

PROLONGED INHERITANCE DISTRIBUTION: THE PERSPECTIVE OF AL MASLAHAH AND LEGAL CERTAINTY

**Mukhtar Latif, Kholil Syuaib, Bahet Edi Kuswoyo, ReyzaIdi Fitrananda,
Moh. Adrian, Renny Fusvitasari, M. Wildan Murtadho Al Idrus,**

Universitas Islam Negeri Sulthan Thaha Saifuddin Jambi, Indonesia

proflatif261@gmail.com, kholil_syuaib@uinjambi.ac.id,

bahetedikuswoyo@gmail.com, ReyzaIdi98@gmail.com,

Mohadrian.mt@yahoo.com, fusvitasarirennny@gmail.com

wildan_alidrus@yahoo.co.id

Abstract

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Prolonged inheritance distribution is a recurring phenomenon in Muslim society that often gives rise to legal uncertainty, family conflict, and the neglect of the objectives of Islamic law. This study examines the issue of delayed inheritance distribution from the perspective of al-maslahah and legal certainty, highlighting the tension between normative Islamic inheritance rules and their practical application. The research employs a normative legal method combined with an empirical (socio-legal) approach. Normative analysis is conducted by examining statutory regulations, court decisions, and doctrines of fiqh and ushul fiqh related to inheritance law, with particular attention to the principles of al-maslahah and legal certainty. The empirical approach is employed to investigate the social realities that contribute to the delay in inheritance distribution, including family dynamics, cultural considerations, psychological factors, and institutional practices. This approach is essential because prolonged inheritance cases are not merely normative legal issues but are also influenced by non-legal factors embedded in social life. By integrating normative and empirical perspectives, this study provides a comprehensive understanding of the causes and implications of delayed inheritance distribution. The findings are expected to contribute to the development of a more responsive and just framework for inheritance law that upholds al-maslahah and ensures legal certainty in Islamic inheritance practices.

Introduction

The distribution of inheritance in Islamic family law is an important part of the social system that regulates the fair distribution of inherited property (Achmadiansyah & Mahmudi, 2022:81). The urgency of this regulation has drawn

the attention of scholars because it is closely related to family and societal order. Contemporary reality shows that many inheritance distributions have stagnated for years without resolution. This situation creates uncertainty regarding the rights and obligations of the heirs. This phenomenon requires in-depth scientific study to examine the issue from the perspective of public interest and legal certainty.

Cases of delays in inheritance distribution demonstrate a tendency for families to delay resolution due to emotional reasons, internal power relations, or legal ignorance (Mulyadi et al., 2025: 12). This habit of delaying inheritance results in uncertainty over asset ownership and the potential for escalating conflict over time. Public understanding of the importance of timely inheritance settlement remains low. This lack of understanding increases the potential for disputes between family members. This situation underscores the need for research into the root causes of stagnant inheritance distribution.

The *faraidh* provisions in Islamic law provide a clear and systematic breakdown of heir rights ('Aini et al., 2025:3). This affirmation should prevent disputes because definitive rules are already in place. Social conditions indicate that inheritance distribution practices do not always align with normative provisions. Delays in distribution prevent the beneficiaries from immediately utilizing the benefits of the property. This discrepancy between norms and practices necessitates a more in-depth analysis of the functionality of legal certainty and the benefit of the beneficiary.

Maslahah in Islamic law prioritizes considerations of good and prevention of harm as the basis for legal decision-making (Rohman et al., 2025). Protracted inheritance settlements actually result in various forms of social, psychological, and economic harm. The Al-maslahah framework demands an evaluation of whether inheritance stagnation brings good or violates the *maqasid al-shariah*. Delayed inheritance settlement has the potential to hinder the protection of assets and the well-being of the family. A maslahah-based analysis is necessary to assess the ideal position of inheritance settlement in the current context.

Legal certainty, as a fundamental principle in the national legal system, aims to provide clarity regarding the rights and obligations of citizens (Mulyadi et al., 2025). Delays in inheritance distribution create confusion regarding ownership status, ultimately impacting the stability of family relationships. This uncertainty opens the door to more complex legal disputes. Applying the principle of legal certainty should expedite the inheritance distribution process to prevent a legal vacuum in practice. Integrating legal certainty and sharia perspectives is crucial for developing new approaches to inheritance resolution.

Socioeconomic developments in modern society add to the complexity of inheritance management. The diversity of assets, such as family businesses, securities, and certified land, requires a more comprehensive legal understanding. Delays often arise from differing perceptions regarding the management of these assets. Information asymmetry increases the potential for internal conflict. This situation reinforces the need for a research approach that combines aspects of maslahah (benefit) and legal certainty.

Previous research has tended to focus more on resolving inheritance disputes after the conflict has erupted. Studies on the initial causes of delays in inheritance distribution are limited and have not been extensively developed from a maslahah perspective. Research oriented toward conflict prevention offers

strategic value in the development of contemporary Islamic legal science. Focusing on the pre-dispute phase broadens understanding of the dynamics of Muslim families managing inheritance. This research contributes to a relatively understudied area of research. Many families hold on to inherited assets as a symbol of family identity and continuity. This attitude often hinders settlement due to the emotional value attached to certain assets. These psychological and sociocultural factors have not received adequate attention in studies of Islamic inheritance law. The *maslahah* approach can be used to assess whether retaining these assets benefits or harms the family. This research fills the gap in research on the sociological and psychological dimensions of delaying inheritance.

The dynamics of social change influence the mindset of heirs in interpreting the values of justice and the necessities of life (Sukarna & Hambali, 2017). Modernization has resulted in diverse, sometimes conflicting, views on inheritance matters. These differences prolong the internal family negotiation process. Diverse educational backgrounds also influence the ability to understand sharia provisions and positive law. An interdisciplinary approach is crucial for understanding the social context that influences delays in inheritance.

The national legal system provides for the resolution of inheritance disputes through the Religious Courts, the official institution. This institution's role is often invoked when the conflict has reached its peak. This curative resolution does not always result in post-dispute family harmony. Preventive efforts based on *maslahah* (common good) should be prioritized to prevent conflict from occurring early. This research seeks to develop an integrative preventive approach.

The relationship between Islamic law and national law in the context of inheritance requires proper harmonization to avoid differing interpretations. Discordance in the understanding of the two legal systems often creates uncertainty for heirs, hindering the effective implementation of the rules. Integrating *maslahah* values can serve as a bridge to reconcile differing perspectives. A clear theoretical approach is essential as a foundation for this research.

Delays in inheritance distribution often create inequalities in asset control among heirs (Hendarto, 2019). This inequality breeds jealousy and diminishes the sense of justice within the family. This distributive injustice can conflict with the principle of justice in Islamic law. *Maslahah* demands a balance of rights so that no party is disadvantaged due to stagnant distribution. Academic studies are needed to ensure that the principle of justice can be practically implemented.

The economic impact of delayed inheritance has not received widespread attention in Islamic legal literature. Assets that are not utilized productively have the potential to reduce family welfare. This delayed economic potential indicates inefficiency in inheritance management. The *maslahah* approach provides a platform for assessing the economic benefit aspect in inheritance settlements. This research confirms that economic aspects are an integral part of the objectives of sharia.

The structure of extended families in various regions of Indonesia means that inheritance distribution involves many parties with different interests. The number of parties involved increases the complexity of communication and decision-making. Misunderstandings easily arise due to heterogeneity of backgrounds and interests. A *maslahah*-based settlement mechanism can facilitate

the process of internal negotiations within the extended family. This research demonstrates the importance of a flexible and adaptive approach.

Customary traditions still influence inheritance distribution practices in some regions, despite clear sharia provisions. The differences between adat and faraidh often lead to confusion in practice. This discrepancy is a significant factor contributing to delays in inheritance distribution. Aligning the two systems requires an approach sensitive to the socio-cultural context. The concept of *maslahah* can be a normative instrument to harmonize these differences.

Advances in information technology provide opportunities for more efficient inheritance management, including the digitization of asset data. This digitization can accelerate the process of verifying and recording inheritance assets. The use of technology is still hampered by low digital literacy among certain communities. This study examines how technology can strengthen legal certainty in the inheritance settlement process. The integration of *maslahah* and technological innovation is a crucial theme in the modern context.

The overall problem demonstrates that the protracted inheritance distribution is a multidimensional issue involving legal, social, economic, and cultural aspects. This situation requires a more comprehensive and holistic conceptual approach. The use of *maslahah* and legal certainty as two primary analytical frameworks offers a new perspective for understanding and resolving this issue. This research is expected to make a theoretical contribution to the development of Islamic inheritance law in Indonesia. Research recommendations are expected to benefit the community, religious institutions, and policymakers.

Research Methods

This research uses a normative legal research method combined with an empirical approach (socio-legal research) to obtain a complete understanding of the problem of protracted inheritance distribution (Hardani et al., 2020 : 76). The normative approach focuses on the study of inheritance law as a system of norms encompassing the values of justice, welfare, and legal certainty. The analysis examines the principles of inheritance law, both those derived from Islamic law and positive law, using the concept of *al-maslahah* as an ethical and philosophical framework. This study also emphasizes the importance of legal certainty as a prerequisite for achieving order and justice in the distribution of inheritance. Thus, law is understood not merely as a normative text, but as an instrument for regulating the social life of the community (Yakin, 2023 : 25).

In a normative context, the legal materials studied include legislation, religious court decisions, and the doctrines of jurists and scholars of *ushul fiqh* relevant to inheritance. The review of these sources aims to identify ideal norms and the legal rationale underlying inheritance regulations. The concept of *al-maslahah* is analyzed to determine the extent to which delaying inheritance distribution is justified or contrary to the objectives of sharia (*maqasid al-shari'ah*). The principle of legal certainty is used as a measuring tool to assess the consistency and effectiveness of the application of inheritance norms. This approach allows researchers to identify the tension between ideal norms and the reality of legal application (Miles & Huberman, 2020 : 77).

Meanwhile, an empirical approach is used to capture the social realities underlying the protracted inheritance distribution. The study focuses on non-legal

factors such as family relations, local culture, the psychological aspects of heirs, and the role of legal institutions and community leaders. This approach is important because inheritance issues in practice are often not solely determined by legal norms, but also by complex social dynamics. Empirical data serves to complement normative analysis to prevent it from becoming trapped in textual and abstract views. By combining normative and empirical approaches, the study, entitled "Protracted Inheritance Distribution: The Perspective of Al-Maslahah and Legal Certainty," is expected to provide a comprehensive picture as well as applicable and equitable recommendations (Pradoko, 2023 : 41).

Discussion

Basic Concepts of Islamic Inheritance Law

Islamic inheritance law is a branch of family law that regulates the transfer of rights and obligations regarding a person's inheritance after death (Nizar & Rozihan, 2018). The discussion of inheritance holds a crucial place in Sharia law because it directly relates to the protection of property and the fulfillment of family rights. The Quran, through verses 11, 12, and 176 of Surah An-Nisa, provides detailed and systematic guidelines regarding the share of each heir. These provisions constitute a normative basis classically developed by scholars through the science of faraidh. This normative system is designed to anticipate disputes and maintain family harmony after the death of the testator.

Inheritance law in Islam has strong normative characteristics, as the provisions for the distribution of shares for men, women, and blood relations are clearly regulated (Iman Jauhari & T. Muhammad Ali Bahar, 2021). This firmness indicates that sharia views the settlement of inheritance as a moral and legal obligation that cannot be postponed without justifiable reason (Saifullah M.Yunus, 2022). Inheritance that is not immediately assigned to heirs has the potential to create unclear ownership and irregular use. This situation contradicts the objectives of sharia, which prioritizes social order and distributive justice. Therefore, the basic concept of Islamic inheritance law is directed toward the immediate fulfillment of rights to safeguard the family's well-being.

Faraidh Science as a Normative Foundation

The science of faraidh is a discipline that regulates inheritance distribution techniques based on sharia provisions (Lathifah & Gspita, 2024). Its existence clarifies who is entitled to receive an inheritance, how much their share is, and the status of successor heirs if someone dies first. Faraidh has a strong basis in the Prophet's hadith, including his statement: "Learn the science of faraidh and teach it, for it is half of knowledge and will be forgotten by my people." This hadith demonstrates the urgency of learning faraidh as a vital part of Muslim life.

The legal clarity in faraidh demonstrates that sharia has established a definite system for inheritance distribution (Nani, 2018). Its existence clarifies who is entitled to receive an inheritance, how much their share is, and the status of successor heirs if someone dies first. Faraidh has a strong basis in the Prophet's hadith, including his statement: "Learn the science of faraidh and teach it, for it is half of knowledge and will be forgotten by my people." This hadith demonstrates the urgency of learning faraidh as a vital part of Muslim life. The legal clarity in

faraidh demonstrates that sharia has established a definite system for inheritance distribution.

Delay in Inheritance Distribution as a Socio-Legal Phenomenon

The phenomenon of late inheritance distribution is a problem that occurs frequently in Indonesian society (Saebani et al., 2025). This delay is often influenced by psychological factors such as a sense of loss, latent family conflict, and sentimental values regarding assets. Social factors such as dependence on traditional figures, extended family structure, and cultural norms contribute to prolonging the distribution process. Economic conditions also play a role, as many heirs still depend on undivided inherited assets for their livelihood. This situation demonstrates that inheritance issues are not solely legal but rather multidimensional issues that require an interdisciplinary approach.

Delays in inheritance distribution have a number of legal consequences (Bustomi & Setyawan, 2025). Unclear ownership status causes tension among heirs. Assets often cannot be optimally utilized due to the lack of administrative certainty, such as certificates or ownership documents. Delays can also give rise to intergenerational disputes when successor heirs are included in the inheritance rights structure. This complex social phenomenon underscores the need for a theory that can map the relationship between norms, practices, and welfare.

Theory of Al-maslahah

The theory of Al-maslahah is a fundamental concept in Islamic law which emphasizes the objectives of sharia in creating benefits and preventing harm (Abdullah, 2022). Al-Ghazali defined maslahah as the effort to safeguard five basic human needs: religion, life, intellect, posterity, and wealth. Maslahah related to wealth management is classified as hifzh al-mal, meaning maintaining the sustainability and benefit of wealth to prevent harm.

Al-Syatibi later developed the theory of maslahah as an integral part of the maqasid al-shariah. Maslahah is not merely a complementary aspect in establishing law, but a fundamental principle for achieving the goals of sharia (Utomo, 2017). The position of maslahah (benefit) becomes increasingly relevant in the modern social context, as social change creates new situations not explicitly regulated by Islamic law. Therefore, maslahah serves as a methodological instrument for assessing whether certain actions or policies align with the objectives of sharia.

In this study, maslahah serves as the primary theoretical framework for assessing whether delaying inheritance distribution has a positive or negative impact on the family. Conceptually, undivided inheritance cannot provide direct benefits to the heirs. This situation hinders the achievement of the goal of asset protection as outlined in the maqasid al-shariah. The use of maslahah theory can provide an argumentative basis that accelerating inheritance distribution aligns with fulfilling the family's needs.

Maslahah Typology and Its Relevance in Inheritance

Maslahah is divided into three categories: primary (daruriyyah), secondary (hajjiyyah), and tertiary (tahsiniyyah). Maslahah in the context of inheritance falls into the daruriyyah category because it is directly related to the protection of

assets. Suboptimal asset management can cause both material and social damage. This damage is evident in family conflict, uncertainty over rights, and stagnant asset use.

Maslahah also divides the assessment of benefits based on sharia acceptance: *mu'tabarah maslahah*, which are benefits recognized by sharia; *mulghah maslahah*, which are benefits rejected by sharia; and *mursalah maslahah*, which are benefits that have no specific basis in the text but do not conflict with sharia principles. In inheritance distribution, expediting settlement can be classified as *mu'tabarah maslahah* because it supports the fulfillment of rights. Delaying distribution tends to fall into the category of *mulghah* because it causes harm that is not permitted by sharia. Therefore, the theory of *maslahah* strengthens the argument that inheritance settlement must be carried out without unreasonable delay.

Tipologi Al-maslahah dalam Literatur Ushul Fikih

Within the framework of Islamic jurisprudence, *maslahah* (common goodness) has a typology that evolves in response to changing times and the interests of the community. This concept is divided into several main categories: *maslahah al-daruriyyah*, *al-hajiyyah*, and *al-tahsiniyyah*, each of which carries different values and degrees of urgency in Islamic law. Classical thinkers emphasized the hierarchical position of *maslahah* and therefore should not be interchanged in legal analysis. As a normative construct, this typology helps determine the extent to which a policy, legal action, or inheritance decision can be considered oriented toward the public interest. This context becomes crucial when dealing with social conflicts arising from protracted inheritance disputes.

The benefits of inheritance are at the highest level because they are directly related to safeguarding religion, life, intellect, descendants, and property. Delays in inheritance distribution often threaten one or more of these aspects, particularly those related to the continuity of descendants and the sustainable management of inherited assets. Some scholars of Islamic jurisprudence (*usul*) state that if delays in inheritance distribution cause harm, then legal action that expedites the process can be categorized as a benefit. This understanding provides sharia legitimacy that expediting inheritance distribution can be necessary to avoid future harm. This framework is relevant in societies where inheritance distribution is often delayed due to family conflict.

The benefits of inheritance are at a lower level of necessity than the benefits of inheritance, but they still serve a vital function in simplifying the lives of the community. Delayed inheritance distribution often does not eliminate one of the basic benefits, but creates social difficulties such as uncertainty about asset ownership or the disruption of family businesses. Such situations lead to tensions between heirs, which can escalate into prolonged disputes. Settlement based on the principles of *maslahah hajiyyah* encourages the use of mediation mechanisms or the establishment of legal distribution deadlines. This approach is not coercive, but serves as a strong basis for public policy to prevent disputes.

Maslahah al-tahsiniyyah encompasses complementary values such as ethics, politeness, and social harmony. The distribution of inheritance is heavily influenced by ethical aspects, including justice, family solidarity, and respect for the testator's trust. When inheritance distribution is delayed, these *tahsiniyyah*

values are eroded, resulting in the loss of family harmony, the social goal of sharia. Modulating tahsiniyyah values in inheritance resolution can be achieved through legal education, increasing fiqh literacy, and procedural reformulation that promotes civility. Such efforts position inheritance law not merely as a formal instrument but also as a guardian of family morality.

Maslahah serves as an ethical and normative foundation for resolving complex inheritance disputes. Disputes arising from protracted inheritance division often involve psychological, cultural, and social dynamics that cannot be addressed through formal legal approaches alone. The *maslahah* perspective can reduce tensions by prioritizing collective benefit. In this approach, a resolution is considered ideal if it benefits all heirs without harming any party. This orientation aligns with the character of Islamic law, which promotes family unity.

Maslahah-based mediation has become a widely used method in various Sharia dispute resolution institutions. This method emphasizes deliberation, justice, and mutual agreement as core values. Mediation often provides faster solutions than lengthy litigation mechanisms. The success of mediation in protracted inheritance cases can be seen in the ability to find a formulation that suits the family's circumstances. The *maslahah* principle serves as a guideline for establishing a proportional compromise.

The application of *maslahah* can also be applied during the assessment of inheritance assets. This valuation often becomes a source of dispute when families disagree on the economic value of a particular asset. The *maslahah* approach allows for innovations such as splitting usufructuary rights, selling part of the asset, or collective management. Such solutions provide long-term benefits for all heirs without sacrificing their basic rights. This policy also supports the family's economic stability after the inheritance.

Basic Concept of Legal Certainty in Modern Legal Theory

Legal certainty is a fundamental principle in legal science, ensuring that rules are understandable, predictable, and consistently enforced. Modern legal scholars such as Lon L. Fuller, Hans Kelsen, and Gustav Radbruch place legal certainty as a primary requirement for legal validity. In the context of inheritance, legal certainty relates to clarity of mechanisms, procedures, and time limits for resolving heirs' rights. The lack of legal certainty leads to unclear determination of rights, which can trigger family conflict. This situation demonstrates that protracted inheritance distribution is both a legal certainty problem and a social problem.

Lon L. Fuller's thinking on the "internal morality of law" asserts that law cannot function without certain qualities such as clarity, consistency, and reliability. Fuller's eight principles, such as the prohibition on retroactivity and the requirement for legal understandability, are crucial when assessing whether inheritance laws provide adequate clarity for society. When inheritance rules are not enforced or lack mechanisms for timely implementation, one of these principles is violated. This has implications for weakening public trust in legal institutions. This weakness often arises in inheritance cases that drag on without resolution.

In Hans Kelsen's view, legal certainty lies in the hierarchical structure of a system of norms that operates in layers. The national legal system, including

inheritance laws, must adhere to general principles and implement these rules systematically. The absence of a single mechanism for resolving inheritance disputes between Islamic law, customary law, and state law often creates disharmony in norms. This disharmony results in public confusion in determining the appropriate forum for resolution. Another impact is the overlapping authority between religious and general courts.

Gustav Radbruch added that legal certainty must be placed alongside justice and expediency. These three values must be in balance for the law to function optimally. In cases of protracted inheritance distribution, the value of legal certainty often clashes with the subjective justice values of the heirs. Many families delay distribution in an effort to achieve their own sense of justice, which in turn creates uncertainty. This tension of values explains the importance of the *maslahah* approach to finding a balance between legal certainty and social justice.

Legal Certainty in Islamic Inheritance Law

Islamic inheritance law is known for its clear regulatory structure regarding the size of the heirs' share, the requirements for inheritance, and the distribution procedures. This clarity represents a form of legal certainty formulated in the texts of the Quran and Hadith, and expanded upon by consensus (*ijma*) and *qiyas* (paradoxical consensus). The distribution of inheritance is given a specific proportion, thus theoretically avoiding ambiguity. However, social reality shows that textual clarity does not always guarantee certainty in the implementation of distribution at the family level. There are cases where cultural, economic, and emotional factors hinder the implementation of Sharia rules.

Delays in inheritance distribution from a Sharia perspective threaten several fundamental principles, particularly the principles of justice and protection of rights. Sharia requires prompt distribution to ensure that the rights of heirs are not hampered and the inheritance is not neglected. In certain practices, delays in distribution result in the loss of assets due to internal disputes or mismanagement. This loss of assets violates the principle of safeguarding assets (*hifz al-mal*) within the *maqasid* (objectives) of Sharia. This violation demonstrates that non-textual obstacles can negate substantive legal certainty in Islamic inheritance.

Contemporary scholars believe that legal certainty in inheritance distribution must be accompanied by administrative instruments that allow for measurable implementation. Documentation of assets, legal ownership, and registration of heirs are elements that strengthen legal certainty. When administrative instruments are incomplete, inheritance practices become vulnerable to manipulation and conflict. Many families delay distribution due to inaccurate documentation or the lack of a definitive asset valuation. The absence of such a support system poses a structural barrier to certainty in Sharia law.

Legal Certainty in the National Legal System

Indonesia's national legal system establishes legal certainty as a general principle of good governance (AUPB) and a constitutional principle. Inheritance distribution falls within the realm of private law, but still requires state involvement in the form of regulations and dispute resolution mechanisms. The state provides both litigation and non-litigation channels to ensure that heirs' rights are properly enforced. Despite this, many inheritance cases remain

protracted due to the lack of enforcement of technical regulations regarding time limits. This weakness contributes to the high rate of inheritance disputes in society.

Inheritance laws and regulations are scattered across several different legal regimes. Islamic inheritance regulations fall under the jurisdiction of religious courts, while customary inheritance refers to local customs, and civil inheritance follows the Civil Code. This diversity of regimes fosters the legal pluralism characteristic of Indonesia, but also creates potential uncertainty. Many families are unsure which legal route is most appropriate, resulting in stalled inheritance distribution. In many cases, confusion within these forums is the primary cause of delays.

Legal certainty is also linked to the availability of efficient and accessible procedures. Lengthy settlement times, complicated administrative procedures, and high legal costs can hinder inheritance settlement. Such administrative obstacles discourage many heirs from taking their cases to formal legal channels. As a result, disputes are allowed to linger for long periods without any certainty of resolution. This situation highlights the need to simplify inheritance distribution mechanisms at both the administrative and judicial levels.

The Relationship between Legal Certainty and Public Interest in the Context of Inheritance

Legal certainty and *maslahah* are often considered two distinct values, but they can complement each other. In the context of protracted inheritance disputes, legal certainty provides a procedural framework, while *maslahah* addresses ethical considerations and social benefits. The combination of the two can produce a more comprehensive inheritance resolution model. This model not only meets formal legal aspects but also addresses the family's sociocultural needs. This integration is crucial in a pluralistic society like Indonesia.

Legal certainty without *maslahah* has the potential to foster insensitivity to the family's sociological conditions. Rigid application of rules can ignore specific contexts such as power imbalances within the family or the presence of economically vulnerable heirs. Conversely, *maslahah* without legal certainty can create procedural uncertainty, prolonging disputes. The synergy between the two provides clear direction and measurable flexibility. This synergy is necessary in formulating policies or models for protracted inheritance resolution.

Indicators of Legal Certainty in Inheritance Distribution

Legal certainty in inheritance distribution can be measured through several key indicators that can be used in academic research. The first indicator is the clarity of the rules. Here, "clarity of the rules" refers to the degree of alignment and transparency among national law, Islamic law (the religious legal system based on Islamic teachings), and customary law (local traditional legal practices). The second indicator is the implementation of procedures, referring to whether the steps for inheritance distribution—such as the availability of documents, asset recording, and access to dispute resolution institutions—are well-defined and accessible. The third indicator is predictability, which means the ability to reliably forecast the outcome of inheritance distribution based on current regulations. The fourth indicator is law enforcement, defined as the effectiveness of judicial

decisions and the timeliness of implementing inheritance distributions. The study of these indicators is relevant when analyzing cases of protracted (delayed or extended) inheritance distribution.

Building on these indicators, research on protracted inheritance distribution has been conducted in various social contexts, with nearly uniform findings regarding the negative impacts on families. Research in urban areas indicates that delays in inheritance distribution are often triggered by unclear documents, disagreements over asset values, and conflicting heir preferences. Research in rural areas illustrates the role of local customs in delaying formal procedures because social norms are considered stricter than written rules. Many studies also find that psychological barriers, such as the emotional bond between children and parents, contribute to distribution delays. The results of this study demonstrate the complexity of inheritance issues that cannot be addressed solely with a normative approach.

Expanding on the role of social context, research in several regions reveals that delays in inheritance distribution are often related to a lack of legal literacy. People often do not understand the ideal timeframe for inheritance distribution, leading them to delay the process for years. Family peace is often used as an excuse for not discussing asset distribution, even though delays actually increase the risk of conflict. Field studies show that conflict is not immediately apparent upon the testator's death but emerges gradually as assets begin to be used by some of the heirs. Understanding these conflict patterns can help formulate resolution mechanisms based on *maslahah* (the principle of benefit) and legal certainty, thereby promoting a more effective approach to resolving disputes.

In light of these challenges, studies on the application of *maslahah* in resolving inheritance disputes have been conducted by various scholars of Islamic jurisprudence (*ushul fiqh*) and religious court practitioners. Most studies emphasize the role of *maslahah* as a flexible principle that can be used to reduce conflict when the text does not address the situation in detail. Research conducted in several Religious Courts indicates that judges often use the rationality of *maslahah* to expedite dispute resolution, particularly in cases of assets that are vulnerable to damage or depreciation. Other research highlights the use of *maslahah* as a basis for encouraging mediation and peaceful settlement. This demonstrates the relevance of *maslahah* as an alternative approach to resolving inheritance disputes.

Some normative research indicates that *maslahah* can provide sharia-compliant justification for reconstructing inheritance distribution mechanisms amidst legal plurality. This research emphasizes that *maslahah* can serve as a bridge between sharia norms, local customs, and national regulations. In situations where formal rules are insufficient, *maslahah* offers a more inclusive meeting point. Studies on *maslahah*-based mediation show that this approach can produce more efficient resolutions than lengthy litigation. However, similar research has not yet established a direct link between *maslahah* and legal certainty. Research on legal certainty in inheritance generally focuses on the harmonization of Islamic law, customary law, and civil law. Several studies emphasize regulatory inconsistencies as a significant factor contributing to uncertainty in inheritance settlements. Other research indicates that religious courts face challenges, including a lack of ownership documents, slow asset valuation, and heirs' inability

to provide complete data. These delays result in postponed decisions and the implementation of distribution, creating legal uncertainty for the parties involved. Such studies demonstrate the importance of procedural reforms in enhancing legal certainty.

Addressing these ongoing challenges, several empirical studies also highlight that legal certainty depends not only on written rules but also on consistent enforcement. When court decisions are not implemented in a timely manner or when heirs fail to understand their administrative obligations, legal uncertainty persists. Many studies show that legal certainty is often weakened not because rules do not exist but because they are not effectively implemented. Structural and cultural barriers are more significant factors in creating uncertainty. The focus of current research is shifting to developing supporting instruments that enhance the operationalization of legal certainty.

In response to the gaps in the literature, research linking *maslahah* (benefit) and legal certainty in the context of inheritance is still relatively limited. Most studies still stand alone between the study of *ushul fiqh* (Islamic jurisprudence) and the study of positive law. Integrative research suggests that *maslahah* (benefit) can serve as an ethical basis that strengthens the legitimacy of legal reform. However, these studies have not yet fully explained how *maslahah* can be used to address legal uncertainty in inheritance distribution. This analytical limitation presents a significant gap that needs to be addressed in the dissertation research.

Several studies on family dispute resolution have begun to position *maslahah* and legal certainty as complementary values. These studies suggest that combining the two can provide a more adaptive resolution model to fit the family's social context. However, these studies still lack a detailed understanding of operational mechanisms that courts or mediators can implement. This research requires further development to make a tangible contribution to reforming the inheritance settlement system. Identifying these gaps reinforces the urgency of this dissertation research. This research holds a strategic position in inheritance studies because it connects *maslahah* (benefit) and legal certainty. Previous studies have examined these concepts separately, but they have not been linked in the context of protracted inheritance distribution. This research offers an integrative approach that explains how *maslahah* can strengthen legal certainty and vice versa. This approach can generate applicable Sharia-based legal reform recommendations. This innovation represents both a theoretical and practical contribution.

This research fills a methodological gap in previous studies that have not utilized empirical data to assess the impact of delays in inheritance distribution. Employing qualitative and normative approaches provides a comprehensive picture, leading to a more effective inheritance resolution model for Indonesian society. This integrative approach also enhances the legitimacy of the resulting policy recommendations, representing significant novelty.

With this foundation, the conceptual framework is built on the integrative relationship between the principles of *maslahah* and legal certainty in the context of inheritance distribution. *Maslahah* serves as a foundation of values, emphasizing the benefit, protection of rights, and prevention of harm, while legal certainty ensures procedural stability and clarity of mechanisms. These two concepts complement each other because *maslahah* provides flexibility to adapt

the law to family needs, while legal certainty provides direction and boundaries that prevent arbitrariness. This integration is necessary to formulate solutions to protracted inheritance distribution issues, which often involve emotional and structural dynamics. Therefore, the conceptual framework of this research is multidisciplinary and predominantly normative-sociological.

Furthermore, the relationship between *maslahah* and legal certainty is not linear but dialectical, with each influencing and shaping the implementation of the other. When legal certainty is too rigid, *maslahah* provides interpretive space to ensure that inheritance distribution does not harm certain heirs. When *maslahah* is too loose, legal certainty provides structure to ensure its implementation adheres to normative principles. The interaction of the two helps produce an inheritance resolution mechanism that is not only compliant with the rules but also sensitive to the needs of the family. Therefore, they serve as two main theoretical pillars of this research.

In summary, this research focuses on two main variables: *maslahah* (benefit) and legal certainty, analyzed in the context of protracted inheritance distribution. *Maslahah* is defined as the consideration of benefits and protection of rights based on the *maqasid* (objectives of sharia), which include safeguarding religion, life, intellect, descendants, and property. Legal certainty is defined as the clarity of rules, predictability of processes, consistency of application, and effectiveness of enforcement in the context of inheritance settlement. Protracted inheritance distribution is positioned as a juridical-sociological phenomenon that occurs due to disharmony between formal procedures and family social dynamics. The relationship between these variables will be analyzed to identify the root cause of the problem and explore alternative solutions.

The *maslahah* variable will be operationalized using indicators of *daruriyyah* (obligatory), *hajiyyah* (obligatory), and *tahsiniyyah* (obligatory) relevant to inheritance issues. The legal certainty variable will be measured using indicators of regulatory clarity, procedural implementation, predictability of outcomes, and effectiveness of enforcement. Protracted inheritance distribution will be observed through social phenomena, economic impacts, and cultural motives influencing delays. The use of these variables is expected to provide a robust and comprehensive analytical structure. Such an approach helps to build mutually reinforcing theoretical and empirical arguments.

Conceptual Model for Protracted Inheritance Settlement

This study introduces a conceptual model for resolving protracted inheritance disputes by integrating *maslahah* (benefit) and legal certainty. The central thesis is that effective dispute resolution must simultaneously ensure legal clarity and maximize social benefits. The innovative model starts by identifying harms from delayed distribution, analyzes relevant *maslahah* values, and applies procedures that guarantee legal certainty. By bridging normative principles and practical application, this study positions the model as a significant theoretical contribution to inheritance law scholarship. The model positions mediation as a primary tool to reduce inheritance conflicts. *Maslahah*-based mediation allows families to reach fair agreements without lengthy litigation, while legal certainty is ensured by formalizing mediation outcomes through authentic deeds or court

decisions. This maintains *maslahah*'s flexibility while fulfilling formal legal requirements and can expedite inheritance settlements while minimizing conflict.

This conceptual framework recognizes that the main problem in protracted inheritance distributions lies in integrating values and structures beyond technical legalities. The analysis will identify how *maslahah* addresses legal certainty weaknesses and how legal certainty sets boundaries for *maslahah* interpretation. The research intersects normative law, family law, and Islamic jurisprudence, providing a broad analytical framework. The analysis uses normative and empirical approaches: normative to analyze *maslahah*, legal certainty principles, and inheritance regulations, and empirical to observe practice and institution effectiveness in inheritance distribution. Together, these provide a comprehensive, holistic research perspective based on both theory and reality.

Conclusion

This study proposes a conceptual model that directly addresses protracted inheritance disputes by combining *maslahah* (benefit) and legal certainty. The main argument asserts that effective dispute resolution must prioritize both legal clarity and tangible social benefits. The model systematically identifies the harms of delayed distribution, analyzes key *maslahah* values, and applies procedures to ensure legal certainty, making it both normative and operational. This dual focus fills a theoretical gap in current inheritance studies. This model positions mediation, grounded in *maslahah*, as essential to resolving inheritance conflicts efficiently. It argues that mediation provides fair solutions without extended litigation, and legal certainty is guaranteed by formalizing outcomes through an authentic deed or court ruling. Thus, the approach maintains the flexibility of *maslahah* while upholding legal rigor, expediting settlement, and minimizing conflict.

This framework contends that protracted inheritance disputes stem from issues beyond technical legalities—they arise from a need to integrate values and legal structures. The argument focuses on how *maslahah* can compensate for gaps in legal certainty, especially in cultural and procedural contexts, while legal certainty establishes clear boundaries. This intersection forms the basis for an interdisciplinary analysis crossing normative and family law with Islamic jurisprudence. This analysis adopts normative and empirical approaches to substantiate the model's effectiveness. The argument is that only by combining doctrinal concepts of *maslahah* and legal certainty with real-world practices can a comprehensive solution for inheritance disputes be achieved. Such a holistic analytical direction ensures the model's practical relevance and theoretical breadth.

BIBLIOGRAPHY

- Alkadafi, M. A., Rifqi, M. A. F., Maulidia, T. A., Prayogi, A., Riyadi, R., Pujiono, I. P., & Nasrullah, R. 2024. Islam dan Kontribusinya Terhadap Perkembangan Ilmu Pengetahuan: Suatu Telaah. *Jurnal Intelek Dan Cendekiawan Nusantara*, 1(5).
- Azman, Z., Helandri, J., & Supriadi. 2025. Reformulation Of Islamic Educational Leadership In The Era Of Disruption. *El-Ghiroh : Jurnal Studi Keislaman*, 23(2), 235–249.
- Azman, Z., & Supriadi. 2025. The History Of Islamization In Indonesia: Its Dynamics And Development. *El-Ghiroh : Jurnal Studi Keislaman*, 23(1), 67–82.
- Azra, A. 2012. *Jaringan Ulama: Timur Tengah dan Kepulauan Nusantara Abad XVII dan XVIII*. Kencana.
- Azra, A. 2019. *Pendidikan Islam: Tradisi dan Modernisasi Menuju Milenium Baru*. Prenada Media.
- Budiman, Azizah Hanum, Muhammad Amran, Faisal, M. N. 2022. Pemikiran Pendidikan Islam Kh. Imam Zarkasyi. *Journal of Pedagogy*, 11(2), 154–160.
- Dalimuthe, R. A., Lubis, M., & Efendi, R. 2022. Melacak Tradisi Menulis Ulama Indonesia Abad Ke-19-21 (KH. Hasyim Asy'ari dan Ramli Abdul Wahid). *Al-Fikru: Jurnal Ilmiah*, 16(1), 148–162. <https://doi.org/10.51672/alfikru.v16i1.90>
- Fitri, A., sutarjo, & Karyawati, L. 2022. Studi Kepustakaan Nazir. *Konsep Pendidikan Islam Menurut K.H. Ahmad Dahlan*, 6(1), 1049–1053.
- Harahap, S. M. 2014. Muhammad Rasyid Ridha Antara Modernisme Dan Tradisionalisme. *Fitrah: Jurnal Kajian Ilmu-Ilmu Keislaman*, 8(2), 253. <https://doi.org/10.24952/fitrah.v8i2.351>
- Hardani, Auliya, N. H., Andriani, H., Fardani, R. A., Ustiawaty, J., Utami, E. F., Sukmana, D. J., & Istiqomah, R. R. 2020. Metode Penelitian Kualitatif & Kuantitatif. In H. Abadi (Ed.), *CV. Pustaka Ilmu* (Vol. 3, Issue 1). Pustaka Ilmu. <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>
- Jamil, S. 2024. Pemikiran Pendidikan Islam Dalam Pandangan Muhammad Abduh. *Jurnal IHSAN Jurnal Pendidikan Islam*, 2(3), 90–99. <https://doi.org/10.61104/ihsan.v2i3.332>
- Madyunus, E. 2021. Pemikiran Pendidikan Islam Menurut Muhammad Abduh. *Didaktika Aulia*, 1(2), 75.
- Miles, M. B., & Huberman, A. M. 2020. *Qualitative Data Analysis: An Expanded Sourcebook*. Sage Publications.
- Muhammad, H. Z., Imawan, D. H., & Majid, M. F. F. 2023. Pemikiran Pendidikan Islam Syekh Nawawi Al-Bantani: Paradigma Pengajaran Multidimensi. *Nusantara: Jurnal Pendidikan Indonesia*, 3(2), 291–310. <https://doi.org/10.14421/njpi.2023.v3i2-7>
- Mujib, A. 2024. Model Pendidikan Islam di Turki. *Journal of Islamic Education Studies*, 2(2), 167–176. <https://doi.org/10.58569/jies.v2i2.980>
- Mukhlis, L. 2020. Konsep Pendidikan Menurut Pemikiran KH. Hasyim Asy'ari. *Jurnal As-Salam*, 4(1), 79–94.

- Nasihin, H., Wibisono, J., Hafidz, & Ghalib, I. A. 2023. Konsep Pemikiran Pembaharuan Muhammadiyah Bidang Pendidikan (Studi Pemikiran Muhammad Abduh). *Attractive : Innovative Education Journal*, 5(2), 520.
- Nata, A. 2001. *Pemikiran Para Tokoh Pendidikan Islam: Seri Kajian Filsafat Pendidikan Islam*. Raja Grafindo Persada.
- Ningsih, A. 2021. Pembaharuan Pendidikan Islam (Studi Pemikiran Muhammad Abduh Dan Rasyid Ridha). *Jurnal Penelitian Agama*, 22(1), 87–101. <https://doi.org/10.24090/jpa.v22i1.2021.pp87-101>
- Nurhasanah, F., Ibnudin, I., & Syathori, A. 2023. Konsep Pendidikan Menurut Buya Hamka Dan Relevansinya Dengan Pendidikan Islam Kontemporer. *Journal Islamic Pedagogia*, 3(2), 176–195. <https://doi.org/10.31943/pedagogia.v3i2.108>
- Ofiani, O., & Mardalena. 2024. Relevansi Pemikiran Pendidikan Jamaluddin Al-Afgani dalam Konteks Pendidikan Islam Kontemporer. *Nur El-Islam : Jurnal Pendidikan Dan Sosial Keagamaan*, 11(1), 1–24. <https://doi.org/10.51311/nuris.v11i1.552>
- Pradoko, A. M. S. 2023. *Paradigma Metode Penelitian Kualitatif* (Keenam, Vol. 148). UNY Press.
- Rahmad Teguh Septiyadi, N., & Nurpadjarillah, L. (2023). Pembaruan dalam Islam Abad ke-19. *Jurnal Religion: Jurnal Agama, Sosial, Dan Budaya*, 1(2), 168–176.
- Rasionalisme, A., Kasim, O. H. M., Rasyid, M., Ridha, A., & Serangkai, T. 2012. *Muhammad Rasyid Ridha Abstrak Pembahasan*. 37(2).
- Rizadiliyawati, R., & Roza, E. (2024). Konsep Pembaharuan Pendidikan Islam Versi Jamaluddin Al-Afghani. *Al-Mikraj Jurnal Studi Islam Dan Humaniora (E-ISSN 2745-4584)*, 4(02), 985–995. <https://doi.org/10.37680/almikraj.v4i02.5007>
- Siti Jumrotun, E. R. 2024. Implementasi Konsep Pendidikan Akhlak Imam Al-Ghazali. *Jurnal Pemikiran Keislaman Dan Kemanusiaan*, 8(1), 173–187.
- Steenbrink, K. A. 1986. *Pesantren, Madrasah, Sekolah: Pendidikan Islam dalam Kurun Modern*. LP3ES.
- Suja'i, A., & Baihaqi, M. A. 2022. Perkembangan Pendidikan Islam di Indonesia. *Pendidikan Dan Pemikiran Islam*, 5(2), 139–150.
- Sukatin, Zulhizni, E. R., Tasifah, S., Triyanti, N., Auliah, D., Laila, I., & Patimah, S. 2019. *Pendidikan Anak dalam Islam*. VI(2), 185–205.
- Tambak, S. 2015. Kebangkitan Pendidikan Islam: Melacak Isu Historis Kebangkitan Kembali Pendidikan Islam. *Al-Hikmah: Jurnal Agama Dan Ilmu Pengetahuan*, 12(2), 182–199. [https://doi.org/10.25299/al-hikmah:jaip.2015.vol12\(2\).1458](https://doi.org/10.25299/al-hikmah:jaip.2015.vol12(2).1458)
- Wijaya, R. 2024. *Reformasi Pendidikan Islam di Asia Tenggara: Sejarah dan Tantangan Kontemporer*. Pustaka Ilmu.
- Yakin, I. H. 2023. *Metode Penelitian Kualitatif* (U. Supriatna (ed.)). Aksara Global Akademia.