in society often develops through mechanisms that are more adaptive to the social conditions of the family. Family deliberations are the main instrument in building an agreement on the distribution of inheritance by considering emotional relationships, the heirs' contribution to the heirs, economic conditions, parenting responsibilities, and the living needs of each party. From the perspective of legal sociology, the phenomenon shows that the effectiveness of a norm is not only determined by its juridical binding power, but also by the level of social acceptance from the society that applies it. Therefore, the division of inheritance in a multicultural family is more appropriately understood as a negotiation process between formal legal provisions and the values of justice that live in society.²⁵

The findings of the study show that family deliberation is not intended to override the provisions of Islamic heritage, but rather functions as a mechanism of reconciliation to avoid prolonged conflicts and maintain the harmony of family relations. In many cases, the heirs prioritize reaching an agreement that is acceptable to all family members rather than maintaining a division that follows a normative formula. This approach reflects an orientation towards substantive justice, which is justice that is not only measured based on conformity with legal norms, but also on the ability of a settlement to provide benefits, balance, and protection for the interests of all parties. Thus, the concept of justice in inheritance practice is no longer understood formalistically but has developed into a contextual concept that is responsive to the social dynamics of multicultural societies.

This orientation towards substantive justice is also reflected in the practice of religious justice in Indonesia. One of the important developments is the recognition of *compulsory wills* as a legal instrument to provide protection to parties who normatively do not obtain inheritance rights, especially heirs of different religions. Through the Supreme Court Decision No. 368 K/AG/1995 and the Supreme Court Decision No. 51 K/AG/1999, the Supreme Court gave shares to non-Muslim heirs through the mechanism of *a mandatory will*.²⁶ The ruling marks an important development in Islamic inheritance law in Indonesia because it shows that judges are not only oriented towards a textual reading of inheritance provisions, but also consider the value of justice, family relations, and protection of the interests of the parties. In this context, the obligatory will serves as a corrective instrument that allows the law to respond to social realities without eliminating the normative character of Islamic law.²⁷

²⁵ Abdul Fadir, "Transparency and Justice in the Distribution of Inheritance in Sharia Economic Law: A Case Study in Pidie Jaya," *Glossary: Journal of Sharia Economics* 2, no. 2 (December 2024): 116–27, <https://doi.org/10.52029/gose.v2i2.237>.

²⁶ Annida Aqiila Putri dan Bart Jansen, "Dynamics of Reasonableness and Fairness in a Pluralistic Legal System: Perspectives from Adat, Islamic and Civil Inheritance Law," *Yuridika* 36, no. 1 (Januari 2021): 1–14, <https://doi.org/10.20473/ydk.v36i1.19170>.

²⁷ Hervin Yoki Pradikta, Siti Mahmudah, dan Is Susanto, "ANALYSIS OF JUDGES' DECISIONS REGARDING ISLAMIC INHERITANCE CASES AND ITS IMPLICATIONS FOR FAMILY LAW

From the perspective of legal consequences theory, the application of compulsory wills shows that the legal consequences of inheritance are not necessarily mechanical as a result of the application of norms, but can develop through the process of judicial interpretation. Judges are no longer positioned solely as *la bouche de la loi* who only applies the sound of the law, but rather as legal interpreters in charge of ensuring that legal objectives can be realized in concrete situations.²⁸ This role becomes increasingly important when judges face inheritance disputes in multicultural families that cannot be fully resolved through a normative approach.²⁹ Taking into account social facts, family relationships, and the growing sense of justice in society, judges carry out legal construction to produce a verdict that not only has juridical legitimacy, but also acquires social legitimacy. Such an approach reflects a paradigm shift from legal formalism to contextual adjudication, which is a law enforcement process that integrates legal norms with the social realities that surround them.

Nevertheless, it must be acknowledged that the widening scope of interpretation also presents challenges to the principle of legal certainty. When dispute resolution is more dependent on family deliberation or judge's discretion, the predictability of inheritance distribution results is lower than if all cases are resolved based on standard normative provisions. Differences in the characteristics of each family, cultural background, economic conditions, and humanitarian considerations can result in different verdicts for cases that have similarities in legal facts. From the perspective of legal certainty theory, this condition has the potential to cause inconsistency in the application of the law if it is not accompanied by clear interpretation parameters.³⁰ Therefore,

REFORM IN INDONESIA," *SMART: Journal of Sharia, Tradition, and Modernity*, 2022, 91–106, <https://doi.org/10.24042/smart.v2i2.14626>.

²⁸ Christina Maya Indah, "INITIATING THE MORAL MIND IN THE INTERPRETATION OF JUDGES' LAWS," *Legal Reflections: Journal of Law* 4, no. 1 (November 21, 2019): 41–60, <https://doi.org/10.24246/jrh.2019.v4.i1.p41-60>; Iwona Barwicka-Tylek and Anna Ceglarska, "Does La Bouche de La Loi Have Anything to Say in Democracy? An Exercise in Legal Imagination," *Studia Iuridica Lublinensia* 31, no. 2 (June 22, 2022): 85–99, <https://doi.org/10.17951/sil.2022.31.2.85-99>; Dian Ratu Ayu Uswatun Khasanah and Anggita Doramia Lumbanraja, "The Development of Legal Interpretation by Judges in Indonesia in the Dominance of the Civil Law System Tradition," *Journal of Ius Constituendum* 7, no. 2 (October 4, 2022): 232–45, <https://doi.org/10.26623/jic.v7i2.4799>; R C Kurniawan, "Alternative Sentencing for Criminal Acts of Corruption as the Form of Progressive Legal Enforcement to Ensure Criminal Action to Guarantee the Process of ...," ... *International Conference on Indonesian Social & ...* 366, no. Icisp2018 (2019).

²⁹ Indah, "INITIATING MORAL MINDS IN THE INTERPRETATION OF JUDGES' LAWS"; Barwicka-Tylek and Ceglarska, "Does La Bouche de La Loi Have Anything to Say in Democracy? An Exercise in Legal Imagination"; Khasanah and Lumbanraja, "The Development of Legal Interpretation by Judges in Indonesia in the Dominance of the Civil Law System Tradition"; Kurniawan, "Alternative Sentencing for Criminal Acts of Corruption as the Form of Progressive Legal Enforcement to Ensure Criminal Action to Guarantee the Process of"

³⁰ Dorothy Estrada Tanck, "El Principio de Igualdad Ante La Ley En El Derecho Internacional = The Principle of Equality before the Law in International Law," *CUADERNOS DE DERECHO TRANSNACIONAL* 11, no. 1 (March 11, 2019): 322, <https://doi.org/10.20318/cdt.2019.4622>; Daron Acemoglu and Alexander Wolitzky, "A Theory of Equality Before the Law," *The Economic Journal* 131, no. 636 (May 4, 2021): 1429–65, <https://doi.org/10.1093/ej/ueaa116>; Rofingi Rofingi, Umi Rozah, and Adifyan Rahmat Asga, "Problems of Law Enforcement in Realizing The Principle of Equality Before The Law in Indonesia," *LAW REFORM* 18, no. 2 (August 22, 2022): 222–37, <https://doi.org/10.14710/lr.v18i2.47477>; Salomo Jitmau, Sokhib Naim, and Muh Akhdharisa SJ, "Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law," *JUSTISI* 11, no. 2 (April 13, 2025): 441–55, <https://doi.org/10.33506/js.v11i2.4088>; Suhendar and Rino Dedi

flexibility in realizing substantive justice must not develop into a form of legal uncertainty that reduces the principle of equality before the law.

On that basis, a balance between legal certainty and substantive justice is the main prerequisite for resolving inheritance disputes in multicultural societies. The normative provisions in the KHI must still be positioned as the main reference to ensure consistency and protection of the rights of the heirs. However, in certain situations where there are special social conditions, complex family conflicts, or the need for protection for vulnerable parties, judges may use interpretive instruments, including mandatory wills, as long as they are based on rational, proportionate, and accountable legal arguments. Thus, judicial discretion is not understood as a deviation from the law, but rather as a mechanism to actualize legal objectives when the textual application of norms has the potential to produce injustice.

Overall, the findings of this study confirm that the legal consequences of inheritance distribution in multicultural families are the result of a dynamic interaction between legal pluralism, legal certainty, and substantive justice. Legal pluralism provides space for the enactment of various legal systems that live in society, while family deliberation and judges' interpretation serve as adaptive mechanisms to bridge the tension between legal norms and evolving social needs. In this context, the obligatory will not only represents an innovation in the practice of religious justice, but also reflects the evolution of Islamic inheritance law in Indonesia towards a system that is more responsive to the realities of a multicultural society. These findings show that the success of resolving inheritance disputes is not solely determined by compliance with formal norms, but also by the ability of the legal system to strike a balance between legal certainty, protection of rights, and substantive justice. This balance model is the conceptual contribution of this research in enriching the discourse on the development of Islamic inheritance law in an increasingly plural and dynamic society.

CONCLUSION

This study shows that the distribution of inheritance in multicultural families in Indonesia takes place within the framework of legal pluralism that brings together Islamic law, customary law, and civil law in one practice of inheritance settlement. The main findings of the study reveal that the implementation of the Compilation of Islamic Law (KHI) is not always carried out textually, but undergoes an adaptation process through family deliberation that considers family relationships, socio-economic conditions, and cultural values that develop in society. As a result, the legal consequences of inheritance division are not solely shaped by formal legal norms, but also by social mechanisms that result in more contextual settlements. These findings confirm that in a multicultural society, the formation of legal consequences is dynamic as a result of the interaction between legal norms and social reality.

The study also found that the tension between legal certainty and substantive justice is a key characteristic of inheritance settlement in a plural legal system. On the one hand, KHI provides legal certainty through systematic regulation regarding the position and share of heirs. On the other hand, the practice of family deliberation and judicial interpretation, including through the application of mandatory wills, suggests that the achievement of substantive justice often requires flexibility in the application of norms. Thus, this research provides a theoretical contribution in the form of strengthening a conceptual framework that views legal certainty and substantive justice as two principles

Aringga, "Equality Before the Law in Law Enforcement in Indonesia," *Sinergi International Journal of Law* 2, no. 1 (January 9, 2024): 38–48, <https://doi.org/10.61194/law.v2i1.109>.

that are complementary, not contradictory. The integration between normative approaches and social realities enriches the development of the study of Islamic heritage law in the context of legal pluralism and multicultural society.

Based on these findings, this study recommends strengthening the guidelines for the implementation of the Islamic Law Compilation that is more adaptive to the dynamics of multicultural families without reducing the principle of legal certainty. The Supreme Court and the Religious Courts need to develop clearer parameters regarding the use of legal interpretation, including the application of mandatory wills, in order to create consistency in decisions while still accommodating substantive justice values. In addition, it is necessary to strengthen the mechanism of mediation and family deliberation as part of the settlement of inheritance disputes oriented towards benefits and social harmony. Further research is suggested using empirical approaches or mixed methods in different regions with different cultural characteristics to test the relevance of the balance model between legal certainty and substantive justice in inheritance practices in Indonesia.

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