

Inheritance Distribution System: A One-To-Two Analysis of The Axiological Perspective of Islamic Law Philosophy

Asman¹*Andrey V. Kolyazhor²

¹Universitas Sultan Muhammad Syafiuddin Sambas, Indonesia

²Moscow State University of Technologies and Manajemen, Moscow, Rusia Federation

*Corresponding email: asmanarwan@gmail.com

Article Info	Abstract
Received: 30-06-2024 Revised: 06-09-2024 Accepted: 06-09-2024 Published: 04-10-2024 Keywords: Distribution; Inheritance; One-to-two analysis; Axiology; Philosophy of Islamic law	This study discusses the division of inheritance one to two in Indonesia which is reviewed from the philosophy of Islamic law. In the philosophy of Islamic law, every discussion of Islamic law is inseparable from the study of axiology, epistemology and ontology. The division of inheritance in Indonesia is experiencing controversy between women and men in gender issues. The Qur'an surah an-nisa verse 11 explains that the distribution of inheritance has been determined, but in fact in Indonesian society, especially the Muslim people, in the distribution of inheritance between daughters and sons, there are those who use the concept of one to one. Is the division of inheritance one to one contrary to the Qur'an which is Islamic Shari'a. The focus in this study is how the axiology of the one-to-two dimension in the division of inheritance in Indonesia perspectives of Islamic legal philosophy. The method in this study is a qualitative research method that is bibliographical. This study took data through references or references from books, journals, mass media and other references relevant to this study. Meanwhile, the findings in this study are that from the axiological perspective of Islamic legal philosophy, the division of inheritance is one to two reflecting the value of substantive justice, not formal justice. This substantive justice seeks to balance the rights and obligations between men and women in accordance with their respective social roles and responsibilities in society.
Info Artikel	Abstrak
Kata Kunci: Distribusi; Warisan; Analisis satu berbanding dua, Aksiologis; filsafat hukum Islam	Penelitian ini membahas terkait pembagian waris satu banding dua di Indonesia yang di tinjau dari filsafat hukum islam. Dalam filsafat hukum islam menjelaskan setiap pembahasan hukum islam tidak terlepas dari kajian aksiologi, epistemologi dan ontologi. Pembagian waris di indonesia mengalami kontroversi antara perempuan dan laki-laki masuk dalam isu gender. Al-Qur'an surat an-nisa ayat 11 menjelaskan dalam pembagian waris sudah ditentukan bagiannya, tetapi kenyataannya di masyarakat indonesia khususnya umat muslim dalam pembagian waris antara anak perempuan dan anak laki-laki ada yang menggunakan konsep satu banding satu. Apakah pembagian waris satu banding satu bertentangan dengan al-Qur'an yang merupakan syariat islam. Fokus dalam penelitian ini adalah bagaimana aksiologi dimensi satu banding dua dalam pembagian waris di

Indonesia prespektif filsafat hukum islam. Metode dalam penelitian ini adalah metode penelitian kualitatif yang bersifat kepustakaan. Penelitian ini mengambil data melalui rujukan atau referensi dari buku, jurnal, media masa dan referensi lainnya yang relevan dengan penelitian ini. Sementara itu, temuan dalam penelitian ini adalah Dari perspektif aksiologis filsafat hukum Islam, pembagian warisan adalah satu banding dua mencerminkan nilai keadilan substantif, bukan keadilan formal. Keadilan substantif ini berupaya menyeimbangkan hak dan kewajiban antara laki-laki dan perempuan sesuai dengan peran dan tanggung jawab sosial masing-masing dalam masyarakat.



Copyright© 2025 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

INTRODUCTION

The population of Indonesia is a predominantly Muslim society, but there are still many people who do not understand or are not willing to practice Islamic law as a whole. Islamic law has laid down the rules regarding inheritance and the law regarding property as well and justly as possible. Islam establishes the right of property of a person, both male and female, such as the transfer of property to his heirs after death. Islamic law does not discriminate between the rights of children and adults. In addition, compulsory Islamic law is believed to be part of Islamic law whose implementation cannot be separated from faith and aqidah.

Islamic inheritance law is part of family law which plays an important role in determining and reflecting the system and form of law that applies in Islamic society. Islamic inheritance governs the transfer of property from a deceased person to a living one ([Muhammad Daud, 2022](#)). In the Compilation of Islamic Law (IPR) it is explained that what is meant by inheritance law is the law that regulates the transfer of ownership rights of inheritance property (*tirkah*) heirs, determines who is entitled to be heirs and how much each share is obtained.

The law of inheritance is one of the most important issues in Islam, and is a law that is reflected directly from the sacred texts that have been agreed upon to exist. As a religious law that comes from the revelation of Allah SWT. As stated by the Prophet Muhammad SAW, Islamic inheritance law contains various principles that in some ways also apply to laws derived from human reason. The basic concept of inheritance has been mentioned in the Qur'an ([Iffatin Nur, 2020](#)). Each verse and commandment contained in

the Qur'an has its own purpose and wisdom for the benefit of His servants. One of the verses that explains inheritance is Q.S. An-Nisa' verse 11, which reads :

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُن لَّهُ وَلَدٌ وَوَرِثَهُ أَبَوُهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دِينٍ ۗ إِنَّا نَسِيئُهُ لَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"Allah decrees (obliges) you about (the division of inheritance for) your children, (that is) the share of a son is equal to the share of two daughters. And if the children are all girls who number more than two, then their share is two-thirds of the property left behind. If she (the daughter) is alone, then she gets half (the property left behind). And for both mothers, each other's share of the property left behind, if he (the deceased) had children. If he (the deceased) has no children and he is inherited by both of his fathers (only), then his mother gets one-third. If he (the deceased) had several siblings, then his mother got one-sixth. (The aforesaid divisions) after (fulfilled) the will made by him or (and after being paid) his debts. (About) your parents and your children, you don't know which of them will benefit you more. This is God's decree. Truly, Allah is all-knowing, all-wise."

Various basic concepts of inheritance are also mentioned in other suras in the Qur'an, including, Al-Baqarah (2) verses 180, 233, 240, An-Nisa (4) verses 1, 7, 8, 11, 12, 33, 176, Al-Anfal (8) verse 75, Al-Ahzab (33) verses 4, 5, 6, and At-Talaq (65) verse 7. These verses of the Qur'an can be used as a basis for reference in solving the problem of Muslim heritage ([Alshehaby, 2020](#)). Social developments and habits that occur and grow in people's legal consciousness, give birth to ideas about renewal in the field of inheritance law. The existence of Islamic inheritance law is presented in detailed and systematic texts ([Harari, 2019](#)). But along with the development of increasingly modern times, various modern thoughts based on science emerged, giving rise to differences of opinion among contemporary Islamic scholars and thinkers in understanding a science, especially in the field of inheritance.

According to Hisam Ahyani in his research entitled "Principles of Gender-Friendly Based Justice (Maslahah) in the Distribution of Heritage in Indonesia". This study concludes that: 1) the principles of gender-friendly justice (maslahah) in the distribution of inheritance in Indonesia are concepts based on the principle of agreement (deliberation); 2) the application of the principles of gender-friendly justice (maslahah) in the distribution of

inheritance in Indonesia can be done by applying the principle of gender equality in Islam, namely by prioritizing the concept of rahmatan lil'alam. ([Hisam, 2023](#))

Meanwhile, according to Rafika Kurnia Saputri in her research entitled "Public Understanding of the Application of the Distribution of Inheritance According to Islamic Inheritance Law". The results of the study show that public understanding greatly affects the implementation of Islamic inheritance law in practice, so that there are often conflicts in the distribution of inheritance due to the lack of understanding and awareness of the community as well as the lack of role of the government or local religious leaders. The equal distribution of inheritance between men and women is also not entirely blamed and can be done if the division does not cause conflicts or disputes. ([Rafika, 2023](#))

From the explanation of the previous research, it can be concluded that the difference between this study and the previous research is to examine the reconstruction of the distribution of Islamic heritage through a gender justice approach. This study highlights the importance of understanding sharia texts contextually so that inheritance law can adapt to more progressive gender justice values in modern society.

As a result of intellectual work through *istinbat* or *ijtihad*, scholars in understanding the provisions of the verses of the Qur'an and the Sunnah, jurisprudence have been set forth in detail in the books of jurisprudence ([Ishaq, 2023](#)). However, social and habitual developments that occurred and grew in people's legal consciousness, gave birth to ideas about reform in the field of inheritance law. The concept of one to two inheritance division between women and men has always been a problem, especially compared to current social conditions that uphold equal rights and gender such as women working or careers. Therefore, it is necessary to approach the philosophy of Islamic law in studying this problem.

RESEARCH METHODS

This research uses a qualitative approach with normative juridical methods. This approach aims to examine the inheritance distribution system in Indonesia based on Islamic law and connect it with the axiological perspective of Islamic law philosophy. Penelitian ini bersifat deskriptif-analitis. The data collected will be explained systematically, then analyzed to understand the application of Islamic inheritance law in a social and philosophical context. For primary data, this data is obtained from legal documents such as the Qur'an, Hadith, and relevant fiqh books, especially those that discuss inheritance law in

Islam. As for secondary data, this data includes scientific literature, journals, articles, and books that discuss Islamic legal philosophy, as well as inheritance law policies in Indonesia. Meanwhile, the findings in this study are From the perspective of the axiologic perspective of Islamic legal philosophy, the distribution of inheritance is one to two reflects the value of substantive justice, not formal justice. This substantive justice seeks to balance the rights and obligations between men and women in accordance with their respective social roles and responsibilities in society.

RESULTS AND DISCUSSION

The Essence of Inheritance Distribution in Islam

The Islamic system of inheritance regulates the transfer of property from a deceased person to a living one. These rules regarding the transfer of property are called by various names. In Islamic legal literature there are several terms to name the law of inheritance such as: *Fara'id*, *Fiqh Mawaris*, and *bukm al-Waris* ([Larasati, 2021](#)). The terms of inheritance law in Islamic law include fara'id law which is included in the discussion of ahwal shakhsyiyah, Fara'id is the plural of fari'dah which literally means part. The word faridah or fara'id is also closely related to the meaning of fardlu which means obligations that must be carried out ([Huda, 2023](#)). Thus, the law of fara'idl means the law of the division of inheritance which must be obeyed by the Muslims.

According to Suwarti, that the Islamic inheritance system is a set of provisions that regulate the ways of transferring rights from a deceased person to a living person whose provisions are based on the divine revelation contained in the Qur'an and its explanation given by the Prophet Muhammad SAW, in Arabic terms referred to as *Faraidl* ([Suwarti, 2022](#)). The estate shall be divided in accordance with the provisions laid down in the *nash*, after the management and burial expenses have been settled, the debts, and all the wills settled. Then the estate can be distributed to those who are entitled to receive it after the bequeather has actually died, and the heirs are actually alive, both essentially and shari'i, such as a fetus that is still in its mother's womb, or a person who disappears before it is certain that he has died ([Redi, 2022](#)). And finally, the heir did not take any action that would hinder the distribution of the estate to him.

Inheritance according to most Islamic jurists is all property left by a deceased person in the form of movable or fixed objects, including goods or borrowed money and

also goods that have something to do with the rights of others, such as goods mortgaged as security for his debts while the heir is still alive ([Nasrul, 2021](#)). The provisions of Allah SWT which command that every believer follow the provisions of Allah SWT regarding the law of inheritance as contained in the holy book of the Qur'an and promises hellish torture for those who violate this rule.

The law of inheritance that applies in accordance with Islamic law is of course based on the Qur'an and the hadiths of the Prophet SAW, as previously described, so there are principles that must be considered in the implementation of the law of inheritance. According to Khosyi'ah in the inheritance of Islamic law there are 5 (five) principles, including the following: First, the principle of *ijbari* i.e. the transfer of property of a deceased person to a living one applies by itself which in the sense of Islamic law takes place in *ijbari* ([Khosyi'ah, 2022](#)). This implies that the transfer of the estate of a deceased heir to his heir applies automatically in accordance with the decrees of Allah SWT, without depending on the will of the heir or heirs with a predetermined share. Second, the Bilateral Principle, that is, a person receives inheritance from both sides of the relative, namely both male lineage relatives and from the female lineage relatives. The principle contains the understanding that a person who is the heir of both lines of relatives, namely from the father's side and the mother's side ([Djawas, 2022](#)). This principle can be seen in Sura an-Nisa verse 7 which means that men are part of the legacy of their father's mother and his intimate.

Third, the Individual Principle is that the property left by the deceased, divided individually or privately directly to each individual. Fourth, the principle of Balanced Justice is that both men and women are equally entitled to appear as heirs, inheriting the estate left by the heir ([Syibly, 2020](#)). The principle implies that there must always be a balance between rights and obligations, Between the rights obtained by a person and the obligations that must be fulfilled, men and women get rights that are proportional to the obligations they will bear later in family and community life. Fifth, the Principle of Inheritance Solely as a Result of Death is the transfer of one's inheritance to another person with the name of inheritance taking effect after the death of the testator ([Harnides, 2023](#)). This means that the transfer of inheritance takes place after the death of a person (heir).

Zuhirsyan said, that the transfer of inheritance is *ijbar*, the transfer takes place itself according to the will of Allah SWT without depending on the will of the heir or the request of his heirs ([Zuhirsyan, 2022](#)). The element of *ijbar* contained in the concept of Islamic inheritance law is in accordance with the meaning of the terminology seen, that the heir is forced to accept the fact of the transfer of property to himself in accordance with the provisions of the Qur'an and the hadith of the Prophet Muhammad SAW. This is what distinguishes Islamic inheritance law from customary inheritance law and Civil inheritance law (BW).

Provisions in Islamic law where the heirs entitled to receive inheritance are 25 (twenty-five) people, with details of fifteen people from the male side and ten people from the female side. The division of Islamic law is as follows: First, The heirs on the male side are sons, grandsons of sons, fathers, grandfathers, biological brothers, fatherly brothers, maternal brothers, sons of biological brothers, son of brother, uncle, uncle, son of uncle, husband and man who freed *sahaya's* servant. Second, Female heirs are daughters, granddaughters of sons, mothers, paternal grandmothers, maternal grandmothers, biological sisters, fatherly sisters, maternal sisters, wives, and women who have freed slaves ([Batool, 2019](#)).

The justice of Islamic inheritance law that comes from Allah SWT which is cumulative and *ijbar* is a command that must be obeyed, namely the command to divide inheritance according to the provisions of QS. al-Nisa' verses 11, 12, and 176 such as 1/2, 1//3, 1/4, 1/6, 1/8, and 2/3, even up to the mention of portions of 2: 1 ([Hasballah, 2023](#)). This is clear evidence that Islamic inheritance law has laid a foundation of legal justice in accordance with human rights and dignity, while other laws can be said to be far from the real justice that comes from the Almighty Creation of Allah Almighty. These verses can provide knowledge that these three verses are the principles of *faraid*, in which they contain rules and procedures relating to the rights and division of inheritance in full. God's justice does not neglect and ignore the rights of every heir. Even with very clear and perfect rules, He determines the distribution of the rights of each heir fairly and wisely. He applied this with the aim of bringing justice into human life, and eliminating tyranny.

Axiology of Dimensions from One to Two Inheritance Divisions

In the context of critical study of the philosophical dimension from one to two using the philosophical (philosophical) method, then what should be used as the basis of

his thinking is that philosophy in general will analyze using aspects of the foundation used, including ontological, epistemological and axiological. Relating to the study of inheritance law based on ontological aspects which means science that discusses the nature of something that exists, which is the ultimate reality both in physical and spiritual form. Meanwhile, according to Mappong, ontology is about what we want to know, how far we want to know, or a study of the theory of existing. The law of inheritance is a provision that regulates the transfer of one's property (wealth) to another person, on the grounds of the death of the heir ([Mappong, 2023](#)). Therefore, all property owned will become the right of his heirs. The law of inheritance becomes a necessity to move when time already exists with consideration from the heirs.

Epistemology or theory of knowledge is a branch of philosophy that deals with the nature and environment of knowledge, its assumptions and bases and accountability for statements about knowledge possessed. Epistemology is the discussion of the methods used to obtain knowledge. In the epistemological aspect of inheritance law, the distribution of property (wealth) that is the object to be inherited to heirs is basically based on justice and balance ([Reskiani, 2022](#)). Where the meaning is that the share for men and women is equally entitled as an heir, inheriting the estate left by the testator. Therefore, there must always be a balance between rights and obligations, between the rights obtained by a person and the obligations that must be fulfilled by men and women get rights that are comparable to the obligations imposed by each later in family and community life.

The definition of axiology according to Tohari is a theory of value related to the usefulness of the knowledge obtained. In the axiological aspect of inheritance law, the division of inheritance so far is not minimal from the occurrence of disputes or disputes that occur in these heirs ([Tohari, 2022](#)). Many people do not understand the law of inheritance (both in Western Civil / BW; Islamic inheritance; and Customary inheritance) So there are still often misperceptions. As a result, there are not a few conflicts or disputes between the heirs because they feel that the division is uneven. However, in the axiological aspect, this is an aspect that gives the purpose that the inheritance property to which the heirs are entitled must really be able to be distributed according to their share, for example the share of men and women and both children and adults ([Azhar, 2019](#)). All of them are heirs who according to the provisions are legal (according to Islamic law), so the inheritance is entitled to them.

The arrival of Islam in one of its teachings is to raise the dignity and dignity of women who before they were treated very unfairly in the life of the structure of society in general, seems to be only a tool of gratifying male lust and only as a second-class citizen, this situation almost occurs in all levels of society, even in Arab society a woman can be inherited and they are very disgraceful if they give birth to a daughter so that they are allowed to be killed. With the advent of Islamic teachings, overhauling the Arab system of society by elevating women to the same level as men, not allowed to be killed, even in inheritance recognized for their rights as heirs who were not previously recognized by society two to one is very fair considering that the verse of inheritance descended in a society that adheres to the patrilineal system ([Douki Dedieu, 2021](#)). If at that time stated one to one there would be a shock in society and considered unfair because it was contrary to the sense of justice felt and lived in society at that time.

Islamic inheritance law that was born and developed in the Middle East in its community structure that adheres to the patrilineal family system, then the results of the interaction of Arab scholars on the social environment will produce Islamic law products that are colored by the culture of the local community, thus came the Islamic law of inheritance with a patrilinealistic face ([Munir, 2023](#)). In its development, these products will clash if applied in a non-patrilinealistic community structure. The problem underlying the conflict is that there is no neutral family system as the basis of Islamic inheritance law, actually in kinship what should be the basis of Islamic inheritance law is bilateral.

In the Qur'an men and women are equally entitled to the inheritance of their parents and relatives. The provision was an overhaul of the Arab custom of only granting inheritance rights to men who could bear arms defending the honor of their clan. So that children, the elderly, and women, because they cannot bear arms, have no right to inheritance at all ([Muzaki, 2021](#)). The provision of the son's share doubling the share of the daughter is found in the Qur'an Sura An Nisaa: 11 Allah decreed for you about (the distribution of inheritance to) your children. That is: the share of a son is equal to the share of two daughters.

From the above verse that sons and daughters are absolute heirs and it is clearly determined that the share of sons is twice that of daughters. The idea of changing the consideration of inheritance from 2:1 to 1:1 does seem philosophical and seems fairer than the balance of 2:1. The redaction of the above verse clearly shows that the part of the son, equal or comparable to the share of two girls. If God intended to give the

possibility of changing this inheritance balance to 1:1, then the redaction would have been different. The heirs of children consisting of male and female are a type of *'aṣābah bi ghairih* ([Ilyas, 2023](#)).

According to Mirshekari that this inheritance verse explains that the maximum limit applies to men and the minimum limit applies to women. This means that men cannot be more than two and women cannot be less than one. So that under certain circumstances, men and women will be able to obtain the same position in the division of inheritance under the same conditions ([Mirshekari, 2019](#)). Concretely, if the economic burden of the family is entirely or 100% borne by the man, while the woman is not involved at all 0%, in this condition, the limitation of God's law can be applied, which is to give two parts to men and one part to women.

Language analysis of Q.S. al-Nisa' [4]: 11, "*li al-ḥakkar mithl haḥḥ al-unshayayn*", i.e. the placement of the word *al-dḥakkar* at the beginning rather than *al-unsha due to al-dhakar's* position *as a follower variable* (*tabi'*). In contrast, the word *al-untha* is mentioned with an infinite number of one because of its position as a modifier variable (*mutabannmil*). The word *al-dḥakkar* means male gender, whether it is an adult or immature (still a child). The word *haḥḥ* indicates the meaning of the share of property (ration) received from inheritance, then this *haḥḥ* is an objective ration, which is not determined by humans but determined by Allah SWT Himself (outside of human will).

Regarding the word *al-unsha* has the meaning of female gender whether it is an adult or immature (still a child). According to Shahrur, the meaning of Q.S.al-Nisa' [4]: 11, "*li al-ḥakkar mithl haḥḥ al-unshayayn*" is that the male ration (*haḥḥ*) is double that of women in one case only, that is, when there are two women to one man, in the sense that there is an objective number not a hypothetical number to express the number of one man and two women ([Noorjaman, 2023](#)). It can be understood that the male group gets double the female group's ration if the number of women is double the number of men. From the above, the minimum limit of the group of women is 1/3 of the inheritance, based on the words of Allah Q.S. al-Nisa' [4]: 11, "*li al-ḥakkar mithl haḥḥ al-unshayayn*" understood by Shahrur that the number of heirs consists of one son and two daughters.

Jumhur ulama and Muhammad Shahrur had a disagreement in understanding surah An-Nisa verse 11. As jumhur understood the verse through the bayani approach, while Muhammad Syahrur through the theory of hudud. The bayani approach meant by

the majority of scholars is to explain the meaning of a talk using lafz. First, viewed from the perspective of the position of lafz (*al-wad'*) ([Arafah, 2023](#)). This method of analysis is according to the form and scope of its meaning. Second, from the perspective of the use of lafz (*al-isti'mal*). This method of analysis is in accordance with the intention of the speaker in delivering his speech, lafz and its meaning does not change because it has been established. Third, viewed from the perspective of the degree of clarity of a lafz (*darajat al-wudub*). Fourth, seen from the perspective of *dilalah* (meaning content) of a lafz (*thariqah al-dalalah*).

Unlike Muhammad Syahrur, the hudud theory referred to here is the maximum and minimum limits come simultaneously, but do not unite in one line. Syahrur considered that the basis of calculation in inheritance law was women, while the male group was only a follower variable whose share could change according to the number of women who inherited with him ([Kosim, 2022](#)). Against this limit, stated that this limit applies if the number of girls is twice the number of boys. This is where the part of the group of boys and girls in accordance with the demands of the situation and conditions prevailing in a society supported by statistics, if deemed necessary then equal distribution can also be justified.

In Indonesia, Islamic teachings are included in line with the development of public legal awareness, for the current atmosphere and reality based on developments in Indonesian society that demand equal rights in inheritance one to one can be accepted with an atmosphere of sense of justice in our society. This can be seen in everyday reality in people's lives in the distribution of inheritance either while still alive or when the inheritance is distributed after the death of the heir by giving equal shares between men and women ([Rahman, 2022](#)). In the life of the Indonesian Muslim community in general there are differences in interpreting justice in inheritance, because of their backgrounds who are born and live in different communities family system or character if the lineage is connected with male, father, patrilineal. Similarly, for people born in the middle of the matrilineal family system will have the opposite principle, fair in inheritance exists if the lineage is linked to women or mothers.

In the Compilation of Islamic Law the section of girls is not actualized. Article 176 of the Compilation of Islamic Law (KHI) regulates the amount of share between sons and daughters in the distribution of inheritance. The stated "and when girls are with sons, then the share of sons is two to one with girls." The certainty of the provision of division still

adheres to QS. an-Nisa': 11. For just an alternative to the steadiness of QS norms. an-Nisa': 11, Article 183 of the Compilation of Islamic Law (KHI) opens the possibility of deviating through the path of "peace". In the article it is stated: "The heirs may agree to make peace in the division of the estate, after each realizes his share". Thus, if Article 176 KHI is linked to the alternative outlined in Article 183 KHI, the benchmark for applying the portion of inheritance between sons and daughters can be explained as follows: firstly, the share of sons is two to one (2:1) with the share of daughters, and secondly but through peace it can be agreed upon by the heirs the amount of shares that deviate from the provisions of Article 176 of the KHI.

According to Hisam Ahyani in his research entitled "Principles of Gender-Friendly Based Justice (Maslahah) in the Distribution of Heritage in Indonesia". This study concludes that: 1) the principles of gender-friendly justice (maslahah) in the distribution of inheritance in Indonesia are concepts based on the principle of agreement (deliberation); 2) the application of the principles of gender-friendly justice (maslahah) in the distribution of inheritance in Indonesia can be done by applying the principle of gender equality in Islam, namely by prioritizing the concept of rahmatan lil'alamin. ([Hisam, 2023](#))

Meanwhile, according to Rafika Kurnia Saputri in her research entitled "Public Understanding of the Application of the Distribution of Inheritance According to Islamic Inheritance Law". The results of the study show that public understanding greatly affects the implementation of Islamic inheritance law in practice, so that there are often conflicts in the distribution of inheritance due to the lack of understanding and awareness of the community as well as the lack of role of the government or local religious leaders. The equal distribution of inheritance between men and women is also not entirely blamed and can be done if the division does not cause conflicts or disputes. ([Rafika, 2023](#))

His Holiness has explained the laws of inheritance and the provisions of each heir clearly, and has not condoned or restricted a person's share of his inheritance rights. The Qur'an is the basis on which the law and its balance sheet depend. Only a small part (of inheritance law) is established by sunnah and ijma'. In the Islamic Shari'ah there are no laws described by the Qur'an as clearly and in detail as the law of inheritance. So high is the value of this law of inheritance, that we are noble to explain its laws in particular, clearly and unequivocally. The manifestation of Allah's justice in the law of inheritance is that Allah Almighty Himself has determined the distribution of inheritance and does not hand over to any of His creatures. Although they intend to bring about justice, they

will not be able to bring about some kind of fair distribution, because they do not know the position of parents and children, and they cannot detect which of them (parents or children) is more beneficial.

From the explanation of the previous research, it can be concluded that the difference between this study and the previous research is to examine the reconstruction of the distribution of Islamic heritage through a gender justice approach. This study highlights the importance of understanding sharia texts contextually so that inheritance law can adapt to more progressive gender justice values in modern society.

CONCLUSION

Legal provisions including the provisions of inheritance law in Islam are Allah's provisions that must be obeyed, therefore humans have no right to change Allah's provisions. Islamic inheritance law distinguishes the size of a particular part of the heir in harmony with his needs in daily life. The difference in the share of inheritance is in line with the size of the burden of obligations that must be fulfilled in family life.

In the basic concept of inheritance law, there is a clear distinction between the share of male heirs and female heirs. This is determined because it is in line with the burden of men's obligations as breadwinners and women are not subject to the obligation to earn family support according to the provisions of Islamic law. One to one in the division of inheritance is permissible as long as it uses the principles of justice, honesty and togetherness. Therefore, men are burdened with material obligations more than women, so it is logical that men's share is greater than the share given to women.

Researchers can further compare the Islamic heritage distribution system with the inheritance system in customary law, civil law, or inheritance systems in Muslim countries with a modern approach. This will help in understanding the relevance of the one-to-two system in various social and economic contexts. Empirical data-based research is needed to measure how the Islamic heritage system affects family welfare, economic stability, and gender balance in society. These studies can be conducted through surveys, interviews, or case studies in several Muslim communities.

REFERENCES

- Alshehaby, F. (2020). "Cultural Heritage Protection in Islamic Tradition". *International Journal of Cultural Property*, 27(3), 291–322. doi:10.1017/S0940739120000259
- Ahyani, H., Putra, H. M., Muharir, M., Sa'diyah, F., Kasih, D. K., Mutmainah, N., & Prakasa, A. (2023). *Prinsip-Prinsip Keadilan Berbasis Ramah Gender (Maslahah) Dalam*

- Pembagian Warisan Di Indonesia. Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)*, 5(1), 73-100. <https://doi.org/10.20885/mawarid.vol5.iss1.art6>.
- Arafah, N. N. (2023). The Hermeneutic Concept of The Qur'an Muhammad Shaḥrūr. *Eduvest-Journal of Universal Studies*, 3(2), 404-415. <https://doi.org/10.59188/eduvest.v3i2.747>
- Azhar, A., & Md Nor, M. Z. (2019). Hibah In The Administration Of Islamic Property: Ijtihadi Elements And Reality In Malaysia. *UUM Journal of Legal Studies*, 10 (2), 103–119. <https://e-journal.uum.edu.my/index.php/uumjls/article/view/uumjls.10.2.2019.6400>
- Batool, U., & Zia-ul-Haq, M. (2019). Custom and Female Right of Inheritance. *Islamic Studies*, 58(1), 51-82. <https://www.jstor.org/stable/26758946>
- Djawas, M., Hasballah, K., Devy, S., Kadir, M. A., & Abda, Y. (2022). The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law. *JURIS (Jurnal Ilmiah Syariah)*, 21(2), 207-219. <http://dx.doi.org/10.31958/juris.v21i2.7495>
- Douki Dedieu, S., Ouali, U., Ghachem, R., Karray, H., Issaoui, I. (2021). Violence Against Women in the Arab World: Eyes Shut Wide Open. In: Laher, I. (eds) Handbook of Healthcare in the Arab World. Springer, Cham. https://doi.org/10.1007/978-3-030-36811-1_169
- Harari, M. (2019). “Women’s inheritance rights and bargaining power: Evidence from Kenya”. *Economic Development and Cultural Change*, 68 (1), 189-238. <https://www.journals.uchicago.edu/doi/abs/10.1086/700630>
- Harnides, H., Abbas, S., & Hasballah, K. (2023). Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia. *Samarab: Jurnal Hukum Keluarga dan Hukum Islam*, 7(2), 1293-1316. <http://dx.doi.org/10.22373/sjhk.v7i2.16688>
- Hasballah, K., Mubarrak, D., & Rasanjani, S. (2023). Disparity in judge decisions in resolving RAD inheritance disputes: case study at the Sharia Court in Banda Aceh City. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 249-261. <http://dx.doi.org/10.22373/ujhk.v6i2.8612>
- Huda, M., & Hidayati, T. W. (2023). The Concept of Muḥammad Shaḥrūr on Gender Parity in Inheritance Legislation. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 262-280. DOI: <http://dx.doi.org/10.22373/ujhk.v6i2.18121>
- Ilyas, I., Mahfud, M., & Pratama, R. C. (2023). The Existence of Dzawil Arham's Heir in Islamic Law and Its Application at the Syar'iyah Court of Banda Aceh. *International Journal of Multicultural and Multireligious Understanding*, 10(7), 60-65. <http://dx.doi.org/10.18415/ijmmu.v10i7.4806>
- Ishaq, I., & Ridwan, M. (2023). “A study of umar bin Khatab’s Ijtihad in an effort to formulate Islamic law reform”. *Cogent Social Sciences*, 9 (2), 2265522. <https://doi.org/10.1080/23311886.2023.2265522>
- Khosyī'ah, S., & Rusyana, A. Y. (2022). Inheritance settlement of descendants of children and siblings in Islamic law with local wisdom in Indonesia. *Cogent Social Sciences*, 8(1), 2126615. <https://doi.org/10.1080/23311886.2022.2126615>

- Kosim, K. (2022). The effectiveness of I-Waris application to increase inheritance understanding based on Islamic law. *World Journal of Advanced Research and Reviews*, 14(1), 368-376. <https://doi.org/10.30574/wjarr.2022.14.1.0324>
- Larasati, P., Darudin, M., & Dahwal, S. (2021). "Dispute Resolution Of Inheritance Distribution For The Substitute Heir In Terms Of Islamic Law". *Bengkoelen Justice: Jurnal Ilmu Hukum*, 11 (1), 97–109. https://doi.org/10.33369/j_bengkoelenjust.v11i1.15794
- Mappong, Z., & Lili, L. (2023). Right to Self Submission to Western Inheritance Law for the Heirs Of Islamic Religion Whom the Property Leaver Has Different Religion. *Journal of Law and Sustainable Development*, 11(2), e423. <https://doi.org/10.55908/sdgs.v11i2.423>
- Mirshekari, A., & Ghasemi, R. (2019). The study of justice in determining women's rights in the family according to the islamic legal system. *Journal of Shari'ah Law Research*, 4(2), 201-222. <https://ejournal.um.edu.my/index.php/JSLR/article/view/21322>
- Muhammad Daud, Z.F. and Azahari, R. (2022), "The wajibah will: alternative wealth transition for individuals who are prevented from attaining their inheritance", *International Journal of Ethics and Systems*, Vol. 38 No. 1, pp. 1-19. <https://doi.org/10.1108/IJOES-09-2018-0133>
- Munir, Z. A. H. (2023). Justice And Peace: The Reconstruction Of Inheritance Law Based On Tradition In Lombok. *Russian Law Journal*, 11 (2). <https://doi.org/10.52783/rlj.v11i2.507>
- Muzaki, K. A., Jahar, A. S., & Suma, M. A. (2021). Reform of the Law of Inheritance in Turkey and Tunisia. *Al-'Adalah*, 17 (2), 249-268. <http://dx.doi.org/10.24042/adalah.v17i2.8031>
- Nasrul, M. A. D., Manaf, Z. I. A., Syafril, S., & Fathurrohman, M. (2021). An Overview of the Inheritance Legal System in Malaysia and Indonesia: Issues Faced by Both Countries. *Journal of Shari'ah Law Research*, 6(2), 181-200. <http://mojes.um.edu.my/index.php/JSLR/article/view/33962>
- Noorjaman, A., & Salikin, A. J. (2023, July). Relationship Testament QS. Al-Nisa'[4]: 11 and Hadith The Extent of Fara'idh. In *Journal of International Conference Proceedings* (Vol. 6, No. 3, pp. 50-59). <https://doi.org/10.32535/jicp.v6i3.2380>
- Nur, I., & Muttaqin, M. N. (2020). "Reformulating The Concept of Maṣlaḥah: From A Textual Confinement Towards A Logic Determination". *Justicia Islamica: Jurnal Kajian Hukum dan Sosial*, 17 (1), 73-91. doi: 10.21154/justicia.v17i1.1807
- Rahman, U., Idham, I., Dalif, M., Makmur, M., & Sewang, A. (2022). Men and Women in The Distribution of Inheritance in Mandar, West Sulawesi, Indonesia. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 6(1), 156-175. <http://dx.doi.org/10.22373/sjhk.v6i1.9094>
- Redi, A., & Antasari, H. (2022, April). Comparative Analysis on the Regulation of Substitute Heir's Position in the Civil and Islamic Inheritance Law Perspective. In *3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)* (pp. 850-856). Atlantis Press. Doi. 10.2991/assehr.k.220404.135

- Reskiani, A., Tenrilawa, D. F., Aminuddin, A., & Subha, R. (2022). Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence. *JURIS (Jurnal Ilmiah Syariah)*, 21(1), 39-51. <http://dx.doi.org/10.31958/juris.v21i1.5564>
- Saputri, R. K. (2023). Pemahaman masyarakat tentang penerapan pembagian harta warisan menurut hukum waris Islam. *Journal of Comprehensive Islamic Studies*, 2(2), 205-220. <https://doi.org/10.56436/jocis.v2i2.255>
- Suwarti, S., Khunmay, D., & Abannokovya, S. (2022). Conflicts occurring due to the application of different legal inheritance systems in Indonesia. *Legality : Jurnal Ilmiah Hukum*, 30(2), 214–227. <https://doi.org/10.22219/ljih.v30i2.21020>
- Syibly, M. R., Nurozi, A., Tono, S., & Muallim, A. (2020, February). The efforts for balancing justice in the distribution of inheritance in patrilineal Muslim communities. In *2nd International Conference on Islam, Science and Technology (ICONIST 2019)* (pp. 210-213). Atlantis Press. Doi. 10.2991/assehr.k.200220.038.
- Tohari, C., Fawwaz, H., & Swadjaja, I. (2022). The Ijtihad Construction Of Islamic Law Based On The Maqâshid Al-Syari'Ah Approach In The Indonesian Context. *Prophetic Law Review*, 4(2), 195-221. <https://doi.org/10.20885/PLR.vol4.iss2.art4>
- Zuhirsyan, M., Pagar, P., & Yamamah, A. (2022). Sharing The Heritage of The Simalungun Batak Community: Realities and Implications. *Justicia Islamica: Jurnal Kajian Hukum dan Sosial*, 19(2), 227-244. doi: 10.21154/justicia.v19i2.3257