

DYNAMICS OF DIFFERENT RELIGIOUS INHERITANCE DECISIONS: THE CASE STUDY OF THE RELIGIOUS COURT JUDGES *IJTIHAD*

¹ Syamsarina, ² Rahmad Setyawan, ³ Doli Witro, ⁴ Panji Ansari, ⁵ Ahmad Hariyanto, ⁶ M. Agus Wahyudi

¹ Institut Agama Islam Negeri Kerinci, Indonesia

² Universitas Islam Negeri Sunan Kalijaga, Indonesia

³ Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia

^{4,5} Universitas PTIQ Jakarta, Indonesia

⁶ Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia

Email : syamsarina1973@gmail.com¹, rahmads465@gmail.com², doliwitro01@gmail.com³, panji.ansari@mhs.ptiq.ac.id⁴, ahmad.hariyanto@mhs.ptiq.ac.id⁵, wahyufailasuf@gmail.com⁶

Received 16-01-2025 | Revised 18-01-2025, 03-03-2025, 25-04-2025, 05-06-2025 | Accepted 12-07-2025

Abstrak: Tulisan ini mendiskusikan dinamika putusan kewarisan beda agama, permasalahan yang ingin diungkap adalah bagaimana sikap dan strategi *ijtihad* hakim di lingkungan peradilan agama dalam menyelesaikan sengketa kewarisan beda agama. Secara metodologis penelitian ini merupakan penelitian kombinasi antara penelitian hukum normatif dan empiris (*applied law research*). Data dikumpulkan dengan mengkaji putusan Pengadilan Agama Klaten Nomor: 0584/Pdt.G/2018/PA. Klt. dan putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj. serta melakukan wawancara dengan beberapa hakim. Hasil yang diperoleh menunjukkan bahwa dalam menyelesaikan sengketa kewarisan beda agama, hakim di lingkungan peradilan agama bersikap proporsional dan profesional. Disamping itu, para hakim juga mempunyai strategi *ijtihad* agar putusan hukum yang ditetapkan dapat memberikan nilai-nilai keadilan dan kepastian hukum. *Pertama*, hakim menemukan fakta hukum yang dibuktikan kebenarannya melalui hukum pembuktian di persidangan. *Kedua*, hakim menentukan dasar hukum yang tepat sesuai dengan perkara yang diperiksanya. *Ketiga*, hakim memberikan putusan penetapan hukum terhadap perkara yang sedang diperiksanya. Dengan sikap dan strategi hakim yang demikian, terhadap ahli waris non-Muslim diberikan alternatif hukum berupa wasiat wajibah agar dapat menikmati harta peninggalan pewaris. Alternatif hukum ini bisa disebut sebagai produk *ijtihad* revolusioner para hakim di lingkungan peradilan agama agar hukum Islam tetap menjadi solusi bagi masyarakat Indonesia dan para pencari keadilan seiring dengan perkembangan zaman yang semakin modern dan kompleks demi terciptanya kedamaian yang berorientasi pada kemaslahatan.

Kata Kunci: *Ijtihad Hakim, Wasiat Wajibah, Waris Beda Agama, Pengadilan Agama.*

Abstract: This paper discusses the dynamics of inheritance rulings between different religions. The issue that the paper seeks to reveal is how the attitude and *ijtihad* strategy of judges in the religious judicial system resolve inheritance disputes between different religions. Methodologically, this study is a combination of normative and empirical legal research (*applied law research*). Data was collected by reviewing the decision of the Klaten Religious Court Number: 0584/Pdt.G/2018/PA.Klt. and the decision of the Kabanjahe Religious Court Number: 2/Pdt.G/2011/PA-Kbj. as well as conducting interviews with several judges. The results obtained show that in resolving disputes over inheritance between different religions, judges in the religious court system act proportionally and professionally. In addition, the judges also have *ijtihad* strategies so that the legal decisions made can provide values of justice and legal certainty. *First*, the judge finds legal facts that are proven to be true through the law of evidence in court. *Second*, the judge determines the appropriate legal basis according to the case he is examining. *Third*, the judge gives a legal decision on the case he is examining. With this attitude and strategy of the judge, non-Muslim heirs are given a legal alternative in the form of a *wasiat wajibah* (compulsory testament) so that they can enjoy the inheritance of the testator. This legal alternative can be called a product of the revolutionary *ijtihad* of judges in the

religious court system so that Islamic law remains a solution for the people of Indonesia and those seeking justice in line with the increasingly modern and complex times for the creation of peace oriented towards the common good.

Key words: Judge's Ijtihad, Compulsory Testament (*Wasiat Wajibah*), Judgement on Different Religions' Inheritance, Religious Court.

INTRODUCTION

The main sources of Islamic law are the Qur'an and Hadith. In Q.S. Al Maidah verse 49, it is explained that "And judge between them 'O Prophet' by what Allah has revealed, and do not follow their desires." In everyday life, the enforcement of Islamic law is reflected in the form of religious courts. Functionally, religious courts are legal institutions that have a function to provide a sense of justice and legal certainty to the people of Indonesia.¹ In addition, religious courts are also social institutions responsible for accommodating social dynamics that develop from a legal perspective, so that the resulting legal decisions will have values of benefit and benefit.² To get such a legal decision, the renewal of Islamic law becomes a very important primary need, along with the social dynamics that develop in the life of Indonesian society.³

In Islamic legal reform, a jurist conducts a thought process through the *ijtihad* method in providing legal decisions or developing laws that are adjusted to the sense of justice in society.⁴ Islamic law reform is a process or legal action to update the teachings of Islamic law in a contextual manner that is combined and harmonised with the situation and conditions of the society where Islamic law is applied.⁵ In this regard, religious court judges are required to have the ability to interpret statutory regulations in a contextual and visionary manner so that the legal decisions created have benefits for the public interest and the welfare of society today.⁶ Clear evidence of the existence of Islamic legal reforms that have

¹ Arif Rahman, Sofyan, dan Mulham Jaki Asti, "Hakim Peradilan Agama: Refleksi Sistem Pengangkatan dan Pelaksanaan Kekuasaan Kehakiman di Indonesia," *DIKTUM: Jurnal Syariah dan Hukum* 20, no. 1 (2022): 79–98, <https://doi.org/10.35905/diktum.v20i1.2780>.

² Dedi Pahroji, "Kedudukan Anak Tiri dan Anak Angkat dalam Putusan Mahkamah Agung Nomor 489 K/AG/2011 Dihubungkan dengan Sistem Hukum Waris Islam," *Jurnal Hukum Positum* 4, no. 1 (2019): 14, <https://doi.org/10.35706/positum.v4i1.3005>.

³ Jumadi Jumadi, "Negara Hukum dan Pembangunan Nasional Berwawasan Hukum," *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 4, no. 1 (2017): 68, <https://doi.org/10.24252/jurisprudentie.v4i1.3665>.

⁴ Muhammad Nur dkk., "From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law," *Al-Manabij: Jurnal Kajian Hukum Islam* 19, no. 1 (23 Mei 2025): 31–50, <https://doi.org/10.24090/mnh.v19i1.9762>; Rahmad Setyawan dkk., "Contemporary Ijtihad Deconstruction in the Supreme Court: Wasiat Wajibah as an Alternative for Non-Muslim Heirs in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40, <https://doi.org/10.30984/jis.v22i1.2968>; Muhamad Izazi Nurjaman dan Doli Witro, "The Relevance of the Theory of Legal Change According to Ibnu Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia," *El-Mashlahah* 11, no. 2 (2021): 164–86, <https://doi.org/10.23971/elma.v11i2.3181>.

⁵ Amran Suadi, "Peranan Pengadilan Agama dalam Perspektif Pembaruan Hukum Islam di Bidang Penghapusan Kekerasan dalam Rumah Tangga," dalam *Menggugat Stagnasi Pembaruan Hukum Islam di Indonesia*, ed. oleh M. Sutomo (Yogyakarta: UII Press, 2016).

⁶ Fahmiron Fahmiron, *Independensi Dan Akuntabilitas Hakim Dalam Penegakan Hukum Sebagai Wujud Independensi Dan Akuntabilitas Kekuasaan Kehakiman, Litigasi*, vol. 17, 2016, <https://doi.org/10.23969/litigasi.v17i2.158>.

nuances of benefit is the birth of the concept of *wasiat wajibah* (compulsory testaments) which are used as legal alternatives to resolve inheritance disputes between religions in the Religious Court.⁷ Compulsory testament is a new concept developed in the Compilation of Islamic Law in the field of Islamic inheritance law (KHI) to accommodate and protect the rights of adopted children or adoptive parents who cannot inherit from each other because there is no blood relationship.⁸ In general, Indonesian people are less familiar with the term compulsory testament, because the term compulsory testament is not explicitly mentioned in various classical books in Indonesia.⁹

Theoretically, compulsory probate is a legal policy established by judges as law enforcers, in the form of a decision that obliges a person to make a will. A person who has passed away is legally considered to have made a will to a certain person under certain conditions, even though they never actually made a will.¹⁰ This presumption is based on the compulsory testamentary decision made by the judicial authority. Thus, whether or not a deceased person makes a will to someone, the legal requirement of a testamentary obligation is presumed to exist by itself.¹¹

In various Muslim countries, the legal alternative in the form of a compulsory testament has been applied earlier as a legal step to provide attention and protection to the grandchildren of the testator whose parents have died first, before the testator dies.¹² The grandchildren of the testator are given a compulsory testament as a legal alternative in order to get the inheritance of the testator. This kind of legal concept is actually very similar to the legal concept described in the Compilation of Islamic Law (KHI), namely replacement heirs.¹³

Nowadays, the phenomenon of giving *wasiat wajibah* as a legal alternative in resolving inheritance disputes between different religions seems to have become an important part of and has influenced religious judicial institutions in Indonesia. This is reinforced by various findings from previous researchers. Muhammad Rinaldi Arif stated that the Supreme Court, in its decision Number 368K/AG/1995, had given *wasiat wajibah* to heirs

⁷ Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/PA. Klt. and Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj.

⁸ Nadya Faizal, "Wasiat Wajibah Terhadap Anak Angkat (Tinjauan Filsafat Hukum Islam Pasal 209 Kompilasi Hukum Islam)," *JURNAL AR-RISALAH* 2, no. 2 (2022): 39–59, <https://doi.org/10.30863/arrisalah.v2i2.4162>.

⁹ M. Atho Mudzhar, *Membaca Gelombang Ijtihad: Antara Tradisi dan Liberasi* (Yogyakarta: Titian Ilahi Press, 2000).

¹⁰ Moh. Muhibbin, "Wasiat Wajibah Untuk Anak Angkat, Anak diluar Perkawinan Sah, dan Anak dari Orang Tua Beda Agama," dalam *Problematika Hukum Kewarisan Islam Kontemporer di Indonesia*, ed. oleh Muchit A. Karim (Jakarta: Puslitbang Kehidupan Keagamaan Badan Litbang dan Diklat Kementerian Agama RI, 2012).

¹¹ Cik Hasan Bisri, *Kompilasi Hukum Islam dan Peradilan Agama dalam Sistem Hukum Nasional* (Jakarta: Logos Wacana Ilmu, 1999).

¹² Ali Mu'ammarr, "Al-Banjari's Concept of Inheritance Based on Gender and Justice and Its Implications for Family Division in Banjar Society," *JOURNAL OF ISLAMIC AND LAW STUDIES* 8, no. 2 (27 Desember 2024): 301–11, <https://doi.org/10.18592/jils.v8i2.15287>.

¹³ M. Anshary MK, *Hukum Kewarisan Islam dalam Teori dan Praktik* (Yogyakarta: Pustaka Pelajar, 2017).

of different religions.¹⁴ Zulfia Hanun and Alfi Syahr stated that *wasiat wajibah* can be used as a way to resolve interfaith inheritance cases in the social development of society.¹⁵ Meanwhile, Mohammad Yasir Fauzi and Eko Hidayat stated that the provision of compulsory testament in interfaith inheritance disputes was an attempt to reconstruct Islamic family law in Indonesia.¹⁶ Sidik Tono also explained that the birth of the concept of *wasiat wajibah* in Indonesia is a fair and responsive legal innovation in the contemporary era. This innovation was inspired by various Muslim countries that first provided *wasiat wajibah* to orphans who lost their inheritance rights.¹⁷

In addition to various findings in the religious judicial environment, many previous researchers have studied the giving of obligatory bequests in interfaith inheritance from other perspectives. Yasin Yusuf Abdillah uses the perspective of legal philosophy to study obligatory wills in the inheritance of different religions.¹⁸ Meanwhile, Erlan Naofal studied the *wasiat wajibah* based on the thoughts of Ibn Hazm.¹⁹ On the other hand, Nabil Asrof²⁰ and Erniwati conducted a study of compulsory wills by comparing them in various Muslim countries.²¹

The various findings above indicate that the discussion of *wasiat wajibah* as a legal alternative in resolving interfaith inheritance has been extensively studied by previous researchers, however, no previous researcher has studied the attitudes and *ijtihad* strategies of judges in resolving interfaith inheritance disputes. This study will discuss the dynamics of rulings on inheritance in different religions in the religious court system with a focus on the attitudes and *ijtihad* strategies of judges in resolving disputes over inheritance in different religions in the rulings of the Klaten Religious Court Number 0584/Pdt.G/2018/PA. Klt and the Kabanjahe Religious Court Number: 2/Pdt.G/2011/PA-Kbj.

METHODS

This research is a combination of normative and empirical legal research (applied law research), namely research that combines normative legal studies (*in abstracto*) and their

¹⁴ Muhammad Rinaldi Arif, "Pemberian Wasiat Wajibah Terhadap Ahli Waris Beda Agama (Kajian Perbandingan Hukum Antara Hukum Islam dan Putusan Mahkamah Agung Nomor 368.K/AG/1995)," *De Lega Lata* 2, no. 2 (2017): 351–72, <https://doi.org/10.30596/dll.v2i2.1161>.

¹⁵ Zulfia Hanun dan Alfi Syahr, "Wasiat Wajibah sebagai Wujud Penyelesaian Perkara Waris Beda Agama dalam Perkembangan Sosial Masyarakat," *Holistik: Journal For Islamic Social Sciences* 1, no. 2 (2016): 123–33, <https://doi.org/10.24235/holistik.v1i2.905>.

¹⁶ Mohammad Yasir Fauzi dan Eko Hidayat, "Mandatory Will Making for Non-Muslims: As a Reconstruction of Islamic Family Law in Indonesia," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 24, no. 1 (2025): 69–88, <https://doi.org/10.31941/pj.v24i1.5852>.

¹⁷ Sidik Tono, "Wasiat Wajibah sebagai Alternatif Mengakomodasi Bagian Ahli Waris non Muslim di Indonesia" (Universitas Islam Indonesia, 2013).

¹⁸ Yasin Yusuf Abdillah, *Wasiat Wajibah Ahli Waris Beda Agama dalam Tinjauan Ontologi, Epistemologi dan Aksiologi*, t.t.

¹⁹ Erlan Naofal, *Wasiat Wajibah Menurut Ibnu Hazm dan Relevansinya Dengan Pembaruan Hukum Islam di Indonesia* (Dissertation: Universitas Islam Negeri Sultan Syarif Kasim Riau, 2017).

²⁰ Nabil Asrof, *Komparasi Wasiat Wajibah di Indonesia, Malaysia dan Irak* (Thesis: Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2018).

²¹ Erniwati Erniwati, "Wasiat Wajibah Dalam Perspektif Hukum Islam Di Indonesia Dan Komparasinya Di Negara-Negara Muslim," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 1 (2018): 63–74, <https://doi.org/10.29300/mzn.v5i1.1437>.

application to legal events that occur in the field (*in concreto*).²² To comprehensively examine the dynamics of interfaith inheritance decisions, this research uses a thematic approach, namely research that explains a person's activities based on certain themes (topics) by referring to theories commonly used to study certain scientific fields. The dynamics of inheritance decisions of different religions, of course, will not be separated from the attitude and *ijtihad* strategy of judges in giving decisions. Data was collected using purposive sampling, which is the determination of informants with certain considerations or criteria. This selection was made to make it easier for researchers to find accurate data. Primary data was obtained from the field by conducting interviews with three judges. The selection of one judge was based on the role of the judge who decided the case (decision) under study, namely the Judge of the Klaten Religious Court. Then the other two judges researchers saw his views in giving his views related to inheritance of different religions, namely the Banjarmasin Religious Court Judge who is a representative of judges from the central part of Indonesia and the Sentani Jayapura Religious Court Judge who is a representative of judges from the eastern part of Indonesia. Secondary data is obtained from Religious Court Decisions such as the Klaten Religious Court Number 0584 / Pdt.G / 2018 / PA. Klt. and the decision of the Kabanjahe Religious Court Number: 2 / Pdt.G / 2011 / PA-Kbj. and various reading literature such as books, scientific articles, research reports, etc. that have relevance to the issues studied. The collected data were summarised, restated, and then thematically categorised in accordance with the purpose of this article.²³ The data analysis techniques used are data condensation, data presentation, and conclusion drawing.²⁴ The data analysis process uses three steps: first, data condensation, which is summarising, selecting the main points, and focusing on the important things from the interview data with several judges and data from the decision; second, data presentation is done in the form of a narrative-descriptive description. The presentation of data in qualitative research more often uses text; and third, drawing conclusions is temporary and will change if no strong supporting evidence is found in the next stage of data collection.

RESULT AND DISCUSSION

Compilation of Islamic Law (KHI): Applied Law in Religious Courts

In the context of Indonesia, the Compilation of Islamic Law (KHI) is clear evidence of the early momentum of the political success of Islamic law whose implementation and legislation was carried out in the New Order era.²⁵ This legal policy has led to the assumption

²² Abdulkadir Muhammad, *Hukum dan Penelitian Hukum* (Bandung: PT Citra Aditya Bakti, 2004).

²³ Ramadhita Ramadhita, Mahrus Ali, dan Bachri Syabbul, "Gender inequality and judicial discretion in Muslims divorce of Indonesia," *Cogent Social Sciences* 9, no. 1 (31 Desember 2023), <https://doi.org/10.1080/23311886.2023.2206347>.

²⁴ Matthew B. Miles, A. Michael Huberman, dan Johnny Saldaña, *Qualitative data analysis: a methods sourcebook* (California: SAGE Publications, Inc., 2014), 31–33; Ramdani Wahyu Sururie dkk., "Co-Parenting Model in Resolving Child Custody Disputes in Urban Muslim Families," *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 1 (1 Maret 2024): 250–68, <https://doi.org/10.22373/petita.v9i1.277>; Mhd. Rasidin dkk., "Analysing the Pesantren Tradition of Arranged Marriages from the 'Kupi Fatwa Trilogy' Perspective," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 285–308, <https://doi.org/10.29240/jhi.v9i1.8436>; Doli Witro, "State Islamic University Students' Perceptions of Israel-Affiliated Products: A Study After the Fatwa of Indonesia Ulema Council No. 83 of 2023 Concerning the Law on Support for the Palestinian Struggle," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 145–60, <https://doi.org/10.24090/mnh.v18i1.10554>.

²⁵ Tobibatussaadah, "Kontroversi Pembaruan Hukum Islam: Melacak Respons Masyarakat Muslim Indonesia terhadap Counter Legal Draft (CLD) ats KHI," dalam *Berislam di Jalur Tengah Dinamika Pemikiran*

that the Compilation of Islamic Law is a concrete form of Islamic law with Indonesian characteristics (positivisation) or can be said to be modern Indonesian *fiqh*. Etymologically, compilation means a set or collection that is organised systematically.²⁶ This term if associated with Islamic law will have a new meaning, namely a book that contains various Islamic legal materials or a series of Islamic legal principles arranged in a structured and comprehensive manner while still adhering to the format of sentences or articles generally used in the making of laws.²⁷

One of the special characteristics of the Compilation of Islamic Law is that each book has a Chapter I containing general provisions that explain and define some of the terms used in its articles. Systematically, the Compilation of Islamic Law (KHI) has three books that contain Islamic legal material with Indonesian *fiqh* nuances.²⁸ The first book in the Compilation of Islamic Law reviews marriage regulations. The second book discusses the law of inheritance. While the third book discusses the law of *waqf*. Each book in the Compilation of Islamic Law (KHI) has several chapters, where each chapter is further divided into several sub-sections. Each sub-section contains a number of articles in which there are several paragraphs.²⁹

The presence of the Compilation of Islamic Law (KHI) in Indonesia signifies the movement and evolution in Islamic legal thought, especially related to marriage law, Islamic inheritance, and *waqf*.³⁰ Culturally, the presence of the Compilation of Islamic Law (KHI) is an important part of the transformation and formalisation of Islamic law in the development of national law, namely by making normative rules written in various classical books by conventional scholars into a form of juridically-normative legal rules, so that the legal material in the Compilation of Islamic Law (KHI) includes two aspects of law, namely universal legal aspects and local legal aspects.³¹ Structurally, the presence of the Compilation of Islamic Law (KHI) reflects the harmony between political interests (from the political elite) and the aspirations of Muslim scholars and intellectuals to formulate interpretations of Islamic law that are in accordance with the social and cultural realities of Indonesian society in the modern context.³² It can be said that the presence of the Compilation of

Keislaman dan Keindonesiaan Kontemporer, ed. oleh Aksin Wijaya dan A. Yusrianto Elga (Yogyakarta: IRCiSoD, 2020).

²⁶ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1990).

²⁷ A. Malthuf Siroj, *Pembaruan Hukum Islam di Indonesia (Telaah Kompilasi Hukum Islam)* (Yogyakarta: Pustaka Ilmu, 2017).

²⁸ Arbanur Rasyid, Rayendriani Fahmei Lubis, dan Idris Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective," *Al-Ahkam* 34, no. 2 (31 Oktober 2024): 419–48, <https://doi.org/10.21580/ahkam.2024.34.2.20843>.

²⁹ Ali Sodikin, *Fiqh Ushul Fiqh* (Yogyakarta: Beranda Publishing, 2013).

³⁰ Muhammad Nur dkk., "From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law," *Al-Manahij: Jurnal Kajian Hukum Islam*, 23 Mei 2025, 31–50, <https://doi.org/10.24090/mnh.v19i1.9762>.

³¹ M. Fadhil Azzam Arfa, Desrianto, dan Abdul Qodir Zaelani, "Hukum Waris Dalam Perspektif Sosio Historis, Normatif, Dan Psikologis," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 2 (3 Juni 2024): 557–67, <https://doi.org/10.62976/ijjel.v2i2.503>.

³² Sudirman Tebba, *Perkembangan Mutakhir Hukum Islam di Asia Tenggara* (Bandung: Mizan, 1993).

Islamic Law (KHI) aims to unite the various views of the scholars of the *madzhab* into a single unit that is packaged in modern Indonesian *fiqh*.³³

In this section, the author needs to explain the legality of the position of the Compilation of Islamic Law (KHI) in the Indonesian national legal system, considering that the Compilation of Islamic Law (KHI) is used as a legal reference by judges in the religious courts.³⁴ In the Indonesian legal system, written legal rules are arranged in a certain structure and order known as the hierarchy of laws and regulations. The structure and order of laws and regulations in Indonesia was initially regulated in MPRS Tap No. XX/MPRS/1966. The following is the hierarchy of legislation in question:

Table 1.
TAP MPRS. No. XX/MPRS/1966

No.	Hierarchy of Legislation
1.	Constitution of the Republic of Indonesia Year 1945
2.	Decree of the People's Consultative Assembly (MPR)
3.	Law
4.	Government Regulation in Lieu of Law (Perpu)
5.	Government Regulation (PP)
6.	Presidential Decree (Keppres)
7.	Other Implementing Regulations, such as Ministerial Regulations, Ministerial Instructions, and others.

The structure and order of the laws and regulations above cannot be changed or replaced in their order. This is because the structure and order are arranged based on the level of importance of the institution or institutions that make them and show differences in the level of position between one another.³⁵ Thus, the lower institution cannot make regulations that contradict the regulations made by the higher institution.³⁶

Functionally, the presence of TAP MPRS. No. XX/MPRS/1966 has many uses and benefits in compiling various rules from the lowest level to the highest level. However, there is still a disparity of understanding regarding the position of the Compilation of Islamic Law (KHI) in the national legal system, because in TAP MPRS. No. XX/MPRS/1966 does not explicitly mention the Presidential Instruction (Inpres).³⁷ Therefore, the position of Presidential Instruction (Inpres) in the national legal system still raises cross opinions among legal experts. Some legal experts state that Presidential Instruction (Inpres) is included in the category of written law like other laws and regulations, because it is part of the Presidential Decree (Keppres).³⁸ Some other legal experts state that Presidential Instruction

³³ A. Basiq Djalil, *Peradilan Agama di Indonesia* (Jakarta: Prenada Media Group, 2006).

³⁴ Tarmizi Tarmizi dkk., "Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women's Rights and Islamic Law Objectives," *De Jure: Jurnal Hukum Dan Syaria'h* 16, no. 2 (17 Desember 2024): 255–77, <https://doi.org/10.18860/j-fsh.v16i2.29477>.

³⁵ Siroj, *Pembauran Hukum Islam di Indonesia (Telaah Kompilasi Hukum Islam)*.

³⁶ Ni'matul Huda, *Hukum Tata Negara Indonesia* (Jakarta: Raja Grafindo Persada, 2012).

³⁷ Rosjidi Ranggawidjaja, *Pedoman Teknik Perancangan Peraturan Perundang-undangan* (Bandung: Citra Bhakti Akademika, 1996).

³⁸ Anthin Lathifah dkk., "Inheritance Law Politics: The Implementation in Muslim-Nonmuslim Families in Southern Thailand," *El-Mashlahah* 15, no. 1 (30 Juni 2025): 189–212, <https://doi.org/10.23971/el-mashlahah.v15i1.9970>.

(Inpres) has a legal position below the Presidential Decree and above the Ministerial Decree (Kepmen).³⁹ There are even some other legal experts who state that the legal material contained in the Presidential Instruction (Inpres) has an equal position with the legal material contained in the Law, because in addition to being able to issue decisions regarding regulations independently, the President is also the holder of the highest state power based on the 1945 Constitution.⁴⁰

Apart from the theoretical disagreement, the Compilation of Islamic Law (KHI) as a reference for judges in the religious courts in resolving legal issues in the fields of marriage, inheritance and *waqf* must be appreciated as an effort to realise legal certainty and justice in Indonesian society.⁴¹ Because in the new order era to produce a legal product that has an Islamic spirit in the form of a law is very difficult and not as easy as in the reform era.⁴² This can be seen from the historical fact that during the New Order era, the governmental power still considered the Islamic movement as a movement that had to be removed from the governmental arena.⁴³

The birth of the Compilation of Islamic Law (KHI) in Indonesia certainly has a positive impact on the religious court environment, because the disparity of opinion among judges when giving decisions with the same case can be minimised with the same legal reference. More than that, the presence of the Compilation of Islamic Law (KHI) also provides a breath of fresh air for the community, because the legal material contained in the Compilation of Islamic Law (KHI) has been adjusted to the social dynamics and values of justice in Indonesian society.

Attitudes and *Ijtihad* Strategies of Judges in Resolving Religious Inheritance Disputes

In carrying out the judicial process, including the examination and determination of decisions, judges are required to use sources of formal law (procedural justice) and material law (substantial justice) as guidelines. In-depth mastery of legal sources by judges is very important as a basis for considering legal justice, moral justice, and social justice.⁴⁴ In addition, religious court judges are also expected to have integrity and maintain judicial independence, so that judicial decisions have the value of justice.⁴⁵

According to A. Mukti Arto in his article entitled “Seeking Justice, Criticism, and Solutions to Civil Justice Practices in Indonesia,” he stated that a fair decision must be in accordance with juridical requirements. If a judge’s decision does not fulfil the juridical

³⁹ Siroj, *Pembaruan Hukum Islam di Indonesia (Telaah Kompilasi Hukum Islam)*.

⁴⁰ Ismail Sunni, “Kompilasi Ditinjau dari Sudut Pertumbuhan Teori Hukum di Indonesia,” *Mimbar Hukum* 1, no. 4 (1991).

⁴¹ Elfia Elfia dkk., “Institutionalizing Maqāsid Hifz Al-Naṣl Within the Minangkabau Inheritance Framework,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (28 Desember 2024): 193–222, <https://doi.org/10.18326/ijtihad.v24i2.193-222>.

⁴² Siroj, *Pembaruan Hukum Islam di Indonesia (Telaah Kompilasi Hukum Islam)*.

⁴³ M. Usman, *Rekonstruksi Teori Hukum Islam* (Yogyakarta: PT. LKiS Pelangi Aksara, 2015).

⁴⁴ M. Rum Nesa, “Putusan Hakim Sebagai Wadah Pembaharuan Hukum,” dalam *Menggugat Stagnasi Pembaruan Hukum Islam di Indonesia*, ed. oleh M. Sutomo (Yogyakarta: UII Press, 2016).

⁴⁵ Nur Aisyah, “Peranan Hakim Pengadilan Agama dalam Penerapan Hukum Islam di Indonesia,” *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 5, no. 1 (2018): 73–92, <https://doi.org/10.24252/al-qadau.v5i1.5665>.

requirements, the values of justice in the decision will be lost. Juridical requirements in a decision include the existence of a relevant legal basis, legal certainty, and being able to provide legal protection.⁴⁶

With reference to the three components of the aforementioned legal requirements, the decision of the Klaten Religious Court Number 0584/Pdt.G/2018/PA. Klt. and the decision of the Kabanjahe Religious Court Number: 2/Pdt.G/2011/PA-Kbj. which provides obligatory inheritance to non-Muslim heirs through obligatory wills, seems to have met these juridical requirements. The decision has proven to provide justice and benefits for parties involved in interfaith inheritance disputes.⁴⁷

In handling these cases, the judges in the religious court system act proportionally, either by waiting, being passive, or being active. Waiting means that judges wait for cases to be filed with the court without actively seeking cases to be resolved in court. The desire to bring a case to court is the absolute authority of the parties concerned. For example, if a judge knows that a person's rights have been violated or neglected by another person, but that person does not file a claim with the court, then the judge is prohibited from intervening against a person whose rights have been neglected or violated by another person.⁴⁸

The passivity of judges in handling cases means that judges limit themselves in determining the scope of the case, because this is the right of the parties seeking justice. In this context, judges are not allowed to make decisions that go beyond the demands submitted (petitum) by the parties concerned and judges are prohibited from giving decisions on matters that are not requested in the demands.⁴⁹ While judges being active means that judges must be proactive in the process of examining, resolving, and making decisions related to cases. This aims to assist justice seekers in achieving the goals of a simple, fast, and financially affordable religious justice system.⁵⁰

In addition to applying a proportional attitude in resolving inheritance cases of different religions, the panel of judges also acted professionally.⁵¹ The meaning of professionalism in examining, deciding and resolving cases of interfaith inheritance is an attitude based on a strong desire to carry out the tasks he has chosen seriously and supported by expertise based on deep knowledge, skills and understanding. The professionalism of judges will encourage the creation of individuals who are always committed to maintaining and improving the quality of work, and strive to continue to

⁴⁶ Mukti Arto, *Mencari Keadilan, Kritik dan Solusi Terhadap Praktik Peradilan Perdata di Indonesia* (Yogyakarta: Pustaka Pelajar, 2001).

⁴⁷ Iim Fahimah dkk., "Interfaith Inheritance in Muslim Families in Indonesia: Practices, Philosophy, and the Direction of National Inheritance Law Development," *AHKAM : Jurnal Ilmu Syariah* 24, no. 2 (31 Desember 2024): 379–96.

⁴⁸ Ahmad Wira dkk., "Legal Study of Dzurri Waqf and Its Implementation towards Strengthening High Heritage Assets in Minangkabau, West Sumatra, Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (18 Desember 2023): 329–41, <https://doi.org/10.31958/juris.v22i2.9383>.

⁴⁹ Mukhsin Aseri dan Muhamad Syazwan Faiz, "Pengaruh Faktor Sosial Ekonomi, Agama, dan Norma terhadap Niat Warisan Islam: Pendekatan PLS-SEM," *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 2 (2024): 411–38, <https://doi.org/10.18592/sjhp.v24i2.13155>.

⁵⁰ Muh. Dalhar Asnawi, *Judge of Klaten Religious Court in 2018* (Klaten: Interview Results, December 07, 2022).

⁵¹ Asnawi.

expand knowledge and improve performance, so that the resulting legal decisions will be optimally packaged and have beneficial value.⁵²

Armed with a proportional and professional attitude, of course, it will give birth to a judge's *ijtihad* strategy in deciding, examining and resolving disputes over inheritance of different religions in order to realise a decision that can provide justice and protection to the disputing heirs. The strategy built by judges in providing legal decisions, among others, is as follows. First, in examining, deciding and resolving inheritance cases of different religions, the panel of judges first finds legal facts that are proven to be true through the law of evidence at trial. In this case, the judge tries to explore and find out the identity of the heir or the person who died, the time of death, the inheritance law that applies to him, who is considered the heir, the inheritance left behind, and the obligations inherited by the heir.⁵³

Second, after finding the legal facts in the case examined, the judge determines the legal basis that is considered appropriate and relevant to the case. In handling disputes over inheritance between different religions, judges in the religious court system use various legal sources that are generally used as legal references, including the Qur'an, hadith, the Compilation of Islamic Law (KHI), and jurisprudence. Apart from referring to these various sources of law, judges also engage in *ijtihad* if they cannot find the legal provision or find the legal provision, but it is no longer relevant to the situation of Indonesian society with its diverse characteristics. The *ijtihad* in finding the law by judges aims to create a sense of justice for those seeking justice.⁵⁴

Third, the next process is for the panel of judges to give a legal decision on the case being examined. The judge's decision is the crown of the judge, so that the legal decision created by the judge can solve the problems of inheritance law of different religions and will not cause new problems.⁵⁵ According to Saifuddin Yusuf, the attitude and strategy of *ijtihad* (legal reasoning) of judges in resolving interfaith inheritance disputes is considered correct and has sociological benefits.⁵⁶ The existence of this legal alternative can be called the result of revolutionary *ijtihad* carried out by judges so that Islamic law remains a solution for the Indonesian people for the sake of creating peace that is oriented towards the common good. Saifuddin Yusuf also added that the legal alternative of compulsory testament can also be developed further to broaden its scope. In the present era, compulsory testament can be used as a legal alternative for children born of adultery or given to stepchildren. However, it depends on the courage of the religious court judge in carrying out *ijtihad* (legal reasoning) to create a law that has the essence of justice.⁵⁷

⁵² Muhammad Jaidi dkk., "Peradilan Adat Badamai Kewarisan Islam Banjar Perspektif Madrasah Ahlul Hadis Dan Madrasah Ahlurra'yi," *Interdisciplinary Explorations in Research Journal* 2, no. 2 (24 Juni 2024): 1032–52, <https://doi.org/10.62976/ierj.v2i2.599>.

⁵³ Asnawi, *Judge of Klaten Religious Court in 2018*.

⁵⁴ Asnawi.

⁵⁵ Asnawi.

⁵⁶ Raja Ritonga dkk., "Portion of Married Daughters in Inheritance Share among Angkola Batak Community," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (15 Juni 2024): 78–103, <https://doi.org/10.19105/al-lhkam.v19i1.7342>.

⁵⁷ Saifuddin Yusuf, *Judge of Banjarmasin Religious Court in 2024* (Banjarmasin: Interview Results, June 04, 2024).

Compulsory Testament: Considering the Aspects of Beneficence in Interfaith Inheritance

Ijtihad carried out by Religious Court judges is a must, because even though the Compilation of Islamic Law (KHI) has been finalised and ratified, legal issues in human life continue to arise and are never finished. *Ijtihad* is not an easy job for judges to do, but rather a job that is full of challenges and must be done with full rigour. Without an effort for *ijtihad*, it will result in a legal vacuum. This is because legal issues can arise anytime and anywhere, while legal texts used as legal references have limitations, so *ijtihad* is needed.⁵⁸

Religious court judges are not only required to have intellectual intelligence and technical skills in the judicial system, but must also improve their emotional and spiritual intelligence when deciding cases. This is important, because it can help in developing the law progressively with the understanding that the law is not something static after being enacted⁵⁹, but the law is seen as something that is constantly evolving through never-ending interpretations with the aim of achieving justice based on the principles of maqashid sharia.⁶⁰

One proof that religious court judges perform *ijtihad* is the decision of the Klaten Religious Court number 0584/Pdt.G/2018/PA. Klt. which provides alternative law in the form of compulsory testaments to non-Muslim heirs.⁶¹ Before the Klaten Religious Court issued decision number 0584/Pdt.G/2018/PA. Klt. the plaintiffs had filed an inheritance lawsuit at the Klaten District Court Class 1 with number 37/Pdt.G/2013/PN.Klt on 03 June 2013 and at the Klaten Religious Court with number 99/Pdt.G/2014/PA.Klt on 03 June 2014. Both lawsuits have been decided by the respective courts and are legally binding. However, according to the plaintiffs, the decision cannot be executed because in the Klaten Religious Court Decision Number 99/Pdt.G/2014/PA.Klt dated 03 June 2014, it does not specify in detail the share of each heir.⁶²

The case position in this interfaith inheritance dispute is that there is a husband and wife named Trumpang (Islam) and Laginem (Islam) who live in Jetis hamlet, Klepu Village, Ceper District, Klaten Regency. During the course of his life Trumpang and Laginem had five children: 1. Sugiharti (Christian) 2. Wiryadi (Islam) 3. Wiyono (Islam) 4. Widoyo (Islam) 5. Santoso (Christian).⁶³ As time passed and he grew older, Trumpang passed away on 20 April 1979 and Laginem passed away on 24 December 1994. In accordance with the rules

⁵⁸ Akhmad Khisni, *Hukum Waris Islam* (Semarang: Unissula Press, 2013).

⁵⁹ Khisni.

⁶⁰ Asa'ari Asa'ari dkk., "Urgensi Pemahaman Terhadap Maqashid Al-Syar'ah dan Perubahan Sosial dalam Istibath Al-Ahkam," *De Jure: Jurnal Hukum dan Syar'iah* 13, no. 2 (2021): 222–39, <https://doi.org/10.18860/j-fsh.v13i2.13818>; Asa'ari Asa'ari dkk., "Considering Death Penalty for Corruptors in Law on Corruption Eradication from the Perspective of Maqāsid al-Syarī'ah," *Samarah* 7, no. 2 (2023): 920–36, <https://doi.org/10.22373/sjhk.v7i2.14944>; Doli Witro, "Maqashid Syari'ah as a Filter of Hoax Through Al-Quran Perspective," *Jurnal Ilmiah Al-Syir'ah* 18, no. 2 (2020): 187–200, <https://doi.org/10.30984/jis.v18i2.1133>.

⁶¹ Sayuthi M. Amin dkk., "Resolving Inheritance Conflicts and Their Legal Repercussions in Aceh: A Sociological and Anthropological Look at Peace Initiatives Using Customary Courts," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (30 Juni 2025), <https://doi.org/10.22373/akx7xp17>.

⁶² *Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/P.A. Klt.*, t.t.

⁶³ *Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/P.A. Klt.*

of Islamic inheritance law, when someone dies, there will be a transfer of property from the heir to the heirs who are entitled to receive it. In this case, the inheritance that is the object of the dispute is a plot of land in the name of Trumpang measuring 815 m², which is recorded in book C number 383 and is located in Dukuh Jetis, Klepu Village, Ceper District, Klaten Regency.⁶⁴

The land should have been the absolute right of the heirs who were entitled to receive it. However, due to the ambition of one of the heirs (the defendant) to control it, a dispute arose between the heirs. To resolve this dispute, the heirs (plaintiffs) who felt that their inheritance rights had been taken by others, decided to file a lawsuit at the Klaten Religious Court in the hope that their inheritance rights could be obtained in accordance with applicable legal regulations.⁶⁵

In the judge's verdict, it was explained that the Klaten Religious Court judge gave an alternative law in the form of a compulsory testament of 1/3 of the inheritance to non-Muslim heirs, namely Sugiharti and Santoso. After the compulsory testament of 1/3 was given to the non-Muslim heirs, the remaining assets were then distributed to the other heirs, namely Wiryadi, Wiyono, and Widoyo who are Muslims.⁶⁶

Various legal considerations were presented by the judges of the Klaten Religious Court when deciding the case, including sociological considerations aimed at creating justice in the family environment of the testator and to obtain a sense of peace among the testator's family. Apart from the sociological aspect, the decision also used legal considerations from the juridical aspect, namely by making the Supreme Court jurisprudence number 16K/AG/2010 as its legal basis.⁶⁷ The development of Islamic inheritance law through jurisprudence in this contemporary era is considered necessary and beneficial, because it not only reflects a sense of justice in society, but is also in line with legal awareness in society.⁶⁸

In addition to the decision of the Klaten Religious Court, there is also the decision of the Kabanjahe Religious Court Number: 2/Pdt.G/2011/PA-Kbj. which also gives a compulsory bequest to non-Muslim heirs. The case in this interfaith inheritance dispute involves a married couple named Ngandi Ginting and Bagenda Br Bangun. During their marriage, the couple had two children named Eduardi Ginting and Jayanta Ginting.⁶⁹ As time went by, Ngandi Ginti's wife, Bagenda Br Bangun, passed away, and Ngandi Ginting eventually remarried a woman named Maisarah binti Karto Sugasi. At first their household life went well, but when Ngandi Ginting fell ill, his second wife, Maisarah binti Karto Sugasi, refused to care for him and even left Ngandi Ginting and their two children, leaving their

⁶⁴ *Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/P.A. Klt.*

⁶⁵ Amin dkk., "Resolving Inheritance Conflicts and Their Legal Repercussions in Aceh"; Zaenul Mahmudi dkk., "The Charity Values within Islamic Law of Inheritance in Malang: Maqāṣid al-Sharī'ah and Social Construction Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (24 Agustus 2024): 1324–45, <https://doi.org/10.22373/sjhk.v8i3.19986>.

⁶⁶ *Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/P.A. Klt.*

⁶⁷ *Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/P.A. Klt.*

⁶⁸ Asnawi, *Judge of Klaten Religious Court in 2018*.

⁶⁹ Devika Rosa Guspita dkk., "The Principle of Family Resilience in Islamic Law And Its Relevance to Cilegon's Regional Regulation Number 1/2019," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (19 Juni 2025): 20–32, <https://doi.org/10.30631/alrisalah.v25i1.1821>.

whereabouts unknown. On 28 August 2010, Ngandi Ginting passed away due to an incurable illness.⁷⁰ When Ngandi Ginting passed away, he was survived by his wife Maisarah binti Karto Sugasi, who left him, and two sons, Eduardi Ginting and Jayanta Ginting. However, one of the heirs, Jayanta Ginting, was a Christian. Therefore, based on the provisions of Article 171 letter c of the Compilation of Islamic Law (KHI) and the provisions of Islamic inheritance law in conventional fiqh, the heir named Jayanta Ginting is prevented from obtaining a share of the inheritance from his biological father named Ngandi Ginting (the heir). The inheritance from the heir is in the form of a Civil Servant (PNS) pension at PT Taspen Medan.⁷¹

Although according to the provisions in the Islamic Law Compilation (KHI) and conventional fiqh, the difference in religion between the testator and the heirs is an obstacle to inheritance, the Kabanjahe Religious Court has taken a progressive step by applying the concept of obligatory will to non-Muslim heirs so that they still receive a share of the inheritance of testators who are Muslim. This provision refers to the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 51K/AG/1999, which also stipulates that non-Muslim heirs have the right to receive a compulsory will from a Muslim testator.⁷²

In jurisprudence Number: 51K / AG / 1999, dated 29 September 1999, it is stated that non-Muslim heirs receive a share of the inheritance of a Muslim testator based on a compulsory testaments, the share of which is equal to that of equivalent Muslim heirs. If we look at the share of the obligatory will intended for orphaned grandchildren in Muslim countries and the obligatory will intended for adopted children or adoptive parents in the Compilation of Islamic Law (KHI) in Indonesia, the obligatory will given is at most only 1/3 of the inheritance of the testator.⁷³

In the perspective of Islamic law, the use of jurisprudence can be justified, provided that religious court judges when applying jurisprudence to resolve legal issues, have a deep understanding of Islamic law and pay attention to the public interest where the law will be applied.⁷⁴ According to Saifuddin Yusuf, religious court judges are emphasised to use existing jurisprudence, even though the position of jurisprudence is not binding on religious court judges. According to him, previous judges' decisions that later became jurisprudence have a strong *legal reason* for certain issues, so that following existing jurisprudence can minimise the disparity of decisions on uniform cases.⁷⁵

Almost in line with Saifuddin Yusuf's opinion, Nurman Syarif is of the opinion that the position of jurisprudence in the religious court system is non-binding, meaning that judges are free to use it or ignore it. The jurisprudence used by judges in giving *wasiat wajibah* to non-Muslim heirs, as stated in the decision of the Klaten Religious Court Number 0584 / Pdt.G / 2018 / PA. Klt. and the decision of the Kabanjahe Religious Court Number: 2 /

⁷⁰ Mohammad Takdir dkk., "The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia," *Journal of Islamic Law* 4, no. 1 (28 Februari 2023): 104–22, <https://doi.org/10.24260/jil.v4i1.1044>.

⁷¹ Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj.

⁷² Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj.

⁷³ Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj.

⁷⁴ Muhammad Daud Ali, *Hukum Islam dan Peradilan Agama* (Jakarta: Raja Grafindo Persada, 2002).

⁷⁵ Yusuf, *Judge of Banjarmasin Religious Court in 2024*.

Pdt.G / 2011 / PA-Kbj, is considered correct and relevant to the conditions of Indonesian society in the present era. However, the legal considerations used by the judges in deciding the case need to be supplemented by other legal considerations. According to him, in addition to using legal considerations based on the rules in Fiqh, the Compilation of Islamic Law (KHI), and jurisprudence, judges in the religious court system also need to add several legal considerations based on rationality in giving *wasiat wajibah* to non-Muslim heirs.⁷⁶

First, the granting of compulsory testaments to non-Muslim heirs can be analogous to the granting of compulsory testaments to adopted children who do not have inheritance rights with their adoptive parents because there is no nasab relationship. Similarly, for non-Muslim heirs who are prevented from obtaining their inheritance rights due to religious differences, it seems necessary to also be given a legal alternative in the form of a compulsory testament.⁷⁷

Secondly, the application of the Prophet's Hadith regarding the prohibition of mutual inheritance between Muslims and non-Muslims needs to be reviewed *asbabul wurud*, it could be that when the Hadith was delivered by the Prophet was very relevant, but when applied in the modern era it is no longer relevant along with the times. In addition to paying attention to the *asbabul wurud* of the hadith, Nurman Syarif also relies on the generality of Islamic inheritance verses in the Qur'an which do not discuss the requirement that the heir must be Muslim. In fact, the verses of Islamic inheritance only talk about the social dynamics that developed in Arab society at that time.⁷⁸

Psychologically, if in a family there is a harmonious relationship and a sense of affection between Muslim and non-Muslim family members, then the pattern of life to support and help each other becomes a primary need that cannot be avoided. This concept is in line with the results of the examination conducted by the judge at the trial, it appears that between the non-Muslim heirs and the testator there is a harmonious family relationship and good communication between them. Therefore, the provision of the testator's inheritance to non-Muslim heirs through compulsory testament can be considered as a form of appreciation for the creation of a harmonious and loving relationship between non-Muslim heirs and the testator. It is not in accordance with the principle of justice if only because of different religions, then not given the right of inheritance.⁷⁹

Providing compulsory testaments to non-Muslim heirs is also in accordance with the message contained in QS. an-Nisa' (59): 135, QS. an-Naml (16): 90, and QS. al-Maidah (5): 8, which emphasises the obligation for every Muslim to always maintain peace and be fair to all people regardless of their religion, whether they are Muslims or non-Muslims.⁸⁰ Thus, non-Muslim heirs have the possibility to receive part of the estate left by Muslim heirs, although not through the Islamic inheritance system, because they are not included in the category of heirs (*mahjub*). One of the possible institutions to allocate part of the inheritance

⁷⁶ Nurman Syarif, *Judge of Sentani Jayapura Religious Court in 2024* (Sentani Jayapura: Interview Results, June 04, 2024).

⁷⁷ Syarif.

⁷⁸ Syarif.

⁷⁹ Asnawi, *Judge of Klaten Religious Court in 2018*.

⁸⁰ Syarif, *Judge of Sentani Jayapura Religious Court in 2024*.

from Muslim heirs to non-Muslim heirs is through wills or compulsory testaments, if the testator does not leave a special will for them.⁸¹

Based on the decisions of the Klaten Religious Court and the Kabanjahe Religious Court, the *jiḥād* carried out by the judges is part of the process of legal discovery (*rechtsvinding*). If examined using the method of Islamic legal discovery developed by Islamic jurists, which includes:⁸² 1) legal discovery through the bayani method (literal interpretation), 2) *ta'lili* (causation) which consists of *qiyasi* and *istislahi*, 3) *taufiqi* (synchronisation), so judges in giving *wasiat wajibah* to non-Muslim heirs seem to be more inclined to use the *istislahi* method of legal discovery. In fact, in the decision of the Klaten Religious Court Number 0584/Pdt.G/2018/PA. Klt. and the decision of the Kabanjahe Religious Court Number: 2/Pdt.G/2011/PA-Kbj, contain the values of sharia *maqasid* in order to maintain and preserve the interests.⁸³ The provision of compulsory bequests to non-Muslim heirs is in principle aimed at creating a sense of justice for parties who were previously prevented from receiving a share of the inheritance.⁸⁴

The importance of knowing the aims and objectives of the sharia in the formation of a law in the view of Abdul Ghafur Anshori is a very urgent matter as a tool for understanding the legal texts of the Qur'an and *hadith* and applying them to a concrete event. This knowledge also serves as a medium for finding laws for problems that have no legal basis, and for resolving arguments that are outwardly contradictory.⁸⁵

From the above explanation, it can be understood that to determine the provisions of a law does not only refer to laws and regulations (positive law), but can also use the judge's *ijtihad* to find new laws to be applied to the legal issues at hand. The renewal of Islamic inheritance law to respond to and provide answers to contemporary Islamic inheritance law issues that have developed in the religious court system is proof that the judge's *ijtihad* has a huge impact on formulating the provisions of a law.⁸⁶

The importance of legal discovery for judges can be strengthened by the principle of *ius curia novit*, which states that religious court judges are prohibited from rejecting cases filed by litigants on the grounds that there are no regulations to explain it or that the regulations are vague. For this reason, religious court judges have an obligation to conduct an examination and to issue a legal decision on the case that has been brought before them.⁸⁷

CONCLUSIONS

⁸¹ Abdul Mufid, "Rekonstruksi Hukum Warisan Di Indonesia Perspektif Pluralisme Agama," *Al-Qadha* 7, no. 1 (2020): 60–72, <https://doi.org/10.32505/qadha.v7i1.1531>.

⁸² Syamsul Anwar, "Argumentum a Fortiori Dalam Metode Penemuan Hukum Islam," *Sosio Religia* 1, no. 3 (2002): 1–9.

⁸³ Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/PA. Klt. and Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj.

⁸⁴ Rahmad Setyawan, "Wasiat Wajibah, Non-Muslim dan Kemaslahatan Hukum: Studi Putusan MA Tahun 1995-2010," *Ajy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 53, no. 1 (2019): 31–57, <https://doi.org/10.14421/ajish.v53i1>.

⁸⁵ Abdul Ghofur Anshori, *Filsafat Hukum* (Yogyakarta: Gadjah Mada University Press, 2009).

⁸⁶ Setyawan dkk., "Contemporary Ijtihad Deconstruction in the Supreme Court: Wasiat Wajibah as an Alternative for Non-Muslim Heirs in Indonesia."

⁸⁷ Khoirul Anwar, "Penerapan Asas IUS Curia Novit oleh Hakim Pengadilan Agama di Nusa Tenggara Timur," *Jurnal Pendidikan dan Konseling* 4, no. 5 (2022): 4013.

The attitude and strategy of *ijtihad* (legal reasoning) of judges in the religious judicial system has a central role in resolving legal issues related to inheritance disputes between different religions. With the attitude and strategy of visionary judges, non-Muslim heirs can be given a legal alternative in the form of a will so that they can enjoy the inheritance. This legal alternative can be called a product of the judge's revolutionary *ijtihad* so that Islamic law remains a solution for the Indonesian people and seekers of justice for the creation of justice and peace oriented towards the common good. The existence of normative rules prohibiting mutual inheritance due to religious differences is not an obstacle for the judges of the Klaten Religious Court and the Kabanjahe Religious Court to realise justice for the Indonesian people and seekers of justice. This is because judges, as enforcers of the law, have the authority to make new interpretations of regulations using *ijtihad* reasoning. The ruling also marks a substantial change and is concrete evidence of progress in legal reform in the field of Islamic inheritance. The limitations of this study are that it only focuses on several Religious Courts. Then this study only interviewed several Judges. The recommendation for further research is to conduct research in several Religious Courts that are located in different places such as on the island of Sumatra, Sulawesi, Papua, etc.

Acknowledgements

We would like to express our gratitude to all parties who have assisted in this research process until its publication in a reputable international journal. We would like to thank the Education Fund Management Institution (LPDP/Indonesia Endowment Fund for Education) Ministry of Finance of the Republic of Indonesia and the Indonesia Bagkit Scholarship (BIB) Ministry of Religious Affairs of the Republic of Indonesia for their support in the publication of this article. This research would not have been possible without the financial assistance provided by LPDP. No potential conflict of interest was reported by the author(s).

REFERENCE

- Aisyah, Nur. "Peranan Hakim Pengadilan Agama dalam Penerapan Hukum Islam di Indonesia." *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 5, no. 1 (2018): 73–92. <https://doi.org/10.24252/al-qadau.v5i1.5665>.
- Ali, Muhammad Daud. *Hukum Islam dan Peradilan Agama*. Jakarta: Raja Grafindo Persada, 2002.
- Amin, Sayuthi M., Lukman Hakim, Khairuddin Hasballah, Khairani Khairani, dan Riza Afrian Mustaqiem. "Resolving Inheritance Conflicts and Their Legal Repercussions in Aceh: A Sociological and Anthropological Look at Peace Initiatives Using Customary Courts." *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (30 Juni 2025). <https://doi.org/10.22373/akx7xp17>.
- Anshary MK, M. *Hukum Kewarisan Islam dalam Teori dan Praktik*. Yogyakarta: Pustaka Pelajar, 2017.
- Anshori, Abdul Ghofur. *Filsafat Hukum*. Yogyakarta: Gadjah Mada University Press, 2009.
- Anwar, Syamsul. "Argumentum a Fortiori Dalam Metode Penemuan Hukum Islam." *Sosio Religia* 1, no. 3 (2002): 1–9.
- Arfa, M. Fadhil Azzam, Desrianto, dan Abdul Qodir Zaelani. "Hukum Waris Dalam Perspektif Sosio Historis, Normatif, Dan Psikologis." *Indonesian Journal of Islamic*

- Jurisprudence, Economic and Legal Theory* 2, no. 2 (3 Juni 2024): 557–67. <https://doi.org/10.62976/ijjel.v2i2.503>.
- Arif, Muhammad Rinaldi. “Pemberian Wasiat Wajibah Terhadap Ahli Waris Beda Agama (Kajian Perbandingan Hukum Antara Hukum Islam dan Putusan Mahkamah Agung Nomor 368.K/AG/1995).” *De Lega Lata* 2, no. 2 (2017): 351–72. <https://doi.org/10.30596/dll.v2i2.1161>.
- Arto, Mukti. *Mencari Keadilan, Kritik dan Solusi Terhadap Praktik Peradilan Perdata di Indonesia*. Yogyakarta: Pustaka Pelajar, 2001.
- Asa’ari, Asa’ari, Jafar Ahmad, Zufriani Zufriani, Doli Witro, dan Muhamad Taufik Kustiawan. “Considering Death Penalty for Corruptors in Law on Corruption Eradication from the Perspective of Maqāsid al-Syarī’ah.” *Samarah* 7, no. 2 (2023): 920–36. <https://doi.org/10.22373/sjhc.v7i2.14944>.
- Asa’ari, Asa’ari, Zufriani Zufriani, Arzam Arzam, dan Doli Witro. “Urgensi Pemahaman Terhadap Maqashid Al-Syari’ah dan Perubahan Sosial dalam Istibath Al-Ahkam.” *De Jure: Jurnal Hukum dan Syari’ah* 13, no. 2 (2021): 222–39. <https://doi.org/10.18860/j-fsh.v13i2.13818>.
- Aseri, Mukhsin, dan Muhamad Syazwan Faid. “Pengaruh Faktor Sosial Ekonomi, Agama, dan Norma terhadap Niat Warisan Islam: Pendekatan PLS-SEM.” *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 2 (2024): 411–38. <https://doi.org/10.18592/sjhp.v24i2.13155>.
- Asnawi, Muh. Dalhar. *Judge of Klaten Religious Court in 2018*. Klaten: Interview Results, December 07, 2022.
- Asrof, Nabil. *Komparasi Wasiat Wajibah di Indonesia, Malaysia dan Irak*. Thesis: Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2018.
- Bisri, Cik Hasan. *Kompilasi Hukum Islam dan Peradilan Agama dalam Sistem Hukum Nasional*. Jakarta: Logos Wacana Ilmu, 1999.
- Departemen Pendidikan dan Kebudayaan. *Kamus Besar Bahasa Indonesia*. Jakarta: Balai Pustaka, 1990.
- Djalil, A. Basiq. *Peradilan Agama di Indonesia*. Jakarta: Prenada Media Group, 2006.
- Elfia, Elfia, Nursh Shalihin, Surwati Surwati, Yan Fajri, dan Aulia Rahmat. “Institutionalizing Maqāsid Hifz Al-Naṣl Within the Minangkabau Inheritance Framework.” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (28 Desember 2024): 193–222. <https://doi.org/10.18326/ijtihad.v24i2.193-222>.
- Erniwati, Erniwati. “Wasiat Wajibah Dalam Perspektif Hukum Islam Di Indonesia Dan Komparasinya Di Negara-Negara Muslim.” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 1 (2018): 63–74. <https://doi.org/10.29300/mzn.v5i1.1437>.
- Fahimah, Iim, Suwarjin Suwarjin, Wery Gusmansyah, Zubaedi Zubaedi, dan Jayusman Jayusman. “Interfaith Inheritance in Muslim Families in Indonesia: Practices, Philosophy, and the Direction of National Inheritance Law Development.” *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (31 Desember 2024): 379–96.
- Fahmiron, Fahmiron. *Independensi Dan Akuntabilitas Hakim Dalam Penegakan Hukum Sebagai Wujud Independensi Dan Akuntabilitas Kekuasaan Kehakiman*. Litigasi. Vol. 17, 2016. <https://doi.org/10.23969/litigasi.v17i2.158>.
- Faizal, Nadya. “Wasiat Wajibah Terhadap Anak Angkat (Tinjauan Filsafat Hukum Islam Pasal 209 Kompilasi Hukum Islam).” *JURNALAR-RISALAH* 2, no. 2 (2022): 39–59. <https://doi.org/10.30863/arrisalah.v2i2.4162>.
- Fauzi, Mohammad Yasir, dan Eko Hidayat. “Mandatory Will Making for Non-Muslims: As a Reconstruction of Islamic Family Law in Indonesia.” *Pena Justisia: Media*

- Komunikasi dan Kajian Hukum* 24, no. 1 (2025): 69–88. <https://doi.org/10.31941/pj.v24i1.5852>.
- Guspita, Devika Rosa, Ahmad Hasan Ridwan, Siah Khosi'ah, Ending Solehuddin, dan Badriyah Badriyah. "The Principle of Family Resilience in Islamic Law And Its Relevance to Cilegon's Regional Regulation Number 1/2019." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (19 Juni 2025): 20–32. <https://doi.org/10.30631/alrisalah.v25i1.1821>.
- Hanum, Zulfia, dan Alfi Syahr. "Wasiat Wajibah sebagai Wujud Penyelesaian Perkara Waris Beda Agama dalam Perkembangan Sosial Masyarakat." *Holistik: Journal For Islamic Social Sciences* 1, no. 2 (2016): 123–33. <https://doi.org/10.24235/holistik.v1i2.905>.
- Huda, Ni'matul. *Hukum Tata Negara Indonesia*. Jakarta: Raja Grafindo Persada, 2012.
- Jaidi, Muhammad, Jalaluddin Jalaluddin, Fathurahman Azhari, dan Fahmi Hamdi. "Peradilan Adat Badamai Kewarisan Islam Banjar Perspektif Madrasah Ahlul Hadis Dan Madrasah Ahlurra'yi." *Interdisciplinary Explorations in Research Journal* 2, no. 2 (24 Juni 2024): 1032–52. <https://doi.org/10.62976/ierj.v2i2.599>.
- Jumadi, Jumadi. "Negara Hukum dan Pembangunan Nasional Berwawasan Hukum." *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 4, no. 1 (2017): 68. <https://doi.org/10.24252/jurisprudentie.v4i1.3665>.
- Khisni, Akhmad. *Hukum Waris Islam*. Semarang: Unissula Press, 2013.
- Khoirul Anwar. "Penerapan Asas IUS Curia Novit oleh Hakim Pengadilan Agama di Nusa Tenggara Timur." *Jurnal Pendidikan dan Konseling* 4, no. 5 (2022): 4013.
- Lathifah, Anthin, Briliyan Erna Wati, Mustakama Waeduerh, dan Nipatimoh Phudaro. "Inheritance Law Politics: The Implementation in Muslim-Nonmuslim Families in Southern Thailand." *El-Mashlahah* 15, no. 1 (30 Juni 2025): 189–212. <https://doi.org/10.23971/el-mashlahah.v15i1.9970>.
- Mahmudi, Zaenul, M. Fauzan Zenrif, Abdul Haris, Ahsin Dinal Mustafa, dan Noer Yasin. "The Charity Values within Islamic Law of Inheritance in Malang: Maqāṣid al-Shari'ah and Social Construction Perspectives." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (24 Agustus 2024): 1324–45. <https://doi.org/10.22373/sjhk.v8i3.19986>.
- Miles, Matthew B., A. Michael Huberman, dan Johnny Saldaña. *Qualitative data analysis: a methods sourcebook*. California: SAGE Publications, Inc., 2014.
- Mu'amar, Ali. "Al-Banjari's Concept of Inheritance Based on Gender and Justice and Its Implications for Family Division in Banjar Society." *JOURNAL OF ISLAMIC AND LAW STUDIES* 8, no. 2 (27 Desember 2024): 301–11. <https://doi.org/10.18592/jils.v8i2.15287>.
- Mudzhar, M. Atho. *Membaca Gelombang Ijtihad: Antara Tradisi dan Liberasi*. Yogyakarta: Titian Ilahi Press, 2000.
- Mufid, Abdul. "Rekonstruksi Hukum Warisan Di Indonesia Perspektif Pluralisme Agama." *Al-Qadha* 7, no. 1 (2020): 60–72. <https://doi.org/10.32505/qadha.v7i1.1531>.
- Muhammad, Abdulkadir. *Hukum dan Penelitian Hukum*. Bandung: PT Citra Aditya Bakti, 2004.
- Muhibbin, Moh. "Wasiat Wajibah Untuk Anak Angkat, Anak diluar Perkawinan Sah, dan Anak dari Orang Tua Beda Agama." Dalam *Problematika Hukum Kewarisan Islam Kontemporer di Indonesia*, disunting oleh Muchit A. Karim. Jakarta: Puslitbang Kehidupan Keagamaan Badan Litbang dan Diklat Kementerian Agama RI, 2012.

- Naofal, Erlan. *Wasiat Wajibah Menurut Ibnu Hazm dan Relevansinya Dengan Pembaruan Hukum Islam di Indonesia*. Dissertation: Universitas Islam Negeri Sultan Syarif Kasim Riau, 2017.
- Nesa, M. Rum. "Putusan Hakim Sebagai Wadah Pembaharuan Hukum." Dalam *Menggugat Stagnasi Pembaruan Hukum Islam di Indonesia*, disunting oleh M. Sutomo. Yogyakarta: UII Press, 2016.
- Nur, Muhammad, Siti Maymanatun Nisa, Tashdieq Ulil Amri Arhamzah, Imaro Sidqi, dan Doli Witro. "From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law." *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 1 (23 Mei 2025): 31–50. <https://doi.org/10.24090/mnh.v19i1.9762>.
- . "From Text to Context: The Role of Kyai in Shaping Modern Islamic Inheritance Law." *Al-Manahij: Jurnal Kajian Hukum Islam*, 23 Mei 2025, 31–50. <https://doi.org/10.24090/mnh.v19i1.9762>.
- Nurjaman, Muhamad Izazi, dan Doli Witro. "The Relevance of the Theory of Legal Change According to Ibnu Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia." *El-Mashlahah* 11, no. 2 (2021): 164–86. <https://doi.org/10.23971/elma.v11i2.3181>.
- Pahroji, Dedi. "Kedudukan Anak Tiri dan Anak Angkat dalam Putusan Mahkamah Agung Nomor 489 K/AG/2011 Dihubungkan dengan Sistem Hukum Waris Islam." *Jurnal Hukum Positum* 4, no. 1 (2019): 14. <https://doi.org/10.35706/positum.v4i1.3005>.
- Putusan Pengadilan Agama Klaten Nomor 0584/Pdt.G/2018/PA. Klt., t.t.*
- Rahman, Arif, Sofyan, dan Mulham Jaki Asti. "Hakim Peradilan Agama: Refleksi Sistem Pengangkatan dan Pelaksana Kekuasaan Kehakiman di Indonesia." *DIKTUM: Jurnal Syariah dan Hukum* 20, no. 1 (2022): 79–98. <https://doi.org/10.35905/diktum.v20i1.2780>.
- Ramadhita, Ramadhita, Mahrus Ali, dan Bachri Syabbul. "Gender inequality and judicial discretion in Muslims divorce of Indonesia." *Cogent Social Sciences* 9, no. 1 (31 Desember 2023). <https://doi.org/10.1080/23311886.2023.2206347>.
- Ranggawidjaja, Rosjidi. *Pedoman Teknik Perancangan Peraturan Perundang-undangan*. Bandung: Citra Bhakti Akademika, 1996.
- Rasidin, Mhd., Doli Witro, Darti Busni, Andri Nurjaman, dan Marjai Afan. "Analysing the Pesantren Tradition of Arranged Marriages from the 'Kupi Fatwa Trilogy' Perspective." *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 285–308. <https://doi.org/10.29240/jhi.v9i1.8436>.
- Rasyid, Arbanur, Rayendriani Fahmei Lubis, dan Idris Saleh. "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective." *Al-Ahkam* 34, no. 2 (31 Oktober 2024): 419–48. <https://doi.org/10.21580/ahkam.2024.34.2.20843>.
- Ritonga, Raja, Sumper Mulia Harahap, Asrul Hamid, Andri Muda, dan Zuhdi Hsb. "Portion of Married Daughters in Inheritance Share among Angkola Batak Community." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (15 Juni 2024): 78–103. <https://doi.org/10.19105/al-lhkam.v19i1.7342>.
- Setyawan, Rahmad. "Wasiat Wajibah, Non-Muslim dan Kemaslahatan Hukum: Studi Putusan MA Tahun 1995-2010." *Ay-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 53, no. 1 (2019): 31–57. <https://doi.org/10.14421/ajish.v53i1>.
- Setyawan, Rahmad, Doli Witro, Darti Busni, Muhamad Taufik Kustiawan, dan Fatimatuz Zahro Mulia Syahbani. "Contemporary Ijtihad Deconstruction in the Supreme Court: Wasiat Wajibah as an Alternative for Non-Muslim Heirs in Indonesia."

- Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40. <https://doi.org/10.30984/jis.v22i1.2968>.
- Siroj, A. Malthuf. *Pembaruan Hukum Islam di Indonesia (Telaah Kompilasi Hukum Islam)*. Yogyakarta: Pustaka Ilmu, 2017.
- Sodiqin, Ali. *Fiqh Ushul Fiqh*. Yogyakarta: Beranda Publishing, 2013.
- Suadi, Amran. “Peranan Pengadilan Agama dalam Perspektif Pembaruan Hukum Islam di Bidang Penghapusan Kekerasan dalam Rumah Tangga.” Dalam *Menggugat Stagnasi Pembaruan Hukum Islam di Indonesia*, disunting oleh M. Sutomo. Yogyakarta: UII Press, 2016.
- Sunni, Ismail. “Kompilasi Ditinjau dari Sudut Pertumbuhan Teori Hukum di Indonesia.” *Mimbar Hukum* 1, no. 4 (1991).
- Syarif, Nurman. *Judge of Sentani Jayapura Religious Court in 2024*. Sentani Jayapura: Interview Results, June 04, 2024.
- Takdir, Mohammad, Fajrul Munir, Ali Ludhfi, Muliyanzah Muliyanzah, dan Zainol Muttaqin. “The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia.” *Journal of Islamic Law* 4, no. 1 (28 Februari 2023): 104–22. <https://doi.org/10.24260/jil.v4i1.1044>.
- Tarmizi, Tarmizi, Rahma Amir, Darussalam Syamsuddin, Hamzah Hasan, dan Muh Saleh Ridwan. “Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women’s Rights and Islamic Law Objectives.” *De Jure: Jurnal Hukum Dan Syar’iah* 16, no. 2 (17 Desember 2024): 255–77. <https://doi.org/10.18860/j-fsh.v16i2.29477>.
- Tebba, Sudirman. *Perkembangan Mutakhir Hukum Islam di Asia Tenggara*. Bandung: Mizan, 1993.
- Tobibatussaadah. “Kontroversi Pembaruan Hukum Islam: Melacak Respons Masyarakat Muslim Indonesia terhadap Counter Legal Draft (CLD) ats KHI.” Dalam *Berislam di Jalur Tengah Dinamika Pemikiran Keislaman dan Keindonesiaan Kontemporer*, disunting oleh Aksin Wijaya dan A. Yusrianto Elga. Yogyakarta: IRCiSoD, 2020.
- Tono, Sidik. “Wasiat Wajibah sebagai Alternatif Mengakomodasi Bagian Ahli Waris non Muslim di Indonesia.” Universitas Islam Indonesia, 2013.
- Usman, M. *Rekonstruksi Teori Hukum Islam*. Yogyakarta: PT. LKiS Pelangi Aksara, 2015.
- Wahyu Sururie, Ramdani, Eva Nur Hopipah, Doli Witro, Rahmi Diana, dan Muhammad Sopiyan. “Co-Parenting Model in Resolving Child Custody Disputes in Urban Muslim Families.” *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 1 (1 Maret 2024): 250–68. <https://doi.org/10.22373/petita.v9i1.277>.
- Wira, Ahmad, Nurul Huda, Ahmad Sunawari Long, Wahyuni Lely Augustina, Meirison Meirison, dan Yenti Afrida. “Legal Study of Dzurri Waqf and Its Implementation towards Strengthening High Heritage Assets in Minangkabau, West Sumatra, Indonesia.” *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (18 Desember 2023): 329–41. <https://doi.org/10.31958/juris.v22i2.9383>.
- Witro, Doli. “Maqashid Syari’ah as a Filter of Hoax Through Al-Quran Perspective.” *Jurnal Ilmiah Al-Syir’ah* 18, no. 2 (2020): 187–200. <https://doi.org/10.30984/jis.v18i2.1133>.
- . “State Islamic University Students’ Perceptions of Israel-Affiliated Products: A Study After the Fatwa of Indonesia Ulema Council No. 83 of 2023 Concerning the Law on Support for the Palestinian Struggle.” *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 145–60. <https://doi.org/10.24090/mnh.v18i1.10554>.
- Yasin Yusuf Abdillah. *Wasiat Wajibah Ahli Waris Beda Agama dalam Tinjauan Ontologi, Epistemologi dan Aksiologi*, t.t.

Yusuf, Saifuddin. *Judge of Banjarmasin Religious Court in 2024*. Banjarmasin: Interview Results, June 04, 2024.