



## Inheritance, civil procedure, and justice: a critical analysis

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### ABSTRACT

This research will use the writings of two contemporary Islamic legal experts, Nasr Hamid Abu Zayd and Muhammad Syahrur, to delve into the idea of gender equity in Islamic inheritance and wills. This research uses a philosophical and analytical approach to clarify how the two thinkers reach a more egalitarian and gender-neutral understanding of religious texts concerning inheritance law. The analytical descriptive approaches are used to describe and investigate Islamic legal ideas and positive law enforcement mechanisms relevant to gender issues and inheritance. The research shows that both experts believe that *ijtihad* and adapting Islamic law to contemporary society are crucial to achieving gender equality and justice. There is mounting evidence, including this research, that Islamic inheritance law may need a reevaluation in view of advances in gender equality and other notions of inclusive social justice.

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## 1. Introduction

Social justice based on the notion of equality (egalitarian) as creations of Allah is the primary goal of Islamic law, which seeks to actualize the objectives of human benefit (Muhtar et al., 2024). Both the Qur'an and al-Hadith include juridical-normative provisions that embody the principles of Islamic social justice in practice. These provisions are based on the values of equality (*al-musa>wah*), justice (*al-'ada>lah*), and independence (*al-hurriyah*) (Dungga et al.,

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2023). The Islamic legal code, Sharia, governs every facet of human existence. So, Islamic law is an all-encompassing way of looking at life. (Walim, 2017).

Nevertheless, *ijtihad* is necessary since the majority of the legal stipulations in the Qur'an and al-Hadith are expressed in a common language (*mujmal*) (Suryani et al., 2023). Consequently, different people will likely arrive to different conclusions when they study religious scriptures. There are three primary reasons, according to al-Qardhawi, that lead to the development of different interpretations among Muslims. To begin, many different understandings of Islam are possible due to the religion's normative-textual foundation.

The Qur'an and al-Hadith, to put it simply, permit several interpretations due to this. Secondly, as every person is unique, even a *mujtahid* or *mufassir* may bring their own perspective to the table when interpreting the Quran and its social context. Lastly, the cultural nature of language means that religious Arabic writings will inevitably have different interpretations based on characteristics such as the number of potential meanings (*musytarak*), the breadth of meaning (*'amm*), and the specificity of meaning (*al-musytarak*) (Muhtar et al., 2023).

We must take into account local considerations where Islamic law will be based if we include these three elements into the framework of establishing religious teachings. In order to maintain a connection to local cultural traditions and foster a sense of justice within the community, it is essential to take this step before creating any legal product. When people see the law as something everyone must have, they are more likely to adhere to and follow the rules laid forth in the law.

Several studies have examined inheritance, civil process, and justice from different angles. Nevertheless, further research is required to fill out the gaps. Wills and trusts, the legal instruments controlling succession, and questions of equitable distribution of money among heirs are often discussed in literature about justice and inheritance. Nevertheless, further research into the effects of inheritance laws on socioeconomic inequality and its connections to distributive and social justice is necessary.

The rules of evidence and the litigation process have been extensively studied in prior works pertaining to civil procedure and justice. Nevertheless, thorough research assessing civil proceedings from a justice standpoint is still lacking. The impact of procedural rules on access to justice, especially for disadvantaged populations, should also be carefully considered.

Few studies have attempted to bridge the gap between civil process and inheritance. The connection between civil procedural norms and inheritance laws has not been thoroughly examined in any research that address inheritance disputes, although some do touch on procedural elements. Lastly, specialised fields or legal frameworks are the usual foci of the study. To further our knowledge of these subjects, however, new multidisciplinary and comparative methods are required. As a whole, our knowledge of justice is incomplete when it comes to civil process and inheritance. Fixing these loopholes will make the justice system better and guarantee that everyone involved gets what they deserve.

## 2. Method

Based on the questions and ideas that were posed for this study, it may be classified as normative legal research. This study takes a philosophical and analytical tack, drawing from a variety of theoretical frameworks to arrive at its conclusions, which in turn seek to generate new results to address the identified primary issue (Ishaq, 2017). Descriptive analysis will also

be used to examine it, namely by outlining the relevant statutes and rules pertaining to the problem's positive law enforcement tactics and legal philosophy (Mahmud Marzuki, 2005).

Regulations and laws regarding inheritance, civil procedure, and justice have several defining characteristics that influence their impact on individuals, families, and society. These characteristics include complexity, variability across jurisdictions, specificity in addressing various aspects such as succession and dispute resolution, flexibility to accommodate unique circumstances, protection of rights, evolutionary nature responding to societal changes, interdisciplinary influence, safeguarding of vulnerable individuals, inclusion of adversarial and non-adversarial elements in civil procedures, and the necessity for enforceability and compliance to ensure fairness. In essence, these regulations and laws aim to strike a balance between legal precision, rights protection, adaptability, and the promotion of fair outcomes.

### 3. Results and Discussion

#### 3.1. Biographies of Shahrur and Nasr Hamid Abu Zayd at a glance

Syahrur is Daib and Shiddiqah's son. The son of Daib and Shiddiqah is Muhammad Syahrur. Muhammad Syahrur al Dayyub is his true name. Muhammad Syahrur was born in Damascus on April 11, 1938, at the Shalikiyah crossroads. Azizah and Muhammad Syahrur have five children. Muhammad Syahrur has five children: Rasun, Tariq, Lays, Rima, and Basil. Muhammad Syahrur earned a civil engineering degree in 1964 in Moscow. He began studying in the Abdul Rahman al Kawakib school in Damascus' southern suburbs in 1957 at the ibtida'iyyah i'dadiyah and tsanawiyah schools. After finishing high school in 1965, Syahrur taught at Damascus University. He received a scholarship in 1969 and studied at Imperial College, Dublin, till he earned a Master of Science. His 1972 Ph.D. focused on soil dynamics and foundations. (Rosyada, 2019).

Syahrur's ideas are founded on his views on current society and prior ulama. Several factors shape Syahrur's perspective and beliefs. First, the absence of a consistent method for analysing the Al-Qur'an and Hadith has polarised religious knowledge and interpretation. Second, Muslim communities frequently ignore their historical, geographical, and sociological settings before discussing present realities.

Syahrur sits between literalist and contextualist-secularist views on traffic and religious interpretation. He claims that a fresh understanding is needed before returning to al-Tanzil, Allah SWT's initial text to Muhammad. Syahrur says to understand the Qur'an as if Muhammad died yesterday. This concept states that Muslims should interpret the Qur'an based on their historical and geographical conditions. The current generation is not bound by past generations' perceptions. He says that today's youngsters have more knowledge than their parents' generation to completely understand the Qur'an.

On July 10, 1943, in Qahafah, al-Gharbiyah, the capital of Thontha, Nasr Hamid Abu Zayd was born. Since he was born during World War II, his parents probably named him Nasr in hopes that he would always lead his side to victory. After Sayyid Qutb's murder, his father, an Al-Ikhwan al-Muslim activist, was imprisoned. His family was devout. Egypt-born contemporary Muslim scholar Nasr Hamid Rizk Abu Zaid. He taught young children writing, as is customary in Egypt. Nasr Hamid Abu Zayd, a contemporary thinker, has his own viewpoint and experiences that shape his thinking. However, his background, family history, and culture shape this worldview (Ridho, 2015) (Ichwan, 2003).

Current Muslim philosophers like Muhammad Arkoun, Fazlur Rahman, 'Abid al-Jabiri, Muhammad Syahrur, and Nasr Hamid Abu Zayd mix humanities and social science theory and technique with science. Current Arab-Islamic religious discourse includes Nasr Hamid's attempts to revive (al-tajdid) traditions (turats). He thinks a scientific understanding of tradition is needed to combat conservatism and reinvigorate. Nasr Hamid thought textual culture revived Muslims. He advocates reinterpreting Islamic literature to modify Muslims' perspectives, particularly on women.

Modernization hampers religious discourse. It has pushed them to be moderate for change and hold Islamic beliefs on intellectual, cultural, social, and economic levels. This phenomena impacts religious texts socially, economically, culturally, and politically. Reading the book becomes tendentious-ideological (mugridah-talwiniyyah) and social, political, and cultural consumption. In his early life, academic career, and writings, literary criticism moulded Nasr Hamid. He thinks figures of speech are the most important part of literary criticism, which demands a separate study of history, especially the Qur'an's role in enhancing literature.

### 3.2. Inheritance Law Provisions in the Al-Qur'an

In Arabic, the word used to refer to inheritance rights is the word الارث which linguistically means the transfer of something from one group to another (Idah, 2021). Meanwhile, the definition of inheritance law is the law that regulates the transfer of ownership rights of inheritance (*tirkah*) of heirs, determining who has the right to be an heir and what their respective shares are.) (Noviarni, 2021). Inheritance law in Islam is known as *fara'idh*, the plural form of the singular word *fari'dhah* which means provision; This is because in Islam the parts of inheritance that are the rights of heirs have been standardized in the Al-Qur'an.

Mawaris science or al-fara'idh science is an important science in Islamic law as the Prophet said in a hadith "Learn *fara'idh* science and teach it to people, because in fact *fara'idh* science is half of science" (Walim, 2017). The distribution of inherited assets will be carried out if the pillars and reasons for inheritance are fulfilled. The pillars of inheritance are the existence of people who leave inheritance (*mayyit*), the existence of people who inherit (*heirs*) and the existence of assets to be inherited. Meanwhile, the reasons why people receive inheritance are because of blood relations, because of marriage and because of freeing slaves (Khaeri, 2022).

Normatively, the distribution of inherited assets both concerns who the heirs are and how much each portion will be. The Qur'an has explained in detail and clearly, namely in Surah an-Nisa verses 11, 12, 13 and 179. The pattern of dividing inheritance assets between sons The focus of this paper's study on men and women is Surah An-Nisa verse 11 (Gobel et al., 2022a). Meaning: Allah has prescribed for you regarding (distribution of inheritance to) your children. Namely: the share of one son is the same as the share of two daughters and if all the children are daughters, there are more than two.

So for them two thirds of the property left behind; If there is only one daughter, then she gets half the property. and for two parents, for each of them one-sixth of the property left behind, if the deceased has children; if the person who dies has no children and he is inherited by his parents (only), then the mother gets one third; if the deceased has several siblings, then the mother gets one sixth. (The distributions mentioned above) after fulfilling the will he made or (and) after paying his debts. (Regarding) your parents and your children, you do not know which of them is closer (of much) benefit to you. this is a decree from Allah. Indeed, Allah is All-Knowing, All-Wise.

The substance of the verse that refers to the meaning of law (*wajhu al-dilalah*) in the verse above is the sentence *الان ذيين حظم ثل ل الذكر اولادكم في الله ي و صد يكم*. The word اولاد which is at the core of the discussion is an isim that unites something or many for both boys and girls, so it needs to be given confirmation (*muqayyad*) and this is where the function of the words *الذكر* and *الان ذيين* is as if it were a *muqayyad* for the word اولاد. To further clarify the position of the meaning of the verse above, compare it with verse 176 of Surah al-Nisa (Gobel et al., 2022b): Meaning: and if they (the heirs consist of) brothers and sisters, then one brother's share is as much as the share of two sisters.

Before stating the words *الذكر* and *الان ذيين*, the gender type is first stated, namely the word *ونساء رجالا*. By paying attention to paragraph 176 of Surah an-Nisa, it further emphasizes the meaning-limiting function, namely to state that the distribution of inheritance is based on gender function. Meanwhile, the meaning of the words *الذكر* and *الان ذيين* still refers to the meaning of the distinction between men and women in a biological sense. (Muhammad, 2021).

In this verse it is explained that the share of a boy is the same as that of two girls. This provision is based on the idea that the gender role of boys is that of the person in charge of the

family, namely as the person in charge of the family economy. This is stated in the Qur'an surah anp Nisa verse 34:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ

حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ

فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Since Allah has favoured certain men over others and since men have spent part of their money on women, it follows that males should serve as leaders for women. So, a good woman is one who follows Allah's commands and looks after herself. If you're concerned about the nusyuz of women, you should give them advice, then separate them in their beds, then beat them. Do not seek for methods to impede their progress if they comply with your orders. Allah is really the Most High and Greatest.

Mufassir depicts the husband as the family head, protector, responsible person, educator, and regulator. In the Qawwamun lafad, this is clear. This provision also supports restricting women's political leadership. The belief that a husband is better than his wife comes from lafadz bima faddhalallah, which means Allah prefers men.

According to Muhammad Abduh in his book Al-Mannar and cited by Nasarudin Umar, this verse does not absolute the leadership of men over women because it uses the phrase faddhalallahu ba'dhuhum 'ala ba'din (because Allah gives them superiority over others) instead of bima faddhalahum or bima tafdilihim. Muhammad Shahrur claims that fiqh academics who defend patriarchal power interpreted male dominance and its legal benefits, even though this system is a vestige of pre-Islamic cultures, notably Jewish ones (Walim, 2017).

The notion of boundaries (*huhu>d*) put out by Shahrur includes two extremes: the greatest (*had al-a'la*) and the lowest (*had al-adna*). When it comes to inheriting wealth, males have the upper hand, while women have the lower hand, with the possibility of moving up to equal men's share. The son's portion is a variable follower (*tabi*), according to Shahrur's reasoning, as the female heir is a variable factor (*al-mutahawwil*) (Ahmad Saifuddin, 2020).

Male heirs are constant regardless of daughter count, whereas female heirs vary. This limits the number of female offspring to one to infinite, although inheritance passages only list the number of male children. Islamic inheritance law is based on Surah an-Nisa verses 11-13, according to Syharur. Syharur's criticism of the traditional ulama's inheritance law is unrelated to will law. According to the hadith "La wasiya li warisin" and Allah's pronouncements "al-wassiyatu lil walidain wa al aqrabin," prior ulama ordered the will's sections removed (nasakh). In Surah al-Nisa verse 7, al-haddu (inheritance allotment) and al-nashib (will portion) are confounded. This paragraph mentions a will but is thought to be about inheritance law. Syahrur defines al-haddh as inheritance and nashib as will.

Syahrur also criticised the passages on inheritance for not distinguishing between justice in general and wills in particular. Syharur says general provisions do not eliminate specific ones. Syahrur also disputes past academics' interpretation of lafad al-walad by boys. Syahrur believes that this restricted reading of "Yusikumullahu fi auladikum li al-dhakari mitslu haddhil untsayain" distorts its actual meaning and legal ramifications, which maintain that boys are responsible for delayed or denied inheritances. He says "al-walad" means both sexes.

The parts concerning inheritance were revealed and applied to all of humanity collectively, not to specific people or groups, according to Syahrur. There are four mathematical operations—addition, subtraction, multiplication, and division—and set theory, analytical procedures, and mathematical analysis provide the basis of the universal norms described in the poems concerning inheritance. In the meanwhile, the passage on wills doesn't offer any legal guidelines for precise calculations; instead, Allah just encourages people to prioritise the recipients of his will, who are close relatives who are impoverished and in need. Because a will

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deals with private matters and is efficient in transferring assets, it is completed prior to an inheritance (Shaekh, 2021).

One needs understanding of mathematical analysis, set theory, analytical methodologies, following variables, and al-mutahawwil to understand inheritance laws. Muhammad Shahrur and Nasr Hamid Abu Zaid agree that women's share is the most significant element (al-ashl) in deciding men's share. The general purpose of Islamic law – creating value via justice – allows for dynamism in inheritance distribution in Islam, taking into account changing societal realities and fighting for gender equality. This enables for minimum and maximum women's share limitations. This helps Islamic idealism integrate religious and social equality in a manner that respects men and women's gender limits (Ridwan & Contemporary, 2016).

Islamic inheritance law, according to Nasr Hamid Abu Zayd, is based on a cultural deconstruction of Islamic culture that fails to show compassion for women and children. Back then, only males with physical prowess could inherit, and women had absolutely no say in the matter. Some cultural practices even go so far as to permit the burial of living female offspring and the inheritance of a woman's body as an item upon her husband's death.

Islam brought a new sense of humanity to women by recognising their right to inherit property passed down via husbands and fathers. At first, the early Muslims had a hard time accepting the promise of a cultural revolution that would include tearing down the value structure that kept women in a submissive position. If you can't ride a horse, aren't exhausted, or won't hurt your adversary, then you shouldn't inherit from them, according to their belief system (Sebyar & Harahap, 2020).

It is forbidden to give males less than half of what girls get, and according to Nasr Hamid, the highest limit (*had al-aqsa*) is the proportion of boys who receive twice as much as girls. males for females. Equal distribution of men and women is implied by Allah's *hudud*, which takes the shape of legal limits. When Allah's predetermined boundaries for men and women are in agreement, we say that there is equality (Judge, 2019).

Nasr Hamid Abu Zayd criticises text interpreters who focus on the text's normative constraints or the word *hudud*. Nasr Hamid Abu Zayd's understanding of current mathematical theory compares a "boundary" to motion between two points. Both points are essential, but the first is lower and the second higher. He said the least that may be set to equalise men's and women's shares is half of a man's legacy going to women. This shows that the Qur'an's taboo on going beyond Allah's borders (*hudud*) applies to this issue and all others. Going from the lowest to the highest restriction to split everything evenly is irrelevant to this prohibition.

Through its religious ideals and equality, Islam, according to Nasr Hanid, is fighting tribalism by encouraging women to become self-reliant, respected, and valued human beings.

### **3.3. Theoretical reflections on Shahrur and Nasr Hamid's offer in the development of Islamic inheritance law in Indonesia**

At this time, religious leaders are among the many segments of society that are discussing the intersection of religion and gender justice (Setiyawan & Muhtar, 2023). While the currents of modernity have influenced shifts in perspective on women, they have not been sufficient to eradicate prejudice. The many gender biased legislation enacted by the state are a reflection of the reality of gender inequality, which is not limited to the Indonesian people but affects countries worldwide (Muhammad, 2022).

The cultural viewpoint of an androcentric culture, in which males are the ultimate measure of value, is often used to organise classical Islamic literature. The material in question is still revered as a sacred text, ranking alongside the Al-Qur'an and Hadith. There is an ongoing practice of reprinting tafsir and fiqh books with volumes that date back hundreds of years; some of these books even outnumber modern publications. When seen through a contemporary lens, classical Islamic literature reveals a disturbing lack of gender equality. The writers are not to be held responsible since the gender equality metric is based on societal norms and assumptions about gender roles. There must be a logical progression while studying

ancient literature, particularly when considering the author in relation to his cultural and social milieu. Here, the hermeneutic approach comes into play as a paradigm for accurate textual analysis that does not disregard contextual meaning.

Because every writer is a product of his or her period, it is essential for readers to put themselves in the shoes of the people who wrote their works, immersing themselves in their social and cultural milieu as if they were there at the time. The next step, according to W. Dilthey, is "*zu verstehen*," or to completely comprehend the text. This is analogous to emerging from a tunnel of memories and forming conclusions (PDHN Umar, 2014).

Attempting to create an intellectual map of the Middle East – the original transmission site of Islam – is something else that Nasaruddin Umar does in another section. It has long been his contention that the Middle East has been a site of the masculinization of epistemology. The realm of epistemology was impacted by cosmology, mythology, and ancient civilizations that were often sexist even before the Al-Qur'an was revealed. There is a severe lack of respect for women in this area. The Egyptians imposed travel restrictions on women by having some of the mummies' underpants padlocked and their shoes made of hefty, tiny iron. As eternally lustful female devils, women are portrayed in Greek mythology as such. In the cosmic drama, women were portrayed as the source of inherited crimes in Judeo-Christian history, menstruation women were hidden in dark caverns distant from communities in Sasanian-Zoroastrian civilization, and spouses were burnt alive in Hindu culture. to the side of her spouse who has passed away.

Gender bias in classical interpretations still affects women's self-perception by portraying them as helpless victims of inherent malevolence. According to Amina Wadud, translators see fundamental distinctions between sexes in terms of their respective abilities, social roles, and the rewards that each must get on judgement day. As a natural outgrowth of this skewed perception, the public stigmatises women for being unqualified to hold public office or other positions of political leadership (Mustakim, 2018).

A major contributor to the rise of patriarchal ideology, which views males as inherently superior, is the way religious scriptures are understood and used. Even more concerning is the fact that some Muslims hold the outcomes of religious text interpretation in the same esteem as the original texts, considering them holy, absolute, and conclusive. Despite the fact that the outcomes of text interpretation are fundamentally relative and subject to change based on the interpretation's inherent nature, which in turn is subject to change in time and location (Abdullah, 1996). Historical interpretations of the text often exhibit gender prejudice, which undermines the text's humanist message, in contrast to the text's normativeness, which is basically responsive and agnostic.

Islam scholars Muhammad Syahrur and Nasr Hamid Abu Zayd have made a compelling case for the need of reading religious texts with a gender responsive lens, particularly those that deal with the law of inheritance. Syharur and Nasr are similar in that they both engage in a conversation with the text's historical and social contexts in order to better comprehend it. A coherent foundation for interpretation is achieved via the dialectic of text and context.

Classical books, like modern texts, often have theo-cosmologically demeaning attitudes of women and are therefore simple to locate. The cosmic drama of the fall of the prophet Adam from heaven, brought about by his wife Eve, is prominently represented in Tafsir At-Thabari, along with other examples of sexist stereotypes. In this way, Eve, who stands in for all women, is presented as an object whose very existence brings dishonour to humankind (Ridwan, 2008).

Going over some of the theoretical and methodological attempts to rethink Islamic inheritance law in a way that makes sense. Since it interacts with civil law on a daily basis, inheritance law has a stronger mu'amalah component (Sadzali, 1993). Thus, fresh ijthihad may be pursued by considering the cultural locality's dimensions in the area where the legislation will be implemented. Muslims are granted the right to engage in ijthihad with a reasonable approach, taking social issues into consideration, according to mu'amalah legislation. This is distinct from the tauqifi and ta'abuddi worship regulations that are a component of a doctrinal religion and so cannot be changed or amended.

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By seeing inheritance law as a mu'amalah field, we may better understand the verse's intent – the equitable distribution of inherited wealth – rather than only looking at the specifics of how each heir's part is to be determined. Inheritance law may serve as a tool or wasilah to accomplish the ghayah, or ultimate aim, of certain statutes. Ghayah, being a fundamental principle of sharia, remains constant regardless of location, culture, or period. The means by which we attain ghayah (wasilah) are unique and subject to change in response to societal needs and the dynamic nature of our ever-evolving times.

As to Syafrudin Prawiranegara, a legal scholar would classify laws as either "voluntary" (vrijwillig recht) or "compulsory" (dwingend recht), depending on whether the interested party chooses to ignore other options. In his view, the rules for the division of inheritances as down in paragraph 11 of Surah an-Nisa are examples of voluntary law, meaning that interested parties might avoid the law's implementation by doing other things that are legal under the law in question (Sadzali, 1993).

This attempt to rethink Islamic inheritance law has its methodological foundation in the ijtihaads of Umar ibn Khattab's companions, which often spark disputes between themselves. Umar ibn Khattab's ijtihaad often runs counter to what the Quran really says, as he tended to interpret verses in light of their context and intellectual underpinnings. At the heart of Islamic teachings are considerations of utility, which Umar ibn Khattab based his ijtihaad on in several circumstances. Islamic inheritance law has the advantage of being fair. Thus, equitable distribution of property is central to Islamic inheritance law. Justice that originates with God is of the utmost importance to humans, since God is the embodiment of God's freedom. The fundamental concept of justice in the Qur'anic world of ideas, says Hazairin, is unchangeable, but in the world of realities, there is a constant flux of occurrences that ultimately lead to values that will last forever (Gafur Anshori, 2005).

Islamic law does not need to supersede all of the ancient fiqh if it is to continue to govern the lives of the Islamic ummah in the modern day. Reformulation of fiqh, or tajdid, is necessary for this. One approach is to analyse the Islamic statements that were previously used by mujtahids in a different light. Attempts to reformulate fiqh in order to reactualize Islamic law have persisted in the Islamic world since the late 19th and early 20th centuries, when they first gained prominence, and they persist to this day (Syarifudin, 2014).

Experts in Islamic law disagree on the extent to which ijtihaad may be used, which in turn leads to disagreements about the possible areas of change within Islamic law. Amin Abdullah argues that the purview of ijtihaad and tajdid should include all of al-'ulum al-kauniyah and al-hayah al-insaniyah, not only religious law and fiqh rules. The realm of *tajdid and ijtihaad* encompasses not only legal matters but also humanitarian concerns in general. So far, he claims, ijtihaad and its products have only worked in a reactive, lawful capacity, rather than a proactive one (Abdullah, 2000).

Reform opportunities in Islamic law, argues Subkhi Mahmasani, are limited to issues of mu'amalah, or worldly concerns, that stem from the concept of benefit. On the other hand, the normative regulations regarding the worship space (*'ubudiah*) are explicit and comprehensive, guaranteeing their eternal applicability. For this reason, religious concerns are unaffected by changes in location or time (Mahmasani, 1976) (Muhammad Riyan, 2018). This lines up with the view of al-Syatibi, who argues that religious law is ta'abbudy (dogmatic), in contrast to mu'amalah law, which is *ma'qul al-ma'na* since it can be explained by ijtihaad.

The concept of the verses qath'y ad-dalalah (certain designation of meaning) and dzanny ad-dalalah (uncertain designation of meaning) in the Al-Qur'an, which is scientifically established in the arena of ushul fiqh studies, is likely to cause methodological problems if reforming Islamic inheritance law changes the formula for inheritance distribution. In this way, the relativist concept has supplanted the traditional notions of qot'y and dzanny, and the moral message that reform brings with it has demolished them in an indirect manner.

There is a need to present the formulation of inheritance law in Indonesia, and Syharur and Nasr Hamid Abu Zayd's theoretical theories about the interpretation of Islamic inheritance law texts within the framework of Islamic inheritance law's growth are relevant to this debate. Nasarudin Umar thinks that the boundary theory put forward by Shahrur could provide an

alternate framework for the reform of Indonesian Islamic family law as it pertains to inheritance (N. Umar & Islam, 2010).

Discussions surrounding Islamic wills and inheritances go within the realm of ijthadiyah law after the field is reclassified as muamalah jurisprudence. The room for ijthad is not closed off by precise and restrictive heir arrangements. By considering the cultural justice ideals of Indonesia in conversation with the global justice messages of holy inheritance verses, creative-innovative *ijthads* in Islamic inheritance law in Indonesia may build on previous historical precedents. Indonesian Islamic inheritance law will emerge from a fruitful conversation between global principles of inheritance law and local Indonesian values, drawing inspiration from both. This legislation will be firmly grounded in Islamic principles while preserving Indonesian cultural traditions.

#### 4. Conclusion

Gender justice in Islamic inheritance law is discussed in this research by Muhammad Syahrur and Nasr Hamid Abu Zayd. It is demonstrated that inheritance law can be seen from a more holistic perspective, incorporating elements of civil law and muamalah fiqh. This allows for ijthad and adaptation to new circumstances. While Syahrur stressed the mathematically universal nature of inheritance passages, Nasr Hamid argued for more gender equality by criticising the idea of tribalism in inheritance. Both provide modern takes on traditional ideas that address pressing societal challenges of inheritance in Islam, highlighting the need for more inclusive and gender-equal readings of religious scriptures.

Research on inheritance, civil procedure, and justice spans legal, social, and ethical dimensions. It informs policymakers about the effectiveness of existing laws, establishes legal precedents, and aids practitioners in navigating complex procedures. Socially, it promotes fair distribution of assets, reduces conflicts, and highlights barriers to justice for marginalized groups. Ethically, it advocates for fairness, transparency, and respect for individual autonomy. Practically, it leads to the development of guidelines, educational resources, and alternative dispute resolution methods. Overall, critical analysis in this field aims to ensure fair outcomes for all stakeholders involved.

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