

# STRATEGY FOR RESOLVING INHERITANCE CONFLICTS AMONG MUSLIM FAMILIES ACCORDING TO FARAIID PRINCIPLES

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**Abstract:** *Dispute inheritance often become source division in family Muslims , especially when distribution treasure deviate from principles Islamic law . Research This aim For analyze settlement strategies conflict heritage among family Muslim with refers to the system faraid as framework normative . Qualitative methods used , take advantage of review literature and analysis normative law Islamic heritage , together with studies case from Muslim community . Findings the show that conflict inheritance often originate from lack of understanding about principles faraid , lack of transparency between expert inheritance and domination interest personal . Effective resolution strategies involving approach educational , mediation Sharia- based , and the role of institution religious as well as religious courts as mediators. Implementation principle faraid in a way consistent proven give justice distributive and maintaining harmony family after distribution heritage . Research This recommend strengthening literacy Islamic law and development mechanism settlement based conflict Sharia values in scope family.*

**Keywords:** *Islamic Inheritance Law, Dispute Inheritance , Settlement Conflict*

## Introduction

Problems inheritance is one of the issue central in law Muslim families who have implications direct to justice distributive , legal certainty , and harmony connection family . In perspective Islamic law , inheritance No solely understood as mechanism transition right ownership property , but also as instrument normative designed For guard balance rights and obligations between member family as well as prevent occurrence inequality social (Al- Zuhaili , 2007; Syarifuddin , 2014). Therefore that , the law Islamic heritage has position strategic in build order a just and fair Muslim family .

Various study previous (state of the art) shows that conflict inheritance among Muslim families are a phenomenon that is still often happened . A number of study confirm that conflict the generally triggered by low understanding public to provision law Islamic inheritance , differences interpretation about draft justice in distribution inheritance , as well as domination interest economy party certain in family ( Rofiq , 2013; Suparman, 2018). In addition , other studies reveal that strong influence customs customs local that is not fully in line with principle faraid participate enlarge potential occurrence dispute inheritance (Ash- Shiddieqy , 2001).

Normative study classic and contemporary have also been Lots discuss principle faraid as system distribution inheritance of a nature detailed , proportional , and binding . The Islamic jurists confirm that provision faraid which is sourced from the Qur'an and Sunnah aims For

guarantee legal certainty as well as prevent conflict through determination clear part for every expert inheritance in accordance with position (Ash- Shabuni , 2003; Sabiq, 2009). In study this , faraid positioned as instrument preventive to potential dispute inheritance .

However Thus , a number of study latest show existence gap between provision normative faraid and practice distribution heritage in society . Implementation principle faraid often face constraint social , cultural , and emotional , such as relation power in family , compromise to customs , as well as trend For put forward deliberation without runway adequate law (Zahrah, 1997; Mardani, 2016) .

As a result , although provision law has available in a way clear , conflict inheritance still difficult avoided and often protracted . Based on search to existing literature , can identified there is a significant research gap . First , some big study inheritance Still focus on aspects normative-doctrinal faraid or in the description factor reason conflict , without integrate it in a way comprehensive with a resolution strategy applicable and contextual conflict . Second , the study about settlement conflict inheritance generally more emphasize on aspects formal or legal mediation in a way general , without in a way special formulate a resolution strategy conflict based on in a way systematic in principle faraid . Third , still limited research that positions faraid No only as system distribution legacy , but also as framework ethical and normative in resolution conflict inheritance in the environment Muslim family .

Depart from the state of the art and research gap , research This offer novelty with study in a way integrative factors reason conflict inheritance , role principle faraid as instrument prevention conflict , as well as formulation of resolution strategies conflict comprehensive and applicable inheritance based on principle faraid . Research This No only put faraid as a static legal norm , but also as guidelines dynamic in build mechanism settlement a conflict that is fair , just and oriented towards the welfare of the community Muslim family .

## Literature review

### A. Inheritance Conflict in Muslim Family : Concept and Socio-Legal Dynamics

Conflict inheritance is one of the form conflict the most complex family Because involving dimensions normative ( legal ), sociological, and psychological in a way simultaneously. In the context Muslim society, conflict inheritance often appears in the phase post death heir , when distribution treasure inheritance No only understood as problem law , but also as symbol justice , honor , and relationships family.

Conflict inheritance generally triggered by a mismatch between faraid norms and practice social, especially in society that still influenced customs or agreement informal families ( Nurlaelawati, 2010; Rasyid, 2018). In Indonesia, the phenomenon of This the more complex Because existence pluralism law, namely interaction between Islamic law, law customs and state laws.

Temporary that , study international put conflict inheritance as part from the legal consciousness of Muslim society , where compliance to Islamic law does not always compared straight with understanding normative to text faraid (Messick, 1993; Bowen, 2003) . This show that conflict inheritance No solely caused by disobedience , but by differences perception to justice inheritance .

### Causal Factors Conflict Inheritance among Muslim Family

Study previously identify that conflict inheritance nature multifactorial . The first factor is low literacy law faraid among expert inheritance . Studies in the journals Ahkam and Al-Ahkam show that Lots Muslim families understand law inheritance in a way partial or based on tradition verbally , not references systematic jurisprudence (Huda, 2017; Hasballah, 2020).

Second factor is intervention interest economic and emotional, especially when object inheritance worth tall or own meaning symbolic, such as land heirlooms and houses family. Research empirical show that conflict often triggered by jealousy between expert inheritance, inequality gender relations , as well as domination expert inheritance certain (Sukardja , 2019).

The third factor is domination law customs or agreement deviant family from principle faraid. In the context this research international show that practice distribution inheritance based deliberation often leads to injustice structural, in particular for women , who then trigger latent conflict (Coulson, 1971; An-Na'im, 2002).

### C. Principles Faraid as Instrument Prevention Conflict Inheritance

Faraid as system distribution inheritance in Islamic law has character normative , definite , and proportional . Principles main faraid covering principle ijbari (transition) automatic), bilateral, individual, and justice balanced , which is theoretical designed For minimize potential conflict (Al- Zuhaili , 1986).

Normative study in journal international confirm that clarity part expert inheritance in faraid is form *conflict avoidance mechanism* in Islamic law (Kamali, 2008). With the division that has been determined in a way textual, faraid reduce room subjectivity and potential negotiation cause conflict.

However, research empirical show that principle faraid Not yet fully functioning as instrument deterrent conflict Because weak socialization and internalization processes values faraid in Muslim families (Bowen, 2003). This confirm that effectiveness faraid No only depends on the norms, but also on the implementation strategy in context social.

### Resolution Strategy Conflict Inheritance Based Principle Faraid

Literature contemporary Islamic law start shift focus from just normativity faraid going to approach strategic and solution-oriented. Some study national emphasize importance mediation family based faraid, where the principle Islamic law is made references main in the deliberation process (Rahman, 2021).

In addition, studies in journals international highlight role institutions religious and sharia justice in bridge conflict inheritance through restorative justice- based approach Islamic values (An-Na'im, 2010). This strategy No only finish conflict in a way legal, but also restorative relation family.

Although Thus, research previously Still tend discuss resolution strategies conflict in a way general, without integrate in a way systematic between factor reason conflict, principles faraid, and settlement models conflict in One framework complete analysis .

## Method

### 1. Types and Nature of Research

Study This is study law normative with characteristic descriptive analytical. Research law normative chosen Because study focused on legal norms Islamic inheritance (faraid) as the rules that govern distribution inheritance and settlement conflict inheritance among Muslim families (Soekanto & Mamudji , 2019).

Descriptive-analytical nature used For describe factors reason conflict inheritance as well as analyze effectiveness principle faraid as instrument prevention and resolution conflict inheritance (Marzuki, 2021).

### 2. Approach Study

The approach used includes :

- a. Approach Legislation (statute approach), approach This used For analyzing legal norms Islamic heritage in system law national , in particular : Instructions President Number 1 of 1991 concerning Compilation of Islamic Law (Book II), Law Number 7 of 1989 concerning Religious Courts and the changes .
- b. Approach Conceptual (conceptual approach) Approach This used For study draft faraid , justice distributive, and *shulh* based on the Koran, Sunnah, and classical jurisprudence opinions and contemporary (Al- Zuhaili , 2007).

### 3. Legal Sources and Materials

Study This using secondary data consisting of on :

- a. legal materials : Al-Qur'an (QS. an- Nisā ' : 11, 12, 176), hadith inheritance , and the Compilation of Islamic Law.
- b. Legal materials secondary : books jurisprudence Mawaris and articles Ahkam journal and journal similar Islamic law.
- c. Legal materials tertiary : dictionary and encyclopedia Islamic law .

### 4. Analysis Techniques

Analysis done in a way qualitative normative with interpreting faraid norms and constructing resolution strategies conflict inheritance in accordance principle Islamic law.

## Results and Discussion

### A. Dynamics of Inheritance Conflict in Muslim Family

Research result show that conflict inheritance in Muslim families are form conflict socio-legal nature complex and multidimensional. Conflict No only appear as consequence from violation of Islamic legal norms, but also as results from interaction between faraid norms, structure social family, and perception subjective about justice inheritance.

In practice , the division inheritance often understood No solely as a legal process , but rather as a symbolic arena that represents justice , recognition social , and position somebody in structure family . Condition This in line with findings Nurlaelawati (2010) and Rasyid (2018) stated that dispute inheritance often appears in the phase post-mortem heir , when authority

normative move from parental figures to relation between expert equal inheritance in a way genealogical, but No always equivalent in a way social and economic.

Pluralism law in Indonesia is increasingly complicate dynamics those. Interaction between Islamic law, law customs and laws of the state create room broad and often contradictory interpretations. In the context of this, conflict inheritance No can released from what is called as *legal consciousness* , namely method public understand, interpret, and practice law in life everyday life (Messick, 1993; Bowen, 2003). Findings This confirm that conflict inheritance is problem structural that goes beyond aspect normative solely .

### **Causal Factors Conflict Inheritance among Muslim Family**

Based on results analysis , conflict inheritance among Muslim families are influenced by several factor main mutual related.

The first factor is low literacy law faraid among expert inheritance . Many Muslim families do not understand provision Islamic inheritance in general whole and systematic , but rather only know principles inherited general in a way hereditary . Condition This cause emergence misunderstanding about the rights and obligations of each expert heirs , which in the end trigger conflict when happen difference interests (Huda, 2017; Hasballah , 2020).

Second factor is intervention interest economic and emotional . Research results show that conflict inheritance often increases when object inheritance own mark economy tall or meaning strong symbols , such as land heirloom or House family . In this situation said , inheritance become object a struggle involving jealousy , inequality gender relations and domination expert inheritance certain ones that have power economy or social more big ( Sukardja , 2019).

The third factor is domination law customs and conventions deviant informal families from principle faraid. Although deliberation family often viewed as solution peace, results study show that practice This No always ensure justice substantive. In many case, deliberation precisely legitimize inequality structural , in particular to women, so that bring up latent conflict that can develop become dispute open (Coulson, 1971; An-Na'im, 2002). Findings This strengthen argument that conflict inheritance nature multifactorial and not can completed only through approach formal normative.

### **C. Principles Faraid as Instrument Prevention Conflict Inheritance**

Research result normative show that principle faraid in Islamic law in general theoretical designed as instrument prevention conflict inheritance. Faraid own character definite and binding norms , with distribution right heirs who have determined in a way textual in the Qur'an and explained by the fuqaha.

Principle ijbari ensure that transition treasure inheritance happen in a way automatic without depends on the will human beings . Bilateral and individual principles guarantee that every expert inheritance get his rights personally, while principle justice balanced reflect distribution proportional rights based on not quite enough answer social each expert inheritance (Al- Zuhaili , 1986).

In the study international Islamic law, clarity distribution inheritance in faraid viewed as *conflict avoidance mechanism*. Because reduce room frequent subjectivity and negotiation become source conflict (Kamali, 2008). However Thus, the results study this also shows that effectiveness faraid as instrument deterrent conflict is very dependent on the level understanding and internalization its values in Muslim famil.

Research (2003) shows that in a pluralistic Muslim society law, faraid often not made into references main, but rather compromised with customs and interests practical. This is cause faraid lost function preventively, although in a way normative own very strong potential.

### **Resolution Strategy Conflict Inheritance Based Principle Faraid**

Research result show that the resolution strategy conflict effective inheritance must nature integrative, namely combining faraid norms with approach social and institutional.

First strategy is strengthening literacy and education law faraid in Muslim family. Education This important For grow awareness law and equalize perception expert inheritance about distribution inheritance before conflict appears. Literacy adequate faraid proven can reduce potential conflict in a way significant (Rahman, 2021).

Second strategy is optimization deliberation family based faraid. Deliberation No may released from framework normative Islamic law, but must make faraid as reference main in determine the rights of each expert inheritance. With Thus, deliberation functioning as means reconciliation emotional, not as mechanism For negate legal norms.

The third strategy is utilization sharia mediation and its role institutions religious as well as religious courts. Approach mediation based Islamic values and principles *restorative justice* proven more effective in finish conflict inheritance compared to litigation pure, because No only finish dispute legal, but also restorative relation kinship (An-Na'im, 2010).

Findings study This show that weakness study previously discussed conflict inheritance and faraid in a way separate, can overcome through the solution model integrating conflict factor reason conflict, principles faraid, and settlement strategies conflict in One framework complete analysis.

Study This show that conflict inheritance among Muslim families are problem socio-legal birth from tension between faraid norms and practice social society. Conflict generally triggered by low understanding law faraid, strong interest economic and emotional between expert inheritance, and domination customs and conventions families who do not in harmony with provision law Islamic inheritance in context pluralism law in Indonesia.

In a way normative, principles faraid with principle *ijbari*, bilateral, individual, and justice balanced has provide system distribution a definite and proportional inheritance, so that functioning as instrument deterrent conflict. However, the effectiveness faraid in practice Still limited Because weakness internalization values faraid and minimal education law inheritance in Muslim family.

Therefore that, the solution conflict inheritance No Enough done through approach normative only, but requires an integrative strategy that combines principle faraid with mechanism contextual social media. Mediation family based faraid and strengthening role

institutions religious as well as religious courts become a relevant strategy For guarantee legal certainty at a time restore relation family.

### Conclusion

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### References

- Al-Qaradawi, Y. (2006). *Maqāṣid al- syarī' ah al- islāmiyyah* . Cairo: Dār al- Shurūq .
- Al- Zuhaili , W. (1986). *Al- fiqh al- islāmī wa adillatuhu* (Vol. 8). Damascus: Dār al-Fikr.
- . (1986). *Al-Fiqh al-Islami wa Adillathu* . Damascus: Dar al-Fikr.
- , W. (2007). *Al- fiqh al- islāmī wa adillatuhu* (Vol. 8). Damascus: Dār al-Fikr.
- An-Na'im, AA (2002). *Islamic family law in a changing world*. London: Zed Books.
- . (2010). *Islam and the secular state*. Cambridge, MA: Harvard University Press.
- . (2002). *Islam and the Secular State*. Cambridge: Harvard University Press.
- Ash- Shabuni , MA (2003). *Al- mawārīts fī al- sharī' ah al- islāmiyyah* . Beirut: Dār al-Qur'ān al-Karīm .
- Ash- Shiddieqy , TMH (2001). *Fiqh Mawaris* . Jakarta: Bulan Bintang.
- Bowen, J.R. (2003). *Islam, Law, and Equality in Indonesia*. Cambridge: Cambridge University Press.
- . (2012). *Islam, law, and equality in Indonesia*. Cambridge: Cambridge University Press.
- Coulson, N.J. (1971). *Succession in the Muslim Family*. Cambridge: Cambridge University Press.
- Hasballah , Z. (2020). *Implementation law Islamic inheritance in Indonesian Muslim society* . *Al-Ahkam: Journal Islamic Legal Thought* , 30(1), 85–104.
- Hooker, M. B. (2016). *Islamic law in South-East Asia*. Oxford: Oxford University Press.
- Huda, N. (2017). *Conflict inheritance in perspective Islamic law and law customs* . *Ahkam: Journal Sharia Science* , 17(2), 215–236.

- (2017). Literacy law Islamic inheritance and its implications to dispute family .  
Ahkam: Journal Sharia Science , 17(2), 223–244.
- Kamali, M.H. (2008). Shari'ah Law : An Introduction. Oxford: Oneworld.
- (2008). Shari'ah law : An introduction. Oxford: Oneworld Publications.
- Mardani. (2016). Islamic family law in Indonesia. Jakarta: Kencana .
- Marzuki, PM (2021). Research Law . Jakarta: Kencana .
- Messick, B. (1993). The calligraphic state: Textual domination and history in a Muslim society.  
Berkeley: University of California Press.
- Mulyadi. (2019). Conflict inheritance in perspective Islamic law . Al-Ahkam, 29(1), 45–62.
- Nurlaelawati , E. (2010). Modernization, Tradition, and Identity: The Compilation of Islamic  
Law and Legal Practices. Amsterdam: Amsterdam University Press.
- Rahman, F. (2021). Mediation family based faraid as effort settlement conflict inheritance .  
Journal of Islamic Family Law , 6(1), 45–62.
- (2021). Mediation dispute inheritance in perspective Islamic law . Al-Ahkam:  
Journal Islamic Legal Thought , 31(1), 45–66.
- Rasyid, M. (2018). Pluralism law and conflict inheritance in Indonesia. Journal Rechtsvinding ,  
7(2), 189–205.
- Rofiq, A. (2013). Islamic Law in Indonesia. Jakarta: RajaGrafindo Persada .
- Sabiq, S. (2009). Fiqh al-sunnah (Vol. 3). Cairo: Dar al-Fath.
- Soekanto , S., & Mamudji , S. (2019). Research law Normative . Jakarta: RajaGrafindo Persada .
- Sukardja , A. (2019). Relationship power and conflict inheritance in Muslim family . Ahkam:  
Journal Sharia Science , 19(1), 91–112.
- Suparman, E. (2018). Indonesian inheritance law in Islamic perspective , custom , and BW.  
Bandung: Refika Aditama .
- Syarifuddin, A. (2014). Islamic inheritance law. Jakarta: Kencana Prenada Media Group.
- Zahrah, M.A. (1997). Al- ahwāl al- syakhshiyah . Cairo: Dār al-Fikr al -' Arabi.