

Ius Constituendum: Justice Concept for Substitute Heirs in Lateral Descendance under the Compilation of Islamic Law

Atis Ika Ernawati¹ | Zuhrah¹ | Iksan¹

1. Universitas Muhammadiyah Bima, Nusa Tenggara Barat, Indonesia

Correspondence regarding this article should be addressed to:

Atis Ika Ernawati, Universitas Muhammadiyah Bima, Nusa Tenggara Barat, Indonesia

Email address: atisikaernawati31@gmail.com

Abstract. The Compilation of Islamic Law (KHI) regulates substitute heirs only for the direct descending line, as stipulated in Article 185, thereby creating a legal vacuum for relatives in the lateral line of descent, such as siblings or nephews. This study aims to analyze the normative weaknesses in the regulation of substitute heirs under the KHI, examine the relevance of granting substitution rights to the lateral line of descent based on principles of justice and public interest (*maslahah*), and formulate a more responsive model of *ius constituendum*. This research employs a normative legal method with statutory, conceptual, and comparative approaches. Primary legal materials include the KHI, relevant regulations, and classical as well as contemporary *fiqh* literature, which are analyzed qualitatively. The findings indicate that the limitations of Article 185 of the KHI fail to accommodate the increasingly diverse family structures of contemporary Indonesian society. Comparative studies of inheritance systems in several Muslim countries and the views of contemporary scholars reveal the existence of *ijtihad* space to expand the scope of substitute heirs. This research proposes a *ius constituendum* concept in the form of extending the provisions on substitute heirs to include the lateral line of descent, while remaining grounded in the principles of *maqāsid al-sharī'ah*. The implication of this study is the necessity to reform the KHI in order to realize distributive justice in Islamic inheritance law in Indonesia.

Keywords: compilation of islamic law; *ius constituendum*; justice; lateral line of descent; substitute heirs

Introduction

Islamic inheritance law is one of the fundamental aspects in system Islamic law regulates transition right ownership treasure from heir to expert inheritance based on provisions of the Qur'an, Hadith, and *ijtihad* of scholars. In Indonesia, the regulation law Islamic inheritance for Muslims have codified in Instructions President Number 1 of 1991 concerning Compilation of Islamic Law (KHI), which became guidelines material for Religious Courts in finish case inheritance (Rofiq, 2013). Compilation of Islamic Law as product thinking Indonesian Islamic law is results compromise between jurisprudence classic with need law contemporary Indonesian society, so that load a number of provisions of a nature innovative and responsive to development social (Muhibbin & Wahid, 2018).

One of innovation important in Compilation of Islamic Law is arrangement about expert inheritance replacement as listed in Article 185. Provisions This state that expert deceased heirs more formerly than heir, then his position can replaced by his son, except those who are blamed has kill or try kill or persecute burden on the heir (Zaelani, 2020). The concept expert inheritance replacement This is breakthrough law inspired by the thoughts of Prof. Hazairin who interprets the term "mawali" in the Qur'an, An-Nisa letter, verse 33 as expert inheritance Because replacement (Syahroni et al., 2025).

Hazairin have an opinion that system Islamic inheritance is bilateral, so give room for replacement position expert deceased heirs more previously by their descendants (Aniroh *et al.*, 2024).

However Thus, the arrangement expert inheritance replacement in Article 185 of the KHI it has significant limitations. Based on formulation chapter and practice existing courts, experts inheritance replacement only recognized for lineage to down (descendant line), namely child from expert deceased heirs more before. This is means that the provisions of Article 185 of the KHI do not accommodate replacement position for lineage to side (collateral line), such as you siblings, siblings' same father, brother seibu, or nephew from heir (Kusmayanti & Krisnayanti, 2019). Restrictions This cause problem law when heir No own descendants directly (child or grandchildren), however leave relatives in line to morally and socially own connection close with heir.

Emptiness arrangement expert inheritance replacement for lineage to side in KHI gives rise to problematic justice in practice distribution legacy. In the context of Indonesian society who are experiencing transformation structure significant family, where increasingly Lots couples who are not own descendants or own child single, existence relatives in line to side become the more important as recipient inheritance potential (Habib *et al.*, 2025). When an expert inheritance in line to side die more formerly than heirs, children from expert inheritance the No can replace the position of his parents for accept part the legacy that should be become parental rights. Conditions This can cause injustice, especially If compared to with system law Western Civil Code (BW) which recognizes replacement For all lineages (Utari *et al.*, 2023).

Comparison with system law inheritance other show existence disparity necessary settings be observed. In the Civil Code (KUHP *Perdata* / BW), the replacement expert heirship (plaatsvervulling) is recognized in a way comprehensive for three lineages: line to below (child replace parents), line to beside (nephew) replace uncle/aunt), and straight lines to on in condition certain. System This give more protection wide to relatives heir and prevent disconnection right inheritance consequence death premature one expert inheritance. Meanwhile that, several other Muslim countries have also develop draft will mandatory and mechanism more replacement inclusive For protect rights possible relatives wearing a hijab or No accommodated in system inheritance traditional (Fadhilah, 2021).

Perspective maqashid al-syariah provides runway strong theoretical For evaluate return arrangement expert inheritance replacement in KHI. Contemporary scholars such as Jasser Auda and Ibn Assyria have develop draft maqashid al-syariah which is more dynamic and responsive to need modern society (Waid & Lestari, 2020). Within the framework this, Islamic law does not only understand in a way textual, but also consider goals sharia which includes protection regarding religion, soul, mind, lineage, and property. Principle justice (al- 'is) and benefit (al- maslahah) becomes consideration main in formulate responsive law to development of the times (Hermanto, 2022). Therefore that, study to possibility expansion coverage expert inheritance replacement become relevant for realize justice distributive in distribution inheritance.

A number of study previously has study problematic expert inheritance replacement in KHI from various perspective. (Kurniawan *et al.*, 2021) analyzed judge's decision regarding right expert inheritance substitute (mawali) at the Polewali Mandar Religious Court and found that the implementation of Article 185 of the KHI is still limited to lineage to lower. (Pahutar *et al.*, 2022) reviewed position grandchild from party Woman in Islamic inheritance and summing up that KHI has given confession to right inheritance grandchild through the female line, which is progress compared to with opinion the majority of classical scholars. Meanwhile that, (Rasyid, 2024) researched contribution thinking Hazairin about expert inheritance replacement and its implementation in KHI, which shows that the concept of mawali still can developed more carry on For accommodate need public.

Research that examines in a way special about possibility expansion expert inheritance replacement to the lineage to side is still very limited . (Nurdiansyah & Andaryuni, 2023) conducted comparison between will mandatory for Egypt with expert inheritance successor and testament mandatory Indonesian, which shows that there is variation approach between Muslim countries in

overcome problematic similar inheritance. (Tarmizi & Zubair, 2023) studied tolerance Islamic law regarding system inheritance customs in Indonesia and found that there is room For accommodation values local in framework sharia . However so, not yet There is research that is comprehensive formulate the concept of ius constituendum for arrangement expert inheritance lineage replacement to side in KHI based on principle justice and maqashid al-syariah.

Ius constituendum as draft the law that is aspired to For applicable in the future give framework proper theoretical For study update law Islamic heritage in Indonesia. Different with ius constitutum which is law positive that applies moment this, ius constituendum direct attention to how law should formulated For fulfil needs and sense of justice society (Syamsi, 2018). In the context of Islamic law, the concept of ius constituendum in line with the tradition of ijtihad that allows formulation law new based on reasoning to sources Islamic law with consider context social and modern needs (“Examining the Basis of Maqashid Syariah in Renewal of Islamic Law in Indonesia,” 2024). Legal reform Islamic heritage in various Muslim countries shows that update law through approach maqashid al-syariah can produce more provisions responsive without sacrifice fundamental principles of sharia.

Urgency study This the more looks when consider dynamics social contemporary Indonesian society. Changes structure family, increasing number hope live, and phenomenon family without child or with child single has change constellation expert inheritance potential in A family (Siregar, 2024). In situations where the heir No own descendants direct, relatives in line to side like you siblings, sibling same father, brother seibu, or nephew often have role important in life heir, good in a way emotional, social, and economy. Absence mechanism replacement for the line to side can result in treasure inheritance fall to expert possible heirs No own close relationship with heir, or even ends at Baitul Mal if No There is expert inheritance The same once, even though Actually Still there is relatives who have connection near with heir through the line to side (Kandriana *et al.*, 2025).

Uniqueness and value scientific study This lies in the ius constituendum approach used for formulate draft justice for expert inheritance lineage replacement to side. Different with research previously more nature descriptive-analytical to existing provisions, research This nature prescriptive-constructive with objective produce formulation normative that can made into input for KHI update. Research it also integrates perspective contemporary maqashid al-syariah, study comparative with system law inheritance others, as well as consideration context Indonesian social for produce concept that is not only in accordance with principles sharia, but also responsive to need society and in line with a sense of justice.

Based on background the back that has been described above, research This aims to: First, analyze weakness normative arrangement expert inheritance replacement in Compilation of Islamic Law, especially related with absence arrangement for lineage to side. Second, examine relevance giving right replacement for the lineage to side based on principle justice, benefit and development law Islamic heritage both in Indonesia and in other Muslim countries. Third, formulate a model of ius constituendum arrangement expert inheritance more substitute comprehensive and responsive to need contemporary Indonesian society, with still based on the principles maqashid al-shariah.

Method

Study This use method study law normative (normative legal research) which focuses on studies to ingredients law as primary data source For analyze and formulate the concept of ius constituendum arrangement expert inheritance lineage replacement to side in Compilation of Islamic Law. Election method study law normative based on characteristics research that examines legal norms, principles laws and concepts related laws with arrangement expert inheritance replacement in system law Islamic heritage in Indonesia. Research methods law normative viewed appropriate for research of a nature prescriptive-constructive Because allows researchers For No only describe applicable law (ius constitutum), but also formulates the law that should be applies (ius constituendum) based on analysis to weaknesses of existing norms and needs community. The approach used in study This covering three

type approach, namely approach statute approach, approach conceptual (conceptual approach), and approach comparative approach. Approach legislation used for analyze provisions normative related expert inheritance replacement in Compilation of Islamic Law, especially Article 185 and articles related other in Book II on Inheritance Law, as well as compare it with provision in the Civil Code (KUHPerdata) regarding replacement expert heir (plaatsvervulling). Approach conceptual used for review and analyze concepts relevant laws, including draft expert inheritance substitute (mawali) in thinking Hazairin, concept justice distributive in distribution legacy, concept maqashid al-syariah as runway update Islamic law, as well as the concept of ius constituendum in knowledge law. Approach comparative used for compare arrangement expert inheritance replacement in various system law, good between Compilation of Islamic Law with Civil Code, as well as between law Indonesian Islamic heritage with law Islamic heritage in other Muslim countries that have develop mechanism similar like will wajibah in Egypt, Syria, and Tunisia. The legal materials used in study This consists of from material primary law, material law secondary, and materials law tertiary. Primary legal materials include Instructions President Number 1 of 1991 concerning Compilation of Islamic Law, Law Number 7 of 1989 concerning Religious Courts as has changed with Constitution Number 3 of 2006 and Law Number 50 of 2009, Civil Code (Burgelijk Wetboek), Al-Qur'an and Hadith as source main Islamic law, as well as books of fiqh classic from various school of thought that discusses about law Islamic inheritance (fiqh al-mawaris). Legal materials secondary covering literature relevant scientific, good in the form of books, journals scientific, dissertation, thesis, and articles that discuss about expert inheritance replacement, update law Islamic inheritance, maqashid al-syariah, and ius constituendum in context Indonesian Islamic law. Legal materials tertiary covering dictionary law, encyclopedia Islamic law, and sources reference others who help in understand terms and concepts used in research. Data collection techniques material law done through studies library research with method inventory, classify, and systematize ingredients relevant laws with object research. Analysis material law done in a way qualitative with use method interpretation law, including interpretation grammatical for understand meaning text provision law, interpretation systematic for understand provision law in context system law in a way overall, interpretation historical for understand background background and purpose formation provision law, as well as interpretation teleological for understand the intended goal achieved by the provisions law. Analysis results Then used for evaluate compliance with existing legal norms with principles justice and welfare in maqashid al-syariah, as well as formulate the concept of ius constituendum which can become input for update arrangement expert inheritance replacement in Compilation of Islamic Law to be more responsive to need contemporary Indonesian society and in line with principles justice in Islamic law. Withdrawal conclusion done in a way deductive, namely with interesting conclusion from things of a nature general about principles justice and welfare in law Islamic inheritance to things of a nature special about arrangement expert inheritance lineage replacement to side, so that can formulate a comprehensive, systematic and equitable regulatory model for all over party related.

Discussion

A. Weaknesses Normative Arrangement of Substitute Heirs in Article 185 of the Compilation of Islamic Law

The Compilation of Islamic Law (KHI) is enforced based on Instructions President Number 1 of 1991 is codification Islamic law is compiled for answer need law Indonesian Muslim society. In the context law inheritance, KHI contains provisions which constitute the results of the ijthad of Indonesian scholars with consider condition social culture public local (Rofiq, 2013). One of the innovation important in KHI is arrangement about expert inheritance listed substitutes in Article 185. Provisions This reads: "(1) Heirs who die more formerly than the heir so his position can be replaced by his son, except those who are in Article 173; (2) Expert section inheritance replacement No may exceed from part expert equal heirs with the one that is replaced." Formula chapter This show that the KHI founders

have accommodate Prof. Hazairin's thoughts about interpreted mawali concept from the Al-Qur'an Surah An-Nisa verse 33(Zaelani, 2020).

Although the existence of Article 185 of the KHI is step progressive in update law Islamic heritage in Indonesia, analysis normative to provision This show existence a number of weakness necessary substantive be examined. Weaknesses First lies in the limitations coverage replacement only covering the lineage to bottom (descendant line). The phrase "position can be replaced by his son" in Article 185 paragraph (1) in full explicit limit expert inheritance replacement only in children from expert deceased heirs more before. This is means that replacement position for lineage to side (collateral line) no accommodated in provision this(Kurniawan et al., 2021). When the heir No own descendants direct and expert inheritance in line to side like your bladder die more in the past, children from you said (nephew) not can replace the position of his parents for accept inheritance from heir.

Weakness second related with ambiguity about limitation levels replacement in line to below. Article 185 of the KHI does not arrange in a way explicit whether replacement can continue until more descendants far away, for example great-grandson who replaced position deceased grandchild more formerly from heir(Tauratiya & Ningsih, 2024). Ambiguity This potential cause difference interpretation and inconsistency in practice justice. Compare with provision in the Civil Code (KUHPperdata) which specifically firm arrange that replacement in a straight line to lower ongoing Keep going without limits as listed in Article 842(Milayani, 2017). Clarity of legal norms is very important for ensure certainty law and avoid disparity decision between religious courts.

Weakness third is No existence arrangement about mechanism calculation part for expert inheritance replacement in detail. Article 185 paragraph (2) only mention that part expert inheritance replacement No may exceed part expert equal heirs with the one replaced, but no explain in a way details How calculation the done in various scenario complex inheritance(Punuh, 2024). Practices in religious courts show existence variation in implementation provision this, especially when there is more from One expert inheritance substitute that replaces position one expert deceased heirs more before. Ambiguity This different with system inheritance in jurisprudence classic that has calculation precise mathematics for every category expert inheritance.

Disparity Arrangement of Substitute Heirs: Comparison of KHI with Civil Code and Islamic Inheritance Laws of Other Countries

Comparative study to arrangement expert inheritance replacement in various system law give more perspective comprehensive for evaluate KHI's position in landscape law inheritance. In the Civil Code (KUHPperdata), the concept of inheritance replacement expert inheritance or plaatsvervulling arranged in a way more complete in Articles 841 to with Article 848 of the Civil Code confess three type replacement, namely: replacement in a straight line to underway unlimited replacement in line to side where the offspring from you heir can replace position of parents, and replacement in line to side deviation that allows descendants from more family Far For replace position ancestors (Anton et al., 2025). Comprehensive settings This reflect principle greater justice inclusive in system law Western civil law.

Comparison with arrangement in KHI shows significant disparity. Article 185 of the KHI only arrange replacement in One type, namely replacement in line to below, while Civil Code arrange three type replacement including the line to side(Suhartono et al., 2022). Disparity these own implications important practical when heir No own descendants directly. In the system Civil Code, nephew heir can replace position of parents (sibling heir) who died more first and accept part the legacy that should be become the rights of his parents. On the other hand, in KHI system, nephew No own position as expert inheritance replacement so that part the legacy that should be become right you heir will share to expert inheritance other or even No distributed optimally(Wahyu et al., 2024).

Study of legal reform Islamic heritage in other Muslim countries also provides valuable inspiration. Egypt through Qanun al - Mawaris The year 1943 has introduce draft will obligatory bequest which

provides right to grandchild orphan For accept part from treasure his grandfather No exceed one third legacy(Fadhilah, 2021). Although the mechanism used different, namely through construction will No replacement position, but the intended goal achieved the same that is protect rights hijab descendants. Syria, Sudan, and Tunisia have also adopted provision similar with various modification in accordance with the context of each country(Laili & Bazikh, 2023). Legal reform inheritance in these Muslim countries show that there is room for ijihad in develop law more Islamic heritage responsive to need modern society.

Comparison This strengthen argument that limitations arrangement expert inheritance replacement in Article 185 of the KHI it is necessary evaluated and developed more continue. If the Civil Code is inheritance law Dutch colonialism can accommodate replacement for the line to besides, and other Muslim countries has developed mechanism for protect rights relatives who wear the hijab, then No There is obstacles substantive for Indonesia to develop draft similar in framework Islamic law(Nurdiansyah & Andaryuni, 2023). Update This precisely in line with the spirit of KHI which has been beginning designed as codification responsive Islamic law to need Indonesian society.

Relevance Granting of Replacement Rights for the Lineage to Side Based on Principle Maqashid al-Shariah

Maqashid al-Shariah as framework philosophical Islamic law provides strong foundation For evaluate and develop law Islamic heritage to be more responsive to need society. Contemporary scholars such as Jasser Auda and Muhammad Thahir Ibn Asyur has develop draft maqashid al-syariah which is more dynamic with emphasize on aspects development and protection rights (development and rights) in addition aspect protection and preservation which is focus of classical scholars(Waid & Lestari, 2020). In the perspective this, law Islamic inheritance is not only functioning for distribute treasure heir, but also must ensure achievement justice distributive and protective to rights relatives who have connection close with heir.

Five goals principles of sharia (al- kulliyat al- khamsah) which include protection towards religion (hifdz al-din), soul (hifdz al- nafs), reason (hifdz al- aql), descendants (hifdz al- nasl), and wealth (hifdz al-mal) provides parameters for evaluate relevance expansion coverage expert inheritance replacement to the lineage to side(Hermanto, 2022). In the context of protection descendants (hifdz al- nasl), existence mechanism replacement for the line to side can ensure that the line of kinship that is formed through connection brotherhood still maintained and protected. When a person you heir dies more in the past, children from you the is actually also a part from relatives near the heir in Lots case own connection close emotional and social with heir.

Principle justice (al- ' is) in Islamic law requires that everyone gets appropriate rights with position. In the context inheritance, justice No only measured from aspect quantitative distribution property, but also from aspect protection to rights relatives who have connection near with heir(Habib et al., 2025). Nothingness mechanism replacement for the line to side potential create injustice when heir no own descendants directly. As illustration, if their only have two siblings' and one of them die more formerly leave three children, then in current KHI system this, third child the No can replace the position of his parents and all inheritance will fall to you heir who is still life. Situation This clear No reflect justice distributive which is one of the objective sharia(Siregar, 2024).

Principle welfare (al- maslahah) also supports argumentation for expansion coverage expert inheritance substitute. The scholars agree that every provision sharia set for realize welfare for human beings. In the context of contemporary Indonesian society is experiencing change structure significant family, where increasingly Lots couples who are not own descendants or own limited offspring, existence mechanism replacement for the line to side become the more relevant("Examining the Basis of Maqashid Syariah in Renewal of Islamic Law in Indonesia," 2024). Without mechanism this, treasure heir potential fall to expert heirs who are not own connection near with heir, or even ended up at Baitul Mal even though Actually Still there is relatives near through the line to side that requires protection.

Formulation of the Ius Constituendum Model Arrangement of Heirs Substitute for Lineage to Side

Based on analysis to weakness normative Article 185 KHI, study comparative with system law others, and considerations maqashid al-syariah, research This formulate the ius constituendum model for arrangement expert inheritance more substitute comprehensive. The concept of ius constituendum understood as the law that is aspired to for valid in the future, which is abstraction from awareness that law must Keep going develop along with change need society(Syamsi, 2018). The formulation of ius constituendum This expected can become input for update Compilation of Islamic Law in field inheritance .

The first model proposed is expansion formulation of Article 185 of the KHI with add provision about expert inheritance replacement for lineage to side. The proposed formulation is : "In the case of heir No leave descendants directly (children and grandchildren), then position you deceased heir more formerly can replaced by his children, with provision received part No exceed the part that should be accepted by the person being replaced If Still live." Terms This put replacement for the line to side as provision subsidiaries that only valid when heir No own descendants direct. Construction like This in line with principles of hijab in law Islamic inheritance where descendants direct own priority compared to relatives in line to side(Tarmizi & Zubair, 2023).

Second model related with restrictions levels replacement for the line to. Different with replacement in line to bottom that can continue unlimited replacement for the line to side need restricted until levels certain for avoid excessive complexity in calculation inheritance. The proposed formulation is: "Replacement position for the line to side only valid until levels second, namely child from you heir (nephew)." Restrictions This adopt approach moderate who gives protection to relatives closest in line to side without expand coverage replacement in a way excessive that can cause complications law(Aniroh *et al.*, 2024).

The third model arrange about mechanism calculation part for expert inheritance line replacement to side. The principle used is principle per stirpes (according to branch) as valid in Civil Code and also in line replacement to lower according to KHI. The proposed formulation is: " Heirs line replacement to side in a way together accept the part that should be become the rights of the people they replace. If there is more from One expert inheritance replacement, part the divided among they with provision part man The same with two parts women (2:1)." The provisions This maintain principle distribution between men and women in law Islamic heritage while give certainty law about method calculation section(Pahutar *et al.*, 2022).

The fourth model give arrangement about conditions that must be met fulfilled so that someone can become expert inheritance line replacement to beside. Terms and conditions the includes: (a) heirs No leave descendants directly; (b) brother heir whose position replaced has die more formerly from heir; (c) brother successor heir the No including people who are hindered accept inheritance as arranged in Article 173 of the KHI; (d) expert inheritance replacement is child legitimate from you deceased heir more previously; and (e) experts inheritance replacement no including people who are hindered accept inheritance(Rasyid, 2024). Terms This ensure that draft expert inheritance line replacement to side still consistent with principles base law Islamic heritage.

Implementation of the ius constituendum model This need amendment to Compilation of Islamic Law through mechanisms that have been determined. Considering that the KHI is enforced through Instructions President, then update to the provisions can also be done through instrument equal law or higher. In addition, it is necessary done intensive socialization to religious court judges, practitioners' law and society general about draft expert inheritance line replacement to side this. The Supreme Court through National Working Meeting or guidelines technical can also give directions about implementation provision new This before formal amendments to the KHI were made, as has done in a number of issue inheritance others(Syahroni *et al.*, 2025). With thus, the update law Islamic heritage in Indonesia can walk in a way gradual and systematic going to achievement greater justice comprehensive.

Conclusion

Based on results research that has been done, can concluded three matter the main thing that answers objective study this. First, the settings expert inheritance replacement in Article 185 of the Compilation of Islamic Law it has a number of weakness significant normative, including : limitations coverage replacement only accommodate lineage to down (descendant line) without give room for lineage replacement to collateral line, ambiguity about limitation levels replacement in line to below, and no existence detailed settings regarding mechanism calculation part for expert inheritance replacement in various scenario complex inheritance. Second, giving right replacement for the lineage to side own strong relevance based on principle justice, benefit and development law Islamic heritage, where studies comparative to The Civil Code recognizes three type replacement (line to down, line to side, and line to side deviant) and legal reform inheritance in Muslim countries such as Egypt, Syria, and Tunisia through mechanism will mandatory show that there is wide space for ijihad For develop draft expert inheritance more substitute inclusive, whereas perspective contemporary maqashid al- syariah which emphasizes protection descendants (hifdz al- nasl), justice distributive (al-'is), and benefit (al-maslahah) giving legitimacy theological-philosophical for expansion coverage expert inheritance replacement to the lineage to side. Third, research This formulate the ius constituendum model arrangement expert inheritance more substitute responsive through four construction normative, namely: expansion formulation of Article 185 of the KHI with add provision replacement for the line to side effects subsidiaries (only valid when heir No own descendants direct), restrictions levels replacement for the line to side until levels second (nephew), mechanism calculation part based on principle per stirpes with still maintain ratio 2:1 split between men and women, and determination conditions that must be met fulfilled so that someone can become expert inheritance line replacement to side. Contribution study This to development knowledge Islamic law in Indonesia lies in the offering draft update law inheritance that combines approach juridical-normative with perspective contemporary maqashid al-syariah, so that produce formulation that is not only in accordance with principles sharia but also responsive to dynamics social Indonesian society who are experiencing transformation structure family in a way significant, and with thus study This expected can become input for update Compilation of Islamic Law in frame realize justice more distributive comprehensive in law Islamic heritage in Indonesia.

References

- Aniroh, R. N., Nasution, K., & Sodikin, A. (2024). The bilateral inheritance system in Islamic family law: Fairness, equality, and mutual exchange perspectives. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8(2), 891–911. <https://doi.org/10.22373/sjhk.v8i2.17630>
- Anton, A., Sobirin, D. H., Hanifah, F., Tauzirie, M. F., & Fauziah, F. (2025). Hukum waris nasional: Perbandingan antara kewarisan Islam, Burgerlijk Wetboek, dan hukum waris adat. *Journal of Multidisciplinary Inquiry in Science, Technology and Educational Research*, 2(1b), 2529–2540. <https://doi.org/10.32672/mister.v2i1b.2960>
- Examining the basis of maqashid syariah in renewal of Islamic law in Indonesia. (2024). *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 9(1). <https://doi.org/10.22373/petita.v9i1.258>
- Fadhilah, N. (2021). Pembaruan hukum waris Islam: Wasiat wajibah Mesir dan relevansinya dengan konsep waris pengganti Indonesia. *Al-Mawarid Jurnal Syariah Dan Hukum*, 3(1), 36–47. <https://doi.org/10.20885/mawarid.vol3.iss1.art4>
- Habib, M., Kencana, V. L., Evarista, V., Ardiansyah, R., & Nugroho, K. S. (2025). Keadilan substantif dalam hukum waris Islam: Telaah teoritis dan implikasinya dalam praktik Peradilan Agama. *Journal of Innovative and Creativity*, 5(2), 11539–11546. <https://doi.org/10.31004/joecy.v5i2.1889>
- Hermanto, A. (2022). *Maqashid al-syariah, metode ijihad dan pembaruan hukum keluarga Islam*. Literasi Nusantara Press.
- Kandriana, M., Sukardiawan, I. W., Rifaid, M., Arifin, Z., & Wildan, M. (2025). Inheritance Law in Egypt, Sudan, and Jordan: A Comparative Study of Systems and Implementation. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 512–527.
- Kurniawan, A. C., Patimah, & Izzah, I. (2021). Analisis yuridis terhadap putusan hakim tentang hak ahli waris pengganti (mawali) di Pengadilan Agama Polewali Mandar. *Qadauna*, 3(1), 147. <https://journal.uin-alauddin.ac.id/index.php/qadauna/article/view/22966>
- Kusmayanti, H., & Krisnayanti, L. (2019). Hak dan kedudukan cucu sebagai ahli waris pengganti dalam sistem pembagian
-

-
- waris ditinjau dari hukum waris Islam dan Kompilasi Hukum Islam. *Jurnal Ilmiah Islam Futura*, 19(1). <https://doi.org/10.22373/jiif.v19i1.3506>
- Laili, N. F., & Bazikh, M. R. (2023). Metode reformasi hukum keluarga Islam di dunia Muslim perspektif Khoiruddin Nasution. *Jurnal Restorasi Hukum*, 6(1), 1–18.
- Milayani, O. (2017). Pewarisan dan ahli waris pengganti “Bij Plaatsvervulling.” *Al-Adl: Jurnal Hukum*, 9(3), 405–434.
- Muhibbin, M., & Wahid, A. (2018). *Hukum kewarisan Islam sebagai pembaruan hukum positif di Indonesia*. Sinar Grafika.
- Nurdiansyah, A., & Andaryuni, L. (2023). Perbandingan antara wasiat wajibah Mesir dengan ahli waris pengganti dan wasiat wajibah Indonesia. *Jurnal Studi Hukum Islam*, 12(2). <https://doi.org/10.30651/mqs.v12i2.18950>
- Pahutar, A. A., Siregar, N. H., & Gunawan, H. (2022). Kedudukan cucu dari pihak perempuan dalam kewarisan Islam. *Jurnal AL-MAQASID: Jurnal Ilmu Kesyarifan Dan Keperdataan*, 8(1). <https://doi.org/10.24952/almaqasid.v8i1.4824>
- Punuh, B. Y. (2024). Ahli waris pengganti dalam hukum waris dan penerapannya dalam putusan Mahkamah Agung Nomor: 2870K/PDT/2012. *Lex Privatum*, 13(1).
- Rasyid, A. F. (2024). *Kontribusi pemikiran Hazairin tentang ahli waris pengganti dalam Kompilasi Hukum Islam: Kajian aspek hukum dan implementasinya* [Universitas Islam Indonesia Yogyakarta]. <https://dspace.uui.ac.id/handle/123456789/51367>
- Rofiq, A. (2013). *Hukum perdata Islam di Indonesia*. Raja Grafindo Persada.
- Siregar, D. (2024). Prinsip keadilan hukum waris Islam tentang pembagian warisan antara laki-laki dan perempuan. *As-Salam: Jurnal Studi Hukum Islam & Pendidikan*, 13(1), 94–105.
- Suhartono, D. A. F., Azizah, N. N., & Wibisono, C. S. (2022). Sistem pewarisan menurut hukum perdata. *JHPIS: Jurnal Hukum, Politik Dan Ilmu Sosial*, 1(3), 1–12.
- Syahroni, A., Syarifuddin, S., & Tanjung, A. A. (2025). Pemikiran hukum Hazairin (kewarisan bilateral, kedudukan mawali dan kalalah). *Jurnal Hadratul Madaniyah*, 11(2), 39–55. <https://doi.org/10.33084/jhm.v11i2.8717>
- Syamsi, M. (2018). Transformasi hukum ekonomi Islam sebagai ius constituendum menjadi ius constitutum. *Et-Tijarie: Jurnal Hukum Dan Bisnis Syariah*. <https://journal.trunojoyo.ac.id/ettijarie/article/view/3899>
- Tarmizi, T., & Zubair, A. (2023). Toleransi hukum Islam terhadap sistem kewarisan adat di Indonesia. *Adhki Journal of Islamic Family Law*, 4(2), 131–147. <https://doi.org/10.37876/adhki.v4i2.98>
- Tauratiya, T., & Ningsih, L. E. (2024). Plaatsvervulling dalam hukum waris Indonesia: Mengungkap kedudukan ahli waris pengganti. *Islamitsch Familierecht Journal*, 5(2), 105–126. <https://doi.org/10.32923/ifj.v5i2.5035>
- Utari, S. D., Wagian, D., & Hikmatiar Al Qindy, F. (2023). Ahli waris pengganti ditinjau dari KUHPperdata dan Kompilasi Hukum Islam. *Private Law*, 3(2), 432–439. <https://doi.org/10.29303/prlw.v3i2.2605>
- Wahyu, W., Sya'bani, M. A., & Permana, S. P. (2024). Hak waris dan keadilan: Menggagas reformasi hukum keluarga dengan prinsip maqasid syariah. *Jurnal Studi Inovasi*, 4(2), 11–21. <https://doi.org/10.52000/jsi.v4i2.156>
- Waid, A., & Lestari, N. (2020). Teori maqashid al-syari'ah kontemporer dalam hukum Islam dan relevansinya dengan pembangunan ekonomi nasional. *LABATILA: Jurnal Ilmu Ekonomi Islam*, 4(2), 191–205. <https://doi.org/10.33507/lab.v4i01.270>
- Zaelani, A. Q. (2020). Kedudukan ahli waris pengganti (plaatsvervulling) dalam Kompilasi Hukum Islam dan pemecahannya. *ADKHI: Journal of Islamic Family Law*, 2. <https://doi.org/10.37876/adhki.v2i1.32>
-