



Negotiating Islamic Inheritance Norms and Customary Traditions in Indonesia: A Normative Study of Legal Pluralism and Reform

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Abstract

Inheritance disputes in Indonesia reveal a controversy between scriptural law, state regulation, and local customs. Changing settlement patterns show a growing reliance on negotiated arrangements rather than formal adjudication, reflecting a practical response to uncertainty in procedural authority. While previous studies describe rules normatively, few explain why communities prefer informal agreements or how legitimacy is established. This study identifies those gaps and aims to clarify the logic of negotiated inheritance through a socio legal approach involving doctrinal review, interpretive *fiqh* analysis, and case pattern examination. Findings indicate that communities mobilise multiple sources of authority textual norms, kinship ethics, and fairness considerations. Negotiated outcomes often satisfy moral expectations but lack transparency and procedural accountability. Hybrid arrangements, therefore, emerge not as doctrinal deviation but as rational adaptation to institutional limitations. The study recommends a model of accountable pluralism that includes structured mediation, clearer judicial guidance, and ethical education to sustain fairness while maintaining normative consistency.

Keywords: inheritance, negotiation, pluralism, authority, *maqasid*

Abstrak

Sengketa waris di Indonesia menunjukkan kontroversi antara hukum teks, regulasi negara, dan *adat* lokal. Perubahan pola penyelesaian memperlihatkan semakin dominannya negosiasi dibandingkan jalur peradilan, sebagai respons praktis atas ketidakpastian prosedural. Kajian sebelumnya menjelaskan aturan secara normatif, tetapi jarang menguraikan mengapa masyarakat memilih kesepakatan informal atau bagaimana legitimasi dibangun. Penelitian ini mengisi celah tersebut melalui pendekatan sosio legal yang mencakup telaah doktrin, analisis *fiqh* interpretatif, dan kajian pola kasus. Temuan menunjukkan bahwa masyarakat menggunakan berbagai sumber otoritas norma teks, etika kekerabatan, dan pertimbangan keadilan. Kesepakatan negosiasi sering memenuhi rasa adil, tetapi kurang transparansi dan

akuntabilitas prosedural. Karena itu, hibridisasi hukum bukanlah penyimpangan doktrin, melainkan adaptasi rasional terhadap keterbatasan institusional. Studi ini merekomendasikan model pluralisme akuntabel melalui mediasi terstruktur, panduan yudisial yang lebih jelas, dan pendidikan etika guna menjaga keadilan tanpa mengabaikan konsistensi normatif.

Kata kunci: waris, negosiasi, pluralisme, otoritas, *maqasid*

Introduction

The coexistence of Islamic inheritance norms and local customary laws in Indonesia presents a persistent tension that reflects a wider crisis in norm harmonization between state legal systems and socio religious identity.¹ This issue is prominent as inheritance often becomes the most visible point of conflict within plural legal settings due to its economic implications and symbolic meanings of family continuity.² The presence of multiple normative authorities produces overlapping claims of legitimacy that complicate dispute resolution procedures.³ These frictions are magnified in Muslim majority regions where Islamic law is socially regarded as divine or immutable while local traditions maintain strong binding authority. The rise of judicial activism and legal reform discourse in Indonesia adds further urgency to understanding how competing norms are negotiated in daily life and courtrooms.⁴ Consequently, inheritance disputes serve as a micro lens for observing how legal pluralism is lived, contested, and reshaped over time.

This condition signals an ongoing controversy that requires systematic examination of how Islamic inheritance doctrine, state regulation, and *adat* norms interact.⁵ Scholars increasingly consider these struggles as a critical site for reforming Islamic law and

¹ M. Barry Hooker, *Legal Anthropology: Living Law Perspective* (Routledge, 2008).

² John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge University Press, 2003); Anwar Hafidzi, "Determination Of Sekufu In The Kitabun Nikah Al-Banjari," *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 125–33.

³ Daniel Lev, "The Political Dimensions of Family Law Reform," *Indonesia* 69 (2000): 1–20, <https://doi.org/10.2307/3351461>.

⁴ Adriaan Bedner, "Legal Pluralism and Inheritance Disputes in Indonesia," *Journal of Legal Pluralism* 51, no. 3 (2019): 305–29, <https://doi.org/10.1080/07329113.2019.1606512>.

⁵ Laily Farah Fauzia, "Perubahan Hukum Kewarisan Adat Dalam Sistem Hukum Kekerabatan Patrilineal," *SYARIAH: Jurnal Ilmu Hukum* 1, no. 2 (2024): 252–60.

strengthening rights protections. Therefore, analyzing how these systems coevolve offers not only doctrinal insight but also contributes to debates on justice in plural legal orders.

The urgency of this problem lies in the social and legal consequences of unresolved normative clashes over inheritance.⁶ Communities continue to apply customary division patterns while formal courts rely on Islamic doctrines codified in the Compilation of Islamic Law, creating divergent expectations between litigants and institutions. Conflicts over daughters' shares illustrate how religious rules are contested in the face of egalitarian *adat* principles or negotiated redistribution practices.⁷ Prolonged uncertainty risks producing unequal access to justice when certain norms are privileged above others. These frictions paradoxically persist despite attempts at unification through state codification of Islamic family law in 1991.⁸ Policy makers often underestimate the cultural embeddedness of *adat*, resulting in weak implementation of uniform rules. Local actors resolve disputes creatively, often outside the courts, indicating a mismatch between law in books and law in action. Given rising calls for reform and access to gender justice, examining contestation in inheritance norms is urgent for legal transformation.⁹ Thus, the study of inheritance negotiation provides a window into how Indonesia navigates legal pluralism amidst shifting social realities.

Global scholarship on legal pluralism suggests that religious, customary, and state norms experience dynamic negotiation rather than rigid coexistence. Empirical studies in Malaysia, Nigeria, and Morocco reveal that Islamic inheritance doctrines are routinely localized in

⁶ M. Barry Hooker, "Living Law Theory in Indonesian Family Courts," *Asian Journal of Law and Society* 2, no. 3 (2015): 355–82, <https://doi.org/10.1017/als.2015.14>.

⁷ Alexander Alexander, "Alternative Dispute Resolution Dalam Mediasi Sengketa Hukum Adat Di Papua," *Jurnal Syntax Transformation* 2, no. 09 (2021): 1215–24; Ifitah Kurnia and Maisya Yusti Santosa, "Pluralisme Hukum Waris Di Indonesia: Pengaruh Sistem Keekerabatan Masyarakat Adat Terhadap Corak Hukum Waris Adat Di Indonesia," *SYARIAH: Jurnal Ilmu Hukum* 1, no. 2 (2024): 234–42.

⁸ Bedner, "Legal Pluralism and Inheritance Disputes in Indonesia," 2019.

⁹ A.Sukmawati Assaad et al., "National Inheritance Law: Looking at the Weaknesses and Challenges of Its Implementation in Indonesia," *AJIS: Academic Journal of Islamic Studies* 7, no. 1 (2022): 57, <https://doi.org/10.29240/ajis.v7i1.4526>.

response to kinship norms and socio-economic strategies.¹⁰ Researchers increasingly focus on how authority is constructed rather than presuming that doctrinal rules determine outcomes.¹¹ However, global literature often underexplores Indonesia, despite being the largest Muslim majority country with strong *adat* heritage. When Indonesia is examined, the discussion is typically limited to Aceh or Minangkabau and seldom connects doctrinal law to lived negotiation practices. This leaves a gap in understanding how ordinary Muslims across regions reconcile or resist competing inheritance norms.¹² The gap is crucial because inheritance is a site where gender, authority, and legitimacy intersect, yet comparative studies rarely integrate Islamic jurisprudence with socio legal inquiry. Addressing this global gap provides conceptual clarity to how plural systems modernize. In doing so, Indonesia becomes analytically important for theorizing Islamic law reform within plural systems.¹³

Nationally, Indonesian scholarship acknowledges the complex interplay between *adat*, Islamic norms, and state law, but discussions often remain descriptive or doctrinal rather than analytical. Research commonly analyses inheritance by comparing tables of shares rather than investigating negotiation dynamics in practice. Studies on Minangkabau and Bali note matrilineal practices but rarely question how Islamic doctrine is reinterpreted locally.¹⁴ Meanwhile, gender justice analyses often critique inequality without tracing how norms are contested or hybridized. Very few studies combine normative

¹⁰ Michael G. Peletz, *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary* (Univ of California Press, 2020).

¹¹ John R. Bowen, "Contesting Islamic Jurisdiction and Customary Practices," *Comparative Studies in Society and History* 45, no. 4 (2003): 603–33, <https://doi.org/10.1017/S0010417503000281>.

¹² Harnides Harnides et al., "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 1293–316; Awis Alhkarni and Novia Yuriska, "Minangkabau Customary Marriage Traditions: Integration of Custom and Sharia Principles in the Perspective of Islamic Law," *USRATY: Journal of Islamic Family Law* 2, no. 2 (2024): 124–33.

¹³ Alhkarni and Yuriska, "Minangkabau Customary Marriage Traditions."

¹⁴ Sylvia Alaydarani and Ayu Putri Kistiawandira, "Hak Perempuan Dalam Sistem Pewarisan Ditinjau Dari Perspektif Hukum Adat Bali," *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 5 (2023): 72–78; Miliarni Deida Navydien and Khesya Khusnul Fadhillah Utomo, "Kedudukan Hak Waris Wanita Dalam Hukum Adat Bali," *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 5 (2023): 90–98.

jurisprudence with socio legal reform analysis. Many fail to map how courts, religious authorities, and families deliberate legitimacy claims during dispute resolution. Thus, while awareness exists about norm conflicts, theoretical engagement is weak and methodological integration remains underdeveloped. Therefore, filling this national gap can advance understanding of Islamic inheritance reform and pluralism. Identifying how negotiation works in Indonesia contributes to current reform debates on family law and cultural autonomy.¹⁵

This study addresses the main problem of how Islamic inheritance norms are negotiated alongside customary traditions within Indonesia's plural legal landscape. It asks how doctrinal rules interact with lived practice in communities where *adat* remains influential.¹⁶ It questions how litigants, religious authorities, and judges justify competing inheritance claims. Another question concerns whether these negotiations produce hybrid legal outcomes or reinforce hierarchy between norms. The study also investigates how gendered expectations shape acceptance or rejection of doctrinal rules. Central to this inquiry is how normative legitimacy is constructed through religious and cultural reasoning. Through these questions, the study evaluates the possibilities and limits of inheritance reform in Indonesia. The research aims to unpack mechanisms of adaptation rather than assuming doctrinal dominance. By probing these issues, this study clarifies how plural systems evolve and where reform pressures emerge.¹⁷

The research aims to analyze how Indonesian Muslims negotiate Islamic inheritance norms vis a vis customary practices. It intends to examine doctrinal codification within the Compilation of Islamic Law and compare it to lived customary arrangements. Another objective is

¹⁵ Illy Yanti et al., "Negotiating Shari'ah and Customary Law: Legal Pluralism in Familial Relationships among the Suku Anak Dalam in Jambi," *Journal of Islamic Law* 6, no. 2 (2025): 177–205, <https://doi.org/10.24260/jil.v6i2.3311>.

¹⁶ Alaydarani and Kistiawandira, "Hak Perempuan Dalam Sistem Pewarisan Ditinjau Dari Perspektif Hukum Adat Bali"; Fauzia, "Perubahan Hukum Kewarisan Adat Dalam Sistem Hukum Kekerabatan Patrilineal."

¹⁷ M. Syaikhul Arif, "Mengenal Sistem Hukum Waris Adat," *Siyasah: Jurnal Hukum Tata Negara* 5, no. 1 (2022), <http://ejournal.an-nadwah.ac.id/index.php/Siyasah/article/view/420>; Micselin Sifa Frisandia, "Sistem Pewarisan Menurut Hukum Waris Adat Mengenai Sistem Kekerabatan Yang Berlaku Dalam Masyarakat Adat Indonesia," *Synergy: Jurnal Ilmiah Multidisiplin* 1, no. 04 (2024): 238–46.

mapping reasoning strategies used by courts, religious authorities, or families when addressing inheritance disputes. The study seeks to understand whether negotiation leads to hybrid norms or reinforces doctrinal dominance). It also aims to identify gendered implications of norm competition and reform narratives. The research further evaluates whether reform debates foster reconciliation or deepen fragmentation between systems. These objectives generate empirical insight into dynamics shaping Indonesian legal pluralism. They also support doctrinal reflection on Islamic inheritance interpretation. Ultimately, the objectives contribute to both theory and policy concerning family law reform.¹⁸

This study contributes by offering a normative socio legal explanation of how inheritance pluralism functions in Indonesia. It extends doctrinal scholarship by linking Islamic jurisprudence to empirical negotiation processes. The research advances Indonesian studies beyond descriptive comparison by employing analytical legal pluralism. Its argument proposes that inheritance reform cannot proceed without understanding legitimacy struggles between Islamic doctrine and *adat* reasoning. Identifying these negotiation patterns strengthens conceptual debates on Islamic legal reform. Locating Indonesia within global scholarship enriches comparative discussions on Muslim legal anthropology. The contribution also supports policy development by showing why normative alignment remains difficult. The argument suggests that reform must address socio cultural embeddedness rather than merely codifying doctrine. Hence, the study offers theoretical, empirical, and practical value for ongoing reform agendas in Islamic inheritance law and legal pluralism.

Literature Review

Scholars increasingly examine legal pluralism in Muslim societies as a core analytical framework rather than background context, marking a shift from doctrinal comparison to socio legal

¹⁸ Oemar Moechtar et al., “Kajian Komparatif Lembaga Penolakan Waris Dalam Perspektif Hukum Waris Adat Dan Islam,” *Jurnal Cakrawala Hukum* 11, no. 3 (2020): 291–301; Subekti Subekti and Suyono Yoyok Ucuk, “Pewarisan Berdasarkan Hukum Waris Adat Terkait Sistem Keekerabatan Di Indonesia,” *Jurnal Aktual Justice* 5, no. 1 (2020): 56–70; Sonny D. Judiasih et al., “Pergeseran Norma Hukum Waris Pada Masyarakat Adat Patrilineal,” *RechtIdee* 16, no. 1 (2021): 65–87.

investigation.¹⁹ Global work highlights that Islamic family law reforms are deeply shaped by local culture, political institutions, and competing ideas of authority rather than merely normative texts. Inheritance appears frequently as the primary field for observing pluralism because of its economic stakes and symbolic attachment to kinship rights.²⁰ Southeast Asian scholarship situates Indonesia as a rich site due to multilayered interactions between Islamic norms, *adat*, colonial law, and state regulation.²¹ Comparative scholarship shows that while Islamic law states fixed shares, communities creatively adjust division under social expectations or familial harmony. However, studies often treat doctrinal rules as static rather than focusing on interpretive negotiation. Meanwhile, researchers in Indonesia usually describe inheritance structures rather than tracing mechanisms of adaptation within communities.²² This body of work reveals consistent recognition of norm conflict, yet lacks deeper inquiry into how conflicts are resolved in practice.²³ Therefore, general trends suggest the need for analytical models that show plural norms as living processes rather than static categories.²⁴

The first major trend in literature concerns factors influencing negotiation between Islamic inheritance doctrines and customary norms, where scholars point to religion, kinship structure, gender expectation, and institutional authority as drivers. Indonesian research

¹⁹ Michael G. Peletz, "Hegemonic Muslim Masculinities and Their Others: Perspectives from South and Southeast Asia," *Comparative Studies in Society and History* 63, no. 3 (2021): 534–65.

²⁰ Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," *Journal of the Economic and Social History of the Orient* 55, nos. 4–5 (2012): 771–93, <https://doi.org/10.1163/15685209-12341269>.

²¹ Hooker, "Living Law Theory in Indonesian Family Courts."

²² Muhammad Yusuf Fauzi, "Legislasi Hukum Kewarisan Di Indonesia: Menempatkan Codification, Adat, Dan Hukum Islam Dalam Perspektif Pluralisme," *Ijtima'iyya: Jurnal Ilmu Sosial Dan Keislaman*, 2016, <https://ejournal.radenintan.ac.id/index.php/ijtima'iyya/article/view/949>.

²³ Sulistyowati Irianto, "Inheritance, Legal Pluralism and Gender Justice: A Courtroom Study," *Journal of Legal Pluralism and Unofficial Law*, Taylor & Francis, 2024, <https://www.tandfonline.com/doi/full/10.1080/27706869.2024.2379738>.

²⁴ Stijn van Huis, "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia," *Law & Society Review*, 2017, <https://scholarhub.ui.ac.id/ijsls/vol4/iss1/4/>.

emphasizes local belief in *adat* as binding moral law that often outweighs codified rules in shaping inheritance. Religious authority also matters since people often accept *fiqh* selectively based on interpretations from respected clerics or judges rather than legal texts alone. Gender roles influence inheritance negotiations through expectations that sons or specific lineage groups protect property continuity. Political reforms and judicial activism also affect how norms are institutionalized or challenged.²⁵ Codification reforms tend to privilege Islamic norms yet still leave room for *adat* practices in family settlements. Some studies highlight that ideology of family harmony often becomes practical justification for diverging from doctrinal rules.²⁶ Others stress that economic strategies, such as consolidation of land, shape inheritance outcomes beyond doctrinal reference. Thus, factor-based research frames inheritance negotiation as influenced by ideology, authority, and socio-economic rationality rather than mere doctrinal compliance.²⁷

The second trend concerns process based research that analyses how negotiation between norms occurs in everyday life, highlighting stages such as claim formulation, persuasion, bargaining, and settlement. Literature suggests that families first engage in informal compromise before turning to courts. Studies in Minangkabau and South Sulawesi reveal a process where *adat* norms are asserted before Islamic doctrines are invoked as fallback positions. In Aceh, negotiation sometimes includes symbolic religious justification to reconcile *adat* principles and Islamic doctrine.²⁸ Scholars note that legal actors reinterpret Qur'anic shares through local reasoning based on fairness and historical precedent. Anthropological research illustrates how authority is distributed among elders, clerics, and judges in process-based negotiations. Some research observes hybrid settlements where parties acknowledge Islamic shares but redistribute through exchanges or informal transfers. Courtroom studies reveal judges' reasoning often

²⁵ Kikue Hamayotsu, "The Political Origins of Islamic Courts in Divided Societies," *Comparative Studies in Society and History*, 2018, <https://www.jstor.org/stable/26855662>.

²⁶ von Benda-Beckmann and von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," 2012.

²⁷ van Huis, "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia," 2017.

²⁸ Hooker, *Legal Anthropology: Living Law Perspective*.

mixes doctrinal argument with considerations of social harmony.²⁹ These findings show that process-oriented research views negotiation as a relational dynamic mediated by institutions, culture, and authority structures.

The third trend examines impact-oriented research that evaluates outcomes of plural inheritance systems on justice, gender equity, and institutional legitimacy, revealing mixed consequences. Some studies find that pluralism preserves community autonomy and cultural identity. Others show that negotiation processes protect vulnerable heirs because *adat* redistribution mechanisms may deliver more egalitarian outcomes than rigid doctrinal application. However, scholars also caution that plural norms may reproduce patriarchal privilege where men maintain economic dominance. Legal anthropologists argue that inconsistent outcomes undermine predictability and weaken institutional authority. Judicial pluralism sometimes results in forum shopping where litigants choose norms advantageous to them. Feminist scholars suggest that hybrid settlements can both challenge and reinforce gender inequality depending on local power relations. Some argue pluralism pushes Islamic law to reform through epistemic competition with social justice narratives. Others contend that coexistence without structural reform limits transformative potential. Thus, impact oriented research shows that legal pluralism is not inherently beneficial or harmful, but context dependent.

A critical assessment of existing research demonstrates that although scholars recognize pluralism and inheritance tension, many studies lack normative depth in analysing doctrinal justification.³⁰ Studies privilege cultural description but seldom assess how Islamic law's principles are reinterpreted against *adat* expectations. Global literature tends to neglect Indonesia beyond ethnographic case studies and rarely links socio legal findings to Islamic jurisprudence debates. Indonesian work is often doctrinal but fails to integrate process models of negotiation collected by anthropologists. Research on gender equity

²⁹ Irianto, "Inheritance, Legal Pluralism and Gender Justice: A Courtroom Study"; Irman Pirdaus Dede and As Nurnisaa, "Inheritance Rights of Children Born Out of Wedlock in the Perspective of Islamic Law," *International Journal of Humanities, Law, and Politics*, ahead of print, 2024, <https://doi.org/10.46336/ijhlp.v2i4.158>.

³⁰ Hooker, "Living Law Theory in Indonesian Family Courts."

frequently critiques outcomes without examining reasoning that legitimizes practices. Meanwhile, comparative scholarship focuses on *fiqh* reform movements but underestimates the informal settlement mechanisms in daily life.³¹ Only few studies analyse judicial reasoning when judges balance Islamic doctrine and local expectations. This lack of integrative methodology limits understanding of reform potential in inheritance law.³² Therefore, the literature calls for a normative socio legal approach that systematically analyses negotiation logic, legitimacy construction, and doctrinal reform.

This research positions itself as responding to these gaps by developing a normative socio legal framework to explain how Islamic inheritance rules are negotiated with *adat*, how legitimacy arguments are constructed, and what reform trajectories emerge. It proposes integrating Islamic jurisprudential analysis with pluralism theory and empirical reasoning processes. The study aims to conceptualize negotiation not as cultural accommodation but as competing truth claims mediated through reasoning about fairness and authority.³³ Through this approach, inheritance reform is treated not only as legal change but as epistemic contest over which norms produce just outcomes. The novelty lies in explaining negotiation as a structured argumentative process instead of informal adjustment. This positioning enables assessment of which doctrinal elements flex, which remain rigid, and why hybrid settlements persist. It further highlights Indonesia as a theoretical case for understanding Muslim law reform within plural orders. The study seeks to contribute to debates on Islamic law transformation by showing reform emerges through negotiation rather than codification alone. Accordingly, its direction advances doctrinal

³¹ Irianto, "Inheritance, Legal Pluralism and Gender Justice: A Courtroom Study"; Abdul Gani Makhrup, "Dispute over Sasak Customary Inheritance Rights and the Evolution of Granting Inheritance Rights to Girls," *JILPR Journal Indonesia Law and Policy Review* 5, no. 2 (2024): 442–49, <https://doi.org/10.56371/jirpl.v5i2.225>.

³² Michael G. Peletz, "Islamic Courts, Gender, and the 'Conservative Turn' in Muslim Southeast Asia," in *Routledge Handbook of Islam in Southeast Asia* (Routledge, 2022), <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429275449-21/islamic-courts-gender-conservative-turn-muslim-southeast-asia-michael-peletz>.

³³ Hamayotsu, "The Political Origins of Islamic Courts in Divided Societies"; Fauziah Hayati et al., "Reconstructing Islamic Jurisprudence in Local Marriage Practices: A Legal-Ethnographic Study of Jujuran in Banjar Society," *El-Qist: Journal of Islamic Economics and Business (JIEB)* 15, no. 1 (2025): 14–31.

reflection, socio legal analysis, and policy relevance in Islamic inheritance reform.³⁴

METHOD

This research adopts a normative socio legal design because inheritance negotiation involves doctrinal reasoning as well as lived practices that cannot be captured by textual analysis alone.³⁵ A normative approach enables assessment of how Islamic law principles interact with plural legal orders so doctrinal positions are explained within their context of application rather than isolated abstraction. Socio legal framing helps uncover argumentative processes of legitimacy construction rather than merely restating textual rules. The design aligns with legal pluralism theory that views law as multiple normative orders competing for authority, requiring integration of jurisprudence and empirical reasoning.

This design is chosen because reform is embedded not only in codification but in everyday negotiation between norms. The research treats doctrines as interpretive rather than fixed, allowing analysis of flexibility conditions and justificatory logic. It also reflects the methodological shift in Islamic legal studies towards examining law as practice rather than solely scripture. Thus, normative socio legal design provides analytical adequacy for examining how actors reason through competing norms. This choice positions the work within contemporary Muslim law scholarship where doctrinal questions meet socio cultural inquiry.

Data sources include primary and secondary legal materials to trace doctrinal positions, judicial reasoning, and normative debates.³⁶ Primary sources consist of Qur'anic verses, hadis, classical fiqh texts,

³⁴ van Huis, "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia," 2017.

³⁵ Anwar Hafidzi, *Metode Penelitian Hukum Normatif Dan Empiris: Teori Dan Praktik* (Alifba Media, 2024), https://scholar.google.com/citations?view_op=view_citation&hl=id&user=ikbMoCQAAAAJ&sortby=pubdate&citation_for_view=ikbMoCQAAAAJ:VLnqNzywnoUC; Muhammad Firmansyah and Masrun Masrun, "Esensi Perbedaan Metode Kualitatif Dan Kuantitatif," *Elastisitas: Jurnal Ekonomi Pembangunan* 3, no. 2 (2021): 156–59.

³⁶ Yati Nurhayati et al., "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 1–20.

Compilation of Islamic Law (KHI), court rulings from Indonesian Religious Courts, and interpretive fatwas.³⁷ These primary texts allow analysis of Islamic doctrinal foundations and state legal articulation. Secondary sources include academic articles, ethnographic reports, socio legal studies, and comparative legal analyses on inheritance negotiation. Indonesian scholarly works and regional field research provide insights into lived inheritance practices and *adat* variation. Comparative scholarship supports conceptual grounding and theoretical transferability beyond Indonesian cases. Selecting both doctrinal texts and empirical studies enables triangulation between legal ideals and lived outcomes. A broad corpus is necessary because reform reasoning operates across textual, scholarly, judicial, and community domains. Therefore, the combined sources ensure analytical depth in tracing logic of negotiation rather than merely describing rules.³⁸

Data collection techniques rely on document analysis, jurisprudential interpretation, and interpretive reading of empirical and anthropological research. Document analysis extracts normative positions from KHI, classic *fiqh*, court rulings, and statutory debates to see how reform narratives evolve.³⁹ Jurisprudential interpretation analyzes methodologies used by scholars and judges when reconciling *adat* and Islamic norms such as *maslahah* reasoning or customary validation. Reading of ethnographic and socio legal studies provides cases illustrating negotiation and reasoning patterns within Indonesian communities.⁴⁰

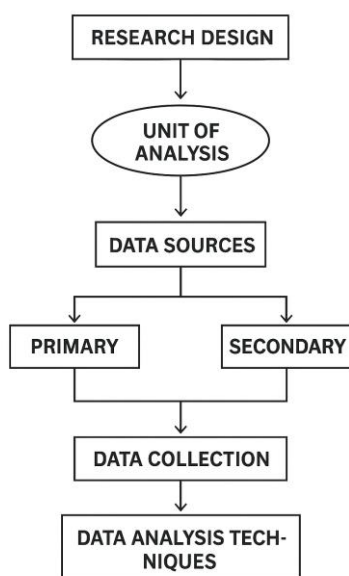
Case filters include visibility of argumentation, explicit reference to norms, and documented justification rather than anecdotal

³⁷ Daniel Lev, "The Political Dimensions of Family Law Reform," *Indonesia* 69 (2000): 1–20, <https://doi.org/10.2307/3351461>.

³⁸ Adriaan W. Bedner, "Indonesian Legal Scholarship and Jurisprudence as an Obstacle for Transplanting Legal Institutions," *The Hague Journal on the Rule of Law* 5, no. 2 (2013): 253–73, <https://doi.org/10.1017/S1876404512001145>.

³⁹ S. H. Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Unigres Press, 2023), <https://www.google.com/books?hl=en&lr=&id=Zg2mEAAAQBAJ&oi=fnd&pg=PA16&dq=metode+penelitian+empiris&ots=lfWu5V918S&sig=0vpYOEBzGN3Gc5yvrMajjDipq0>.

⁴⁰ Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," *Journal of the Economic and Social History of the Orient* 55, nos. 4–5 (2012): 771–93, <https://doi.org/10.1163/15685209-12341269>.



description. Iterative reading helps connect doctrinal categories with their lived interpretation. The approach does not involve fieldwork but treats existing research as interpretive evidence for normative reasoning models. This is consistent with normative socio legal methodology where doctrine is studied as meaning in practice. Thus, the collection strategy privileges argumentative visibility over frequency of occurrence.

Data analysis applies thematic coding, jurisprudential reasoning analysis, and normative reconstruction because the goal is

to trace how norms are justified, challenged, and hybridized. Thematic coding identifies recurring motifs such as fairness, filial duty, *adat* legitimacy, or Qur’anic compliance found in judicial reasoning and community narratives. Jurisprudential reasoning analysis evaluates which *fiqh* principles are invoked, such as *ijma*, *qiyas*, or *maslahah*, and how they are linked with *adat* rationality.

Normative reconstruction models how hybrid settlements translate plural claims into accepted outcomes so doctrinal flexibility becomes visible. Analysis progresses iteratively by matching doctrinal propositions with empirical negotiation patterns. Conceptual saturation is sought when no new argumentative themes emerge across cases and texts. Analytical memos trace reasoning shifts and highlight contest between certainty and equity claims. Findings are framed narratively to show reform emerges as argumentation rather than codification. Thus, this analysis builds explanatory models that connect doctrines, practices, and reform logic.⁴¹

⁴¹ Adriaan Bedner, “Legal Pluralism and Inheritance Disputes in Indonesia,” *Journal of Legal Pluralism* 51, no. 3 (2019): 305–29, <https://doi.org/10.1080/07329113.2019.1606512>.

RESULTS

Negotiated Inheritance Practice in Indonesia: Descriptive Patterns of Plural Norms

The findings show that inheritance settlement in Indonesia rarely follows doctrinal Islamic shares in literal form because negotiations routinely integrate *adat* expectations before formal calculation occurs. Families frequently begin by asserting kinship priorities such as land continuity or sibling equality as moral premises rather than textual prescriptions.⁴² Negotiation processes often include symbolic acceptance of Qur'anic ratios but apply redistribution mechanisms such as *hibah* or *musyawarah* compensation to reach consensus. Religious courts demonstrate similar patterns because judges cite *fiqh* shares yet structure mediation sessions to reach harmonious outcomes reflecting *adat* sensibilities.⁴³ Observations across Minangkabau, Banjar, Aceh, and Bugis communities indicate hybrid patterns where doctrinal authority is acknowledged but subordinated to social rationality.⁴⁴ Field based studies show families justify deviations from Quranic shares by invoking *maslahah* or filial duty rather than explicit legal doctrine. At textual level, KHI and judicial rulings emphasize Qur'anic shares but provide discretionary space for settlements that prioritize fairness and familial peace. Thus, descriptive evidence reveals negotiation as an everyday structure rather than exceptional circumstance. In brief, doctrinal certainty and *adat* values produce an operative pluralism embedded in practice.⁴⁵

⁴² Fauzia, "Perubahan Hukum Kewarisan Adat Dalam Sistem Hukum Kekeberatan Patrilineal."

⁴³ Akhmad Sagir et al., "Harmonizing Conflicts: Integrating Ilmu Mukhtalif Al-Hadits and Adat Badamai Approaches For Conflict Resolution in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 205–26.

⁴⁴ von Benda-Beckmann and von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," 2012.

⁴⁵ Subekti and Ucu, "Pewarisan Berdasarkan Hukum Waris Adat Terkait Sistem Kekeberatan Di Indonesia"; Ghofur, "Akulturasi Adat Dan Hukum Islam Terkait Harta Warisan Suku Minangkabau," *Empower: Jurnal Pengembangan Masyarakat Islam*, 2017, 156–78; Frisandia, "Sistem Pewarisan Menurut Hukum Waris Adat Mengenai Sistem Kekeberatan Yang Berlaku Dalam Masyarakat Adat Indonesia."

Restating these findings, Indonesian inheritance is better described as a discursive field where Islamic formulas function as reference symbols while *adat* norms drive actionable decision making. Families approach inheritance as moral distribution rather than legal enforcement, making religious norms performative but not determinative. Ethnographic material shows that people rarely calculate Islamic shares before first determining relational fairness based on lived obligations and promises. Written law serves as fallback legitimacy when negotiation fails rather than starting blueprint. Even in court, judges emphasize *musyawarah* beyond adjudication because adjudication without agreement is socially undesirable. Religious authority is often invoked narratively where clerics offer legitimating interpretation endorsing negotiated outcomes rather than rigid enforcement. Hybrid settlement instruments such as *hibah* and gift transfers function as doctrinal bridges legitimizing *adat* redistributions. These recurring practices reflect a normative hierarchy where social peace outweighs textual fidelity. Consequently, pluralism functions as pragmatic governance mechanism rather than doctrinal tension alone.⁴⁶

Table 1. Summary of Research Findings on Negotiated Islamic Inheritance Practices in Indonesia

| Dimension | Empirical Findings | Interpretation | Implication |
|------------------------------|---|---|--|
| Normative Framework | Islamic inheritance law coexists with state law and strong customary norms in kinship-based societies. | Communities recognise multiple legal authorities, not a single normative reference. | Policy needs to acknowledge plural authority rather than enforce rigid uniformity. |
| Decision Drivers | Negotiations are motivated by fairness, family harmony, and moral obligations instead of strict textual ratios. | Social legitimacy often outweighs doctrinal precision. | Reform should accommodate ethical reasoning without undermining legal certainty. |
| Negotiation Practices | Settlements frequently occur informally within family discussions | Informal authority substitutes for formal judicial processes. | Mediation-based models are more culturally acceptable than litigation. |

⁴⁶ Bedner, "Legal Pluralism and Inheritance Disputes in Indonesia," 2019.

| | | | |
|-------------------------|---|---|--|
| | guided by elders or religious figures. | | |
| Outcome Patterns | Outcomes usually satisfy relational expectations but lack transparency and procedural accountability. | Custom-driven justice is effective socially but weak institutionally. | Incorporating documentation and procedural safeguards improves equivalence between custom and law. |
| Legal Perception | Families perceive hybrid arrangements as lawful and in line with Islamic values. | Negotiation is seen as <i>ijtihad</i> , not deviation, reflecting adaptive legal consciousness. | Legal education should clarify <i>maqasid</i> principles to support adaptive but consistent interpretations. |

A more detailed description shows three observable modalities of negotiation in inheritance practice: pre settlement moral bargaining, procedural justification, and doctrinal rationalization. Pre settlement moral bargaining occurs when heirs highlight virtue, reciprocity, or service obligations to establish claims independent of textual shares. Procedural justification takes place when *adat* and Islamic principles are referenced selectively to support negotiating positions rather than guide structure. Doctrinal rationalization occurs after agreement when Qur’anic shares are narrated retroactively or through legal fictions such as *hibah* to validate outcomes. This three stage pattern is visible across judicial mediation, village custom, and informal settlements. Families use negotiation language such as fairness, family peace, and ancestral harmony as strong justificatory frames. Courts recognize these cultural arguments by adjusting judicial reasoning to integrate equity considerations. Thus, practice shows negotiation as a structured reasoning regime rather than random deviation. This descriptive insight underpins the critical and transformative sections that follow.

Drivers of Normative Hybridisation

The main critical finding is that negotiation persists because three underlying factors continuously reinforce plural outcomes: authority fragmentation, moral hierarchy, and instrumental adaptation. Authority fragmentation occurs because no single normative system commands exclusive legitimacy as *adat*, Islam, and state law coexist

without clear supremacy.⁴⁷ Moral hierarchy prioritizes social harmony as the highest value so doctrinal rigidity is perceived as disruptive rather than virtuous.⁴⁸ Instrumental adaptation refers to the way actors strategically cite norms that support their goals while minimizing norms that constrain them.⁴⁹ These factors converge to produce persistent hybrid settlements despite codification efforts. Courts often mediate instead of enforce due to social legitimacy considerations.⁵⁰ Religious elites often endorse negotiated settlements to preserve communal unity.⁵¹ Thus, negotiation is not legal failure but manifestation of plural authority structures. Critical evidence suggests reform cannot succeed through codification alone because the underlying drivers are social and epistemic rather than textual.⁵²

Restating this argument, inheritance negotiation remains durable because power over norm interpretation is distributed and competing moral frameworks justify deviation from fixed ratios. Judges are constrained by community expectations so they prefer consensus building over strict adjudication.⁵³ Families perceive kinship stability

⁴⁷ Irianto, "Inheritance, Legal Pluralism and Gender Justice: A Courtroom Study"; von Benda-Beckmann and von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," 2012.

⁴⁸ R. R. D. Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia," *Ahkam: Jurnal Ilmu Syariah* 23, no. 2 (2023): 245–68.

⁴⁹ M. Huda, "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes among Javanese Muslims," *Al-Istinbath: Jurnal Hukum Islam*, 2024, <https://journal.iaincurup.ac.id/index.php/alistinbath/article/view/9887>.

⁵⁰ Stijn van Huis, "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia," *Law & Society Review*, 2017, <https://scholarhub.ui.ac.id/ijsls/vol4/iss1/4/>.

⁵¹ K. Hasballah, "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on Inheritance," *Ahkam: Jurnal Ilmu Syariah*, 2021, <https://journal2.uinjkt.ac.id/index.php/ahkam/article/viewFile/22792/9587>.

⁵² Judiasih et al., "Pergeseran Norma Hukum Waris Pada Masyarakat Adat Patrilineal."

⁵³ N. Nasution et al., "The Significance of Mahr in Protecting Women's Rights in Muslim Marriage," *Indonesian Journal of Islamic Family Law* 10, no. 2 (2020): 121–39, <https://doi.org/10.22373/ijif.v10i2.7229>; H. Nasution and A. R. Muchtar, "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024, https://www.researchgate.net/publication/381397089_Negotiating_Islamic_Law_Th

as more binding than legal compulsion so they prioritize harmony over doctrinal strictness. Islamic doctrine is interpreted elastically through *maslahah* reasoning to reconcile *adat* insights.⁵⁴ Community leaders and clerics legitimize negotiated outcomes through religious narrative rather than fiqh methodology. State law inadvertently reinforces pluralism by providing procedural space for informal settlement before final ruling. Socio-economic motives such as land consolidation also push communities to design inheritance outcomes beyond doctrinal templates. These factor interactions demonstrate negotiation as systemically embedded rather than discretionary practice. Therefore, factor analysis challenges reform models built on doctrinal enforcement alone.

Table 2. Factors Influencing Hybrid Inheritance Resolutions

| Factor Category | Specific Elements Identified |
|------------------------|--|
| Religious Norms | Qur’anic shares, fiqh-based obligations, clerical advice |
| Customary Values | Kinship hierarchy, land attachment, elder authority |
| Socio-economic Context | Wealth type, dependency relations, gender roles |
| Institutional Context | Limited access to courts, distrust in efficiency, informal dispute norms |
| Moral Reasoning | Harmony preservation, filial piety, perceived justice |

The critical analysis indicates that negotiation can be productive for justice yet counterproductive for equality depending on relational power and narrative control. Pluralism enhances autonomy when weaker heirs use moral arguments to contest rigid patriarchal distributions. However, in male dominated communities, pluralism legitimizes exclusion because moral hierarchy favors lineage continuity over gender equity. Institutional ambiguity enables elites to control justification authority by interpreting Islamic norms selectively. Thus, pluralism does not inherently democratize law but amplifies existing social hierarchies unless counterbalanced by interpretive accountability. Courts mitigate inequality when judges articulate fairness rationales that limit strategic manipulation. Yet judicial

e_Practice_of_Inheritance_Distribution_in_Polygamous_Marriages_in_Indonesian_Islamic_Courts.

⁵⁴ T. Tarmizi, “Upholding Women’s Rights and the Objectives of Islamic Law in Inheritance Practice: Empirical Observations from Indonesian Courts,” *Syariah: Jurnal Hukum Islam*, 2024, <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/29477>.

reasoning remains inconsistent due to lack of doctrinal framework integrating *adat* considerations. Factor analysis reveals reform urgency lies in building interpretive architecture not textual regulation. Therefore, policy must shift towards normative reasoning education rather than structural enforcement alone.

Table 3. Proposed Transformative Framework for Accountable Pluralism

| Component | Purpose |
|---|--|
| Structured Mediation | Maintains cultural negotiation but with neutral facilitation |
| Documented Agreements | Enhances transparency and enforceability |
| Judicial Guidelines for Custom-Based Settlements | Ensures doctrinal consistency |
| Ethical Education (Maqasid Awareness) | Strengthens value-based fairness |
| Community-based Legal Literacy | Enhances informed decision-making |

The implication of these results is a three dimensional reform model: epistemic conversion, interpretive guidance, and institutional accountability. Epistemic conversion recognizes negotiation as principled reasoning space so actors must justify claims beyond moral rhetoric. Interpretive guidance provides doctrinal pathways for reconciling *adat* equity with Islamic principles like *maslahah* and *darurah*. Institutional accountability ensures judges articulate justifications publicly so reasoning becomes precedent building.

This model operationalizes pluralism within Islamic legal theory rather than outside it, enabling doctrinal reform grounded in lived experience. The model strengthens equity while retaining Islamic legitimacy by embedding *maqasid* into community reasoning. Applying this model offers novel direction for inheritance jurisprudence where normative debates become structured rather than rhetorical. Thus, pluralism is transformed into mechanism for doctrinal renewal rather than source of inconsistency. Accordingly, this study contributes a reform architecture based on integrated socio legal epistemics.

DISCUSSION

The results show that Islamic inheritance norms in Indonesia do not operate in isolation but are continuously negotiated with customary patterns rooted in kinship, lineage, and social reciprocity systems that differ between regions. Such negotiation indicates that the authority of Islamic law is acknowledged but

mediated through living practices that reflect community identities. The influence of Minangkabau matrilineal traditions illustrates how heirs may prioritize customary heirs over Qur'anic shares, demonstrating selective legal application. Meanwhile, Aceh society integrates fiqh inheritance principles with adat authority under mukim institutions, illustrating procedural pluralism instead of doctrinal substitution. Banjar inheritance shows a similar synthesis where custom complements, rather than contradicts, faraid logic, especially through practices such as musyawarah division. The modern court system accommodates this plurality through judicial discretion that reinterprets KHI provisions to achieve equitable justice in disputes involving communal property. These findings confirm that Islamic inheritance does not collapse under custom but transforms through pragmatic mediation that sustains system legitimacy. The research thus argues that legal pluralism is not dysfunction but a stabilizing mechanism that translates universal norms into contextual justice. Hence, the synthesis of religious and local reasoning is the main conceptual feature identified in Indonesian inheritance practice.

These findings reflect broader Indonesian socio-historical realities where religious norms and customary systems co-developed rather than displaced one another. The persistence of *adat* as a legal authority stems from colonial recognition policies that institutionalized dual systems, shaping contemporary expectations of plural practice. This combination is further reinforced by Islamic reformist movements that emphasize *maqasid*-based reasoning, allowing iterative adaptation to local needs. Indonesian courts have therefore implicitly accepted that normative rigidity cannot address cultural complexity, which explains why judicial interpretation often indicates a distributive equity orientation. The role of negotiation in inheritance is consistent with Indonesia's multicultural political structure that legitimizes local autonomy under national law. These socio-political dynamics make plural legal outcomes not anomalies but predictable outcomes of embedded legal culture. The interaction between Islamic law and *adat* also reflects community pressure for dispute resolution mechanisms that preserve family harmony rather than strict textual compliance. Therefore, negotiation appears as a culturally endorsed legal function that protects social cohesion. In essence, the study's findings show that the inheritance system functions as a mirror of Indonesia's plural constitutional identity.

The findings align with hybrid modernity theory, which argues that religious norms evolve through selective appropriation of modern legal rationalities without eroding traditional epistemologies. This hybridity explains why Islamic inheritance is not merely applied but reconstructed through living law frameworks that reflect community norms as binding authority. Legal pluralism theory predicts that normative competition results in negotiated settlement rather than normative collapse, consistent with Indonesian inheritance patterns. The concept of living *fiqh* supports this by explaining that *fiqh* adapts through collective practice informed by *maslahah* calculations rather than textual literalism. *Maqasid* theory provides further interpretive mechanism where distributive fairness in inheritance is prioritized over strict calculation when socio-cultural needs justify modification. Postcolonial legal theory clarifies how Indonesian jurisprudence integrates state and local authority to create practical legal hybridity's, visible in KHI judicial reasoning. Pragmatic reform theory explains that judges act as cultural brokers translating religious logic into equitable judgments. All concepts converge to show that inheritance law is less doctrinal enforcement and more institutional negotiation. Thus, theory helps explain Indonesia's plural system as adaptive rather than contradictory.

Understanding inheritance practice in Indonesia requires accepting that law operates as culture rather than formal command. The community does not separate legal reasoning from social ethics, thus inheritance becomes a moral distribution system before a legal calculation. The insight generated here is that Islamic law's authority increases, not diminishes, when mediated through local legitimacy. Rather than seeing custom as distortion, this study shows custom is a functional hermeneutics that enables Islamic norms to endure. As such, reform arguments must acknowledge that plurality sustains normative vitality, not threatens orthodoxy. The mediation practice provides a model for modern Islamic reform showing adaptation is compatible with fidelity to religious identity. The study also clarifies that plural adjudication requires recognizing cultural literacy as legal skill. Courts succeed not by eliminating custom but by harmonizing it with positive law standards. Thus, scientific understanding here shifts from contradiction narratives toward synergy narratives.

Earlier scholarship often frames Islamic and customary inheritance as conflictual systems where one must displace the other.

Some studies reduce *adat* to mere deviation rather than interpretive supplement, resulting in deficit readings of plural practice. Other works regard KHI reforms as insufficient because they do not eliminate customary bargaining in inheritance division. This research departs from those conclusions by showing that negotiation is intentional and culturally mandated, not accidental. Previous studies rarely analyze judicial reasoning as cultural mediation, whereas this study identifies courts as key institutional translators. Earlier works treat Islamic inheritance as static doctrine, while this study sees it as dynamically interpreted through living law. Comparative literature on Aceh focuses on institutional revival but often misses the role of communal adjudicators in adaptation. This research also contributes by showing plurality as resilience mechanism rather than doctrinal threat. Hence, it shifts academic debate toward plural equilibrium perspectives.

The findings imply theoretical adjustment where Islamic law scholarship must treat custom not as rival but epistemic partner. Practically, judges should be trained in cultural jurisprudence to better navigate plural expectations in inheritance disputes. The study recommends integrating *adat* literacy into judicial education so courts serve as cultural mediators. Policy-wise, legal reform must incorporate plural sensitivity rather than seek uniform replacement models. Socially, understanding plurality supports social harmony, reducing conflict potential in inheritance divisions. Theoretically, this research strengthens hybrid modernity arguments that modern legal ordering emerges through negotiated fusion. Methodologically, it proves normative studies can produce socio-legal insights when dialogued with lived practice. Thus, implications extend across doctrinal, judicial, and cultural spaces. Reform therefore must deepen plural reasoning rather than suppress it.

Conclusion

This research concludes that Islamic inheritance norms and Indonesian customary law operate through adaptive negotiation rather than competitive displacement. This synthesis ensures community legitimacy and doctrinal relevance through plural stability mechanisms. The scholarly contribution lies in reframing inheritance pluralism as constructive resilience rather than deviation. It also demonstrates that judicial institutions work as interpretive translators between state law and cultural obligation. The findings offer empirical evidence

supporting living law theory in Islamic contexts. The research also refines hybrid modernity theory through Indonesian inheritance realities. Thus, it advances academic debate by positioning normative plurality as an Islamic reform pathway. The study contributes regional knowledge by mapping plural inheritance systems in Aceh, Banjar, and Minangkabau societies. Finally, it provides a theoretical and descriptive foundation for future plural law research in Indonesia.

Theoretically, the research shows legal pluralism in Islamic inheritance is not transitional but structural, shaping long-term patterns of legal reasoning. It deepens living *fiqh* discourse by illustrating how *maslahah* adaptation functions through local customs. The study strengthens postcolonial legal theory by demonstrating how Indonesia builds hybrid jurisprudence. Methodologically, it confirms normative studies can produce socio-legal interpretation when supported by doctrinal and anthropological literature. It validates hybridity theory as an explanatory lens for interpreting negotiation outcomes. The research also demonstrates that doctrinal analysis benefits from local case studies rather than abstract deduction. The study reflects that Islamic law is a productive analytical field for plural legal studies. Finally, it shows that legal reform cannot be designed without understanding cultural jurisprudence. Thus, the study advances both theory and method in Islamic law scholarship.

Practically, policy makers must recognize that improving inheritance governance requires improving negotiation literacy rather than suppressing custom. Reform initiatives should integrate *adat* consultation protocols into inheritance adjudication. Religious authorities should teach distributive ethics alongside *faraid* calculation to reduce conflict and improve fairness. The study suggests judicial training on plural cultural jurisprudence. Future research should empirically map inheritance decision making within family settings to complement normative literature. Comparative research between Indonesian, Malaysian, and Bruneian systems would clarify regional Islamic pluralism patterns. Further doctrinal inquiry could assess whether *maqasid* reasoning can be formally codified into KHI amendments. Multi-disciplinary collaboration between anthropology and *usul fiqh* scholars is also needed for deeper model development. Thus, this study lays the foundation for broader inquiry on Islamic plural reform in Southeast Asia.

Reference

- Alaydarani, Sylvia, and Ayu Putri Kistiawandira. "Hak Perempuan Dalam Sistem Pewarisan Ditinjau Dari Perspektif Hukum Adat Bali." *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 5 (2023): 72–78.
- Alexander, Alexander. "Alternative Dispute Resolution Dalam Mediasi Sengketa Hukum Adat Di Papua." *Jurnal Syntax Transformation* 2, no. 09 (2021): 1215–24.
- Alhkarni, Awis, and Novia Yuriska. "Minangkabau Customary Marriage Traditions: Integration of Custom and Sharia Principles in the Perspective of Islamic Law." *USRATY: Journal of Islamic Family Law* 2, no. 2 (2024): 124–33.
- Anggraeni, R. R. D. "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia." *Ahkam: Jurnal Ilmu Syariah* 23, no. 2 (2023): 245–68.
- Arif, M. Syaikhul. "Mengenal Sistem Hukum Waris Adat." *Siyasah: Jurnal Hukum Tata Negara* 5, no. 1 (2022). <http://ejournal.anadwah.ac.id/index.php/Siyasah/article/view/420>.
- Assaad, A.Sukmawati, Baso Hasyim, and Yusmita Yusmita. "National Inheritance Law: Looking at the Weaknesses and Challenges of Its Implementation in Indonesia." *AJIS: Academic Journal of Islamic Studies* 7, no. 1 (2022): 57. <https://doi.org/10.29240/ajis.v7i1.4526>.
- Bedner, Adriaan. "Legal Pluralism and Inheritance Disputes in Indonesia." *Journal of Legal Pluralism* 51, no. 3 (2019): 305–29. <https://doi.org/10.1080/07329113.2019.1606512>.
- Bedner, Adriaan. "Legal Pluralism and Inheritance Disputes in Indonesia." *Journal of Legal Pluralism* 51, no. 3 (2019): 305–29. <https://doi.org/10.1080/07329113.2019.1606512>.
- Bedner, Adriaan W. "Indonesian Legal Scholarship and Jurisprudence as an Obstacle for Transplanting Legal Institutions." *The Hague Journal on the Rule of Law* 5, no. 2 (2013): 253–73. <https://doi.org/10.1017/S1876404512001145>.
- Benda-Beckmann, Franz von, and Keebet von Benda-Beckmann. "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra." *Journal of the Economic and Social History of the Orient* 55, nos. 4–5 (2012): 771–93. <https://doi.org/10.1163/15685209-12341269>.

- Benda-Beckmann, Franz von, and Keebet von Benda-Beckmann. "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra." *Journal of the Economic and Social History of the Orient* 55, nos. 4–5 (2012): 771–93. <https://doi.org/10.1163/15685209-12341269>.
- Bowen, John R. "Contesting Islamic Jurisdiction and Customary Practices." *Comparative Studies in Society and History* 45, no. 4 (2003): 603–33. <https://doi.org/10.1017/S0010417503000281>.
- Bowen, John R. *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge University Press, 2003.
- Dede, Irman Pirdaus, and As Nurnisaa. "Inheritance Rights of Children Born Out of Wedlock in the Perspective of Islamic Law." *International Journal of Humanities, Law, and Politics*, ahead of print, 2024. <https://doi.org/10.46336/ijhlp.v2i4.158>.
- Fauzi, Muhammad Yusuf. "Legislasi Hukum Kewarisan Di Indonesia: Menempatkan Codification, Adat, Dan Hukum Islam Dalam Perspektif Pluralisme." *Ijtimaiyya: Jurnal Ilmu Sosial Dan Keislaman*, 2016. <https://ejournal.radenintan.ac.id/index.php/ijtimaiyya/article/view/949>.
- Fauzia, Laily Farah. "Perubahan Hukum Kewarisan Adat Dalam Sistem Hukum Kekerabatan Patrilineal." *SYARIAH: Jurnal Ilmu Hukum* 1, no. 2 (2024): 252–60.
- Firmansyah, Muhammad, and Masrun Masrun. "Esensi Perbedaan Metode Kualitatif Dan Kuantitatif." *Elastisitas: Jurnal Ekonomi Pembangunan* 3, no. 2 (2021): 156–59.
- Frisandia, Micselin Sifa. "Sistem Pewarisan Menurut Hukum Waris Adat Mengenai Sistem Kekerabatan Yang Berlaku Dalam Masyarakat Adat Indonesia." *Synergy: Jurnal Ilmiah Multidisiplin* 1, no. 04 (2024): 238–46.
- Ghofur. "Akulturasi Adat Dan Hukum Islam Terkait Harta Warisan Suku Minangkabau." *Empower: Jurnal Pengembangan Masyarakat Islam*, 2017, 156–78.
- Hafidzi, Anwar. "Determination Of Sekufu In The Kitabun Nikah Al-Banjari." *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 125–33.

- Hafidzi, Anwar. *Metode Penelitian Hukum Normatif Dan Empiris: Teori Dan Praktik*. Alifba Media, 2024. https://scholar.google.com/citations?view_op=view_citation&hl=id&user=ikbMoCQAAAAAJ&sortBy=pubdate&citation_for_view=ikbMoCQAAAAAJ:VLnqNzywnoUC.
- Hamayotsu, Kikue. "The Political Origins of Islamic Courts in Divided Societies." *Comparative Studies in Society and History*, 2018. <https://www.jstor.org/stable/26855662>.
- Harnides, Harnides, Syahrizal Abbas, and Khairuddin Hasballah. "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 1293–316.
- Hasballah, K. "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on Inheritance." *Ahkam: Jurnal Ilmu Syariah*, 2021. <https://journal2.uinjkt.ac.id/index.php/ahkam/article/viewFile/22792/9587>.
- Hayati, Fauziah, Nadiyah Seff, and Anwar Hafidzi. "Reconstructing Islamic Jurisprudence in Local Marriage Practices: A Legal-Ethnographic Study of Jujuran in Banjar Society." *El-Qist: Journal of Islamic Economics and Business (JIEB)* 15, no. 1 (2025): 14–31.
- Hooker, M. Barry. *Legal Anthropology: Living Law Perspective*. Routledge, 2008.
- Hooker, M. Barry. "Living Law Theory in Indonesian Family Courts." *Asian Journal of Law and Society* 2, no. 3 (2015): 355–82. <https://doi.org/10.1017/als.2015.14>.
- Huda, M. "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes among Javanese Muslims." *Al-Istinbath: Jurnal Hukum Islam*, 2024. <https://journal.iaincurup.ac.id/index.php/alistinbath/article/view/9887>.
- Huis, Stijn van. "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia." *Law & Society Review*, 2017. <https://scholarhub.ui.ac.id/ijsls/vol4/iss1/4/>.
- Huis, Stijn van. "Bargaining in the Shadow of Pluralism: Islamic Courts and Settlement Practices in Indonesia." *Law & Society Review*, 2017. <https://scholarhub.ui.ac.id/ijsls/vol4/iss1/4/>.
- Irianto, Sulistyowati. "Inheritance, Legal Pluralism and Gender Justice: A Courtroom Study." *Journal of Legal Pluralism and Unofficial*

- Law, Taylor & Francis, 2024.
<https://www.tandfonline.com/doi/full/10.1080/27706869.2024.2379738>.
- Judiasih, Sonny D., Afifah Syakira, Natalia Karelina, Noer A. Januariska, Purri Trirani, and Zeira Nabilla. "Pergeseran Norma Hukum Waris Pada Masyarakat Adat Patrilineal." *RechtIdee* 16, no. 1 (2021): 65–87.
- Kurnia, Iftitah, and Maisya Yusti Santosa. "Pluralisme Hukum Waris Di Indonesia: Pengaruh Sistem Kekebabatan Masyarakat Adat Terhadap Corak Hukum Waris Adat Di Indonesia." *SYARIAH: Jurnal Ilmu Hukum* 1, no. 2 (2024): 234–42.
- Lev, Daniel. "The Political Dimensions of Family Law Reform." *Indonesia* 69 (2000): 1–20. <https://doi.org/10.2307/3351461>.
- Lev, Daniel. "The Political Dimensions of Family Law Reform." *Indonesia* 69 (2000): 1–20. <https://doi.org/10.2307/3351461>.
- Makhrup, Abdul Gani. "Dispute over Sasak Customary Inheritance Rights and the Evolution of Granting Inheritance Rights to Girls." *JILPR Journal Indonesia Law and Policy Review* 5, no. 2 (2024): 442–49. <https://doi.org/10.56371/jirpl.v5i2.225>.
- Moechtar, Oemar, Baren Valentino, and Denita Cahyanti Wahono. "Kajian Komparatif Lembaga Penolakan Waris Dalam Perspektif Hukum Waris Adat Dan Islam." *Jurnal Cakrawala Hukum* 11, no. 3 (2020): 291–301.
- Nasution, H., and A. R. Muchtar. "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts." *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024. https://www.researchgate.net/publication/381397089_Negotiating_Islamic_Law_The_Practice_of_Inheritance_Distribution_in_Polygamous_Marriages_in_Indonesian_Islamic_Courts.
- Nasution, N., M. Syafrudin, and F. Idris. "The Significance of Mahr in Protecting Women's Rights in Muslim Marriage." *Indonesian Journal of Islamic Family Law* 10, no. 2 (2020): 121–39. <https://doi.org/10.22373/ijif.v10i2.7229>.
- Navydien, Miliarni Deida, and Khesya Khusnul Fadhilah Utomo. "Kedudukan Hak Waris Wanita Dalam Hukum Adat Bali." *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 5 (2023): 90–98.

- Nurhayati, Yati, Ifrani Ifrani, and M. Yasir Said. "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum." *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 1–20.
- Peletz, Michael G. "Hegemonic Muslim Masculinities and Their Others: Perspectives from South and Southeast Asia." *Comparative Studies in Society and History* 63, no. 3 (2021): 534–65.
- Peletz, Michael G. "Islamic Courts, Gender, and the 'Conservative Turn' in Muslim Southeast Asia." In *Routledge Handbook of Islam in Southeast Asia*. Routledge, 2022. <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429275449-21/islamic-courts-gender-conservative-turn-muslim-southeast-asia-michael-peletz>.
- Peletz, Michael G. *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary*. Univ of California Press, 2020.
- Sagir, Akhmad, Hanief Monady, Muhammad Hasan, Latifah Abdul Majid, and Muhammad Zainal Abidin. "Harmonizing Conflicts: Integrating Ilmu Mukhtalif Al-Hadits and Adat Badamai Approaches For Conflict Resolution in Indonesia." *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 205–26.
- Subekti, Subekti, and Suyono Yoyok Uruk. "Pewarisan Berdasarkan Hukum Waris Adat Terkait Sistem Kekerabatan Di Indonesia." *Jurnal Aktual Justice* 5, no. 1 (2020): 56–70.
- Suyanto, S. H. *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan*. Unigres Press, 2023. <https://www.google.com/books?hl=en&lr=&id=Zg2mEAAAQBAJ&oi=fnd&pg=PA16&dq=metode+penelitian+empiris&ots=lfWu5V918S&sig=0vpYOEBzGN3Gc5yvrMajjDIpq0>.
- Tarmizi, T. "Upholding Women's Rights and the Objectives of Islamic Law in Inheritance Practice: Empirical Observations from Indonesian Courts." *Syariah: Jurnal Hukum Islam*, 2024. <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/29477>.
- Yanti, Illy, Yuliatin Yuliatin, Siti Mahmudah, Mahluddin Mahluddin, and Yuniar Galuh Larasati. "Negotiating Shari'ah and Customary Law: Legal Pluralism in Familial Relationships among the Suku Anak Dalam in Jambi." *Journal of Islamic Law*

Ibnu Imam Al Ayyubi, Syed Muhammad Adib Termizi b Ahmad al-Jafari, Halyna Tatarenko, Arie Sulistyoko. *Negotiating Islamic Inheritance Norms and Customary Traditions in Indonesia: A Normative Study of Legal Pluralism and Reform*

6, no. 2 (2025): 177–205.
<https://doi.org/10.24260/jil.v6i2.3311>.