

Reactualizing Islamic Inheritance Law: Munawir Sjadzali's Perspective on Gender Equality in Indonesia

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Abstract

This research analyzes Munawir Sjadzali's reactualization of Islamic inheritance law in Indonesia, motivated by the tension between the 2:1 ratio and modern roles of women. Method: qualitative library research. Approaches: normative-philosophical and sociological. Primary data: Sjadzali's "Hukum Waris Islam di Indonesia," "Ijtihad Kemanusiaan," and "Kontekstualisasi Ajaran Islam." Secondary data: journals, theses, and Yogyakarta Religious Court Decision No. 207/Pdt.G/2023/PA.Yk. Data collection: documentation. Data analysis: content analysis. Results indicate the 1:1 ratio proposal addresses Muslims' "ambivalent attitude" in using hibah for justice. This ijtihad, based on Maslahah theory and Umar bin Khattab's precedents, establishes an adaptive "Indonesian Fiqh." Its relevance is evidenced by judicial practices accommodating equal distribution via islah. It recommends reforming the Compilation of Islamic Law (KHI).

Keywords: Reactualization Inheritance Law, Munawir Sjadzali, Gender Equality.

Abstrak

Penelitian ini menganalisis paradigma reaktualisasi hukum waris Islam Munawir Sjadzali di Indonesia, didorong ketegangan rasio 2:1 dengan realitas peran perempuan modern. Jenis penelitian: kepustakaan kualitatif. Pendekatan: normatif-filosofis dan sosiologis. Sumber data primer: buku Hukum Waris Islam di Indonesia, Ijtihad Kemanusiaan, dan Kontekstualisasi Ajaran Islam. Sumber data sekunder: jurnal ilmiah, tesis, dan Putusan PA Yogyakarta Nomor 207/Pdt.G/2023/PA.Yk. Teknik pengumpulan data: dokumentasi. Teknik analisis data: analisis isi. Hasil menunjukkan usulan rasio 1:1 Sjadzali menjawab "sikap mendua" umat Islam yang menggunakan hibah demi keadilan. Ijtihad ini, bersandar pada teori Maslahah dan preseden Umar bin Khattab, membangun "Fikih Indonesia" adaptif. Relevansinya terbukti dalam praktik yudisial yang mengakomodasi pembagian merata melalui islah. Penelitian merekomendasikan reformulasi Kompilasi Hukum Islam (KHI).

Kata Kunci: Reaktualisasi Hukum Waris, Munawir Sjadzali, Kesenjangan Gender.

A. Introduction

Islamic inheritance law in Indonesia currently faces fundamental challenges stemming from the tension between classical textual doctrines and the demands of practical justice. The central issue emerging is the disparity in

inheritance distribution between men and women with a 2:1 ratio, as stipulated in Surah An-Nisa verse 11, which states that a son's share is twice that of a daughter's.¹ This provision often triggers internal conflicts in Muslim families because it is no longer perceived as reflecting proportional justice within Indonesia's unique sociocultural landscape.

This problem is further exacerbated by fundamental social changes in the modern family structure, particularly when normative interpretations encounter patriarchal cultural structures that tend to exclude women from their inheritance rights. Currently, women are no longer confined to the domestic sphere but have emerged as primary breadwinners, bearing economic burdens and family financial responsibilities equal to or even exceeding those of men.² This shift in sociological facts causes the 2:1 ratio to be perceived as a form of economic subordination against women who have contributed significantly to family welfare.³ Consequently, this phenomenon has spurred the emergence of the "Reactualization of Islamic Law"—an intellectual effort to revitalize the understanding of Sharia so that it remains relevant to the dynamics of the era without ignoring its divine essence.

The Compilation of Islamic Law (KHI), as a form of Islamic family law codification in Indonesia, serves as the primary reference for inheritance practices in society.⁴ Although the KHI includes inheritance provisions sourced from classical texts, its implementation has not fully reached the realm of substantive justice, especially regarding power relations between men and women in traditional family structures.⁵ In practice, there are many cases showing that daughters do not receive their rightful inheritance, and in some situations, receive nothing at all.⁶ This condition is often justified by

¹ Ahmad Burhanuddin dkk., "Keadilan Gender Dalam Hukum Waris: Analisis Bagian Anak Perempuan Perspektif Kompilasi Hukum Islam," *I'tiqadiyah: Jurnal Hukum dan Ilmu-ilmu Kesyariahan* 2, no. 3 (Oktober 2025): hlm. 155–67, <https://doi.org/10.63424/itiqadiyah.v2i3.389>.

² Hisam Ahyani dkk., "Gender Justice In The Sharing Of Inheritance And Implementation In Indonesia," *Asy-Syari'ah* 24, no. 2 (Desember 2022): hlm. 285–304, <https://doi.org/10.15575/as.v24i2.14640>.

³ Irwan, "Reinterpretasi Hukum Waris Islam dalam Konteks Sosial Modern: Penelitian," *Jurnal Pengabdian Masyarakat dan Riset Pendidikan* 4, no. 1 (Juli 2025): hlm. 1977–82, <https://doi.org/10.31004/jerkin.v4i1.1880>.

⁴ Ahmad Burhanuddin dkk., "Keadilan Gender Dalam Hukum Waris." hlm. 155-67

⁵ Maylissabet Maylissabet, "Hukum waris dalam kompilasi hukum Islam perspektif filsafat hukum," *TERAJU* 1, no. 01 (Maret 2019): hlm. 9–20, <https://doi.org/10.35961/teraju.v1i01.51>.

⁶ Hisam Ahyani dkk., "Prinsip-Prinsip Keadilan Berbasis Ramah Gender (Maslahah) Dalam Pembagian Warisan Di Indonesia," *al-Mawarid Jurnal Syariah dan Hukum (JSYH)* 5, no. 1 (Juli 2023): hlm. 73–100, <https://doi.org/10.20885/mawarid.vol5.iss1.art6>.

reasons of "willingness" or "sincerity" and is reinforced by local myths suggesting that women will eventually follow their husbands, thus losing rights to their parents' assets.⁷ This phenomenon illustrates the disparity between formal law and evolving social norms in the community.

During the tenure of Minister of Religious Affairs Munawir Sjadzali, many reports from religious court judges noted that Muslim families were not executing inheritance distributions according to faraid, and were even shifting cases to district courts to obtain desired results. This phenomenon occurred not only among laypeople but also among figures who understood faraid. Such deviations were generally based on the assumption that the 2:1 system was less fair in the modern era. Furthermore, there is a tendency to distribute assets while still alive to ensure equality, even though this is technically not inheritance. This practice indicates a decline in trust toward the justice of Islamic inheritance law and acts as an anticipatory measure that is theologically considered problematic.⁸

The evolution of Islamic legal thought in Indonesia reflects a continuous effort to harmonize classical texts with the diverse sociocultural landscape of the archipelago. One of the most prominent and controversial figures in this discourse is Munawir Sjadzali, a Muslim intellectual and former Minister of Religious Affairs who launched the revolutionary "Reactualization of Islamic Teachings" in the mid-1980s.⁹ Sjadzali's anxiety was rooted in his deep observations of the phenomenon of "dual attitudes" or acute ambivalence among Indonesian Muslims. He noted that although the community formally believes in the truth of the Holy Quran as an absolute doctrine, in practical reality, they often abandon these provisions to meet the demands of social justice, which are considered more relevant to the requirements of the modern era.¹⁰

In the realm of inheritance law, this ambivalence is manifested through the practice of distributing assets equally between sons and daughters via mechanisms of hibah (gifts) or wasiat wajibah (obligatory bequests) before

⁷ Achmad Faisol Haq, "Gender dan Emansipasi Perempuan dalam Pendidikan Islam," *KUTTAB* 4, no. 1 (Maret 2020), hlm. 76. <https://doi.org/10.30736/ktb.v4i1.100>.

⁸ Siti Safhira Faradilla, "Distribution of Inheritance According To Gender Equality Approach (Comparative Study of Tafsir Quraish Shihab and Aminah Wadud)," *Jurnal Indonesia Sosial Teknologi* 5, no. 4 (April 2024): hlm. 1296–313, <https://doi.org/10.59141/jist.v5i4.994>.

⁹ Rosidi Jamil, "Hukum Waris Dan Wasiat (Sebuah Perbandingan antara Pemikiran Hazairin dan Munawir Sjadzali)," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 1 (Desember 2017): hlm. 99–114, <https://doi.org/10.14421/ahwal.2017.10108>.

¹⁰ Sulthan Syahril, "Munawir Syadzali (Sejarah Pemikiran Dan Kontribusinya Bagi Perkembangan Pemikiran Islam Indonesia Kontemporer)," *Analisis: Jurnal Studi Keislaman* 11, No. 2 (April 2017): hlm. 219–40, <https://doi.org/10.24042/ajsk.v11i2.610>.

the testator dies.¹¹ This bottom-up practice effectively sets aside the 2:1 ratio inscribed in Surah An-Nisa verse 11 because most of the community feels that the traditional ratio no longer reflects proportional justice amidst the shifting sociological facts where women now frequently bear equal economic burdens or even become the family's main breadwinners. Sjadzali argued that Islam, as a religion that is *shalih li kulli zaman wa makan* (compatible with every time and place), must possess laws that are dynamic and responsive to changes in social structure.¹²

He emphasized that if a legal provision initially based on a specific sociocultural context can no longer realize *maslahah* (public interest) due to the changing times, then that law must be reviewed through contextual *ijtihad*. Building on this background, this article aims to analyze in depth the methodological foundations of Sjadzali's reactualization and to map its significant implications for the project of modernizing Islamic law and the formation of an inclusive "Indonesian Fiqh" identity.¹³

B. Research Methodology

This study is library research utilizing a qualitative approach, as the object of study focuses on the transformative thoughts and ideas of Munawir Sjadzali regarding inheritance law. Literature serves as the primary source for deeply exploring legal reasoning. The qualitative approach was chosen to generate a descriptive analysis of the relationship between religious texts and social reality in Indonesia without employing statistical data. The approaches employed are normative-philosophical and sociological. The normative-philosophical approach is utilized to examine the values of substantive justice in the idea of reactualization, particularly regarding changes in the concept of inheritance distribution. Meanwhile, the sociological approach is used to observe the correlation of these thoughts with social structural changes, especially the shifting economic role of women that underlies this *ijtihad*.

The data sources consist of primary and secondary data. Primary data comprises Munawir Sjadzali's original works, while secondary data includes

¹¹ Ihsan Azhari, Fahrul Razi, dan Muhammad Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir Sjadzali Dan Quraish Shihab," *Journal for Islamic Studies* 7, no. 2 (2024): hlm. 8.

¹² Masruri Masruri dan Munifah Munifah, "Persamaan Hak Antara Laki-Laki Dan Perempuan Dalam Pembagian Harta Waris: Studi Pemikiran Munawir Sjadzali," *Wahana Akademika: Jurnal Studi Islam dan Sosial* 9, no. 1 (April 2022): hlm. 41–53, <https://doi.org/10.21580/wa.v9i1.11379>.

¹³ Yunahar Ilyas, "Reaktualisasi Ajaran Islam: Studi atas Pemikiran Hukum Munawir Sjadzali," *Al-Jami'ah: Journal of Islamic Studies* 44, no. 1 (Juni 2006): hlm. 223, <https://doi.org/10.14421/ajis.2006.441.223-240>.

journals, theses, and scholarly publications that examine and critique his thoughts. Data collection was conducted through documentation techniques by searching through various relevant literature, categorizing it based on main themes, and organizing the data systematically. Data analysis employs content analysis techniques using a descriptive-qualitative method, specifically through the processes of data reduction, data display, and conclusion drawing. The data is analyzed to connect the foundation of Munawir Sjadzali's thought with the idea of 1:1 inheritance distribution, thereby gaining an understanding of the development of a more adaptive and contextual fiqh in Indonesia.

C. Discussion and Research Results

Basic Concepts of Islamic Inheritance Law

Inheritance in Islam, known as fiqh mawaris or faraidh, is a set of rules governing the transfer of assets from a deceased person (the testator) to the living individuals entitled to receive them (the heirs). More deeply, inheritance does not merely address the distribution of assets but also encompasses the process of settling all rights and obligations of the testator before the assets are distributed to the heirs in accordance with applicable regulations.¹⁴ From the perspective of the Civil Code (Kitab Undang-Undang Hukum Perdata), inheritance law is the set of rules governing the transfer of estate and its legal consequences for the heirs. Meanwhile, for Muslims in Indonesia, these provisions are regulated in the Compilation of Islamic Law (KHI), specifically Article 171 letter a, which defines inheritance law as the guideline for asset transfer (tirkah), including determining who is entitled to inherit and the share of each heir.¹⁵

The term faraidh itself comes from the word al-faridhah, which means a definitively established provision. This implies that the portions in inheritance have been set with clear measurements. Therefore, Islamic inheritance law has a firm and structured character because each heir has a pre-determined portion. The implementation of this inheritance distribution is binding because it originates directly from the decree of Allah SWT and His Messenger. The main foundation of inheritance law can be found in the Al-Quran and the Sunnah of Prophet Muhammad SAW.¹⁶

In the Al-Quran, regulations regarding inheritance are explained in detail, specifically in Surah An-Nisa verses 7, 8, 11, 12, and 176. These verses

¹⁴ Akhmad Haries, *Hukum kewarisan Islam: edisi revisi*, Cetakan I, with Ar-Ruzz Media (Depok, Sleman, Yogyakarta: Ar-Ruzz Media, 2019). hlm. 9.

¹⁵ Azhari, Razi, dan Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir Sjadzali Dan Quraish Shihab." hlm. 6

¹⁶ Haries, *Hukum kewarisan Islam*. hlm. 10.

systematically delineate the rights of each heir, ranging from men and women, children, parents, to spouses. Furthermore, these provisions are strengthened by the Hadiths of the Prophet SAW, such as the prohibition of mutual inheritance between a Muslim and a non-Muslim.¹⁷ Thus, Islamic inheritance law functions not only as a mechanism for asset distribution but also as an instrument of justice that has been comprehensively designed in Islamic teachings.

Based on the provisions of their shares, heirs in Islam are divided into several groups. One of the main groups is *dzawu al-furudh*, which are heirs whose portions have been definitively established in Islamic Sharia. This provision shows that not all heirs receive portions flexibly; rather, some have been strictly determined in the texts (*nash*) of the Al-Quran and Hadith. The details of several heirs from the *dzawu al-furudh* group and their shares are as follows:¹⁸

A daughter, if she is the only one and has no brother, is entitled to one-half ($1/2$) of the inheritance. However, if there are two or more daughters, they collectively receive two-thirds ($2/3$) of the assets left behind.¹⁹ In Islamic inheritance law, there is a provision that a son's share is larger than a daughter's. Generally, the distribution ratio is two to one, where a son receives two parts, and a daughter receives one part.²⁰ A mother has several possible shares depending on the condition of the testator's family. She receives one-sixth ($1/6$) if the testator has children or grandchildren, or has two or more siblings. Meanwhile, the mother is entitled to one-third ($1/3$) if the testator leaves no offspring or siblings.⁷ In certain conditions, the mother may also receive one-third of the remaining assets after deducting the shares of other heirs.²¹

Husbands and wives also have different share provisions. A husband is entitled to one-half ($1/2$) of the assets if his wife dies without leaving children, and his share becomes one-fourth ($1/4$) if there are descendants.⁸ Conversely, a wife receives one-fourth ($1/4$) if her husband dies without children, and only one-eighth ($1/8$) if there are children or grandchildren.²² Fathers and grandfathers are included in the group of heirs who also have fixed shares. The father generally receives one-sixth ($1/6$) of the inheritance.⁹ Meanwhile, the

¹⁷ Haries. *Hukum kewarisan Islam...* hlm. 17-24.

¹⁸ Haries. *Hukum kewarisan Islam...* hlm. 17.

¹⁹ Kementerian Agama RI, Al-Qur'an dan Terjemahannya, QS. An-Nisa: 11. Dapat diakses di: <https://quran.kemenag.go.id>

²⁰ Kementerian Agama RI, Al-Qur'an dan Terjemahannya, QS. An-Nisa: 11

²¹ Kementerian Agama RI, Al-Qur'an dan Terjemahannya, QS. An-Nisa: 11.

²² Kementerian Agama RI, Al-Qur'an dan Terjemahannya, QS. An-Nisa: 12.

grandfather can replace the position of the father who has passed away, so he is also entitled to a one-sixth (1/6) share in that condition.²³

Munawir Sjadzali's Thought on the Reactualization of Inheritance

Munawir Sjadzali built his legal paradigm on the foundations of justice, equality, and substantive balance. To him, the concept of "proportionality" in inheritance is not rigid; rather, it must be adjusted to social reality. His educational background at the University of Exeter and Georgetown University shaped his thought, driving him to prove that Islam can adapt to the development of the times without losing its essential core.²⁴

In actualizing Islamic teachings, Sjadzali formulated three interconnected methodological pillars: *Maslahah* (public interest), *Naskh-Mansukh* (abrogation), and *'Adah* (customary practice).²⁵ Through that methodological approach, he dissected the historical context of the 7th century, where the Arab social structure was patriarchal-tribal, with men holding full control over the physical and economic protection of the family. The *Maslahah* pillar was used to ensure that the law is always oriented toward the interests of the wider community. With the *Naskh-Mansukh* principle, Sjadzali asserted that legal change is *sunnatullah* (a divine law of nature); if God once replaced one provision with another for the sake of the *ummah's* good, then human reason is also given space to make similar adjustments in aspects of *muamalah* (social transactions).²⁶ Finally, through the *'Adah* pillar, he explored how more egalitarian social practices in Indonesia should be considered in formulating a functional "Indonesian Fiqh."

In constructing his reactualization idea, Munawir Sjadzali did not rely on intuition alone but built a robust argument through two main pillars: a rational foundation and a theoretical foundation. This duality of approach was intended to bridge the gap between the sociological reality of Indonesian society and classical texts that have been established for centuries.²⁷ Rationally, Sjadzali argued that the phenomenon of deviation from the 2:1 inheritance ratio—such as shifting cases to the District Court or distributing

²³ Haries, *Hukum kewarisan Islam*. Hlm. 10.

²⁴ SYAHRIL, "munawir syadzali (sejarah pemikiran dan kontribusinya bagi perkembangan pemikiran islam indonesia kontemporer)." Hlm. 225

²⁵ vita Fitria, *Reaktualisasi Hukum Islam : Pemikiran Munawir Sjadzali*, t.t. *Jurnal Akademika Vol. 17 No. 2 (2012)*: hlm. 13

²⁶ Luat Happyana, "Nasikh dan Mansukh dengan berbagai Permasalahannya dalam Studi Al-Qur'an," *JURNAL PAI: Jurnal Kajian Pendidikan Agama Islam* 3, no. 1 (Juni 2024): hlm. 70–81, <https://doi.org/10.33507/pai.v3i1.1882>.

²⁷ Syahril, "Munawir Syadzali (Sejarah Pemikiran Dan Kontribusinya Bagi Perkembangan Pemikiran Islam Indonesia Kontemporer)." hlm. 224

assets through hibah (gifts)—is not an indicator of a decline in faith or a form of disobedience to God.²⁸ Conversely, it is a reflection of the "sense of justice" living in the midst of a society whose social structure has shifted. In contemporary Indonesia, women are no longer viewed as passive entities to be protected, but as active partners bearing economic responsibilities equal to men, thus making the imposition of the 2:1 ratio feel like a form of substantive injustice.

Theoretically, Sjadzali challenged the established interpretations of verses considered qath'i (definitive) by offering a dynamic naskh logic. He emphasized that in the Quran and Hadith themselves, there is a mechanism for cancellation or shifting of laws (naskh), which shows that God's law is not static but adaptive to the needs of the people of its time.²⁹ Sjadzali strengthened this argument by citing the views of great exegetes such as Ibn Kathir, Al-Maraghi, and Sayyid Qutb. Al-Maraghi, for instance, asserted a highly progressive legal principle: that law is enacted for human benefit, which is temporal and spatial. If a law is felt to no longer meet the needs of its time, the most Islamic and wise step is to suspend that law and replace it with a new rule more suitable to current conditions. The sharpness of Sjadzali's methodology becomes even more apparent when he refers to the consensus of the four schools of thought (madhahib) regarding the scope of intellectual reasoning in worldly muamalah matters. He integrated thoughts from scholars across schools to validate his ijtiḥad, such as Al-Izz ibn Abd al-Salam from the Shafi'iyyah school, who emphasized that all ijtiḥad must be oriented toward public interest (maslahah), both for worldly and ukhrawi matters.³⁰ From the Hanabilah school, Sjadzali adopted the reasoning of Ibn al-Qayyim al-Jawziyyah, who stated that fatwas must change along with changes in time, place, and situation. Meanwhile, from the Hanafiyyah school, he cited Abu Yusuf, who argued that if a law is based on custom ('urf), then when that custom changes, the law contained therein automatically lapses or changes.³¹ This integration of cross-school thought demonstrates that the 1:1 ratio proposal has strong epistemological roots in the classical Islamic intellectual tradition.

²⁸ Fitria, *Reaktualisasi Hukum Islam : Pemikiran Munawir Sjadzali*. hlm. 41.

²⁹ Arman Arman, "Kontroversi Teori Nasakh Wal Mansukh Menurut Para Ulama: Studi atas Pemikiran Abdullah Ahmad An-Naim," *Jurnal AlifLam Journal of Islamic Studies and Humanities* 4, no. 1 (Agustus 2023): hlm. 63–73, <https://doi.org/10.51700/aliflam.v4i1.486>.

³⁰ Azhari, Razi, dan Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir Sjadzali Dan Quraish Shihab." hlm. 7.

³¹ Rusdaya Basri, "Ibnu Qayyim al-Jawziyyah tentang Pengaruh Perubahan Sosial," *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 2 (Januari 1970): hlm. 193–206, <https://doi.org/10.24090/mnh.v9i2.489>.

As a final justification, Sjadzali presented historical facts proving that Muslims have not always applied qath'i verses literally if it potentially damages the image of Islam as a religion of humanity. Cases of slavery and the distribution of war spoils (ghanimah) are the most representative examples. Although the Quran regulates slaves and the distribution of ghanimah in Surah Al-Anfal verse 41, modern Muslims have collectively agreed to abandon these practices because they are considered contrary to human dignity in the 20th century.³² Sjadzali argued that if the ummah is capable of reactuating the verses on slavery to avoid global condemnation, then reactuating the inheritance ratio to realize justice for daughters should be viewed as a sincere effort to maintain the glory of Islam amidst global structural changes demanding gender equality.³³

Sjadzali's intellectual anxiety regarding gender justice in inheritance was rooted in a personal experience that deeply touched his sense of justice. He recounted a dilemma when he had six children, where his three sons had enjoyed higher education facilities abroad at a significant cost he bore entirely. On the other hand, two of his three daughters chose vocational education paths that were far less expensive. Sjadzali felt that if he applied the 2:1 inheritance distribution according to the literal text, his sons would receive double benefits: expensive education during the father's lifetime and a double share of inheritance after the father passed away.³⁴

His attempt to find a solution through consultation with a respected scholar ended in intellectual disappointment. The scholar did not offer bold legal ijthad but only suggested a "shortcut" practice in the form of equal hibah while still alive, so that the assets remaining at death would be minimal.³⁵ For Sjadzali, this advice was a form of "subtle disobedience" that did not solve the root of the legal problem. He argued that if a 1:1 distribution is considered fairer and is practiced by many scholars secretly through hibah, why not formalize it into the national Islamic inheritance law? Therefore, he proposed a 1:1 ratio for women who have active roles in the economy, organizations, and family support as a form of substantive justice.³⁶ Sjadzali also based his ijthad

³² Ilyas, "Reaktualisasi Ajaran Islam." hlm. 29.

³³ Azhari, Razi, dan Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir Sjadzali Dan Quraish Shihab." hlm. 11

³⁴ Apik Anitasari Intan Saputri, "Reaktualisasi Hukum Islam Munawir Sjadzali Dan Kontekstualisasi Doktrin Islam Pribumi Abdurrahman Wahid," *Khuluqiyya: Jurnal Kajian Hukum dan Studi Islam*, 2 Januari 2021, hlm. 24–50, <https://doi.org/10.56593/khuluqiyya.v3i1.54>.

³⁵ Haries, *Hukum kewarisan Islam*. hlm. 15.

³⁶ Azhari, Razi, dan Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir

on the Maslahah theory of Najmuddin al-Tufi. The main principle of Al-Tufi is that if there is a conflict between legal text (nass) and public interest in worldly affairs (muamalah), then maslahah must be prioritized.³⁷ In the Indonesian context, where women are no longer passive objects of protection but economically productive subjects, the legal reasoning ('illah) for granting larger shares to men has fallen away sociologically. For Sjadzali, the fulfillment of maslahah is the determinant factor; if an equal distribution can prevent family disputes and ensure the economic welfare of all children regardless of gender, then it is far more Islamic than forcing a 2:1 ratio that triggers a sense of injustice.³⁸

Gender Equality Analysis in Munawir's Thought and Its Relevance in Indonesia

The analysis of gender equality in Munawir Sjadzali's thought demonstrates a paradigm shift from mathematical-textual justice toward substantive-contextual justice. Sjadzali argued that justice in Islam is not rigid but follows the actual distribution of responsibilities in family life.³⁹ In modern Indonesia, the evolution of women's economic roles has collapsed the traditional assumption that men are the sole protectors and breadwinners. Sociological data shows a significant increase in the number of women who are heads of households or equal partners in household economies, which, in the term used by the Indonesian Women Ulema Congress (KUPI), is referred to as the fulfillment of "True Justice" (Keadilan Hakiki).⁴⁰ The relevance of Sjadzali's thought lies in his ability to provide a theological umbrella for women who have contributed greatly but whose economic rights are often overlooked in traditional inheritance distribution.

Sjadzali launched his idea of reactualization based on his observations of the "dual attitude" phenomenon among Indonesian Muslims. As Minister of Religious Affairs, he received reports from judges in Religious Courts in regions with strong Islamic adherence, such as South Sulawesi and South Kalimantan.⁴¹ The judges reported that many heirs were reluctant to execute

Sjadzali Dan Quraish Shihab." hlm. 13.

³⁷ Masruri dan Munifah, "Persamaan Hak Antara Laki-Laki Dan Perempuan Dalam Pembagian Harta Waris." hlm. 7.

³⁸ Azhari, Razi, dan Fikri, "Studi Komparatif Pembagian Warisan Menurut Munawir Sjadzali Dan Quraish Shihab." hlm. 12.

³⁹ Fitria, *Reaktualisasi Hukum Islam : Pemikiran Munawir Sjadzali*. hlm. 41

⁴⁰ "Keadilan Hakiki Dalam Pembagian Waris," t.t Ilham, "Keadilan Hakiki Dalam Pembagian Waris Islam Perspektif KUPI," (Thesis, UIN Suska Riau, 2024): hlm. 17. <http://repository.uin-suska.ac.id/id/eprint/85713>

⁴¹ ayu Faizah Dan Ahmad Faqih Hasyim, *Keadilan Gender Dalam Pembagian Warisan*;, 1, no. 1 (2021). hlm. 8

the 2:1 inheritance fatwa from the Religious Court and instead turned to the District Court to obtain a decree for equal distribution. Even figures from Islamic organizations who understood religion well often engaged in similar practices through hibah (gifts) before passing away.⁴²

Rationally, Sjadzali argued that this phenomenon is not a sign of weakening faith, but rather proof that social structures have changed fundamentally, making the literal text of An-Nisa verse 11 no longer in sync with the community's sense of justice. He reinforced his argument by citing the opinions of Ibn Kathir, Al-Maraghi, and Rashid Rida regarding the concept of Naskh (abrogation of law). Al-Maraghi asserted that law is enacted for human interest; if that interest changes due to differences in time and place, the wisest action is to replace the old law with a new one that is more appropriate. By combining sociological facts, the historical precedent of Umar bin Khattab, and dynamic classical legal theories, Sjadzali offered the 1:1 ratio not to erase the Quran, but to revive the spirit of the Quran's justice on Indonesian soil.⁴³

Munawir Sjadzali's ideas are relevant in the Indonesian context because he emphasized that the social and cultural conditions of Indonesian Muslim society differ from classical Middle Eastern society, thus requiring a contextual approach in understanding Islamic law, especially inheritance. This thought is reflected in efforts to reform national law, where his position as Minister of Religious Affairs encouraged the birth of an approach more oriented toward *maslahah* (public interest). This is evident in the enactment of Law No. 7 of 1989 on Religious Courts and the Compilation of Islamic Law (KHI), which shows that *fiqh* can be adapted to social reality without losing its substance.⁴⁴ Munawir Sjadzali's ideas triggered intellectual dynamics in the discourse of Islamic law in Indonesia. Ibrahim Hosen assessed that the Quranic text already contains *maslahah*, so it does not need to be reinterpreted excessively, while Safrudin Prawiranegara viewed inheritance law as a "voluntary law" that allows for agreements on more equal distribution through *musyawarah* (deliberation). Thus, Munawir's thought reflects an effort to present Islamic law that is more humanistic, contextual, and oriented toward *maslahah* in accordance with the social development of the community.⁴⁵

These efforts by Sjadzali toward justice began to find judicial legitimacy

⁴² Masruri dan Munifah, "Persamaan Hak Antara Laki-Laki Dan Perempuan Dalam Pembagian Harta Waris." hlm. 8.

⁴³ Fitria, *Reaktualisasi Hukum Islam : Pemikiran Munawir Sjadzali*. hlm. 7-12.

⁴⁴ Fitria., *Reaktualisasi ...* hlm. 16.

⁴⁵ Fitria. *Reaktualisasi ..* hlm. 15

in modern religious courts through the principle of Takharuj or Islah (reconciliation).⁴⁶ In the realm of Islamic law, Takharuj is permitted on a voluntary basis where heirs agree to set aside their fixed portions for the sake of family harmony. This phenomenon reached its peak in 2023, explicitly seen in the Yogyakarta Religious Court Decision Number 207/Pdt.G/2023/PA.Yk. In that case, the panel of judges accommodated the distribution of inheritance with a 1:1 ratio after going through a mediation process that agreed that daughters and sons have equal contributions and responsibilities in caring for the testator during their lifetime.⁴⁷ The judges' legal considerations in that decision reflect the spirit of Sjadzali's reactualization, which views gender justice not merely as a mathematical figure, but as a reality of socio-economic contribution. The judges held that a 1:1 distribution based on agreement does not conflict with Sharia norms as long as there is no coercion, because peace is the highest resolution (al-sulhu sayyid al-ahkam).⁴⁸ This proves that Munawir Sjadzali's vision of an "Indonesian Fiqh" that responds to social dynamics no longer remains merely an intellectual discourse on paper but has transformed into a living instrument of law enforcement within the national judicial system to maintain the dignity of Muslim families in Indonesia in the era of disruption.⁴⁹

D. Conclusion

Munawir Sjadzali has laid an essential foundation for the development of Islamic law that is more adaptive and contextual in Indonesia through his concept of the reactualization of Islamic teachings. He emphasized that the shift from a textual-literal approach to a contextual-substantive approach is a crucial step for Sharia to remain relevant amidst continuously evolving social changes. The idea of a 1:1 inheritance distribution he proposed is not intended as a rejection of the revealed text, but rather as an effort to understand the primary purpose of Islamic law (maqashid al-syariah), particularly the value

⁴⁶ Firman Surya Putra dan Muhammad Kamalin, *Penerapan Istinbath Hukum Munawir Sjadzali Terkait Pembagian Harta Waris Di Masyarakat Rantau Perkumpulan Keluarga Minang Pekanbaru*, t.t. Volume 4 Issue 2 (2023): hlm. 4.

⁴⁷ dini Amelia Ramadhani, *Kesetaraan Gender Dalam Pembagian Harta Warisan (Studi Putusan Pengadilan Agama Yogyakarta Nomor 207/Pdt.G/2023/PA.YK)*, t.t. (Skripsi, Universitas Islam Negeri Sunan Kalijaga Yogyakarta, 2023), hlm. 61. <https://www.pa-yogyakarta.go.id/storage/files/shares/Kesekretariatan/HASIL%20PENELITIAN/21103040-149-DINI%20AMELIA%20RAMADHANI-FULL-TEXT.pdf>

⁴⁸ Ramadhani. *Kesetaraan...* hlm. 61.

⁴⁹ gunawan Gunawan, *Kodifikasi Fiqih Indonesia Melalui Yurisprudensi Mahkamah Agung*, t.t. <https://ms-blangejeren.go.id/kodifikasi-fiqih-indonesia-melalui-yurisprudensi-mahkamah-agung-oleh-gunawan-s-h-i/> diakses 6 April 2026.

of justice, tested within the context of the changing economic roles of men and women in modern society. Furthermore, this idea no longer remains at a theoretical level but has begun to find its implementation in practice, both through religious court decisions and peace agreements (islah) among heirs. This phenomenon demonstrates the emergence of a style of "Indonesian Fiqh" that is more contextual, inclusive, and responsive to social reality. Therefore, active involvement from academics, legislators, and religious organizations is required to reconstruct the regulations within the Compilation of Islamic Law (KHI), ensuring they are more aligned with societal dynamics and capable of presenting just legal certainty for Muslims in Indonesia.

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