



Reinterpreting Gender Justice in Islamic Inheritance Law: A Critical Analysis of The Compilation of Islamic Law

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Abstract

This article examines gender justice in Islamic inheritance law through a critical analysis of the Indonesian Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) in response to contemporary socio-economic changes. The Qur'anic inheritance ratio of two-to-one between male and female heirs has long generated debate, particularly in relation to modern claims of gender equality. This study argues that Islamic inheritance law conceptualizes justice as proportional and responsibility based rather than strictly numerical equality, and therefore must be understood within its normative and social framework. Using a normative juridical method with a qualitative approach, this article analyzes primary legal sources, including the Qur'an, classical fiqh, and the KHI, alongside contemporary scholarship on gender justice and Maqāṣid al-Sharī'ah. The findings reveal that classical inheritance norms were historically grounded in the assumption of men as primary economic providers an assumption increasingly challenged by the growing economic participation of women in Indonesian Muslim society. The article further demonstrates that the KHI operates as a form of contextual ijtihād by accommodating gender responsive mechanisms such as consensual inheritance agreements and substitute heirs, without departing from Islamic legal principles. This study contributes to Islamic family law discourse by bridging normative doctrine and socio-legal realities, offering a contextual framework for realizing substantive gender justice while preserving the foundational objectives of Sharī'a.

Keywords: *Islamic inheritance law; gender justice; Compilation of Islamic Law; Maqāṣid al-Sharī'ah; socio-legal analysis.*

Abstrak

Artikel ini mengkaji keadilan gender dalam hukum warisan Islam melalui analisis kritis terhadap Kompilasi Hukum Islam (KHI) sebagai respons terhadap perubahan sosial-ekonomi kontemporer. Rasio warisan Al-Qur'an dari dua banding satu antara ahli waris laki-laki dan perempuan telah lama menimbulkan perdebatan, terutama dalam kaitannya dengan klaim

modern tentang kesetaraan gender. Studi ini berpendapat bahwa hukum warisan Islam mengkonseptualisasikan keadilan sebagai proporsional dan berbasis tanggung jawab daripada kesetaraan numerik yang ketat, dan oleh karena itu harus dipahami dalam kerangka normatif dan sosialnya. Menggunakan metode yuridis normatif dengan pendekatan kualitatif, artikel ini menganalisis sumber-sumber hukum primer, termasuk Al-Qur'an, fiqh klasik, dan KHI, di samping keilmuan kontemporer tentang keadilan gender dan Maqāṣid al-Sharī'ah. Temuan ini mengungkapkan bahwa norma-norma warisan klasik secara historis didasarkan pada asumsi laki-laki sebagai penyedia ekonomi utama, sebuah asumsi yang semakin ditantang oleh meningkatnya partisipasi ekonomi perempuan dalam masyarakat Muslim Indonesia. Artikel ini lebih lanjut menunjukkan bahwa KHI beroperasi sebagai bentuk ijtihād kontekstual dengan mengakomodasi mekanisme responsif gender seperti perjanjian warisan konsensual dan ahli waris pengganti, tanpa menyimpang dari prinsip-prinsip hukum Islam. Studi ini berkontribusi pada wacana hukum keluarga Islam dengan menjembatani doktrin normatif dan realitas sosial-hukum, menawarkan kerangka kontekstual untuk mewujudkan keadilan gender substantif sambil melestarikan tujuan dasar Syariah.

Kata Kunci: Hukum Warisan Islam; Keadilan Gender; Kompilasi Hukum Islam; Maqāṣid al-Sharī'ah; Analisis Sosio-Legal.

Introduction

The reform of Islamic law, particularly in the field of inheritance law, constitutes a complex and dynamic process that has often achieved only partial success. This reform reflects an internal struggle to reconcile Islamic jurisprudence with contemporary notions of justice, especially gender justice. However, its implementation is frequently constrained by institutional fragmentation, judicial discretion, and organized resistance that frames gender equality as an external or foreign agenda incompatible with Islamic values (Al Kadumi et al., 2024). In this context, Islamic inheritance law should not be understood merely as a static set of theological norms but rather as a contested arena where normative texts, social structures, and political dynamics continuously interact.

Indonesia represents a critical case study due to its plural inheritance law system, which integrates Islamic law, civil law, and customary law. Under Islamic law, the 2:1 inheritance ratio between male and female heirs is grounded in the assumption of men's financial responsibility toward the family. In contrast, civil law adopts an egalitarian principle of distribution. Meanwhile, customary legal systems, such as the matrilineal Minangkabau tradition, distinguish between *pusaka tinggi* (matrilineal heritage) and

pusaka rendah (earnings) (Malayudha et al., 2023). This legal pluralism generates significant tensions, particularly when patriarchal practices embedded in Islamic and customary inheritance are perceived as incompatible with gender justice and human rights standards. Although Indonesia has adopted an integrative approach through the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), which draws upon contextual *ijtihad* (efforts) and *Maqāṣid al-Sharī'ah* (objectives of Islamic law), gender inequality in inheritance practices remains a persistent challenge (Hududillah et al., 2025; Wulandari et al., 2025).

Previous studies indicate that resistance to gender justice in Islamic inheritance law is shaped by conservative interpretations of Sharī'a and the persistence of patriarchal cultural structures. Nugraha (2024) observes that while urban and educated communities tend to support equitable inheritance distribution, traditional interpretations of Islamic law continue to pose substantial barriers. Classical scholarship characterizes Islamic inheritance law as a logical and mathematically precise system (Coulson, 1971; Sir William Jones, 1792), yet historical evidence suggests that Islam originally functioned as a corrective force against gender injustice in pre-Islamic society (Ash-Shabuni, 1995). Contemporary Muslim thinkers, such as Husein Muhammad, emphasize the necessity of reinterpreting inheritance verses categorized as *mutashābihāt* (implicit) in order to align them with women's evolving social roles (Firdawaty et al., 2022). Other studies further highlight that the limited success of gender just reform is closely linked to political sensitivities, religious authority, and gender biased institutional configurations (Hossain & Jamil, 2022; Potale, 2024).

Building upon these findings, this study offers a novel contribution by positioning gender justice in Indonesian Islamic inheritance law as a problem of contextual *ijtihad* that requires critical examination through the lenses of *Maqāṣid al-Sharī'ah*, legal pluralism, and contemporary social dynamics. Unlike prior research that tends to be either purely normative or descriptive, this study reconstructs gender justice by critically analyzing the Compilation of Islamic Law (KHI) as a state produced legal instrument. The urgency of this research lies in the pressing need to formulate inheritance law reforms that are socially and culturally responsive to Indonesian realities, capable of transforming patriarchal norms, and aligned with substantive justice and human rights principles, while preserving the foundational character of Islamic law as a system oriented toward *maṣlaḥah* (public welfare) and justice.

Research Method

The research method used is the normative juridical method. This research falls under the category of qualitative research with a normative juridical approach, which is an approach that relies on literature studies or

secondary data sources to examine the relationship between legal science and positive law (Ali, 2013). This approach was chosen because it analyzes problems through several steps, such as contextual reading, document research, problem identification, collection of legal facts, and sensitive analysis, document research, problem identification, collection of facts about justice for women, and contextual sensitive analysis. The approach used includes a conceptual approach and legislation. The conceptual approach aims to explore the principles derived from doctrines and thoughts in Islamic law, while the regulatory approach focuses on analyzing the legal norms contained in regulations and legislation, which are specifically related to artificial intelligence and the principles that govern it. In the context of this study, the conceptual approach was applied to discuss gender equality in the distribution of inheritance according to Islamic law, which was then linked to the provisions contained in the compilation of Islamic law.

The data used in this study are secondary data in the form of research journals and books. Through the use of a combination of primary data collected through field interviews using random sampling techniques and secondary data obtained from empirical and normative legal research theories, this qualitative study is based on previous empirical research in the field. The main objective is to gather new information and evaluate concepts to propose improvements or modifications. The method chosen for this article was due to the need to identify women's equality in inheritance and the difficulties encountered in the implementation of inheritance acceptance. The data collection technique used was a literature study, namely a search for relevant written documents, which were then analyzed systematically. The primary data source is a compilation of Islamic law, while secondary data is obtained from literature and other scientific references related to the topic under review. The main objective is to gather new information and evaluate concepts in order to propose improvements or modifications. The method chosen for this article was due to the need to identify women's equality in inheritance and the difficulties encountered in the implementation of inheritance acceptance.

Result and Discussion

The distribution of inheritance between sons and daughters is a complex issue in Islamic family law, given the diversity of interpretations and applications of the law in different countries. In Indonesia, the Compilation of Islamic Law (KHI) serves as a reference for the distribution of inheritance, which is often considered more conservative and tends to allocate a larger share to sons. Equal distribution of inheritance between sons and daughters is understood in Islamic family law, and compares with Indonesian Islamic family law regarding inheritance shares for men and

women. Islamic family law clearly regulates the distribution of inheritance between men and women in the Qur'an, where men receive twice the share of women (Surah An-Nisa verse 11). This is based on the financial responsibilities of men in the family. Therefore, equal distribution of inheritance is not in accordance with Sharia law. In Indonesia, inheritance law is regulated by the Compilation of Islamic Law (KHI), which adheres to the principles of Sharia (Mutawalli, 2025).

Islamic inheritance law has unique characteristics as part of Islamic Sharia, the implementation of which cannot be separated from faith (belief). A person receives or will receive an inheritance according to the portion determined by Allah beyond their will, and there is no need to claim their rights. Inheritance law, in its contemporary aspect, is a response to social and cultural changes and demands for gender equality in modern society. Over the past few decades, debates surrounding gender inequality in Islamic inheritance law and demands for inheritance law reform have intensified. Awareness of women's rights, technological developments, and changes in family and economic structures have been the main factors driving inheritance law reform. This reform aims to create justice and gender equality in the distribution of inheritance, as well as to maintain the relevance of Islamic inheritance law in an ever changing society (Razy, 2023).

Normative Foundations of Gender Justice in Islamic Inheritance Law

In general, Qur'an recognizes the difference or distinction between men and women, but the difference is not a discrimination that benefits one party and harms the other. The difference is intended to support the Qur'anic obsession, namely the creation of a harmonious relationship based on love (*mawaddah wa rahmah*) in the family environment (QS. al-Rum: 21), as a forerunner to the realization of an ideal community in a peaceful country full of God's forgiveness (*baladun thayyibatun wa rabbun ghafûr*) QS. Saba: 15.

As for the concept of gender equality in the distribution of inheritance property, the Shafi'i school and other schools view and regulate the number of heir groups broadly, because heirs are not limited to families who are related by blood but also among families whose ties arise due to marriage or religion, such as wives, parents, and siblings. This shows that the social value of justice in Islam is always widespread, so that the utilization of inherited property can be evenly distributed, even though the property is then divided into small amounts.

Justice in Islamic law is dependent on justice that has been determined by Allah SWT, because humans cannot know justice correctly and precisely. In Islamic law, faith precedes understanding, because it has been determined that everything that Allah SWT determines must be fair.

So that fairness in the case of inheritance is carrying out Allah's orders in the case of inheritance by dividing it according to the rules in accordance with the Qur'an and Sunnah (Djazuli, 2021).

In Islam, especially the Shafi'i school, inheritance law has a very important position and is regulated clearly and in detail. This is because the problem of inheritance must be experienced by everyone. Because this inheritance law is concerned with property issues, it is regulated firmly and clearly so that it does not have the potential to become a dispute. This Islamic inheritance law also distinguishes the size of the parts of the heirs that are adjusted to the needs of daily life. Certain parts for the heirs that have been determined include things that are *ta'abbudi* (textual and obligatory), which must be implemented. Justice cannot be separated from legal issues and human issues because humans are always the subject of all laws. Because only humans who have awareness in doing legal actions both good and bad, fair and unfair, beautiful and ugly (Notohamidjojo, 1971).

The discussion on gender equality in Islamic inheritance law cannot be separated from the history or the reason for the revelation of the verses of the Qur'an, which are used as the basis for the provisions of the distribution of inheritance. Some argue that Islamic inheritance law also cannot be separated from the provisions for the distribution of inheritance before Islam came in Arab lands. There are several things that can influence scientists in highlighting the existence of justice in Islamic inheritance law. We can look at Surat an-Nisa': 7, in which there is really a principle of equality in the status of inheritance of children and other relatives, without any discrimination of gender or age, as used as a standard by customary law at that time, especially pre-Islamic innocence and Arab customs. Then, what distinguishes Islamic inheritance law from pre-Islamic Arabic law is that in Islamic inheritance law, women are given economic control over their property and are given the right to inherit from the property of their deceased husbands. From the above explanation, it can be concluded that Islam came with the banner of justice, not least in the matter of inheritance distribution.

Basically, it can be said that gender differences do not determine inheritance rights in Islam. This means that just like men, women are equally entitled to inheritance. This is clearly mentioned in Surah an-Nisa': 7 which equalizes the position of men and women in the right to inheritance. In verse 176 of Surah an-Nisa', it is explained in detail the equal strength of the right to receive inheritance between men and women, fathers and mothers (verse 11), husbands and wives (verse 12), brothers and sisters (verses 12 and 176) (Kašir, 1420).

There is no national legislation concerning inheritance law. The Islamic inheritance law in force for Muslims in Indonesia is laid down in the 1991 Compilation of Islamic Law. This is an almost identical copy of the

dominant interpretations of sharia. The Religious Court has jurisdiction in inheritance affairs. However, several studies have revealed that it is rare for inheritance cases to be brought before the Religious Courts. Indeed, they form less than 1 per cent of the courts' workload. The compilation includes the stipulation that when a person has sons and daughters, the sons will, in most cases, each inherit twice the share awarded each daughter. This contravenes a Supreme Court decision on adat inheritance law from 1961, which ruled that sons and daughters in modern Indonesia should inherit equal amounts. The abovementioned stipulation did not enter into the Compilation without controversy, and remains contested.

Yahya Harahap, a judge on the Supreme Court, argued for instance during the drafting process of the Compilation that an equal division of inheritance between men and women would not conflict with the Quran. The socio-economic position and role of women had changed, after all, therefore making the traditional allotment old fashioned and outdated. The proposal offered by Harahap was, however, rejected by most religious scholars, who did not wish to diverge from the dominant interpretation (Jan Michiel, 2010).

Islamic inheritance law revolves around three categories of legal heirs and three core rules for the distribution of an estate. Three categories of legal heirs are sharers, residuaries, and distant kindred. Sharers are entitled to a fixed portion of an estate. Residuaries take what is left out of an estate after disbursement of specified shares to sharers. Sharers are 13 in number: four out of them are males, while the rest are females (Cheema, 2017). Residuaries are of three kinds: residuaries in their own right, residuaries in another's right, and residuaries together with another. In the overwhelming number of situations, these two categories consume the entire estate, and in their absence, except for spouses, distant kindred is entitled to inheritance. Distant kindred are those relatives of a deceased who are neither sharers nor residuaries. They are mainly linked to a deceased with an intervening female relationship, e.g., mother's brother and sister, daughter's children.

Shifting Socio-Economic Roles of Women and the Challenge to Classical Inheritance Assumptions

The husband as the main breadwinner in the family can be understood, among others, through QS. al-Nisa': 34, al-Talaq: 7, and al-Baqarah: 23. In some scholarly interpretations, these verses are interpreted to mean that the husband is obliged to provide for his wife and children. This means providing for food, drink, clothing, shelter, medical treatment, and other household needs, according to the husband's ability. Because of this responsibility as a provider, among others, the husband becomes the leader in the household. However, in general in Indonesia, the fulfillment of family needs is carried out by both men and women. Working or

pursuing a career is human nature, where both men and women have the same rights and potential in improving the quality of themselves, and spiritually to work or do charity. The phenomenon in Indonesia found that many wives are involved in working activities, earning a living, and helping their husbands to meet household needs and children's education costs.

Although a husband is obliged to earn a living, this does not rule out the possibility of a wife working to increase family income. In addition to the reason women work to help their husbands earn a living or meet the needs of the family, there are other reasons, namely, so that women can be respected and recognized in their community. Women are allowed to try and work as long as the work is needed and or as long as the work requires it. Each has the right to manage and enjoy the results of their efforts (Shihab, 2018). This is confirmed in QS. al-Nisa': 32 "Do not covet what Allah has conferred more abundantly on some of you than others. Men shall have a share according to what they have earned, and women shall have a share according to what they have earned. Do ask of Allah His bounty. Allah has full knowledge of everything.

The involvement of women in these economic activities is very helpful in providing for the family. Furthermore, an actualization of the role of women, it can even be said that women have made a very meaningful contribution to the economic development of society. On the other hand, women's involvement in earning a living is not a result of biological factors or technological advances, but rather human nature has the desire to work (Alfiati & Mahmudah, 2020).

This condition provides a strong impetus for women to participate in work activities and provide services to the community, and help in improving the family economy. Whether it is as a teacher, private employees, traders and farmers. The involvement of women in the public sphere indirectly illustrates the pattern of life in Indonesia to be dynamic, modern, not rigid, and not to bound by traditions that exist in rural or remote villages, so that the involvement of women in providing for the family has become something that is considered normal and natural.

The wife's obligation is basically to manage the internal affairs of the household as well as possible. This also applies in to position of father and mother of the heir. At the level of children, an unmarried son is obliged to provide a dowry and all the requirements of marriage imposed by the family of the prospective wife on him. After marriage, the burden of providing for his wife (and children) will later be placed on his shoulders. On the other hand, the daughter, with the portion that she gets, will get an addition to the dowry that she will get when she gets married, then after marriage she (basically) does not have the obligation to provide for her family, on the contrary she will receive maintenance from her husband, this

general condition does not deny the opposite situation, but the number is not large (Gote, 2015). Women and men inherit unequally. Blended inheritance model: a system that connects heirs, families, government, and religious authorities, division of property based on field conditions, and proportional definition of needs, desires, and goals (Assaad et al., 2022). The Islamic inheritance system, normatively, divides inheritance between men and women at a ratio of 2:1. Another unique feature of this system is that the house they live in becomes the property of the child who last cared for their parents. The problem is that this traditional inheritance system is used by the majority of the Muslim population. Literacy has a greater influence on public awareness and loyalty than religiosity and perceptions of inheritance (Hamdani et al., 2022).

The strict or flexible application of law in Islamic family systems correlates with the socio-cultural and legal environment in each jurisdiction. Women's inheritance rights in Islamic family law show significant variation across jurisdictions, influenced by cultural, socio-economic, and legal contexts. Moreover, jurisdictions are considering adopting flexible legal reforms, with a focus on judicial discretion and family agreements to create a more equitable distribution of inheritance for women (Marni et al., 2023).

Contextual Ijtihād and Legal Accommodation: Gender Justice in the Compilation of Islamic Law (KHI)

Inheritance is also regulated in the Compilation of Islamic Law which consists of 23 articles, Article 171 to Article 193. In general, the KHI articles on inheritance are the same as those found in Islamic inheritance law, or what is commonly called Faraid. In some articles, at first glance, they are not in line with the Faraid law. However, after being explored with a little adjustment, it can be understood that the article does not violate the Faraid law. Although the Compilation of Islamic Law is not recognized by many as statutory law, the executors in the Religious Courts have agreed to make it a guideline in litigating in court.

Thus, KHI in the field of inheritance has become a law book in the Religious Courts. This is done to make it easier for judges in the Religious Courts to refer to it. As stated in Article 183 KHI, it is stated "the heirs can agree to make peace in the division of the inheritance after each realizes its share". This article becomes a reference in the distribution of inheritance peacefully by prioritizing mutual willingness. However, although this article results in the distribution of inheritance that is different from the instructions for the distribution of inheritance that have been determined in Chapter III of the Compilation of Islamic Law, but this is still justified for the sake of achieving benefits among the heirs. So, it is permissible to divide the inheritance equally when there is a previous process of division by

Islamic law, and it is realized by the parties and set by the heirs (Syarifuddin, 2015).

Another issue of gender bias is in the case of inheritance rights. In this regards, the patriarchal authority still seem to have strong intention to maintain the classical formula of inheritance rights, both in the legal and judicial aspects. Unfortunately, the breakthrough and reform made in the regulation regarding polygamy and divorce through State intervention are not apparent within the aspect of inheritance. The evidence is that the regulation of inheritance is still in favor of the patriarchal view. Another issue is related to the fulfillment of the wife's rights after divorce. Here, the KHI stated clearly that the husband is obliged to provide several things, among them are *mut'ah* (money or a living), shelter, and *kiswah* (clothes) to the ex-wife. *Mut'ah* is a once-lifetime gift, while *nafaqah* (provisions), *kiswah* and shelter are obliged during *'iddah* only (the waiting period after wife is divorced) (Article 149) (Rehman, 2007).

The concept of gender equity refers to the situation wherein men and women are treated as equals. This concept is usually informed by the concept of justice, particularly in the division of rights and responsibilities between the sexes. As argued by Sharma and Sharma, gender equity means that men and women have equal access to opportunities, without any biases against them (Notohamidjojo, 1971). According to Carter, gender justice means that men and women must not be subjected to fixed roles, subordination, marginalization, or violence. As such, Sharma and Sharma identify four indicators of gender equity: (1) access; (2) participation; (3) control; and (4) fair and equitable benefits. In this context, awareness of the need for gender equity is influenced by social and cultural constructions that distinguish between the sexes and their specific roles and responsibilities. Gender equity is necessary to address the gendered structural inequalities that exist within society (Michael Carter, 2023).

The amount of difference in burdens and responsibilities between men and women, as seen from the law of causality of rewards and responsibilities, does not have the slightest element of discrimination, because the share obtained by a woman is balanced with the obligations she bears. This is because in Islam, women are not burdened with economic responsibilities in their families. Therefore, if there is someone who receives a higher share of inheritance, this means that this is one of the manipulations of the level of his obligations, taken from the sociological concept of differences in Islamic society (Zainuddin Sardar, 1987).

There are several opinions of classical and contemporary scholars about the concept of justice in the distribution of inheritance. The concept of justice in the distribution of inheritance, namely:

- a. The view of Muhammad Abduh and Rasyid Ridha, is that there is

wisdom in determining the share of inheritance is not equal to that of women, namely one part of a man's share is equal to two women's shares because a man, in addition to needing to provide for himself, is also a man himself also a man to provide for his wife and children. This is why a man gets a larger share than a woman; if married, then all maintenance is borne by the husband.

- b. The view of Muhammad Ali Ash-Shabuni, an expert on contemporary tafsir law, says that one of the wisdom of the division of male inheritance is not equal to that of women not equal to women is the father or husband who fulfills and finances the needs of the household so that the household, so that his responsibility is heavier on his wife and children.
- c. Muhammad Mutawalli Ash-Sya'rawi's view that the difference in division of inheritance between men and women is due to differences in the functions of each. A man has the responsibility to protect, keep, and take care of women, both their wives and children. According to Muhammad Mutawalli Ash-Sya'rawi, the meaning of Al-Qowwamah is an obligation for men, as well as showing heavy sacrifice and protection, even risking their life to protect their family (As-Sağāwandī et al., 1792).

The presence of Article 185 of the Compilation of Islamic Law in Indonesia has provided a "breath of fresh air" for grandchildren whose parents (male or female) have passed away before the heirs. This inheritance article is indeed very brief, allowing for legal interpretation and opening up wide opportunities for legal discretion. Differences of opinion in responding to it are inevitable, and there are many perspectives that can be linked to convey a single conclusion and verify whether the resolution of this case is in accordance with the principles of *Maqâshid al-Sharîah*, which are gender fair and beneficial to a family bond based on lineage. There are four rulings and two decisions, all of which are in accordance with Article 185 of the KHI, and all six rulings and decisions are gender responsive (Ideham, 2022). The concepts and ideas of CLD-KHI in inheritance law have a spirit of legal liberalization. Therefore, it is only natural that since its establishment in 2004 until now, the ideas and thoughts of CLD-KHI have not only caused prolonged polemics, but also great resistance from various groups (Marni et al., 2023).

Various studies on Islamic family law in Indonesia show that the patriarchal cultural paradigm persists both in theory and in practice. This is a logical consequence of attempts to apply traditional Islamic doctrines to modern law. The dominance of this culture in the KHI, which has led to discrimination against women in Indonesia, has reached alarming levels

and requires revision. Reform efforts are also needed in other derivative legal products, such as local sharia regulations. All these efforts are necessary to ensure justice and equal rights for children and women. There is a need to conceptualize the construction of patriarchal authority in legalizing gender rights, roles, and status in Indonesia. The reconstruction of authority in modern Islamic Family Law legislation must begin with ensuring equal rights for women in both legal and judicial aspects. This requires the appropriate involvement of women in public policy-making and family law legislation. Another necessary strategy is the advocacy of women's rights to avoid gender bias in the law due to the dominance of male groups in political and legislative authority (Rokhmad & Susilo, 2017).

The concept of gender justice is often understood from contradictory perspectives. In religion, this issue is found, among other things, in the distribution of inheritance rights. Interpretations of gender justice in inheritance are polarized between textual and contextual patterns, with approaches that are difficult to reconcile. The reinterpretation of gender justice in the distribution of inheritance is implicitly stated. There is indeed gender inequality in the distribution of inheritance, but this inequality actually demonstrates its fairness (Sholihah et al., 2024). The current principles of inheritance distribution are not in line with changes in the socio-economic reality, where women have become important economic contributors. This study emphasizes the need to reinterpret Islamic inheritance norms to better reflect equality and justice, taking into account individual economic contributions without gender discrimination (Putra & Anwar, 2023).

Indonesians at various levels legal experts, scholars, ordinary citizens have viewed Islamic law as a preferred tool for social change, because it combines the legitimacy of religious mandate with the flexibility of precedent-based legal traditions. This flexibility allows Indonesian Muslim scholars and legal experts to translate public views and interests into Islamic legal terms. Ultimately, this flexibility has led to an expansion of Islamic court jurisdiction, which, in general, has increased women's access to legal and economic resources. There is a paradox here. Many provisions in the Islamic scriptures inheritance, testimony, duties, and daily behavior favor men over women in inheritance, testimony, duties, and daily behavior. However, Indonesia is known for its relative gender equality, from its demographic ratio to the division of daily tasks in villages to the ideology of complementarity and dualism. Women have made extensive use of the courts to challenge customary practices relating to marital obligations, their right to divorce their husbands, retain property, and the settlement of inheritance disputes. Women have creatively adopted Islamic law to challenge "customs" and customary legal practices embodied in adat, which deny them their inheritance rights (Bowen, 1996).

The classical fiqh-based inheritance model still dominates legal understanding and practice. However, this model is often inadequate in realizing substantive justice, especially in the modern social context where women are increasingly taking on economic and family roles. Islamic inheritance law is needed that is based on the objectives of Islamic law (*maqāṣid al-sharī'ah*) and the principle of gender justice (Putri et al., 2025).

Heirs receive inheritance not divided according to Islamic law (*furudh al-muqaddarah*), but divided equally between men and women. The concept of Islamic inheritance law is alternative and in line with the principle of gender justice, one of which is for women in South Aceh, as a manifestation of the principle of balanced justice. This principle is reflected in the pattern of inheritance distribution through the respective customary law mechanisms in accordance with the agreement of all heirs (Harnides et al., 2023).

The Batak customary system, for example, places male children, especially the eldest, as the primary heirs, while female children formally have no inheritance rights. On the other hand, Islamic law grants inheritance rights to women in certain proportions based on socio-economic responsibilities. The tension between these two legal systems creates social and legal dilemmas for the Batak Muslim community. In practice, various reconciliation strategies have emerged, such as giving gifts or bequests to daughters before the heir dies in order to balance traditional values and Islamic law (Tjempaka, 2025).

Islamic inheritance law, which applies to Muslims, is based on the principle of justice, not equality, to ensure and realize justice between the two sexes. Rights derive from obligations. In the Islamic family structure, men, as the sole breadwinners, protect and privilege women under the umbrella of men's obligations. Social security and economic independence are guaranteed for women through fair inheritance distribution, unlike men. Due to a lack of comprehensive understanding of all aspects of men's and women's rights and obligations in Islam, some critics consider this to be unfair to women. Men's life cycle is filled with financial obligations, while women are free from such obligations, even if they have wealth or income. In their life cycle, women are protected because financial obligations rest on the shoulders of their fathers, brothers, husbands, sons, etc., and ultimately the state. Under no circumstances are women ever in a state of insecurity and lack of protection. This study revisits the Sharia legal framework to show that Islam has guaranteed justice by disregarding the mathematical calculations that appear in the equal distribution with men, but rather establishes a fair distribution (Gani & Khan, 2019).

Conclusion

The division of inheritance in a 2:1 ratio, as prescribed in the Qur'an, is normatively grounded in the principle that men bear greater financial and social responsibilities than women; therefore, Islamic law determines differentiated shares as part of a broader framework of distributive justice. From this perspective, Islamic law both historically and contemporarily remains competent in articulating gender justice without engaging in gender based discrimination, as justice in Shari'a is understood in proportional rather than identical terms. Scholars of the Shāfi'ī school argue that claims of injustice advanced by some feminist critiques often overlook the historical context of inheritance practices prior to Islam, in which women were largely excluded from inheritance altogether. As a complete and enduring legal system, Islamic law is regarded as inherently just, since divine legislation is revealed solely to realize justice for humanity. Women are permitted to work and engage in economic activities according to necessity and capacity, and they retain full rights to manage and enjoy the fruits of their labor. The Qur'an itself affirms a balanced moral and legal space between men and women in earning a livelihood, as reflected in QS al-Nisā' (4):32 and QS al-Naḥl (16):97, which emphasize equal spiritual and material rewards without gender discrimination. However, this normative argumentation is limited by its primary reliance on textual and doctrinal reasoning, with insufficient engagement with empirical socio-economic transformations that have significantly altered gender roles in contemporary Muslim societies. Therefore, future studies are recommended to integrate socio-legal and empirical analyses, particularly regarding women's economic contributions and family responsibilities, to explore whether contextual *ijtihād* grounded in *Maqāṣid al-Shari'ah* can further enhance the realization of substantive justice while remaining faithful to the foundational principles of Islamic inheritance law.

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