

# An Empirical Analysis of Inheritance Object Dispute Resolution in Indonesia

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## Abstract

This article aims to analyze the factors causing disputes over the determination of inheritance assets, examine the alternative dispute resolution mechanisms that have been implemented, and assess the effectiveness of mediation, negotiation, and other forms of non-litigation resolution in providing legal certainty and maintaining harmonious relationships among heirs. This study employs an empirical legal methodology using a case study approach. Data were collected through interviews with the disputing parties and community leaders, as well as through a review of court decisions. The findings indicate that inheritance disputes are generally triggered by differing perceptions regarding the ownership status of assets, the validity of the inherited assets, and the unilateral control of the decedent's estate. The findings reveal that alternative dispute resolution mechanisms, particularly through mediation and negotiation, are more effective in creating peaceful, swift, and equitable solutions compared to litigation. The implications of this study underscore the importance of strengthening the role of ADR in Indonesia's inheritance legal system as an instrument that not only ensures legal certainty but also maintains social harmony among heirs.

## INTRODUCTION

Inheritance is one of the fundamental aspects of family law that involves not only legal dimensions but also social, economic, and religious aspects. In the context of Indonesian society, the complexity of inheritance distribution is heightened by the existence of legal pluralism, namely Islamic inheritance law, customary law, and civil law. This pluralism gives people the freedom to choose a legal basis in accordance with their legal and cultural identities, but at the same time creates significant potential for conflict. One of the most common issues is disputes over the determination of inheritance assets specifically, differing perceptions regarding the ownership status of the decedent's estate, the validity of the inheritance assets, and the unilateral control of certain assets (Aritonang, 2025; Pascalistya et al., 2025).

Disputes over the determination of inherited assets not only affect the distribution of the estate but also have the potential to damage family relationships that should be preserved. In practice, these disputes are often exacerbated by incomplete ownership documents, differing legal interpretations among heirs, and the emergence of modern assets such as investments, stocks, family businesses, and

the emergence of modern assets such as investments, stocks, family businesses, and digital assets that are not yet fully and clearly regulated under the inheritance law system. This situation demonstrates that the determination of inheritance assets is not merely an administrative matter, but an issue involving dimensions of justice, legal certainty, and the public good (Rochman et al., 2024; Tradita et al., 2026).

Resolving inheritance disputes through litigation is indeed an option, both in Religious Courts and District Courts; however, this route is often time-consuming, costly, and can have serious psychological and social consequences. The confrontational nature of court proceedings can transform what were once harmonious family relationships into protracted conflicts. Therefore, alternative dispute resolution (ADR) mechanisms are increasingly relevant to consider. Non-litigation approaches such as mediation, negotiation, family deliberation, and conciliation are considered better suited to delivering peaceful, swift, and fair solutions while preserving good relations among the heirs (Samodra & Mumpuni, 2025).

The urgency of this research lies in the need to evaluate the extent to which ADR can serve as an effective instrument in resolving disputes over the determination of inheritance assets. This study is not only important in practical terms for providing legal certainty and reducing social conflict, but also makes a theoretical contribution by strengthening our understanding of family law in Indonesia in the context of legal pluralism. This research is expected to make a scholarly contribution by affirming the relevance of ADR as part of an inheritance legal system that is adaptable to the changing times (Rahmawati & Susilo, 2023; Suherman & Adnan, 2024).

In the current context, this study is significant because the objects of inheritance are becoming increasingly diverse and complex, encompassing both traditional and modern assets. Meanwhile, looking toward the future, this study can serve as a reference for the development of inheritance laws that are more responsive to the needs of society and oriented toward justice, legal certainty, and social harmony. Thus, a study on the resolution of disputes regarding the determination of inheritance objects through ADR not only has academic value but also practical value that can support the creation of a more effective and efficient inheritance law system oriented toward the welfare of families and the broader community.

## METHODS

This study employs an empirical legal research method using a case study approach. The empirical legal research method was chosen because the study not only examines the legal norms governing the objects of inheritance and the resolution of inheritance disputes but also analyzes how these provisions are applied in practice through concrete cases. This approach provides the researcher with the opportunity to gain a comprehensive understanding of the process of resolving disputes over the determination of inheritance objects, the factors causing the disputes, and the effectiveness of the resolution mechanisms employed by the parties (Ritonga et al., 2024; Luthfi et al., 2024; Kurniawan et al., 2013; Engkizar et al., 2023; 2024; 2026; Hamdi & Desvia, 2025).

The case study approach is used to conduct an in-depth analysis of one or more cases involving disputes over the determination of inheritance assets that have occurred in the community or that have already been decided by a court. Through this approach, the research seeks to understand the characteristics of the disputes, the resolution process, the legal considerations applied, and the implications of the rulings for the parties involved. Thus, the research not only provides a normative overview but also offers insight into the reality of how the law is applied in the resolution of inheritance disputes (Dyahsitasari & Yassir, 2023; Tarmizi, 2019).

In addition to case studies, this research also employs a statutory approach and a conceptual approach. The statutory approach is used to examine the provisions of positive law relevant to the determination of inheritance assets, while the conceptual approach is utilized to examine the legal concepts underlying the resolution of inheritance disputes. The combination of these three approaches is expected to provide a more comprehensive and in-depth analysis of the practice of resolving disputes over the determination of inheritance objects.

## RESULT AND DISCUSSION

### Definition of the Subject Matter of an Estate

The subject matter of an estate consists of all assets, rights, and obligations that can be valued in monetary terms and that can legally be transferred from a deceased person (the decedent) to their heirs. In other words, the subject matter of an estate comprises everything that belonged to the decedent at the time of their death and that qualifies to be bequeathed to the heirs in accordance with applicable law. Under inheritance law, the estate is not limited to tangible assets such as land, houses, vehicles, or money, but also includes intangible assets with economic value, such as receivables, accounts receivable, stocks, intellectual property rights, deposits, savings, and even digital assets that are legally transferable. Therefore, the scope of inheritance is broad and evolves in line with the dynamics of society. Under inheritance law, the objects of inheritance are not limited to tangible assets such as land, houses, vehicles, or money, but also include intangible assets with economic value, such as receivables, accounts receivable, stocks, intellectual property rights, deposits, savings, and even digital assets that are legally transferable. Consequently, the scope of inheritance is broad and evolves in line with the dynamics of society.

### The Legal Basis of Inheritance in Fiqh

In fiqh terminology, the term “object of inheritance” refers to the estate left by the decedent, net of obligations that must be settled first, such as funeral expenses, debt repayment, and the execution of a valid will. Only after all these obligations have been fulfilled can the remaining estate be designated as the subject of inheritance to be distributed among the heirs in accordance with legal provisions. All assets left behind by a person automatically become part of the estate. The determination of the estate must be carried out through a process of identifying the ownership status of the assets, their source of acquisition, and any rights of third parties that may still attach to the assets (Feliks, 2022; Ante et al., 2023; Abdillah, 2023; Afandi, 1991). This process is crucial to ensuring legal certainty, avoiding errors in distribution, and preventing disputes among the heirs. The estate is known as “*tirkab*” (التركة). Literally, “*tirkab*” means what a person leaves behind after their death. Technically, *tirkab* refers to all assets left by the decedent which, after deducting funeral expenses, settling debts, and fulfilling valid bequests, become the right of the heirs to be distributed according to the provisions of *faraidh*.

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ أُمَّتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلَا يُورِثُ لِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُسَ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُن لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ الشُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دِينٍ ۚ ءَابَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Meaning: *Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for*

*his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise (QS. An-Nisa': 11)*

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ ۖ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكَنَّ ۖ مِنْ بَعْدِ وَصِيَّةٍ يُوصِيَنَّ بِهَا أَوْ دَيْنٍ ۚ وَاللَّهُنَّ الرُّبْعُ مِمَّا تَرَكَنَّ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ ۚ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُمْ مِنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ ۚ وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلِّلَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ ۚ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ ۚ مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍّ ۚ وَصِيَّةً مِنَ اللَّهِ ۚ وَاللَّهُ عَلِيمٌ خَلِيمٌ

Meaning: *And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they [may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah, and Allah is Knowing and Forbearing. (QS. An-Nisa': 12)*

يَسْتَفْتُونَكَ ۗ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنْ أَمْرُو هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ ۚ وَهِيَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ ۚ فَإِنْ كَانَتَا أُخْتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ ۚ وَإِنْ كَانُوا إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۗ يُبَيِّنُ اللَّهُ لَكُمْ أَنْ تَضَلُّوا ۗ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ

Meaning: *They request from you a [legal] ruling. Say, "Allah gives you a ruling concerning one having neither descendants nor ascendants [as heirs]." If a man dies, leaving no child but [only] a sister, she will have half of what he left. And he inherits from her if she [dies and] has no child. But if there are two sisters [or more], they will have two-thirds of what he left. If there are both brothers and sisters, the male will have the share of two females. Allah makes clear to you [His law], lest you go astray. And Allah is Knowing of all things (QS. An-Nisa': 176)*

### In the Context of Islamic Law

The Compilation of Islamic Law (KHI) is one of the sources of substantive law that serves as a guideline for judges in Religious Courts in resolving cases related to marriage, inheritance, wills, gifts, waqf, and other aspects of Islamic family law in Indonesia. The KHI was enacted through Presidential Instruction of the Republic of Indonesia No. 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law and remains the primary reference for resolving inheritance disputes among Muslims in Indonesia. The KHI provides a more systematic framework regarding the definitions of the decedent, heirs, the estate, the objects of inheritance, the conditions for inheritance, and the mechanisms for the distribution of the estate. These provisions are the result of adapting the principles of Islamic inheritance law (*fiqh al-mawaris*) to the needs of Indonesian society and the national legal system. Although the KHI does not explicitly use the term "objects of inheritance," the substance regarding these objects can be found in the provisions on inherited assets that is, all assets left by the decedent that can legally be bequeathed to the heirs after certain obligations have been settled. Thus, according to the KHI, the subject of inheritance consists of all assets that were legally owned by the decedent at the time of death and have been cleared of any third-party claims, so that they may be distributed to the heirs in accordance with the provisions of Islamic law.

Inherited assets under the KHI are not limited to tangible property, such as land,

houses, vehicles, rice fields, orchards, gold, and cash, but also include intangible assets with economic value, such as receivables, savings, deposits, stocks, securities, business rights, and other property rights. As times change, this concept can also be expanded to include modern assets that have economic value and can be transferred to heirs as long as they do not conflict with the provisions of Sharia and applicable law. The objects of inheritance in the Compilation of Islamic Law indicate that the inheritance process is not only oriented toward the distribution of assets to heirs but also emphasizes legal certainty regarding the status of the assets to be inherited. The Compilation of Islamic Law (KHI) affirms that inherited property consists of the deceased's personal property and the deceased's share of joint property, after deducting funeral expenses, debt repayment, and the fulfillment of any will. This provision reflects the principles of justice and the protection of the rights of all parties including heirs, the surviving spouse, and third parties with rights to the estate.

In the resolution of inheritance disputes, the provisions of the Islamic Family Law (KHI) regarding the subject matter of inheritance play a crucial role as the basis for determining whether a particular asset can be classified as part of the estate or not. Many inheritance disputes arise not because of disagreements over the size of the heirs' shares, but rather because of disputes regarding the status of the subject matter of the inheritance itself. Therefore, the proper application of the KHI's provisions supported by clear proof of ownership and consultation among heirs will provide legal certainty, prevent conflicts, and ensure a fair distribution of the estate in accordance with the principles of Islamic law. The Indonesian national legal system offers a more comprehensive concept of the objects of inheritance compared to classical fiqh texts. Whereas classical fiqh uses the term *tirkah*, the KHI uses the term "inherited property," which has been adapted to the development of Indonesia's national legal system. This provision demonstrates a harmonization between the principles of Islamic law and the needs of Indonesian society, which has a modern family law system. The concept of the subject matter of inheritance in the KHI does not only focus on the assets left by the decedent but also takes into account the process of determining the status of those assets.

Determining the estate is a crucial first step before distributing the assets to the heirs. This is intended to prevent errors in determining each heir's share and to provide legal certainty regarding ownership of the assets to be inherited. Inheritance disputes are often not caused by disagreements over the size of heirs' shares as stipulated in the principles of *faraidh*, but rather by uncertainty regarding the estate itself. For example, there may be a dispute over whether a piece of land constitutes personal property, joint property, a gift, or was transferred to another party before the decedent's death. Therefore, the concept of the estate's assets under the KHI.

Article 171: "Inherited property consists of the decedent's personal property plus a portion of the joint property after it has been used for the decedent's needs during illness until death, funeral expenses (*tajhibiz*), debt repayment, and gifts to relatives."

Article 188 of the KHI: Article 188 of the KHI allows heirs to consult with one another regarding the distribution of the estate. This provision indicates that disputes over inherited property do not always have to be resolved in court but can be settled amicably among the family members, provided that all heirs reach an agreement.

### **Status of Inherited Assets**

The status of inherited assets is a fundamental aspect of Islamic inheritance law (*fiqh al-mawaris*), as it serves as the basis for determining which assets are inheritable after a person's death. Not all assets automatically become part of the estate; Islamic law establishes specific conditions that must be met before assets can be distributed. A proper understanding of the status of inherited assets is essential to ensure fairness, legal certainty, and to prevent disputes among heirs.

Terminologically, the estate refers to all assets (*tirkah*) left by the decedent after

deducting any liabilities attached to them. *Tirkah* includes tangible assets such as land, houses, vehicles, gold, and money, as well as property rights of economic value such as receivables, stocks, leasehold rights, or intellectual property recognized by Islamic law. From an Islamic perspective, an estate is not merely a form of ownership but a trust that must be settled in accordance with the provisions of Allah SWT. The settlement process begins with covering the costs of funeral arrangements, settling debts, and fulfilling a valid will (up to one-third of the estate), after which the remaining assets are distributed to the heirs in accordance with the provisions of the Quran and Sunnah.

This principle affirms that the subject of inheritance is the net estate assets that have been freed from the decedent's obligations. Islam prioritizes the settlement of debts and the fulfillment of others' rights before the rights of heirs are exercised. Only lawful and halal assets may be inherited; assets derived from criminal acts, corruption, or those still subject to dispute cannot be directly included in the inheritance. As times have changed, the forms of inheritable assets have also expanded to include deposits, bank savings, stocks, Sharia-compliant bonds, digital assets, and even intellectual property provided their ownership is lawful and in accordance with Sharia.

Under Indonesian positive law, this principle is adopted through Article 171(e) of the Compilation of Islamic Law (KHI), which stipulates that inherited property consists of the deceased's personal property plus a share of the marital property, after deducting funeral expenses, debt payments, and gifts in accordance with the provisions. This indicates that joint marital property is not entirely subject to inheritance; rather, the surviving spouse's share is set aside first.

The status of inherited assets serves an important social function: distributing wealth fairly, preventing the concentration of wealth, strengthening family ties, and providing economic protection for heirs. Clarity regarding the objects of inheritance also facilitates the inventory of assets, the determination of asset values, and the distribution according to each party's respective rights. Conversely, ambiguity regarding the objects of inheritance has the potential to cause family conflicts and legal disputes. Therefore, the identification of the objects of inheritance must be carried out meticulously based on Islamic law, proof of ownership, and applicable laws and regulations.

Thus, the status of inherited property under Islamic law is not merely a collection of assets left behind, but rather lawful assets of economic value, from which obligations have been discharged, and which are ready to be transferred to the heirs. This status reflects the principles of justice, legal certainty, and the protection of rights, as well as the objectives of Islamic law (*maqāṣid al-syarī'ah*) in safeguarding property (*hifz al-māl*) and promoting the welfare of the family and society.

### **Legal Analysis of the Resolution of Inheritance Object Disputes**

Disputes over inheritance objects are complex issues in inheritance law, both under Islamic law and positive law in Indonesia. These disputes concern not only who is entitled to receive the inheritance but also the legal status of the assets, the status of jointly held assets, and the mechanisms for their distribution. In practice, these conflicts often become a source of protracted family disputes that end up in court. Therefore, a legal analysis is necessary to ensure legal certainty, justice, and the best interests of all parties.

From an Islamic perspective, disputes usually arise due to differences of opinion regarding the status of the estate whether it consists of the heir's personal property, joint property, gifts, or assets still serving as collateral for debts. Before distribution takes place, Islamic law prescribes clear steps: taking an inventory of the estate, separating personal property from joint property, paying funeral expenses, settling debts, executing valid wills, and only then is the remaining estate designated as the subject of inheritance. This underscores the importance of establishing ownership certainty before distribution.

Disputes often arise regarding gifts or joint property. A valid gift that has been formally transferred is no longer part of the estate, while joint property must first have the surviving spouse's share set aside. Errors in this separation often lead to conflicts and harm the rightful heirs. Additionally, assets that remain collateral for debts cannot be distributed until the decedent's obligations to creditors are settled.

Modern economic developments have also added to the complexity of disputes, particularly those involving financial and digital assets such as deposits, stocks, mutual funds, digital business accounts, and even cryptocurrency. The heirs' lack of knowledge or the concealment of asset information by certain parties often leads to disputes. In Islam, such actions contradict the principles of justice (*al-'adl*) and trust (*al-amānah*).

Under Indonesian positive law, dispute resolution can be pursued through several mechanisms. First, family deliberation, which reflects the values of brotherhood and peace. Second, mediation, which must be pursued before a civil case is heard in court. Mediation is more effective because the decision stems from an agreement among the parties. Third, litigation in the Religious Court, which serves as the final recourse if family consultation and mediation fail. Thus, resolving disputes over inheritance requires a careful legal analysis of ownership status, the obligations of heirs, and resolution mechanisms that comply with both Sharia and positive law. The right approach will ensure legal certainty, protect the rights of all parties, and preserve family harmony.

## CONCLUSION

Based on the results of the case study analysis, it can be concluded that the estate is a fundamental element in Islamic inheritance law because it serves as the primary basis for determining the assets that are legally eligible for distribution to the heirs. The estate is understood as *tirkah*, which refers to the legally owned assets of the deceased that have economic value and from which all of the decedent's obligations such as funeral expenses, debt repayment, and the fulfillment of valid wills have been deducted. Disputes over the estate generally arise due to differing perceptions regarding the ownership status of assets, unclear boundaries between personal and joint property, the existence of gifts, outstanding debts, and the emergence of modern forms of wealth such as stocks, deposits, intellectual property rights, and digital assets. This demonstrates that the scope of inheritance is dynamic, evolving with economic and technological developments, provided that ownership is lawful and in accordance with Islamic law. In dispute resolution, Islamic law emphasizes the principles of justice, public interest, trust, and consultation, through the stages of asset inventory, ownership verification, separation of joint assets, settlement of obligations, and distribution in accordance with the provisions of *faraidh*. If deliberations fail, mediation or the Religious Court serves as the next step to ensure legal certainty. From the perspective of Indonesian positive law, dispute resolution must also take into account the Compilation of Islamic Law (KHI) and other relevant legal provisions. Thus, the proper determination of the objects of inheritance not only provides legal certainty and protects rights but also preserves family harmony and ensures a fair distribution of wealth in accordance with the objectives of Islamic inheritance law.

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