

Research Article

# Islamic Law of the National Madhhab (Hazairin 1906–1975): Concept, Epistemology, and Its Relevance in Indonesia

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**Abstract:** This article explores the concept of the National Madhhab in Islamic law, a significant intellectual contribution by Prof. Dr. Hazairin, S.H. (1906–1975), one of Indonesia's foremost scholars in both customary and Islamic law. Against the backdrop of Indonesia's plural society and its need for an Islamic legal framework that aligns with national identity, Hazairin introduced the idea of a National Madhhab as an alternative model of Islamic jurisprudence. This study employs a library research method, drawing on Hazairin's primary writings, supplemented by secondary sources such as books, journal articles, and contemporary studies. The discussion begins with an overview of Hazairin's intellectual background and the socio-political context that shaped his thought. It then elaborates on the epistemological and methodological foundations of the National Madhhab, particularly its reliance on the Qur'an and Sunnah as the principal sources of law, combined with the role of *ulī al-amr* (state authority) in legislating norms that reflect the needs of Indonesian society. Hazairin emphasized that Islamic law should not only be universal but also contextualized to the cultural realities and 'urf (customary practices) of Indonesia, as long as these practices do not conflict with Shari'ah principles. A prime example of this contextualization is his idea of bilateral inheritance law, which diverges from classical Islamic jurisprudence but reflects the egalitarian values of the Qur'an and the socio-cultural dynamics of Indonesia. The findings demonstrate that Hazairin's National Madhhab represents a creative form of *ijtihād* that integrates Islamic legal values with national identity, providing a framework for a responsive and applicable legal system. Moreover, this concept remains highly relevant in contemporary Islamic legal discourse, offering pathways for the development of laws that are both faithful to Islamic principles and adaptable to the evolving demands of Indonesian society.

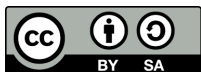
**Keywords:** Contextualization; Epistemology of Islamic Law; Hazairin; Indonesian Islamic Law; National Madhhab

## 1. Introduction

The dynamics of Islamic law in Indonesia have consistently been shaped by efforts to formulate a legal system that not only aligns with the fundamental teachings of Islam but is also capable of addressing contemporary challenges and adapting to the socio-cultural conditions of Indonesia's plural society. One of the central figures in this discourse is Prof. Dr. Hazairin, S.H. (1906–1975), a Muslim intellectual with dual expertise in customary law (*hukum adat*) and Islamic law. Hazairin's concern over the implementation of Islamic law, which he sometimes perceived as rigid and insufficiently attentive to the Indonesian context, motivated him to propose a reformist concept known as the "National Madhhab" (*Mazhab Nasional*) or "Indonesian Fiqh" (*Fikih Indonesia*) [1].

The background of Hazairin's thought cannot be separated from Indonesia's historical and political context, particularly in the post-independence period, when there was an urgent need to establish an autonomous national legal system. He observed tensions between normative Islamic law, which largely referred to Middle Eastern *fiqh* traditions, the customary laws embedded within Indonesian society, and the remnants of colonial law. In his view, Islamic law should be a *living law* that can be practically applied by the Muslim community in Indonesia [2], [3].

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Hazairin's concept of the National Madhhab represents a methodological proposal for contextual *ijtihad*, seeking to break free from blind adherence (*taqlid*) to the classical *fiqh* schools without dismissing their contributions. He criticized the *receptie* theory popularized by Snouck Hurgronje, which posited that Islamic law would only be valid if accepted by customary law. As an alternative, Hazairin introduced the *receptie exit* theory, asserting that after Indonesia's independence, the *receptie* theory must "exit" from the national legal system because it contradicts the spirit of the 1945 Constitution (*UD 1945*) and the principles of Islam[2], [3].

This article aims to provide a comprehensive examination of Hazairin's thought on the National Madhhab, including its fundamental concepts, epistemological and methodological foundations, as well as an analysis of its relevance and influence on the development of Islamic law in Indonesia to the present day.

## 2. Proposed Method

This study adopts a qualitative approach using the library research method. Primary data were obtained from the written works of Prof. Dr. Hazairin, S.H., including his books on Islamic law, customary law, and the concept of the National Madhhab. Secondary data were collected from various scholarly sources, including books, academic journals, articles, and previous research discussing Hazairin's thought and its relevance. The data analysis technique employed is descriptive-analytical and interpretative. This involves systematically describing Hazairin's ideas, analyzing his arguments, and interpreting them within the context of the development of Islamic law in Indonesia.

## 3. Results and Discussion

### A. Brief Biography and Intellectual Context of Hazairin

Hazairin was born in Bukittinggi, West Sumatra, on November 28, 1906. His educational background, which combined Western education (RHS Batavia, earning the titles *Meester in de Rechten* and Doctor) with a profound understanding of Islamic teachings and customary law (*adat*), shaped the distinctive character of his thought[1]. He was not only known as an academic but also actively engaged in bureaucracy and politics. His expertise in customary law, particularly Rejang *adat* the subject of his doctoral dissertation provided him with a rich perspective on the interaction between Islam and local culture.

The intellectual context surrounding Hazairin was marked by a spirit of nationalism and a desire to develop an Indonesian legal identity rooted in the nation's noble values and religious teachings. He lived during the transitional period from the colonial era to independence, a time when discourse on the foundations of the state and the national legal system became highly significant.

### B. Hazairin's Concept of the National School of Thought

The idea of the "National School of Thought" (*Mazhab Nasional*), later also referred to as "Indonesian Fiqh" (*Fikih Indonesia*) or the "Indonesian School of Thought" (*Mazhab Indonesia*), lies at the core of Hazairin's reformist vision of Islamic law. Its primary aim was to establish an interpretation of Islamic law that is practical and applicable, enabling Indonesian Muslims to implement it easily in their daily lives; aligned with the Indonesian personality by taking into account the nation's character, culture, customs (*urf*), and social conditions; firmly grounded in the Qur'an and Sunnah, yet interpreted contextually; and capable of becoming an integral part of the national legal system. Hazairin maintained that the gate of *ijtihad* remains perpetually open, urging Indonesian scholars and Muslim intellectuals to exercise *ijtihad* for the public good within the Indonesian context rather than merely adhering textually to the opinions of earlier scholars[2]. He argued that many classical *fiqh* rulings were deeply influenced by the socio-cultural context of the Middle East, which is not always fully relevant for direct application in Indonesia.

Classical Fiqh Provisions	Middle Eastern Socio-Cultural Context	Irrelevance/Relevance in Indonesia
Slavery Law	Slavery was socially and economically recognized, regulated in various chapters of <i>fiqh</i> .	Irrelevant, as slavery has been legally abolished and is not present in modern social structures.
Polygamy	Commonly practiced without the need for court approval or the wife's consent.	In Indonesia, court approval and strong social considerations are required.
Women's Dress and Aurah	Standards of <i>aurah</i> were influenced by Arab culture, such as the niqab/face veil being deemed obligatory.	Indonesian culture prioritizes local modesty norms; loose-fitting <i>jilbab</i> or traditional kebaya are considered sufficiently modest.
Inheritance System (Male 2:1 Female)	Strongly patriarchal society, with men as the primary financial providers.	In some local cultures (e.g., Minangkabau), women are dominant in inheritance matters.
Hudud Laws (Amputation, Stoning, etc.)	Applied in tribal societies with their own legal systems.	Incompatible with the national legal system and human rights principles in Indonesia.
Prohibition on Women's Leadership	Interpreted based on certain <i>hadith</i> and patriarchal cultural norms.	Women in Indonesia have held leadership positions in various sectors, including the presidency.
Zakat on Camels, Wheat, Silver	Commodities typical of the Arab region.	Indonesia has different commodities, such as rice, coffee, palm oil, and fixed income.
Marriage Without Official Guardian Approval (Wali Mujbir)	The father or guardian had full authority over women.	Under Indonesia's Marriage Law, marriages must be officially registered, and the woman's consent is essential.
Qanun or Hisbah System	The state and religious authority were unified.	Indonesia separates religion and state, although Islamic law is applied socially through community-based institutions.

### C. Epistemological and Methodological Foundations of the National School of Thought

Hazairin's epistemology of Islamic law in developing the National School of Thought rests on several key pillars. First, in terms of legal sources, the Qur'an serves as the primary and highest source. Hazairin emphasized the importance of understanding the Qur'an holistically, where verses elucidate one another (*tafsir ayat bi al-ayat*). He rejected the concept of *naskh* (abrogation) in the sense of one Qur'anic verse annulling another, instead interpreting it as the abrogation of previous religious laws revealed to earlier communities. The Sunnah, meanwhile, is regarded as an explanation of the Qur'an and must be understood within its historical and sociological contexts. Hazairin argued that not all aspects of the Sunnah particularly those concerning *muamalah* (social relations) that are deeply embedded in Arab culture need to be applied literally in Indonesia; rather, the essence and underlying values should be prioritized. He also assigned a significant role to *ulil amri* (national authorities or government) in the *ijtihad* and legal formulation process, particularly regarding societal matters. In his view, decisions of *ulil amri* when made through deliberation with experts and with consideration for public welfare could be recognized as a form of national *ijma'* [2].

Methodologically, Hazairin adopted a contextual approach, interpreting the *nass* (Qur'an and Sunnah) by taking into account the Indonesian context, including social realities, cultural norms, and communal needs. He acknowledged the role of *'urf* (custom), particularly *'urf sahib* cultural practices that are good and not in conflict with the fundamental principles of Sharia as a relevant consideration in legal formulation. Just as classical *fiqh* incorporated the *'urf* of Arab society, Indonesian *fiqh* should likewise integrate the customs of Indonesian communities [2]. Furthermore, Hazairin underscored the importance of integrating auxiliary disciplines such as anthropology,

sociology, and history as tools to more comprehensively understand both the sacred texts and the social realities. This interdisciplinary method is evident in his analysis of inheritance law.

#### **D. Characteristics and Implications of Hazairin's Thought: A Case Study on Bilateral Inheritance Law**

One of the most prominent examples of the application of Hazairin's National School of Thought is his idea of Bilateral Inheritance Law. He criticized the patrilineal inheritance system dominant in Sunni *fiqh*, which, in his view, reflected more the social structure of pre-Islamic and early Islamic Arab society than the universal principles of Islamic law. Employing anthropological analysis and a holistic interpretation of the Qur'anic inheritance verses—particularly those in Surah al-Nisā'—Hazairin argued that the Qur'an in fact advocates a bilateral or parental system of kinship and inheritance, in which lineage and inheritance rights are traced equally through both the father's and mother's sides. He contended that such a system better aligns with the sense of justice and the kinship structures of the majority of Indonesian society [1], [2]. The implications of this bilateral inheritance theory include a more balanced position between sons and daughters in inheritance rights, and the recognition of substitute heirs (*ahli waris pengganti*), whereby a grandchild may assume the position of a predeceased parent to inherit from their grandparent. Although initially met with both support and criticism, this idea has significantly influenced the development of Islamic legal thought in Indonesia, particularly in the drafting of the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI).

Hazairin's conceptualization of bilateral inheritance law represents one of the most distinctive and transformative elements of his legal thought within the framework of the Indonesian *Mazhab Nasional* (National School). His approach diverged sharply from the predominant patrilineal tendencies of classical Sunni *fiqh*, which he argued reflected the socio-cultural patterns of Arab society during the early Islamic period rather than the universal principles of the Qur'an. At the core of Hazairin's reasoning lies the belief that Islamic inheritance law, when properly understood in its original spirit, upholds an egalitarian balance between the paternal and maternal lines, thereby ensuring justice, social cohesion, and gender equity.

One of the main characteristics of Hazairin's bilateral inheritance law is its interpretive originality. Rather than adhering rigidly to medieval juristic consensus (*ijmā'*), Hazairin employed *ijtihad* independent reasoning based on a direct reading of the Qur'an, particularly verses such as Qur'an 4:7 and 4:11–12, which explicitly grant inheritance rights to both men and women from the paternal and maternal sides. For Hazairin, these verses clearly mandate that lineage and property transmission must be recognized bilaterally, reflecting divine justice rather than patriarchal custom. This interpretive stance placed him at the forefront of reformist Islamic legal scholarship in Indonesia, combining scriptural fidelity with socio-cultural adaptation.

A second defining characteristic is integration of adat law and Islamic principles. Hazairin's bilateral model aligns with the kinship patterns of many Indonesian ethnic groups, such as the Minangkabau (matrilineal) and Batak (patrilineal), by offering a legal synthesis that acknowledges both parental lines equally. In doing so, he envisioned a unifying legal framework that could serve as a bridge between diverse local customs and the overarching Islamic legal system, strengthening national legal identity without erasing cultural diversity. Third, Hazairin's thought demonstrates a strong egalitarian and gender-inclusive dimension. While not explicitly using modern feminist discourse, his emphasis on balanced inheritance rights inherently challenged the gender-biased tendencies of certain traditional interpretations. In his view, bilateral inheritance is not merely a matter of equal shares but of equitable recognition of kinship ties, thus enhancing the dignity and social status of women within the family structure.

The implications of Hazairin's bilateral inheritance law are profound in both legal and socio-political terms. Legally, his model offered a pathway for the codification of Islamic family law in Indonesia that reflects both Qur'anic universality and the Indonesian socio-cultural context. This vision significantly influenced the drafting of laws such as the Compilation of Islamic Law (*Kompilasi*

*Hukum Islam*), although full adoption of the bilateral model remains contested. Socio politically, Hazairin's ideas contributed to the broader project of nation-building during Indonesia's post-independence period, supporting the integration of Islamic values within a pluralistic national legal order. Moreover, the bilateral inheritance concept has implications for intergenerational wealth distribution and social stability. By ensuring that both maternal and paternal relatives are recognized in inheritance matters, Hazairin's system mitigates potential familial disputes and promotes a more equitable economic balance within extended families. It also reduces the concentration of wealth in a single lineage, fostering broader participation in economic resources across kinship networks.

Finally, from a theoretical perspective, Hazairin's approach reinforces the principle that Islamic law is inherently adaptable and context-sensitive, capable of evolving in response to socio-historical realities without compromising its foundational values. His bilateral inheritance law stands as a case study in the productive engagement between religious textual interpretation, cultural realities, and nation-state legal development. In this sense, Hazairin's thought is not merely a historical artifact but a continuing source of legal and ethical guidance for contemporary debates on gender justice, legal pluralism, and the harmonization of religious and national law in Indonesia.

#### E. The Relevance and Reception of the National Madhhab in Contemporary Context

Hazairin's conception of the *National Madhhab* remains relevant today in several key aspects. His advocacy for contextual *ijtihad* continues to inspire efforts to adapt Islamic law in Indonesia so that it is more responsive to social change and the needs of society[4]. In the realm of family law, his contributions to inheritance and marriage legislation have laid the groundwork for a gender-just legal framework aligned with Indonesian cultural values[5]. Furthermore, his thought fosters constructive dialogue between Islamic *shari'ah* norms and local wisdom (*adat*), promoting legal pluralism that harmonizes religious and customary law[6]. While the *National Madhhab* has not yet been formally established as a definitive school of thought, its spirit has been widely adopted in national legislation with Islamic nuances, such as the Marriage Law and the Compilation of Islamic Law[7]. Nevertheless, challenges remain in fully realizing this vision, including the need for a clear and institutionalized mechanism for national collective *ijtihad* involving scholars, intellectuals, and the government; broader public acceptance through sustained dissemination; and the refinement of *ijtihad* methodology to address increasingly complex contemporary issues. Recent studies indicate that the idea of an "Indonesian Madhhab" did not end with Hazairin and Hasbi Ash-Shiddieqy, but has continued to evolve and be reinterpreted by subsequent generations of Islamic legal thinkers[8]. The effort to develop *fiqh* that accommodates *urf* and Indonesia's social context thus remains an important and ongoing intellectual agenda.

Hazairin (1906–1975), a distinguished Indonesian jurist and scholar of Islamic law, introduced the concept of the *National Madhhab* as an intellectual framework for contextualizing Islamic legal thought within Indonesia's socio-cultural realities. His vision sought to bridge the normative structure of Islamic *shari'ah* with the lived experiences and indigenous wisdom (*adat*) of Indonesian society. In the contemporary era, this approach remains relevant, particularly in the pursuit of legal reform that addresses the complexity of modern social life while maintaining fidelity to Islamic principles. Hazairin argued for the necessity of *ijtihad* that is both faithful to scriptural sources and responsive to the evolving needs of a pluralistic nation. This orientation continues to inspire scholars and policymakers in formulating laws that reflect both religious legitimacy and cultural authenticity. In the field of family law, Hazairin's thought has contributed significantly to gender justice in inheritance and marriage regulations. By challenging the dominance of patrilineal inheritance patterns derived from Arab tribal customs, he proposed a bilateral system that better aligned with Indonesian cultural norms and Qur'anic justice principles. This framework has had lasting influence, particularly visible in the drafting of the Indonesian Marriage Law (1974) and the Compilation of Islamic Law (1991), both of which integrate elements of his thinking. His ideas have also encouraged a more inclusive interpretation of Islamic law, one that is sensitive to both male and female rights in the family

sphere. The reception of Hazairin's *National Madhhab* has been multifaceted. While it has not yet materialized as a fully institutionalized and universally recognized school of law, its intellectual spirit has permeated various legal developments in Indonesia. Recent scholarship shows that his model of integrating *shari'ah* with local customs remains a vital reference point for contemporary Islamic legal reform. Many legal scholars and practitioners view it as a workable paradigm for creating laws that are both religiously sound and socially grounded.

Nonetheless, the actualization of the *National Madhhab* faces enduring challenges. Among these are the absence of a clear mechanism for national collective *ijtihad*, the need for more effective dissemination of contextual Islamic legal thought, and the necessity of refining *ijtihad* methodologies to address increasingly complex societal issues. Moreover, while certain elements of Hazairin's thought have been embraced in formal legislation, their practical application often encounters resistance from more conservative interpretations of Islamic law. The intellectual legacy of Hazairin continues to evolve through reinterpretation by subsequent generations of scholars. As recent studies have noted, the "Indonesian Madhhab" is not static but rather a dynamic project, shaped by ongoing debates in Islamic jurisprudence, socio-political contexts, and the interplay between global Islamic thought and local Indonesian realities. In this way, Hazairin's *National Madhhab* remains both a historical milestone and a living discourse, capable of informing the nation's legal and cultural development well into the future. The intellectual legacy of Hazairin's *Mazhab Nasional* (National School of Thought) remains highly relevant in contemporary Islamic legal discourse in Indonesia. His core proposition that Islamic law should be interpreted and applied in ways faithful to its primary sources yet responsive to Indonesia's socio-cultural realities offers a framework for harmonizing religious law with the pluralistic character of the nation[9]. This approach, rooted in contextual interpretation, recognition of *'urf*, and interdisciplinary analysis, is adaptable to modern challenges such as gender equity in inheritance, environmental ethics, and the integration of Islamic legal principles into state law.

One of the most striking examples of this relevance lies in Hazairin's theory of bilateral inheritance. By rejecting the patrilineal bias prevalent in classical Sunni *fiqh*, he proposed a system in which lineage and inheritance rights pass equally through both paternal and maternal lines. This model, grounded in anthropological insight and holistic Qur'anic interpretation, has been seen by scholars as promoting justice and reflecting the kinship structures of Indonesian society[10]. In the current era, characterized by evolving family structures and increased advocacy for gender equality, Hazairin's ideas resonate with ongoing debates on reforming Islamic family law[11]. The reception of Hazairin's thought has historically been mixed. While some jurists praised his innovative approach, others criticized it as a deviation from established jurisprudence. For example, his recognition of *abli waris pengganti* (substitute heirs) allowing grandchildren to inherit in place of their deceased parent sparked theological and legal debates but eventually influenced the *Kompilasi Hukum Islam* (KHI), where this concept was formally adopted in Article 185[12]. This legal codification demonstrates a gradual institutional acceptance of his vision and underscores its practical applicability within the national legal framework.

From a broader legal theory perspective, Hazairin's *Mazhab Nasional* is also recognized as a model for the indigenization of Islamic law. His framework aligns with Indonesia's constitutional commitment to both religious principles and national unity. Scholars argue that his ideas bridge universal Islamic values with Indonesia's unique socio-political landscape, reinforcing the legitimacy of legal pluralism within the state[13]. This balancing act is increasingly relevant as Indonesia navigates complex questions of identity, governance, and the role of religion in public life. However, sustaining Hazairin's intellectual legacy requires ongoing scholarly engagement. While his foundational principles remain robust, their application must evolve to address new issues such as bioethics, fintech, and climate change areas requiring fresh *ijtihad* grounded in his contextualist methodology. In this sense, the *Mazhab Nasional* is less a closed doctrine and more an open intellectual project, inviting reinterpretation for each generation. Contemporary debates on Islamic law reform in Indonesia frequently cite Hazairin as a reference point, demonstrating that his vision still shapes both academic discourse and legislative considerations. Ultimately, Hazairin's *Mazhab Nasional* stands as a testament to the possibility of

constructing an Islamic legal paradigm that is deeply rooted in the Qur'an and Sunnah while fully integrated into Indonesia's national identity. Its endurance lies in its ability to bridge the moral authority of divine law with the lived realities of a diverse and dynamic society.

## 6. Conclusions

The thought of Prof. Dr. Hazairin, S.H. on the National School of Islamic Law represents a monumental act of *ijtihad*, offering a methodological framework for developing Islamic law that is relevant, contextual, and applicable to Indonesian Muslim society. Grounded firmly in the Qur'an, the Sunnah, and the *ijtihad* of *ulil amri*, while also taking into account *'urf* and Indonesia's social realities through the use of social sciences, Hazairin laid an important foundation for the reform of Islamic law in Indonesia. His ideas particularly in the fields of family law and bilateral inheritance have made a tangible contribution to the formation of the national legal system. Although challenges remain in terms of implementation and formalization, the spirit of the National School to create an Indonesian-oriented, just, and beneficial Islamic legal system continues to inspire and serve as an important agenda for Islamic legal scholars and practitioners in the country. Its relevance lies not only in the concrete solutions it offers, but also in its courage to engage in creative *ijtihad* for the advancement of the Muslim community and the nation.

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