



# The 1:1 Division of Inheritance Between Sons and Daughters in Islamic Law: Legal, Rights and Obligations, Historical, and Sociological Perspectives

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## ABSTRACT

This study aims to analyze the determination of a 1:1 inheritance distribution between male and female heirs in Islamic law from the perspectives of formal juridical aspects, rights and obligations, historical aspects, and sociological aspects. The research employs a normative legal or dogmatic legal approach. The results of this study indicate that a 1:1 inheritance distribution between sons and daughters may be implemented when there is mutual consent among the heirs, even though Article 176 of the Compilation of Islamic Law and Qur'an Surah An-Nisa verse 11 explicitly stipulate that the inheritance ratio between male and female children is 2:1. This determination is based on several perspectives. First, the formal juridical perspective, which considers that men and women possess equal standing before the law in modern society. Second, the perspective of rights and obligations, which views inheritance as a right rather than an obligation, thereby allowing an equal 1:1 inheritance agreement. Third, the historical perspective, which understands the 2:1 inheritance provision as originating within the context of pre-Islamic Arab society that previously denied inheritance rights to women, making the primary principle the recognition of women as legal heirs. Fourth, the sociological perspective, which shows that daughters often provide greater care to the deceased during illness and until death, so that a 1:1 distribution is considered more reflective of justices.

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## **INTRODUCTION**

Islamic inheritance law is one of the most important aspects of Islamic family law, upholding justice and ensuring the proper transfer of ownership rights to the estate of a deceased person. The Qur'an, specifically Surah An-Nisa verse 11, clearly explains the concept of inheritance distribution by stipulating that a son's share is equal to that of two daughters (2:1) (Safitri & Khumaedy, 2024). This provision was subsequently adopted in Article 176 of the Compilation of Islamic Law (KHI) as positive law for Muslims in Indonesia. However, in contemporary social practice, there are various forms of inheritance distribution that differ from this normative provision, one of which is the equal 1:1 distribution of inheritance between sons and daughters (Pebrianti & Hidayat, 2021).

The phenomenon of 1:1 inheritance division has emerged in various regions of Indonesia as an adaptation to changing social and economic conditions, as well as shifts in public understanding of the concept of justice. In practice, this division is often carried out through mutual agreement and consent among heirs to maintain family harmony and avoid internal conflicts. Previous research indicates that the equal division of inheritance is viewed as an effort to foster social justice and prevent family conflicts (Muzakkir, 2023; Nashirun, 2022).

From a formal legal perspective, the development of modern society has placed men and women on a relatively equal footing before the law and in various socioeconomic activities (Pramesti, 2023; Arrazy, 2025). Women are no longer confined to the domestic sphere but play a role in supporting the family economy; in many cases, they are even the primary caregivers for their parents until the end of their lives (Ophir & Polos, 2022). This situation has shifted societal perspectives on the distribution of inheritance rights, which were previously more oriented toward men's economic responsibilities. Consequently, there is an argument that a 1:1 inheritance distribution can be viewed as a form of substantive justice within a specific social context (Putra & Anwar, 2023).

From the perspective of rights and obligations, an inheritance is viewed as a right that can be negotiated among heirs (Samura et al., 2023). In some inheritance practices, male heirs voluntarily cede part of their rights to their sisters to ensure justice and the common good. This demonstrates that the distribution of inheritance is not merely understood in a literal sense but also takes into account humanistic values, goodwill, and social benefit (Sandira et al., 2023).

Furthermore, historically, the 2:1 inheritance rule originated in pre-Islamic Arab society, which at that time did not grant inheritance rights to women (Kususiyannah, 2021). Islam subsequently emerged by recognizing women as heirs, so this rule was viewed as a form of social reform in its time. In the context of modern society, which is undergoing social and economic structural changes, some view the primary principles of Islamic inheritance law as justice and the protection of heirs' rights, rather than merely the numerical distribution (Marilang, 2022).

Various previous studies have addressed the fair and equitable distribution of inheritance, whether from the perspective of progressive law, gender justice, or customary law. However, research that specifically examines the 1:1 distribution of inheritance between sons and daughters in Islam from formal legal, rights and obligations, historical, and sociological perspectives remains relatively limited. Therefore, this study is important to provide a more comprehensive understanding of the dynamics of 1:1 inheritance distribution in Indonesian Muslim society and its relevance to the principle of justice in Islamic law.

## **RESEARCH METHOD**

This study is a normative legal study, or doctrinal legal research, that focuses on the examination of legal norms and legislation. The research was conducted through an analysis of

various literature sources related to the distribution of inheritance in Islamic law. The data used consists of secondary data comprising primary, secondary, and tertiary legal materials. Primary legal materials include the Compilation of Islamic Law (KHI) and Islamic inheritance law. Secondary legal materials consist of literature, journals, and legal books, while tertiary legal materials consist of legal dictionaries and other supporting sources. Data collection was conducted through literature review and document analysis by examining legal literature and legislation. The data obtained was then qualitatively analyzed using the Miles and Huberman interactive analysis model, which includes data collection, data reduction, data presentation, and drawing conclusions.

## **ANALYSIS AND DISCUSSION**

This study analyzes the 1:1 division of inheritance between sons and daughters. The 1:1 inheritance division is of interest because, normatively, Islamic inheritance law—both in Shafi'i fiqh and the Compilation of Islamic Law (KHI) stipulates that a son's share is twice that of a daughter, as stipulated in Quranic Surah An-Nisa verse 11. However, in this case, the ruling on an equal division of inheritance between sons and daughters took into account legal, rights and obligations, historical, and sociological aspects.

This ruling indicates the development of Islamic legal thought in Indonesia, particularly within the practice of religious courts. Judges do not merely view Islamic inheritance law in a textual manner but also consider the evolving substantive principles of justice within society. Therefore, an analysis of the judge's reasoning is essential to understand how Islamic law is applied in a modern social context (Hasan, 2023).

### **Legal Perspectives on the 1:1 Division of Inheritance**

The first consideration used by the judge was the formal legal aspect. In their reasoning, the judge stated that men and women have equal standing before the law. This principle of equality is viewed as part of the development of modern society, which places equal rights as a universal value in social and legal life (Roslina et al., 2025).

The panel of judges assessed that the concept of justice in law does not always have to be understood mathematically, but must also consider the aspects of benefit and the concrete circumstances of the parties (Andriawan, 2022). In this context, a 1:1 division of the inheritance is viewed as a form of substantive justice. The judge seeks to adapt the application of the law to the evolving social values within society without neglecting the primary objective of Islamic law, which is to promote the public interest.

This view reflects a progressive approach to understanding Islamic inheritance law. Judges do not merely adhere to the literal wording of inheritance provisions but also consider the underlying purpose of these rules. From a modern legal perspective, gender equality is a key principle that influences judges' views on the distribution of inheritance rights (Basri, 2025).

On the other hand, normatively, Islamic law does stipulate that a man's share is twice that of a woman's. This provision is based on a man's responsibility to provide for the family. However, the judge assesses that under certain social conditions, an equal division may be applied if it is deemed to better satisfy the sense of justice for all parties.

The research findings indicate that the legal approach employed by judges reflects an effort to harmonize Islamic law with modern legal developments, particularly regarding the principle of gender equality. This demonstrates that religious court practices in Indonesia are not strictly textual but also take into account the evolving social dynamics within society.

## **The Perspective of Rights and Obligations in the Distribution of an Inheritance**

The second consideration relates to the aspects of rights and obligations. The judge held that an inheritance is fundamentally a right received by the heirs, not an absolute obligation. Therefore, the 2:1 distribution rule does not always have to be applied rigidly if the heirs desire a different distribution based on mutual agreement.

The panel of judges determined that an equal division of the estate does not constitute a violation of Islamic law as long as it is carried out based on the willingness and mutual consultation of the parties. In this case, the judge viewed that a 1:1 division better reflects the principle of family justice compared to the absolute application of a 2:1 division (Asror, 2023).

This view indicates that judges regard Islamic inheritance law as an instrument for promoting the public interest, rather than merely a mathematical formula to be applied without considering concrete circumstances. Thus, the concept of justice in Islamic law is interpreted flexibly in accordance with the needs of society.

In contemporary Islamic legal studies, several scholars also argue that the distribution of inheritance can be adjusted based on the social and economic conditions of the heirs (Faizah, 2022; Reskiani et al., 2022). One figure often associated with this line of thought is Hazairin through his concept of bilateral inheritance law. According to this view, men and women have relatively equal standing in family relationships, so the distribution of inheritance rights does not always have to be strictly differentiated.

In addition, the judge also considered that in modern society, women often bear the same economic responsibilities as men. In some cases, women are even the primary breadwinners in the family. Therefore, the equal distribution of inheritance is viewed as more relevant to current social realities.

However, research findings indicate that this judicial consideration has also sparked debate. Some argue that the inheritance provisions in the Qur'an are definitive (*qath'i*) and thus cannot be altered through *ijtihad*. Others contend that these provisions can still be reinterpreted as long as the aim is to achieve justice and the public good.

## **A Historical Perspective on the 1:1 Inheritance Ratio**

From a historical perspective, the judge explained that before the revelation of the inheritance verses, Arab society followed a patrilineal inheritance system that granted inheritance rights exclusively to men. At that time, women were not granted inheritance rights because they were considered to play no significant role in the social and economic structure of society (Bimawan et al., 2025).

The advent of Islam brought about a major change by recognizing women as heirs. Therefore, the judge assessed that the main substance of the inheritance verses was not merely the 2:1 ratio, but rather the recognition of women's rights within the inheritance system (Rahman & Jauhari, 2022).

In his reasoning, the judge stated that the 2:1 provision was an example of the application of justice within the social context of Arab society at that time. However, the fundamental principles that must be upheld are justice and the recognition of women's rights as heirs. Thus, the distribution of inheritance may be adjusted as long as it does not conflict with the fundamental principles of Islamic law.

This historical approach demonstrates that the judge employed a contextual interpretation method in understanding the inheritance verses. The judge recognized that Islamic law has social objectives that must be understood in light of contemporary developments. Consequently, the application of the law is not solely based on the text but also takes into account the historical context in which the rule was established (Mustari, 2026).

Research findings indicate that the judges' historical approach shares similarities with progressive Islamic legal thought that has emerged in the modern era. This approach places

maqashid al-shari'ah as the primary foundation for understanding Islamic law. Thus, law is viewed as a means to achieve social justice, rather than merely a literal application of the text.

On the other hand, this historical approach has also drawn criticism from textualist scholars who argue that the inheritance provisions in the Qur'an are definitive and do not require reinterpretation. According to this view, changes to the distribution of inheritance have the potential to undermine the clearly established provisions of sharia.

### **Sociological Perspective in the Judge's Ruling**

Sociological aspects were the most dominant consideration in the judge's ruling. The trial revealed that from the time of his illness until his death, the decedent was cared for by his daughter, Hj. Sumaiyah. Meanwhile, the other heirs, including his son, did not contribute equally to the decedent's care.

This fact served as the basis for the judge's decision to divide the inheritance equally. The judge determined that if a 2:1 division were to be applied, it would actually result in injustice toward the party who had contributed the most to the decedent's care.

This sociological consideration indicates that judges do not merely view the biological relationship between the decedent and the heirs, but also take into account the heirs' social and moral contributions to the decedent during his or her lifetime. Thus, the distribution of an estate is viewed not merely as a division of assets, but also as a form of recognition of family members' responsibilities and devotion.

From a sociological-legal perspective, this ruling reflects the close relationship between the law and the social reality of society (Santika & Eva, 2023). Judges strive to issue rulings that are not only legally valid but also socially acceptable to the parties involved.

The research findings indicate that a sociological approach significantly influences the direction of judicial decisions. Factors such as social justice and the actual contributions of heirs are considered more important than the rigid application of normative rules. Consequently, this decision demonstrates a shift in orientation from formal justice toward substantive justice.

### **Analysis of Judicial Ijtihad in the 1:1 Inheritance Ruling**

Based on the research findings, the judges' ruling in this case can be categorized as a form of legal ijtihad. The panel of judges did not merely apply normative provisions literally but also interpreted the objectives of Islamic law within a concrete social context.

The judicial ijtihad performed by the judges is a combination of *istinbathi ijtihad* and *tatbiqi ijtihad*. *Istinbathi ijtihad* involves interpreting the text of the Qur'an and the principles of Islamic law to uncover their legal substance. Meanwhile, *tatbiqi ijtihad* involves applying that legal substance to the specific circumstances of the case (Karjoko et al., 2021).

In this ruling, the judge appears to have considered the *maqashid al-shari'ah*, particularly the principles of justice and public interest. The judge sought to ensure that the ruling issued not only conforms to the legal text but also delivers justice to the parties involved.

The judge's reasoning is also linked to the theory of *hudud* proposed by Muhammad Syahrur. This theory holds that men's share of the inheritance represents the maximum limit, while women's share represents the minimum limit. Thus, the distribution of inheritance may be adjusted based on specific social conditions as long as it remains within the bounds of the principle of sharia justice (Ridwan, 2022).

However, this study also found that the judge's decision is not yet fully aligned with the normative provisions in the Compilation of Islamic Law or the Shafi'i school of fiqh applicable in Indonesia. Therefore, this decision indicates the dynamics and development of Islamic legal interpretation within the religious court system.

Overall, the research findings indicate that the 1:1 inheritance distribution between sons and daughters in this case is based on considerations of substantive justice encompassing legal,

rights and obligations, historical, and sociological aspects. The ruling reflects the judge's efforts to adapt the application of Islamic law to the social developments of modern society without neglecting the primary objectives of Sharia, namely to realize justice and the public interest for humanity.

## CONCLUSION

Based on the research findings, it can be concluded that the judge's considerations in determining a 1:1 inheritance distribution between sons and daughters are based on four main perspectives: legal, rights and obligations, historical, and sociological.

From a legal perspective, judges view men and women as having equal standing before the law, so an equal division of inheritance is considered capable of realizing substantive justice. From the perspective of rights and obligations, judges assess that the acceptance of an inheritance is a right that can be mutually agreed upon by the heirs, so a 2:1 division does not always have to be strictly applied. Meanwhile, from a historical perspective, the judge opined that the core substance of the inheritance provision is the recognition of women's rights as heirs, not merely the 2:1 ratio. From a sociological perspective, the judge considered the tangible contributions of daughters who cared for the decedent until their passing, leading to the conclusion that a 1:1 division better reflects a sense of justice.

This study also demonstrates that the judge's ruling constitutes a form of legal *ijtihad* that combines normative and contextual approaches. The judge not only interprets the provisions of Islamic inheritance law literally but also considers the *maqashid al-shari'ah*, particularly the principles of justice and public interest. Thus, the ruling reflects the dynamic nature of Islamic legal interpretation within the Indonesian religious court system.

Nevertheless, the 1:1 inheritance division in this case remains controversial because it does not fully align with the provisions of the Compilation of Islamic Law and Shafi'i *fiqh*, which stipulate a 2:1 ratio for the division of inheritance between men and women. Therefore, this ruling demonstrates a shift in orientation from the application of formalistic law toward a more substantive approach oriented toward social justice.

## AUTHOR CONTRIBUTION

TP contributed to the formulation of ideas and conceptualization of the article, as well as the drafting of the research manuscript. TM contributed to data collection, assisted with the analysis process, and edited and revised the manuscript.

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