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Philosophical Hermeneutics of the Radd Concept in Article 193 KHI: A Critique of Contextual Ethics of Islamic Inheritance Law

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Abstract: *The provision on Radd in Article 193 of Indonesia's Compilation of Islamic Law (KHI), which allocates residual inheritance to all fixed heirs (dzawī al-furūḍ), including spouses, presents a paradigmatic departure from the classical Islamic legal consensus that excludes marital partners from such redistribution. This article questions whether such deviation reflects a mere juridical anomaly or a more profound philosophical reconfiguration of justice within Islamic legal thought. Adopting a conceptual framework grounded in Paul Ricoeur's hermeneutics and John Rawls's theory of justice, this study treats the legal text not as a static norm but as an ethically mediated narrative shaped by historical consciousness and social context. Through Ricoeur's notion of interpretive praxis and Rawls's difference principle, the analysis demonstrates that Article 193 embodies a transformative form of distributive justice that affirms the moral worth and relational significance of all heirs, regardless of gender or bloodline. Rather than viewing the provision as a rupture from tradition, the article argues that it constitutes a creative appropriation of Islamic inheritance principles to meet the demands of ethical pluralism and familial equity in contemporary society. The study contributes an original philosophical reading of Islamic legal reform by reimagining law as an open text, one that negotiates between normative inheritance and evolving human contexts through the lens of ethical responsibility and intersubjective recognition.*

Keywords: *Radd, Islamic justice, Ricoeur, Rawls, hermeneutics, distributive equity, inheritance*

Abstract: *Ketentuan Radd dalam Pasal 193 Kompilasi Hukum Islam (KHI) di Indonesia, yang menetapkan distribusi sisa harta warisan kepada seluruh ahli waris tetap (dzawī al-furūḍ), termasuk suami atau istri, menandai pergeseran paradigmatik dari konsensus hukum Islam klasik yang secara umum mengecualikan pasangan dari hak tersebut. Artikel ini mempertanyakan apakah pergeseran ini sekadar penyimpangan teknis dari mazhab, atau justru mencerminkan rekonseptualisasi filosofis atas keadilan dalam pemikiran hukum Islam kontemporer. Dengan menggunakan kerangka hermeneutika Paul Ricoeur dan teori keadilan John Rawls, penelitian ini memandang teks hukum bukan sebagai norma yang tertutup, melainkan sebagai narasi etis yang dimediasi oleh kesadaran historis dan konteks sosial. Melalui konsep praxis interpretatif Ricoeur dan prinsip perbedaan dari Rawls, kajian ini menunjukkan bahwa Pasal 193 menghadirkan bentuk keadilan distributif yang transformatif, yang mengafirmasi kesetaraan moral serta peran relasional semua ahli waris, tanpa membedakan jenis kelamin atau garis nasab. Alih-alih*

dianggap sebagai pelanggaran terhadap tradisi, artikel ini berargumen bahwa ketentuan tersebut merupakan bentuk apropriasi kreatif terhadap prinsip-prinsip waris Islam demi menjawab tantangan etika plural dan tuntutan keadilan keluarga dalam masyarakat kontemporer. Kajian ini menawarkan kontribusi orisinal dalam pembacaan filosofis terhadap reformasi hukum Islam, dengan memposisikan hukum sebagai teks terbuka yang bergerak antara warisan normatif dan konteks historis, serta menuntut tanggung jawab etis dalam praksis penafsirannya.

Keywords: *Radd, keadilan Islam, hermeneutik, Ricoeur, John Rawls, keadilan distributif, waris.*

Introduction

In contemporary Islamic legal discourse, justice is no longer solely understood as a normative principle derived from sacred texts, but rather as a space for negotiation between ethical values, social structure, and legal sustainability in the modern context. One of the most sensitive areas of this tension is inheritance law, especially when classical jurisprudence doctrine is tested by social realities that are no longer in harmony with the patriarchal assumptions and extended family structures that once underpinned it. In Indonesia, this tension finds its articulation concretely in Article 193 of the Compilation of Islamic Law (KHI), which introduces the *Raddy mechanism*—the return of the remaining inheritance to the permanent heirs (*dzawī al-furūḍ*) when there is no successor (*ʿaṣabah*). This provision explicitly departed not only from the dominant Shafi'iyyah orthodoxy but also from almost all classical schools, which generally excluded husbands and wives from the right to receive *Radd*. In Article 193 of the KHI, *Radd* is given proportionately to all *dzawī al-furūḍ* without exception, including husbands and wives. It is the starting point that shows a significant paradigmatic shift in the construction of Islamic inheritance justice in Indonesia.

This article states that "if the heirs consist only of *dzawī al-furūḍ* and there is still a residue of the inheritance, then the remainder is returned proportionately to them, except to the husband or wife." However, the judicial practice and interpretation of some religious judges show that there is flexibility in applying *Radd* also to married couples.[1] Therefore, the reading of Article 193 requires an approach that goes beyond the doctrine of traditional fiqh. When almost all sects, both Shafi'i, Hanafi, Maliki, and Hanbali, excluded husbands and wives from the right of *Radd*, this provision of the KHI stood as a new form of ijtihad that marked an ontological transformation in Islamic inheritance law. More than that, he emphasized that Islamic law in Indonesia is not solely

[1] K. Hasballah, "Disparity in Judge Decisions in Resolving Rad Inheritance Disputes: Case Study at the Sharia Court in Banda Aceh City," *El-Usrah* 6, no. 2 (2023): 249.

textual, but also open to philosophical reinterpretation in accordance with the values of substantive justice.

To understand the epistemological significance of Article 193, the classical dogmatic-fiqh approach becomes inadequate. There is a need for an approach to Islamic legal philosophy that asks not only "what is the law?", but also "why is it so" and "whether it is fair in the context of modern man". This approach is used in this article, which dismantles the construction of Islamic inheritance law through the lens of the hermeneutics of justice in the style of Paul Ricoeur, and juxtaposes it with the dynamic framework of maqāṣid al-sharī'ah. Ricoeur views law not as a rigid norm, but as a text that must be interpreted taking into account the narrative, human experience, and ethical horizon of its society.[2] With this approach, *Radd* in KHI is not seen as a deviation from the school, but rather as an ontological transformation rooted in moral consciousness to uphold justice in contemporary social reality.

Recent studies, such as those by Aditi et al., Zenrif and Bachri, and Ismail et al., show that in the context of Indonesian Muslim society, inheritance relations are no longer patriarchally structured as assumed in the classical inheritance model.[3] When a daughter, mother, or sister becomes the sole heir, and *the ʿaṣabah* is practically nowhere to be found, the classical provision of inheritance creates inequality that is contrary to the spirit of Qur'anic justice. In the framework of maqāṣid, as explained by Alkhan and Saniah et al., justice is the primary foundation that can direct ijtihad towards the fulfillment of tangible benefits.[4] In this logic, *Radd* became a means of correcting the rigid structure of inheritance law, and was insensitive to changes in the modern family structure.

This provision is also the result of a dialectic between normative law, local customs, and social reality. The study by Dahwal and Fernando, Ismail, and Hamid Pongoliu shows that Muslim

[2] Abbas Ahsan, "The Logical Inconsistency in Making Sense of an Ineffable God of Islam," *Philotheos* 20, no. 1 (2020): 68.

[3] I.G.A. Aditi et al., "Re-Examination of the Concept of Justice in the Inheritance System: A Study on Women's Inheritance in the Traditional Society of Bali in Lombok, West Nusa Tenggara, Indonesia," *Jurnal IUS Kajian Hukum dan Keadilan* 11, no. 3 (2023): 602; F. Zenrif and S. Bachri, "Critical Study of Amina Wadud's Thought in the Issue of Inheritance," *De Jure: Jurnal Hukum dan Syar'iah* 15, no. 1 (2023): 39; I. Ismail, N. Hendri, and P.R. Nurhakim, "Minangkabau's Doro Tradition: Coexistence of Customary Law and Islamic Law in Caning Punishment," *Samarah* 7, no. 1 (2023): 579.

[4] Ahmed Mansoor Alkhan, "The Maqāṣid Al-Sharīah and Islamic Finance Debate: The Underlying Philosophy and Perspectives of Sharīah Scholars," *Arab Law Quarterly* 37, no. 1–2 (2021): 80; Nur Saniah, Nawir Yuslem, and Hasan Matsum, "Analysis of Maqāshid Sharī'a on Substitute Heir in Compilation of Islamic Law (KHI)," *Al-'Adalah* 20, no. 1 (June 22, 2023): 35.

communities in various regions in Indonesia have long implemented a more egalitarian form of inheritance redistribution, including by giving women more space in the inheritance structure.[5] Thus, Article 193 of the KHI is not an innovation without roots, but a representation of the collective will to uphold justice based on local experience and Islamic ethical values. Meanwhile, in Islam, to strengthen the concept of justice in Islamic philosophy, it can refer to the concept of the thought of classical figures such as Al-Farabi, who stated that justice is a hierarchical and harmonious structure in society. Al-Ghazali also explained the concept of justice with Sharia maqasid and spiritual balance. At the same time, Miskawayh sees justice as the result of integration between the dimensions of morality and rationality. Thus, the discourse of justice is not only confined by Western-centric paradigms, but also finds an ontological and epistemological basis in the treasures of Islam.

In the KHI, the uniqueness of Article 193 of the KHI also lies in its courage to go beyond the boundaries of the sect in order to answer the challenges of modern justice. In Ricoeur's view, this is a form of *praxis of justice*—the act of interpreting law that is aware that norms are never sufficient without ethical involvement. When law comes to life through interpretation and reflection, then justice is not just a normative principle, but a moral reality formed through interpretive choice.[6]

This study offers an alternative approach by using the hermeneutic framework of Paul Ricoeur to interpret Article 193 of the KHI as a legal text that is open to reinterpretation in the contemporary justice horizon. This approach sees legal texts not only as a product of legislation but as ethical narratives that interact with society's social experiences, aspirations for justice, and intersubjective values. John Rawls's theory of justice enriches this approach as fairness, specifically the principle of difference that prioritizes the most disadvantaged groups. In the

[5] Sirman Dahwal and Zico Junius Fernando, "The Intersection of Customary Law and Islam: A Case Study of the Kelpeak Ukum Adat Ngen Ca'o Kutei Jang in the Rejang Tribe, Bengkulu Province, Indonesia," *Cogent Social Sciences* 10, no. 1 (2024): 2; Ismail Ismail et al., "The Contribution of 'Urf to The Reform of Islamic Inheritance Law in Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, no. 2 (2022): 165; Hamid Pongoliu, "Pembagian Harta Waris Dalam Tradisi Masyarakat Muslim Di Gorontalo," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 2 (2019): 187.

[6] Ahsan, "The Logical Inconsistency in Making Sense of an Ineffable God of Islam," 68; H. Harasani, "Islamic Law as a Comparable Model in Comparative Legal Research: Devising a Method," *Global Journal of Comparative Law* 3, no. 2 (2014): 186.

context of inheritance law, this is relevant to dissect the structure of inequality that often marginalizes women as heirs.[7]

The novelty of this research lies in the methodological integration between modern hermeneutic theory and social justice theory, which is rarely found in the study of Islamic inheritance law in Indonesia. By framing Article 193 of the KHI as a form of ethical interpretive proxy, this study proves that the regulation is not simply different from the classical school of fiqh, but represents a legitimate *form of creative appropriation* of the treasures of Islamic law in order to answer the needs of local justice.[8] It is, at the same time, in contrast to the positivistic approach in the enforcement of Islamic law, which tends to emphasize textual authority without room for historical reflection or distributive justice.[9]

Theoretically and practically, this article is important because it shows how Islamic law can be interpreted responsively and progressively within the national legal system. The interpretation of Article 193 of the KHI through the lens of Ricoeur and Rawls opens up a new discourse that Islamic inheritance law is not a closed system, but a structure of meaning that is alive and capable of presenting substantive justice for vulnerable groups, especially women, in Indonesia's pluralistic Islamic legal system.[10] Therefore, this study contributes not only to a conceptual understanding of *the Raddy principle* but also to judicial and legislative practices that are more sensitive to social dynamics and the plurality of justice values.

The primary focus of this article is to understand how the meaning of justice in the substance of Article 193 of the KHI can be revealed through Paul Ricoeur's hermeneutic approach. For

[7] Y. Zaidah and R. Abdullah, "The Relevance of Ihdad Regulations as a Sign of Mourning and Human Rights Restriction," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 422; Saniah, Yuslem, and Matsum, "Analysis of Maqāshid Sharī'a on Substitute Heir in Compilation of Islamic Law (KHI)," 35; Aditi et al., "Re-Examination of the Concept of Justice in the Inheritance System: A Study on Women's Inheritance in the Traditional Society of Bali in Lombok, West Nusa Tenggara, Indonesia," 602.

[8] S. Sunaryo et al., "The Narrating Ontology Morality of Corruption Law In Indonesia Based on Islamic Value," *Jurnal Hukum Unissula* 41, no. 1 (2025): 133; A Islamy, "Eksistensi Hukum Keluarga Islam Di Indonesia Dalam Kontestasi Politik Hukum Dan Liberalisme Pemikiran Islam," *Al-Istinbath: Jurnal Hukum Islam* 4, no. 2 (2019): 161; M. Munajat, "Transformasi hukum pidana islam dalam tata hukum Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (2019): 1.

[9] J.Q. Zaman et al., "The Influence of Positivism and Empirism in The Enforcement of Islamic Inheritance Law in Indonesia," *Substantive Justice International Journal of Law* 7, no. 1 (2024): 48; Ali Sodiqin, "Legal, Moral, and Spiritual Dialectics in the Islamic Restorative Justice System," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021): 357.

[10] A. Junaidi, M. Khusna Amal, and M. Waeno, "Transcending Boundaries of Rationality and Spirituality: Ibn 'Arabi's Holistic Vision in Islamic Legal Interpretation," *Teosofi: Jurnal Tasawuf dan Pemikiran Islam* 14, no. 2 (2024): 1; Aditi et al., "Re-Examination of the Concept of Justice in the Inheritance System: A Study on Women's Inheritance in the Traditional Society of Bali in Lombok, West Nusa Tenggara, Indonesia," 602; Ismail et al., "The Contribution of 'Urf to The Reform of Islamic Inheritance Law in Indonesia," 602.

Ricoeur, legal texts do not only contain rules, but also open up space for ethical interpretation through a dialectic between norms and human experience. Article 193, as a legal text, cannot be read literally as a mere mechanism for the distribution of wealth, but must be understood as an expression of an interpretive process that involves sensitivity to the concrete situation of the heirs, family relations, and the moral expectations of society for justice. Ricoeur's hermeneutics allows a re-reading of this article as an act of justice that does not stop at legal compliance, but rather moves towards the recognition of the dignity of the subjects involved. Thus, Radd in Article 193 is not merely a technical function in inheritance law, but is a manifestation of justice that is ethically mediated by the interpretation of the human needs that live in the text and its context.

Methodology

This research uses a qualitative approach based on the study of Islamic legal philosophy and philosophical hermeneutic theory. The primary focus is to interpret the meaning of justice in Article 193 of the Compilation of Islamic Law (KHI), especially regarding *the provisions of Radd,* as a legal text that is open to reinterpretation in the context of contemporary justice.

Methodologically, this study integrates two main theoretical frameworks. First, Paul Ricoeur's hermeneutics is used to analyze legal texts as a structure of meaning that is not static, but instead formed through a dialectic between texts, interpreters, and social contexts. Ricoeur divides the process of understanding into two main stages, namely the explanation of the objective structure of the text and the understanding of the ethical meaning that lives in the reader's experience. This approach allows the reading of Article 193 not simply as a formal norm, but as a reflective and contextual representation of the praxis of justice.

Second, John Rawls's theory of justice is used to assess the structure of inheritance distribution in Article 193 from a social ethical perspective. In particular, *Rawls's difference principle* is used as a tool to assess whether *the Radd* mechanism in the article provides adequate protection to structurally disadvantaged groups, such as women who are the sole heirs.

The research data consists of three types of sources. First, the normative text in the form of Article 193 of the KHI is the main object of the study. Second, the doctrine of classical fiqh from the four primary schools and the Ja'fari school is a normative comparative basis. Third, contemporary philosophical and jurisprudential literature, including the works of Paul Ricoeur and John Rawls, as well as the results of relevant empirical and judicial research. All of these sources

are analyzed interpretively by prioritizing ethical responsibility in interpreting legal texts, as affirmed by Ricoeur in the concepts *of praxis of justice* and *narrative identity*.

Findings and Discussion

Paul Ricoeur's Hermeneutics and the Meaning of Justice in Legal Texts

This study uses Paul Ricoeur's hermeneutic theory as the primary conceptual tool to interpret the value of justice contained in Article 193 of the Compilation of Islamic Law (KHI). Hermeneutics, in Ricoeur's view, is not simply a method of reading texts, but is an ethical practice that allows legal texts to interact with the horizon of human values and experience. Furthermore, Ricoeur emphasizes that texts have autonomy of meaning and open up a world of the *text* that must be bridged through an understanding involving the interpreting subject.[11] Therefore, legal texts are not enough to be read through their semantic structure, but must be interpreted as a field of ethical interpretation that is responsive to the social realities in which the law applies.

Ricoeur sharply distinguishes between two stages of interpretation: explanation and *understanding*—the former examining the objective structure of the text, and the latter revealing how the meaning of the text is captured in experience.[12] In this context, Article 193 is not just a legal formula, but an open text that contains ethical possibilities to be interpreted in the context of modern inheritance justice. Radd's mechanism in this chapter, through the lens of Ricoeur, is not only a normative instrument, but a narrative of justice that allows the recognition of the concrete experiences of the heirs, especially those who do not receive the same treatment in receiving the rest of the property for the absence of *ʿaṣabah* in the classical rules of inheritance.

Later, Ricoeur expanded his understanding of justice by asserting that justice is not blind obedience to rules, but the ability to assess "fair situations" through ethical judgment in concrete contexts.[13] That is, justice in law must be read as a dialectic between norms and narratives—between written rules and human lives that experience them. In this light, *Radd* in Article 193 can be understood as a form of praxis of justice, which is an interpretive action against the legal text in order to respond to the concrete needs of legal subjects and maintain the ethical integrity of Islamic law itself.

[11] Paul Ricœur, *From Text to Action: Essays in Hermeneutics, II* (Northwestern University Press, 1991), 107–108.
[12] Paul Ricœur, *Time and Narrative* (University of Chicago Press, 1984), 71–75.
[13] Paul Ricoeur, *The Just* (University of Chicago Press, 2000), xv–xvi, 23.

Furthermore, Ricoeur developed the concept of "narrative identity" as an ethical basis for just action. He writes that "self-identity is unstable, but is formed in narratives and relationships with others".[14] So, in the context of inheritance law, the legal subject (heir) is not an abstract individual, but part of a network of social relations that has the right to be recognized. It is where *Radd* becomes more than just a legal procedure: it becomes a form of recognition of the existence and dignity of the subject that is often not fully accommodated by the classical doctrine of inheritance.

Thus, this hermeneutic approach places Article 193 as a text that contains ethical vitality. It opens up the possibility of being interpreted contextually and reflectively in answering the problem of inheritance inequality that often occurs in society. This study uses Ricoeur's approach not to replace Islamic law, but to deepen understanding of how justice in Islam can be authentically brought to life through a responsible, context-conscious, and directed interpretation of human dignity.

Social Justice from the Perspective of John Rawls

Justice, in John Rawls's political philosophy, is the normative principle that governs the basic structure of society. In *A Theory of Justice*, he stated that "justice is the first virtue of social institutions, just as truth is the virtue of a system of thought".[15] Rawls developed the idea that the principles of justice must be rationally chosen in an imaginary situation called *the original position*, in which individuals make decisions without knowing their social position, class, or personal talents.[16] This condition ensures that the chosen principle of justice is impartial and upholds the moral equality of each individual. John Rawls's theory of justice, particularly the concept *of justice as fairness*, offers a normative framework that emphasizes the equality of rights and fair distribution through the principle of freedom and difference. However, when applied to the normative structure of Islamic law that is based on revelation, the maqāṣid al-sharī'ah (legal goals), and the hierarchy of shari'i values of Rawls's theory face substantial limitations.

One of the main criticisms is that Rawls places individual autonomy and rationality as moral starting points, while in Sharia, justice is measured not only by the rational consensus of man, but also by obedience

[14] Paul Ricoeur, *Oneself as Another* (University of Chicago Press, 1992), 114–116.
[15] John Rawls, *A Theory of Justice* (Harvard University Press, 2009), 3.
[16] Rawls, *A Theory of Justice*, 11–12.

to the transcendent divine will. Principles such as absolute equality or absolute freedom in Rawlsian liberalism can be contrary to certain Sharia norms,

From there, Rawls formulated two principles of justice. First, fundamental freedoms are equal for all. Second, social and economic inequality can only be justified if it benefits the most disadvantaged—this principle is known as *the difference principle*.[17] As he stated that "inequality should be regulated in such a way as to benefit the most disadvantaged of the most disadvantaged".[18] With this principle, Rawls accepts inequality, but instead tests it morally based on its impact on vulnerable groups.

In the context of Article 193 of the KHI, which grants the residual inheritance (*Radd*) to the permanent heirs in the absence of *ʿaṣabah*, Rawls's theory provides a sharp ethical framework. Instead of asking whether *Radd* fits into the school system, the Rawlsian approach directs attention to the question: does this inheritance structure provide tangible benefits to those who are most vulnerable, such as women or non-paternal close relatives? If so, then *Radd* can be understood as a form of just social arrangement, because it adheres to the principle of non-discriminatory distribution and pays attention to the weakest position in the family structure.

Rawls also emphasized the importance of *a sense of justice*, the moral ability of the individual to act in accordance with the principles of rationally chosen justice.[19] In a pluralistic and religious society like Indonesia, the public's sense of justice towards the distribution of inheritance is part of the validity of the law itself. Thus, Rawls's approach not only enriches the theoretical understanding of *Radd* but also strengthens his ethical basis as an expression of commitment to inclusive social justice.

The concept *of Radd* according to classical Islamic fiqh

In Islamic Inheritance Law, the calculation of inheritance using the Radd concept can occur if, in the division of assets, there is an excess after each heir receives their respective share in accordance with the provisions of inheritance law in the inheritance verse. It shows that there are no heirs of *'aṣabah* among the recipients of inheritance. It is because, if there is an *'aṣabah*, of

[17] Rawls, *A Theory of Justice*, 52–55.
[18] Rawls, *A Theory of Justice*, 65.
[19] Rawls, *A Theory of Justice*, 495–496.

course, the rest will be given to them.[20] *Radd* can occur with several conditions, namely: *first,* the heirs consisted of *Zawī al-Furūḍ, second,* there are no heirs *of 'aṣabah, third,* there is a residue of the property after it has been distributed to the heirs.[21]

The existence of the concept *of Radd* in Islamic law, which is the result of ijtihad, has an impact on the existence of different fiqh scholars. The difference consists of two groups, namely the group that considers that *Radd* does not exist in the inheritance, and the second group agrees with the existence of *Radd.* This difference regarding *al-radd* has existed since the time of the Prophet PBUH's companions, and the period both before and after the formation of the fiqh school. The existence of this difference is none the than because the provision for giving the rest of the property to *zawī al-furūḍ* is not clearly explained in the Qur'an and the Sunnah of the Prophet PBUH.[22] The classical fiqh view of justice, which rests on the principle of divine justice and the decrees of the shari'a, can be linked to the philosophical approach of the concept of justice through the effort to explore the rational and ethical dimensions behind Islamic laws, so that justice is understood not only as formal obedience to the rules, but also as a reflection of the harmony of reason, morality, and the purpose of human welfare within the framework of revelation.

In detail, the differences regarding the existence of *Radd* and the heirs who are entitled to the student property can be seen in Table 1.1.

NO	Figures of the period of the companions of the Prophet PBUH	Scholars of the mazhab	Opinion	Information	Evidence
1	Zayd ibn Sabit, Urwah, and al-Zuhrī	Imam Maliki dan Shafi'i	The rest of the inheritance, if there is no aṣabah, is given	If the financial institution (*bayt al-māl*) is	There is no evidence for giving more

[20] Muḥammad Jawwād Mughnīyah, *al-Fiqh 'ala al-Madhāhib al-Khamsah: al-Ja'farī, al-Ḥanafī, al-Mālikī, al-Shāfī'ī* (Beirut: Dār al-Jawād, 2008), 429.

[21] Muṣṭafā 'Āshūr, *'Ilm al-Mīrāth* (Kairo: Maktabah al-Qur'ān, 1988), 134.

[22] A postulate in both the Qur'an and the Sunnah whose explanation is not detailed, sometimes results in a difference in the conclusion of the excavation of a law. These differences are influenced by several factors, for example because there are words that have more than one meaning (lafẓ mushtarak), the existence of naskh to the postulate, different methods of men-takhṣīṣ lafaz 'ām, and men-taqyīd ke-muṭlaq-an dalil. 'Alī al-Khafīf, *Asbāb Ikhtilāf al-Fuqahā'* (Madinah: Dār al-Fikr al-'Arabī, 1996), 25–26.

			to the financial institution of the ummah (*bayt al-māl*)	in good condition	than a particular share of *inheritance (al-furūd al-muqaddarah*)
2	-	Disciple of Imam Maliki and disciple of Imam Shafi'i muta'akhirin	The rest of the inheritance, if there is no '*aṣabah,* is given to the heirs other than the spouse, in proportion to the	If the *bayt al-māl institution* is not in good condition	It is better to give the remainder to the heirs than to give the remainder to *Bayt al-māl,* which is not in good condition
3	Usman bin Affan		The rest of the property is given to all heirs, both those who inherit by blood and by reason *of sexual relations* (husband/wife)	The degree of all the heirs of the blood relationship and the heirs of the marriage relationship cannot outperform each other, because the degree is the same, namely, *aṣḥāb al-furūḍ.*	The legal conclusion is through *the qiyās method,* which is the analogy of *the concept of Radd* to *al-'awl,* which is an agreed rule (the legal basis is the result of ijma'). In the division of

					inheritance, in the event of a deficiency (awl state), the deduction is applied to all the heirs; likewise, if there is a surplus, the rest of the property is distributed equally to all the heirs.
4	Umar ibn Khattab and Ali ibn Abi Talib	Scholars of the Hanafi and Hanbali madhhab	The residue of the property that has not been exhausted after it has been distributed to the heirs and no ‘aṣabah is distributed to the aṣḥāb al-furūḍ based on a particular share (*al-furūd al-muqaddarah*) respectively, except for the husband or wife.	People who get inheritance rights by reason of blood relations are preferred over people who are entitled to inherit by reason of marriage.	Their reason refers to the expression أولوا الأرحام found in Q.S. al-Anfāl: 75. The verse shows that the heirs of the blood are the most entitled to the property left by one of them, including the rest of the

					property that is not fully divided.
5		Mazhab Ja'fari	The residue of the inheritance, if there is no 'aṣabah, is given to the heirs proportionately, and there are none other than the wife.	When the period is decided by a government led by a just priest	

Table 1.1. Discourses of Radd Concept

These diverse views show that the provisions regarding *Radd* in Islamic fiqh are *ijtihādī* and open to interpretation, which in Ricoeur's framework opens up the possibility for ethical appropriation based on the contemporary context of the differences of opinion of scholars of classical fiqh regarding the concept *of Radd.* The opinion of Uthman bin 'Affan who supports the application of *Radd* (return of the remaining inheritance to the heir without '*aṣabah*) shows the flexibility in the interpretation of inheritance law for the sake of substantive justice, which can be attributed to the concept *of creative appropriation* from Paul Ricoeur, namely the understanding and interpretation of the text productively and contextually, where the heirs of meaning do not just passively repeat traditions, but actualize it creatively to answer the needs of the times.

***Radd* provisions in positive law in Indonesia**

Indonesia has standard rules about *Radd*. The rule is contained in the 4th chapter of the Compilation of Islamic Law, namely article 193, which states that:

"If in the granting of inheritance among the heirs of Dzawil furud shows that the numerator number is smaller than the number of the denominator, while there are no asabah heirs, then the distribution of the inheritance is carried out in a rad manner, that is, in accordance with the rights of each heir while the rest is divided equally among them."

The purpose of the article is that when in the distribution of inheritance there is an excess of property, which results in the calculation of the heir's share in the form of fractional numbers

making "the numerator number smaller than the denominator", then the distribution of inheritance must be carried out in a "Rad" manner, that is, by giving the excess to the heirs excepted, proportionally. Furthermore, the "Rad" provisions contained in this article are the opinion about Radd put forward by Uthman ibn Affan. Thus, this article is a *takhyīr*, as a method of legal reform, to several different opinions on the practice of Radd.

Justice according to Ricoeur's Hermeneutics and Rawls's Ethics in Reading Article 193

Ricoeur's *concept of creative appropriation*, which emphasizes the creative interpretation of texts to be relevant to new contexts, is in line with the approach to justice in Islam as reflected in the Compilation of Islamic Law (KHI), where sharia values are not rigidly understood, but are reinterpreted to answer the needs of contemporary justice—as seen in Usman bin 'Affan's support for the application of *radd* for all heirs, which reflects the efforts of contextual ijtihad in order to realize maqāṣid al-sharī'ah in the Islamic family law system. Article 193, through the approach of Ricoeur and Rawls, is not intended to justify or condemn written norms, but rather to reveal that the meaning of justice in law does not stop at the text, but is formed in the dialogue between texts, interpretations, and values that live in society.

Ricoeur taught that justice is the result of an ethical interpretation that is open to the social world of law readers.[23] Meanwhile, Rawls reminds that the structure of justice is not only procedurally fair, but also substantive in defending the most socially weak. When these two approaches are linked, Radd in Article 193 is not merely a complement to inheritance law, but an expression of a context-aware and responsive reconstruction of Islamic justice.

The results of several studies, such as Harasani and Nur, underscore the importance of a shift from a mazhabistic approach to an ethical-contextual approach in Islamic legal legislation in Indonesia.[24] It is on this basis that the reading of Article 193 in this article is not intended as empirical proof, but rather as a philosophical analysis of how the text of Islamic law can—and should—be interpreted ethically in a dynamic society.

[23] Ricoeur, *The Just*, 23.

[24] Harasani, "Islamic Law as a Comparable Model in Comparative Legal Research: Devising a Method," 186; I. Nur, "Maqāṣid Al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020): 331.

With regard to the above, it can be identified that Article 193 of the Compilation of Islamic Law (KHI) represents a form of reconstruction of Islamic inheritance law that is not rigid to the pattern of classical fiqh schools, especially related to *the principle of Radd*. The provisions in the article state that the remaining inheritance can be redistributed proportionally to *Dzawil Furud* when there are no *asabah heirs*. It differs significantly from the view of the classical school, which rejected *Radd* to Dzawil Furud and instead handed it over to baitul mal or dzawil arham, and the doctrine of the school, which only gave the rest of the property to a husband or wife.

Reading Article 193 of the KHI in a Hermeneutic Frame

In Paul Ricoeur's hermeneutic approach, Article 193 can be interpreted as an autonomous text that has been distanced from the mazaphistic historical context and offers a new world of possibilities (*the world of the text*) that is more inclusive of the values of distributive justice. Ricoeur emphasizes that meaning is no longer closed in the author's horizon, but rather is opened up through a critical and reflective process of appropriation by the reader.[25] In this case, Indonesian legislators make *creative appropriations* of the principle of Islamic inheritance by adapting it to the local sociocultural structure and the spirit of egalitarianism. It is in line with the concept *of just institution* in Ricoeur's thought, which is an institution that allows the reinterpretation of norms to achieve humane substantive justice.[26] Therefore, Article 193 is not just a technical norm of inheritance, but a form of interpretive praxis that reflects contextual justice within the framework of Indonesian legal pluralism.

In Ricoeur's view, every legal text contains an ethical dimension that is not only normative-instructive, but also contains a horizon of moral responsibility towards the subject it regulates.[27] In other words, the interpretation of legal texts—such as Article 193 of the Criminal Code—is not a neutral activity, but an ethical action that presupposes openness to the experience of justice that lives in society. The Radd principle in KHI can be read as a concrete manifestation of what Ricoeur calls the reconfiguration of ethical praxis, that is, the transposition of norms into a social order that pays attention to the dignity of the subject.[28] In this context, the redistribution of inheritance to

[25] Paul Ricoeur and Paul Ricœur, *Hermeneutics and the Human Sciences* (Cambridge University Press, 2016), 104.

[26] Karl Simms, *Paul Ricoeur* (Psychology Press, 2003); Bernard P. Dauenhauer, "Ricoeur, Rawls, and Capability Justice," *Études Ricoeuriennes / Ricoeur Studies* 2, no. 2 (August 1, 2011): 176.

[27] Ricoeur, *Oneself as Another*.

[28] Simms, *Paul Ricoeur*.

Dzawil Furud when there is no asabah is not only a legal-formal decision, but a reflection on the need for a fairer inheritance structure and recognition of the value of women's social presence, which often dominates the Dzawil Furud category.

Furthermore, the interpretation of Article 193 of the Indonesian Compilation of Islamic Law (KHI), which regulates the redistribution of inheritance in the form of *Radd,* requires a philosophical hermeneutic approach that is not solely trapped in normative-legalistic explanations. Paul Ricoeur, through the framework of the "hermeneutic *arc*", namely *text distancing*, narrative configuration, and appropriation of meaning, provides a methodological way to reconstruct the understanding of justice in ambiguous but value-laden legal texts such as Article 193. In line with Ricoeur's view, legal texts not only contain static meanings but also open up space for dynamic ethical and historical appreciation.[29]

The stage *of distancing* introduced by Ricoeur encourages the re-reading of Article 193 of the KHI as a text that has been detached from the original intention of its creator and now lives on the horizon of its reader. It shifts the interpretive orientation from simply delving into the historical origins of the formulation of the article to the exploration of meaning that develops in the contemporary sociocultural context.[30] In this context, *Radd is* no longer only understood as a technical mechanism for redistributing property to the heirs *of dzawil furudh* due to the absence of *'ashabah*, but as a form of distribution ethics that has the potential to affirm substantive justice in Indonesia's Islamic inheritance system.

Furthermore, at the stage *of narrative configuration*, Ricoeur proposes the concept *of emplotment* as a synthesis between discrete events in the text and the structure of coherent meaning. It allows Article 193 to be read as part of the grand narrative of KHI that tries to bridge the gap between classical fiqh norms and Indonesia's pluralistic social reality. This reading of the narrative strengthens the thesis that the interpretation of Article 193 does not have to be confined to the doctrine of the Shafi'i school, but is open to the social imagination of law that recognizes

[29] J. Arthos, "Paul Ricoeur and the Re(Con)Figuration of the Humanities in the Twenty-First Century," *International Journal of Philosophy and Theology* 75, no. 2 (2014): 115.

[30] I. Kublikowski, "Reflections on Analysis in Qualitative Research: The Hermeneutic Circle in Ricoeur," *Paideia* 33 (2023): 33, https://www.scopus.com/inward/record.uri?eid=2-s2.0-85180089942&doi=10.1590%2f1982-4327e3319&partnerID=40&md5=038aa96dc1c1b953657448ea3280971c; E. Simonotti, "Understanding a Lateral Truth: Paul Ricoeur's Intercultural Hermeneutics," *Journal of Intercultural Studies* 45, no. 2 (2024): 326.

the plurality of sources of legitimacy of Islamic law.[31] In this way, the text of Article 193 becomes "openness," in the sense that it offers a possible meaning that is not closed and ethically negotiable.[32]

The third stage, namely *appropriation*, plays a crucial role in reflecting the meaning of Article 193 as an ethical experience for the interpreting subject. Appropriation is not just a matter of taking meaning, but a form of self-testimony that affirms the moral responsibility of the interpreter for justice in the distribution of inheritance. It is where the relevance *of phronesis* as a practical virtue in Ricoeur's hermeneutics becomes central. Bembennek emphasizes that *phronesis* in the context of Ricoeur is not just a passive preservation of tradition, but an active effort to revive traditional values in today's horizon.[33] Thus, the application *of Radd* in Article 193 can be seen as a form of practical wisdom in balancing normative justice and social justice.

As Duncanson-Hales and Bologna, Trede, and Patton show, the productivity of the hermeneutic imagination opens up the possibility for legal texts to be continuously reconfigured according to the ethical and historical needs of their societies.[34] The interpretation of Article 193 in this framework is not only *legal reasoning*, but also *ethical imagining*—that is, reimagining the structure of inheritance relations that are more fair and contextual. Ricoeur reminds us that any understanding of the text must pass through the dialectic between belief and suspicion, between literal intention and the horizon of experience.[35]

Thus, Article 193 of the KHI, through the lens of Ricoeurian hermeneutics, is not only an object of legal exposition but also an ethical subject that demands the involvement of the reader in reflecting on social responsibility for the justice of inheritance distribution. It is what Barthélémy meant by a form *of self-attestation*, in which the interpreter not only understands the text, but also

[31] D. Langdridge, "Ideology and Utopia: Social Psychology and the Social Imaginary of Paul Ricoeur," *Theory & Psychology* 16, no. 5 (2006): 641; D.E. Dahl, "The Origin in Traces: Diversity and Universality in Paul Ricoeur's Hermeneutic Phenomenology of Religion," *International Journal for Philosophy of Religion* 86, no. 2 (2019): 99.

[32] G.-J. van der Heiden, "On the Way to Attestation: Trust and Suspicion in Ricoeur's Hermeneutics," *International Journal of Philosophy and Theology* 75, no. 2 (2014): 129.

[33] K. Bembennek, "More than 'Passive Preservation' – Ricoeur's Understanding of Phronesis in the Context of the Renewal of Tradition," *Studies in the History of Philosophy* 11, no. 4 (2020): 59.

[34] C.J. Duncanson-Hales, "Dread Hermeneutics: Bob Marley, Paul Ricœur and the Productive Imagination," *Black Theology* 15, no. 2 (2017): 156; R. Bologna, F. Trede, and N. Patton, "A Critical Imaginal Hermeneutics Approach to Explore Unconscious Influences on Professional Practices: A Ricoeur and Jung Partnership," *Qualitative Report* 25, no. 10 (2020): 3486.

[35] R. Kearney, "Paul Ricoeur and the Hermeneutics of Translation," *Research in Phenomenology* 37, no. 2 (2007): 147; van der Heiden, "On the Way to Attestation: Trust and Suspicion in Ricoeur's Hermeneutics," 129.

proves himself within the horizon of justice that he created.[36] Thus, based on Ricoeur's theory, the excavation of Article 193 can be seen as an attempt to reconcile legal norms, cultural dynamics, and the value of intersubjective justice. In addition, it is known that Article 193 of the Compilation of Islamic Law states that the remaining inheritance can be returned proportionately to the heirs with a fixed share (*dzawī al-furūḍ*), including to the husband or wife. Literally, this article seems technical. However, Paul Ricoeur's hermeneutic approach can encourage a more in-depth reading of the legal text, not as a closed set of rules, but rather as an ethical discourse containing a world of possible moral actions.[37]

Ricoeur's hermeneutics places the interpretation of law in two stages: *the explanation* of the structure of the text, and *the understanding* of the ethical meaning in the historical and social context of the reader.[38] With this framework, Article 193 can be understood not merely as an article on the distribution of inheritance, but as a text that contains sensitivity to situations in which *ʿaṣabah* does not exist, and *dzawī al-furūḍ*—which in many contemporary contexts consists of women—is the sole recipient. In this regard, the results of several research studies, such as Nur Ainah and Musafaah et al., imply the importance of reforming Islamic family law to be more responsive to the context and principles of substantive justice.[39]

Therefore, *Radd* in Article 193 opens up the horizon of an interpretation of justice that goes beyond traditional structures that rely on blood relations or paternal lineages such as *the ʿaṣabah* system. A hermeneutic interpretation of this article allows the reading that all *zawī al-furūḍ* should be positioned equally as legitimate and intact heirs, without hierarchical distinctions based on gender or marital status. Within this framework, justice in inheritance law should not be determined by how close or formal the blood and marital relationship is, but by the recognition of their integrity as fully morally and legally entitled family members. This perspective reconstructs the legacy of classical fiqh towards a more inclusive and structurally fair inheritance system, as well as recognising the dignity of each heir as an integral part of the family community.

[36] A. Barthélémy, "The Self in Ricoeur's Work Oneself as Another. Self-Attestation: Certainty and Fragility of the Self," *Symposion* 2, no. 4 (2015): 431.

[37] Ricœur, *From Text to Action*, 107–108.

[38] Ricœur, *Time and Narrative*, 71–75.

[39] Nur Ainah, Legawan Isa, and Bitoh Purnomo, "Penetapan Konsep Adil Dalam Berpoligami Menurut Hukum Islam Dan Hukum Adat," *Muqaranah* 6, no. 1 (July 1, 2022): 15; S. Musafaah, "HAZAIRIN'S INTERPRETATION OF INHERITANCE VERSES IN THE QUR'AN AND ITS INFLUENCE ON THE COMPILATION OF ISLAMIC LAW," *Journal of Indonesian Islam* 17, no. 1 (2023): 147.

The justice of the inheritance system in *the Radd concept*

John Rawls, in A Theory of Justice, develops the theory of justice as *fairness* through two main principles: (1) the principle of equal freedom for all and (2) the principle of difference that allows inequality only when it benefits the least advantaged. In the context of Article 193 of the KHI, which regulates the redistribution of inheritance through the *Radd mechanism* to the surviving heirs of Dzawil Furudh without regard to the existence of the heirs of the 'ashabah, this approach opens up space for a normative reinterpretation based on distributive justice that is in line with Rawls' second principle.

Aguayo emphasizes the importance of incorporating aspects of redistribution and recognition in contemporary Rawlsian theories of justice. In the context of KHI, the absence of the exclusion of husband and wife who are heirs on the grounds of marriage in *the Radd* scheme can be understood as recognition of the moral and social contribution, especially to women (mothers, wives, or daughters), in the structure of the Indonesian Muslim family.[40] It shows that justice is not only in the form of material division, but also the recognition of social relations and the value of roles in the family unit.

Berkey criticizes a limitarianism approach that places too much emphasis on the upper limit of wealth without paying attention to Rawlsian institutionalism.[41] In this regard, Article 193 of the KHI shows the application of Rawlsian principles that are more focused on the design of Islamic inheritance legal institutions that aim to strengthen the position of vulnerable groups rather than limit inequality. Furthermore, Greetis defends the incentive of inequality within the framework of Rawls's institutionalism by asserting that policy design should be seen as an expression of structural justice.[42] Article 193 reflects a form of *restructuring of incentives* through inheritance law that does not provide residual inheritance based on the assumption of patriarchal kinship, but instead favors functional justice over the actual contribution and economic needs of the heirs.

[40] P. Aguayo, "John Rawls on Redistribution and Recognition," *Cinta de Moebio*, no. 69 (2020): 192.

[41] B. Berkey, "Limitarianism, Institutionalism, and Justice," *Ethical Theory and Moral Practice* 25, no. 5 (2022): 721.

[42] E.A. Greetis, "Rescuing Rawls's Institutionalism and Incentives Inequality," *Res Publica* 25, no. 4 (2019): 571; E.A. Greetis, "Against the Anticosmopolitan Basic Structure Argument: The Systemic Concept of Distributive Justice and Economic Divisions of Labor," *Critical Review of International Social and Political Philosophy* 25, no. 4 (2022): 551.

Conclusion

A study of Article 193 of the Compilation of Islamic Law through the hermeneutic approach of Paul Ricoeur and John Rawls's theory of justice reveals that Islamic inheritance law, especially in the case of *Radd*, should not be understood as a closed and rigid normative system. The provision regarding the distribution of residual property to all heirs with a fixed share, including husband or wife, as stipulated in the article, demonstrates the normative courage to go beyond the boundaries of the classical school in order to respond to changes in the social structure and ethics of the modern family. In Ricoeur's hermeneutic perspective, the legal text becomes a dialectical field between norms and narratives, allowing for a contextual and ethical reinterpretation of justice. Meanwhile, through Rawls's lens, *this Radd* mechanism can be read as a form of basic structure of justice that favors moral equality and recognition of the social role of all family members, and not solely based on agnatic lineages or formal legal relations.

Thus, Article 193 not only represents a change in the legal-formal dimension but also shows that Islamic law has the philosophical capacity to evolve through reflective engagement with contemporary values of justice. This article emphasizes that the interpretation of Islamic law does not stop at traditional authority, but instead must open up space for ethical praxis that takes into account human dignity, social relations, and historical horizons. It is at this point that the philosophical approach becomes crucial. It is not to replace the sharia, but to guide its reading towards an understanding of the value of justice in a legal provision. These findings show that reconstruction of inheritance norms is not only possible, but philosophically legal and ethical, in order to ensure that the law remains alive in the changing human world. This study shows that hermeneutic approaches and social justice theory can enrich the reading of Islamic law by placing Article 193 of the KHI as an ethical expression of justice that is open to context. Its theoretical implications lie in the broadening of the horizon of legal interpretation from mere normative adherence to a praxis of justice that is aware of social changes and the structure of modern family relations. On a practical level, these findings support efforts to reform Islamic law that is more inclusive and responsive to the experience of justice that lives in society.

However, the limitations of this study include the absence of empirical data from judicial practice and the lack of systematic comparisons with similar regulations in other Muslim countries. Moreover, the use of Western philosophical theoretical frameworks without direct dialogue with classical Islamic legal epistemology can create methodological tensions. These limitations open

up space for further research that combines philosophical, comparative, and empirical approaches more comprehensively.

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