



Habitus and Legal Behavior in Islamic Inheritance Practice: A *Socio-Legal* Analysis in Rural Serang Regency, Indonesia

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Abstract

This study investigates patterns of legal non-compliance in Islamic inheritance practices among rural Muslim communities in Petir District, Serang Regency, Indonesia, where the doctrinal authority of Farā'id is often subordinated to customary logic and familial consensus. In many such settings, inheritance is distributed through informal arrangements that deviate from scriptural mandates, raising concerns about the erosion of Islamic legal norms and the role of religious figures in mediating these tensions. The research focuses on understanding the underlying drivers of this legal disobedience and analyzing how religious leaders respond to and interpret such practices within the community. Using a qualitative case study approach, the study draws on interviews and participant observation in two villages (Kubang Jaya and Kadugenep) and applies Bourdieu's theory of habitus and Black's theory of legal behavior to interpret the findings. The results show non-compliance is driven by strong customary expectations, gendered family roles, limited legal literacy, and practical constraints that hinder formal legal access. This study argues that these practices are not merely accidental or ignorant deviations but socially embedded responses to structural and normative dissonance. Religious leaders exhibit varied responses, ranging from strict textualism to pragmatic contextualization, often opting for ethical accommodation over legal enforcement. The study argues that inheritance's legal disobedience reflects systemic social rationalities and negotiated religious authority. It contributes to ongoing discussions on Islamic legal pluralism by revealing how Farā'id is accepted but selectively reconfigured to align with local moral economies and offers insight into strengthening legal literacy, religious guidance, and institutional responsiveness in Muslim-majority contexts.

Keywords: Islamic inheritance law, legal behavior, habitus, rural Muslim communities, gender, and inheritance

Abstrak

Penelitian ini menyelidiki pola ketidakpatuhan hukum dalam praktik warisan Islam di kalangan masyarakat muslim pedesaan di Kecamatan Petir, Kabupaten Serang, Indonesia, di mana otoritas doktrin Farā'id sering tunduk pada logika adat dan konsensus keluarga. Dalam banyak pengaturan seperti itu, warisan didistribusikan melalui pengaturan informal yang menyimpang dari mandat kitab suci, menimbulkan kekhawatiran tentang erosi norma-norma hukum Islam dan peran tokoh agama dalam menengahi ketegangan ini. Penelitian ini berfokus pada pemahaman pendorong yang mendasari ketidakpatuhan hukum ini dan menganalisis bagaimana para pemimpin agama menanggapi dan menafsirkan praktik tersebut dalam masyarakat. Dengan menggunakan pendekatan studi kasus kualitatif, penelitian ini mengacu pada wawancara dan observasi peserta di dua desa (Kubang Jaya dan Kadugenep) dan menerapkan teori habitus Bourdieu dan teori perilaku hukum Black untuk menafsirkan temuan tersebut. Hasil penelitian menunjukkan bahwa ketidakpatuhan didorong oleh harapan adat yang kuat, peran keluarga gender, keterbatasan literasi hukum, dan kendala praktis yang menghambat akses hukum formal. Studi ini berpendapat bahwa praktik-praktik ini bukan hanya penyimpangan yang tidak disengaja atau ketidaktahuan, tetapi respons yang tertanam secara sosial terhadap disonansi struktural dan normatif. Para pemimpin agama menunjukkan tanggapan yang bervariasi, mulai dari tekstualisme yang ketat hingga kontekstualisasi pragmatis, sering memilih akomodasi etis daripada penegakan hukum. Studi ini berpendapat bahwa ketidakpatuhan hukum waris mencerminkan rasionalitas sosial sistemik dan otoritas agama yang dinegosiasikan. Ini berkontribusi pada diskursus tentang pluralisme hukum Islam dengan mengungkapkan bagaimana Farā'id diterima tetapi secara selektif dikonfigurasi ulang agar selaras dengan ekonomi moral lokal dan menawarkan wawasan untuk memperkuat literasi hukum, bimbingan keagamaan, dan responsif kelembagaan dalam konteks mayoritas Muslim.

Kata Kunci: *Hukum waris Islam, perilaku hukum, habitus, masyarakat Muslim pedesaan, jender dan pewarisan*

Introduction

Inheritance law regulations are one of the most complicated intersections of religious doctrine, customary norms, and the state's legal framework. This complexity is especially pronounced in Indonesia, where Islamic inheritance law (*Farā'id*) operates alongside a diverse range of customary laws in the country's comprehensive legal system. The coexistence of this legal tradition often raises tensions, especially in inheritance disputes involving gender equality and the accommodation of local customs. Such conflicts require nuanced approaches that blend doctrinal analysis of Islamic legal sources with sociological and anthropological perspectives to explain how these laws are interpreted, negotiated, and contested within a particular community.

Islamic inheritance law, based on the Qur'an and ḥadīth, aspires to achieve a fair distribution of wealth among heirs while balancing individual rights and family obligations. However, its application in various socio-cultural settings reveals significant variability.¹ In Indonesia, the interaction between *Farā'id* and customary law further complicates inheritance practices, as Anggraeni, Muzainah, Huda, et al., and Elfia highlighted that this interaction raises critical questions about the adaptability of Islamic law in a pluralistic society.

Gender equality is an important issue in inheritance practice.² While Islamic law describes a special section for male and female heirs, deviations influenced by custom remain prevalent in areas such as Aceh,³ Makassar,⁴ and Mandailing Natal. This deviation, rooted in the patriarchal socio-economic structure, prioritizes the preservation of family wealth and land in a male-dominated kinship system, a comparative study by Bahrami-Rad,⁵ Deininger et al.⁶ Hossain,⁷ Danon, and Collin⁸ underscore the global resonance of these patterns, revealing common challenges across Muslim-majority societies. In addition, Khan's works⁹, Shah¹⁰ and Zuleikha,¹¹ offer critical insights into the gender implications of inheritance practices, enriching the discourse on equality and justice.

Indonesia's legal pluralism also poses a severe challenge to judicial authorities. Judges in religious courts must navigate conflicting norms, balancing the rigidity of Islamic legal doctrine with the pragmatic flexibility required by custom.

¹ Arief Budiman, Muhammad Saifullah, & Bahrul Ulum, "Wājibah will for non-Muslim heirs in Indonesia: a legal political perspective based on justice and welfare", *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, No. 2 (2024), p. 223–250.

² Azni, Muhammad Akhyar Rifqi, Saifunnajar, Kholil Syu'aib, & Najibah bt Mohd. Zin, "The Timing Analysis of Inheritance Distributions in the Compilation of Islamic Law", *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, No. 2 (2023), p. 258–273.

³ Harnides Harnides, Syahrizal Abbas, dan Khairuddin Hasballah, "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (20 Juni 2023), p. 1293.

⁴ H. Basri dkk., "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law," *Samarah* 6, no. 2 (2022), p. 537.

⁵ D. Bahrami-Rad, "Keeping it in the family: Female inheritance, inmarriage, and the status of women," *Journal of Development Economics* 153 (2021), p. 12.

⁶ Klaus Deininger, Aparajita Goyal, dan Hari Nagarajan, "Women's Inheritance Rights and Intergenerational Transmission of Resources in India," *Journal of Human Resources* 48, no. 1 (2013), p. 114.

⁷ J. Hossain, "Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh," *Public Administration and Policy* 25, no. 3 (2022), p. 323.

⁸ Z. Danon dan S.R. Collins, "Women In The Middle East And North Africa: Issues For Congress," dalam *A Closer Look at Women's Issues* (Nova Science Publishers, Inc., 2021), p. 365.

⁹ Issa Khan dkk., "The Right of Women in Property Sharing in Bangladesh: Can the Islamic Inheritance System Eliminate Discrimination?," *SpringerPlus* 5, no. 1 (Desember 2016), p. 7.

¹⁰ N.A. Shah, "Women's Human Rights in the Koran: An Interpretive Approach," dalam *International Law and Islamic Law*, (2017), p. 461.

¹¹ A. Zuleikha dan S. Mohamad, "Faraid as Islamic inheritance laws: Socio-economic impact on investments," dalam *Islamic Wealth Management: Theory and Practice*, 2017, p. 281.

The study by Elfia¹², Reskiani¹³, Syaputra¹⁴, and Judge¹⁵ illustrates how judicial rulings reflect a broader effort to align these competing paradigms in addition, integrating *Maqāṣid al-Sharī'ah* (the purpose of Islamic law) into judicial reasoning, as advocated by Suma,¹⁶ and Hipni¹⁷ providing a constructive framework for resolving these conflicts, advancing justice, and fostering social cohesion.

Despite the substantial literature on inheritance practices, critical gaps remain in understanding the dynamics of legal non-compliance in local communities. This study addresses this gap by investigating inheritance practices in Serang, Indonesia, focusing on two key questions: (1) Why does legal non-compliance occur in the Serang Muslim community regarding the distribution of inheritance? (2) How does the Muslim community respond to such non-compliance? By exploring these questions, this study sheds light on the socio-legal mechanisms that shape compliance and deviation from Islamic legal principles in pluralistic settings.

The novelty of this research lies in its interdisciplinary approach, integrating doctrinal, sociological, and anthropological perspectives to capture the living reality of inheritance law. Based on the results of the interviews, this study applies the theoretical framework of Pierre Bourdieu and Donald Black to analyze how legal norms are constructed, contested, and negotiated in specific social contexts. By synthesizing these perspectives, the research contributes to a broader discourse on aligning Islamic law with the needs of contemporary society, offering actionable insights for policymakers, legal practitioners, and scholars. In addition, it provides a critical lens through which to evaluate how legal pluralism can serve as a challenge and an opportunity to promote equality and social justice in inheritance practices.

This study adopts a qualitative approach with a case study design to explore the practice of inheritance distribution in the rural community of Petir District, Serang Regency. The primary focus of the research is to understand the application of Islamic inheritance law (*Farā'id*) in a social context influenced by local customary norms.

¹² Elfia, "Patterns for Settlement of Puhah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 17, no. 2 (2022), p. 480.

¹³ A. Reskiani, "Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence," *Juris: Jurnal Ilmiah Syariah* 21, no. 1 (2022), p. 39.

¹⁴ Dodi Syaputra, "Pembagian Harta Waris dalam Masyarakat Nagari Bayua," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 3, no. 1 (2020), p. 29.

¹⁵ Muhammad Lutfi Hakim, "Ismail Mundu on Islamic Law of Inheritance: A Content Analysis of Majmū' al-Mīrāth Fī Ḥukm al-Farā'id," *Al-Jami'ah: Journal of Islamic Studies* 61, no. 1 (30 Juni 2023), p. 59.

¹⁶ M.A. Suma, "Measuring the Justice of Islamic Inheritance Law by Drawing upon the Text and Context of al-Nushûsh," *Ahkam: Jurnal Ilmu Syariah* 12, no. 2 (2012), p. 47.

¹⁷ Mohammad Hipni, "The Study of Maqashidi Sharia Toward Maduresse Traditional Inheritance by Using System Approach," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 14, no. 1 (2019), p. 50.

Data were collected through in-depth interviews and participatory observation in two main villages: Kubang Jaya and Kadugenep. The snowball sampling technique interviewed key informants, including family heads, religious leaders, the head of KUA Petir, and local Islamic law practitioners. Participatory observation involves researchers in family meetings and inheritance-sharing processes to understand the prevailing social dynamics. This study uses the habitus theory of Pierre Bourdieu and the theory of legal behavior from Donald Black. The habitus theory explains how social habits shape inheritance practices, while the legal behavior theory helps to understand the influence of social status and family relationships on the application of inheritance law. The analysis was conducted inductively with a thematic analysis approach to identify the main themes related to inheritance practices and socio-economic factors that affect non-compliance with *Fara'id*. A comparative approach is used to compare inheritance practices with other regions that have similar social backgrounds.

Islamic inheritance law and the position of men and women

In Islamic inheritance law, men and women have the same rights and status to obtain inheritance from their parents and relatives. It follows the intent of Q.S. 4:7. In detail, this verse explains that men and women derive a share of the inheritance from all left by their parents and relatives.¹⁸ Thus, gender differences are not a barrier to inheritance.¹⁹ The share of the inheritance is given to both men and women, regardless of whether the inheritance is small or large. The share of inheritance given to male and female heirs is determined by *naşş*. It follows the phrase prescription assumptions (Q.S. 4:7).

Not only in Q.S. 4:7, but in other verses, namely Q.S. 4:11, 12, and 176, there is still a provision regarding inheritance in which there is an explanation of the income received by men and women. In these verses, the heirs of the male and female sides are described. In Q.S. 4:11, for example, some heirs are lexically mentioned, namely, daughters, mothers, and fathers. In Q.S. 4:12, it is explained that there are several heirs, namely husband and wife. Furthermore, in verse Q.S. 4:176, there is the inheritance of the brothers of the testator, both brothers and sisters.

From the explanation above, it can be understood that the principle of the individual is the principle of inheritance regulated in Islamic law. By examining the verses of inheritance and the Hadith on inheritance, as stated above, each heir individually receives their share of the inheritance without being represented by

¹⁸ Elfia dkk., "Patterns for Settlement of Punah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (2022), p. 480.

¹⁹ Hani Sholihah, Nani Widiawati, Mohd Khairul Nazif bin Hj. Awang Damit, "Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender", *Al-'Adalah* 21, No. 1 (2024), p. 101-124.

other heirs.²⁰ In addition, since the property of the inheritance is part of private ownership, any heir can take legal action against the inheritance. From this explanation, it can be understood that this provision applies to male and female heirs.²¹

***Li al-ḥakari miṣlu ḥaẓẓ al-unṣayain* as part of the Islamic Inheritance Law**

Among the provisions relating to the status of men and women in Islamic inheritance law are the provisions of *li al-ḥakari miṣlu ḥaẓẓ al-unṣayain*. This provision means that men receive twice the share of women. Two-to-one provisions result from scholars' understanding of the agreed-upon sources of Islamic law, namely the Qur'an and Hadith.

Concerning the interpretation of verses in the Qur'an about inheritance, in this study, some opinions of scholars of interpretation are presented regarding the interpretation of the expression *li al-ḥakari miṣlu ḥaẓẓ al-unṣayain* in Q.S. 4: 11 and Q.S. 4: 176. According to Imam al-Ṭabari, the meaning of *li al-ḥakari miṣlu ḥaẓẓ al-unṣayain* is that if a person dies and leaves children, a two-to-one (2:1) provision between a boy and a girl applies. The 2:1 rule applies when no other heirs inherit. This provision does not consider the age of a man or a woman, whether children or adults. It is under the expressions *al-ḥakar* and *al-unṣā*. In addition, the expression *awlād* in Q.S. 4:11 also means that the two-to-one provision applies to children still in the mother's womb.

Ibn al-'Arabi argued that the phrase *li al-ḥakari miṣlu ḥaẓẓ al-unṣayain* shows that when a man inherits with a woman, his share is double that received by the woman. In other words, women receive half of the share that men receive. In cases where the heirs consist of only them, the inheritance is divided between them on a two-to-one basis. However, when they inherit with another heir with a definite share, they take the rest after deducting the other heir's share.²²

Q.S. 4:11 is the verse explaining the rules' details in Q.S. 4:7. Part of the urgency of the verdict contained in Q.S. al-Nisa:11 is using the recommended phrase.

²⁰ Aden Rosadi, Siti Ropiah, "Reconstruction of Different Religion Inheritance through Wajibah Testament", *Jurnal Ilmiah Peuradeun* 8, No. 2 (2020), p. 327-350.

²¹ H Basri, "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and its Implications for Islamic Law," *Samarah* 6, no. 2 (2022), 537; Z Danon, "Women In The Middle East and North Africa: Issues For Congress," *A Closer Look at Women's Issues*, 2021, p. 365–420; A Singh, "Women, wealth and law: Anglo-hindu and anglo-islamic inheritance law in British India," *South Asia: Journal of South Asia Studies* 40, no. 1 (2017), p. 40; Klaus Deininger, Aparajita Goyal, dan Hari Nagarajan, "Women's Inheritance Rights and Intergenerational Transmission of Resources in India," *Journal of Human Resources* 48, no. 1 (2013), p. 114–41, <https://doi.org/10.1353/jhr.2013.0005>; Issa Khan dkk., "The Right of Women in Property Sharing in Bangladesh: Can the Islamic Inheritance System Eliminate Discrimination?", 7; N A Shah, "Women's Human Rights in the Koran: An Interpretive Approach," *International Law and Islamic Law*, 2017, p. 461–96.

²² Muḥammad Ibnu Al-'Arabi, *Aḥkām al-Qur'ān*, ed. oleh Muḥammad 'Abd Al-Qādir (Beirut: Dār al-Kutub al-'Ilmiyyah, 2003).

It is because the use of this phrase indicates that the commandment in verse Q.S. 4:11 is a command against something that is considered very important for its benefit.²³ Thus, the provision that gives men twice the share of women is undeniably a law that offers many advantages.²⁴

One-part and two-part judgments are specifically for the children of the testator, not for other heirs. The testator's grandchildren are given inheritance rights by what is meant for their parents. Therefore, the grandson of a son receives two parts when inheriting together with the grandson of a daughter, provided that his parents have died before the testator. This provision is given to grandchildren because their status is equated with their parents or the person who links blood relations with the testator.²⁵

According to Rashīd Riḍā, men need wealth to support themselves and their families. Therefore, a woman's share will be more than a man's when her share of inheritance is added to the maintenance provided by her husband.²⁶ From a comparative perspective, according to Mustafa' Ashur, regarding Q.S. al-Nisā: 176, which contains the phrase *Shurakā'*, whose basic word is *Mushārakah*, the brothers and sisters are the same. It is because it follows the meaning of the *Shurakā'*, which shows equality of rights and the absence of many rights for men.²⁷

Habitus Theory and Legal Behavior in Social Structure and Practice

In his book *Outline of a Theory of Practice*, Pierre Bourdieu defines habitus as a system of dispositions internalized by individuals through collective social experience.²⁸ Thus, according to Bourdieu, habitus is a "shaping structure" that produces practice by ensuring the presence of experience in present action.²⁹ The

²³ Muḥammad Ṭāhir Ibn Asyūr, *Tafsīr al-Tahrīr wa al-Tanwīr*, Vol. 4 (Tunis: Dār al-Tunisiyyah, 1984), p. 257.

²⁴ Muḥammad Zuhirsyan, Maswandi Maswandi, dan Jamillah Jamillah, "Implementation of Heritage Distribution in the Community in Islamic Law Antropology Perspective (Study On Simalungun Tribe In Kuta Baru Village, Tebing Tinggi, Serdang Bedagai Regency)," *BIRCI* 2, no. 4 (November 2019), p. 477; J Hossain, "Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh," *Public Administration and Policy* 25, no. 3 (2022), p. 323; Zaitun Muzana dkk., "Customary Practices of Sharing Inheritance: An Analysis of Society Practices in Pidie Aceh Darussalam," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 11, no. 2 (2 Januari 2016), p. 275.

²⁵ Hamouda, "Islamic Inheritance Law Reform: The Problem of Orphaned Grandchildren's Inheritance Rights"; Diana Zuhroh, *Criticizing the Compilation of Islamic Law (KHI) to Resolve the Case of Grandchildren's Inheritance Right in Religious Courts, Proceedings of the 1st International Seminar on Sharia, Law and Muslim Society (ISSLAMIS 2022)* (Atlantis Press SARL, 2022); Md Mostofa, Kazi Sonia Tasnim, dan Md. Zahidul Islam, "Inheritance Right Of Orphaned Grand Children: Bangladesh Perspectives," *JAASH* 8, no. 4 (2022), p. 37.

²⁶ Muḥammad Rasyīd Riḍā, *Tafsīr al-Manār*, Vol. 4 (Kairo: Dār al-Manār, 1950), p. 332.

²⁷ Mushtafa Ashur, *Ilm al-Mirats* (Kairo: Maktabah al-Qur'an, 1988).

²⁸ Pierre Bourdieu, *Outline of a Theory of Practice* (Cambridge University Press, 1977), p. 72.

²⁹ H.J. Stam, "Habitus, Psychology, and Ethnography: Introduction to the Special Section," *Theory & Psychology* 19, no. 6 (2009), p. 707; W.C. Cockerham dan B.P. Hinote, "Quantifying

habitus represents a cognitive map that guides individual choices and behaviors based on an internalized social structure.³⁰ The concept of habitus unconsciously shapes perceptions, actions, and social practices in the individual's environment.³¹ This concept is crucial for understanding how social behaviors and practices continue and change over time.³²

In addition, habitus connects objective structures and individual actions by embodying social norms, understandings, and behavior patterns in individuals. As a concept, habitus offers an analytical framework to understand the complex relationships between social practices, space, and time, thus helping to explain various social phenomena. The influence of habitus on individual behavior lies in its ability to form certain predispositions influenced by external social structures.³³

Thus, habitus plays a role in directing and evaluating individual action choices based on long-lasting dispositions and norms considered appropriate in a particular social context. While highly relevant in social analysis, habitus presents methodological challenges because it involves the dynamic interaction between individuals' internal disposition and the broader society's influence.³⁴

In short, Bourdieu's concept of habitus is fundamental in understanding how social structures are internalized and how they unconsciously shape individual and collective practices. This concept underlines the dynamic relationship between individual agency and structural influence in forming social behavior.

If the habitus theory is associated with social behavior, then the theory of legal behavior is connected to social control. Regarding the behavior of the law, Donald Black argues that the law functions as a form of social control influenced by various social variables such as social stratification, economic status, and the intensity of interpersonal relationships. Black's theory suggests that the accessibility and application of formal legal systems often depend on the socio-economic position of individuals in society.³⁵ Also, Black's theory emphasizes that the quantity and application of laws are not evenly distributed throughout society. Instead, they vary

Habitus: Future Directions," dalam *Quantifying Theory: Pierre Bourdieu* (Springer Netherlands, 2009), p. 201.

³⁰ C. Piroddi, "Hope, Habitus and Social Recognition: A Bourdieusian Proposal," *Journal for the Theory of Social Behaviour* 51, no. 4 (2021), p. 619; Cockerham dan Hinote, "Quantifying Habitus: Future Directions," 2009, p. 201.

³¹ C. Costa, C. Burke, dan M. Murphy, "Capturing Habitus: Theory, Method and Reflexivity," *International Journal of Research and Method in Education* 42, no. 1 (2019), p. 19; B. Wagner dan K. McLaughlin, "Politicising the Psychology of Social Class: The Relevance of Pierre Bourdieu's Habitus for Psychological Research," *Theory & Psychology* 25, no. 2 (2015), p. 202.

³² K. Audehm, "Habitus and Education," dalam *Handb. of the Anthropocene: Humans between Herit. and Future* (Springer International Publishing, 2023), p. 1131; Wagner dan McLaughlin, "Politicising the Psychology of Social Class: The Relevance of Pierre Bourdieu's Habitus for Psychological Research," p. 202.

³³ G. Setten, "Habitus," dalam *International Encyclopedia of Human Geography, Second Edition* (Elsevier, 2019), p. 287.

³⁴ W.C. Cockerham dan B.P. Hinote, "Quantifying Habitus: Future Directions," p. 201,

³⁵ Donald J. Black, *The Behavior of Law* (Emerald Group Publishing Limited, 1980), p. 3.

significantly based on social stratification. For example, individuals from higher socio-economic backgrounds have better access to legal resources and are more likely to utilize the law.³⁶

Economic status determines a person's interaction with the legal system. Those with higher economic status are more likely to engage with formal legal mechanisms, while those with lower economic status may find themselves marginalized within the legal framework.³⁷ The intensity and nature of interpersonal relationships also affect the application of the law. Black's theory suggests that cases involving parties with close relational ties are less likely to be resolved through formal legal means, as these individuals may prefer informal resolutions.³⁸

Legal Non-compliance and Influencing Factors

1. The Dominance of Local Traditions

Inheritance distribution in Serang Regency reveals a dynamic negotiation between Islamic legal norms and the enduring authority of local customs. One of the most prominent empirical patterns identified in this context is the preferential inheritance allocation to daughters, sometimes amounting to twice the share of sons. Such practices are deeply situated within localized social imaginaries where daughters are entrusted with roles traditionally ascribed to parents: economic providers, caregivers, and stabilizers of intergenerational continuity. As Suheri, a resident of Kubang Jaya Village, remarked:³⁹

"In my parents' family, the daughters received twice the inheritance of the sons because daughters are considered the successors of their parents in safeguarding the family and may even provide residence for their brothers when necessary."

This phenomenon cannot be interpreted merely as juridical non-compliance with *Farā'id* norms. Instead, it must be theorized within Pierre Bourdieu's concept of habitus, which encapsulates the historically sedimented dispositions that structure practice. The prevailing habitus in Serang repositions daughters as nodes of social reproduction, reshaping inheritance logics into instruments of moral economy. These

³⁶ A.M. Verkeev, "Empirical indicators of mobilization of law," *Monitoring Obshchestvennogo Mneniya: Ekonomicheskie i Sotsial'nye Peremeny* 145, no. 3 (2018), p. 91; S.K. Wong, "Crime Clearance Rates in Canadian Municipalities: A Test of Donald Black's Theory of Law," *International Journal of Law, Crime and Justice* 38, no. 1 (2010), p. 17.

³⁷ A. Raynouard dan A.-J. Kerhuel, "Measuring the Law: Sécurité Juridique as a Watermark," *International Journal of Disclosure and Governance* 8, no. 4 (2011), p. 360; Wong, "Crime Clearance Rates in Canadian Municipalities: A Test of Donald Black's Theory of Law," p. 17.

³⁸ K. Auerhahn, "'Social Control of the Self' and Pleading Guilty in Criminal Court," *International Review of Sociology* 22, no. 1 (2012), 95; Verkeev, "Empirical indicators of mobilization of law," p. 17.

³⁹ Interview with Suheri, Kubang Jaya Villagers, on June 16, 2017.

inherited social structures contest legal orthodoxy and embody a form of justice deeply rooted in kinship, reciprocity, and gendered labor.

Comparable practices have been documented in various Indonesian regions. Syaputra describes equal distribution in Nagari Bayua, where male heirs may be excluded altogether.⁴⁰ Pebrianti and Hidayat observe similar gender-based redistributions in Cipicung Girang,⁴¹ and Basri et al.,⁴² Hidayati et al.,⁴³ and Fikri⁴⁴ report analogous tendencies in Makassar, Jambi, and among the Sasak respectively. These patterns underscore the normative weight of local *urf*, not as deviations from Islamic law but as socially sanctioned legal alternatives.

Donald Black's theory of legal behavior further clarifies this phenomenon: the application of law is inversely related to relational closeness and social stratification within a community. In Serang, the proximity of familial ties and the moral authority of elders diminish the relevance of formal legal systems. It mirrors findings by Rasyid et al.,⁴⁵ who argue that in tightly knit communities, the role of formal law declines as social consensus becomes the dominant regulatory mechanism.

Moreover, the legitimacy of local inheritance arrangements is reinforced by a *legal consciousness* that views *fiqh* as abstract, elitist, and insufficiently responsive to local realities. As shown by Aniroh et al.,⁴⁶ the bilateral principles of Islamic inheritance are often reinterpreted in light of local ideas of fairness and mutual exchange. In Serang, these reinterpretations operate through informal mechanisms such as *hibah*, consensus, or even verbal agreements—all of which function as de facto inheritance regimes.⁴⁷

⁴⁰ Syaputra, "Pembagian Harta Waris dalam Masyarakat Nagari Bayua," p. 29.

⁴¹ Suci Pebrianti dan Asep Ramdan Hidayat, "Analisis Sistem Pembagian Harta Warisan Di Kampung Cipicung Girang Dihubungkan Dengan Hukum Waris Islam," *Bandung Conference Series Islamic Family Law* (2021) p. 12.

⁴² Basri dkk., "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law," p. 537.

⁴³ R. Hidayati dkk., "Flexibility of Women's Inheritance Distribution in Jambi Malay Society: Compromising Islamic and Customary Law," *El-Usrah* 7, no. 1 (2024), p. 42.

⁴⁴ M. Fikri, "Reform of The Inheritance System: Between Islamic Law and Tradition of Sasak Tribe," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024), p. 197.

⁴⁵ A. Rasyid, R.F. Lubis, dan I. Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective," *Al-Ahkam* 34, no. 2 (2024), p. 419.

⁴⁶ Reni Nur Aniroh, Khoiruddin Nasution, dan Ali Sodiqin, "The Bilateral Inheritance System in Islamic Family Law: Fairness, Equality, and Mutual Exchange Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (22 Mei 2024), p. 891.

⁴⁷ N. Bilalu dkk., "Reevaluating Inheritance Distribution in Indonesia: The Role of Hibah as a Preventive Measure," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025), p. 378; Z. Azwar dkk., "Child Filiation and Its Implications on Maintenance and Inheritance Rights: A Comparative Study of Regulations and Judicial Practices in Indonesia, Malaysia, and Turkey," *Journal of Islamic Law* 5, no. 1 (2024), p. 62.

This adaptive rationality reflects what Anggriani and Harlina identify as the “socio-legal elasticity” of Indonesian family law, a dynamic where formal doctrines are continuously reworked to accommodate local norms.⁴⁸ Such elasticity becomes especially pronounced when gendered labor divisions place disproportionate caregiving and financial support burdens on daughters.⁴⁹ From a *maqāṣid al-sharī’ah* standpoint, these practices resonate with the higher objectives of Islamic law, particularly *hifẓ al-māl* (preservation of wealth), *hifẓ al-‘ird* (protection of family dignity), and *hifẓ al-naḥs* (preservation of life). Elevating daughters’ inheritance shares may be understood as a rational response to these ethical imperatives, especially where daughters shoulder primary responsibilities for family survival.⁵⁰

Furthermore, the role of local religious authorities, *kyai*, *ustadz*, and family elders is marked by pragmatic hermeneutics. Rather than insisting on textual rigidity, they often serve as mediators between classical norms and the socio-economic logic of the community. It is evident in the findings by Nur et al., who argue that religious figures act as interpretive agents facilitating local values’ convergence with Islamic legal narratives. Such dialogical roles echo the conceptual framework of *living fiqh*, in which law is not merely deduced from texts but emerges through lived negotiation.⁵¹

These patterns are not uniquely Indonesian. Hossain and Bahrami-Rad document similar phenomena in South Asia and the Middle East, where customary inheritance frameworks,⁵² even in legally Islamic jurisdictions, it reflects a deeper sociological inertia. Bello confirms this among the Yoruba in Nigeria, where arbitration panels often prioritize community cohesion over strict textual application.⁵³

⁴⁸ J. Anggriani dan I. Harlina, “Dynamics of Family Law in Indonesia: Bibliometric Analysis of Past and Future Trends,” *Samarah* 8, no. 1 (2024), p. 518.

⁴⁹ L. Firdawaty, H.S. Asnawi, dan S. Mahmudah, “Semanda Lekok in the Sai Batin Community, Lampung: Wife’s Domination of Marital Assets from Maqāṣid al-Sharī’ah Perspective,” *Samarah* 8, no. 3 (2024), p. 1734; Z. Mahmudi dkk., “The Charity Values within Islamic Law of Inheritance in Malang: Maqāṣid al-Sharī’ah and Social Construction Perspectives,” *Samarah* 8, no. 3 (2024), p. 1324; Y. Fitriyati dkk., “Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah,” *Nurani* 25, no. 1 (2025), p. 122.

⁵⁰ G.N. Effendi dkk., “Reciprocity and Debt in Marriage Traditions in Jambi: An Inheritance Calculation Analysis from The Perspective of Maqāṣid al-Sharī’ah,” *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025), p. 154; Hamouda, “Islamic Inheritance Law Reform: The Problem of Orphaned Grandchildren’s Inheritance Rights.”

⁵¹ M. Nur dkk., “From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law,” *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 1 (2025), p. 31.

⁵² Hossain, “Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh,” 2022, p. 323; D. Bahrami-Rad, “Keeping it in the family: Female inheritance, inmarriage, and the status of women,” *Journal of Development Economics* (2021), p. 153.

⁵³ Abdulmajeed Hassan Bello, “Islamic Law of Inheritance among the Yoruba of Southwest Nigeria: A Case Study of Dar ul-Qadha (Arbitration Panel),” *Journal of Islamic Law* 5, no. 1 (29 Februari 2024), p. 44.

In essence, the dominance of local traditions in inheritance practice does not signal a rupture from Islamic law but rather its vernacularization, its internal translation into ethical, gendered, and economic realities deeply resonating with communal well-being. As Suharsono et al. argue, such transformations reflect a pluralistic legal ecology where Islamic principles are neither abandoned nor mindlessly applied but are mediated through the social ethics of everyday life.⁵⁴

Therefore, any serious engagement with inheritance reform in Muslim societies must begin with the premise that Islamic law is not a static corpus but a living, discursive tradition. Recognizing its interaction with social structures, power relations, and local moral economies is essential for constructing inheritance frameworks that are both just and contextually meaningful.⁵⁵

2. The Absence of *Farā'id* Literacy

One of the key findings of this study is that the limited understanding of *Farā'id* law among communities in Serang Regency has led them to rely on local religious figures or customary mechanisms to distribute inheritance. This tendency is not merely the result of a rejection of Islamic law but rather reflects a prevailing perception that *Farā'id* is overly technical, rigid, and often misaligned with the socio-relational context of rural life.⁵⁶ Consequently, people tend to favor customary inheritance patterns that are more intelligible, flexible, and aligned with communal values.⁵⁷

This lack of familiarity with *Farā'id* cannot be reduced to an individual knowledge deficit. However, it must be understood as a more profound epistemological rupture between the normative authority of Islamic legal texts and the cognitive structures of the local community. As a religious leader in Kubang Jaya observed, inheritance matters are generally entrusted to *kyai* or *ustadz* because the community lacks the expertise to comprehend the intricate stipulations of *Farā'id*. He stated:⁵⁸

⁵⁴ A. Suharsono, N. Prasetyoningsih, dan S. Usman, "Women's Inheritance Rights in Indonesia from the Perspective of the Triangular Concept of Legal Pluralism," *El-Mashlahah* 14, no. 2 (2024), p. 259.

⁵⁵ M. Ramli dkk., "State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism," *Samarah* 8, no. 2 (2024), p. 872; Rasyid, Lubis, dan Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution," p. 419; T. Tarmizi dkk., "Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women's Rights and Islamic Law Objectives," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024), p. 255.

⁵⁶ Mohammad Takdir, Fajrul Munir, Ali Ludhfi, Muliyanzah, Zainol Muttaqin, "The Takharrij Method As an Islamic Legal Solution for Customary Inheritance Practices Among Muslim Communities in Pakamban Laok, Sumenep, Indonesia", *Journal of Islamic Law* 4, no. 1 (2023), p. 104–122.

⁵⁷ M.F. Al-Amruzy dan S. Faridah, "Delay in The Division of Inheritance: A Theoretical Review Within Legal System Framework in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024), 241; Aniroh, Nasution, dan Sodikin, "The Bilateral Inheritance System in Islamic Family Law," p. 891.

⁵⁸ Interview with Ade Mahrus, Religious Leaders of Kubang Jaya, on July 17, 2016.

“In Kubang Jaya, inheritance distribution is usually handed over to local religious leaders because people do not understand Farā’iḍ. They are uninterested in studying it and prefer inheritance arrangements perceived as fair based on local custom.”

This phenomenon is echoed in other regions. In Tanjung Mompang, North Panyabungan, for example, a similarly low level of awareness of Islamic inheritance law has perpetuated the use of traditional models of division, models that frequently lead to social tensions and perceptions of injustice.⁵⁹ These examples reinforce the view that the preference for customary law is not simply a matter of practicality but involves the higher epistemic and symbolic legitimacy that custom holds over classical fiqh in these communities.⁶⁰

We can interpret Pierre Bourdieu’s theory of habitus as an internalization of social dispositions in which custom operates as the primary normative reference. The textual and juristic nature of *Farā’iḍ* renders it inaccessible within the prevailing habitus, as its symbolic capital remains limited in the eyes of the community. Fiqh is often perceived not as a living, socially embedded form of knowledge but as an abstract and elite discourse inherited from religious authority. As Costa et al. emphasize, transforming habitus requires structural shifts that generate the conditions for new legal practices to emerge.⁶¹

Donald Black’s theory of legal behavior similarly illustrates that law functions variably depending on social structure, stratification, and proximity. In contexts like Serang, formal Islamic law is viewed as occupying a distant position in the social hierarchy, making it less accessible to lay communities. By contrast, customary law remains embedded in everyday social practices and is thus perceived as more legitimate and functionally effective. Wong supports this view, noting that formal law tends to recede when informal norms sufficiently regulate social relations.⁶²

The role of local religious leaders in this environment is marked by epistemic ambivalence. While they act as intermediaries between Islamic texts and social reality, they do not always uphold *Farā’iḍ* norms as binding. Studies by Elfia and Reskiani show that religious authorities and judges frequently adopt compromise approaches between Islamic norms and *adat* to preserve community cohesion. In many cases, their role is not to enforce doctrinal rigidity but to legitimize locally

⁵⁹ Nindi Aliska Nasution, “Pembagian Warisan terhadap Anak Perempuan di Mandailing Natal,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 3, no. 1 (2020), p. 69.

⁶⁰ Suharsono, Prasetyoningsih, dan Usman, “Women’s Inheritance Rights in Indonesia from the Perspective of the Triangular Concept of Legal Pluralism,” p. 259.

⁶¹ Costa, Burke, dan Murphy, “Capturing Habitus: Theory, Method and Reflexivity,” p. 19.

⁶² Wong, “Crime Clearance Rates in Canadian Municipalities: A Test of Donald Black’s Theory of Law,” p. 17.

acceptable outcomes.⁶³ Nur et al. (2025) confirm this by illustrating the role of *kyai* as interpretive agents who shape community practices in a dialogical manner.

This situation parallels findings from other Muslim-majority regions. In Bangladesh, Hossain notes that Islamic legal illiteracy is a principal factor behind the persistence of customary inheritance practices.⁶⁴ Similarly, Bahrami-Rad identifies a pattern across the Middle East where legal reform efforts are stymied by the entrenchment of custom and the limited social reach of formal religious law.⁶⁵ Comparative work by Bello among the Yoruba of Nigeria and Azwar et al. in Southeast Asia confirms the socio-cultural embeddedness of non-formal inheritance practices even where Islamic law is institutionally present.⁶⁶

Addressing this issue requires a multidimensional approach to Islamic legal literacy beyond formalistic instruction and integrating community-based, informal pedagogies. Such programs must aim to build the symbolic capital of Islamic law within local hierarchies and reestablish *fiqh* as a socially resonant and ethically relevant framework. As Bourdieu asserts, a transformation of *habitus* is only possible when new social and cultural conditions foster the emergence of new, legitimate practices.

3. Economic Constraints and Legal Avoidance

Inheritance practices in Petir District, Serang Regency, illustrate a consistent pattern of legal avoidance shaped by entrenched socio-economic realities. Families from predominantly lower-middle-income backgrounds consistently favor non-judicial mechanisms, especially familial deliberation and mediation, over engaging formal institutions such as religious courts. According to the Head of the Office of Religious Affairs (KUA) in Petir⁶⁷:

“When someone dies and an inheritance must be distributed, it is rare for family members to file for inheritance determination or dispute resolution with the Religious Court because they believe the costs involved are not worth it.”

This avoidance cannot be solely attributed to a lack of legal literacy. Instead, it reflects a rational calculus grounded in structural economic limitations and practical considerations of time, effort, and socio-cultural fit. The costs of formal

⁶³ Elfia, “The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia,” *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023), p. 75; Reskiani, “Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence,” p. 39.

⁶⁴ Hossain, “Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh,” 2022, p. 323.

⁶⁵ Bahrami-Rad, “Keeping it in the family: Female inheritance, inmarriage, and the status of women,” 2021, p. 153.

⁶⁶ Bello, “Islamic Law of Inheritance among the Yoruba of Southwest Nigeria” p. 44; Azwar et al., “Child Filiation and Its Implications on Maintenance and Inheritance Rights: A Comparative Study of Regulations and Judicial Practices in Indonesia, Malaysia, and Turkey,” p. 62.

⁶⁷ Burhanuddin, Head of the Office of Religious Affairs (KUA) in Petir, 20 Juli 2016.

legal proceedings are often perceived to be disproportionate to the value of the estate itself, particularly in communities where asset sizes are modest. Al-Amruzy and Faridah note that delays in inheritance distribution are often linked to legal complexity and to avoiding procedural burdens deemed excessive by local families.⁶⁸ Likewise, Nasution Pebrianti and Hidayat observe that the procedural rigidity and abstraction of *Farā'id* often discourage legal recourse, prompting families to rely on customary, more intuitive, and collectively endorsed pathways.⁶⁹

As Bourdieu asserts, social practices, including the choice of dispute resolution mechanisms, are conditioned by the interplay of economic, social, cultural, and symbolic capital. In rural contexts such as Serang, limited economic capital constrains access to legal representation and procedural navigation, while minimal exposure to legal institutions and jurisprudential discourse suppresses the accumulation of symbolic and legal capital. It shapes a legal habitus wherein informal, relational mechanisms are more feasible and normatively legitimate. Hidayati et al. and Muzana et al. reinforce this pattern by demonstrating how Jambi and Acehese communities opt for socially embedded mechanisms, not out of legal deviance but in alignment with deeply rooted communal rationalities.⁷⁰

Religious authorities, particularly *kyai*, *ustadz*, and other locally respected figures, serve as pivotal actors in this ecosystem of informal legal resolution. Far from being doctrinal purists, they are pragmatic mediators who navigate between the prescriptive norms of Islamic law and the customary expectations of the community. Their authority lies in their capacity to reconcile divine norms with local exigencies. Elfia, Reskiani, and Basri et al. all highlight the dynamic agency of religious leaders in facilitating inheritance resolution that balances textual legitimacy with social cohesion. Nur et al. further emphasize that *kyai* often interpret legal obligations through a contextual lens, attuned to social and economic realities.⁷¹

These empirical insights closely align with Donald Black's theory of legal behavior, which proposes that the use of law is inversely correlated with relational proximity and socio-economic inequality. In Serang, dense kinship networks and limited economic resources render formal legal mechanisms inaccessible and

⁶⁸ Al-Amruzy dan Faridah, "Delay in The Division of Inheritance: A Theoretical Review Within Legal System Framework in Indonesia," p. 241.

⁶⁹ Nasution, "Pembagian Warisan terhadap Anak Perempuan di Mandailing Natal," p. 69; Suci Pebrianti dan Asep Ramdan Hidayat, "Analisis Sistem Pembagian Harta Warisan Di Kampung Cipicung Girang Dihubungkan Dengan Hukum Waris Islam," p. 12.

⁷⁰ Hidayati dkk., "Flexibility of Women's Inheritance Distribution in Jambi Malay Society: Compromising Islamic and Customary Law," p. 42; Muzana dkk., "Customary Practices of Sharing Inheritance: An Analysis of Society Practices in Pidie Aceh Darussalam," p. 275.

⁷¹ Elfia, "The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia," p. 75; Reskiani, "Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence," p. 39; Basri dkk., "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law," p. 537; Nur dkk., "From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law," p. 31.

unnecessary. Instead, the law is internalized through normative consensus and enacted via communal authority.

This pattern is not unique to Indonesia. Hossain documents similar dynamics in rural Bangladesh, where economic constraints and cultural expectations lead to the predominance of informal negotiation in inheritance disputes. Ahmed notes that religious elders frequently act as arbiters in Pakistan, reinforcing a model of vernacular justice that sidesteps state institutions. Aseri and Faid empirically validate that economic, religious, and normative values influence inheritance intentions, underscoring that juridical disengagement is often rooted in a broader moral economy.⁷²

Addressing legal avoidance in inheritance matters requires more than reforming textual law or expanding doctrinal dissemination. Interventions must be anchored in the socio-legal fabric of rural communities. It includes developing legal literacy programs that are dialogical, culturally grounded, and sensitive to economic realities and reimagining religious courts not as distant arbiters but as engaged participants in local legal cultures. Bourdieu reminds us that sustainable change requires symbolic innovation and the creation of material and institutional conditions that support new modes of practice.⁷³

Religious Leaders' Response to Legal Disobedience

The ongoing practice of inheritance distribution in Muslim communities that do not strictly adhere to classical *fiqh* or the provisions of the Indonesian *Compilation of Islamic Law* (KHI) opens a meaningful space for dialogue between textual authority and lived social realities. In Petir District, Serang Regency, the diverse responses of religious leaders to these practices reveal a deep commitment to normative Islamic law and a pragmatic engagement with local understandings of justice and kinship.

Ahmad Hidayat articulates a strong textualist position grounded in classical *uṣūl al-fiqh*. He asserts that the Qur'anic verse "*li al-ḡakari mithlu ḡaẓẓ al-unḡhayayn*" (Q.S. al-Nisā':11) belongs to the category of *muhkamāt*, which he characterizes as *qath'iyutsubūt* and *qath'iy al-dalālah*, meaning that both its transmission and its meaning are definitive and not open to reinterpretation. In his words: "*It is a ruling that cannot be compromised because it is already definitive in both its sanad and meaning. It cannot be changed, negotiated, or contextualized.*"⁷⁴ This perspective reflects a classical understanding of inheritance as part of *ḡuqūq*

⁷² Hossain, "Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh," 2022, p. 323; Ahmed Fekry Ibrahim, "Customary practices as exigencies in Islamic law: Between a source of law and a legal maxim," *Oriens*, 2018, p. 222; M. Aseri dan M.S. Faid, "Influence of Socioeconomic, Religious, and Normative Factors on Islamic Inheritance Intentions: A Pls-Sem Approach," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2024), p. 411.

⁷³ Pierre Bourdieu, *Pascalian Meditations* (Stanford University Press, 2000), p. 234.

⁷⁴ Interview with Ahmad Hidayat, Religious Leaders of Baros, on December 5, 2024.

Allāh, divine rights not subject to social negotiation.⁷⁵ While offering clear legal boundaries, such a view often clashes with the ethical sensibilities and practical needs of communities whose lived experience diverges from legal abstraction.

Ahmad Sanusi offered a more ethically nuanced response, emphasizing the moral rather than the formal legal dimension of inheritance. He stated: *“If there is a practice of inheritance distribution that deviates from Islamic law, there is no legal or void term, but what exists is sinful or not.”*⁷⁶ This framing does not deny the normative authority of the Qur’an but rather reorients the discussion toward *ithm* (sin) and moral responsibility. In doing so, Sanusi gestures toward an interpretive approach that centers on ethics, intention, and family harmony, an approach that aligns with the *maqāṣid al-sharī’ah* paradigm.⁷⁷

Offering a more pragmatic synthesis, Hamdi recognizes the binding status of the 2:1 rule as stated in Q.S. al-Nisā’ but also points to the legitimacy of distribution through mutual familial consent. He explains:⁷⁸ *“The 2:1 provision between men and women in the division of inheritance is an absolute rule that cannot be challenged. Suppose there is a practice of inheritance division that gives an equal share between boys and girls. In that case, it is not justified by the rule of law contained in the Qur’an, especially those expressed in the editorial naṣībān mafrūḍān and lil-dhakari mithlu ḥaẓẓ al-unthayayn. However, an equal distribution for all children can be carried out and considered not against the law if all heirs already know their respective shares according to the rules of Islamic inheritance law.”* Hamdi’s position exemplifies a contextual orthodoxy that allows for *ṣulḥ* (reconciliatory agreement) within the boundaries of *fiqh*, a concept increasingly explored in Indonesian legal scholarship.⁷⁹

The reality in Petir District reveals that legal application is deeply embedded in social structures and family dynamics. In Kadugenep Village, inheritance is typically handled by the eldest son, who determines the distribution and allocation of inherited property. This practice is not legitimized by Islamic legal doctrine but by his social status and the moral authority he holds within the family. Such patterns reflect Donald Black’s theory that legal behavior is shaped by stratification and

⁷⁵ Hakim, “Ismail Mundu on Islamic Law Ff Inheritance,” p. 59.

⁷⁶ Interview with Ahmad Sanusi, Religious Figure, on December 5, 2024.

⁷⁷ Shah, “Women’s Human Rights in the Koran: An Interpretive Approach,” 2017, p. 461; Fitriyati dkk., “Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah,” p. 122.

⁷⁸ Interview with Hamdi, Religious Figure, on December 11, 2024.

⁷⁹ Bilalu dkk., “Reevaluating Inheritance Distribution in Indonesia: The Role of Hibah as a Preventive Measure,” p. 378; Ulfiani Rahman dkk., “Men and Women in The Distribution of Inheritance in Mandar, West Sulawesi, Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (27 Juni 2022), p. 156.

informal authority,⁸⁰ a view supported by empirical studies on rural Islamic law in Indonesia.⁸¹

Some families in Petir even go further by consciously reversing the traditional gender-based inheritance allocation. As Suheri explains:⁸² *“In the family of my parents, the distribution of inheritance from the parents to boys and girls gives a larger share to girls than boys, even up to twice the share of men. It is done because, in family tradition, a daughter will be a substitute for her parents for her brother if both parents are dead.”* Comparable patterns are evident in Kubang Jaya Village, where familial considerations often result in inheritance distributions that depart from classical fiqh. As Juju Junaedi stated:⁸³ *“In our village, generally, the inheritance is given fairly. Sometimes the share of daughters is even greater than that of sons because we consider sisters to be the substitutes for parents.”* Those practices reveal an alternative notion of justice rooted in the moral economy of kinship, where caregiving roles and social obligations carry more weight than legal entitlements. Similar logic has been observed in other Indonesian contexts, such as in Aceh,⁸⁴ where the rights of women in inheritance are renegotiated through cultural reasoning. Those local constructions of fairness reflect what Bourdieu terms *habitus*, deeply ingrained dispositions and social logics that guide behavior and perception (Bourdieu, 1977; Costa et al., 2019).⁸⁵ Here, justice is not imposed by doctrine but negotiated through shared values of responsibility, solidarity, and emotional labor.

Conclusion

This study finds that inheritance practices in rural Serang deviate from classical *Farā'id*, not due to the rejection of Islamic norms but because of social structures, habitus, kinship obligations, and economic constraints that reinterpret normative justice through lived experience. The empirical evidence shows that daughters, often assuming primary caregiving roles, are prioritized in inheritance, a practice legitimized by religious figures who act less as legal enforcers and more as mediators of communal consensus. Rather than offering a normative call for reform,

⁸⁰ Black, *The Behavior of Law*, 3; Wong, “Crime Clearance Rates in Canadian Municipalities: A Test of Donald Black’s Theory of Law,” p. 17.

⁸¹ Rasyid, Lubis, dan Saleh, “Contestation of Customary Law and Islamic Law in Inheritance Distribution,” p. 419; Elfia dkk., “Patterns for Settlement of Punah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 Desember 2022), p. 480.

⁸² Interview with Suheri, Kubang Jaya Villagers, on June 16, 2017.

⁸³ Interview with Juju Junaedi, Kubang Jaya Villagers, on July 12, 2016.

⁸⁴ Harnides, Abbas, dan Hasballah, “Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia,” p. 1293; Basri dkk., “Inheritance Rights of Women in Makassar Society: A Study of Living Qur’an and Its Implications for Islamic Law,” p. 537; Hidayati dkk., “Flexibility of Women’s Inheritance Distribution in Jambi Malay Society: Compromising Islamic and Customary Law,” p. 42.

⁸⁵ Bourdieu, *Outline of a Theory of Practice*, 72; Costa, Burke, dan Murphy, “Capturing Habitus: Theory, Method and Reflexivity,” p. 19.

this study contributes to the empirical understanding of how Islamic law is selectively enacted, socially negotiated, and constrained by legal consciousness in marginal rural settings. It extends Bourdieu's theory of habitus by illustrating its function in the internalization of legal deviation. It refines Black's legal behavior theory by showing how religious authority intersects with socio-economic stratification in Islamic legal contexts. While the study is context-specific, it invites broader reflection on the limits of doctrinal implementation in legally plural Muslim societies. It underscores the importance of examining law as a social practice rather than a fixed code.

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Interview List

Interview with Juju Junaedi, Kubang Jaya Villagers, on July 12, 2016.

Interview with Ade Mahrus, Religious Leader of Kubang Jaya, on July 17, 2016.

Interview with Suheri, Kubang Jaya Villagers, on June 16, 2017.

Interview with Ahmad Hidayat, Religious Leader of Baros, on December 5, 2024

Interview with Ahmad Sanusi, Religious Figure, on December 5, 2024.

Interview with Hamdi, Religious Figure, on December 11, 2024.