

## Islamic Inheritance Law In Indonesia and Malaysia: Gender Equality Through Consensual Modification

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### Abstract

*Islamic inheritance law prescribes a two-to-one ratio between male and female heirs, yet contemporary socioeconomic transformations have prompted scholarly inquiry into possibilities for gender-equitable distribution. This study examines how Indonesia and Malaysia, as the largest Muslim-populated Southeast Asian nations, approach consensual modification of inheritance shares to achieve equality between male and female offspring. This research employs a qualitative comparative normative approach, examining primary legal materials including the Indonesian Compilation of Islamic Law, Malaysian state-level Islamic inheritance enactments, Quranic provisions, and scholarly jurisprudential literature. The analysis utilizes maqasid al-shariah (objectives of Islamic law) as the theoretical framework to evaluate both legal systems. Indonesia offers significant flexibility through Article 183 of the Compilation of Islamic Law, which permits heirs to reach consensual agreements for share equalization at the initial distribution stage, reflecting the cultural emphasis on musyawarah (deliberation). Conversely, Malaysia maintains formal faraid compliance, allowing consensual modifications only after Syariah Court completion of formal share determination through mechanisms such as taksim taradi. The divergent approaches reflect different jurisprudential orientations: Indonesia prioritizes adaptive interpretation responsive to social dynamics, while Malaysia emphasizes preservation of classical calculations. Both systems maintain the two-to-one ratio as baseline while accommodating practical flexibility through different mechanisms, demonstrating that justice in Islamic inheritance is contextual and can align legal outcomes with contemporary family welfare without abandoning foundational principles.*

**Keywords:** *Islamic Inheritance Law; Heir Consensu;, Comparative Legal Analysis; Gender Equality; Southeast Asia.*

### Abstrak

Hukum warisan Islam menetapkan rasio dua banding satu antara ahli waris laki-laki dan perempuan, namun transformasi sosial ekonomi kontemporer telah mendorong penyelidikan ilmiah tentang kemungkinan distribusi yang adil gender. Studi ini meneliti bagaimana Indonesia dan Malaysia, sebagai negara-negara Asia Tenggara dengan populasi Muslim terbesar, mendekati modifikasi konsensus atas bagian warisan untuk mencapai kesetaraan antara anak laki-laki dan perempuan. Penelitian ini menggunakan pendekatan normatif komparatif kualitatif, meneliti materi hukum primer termasuk

Kompilasi Hukum Islam Indonesia, peraturan warisan Islam tingkat negara bagian Malaysia, ketentuan Al-Quran, dan literatur yurisprudensi ilmiah. Analisis ini menggunakan maqasid al-shariah (tujuan hukum Islam) sebagai kerangka teoritis untuk mengevaluasi kedua sistem hukum tersebut. Indonesia menawarkan fleksibilitas yang signifikan melalui Pasal 183 Kompilasi Hukum Islam, yang memungkinkan ahli waris untuk mencapai kesepakatan konsensus untuk pemerataan bagian pada tahap distribusi awal, yang mencerminkan penekanan budaya pada musyawarah (musyawarah). Sebaliknya, Malaysia mempertahankan kepatuhan faraid formal, hanya mengizinkan modifikasi konsensual setelah Pengadilan Syariah menyelesaikan penentuan bagian formal melalui mekanisme seperti taksim taradi. Pendekatan yang berbeda mencerminkan orientasi yurisprudensi yang berbeda: Indonesia memprioritaskan interpretasi adaptif yang responsif terhadap dinamika sosial, sementara Malaysia menekankan pelestarian perhitungan klasik. Kedua sistem mempertahankan rasio dua banding satu sebagai dasar sambil mengakomodasi fleksibilitas praktis melalui mekanisme yang berbeda, menunjukkan bahwa keadilan dalam warisan Islam bersifat kontekstual dan dapat menyelaraskan hasil hukum dengan kesejahteraan keluarga kontemporer tanpa meninggalkan prinsip-prinsip dasar.

**Kata Kunci:** Hukum Warisan Islam; Konsensus Ahli Waris; Analisis Hukum Komparatif; Kesetaraan Gender; Asia Tenggara.

## INTRODUCTION

The jurisprudential framework governing inheritance within Islamic legal tradition constitutes one of the most meticulously codified and theologically significant domains of familial law, representing a sophisticated system of wealth distribution that has shaped Muslim societies for more than fourteen centuries.<sup>1</sup> The system of testamentary succession in Islamic law, commonly designated as *ilm al-faraid* or the science of obligatory shares, occupies a position of paramount importance within the broader corpus of Islamic jurisprudence, functioning not merely as a mechanism for material distribution but as a comprehensive framework for ensuring social equity, familial harmony, and the preservation of intergenerational wealth within the *ummah*.<sup>2</sup>

The foundational provisions of Islamic inheritance law derive their authority from explicit Quranic injunctions, most notably those articulated in Surah An-Nisa, which delineates with considerable specificity the proportional shares allocated to various categories of

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<sup>1</sup> Noel J Coulson, *Succession in the Muslim Family* (University Press, 1971); David S Powers, *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance*, 1986.

<sup>2</sup> Wael B Hallaq, *An Introduction to Islamic Law* (Cambridge University Press, 2009).

heirs.<sup>3</sup> Among the most extensively discussed provisions is the stipulation contained in verse eleven of Surah An-Nisa, wherein the divine commandment establishes that the portion allocated to male offspring shall be equivalent to that of two female offspring. This ratio, commonly expressed as the two-to-one formula, has historically been understood by classical jurists as representing a fixed divine ordinance, reflecting the broader structure of familial obligations wherein male heirs traditionally assumed greater financial responsibilities for the maintenance and protection of female family members.<sup>4</sup>

However, the contemporary socioeconomic landscape presents substantially transformed circumstances that necessitate renewed scholarly engagement with these classical formulations.<sup>5</sup> Modern societies, including those in predominantly Muslim nations, have witnessed profound transformations in gender roles, economic participation, and familial responsibilities.<sup>6</sup> Women in contemporary contexts frequently assume economic obligations comparable to or exceeding those historically assigned exclusively to male family members, participating actively in professional employment, contributing significantly to household finances, and in numerous instances serving as primary breadwinners for their families.<sup>7</sup> These sociological transformations have catalyzed vigorous academic and

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<sup>3</sup> Powers, *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance*.

<sup>4</sup> John L Esposito, *Women in Muslim Family Law* (Syracuse University Press, 2001); Wahyudi, Muhammad Husni Abdulah Pakarti, and Diana Farid. 2024. "Peran Tradisi Dan Norma Gender Dalam Penyelesaian Sengketa Hukum Keluarga". *An-Nisa: Journal of Islamic Family Law* 1 (3): 1-11. <https://doi.org/10.63142/an-nisa.v1i3.50>.

<sup>5</sup> Ziba Mir-Hosseini, "Muslim Women's Quest for Equality: Between Islamic Law and Feminism," *Critical Inquiry* 32, no. 4 (2006): 629–45; Saujan Iqbal et al., "Gender Beyond Binary: Inheritance Rights of Third Gender in Islamic Law – Sri Lankan Legal Recognition and Reform," *Indonesian Journal of Islamic Law* 8, no. 2 (2025), <https://doi.org/10.35719/5fnmdq24>.

<sup>6</sup> Gisela Webb, "Qur'an and Woman: Rereading The Sacred Text From a Woman's Perspective. By Amina Wadud. New York: Oxford University Press 1999. Pp. 118. \$11.95. ISBN: 0-195-12836-2.," *Journal of Law and Religion* 15 (2001): 519–23; Moh Rosil Fathony et al., "Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective," *Indonesian Journal of Islamic Law* 7, no. 1 (2024), <https://doi.org/10.35719/1xjdkk59>.

<sup>7</sup> Judith E Tucker, *Women, Family, and Gender in Islamic Law* (Cambridge University Press, 2008); Lestari, Dian, trans. 2024. "Evolusi Hukum Waris Dalam Perspektif Islam: Dari Masa Jahiliah Hingga Konsep Kewarisan Bilateral Hazairin". *Al-Battar: Jurnal Pamungkas Hukum* 1 (3): 176-91. <https://doi.org/10.63142/gyzw3n30>.

jurisprudential discourse regarding the continued applicability of the traditional two-to-one ratio in inheritance distribution.<sup>8</sup>

The academic literature addressing Islamic inheritance law and its relationship to contemporary concepts of gender equity has expanded substantially over recent decades.<sup>9</sup> Investigated gender justice within Indonesian Islamic inheritance law, demonstrating that interpretive approaches have undergone considerable evolution, with Mahkamah Agung decisions increasingly reflecting sensitivity to gender justice considerations. Their findings suggest Indonesian judicial practice has developed a nuanced approach that seeks to balance textual fidelity with responsiveness to changing social circumstances, representing pragmatic *ijtihad* within established jurisprudential parameters.<sup>10</sup> examined gender equality through Muhammad Syahrur's theoretical framework, introducing his theory of limits (*nazariyyat al-hudud*) which proposes that Quranic provisions establish maximum and minimum boundaries within which human legislation may operate according to contextual circumstances. Applied to inheritance law, this framework suggests the two-to-one ratio represents the upper limit of disparity rather than a fixed requirement, thereby opening space for interpretive flexibility.

The scholarly contributions of Munawir Sjadzali regarding welfare-based inheritance distribution represent another important intervention, challenging conventional assumptions regarding the immutability of classical *faraid* calculations.<sup>11</sup> Sjadzali proposed that inheritance distribution might legitimately consider the actual economic welfare of heirs rather than adhering mechanically to predetermined ratios based exclusively on gender categories. While generating considerable controversy, his proposal opened important theoretical space for considering how the underlying purposes of inheritance law might be better served through approaches that account for actual circumstances.<sup>12</sup> Ongoing jurisprudential reasoning (*ijtihad*) to maintain

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<sup>8</sup> Asma Barlas, *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an* (University of Texas Press, 2019).

<sup>9</sup> Sholihah et al. (2024)

<sup>10</sup> Zahro & Pramesti K.M (2023)

<sup>11</sup> Yunahar Ilyas, "Reaktualisasi Ajaran Islam: Studi Atas Pemikiran Hukum Munawir Sjadzali," *Al-Jami'ah: Journal of Islamic Studies*, June 2006; M Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia : Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia, 1975-1988*, INIS (Ed. dwibahasa, 1993).

<sup>12</sup> John R Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge University Press, 2003); Abdulah Pakarti, Muhammad Husni, Wahyudi Wahyudi, Ah. Fathonih, Fauzan Ali Rasyid, and Husain Husain, trans.

the relevance of Islamic law in addressing contemporary challenges, arguing that *ijtihad* constitutes an essential mechanism through which the Islamic legal tradition has historically maintained its capacity to address novel circumstances while remaining faithful to foundational principles.<sup>13</sup>

The comparative examination of inheritance law implementation across different Muslim-majority jurisdictions reveals significant variations in interpretive approaches and institutional mechanisms.<sup>14</sup> Indonesia and Malaysia, as the two largest Muslim-populated nations in Southeast Asia, present particularly instructive case studies for comparative analysis, as both nations derive their inheritance frameworks from the same foundational Islamic sources yet have developed distinctly different approaches to implementation and adaptation.<sup>15</sup> Indonesia, characterized by its constitutionally enshrined religious pluralism and the coexistence of Islamic, customary, and civil law traditions, has developed a relatively flexible approach to inheritance distribution through the Compilation of Islamic Law, which explicitly provides mechanisms for consensual modification of testamentary shares.<sup>16</sup> Malaysia, by contrast, maintains a more structured implementation through a comprehensive system of Syariah Courts that enforce *faraid* provisions with greater institutional rigidity.<sup>17</sup>

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2025. "The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits". *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 99-111. <https://doi.org/10.63142/al-battar.v2i2.172>.

<sup>13</sup> Hallaq, *An Introduction to Islamic Law*.

<sup>14</sup> Jan Michiel Otto, "Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present," 2012.

<sup>15</sup> Reni Anggriani et al., "Agreement of Waqf in Indonesia and Malaysia: Harmonisation with Quranic Principles and Modern Legal Frameworks," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (December 31, 2025): 231–55, <https://doi.org/10.18326/ijtihad.v25i2.231-255>; Michael Barry Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Institute of Southeast Asian Studies, 2008); Timothy Lindsey and Law Islam, *Islam, Law and the State in Southeast Asia: Volume 1 Indonesia, London and New York: IB Tauris* (Bloomsbury Publishing, 2012).

<sup>16</sup> Mark E Cammack, "The Indonesian Islamic Judiciary," in *Islamic Law in Contemporary Indonesia: Ideas and Institutions*, ed. R. Michael Feener and Mark E. Cammack (Cambridge, MA: Harvard University Press, 2007), 146–69; Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*, vol. 4 (Amsterdam University Press, 2010).

<sup>17</sup> Farid S Shuaib, "The Islamic Legal System in Malaysia," *Pac. Rim L. & Pol'y J.* 21 (2012): 85.

Despite substantial scholarly attention to Islamic inheritance law, a significant research gap exists concerning comparative analysis of how different Muslim-majority jurisdictions operationalize possibilities for consensual modification of inheritance shares to achieve gender equality. While individual country studies exist, systematic comparison of the jurisprudential foundations, institutional mechanisms, and practical implications of different approaches remains underdeveloped. The theoretical framework of *maqasid al-shariah*, encompassing the comprehensive objectives and purposes underlying Islamic legislation, provides essential analytical resources for such comparison.<sup>18</sup> Classical scholars identified the preservation of religion (*din*), life (*nafs*), intellect (*aql*), lineage (*nasl*), and property (*mal*) as the five essential objectives that Islamic law serves to protect.<sup>19</sup> Contemporary scholars have emphasized the importance of understanding specific legal provisions within the context of their purposive foundations rather than applying them mechanically.<sup>20</sup>

This investigation formulates three interconnected research objectives. First, the research examines how the application of Islamic inheritance law compares between Indonesia and Malaysia, with particular attention to the institutional mechanisms governing testamentary distribution. Second, the study investigates whether the equalization of portions between male and female offspring is jurisprudentially permissible within the legal systems of both nations when all heirs achieve unanimous consent. Third, the research explores how the space for consensual agreement, designated in Islamic jurisprudence as *sulh*, may be actualized as a manifestation of justice consonant with the principles of *maqasid al-shariah* within contemporary Muslim societies.

## RESEARCH METHODS

This scholarly investigation employs a qualitative research methodology utilizing comparative normative analytical techniques to

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<sup>18</sup> Ahmad Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law* (International Institute of Islamic Thought (IIIT), 2005); Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008).

<sup>19</sup> Ibrahim ibn Musa Al-Shatibi, *Al-Muwafaqat Fi Usul Al-Shari'ah* (Dar al-Kutub al-'Ilmiyyah, 2004); Mohammad Hashim Kamali, *Maqasid Al-Shari'ah Made Simple*, vol. 13 (International Institute of Islamic Thought (IIIT), 2008).

<sup>20</sup> Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Simon and Schuster, 2014).

examine the application of Islamic inheritance law across the jurisdictions of Indonesia and Malaysia.<sup>21</sup> The comparative normative approach was selected as most appropriate for the research objectives, as the study primarily concerns the comparison of legal frameworks, institutional mechanisms, and jurisprudential interpretations rather than the empirical documentation of actual inheritance distribution practices.<sup>22</sup> The research was conducted through systematic examination of legal texts, scholarly commentaries, judicial decisions, and authoritative pronouncements that collectively constitute the normative frameworks governing inheritance distribution in each jurisdiction. The study location encompasses both the Indonesian and Malaysian legal systems, with particular focus on Religious Courts in Indonesia and Syariah Courts in Malaysia as the primary institutional actors in inheritance adjudication.

The primary data sources examined include the foundational texts of Islamic law, particularly the relevant Quranic provisions contained in Surah An-Nisa (verses 11, 12, and 176), and authenticated prophetic traditions concerning inheritance distribution.<sup>23</sup> The study also examines authoritative legal codifications operative in each jurisdiction, specifically the Indonesian Compilation of Islamic Law (Kompilasi Hukum Islam) with particular attention to Articles 171 through 214, and various Malaysian state-level Islamic inheritance enactments.<sup>24</sup> Additionally, fatwa pronouncements from authoritative religious bodies including the Indonesian Council of Ulama (Majelis Ulama Indonesia) and Malaysian state-level fatwa committees were examined, along with relevant judicial decisions illustrating practical implementation. Secondary sources include scholarly monographs and journal articles addressing Islamic inheritance jurisprudence from both classical scholars

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<sup>21</sup> J W Creswell and C N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (SAGE Publications, 2016); Robert K Yin, *Case Study Research and Applications*, vol. 6 (Sage Thousand Oaks, CA, 2018).

<sup>22</sup> Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law*, 3rd ed. (Oxford University Press, 1998).

<sup>23</sup> Powers, *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance*.

<sup>24</sup> Shuaib, "The Islamic Legal System in Malaysia."

including<sup>25</sup> and contemporary scholars including<sup>26</sup>, and Southeast Asian legal specialists.<sup>27</sup>

The data collection techniques involved systematic documentary analysis and content analysis of legal materials, while data analysis followed established protocols for comparative legal research.<sup>28</sup> The analytical procedures proceeded through stages of data identification and collection, systematic description and analysis of each legal system, comparative identification of similarities and differences, and interpretive engagement with the theoretical framework of maqasid al-shariah to explain observed patterns and assess their implications.<sup>29</sup> Data validity was ensured through triangulation of multiple source types including legal texts, scholarly commentary, and judicial practice, enabling identification of potential tensions between normative provisions and practical implementation.<sup>30</sup> The descriptive analysis documented particular ways each system addresses heir identification, share calculation, and possibilities for consensual modification, while the comparative analysis identified significant points of convergence and divergence, examining both specific legal differences and broader jurisprudential factors explaining these differences.

## **RESULTS AND DISCUSSION**

### **Convergent and Divergent Elements in Indonesian and Malaysian Inheritance Frameworks**

The comparative analysis reveals several significant points of convergence between the Indonesian and Malaysian approaches to Islamic inheritance law, reflecting their common derivation from classical faraid jurisprudence.<sup>31</sup> Both jurisdictions ground their

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<sup>25</sup> Kasani (1986); Qudamah (1997).

<sup>26</sup> Kamali (2008); Abou El Fadl (2014).

<sup>27</sup> Hooker, *Indonesian Syariah: Defining a National School of Islamic Law*; Lindsey and Islam, *Islam, Law and the State in Southeast Asia: Volume 1 Indonesia*.

<sup>28</sup> Zweigert and Kötz, *An Introduction to Comparative Law*.

<sup>29</sup> Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*; Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*.

<sup>30</sup> Creswell and Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*.

<sup>31</sup> College Law, College Law, and Université Bretagne, "Abuse of Rights : A Comparative Study between Jurisprudence & Positive Law Mālikī," *Ahkam: Jurnal Ilmu Syariah* 25, no. 2 (2025): 415–28, <https://doi.org/https://doi.org/10.15408/ajis.v25i2.44606>; "Codification of Islamic Law in Comparative Perspective: Between Tradition and Modernity," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 10, no. 1 (2026): 70–104,

inheritance frameworks in the primary sources of Islamic law, recognizing the Quran and authenticated prophetic traditions as the authoritative foundations from which specific legal provisions derive their legitimacy.<sup>32</sup> The provisions of Surah An-Nisa, particularly verses 11, 12, and 176, function as common textual reference points for determining the categories of legitimate heirs and the proportional shares allocated to each category. Both jurisdictions maintain adherence to the fundamental ratio of two-to-one between male and female offspring as the baseline calculation for inheritance distribution. The Indonesian Compilation of Islamic Law explicitly articulates this principle in Article 176, while Malaysian faraid jurisprudence maintains this ratio as a fundamental element of inheritance calculation.<sup>33</sup> Neither jurisdiction has undertaken formal legal reform to modify this fundamental ratio, distinguishing both from certain other Muslim-majority jurisdictions that have implemented more substantial modifications.

Furthermore, both jurisdictions recognize the possibility of consensual arrangement among heirs that may result in distributions diverging from strict faraid calculations, deriving from the classical jurisprudential acceptance of sulh (peaceful reconciliation).<sup>34</sup> Procedurally, both require formal processes for verification of death, identification of legitimate heirs, inventory and valuation of estate assets, satisfaction of debts, and calculation of individual shares.<sup>35</sup> However, the most significant divergence concerns the timing, procedural requirements, and conceptual framing of consensual modification. The Indonesian Compilation of Islamic Law, through Article 183, explicitly authorizes consensual agreement for peaceful distribution among heirs, with this agreement potentially occurring at the outset of the distribution

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<https://doi.org/10.22373/sjhc.v10.i1.31676>; Hooker, *Indonesian Syariah: Defining a National School of Islamic Law*; Otto, "Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present."

<sup>32</sup> Fransiska Widyawati, "Suicide in Manggarai, Eastern Indonesia: Comparative Perspectives from Islamic, Catholic, and Indigenous Law," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 20, no. 2 (2025): 393–422, <https://doi.org/https://doi.org/10.19105/al-lhkam.v20i2.15959>; Powers, *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance*; Coulson, *Succession in the Muslim Family*.

<sup>33</sup> Shuaib, "The Islamic Legal System in Malaysia."

<sup>34</sup> Kasani, *Kitab Badai' Al-Sanai' Fi Tartib Al-Shara'i*.

<sup>35</sup> Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*; Shuaib, "The Islamic Legal System in Malaysia."

process and directly shaping the initial allocation of shares. This approach treats consensual modification as an integral element of the inheritance distribution process itself, reflecting the Indonesian cultural emphasis on *musyawarah* and *mufakat* (deliberation and consensus).<sup>36</sup> The Malaysian approach maintains stricter adherence to classical *faraid* calculations as the mandatory basis for initial distribution, permitting consensual modification only subsequent to formal completion through the Syariah Court.<sup>37</sup> The mechanism of *taksim taradi* operates conceptually as a post-distribution arrangement, treating any deviation from *faraid* calculations as subsequent property disposition rather than modified inheritance distribution. This preserves the formal integrity of *faraid* calculations while accommodating family preferences through subsequent transactions among heirs who have already received their lawful shares.

### **Comparative Analysis of Legal Provisions and Institutional Mechanisms**

The detailed comparative examination reveals systematic patterns of difference that merit comprehensive documentation. The Indonesian legal system reflects distinctive constitutional pluralism, accommodating multiple legal traditions within a unified national framework<sup>38</sup>. Three principal systems govern inheritance matters: Islamic law as codified in the Compilation of Islamic Law, customary law (*adat*), and civil law derived from colonial Dutch heritage. The Compilation, promulgated through Presidential Instruction Number 1 of 1991, represents the most authoritative codification of Islamic legal principles applicable to Indonesian Muslims. The inheritance provisions occupy Book Two, spanning Articles 171 through 214, and represent an attempt to synthesize classical jurisprudential teachings with Indonesian Muslim society circumstances<sup>39,40</sup>. Article 174 specifies categories of legitimate heirs, Article 176 articulates the two-to-one principle, and Article 183 establishes explicit authorization for consensual modification. The

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<sup>36</sup> Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*.

<sup>37</sup> Shuaib, "The Islamic Legal System in Malaysia."

<sup>38</sup> Lindsey and Islam, *Islam, Law and the State in Southeast Asia: Volume 1 Indonesia*; Cammack, "The Indonesian Islamic Judiciary."

<sup>39</sup> Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*.

<sup>40</sup> Anggriani et al., "Agreement of Waqf in Indonesia and Malaysia: Harmonisation with Quranic Principles and Modern Legal Frameworks."

jurisprudential foundation rests upon the classical principle of sulh, wherein Indonesian scholars argue that when all heirs, possessed of full legal capacity and complete information regarding their entitlements, voluntarily agree to modified distribution, such agreement represents valid exercise of their disposition rights over property that has become rightfully theirs.<sup>41</sup>

**Table 1.** Comparative Overview of Islamic Inheritance Legal Frameworks in Indonesia and Malaysia

<b>Dimension</b>	<b>Indonesia</b>	<b>Malaysia</b>
Primary Legal Source	Kompilasi Hukum Islam (KHI) – Presidential Instruction No. 1/1991	State-level Islamic Inheritance Distribution Enactments (varies by state)
Constitutional Framework	Pancasila-based religious pluralism; Article 29 UUD 1945 guarantees religious freedom	Federal Constitution Article 3(1) establishes Islam as official religion; states have jurisdiction over Islamic law
Governing Institution	Religious Courts (Pengadilan Agama) under Supreme Court supervision	State Syariah Courts, Land Office, Amanah Raya Berhad
Jurisdictional Scope	National uniform codification applicable to all Indonesian Muslims	State-level variation with federal harmonization guidelines
Basic Faraid Application	Article 176 maintains 2:1 ratio as baseline calculation	Strict adherence to classical faraid ratios as mandatory requirements
Consensual Modification	Article 183 explicitly authorizes peaceful agreement for	Taksim taradi permitted only after formal faraid

<sup>41</sup> Kasani, *Kitab Badai' Al-Sanai' Fi Tartib Al-Shara'i'*; Qudamah, *Al-Mughni*.

Timing of Modification	distribution modification May occur at initial distribution stage	distribution completed Must occur subsequent to formal faraid certificate issuance
Integration with Customary Law	Significant accommodation of adat alongside Islamic provisions	Limited formal integration; sharper separation between legal systems

The data presented in Table 1 illustrates the fundamental structural differences between the two legal systems with particular significance attaching to the provisions governing consensual modification. The Indonesian framework explicit authorization of modification at the initial distribution stage represents a qualitatively different approach from the Malaysian requirement that formal faraid distribution precede any consensual rearrangement.

**Table 2.** Comparative Analysis of Heir Categories and Distribution Ratios

Heir Category	Classical Faraid Share	Indonesian Application	Malaysian Application
Son (with daughter)	Residuary (asabah), 2:1 ratio with daughter	2:1 ratio as baseline; modifiable by consent (Art. 183)	2:1 ratio strictly applied; post-distribution modification only
Daughter (with son)	½ of son's share	Baseline calculation; equalization possible through sulh	Fixed share; taksim taradi available post-distribution
Daughter (sole, no son)	½ of estate	½ share applied consistently	½ share strictly applied
Multiple daughters (no son)	⅔ of estate (shared)	⅔ shared equally among daughters	⅔ shared equally among daughters
Husband (with children)	¼ of estate	¼ applied; consensual	¼ strictly applied

Heir Category	Classical Faraid Share	Indonesian Application	Malaysian Application
Wife (with children)	1/8 of estate	adjustment permitted 1/8 applied; consensual adjustment permitted	1/8 strictly applied
Father (with children)	1/6 of estate	1/6 applied consistently	1/6 strictly applied
Mother (with children)	1/6 of estate	1/6 applied consistently	1/6 strictly applied
Full Brother	Residuary; blocked by son	Applied with flexibility for family agreement	Strictly applied per classical calculation

Table 2 shows that while both systems share the same *faraid* baseline, Indonesia offers greater flexibility through explicit provisions for consensual adjustments. This allows families to address inequities, such as rewarding primary caregivers or balancing prior *inter vivos* transfers. While Indonesian courts increasingly use these provisions to achieve gender-equal distribution, Malaysia’s *taksim taradi* mechanism remains procedurally rigid, often discouraging families from pursuing welfare-based modifications.

**Table 3.** Comparative Analysis of Institutional Mechanisms for Inheritance Administration

Administrative Function	Indonesia	Malaysia
Death Registration	Civil registry (Kantor Catatan Sipil)	National Registration Department
Heir Verification	Religious Court upon application	Syariah Court issues Inheritance Certificate
Asset Inventory	Conducted by heirs or appointed executor	Land Office or Amanah Raya Berhad

Faraid Calculation	Religious Court judges apply KHI provisions	Syariah Court issues formal Faraid Certificate
Distribution Authorization	Court confirmation of agreed distribution	Formal faraid distribution required before modification
Dispute Resolution	Religious Court adjudication with sulh facilitation	Syariah Court adjudication; formal adversarial process
Appeal Mechanism	Religious High Court, then Supreme Court	State Syariah Appeal Court, then Federal Court (limited jurisdiction)

**Table 4.** Alternative Legal Mechanisms for Achieving Modified Distribution Outcomes

<b>Mechanism</b>	<b>Definition</b>	<b>Indonesian Implementation</b>	<b>Malaysian Implementation</b>
Sulh (Peaceful Agreement)	Consensual settlement among parties to resolve potential disputes	Explicitly authorized by Art. 183 KHI; integrated into distribution process	Available post-faraid distribution; requires separate documentation
Hibah (Inter Vivos Gift)	Voluntary transfer of property during lifetime without compensation	Recognized under civil and Islamic law; commonly used for estate planning	Recognized and increasingly promoted; used to circumvent faraid rigidity
Wasiyyah (Testamentary Bequest)	Will directing up to 1/3 of estate to non-heirs	Art. 194-209 KHI; 1/3 limit for non-heirs	1/3 limit strictly enforced; no bequest to heirs without other heirs' consent
Taksim Taradi	Post-distribution consensual redistribution	Subsumed within Art. 183 general authorization	Primary mechanism for modification; requires

<b>Mechanism</b>	<b>Definition</b>	<b>Indonesian Implementation</b>	<b>Malaysian Implementation</b>
Wasiat Wajibah (Obligatory Bequest)	Court- imposed bequest for excluded relatives	Art. 209 KHI for adopted children; extended by Supreme Court jurisprudence	completion of formal faraid first Limited application; primarily for non-Muslim family members by judicial discretion

The comparative analysis of alternative mechanisms presented in Table 4 reveals that both jurisdictions provide multiple pathways for achieving distribution outcomes that differ from strict faraid calculations although the mechanisms operate differently within each legal framework. The Indonesian system integration of sulh into the primary distribution process creates a streamlined pathway for consensual modification whereas the Malaysian system reliance on post distribution mechanisms creates additional procedural steps that may function as practical barriers.

The Malaysian legal system implements Islamic inheritance law through a distinctively structured institutional framework reflecting constitutional allocation of religious matters to individual states.<sup>42</sup> Each of the thirteen states maintains its own Islamic religious administration, including Syariah Courts empowered to adjudicate matters affecting Muslims. The Malaysian system requires estates undergo formal administration processes, typically initiated through the Land Office or Amanah Raya Berhad, before proceeding to the Syariah Court for issuance of faraid certificates authoritatively determining heir shares. Malaysian implementation maintains strict adherence to the classical two-to-one ratio, treating this provision as binding rather than a default subject to modification. The Syariah Courts approach inheritance distribution as applying divinely ordained formulae, reflecting an interpretive stance emphasizing the obligatory nature of specific Quranic ratios as qat'i (definitive) provisions. However, taksim taradi permits heirs to redistribute shares voluntarily after formal faraid completion,

<sup>42</sup> Shuaib, "The Islamic Legal System in Malaysia."

operating as subsequent transactions through which heirs transfer portions to other heirs. Alternative mechanisms include hibah (inter vivos gift) and wasiyyah (testamentary bequest limited to one-third), which have become increasingly popular for parents wishing to ensure more equitable distribution between sons and daughters, suggesting that formal faraid rigidity may be generating adaptive responses effectively circumventing classical calculations.<sup>43</sup>

### **Jurisprudential Analysis and Maqasid al-Shariah Perspective**

The divergent approaches observed raise fundamental questions concerning the jurisprudential status of consensual modification and the boundaries of legitimate flexibility within Islamic legal frameworks.<sup>44</sup> Classical Islamic jurisprudence generally treats specific faraid shares as definitive divine commands (qat'i) not subject to interpretive variation or contextual modification.<sup>45</sup> However, closer examination reveals greater complexity. The distinction between initial determination of entitlements and subsequent disposition emerges as a crucial analytical framework. Classical scholars, including al-Kasani in *Badai al-Sanai*, acknowledged that heirs who have attained knowledge of their respective entitlements may subsequently agree to alternative arrangements, treating such agreements as matters of muamalat (commercial and civil transactions) rather than ibadat (worship).<sup>46</sup> This framework supports the position that heirs with full knowledge of faraid entitlements may legitimately agree to transfers, as such transfers represent exercises of rights over property that has become theirs.

The Indonesian approach incorporates this classical recognition directly into the distribution process, treating consensual agreement as a mechanism through which heirs simultaneously receive their faraid entitlements and agree to modifications.<sup>47</sup> This integration simplifies practical implementation while maintaining formal consistency with classical principles. The Malaysian insistence on sequential processes maintains clearer conceptual distinctions between entitlement

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<sup>43</sup> Aftab Haider et al., "From Stewardship to Sustainability: A Comparative Analysis of Islamic Ecological Jurisprudence and Western Anthropocentric Regimes," *JURIS (Jurnal Ilmiah Syariah)* 25, no. 1 (February 21, 2026): 41–60, <https://doi.org/10.31958/juris.v25i1.16040>.

<sup>44</sup> Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women*.

<sup>45</sup> Coulson, *Succession in the Muslim Family*.

<sup>46</sup> Kasani, *Kitab Badai' Al-Sanai' Fi Tartib Al-Shara'i'*.

<sup>47</sup> Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*.

determination and subsequent disposition, ensuring formal integrity of faraid calculations remains visible even when practical outcomes diverge.<sup>48</sup> Contemporary reformist scholars have proposed more substantial modifications, with Syahrur's theory of limits suggesting Quranic provisions establish boundaries within which human legislation may operate rather than specifying exact requirements.<sup>49</sup> The framework of maqasid al-shariah provides essential evaluative resources, with underlying purposes of inheritance law including ensuring equitable distribution, preventing wealth concentration, recognizing women's inheritance rights, and maintaining familial harmony.<sup>50</sup> Contemporary circumstances present substantially different social and economic conditions: women participate actively in economic life, frequently earning independent incomes and contributing significantly to family finances.<sup>51</sup> The traditional assumption that males bear exclusive financial responsibility no longer accurately describes many family situations. The Indonesian approach operationalizes the maqasid principle that justice is contextual and must be assessed in relation to actual circumstances rather than categorical assumptions<sup>52</sup>. The Malaysian approach serves legitimate purposes of legal certainty, institutional integrity, and protection against potential coercion by ensuring all heirs have clear knowledge of entitlements before negotiations.<sup>53</sup> The following Table 5

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<sup>48</sup> Shuaib, "The Islamic Legal System in Malaysia."

<sup>49</sup> Muhammad Shahrur, "The Qur'an, Morality and Critical Reason: The Essential Muhammad Shahrur," in *The Qur'an, Morality and Critical Reason* (Brill, 2009).

<sup>50</sup> Al-Raysuni, *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*; Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

<sup>51</sup> Erina Pane et al., "Family Dysfunction," *EL-Usrah: Jurnal Hukum Keluarga* 8, no. 2 (2025): 1080–1101, <https://doi.org/10.22373/ujhk.v8i2.30041>; Tucker, *Women, Family, and Gender in Islamic Law*; Mir-Hosseini, "Muslim Women's Quest for Equality: Between Islamic Law and Feminism."

<sup>52</sup> Kamali, *Maqasid Al-Shari'ah Made Simple*.

<sup>53</sup> Mohd. Ali bin Muhammad Don et al., "THE WAQF MODELS FOR HIGHER EDUCATION: Malaysia's Experience and Challenges in Strengthening a Waqf-Based Higher Education System," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 2 (December 27, 2025): 58–73, <https://doi.org/10.30631/alrisalah.v25i2.1995>; Nisfawati Laili Jalilah, Baiq Ratna Mulhimmah, and Parida Aggriani, "Sidikare as Kinship-Based Dispute Resolution of Sasak Muslim within the National and Islamic Law Framework," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 20, no. 2 (2025): 370–92, <https://doi.org/https://doi.org/10.19105/al-lhkam.v20i2.17220>.

provides a structured comparison of these jurisprudential dimensions to further illustrate the distinctive methodologies of each jurisdiction.

**Table 5.** Comparative Analysis of Jurisprudential Foundations and Interpretive Methodologies

<b>Jurisprudential Dimension</b>	<b>Indonesian Approach</b>	<b>Malaysian Approach</b>
Classification of Faraid Provisions	Qat'i al-thubut (definitive in transmission) but allowing procedural flexibility in application	Qat'i al-dalalah (definitive in indication) requiring exact implementation
Role of Maqasid al-Shariah	Central interpretive lens; provisions understood in light of underlying purposes of justice and welfare	Supplementary consideration; textual provisions take precedence over purposive arguments
Space for Ijtihad	Substantial; contemporary circumstances warrant renewed jurisprudential engagement	Limited; classical consensus constrains contemporary reinterpretation
Treatment of Sulh	Integrated mechanism for achieving justice through consensual agreement	Post-distribution mechanism that preserves formal faraid integrity
Relationship to Local Custom (Adat)	Significant accommodation; Islamic law adapts to Indonesian cultural context	Formal separation; Islamic law operates within defined jurisdiction without customary accommodation
Concept of Justice (Adl)	Contextual; justice achieved through outcomes appropriate to specific circumstances	Formal; justice achieved through faithful implementation of divine prescriptions

### **Implications for Contemporary Islamic Legal Development**

The comparative analysis yields important insights for broader debates concerning contemporary Islamic legal development.<sup>54</sup> The observed differences demonstrate that faithful Islamic law implementation does not require uniform approaches across jurisdictions, as different societies may legitimately develop different institutional mechanisms for achieving underlying purposes of divine legislation. This recognition supports approaches emphasizing purposive interpretation and contextual adaptation while maintaining fidelity to foundational sources, rejecting both rigid literalism ignoring changed circumstances and reformist approaches abandoning textual foundations entirely. The Indonesian experience demonstrates that explicit provision for consensual modification can be integrated into authoritative codifications without generating fundamental challenges to Islamic jurisprudential principles or provoking widespread traditional scholarly rejection. The Compilation of Islamic Law was developed through consultative processes involving religious scholars and has achieved substantial acceptance, suggesting similar approaches might be viable elsewhere with appropriate consultative engagement. The Malaysian experience demonstrates that conservative approaches can accommodate practical flexibility through mechanisms maintaining formal integrity while permitting substantive adaptation.

For Islamic legal thought concerning gender equity more broadly, the inheritance context provides important lessons. The successful Indonesian accommodation suggests meaningful practical changes can be achieved without requiring wholesale rejection of classical jurisprudence or formal adoption of controversial reformist theories. Simultaneously, the two-to-one ratio's persistence as formal baseline in both jurisdictions indicates continued difficulty in achieving formal modification of provisions understood as deriving directly from explicit Quranic prescription. These observations suggest pragmatic reform strategies focusing on procedural mechanisms and consensual accommodation may achieve more immediate practical impact than theoretical approaches challenging foundational principles directly. Judicial practice analysis reinforces these conclusions: Indonesian

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<sup>54</sup> Muhammad Idzhar, Muhammad Kholil Muqorrobieen, and Devi Kasumawati, "Constitutionalizing Islamic Law in Indonesia : Sharia Courts & the Legitimate Child Clause," *Ahkam: Jurnal Ilmu Syariah* 25, no. 2 (2025): 395–414, <https://doi.org/https://doi.org/10.15408/ajis.v25i2.46709>.

Religious Courts display flexible, facilitative approaches where judges assist parties in reaching consensual agreements and confirm distributions deviating from strict faraid when heirs provide informed consent, viewing inheritance disputes as social matters requiring reconciliation as well as legal resolution. Malaysian Syariah Courts reflect stronger emphasis on procedural compliance and formal faraid adherence, with primary judicial function being issuance of formal faraid certificates according to classical formulae. The Indonesian Supreme Court's development of doctrines such as obligatory bequest for adopted children demonstrates adaptability and willingness to interpret inheritance norms in light of contemporary justice understandings.<sup>55</sup>

### **CONCLUSION**

This normative legal study offers a systematic comparative analysis of the implementation of Islamic inheritance law in Indonesia and Malaysia, focusing on the jurisprudential space for equalizing the shares of male and female heirs through consensual agreement. The findings reveal a substantive divergence in legal approaches, despite both jurisdictions deriving authority from the same foundational sources of Islamic law. In Indonesia, Article 183 of the Compilation of Islamic Law explicitly authorizes heirs upon full awareness of their respective entitlements to reach a settlement through sulh, thereby enabling equal distribution among heirs, including between male and female offspring. In contrast, Malaysia maintains a more rigid procedural framework in which classical faraid calculations constitute the mandatory basis for initial distribution, while any adjustment through taksim taradi is recognized only as a subsequent disposition following formal judicial determination by the Syariah Court.

The contribution of this research is threefold, encompassing theoretical, methodological, and practical dimensions within contemporary Islamic legal scholarship. Theoretically, the study affirms that the concept of justice in Islamic inheritance law is inherently contextual and may be interpreted through the lens of maqasid al-shariah, indicating that uniform application is not a prerequisite for normative legitimacy. Methodologically, this research demonstrates the value of comparative normative analysis in understanding how jurisdictions with shared jurisprudential foundations may legitimately diverge in

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<sup>55</sup> Simon Butt, "Islam, the State and the Constitutional Court in Indonesia," *Pac. Rim L. & Pol'y J.* 19 (2010): 279; Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts.*

responding to evolving socio-legal demands. Practically, the Indonesian model illustrates the potential for progressive legal reform through codified consensual mechanisms without undermining classical doctrines, while the Malaysian framework reflects a cautious yet structured accommodation of flexibility within established procedural boundaries.

Based on these findings, this study recommends several strategic directions for future research, legal reform, and policy development. Empirical investigations are necessary to evaluate whether the availability of consensual modification mechanisms in both jurisdictions leads to materially different outcomes in inheritance distribution practices, as well as to expand comparative inquiry into other Muslim-majority contexts. Furthermore, policymakers and legal practitioners may consider the Indonesian approach as a viable reference for integrating principles of gender equity through consensual frameworks that maintain *faraid* as the foundational standard. In parallel, it is essential to enhance the capacity of religious court judges and legal professionals through specialized training in mediation and facilitation techniques, supported by clear procedural safeguards and documentation standards to ensure that all heirs make informed and voluntary decisions; thus, this study underscores that harmonizing doctrinal fidelity with contextual justice constitutes a viable pathway for the future development of Islamic inheritance law and recommends the institutionalization of consensual mechanisms within a robust legal framework.

## BIBLIOGRAPHY

- Abou El Fadl, Khaled. *Speaking in God's Name: Islamic Law, Authority and Women*. Simon and Schuster, 2014.
- Al-Raysuni, Ahmad. *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*. International Institute of Islamic Thought (IIIT), 2005.
- Al-Shatibi, Ibrahim ibn Musa. *Al-Muwafaqat Fi Usul Al-Shari'ah*. Dar al-Kutub al-'Ilmiyyah, 2004.
- Anggriani, Reni, Farhanin Abdullah Asuhaimi, Jarot Wahyudi, Nafiza Fauziah, and Fadhilah Abdullah Asuhaimi. "Agreement of Waqf in Indonesia and Malaysia: Harmonisation with Quranic Principles and Modern Legal Frameworks." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (December 31, 2025): 231–55. <https://doi.org/10.18326/ijtihad.v25i2.231-255>.
- Abdulah Pakarti, Muhammad Husni, Wahyudi Wahyudi, Ah. Fathonih, Fauzan Ali Rasyid, and Husain Husain, trans. 2025. "The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits". *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 99-111. <https://doi.org/10.63142/al-battar.v2i2.172>.
- Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. International Institute of Islamic Thought (IIIT), 2008.
- Barlas, Asma. *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an*. University of Texas Press, 2019.
- Bowen, John R. *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge University Press, 2003.
- Butt, Simon. "Islam, the State and the Constitutional Court in Indonesia." *Pac. Rim L. & Pol'y J.* 19 (2010): 279.
- Cammack, Mark E. "The Indonesian Islamic Judiciary." In *Islamic Law in Contemporary Indonesia: Ideas and Institutions*, edited by R. Michael Feener and Mark E. Cammack, 146–69. Cambridge, MA: Harvard University Press, 2007.
- Codification of Islamic Law in Comparative Perspective: Between Tradition and Modernity." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 10, no. 1 (2026): 70–104. <https://doi.org/10.22373/sjkh.v10.i1.31676>.
- Coulson, Noel J. *Succession in the Muslim Family*. University Press, 1971.
- Creswell, J W, and C N Poth. *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*. SAGE Publications, 2016.

- Esposito, John L. *Women in Muslim Family Law*. Syracuse University Press, 2001.
- Fathony, Moh Rosil, Latifatul Khiyaroh, Suud Sarim Karimullah, Muhammad Taufik Kustiawan, dan lain-lain. "Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective." *Indonesian Journal of Islamic Law* 7, no. 1 (2024). <https://doi.org/10.35719/1xjdkk59>.
- Haider, Aftab, Naim Mathlouthi, Mahmud Zuhdi Mohd Nor, Musda Asmara, Asif Khan, and Ramadhita. "From Stewardship to Sustainability: A Comparative Analysis of Islamic Ecological Jurisprudence and Western Anthropocentric Regimes." *JURIS (Jurnal Ilmiah Syariah)* 25, no. 1 (February 21, 2026): 41–60. <https://doi.org/10.31958/juris.v25i1.16040>.
- Hallaq, Wael B. *An Introduction to Islamic Law*. Cambridge University Press, 2009.
- Hooker, Michael Barry. *Indonesian Syariah: Defining a National School of Islamic Law*. Institute of Southeast Asian Studies, 2008.
- Idzhar, Muhammad, Muhammad Kholil Muqorrobien, and Devi Kasumawati. "Constitutionalizing Islamic Law in Indonesia: Sharia Courts & the Legitimate Child Clause." *Ahkam: Jurnal Ilmu Syariah* 25, no. 2 (2025): 395–414. <https://doi.org/https://doi.org/10.15408/ajis.v25i2.46709>.
- Iqbal, Saujan, Yusuf Sani Abubakr, Seeni Mohamed Mohamed Nafees, dan lain-lain. "Gender Beyond Binary: Inheritance Rights of Third Gender in Islamic Law – Sri Lankan Legal Recognition and Reform." *Indonesian Journal of Islamic Law* 8, no. 2 (2025). <https://doi.org/10.35719/5fnmdq24>.
- Ilyas, Yunahar. "Reaktualisasi Ajaran Islam: Studi Atas Pemikiran Hukum Munawir Sjadzali." *Al-Jami'ah: Journal of Islamic Studies*, June 2006.
- Jalilah, Nisfawati Laili, Baiq Ratna Mulhimmah, and Parida Aggriani. "Sidikare as Kinship-Based Dispute Resolution of Sasak Muslim within the National and Islamic Law Framework." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 20, no. 2 (2025): 370–92. <https://doi.org/https://doi.org/10.19105/al-lhkam.v20i2.17220>.
- Kamali, Mohammad Hashim. *Maqasid Al-Shari'ah Made Simple*. Vol. 13. International Institute of Islamic Thought (IIIT), 2008.
- Kasani, Abu Bakr ibn Mas'ud. *Kitab Badai' Al-Sanai' Fi Tartib Al-Shara'i'*. Dar al-Kutub al-'Ilmiyah, 1986.
- Lestari, Dian, trans. 2024. "Evolusi Hukum Waris Dalam Perspektif

- Islam: Dari Masa Jahiliah Hingga Konsep Kewarisan Bilateral Hazairin”. *Al-Battar: Jurnal Pamungkas Hukum* 1 (3): 176-91. <https://doi.org/10.63142/gyzw3n30>.
- Law, College, College Law, and Université Bretagne. “Abuse of Rights : A Comparative Study between Jurisprudence & Positive Law Mālikī.” *Ahkam: Jurnal Ilmu Syariah* 25, no. 2 (2025): 415–28. <https://doi.org/https://doi.org/10.15408/ajis.v25i2.44606>.
- Lindsey, Timothy, and Law Islam. *Islam, Law and the State in Southeast Asia: Volume 1 Indonesia*. London and New York: IB Tauris. Bloomsbury Publishing, 2012.
- Mir-Hosseini, Ziba. “Muslim Women’s Quest for Equality: Between Islamic Law and Feminism.” *Critical Inquiry* 32, no. 4 (2006): 629–45.
- Mudzhar, M Atho. *Fatwa-Fatwa Majelis Ulama Indonesia : Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia, 1975-1988*. INIS. Ed. dwibahasa, 1993.
- Muhammad Don, Mohd. Ali bin, Mohd. Rilizam bin Rosli, Mohd. Shukri bin Mohd. Senin, Mohd. Huefiros Efizi bin Husain, Mohd. Farhan bin Ahmad, Hjh. Mas Nooraini binti Hj. Mohiddin, Kamaru Salam Yusof, and Cecep Soleh Kurniawan. “THE WAQF MODELS FOR HIGHER EDUCATION: Malaysia’s Experience and Challenges in Strengthening a Waqf-Based Higher Education System.” *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 2 (December 27, 2025): 58–73. <https://doi.org/10.30631/alrisalah.v25i2.1995>.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Vol. 4. Amsterdam University Press, 2010.
- Otto, Jan Michiel. “Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present,” 2012.
- Pane, Erina, Mukri, Alamsyah, and Adam Muhammad Yanis. “Family Dysfunction.” *EL-USRAH: Jurnal Hukum Keluarga* 8, no. 2 (2025): 1080–1101. <https://doi.org/10.22373/ujhk.v8i2.30041>.
- Powers, David S. *Studies in Qur’an and Hadith: The Formation of the Islamic Law of Inheritance*, 1986.
- Qudamah, Ibn. *Al-Mughni*. Dar Alam al-Kutub, 1997.
- Shahrur, Muhammad. “The Qur’an, Morality and Critical Reason: The Essential Muhammad Shahrur.” In *The Qur’an, Morality and Critical Reason*. Brill, 2009.

- Sholihah, Hani, Nani Nani Widiawati, and Mohd Khairul Nazif Bin Hj Awang. "Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender." *Al-'Adalah* 21, no. 1 (2024): 101–24.
- Shuaib, Farid S. "The Islamic Legal System in Malaysia." *Pac. Rim L. & Pol'y J.* 21 (2012): 85.
- Tucker, Judith E. *Women, Family, and Gender in Islamic Law*. Cambridge University Press, 2008.
- Webb, Gisela. "Qur'an and Woman: Rereading The Sacred Text From a Woman's Perspective. By Amina Wadud. New York: Oxford University Press 1999. Pp. 118. \$11.95. ISBN: 0-195-12836-2." *Journal of Law and Religion* 15 (2001): 519–23.
- Widyawati, Fransiska. "Suicide in Manggarai , Eastern Indonesia : Comparative Perspectives from Islamic , Catholic , and Indigenous Law." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 20, no. 2 (2025): 393–422. <https://doi.org/https://doi.org/10.19105/al-ihkam.v20i2.15959>.
- Wahyudi, Muhammad Husni Abdulah Pakarti, and Diana Farid. 2024. "Peran Tradisi Dan Norma Gender Dalam Penyelesaian Sengketa Hukum Keluarga". *An-Nisa: Journal of Islamic Family Law* 1 (3): 1-11. <https://doi.org/10.63142/an-nisa.v1i3.50>.
- Yin, Robert K. *Case Study Research and Applications*. Vol. 6. Sage Thousand Oaks, CA, 2018.
- Zahro, Fatimatuz, and Shinta Pramesti K.M. "Kesetaraan Gender Dalam Hukum Kewarisan Islam Perspektif M. Syahrur." *Mahakim: Journal of Islamic Family Law* 7, no. 1 SE-Articles (January 2023): 25–46. <https://doi.org/10.30762/mahakim.v7i1.201>.
- Zweigert, Konrad, and Hein Kötz. *An Introduction to Comparative Law*. 3rd ed. Oxford University Press, 1998.



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