

PLURALISM AND JUSTICE IN ISLAMIC INHERITANCE LAW: CONTEXTUALIZATION AND HARMONIZATION OF SHARIA PRINCIPLES WITH INDONESIAN SOCIAL REALITIES

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Abstract

This study aims to uncover the historical-philosophical foundations of pluralism in Islamic inheritance law through the Prophet Muhammad's mechanism of accommodation towards pre-Islamic traditions ('urf), as well as to provide an integrative methodological framework for contextualizing inheritance justice. This study is significant because it addresses the limitations of previous studies, which were descriptive and partial, by exploring the dynamic roots of Sharia in responding to socio-historical realities. This study employs an integrative qualitative approach with three analytical frameworks: first, philosophical-historical: tracing the dialectic between universal values (*tsamābit*) and contextual values (*mutaghayyirāt*) in inheritance law through *asbāb al-nuzūl* and pre-Islamic Arab social realities. Second, thematic-holistic: connecting inheritance verses (QS. An-Nisā': 11-12) with the principle of justice across texts (QS. Al-Ḥujurāt: 13, Al-Mā'idah: 8) and *maqāṣid al-syarī'ah* (*hifz al-māl, al-nafs, al-nasl*). Third, empirical-contextual: testing

the implementation of universal-particular values in the Indonesian context. Based on this study, it can be concluded that the 2:1 inheritance ratio is responsive-contextual to the pre-Islamic Arab social structure (financial responsibility of men), not a rigid rule. The principle of universal justice in the Qur'an ('*adl, maṣlahah*') opens space for recontextualization in the modern era, such as the Minangkabau hybrid model or the 1:1 share allocation that considers women's economic contributions. This integrative framework of text-*maqāṣid*-contextuality offers a new perspective in inheritance *ijtihad*, promoting flexibility in Sharia based on substantive justice without disregarding the authenticity of the text. Policy implications include strengthening consultation mechanisms in the Compilation of Islamic Law (Article 183) and progressive reinterpretation in religious courts.

Keywords: Pluralism, Contextual Justice, Inheritance, Thematic-Holistic, Universal-Particular

Introduction

Legal pluralism (in inheritance) in Indonesia is not merely a theoretical concept,¹ but an empirical reality that exists within society (living reality).² The Minangkabau community in West Sumatra faces a unique tension between matrilineal customary law (inheritance through the mother's line) and patrilineal Islamic inheritance law.³ In Minangkabau custom, women as "*ambun puruak*" often receive more inheritance,⁴ while Islamic law (QS. An-Nisā: 11) gives men twice the

¹ Gary F. Bell, "Multiculturalism in Law is Legal Pluralism – Lessons from Indonesia, Singapore and Canada," *Singapore Journal of Legal Studies* 24, no. December 2007 (2006), 315.

² Riyanta et al., "Toward Interfaith Equality in Islamic Inheritance Law: Discourse and Renewal of Judicial Practice in Indonesia," *Al-Manabij: Jurnal Kajian Hukum Islam*, April 24, 2025, 1–16, <https://doi.org/10.24090/mnh.v19i1.10762>.

³ Nelna Saprina and Yulia Rahmi, "Evolution of the Minangkabau Inheritance System and Its Relevance to Gender Justice in Islamic Law," *USRATY: Journal of Islamic Family Law* 2, no. 1 (October 8, 2024): 80–90, <https://doi.org/10.30983/usraty.v2i1.8377>.

⁴ Defel Fakhyadi et al., "Reconstructing Gender Relations for Family Resilience in Minangkabau: Integrating Islamic Law and Customary Law," *Al-Ahkam* 35, no. 1 (April 29, 2025): 1–30, <https://doi.org/10.21580/ahkam.2025.35.1.22906>.

share of women.⁵ This tension is resolved through creative negotiation: ancestral property remains the collective property of women in accordance with custom, while livelihood property (*harato pancahariyan*) is divided according to Islamic law.⁶ In a different place, for example, a religious court approved a 1:1 division in Sungai Enau Village through a deliberative mechanism.⁷

This example shows how Indonesian Muslims practice legal pluralism by accommodating both inheritance systems. Even the Supreme Court, in its Decision No. 368/AG/2015, overturned inheritance discrimination against women in patriarchal societies.⁸ This complexity demonstrates that inheritance law in Indonesia is a dynamic field of negotiation between textual sources (*nash*), sociological realities of society, and power dynamics.

Furthermore, this interaction proves that Islamic legal pluralism is not chaos, but rather a dynamic system bound by scholarly authority and the principle of *maṣlahah* (public interest). This has been evident since the time of the Prophet Muhammad SAW. When he was sent as a Messenger, he did not immediately abolish all the laws that were already in force in society, but carried out selective reforms: preserving traditions that were in harmony with Islamic principles.⁹ This approach shows that Sharia is not intended to negate customs, but to direct them towards the values of *tawhid*. This tradition continued after the

⁵ Faisal Husen Ismail et al., “Customary and Islamic Practices in Inheritance Distribution: Insights from the Gampong Customary Court in Pidie,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 1–16, <https://doi.org/10.30631/alrisalah.v24i2.1544>.

⁶ Nofialdi Nofialdi and Siska Rianti, “The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision,” *Mazahib* 23, no. 1 (June 25, 2024): 271–304, <https://doi.org/10.21093/mj.v23i1.7257>.

⁷ Muhammad Lutfi Hakim dan Mutmainah Mutmainah, “Inheritance Portion of The Heir of Women is More Than Men in Islamic Legal Perspective,” *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 6, no. 1 (22 Juni 2021): 37–50, <https://doi.org/10.25217/jm.v6i1.1426>.

⁸ Victor Imanuel W. Nalle, “Pembaharuan Hukum Waris Adat dalam Putusan Pengadilan (Penghormatan Identitas Budaya vs Perkembangan Zaman),” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 3 (November 14, 2018): 436, <https://doi.org/10.22146/jmh.37201>.

⁹ Lecker, *The “Constitution of Medina”: Muhammad’s First Legal Document* (Princeton, 2004), 32.

Prophet's death. The companions and *tabi'in* continued this framework of legal pluralism. For example, Hasan al-Basri in Iraq used the *qiyas* method to adapt inheritance issues by taking into account the complex structure of society and families.¹⁰

The continuity of this principle of adaptation is clearly evident in today's reality. Research by Rianda Dirkareshza et al¹¹ shows that sharia values can be negotiated with local culture in resolving inheritance law. As many as 72% of families in Padang use a hybrid model in dividing inheritance. This is supported by a local fatwa that recognizes customs as *'urf saḥīḥ* as long as they do not conflict with Sharia values: justice, benefit, and public interest.

The dynamics of pluralism in inheritance law are intrinsically linked to contemporary debates about the 1:1 versus 2:1 division ratio—a dialectic that reflects the tension between the universality of the text (*nash*) and the particularity of the socio-historical context.¹² This debate is not merely normative-textual in nature, but touches on ontological aspects of justice (*al-'adl*), gender equality, and the responsiveness of Islamic law to changes in social structures.¹³

Empirical data from religious court decisions (e.g., Supreme Court Decision No. 368/AG/2015, Jambi Religious Court Decision No. 12/Pdt.P/2021) and field studies in communities such as Sungai Enau and Minangkabau villages (Dirkareshza et al., 2022; Hakim & Mutmainah, 2021) show the coexistence of the 1:1 and 2:1 inheritance distribution models in Indonesian society. These cases illustrate that the

¹⁰ Asifa Quraishi and Mohammad Hashim Kamali, "Principles of Islamic Jurisprudence," *Journal of Law and Religion* 15, no. 1/2 (2000): 385, <https://doi.org/10.2307/1051529>.

¹¹ Rianda Dirkareshza, Nada Prima Dirkareshza, and Rosalia Dika Agustanti, "Assimilation of Customs with Islamic Law in Minangkabau Customary Inheritance Law," *Syah Kuala Law Journal* 6, no. 1 (2022): 80–92, <https://doi.org/10.24815/sklj.v6i1.28305>.

¹² M. Agus Yozami, "Porsi Waris Laki-laki dan Perempuan Sama Rata, Mungkinkah?," *Hukum Online*, 2021. Accessed June 10, 2025. <https://www.hukumonline.com/berita/a/porsi-waris-laki-laki-dan-perempuan-sama-rata--mungkin-lt609b77dd45b5d/>.

¹³ Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: Oneworld Publications, 2001), 50–60. See also Syabbul Bachri, Roibin Roibin, and Ramadhita Ramadhita, "Sociological Dimensions of the Application of Islamic Inheritance in Indonesia," *Justicia Islamica* 21, no. 1 (June 24, 2024): 63–86, <https://doi.org/10.21154/justicia.v21i1.8707>.

essence of resolving inheritance disputes does not lie in a binary choice between text and context, but rather in the ability of *ijtihād* to bridge the principles of universal revelation (*tsawābit*) with the operational realities of society (*mutagbayyirāt*) through the framework of *maqāṣid al-syarī'ah* (public interest).¹⁴ This is where the crucial role of *ijtihād* ulama (mujtahid) emerges: to formulate detailed and operational laws, which may be referred to as Standard Operating Procedures (SOP). Thus, the birth of *fiqh* is actually a bridge between the universal principles of *naṣ* and the operational realities of society.

The realization between abstract *naṣ* and operational law is explained by Masdar Farid Mas'udi "Naṣ al-Qur'an as guidance (hudan) or moral and ethical reference that is principled and/or fundamental is perfect and can answer all dynamic issues that arise from time to time. In other words, no matter how dynamic the issues that arise, there are already answers of a fundamental and/or foundational nature in the Qur'an. The effort to bridge the gap between moral and ethical guidance of a fundamental and/or foundational nature and practical rules to address issues in a technical and operational manner requires *ijtihād*. *Ijtiḥād* requires sharp reasoning and sincerity of heart."¹⁵

It is this *ijtihād* that gives rise to dynamic legal products: *fiqh*, fatwas, jurisprudence, and codification.¹⁶ This dynamic nature is consistent with the essence of operational law resulting from *ijtihād*: it can change with the context of time, space, and social conditions (*taghayyur al-fatwā bi taghayyur al-ẓamān wa al-makān*). This change is not a weakness, but rather a logical consequence of its practical function—as a bridge between universal principles (*naṣ*) and the ever-changing empirical reality.¹⁷

¹⁴ Anisa Nurfauziah, Eni Zulaiha, and Nazar Fadli, "The Causes of Pros and Cons in Dividing Inheritance Two to One by Using the Perspective of Justice Principle Tafseer," *QiST: Journal of Quran and Tafseer Studies* 2, no. 1 (February 2, 2023): 88–101, <https://doi.org/10.23917/qist.v2i1.1299>.

¹⁵ Masdar F. Mas'udi, *Islam & Hak-Hak Reproduksi Perempuan: Dialog Fiqih Pemberdayaan* (Bandung: Mizan, 1997), pp 29-30.

¹⁶ Tarmizi Tarmizi et al., "Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women's Rights and Islamic Law Objectives," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (December 17, 2024): 255–77, <https://doi.org/10.18860/j-fsh.v16i2.29477>.

¹⁷ See, yernati Ulfazah Et Al., "The Dynamics of Islamic Family Law in The Modern Era: an Analysis of Taghayyur Al-Fatwā and Al-Muḥāfaẓah in The Changing

Previous empirical studies have provided a critical foundation for understanding the dynamics of inheritance law in Indonesia. Herdiansa¹⁸ and Auliya Ghazna Nizami¹⁹ emphasize that the complexity surrounding the issue of equal inheritance rights highlights the need for a nuanced understanding of the legal, political, and cultural factors at play. Md Yazid²⁰ explains that the principal of Islamic inheritance law is aimed at justice, with the 2:1 ratio reflecting responsibility, but not a binding ratio. Evidence of local adaptation comes from research by Muhammad Lutfi Hakim and Mutmainah²¹ in Sungai Enau Village, where the 1:1 inheritance practice—which prioritizes daughters—is practiced. Bachri et al²² conclude that the interaction between customary law, Islamic law, and state law shows how the three coexist and influence each other in Indonesian inheritance practices.

Based on several previous studies, this study occupies a position with three fundamental differences. First, this study conducts a historical-philosophical analysis of the roots of Islamic family law pluralism (inheritance) during the time of the Prophet and the Tabi'in, by exploring selective reform mechanisms of pre-Islamic law (such as the accommodation of 'urf) as the foundation for the dynamization of Sharia. Second, unlike previous studies that examined inheritance conflicts in isolation, this research develops an integrative thematic-

Marriage Agreement Provisions in Indonesia,” *Al-Mawarid Jurnal Syariah dan Hukum (JSYH)* 7, no. 1 (March 5, 2025): 77–94, <https://doi.org/10.20885/mawarid.vol7.iss1.art5>.

¹⁸ Herdiansa Herdiansa and Siti Fauzizah, “Hak Waris Anak Laki-Laki dan Perempuan di Negara-Negara Muslim,” *Ar-Risalah Media Keislaman Pendidikan dan Hukum Islam* 22, no. 1 (1 April 2024): 065, <https://doi.org/10.69552/ar-risalah.v22i1.2313>.

¹⁹ Auliya Ghazna Nizami, “Mapping of Responses to Tunisian Islamic Family Law Issues; Regulatory Study of Equal Inheritance Rights of Men and Women,” *Al Abkam* 18, no. 2 (January 24, 2023): 37–44, <https://doi.org/10.37035/ajh.v18i2.7439>.

²⁰ Md Yazid Ahmad, “Justification of Inheritance Distribution for Women According to Islamic Inheritance Law,” *International Journal of Advanced Research* 10, no. 07 (July 31, 2022): 1110–14, <https://doi.org/10.21474/IJAR01/15136>.

²¹ Muhammad Lutfi Hakim and Mutmainah Mutmainah, “Inheritance Portion of the Heir of Women is More than Men in Islamic Legal Perspective,” *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam* 6, no. 1 (June 22, 2021): 47.

²² Bachri, Roibin, and Ramadhita, “Sociological Dimensions of the Application of Islamic Inheritance in Indonesia.”

holistic framework that: (a) connects inheritance verses (QS. An-Nisā': 11-12) with the principle of universal justice across texts (QS. Al-Ḥujurāt: 13 and Al-Mā'idah: 8) and the *maqāṣid al-Syari'ah* (*hiḏ al-māl, al-naḑs, al-nas*); (b) analyzes the dialectic between universal values (*tsawābit*) and particular values (*mutaḡbayyirāt*) in the text, proving that the 2:1 ratio is contextual and responsive to the pre-Islamic Arab social structure.

To that end, this article aims to reveal the historical-philosophical foundations of pluralism in Islamic inheritance law through the Prophet's accommodative mechanism towards pre-Islamic 'urf, offering a new perspective on the flexibility of Sharia based on socio-historical context and providing an integrative methodological framework (*text-maqāṣid-contextuality*) that combines normative-theological analysis with sociological reality, while demonstrating how the 2:1 ratio constitutes a responsive—standard—solution within the framework of *maqāṣidi* justice.

Research Method

This study uses an integrative qualitative approach with three analytical frameworks: First, Philosophical-Historical: Examining universal (*tsawābit*) and contextual (*mutaḡbayyirāt*) values in Islamic inheritance law through: Analysis of *asbab al-nuzūl* (reasons for revelation) in QS. An-Nisā': 7, 11, and 176 based on classical tafsir (As-Shabuni, Al-Suyuthi) and pre-Islamic Arab social realities (gender roles, family structure). Exploration of the concept of substantive justice (*Murtadhā al-Muṭahhari*) and *maqāṣid al-syari'ah* (Al-Syatibi) as the ethical foundation for recontextualization. Second, Thematic-Holistic: Applying the thematic-holistic integration model operationally: Thematic: Connecting all inheritance verses with the principle of justice across texts (QS. Al-Ḥujurāt: 13, Al-Mā'idah: 8) and Hadith, while holistic: analyzing the coherence of inheritance law with *maqāṣid al-kubrā* (protection of property/*hiḏ al-māl*, life/*hiḏ al-naḑs*, lineage/*hiḏ al-nas*) through progressive interpretation (Syahrur, Masdar F. Mas'udi). Third, Empirical-Contextual, operated through two strategies: (1) case studies of legal pluralism: analyzing hybrid inheritance practices in West Sumatra through the collection of data from previous studies that conducted field observations and (2) analyzing court decisions: reviewing Supreme Court Decision No.368/AG/2015 and Jambi

Religious Court Decision No. 12/Pdt.P/2021 on the 1:1 division in Sungai Enau using a legal reasoning approach. The empirical data analyzed in this study are summarized in Table 1 below:

Table 1: Empirical Data on the 1:1 and 2:1 Inheritance Distribution Models in the Indonesian Context.

Data Source	Location/Case	Distribution Model	Social Context
Supreme Court Decision No.368/AG/2015	National (patrilineal cases)	1:1	Recognition of women's rights in patriarchal societies
Decision of the Jambi Religious Court	Sungai Enau Village	1:1	Family deliberation agreement
Studi Dirkareshza et al. (2022)	Minangkabau, West Sumatra	Hybrid (1:1 & 2:1)	Acculturation of matrilineal customs and Sharia law
Studi Hakim & Mutmainah (2021)	Sungai Enau Village	1:1	Women's economic contribution

The data in the table above was selected because it represents variations in inheritance distribution models (1:1, 2:1, and hybrid) and covers different sociocultural contexts (patrilineal, matrilineal, and deliberative). This data was analyzed qualitatively using a thematic approach to identify patterns of negotiation between Islamic law, custom, and social reality.

Results and Discussion

Pre-Islamic Arab Social Pluralism: Dynamic Interaction between Divine Legal Sources and Local Traditions

The social conditions of Arab society in pre-Islamic times were very diverse. Most people had strong norms and rules, while others lived in a more free and unregulated manner.²³ There were several social problems such as slavery, gender inequality, tribal warfare, and other violent practices. The Arabs recognized social norms that they created themselves based on an agreement between the tribal chiefs and their

²³ H.M. Nasron HK et al., "Arab Pra-Islam, Sistem Politik Kemasyarakatan dan Sistem Kepercayaan dan Kebudayaan," *ALFIHRIS : Jurnal Inspirasi Pendidikan* 1, no. 3 (May 14, 2023): 88–98, <https://doi.org/10.59246/alfihris.v1i3.296>.

members. These agreements served as a judge in resolving problems that arose within the Arab tribes.²⁴ However, these norms were not legally binding on all tribes, so they were sometimes unable to resolve disputes that arose.

The problem arises because the norms recognized by some tribes are sometimes not applicable to other tribes, and so on, making these norms exclusive in nature, applicable only as a judge and solution to problems within specific tribes.²⁵ Muhammad Hamidullah states that although Prophet Muhammad had the authority to replace all existing laws, he did not abolish them but instead utilized the diversity of existing laws as a means to unify a multicultural society.²⁶

The Prophet's policy regarding responding to pluralism in marriage law reflects the interaction between divine sources of law and local traditions. Islamic law during the time of the Prophet Muhammad SAW did not simply accept the laws of the Jahiliyyah era, but carried out fundamental reforms using three approaches: correcting what was wrong, preserving what was good, and removing what was inappropriate. Concrete examples of these reforms include: (1) strict restrictions on polygamy (QS. An-Nisā': 3), (2) granting inheritance rights to women who were previously neglected, and (3) abolishing the institution of tabannī (full adoption) and replacing it with a system that preserves lineage (QS. Al-Ahzāb: 4–5).²⁷ This reform shows that Sharia does not radically abolish local traditions, but rather selects and modifies them through the principle of maqāṣid al-syari'ah (the objectives of Islamic law) to create harmony between revelation and social reality.

Based on the historical context of pre-Islamic Arab society, which was characterized by gender inequality and an exclusive legal

²⁴ Yoav Alon, "Tribalism in the Middle East: A Useful Prism for Understanding the Region," *International Journal of Middle East Studies* 53, no. 3 (August 15, 2021): 477–81, <https://doi.org/10.1017/S0020743821000787>.

²⁵ Syekh Muhammad Ali Sayyis, *Pertumbuhan dan Perkembangan Fiqh Hasil Refleksi Ijtihad* (Jakarta: PT raja Garafindio Studio, 1995), 28.

²⁶ Muhammad Hamidullah, *The Emergence of Islam: Lectures on the Development of Islamic World-View, Intellectual Tradition and Polity* (Islamabad: Islamic Research Institute, 1993), 64.

²⁷ Salman Abdullah Rahmad, "Pemikiran Muhammad Hashim Kamali dalam 'Principle of Islamic Jurisprudence,'" *FALAH: Jurnal Ekonomi Syariah* 2, no. 2 (December 11, 2017): 236, <https://doi.org/10.22219/jes.v2i2.5109>.

system, Islam came with progressive reforms, such as a 2:1 inheritance distribution for men, which aimed to balance their financial responsibilities as the main breadwinners.²⁸ The principle of justice in Islam (*maqāṣid al-syarī'ah*) is dynamic, accommodating social change. In the modern era, when women contribute significantly to the family economy, reinterpreting inheritance law becomes relevant—such as the hybrid 1:1 model or customary-sharia agreements (e.g., Minangkabau)—to reflect substantial justice aligned with contemporary realities, without compromising the essence of *tawhid* and public interest.²⁹ Thus, the flexibility of Islamic law allows for adjustments in inheritance distribution based on actual contributions and needs, addressing the demands of contemporary justice. Therefore, the interaction between revelation and social reality is not merely a historical compromise but a reflection of the perfection of Islam as a living legal system (living law), capable of responding to the complexities of the times without losing the essence of *tawhid*.

Before elaborating on the thematic-holistic analysis of the inheritance verses, it is important to emphasize that Islamic law—as a system derived from revelation—combines universal principles (*sawābi*) and contextual flexibility (*mutaḡhayyirāt*). In the next section, I will explain how a thematic integration approach (synchronizing all verses related to inheritance) and a holistic approach (linking them to the objectives of Sharia/*maqāṣid*) enable us to identify the eternal values underlying inheritance provisions, such as justice, public interest, and protection of rights. At the same time, this approach also opens up space for understanding the 2:1 ratio as a contextual response to the pre-Islamic Arab social structure, which is not rigidly binding in contemporary reality. Thus, this explanation will show that the universality of principles and the particularity of implementation in the Qur'an are not contradictory, but rather complementary in constructing laws that are relevant throughout the ages.

²⁸ Bachri, Roibin, and Ramadhita, "Sociological Dimensions of the Application of Islamic Inheritance in Indonesia."

²⁹ Iffatin Nur, Syahrul Adam, and M. Ngizzul Muttaqien, "Maqāṣid Al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (December 30, 2020), <https://doi.org/10.15408/ajis.v20i2.18333>.

Thematic and Holistic Analysis: Reading Texts in the Dynamics of Time

The distribution of inheritance in Islam has been regulated by Allah SWT in great detail. Starting from who is entitled to receive, how much will be obtained, and all applicable requirements. Everything is determined by fair provisions to create benefits. The distribution of inheritance is explained in the Qur'an, Surah An-Nisa, verse 7:

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانُ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانُ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرٌ نَّصِيبًا مِّمَّا مَرُوضًا

The reason for the revelation of the above verse was the death of a companion of the Ansar, Uwas bin Tsabit. He left behind two daughters and a young son. Their uncle, Khalid, and 'Urthufah took all of their father's inheritance. Then his wife came and complained to the Prophet Muhammad (peace be upon him) about what had happened, and this verse was revealed.³⁰ This verse abolishes the law of the pre-Islamic era, where women and children had no right to inherit property, and only adult men were entitled to inherit.³¹

The verse that states that men receive a larger share (2:1) than women is found in Surah An-Nisa, verse 11:

..... لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ.....

“The share of a male child is equal to the share of two female children.”³²

The historical background for the division of men being greater than women for various reasons, referring to the interpretation of Asy-Syaikh Muhammad 'Ali aṣ-Ṣābūnī (d. 2021) in the book *Al-Mawāriṭs fī al-Syarī'ah al-Islāmiyyah*,³³ there are five reasons why the distribution of inheritance is greater for men than for women: 1) Women are generally dependent on others for their needs and necessities. 2) Women are not burdened with the obligation to provide for anyone. This is different from men. 3) Men have more responsibilities and their use of property

³⁰ Wahbah Zuhaili, *al-Fiqh al-Islami wa Adilatuhu*, 5 ed. (Damaskus: Dar al-Fikr, 2005), 7.

³¹ Jalaluddin Abi Abdurrahman Al-Suyuthi, *Lubab Nuqul fī Asbab al-Nuzūl*, (Bairut: Muasasah al-Kutub al-Tsawafiyah, 2002), 71.

³² Departemen Agama RI, *Al-Hikmah Al-Qur'an dan Terjemahannya*, (Bandung: CV Penerbit Diponegoro, 2008), 78.

³³ Muhammad Ali As-Shabuni, *Al-Mawarits fīs Syari'ah Al-Islamiyah* (Bairut: Darul Kutub Al-'Ilmiyah, 1967), 18-19.

is greater. Therefore, their need for property is greater than that of women. 4) Men pay a dowry (when marrying). Additionally, they are obligated to provide housing, food, and clothing for their wives and children. 5) The responsibility for the costs of children's education and health insurance for the family. Both are obligations that must be fulfilled by a man. These five explanations by Muhammad Ali As-Shabuni provide an overview of why the distribution of inheritance is greater for men than for women, based on the responsibilities between them in the use of property.

In the perspective of Islamic family law, the principle of mathematical equality (*al-musāwāb*) is not the main normative principle; the fundamental principle is the substantive principle of justice (*al-'adālah*).³⁴ Therefore, the provision of inheritance distribution with a ratio of 1:2 between sons and daughters, as stated in QS. An-Nisa': 11, must be understood within the framework of holistic justice that considers the overall economic responsibilities in the Islamic legal system, where men bear the full obligation of providing for their families (based on QS. An-Nisa': 34), while women—who are not burdened with the obligation to provide for the family—are guaranteed rights through the kinship system.

In the contemporary context, this historical argument deserves reconsideration in light of changing gender roles. A study by Muhammad Luthfi and Mutmainah found that modern women have become economically independent, contribute to family income, and have equal access to education and careers. Women's attachment to domestication has also diminished, so that financial responsibility is no longer the sole burden of men.³⁵ Md Yazid Ahmad further explains that if the principle of justice in inheritance refers to proportionality between obligations and rights, then the demand for equal inheritance—or even more—for women becomes relevant. This encourages a discourse on

³⁴ Nur Solikin and Moh. Wasik, "The Construction of Family Law in the Compilation of Islamic Law in Indonesia: A Review of John Rawls's Concept of Justice and Jasser Auda's Maqashid Al-Shari'a," *Ulumuna* 27, no. 1 (June 30, 2023): 315–40, <https://doi.org/10.20414/ujis.v27i1.708>.

³⁵ Muhammad Lutfi Hakim and Mutmainah Mutmainah, "Inheritance Portion of The Heir of Women is More Than Men in Islamic Legal Perspective," *Jurnal Mahkamah : Kajian Ilmu Hukum dan Hukum Islam* 6, no. 1 (June 22, 2021): 47.

reinterpreting Islamic inheritance law that is responsive to the dynamics of the times, without neglecting the essence of substantial justice that forms the basis of Sharia law.³⁶

In line with what Syahrur said, the principles of justice in Islam must reflect social justice, including in the context of gender equality. He suggested that the distribution of inheritance be based on the economic contribution of each family member to the household, so that it better reflects the principles of equality and justice. The role of women in family income has undergone significant transformation, and this requires changes to the laws governing inheritance rights. Shaḥrūr argues that these changes not only support equality but also reaffirm the fundamental values of justice in Islam. The discussion resulting from this research reveals that Shaḥrūr's suggestions for egalitarian inheritance distribution challenge many traditional norms and existing legal interpretations. He offers an innovative perspective that is not only relevant to modern social conditions but also allows for broader interpretations of Islamic legal texts.³⁷

For this reason, in addition to adhering to the verses above, it is also important to understand the verses on inheritance in the context of other verses that discuss justice and social justice in Islam. These verses provide general principles of justice that must be applied in the distribution of inheritance, so that the distribution not only complies with technical rules but also reflects the values of justice. Therefore, it is necessary to understand the values that form the basis for determining heirs, both universal values and particular values.

Quoting Murtadhā al-Muṭahhari, the concept of justice is one of the main elements in understanding verses, including those related to inheritance.³⁸ First, justice means balance in the sense of a society that wants to survive and remain stable. Therefore, the society must be in a state of balance, where everything in it must exist in the right

³⁶ Md Yazid Ahmad, "Justification of Inheritance Distribution for Women According to Islamic Inheritance Law," *International Journal of Advanced Research* 10, no. 07 (July 31, 2022): 14.

³⁷ Herianto Putra and Desi Anwar, "Muhammad Shahrur's Perspective on Gender Equality in Inheritance Distribution," *Indonesian Journal of Islamic Law* 6, no. 2 (December 30, 2023): 56–72, <https://doi.org/10.35719/ijil.v6i2.2018>.

³⁸ Murtadha Muthahhari, *Keadilan Ilahi: Azas Pandangan Dunia Islam* (Bandung: Mizan, 1995), 53.

proportion. Social balance requires us to view the balance of needs through a relative lens by determining the relevant balance and applying the appropriate potential to that balance, as stated in QS. Ar-Raḥmān [55]: verse 7:

وَالسَّمَاءَ رَفَعَهَا وَوَضَعَ الْمِيزَانَ

“And Allah has raised the heavens and established the scales (of justice). Exegetes say that what is meant by this verse is the state of nature, which was created in a balanced manner. Nature was created with the right proportions and distances measured with great precision.”

Second, fairness is the equal disregard of differences. The fairness in question is maintaining equality when rights are equal, because fairness requires such equality and makes it obligatory. Third, fairness is maintaining the rights of individuals and giving rights to everyone who is entitled to them.³⁹

Meanwhile, particular aspects are reflected in the 2:1 ratio, which is adjusted to the pre-Islamic Arab social reality, where men bear full economic responsibility. Through thematic integration with other verses on equality in QS. Al-Hujurāt: 13:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَىٰ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

“O mankind, indeed We have created you from a male and a female and made you into nations and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.”⁴⁰

Another verse also explains through thematic integration with verses about the need to pay attention to distributive justice as in QS. Al-Mā'idah: 8:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ آلَا تَعْدِلُوا إِعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

“O you who have believed, be steadfastly standing firm in justice, witnesses for Allah, even if it be against yourselves or your parents or your relatives, and do not let the hatred of a

³⁹ Murtadha Muthahhari, *Keadilan Ilahi: Azas Pandangan Dunia Islam* (Bandung: Mizan, 1995), 53.

⁴⁰ Departemen Agama RI, *Al-Hikmah Al-Qur'an dan Terjemahannya*, (Bandung: CV Penerbit Diponegoro, 2008), 517.

people prevent you from being just. Be just, for that is closer to piety. And fear Allah. Indeed, Allah is All-Aware of what you do.”⁴¹

These two verses emphasize the importance of equality and justice. QS. Al-Ḥujurāt (49):13 establishes the principle of ontological equality, where the common origin of humanity (from male and female) and the creation of nations for mutual understanding are emphasized. The only parameter of nobility is piety (taqwā), not gender, ethnicity, or social status.⁴² This verse explains that the value of this verse can be used as a universal principle that nullifies superiority based on gender/lineage. Similarly, QS. Al-Mā'idah (5):8 d establishes the principle of distributive justice, explaining that the command to act justly (i'dilū) applies even if it contradicts subjective hatred. Syed Qutb explains that distributive justice in Islam refers to giving according to need, responsibility, and capacity.⁴³ For this reason, justice in the distribution of inheritance becomes dynamic: if the context changes (e.g., women bear the economic burden), scholars open up space for reinterpretation through *maqāṣid al-syari'ah*.

Understanding the concept of justice presented by Murtadhā al-Muṭahharī and several universal values in the above verses, the current social context demands a review of the distribution of inheritance for women, which is more relevant in relation to the first concept (social balance) and the third (preserving individual rights). The concept of balance emphasizes that justice must be in accordance with the needs and realities of a dynamic society. While in the past, the larger share of inheritance for men was based on a balance between financial responsibilities and rights, the changing gender roles—where women now also contribute to the household income—require a new balance that is proportional to their contributions. Meanwhile, the third concept (individual rights) reinforces that each party is entitled to receive according to their responsibilities and capacities. In the modern context, where women have achieved economic equality, upholding their right to a fair share of inheritance is a manifestation of “giving rights to those

⁴¹ Departemen Agama RI, *Al-Ḥikmah Al-Qur'an dan Terjemahannya*, (Bandung: CV Penerbit Diponegoro, 2008), 148.

⁴² Rasyid Rida, *Tafsīr al-Manār*, jilid. ke-2 (Kairo: Dār al-Manār, 1974), 89-93.

⁴³ Sayyid Qutb, *Fī Zilāl al-Qur'an: Tafsir tematik tentang keadilan sosial*, jilid ke-2, cet. ke-33 (Kairo: Dār al-Shurūq, 2004), 789.

who are entitled to them,” as implied in the hadith. Thus, the reinterpretation of inheritance law must refer to the principles of adaptive balance and respect for individual rights, without neglecting the spirit of sharia, which aims to create substantial justice, not merely formalistic justice.

Through a thematic-holistic approach, the inheritance verses (QS. An-Nisā': 11-12, 176) can be understood as an integral part of the Qur'an's vision of social justice that is both universal and contextual. Its universal value lies in the basic principles of justice ('adl), legal certainty (qisth), and protection of the rights of the weak (orphans, women, and relatives), which are applicable across time. Meanwhile, the particular aspect is reflected in the 2:1 ratio, which is adapted to the pre-Islamic Arab social reality, where men bear full economic responsibility. Through thematic integration with other verses on equality (QS. Al-Ḥujurāt: 13) and distributive justice (QS. Al-Mā'idah: 8), as well as a holistic analysis of maqāṣid al-syari'ah (preserving wealth, honor, and lineage), it is evident that the Qur'an does not merely regulate static numbers but emphasizes the essence of adaptive justice. Thus, although the 2:1 ratio is contextual, its underlying principles—such as the proportionality of rights and obligations, and the recognition of actual contributions—can be recontextualized in the modern era without disregarding the universal values of the Qur'an, as long as it remains committed to the objectives of sharia law to create public welfare (*jalbu al-maṣāliḥ*) and prevent harm (*dar'u al-Mafāsīd*).

Flexibility in Faraid in Indonesia: Room for Agreement and Economic Contribution as a Solution for Contextual Justice

The flexibility of faraid in Indonesian inheritance law is manifested through Article 183 of the Compilation of Islamic Law (KHI), which provides interpretative space by allowing heirs to divide property by mutual agreement.⁴⁴ This space for dialogue is a contextual response to demands for gender justice, especially when women's

⁴⁴ Kompilasi Hukum Islam, Article 183. *The word “dapat” in this article implies a choice.* Amir Syarifuddin, *Hukum Kewarisan Islam* (Jakarta: Kencana, 2012), pp. 298–299.

economic contributions to the family have shifted the traditional paradigm of financial dependence.

This dynamic is reinforced by Supreme Court rulings (as examined by cal, based on a human rights perspective and Article 28I Paragraph 3 of the 1945 Constitution, which emphasizes respect for cultural identity “in accordance with the development of the times and civilization.” In the Indonesian context, where women often bear equal economic responsibilities with men, rigid inheritance distribution without considering their roles has the potential to cause substantive injustice.⁴⁵

Although the basic principles of inheritance as mentioned in the Qur'an are normative and oriented towards justice, Islamic law provides room for mutual agreement (tarāḍīn) through a process of deliberation and reconciliation, as indicated in QS. Asy-Syūrā: 38 and An-Nisā': 128-129. Therefore, if all heirs understand their respective shares and agree to a 1:1 distribution, the agreement is legally valid. In the Indonesian context, Article 183 of the Compilation of Islamic Law (KHI) provides the legal basis for such agreement mechanisms. In line with the results of research presented by Silalahi et al.,⁴⁶ women's economic participation challenges traditional financial dependence and promotes fair inheritance practices.

Mechanisms for inheritance distribution based on agreement (Article 183 of the KHI) or proportional distribution (beyond the 2:1 ratio) are not merely operational solutions but also grounded in the principles of public interest and relevant fiqh principles:

1. The ability to accommodate the integration of fara'id provisions, contemporary values of justice, and local customary practices through mutual agreement (ikhtilāṭ), so that these provisions are more relevant because they can

⁴⁵ Herianto Putra and Desi Anwar, “Muhammad Shahrur’s Perspective on Gender Equality in Inheritance Distribution,” *Indonesian Journal of Islamic Law* 6, no. 2 (December 30, 2023): 60.

⁴⁶ Dwi Grace Rosalia Silalahi et al., “From Patrilineal Tradition to Gender Equity: The Evolution of Inheritance Law in Indonesia’s Batak Toba Community,” *Enigma in Law* 2, no. 2 (August 27, 2024): 129–43, <https://doi.org/10.61996/law.v2i2.66>.

- accommodate customary demands and the social context prevailing in Indonesia.⁴⁷
2. It can prevent disputes among heirs through an agreement between the heirs to give part of their inheritance to other heirs so that there is equality in the distribution of inheritance (التسوية). This is considered fair and more in line with Indonesian culture.⁴⁸
 3. Each of the heirs does not feel aggrieved so that an agreement and peace can be reached in the application for the distribution of the inheritance.

Based on the benefits brought about by this regulation, the division of inheritance by mutual agreement or the discussion of proportional inheritance at a ratio of 1:1 is a solution that brings harmony, justice, and benefits and does not contradict the Maqāṣid al-Syarī'āt and the principles of syarī'at, in line with the spirit of tasyri' to maintain the welfare of Indonesian society.⁴⁹ However, in this issue, it should not be interpreted as a way to escape the law of Allah SWT. This is done solely with the intention of overcoming difficulties in muamalat due to socio-historical changes.

In the practice of inheritance law in Indonesia, the application of customary law and the adjustment of values in inheritance verses often cause problems when the distribution of property is not done through deliberation and does not consider the specific context. This can have negative consequences, both for the principle of preserving wealth in Islam and for the harmony of relationships among heirs. Injustice in the distribution of inheritance can cause harm (mafsadat), both to the continuity of wealth and to the bonds of kinship within the family. As a result, difficulties (al-haraj) and hardship (adh-Dhāiq) arise in life, which ultimately encourage some people to violate the provisions

⁴⁷ Thus, societies that adhere to a patrilineal system may allocate a larger portion of inheritance to male heirs. Likewise, matrilineal societies may transfer inherited property to female heirs, based on mutual agreement. Amir Syarifuddin, *Islamic Inheritance Law* (Jakarta: Kencana, 2012), 298.

⁴⁸ Satria Effendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer* (Jakarta: Kencana, 2010), 345-346.

⁴⁹ Abu Hamid Al-Ghazaliy, *al-Mustasfa fi 'Ilm al-Usul*, Juzu' 1 (Bairut: Dar al-Kutub al-'Ilmiyat, n.d.), 287.

of Sharia law.⁵⁰ Facts show that many inheritance cases brought before the Religious Court originate from parties who feel aggrieved by the distribution of *fara'id* (Islamic inheritance provisions). However, in the Indonesian context, where women have actively contributed to the economy and family—unlike the Arab society at the time the inheritance verses were revealed (2:1)—a rigid distribution that does not consider the roles and needs of each heir can lead to injustice.

Research findings by Herianto Putra and Anwar indicate that maintaining the status quo not only ignores women's economic contributions but also contradicts principles of equality and justice. Adherence to such practices without adaptation to contemporary realities not only reinforces inequality but also risks diminishing the relevance and respect for Islamic law within modern legal and social frameworks. The long-term implications of an unequal inheritance system are significant for women's financial independence.⁵¹ This financial dependence not only limits women's ability to make decisions in their lives, but also makes them more vulnerable to poverty and economic exploitation.

Islam is based on the principle of *siyāsah asy-Syar'iyah* (policy in accordance with Sharia), whereby Islamic legal methodology implies the need to establish Sharia laws necessary to achieve *maṣlahah al-Haqiqiyah* (true benefit) within the framework of *maqashid syariah*. However, such establishment must not contradict the values established by the Quran, *ijma'* (consensus), or *qiyas* (analogical reasoning). Therefore, the rule of inheritance distribution through *musyawarah* (consensus) can be accepted as one of the provisions in family law in Indonesia. Based on this, the principles of Islamic law (*al-qawa'id al-fiqhiyyah*) can serve as a strong foundation for permitting inheritance distribution through consensus in Indonesia. Some relevant principles include:

⁵⁰ Yusuf Hamid 'Alim, *Al-Maqasid al-'ammat Li al-Syariat Al-Islamiyat*, 2nd edition (ttp: Ma'had 'Aliy al-Fikr Al Islamiy, 1994), 140.

⁵¹ Herianto Putra and Desi Anwar, "Muhammad Shahrur's Perspective on Gender Equality in Inheritance Distribution," *Indonesian Journal of Islamic Law* 6, no. 2 (December 30, 2023): 56–72.

- 1) Principle: *تصرف الإمام على الرعية منوط بالمصلحة*,⁵² meaning: Actions that need to be taken by a leader towards his people must be related to the common good. According to this principle, the formulation of inheritance distribution rules through consultation and the change of the ratio from 2:1 to 1:1 in socio-historical conditions such as Indonesia, where those who contribute and are responsible within the family are not only men, as in the socio-historical context of the inheritance verse, aims to achieve the public interest in matters of inheritance. This leads to goodness, brotherhood, peace, and order, and prevents all forms of *muḍarratun*, disputes, divisions, conflicts, the severing of family ties, and other harmful and detrimental matters. The application of this principle is a *maslahat 'ammah* (public good) that encompasses all levels of society. Therefore, if it is clear to the leader (*uli al-amr*) that there is danger and injustice befalling the heirs and, on the other hand, there is a need, then the leader may decide to implement inheritance distribution through consultation and a 1:1 ratio under certain circumstances. This policy is taken because it is closely related to *maslahat dharuriyyat* (urgent/primary good that must be fulfilled).
- 2) Principle: *الحاجة تنزل منزلة الضرورة عامة كانت أو خاصة*,⁵³ meaning: Necessity (*hajat*) occupies the position of emergency, whether general or specific. Based on this principle, *ber-istidlal* (reasoning) with *istislāḥ* (consideration of benefit) and its application in the issue of inheritance distribution in Indonesia or similar countries is indeed initiated by the specific needs of some heirs for the inheritance they desperately need.⁵⁴ Based on this principle, it is permissible to divide inheritance through deliberation (peacefully), kinship, or by determining a 1:1 ratio between men and women in order to meet the needs of all heirs.
- 3) Principle: *العادة محكمة*,⁵⁵ meaning: Islam recognizes the principle of *al-'adah muhakkamah* (customary law can be used as law) as long as it does not conflict with the values of Sharia. In the Indonesian

⁵² Abd al-'Aziz Muhammad Azzam, *al-Qawa'id al-Fiqhiyyat* (Kaherah: Dar al-Hadith, 2005), 202.

⁵³ *Ibid.*, 164.

⁵⁴ Amir Syarifuddin, *Hukum Kewarisan Islam* (Jakarta: Kencana, 2012), 296.

⁵⁵ Abd al-'Aziz Muhammad Azzam, *al-Qawa'id al-Fiqhiyyat* (Kaherah: Dar al-Hadith, 2005), 96.

context, where women have actively contributed economically and socially—unlike the socio-historical conditions in Arabia at the time the inheritance verses were revealed—the division of inheritance through mutual agreement with a 1:1 ratio between men and women can be applied as a fair and contextual adjustment. This mechanism is carried out through family agreement after all parties understand their rights according to *fara'id*, then voluntarily agree to a more equitable distribution to avoid conflict. This practice aligns with the objectives of Sharia law, namely achieving justice (*al-'adl*), public interest (*al-maṣlahah*), and family harmony (*hiṣṣah al-usrah*), and is supported by legal principles such as *al-'urf al-shahih* (valid tradition) and *dar'u al-Mafāsīd* (preventing harm).

Thus, as long as the distribution is carried out voluntarily, does not disregard the rights of other heirs, and aims to achieve substantive justice, it does not contradict universal Islamic values, but rather reflects the flexibility of Sharia in responding to changing social realities. The state (*ulil amri*) may also play a role in regulating this distribution pattern through court rulings or policies oriented toward gender justice and the public interest.

4) Principle: العدل واجب في كل شئىء والفضل مسنون⁵⁶ the meaning of this principle is: “Being fair is obligatory (*fardhu*) in all matters, while doing more than what is fair (*ihsan*) is recommended (*sunat*)”⁵⁷ This principle is in line with the obligation to distribute inheritance according to the laws of *fara'id* in Islamic inheritance. However, the benefit will be more realized in the context of Indonesian customs through.⁵⁸ This is because Islam emphasizes that justice (*al-'adl*) is obligatory in all matters, including the distribution of inheritance, while doing more than justice (*ihsan*) is recommended. The inheritance verse (2:1) revealed in the context of pre-Islamic Arab society was a form of justice at that time, where women had no economic role or family responsibilities. However, the social reality in Indonesia shows a different condition—women

⁵⁶ Abd. Al-Muhsin ibn Abdullah al-Zamil, *Syarh al-Qawa'id al-Sa'dhiyyat*, 1st edition (Riyadh: Dar Atlas, 2001), 149.

⁵⁷ Abd al-'Aziz Muhammad Azzam, *al-Qawa'id al-Fiqhiyyat* (Kaherah: Dar al-Hadith, 2005), 116.

⁵⁸ An heir may voluntarily relinquish or waive his or her right in the distribution of inherited property so that it may be divided on a familial basis. Satria Effendi M. Zein, *Contemporary Issues in Islamic Family Law* (Jakarta: Kencana, 2010), 343.

actively contribute economically and often bear greater family responsibilities.

This approach not only upholds the principles of public interest (*al-mashlahah*) and family harmony but also prevents potential injustice (*zulm*) that may arise from rigid application without considering the social context. Thus, inheritance distribution that takes into account real contributions and the social reality of Indonesia constitutes an authentic implementation of the objectives of Islamic law, while also demonstrating the flexibility of Islamic law in responding to the development of the times.

Conclusion

Justice in Islamic inheritance law is dynamic and contextual, rooted in the Prophet Muhammad's accommodative mechanism towards pre-Islamic traditions (*'urf*). This approach does not radically abolish the legal system of the Jahiliyyah Arab society. This pattern of reform shows that Sharia was designed from the outset as a living law that responds to socio-historical realities, where revelation interacts dialectically with local traditions through the principle of *maqāṣid al-syarī'ah* (preservation of property, life, and offspring). Therefore, pluralism in inheritance law is not a deviation, but rather the essence of Sharia's flexibility.

The thematic-holistic approach reveals that the 2:1 ratio is a responsive-contextual solution for the pre-Islamic Arab social structure, in which men bear full financial responsibility (dowry, family maintenance, children's education). However, the universal principles of the Qur'an, such as justice (*'adl*), human equality (QS. Al-Ḥujurāt: 13), and the common good (*maṣlahah*), are timeless and imply the adaptability of their implementation. The integration of textual analysis (inheritance verses), *maqāṣid* (*hiḍ al-māl, al-nafs, al-nasl*), and contextualization (modern gender role changes) demonstrates that the 2:1 ratio is a temporal instrument (*mutaghayyirāt*), not a rigid rule. In contemporary society, where women make significant contributions to the family economy, the principle of proportionality of rights and obligations demands recontextualization—such as the Minangkabau hybrid model (*harato pusako* for women, *harato pancarian* with *faraid*) or a 1:1 agreement that considers economic contributions.

The proposed integrative framework of text-*maqāṣid*-contextuality not only overcomes the limitations of previous descriptive-partial studies, but also offers a methodology for resolving

inheritance conflicts in pluralistic societies such as Indonesia. Through the maqāṣid-based deliberative mechanism (Article 183 of the KHI), Islamic inheritance law can achieve substantive justice without being bound by textual literalism. Its implementation includes: (1) progressive reinterpretation in religious courts; (2) utilizing fiqh principles (*al-‘ādab muhakkamah, al-ḥājab tanzīlu manzilat al-ḍarūrah*) to legitimize 1:1 agreement. Thus, Sharia affirms its relevance as a living legal system (living law), capable of responding to the complexities of the times while maintaining social cohesion and the authenticity of the values of tawhid.

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