The Practice of *Muafakat* in Inheritance Distribution Among Heirs in Terengganu: A Malaysia MADANI Perspective

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ABSTRACT

The management and distribution of inheritance among the Muslim community in Malaysia frequently faces severe challenges arising from settlement delays and prolonged family disputes over frozen estates. Although the *faraid* system remains the principal pillar of Islamic inheritance law, the practice of *muafakat* or *takharruj* has gained prominence as a harmonious alternative resolution mechanism. This study evaluates the position of *muafakat* in inheritance distribution under Shariah principles and the Malaysian legal framework, with a specific scope focusing on community practices in Terengganu and their alignment with the core values of the Malaysia MADANI framework. Adopting a qualitative approach, the methodology relies on key informant interviews with religious institution officers, estate administration officers, and community members experienced in *muafakat* management. The findings indicate that *muafakat* is widely practiced for immovable assets like ancestral land, successfully preventing uneconomic property fragmentation and maintaining long-term asset viability. Most informants affirmed its Shariah compliance, provided it occurs voluntarily after heirs understand their *faraid* entitlements, though challenges such as dominant heirs and low public literacy persist. Synthesizing these findings with Malaysia MADANI principles demonstrates that *muafakat* operationalizes *hormat* (respect) and *keyakinan* (trust) through transparent governance, *ihsan* (compassion) by supporting vulnerable kin, and *kemampanan* (sustainability) alongside *kesejahteraan* (prosperity) by expediting settlements, preventing frozen assets, and preserving family harmony. In conclusion, enforceability through legal safeguards like Form DDA under the Small Estates (Distribution) Act 1955 remains essential to ensure procedural integrity and protect minor heirs while bridging divine law with modern socio-economic realities.

Keywords: Mutual Agreement, *Faraid*, Inheritance, *Takharruj*, Terengganu.

INTRODUCTION

The management and distribution of inheritance among the Muslim community in Malaysia frequently faces challenges arising from delays in settlement and prolonged disputes among heirs (Sulong, 2016). While *faraid* continues to serve as the primary pillar of Islamic inheritance law, granting legal heirs automatic rights to the deceased's assets, *muafakat* (mutual agreement) or *takharruj* (voluntary renunciation) on the assets has emerged as a dynamic alternative approach that promotes consensus-based and harmonious resolution of inheritance matters (Wan Mohamad Ali & Ahmad, 2013). This article discusses the position of *muafakat* among heirs as one of the methods for resolving inheritance distribution issues in Malaysia. By focusing on inheritance practices among communities in Terengganu, this study evaluates the compatibility of this harmonious approach with Shariah principles and the existing legal framework. It also assesses its effectiveness in preventing the adverse consequences of frozen estates while ensuring the well-being of heirs, especially those facing economic hardship.

The Law of Inheritance Among Muslims

The property involved in inheritance distribution is referred to by different terminologies across legal systems, cultural traditions, and jurisdictions, such as inheritance property, deceased estate, estate assets and succession property, each reflecting distinct legal and contextual nuances. Despite variations in terminology, these expressions generally denote the property, rights, and obligations left by a deceased person that are subject to transfer and distribution among eligible beneficiaries in accordance with the applicable legal framework

(Rumsey, 1994). Within the Malay legal tradition, inheritance law is commonly known as *hukum pusaka*, with *hukum* referring to the system of rules, regulations, and procedures that govern the administration and distribution of a deceased person's estate. The term *pusaka* (*harta pusaka*) is intrinsically linked to the Islamic concept of *al-tarikah*, which, in its linguistic sense, denotes the property, wealth, or assets left behind by a deceased individual for distribution among the rightful heirs (Sulong, 2016).

From the perspective of Islamic jurisprudence, *faraid* denotes the fixed and obligatory shares of inheritance prescribed by the Shariah for eligible heirs. It represents a specialized branch of Islamic law that regulates the distribution of a deceased person's estate in accordance with the proportions explicitly stipulated in the Qur'an and Sunnah. As such, *faraid* constitutes the principal legal framework regulating inheritance distribution within Muslim societies (Sulong, 2025).

According to classical juristic writings across the four major Sunni schools of law, the definition of *faraid* may be understood as follows. The Hanafi school defines *faraid* as the knowledge that enables a person to identify the rights associated with the deceased's estate, determine those who are entitled to inherit, and ascertain the respective shares due to each heir (Ibn ʿĀbidīn, 1966). The Maliki school defines it as a branch of jurisprudence relating to the estate of the deceased and the calculations that lead to knowledge of inheritance distribution and the entitlement of each rightful beneficiary (al-Zuhayli, 1986). Similarly, the Shafi'i school defines *faraid* as the jurisprudence governing the distribution of a deceased person's estate and the methods of calculation through which the prescribed shares can be determined and allocated to those entitled to receive them (Al-Ramli, 1967). Likewise, the Hanbali school describes *faraid* as the branch of Islamic jurisprudence concerned with the distribution of inheritance, the prescribed shares allocated to each heir, and the methods used in calculating such shares (Ibn Qudamah, 1999).

The implementation of inheritance distribution through the *faraid* system is legally obligatory in Islam. It constitutes a collective obligation (*fard kifayah*) upon the Muslim community and an individual obligation (*fard 'ayn*) upon the heirs directly involved. This ruling is definitive and firmly established through textual evidence from both the Qur'an and the Sunnah (al-Zuhayli, 1986). The Qur'an sets out the legislation and proportions of inheritance distribution in detail through four principal verses in Surah al-Nisa' verse 4:7, which affirms the inheritance rights of both men and women; verse 4:11, which specifies the shares of children and parents; verse 4:12, which outlines the shares of spouses and maternal siblings; and verse 4:176, which addresses cases of *kalalah*, namely a deceased person who leaves neither descendants nor a father. This obligation is further reinforced by authentic Prophetic traditions. Among them is the saying of the Prophet Muhammad (peace be upon him): "Distribute the estate among the heirs according to the Book of Allah" (Dāwud, 2007). In another authentic narration, the Prophet stated: "Give the prescribed shares to those who are entitled to them, and whatever remains shall go to the nearest male agnatic relative" (Al-Bukhāri, 1979).

Islamic law classifies heirs into three principal categories: *ashab al-furud* (fixed-share heirs), *'asabah* (residuary heirs), and *dhawu al-arham* (extended kindred heirs). This classification forms the foundation of the *faraid* system and ensures the orderly distribution of a deceased person's estate in accordance with the objectives of Shariah, namely the preservation of lineage, property rights, and family welfare. The first category, *ashab al-furud* refers to heirs whose shares have been explicitly prescribed by the Qur'an or the Sunnah. Classical jurists such as Ibn Qudamah (1999) define *ashab al-furud* as those whose inheritance rights are specified through an established textual provision (*nass*) of the Shariah. The prescribed shares recognised by the jurists are six, one-half (1/2), one-quarter (1/4), one-eighth (1/8), two-thirds (2/3), one-third (1/3) and one-sixth (1/6). These portions are allocated to eligible heirs according to their relationship with the deceased and the presence or absence of other heirs. For example, a sole daughter may receive one-half, while a wife may receive one-quarter or one-eighth depending on whether the deceased leaves descendants (Al-Kishkī, 1969.).

The second category comprises *'asabah,* namely heirs who inherit the residue of the estate after the fixed shares have been distributed. Al-Shirazi defines *'asabah* as heirs who inherit without a prescribed share and who take whatever remains after the rights of the fixed-share heirs have been fulfilled (al-Shīrāzī, 1987). Unlike *ashab al-furud*, *'asabah* heirs do not receive a fixed fraction. Their entitlement may therefore be the entire estate if no fixed-share heirs exist. Or, they receive the residue after the fixed shares have been allocated. Or, they may be excluded (*mahjub*) by a nearer residuary heir. In certain situations, they inherit together with female heirs, such as a son inheriting alongside a daughter, where the male receives a share equivalent to that of two females (Qur'an 4:11).

Meanwhile, the third category is *dhawu al-arham* (heirs from female line), referring to relatives who are neither fixed-share heirs nor residuary heirs. Islamic scholars define *dhawi al-arham* as blood relatives whose connection to the deceased is established through female lineage and who do not fall within the categories of Qur'anic heirs or residuary heirs (Kuwait, 1990-1997). Examples include maternal uncles, maternal aunts, and children of daughters.

To ensure that the distribution of inheritance is valid according to Islamic law, it must fulfil three essential pillars and three principal conditions established by the Shariah (Kuwait, 1990-1997). The pillars of inheritance consist of *al-muwarrith*, the deceased person who leaves behind an estate; *al-warith*, the heir who is entitled to inherit; and *al-mauruth* or *al-tarikah*, the estate itself. Each of these pillars is intrinsically connected to specific legal conditions that determine the validity of inheritance entitlement under Islamic law. With regard to the first pillar (*al-muwarrith*), the deceased must be legally established as having passed away, either through actual death, which is physically verified, or through constructive death, as declared by a competent judicial authority, such as in cases involving missing persons. Concerning the second pillar (*al-warith*), the heir must be proven to be alive at the time of the deceased's death, either in an actual capacity or as a viable foetus in utero (al-Darqāwī, 2012).

Furthermore, the entitlement to inheritance is contingent upon the absence of any legal impediments that would preclude succession rights, including, but not limited to, the unlawful killing of the deceased by the heir or a difference in religion between the deceased and the claimant. In addition, a legally recognised relationship must exist between the deceased and the heir, whether established through marital ties or blood lineage. The fulfilment of these pillars and conditions constitutes the foundational legal framework for the valid distribution of an estate and provides the basis upon which consensual arrangements (*muafakat*) among heirs may be undertaken in accordance with the principles and requirements of Islamic law (al-Darqāwī, 2012; Al-Dhaybānī, 1990).

The *Muafakat* Method and Its Position from the Shariah Perspective

Muafakat constitutes an important principle in Islam that is founded upon mutual consent, willingness, and understanding among the parties involved in a particular matter. Linguistically, the term *muafakat* denotes consensus, agreement, mutual understanding, deliberation, and negotiation (Kamus Dewan, 2016). Within the context of inheritance distribution, *muafakat* refers to a collective agreement reached among legally entitled heirs regarding the manner in which the estate is to be distributed after their respective inheritance rights have been determined in accordance with the principles of *faraid* (Hasan et. al., 2024; Sabtu & Mahamood, 2017).

The fundamental basis of *muafakat* lies in the voluntary consent of all heirs, free from any element of coercion, fraud, undue influence, or manipulation. Consequently, *muafakat* should not be construed as a mechanism that overrides or negates the *faraid* system (Sabtu & Mahamood, 2017). Rather, it functions as a complementary dispute-resolution and estate-management mechanism that operates only after the respective entitlements of the heirs have been duly established and recognised under Islamic law. In this regard, *muafakat* serves as a practical means of facilitating family harmony, preserving kinship ties, and preventing potential disputes that may arise during the administration and distribution of inherited property (Sulong, 2016).

The legitimacy of *muafakat* is consistent with the broader objectives of the Shariah, which encourage amicable settlement (*sulh*), cooperation, and mutual agreement in matters involving individual rights and obligations (Al-Ṣābūnī, 1996). Islamic legal principles recognise that while inheritance shares prescribed under *faraid* are divinely determined and legally binding, heirs retain the right, after acquiring ownership of their respective shares, to reach consensual arrangements concerning the management, transfer, or redistribution of those shares, provided that such arrangements are concluded voluntarily and do not result in injustice to any party. This principle is further supported by the Qur'anic emphasis on reconciliation, cooperation, and mutual consultation. Allah SWT states, "And reconciliation is best" (Qur'an, Surah al-Nisa' 4:128). Similarly, Allah

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SWT commands, “And cooperate in righteousness and piety, and do not cooperate in sin and transgression” (Qur’an, Surah al-Ma’idah 5:2).

These verses establish a normative foundation for consensual arrangements among heirs, provided that such agreements are conducted within the framework of justice and Islamic legal principles. Accordingly, *muafakat* may be regarded as an instrument that promotes equitable outcomes while preserving family unity and social harmony. Its application in inheritance matters demonstrates the flexibility of Islamic law in accommodating practical realities without compromising the fundamental rights established through the *faraid* system (Djamal, 1998).

In Islamic inheritance law, the mechanism of *muafakat* is commonly referred to as *takhāruj*, which denotes an agreement among heirs whereby one or more heirs voluntarily withdraw from receiving their inheritance share or transfer their entitlement to another heir based on mutual consent and willingness (Abdul Latif, 1986; Muda & Awang, 2006; Buang, 2007). Classical jurists generally regard *takhāruj* as a form of *ṣulḥ* (amicable settlement) founded upon the principles of mutual satisfaction (*tarāḍī*), tolerance, and consensus among the parties involved (Ibn Rusyd, 2004).

Within the context of inheritance distribution, *muafakat* arises when heirs, having first ascertained their respective entitlements under the *faraid* system, subsequently agree to reorganise or redistribute those shares in a manner that accommodates particular family needs, welfare considerations, and collective interests. Consequently, *muafakat* should not be viewed as an alternative to *faraid*, but rather as a complementary mechanism that operates within the framework of Islamic inheritance law. While *faraid* establishes the legal rights of each heir through divinely prescribed allocations, *muafakat* provides flexibility in addressing practical circumstances that may not be fully accommodated through a purely mathematical distribution of inheritance shares (Marican, 2004).

The significance of *muafakat* becomes particularly evident in contemporary family settings where social, economic, and caregiving considerations often influence perceptions of fairness and justice. In many instances, certain heirs may voluntarily relinquish part or all of their entitlement in favour of relatives who are financially disadvantaged, have assumed responsibility for caring for the deceased, or have contributed substantially to the welfare of the family. Common examples include parents transferring their shares to children or grandchildren, or siblings surrendering their entitlements to a family member who resided with and cared for the deceased during his or her lifetime. Such arrangements are recognised by Islamic law through the doctrine of *takhāruj*, which provides a legitimate avenue for achieving practical justice while preserving family harmony (Sulong, 2025; Wan Mohamad Ali & Ahmad, 2013; Wan Harun, 2006).

From a jurisprudential perspective, the validity of *muafakat* is subject to several essential conditions. First, all heirs must possess full knowledge of their respective rights and prescribed shares under *faraid* before any agreement is concluded. This requirement is fundamental because *muafakat* involves the disposition of rights that have already become vested in the heirs. Second, the agreement must be based upon absolute consent, free from any form of coercion, intimidation, deception, undue influence, or emotional pressure. Third, the participating heirs must possess the requisite legal capacity, meaning that they are legally competent, of sound mind, and capable of managing their property and legal affairs independently (Khan, 1989). Finally, the agreement must not contravene any principle of Shariah, nor result in injustice, exploitation, or the unlawful deprivation of another heir's legitimate rights (Carroll, 2001).

These conditions demonstrate that Islamic law does not permit unrestricted modification of inheritance rights. Rather, it balances individual autonomy with the preservation of justice and legal certainty. The requirement that heirs first acquire ownership of their prescribed shares before entering into any subsequent arrangement ensures that the sanctity of the Qur'anic inheritance provisions remains intact (Dāwud, 2007). Thus, *muafakat* functions not as a means of circumventing *faraid*, but as a lawful exercise of proprietary rights that arises only after the mandatory distribution framework has been duly recognised (Sulong, 2025).

In practice, *muafakat* may be implemented through several recognised mechanisms, most notably *takhāruj* and *tanāzul*. *Takhāruj* occurs when an heir withdraws from his or her entitlement either voluntarily without consideration or in exchange for compensation (*ʻiwaḍ*) provided by another heir or an external source (Dāwud, 2007; Wan Mohamad Ali & Ahmad, 2013). This mechanism has received extensive treatment in classical and contemporary works on Islamic inheritance law. In contrast, *tanāzul* refers to the formal relinquishment or transfer of an inheritance right by an heir to another beneficiary through a valid agreement, often documented through legally recognised instruments (Al-Kishkī, 1969).

The implementation of these mechanisms may produce several forms of inheritance distribution. One possibility is an equal distribution among all heirs, notwithstanding the differing proportions originally prescribed under *faraid*. Alternatively, all heirs may agree to transfer a particular asset, such as the family home, to a single beneficiary, for example the surviving parent or a child who has assumed responsibility for caring for the deceased (Mahmud, 1958). In other circumstances, heirs may agree to allocate a larger share to individuals with greater financial needs or to those who have made significant contributions to the care and welfare of the deceased. Such arrangements illustrate the adaptability of Islamic inheritance law in responding to the realities of family life while maintaining fidelity to the fundamental principles of justice, mutual consent, and social welfare (Zahrah, 1963).

Overall, the concept of *muafakat* reflects the flexibility and dynamism of Islamic inheritance jurisprudence. By integrating the certainty of *faraid* with the conciliatory principles of *ṣulḥ* and *takhāruj*, Islamic law provides a balanced framework that safeguards the rights of heirs while simultaneously promoting familial harmony, equitable outcomes, and the preservation of kinship relationships (Anderson, 1971; Wan Mohamad Ali & Ahmad, 2013). This balance explains why *muafakat* continues to be recognised as an important mechanism for inheritance settlement in contemporary Muslim societies, particularly in contexts where social realities necessitate solutions beyond the strict numerical allocation of inheritance shares.

The Position of *Muafakat* from the Malaysian MADANI and Legal Perspective

The Malaysia MADANI policy places the well-being of the family institution as a core axis in building a society that is advanced in terms of thought, spirituality, and materiality through efforts to instil noble family values (Kamus Dewan, 2007; Anwar Ibrahim, 2022). As society confronts the realities of the post-normal era which is fraught with complexity and uncertainty family care within this framework is translated through sustainable survival and economic prosperity. This is primarily achieved through long-term strategies designed to break the cycle of debt and economic hardship, ultimately preserving family wealth and building lasting financial resilience (Anwar Ibrahim, 2022). Furthermore, this holistic well-being in the family is driven by the practice of *muafakat*, the attitude of accountability, and the defence of human dignity in managing the affairs of life. It also involves cultivating the virtues of love, care, compassion, and *ihsan* so that family members protect one another's welfare, ensuring that wealth and prosperity can be shared equitably (Ushama, 2025; Anwar Ibrahim, 2022).

The discussion of the *muafakat* method within the framework of inheritance distribution under Malaysian law necessitates a comprehensive examination of the interaction between statutory civil law and Shariah principles. Within the Malaysian legal system, the mechanism of *muafakat* as commonly understood in Malay customary practice has received formal legal recognition through civil legislative instruments, particularly the Small Estates (Distribution) Act 1955. Such recognition demonstrates that Malaysian inheritance law is not rigid in nature; rather, it accommodates a degree of normative flexibility that enables heirs to distribute inherited property beyond the strict parameters of classical *faraid* calculations or the Distribution Act 1958 (Wan Harun, 2006). This flexibility is founded upon the principles of peaceful settlement, distributive justice, mutual consent, and voluntary agreement among beneficiaries (Sulong, 2025).

From a substantive legal perspective, the implementation of *muafakat* under the Small Estates (Distribution) Act 1955 is subject to stringent evidential requirements designed to preserve the integrity and legitimacy of the distribution process. The Land Administrator, acting as the adjudicative authority in small estate proceedings, bears a fiduciary responsibility to ensure the existence of *consensus ad idem*, namely the unequivocal and unanimous consent of all legally entitled heirs (Marican, 22004). Procedurally, such consent is not confined to oral declarations made during the hearing but is reinforced through statutory instruments such as Form DDA (Consent Form) for heirs who are unable to attend the proceedings. This document serves as an important legal safeguard against manipulation, coercion, undue influence, or procedural unfairness, particularly in relation to vulnerable beneficiaries who may be disadvantaged in the decision-making process.

Nevertheless, the autonomy of heirs in determining the mode of distribution through *muafakat* is not absolute. Rather, it remains subject to the constraints imposed by prevailing land laws and other statutory regulations. This limitation becomes particularly evident where consensual inheritance arrangements conflict with restrictions on land ownership prescribed by legislation such as the Group Settlement Areas Act 1960 (Wan Harun, 2006). For instance, although all heirs may unanimously agree to register a FELDA settlement property under the names of eight siblings, such an arrangement cannot be legally implemented because the governing legislation restricts ownership to a maximum of two registered proprietors. In such circumstances, the Land Administrator performs a hybrid regulatory function by balancing the collective wishes of the heirs against the requirements of national land policy. Consequently, the heirs must reformulate their *muafakat* arrangement in a manner that remains consistent with the applicable statutory limitations (Mohamad, 1985).

In essence, the *muafakat* method reflects a mature evolution within Malaysia's inheritance administration framework. Beyond serving as an alternative dispute resolution (ADR) mechanism capable of reducing protracted litigation before both the Shariah Courts and Civil Courts, it also contributes significantly to the preservation of familial harmony and social cohesion (Marican, 2004). From the perspective of the sociology of law, the formal recognition of *muafakat* by civil legislation illustrates the successful harmonisation of statutory law with local cultural values and Islamic legal principles. Such harmonisation ensures that the intergenerational transfer of wealth can be carried out in a manner that is equitable, efficient, and socially sustainable.

Two critical issues frequently arise in the administration of small estates involving *muafakat*. The first concerns the legal position of minor heirs within consensual distribution arrangements, while the second relates to the doctrinal distinction between Form DDA and Form E under the framework of the Small Estates (Distribution) Act 1955. These issues highlight the dynamic role of civil procedural instruments in safeguarding the substantive rights and interests of beneficiaries (Marican, 2004). They further demonstrate the legislature's commitment to ensuring that consensual inheritance arrangements do not compromise the legal protection afforded to vulnerable heirs, particularly minors and individuals lacking full legal capacity.

(a) Protection of Minor Heirs' Rights in *Muafakat* Arrangements

From the perspectives of jurisprudence and estate governance, the implementation of *muafakat* involving heirs below the age of eighteen requires stringent legal oversight and procedural safeguards. As a matter of legal doctrine, a minor is generally regarded as lacking the legal capacity necessary to waive, transfer, or alter his or her proprietary rights voluntarily (Ismail, 1983). Consequently, the principle of *muafakat*, which is fundamentally premised upon free and informed consent, cannot be invoked in a manner that deprives minor heirs of their lawful inheritance entitlements or allows adult beneficiaries to compromise those rights for their own benefit (Sulong, 2025; Sabtu & Mahamood, 2017).

In such circumstances, the Land Administrator within the Small Estates Distribution Unit assumes an important protective function as the guardian of the minor heir's interests. Although a legally appointed guardian may represent the child in inheritance proceedings, such representation does not confer unfettered authority to consent to arrangements that diminish or relinquish the minor's inheritance rights. Any proposed *muafakat* that affects the entitlement of a minor heir must be demonstrably beneficial to the child or accompanied by adequate and equitable compensation that serves the child's best interests (Marican, 2004).

As a matter of administrative practice, the Land Administrator will ordinarily refuse to endorse any *muafakat* arrangement that is prejudicial to a minor beneficiary. Instead, the original entitlement calculated in accordance with the *faraid* principles, or the Distribution Act 1958 will generally be preserved and vested in a trustee pending the attainment of majority by the child. Such trusteeship may be administered by an individual trustee or by an authorised corporate trustee institution, such as Amanah Raya Berhad. This approach ensures that the proprietary rights of the minor remain fully protected until he or she acquires the legal capacity to manage and exercise those rights independently (Marican, 2004).

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Furthermore, where immovable property forms part of the inherited estate, additional protective measures may be imposed to safeguard the minor's interests (Wan Harun, 2006). In particular, a Registrar's Caveat may be entered against the title to prevent the property from being transferred, charged, mortgaged, or otherwise disposed of without proper legal authorisation. These protective mechanisms reflect the fundamental legal principle that the welfare and proprietary interests of minor heirs must be accorded paramount consideration in any consensual inheritance arrangement. They also demonstrate the commitment of the Malaysian inheritance administration framework to balancing the flexibility of *muafakat* with the need to protect vulnerable beneficiaries and uphold substantive justice (Marican, 2004).

(b) The Procedural and Substantive Distinction between Form DDA and Form E

To understand the trajectory of inheritance administration, it is necessary to examine the functional distinction between Form DDA and Form E. In essence, Form DDA serves as a procedural instrument that manifests the consensual agreement (*muafakat*) of the heirs, whereas Form E constitutes the substantive instrument that translates the terms of that agreement into a legally binding determination. The failure to distinguish between these two instruments frequently gives rise to significant misunderstandings among legal practitioners and the general public alike. Without a valid Form DDA, no Form E Order based on *muafakat* can be issued; conversely, without Form E, the consensual intentions embodied in the *muafakat* arrangement remain merely an agreement without legal force or enforceability (Marican, 2004).

The distinction between these instruments may be summarised in the table below, which analyses their respective characteristics based on the nature of the document, doctrinal function, approving authority, and legal effect;

Dimension	Form DDA (Consent Form)	Form E (Distribution Order)
Nature of Document	An evidentiary instrument that serves as documentary proof of the heirs' consent and intentions.	An adjudicative instrument constituting a final distribution order with legal effect.
Doctrinal Function	Functions as a written medium for recording consent, relinquishment of inheritance rights (*takhāruj*), or the agreed mode of distribution among heirs who are unable to attend the inheritance hearing.	Functions as the final order issued by the Land Administrator at the conclusion of the proceedings, legally binding upon all parties concerned.
Authority for Authentication	Must be executed before a recognised authority, such as a Magistrate, Land Administrator, or Commissioner for Oaths, to establish that the consent was given voluntarily and without coercion.	Signed and issued exclusively by the Land Administrator presiding over the inheritance proceedings.
Legal Effect	Constitutes an expression of intent that has not yet acquired legal enforceability; it may be challenged if evidence of fraud, misrepresentation, or undue influence is established prior to the issuance of the distribution order.	Constitutes a legally effective vesting document that may be submitted to the Land Office for the registration and transfer of ownership in accordance with the approved distribution.

In practice, Form DDA frequently becomes the subject of disputes arising from manipulation or forgery by certain heirs seeking to secure personal advantage. Where elements of fraud are present, such as the forgery of the signature of an absent heir or the failure to properly serve the Petition Notice (Form D), the entire chain of inheritance administration proceedings may be rendered fundamentally defective and void *ab initio*. In such circumstances, an aggrieved heir possesses the requisite *locus standi* to initiate civil proceedings before the High Court to set aside the Distribution Order (Form E) that was procured through fraud, misrepresentation, or procedural irregularity (Marican, 2004).

Judicial authorities have consistently affirmed that the courts possess the power to rectify administrative improprieties occurring during the estate administration process at the Land Office level (Wan Harun, 2006). Consequently, any fraudulent conduct relating to the purported consent of beneficiaries, including the forgery of signatures, may affect not only the validity of the inheritance distribution process but also the legality of any subsequent land registration under the National Land Code. Estate administrators are therefore not at liberty to act arbitrarily but must comply strictly with procedural requirements relating to notice, due process, and the substantive rights of beneficiaries (Marican, 2004).

This principle was illustrated in *Md Su'aimy bin Wahab v Abdul Rahman bin Mohamad & Ors* [2022] MLJU 1171, where the plaintiff acted as the personal representative of the estate of the deceased, Wahab bin Md Isa. The dispute concerned the ownership of inherited land that had allegedly been transferred through misrepresentation and manipulation. The High Court emphasised that the civil courts possess inherent jurisdiction to declare a distribution order or transfer of title invalid where it is established that material facts were concealed or misrepresented by an administrator in a manner that prejudiced the substantive rights of lawful heirs. The decision reinforces the principle that estate administration must be conducted transparently and in good faith, with due regard for the rights of all beneficiaries.

The legal consequences of forged documents were also highlighted in *Adorna Properties Sdn Bhd v Boonsom Boonyanit* [2001] 1 MLJ 241. In that case, a fraudster forged the passport and signature of the original landowner, Boonsom Boonyanit, and subsequently sold the land to Adorna Properties. Although Adorna Properties was a bona fide purchaser without notice of the fraud, the case raised the significant legal issue of whether the doctrine of indefeasibility of title under Section 340 of the National Land Code protected an immediate purchaser whose title was derived from a forged instrument. The Federal Court initially ruled in favour of Adorna Properties, adopting the doctrine of immediate indefeasibility. However, this position was subsequently overruled and corrected by the Federal Court in *Tan Ying Hong v Tan Sian San & Ors* [2010] 2 MLJ 1, which reaffirmed that a title obtained through forgery is fundamentally defective and incapable of conferring valid ownership. Consequently, any title derived from forged instruments or fraudulent documentation including forged consent forms or irregular inheritance registrations may be declared void and set aside, subject only to the statutory protection afforded to a subsequent bona fide purchaser in certain circumstances.

A further illustration can be found in *Jasni bin Yeop (Personal Representative of the Estate of Yeop bin Darus) & Ors v Sand Stone Soil Sdn Bhd* [2024] 6 MLJ 912, which concerned a dispute involving inherited land and transactions undertaken by the estate administrator. The principal legal issue was the extent of the administrator's fiduciary obligations in relation to the disposal of estate property and the validity of transactions that adversely affected the interests of beneficiaries. The court held that the powers of an administrator are subject to fiduciary duties owed to the beneficiaries of the estate. Where land transactions are undertaken in disregard of inheritance administration procedures or without valid notice and consent from entitled heirs, the resulting transfer instruments may be vulnerable to judicial intervention and cancellation on grounds of statutory non-compliance and breach of fiduciary duty.

These decisions collectively demonstrate that *muafakat* constitutes a legally recognised and legitimate mechanism for inheritance distribution based upon the unanimous consent of beneficiaries and the pursuit of distributive justice. However, such recognition is accompanied by stringent legal safeguards under the Small Estates (Distribution) Act 1955, particularly through the use of Form DDA as an instrument designed to ensure genuine consent and to prevent the exploitation of vulnerable beneficiaries, including minor heirs. The judicial authorities have consistently maintained that any distribution order obtained through fraud, forgery, misrepresentation, or procedural impropriety is void from the outset and liable to be set aside. Accordingly, the legal validity of *muafakat* depends not merely upon the existence of agreement among heirs, but upon the integrity, transparency, and procedural legality of the entire inheritance administration process

Analysis on the Practice of *Muafakat* and MADANI perspective among Heirs in Terengganu

Fundamentally, the concept of resolving disputes through amicable settlement or *muafakat* without recourse to formal litigation has long been practised across various societies. This approach aligns closely with the

MADANI core values of *hormat* (respect) and *keyakinan* (trust), which emphasize mutual accountability, transparency, and the defence of human dignity (Anwar Ibrahim, 2022; Ushama, 2025). Within the Islamic tradition, this approach predates the prophethood of Prophet Muhammad (PBUH) and was subsequently continued and refined by later generations. It highly resonates with the MADANI emphasis on *musyawarah* (consultation) to achieve decisions that are just and humane (Anwar Ibrahim, 2022). In Malay society, settlement through negotiation and reconciliation has traditionally been favoured in addressing familial, commercial, and community disputes. Parties involved commonly seek resolution through direct negotiation or intermediaries such as imams, village heads, and qadis (Minnattur, 1964; Sulong, 2025). Indeed, qadis themselves have often demonstrated a preference for reconciliation rather than formal judicial proceedings (Ahmad, 1999), reflecting the MADANI principle of *ihsan* (care and compassion), which promotes social harmony, peaceful coexistence, and deep empathy within the community (Ushama, 2025).

For the purposes of this study, findings based on interviews in Terengganu indicate that distributing inheritance through *muafakat* remains widely observed. Although the *faraid* system provides a clear framework under Islamic law, many families continue to adopt *muafakat*, particularly for immovable assets like ancestral homes and family land (Abdul Latif, 1986). This preference stems from the perception that *muafakat* offers a practical and harmonious solution, enabling heirs to preserve family relationships. This perfectly illustrates the MADANI vision of *kesejahteraan* (prosperity), which defines prosperity not merely as strict financial or material gain, but as a holistic well-being that prioritises spiritual fulfilment, balanced societal growth, and the ongoing harmony of the family and community (Anwar Ibrahim, 2022; Ushama, 2025), facilitating distribution without prolonged disputes.

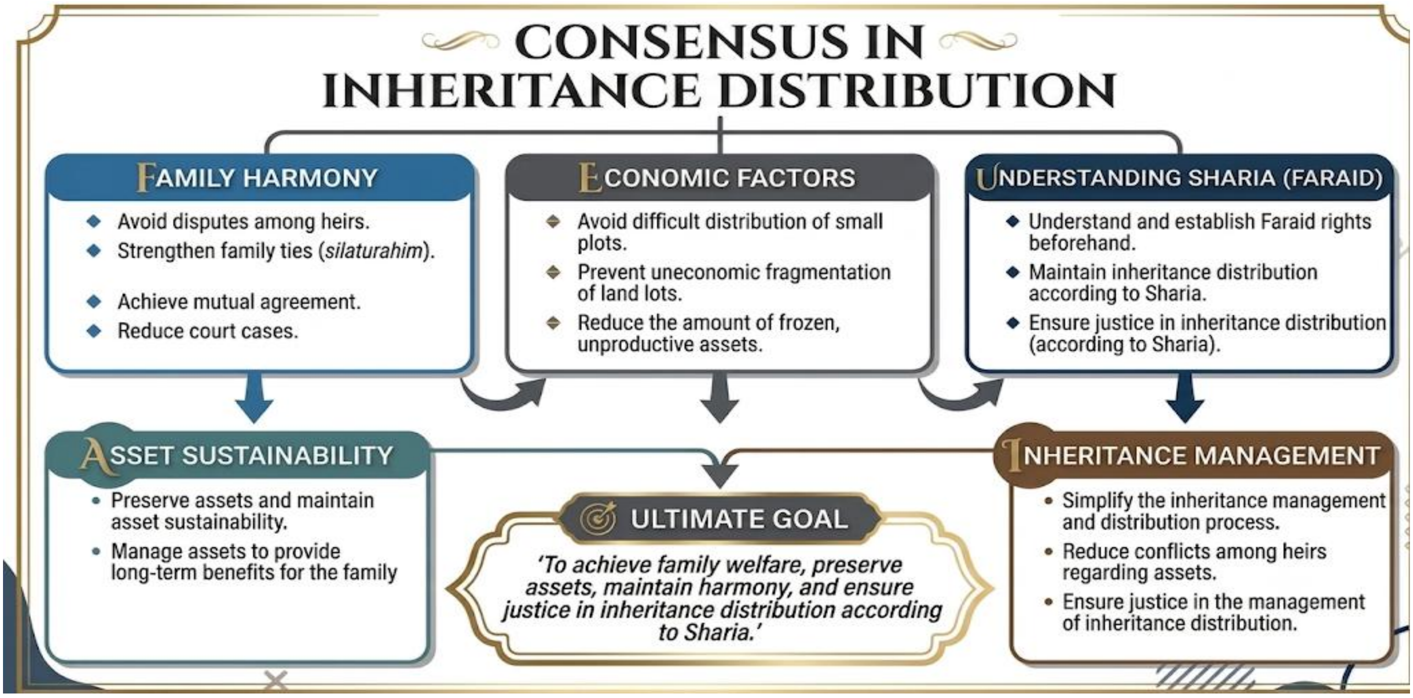
The findings further reveal that informants agreed *muafakat* does not contravene Shariah principles, provided heirs are informed of their *faraid* entitlements and agree voluntarily, free from coercion. This is consistent with *takhāruj* in Islamic jurisprudence (al-Zuhayli, 1986). Nevertheless, informants identified challenges, including inadequate public understanding of *faraid*, the dominance of certain heirs, and the potential marginalisation of weaker beneficiaries (Sulong, 2025). Addressing these challenges is critical from a MADANI perspective, particularly concerning the value of *keyakinan* (trust or *amānah*), which demands ethical governance, transparency, and accountability to prevent the betrayal of trust and the exploitation of vulnerable family members (Ushama, 2025), alongside the principle of *hormat* (respect) that mandates the protection of the rights, equity, and dignity of marginalised individuals to ensure a truly inclusive community (Anwar Ibrahim, 2022; Ushama, 2025).

In addition, interview data demonstrate that cultural values within the Malay community of Terengganu continue to shape inheritance distribution. In certain circumstances, greater emphasis is placed upon preserving family harmony and the sentimental value of inherited property than upon adhering strictly to the mathematical distribution prescribed under *faraid*. Heirs often negotiate and accommodate one another in determining a suitable arrangement (Sulong, 2025). Such local cultural wisdom embodies the MADANI framework's synthesis of local language, concepts, and ethical practices to address complex societal realities (Anwar Ibrahim, 2022). It reflects a profound internalisation of the MADANI virtue of *ihsan* (care and compassion), wherein individuals willingly accommodate and genuinely care for the welfare of their kin, ensuring no family member is left destitute, and prioritising collective well-being over strict personal material gains (Anwar Ibrahim, 2022; Ushama, 2025).

The findings also underscore the significant role played by religious institutions and inheritance administration agencies in ensuring that *muafakat* arrangements remain consistent with Shariah requirements. From a MADANI perspective, this institutional oversight is a profound manifestation of *keyakinan* (trust or *amānah*), which demands ethical governance, transparency, and the strict fulfillment of responsibilities to protect society from exploitation (Anwar Ibrahim, 2022; Ushama, 2025). Interviews with officers from the relevant institutions indicate that educational initiatives concerning *faraid*, structured negotiation processes, and formal verification of heirs' consent constitute important mechanisms for preventing exploitation, injustice, and disputes during inheritance distribution (Anderson, 1971). Such mechanisms effectively operationalize the MADANI value of *hormat* (respect) by safeguarding individual rights, upholding human dignity, and ensuring that any relinquishment of wealth is done voluntarily and without coercion (Anwar Ibrahim, 2022). Consequently, when properly supervised and guided, *muafakat* serves as an effective mechanism for facilitating orderly and harmonious inheritance settlements within the community, directly contributing to the *kesejahteraan* (prosperity) and sustainable social cohesion of the family unit (Anwar Ibrahim, 2022; Ushama, 2025).

Overall, the findings of this study suggest that the practice of inheritance distribution through *muafakat* remains both relevant and widely accepted among the Muslim community in Terengganu. However, its successful implementation depends upon a clear understanding of *faraid* principles and appropriate guidance from competent authorities to ensure that *muafakat* is not misused in a manner that undermines the inheritance rights prescribed by Islamic law (Mahmud, 1958). In the context of Malaysia MADANI, this highlights the critical intersection of *ihsan* (care and compassion) and *keyakinan* (trust); competent authorities must act as empathetic yet firm guardians of justice to ensure that the distribution is truly equitable, protects the vulnerable, and ensures no heir is marginalized or left destitute (Anwar Ibrahim, 2022; Ushama, 2025). To further elaborate on these findings and their alignment with these overarching socio-religious values, the subsequent analysis is organised according to several major themes that emerged from the interview data, as summarised in the following figure.

Figure 1: Consensus in Inheritance Distribution



Source: Informant interviews (2026)

Based on the overall interview findings, consensus (*muafakat*) is viewed as a mechanism that plays a vital role in ensuring that heritage management is executed in a more harmonious, practical, and effective manner (Anderson, 1971). All informants generally agreed that consensus is not solely about asset distribution, but also involves social, economic, and family relationship preservation aspects. This holistic view aligns perfectly with the MADANI dimension of *kesejahteraan* (prosperity), which redefines prosperity beyond mere material wealth to encompass spiritual fulfilment, social harmony, and the balanced well-being of the family and community (Anwar Ibrahim, 2022; Ushama, 2025). From the perspective of family harmony, consensus helps prevent disputes that frequently occur among heirs, particularly when involving high-value assets such as land and houses. Mutual agreement allows each heir to feel that their rights and viewpoints are respected throughout the heritage distribution process, directly reflecting the MADANI core value of *hormat* (respect), which mandates the protection of human dignity, inclusivity, and equitable representation in decision-making (Anwar Ibrahim, 2022; Ushama, 2025).

From an economic aspect, consensus becomes a more practical option when dealing with assets that are difficult to divide physically according to *faraid* proportions. Distributing land to too many heirs can result in fragmentation into small lots that are no longer economically viable to utilize (Md. Noor, 1996). Therefore, an

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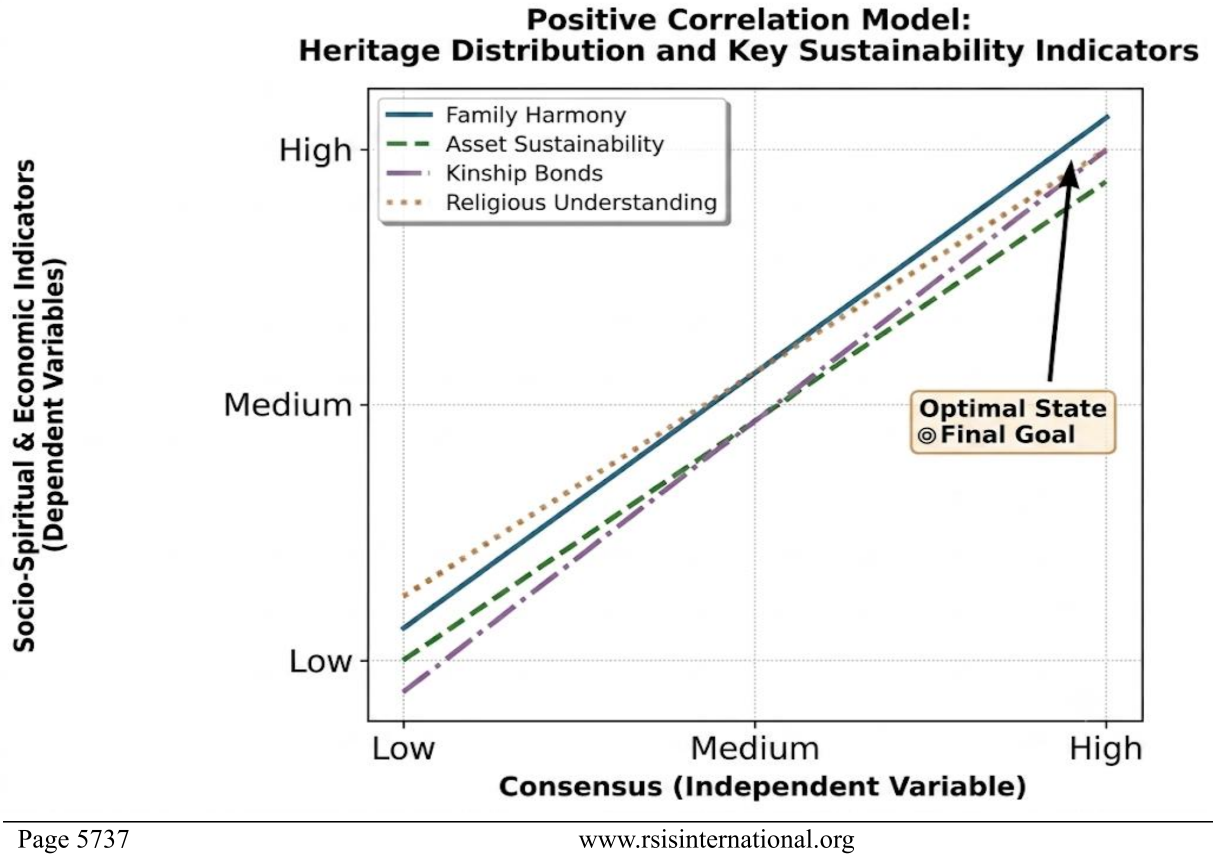
agreement to transfer the asset to one or a few specific heirs can ensure that the value and function of the property remain preserved. Indirectly, this situation supports efforts to prevent the occurrence of frozen assets and future asset management issues. This practical adaptation reflects the MADANI principles of *daya cipta* (innovation) and *kemampanan* (sustainability); it showcases a purposeful, socially responsible approach to economic problem-solving that prevents resource waste and ensures that economic practices remain sustainable and functionally viable for the community's future (Anwar Ibrahim, 2022; Ushama, 2025).

The study's findings also indicate that the community's level of understanding regarding the relationship between *faraid* and consensus still requires improvement. A segment of society still perceives that consensus can completely replace *faraid*, whereas *faraid* remains the primary foundation in determining each heir's rights. The informants emphasized that consensus can only be implemented after the heirs' rights have been identified according to *faraid* law. An accurate understanding of both concepts is crucial to ensure that every agreement made is valid, fair, and complies with Syariah requirements (Anderson, 1971). In the MADANI framework, ensuring this transparency and strict adherence to ethical and religious guidelines is a manifestation of *keyakinan* (trust or *amānah*). cultivating this trust requires ethical governance and accountability, ensuring that the consensus is not used to exploit the ignorant but is built on a foundation of truth, transparency, and justice (Anwar Ibrahim, 2022; Ushama, 2025).

Furthermore, consensus also plays a role in ensuring the long-term sustainability of heritage assets. Distribution made through mutual agreement can prevent excessive asset fragmentation and simplify property ownership and administration. This approach aligns with Sharia objectives in preserving property (*hifz al-māl*) and ensuring that its benefits can be enjoyed by future generations, which is the very essence of the MADANI pillar of *kemampanan* (sustainability), advocating for the responsible stewardship (*khilāfah*) and preservation of resources for the future (Anwar Ibrahim, 2022; Ushama, 2025). Overall, the research findings demonstrate that consensus serves as a complementary mechanism to *faraid*, capable of balancing the rigid demands of Syariah law with the complex social and economic realities of contemporary society (Kuwait, 1990-1997). This adaptability is crucial in navigating the "post-normal times" defined by the MADANI framework, proving that local cultural wisdom (*kearifan tempatan*) and compassionate negotiation (*ihsan*) can effectively resolve modern complexities while remaining anchored in divine principles (Anwar Ibrahim, 2022).

Below is the generated XY graph illustrates a direct, positive linear correlation between the implementation of consensus and the overall sustainability of a family's heritage ecosystem.



The graph clearly demonstrates that as the practice of mutual agreement (*muafakat*) matures from low to high, it does not compromise other values; rather, it drives a parallel upward progression across all indicators. This perfectly illustrates the MADANI dimension of *kesejahteraan* (prosperity), which advocates for a progressive, holistic growth where economic, social, and spiritual elements ascend together in balance, ensuring that the advancement of one aspect does not occur at the expense of another (Anwar Ibrahim, 2022).

Specifically, a higher degree of consensus systematically elevates family harmony by reducing disputes, directly reflecting the core value of *Hormat* (Respect), which guarantees human dignity, inclusivity, and mutual understanding among heirs during the decision-making process (Anwar Ibrahim, 2022; Ushama, 2025). Simultaneously, it secures asset sustainability by preventing the uneconomic fragmentation of property. This acts as a clear manifestation of the MADANI pillar of *kemampanan* (sustainability), which emphasises the responsible stewardship (*khilāfah*) and preservation of resources to ensure they remain economically viable and continue to benefit future generations (Anwar Ibrahim, 2022; Ushama, 2025).

Furthermore, this mechanism strengthens kinship bonds (*silaturahim*) through cooperative decision-making, epitomising the virtue of *ihsan* (care and compassion). Within this framework, familial love, empathy, and social responsibility guide actions to accommodate and protect kin from financial hardship or marginalisation (Anwar Ibrahim, 2022; Ushama, 2025). It also deepens religious understanding by ensuring that agreements are rooted in a correct appreciation of *faraid* rights, thereby reinforcing *Keyakinan* (Trust or *Amānah*). by establishing agreements based on transparency and ethical accountability to God and society, it prevents the betrayal of trust (Anwar Ibrahim, 2022; Ushama, 2025).

Ultimately, the parallel trajectories show that all four indicators move in perfect tandem, converging at the top-right corner to represent the optimal state where social, economic, and Sharia-compliant goals are fully realized. This optimal convergence captures the very essence of the MADANI framework's ultimate vision: achieving a truly just, balanced, and civil society that successfully navigates modern complexities by synthesising profound spiritual fulfilment with robust socio-economic well-being (Anwar Ibrahim, 2022; Ushama, 2025).

CONCLUSION

In conclusion, addressing the pervasive challenges of delays and frozen estates in Malaysian Muslim inheritance requires a balanced integration of divine law, statutory regulation, and custom. While *faraid* remains the indispensable, divine foundation establishing obligatory shares, *muafakat* serves as a dynamic, Shariah-compliant mechanism rooted in *takharruj* and *sulh*. Rather than supplanting *faraid*, *muafakat* functions sequentially requiring heirs to first acknowledge their lawful entitlements before voluntarily redistributing or waiving them based on informed, uncoerced consent. It was found out that the formal recognition of *muafakat* under the Small Estates (Distribution) Act 1955 demonstrates the adaptability of Malaysia's legal system. Procedural safeguards, such as Form DDA for recording consent and Form E for final distribution orders, ensure administrative integrity, while strict judicial oversights protect minor heirs and nullify orders procured through fraud or forgery. empirical findings from Terengganu affirm that *muafakat* is widely favored for preserving ancestral property, preventing uneconomic land fragmentation, and maintaining kinship harmony. Synthesizing these findings with the Malaysia MADANI framework reveals that *muafakat* embodies *hormat* (respect) and *keyakinan* (trust) through ethical, transparent governance that protects vulnerable heirs. furthermore, it operationalizes *ihsan* (compassion) by encouraging altruistic support for financially disadvantaged kin or caregivers, ultimately advancing *kemampanan* (sustainability) and *kesejahteraan* (prosperity). supervised *muafakat* proves to be a vital mechanism that bridges rigid legal calculations with modern socio-economic realities, ensuring justice, asset preservation, and enduring family resilience.

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