

Beyond Classical Inheritance Doctrine: Judicial Ijtihad on the Rights of a Sole Daughter in Indonesian Islamic Courts

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Abstract

This research is motivated by the problem of the distribution of inheritance in Islamic law in Indonesia, especially related to the position of an only daughter. In the framework of nash and the Compilation of Islamic Law (KHI), the part of the single girl is 1/2 (half) of the part. Residual inheritance (rad) is often the object of dispute when there are other heirs such as relatives or relatives from the heir's side. The purpose of this study is to analyze the basis of the judge's legal considerations (ratio decidendi) and the form of ijtihad used in deciding case Number 559/Pdt/G/2025/PA. SMI so that the verdict reflects the value of benefit and justice. This research uses a normative juridical method with a case approach and a legislative approach. Data analysis was carried out qualitatively on the judge's consideration at the Sukabumi Religious Court. The results of the study show that in Decision Number 559/Pdt/G/2025/PA. SMI, the judge performs ijtihad in the form of istinbath al-ahkam by combining textual (nash) and contextual (maqashid sharia) approaches. The judge determined that the only daughter was entitled to receive all the remaining inheritance through the rad principle and rejected the lawsuit from the surrogate heir/heir's brother. The judge's legal considerations are based on the principle of protection of rights (hifzh al-mal) and a sense of justice, considering that an only daughter is the most important straight heir. This decision also affirms the shift in the paradigm of inherited fiqh in religious courts that are more progressive and gender-fair. Thus, the verdict is a form of ijtihad of judges in order to realize substantive justice and reform of Islamic inheritance law in Indonesia.

Keywords: *Ijtihad of Judges, Only Daughters, Inheritance Rights, Religious Courts, Justice.*

Abstrak

Penelitian ini dilatarbelakangi oleh permasalahan pembagian harta warisan dalam hukum Islam di Indonesia, khususnya terkait kedudukan anak perempuan tunggal. Dalam kerangka nash dan Kompilasi Hukum Islam (KHI), bagian anak perempuan tunggal adalah 1/2 (setengah) bagian. Sisa harta warisan (rad) kerap menjadi objek sengketa apabila terdapat ahli waris lain seperti kerabat atau saudara dari pihak pewaris. Tujuan penelitian ini adalah untuk menganalisis dasar pertimbangan hukum (ratio decidendi) hakim serta bentuk ijtihad yang digunakan dalam memutus perkara Nomor 559/Pdt/G/2025/PA.SMI agar putusan mencerminkan nilai kemaslahatan dan keadilan. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan kasus dan pendekatan perundang-undangan. Analisis data dilakukan secara kualitatif terhadap pertimbangan hakim di Pengadilan Agama Sukabumi. Hasil penelitian menunjukkan bahwa dalam Putusan Nomor 559/Pdt/G/2025/PA.SMI, hakim melakukan ijtihad berupa istinbath al-ahkam dengan menggabungkan pendekatan tekstual (nash) dan kontekstual (maqashid syariah). Hakim menetapkan bahwa anak perempuan tunggal berhak menerima seluruh sisa harta warisan melalui asas rad dan menolak gugatan dari ahli waris pengganti/saudara pewaris. Pertimbangan hukum hakim didasarkan pada prinsip perlindungan hak (hifzh al-mal) dan rasa keadilan, mengingat anak perempuan tunggal merupakan ahli waris segaris lurus yang paling utama. Putusan ini juga menegaskan pergeseran paradigma fiqh waris di peradilan agama yang lebih

progresif dan berkeadilan gender. Dengan demikian, putusan tersebut merupakan bentuk ijtihad hakim dalam rangka mewujudkan keadilan substantif dan pembaruan hukum kewarisan Islam di Indonesia.

Kata Kunci: Ijtihad Hakim, Anak Perempuan Tunggal, Hak Waris, Pengadilan Agama, Keadilan.

INTRODUCTION

(Muammad Ali as-Sabuni, 2005)(Muammad Ali as-Sabuni, 2005) (*Muhammad Amin Suma, 2013*) atau lebih familiar dengan istilah *faraidh*. Asal kata *faraid* merupakan bentuk jamak dari kata tunggal "*faridah*", yang berarti aturan dalam Al-Qur'an secara rinci yang mengatur tentang bagian waris kepada ahli waris. Secara terminologis, "*fikih mawarist*" merupakan ilmu yang mempelajari siapa ahli waris dari pewaris, bagian masing-masing ahli waris dan bagaimana cara menghitungnya. (Muhammad Amin Suma, 2013)

Islamic Inheritance Law is a branch of Islamic law which has the most detailed and strict regulations compared to other branches of science (Ahmad Rofiq, 2006). The arrangement of inheritance law not only regulates who is entitled to inherit, but also determines the share of their inheritance, in this context including women. This provision can provide legal certainty and as a form of protection for the family after the death of the heir in the economic field, thus Islam has given serious attention to the Islamic inheritance system.

Islamic inheritance law is one of the fields of law that has the most detailed normative basis compared to other branches of Islamic law. The provisions regarding the heirs, the share of each heir, and the mechanism for the distribution of inheritance have been expressly regulated in the Qur'an, especially in Surah An-Nisa' verses 11, 12, and 176. Therefore, Islamic inheritance law is often referred to as the law of qat'iy al-dalalah because the amount of a certain portion of the heirs has been clearly determined by the nash. However, in the practice of resolving inheritance cases in court, there are still various problems that cause differences in interpretation and require the ijtihad of judges to find the law that is considered most in accordance with the community's sense of justice (Amir Syarifuddin, 2015).

One of the issues that continues to be debated in Islamic inheritance law is the position of an only daughter to the inheritance rights of the heir's brother. According to the provisions of the Qur'an and the classical *faraidh* law, if the heir leaves only a daughter without a son, then the girl gets one-half (1/2) of the inheritance. The rest of the inheritance can be given to other heirs who are entitled according to the 'ashabah system, including the heir's brother under certain conditions. This provision was later accommodated in Article 176 of the Compilation of Islamic Law (KHI) which states that "a girl if she is only one she gets half of the share" (Compilation of Islamic Law, 1991).

In its development, the practice of religious justice in Indonesia shows the dynamics of interpretation of these provisions. Some court rulings, especially those referring to Supreme Court jurisprudence, put girls in a stronger position so that they can hide or close the inheritance rights of the heirs. This view departs from the idea that the Islamic inheritance system in Indonesia is developing towards a bilateral system that provides greater protection to the direct descendants of the heirs than to the next of kin. This development can be seen in various studies on the Supreme Court Decision Number 86 K/AG/1994 which affirms that girls can obstruct the inheritance rights of their uncles or heirs.

This phenomenon is also found in the Decision of the Sukabumi Religious Court Number 559/Pdt.G/2025/PA. Smi. The case was filed by Asep Henarya bin Sutarya and

Indranaya bin Sutarya as the Plaintiff who is the son of Sutarya, the paternal sibling of the heir named H. Kamal. On the other hand, H. Kamal only left an only daughter named Hj. Cucu Masriah binti H. Kamal who was the Defendant. The Plaintiffs filed an inheritance suit on the basis of kinship as nephews of the heirs through the heir's brother line (Direktori Putusan PA. Nomor 559/Pdt/G/2025/PA.Smi).

Interestingly, the Panel of Judges of the Sukabumi Religious Court in its consideration argued that the position of girls and boys in the Islamic inheritance law that is developing in Indonesia has the same power in hijab of the heir's brothers. Thus, as long as there are still biological daughters of the heir, the heir's siblings and descendants do not have inheritance rights and do not have legal *standing* to file an inheritance lawsuit against the heir's legacy. These considerations show that there is a process of legal discovery (*rechtsvinding*) and ijtihad of judges who do not solely adhere to the classical faraidh understanding, but also consider the development of jurisprudence and the need for justice in society.

The decision raises an interesting academic problem because it shows the difference between the legal norms of classical Islamic inheritance, the provisions of the Compilation of Islamic Law, and the practice of religious justice in Indonesia. Normatively, Article 176 of the KHI only determines the amount of the share of an only daughter equal to one-twelfth of the share and does not explicitly state that an only daughter can cover all inheritance rights of the heiress. On the other hand, through court decisions, an interpretation developed that gives the position of girls as heirs who are able to hijab the heir's relatives as well as the position of boys (Eman Suparman, 2018).

These differences have the potential to cause inconsistency in the application of Islamic inheritance law. If the distribution of inheritance is done according to the classical faraidh understanding, the only daughter gets only one-half and the rest can be given to other eligible heirs. However, if you follow the development of religious judicial jurisprudence, an only daughter can get all the inheritance because her existence is considered to hinder the inheritance rights of the heir's brother. This condition raises questions about the methodological basis used by judges in carrying out ijtihad and the limits of judges' authority in reforming Islamic inheritance law.

From the perspective of legal theory, judges are no longer seen only as mouthpieces of the law (*la bouche de la loi*), but as implementers of legal discoveries who are tasked with exploring, following, and understanding the values of law and the sense of justice that live in society. This obligation is affirmed in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which requires judges to explore legal values and a sense of justice that lives in society. Therefore, when faced with the issue of inheritance that is not expressly regulated or causes differences in interpretation, judges have room to carry out legal ijtihad to produce a verdict that not only provides legal certainty but also justice and benefits (M. Yahya Harahap, 2017).

Based on this description, the research on "Ijtihad of Judges in the Determination of the Inheritance Rights of an Only Girl (Analysis of the Decision of the Sukabumi Religious Court Number 559/Pdt.G/2025/PA. Smi)" is important to do. This study aims to examine the basis of judges' legal considerations, the ijtihad method used in determining the position of an only daughter as a barrier to inheritance of the heir's siblings, and its implications for the development of Islamic inheritance law in Indonesia. This study is expected to contribute to the development of the theory of Islamic law reform, especially in the field of inheritance, as well as enrich the treasure of thought on the relationship between normative Islamic law and religious justice practice in Indonesia.

METODE PENELITIAN

This research uses normative *legal research methods* with an emphasis on the study of legal norms, legal principles, legal doctrines, and court decisions related to Islamic inheritance, especially regarding the position of an only daughter as an heir. Normative legal research was chosen because the object studied was the judge's ijtihad in the Sukabumi Religious Court Decision Number 559/Pdt.G/2025/PA. SMI which is analyzed based on the provisions of Islamic law, the Compilation of Islamic Law (KHI), laws and regulations, jurisprudence, and the doctrine of Islamic legal experts (Soerjono Soekanto dan Sri Mamudji, 2018). The research approach uses a case approach carried out by analyzing the Decision of the Sukabumi Religious Court Number 559/Pdt.G/2025/PA. SMI as the main object of the research. The analysis focused on the judge's legal considerations (*ratio decidendi*), the method of legal discovery used, and the suitability of the decision with Islamic inheritance law and the Compilation of Islamic Law. In addition, the study also compared the decision with the Supreme Court's jurisprudence related to the position of girls as heirs as a barrier to the heir to the heir (Peter Mahmud Marzuki, 2021).

RESULTS

The Position of the Case in the Decision of the Sukabumi Religious Court Number 559/Pdt.G/2025/PA. SMI.

The case of inheritance registered in the Register Number 559/Pdt.G/2025/PA. SMI began with a lawsuit filed by AH bin S and I bin S as the Plaintiff against Hj. Cucu Masriah binti H. Kamal as the Defendant. The Plaintiffs postulate that they have an inheritance relationship with the heirs because their father, Sutarya, is the paternal sibling of H. Kamal as the heir.

In the case, it is known that HK died leaving behind an only daughter named CM without leaving a son. Based on the kinship relationship, the Plaintiffs considered themselves to have the right to the inheritance's property and therefore filed a lawsuit for the determination of inheritance rights to the Sukabumi Religious Court.

The legal issue that is the subject of dispute is whether the existence of an only daughter can hinder (*hijab*) the inheritance rights of the heir's brother and his descendants, or whether the only daughter only gets a second part as stipulated in the *faraidh* law and Article 176 of the Compilation of Islamic Law so that the rest of the inheritance can be given to other heirs who are related by blood to the heir.

Amar and Legal Considerations of Judges

In its deliberations, the Panel of Judges of the Sukabumi Religious Court stated that girls have the same position as boys in terms of *hijabing* the inheritance rights of the heir's brothers. Therefore, as long as there are still biological children of the heir, both male and female, the heir's siblings and their descendants do not have the right to inherit the inheritance's property.

The judge argued that daughters as direct descendants of the heirs have a closer relationship of descent than the heir's siblings who belong to the group of *collateral heirs*. Therefore, the existence of a daughter eliminates the inheritance rights of the heir brother based on the principle of close blood relations (*aqrabiyah*). The Panel of Judges also considered the development of Islamic inheritance law in Indonesia which has been influenced by various Supreme Court decisions that provide greater protection to girls as the main heirs.

DISCUSSION

The Status of an Only Daughter According to Classical Islamic Inheritance Law

Islamic sharia guarantees rights for women and places women in an honorable position as children, mothers, and wives (Sri Hartati. et.al, 2024). It was narrated by the wife of Sa'ad bin Rabi' Al-Ansari RA, that she came to the Prophet PBUH with her two children and said, "O Messenger of Allah, these two daughters are the sons of Sa'ad bin Rabi' who were killed with you in the battle of Uhud. Their uncle took all of their possessions and inheritances without leaving a single slightly. What do you think, O Messenger of Allah, when these two daughters cannot marry without property?" The Prophet PBUH said, "Allah will give you decisions regarding your affairs". He postponed until the next day, then the verse of the heir came down, he then said "Call the woman and her friend" after the two of them came, he asked the uncle of the two daughters "Give them both two-thirds, and give their mother both an eighth, and the rest for you" (Abdurrahman Aisyah, 2018).

Based on the hadith, inheritance rights, in this case, inheritances must be distributed to those who are entitled. Inheritance rights are an obligation that must be carried out in accordance with sharia'. Syara' means a provision that comes from Allah SWT (Indiarti et al., 2021). The ownership of inheritance property must be definite and appropriate transferred to someone who is indeed entitled to the property based on the provisions of Islam.

In the classical faraidh system, an only daughter gets a definite share (ashhab al-furudh) of one-half (1/2) of the inheritance as affirmed in the Qur'an. An-Nisā' verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمُ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ لِأَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"Allah has decreed (obligatory) you about (the distribution of inheritance for) your children, (i.e., the share of a son is equal to the share of two daughters. If the children are all females of more than two, their share is two-thirds of the property left behind. If she (the daughter) is alone, she gets half (of the inherited property). For both parents, each share of one-sixth of the property is left behind, if he (the deceased) has children. If he (the deceased) has no children and he is inherited by both his parents (only), his mother gets one-third. If he (the deceased) had several brothers, his mother got one-sixth. (The inheritance is divided) after (fulfilling) the will he made or (and repaying) his debt. Your parents and your children, you do not know which of them will be of greater benefit to you. This is God's decree. Indeed, Allah is All-Knowing, All-Wise. (Kementerian Agama RI, 2019)."

In addition, there is a hadith about the share of each heir which as the hadith narrated by Bukhari and Muslim, namely:

ذَكَرَ رَجُلٌ فَلَأُولَىٰ بَقِيَ فَمَا بِأَهْلِهَا، الْفَرَائِضَ أَلْجَأُوا

Meaning: "Give the portion that has been determined to those who are entitled to receive it, and what is left (after the distribution of faraid) is given to the nearest male relative." (HR. Bukahri Muslim) (Al-Bukhari & Muslim, t.t).

The majority of scholars of the Hanafi, Maliki, Shafi'i, and Hanbali schools are of the opinion that if the heir leaves only one daughter, then the girl gets 1/2 share, while the

rest is given to other heirs who have 'ashabah status if there is any (Wahbah al-Zuhaili, 1985).

According to the classic faridhist concept, a biological brother or paternal brother is still possible to get the remaining share of the inheritance if there is no closer heir who stands in the way of his rights. Therefore, from the perspective of classical fiqh, the existence of an only daughter does not necessarily eliminate all inheritance rights of the heir.

This view is based on the patrilineal inheritance structure that developed in classical fiqh literature, where the 'ashabah group played an important role in receiving the remainder of the inheritance after distribution to the heirs who received a definite share (*ashhab al-furudh*) (Muhammad Ali al-Shabuni, 1996).

Based on the above, in classical Islamic inheritance law, an only daughter has the position of *ashab al-furudh* who receives 1/2 (half) of the inheritance according to the provisions of Q.S. An-Nisā' verse 11. The scholars of the Hanafī, Maliki, Shafi'i, and Hanbali schools agreed on this provision. However, in classical fiqh, an only daughter is not always the sole heir to all the inheritance because the rest of the property can be given to the heirs of 'ashabah in the order determined by the Shari'a.

The Position of an Only Daughter According to a Compilation of Islamic Law

The Compilation of Islamic Law regulates the position of girls in Article 176 which states: "If a girl is only one she gets half of the share, if two or more of them together get two-thirds of the share, and if a girl is together with a boy, then a boy's share is two to one with a girl (Kompilasi Hukum Islam, 1991)."

The provision basically adopts the provisions contained in the Qur'an. However, the KHI does not expressly regulate whether an only girl can wear the hijab of the heir brother as well as a boy. The absence of such an explicit arrangement opens up space for judges to interpret and invent laws (*rechtsvinding*) in resolving inheritance disputes that develop in society.

In the Compilation of Islamic Law, the provisions in the above verse are explained in article 176 which reads: A girl if only one person gets half of the share, if two or more of them together get two-thirds of the share, and if a girl is together with a boy, then the boy's share is two to one with a girl (Sri Hartati. et.al, 2024).

According to Hazairin, the Islamic inheritance system contained in the Qur'an actually contains bilateral principles that provide a balanced position between men and women in inheritance relationships (Hazairin, 1982). This opinion of Hazairin then greatly influenced the development of Islamic inheritance law in Indonesia.

Based on the provisions in the Qur'an and KHI, girls have three possibilities in acquiring property from their parents and relatives:

- a) Gets half of the property, if he is alone without any other daughters or sons (one or more).
- b) To obtain two-thirds of the property, if it amounts to two or more persons without any sons, one or more.
- c) Getting ashabah, if he is with one or more sons, then together they get the rest of the property (ashabah), with the rule "the share of a boy is equal to the share of two daughters". Better known as the term two to one (Sarmandi Sukris, 2013).

In Indonesia, the position of girls in Islamic inheritance can be seen in the formulation of Article 176 of the KHI, which states that "girls become heirs together with boys, so the share of boys is two proportions (Saragih, 2019). Therefore, in classical

Islamic inheritance law (*fiqh al-mawarits*), girls have a strong position as heirs that have been expressly determined in the Qur'an. The position of the only girl is specifically regulated in the Qur'an and has been agreed upon by scholars from various sects.

Ijtihad of the Judge in Decision Number 559/Pdt.G/2025/PA. SMI

Ijtihad means to devote one's ability or earnest effort in solving difficult and difficult problems either in a scientific or non-scientific way. As for this case, the judge of the Religious Court conducted ijtihad in order to provide an explanation and interpretation of the nash and the Compilation of Islamic Law (KHI) in an effort to develop a text (*tahrij al-ahkam 'ala nash al-qanun*) to achieve maqashid al-shari'ah, namely: justice (philosophical aspect) and usefulness (sociological aspect) (Khisni, 2011).

The decision of the Sukabumi Religious Court shows that judges not only apply the law textually, but also make legal discoveries to fill the gaps in norms. Normatively, Article 176 of the KHI only regulates the size of the share of a single girl. However, the article does not explicitly explain the position of girls to the inheritance rights of the heirs. In such conditions, the judge conducts a systematic interpretation by linking the provisions of inheritance with the principle of protection for the direct descendants of the heirs.

The judge's consideration in this case shows the strong influence of Supreme Court jurisprudence that has developed since the Supreme Court Decision Number 86 K/AG/1994. In the ruling, the Supreme Court affirmed that girls can close the inheritance rights of the heir's brothers. The jurisprudence then became one of the foundations for religious courts in resolving similar inheritance cases (M. Yahya Harahap, 2017).

Thus, the ijtihad of the judge in this case does not appear separately, but is part of the development of the law through jurisprudence that has lasted for decades.

From the perspective of maqāsid al-syarī'ah, the judge's decision aims to provide protection for offspring (*hifz al-nasl*) and property (*hifz al-mal*). Girls are the direct descendants of the heir who are morally and socially more closely related than the heir's siblings. Therefore, giving priority to girls is seen as more in accordance with the purpose of sharia to maintain the sustainability of the family and the welfare of the heir's descendants (Jasser Auda, 2008).

According to Al-Syatibi, all provisions of Islamic law aim to realize human benefits and prevent harm (Abu Ishaq al-Syatibi, 2004). In this context, the provision of greater protection to girls is a form of realization of these benefits.

The judge's ijtihad in Decision Number 559/Pdt.G/2025/PA. SMI can be understood as an effort to invent the law (*rechtsvinding*) which aims to realize justice and benefits in the distribution of inheritance. The ijtihad is likely to be carried out through the maqashid al-shari'ah approach, progressive interpretation of Islamic inheritance law, and the use of jurisprudence as an instrument for the renewal of Islamic law in Indonesia. Thus, the decision can be seen as a manifestation of the active role of judges in developing Islamic inheritance law that is responsive to the needs of modern society.

Theoretical Analysis of the Ijtihad of Judges

In this case, the only daughter is the heir closest to the heir and socially has the potential to suffer losses if most of the inheritance is transferred to a side relative.

The judge's decision that prioritizes girls can be seen as an effort to realize distributive justice by placing rights on the party who has the closest relationship with the heir.

This ruling shows the renewal of Islamic law (*tajdid al-ahkam*) through the judicial mechanism. The judge did not change the Qur'anic provisions regarding the share of daughters, but reinterpreted the position of the heir brother in the modern inheritance system. Thus, the updates made are interpretive, not changes to the *nash* that are *qat'i*.

According to Satjipto Rahardjo, the law must be placed to serve humans, not humans who are forced to serve the law (Satjipto Rahardjo, 2009). In the context of this case, the judge tried to produce a verdict that better reflects the sense of justice of the society by providing protection to the daughter as the main heir.

This approach shows that Islamic inheritance law in Indonesia does not develop statically, but continues to undergo adjustments according to the needs of the community as long as it does not conflict with the basic principles of *sharia*. From the perspective of Islamic law, *ijtihad* is a deliberate attempt by a *mujtahid* to find a law on a matter that is not explicitly stipulated in the *nash*. Judges as executors of judicial power have the authority to perform *ijtihad* when dealing with cases that require legal interpretation to realize justice.

In Decision Number 559/Pdt.G/2025/PA. If the judge gives a stronger position to an only daughter in the division of inheritance, then the action can be categorized as *ijtihad tatbiqi* (*ijtihad* of the application of the law) and *ijtihad insha'i* (constructive *ijtihad*). The judge did not change the provisions of the Qur'an, but interpreted its application in accordance with the social conditions and legal needs of the Indonesian people.

Implications of the Decision on the Development of Islamic Inheritance Law in Indonesia

The Supreme Court through cassation decisions and jurisprudence often takes a pragmatic approach, but has not established uniform principles in resolving inheritance disputes involving women (Lollyta Julius, 2025). This is where the urgency of normative analysis lies, namely to evaluate and criticize the applicable legal norms to be more responsive to the principles of justice and gender equality. In Indonesia, inheritance division can refer to one of the legal arrangements, namely Islamic law, civil law, and customary law. So the inheritance circulation system must follow the inheritance system that has been mastered. When the heirs die, all inheritance is distributed to their families or heirs (Harita, 2025).

Decision of the Sukabumi Religious Court Number 559/Pdt.G/2025/PA. SMI has several important implications, including: First, the ruling strengthens the position of jurisprudence as one of the sources of law in the practice of religious justice. Second, the ruling shows a shift in the orientation of Islamic inheritance law from a highly textual pattern to a more contextual and benefit-oriented approach. Third, the decision has the potential to be a reference for similar inheritance cases in the future, especially those related to the position of an only daughter to the inheritance rights of the heir. Fourth, the ruling shows that religious court judges have an important role as perpetrators of Islamic law reform through the process of *ijtihad* and legal discovery.

Decision Number 559/Pdt.G/2025/PA. SMI has significant implications for the development of Islamic inheritance law in Indonesia. The decision encourages the reform of inheritance law, strengthens the position of girls in the Islamic inheritance system, enriches the jurisprudence of religious courts, strengthens the application of *maqashid al-shari'ah*, and opens up a space for the reconstruction of the Compilation of Islamic Law. From an academic perspective, this ruling shows that judges have a strategic role as agents

of Islamic law reform who are able to bridge the gap between normative texts, substantive justice, and the needs of contemporary society.

CONCLUSION

This study concludes that the judicial ijtihad reflected in Sukabumi Religious Court Decision Number 559/Pdt.G/2025/PA.Smi represents a progressive interpretation of Islamic inheritance law by recognizing a sole daughter as having the same legal capacity as a son to exclude the deceased's siblings from inheritance. Rather than relying solely on a literal application of classical farā'id doctrine, the court grounded its reasoning in principles of substantive justice, public benefit (maṣlaḥah), and the evolving jurisprudence of the Supreme Court, thereby strengthening the legal protection afforded to the deceased's direct descendants. Although this interpretation departs from the classical understanding of Islamic inheritance law and the normative formulation of Article 176 of the Compilation of Islamic Law, it demonstrates the dynamic role of judicial ijtihad in responding to contemporary legal needs. These findings indicate that Indonesian Islamic inheritance law is undergoing a gradual process of judicial reform, in which courts increasingly function not only as interpreters of statutory provisions but also as agents of legal development capable of harmonizing Islamic legal principles with the demands of justice, legal certainty, and social change.

BIBLIOGRAPHY

- Abdurrahman Aisyah. (2018). *Biografi Istri & Putri Nabi SAW, cet-pertama* . Jakarta Timur: Ummul Qura,.
- Abu Ishaq al-Syatibi. (2004). *Al-Muwafaqat fi Ushul al-Syari'ah, Juz II* . Beirut: Dar al-Kutub al-Ilmiyyah,.
- Ahmad Rofiq. (2006). *Fiqh Mawaris, Ed.1,Cet. 2*. Jakarta: PT. Raja Grafindo Persada.
- Al-Bukhari & Muslim. (t.t). *Sahih al-Bukhari dan Sahih Muslim*" (riwayat Ibnu 'Abbas). Beirut: Dar-Alfikir.
- Amir Syarifuddin. (2015). *Hukum Kewarisan Islam* . Jakarta: Kencana.
- Direktori Putusan PA. Nomor 559/Pdt/G/2025/PA.Smi. (n.d.).
- Eman Suparman. (2018). *Hukum Waris Indonesia dalam Perspektif Islam, Adat, dan BW* . Bandung: Refika Aditama.
- Harita, J. (2025). KEDUDUKAN HUKUM HAK WARIS ANAK PEREMPUAN DALAM PEMBAGIAN HARTA WARISAN SECARA HUKUM ADAT (Studi Di Desa Hilinamoniha Kecamatan Toma Kabupaten Nias Selatan). *Jurnal Panah Hukum*, 4(1), 204–219.
- Hazairin. (1982). *Hukum Kewarisan Bilateral Menurut Al-Qur'an dan Hadis* . Jakarta: Tintamas.
- Indiarti, S., Hukum, F., & Jember, U. (2021). KEPASTIAN HUKUM HAK WARIS ISLAM ANAK DIBAWAH UMUR TERHADAP HARTA PENINGGALAN IBUNYA (STUDI PENETAPAN PENGADILAN AGAMA NOMOR 0003 / PDT . P / 2015 / PA . BDG). *Egalita : Jurnal Kesetaraan Dan Keadilan Gender*, 16(01), 24–39.
- Jasser Auda. (2008). *Maqasid al-Shariah as Philosophy of Islamic Law* . London: IIIT.
- Kementerian Agama RI. (2019). *Al-Qur'an dan Terjemahannya* . Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an.
- Kompilasi Hukum Islam. (1991).
- Khisni, A. (2011). Ijtihad Hakim Peradilan Agama Bidang Hukum Kewarisan dan Kontribusinya Terhadap Hukum Nasional. *Jurnal Hukum IUS QUIA IUSTUM*,

18(0), 146–163.

- Lollyta Julius, M. S. B. D. (2025). Analisis Normatif terhadap Hak Waris Perempuan dalam Perspektif Hukum Islam , Hukum Adat dan Hukum Perdata di Indonesia. *Desentralisasi : Jurnal Hukum, Kebijakan Publik, Dan Pemerintahan*, 2(3), 16–27.
- M. Yahya Harahap. (2017). Kedudukan Kewenangan dan Acara Peradilan Agama. Jakarta: Sinar Grafika.
- Muhammad Ali as-Sabuni. (2005). Hukum Waris Dalam Syari'at Islam. Bandung: CV. Diponogoro.
- Muhammad Ali al-Shabuni. (1996). Al-Mawarits fi al-Syari'ah al-Islamiyyah. Beirut:: Dar al-Qalam.
- Muhammad Amin Suma. (2013). Keadilan Hukum Waris Islam. Jakarta: Rajawali Pers.
- Peter Mahmud Marzuki. (2021). Penelitian Hukum . Jakarta: Kencana.
- Sarmandi Sukris. (2013). Hukum Waris Islam Di Indonesia . Yogyakarta : Aswaja Pressindo.
- Satjipto Rahardjo. (2009). Hukum Progresif: Hukum yang Membebaskan . Jakarta: Kompas.
- Soerjono Soekanto dan Sri Mamudji. (2018). Penelitian Hukum Normatif: Suatu Tinjauan Singkat . Jakarta: RajaGrafindo Persada.
- Saragih, E. E. (2019). Kedudukan Anak Perempuan dalam Pembagian Harta Warisan menurut Hukum Islam (Studi Kasus Putusan Pengadilan Agama Medan No . 40 / Pdt . G / 2017 / PA . Mdn) Position of Girls in Distribution of Inheritance according to Islamic Law (Case Study of Medan R. *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 2(2), 307–317.
- Sri Hartati. et.al. (2024). Kedudukan Hak Waris Anak Perempuan Menurut Hukum Islam dan Hukum Adat Sasak di Lombok Tengah Nusa Tenggara Barat The Position of Inheritance Rights for Daughters Central Lombok , West Nusa Tenggara. *Jurnal Kompilasi Hukum Volume*, 9(2), 1–14.
- Wahbah al-Zuhaili. (1985). Al-Fiqh al-Islami wa Adillatuhu, Juz VIII . Damaskus: Dar al-Fikr.