



Gender, Caregiving, and Inheritance Injustice: An Empirical Study of Feminized Parenting Burden in Muslim Families in Lampung, Indonesia

Erina Pane

Universitas Islam Negeri Raden Intan Lampung, Indonesia

 inapane@gmail.com

Abstract

The practice of parenting for elderly parents in Indonesian Muslim families is fraught with gender bias, but its relationship with the injustice of inheritance distribution has not been empirically studied. This study examines how the feminization of *caregiving* results in substantive injustices in inheritance and offers a *framework for mubādalāh* as a solution based on Islamic law. Qualitative research with a socio-legal approach was conducted on 32 Muslim families in Lampung Province through in-depth interviews, observations, and analysis of religious court decisions. The data were analyzed thematically by triangulating Rawls' theory of justice, *maqāṣid al-syarī'ah*, and *mubādalāh*. *Caregiving* is highly feminized (91% of female caregivers). Female caregivers sacrifice an average of 34% of their income, 62% of which is reduced/quit their jobs. In the application of *pure faraidh*, the female caregiver receives only 37% of the brother's share. Patrilineal customary law and religious court rulings ignore the contribution of *caregiving* as a redistributive consideration. Gender injustice in inheritance does not originate from the text of the Qur'an, but rather from a social construct that imposes care work on women while maintaining male privilege. The recognition of *caregiving* through grants, wills, and *takhāruj* is an ethical imperative within the framework of *maqāṣid* and *mubādalāh*.

Keywords: Gender, *Caregiving*, Islamic Inheritance Law, Gender Justice, *Mubādalāh*, Unpaid Care Work

ARTICLE INFO

Article history:

Mei 01, 2026

Revised

Mei 17, 2026

Accepted

May 31, 2026

Published by

Website

This is an open access article under the CC BY SA license

CV. Creative Tugu Pena

<https://attractivejournal.com/index.php/bil>

<https://creativecommons.org/licenses/by-sa/4.0/>

@ 2026 by Authors



INTRODUCTION

Gender inequality in inheritance practices is a universal problem in Muslim society. The *provision of faraidh* that gives the male share twice the female share (Q.S. an-Nisā' 11) has been the source of a long debate between the adherents of the textualist and contextualist approaches. However, the discourse on inheritance justice has so far focused on the normative-textual aspect – whether the 2:1 formula is absolute or contextual – thus ignoring the social reality that in daily family life, women bear an extraordinarily large burden of care for elderly parents. This study argues that inheritance injustice does not lie solely in mathematical formulas, but in the failure of the legal system to recognize women's real contributions in sustaining family well-being, including physical, emotional, social, and economic care of parents before they die.

This phenomenon is particularly relevant in the context of Lampung Province, where data from the Central Statistics Agency (2024) shows that 70.79% of the elderly live with their nuclear or multigenerational families. The Indonesian Health Survey (2023) also shows that 80.8% of elderly caregivers are close family members. Preliminary research in three regions, namely Central Lampung Regency, East Lampung Regency, and Metro City, indicates that women, especially girls and daughters-in-law, dominate the role of primary caregivers. They not only provide assistance in Activities of Daily Living (ADL), such as eating, bathing, dressing, and mobility, but also Instrumental Activities of Daily Living (IADL), such as medication management, healthcare transportation, household needs management, and emotional support. This contribution requires a significant sacrifice of time, job opportunities, income, and psychological conditions, thus showing that *family caregiving* is a form of real contribution to the welfare of parents and the sustainability of family functions.

However, the high practice of *family caregiving* is not automatically followed by recognition of caregivers' contribution in the inheritance distribution system. In the practice of Muslim family inheritance, the process of distributing property generally still relies on formal status as heirs and the provisions of the faraid section, while the actual contribution in caring for the parents before the heir dies is rarely considered in the process of distributing property or resolving inheritance disputes. This condition creates a gap between social reality and legal construction, since the individual who bears the greatest burden of parenting does not necessarily obtain a proportionate form of recognition for his or her contribution. This gap becomes increasingly important to examine given that Islamic law itself provides a number of complementary instruments, such as grants, wills, and *takhāruj*, which normatively have the potential to be used to realize substantive justice without changing the basic structure of faraid provisions. Therefore, the phenomenon of *high family caregiving* in Lampung is an important starting point to examine how the relationship between parenting practices, the construction of distributive justice, and the implementation of Islamic inheritance law in the life of Muslim families.

Based on these conditions, this study departs from the fundamental question of how the practice of *caregiving* dominated by women is related to the division of inheritance in Muslim families and the extent to which the Islamic inheritance legal system and judicial practice provide space for the recognition of the contribution of nurturing. Thus, this study not only seeks to describe the social phenomenon of *caregiving*, but also analyzes its relationship with the issue of distributive justice in Islamic inheritance law through the perspective of Rawls' theory of justice, *maqāṣid al-syarī'ah*, and *mubādalah*.

Previous research on Islamic inheritance has focused on normative aspects (Suma, 2012), comparative madhhab (Elfia et al., 2024), legal reform in religious

courts (Hasan, 2023; Fitriyati et al., 2025), as well as the reinterpretation of ayatayat heris with a hermeneutic approach (Salim, 2024). The study of *caregiving* in the Muslim context is more from a health and psychological perspective (Setyawati et al., 2024; Schulz et al., 2020), not from the perspective of inheritance law. Meanwhile, feminist studies on Islamic inheritance law (MirHosseini, 2013; Rahmawati, 2020) has criticized gender bias, but has not empirically linked the feminized *burden of caregiving* to distributive injustices in inheritance. At the international level, Tate (2008) and Gallanis & Gittler (2012) have linked *caregiving* to freedom of will in the *common law* system, while Yoo (2020) in South Korea found *caregiver discrimination* based on birth order and gender. However, there has been no systematic study examining the relationship between women's *caregiving* and inheritance injustice in the context of pluralistic Indonesian Islamic law.

The critical research gaps filled by this study are: (1) the absence of empirical studies demonstrating the causal relationship between women's *caregiving* burden and unfair inheritance outcomes; (2) there is no analysis that integrates the theory of distributive justice (Rawls), *maqāṣid al-syarī'ah*, and *mubādalah* in reading this problem; (3) there is no concrete operational offer to recognize the maintenance work in Indonesia's positive inheritance law. The *novelty* of this research lies in the integration of three theoretical frameworks that are rarely combined and the provision of the first empirical evidence from the Lampung context on how the feminization of *caregiving* systematically produces distributive injustices, while offering *mubādalah* as an operational framework within the parameters of Islamic law that remains ethical.

RESEARCH METHOD

This study uses a qualitative method with a socio-legal approach to analyze the relationship between the practice of *caregiving* for biological parents and the construction of justice in the distribution of inheritance in Muslim families. This approach was chosen because it is able to integrate normative analysis of Islamic inheritance law with the social realities that are developing in family practice so as to produce a more comprehensive understanding of the implementation of law in society. The research was carried out in three regions of Lampung Province, namely Central Lampung Regency, East Lampung Regency, and Metro City. The three regions were chosen purposively because they represent a variety of social, cultural, and kinship characteristics that develop in Lampung. Central Lampung Regency represents a heterogeneous society with a dominance of transmigrant communities and Pepadun indigenous influences, East Lampung Regency represents rural communities with relatively strong kinship ties, while Metro City was chosen as a representation of urban areas with higher levels of education, social mobility, and access to legal institutions. This variation is expected to be able to produce maximum variation cases so as to show a variety of *caregiving* practices and inheritance distribution in different social contexts. The selection of the location of

this study is not intended to obtain statistical representations, but rather to provide analytical generalizations of the variation of social phenomena as recommended in contemporary qualitative research (Creswell & Poth, 2024; Braun & Clarke, 2022).

Primary data were obtained through semi-structured in-depth interviews, limited participatory observations, and documentation, including an examination of the decisions of the Religious Court related to inheritance disputes. The research analysis unit consisted of 32 Muslim families, with a distribution of 11 families in Central Lampung Regency, 10 families in East Lampung Regency, and 11 families in Metro City. Informants were selected using a combination of purposive sampling and snowball sampling based on the following criteria: (1) being the *primary caregiver* for the biological parents for at least two years before the heir died; (2) the distribution of inheritance has taken place in the last five years; and (3) most of the heirs in the family are willing to be interviewed, allowing the data triangulation process. Around 91% of the main informants were women, who in the context of this study played the role of the main caregiver. The data collection process is stopped after data saturation is achieved, which is when additional interviews no longer produce new categories, patterns, or information about *caregiving experiences*, inheritance sharing conflicts, and settlement mechanisms taken by families. The strategy is in line with the principles of qualitative research that emphasizes the depth of information rather than the number of respondents (Braun & Clarke, 2022; Creswell & Poth, 2024).

Data analysis was carried out thematically with the help of NVivo 14 through several systematic stages. The first stage is data familiarization, which is transcribing the results of interviews, re-reading all transcripts, field notes, and documents repeatedly to gain a thorough understanding of the data. The second stage is open coding, which is to provide an initial code for each unit of meaning related to *caregiving* practices, economic and emotional contributions, perceptions of justice, inheritance conflicts, religious values, and customary influences. The third stage is axial coding, which is grouping codes that have conceptual relevance into broader categories, then continued with the formation of themes (*theme development*) through the identification of patterns of relationships between categories until the main themes of the research are obtained. The final stage is the interpretation of the findings by linking these themes to the theory of distributive justice, *maqāṣid al-syarī'ah*, and Islamic inheritance law. The validity of the data is guaranteed through the application of credibility (source triangulation, method triangulation, *member checking*, and *peer debriefing*), transferability (preparation of *thick descriptions*), dependability (*audit trail*), and confirmability through the researcher's reflectivity journal. To minimize gender bias, interviews with female informants were accompanied by female research assistants. This research has obtained the approval of the University Research Ethics Committee, all informants provide written *informed consent*, and the confidentiality of identity is fully

guaranteed. The limitations of the study lie in the scope that focuses on the context of Lampung Province so that the findings are analytical, while the potential for *biased recall* is minimized through triangulation with other family members, family documents, and court decisions. The practice of thematic analysis and reporting of these results follows the latest recommendations regarding the quality of qualitative research and the use of Vivo in thematic data analysis (Braun & Clarke, 2022; Hendricks et al., 2022).

RESULT AND DISCUSSION

Feminization of Caregiving and Multidimensional Burden – Violation of Rawls's Principles of Distributive Justice

This study found that *the practice of caregiving* in Muslim families in Lampung is very structurally feminized. Of the 32 main caregiver informants, 29 (91%) were women, consisting of a biological daughter (24 people), daughter-in-law (4 people), and granddaughter (1 person). Only 3 people (9%) are male (biological sons). This feminization is not a coincidence, but the result of a socio-cultural construction that has been rooted for generations. In Lampung society, both Pepadun and Saibatin customs, there is a strong belief that women are inherently patient, diligent, and compassionate – attributes that are considered essential for care work. This social construct is then reinforced by religious interpretations that emphasize *birr al-wālidayn* (devotion to parents) as a moral obligation, but without being balanced by an equal division of responsibilities between boys and girls. As a result, the burden of *caregiving* falls disproportionately on women, while men retain their privileged position in the inheritance structure. Ironically, when the division of wealth was carried out, this woman's great contribution disappeared from the legal reckoning, as if it never happened.

The burden borne by female caregivers is multidimensional and mutually reinforcing. First, the economic burden: Average monthly spending on elder care is equivalent to 34% of an individual's income (range 15-60%). A total of 20 informants (62%) admitted to significantly reducing working hours or leaving formal work entirely because they had to live together and care for their parents. Ibu Dewi (57 years old, Central Lampung) said: *"I used to sell cakes, not bad. But since my mother had a stroke, I stopped. Who wants to take care of it? The other brothers are all busy."* These economic sacrifices are not only immediate (loss of income) but also long-term (loss of accumulated retirement savings, career promotions, and health insurance). Second, the burden of time and opportunity: The duration of *caregiving* ranges from 2 to 15 years (an average of 6.3 years for women, compared to 3.2 years for men). A total of 25 informants (78%) lived in the same house with their parents, which required them to leave their own homes, postpone or cancel marriages, or sacrifice further education. A female informant (34 years old, unmarried) stated in a bitter tone: *"I didn't get married because I had to wait for my*

mother. My boyfriend asked me to marry him, but I refused. Now that my mother is dead, I'm too old."

Third, psychological burden is the least visible yet most destructive dimension. A total of 27 informants (84%) reported experiencing severe stress, emotional exhaustion, feelings of isolation, or mild depressive symptoms during the *caregiving* period. Mrs. Tuti (55 years old, East Lampung) revealed honestly: *"I once felt like I wanted to run away. Everyone asks me, but who do I want to ask for? It's an invisible mental burden."* Research in the field of health psychology shows that family *caregivers* have a twice the risk of experiencing major depressive disorder compared to the general population (Schulz et al., 2020). However, in the context of this study, none of the families provided formal psychological support for caregivers. The support that exists is only informal from a spouse or child, even that is limited. This combination of economic, time, and psychological burdens creates a vicious cycle: the longer a woman is a *caregiver*, the more difficult it is for her to return to the job market, the lower her economic independence, and the more vulnerable her position in inheritance negotiations.

Within the framework of John Rawls' (1971) theory of justice, female caregivers can be understood as a group that is closely related to the position of *the least advantaged* in the structure of resource distribution in the family environment. The *difference principle* states that social and economic inequality can only be justified if it provides the greatest benefit to the most disadvantaged groups. Based on the data presented in Table 1, there is a tendency that in almost all indicators of parenting burden including duration of care, income sacrifice, job loss, living at home with parents, and psychological stress female caregivers bear a greater burden than male caregivers. However, at the time of inheritance, they tend to get a smaller share, with a ratio of about 0.37:1 compared to their brothers. These findings indicate a relationship between the high contribution of *caregiving* given by women and the suboptimal recognition of this contribution in the practice of inheritance. From Rawls's perspective, such a condition can be understood as a situation that does not fully reflect the principle of distributive justice because the group that bears the greater burden has not received commensurate benefits. Through the concepts of *original position* and *the veil of ignorance*, Rawls provides a normative framework that individuals who do not know their social position in the future tend to choose rules that protect them when they are in the most vulnerable position. In the context of this study, this perspective provides an analytical basis for assessing that inheritance sharing practices that have not considered *caregiving's contribution* have the potential to create inequities that require further reflection and evaluation.

The findings of this study are also related to the results of Yoo's (2020) research in South Korea which shows a tendency that girls who act as *caregivers* often receive a smaller share of the inheritance than their brothers even though

their parenting contribution is relatively larger. The similarity of these patterns indicates that the issue of recognition of *caregiving's contribution* to inheritance distribution is not only found in one particular legal system or culture, but also arises in a variety of different social contexts. Similarly, the research of Gallanis and Gittler (2012) in the United States that proposed the concept of *modified elective share* to provide protection to *family caregivers* can be understood as a form of recognition of the social and economic value of parenting work in the family. Although the legal context of Indonesia is different from that of the country, the idea of recognition of *caregiving* contributions can be a reflection in the development of national inheritance law. Based on these overall findings, this study does not intend to conclude that the feminization of *caregiving* directly causes distributive injustice, but rather shows that the feminization of *caregiving* is closely related to, contributes to, and indicates a relationship with the emergence of inequality in the recognition of the contribution of caregiving in the practice of inheritance sharing. Therefore, the results of this study provide an empirical basis to discuss the need for policy development and the construction of inheritance law that is more responsive to the contribution of *caregiving*, while still requiring further research using different research approaches and designs to examine the relationship in more depth.

Table 1. Feminization of Caregiving and Multidimensional Burdens: An Analysis Based on Rawls' Theory of Justice

Indicator	Female Caregivers (n=29)	Male Caregiver (n=3)	Difference/ Comparison	Interpretation Based on Rawls' <i>Difference Principle</i>
Proportion as primary caregiver	91%	9%	Women are 10× more dominant	Structural feminization shows an unfair undistributed burden. In the <i>original position</i> , moral rationality will reject the exclusive imposition of one gender.
Average duration of caregiving (years)	6.7 years	3.2 years	+3.5 years (2× longer)	The longer the duration, the greater the sacrifice of time and life opportunities.

				The least fortunate party bears a heavier temporal burden.
Average revenue sacrifice (%)	36%	12%	+24% (3× larger)	The principle of difference prohibits inequality that harms the most disadvantaged parties. Here, the most sacrificed parties are the most economically disadvantaged.
Quitting or reducing formal work	69% (20 people)	0% (0 people)	Absolute difference 69%	The loss of economic independence and career opportunities is a long-term loss that is not compensated by a small share of the inheritance.
Living in the same house as an heir	83% (24 people)	33% (1 person)	+50% (2.5× more often)	Requiring caregivers to leave home alone, postponing marriage, or sacrificing personal autonomy – <i>opportunity costs</i> are not counted in inheritance.
Reporting severe stress/psychological distress	90% (26 people)	33% (1 person)	+57% (2.7× higher)	Chronic stress, emotional exhaustion, social isolation violate <i>ḥifẓ</i>

				<i>alnafis</i> . Rawls includes self-esteem and psychological well-being in <i>primary goods</i> .
Average share of inheritance (% of total assets)	28%	55%	Women receive 0.5× times as much as men	The core violation of the principle of difference: The party with the largest burden receives the smallest distribution result. Inequality does not benefit the most disadvantaged, but rather exacerbates their losses.
Ratio of shares to brothers	0,37 : 1	1,2 : 1	Women only get 37% of the men's share	In pure <i>fariath</i> , the normative ratio of 2:1 (male:female) is compounded by the fact that the burden of <i>caregiving</i> is 100% borne by women. The actual ratio of 0.37:1 is more unequal than the normative ratio.

Injustice of Inheritance Distribution and Normative Dissonance in the Perspective of Maqāṣid al Syarī'ah

This research reveals systematic and structured distributive injustices. In 25 cases where the distribution of inheritance was carried out formally under *the provisions of the faraidh* in the Compilation of Islamic Law (KHI), female caregivers received an average of only 37% of the share that their brothers received. To give a concrete picture: in a family with a total wealth of IDR 1,000,000,000, the heirs consist of one boy and one girl who have been the main caregiver of the parents for

8 years, boys earn around IDR 666,666,667 (2/3 of the share) while girls get IDR 333,333,333 (1/3 of the share). In fact, during those 8 years, the girl has sacrificed her job (quit the grocery store), lost an average income of Rp2,500,000 per month, and suffered severe stress because she had to take care of her mother who had a stroke without any meaningful help from her brother who lives in another city. This inequality is not only quantitative but also qualitative: female caregivers not only receive less, but also often get less productive assets (e.g. jewelry or cash) while brothers get land or houses that have long-term appreciation value.

In the 7 cases where families used *grants (inter vivos gifts)* or additional wills as compensation instruments, the share of female caregivers increased to an average of 68% of the brothers' share. Ibu Diah (68 years old, Metro) said proudly: *"I have given the house we live in to the second child (girl). I said to the others, 'Your sister who takes care of us, gets this house.' They understand, thank God."* This case shows that when there is awareness and open communication within the family, substantive justice can be approached without having to abandon *the framework of faraidh*. However, this informal mechanism has serious drawbacks. In 5 cases, grants made secretly (without the knowledge of other heirs) or undocumented oral wills became a source of post-death conflict. Herman's father (63 years old, Central Lampung) admitted with regret: *"We only found out after my parents died, it turned out that there was land that had been donated. It feels like being lied to."* This kind of conflict not only damages fraternal relationships but also consumes time, cost, and emotional energy for dispute resolution.

The findings of the study show that the analyzed decisions of the Religious Courts still place the distribution of inheritance in a normative framework oriented towards the provisions of the faraid section as accommodated in the Compilation of Islamic Law (KHI), without making the *contribution of caregiving* one of the relevant legal considerations. Normatively, this approach can be understood because judges are bound by the principles of legality and legal certainty in applying the codified provisions of Islamic inheritance. However, from the perspective of progressive law and *maqāṣid al-syarī'ah*, these findings **indicate a tendency** that judges' considerations still focus on the formal status of the heirs, while the relational dimensions in the form of parenting contributions, economic sacrifices, and psychological burdens borne *by caregivers* have not received adequate argumentation space in their legal considerations. In other words, the judge has not positioned caregiving as a legal fact that has relevance to the achievement of substantive justice, even though this fact appears clearly in the family dynamics that are the object of dispute. This condition shows the distance between the textual application of inheritance law and the social reality that develops in Muslim family practice.

In fact, if examined more deeply, the Compilation of Islamic Law does not completely close the space for judges to develop more contextual legal

considerations. Several provisions in the KHI, such as the mechanism for deliberation of inheritance distribution (Article 183), recognition of the concept of peace (*ṣulḥ*), grants, wills, and the practice of *takhāruj* that develop in fiqh, show that Islamic inheritance law in Indonesia still provides discretionary space to accommodate settlements that are more responsive to the concrete conditions of the heirs. In addition, judicial practice in Indonesia also recognizes *rechtvinding* and legal discovery by judges when positive norms have not provided adequate answers to problems that develop in society. Therefore, the findings of this study **indicate** that the discretionary space has not been optimally utilized to consider the contribution of *caregiving* as one of the aspects that can support the realization of substantive justice, of course without changing the provisions of the faraid section as a basic norm of inheritance. From the perspective of maqāṣid al-syarī'ah, such an approach can be seen as an effort to maintain benefits (*jalb al-maṣlaḥah*) and prevent harm (*dar' al-maṣadah*) through complementary Islamic legal instruments.

The findings are even more interesting when compared to developments in several Muslim countries. In Malaysia, although there is no explicit provision for the recognition of *caregiving* in the 1999 Wills Enactment, a number of studies show a tendency for sharia courts to develop more contextual interpretations through the expansion of the application of *compulsory wills* and family justice-based settlements in certain cases (Ismail, 2021; Sulong, 2024). Similar developments have also been seen in some other Muslim jurisdictions that have begun to make room for compensation mechanisms or recognition of the contributions of family members who provide intensive care to heirs through instruments other than faraid distribution. Compared to this practice, the decisions of the Religious Courts that are the object of research still show a tendency to use a more textual approach so that the *ijtihad* space available in Indonesian Islamic law has not been utilized optimally. These findings are not intended to conclude that the textual approach is the sole cause of the lack of *accommodating caregiving* contributions, but rather to indicate **a relationship** between the dominant orientation of legal certainty and the limited use of complementary legal instruments in realizing substantive justice. Therefore, this study argues that the development of jurisprudence that utilizes discretionary space in the KHI and the maqāṣid al-syarī'ah approach has the potential to strengthen the protection of *family caregivers* without having to change the basic structure of the Islamic inheritance system.

***Mubādalāh* as an Operational Framework and Policy Implications for Gender Justice**

The theory of *mubādalāh* (reciprocity) developed by Faqihuddin Abdul Kodir (2021) provides a solid and operational ethical foundation to overcome the problem of gender injustice in inheritance. *Mubādalāh* literally means "reciprocity" or "reciprocity", and as a hermeneutic method, it asserts that any Islamic teachings addressed to men are in principle also applicable to women, and vice versa, unless

there is a proposition that expressly and explicitly excludes. This approach does not aim to reject sacred texts, but to read them more fairly taking into account the social, historical, and sharia contexts. In the context of *caregiving* and inheritance, *mubāḍalah* demands three fundamental things. **First**, the responsibility of caring for parents is the collective obligation of all children, and should not be imposed exclusively on girls based on gender stereotypes or biased religious interpretations. **Second**, if in social practice there is a systematic inequality of burden (e.g. because boys are "exempted" from care on the grounds of work or family), then the legal system must provide a compensatory mechanism to restore balance. **Third**, such compensation can be realized through instruments that are already valid in Islamic law – grants during life, wills within one-third of property, or *takhāruj* (redistributive peace agreements) – without having to change or abandon the basic structure of *faraidh*.

The findings of the study show that *mubāḍalah* is not just a theoretical idealism, but has been practiced intuitively by justice-conscious families. In 7 cases where families used grants or wills to compensate caregivers, the share of female caregivers increased significantly (from an average of 37% to 68% of the brother's share). Father Guntur (66 years old, East Lampung) describes the philosophy behind this practice: *"If I have given myself the time to live, I can see the benefits for myself. If you wait for me to die, I'm afraid it's going to be a storm."* This statement contains at least three principles of *mubāḍalah*: (1) transparency (giving is done openly, not hidden), (2) the activeness of the heir (not waiting after death, but taking action during life to uphold justice), and (3) conflict prevention (grants as an instrument to maintain family harmony after death). In the framework of *mubāḍalah*, grant is understood not as "avoiding *faraidh*" or "violating the Shari'a", but as a form of *ihsān* (doing good beyond obligation) and *ta'āwun* (helping each other in goodness) which is actually recommended in the Qur'an (QS. al-Mā'idah: 2). A will, although limited to a maximum of 1/3 of the property, can also be a means of giving recognition to *caregivers* who may not be heirs (e.g. daughters-in-law) or to provide additions to heirs who have done service.

However, the implementation of *mubāḍalah* in the practice of inheritance faces serious obstacles, especially the absence of firm legal and religious legitimacy. Many families personally want to reward female caregivers, but are afraid of being considered "violating sharia" by society or by other heirs. Mrs. Qonita (59 years old, Metro) expressed this anxiety clearly: *"The community is afraid of the will, thought that it does not follow the sunnah. Even though it's allowed. Ustaz and kiai should often explain the will for the child who takes care of it."* This fear arises due to the lack of socialization about the difference between *faraidh* (compulsory inheritance that regulates certain parts), *grant* (gift during life that is not bound by the rules of *faraidh*), and *will* (a message after death that is limited to 1/3 of the property). In classical jurisprudence, the majority of scholars (the majority of scholars) allow a

will to the heirs as long as it is agreed by the other heirs (al-Bagha, 1998). While grants do not have a one-third limit and can be given at any time as long as the heirs are legally capable and are not in an alarming state of illness (*maradh al-mawt*). In other words, Islamic law actually provides a wide enough space to accommodate substantive justice without having to change *the provisions of the faraidh*. What is lacking is socialization, education, and institutional legitimacy.

Based on the findings and *the framework of the mubādalāh*, this study proposes concrete policy measures. First, the revision of the Compilation of Islamic Law (KHI) by adding a new article that explicitly recognizes *caregiving* as a consideration in grants and wills. The following is the draft of the proposed article (Article 183A supplement): "In the event that there is an heir who is actually and dominantly caregiving the heir during his lifetime, including assistance for basic life activities (ADL) and instrumental activities of life (IADL) for a period of at least two consecutive years and living in the same household or providing significant financial support, then the grant or will given to him can be considered as the form of compensation without prejudice to the faraidh rights of other heirs, as long as: (a) not exceeding 1/3 (third) of the total property; (b) approved in a family deliberation attended by all heirs; (c) is registered before an authorized official (Notary, PPAT, or KUA).

Second, the issuance of fatwa of the Indonesian Ulema Council (MUI) or the Supreme Court Circular Letter (SEMA) which provides religious and juridical legitimacy to the practice of *caregiving* compensation. This fatwa or SEMA needs to emphasize that giving grants or wills to *caregivers* is not a form of "avoiding *faraidh*" or "violating the sharia", but part of *ihsān* and justice that Islam advocates. Third, the provision of a standard *caregiving* verification form that can be used by families and KUA. This form at least includes: the identity of the *caregiver* and heir, the duration of treatment (at least 2 years), the type of ADL assistance (eating, bathing, dressing, mobility, toileting) and IADL (medication management, health transportation, cooking, cleaning the house, taking care of administration), proof of treatment expenses (prescriptions, receipts, bank accounts), and testimonial statements from at least two witnesses (other family members, neighbors, or health workers). This form becomes an attachment to a deed of grant or will, so that in the event of a dispute in the future, the court has verifiable written evidence.

Fourth, strengthening the capacity of judges and religious court mediators through continuous training on gender justice, *maqāsid al-syarī'ah*, and *mubādalāh*. Judges need to be equipped with the understanding that legal inventions (*rechtsvinding*) do not merely apply texts mechanically, but also explore the values of justice that live in society, including the recognition of care work that has been invisible so far. The Supreme Court's regulation on mediation (PERMA No. 1 of 2016) can be strengthened with specific guidelines that require mediators to dig up facts about the heir's treatment history and non-financial contributions before

leading to a peace deal. Fifth, public education through Islamic boarding schools, taklim councils, KUA, and religious extension workers to eliminate the stigma that *caregiver* compensation is an "un-Islamic" act. This education needs to emphasize that Islam is a religion that upholds justice, compassion, and respect for work, including care work that often does not pay off. With these measures, *mubādalāh* is not only an ethical discourse but institutionalized in clear legal procedures, so that gender justice in inheritance can be realized systematically and sustainably.

CONCLUSION

This study shows that *caregiving* practices in Muslim families in Lampung Province have a feminized tendency, with women dominating the role of primary caregivers of elderly parents. The findings indicate that female caregivers bear a greater economic, time, opportunity, and psychological burden than men, while these contributions have not been adequately recognized in inheritance-sharing practices. In the cases studied, the application of faraid provisions and patrilineal culture-influenced inheritance practices was related to the tendency of a lower share of inheritance received by female *caregivers*. Through the integration of Rawls's theory of justice, *maqāṣid al-syarī'ah*, and *mubādalāh*, this study shows that the problem has more to do with social construction and the practice of law implementation than with the basic norms of Islamic inheritance law itself. Thus, this research provides a theoretical contribution in the form of strengthening the perspective that recognition of caregiving's contribution can be built through the available Islamic legal instruments, such as grants, wills, and *takhāruj*, without having to change the basic structure of faraid provisions.

Practically, the results of this study provide a basis for the development of policies that are more responsive to the contribution of *family caregivers*, including through strengthening the provisions in the Compilation of Islamic Law regarding grants, and wills, the preparation of guidelines for judges and religious court mediators in considering the contribution of parenting, increasing public education about complementary Islamic legal instruments, and strengthening the capacity of institutions such as KUA in facilitating the settlement of equitable inheritance. However, the implementation of these recommendations faces a number of challenges. In terms of regulations, changes or improvements to the KHI require a process of legislation and institutional consensus that is not simple. From the socio-religious side, there is still a tendency for people to understand the distribution of inheritance textually, so that the recognition of *caregiving* has the potential to cause resistance if it is not accompanied by adequate socialization from scholars, academics, and judicial officials. Therefore, policy reform needs to be pursued gradually through the strengthening of jurisprudence, judicial technical guidelines, and public education before being directed to more comprehensive regulatory changes. This study also has limitations because it only covers 32 families in three areas of Lampung Province, so the findings are analytical and not intended as

statistical generalizations. Follow-up research with a wider area coverage, quantitative and *mixed methods* approaches, and comparative studies with other Muslim countries are needed to test the consistency of findings while enriching the direction of Islamic inheritance law reform 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.
- Auda, J. (2008). *Maqāṣid al-Sharī'ah as philosophy of Islamic law: A systems approach*. IIIT.
- al-Bagha, M. D. (1998). *Syarah Ilm al-Warits al-Rahbiyah fi Ilm al-Faraidh*. Dar al-Katib wa Kitab.
- Bature, M. M., & Sulong, J. (2024). Inheritance distribution among Muslims: A comparative analysis on the practice of some Muslim countries. *International Journal of Academic Research in Business and Social Sciences*, 14(1), 1-15.
- Elfia, E., dkk. (2024). Gender equality in Imamate Shia and Sunni inheritance jurisprudence: A comparative analysis of legal doctrines and familial relationships. *Mazahib*, 23(2), 555-594.
- Fitriyati, Y., dkk. (2025). Reconsidering inheritance equality: Gender justice in religious court decisions through the lens of Maqashid al-Shariah. *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 25(1), 122-140.
- Gallanis, T., & Gittler, J. (2012). Family caregiving and the law of succession: A proposal. *University of Michigan Journal of Law Reform*, 45(4), 761-798.
- Hasan, M. (2023). Construction of modern Islamic inheritance law based on ijtihad of the judges at the Religious Court of Pontianak, West Kalimantan. *Samarah*, 7(2), 650-668.
- Ibn 'Āshūr, M. al-Ṭ. (2006). *Maqāṣid al-Sharī'ah al-Islāmiyyah*. Dār al-Nafā'is.
- Ismail, -. (2021). Wills of 'Wajibah' and renewal thoughts of Islamic inheritance law in Indonesia. *INNOVATIO: Journal for Religious Innovations Studies*, 21(2).
- Kodir, F. A. (2021). *Qira'ah mubadalah*. IRCiSoD.
- Mir-Hosseini, Z. (Ed.). (2013). *Gender and equality in Muslim family law: Justice and ethics in the Islamic legal tradition*. I.B. Tauris.
- Munoz-Darde, V. (1998). Rawls, justice in the family and justice of the family. *The Philosophical Quarterly*, 48(192), 335-352.
- Nurjanah, S., dkk. (2022). Al-mubāḍalah fī mafhūmi fiqhi al-mar'ah al-mu'āshirah bi Indūnīsiyā. *Al-Ihkam: Jurnal Hukum & Pranata Sosial*, 17(1), 189-215.
- Rahmawati, S. (2020). Mainstreaming of gender equality in Islamic family law: Opportunities and challenges. *Samarah*, 4(2), 360-382.
- Rawls, J. (1971). *A theory of justice*. Harvard University Press.

- Salim, A. (2024). Pemberian warisan pada salah satu ahli waris karena merawat orang tua perspektif tafsir hermeneutik ayat waris. *Disertasi*, UIN Walisongo.
- Schulz, R., dkk. (2020). Family caregiving for older adults. *Annual Review of Psychology*, 71, 635-659.
- Setyawati, M. B., dkk. (2024). The family caregiving; A Rogerian concept analysis of Muslim perspective & Islamic sources. *Heliyon*, 10(3), e25415.
- Suma, M. A. (2012). Menakar keadilan hukum waris Islam melalui pendekatan teks dan konteks al-Nushûsh. *AHKAM: Jurnal Ilmu Syariah*, 12(2).
- Tate, J. C. (2008). Caregiving and the case for testamentary freedom. *UC Davis Law Review*, 42(1), 1-46.
- Yoo, J. (2020). Is inheritance fair in South Korea? The difference in inheritance allocation according to birth order, gender, and caregiving contribution. *Asian Women*, 36(1), 1-23.