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Protection of Inheritance and Joint Property Rights of Widows Without Sons in Patrilineal Societies: An Analysis of Islamic Law and Substantive Justice

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Abstract

In patrilineal societies, claims by male-line relatives may intersect with widows' rights to marital property and inheritance. The term 'widow without a son' encompasses childless and sonless widows, whose inheritance positions differ under the Compilation of Islamic Law (KHI). This study formulates legal reasoning parameters to identify the source of rights, property status, customary claims, and limits of widows' civil protection. This normative legal research employs statutory and conceptual approaches, examining KHI, judicial competence provisions, and scholarship on legal pluralism and maqāṣid al-syarī'ah. Literature on Besemah and other South Sumatran communities provides contextual insights, not evidence of uniform customary practices. The analysis finds that a widow's share of marital property must be separated before inheritance distribution. Customary claims must then be assessed based on their source, object, legal basis, and consequences. The novelty lies in the Widow Civil Rights Protection Framework (WCRPF), a five-stage assessment flow producing two distinct outputs: identifying legally enforceable rights and evaluating substantive protection. This framework neither increases inheritance shares nor creates property rights without legal grounds. Instead, it establishes transparent parameters for examining interactions among inheritance, marital property, and customary norms. The WCRPF remains a normative construction requiring empirical application to documented judgments or cases.

Keywords: Widow's Civil Rights; Common Property; Islamic Inheritance Law; Patrilineal Society; Substantive Justice.

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PINTRODUCTION

The absence of sons can cause a typical problem in a family that gives the male lineage the main position when the control of the family's home, land, or assets is questioned after the husband's death. This problem should not be confused with the assumption that the entire patrilineal community negates the rights of widows. Studies that discuss indigenous peoples' inheritance disputes show the interaction of customary law and Islamic law in dispute resolution (Dahwal and Fernando 2024; Jariyah, Jainuddin, and Syarif Hidayatullah 2025; Sukarti 2013), while another article highlights the gap between the recognition of women's inheritance rights and

the need for legal education in South Sumatra and other regions (Rini 2026; Silalahi et al. 2024; Sukarti, Asyari, and Zulkifli 2023). Both studies serve as a basis for formulating a more specific normative question: how to examine widows' rights when claims of lineage, property status, and Islamic inheritance rules lead to different legal consequences? The vulnerabilities discussed here are contextual and must be evidenced in specific communities and objects of dispute, not assumed to be general.

South Sumatra does not have a uniform pattern of kinship and inheritance. A study of the Siwe Morge community in Kayuagung District said that patrilineal tendencies are still seen in traditional marriage and inheritance practices (Lidiawati and Habibi 2021; Sari and Sari 2022). Meanwhile, Kurniawan and Rudyansjah explained the change in affiliation in the Lematang community from patrilineal to matrilineal in the context of marriage practices *Camp* (Fadani and Adib 2024; Kurniawan and Rudyansjah 2016), while the study of the Semendo community in Muara Enim describes a kinship system that tends to be matrilineal (Agusten 2026; Agusten et al. 2023). This diversity means that the claim that the absence of boys causes widows to lose control of their homes, land, or family property cannot be stated as characteristic of all indigenous peoples of South Sumatra. In this article, these conditions are positioned as normative issues that can arise when the customary norms of a community prioritize male lineage; the existence and form of concrete practices must be determined based on specific local sources.

This condition shows the legal problems that can arise when certain family customs or practices clash with national law and Islamic law. The Compilation of Islamic Law (KHI) recognizes widows as heirs: Article 180 specifies a quarter (1/4) if the heir does not leave a child and one-eighth (1/8) if the heir leaves a child. Article 174 regulates the group of heirs, while Article 176 regulates the share of daughters. The share of inheritance is not calculated directly from all property controlled by the family. Based on Article 96 paragraph (1) of the KHI, in the event of a divorce, half of the joint property becomes the right of the spouse who lives longer; Article 171 letter e defines inheritance as inherited property plus the heir's share of the common property after the heir's needs during illness until death, the cost of handling the body, the payment of debts, and the gift for relatives are taken into account. Obligations related to the management of the body, debts, and wills also need to be considered in accordance with Article 175 of the KHI (Presidential Instruction No. 1 of 1991 concerning the Dissemination of Islamic Law Compilations n.d.). Thus, the widow's inheritance rights do not depend on the existence of a son, but the testing of a particular claim still requires the identification of the object of the property and the relevant legal basis.

The phrase 'without a son' requires a limitation of definition. If the heir does not leave children, the widow gets 1/4 of the inheritance according to Article 180 of the KHI, if the heir leaves the daughter even though she has no sons, the widow's share becomes 1/8. These two circumstances are different from the issue of the position of girls as heirs regulated, among others, in Article 176 of the KHI.

Therefore, the absence of a male successor may be relevant in customary claims, but it should not be the basis for misdetermining the widow's share in Islamic inheritance law.

When a dispute over family property is brought to court, the question that needs to be answered normatively is how to distinguish between rights derived from common property, inheritance rights, and claims that are solely based on customary norms (Dwi Poespasari and Samudera Erlangga 2025; Prasmayanti, Mukarromah, and Hardyanthi 2025). Judges may consider the social context and customary law as long as the legal basis, object, and consequences are tested against the applicable provisions (Mozarto, Omar Vivaldi, Hermanto, and Achmad Farhan Aly, 2023). Since this article does not inventory specific judgments, the following description is not intended as a claim about proven patterns of judgments, but rather as a conceptual framework for assessing similar disputes.

The protection of women's property rights is related to access to assets, legal certainty, and social justice (Feyertag et al. 2021). However, the global context only serves as a general setting and is not used as evidence regarding local customary practices in South Sumatra. Therefore, the substantive analysis of this article is limited to the literature that specifically addresses local communities as well as relevant legal norms.

Relevant studies need to be differentiated according to their object and analytical contribution. Sari and Sari (2022) examined the Siwe Morge kinship system, while Kurniawan and Rudyansjah (2017) showed changes in kinship affiliation in the Lematang community. Sukarti (2013) directly explained the pluralism in inheritance disputes of the Besemah community, including the differences in settlement paths found in their research. Sukarti et al. (2023) examined the role of legal education in the issue of women's inheritance rights in the Besemah community and the Palembang university environment; the study has even touched on widows' rights to joint property and inheritance. Sihotang et al. (Sihotang, A., and N. 2015), Aruan et al. (Aruan, Aziz, and Zulfikar 2023; Rachelninta and Sulastri 2025), as well as Sigalingging and Gultom (Scotland, 2025) provides comparative material on widows and daughters in the Toba Batak custom, not direct evidence for South Sumatra. Therefore, the claim of novelty of this study is not based on the assumption that the relationship between common property and inheritance has never been discussed.

The gap that is still relevant lies at the level of legal reasoning instruments: the study of dispute pluralism (Sukarti, 2013), women's inheritance rights education (Sukarti et al., 2023), and the position of widows in comparative customs, have not by themselves provided a sequence of tests that distinguish (a) the types and sources of rights; (b) objects that can be included in inheritance; (c) the juridical status of customary claims; and (d) legally demanding protection over social interests that only function evaluatively. It is this operational vacuum that WCRPF seeks to answer, without claiming the discovery of new inheritance rights or empirical patterns about the entire South Sumatra community. The differences are

methodological-conceptual: how a claim is assessed consistently and what are the outputs of each stage of examination.

The purpose of the research is to (1) explain the normative relationship between widows' rights as heirs, their rights to common property, and claims of ownership of assets in the context of patrilineal customs; (2) establish parameters to assess the source and limits of the applicability of customary claims when dealing with Islamic inheritance law and national law; and (3) formulate the WCRPF and its test outputs. South Sumatra is used as a literature context by taking into account community differences; the analysis is not directed to generalize one pattern of inheritance in all regions or to assess specific court decisions.

The novelty of this article is the formulation *of the Widow Civil Rights Protection Framework* (WCRPF) as a normative reasoning flow of five stages: verification of the heirs' subjects, classification of property objects, test of the relevance and limits of customary claims, *Civil Rights Protection Test*, and *Maqāṣid Compatibility Test*. The additional elements are not just the incorporation of known norms, but the separation of outputs into two categories, namely civil rights that can be requested to be fulfilled based on evidence and legal basis, and protection interests that function to evaluate the impact of settlement. This arrangement prevents the interests of residence or economic sustainability from being automatically changed into additional inheritances. The WCRPF is a proposed analytical tool, not a new legal rule or a model that has been proven to improve the quality of decisions.

The substantive justice perspective used is not the authority to change the inheritance based on the moral preferences of the researcher. It serves as a control over the completeness of the reasoning, whether the rights that already have a juridical basis are examined, whether the reasons for the rejection of customary claims are explained, and whether the consequences of settlement are reasonably assessed. Such separation is in line with a multidimensional approach to the purpose of Islamic law (Auda 2008).

RESEARCH METHODS

This research is a normative legal research with a statutory and conceptual approach. The legislative approach examines norms related to the position of heirs, the formation of inheritance, common property, and the authority of the Religious Court: KHI which is disseminated through Presidential Instruction Number 1 of 1991, Law Number 7 of 1989 concerning Religious Courts as amended, especially amendments through Law Number 3 of 2006, and Law Number 48 of 2009 concerning Judicial Power. The Qur'an and Islamic legal sources are used as doctrinal foundations, not treated as types of state laws and regulations. The conceptual approach analyzes legal pluralism, the basis and types of civil rights, substantive justice, and *maqāṣid al-syarī'ah*. The study does not use a case approach to conclude the tendency of decisions because it does not inventory and examine the *ratio decidendi* of a particular case.

The main legal materials are in the form of KHI, especially Articles 85–97, Article 96 paragraph (1), Article 171 letter e, Articles 174–176, Article 175, and Article 180, accompanied by regulations governing the authority of the court; secondary materials in the form of Islamic heritage literature, South Sumatra customary law, patrilineal comparative studies, and legal pluralism theory. The analysis was carried out by tracing norms and literature, classification of issues, doctrinal coherence tests, and then conceptual synthesis. In order, the researchers: (1) identified the difference in the status of widows without children and widows who only had daughters; (2) sorted the rights of common property, inherited property, and inheritance based on objects and sources of acquisition; (3) assessed customary claims through community identity, source of norms, types of assets, and consequences for rights according to KHI; (4) distinguishing between the rights that can be claimed and the social impact indicators; and (5) compiling and testing the internal consistency of the WCRPF with hypothetical illustrations. Hypothetical case analysis serves to examine the logic of the model, not to prove its effectiveness in practice.

RESULTS AND DISCUSSION

Typology of Civil Rights Disputes of Widows Without Sons in South Sumatra Patrilineal Communities

The study of South Sumatra needs to distinguish the community strictly. The literature on the Siwe Morge in Kayuagung shows a certain character in kinship relations (Sari and Sari 2022), while Lematang and Semendo show variations and changes in affiliation (Agusten 2026; Kurniawan and Rudyansjah 2016). More direct evidence of the interaction of customary inheritance and Islamic law is available in Besemah's research (Sukarti 2013), as well as the issue of women's inheritance rights in the community (Sukarti, Asyari, and Zulkifli 2023). This literature supports the existence of the issue of pluralism and access to rights, but does not by itself prove all hypothetical forms of disputes in Table 1. Therefore, the following groupings are limited as normative reading tools, not descriptions of the frequency or empirical typology of disputes in South Sumatra.

The four typologies in Table 1 are arranged through controlled analogy: local sources are used to identify the context of pluralism and women's rights claims, while the Toba Batak study is used only to propose the possibility of comparable legal issues. In order to avoid the unauthorized transfer of findings across communities, each typology is given the status of an analytical scenario and must be re-examined with concrete evidence before being used in a particular case. Thus, the problem in the table is a test hypothesis that links the claims of parties, types of assets, and provisions of the KHI, not conclusions about the customary practices of all South Sumatran citizens (Sihotang, A., and N. 2015; Sukarti 2013).

To summarize the problems that can conceptually arise in similar disputes, this article compiles four analytical typologies. Table 1 marks the basis for the formation of each category so that it is not read as a field finding or a representation of the entire patrilineal society of South Sumatra.

Table 1. Typology of Civil Rights Disputes for Widows Without Sons

Typology	Characteristics of the Dispute	Legal Implications	Basics of Categorization
I	Widows are asked to leave the house they live in with their husbands because they are considered the property of a large family.	The status of residence and the right to assets need to be checked; the right of use does not automatically equal the right of ownership.	hypothetical scenario of a limited comparison of Toba Batak literature (Scott, A., and Scott, 2025; Scott, A., and N. 2015)and the issue of access to rights in Besemah (Sukarti, Asyari, and Zulkifli 2023)
II	The heir's relatives claim control of the inherited assets for the sake of the continuity of the family property.	A distinction must be made between common property, congenital property, and inheritance based on KHI.	Analytical scenario from Besemah's literature on inheritance pluralism (Sukarti 2013), combined with the classification of assets in the KHI. not the findings of the frequency of disputes.
III	The claim of male lineage is used to question the position of girls.	The determination of the heirs and the share of the daughter refers to Articles 174 and 176 of the KHI; the widow's share is also determined by Article 180.	The pattern of specific customary claims still needs to be proven. KHI Articles 174, 176, 180 and the study of Besemah women's inheritance rights (Sukarti, Asyari, and Zulkifli 2023).
IV	Widows are given living space or the right to use the house, but their ownership status is unclear.	It is necessary to examine the ownership, share of the common property, inheritance rights, or other basis of agreement.	Synthesis of literature on the right to use property by widows in the Toba Batak custom (Ndun, Suttor, and Widhiyaastuti 2018; Stuart and Stuart 2025)

One of the categories of disputes discussed in the comparative literature on patrilineal inheritance is the demand that widows leave the house occupied with their husbands because the house is considered a large family property. In research on Batak Toba customs, widows' rights can be positioned as the right to use or manage property for the needs of life, with certain limits according to the customary norms discussed by the researcher (Scott, A., and Scott, 2025; Scott, A., and N. 2015).

This comparative literature does not prove that the same practice applies throughout South Sumatran communities; the status of a home must be determined based on proof of ownership and the source of its acquisition.

The next category is related to the control of inherited assets by the male relatives of the heir for the reason of maintaining the continuity of family property. As a normative issue, the claim needs to be tested by first determining whether the object is joint property, inherited property of the heir, or inheritance. If the object is part of the inheritance of the heir, the rights of the heirs must be determined according to the applicable provisions; customary status does not automatically remove the widow's part determined by the KHI.

The third category relates to the position of girls when a community gives priority to male lineages. This category is used as a comparative issue in the literature on patrilineal inheritance, not as a claim that all South Sumatran societies reject the rights of girls. Normatively, Article 174 and Article 176 of the KHI must be considered in the identification of heirs and the determination of the share of girls; the existence of girls also means that the heir leaves behind the offspring for the purpose of determining the widow's share according to Article 180 of the KHI.

The fourth category is the provision of living space or the right to use the house to widows without recognition of ownership rights. Literature on Toba Batak customs discusses forms of use or management rights that are limited by certain conditions (Scotland, 2025). In legal analysis, the right to use a residence should not be automatically equated with a property right or inheritance. It must be determined on its basis through the status of the property, proof of rights, a valid agreement, and available legal mechanisms.

The four typologies are analytical aids synthesized from comparative literature and legal norms, not the results of empirical case calculations. This typology helps to distinguish social issues about family sustainability from juridical issues regarding ownership, common property, and inheritance. Within the framework of KHI, claims of preservation of family property are not enough to determine who is entitled; the status of the object and the basis of each party's rights must be examined first.

The four categories present different basic problems. In a dispute over the possession of a house, the first question is proof of ownership and the origin of the acquisition of assets; in the claim of male relatives, the main question is whether the assets controlled belong to the heir or belong to the extended family that can be proved; in cases that also involve girls, the status of the heir and the share of inheritance must be tested; while a residence permit without ownership must be distinguished from material rights. This reading avoids the conclusion that any possession of a large family is always against the law, while preventing the abandonment of the rights of widows who already have a legal basis.

The literature reviewed shows differences in focus among previous studies. The study of the Siwe Morge and Lematang communities discusses kinship structure and affiliation changes in the context of South Sumatra (Kurniawan and Rudyansjah

2016; Sari and Sari 2022), while research on widows and girls in the Batak Toba custom examines the limitations of women's position and the development of their protection through positive laws or decisions studied by researchers (Aruan, Aziz, and Zulfikar 2023; Sigalingging and Gultom 2025; Sihotang, A., and N. 2015). This article does not equate these communities, but uses comparative literature to formulate a more specific normative question: what rights do widows have, to which objects of property, on what legal basis, and through what mechanisms can those rights be claimed.

From this normative synthesis, the vulnerability of widows' civil rights can be understood as a risk that arises when customary claims, social status, or factual control over property are not distinguished from civil rights that have a legal basis. These statements are analytical propositions, not cause-and-effect conclusions from field data. Therefore, assessments of a particular community or family require local sources and independent evidence.

Normative Analytical Framework for Protecting the Civil Rights of Widows Without Sons

In disputes over the rights of widows without sons, legal considerations need to connect the status of the parties, the status of the property object, the provisions of the KHI, and the relevance of customary norms put forward by the parties. KHI provides a normative basis for determining the heirs and widows' shares, while the law on common property requires the separation of the rights of the surviving spouse from the property that actually belongs to the heir. Customary norms can be a social context or material for understanding a party's claims, but their sources, scope, and legal consequences must be examined before being used as a basis for settlement.

Before the full WCRPF model is used, dispute analysis requires four initial mapping steps: (1) identification of parties who have a legal relationship with the heirs; (2) determination of the status and origin of the object of property; (3) examination of customary claims and their validity; and (4) identification of the type of protection sought. The four steps in Table 2 are a fact-mapping and rights basis tool, not a final model that competes with the WCRPF. The WCRPF then extends the mapping through two clearly differentiated tests: the Civil Rights Protection Test to test the basis of the claim and the Maqāṣid Compatibility Test to evaluate the consequences of protection without creating new property rights.

Table 2. Stages of the Normative Analysis Framework for Widows' Civil Rights Disputes

Preliminary mapping (pre-WCRPF)	Focus on normative mapping (not decision data)	**Purpose**
Phase I	Determining the status of widows and heirs	Determining the legal subject who has inheritance rights
Stage II	Determining the status of the heritage property	Ensuring that the object of dispute is inherited property

Phase III	Assessing the relationship between customary law and KHI	Identify sources, communities, objects, and the relevance of customary claims
Stage IV	Determining the form of protection for widows	Inventory demands that require rights testing and impact evaluation on the WCRPF

In the first stage, the examination is directed to the marital relationship between the widow and the heirs, the status of other heirs, and evidence of the legal relationship of the parties. Article 174 of the KHI is a reference to identify the group of heirs, while Article 180 determines the widow's share based on the existence or absence of heirs' descendants. This stage determines who can file a claim based on a recognized legal relationship, not based on social status alone.

The second stage is to determine the legal status of the disputed property. The analysis must separate the joint property from the inherited property and the inheritance property that belongs to the heir. Articles 85–97 of the KHI regulate joint property; especially in the case of a divorce, Article 96 paragraph (1) states that half of the joint property is the right of the spouse who lives longer. After the share of the joint property is separated, the determination of the inheritance refers to Article 171 letter e of the KHI by taking into account the costs and obligations of the relevant heirs as well as the provisions of Article 175. Thus, the widow's share of the inheritance should not be calculated from the assets that were previously her own rights as a spouse over the joint property.

The third stage is a test of the legal basis, scope, and legal consequences of the customary claims submitted. Since this article does not classify specific judgments, the three orientations in Table 3 are presented as analytical categories for further research coding. Orientations are differentiated based on observable indicators in legal grounds, rather than being assumed as proven judge's patterns.

Table 3. Operational Indicators to Code the Orientation of Legal Considerations

Categories	Operational indicators under consideration	Normative implications to test
Legalistic	Especially applying the provisions of the KHI regarding heirs and shares; it is necessary to check whether the status of the joint property is separated from the inheritance.	Provides normative certainty, but is not sufficient if the status of objects and other rights has not been checked.
Pluralistic	Explain the source and context of customary norms, then test their conformity with KHI and national law.	Can accommodate local contexts; does not justify the deletion of rights that already have a legal basis.
Progressive	Connecting norms to the facts, the impact on widows, the goal of substantive justice, and the basic legal limits of each claim.	Can provide a more comprehensive analysis; must not create rights to assets without legal basis.

The legalistic category can be used when the consideration mainly rests on the application of the KHI text on who is the heir and how much of it. Indicators that need to be examined are whether the legal reasons for mentioning the relevant provisions correctly and whether the determination of joint property has been separated from the inheritance. This category helps to identify normative certainty, but should not be considered adequate if the status of the property object has not been checked.

The pluralistic category can be used if the consideration is to describe the proposed customary norms, the source and context of the community, and then test their conformity with the KHI and national law. The indicator is not just a quote about *living law*, but an explanation of the limits of customary application and the reasons why customary does not eliminate rights that already have a legal basis. This framework allows the local context to be considered without assuming that all customs have the same legal force.

The progressive category can be used when consideration relates the applicable legal provisions to individual facts, the foreseeable impact on the widow, and the objective of substantive justice or *Maqāṣid al-Syarī'ah*. The indicators include a separate assessment of inheritance rights, share of common property, residence, and economic access, along with an explanation of the legal basis and the limits of the court's authority for each issue. This category does not mean that judges can create rights to assets without a legal basis.

This article does not conclude the uniformity or disparity of the verdicts because it does not analyze certain verdicts. Instead, the framework in Table 2 and Table 3 is designed so that subsequent research can transparently identify the source of the verdict, the codified part of the consideration, and the underlying indicators of the classification. Conclusions about the pattern of verdicts can only be made after the inventory of the verdict and the reading of *the ratio decidendi* are carried out systematically.

In the perspective of legal pluralism, normative assessments need to pay attention to the interaction of state law, Islamic law, and customary law. In the study of future judgments, researchers can assess whether judges explain the relationship between the three systems and provide sufficient reasons when accepting or rejecting customary claims. Harmonization does not mean putting all norms on the same footing, but examining the source and limits of their applicability to the rights guaranteed by applicable law.

Normatively, the quality of legal considerations in widows' civil rights cases can be assessed through the accuracy of the application of norms, the accuracy of identifying property objects, explanations of relevant customary norms, and consideration of the legal impact on the parties to the dispute. This framework places legal certainty, respect for local culture, protection of women's rights, and substantive justice as aspects that must be explained in arguments, rather than as empirical results of the judgment that has been examined.

Thus, Table 2 describes the initial four-step mapping, while the WCRPF at the end of the discussion is a complete five-stage framework that integrates the results of the mapping with the civil rights test and the evaluation of maqāṣid. The differentiation of the functions of these two arrangements is intended to avoid inconsistencies of the stages. Their usefulness can only be evaluated through the application of the relevant case files and decisions.

Normative Test on the Recognition of Customary Law and Protection of Civil Rights of Widows

Normatively, the position of widows as heirs is regulated in the KHI. Article 174 is the basis for the identification of heirs, Article 180 regulates the widow's share, and Article 171 letter e stipulates that inheritance is inherited property plus the heir's share of the common property after the heir's needs during illness until death, the cost of managing the body, paying debts, and giving to relatives are taken into account. Therefore, the right to a share of the joint property according to Article 96 paragraph (1) must be distinguished from the widow's inheritance. The issue that needs to be analyzed is whether the customary claim submitted concerns the status of property, temporary possession, or the elimination of rights that have been granted by legal norms.

The testing of customary claims is inappropriate reduced to a formula that KHI always occupies a higher level of hierarchy than customary law. Presidential Instruction Number 1 of 1991 directs the dissemination of KHI as a guideline for resolving marriage, inheritance, and waqf issues (Indonesia 1991). Its position needs to be explained precisely, not unarguably equated with the law. The theory of legal pluralism emphasizes that more than one normative order can operate within the same social space (Griffiths 1986). However, the existence of a custom does not automatically prove its binding power on the object of the dispute. In the context of resolving Islamic inheritance disputes, researchers need to examine the relationship between the parties, the type of object, the relevant material norms, and the competence of the forum as limited in the regulations of the Religious Court.

The test is carried out in layers, rather than choosing one theory in place of another. First, the test of the validity of the claim: identification of who filed the custom, to which community, how the norm is known or proven, and what object is regulated. Second, the test of legal relations: determine whether the issue concerns inheritance, common property, or inheritance as well as the normative examination and relevant judicial authority. Third, the effect test: the assessment of whether the consequences of the application of customary claims can be accounted for the proven rights and the purpose of protection according to the maqāṣid. The third stage does not replace the previous two stages; the purpose of justice should not be used to establish ownership without a legal basis(Auda 2008; Bowen 2003).

Restrictions on forums are also important. Article 49 and Article 50 of Law No. 7 of 1989 as amended by Law No. 3 of 2006 regulate the scope of the authority of the Religious Court and the circumstances of property disputes related to cases within its competence. Therefore, the statement that customary conflicts always

have to be brought to one type of court, or that all ownership disputes are automatically absorbed into inheritance cases, would be too broad. The WCRPF's assessment must prioritize the identity of the parties, the construction of the lawsuit, and absolute competence based on the applicable provisions.

Table 4. Analytical Risks and Normative Criticism Parameters

Aspects	Risks if the analysis is limited	Normative evaluation parameters
Implementation of KHI	Focusing only on the number of shares can overlook the status of the common property.	Check Articles 85–97, 96 paragraphs (1), 171 letters e, 175, and 180 KHI according to the object of the dispute.
Customary considerations	Family habits can be generalized as the norm of the entire community.	Identify the source, community, scope, evidence, and binding of customary norms.
Protection of widows' rights	Inheritance, common property, residence, and economic support can be mixed.	Establish the legal basis and enforcement mechanism for each right separately.
Substantive justice	Consideration of legal objectives may go beyond the basis of the rights or competence of the forum.	The test of the outcome of the settlement, the basis of rights, the evidence, and the limits of the court's authority.

Table 4 is not a summary of the empirical findings of the ruling, but rather a mapping of risks if the dispute analysis focuses too much on one aspect. The application of KHI without identification of the status of the object can confuse common property and inheritance; customary considerations without source verification risk generalizing family practices as the norm of the entire community; while focusing only on the inheritance section can ignore other rights that require their own legal basis and mechanism. The parameters in the table are used to assess the completeness of the arguments, not to state that the pattern has been found in a certain number of decisions.

Maqāṣid al-syarī'ah is used in this study as a test of legal compatibility, not as an automatic source for establishing ownership or adding to *the farā'iḍ*. The systemic perspective of Auda (2008) emphasizes a comprehensive and multidimensional reading of legal objectives. In the WCRPF*, ḥifẓ al-māl* is used to assess whether the right to proven property has been recognized; *ḥifẓ al-nafs* helps assess the real implications for basic needs such as shelter; while the protection of family relations and dignity is considered as evaluative reasons that must be clearly stated. If the assessment of the maqāṣid shows a risk of loss, the result is a reason to re-examine the accuracy of the evidence or the available recovery mechanisms, rather than the granting of rights to assets without a juridical basis.

The reason for respecting customary law does not in itself justify the restriction of widows' rights. When customary norms are used in legal arguments, the source and scope of the norm must be explained and tested against applicable

legal provisions, the principle of equality before the law, and the protection of vulnerable groups (Rautenbach 2022). Principle *Living Law* function to explain the existence of norms in social life, where the principle is not an automatic reason to negate civil rights without an adequate legal basis (Barlinti 2013; SUNY 1987).

In a progressive legal framework, judges' considerations should not stop at the mechanical application of norms, but rather outline how norms are applied to proven facts in order to achieve substantive justice (Mansur, Atoillah, and Yamin 2024). However, consideration of the widow's housing needs, economic access, and dignity does not mean that each of these needs automatically becomes a right of ownership or an additional share of inheritance. Any form of protection must still be placed on an appropriate legal basis and mechanism.

Widows' civil rights need to be differentiated according to their legal basis and enforcement mechanisms. First, inheritance rights are examined through the status of heirs and shares according to Article 174 and Article 180 of the KHI, with the object in the form of inheritance as per Article 171 letter e after the right to joint property and the obligations of the heirs are taken into account. Second, the right to joint property is not part of inheritance: Articles 85–97 of the KHI regulate the joint property regime and Article 96 paragraph (1) gives the surviving spouse the right to half of the joint property in the event of a divorce and death, while taking into account the relevant evidence and provisions. Third, the right to residence must be based on ownership status, share of the common property, inheritance rights, agreements, or other legal basis that can be proven and the status of widow alone does not automatically create the right to live for life in the house belonging to the husband's family. Fourth, economic sustainability is an indicator to assess the consequences of the division and access to assets, not an automatic basis for adding a share of inheritance outside the provisions. Fifth, dignity and social protection are evaluative principles that guide the analysis so that it is not discriminatory, but claims against certain assets must still show a legal basis and appropriate settlement paths. Thus, inheritance cases must be distinguished from ownership disputes, common property, or other claims that may require different bases and mechanisms.

Studies on the position of widows in Toba Batak customs, including research by Sihotang et al. (2015), Aruan et al. (2023), and Sigalingging and Gultom (2025), show that widow status and property use limits can be discussed from the perspective of customs, gender, and decisions that are specifically the object of their research. This article does not transfer the conclusions of these studies to South Sumatra. The contribution offered is an analytical measure that requires the examiner to distinguish between inheritance rights, common property rights, housing rights, and other protection demands based on their respective legal basis.

On the basis of this normative analysis, the protection of widows' civil rights should not be understood only as determining the inheritance. A comprehensive assessment needs to include the identification of the status of the property, the basic certainty of rights, the legal consequences for the widow, and whether any form of

protection is requested through the appropriate mechanism. This proposal is an analytical standard that still requires testing on the judgment and the social context identified.

Reconstruction of the Protection of Civil Rights of Widows through *the Widow Civil Rights Protection Framework* (WCRPF)

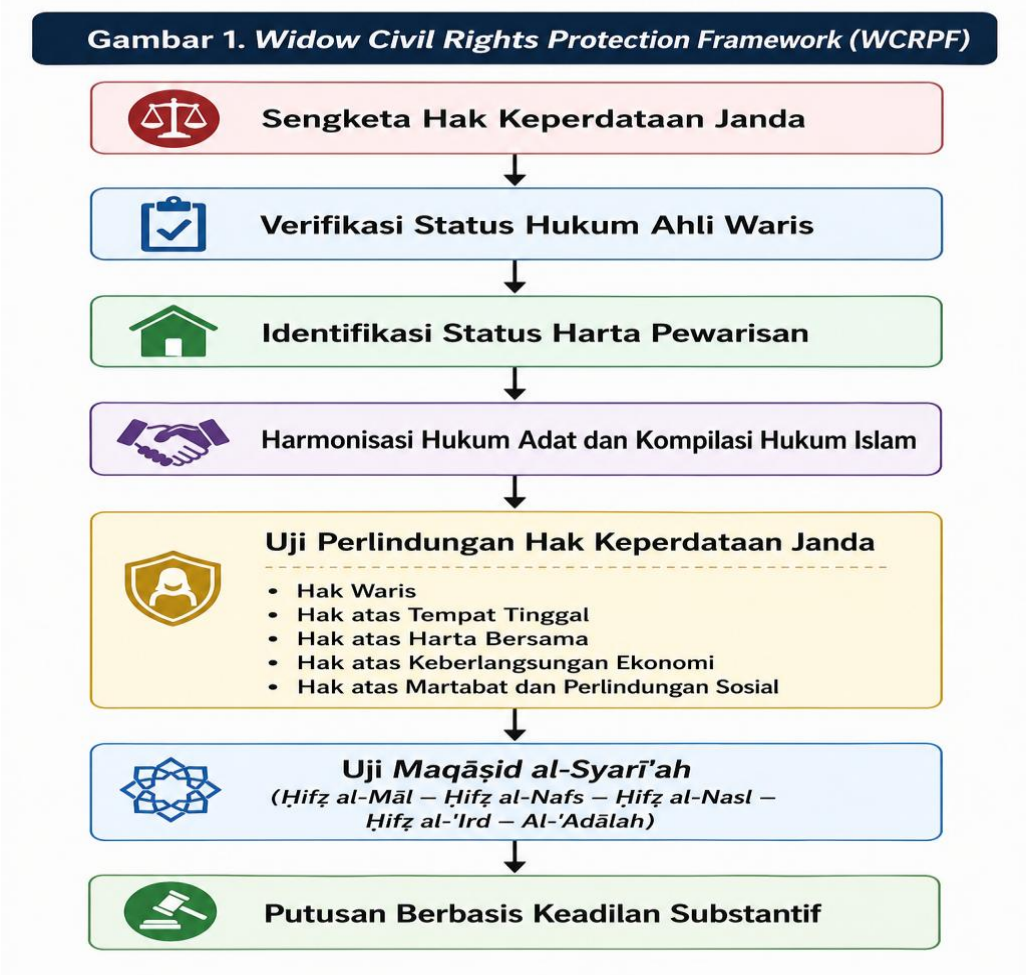
The need for the WCRPF departs from the weakness of the argument that treats all the interests of widows as one type of right. The right to share the common property, the right to inherit, permission to use assets, the need for housing, and the protection of dignity do not derive legal basis from the same source. Besemah's study has shown the interaction of customary law, Islamic inheritance, and women's access to rights (Sukarti 2013; Sukarti, Asyari, and Zulkifli 2023). The WCRPF's contribution is to provide rules for the order of inspection and separation of outputs, not to claim that there has never been a discussion related to inheritance rights and common property.

The proposed framework places the protection of human *dignity* as a consideration that must be read together with the norms of property and inheritance. Judges or researchers need to ensure that the results of the analysis do not cause a waiver of proven rights, and at the same time do not create a right to certain property without a legal basis. Thus, the assessment of residence and economic sustainability complements the examination of rights, but does not replace the determination of the status of property.

Widow Civil Rights Protection Framework (WCRPF) is structured as a five-stage legal reasoning construction that moves from the verification of subjects, objects, and customary claims to the identification of rights that can be claimed, and then the evaluation of the impact of protection. The doctrinal basis is the KHI provisions on heirs and property status; the contextual foundation comes from legal pluralism that examines the existence of more than one normative order (Griffiths 1986; Merry 1988), while the evaluative basis is *maqāṣid al-syarī'ah* (Auda 2008). Each stage has questions, examination materials, and outputs that affect the next stage. Because research does not change material norms and does not examine judgments, the term 'reconstruction' in this section is understood in a limited way as a reconstruction of the flow of protection arguments, not a reconstruction of judicial authority or the establishment of new rights.

This construction raises two constraints of novelty. First, the WCRPF cannot be claimed as a reconstruction of the substantive rule fara'iḍ or a change in the status of customary law; its object is a procedure for testing legal reasons. Second, the novelty of a model is not determined by an English-language name, but by the ability of its stages to produce different and more explicit answers when inheritance claims, asset possession, and protection needs are mixed. Therefore, the operational table and hypothetical illustrations below are intended to demonstrate the working mechanism of the model, rather than to promote an untested model as a binding guideline.

Figure 1. Widow Civil Rights Protection Framework (WCRPF)



Based on Figure 1 above, the term "substantive justice-based judgment" indicates the objective of reasoning to be evaluated through the model, not the claim that its application has been proven to result in a particular verdict. The five stages of the WCRPF form a logically dependent flow. Stage I establishes the subject (who is the widow and other heirs and whether there are children, including daughters); stage II establishes the object (which is the common property, inherited property, and part of the heir that is the inheritance); stage III examines the relevance of customary claims (community, source, object, and legal consequences postulated). The output of the first three stages is the subject–object–claim matrix of norms. Without these matrices, stage IV cannot determine the rights that can be claimed and stage V cannot evaluate the consequences in a testable manner.

Phase IV, *the Civil Rights Protection Test*, distinguishes between two outputs. Juridical output is a type of right that has a specific legal basis and object so that in principle it can be prosecuted through the appropriate mechanism; evaluative output is the impact of asset control and social protection that should be considered but does not by itself give birth to inheritance. For each indicator, the examiner should take note of the examination question, legal or evidentiary basis, and analytical consequences as detailed in Table 6. The assessment of one indicator does

not automatically answer the other, especially when the right of residence depends on ownership or the basis of the agreement, rather than solely widow status.

Table 6. Operational parameters of the Civil Rights Protection Test (WCRPF)

Indicator	**Testing questions/policies**	**Output type**	**Legal consequences limits**
Inheritance rights	Status of heirs, have/without children, inheritance; KHI Article 171(e), 174–176, 180	Juridical Estate: the heir's share of the net inheritance	Not counted from the entire family property/share of the widow's joint property
Joint property	Origin of acquisition of assets and evidence; KHI Articles 85–97, especially 96(1)	Juridical : separation of the spouse's parts	The widow's share is separated before the heir's estate is calculated
Residence	Ownership status, rights to common property/inheritance or agreement	Juridical if there is a basis for rights; in addition, evaluative	Widow status does not automatically create the right to occupy the assets of another party
Economic sustainability	Real access to assigned rights and potential impacts	Evaluative: consequences of fulfilling rights	It is not an automatic reason to raise the farā'iḍ section
Dignity and social protection	Reasons for differentiation, completeness of consideration, recovery path	Evaluative; juridical if there is a basis for specific demands	Does not by itself give birth to ownership of a particular asset

As a test of logic, suppose a husband dies and leaves behind his wife and one daughter, without a son. A house turns out to be proven to be a common property, while another house is still claimed by the extended family as hereditary assets but the ownership status has not been proven. Stage I records the existence of daughters so that the wife's share according to Article 180 of the KHI is 1/8 of the inheritance, not 1/4. Stage II first separates the wife's share of the common property; only the heir's share, plus the other heir's property after the relevant obligation, can be counted in the inheritance. Stage III postpones the conclusion of the house claimed as family property until the source of the right is proven. Stage IV distinguishes inheritance rights and common property from the widow's need to maintain a residence, while Stage V evaluates the impact without adding to the inheritance. This

example is a hypothetical scenario, not a summary of the case or evidence of the effectiveness of the WCRPF.

Phase V, *the Maqāṣid Compatibility Test*, assesses whether the juridical output of phase IV has been prepared without ignoring the relevant impact on property (*ḥifẓ al-māl*), the need for life and shelter (*ḥifẓ al-nafs*), as well as family relations and dignity. The question is not whether maqāṣid justifies the addition of property rights, but whether legal reasoning has examined all existing rights bases, avoided discrimination without valid reasons, and provided an explanation for the consequences of the decision. If inconsistencies are found, the researcher retraces the incomplete stage and considers possible legal remedies, rather than directly changing the inheritance (Auda, 2008).

Table 5. Comparison of Sectoral Readings (Analytical Construction) and WCRPF

Aspects	Partial/sectoral reading (comparative construction)	**Widow Civil Rights Protection Framework**
Focus	Testing of one claim or one type of right	Testing of the relationship between subjects, objects, customary norms, rights, and consequences
Basis of Analysis	A Choice of Words That Are Relevant to the Issue	KHI and competency rules, legal pluralism, and maqāṣid evaluation
The Role of Customary Law	Customary context can be invoked without a complete examination	Customary claims are traced by their source, scope, object, and legal consequences
Decision Orientation	Answers to separate legal issues	Juridical outputs are separated from substantive impact assessments
Outcome	Conclusion on the claim read	A test matrix that guides the identification of rights types and protection limits

Rather than a reading that stops at only one element of the dispute, the WCRPF requires the researcher to record the order of the test as well as the reasons why a need is a right that can be claimed or only an evaluative aspect. The added value is the traceability of the argument and the reduction of the risk of mixing the legal regime, not the claim that all previous inheritance approaches ignore common property or justice. The comparison in Table 5 is therefore a comparison with a simplified pattern of sectoral analysis for methodological purposes, rather than the results of a survey or evidence of the practice of all judges (Sukarti, Asyari, and Zulkifli 2023).

In practical terms, the WCRPF can be tested as a conceptual guideline for Religious Court judges when dealing with disputes involving inheritance, common property, and customary claims. This framework can help formulate examination questions systematically, but it does not replace the prevailing evidence, court competency provisions, or procedures. Its effect on the consistency of judgments cannot be ascertained before it is tested on a number of relevant decisions.

The WCRPF thus offers a conceptual tool for recording the source of rights, the status of objects, the strength of customary claims, the enforcement pathway, and

the separate impact assessment. The framework still needs to be tested on a number of identified rulings and against the variation of indigenous communities; therefore, this article only asserts conceptual feasibility based on doctrinal consistency and analytical illustrations, not empirical effectiveness.

Theoretical and Practical Implications for the Development of Islamic Family Law

The theoretical contribution of this research is limited but measurable: it formulates the relationship between three types of legal questions that often arise at the same time, namely who holds the right, which property objects are the source of rights, and how customary claims and protection interests are evaluated. Sukarti's (2013) research has discussed the pluralism of inheritance dispute resolution, while Sukarti et al. (2023) have discussed the protection of women's inheritance rights and legal education, including the distinction between common property and inheritance. Therefore, the WCRPF does not claim to have found such a distinction for the first time. Its contribution is to transform it into a test sequence with traceable juridical and evaluative outputs, in line with the attention to the diversity of norms in legal pluralism and a multidimensional approach to legal objectives. (Auda 2008; Merry 1988).

From the perspective of legal pluralism, the relationship between customary law and KHI needs to be analyzed through a reasoning process that explains the sources and limits of the application of each norm. Judges can consider local values as context, but the application of customary norms must be tested in a legal framework that guarantees legal certainty, equality before the law, and protection of vulnerable groups. This normative construction emphasizes that the existence of *living law* needs to be accompanied by an examination of its conformity with the principles of substantive justice and protection of rights.

The WCRPF framework also offers a way to develop the study of *judicial reasoning* in Islamic family law. In advanced research, judges' considerations can be studied as an evaluation process that integrates legal norms, proven facts, cultural contexts, and sharia goals. Through the indicators described in this article, researchers can assess whether legal reasons explain the status of property, the basis of rights, and the limits of each form of protection, without assuming that certain patterns have been proven before the verdict is analyzed.

The practical implications of the research are still in the form of use hypotheses. The WCRPF can be a list of examination questions for the research of the verdict, assistance in preparing arguments, or academic evaluation of the consistency of the identification of the object of property and the basis of the claim. Its use does not replace procedural law, forum authority, the evidence and evidence of the parties, and the applicable material provisions. The real usefulness for judges can only be assessed after a number of decisions are analyzed using the same indicators and the results are compared.

Policy recommendations are limited to the need to strengthen analytical guidelines regarding asset classification, customary claims, and protection of rights

that already have a legal basis. Proposed changes to judicial guidelines or KHI reforms cannot be concluded as a proven need without evaluating decisions, institutional competence, and the basis for the formation of appropriate instruments. At this stage, the WCRPF is more appropriate to be submitted as material for academic discussion and the design of a decision research instrument rather than directly recommended as SEMA or PERMA.

In societies with a pluralistic legal order, WCRPF has the potential to be used as a starting point for conceptual comparison. However, its application outside Indonesia cannot be assumed to be taken for granted, because the categories of property, the basis of inheritance, and the recognition of customary norms differ in each jurisdiction. Comparative studies must first map out the applicable rules and settlement forums before using the WCRPF indicator.

CONCLUSION

Normatively, a widow without a son still has the status of heir, but this condition must be distinguished between leaving no children at all and leaving a daughter. The provisions of Article 180 of the KHI do not provide an equal share for both circumstances. Before calculating inheritance, the surviving spouse's share of the joint property needs to be separated, and then the inheritance is calculated taking into account the status of the property and the obligations of the heirs. Claims of possession based on patrilineal customs must be identified by their source, community, object, and consequences, while social claims cannot automatically replace the proof of rights or remove the legally demandable portion. In the context of South Sumatra, the proposition applies as a parameter for examining possible disputes, rather than findings regarding a single customary pattern of the entire community.

The added value of the WCRPF lies in the sequencing of the test of customary subjects-objects-claims and in the separation of the output of *the Civil Rights Protection Test into juridical* rights that can be claimed as well as evaluative considerations regarding residence, economic sustainability, and dignity. The Maqāṣid Compatibility Test assesses the consistency of protection without allowing the creation of property rights or additional inheritances without a legal basis. Thus, the WCRPF clarifies the structure of civil protection arguments in the space of legal pluralism, rather than establishing new material norms. This research is limited to doctrinal analysis and comparative literature; follow-up testing needs to select specific indigenous communities, collect relevant files and decisions, examine the ratio decidendi, and then assess whether the WCRPF indicators improve the accuracy of the analysis compared to the available approaches.

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