



RECONSTRUCTION OF MAWARIS LAW IN A MODERN CONTEXT: THE PERSPECTIVE OF GENDER EQUALITY IN ISLAMIC LAW

REKONSTRUKSI HUKUM MAWARIS DALAM KONTEKS MODERN: PERSPEKTIF KESETARAAN GENDER DALAM HUKUM ISLAM

Nanang Hermawan ¹

¹Islamic Religious Education Study Program, Email: nanang.hermawan@staihas.ac.id

*email Koresponden: nanang.hermawan@staihas.ac.id

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Abstract

This research aims to explore the reconstruction of mawaris law in Islam in the modern context, especially by considering the principle of gender equality without abandoning sharia values. The research method used is qualitative, with textual analysis of mawaris verses in the Qur'an, Hadith, and the study of the theory of maqāṣid shari'ah. Case studies in several Muslim countries were also conducted to assess the implementation of modified mawaris laws within the national legal framework. The results of the study show that mawaris law, although textual in the Qur'an, provides space for reinterpretation through the maqāṣid shari'ah approach. This approach emphasizes aspects of justice, benefit, and equality that are in line with Islamic values. The study also found that the reconstruction of mawaris law can support the strengthening of women's position in the family and society without eliminating the principle of justice that is the core of sharia. This study concludes that mawaris law can be adapted to the modern context through reinterpretation based on maqāṣid shari'ah. Thus, this reconstruction not only answers the challenges of the modern era but also maintains the relevance of Islamic law as a universal guideline.

Keywords : Islamic law, gender equality, reconstruction of mawaris law

Abstrak

Penelitian ini bertujuan untuk mengeksplorasi rekonstruksi hukum mawaris dalam Islam dalam konteks modern, khususnya dengan mempertimbangkan prinsip kesetaraan gender tanpa meninggalkan nilai-nilai syariah. Metode penelitian yang digunakan adalah kualitatif, dengan analisis tekstual terhadap ayat-ayat mawaris dalam Al-Qur'an, Hadis, serta kajian terhadap teori maqashid al-syariah. Studi kasus di beberapa negara Muslim juga dilakukan untuk menilai



implementasi hukum mawaris yang telah dimodifikasi dalam kerangka hukum nasional. Hasil penelitian menunjukkan bahwa hukum mawaris, meskipun bersifat tekstual dalam Al-Qur'an, memberikan ruang untuk reinterpretasi melalui pendekatan maqashid al-syariah. Pendekatan ini menekankan aspek keadilan, kemaslahatan, dan kesetaraan yang selaras dengan nilai-nilai Islam. Studi juga menemukan bahwa rekonstruksi hukum mawaris dapat mendukung penguatan posisi perempuan dalam keluarga dan masyarakat tanpa menghilangkan prinsip keadilan yang menjadi inti dari syariah. Penelitian ini menyimpulkan bahwa hukum mawaris dapat disesuaikan dengan konteks modern melalui interpretasi ulang berbasis maqashid al-syariah. Dengan demikian, rekonstruksi ini tidak hanya menjawab tantangan era modern tetapi juga mempertahankan relevansi hukum Islam sebagai pedoman universal.

Kata Kunci : Rekonstruksi hukum mawaris, kesetaraan gender, hukum Islam

1. INTRODUCTION

The law of inheritance is one of the important parts of Islamic law that regulates the division of inheritance among heirs. This law is stipulated in detail in the Qur'an, especially in Surah An-Nisa verses 11, 12, and 176 (Vela, 2015). This provision confirms that men generally get twice the share of women. The determination is based on the obligations and responsibilities inherent in men. in the family, as explained by the scholars. Allah SWT conveyed in his words, Surah An-Nisa verse 11:

لِّلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ

"For a man it is like the part of two women".

The women said: *"Why is that? Aren't we more entitled to two parts while they are one part? Because we are weaker in making a living, while men are stronger in trading, working, and earning a living than us. So, if God does not give us that advantage, we hope that sin will also be divided according to that advantage, that is, it is heavier on them than we are."* (Muqatil, 2002).

Then Allah sent down His words regarding the words of those who said , *"We need two more parts,"* namely Surah An-Nisa verse 32:

وَلَا تَتَمَنَّوْا مَا فَضَّلَ اللَّهُ بِهِ بَعْضَكُمْ عَلَى بَعْضٍ ۚ لِلرِّجَالِ نَصِيبٌ مِّمَّا اكْتَسَبُوا وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا اكْتَسَبْنَ ۚ وَسَأَلُوا اللَّهَ مِنْ فَضْلِهِ ۗ إِنَّ اللَّهَ كَانَ بِكُلِّ شَيْءٍ عَلِيمًا

"Do not dream (envy) of what Allah has given to some of you over others. For men there is a part of what they strive for and for women there is a part of what they strive for. Ask God for a portion of His bounty. Indeed, Allah is the All-Knower of all things."

Modernity has brought significant changes in the division of gender roles, including in the context of mawaris law. Women are no longer limited to domestic roles, but contribute as the backbone of the family economy (Dafitri Akbar, 2024). This situation raises the need to reconstruct the law of mawaris to better suit the evolving social dynamics.

The principle of maqashid shari'ah is a significant approach in answering this challenge. أن الشريعة جاءت بتحصيل المصالح وتكميلها وتعطيل المفاسد وتقليلها وأنها ترجح خير الخيرين وشر الشرين وتحصيل أعظم المصلحتين بتفويت أدناهما وتدفع أعظم المفسدتين باحتمال أدناهما



"That the sharia comes to realize the benefits and improve them, as well as to prevent mafsadat and reduce it. The Shari'a prioritizes the greater good between the two good, and chooses the lesser of the two evils. Shari'a also prioritizes the achievement of greater benefits even though it has to sacrifice smaller benefits, and rejects larger mafsadat even though it has to bear a lighter mafsadat." (Taimiyah, 2004).

Conceptually, Islamic sharia is designed to realize maslahat (goodness) and improve it, while preventing mafsadat (damage) and minimizing its impact. This principle reflects the priority in the Shari'ah: prioritizing the greater good between two things that are worth good, and making a choice on the evil that has a lesser impact between the two evils if both are unavoidable. In the context of maslahat and mafsadat, sharia encourages the achievement of greater maslahat even though it has to sacrifice smaller maslahat, and rejects a larger mafsadat even though it has to bear a lighter mafsadat. This approach shows that Islam is not just a rule, but a life guide that balances the needs of individuals and society with the principles of justice and wisdom.

The author analyzes previous studies on inheritance law from the perspective of gender equality, entitled, *"Gender Equality in Matters of Inheritance Distribution."* (Amalia & Zafi, 2020). In his research, the author highlights the differences in customary inheritance law in various regions and Islamic inheritance law in the context of gender equality between men and women. This research aims to understand Islamic inheritance law and the concept of gender equality in the distribution of inheritance, as well as to respond to the demands of gender equality that are increasingly voiced by feminists and gender activists. However, this research is still not comprehensive and inclusive to achieve a more equitable and gender-equal reconstruction of the mawaris law in the modern context.

The next research is titled, *"Gender Equality in Islamic Inheritance Law from the Perspective of M. Syahrur"*. (Zahro & Pramesti K.M, 2023) The law of inheritance provides different proportions between men and women, with men getting double, there are conditions where women can get a larger share. The implementation of the principle of gender equality still faces challenges, including a lack of public awareness and the need for action from the government. Therefore, it is necessary to reform the inheritance law to be more in line with the principle of gender equality and support women's rights. Contemporary ijthad also plays an important role in adjusting inheritance law to current social conditions, so that it can create better justice for women. Overall, despite clear provisions, there is still room for improvement in creating gender equality in inheritance.

The study, titled *"Islamic Inheritance Law Seen from the Perspective of Gender Justice Law"*, explores how inheritance law in Islam can reflect gender justice, as well as the challenges faced in its application in society. This article also discusses the possible injustices in the practice of inheritance law that favors men over women, as well as how the law can adapt to social and cultural developments to achieve better justice for all parties (Bachtiar, 2012). However, this research still has shortcomings, such as limited contextual analysis, lack of interdisciplinary approach, narrow focus on positive law, lack of empirical data, and lack of practical solutions. This indicates the need for a more comprehensive and innovative reconstruction of the law of mawaris in the modern context.

The research entitled *"Gender Justice in the Distribution of Inheritance in Fiqh Mawaris"* which reveals the issue of justice in the distribution of inheritance between men and women, which is still a debate in society. This study seeks to explain how the distribution of



inheritance can be understood in the social context that develops in Indonesia, with a gender approach. In addition, this article also discusses the differences in views between classical and contemporary scholars regarding the distribution of inheritance, as well as criticism from gender activists of sharia provisions that are considered gender-biased (Miskaya & Rahman, n.d.). In its research, the authors still do not include a more in-depth analysis of social impacts, women's voices, practical implementation of contextual approaches, as well as clear legal reform recommendations.

Previous research has limitations, both in research objects, methodologies, theories and discussion results that must be further elaborated. This study fills the void of the previous research, this study offers a new approach in reconstructing mawaric law that is not only based on normative texts, but also considers contemporary social dynamics. This research contributes to the development of Islamic law to remain relevant in facing the challenges of globalization.

This approach can be formulated through the concept of maqashid sharia, which is the main principles of sharia that are oriented towards the protection of religion (*ad-dīn*), soul (*an-nafs*), intellect (*al-aql*), heredity (*an-nasl*), and property (*al-mal*). In the context of heritage law, this approach aims to present substantive justice by adjusting the distribution of inheritance based on the role and contribution of women in the modern era (Anhar, 2021). Women, who now often serve as the backbone of the family's economy, need more proportional recognition in the distribution of inheritance.

This thinking is in line with the ideas of contemporary scholars such as Yusuf al-Qaradawi and Muhammad Syahrur, who encouraged the reinterpretation of classical texts in the framework of social and cultural change. They emphasized that Islamic law is not static, but dynamic and always relevant when integrated with the reality of the times. Thus, the maqashid approach of sharia allows mawaris law not only to function as a formal rule, but also as a tool to realize justice in modern society.

The contribution of this research to the development of Islamic law involves the relevance of globalization. Globalization has changed the structure of society, including the perspective on gender justice and inheritance rights. By offering adaptive Islamic law-based solutions, this research expands the scope of sharia to answer the challenges of the times without neglecting its normative essence. This approach is important to ensure that Islamic law remains responsive and applicable in various global contexts.

2. RESEARCH METHODS

This study uses a qualitative research method with a sharia maqashid approach. Qualitative methods in inheritance law research focus on an in-depth understanding of the meaning, context, and values contained in it. This approach is more descriptive and interpretive, and is often used in philosophical, theological and cultural studies (Azami, 1978).

The maqashid approach to sharia refers to the values or goals that underlie the determination of Allah's laws (Munawwir, 1997). Maqashid shari'ah encompasses the main objectives and values inherent in most or even all of the provisions of Allah's law. (Al-Zuhaili, 2005) These values reflect the intention and wisdom desired by the Shari'a (Shari'a Maker) in every determination of His law. Meanwhile, in another explanation it was said. That maqashid



shari'ah is wisdom, purpose, and secret that underlies the determination of sharia as a whole, without being limited to certain aspects of Islamic law (Asyur, 1946).

The maqāṣid shari'ah approach focuses on the main objectives of the Shari'ah, which are to realize benefits (jalb al-masalih) and eliminate harm (*dar' al-mafasid*). As explained by Al-Syatibi:

إن وضع الشريعة إنما هو لمصالح العباد في العاجل والآجل معاً

"Actually, the determination of sharia solely aims to realize the benefits for servants, both in this world and in the hereafter at once." (Al-Mu'allifin, 2010).

The study of maqashid sharia has a very important significance, especially in this contemporary era. In the modern context, a deep understanding of sharia maqashid is not only a basic need, but also plays a vital role in the process of establishing Islamic law. This is due to various rational reasons that make it an important foundation in answering the challenges and dynamics of Muslim life today. The maqashid approach allows for the establishment of laws that are not only in accordance with the text, but also relevant to the context, thus providing a more adaptive and comprehensive solution to social reality (Shidiq, 2009).

The determination of maqāṣid shari'ah in Islamic law must meet several important criteria in order to be applied effectively and effectively. These criteria include: (1) Fixed, the meanings in question must have certainty or at least close to certainty, so that they can be a strong foundation. (2) Obviously, the meaning should not cause differences of opinion among the jurists, so as to avoid ambiguity. (3) Measurable, the meaning set must have a clear measure or limit, so as not to raise doubts in its application. (4) It is general, the meaning must be universal and relevant in various contexts of time and place (Al-Zuhaily, 2005).

The fulfillment of this standard makes maqashid sharia a solid and strategic guideline in establishing Islamic law. This allows the application of laws that are not only theoretically relevant but also adaptive to social, cultural, and changing dynamics, thus making a significant contribution to building a just and universal Islamic legal framework.

3. RESULTS AND DISCUSSION

i. Harmony of Mawaris Law with Maqāṣid Shari'ah

The law of mawaris in Islam aims not only to divide property mathematically but also to maintain justice and benefits in the family. The principle of maqāṣid shari'ah, as affirmed by scholars, is an important guide in implementing this law so that it remains relevant in various contexts of the times. The inheritance law is designed to guarantee a fair distribution of assets among the heirs. This division is not only a mathematical number but aims to protect the stability of the family and society. The reason for the two-to-one division for men compared to women is as a form of adjustment to the financial responsibility of men in the family (Al-Qurtubi, 1993). However, in the modern era, when women play a significant role in sustaining the family economy, the principle of maqāṣid shari'ah allows for a reinterpretation to achieve better justice. In mawaris law, this principle of safeguarding the benefit is evident through divisions designed to create harmony in the family.

Maṣlahah is interpreted in two perspectives that complement each other. Narrowly, *maṣlahah* is interpreted as an effort to achieve benefits and avoid harm. However, in a broader



scope, *maṣlahah* is understood as the highest goal of Islamic shari'ah (*maqāṣid shari'ah*). This concept is the core of the Islamic legal system, oriented towards the achievement of human welfare in this world and the hereafter through the protection of five fundamental aspects:

المقصد الأسمى للشريعة، وتتضمن: حفظ الدين، والنفس، والنسل (أو النسب)، والعقل، والمال، ويبين أن كل ما يؤدي إلى تحقيق ذلك يعتبر "مصلحة"، وكل ما يعوق ذلك يعتبر "مفسدة".

"The highest goal of Islamic law is to achieve the benefit of the ummah which includes five main principles: protection of religion (hifẓ ad-dīn), soul (hifẓ an-nafs), descent or nasab (hifẓ an-nasl), intellect (hifẓ al-aql), and property (hifẓ al-mal). Everything that supports the achievement of these principles is considered maṣlahah (goodness), while everything that hinders or damages these goals is called mafsadah (damage)." (Al-Mu'allifin, 1998)

Thus, anything that supports the achievement of this goal is classified as *maṣlahah*, while things that hinder or damage it are considered *mafsadah*. This affirmation shows the relevance of *maṣlahah* as a foundation in the formulation of laws that are not only just but also adaptive to the needs of mankind. The following is an explanation of how mawaris law supports the five basic principles of maqashid shariah:

- *Hifẓu ad-dīn* (Safeguarding Religion): The law of mawaris plays an important role in maintaining family harmony as the main institution in Islam. By safeguarding the rights of all heirs, this law supports spiritual and social stability, which is part of the preservation of religion.
- *Hifẓu an-Nafs* (Safeguarding the Soul): Through the equitable distribution of property, the law of mawaris prevents potential conflicts and tensions within the family, which can threaten the soul and family relationships.
- *Hifẓu al-'Aql* (Safeguarding Reason): The fair settlement of inheritance disputes through the law of inheritance prevents destructive behaviors, such as hostilities and the seizure of property, that can interfere with common sense.
- *Hifẓu an-Nasl* (Safeguarding the Offspring): With a fair division, the law of mawaris supports a harmonious relationship between generations within the family. This is in line with the words of Allah in Surah Al-Baqarah verse 233:

لَا تُضَارُّ وَالِدَةً بَوْلَدِهَا وَلَا مَوْلُودٌ لَهُ بَوْلَدِهِ

"Let not a mother suffer misery for her child, and a father for her child."

- *Hifẓu al-Mal* (Safeguarding Property): The law of inheritance aims to ensure that property is inherited in the right way, thus preventing inequality and abuse. Inheritance law is a means of distribution that maintains the economic stability of the family (Ar-Razi, 1999).

ii. Reconstruction of Mawaris Law in the Framework of Maqāṣid Shari'ah

In the perspective of gender equality, maqāṣid shari'ah provides space for a review of the provisions of mawaris law, with the aim of ensuring the application of the principles of justice without neglecting the basic essence of sharia. Through this approach, mawaris law is not only interpreted textually, but also contextually, taking into account social dynamics and the changing times that affect family structure and gender roles in society (Jalil, 2019). This reconstruction aims to optimize the understanding of maqāṣid shari'ah, ensure that the



distribution of inheritance is carried out fairly and inclusively, while maintaining the fundamental values contained in Islamic law (Putra, 2024).

This approach reflects an attempt to strike a balance between the principles of universal justice and the need to adapt to evolving social conditions. Islamic sharia is recognized as a comprehensive system of life, designed to provide convenience and benefits for mankind.

أن الشريعة الإسلامية شريعة يسهل وسهولة رفعت الحرج ودفعت المشقة عن الناس

"That Islamic sharia is a sharia that is full of convenience and flexibility, which eliminates difficulties and eases the burden of human beings" (Affanah, 2009).

However, the convenience offered by Islamic sharia does not mean that it gives a person the flexibility to ignore sharia laws just because they face a few difficulties. In the perspective of Shari'a, difficulties are a natural part of life and almost every activity in this world contains some form of difficulty. Therefore, the Shari'ah provides a balanced guide between the principle of ease and commitment to the rules, so that the ummah can still carry out their obligations without exceeding the set tolerance limit (Affanah, 2009).

The complex family situation in modern life often demands a more flexible approach to the division of inheritance. For example, in families where women are the main breadwinners, a more equal distribution of inheritance can be considered as a form of adaptation to socio-economic realities (La Harisi & Abdullah, 2024). This approach not only reflects justice, but also pays attention to the principle of benefit which is one of the main goals of Islamic law.

The distribution of inheritance from the perspective of substantive justice, taking into account the real role and contribution of family members can have a positive impact. As the main breadwinner, women in this situation have a significant responsibility for the welfare of the family. By ensuring that the inheritance is allocated proportionally based on needs and contributions, the sustainability of family life can be more guaranteed. In addition, this approach also supports the principle of collective responsibility in Islam, where inheritance is not only an individual right, but also a tool for creating common prosperity.

However, adjustments like this must still be within the framework of sharia law. Therefore, it is necessary to have ijtihad from competent scholars to provide clear guidance. Thus, the distribution of inheritance can be carried out fairly, both in accordance with the provisions of sharia and considering the context of modern life, so that the values of justice, benefit, and togetherness in Islam can be realized optimally.

iii. Challenges in the Implementation of Mawaris Law Reconstruction

Although the reconstruction of inheritance law has a solid foundation in maqasid shari'ah, the objectives of Islamic law in its implementation still face various challenges. These challenges reflect the social, cultural, and religious complexities faced by Muslim societies in accepting Islamic legal reforms. In this context, the reconstruction process involves not only efforts to accommodate changing socio-economic realities, but also must consider aspects of local culture that influence the view of inheritance and distribution of property. In addition, the acceptance and application of reconstructed inheritance law requires a deep understanding of the principles of maqasid shari'ah, as well as an awareness of the need to maintain a balance between justice and benefit in an increasingly diverse Muslim society.



The following are some of the main challenges faced in the implementation of mawaris legal reconstruction:

- Traditionalist Resistance

Some traditional scholars view that the law of mawaris is a *thawabit* (fixed) part of the Shari'ah, so any attempt to reconstruct or adjust the law is considered contrary to the Qur'anic text which is *qath'i* (firm). This rejection is based on the belief that the Qur'anic text provides final rules and does not require reinterpretation.

يستند توزيع الميراث في الدول الإسلامية على نصوص القرآن الكريم والتي يعتبرها الفقهاء نصوص محكمة لا تقبل التأويل والجدال والإجتihad وتحقق أقصى درجات العدالة والإنصاف بين الوراثين.

"The division of inheritance in Islamic countries is based on the texts of the Qur'an which are considered by the jurists to be definite texts and cannot be interpreted, debated, or ijtihaad, and create the highest level of justice and equality among the heirs." (Rakib, 2007).

This view is often held tightly by traditionalist clerics, who worry that any form of reconstruction could open the door to excessive liberalization of Islamic law. However, such a rigid approach has the potential to ignore the evolving socio-economic dynamics. To overcome this resistance, it is important to introduce the *maqasid shari'ah* approach as a foundation that maintains the integrity of sharia texts, while emphasizing its relevance in the modern context. The dialogue between traditionalist and reformist clerics should be directed towards finding a middle ground that not only defends sharia principles but also meets the needs of modern society.

- Socio-Cultural Context

Patriarchal social and cultural norms in many Muslim countries pose another challenge in the implementation of the reconstruction of mawaric law. In patriarchal societies, men are often seen as the main rulers in the family, while women are considered to have a secondary role. This view, which is more cultural than theological, often influences the acceptance of a more equal distribution of inheritance.

Societies that are deeply bound by customs often consider women unworthy of an equal share of inheritance, despite the fact that they contribute significantly to the family, both economically and socially. This injustice not only creates inequality, but also goes against the spirit of Islam which emphasizes justice and respect for women. Facing this challenge, educational efforts that emphasize Islamic principles on equality and justice are of great importance. Public education, both through formal institutions and religious *da'wah*, needs to be focused on the elimination of patriarchal norms that are contrary to sharia values.

- The Complexity of Positive Law in Muslim Countries

Many Muslim countries have adopted a dual legal system, where sharia law goes hand in hand with positive law that is secular. In the case of inheritance law, the inconsistency between these two systems often leads to conflicts, especially in determining the proportion of inheritance to be given to women. For example, in Indonesia, the law of inheritance in Islam often clashes with customary law, which in some cases prioritizes men as the main heir. Customary law and Islamic law often intersect in the context of inheritance law, especially when customary prioritizes boys over women, which is contrary to sharia principles (Muzainah & Faridh, 2019).

- Imbalance of Access to Education and Information



One of the significant challenges in the implementation of the reconstruction of mawaris law is the lack of public understanding of maqasid shari'ah and the flexibility of Islamic law. This lack of understanding often leads to resistance to any form of sharia law reform. To overcome this challenge, Islamic educational institutions must strengthen curricula that emphasize maqasid shari'ah and a contextual approach to sharia law. In addition, the media and da'wah can also be an important means of disseminating correct information about the flexibility of sharia in the face of changing times.

iv. Dynamics of Gender Roles in Modern Society

The socio-economic changes that have occurred in modern society have brought a great influence on the role of gender in the family and society. In this era of globalization, women are no longer limited to domestic roles as childcare and housekeepers. Instead, they now have a significant role as the main breadwinner or supporter of the family economy (Purba & Susanti, 2024). In many modern Muslim families, women play the role of professional workers, entrepreneurs, or informal sector actors who support the family's income. Data from the International Labour Organization (ILO) shows that women's participation in the global workforce has continued to increase significantly in recent decades. This phenomenon creates new challenges in the application of Islamic law, including mawaric law, which is based on traditional social structures (Siregar, 2024).

An-Nisa verse 11 stipulates the division of male and female inheritance in the proportion of two to one. This division basically reflects the financial responsibilities of men in the family, such as providing for their wives, children, and close relatives. However, in the modern context, the financial role is no longer entirely in the hands of men. Many women now bear equal economic responsibilities, even greater than men in the family. Sharia law has the flexibility to respond to social changes:

تغير الأحكام بتغير الزمان، إذ مدار ذلك على العرف من جهة، وعلى الأحكام الاجتهادية من قياسية ومصلحية من جهة أخرى،

"The change of law along with the change of the times depends on the customs on the one hand, and on the laws of ijtihadiyah, both qiyas and maslahat, on the other hand." (Al-Qayyim, 2002).

All of this is just one of the many proofs that Islamic sharia contains solid principles, which make it able to keep up with the civilizations of the past and make it today able to adapt to any developments in the present and the future. If at one time this seemed different, the main cause was simply the rigidity of some people and their negligence in understanding the true meaning of the Shari'a as it should be (Al-Qayyim, 2002).

Classical and contemporary scholars agree that Islamic law has the flexibility to respond to social changes, as long as it does not violate the basic principles of sharia. This is in accordance with one of the rules of fiqh:

لَا يُنْكَرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَانِ.

"Perubahan hukum seiring dengan perubahan zaman adalah hal yang tidak dapat disangkal" (Bon, 2012).



The laws that change due to the change of times are laws that are based on customs and habits, because with the change of times, human needs also change. Based on these changes, customs and habits also change, so that the laws that depend on them also change as explained earlier. However, laws based on sharia postulates that do not rely on customs and customs have not changed (Haidar, 1991).

When women take on the role of the main breadwinner in the family, the literal distribution of inheritance by the formula of two to one as stipulated in the text of the Qur'an can create injustice if applied rigidly without considering the social and economic context (Rohmawati, 2021). This division, although it has a basis in a sacred text, needs to be understood in the framework of *maqasid shari'ah*. For example, in cases where women are the sole breadwinner in the family, giving a larger portion of the inheritance to men can create an imbalance. In this context, a reinterpretation of inheritance law is essential to ensure that the division of inheritance reflects the reality of economic responsibility within the family.

Changing gender roles in modern society requires flexibility in the application of *mawaris* law to remain relevant and reflect justice. In this context, *maqasid shari'ah* which focuses on the benefit, justice, and welfare of the ummah provides a framework that allows the reconstruction of Islamic law without sacrificing its essence (Tohari, 2018). This approach opens up space for legal adaptations that are responsive to social change, especially in accommodating women's increasingly significant contributions to family economic life.

The reconstruction of the *maqasid shari'ah-based inheritance law* not only aims to uphold justice in the family, but also has a far-reaching impact on social stability in Muslim societies. When Islamic law is able to adapt to modern realities, it not only becomes more inclusive but also strengthens its relevance as a universal guideline for living. Through wise and context-based *ijtihad*, Islamic sharia can continue to be a solution to the challenges of the times, ensuring that the values of justice and benefit remain the main pillars in the distribution of rights.

4. CONCLUSION

The discussion of the distribution of inheritance in the context of Islamic law is one of the issues that is often debated, especially in an effort to answer the challenges of the evolving times. Normatively, inheritance law in Islam has a solid foundation based on the Qur'an and Hadith, which explicitly regulates the distribution of inheritance to heirs. However, in the midst of contemporary social and cultural dynamics, there is a need to reconstruct the rules to be more relevant and responsive to the principles of gender equality and the socio-economic realities of modern society.

The *maqashid al-sharia* approach, which focuses on the protection of five main principles: religion (*ad-dīn*), soul (*an-nafs*), intellect (*al-aql*), heredity (*an-nasl*), and property (*al-maal*), is an important basis for this effort. The principle of *maqashid al-sharia* emphasizes that Islamic law aims to create justice and benefits for all mankind. In the context of inheritance distribution, this approach allows the reinterpretation of normative texts to remain in accordance with the spirit of substantive justice that is the core of sharia itself.



One of the main challenges in Islamic inheritance law is the existence of gender bias which is often considered to be less reflective of the principle of justice, especially in the context of modern society that increasingly prioritizes gender equality. For example, the provision that the male share of the inheritance is twice the female share is often understood rigidly without considering the specific socio-economic context. In fact, if analyzed more deeply, this provision was born in the context of Arab society at that time, where men had much greater economic responsibility than women. In contemporary reality, this responsibility is no longer absolute, because women are now often the main breadwinners of the family economy.

Therefore, it is necessary to adjust the mawaris law that adheres to normative principles but also provides room for adaptation to the needs of today's society. This can be done through collective *ijtihad* which involves dialogue between traditionalist and reformist clerics. This dialogue is important to maintain a balance between sharia integrity and the demands of the times. Traditionalist scholars can ensure that adjustments remain within the sharia corridor, while reformist scholars can provide a more contextual and adaptive perspective.

This approach also requires a comprehensive study, both from legal, social, and economic aspects. In this process, *maqashid al-sharia* can be used as the main analytical framework to assess the extent to which adjustments to the inheritance law can create benefits without neglecting the basic values of Islam. Thus, the distribution of inheritance is not only legalistic but also able to reflect the values of justice that are more inclusive.

Through this reconstruction effort, gender bias in the distribution of inheritance can be minimized, resulting in a legal system that is more responsive and relevant to the needs of modern society. In addition, this approach is also able to strengthen the legitimacy of Islamic law as a dynamic and adaptive legal system to the changing times, without losing its essence as a source of justice and benefit for mankind.

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