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A COMPARATIVE ANALYSIS OF THE CONCEPT OF 'AUL AND RADD IN THE MAWARIS JURISPRUDENCE OF THE SHAFI 'S THOUGHT AND THE COMPILATION OF ISLAMIC LAW IN INDONESIA

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Abstract: *The concepts of 'aul and radd are fundamental mechanisms in Islamic inheritance law designed to address imbalances between the prescribed shares of heirs and the available estate. Despite their extensive discussion in classical Islamic jurisprudence, comparative studies examining their formulation and application in the inheritance jurisprudence of the Shafi'i school and the Compilation of Islamic Law (Kompilasi Hukum Islam - KHI) remain limited. This gap is significant because KHI, as the principal codification of Islamic family law in Indonesia, adapts and reconstructs classical fiqh doctrines within the framework of the national legal system. This study aims to analyze comparatively the concepts of 'aul and radd in Shafi'i inheritance jurisprudence and KHI and to identify their juridical implications for the implementation of Islamic inheritance law in Indonesia. This research employs a normative legal method with conceptual and statutory approaches. Data were collected through library research involving classical Shafi'i legal texts, KHI provisions, and relevant scholarly literature. The analysis compares the normative foundations, legal reasoning, and juridical consequences of 'aul and radd in both legal frameworks. The findings indicate that the concept of 'aul in Shafi'i jurisprudence and KHI shares substantial similarities, particularly regarding the proportional reduction of heirs' shares when the estate is insufficient to satisfy all prescribed portions. However, differences arise in the formulation and implementation of radd, especially concerning the redistribution of the remaining estate among eligible heirs. Theoretically, this study contributes to the discourse on the transformation of classical Islamic legal doctrines within contemporary Indonesian Islamic family law. Practically, it offers guidance for judges, legal practitioners, academics, and policymakers in promoting consistency and legal certainty in inheritance adjudication. Future studies are encouraged to employ empirical and socio-legal approaches to examine judicial interpretations and the practical application of 'aul and radd in Religious Court decisions across Indonesia.*

Keywords: *'Aul; Radd; Islamic Inheritance Law; Shafi'i Jurisprudence; Compilation of Islamic Law (KHI)*

INTRODUCTION

The science of mawaris is a branch of Islamic jurisprudence that regulates the fair distribution of inheritance according to sharia. This science is also known as the science of faraidh and is derived from the Quran, Hadith, and the consensus of Islamic scholars. (Mush'ab Bahrah., 2022) In the practice of family life, inheritance issues often become a source of prolonged conflict, and can even lead to the severing of family relationships. (Ruslie et al., 2025) Most of these conflicts occur due to inaccuracies in understanding the provisions for inheritance distribution or also due to differences in perception regarding fairness in inheritance distribution. (Hidayatulloh & Nuruddien, 2023) Mawaris knowledge is not only an aspect of worship, a person's obedience to the sharia or merely a set of normative rules, but also has implications for social justice and family harmony, as well as preventing wider social conflicts. (Ghafur et al., 2025) Scholars have formulated principles in Islamic jurisprudence derived from the Qur'an, Hadith, and consensus (ijma') to avoid injustice and conflict between heirs. Among the important principles in inheritance distribution is how to resolve inheritance issues when the number of heirs exceeds or falls short of the inheritance, known as the concept of 'aul and radd..

In classical jurisprudence, the concepts of 'aul and radd are discussed in depth by scholars, including those who discuss this concept are the Syafi'i school of thought. Discussion of the concepts of 'aul and radd in the Shafi' school of thought can be found in the books *al-Muhadzdzab* by Abu Ishaq al-Syirazi, *Mughni al-Muhtaj* by al-Khatib al-Syirbini, and *Al-Majmu' Syarh al-Muhadzab* by Imam Nawawi. 'Aul can be understood as an adjustment to the wari portion when the total fardh portion exceeds the origin of the problem. (Bakry, Kasman, et al., 2021) Meanwhile, radd can be understood as the return of remaining assets to certain heirs when there is no 'ashabah. (Ghafur & Safi'i, 2026)

These two concepts demonstrate the methodological flexibility of Islamic jurisprudence in addressing the mathematical problem of inheritance distribution without deviating from Islamic law or principles. The Shafi'i school, based on its principles and principles of Islamic jurisprudence, is characterized by its understanding and application of 'aul and radd, both in terms of the recipient and the calculation mechanism. The existence of the concepts of 'aul and radd demonstrates that Islamic jurisprudence is not rigid, but rather has a mechanism for resolving inheritance distribution issues. Ideally, this mechanism is expected to maintain a balance between the provisions of the text or Islamic law and the reality of asset distribution, so that no heir's rights are neglected or disproportionately exaggerated.

In Indonesia, the regulation of Islamic inheritance law for Muslims has been formulated in the Compilation of Islamic Law (KHI) and ratified through Presidential Instruction Number 01 of 1991. The regulations on inheritance law are contained in Book II which consists of six chapters with forty-four articles. (Marpaung watni, 2023) KHI functions as the main reference for Religious Court judges in deciding Islamic law cases, especially inheritance. (Marpaung

watni, 2023) In this context, the KHI adopts a number of Islamic jurisprudence, including 'aul and radd, but with normative formulations that are adapted to the needs of legal certainty and judicial practice. (Ghafur et al., 2025) The codification process ultimately involves simplification, selection, and adjustment to national legal systems. However, in judicial practice, the application of the KHI is not always uniform, requiring judges to balance legal certainty with fiqh justice, particularly regarding the technical issues of 'aul and radd.

The author believes that the differences in character between the Shafi'i school of thought as a result of classical ijihad and the KHI as positive law raise academic questions regarding the extent to which the concepts of aul and radd in the two systems are compatible. The urgency of this comparison is even stronger considering that the Shafi'i school has a dominant position in legal thought and determination in Indonesia, so that the KHI as positive law cannot be separated from the influence of the school's paradigm.(Marpaung watni, 2023) In the practice of Religious Courts in Indonesia, the distribution of inheritance often refers normatively to the KHI, but is substantially rooted in the fiqh of certain schools of thought, such as the Shafi'i school, which causes variations in judges' decisions regarding inheritance disputes..(Tanjung, 2025) The author observes that normatively, inheritance distribution consistently follows the provisions of Islamic jurisprudence and positive law to achieve justice and legal certainty. However, in fact, there are differences in the understanding and application of the concepts of 'aul and radd between Shafi'i jurisprudence and the provisions of the KHI. This condition gives rise to differences in understanding, both among legal practitioners and the public, especially when there are differences between the formulations of Islamic jurisprudence and the provisions of the KHI.

Based on the results of the author's search for various previous studies, no research has been found that specifically discusses the comparative analysis of the concepts of 'aul and radd in the Shafi'i school of thought and the Compilation of Islamic Law (KHI). Existing studies generally still discuss the concepts of 'aul and radd separately, both from the perspective of fiqh and KHI, without comprehensively examining the concepts of both in the Shafi'i school of thought, their regulations and applications in the KHI, the similarities and differences between the concepts of the Shafi'i school of thought and the KHI, as well as the implications of these differences for the practice of inheritance distribution in religious courts in Indonesia. The results of previous research include:

First, Baiq Rohatul Asna Jalilah and Fatahullah conducted a study on "A Comparative Study of the Advantages and Disadvantages of Inheritance in the Civil Code and the Compilation of Islamic Law" published in the Private Law Journal of the Faculty of Law, University of Mataram in 2023.(Jalilah, Asna & Fatahullah, 2023) This research is a normative legal research with a comparative approach that discusses the regulation and resolution of excess and deficiency of inheritance in the Civil Code and the Compilation of Islamic Law. The results of the study indicate that in the Civil Code the settlement is carried out through the inkorting and inbreng mechanisms, while in the Compilation of Islamic Law (KHI) the concepts of 'aul and radd are used. This research is related to the study to be conducted because both discuss 'aul

and radd in the KHI, but differ in the focus of the study. The previous study compared Western civil inheritance law and the KHI, while this study focuses on the analysis of the comparison of the concepts of 'aul and radd between the Shafi'i school of Islamic jurisprudence and the KHI.

Second, Muhammad Diah, who researched "The Concept of Radd in Islamic Law (Comparative Study of Mawaris Jurisprudence and Compilation of Islamic Law)" which was published in *Jeulame: Journal of Islamic Family Law* in 2023. (Diah, 2023) This research is a literature study with a comparative approach that discusses the concept of radd in the Islamic jurisprudence and the Compilation of Islamic Law, especially regarding the subject of radd recipients and the mechanism for distributing them. The results of the research show that there are differences in views between the Islamic jurisprudence and KHI in determining the party entitled to receive the remaining inheritance. This research is related to the study that will be carried out because it both discusses the concept of radd from the perspective of fiqh and KHI. However, this research only focuses on the concept of radd in general, without examining the concept of 'aul and without placing the Shafi'i school of Islamic jurisprudence as the main analytical framework. Therefore, this research complements the previous study by comparatively analyzing the concepts of 'aul and radd in the Islamic jurisprudence of the Shafi'id and KHI schools and their implications for the practice of dividing inheritance.

Third, Syamsul Bahri, Abd. Rahim, and Nurcahaya conducted a study on "Judges' Decisions Regarding Radd Issues in Religious Courts in North Sumatra," published in *Al-Mashlahah: Journal of Islamic Law and Social Institutions* in 2022. (Bahri et al., 2022) This research is a normative legal study that examines the considerations of Religious Court judges in resolving radd cases by referring to the provisions of the Compilation of Islamic Law. The results of the study indicate differences in the judges' views regarding the return of remaining inheritance assets, particularly regarding the granting of radd to certain heirs based on Article 191 and Article 193 of the Compilation of Islamic Law. This research has similarities with the research to be conducted because both discuss the concept of radd in the context of religious courts. However, that study emphasized the analysis of judges' decisions, while this study focuses on a conceptual comparison of 'aul and radd between the Shafi'i school of Islamic jurisprudence and the Compilation of Islamic Law.

Fourth, Kasman Bakry, Muhammad Nirwan Idris, Fadlan Akbar, and Kurnaemi Anita, who researched "The 'Aul Controversy in Islamic Inheritance Law and Its Practice in Indonesia," published in *NUKHBATUL 'ULUM: Journal of Islamic Studies* in 2021. (Kasman Bakry, 2021) This research is qualitative research with a normative juridical approach that discusses the concept of 'aul in Islamic inheritance law, the differences in views between 'Umar bin al-Khattab and 'Abdullah bin 'Abbas, as well as the method of the majority of scholars in *tarjih* the problem of 'aul and the reality of its application in Indonesia. The results of the study indicate that the majority of scholars determine 'aul as a solution for inheritance distribution when there is an excess portion, although in practice in Indonesia its application is considered less than optimal. This research is relevant to the study to be conducted because both discuss

the concept of 'aul in Islamic inheritance. However, the research focuses more on the historical controversy and general practice of 'aul, without directly linking it to a systematic comparison between the Shafi'i school of jurisprudence and the Compilation of Islamic Law, and without examining the relationship of 'aul with the concept of radd. Therefore, this study complements previous studies by placing 'aul and radd in a comparative analytical framework between the Shafi'i and KHI schools of Islamic jurisprudence.

Fifth, Huliah Syahendra, who researched "'Aul in the Theory and Practice of Islamic Inheritance Law" which was published in the *Replica Law Journal* in 2018. (Huliah Syahendra, 2018) This research is library research that discusses the concept of 'aul in Islamic inheritance law, starting from the historical basis of its application during the time of the companions to the technical mechanism of its calculation in inheritance jurisprudence, as well as its relationship with the provisions of the Compilation of Islamic Law. The results of the study indicate that the concept of 'aul is accepted by the majority of scholars as a solution when the share of the heirs exceeds the inheritance, and has been normatively accommodated in Article 192 of the Compilation of Islamic Law. This research has relevance to the study to be conducted because both discuss the concept of 'aul in Islamic inheritance. However, the research is still general and does not examine the concept of 'aul within the framework of the Shafi'i school of thought specifically, and has not linked it with the concept of radd as a unified mechanism for inheritance distribution. Therefore, this research is complemented and deepened through a comparative analysis of the concepts of 'aul and radd in the Shafi'i school of thought and the Compilation of Islamic Law.

Several previous studies have tended to discuss 'aul and radd separately, both from the perspective of Islamic schools of thought and within the framework of the Compilation of Islamic Law (KHI), without conducting comprehensive comparative analysis. Comparative studies are necessary to uncover conceptual similarities and differences and assess their implications for inheritance distribution practices in Religious Courts. The absence of in-depth comparative studies has the potential to leave gaps in understanding the application of Islamic inheritance law in Indonesia. This study aims to analyze and compare the concepts of 'aul and radd in the Shafi'i school of Islamic jurisprudence and the Compilation of Islamic Law (KHI), uncovering points of normative convergence and divergence between the two, and explaining their implications for inheritance law practices in Indonesia. Conceptually, this study seeks to build a harmonization model between classical Islamic jurisprudence and Indonesian Islamic positive law to support the development of a more adaptive, consistent, and certainty-oriented interpretation of inheritance law in resolving inheritance cases in the Religious Courts. Several recent studies have shown that the application of Islamic inheritance law in the Religious Courts still faces issues of interpretation and consistency in the application of norms. A research study reveals fundamental differences between the concept of radd in the Shafi'i school of Islamic jurisprudence and the Compilation of Islamic Law, particularly regarding the position of husband and wife as recipients of the remainder of the inheritance. (Diah, 2023) Sri Hariati's research also shows that the implementation of

inheritance law based on the KHI still faces challenges in realizing legal certainty and substantive justice.(M. Taj Bahy Fardayana, 2024)

Meanwhile, a study of the Surabaya Religious Court decision Number 3562/Pdt.G/PA.SBY/2023 shows the complexity of resolving inheritance disputes in religious court practices.(Thomas Febria, Beatrix Benni, 2025) These findings indicate that there is room for diverse interpretations in the application of Islamic inheritance law, so that a more in-depth comparative study is needed regarding the concept of 'aul and radd in Shafi'i school of jurisprudence and the Compilation of Islamic Law.(Hasanudin, 2021)

The novelty of this research lies in its attempt to integrate doctrinal and legal analysis of the concepts of 'aul and radd in the Shafi'i school of jurisprudence and the Compilation of Islamic Law, while simultaneously examining the implications of the differences in their formulations on the consistency of interpretation and application of inheritance law in religious court practice in Indonesia. Thus, this research not only examines the transformation of norms but also explains their relevance in establishing a harmonization model between classical Islamic jurisprudence and contemporary Islamic family law.

RESEARCH METHODS

This research is library research, namely research that refers to library materials as the main data source.(Abdurrahman, 2024) The author chose this type of research based on the character of the study which focuses on the analysis of legal concepts and norms.

The approach used by the author in this research is a normative and comparative approach, the normative approach is used to examine the concept of 'aul and radd based on the provisions of Islamic law contained in the books of Islamic jurisprudence of the Shafi'i school and the provisions of Islamic positive law in the KHI. The comparative approach is used to compare the concept of 'aul and radd in Islamic jurisprudence of the Shafi'i school with its regulations and implementation in the KHI, in order to find similarities, differences, and implications of the two legal systems. Data collection was conducted through a documentation study, namely by reviewing various literature related to the research object. The collected data was then analysed qualitatively and descriptively by analyzing, comparing, and drawing conclusions based on the results of the comparison to explain the implications of the differences between the two concepts on inheritance distribution practices in religious courts in Indonesia.

Data source

The data sources in this study consist of primary and secondary data. Primary data include the provisions of Article 192 and Article 193 of the Compilation of Islamic Law, Shafi'i fiqh books that specifically discuss inheritance law, and Religious Court decisions relevant to the application of the concepts of 'aul and radd. The selection of decisions was based on the following criteria: (1) they contain inheritance disputes involving the application of 'aul or radd;

(2) they have permanent legal force or contain legal considerations that can be used as references; and (3) they are officially available through court decision directories. Secondary data were obtained from books, scientific journal articles, previous research results, and other literature discussing Islamic inheritance law, the Shafi'i school of thought, the Compilation of Islamic Law, and religious court practices. The selection criteria for secondary sources were based on the relevance of the theme, academic credibility, and the recency of publications to ensure the validity of the research analysis.

Data Analysis

The data analysis in this study was conducted through several stages. First, identifying and describing the concepts of 'aul and radd in the Shafi'i school of inheritance jurisprudence based on representative classical and contemporary sources of jurisprudence. Second, analyzing the provisions of 'aul and radd in the Compilation of Islamic Law (KHI), particularly the provisions of Articles 192 and 193. Third, conducting a comparative analysis between the concepts contained in Shafi'i school of jurisprudence and their provisions in the KHI using certain comparative aspects, such as the normative basis, methods for settling inheritance division, the status of heirs, and the distribution mechanism of inherited assets. Fourth, evaluating the implications of these similarities and differences on the practice of resolving inheritance disputes in the Religious Courts based on relevant decisions. These stages of analysis were carried out systematically to gain a comprehensive understanding of the legal construction of 'aul and radd in the two legal systems studied.

The data analysis in this study includes Islamic inheritance law norms that regulate the concepts of 'aul and radd. Specifically, the units of analysis consist of: (1) provisions regarding 'aul and radd in the Shafi'i school of jurisprudence books as a representation of classical Islamic law; (2) provisions of Article 192 and Article 193 of the Compilation of Islamic Law as a representation of positive Islamic law in Indonesia; and (3) decisions of Religious Courts containing legal considerations related to the application of 'aul and radd in resolving inheritance cases. The determination of the units of analysis is intended so that the research object, focus of the study, and research objectives have a clear and measurable relationship.

Comparative Aspect	Shāfi'ī School of Islamic Jurisprudence	Compilation of Islamic Law (KHI)	Juridical Implications
Legal Basis	The Qur'an, Hadith, (consensus), and juristic <i>ijtihād</i>	Articles 192–193 of the Compilation of Islamic Law (KHI)	Serves as the legal basis for judicial consideration

Eligible Beneficiaries	Specific heirs as determined by classical Islamic jurisprudence	Heirs as stipulated under the Compilation of Islamic Law (KHI)	Differences in the recipients of radd
Mechanism of 'Aul	Proportional reduction of inheritance shares	Proportional reduction of inheritance shares	Generally consistent between both legal systems
Mechanism of Radd	Subject to differing opinions among classical jurists	Regulated normatively under the Compilation of Islamic Law (KHI)	May result in disparities in judicial decisions
Legal Objective	Achieving distributive justice based on Islamic jurisprudence	Ensuring legal certainty while promoting justice	Supports the harmonization of Islamic inheritance law
Practical Implications	Based on juristic interpretation (fiqh)	Based on codified positive law	Influences decisions of the Religious Courts

RESULTS AND DISCUSSION

The Concept of 'Aul and Radd in the Mawaris Syafi'i School of Fiqh

Determination of inheritance portions in Islamic jurisprudence is definite (*furud muqaddarah*) as stipulated in the Al-Qur'an and Sunnah. In the Qur'an surah an-Nisa verse 7 Allah S.W.T says:(Maulida, Wahyuni, et al, 2025)

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ ۗ نَصِيبًا مَّفْرُوضًا

This verse demonstrates that Islam has determined and mandated inheritance rights for both men and women. This provision makes inheritance distribution a right that cannot be unilaterally removed or changed. However, in some cases, the implementation of these divisions is not always ideal. The determined share of an heir may exceed or fall short of the total inheritance. This situation is called 'aul and radd in the science of mawaris, which is also discussed by Shafi'i scholars.

The concept of 'aul in the Shafi'i school of thought is when all the heirs have definite shares and do not hinder each other, but the amount of these shares exceeds the total inheritance of the deceased. In this situation, all heirs still receive their shares, but there is a proportional reduction according to the size of each share. This concept does not indicate that the Shafi'i school eliminates anyone's rights, but rather distributes the burden of the shortfall evenly

among all owners of definite shares. This provision is emphasized in the Shafi'i fiqh book as follows:(Ghafur & Safi'i, 2026)

وَأِنْ اجْتَمَعَ أَصْحَابُ فُرُوضٍ وَلَمْ يَحْجُبْ بَعْضُهُمْ بَعْضًا فُرِضَ لِكُلِّ وَاحِدٍ مِنْهُمْ فَرَضُهُ، فَإِنْ زَادَتْ سِهَامُهُمْ عَلَى سِهَامِ الْمَالِ أُعِيلَتْ، وَدَخَلَ النَّقْصُ عَلَى كُلِّ وَاحِدٍ مِنْهُمْ بِقَدْرِ فَرَضِهِ

This quote shows that when the heirs' share exceeds the available assets, the solution is to carry out an 'aul, so that the reduction goes to all heirs according to the proportion of their rights. With this concept, the Shafi'i school upholds the principle of justice in the distribution of inheritance, namely dividing the shortage equally without prioritizing one party over another.

The application of 'ai in the Shafi'i school of thought only occurs at the sixth, twelfth and twenty-fourth origins. This provision is confirmed in the Shafi'iyyah book of jurisprudence as follows: (Muttaqin & Khoiri, Ahmad,2020)

The limits for the increase in origin to the 'aul are as follows:

Origin	'Aul
6	7-8-9-10
12	13-15-17
24	27

Among the examples of 'aul cases that occurred during the Syuraih period are as follows:

Heir	Prescribed Qur'anic Share	Share Based on the Original Denominator (6)	Share After 'Aul (Adjusted Denominator = 10)
Husband	1/2	3	3
Mother	1/6	1	1
Two Maternal Sisters	1/3	2	2
Two Full Sisters	2/3	4	4
Total	—	10/6	10/10

This case is called Umm al-Furukh because many parts are affected by 'Aul.(Miyanto, 2019) The table shows that when all the parts are added together, the total is greater than the total assets. In such circumstances, aul is applied by increasing the original issue so that all parts can still be distributed, even if their value is reduced. This concept demonstrates that aul is not a

form of elimination of rights, but rather a restructuring of the distribution to remain in accordance with sharia provisions.

The concept of radd in the Shafi'i school of thought applies when, after the distribution of the fixed portion to the heirs (ashabul furud), there is still remaining property and there are no 'ashabah' heirs. In such a situation, the remaining property is not simply left as is, but is returned to the ashabul furud. The Shafi'i school strictly limits the recipients of radd to heirs who have a blood relationship with the deceased, so husbands and wives are excluded from receiving radd. (Jafar, M, 2018) The exception to the return of remaining assets to husband and wife in the radd concept is based on the different view of inheritance. A marriage is not permanent because it can be dissolved by divorce, death, or apostasy, so that the inheritance rights of a husband and wife cease when the relationship is severed. (Ridha, 2025)

Different from blood relations (blood descendants) which are permanently attached for life and are not affected by changes in marital status. (Riyanto & Arifin, 2024) When there is no 'ashabah, the remaining assets are returned to the heirs of the lineage who have a definite share, this is also a form of practice that the distribution of inheritance prioritizes family members who have the closest kinship relationship with the deceased. (Noor, 2012)

The application of radd in the Shafi'i school of thought is divided into two situations. The first is the case of radd when there is no husband or wife. In this situation, all the companions of the family receive radd, which is then distributed according to their respective portions. This is the perfect form of radd. (Diah, 2023)

The second situation is the case of radd when there is a husband or wife. In this situation, the remaining assets are returned to the other party (ashab furud) other than the husband or wife, but they (the husband or wife) still only receive the stipulated furud share. (Diah, 2023)

The author concludes that in the Shafi'i school of Islamic jurisprudence, the concepts of 'aul and radd are normative mechanisms used to resolve inheritance distribution issues when faced with excess or insufficient inheritance after the distribution of furud muqaddarah. Both concepts are also derived from the provisions of Islamic jurisprudence.

The concept of 'aul in the Shafi'i school of thought is applied when the total share of the heirs of the owner of the share definitely exceeds the inheritance, by making a proportional reduction to all shares without eliminating anyone's rights. The concept of radd is applied when there is remaining property after distribution to the ashab furud and there are no 'ashabah heirs, by returning the remaining property to the lineal heirs, and excluding the husband and wife from receiving radd. Regulation and Implementation of the Concept of 'Aul and Radd in the Compilation of Islamic Law The Compilation of Islamic Law (KHI) was issued through Presidential Instruction (Inpres) Number 1 of 1991 and has been in effect since 1991, compiling and combining Islamic fiqh norms adapted to the Indonesian context, including inheritance law. (Marpaung watni, 2023) Although formally it only has the status of a Presidential Instruction, the Compilation of Islamic Law functions as the main guideline for Religious Courts in resolving Islamic civil cases in Indonesia. (Kurniawan et al., 2025)

In inheritance regulations, the KHI regulates the concept of 'aul as a settlement mechanism when the total share of the heirs exceeds the total inheritance of the deceased, so that a proportional reduction is carried out. (Jalilah, Asna & Fatahullah, 2023) This provision is regulated in Article 192 that the concept of 'aul is applied if there is an excess between the numerator and denominator in the distribution of inheritance assets of dzawil furud, then the denominator is increased by adjusting the numerator before the inheritance assets are distributed proportionally. (Fikri, 2018)

This formulation demonstrates that the Islamic Law (KHI) accommodates the concept of 'aul as a normative solution to address excess shares in inheritance distribution. The provisions of 'aul in the KHI are presented without any technical explanation of the calculation. The KHI does not explain in detail the technicalities of calculating, increasing the denominator, or varying the form of 'aul. The KHI is indeed designed to be normative and simple to facilitate Religious Court judges' flexible application by referring to standard Islamic jurisprudence, without burdening the text with technical details of an *ijtihadi* nature. (Mawāriṣ, 2024) Thus, the concept of 'aul in the KHI functions as a general rule that provides a legal basis for judges to adjust the distribution of inheritance proportionally when there is an excess portion.

In addition to 'aul, the KHI also regulates the concept of radd as a mechanism for returning remaining inherited assets. The radd regulation is contained in Article 193 of the KHI, which states that if, after distribution to the heirs, there are still remaining assets and there are no 'ashabah heirs, then the remainder is redistributed to the heirs according to their respective shares. (Bahri et al., 2022) This provision confirms that the remaining assets are not left unmanaged, but are still distributed within the inheritance framework.

Like the provisions on 'aul, the provisions on radd in the KHI are also formulated concisely and normatively. The KHI does not explicitly specify the recipients of radd or the technical limitations of its implementation. (Ghafur & Safi'i, 2026) The application of radd in judicial practice is very dependent on the judge's interpretation of the provisions of Article 193 of the KHI and the context of the case at hand. (Siti Atikah, Iis, 2023) Overall, it can be concluded that the Compilation of Islamic Law (KHI) has normatively regulated the concepts of 'aul and radd as a mechanism for resolving inheritance distribution in the event of excess or insufficient inheritance. This regulation is reflected in Article 192 of the KHI, which accommodates the concept of 'aul through proportional distribution when the heirs' share exceeds the inheritance, and Article 193 of the KHI, which regulates the radd mechanism by redistributing the remaining assets to the heirs if there are no 'ashabah heirs.

The provisions on 'aul and radd in the KHI are formulated concisely and normatively, without detailed technical calculations or detailed confirmation of the recipient. This characteristic of the provisions indicates that the KHI places greater emphasis on legal certainty and ease of application in judicial practice, by allowing judges to interpret and apply these provisions according to the context of the inheritance case at hand. Analisis perbandingan antara fikih mawaris mazhab Shafi'i and the Compilation of Islamic Law (KHI) in the context of the concepts of 'aul and radd show that the two are not in a substantially

contradictory position. Both the Shafi'i school of jurisprudence and the KHI both recognize 'aul and radd as mechanisms for resolving inheritance division when the application of definite parts is found to be faced with conditions of excess or shortage of inherited assets. Although similar in concept, there are differences in the way they are formulated, the approach used, and the impact of their application.

In terms of sources and normative character, the concepts of 'aul and radd in the Shafi'i school of Islamic jurisprudence are formulated through *ijtihad* based on the evidence of the Qur'an and the Sunnah, as well as the development of *ijtihad* by scholars. This formulation is accompanied by a detailed technical explanation, including the conditions under which 'aul occurs, its forms, and the subjects receiving radd and its exceptions. In contrast, the Compilation of Islamic Law (KHI) formulates 'aul and radd in the form of brief and general positive legal norms, as stated in Articles 192 and 193, without detailing the technical aspects of their calculation. This difference indicates a shift from a comprehensive *fiqh* approach to a practical normative approach.

Differences also appear at the level of detail of the regulations. In the Shafi'i school of jurisprudence, aul and radd are understood as part of a structured inheritance system, in which every possible division is mapped out in detail. This allows for relatively uniform application as long as judges or law enforcers refer to the same school's methodology. Meanwhile, the KHI chooses not to include such details in its legal text. As a result, the KHI provides judges with more room to interpret and apply the provisions of aul and radd according to the context of the case at hand.

In terms of its formulation objectives, the Shafi'i school of jurisprudence emphasizes the methodological accuracy of the application of sharia law, while maintaining consistency between texts, *fiqh* principles, and the results of the distribution. The Compilation of Islamic Law (KHI) was formulated with the primary goal of providing legal certainty and uniform application in judicial practice. This difference in orientation influences how the two systems view the technical details of inheritance distribution: what is considered important to explain in detail in *fiqh* is condensed in the KHI for ease of application or practice.

However, these differences do not indicate a substantial conflict between the Shafi'i school of thought and the KHI. Essentially, the KHI adopts the concepts of 'aul and radd, already known in the Shafi'i school of thought, but formulates them in the form of general positive legal norms. Thus, the relationship between the two is more accurately understood as the relationship between a methodological system of thought and a normative-practical system of positive law.

Based on this comparative analysis, it can be concluded that the differences between the Shafi'i school of jurisprudence and the KHI in the concepts of 'aul and radd lie in their formulation and application, not in their legal substance. Shafi'i school of jurisprudence provides a detailed conceptual and technical framework, while the KHI simplifies this framework into legal norms that can be widely applied in judicial practice. This difference in

character further impacts the variation in the application of inheritance distribution in Religious Courts.

Strengthening the Analysis of the Concept of 'Aul and Radd in the Mawaris Jurisprudence of the Shafi'i School and the Compilation of Islamic Law

1. Analysis of Religious Court Decisions Regarding 'Aul and Radd

To strengthen the empirical dimension of the research, a normative analysis of 'aul and radd needs to be linked to religious court practices in Indonesia. In several inheritance cases, Religious Court judges generally refer to Articles 192 and 193 of the Compilation of Islamic Law (KHI) as the basis for resolving cases involving inheritance deficiencies ('aul) or excess remaining assets (radd). This practice demonstrates that the KHI has functioned as an operational guideline, providing legal certainty in resolving inheritance disputes. An analysis of Religious Court and Supreme Court decisions can demonstrate the extent to which judges apply the provisions of the KHI textually or interpret them taking into account the doctrines of Shafi'i jurisprudence.

2. The Original Research Contribution

The primary contribution of this research lies in formulating a model of the relationship between the Shafi'i school of jurisprudence and the Compilation of Islamic Law (KHI) in regulating 'aul and radd. This research demonstrates that the KHI does not simply adopt fiqh doctrine literally, but rather carries out a process of simplification and codification to meet the needs of the national legal system. Furthermore, this research identifies the scope for judicial discretion in interpreting inheritance provisions when facing cases not specifically regulated in the KHI. Thus, this research offers a model for harmonizing the normative authority of fiqh and the need for legal certainty in religious court practice in Indonesia.

3. The Shafi'i School of Law's Istinbat on 'Aul and Radd

In the Shafi'i school, the concept of 'awl is based on the *ijtihād* of the Companions, particularly Caliph Umar ibn al-Khattab, when the number of heirs' shares exceeds the original issue, so the entire share must be reduced proportionally. The concept of radd applies when, after distribution to the heirs with a definite share (*aṣḥāb al-furūd*), there is still a remainder of the estate and there are no 'aṣabah heirs. The remainder is returned to the remaining heirs in proportion to their shares.

The Shafi'i school excludes husbands and wives from receiving radd because the marital relationship is viewed as ending with death, so both are entitled only to the share explicitly specified in the Quran. This view differs from the Hanafi school and some contemporary scholars, who permit a husband or wife to receive radd if there are no other heirs entitled to the remainder of the estate. This comparison shows the existence of a diversity of *ijtihād* in Islamic inheritance law which is the basis for the development of modern regulations.

4. A Background to the Establishment of the Compilation of Islamic Law and the Codification of Islamic Law

The Compilation of Islamic Law was established through Presidential Instruction Number 1 of 1991 as a government effort to provide uniform legal guidelines for judges in Religious Courts. Before the implementation of the Compilation of Islamic Law, judges often used various fiqh books, potentially leading to disparities in decisions. The codification of Islamic law through the Compilation of Islamic Law aims to achieve legal certainty, uniform application of law, and effective case resolution.

In the context of 'aul and radd, the Compilation of Islamic Law simplifies the highly detailed descriptions of classical fiqh into general articles. This simplification is intended to make legal norms easier to apply in judicial practice without eliminating the substance of Islamic inheritance principles. Thus, the Compilation of Islamic Law is a form of taqnīn al-aḥkām (understanding of Islamic law) that bridges fiqh doctrine with the needs of the modern legal system.

The Comparison of the Concepts of 'Aul and Radd in the Syafi'i and KHI Schools

Aspect	Shāfi'ī School of Islamic Inheritance Law (Fiqh al-Mawāriṭh)	Compilation of Islamic Law (KHI)
Legal Basis	The Qur'an, Hadith, ijma' (consensus), and classical Shāfi'ī jurisprudential texts	Articles 192 and 193 of the Compilation of Islamic Law (KHI)
Concept of 'Aul	The shares of heirs are proportionally reduced when the total prescribed shares exceed the estate	Adopts the same principle normatively
Concept of Radd	The remaining estate is redistributed to eligible heirs, excluding the husband and wife	The remaining estate is redistributed proportionally among the existing heirs
Recipients of Radd	All aṣḥāb al-furūd (Qur'anic heirs) except the husband and wife	Does not explicitly specify the exclusion of the husband and wife
Calculation Method	Uses the aṣl al-mas'alah (base denominator) and detailed fractional calculations	Formulated in a simpler and more practical manner

Legal Objective	To ensure distributive justice in accordance with Islamic legal principles	To provide legal certainty and facilitate practical implementation
Scope of Interpretation	Relatively broad through the study of classical Islamic jurisprudence	More limited due to its status as codified positive law
Practical Implications	Requires comprehensive knowledge of farā'id (Islamic inheritance law)	Easier to apply by judges and the general public

The matrix shows that the KHI basically maintains the substance of the concept of 'aul and radd in the Shafi'i school of jurisprudence, but carries out normative simplifications to meet the need for legal certainty and the effectiveness of religious court practices in Indonesia.

Implications of Conceptual Differences on Inheritance Distribution Practices in Religious Courts in Indonesia

The differences in the formulation of the concepts of 'aul and radd between the Shafi'i school of jurisprudence and the Compilation of Islamic Law (KHI) have direct implications for inheritance distribution practices within the Indonesian Religious Courts. While the two systems do not conflict substantially, differences in detail and normative approaches influence how judges understand and apply inheritance provisions in concrete cases.

In judicial practice, the KHI functions as the main reference and is legally binding. (Akhyar et al., 2025) However, because the formulations of 'aul and radd in the KHI are presented in general terms and without technical details, judges often need to conduct further interpretations to apply them to specific cases. It is at this point that judges' understanding of the Islamic jurisprudence, particularly the Shafi'i school of jurisprudence, becomes a crucial factor in determining the concrete method of inheritance distribution.

Another implication is the potential for variation in decisions in inheritance cases, particularly in cases involving the distribution of remaining inheritance (radd). While the Compilation of Islamic Law (KHI) does not explicitly specify the recipients of radd and its technical mechanisms, judges have broader discretion in determining who is entitled to receive the remaining assets, while adhering to the principles of justice and fairness. This is reflected in a number of Religious Court decisions that demonstrate differences in judges' approaches to resolving radd cases, particularly regarding the determination of who is entitled to receive the remaining inheritance. (Bahri et al., 2022)

Furthermore, the differences in character between the methodological nature of Mawaris fiqh and the normative-practical nature of the KHI also have implications for the role of judges as implementers of the law. In judicial practice, judges not only carry out the function of applying legal norms textually, but also act as legal interpreters, linking the normative provisions of the KHI with the values of fiqh and substantive justice that exist in society. (Azizah, Nur, et al, 2025) In this context, mastery of the Islamic jurisprudence (fiqh)

is crucial to ensure that the application of 'aul and radd not only meets the legal certainty aspect but also reflects substantive justice. This aligns with the view of Islamic jurisprudence scholars who assert that the appointment of judges is not valid unless they meet the scientific requirements, so that their decisions can be implemented correctly and fairly

From the perspective of *maqāṣid al-syaṙ'ah*, the inheritance system is not only oriented towards protecting the assets and economic rights of the heirs (*hifz al-māl*), but also towards maintaining kinship ties and family continuity (*hifz al-nasl*). Therefore, a balance between these two objectives is an important factor in ensuring that inheritance distribution functions as an instrument of public welfare, not as a trigger for conflict that can damage family harmony. (Zuwika et al., 2024) This provides a foundation for the development of Islamic family law that is adaptive to social change, oriented towards substantive justice, and supports the strengthening of the protection of children's and women's rights in accordance with the current needs of Indonesian society. (Shofa et al., 2026)

Thus, the main implication of the differences in the character of the formulation of 'aul and radd between the Shafi'i and KHI schools of Islamic jurisprudence lies in the flexibility of the application of inheritance law in Religious Courts. (Wage et al., 2021) The KHI provides a uniform normative framework, while the Islamic jurisprudence (*fiqh mawaris*) provides methodological guidance to assist judges in resolving technical issues regarding inheritance distribution. The combination of the two allows for the distribution of inheritance to be carried out legally according to positive law while also aligning with the principles of Islamic jurisprudence that have developed in Indonesia.

Theoretical and Practical Implications

Theoretically, this harmonization model demonstrates that the relationship between the Shafi'i school of jurisprudence and the Compilation of Islamic Law (KHI) is not dichotomous or competitive, but rather integrative and complementary. The KHI can be understood as a form of transformation and politicisation of Islamic legal values derived from various schools of jurisprudence, with the dominant influence of the Shafi'i school, which historically developed in Indonesia. Therefore, the KHI is not intended to replace *fiqh*, but rather to translate *fiqh* principles into a national legal framework that has binding power and legal certainty for the Indonesian Muslim community. (Kementrian Agama et al., 2018) From the perspective of Islamic legal theory, the KHI is a concrete manifestation of this process because it accommodates the principles of Islamic jurisprudence into the national legal system, thus functioning as a bridge between the normative authority of sharia and the demands of a modern legal state that prioritizes certainty, uniformity, and effectiveness of law enforcement. (Ridwan & Azed, 2021)

In practice, this harmonization model provides interpretive guidelines for Religious Court judges in resolving inheritance cases. Judges not only adhere to the normative text of the KHI articles but can also refer to the Shafi'i school of Islamic jurisprudence to understand the legal philosophy, argumentation, and objectives of the sharia underlying these provisions. This

approach enables decisions that not only meet formal legal requirements but also reflect substantive justice and the benefit of the disputing parties.(Norfiardi, 2023) Furthermore, the harmonization of Shafi'i fiqh and the Compilation of Islamic Law (KHI) contributes to strengthening the development of national law with an Indonesian character. Through this model, Islamic law is not positioned as a separate system from state law, but rather as an important source in the formation of national law that is responsive to the needs of the Indonesian Muslim community. Thus, the integration of fiqh and the Compilation of Islamic Law can serve as a foundation for the development of Islamic inheritance law that is more adaptive to social change without losing its religious legitimacy.(Azzahra, 2024)

CONCLUSION

Based on the results of the research that has been conducted, the author concludes that the concept of 'aul and radd in the Shafi'i school of thought is a mechanism formulated to resolve the problem of inheritance distribution when the application of certain parts faces conditions of excess or shortage of inheritance. In the Shafi'i school of thought, 'aul is implemented by reducing the share of all heirs proportionally if the total share exceeds the inheritance, while radd is implemented by returning the remaining assets to heirs who have a lineage relationship when there are no 'ashabah heirs, by excluding husbands and wives as recipients of radd. Both concepts demonstrate the systematic and methodological character of the Shafi'i school of thought, and remain based on sharia provisions.

The author also found that the Compilation of Islamic Law (KHI) as a positive law in Indonesia has regulated the concept of 'aul and radd normatively through Article 192 and Article 193. KHI accommodates 'aul as a proportional distribution mechanism when the heirs' share exceeds the inheritance, as well as radd as the return of the remaining assets to the heirs if there are no 'ashabah heirs. However, these regulations are formulated briefly and are not accompanied by detailed technical details of calculations or confirmation of the recipient subject in detail, thus opening up room for interpretation in their applications.

The results of the comparative analysis show that there is no substantial conflict between the Shafi'i school of thought and the KHI in the concepts of 'aul and radd. The difference between the two lies more in the character of the formulation and the approach used. Shafi'i school of thought presents comprehensive conceptual and technical details, while the KHI formulates these concepts in the form of positive legal norms that are practical and applicable. Thus, the KHI essentially adopts the principles of Shafi'i school of thought, including those developed in the Shafi'i school, but is adapted to the need for legal certainty in the judicial system.

The general formulation of the KHI positions judges not only as textual implementers of legal norms but also as interpreters of the law, linking normative provisions with the values of Islamic jurisprudence and substantive justice. The author believes that mastery of Islamic jurisprudence is crucial to ensuring that the application of the concepts of 'aul and radd in

religious courts not only fulfills the aspect of legal certainty but also reflects justice in line with the principles of Islamic law.

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