

Gender Relations in Islamic Inheritance Law: A Comparative Study of Sunni and Shia Perspectives

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Abstract

This study compared the Sunni and Ja'fari Shia approaches to the gender-based distribution of inheritance rights in Islamic law. The Sunni school generally maintained a literal interpretation of Qur'anic provisions, particularly Surah al-Nisā' verses 11 and 176, which prescribed a 2:1 inheritance ratio between male and female heirs and tended to reinforce a patriarchal legal structure. In contrast, the Ja'fari Shia school placed greater emphasis on *ijtihad* and *maqāsid al-sharī'ah*, thereby allowing a more adaptive and context-sensitive distribution of inheritance, particularly in relation to women's economic roles. This research examined the differences in gender perspectives within Islamic inheritance law as developed by the Sunni and Ja'fari Shia schools and analyzed their implications for justice. The issue was particularly significant because the Sunni system distinguished inheritance shares between sons and daughters, whereas the Ja'fari system promoted a more bilateral principle in which gender positions within the line of inheritance carried almost equivalent legal weight, although inheritance ratios remained grounded in Qur'anic texts. This study employed a normative juridical approach based on library research, drawing on classical *fiqh* texts, interpretations of inherited verses, school-based legal literature, and empirical findings from scholarly journals published over the past decade. The findings indicated that the Sunni school tended to maintain a textual-literal approach that ensured legal certainty but was less responsive to changes in women's socio-economic roles. By contrast, the Ja'fari Shia school developed a more contextual framework grounded in *maqāsid al-sharī'ah* and *maṣlaḥah*, which allowed inheritance distribution to become more responsive and equitable. The novelty of this study lay in the formulation of a trans-madhab analytical model that integrated normative inheritance law with the social realities of family life and proposed a framework for the reform of Islamic inheritance law that emphasized substantive justice and gender equality without ignoring the legitimacy of scriptural sources.

Keywords: Sunni-Shia Comparative Study, Islamic Inheritance Law, Gender Relations

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INTRODUCTION

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gender perspectives within Islamic inheritance law as developed by the Sunni and Ja'fari Shia schools and analyzed their implications for justice. The issue was particularly significant because the Sunni system distinguished inheritance shares between sons and daughters, whereas the Ja'fari system promoted a more bilateral principle in which gender positions within the line of inheritance carried almost equivalent legal weight, although inheritance ratios remained grounded in Qur'anic texts.

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In Muslim societies in Indonesia, the Islamic inheritance system (*farā'id*) has historically played a fundamental role as a legal instrument governing the distribution of property after the death of the testator. This system is institutionally supported by the national legal framework, particularly through Law Number 3 of 2006 concerning Religious Courts and the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) (Studies et al., 2025). Although these legal provisions explicitly affirm that inheritance rights should not be differentiated based on gender, empirical realities often reveal contrasting practices, especially regarding inheritance rights for daughters (Bachri, 2018). Cases presented in religious courts indicate that a literal interpretation of Qur'an Surah an-Nisā' verse 11 still dominates legal reasoning, granting sons an inheritance share twice that of daughters. Such an approach not only reflects classical textual interpretations but also reinforces socio-cultural patriarchal structures that have long been embedded within Indonesian Muslim communities. As a consequence, inheritance distribution frequently appears rigid and insufficiently responsive to evolving gender roles and the socio-economic realities of modern society (Ruslan, 2023).

In contrast, the Imamiyah Shia school, commonly known as the Ja'fari school, offers a relatively more progressive construction of women's inheritance rights within Islamic legal discourse (Elfia et al., 2024). While the Ja'fari tradition still recognizes classical inheritance categories such as *dhawial-furūd* and the *qarabah* system, it develops a more egalitarian and contextual framework for inheritance distribution. This framework recognizes women not merely as supplementary heirs but as legitimate and recognized legal subjects within the inheritance structure.

Within the Shia inheritance framework, the principle of bilaterality constitutes a central foundation, how kinship relations through both paternal and maternal lines are recognized and accommodated in the inheritance system (Al-Mazaahib et al., 2021). This principle reflects an inclusive orientation in the interpretation of inheritance law, emphasizing not only hierarchical lineage but also the integrity of social relationships and the pursuit of substantive justice within society. As noted by Hamoudi (Rama, 2019), although women do not always receive shares equal to those of men in quantitative terms, the Ja'fari school allows contextual interpretation that takes into account women's socio-economic conditions as heirs. Such an approach illustrates the principle of distributive justice in Islamic inheritance law, emphasizing hermeneutical readings of the *farā'id* verses that are inclusive and responsive to contemporary gender equality values. Unlike the literalistic approach found in some Sunni legal traditions, the Ja'fari school employs *ijtihad* and *ta'wil* as normative tools to address issues of intersectional justice (Ridwan, 2009). Consequently, women's inheritance rights in Shia jurisprudence are not solely determined by numerical ratios but also by recognition of their social functions and positions within family and community structures.

This study aims to analyze the inheritance systems of the Sunni and Shia schools based on the Qur'an, Hadith, and classical inheritance jurisprudence in order to understand the normative construction of each legal tradition. Furthermore, it sought to identify differences in gender-based inheritance distribution, evaluate the socio-cultural implications of patriarchal inheritance practices within Muslim families, and formulate policy recommendations for national legal reform.

that harmonize madhhab-based principles with gender justice within Indonesia's family law system.

Furthermore, gender relations in the Islamic inheritance system have received considerable scholarly attention over the past decade through multidisciplinary approaches integrating fiqh analysis, Qur'anic interpretation, and contemporary socio-cultural dynamics. One significant contribution came from Mohammad Ruslan, who, in his analysis of Surah al-Nisā' verse 11, highlighted that the 2:1 inheritance ratio, although rooted in the principle of male financial responsibility, continued to raise concerns regarding substantive justice for women. According to him, rigid textual readings of the verse tend to perpetuate patriarchal structures without taking into account the transformation of women's social and economic roles in modern society (Firdawati et al., 2022). Accordingly, contextual normative interpretation became an epistemological necessity in balancing the principles of shari'ah with the demands of gender justice (Ruslan, 2023). Dayerizadeh's study revealed that inheritance practices within Shia communities in Iran demonstrated considerable flexibility in the interpretation of inheritance law based on Ja'fari jurisprudence. In the post-revolutionary family law context, a paradigm shift emerged through contemporary ijtihad that accommodated the principles of justice and gender equality (Wegestin Lagus and Rahmat Hidayat, 2025). Judicial institutions began to take into account the economic contributions of wives and daughters in the distribution of inheritance, and in some cases even allowed redistributive arrangements that departed from classical fiqh in the pursuit of social justice. This finding demonstrates the capacity of the Shia school to recontextualize inherited norms in an adaptive manner in response to social change (Wegestin Lagus and Rahmat Hidayat, 2025).

Several studies on gender relations in Islamic inheritance law have provided important insights into how inheritance norms are negotiated in different Muslim societies. Al-Sharmani's findings on urban Muslim communities in Egypt showed that although Sunni inheritance law was formally applied in a textual manner, social resistance emerged through the practice of pre-mortem gifts (grants) to daughters. This practice reflected a corrective response to inherited inequality and indicated the existence of tension between formal legal norms and more egalitarian social needs (Al-Sharmani, 2017). More recent research by Ziba Mir-Hosseini, which examined Muslim diaspora communities in Europe, revealed that Muslim women from Shia backgrounds were more active in advocating for inheritance law reform. This tendency was closely associated with a tradition of critical discourse and openness to ijtihad within Shia epistemology, which enabled a more progressive articulation of gender equality claims. By contrast, women from Sunni backgrounds tended to adopt a more passive stance, as they viewed inheritance provisions as part of a divine scriptural mandate that could not be altered. Ahmed concluded that methodological differences between the schools of thought significantly shaped the ways women negotiated their rights within the Islamic inheritance system (Mir-Hosseini, 2006).

The findings of these five studies indicated that methodological differences between the textual-literal Sunni approach and the contextual Shia approach in interpreting Islamic inheritance law had direct implications for the realization of gender justice in Muslim families. The Sunni school tends to patriarchal preserving patterns of inheritance distribution based on Surah al-Nisā' verses 11 and 176, often overlooking the contemporary economic roles of women. In contrast, the Shia school provided broader room for ijtihad through the principles of maqāsid al-shari'ah and maṣlahah'ammah, thereby allowing inheritance redistribution to be carried out more equitably in accordance with the social realities of family life.

Empirical studies examining gendered inheritance practices in Iran and among Shia diaspora communities in Europe show that inheritance law was received and applied in a more adaptive and egalitarian manner than in urban Sunni communities such as those in Cairo, where grants were often used as an informal corrective mechanism to address inheritance inequality. These findings suggest that approaches to Islamic inheritance law need to be reconsidered in order to better reflect the conditions of modern family life and to promote justice for women. The literal approach of the Sunni school remains closely tied to scriptural texts, yet it tends to preserve patriarchal inheritance patterns that are increasingly seen as less relevant in contemporary contexts. By contrast, the use of ijtihad and maqāsid al-shari'ah in the Shia school it appears more flexible and could serve as an important reference for the reform of inheritance law, particularly in countries with plural legal systems. Therefore, a cross-madhhab model of inheritance law was needed, one that emphasized justice, women's roles, and the broader social context. In addition, legal education on inheritance should be strengthened through a more equality-oriented perspective.

Accordingly, this study examined how gender perspectives differ in the Islamic inheritance systems of the Sunni and Shia schools and analyzed the implications of these differences for social justice within the family. This issue was particularly significant because the Sunni system differentiated inheritance shares between sons and daughters, whereas the Ja'fari system promoted a bilateral principle in which gender position within the line of inheritance carried nearly equivalent legal weight, although the inheritance ratios remained grounded in Qur'anic texts.

METHOD

This study was a literature-based research that conducted a conceptual analysis of legal norms and arguments concerning inheritance within the Sunni and Shia traditions in relation to gender relations(Suhaimi, 2018), The object of analysis consists of classical fiqh doctrines, legal texts, and scholarly interpretations concerning Islamic inheritance law (Diantha & Sh, 2016), he object of analysis consisted of classical fiqh doctrines, legal texts, and scholarly interpretations concerning Islamic inheritance law(Darmalaksana, 2022), focusing on the examination of legal sources that form the basis of inheritance law, including the Qur'an, Hadith, classical jurisprudence, and contemporary scholarly interpretations(Muhammad Syahrums, 2022).

The data analysis in this study applied a comparative method (Yanova et al., 2023). This method aims to explore the similarities and differences between Sunni and Shia perspectives in understanding the principles of Islamic inheritance, particularly those related to the rights and positions of men and women(Arfa & Marpaung, 2016), The comparative process was conducted through several stages. First, the study described the concept of inheritance within each legal tradition (Sunni and Shia). Second, it identifies the legal arguments and doctrinal foundations underlying each interpretation. Third, it compared the normative implications of these interpretations for gender relations within the Islamic inheritance system(Suhaimi, 2018). The comparative analysis was carried out using content analysis of relevant legal texts and scholarly literature to identify patterns of similarity and difference in the construction of gender relations within Islamic inheritance law(Arifuddin et al., 2025).

RESULTS AND DISCUSSION

The purpose of the Results and Discussion is to state your findings and make a interpretation and/or opinion, explain the implications of your findings, and make suggestions for future research. In the Results section, summarize the collected data and the analysis performed on those data relevant to the issue that is to follow. The results should be clear and concise. It should be written objectively and factually, and without expressing personal opinion. It includes numbers, tables, and figures (eg, charts and graphs). Number tables and figures consecutively in accordance with their appearance in the text.

The analysis of gender conceptions in Islamic inheritance law involves a comprehensive examination of theological foundations, hermeneutical approaches, and sociological frameworks that form the principles governing the distribution of inheritance between men and women(Bachtiar, 2013). Normatively, the provisions contained in Surah al-Nisā' verses 11 and 176 constitute the primary foundation of Islamic inheritance law, establishing a distribution ratio in which males receive two shares compared to one share for females. This configuration, widely adopted within Sunni jurisprudence(Bahriayub, 2021), has often been interpreted in accordance with the classical patriarchal structure that positions men as the primary providers responsible for the economic welfare of the family. Consequently, the larger inheritance share for men has been justified as compensation for their economic responsibilities, an interpretation that reflects the socio-economic assumptions and social structures of early Islamic societies(Kususiyanah, 2021). However, socio-historical approaches have offered a corrective perspective on this patriarchal narrative. Scholars have emphasized that the Qur'anic inheritance provisions did not necessarily reinforce male dominance but rather represented a progressive reform within the historical context in which they emerged(Ruslan, 2023). At a time when women were often excluded from inheritance in pre-Islamic societies, the Qur'an explicitly recognized women as legitimate heirs, marking a significant advancement in the recognition of women's legal rights(Ferliadi, 2020). Therefore, these provisions should not be interpreted solely as legitimizing gender inequality but rather as an early normative foundation for the advancement of women's rights within the broader framework of Islamic law and social justice.

In contrast, the Ja'fari Shia school, while also recognizing the Qur'an as the primary source of law, provides broader interpretative space by emphasizing the principles of *maqāṣid al-sharī'ah* and *maṣlaḥah* as key considerations in legal reasoning (Safitri & Khumaedy, 2024). Within this framework, substantive justice becomes the primary hermeneutical foundation for interpreting inheritance rules. Methodologically, this approach shifts the focus from strict adherence to the literal numerical ratios contained in the scriptural texts toward a principle of proportional justice (equity) in the distribution of inheritance within the family context (Ruslie et al., 2024).

Although the quantitative proportions established in the textual sources remain acknowledged, the spirit of justice embedded in *maqāṣid al-sharī'ah* provides interpretative flexibility. This flexibility allows inheritance law to become more responsive to contemporary social dynamics and economic conditions while still maintaining its normative grounding in Islamic legal sources (Ferliadi, 2020). Such an approach reflects the orientation of Shia jurisprudence, which is not limited to a purely dogmatic normative framework but also adopts contextual and functional interpretations in addressing the needs of modern society.

Furthermore, empirical observations from various regions including Indonesia, Egypt, Iran, and Muslim diaspora communities indicate that the implementation of Islamic inheritance law often adapts to local social contexts and practical needs. In predominantly Sunni societies such as Indonesia, practices such as *inter vivos* gifts (grants) have developed as informal mechanisms aimed at correcting the imbalance in inheritance ratios between male and female heirs. As noted by Ahyani in his analysis of inheritance practices in Indonesia, such practices reflect societal efforts to reconcile normative legal provisions with contemporary notions of fairness and gender equality (Chotban & Kasim, 2020).

Conversely, within the more institutionalized Shia legal system, such as that of the Islamic Republic of Iran, religious courts possess the authority to adjust inheritance distribution by considering the actual economic contributions of women within the family structure. This flexibility enables a balance between normative textual provisions (*naṣṣ*) and the principle of substantive justice that is contextually relevant. In this way, the approach not only preserves the integrity of Islamic law but also ensures that justice remains the primary guiding principle in the distribution of inheritance in contemporary society (Kususiyanah, 2021).

The dynamics of modern family structures, particularly when women participate as economic contributors within the household, calls for a reinterpretation of inheritance ratios within Islamic law. Such reinterpretation can no longer rely solely on normative textual readings but must also take into account the evolving gender relations in increasingly egalitarian contemporary societies. In this context, the concept of bilateral inheritance introduced by Hazairin namely the principle of inheritance through both paternal and maternal lineages in a balanced manner together with the re-actualization of *maqāṣid al-sharī'ah*, opens the possibility for a more inclusive and contextual formulation of inheritance law (Aniroh, 2020).

This trans-madhab legal model has the potential to serve as a meeting point between classical *fiqh* norms and contemporary aspirations for substantive justice, particularly in addressing the challenge of inheritance distribution that is responsive to current socio-economic realities. According to the reformulation of Islamic inheritance law based on *maqāṣid al-sharī'ah* and the principle of bilateral inheritance can function as a juridical instrument that bridges the gap between textual norms and social realities.

Gender conceptions within Islamic inheritance law therefore cannot be reduced solely to the mathematical ratio of inheritance shares between men and women. Rather, they encompass broader dimensions concerning how states and societies interpret and implement the principle of justice within the context of social transformation, evolving gender roles, and the development of a more ethical and socially conscious legal awareness (Maslamah & Muzani, 2014).

Such a comprehensive approach provides both a theoretical and practical foundation for the development of a more inclusive Islamic inheritance system that remains responsive to the dynamics of contemporary society. Nevertheless, efforts toward reformulation must continue to maintain reference to the normative authority of sacred texts as the primary source of law, thereby safeguarding the legitimacy of the *sharī'ah* and maintaining legal coherence within the Islamic judicial system.

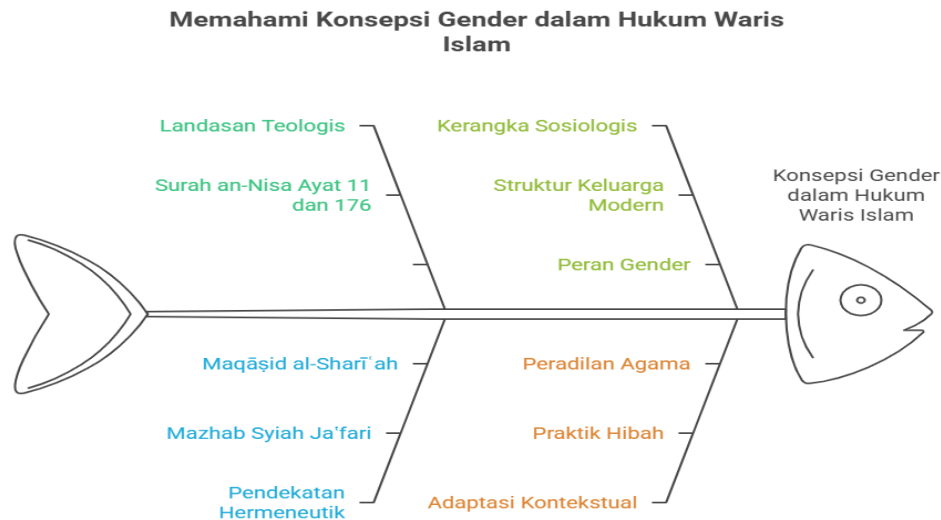


Figure1.Conceptual framework for understanding gender in Islamic inheritance law

The figure illustrates a conceptual framework for understanding gender in Islamic inheritance law by integrating theological foundations, sociological perspectives, and contextual approaches in legal practice.

The Sunni Approach to Gender Relations in Inheritance

In Sunni jurisprudence, the approach to gender relations in Islamic inheritance law is grounded in the textual and methodological authority of Qur'anic provisions, particularly Surah al-Nisā' verses 11 and 176, which establish a two-to-one inheritance ratio between male and female heirs. These provisions are generally regarded as qat'ial-dalalah (definitive in meaning) and are therefore applied literally within the framework of classical fiqh (Permana, 2018). The legal rationale underlying this rule is based on the traditional concept of distributive justice, where men are considered the primary financial providers within the family. Accordingly, a larger inheritance share for men is interpreted as consistent with their economic responsibilities (Shofi et al., 2022).

However, in recent decades, this literal approach has received increasing criticism from Muslim scholars who argue that it is insufficiently responsive to contemporary social realities. Some scholars have proposed contextual interpretations grounded in the principles of maqāṣid al-sharī'ah, emphasizing the importance of substantive justice in inheritance distribution, particularly in situations where women demonstrably contribute to the economic and social welfare of the family. Within this framework, alternative inheritance arrangements may be considered permissible as long as they do not contradict the fundamental principles of Islamic law and remain within the bounds of public interest (maṣlaḥah).

Empirical studies conducted in Indonesia and Egypt (Wahidah & Azhar, 2019) indicates that Sunni families frequently employ inter vivos gifts (grants) and wills (waṣīyyah) as informal strategies to mitigate the inequality created by the 2:1 inheritance ratio. These mechanisms allow parents to provide additional assets to daughters without directly contradicting the Qur'anic inheritance provisions (Ramli et al., 2023), such practices demonstrate the practical flexibility of Islamic inherited jurisprudence while simultaneously bridging the gap between normative justice and substantive justice within the family context.

Nevertheless, reliance on informal compensatory mechanisms such as grants or wills has also been criticized. Although these practices may provide pragmatic solutions, they remain ad hoc and heavily dependent on the subjective intentions of the testator. As a result, they may generate legal uncertainty and unequal treatment among heirs. As noted by Wahib (2014), Sunni inheritance law has yet to develop sufficient normative instruments capable of formally addressing contemporary social transformations. As a result, proposals for modern ijtihād based on maqāṣid al-sharī'ah often remains at the pre-legal level and has not yet produced structural or institutional solutions within the formal framework of Islamic inheritance law.

Studies on the implementation of inheritance law in Sunni urban communities in Egypt and Pakistan also reveal a noticeable disparity between normative textual provisions and actual social practice (Daud & Rosadi, 2021). In families that recognize women's significant economic

contributions, alternative mechanisms such as wills or charitable endowments (waqf) are sometimes employed to achieve a more balanced inheritance distribution (Khan, 2025). However, limited legal literacy and restricted access to knowledge about Islamic legal mechanisms prevent many individuals from using these options effectively. This situation can lead to intergenerational disputes and legal conflicts following the death of the testator, particularly when no legally recognized distribution instrument has been clearly established. Meanwhile, the normative juridical approach in the Sunni school emphasizes the important role of *ijmā'* (consensus) and *qiyās* (analogy) as methods of *istinbāt* (legal reasoning), which enable the formation of an inherited legal framework that is more adaptive to the principles of justice, including gender justice. (Muammar, 2024). In practice, however, the application of these principles remains limited due to the continuing dominance of classical authoritative interpretations that treat scriptural texts as the sole determinant of inheritance distribution. Murtadlo (2018) therefore highlights the importance of hermeneutical reform integrating *maqāṣid al-sharī'ah* principles into the reform of national Sunni-based inheritance law in order to create a legal system more responsive to contemporary social dynamics.

At first glance, the Sunni inheritance framework appears to provide a stable and textually consistent normative model (Faiz, 2015). Nevertheless, this approach risks perpetuating gender exclusion, particularly in modern socio-economic contexts where women increasingly participate as active economic agents. While informal mechanisms such as grants and wills may function as corrective tools, they cannot guarantee sustainable structural justice. Consequently, a more comprehensive reformulation of Islamic inheritance law is needed either through legislative reforms in Islamic family law that recognize women's economic contributions or through more systematic and *maqāṣid*-oriented legal reasoning. Such efforts are essential to ensure substantive justice and uphold ethical values within contemporary Muslim family structures.

The Ja'fari (Shia) Approach to Gender Relations in Inheritance

In contrast, the Shia school-particularly the Ja'fari legal tradition-demonstrates a more progressive hermeneutical flexibility in addressing gender relations in Islamic inheritance law (Studies et al., 2025). Although the Ja'fari school remains grounded in the authority of the Qur'an and the Sunnah, it does not confine itself to literal textual application. Instead, it integrates the principles of *maqāṣid al-sharī'ah* and *maṣlaḥah 'ammah* (public interest) as interpretative instruments for understanding inheritance provisions (Safitri & Khumaedy, 2024). This legal framework allows inheritance ratios to be interpreted with greater sensitivity to social context and to the actual roles played by women within family structures.

Contemporary literature indicates that the Ja'fari system adopts a bilateral inheritance pattern, formally recognizing women as legitimate heirs alongside men. Beyond the numerical proportions prescribed in the Qur'anic texts, this system also considers women's economic contributions and social responsibilities in order to ensure substantive justice in inheritance distribution (Azhari et al., 2024).

In Shia inheritance law, heirs are generally classified into two main categories: *dhawī al-furūd*, those with fixed shares determined by the Qur'an'anic provisions, and *qarabah*, heirs whose entitlement is determined by genealogical proximity. The *qarabah* category provides broader opportunities for female relatives particularly those without male descendants or those who play significant economic roles within the family to receive inheritance shares approaching those of male heirs (Elfia et al., 2024). In such cases, inheritance distribution is not determined solely by fixed ratios but also by the actual structure and circumstances of the family.

Empirical research in Iranian Shia communities indicates that religious courts operating within the Ja'fari legal system possess considerable juridical flexibility to adjust inheritance distribution in accordance with the concrete conditions of the family (Muhsin & Mukhlas, 2024). Women who demonstrably contribute economically to the household may receive a more proportional inheritance share without ignoring the authority of Qur'anic texts (Syifa Mutiara Putri Heriandita et al., 2025). This approach reflects a contextual understanding of justice grounded in *maqāṣid al-sharī'ah* and social responsibility. Compared with the more rigid literal approach often associated with Sunni jurisprudence, the Ja'fari system demonstrates greater openness to structural adjustments that take contemporary gender dynamics into account.

Importantly, this approach does not seek to ignore scriptural authority but rather to integrate textual norms with social realities, thereby producing a model of Islamic inheritance law that remains both theologically grounded and socially adaptive. Nevertheless, implementation challenges persist (Ramli et al., 2023). Factors such as local traditions, the institutional capacity of

religious courts, and the level of legal literacy among the public significantly influence the effectiveness of this system. Consequently, the success of the inclusive Ja'fari model depends on the strengthening of legal institutions and educational initiatives that support the realization of substantive justice in Islamic inheritance practices.

The Ja'fari approach to gender relations in inheritance law ultimately underscores the dynamic and responsive nature of Islamic law. By employing *maqāṣid al-sharī'ah* and *maṣlaḥah 'ammah* as primary interpretative frameworks, this tradition provides opportunities for more egalitarian legal constructions within the family structure while maintaining the normative integrity of sacred texts (Firdawati et al., 2022). As such, the Ja'fari hermeneutical model offers a promising alternative paradigm that may inspire cross-madhhab reforms in Islamic inheritance law, particularly in efforts to reconcile textual authority with contemporary aspirations for gender justice.

Comparative Methodology and Legal Rationality between Sunni and Shia Schools

An examination of the methodologies underlying Islamic inheritance law reveals fundamental differences between the Sunni and Shia schools, both philosophically and practically. The Sunni school emphasizes a textual-literal approach to Qur'anic provisions, particularly Surah al-Nisā' verses 11 and 176, which establish the inheritance ratio of 2:1 between male and female heirs. This approach is maintained as a form of adherence to *qāṭi* textual authority, with reinterpretation generally limited to established principles of *uṣūl al-fiqh*, such as *ijma'* (consensus) and *qiyas* (analogical reasoning). Such an orientation reflects a strong commitment to legal certainty and the authority of scriptural texts in preserving the continuity of the classical inheritance structure within Islamic law, even amid the evolving dynamics of modern societies.

Although the literal approach within Sunni inheritance law provides normative clarity and legal certainty, several contemporary studies have highlighted its limitations in responding to transformations in social structures and gender relations within modern families. Research conducted by Fitriyati et al. (2025), for example, demonstrates that the traditional 2:1 inheritance ratio between sons and daughters often fails to reflect the present-day socio-economic contributions of women, thereby generating substantive inequalities in inheritance distribution.

As a practical response to this challenge, Sunni Muslim communities frequently utilize alternative mechanisms such as *inter vivos* gifts (grants) and wills (*waṣiyyah*) as forms of social *ijtihād* aimed at mitigating inheritance disparities (Fitriyati et al., 2025). Although these mechanisms function as corrective measures, they remain implemented within the broader framework of classical legal norms, indicating that adaptation within Sunni inheritance practice often occurs without directly challenging the authority of textual provisions.

In contrast, the Shia Ja'fari school adopts a more *uṣūl* methodological approach, in which reason (*'aql*) is recognized alongside textual sources as an important basis for legal reasoning. Within this framework, the principles of *maqāṣid al-sharī'ah* and *maṣlaḥah 'ammah* serves as key interpretative foundations for inheritance law, allowing inheritance distribution to consider factors such as women's economic contributions, genealogical proximity, and the broader circumstances of the family, while still maintaining textual legitimacy. This system is often associated with a bilateral inheritance model, which is considered more adaptable to contemporary socio-economic conditions.

Empirical findings from Iran further demonstrate that Shia religious courts provide wider scope for judicial *ijtihād* in adjusting inheritance distribution proportionally, particularly for women who have made significant financial or social contributions to the family. These findings highlight the contextual and responsive nature of Shia inheritance law while maintaining its grounding in Islamic legal values. Conversely, Sunni jurisprudence tends to emphasize normative certainty derived from textual authority, with inherited adjustments typically occurring through partial and informal mechanisms such as grants and wills.

The absence of formal legal mechanisms for restructuring inheritance ratios therefore represents a structural limitation within Sunni inheritance law, even though awareness of *maqāṣid*-based interpretations and social *ijtihād* has begun to grow in contemporary scholarly discourse. Meanwhile, the primary challenge facing the Shia approach lies in institutional readiness and the level of legal literacy among society. Without strong institutional frameworks and adequate legal education, the broader interpretative space for *ijtihād* may risk inconsistent or arbitrary application.

Consequently, the future reform of Islamic inheritance law may benefit from the development of a trans-madhhab model that integrates the textual certainty expressed in Sunni

jurisprudence with the substantive justice-oriented flexibility characteristic of Shia legal reasoning. Supported by strengthened institutional capacity and greater awareness of gender justice, such an approach could enable inheritance distribution to respond more fairly to the realities of contemporary Muslim family life while maintaining the authority of Islamic legal principles.

Social Implications of Gender-Based Differences in Inheritance Approaches

Differences in gender perspectives within the Islamic inheritance systems of the Sunni and Shia schools reflect two distinct family models that influence economic justice and social relations within Muslim households (Muhtarom, 2015). The Sunni school adopts a textual-literal approach based on Surah al-Nisā' verse 11, which establishes a 2:1 inheritance ratio between sons and daughters, grounded in the assumption that men bear primary responsibility for financial support within the family. However, in contemporary family structures, women increasingly participate as active contributors to household economic stability (Diyanatil Azkiya, 2025). The gap between textual norms and contemporary social realities has encouraged some Sunni communities to utilize informal mechanisms such as inter vivos gifts (*hibah mu'awarah*) and wills (*waṣīyyah*) to balance inheritance distribution (Ali, 2014). Empirical studies conducted in Indonesia and Egypt indicate that these instruments can function effectively as practical solutions to mitigate gender disparities in inheritance (Ilmi & Solihin, 2025). Nevertheless, because such mechanisms operate on an ad hoc basis and lack formal legal recognition, they do not necessarily guarantee structural justice within the contemporary Islamic inheritance system.

By contrast, the Ja'fari Shia school applies the principle of bilateral inheritance, recognizing women as legitimate heirs alongside men while still referring to the Qur'an'anic provisions. This framework allows interpretative flexibility through the principles of *maqāṣid al-shari'ah* and *maṣlaḥah 'ammah* (Hassan, 2025). Within this approach, women's economic contributions and social responsibilities are taken into account as factors in determining a more proportional inheritance distribution.

Judicial decisions within the Iranian religious court system illustrate the practice of contextual *ijtihad*, in which women who contribute significantly to family economic activities may receive a more equitable inheritance share. In contrast, the rigid textual interpretation often associated with Sunni jurisprudence tends to overlook women's economic contributions in contemporary family contexts. Such conditions may generate emotional tension and inequality within family relationships. Conversely, the more adaptive Shia approach has the potential to strengthen family cohesion through inheritance distribution that more accurately reflects social realities. However, the effectiveness of this model depends largely on institutional readiness, legal literacy within society, and the broader legal culture that supports the application of *ijtihad* (Tahiev, 2025).

Furthermore, in countries where Muslims constitute a minority population, the implementation of bilateral inheritance principles requires institutional reform, including gender-sensitive legal education and revisions to family law regulations. Countries such as Tunisia have introduced reforms in family law aimed at reducing gender disparities in inheritance, although these reforms are not always explicitly framed within traditional Islamic legal doctrine. In this context, the relevance of *maqāṣid al-shari'ah* underscores the idea that Islamic law should be understood as an instrument of social justice rather than a static textual system. Reforms based on *maqāṣid* do not negate the authority of scriptural texts but instead seek to actualize their underlying principles in accordance with substantive justice (Nur, 2021). Overall, the differences between Sunni and Shia approaches represent two structural models of Islamic inheritance law. The Sunni model emphasizes textual certainty and often relies on informal compensatory mechanisms, whereas the Shia model offers a more inclusive legal framework but requires stronger institutional capacity to function effectively. To achieve comprehensive gender justice, a trans-madhab legal framework is required one that includes bilateral inheritance regulations, strengthened religious court institutions, improved legal literacy, and explicit recognition of women's socio-economic contributions within modern inheritance distribution systems.

DISCUSSION

This research presents a significant innovation in the discourse on Islamic family law by going beyond simply placing the Sunni and Shia inheritance systems side by side as rigid doctrinal entities. Rather than reading them as dead texts, the researcher sharply dissects them through the critical lens of gender relations. The original novelty of this research rests on an epistemological approach that boldly uncovers the sociological and theological roots behind the initial formation of

inheritance law in both schools of thought. Herein lies the starting point for innovation. While classical comparative studies often stagnate in debates about the validity of arguments, the researcher goes further by tracing how past social constructions are closely intertwined with textual interpretations to shape gender authority structures within the family.

The main innovation in this research lies in the formulation of a trans-madhab analysis model that skillfully combines normative inheritance law with a comparative study between Sunni and Shia. Diametrically different from previous works that generally only focused on the complexity of mathematical calculations of the division of property (faraidl) or merely noted the mechanical differences of fiqh articles, this study in-depth explores how gender construction operates through the doctrine of 'asabah in Sunni reasoning and the principle of qarabah in Shia tradition. By dismantling layers of patriarchal bias and gender assumptions inherent in classical texts, I offer a framework for reforming Islamic inheritance law that emphasizes substantive justice and gender equality without in the slightest abandoning the legitimacy of the texts. This is a dynamic field of negotiation that demonstrates that Islamic inheritance law is not a uniform monolith, but rather a legal instrument capable of responding to socio-cultural realities through the integration of universal values of justice.

If I examine more deeply why the findings of this study align with those of Orientalists and Muslim feminists, the reason lies in an undeniable sociological reality. This consistency arises because we all see the same historical roots: that Sunni legal reasoning was formed in an agrarian and tribal society that positioned men as pillars of economic and social security. In contrast, the sharp differences I found between Sunni and Shia practices are more influenced by the early political context. While the Sunni system seeks to maintain social cohesion through male-line solidarity ('asabah), the Shia tradition builds its legal legitimacy on defending the rights of the Prophet's immediate family through the line of Fatimah. My methodological distinction, using a trans-school approach, allows me to understand that inequality or equality in inheritance law is not a single variable, but rather the result of the different ways each school of thought interprets family structure and justice.

The researcher would like to emphasize that the main contribution of this study is its success in offering a more fluid innovation. The researcher attempts to fill a gap in Islamic legal literature, which has often focused solely on the technical procedural aspects of inheritance. By presenting a trans-school analysis model, the researcher offers a middle ground that allows readers to glean values of justice from various fiqh traditions without feeling uprooted from the roots of sharia. This innovation is expected to advance readers' understanding that Islamic law possesses extraordinary internal flexibility. The researcher offers a perspective that gender justice in inheritance is not a foreign agenda imposed from outside, but rather an ideal with a strong theological foundation if readers dare to open their horizons beyond the boundaries of a single school of thought.

These findings have significant implications for the future direction of family law policy, particularly in efforts to modernize inheritance law to be more responsive to social change. The researchers believe that these findings can serve as a foundation for judges and policymakers to begin considering more inclusive interpretations, as has long been practiced in the logic of qarabah. Academically, this study challenges researchers to no longer teach inheritance law merely as a rigid mathematical calculation, but rather as part of a dynamic social study. Given the limitations of this theoretical comparative study, it is recommended that future research move further into the empirical and socio-legal realms. Further research should explore how inheritance law, both within Sunni and Shia frameworks, is actually practiced and negotiated in religious courtrooms today, particularly before judges dealing with modern family structures that are increasingly shifting from the extended family to the nuclear family. Further theoretical development can also be directed at a synthesis between the qarabah system and modern human rights equality values, as well as examining the real economic impact of the implementation of these two inheritance systems on the level of women's financial well-being in various Muslim countries.

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