Ashabah in Islamic Law of Inheritance: Ijtihād-Based Construction, Historical Context, and Contemporary Challenges of Justice

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ABSTRACT

Islamic inheritance law represents one of the most systematically structured domains within Islamic legal doctrine, yet it simultaneously constitutes a contested arena in modern legal and ethical discourse. One of the most debated concepts within this field is *ashabah*, a mechanism determining residuary heirs who receive the remaining estate after the allocation of fixed shares. This article aims to analyze the concept of *ashabah* in Islamic inheritance jurisprudence through normative, historical, and contemporary critical approaches in order to assess its relevance to principles of justice and public welfare in the modern era.

This study employs a qualitative method with a normative-critical orientation. Data are derived from a comprehensive literature review of primary sources, including the Qur'an, Prophetic traditions, and classical Sunni juristic texts across legal schools, as well as secondary sources consisting of contemporary academic literature on Islamic law, legal history, *maqāṣid al-sharī'ah*, and gender justice. Analysis is conducted using textual, historical, and conceptual-analytical approaches to examine the construction and implications of *ashabah*.

The findings indicate that *ashabah* constitutes an ijtihād-based legal construct that played a significant functional role in the classical inheritance system but lacks explicit grounding in the Qur'an. The concept was shaped by the patrilineal social structure of early Arab society and legitimized through Prophetic traditions and the practices of the Companions. In practice, *ashabah* may generate distributive inequities, particularly affecting women, when applied without consideration of changing social contexts. Through a *maqāṣid al-sharī'ah* framework, the study demonstrates that distributive justice and the protection of vulnerable groups must serve as primary benchmarks in evaluating inheritance law.

The study concludes that *ashabah* is not a final or immutable doctrine but remains open to contextual reinterpretation. The contemporary relevance of Islamic inheritance law depends on its capacity to realize justice and public welfare as its core objectives. These findings carry significant implications for the development of Islamic inheritance jurisprudence and the reform of Muslim family law.

Keywords: ashabah; Islamic inheritance law; fiqh of succession; maqāṣid al-sharī'ah; distributive justice; gender and Islamic law

INTRODUCTION

Islamic inheritance law constitutes one of the most systematic and detailed branches within the broader structure of Islamic legal norms. Unlike many aspects of *mu'āmalāt* law that are left largely open to juristic reasoning, inheritance law is regulated through explicit and detailed Qur'anic provisions, particularly in Sūrat al-Nisā' (4:11, 12, and 176). Due to this characteristic, Islamic inheritance law is often perceived as a final, rigid, and almost closed legal domain, leaving little room for reinterpretation. This perception is reinforced by classical juristic traditions that classify inheritance rules as *ta'abbudī* and *qaṭ'ī al-dalālah*, rendering social change largely irrelevant to their normative structure. However, beneath this apparent normative certainty, the Islamic inheritance system is not constructed solely upon Qur'anic injunctions but also upon extensive juristic reasoning developed to address situations not explicitly regulated by revelation.

One of the most decisive ijtihād-based constructions within Islamic inheritance law is the concept of *ashabah*. This concept functions as a mechanism for distributing the residual estate after the allocation of fixed shares (*furūḍ muqaddarah*). In Sunni legal tradition, *ashabah* is positioned as a fundamental pillar that ensures the completeness of inheritance distribution and prevents the absence of heirs. The frequently cited Prophetic tradition states: "Give the prescribed shares to those who are entitled to them, and whatever remains goes to the nearest male relative." Through this tradition and the practice of the Companions, jurists developed the doctrine of *ta'ṣīb*, which later became firmly entrenched across legal schools. However, in modern contexts characterized by transformations in family structure, gender relations, and economic systems, the application of *ashabah* has increasingly come under scrutiny from perspectives of social justice and ethical coherence with Qur'anic values.

The core problem lies in the tension between the normative legitimacy of *ashabah* within classical jurisprudence and its social implications in contemporary inheritance practices. In many cases, *ashabah* enables more distant male relatives to supersede women who possess closer kinship ties to the deceased. This phenomenon raises fundamental questions regarding distributive justice in Islamic inheritance law, particularly when juxtaposed with Qur'anic principles of justice, human dignity, and the protection of vulnerable groups. Furthermore, an epistemological question emerges concerning the legal status of *ashabah* itself: whether it represents a final and binding legal doctrine or an ijtihād-based construct shaped by specific historical and social circumstances.

Based on these concerns, this article addresses three principal questions. First, how was the normative construction of *ashabah* developed within classical inheritance jurisprudence, and what epistemological foundations support it? Second, to what extent did historical and socio-cultural factors of early Arab society influence the formulation of this concept? Third, how can contemporary critiques—particularly those grounded in *maqāṣid al-sharī'ah* and gender justice—offer alternative perspectives on the applicability of *ashabah* in modern contexts? The proposed solution does not involve rejecting classical jurisprudence but rather advancing a critical and contextual rereading of *ashabah* as part of the dynamic process of Islamic legal reasoning.

This article proceeds from the assumption that Islamic inheritance law, despite its strong normative dimension, remains a product of interaction between revelation and human reasoning. The Qur'an establishes foundational principles and fixed shares, while jurists elaborated operational details through the methodologies available in their respective eras. Understanding *ashabah* as an ijtihād-based construct does not undermine the authority of Islamic law but situates it appropriately within the epistemology of *fiqh*. This perspective allows for critical evaluation of inheritance doctrines that may no longer align with the overarching objectives of justice and public welfare.

Efforts to reassess *ashabah* are not entirely new within Islamic intellectual history. Since the late nineteenth century, reformist thinkers such as Muhammad 'Abduh and Rashid Rida have criticized the rigidity of classical jurisprudence, including in family law. They emphasized the need to distinguish between definitive scriptural rulings and speculative juristic formulations. Subsequently, the *maqāṣid al-sharī'ah* approach pioneered by al-Shāṭibī and further developed by contemporary scholars such as Jasser Auda has provided a systematic theoretical framework for evaluating Islamic law in light of its fundamental objectives. Within this framework, distributive justice and the protection of vulnerable groups emerge as essential criteria for legal validity.

In addition, critiques of *ashabah* have been advanced through gender studies and Qur'anic hermeneutics. Scholars such as Amina Wadud and Asma Barlas argue that juristic interpretations have often been shaped by patriarchal social structures rather than the Qur'an's normative ethos of justice. From this perspective, *ashabah* reflects a historical compromise between revelation and seventh-century Arab social realities rather than a universal normative mandate.

Nevertheless, significant research gaps remain. Existing literature often oscillates between uncritical defense of classical jurisprudence and ideologically driven critiques detached from Islamic legal methodology. Systematic studies that integrate classical jurisprudence, legal history, *maqāṣid al-sharī'ah*, and contemporary justice

theory remain limited. This article seeks to fill that gap by offering an integrative critical analysis of *ashabah* that remains grounded in Islamic legal tradition.

Accordingly, the primary objective of this article is to reconstruct the understanding of *ashabah* as an ijtihād-based doctrine shaped by historical context and therefore open to reevaluation. Its originality lies in bridging classical inheritance jurisprudence with *maqāṣid al-sharī'ah* and contemporary justice discourse simultaneously rather than separately. The central hypothesis advanced is that *ashabah*, while possessing strong traditional legitimacy, is neither final nor absolute and must be reassessed to ensure its alignment with justice and public welfare—the core objectives of Islamic law. The scope of this study is limited to normative and conceptual analysis within Sunni jurisprudence and contemporary academic discourse, serving as a foundation for broader discussions on the reform of Islamic inheritance law.

Research Questions and Objectives

This article seeks to address three principal questions:

(1) how the normative construction of *ashabah* was formulated in classical Islamic jurisprudence;

(2) how historical and social contexts influenced its formation; and

(3) how contemporary critiques may offer new perspectives for the development of Islamic inheritance law.

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The literature review in this article aims to systematically map the development of scholarly thought on the concept of *ashabah* in Islamic inheritance jurisprudence, both within the classical tradition and in contemporary academic discourse. This review is not merely intended to summarize existing viewpoints, but also to trace the theoretical foundations, conceptual relationships, and emerging directions of critique and reinterpretation. Accordingly, the literature review functions as an epistemological foundation for a critical analysis of *ashabah* as an ijtihād-based and historically situated construct within Islamic law.

In classical juristic literature, *ashabah* is understood as one of the principal categories of heirs entitled to receive the residual estate after the allocation of fixed shares (*furūḍ muqaddarah*). Sunni jurists across different legal schools generally agree that *ashabah* constitutes an inherent element of the Islamic inheritance system. Al-Shāfi'ī, in *al-Umm*, emphasizes that inheritance distribution cannot be considered complete without a mechanism that ensures the entire estate is allocated to eligible relatives (al-Shāfi'ī, 2001). This position was later elaborated more systematically by Hanbali jurists such as Ibn Qudāmah in *al-Mughnī*, who classified *ashabah* into *ashabah bi-nafsih*, *ashabah bi-ghayrih*, and *ashabah ma'a al-ghayr* (Ibn Qudāmah, 1997).

The Hanafi school, as reflected in al-Sarakhsī's *al-Mabsūṭ*, likewise positions *ashabah* as a pillar of inheritance distribution that serves to preserve the rational coherence of the inheritance system as a whole (al-Sarakhsī, 1993). Within this framework, *ashabah* is viewed as a logical consequence of the principle of kinship proximity (*qarābah*) and the economic responsibility assigned to men within the structure of the classical Islamic family. This cross-madhhab consensus is often interpreted as strong evidence that *ashabah* possesses well-established normative legitimacy within the juristic tradition.

Nevertheless, classical juristic studies also reveal that the legitimacy of *ashabah* does not derive directly from explicit Qur'anic texts. While the Qur'an specifies fixed shares for certain heirs in considerable detail, it neither employs the term *ashabah* nor directly formulates the mechanism of *ta'ṣīb*. Consequently, the primary foundation of *ashabah* in classical literature lies in Prophetic traditions, particularly the hadith stating: "Give the prescribed shares to those who are entitled to them, and whatever remains goes to the nearest male relative" (reported by al-Bukhārī and Muslim). Jurists interpreted this hadith as normative authorization for the distribution of residual inheritance (Ibn Qudāmah, 1997; al-Nawawī, 1996).

The reliance on solitary reports (*ḥadīth āḥād*) and the practices of the Companions as the epistemological basis of *ashabah* constitutes the starting point of modern critiques. A number of contemporary Islamic legal scholars have emphasized that not all classical juristic constructions carry the same degree of epistemic certainty. Wael B. Hallaq, for instance, argues that the majority of juristic doctrines are the product of ijtihād shaped by social context and prevailing legal methodologies of their time (Hallaq, 2009). From this perspective, *ashabah* is more accurately understood as a product of legal reasoning rather than a definitive injunction of revelation.

Islamic reformist thought in the late nineteenth and early twentieth centuries further reinforced this critical trajectory. Muhammad 'Abduh and Rashid Rida, through their Qur'anic exegesis and legal opinions, advanced the view that Islamic law must be reread in light of social change without abandoning its normative orientation (Rida, 1928). They stressed the importance of distinguishing between foundational principles of the sharī'ah and their historically contingent applications. In the context of inheritance law, this approach opens space for reassessing mechanisms such as *ashabah* in light of justice and public welfare.

The *maqāṣid al-sharī'ah* approach subsequently emerged as one of the most influential theoretical frameworks in contemporary Islamic legal reform discourse. Al-Shāṭibī asserted that all Islamic legal rulings aim to preserve five essential interests: religion, life, intellect, lineage, and property (al-Shāṭibī, 2004). In more recent developments, Jasser Auda has proposed a systemic approach to *maqāṣid* that places justice, equality, and the protection of vulnerable groups at the center of legal evaluation (Auda, 2008). From this perspective, Islamic inheritance law cannot be assessed solely on its conformity to classical formulations, but must also be evaluated based on its social and ethical consequences.

In line with the *maqāṣid* approach, studies on distributive justice in Islamic law have made significant contributions to evaluating the concept of *ashabah*. Several scholars emphasize that inheritance distribution should be understood as an instrument of equitable economic allocation within families and societies (Kamali, 2008). The application of *ashabah* that results in extreme disparities is therefore viewed as inconsistent with the spirit of social justice that constitutes a core objective of Islamic law. Accordingly, *ashabah* cannot be detached from ethical evaluation concerning its impact on social and economic relations.

Critiques of *ashabah* have been further intensified through gender studies and Qur'anic hermeneutics. Amina Wadud argues that the Qur'an should be read as a text that conveys substantive justice rather than as a mere legitimization of patriarchal social structures (Wadud, 1999). In her view, differences in inheritance shares between men and women in the Qur'an are linked to the socio-economic responsibilities prevalent at the time of revelation, not to a universally binding hierarchical principle. Asma Barlas adds that male dominance in juristic interpretation has often foreclosed more egalitarian and inclusive readings of the text (Barlas, 2002).

Within the study of Islamic legal history, *ashabah* has also been analyzed as a reflection of the patrilineal kinship structure of pre-Islamic Arab society. Anderson demonstrates that although Islam introduced significant reforms by granting inheritance rights to women, the Islamic inheritance system nonetheless retained several foundational elements of the earlier system (Anderson, 1964). This perspective helps explain why *ashabah* places strong emphasis on male lineage in inheritance distribution. Consequently, *ashabah* may be understood as the result of a historical compromise between revelatory values and the social realities of early Arab society.

Despite the breadth of literature on *ashabah*, a tendency toward fragmentation remains evident within academic approaches. Some studies focus on normative defenses of classical jurisprudence, while others advance ideological critiques without sufficient engagement with Islamic legal methodology. Research that simultaneously integrates classical jurisprudence, legal history, the *maqāṣid* approach, and gender critique remains relatively limited. Yet, the theoretical interconnections among these approaches are crucial for producing a comprehensive and balanced understanding of *ashabah*.

Accordingly, this literature review underscores the need for an integrative approach that views *ashabah* as a legally legitimate construct within the juristic tradition while remaining open to critical evaluation based on justice and public welfare. The research gap identified lies in the lack of conceptual synthesis between classical legitimacy and contemporary ethical demands. This article seeks to address that gap by linking the theoretical

foundations of Islamic inheritance jurisprudence, the historical dynamics of its formation, and modern critiques within a coherent analytical framework, thereby providing a basis for a more contextual and just reinterpretation of Islamic inheritance law.

RESEARCH METHODOLOGY

1. Type and Characteristics of the Study

This study adopts a qualitative research design with a normative-critical orientation. A qualitative approach is employed because the focus of the inquiry lies in analyzing meanings, conceptual constructions, and legal reasoning as developed in classical fiqh texts and contemporary academic literature, rather than in quantitative measurement or statistical testing. The normative dimension is utilized to examine ashabah as a legal norm within Islamic inheritance jurisprudence, while the critical dimension is directed toward evaluating the legitimacy, relevance, and normative implications of this concept within contemporary social and scholarly contexts.

The normative-critical character of this study is consistent with contemporary Islamic legal scholarship that views fiqh as a product of historically situated ijtihād and, therefore, open to academic scrutiny and evaluation (Hallaq, 2009). Accordingly, this research does not seek to negate the authority of classical jurisprudence, but rather to reread its constructions in a reflective and contextual manner.

2. Research Approaches

To achieve these objectives, the study employs three complementary approaches: normative-theological, historical, and conceptual-analytical.

The normative-theological approach is used to examine the normative foundations of ashabah within the primary sources of Islamic law, particularly the Qur'an, Prophetic traditions, and classical fiqh works. This approach is essential to ensure that the critical analysis remains grounded within the epistemological framework of Islamic legal reasoning. As emphasized by Kamali (2008), evaluations of Islamic law that are detached from normative sources risk losing their scholarly legitimacy.

The historical approach is applied to trace the social, cultural, and legal contexts that shaped the emergence and development of ashabah. Through this lens, ashabah is understood as a juristic response to the kinship structures and social relations of early Arab society. The historical approach enables the identification of social elements that influenced legal constructions, as advocated in studies of Islamic legal history (Anderson, 1964).

Meanwhile, the conceptual-analytical approach is employed to examine the internal structure of the concept of ashabah, including its relationship with other concepts in Islamic inheritance law, such as furūḍ muqaddarah and ta'ṣīb. This approach also facilitates linking ashabah to contemporary evaluative frameworks, particularly theories of distributive justice and maqāṣid al-sharī'ah (Auda, 2008).

3. Data Sources and Research Materials

The data sources in this study are divided into two main categories: primary and secondary sources.

Primary sources consist of the principal normative texts of Islamic law, namely the Qur'an, the Prophetic traditions, and classical fiqh works addressing inheritance law. The primary juristic texts consulted include al-Umm by al-Shāfi'ī, al-Mughnī by Ibn Qudāmah, and al-Mabsūṭ by al-Sarakhsī. These works were selected because they represent the authoritative positions of the major Sunni legal schools and occupy a central place in the classical discourse on Islamic inheritance jurisprudence.

Secondary sources include academic monographs, peer-reviewed journal articles, and contemporary scholarly works addressing Islamic inheritance law, maqāṣid al-sharī'ah, Islamic legal history, as well as gender studies and Qur'anic hermeneutics. Notable references in this category include works by Wael B. Hallaq (2009),

Jasser Auda (2008), Amina Wadud (1999), and Asma Barlas (2002). The inclusion of these secondary sources aims to enrich the analysis and situate the concept of ashabah within broader academic debates.

4. Data Collection Techniques

Data collection was conducted through library research. This technique was selected because the object of the study consists of normative texts and written scholarly works. Library research enables systematic access to and comparison of both classical and contemporary perspectives on ashabah.

The selection of literature was carried out purposively based on the following criteria: (1) direct relevance to the concept of ashabah or Islamic inheritance law; (2) the academic authority and reputation of the author or publisher; and (3) the work's theoretical contribution to Islamic legal discourse or social justice studies. This approach is consistent with standards of normative legal research that emphasize the quality and credibility of sources (Creswell, 2014).

5. Data Analysis Techniques

Data analysis in this study was conducted through three main stages: textual analysis, historical analysis, and critical-comparative analysis.

Textual analysis was employed to interpret and understand normative texts from the Qur'an, Prophetic traditions, and classical fiqh works. At this stage, attention was given to textual formulations, interpretive contexts, and the legal reasoning employed by jurists. This analysis aims to identify the normative foundations and internal logic of the concept of ashabah.

Historical analysis was conducted by relating textual findings to the social and cultural contexts in which fiqh developed. Through this analysis, ashabah is understood as part of the historical dynamics of Islamic law rather than as an abstract doctrine detached from social realities (Hallaq, 2009).

Critical-comparative analysis was used to compare classical juristic perspectives with contemporary approaches, particularly those grounded in maqāṣid al-sharī'ah and gender critique. This stage seeks to evaluate the extent to which the concept of ashabah aligns with the objectives of justice and public welfare that constitute the core aims of Islamic law (Auda, 2008; Wadud, 1999).

6. Analytical Validity and Research Limitations

To ensure analytical validity, this study employs source triangulation by comparing multiple classical and contemporary texts addressing the same issues. In addition, the analysis is conducted consistently within the established theoretical framework, thereby minimizing arbitrary interpretation.

The primary limitation of this study lies in its normative and conceptual scope. It does not include empirical investigation into inheritance practices within specific Muslim societies. Nevertheless, this limitation does not diminish the significance of the research, as the principal objective of the article is to establish a theoretical foundation for further discussion on the reform of Islamic inheritance law.

DISCUSSION OF FINDINGS

1 *Ashabah* as a Normative Construction within the Islamic Inheritance System

The findings indicate that the concept of *ashabah* occupies a fundamental position within the normative structure of classical Islamic inheritance jurisprudence. As consistently emphasized across the major schools of *fiqh*, *ashabah* functions as a residual distribution mechanism, allocating the remainder of the estate after the fixed shares (*furūḍ muqaddarah*) prescribed by the Qur'an have been assigned (al-Shāfiʿī, 2001; Ibn Qudāmah, 1997; al-Sarakhsī, 1993). Within this framework, *ashabah* is understood as a complementary instrument designed to ensure that no portion of the estate remains undistributed.

Nevertheless, the normative analysis also reveals that the legitimacy of *ashabah* does not derive directly from an explicit Qur'anic text, but rather from a Prophetic tradition stating: "Give the prescribed shares to those entitled to them, and whatever remains goes to the closest male relative" (reported by al-Bukhārī and Muslim). This reliance on *ḥadīth āḥād* and the practices of the Companions as primary epistemic foundations indicates that *ashabah* is an *ijtihādī* construction that emerged from the systemic needs of *fiqh* to regulate situations not exhaustively addressed by the Qur'an. This finding aligns with Hallaq's (2009) assertion that much of Islamic jurisprudence consists of historically contingent legal reasoning rather than immutable divine injunctions.

2. The Historical and Socio-Cultural Dimensions of the Formation of *Ashabah*

The discussion further demonstrates that *ashabah* cannot be disentangled from the social and cultural context of pre-Islamic Arab society. The patrilineal kinship structure, which positioned men as primary economic providers, significantly shaped juristic conceptions of kinship proximity and inheritance entitlement. Anderson (1964) has shown that while Islam introduced substantial reforms by granting inheritance rights to women, the Islamic inheritance system nevertheless retained several foundational patterns from the pre-Islamic order.

In this context, *ashabah* may be understood as a historical compromise between the normative values of revelation and the social realities of early Arab society. Islamic legal reform was gradual in nature and did not entirely sever continuity with pre-existing social structures. This finding reinforces the argument that *ashabah* does not represent a direct manifestation of universal Qur'anic norms, but rather reflects the internalization of specific social values within juristic constructions. Consequently, absolutist claims regarding the obligatory application of *ashabah* across all social contexts become increasingly problematic.

3. Implications for Inheritance Distribution and Gender Justice

One of the most significant findings of this study concerns the implications of *ashabah* for inheritance distribution, particularly with respect to gender relations. In practice, *ashabah* may enable male relatives who are genealogically more distant to supersede women who are more closely related to the deceased. Such outcomes generate distributive inequalities that are difficult to justify within contemporary frameworks of social justice.

This finding resonates with critiques advanced by Islamic feminist scholars. Wadud (1999) argues that differences in inheritance shares articulated in the Qur'an must be understood within the context of economic responsibilities at the time of revelation, rather than as permanent legitimations of gender hierarchy. Barlas (2002) further contends that male dominance in *fiqh* constructions often reflects patriarchal power relations rather than the normative message of the Qur'an itself. Accordingly, applications of *ashabah* that result in the marginalization of women may conflict with the principle of substantive justice that constitutes a central objective of Islamic law.

4. *Ashabah* from the Perspective of *Maqāṣid al-Sharī'ah*

The *maqāṣid al-sharī'ah* approach provides a crucial evaluative framework for interpreting these findings. Al-Shāṭibī emphasizes that the primary purpose of the Sharī'ah is to secure human welfare (*maṣlaḥah*), including the protection of property and lineage (al-Shāṭibī, 2004). In contemporary developments, Auda (2008) underscores justice, equality, and the protection of vulnerable groups as key indicators of the effectiveness of legal rulings.

When assessed through the lens of *maqāṣid*, *ashabah* cannot be evaluated solely on the basis of its conformity to classical formulations, but must also be assessed in terms of its social consequences. Where the application of *ashabah* produces extreme inequality and undermines principles of distributive justice, there are compelling grounds for reinterpretation or contextual adjustment. This finding supports Kamali's (2008) argument that Islamic law must be interpreted dynamically, with due consideration for its ethical objectives rather than mere formal adherence to inherited legal forms.

5. Dialogue between Classical *Fiqh* and Contemporary Critique

The findings indicate that critiques of *ashabah* should not be construed as a rejection of classical *fiqh*, but rather as part of an internal dialogue within the Islamic legal tradition. Classical jurisprudence provides a robust normative and methodological foundation, yet it does not preclude renewal through *ijtihād*. Reformist thinkers such as Muhammad Abduh and Rashid Rida emphasized the necessity of distinguishing between definitive (*qaṭ'ī*) textual rulings and speculative (*ẓannī*) *ijtihādī* constructions (Rida, 1928).

Within this framework, *ashabah* is best understood as a juristically legitimate doctrine grounded in tradition, yet not immune to critique or reinterpretation. This approach enables the integration of classical juristic authority with contemporary demands for justice without negating either. In other words, reform in Islamic inheritance law can emerge organically from within the Islamic scholarly tradition itself.

6. Relevance of the Findings for Contemporary Islamic Family Law

The findings of this study carry significant implications for the development of contemporary Islamic family law. A number of Muslim-majority countries have introduced adjustments to classical inheritance doctrines through mechanisms such as *radd*, *waṣiyyah wājibah*, or restrictions on the application of *ashabah*. These practices demonstrate that reform of inheritance law is not only possible but already occurring within Sharī'ah-based legal frameworks.

In the Indonesian context, for example, the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI) reflects an effort to balance classical *fiqh* doctrines with the social needs of modern society. The findings of this study may serve as a theoretical foundation for further evaluation of such policies, particularly in ensuring that Islamic inheritance law genuinely reflects principles of justice and public welfare.

Overall, this discussion underscores that *ashabah* is an *ijtihādī* construction shaped by specific historical contexts and, as such, remains open to critical evaluation. The integration of normative analysis, legal history, *maqāṣid al-sharī'ah*, and gender critique provides a more comprehensive and balanced understanding of the position of *ashabah* within Islamic inheritance law. These findings strengthen the argument that reform of Islamic inheritance law does not constitute a deviation from the Sharī'ah, but rather represents an effort to realize its ethical objectives in a more contextualized and just manner.

DISCUSSION

The findings of this study affirm that *ashabah* should not be understood merely as a final and ahistorical legal rule, but rather as a juristic construction that emerged from the interaction between normative texts, *ijtihād* methodologies, and specific social contexts. This conclusion reinforces contemporary Islamic legal scholarship, which maintains that most *fiqh* doctrines—including those governing inheritance—are products of dynamic and context-sensitive legal reasoning (Hallaq, 2009). Consequently, any reading of *ashabah* requires epistemological caution to avoid conflating Qur'anic normative principles with juristic formulations developed by classical scholars.

Normatively, *ashabah* plays an important systemic role within classical inheritance jurisprudence. It functions as a residual distribution mechanism that ensures the completeness of the inheritance system and prevents the absence of eligible heirs (al-Shāfi'ī, 2001; Ibn Qudāmah, 1997). However, the reliance of *ashabah* on *ḥadīth āḥād* and Companion practice indicates that it carries a different degree of epistemic certainty compared to inheritance shares explicitly stipulated in the Qur'an. This distinction becomes particularly salient when *ashabah* is evaluated within contemporary social contexts characterized by transformed family structures, expanded economic roles for women, and evolving principles of legal equality.

The discussion also confirms the centrality of historical context in shaping the formation and legitimacy of *ashabah*. The patrilineal kinship system of pre-Islamic Arab society—where men bore primary familial responsibilities—provided the social framework through which jurists conceptualized kinship proximity and inheritance rights. As Anderson (1964) demonstrates, Islamic reforms of the pre-Islamic inheritance system

were progressive yet gradual, allowing certain foundational patterns to persist. From this perspective, *ashabah* appears as a historically reasonable compromise in its original context, but not necessarily as a universally binding normative principle across all times and places.

The most problematic implication of *ashabah* lies in its impact on distributive justice, particularly in gender relations. The findings corroborate critiques advanced by Wadud (1999) and Barlas (2002), who argue that disparities in inheritance distribution often stem not from the Qur'an's normative vision but from *fiqh* constructions influenced by patriarchal power structures. When women with close kinship ties to the deceased are excluded or receive smaller shares than more distant male relatives, serious questions arise regarding the compatibility of such outcomes with the principle of substantive justice that lies at the heart of the Sharī'ah.

Within this framework, the *maqāṣid al-sharī'ah* approach offers a relevant and productive evaluative lens. Al-Shāṭibī emphasized that Islamic law was revealed to realize human welfare and prevent harm (al-Shāṭibī, 2004). Auda's (2008) contemporary elaboration further identifies justice, equality, and the protection of vulnerable groups as key benchmarks of legal success. When assessed through the lens of *maqāṣid*, the focus shifts from formal fidelity to classical constructions toward the tangible social effects of legal norms. Where the application of *ashabah* generates severe inequality, reinterpretation becomes not merely permissible, but ethically imperative.

Importantly, this discussion demonstrates that critique of *ashabah* need not entail wholesale deconstruction of classical *fiqh*. Rather, such critique can be situated within an internal dialogue of the Islamic legal tradition itself. The history of *fiqh* reveals that disagreement, adaptation, and legal evolution are intrinsic to the practice of *ijtihād*. Reformist thinkers such as Muhammad Abduh and Rashid Rida emphasized the necessity of distinguishing between definitive textual rulings (*qaṭ'ī*) and speculative *ijtihādī* doctrines (*ẓannī*) (Rida, 1928). Within this framework, *ashabah* is best understood as a traditionally legitimate yet revisable doctrine.

The findings also illuminate contemporary inheritance law reforms across the Muslim world. Mechanisms such as *radd*, *waṣiyyah wājibah*, and restrictions on *ta'ṣīb* illustrate how Muslim societies have adjusted classical doctrines without abandoning Sharī'ah legitimacy. These practices reflect an awareness that Islamic inheritance law must continually respond to social change and contemporary conceptions of justice. In Indonesia, for instance, the Compilation of Islamic Law (KHI) represents a normative attempt to reconcile classical *fiqh* authority with modern societal needs.

In sum, this discussion affirms that *ashabah* should not be treated as a doctrine immune to evaluation. Rather, it must be understood as part of a living *ijtihād* tradition that continuously engages with social transformation and ethical demands. An integrative approach—combining classical *fiqh*, legal history, *maqāṣid al-sharī'ah*, and gender critique—enables a more comprehensive and balanced understanding of *ashabah*. Such an approach also opens pathways for developing Islamic inheritance law that is more contextual, equitable, and aligned with the fundamental objectives of the Sharī'ah.

Overall, this discussion reinforces the hypothesis that reinterpreting *ashabah* does not constitute a deviation from Islamic law, but rather reflects a sustained effort to actualize the values of justice and public welfare at the core of Islamic teachings. By situating *ashabah* within its *ijtihādī* and historical framework, Islamic inheritance law can continue to evolve as a responsive legal system without losing its normative foundations or scholarly integrity.

CONCLUSION

This study demonstrates that the concept of *ashabah* in Islamic inheritance jurisprudence constitutes an *ijtihādī* construction that enjoys strong legitimacy within the classical *fiqh* tradition, yet is neither epistemologically final nor historically ahistorical. The principal findings affirm that *ashabah* is grounded primarily in Prophetic traditions and the practices of the Companions, and is significantly shaped by the patrilineal social structure of early Arab society. Within that historical context, *ashabah* functioned as a systemic mechanism to ensure the completeness of estate distribution; however, it simultaneously entails the potential for distributive inequality, particularly in relation to gender dynamics.

The core analysis reveals that the application of *ashabah* in contemporary contexts requires critical evaluation through the lenses of *maqāṣid al-sharī'ah* and theories of distributive justice. Where the implementation of this doctrine results in the marginalization of women or conflicts with principles of substantive justice, reinterpretation becomes not only possible but ethically normative. By situating *ashabah* as a product of historical *ijtihād*, this study contributes to the development of a critical *fiqh* discourse that remains firmly rooted in the Islamic scholarly tradition while remaining responsive to social change.

The principal contribution of this research lies in the formulation of an integrative analytical framework that brings together classical Islamic inheritance jurisprudence, Islamic legal history, the *maqāṣid al-sharī'ah* approach, and contemporary justice-oriented critiques within a coherent argumentative structure. The implications of this study are relevant to the development of Islamic family law at both theoretical and policy levels, particularly in efforts to articulate a more just and context-sensitive inheritance system. Future research should therefore be directed toward empirical and comparative studies across Muslim-majority countries, as well as the exploration of inheritance law reform models capable of realizing the objectives of Sharī'ah-based justice without compromising their normative legitimacy.

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