

Reconstructing the *Hijab-Mahjub* Concept in Islamic Inheritance Law: A Critical Analysis of Islamic Inheritance Law and KHI

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Abstract	<i>Hijab is a form of inheritance obstruction in Islam that occurs when there are heirs who are given higher priority. The position of these prioritized heirs determines the inheritance rights of others and categorizes them as the first-rank heirs. Although the rules of hijab are essentially egalitarian for both men and women, cultural influences and the interpretive tendencies of scholars in understanding the Qur’anic verses on inheritance often produce patriarchal interpretations. In fact, the Qur’an fundamentally grants equal status to men and women as heirs. This literature-based study aims to reveal various forms of injustice within the concept of hijab in Islamic inheritance law. The research employs a qualitative descriptive method grounded in library research, with data analyzed through a critical-descriptive approach. This method produces a more comprehensive understanding of the rules of hijab within the Islamic inheritance system. The study concludes that the commonly accepted concept of hijab–mahjub contains misogynistic bias against women. Such discriminatory tendencies result in women being viewed as having lower status than men, even though both hold equal positions as heirs—despite receiving different shares. Therefore, a universal and comprehensive legal understanding is needed to prevent discrimination against women in the application of Islamic inheritance law. The interpretations of classical scholars, which were influenced by the sociological conditions of patrilineal Arab society, must be reconstructed to promote reforms in Islamic law that are more relevant, dynamic, and aligned with contemporary developments as well as the foundational principles of Islamic inheritance law.</i>
Keywords	<i>Reconstruction, Hijab-Mahjub and Inheritance of Islamic Law</i>

Introduction

Islamic inheritance law regulates the transfer of property from the deceased to the heirs, which occurs *ijbari*—automatically and without the will of the decedent (Sidhi, Subhan, and Wofiasandy, 2025). The principle of proximity to the decedent determines the share received by each heir, so a person who has a close familial relationship with the deceased will obtain the maximum portion of the inheritance and may even exclude others from receiving their share (Sari, Saepullah, and Amalia, 2024). This principle of prioritizing heirs based on closeness operates automatically; therefore, those who are

prioritized cannot be discriminated against based on gender (Waddin and Ashari, 2025). Instead, they receive equal recognition as prioritized heirs in obtaining inherited property, thus preventing legal discrimination in accordance with the principles of public interest and local cultural values (Aprilia and Astina, 2024).

Hijab-mahjub refers to a condition in which a person can block another heir's right to inheritance, causing that heir to receive only a minimal share or even no inheritance at all due to the superior status possessed by the one who blocks them (Jawwar, 1998). This category of superiority is held by individuals who have a direct relationship with the deceased, such as parents and children. They are classified as primary heirs or heirs of the first priority, whose status strongly determines the inheritance rights received by other heirs (Aniroh, Nasution and Sodiqin, 2024). Patriarchal understandings and misogynistic views have distorted the principle of priority in Islamic inheritance law, causing closeness to the deceased to be influenced by cultural factors and gender-based sentiments that consider certain groups to be superior to others (Kusumaningsih, Musthofa and Hami, 2024).

Women constitute a community that is significantly disadvantaged in Islamic inheritance law. Their position becomes marginalized in the distribution of inheritance, as they often receive a smaller share than men despite holding the same legal status (Vatuk, 2022). The perceived inferiority of women's status in Islamic inheritance law stems from a flawed understanding—one that interprets the texts in an authoritarian manner, thereby neglecting the principles of balanced justice that serve as foundational norms in Islamic inheritance law (Jalal, 2025). The issue of *hijab* does not challenge the proportion of shares allocated to men and women as determined by definitive (*qath'i*) scriptural texts. Rather, the problem lies in diminishing the status of women through interpretations that deviate from the text, even though the Qur'an grants them a highly honored position (Hussain, 2021; Sadia, Waraich and Halima, 2022; Tahiiev, 2024). A reinterpretation is therefore necessary to ensure that such understandings do not contradict the laws established by the scriptural texts based on detailed evidences.

The consensus on *hijab* in Islamic inheritance law as understood by the majority of classical jurists does not rest on the textual meaning found in the Qur'an (Widiyanti and Firdaus, 2023). As a result, this understanding has been influenced by cultures adhering to patrilineal systems, producing patriarchal legal norms and legal outcomes that tend to be biased against women (Parks, 2021). Such legal interpretations require reconstruction so that Islamic law remains dynamic and universal, allowing it to accommodate principles of justice within society. Men and women, in principle, hold equal status under the law (Zion-Waldoks, Irshai and Shoughry, 2020); therefore, they should be placed in an equal position as heirs. The equality granted to women in matters of inheritance reflects the values of justice found in the Qur'an, ensuring that women are not disadvantaged in receiving their rights under Islamic inheritance law.

The inconsistency of the *jumhur Ulama* regarding *hijab* can give rise to misogynistic perspectives toward women, resulting in their subordination to men. The perceived inferiority of women in inheritance law does not align with the values embedded in the Qur'anic texts (Shofiyati and Rizky, 2024). Therefore, a reconstruction of Islamic legal understanding is necessary to produce a more comprehensive interpretation of Islamic inheritance law. The *hijab-mahjub* concept, which does not place men and women in equal positions, can be clearly observed in the rulings concerning *kalalah* (extinction of lineage). A deceased person is deemed to have no heirs or to be without descendants only when he has no sons, whereas the absence of daughters does not lead to the same classification—even though the term used in the text is *walad*, which simply means “child”

(Ahsani, Samanta and Nasrulloh, 5202). The expansion of this meaning is further seen in the interpretation that the absence of a father renders the deceased as *kalalah*, while the absence of a mother does not—despite the fact that both are equally parents of the deceased (Syarifuddin, 2008). Such an interpretation is highly tendentious toward women, as it disadvantages them as heirs, even though the same textual approach is used but produces unequal legal outcomes.

This study aims to reconstruct patriarchal legal understandings in order to produce a comprehensive interpretation that aligns with contemporary developments, grounded in the values and norms found in the Qur'an and Hadith, which uphold the principle of equality between men and women in Islamic inheritance law. The interpretive tendencies of scholars significantly influence legal outcomes; therefore, textual approaches must be applied without being shaped by cultural patterns or societal traditions, so that no gender, ethnic group, or social group is disadvantaged (Malik, 2023).

Research methods

This study is a normative legal research project that gathers qualitative data from various literary sources and references. The primary source for this research is the *Compilation of Islamic Law*, while secondary data are obtained from books, academic journals, and other relevant references. The data are processed using descriptive analysis and content analysis through a *mashlahah* approach (Kamali, 2011; Avita, Idris and Oktalita, 2022), ensuring that the objectives of the *maqasid al-shariah* are properly achieved. The aim is to ensure that the values of justice in the formulation of Islamic inheritance law in Indonesia are effectively realized, thereby eliminating discriminatory practices against women as heirs.

Results and Discussion

Inheritance Barriers (*Hijab*) in Islamic Inheritance Law

The inheritance left by a deceased is a full right entitled to the heirs, with the specific shares clearly outlined in the Qur'an through verses with definitive meaning (*qathī dīlālah*) (Winata, Fara, and Sayibaty, 2023). The size of the share an heir receives is determined by their closeness to the deceased (Ritonga and Nasution, 2022). Consequently, heirs with a closer relationship to the deceased receive larger portions than others, as they are considered priority heirs and may even prevent other heirs from claiming a share, in accordance with their role and status as heirs.

The concept of *hijab-mahjub* refers to a situation in which a person is prevented from receiving an inheritance because there is another heir who is prioritized or closer to the deceased in terms of their position (Syarifuddin, 2008). Their status as the closest person to the deceased can block the rights of heirs who are more distant, either by limiting the minimal share they receive or even completely preventing them from inheriting (Kamumu, 2022). Islamic inheritance law also recognizes a prohibition on receiving inheritance, known as *mamnu'a* (forbidden), which has a fundamental difference from *hijab-mahjub*, even though both involve being prevented from obtaining an inheritance (Zahrah, 1963). Being forbidden from inheriting refers to a situation where a person is prohibited from receiving an inheritance due to their actions or circumstances, but this does not affect the inheritance rights of other heirs. This condition applies to individuals who are barred from inheritance because of unlawful acts, such as committing murder against the deceased, differences in religion, or differences in status with the deceased (such as slavery) (Munawar and Ghofur, 2023).

Inheritance impediments based on the closeness of heirs to the deceased are categorized as *hijab hirman* and *hijab nuqsan*. *Hijab hirman* occurs when a person is entirely disqualified from receiving an inheritance due to the presence of another heir who is closer to the deceased (Sabiq, no date; Ramli et al., 2023). For example, a grandchild may be barred from inheritance by their parent because the parent has a direct lineage connection to the deceased, whereas the grandchild's connection is mediated through the parent. Similarly, a grandfather is prevented from inheriting if the father has a direct relationship with the child, without any intermediary. In contrast, *hijab nuqsan* refers to a partial reduction in an heir's share, resulting in a minimal entitlement (Sabiq, no date). For instance, a mother's share may decrease from one-third to one-sixth if the deceased has children. The principle underlying the concept of *hijab* is the proximity of heirs to the deceased: the closer an heir is, the higher their priority in inheritance over others.

The principle of proximity serves as a guideline in the distribution of inheritance, ensuring that certain heirs are given priority. There is no disagreement among scholars regarding the granting of inheritance rights to heirs because the status of *ashabul furudh* has been clearly outlined in the Qur'an, and their shares must be prioritized (Salad et al., 2021). The majority of *Jumhur Ulama* and the *Imamiyah* differ only in the rules of *hijab*, specifically concerning which individuals are prioritized in receiving inheritance after the shares of *ashabul furudh* have been allocated (Hazairin, 1974). Regarding *hijab nuqsan*, there is no disagreement among these scholars because its provisions are explicitly stated in the texts. This is evident in the reduction of an heir's share from the maximum limit to the minimum limit. However, in the case of *hijab hirman*, differences exist between the *jumhur* and the *Imamiyah*. Children, fathers, mothers, husbands, and wives are categories of heirs who do not experience *hijab hirman* when receiving inheritance. Their status as individuals not barred from inheritance strongly influences their position in potentially blocking other heirs (Zahrah, 1963).

The *Imamiyah* scholars have established a more practical approach to inheritance blocking compared to the concept of *hijab* followed by the *jumhur ulama*, by categorizing heirs into three levels (Fitriana, 2024). Heirs in a higher level will block those in a lower level, and it is not possible for heirs from different levels to inherit together. Additionally, the occurrence of *'aul* (deficiency of estate) and *radd* (excess of estate) is not possible between levels; if it does occur, the estate is returned to the heirs of the first level (Mughniyyah, 1964). Husbands and wives are not classified as first-level heirs; however, they cannot be blocked by anyone due to their status as *ashabul furudh*. Their shares must be prioritized because the *fardh* rules have been clearly stipulated in the texts. In the event of *'aul* or *radd*, the shares of the husband and wife are not considered, as any adjustment is returned to the heirs who have blood relations with the deceased.

The rules of *hijab* according to the *Imamiyah* are supported by Hazairin through a legal approach based on the sociological conditions of bilateral societies (Nasution, 2022). Heirs are grouped into levels of priority: the first-priority group includes children and their descendants, parents, and widows or widowers; the second-priority group consists of brothers and sisters and their descendants; and the third-priority group comprises *mawali* of deceased individuals who have no descendants, such as the *mawali* of parents, the *mawali* of siblings, and the *mawali* of nephews and nieces, and so forth (Lahuri et al., 2022). The *Imamiyah's* rules regarding inheritance blocking do not differentiate between male and female relatives. In contrast, the rules understood by the *jumhur ulama* grant men the right to block others from receiving inheritance (*hijab hirman*), while women cannot exercise this right, even though they hold an equivalent status in the context of *hijab nuqsan*.

Men's Subordination to Women in the Context of Interpreting Islamic Inheritance Law

In principle, Islamic inheritance law is based on a bilateral system, in which men and women hold equal positions. However, patriarchal culture has significantly influenced the development of Islamic legal rulings, resulting in laws that demonstrate male superiority over females (Afary and Anderson, 2023). The emergence of Qur'anic exegesis (*tafsir*) scholars, predominantly male, has further shaped legal outcomes, marginalizing women and relegating them to a secondary status, even though Islam advocates for equal rights between men and women (Charrad and Stephan, 2020).

a. The Position of Children as Heirs

In Islamic inheritance law, children are recognized as heirs with the closest kinship to the deceased. Because of this status, they are never barred from receiving inheritance, whether under *hijab hirman* or *hijab nuqsan* (As-Shabuni, 1985). Their privileged position stems from their blood relationship with the deceased, which entitles them to a larger share of the estate compared to other heirs. This underscores the central role of children, granting them the highest priority in inheriting property, as well as in the distribution of inheritance when the deceased dies without direct descendants (*kalalah*).

The term *walad*, mentioned in the Qur'an in Surah An-Nisa, verses 11, 12, and 176, is a singular noun meaning "child," while its plural form, *awlad*, refers to "children" (Syarifuddin, 2008). In the context of *kalalah*, the concept of *walad* according to the *jumhur ulama* is generally understood to refer to male children. Ambiguity arises, however, when this concept is linked to the reduction of shares received by parents and spouses in the presence of both male and female children, as prescribed under *hijab nuqsan* (Sarjan, 2021). The discussion becomes particularly notable because female children do not have the same capacity as male children under *hijab hirman* to fully block the inheritance rights of other heirs, even though the term used in the Qur'anic verses is also *walad*.

Amir Syarifuddin stated that in understanding the term *walad*, the *jumhur ulama* were influenced by the patrilineal culture of Arab society, interpreting *walad* primarily as male children, even though the term inherently encompasses both male and female children. According to the Imamiyah scholars, the concept of *walad* in the inheritance verses refers to both male and female children (Mughniyyah, 1964). Similarly, David S. Powers argues that the concept of *walad* in the inheritance verses includes both sons and daughters, who are considered *ab intestate* as they are the deceased's children and hold priority in receiving the estate. Children are categorized as primary heirs, while other heirs who receive *fardh*, as stipulated in the Qur'an, can be classified as primary or secondary heirs depending on the presence of children.

Hazairin understands the meaning of *walad* as referring to either male or female children, since the form of the word in the verse is singular, with its plural being *awlad* (Irfan, 2024). Hazairin tested the usage of the word in other verses, such as Surah Al-Ahzab, verse 4, regarding the status of adopted children, who cannot be categorized as biological children. If the term *adopted child* were limited to male children only, then adopted female children could be considered biological children (Hazairin, 1974). Similarly, Muhammad Syahrur states that the concept of *walad* in inheritance refers to all human children, encompassing both males and females (Rifqi, 2021). The interpretation of the term *walad* has significant implications for the application of *hijab hirman* and *kalalah*, as both concepts originate from children when they inherit alongside other heirs.

The interpretation of *walad* among the majority of scholars is inconsistent. In Surah An-Nisa, verses 11 and 12, *walad* is understood to refer to both male and female

children. However, in verse 176, it is interpreted exclusively as male offspring (Lubis, 2024). In the context of *kalalah*, the meaning of *walad* is further extended to account for the absence of descendants, including grandchildren, in line with the broader semantic scope of the term. Nevertheless, the expansion of the *kalalah* concept, as understood by the majority of scholars, exhibits a marked gender bias. Female children are not accorded the same status as male children in inheritance matters. Despite both deriving from the same root, grandchildren through the female line are excluded from the extension of *walad*, which is applied solely to male-line descendants (Salsabila, Purwadi, & Harahap, 2025).

When examining the term *walad* in the context of *kalalah*, it indicates both male and female children (Sopiyan & Khosyi, 2022), in line with the majority of scholars' view that children are primary heirs who share the closest kinship with the deceased. Close kinship thereby excludes inheritance rights for more distant relatives. This is also reflected in the capacity of daughters to act as *hijab* for others in the context of *hijab nuqsan*, as indicated by the use of *walad* in Surah An-Nisa, verses 11 and 12. This suggests that daughters hold the same rights as sons in the position of *hijab hirman*.

b. The Status of Parents in Islamic Inheritance

Parents are close heirs to the deceased and thus hold a primary position due to their direct relationship with the deceased. The father and mother, as the parents of the deceased, have portions of inheritance explicitly stipulated in the Qur'an, making them heirs whose rights cannot be entirely obstructed (*hirman*) in receiving the estate, although their shares may be reduced when the deceased has children (*nuqsan*) (As-Shabuni, 1985). This indicates that children occupy a primary position, whereas parents hold a secondary position in inheritance matters. Both parents and children of the deceased are categorized as first-priority heirs, yet their levels of entitlement differ, as children represent the direct responsibility of the deceased.

Parents, consisting of the father and mother, hold equal status but have different responsibilities within the household, with no hierarchical superiority based on gender (Taqiyuddin, Millah, & Luthfi, 2023). Children are required to show filial devotion to both parents without discrimination between father and mother, as reflected in several verses of the Qur'an and Hadith. This implies that, in Islamic inheritance, fathers and mothers have equal standing in receiving their shares in accordance with the textual directives (*nash*) (Suyuti Dahlan Rifa'i & Sakinah, 2021). When the father has the right to inherit, the mother likewise has the same entitlement; similarly, in terms of obstructing the inheritance rights of others, if a father can block the inheritance of other heirs (*hijab hirman*), the mother should also be able to do so, given that both hold equal status as parents of the deceased.

The father receives inheritance in three conditions: first, one-sixth (1/6) if the deceased has a son; second, as an *asabah* if the deceased has no daughter; and third, one-sixth (1/6) along with the residual estate (*ashabah*) when the deceased has a daughter but no son (Al-Jaziri, 1922). Similarly, the mother acquires her share in three circumstances: one-third (1/3) if the deceased has no children or is survived by two or more siblings; one-sixth (1/6) if the deceased has children; and one-third (1/3) of the residual estate if the deceased leaves behind a spouse. These rules apply to the case of *umarayat*, as agreed upon by the majority of scholars (Faizah, Parera, & Kamelya, 2021). This demonstrates the difference in inheritance rights received by fathers and mothers, as the majority of scholars uphold the principle that male heirs are entitled to a larger share than female heirs at a ratio of 2:1, despite differences of opinion among scholars on this issue.

The situation is further complicated when the majority of scholars interpret the term *walad* expansively to include the father alone, excluding the mother. Consequently, the father attains a position in obstructing the inheritance rights of other heirs, similar to children who hold a higher status than other heirs. Exegetes share this view with the majority of scholars, although rational arguments for interpreting *walid* or father in this context are difficult to identify (Syarifuddin, 2008). This extension of meaning is based on the understanding of the Qur'anic verse: "*Your fathers and your children—you do not know which of them is nearer in benefit to you. It is a prescribed portion from Allah*", thereby placing the father on the same level as the child. The interpretation of *walad* as exclusively a male child indicates that the majority of scholars were influenced by a patrilineal concept.

The expansion of the *kalalah* concept by excluding the father as one form of heir deemed extinct has implications for the inheritance rights of siblings, as the father can obstruct their share, just as a child can obstruct a sibling, even though the sibling's *fardh* portion has been explicitly specified in the text (Ali & Bashir, 2021). This arrangement is highly discriminatory, as women are disadvantaged twice: first, daughters, as included in the meaning of *walad*, are affected in their capacity to obstruct the inheritance of siblings; second, in the expansion of *kalalah*, the absence of the father is considered, but the mother is not included, despite both being at the same level as parents of the deceased.

The Compilation of Islamic Law also regulates the shares to be received by each heir. Articles 177 and 178 specify the portions allocated to the father and mother, which differ from the rulings of the majority of scholars. The articles state:

"Article 177: The father receives one-third of the estate if the deceased leaves no children; if there are children, the father receives one-sixth of the estate.

Article 178: (1) The mother receives one-sixth of the estate if there are children or if there are two or more siblings. If there are no children or fewer than two siblings, she receives one-third of the estate. (2) The mother receives one-third of the residual estate after the shares of the widow or widower have been allocated, if she inherits together with the father."

These inheritance provisions explain the parental shares, with parents receiving one-third (1/3) or one-sixth (1/6) of the estate, and there is no possibility for the father to become an *'ashabah* entitled to the residual estate if the deceased has no male children. The father's entitlement to one-sixth (1/6) does not contradict traditional jurisprudence, as it is established in fiqh; however, the father receiving one-third (1/3) represents a reform in inheritance law. The one-third share cannot occur under the standard *fardh* rules for the father and is only possible when he inherits alongside the mother, husband, or wife (Yusron, 2021). Nevertheless, the father receiving one-third of the inheritance is not considered *ashabul furudh* entitled to the fixed one-third share. Substantively, there is a difference between the inheritance rights the father would receive under fiqh and under the Compilation of Islamic Law (KHI).

The equal *fardh* provisions for the mother and father, regardless of the presence or absence of children, indicate equal inheritance rights for both parents without distinguishing between father and mother. These articles adopt an egalitarian approach to interpreting the Qur'anic verses. In principle, the Qur'an grants equal inheritance rights to fathers and mothers, which aligns with the understanding of the majority of scholars who assert that the status of *walad* can influence parental inheritance rights without differentiating between mother and father. Muhammad Shahrur argues that the shares granted to mothers and fathers are explicitly stated in the Qur'an as one-sixth (1/6), and fundamentally, the status of the mother and father is equal. In fact, the father's

position follows that of the mother, as the mother's share is explicitly mentioned in the Qur'an, whereas the father's share is not. Shahrur draws an analogy with the shares received by sons and daughters, using the concepts of variable dependents and modifying variables (Syaekh, 2021).

This reasoning is based on the textual meaning of the Qur'an rather than sociological considerations emphasizing gender equality. In parental inheritance, there is also an indication of bilateral inheritance, as the shares of both mother and father can be reduced by the presence of children, without specifying whether the child is male or female. This reflects a literalist understanding by the scholars, ensuring there is no deviation from the textual meaning of the Qur'anic verses

c. The Status of Grandchildren as Heirs

The expansion of meaning in understanding Islamic inheritance law has been carried out by the majority of scholars, thereby broadening the scope of individuals entitled to inherit from the *ashabul furudh*. This linguistic development represents a form of cultural and social contraction within a society, considered part of *urf* that is acceptable as long as it does not contradict Islamic law (Ismail et al., 2022). The semantic expansion interpreted by scholars has been conducted comprehensively so as not to overlap one category with another, thereby avoiding biased understandings regarding the status of particular groups.

In Islamic inheritance law, the right to receive inheritance is primarily assigned to children, denoted by the term *walad*, which includes both sons and daughters. Consequently, children's rights to inherit take priority over other heirs because their presence can reduce the shares of other heirs (Ikhwanudin, 2023). However, the Ahlus Sunnah extended the meaning of *walad* to include grandchildren but restricted this extension to grandchildren through sons, thereby excluding grandchildren through daughters. This interpretation demonstrates gender bias, as it marginalizes females, and it is difficult to find a rational argument supporting such a patriarchal interpretation (Yunus, Jalil, & Shafirattunnisa, 2022). The patriarchal culture of Arab society significantly influenced the legal interpretations of Ahl al-Sunnah, despite Allah's equalization of inheritance shares between males and females.

In contrast, Shia scholars understand that descendants entitled to inheritance include children of both male and female offspring, without discrimination (Elfia et al., 2024). Allah grants equal inheritance rights to males and females, regardless of the patriarchal interpretations of some scholars. Arab societies, which traditionally follow a patrilineal kinship system, should prioritize *syara'* considerations over sociological or customary conditions, thereby eliminating misogynistic practices and promoting an egalitarian principle in inheritance between males and females (Hattab & Abualrob, 2023).

The inclusion of grandchildren as an extension of children's inheritance rights impacts the shares of other *ashabul furudh*, potentially reducing their shares from maximum to minimum (*hijab*). Moreover, this extension allows grandchildren to obstruct the inheritance rights of siblings, similar to how children can block siblings' shares, even though the siblings' portions are explicitly defined in the Qur'an (Noor et al., 2024). This understanding creates a legal problem because *ijtihad* can override *nash* that is clear and definitive (*qath'i dilalah*). Ideally, such an extension should only occur in the absence of primary heirs and should not reduce the rights of other heirs explicitly specified in the Qur'an.

Discrimination is also evident when grandchildren inherit alongside children. If grandchildren inherit with a son, they may be blocked from receiving inheritance; however, if they inherit with a daughter, they are not obstructed. This contradicts the principle that children, both male and female, hold the highest priority in inheritance (Putri, Shabrina, & Nugraheni, 2023). Women appear to have half the status of men; they cannot obstruct the inheritance rights of grandchildren, even though they have a higher priority than grandchildren, whose status is merely an extension of the term *walad*. The ambiguity regarding grandchildren as heirs in Islam stems from their elevated position, which allows them to obstruct heirs ranked below them (Mughniyyah, 2008). This creates confusion when grandchildren block the inheritance rights of siblings, who have shares explicitly prescribed by the Qur'an. In such cases, the grandchildren's entitlement results from *ijtihad* based on the term *walad*, creating a legal anomaly, as *ijtihad* should not override a clear and definitive *nash*.

Reconstruction of Inheritance Law in Cases of Inheritance Obstruction

The inheritance law that governs the transfer of property from one person to another due to blood relations and marriage does not differentiate between men and women based on gender within family relationships, and no preference is given to the role of husband or wife (Yanggo, 2020). Such relationships form a family unit, contributing to a harmonious household, even though the husband is considered the head of the household. The portions allocated to men and women differ according to the explicit legal texts (*nash*) whose meanings are definitive and not open to reinterpretation. Nevertheless, their positions remain equal because they share the same kinship relation to the heirs.

Misogynistic perspectives on women's positions in Islamic inheritance law must be eliminated. Therefore, a universal and comprehensive legal interpretation is necessary to develop an Islamic law that is dynamic, progressive, and aligned with contemporary developments based on the objectives of Sharia (*maqashid al-sharia*) (Zuhdi & Nasir, 2024). Women are not treated as objects under Islamic law but as legal subjects capable of exercising legal acts equally with men, in accordance with their rights as outlined in the Quran and consistent with existing legal principles (Kamarusdiana, Fuadi & Helmi, 2021). Women are social beings with a highly dignified status in Islam, and their presence should not be underestimated (Barkah et al., 2022).

Problematics surrounding "*hijab*" (inheritance barriers) reveal inconsistencies among the *Jumhur Ulama* regarding women's status as heirs, making it appear that women do not possess rights equal to men (Billah, 2021). Women cannot completely block inheritance rights (*hirman*) but may partially prevent inheritance (*nuqsan*), whereas men can block others' inheritance both completely and partially, despite having equivalent kinship positions. This discourse implicitly suggests that women's positions are half that of men. This is highly tendentious, as women receive half the inheritance of men according to the *nash* and similarly have half the capacity to block others' inheritance, although the Quranic text does not explicitly stipulate this. According to the Quranic text, the issue of inheritance barriers is based on proximity to the deceased; those closer in relation to the deceased may block the inheritance of those further away. For example, daughters can only partially block inheritance but cannot do so as sons can, who may block both fully and partially. This interpretation reflects a patriarchal understanding, whereas the term "*walad*" used in the consensus on *hijab* refers to "children," which could include both sons and daughters (Sholihah et al., 2024).

This can be analogized to situations where a husband's share decreases from one-half to one-quarter in the presence of children (both sons and daughters), or a wife's share

decreases from one-quarter to one-eighth when children are present, as indicated by the term “*walad*”. While classical jurists agreed on these rules, the interpretation that *hijab hirman* applies only to sons is flawed. Women cannot block inheritance in *hijab hirman*, as seen in the cases of mothers and daughters: a mother cannot block her siblings’ inheritance despite having the same kinship position as the father, and daughters cannot block siblings even though they share direct kinship with the deceased like sons. This demonstrates the continued dominance of patriarchal culture in the inheritance concepts of the Jumhur Ulama.

David S. Powers notes that the jumhur inheritance concept is still influenced by the patrilineal structure of Arab society, even though Surah An-Nisa, verse 12, indicates that the shares of fathers, mothers, husbands, or wives can be reduced due to the presence of children (*hijab nuqsan*). The verse does not distinguish between sons and daughters, implying that daughters can indeed reduce other heirs’ shares from maximum to minimum. This suggests that daughters are qualified to impose *hijab hirman* on siblings, emphasizing that equality between men and women can be established by abandoning old paradigms in Islamic inheritance law to achieve a comprehensive understanding. Patriarchal interpretations can lead to tendentious Islamic law, which perceives women’s rights as half those of men. Such inferiority may result in authoritarian legal practices inconsistent with contemporary developments (Al-Sowaidi, 2024). The reconstruction of Islamic law is an effort to reinterpret the nash in the Quran so that its meanings can be applied comprehensively without disregarding the rights of others (Syihabuddin et al., 2024). In interpreting Islamic law, a mufassir or legal scholar must free themselves from exclusivism toward any group and the sacralization of established fiqh in society.

Conclusion

In Islamic inheritance law, *hijab* functions as a barrier to succession based on the principle of proximity to the deceased. Those who are closer to the decedent are prioritized as heirs, enabling them to bar others from inheriting, whether through *hirman* or *nuqsan*. Misogynistic perspectives toward women have resulted in their unequal position compared to men in the ability to bar other heirs, even when they occupy the same classificatory level. Although men and women may receive different portions of inheritance, this does not affect their status in obstructing the inheritance rights of others, because the Qur’anic terminology used for both is identical. Thus, there is no justification for making gender-based distinctions in this regard. The Qur’an grants equal rights to men and women to obtain their full entitlements while upholding human dignity. Therefore, the gender-biased *hijab–mahjub* framework must be reconstructed to achieve legal restoration within society in accordance with principles of public welfare (*maslahah*).

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