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Renewal of Islamic Inheritance Law in Indonesia: An Examination of *Wasatiyyah* Theory

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Abstract

Problem statement: The reform of Islamic inheritance law in Indonesia is an urgent necessity, given the challenges of the modern era that demand laws that are more adaptive and contextual. The primary issues encountered include the incompatibility between classical Islamic inheritance law and the needs of contemporary society, particularly concerning gender equality, flexibility in the distribution of inheritance, and the recognition of the principle of mutual agreement among heirs. **Objective**: This study aims to explore the wasatiyyah theory as a foundation for the reform of Islamic inheritance law, with the objective of achieving a balance between Sharia values, social conditions, and the principle of public interest. **Methods**: The study employs a qualitative methodology with a legal-normative approach. Data sources were obtained through the analysis of legal documents and literature pertinent to this research. This study also utilises descriptive and argumentative analysis to connect the theory of wasatiyyah with the concept of inheritance law reform. **Results**: This study indicate that the theory of wasatiyyah can provide a robust foundation for reforming Islamic inheritance law in Indonesia. This theory emphasises balance between Sharia texts and social context, thereby facilitating agreement among heirs and promoting more equitable flexibility in inheritance distribution. The novelty of this research lies in the formulation of an integrative approach that is not only oriented towards Sharia norms but also considers aspects of social justice and public interest. **Conclusion**: This research contributes to providing a new perspective in the study of Islamic law, particularly inheritance law, that is more relevant to the needs of contemporary society.

Keywords: Inheritance, Moderation, Renewal.

Abstrak

Pembaharuan hukum waris Islam di Indonesia menjadi kebutuhan mendesak mengingat tantangan zaman yang menuntut hukum yang lebih adaptif dan kontekstual. Masalah utama yang dihadapi adalah ketidaksesuaian antara aturan hukum waris Islam klasik dengan kebutuhan masyarakat modern, khususnya terkait keadilan gender, fleksibilitas pembagian warisan, dan pengakuan terhadap asas kesepakatan antar ahli waris. Penelitian ini bertujuan untuk mengeksplorasi pendekatan teori wasatiyyah sebagai landasan dalam pembaharuan hukum waris Islam, guna menciptakan keseimbangan antara nilai-nilai syariah, kondisi sosial, dan prinsip kemaslahatan. Penelitian ini menggunakan metode kualitatif dengan pendekatan yuridis-normatif. Sumber data diperoleh dari analisis dokumen hukum dan literatur yang berhubungan dengan penelitian ini. Penelitian ini juga memanfaatkan analisis deskriptif dan argumentatif untuk menghubungkan teori wasatiyyah dengan konsep pembaharuan hukum waris. Hasil penelitian menunjukkan bahwa teori wasatiyyah dapat memberikan landasan yang kuat untuk mereformasi hukum waris Islam di Indonesia. Teori ini menekankan keseimbangan antara teks syariah dan konteks sosial, sehingga memungkinkan kesepakatan antar ahli waris dan fleksibilitas pembagian warisan yang lebih berkeadilan. Kebaruan penelitian ini terletak pada formulasi pendekatan integratif yang tidak hanya berorientasi pada norma syariah, tetapi juga mempertimbangkan aspek keadilan sosial dan kemaslahatan. Penelitian ini berkontribusi dalam memberikan perspektif baru dalam kajian hukum Islam, khususnya hukum waris, yang lebih relevan dengan kebutuhan masyarakat kontemporer.

Kata Kunci: Harta Warisan, Pembaruan Hukum, Wasatiyyah.

Introduction

Inheritance law in Indonesia has emerged as one of the most complex issues within the national legal system (Kusmawaningsih & Musthopa, 2024, p. 20). The diversity of Indonesian society, in terms of culture, religion, and tradition, significantly influences the application of inheritance law across various regions (Kurnia & H.S, 2020, p. 14). Generally, three legal systems govern inheritance matters: customary law, Islamic law, and Western civil law (Aditya, 2019). These three systems frequently give rise to conflicts in practice, particularly when overlaps occur between the legal principles established within each framework. In legal literature, a primary concern is the legal uncertainty experienced by the community. When inheritance disputes arise, the choice of legal system often hinges on cultural background, religious affiliation, or even personal preferences(Terok et al., 2021, p. 41). This can lead to conflicts among heirs, especially when discrepancies exist in their understanding or beliefs regarding the appropriate legal system to be applied. For instance, in certain indigenous communities, patrilineal customary law typically prioritises male heirs(Tohari et al., 2023, p. 23), while Islamic law prescribes specific proportions for inheritance distribution, encompassing all heirs regardless of gender. Conversely, Western civil law advocates for a more equitable distribution among all heirs (Pramesthi et al., 2024, p. 14) without regard for gender or proximity to the deceased. This disharmony is further exacerbated by a lack of public understanding concerning their rights and obligations under inheritance law (Lubis & Daulay, 2024, p. 20).

Modifications to Islamic inheritance law in Indonesia are also driven by the primary issue of inconsistency between classical Islamic inheritance law and the requirements of contemporary society (Yusyirah, 2024, p. 67). Classical Islamic inheritance law, which governs the distribution of inheritance based on specific stipulations, such as a 2:1 ratio between male and female heirs (Desiana & Ja'far, 2024, p. 4), is frequently viewed as irrelevant to current social conditions. In modern society, the roles of women within the family and the broader community have undergone significant transformations (Nur Azra et al., 2024, p. 6). Many women have ascended to the role of primary breadwinners, rendering an unbalanced distribution of inheritance an inadequate reflection of justice. Additionally, the necessity to accommodate the principle of consensus among heirs is becoming increasingly urgent. In practice, numerous families opt to divide inheritance through consultation and mutual agreement rather than adhering strictly to legal provisions. However, this principle of consensus often lacks a robust legal foundation (Bachri et al., 2024, p. 175), making it susceptible to future conflicts. While flexibility in inheritance distribution may facilitate the resolution of disputes in a more peaceful and equitable manner, formal legal recognition is essential to provide legal certainty for the parties involved. Legal reforms are also motivated by growing public awareness of the significance of gender equality in inheritance distribution. Inheritance laws that favour men are frequently perceived as inconsistent with the principle of equality enshrined in the Indonesian constitution. Consequently, there is a pressing need for reform in inheritance law to accommodate the values of justice, benefit, and equality, whilst not neglecting the foundational principles of Sharia.

Although considerable research has been conducted on Islamic inheritance law, there exists a notable gap in the integration of the wasatiyyah theory as a normative approach to reforming Islamic inheritance law in Indonesia. Most existing studies primarily focus on the textual aspects of Islamic law or the sociological analysis of inheritance practices. Approaches that connect Sharia principles to contemporary social contexts remain underexplored. For instance, research on Islamic inheritance law is often confined to the interpretation of verses from the Qur'an and hadiths pertinent to the distribution of inheritance. Meanwhile, applicable aspects of inheritance law, such as the recognition of the principle of consensus or flexibility in inheritance distribution, are seldom discussed within the framework of the wasatiyyah theory.

The objectives of this study are to analyse common and significant issues pertaining to inheritance law in Indonesia based on relevant literature. This study also aims to explore the application of the wasatiyyah theory as a normative foundation for reforming Islamic inheritance law in Indonesia. Furthermore, this research seeks to identify methodologies for accommodating the principle of consensus among heirs, while remaining faithful to the fundamental principles of Sharia.

Methods

This article is library research or literature review. The author gathered a diverse array of written sources and data to substantiate the objectives of this paper. The collected data encompasses an examination of Islamic family law as it pertains to Indonesia and its subsequent reforms, in addition to literature concerning the concept of wasatiyyah. This data was subsequently subjected to conceptual analysis. In the context of this paper, this entails an analysis of the renewal of Islamic family law through the lens of the wasatiyyah theory posited by Mohammed Arkoun. This theoretical framework offers a robust foundation for establishing a balance between Sharia norms and the exigencies of contemporary society. Consequently, this study aims to address this gap by proposing an integrative approach grounded in the theory of wasatiyyah.

The Wasatiyyah Theory in the Thought of Mohammed Arkoun

Islam is a religion that embodies compassion for all of humanity, a concept known as rahmatan lil alamin. This suggests that Islam does not impose pressure or inflict harm, particularly upon humanity. An illustrative example of this is the principle of wasatiyyah, or moderation, which serves to counteract extreme actions in the practice of religion (Esha & Zainuddin, 2008, p. 40). The issue of wasatiyyah encompasses not only individual interests but also the collective interests of the populace and society at large. Consequently, several scholars have elucidated the concept of wasatiyyah, among whom is Mohammed Arkoun.

Mohammed Arkoun was a prominent Muslim scholar born in Algeria on 1 February 1928. He completed his higher education at the University of Algiers in 1954, specialising in Arabic language and literature. During Algeria's struggle for independence from French colonialism, which spanned from 1954 to 1962, Arkoun pursued further studies in Paris, focusing on Arabic language and literature. Over time, he expanded his academic pursuits to encompass Islamic thought(Meuleman, 1993, p. 99). In 1961, Arkoun became a lecturer at the Sorbonne University in Paris,

a position he held until 1969. Subsequently, from 1970 to 1972, he taught at the University of Lyon before returning to Paris as a professor of Islamic thought (Soekarba, 2019, p. 13).

Arkoun is renowned for his expertise in the history of Islamic thought, particularly for his theory of epistemological criticism. Although he does not explicitly address the concept of Islam wasatiyyah, his theory of epistemological criticism is capable of accommodating it. A defining characteristic of Arkoun's epistemological criticism is the synthesis of Western and Islamic thought, as he endeavours to unite these two disparate modes of reasoning. These elements represent the most esteemed aspects of Islamic thought, also referred to as Islamic reasoning, alongside the most valuable components of Western thought, namely modern reasoning (Soekarba, 2006, p. 80). This distinction is evident when comparing European reasoning with Arab reasoning, which are markedly different. The evolution of reasoning in the Western world has been both revolutionary and dynamic, contrasting sharply with the stagnation observed in the Arab world. From a historical perspective, Islamic thought has experienced a lack of development.

In light of this concern, Arkoun advocated for the concept of critical thinking within Islam. He concentrated on the issue of historicism, aiming to analyse all socio-cultural phenomena through a historical lens. This approach posits that historicisation serves as a method for reconstructing meaning by disentangling the relevance between text and context. Employing this method necessitates the generation of new ideas that may be concealed within the text's meaning (Arkoun, 1987, p. 14).

The historical research methodology employed by Arkoun integrates modern Western social sciences. He draws on the ideas of Saussure in linguistics, Levi-Strauss in anthropology, Lacan in psychology, Barthes in semiology, Foucault in epistemology, and Derrida in grammatology. Arkoun synthesises these theories to formulate a new framework termed Islamic rational criticism (Soekarba, 2006, p. 83). In this framework, Arkoun distinguishes between two interpretations of Turats. The first, Turats with a capital T, denotes a tradition that is perceived as an ideal and immutable divine ordinance, while the second, turats with a lowercase t, refers to customs shaped by the social conditions of society, representing human interpretations of divine revelation through sacred texts (Arkoun, 1987, pp. 17–24). Thus, although not explicitly articulated, Arkoun indirectly introduces the concept of Islam wasatiyyah, positing that Islam is an open and dynamic tradition, akin to Western thought.

Legal Examination of Inheritance within the Context of Family Law

Inheritance law is a legal framework that focuses on the transfer of property ownership following the death of the testator (Qowim, 2011, p. 9). This area of law plays a significant role as it aims to prevent familial divisions arising from property disputes. In Islamic jurisprudence, inheritance law is referred to as faraid, which delineates the provisions that determine who is entitled to inherit and the magnitude of their respective shares (Al-Khathib, 1958, p. 3).

The legal foundations of inheritance are articulated in the Qur'an, the hadith of the Prophet Muhammad (SAW), and in codified laws within various jurisdictions. The legal basis for inheritance as presented in the Qur'an includes verses from Surah An-Nisa, specifically verses 7, 11, 12, and 176, as well as in several other surahs.

Within Islamic jurisprudence, inheritance law constitutes a subset of Islamic family law, known as Ahwal Syakhshiyah (Abduroaf & Ceres, 2024, p. 40). Islamic family law, often referred to as Ahwal Syakhshiyah, encompasses a set of regulations governing familial relationships, which may arise from marriage, blood ties, or kinship (Setiawan, 2014, p. 140). This legal framework is regulated by Sharia, with the objective of guiding interactions between individuals, as well as between individuals and groups within the family context (Latief, 2016, p. 197).

In addition to its paramount significance, inheritance law has existed in various societies prior to the advent of Islam. However, in pre-Islamic societies, inheritance law was predominantly governed by prevailing customs. For instance, during the Jahiliyyah period preceding Islam, women were denied the right to inherit property, even if they were the biological offspring of the deceased.

This denial stemmed from the customs of the Jahiliyyah people, who viewed women as property to be inherited rather than as heirs (Bagas Luay Ariziq, 2022, p. 51). Following the arrival of Islam, these customs were reformed, with Islamic teachings instituting provisions that prioritised justice for all individuals.

Nonetheless, justice is inherently subjective; what may be perceived as fair by one individual may not be regarded as such by another. However, Islamic inheritance law, which considers the rights of both men and women, has the potential to minimise conflicts among heirs (Fahimah, 2018, p. 108). Inheritance law is constructed upon several foundational principles, among others (Basyir, n.d., p. 11);

1. Inheritance constitutes a legal provision; consequently, inheritance law confers the right of ownership of the deceased's property to the heirs. Furthermore, inheritance law delineates the distribution of the inheritance shares among the heirs.
2. Inheritance is confined to the familial domain; wherein familial ties are established through marriage or blood relations. Thus, family members who are more closely related to the deceased are accorded precedence over those who are more distantly related.
3. Islamic inheritance law prioritises the distribution of assets among as many heirs as possible, thereby minimising potential conflicts within the family unit.
4. Islamic inheritance law does not differentiate between the shares of children, irrespective of whether a child is young or adult; their shares remain equal. This approach seeks to mitigate discrimination, which was prevalent during the pre-Islamic era.
5. The stipulations concerning the size of the heirs' shares within Islamic inheritance law also take into consideration the daily needs of the heirs.

In addition, it is essential to recognise that not all individuals are eligible to invoke inheritance law; specific conditions must be satisfied to qualify for an inheritance under the provisions of inheritance law (Basri, 2020, p. 42).

1. The presence of a familial relationship or lineage. Consequently, individuals who may inherit from the estate of the deceased are those who share a blood relation or lineage with the deceased, including but not limited to the father, mother, children, grandchildren, and siblings.
2. The presence of a marital relationship. In addition to blood relations or lineage, another basis for inheritance pertains to the marital relationship with the

deceased. Therefore, the spouse of the deceased is entitled to the deceased's property, in accordance with the provisions established.
3. The emancipation of slaves or servants. This basis is no longer applicable in contemporary society, as slavery has been abolished.

Furthermore, not all circumstances, even when a familial relationship with the heir exists, will entitle the heir to receive a share of the inheritance. This is due to various conditions that may preclude heirs from obtaining their inheritance, including (Basri, 2020, p. 43);

1. Differences in religious belief between the heirs and the deceased may affect inheritance rights. This applies not only to biological or lineage-related family members but also to those connected by marital relationships.
2. In instances where the heir has committed murder against the testator, this aligns with the hadith of the Prophet, which asserts that a murderer is disqualified from inheriting the testator's estate.
3. The status of being a slave to another individual precludes the ability to inherit property, as slavery inherently restricts one's rights to ownership and inheritance.

This underscores the significance of comprehending inheritance law, as not all individuals are entitled to inherit property, even if they are related to the deceased. Furthermore, the distribution of shares among heirs is subject to variation, thus rendering this knowledge essential within social contexts. Inheritance law can be invoked when three criteria are fulfilled: firstly, the existence of property left behind, referred to as inheritance (tirkah). Secondly, there must be an heir, specifically the individual who possessed the property and has since passed away. Lastly, there must be heirs, the individuals who receive the transfer of ownership of the property from the deceased (Israfil & Salat, 2020, p. 275).

Renewal of Islamic Inheritance Law in Indonesia

Before discussing legal reforms in Indonesia, it is essential to examine the laws currently in force within the country. There are at least three legal systems that operate in Indonesian society: 1. Western law, 2. Islamic law, and 3. Customary law. These three legal frameworks also govern issues of inheritance (Israfil & Salat, 2020, p. 274).

Legal reform is an inevitable process (Musfiroh et al., 2024, p. 82). This reform is driven by various factors, including societal development. Such development gives rise to diverse and new challenges (Rohmah & Faizah, 2022, p. 190). Naturally, these emerging issues necessitate solutions that uphold social order, which is the fundamental purpose of the law. The phenomenon of legal reform is also evident in Indonesia, particularly in the context of family law.

Family law reform in Indonesia not only takes social conditions into account but also aims to achieve legal certainty. The resolution of disputes in Islamic family law must be conducted through the Religious Court, as stipulated in Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989. Article 49 delineates the authority of the Religious Court, which encompasses: marriage, inheritance, wills, gifts, waqf, zakat, infaq, shadaqah and Islamic economics.

However, the existence of this provision also raises new challenges, specifically the lack of clear guidelines for adjudicating family disputes brought before the Religious Court. Consequently, there are significant discrepancies

between the decisions of different judges, even in identical cases (Keri, 2019, p. 363). To address this concern, Presidential Instruction No. 1 of 1991 was enacted, leading to the establishment of the Compilation of Islamic Law (KHI), which comprises three volumes: Book I on Marriage Law, Book II on Inheritance Law, and Book III on Waqf Law.

The ratified Compilation of Islamic Law (KHI) refers to thirteen fiqh texts, all of which belong to the Shafi'i madhhab, namely (Khallaf, 2014, p. 76): Kitab Al-Bajuri, Kitab Fath Al-Muin, Book Syarqawi 'ala al-tahrir, Book Al-Qalyubi, Book Fath Al-Wahhab, Book Tuhfah, Book Al-Taghrib Al-Mustaghfirin, Book Qawanin al-Syar'iyyah li Yahya, Book Qawanin al-Syar'iyyah li Dahlan, Book Al-Faraid al-Syamsuri, Book Bughyah Al—Musytarsyidin, Book Al-Fiqh 'ala al-Mazahib al-Arba'ah, Book Mughni al Mukhtaj.

Legal reforms in the domain of family law in Indonesia have been extensive. Notable among these developments are amendments to marriage law, including the establishment of a minimum marriage age through Law No. 16 of 2019, which amends Law No. 1 of 1974. In addition to reforms in marriage law, significant changes have also been made in the area of inheritance, as evidenced by the issuance of the Compilation of Islamic Law, Book II. Prior to this, in 1989, Law No. 7 of 1989 on Religious Courts stipulated that one of the jurisdictions of the Religious Courts encompasses matters of inheritance. Consequently, all petitions and lawsuits pertaining to inheritance must be processed through the Religious Court. Among the advancements in inheritance law enacted in Indonesia, Article 209 of the KHI concerning mandatory wills is particularly noteworthy.

Among the developments in family law concerning inheritance applicable in Indonesia are:

1. The adoption of a bilateral inheritance system adapted to the family structure in Indonesia, as stipulated in Article 174 of the KHI. The primary rationale for this concept is to address the complex and diverse social dynamics and family structures of Indonesian society. The classical Islamic inheritance system, which tends to be patriarchal, does not fully align with the Indonesian family system, which often acknowledges kinship from both the paternal (patrilineal) and maternal (matrilineal) sides.
2. The provision for amicable agreements regarding the distribution of inheritance after each party has realised their respective shares, as stipulated in Article 183 of the KHI. This approach aims to offer a flexible solution to potential conflicts among heirs. In practice, the distribution of inheritance based on sharia provisions may not entirely satisfy the subjective sense of justice of the heirs, particularly within the context of complex families or diverse needs.
3. The allowance for the replacement of heirs (plaatvervulling), as provided for in Article 185 of the KHI. This is motivated by the necessity to accommodate the realities of modern families, which frequently encounter situations where direct heirs, such as children, predecease the testator, or where the testator has no children. In the classical inheritance law system, this type of heir replacement is not explicitly regulated, potentially leading to legal loopholes and uncertainty in inheritance distribution. This article provides legal certainty by permitting grandchildren to replace their deceased parents in receiving inheritance from their grandparents. This amendment aims to uphold fairness and ensure that

inheritance distribution remains aligned with existing family conditions. This approach also reflects the adaptation of Islamic law to the more diverse and complex family dynamics in Indonesia.

4. The stipulation that inherited property in the form of agricultural land with an area of less than 2 hectares should be collectively owned by the heirs, with the income or sale value divided among them, as outlined in Article 189 of the KHI. This provision seeks to prevent asset fragmentation, which can diminish economic value. In practice, the division of small agricultural land among numerous heirs often results in the land becoming unproductive and difficult to manage effectively. Through this regulation, small agricultural land is recommended to be collectively owned by the heirs, allowing for the agricultural produce or sale value of the land to be shared among the heirs without physically dividing the asset. This policy reflects efforts to reform inheritance law that are oriented not only towards the equitable distribution of inheritance but also towards considerations of economic efficiency and sustainability in the management of inherited assets, particularly in an agrarian society such as Indonesia.
5. The introduction of joint property (gono-gini), which has implications for inheritance distribution, as stipulated in Article 190 of the KHI. This is motivated by the substantial nature of inheritance related to the joint efforts of spouses during marriage. In modern societies, especially in Indonesia, married couples frequently contribute collectively to the accumulation of assets, through both formal and informal work. The concept of gono-gini in this regulation ensures that before the distribution of inheritance to heirs, joint assets must first be divided according to the rights of each spouse. Only thereafter is the portion belonging to the heirs distributed in accordance with sharia provisions. This approach not only reflects fairness for the surviving spouse but also mitigates potential conflicts among heirs. This amendment adapts Islamic inheritance law to local cultural practices and the more complex needs of contemporary society.
6. The enforcement of wasiat wajibah (mandatory bequest) for adopted children and adoptive parents, as stipulated in Article 209 of the KHI. This is necessitated by the need to provide justice and protect the rights of adopted children or adoptive parents who are not recognised as heirs under classical sharia provisions. In modern Indonesian society, the relationship between adopted children and adoptive parents is often characterised by love and responsibility akin to biological relationships. This amendment ensures that adopted children or adoptive parents receive a designated portion of the deceased's estate through the mechanism of mandatory bequests, despite not being considered heirs under Islamic law. This measure aims to accommodate humanitarian values, preserve family harmony, and reflect social justice within the Indonesian cultural context, without contravening the fundamental principles of Islamic law.
7. The regulation that gifts are limited to a maximum of one-third of the estate and may be considered part of the inheritance, as explained in Articles 210 and 211 of the KHI. This regulation is intended to maintain a balance between the rights of the testator and those of the heirs. In classical Islamic inheritance law, gifts made during the testator's lifetime can provoke conflict if perceived as

detrimental to the heirs entitled to them. By limiting gifts to a maximum of one-third of the total assets, this reform aims to protect the rights of heirs and prevent the testator from unilaterally transferring a significant portion of their assets to particular parties. Furthermore, by considering gifts as part of the inheritance, this rule ensures fairness in asset distribution, guaranteeing that each heir receives their rightful share in accordance with sharia law. This policy reflects efforts to balance the wishes of the testator with the needs of the heirs within the context of Indonesian society.

These reforms demonstrate that the modification of Islamic inheritance law in Indonesia considers not only legal certainty but also the social aspects and public order.

Background to the Revision of Islamic Inheritance Law in Indonesia

Inheritance law in Islam is grounded in the Qur'an and Hadith, featuring provisions that are meticulously regulated. For instance, the distribution of inheritance as outlined in the Qur'an stipulates that sons receive twice the share of daughters (QS. An-Nisa verse 11). This provision reflects the justice of early Islam (Datumula, 2022, p. 135), where men traditionally assumed the role of primary breadwinners, while women were more involved in domestic responsibilities. However, in the context of modern society, these roles are no longer entirely applicable, leading to the perception that classical inheritance laws are often irrelevant.

The primary reason for this inconsistency is the evolving gender roles in contemporary society. Women are no longer confined to domestic spheres but have taken on significant roles across various public sectors, including the economy, social, and political arenas. In Indonesia, many women serve as the backbone of their families or contribute equally to the economy alongside men.

This situation necessitates a re-evaluation of inheritance distribution to ensure greater fairness that aligns with the actual contributions of heirs to family life. In addition to changing gender roles, the social and economic dynamics of modern society also contribute to the inadequacy of classical Islamic inheritance law (Khunaini, 2024, p. 39).

Increased social mobility, urbanisation, and globalisation have transformed how societies manage assets and inheritance. In traditional societies, assets were often in the form of land or property inherited to support the collective sustainability of the family. However, in the modern era, assets can manifest as investments, shares, or other individual and complex forms of wealth. These changes necessitate a more flexible approach to inheritance distribution. Classical Islamic law, which emphasises the distribution of tangible assets such as land or houses, often fails to provide adequate guidance for addressing modern forms of wealth. Consequently, individuals encounter difficulties in reconciling Islamic legal principles with practical needs in managing inheritance.

Moreover, flexibility in the distribution of inheritance is also essential for the renewal of Islamic inheritance law in Indonesia. In practice, modern societies frequently prioritise the principle of mutual agreement in the distribution of inheritance (Amalia et al., 2023, p. 40) to prevent conflict and ensure the satisfaction of all parties. This principle is not explicitly found in classical inheritance law provisions. Such flexibility is a crucial requirement in contemporary society, which places greater emphasis on consultation and consensus. The recognition of

agreements among heirs is also seen as more aligned with the spirit of justice that all parties seek. Therefore, the reform of Islamic inheritance law must provide a legal foundation that accommodates such flexibility without contravening the fundamental principles of Sharia.

In addition to flexibility, the issue of gender justice has been underscored in the inconsistencies of classical Islamic inheritance law. In modern society, the principle of gender equality is widely acknowledged (Ahyani et al., 2023, p. 80), including in national legislation and various international conventions. However, Islamic inheritance rules that allocate larger shares to men are frequently regarded as inconsistent with these principles. Many women perceive themselves as being treated unfairly in the distribution of inheritance, particularly when they bear equal or even greater responsibilities within the family. This situation often leads to conflicts, both within families and in court, necessitating a new approach that is more responsive to gender justice issues.

To address this discrepancy, Islamic inheritance law requires reform to become more adaptable to the needs of modern society. Such reform does not entail abandoning the principles of Sharia but rather interpreting them in a more relevant context. Approaches such as the theory of wasatiyyah can be employed to create a balance between Sharia texts and social realities. For example, reforms could include formal recognition of the principle of mutual agreement, restructuring inheritance distribution based on the actual contributions of heirs, and allowing flexibility in managing modern assets. In this manner, Islamic inheritance law can not only fulfil the spiritual needs of Muslims but also provide practical solutions to the challenges faced by contemporary society.

Issues Related to the Reform of Islamic Inheritance Law in Indonesia

The renewal of Islamic family law in Indonesia aims to establish families that align with the objectives of marriage as stipulated by Sharia law, specifically families that embody the principles of sakinah, mawaddah, and rahmah. However, this objective is not reflected in the practices observed in the field, where numerous cases do not comply with the intended goals of these regulations. One significant issue is the lack of public awareness regarding the reform of family law in Indonesia. Many individuals are unaware of how to address inheritance issues, leading them to forgo the application of inheritance law within their families.

As previously mentioned, inheritance issues are critical and have the potential to incite conflict within society. The existence of problems pertaining to inheritance law stems from the regulation of property ownership transfer following the death of the testator. In Indonesia, challenges in the realm of inheritance include the dualism of laws that are deeply entrenched in society. This indicates that the community often opts to continue utilising classical fiqh literature while disregarding the positive law that has been enacted in Indonesia.

Another prevalent issue within society pertains to mandatory wills. There is no clear definition of what constitutes a mandatory will in Indonesia; however, according to Bismar Siregar, a mandatory will is a testament intended for heirs or relatives who do not receive a share of the inheritance (Nofitasari, 2021, p. 33). This contrasts with the practice of wasiat wajibah in other countries, such as Egypt. In Egypt, the practice of wasiat wajibah is regulated in Articles 76-78 of Qanun No. 71 of 1946, which stipulates that wasiat wajibah is granted to the descendants of a child

whose parents died before or at the same time as the heir or grandfather (Hidayati, 2012, p. 52). In Indonesia, this condition is referred to as a substitute heir (platvervuling). The provisions regarding the mandatory will applicable in Indonesia are regulated in KHI Article 209. The issues surrounding the mandatory will also encompass several provisions, namely:

1. The assets of an adopted child are distributed in accordance with Articles 176 to 193 above; additionally, adoptive parents who do not receive a will are entitled to a compulsory share of up to one-third of the adopted child's estate.
2. Adopted children who do not receive a will are entitled to a compulsory bequest of up to one-third of the inheritance of their adoptive parents.

The issues outlined above represent merely a fraction of the complexities associated with inheritance law within society. This suggests that the challenges inherent in the realm of Islamic inheritance law in Indonesia are multifaceted and varied, necessitating solutions that can comprehensively address these concerns.

To address inheritance issues in Indonesia, two primary approaches are employed: mediation, commonly referred to as the non-litigation route, and litigation, or the judicial route. The subsequent data from the Directorate General of Religious Courts in Indonesia pertains to inheritance cases filed in court:

Table 1. Data on inheritance issues in Indonesia, 2018–2022

Year	Type of Issues	Total
2018	Inheritance	2274
	Determination of heirs	7967
2019	Inheritance	2247
	Determination of heirs	9240
2020	Inheritance	2186
	Determination of heirs	10314
2021	Inheritance	2553
	Determination of heirs	18077
2022	Inheritance	2894
	Determination of heirs	15828

Source: Annual Report of the Director-General of BADILAG 2018-2022

The data presented above indicates a substantial number of inheritance cases filed in court. Consequently, there is a pressing need for a comprehensive solution, necessitating the establishment of legal frameworks that accommodate all parties and address the myriad issues arising within this context. To this end, reforms are imperative, taking into account various factors, including social conditions.

The Theory of Wasatiyyah in the Reform of Islamic Inheritance Law in Indonesia

As society progresses, the challenges faced by its members also intensify. One viable solution to address the issues that arise within society is through the establishment of law. Given the advancements in society, there exists a necessity for laws that are both dynamic and adaptive. It is insufficient to maintain outdated laws solely because they are enshrined in statutory texts.

The antithesis of wasatiyyah is fanaticism, which underpins a movement commonly referred to as extremism. Azyumardi Azra posits that fanaticism manifests as a resistance to modernity, secularisation, and Western values. Furthermore, fanaticism rejects hermeneutic pluralism and the relativism of diversity, along with historical and sociological perspectives, ultimately confining adherents to violent movements that overlook the common good. The repercussions of these movements have resulted in widespread issues of intolerance and radicalism within society. A recent survey conducted by the Wahid Foundation indicates that at least 49% of Indonesian Muslims exhibit tendencies towards intolerance. To confront this reality, it is imperative to cultivate an understanding that embodies the values of Islam in alignment with its original purpose, namely rahmatan lil 'alamin.

This consideration was also addressed by Mohammed Arkoun, who subsequently developed a theory known as the critique of Islamic reason or the concept of wasatiyyah. Legal reform in Indonesia must also account for various other factors and the overarching objectives of the law. Additionally, as Indonesia is a highly diverse nation, the laws enacted must be capable of providing solutions to societal problems and maintaining order among its populace.

The comprehensive implementation of Islamic law within the context of family law in Indonesia is likely to engender a multitude of issues. For instance, Islamic sharia contains no provisions for marriage registration, and were this to be applied in the contemporary Indonesian context, it would precipitate chaos due to the lack of adequate administrative management. Consequently, legal reforms concerning family law in Indonesia are not intended to alter sharia provisions but rather to foster societal order, thereby ensuring that the objectives of the law remain intact.

Conclusion

This article demonstrates that the reform of inheritance law in Indonesia, as regulated in the KHI, represents a progressive step that addresses the needs of an ever-evolving modern society. Several changes, such as the recognition of the bilateral inheritance system, the replacement of heirs (plaatsvervulling), the concept of wajibah wills for adopted children or adoptive parents, and the limitation of gifts to a maximum of one-third of the estate, illustrate efforts to create a balance between Sharia principles, the value of justice, and the socio-cultural realities of Indonesian society. This also reflects the principles of wasatiyyah. This principle is realised through a balanced approach between Sharia values and the social and cultural needs of Indonesia's diverse society.

Through the lens of the theory of wasatiyyah, this reform prioritises balance between Sharia texts and social reality. The concept of moderation applied ensures that individual rights are respected while maintaining family harmony and the common good. Thus, this inheritance law reform not only fulfils the principle of substantive justice but also creates flexibility in its application.

This article contributes by offering an integrative perspective that not only emphasises Sharia norms but also considers values of social justice and the dynamics of Indonesian families. Through a wasatiyyah-based approach, Islamic inheritance law in Indonesia becomes more relevant, contextual, and responsive to the needs of modern society without losing its Islamic essence.

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