

From Text to Context: Reinterpreting Women's Inheritance Rights in Modern Family Structures from the Perspective of Social Fiqh

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Abstract: The transformation of modern family structures, characterized by the increasing role of women as primary economic providers, has raised important questions regarding the continued relevance of the 2:1 inheritance distribution ratio. This provision emerged within a socio-historical context in which men were regarded as the primary providers for the family. This study aims to analyze women's inheritance rights within modern family structures from the perspective of social fiqh. Methodologically, this study employs a normative legal research design using the analytical framework of social fiqh. Data were collected through library research encompassing primary legal materials, including the Qur'an, hadith, statutory regulations, and judicial decisions; secondary legal materials, consisting of classical and contemporary tafsir literature, works on Islamic inheritance law, and relevant scholarly publications; as well as tertiary legal materials, including legal dictionaries, encyclopedias, and other supporting references. The analysis was conducted through a systematic interpretation of the provisions of Islamic inheritance law by taking into account evolving social realities, maqasid al-Shari'ah, the principles of justice, and public benefit. The findings demonstrate that the rules governing the distribution of inheritance property possess a contextual dimension, thereby permitting reinterpretation in response to changes in family structures and the

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allocation of maintenance responsibilities. Under certain circumstances, the distribution of inheritance property may be reconstructed on a 1:1 basis, provided that it remains grounded in the principles of justice, public benefit, and the objectives of the Shari'ah. This study contributes to the development of Islamic law that is adaptive, contextual, and responsive to social change.

Keywords: Reinterpretation, Women's Inheritance Rights, Modern Family, Social Fiqh.

Abstrak: Perubahan struktur keluarga modern yang ditandai dengan meningkatnya peran perempuan sebagai penopang ekonomi keluarga menimbulkan pertanyaan mengenai relevansi ketentuan pembagian warisan dengan rasio 2:1. Ketentuan tersebut lahir dalam konteks sosial yang menempatkan laki-laki sebagai penanggung jawab nafkah keluarga. Penelitian ini bertujuan untuk menganalisis hak waris perempuan dalam struktur keluarga modern perspektif fikih sosial. Secara metodologi, penelitian ini merupakan penelitian hukum normatif dengan kerangka analisis fikih sosial. Data diperoleh melalui studi kepustakaan yang meliputi bahan hukum primer berupa al-Qur'an, hadis, peraturan perundang-undangan, dan putusan pengadilan; bahan hukum sekunder berupa kitab tafsir klasik dan kontemporer, literatur fikih mawaris, serta karya ilmiah yang relevan; dan bahan hukum tersier berupa kamus hukum, ensiklopedia, serta referensi pendukung lainnya. Analisis dilakukan melalui penafsiran sistematis terhadap ketentuan hukum kewarisan Islam dengan mempertimbangkan perkembangan realitas sosial, maqasid as-Syari'ah, prinsip keadilan, dan kemaslahatan. Hasil penelitian menunjukkan bahwa ketentuan pembagian harta warisan memiliki dimensi yang kontekstual, sehingga terbuka untuk melakukan reinterpretasi sesuai dengan perubahan struktur dan tanggung jawab nafkah dalam keluarga. Dalam kondisi tertentu, pembagian warisan dapat direkonstruksi menjadi 1:1 sepanjang tetap berlandaskan prinsip keadilan, kemaslahatan, dan tujuan syariat. Penelitian ini berkontribusi pada pengembangan hukum Islam yang adaptif, kontekstual, dan responsif terhadap perubahan sosial.

Kata kunci: Reinterpretasi, Hak Waris Perempuan, Keluarga Modern, Fikih Sosial.

Introduction

Islamic inheritance law is one of the enduring issues that continues to attract scholarly and practical attention within the Muslim community.¹ This is because Islamic inheritance law is closely connected to the realities of everyday life, particularly those concerning the administration and distribution of

¹ Euis Nurlaelawati, "The Debate on Muslim Family Law Reforms in Indonesia : The Case of Representation of Heirs and Obligatory Request," *Al Jami'ah* 41, no. 2 (2003): 1-33.

inheritance property following a person's death.² It was specifically formulated to regulate the distribution of inheritance property among the rightful heirs, as normatively prescribed in the Qur'an and hadith.³ These provisions are intended to ensure that inheritance property is distributed to the heirs in a manner that is just, equitable, and systematically ordered in accordance with the prescribed rules of succession. Accordingly, each heir is able to receive his or her rightful share while minimizing the potential for disputes among heirs over the distribution of inheritance property.⁴

Normatively, the provisions governing the distribution of inheritance property under Islamic inheritance law distinguish between the shares allocated to male and female heirs. This distinction is explicitly stipulated in Q.S. an-Nisa' (4): 11–12, which prescribes six categories of inheritance shares, namely 1/2, 1/3, 1/4, 1/6, 1/8, and 2/3.⁵ Within this framework of distribution, a significant distinction exists between the inheritance rights of male and female heirs. As a general principle, male heirs are entitled to a share that is twice that of female heirs.

This condition cannot be separated from the social configuration of early Muslim society, which was characterized by a patriarchal structure in which men assumed the dominant role as the primary providers responsible for meeting the economic needs of the family.⁶ Moreover, historical evidence indicates that pre-Islamic Arab traditions were shaped by a culture that positioned men as the central actors, particularly in the context of warfare, with

² Rajab, Elizamiharti, and Muslim, "Islamic Inheritance Law in Saruaso and Sawah Tengah Villages Based on Islamic Principles," *Jurnal Ilmiah Islam Futura* 22, no. 2 (2022): 225–43, <https://doi.org/10.22373/jiif.v22i2.12130>.

³ Muhammad Lutfi Hakim, "Ismail Mundu on Islamic Law of Inheritance: A Content Analysis of Majmū' Al-Mīrāth Fī Ḥukm Al-Farā'Id," *AlJami'ah* 61, no. 1 (2023): 59–79, <https://doi.org/10.14421/ajis.2023.611.59-79>.

⁴ Dwi Dasa Suryantoro, "Implementasi Hukum Waris Islam Di Indonesia Prespektif Kajian Normatif Dan Realitas Sosial," *Samawa: Jurnal Hukum Keluarga Islam* 5, no. 1 (2025): 15–28, <https://doi.org/10.53948/samawa.v5i1.160>.

⁵ Tim Forum Kajian Ilmiah Fikrah, *Fikih Perempuan Kesetaraan dan Keadilan Gender* (Kediri: Lirboyo Press, 2024), hlm. 175.

⁶ Muhammad Asyrofudin et al., "Contextualization of the 2:1 Distribution of Inheritance from the Perspective of Mubadalah," *Syariah: Journal of Fiqh Studies* 3, no. 2 (2025): 45–62, <https://doi.org/10.61570/syariah.v3i2>.

inheritance rights generally being granted exclusively to men.⁷ Within such a socio-cultural framework, the inheritance provisions revealed through divine revelation may be understood as a legal reform that was consistent with the social realities of its time. Accordingly, the difference in inheritance shares between men and women, whereby women received one-half of the share allocated to men, may be regarded as a rule that was not only equitable but also possessed progressive and transformational dimensions.⁸

Issues surrounding inheritance have become increasingly complex amid profound transformations in the social, cultural, and economic spheres.⁹ These transformations are reflected in the changing structure of the modern family, the growing participation of women in economic activities, and the emergence of women as the primary economic providers for their families in the twenty-first century.

In 2024, data from the Survei Angkatan Kerja Nasional (SAKERNAS) revealed that 14.37% of workers, or approximately one in every ten individuals, were women serving as the primary breadwinners of their households. This phenomenon was analyzed using data obtained from the August 2024 survey. A woman is classified as a primary breadwinner if she engages in income-generating employment and contributes the largest share of household income. This category also includes women who bear sole responsibility for fulfilling the economic needs of their families.¹⁰

Although women serving as family breadwinners still account for a relatively small proportion (14.37%) of Indonesia's female population (133,542,018; Badan Pusat Statistik, 2025), they play a significant role in supporting the family economy. They work not only to meet their own needs

⁷ Mohammed Al-Khodari Bek, *Tarikh at-Tasyri' al-Islami*, 7 ed. (Beirut: Dar Al-Kotob Al-ilmiyah-Beirut, 2022), hlm. 58.

⁸ Lilik Andaryuni, "Pembaruan Hukum Kewarisan Islam di Turki Dan Somalia," *Hikmah Journal of Islamic Studies* 14, no. 1 (2018): 145, <https://doi.org/10.47466/hikmah.v14i1.104>.

⁹ Rahmad Setyawan et al., "Contemporary Ijtihad Deconstruction in The Supreme Court: Wasiat Wajibah as An Alternative for Non-Muslim Heirs in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40, <https://doi.org/10.30984/jis.v22i1.2968>.

¹⁰ Arsal, Maizul Imran, and Hairullfazli Mohammad Som, "Female Breadwinners and the Shifting Paradigm of Family Livelihoods in Indonesia: A Double Movement Approach," *Juris: Jurnal Ilmiah Syariah* 25, no. 1 (2026): 131–50, <https://doi.org/10.31958/juris.v25i1.16558>.

but also to cover the living expenses of other family members (on average, 90%–100%, or 19,003,030).

These socio-economic dynamics have ultimately generated tensions between the normative provisions of Islamic inheritance law and the evolving social realities within contemporary society.¹¹ The disparity between the distribution of economic responsibilities at the time the provisions of Islamic inheritance law were revealed (Q.S. an-Nisa' (4): 11–12) and the increasingly active participation of women in the contemporary economic sphere has significant implications for prevailing perspectives on the distribution of inheritance. Within this context, the differential inheritance shares allocated to men and women under Islamic inheritance law may be perceived as insufficiently reflecting the principle of substantive justice, which constitutes the fundamental objective underlying the establishment of Islamic inheritance law.¹² This raises a fundamental question: should the inheritance provisions enshrined in the Qur'anic inheritance texts be regarded as absolute and permanently applicable without the possibility of modification, or should they instead be understood as normative formulations embedded within particular social, cultural, and economic contexts, thereby allowing room for more adaptive and dynamic interpretation?

Academically, this debate finds a point of synthesis in the social fiqh approach developed by Sahal Mahfudz. He argues that fiqh, as the operational manifestation of Islamic Shari'ah, should be understood and formulated through the perspective of maqasid al-Shari'ah, which is oriented toward fulfilling human needs in a hierarchical manner, encompassing the dimensions of daruriyyat (essential necessities), hajiyyat (complementary needs), and tahsiniyyat (embellishments). Within this framework, the relationship between changing social circumstances and the formulation of Islamic law can be addressed in a more responsive manner. Fiqh is therefore no longer positioned

¹¹ Sadari, Lazuardi Fadhlhan Arrazy, and Ummah Karimah, "Reinterpreting Gender Justice in Islamic Inheritance Law : A Critical Analysis of The Compilation of Islamic Law," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 16, no. 2 (2025): 307–24, <https://doi.org/10.21043/yudisia.v16i2.26359>.

¹² Sarpika Datumula and Syaifullah MS, "Makna Keadilan Pada Ketentuan 2:1 (Dua Banding Satu) Dalam Konsep Waris Islam," *AlMashadir: Jurnal Ilmu Hukum Dan Hukum Ekonomi Islam* 4, no. 2 (2022): 132–44.

merely as an instrument for the normative legitimation of social reality; rather, it is transformed into an instrument that serves both as a mechanism of social control and as a means of social engineering in responding to the diverse challenges emerging within society.¹³

Building upon the social fiqh paradigm formulated by Sahal Mahfudz, the normative dimensions of the Islamic inheritance texts that directly intersect with changing social realities should be contextualized in accordance with the circumstances and conditions of the modern era. Within this framework, a renewed reading of the Islamic inheritance texts extends beyond their literal interpretation and instead seeks to promote a transformative reinterpretation that remains faithful to their underlying objectives while responding to contemporary social developments.

Judicial practice in the Religious Courts of Makassar, Masamba, and Palopo demonstrates that, in several cases, judges have exercised *ijtihad* by reconstructing the inheritance shares of sons and daughters from the conventional 2:1 ratio to an equal 1:1 distribution. This reconstruction was grounded in the consideration that the textual application of the normative provisions no longer adequately reflected the principle of justice within the socio-economic circumstances of the parties, particularly where daughters had made contributions equal to, or even greater than, those of sons in supporting the family. These findings indicate that judicial practice does not merely entail the formal application of legal rules; rather, it also reflects judges efforts to harmonize the normative provisions of Islamic inheritance law with evolving social realities through the exercise of *ijtihad* in adjudicating concrete cases.¹⁴

Numerous studies have examined the provisions of Islamic inheritance law from the perspectives of equality and justice. Among them, the study conducted by Mochammad Luthfan Adilin and Kafani Safrul Mufarid seeks to re-examine the concept of justice in Islamic inheritance law.¹⁵ Likewise, Dwi

¹³ Sahal Mahfudz, *Nuansa Fiqih Sosial*, ed. Hairus Salim HS and Nuruddin Amin (Yogyakarta: LKiS, 1994). hlm, iii.

¹⁴ Andi Sukmawati Assaad and Baso Hasyim, "Judges Decisions of Makassar, Palopo, and Masamba Religious Court Over the Islamic Inheritance Law," *Al'Adalah* 17, no. 2 (2020): 317–34, <https://doi.org/10.24042/adalah.v17i2.4565>.

¹⁵ Mochammad Luthfan Adilin and Kafani Safrul Mufarid, "Konsep Adil Dalam Perspektif Hukum Waris Islam," *Justicia Journal: Media Publikasi Ilmu Hukum* 10, no. 2 (2021): 127–38, <https://ejournal.undar.or.id/index.php/Justicia/article/view/132>.

Dasa Suryantoro analyzes the fundamental principles of Islamic inheritance law, the development of its implementation, and the various challenges and alternative solutions associated with its application within Indonesian society.¹⁶ Meanwhile, Sarpika Datumula and Syaifullah MS explore the concept of justice underlying the 2:1 inheritance ratio prescribed in Islamic inheritance law.¹⁷ Furthermore, Elva Imeldatur Rohmah and Isniyatin Faizah examine the concept of justice in inheritance law from the perspective of Muhammad Syahrur.¹⁸ In a similar vein, Bahriayub and Hj. St. Rahmawati investigate inheritance distribution through the lens of gender-equitable legal principles.¹⁹

Nevertheless, this study offers a distinct perspective from previous scholarship. Specifically, it seeks to reinterpret women's inheritance rights within the framework of the modern family by employing the paradigm of social fiqh, with the aim of developing a formulation of Islamic inheritance law that is more responsive, contextual, and equitable.

Through this approach, the present study is expected to contribute to promoting a more proportionate practice of inheritance distribution that reflects the principles of justice embedded in Islamic teachings. Furthermore, its findings are expected to enrich the body of scholarship on Islamic inheritance law in the modern era while serving as a relevant reference for legal practitioners, including judges and advocates, as well as the broader Muslim community.

Methodologically, this study adopts a normative legal research design aimed at analyzing the normative framework of Islamic inheritance law and examining the possibility of its reinterpretation in response to changes in the social structure of the modern family. It employs a conceptual approach to analyze the concepts of justice, social fiqh, maqasid al-Shari'ah, and the

¹⁶ Suryantoro, "Implementasi Hukum Waris Islam Di Indonesia Prespektif Kajian Normatif Dan Realitas Sosial."

¹⁷ Datumula and MS, "Makna Keadilan Pada Ketentuan 2:1 (Dua Banding Satu) Dalam Konsep Waris Islam."

¹⁸ Elva Imeldatur Rohmah and Isniyatin Faiziyah, "Konsep Keadilan Dalam Hukum Waris Muhammad Syahrur," *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 2 (2022): 186–200, <https://doi.org/10.51675/jaksya.v3i2.255>.

¹⁹ Bahriayub and Hj. St. Rahmawati, "Hukum Waris Islam Dari Sudut Pandang Hukum Berkeadilan Gender," *Jurnal Ar-Risalah* 1, no. 2 (2021): 1–17, <https://doi.org/10.30863/arrisalah.v1i2.4195>.

relationship between inheritance rights and the evolving economic roles of women. The data sources consist of primary, secondary, and tertiary legal materials. The primary legal materials include the Qur'an, hadith, the Compilation of Islamic Law, Law No. 7 of 1989 on the Religious Courts, together with its subsequent amendments, as well as decisions of the Religious Courts relevant to the subject matter of this study. The secondary legal materials comprise classical works on fiqh al-Mawarith, classical and contemporary tafsir literature, books on Islamic law, research reports, journal articles, and other scholarly works addressing Islamic inheritance law, social fiqh, maqasid al-Shari'ah, and gender justice. The tertiary legal materials consist of legal dictionaries, encyclopedias, and other reference sources that support the interpretation and analysis of the primary and secondary legal materials.

The legal materials were collected through library research by identifying, reviewing, cataloguing, and classifying all relevant legal sources in accordance with the focus of the study. Subsequently, the legal materials were analyzed qualitatively using a normative-prescriptive method, with social fiqh serving as the primary analytical framework. The analysis was conducted through a systematic interpretation of the normative provisions of Islamic inheritance law, followed by an examination of their relationship with evolving social conditions, the principles of maqasid al-Shari'ah, the values of justice, and public benefit. Through this approach, the study seeks to develop a reinterpetive formulation of women's inheritance rights that remains firmly grounded in the sources of Islamic law while being responsive to changes in social structures and economic relations within the modern family.

Women's Inheritance Rights in Classical Fiqh

Islamic inheritance law is founded upon normative provisions derived from the Qur'an and hadith as the primary sources of Islamic law.²⁰ These two sources not only provide the theological foundation for the regulation of inheritance property but also establish clear guidance regarding the distribution of

²⁰ Irwan Irwan, "Reinterpretasi Hukum Waris Islam Dalam Konteks Sosial Modern," *Jurnal Pengabdian Masyarakat Dan Riset Pendidikan* 4, no. 1 (2025): 1977-82, <https://doi.org/10.31004/jerkin.v4i1.1880>.

inheritance among eligible heirs.²¹ These provisions are explicitly articulated in Q.S. an-Nisa' (4): 11-12, which sets forth the fundamental principles of Islamic inheritance by specifying the categories of lawful heirs and the respective shares to which each is entitled in detail, thereby minimizing the potential for disputes and ensuring fairness in the distribution of inheritance property.²²

The provisions of Q.S. an-Nisa' (4): 11-12 indicate that inheritance in Islam is not merely a socio-economic matter but also an integral component of the Islamic legal system, encompassing both normative and ethical dimensions. Historically, the occasion of revelation (asbab an-Nuzul) of Q.S. an-Nisa' (4): 11-12 is associated with the account of the wife of Sa'd ibn al-Rabi', who came before the Prophet Muhammad accompanied by her two daughters. She explained that the girls were the daughters of Sa'd, who had been martyred in the Battle of Uhud, and that their paternal uncle had appropriated their father's entire inheritance, leaving them with no share whatsoever. She further expressed concern that this situation would jeopardize the future of her daughters, given that, at the time, the possession of property played a crucial role in determining a woman's prospects for marriage.²³

In response to her complaint, the Prophet Muhammad stated that the matter would be decided by Allah. Shortly thereafter, the inheritance verses in Q.S. an-Nisa' (4): 11-12 were revealed, providing detailed provisions governing the distribution of inheritance property.²⁴ This event demonstrates that the provisions of Islamic inheritance law emerged as a response to the prevailing social realities while simultaneously serving as a means of upholding justice, particularly by safeguarding the inheritance rights of women and children in the distribution of inheritance property.

According to Ali as-Shabuni, the allocation of a larger inheritance share to men (2:1) is grounded in the economic responsibilities they are required to

²¹ Ahmad Tahali, "Wanita Dalam Sistem Kewarisan Perspektif Sosiologi Hukum Islam," *Hukum Islam* 20, no. 2 (2020): 279-300, <https://doi.org/10.24014/jhi.v20i2.11572>.

²² Lollyta Julius, M. Sudirman, and Benny Djaja, "Analisis Normatif Terhadap Hak Waris Perempuan Dalam Perspektif Hukum Islam, Hukum Adat Dan Hukum Perdata Di Indonesia," *Desentralisasi : Jurnal Hukum, Kebijakan Publik, Dan Pemerintahan* 2, no. 3 (2025): 16-27, <https://doi.org/10.62383/desentralisasi.v2i3.730>.

²³ Q. Shaleh dan A. Dahlan, *Asbabun Nuzul Latar Belakang Historis Turunnya Ayat-Ayat Al-Qur'an* (Bandung: Diponegoro, 2017), hlm. 130.

²⁴ *Ibid.*, hlm. 130.

bear. Under the framework of Islamic law, men are obligated to provide the mahr (dower), maintain their families financially, and assume various financial obligations that are more extensive and enduring in nature. Accordingly, the difference in inheritance shares is not merely a matter of preferential treatment but is intrinsically linked to the unequal distribution of economic burdens and responsibilities between men and women. Within this framework, men's entitlement to a larger share of wealth, including inheritance property, is considered justified by the greater financial obligations they are expected to fulfill.²⁵

This rationale is consistent with the normative framework articulated in Q.S. an-Nisa' (4): 34, which reflects the social reality of Arab society at the time, characterized by the prevailing cultural belief in male superiority and female inferiority. Within this social order, men were regarded as the providers of financial support, whereas wives were positioned as its recipients.²⁶ Accordingly, the differential inheritance shares allocated to men and women at a ratio of 2:1 were understood as a consequence of the distribution of economic responsibilities within the family. From this perspective, the disparity in inheritance shares was not intended as a form of gender-based discrimination but rather as a mechanism for allocating rights in proportion to the respective financial obligations borne by each party under the normative framework of classical fiqh.

In addition to being founded upon the Qur'an, the provisions of Islamic inheritance law are also firmly grounded in the hadith of the Prophet Muhammad.²⁷ The hadith serves to explain, clarify, and supplement the inheritance provisions established in the Qur'an.²⁸ Through the hadith, the Prophet Muhammad provided detailed guidance regarding those entitled to inherit, the respective shares of each heir, and the procedures for distributing

²⁵ Muhammad Ali Ash-Shabuni, *Shafwatu at-Tafasir*, Jilid 1 (Kairo: Dar ash-Shabuni li at-Thaba'ah wa an-Nasyr Wa at-Tawzi', 1997), hlm. 262.

²⁶ Husein Muhammad, *Fiqh Perempuan 2: Refleksi Kiai atas Khazanah Hukum Keluarga dan Islam* (Yogyakarta: IRCiSoD, 2025), hlm. 13.

²⁷ Rahmad Setyawan, "Hak Non Muslim dalam Hukum Kewarisan Islam Perspektif Maqasid Syariah (Telaah Putusan Pengadilan Agama Kabanjahe Nomor: 2/Pdt.G/2011/PA-Kbj)," *Ahwaluna: Jurnal Hukum Keluarga Islam* 6, no. 1 (2025): 89–108, <https://doi.org/10.70143/ahwalunajurnalhukumkeluargaislam.v6i1.448>.

²⁸ Ali Sodikin, *Fiqh Ushul Fiqh* (Yogyakarta: Beranda Publishing, 2013), hlm. 78-83.

inheritance property in various circumstances that are not explicitly addressed in the Qur'an.²⁹

Based on these normative legal provisions, classical Muslim jurists reached a consensus that the distribution of inheritance property must be carried out in accordance with the rules prescribed in the Qur'an and hadith.³⁰ This consensus reflects an epistemological commitment to preserving the authority of the revealed texts as the primary sources of law. From a more critical perspective, however, such a consensus may also be understood as a product of *ijtihad* formulated within a particular socio-historical context. Therefore, despite its strong normative legitimacy, the classical framework of Islamic inheritance law remains open to re-examination, particularly when confronted with significant social transformations in the structure of the modern family.³¹

Women in Modern Family Structures: Shifting Roles and Social Realities

In the context of modern family life, gender issues, particularly those concerning the division of roles between men and women, are no longer viewed narrowly as immutable natural arrangements. Rather, gender is increasingly understood as a social construct shaped through the interaction of various factors, including culture, social norms, and religion. Accordingly, differences in the roles of men and women are regarded as products of social construction that may evolve in response to changing societal dynamics.³² Consequently, it is unsurprising that modern family structures have undergone significant transformation, shifting from traditionally defined patterns of familial relations toward family arrangements that place greater emphasis on the principles of equality and a more proportionate distribution of roles and responsibilities.

This understanding is consistent with Muhammad Abduh's view of the relationship between men and women within the family. According to him, the allocation of economic responsibilities within the household should not be

²⁹ Riyanta, *Hubungan Muslim dan Non-Muslim dalam Kewarisan: Dinamika Pemikiran Fiqih Klasik Menuju Fiqh Indonesia Modern* (Yogyakarta: Kurnia Kalam Semesta, 2018), hlm. 2.

³⁰ Tim Forum Kajian Ilmiah Fikrah, *Fikih Perempuan Kesetaraan dan Keadilan Gender*, hlm. 175.

³¹ Ridwan, "Gender Equality in Islamic Inheritance Law : Rereading Muhammad Shahrur's Thought," *Al-Manāhij: Jurnal Kajian Hukum Islam* 16, no. 2 (2022): 181-90, <https://doi.org/10.24090/mnh.v16i2.6916>.

³² Husein Muhammad, *Fiqh Perempuan* (Yogyakarta: IRCiSoD, 2021), hlm. 6.

understood as an inherent or immutable attribute permanently attached to a particular sex. Rather, the roles of financial provider and financial recipient constitute *kasbi* (acquired) attributes that may vary according to the capacities and circumstances of each individual.³³

During the early period of Islamic development, the prevailing social structure positioned men as the primary bearers of responsibility for meeting the family's economic needs. This social reality subsequently became one of the normative foundations of Islamic inheritance law, particularly the provision prescribing that a male heir receives a share twice that of a female heir. Within its socio-historical context, this rule was understood as an expression of distributive justice, reflecting the proportionate allocation of economic responsibilities assigned to men. In addition to bearing the obligation to provide financial maintenance for their wives and children, men were also responsible for supporting other female relatives within the extended family. Accordingly, the disparity in inheritance shares was regarded as consistent with the distribution of economic obligations that characterized Arab society at the time the Qur'anic inheritance verses were revealed.

However, the course of social development has significantly reshaped this configuration of roles. Within modern family structures, women's participation in the public sphere is no longer marginal or merely supplementary; rather, it has evolved into a strategic role, with women in many cases serving as the primary economic providers for their families. This phenomenon is reflected in various empirical findings, including reports published by the International Labour Organization (2022) and Better Work (2021), which document the substantial participation of women in the labor force. For example, in the TGSL (textile, garment, shoes, and leather) sector, women account for approximately 80% of the workforce, indicating their predominance in certain industrial sectors.³⁴ These developments underscore that the economic structure of the modern family is no longer characterized by

³³ Muhammad, *Fiqh Perempuan 2: Refleksi Kiai Atas Khazanah Hukum Keluarga Dan Islam*, hlm. 82.

³⁴ Didit Saleh, Nitya Swastika, and Rizky Amaliah Fatikhah, "The Lack of Industry and State Support: Care Work for Women Factory and Home-Based Workers," *Jurnal Perempuan: Untuk Pencerahan Dan Kesenjangan* 28, no. 3 (2023): 205–16, <https://doi.org/10.34309/jp.v28i3.878>.

a single, male-centered model but has instead become increasingly diversified, positioning women as equal economic actors and, in certain circumstances, as the principal contributors to household income.

On the other hand, women's participation in the public sphere is not confined to the manufacturing sector in urban areas but has also expanded into the agrarian sector, particularly oil palm plantations. This is substantiated by findings from the Center for International Forestry Research (2017), which estimated that approximately 1.5 million women were employed in Indonesia's oil palm plantation sector. Their involvement extends beyond that of supplementary labor; rather, they serve as economic actors who directly assume responsibility for supporting household livelihoods through physically demanding work in the field.³⁵ This phenomenon demonstrates that women's economic contribution within modern family structures has become increasingly substantial and can no longer be regarded as secondary. Instead, it constitutes an integral component of the household's economic structure.

The shifting role of women as primary economic providers within the family is also evident in a case study conducted by Muhammad Daffa Ramadhan and Muhammad Yassir (2023) in Kelurahan Sepinggan, Balikpapan. The study found that wives involvement in entrepreneurial activities can no longer be understood merely as a supplementary source of support; rather, it has evolved into a primary means of sustaining household finances, particularly when husbands face constraints in meeting the family's basic needs. This transformation is driven by economic pressures and changing social dynamics that compel women to assume full responsibility for household maintenance. In this context, women no longer function merely as complementary contributors to the household economy but have become central economic actors who play a pivotal role in ensuring the continuity and stability of family welfare.³⁶

³⁵ Hariati Sinaga, "Toxic Care: Plantation Maintenance Work and Social Reproduction on Monoculture Oil Palm Plantation," *Jurnal Perempuan: Untuk Pencerahan Dan Kesenjangan* 28, no. 3 (2023): 217–33, <https://doi.org/10.34309/jp.v28i3.886>.

³⁶ Muhammad Daffa Ramadhan and Muhammad Yassir, "Istri Sebagai Pencari Nafkah Utama Dan Dampaknya Dalam Keluarga Perspektif Dalam Hukum Islam (Studi Kasus Kehidupan Keluarga Wirausaha Di Kelurahan Sepinggan Kota Balikpapan, Kalimantan Timur)," *Rio Law Jurnal* 4, no. 1 (2023): 187–98, <https://doi.org/10.36355/.v1i2>.

These data clearly demonstrate that the transformation of women's role as providers of household economic support constitutes an empirical reality within the structure of the modern family, as reflected in their increasing participation in the labor force. This development underscores that the division of roles between the domestic and public spheres in the modern family can no longer be understood as a fixed and rigid arrangement. Rather, it is more appropriately viewed as a flexible social construct shaped through mutual agreement based on individual capacities, family needs, and considerations of public benefit. Accordingly, the configuration of roles between men and women within the modern family remains inherently dynamic, evolving in response to the changing social, economic, and cultural contexts in which the family lives and develops.

The transformation of women's roles and positions within the modern family has significant implications for the understanding of the inheritance distribution system, which has traditionally been based on a 2:1 ratio between male and female heirs. This formulation was originally established on the assumption that men occupied the dominant economic role within the family.³⁷ In the context of the modern family, however, this assumption no longer fully corresponds to the evolving distribution of familial roles. When women actively participate in, and in many cases assume primary responsibility for, meeting the family's economic needs, the normative foundation underlying the 2:1 inheritance ratio loses much of its empirical relevance. Accordingly, the reinterpretation of inheritance distribution provisions should be situated within a contextual framework that takes contemporary social dynamics into account, thereby ensuring that the principle of substantive justice, which constitutes the primary objective of Islamic inheritance law, can continue to be realized in a proportionate manner within the modern family.

Reinterpreting Women's Inheritance Rights from the Perspective of Social Fiqh

Studies on women's inheritance rights in Islam have generally been grounded in the normative framework of classical fiqh, which treats the scriptural texts as

³⁷ Siti Rahma Sagala et al., "Thinking In Islamic Legal Philosophy In Conflicts On Justice Of Women's Inheritance Rights," *KITABAH: Jurnal Pendidikan Sosial Humaniora* 2, no. 1 (2024): 17-23, <https://doi.org/10.56114/kitabah.v2i1.11418>.

the primary point of departure for legal formulation.³⁸ According to Ibn Katsir, the provision allocating to men an inheritance share twice that of women constitutes a legal rule explicitly prescribed by Allah; accordingly, it is obligatory to implement and is not subject to modification on the basis of rational considerations or changing social conditions.³⁹ Within this perspective, the Islamic inheritance system is understood as a definitive legal framework, and its application has therefore been predominantly textual in nature.⁴⁰

However, the realities of the modern family reveal profound transformations, particularly in the gendered dynamics of socio-economic relations.⁴¹ Women are no longer positioned solely as recipients of financial support; rather, they have emerged as active agents who assume strategic roles and, in many cases, serve as the primary providers sustaining the family's economic well-being.

Against this backdrop, there is a need for a methodological approach that enables a re-examination of the provisions of Islamic inheritance law, particularly those concerning women's inheritance rights, through an analytical framework that is more contextual and oriented toward substantive justice. This undertaking is not intended to negate the authority of the scriptural texts but rather to actualize the normative objectives of the Shari'ah, which are grounded in the principles of justice and public benefit. Accordingly, the reinterpretation of Islamic inheritance law becomes an indispensable means of bridging the gap between normative prescriptions and social realities, thereby ensuring that

³⁸ Rahmad Setyawan and Muhamad Taufik Kustiawan, "Najmuddīn Al-Tūfī's Thoughts on The Dynamics of Inheritance Law 2:1 Perspective of Maṣlaḥah," *ALHUKAMA The Indonesian Journal of Islamic Family Law* 11, no. 02 (2021): 85–114, <https://doi.org/10.15642/alhukama.2021.11.2.85-114>.

³⁹ Fuad Fansuri, Mursalim, and Miftahul Ramadhani, "Reinterpreting Islamic Inheritance Law For SDGs: A Comparative Analysis of Ibn Kathir and Amina Wadud on Gender Justice," *Profetika: Jurnal Studi Islam* 25, no. 2 (2025): 471–86, <https://doi.org/10.23917/profetika.v25i02.7887>.

⁴⁰ Sarifa Suhra, Abdul Kallang, and Misdah Misdah, "Reinterpretation of Women's Inheritance Rights in Islam: A Study Qs. Al-Nisā'/4: 11," *AlUlum* 23, no. 2 (2023): 290–307, <https://doi.org/10.30603/au.v23i2.4239>.

⁴¹ Syifa Mutiara Putri Heriandita et al., "The Role of Islamic Inheritance Law with a Maqasid Al-Shariah Approach in Addressing the Challenges of Social Justice for Women," *AJIS: Academic Journal of Islamic Studies* 10, no. 1 (2025): 231–52, <https://doi.org/10.29240/ajis.v10i1.11931>.

Islamic law remains capable of responding to the complexities confronting the modern family.

The reinterpretation of women's inheritance rights within the modern family may be undertaken through the social fiqh approach formulated by Kiai Sahal Mahfudz. Within this framework, fiqh is understood not merely as a static body of legal doctrine or as an intellectual construct confined to the normative sphere, but also as a methodological framework endowed with a practical function in responding to the diverse social challenges confronting the Muslim community.⁴²

This paradigm is fundamentally premised on the assumption that fiqh is the product of the process of *istinbath al-Ahkam* (legal derivation), which cannot be separated from a systematic methodological framework. Accordingly, efforts to formulate solutions to social problems require analytical instruments in the form of *ushul al-Fiqh* and *qawa'id al-Fiqhiyyah*. Within Kiai Sahal Mahfudz's intellectual framework, *ushul al-Fiqh* is positioned as the epistemological foundation that provides the fundamental principles and analytical methods for linking practical legal rulings to their authoritative sources. Meanwhile, *qawa'id al-Fiqhiyyah* serve as practical legal maxims that facilitate the process of legal reasoning and decision-making. Together, these two disciplines function as integral methodological instruments for ensuring that fiqh remains relevant, adaptive, and oriented toward the realization of public benefit.⁴³

According to Kiai Sahal Mahfudz, the social fiqh paradigm is founded upon several fundamental principles intended to ensure that Islamic law remains relevant amid the continuously evolving dynamics of human life. First, the interpretation of Islamic teachings must consistently be aligned with changing social circumstances so that their normative message retains its contextual significance. Second, Muslims are encouraged to internalize the methodological reasoning employed by the ulama rather than merely memorizing the legal rulings formulated by earlier scholars.

⁴² Mahfudz, *Nuansa Fiqih Sosial*, hlm. xxxiv-xxxv.

⁴³ Ahmad Faisal, "Nuansa Fiqh Sosial KH. MA. Sahal Mahfudz," *Jurnal Al-Ulum: Jurnal Studi Islam* 10, no. 2 (2010): 363-82.

Third, a clear distinction must be maintained between the fundamental principles (*ushul*) of Islamic teachings and their subsidiary branches (*furu'*), thereby allowing the flexibility necessary to respond to changing circumstances. Fourth, Islamic teachings should be positioned as an ethical framework that guides social conduct rather than merely as a set of coercive formal rules. Fifth, *ulama* are required to integrate a profound philosophical approach in understanding and responding to contemporary social and cultural issues, so that the legal thought they produce is not only normatively sound but also solution-oriented and reflective of social realities.⁴⁴

Building upon the social *fiqh* paradigm developed by Kiai Sahal Mahfudz, *fiqh*, as the operational manifestation of the *Shari'ah*, is understood not merely as a body of legal norms but also as a system of knowledge endowed with a transformative function in social life. In this regard, *fiqh* may serve as an instrument of social engineering, a mechanism of social control, and a means of emancipation aimed at fostering a more just and civilized social order. These functions, however, can only be realized when *fiqh* is interpreted comprehensively by taking into account the continually evolving dynamics of social reality. Husein Muhammad likewise argues that every provision of Islamic law is founded upon an underlying rationale and objective, even when these are not explicitly articulated in the *Qur'an* or the *hadith*. Accordingly, when the underlying rationale of a particular legal provision changes as a consequence of changing social circumstances, that legal provision likewise becomes logically open to reinterpretation and adjustment.⁴⁵

Furthermore, the social *fiqh* paradigm developed by Kiai Sahal Mahfudz is consistent with the thought of Ibn Qayyim al-Jawziyyah, who maintained that changes in legal rulings are profoundly influenced by changes in time, place, and the circumstances surrounding them.⁴⁶ In the contemporary context, the reinterpretation of the 2:1 inheritance ratio is not intended to negate or diminish the normative authority derived from the Islamic inheritance texts. Rather, it seeks to reactualize the fundamental values embodied in those texts,

⁴⁴ Mahfudz, *Nuansa Fiqih Sosial*, hlm. xxxvi.

⁴⁵ Muhammad, *Fiqh Perempuan 2: Reflesi Kiai atas Khazanah Hukum Keluarga dan Islam*, hlm. 34-36.

⁴⁶ Ibn Qayyim Al-Jauziyyah, *I'lam Al-Muwaqqi'in 'an Rabbi Al'Alamin* (Beirut: Dar al-Fikr, n.d.), hlm. 414.

particularly the principles of justice and public benefit. Accordingly, the normative authority of the scriptural provisions is preserved while being understood in a more substantive manner, ensuring that their application remains faithful to the objectives that originally underpinned their formulation.

The reinterpretation of the Islamic inheritance texts seeks to develop a legal formulation capable of responding to the needs of the modern family in a more proportionate and contextually relevant manner.⁴⁷ Such an undertaking is particularly important given that the complexity of relationships and the distribution of roles within the modern family no longer correspond to the social structure that prevailed when the Qur'anic inheritance verses were revealed.⁴⁸ Accordingly, the reinterpretation of Islamic inheritance law serves as a means of bridging the gap between normative legal provisions and contemporary social realities, thereby ensuring that Islamic law retains its practical relevance while preserving its continuity as a value-based legal system oriented toward the realization of justice and public benefit.⁴⁹

In light of the increasingly complex dynamics of contemporary social realities, the inheritance distribution framework originally based on a 2:1 ratio may be reconstructed toward a more egalitarian 1:1 allocation as an effort to realize a more substantive form of justice between men and women.⁵⁰ This proposition is grounded in the sociological reality that the distribution of economic responsibilities within the modern family is no longer borne unilaterally by men. Rather, such responsibilities have evolved into a shared obligation and, in many cases, are assumed primarily by women as the principal providers of household economic support. Accordingly, this reconstruction is

⁴⁷ Nur Sholikin et al., "The Concept of Mubadalah as the Basis for the Protection of Human Rights in Islamic Family Law," *Jurnal IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 14, no. 2 (2025): 74–98, <https://doi.org/10.14421/inright.v14i2>.

⁴⁸ Nanang Hermawan, "Reconstruction Of Mawaris Law In A Modern Context: The Perspective Of Gender Equality In Islamic Law," *Multidisciplinary Indonesian Center Journal (MICJO)* 2, no. 2 (2025): 1167–79, <https://doi.org/10.62567/micjo.v2i2.574>.

⁴⁹ Syamsarina et al., "Dynamics of Different Religious Inheritance Decisions: The Case Study of The Religious Court Judges Ijtihad," *SYARIAH: Jurnal Hukum Dan Pemikiran* 25, no. 1 (2025): 1–21, <https://doi.org/10.18592/sjhp.v25i1.15717>.

⁵⁰ Miftahul Huda and Tri Wahyu Hidayati, "The Concept of Muḥammad Shaḥrūr on Gender Parity in Inheritance Legislation," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 262–80, <https://doi.org/10.22373/ujhk.v6i2.18121>.

intended to harmonize the normative provisions of Islamic inheritance law with the evolving social realities of the modern family.

Conclusion

The normative provisions governing women's inheritance rights in classical fiqh cannot be separated from the socio-historical context in which they were formulated. The inheritance distribution scheme allocating a 2:1 ratio between male and female heirs represented, during the early period of Islam, a form of distributive justice that corresponded to a social structure in which men bore primary responsibility for the family's economic welfare. Accordingly, this provision was fundamentally contextual in nature, reflecting an effort to achieve justice in accordance with the prevailing social conditions of its time.

As the structure of the modern family has undergone significant transformation, particularly with the shift in women's roles toward becoming the primary providers of household economic support, there has emerged a corresponding need to reinterpret the provisions of Islamic inheritance law so that they remain relevant to contemporary social realities. In this regard, the social fiqh paradigm provides a methodological foundation that enables a contextual rereading of the law while remaining firmly anchored in the fundamental principles of the Shari'ah. Through this approach, women's inheritance rights within the modern family need not be understood rigidly as being inextricably bound to the 2:1 ratio. Rather, they may be reconstructed toward a more egalitarian 1:1 allocation, provided that such a reconstruction better reflects the principles of justice and public benefit. Accordingly, the provisions of Islamic inheritance law should be interpreted not only textually but also substantively, thereby enabling them to respond more proportionately and adaptively to the complexities of the modern family.

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The authors acknowledge that this study has certain limitations. Accordingly, constructive comments and suggestions are warmly welcomed to improve future research. It is hoped that the findings of this study will contribute to the advancement of scholarship, particularly in the fields of Islamic law and Islamic family law.

Author Contributions Statement

All authors made substantial contributions to the conception, preparation, and completion of this study. The first author was responsible for the conceptualization of the research, the formulation of the research problem, and the development of the research framework. The second author was responsible for collecting the legal materials and conducting the literature review. The third author contributed to the analysis of the legal materials, data processing, and the development of the legal arguments. The fourth author was responsible for interpreting the research findings, validating the substantive content, and refining the discussion. The fifth author was responsible for drafting, editing, translating, and finalizing the manuscript prior to its submission for publication. All authors have read, critically reviewed, and approved the final version of the manuscript and accept responsibility for the integrity and accuracy of the published work.

AI Usage Statement

All authors declare that the use of Artificial Intelligence (AI) in the preparation of this study was limited solely to supporting the manuscript editing process. AI was used exclusively to improve linguistic quality, review grammar, enhance coherence, and refine the overall readability of the text. It was not used for the development of research ideas, the formulation of legal arguments, the analysis of data or legal materials, the interpretation of research findings, or the preparation of the study's conclusions. Accordingly, the entire scholarly content of this study—including its ideas, analyses, arguments, and conclusions—constitutes the authors' original intellectual work and remains their sole responsibility.

Conflict of Interest

All authors declare that this study was conducted independently and free from any conflicts of interest, whether financial, professional, or personal, that could have influenced the research process, the analysis and interpretation of the findings, or the objectivity of the preparation and reporting of this study.

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