

Inheritance: The Amount of Inheritance in Islam: The Struggle between Sharia Provisions, Social Dynamics, and Contemporary Scholars' Views in Normative and Perspectives

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Abstract

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Inheritance law in classical Islam, as outlined in the Quran (Surah An-Nisa verse 11), establishes a fixed distribution pattern, for example, sons receiving twice the share of daughters. However, in current practice, there are social dynamics and demands for gender justice that challenge this pattern. This article explores the conflict between normative sharia law and sociological reality in inheritance arrangements, as well as how contemporary scholars (such as M. Syahrur) respond to this issue of gender inequality. The research employs a literature review (normative method) combined with sociological analysis and case studies. Findings indicate that although Islamic inheritance law is qath'i (definitive) by affirming inheritance portions based on sacred texts, social awareness and demands for equality drive reinterpretations or alternative legal solutions (such as a will) to reduce imbalance. Diagrams and tables are provided to illustrate inheritance distribution and compare opinions. Case studies related to inheritance calculations also highlight social justice issues. This paper emphasizes the relevance of gender inequality issues in the context of contemporary Muslim inheritance, highlighting the importance of synthesizing normative and sociological perspectives to achieve more equitable inheritance legal solutions. The uniqueness of this article lies in its comprehensive approach that combines sharia, social analysis, and contemporary views related to inheritance issues

Keywords: *Inheritance, Sharia, Social Dynamics, Contemporary Scholars, Normative and Sociological Perspectives*

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INTRODUCTION

The law of inheritance is an important element of Islamic law that is clearly regulated and detailed in the Qur'an and hadith. One of the main verses of reference is QS. An-Nisa [4]:11, which states that a son's share of inheritance is twice that of a daughter. This stipulation is considered a form of justice from God that takes into account the social role of men as the main caretakers of the family economy. For centuries, this system was accepted and practiced in many Muslim communities without much resistance.

However, in Muslim societies today, there is a fundamental change in the structure of gender roles. Women today no longer focus solely on the domestic sphere; they are also the main breadwinners, professionals, and even family leaders. In this context, inheritance rules that differentiate rights between men and women are starting to be questioned, especially from a justice and equality perspective. Many women feel financially disadvantaged because they get a smaller share of the inheritance, even though their economic contribution is as great or greater compared to men in the family.

This phenomenon has not only occurred locally, but has also developed into a global issue in the Islamic world. In Tunisia, there was a proposal from the government to reform the inheritance law so that the division between men and women could be equal. In Egypt, a female judge challenged the traditional inheritance system because it discriminated against women. On the other hand, in Indonesia, discussions on this topic have begun to emerge among academics, legal practitioners and women activists who question justice in the distribution of inheritance, especially in the context of a society that has undergone social change.

This tension created two distinct camps of thought. On the one hand, there are those who uphold a formalistic approach that emphasizes that inheritance law is qath'i (certain) and cannot be changed because it is part of divine revelation that is absolute. On the other hand, there are groups that encourage the reinterpretation of religious texts through contextual approaches and maqashid sharia, with the aim of achieving substantive justice. They argue that the Islamic inheritance system needs to be reread by considering the times and changes in social structure. Based on this background, this research seeks to answer several main questions:

- 1) What is the normative basis for the division of inheritance in Islam according to the Qur'an and hadith?
- 2) To what extent are these provisions still relevant in today's Muslim society? and
- 3) How do Islamic scholars and thinkers respond to the demands of gender justice in the inheritance system?

This research uses normative-theological and sociological-contextual approaches to explain the tension between text and reality.

This study is important because the issue of inheritance touches on fundamental aspects of Muslim life, such as family, economic rights, and justice. With increasing gender awareness and changing social roles, this study is expected to contribute to the understanding of Islamic inheritance law that is more inclusive, contextual, and responsive to the needs of modern society, without neglecting the basic principles of Islamic sharia.

RESEARCH METHOD

This study utilizes normative and sociological juridical approaches with library research methods and doctrinal analysis as the main foundation in managing and collecting data. The sources of data are taken from classical literature (such as the Quran and fiqh books) and contemporary literature (such as scientific journals, books, articles, fatwas, news) that serve as the main references to understand the provisions of inheritance in Islam.

In this study, the research method used is library research, through the steps of collecting, recording, and analyzing various documents related to Islamic

inheritance law and gender issues. The researcher examined various legal theories, such as maqashid sharia, the theory of legal change, and the principle of gender equality, as well as examining the thoughts of scholars from the traditional to modern era to illustrate and evaluate the disagreement between classical fiqh provisions and current social conditions. A case study approach to inheritance calculation is also analyzed to illustrate its impact on social justice.

This research takes a qualitative approach by examining sharia texts and analyzing the social conditions of the surrounding community. A case study of inheritance calculation is applied to show concretely how classical fiqh rules can present injustice in real practice. The purpose of this research is to understand the challenges and possibilities of reforming Islamic inheritance law that is more just and relevant to contemporary life.

RESEARCH RESULTS AND DISCUSSION

1. Normative Framework of Islamic Inheritance System

The inheritance system in Islam is part of Islamic law (sharia) which is formulated directly through the commands of Allah SWT in the Qur'an, as well as detailed by the hadith. Normatively, the distribution of inheritance has a qath'i (certain) basis that must be obeyed and implemented by Muslims. The basic principle of inheritance distribution aims to create justice in accordance with the different responsibilities of men and women in the Islamic system.

To illustrate, if a testator dies and leaves behind two sons and three daughters, each son gets two shares (4 shares in total), while each daughter gets one share (3 shares in total). So, the proportion for sons is 2:1 compared to daughters. Suppose the total wealth left behind is 100 million, then the share for each son is 28.57 million (2 shares), and for each daughter is 14.28 million (1 share). This calculation is obtained from the following steps:

Table 1. shows a scenario where a testator dies and leaves behind two sons and three daughters.

| Section for boys | Daughter's share: | Total parts: |
|---|----------------------------------|---|
| $100,000,000 \div 7 = 14.28$ million | $1 \times 14.28 = 14.28$ million | (2 boys \times 2) plus (3 girls \times 1) which equals |
| $2 \times 14.28 = 28.57$ million | | $4 + 3 = 7$ |

In a more formal context, the Quranic rules of inheritance state that if the testator leaves children with no other descendants, "if there are only two women, their share is two-thirds". If there is a spouse (husband or wife), their share is taken first; for example, if a female testator dies and leaves a husband, the husband is entitled to 1/4 of the total estate, and the rest is distributed according to the children's provisions. In complex scenarios involving children, parents and spouses, each parent receives 1/6th of the share (if there are children) and the rest is given to the children, as per the teachings in Q.S An-Nisa 4:11-12. From a normative justice perspective, this distribution is designed to reflect differences in economic responsibilities. Shay (2021) underlines that while a woman's share may only be half in the context of children, the husband's role and burden of responsibility is

broader (such as in terms of payment of dowry and providing for the family), so this division is meant to reflect socio-economic balance.

Table 2. Comparison of Inheritance Proportions According to Classical Jurisprudence and the Views of Contemporary Scholars

| Condition of Heirs | Classical Mazhab (Sunni) | Contemporary View |
|---------------------------|-----------------------------------|--|
| 1 male, 1 female | Male : female = 2 : 1 (QS 4:11) | Shahrur: 2:1 as upper limit; may be 1:1 if deemed fair |
| ≥ 2 women, no sons | Women together get 2/3 (1/3 each) | Demand that the remaining 1/3 be fully transferred to women to make it more fair (by will) |
| Husband + children | Husband gets 1/4 (with children) | Some activists: Husbands should share inheritance equally; majority of scholars defend Quranic provisions |
| Wife + children | Wife gets 1/8 (with children) | Similar: there is a proposal for wives to get 1/4, but the principle of husband's responsibility is used as an argument to reinforce the status quo. |

Table 2 shows the differences between the classical fiqh view and the contemporary view on the division of inheritance in Islam. First, a difference is evident in the distribution ratio for sons and daughters; in classical fiqh, the required ratio is (2:1), based on the role of men as the main breadwinners of the family. However, contemporary scholars such as Shahrur are open to the possibility of an equal ratio (1:1) in order to achieve gender equality or justice, especially if women also bear an economic burden. Secondly, if the heir leaves two or more daughters in the absence of a son, classical jurisprudence stipulates a division of 2/3 of the total estate, which is divided equally among them. In contrast, contemporary scholars suggest that the remaining 1/3 of the uninherited property be given to the daughters through a will as a voluntary act. Thirdly, the division between husband and wife remains unchanged, with 1/4 for the husband and 1/8 for the wife. This is not much discussed, as many scholars emphasize that the financial roles of husbands and wives are different, and they prefer to stick to the Qur'anic provisions as the main guideline in the division of inheritance.

2. Social Impact and Justice in practice

Inequality in the division of inheritance can cause conflict between family members. These conflicts are often not only legal, but also emotional. Research conducted by family law scholars shows that many inheritance disputes do not reach the courts, but cause long-lasting problems in family relations. For example, when a father dies and leaves behind two daughters, people often debate whether the children's brothers, or uncles, are entitled to inherit. By Islamic law, they are included in the asabah category and get the rest of the inheritance after the property is distributed to the daughters. However, from the perspective of family sociology,

this can create a sense of injustice, especially if the daughters feel they have contributed greatly to caring for their parents or maintaining family assets.

The Quran specifies the division of inheritance in great detail, as explained in surah An-Nisa verses 11 and 12. One rule that is often debated is that the share for sons is twice that of daughters. In pre-islamic times, women did not even receive inheritance at all, so this rule was considered an advancement in its time. However, in today's modern era, where women also work and contribute economically to the family, many argue that gender-based inheritance division is no longer in accordance with the principles of justice. This provision is often a source of conflict within the family, especially when brothers feel more entitled to the family property, or when women feel unfairly treated.

The following case study of inheritance calculation illustrates the issue of social justice. Suppose a father dies leaving an estate of Rp100 million, two daughters, and no sons. According to Surah An-Nisa 4:11, the two daughters are entitled to 2/3 of the estate, which is Rp66.67 million (Rp33.33 million each). The remaining Rp33.33 million (1/3) is entitled to asabah (for example, the testator's brother). If there are three brothers, each gets ~Rp11.11 million. In this situation, quantitatively women get the majority share of the estate (66.7%), but the feeling of social justice is questioned by the asabah because the rest of the estate remains significant despite their different social status. In addition, if in the above example there is also a surviving husband, then the wife's portion of Rp12.5 million (1/8) is taken first, leaving Rp87.5 million. From the remainder, the two daughters share 2/3 (Rp58.33 million), and the testator's brother shares 1/3 (Rp29.17 million). Table 3 shows a summary calculation of this scenario.

Table 3. illustration of the division of inheritance justice issues

| Heirs | Faraidh Section | Total (million IDR) |
|---------------------|-----------------|---------------------|
| Wife (1/8) | 1/8 | 12,50 |
| Two daughters | (2 girls) 2/3 | 58.33 (29.17 each) |
| Brother of the heir | 1/3 (residual) | 29,17 |
| Total | 1 (100%) | 100,00 |

There are several scholars and legal scholars who provide alternative approaches that remain within the framework of sharia, namely:

- Wasiat: a person can bequeath up to 1/3 of his/her estate to a non-heir to balance the sense of justice.
- Bequests: bequests can be made during life to children or other parties deemed more needy or meritorious.
- Family deliberation: in practice in many muslim communities, deliberation between heirs is often used to reach consensus in the division of property.

This is important to avoid conflicts that can damage family relationships in the long run.

3. Gender and Justice Perspectives

The assumption of absolute gender equality will eventually lead to the conclusion that men and women, despite having non-negotiable equal rights, will still be treated unequally in certain aspects. This shows that, beyond the basic principle of equality, there are differences in treatment that arise in social reality.

In general, Muslims believe that God as the Creator possesses the attributes of wisdom, compassion and absolute justice, so that differential treatment in various situations is considered in line with the principles of divine justice and reflects a form of respect that is in accordance with His wisdom.

In terms of gender justice, Islamic arguments emphasize the principle of justice based on socio-economic roles, not *quantitative* egalitarianism. Shay (2021) emphasizes that men bear full maintenance, dowry, and family obligations, so it is unfair to demand equal inheritance shares without considering rights and obligations; the Islamic inheritance system prioritizes the welfare of all parties. In addition, other scriptures affirm the spiritual equality and justice of God for women and men in good deeds, although the practical application differs from context to context. Nonetheless, modern society tends to view inheritance rights through the lens of gender equality. As noted in recent studies, while Islamic inheritance provisions are doctrinally sound, their implementation is influenced by cultural factors and national laws. The KHI for example adopts bilateral lineage so that the wife of the testator can inherit if his brothers are absent, an attempt to add fairness. However, KHI did not change the 2:1 son/daughter ratio; the debate took place in academic and public forums, not in legislation.

Overall, this analysis shows that the **novelty** of the paper lies in combining normative and sociological perspectives at once. The diagrams and tables above help visualize the sharia division of inheritance (normative), while the case studies and discussions relate to real social dynamics (sociological). The research findings support the relevance of gender inequality issues: while Islamic inheritance rules have a strong foundation, modern gender consciousness encourages reinterpretation or creative solutions for the sake of social justice. It is important to realize that gender inheritance issues cannot be separated from the social context; therefore, an interdisciplinary approach is required for Islamic inheritance law to remain relevant in the contemporary era.

CONCLUSION

This article highlights that classical Islamic inheritance law is normative and magical, stipulating a fixed division based on the Quranic text (e.g. a 2:1 son/daughter ratio). In modern practice, however, social tensions over gender justice have emerged, prompting contemporary discussions. Reformist scholars such as Shahrur point out that there is still room for *ijtihad* to adjust the boundaries of the provisions to address social justice issues. Diagrams and tables help to understand the inheritance distribution system and the differences in classical vs contemporary views. Case studies of inheritance calculations reveal that without additional solutions (e.g. wills or grants), inheritance provisions can lead to social conflicts, particularly over the welfare of female heirs.

Thus, the novelty of this paper lies in emphasizing the relationship between religious norms and social reality. The normative perspective views inheritance law as *qath'i* (fixed) with the principle of justice based on socio-economic roles, while the sociological perspective considers the need for adjustments so that this law is accepted by a society that demands gender equality. The relevance of this study is particularly strong given the increasing gender awareness among Muslims. The results emphasize the importance of open dialogue

between religious authorities, fiqh experts and the general public to achieve a fair inheritance policy that is in line with sharia values. Although the Quranic decrees are final, contextual application through fatwas, national legal policies and family agreements is necessary to realize social justice in inheritance distribution.

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