



A Comparative Analysis of Islamic Inheritance Practices in Malaysia and Indonesia: Legal Frameworks, Judicial Interpretation, and Community Impact

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Abstract

Islamic inheritance practices in Malaysia and Indonesia continue to attract scholarly attention due to ongoing controversies surrounding judicial consistency, procedural delays, and the influence of local customs on the distribution of estates. Recent shifts in legal interpretation, together with growing public concerns about fairness and access to justice, have intensified the need to understand how Islamic inheritance norms operate within plural legal environments. Although previous studies have examined doctrinal foundations or individual statutory frameworks, there remains a gap in understanding how legal texts, judicial reasoning, and community-level outcomes interact across the two jurisdictions. This research aims to address that gap by comparing the legal frameworks, interpretive patterns, and social implications of inheritance practices in Malaysia and Indonesia. A socio-legal comparative method is used to analyse statutory documents, selected judicial decisions, and qualitative insights from practitioners and community members. The findings show that Malaysia's centralised Syariah court system produces more consistent procedural outcomes, while Indonesia's pluralistic legal setting results in greater interpretive variation shaped by custom and local norms. The study concludes that aligning doctrinal principles with institutional reforms and community engagement is essential for improving equity and legal certainty. It recommends strengthening judicial capacity, enhancing legal literacy, and integrating culturally responsive mechanisms into inheritance administration.

Keywords: Islamic inheritance, Malaysia, Indonesia, legal pluralism, judicial interpretation

Abstrak

Praktik kewarisan Islam di Malaysia dan Indonesia terus menarik perhatian akademis karena adanya kontroversi yang berkelanjutan terkait konsistensi putusan, keterlambatan prosedural, dan pengaruh adat lokal dalam pembagian harta waris. Perubahan dalam pola penafsiran hukum, disertai meningkatnya kekhawatiran publik mengenai keadilan dan akses terhadap peradilan, semakin menegaskan pentingnya

memahami bagaimana norma kewarisan Islam beroperasi di dalam lingkungan hukum yang plural. Meskipun sejumlah penelitian terdahulu telah membahas fondasi doktrinal atau kerangka perundang-undangan tertentu, masih terdapat kesenjangan dalam memahami bagaimana teks hukum, pola penalaran hakim, dan dampak sosial di tingkat komunitas berinteraksi di kedua yurisdiksi tersebut. Penelitian ini bertujuan mengisi kesenjangan tersebut dengan membandingkan kerangka hukum, pola interpretasi hakim, dan implikasi sosial dari praktik kewarisan di Malaysia dan Indonesia. Metode komparatif socio-legal digunakan untuk menganalisis dokumen perundang-undangan, putusan pengadilan terpilih, dan wawasan kualitatif dari praktisi serta anggota masyarakat. Temuan menunjukkan bahwa sistem peradilan Syariah Malaysia yang lebih terpusat menghasilkan pola prosedural yang lebih konsisten, sementara lingkungan hukum Indonesia yang plural cenderung menghasilkan variasi interpretatif yang dipengaruhi adat dan norma lokal. Penelitian ini menyimpulkan bahwa penyelarasan prinsip doktrinal dengan reformasi institusional serta keterlibatan masyarakat sangat penting untuk meningkatkan keadilan dan kepastian hukum. Rekomendasi penelitian menekankan penguatan kapasitas kehakiman, peningkatan literasi hukum, dan integrasi mekanisme yang sensitif secara budaya dalam administrasi kewarisan.

Kata kunci: kewarisan Islam, Malaysia, Indonesia, pluralisme hukum, interpretasi yudisial

Introduction

Islamic inheritance practices continue to present significant legal and social challenges in Muslim-majority countries, especially where legal pluralism is entrenched. Islamic law (*fiqh al-mawarith*) governs the distribution of property among heirs based on Qur'anic injunctions and prophetic traditions, yet its application varies across jurisdictions and institutional contexts.¹ In Malaysia and Indonesia, the interplay between Islamic inheritance law and broader national legal systems shapes how inheritance rights are administered, interpreted, and experienced by Muslim communities.² These differences extend beyond textual law to include judicial interpretation and community outcomes, leading to disparities in practice that raise questions about legal coherence and social justice.³

¹ M. A. Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia," *Journal of Shariah Law Research* 6, no. 2 (2021): 181–200.

² A. Firmansyah and Debri, "Comparison of Inheritance Rights for Muslim Heirs in Indonesia and Malaysia," *Estudiante Law Journal* 6, no. 3 (2024): 681–92, <https://doi.org/10.33756/eslaj.v6i3.29303>.

³ Ayling Sanjaya et al., "Early Marriage and Its Relationship with Child Development," *Indian Journal of Public Health Research and Development* 9, no. 9 (2018): 193–97.

The urgency of addressing contemporary inheritance practices lies in their concrete effects on family welfare, gender equity, and legal certainty within Muslim communities. In both Malaysia and Indonesia, gaps in legal knowledge among beneficiaries have been linked to delayed inheritance distribution, disputes, and administrative confusion, which in turn affect economic stability and social cohesion.⁴ Moreover, the dualistic legal framework in Malaysia often results in jurisdictional conflicts between civil and Syariah courts, posing barriers to equitable access to justice.⁵ In Indonesia, legal pluralism that accommodates Islamic law, customary law, and civil law contributes to uneven inheritance outcomes and challenges in harmonising norms.⁶

Existing global scholarship on Islamic inheritance law maps a diverse body of research that examines theological principles, legal codification, and socio-economic implications. Foundations in *maqasid al-shari'ah* and *faraid* logic demonstrate the normative structure of Islamic inheritance, but empirical comparative research that situates Malaysia and Indonesia within this broader discourse remains limited.⁷ While theoretical analyses of Islamic inheritance mechanisms are well-represented, few studies systematically compare judicial application and community impact across Southeast Asian jurisdictions in an

⁴ Mochammad Luthfan Adilin and Kafani Safrul Mufarid Kafani Safrul Mufarid, "Konsep Adil Dalam Perspektif Hukum Waris Islam," *Justicia Journal* 10, no. 2 (2021): 127–38.

⁵ Sanjaya et al., "Early Marriage and Its Relationship with Child Development"; Arifah Millati Agustina, "Gender Construction in The Perspective of Living Fiqh in Indonesia," *Justicia Islamica: Jurnal Kajian Hukum Dan Sosial* 18, no. 2 (2021): 189–210.

⁶ Alaa Alkhateeb and Alwy Ahmed Mohamed, *Legal Pluralism in Muslim-Majority Asia: Sharia, Customary Law, and Sustainable Development Goals*, 2024, https://www.researchgate.net/profile/Alwy-Mohamed/publication/396440595_MRSDGs_Maktabah_Reviews_on_Sustainable_Development_Goals_Legal_Pluralism_in_Muslim-Majority_Asia_Sharia_Customary_Law_and_Sustainable_Development_Goals/links/68eb817102d6215259bb202f/MRSDGs-Maktabah-Reviews-on-Sustainable-Development-Goals-Legal-Pluralism-in-Muslim-Majority-Asia-Sharia-Customary-Law-and-Sustainable-Development-Goals.pdf.

⁷ Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia"; 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>.

empirical manner. This gap underscores the need for research that bridges jurisprudential theory with socio-legal practice.

Within national literatures, scholarship on inheritance practices in Indonesia heavily emphasises pluralism and legal diversity, highlighting how the Compilation of Islamic Law (KHI) intersects with customary norms to shape inheritance outcomes.⁸ In contrast, Malaysian studies foreground the dualistic legal system where Syariah courts exclusively handle Islamic inheritance matters while civil courts retain procedural roles, leading to distinctive judicial dynamics (Sanjaya, 2024). These contextual literatures provide rich insights into each country's legal architecture, yet they stop short of fully integrating comparative perspectives on judicial interpretation and community effects.

This study is guided by the problem of identifying how Islamic inheritance law is implemented differently in Malaysia and Indonesia, and what consequences these differences generate for heirs and legal institutions. Specifically, this research asks: How do legal frameworks in Malaysia and Indonesia shape Islamic inheritance practices? What role do judicial interpretations play in resolving inheritance disputes? And how do these practices affect Muslim communities in each context? These questions seek to clarify not only structural distinctions but also lived experiences of inheritance governance.

The theoretical relevance of this research draws on socio-legal frameworks that consider law as both normative text and lived institution. Islamic law's normative content on inheritance is rooted in Qur'anic doctrines and classical jurisprudence, yet its translation into positive law within national jurisdictions requires analysis of statutory codification, judicial discretion, and socio-cultural adaptation.⁹ This study situates Islamic inheritance within a broader understanding of legal pluralism and Islamic/positive law interaction, recognising that jurisprudence and statutory law co-produce legal meaning in context.

The primary objectives of this research are to systematically compare the legal frameworks governing Islamic inheritance in

⁸ Deden Hidayat et al., "Ahli Waris Pengganti Dalam KHI Ditinjau Dari Perspektif Gender," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 3, no. 1 (2023): 1–11.

⁹ Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia"; Nurhastuty Wardhany and Shaista Arshad, "The Role of Shariah Board in Islamic Banks: A Case Study of Malaysia, Indonesia and Brunei Darussalam," *2nd ISRA Colloquium*, 2012.

Malaysia and Indonesia, analyse judicial interpretations of inheritance cases, and assess community impacts of these practices on heirs' rights and social outcomes. Through this comparative lens, the study aims to uncover patterns of convergence and divergence and to articulate implications for theory, policy, and community welfare. By integrating doctrinal analysis and contextual interpretation, these objectives will contribute holistic insights into inherited legal practices.

Finally, this research contributes to academic and practical understanding by demonstrating that differences in legal frameworks and judicial interpretation have measurable consequences for community experiences of inheritance distribution and dispute resolution. It argues that legal pluralism in both Malaysia and Indonesia, while reflective of cultural and institutional diversity, also generates inequities that impact legal access and social equity. An empirically grounded comparative analysis offers new perspectives for policymakers and legal practitioners seeking to refine inheritance governance in Muslim societies.

Literature Review

Academic research on Islamic inheritance law has evolved significantly over recent years, reflecting interdisciplinary engagement from legal studies, socio-legal research, and comparative jurisprudence across Muslim-majority contexts. Early foundational work has documented the doctrinal bases of faraid in classical jurisprudence alongside their formal codification within national legal frameworks, but contemporary literature increasingly foregrounds empirical and comparative angles that analyse the lived application of these norms in plural legal systems.¹⁰ Across Indonesia and Malaysia, scholarship has examined the procedural workings of inheritance law in religious courts, community adaptations to plural legal environments, and tensions between textual norms and socio-economic realities. Research has also explored intersectional dimensions of law and practice,

¹⁰ Firmansyah and Debri, "Comparison of Inheritance Rights for Muslim Heirs in Indonesia and Malaysia"; Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia."

particularly in relation to gender, customary norms, and access to justice.¹¹

Recent studies increasingly emphasise the interconnectedness of legal structures, judicial interpretation, and the behaviours of heirs, highlighting a shift from purely doctrinal analyses to integrative socio-legal inquiry that situates inheritance practices within broader community outcomes. This trend suggests that scholarly attention is gradually moving from static legal descriptions toward dynamic assessments of how Islamic inheritance law operates in context, yet systematic comparative work on judicial interpretation and community impact remains underdeveloped.

A first trend in the literature addresses factors that shape legal outcomes in Islamic inheritance practice, focusing on institutional structures, legal pluralism, and socio-cultural influences. Scholars have documented how the coexistence of civil, customary, and Islamic legal orders in Indonesia creates complex factor dynamics that influence inheritance outcomes, with customary practices and civil law often undermining or reshaping formal Islamic norms in local practice. Research from Malaysia highlights dualistic jurisdictional frameworks in which Syariah courts hold exclusive authority over Islamic inheritance adjudication for Muslims, while civil courts manage procedural aspects such as probate, producing unique factor interactions that affect legal certainty.

These structural factors intersect with broader socio-economic drivers, including limited legal literacy among heirs, lack of procedural transparency, and differential gender impacts resulting from the application of *faraid* shares, which have been shown to hinder equitable access to justice. Moreover, the influence of customary norms in both countries can shape outcomes in ways that depart from canonical prescriptions, particularly when community leaders mediate inheritance outside formal courts, reflecting deeply embedded social expectations around kinship and entitlement. Empirical research also points to the role of institutional capacity and judicial training as significant determinants of how effectively inheritance laws are applied, especially where judges must navigate between textual fidelity and contextual

¹¹ Endah Amalia and Ashif Az Zafi, “Penyetaraan Gender Dalam Hal Pembagian Warisan,” *Ahkam: Jurnal Hukum Islam* 8, no. 2 (2020): 213–32.

justice imperatives.¹² These factor-oriented studies collectively indicate that inheritance practice is not solely a product of doctrinal law but emerges from an interplay of institutional, cultural, and socio-legal forces within each national context.

The second trend in the literature concerns processual aspects of inheritance governance, examining how inheritance is administered, adjudicated, and interpreted within judicial and community settings. Much of this research focuses on procedural mechanisms within religious courts and mediation frameworks that determine how disputes are resolved and how inheritance shares are calculated. Comparative studies have documented that in Malaysia, institutionalised systems such as *Majlis Sulh* (mediation councils) within Syariah courts provide structured alternatives to litigation, emphasising negotiated settlement within Islamic jurisprudential norms.¹³ In Indonesia, by contrast, court-annexed mediation is prevalent but often lacks standardised screening and procedural safeguards, which can affect the quality of dispute resolution and the enforcement of *faraid* principles.¹⁴ Normative legal research further highlights procedural inconsistencies in how religious courts apply *fiqhiyyah* rules within plural legal contexts, with some analyses showing that religious judges in Indonesia and Malaysia draw on a mix of textual, customary, and pragmatic reasoning when allocating shares or interpreting testamentary instruments. Studies of judicial reasoning also reveal that processes of legal discovery and interpretive method vary considerably, particularly in handling cases involving non-traditional heirs or cross-religious inheritances, where the use of *wasiat wajibah* or extensive interpretation becomes legally decisive.¹⁵ Research on timing, documentation, and probate procedures

¹² Sanjaya et al., “Early Marriage and Its Relationship with Child Development.”

¹³ ‘Ainan Husnaa Muhammad Saifullah and Raihanah Abdullah, “A Brief Overview on the Inquisitorial Method in Malaysian Shariah Courts,” *Journal of Shariah Law Research* 6, no. 1 (2021): 67–88.

¹⁴ Waro Satul Auliyak and Noer Azizah, “Sistem Hibah Dalam Pembagian Warisan Perspektif Kesetaraan Gender,” *EGALITA* 16, no. 1 (2021), <http://ejournal.uin-malang.ac.id/index.php/egalita/article/view/10816>; Hidayat et al., “Ahli Waris Pengganti Dalam KHI Ditinjau Dari Perspektif Gender.”

¹⁵ Mohammad Abdullah Masrur and Kinanti Lalita Rahayu, “Pengaruh Modernisasi Terhadap Praktik Waris Adat Di Era Revolusi Industri 4.0,” *Kultura: Jurnal Ilmu Sosial Dan Humaniora* 1, no. 5 (2023): 265–72; Adilin and Mufarid, “Konsep Adil Dalam Perspektif Hukum Waris Islam”; I Fahimah, “Sejarah Perkembangan Hukum Waris Di Indonesia,” *Nuansa: Jurnal Studi Islam Dan ...*, no. Query date: 2024-01-

suggests that specific processual gaps, such as unclear distribution timelines and procedural knowledge deficits among community members, can prolong inheritance disputes and obstruct efficient estate administration.¹⁶ Overall, the process trend in the literature depicts inheritance not merely as a normative distribution pattern but as a set of dynamic legal procedures shaped by institutional design and interpretive practice.

A third trend emphasises the community and societal impacts of inheritance law and practice, considering how legal norms translate into lived experiences for heirs and families. Literature in this area examines how inheritance practices influence gender equity, economic welfare, and inter-generational stability within Muslim communities. For instance, studies from Malaysia highlight persistent concerns that conventional interpretations of *faraid* can disproportionately disadvantage women, exacerbating structural inequities in property rights and access to legal recourse, particularly where dual legal systems complicate procedural access. In Indonesia, research has documented that strong adherence to customary inheritance practices, especially in rural contexts, can marginalise formal legal norms and produce equitable concerns where traditional expectations conflict with canonical shares, affecting the social legitimacy of inheritance decisions.¹⁷

Building on this critical assessment, the present research adopts a comparative, empirical, and socio-legal approach that integrates factor, process, and impact perspectives across Malaysia and Indonesia. It aims to fill the gap in systematic comparative inquiry by analysing how legal frameworks and judicial interpretations interact to shape community outcomes, thereby advancing both theoretical and practical understanding of Islamic inheritance governance. This research also

08 15:26:41 (2018),
<https://ejournal.iainbengkulu.ac.id/index.php/nuansa/article/view/1367>.

¹⁶ Aulia Nur Faradila and Wahyu Sukma Dewi, "Implementasi Asas Musyawarah Dan Mufakat Dalam Penyelesaian Sengketa Hukum Waris Adat Di Indonesia," *Indonesian Journal of Social Sciences and Humanities* 3, no. 2 (2023): 39–46.

¹⁷ Fadhil Fadani and Muhammad Adib Alfarisi Adib, "The Harmonization of Customary, State, and Islam in the Practice of Dayak-Muslim Senganan Customary Inheritance in Sintang, Indonesia," *Al-Mazaahib: Jurnal Perbandingan Hukum* 12, no. 2 (2024): 137–64; Sonny D. Judiasih et al., "Pergeseran Norma Hukum Waris Pada Masyarakat Adat Patrilineal," *RechtIdee* 16, no. 1 (2021): 65–87.

directs attention to underexplored arenas such as judicial reasoning patterns, their expectations, and procedural access, offering new directions for policy reform and legal practice that respond to contemporary challenges in plural legal contexts.

METHOD

The research employs a comparative socio-legal design that examines how Islamic inheritance law is structured, interpreted, and practiced in Malaysia and Indonesia. This design is chosen because the study seeks to analyse legal norms not only at the doctrinal level but also through their operation within institutional contexts and community experiences.¹⁸ A comparative approach allows the study to identify points of convergence and divergence in statutory frameworks, judicial reasoning, and inheritance outcomes across the two jurisdictions. The socio-legal orientation ensures that legal texts are interpreted in relation to their practical enforcement and lived effects, which aligns with the research focus on understanding how legal systems shape social realities in inheritance distribution.

The unit of analysis in this study consists of three interconnected components: legal frameworks, judicial interpretations, and community-level outcomes of inheritance distribution. Legal frameworks refer to statutes, codifications, and procedural rules that govern inheritance in each country, including the Malaysian Syariah court system and Indonesia's Compilation of Islamic Law. Judicial interpretation includes decisions, reasoning patterns, and procedural considerations shown in inheritance judgments issued by Syariah courts in Malaysia and religious courts in Indonesia. Community-level outcomes concern the real-life effects of inheritance administration on heirs, especially in terms of access to justice, distribution timelines, dispute resolution pathways, and perceived fairness. By adopting these units of analysis, the research connects textual law, institutional behaviour, and social impact in a coherent analytical structure.¹⁹

¹⁸ A Hafidzi, "Metode Penelitian Hukum Keluarga," *Serang Baru: Laksita* 2019 1, no. Query date: 2024-03-16 09:19:09 (2019): 150–150.

¹⁹ Mestika Zed, *Metode penelitian kepustakaan* (Yayasan Obor Indonesia, 2008).

The study draws on both primary and secondary data. Primary data consist of selected judicial decisions from Malaysian Syariah courts and Indonesian religious courts, which provide direct evidence of how judges interpret and apply inheritance rules. These decisions are purposively sampled based on relevance to key themes such as gendered inheritance rights, customary influence, and procedural disputes. Additional primary data include interviews with legal practitioners, court mediators, and community members who have engaged in inheritance cases. These interviews offer insight into procedural realities, interpretive patterns, and challenges encountered in practice. Secondary data include statutory materials, scholarly articles, doctrinal analyses, and government reports that document institutional frameworks, legal reforms, and empirical studies on inheritance practices. These materials supply contextual and theoretical grounding for interpreting the primary data.

Data collection techniques in this research consist of document analysis and semi-structured interviews. Document analysis is used to examine statutory texts and judicial decisions in both countries. Statutory materials are reviewed to identify core legal structures, interpretive authority, and procedural mechanisms. Judicial decisions are analysed to extract interpretive methods, reasoning models, and patterns in adjudication that reveal how courts operationalise inheritance law.²⁰

RESULTS

Structural and Practical Patterns of Islamic Inheritance Implementation in Malaysia and Indonesia

The descriptive results reveal persistent structural and textual differences in the implementation of Islamic inheritance law between Malaysia and Indonesia, grounded in both statutory design and judicial practice. Malaysia's inheritance framework is structured around state-level Syariah laws which grant exclusive jurisdiction to Syariah courts for Muslim inheritance matters, with procedures codified in various state enactments and supported by institutional mechanisms such as

²⁰ John W. Creswell and J. David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (SAGE Publications, 2017).

Majlis Sulh for dispute resolution.²¹ In contrast, Indonesia administers Islamic inheritance through its Religious Courts under the *Kompilasi Hukum Islam* (Compilation of Islamic Law or KHI), which functions as a national reference though not always binding, interacting with customary and civil legal systems that sometimes override or supplement Islamic norms.²²

Empirical research also shows that customary practices shape the practical distribution of inheritance, particularly in rural communities where local norms influence heirs' behaviour and sometimes delay legal procedures.²³ Moreover, descriptive analysis of jurisprudence indicates that Malaysian courts often employ established procedural mechanisms such as *sulh* (mediation) alongside *fiqh* principles to achieve settlements, whereas Indonesian courts tend to lean on a broader set of normative references including civil procedural norms when interpreting inheritance disputes.

In both contexts, textual sources such as the Qur'an and Hadith underpin legal reasoning, yet judicial application reveals differences in emphasis and procedural contours that reflect divergent legal cultures.²⁴ The descriptive findings also show that the role of compulsory bequests (*wasiat wajibah*) and alternative normative instruments varies significantly, with Indonesia codifying this more explicitly in its legal corpus to address social equity concerns.²⁵ Additionally, studies of court decisions highlight that practical issues such as heir identification and estate documentation contribute to procedural delays that are observed in both Malaysia and Indonesia, though the mechanisms and timelines differ under each legal system. These descriptive insights establish the foundational landscape of Islamic inheritance practice in

²¹ Firmansyah and Debri, "Comparison of Inheritance Rights for Muslim Heirs in Indonesia and Malaysia."

²² Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia."

²³ Maimanah Maimanah et al., "Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 241–57.

²⁴ Faisal Husen Ismail et al., "Customary and Islamic Practices in Inheritance Distribution: Insights from The Gampong Customary Court in Pidie," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (2024): 1–16, <https://shariajournals-uinjambi.ac.id/index.php/al-risalah/article/view/1544>.

²⁵ Abdul Ghofur Anshori, *Filsafat Hukum Hibah Dan Wasiat Di Indonesia* (UGM PRESS, 2018).

the two jurisdictions, mapping legal texts to observed practices and judicial outputs.

Restating these descriptive patterns, the textual and practice-based evidence underscores that inheritance governance in Malaysia and Indonesia is similar in doctrinal grounding but distinct in institutional execution and daily application. In Malaysia, the legal architecture favours institutional consistency through state-level Syariah enactments and established court procedures, which often produce comparatively predictable procedural outcomes.²⁶ In Indonesia, the pluralistic legal environment means that textual mandates from the KHI interact with customary expectations and civil procedural norms, leading to a more variable implementation across regions.²⁷ Both systems rely on canonical principles found in the Qur'an and Hadith, yet the degree of formalisation and the interplay with ancillary legal sources differ substantially, producing descriptive differences in how inheritance rights and distribution processes unfold legally and socially.

A more detailed description of practice reveals that differences in judicial interpretation and procedural application significantly influence the lived experience of inheritance administration. For instance, Malaysian Syariah courts systematically apply sulh and mediation practices that emphasise negotiated settlements grounded in Islamic jurisprudence while maintaining formal procedural records, which enhances legal certainty and reduces litigation duration in many cases. Conversely, Indonesian Religious Courts, operating under a unified national reference (KHI) but within pluralistic pressures from customary and civil norms, exhibit a wider diversity of procedural outcomes; some judges prioritise textual fidelity while others lean on local practice to ensure socially acceptable outcomes, especially in inheritance disputes involving women or extended kin groups.²⁸

Determinant Factors Shaping Islamic Inheritance Outcomes in Malaysia and Indonesia

²⁶ Firmansyah and Debri, "Comparison of Inheritance Rights for Muslim Heirs in Indonesia and Malaysia."

²⁷ Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia."

²⁸ Maimanah et al., "Delay in the Division of Inheritance."

The critical factor analysis demonstrates that institutional design, customary norms, and judicial reasoning act as key determinants shaping Islamic inheritance outcomes in Malaysia and Indonesia. Institutional design is a primary factor differentiating the two systems because Malaysian Syariah courts exercise autonomous jurisdiction over Muslim inheritance cases, supported by clearly codified laws at the state level, while in Indonesia the integration of Islamic inheritance within a plural legal system disperses authority among Religious Courts, customary authorities, and civil mechanisms.²⁹

This structural factor directly influences judicial decision-making patterns, where Malaysian judges operate within a tighter jurisdictional framework compared to Indonesian judges who navigate overlapping legal sources and customary expectations, affecting consistency in outcomes. Another critical factor is the influence of customary norms, particularly in Indonesia, where local inheritance customs continue to inform community behaviour and can override or delay formal legal processes, revealing how social embeddedness constrains doctrinal application.³⁰ Finally, socio-economic contexts influence inheritance practices, with wealth distribution patterns and economic stratification affecting heirs' ability to engage formal legal processes and negotiate settlements, revealing the interplay between legal factors and material conditions.

Restating these critical findings, the factor analysis clarifies that institutional, cultural, interpretive, gender, and socio-economic elements each play a role in shaping Islamic inheritance practices in the two jurisdictions. Institutional structure affects legal certainty and procedural application, while customary norms and social expectations can either complement or complicate formal legal mandates.³¹

²⁹ Firmansyah and Debri, "Comparison of Inheritance Rights for Muslim Heirs in Indonesia and Malaysia"; Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia."

³⁰ Maimanah et al., "Delay in the Division of Inheritance."

³¹ Assaad et al., "National Inheritance Law"; Azharuddin Azharuddin, "Harmonization of Islamic Inheritance Law and Indonesian Customary Law Regarding The Acceleration of Inheritance Distribution: Legal Philosophy Study," *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsyiyah* 8, no. 2 (2025): 428–39; Adriaan Bedner, "Legal Pluralism and Inheritance Disputes in Indonesia,"

Transformative analysis of these implications highlights the potential for developing an integrated judicial and community model that balances doctrinal fidelity with procedural accessibility and equitable outcomes. The first implication is that strengthening legal literacy and procedural access can empower heirs to engage more effectively with inheritance procedures, reducing reliance on informal arrangements and protracted disputes. Second, a contextualised mediation framework that combines the strengths of structured mediation in Malaysia with flexible, culturally responsive practices in Indonesia could enhance dispute resolution and reinforce equitable application of Islamic inheritance principles. Third, institutional coordination between Religious Courts, customary authorities, and community leaders may reduce legal fragmentation and improve procedural clarity, particularly in plural legal environments. Fourth, gender-responsive legal training for judges and legal practitioners can help ensure that women's inheritance rights are realised in both doctrinal and practical terms, addressing socio-legal barriers identified in the factor analysis. Fifth, the integration of mechanisms such as *wasiat wajibah* within structured legal frameworks may provide a model for equitable inclusion of marginalised heirs without undermining canonical principles. This transformative model suggests that legal reforms and procedural innovations grounded in empirical insights can enhance the effectiveness, fairness, and social legitimacy of Islamic inheritance systems in Malaysia and Indonesia.

DISCUSSION

The findings of this study indicate clear patterns in the differential implementation of Islamic inheritance law between Malaysia and Indonesia that have both legal and social significance. The descriptive analysis highlighted that Malaysia's Syariah courts operate within a more centralised legal framework with exclusive jurisdiction over Muslim inheritance, producing relatively consistent procedural patterns and mediation practices. In contrast, Indonesia's pluralistic legal environment with Islamic law codified in the *Kompilasi Hukum Islam* (KHI), alongside customary and civil norms produces

greater variation in practice and outcomes, reflecting overlapping legal influences and social expectations.³²

The critical factor analysis further revealed that institutional design, customary norms, gender norms, and access to legal literacy shape how inheritance disputes are resolved and how rights are realised in each context, with significant implications for legal certainty and equity. Transformative analysis suggested that adaptive frameworks like contextual mediation, gender-responsive adjudication, and harmonisation of plural legal sources could improve legal coherence and community perception of justice. Together, these findings demonstrate that while canonical Islamic principles ground inheritance law in both countries, the mechanics of implementation and lived experiences of heirs diverge significantly due to systemic and socio-legal factors.

This study's results are best understood within the broader socio-legal and institutional contexts of Malaysia and Indonesia, where legal pluralism and administrative design shape everyday inheritance practices. Malaysia's approach reflects a dual legal system in which Syariah courts function separately from civil courts, yet maintain internal procedural clarity and state-level enactments that guide inheritance cases, resulting in a more uniform procedural culture. By contrast, Indonesia's pluralistic legal system harmonises Islamic law, codified through the KHI, with customary and civil norms, meaning that local customary expectations often intersect with, and sometimes override, formal Islamic inheritance directives, especially in rural jurisdictions. Legal pluralism in Indonesia also generates variation in judicial interpretation, as judges frequently navigate between textual fidelity to canonical principles and socio-cultural pragmatism that reflects local norms and community demands. These contextual factors therefore underscore how legal frameworks and customary practices shape not only statutory design but also the procedural realities of heirs, mediating access to justice in legally plural settings.

A theoretical interpretation of these findings aligns with conceptual frameworks that emphasise hybrid modernity and the notion of *living law*. Hybrid modernity suggests that law in post-colonial

³² Nasrul et al., "Overview of the Inheritance Legal System in Malaysia and Indonesia"; Sri Mamudji, "Mediasi Sebagai Alternatif Penyelesaian Sengketa Di Luar Pengadilan," *Jurnal Hukum & Pembangunan* 34, no. 3 (2017): 194–209.

Muslim societies is neither purely traditional nor entirely modern, but rather a negotiated fusion of doctrinal heritage and contemporary statutory forms, evident in how Islamic inheritance law interacts with colonial legal legacies and customary norms in both Malaysia and Indonesia.³³ The living law perspective posits that law should be understood not only as a system of rules but also as socially embedded practices that evolve through community engagement and judicial interpretation. This resonates with observations that Indonesian inheritance practices often incorporate customary practices and local lore even within formal adjudication, reflecting legal pluralism as a lived phenomenon rather than merely a doctrinal summary (Safitri & Saiful, 2025; Yanti, 2025). The hybrid character of inheritance law in Malaysia likewise surfaces in the negotiation between federal constitutional frameworks, state Syariah enactments, and community expectations, revealing that living law and institutional design collectively shape interpretive outcomes. These theoretical lenses help explain why identical canonical sources can yield divergent procedural realities and social outcomes in different legal cultures.

From a scientific perspective, the study provides insight into the dynamic interplay between legal texts, institutional design, and socio-cultural context that governs inheritance law beyond doctrinal pronouncements. This research shows that inheritance law is not merely a neutral distribution mechanism but a layered social institution shaped by historical, cultural, and procedural forces that mediate justice in practice. Such understanding advances scientific wisdom by demonstrating that legal effectiveness and social acceptance do not hinge solely on textual clarity or doctrinal consistency but also on how communities engage with legal institutions and interpretive authorities. Communities that possess high levels of legal literacy, for example, are more likely to navigate formal procedures successfully, reducing reliance on informal arrangements that can generate inequity and legal ambiguity. Additionally, the findings indicate that procedural tools such

³³ Roger Cotterrell, "Living Law Between State and Society," *Journal of Legal Pluralism* 53 (2006): 1–17, <https://doi.org/10.1080/07329113.2006.10756596>; 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>; 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.

as mediation and compulsory bequests (*wasiat wajibah*) function not simply as legal instruments but as socio-legal translators that enable canonical principles to resonate with contemporary notions of fairness and equity, particularly in contexts of gender or mixed-religion families.³⁴

When compared to existing studies, this research both corroborates and extends prior knowledge regarding Islamic inheritance law in Southeast Asia. Previous comparative analyses have noted that Malaysia's dualistic legal system creates jurisdictional boundaries that influence how Islamic family law is implemented, echoing the systematic differences observed here. Unlike earlier studies that have primarily described institutional patterns or doctrinal differences, the current study integrates descriptive, critical, and transformative dimensions, offering a more holistic view of how legal frameworks, interpretive behaviours, and community impacts co-construct inheritance practice. Specifically, this research expands upon the literature by identifying procedural gaps, gender dynamics, and socio-legal mechanisms that underpin interpretive trends, situating canonical law not only in jurisprudential debate but also in everyday experiences of heirs.

The implications of these findings are substantial for both theory and practice, suggesting avenues for policy reform, legal design, and scholarly inquiry. Theoretically, the hybrid and living law perspectives highlighted here encourage legal scholars to foreground socio-legal contexts when analysing canonical laws, promoting a nuanced appreciation of how law functions in pluralistic environments. Practically, legal reform initiatives in Malaysia could focus on harmonising divergent state enactments and enhancing judicial training to promote consistency across jurisdictions. In Indonesia, policy efforts might prioritise integrating customary authorities more systematically into formal legal processes to reduce fragmentation and inequity while safeguarding doctrinal principles. From a policy standpoint, promoting legal literacy and community-centred dispute resolution mechanisms can strengthen heirs' capacity to engage formal procedures, reducing reliance on informal and potentially inequitable arrangements. Finally,

³⁴ Herlambang Budi Prakoso, *Kedudukan Cucu Angkat Terhadap Pemberian Wasiat Wajibah Berdasarkan Kompilasi Hukum Islam (Studi Putusan Nomor 149/Pdt. G/2009/PTA Sby)*, n.d.

these insights suggest that future research should explore longitudinal and ethnographic dimensions of inheritance practices, particularly how interpretive practices evolve over time and how institutional reforms influence community outcomes in plural legal systems.

Conclusion

The overall findings of this study reveal that Islamic inheritance practices in Malaysia and Indonesia are shaped not only by doctrinal foundations but also by institutional structures, socio-cultural influences, and the lived realities of heirs. The comparative synthesis demonstrates that Malaysia's more centralised Syariah court system generates relatively consistent procedural patterns, while Indonesia's pluralistic legal environment produces diverse outcomes influenced by custom, local legal culture, and the hybrid interaction of Islamic, civil, and customary norms. This research contributes to the scholarly discussion by offering a more integrated analytical lens that moves beyond doctrinal comparison and instead situates inheritance law within descriptive, critical, and transformative dimensions. In doing so, the study advances a deeper understanding of how normative Islamic principles interact with plural legal infrastructures, ultimately shaping community trust, legal certainty, and perceptions of justice.

Practically, the study highlights the need for targeted policy development that strengthens institutional coherence, enhances legal literacy, and promotes mechanisms that align doctrinal objectives with contemporary social needs. In Malaysia, improving harmonisation across state enactments and reinforcing judicial training may enhance consistency and reduce procedural fragmentation. In Indonesia, integrating customary authorities into formal processes and improving community access to inheritance mediation can help mitigate disparities created by plural legal influences. For both countries, enhancing gender-responsive adjudication and public legal education can support more equitable outcomes, especially for heirs who lack familiarity with formal inheritance procedures. Future research should explore longitudinal and community-based dimensions of inheritance practice, particularly how interpretive trends evolve over time and how institutional reforms reshape local perceptions of justice. Expanding empirical studies across additional regions and social groups would also enrich understanding of how Islamic inheritance law adapts to shifting cultural, economic, and demographic realities.

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