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HYBRIDATION OF ISLAMIC INHERITANCE LAW AND MINANGKABAU MATRILINEAL INSTITUTIONS: AN INTERDISCIPLINARY STUDY FROM THE MAQASID AL-SYARIAH PERSPECTIVE

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Abstract

This study aims to analyze the dialectic between farā'id law and the Minangkabau matrilineal system from the perspective of maqāsid al-shari'ah. Employing a qualitative library-based method with an interdisciplinary approach, data were gathered through the study of normative documents, judicial precedents, and sociocultural literature, all of which were analyzed qualitatively. The analysis reveals that the community employs a two-stage inheritance system: a formal farā'id calculation followed by a voluntary (tarāḍī) reallocation to preserve communal assets and family harmony. Based on these findings, the study proposes a conceptual model of structured inheritance law hybridization that harmonizes Sharia-mandated shares, the limits of urfṣah (valid custom) adaptation, and validation under positive law. This research contributes to broadening the theoretical understanding of the flexibility of inheritance fiqh in accommodating local wisdom. Given the limitations inherent in library-based research, it is recommended that this model undergo further testing through empirical studies and broader jurisprudential analysis before being considered for formal policy adoption.

Keywords: Legal Hybridization; Islamic Inheritance; Minangkabau Matrilineal; Maqasid Al-Syariah.

Abstrak

Penelitian ini bertujuan menganalisis dialektika hukum farā'id dan pranata matrilineal Minangkabau dalam perspektif maqāsid al-syarī'ah. Menggunakan metode kualitatif kepustakaan dengan pendekatan interdisipliner, data dikumpulkan melalui studi dokumen normatif, yurisprudensi peradilan, dan literatur sosiokultural yang dianalisis secara kualitatif. Hasil analisis sumber menunjukkan bahwa masyarakat menerapkan sistem kewarisan dua tahap, yaitu kalkulasi farā'id secara formal diikuti re-alokasi berbasis kerelaan (tarāḍī) untuk menjaga keberlanjutan harta komunal dan kerukunan keluarga. Berdasarkan temuan tersebut, penelitian ini menawarkan model konseptual hibridasi hukum waris terstruktur yang menyelaraskan porsi syariat, batas adaptasi 'urf ṣaḥīḥ, dan validasi hukum positif. Penelitian ini berkontribusi memperluas pemahaman teoretis mengenai fleksibilitas fikih waris dalam memayungi kearifan lokal. Mengingat keterbatasan riset kepustakaan, model ini direkomendasikan untuk diuji lebih lanjut melalui penelitian empiris dan analisis yurisprudensi yang lebih luas sebelum dipertimbangkan dalam pengadopsian kebijakan formal.

Kata kunci: Hibridasi Hukum; Waris Islam; Matrilineal Minangkabau; *Maqasid Al-Syariah*

A. Introduction

In the context of multicultural Indonesian society, the practice of inheritance distribution is not only based on normative Islamic jurisprudence, but also interacts with customary law and state law.¹ To understand this complexity, this research is anchored in three main concepts. First, the hybridization of inheritance law, namely the process of harmonious blending, negotiation, and integration between the doctrine of farā'id and local wisdom law that forms a new legal institution without eliminating the normative essence of sharia. Second, the Minangkabau matrilineal institution,

¹ Muhammad 'Tsaqib Idary et al., "Plurality of Inheritance Legal System for Indonesian Muslims: A Sociological Review," *TATHO: International Journal of Islamic Thought and Sciences*, November 29, 2024, 252–62, <https://doi.org/10.70512/tatho.v1i4.55>.

namely the local kinship and inheritance system that outlines the line of descent and control of communal property (*pusako tinggi*) through the maternal (female) line. Third, *maqāsid al-syarīʿ*² Ah, namely the framework of Islamic legal philosophy which emphasizes the achievement of substantive welfare and justice through the protection of property (*ḥifẓ al-māl*), descent (*ḥifẓ al-nasl*), and family harmony. These three main terms serve as conceptual foundations for analyzing the phenomenon of living law in West Sumatra.

The dynamics of pluralism in inheritance law in Indonesia have sparked a lively academic debate. Hidayat et al.² highlights how communities hybridize *fiqh*, customary law, and the Civil Code through deliberation mechanisms to achieve local justice. Similarly, Idary et al.³ emphasizes that in the Javanese context, family consensus often takes precedence over the literal application of *fiqh* texts. This manifestation of local justice is also evident in South Aceh, where Harnides et al.⁴ found that equal inheritance distribution between men and women is considered more adaptive to contemporary socio-economic conditions. Meanwhile, in the Minahasa Muslim community, Luntajo & Hasan⁵ recorded a legal adjustment between the 2:1 sharia pattern and the Mapalus tradition to maintain social cohesion. Responding to this empirical reality, Perwitasari et al.⁶ offers a normative thesis in the form of a

² Rahmat Hidayat et al., “Sistem Pembagian Harta Waris Di Indonesia Berdasarkan Hukum Islam Dan Hukum Adat,” *AL-SULTHANIYAH* 14, no. 2 (October 7, 2025): 568–77, <https://doi.org/10.37567/al-sulthaniyah.v14i2.4176>.

³ Idary et al., “Plurality of Inheritance Legal System for Indonesian Muslims: A Sociological Review.”

⁴ 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 (June 20, 2023): 1293, <https://doi.org/10.22373/sjhk.v7i2.16688>.

⁵ Mohammad Muzwir Luntajo and Faradila Hasan, “Inheritance across Faiths in Muslim Minahasa Families: Legal Pluralism and Cultural Adaptation in Manado, Indonesia,” *Journal of Islamic Economics Lariba* 11, no. 1 (June 30, 2025): 617–44, <https://doi.org/10.20885/jielariba.vol11.iss1.art24>.

⁶ Dita Perwitasari, Budi Santoso, and Yunanto Yunanto, “The Development of a Bilateral System in National Inheritance Law Grounded in Social Justice,” *Pancasila and Law Review* 5, no. 2 (June 2, 2025): 123–34, <https://doi.org/10.25041/plr.v5i2.4058>.

reconstruction of national inheritance law based on *maqāṣid al-syarī'ah* which is oriented towards gender equality and protection of vulnerable groups.

The limitations of the literature mapping above indicate three academic areas that require further investigation. First, the empirical study by Hidayat et al.⁷, Idary et al.,⁸ and Luntajo & Hasan⁹, focused on the description of local inheritance distribution practices, but did not yet integrate the doctrine of *farā'id* holistically with the sociology of family and the economic sociology of local communities. Second, the normative-gender study group by Harnides et al.,¹⁰ and Perwitasari et al.,¹¹ tend to focus on single-text criticism, thus under-examining the role of judicial institutions in validating this hybridity. Third, there has been no interdisciplinary approach analyzing how Padang Religious Court Decision No. 147/Pdt.G/2014/PA.Pdg and Supreme Court Jurisprudence No. 179/K/Sip/1961 compromise the tension between customary property and the Compilation of Islamic Law (KHI).

The scientific novelty of this research lies in the use of an interdisciplinary framework to analyze the phenomenon of hybridization between Islamic and Minangkabau customary inheritance law. This novelty is articulated through the convergence of three analytical tools simultaneously: normative sharia analysis, the dynamics of state law (through consideration of judicial decisions), and the sociology of customary law. These three methodological instruments are integrated to examine how *farā'id* law and Minangkabau matrilineal institutions interact from the

⁷ Hidayat et al., "Sistem Pembagian Harta Waris Di Indonesia Berdasarkan Hukum Islam Dan Hukum Adat."

⁸ Idary et al., "Plurality of Inheritance Legal System for Indonesian Muslims: A Sociological Review."

⁹ Luntajo and Hasan, "Inheritance across Faiths in Muslim Minahasa Families: Legal Pluralism and Cultural Adaptation in Manado, Indonesia."

¹⁰ Harnides, Abbas, and Hasballah, "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia."

¹¹ Perwitasari, Santoso, and Yunanto, "The Development of a Bilateral System in National Inheritance Law Grounded in Social Justice."

perspective of *maqāṣid al-syarī'ah*. Through this approach, this research offers an applicable resolution to the tension between theological texts, judicial interpretations, and the cultural realities of local communities.

Based on the conceptual limitations and literature gaps above, this study formulates three main research questions. First, what is the epistemological structure of the relationship between *farā'id* law and Minangkabau customary institutions in contemporary inheritance practices? Second, what is the *maqāṣid al-syarī'ah* framework used to assess, test, and validate the relationship and hybridity of the two legal systems? Third, how can a reconstruction model of the hybridity of Islamic inheritance law and Minangkabau custom be formulated that is responsive to local wisdom while remaining justified by sharia and positive law?

This research no longer places custom and sharia in diametrically opposed positions. Instead, it aims to formulate a legal integration model that demonstrates the expansion of the meaning of property protection (*ḥifẓ al-māl*) and the sustainability of the social function of the family can be scientifically validated as a living Islamic law, beneficial, and relevant to a multicultural society.

B. Discussion

1. Normative-Methodological Basis of Inheritance Jurisprudence and Interdisciplinary Approach

Islamic inheritance law is based on a solid normative foundation, namely the text of the Qur'an (QS. An-Nisā' verses 11, 12, and 176)¹² as well as the Prophet's hadith (such as the narrations of al-Bukhārī and Muslim regarding the distribution of the remaining inheritance to the closest male

¹² Khaiyyul Millati Waddin, Aful Hadliq, and Beni Ashari, "Integrasi Konsep Pewaris, Ahli Waris, Harta Waris, Dan Mawānī' Al-Irts Dalam Kerangka Keadilan Distribusi Warisan Islam," *Mabahits: Jurnal Hukum Keluarga Islam* 6, no. 01 (May 18, 2025): 43–53, <https://doi.org/10.62097/mabahits.v6i01.2218>.

relatives) which were then developed through the *ijtihād* of scholars to answer practical problems in society.¹³ In contemporary Islamic studies, this normative foundation is not only understood textually-literally, but also reviewed through the *Maqāṣid al-Syārī'ah* approach and social justice to remain relevant to the dynamics of the modern era¹⁴.

The Islamic inheritance system has four basic principles that distinguish it from other inheritance systems. The principle of *ijbārī* asserts that inheritance rights are divinely ordained and absolutely binding¹⁵, while the bilateral principle guarantees equal recognition of lineage from both the father's and mother's side.¹⁶ In addition, the principle of justice and balance ensures that the portion of inheritance is distributed proportionally according to the size of the burden of responsibility¹⁷, which leads to the protection of property (*ḥifẓ al-māl*) and descendants (*ḥifẓ al-nasl*) in order to minimize the potential for family disputes¹⁸.

In the academic tradition, the juridical and qualitative normative approaches examine the Qur'an, hadith, classical

¹³ Hafidz Taqiyuddin, Mus'idul Millah, and Hikmatul Luthfi, "Instruments of Property Ownership in Islam: The Study of Inheritance Law," *Journal of Islamic Thought and Civilization* 13, no. 1 (May 26, 2023), <https://doi.org/10.32350/jitc.131.11>.

¹⁴ Kamarusdiana Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam Dalam Kedudukan Anak Perempuan Sebagai Hajib Hirman Terhadap Saudara Dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 221–32, <https://doi.org/10.24090/mnh.v15i2.4960>.

¹⁵ Fradhana Putra Disantara and Neny rahmawati Neny, "Filsafat Keadilan Bermartabat Dalam Hukum Islam," *Al-Syakhsyiyah: Journal of Law & Family Studies* 6, no. 2 (January 7, 2025), <https://doi.org/10.21154/syakhsyiyah.v6i2.10168>.

¹⁶ Taqiyuddin, Millah, and Luthfi, "Instruments of Property Ownership in Islam: The Study of Inheritance Law."

¹⁷ Siti Rahma Sagala et al., "Thinking In Islamic Legal Philosophy In Conflicts On Justice Of Women's Inheritance Rights," *Kitabah: Jurnal Pendidikan Sosial Humaniora* 2, no. 1 (January 25, 2024): 17–23, <https://doi.org/10.56114/kitabab.v2i1.11418>.

¹⁸ Jamaluddin Jamaluddin et al., "Examining the Synthesis of Islamic Commercial Principles and Local Customary Practices: A Case Study of Nyambut Sawah Traditions in Tejamari, Banten," *Journal of Islamic Law* 5, no. 1 (February 29, 2024): 86–104, <https://doi.org/10.24260/jil.v5i1.2091>.

fiqh.¹⁹, as well as modern regulations such as the Compilation of Islamic Law (KHI) with a deductive pattern based on belief in the evidence.²⁰ However, the challenges of social inequality and gender issues have prompted a re-reading of inheritance law based on the *maqāṣid al-syarī'ah* (the principles of Islamic law) to achieve substantive justice²¹. Hazairin's ideas regarding bilateral inheritance law and the discourse on equalizing the rights of men and women in certain contexts serve as concrete examples of efforts to maintain the value of justice without abandoning the authority of the text.²²

Sociological complexities such as interfaith heirships stimulate contextual and creative normative *ijtihād* through the use of mandatory will instruments and the *maslahah* approach.²³ This step aims to prevent social disintegration and maintain the integrity of family ties based on the commands of normative justice in the Al-Qur'an Surah al-Nahl verse 90²⁴. Although the views of the majority of scholars remain the primary reference, the thoughts of a minority of companions such as Ibn 'Abbās or Ibn Mas'ūd are often rearticulated to

¹⁹ Nur Fatin Aliyah and Kholid Mawardi, "Mengupas Sebuah Pendekatan Normatif Dalam Mengembangkan Studi Islam," *TSAQOFAH* 5, no. 1 (December 7, 2024): 74–83, <https://doi.org/10.58578/tsaqofah.v5i1.4287>.

²⁰ Jibrān Hafidz and Muhammad Haikal Khadaḥi Harahap, "Reconceptualizing Inheritance Law in Indonesia's Islamic Compilation (KHI): A Normative Reassessment Through the Lens of Ibn Mas'ūd's Jurisprudence," *Sakina: Journal of Family Studies* 9, no. 3 (September 1, 2025): 272–92, <https://doi.org/10.18860/jfs.v9i3.16043>.

²¹ Tarmizi Tarmizi et al., "The Dynamics Of Determining Men And Women Parts In Matters Of Inheritance: A Study Of Islamic Law," *Jurnal Diskursus Islam* 10, no. 2 (August 31, 2022): 271–89, <https://doi.org/10.24252/jdi.v10i2.30172>.

²² Reni Nur Aniroh, Khoiruddin Nasution, and Ali Sodiqin, "The Bilateral Inheritance System in Islamic Family Law: Fairness, Equality, and Mutual Exchange Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 22, 2024): 891, <https://doi.org/10.22373/sjhk.v8i2.17630>.

²³ Basarudin, Oyo Sunaryo, and Fauzan Ali Rasyid, "Interfaith Heirship in Islamic Jurisprudence: Exploring Ijtihad Approaches in Contemporary Legal Reforms," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (June 20, 2025): 6942–54, <https://doi.org/10.31941/pj.v24i2.6571>.

²⁴ Adji Pratama Putra and Moh. Rosil Fathony, "Analisis Kewarisan Beda Agama Dalam Perspektif Hukum Islam," *MIZANUNA: Jurnal Hukum Ekonomi Syariah* 1, no. 1 (March 6, 2023): 1–15, <https://doi.org/10.59166/mizanuna.v1i1.29>.

protect vulnerable groups such as daughters or grandchildren.²⁵

Methodological renewal in the formation of contemporary inheritance jurisprudence demands the integration of textual (bayānī), rational (ta'līlī), and welfare (*istiṣlahī*) approaches so that legal determination is not isolated from empirical reality.²⁶ This integration is supported by the sociology of Islamic jurisprudence which unites revelation with social facts.²⁷, responsive fiqh paradigm²⁸, as well as the idea of Muhammad Syahrur's theory of limits²⁹ and the theory of wasatiyyah³⁰. Mohammad Hashim Kamali's moderate approach emphasizes that contemporary fiqh must be flexible³¹ and oriented towards the values of justice, peace and social welfare³².

The flexibility of sharia does not lie in ignoring the qath'i text, but rather in the methodological articulation of the law as it interacts with social dynamics. An interdisciplinary approach has proven capable of balancing texts and context,

²⁵ Kamarusdiana, Fuadi, and Helmi, "Keadilan Waris Islam Dalam Kedudukan Anak Perempuan Sebagai Hajib Hirman Terhadap Saudara Dalam Putusan Mahkamah Agung."

²⁶ Nairi Saadah, M. Hasbi Umar, and Ramlah, "Hukum Islam Dan Dinamika Sosial," *Jurnal Indragiri Penelitian Multidisiplin* 3, no. 1 (January 29, 2023): 57–65, <https://doi.org/10.58707/jipm.v3i1.415>.

²⁷ Samad Samad and Akne Nabila Novita, "Sahal Mahfudz's Sociological Approach to Islamic Legal Thought in Indonesia," *RESPONSIVE LAW JOURNAL* 2, no. 1 (June 29, 2025): 74–80, <https://doi.org/10.59923/rj.v2i1.265>.

²⁸ Maulidi Maulidi, "Menggagas Fikih Responsif: Upaya Progresif Modernisasi Fikih," *AL-'ADALAH* 14, no. 2 (December 30, 2018): 507, <https://doi.org/10.24042/adalah.v14i2.2677>.

²⁹ Afif Muamar, "Rekonstruksi Hukum Waris Islam (Telaah Pemikiran Muhammad Syahrur)," *Mahkamah: Jurnal Kajian Hukum Islam* 2, no. 2 (December 14, 2017), <https://doi.org/10.24235/mahkamah.v2i2.2164>.

³⁰ Alwi Haidar Alwi, "Renewal of Islamic Inheritance Law in Indonesia: An Examination of Wasatiyyah Theory," *ADHKI: JOURNAL OF ISLAMIC FAMILY LAW* 5, no. 2 (August 6, 2025), <https://doi.org/10.37876/adhki.v5i2.154>.

³¹ Wildani Hefni, Imam Mustofa, and Rizqa Ahmadi, "Looking for Moderate Fiqh: The Thought of Mohammad Hashim Kamali on the Reformation of Rigidity and Inflexibility in Islamic Law," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (April 25, 2025): 30–57, <https://doi.org/10.29240/jhi.v10i1.10694>.

³² Dwi Dasa Suryantoro, "Transformation of Islamic Law in Responding to the Challenges of Modernity by Integrating Classical Fiqh and Contemporary Fiqh," *Al-Rasikh: Jurnal Hukum Islam*, July 24, 2025, <https://doi.org/10.38073/rasikh.2747>.

where textual formulations are positioned as ethical foundations, while their implementation is aligned with the principles of *maqāṣid al-syarī'ah*. Thus, the reconstruction of contemporary inheritance jurisprudence does not mean replacing the law of faraid, but rather expanding the epistemological perspective so that Islamic law can encompass the complex realities of local law.

2. Method

a. Types and Design of Research

This research is a library research with a qualitative-descriptive analytical design that applies an interdisciplinary approach connecting the normative-doctrinal approaches of sharia, socio-legal, and sociology of customary law.³³ This interdisciplinary approach is used to dissect the phenomenon of legal hybridization between the doctrine of *farā'id*, the Minangkabau matrilineal system, and the jurisprudence of judicial decisions from the perspective of *maqāṣid al-syarī'ah*.

b. Data and Data Sources

Research data is classified into two main categories, namely primary data and secondary data:

1) Primary Data

Includes the regulatory text of the Compilation of Islamic Law (KHI), the jurisprudence of court decisions, specifically the Padang Religious Court Decision Number 147/Pdt.G/2014/PA.Pdg and the Jurisprudence of the Supreme Court Number 179/K/Sip/1961—as well as monumental books and literature on contemporary Islamic jurisprudence regarding the theory of *maqāṣid al-syarī'ah*³⁴. The determination of documents as primary data is based on

³³ John W Creswell and J David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Sage publications, 2017).

³⁴ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008).

their capacity as normative authorities, formal regulations, and primary theoretical references that directly bind or direct the formation of inheritance law.

2) Secondary Data

Obtained from reputable scientific journal articles, textbooks, and sociocultural research reports that discuss the distribution of high and low-ranking inheritance in Minangkabau and the dynamics of Islamic inheritance law in Indonesia.

c. Literature Search Strategy and Selection Procedures

To ensure this research operates transparently and is replicable, a secondary literature search was conducted on major academic databases, namely Scopus, Web of Science, Google Scholar, and SINTA. The search used combinative keywords (Boolean operators) in Indonesian and English, namely: (faraid OR Islamic inheritance law) AND (Minangkabau OR matrilineal) AND (maqasid al-shariah OR legal hybridization).

The publication period of secondary literature is limited to the period 2014–2026 to ensure the state of the art of the discourse. Literature selection applies the following inclusion and exclusion criteria: (a) Inclusion Criteria: (1) Indexed scientific journal articles or reputable books that examine Islamic inheritance law, Minangkabau customs, or *maqāṣid*; (2) Studies that discuss legal dialectics or religious court decisions related to inheritance; (3) Texts that provide conceptual or sociological data regarding heirlooms. (b) Exclusion Criteria: (1) Pure inheritance research without analysis of customary interactions or *maqāṣid*; (2) Popular articles without peer-reviewed scientific reviews; (3) Publications outside the 2014–2026 period (except for classic/primary works on *usul fiqh*).

From the initial search results that identified 112 documents, the screening process based on the above

criteria resulted in 38 primary literature sources (consisting of 2 court decisions, 1 KHI regulatory text, 3 books on the theory of Islamic jurisprudence/methodology, and 32 reputable scientific journal articles) which were analyzed in depth.

d. Data Collection and Validation Techniques

Data collection was conducted through systematic documentation techniques through textual studies and digital archiving³⁵. Data validity was tested through triangulation of library data sources. In this library research, triangulation was operationalized in detail by comparing and confronting three textual perspectives crosswise: (a) the Sharia-Normative Text Perspective (*fara'id* and *maqāṣid* doctrines); (b) the Positive Law-Jurisprudence Perspective (Religious Court and Supreme Court decisions); and (c) the Socio-Anthropological Perspective (customary practices and agreements of the Minangkabau community). This cross-confrontation step was combined with increased diligence in conceptual reading to ensure the validity of the content and consistency of theoretical interpretations.

e. Data Analysis Techniques

Data analysis applied content analysis techniques combined with legal hermeneutics and critical legal analysis. The analysis stages adapted the qualitative framework of Miles, Huberman, & Saldana³⁶ as follows:

- 1) Data Reduction: Includes recording, categorizing, and coding clusters of findings relevant to the research questions (epistemological relations, *maqāṣid* assessment, and hybridization models).
- 2) Data Presentation: The data is presented in a narrative-argumentative manner to analyze the pattern of the

³⁵ Mestika Zed, *Metode Penelitian Kepustakaan* (Yogyakarta: Yayasan Pustaka Obor Indonesia, 2014).

³⁶ Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis Methods Sourcebook*, Sage Publications, 3rd ed. (Sage Publications, 2014).

integration of sharia normativity with the anthropological reality of matrilineal structures.

- 3) Conclusion: Conclusions are drawn inductively-conceptually using the *Maqāṣid al-Syarī'ah* multidimensional systems analysis knife (especially the principles of *ḥifẓ al-māl* and *tarādī*) in order to formulate a structured and applicable hybrid model of inheritance law³⁷.

3. Dialectic of Hybridization of Faraid and Matrilineal Minangkabau Customs in the Maqasid al-Syariah Perspective

The encounter between faraid law and matrilineal customs in Minangkabau represents a dynamic legal dialectical space where society actively negotiates sharia texts with sociocultural realities.³⁸ This interaction is not a form of syncretism that negates the Shari'a, but rather a process of legal hybridization that broadens the horizons of ijtihad. From the perspective of *maqāṣid al-syarī'ah*, especially the dimension of *ḥifẓ al-māl*, indicators of justice are no longer measured rigidly from textual numerical ratios, but rather from the extent to which the distribution creates benefits, prevents disputes (*sadd al-dharī'ah*), and guarantees the sustainability of the family economy.³⁹

³⁷ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

³⁸ Nofaldi Nofaldi and Siska Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision," *Mazāhib* 23, no. 1 (June 25, 2024): 271–304, <https://doi.org/10.21093/mj.v23i1.7257>.

³⁹ Noviardi Noviardi and Syafwan Rozi, "Penerapan Nilai Toleransi Antar Budaya Dalam Pelaksanaan Hukum Kewarisan Islam Pada Masyarakat Perbatasan Di Rao Pasaman Sumatera Barat," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 1 (June 30, 2017): 85, <https://doi.org/10.18326/ijtihad.v17i1.85-112>.

Table 1. Proportional Dualism Scheme of Inheritance Property
from the Perspective of Adaptation of Jurisprudence-
Customary Law

Dimensions of Analysis	High Pusako Property (Communal)	Randah Pusako Property (Personal/Livelihood)
Origin Source /	Hereditary inheritance from ancestors in the matrilineal line (Minangkabau) or stored collectively.	The results of the husband and wife's independent livelihood during the marriage.
Nature of Ownership	Collective-Communal (Ownership rights are with the group/collective, individuals only have the right to use).	Individual-Private (Full ownership rights lie with the individual who operates it).
Legal Convergence	Contemporary Customary Law & Maqāṣid: Functions as a social safety net (economic safety net) to prevent poverty in family structures.	Islamic Law (Fara'i Doctrine) ^{d)} : Becoming an absolute object of inheritance which is divided based on the provisions of the text or the principle of agreement (tarāḍ) ^{d)} .
Legal Status of Fiqh	Identified as an institution that resembles Waqf Ahli/Wakf Zurri (may not be traded/shared).	Identified as Tirkah (pure inheritance) which must be executed by faraid.
Impact of Social Cohesion	Maintaining the stability of customary land ownership and	Guaranteeing substantive distributive justice and personal legal certainty for core heirs.

preventing
economic
fragmentation of
extended families.

The key to this legal harmonization lies in the clear separation between communal property (pusako tinggi) and private property (pusako randah). Livelihood property (pusako randah) remains the absolute object of faraid, but in practice, it is often distributed by parents to daughters while they are still alive through the instrument of a gift.⁴⁰ or contemporary will for economic protection⁴¹As a brief comparison, this communal protection pattern has a similar social function to the Tunggu Tubang system in Semende, which mandates inheritance to the eldest daughter to prevent poverty for future generations, in accordance with the spirit of QS. An-Nisa' verse 9.⁴²

Justice in Minangkabau inheritance has shifted from arithmetic justice to relational justice based on willingness (tarāḍ)ḍ. The procedure for dividing faraid is often carried out formally in front of religious leaders in order to fulfill the legal-theological aspects.⁴³However, after the nominal division, the brother voluntarily handed over some or all of the rights to his land/house to his sister through mutual agreement.⁴⁴

⁴⁰ Nofialdi and Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision."

⁴¹ Aleena Sebastian, "Matrilineal Practices among Muslims: An Ethnographic Study of the Minangkabau of West Sumatra," *Ethnography* 27, no. 1 (March 27, 2026): 155–76, <https://doi.org/10.1177/14661381221147137>.

⁴² Salmudin - Salmudin, Firman Muntaqo, and KN. Sopyan Hasan, "Tunggu Tubang as a Method for Peaceful Inheritance Distribution of Semende Indigenous Peoples/Tunggu Tubang Sebagai Metode Pembagian Harta Waris Secara Damai Masyarakat Adat Semende," *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 1 (July 28, 2021), <https://doi.org/10.18860/j-fsh.v13i1.11028>.

⁴³ Nofialdi and Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision."

⁴⁴ Nur Nafa Maulida Atlanta, Dominikus Rato, and Emi Zulaikha, "Studi Komparasi Hak Waris Dalam Hukum Adat Dan Islam Di Masyarakat Madura Perantauan Desa Jelbuk, Kecamatan Jelbuk, Kabupaten Jember," *Lentera Hukum* 5, no. 3 (December 30, 2018): 408, <https://doi.org/10.19184/ejhl.v5i3.8242>.

Substantive justice here is realized not through blind obedience to numbers, but through sincere sharing in order to maintain family harmony.⁴⁵

This hybrid practice lives in an ecosystem of legal plurality involving custom, religion, and the state.⁴⁶ In the context of the Indonesian judiciary, the Supreme Court and Religious Courts consistently validate customary or voluntary inheritance distribution agreements through the instrument of *akta van dading* (peace deed) or Religious Court Jurisprudence as long as it does not contain any element of coercion.⁴⁷ State law is present as an administrative complement and a formal legal reinforcement of customary deliberation agreements that are in line with *faraid* values.⁴⁸

Sociologically, this hybridization gives rise to a variety of flexible social institutions, such as in the Rao region which combines Minangkabau customs, Mandailing customs and Islamic law.⁴⁹ This integration also synergizes with other family protection instruments such as *taklik talak*.⁵⁰ This transformation maintains three dimensions of welfare: the sustainability of the socio-economic function of communal

⁴⁵ Nofialdi and Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision."

⁴⁶ Handika Purnama, "Hukum Islam, Adat Dan Hukum Negara Dalam Perkawinan Masyarakat Suku Melayu Di Pekanbaru Riau: Keabsahan, Etika, Dan Administrasi Perkawinan," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 14, no. 1 (May 4, 2021): 1–10, <https://doi.org/10.14421/ahwal.2021.14101>.

⁴⁷ Atlanta, Rato, and Zulaikha, "Studi Komparasi Hak Waris Dalam Hukum Adat Dan Islam Di Masyarakat Madura Perantauan Desa Jelbuk, Kecamatan Jelbuk, Kabupaten Jember."

⁴⁸ Sebastian, "Matrilineal Practices among Muslims: An Ethnographic Study of the Minangkabau of West Sumatra."

⁴⁹ Noviard and Rozi, "Penerapan Nilai Toleransi Antar Budaya Dalam Pelaksanaan Hukum Kewarisan Islam Pada Masyarakat Perbatasan Di Rao Pasaman Sumatera Barat."

⁵⁰ Khairil Anwar Al Jufri, Mohd Soberi Awang, and Mualimin Mochammad Sahid, "Maqasid Syariah Menurut Imam Al-Ghazali Dan Aplikasinya Dalam Penyusunan Undang-Undang Islam Di Indonesia," *Malaysian Journal of Syariah and Law* 9, no. 2 (December 31, 2021): 75–87, <https://doi.org/10.33102/mjssl.vol9no2.315>.

assets⁵¹, maintenance of harmony of heirs through *iṣlah*⁵², as well as strengthening women's economic rights in an inclusive bargaining position⁵³.

Minangkabau society does not clash between Islamic and customary law, but instead applies a two-tier inheritance system: formal calculation of faraid as fulfillment of sharia legality, followed by reallocation based on *tarāḍī* as the fulfillment of customary social functions. This hybrid proves that *maqāṣid al-syarī'ah* working functionally in directing customs to be in line with the spirit of Islamic justice, where the willingness of heirs becomes an emotional and legal bridge that binds religious law with local traditions.

4. Integration Framework and Hybrid Boundaries of Islamic Inheritance Law

The formation of responsive contemporary inheritance jurisprudence requires an integrative framework that is capable of harmonizing sharia⁵⁴, customs⁵⁵, and positive law.⁵⁶ In a structured manner. Considering that law cannot be understood as a closed entity, an interdisciplinary approach is necessary to ensure that legal hybridization does not undermine the basic order of religion or harm the civil rights of the community.⁵⁷

⁵¹ Atlanta, Rato, and Zulaikha, "Studi Komparasi Hak Waris Dalam Hukum Adat Dan Islam Di Masyarakat Madura Perantauan Desa Jelbuk, Kecamatan Jelbuk, Kabupaten Jember."

⁵² Nofialdi and Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision."

⁵³ Noviard and Rozi, "Penerapan Nilai Toleransi Antar Budaya Dalam Pelaksanaan Hukum Kewarisan Islam Pada Masyarakat Perbatasan Di Rao Pasaman Sumatera Barat."

⁵⁴ Idham Idham, Efa Rodiah Nur, and Agus Hermanto, "Dynamic Development of Family Law in Muslim Countries," *Al-'Adalah* 19, no. 1 (June 20, 2022): 161–78, <https://doi.org/10.24042/adalah.v19i1.12421>.

⁵⁵ Siti Ropiah, "Integrasi Nilai-Nilai Syariah Dalam Sistem Kewarisan Di Era Modern: Kajian Terhadap Keberlanjutan Dan Tantangannya," *As-Salam: Jurnal Studi Hukum Islam & Pendidikan* 14, no. 1 (July 2, 2025): 76–98, <https://doi.org/10.51226/assalam.v14i1.744>.

⁵⁶ Firda Arina Zulfa et al., "Mapping Contemporary Islamic Legal Thought In Indonesia: A Dialog Between Fiqh And The Culture Of The Archipelago," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 7, no. 1 (March 20, 2025): 177–202, <https://doi.org/10.20885/mawarid.vol7.iss1.art10>.

⁵⁷ Maulidi, "Menggagas Fikih Responsif: Upaya Progresif Modernisasi Fikih."

Therefore, it is necessary to clarify the position of authority between texts, local wisdom, and state regulations in the Islamic family law ecosystem.⁵⁸

In this epistemological framework, the qath'i texts of the Qur'an and the hadith are positioned as the main foundations that cannot be changed.⁵⁹ However, the implementation aspects which are dhannī in nature and the distribution procedures within the scope of muamalah open up space for contextual reading⁶⁰ and acceptance of 'urf ṣaḥīḥ (local wisdom that does not conflict with sharia principles)⁶¹. By combining the principles of moderation (wasatiyyah)⁶² and gender justice orientation⁶³, legal hybridization can be carried out without losing its normative sense.

On the other hand, legal hybridization has strict boundaries that must not be violated. Hybridization is considered valid according to Islamic law if it is based on 'urf ṣaḥīḥ, done on the basis of willingness (tarāḍī),⁶⁴ and aims to create benefits (ḥifẓ al-māl)⁶⁵. On the other hand, hybridization is classified as 'urf fāsid and is null and void if there is a forced deprivation of the heir's rights, total elimination of the faraid

⁵⁸ Ropiah, "Integrasi Nilai-Nilai Syariah Dalam Sistem Kewarisan Di Era Modern: Kajian Terhadap Keberlanjutan Dan Tantangannya."

⁵⁹ Muhyuddin Hashmi and Sultan Sikandar, "نو تدوین کی الفہم اصول اور تقاضے کے دور حاضر," *Islamic Studies Research Journal Abḥāth* 9, no. 36 (January 7, 2026), <https://doi.org/10.54692/abh.2024.09361758>.

⁶⁰ Nanang Hermawan, "Reconstruction Of Mawaris Law In A Modern Context: The Perspective Of Gender Equality In Islamic Law," *Multidisciplinary Indonesian Center Journal (MICJO)* 2, no. 2 (April 30, 2025): 1167–79, <https://doi.org/10.62567/micjo.v2i2.574>.

⁶¹ Suryantoro, "Transformation of Islamic Law in Responding to the Challenges of Modernity by Integrating Classical Fiqh and Contemporary Fiqh."

⁶² Alwi, "Renewal of Islamic Inheritance Law in Indonesia: An Examination of Wasatiyyah Theory."

⁶³ Hermawan, "Reconstruction Of Mawaris Law In A Modern Context: The Perspective Of Gender Equality In Islamic Law."

⁶⁴ Zainuddin Zainuddin, Salle Salle, and Andi Risma, "Balanced Justice in Islamic Inheritance to Realize Unity and Sustainability of Collective Life," *SSRN Electronic Journal*, 2023, <https://doi.org/10.2139/ssrn.4539515>.

⁶⁵ Nur Sa'adah Harahap and Nursania Dasopang, "Hak Waris Beda Agama Perspektif Maqashid Syari'ah," *Jurnal Manajemen Dan Pendidikan Agama Islam* 3, no. 2 (January 10, 2025): 204–15, <https://doi.org/10.61132/jmpai.v3i2.986>.

portion without consent, or absolute disregard for the provisions of the text which injure theological and social justice⁶⁶.

The existence of positive law and the jurisprudence of Religious Courts plays a crucial role as a validation mechanism and legal filter for the boundaries of this hybridization. Court decisions emphasize that customary inheritance distribution agreements are only legally binding if they meet the requirements for the validity of a civil agreement and do not violate Islamic public policy.⁶⁷ Through the determination of a mandatory will or ratification of a peace deed (*işlah*), the state judicial institution ensures that the flexibility of customary adaptation remains within the legal corridor and is protected from potential exploitation by powerful parties.⁶⁸

The application of this framework confirms the moderate fiqh paradigm initiated by Mohammad Hashim Kamali, where the public interest (*maṣlahah 'ammah*) is the most important factor and social harmony are the main benchmarks for legal flexibility.⁶⁹ The reconstruction of Islamic inheritance that is just theologically, economically, and socially ultimately creates social security guarantees for contemporary families.⁷⁰ This maqāṣid-based consideration model proves that Islamic law has high flexibility in protecting local institutions without sacrificing its basic principles.⁷¹

⁶⁶ Zainuddin, Salle, and Risma, "Balanced Justice in Islamic Inheritance to Realize Unity and Sustainability of Collective Life."

⁶⁷ Purnama, "Hukum Islam, Adat Dan Hukum Negara Dalam Perkawinan Masyarakat Suku Melayu Di Pekanbaru Riau: Keabsahan, Etika, Dan Administrasi Perkawinan."

⁶⁸ Hafidz and Harahap, "Reconceptualizing Inheritance Law in Indonesia's Islamic Compilation (KHI): A Normative Reassessment Through the Lens of Ibn Mas'ud's Jurisprudence."

⁶⁹ Hefni, Mustofa, and Ahmadi, "Looking for Moderate Fiqh: The Thought of Mohammad Hashim Kamali on the Reformation of Rigidity and Inflexibility in Islamic Law."

⁷⁰ Zainuddin, Salle, and Risma, "Balanced Justice in Islamic Inheritance to Realize Unity and Sustainability of Collective Life."

⁷¹ Harahap and Dasopang, "Hak Waris Beda Agama Perspektif Maqashid Syari'ah."

The operational scheme of hybrid inheritance law consists of three main pillars: (1) Normative Authority: Nash qath'i as the highest limit; (2) Validation Mechanism: *Tarāḍī* (willingness) of the heirs as confirmed by the Religious/State Court Decision; and (3) Limits of Adaptation: Prohibition of *'urf fāsid* which is detrimental to one of the parties. This framework shows that the hybridization of faraid and Minangkabau customs is not merely a practical compromise, but rather a form of structured ijtihad which successfully actualizes the values of *maqāṣid al-syarī'ah* in the context of legal pluralism in Indonesia.

C. Conclusion

This literature research confirms that the dialectic between *farā'i lawḍ* and the Minangkabau matrilineal system operates through a two-tier epistemological structure, namely the normative calculation of the portion of sharia which is followed by reallocation based on willingness (*tarāḍī*) and customary deliberation. Through the *maqāṣid al-syarī'ah*, this legal hybridity is substantively validated because it is oriented towards the protection of property (*ḥifẓ al-māl*), dispute prevention (*sadd al-dhārī'ah*), and strengthening women's economic rights without ignoring the authority of the qath'i text. Theoretically, this study contributes to formulating a hybrid model of structured inheritance law that combines the authority of sharia, the limits of adaptation of *'urf ṣaḥīḥ*, and the ratification of positive law as a formal anchor. However, as doctrinal-socio-legal research based on literature studies and a limited jurisprudential sample, this conceptual model has limitations in comprehensively reflecting the dynamics of empirical inheritance disputes. Therefore, further testing through field research based on legal ethnography and comparative analysis of a wider variety of religious court decisions is necessary before this model can be considered as a formal reference in the formation of national inheritance policy.

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