Selaparang: Journal of Law Studies
E-ISSN: 3124-4270 | Vol. 1 No. 2, 2026 | Pages 1-10
https://ojs.yahantara.com/index.php/SEJALS

Settlement of Customary and Islamic Inheritance Disputes in Indonesia: Analysis of Choice of Law and the Authority of Religious Courts and General Courts

Inayatul Mutmainnah[1]✉, Subhan Abdullah[2], Jusniati[3], Agung Firmansyah[4], Rohima Aulia[5]
(1) Universitas Pepabri Makassar, Kota Makassar, Indonesia
(2) Universitas Muslim Indonesia, Kota Makassar, Indonesia
(3) Sekolah Tinggi Ilmu Tarbiyah Darud Da'wah Wal-Irsyad Pasangkayu, Indonesia
(4) Universitas Mataram, Kota Mataram, Indonesia
(5) Universitas Islam Negeri Syarif Hidayatullah Jakarta, Indonesia

Received: 31-08-2026 | Revised: 25-09-2026 | Accepted: 05-10-2026

Corresponding Author:
Inayatul Mutmainnah, Jl. Letjen Hertasning No.106, Bonto Makkio, Kec. Rappocini, Kota Makassar, Sulawesi Selatan 90222
Email: inayasosiologi@gmail.com

ABSTRACT

Inheritance legal pluralism in Indonesia presents complex jurisdictional overlaps between Customary Law (Hukum Adat), Islamic Law (Faraidh), and Western Civil Law (BW). This study critically examines the resolution of inheritance disputes involving Muslim heirs who navigate between Customary Law and Islamic Law within the dual court jurisdictions of Religious Courts (Peradilan Agama) and District Courts (Peradilan Negeri). Utilizing a normative and empirical legal research methodology incorporating statutory analysis, choice of law doctrine (choice of law/pilihan hukum), and judicial case reviews, the findings demonstrate that Law No. 3 of 2006 effectively eliminated the choice of law option for Muslim litigants, granting absolute jurisdiction over inheritance matters to Religious Courts. However, sociological realities reveal that many local Muslim communities continue to settle inheritance distribution through customary consensus (musyawarah adat) utilizing peace agreements (sulh). The study illustrates that harmonizing Islamic inheritance law (faraidh) with customary equitable distribution mechanisms under the umbrella of takharuj (voluntary waiver of share) successfully bridges formal legal mandates with socio-cultural fairness.

Pluralisme hukum waris di Indonesia menghadirkan tumpang tindih yurisdiksi yang kompleks antara Hukum Adat, Hukum Islam (Faraidh), dan Hukum Perdata Barat (BW). Studi ini mengkaji secara kritis penyelesaian sengketa waris yang melibatkan ahli waris Muslim—yang berada di antara Hukum Adat dan Hukum Islam—dalam sistem peradilan ganda, yakni Peradilan Agama dan Peradilan Negeri. Dengan menggunakan metodologi penelitian hukum normatif dan empiris yang mencakup analisis peraturan perundang-undangan, doktrin pilihan hukum (choice of law), serta tinjauan atas putusan pengadilan, studi ini menunjukkan bahwa Undang-Undang Nomor 3 Tahun 2006 telah menghapus opsi pilihan hukum bagi pihak yang beragama Islam, dengan memberikan yurisdiksi mutlak atas perkara waris kepada Peradilan Agama. Namun, realitas sosiologis menunjukkan bahwa banyak komunitas Muslim setempat tetap menyelesaikan pembagian warisan melalui konsensus adat (musyawarah adat) dengan memanfaatkan kesepakatan damai (sulh). Studi ini menggambarkan bahwa penyelarasan hukum waris Islam (faraidh) dengan mekanisme pembagian yang adil menurut adat—di bawah konsep takharuj (pelepasan hak waris secara sukarela)—berhasil menjembatani mandat hukum formal dengan prinsip keadilan sosial-budaya.

Keywords: customary inheritance, Islamic inheritance law, choice of law, Religious Courts

Introduction

Indonesia represents a legally pluralistic society in which three distinct inheritance law systems coexist and interact within the national legal framework: Islamic inheritance law (*faraid*), customary inheritance law (*adat*) based on diverse kinship structures, including patrilineal, matrilineal, and parental systems, and Western civil inheritance law derived from the

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Dutch colonial legal tradition, particularly the *Burgerlijk Wetboek* (BW) (Mansurnoor, 2021). The coexistence of these legal traditions reflects Indonesia's complex historical, cultural, and religious development, in which different normative systems continue to influence the distribution of inherited property and the determination of familial rights and obligations. Such plurality is not merely a theoretical characteristic of the Indonesian legal system but constitutes a practical reality that directly shapes inheritance arrangements within society. In many communities, decisions concerning the distribution of estates are influenced not only by formal legal provisions but also by religious understandings, established customary practices, family relationships, and collective agreements among heirs. Consequently, the application of inheritance law frequently involves the interaction of different normative expectations, particularly when the principles of Islamic inheritance distribution differ from those embedded in local customary traditions. For Muslim communities, this situation raises fundamental questions concerning the applicable legal framework, the recognition of customary arrangements, and the appropriate institutional forum for resolving inheritance disputes. The central challenge, therefore, lies in reconciling the normative authority of Islamic inheritance law with the continuing social relevance of customary practices within Indonesia's pluralistic legal environment.

The relationship between these inheritance systems has been significantly influenced by the development of Indonesia's statutory framework governing judicial authority. Under Law No. 7 of 1989 concerning Religious Courts, the original Elucidation of Article 49 provided Muslim parties with an opportunity to determine whether inheritance disputes would be resolved according to Islamic inheritance law or other applicable legal provisions. This arrangement, commonly associated with the concept of *choice of law*, reflected an attempt to accommodate the coexistence of different legal traditions within the Indonesian judicial system. However, its practical implementation generated considerable legal uncertainty, particularly regarding the determination of judicial competence and the possibility of pursuing different legal forums for substantially similar inheritance disputes. Such circumstances created opportunities for forum shopping and complicated the relationship between religious and general courts in resolving inheritance matters (Putri Relina et al., 2025). In response to these institutional and doctrinal challenges, Law No. 3 of 2006, which amended Law No. 7 of 1989, removed the provision allowing Muslim parties to choose the applicable inheritance law and reinforced the absolute competence of Religious Courts over inheritance disputes involving Muslims. This legislative development represented a significant restructuring of judicial authority by establishing a clearer institutional boundary for the adjudication of Muslim inheritance cases. Nevertheless, although the amendment strengthened the formal jurisdictional position of Religious Courts, it did not necessarily eliminate the influence of customary inheritance practices in the actual distribution of estates. The distinction between the formal authority of the judiciary and the social mechanisms through which families manage inheritance arrangements therefore remains an important subject of legal inquiry.

The persistence of customary inheritance practices demonstrates that the formal unification of judicial competence does not automatically produce uniformity in the social implementation of inheritance law. Across various Indonesian communities, including the Sasak, Bugis, Minangkabau, and Javanese, inheritance distribution frequently takes place through family deliberation, customary consensus, and community-based arrangements that reflect historically established values and kinship relationships (Arsyad & Basri, 2024). These practices may involve different approaches to determining heirs' entitlements, allocating inherited

property, accommodating family circumstances, and maintaining social harmony among relatives. In certain situations, family members may agree to distribute inherited assets differently from the predetermined shares under *faraid*, particularly when considerations of economic need, prior contributions, family responsibilities, or collective interests become relevant. Such arrangements do not necessarily indicate a rejection of Islamic inheritance principles; rather, they may represent attempts to reconcile religious obligations with the practical realities of family life and local customary expectations. Nevertheless, the legal recognition of these agreements requires careful examination, particularly concerning the distinction between an inheritance entitlement established under Islamic law and a subsequent voluntary agreement among heirs regarding the distribution or transfer of their respective shares. This distinction is important because the continued use of customary mechanisms may generate legal uncertainty when an agreement reached through family deliberation is subsequently challenged or brought before a Religious Court. Accordingly, the Indonesian inheritance system reflects a continuing tension between centralized statutory jurisdiction and decentralized social practices, in which formal legal authority operates alongside customary mechanisms of negotiation and reconciliation.

Previous academic discussions have examined several dimensions of this issue, particularly the interaction between Islamic inheritance principles and customary legal traditions, the jurisdictional authority of Religious Courts, and the role of reconciliation in resolving inheritance disputes. Research concerning the relationship between *faraid* and *adat* has generally focused on the characteristics of particular communities, the differences between Islamic and customary inheritance arrangements, and the ways in which local traditions influence the distribution of inherited property. Other studies have concentrated on the institutional and doctrinal implications of Law No. 3 of 2006, especially the elimination of *choice of law* and the strengthening of Religious Courts' absolute competence over Muslim inheritance disputes. Meanwhile, scholarship on Islamic dispute resolution has discussed mechanisms such as *takharuj*, which allows an heir to relinquish or adjust an inheritance entitlement through an agreed arrangement with other heirs, and *sulh*, which emphasizes amicable settlement based on mutual agreement and reconciliation. Although these studies provide valuable conceptual and legal foundations, their discussions tend to address the relevant dimensions separately. The relationship between the post-2006 jurisdictional framework, the continuing interaction between *faraid* and customary inheritance practices, and the practical application of Islamic reconciliation mechanisms has not been sufficiently integrated into a comprehensive legal analysis. This separation creates an important research gap because the legitimacy of customary inheritance arrangements cannot be adequately assessed without considering both the substantive principles of Islamic inheritance law and the institutional boundaries established by national legislation. The present study addresses this gap by examining how *takharuj* and *sulh* can function as legally and Islamically grounded mechanisms for accommodating customary practices without undermining the statutory jurisdiction of Religious Courts. Importantly, this research does not advocate the restoration of the former *choice of law* arrangement or the displacement of Islamic inheritance principles by customary norms. Instead, it explores the possibility of harmonizing different normative interests through mechanisms that preserve the legal entitlements of heirs while providing sufficient flexibility for voluntary family settlements.

The significance of this research extends beyond the doctrinal interpretation of inheritance legislation because it addresses broader concerns regarding legal certainty, access to justice, social cohesion, and the recognition of legal pluralism in contemporary Indonesia.

From a legal perspective, the distinction between formal inheritance entitlements and subsequent agreements among heirs has important implications for determining the validity of family settlements, protecting individual rights, and preventing future disputes. When customary arrangements are implemented without a clear understanding of their relationship to Islamic inheritance provisions, heirs may encounter conflicting expectations concerning their respective entitlements and the legal consequences of agreements reached within the family. Conversely, an excessively formalistic application of inheritance provisions without sufficient consideration of legitimate reconciliation mechanisms may overlook the social circumstances that influence how families manage inherited property. This tension is particularly relevant to broader international discussions concerning the interaction between state law, religious legal traditions, and customary normative systems in pluralistic societies. Legal pluralism scholarship emphasizes that the practical operation of law cannot always be understood exclusively through formal legislation because individuals and communities frequently negotiate their rights and obligations through overlapping normative frameworks. In this regard, the Indonesian inheritance system provides an important context for examining how religious principles and customary values can coexist within a state-regulated judicial structure. The contribution of this research lies in developing an integrated perspective that considers both the normative authority of Islamic inheritance law and the social legitimacy of customary arrangements, while maintaining the institutional authority of Religious Courts. Through this perspective, *takharuj* and *sulh* are examined not merely as traditional concepts of Islamic jurisprudence but as potential instruments for strengthening legal accommodation, protecting the interests of heirs, and promoting equitable inheritance settlements.

Based on these considerations, this article addresses three interrelated research questions: (1) How has the legal position of *choice of law* evolved following the enactment of Law No. 3 of 2006, particularly in relation to the absolute competence of Religious Courts over inheritance disputes involving Muslims? (2) How do Islamic and customary inheritance laws interact within the socio-legal practices of estate distribution among Indonesian communities? and (3) How can *takharuj* and *sulh* operate as mechanisms for harmonizing Islamic inheritance principles with customary values while remaining consistent with the applicable legal framework? To answer these questions, the article adopts a structured analytical approach. The research method is presented in Section 2, followed by an examination of the statutory and institutional framework governing Muslim inheritance disputes after the 2006 amendment in Section 3. Section 4 investigates the socio-legal interaction between Islamic and customary inheritance systems, particularly the ways in which family deliberation and local traditions influence estate distribution. Section 5 develops an analytical framework for understanding *takharuj* and *sulh* as mechanisms of legal harmonization within the boundaries of Islamic jurisprudence and Religious Court jurisdiction. Finally, Section 6 presents the conclusions and implications of the study. Ultimately, this research seeks to formulate a conceptual model of inheritance law harmonization that maintains fidelity to Islamic legal principles, respects the jurisdictional authority of Religious Courts, and remains responsive to the cultural diversity and actual inheritance practices of Indonesian society.

Methods

This study is a normative-empirical legal inquiry (socio-legal research) using a qualitative approach, chosen because the research questions require an understanding of norms as written (law in the books) as well as how those norms operate in the practice of estate settlement (law

in action) (Banakar & Travers, 2005; Creswell & Creswell, 2018; Punch, 2014). The design integrates three approaches: the statute approach, which examines the primary legal materials, namely Book II of the Civil Code (BW) on inheritance, Law No. 7 of 1989 as amended by Law No. 3 of 2006 and Law No. 50 of 2009 on Religious Courts, and Book II of the Compilation of Islamic Law (Presidential Instruction No. 1 of 1991); the conceptual approach, which dissects choice of law, absolute competence, legal pluralism, takharuj, and sulh (Griffiths, 1986; Marzuki, 2017); and a jurisprudential study of Religious Court and Supreme Court decisions in Islamic-customary inheritance disputes. Secondary and tertiary legal materials complement the primary sources (Soekanto & Mamudji, 2015).

Data were collected through document and literature study (Bowen, 2009). Decisions were gathered from the Supreme Court Decision Directory using purposive sampling, with the criteria of inheritance disputes among Muslim parties, legal reasoning referring to custom, family agreement, takharuj, or settlement, and issuance during [specify period]. Keywords and access dates were recorded so the retrieval can be repeated, and data were entered into a coding sheet (decision number, court level, parties, subject of dispute, legal basis, judges' reasoning, operative ruling). Analysis was qualitative and prescriptive, through data reduction, data display, and conclusion drawing (Miles et al., 2014), with thematic coding organized around the three research questions to produce a legal synthesis that balances formal legal certainty with social justice. Trustworthiness was ensured through source triangulation and an audit trail of coding decisions.

Result and Discussion

Elimination of Choice of Law and Absolute Authority of Religious Courts

The abolition of the Elucidation of Article 49 of Law No. 7 of 1989 by Law No. 3 of 2006 should be read as more than a procedural correction. It marks a shift in how the state conceives of Muslim inheritance, from a matter left to the strategic preference of the parties to a matter belonging to a single, specialized forum. Before 2006, Muslim heirs could bring an estate dispute either to the District Court, which applied civil or customary law, or to the Religious Court, which applied Islamic law. The first research question is therefore answered clearly: the choice of law no longer exists as a legal entitlement, and absolute competence now rests with the Religious Courts (Putri Relina et al., 2025). The significance of this answer lies in what it replaced, namely a regime in which the outcome of a dispute could depend as much on the forum selected as on the merits of the claim.

The reform's strength is that it closes the door on forum shopping and the inconsistent decisions that came with it. Under the personality principle, an estate involving Muslims is handled by the Religious Courts, and the District Courts no longer hear, examine, or decide inheritance cases in which the parties are Muslim. This outcome is consistent with the long-standing argument that Indonesia's Islamic courts gained institutional coherence as their jurisdiction was clarified (Bowen, 2003; Lev, 1972). Yet unification of the forum is not unification of social practice. The criterion of religious identity also remains open to analytical scrutiny, because the Compilation of Islamic Law ties the applicable regime to the religion of the deceased, which raises difficult questions where some heirs are not Muslim. Formal certainty at the level of competence therefore does not resolve every substantive question.

The second research question exposes the limits of a purely jurisdictional reading. Although the courts' competence is absolute, communities such as the Sasak, Bugis, Minangkabau, and Javanese continue to settle inheritance through family deliberation before or outside litigation,

weaving faraid together with local customary norms (Arsyad & Basri, 2024). This is what legal pluralism scholarship would predict: state law claims centrality, but normative orders operate in the same social field and shape one another (Griffiths, 1986; Tamanaha, 2008). Our findings are consistent with studies that describe adat and Islamic law as mutually accommodating rather than simply antagonistic (Mansurnoor, 2021). They sit in tension, however, with accounts that treat custom primarily as a deviation from the sharia. In our reading, the divergence between the two is real but negotiated, and in practice it is often resolved by consent rather than by adjudication.

This negotiated character explains why takharuj and sulh are analytically valuable. Takharuj allows an heir to withdraw from the distribution in exchange for compensation, and sulh provides an amicable settlement grounded in the parties' agreement. Both are recognized within Islamic jurisprudence and are reflected in the Compilation of Islamic Law, which permits heirs to settle peacefully once each is aware of their entitlement (KHI, Art. 183). They are also compatible with the court's own procedures, since mediation is required before adjudication of civil disputes in the first instance (Supreme Court Regulation No. 1 of 2016). Their significance for the third research question is that they offer a doctrinally legitimate channel through which customary expectations, such as keeping land within a lineage or recognizing the contribution of a particular child, can be accommodated without displacing the fixed shares of faraid. Harmonization, on this view, does not require creating a new law. It requires using instruments already available in Islamic law and in judicial procedure.

Table 1. Comparative Matrix of Islamic, Customary, and Western Civil Inheritance Systems (BW)

Legal Indicators	Islamic Inheritance Law (*Faraidh* / KHI)	Western Customary / Civil Inheritance Law
Principle of Division	Determination of Fixed Portion (Ashabul Furud) & Individual	Collective/Communal (Customary) or Individual/ Degree (BW)
Principle of Equality	Male to Female Portion 2:1 (Based on the burden of responsibility)	Equal 1:1 (Parental Custom & BW)/Priority of Male/Female Line
Solution Forum	Absolute Authority of Religious Courts (Law No. 3/2006)	District Court (For non-Muslims/Customary Land Disputes)
Flexibility of Peace	Pranata Takharuj & Sulh (Can be divided equally if agreed)	Customary Deliberation/ Peace Deed at the District Court

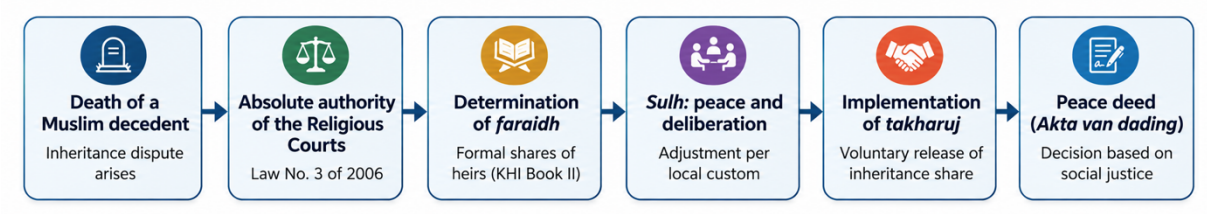
Harmonization of Faraidh and Custom through the Takharuj and Sulh Institutions

Meskipun hukum kewarisan Islam (faraid) telah menetapkan ketentuan pembagian harta peninggalan berdasarkan proporsi tertentu, termasuk perbandingan bagian antara ahli waris laki-laki dan perempuan dalam kondisi tertentu, hukum Islam tetap menyediakan ruang bagi terciptanya kesepakatan melalui mekanisme takharuj dan sulh. Takharuj merupakan mekanisme kesepakatan di antara para ahli waris yang memungkinkan seseorang atau beberapa ahli waris melepaskan, mengalihkan, atau menyesuaikan hak kewarisannya berdasarkan kerelaan dan persetujuan bersama. Sementara itu, sulh merupakan mekanisme penyelesaian secara damai yang mengedepankan musyawarah, keadilan, dan kesepakatan para pihak. Kedua konsep tersebut menunjukkan bahwa ketentuan normatif mengenai bagian kewarisan tidak menutup kemungkinan dilakukannya pengaturan lebih lanjut oleh para ahli waris, sepanjang hak masing-

masing telah diketahui dan kesepakatan yang dibangun tidak mengandung unsur paksaan, penipuan, maupun tindakan yang merugikan pihak tertentu. Dengan demikian, hukum kewarisan Islam tidak hanya memberikan kepastian mengenai hak dan kedudukan ahli waris, tetapi juga menyediakan instrumen penyelesaian yang adaptif terhadap kondisi sosial, ekonomi, dan hubungan kekeluargaan.

Dalam praktik penyelesaian perkara kewarisan, mekanisme tersebut dapat diwujudkan melalui penetapan identitas para ahli waris dan besaran bagian masing-masing berdasarkan ketentuan faraid, kemudian dilanjutkan dengan musyawarah untuk mencapai kesepakatan mengenai bentuk dan pola pembagian harta peninggalan. Setelah hak kewarisan masing-masing diketahui, para ahli waris dapat menyepakati pembagian secara proporsional, setara, atau berdasarkan pertimbangan kebutuhan sosial-ekonomi keluarga, sepanjang dilakukan secara sukarela dan sesuai dengan ketentuan hukum yang berlaku. Apabila kesepakatan perdamaian dicapai dalam proses persidangan, kesepakatan tersebut dapat dituangkan dalam akta perdamaian (Akta van Dading) sesuai dengan prosedur hukum acara yang berlaku. Mekanisme takharuj dan sulh dengan demikian memperlihatkan kemungkinan harmonisasi antara kepastian normatif hukum kewarisan Islam dan nilai keadilan yang berkembang dalam hukum adat. Keduanya memungkinkan kearifan lokal dan kebutuhan konkret keluarga memperoleh ruang penyelesaian tanpa harus meniadakan prinsip-prinsip dasar syariah. Dengan demikian, harmonisasi tersebut tidak dimaksudkan untuk menggantikan ketentuan faraid, melainkan memberikan ruang bagi para ahli waris untuk mengatur pelaksanaan pembagian harta peninggalan melalui kesepakatan yang sah, adil, dan berlandaskan kerelaan bersama.

Figure 1. Flow of Harmonization of Islamic Inheritance (*Faraidh*) and Customary Law through Takharuj



Legal Implications of Disputes over Ownership of Rights to Customary Inherited Land

A further legal complexity in the settlement of Islamic inheritance disputes emerges when the disputed estate involves customary land (*tanah adat*) that has not been formally registered or supported by an official land ownership certificate. In such circumstances, the dispute extends beyond the determination of legitimate heirs and their respective inheritance entitlements, as it also involves establishing the legal status, historical ownership, and evidentiary basis of the property claimed as part of the deceased's estate. This situation is particularly significant in communities where land ownership and transfer have traditionally been established through customary recognition, family inheritance arrangements, collective agreements, or long-standing possession rather than formal land registration. To address the intersection between inheritance claims and property ownership disputes, Article 50 paragraph (2) of Law No. 3 of 2006, amending Law No. 7 of 1989 concerning Religious Courts, provides that ownership disputes between Muslim parties concerning matters within the jurisdiction of Religious Courts may be examined and adjudicated together with the principal case. This provision establishes a specific jurisdictional mechanism through which the Religious Courts may examine both the inheritance dispute and the related ownership claim within a single

judicial proceeding, provided that the statutory requirements are fulfilled. Hartini (2015) emphasizes the significance of this provision in understanding the expanded jurisdiction of Religious Courts over property ownership disputes connected with matters falling within their absolute competence. Similarly, Karjoko et al. (2021), in their examination of land disputes arising from inheritance cases before the Selong Religious Court, demonstrate that uncertainty surrounding the ownership history and legal status of inherited land can become a substantial source of conflict among heirs. These circumstances highlight the importance of integrating the examination of property ownership into the resolution of inheritance disputes rather than treating the two issues as entirely independent legal matters.

The application of Article 50 paragraph (2), nevertheless, requires a careful distinction between the jurisdictional authority of Religious Courts and the substantive determination of land ownership. The provision does not automatically confer jurisdiction over every customary land dispute merely because the disputed property is claimed as part of an inheritance. Its application is subject to the statutory requirements, particularly the religious status of the parties involved and the legal connection between the ownership dispute and the principal matter falling within the Religious Courts' jurisdiction. Furthermore, the absence of a formal land certificate cannot, by itself, be interpreted as proof that the land belongs to the deceased or constitutes part of the inherited estate. The claimant must establish the relevant ownership rights through legally admissible evidence, which may include customary documents, historical records of land acquisition, evidence of continuous possession, statements from relevant witnesses, and other forms of evidence recognized under applicable Indonesian law. In this context, the relationship between customary recognition and formal legal proof becomes particularly important because customary land rights may have originated from social and communal arrangements that predate the contemporary land registration system. Adicahya (2023), in discussing the jurisdictional boundaries of Religious Courts in inheritance and property ownership disputes, highlights the importance of legal certainty in determining the appropriate judicial forum and preventing inconsistent interpretations of judicial authority. Accordingly, the examination of customary land in inheritance proceedings requires a comprehensive assessment of both the historical basis of ownership and the applicable statutory framework. This approach ensures that the determination of inheritance rights is based on an adequately established identification of the deceased's estate rather than on assumptions concerning the ownership status of disputed property.

From a broader legal perspective, the authority established under Article 50 paragraph (2) represents an important institutional mechanism for promoting procedural efficiency, legal certainty, and the comprehensive resolution of inheritance disputes involving property ownership claims. By enabling the Religious Courts, under the prescribed statutory conditions, to examine related ownership disputes together with inheritance proceedings, the provision reduces the possibility of separating interconnected legal issues into different judicial forums. Such procedural integration is particularly relevant when the determination of inheritance entitlements depends directly on whether a particular parcel of customary land can legally be established as part of the deceased's estate. If ownership and inheritance issues are examined separately without adequate coordination, the possibility of inconsistent judicial determinations may arise, potentially prolonging disputes and increasing the legal and economic burdens borne by the heirs. Nevertheless, the exercise of this authority must remain consistent with the distinction between establishing the ownership of the inherited property and determining the distribution of inheritance shares under Islamic law. The former concerns the

legal status of the asset, whereas the latter concerns the rights and entitlements of the recognized heirs under the principles of *faraid*. Consequently, Article 50 paragraph (2) should be understood not merely as a procedural provision concerning judicial competence, but also as a legal instrument that supports the integrated resolution of inheritance disputes while safeguarding the rights of the parties involved. Its effective implementation may contribute to a more coherent relationship between Islamic inheritance law, customary land ownership practices, and Indonesia's national judicial system.

Conclusion

This study concludes that the settlement of inheritance disputes among Muslims in Indonesia falls under the absolute competence of the Religious Courts pursuant to Law No. 3 of 2006, and that the abolition of the right to choose the applicable law has provided firm legal certainty while ending the practice of forum shopping. Nevertheless, certainty of forum does not eliminate plurality of practice, as communities continue to resolve inheritance through family deliberation that combines faraid with local customary norms. Harmonization between the two can be accommodated through the institutions of *takharuj* and *sulh*, which allow heirs to agree on a socially and culturally fair distribution once the sharia shares have been determined, thereby answering all three research questions. The study contributes by linking doctrinal scholarship on jurisdiction with socio-legal scholarship on custom and Islam, and by proposing a harmonization model that uses existing instruments without reviving the choice of law. For practice, judges and mediators are advised to document free and informed consent, while future research may add fieldwork and examine how women heirs' shares fare in negotiated outcomes.

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