

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati,¹ Duski Ibrahim,² Firman Muntaqo,³ KN Shofyan Hasan⁴

Universitas Islam Negeri Raden Fatah Palembang, Indonesia^{1,2}

Universitas Sriwijaya Palembang, Indonesia^{3,4}

Email: yusidafitriyati_uin@radenfatah.ac.id

Keywords:

Gender-equal inheritance;
Inheritance cases;
Judicial decisions;
Maqashid al-Shariah;
Religious court.

DOI:

<https://doi.org/10.19109/nurani.v25i1.27133>

Submitted:

January 22, 2025

Accepted:

April 25, 2025

Published:

May 1, 2025

Pages: 122 - 140

Abstract: Traditional Islamic inheritance law stipulates a 2:1 ratio favoring male heirs. However, several decisions issued by Indonesia's Religious Courts have granted equal shares to male and female children. This shift reflects changing social and economic dynamics, where women increasingly serve as key providers within the family structure. This study aims to analyze and identify judicial reasoning behind the equal distribution of inheritance to sons and daughters, using the maqashid al-shariah framework. Employing a normative-empirical approach, the research integrates case study methods and legal philosophy, drawing on data from court verdicts, interviews, and questionnaires distributed to judges. The data were processed using qualitative descriptive analysis. The findings reveal two main patterns of inheritance division in judicial practice: the traditional model (2:1), aligned with textual sources and the Compilation of Islamic Law, and an equal distribution model (1:1). The 1:1 distribution is not merely the result of mediation, but rather stems from judicial ijtihad that prioritizes substantive justice in light of maqashid al-shariah. Judges' decisions in favor of equal inheritance are influenced by economic factors (e.g., women as primary earners), social roles (e.g., caregiving responsibilities), mutual agreement among heirs, and a dynamic understanding of maqashid. These rulings highlight the adaptive capacity of Islamic inheritance law to contemporary socio-economic realities without departing from its core principles. This study affirms the significance of context-sensitive ijtihad grounded in public interest (maslahah) for the reformulation of Islamic inheritance law in Indonesia, and emphasizes the judiciary's progressive role in transforming Islamic family law.

Introduction

The distribution of inheritance left by parents often becomes a source of serious conflict among their children, sometimes even resulting in the breakdown of familial relationships. This issue frequently arises when some parties feel that the division of assets is unjust (Nashirun, 2022). Inheritance disputes are also fueled by a general lack of understanding and awareness within society regarding Islamic inheritance law (Saputri, 2023; Sukarti et al., 2023). Moreover, the distribution of inheritance is influenced not only by gender dynamics (Ridwan, 2022; Sholihah et al., 2024) religious differences (Muhibbin, 2018; Riyanta et al., 2025), Polygamous Marriage (Nasution & Muchtar, 2024) but also by prevailing cultural values within the community (Hasan, 2023; Hasan et al., 2024; Ritonga et al., 2024).

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

The legal provision regarding Islamic inheritance for sons and daughters is found in the Qur'an, Surah An-Nisa (4:11). The verse states: *"Allah prescribes for you concerning your children: to the male, a portion equal to that of two females..."* This verse establishes the foundational rule that a son is entitled to receive a share equal to that of two daughters in matters of inheritance.

This provision is further codified into Indonesia's positive law through Article 176 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). The article states: *"If there is only one daughter, she shall receive one-half of the estate; if there are two or more daughters, they shall collectively receive two-thirds. If daughters coexist with sons, the share of a son shall be equal to that of two daughters"* (Kompilasi Hukum Islam, 1991). This legal formulation reflects a clear distinction in the share of inheritance between male and female heirs, whereby a male child is entitled to receive twice the share allocated to a female child.

According to classical Qur'anic exegetes (*mufassirin*), the differential inheritance shares are justified by the greater financial responsibilities traditionally borne by men compared to women (Shihab, 2007). Men are considered guardians and providers for women, as stated in the Qur'an, Surah An-Nisa (4:34): *"Men are the protectors and maintainers of women because Allah has given one more (strength) than the other, and because they support them from their means..."*

This implies that men are obligated to provide for both themselves and their families. However, in reality, many women also work and contribute financially to their households (Putri, 2021; Rosydiana, 2023). In Indonesian society, men and women are increasingly viewed as holding equal roles across all areas of life (Tohirin & Zamahsari, 2021). Furthermore, Ibn Abbas held the opinion that sons and daughters are equal in inheritance matters, allowing judges to base their decisions on the principle of justice (Kamarusdiana et al., 2021).

This phenomenon has influenced decisions made by Indonesia's Religious Courts regarding inheritance rights for sons and daughters. As a result, there has been a noticeable disparity in judicial rulings concerning the distribution of inheritance shares between male and female heirs. While the normative provision prescribes a 2:1 ratio in favor of sons, some court rulings have applied an equal distribution model, granting sons and daughters identical shares in a 1:1 ratio.

Previous studies examining equal inheritance distribution between sons and daughters have offered various perspectives. Asmara et al. (2020) argue that Muhammad Shahrur's theory of limits proposes a proportional approach to inheritance, suggesting that the traditional 2:1 ratio may not always be suitable given the specific circumstances of the heirs. According to Pongoliu (2019), equal distribution is permissible as long as it does not conflict with the provisions of the Compilation of Islamic Law, particularly Article 183, and aligns with the concept of *takharruj* (a negotiated exit from strict inheritance division). Mutakabbir et al. (2023) contend that equal division can be reached through deliberation (*musyawarah*), based on principles of propriety and fairness. Ahyani et al. (2023) advocate for an Islamic

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

interpretation of gender equality, grounded in the value of *rahmatan lil'alam* (universal mercy), as a basis for equitable inheritance. Similarly, Aniroh et al. (2024) view equal distribution as a means of promoting justice in Islamic family law, akin to the bilateral inheritance system. However, it is also important to note that equal division does not universally equate to justice. In legal theory, the concept of justice includes not only formal equality but also distributive justice. Moreover, some Qur'anic exegetes maintain that the 2:1 inheritance ratio between sons and daughters, as stated in the Qur'an, is a definitive and *qath'i* (categorically fixed) text, thereby excluding the possibility of reinterpretation or *ijtihad* in this matter (Bachri, 2022).

The aforementioned studies have yet to provide a comprehensive analysis of equal inheritance distribution between sons and daughters as reflected in judicial decisions by Indonesia's Religious Courts. As is well known, the Religious Courts are responsible for upholding law and justice in civil matters for Indonesia's Muslim population, including inheritance cases (Yusnita et al., 2024). This study aims to examine the patterns of judicial decisions in Religious Court inheritance cases that award equal shares to male and female heirs. The *maqashid al-shariah* framework is employed to explore the flexibility within Islamic inheritance law regarding equal distribution between sons and daughters.

Method

This study employs a normative-empirical legal research approach. It is grounded in the Qur'anic provision of Surah An-Nisa (4:11), which outlines the inheritance rights of sons and daughters, as codified in Article 176 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). The research connects these textual foundations with their practical application in judicial decisions rendered by the Religious Courts. The methodological framework incorporates both case study and legal-philosophical approaches to analyze how inheritance distribution is interpreted and implemented in actual court rulings.

This study involves document analysis of selected decisions from the Religious Courts, interviews with judges, and the distribution of questionnaires to judges of the Religious Courts. The primary legal materials include selected judicial decisions that awarded equal inheritance shares to sons and daughters, such as Decision No. 97/Pdt.G/PA Pkj, Decision No. 0007/Pdt.G/PA Tbn, and Decision No. 1642/Pdt.G/PA JP. In addition to these primary sources, the research is supported by secondary legal materials, including scholarly articles and relevant references concerning inheritance rights for Muslim male and female heirs. Once the legal materials were collected, the data were processed using a qualitative descriptive-analytical method to address the study's research objectives. The data analysis followed three key stages: data reduction, data verification, and data description (Fernando et al., 2021).

Results and Discussion

Patterns of Inheritance Shares for Sons and Daughters in Judicial Decisions of the Religious Courts

Inheritance matters involving Muslims fall under the exclusive jurisdiction of the Religious Courts. When parties are involved in disputes concerning inheritance, whether in the form of petitions for determining estate assets, identifying heirs, or allocating individual shares, or in cases of contested inheritance, it is within the authority of the Religious Courts to resolve such matters through judicial determinations and rulings. This jurisdiction is explicitly regulated under Law No. 7 of 1989 in conjunction with Law No. 3 of 2006 and Law No. 50 of 2009, Article 49(1), which states that the Religious Courts are tasked with and authorized to examine, adjudicate, and resolve cases at the first instance involving Muslims in the areas of marriage, inheritance, wills, gifts, waqf, zakat, *infaq*, *shadaqah*, and sharia economic affairs (Undang-Undang (UU) Nomor 50 Tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama, 2009).

Based on the decisions of the Religious Courts in inheritance cases involving sons and daughters, two distinct patterns of inheritance distribution have emerged. The first follows the traditional 2:1 ratio, where the male heir receives twice the share of the female heir. The second adopts an equal distribution model, granting sons and daughters the same share (1:1). These two patterns are applied in judicial practice through two mechanisms: either as the result of mutual agreement or settlement between the parties, or through judicial *ijtihad* as reflected in formal court rulings. This study examined five Religious Court decisions that implemented the traditional 2:1 distribution between male and female heirs: Decision No. 1652/Pdt.G/2020/PA Plg, Decision No. 2313/Pdt.G/2021/PA Mks, Decision No. 2006/Pdt.G/PA Mks, Decision No. 53/Pdt.G/2021/PA JP, and Decision No. 2126/Pdt.G/2022/PA Tnk (Supreme Court Decision Directory of the Republic of Indonesia). These five rulings adhered to the conventional interpretation of inheritance distribution as explicitly outlined in Article 176 of the Compilation of Islamic Law.

The results of the 2025 questionnaire distributed to judges of the Religious Courts indicate that the application of the 2:1 inheritance ratio between sons and daughters is grounded solely in the authority of the *nash* (textual legal provision). This provision is considered *sharih* (explicit and unambiguous) and *qath'i* (definitive and certain). As such, there is no room for *ijtihad* (independent legal reasoning) in interpreting this matter. According to the consensus of Islamic jurists (*fuqaha*), any claim of *ijtihad* in this context is not considered valid or acceptable.

Meanwhile, there are Religious Court decisions that awarded equal shares (1:1) to male and female heirs. These include Decision No. 97/Pdt.G/2002/PA Pkj, Decision No. 0007/Pdt.G/2018/PA Tbn, Decision No. 1642/Pdt.G/2019/PA JP, and Decision No. 1217/Pdt.G/2022/PA Mks. Of these four decisions, three were the result of judicial *ijtihad*—namely, Decision No. 97/Pdt.G/2002/PA Pkj, Decision No. 0007/Pdt.G/2018/PA Tbn, and Decision No. 1642/Pdt.G/2019/PA JP. One decision, however, was based on a mutual

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

settlement agreement between the disputing parties Decisien No.1217/Pdt.G/2022/PA.Mks.

Although the case initially involved a dispute, during the mediation phase led by the judge, the parties reached a mutual agreement. This outcome aligns with Article 183 of the Compilation of Islamic Law (KHI), which states: “*The heirs may reach an agreement to settle the division of inheritance peacefully, once each party becomes aware of their respective rights.*” The judge explained to the parties that a peaceful settlement is preferable, more prudent, and socially commendable. Moreover, such a resolution is considered more efficient and practical in terms of time, effort, and cost (Sentana et al., 2020).

The success of mediation or settlement reflects the effectiveness of the judge in their role as a neutral mediator. As a facilitator, the mediator fosters dialogue between disputing parties by creating an atmosphere of openness, enabling honest communication aimed at reaching a consensus. Judges may employ two key strategies: communication strategy and speech strategy. The communication strategy involves initial steps such as understanding the parties, identifying the root of the problem, crafting messages, and selecting appropriate methods. Simultaneously, the speech strategy entails applying communication techniques through language use, taking into account the dimensions of space, time, and values. These values are closely linked to social and cultural norms, such as local customs, domestic contexts, social expectations, ethics, interpersonal etiquette, and decorum. In addition to these speech techniques, the judge must also be mindful of the communication context, provide constructive feedback, and appropriately assume social roles (Istiadah, 2022).

Judicial Analysis of Equal Inheritance Rulings Based on *Ijtihad* in Cases Involving Sons and Daughters

This study examined three Religious Court decisions that ruled in favor of equal inheritance shares for sons and daughters. These include Decision No. 97/Pdt.G/2002/PA Pkj, Decision No. 0007/Pdt.G/2018/PA Tbn, and Decision No. 1642/Pdt.G/2019/PA JP. The legal reasoning and judicial considerations underlying these rulings can be summarized as follows: ***First***, in Decision No. 97/Pdt.G/2002/PA Pkj, the judicial panel based its decision on several dimensions: formal legal principles, rights and obligations, historical context, and sociological aspects. From the perspective of formal legal principles, the court emphasized that the legal standing of sons and daughters is equal under the law. In the context of modern society, men and women are seen as collaborative partners in everyday life. The decision also invoked transcendent human values, asserting that men and women are fundamentally equal, support one another in mutual respect, and strive toward personal and communal development through social and economic participation.

In terms of formal legal status, the court recognized that the legal position of sons and daughters is equal under the law. From a historical perspective, the societal roles of men and women have evolved, particularly in modern contexts where both genders are seen as partners who collaborate in managing family and social life. From a sociological standpoint, the court

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

acknowledged that men and women now share responsibilities in sustaining household welfare. Finally, based on transcendental human values, the judgment emphasized that men and women are inherently equal, mutually supportive in their pursuit of justice and dignity, and engage in positive competition to realize their full potential within social and economic life.

The court also considered the dimension of rights and obligations. It emphasized that the 2:1 ratio between the shares of sons and daughters constitutes a *right*, not an *obligation*. If it were an obligation, then an heir who chose not to claim their share would be deemed sinful or subject to sanction. Therefore, the 2:1 distribution is not absolute and may be subject to modification, particularly when shifting toward an equal (1:1) distribution, based on context and mutual agreement.

Article 183 of the Compilation of Islamic Law (KHI) indicates that changes in the portion of inheritance received by heirs, differing from the divine provision set by Allah are permissible when there is mutual agreement and reconciliation among the heirs. Such changes in the inheritance shares of sons and daughters may also be established through decisions issued by the Religious Courts. This is supported by Article 49, paragraph 3, of Law No. 7 of 1989, which states: “*The field of inheritance as referred to in paragraph (1), point (b), includes the determination of the heirs, the identification of the estate, the determination of each heir’s share, and the execution of the inheritance distribution.*” The phrase “*the determination of each heir’s share*” suggests that the judicial panel has the authority to determine the distribution of inheritance when no agreement has been reached among the heirs.

From a historical perspective, prior to the revelation of Qur’anic verses concerning inheritance, the people of Medina still practiced the inheritance customs of the pre-Islamic (*jahiliyyah*) era. The prevailing system was patrilineal, rooted in tribal traditions that limited inheritance rights to strong and capable males. In this system, women and children, considered socially and physically weaker, were excluded from inheritance altogether. The revelation of Qur’anic verses on inheritance brought a revolutionary transformation, fundamentally altering the framework by recognizing women as legitimate heirs. This marked a significant step toward equality in inheritance rights between men and women. The 2:1 ratio between sons and daughters, therefore, is not a universal principle but rather a contextual example of distribution. The principle, as stated in Surah An-Nisa (4:7), is that both men and women are entitled to inheritance. Thus, a 1:1 distribution is not inherently contradictory to Islamic principles. Furthermore, historical precedents exist for departures from literal rulings in the *nash*, notably by Caliph Umar ibn Khattab, who chose not to apply the hadd punishment of hand amputation in theft cases under famine conditions, and who ruled differently in cases of triple divorce and other legal issues.

From a sociological perspective, one of the key considerations of the judicial panel was the behavior of the Plaintiff, who had migrated away and left the heirs, S and B, from 1961 until 2002, a span of approximately 41 years without any communication. According to witness testimony, the Plaintiff returned only three times: in 1981, 2000, and 2002. These visits were brief and occurred primarily in connection with the passing of B (the Plaintiff’s and

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

Defendant I's mother), suggesting that the Plaintiff had not contributed meaningfully to the well-being of the deceased. In contrast, Defendant I had taken on a central role in caring for the heirs during their lifetime, while healthy, during illness, and upon death. Furthermore, Defendant I was also responsible for managing the deceased's estate, ensuring that the inherited property was preserved and not sold or transferred to any third party. This active involvement in maintaining the estate and providing care served as a sociological justification in the court's reasoning.

Second, the legal reasoning in Decision No. 0007/Pdt.G/2018/PA Tbn by the judicial panel concerning the inheritance shares of male and female heirs is grounded in four key aspects of judicial consideration: formal legal principles, rights and obligations, historical context, and sociological factors. In terms of formal legal reasoning, the court emphasized that men and women possess equal legal standing, particularly in the context of contemporary society. From the standpoint of transcendental human values, both men and women are seen as striving together and working collaboratively across all dimensions of life.

The rights and obligations aspect considered by the judicial panel emphasized that inheritance for heirs is a right, not an obligation. Therefore, the 2:1 ratio between sons and daughters is not an absolute requirement. As such, the decision not to apply the 2:1 distribution does not constitute a sin, nor does it result in any legal or religious sanction. This reasoning opens the possibility for the court to rule in favor of equal inheritance shares between male and female heirs.

From a historical perspective, prior to the revelation of the Qur'anic verses on inheritance, Arab society predominantly followed a patrilineal inheritance system rooted in tribal traditions. Within this framework, inheritance was reserved for strong and capable men, who were deemed protectors of the family, thus, women were excluded from inheritance rights. The judicial panel viewed the 2:1 inheritance ratio between sons and daughters not as a core principle, but rather as a contextual example. The fundamental principle of Islamic inheritance law, according to the panel, is the recognition of women as rightful heirs. Therefore, as long as an equal distribution does not contradict core religious values and principles, the 2:1 allocation may be reconsidered and replaced with a 1:1 distribution.

From a sociological perspective, the judicial panel took into account the fact that the daughter of the deceased had provided continuous care for the heir during illness until the time of death. In contrast, the sons only visited occasionally and lived separately in their own households. Referring to the Qur'an, Surah An-Nisa (4:58): *"Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice,"* the court grounded its decision in the principles of justice and utility, which are fundamental objectives of the law. Accordingly, the panel ruled that the daughter/should/receive/an/equal share to that of the sons.

Third, in Decision No. 1642/Pdt.G/2019/PA JP, the court ruled that male and female heirs were to receive equal shares. The judicial panel's reasoning began by acknowledging the Qur'anic verse Surah An-Nisa (4:11), which outlines a 2:1 inheritance ratio in favor of male heirs, and Surah An-

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

Nisa (4:34), which justifies this allocation based on the greater financial responsibility borne by sons in providing for and caring for their parents. The court emphasized that the 2:1 ratio is grounded in the principle of responsibility, not merely in gender. Thus, if a male heir has indeed fulfilled his familial responsibilities to a greater extent than the female heir, or if the female heir has not demonstrated equivalent or greater responsibility, the 2:1 distribution may be upheld. However, if the male heir fails to fulfill those responsibilities, or the female heir has assumed a greater caregiving role, the male heir cannot justifiably claim a larger share. In such circumstances, the court may determine that equal distribution (1:1) between male and female heirs is appropriate and just.

Furthermore, based on the defendants' acknowledgment—undisputed by the plaintiffs and corroborated by witness testimony, the deceased resided with the defendants, particularly Defendant I, during their lifetime. In contrast, the plaintiffs, especially the four sons (Plaintiffs II, III, IV, and V), neither provided financial support nor took care of the deceased. Although the plaintiffs did visit on occasion, such visits were infrequent and lacked consistent involvement.

Based on the evidence presented during the trial and the judicial considerations outlined above, the panel of judges rendered the following decision in the inheritance case: the court partially granted the plaintiffs' claims, recognized the heirs of the deceased as the children, comprising Plaintiffs I through V and Defendants I through VI, and ruled that the inheritance shares for each heir, both male and female, shall be equal. Accordingly, the court established that sons and daughters are entitled to equal portions of the inheritance.

Factors Influencing Judges in Ruling for Equal Inheritance Distribution

In court proceedings, the judge serves as the central authority responsible for directing the course of the trial. In rendering judgments and rulings, the judge is entitled to gather information from all parties involved, especially from witnesses and legal representatives. These efforts reflect the judge's role in upholding the law, grounded in the constitutional mandate to deliver justice "in the name of justice based on the belief in the One and Only God" (Tanjung et al., 2019).

This responsibility must be actualized by the judge when resolving cases brought before the court, as a concrete expression of their duty as a decision maker. In essence, judges are influenced by two major schools of thought: the conservative and the progressive schools (Monteoro, 2007). The conservative school adheres strictly to written legal provisions, basing decisions solely on codified law. In contrast, the progressive school permits judicial decisions to be informed not only by written rules, but also by the judge's knowledge, contextual understanding, and empirical experience, including the evidence presented during the proceedings.

Judges are expected to connect facts, legal norms, moral values, and legal doctrines in order to discover the appropriate legal resolution for the case before them. This act of judicial *ijtihad* is aimed at realizing the fundamental objectives of law: legal certainty, justice, and utility (Maggalatung, 2014). Such

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

efforts require judges to engage deeply with the living values of law within society, as emphasized by Cik Basir, a judge at the Religious Court, during a direct interview conducted by the author.

Based on an analysis of judicial decisions, interviews, and questionnaires distributed to judges at the Religious Courts, several key factors were identified as influencing judicial rulings. These factors include: economic considerations, social dynamics, agreements among heirs, and the framework of *maqashid al-shariah*. Economic factors often serve as a foundational basis for judges when ruling on inheritance cases involving sons and daughters, particularly in circumstances where women act as the primary breadwinners for their families. From the perspective of economic justice, this reality becomes a significant consideration in inheritance distribution. Many women today bear the financial responsibility of supporting not only themselves but also their husbands and children (Afrizal & Lelah, 2021; Firdaus et al., 2020; Kusriani & Suryani, 2022; Syafitri et al., 2022). Additionally, there are cases where women serve as heads of household, either due to widowhood or because they have never married, while their male relatives are financially incapable of supporting them (Handayani & Nurwahidin, 2023; Primayuni, 2018).

As demonstrated in a Religious Court ruling, equal inheritance distribution was granted because the daughter was the primary breadwinner. The values embedded in the community must be taken into account by judges when deciding cases before them. This approach is essential to realizing justice, as emphasized by Cik Basir, a judge at the Religious Court, during a personal interview. He explained that judges consider the actual living conditions of male and female heirs, including their economic roles within the family. Such conditions are assessed through the statements of the disputing parties, supported by witness testimonies, which help the court understand the empirical realities of the heirs' lives.

Social factors serve as an important consideration for judges, particularly when daughters play a more active role in caring for their parents than sons. This pattern is evident in all three judicial decisions analyzed in this study. In each case, the daughter had cared for the deceased throughout their life, both during times of health and illness. In some instances, the daughter also bore the financial burden of medical expenses when the parent was ill. These actions were seen as a form of meritorious conduct on the part of the daughter, in contrast to the sons, who did not provide similar care. Findings from a questionnaire distributed to judges of the Religious Courts revealed that 30% of respondents acknowledged that social factors influence their considerations when ruling on inheritance cases involving sons and daughters.

Agreements among heirs are another influential factor in inheritance rulings. According to judges of the Religious Courts surveyed in this study regarding their views on inheritance rights for sons and daughters, all participants stated that agreements among heirs are the primary reason equal inheritance shares are granted between male and female heirs. Such agreements are deemed valid as long as they respect each heir's rights and do not lead to conflict or disputes in the distribution of the estate (Tarmizi, 2020). The principle of deliberation is considered the preferred approach for resolving

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

inheritance disputes among heirs of different religious backgrounds (Fahimah et al., 2024). In customary inheritance practices, such as the *Tunggu Tubang* tradition among the Semende community, emphasis is placed on peaceful resolution among heirs, which often takes precedence in addressing inheritance matters (Salmudin et al., 2021). Similarly, in South Aceh, local customary law supports more flexible inheritance arrangements, taking into account socio-economic conditions, gender justice, and evolving societal values (Harnides et al., 2023). Resolving inheritance disputes through customary law grounded in sharia principles has a greater potential to reinforce familial bonds (Elfia et al., 2022). Judges of the Religious Court may accept the resolution of inheritance disputes through customary law, insofar as it does not conflict with Islamic law (Kusmayanti et al., 2023).

The equal distribution of inheritance rights between sons and daughters is regarded as a more effective approach to achieving justice. Accordingly, the principle of open equality can be implemented within the judicial process in Indonesia's Religious Courts (Zamzami, 2013). When a mutual agreement is reached among the heirs, both male and female, the previously definitive nature (*qath'i al-dalalah*) of the Qur'anic injunction in Surah An-Nisa (4:11), which prescribes a 2:1 share in favor of sons, may be interpreted as tentative in implementation (*dzaniy al-tanfiz*). This shift opens the possibility for context-sensitive application of inheritance norms, allowing the values of justice and social harmony to guide the enforcement of divine law.

Another significant factor influencing judicial considerations is the principle of maqashid al-shari'ah. In the cases analyzed, judges rendered their decisions based on interpretations of substantive justice, rather than relying solely on textual legal provisions. This approach is clearly demonstrated in the three court rulings examined in this study, all of which aimed to achieve justice for both male and female heirs. The judges interpreted Islamic inheritance law with an emphasis on the substantive fairness of the case at hand, rather than applying the law in a strictly literal manner. The majority of judges in the Religious Courts who participated in this study indicated that maqashid al-shari'ah, the higher objectives of Islamic law, played a meaningful role in shaping their legal reasoning in inheritance cases involving sons and daughters. The specific contextual realities surrounding each case were carefully considered by the judges as part of their commitment to deliver justice in accordance with divine principles.

A Maqashid al-Shariah Approach to the Flexibility of Inheritance Distribution Between Sons and Daughters in Islamic Inheritance Law in Indonesia

Maqashid al-shariah aims to promote the welfare of all human beings and the broader environment. This concept is embedded in the underlying objectives of every rule in Islamic law (Huzaimah & Tamudin, 2024; Sirait et al., 2024). *Maqashid al-shariah* is particularly concerned with realizing justice and communal well-being. As articulated by Ibn Ashur, public interest (*maslahah*) is a central component of maqashid al-shariah, and the means to achieve it are broad and varied, not necessarily confined to written texts (*nash*) or rigid legal formulations. According to him, a sound and rational human intellect is capable of identifying and determining the presence of *maslahah*,

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

and thus plays a legitimate role in the interpretative process (Fauzan & Imawan, 2023).

There are two dimensions in Maqashid al Shari'ah: the divine dimension (ilāhiyyah) and the human dimension (insāniyyah). The divine dimension refers to the fact that legal rulings are established by Allah (SWT). The human dimension refers to the fact that these laws are intended for human beings, both in their individual lives and in their interactions within society, with the aim of being understood and applied for a specific purpose (Wijaya, 2015). These two dimensions constitute a unified whole, in which the laws originating from Allah (SWT) are to be understood and implemented by humans as His vicegerents on earth.

To realize the objectives of law, particularly justice, in civil cases, several key aspects must be considered. These include formal justice, material justice, and ethical justice in judicial rulings. These three dimensions of justice are interrelated and mutually reinforcing, ensuring that the spirit of a just verdict can be fully achieved by the judge (Rosadi, 2016).

The *maqashid al-shariah* approach can serve as a guiding framework for judges in their efforts to achieve justice in the cases before them. This principle has historical precedent, as exemplified during the caliphate of Umar ibn al-Khattab. In a period of economic crisis and widespread social instability, theft had become a common occurrence due to hardship and poverty. Despite the explicit Qur'anic injunction in Surah Al-Ma'idah (5:38) "*As to the thief, male or female, cut off their hands as a punishment for what they have done, a deterrent from Allah. Allah is Almighty, Wise*", Caliph Umar chose not to enforce the hadd punishment of amputation. This decision reflected a contextual interpretation guided by social conditions and public welfare, consistent with *maqashid al-shariah*. Similarly, Umar also deviated from traditional practice by ruling differently in cases of triple divorce (*talāq thalāthah*), in response to the growing tendency of husbands to pronounce divorce impulsively over trivial matters, a pattern that undermined the institution of marriage and the rights of women (Sopyan, 2018).

The application of the *maqashid al-shariah* approach in the study of family law is of critical importance. This approach enables the implementation of Islamic legal principles in a way that supports the formation of a social order free from inequality, grounded in goodness, justice, and the prevention of harm (*mafsadat*) and social disruption (Maula, 2014).

As illustrated in inheritance cases involving sons and daughters, the *maqashid al-shariah* approach provides a meaningful lens through which justice can be realized. Article 176 of the Compilation of Islamic Law (KHI) is a legal derivation of the divine provision found in Surah An-Nisa (4:11). The article states: "*If there is only one daughter, she shall receive one-half of the estate; if there are two or more daughters, they shall jointly receive two-thirds; and if daughters are accompanied by sons, the share of the male shall be equal to that of two females.*" This arrangement is based on the assumption that in an ideal family structure, males carry greater financial responsibilities than females. The specific distribution of shares between sons and daughters is presented in table 1 below.

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

Table 1. Comparison of Inheritance Share Provisions for Sons and Daughters in the Compilation of Islamic Law

Legal Basis	Heir Status	Legal Heir	
		Male Heir (Son)	Female Heir (Daughter)
Qur'an, Surah An-Nisa (4:11) and Article 176 KHI	Only one child (daughter)	Not specified (' <i>ashabah</i>)	1/2 (<i>dzawil furud</i> - fixed share heir)
	Two or more male children	Not specified (' <i>ashabah</i>)	-
	Two or more female children	-	2/3 (<i>dzawil furud</i> - fixed share heirs)
	Both male and female children	Twice the share of a daughter (<i>ashabah bil ghoirih</i>)	Half the share of a son (<i>ashabah binafsih</i>) – 2:1 ratio

Source: Qur'an, Surah An-Nisa (4:11)

As shown in Table 1, when sons and daughters inherit together, the son receives twice the share of the daughter (2:1). According to scholars of *faraid* (Islamic inheritance law), this division is linked to the balance of responsibilities borne by male heirs. A son, upon marriage, is expected to become the head of the household, assuming financial responsibility for his wife and children. In contrast, a daughter does not carry this financial burden. As a wife, she is to be supported by her husband, and any children she bears are the responsibility of her husband. If the daughter remains unmarried or becomes single, she would typically become the responsibility of her father or her brother, making the protection and provision for women a duty of their male relatives (Hamka, 2015).

As articulated by Ibn 'Ashur, *maqashid al-shari'ah* takes into account the universal values embedded within the Islamic legal framework. These objectives reflect the overarching purposes of *shari'ah*. According to Ibn 'Ashur, the meaning of *maqashid al-shari'ah* can be classified into two categories: **First**, the essential (*haqiqi*) meaning, which refers to the core objectives of *shari'ah* that are grounded in universal human values, transcending cultural and geographic boundaries. These objectives are accessible to sound human reason and include concepts such as justice, benefit, and public welfare (*maslahah*). **Second**, the customary (*urfi*) meaning, which is based on social understanding and becomes embedded in the collective consciousness of a society. For example, the principle that punishment for crimes serves as a deterrent reflects a socially constructed understanding of justice aimed at prevention and behavioral reform (Ashur, 2006).

The laws ordained by Allah and enshrined in the Qur'an as part of Islamic *shariah* undeniably serve specific purposes. It is inconceivable that divine legislation would be without meaning or benefit. Thus, every legal provision within Allah's *shariah* is considered mu'allalah, that is, it contains a

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

discernible rationale (*'illah*) and wisdom (*hikmah*) behind it. The wisdom of *shariah* aims to promote public welfare (*maslahah*) and to prevent harm (*mafsadah*). This is reflected in a well-established *fiqh* maxim which states: “*Legal rulings revolve around the presence or absence of their underlying cause ('illah).*”

The definitive (*qath'î*) textual evidence establishing the 2:1 inheritance formula in Surah An-Nisa (4:11) should be understood as a method (*wasilah*) or legal technique aimed at achieving a higher objective (*maqasid*), namely, justice. According to the principle “*al-wasilah hukmu al-maqasid*” (the legal ruling on means follows the ruling on the objective), the means may change as long as the goal of justice remains intact (Mufid, 2014). Therefore, in practice, modifying the allocation of inheritance between sons and daughters is a possible and acceptable occurrence, especially when done in pursuit of upholding the overarching purpose of justice.

Furthermore, one of the core principles of *shariah* is the principle of equality (egalitarianism). This is clearly reflected in both the Qur'an and Hadith, which affirm that all human beings hold equal status before Allah. The only distinction among individuals lies in their level of piety (*taqwa*). As stated by Allah in Surah Al-Hujurat (49:13):

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

“*O mankind, We have created you from male and female and made you peoples 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.*”

The following hadith also conveys a similar message: “*O people, your Lord is one and your father is one. You are all from Adam, and Adam is from dust. There is no superiority of an Arab over a non-Arab, nor of a non-Arab over an Arab, nor of a white over a black, nor of a black over a white—except by righteousness (taqwa).*” (Narrated by Ahmad, al-Bayhaqi, and others).

In principle, all human beings possess equal status and rights, a foundation rooted in the egalitarian principle. According to Ibn ‘Ashur, what differentiates individuals is not their identity or background, but the principle of justice, which serves to establish balance in society (Ashur, 2006). The earth and the universe were created with diversity for the purpose of harmony and equilibrium. Differences in skin color, ethnicity, and nationality are part of this natural design, intended to foster mutual recognition and appreciation among humankind. These differences enhance the beauty and vibrancy of the world. Yet, despite such diversity, human beings are inherently equal in their nature and dignity.

Human beings are created as male and female, with all their inherent differences. These biological and character distinctions are not meant to establish hierarchy, but rather to achieve balance and harmony. Men and

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

women are designed as partners, working collaboratively to fulfill their shared responsibility as stewards (*khalifah*) on Earth (Shihab, 2007).

The condition of the world is constantly evolving due to the passage of time and changes in era. These changes inevitably affect human mobility and the dynamics of social structures. In responding to such transformations, the maqashid al-shari'ah approach plays a crucial role. It ensures that Islamic law remains relevant and adaptable to every age and context. This adaptability reflects the nature of Islam as the final revealed religion, one intended to endure and provide guidance until the end of time.

Therefore, the formulation of legal rulings in specific cases through *ijtihad*, guided by the approach of maqashid al-shari'ah, offers a viable solution to the challenges posed by changing times. At its core, maqashid al-shari'ah seeks to promote welfare (*jalb al-masālih*) and prevent harm (*dar' al-mafāsīd*). As such, the concept of *maslahah* (public benefit) is not static, it evolves in response to the transformations of society over time. This dynamic nature of maqashid has been demonstrated and validated throughout history itself (Khasan, 2008).

In addition, changing social conditions also lead to shifts in the understanding of *maslahah* (public benefit) and justice, both of which are core objectives of Islamic law. In matters of worship (*'ibādah*), the jurists (*fuqaha*) unanimously agree that only divine revelation can authorize changes. However, in the realm of social transactions and civil affairs (*mu'āmalāt*), legal rulings may be derived from both revelation and customary practice (*'urf*) (Khasan, 2008). This distinction affirms the flexibility and enduring relevance of Islamic law, allowing it to adapt across time while remaining true to its divine foundations.

According to Ibn 'Ashur, there are several methods for identifying the *maqashid al-shari'ah*. These include: (1) *istiqra'* (inductive reasoning), (2) analyzing the textual evidences (*nusus*) themselves, and (3) referring to mutawatir (widely transmitted) Hadiths (Fauzan & Imawan, 2023). *Istiqra'* refers to a systematic examination of legal provisions in *shari'ah*, conducted by identifying the *'illah* (legal cause or rationale) behind the rulings. This can be done by consulting scholarly interpretations or by comparing textual evidences that share similar *'illah*. The second method involves directly analyzing the scriptural texts, aiming to uncover the underlying *maqashid* within the verses. This is based on two principles: *First*, all verses of the Qur'an are qath'i al-thubut (definitive in authenticity) and mutawatir in terms of transmission and wording. *Second*, their indications (*dalalah*) are often probabilistic (*dzanniy*), unless there is clear and unambiguous meaning that rules out alternative interpretations. When both definitive transmission and clarity of meaning are present in a text, it can be used to establish a *maqashid al-shari'ah*.

The identification of *maqashid al-shari'ah* can also be carried out through mutawatir hadiths, which include both mutawatir ma'nawi (meaning-based mass transmission) and tawatur 'amali (practice-based mass transmission). Mutawatir ma'nawi refers to meanings that are consistently understood and accepted by the majority of the Prophet's Companions, while tawatur 'amali is derived from repeated observations by several Companions of the Prophet Muhammad's actions that were performed consistently.

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

Through such continuous and collective transmission, scholars attain certainty that these repeated actions of the Prophet (peace be upon him) represent authentic expressions of shar'i objectives (*maqashid syar'iy*).

According to Ibn 'Ashur, the study of Qur'anic texts and specific legal matters, particularly in the area of inheritance, clearly reveals the presence of objectives behind Islamic legal rulings. The overarching aim of Islamic legislation is to preserve a harmonious and beneficial social order. The preservation of *maslahah* (public welfare) is central to this goal, and it is achieved by safeguarding the well-being of human beings themselves (Yaqin, 2016).

Conclusion

In conclusion, the practice of inheritance distribution in Indonesia's Religious Courts reveals two prevailing patterns: the traditional 2:1 model, grounded in textual sources and the Compilation of Islamic Law, and the equal 1:1 model, which reflects a more contextual and interpretative application of Islamic law. The equal distribution is not merely the result of mediated agreements but also stems from judicial *ijtihad* rooted in the principles of *maqashid al-shari'ah*, particularly the pursuit of substantive justice. Judges, in exercising this interpretative flexibility, consider various influencing factors, including the economic realities of female heirs as primary breadwinners, the social roles of daughters as caregivers, consensual agreements among heirs, and a dynamic understanding of the objectives of Islamic law. These findings affirm the relevance and adaptability of Islamic inheritance law when guided by *maqashid al-shari'ah*, enabling it to address contemporary challenges while upholding the values of justice and public welfare.

The equal inheritance rulings issued by judges in inheritance disputes demonstrate that Islamic inheritance law is flexible and open to reinterpretation in light of evolving economic and social contexts. The 1:1 distribution model should not be viewed as a defiance of the Qur'anic text (*nash*), but rather as a form of contemporary *ijtihad* firmly rooted in the principles of *maqashid al-shari'ah*. These rulings can serve as important legal precedents for the reconstruction of Islamic inheritance law in Indonesia. Judges, as progressive actors within the Religious Court system, should be encouraged to engage with *maqashid*-based reasoning rather than adhere strictly to traditional formulations (*taqlid*). The findings of this study reveal a new paradigm in the judicial mindset—a transformation in inheritance distribution through the lens of *maqashid al-shari'ah*. This form of legitimate contemporary *ijtihad*, grounded in public benefit (*maslahah*), contributes meaningfully to the ongoing reformulation of Islamic inheritance law in Indonesia.

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

References

- Afrizal, S., & Lelah, P. (2021). Peran Ganda Perempuan Dalam Peningkatan Perekonomian Keluarga: Studi Kasus Pada Perempuan Bekerja Di Kecamatan Padarincang Kabupaten Serang. *Indonesian Journal of Sociology, Education, and Development*, 3(1), 53–62.
- 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>
- Aniroh, R. N., Nasution, K., & Sodikin, A. (2024). The Bilateral Inheritance System in Islamic Family Law: Fairness, Equality, and Mutual Exchange Perspectives. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8(2), 891–911. <https://doi.org/10.22373/sjkh.v8i2.17630>
- Ashur, M. A.-T. I. (2006). *Ibn Ashur Treatise on Maqasid al-Syari'ah*. The International Institute of Islamic Thought.
- Asmara, M., Kurniawan, R., & Agustian, L. (2020). Teori Batas Kewarisan Muhammad Syahrur dan Relevansinya dengan Keadilan Sosial. *De Jure: Jurnal Hukum Dan Syari'ah*, 12(1), 17–34. <https://doi.org/10.18860/j-fsh.v12i1.7580>
- Bachri, S. (2022). The Differences of Men's and Women's Shares in Islamic Inheritance Law Defense to Criticism and Blasphemy. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 22(1), 17–30. <https://doi.org/10.19109/nurani.v22i1.11251>
- Elfia, Sandria Milka Ratna Sari, Ikhwan, Muchlis Bahar, & Nurus Shalihin. (2022). Patterns for Settlement of Punah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 17(2), 480–505. <https://doi.org/10.19105/al-lhkam.v17i2.6246>
- Fahimah, I., Suwarjin, S., Gusmansyah, W., Zubaedi, Z., & Jayusman, J. (2024). Interfaith Inheritance in Muslim Families in Indonesia: Practices, Philosophy, and the Direction of National Inheritance Law Development. *Ahkam: Jurnal Ilmu Syariah*, 24(2), 379–396. <https://doi.org/10.15408/ajis.v24i2.40907>
- Fauzan, H., & Imawan, D. H. (2023). Pemikiran Maqashid Syariah Al-Tahir Ibn Asyur. *Al Mawarid*, 5(1), 101–114.
- Fernando, H., Abdullah, I., & Yusuf, M. (2021). Religion and the pandemic trap: Muslim worship post-COVID-19 in Indonesia. *Culture and Religion*, 22(4), 398–415. <https://doi.org/10.1080/14755610.2023.2288344>
- Firdaus, F., Saputra, R., Susanti, P., Desminar, D., & Azizah, N. (2020). Perempuan Bekerja dalam Pemenuhan Nafkah Keluarga. *Jurnal Kajian Dan Pengembangan Umat*, 3(2).
- Hamka. (2015). *Keadilan Sosial Dalam Islam*. Gema Insani.

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

- Handayani, T., & Nurwahidin, M. A. (2023). Kontribusi laki-laki dan perempuan dalam ekonomi keluarga perspektif Islam. *Jurnal Ilmiah Ekonomi Islam*, 9(1), 1071–1079. <https://doi.org/https://doi.org/10.29040/jiei.v9i1.7635>
- Harnides, H., Abbas, S., & Hasballah, K. (2023). Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(2), 1293–1316. <https://doi.org/10.22373/sjhc.v7i2.16688>
- Hasan, M. (2023). Construction of Modern Islamic Inheritance Law based on Ijtihad of the Judges at the Religious Court of Pontianak, West Kalimantan. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(2), 650–668. <https://doi.org/10.22373/sjhc.v7i2.8852>
- Hasan, M., Ma'u, D. H., & Sahid, M. M. (2024). Inheritance Property Distribution Models Among the Muslim Community of Borneo-Nusantara. *Al'Adalah*, 21(1), 175–198. <https://doi.org/10.24042/adalah.v21i1.22310>
- Huzaimah, A., & Tamudin, M. (2024). Material Rights of Children in Guardianship Maqashid al Sharia Perspective. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24(1), 181–198. <https://doi.org/10.19109/nurani.v24i1.22180>
- Istiadah, L. (2022). Strategi Hakim Mediator Dalam Mendamaikan Para Pihak Di Pengadilan Agama Palangka Raya. *Jurnal Sosial Dan Sains*, 2(6), 748–754.
- Kamarusdiana, K., Fuadi, M. I., & Helmi, M. I. (2021). Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung. *Al-Manahij: Jurnal Kajian Hukum Islam*, 15(2), 221–232. <https://doi.org/10.24090/mnh.v15i2.4960>
- Khasan, M. (2008). Kedudukan Maqashid Al-Syari'ah Dalam Pembaharuan Hukum Islam. *Jurnal Dimas*, 8(2), 296–314.
- Kompilasi Hukum Islam (1991).
- Kusmayanti, H., Kania, D., Prasetyoningsih, N., & Zainol, Z. A. (2023). Judges' Acceptance of Sharia-Inspired Laws in Indonesia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 17(2), 199–214. <https://doi.org/10.24090/mnh.v17i2.7716>
- Kusrini, E., & Suryani, I. P. (2022). Peran Buruh Pabrik Perempuan dalam Meningkatkan Pendapatan Keluarga Perspektif Ekonomi Islam (Studi Kasus Desa Gemiring Kidul Kecamatan Nalumsari). *BISNIS: Jurnal Bisnis Dan Manajemen Islam*, 10(1), 215–228. <https://doi.org/http://dx.doi.org/10.21043/bisnis.v10i1.14977>
- Maggalatung, A. S. (2014). HUBUNGAN ANTARA FAKTA, NORMA, MORAL, DAN DOKTRIN HUKUM DALAM PERTIMBANGAN PUTUSAN HAKIM; *Jurnal Cita Hukum*, 2(2).
- Maula, B. S. (2014). Kajian Ahwal al Syakhshiyah Dengan Pendekatan Maqashid al Syari'ah. *Jurnal Al Manahij*, 8(1), 1–14.
- Monteoro, J. M. (2007). Putusan Hakim dalam Penegakan Hukum di Indonesia. *Jurnal Hukum Pro Justisia*, 25(2), 130–139.
- Mufid, M. (2014). *Qath'i dan Zanni dalam Pemikiran Islam: Memahami Teks dan Konteks Secara Proporsional*. 25(1).

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

- Muhibbin, M. (2018). Obligatory Wills for Adopted Children, Children of Unmarried Couples, and Children of Different Religions. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 18(2), 139–152. <https://doi.org/10.30631/al-risalah.v18i2.151>
- Mutakabbir, A., Hastuti, H., & Rusdi, M. (2023). The system of inheritance distribution in South Sulawesi. *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 23(1), 57–76. <https://doi.org/10.18326/ijtihad.v23i1.57-76>
- Nashirun, K. (2022). Konsep Keadilan Dan Kesetaraan Gender Tentang Pembagian Harta Waris Dalam Perspektif Hukum Islam. *Madani Legal Review*, 6(1), 65–78. <https://doi.org/https://doi.org/10.31850/malrev.v6i1.1708>
- Nasution, H., & Muchtar, A. R. (2024). Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts. *Al-Manahij: Jurnal Kajian Hukum Islam*, 125–144. <https://doi.org/10.24090/mnh.v18i1.10921>
- Pongoliu, H. (2019). Pembagian Harta Waris dalam Tradisi Masyarakat Muslim di Gorontalo. *Al-Manahij: Jurnal Kajian Hukum Islam*, 13(2), 187–202. <https://doi.org/10.24090/mnh.v13i2.3166>
- Primayuni, S. (2018). Kondisi Kehidupan Wanita Single Parent. *SCHOULID: Indonesian Journal of School Counseling*, 3(1), 17–23. <https://doi.org/10.23916/08425011>
- Putri, S. A. (2021). Faktor-faktor yang Mempengaruhi Work-Life Balance pada Wanita Buruh Tani. *Jurnal Psikologi Malahayati*, 3(1), 28–38. <https://doi.org/10.33024/jpm.v3i1.3598>
- Ridwan. (2022). Gender Equality in Islamic Inheritance Law: Rereading Muhammad Shahrur's Thought. *Al-Manahij: Jurnal Kajian Hukum Islam*, 181–192. <https://doi.org/10.24090/mnh.v16i2.6916>
- Ritonga, R., Harahap, S. M., Asrul Hamid, Andri Muda, & Zuhdi Hsb. (2024). Portion of Married Daughters in Inheritance Share among Angkola Batak Community. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 19(1), 78–103. <https://doi.org/10.19105/al-lhkam.v19i1.7342>
- Riyanta, Najib, A. M., Bahiej, A., & Falah, M. B. (2025). Toward Interfaith Equality in Islamic Inheritance Law: Discourse and Renewal of Judicial Practice in Indonesia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 1–16. <https://doi.org/10.24090/mnh.v19i1.10762>
- Rosadi, E. (2016). Putusan Hakim Yang Berkeadilan. *Badamai Law Journal*, 1(2), 381–400.
- Rosydiana, W. N. (2023). Wanita Karier dalam Perspektif Gender dan Hukum Islam. *Journal of Gender and Social Inclusion in Muslim Societies*, 4(1), 39–51. <https://doi.org/http://dx.doi.org/10.30829/jgsims.v4i1.16782>
- Salmudin, S.-, Muntaqo, F., & Hasan, K. S. (2021). Tunggu Tubang as a Method for Peaceful Inheritance Distribution of Semende Indigenous Peoples/Tunggu Tubang Sebagai Metode Pembagian Harta Waris secara Damai Masyarakat Adat Semende. *De Jure: Jurnal Hukum Dan Syar'iah*, 13(1), 53–66. <https://doi.org/10.18860/j-fsh.v13i1.11028>

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

- 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>
- Sentana, M. R. D. H., Astara, I. W. W., & Sugiarta, N. G. (2020). Peranan Hakim untuk Mendamaikan Para Pihak yang Bersengketa dalam Perkara Perdata di Pengadilan Negeri Denpasar. *Jurnal Analogi Hukum*, 2(2), 203–208.
- Shihab, M. Q. (2007). *Wawasan Al Qur'an: Tafsir Tematik atas Pelbagai Persoalan Umat*. Mizan Pustaka.
- Sholihah, H., Nani Widiawati, N., & Bin Hj. Awang Damit, M. K. N. (2024). Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender. *Al-'Adalah*, 21(1), 101–124. <https://doi.org/10.24042/adalah.v21i1.21256>
- Sirait, A. S., Syahnan, M., & Panjaitan, B. S. (2024). Community Service Order Punishment: Alternatives in The Criminal Law System From Maqāsid al-Sharī'ah Perspective. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24(2), 273–296. <https://doi.org/10.19109/nurani.v24i2.24276>
- Sopyan, Y. (2018). *Tarikh Tasyri': Sejarah Pembentukan Hukum Islam*. RajaGrafindo Persada.
- Sukarti, D., Asyari, H., & Zulkifli, Z. (2023). Legal Education on Women's Property Inheritance Rights in South Sumatera. *Ahkam: Jurnal Ilmu Syariah*, 23(2), 497–518. <https://doi.org/10.15408/ajis.v23i2.32921>
- Syafitri, N., Hamdani, H., & Ramziati, R. (2022). Tanggung Jawab Nafkah Keluarga Dari Istri Yang Bekerja Menurut Kompilasi Hukum Islam (KHI) Dan Hukum Adat (Studi Penelitian di Kota Lhokseumawe). *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 10(2), 313–339.
- Tanjung, A. K. J., Purwadi, H., & Hartiwiningsih. (2019). Paradigma Hakim Dalam Memutuskan Perkara Pidana Di Indonesia. *Jurnal Hukum Dan Pembangunan Ekonomi*, 7(1).
- Tarmizi, T. (2020). Inheritance System of Bugis Community in District Tellu Siattinge Bone, South Sulawesi (Perspective of Islamic law). *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam*, 4(1), 179. <https://doi.org/10.22373/sjhk.v4i1.6784>
- Tohirin, T., & Zamahsari, Z. (2021). Peran Sosial Laki-laki dan Perempuan Perspektif Al-Qur'an. *Profetika: Jurnal Studi Islam*, 22(1), 91–108. <https://doi.org/10.23917/profetika.v22i1.14768>
- Undang-Undang (UU) Nomor 50 Tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama, Pub. L. No. 50 (2009).
- Wijaya, A. (2015). Dimensi Ilahi Dan Dimensi Insani Dalam Maqasid Al-Syari'ah. *Jurnal Al Risalah*, 15(2), 214–221.
- Yaqin, A. (2016). Revitalisasi Maqashid Al-Syari'ah dalam Istinbath Hukum Islam: Kajian atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur. *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum*, 5(2), 315–340. <https://doi.org/https://doi.org/10.14421/ajish.v50i2.233>

Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah

Yusida Fitriyati, et al.

Yusnita, E., Yuswalina, & Toriq, M. (2024). Embracing E-Court Innovation: Advancing Maslahah Mursalah in Indonesia's Religious Courts. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24(2), 506–523. <https://doi.org/10.19109/nurani.v24i2.24744>

Zamzami, M. (2013). *Perempuan dan Keadilan dalam Hukum Kewarisan Indonesia* (Pertama). Kencana Prenada Media Group.