

Between Text and Context: The Philosophical and Sociological Basis of Girls' Hijab Rights in Indonesian and Malaysian Islamic Inheritance Law

Atika Sandra Dewi¹⁾ & Mhd Nurhusein Daulay²⁾

¹⁾Faculty of Law, Universitas Amir Hamzah, Indonesia, E-mail: ikasandradewi1203@unhamzah.ac.id

²⁾Faculty of Law, Universitas Islam Negeri Sumatera Utara, Indonesia, E-mail: mhdnurhusein1100000207@uinsu.ac.id

Abstract. *This study aims to comparatively analyze the application of a daughter's hijab rights to her father's brother in the Islamic inheritance law systems of Indonesia and Malaysia. Although both countries base their family law on the Shafi'i school of thought, the practice and interpretation of daughters' inheritance rights show significant differences, particularly in determining the position of daughters as obstacles (ḥājib) for lateral heirs. This study uses a qualitative approach with a normative-comparative legal research type. The results show that the Islamic inheritance law system in Indonesia tends to use a contextual and progressive approach, which allows for the strengthening of daughters' rights through a more responsive interpretation of the values of substantive justice and gender equality. In contrast, the legal system in Malaysia shows a more rigid and textual normative tendency, thus limiting the scope for inheritance law reform despite changes in the social structure of society. The novelty of this study lies in the cross-national comparative analysis that places the concept of hijab within the perspective of maqāṣid al-sharī'ah and modern social dynamics, which have rarely been discussed in depth. This study concludes that a re-reading of Islamic inheritance law by emphasizing the objectives of sharia and the principles of substantive justice is an urgent need to ensure the relevance and justice of inheritance law in the context of contemporary Muslim society.*

Keywords: Daughter; Hijab; Inheritance; Islam; Law.

1. INTRODUCTION

Islamic inheritance law (*faraid*) is one of the most detailed aspects of Islamic law, with explicit provisions in the Qur'an to ensure justice, equality and clarity in the distribution of inherited assets among heirs.(Cammack, 2002)However, the interpretation and implementation of this law is not uniform across the Muslim world. In Southeast Asia, particularly in Indonesia and Malaysia, there are significant differences in the application of Islamic inheritance law, particularly regarding a daughter's ability to wear the hijab, which excludes the father's brother from inheritance rights.(Permana, 2018)In Indonesia, the Islamic inheritance legal framework has been significantly influenced by the thinking of Hazairin, a prominent Islamic jurist. Hazairin proposed a bilateral kinship

system, in which daughters are given equal inheritance status to sons.(Zuhroh, 2017).

Hazairin interpreted the term *walad* in the Qur'an as encompassing both sexes, not just males, thus allowing daughters to exclude their father's brothers from inheritance rights. This interpretation is reflected in the Compilation of Islamic Law (KHI), which has been widely applied by religious courts in Indonesia and is a reference in judicial practice.(Aniroh, 2020)Hazairin also introduced the concept of *mawālī* (successor heir), which allows grandchildren to inherit property from their grandparents if their parents have died before the testator. This concept was adopted in Article 185 of the Compilation of Islamic Law (KHI) and reflects an effort to adapt Islamic inheritance law to the Indonesian social and cultural context, as well as the principles of justice and expediency.(Aniroh, 2020).

In contrast, in Malaysia, the interpretation of Islamic inheritance law is more conservative and adheres to the dominant Shafi'i school of thought(Sulong, 2008). In this system, daughters do not have the capacity to exclude their father's brothers from inheritance rights, due to the dominance of classical fiqh which emphasizes the role of men as the primary heirs.(Sulong, 2008)This reflects the patriarchal structure of classical Islamic inheritance law, in which male lineage is preferred. This practice is reinforced by Sharia court rulings and religious authorities that emphasize the importance of maintaining traditional interpretations.(Sulong, 2008).

These differences highlight the complexities of interpreting sacred texts and applying them in different social contexts. In Indonesia, a more inclusive and contextual approach has enabled the adaptation of Islamic inheritance law to better align with values of gender justice and social realities.(Permana & Martapura, 2018)This approach is reflected in various practices of *ijtihad* and legal reform carried out by religious authorities and academics in Indonesia.(Walim, 2017)Meanwhile, in Malaysia, a more literal and conservative approach reflects a commitment to classical Islamic legal orthodoxy. Malaysia maintains a more classical interpretation rooted in the Shafi'i school of thought, in which daughters are not recognized as heirs who can veil their father's brothers.(Sulong, 2008)Malaysian inheritance law, codified through various laws passed by the state, largely retains the patriarchal structure of traditional Islamic fiqh, which emphasizes gender-based differences in inheritance rights.(Ariphia et al., 2019)This is evident in the application of laws that prioritize men as primary heirs, while women receive only half of a man's share in inheritance. This position is reinforced by Sharia court decisions that affirm the application of classical fiqh and are supported by religious authorities that emphasize the authoritative legacy of classical fiqh.(Sulong, 2008).

This approach is rooted in the principles of fiqh developed since the Middle Ages, which emphasize the importance of the role of men in maintaining and managing family inheritance.(Ma'u, 2024)This is also reflected in the country's legal policies which do not provide space for significant changes regarding gender roles in inheritance, even though many parties have proposed that Islamic inheritance law in Malaysia should pay more attention to gender equality.(Aniroh, 2020). This application of classical fiqh, although consistent with religious principles, is also often seen as a reflection of a broader social structure, in which patriarchal values are very dominant.(Tajuddin & Awwaliyyah, 2021)For example, a study of Malaysian Sharia court decisions shows how classical fiqh interpretations still dominate decisions regarding inheritance rights and gender.(Tajuddin & Awwaliyyah, 2021).

These differing views demonstrate the complex interaction between textual interpretation, local legal culture, and socio-political realities. In Indonesia, the reinterpretation of Islamic inheritance law is rooted in philosophical and sociological considerations aimed at harmonizing Islamic norms with constitutional principles of gender equality.(Azharuddin & Tanjung, 2022)This is clearly seen in Hazairin's thinking, who interprets the term *walad* in the Qur'an not only to refer to sons, but also daughters, with the aim of providing equal rights in the distribution of inheritance, including the right to exclude the father's brother from inheritance rights (*hijab*). (Azharuddin & Tanjung, 2022). In contrast, in Malaysia, the acceptance of a more literal approach reflects a legal culture that prioritizes religious orthodoxy and legal positivism, where religious norms are interpreted more strictly within the framework of positive law.(Aniroh, 2020).

Legal scholars are increasingly emphasizing the importance of reexamining classical inheritance law doctrines through a multidisciplinary lens. A socio-legal approach combining *usul al-fiqh*, *maqasid al-shariah*, and gender-based analysis has been proposed as a way to bridge the gap between textual tradition and contemporary demands of justice.(Permana & Martapura, 2018). For example, several studies reveal that using the *maqasid al-shariah* approach can provide a more inclusive perspective in viewing the position of women in Islamic inheritance law.(A. Fikri & Santoso, 2024).

This article aims to provide a comparative analysis of the status of daughters in the Islamic inheritance systems of Indonesia and Malaysia through philosophical, jurisprudential, and sociological perspectives. This study not only explores the doctrinal underpinnings of the legal position in each country but also examines the social implications and legal philosophy underlying existing interpretations.

2. RESEARCH METHODS

This study uses a qualitative approach with a normative-comparative legal research approach. This approach was chosen because the research focuses on analyzing Islamic legal norms contained in authoritative sources, both classical and contemporary, and comparing their implementation in the inheritance law systems of Indonesia and Malaysia. Normative legal research examines law as a norm written in legislation, court decisions, and relevant Islamic legal doctrines.(Mahmud Marzuki, 2005). This type of research also includes library research, where data is collected through searching primary and secondary legal materials. Primary legal materials include the Qur'an, hadith, fiqh books, the Compilation of Islamic Law (KHI), and the Enakmen of the Islamic Family Law in Malaysia. Secondary legal materials include reputable scientific journals, Islamic law books, dissertations, and other academic writings relevant to the topic of inheritance and gender in Islam.(Soekanto, 2007). The methods used in analyzing the data were philosophical, *usul fiqh*, and sociological. The philosophical approach was used to understand the rational basis and values of justice in the Islamic inheritance system. The *usul fiqh* approach functioned to explore the legal *istinbāt* method and the application of *maqāṣid al-syarī'ah* in the formation of inheritance law. Meanwhile, the sociological approach was used to understand the socio-cultural context and patriarchal structures that influence the implementation of inheritance law, particularly regarding the position of daughters as heirs.(Auda, 2008). The analytical technique used is content analysis of legal documents and texts. This method allows researchers to understand the normative and ideological content of a legal document within its social and historical context.(Jonaedi Efendi et al., 2018)This study also uses

comparative legal methods to analyze the differences and similarities in the application of Islamic inheritance law in Indonesia and Malaysia, and to reveal the social, political, and legal factors underlying these differences.(ND, 2010). The selection of Indonesia and Malaysia as comparative study subjects is based on their similar Islamic historical and cultural backgrounds, yet they demonstrate different approaches to the application of Islamic law. Indonesia tends to adopt a progressive approach, allowing for reinterpretation of texts, while Malaysia maintains a literal, orthodox model within the framework of the Shafi'i school.(S. Fikri & Mujib, 2025). Thus, this study aims not only to understand the legal differences, but also to assess the social implications and values of justice in the construction of contemporary Islamic inheritance law.

3. RESULT AND DISCUSSION

3.1. Reform of Islamic Inheritance Law in Indonesia

The application of Islamic inheritance law in Indonesia demonstrates a strong tendency toward a contextual approach that adapts to social realities, values of justice, and developments in contemporary Islamic legal thought. One concrete example of this approach is the provision in Article 185 of the Compilation of Islamic Law (KHI), which accommodates grandchildren as substitute heirs if the testator's children predecease. This provision reflects the law's adherence to the principle of fair distribution of wealth within the family and opens up space for the reinterpretation of classical norms deemed sociologically irrelevant.(Abdurrahman, 1992, p. article 185).

Several studies show that this contextual approach has roots in the thinking of Islamic legal reform figures in Indonesia, such as Hazairin and Munawir Sjadzali, who emphasized the importance of *maqāṣid al-syarī'ah* (the objectives of sharia) in interpreting inheritance law texts.(Permana, 2018)They argue that inheritance law should not be understood solely textually, but should be directed towards realizing the values of substantive justice in modern society.(Kamali, 1999)This approach later inspired a number of religious court decisions in Indonesia, where judges decided on inheritance distribution by considering women's rights more proportionally, including granting daughters the right to veil their father's brothers from inheritance in certain contexts.(Zain, 2022).

In addition, research by Syabbul Bachri et al. confirms that the transformation of inheritance law in Indonesia is driven by a collective awareness of the importance of Islamic law's response to social change.(Bachri et al., 2024)This aligns with a social hermeneutics approach that places texts in dialogue with the social context of Indonesian Muslim society. Such an approach not only enhances the legitimacy of Islamic law in the public eye but also strengthens the position of women within the national Islamic legal system.

Furthermore, an empirical study by Basri et al. on inheritance practices in Makassar society shows that family deliberation and the principle of agreement are often used as the basis for settling inheritance divisions, including in providing equal inheritance shares to daughters.(Basri et al., 2022)This illustrates that the local approach to inheritance law in Indonesia is not only normative-formal, but also sociological and contextual, in line with the principle of *'urf* (local customs) which is justified in Islamic jurisprudence.

Thus, it can be concluded that the approach to Islamic inheritance law in Indonesia has developed in a more dynamic and responsive direction to the local context, while

strengthening women's rights to obtain a fair share of inheritance.

3.2. Traditional Approach in the Islamic Inheritance Law System in Malaysia

The traditional approach to Islamic inheritance law in Malaysia tends to maintain a textualist understanding rooted in the Shafi'i school of thought as the primary reference. This is evident in judicial practice in the Sharia Court, where judges strictly adhere to classical Islamic jurisprudence in determining inheritance rights, including the issue of inheritance hijab.(Amir, 2022). One implication is that in a number of cases, daughters do not have the legal power to veil their paternal brothers (such as uncles), even though their social standing is closer to the heir.(S. Fikri & Mujib, 2025).

Research by Mohd Shukri Hanapi shows that the legal-formal approach in the Islamic inheritance law system in Malaysia is closely related to the country's fatwa authority which adheres to the opinion of the *jumhur ulama*, especially the Syafi'i school of thought, without opening space for a contextual approach that considers *maqāṣid al-syarī'ah* and substantive justice(Hanapi, 2015)For example, in inheritance cases involving granddaughters of daughters, the majority of Sharia Courts do not recognize their rights as heirs except through a mandatory will, which is also limited in its validity and does not automatically accommodate inheritance rights.(Abdullah, 2023).

This emphasis on traditional approaches is further reinforced by the role of fatwa institutions, which tend to be conservative. A study by Roslina Che Soh and Khairil Azmin Mokhtar highlights that state fatwas in Malaysia prioritize adherence to classical Islamic jurisprudence over progressive interpretations.(Adli et al., 2024). In fact, when there was a discourse on gender justice in Islamic inheritance law, resistance arose because it was considered to be contrary to the established consensus of Shafi'i Islamic jurisprudence.(Begum et al., 2024).

Normatively, although there is internal debate among Islamic law academics in Malaysia regarding the urgency of considering the principles of justice and social context in the interpretation of inheritance law, this discourse has not yet gained significant practical space in the country's sharia legal system.(Khasanah et al., 2025)This situation is inextricably linked to Malaysia's legal structure, which strictly separates Sharia and common law jurisdictions, as well as the strong dominance of religious authorities in the formation of fatwas and the practice of Sharia justice. Consequently, Islamic inheritance law in Malaysia remains heavily influenced by traditional, school-based approaches that emphasize legal certainty and stability, while simultaneously leaving limitations in responding to demands for substantive justice, particularly regarding the recognition of women's rights in inheritance distribution.

In this context, a social and legal comparison between the Islamic inheritance law systems in Malaysia and Indonesia reveals fundamental differences in legal philosophy that have a direct impact on inheritance distribution patterns and family relations in each country. Unlike Malaysia, Islamic inheritance law practices in Indonesia demonstrate a tendency to be more open to a reformist approach, particularly through the use of the principle of *maqāṣid al-sharī'ah* as an interpretive framework. This approach not only positions legal texts as formal norms but also considers the objectives of sharia such as justice, social welfare, and the achievement of benefits, thus enabling inheritance law to function more adaptively to the social dynamics of contemporary Muslim society.(Azhar, 2024).

This approach allows for adaptation and flexibility in the interpretation of classical texts, making room for the development of law that is more sensitive to social and gender contexts.(A. Ibrahim, 1981)For example, the implementation of Article 185 in the Compilation of Islamic Law (KHI), which allows grandchildren to inherit property from their grandparents, even if their parents have died, reflects Indonesia's efforts to accommodate a more dynamic and inclusive social reality.(Azhar, 2024). In contrast, Malaysia maintains a more conservative approach by emphasizing the integrity of the text (nash) and the principle of istidlāl (text-based reasoning), which is rooted in the Shafi'i school.

This approach focuses on the stricter application of inheritance laws in accordance with classical interpretations of the Qur'an and Hadith, as well as mufti fatwas that emphasize the continuity of tradition and orthodoxy in the application of the law.(Habi, 2022)This has implications for inheritance distribution, with daughters unable to wear the hijab for their paternal brothers, despite calls for greater gender equality in some cases. In this context, countries with legal systems like Malaysia remain wedded to a textual understanding that prioritizes legal clarity and social stability, despite challenges to consider a more progressive perspective on social justice.(Aprilia & Astina, 2024).

These differences influence family dynamics and social structures in each country. In Indonesia, more inclusive inheritance laws promote equality in the distribution of inheritance and provide opportunities for women to play a more active role in managing family assets. Conversely, in Malaysia, despite equality in nominal inheritance rights, a more deeply patriarchal structure impacts women's roles in the family's social and economic structure. Malaysian families tend to maintain more patriarchal traditional norms, where male authority remains dominant, both in the context of inheritance and property management.

Thus, the fundamental philosophical differences between the two countries not only influence Islamic inheritance law but also directly impact the distribution of inherited property and the social and economic roles of women within the family. Indonesia's more flexible and contextual reformist approach allows for social and gender justice, while Malaysia's more textual and conservative approach emphasizes legal continuity and stability in accordance with classical principles of Islamic jurisprudence.

3.3. Contextualization and Gender Equality in Indonesian Islamic Inheritance Law

The contextualization and gender equality of Islamic inheritance law in Indonesia are the result of progressive thinking advocated by prominent figures such as Hazairin and Munawir Sjadzali. These two figures position Islamic law as a system that is not static, but rather dynamic and contextual, capable of adapting to changing times and social needs. Hazairin, as one of the leading thinkers in the field of Islamic law in Indonesia, argues that the interpretation of the term walad in the Quran must be inclusive, understanding that the word walad refers to "child" without distinction of gender.(Permana, 2018)This approach paves the way for gender equality in inheritance distribution, where daughters are seen as equal to sons in terms of inheritance rights, in contrast to the traditional view that prioritizes sons as the primary recipients of inheritance.

Hazairin's thinking has had a significant impact on inheritance law practices in Indonesia, which increasingly pays attention to gender justice.(RAJA'I-NIM, 2008)This is reflected

in the greater recognition of women's rights in inheritance, which were previously limited to unequal inheritance distribution compared to men. This approach aligns with the principles of *maqāṣid al-sharī'ah* (the objectives of sharia), which emphasize justice and social welfare, and provides room for reforms in inheritance law that are more responsive to gender issues and contextualize the law according to societal dynamics.(Yusuf & Harun, 2024)For example, the application of Article 185 in the Compilation of Islamic Law (KHI), which allows grandchildren to become successor heirs if their parents have died, demonstrates flexibility in a more inclusive and contextual legal interpretation.

Furthermore, figures such as Munawir Sjadzali also played a role in promoting the reform of Islamic law in Indonesia. Sjadzali emphasized the importance of reinterpreting classical texts to create a legal system that not only aligns with Islamic principles but also aligns with modern social values, including gender equality.(Dahlan, 2020)This progressive thinking also strengthens the position of women in society, both in terms of inheritance and in other social contexts, so that Islamic law is not only seen as a rigid and unchangeable law, but rather as a system that can continue to develop according to existing social needs and realities.(Permana, 2018).

In the context of Islamic inheritance law reform, Indonesia has shown a relatively progressive trend through the contributions of figures such as Hazairin and Munawir Sjadzali, who advocated a reinterpretation of inheritance law based on the *maqāṣid al-syarī'ah* (the principles of Islamic law). These ideas opened up space for the application of the principle of substantive justice by positioning women as equal legal subjects in inheritance distribution, not solely based on textual readings, but also through broader theological, sociological, and juridical considerations.(Jamil, 2017)This approach emphasizes Indonesia's efforts to adapt Islamic law to align with modern values of humanity and justice, without abandoning the normative essence of sharia.

In contrast, the Islamic inheritance law system in Malaysia remains heavily influenced by the dominance of the Shafi'i school of thought, which shapes relatively rigid patterns of legal interpretation and practice. Ibrahim et al.'s study shows that despite developments in other legal sectors, Islamic inheritance law in Malaysia maintains a textual and literalist approach firmly rooted in the school's doctrine. Within this framework, classical provisions, including the principle that a daughter cannot veil her paternal brother, are maintained as established norms and difficult to reinterpret. These differences in social and legal approaches reflect a sharp contrast between the Indonesian model of Islamic inheritance law, which is more contextual and responsive to social dynamics, and the Malaysian model, which emphasizes doctrinal stability and legal certainty, despite the implications for limited recognition of substantive justice for women in inheritance distribution.(N. Ibrahim et al., 2024).

This Shafi'i school of thought approach, while grounded in time-tested classical texts, limits flexibility in adopting more progressive legal interpretations, particularly regarding gender equality in inheritance law. This demonstrates a firm adherence to a patriarchal structure that places men as the primary recipients of inheritance, while women receive only half of their share.(Sulong, 2008)In many cases, the rulings of the Malaysian Sharia Court have upheld the application of this law, along with fatwa rulings from muftis supporting conservative interpretations based on the Shafi'i school of thought.(N. Ibrahim et al., 2024).

Although academic discourse in Malaysia has begun to highlight the importance of new

ijtihad to accommodate social change and gender equality, the institutional system and the dominance of classical fiqh remain major obstacles to legal reform. Legal experts in Malaysia note that while some academics advocate a reinterpretation of classical texts and the application of maqāsid al-sharī'ah to create space for gender equality, the dominance of conservative institutional structures and resistance from those adhering to the Shafi'i school of thought hinder the realization of such reforms.(Noor & Malim, 2008)For example, a study by Mustafa et al. highlights how textual interpretations of the Shafi'i school of thought hinder progress in inheritance law reform, particularly regarding women's rights.(Firdawaty et al., 2022).

In the context of the Islamic inheritance law system in Malaysia, there is significant tension between academic discourses that promote legal reform and positive legal practices that remain stagnant and literal. Academic discourse in Malaysia, particularly within contemporary Islamic law scholars, has strongly advocated the need for a reinterpretation of classical inheritance law provisions, particularly those related to women's rights and the principle of substantive justice.(KM, 2023)This discourse often encounters rigid institutional structures and the dominance of the Shafi'i school of thought, which still strongly influences the legal system and jurisprudence of the Sharia Court.(Murtadlo, 2018).

The textual application of the Shafi'i school of thought is considered a form of preserving Islamic legal orthodoxy that must not be compromised by changing times. This view is based on the belief that inheritance law in Islam is tauqifi (derived directly from the texts), thus leaving no room for ijtihad that could potentially overturn basic principles of inheritance distribution, such as the share of sons being twice that of daughters (QS. al-Nisa: 11). In practice, Sharia Courts in various states in Malaysia continue to strictly uphold this provision, even though socio-economic conditions and the role of women in the family have undergone significant transformation.

Rejection of this more inclusive interpretation is often based on the concern that any form of legal reform could open the door to a liberalization of Islamic law that is seen as undermining the authority of the text.(Sarmadi, 2013)As a result, Malaysia's inheritance law system tends to be rigid and less responsive to social developments. This is reinforced by the role of state muftis, who tend to issue conservative fatwas and reinforce the status quo on inheritance matters, even in cases that touch on issues of gender equality or justice between family members. However, reform efforts have not completely stopped. Several academics have advocated the importance of integrating the maqasid al-shari'ah (objectives of Islamic law) into the legal framework of inheritance as an alternative approach capable of addressing contemporary social problems.(N. Ibrahim et al., 2024).

The maqashid perspective offers an interpretation that is not only based on literal text, but also considers the welfare, justice, and protection of vulnerable groups, including women and children.(Noor & Malim, 2008)For example, in several legal and academic forums, proposals have emerged that the Sharia Court be given broader authority to consider the maqashid principle in deciding inheritance cases, especially in situations where textual application causes inequality of rights or injustice.(Yusuf & Harun, 2024).

This approach can provide a compromise between preserving the authenticity of the text and responding to modern social dynamics. This is where open dialogue between Islamic scholars, academics, and the judiciary is needed to prevent the Islamic inheritance law

system in Malaysia from becoming trapped in stagnant conservatism and instead moving toward a more just, contextual, and humane system.

3.4. Philosophical and Sociological Implications

The contextualization of Islamic inheritance law in Indonesia reflects an adaptive legal approach, in which sharia values are not understood solely textually but are integrated with the principles of social justice and the realities of modern society. This approach is based on the dynamic epistemology of Islamic law, which allows for the use of the methods of *istihsan*, *maslahah mursalah*, and *maqāṣid al-sharī'ah* in shaping legal norms. As explained by Kamali, the application of *maqāṣid* within the legal system provides flexibility to adapt Islamic law to broader ethical and social goals, such as justice, protection of rights, and the public good.(Kamali, 2008).

In this context, Islamic inheritance law in Indonesia demonstrates a bold reinterpretation of classical texts to provide substantive justice, particularly for women who have traditionally received a smaller share of inheritance. Inheritance law reforms, including the recognition of the rights of daughters and granddaughters in the Compilation of Islamic Law (KHI), demonstrate a strong application of the principle of *maslahah*. Salim's study demonstrates that the Indonesian state plays a crucial role in mediating between religious norms and social needs through positive law that reflects the values of *maqasid*².

In contrast, Malaysia's inheritance law system demonstrates stability in maintaining the continuity of the Shafi'i tradition. This system rests on the authority of classical scholarship and institutional structures such as the Sharia Court and the Fatwa Committee, which adhere strictly to the texts and consensus of classical scholars. This approach reflects a strong ethos of *taqlid* (religious adherence to Islamic law), where legal reforms are still viewed with caution to avoid shaking the established foundations of inheritance law.(Mokhtar, 2023)However, the consequence has been stagnation in responding to complex social changes, such as women's increasing participation in the economy and changing family structures.

Interestingly, sociological studies of inheritance law practices at the local level in Indonesia, such as those conducted by Basri et al. in the Makassar indigenous community, demonstrate a living Qur'an-based approach, namely the understanding and implementation of the Qur'an within local culture and implemented through social consensus mechanisms. In this model, the resolution of inheritance disputes is not solely based on classical Islamic jurisprudence, but rather is combined with local wisdom values that reflect collective justice and family solidarity.(Basri et al., 2022)This shows that in practice, Islamic law in Indonesia is more open to plurality of interpretations and contextualizations that are in line with the principles of *maqāṣid al-sharī'ah*.

Thus, Indonesia's approach to inheritance law not only reflects a commitment to social justice but also demonstrates how Islamic law can coexist with the dynamics of modern and local societies without losing its sharia integrity. Conversely, the challenge for Malaysia lies in maintaining traditional authority while still allowing for contextual *ijtihad* that can respond to changing times.

4. CONCLUSION

A comparative study of Islamic inheritance law systems in Indonesia and Malaysia reveals fundamental differences in their juridical and philosophical approaches to religious texts. Indonesia demonstrates a more progressive tendency by prioritizing *maqāṣid al-sharī'ah* as the basis for interpreting inheritance law, particularly in the context of strengthening the position of women and substantive justice. The application of the principles of *maslahah*, *istihsan*, and the reinterpretation of the concept of *walad* in the Qur'an demonstrate that Islamic law in Indonesia is not static, but rather evolves in accordance with social dynamics and the needs of the times. This is reflected in national legal policies such as the Compilation of Islamic Law (KHI) and various religious court decisions that accommodate distributive justice, including for female children and granddaughters as heirs. In contrast, the Malaysian inheritance law system is still dominated by a literal and conservative approach based on the Shafi'i school of thought. This strict interpretation of texts and resistance to contemporary *ijtihad* has resulted in a stable legal structure that is less responsive to issues of gender equality and social change. Rigidity in the application of classical *fiqh*, while maintaining the continuity of scholarly tradition, has the potential to hinder more contextual and inclusive legal reform. Efforts to integrate the *maqāṣid al-sharī'ah* into the Malaysian sharia justice system remain limited and require institutional support and a more open academic dialogue. From a sociological perspective, this study also shows that the interpretation of inheritance law depends not only on the state's normative structure but is also influenced by local practices and community values. The phenomenon of the living Qur'an in the Makassarese indigenous community, for example, illustrates how Indonesian Muslims construct an inheritance system that is not only based on religious texts but also adapted to local wisdom and social consensus. Overall, this study emphasizes the importance of Islamic legal reform that is oriented towards the *maqāṣid*, responsive to gender justice, and adaptive to the socio-cultural context. In the future, harmonization of classical principles and contextual approaches is an urgent need to realize an Islamic legal system that is just, humanistic, and relevant to the challenges of the times.

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