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A Reassessment of Ibn ʻAbbās's Inheritance Views and Their Contemporary Legal Relevance in Indonesia

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Abstract

This study reassesses the inheritance views of Ibn ʿAbbās and examines their contemporary legal relevance for the reform of Islamic family law in Indonesia. The application of inheritance provisions under the Compilation of Islamic Law (KHI) remains varied, with some Religious Court judges adhering to the *jumhūr al-fuqahāʾ* while others draw upon the perspectives of scholars such as Ibn ʿAbbās, Ibn Ḥazm, and Hazairin. Recent Supreme Court jurisprudence has introduced progressive reforms that gradually shift Indonesian inheritance law toward a bilateral framework grounded in principles of justice, gender equality, and legal pluralism. Central to these developments is Ibn ʿAbbās's interpretation of *walad* in Qur'an 4:176 as encompassing both sons and daughters, thereby excluding the inheritance rights of the decedent's siblings when a daughter exists. Because his inheritance views are dispersed across classical *tafsīr* and *fiqh* literature, this library-based study systematically reconstructs and analyzes four key areas in which Ibn ʿAbbās diverges from the *jumhūr*: the *gharāwāin*, daughters excluding siblings, *ʿawl*, and inheritance involving a grandfather alongside siblings. The findings demonstrate that Ibn ʿAbbās's insights not only align with several aspects of Supreme Court jurisprudence but also contribute to ongoing legislative efforts, including the Draft Law on Islamic Inheritance, which adopts his position on the *gharāwāin*. Nevertheless, certain issues particularly inheritance between a grandfather and siblings remain unregulated in Indonesian law. This reassessment shows that Ibn ʿAbbās's minority opinions possess substantial contemporary relevance and offer constructive contributions to the future reform of Islamic family law in Indonesia.

Keywords: Inheritance Law, Ibn ʿAbbās, Compilation of Islamic Law (KHI), Islamic Family Law Reform, Legal Reassessment.

Introduction

Islam is a universal religion that embodies divine values intended to regulate all aspects of human life for the promotion of public welfare. It harmonizes with reason and respects

human intellectual capacity, thereby creating equilibrium between divine revelation and human thought (‘Ubadah, 1980). Islamic law is derived from three principal sources: first, the Qur’an as the primary and universal source requiring elaboration; second, the Sunnah as the explanatory, reinforcing, and determinative authority for legal matters not detailed in the Qur’an; and third, *ijtihād*, which is employed when no specific ruling is found in either the Qur’an or the Sunnah (al-Syatibi, 1975, vol. 3, p. 20).

As a religion of *raḥmatan li-l-ʿālamīn*, Islam addresses not only ritual concerns but also the full scope of human needs through its comprehensive, balanced, and dynamic teachings, serving as a complete guide for human life. One essential component of Islamic law is family and property law, including inheritance law, which represents a central element of the *sharīʿah* alongside marriage and divorce. Islamic inheritance law also possesses a particular distinctiveness; in several countries such as Egypt and Syria, certain aspects are applied even to non-Muslims (Anderson, 1994, p. 74; Amin Suma, 2004).

The Prophet Muhammad (peace be upon him) strongly encouraged the study and teaching of the science of *farā’iḍ*, placing it on par with the obligation to study and teach the Qur’an. Islamic inheritance studies have therefore received substantial scholarly attention, particularly because the Qur’an provides detailed regulations in Sūrat al-Nisā’, verses 11, 12, and 176. Inheritance law is considered part of the *ḥudūd Allāh*, making adherence to it an act of obedience to Allah and His Messenger promised Paradise whereas its violation is threatened with Hell (Rofiq, 2002).

From the time of the Prophet to the present, Islamic law has remained dynamic and closely intertwined with human life, making legal reform an inevitability in addressing emerging socio-legal challenges. One of the most significant developments since the early twentieth century has been the modernization of Islamic family law, which transformed classical *fiqh* into contemporary state legislation what Tahir Mahmood refers to as the “point of departure” (Arijaya, 2005; Mahmood, 1972). This reform also encompasses Islamic inheritance law, as reflected in the legal systems of Egypt, Morocco, Malaysia, and Indonesia. Although Islamic inheritance law applies universally to Muslims, cultural factors and local social contexts influence its implementation without altering its substantive core (Mahmood, 1987).

In Indonesia, Islamic inheritance law can be divided into two major intellectual streams: the Sunni (*jumhūr*) school and the views of scholars such as Ibn Ḥazm and Hazairin, which in several respects align with the opinions of Companions such as Ibn ʿAbbās and ʿUmar ibn al-Khaṭṭāb. A major milestone was the enactment of the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI) following the formal recognition of the Religious Courts through Law No. 7 of 1989. The KHI was intended to address legal uncertainty and inconsistencies in judicial decisions resulting from divergent *fiqh* references and to provide a uniform, binding guideline for judges (Abdurrahman, 1992, p. 21; Harahap, 1992, p. 25).

Within the KHI, several important reforms in inheritance law are evident, including the concepts of *waṣiyyat wājibah* (obligatory bequest), substitute heirs (*ahli waris pengganti*), and the recognition of joint marital property (*harta bersama*) within inheritance distribution.

Nevertheless, these provisions are not yet widely understood and remain subject to debate among scholars and legal practitioners (Habiburrahman, 2011, p. 12). In judicial practice, interpretations of KHI inheritance provisions vary: some judges rely on the doctrines of the four Sunni madhhabs, while others draw on the inheritance perspectives of Ibn Ḥazm and Hazairin. The Supreme Court, however, has issued progressive jurisprudence steering Indonesian inheritance law toward a bilateral system grounded in justice, gender equality, and legal pluralism (Kemenag RI, 2012, p. 66).

Notable developments include: (1) prioritizing the nuclear family by classifying collateral and diagonal relatives as barred (*maḥjūb*) by daughters; (2) abolishing the institution of *dhawū al-arḥām* through the adoption of substitute heirs; and (3) granting adopted children the right to receive *waṣiyyat wājibah*. Consequently, the study of Islamic inheritance law should not be confined to normative *fiqh* but must also re-examine Qur'anic and Hadith texts and consider the opinions of the Companions including those historically classified as minority views when relevant to contemporary realities (Riadi, 2009, p. 59).

Indonesia, as a Muslim-majority country, is constitutionally not bound to any particular school of law, thus allowing considerable space for the development of *ijtihād*. Scholars acknowledge the contributions of early *mujtahid* scholars such as Ibn Masʿūd, Ibn ʿAbbās, Ibn al-Zubayr, the four imams, and Dāwūd al-Ẓāhirī intellectual pioneers whose legacies continue to guide Islamic legal thought. In the context of inheritance law, the diversity of scholarly views reflects the dynamic nature of Islamic law in Indonesia, a field that remains deeply relevant for examination both in terms of substantive outcomes and methodological approaches to *ijtihād* given the evolving epistemology of contemporary Islamic studies.

One of the most debated issues in Islamic inheritance law is the matter of *kalālah*, addressed in Sūrat al-Nisā' verse 176. Most Companions interpreted *kalālah* as referring to a deceased person who leaves neither a child nor a father, based on the incident involving Jābir ibn ʿAbdillāh. In contrast, Ibn ʿAbbās and ʿUmar ibn al-Khaṭṭāb argued that *kalālah* refers only to a person who leaves no children; thus, siblings may inherit alongside the father if he is still alive. Although this view was historically considered weak, it has contemporary relevance in Indonesia, where customary law recognizes the inheritance rights of siblings alongside the father.

A similar divergence arises regarding whether daughters may bar siblings from inheriting. The *jumhūr al-fuqahā'* understand the term *walad* as referring exclusively to male offspring, meaning daughters do not bar siblings. Ibn ʿAbbās, however, interpreted *walad* as including both sons and daughters; therefore, the presence of a daughter may bar siblings, except for the deceased's parents and spouse (al-Burusawy, vol. 2, p. 965).

Although the issue of daughters barring siblings is not explicitly regulated in the KHI, it has appeared in judicial practice, particularly in decisions referencing Ibn ʿAbbās's interpretation of *walad* in Sūrat al-Nisā' verse 176. While Ibn ʿAbbās never authored a dedicated treatise on inheritance, his views are widely dispersed across classical *tafsīr* and *fiqh* works. This study therefore seeks to identify, synthesize, and reformulate Ibn ʿAbbās's inheritance concepts in ways that align with contemporary Indonesian legal needs. After thirty-

three years of implementation, the KHI is ripe for reform—especially given the Ministry of Religious Affairs' 2012 Draft Islamic Inheritance Law Bill, which removes the *gharawain* provisions and adjusts the mother's share in accordance with Ibn ʿAbbās's opinion, deemed more suitable for current conditions.

Ibn ʿAbbās's inheritance thought once classified as a minority position—has increasingly influenced legal reform in Indonesia, as evidenced by its adoption in Religious Court jurisprudence and its incorporation into the Draft Law on Substantive Law for Religious Courts. This research addresses three core issues: (1) the widespread assumption that inheritance law is entirely *qaṭʿī* and therefore immutable; (2) the existence of four major concepts in which Ibn ʿAbbās diverges from the *jumhūr* the *gharawain*, daughters barring siblings, *ʿawl*, and the inheritance of grandparents alongside siblings; and (3) the contemporary relevance of his perspectives for Islamic legal reform in Indonesia.

Previous studies have explored select aspects of Ibn ʿAbbās's views but have not undertaken a comprehensive examination of his inheritance thought or its integration into Indonesian Islamic family law (Syafruddin, 2013; Syuhada', 2014; al-Khazmari, 2015; Sakinah, 2015; Kusnandar, 2018; Bachri, 2020). This study therefore seeks to elaborate Ibn ʿAbbās's inheritance thought, trace the reasons behind his divergences from the *jumhūr*, and assess its relevance to contemporary legal reforms. The goal is to enrich the discourse on inheritance law, introduce a new scholarly paradigm, and contribute to the development of national inheritance regulations especially in the absence of a specific statutory framework even as inheritance disputes continue to dominate Religious Court dockets.

Literature Review

Studies on Islamic inheritance law generally underscore the centrality of Qur'anic prescriptions and the methodological diversity among early Muslim jurists in interpreting them. Classical *fiqh* sources demonstrate that the development of inheritance rules was shaped not only by explicit textual directives but also by the interpretive frameworks employed by the Companions and later scholars. Within this broader discourse, the views of Ibn ʿAbbās occupy a distinctive and often minority position. His approach, characterized by strict textual adherence, linguistic precision, and a reluctance to employ analogical reasoning, has been examined by both classical and modern scholars as a significant alternative to the dominant doctrines of the *jumhūr*. His opinions on issues such as the definition of *walad*, the rejection of *ʿawl*, and the prioritization of fixed-share heirs have been the subject of sustained scholarly analysis.

In the Indonesian context, the Compilation of Islamic Law (KHI) serves as the primary legal reference for Islamic family matters, including inheritance. Several studies note that although the KHI draws heavily on Sunni jurisprudence, it does not comprehensively regulate certain complex inheritance scenarios, such as the position of the grandfather alongside siblings or alternative interpretations of heirs' shares. This gap has encouraged scholars to revisit classical dissenting views including those of Ibn ʿAbbās as potential sources for strengthening legal coherence and addressing normative lacunae within Indonesia's existing legal framework.

Research on Islamic family law reform in Indonesia also highlights a growing trend toward contextual reinterpretation of classical doctrines. Reform-oriented scholars argue that contemporary socio-legal realities demand renewed engagement with foundational *fiqh* principles, balancing textual fidelity with considerations of justice, equity, and social transformation. In this regard, Ibn ʿAbbās's inheritance perspective rooted in textual precision while yielding alternative legal outcomes offers an important framework for re-evaluating existing regulations and judicial practices.

The legal reassessment of inheritance doctrines has further gained prominence in Indonesian jurisprudence, particularly through Supreme Court decisions that occasionally reflect Ibn ʿAbbās's positions. These cases illustrate the practical relevance of classical minority opinions in shaping modern legal reasoning. They also underscore the need for a systematic re-examination of doctrinal sources to enhance legal certainty, harmonize jurisprudence across courts, and support future codification initiatives.

Overall, the literature converges on the view that revisiting Ibn ʿAbbās's inheritance thought provides both theoretical and practical value for contemporary legal development in Indonesia. His interpretations enrich academic discourse, offer constructive guidance for judicial reasoning, and contribute meaningfully to the broader agenda of Islamic family law reform.

Research Method

This research is a doctrinal legal study that examines the inheritance thought of Ibn ʿAbbās and its relevance to the reform of Islamic family law in Indonesia. The study employs analytical and case-based approaches using secondary data collected through library research, which encompasses primary, secondary, and tertiary legal materials (Nasution, 2008, p. 145). Methodologically, it adopts a qualitative normative legal framework that analyzes classical works of fiqh, Qur'anic exegesis, hadith literature, contemporary legal scholarship, and judicial decisions from the Religious Courts (Ibrahim, 2006, p. 57; Abdussamad, 2021, p. 47).

The library method is used because the research subject Ibn ʿAbbās lived in the early period of Islam, making field research neither possible nor relevant (Zed, 2008, p. 3). Data collection was conducted through documentation, inventory, and classification of legal materials based on thematic relevance and analytical importance. These materials were subsequently examined using doctrinal deductive analysis and supported by a comparative approach to identify similarities and differences between the views of Ibn ʿAbbās and the positions of the jumhūr al-fuqahā' (Sidharta, 2009, p. 159). Content analysis was also utilized to interpret the meaning, contextual relevance, and legal significance of the textual sources.

The analytical process consisted of three stages: (1) systematizing and organizing the collected legal materials; (2) elaborating and explaining the data within an appropriate theoretical and methodological framework; and (3) evaluating the findings through the lens of maqāṣid al-sharīʿah to determine their alignment or divergence from existing rules of Islamic inheritance law. The conclusions were drawn deductively, moving from the general principles

underlying Ibn ʿAbbās's inheritance thought toward an assessment of their contemporary relevance for the reform of Islamic inheritance law in Indonesia (Zed, 2008, p. 3).

Result and Discussion

The Fundamental Principles of Ibn Abbas's Inheritance Thought and Its Differences from the Views of the Jumhur Fuqaha

Ibn ʿAbbās (3 AH before the Hijrah – 68 AH/687 CE), whose full name was ʿAbdullāh ibn ʿAbbās ibn ʿAbd al-Muṭṭalib ibn Hāshim ibn ʿAbd Manāf ibn Quṣayy al-Qurashī al-Hāshimī, was the son of the Prophet's uncle, ʿAbbās ibn ʿAbd al-Muṭṭalib, whose lineage converges with that of the Prophet at ʿAbd al-Muṭṭalib. Widely known as Ibn ʿAbbās or Abū al-ʿAbbās, he is also recognized as the forefather of the ʿAbbāsid caliphs (al-Dhahabī, 1982, p. 332; al-Khinn, 1994, p. 15).

He was born in Mecca, specifically in Shiʿb Banī Hāshim, three years before the Hijrah during the Quraysh boycott against the Hāshim clan (al-Qurṭubī, 1992, vol. 3, p. 933; al-Qaṭṭān, 2006, p. 473). From his childhood, he was closely connected to the Prophet Muhammad (SAW), witnessed various occasions of revelation, and grew up within the Prophet's household. When the Prophet passed away, Ibn ʿAbbās was estimated to be between 10 and 15 years old. He was one of the "al-Abādilah," a group of prominent young Companions that included ʿAbdullāh ibn ʿUmar, ʿAbdullāh ibn al-Zubayr, and ʿAbdullāh ibn ʿAmr. He had seven children: al-ʿAbbās, ʿAlī, al-Faḍl, Muḥammad, ʿUbaydillāh, Lubābah, and Asmāʾ (al-Khinn, 1994, p. 31; al-Suyūṭī, 2012, p. 381).

Ibn ʿAbbās acquired his knowledge directly from the Prophet (SAW) and from senior Companions such as ʿUmar ibn al-Khaṭṭāb, ʿAlī ibn Abī Ṭālib, Muʿādh ibn Jabal, ʿAbdullāh ibn Masʿūd, Zayd ibn Thābit, Ubayy ibn Kaʿb, and Abū Dharr al-Ghifārī. His students included many renowned Tābiʿīn scholars, among them Ṭāwūs ibn Kaysān, Jābir ibn Zayd, Abū Umāmah ibn Sahl, Saʿīd ibn al-Musayyab, ʿAbdullāh ibn al-Ḥārith ibn Nufayl, Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf, Maymūn ibn Mihrān, Saʿīd ibn Jubayr, Mujāhid ibn Jubayr, ʿAṭāʾ ibn Abī Rabāḥ, Muḥammad ibn Sīrīn, his son ʿAlī ibn ʿAbdullāh ibn ʿAbbās, and his freed slave Kurayb, who transmitted hadith from him (Kusnandar, 2018, p. 32).

He was honored with numerous titles Turjumān al-Qur'ān (Interpreter of the Qur'an), al-Baḥr (the Ocean of Knowledge), Ḥabr al-Ummah (the Ink of the Muslim Community), Rabbānī al-Ummah (the Godly Scholar of the Ummah), and Raʾīs al-Mufassirīn (Chief of the Exegetes) reflecting his expertise in tafsīr, fiqh, and hadith (al-Bashā, 1992, pp. 174–175). His vast knowledge is attributed to the Prophet's supplication for him asking Allah to grant him understanding of the religion and mastery of Qur'anic interpretation his close upbringing with the Prophet, his interactions with senior Companions, his exceptional intellect, and his dedication to learning (al-Khinn, 1994, pp. 69–71; Muḥtar, 2019, pp. 98–99).

Ibn ʿAbbās's residence became a center of learning akin to an early university, though he served as its single instructor. He developed exegetical methods that significantly influenced subsequent generations of mufassirūn, and he is even considered to have laid foundational

concepts for early Qur’anic hermeneutics (Hitami, 2006, p. 34). Beyond tafsīr, he was a leading expert in farā’iḍ (Islamic inheritance law), a status shared with Zayd ibn Thābit and ʿAlī ibn Abī Ṭālib. Despite his intellectual prominence, he did not engage intensely in political affairs, serving only briefly as governor of Basra during the caliphate of ʿAlī ibn Abī Ṭālib one reason his legal views, particularly in inheritance, did not spread as widely as those of ʿUmar ibn al-Khaṭṭāb, who held executive authority (al-Zarqānī, n.d., p. 344; ʿAbd al-Salām, n.d.).

Later in life, he became blind, fulfilling the Prophet’s prophecy that he would not die before losing his eyesight yet being granted abundant knowledge. Despite his blindness, he remained steadfast, contemplative, and actively engaged with the development of the Muslim community. He eventually settled in Ṭāʾif, known for its mild climate, where students continued to travel to learn from him. He passed away in 68 AH at approximately 71 years of age after an eight-day illness and was buried there (al-Balādhurī, 1978, vol. 3, p. 54).

According to the fuqahā’, two principal inheritance methodologies developed from the ijtihād of the Companions, namely the Hijaz method and the Iraq method. The Hijaz method originates from Zayd ibn Thābit, the Companion whom the Prophet (SAW) regarded as the most knowledgeable in the science of farā’iḍ. This approach is followed by the majority of Mālikī, Shāfiʿī, and Ḥanbalī scholars and has been implemented in countries such as Kuwait, Sudan, Morocco, and several regions of West Africa. By contrast, the Iraq method is attributed to ʿAbdullāh ibn Masʿūd, later adopted by the Ḥanafī jurists, and applied in Egypt, Syria, and Iraq (al-Zuḥaylī, vol. 10, pp. 377–378).

The Qur’an constitutes the primary source of inheritance distribution and contains some of the most definitive legal provisions in Islamic law. Nonetheless, certain verses remain general in nature, thereby creating space for ijtihād. For example, the Prophet (SAW) did not provide explicit clarification regarding the concept of kalālah in Qur’an 4:12 and 4:176. As a result, differences of opinion arose among the Companions, as seen in the gharāwāyn/ʿumariyyātayn, derived from the ijtihād of ʿUmar ibn al-Khaṭṭāb; the mushārakah/akdariyyah, stemming from the ijtihād of Zayd ibn Thābit; and the mimbariyyah, associated with the ijtihād of ʿAlī ibn Abī Ṭālib.

Similarly, Ibn ʿAbbās advanced several inheritance views that diverge from the doctrines of the jumhūr al-fuqahā’, particularly regarding the gharāwāyn, the exclusion of sisters by daughters, the rejection of ʿawl, and inheritance involving a grandfather alongside siblings (Ibn Qudāmah, 1997, vol. 9, p. 30).

A. The Issue of *Gharawain*

The issue of *gharāwāin* is a distinctive inheritance case consisting of two principal scenarios: the first involves a husband, mother, and father as heirs; the second involves a wife, mother, and father. The term *gharāwāin* is the dual form (*tatsniyah*) of *gharrā’*, meaning “radiant,” referring to the well-known and exceptional nature of these cases, which are likened to a bright star illuminating the night sky (Ash-Shabuni, 2019, p. 94). Some jurists maintain that the term derives from the verbal noun *gharrar*, meaning “deception,” because although the

Qur'an explicitly assigns the mother one-third, in practice she often receives only one-sixth or one-quarter.

Classical jurists also refer to these cases as *al-gharībayn* ("the two unusual cases") due to their uncommon method of resolution (Al-Zuhaili, 2004, vol. 10, p. 7788). They are further known as *al-ʿumariyyatayn* because their resolutions were not determined during the lifetime of the Prophet ﷺ but were first established by Caliph ʿUmar ibn al-Khaṭṭāb. His ruling subsequently gained wide acceptance among the majority of the Companions and later jurists (Fatchurrahman, 1985, p. 537; Ghazal, 2003, p. 30; al-Qurtubi, 2006, vol. 6, p. 96).

In the first case, the Qur'an provides that the mother receives one-third of the estate when the deceased leaves no children or siblings, and one-sixth when children exist (Qur'an 4:11). The husband receives one-half of the estate when the deceased has no children (Qur'an 4:12). The father acts as *ʿaṣabah*, receiving the remainder after the distribution of allocated shares. However, if the shares are applied directly from the verses, the mother obtains 2/6 and the father 1/6 an arrangement that contradicts the scenario in which only parents inherit, where the father receives twice the mother's share (2/3 versus 1/3) (Syarifuddin, 2012, p. 111).

To resolve this inconsistency, ʿUmar ibn al-Khaṭṭāb performed *ijtihād* by interpreting the mother's one-third as one-third of the residue after the husband's share. Through this method, the mother effectively receives one-sixth of the total estate, while the father receives the remaining share as *ʿaṣabah*, equaling twice the mother's portion. This preserves the principle that the male's share equals that of two females (Syarkun, 2014, p. 103).

In the second case, the wife receives one-fourth of the estate, the mother receives one-third, and the father inherits as *ʿaṣabah*. Although the father's share exceeds the mother's, some Companions deemed it inconsistent with the established rule that the father should always receive twice the mother's portion. Thus, ʿUmar also interpreted the mother's share as one-third of the residue after the wife's allocation, thereby ensuring that the father's portion remains double the mother's. This maintains coherence with the rule applied when only the parents inherit.

ʿUmar's opinion was widely supported by leading Companions, including Zayd ibn Thābit, ʿUthmān ibn ʿAffān, Ibn Masʿūd, and according to some reports ʿAlī ibn Abī Ṭālib, and thereafter by jurists across the four Sunni madhāhib. They interpreted the mother's one-third in the Qur'anic verse as one-third of the collective parental share, not one-third of the entire estate, with the father inheriting the residue as *ʿaṣabah*. This method preserves consistency with the principle that the share of a male is equal to that of two females (Syarifuddin, 2012, p. 114).

Arguments supporting ʿUmar's ruling include logical consistency, the farā'iḍ principle that a male at the same lineage level receives twice the share of a female, the equal status of both parents as *al-aṣl* (direct ascendants), and the harmony of Qur'anic inheritance provisions concerning cases where only the father and mother inherit (Syarkun, 2014, p. 103). Ibn al-Qayyim likewise stresses that the shares of father and mother should mirror the shares of sons and daughters and of husband and wife, based on biological and familial reasoning (Ibn al-Qayyim, n.d., vol. 1, p. 489).

Despite its widespread acceptance, ʿUmar's view was opposed by Ibn ʿAbbās, who maintained that the mother is entitled to one-third of the entire estate in both scenarios. He rejected ʿUmar's interpretive adjustment, arguing that the Qur'anic specification of one-third is absolute and cannot be restricted to the residue. Ibn ʿAbbās further contended that all Qur'anic inheritance shares are calculated from the total estate after debts and bequests, and that no evidence justifies reducing the mother's share to one-sixth in these cases (Ibn Hazm, 1932, vol. 9, p. 260; Ibn Qudamah, 1997, vol. 9, p. 30; Khalaf, 1999, p. 225).

Several early authorities supported this view, including ʿAlī ibn Abī Ṭālib and the judge Shuraiḥ. The Ẓāhirī school also adopted this position, arguing that no authentic Sunnah or *ijmāʿ* validates reducing the mother's entitlement from one-third to one-sixth in the presence of a spouse. According to them, the mother receives one-third of the whole estate, not one-third of the remainder (Ibn Hazm, 1932, vol. 9, pp. 327–330; al-Nawawi, n.d., vol. 17, p. 80).

A notable debate between Ibn ʿAbbās and Zayd ibn Thābit reveals that Zayd rejected attributing the mother's share to one-third of the residue based on the Qur'anic text. His stance implies that the one-third applies in specific conditions and may be adjusted when the mother inherits alongside a spouse (Ibn al-Qayyim, n.d., vol. 1, p. 496).

According to Muhammad ibn Sīrīn, in cases involving a husband, mother, and father, the mother receives one-third of the residue after deducting the husband's portion; but in cases involving a wife, mother, and father, the mother receives one-third of the entire estate. Thus, he adopts the majority opinion in the first scenario and the view of Ibn ʿAbbās in the second. Ibn Ḥazm criticizes this distinction as invalid, arguing that the Qur'anic rule governing the mother's share applies equally to both cases (al-Fauzan, 1986, p. 11).

B. The Issue of Daughters Excluding the Deceased's Siblings from Inheritance

Etymologically, the term ḥijāb carries several meanings such as curtain, barrier, or divider (al-Razi, 1986, p. 52). In Islamic legal terminology, ḥijāb refers to a restriction that prevents an heir from receiving an inheritance share, either wholly or partially (Sabiq, 1984, vol. 3, p. 202). More precisely, ḥijāb denotes the exclusion of a more distant heir by a closer relative, resulting in either the cancellation or reduction of the former's rights. The preventing heir is called ḥājib, while the prevented one is termed maḥjūb, and the phenomenon is known as ḥijāb (Rofiq, 2002, p. 71).

Jurists classify ḥijāb into two categories: ḥijāb bi al-waṣf (disqualification due to personal conditions) and ḥijāb bi al-shakhṣ (disqualification due to the presence of another heir). Ḥijāb bi al-waṣf removes an heir's entitlement entirely for reasons such as killing the deceased or apostasy. Meanwhile, ḥijāb bi al-shakhṣ is further divided into ḥijāb ḥirmān (complete exclusion), such as a grandfather being barred by the father, and ḥijāb nuqṣān (partial exclusion), such as a husband receiving a reduced portion when the deceased leaves children (al-Zuhaili, vol. 9, p. 341–342; Ash-Shabuni, 2019, p. 94).

The Qur'an regulates the inheritance of siblings in Surah al-Nisā' verses 12 and 176: verse 12 concerns maternal siblings, while verse 176 addresses full and paternal siblings. The revelation of verse 12 relates to the case of the two daughters of Sa'd ibn Rabī', whose

inheritance was initially withheld (Abu Bakar, 1998, p. 83; al-Qurtubi, vol. 6, p. 97). Verse 176 was revealed in response to Jābir ibn ʻAbd Allah regarding inheritance in kalālah cases where the deceased leaves neither ascendants nor descendants (al-Burusawy, 2006, vol. 2, p. 965). The consensus of exegetes, including Saʻd ibn Abī Waqqāṣ, Abū Bakr al-Ṣiddīq, and Qatādah, confirms this distinction. Although scholars differ on whether kalālah refers to the deceased or the heirs, the debate produces no legal consequence (Fatchur Rahman, 1979, p. 301–304; al-Razi, 1999, vol. 9, p. 522–523; Syarifuddin, 2012, p. 64).

A key point of divergence concerns the interpretation of walad in verses 12 and 176. The majority interprets walad in verse 176 as referring only to male offspring, allowing sisters to inherit alongside daughters. Under this interpretation, full sisters receive: (1) one-half when alone, (2) two-thirds when more than one, or (3) a residuary share (ʻaṣabah) when inheriting with brothers or daughters. Paternal sisters receive an additional one-sixth when inheriting with full sisters and may be barred under certain conditions (Ibn Hazm, 1932, vol. 9, p. 268; Abu Zahrah, 1963, p. 121–122; Ibn Qudamah, 1984, vol. 6, p. 268–269).

In cases where the heirs consist of a daughter and a full sister, two major positions exist. The majority, represented by Ibn Masʻūd, Zayd ibn Thābit, and others, holds that the sister becomes ʻaṣabah maʻa al-ghayr, receiving the residue after the daughter's one-half share (al-Mawardi, 1994, vol. 8, p. 107–108). This view is supported by verse 176, a hadith narrated from Huzayl ibn Shuraḥbīl, and the decision of Muʻādh ibn Jabal in Yemen during the Prophet's lifetime, which allocated half the estate to the daughter and the other half to the sister (al-Syaukani, 2005, vol. 6, p. 142).

Conversely, Ibn ʿAbbās, ʿAbdullah ibn al-Zubayr, and Dāwud al-Ẓāhirī maintain that the sister inherits nothing when a daughter exists (Ibn Hazm, 1932, vol. 9, p. 256). Their argument centers on Qur'an 4:176, which grants the sister a share only when the deceased leaves no walad. Ibn ʿAbbās interprets walad in its more general Qur'anic usage as encompassing both sons and daughters, as evidenced in verses 4:11 and 4:12 (Fatchur Rahman, 1979, p. 303; Quraish Shihab et al., 2007, vol. 3, p. 1060). Based on this interpretation, the presence of a daughter bars the sister entirely, making her maḥjūb.

A hadith of Ibn ʿAbbās further supports prioritizing fixed-share heirs (ahl al-farā'iḍ) before giving any remainder to the nearest male agnate. Thus, after the daughter receives her one-half share, the remainder is returned to her through radd, and not granted to the sister (M. Zein, 2010, p. 303). Ibn ʿAbbās even opposed ʿUmar's earlier ruling equating the shares of the daughter and the sister, asserting that it contradicted the explicit Qur'anic text. Accordingly, in Ibn ʿAbbās's framework, the daughter becomes the primary heir and may receive the entire estate, while the sister is fully excluded (Ibn Hazm, 1932, vol. 9, p. 257).

C. The Issue of ʻAul

The issue of ʿaul in the science of farā'iḍ refers to a circumstance in which the total fixed shares allocated to the heirs exceed the available estate, creating a discrepancy between the prescribed portions and the actual inheritance to be distributed. Linguistically, *ʿaul* carries several meanings, including oppression, deviation, elevation, and increase (al-Razi, 1999, p. 221). In Islamic inheritance law, however, *ʿaul* denotes the method of increasing the

denominator of fractional shares so that the total allocation becomes proportionate to the limited estate when the mathematically calculated shares surpass the available inheritance (al-Jundi, 2011, vol. 7, p. 565).

The phenomenon of *ʿaul* first emerged during the caliphate of ʿUmar ibn al-Khaṭṭāb when he encountered a case involving a husband and two full sisters whose combined prescribed shares amounted to 7/6 of the estate, even though only a complete estate (6/6) existed. This resulted in a deficit. After consulting the Companions, ʿUmar resolved the issue by raising the denominator to seven, ensuring that each heir received a just and proportional share without diminishing anyone's allocated right (Sabiq, 1977, vol. 3, p. 633). His approach was subsequently endorsed by the Companions and adopted by the four major Sunni schools of law (al-Mufti, 1978, p. 231).

Various forms of *ʿaul* cases later emerged, including mubāhalah, gharrā', umm al-furukh, umm al-arāmil, and minbariyyah, each with distinct heir compositions and resulting denominators. Mubāhalah refers to a case in which the shares require an *ʿaul* adjustment that reduces the fraction from 1/6 to 1/8. It is named *mubāhalah* because Ibn ʿAbbās' opinion on this issue was contested by several Companions. Gharra' denotes a case requiring a reduction from 1/6 to 1/9. Umm al-Furukh involves a reduction from 1/6 to 1/10 and is considered the most severe form of *ʿaul*. It is also called *al-Syuraiḥiyyah*, as it was first presented to the judge Syuraiḥ (d. 78 AH). Umm al-Arāmil refers to a case requiring the adjustment of 1/12 to 1/17 and is so named because the heirs involved are women (typically widows). Minbariyyah denotes a case that requires an adjustment from 1/24 to 1/27. It is attributed to ʿAlī ibn Abī Ṭālib, who resolved the case spontaneously while standing on the pulpit (*minbar*) of the Kufah mosque.

In contrast, Ibn ʿAbbās rejected the concept of *ʿaul* and argued for an alternative approach based on taqdīm and ta'khīr that is, prioritizing heirs with fixed and certain Qur'anic shares (furūḍ muqaddarah) before distributing the remainder to heirs whose shares may convert into residuary portions (*ʿaṣabah*). Ibn ʿAbbās maintained that neither the Qur'an nor the Sunnah provides evidence permitting the reduction of fixed shares; therefore, cases involving excess allocations must be resolved by establishing priority, not by proportionally diminishing all shares (Ibn Hazm, 1932, vol. 9, pp. 262–263).

Under Ibn ʿAbbās' methodology, primary priority is accorded to heirs such as the husband, wife, mother, and full or paternal siblings with fixed shares. Other heirs including daughters and full or paternal sisters receive their shares only if a remainder exists. Although some complex cases are difficult to resolve through either *ʿaul* or the taqdīm–ta'khīr method, scholarly debate has consistently centered on ensuring justice and protecting the rights of all heirs in accordance with the Sharīʿah whether through proportional reduction (*ʿaul*) or by assigning priority (*taqdīm–ta'khīr*) (Ibn Hazm, 1932, vol. 9, p. 280; Ibn Qudamah, 1970, vol. 6, p. 283; al-Khazmari, 2015, p. 244).

D. The Issue of Inheritance Between a Grandfather and Siblings

The application of the gharāwāin method in inheritance distribution is exemplified in the decision of the Dataran Hunimoa Religious Court Number 51/Pdt.G/2021/PA.Dth. The case arose from the marriage between Udin Mau and Isnawaty Kilwarany on 18 May 2021 in Bula District, East Seram Regency, Maluku Province. Two months after the marriage, on 16 July 2021, Udin Mau passed away and was survived by several heirs: his biological father (Abubakar Mau); biological mother (Siti Syarah Wairoy); a biological older sister (Zubaeda Mau); several biological younger siblings (Indrawati Mau, Muhamad Yani Mau, Ari Safari Mau, and Sarifudin Mau); and his wife (Isnawaty Kilwarany). The deceased left behind both movable and immovable property, all of which was initially under the full control of the wife.

Inheritance cases involving a grandfather alongside siblings represent issues not explicitly addressed in either the Qur'an or the Sunnah of the Prophet Muhammad SAW. The absence of a decisive naṣṣ led to significant debate among the Companions and the Tābiʿīn. Many Companions refrained from issuing definitive rulings out of caution, fearing error in determining inheritance rights. This prudence is reflected in the statement of Ibn Masʿūd RA, who encouraged people to ask him about other matters but avoided questions concerning the grandfather. Similarly, shortly before his death, ʿUmar ibn al-Khaṭṭāb declared that he held no conclusive opinion on the inheritance of the grandfather and kalālah (a person who dies leaving neither father nor child) and therefore appointed no successor (Khalifah, 2017, p. 233; Ash-Shabuni, 2019, p. 165).

A ḥadīth concerning the inheritance share of the grandfather exists only in cases where he does not coexist with siblings. The narration from ʿImrān ibn Ḥuṣayn states that the grandfather receives 1/6 (equivalent to 1/3 of the inheritance left by the deceased grandchild). The grandfather referred to here is the ṣaḥīḥ grandfather, namely the paternal grandfather connected through the male line without any female intermediary unlike the fāsid grandfather (such as the maternal grandfather), who is classified among dhawī al-arḥām. The share of the ṣaḥīḥ grandfather resembles that of the father; thus, when the father is absent, the grandfather assumes his functional legal position in inheritance (Ash-Shabuni, 2019, p. 95).

The terminology ṣaḥīḥ and fāsid is used solely to distinguish legal categories of grandfathers in inheritance jurisprudence and does not connote literal meanings such as "correct" or "corrupt." Meanwhile, the siblings considered in these discussions are limited to full siblings and paternal siblings (both male and female), as maternal siblings are unanimously regarded as being blocked (maḥjūb) by the grandfather (Washil, 1995, p. 181).

In inheritance cases involving a grandfather together with siblings, scholars are generally divided into two major groups. The first group which includes Companions such as Abū Bakr al-Ṣiddīq and Ibn ʿAbbās, several Tābiʿīn, and the Ḥanafī school holds that the grandfather blocks the inheritance rights of siblings. The second group including ʿUmar ibn al-Khaṭṭāb, ʿUthmān ibn ʿAffān, ʿAlī ibn Abī Ṭālib, the majority of Shāfiʿī, Mālikī, and Ḥanbalī jurists, and two students of Abū Ḥanīfah maintains that the grandfather may inherit alongside siblings without blocking them (al-Mawardi, 1994, vol. 8, p. 122).

The first group supports its view by referring to the Qur'anic usage of the term "father" to include the grandfather (e.g., Qur'an 22:78; 12:38) and to a ḥadīth narrated from Ibn ʿAbbās, which stipulates that fixed shares (farā'iḍ) must be allocated first and the remainder assigned to the nearest male agnate (ʿaṣabah), where the grandfather is closer in legal status than siblings. They further contend that the grandfather is blocked only by the father, whereas siblings may be blocked by the father, son, and grandson. They also argue that siblings inherit only in kalālah cases i.e., when both the father and son are absent while the grandfather, assuming the father's legal standing, occupies a privileged position (Ibnu Rusyd, 2007, vol. 2, p. 693).

In contrast, the second group argues that both the grandfather and siblings are recognized in the Qur'an as legitimate heirs and that prioritizing the grandfather at the expense of siblings undermines this principle. They highlight that the ḥadīth assigning the grandfather a 1/6 share does not mention the blocking of siblings. Moreover, they argue that siblings typically have a more urgent financial need than a grandfather who is usually elderly; thus, their rights should not be nullified (Ash-Shabuni, 1968, p. 98).

In practical application, this second group differs in the mechanisms used to distribute shares between the grandfather and siblings. Three widely cited methodologies were developed by ʿAlī ibn Abī Ṭālib, Zayd ibn Thābit, and Ibn Masʿūd. The method of ʿAlī distinguishes between two situations: when the grandfather coexists with male siblings alone or with both male and female siblings, the shares are distributed through muqāsamah (joint distribution), provided the grandfather's portion does not fall below 1/6; and when the grandfather coexists with siblings and other fixed-share heirs (aṣḥāb al-furūḍ), he receives his prescribed share and any remainder, ensuring his total share does not fall below 1/6 (Al-Zuhaili, 2012, vol. 9, pp. 297–298).

Muqāsamah refers to joint distribution between the grandfather and siblings using the 2:1 ratio between males and females. This method analogizes the position of male siblings to that of the grandfather, placing them on the same hierarchical level in inheritance. It is considered the foundational method in cases involving a grandfather and siblings.

Zayd ibn Thābit's method divides cases into three scenarios: when only the grandfather and siblings are present, the grandfather takes whichever share is more beneficial for him either muqāsamah or 1/3; when they coexist with other fixed-share heirs, the grandfather receives whichever is more advantageous among muqāsamah, 1/3 of the remainder, or 1/6 of the total estate; and when both full and paternal siblings are present, paternal siblings are blocked by full siblings (al-Syarbini, 1997, vol. 3, pp. 30–34).

Ibn Masʿūd's method provides an intermediate view between those of ʿAlī and Zayd. His approach considers three conditions: when the grandfather is with male siblings, they share by muqāsamah provided the grandfather's share does not fall below 1/3; when the grandfather is with female siblings, the female siblings receive their fixed shares and the remainder goes to the grandfather; and when the grandfather and siblings coexist with other fixed-share heirs, the grandfather receives whichever is greater among muqāsamah, 1/3 of the remainder, or 1/6 of the total estate (Ibn Qudamah, 1997, vol. 9, p. 68).

In cases involving a grandfather, a sister, and the mother commonly known as the al-kharqa' case the complexity increases significantly. The Companions proposed different solutions to this three-heir scenario. Among them: Abū Bakr allocated 1/3 to the mother, blocked the sister, and assigned the remainder (2/3) to the grandfather; Zayd ibn Thābit allotted 1/3 to the mother and distributed the remainder between the grandfather and sister in a 2:1 ratio; ʿAlī ibn Abī Ṭālib gave 1/3 to the mother, 1/2 to the sister, and the residuary share (1/6) to the grandfather; ʿUmar ibn al-Khaṭṭāb granted 1/2 to the sister, 1/3 of the remainder to the mother, and the residuary share to the grandfather; Ibn Masʿūd allocated 1/2 to the sister and divided the remainder equally between the mother and grandfather; and ʿUthmān ibn ʿAffān assigned equal shares of 1/3 each to all three heirs (Hasanudin, 2020, pp. 93–95).

These divergent approaches demonstrate the complexity and interpretive richness of inheritance cases that are not explicitly regulated in the foundational texts. They also highlight the intellectual dynamism of the Companions, whose diverse methodologies became foundational elements of classical Islamic inheritance jurisprudence.

Table 1. The Fundamental Principles of Ibn Abbas's Inheritance Thought and Its Differences from the Views of the Jumhur Fuqaha

Aspect	Ibn Abbas's View	Jumhur Fuqaha (Majority Scholars)
1. Approach to Qur'anic Texts	Prefers literal and direct interpretation of Qur'anic inheritance verses.	Uses combined textual, analogical (qiyās), and juristic reasoning.
2. Allocation of Faraidh (Fixed Shares)	Emphasizes that fixed shares must be fully applied first; avoids adding shares not explicitly stated in the Qur'an.	Allows flexibility through ijtihād, reconciliation, and supplementation when needed.
3. Position on 'Awl (Fraction Reduction)	Rejects 'awl; believes fractions should not exceed the estate.	Accepts 'awl, reducing shares proportionally in cases where total fractions exceed 1.
4. Position on Radd (Return of Residue)	Accepts radd: residue returns to eligible heirs without adding new ones.	Sometimes rejects radd and may allocate the residue to other relatives (e.g., paternal kin).
5. Treatment of Grandfather vs. Siblings	Grandfather blocks (hijab) siblings from inheritance.	Grandfather inherits alongside siblings in certain cases (depending on school).
6. Treatment of Siblings in Kalalah Cases	Siblings inherit fully when no ascendants/descendants; stresses strict Qur'anic wording.	More interpretive; siblings' shares can vary through qiyās or school principles.
7. Methodological Basis	Strong reliance on nass (text) and minimal analogical expansion.	Employs usul al-fiqh, qiyās, ijmā', and juristic methods.
8. General Trend	More literalist, cautious, and restrictive, aiming to preserve textual purity.	More expansive, flexible, and systematic, aiming to cover diverse cases.

The table highlights the fundamental principles of Ibn ʿAbbās's inheritance thought and contrasts them with the positions of the *jumhūr al-fuqahāʾ*. Ibn ʿAbbās adopts a strictly textual

and literal interpretation of the Qur’an, prioritizing heirs with fixed shares and rejecting the method of *ʿawl*, which proportionally reduces shares when their total exceeds the estate. He also maintains that daughters may block sisters from inheritance and that the presence of a grandfather does not necessarily eliminate the inheritance rights of siblings. By contrast, the *jumhūr* often apply *ʿawl* to preserve proportional distribution and permit more flexible adjustments in cases involving complex constellations of heirs. Overall, Ibn ʿAbbās gives precedence to explicit Qur’anic directives and the hierarchical order of heirs, whereas the *jumhūr* emphasize practical equilibrium and proportionality in determining inheritance shares.

Table 2. Examples Illustrating Ibn Abbas’s Inheritance Principles and Their Differences from the Jumhur Fuqaha

Principle	Example Case	Ibn Abbas’s View	Jumhur Fuqaha’s View
1. Interpretation of walad	Deceased leaves 1 daughter + 1 sister	The daughter blocks the sister; daughter receives all.	Daughter gets 1/2; sister gets 1/2 as ‘asabah ma‘al-ghayr.
2. Rejection of ‘aul	Heirs: husband (1/2), 2 daughters (2/3), mother (1/6) → total > 1	No ‘aul applied. Husband keeps 1/2; mother prioritized; daughters receive the remainder.	‘Aul applied; all shares proportionally reduced to fit 1.
3. Position of grandfather vs. siblings	Deceased leaves grandfather + 2 brothers	Grandfather does not block the brothers; both inherit.	Grandfather blocks all siblings and receives
4. Limiting hijab to cases explicitly stated in the Qur’an	Heirs: father + mother + sister	Sister may still inherit if no explicit textual proof blocks her.	Sister is fully blocked by the presence of the father.
5. Strict textual consistency in fixed shares	Case with mother’s share set at 1/6	Mother receives a full 1/6; her share is not reduced.	Mother’s share may be reduced due to ‘aul or other adjustments.

The table highlights several practical distinctions between the inheritance principles of Ibn ʿAbbās and those of the *jumhūr al-fuqahāʾ*. Ibn ʿAbbās adopts a strictly textual approach to Qur’anic terminology and fixed shares, leading to outcomes that frequently diverge from majority doctrine. For instance, he interprets *walad* as encompassing both sons and daughters, which results in the daughter excluding the sister a position rejected by the *jumhūr*. He also opposes the concept of *ʿawl*, arguing that Qur’anic shares, once explicitly fixed, must not be proportionally reduced; instead, priority is accorded to heirs with definitive shares. Furthermore, unlike the *jumhūr*, Ibn ʿAbbās maintains that the grandfather does not block siblings from inheritance. Overall, his approach emphasizes textual precision, minimal alteration of Qur’anic apportionments, and a narrower application of *ḥijāb*, rendering his method significantly more literal compared to the systematic juristic reasoning employed by the *jumhūr al-fuqahāʾ*.

The Relevance of Ibn Abbas's Inheritance Thought to the Reform of Islamic Family Law in Indonesia

Judges possess the authority to deviate from written legal provisions that are deemed outdated and no longer capable of delivering justice within society an approach known in legal theory as *contra legem*. The application of *contra legem* requires judges to provide clear and rigorous legal reasoning while taking into account various legal aspects. Legal principles formulated by a panel of judges and subsequently used as the basis for deciding similar cases are referred to as jurisprudence, which functions to prevent disparities in judgments for comparable cases (Kamil & Fauzan, 2005, p. 9). In the context of Islamic inheritance law, several decisions of the Religious Courts contain materials relevant to the inheritance thought of Ibn ʿAbbās, including the following:

A. The Issue of *Gharawain*

The application of the *gharawain* method in inheritance distribution is illustrated in the decision of the Dataran Hunimoa Religious Court Number 51/Pdt.G/2021/PA.Dth. The case arose from the marriage between Udin Mau and Isnawaty Kilwarany on 18 May 2021 in Bula District, East Seram Regency, Maluku Province. Two months after the marriage, on 16 July 2021, Udin Mau passed away, leaving several heirs: his biological father (Abubakar Mau), biological mother (Siti Syarah Wairoy), a biological older sister (Zubaeda Mau), several younger siblings (Indrawati Mau, Muhamad Yani Mau, Ari Safari Mau, Sarifudin Mau), and his wife (Isnawaty Kilwarany). The deceased left both movable and immovable property, all of which was fully controlled by his wife.

In the inheritance dispute filed by the father, mother, and biological siblings before the Dataran Hunimoa Religious Court, the Panel of Judges assessed the distribution of inheritance rights according to the provisions of the Compilation of Islamic Law (KHI). The wife was allocated 1/4 of the estate, while the biological mother received 1/3 of the remainder after the wife's share was taken. The biological father acted as *'aṣabah* (residual heir). The siblings of the deceased did not receive any share because they were blocked by the presence of the father, who holds a closer degree of kinship. This reasoning is based on the Prophet's hadith: "Give the prescribed shares to those entitled to them, and whatever remains goes to the nearest male relative" (HR. Muslim). As the deceased left no children, the nearest male relative was the biological father, who received the residual share as *'aṣabah*.

This legal reasoning is reinforced by the opinion of the *jumhur* of scholars, who maintain that when the father and mother inherit together without the presence of other heirs, the mother is entitled to 1/3 of the estate while the father receives the remainder as *'aṣabah*. The principle of justice in inheritance distribution is reflected in the Qur'anic maxim that "the share of a male is twice that of a female," based on Qur'an 4:11 (*lidz-dzakari mithlu ḥaẓẓi al-unthayayn*). To ensure the implementation of this principle, the Panel of Judges referred to the decision of the Palembang High Religious Court Number 03/Pdt.G/2008/PTA.Plg, which affirms the *gharawain* or *al-'umariyatain* concept in Sunni *fiqh*, as accepted by the four major schools of Islamic law. Although the mother is nominally stated to receive 1/3, her actual portion becomes 1/3 of the remainder, which proportionally equals 1/6 or 1/4 of the total estate

when inheriting alongside the father and spouse. Thus, the father's share as *'aṣabah* becomes greater, preserving the 2:1 proportional justice.

Accordingly, the Panel of Judges determined the following distribution: the wife received 1/4 (3/12), the mother received 1/3 of the remainder after the wife's share (3/12), and the father received the residue as *'aṣabah* (6/12). The siblings received no share due to their being blocked by the father (Kemenag, 2013, 51–53).

In the decision of the Dataran Hunimoa Religious Court Number 51/Pdt.G/2021/PA.Dth, the Panel of Judges thus adopted the view of the *jumhur* of scholars, who argue that the mother's share should not exceed the father's. This position is rooted in the Qur'anic provision in Surah al-Nisā' verse 11, which affirms that the share of the male is twice that of the female. The Panel further referred to the appellate decision of the Palembang High Religious Court Number 03/Pdt.G/2008/PTA.Plg, which upholds the consensus of Sunni jurists that when the mother inherits alongside the father and spouse, she receives 1/3 of the remainder instead of 1/3 of the entire estate. This principle known as *gharawain* or *al-'umariyatain* ensures that the mother's portion is reduced so that the father's share remains larger (Mahmudi, 2016, p. 58; Zuhdi, 2023, p. 6).

The primary textual basis of the *gharawain* concept is found in Qur'an 4:11–12, which prescribe the shares between males and females and between parents. The verse that states the mother receives 1/3 "along with the father" indicates, according to the majority view, that the 1/3 applies to the remainder, not the entire estate. *Qiyās* is also used to draw an analogy between father–mother and son–daughter pairs, as both exhibit the gender-based ratio of 2:1, reflecting the financial responsibilities assigned to males (Ibn al-Qayyim, n.d., vol. 1, 489). Ibn al-Qayyim explains that the positions of both parents resemble those of male and female children, thereby extending the principle of male privilege in inheritance distribution. This opinion of 'Umar ibn al-Khattab followed by the *jumhur* has been adopted in Egypt's Law of Inheritance, Syria's Inheritance Law, and Indonesia's Compilation of Islamic Law (KHI). Article 178(2) of the KHI stipulates that the mother receives 1/3 of the remainder after the spouse's share is taken. Article 177 of the KHI and Supreme Court Circular Letter (SEMA) No. 2 of 1994 further confirm the father's status as *'aṣabah* (Kemenag, 2012, p. 353–354).

By contrast, Ibn Abbas held a different view, asserting that the mother is entitled to a full 1/3 of the entire estate when inheriting alongside the father. He argued that the Qur'anic phrase *fa-li-ummihi al-thuluth* unequivocally means 1/3 of the whole estate, and that all Qur'anic inheritance shares refer to portions of the total distributable property, not merely its remainder. Because the mother is a *dhawū al-furūḍ* (fixed sharer) and the father as *'aṣabah* receives only the residue, her fixed share cannot be altered or reduced under any justification (Ibn Hazm, 1932, vol. 9, p. 327–330). This opinion is supported by the Zahiri school and Ibn Hazm, who reject the reduction of the mother's share and cite hadiths emphasizing the Qur'anic and ethical primacy of the mother, including the well-known hadith narrated by Abu Hurairah regarding threefold priority of the mother over the father (Sarmadi, 1997, p. 88 & 276).

Hazairin, in his critique of the Sunni inheritance system, argued that the 2:1 ratio does not apply absolutely to the father and mother. According to him, the father as *dhū al-qarābah*

(agnatic heir) receives the entire estate if he is the sole heir. When inheriting with the mother and siblings, the father receives the residue, and this agnatic position simply ensures that the mother's share does not exceed the father's (Thalib, 2004, p. 138; Syarifuddin, 2012, p. 112–113). Furthermore, scholars such as Amir Syarifuddin and Sajuti Thalib criticized the *gharawain* principle as a vestige of pre-Islamic patriarchal custom, inconsistent with the apparent meaning of the Qur'anic text. They argue that both statistically and exegetically, the mother's 1/3 refers to the entire estate, not its remainder demonstrating the openness of *ijtihād* and explaining why figures such as Zaid ibn Thabit and Ibn Abbas reached divergent views (Anshari, 2010, p. 103 & 105; Fakhyadi, 2021, p. 8).

From a sociological and *maqāṣid al-sharī'ah* perspective, the author argues that Ibn Abbas's approach is more aligned with contemporary social realities, in which mothers frequently bear dual roles and require stronger socio-economic protection particularly within modern Indonesian family structures. Granting the mother 1/3 of the entire estate enhances her welfare, especially in cases involving single mothers or financially dependent mothers. This view is consistent with reform proposals in the Draft Law on Islamic Judicial Material Law on Inheritance, which eliminates the *gharawain* concept and replaces it with a rule that the mother receives 1/6 if there are children or two siblings, and 1/3 if there are none (Kamarusdiana et al., 2021, p. 227).

In conclusion, this legal analysis reveals a fundamental tension between the traditional *gharawain* principle which upholds patrilineal inheritance patterns and the Qur'an's explicit allocation of shares. It also underscores the need for an adaptive and socially responsive Islamic inheritance law that incorporates contemporary notions of welfare and gender justice.

B. The Issue of Daughters Excluding the Deceased's Siblings from Inheritance

The case concerning a daughter who hijabs (excludes from inheritance) the deceased's siblings appears in a decision by the Mataram Religious Court Number 85/Pdt.G/1992/PA.Mtr. jo. 19/Pdt.G/1993/PTA.Mtr. jo. 84 K/AG/1994. The dispute was between two biological brothers, Amaq Itrawan and Amaq Nawiyah. Upon the death of Amaq Nawiyah, he left behind one daughter, Le Putrahimah, along with a six-hectare plantation. Initially, this property was controlled by his brother, Amaq Itrawan, because Le Putrahimah was still a minor. After the subsequent deaths of Amaq Itrawan, his wife, and several of his children, Le Putrahimah took over the land's management, triggering a dispute between her and the heirs of Amaq Itrawan his children and grandchildren who later filed a lawsuit at the Mataram Religious Court for the division of the estate.

At the first instance, the panel of judges held that the plaintiffs failed to prove their claim over the disputed land, while the defendant (Le Putrahimah) successfully proved ownership through a pipil garuda certificate. Accordingly, the court ruled that the land belonged legally to Le Putrahimah and rejected the plaintiffs' claim. Dissatisfied, the plaintiffs appealed to the Mataram High Religious Court (PTA), which overturned the lower court's decision, annulled the defendant's exception, and granted the plaintiffs' claim. The PTA declared that Amaq Nawiyah's heirs were his brother (Amaq Itrawan) and his daughter (Le Putrahimah), each entitled to one-half of the estate. Although the land had been registered under

Le Putrahimah's name, the PTA reasoned that it legally remained the undivided estate of Amaq Nawiyah and thus constituted joint property (*syarikat*) among the heirs.

Le Putrahimah then filed for cassation. In its decision Number 86 K/AG/1994 dated 20 July 1995, the Supreme Court ruled that as long as the deceased has surviving children—whether male or female the inheritance rights of other blood relatives, except parents and spouses, are excluded (*hijab*). This aligns with the interpretation of Ibn Abbas regarding the term *walad* in Surah al-Nisa' verse 176, which includes both sons and daughters as primary heirs. Thus, in this case, the presence of the deceased's daughter excluded her paternal uncle from inheritance (Anshary, 2013, p. 67).

This Supreme Court decision reinforces the principle that children of the deceased hold priority and *hijab* the inheritance rights of siblings. This provides legal certainty that sons and daughters are primary heirs, while siblings inherit only in the absence of children. The case also demonstrates the importance of applying *faraidh* principles in resolving inheritance disputes and illustrates how judges blend classical interpretations with empirical realities in society. Within the Indonesian socio-cultural context, the decision strengthens the legal position of daughters as rightful heirs and minimizes disputes among lateral kin (Harjono, 1968, p. 245; Asyrof, 2010, p. 115; Ash-Shabuni, 2019, 140–141; Abdul Rahim, 2021, p. 81).

Three Supreme Court decisions provide foundational jurisprudence supporting the principle that the deceased's children male or female *hijab* the inheritance rights of siblings: Decision Number 86 K/AG/1994, Decision Number 184 K/AG/1995 dated 30 September 1996, and Decision Number 327 K/AG/1997 dated 26 February 1998. These rulings clearly draw upon the opinion of Ibn Abbas, who interprets *walad* in Surah al-Nisa' verse 176 as inclusive of sons and daughters. This contrasts with the majority view (*jumhur*) that a daughter cannot *hijab* the deceased's siblings (Depag, 1998, p. 7; Asyrof, 2010, p. 7–8 & 115).

The principle of *hijab* in *faraidh* determines the priority of heirs. Both Sunni and Shi'a schools divide heirs into *dzawil furudh* (fixed-share heirs) and non–*dzawil furudh*. However, Sunni scholars classify the latter as *ashabah* (agnatic heirs) and *dzawil arham* (uterine relatives), while the Shi'a school recognizes only *dzawil qarabat*, encompassing all blood relations from both paternal and maternal lines (Syafe'i, 1999, p. 9). Hazairin attributes these differences to the Sunni school's adherence to a patrilineal structure, whereas he argues that the Qur'an endorses a bilateral kinship system. He thus proposes a three-tier classification: *dzawil furudh*, *dzawil qarabat*, and *mawali* (substitution of heirs or *plaatsvervulling*) (Abu Zahrah, 1994, p. 226; Al-Fayruzabadi, 2004, p. 114; Khisni, 2011, p. 152).

In the Sunni system, the deceased's brother belongs to the *ashabah*, inheriting after *dzawil furudh*, based on Qur'an Surah al-Nisa' verses 11 and 176 and the hadith of Ibn Abbas instructing that fixed shares be given to their recipients first, with the remainder going to the nearest male agnate. Conversely, the Ja'fari Shi'a school rejects this hadith and holds that daughters entirely *hijab* both male and female siblings, based on their interpretation of verse 176 through *mafhum mukhalafah* (a contrario reasoning). This interpretation aligns with the Supreme Court's rulings stating that the presence of the deceased's children excludes siblings from inheritance (Nurlaelawati, 2012, p. 87–88).

Differences in opinion largely hinge on the meaning of *walad* in Surah al-Nisa' verse 176. Those interpreting *walad* generally (sons and daughters) maintain that daughters can exclude siblings. Those interpreting *walad* as sons alone argue that siblings are excluded only when a son exists, not when only daughters remain (Baidlowi, 1999, p. 18; Ash-Shabuni, 2019, p. 14–19). Hadiths narrated by Jabir ibn Abdullah, Huzail ibn Syurahbil, and Aswad ibn Yazid show consistently that daughters do not *hijab* siblings male or female when they jointly inherit, and this was even affirmed by the Prophet in the ruling of Muadh ibn Jabal. Thus, applying *mafhum mukhalafah* to verse 176 is invalid because (1) the textual limitation is not merely restrictive, and (2) other textual evidence explicitly regulates inheritance for this category.

Ibn Abbas himself holds that in *kalalah* cases (absence of sons), *walad* is general; yet when daughters and siblings coexist, the daughter receives one-half, the sister receives nothing, and the remainder is for the male *ashabah*. This indicates that male siblings are not *hijabed* by daughters. His disagreement with the *jumhur* concerns only cases involving daughters and sisters; regarding male siblings, both agree that they remain *ashabah* even alongside daughters (Al-Zuhaili, 2012, vol. 9, p. 120).

The view closest to the Supreme Court's rulings is the Shi'a position that children male or female exclude siblings from inheritance. Nevertheless, the author favors the *jumhur* view, supported by multiple mutually reinforcing hadiths concerning inheritance involving daughters and siblings. Philosophically, inheritance disparities reflect men's heavier financial responsibilities, requiring more resources to fulfill their obligations, as stated in QS al-Talaq verse 7 (Ibn Hazm, 1932, vol. 9, p. 279). Islam honors women by granting them inheritance rights without imposing financial obligations. As for male siblings who are *hijabed* due to the presence of children, their interests may be accommodated through *wasiat wajibah*, as advocated by Ibn Hazm al-Zahiri, al-Tabari, and Abu Bakr ibn Abdul Aziz of the Hanbali school. This bequest mechanism aims to safeguard the rights of relatives excluded by *hijab*, prevent disputes, and strengthen kinship ties, consistent with QS al-Nisa' verse 8 (Fitriyati, 2014, p. 8–11).

Accordingly, *wasiat wajibah* may serve as a socio-legal mechanism to protect parties excluded by *hijab*, thereby fostering family harmony and promoting social justice within Islamic inheritance law.

C. The Issue of 'Aul

In the inheritance case adjudicated by the Ujung Tanjung Religious Court under case number 153/Pdt.G/2022/PA.Utj, a dispute arose involving the application of the ʿaul method. The case originated from the marriage between Irfan Saputra and Mistiana on 27 April 2004, who did not have biological children and therefore adopted a daughter named Maulidan Adiba Mirsa. On 7 April 2020, Mistiana passed away as a Muslim, leaving behind heirs consisting of her husband, biological mother, biological sister, nephew, and adopted daughter. All inherited property, both movable and immovable, was controlled by the husband. As a result, the mother, biological siblings, and nephew filed an inheritance lawsuit before the Religious Court, naming the husband as the Defendant and the adopted child as a Co-defendant.

In its legal considerations, the panel of judges determined that the rightful heirs were the husband, biological mother, biological sister, and the nephew whose parent (the decedent's sibling) had predeceased the decedent. The division of inheritance adhered to the provisions of the Compilation of Islamic Law (KHI), under which the husband receives half if the deceased leaves no children, and the mother is entitled to a portion depending on the presence of children and the number of siblings. A biological sister receives her share according to established rules when the deceased leaves no child or father, and her position differs if accompanied by a brother. The nephew, as a substitute heir (*ashabah*), may receive a portion if his parent (the decedent's sibling) died earlier, as affirmed by Supreme Court Circular Letter No. 3 of 2015 and supported by hadith narrated by Ibn ʿAbbās. Meanwhile, the adopted daughter, based on Article 209 paragraph (2) of the KHI, is not a legal heir entitled to *farā'iḍ* or *ashabah* portions, but may receive a share through wasiat wajibah with a maximum of one-third of the estate. In this case, the adopted daughter received her portion through this mechanism, with the exact amount determined by the judges to ensure fairness and prevent prejudice toward other heirs.

The judges further found that the total fixed shares (*furūḍ*) exceeded a whole unity, amounting to 9/6, thus necessitating the application of the ʿaul method. This method adjusts the denominator to match the numerator to ensure proportional distribution without exceeding the total estate. Consequently, the nephew an *ashabah* heir did not receive any inheritance because the estate was fully exhausted by the adjusted *farā'iḍ* shares. Accordingly, the inheritance of Mistiana was distributed as follows: the husband received 3/9, the mother 2/9, the biological sister 3/9, and the adopted daughter 1/9 through *wasiat wajibah*. The nephew received no share because the estate was fully allocated due to the application of ʿaul.

This ruling affirms the application of the ʿaul method when the total shares of fixed-share heirs exceed the estate and reinforces the legal position of adopted children as beneficiaries only through *wasiat wajibah*, not as heirs with direct *farā'iḍ* entitlement. This demonstrates a balance between legal certainty and fairness for all parties concerned in inheritance distribution. Based on these considerations, the panel of judges issued a decision applying the principle of ʿaul, an inheritance mechanism that proportionally distributes the shortage of the estate among all fixed-share heirs by raising the denominator to match the numerator, as regulated in Article 192 of the KHI. In this case, the division initially based on a denominator of 6 was revised to 9. As for the nephew, who is an *ashabah* heir, the application of ʿaul resulted in the exhaustion of the estate by fixed-share heirs, leaving no remaining portion for him.

However, Ibn ʿAbbās rejected the concept of ʿaul, arguing that such a concept does not exist in inheritance matters. According to him, inheritance distribution should follow a sequential order such that the last category of heirs may receive nothing or only whatever remains. His view is reflected in his response to Zufar, who asked about the prioritization of heirs. Ibn ʿAbbās explained that heirs whose portions are definitively prescribed (*furūḍ muqaddarah*) must be prioritized, while those whose portions may be eliminated or who receive only residue (*ashabah*) should be placed last (Ibn Hazm, 1932, vol. 9, p. 280). Ibn ʿAbbās categorizes heirs into three levels: (1) pure fixed-share heirs (*ashāb al-furūḍ al-muḥaddadah*), such as husbands, wives, mothers, grandmothers, uterine brothers, and uterine

sisters; (2) non-pure fixed-share heirs who may become *ashabah*, such as daughters, granddaughters through sons, fathers, grandfathers, full sisters, and consanguine sisters; and (3) pure *ashabah* heirs, such as sons, grandsons, fathers, grandfathers, brothers, sons of brothers, paternal uncles, and their male descendants (Fatchur Rahman, 1981, p. 412; al-ʿĀmilī, 1993, vol. 26, p. 75–77).

Applying Ibn ʿAbbās' perspective to case number 153/Pdt.G/2022/PA.Utj, the heirs who should be prioritized are the husband and mother, as their shares are fixed half for the husband in the absence of children and one-third or one-sixth for the mother depending on the circumstances. The biological sister, who receives half if alone or two-thirds collectively but becomes *ashabah bil ghayr* if accompanied by a brother, should be placed last. The nephew, a pure *ashabah* heir, also receives nothing, as the distribution according to Ibn ʿAbbās begins with pure fixed-share heirs, followed by non-pure fixed-share heirs, and finally pure *ashabah* heirs (Elfia, 2017, p. 127).

Ibn ʿAbbās' reasoning significantly influenced the inheritance system in Shi'ite jurisprudence, which also rejects ʿaul, arguing that it is illogical for God to determine fixed shares when the estate is insufficient to fulfill them. Nevertheless, the author considers the opinion of ʿUmar ibn al-Khaṭṭāb more equitable, as his implementation of ʿaul distributes the shortage proportionally among all heirs, ensuring that no one is entirely deprived of their share. This is grounded in the principle of *maslahah* and substantive justice, whereby inheritance is divided fairly among all heirs despite minor reductions. The basis for ʿUmar's approach is that the Qur'anic verses on inheritance do not differentiate between the sizes of prescribed portions; therefore, when the estate is insufficient, the deficiency should be borne proportionately by all heirs (al-Sarkhasi, 1999, p. 162).

The author also argues that Ibn ʿAbbās' approach which prioritizes some heirs over others is less appropriate. Daughters and sisters should not be placed at the end of the hierarchy merely because they may become *ashabah*, since their positions remain strong and influential. Daughters may reduce the shares of spouses, and sisters may in certain cases outrank mothers in inheritance distribution. Furthermore, the theories of taqdīm (prioritizing) and takhīr (postponing) lack clear legal foundations, as neither the Qur'an nor the Sunnah provides definitive instructions regarding a complete and fixed hierarchy of priority in inheritance allocation (Bachri, 2018, p. 56).

D. The Issue of Inheritance Between a Grandfather and Siblings

The issue of inheritance involving a grandfather and siblings constitutes a matter of *khilāfiyyah* among classical jurists. To date, no religious court decision has been identified that specifically addresses this issue, and the Compilation of Islamic Law (KHI) also provides no explicit provision that can serve as a definitive basis for resolving the juristic disagreements. The KHI merely refers generally to the grandfather in Article 174 paragraph (1)(a) as part of the category of male heirs related by blood, listed alongside the father, son, brother, and paternal uncle. Meanwhile, the provisions concerning siblings are elaborated more specifically in Article 182, which outlines the inheritance shares of both male and female siblings, whether full siblings or paternal half-siblings. However, these articles do not clarify whether the term

"grandfather" refers to the paternal or maternal grandfather, nor do they regulate the mechanism of inheritance distribution when a grandfather inherits concurrently with siblings. Furthermore, Article 185 paragraph (1) of the KHI, which governs the substitution of heirs, may be interpreted to mean that siblings replace the position of the father, potentially negating the inheritance rights of the grandfather. This interpretive ambiguity contributes to the divergence of scholarly views, resulting in three major opinions (Hidayati et al., 2023, p. 289: La Ode Ismail, 2024, p. 642–645).

In the hadith literature, the valid ruling concerning a grandfather specifically the paternal grandfather without an intervening female in the lineage indicates that he receives a share similar to that of the father. A hadith narrated by Ahmad from ʿImrān ibn Ḥuṣayn states that the grandfather is entitled to one-sixth of the estate when not inheriting alongside siblings. Jurists subsequently disagreed on the ruling applicable when a grandfather and siblings inherit together, forming two major schools of thought. The first group followed by Abu Bakr, Ibn ʿAbbās, ʿAbdullah ibn Zubayr, ʿĀʾishah, Muʿādh ibn Jabal, several Companions and Successors, and the Hanbali school holds that the grandfather has the same legal status as the father and therefore excludes all siblings (*ḥijāb*). Their arguments include the Qur'anic usage of the term "father" in reference to the grandfather, as seen in Qur'an 22:78, and the reasoning that the grandfather is excluded only by the father, whereas siblings may be excluded by the father, son, or paternal grandson (Ash-Shabuni, 2019, p. 95).

Conversely, the second group followed by ʿUmar ibn al-Khaṭṭāb, ʿUthmān ibn ʿAffān, Zayd ibn Thābit, the majority of Companions and Successors, and the Mālikī, Shāfiʿī, and part of the Hanbali schools maintains that the grandfather may inherit alongside siblings without excluding them. Their position is grounded in Qur'an 4:176, which explicitly establishes the inheritance rights of siblings, rendering those rights revocable only through equally authoritative evidence. They further argue that the closeness of kinship between the grandfather and siblings both related through the father justifies their joint entitlement to the estate (Washil, 1995, p. 83).

From a sociological perspective, the second view has strong contextual relevance. Grandfathers, who are typically of advanced age, often have fewer financial dependents compared to siblings, who are generally younger and still bear economic responsibilities. The *maṣlaḥah* approach thus requires that inheritance rights be shared between the grandfather and siblings to prevent potential *mafsadah*, such as family disputes. Therefore, this study inclines toward the opinion that the grandfather does not exclude siblings and may inherit jointly with them (Al-ʿAjuz, 1986, p. 83 & 263; Sudaryanto, 2010, p. 534; Khalifah, 2015, p. 194; Usman, 2019, p. 8; Harahap et al., 2022, p. 67).

Regarding the method of distribution, the opinion of ʿAlī ibn Abī Ṭālib is considered the most appropriate for practical application. This method stipulates that the grandfather receives a share through *muqāsamah* (sharing with siblings), provided that his resulting portion does not fall below one-sixth; otherwise, he receives one-sixth when inheriting alongside other *aṣḥāb al-furūḍ*. Thus, the grandfather's position becomes clearer: he receives a minimum of one-sixth, with the remainder determined through *muqāsamah* if it yields a greater benefit. The

determination of this minimum one-sixth is based on *qiyās* with the son whose presence cannot diminish the grandfather's prescribed portion and therefore siblings likewise may not reduce it (Al-Zuhaili, 2012, vol. 9, p. 297–298; Khalifah, 2017, p. 256).

In conclusion, the absence of explicit positive legal norms governing inheritance between a grandfather and siblings in Indonesia renders Ibn ʿAbbās's view accommodated by the first juristic group still relevant as one legitimate interpretive framework. At the same time, the practical method of ʿAlī ibn Abī Ṭālib offers a viable solution aligned with the principles of *maṣlaḥah* and justice in Islamic inheritance law. The relevance of Ibn ʿAbbās's inheritance thought to the reform of Islamic family law in Indonesia is therefore evident not only in the *gharawain* issue incorporated into the Draft Bill on Islamic Inheritance Law, nor solely in the matter of daughters excluding siblings reflected in Supreme Court jurisprudence, but also in its potential contribution to resolving the legal vacuum concerning the inheritance relationship between a grandfather and siblings.

Table 3. The Relevance of Ibn Abbas's Inheritance Thought to the Reform of Islamic Family Law in Indonesia

Key Dimension	**Ibn Abbas's Inheritance Thought**	**Relevance to Islamic Family Law Reform in Indonesia**
Textual Priority in Legal Interpretation	Strong reliance on Qur'anic text and linguistic rules (al-qawā'id al-lughawiyyah).	Supports calls for more Qur'an-based, transparent, and consistent statutory inheritance provisions.
Rejection of 'Awl	Rejects proportional reduction of shares; prioritizes fixed shares first (taqdim–ta'khir).	Relevant for evaluating and possibly revising current inheritance formulas that use 'awl in court practice.
Hijab of Siblings by Daughters	Daughters can block sisters, but not brothers (limited hijab).	MA jurisprudence adopts similar logic but extends blockage to brothers, inspiring legal clarification and codification.
Grandfather vs. Siblings	Grandfather eliminates siblings' shares.	Useful as a jurisprudential reference due to lack of explicit regulation in KHI and inconsistent court decisions.
Emphasis on Certainty of Faraidh Shares	Fixed Qur'anic shares cannot be reduced or altered.	Aligns with efforts to create uniform, non-contradictory inheritance statutes, preventing disparity in rulings.
Minimal Use of Qiyās and Istislāh	Prefers direct textual derivation; avoids expansive analogy.	Inspires a more textual and standardized approach in national codification to avoid judicial over-interpretation.
Legislative Reform Implications	His views prioritize clarity, hierarchy of heirs, and protection of fixed shares.	Supports the need for national unification and codification of Islamic inheritance law (Buku II KHI yet to be enacted).
Contribution to Jurisprudence (Yurisprudensi)	Several views (e.g., daughter's hijab) influence contemporary judicial practice.	Becomes a substantive reference for strengthening jurisprudence and guiding consistent court decisions.

The table illustrates the relevance of Ibn ʿAbbās's inheritance thought to the reform of Islamic family law in Indonesia. His approach provides a distinctly textual and Qur'an-based framework that diverges from the dominant positions of the *jumhūr al-fuqahāʾ*, thereby offering alternative solutions to various inheritance issues. In particular, his interpretation of *walad* (children) supports judicial rulings in cases where daughters exclude sisters from inheritance, a view that has influenced Supreme Court jurisprudence. His rejection of *ʿawl* and preference for the *taqdīm–takhīr* method introduces a clearer and more consistent approach to calculating inheritance shares. Moreover, his perspectives on the rights of grandfathers and siblings help to fill existing gaps within the Indonesian Compilation of Islamic Law (KHI). Overall, Ibn ʿAbbās's thought strengthens legal certainty, enhances normative refinement, and supports the development of jurisprudence more closely aligned with Qur'anic directives, making it highly relevant to contemporary Islamic family law reform in Indonesia.

Table 4. Examples of the Relevance of Ibn Abbas's Inheritance Thought to the Reform of Islamic Family Law in Indonesia

Aspect of Reform	Example Based on Ibn Abbas's Thought
1. Strengthening Legal Certainty	Ibn Abbas's interpretation that walad includes both sons and daughters provides a clear textual basis for court decisions where daughters block sisters from inheritance. This has been used in several Supreme Court decisions to avoid inconsistencies in similar cases.
2. Improving Inheritance Calculation Methods	His rejection of 'aul offers a simpler alternative calculation method using taqdim–ta'khir, reducing mathematical complexity and preventing proportional reduction of Qur'anic shares. This approach could be adopted in national codification efforts to simplify inheritance computation.
3. Filling Legal Gaps in Indonesian Islamic Law	Since the Compilation of Islamic Law (KHI) does not comprehensively regulate cases involving grandfathers and siblings, Ibn Abbas's opinion which states that the grandfather does not block siblings can serve as an academic and jurisprudential reference for future legislation.
4. Enhancing Alignment Between Qur'anic Texts and Judicial Practice	Courts applying Ibn Abbas's textual approach help harmonize judicial decisions with the explicit wording of Qur'anic verses, particularly in cases involving daughters' inheritance rights.
5. Providing Alternatives to Dominant Majority Views	Ibn Abbas's method challenges the dominance of Jumhur interpretations, giving lawmakers and judges additional authoritative options when majority views result in injustice or practical difficulties.

Ibn ʿAbbās's inheritance thought is highly relevant to the reform of Islamic family law in Indonesia because it provides clearer textual foundations and viable alternatives to dominant juristic opinions. His interpretation that *walad* encompasses both sons and daughters enhances legal certainty in judicial practice, particularly in cases where daughters exclude sisters from inheritance. His rejection of *ʿawl* also offers a simpler and more internally consistent method of calculating inheritance shares, which could be adopted to improve national legal standards. Moreover, his views concerning the position of grandfathers and siblings address existing gaps within the Indonesian Compilation of Islamic Law (KHI), offering guidance where current regulations remain incomplete. Overall, Ibn ʿAbbās's perspectives contribute to more coherent

legislation, greater judicial consistency, and a closer alignment between legal practice and the Qur'anic text.

Conclusion

This study concludes that Ibn ʿAbbās holds several inheritance views that diverge from those of the jumhūr al-fuqahāʾ. These include his positions on the issues of gharāwāin, the status of daughters who may exclude sisters from inheritance, the problem of ʿawl, and cases involving inheritance between a grandfather and siblings. These differences stem from the distinct legal methodologies adopted by each side: Ibn ʿAbbās prioritizes the bayānī method grounded in linguistic principles (al-qawāʿid al-lughawiyyah/al-qawāʿid al-istinbāṭiyyah), whereas the jumhūr relies primarily on qiyās and istiṣlāḥī reasoning, particularly maṣāliḥ al-mursalah.

Substantively, several of Ibn ʿAbbās's views especially his position that a daughter may exclude the deceased's sisters from inheritance have influenced Supreme Court jurisprudence and decisions of the Religious Courts. However, judicial panels do not always articulate the underlying legal basis or reasoning, including whether the exclusion applies to all siblings or only to sisters. In essence, Ibn ʿAbbās's opinion closely aligns with the jurisprudence of the Supreme Court, though they differ in scope: Ibn ʿAbbās limits the exclusion (ḥijāb) to sisters, whereas the Court extends it to both brothers and sisters. Regarding gharāwāin, legislative developments have begun to adopt Ibn ʿAbbās's perspective by changing the mother's share from "one-third of the remainder" to "one-third of the entire estate." Meanwhile, the issue of inheritance involving a grandfather together with siblings remains unregulated in Indonesian positive law, leaving judges and practitioners without a single authoritative reference.

This study recommends that the government urgently pursue national unification and codification of Islamic inheritance law to prevent family disputes, ensure legal certainty, and modernize the existing inheritance framework. The urgency of this reform is underscored by the fact that among the three books of the Compilation of Islamic Law, only Book II on Inheritance Law has not yet been enacted as statutory legislation, while Islamic marriage law and endowment law already have dedicated legal instruments.

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