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The Concept of Justice in Inheritance Distribution According to *Fiqh Mawaris*

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Abstract: The distribution of inheritance in Islamic jurisprudence is governed by legal principles concerning heirs, providing comprehensive guidance on the rights of heirs as articulated in the Qur'an and Hadith. This study aims to critically examine the concept of equity in inheritance distribution as portrayed by *fiqh mawaris*. Equity within this framework is not viewed as absolute parity but rather as proportional justice that considers the social and economic obligations placed on each heir. For instance, the difference in shares allotted to men relative to women is based on the subsistence responsibilities that men bear within the family structure. However, this interpretation of justice often faces scrutiny due to perceptions of inconsistency with contemporary gender equality principles. Consequently, modern *ijtihad* and instruments such as wills or endowments (*waqf*) may serve as viable alternatives to achieve a form of justice more aligned with societal developments, while still adhering to the foundational principles of *sharia*. The study's findings indicate that the concept of justice in inheritance distribution under *fiqh mawaris* can be adapted while upholding the principle of *maslahah* to ensure balance and fairness in family relations.

Keywords: Justice, *Fiqh Mawaris*, Inheritance Distribution, *Ijtihad*, Proportional Justice.

Abstrak: Distribusi warisan dalam yurisprudensi Islam diatur oleh prinsip-prinsip hukum yang berkaitan dengan ahli waris, yang menggambarkan arahan komprehensif mengenai hak ahli waris sebagaimana diartikulasikan dalam Al-Qur'an dan Hadis. Penelitian ini berupaya untuk mengkaji secara kritis gagasan kesetaraan dalam distribusi warisan sebagaimana digambarkan oleh fiqh mawaris. Ekuitas dalam kerangka ini tidak dianggap sebagai paritas absolut melainkan sebagai keadilan proporsional yang mempertimbangkan kewajiban sosial dan ekonomi yang dikenakan pada setiap ahli waris. Misalnya, perbedaan dalam saham yang diberikan kepada laki-laki relatif terhadap perempuan didasarkan pada tanggung jawab subsisten yang dipikul laki-laki dalam struktur keluarga. Namun demikian, interpretasi keadilan ini sering menghadapi pengawasan karena persepsi ketidaksesuaian dengan prinsip kesetaraan gender yang lazim dalam masyarakat kontemporer. Akibatnya, ijtihad modern dan instrumen seperti wasiat atau wakaf dapat berfungsi sebagai alternatif yang layak untuk mewujudkan bentuk keadilan yang lebih kongruen dengan perkembangan masyarakat kontemporer, sambil tetap berpegang pada prinsip-prinsip dasar syariah. Temuan penelitian menunjukkan bahwa konsep keadilan dalam pembagian warisan sesuai fiqh mawaris dapat

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disesuaikan, sambil menjunjung tinggi prinsip maslahat untuk memastikan keseimbangan dan keadilan dalam hubungan keluarga.

Kata Kunci: Keadilan, Fikih Mawaris, Pembagian Waris, Ijtihad, Keadilan Proporsional.

INTRODUCTION

The distribution of inheritance assets is a significant dimension within Islamic jurisprudence, carefully elaborated in the domain of *fiqh*. *Fiqh mawaris*, or Islamic inheritance law, emphasizes the division of inheritance according to principles clearly established in the Qur'an and Hadith (Pratama, 2025). A fundamental element in inheritance allocation is the concept of justice, which serves as the foundational principle governing the distribution of rights among heirs. However, interpretations of justice within the framework of *fiqh mawaris* often generate debate, particularly when juxtaposed with diverse socio-cultural realities across various Muslim communities (Pratama, 2023).

The concept of justice in inheritance is not only understood as a static normative provision but also as a dynamic idea that continuously interacts with social change (Pratama, 2023). This indicates that *fiqh mawaris* contains a dialectical space between text and context, between divine textual prescriptions (*nash*) and the evolving realities of Muslim societies. Therefore, discussions on inheritance cannot be separated from broader social, economic, and cultural analyses.

Justice, in relation to inheritance distribution under *fiqh mawaris*, has a distinctive character in which the allocation of assets is not distributed uniformly but is instead determined based on specific proportions outlined in Islamic law (Titin Purwaningsih, 2022). The Qur'an explicitly articulates the rules governing inheritance shares for men and women, as stated in Surah An-Nisa, verses 11–12 (Jajaran Penyelenggara Penerjemah/Penafsir Al-Qur'an (1967) / Tim Penyempurnaan Terjemahan Al-Qur'an (2016-2019), 2019). Nevertheless, perspectives that assume distributive disparity often arise, particularly in contemporary contexts that increasingly advocate gender equality.

The concept of different inheritance shares between men and women in Islamic law has become a critical point in modern academic discourse. Some view it as a form of inequality, while in classical *fiqh* perspectives, such provisions are part of a broader system of justice integrated with the respective social responsibilities of individuals (Al-Zuḥaylī, 1989). Within the Islamic family structure, men bear greater financial obligations, including the duty to provide for the family, whereas women are not burdened with the same compulsory responsibilities. Thus, inheritance distribution is positioned as a balance between complementary rights and responsibilities.

A historical review of the implementation of Islamic inheritance law shows that since the early period of Islam, this system was introduced as a solution to the unequal distribution of wealth in pre-Islamic Arab society, which was highly exclusive and extremely patriarchal. Islam brought structural reform to inheritance practices, including granting women inheritance rights that they previously did not possess. Therefore, from a legal-historical perspective, *fiqh mawaris* represents a significant advancement in social justice during its time.

There is also a philosophical dimension in the concept of Islamic inheritance justice, which is closely related to the principles of *maslahah* (public interest) and *maqasid al-shariah* (objectives of Islamic law). Within this framework, inheritance distribution is not merely intended to divide wealth mathematically, but to maintain social balance, protect individual rights, and ensure the sustainability of family welfare (Al-Ghazali, 1993). Thus, justice in *fiqh mawaris* is substantive justice rather than merely formal justice.

This literature review seeks to further explore the concept of justice in inheritance distribution as established in *fiqh mawaris*, as well as to explain how this concept is understood and implemented within contemporary Muslim societies (Pratama & Saipudin, 2025). By elaborating the concept of justice embedded in *fiqh mawaris*, a more comprehensive understanding of the application of Islamic justice values in inheritance contexts is expected to be achieved. Previous studies have explored this topic; however, differences in interpretation regarding the application of justice across social contexts still exist. Consequently, this research is important in fostering a deeper understanding of the concept of justice within the framework of *fiqh mawaris*.

In several contemporary studies, interdisciplinary approaches have begun to be employed to understand Islamic inheritance law, including legal sociology, legal anthropology, and Islamic economics. These approaches enable a broader analysis of how inheritance law functions not only as a legal norm but also as a social practice influenced by family structures, economic patterns, and cultural transformations. Thus, *fiqh mawaris* can be understood as a living law (*living law*) within Muslim societies (Mushthofa et al., 2022).

In addition, in modern social practice, the implementation of Islamic inheritance law often does not stand alone but is combined with other legal instruments such as *hibah* (grants) and *wasiyyah* (wills). This demonstrates a degree of flexibility in wealth distribution practices, particularly when families face complex situations such as differences in economic contribution among members or specific individual needs. The use of *hibah* and *wasiyyah* is often viewed as an adaptive mechanism of Islamic law to evolving social realities without abandoning the fundamental principles of *sharia* (Pratama & Saipudin, 2025).

The discourse on gender equality in inheritance is also one of the most frequently discussed issues in contemporary Islamic legal studies. Some scholars attempt to reinterpret classical texts through a contextual *ijtihad* approach, namely legal adjustment based on current social conditions (Kasnan, 2023). Nevertheless, this approach must remain within the methodological framework of *usul al-fiqh* to ensure it does not deviate from established foundational principles of Islamic law.

Thus, the study of justice in *fiqh mawaris* cannot be separated into two main dimensions: the normative dimension derived from the Qur'an and Hadith, and the empirical dimension derived from the social realities of Muslim societies. Both must be understood in a balanced manner to avoid reducing the meaning of justice to merely formal aspects. Therefore, this research contributes significantly to enriching academic discourse on Islamic inheritance law, particularly in the context of modern social transformation.

METHOD

This study employs a qualitative research methodology, specifically adopting a library research framework or *literature-based study* approach (Pratama, 2019). This framework is chosen to comprehensively engage with the concept of justice in inheritance distribution as described within *fiqh* related to heirs, through an in-depth examination of relevant literature. The sources analyzed include primary sources such as the Qur'an, Hadith, and classical scholarly works, as well as secondary sources including academic journals, books, and previous studies focusing on inheritance distribution within the Islamic legal context.

The data collection process in this study is conducted through an extensive and systematic review of literature related to the theme of justice in inheritance distribution as determined by Islamic jurisprudence. The selected literature encompasses a wide range of scholarly contributions, including both descriptive and analytical studies (Moleong, 2023). Subsequently, the collected data is subjected to critical analysis in order to elucidate various perspectives on justice within *fiqh mawaris*, as well as to explore how this concept is operationalized across different social and cultural frameworks.

Content analysis methodology is employed to examine and interpret texts derived from multiple sources. This analytical approach aims to identify and distinguish the main themes related to justice in inheritance distribution and to juxtapose differing perspectives between classical and contemporary sources. Through this method, the study not only investigates theoretical constructions but also seeks to trace the evolution of the understanding of justice in *fiqh mawaris* over time. Furthermore, this library-based research approach enables the study to position *fiqh mawaris* not merely as a static legal doctrine, but as a dynamic intellectual tradition that interacts continuously with changing social realities. By doing so, the research highlights the dialectical relationship between normative Islamic legal texts and empirical socio-cultural developments that influence their interpretation and application

In addition, this methodological framework allows for a comparative reading of inheritance justice concepts across different scholarly paradigms, including classical jurisprudential interpretations and contemporary reformist perspectives. This comparative dimension is essential in identifying continuities and shifts in the conceptualization of justice within Islamic inheritance law. By utilizing this library research approach, the study aspires to make a significant contribution to the enrichment of academic discourse on the concept of justice in inheritance distribution from the perspective of *fiqh mawaris* (Arikunto, 2024).

RESULTS AND DISCUSSION

The depiction of inheritance within the framework of Islamic jurisprudence, particularly in relation to *mawaris*, is grounded in divine provisions established in the Qur'an and Hadith, which are regarded as exemplary manifestations of justice. The primary principle that often becomes the subject of scrutiny is the allocation of inheritance between male and female heirs. In Surah An-Nisa: 11, it is explicitly stated that the share of a male is equal to that of two females (Al-Mubarakfuri, 2020). This provision is frequently misunderstood as a form of injustice toward women;

however, within the context of *fiqh mawaris*, it is interpreted as a form of proportional justice that takes into account the differing social and economic responsibilities assigned to men and women.

This seemingly unequal distribution is essentially intended to establish balance within the family unit. Men, who are allocated a larger share, are considered responsible for providing financial support for the family, whereas women are not burdened with the same obligatory responsibility. This concept of proportional justice aims to harmonize rights and responsibilities (Pratama, 2023). Nevertheless, in contemporary society, women's roles have undergone significant transformation, with many women actively participating in economic activities that contribute to family welfare. Consequently, there is a need to reassess this principle within a more adaptive and progressive framework while still upholding the fundamental principles of *sharia*.

The methodological foundation of justice in inheritance jurisprudence is rooted in the principle of *maslahah*, which emphasizes the necessity of maximizing benefits while minimizing harm in the distribution of inheritance assets. The allocation of inheritance is carried out with careful consideration of the needs and obligations of each heir. The entitlement of male heirs to a relatively larger share is justified by their anticipated role in bearing the financial responsibilities of the family, and is therefore considered legitimate and just, as it reflects a higher level of social accountability (Haniru, 2023).

This perspective can be explained through the framework of distributive justice, which concerns the fair allocation of resources (inheritance assets) in accordance with individual needs and responsibilities (Muhammad sirojudin Sidiq & Akta Kurniawan, 2023). In contemporary social settings, where women increasingly participate in economic responsibilities, the implementation of an egalitarian distribution model may be considered or potentially integrated through mechanisms such as *hibah* (gifts) or *wasiyyah* (wills) (Setiawan, 2020). In this context, inheritance distribution under *fiqh mawaris* may be interpreted as a response to evolving societal conditions that require modern *ijtihad*.

A notable illustration of inheritance disparity that often triggers social disputes can be observed in a family structure consisting of one male heir and two female heirs. According to the principles of *fiqh mawaris*, the share allocated to the male heir is twice that of the female heirs (Al-Zuḥaylī, 1989). However, the substantial economic contributions made by daughters within the family context may generate perceptions of inequality.

This scenario reflects perceived limitations in inheritance law as implemented within the religious judicial system, which is often seen as insufficiently responsive to contemporary social dynamics within modern family units. Women's increasing participation in professional fields and their significant contributions to household income may be regarded as comparable to those of men. Consequently, to mitigate potential disputes, many families choose to utilize mechanisms such as *hibah* or *wasiyyah* as compensatory measures. The application of *hibah* or *wasiyyah* allows compliance with Islamic inheritance law while simultaneously providing flexibility in achieving a socially perceived fair distribution of inheritance rights.

The field of *fiqh mawaris* is not immune to scrutiny, particularly regarding the differential shares allocated to men and women. Advocates of feminist ideology and human rights perspectives often regard this distribution as a violation of gender parity principles, especially in contemporary societies where women are actively involved in household economic dynamics (Pratama, 2023). Conversely, in states characterized by secular and pluralistic legal frameworks, the application of *fiqh mawaris* frequently encounters tension with positive law, thereby complicating its implementation within national legal systems.

Criticism surrounding differential inheritance distribution between men and women is indeed relevant in the context of social transformation; however, it must be contextualized within the overarching objectives of Islamic jurisprudence, which aim to uphold justice, family welfare, and social harmony. While such critiques are legitimately grounded in discussions of gender equality, the enforcement of inheritance law based on the principle of *maslahah* may facilitate adjustments through contemporary *ijtihad* without necessitating the abandonment of the fundamental principles of Islamic justice. The main challenge lies in reconciling the principles of *sharia* with modern societal demands advocating equal rights and responsibilities.

In response to such critiques, several contemporary scholars emphasize the use of *hibah* or *wasiyyah* as supportive mechanisms within inheritance systems that may otherwise be considered controversial by some groups. *Hibah*, also known as *wasiyyah* in certain contexts, refers to the transfer of wealth to individuals with the aim of achieving a more equitable distribution without violating the principles of Islamic inheritance law (Al-Qaradawi, 2006).

Solutions through *hibah* or *wasiyyah* are viewed as forms of modern *ijtihad* that adapt inheritance law to current social and economic conditions, demonstrating the necessity of flexibility within *fiqh mawaris*. This *ijtihad* reflects the capacity of Islamic law to adapt to changing times while remaining faithful to the principles of *sharia*. According to Yusuf al-Qaradawi, such adjustments take into account the *maqasid al-shariah*, which emphasize justice and overall societal welfare (Al-Qaradawi, 2006).

Within the context of *fiqh mawaris*, justice in inheritance distribution is not always absolute but rather proportional, aiming to strengthen social and economic bonds among all heirs (Muhammad ibn Idris Al-Syafi'i, n.d.). Nevertheless, adjustments in the implementation of inheritance law—such as through *hibah* or *wasiyyah*—are necessary, particularly considering the diverse roles of women in contemporary society. A contextual *ijtihad* approach may serve as a solution to address emerging disparities in inheritance discourse while remaining grounded in the foundational principles of Islamic law.

CONCLUSION

Based on the discussion above regarding the concept of justice in inheritance distribution according to *fiqh mawaris*, it can be concluded that such justice is proportional rather than absolute. *Fiqh mawaris* is grounded in Islamic law derived from the Qur'an and Hadith, with the objective of fostering social and economic harmony among heirs. In this context, male heirs receive a larger share compared to female heirs, reflecting the greater financial responsibility borne by men in providing

for the family. The approach to justice in *fiqh mawaris* is based on the principle of *maslahah* (public interest), namely efforts to maintain group integrity and ensure a decent standard of living for each heir in accordance with their respective contributions and responsibilities. This conception of justice is also flexible; in certain cases, contemporary scholars offer adaptive solutions to respond to current societal conditions, particularly regarding women's increasing participation in economic activities within the family.

Although *fiqh mawaris* is often subject to criticism, especially in relation to gender equality discourse, solutions such as *hibah* (gifts) or *wasiyyah* (wills) may be employed as mechanisms to address such issues without neglecting the fundamental principles of *sharia*. Contemporary *ijtihad* also provides alternative solutions aligned with the needs of the modern world while still upholding the core principles of Islamic law. Within the framework of Islamic jurisprudence, the concept of justice in inheritance distribution seeks to balance the rights and responsibilities of heirs, while allowing flexibility through *ijtihad* and legal reform within the boundaries of *sharia*.

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