

Negotiating Justice: An Islamic Legal Analysis of the Delay in Inheritance Distribution

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|| Received : 07-08-2025 || Accepted: 14-09-2025 || Published: 15-09-2025

Abstract

This study aims to analyze the phenomenon of delayed inheritance distribution from a socio-Islamic legal perspective, focusing on the social, cultural, and religious dynamics that influence the practices of Muslim communities. Although Islamic law emphasizes the importance of distributing inheritance immediately after the decedent's death, in reality, many families postpone the process due to concerns about maintaining harmony, moral readiness, and economic considerations. This research employs a qualitative approach using observation, interviews, and documentation to explore community and religious leaders' views on the issue. The findings reveal that the delay in inheritance distribution is not merely caused by ignorance of Islamic law but also reflects social adaptation to customary norms and local authority structures. The study highlights that the implementation of Islamic law within society is not rigid but negotiated within dynamic social contexts. The socio-legal approach underscores that Islamic law functions not only as a normative system but also as an instrument of social consciousness capable of bridging the gap between legal texts and contemporary social realities.

[Penelitian ini bertujuan menganalisis fenomena penundaan pembagian harta warisan dalam perspektif sosio-hukum Islam dengan fokus pada dinamika sosial, kultural, dan religius yang memengaruhi praktik masyarakat Muslim. Meskipun hukum Islam menegaskan pentingnya pembagian warisan segera setelah pewaris meninggal dunia, dalam kenyataan banyak keluarga menunda proses tersebut dengan alasan menjaga keharmonisan, ketidaksiapan moral, serta pertimbangan ekonomi. Penelitian ini menggunakan pendekatan kualitatif dengan metode observasi, wawancara, dan dokumentasi untuk menggali pandangan masyarakat dan tokoh agama terhadap praktik penundaan warisan. Hasil penelitian menunjukkan bahwa penundaan pembagian harta warisan bukan hanya akibat ketidakpahaman terhadap hukum Islam, tetapi juga merupakan bentuk adaptasi sosial terhadap norma adat dan struktur kekuasaan lokal. Temuan ini menegaskan bahwa penerapan hukum Islam di masyarakat tidak bersifat kaku, melainkan dinegosiasikan dalam konteks sosial yang dinamis. Pendekatan sosio-hukum memberikan pemahaman bahwa hukum Islam berfungsi tidak hanya sebagai norma normatif, tetapi juga sebagai instrumen pembentukan kesadaran sosial yang mampu menjembatani antara teks hukum dan realitas masyarakat kontemporer.]

Keywords: Islamic inheritance law, delay in inheritance distribution, socio-Islamic law, social adaptation, legal awareness

How to Cite: Dasri, D. (2025). Negotiating Justice: An Islamic Legal Analysis of the Delay in

Inheritance Distribution. *Jurnal Mediasas: Media Ilmu Syariah Dan Ahwal Al-Syakhsīyyah*, 8(3), 754–762.

<https://doi.org/10.58824/mediasas.v8i3.467>



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INTRODUCTION

Islamic inheritance law represents a cornerstone of the broader Islamic family law framework, regulating the lawful transfer of property rights from a deceased individual to legitimate heirs in accordance with Sharia principles (Haniru, 2014; Syarifuddin, 2015). Its foundation lies in the doctrine of *ijbari*, which stipulates that property devolves automatically upon the heirs by divine decree, requiring no voluntary act from either the deceased or the beneficiaries (Firdaus & Nugraheni, 2023). Beyond its distributive function, this legal system aims to uphold social justice and mitigate potential conflicts among surviving family members (Ritonga & Harahap, 2024). The Qur'an and Hadith provide precise normative guidance regarding the rightful heirs and their respective shares, particularly in Surah *An-Nisā'* verses 11–12, which underscore fairness and proportionality in inheritance allocation. Ideally, inheritance division should occur promptly following the death of the decedent to prevent legal ambiguity and potential disputes (Muhibbin & Wahid, 2022).

Nevertheless, empirical realities demonstrate that the implementation of inheritance law within Muslim communities frequently diverges from these normative ideals. Across various regions in Indonesia, including Aceh, the division of inherited assets is often postponed due to intertwined social, economic, and customary considerations (Khairuddin, 2024). This reflects a disjunction between the prescriptive tenets of Islamic jurisprudence and the lived practices of local communities. In some cases, heirs intentionally delay distribution to sustain household economic stability—ensuring, for instance, the welfare of widows and dependent children—while others defer division out of deference to local customs, limited understanding of *faraidh* law, or self-interest in retaining control over the estate. Such delays can engender multiple legal and social complications, including ambiguous ownership, intra-family disputes, and the erosion of kinship bonds.

Prior scholarship has addressed this phenomenon from social and juridical perspectives. Mudzhar and Ridwan (2024) observed that in Padangsidempuan, delays in inheritance distribution are often framed as a social compromise between familial cohesion and adherence to traditional norms, rather than outright neglect of *faraidh* principles. Similarly, Khairuddin (2020) reported that in Tanah Bara Village, Aceh, inheritance division is commonly deferred for extended periods due to the presence of surviving parents, underage or unmarried heirs, and persistent social taboos surrounding discussions of inheritance. From an Islamic legal standpoint, such postponements lack sufficient *shar'i* justification.

Complementary findings by Tilarsono, Yaqin, and Amri (2022) highlight that the absence of collective deliberation among heirs, inadequate readiness to manage inherited property, and deficient public literacy in Islamic inheritance law contribute significantly to these delays—contradicting Sharia's commitment to distributive justice. Likewise, Jakfar, Achyar, and Rizqy (2022) documented that in Kota Jantho District, Aceh Besar, inheritance delays stem from mutual consensus among heirs, generational factors, and cultural reluctance to discuss posthumous wealth. The resulting consequences include familial fragmentation, contested property claims, and protracted inheritance disputes. While Islam may tolerate temporary delays under exceptional circumstances, such leniency is conditioned upon the absence of social harm (*mudarat*).

Despite these valuable contributions, existing research has rarely explored how communal perceptions of Islamic law itself may shape or reinforce the tendency to delay inheritance distribution. This gap is crucial, given that Sharia explicitly mandates the prompt settlement of a deceased's estate.

In addressing this scholarly lacuna, the present study investigates how the Biskang community's interpretations and attitudes toward Islamic law influence the deferral of inheritance implementation. It examines the intersection between doctrinal understanding and social dynamics, seeking to explain how interpretive practices mediate the translation of Islamic legal norms into real-world behavior.

Accordingly, this study aims to elucidate the Islamic legal perspective on factors contributing to delayed inheritance distribution among the Muslim community in Biskang, while assessing its broader social and juridical implications for justice and familial harmony. The research is guided by two key questions: (1) How does Islamic law conceptualize the practice of delayed inheritance distribution within the Biskang community? and (2) To what extent does the community's comprehension of *faraidh* principles shape the implementation of inheritance law as envisioned by Sharia?

METHOD

This study employs a descriptive qualitative design using a socio-legal approach, which integrates legal analysis with socio-religious inquiry. This approach was selected because the issue under investigation extends beyond the normative framework of Islamic inheritance law (*faraidh*) to encompass the social, cultural, and religious dimensions that shape the delayed distribution of inheritance among the community. Through this lens, law is not merely examined as a codified set of normative prescriptions but as a living social phenomenon that interacts dynamically with community practices and values.

The qualitative orientation of this research emphasizes the exploration of meanings, values, and underlying motivations behind the community's behavior in postponing inheritance division. Rather than aiming for generalization, the study seeks to capture the empirical reality *as it is*, contextualized within both Islamic legal principles and the sociocultural fabric of the local community.

The fieldwork was conducted in Biskang Village, Danau Paris Subdistrict, Aceh Singkil Regency. Sociologically, the community is characterized by strong religiosity and deep attachment to customary norms as well as Islamic teachings. The site was purposively selected due to the frequent occurrence of inheritance delays, rendering it a pertinent context for socio-legal analysis within the framework of Islamic law. The research was carried out over one month, allowing sufficient time for observation, interviews, and documentation.

The data sources are divided into two main categories. Primary data were obtained directly from the field through interactions with research participants, including religious leaders, *tuan guru*, traditional authorities, village officials, and community members directly involved in inheritance disputes. These data were gathered through in-depth interviews and participatory observation. Secondary data were collected from authoritative sources such as Islamic legal literature, *fiqh al-mawaris* texts, previous studies, academic journals, statutory regulations, and relevant official documents. The secondary data served as both a theoretical foundation and a comparative reference for interpreting field findings.

Data collection employed three principal techniques. First, field observation was conducted systematically and participatively to examine social dynamics and actual practices related to inheritance management. The observations followed structured guidelines encompassing social, economic, and legal dimensions. Second, in-depth interviews were

carried out using semi-structured instruments to elicit respondents' perceptions, reasoning, and religious considerations concerning inheritance delays. Interview guides were used to maintain focus and data consistency in line with research objectives. Third, documentation was employed to gather written and visual evidence such as legal records, family archives, photographs of customary practices, village documents, and prior research reports. This method strengthened data validity through source triangulation.

Data analysis followed an inductive and interactive model based on Miles and Huberman's framework, comprising three main stages. The first stage, data reduction, involved selecting, categorizing, and condensing field data to retain only information pertinent to the study's focus on Islamic inheritance law. The second stage, data display, entailed organizing the reduced data into thematic narratives and descriptive tables to reveal underlying social patterns and legal rationales for inheritance delays. The final stage, conclusion drawing and verification, consisted of interpreting data meanings and correlating them with Islamic legal theory, *faraidh* principles, and the socio-normative context of Aceh Singkil society. Verification was conducted iteratively to ensure the internal validity and reliability of findings before formulating substantive conclusions.

Research validity was ensured through data triangulation, which cross-examined information obtained from interviews, observations, and documentation. Furthermore, *member checking* was performed with key informants to verify that the researcher's interpretations accurately reflected the empirical realities observed in the field.

RESULT AND DISCUSSION

Factors Contributing to the Delay in Inheritance Distribution in Biskang Village, Danau Paris Subdistrict

The postponement of inheritance distribution in Biskang Village represents a deeply rooted social practice embedded within the cultural and religious life of the local Muslim community. Field research identified three primary factors underpinning this phenomenon: (1) the influence of local customary traditions, (2) the continued presence of one surviving parent, and (3) the immaturity of certain heirs.

Local Traditions and the Legitimacy of 'Urf

The delay in inheritance division is largely sustained by long-standing local customs. Most residents believe that inheritance should be distributed only after four years following the testator's death—a tradition referred to as *gendong mikul*. Within this custom, men are perceived as bearing (*mikul*) familial responsibilities, while women are regarded as carrying (*gendong*) complementary social roles of equal dignity.

This communal belief holds that equal distribution of inheritance is fairer than the Qur'anic proportion of two-to-one between male and female heirs. Over time, such perceptions have evolved into a collective norm that signifies reverence toward ancestral values.

From the standpoint of Islamic jurisprudence, this practice can be interpreted through the concept of *'urf*—a socially recognized custom that possesses legal weight when aligned with Sharia. The Qur'an acknowledges the legitimacy of virtuous customs, as stated in Surah *al-A'raf* (7:199): "Hold to forgiveness, enjoin what is right (*ma'ruf*), and turn away from the ignorant." The term *ma'ruf* or *'urf* refers to rational and socially acceptable traditions that do not contradict Islamic law. According to al-Khallāf, *'urf* is defined as a repetitive social habit that functions as a shared behavioral guideline. For a custom to be legally valid, it must satisfy four criteria: (1) it promotes public welfare (*maslahah*), (2) it is

widely practiced, (3) it predates the legal event it governs, and (4) it does not contradict textual evidence (*dalil syar'i*).

Accordingly, the tradition of delaying inheritance distribution in Biskang Village may be regarded as acceptable, provided it does not contravene Islamic legal principles and serves the greater good. Within the framework of *maqāṣid al-shari'ah*, such conduct embodies *tahqiq al-maṣlaḥah*—the realization of social benefit through the prevention of familial discord or conflict over property. Article 183 of the Compilation of Islamic Law (KHI) also allows for *ṣulh* (amicable settlement) in inheritance matters, provided the arrangement is based on mutual consent and awareness among heirs. Hence, this tradition can be categorized as *'urf ṣaḥiḥ*, a legitimate custom that preserves familial harmony and social stability.

The Existence of a Surviving Parent

The second factor contributing to inheritance delays is the continued life of one of the deceased's parents. In Biskang's communal ethics, distributing inheritance while a parent—father or mother—remains alive is deemed socially inappropriate and emotionally distressing. Consequently, inheritance is often postponed until both parents have passed away.

Although rooted in filial piety and respect toward parents, such reasoning lacks legal validity under Islamic law. Pursuant to Article 188 of the KHI, heirs are entitled to request the division of an estate immediately after the testator's death, even through the Religious Court (*Pengadilan Agama*) if consensus cannot be reached.

Nevertheless, from a sociological perspective, this deferral reflects an element of *maṣlaḥah mursalah*—a consideration of public benefit that, while not textually specified, serves to prevent greater harm. The intention behind the postponement is not to contravene Islamic law but to preserve family cohesion and prevent potential *mafsadah* (social discord) among heirs. The legal maxim *ad-dararu yuzālu* ("harm must be eliminated") offers moral legitimacy for such an approach.

Al-Ghazālī and al-Khawārizmī define *maṣlaḥah* as any action that promotes benefit and prevents harm, provided it does not contradict scriptural injunctions. Accordingly, postponing inheritance distribution in this context can be categorized as *maṣlaḥah mu'tabarah*, a recognized public interest oriented toward safeguarding family unity, dignity, and emotional well-being.

The Immaturity of Heirs

A third factor identified is the immaturity of certain heirs. In several cases, inheritance division is deferred because some heirs are still minors or unmarried. The underlying rationale is that such individuals are not yet capable of managing property responsibly or making sound financial decisions.

Under Indonesian civil law, the age of majority ranges from 18 to 21 years. Article 330 of the Civil Code (*KUHPerdota*) and Article 47 of Law No. 1 of 1974 on Marriage define legal adulthood as reaching the age of 21 or being married.

Islamic legal principles similarly recognize the legitimacy of this reasoning. As stated in Surah *an-Nisa'* (4:5): "Do not entrust to the incapable those properties which Allah has made a means of sustenance for you." This verse underscores that guardians must assess an heir's intellectual maturity and financial competence before transferring control of property. The principle aligns with one of the five essential objectives of *maqāṣid al-shari'ah*—the protection of property (*ḥifẓ al-māl*).

Hence, delaying inheritance distribution until heirs attain maturity represents a practical application of the legal maxim *daf' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*—that preventing harm takes precedence over pursuing benefit. Such postponement, therefore, may be considered both legally and ethically justified within the broader objectives of Islamic jurisprudence.

The Impact of Delaying the Distribution of Inheritance in Biskang Village

The delay in the distribution of inheritance in Biskang Village gives rise to two types of consequences—positive and negative. On the positive side, the postponement provides families with sufficient time to fulfill the deceased's obligations, such as debt repayment and execution of wills, as well as to preserve harmony among heirs. Conversely, the negative implications may include potential disputes, misuse of assets, and administrative complications in the management of the estate.

The primary positive impact lies in allowing adequate time to discharge moral and financial responsibilities toward the deceased. This aligns with Islamic teachings, which emphasize that the debts of the deceased must be settled prior to the division of the estate among heirs. The postponement also affords families an opportunity to prepare for the inheritance process more carefully, both in terms of legal compliance and familial relations.

On the other hand, several negative repercussions often emerge: (1) potential disputes among heirs stemming from differing perceptions regarding the timing and method of distribution, (2) future administrative difficulties should one or more heirs pass away before the estate is divided, and (3) the unauthorized or improper use of inherited property by certain individuals. Such circumstances can create ambiguity regarding ownership status and weaken the role of Islamic inheritance law as an instrument of justice and protection of individual rights.

Nevertheless, empirical findings indicate that within the social context of Biskang Village, the postponement of inheritance distribution rarely escalates into serious conflict. The delay is typically reached through family deliberation (*musyawarah*) based on mutual consent and respect. This practice resonates with the Qur'anic injunctions in *Surah al-Hujurat* (49:9–10), which underscore the importance of peace and brotherhood among believers.

Therefore, the practice of delaying inheritance distribution in Biskang Village may be interpreted as a form of *'urf ṣaḥīḥ*—a legitimate customary practice—rooted in considerations of social welfare (*maṣlaḥah*), rather than as a violation of Islamic legal principles. Although classical jurisprudence prescribes that inheritance should ideally be distributed immediately following the death of the testator, the lived realities of the community demonstrate that the values of familial harmony, respect for elders, and preservation of kinship unity serve as the guiding rationale behind such postponement.

The Delay of Inheritance Distribution in Biskang from the Perspective of Islamic Law

Inheritance occupies a fundamental position in Islamic law, as it pertains to individual rights explicitly defined by the *shar'ah*. The Qur'an provides detailed injunctions on inheritance distribution in *Surah al-Nisā'* (4:11–12, 33, 176), underscoring that justice in the posthumous allocation of wealth constitutes part of the divine legal order that must not be neglected. The systematic regulation of inheritance reflects the perfection of Islamic jurisprudence in safeguarding human rights while maintaining social equilibrium within Muslim communities (Nafisyah & Guspita, 2024).

The central principle of Islamic inheritance law rests on justice and the certainty of rights. Each heir possesses a divinely mandated entitlement that must be delivered immediately following the testator's death—after funeral obligations are fulfilled, debts settled, and bequests executed. Postponing distribution without a legitimate *shar'i* reason constitutes the unlawful withholding of rights decreed by Allah (Muhibbin & Wahid, 2022). Justice in Islam is not merely a moral ideal but a binding legal imperative.

Classical *fiqh* literature emphasizes the urgency of prompt inheritance execution. Imam al-Shāfi'i asserted that delaying inheritance without valid cause constitutes *ẓulm* (injustice), as it obstructs the rights of others. The *fuqahā'* largely concur that any unjustified delay contradicts the foundational principles of equity in Islamic law (Abdullah, 2023). Hence, inheritance is not a mere administrative affair but a *shar'i* trust that must be fulfilled without procrastination.

The social reality in Biskang Village reveals that the practice of delaying inheritance remains prevalent. Such behavior does not necessarily arise from an intent to contravene Islamic law but is often shaped by social, cultural, and psychological considerations. Some villagers believe that postponement helps preserve familial harmony. However, from an Islamic legal standpoint, such reasoning may inadvertently lead to tension and disputes among heirs.

From a juridical perspective, postponement obstructs the implementation of an established right (*ḥaqq muḥaqqaq*). Under Islamic law, inheritance rights are binding and cannot be deferred by mutual consent. Withholding inheritance without a *shar'i* justification effectively delays another's lawful entitlement, thereby generating legal uncertainty and potential intra-family conflict.

While concern for family unity is often cited as justification for delay, the intention to wait for a "suitable moment" frequently exacerbates discord and breeds mistrust among heirs. Over time, such postponement can fracture familial relations. Islam teaches that justice must never be compromised for superficial harmony, as true social cohesion is rooted in fairness and accountability.

Within the framework of *maqāṣid al-sharī'ah*, social welfare (*maṣlaḥah*) indeed represents one of the higher objectives of Islamic law. Nonetheless, *maṣlaḥah* cannot serve as a pretext to defer inheritance distribution without legitimate grounds (Fathoni, 2023). A delay driven purely by emotional or cultural considerations contradicts the very spirit of Islamic jurisprudence, which seeks to actualize justice in a timely and transparent manner.

Inheritance falls under the category of *ḥaqq al-'ibād* (interpersonal rights) that must be immediately delivered to its rightful recipients. Deferring such fulfillment equates to postponing the implementation of Allah's law. Islam strictly prohibits the neglect of others' rights, even under the pretense of preserving emotional or familial bonds. Compliance with inheritance law thus signifies acknowledgment of divine authority in social and economic relations.

Ibn Qudāmah, in *al-Mughnī*, affirms that the deferment of inheritance distribution is permissible only in two instances: (1) when the deceased's debts remain unsettled, or (2) when the whereabouts of an heir are unknown (Abdullah, 2023). Beyond these exceptions, inheritance must be distributed immediately. This underscores that Islamic law regards inheritance as an unequivocal right that cannot be postponed on sociocultural grounds.

In Biskang, many still view ancestral property as a symbol of family unity, believing that immediate division signals emotional detachment from the deceased. This perspective reflects the predominance of customary norms over *sharī'ah*-based principles. In practice, customary law often exerts a stronger influence on social behavior than religious norms.

From a socio-legal standpoint, this phenomenon illustrates a tension between normative Islamic law and the *living law*—the social norms actively practiced within a community. When social customs dominate, the practical force of *shari'ah* weakens. Within the Biskang context, the effective application of Islamic law depends largely on the community's comprehension of its underlying justice values and their willingness to elevate divine law above inherited traditions.

The delay in inheritance distribution also has gendered implications. In many cases, men—who act as estate managers—enjoy greater access to family assets, while women struggle to claim their rightful shares. This dynamic reinforces structural inequality, undermining the *farā'id* system's very purpose of safeguarding women's economic rights (Pongoliu, 2019).

Economically, delayed inheritance may lead to asset mismanagement, unauthorized use, or ownership disputes. Unsettled estates risk becoming sources of familial and legal burden. From an Islamic ethical perspective, such negligence constitutes a failure to uphold economic and moral responsibility, ultimately diminishing the *barakah* (blessing) associated with wealth.

In conclusion, within the social fabric of Biskang Village, delays in inheritance distribution affect not only legal and economic domains but also the moral and spiritual integrity of families. Adherence to *farā'id* principles transcends formal legality—it represents an expression of faith and moral integrity. A just, prompt, and transparent distribution of inheritance stands as both an act of obedience to Allah and a vital mechanism for sustaining genuine social harmony.

CONCLUSION

The postponement of inheritance distribution within the framework of Islamic law reflects an inherent tension between *shari'ah* norms and the social realities embedded in community life. This phenomenon does not merely signify a violation of Islamic legal principles but rather exposes an ongoing process of social negotiation among religious values, customary practices, and economic interests. From a socio-legal standpoint, such a practice underscores that the implementation of Islamic law is contingent not solely upon its normative texts but also upon the dynamic social constructs that shape and transform within lived realities. The interaction between *shari'ah* norms and local culture frequently produces adaptive value systems, resulting in social compromise without entirely abandoning religious principles.

The study reveals that while communities recognize the *shar'i* obligation to distribute inheritance, its execution is often postponed under the pretext of preserving family harmony, moral readiness, or economic considerations. This pattern indicates that legal consciousness within society has not fully internalized the principle of justice that underpins Islamic inheritance law. Delays in inheritance distribution potentially hinder the realization of *maṣlahah* envisioned within the *farā'id* system. Within the socio-legal framework of Islam, law serves not only as a normative apparatus but also as an instrument for cultivating social awareness—encouraging individuals to understand and fulfill their rights and responsibilities in equilibrium. Strengthening Islamic legal literacy thus emerges as a strategic effort to harmonize social values with *shari'ah* principles.

The findings of this research carry significant implications for reinforcing the socially contextual implementation of Islamic law. Public awareness of the urgency of timely inheritance distribution should be enhanced through educational and persuasive legal outreach. The involvement of religious institutions and customary leaders is pivotal in accelerating the internalization of Islamic legal values so that they extend beyond mere

normative understanding. Ideally, the application of Islamic law should be integrated with the community's socio-cultural and economic realities, ensuring its substantive acceptance without undermining its normative essence. Through such integration, substantive justice within Islamic inheritance law can be realized in a contextually grounded and ethically conscious manner.

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