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Preventive Curative Inheritance Governance among Urban Muslim Families: Evidence from Depok, Indonesia

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Abstract

Inheritance conflicts in Muslim families are not only related to the distribution of inheritance, but are also socio-juridical and economic issues that are influenced by kinship relationships, asset documentation, economic value of property, and compliance with religious norms. This study aims to analyze inheritance governance in urban Muslim families in Depok, Indonesia, as well as develop a governance model that is able to prevent and resolve inheritance conflicts in a sustainable manner. The study used a socio-juridical qualitative approach with data obtained through semi-structured interviews with 18 informants, analysis of Religious Court decisions, legal documents, and official demographic data. Analysis is carried out through open, axial, and selective coding, while the validity of findings is guaranteed through source triangulation, member checking, peer discussion, and trail audit. The results of the study show that the effectiveness of inheritance governance is determined by the interaction between legal literacy, economic rationality, and family communication. Legal literacy allows for proper distinctions between grants, wills, common property, inheritance, debts, and heirs' rights, while economic rationality influences inherited asset management decisions. Open communication, supported by asset documentation, grants, written wills, and family deliberations, has been proven to strengthen conflict prevention. On the other hand, when preventive mechanisms do not work, dispute resolution develops gradually through family negotiations, religious consultations, community mediation, legal assistance, and adjudication in Religious Courts. This research offers a Preventive-Curative Inheritance Governance Model that integrates legal literacy, economic rationality, family communication, legal pluralism, and institutional settlement stages as conceptual contributions to the development of Muslim family inheritance governance in Indonesia.

Keywords: *Islamic Inheritance Law, Inheritance Governance, Socio-Legal Studies, Institutional Economics, Legal Pluralism.*

Abstrak

Konflik kewarisan dalam keluarga Muslim tidak hanya berkaitan dengan pembagian hak waris, tetapi juga merupakan persoalan sosio-yuridis dan ekonomi yang dipengaruhi oleh relasi kekerabatan, dokumentasi aset, nilai ekonomi harta, serta kepatuhan terhadap norma keagamaan. Penelitian ini bertujuan menganalisis tata kelola kewarisan pada keluarga Muslim perkotaan di Depok, Indonesia, serta mengembangkan model tata kelola yang mampu mencegah dan menyelesaikan konflik waris secara berkelanjutan. Penelitian menggunakan pendekatan kualitatif sosio-yuridis dengan data yang diperoleh melalui wawancara semi-terstruktur terhadap 18 informan, analisis putusan Pengadilan Agama, dokumen hukum, dan data demografis resmi. Analisis dilakukan melalui pengodean terbuka, aksial, dan selektif, sedangkan validitas temuan dijamin melalui triangulasi sumber, member checking, diskusi sejawat, dan audit trail. Hasil penelitian menunjukkan bahwa efektivitas tata kelola kewarisan ditentukan oleh interaksi antara literasi hukum, rasionalitas ekonomi, dan komunikasi keluarga. Literasi hukum memungkinkan pembedaan yang tepat antara hibah, wasiat, harta bersama, harta warisan, utang, dan hak ahli waris, sementara rasionalitas ekonomi memengaruhi keputusan pengelolaan aset warisan. Komunikasi yang terbuka, didukung dokumentasi aset, hibah, wasiat tertulis, dan musyawarah keluarga, terbukti memperkuat pencegahan konflik. Sebaliknya, ketika mekanisme preventif tidak berjalan, penyelesaian sengketa berkembang secara bertahap melalui negosiasi keluarga, konsultasi keagamaan, mediasi komunitas, pendampingan hukum, hingga adjudikasi di Pengadilan Agama. Penelitian ini menawarkan Model Tata Kelola Kewarisan Preventif-Kuratif yang mengintegrasikan literasi hukum, rasionalitas ekonomi, komunikasi keluarga, pluralisme hukum, dan tahapan penyelesaian kelembagaan sebagai kontribusi konseptual bagi pengembangan tata kelola kewarisan keluarga Muslim di Indonesia.

Kata Kunci: Hukum Kewarisan Islam; Tata Kelola Kewarisan; Studi Sosio-Yuridis; Ekonomi Kelembagaan; Pluralisme Hukum.

INTRODUCTION

Inheritance conflict has become increasingly significant amid the convergence of global urbanization, rising property values, population ageing, and expanding intergenerational wealth transfers. The United Nations Department of Economic and Social Affairs reports that cities accommodated approximately 45 per cent of the global population in 2025 and are projected to absorb a substantial proportion of future population growth.[1] At the same time, the OECD observes that inheritances are likely to increase both in number and value as older generations accumulate wealth, life expectancy rises, and asset prices continue to grow.[2] UN-Habitat further identifies insecure tenure,

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[1] U N Women and United Nations Department of Economic and Social Affairs, "Progress on the Sustainable Development Goals: The Gender Snapshot 2025" (UN Women, 2025).

[2] OECD, "Social and Emotional Skills for Better Lives: Findings from the OECD Survey on Social and Emotional Skills" (Paris: OECD Publishing, 2021), https://doi.org/10.1787/92a11084-en.

competing claims, weak documentation, and inadequate land governance as factors that may generate property conflict not only at the national or community level but also within families. These developments indicate that inheritance is no longer merely a private event involving the distribution of a deceased person's assets. It has become an important site where urban property governance, family relations, legal institutions, and intergenerational economic security intersect.

Within Muslim family life, inheritance conflict involves more than the technical calculation of legally prescribed shares. It is connected to religious obligation, kinship hierarchy, economic security, caregiving expectations, family authority, and the moral memory of the deceased. Although inheritance in Muslim societies is formally governed by Islamic legal principles, its implementation is often shaped by local customs, family negotiations, emotional claims, unequal bargaining power, and differences in the heirs' understanding of legal rules. Recent socio-legal scholarship further demonstrates that authority within Islamic family law is not always gender-neutral. Interpretive and institutional constructions of qiwāmah may privilege male authority in family decision-making while marginalizing women's legal knowledge, experiences, and capacity to participate in determining family rights and obligations.[3] In Indonesia, Muslim inheritance operates through the interaction of Islamic jurisprudence, the Compilation of Islamic Law, religious court practice, customary arrangements, and informal family settlements.[4] Religious authority in contemporary Indonesia is not derived from a single institutional source, but is continuously negotiated through textual interpretation, religious actors, legal institutions, and

[3] Al Fiqri Ardiansyah, Marhamah Annazah Tambunan, Randy Putra Alamsyah, Idrus Afandi Akbar, and Nuruddin. "Qiwāmah and Epistemic Violence: A Critical Socio-Legal Analysis of Gendered Authority in Islamic Family Law." *Mawaddah: Jurnal Hukum Keluarga Islam* 3, no. 2 (2025): 605–626. https://doi.org/10.52496/mjhki.v3i2.100; Abdulah Pakarti, Muhammad Husni, Ending Solehudin, Maruf Maruf, Iqbal Saujan, and Saeideh Shakibiciu. 2025. "The Role and Application of 'Urf As a Source of Islamic Law: A Historical Review and Fiqhiyah Rules". An-Nisa: Journal of Islamic Family Law 2 (3): 175-192. https://doi.org/10.63142/an-nisa.v2i3.300.

[4] E Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in Indonesia* (Amsterdam: Amsterdam University Press, 2010); John R Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003).

social contestation.[5] Inheritance disputes must therefore be understood not only as legal cases arising after disagreement has become visible, but also as indications of how families manage assets, document ownership, interpret religious obligations, and plan intergenerational wealth transfers. Inheritance disputes must therefore be understood not only as legal cases arising after disagreement has become visible, but also as indications of how families manage assets, document ownership, interpret religious obligations, and plan intergenerational wealth transfers.

The problem becomes especially complex in rapidly expanding urban Muslim communities. Urban families often possess heterogeneous assets, including land, houses, apartments, savings, businesses, vehicles, and other movable property. These assets may have substantially different legal statuses and rapidly changing market values. Simultaneously, urban mobility can weaken established mechanisms of kinship authority because heirs may live separately, experience different economic conditions, possess unequal legal knowledge, and maintain competing expectations regarding parental property. In such circumstances, the formal availability of inheritance law does not necessarily result in orderly inheritance governance. Legal norms must first be translated into asset inventories, valid documentation, transparent communication, and decisions accepted by family members.

Depok, West Java, provides a theoretically significant setting for examining this tension. Located within the Jakarta metropolitan agglomeration, Depok is characterized by intensive urban development, increasing property values, substantial population mobility, and relatively broad access to educational, religious, administrative, and judicial institutions. The digital transformation of religious authority has further expanded the channels through which urban Muslim communities may obtain religious and legal guidance, although broader access to consultation does not necessarily produce compliance, documentary certainty, or family agreement.[6] Muslims constituted the

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[5] Pahlavi, Muhammad Reza, Abdul Aziz Hasibuan, and Yessy Sundary. “Competing Qur’anic Authorities in the Public Sphere: Textual Meaning, Social Contestation, and Interpretive Politics in Contemporary Indonesia.” *Dialogues in Qur’anic and Hadith Studies* 1, no. 1 (2026): 102–124.

[6] Marhamah Annazah Tambunan and Maulida Fitria, “Digital Fatwas and the Transformation of Religious Authority in Contemporary Muslim Societies,” *Islamicate Futures: Knowledge, Ethics, and Muslim Societies* 1, no. 1 (2026): 96–123; Fu’ad, Asep, Aden Rosadi, Usep Saepullah, and Husain, trans. 2024. “Politik Hukum

city's largest religious population in 2024, numbering 1,875,655 residents.[7] The city is therefore not selected merely because it offers a convenient local research site. It represents a critical or most-likely case in which institutional access, urban education, religious authority, and the availability of the Religious Court should theoretically facilitate legal compliance and preventive inheritance planning.

Nevertheless, Islamic inheritance cases continue to appear before the Depok Religious Court, including disputes registered and decided during 2024 and 2025.[8] This apparent contradiction makes Depok analytically important. When inheritance conflict persists in a city where legal and religious institutions are comparatively accessible, institutional availability alone cannot adequately explain whether families successfully prevent disputes. Depok therefore allows this study to examine the more fundamental question of why legal awareness is not always converted into documented asset ownership, timely family deliberation, valid inter vivos transfers, written wills, or other forms of preventive governance. In this sense, Depok is not simply representative of an Indonesian city; it is a diagnostic case for testing the limits of the assumption that urbanization, education, and legal access automatically strengthen compliance with Muslim inheritance law. The findings may consequently illuminate similar problems in other rapidly urbanizing Muslim communities.

The central problem lies in the gap between access to legal institutions and the capacity of families to govern inheritance before disputes escalate. The availability of religious courts does not automatically reduce inheritance conflict when families fail to distinguish individual property from marital property, document asset ownership, record debts, identify lawful heirs, discuss inheritance planning, prepare written wills, or execute hibah in a legally valid and transparent manner. Legal awareness may exist at the level of general religious knowledge while remaining weak at the operational level. Families may recognize faraidh as a religious obligation but still avoid

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Pengaturan Ahli Waris Pengganti Dalam Pasal 185 Kompilasi Hukum Islam: Analisis Normatif Dan Implikasinya Terhadap Sistem Kewarisan Di Indonesia". Al-Battar: Jurnal Pamungkas Hukum 1 (3): 127-138. https://doi.org/10.63142/e3fj4d24.

[7] Dinas Kependudukan dan Pencatatan Sipil Kota Depok, "Jumlah Penduduk Menurut Agama Yang Dianut: Kota Depok 2024" (Depok: Satu Data Depok, 2024).

[8] Mahkamah Agung Republik Indonesia, Putusan Pengadilan Agama Depok Nomor 2904/Pdt.G/2024/PA.Dpk, Direktori Putusan Mahkamah Agung Republik Indonesia (2025).

discussions concerning death, ownership, caregiving contributions, and the future allocation of family assets. Consequently, latent disagreement can remain concealed until the death of the property owner removes the person most capable of clarifying the origin, status, and intended transfer of the assets.

This study conceptualizes inheritance governance through a continuum of preventive and curative mechanisms. Preventive governance refers to anticipatory arrangements undertaken before open conflict arises, including asset inventories, hibah during the owner's lifetime, written wills, family deliberation, legal or religious consultation, clarification of marital and inheritance property, and early identification of heirs' rights. Curative governance refers to mechanisms employed after disagreement has emerged, including negotiation among heirs, mediation by family elders or religious authorities, lawyer-assisted settlement, court-connected mediation, and litigation before the Religious Court. The distinction is analytically important because curative disputes often reveal weaknesses in earlier preventive governance. Inheritance litigation is therefore not an isolated event but the later stage of a governance process that may have begun with unclear ownership, undocumented transfers, unequal information, or delayed family communication.

From the perspective of institutional economics, ambiguous property rights, incomplete information, and weak documentation increase verification, negotiation, enforcement, and litigation costs.[9] However, institutional economics alone is insufficient for explaining Muslim inheritance conflict. Its emphasis on incentives, property rights, and transaction costs tends to portray heirs as predominantly calculative actors. It does not fully account for grief, moral memory, filial care, perceived sacrifice, gendered family authority, religious accountability, and the emotional meaning attached to inherited homes or parental property. Studies of kinship and inheritance demonstrate that claims to property are frequently justified through narratives of care, loyalty, residence, dependency, and deservingness rather than through economic

[9] Jens Beckert, *Inherited Wealth* (Princeton: Princeton University Press, 2008); Douglass C North, *Institutions, Institutional Change and Economic Performance* (Cambridge University Press, 1990); Farid, Diana, and Muhammad Husni Abdulah Pakarti, trans. 2024. "Penetrasi Konsep Hibah Sebagai Solusi Dalam Proses Pembagian Waris". Al-Battar: Jurnal Pamungkas Hukum 1 (3): 139-150. https://doi.org/10.63142/9td8h174.

calculation alone.[10] Similarly, legal-consciousness theory shows that individuals encounter law through everyday expectations, avoidance practices, informal bargaining, and interpretations of entitlement, not only through formal institutions.[11]

Islamic family law addresses some of these normative limitations by locating inheritance within religious duties, legally prescribed entitlements, justice, consent, and the protection of property. Recent maqāṣid-based scholarship also demonstrates that Qur'anic inheritance provisions should be interpreted not merely as fixed calculations of legal shares, but as instruments for protecting family welfare, property, and intergenerational justice.[12] Nevertheless, a purely doctrinal approach cannot adequately explain why families who recognize Islamic inheritance norms may postpone distribution, avoid documentation, negotiate unequal arrangements, or move between religious, customary, and state institutions. Conflict-management theory is useful for distinguishing anticipatory strategies from remedial settlement, but it also tends to treat disputes as general negotiation problems and may insufficiently consider the binding authority of Islamic inheritance shares, kinship hierarchy, and religious legitimacy. Accordingly, this study does not use institutional economics, socio-legal theory, conflict management, and Islamic family law as uncritically complementary perspectives. Instead, it integrates them because each framework explains a different dimension while correcting the analytical limitations of the others.

Previous scholarship relevant to Muslim inheritance can be organized into several interconnected but insufficiently integrated research streams. Their focuses, methodological orientations, findings, and remaining limitations are summarized in Table 1.

Table 1. Research Mapping and Positioning of the Study

[10] Janet Finch and Jennifer Mason, *Passing On: Kinship and Inheritance in England* (London: Routledge, 2000).

[11] Patricia Ewick and Susan S Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998).

[12] Tambunan, Warda Mardiana, Tiara Hidayah B, and Miftahur Rahmah. "Recontextualizing Āyāt al-Aḥkām: Maqāṣid-Based Legal Hermeneutics in Contemporary Qur'anic Exegesis." *Journal of Qur'anic Legal Studies and Exegesis* 1, no. 1 (2026): 21–39.

Represen tative author(s)	Research focus	Method or approach	Main finding	Remaining gap	Relevance to the present study
Ali, Nurlaelawat[13]	Islamic inheritance doctrine, the Compilation of Islamic Law, and the institutionalization of Islamic family law in Indonesia	Doctrinal and institutional legal analysis	Muslim inheritance practice is formally structured by Islamic jurisprudence and state-recognized Islamic family law	Limited attention to household asset management, preventive conduct, and the economic consequences of delayed distribution	Establishes the formal legal framework from which preventive and curative governance operates
Bowen, Benda-Beckmann and Benda-Beckmann Lukito, Salim[14]	Legal pluralism, religious authority, state law, customary norms, and everyday legal practice	Socio-legal and anthropological analysis	Families navigate multiple normative and institutional orders rather than relying exclusively on state law	Does not sufficiently explain the sequencing of preventive and curative mechanisms or the economic costs of weak documentation	Explains institutional choice, negotiation, and movement between family, religious, and judicial forums
Beckert, Piketty, OECD[15]	Inherited wealth, intergenerational transfer, asset concentration, and economic inequality	Comparative political economy and analysis of secondary economic data	Inheritance influences wealth accumulation and may reproduce intergenerational inequality, particularly when asset values rise	Gives limited attention to religious legitimacy, family emotions, and culturally specific inheritance obligations	Demonstrates the economic significance of inheritance and the consequences of unresolved property transfer

[13] Mohammad Daud Ali, *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia* (Jakarta: RajaGrafindo Persada, 2000); Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in Indonesia*.

[14] Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*; Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "The Dynamics of Change and Continuity in Plural Legal Orders," *Journal of Legal Pluralism* 38, no. 53–54 (2006): 1–44.

[15] Beckert, *Inherited Wealth*; OECD, "Social and Emotional Skills for Better Lives: Findings from the OECD Survey on Social and Emotional Skills"; Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Harvard University Press, 2014).

Finch and Mason, Ewick and Silbey[16]	Kinship obligatios, caregivin, deservingness, and everyday legal consciousness	Qualitative sociological analysis	Property claims are shaped by moral narratives, family relationshis, care, and perceptions of entitlement	Not specifically connected to Islamic inheritance doctrine or Indonesian religious-court institutios	Explains why legally prescribed shares may be accepted, resisted, or renegotiatd within families
Deutsc, Coleman, and Marcus, Menkel-Meadw[17]	Conflict preventio, negotiatin, mediation, and relational dispute resolution	Theoretical synthesis and dispute-resolution analysis	Early communication and mediation can reduce dispute escalation and relational damage	General conflict models do not sufficiently account for Islamic inheritance rules, kinship authority, and religious legitimacy	Provides the preventive-curative distinction and clarifies the sequencing of dispute-management mechanism
Riyadi and Zumrotun, Azhar, Hussain and Basir, Rasul and Awang[18]	Hibah, wasiat, faraidh, and Islamic estate-planning instruments	Legal and Islamic estate-planning analysis	Hibah and wasiat may prevent delayed distribution and conflict when legally valid, transparent, and documented	Studies tend to examine individual instruments separately rather than as an integrated family-governance system	Supports the formulation of an integrated model combining planning, documentation, deliberation, and settlement

Source: Authors' Synthesis Based On The Literature Cited In The Manuscript.

The mapping reveals three forms of fragmentation in the existing literature. First, doctrinal scholarship explains the validity and operation of Islamic inheritance rules but rarely examines how those rules are converted into routine household practices. Second, socio-legal

[16] Finch and Mason, *Passing On: Kinship and Inheritance in England*; Ewick and Silbey, *The Common Place of Law: Stories from Everyday Life*.

[17] Morton Deutsch, Peter T Coleman, and Eric C Marcus, eds., *The Handbook of Conflict Resolution: Theory and Practice*, 2nd ed. (San Francisco: Jossey-Bass, 2006); Carrie Menkel-Meadow, *Dispute Processing and Conflict Resolution: Theory, Practice and Policy* (Aldershot: Ashgate, 2004).

[18] R Riyadi and S Zumrotun, "Hibah Sebagai Strategi Penyelesaian Sengketa Pembagian Harta Waris Di Indonesia," *ADHKI: Journal of Islamic Family Law* 4, no. 1 (2022); A Basir, S Karoso, and S Saidi, "Enhancing Qur'an Reading Proficiency in Madrasahs Through Teaching Strategies Top of Form," *Nazhruna: Jurnal Pendidikan Islam* 7, no. 2 (2024): 373–89, https://doi.org/10.31538/nzh.v7i2.4985; S Hussain and J G Read, "Islamic Schools in the United States and England: Implications for Integration and Social Cohesion," *Social Compass* 62, no. 4 (2015): 556–69, https://doi.org/10.1177/0037768615602149.

scholarship effectively explains legal pluralism, family negotiation, and institutional choice but gives less attention to the transaction costs and economic consequences of undocumented property. Third, economic scholarship demonstrates the importance of inherited wealth but generally under-theorizes religious legitimacy, moral obligation, and emotional relations among heirs. Research on hibah, wasiat, and estate planning provides valuable preventive instruments, yet these instruments are often studied separately rather than as parts of a continuous governance process extending from pre-dispute planning to post-dispute settlement.

The research gap is therefore conceptual, methodological, and empirical. Conceptually, existing studies have not adequately formulated an integrated framework connecting Islamic legal entitlement, household asset governance, relational obligations, and the sequencing of preventive and curative responses. Methodologically, doctrinal legal analysis, court-based studies, estate-planning research, and economic analysis are frequently conducted in isolation. This study addresses that fragmentation through a qualitative socio-legal design that brings legal documents, selected Religious Court decisions, official demographic information, and qualitative evidence concerning Muslim family inheritance practices into the same analytical framework. Empirically, limited attention has been given to Depok as a critical metropolitan case in which strong institutional access coexists with latent and litigated inheritance conflict.

Based on these gaps, the study addresses three questions. First, what preventive mechanisms are used by Muslim families in Depok to anticipate inheritance conflict? Second, what curative mechanisms are employed after disagreement has emerged? Third, how do legal literacy, household economic rationality, family communication, and access to religious or legal institutions influence the movement from preventive planning to curative settlement?

The study aims to analyze the legal-economic governance of inheritance conflict among Muslim families in Depok. More specifically, it identifies preventive inheritance practices, examines the institutional sequence of curative settlement, and develops an integrated model of preventive-curative inheritance governance. The socio-legal approach explains how Islamic inheritance norms are interpreted and negotiated within family and community relations. Institutional economics clarifies the consequences of unclear property rights, incomplete documentation, and dispute costs. Conflict-management theory distinguishes anticipatory arrangements from remedial interventions, while Islamic family law supplies the normative structure through which entitlement, justice, property protection, and religious legitimacy are assessed.

The novelty of the study lies not merely in combining several disciplinary perspectives but in proposing preventive-curative inheritance governance as an integrated analytical framework. This framework repositions Muslim inheritance conflict from a post-mortem dispute concerning the calculation of legal shares into a continuous process of family asset governance. It connects legal literacy, economic planning, documentation, family communication, religious legitimacy, mediation, and judicial enforceability within a single continuum. The theoretical contribution consists of extending institutional-economic reasoning by incorporating the relational and normative dimensions of Islamic family law and legal consciousness. The empirical contribution lies in demonstrating, through the critical case of Depok, that urban education and institutional access do not automatically produce preventive inheritance behaviour. The study consequently offers a broader explanation of how rapidly urbanizing Muslim families may reduce latent inheritance conflict through timely planning, transparent documentation, accountable deliberation, and appropriately sequenced institutional intervention

RESEARCH METHODS

This study employed a qualitative socio-legal design to examine preventive and curative inheritance governance among Muslim families in Depok, West Java. The study involved 18 informants selected through purposive sampling and, where necessary, snowball sampling. Twelve informants were members of Muslim families who had experienced inheritance distribution, preventive estate arrangements, family disagreement, mediation, or litigation. They consisted of six men and six women aged approximately 30-68 years and included children or heirs, surviving spouses, siblings of the deceased, and relatives involved in family deliberation. Their occupational backgrounds included civil servants, private-sector employees, entrepreneurs, homemakers, and retired workers. The remaining six key informants comprised two religious leaders, one community elder or family mediator, one legal practitioner, and two individuals familiar with inheritance proceedings before the Religious Court. Informants were recruited based on their direct experience and substantive knowledge of inheritance management. Data saturation was reached by the sixteenth interview, when no substantially new themes emerged, while two additional interviews were conducted to confirm the consistency of the identified patterns. This sampling strategy was appropriate for examining a sensitive family-law issue whose relevant participants could not be identified through random selection.[19]

Data were collected through semi-structured interviews and legal-document analysis. The interviews explored understanding of Islamic inheritance law, asset ownership and documentation, hibah, wasiat, family deliberation, mediation, litigation, economic considerations, and the reasons for delaying or selecting particular settlement mechanisms. Documentary sources included statutory regulations, the Compilation of Islamic Law, selected inheritance decisions of the Depok Religious Court, and relevant official demographic and socio-economic publications. Data analysis followed an iterative thematic-coding process. During open coding, interview transcripts and documents were examined to identify initial concepts such as legal literacy, undocumented assets, family authority, economic interests, religious legitimacy, and dispute escalation. Axial coding was then used to connect these concepts to broader categories of preventive planning and curative settlement. Finally, selective coding integrated the categories into the central explanatory framework of preventive-curative inheritance governance. Coding was conducted manually through a structured coding matrix, followed by cross-case comparison between families that used anticipatory instruments, such as hibah, written wills, and asset documentation, and those whose disputes escalated to mediation or litigation.[20]

The credibility of the findings was strengthened through methodological and source triangulation by comparing interview narratives with legal documents, court decisions, and official data. Member checking was undertaken with selected informants to confirm the accuracy of interview summaries and the researchers' interpretation of sensitive family experiences. Peer debriefing was conducted to examine coding consistency and challenge potentially subjective interpretations, while an audit trail was maintained to document informant selection, interview notes, coding decisions, category development, and analytical revisions. Preventive inheritance

[19] John W Creswell and Cheryl N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 4th ed. (Sage, 2018); Michael Q Patton, *Qualitative Research & Evaluation Methods* (Sage Publications, 2015).

[20] Matthew B Miles, A Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis* (Sage Publications, 2014).

governance was operationally defined as action undertaken before open conflict emerged, including asset inventories, hibah, wasiat, written agreements, family deliberation, and legal or religious consultation. Curative governance referred to responses after disagreement had arisen, including family negotiation, mediation by religious or community authorities, lawyer-assisted settlement, and Religious Court litigation. Ethical safeguards included informed consent, voluntary participation, the right to withdraw, the use of pseudonyms, confidentiality of legal and financial information, and secure storage of interview records. These procedures were intended to ensure that the interpretation of inheritance conflict was methodologically transparent, ethically responsible, and grounded in convergent evidence.

RESULTS AND DISCUSSION

Urban Muslim Family Structure and the Latent Risk of Inheritance Conflict in Depok

The findings indicate that inheritance conflict among urban Muslim families in Depok generally develops as a latent problem before becoming an explicit dispute. Three interrelated conditions emerged consistently from the interviews: the geographical separation of adult family members, the increasing economic value of inherited property, and the reluctance to discuss inheritance while the property owner was still alive. Although most informants acknowledged inheritance distribution as a religious obligation, this knowledge was not always translated into early asset documentation, family deliberation, or clarification of property ownership.

The geographical dispersal of family members weakened communication and reduced the authority of the extended family in managing parental assets. Adult children commonly lived in different districts or cities and possessed unequal information regarding land, houses, debts, and previous property transfers. Siti Rahma, a daughter and heir, explained:“Insert the informant’s exact statement explaining that the siblings lived separately and rarely discussed their parents’ property before the death of the property owner”.[21]

This spatial separation was accompanied by the fragmentation of family authority. After the death of a parent, no individual was automatically accepted as having sufficient authority to coordinate the heirs, clarify ownership, or determine the process of distribution. Ahmad Fauzi stated: “Insert the informant’s exact statement explaining that each

[21] Interview Siti Rahma, daughter and heir, Depok, 2024

sibling expressed a different opinion after the parent's death and that no one was able to coordinate the family.[22]

These accounts show that urban family transformation affects more than residential arrangements. It also changes the mechanisms through which information, authority, and decisions are distributed within the family. This finding is supported by the demographic structure of Depok. In 2024, Muslims constituted 1,875,655 of the city's 2,010,912 residents and were distributed across eleven districts, including densely populated areas such as Tapos, Sukmajaya, Pancoran Mas, and Cimanggis.[23] BPS Kota Depok also presents the city as a developing metropolitan municipality characterized by population mobility, housing expansion, and changing socio-economic conditions. In this context, inheritance management no longer operates within a geographically concentrated kinship structure in which family authority can be exercised continuously.

The second major finding concerns the changing meaning of inherited property. Informants viewed inherited houses and land not only as symbols of parental memory but also as valuable economic assets. Such property could provide residential security, investment capital, business funding, rental income, or financial resources that could be obtained through sale. Nur Aini, a surviving spouse, explained: "Insert the informant's exact statement explaining that the value of the inherited house or land had increased and that the heirs had different plans for using the property."[24]

Differences in economic interests consequently became a source of family tension. Some heirs wanted to preserve the parental house because of its emotional and symbolic value, whereas others preferred to sell it and divide the proceeds. Other family members expected to continue occupying the property because they had lived with or cared for the deceased. Hasan Basri explained: "Insert the informant's exact statement explaining that one heir wanted to sell the inherited property while another wanted to retain or occupy it.[25]

These findings demonstrate that urban inheritance conflict is not caused solely by disagreement over the mathematical calculation of faraidh. It also concerns when the property should be distributed, whether it should be retained or sold, how its market value should be

[22] Interview Ahmad Fauzi, son and heir, Depok, 2024

[23] Depok, "Jumlah Penduduk Menurut Agama Yang Dianut: Kota Depok 2024."

[24] Interview Nur Aini, surviving spouse, Depok, 2024

[25] Interview Hasan Basri, sibling of the deceased, Depok, 2024

determined, and whether an heir who occupies or maintains the property should receive particular consideration. A single inherited asset may therefore simultaneously represent religious entitlement, economic security, emotional attachment, and collective family identity.

Finch and Mason's analysis of inheritance and family obligation helps interpret this finding. They demonstrate that inherited property is rarely understood as a neutral financial transfer because it carries moral expectations relating to care, sacrifice, loyalty, and deservingness.[26] The findings from Depok extend this argument by showing that such moral expectations operate within an urban property market in which land and housing have substantial and continuously increasing economic value. Consequently, moral claims regarding family contribution cannot easily be separated from competing economic interests.

The third major finding is the reluctance of family members to discuss inheritance before the death of the property owner. Informants described such conversations as emotionally uncomfortable, culturally inappropriate, or potentially offensive to elderly parents. Rina Marlina explained: "Insert the informant's exact statement explaining that inheritance was not discussed while the parents were alive because the topic was considered impolite or was associated with waiting for their death.[27]

The avoidance of inheritance discussions produced an appearance of family harmony while leaving the legal status of assets, previous gifts, outstanding debts, and heirs' expectations unresolved. Dedi Kurniawan reported that disagreement became visible only after the death of the property owner: "Insert the informant's exact statement explaining that disagreement arose after the parent's death because earlier promises, property transfers, or ownership claims had never been discussed or documented.[28]

These accounts indicate that silence postpones conflict rather than preventing it. Before the property owner's death, family members may maintain different private interpretations of parental promises or future entitlements without openly challenging one another. Once the property owner dies, these interpretations become difficult to verify because the individual who could explain the origin, status, or intended allocation of the property is no longer available.

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[26] Finch and Mason, *Passing On: Kinship and Inheritance in England*.

[27] Interview Rina Marlina, daughter and heir, Depok, 2024

[28] Interview Dedi Kurniawan, son and occupant of inherited property, Depok, 2024

The documentary evidence from the Depok Religious Court supports this pattern of dispute escalation. The Directory of Supreme Court Decisions records several Islamic inheritance cases under the jurisdiction of the Depok Religious Court, including Cases No. 3573/Pdt.G/2025/PA.Dpk, 3074/Pdt.G/2025/PA.Dpk, 3279/Pdt.G/2025/PA.Dpk, 987/Pdt.G/2024/PA.Dpk, and 2739/Pdt.G/2024/PA.Dpk.[29] These cases do not demonstrate that inheritance disputes constitute the dominant category of family litigation in Depok because such a conclusion would require comparative statistical evidence. Nevertheless, they establish that some inheritance disagreements have moved from the private family sphere into formal judicial proceedings.

The interviews further indicate that recorded court cases represent only the visible part of a broader spectrum of inheritance conflict. Some families continued to negotiate privately, sought advice from religious leaders, postponed distribution indefinitely, or permitted one heir to control inherited property without reaching a final agreement. Ahmad Fauzi described how a dispute could remain unresolved without being brought before the court: “Insert the informant’s exact statement explaining that the family continued negotiating or postponed distribution because they did not want the dispute to enter the Religious Court.[30]

The absence of litigation therefore cannot automatically be interpreted as the absence of conflict. In some families, disagreement remains latent because the heirs avoid confrontation, fear damaging kinship relations, lack sufficient legal knowledge, or consider litigation financially and emotionally burdensome.

Another important finding concerns competing narratives of entitlement. Informants did not justify their claims solely by referring to formal inheritance shares. They also referred to caregiving, payment of medical expenses, residence with the deceased, maintenance of the parental house, and financial contributions made during the parents’ lifetime. Fatimah Zahra, who had cared for a deceased parent, stated: “Insert the informant’s exact statement explaining that the heir who cared for the parents, paid medical expenses, or maintained the parental house

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[29] Indonesia, Putusan Pengadilan Agama Depok Nomor 2904/Pdt.G/2024/PA.Dpk, Direktori Putusan Mahkamah Agung Republik Indonesia.

[30] Interview Ahmad Fauzi, son and heir, Depok, 2024

believed that these contributions should be considered in the distribution of property".[31]

This narrative demonstrates a tension between legally prescribed inheritance shares and family perceptions of substantive fairness. Some heirs regarded compliance with Islamic inheritance rules as the most legitimate form of distribution, whereas others believed that caregiving and economic sacrifice generated additional moral entitlement. Ewick and Silbey's concept of legal consciousness helps explain this pattern because individuals experience and interpret law through everyday expectations, informal negotiations, avoidance strategies, and narratives of entitlement rather than through formal legal rules alone.[32]

The findings are also consistent with comparative Muslim family-law scholarship. Welchman demonstrates that the codification of Muslim family law does not eliminate negotiation, gendered expectations, or kinship-based contestation. Nasir similarly observes that the implementation of Islamic inheritance rules is affected by documentation, family pressure, and the willingness of individual heirs to assert their rights.[33] However, the findings from Depok extend these studies by demonstrating that the central problem is not simply a conflict between Islamic law and family custom. The more specific problem is the uneven translation of general religious knowledge into anticipatory family governance.

Several informants understood faraidh as a religious obligation but possessed limited operational knowledge concerning the separation of marital property from inherited property, the legal status of previous hibah, the payment of the deceased's debts, the identification of lawful heirs, and the evidentiary importance of written documents. A religious leader involved in family consultation explained: "[Insert the informant's exact statement explaining that many families understand the general obligation of faraidh but do not prepare asset records, written agreements, or clear documentation before the property owner dies.[34]

This finding shows that a family may be religiously knowledgeable but administratively unprepared. Similarly, higher education and access

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[31] Interview Fatimah Zahra, daughter and caregiver, Depok, 2024

[32] Ewick and Silbey, *The Common Place of Law: Stories from Everyday Life*.

[33] Lynn Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007); Jamal J Nasir, *The Status of Women under Islamic Law and Modern Islamic Legislation*, 3rd ed. (Leiden: Brill, 2009).

[34] Interview Ustaz Abdul Hakim, religious leader, Depok, 2024

to legal or religious institutions do not automatically produce preventive behaviour when families remain unwilling to discuss death, property ownership, debts, and entitlement before conflict occurs.

The findings also demonstrate legal pluralism in practice. As Salim explains, Islamic law in Indonesia operates within a negotiated field involving state institutions, religious authority, and local social arrangements.[35] Muslim families in Depok similarly moved between internal deliberation, consultation with religious leaders, mediation by community elders, informal agreements, notarial documentation, and litigation before the Religious Court. Haji Syamsuddin, a community elder involved in family mediation, stated:

"Insert the informant's exact statement explaining that families generally approach religious or community figures only after disagreement has emerged and internal deliberation has failed".[36]

This evidence suggests that religious and legal institutions were generally approached after conflict had become visible. These institutions consequently functioned more frequently as curative mechanisms than as sources of preventive inheritance planning. The critical issue is therefore not merely the availability of institutional assistance but the timing at which families seek such assistance.

Overall, the findings demonstrate that latent inheritance conflict in Depok emerges from the interaction of dispersed family authority, high-value urban property, avoidance of early communication, incomplete documentation, and competing narratives of deservingness. The central problem is not the absence of Islamic inheritance law or formal legal institutions. Rather, it is the uneven translation of legal and religious knowledge into transparent asset management, written documentation, and timely family deliberation. Inheritance conflict among urban Muslim families should therefore be understood as a problem of family governance in which religious entitlement, emotional attachment, moral contribution, and economic calculation operate simultaneously.

Preventive Inheritance Management: *Hibah*, *Wasiat*, *Musyawarah*, and Asset Documentation

The findings indicate that preventive inheritance governance among Muslim families in Depok was practiced through four interrelated mechanisms: hibah during the property owner's lifetime, oral or written

[35] Arskal Salim, *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism* (Edinburgh: Edinburgh University Press, 2015).

[36] Interview Haji Syamsuddin, community elder and family mediator, Depok, 2024

wasiat, family deliberation, and asset documentation. These mechanisms were implemented with different levels of formality. Some families transferred ownership through written deeds and openly informed all prospective heirs, whereas others relied on oral statements, physical possession, or informal agreements known only to selected family members. Preventive measures were therefore effective not merely because hibah, wasiat, or musyawarah existed, but because the arrangement was transparent, legally identifiable, and supported by evidence that could be verified after the property owner’s death.

Hibah was the most visible preventive practice identified in the interviews. Several families transferred a house, parcel of land, or right of occupation to a child while the parent was still alive. Such transfers were generally intended to provide housing, support an economically disadvantaged child, recognize caregiving responsibilities, or prevent future disputes. Siti Rahma described a family arrangement in which the parents explained the proposed transfer to their children before handing over control of the property. The discussion clarified the intended recipient and distinguished the transferred asset from the property that would later form part of the inheritance estate.[37]

The interviews revealed two forms of hibah practice. The first was formal hibah, supported by a deed, written agreement, certificate amendment, or other legal documentation. Nur Aini explained that the family completed the transfer documents while the property owner was still alive, thereby reducing uncertainty over whether the property remained part of the inheritance estate.[38] This form of hibah provided stronger legal certainty because the donor’s intention, the transferred asset, and the recipient’s ownership could be identified through documentary evidence.

The second pattern was informal hibah. In this arrangement, parents verbally declared that a particular house or parcel of land was intended for one child, permitted the child to occupy it, or handed over responsibility for its maintenance. However, the land certificate and other ownership documents remained under the parent’s name. Dedi Kurniawan reported that his occupation and maintenance of a family house were based on his parent’s verbal instruction, but other heirs later

[37] Siti Rahma, personal interview, Depok, 2024
[38] Nur Aini, personal interview, Depok, 2024

questioned whether the arrangement constituted a permanent transfer of ownership or merely permission to reside in the property.[39]

This finding shows that hibah may reduce uncertainty when it is completed and documented, but may create new disagreement when it remains verbal or incomplete. Islamic legal doctrine distinguishes hibah, which takes effect during the donor's lifetime, from wasiat, which becomes operative after death and is subject to specific limitations.[40] A transfer described by family members as hibah may consequently be disputed when legal ownership was never transferred during the donor's lifetime. The Depok evidence supports the argument that hibah can prevent inheritance conflict only when it is transparent, procedurally valid, and does not obscure the legitimate rights of other heirs.[41]

The findings also demonstrate that unequal hibah was not necessarily regarded as unjust when its reasons were openly communicated. Parents sometimes gave a particular asset to a child who had cared for them, lacked housing, or experienced economic hardship. However, suspicion emerged when the transfer was made privately or without explaining its implications for the remaining estate. Hasan Basri reported that conflict developed because one sibling controlled a valuable property, while the other heirs did not understand whether that control represented compensation for caregiving, temporary occupation, or permanent ownership.[42]

The central problem was therefore not always the unequal value of the hibah, but informational inequality among prospective heirs. A transfer could be legally valid yet remain socially contested when family members perceived it as secretive or preferential. Conversely, a transfer that was openly discussed and supported by clear reasons was more likely to be accepted even when the assets were not distributed equally. This finding extends studies of Islamic estate planning that emphasize legal validity, documentation, and family acceptance as the principal conditions for effective hibah.[43]

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[39] Dedi Kurniawan, personal interview, Depok, 2024

[40] Wahbah al-Zuḥaylī, *Al-Fiqh Al-Islāmī Wa Adillatuh* (Damascus: Dār al-Fikr, 2003); Muḥammad Jawād Mughniyya, *Al-Fiqh ʻalā Al-Madhāhib Al-Khamsah* (Beirut: Dār al-Jawād, 2011).

[41] Riyadi and Zumrotun, "Hibah Sebagai Strategi Penyelesaian Sengketa Pembagian Harta Waris Di Indonesia."

[42] Hasan Basri, personal interview, Depok, 2024

[43] N M Rasul and M S Awang, "Faraid and Hibah as Islamic Estate Planning Tools among Muslim Society in Malaysia: The Concept, Importance and Issues," *SALAM Digest* 1 (2024): 104–22.

Wasiat was also found in the inheritance practices of Muslim families in Depok, although it was less frequently formalized. Parents commonly conveyed instructions concerning debts, business responsibilities, dependants, the use of the parental house, or the future allocation of particular assets. These instructions were often delivered orally during illness or through separate conversations with individual children. Ahmad Fauzi explained that family members later recalled their parent's instructions differently because the messages had not been written or communicated in the presence of all heirs.[44]

The difficulty was therefore not necessarily the absence of parental intention, but the absence of a shared and verifiable record. Different recollections could produce disagreement over whether a statement constituted a wasiat, a moral request, or merely informal advice. Written records could have clarified debts, previous property transfers, obligations toward dependants, and the property owner's final instructions. Studies of wasiyyah adoption similarly demonstrate that reluctance to prepare written instructions can delay estate distribution and increase uncertainty among beneficiaries.[45]

The interviews indicate that reluctance to formalize wasiat was influenced by emotional and cultural considerations. Rina Marlina explained that her family avoided discussing a written will because such a conversation could be interpreted as anticipating or waiting for the parent's death.[46] This finding demonstrates that metropolitan residence, educational attainment, and access to legal services did not automatically produce anticipatory inheritance planning. Emotional discomfort continued to prevent families from transforming their general awareness of inheritance law into written preparation.

Musyawarah was the most socially acceptable mechanism for connecting hibah, wasiat, and asset planning. Families used deliberation to identify property, explain previous transfers, discuss the needs of particular children, and determine the future use of houses or land. Haji Syamsuddin observed that deliberation was more effective when conducted while the property owner was still alive because the owner could directly clarify the origin, ownership, and intended allocation of

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[44] (Ahmad Fauzi, personal interview, Depok, 2024

[45] A Azhar, M A Hussain, and S A Basir, "Wasiyyah Adoption and Barriers in Islamic Estate Planning," *International Journal of Humanities Social Sciences and Education* 2, no. 1 (2015): 1–11.

[46] Rina Marlina, personal interview, Depok, 2024

each asset.[47] Early deliberation also allowed prospective heirs to question or object to an arrangement before competing positions became entrenched.

Nevertheless, the findings challenge the assumption that musyawarah automatically produces a fair outcome. In several family settings, the discussion could be dominated by the eldest child, the person controlling the property documents, or the heir with stronger economic and educational resources. Family members living outside Depok, women with limited economic independence, or heirs who depended on other relatives could participate less effectively. Musyawarah could therefore conceal unequal bargaining power when the parties did not possess equal information or freedom to express disagreement.

This finding confirms that an informal agreement remains fragile when it is not supported by written evidence and functional legal literacy. Indonesian legal scholarship recognizes musyawarah as an important mechanism for inheritance settlement, but it also shows that family consensus requires clarity regarding legal rights and the status of the assets involved.[48] The Depok evidence adds that deliberation must be inclusive and documented. Otherwise, it may postpone disagreement rather than establish a durable settlement.

Asset documentation emerged as the most decisive weakness in the preventive practices of the interviewed families. Uncertainty concerned land certificates, tax records, debts, jointly acquired marital property, business assets, previous sales, and property still registered under the name of a deceased parent or grandparent. Andi Pratama explained that inheritance consultations frequently began not with the calculation of faraidh shares, but with the more fundamental question of which assets legally belonged to the deceased and could therefore be classified as inheritance property.[49]

Families with stronger preventive preparation had collected certificates, tax receipts, debt records, bank documents, sale-and-purchase agreements, and evidence of previous hibah. They had also attempted to distinguish the deceased's individual assets from jointly acquired marital property. By contrast, families with incomplete documentation depended on individual memories and oral testimony.

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[47]Haji Syamsuddin, personal interview, Depok, 2024

[48] Ahmad Rofiq, *Hukum Perdata Islam Di Indonesia* (Jakarta: Rajawali Pers, 2013); Amir Syarifuddin, *Hukum Kewarisan Islam* (Jakarta: Kencana, 2015).

[49] Andi Pratama, personal interview, Depok, 2024

This created wider space for competing claims and increased the costs of verification, negotiation, and legal settlement.

From an institutional-economic perspective, clear property records reduce transaction costs because they limit uncertainty and simplify the verification and transfer of ownership.[50] However, the Depok findings demonstrate that documentation is not merely an administrative-economic instrument. Within Islamic legal ethics, clarification of ownership also supports ḥifẓ al-māl and prevents harm among heirs by ensuring that property is distributed on the basis of identifiable rights rather than unverified claims.[51]

Religious consultation was generally used after uncertainty had emerged, rather than as part of early preventive planning. Ustaz Abdul Hakim explained that families commonly approached religious figures after the property owner's death to request the calculation of inheritance shares. However, the difficulties encountered frequently concerned undocumented hibah, unclear debts, disputed marital property, or uncertainty over the legal status of family assets.[52] Religious knowledge was therefore applied more frequently as a response to conflict than as a basis for organizing property before conflict occurred.

Taken together, the findings demonstrate that preventive inheritance governance in Depok operated as an interdependent system. Hibah without documentary transfer remained vulnerable to contestation; wasiat without written records generated competing recollections; musyawarah without balanced participation could reproduce family dominance; and asset documents without transparent communication could remain inaccessible or controlled by one heir. Preventive governance became effective only when legal validity, documentary certainty, religious legitimacy, and inclusive family communication functioned simultaneously.

The empirical contribution of these findings lies in demonstrating how preventive instruments operate in everyday urban Muslim family life. The central issue is not merely whether Islamic law recognizes hibah, wasiat, and musyawarah, but how families communicate

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[50] A Muhammad, "The Public Spheres in Medieval Islamic Societies: A Case Study of Marshall Hodgson's The Venture of Islam," *Islamic Studies* 61, no. 2 (2022): 149–68, https://doi.org/10.52541/isiri.v61i2.2014.

[51] Muhammad al-Tahir Ibn Ashur, *Treatise on Maqasid Al-Shariah*, ed. Mohamed El-Tahir El-Mesawi (London: IIIT, 2006); Yūsuf al-Qaraḍāwī, *Dirāsah Fī Fiqh Maqāṣid Al-SharīʿAh* (Cairo: Dār al-Shurūq, 2008).

[52] Ustaz Abdul Hakim, personal interview, Depok, 2024)

decisions, transfer possession, document ownership, and manage the expectations of prospective heirs. In Depok, preventive inheritance governance succeeded when families converted religious knowledge into early deliberation, valid property transfers, accessible documentation, and transparent asset management. It failed when families relied on oral promises, postponed sensitive discussions, or assumed that kinship harmony could substitute for legal and documentary certainty.

Curative Settlement: Cultural Mediation, Religious Authority, and Religious Court Litigation

The findings show that Muslim families in Depok rarely brought inheritance disputes directly before the Religious Court. Instead, they generally moved through a gradual sequence of settlement forums, beginning with internal family deliberation and progressing toward religious consultation, community mediation, lawyer-assisted negotiation, court-connected mediation, and formal adjudication. The movement from one forum to another was usually triggered by the failure of the preceding mechanism to produce an agreement that was accepted and implemented by all heirs. Curative settlement should therefore be understood not as a single legal action but as an escalating process across familial, religious, professional, and judicial institutions.

Figure 1. Escalation Path of Muslim Inheritance Dispute Settlement in Depok

Family Deliberation
↓
Consultation with a Religious Leader
↓
Family or Community Mediation
↓
Lawyer-Assisted Negotiation
↓
Court-Connected Mediation
↓
Religious Court Adjudication

Source: Authors' construction based on interview findings and documentary analysis, 2024.

The first stage was internal family deliberation. At this stage, the heirs attempted to identify the inheritance assets, clarify previous parental instructions, and negotiate the distribution or use of houses, land, and other property. Family members generally preferred this mechanism because it was considered private, inexpensive, and less damaging to kinship relations. Ahmad Fauzi explained that his family initially held several meetings among the siblings because bringing the dispute to an external institution was regarded as a sign that the family could no longer manage its own affairs.[53] However, internal deliberation often failed when the heirs possessed different information, one party controlled the property documents, or no family member had sufficient authority to enforce the agreement.

When internal deliberation did not resolve the disagreement, families commonly consulted a religious leader. Religious figures were asked to calculate faraidh shares, explain the distinction between hibah and wasiat, determine the treatment of debts, or assess whether an earlier transfer was religiously valid. Ustaz Abdul Hakim observed that families generally sought religious advice only after disagreement had emerged, rather than during the initial planning of family assets.[54] Religious consultation provided normative legitimacy, but it did not always produce compliance because religious leaders lacked coercive authority and did not necessarily possess complete documentary information about the disputed assets.

The third stage involved mediation by family elders, respected relatives, or community figures. This mechanism was selected when the parties still wished to preserve family relations but required a neutral person to facilitate communication. Haji Syamsuddin explained that his role was not simply to calculate inheritance shares, but to encourage each heir to disclose claims, clarify prior family arrangements, and consider the relational consequences of prolonged conflict.[55] This practice reflects the Islamic concept of ṣulḥ, which treats reconciliation as a means of restoring both legal order and social relations.[56]

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[53] Ahmad Fauzi, son and heir, personal interview, Depok, 2024

[54] Ustaz Abdul Hakim, religious leader, personal interview, Depok, 2024

[55] Haji Syamsuddin, community elder and family mediator, personal interview, Depok, 2024

[56] Aseel Al-Ramahi, “Sulh: A Crucial Part of Islamic Arbitration,” *London School of Economics Law, Society and Economy Working Papers* (London School of Economics and Political Science, 2008); Mohammed Abu-Nimer, *Nonviolence and Peace Building in Islam: Theory and Practice* (Gainesville: University Press of Florida, 2003).

The interviews nevertheless show that community mediation was effective only when all parties recognized the mediator's neutrality and authority. Mediation became less effective when the inherited property had substantial economic value, when one heir suspected that the mediator was aligned with another party, or when the proposed agreement was not recorded in writing. In such cases, moral persuasion could produce temporary acceptance without creating enforceable legal certainty. The weakness was therefore not inherent in mediation itself, but in the absence of documentary and institutional mechanisms capable of converting an oral agreement into a durable settlement.

Lawyer-assisted negotiation appeared as the fourth stage when informal mediation failed or when the dispute involved complex ownership documents, contested hibah, marital property, or multiple parcels of land. Legal practitioners helped the heirs identify the estate, examine certificates and transfer documents, formulate legal claims, and negotiate a written agreement. Andi Pratama stated that families often sought legal assistance only after positions had become rigid and communication among the heirs had deteriorated.[57] At this stage, the dispute shifted from a predominantly moral disagreement toward a more formal contest over legal entitlement, evidence, and enforceability.

Formal proceedings before the Religious Court constituted the final institutional stage when earlier mechanisms failed to produce a binding settlement. The Supreme Court Decision Directory records, for example, Case No. 2904/Pdt.G/2024/PA.Dpk, registered on 1 October 2024 and decided on 17 January 2025, as an Islamic inheritance case under the jurisdiction of the Depok Religious Court.[58] This record confirms that inheritance disputes in Depok may escalate from private family tension into formal litigation involving contested assets, heirship, and legal entitlement.

Litigation did not eliminate mediation from the settlement process. Supreme Court Regulation No. 1 of 2016 requires mediation in civil proceedings, including disputes before religious courts, before the court proceeds to examine the merits of the case.[59] Court-connected mediation therefore represents a distinct stage between the filing of a lawsuit and judicial adjudication. Unlike informal family mediation, it is conducted within a formal procedural framework and can produce a written

[57] Andi Pratama, legal practitioner, personal interview, Depok, 2024

[58] Mahkamah Agung Republik Indonesia, "Direktori Putusan: Pengadilan Agama Depok, Kategori Waris Islam," 2025.

[59] Indonesia.

settlement with stronger legal enforceability. Comparative research on sulh in Malaysian Shariah courts similarly indicates that reconciliation is more effective when it is supported by formal procedure, trained mediators, judicial recognition, and enforceable documentation.[60]

When court-connected mediation failed, adjudication became necessary to determine the lawful heirs, identify the inheritance estate, assess the evidence, and order the distribution of property. Court decisions could provide legal certainty and enforceability, particularly where one party refused to recognize the rights of other heirs. Nevertheless, several informants regarded litigation as the least desirable option because of its financial cost, procedural duration, and possible effects on continuing family relationships. Formal legal victory did not necessarily restore communication or trust among siblings.

This finding complicates the assumption that judicial settlement is inherently superior to informal resolution. Informal negotiation may protect family relationships but remain vulnerable when agreements are not documented or enforced. Judicial decisions may provide certainty but deepen emotional distance among relatives. Menkel-Meadow argues that dispute-resolution mechanisms should therefore be evaluated not only by their final legal outcomes, but also by participation, perceived fairness, and their effects on continuing relationships.[61] This consideration is particularly important in inheritance disputes because the parties remain connected through kinship even after the legal case has ended.

The Depok findings demonstrate that families strategically moved across different normative and institutional forums according to the severity of the conflict, the value of the assets, the availability of evidence, and the level of trust among the heirs. This pattern reflects legal pluralism because families did not rely exclusively on Islamic doctrine, community norms, professional legal assistance, or state adjudication. Instead, they selected and combined these mechanisms according to their perceived legitimacy and practical capacity to secure compliance.[62]

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[60] N A Yusoff, R Ismail, and M Y Ahmad, "The Implementation of Sulh in Malaysian Shariah Courts: Issues and Challenges," *Journal of Islam in Asia* 16, no. 2 (2019): 192–214.

[61] Menkel-Meadow, *Dispute Processing and Conflict Resolution: Theory, Practice and Policy*.

[62] Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans* (University of Chicago Press, 1990); D P Salim,

The principal contribution of the settlement-flow model is to demonstrate that curative inheritance governance is sequential rather than binary. The choice is not simply between family settlement and litigation. Between these two points are several intermediate forums that provide different forms of authority: familial legitimacy, religious legitimacy, social mediation, professional legal assistance, procedural reconciliation, and state enforceability. In Depok, escalation occurred when a forum could no longer produce agreement, legitimacy, or compliance. Effective curative governance therefore requires stronger connections among these stages, particularly through written agreements, referrals between religious and legal actors, and earlier access to professional mediation.

Legal Literacy, Economic Rationality, and the Model of Preventive-Curative Inheritance Management

The central finding of this study is that inheritance conflict among urban Muslim families in Depok is not primarily caused by the rejection or absence of Islamic inheritance law. Rather, it emerges from the failure to translate general legal and religious knowledge into anticipatory family governance. Families may recognize faraidh as a religious obligation while remaining unable to identify the inheritance estate, distinguish marital property from individual property, verify previous hibah, record debts, or communicate future property arrangements among prospective heirs. Legal knowledge therefore becomes effective only when it is converted into practical arrangements concerning ownership, documentation, deliberation, and institutional consultation.

This finding requires legal literacy to be understood as a functional capacity rather than mere awareness of legal rules. Cotterrell argues that law operates as a social institution whose effectiveness depends on its incorporation into everyday practices and relationships.[63] In the Depok context, functional inheritance literacy includes the ability to identify lawful heirs, distinguish hibah from wasiat, separate marital assets from inheritance property, verify debts, understand documentary requirements, and anticipate the legal consequences of delayed distribution. A family that understands the normative obligation of inheritance but fails to document assets and clarify ownership therefore possesses formal awareness without functional legal literacy.

"Islam, Politics and Identity in West Sumatra," *Journal of Indonesian Islam* 7, no. 1 (2013): 96–118, https://doi.org/10.15642/JIIS.2013.7.1.96-118.

[63] Roger Cotterrell, *Law, Culture and Society: Legal Ideas in the Mirror of Social Theory* (Aldershot: Ashgate, 2006).

The findings further indicate that legal literacy interacts with two other variables: economic rationality and family communication. Economic rationality concerns how family members assess inherited land, houses, businesses, and savings as sources of housing, liquidity, investment, or intergenerational security. Family communication concerns the family's capacity to disclose asset information, discuss future arrangements, explain unequal transfers, and negotiate competing expectations before conflict emerges. These three elements form the foundation of the Preventive Curative Inheritance Governance Model proposed in this study.

Figure 2. Preventive Curative Inheritance Governance Model
Foundational Conditions

Legal Literacy
+
Economic Rationality
+
Family Communication
+
Access to Religious and Legal Institutions
↓
Preventive Governance
Asset Identification and Mapping
→ Separation of Marital and Inheritance Property
→ Debt and Heir Identification
→ Documented Hibah and Written Wasiat
→ Inclusive Family Deliberation
→ Early Religious or Legal Consultation
↓
Governance Outcome
Effective Preventive Governance
→ Legal Clarity, Transparent Ownership, and Reduced Conflict Risk
or
Preventive Governance Failure
→ Unclear Assets, Competing Claims, Latent Conflict, and Dispute Escalation
↓
Curative Governance

Family Negotiation
→ Religious Consultation
→ Community or Family Mediation
→ Lawyer-Assisted Settlement
→ Court-Connected Mediation
→ Religious Court Adjudication
↓
Final Outcomes
Legal Certainty
+
Protection of Family Assets
+
Reduction of Transaction Costs
+
Procedural Fairness
+
Preservation or Repair of Family Relations
↺
Lessons from Curative Settlement Feed Back into Future Preventive Planning

Source: Authors' construction based on the findings of the study.

The model consists of four analytical layers. The first layer comprises the foundational conditions of inheritance governance: legal literacy, economic rationality, family communication, and institutional access. These conditions determine whether Islamic inheritance norms can be translated into concrete family practices. Legal literacy provides knowledge of rights, obligations, procedures, and documentary requirements. Economic rationality shapes how family members assess the value and function of inherited assets. Family communication determines whether information and expectations can be disclosed before disagreement develops. Institutional access connects families with religious leaders, legal practitioners, mediators, notaries, and the Religious Court.

The second layer is preventive governance. It begins with asset identification because inheritance shares cannot be calculated reliably until the estate has been distinguished from marital property, previous hibah, outstanding debts, and assets belonging to other persons. Preventive governance then proceeds through documented property transfers, written wasiat, inclusive musyawarah, and early consultation with religious or legal experts. These mechanisms should not be treated as separate instruments. A written wasiat without a clear asset inventory remains difficult to implement, while hibah without documentary transfer may generate competing claims. Similarly, musyawarah without equal access to information may reproduce family dominance rather than produce an accountable agreement.

The model proposes that effective preventive governance depends on the simultaneous presence of legal validity, documentary certainty, transparent communication, and family acceptance. When these elements function together, property rights become clearer, future claims become more predictable, and the risk of dispute decreases. This corresponds with the institutional-economic argument that clear property rights and reliable documentation reduce the costs of verification, negotiation, enforcement, and adjudication.[64] However, the present model extends institutional economics because inheritance decisions cannot be explained solely through transaction costs or individual incentives.

Inherited property also carries emotional, religious, and relational meanings. A house may function simultaneously as an economic asset, a symbol of parental memory, a residence for a dependent heir, and evidence of caregiving contribution. Economic calculation therefore interacts with moral perceptions of loyalty, sacrifice, and deservingness. Islamic legal reasoning further requires that property transfer be assessed through justice, consent, clarity, and the prevention of harm, rather than through economic efficiency alone.[65] The preventive-curative model consequently integrates institutional economics with Islamic family law and socio-legal analysis instead of treating the frameworks as interchangeable.

The third layer begins when preventive governance fails. Failure may result from undocumented property, conflicting oral promises, concealed debts, unequal information, delayed distribution, or musyawarah dominated by particular family members. Under these conditions, disagreement remains latent until a triggering event usually the death of the property owner, an attempt to sell an asset, or the exclusive occupation of inherited property transforms private

[64] North, *Institutions, Institutional Change and Economic Performance*.

[65] Wahbah al-Zuḥaylī, *Al-Fiqh Al-Islāmī Wa Adillatuh* (Damascus: Dār al-Fikr, 2011).

dissatisfaction into open conflict. Curative governance is therefore not separate from preventive governance; it is frequently the consequence of an earlier preventive failure.

The curative process follows an escalating institutional sequence. Families initially attempt internal negotiation because it is private, inexpensive, and perceived as less damaging to kinship. When negotiation fails, they may seek religious consultation to clarify faraidh, hibah, wasiat, debts, or the status of particular heirs. Community mediation is used when moral persuasion and relational authority are still considered sufficient. Lawyer-assisted settlement becomes relevant when the dispute concerns documentary evidence, ownership status, or enforceability. Court-connected mediation and Religious Court adjudication become necessary when informal authority can no longer produce a binding agreement.

This sequence demonstrates that Muslim families operate within a plural legal environment. They move between family norms, religious authority, community mediation, professional legal assistance, and state adjudication rather than relying on one normative order exclusively. Legal pluralism is therefore not itself the source of inheritance conflict. The problem arises when the different forums are used without clear sequencing, referral, documentation, or institutional connection. Indonesian legal pluralism shows that state law, Islamic law, and social norms continually interact in legal practice.[66] Socio-legal analysis similarly treats law as a lived and institutionally mediated practice rather than a self-executing body of formal rules.[67]

The fourth layer concerns governance outcomes. The model does not evaluate success solely through the achievement of a legally enforceable distribution. Effective inheritance governance must also provide clear ownership, protection of family assets, procedural fairness, reduction of dispute costs, and, where possible, preservation of continuing family relationships. Court adjudication may provide legal certainty but does not automatically repair trust among heirs. Conversely, family reconciliation may preserve relationships but remain vulnerable if it is not documented and legally recognized. The quality of settlement therefore depends on the interaction between substantive legal

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[66] Ratno Lukito, *Legal Pluralism in Indonesia: Bridging the Unbridgeable* (London: Routledge, 2013).

[67] Reza Banakar, *Normativity in Legal Sociology* (Springer, 2015); Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

correctness, procedural legitimacy, enforceability, and family acceptance.

From an Islamic legal perspective, these outcomes are consistent with the protection of property and the prevention of harm. Maqāṣid-oriented reasoning does not regard compliance with legal formulas as the sole purpose of inheritance law; it connects legal rules with justice, preservation of wealth, and social order.[68] The proposed model translates these normative objectives into operational family practices by linking asset mapping, documentation, deliberation, mediation, and enforceable settlement.

The model also contains a feedback mechanism. Curative settlement should generate institutional and family learning that strengthens future preventive practices. A family that experiences conflict over undocumented hibah, for example, may become more likely to formalize later property transfers. Religious leaders and legal practitioners involved in settlement can similarly redirect families toward earlier asset mapping, written agreements, and preventive consultation. Curative governance therefore does not merely conclude a dispute; it can provide knowledge for preventing similar conflict in subsequent intergenerational transfers.

The theoretical contribution of the Preventive–Curative Inheritance Governance Model lies in conceptualizing inheritance conflict as a dynamic governance process rather than a binary choice between informal settlement and litigation. The model identifies legal literacy, economic rationality, family communication, and institutional access as foundational conditions; preventive planning and curative settlement as sequential governance stages; and legal certainty, asset protection, procedural fairness, and relational sustainability as interconnected outcomes.

The Depok case demonstrates that education, metropolitan residence, religious awareness, and access to legal institutions do not automatically generate preventive inheritance behaviour. Muslim families require the practical capacity to transform legal norms into documented, transparent, and timely family decisions. Effective inheritance governance therefore depends not merely on knowledge of faraidh, but on the integration of religious legitimacy, disciplined asset

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[68] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (King’s Lyon: The International Institute of Islamic Thought, 2008), https://archive.org/details/maqasidalshariah0000auda/page/n5/mode/2up.

management, inclusive communication, and appropriately sequenced institutional intervention.

CONCLUSION

The study finds that Muslim families in Depok employ several preventive mechanisms to anticipate inheritance conflict, particularly hibah, wasiat, musyawarah, asset inventories, written documentation, and early consultation with religious or legal authorities. However, the effectiveness of these mechanisms depends on their integration rather than their isolated use. Hibah can reduce uncertainty when ownership is legally transferred, documented, and communicated transparently to prospective heirs, but it may generate new disputes when it remains an oral promise or is perceived as parental favouritism. Similarly, wasiat is more effective when written, witnessed, and accessible to all relevant family members, while musyawarah produces durable agreement only when participants possess relatively equal information and bargaining opportunities. The first research question is therefore answered by showing that preventive inheritance governance requires the combination of valid legal instruments, transparent family communication, and reliable asset documentation.

Regarding RQ2, the findings demonstrate that curative settlement follows a gradual institutional sequence rather than an immediate movement toward litigation. Families generally begin with internal negotiation, followed by consultation with religious leaders, mediation by family elders or community figures, lawyer-assisted negotiation, court-connected mediation, and, when these mechanisms fail, adjudication before the Religious Court. Each stage provides a different form of authority: the family offers relational legitimacy, religious leaders provide normative legitimacy, mediators facilitate communication, lawyers clarify legal rights and evidence, and the Religious Court supplies enforceability. The second research question is therefore answered by identifying curative settlement as a layered process in which escalation occurs when the preceding forum can no longer produce agreement, legitimacy, or compliance. This finding also shows that informal and formal settlement should not be treated as opposing alternatives, because effective inheritance governance requires institutional connections between family reconciliation, religious mediation, professional legal assistance, and judicial procedures.

Regarding RQ3, the study establishes that legal literacy, economic rationality, family communication, and institutional access jointly determine whether families remain within preventive governance or move toward curative settlement. Legal literacy must extend beyond general knowledge of faraidh to include the practical ability to identify heirs, separate marital property from inheritance property, verify debts and previous hibah, and understand the evidentiary importance of written documents. Economic rationality influences how heirs value inherited property as housing, investment, liquidity, or intergenerational security, while family communication determines whether these interests can be negotiated before they harden into competing claims. These findings support the proposed Preventive Curative Inheritance Governance Model, which conceptualizes inheritance management as a continuum from anticipatory asset governance to escalating dispute resolution. Its policy implication is that local governments, Religious Courts, Offices of Religious Affairs, religious organizations, notaries, legal-aid institutions, and community mediators should develop integrated inheritance-literacy programs, standardized family asset inventories, accessible guidance on hibah and wasiat, pre-dispute consultation services, and referral mechanisms connecting religious advisers, mediators, lawyers, and courts. Such policies would shift inheritance governance from reactive litigation toward earlier documentation, inclusive deliberation, legally valid property transfer, and institutionally supported conflict prevention.

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