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Harmonization of Sharia Values in the Modern Inheritance System: Opportunities, Challenges, and Sustainability

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Abstract:

The Islamic inheritance system is founded on principles aimed at ensuring justice, balance, and sustainability in the distribution of inheritance assets. However, in the modern context, the application of Sharia values in inheritance systems faces various challenges, including social dynamics, changes in family structures, and differing legal regulations across countries. This study aims to examine the opportunities and challenges in harmonizing Sharia values with modern inheritance systems and explore strategies for their sustainability. The research method employed is a literature review, utilizing both normative and comparative approaches, to analyze various inheritance models implemented in both Muslim and non-Muslim countries. The findings suggest that, despite obstacles to implementing Islamic inheritance law, opportunities exist through flexible regulations, strengthening Islamic legal literacy, and contextual adaptations of fatwas. On the other hand, significant challenges include conflicts with positive law, differences in scholars' interpretations, and social resistance to inheritance distribution based on Islamic law. For sustainable implementation, it is essential to develop an inheritance model that not only adheres to Sharia principles but also adapts to modern legal and social realities. Therefore, harmonizing Sharia values within the modern inheritance system requires an inclusive and solution-oriented approach that holistically considers legal, social, and economic aspects.

Keywords: Islamic inheritance; Sharia law; modern inheritance system; legal harmonization; sustainability

A. INTRODUCTION

The discussion on the inheritance system in Islam has been a significant focus on the discourse of Islamic law and modern law. The Islamic inheritance system, based on the Qur'an and Hadith, has distinctive characteristics that set it apart from conventional inheritance systems in various legal frameworks. However, with social and economic

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changes, challenges have emerged in integrating Sharia values into modern inheritance systems.

The inheritance system is a crucial aspect of Islamic law aimed at achieving distributive justice within society. In Islam, inheritance laws are comprehensively outlined in the Qur'an, such as in Surah An-Nisa (verses 11-12). However, social, economic, and cultural developments in the modern era present challenges in implementing Sharia principles within contemporary inheritance systems, particularly when addressing legal pluralism and diverse local traditions.(Zuhaili, 2021)

One of the main challenges in integrating Sharia values is the difference in interpretation among scholars and Muslim intellectuals. Some experts argue that Islamic inheritance law is static because it is based on *nash* that is *qath'i* (definitive). In contrast, others emphasize the importance of a contextual approach to adapt to the needs of modern society.(Saeed, 2016) In this context, further research and discussion are needed to find a middle ground that can accommodate Sharia principles without disregarding the demands of positive law and local customs.

Furthermore, the sustainability of integrating Sharia values into the modern inheritance system depends on the ability of Muslims to bridge the gap between Islamic legal theory and empirical practice in the field. For example, in some Muslim communities, inheritance distribution is still influenced by patriarchal norms, often neglecting women's rights as stipulated in Sharia.(Mernissi, 2015) This highlights the need for a more inclusive and responsive approach to social dynamics.

A collaborative approach involving scholars, legal practitioners, and the community provides a relevant solution to harmonizing the inheritance system. This initiative will not only strengthen justice in wealth distribution but also maintain the relevance of Islamic law amid changing times..(Abdullah, 2020) This study aims to explore strategies for integrating Sharia values into the modern inheritance system, highlighting its sustainability and the challenges it faces.

Several previous studies have examined the implementation of Islamic inheritance law in the context of modern states. A study by Sri Hartati noted that although Islamic inheritance law provides legal certainty, it poses challenges in its application in societies that have adopted the Western civil law system.(Hartati, 2024) Additionally, a study by Irene highlights that globalization and modernization demand the adaptation of Islamic inheritance law to align with international conventions and best practices from various countries. However, this process faces significant challenges, particularly in balancing Sharia principles with the demands of modern law. (Irene Septia Fada, Achmad Tanthowi, 2024)

Furthermore, a study by Rizki Kumara et al. (2024) found that in certain societies, inheritance distribution is often influenced by a combination of Islamic law and customary law. This indicates a complex interaction between religious norms and local traditions in inheritance practices(Anis Rizki Kumara, Muh. Kurniawan BW, 2024) These studies indicate that although Islamic inheritance law has a clear framework, its

implementation in modern societies faces various challenges, including adaptation to different legal systems and the influence of local cultures.

In some countries, such as Malaysia and Indonesia, the Islamic inheritance system has been accommodated within national law. However, issues arise when there are inconsistencies between Sharia law and positive law, particularly in cases of wealth distribution for women and non-Muslims.

Research conducted by Pakarti and Farid (2023) explored the application of inheritance law within the Islamic framework by comparing inheritance practices across various Muslim nations, notably Indonesia and Malaysia. This research highlights that although the fundamental principles of Islamic inheritance law are applied, differences in implementation are influenced by each country's national legal system.(Farid, 2023)

Research by Abdullah Saeed asserts that Islamic inheritance law can be applied in modern systems through a contextual approach that preserves the essence of Sharia. This methodology considers the social and historical backdrop surrounding the revelation of the verses, along with their significance in modern circumstances. Thus, Islamic inheritance law can be adapted to evolving times without disregarding the fundamental principles that have been established.(Shomad, 2022)

Additionally, research by Arfah (2021) reveals that cultural factors and local customs often influence the distribution of inheritance in Muslim communities. This study highlights that in some communities, inheritance distribution occurs before the testator's death and follows local traditions, such as the *majorat* system, where the firstborn receives a larger share compared to other heirs. Such practices demonstrate the interaction between Islamic law and local traditions in the inheritance process.(Arafah, 2023)

Additionally, research by Haznah discusses a comparison of inheritance distribution based on Islamic law and customary law. This study found that in some societies, customary law is more dominant in inheritance practices than Islamic law, indicating the strong influence of local culture on the distribution of assets.(Aziz, 2023) These research findings confirm that cultural influences and regional traditions have a significant impact on the practices of inheritance distribution in Muslim communities, often resulting in discrepancies in the implementation of Islamic inheritance law. The investigation conducted by Ahmad Fandika, Octa Fio Dila, and Dwi Noviani (2024) highlights the critical need for transparency and fairness in the allocation of inheritance assets by Islamic principles in contemporary society.(Ahmad Fandika, Octa Fio Dila, 2024)

From these studies, it is evident that a gap exists in the research linking the sustainability of the Islamic inheritance system to the challenges of modern law. This study aims to bridge that gap by exploring a model for integrating Sharia values into an inheritance system that is compatible with modern legal frameworks. The approach used in this research is a combination of normative and empirical legal methods, taking into account social, economic, and cultural aspects in the implementation of Islamic inheritance law.

This study presents several novel contributions that distinguish it from previous research. First, it highlights how integrating Sharia values into the modern inheritance system can enhance the sustainability of Islamic inheritance law in the face of global legal challenges. Second, it proposes a hybrid approach that combines Sharia legal principles with positive legal mechanisms to create a more inclusive inheritance system that can be applied in various social contexts. Third, it examines the social and economic impact of integrating Sharia values into the modern inheritance system.

This study aims to make a substantial contribution to the evolution of Islamic law and propose solutions for Muslim-majority nations to integrate Islamic inheritance law into their contemporary legal frameworks.

B. METHOD

This research utilizes a qualitative methodology, incorporating a descriptive-exploratory analysis technique. This approach is chosen to explore in depth how Sharia values can be integrated into the modern inheritance system, highlighting its sustainability and the challenges it faces..(Creswell, 2018)

The research data is obtained through library research, which includes a review of classical and contemporary literature on Islamic inheritance law, as well as relevant scientific journals. This data collection technique enables the researcher to understand the fundamental theories underlying Islamic inheritance law while also analyzing modern cases in inheritance practices.(Zed, 2019)

Data analysis is conducted using a combination of normative and empirical legal approaches. The normative approach is employed to examine Islamic legal texts, including the Qur'an, Hadith, and fiqh books, in order to identify the fundamental principles of Islamic inheritance law.(Mamudji, 2017) The empirical method is employed to investigate the social and cultural factors that influence the application of inheritance law in contemporary society.(Moleong, 2017)

To ensure data validity, this study also employs the triangulation method, which involves comparing data from various sources to obtain a comprehensive and accurate understanding.(Lincoln, 2018) This approach is considered effective in explaining the relationship between Sharia law, positive law, and societal social practices.

C. RESULTS AND DISCUSSION

1. Implementation of Sharia Values in the Modern Inheritance System

The inheritance system in Islam is based on Sharia principles that emphasize distributive justice and the protection of heirs' rights. One of the key values applied is the principle of proportional justice (*al-'adalah*). In Islamic law, the distribution of inheritance is regulated, as stipulated in Surah An-Nisa (4:11-12), to ensure that all parties receive their rightful shares.(Zuhaili, 2016a) This value is relevant to the needs of

modern society, where economic justice is one of the key pillars in creating social stability.

Additionally, the principle of family responsibility (*al-mas'uliyah*) is a crucial element in the Sharia inheritance system. In this context, Islamic law stipulates that male and female heirs have distinct roles and responsibilities, tailored to their respective needs within the family's social structure. (Al-Qaradawi, 2016) The application of this value in the modern system often requires adaptation to accommodate social dynamics, such as the increasing participation of women in the economic sector.

Another principle that is applied is the protection of individual rights (*hifz al-haqq*). In Islam, inheritance rights are individual rights protected by Sharia, ensuring that no party unjustly takes a share. (Shihab, 2022) In the modern inheritance system, this value is applied by strengthening legal regulations that prevent manipulation or injustice in the distribution of inheritance, including through mediation and courts.

To integrate Sharia values into the modern inheritance system, a contextual and flexible approach is necessary. This includes harmonization between Sharia law and positive law, as implemented in several Muslim-majority countries, where Islamic inheritance law is adopted while taking into account the social and cultural needs of the community. (Monshipouri, 2019) In Indonesia, the inheritance law based on Sharia has been accommodated through the Compilation of Islamic Law (KHI), which serves as a guideline for resolving inheritance disputes in religious courts.

The KHI provides a uniform legal framework for religious courts to handle inheritance cases, ensuring that dispute resolutions align with Sharia principles. This is crucial given Indonesia's legal pluralism, where customary law, Western law, and Islamic law interact in inheritance practices. With the KHI, religious courts have clear guidelines for adjudicating inheritance cases, thereby ensuring justice and legal certainty for the parties involved. (Taj Bahy Fardayana, 2024) Thus, Sharia values can remain relevant in addressing the challenges of modernization and globalization.

Besides legislation, education is also a crucial aspect of implementing Sharia values in inheritance. Education aims to enhance public awareness of the fundamental principles of Islamic inheritance law, enabling them to apply these principles effectively in their daily lives. An article in the *Journal of Law, Society, and Islamic Civilization* revealed that improving literacy in Islamic inheritance law plays a significant role in fostering social harmony and reducing potential disputes among heirs. The study emphasized that a strong understanding of Islamic inheritance law can prevent family conflicts and ensure a fair distribution of inheritance assets by Sharia. (Nasrullah, 2023).

2. Key Challenges in Integrating Sharia Values into the Modern Inheritance System

One of the main challenges in integrating Sharia values into the modern inheritance system is the plurality of legal systems. In many countries, inheritance law is influenced not only by Sharia but also by customary law and positive law. This often leads to conflicts, especially when Sharia values are perceived as being in contradiction with local traditions or national legal policies. (Darmawati, 2023)

Several Muslim-majority countries have adopted legal systems that establish equal inheritance distribution between men and women, differing from traditional Sharia provisions that allocate a larger share to men based on their financial responsibilities. For instance, Turkey has implemented an inheritance system that ensures equal distribution between men and women.

Additionally, some contemporary Muslim scholars, such as Muhammad Shahrur and Husein Muhammad, advocate for a reinterpretation of inheritance verses to reflect greater gender equality. They argue that the 2:1 inheritance ratio between men and women in the Qur'an should be understood within the historical and social context in which it was revealed and that the modern context requires a fairer distribution between men and women. (Waddin, 2024)

Additionally, several states in India have implemented legal reforms that abolish polygamy and equalize inheritance rights between men and women. However, these measures have been met with controversy and are often seen as attempts to marginalize the Muslim community. These differences frequently spark debates, particularly in countries with minority Muslim populations that operate under secular legal systems. (Khalid, 2021)

Moreover, legal modernization often brings pressure to simplify the inheritance system, which is perceived as overly complex. Some countries attempt to create regulations that accommodate the needs of modern society without completely disregarding religious principles. However, this process does not always proceed smoothly. One of the main obstacles is the lack of understanding of *maqasid al-shariah*, the ultimate objectives of Sharia, which encompass justice, public welfare, and balance. (F, 2024) The lack of harmonization between local traditions and the universal principles of Sharia further exacerbates this challenge. (Haneef, 2020)

Another challenge is cultural resistance, where social norms and customs often take precedence over Sharia law. In some communities, patriarchal practices remain strong, leading to inheritance distributions that favor men over women, even though Sharia grants women the right to receive their share of the inheritance. (Nurmala, 2023) This resistance does not come only from the general public but also from local leaders who may prioritize tradition over the principles of justice in Islam. (Rasyid, 2024)

The complexity of interpreting Islamic legal texts also presents a significant challenge. Different schools of thought have varying perspectives on certain aspects of inheritance law, such as substitute heirs (*zawil arham*) and inheritance for individuals of different religions. In Islamic inheritance law, *dzawil arham* refers to distant relatives who are not primary heirs. The Hanafi school, for instance, limits the inheritance rights of *dzawil arham* to the descendants of a male child whose parents passed away before the testator, such as a grandson. They receive a share as *ashabah* or *dzawil furudl*, by what has been prescribed. (Syahroni, 2022)

In Islamic inheritance law, individuals of different religions are not entitled to inherit from a Muslim family. This is based on the principle that a Muslim cannot inherit from a non-Muslim, and vice versa. However, in practice, some Muslim-majority

countries, such as Indonesia, have adopted a more inclusive approach. Through the mechanism of *wasiat wajibah* (mandatory bequest), non-Muslim heirs can receive a portion of the inheritance from a Muslim testator, even though this is not explicitly regulated in the Qur'an or Hadith. (Azizah, 2023)

In the modern context, this interpretation becomes increasingly complex when faced with cases that have no precedent in classical Islamic law, such as digital inheritance or assets generated through modern investment systems. (Shah, 2019)

The lack of public understanding of Islamic inheritance law also worsens the situation. Many Muslims are unaware of the Sharia provisions on inheritance, making them more likely to follow guidance from less competent sources. (Fajar, 2021) This highlights the need for more intensive education on the importance of justice in inheritance distribution according to Islamic Sharia law.

Another significant challenge is the limitation in implementing the Islamic inheritance system in pluralistic societies. In this context, the application of Islamic inheritance law is often perceived as discriminatory, especially in cases involving non-Muslim heirs, leading to legal conflicts. Therefore, a reinterpretation of Islamic inheritance law is necessary to ensure broader equality and justice without violating the fundamental principles of Sharia. (Ali, 2022)

Moreover, modernization and globalization have also influenced perceptions of Islamic law. Some believe that Islamic inheritance law is outdated and no longer relevant to the needs of contemporary society. (Hidayati, 2023) Such views often become psychological barriers in the effort to integrate Sharia into modern legal systems.

To address these challenges, an inclusive approach based on *maqasid al-shariah* is necessary to create an inheritance system that is both just and relevant to the needs of modern society. Education and dialogue among scholars, academics, and policymakers are essential to finding common ground between Sharia law and positive law. As a step forward, the establishment of an international Islamic legal institution dedicated to addressing cross-border inheritance issues is needed. (Farooq, 2020)

3. The Modern Inheritance System Accommodates Sharia Values

In response to evolving times, the modern inheritance system can accommodate Sharia values by integrating the principles of justice in Islamic law without disregarding universal principles of justice. (Akhiruddin, 2020b) One of the primary ways to achieve this is by adopting a flexible approach that not only upholds the provisions of Sharia law but also considers the needs of contemporary society in terms of gender equality and fair wealth distribution. (Huda, 2021)

In this regard, although Sharia prescribes an unequal distribution of inheritance between men and women, modern law can offer more inclusive mechanisms by promoting women's empowerment and protecting their rights in inheritance. (Zuhaili, 2016b)

The modern inheritance system seeks to strike a balance between traditional Shariah rules and the needs of contemporary society. In this context, the approach often involves reinterpreting Sharia principles to align with social, economic, and legal changes. (Akhiruddin, 2020a). For example, some Muslim-majority countries have adopted modifications to the classical inheritance system to provide more equal rights for women in the distribution of inheritance. In Indonesia, for instance, the Compilation of Islamic Law (KHI) adopts a bilateral principle in lineage determination, ensuring that male relatives do not exclude female descendants. This differs from classical Islamic inheritance law, which tends to be more patriarchal. (Sulaiman, 2021).

This modern approach often seeks to integrate *maqasid al-shariah* with the practical needs of contemporary society. *Maqasid al-shariah* emphasizes the importance of justice, public welfare (*maslahah*), and the protection of individual rights. As Iqbal has stated, the principles of *maqasid al-shariah* can be implemented in a modern context to achieve broader justice and public welfare. (Al-Makky, 2022) As stated by Norhayati, Hafiz A., and Masyitah U, the application of *maqasid al-shariah* can provide a new perspective in understanding the inheritance rights of a father, emphasizing justice and public welfare (*maslahah*) for all parties involved.

In this regard, the modern inheritance system seeks to protect the rights of heirs, including daughters and wives, by ensuring a fairer distribution by the principle of substantive justice. (Moosa, 2015) Thus, the integration of *maqasid al-shariah* into the modern inheritance system allows for legal adjustments that are more responsive to contemporary societal dynamics, without disregarding the fundamental principles of *Shariah*. (Norhayati, Abdul Hafiz Anwar, 2021)

However, the adaptation of this system is not without criticism. Some traditional scholars worry that such changes may diminish the authentic values of *Shariah*. Therefore, continuous dialogue between scholars and modern legal experts is necessary to maintain a balance between the authenticity of *Shariah* values and the relevance of legal practices. (Sholeh, 2020)

The principle of justice in inheritance according to *Shariah* prioritizes equality of rights within the context of social and economic responsibility. Therefore, although there are differences in inheritance shares between men and women, the fundamental principle that should be emphasized is the protection of each individual's rights, ensuring that no one is disadvantaged. The modern inheritance system can accommodate this principle by adopting policies that ensure no party receives an unfair share. For example, countries that implement Islamic inheritance law have begun formulating legislation that introduces mechanisms to accommodate a more just and equitable distribution of inheritance, including for women. (Al-Qaradawi, 1999)

On the other hand, the modern inheritance system must also consider universal individual rights, such as the right to inherit property without discrimination based on gender or social status. Thus, although *shariah* principles grant a larger share to men in

some instances, the state can introduce regulations that balance this distribution without disregarding the values of justice and the principles of human rights. (Amin, 2021) This approach allows the Islamic inheritance system to remain relevant and practical in the modern context without compromising the fundamental principles of Islam. (Tono, 2022)

The integration of Shariah values into the inheritance system promotes a fair distribution of wealth by Shariah principles. This helps reduce social inequality, especially within extended families, as the system ensures the rights of each heir by the proportions determined in the *Nash*. This principle aligns with *maqasid al-shariah* in preserving wealth (*hifz al-mal*) and strengthening family solidarity. (Fuadi, 2021)

A Shariah-compliant inheritance system creates a more equitable distribution of wealth, thereby empowering families economically. In the long run, this can help build economic resilience in the face of globalization's pressures. (Hadi, 2021)

By adhering to the clear and firm rules of Shariah, conflicts that often arise in inheritance distribution can be minimized. This strengthens family relationships, which is crucial in the era of globalization, where interactions often become more complex and nuanced. (Ramadhan, 2021)

The integration of Shariah values into the national legal system creates a more inclusive framework. This allows for legal diversity that aligns with the needs of Muslim communities amidst the dominance of secular legal systems in the era of globalization. Research by Ratni Kasmad indicates that Islamic law has the potential to contribute to the formation of national law, given that Islam is the majority religion. However, challenges in this integration can be observed from structural, substantive, and cultural perspectives. (Kasmad, 2021)

Shariah values place special emphasis on vulnerable groups, such as orphans and women, in inheritance distribution. In the context of globalization, where gender and economic disparities remain significant challenges, this system offers a concrete solution. (Doi, 2008) In Islamic inheritance law, orphans have specifically regulated inheritance rights to protect them from potential oppression or neglect. For example, in Javanese customary inheritance law, both male and female orphans have equal inheritance rights. In contrast, in positive law, there are differences in the treatment of orphans based on gender. (Sofyan, 2020) Additionally, Islamic inheritance law also places special emphasis on women, despite the differences in inheritance shares between men and women. Women are entitled to receive inheritance according to the provisions outlined in the Qur'an and Hadith, which aim to ensure their well-being and protect their rights. (Zulaikha, 2021) In the era of globalization, these principles can be adapted to address existing gender and economic disparities. For example, ensuring that inheritance distribution is not only legally fair but also considers the practical needs of modern society, including gender equality and equitable wealth, is considered too complex. Some countries attempt to create regulations that accommodate the needs of

modern society without completely disregarding religious principles. However, this process does not always proceed smoothly. One of the main obstacles is the lack of understanding of *maqasid al-shariah*, the fundamental objectives of Shariah that encompass justice, public welfare, and balance. A deep understanding of *maqasid al-shariah* is crucial in efforts to reform Islamic family law, including inheritance distribution. (Mustofa, 2022)

The distribution of wealth based on Shariah helps prevent the accumulation of assets by a small group of individuals and promotes a healthy economic cycle. This supports economic sustainability on both local and global scales.

Additionally, legal modernization often brings pressure to simplify inheritance systems that are matters, to ensure their relevance in contemporary contexts without compromising the core values of Shariah. (Fuad Luthfi, Ahmadi Hasan, 2024)

Despite its many benefits, the Shariah-based inheritance system also faces challenges from global cultural pressures that often do not align with Islamic principles. This demands that Muslims continue to innovate without losing their core values.

The integration of Shariah values encourages the role of Shariah institutions in helping society understand and implement an inheritance system that adheres to Islamic principles. This enhances the system's sustainability in responding to global dynamics.

Despite its many benefits, the Shariah-based inheritance system also faces challenges from global cultural pressures that often do not align with Islamic principles. This demands that Muslims continue to innovate without losing their core values. The integration of Shariah values encourages the role of Shariah institutions in helping society understand and implement an inheritance system that adheres to Islamic principles. This enhances the system's sustainability in responding to global dynamics.

D. CONCLUSION

The application of Shariah values in the modern inheritance system demonstrates the relevance and flexibility of Islamic law in addressing contemporary challenges while upholding the principles of justice and public welfare.

The integration of Shariah values into the modern inheritance system faces various challenges that require serious attention to ensure its implementation aligns with Islamic principles while remaining relevant to the dynamics of contemporary society. These challenges include the plurality of legal systems, cultural resistance, the complexity of interpreting Islamic legal texts, the limited public understanding of Islamic inheritance law, and the impact of modernization and globalization.

A modern inheritance system based on Shariah values is capable of providing holistic justice. It bridges the spiritual needs of Muslims with universal principles of justice, creating harmony between religious traditions and the demands of modernity.

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