

Contextualization of the 2:1 Distribution of Inheritance from the Perspective of Mubadalah

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Abstract

This article revisits the 2:1 inheritance distribution between men and women through the perspective of *mubadalah* to find the meaning of equality in Islamic Family Law in Indonesia. This study uses library research methods, with data sources from the Qur'an, hadith, classical fiqh books, tafsir works, contemporary literature, journal articles, and the thoughts of modern scholars on inheritance and gender issues. The analysis was conducted in three steps: 1) examining classical fiqh concepts and the theological basis for the 2:1 inheritance distribution rule; 2) contextualizing the social conditions of early Islamic Arab society with the socio-economic realities of modern Indonesian society; and 3) applying the *mubadalah* interpretation method as an analytical framework to understand the inheritance verses more substantively. The results of this study show that the 2:1 provision is not an absolute rule, but rather a formulation that arose from the social and cultural structure of early Islamic society. Through the principles of reciprocity, justice, and gender equality, the *mubadalah* interpretation opens up space for reinterpreting inheritance law to be more adaptive to social and economic dynamics and gender roles in Indonesia. This reinterpretation is a practical necessity for realizing substantive justice in Islamic Family Law, especially when women contribute significantly to family and community life. Thus, reinterpreting the 2:1 inheritance rule is not merely a normative academic discourse but a practical necessity to uphold the values of equality and benefit in Islamic family law in Indonesia, and is in line with the main objectives of Sharia (*maqāṣid asy-syāri‘ah*) in realizing justice and humanity.

Keywords: Islamic Inheritance Law, 2:1 Inheritance Distribution, Equality, Mubadalah Interpretation

Abstrak

Artikel ini mengkaji ulang tentang pembagian warisan 2:1 antara laki-laki dan perempuan melalui perspektif mubadalah untuk menemukan makna kesetaraan dalam Hukum Keluarga Islam di Indonesia. Penelitian ini menggunakan metode studi pustaka (*library research*), dengan sumber data dari Al-Qur'an, hadis, kitab fikih klasik, karya tafsir, literatur kontemporer, artikel jurnal, serta pemikiran para sarjana modern terkait isu waris dan gender. Analisis dilakukan melalui tiga langkah: 1) menelaah konsep fikih klasik beserta dasar teologis ketentuan pembagian warisan 2:1; 2) melakukan kontekstualisasi antara kondisi sosial masyarakat Arab awal Islam dengan realitas sosial-ekonomi masyarakat Indonesia modern; 3) menerapkan metode tafsir mubadalah sebagai kerangka analisis untuk memahami ayat-ayat waris secara lebih substantif. Hasil penelitian menunjukkan bahwa ketentuan 2:1 bukan aturan absolut,

melainkan formulasi yang lahir dari struktur sosial dan budaya masyarakat awal Islam. Melalui prinsip kesalingan, keadilan, dan kesetaraan gender, tafsir mubadalah membuka ruang reinterpretasi hukum waris agar lebih adaptif terhadap dinamika sosial, ekonomi, dan peran gender di Indonesia. Reinterpretasi ini menjadi kebutuhan praktis dalam mewujudkan keadilan substantif dalam Hukum Keluarga Islam, khususnya ketika perempuan turut berkontribusi secara signifikan dalam kehidupan keluarga dan masyarakat. Dengan demikian, reinterpretasi terhadap ketentuan pembagian warisan 2:1 bukan sekadar wacana akademik normatif, melainkan sebuah kebutuhan praktis untuk meneguhkan nilai-nilai kesetaraan dan kemaslahatan dalam hukum keluarga Islam di Indonesia, serta sejalan dengan tujuan utama syariah (*maqāsid asy-syāri‘ah*) dalam mewujudkan keadilan dan kemanusiaan.

Kata Kunci: Hukum Waris Islam, Pembagian Waris 2:1, Kesetaraan, Tafsir Mubadalah

INTRODUCTION

In the classical fiqh tradition, discussions on inheritance reveal differences in the distribution of shares between men and women. In many cases, the share received by men appears to be larger than that received by women. Scholars base this provision on the words of Allah Swt. in QS. An-Nisā' (4): 11

يُوصِّيُكُمُ اللَّهُ فِي أُولَادِكُمْ لِلَّذِكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ ۝ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۝
وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النَّصْفُ ۝ وَلَا يَبْوَهُ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ ۝ فَإِنْ لَمْ
يَكُنْ لَّهُ وَلَدٌ وَوَرِثَهُ أَبُوهُ فَلِأُمِّهِ الْثُلُثُ ۝ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصِّيُ بِهَا
أَوْ دَيْنٍ ۝ أَبَاهُ وُكُمْ وَأَبْنَاهُ وُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرُبُ لَكُمْ نَفْعًا ۝ فَرِيضَةٌ مِّنَ اللَّهِ ۝ إِنَّ اللَّهَ كَانَ
عَلَيْمًا حَكِيمًا

“Allah has prescribed for you concerning your children: the share of a male is equal to that of two females. If there are only females, two or more, their share is two-thirds of the inheritance. If there is only one daughter, she shall receive half of the estate. For the parents, each shall receive one-sixth of the estate if the deceased has children. If the deceased has no children and is inherited by only his parents, his mother shall receive one-third. If the deceased has several siblings, the mother receives one-sixth. (The inheritance is divided) after (fulfilling) the will he made or (and paying off) his debts. (Regarding) your parents and your children, you do not know which of them is more beneficial to you. This is Allah's decree. Indeed, Allah is All-Knowing and All-Wise.”

This provision has long been regarded as a basic principle in classical fiqh regarding the distribution of inheritance. However, as times have changed, many believe that this

formula does not fully reflect a sense of justice, especially when viewed in the context of today's vastly different social and economic conditions. In traditional societies, men bore full responsibility as breadwinners and providers for women, particularly in their role as husbands.¹ In addition, the rules of inheritance known to Arab society before the advent of Islam were greatly influenced by the culture of power. At that time, inheritance was only passed down among men, because they were considered to have important positions, including the ability to fight, something that was highly valued at that time.²

Rapid social, economic, and cultural changes in modern society have given rise to new forms of inequality that cannot always be addressed by classical fiqh rules.³ One of the most prominent issues is the 2:1 inheritance distribution, especially regarding women's positions and roles in the family. Nowadays, women are no longer just housewives, but often also the main breadwinners and even the economic pillars of the family. Seeing this reality, some Islamic law experts have begun to reinterpret the inheritance provisions contained in classical literature. The approach used is more contextual and considers gender perspectives. This effort is intended to make inheritance law in fiqh more adaptive to the times and able to respond to the needs of society in a more fair and unbiased manner.⁴

One Islamic legal scholar whose ideas are often referred to in a more contextual approach is Fazlur Rahman. He emphasizes that understanding the message of the Qur'an is not enough to simply hold on to the literal meaning of the text; it must be done comprehensively and by taking into account the context. For Fazlur Rahman, interpretation of the Qur'an must take into account the historical and social conditions of Arab society, both before and after the advent of Islam, from customs and economic situations to the political changes that shaped their lives.⁵

¹ Husein Muhammad, *Fiqh Perempuan 2: Reflesi Kiai atas Khazanah Hukum Keluarga dan Islam* (Yogyakarta: IRCiSoD, 2025), 13.

² Muhammad Khudlori Beik, *Tarikh at-Tasyri' al-Islami* (Beirut: Dar al-Kutub al-'Ilmiyah, 2022), 58.

³ Rahmad Setyawan et al., "Contemporary Ijtihad Deconstruction in The Supreme Court: Wasiat Wajibah as An Alternative for Non-Muslim Heirs in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40, <https://doi.org/10.30984/jis.v22i1.2968>.

⁴ Syamsarina et al., "Dynamics of Different Religious Inheritance Decisions: The Case Study of The Religious Court Judges Ijtihad," *SYARIAH: Jurnal Hukum Dan Pemikiran* 25, no. 1 (2025): 1–21, <https://doi.org/10.18592/sjhp.v25i1.15717>.

⁵ Endang Sriani, "Fiqh Mawaris Kontemporer: Pembagian Waris Berkeadilan Gender," *Tawazun: Journal of Sharia Economic Law* 1, no. 2 (2018): 133–47, <https://doi.org/10.21043/tawazun.v1i2.4986>.

In Indonesia, Kiai Husein Muhammad widely practices this perspective when interpreting authoritative Islamic texts such as the Qur'an, hadith, and the works of earlier scholars. According to him, reading texts cannot be separated from the study of language, social history, and the culture of the society that produced them.⁶ Therefore, Islamic law, including inheritance rules, must be understood as the result of an encounter between text and context. This approach can renew the meaning of inheritance fiqh to be more relevant to modern society, which has undergone many changes, both structurally and culturally.

However, efforts to achieve justice and equality in the application of inheritance law in Indonesia continue to face various challenges. Inheritance law offers a systematic pattern of inheritance distribution based on revelation. Conversely, Indonesia's highly diverse social conditions, which uphold the values of justice and gender equality, often create friction when these legal rules are applied. Additionally, Indonesia's legal system is pluralistic, including in inheritance matters. Three systems coexist: Islamic, customary, and civil law, each with a different approach and set of basic values. It is this diversity that influences the dynamics of the application of inheritance law in Indonesian society.⁷

With the coexistence of various legal systems, inheritance rules derived from Islamic law risk being abandoned if they fail to meet the needs of modern society. Therefore, a more contextual use of ijtihad is needed, one that considers the basic objectives of sharia (*maqāsid asy-syari'ah*) and legal logic (*'illat*). Such an approach can help bring about a more equitable understanding of inheritance law that is in line with the values of equality upheld by contemporary society.

Efforts to update inheritance jurisprudence are very important in order to keep it alive, relevant, and able to embrace the diversity of Indonesia's ever-changing society. Based on this background, this study aims to examine how inheritance jurisprudence can be contextualized to address the issue of fair inheritance distribution in Islamic family law in Indonesia. In addition, this study will also examine how the mubadalah approach can be used as a basis for reinterpreting Islamic teachings on equality, particularly in relation to inheritance distribution in Islamic family law in Indonesia.

Research discussing inheritance distribution that presents perspectives of equality and justice in the landscape of family law studies in Indonesia has actually been examined by

⁶ Husein Muhammad, *Memahami Cita-Cita Teks Agama* (Yogyakarta: IRCCiSoD, 2024), 60.

⁷ Sitti Mashitah Tualeka and Oyo Sunaryo Mukhlis, "Inheritance Law in Indonesia," *AL-AFKAR: Journal for Islamic Studies* 6, no. 3 (2023): 324–36, <https://doi.org/10.31943/afkarjournal.v6i3>.

several researchers. Endang Sriani examined Contemporary *Fiqh Mawaris* from a gender perspective.⁸ Sitti Mashitah Tualeka and Oyo Sunaryo Mukhlis examine inheritance issues in Indonesia using a historical approach and existing legislation in Indonesia.⁹ Meanwhile, Mohammad Aziz Subijakto, Ach. Faisol, and Shofiatul Jannah examine women's equality in inheritance distribution (a study of Islamic law in Indonesia).¹⁰ Research specifically examining the 2:1 inheritance distribution was conducted by Rahmad Setyawan and Taufik Kustiawan using the mashlahah approach from the perspective of Najmuddin at-Thufi.¹¹ All of these studies share the same goal and motivation, namely to realize inheritance laws that are in line with modern life and have a perspective of justice and gender equality.

However, this study has its own characteristics compared with previous studies. This study focuses on the issue of 2:1 inheritance distribution using the mubadalah perspective to produce a more sensitive, contextual, and fair inheritance law formulation amid the complexities of modern life. This research aims to enable Muslims in Indonesia to practice the principles of fair and equal inheritance distribution without relying on other legal systems. In addition, this study is expected to enrich the wealth of Islamic family law in Indonesia and become an important reference for legal practitioners in the religious court environment, including judges, advocates, and the Muslim community in general.

RESEARCH METHOD

This study uses the library research method. The data sources used include the Qur'an, hadith, classical fiqh books, tafsir works, contemporary literature, journal articles, and writings by modern thinkers relevant to the theme of inheritance distribution. The analysis was conducted in three main steps: 1) examining the classical fiqh concept of inheritance distribution, including the theological basis of the 2:1 provision; 2) contextualizing by comparing the social conditions of early Islamic Arab society with the socio-economic realities of modern Indonesian society; 3) applying the mubadalah interpretation method as an analytical framework to reinterpret inheritance verses in a more substantive manner based on the principles of reciprocity, justice, and gender equality. Through these steps, this

⁸ Sriani, "Fiqh Mawaris Kontemporer: Pembagian Waris Berkeadilan Gender."

⁹ Tualeka and Mukhlis, "Inheritance Law in Indonesia."

¹⁰ Mohammad Aziz Subijakto, Ach. Faisol, and Shofiatul Jannah, "Kesetaraan Perempuan Dalam Pembagian Waris (Studi Hukum Islam Di Indonesia)," *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islam* 7, no. 1 (2025): 55–64, <http://riset.unisma.ac.id/index.php/fai/index>.

¹¹ Rahmad Setyawan and Muhamad Taufik Kustiawan, "Najmuddin Al-Tufi's Thoughts On The Dynamics Of Inheritance Law 2:1 Perspective Of Maṣlahah," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 11, no. 2 (2021): 85–114, <https://doi.org/10.15642/alhukama.2021.11.2>.

study seeks to find a new meaning that is more relevant and fair in the distribution of inheritance, while also contributing to the renewal of Islamic inheritance law in Indonesia so that it is more progressive in facing the changing times.

RESULTS AND DISCUSSION

The 2:1 inheritance distribution formula in classical fiqh: a normative and contextual analysis

Fiqh as a discipline that elaborates on the provisions of revelation (*khithabullah*), plays an important role in regulating human life. It includes guidelines on what is commanded, prohibited, and permitted by the makers of Sharia law, namely, Allah and His Messenger. Therefore, various rules in fiqh become the main reference for Muslims in determining the law on their every action, both those related to social affairs (*mu'amalah*) and personal and family matters (*as-syakhsiyah*).¹²

In the context of family law, one of the provisions of fiqh that is often highlighted is the 2:1 inheritance rule between men and women. Classical fiqh law clearly distinguishes between the inheritance shares of men and women. The division of two parts for males and one part for females is understood as a fundamental provision that has long been accepted in the fiqh tradition.¹³ This difference is usually associated with family responsibilities. For example, male children are considered entitled to a larger share because they bear the obligation to provide for the family, while female children are not burdened with the same responsibility.¹⁴

This 2:1 inheritance rule is generally based on QS. An-Nisā' (4) verse 11, which some scholars understand as a *ta'abbudi* law, meaning a rule that must be followed as it is because it has been directly stipulated by the Qur'an.¹⁵ From this perspective, the provision does not require further reasoning or search for *'illat*. However, several scholars view inheritance

¹² Nur Sodik et al., "Reconstruction of Legal Subjects in Ushul Al-Fiqh: Development and Interconnectivity Analysis in the Contemporary Era," *Al-Syakhsiyah: Journal of Law & Family Studies* 7, no. 2 (2025): 73–92, <https://doi.org/10.21154/syakhsiyah.v7i2.9875>.

¹³ Fatimatz Zahro and Shinta Pramesti K.M, "Kesetaraan Gender dalam Hukum Kewarisan Islam Perspektif M. Syahrur," *MAHAKIM: Journal of Islamic Family Law* 7, no. 1 (2023): 25–46, <https://doi.org/10.30762/mahakim.v7i1.201>.

¹⁴ Mahmud Ikhwanudin, "Penerapan Kesetaraan Gender dalam Sistem Pembagian Waris Berdasarkan Hukum Islam di Indonesia," *Journal Syntax Idea* 5, no. 10 (2023): 1734–45, <https://doi.org/10.46799/syntax-idea.v5i10.2756>.

¹⁵ Mahmud Ikhwanudin, "Penerapan Kesetaraan Gender dalam Sistem Pembagian Waris Berdasarkan Hukum Islam di Indonesia,"

issues as falling under the category of Islamic civil law, which is horizontal in nature between individuals (*mu'amalah*). Within the framework of fiqh, the realm of *mu'amalah* is, in principle, permissible as long as there is no explicit evidence prohibiting it. This understanding opens up opportunities to transform inheritance provisions by considering the social context and the evolving needs of society. Thus, inheritance rules are no longer viewed as a static legal structure, but as a system that can be interpreted and developed more flexibly, so that it remains in tune with the dynamics of the times and the demands of social justice.¹⁶

In the context of updating inheritance law, it is very important to present a methodological framework that allows for a review of classical fiqh provisions. One of the most important methodological foundations in fiqh that provides room for legal change is the rule:¹⁷

الْحُكْمُ يَدْرُرُ مَعَ عِلْمِهِ وُجُودًا أَوْ عَدَمًا

“A law applies depending on whether or not there is an underlying cause.”

This principle affirms that the validity of a law cannot be separated from its '*illat*', which is the cause, reason, or rational consideration that forms the basis for enacting that law. As long as the '*illat*' still exists, the law remains relevant. However, when the '*illat*' disappears or undergoes significant changes, the law built upon it opens up the possibility of being revised, adjusted, or even replaced to maintain public interest. On the other hand, in the construction of law itself, culture plays a major role that cannot be ignored at the time when the legal provisions are enacted.¹⁸

Historically, inheritance rules in Islam were created to correct the inheritance traditions that existed among Arab societies before the advent of Islam. Although they were already familiar with the practice of dividing inherited property, the principle of justice was not yet a foundational aspect of the system. At that time, women were not considered eligible to receive an inheritance. In fact, a wife whose husband had passed away could be treated like a piece of heirloom to be passed on to her husband's male relatives. In other

¹⁶ Srian, “Fiqh Mawaris Kontemporer: Pembagian Waris Berkeadilan Gender.”

¹⁷ Ibn Qayyim Al-Jauziyah, *I'lam Al-Muwaqqi'in 'an Rabbi Al-'Alamin* (Beirut: Dar al-Fikr, n.d.), 414.

¹⁸ Duski Ibrahim, *Al-Qoidah Al-Fiqhiyyah (Kaidah-Kaidah Fiqih)*, Cetakan 1 (Palembang: Cv. Amanah, 2019), 149-150.

words, the position of women in the social structure at that time was very weak, until Islam came along and brought fundamental changes to these views and rules.¹⁹

Thus, contemporary scholars can reopen the discourse on the proportion of inheritance distribution, especially when the existing provisions are considered to have not fully addressed the demands for justice and gender equality in the modern era. Lawrence Rosen, a legal anthropologist from Princeton University, asserts that no legal product is ever born in a vacuum; it always reflects the culture, values, and beliefs of the society that gave birth to it.²⁰ In the tradition of fiqh itself, scholars have always used the principles of promoting benefit (*jalb al-Masālih*) and preventing harm (*dar' al-Mafāsid*) as the main basis for establishing law.²¹

This principle essentially allows Islamic legal scholars to reconsider the formula for inheritance distribution, including the 2:1 provision, by considering Indonesia's social and cultural realities. This is because, although fiqh is strongly based on revelatory sources, both the Qur'an and hadith, it still has the task of responding to the practical needs of society in every era. With this perspective, efforts to rethink inheritance distribution provisions are not only possible, but are in fact part of the process of keeping Islamic law alive, relevant, and in tune with changes in modern society.²²

In the modern economic reality, women's positions have undergone significant changes. They are no longer seen merely as companions to their husbands but also take an active role in earning an income, and in many cases, even become the main breadwinners of the family or act as heads of households. This situation highlights the imbalance when inheritance rules between men and women are still understood rigidly and do not consider these changes in social roles. In fact, the basic principle of justice in Islamic inheritance law emphasizes the importance of harmony between rights and obligations, so that the share

¹⁹ Fatchur Rahman, *Ilmu Waris* (Bandung: Al-Maarif, 1981), 11-12.

²⁰ Muhammad Latif Fauzi, "Pidato Pengukuhan Guru Besar Prof. Dr. Muhammad Latif Fauzi, SHI., M.Si., M.A., Dalam Bidang Pemikiran Hukum Keluarga Islam, Disampaikan di Hadapan Sidang Senat Terbuka Universitas Islam Negeri Raden Mas Said Surakarta, Tanggal 15 April 2025.", 2025, 1-75.

²¹ Rahmad Setyawan, "Wasiat Wajibah , Nonmuslim dan Kemaslahatan Hukum : Studi Putusan MA Tahun 1995-2010," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 53, no. 1 (2019): 31-57, <https://doi.org/10.14421/ajish.v53i1>.

²² Sahal Mahfudz, *Nuansa Fiqih Sosial*, ed. Hairus Salim HS and Nuruddin Amin (Yogyakarta: LKiS, 1994), xxiv-xxv.

received by a person should reflect the actual needs and responsibilities they bear in the family.²³

Thus, both women and men actually have the same position in terms of obtaining inheritance. This is because the distribution of inheritance is a way for an heir to pass on their responsibilities to the family they leave behind. On that basis, the size of the portion given to each heir should ideally take into account the burden of responsibility and the role they play in family life. In short, the principle of justice in Islamic inheritance law requires harmony between the rights received and the obligations borne by each heir.²⁴

Rereading the Verse on Inheritance with the Principle of Substantive Justice

Islamic law (fiqh) has unique characteristics that other legal systems do not have because it is derived from the Qur'an and hadith and then developed through a process of reasoning known as *ijtihad*. The role of *ijtihad* is very significant in renewing and advancing Islamic law so that it remains relevant to the demands of the times.²⁵ This is in line with the view of as-Syahrastani, who is often referred to by Islamic legal scholars, that religious texts are limited in number, while legal issues that need to be resolved continue to arise and develop incessantly. Therefore, intellectual effort through *ijtihad* is needed to read and interpret these limited texts so that they can answer various new issues that are not clearly regulated in the main sources of Islamic law.²⁶

Based on this principle, the issue of the 2:1 inheritance distribution cannot be separated from the need for continuous *ijtihad*. The 2:1 provision in early Islam was born in a specific social context that was very different from the conditions of modern society. At the time the verse was revealed, the family structure placed men as the main breadwinners, while women bore no economic burden. Thus, the 2:1 inheritance formula was understood as a form of justice commensurate with the responsibilities of each party.

²³ Islamiyati, "Analisis Asas Keadilan pada Pembagian Harta Warisan Menurut Hukum Islam," *Masalah-Masalah Hukum* 44, no. 1 (2015): 104–13, <https://doi.org/10.14710/mmh.44.1.2015.104-113>.

²⁴ Nashirun, Kurniati, and Marilang, "Konsep Keadilan dan Kesetaraan Gender Tentang Pembagian Harta Waris dalam Perspektif Hukum Islam," *Madani Legal Review* 6, no. 1 (2022): 65–78, <https://doi.org/10.31850/malrev.v6i1.1708>.

²⁵ Rahmad Setyawan and Muslih, "Implementasi Konsep Qath'i dan Dzanni dalam Jarimah Pencurian: Relevansi Hukuman Potong Tangan di Era Modern," *Abdurrauf Law and Sharia* 1, no. 2 (2024): 164–90, <https://doi.org/10.70742/arlash.v1i2.82>.

²⁶ Abu Fath Muhammad ibn 'Abdul Karim ibn Abu Bakr, *Al-Milah Wa an-Nihal* (Mesir: Musthafa al-Babi al-Halabi, 1967), 199.

However, the social structure of that era is certainly no longer entirely relevant to the realities of the 21st century.²⁷ Social, economic, and educational transformations have significantly changed women's roles in modern life. Women are no longer just companions in the family; they are also active contributors to the household economy and, in many cases, the backbone of the family. Their involvement in the public sector has also expanded from the professional world and bureaucracy to community leadership, demonstrating that women's positions in society have shifted fundamentally.

These changes not only illustrate increasingly equal roles but also show that women have responsibilities and make contributions that are no less significant than men in the structure of family and social life. Given this reality, maintaining a rigid 2:1 inheritance distribution without considering the contemporary context has the potential to undermine the principle of justice at the heart of Islamic inheritance law itself. Within this framework, ijtihad becomes urgent to ensure that legal provisions keep pace with societal developments while continuing to reflect the values of justice that form the foundation of Islamic teachings.

If traced back, the main purpose of the verses on inheritance was to eliminate the practice of unfair and discriminatory distribution of wealth in pre-Islamic times. Abdul Moqsith Ghazali explains that inheritance regulations in Islam are essentially intended to bring about a new order that is more humane and just, while also emphasizing that every family member, including previously marginalized groups, has rights that must be respected.

To protect and guarantee the rights of vulnerable family members, including young boys and women, the Qur'an immediately established the categories of primary heirs entitled to receive a share of the inheritance. This group of heirs is divided into two types: first, heirs by blood relationships. On the male side, these include fathers, sons, brothers, uncles, and grandfathers. On the female side, these include mothers, daughters, sisters, and grandmothers. Second, heirs by marriage, namely, the surviving husband or wife. Based on the guidance of the Qur'an and hadith, the scholars then concluded that if all of these parties

²⁷ M. Lutfi Hakim, "Keadilan Kewarisan Islam Terhadap Bagian Waris 2:1 antara Laki-Laki dengan Perempuan Perspektif Filsafat Hukum Islam," *Al-Maslahah: Jurnal Ilmu Syariah* 12, no. 1 (2016): 1–18, <https://doi.org/10.24260/almaslahah.v12i1.339>.

are present as heirs, then the only recipients of the inheritance are the children, father, mother, and husband or wife of the deceased.²⁸

Thus, the fundamental message of the inheritance verses is to present a system of inheritance distribution based on justice and to replace the pre-Islamic pattern rife with inequality. The 2:1 inheritance distribution rule in early Islam was a progressive step in the social context of the time. This was a significant change from the old (pre-Islamic) practices that did not reflect justice. However, the spirit of renewal should not stop at the formulation of that number alone, because social realities continue to change from time to time and demand a more adaptive legal response. In this framework, the mubadalah interpretation method can be used to reinterpret the 2:1 inheritance distribution provision. Through an approach that emphasizes the principles of reciprocity, justice, and gender equality, this method opens up space for the establishment of laws that are more relevant, humane, and capable of responding to the needs of contemporary society without abandoning the universal values of the Qur'an.

Contextualization of the 2:1 distribution of inheritance: the perspective of mubadalah and its relevance to the principle of equality in islamic family law in indonesia

The mubadalah interpretation method is an interpretive approach used to read religious texts, including the Qur'an, hadith, and the works of scholars, with an emphasis on the principle of reciprocity in exploring the values they contain. This method was born out of a desire to present a more inclusive and collaborative way of reading, supported by two main aspects: social and linguistic. From a social perspective, this method stems from the awareness that society's understanding of religious texts has been largely influenced by cultural constructs that tend to place the male perspective at their center. Sahal Mahfudz also emphasized that the injustice experienced by women in Indonesia is often rooted in deeply entrenched cultural assumptions, so that women are often in a subordinate position.²⁹

Meanwhile, from a linguistic perspective, this issue relates to the basic characteristics of Arabic, the main language of Islamic law, which grammatically distinguishes between men and women in almost all its elements. From nouns and verbs to pronouns, both

²⁸Abdul Moqsith Ghazali, "Hukum Waris dalam Suatu Konteks." *Pustakamu*, 2012. Diakses 10 November 2025. <https://www.pustakamu.my.id/2012/05/hukum-waris-dalam-suatu-konteks.html>.

²⁹Husein Muhammad, *Fiqh Perempuan* (Yogyakarta: IRCiSoD, 2021), 7.

singular and plural, all contain very clear gender distinctions. This linguistic structure contributes to the way fiqh positions men and women as two separate categories, often resulting in legal formulations that appear to treat them differently or unequally. However, in principle, the Qur'an and hadith address men and women as equal subjects, both of whom are human beings with equal dignity, responsibilities, and spiritual rights.³⁰

In practice, the mubadalah method of interpreting inheritance verses encourages us not to stop at a textual reading of the 2:1 inheritance distribution between men and women. This provision cannot be understood normatively but must be viewed from the perspective of its substantive meaning and purpose. In the early days of Islam, men bore full responsibility as breadwinners for their families, including their wives and other family members under their care. Given these social conditions, women actually received economic rights through two channels: the breadwinning obligations of men and from their inheritance share itself. Thus, the 2:1 formula is not a rigid and unchanging law but rather a provision that has always functioned in accordance with social situations and responsibilities in society. This principle should not be used as an excuse to limit women in obtaining their rightful inheritance.³¹ The statement in the Qur'an, "*Li ad-Dzakari mitslu hadzi al-Untsayayni*" must be understood in relation to specific socio-cultural conditions that may change. Therefore, it is very possible and valid in terms of justice for women to receive an inheritance equal to that of men, or even greater, if the social context and needs so require.³²

Therefore, when the provisions of Islamic inheritance law are placed within the framework of the relationship between the roles performed and the rights deserved, women cannot be viewed merely as parties who simply accept predetermined rules. Women now play active roles in various sectors, ranging from economics, education, and childcare to strategic roles in public life. With the increasing breadth and importance of their contributions, women's rights must be recognized fairly and in a balanced manner. This means that the legal recognition of women's inheritance rights must be adjusted proportionally to the reality of their increasingly significant contributions so that justice does not stop at the text but is truly present in real life.

³⁰ Faqihuddin Abdul Kodir, *Qira'ah Mubadalah* (Yogyakarta: IRCCiSoD, 2019), 104.

³¹ Faqihuddin Abdul Kodir, *Qira'ah Mubadalah*, 265-267.

³² Redaksi, "Menafsir Ulang Waris Perempuan" mubadalah.id, 2025. Diakses 17 November 2025, <https://mubadalah.id/menafsir-ulang-waris-perempuan/>.

In practice, religious courts have issued several rulings based on a more progressive approach to determining inheritance shares between men and women. One example is the Jakarta Central Religious Court Decision Number: 1642/Pdt. G/2020/PA.JP stipulates an equal distribution of inheritance between male and female heirs with a 1:1 distribution formula. In their considerations, the panel of judges emphasized the principle of justice based on the actual roles and responsibilities of the heirs. This means that the 2:1 provision is not treated as a rigid formula, but as a provision that depends on who actually bore greater responsibility for the parents during their lifetime.³³

If a son is proven to have given greater care, support, and responsibility, he deserves to receive twice as much as his sister. However, if in reality he does not carry out these responsibilities, or if his younger or older sister bears more of the burden, then the boy is not entitled to the 2:1 privilege. Conversely, a girl who contributes more to her parents is entitled to receive an equal share with her brother, and may even receive a higher share if circumstances so require. This approach shows that fairness in the distribution of inheritance must be based on the reality of responsibility, not merely on a numerical formula that is considered final and absolute.³⁴

A similar case can be seen in the Medan Religious Court Decision Number 92/Pdt.G/2009/PA.MDN. In this case, the judge exercised ijtihad by considering the factual circumstances of the parties, rather than simply adhering to the classic formula. The judge emphasized that the provision that the male inheritance is twice that of the female is not a fixed number that cannot be changed, but rather a maximum limit that can be adjusted according to the demands of justice. Similarly, the female inheritance, which is traditionally smaller, can be increased if the facts show that an adjustment is necessary for a more just decision. For the judge in this case, the principle of justice is the basic legal logic that justifies changes to the inheritance distribution formula. In other words, the 2:1 formula is not treated as a fixed rule, but as a provision that is always open to reinterpretation in order to uphold justice in practice in society.³⁵

³³ Muhamad Hasan Sebyar and Purnama Hidayah Harahap, "Analisis Putusan Hakim Nomor 1642/Pdt.G/2020/Pa.Jp dalam Pembagian Harta Waris antara Anak Laki-Laki dan Perempuan," *Jurnal Al-Maqasid: Jurnal Ilmu-Ilmu Kesyariahan dan Keperdataan* 6, no. 2 (2020): 222-38, <https://doi.org/10.24952/almaqasid.v6i2>.

³⁴ Putusan Pengadilan Agama Nomor 1642/Pdt.G/2020/Pa.Jp

³⁵ Putusan Pengadilan Agama Nomor 92/Pdt.G/2009/PA.MDN

Thus, as collective awareness of the values of justice and gender equality grows, a number of Religious Courts in Indonesia have begun to apply a more flexible approach in line with social developments. Implicitly, this step shows that the principle of equality in the distribution of inheritance has begun to be revived. The classic provision that gives men two parts and women one part is no longer treated as an absolute formula, but as a provision that can be adjusted to remain in line with the sense of justice that is developing in society.³⁶

The relevance of this change in perspective is even more apparent when viewed in the context of Islamic Family Law in Indonesia, which from the outset has been built on the principles of justice, benefit, and protection of vulnerable parties. Indonesia not only has social and cultural diversity, but also experiences changes in family structure, gender relations, and economic dynamics that are very different from Arab society at the time when the verses on inheritance were revealed.

Therefore, when the Religious Courts in Indonesia began to allow for a more contextual interpretation of inheritance provisions, this step essentially demonstrated that the principle of equality had become part of the legal needs of society. The distribution of inheritance was no longer understood solely as a rigid mathematical rule, but as an instrument for maintaining a balance of rights and responsibilities within the family.

In the context of Indonesian Islamic Family Law, this more equitable approach has a number of important implications. First, it affirms that Islamic law is capable of adapting to the times without losing its fundamental principles. Second, it opens up space for women to gain recognition for the social, economic, and emotional contributions they make to the family. Third, this approach encourages the emergence of more responsive decisions that favor substantive justice, especially in a society that increasingly demands equal treatment between men and women.

Thus, the practice of reinterpreting the 2:1 inheritance rule is not merely a form of adjustment, but a process of strengthening the principle of equality in Islamic Family Law in Indonesia. This is proof that noble Islamic values, such as justice, benefit, and respect for human dignity, can always be revived in a modern context and provide direction for the renewal of Islamic inheritance law that is relevant and fair to all parties.

³⁶ Holan Riadi, "Hukum Keluarga Islam dan Kesetaraan Gender: Kajian atas Pengalaman Masyarakat Muslim di Indonesia," *Modeling: Jurnal Studi Program Studi PGMI* 11, no. 1 (2024): 1174–84, <https://doi.org/10.69896/modeling.v1i1.2534>.

CONCLUSION

The 2:1 inheritance distribution rule between men and women, which has long been the main reference in classical fiqh, cannot be separated from the socio-historical context of Arab society in the early days of Islam. This formulation was born in a patriarchal social structure that placed men as the main providers and protectors of the family, while women were in a relatively limited position in terms of economic access and public space. Therefore, the 2:1 provision is actually a normative Islamic response to the social reality at that time, which aimed to bring about substantive justice in accordance with the prevailing division of roles and responsibilities. In subsequent developments, a textual and ahistorical reading of this provision often raises issues when confronted with significant social changes, particularly those related to gender relations and the distribution of economic responsibilities in contemporary muslim families.

Within this framework, mubadalah interpretation emerges as a relevant methodological approach to reinterpreting the 2:1 inheritance rule by emphasizing the principles of reciprocity, justice, and gender equality. The mubadalah perspective does not negate the text of the Qur'an, but rather seeks to explore the universal values contained therein by placing men and women as equal subjects of law who are mutually responsible. This approach emphasizes that Islamic inheritance law must be understood relationally, that is, by considering the contributions, responsibilities, and actual roles of each family member. A number of rulings by judges in Indonesian religious courts, that allow for a more proportional and equitable distribution of inheritance show that the practice of Islamic law in Indonesia, has moved towards a more contextual interpretation that is responsive to social realities.

In the context of Islamic Family Law in Indonesia, the relevance of mubadalah interpretation is growing stronger given the pluralistic and dynamic nature of Indonesian society, both in terms of family structure, gender relations, and economic roles. Women are no longer solely positioned as economically dependent parties, but also play an active role in supporting family welfare, child care, education, and even social leadership. This condition requires adjustments in inheritance law practices so that they are not only oriented towards formal justice, but also substantive justice. Thus, the reinterpretation of the 2:1 provision is not merely a normative academic discourse, but a practical necessity to reinforce the values of equality and benefit in Islamic family law in Indonesia, in line with the main objectives of the Sharia (*maqāṣid asy-Syari'ah*) in realizing justice and humanity.

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