

## THE COMPARATION OF MAQĀṢĪD IMPLEMENTATION'S IBN 'AŞŪR AND MUNĀWIR SJADZALI'S IN QS. 4: 11

Ida Kurnia Shofa

Universitas Islam Negeri Sunan Ampel Surabaya, Indonesia  
Idakurniashofa1@gmail.com

DOI 10.32505/at-tibyan.v6i1.2597

Submitted: 07-03-2021 | Revised: 27-04-2021 | Accepted: 26-06-2021

### Abstract

This article discussed the discourse of inheritance in QS. 4: 11 according to modern figures, 'Aşür and Munawir Sjadjali. So, the purpose of this research is to express the base of the maqāṣīd application that is used by them. This research is library research with descriptive analysis and comparison methods. The result of this research is that two figures found a significant value in that surah with different maqashid concepts. Ibnu 'Aşür understood the surah (QS. 4: 11) is as awarding attention for Muslim women in the discourse of inheritance that they get a half of a man proportion. Even before the revelation of that surah, women's rights were not given. While Munawir Sjadjali understood that surah by searching an ideal value and contextualize whit the situation and condition in his country with formulation 1:1 for man and women which considered the roles and positions woman is relatively same with a man along with the demands of the times.

**Keywords:** *Inheritance, Ibnu 'Aşür, Munawir Sjadjali, Maqāṣīd al-Syari'āh.*

### Abstrak

Tulisan ini mendiskusikan wacana waris dalam surah al-Nisa' ayat 11 menurut pemikir modern, Ibnu 'Aşür dan Munawir Sjadjali. Sehingga tujuan penelitian ini adalah untuk mengungkap dasar aplikasi *maqāṣīd* yang digunakan oleh keduanya. Penelitian ini merupakan penelitian kepustakaan (*library research*) dengan analisis diskriptif dan metode komparasi. Hasil dari penelitian membuktikan bahwa kedua tokoh tersebut menemukan *maqāṣīd* atau pesan nilai (signifikansi) yang terkandung dalam ayat, dengan konsep aplikasi *maqāṣīd* yang berbeda. Ibnu 'Aşür memahami dan mengaplikasikan surah al-Nisa' ayat 11 sebagai pemberian perhatian lebih untuk kaum perempuan muslim dalam hal kewarisan yang bagiannya setengah dari bagian laki-laki. Hal ini merupakan revolusioner di kalangan umat Islam sebab adanya nilai

maṣlāḥah antara laki-laki dan perempuan. Kendati sebelum turunnya ayat, hak perempuan tidak diberikan. Sedang Munawir mengaplikasikan ayat waris ini dengan mengontekstualisasikan nilai maṣlāḥah yang terkandung sesuai dengan situasi dan kondisi tempat ia tinggal, dengan formulasi pembagian 1:1 untuk laki-laki dan perempuan yang dianggap sangat adil mengingat peran dan posisi perempuan relatif sama dengan laki-laki seiring perkembangan dan tuntutan zaman.

**Kata Kunci:** *Waris, Ibnu 'Aṣūr, Munawir Sjadjali, Maqāṣid al-Syari'āh.*

## Introduction

The Qur'ān interpretation should cover a dynamic and creative following the structure and context of community development in providing a spirit continuity and change on an ongoing basis. For instance, the legal problems that exist in the Qur'ān which is a logical reflection of the situation and condition of the society in which it develops. The emergence of madab fiqh with different styles is one concrete proof that law can change with changing times and conditions of society. Nevertheless, modern Muslim thinkers take the reinterpretation of the legal verses contained in the Qur'ān to find the relevance of the text of the verse with the context that occurs to answer the problem of modernity of Muslims as well as to produce a product of interpretation of legal verses that flexible and accommodating in today's times.<sup>1</sup>

The article discusses the Qur'ānic inheritance verses, particularly the 11th of An-Nissa', which covers the principles of legatee law in Islam, how do the son who receives twice as much as daughters possession. The interpretation raised arguments of contemporary *muffasir* scholars, particularly, modern movements. However, the conservative *muffasir* scholars, the *Tafsir al-Hijr* and *Ibn Katsr*, referring to the following verse, state that son possession is the legal verdicts (*qaṭ'ī* verses) that cannot be changed. Therefore, it represents the men's role in social context who have more superior responsibility before women.<sup>2</sup>

Some contemporary *muffasir* scholars contemplate the Qur'ān as social culture product whose interpretation elaborates between the text and the historical context, Naṣr Hamid Abu Zayd dan Muhammad Arkoun recommends the Qur'ānic verse should not be assumed rigidly, but rather with flexibility and contextual.<sup>3</sup> Nowadays, the role of women is much forward than in the time when the verse was reviled. Indeed, the QS. 4:11 pioneers the women status revolution throughout the course of history, it is a leap to transform women became an heirs than the object of passing inheritance.

<sup>1</sup> Fazlur Rahman, *Islamic Modernity: Transformation of Intellectual Tradition* (Chicago: The University of Chicago Press, 1982), 23.

<sup>2</sup> Idris Rasyid, "Eksekusi 'Ab Intestato' Warisan Dua Banding Satu: Rasionalisasi Surah Al-Nisa' Ayat 11," *Jurnal Hukum Diktum* 14 (2016): 204, <https://doi.org/10.28988/diktum.v14i2.233>.

<sup>3</sup> Nasr Hamid Abu Zaid, *Tektualitas Al-Qur'ān Kritik Terhadap Ulum Al-Qur'ān*, ter. Khoiron Nahdliyyin (Yogyakarta: LkiS, 2005), 19.

The recent world has placed women in many significant roles.<sup>4</sup> It is common to know some women who play double roles, domestic and public as well, also husband supporter in financial,<sup>5</sup> became a family backbone in daily basis.<sup>6</sup> These roles initiate women's independence to her provision activity, not only overflow in family domestic only.<sup>7</sup> The shift of the world revolves around women that capable to share social and family life with men, which raise an argument to acquire the same portion for inheritance law.<sup>8</sup>

The contemporary revolution of Islamic *muffasir* studies introduces an approach which accommodates communal consecutive, *maqāṣid syarī'āh*, which also known as the *maqāṣid tafsir*. The *tafsir* is going to reveal the logical and its implicit meanings of the glorious Qur'ān not only partially but also the whole contents in terms of communal benefit.<sup>9</sup>

The article covered two Islamic contemporary *muffasir* scholars which address the maṣlāḥah context approach in the glorious Qur'ān, i.e. Ibn 'Aṣūr (1876 – 1973 AD) and Munawar Sjadjali (1975 -2004 AD). They shared about similar point of view of equity before the inheritance law for both the son and daughter. These scholars employed an approach to overview the QS. 4:11 to the contexts. However, the scholars have different applicative to ground the context.

The several studies about the inheritance laws between the son and daughter. One of the study, Rahmat Haniru explore the Indonesian Heirs Law under Islamic and Local Custom Law. Referring to Local Custom Law in Indonesia, the shares are consecutively distributed and employed in harmony one to another between the son and daughter.<sup>10</sup> A study was conducted by Afidah Wahyuni, she argued a difference in share distribution to the heirs in Islam, however, the Indonesian Civil Law, KUHP Perdata, applies opposite to the Islamic Law in Heirs.<sup>11</sup>

In another study, for several local Indonesian Common Law, the researchers, Pagar, Sukati, dan Muhammad Sanif, overviewed the distribution of will to the

<sup>4</sup> Siti Miftikhatul Jannah dan Puji Lestari, *Women's Dual Roles in Family Economic Life* (TK: TP, TT), 13-14.

<sup>5</sup> Frida Nur Rizkia, "Peran Perempuan Dalam Meningkatkan Perekonomian Keluarga Melalui Program P2WKSS Di Sumber Gamol, Balecatur, Gamping, Sleman," *Journal Social Studies* Vol. 6, No. 4 (30 November, 2017), 417, <http://journal.student.uny.ac.id>.

<sup>6</sup> Labib Muttaqin, "Aplikasi Teori Double Movement Fazlur Rahman Terhadap Doktrin Kewarisan Islam Klasik," *Al-Manahij: Jurnal Kajian Hukum Islam* 7 2 (2013): 202-3, <http://ejournal.iainpurwokerto.ac.id>.

<sup>7</sup> Moh. Mahsus, "Tafsir Kontekstual Dan Eksistensi Perempuan Serta Implikasinya Terhadap Penyetaraan Bagian Waris Laki-Laki Dan Perempuan," *Journal of Islamic Law* 1 (2020): 27, <http://ejournal.iainptk.ac.id>.

<sup>8</sup> Faqihuddin Abdul Qadir, *Qira'ah Mubadalah: Tafsir Progresif Untuk Keadilan Gender Dalam Islam* (Yogyakarta: IRCiSoD, 2019), 272.

<sup>9</sup> Washfi 'Ashur Abu Zayd, *Metode Tafsir Maqahsidi* (Jakarta: PT Qaf Media Kreativa, 2020), 20.

<sup>10</sup> R. Haniru, "Hukum Waris Di Indonesia Perspektif Hukum Islam Dan Hukum Adat," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 04, no. 02 (2014): 456–74.

<sup>11</sup> Afidah Wahyuni, "Sistem Waris Dalam Perspektif Islam Dan Peraturan Perundang-Undangan Di Indonesia," *SALAM: Jurnal Sosial Dan Budaya Syar'I* 5, no. 2 (2018): 147–60, <https://doi.org/10.15408/sjsbs.v5i2.9412>.

daughter in the Muslim tradition of Batak and Minang in Sidikalang.<sup>12</sup> Muhammad Iqbal Piliang dan M. Najib Tsauri conducted a comparison study which committed by Muhammad Shahrur and Munawir Sjadjali in interpreting inheritance verses.<sup>13</sup> The article also described Shahrur and Munawir point of view to the distribution to the heirs, the lineage children, parents, husband-wife, brother-sister, or about the person who died (*al-kalalah*) by applying the theory of limits and producing legal reforms that take into account the principle of justice. Another researcher, Moh. Mauluddin, who conduct a study on the interpretation of inheritance verses in *Tafsir maqāṣidī Ibnu 'Aṣūr*.<sup>14</sup> This paper reveals the relevance of Ibnu 'Aṣūr's interpretation of inheritance verses with the principle of *maqāṣid al-syarī'ah*.

The article employed qualitative research methods which are designed in library research as descriptive analysis and comparative methods, and discussing the 11th of *An-Nissa* which have been elaborated by the thoughts of Ibnu 'Aṣūr and Munawir Sjadjali, who shares about the similar approach, *maṣlāhah* or *maqāṣid al-syarī'ah*. Therefore, two figures who have a lifetime this is because the fatwa very different discourse between them in applying the *maqāṣid* or *maṣlāhah* method.

### The Base Concept Of Inheritance In Islam

The glorious Qur'ān reveals Islamic hiers concepts plant in detail and systematic. Allah the Almighty elaborates the Law of Inheritance with strong suggestion to be practiced in daily life. However, as the revolution of human standing, recitating, and comprehending to the verse raises several perspectives and arguments. The QS. 4:11 is the verse which often raises distinction and inpretataion of the heirs in Islam, as follow:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ<sup>15</sup>.

Translation: “Allah prescribes for you about (the division of inheritance for) your children. Namely: the share of a son is equal to the share of two daughters. (Q.S. An-Nisa [4]: 11)

The distinction of different interpretations of Heirs Law in Islam, which is revolved, interesting, and important, for featuring the complex distribution of wills between the beneficiaries, convey the justice values of rights equity to the son and

<sup>12</sup> Muhammad Sanif, Pagar, Sukati, “Hak Perolehan Anak Perempuan Dalam Pembagian Warisan Menurut Munawir Sjadjali,” *Jurnal At-Tafahum* 2 (2018), <http://jurnal.uinsu.ac.id/index.php/attafahum>.

<sup>13</sup> Muhammad Piliang dan M. Najib Iqbal, “Penafsiran Modern Ayat-Ayat Waris: Perbandingan Muhammad Shahrur Dan Munawir Sjadjali,” *Jurnal Refleksi* 18 (2019), <http://journal.uinjkt.ac.id/index.php/refleksi>.

<sup>14</sup> Muh Mauluddin, “Tafsir Ayat-Ayat Waris Perspektif Tafsir Maqashidi Ibnu 'Aṣūr” (UIN Sunan Ampel Surabaya, 2018).

<sup>15</sup> Departemen Agama RI, *Al-Qur'ān Dan Terjemahnya* (Bandung: PT Sygma Examedia Arkanleema, 2007), 78.

daughter. Therefore, approximately, the will distribution frauded injustice for different perspectives.

The Islamic Scholars, Muhammad Abdūh, elaborated the QS. 4:11 within feminist understanding. According to Muhammad Abdūh, the verse signifies Islam's reverence for women's social position. The verse indicates the distribution of wills to the daughter is soled to the distribution of the son. However, before Islam was revealed, the daughter, women, did not have the right to the inheritance of their family. Muhammad Abdūh has comprehended the verse wisely, which is the extender of the son's share for his responsibility to his wife and family, as for the daughter does not. However, if the women have the responsibility to provide for their families due to certain factors, then women get the same or more inheritance than men.<sup>16</sup> Muhammad Abdūh's argument is supported by his disciple, Rashid Rida. He argued the distribution follows the principle of justice between rights and obligations.<sup>17</sup>

The next Islamic Scholars, Muhammad Syahrur, within his theory, revealed the distribution of inheritance must be based on a balance between rights and obligations. The maximum and minimum shares have been settled in the glorious Qur'ān. In terms of ijtiḥād, he pointed out the son share is twices the daughter does, as the minimum limit for the daughter is half from the son. Furthermore, Syahrur considered the quality of inheritance income in Islam between men and women can be the same and equal by having attention to the principle of balanced justice in the inheritance law itself.<sup>18</sup>

On the other hand, the Islamic feminist figure, Amina Wadud explored the QS. 4:11 with the Mathematics formula of two by one (2/1) comparison, as a simplification in the discussion of inheritance. The scholars argued the Qur'ān does not describe the possibilities that occur in modern life. For example, in a family, there is one son, two daughters, and a mother who must be cared for and supported by her daughter, "*why should the male receive a larger share?*" then, According to Amina Wadud, there are many possible combinations that must be considered and taken into account so that the inheritance is divided fairly.<sup>19</sup>

The descriptions above examine the meaning of the verse with the maqāṣid al-syarī'ah approach. It is considered to answer contemporary legal problems by looking for the maṣlāḥah. Therefore, it is necessary to examine the opinions of figures who study inheritance provisions with a maslāḥah approach nonetheless produce different fatwas; they are Ibnu 'Aṣūr and Munawir Sjadjali.

<sup>16</sup> Muhammad Abdūh, *Al-A'mal Al-Kamilah Li Al-Imam Muhammad 'Abduh* (Kairo: Dar al-Shuruq, 1993), 173.

<sup>17</sup> Muhammad Rasyid Ridha, *Tafsir Al-Manar* (Kairo: al-Hay'ah al-Misriyah al-'Amah li al-Kitab, 1999), 406.

<sup>18</sup> Amin Abdullah, *Neo Ushul Fiqih Menuju Ijtihad Kontekstual* (Yogyakarta: fakultas Syariah Press dan Forum Studi Hukum Islam, 2004), 158.

<sup>19</sup> Amina Wadud Muhsin, *Wanita Di Dalam Al-Qurān*, ter. Yaziar Radianti (Bandung: Penerbit Pustaka, 1994), 117-118.

## Ibn 'Aṣūr dan Munawir Sjadjali Profiles

### The Ibn 'Aṣūr Background

The fullname of Ibn 'Aṣūr is Muhammad al-Tahir ibnu Muhammad ibnu Muhammad al-Tahir al-'Ashur.<sup>20</sup> He was born on *Jumād al-'Ula* of 1296 Hijriah or September of 1979 AD, at *Al-Marasi* (at the edge of Tunisia twon). His father, Muhammad ibn al-'Ashur is the son of a scholar who had roots in the field of scholar and lineage or referred to as *ahl al-bāit* Prophet Muhammad. While his mother, Fatimah is the daughter of Prime Minister Muhammad al-'Aziz.<sup>21</sup> Their family is known as nobles and scholars.

Since his childhood time, Ibnu 'Aṣūr (his popular call-name) lived and was educated by his grandfather of his mother, by the recommendation of his parents, so that he could replicate his grandfather's success both in terms of knowledge, power, and position.<sup>22</sup> He was very persistent and enthusiastic about learning religious sciences, such as the Qur'ān, Maliki School of jurisprudence, Arabic, nahwu, and others. When in 6 years old, Ibnu 'Aṣūr managed to memorize the Qur'ān, and then continued to memorize the matan and sharh Jurumiyah (i.e. *matn ibn 'Ashir al-Junūmiyah* dan *syarḥ al-Shaikh Khaīd al-Azāri 'alā al-Junūmiyah*) as a provision to continue their studies at the University of Zaitunah. He was accepted at the University of Olives in 1893 AD when he was 10 years old. There he studied the science of tools, hadith, qirā'ah, interpretation, and general sciences including Western thoughts.<sup>23</sup> His proficiency in all scientific and Islamic disciplines makes him a critical scholar.

After graduating an interdisciplinary scholar from Zaitunah University, Ibn 'Aṣūr was appointed as a lecturer there in 1903 AD. His academic career was always growing, as evidenced in the following year, 1904 AD he was recruited as a lecturer at al-Siddiqiyah University and in 1909 he was appointed as a member of the academic there. Not only the academic field, in 1913 AD he was but also acting as chairman of the council *auqāf* and *Qadi*. In addition, at the same time he was also elected as the mufti of the Maliki madhab following in his grandfather's footsteps.<sup>24</sup>

Although, with a background of strong cultural relations, being busy as a lecturer at various universities and a very influential religious figure, Ibnu 'Aṣūr also spent his time to put his intellectual results into writing. He has produced many works from interdisciplinary scientific discourses that he is engaged in, both in the field of Islamic sciences such as *Tafsīr al-Tahīr wa al-Tanwīr*, *Maqāṣīd al-syarī'ah al-Islāmiyah*, *A laisa al-Subh bi Qatīb*, and others. In the field of language and literature such as *Uṣūl al-Insyā' wa al-Khiṭābah*, *Mujīz al-Balāgah*, *Syārh Qasid al-*

<sup>20</sup> (al-Ghali 1996), 7.

<sup>21</sup> Mani' Abdul Halim Mahmud, *Metodologi Tafsir, Kajian Komprehensif Metode Para Ahli Tafsir* (Jakarta: PT RajaGrafindo, 2006), 33.

<sup>22</sup> Mahmud, 313.

<sup>23</sup> Ibn Khauzah , 155-156.

<sup>24</sup> Mauluddin, "Tafsir Ayat-Ayat Waris Perspektif Tafsir Maqashidi Ibnu 'Aṣūr, 54."

*Aqṣā*, and others. And in the form of scientific magazines such as *al-Majalah al-Zaitunah*, *al-Majalah al-Zaitunah*, *al-Sa'ādah al-'Uzma*, *Nur al-Islam*, and others. Among these works, Ibnu 'Aṣūr's most phenomenal masterpiece is *Tafsir al-Tahīr wa al-Tanwīr* dan *Maqāṣid al-syarī'ah al-Islāmiyāh*.<sup>25</sup>

The *Tafsir al-Tahīr wa al-Tanwīr* was written in the middle during Tunisia's political conditions, there is a gap between the government and religious leaders. Ibnu 'Aṣūr opposes the government and continues to fight for the freedom of Islamic thought in Tunisia by continuing to spread religious studies in various parts of the country and improving the quality of education by teaching interdisciplinary sciences such as English, history, and philosophy. And as a result of his actions, he was demoted from his position as the Grand Sheikh of Islam Tunisia. This did not make the psychology and spirit of Ibnu 'Aṣūr down, on the contrary, he took advantage of the opportunity to complete the product of his interpretation and was completed in 1380 Hijriah.<sup>26</sup>

Ibnu 'Aṣūr uses his interpretation of *al-Tahīr wa al-Tanwīr* as a medium for developing knowledge and pouring out his thoughts by applying the collaborative method of *Riwayah* sources (*bi al-ma'sūr*) and reasoning *ijtihad* (*bi ar-Ra'y*) as the basis of interpretation and does not escape from an interdisciplinary scientific approach to solving scientific problems so that they can always answer new challenges that are rarely discussed in classical interpretation literature. In addition, Ibnu 'Aṣūr's commentary is also known as a product of interpretation that tends to use the maqāṣid al-syarī'ah approach in its discussion.<sup>27</sup> Ibnu 'Aṣūr hopes that his commentary works give influence to the community, both in terms of religious understanding, behavior, and scientific insight.<sup>28</sup>

### The Munawir Sjadjali

Munawir Sjadjali was born on November 7, 1925 in Karanganom village, Klaten, Central Java. He is the eldest of eight children to Abu Aswad Hasan and Tas'iyah.<sup>29</sup> They were given the old name Mugahfir.<sup>30</sup> The Mughafir family is an ordinary family, even far from prosperous. Nevertheless in terms of religion, they are a family of Islamic students (*santri*). Reflecting on his father's educational background, he was a student at various well-known Islamic boarding schools in Indonesia, such as the Jamsaren Islamic Boarding School in Solo, Central Java, the Termas Pacitan Islamic Boarding School in East Java, and the Tebuireng Jombang Islamic Boarding School in East Java. His father was also a follower of the *Syadzaliah Tarekat* and a *Kiai* in

<sup>25</sup> Al-Ghali, 12.

<sup>26</sup> Al-Hamid, 35.

<sup>27</sup> Washfi 'Ashur Abu Zaid, *Metode Tafsir Maqashidi* (Jakarta Selatan: PT Qaf Media Kreativa), 14.

<sup>28</sup> Ibnu 'Aṣūr, 7.

<sup>29</sup> Azyumardi dan Saiful Umam Azra, *Menteri-Menteri Agama RI: Biografi Sosial-Politik* (Jakarta: INIS dan PPIM Departemen Agama RI, 1998), 369.

<sup>30</sup> It is a village tradition to address a new-wed marital spouse and wife to acquire the legacy name.

the village of Karanganom. The Little Munawir learned basic religious knowledge from his father and was raised with a strong Sunni (*Shafi'iyyah*) religious tradition.<sup>31</sup>

Munawir's formal education started from Madrasah Ibtidaiyah in his village, then continued to Madrasah Tsanawiyah in Solo which was founded by his father's friend, KH. Ghozali. After one year, he moved to Madrasah Mambaul Ulum Solo. He studied Arabic, *Nahwu*, *Sarf*, *Balagah*, *Fiqh*, *uṣūl fiqh*, astronomy, and arithmetic. He also mastered various languages, such as Javanese, Malay, English, French, and Arabic.<sup>32</sup>

Munawir graduated from Madrasah Mambaul Ulum in 1943 at the age of 17<sup>th</sup>. Due to financial problems to continue his education to a higher level, he decided to migrate to work in other cities and was accepted as an apprentice teacher at the Salatiga Muhammadiyah School. Because his status was only as an apprentice teacher, Munawir tried to enroll at Madrasah Ibtidaiyah Gunungpatu Ungaran and was accepted as a permanent teacher. This is the moment when Munawir began to be actively involved in the social activities of Muslims on a national scale so that he had many relationships with prominent figures, such as Bung Karno who at that time served as chairman of PUTERA (*Pusat Tenaga Rakyat*) organization, and KH. Munawar Cholil,<sup>33</sup> a head of the Office of *Kantor Urusan Agama* (KUA) *Keresidenan Semarang*.<sup>34</sup>

Munawir organizational activity ensured him to be trusted to assist with government tasks, such as being the chairman of the Gunungpati Youth Movement, the leader of the MHPS (*Markas Pimpinan Pertempuran Hisbullah-Sabillah*) who works as a communication and coordination forum for the regions of East Java, Central Java, and West Java. In addition, he was also active in the GPPI (*Gerakan Pemuda Islam Indonesia*) and in the military world.

At the end of 1949, Munawir went to Semarang and lived with KH. Munawar Cholil. He used his time to study French and explore the classic books in KH Munawar Cholil library and succeeded in writing the book "*Is it possible for the Indonesian state to be based on Islam?*" The book became a bridge for him to work at the Ministry of Foreign Affairs as a translator for daily newspapers and magazines in Arabic.<sup>35</sup> In 1953, Munawir decided to continue his studies at the University College of South West of England, Exeter, to study political science for one year. In 1956, he continued to Georgetown University and was accepted at the graduate school Master of Art (MA) with a major subject in International Relations and a minor subject in political philosophy, and finished a Master of Art (MA) with the thesis title

<sup>31</sup> Munawir Sjadjali, *Kontekstualisasi Ajaran Islam* (Jakarta: Ikatan Persaudaran Haji Indonesia, 1995), 112.

<sup>32</sup> Azra, *Menteri-Menteri Agama RI: Biografi Sosial-Plitik*, 369.

<sup>33</sup> Munawir is also a scholar who is prolific in writing, and has conservative thoughts (returning understanding to the text of the Qur'ān and Hadith) and does not bind himself to a particular school of jurisprudence.

<sup>34</sup> Iqbal, "Penafsiran Modern Ayat-Ayat Waris: Perbandingan Muhammad Shahrur Dan Munawir Sjadjali."

<sup>35</sup> Azra, *Menteri-Menteri Agama RI: Biografi Sosial-Plitik*, 373.

"*Indonesia's Muslim Political Parties and Their Political Concept*" in 1959. Subsequently on February 22, 1994, Munawir received his Doctorate of Honoris Causa (HC) from IAIN Syarif Hidayatullah.<sup>36</sup>

After returning from his journey, Munawir was appointed as Director-General of Politics to replace Chadir Anwar Sani. He also often represents the foreign minister for a ministerial level policy meeting. It was his dedication that later led him to sit in the chair of the Minister of Religion and won the trust of President Suharto to serve for two terms since the New *Order*. During his serves as Minister of Religion, he encountered many problems with Islamic law which, according to Munawir, needed to be re-actualized so that the Qur'ān as a guide for Muslims could be relevant to the socio-cultural conditions of Indonesian society. He put the ideas into a book entitled "*Reactualization of Islamic Teachings*". And then followed by other works such as Ijtihad and the Community of the People, Humanitarian *Ijtihad*, the New Reality Islam and the Future Orientation of the Nation, Islam and State Administration: Teachings, History, and Thoughts, from the Valley of Poverty, Anthology of Islamic Insights Today, and there are many other works as well.<sup>37</sup>

### Maqāṣid al-syarī'ah In The Perspective Ibnu 'Aṣūr and Munawir Sjadjali

#### The Perspective of Ibnu 'Aṣūr Thoughts on *Maqāṣid al-syarī'ah*

The perspective of Ibnu 'Aṣūr on Maqāṣid al-syarī'ah is the terms and wisdom for the stipulation of the law by Shari'ah (al-Shari') the Initiator. It applies not only certain types of law but also entirely to shari'a law. According to Ibnu 'Aṣūr, the concept of maqāṣid al-syarī'ah is anticipated by shari'a' through the Islamic law implementation, which has two important points; the maqāṣid al-syarī'ah *al-'ammāh* and maqāṣid al-syarī'ah *al-khaṣṣāh*. The *maqāṣid al-syarī'ah al-'ammāh* perspective is derived from the terms and wisdom of Allah *swt* on His attention to shari'ah provisions, not only focusing on certain shari'a.<sup>38</sup> There are five classifications of *maqāṣid al-syarī'ah al-'ammāh*. As follow:

- 1) *Al-fitrāh* (the Essence) is a character, which is an intergral order of Allah *swt* creatures. The *fitrāh* has two branch terms; the *fitrāh Jasādiah* (the inclination of human organs to work their functions) and the *fitrāh zīnnīyāh* (the inclination to obey Allah *swt* and the tendency to like best, such as justice, honesty, regret, shame, and others). This section becomes an important point which according to Ibnu 'Aṣūr, including the nature of the revelation of the Shari'ah is to return mankind to its nature. The essence becomes the essential

<sup>36</sup> Muhammad Hammad, "Waris Dan Wasiat Dalam Hukum Islam: Studi Atas Pemikiran Hazairin Dan Munawir Sjadjali," *Jurnal At-Tahdyib*, 2014, 54–55, <http://ejournal.uin-suka.ac.id/syariah/Ahwal>.

<sup>37</sup> Iqbal, "Penafsiran Modern Ayat-Ayat Waris: Perbandingan Muhammad Shahrur Dan Munawir Sjadjali", 90.

<sup>38</sup> (Ibnu 'Aṣūr 2001), 49.

point of the reason for Sharia revelation to restate human as their nature-being.<sup>39</sup>

- 2) *Al-Samāhah* (the Tolerance) is *al-'adl* or *al-tawāṣuṭ* (the position between narrowness and ease, moderate, or balanced). *Al-samāhah* is terminologically defined as a commendable ease of something that is considered difficult by others and is characterized as something that eliminates danger and damage.
- 3) *Al-Maslāhāh* (the Problem) is condiciting a good deed and benefit. Ibn 'Aṣūr defines *maslāhāh* as an inherent characteristic of actions that produce goodness or benefit both individually and collectively. This is in accordance with the objectives that will be from Islamic law, i.e. *المصالح و دفع المفاسد* (generating benefit and preventing damage). Ibn 'Aṣūr divides *maslāhāh* into three categories, based on the level of interest of the *ummah* (*da'rāyah*, *hajīyah*, and *tahsīnāyah*), based on the context of the coverage of *maslāhāh* (*maslāhāh kūlīyah* and *maslāhāh juzīyyāh*), and based on the level of certainty, *annīyāh*, and *wahmiyah*.
- 4) *Al-Musāwah* (the Equity) is equality, equality, and balance. Ibn 'Aṣūr viewed as a position as a principle (foundation-in Islamic Shari'ah so that in its implementation there is no need for a special argument to support its legality. Ibn 'Aṣūr gives an example that in the Qur'ān there are often several calls in the form of *mużakkār* (male), but it also applies to *muannās*. This (female) is evidence that the sources of Islamic shari'ah recognizes the existence of *musāwah* (the principle of equality) which in this case means the context of gender equality.<sup>40</sup>
- 5) *Al-Hurriyāh* (the Liberty) is an antonym to the word "*ubūdīyāh* (servitude) for the state of a person who is free to do any action without any obstacles. Generally, freedom is a right for all creatures in the universe which in its implementation does not cause damage or harm to either themselves or other parties. This principle was passed down to abolish slavery and uphold freedom. One example is the absence of compulsion to practice religion in the Qur'ān in accordance with surah al-Baqarah verse 256 (لَا إِكْرāهُ عَلَى الدِّينِ).

Neverthenless, the *maqāṣid al-syārī'ah al-khaṣṣāh* is the things that are desired by the shari'ah to realize the general goals of human *maslāhāh* in specific actions. *Maqāṣid al-syārī'ah al-khaṣṣāh* still has a broad scope of *maslāhāh*, it's just that it is manifested in specific actions, such as *maqāṣid* in family law. The marriage law includes maintaining *naṣāb* (descendants), which in this case can be achieved by three things, namely 1) marriage requires a guardian for the woman, 2) a dowry from the husband to justify the

<sup>39</sup> Nabil Ganayim, *Qawa'id Al-Maqashidiyah 'inda Al-Tahir Ibnu 'Ashur* (UK: Al-Furqan Islamic Heritage Foundation, 2013), 100.

<sup>40</sup> Halya Millati, "The Reconstruction Of Kaidah Al-Tazkīr And Al-Ta'nīs In Paradigm Of Gender Equality Interpretation," *Jurnal At-Tibyan: Jurnal Ilmu Al-Qur'ān Dan Tafsīr* 5, no. 2 (2020): 259–80, <https://doi.org/10.32505/jurnal.v5i2.1625>

wife, 3) marriage socialization to avoid accusations of adultery and to maintain the honor of both husband and wife.

### The Perspective of Munawir Sjadjali Thoughts on *Maqāṣid al-syārī'ah*

Ibrahim Hosen pointed out Najmuddin al-Ṭūfi perspective influence the Munawir Sjadjali *maslāhāh* application<sup>41</sup><sup>42</sup>, however, numerous ushul-Fiqh scholars shared disagreement with the perspective, which Ibrahim Hosen claimed the perspective for being bold and going beyond the common acceptance of *maslāhāh* theoretical concepts. Furthermore, al-Ṭūfi highlighted the human rational capability to comprehend *maslāhāh* should prioritize to claim the culture (muāmalāh). Yet, if there is conflict with the scriptures, muāmalāh should be prioritized. The al-Ṭūfi perspective is established based on the *maslāhāh* as Sharia resource which is not related to the scriptures provisions (المصلحة دليل الشرع مستقل عن النصوص) and the freedom of reasoning to determine good and bad without being guided by the revelation (استقلال العقول بدرأك) (المصالح والفاسد).<sup>43</sup>

The perspective of al-Ṭūfi raised controversy numerous scholars because of they derived the *maslāhāh* position concept under the scriptures level, as stated by Imam al-Ghazali that *maslāhāh* is everything that brings benefits and keeps away from damage by maintaining There are five objectives of syara' in determining the law, i.e. *hifz al-dīn* (Religious Protector), *hifz al-nafs* (Soul Protector), *hifz al-'aql* (Mind Protector), *hifz nasl* (Decendance Protector), and *hifz al-māl* (Wealthy Protector).

### The Ibnu 'Aṣūr's Perspective of QS. 4:11.

QS. 4:11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلَّذِكَرِ مِثْلُ حَظِ الْأُنْثَيَيْنِ فَإِنْ كُنَّ نِسَاءً فَوْقَ أَثْنَيْنِ فَلَهُنَّ ثُلَّا  
مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا الْنِصْفُ وَلَا بَوِيهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا أَلْسُدُسُ مِمَّا تَرَكَ إِنْ  
كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبُوهُ فَلِأُمِّهِ الْثُلُثُ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ

<sup>41</sup> Musthafa Zaid, *Al-Mashlahat Fi Al-Tashri' Al-Islami Wa Najm Al-Din Al-Tufi* (Beirut: Dar al-Fikri al-'Arabi, 1964), 91-93.

<sup>42</sup> A Baghdad Islamic scholars who came from Hanbali *Madzhab* with which has a theory of the supremacy of *maslāhāh* which is considered controversial because it is based on a statement that if there is a contradiction between *maslāhāh* and texts scriptures (the Qur'ān, hadith, and *ijma'*) then what must be prioritized is *maslāhāh* and put aside texts and *ijma'*.

<sup>43</sup> Vita Fitria, "Reaktualisasi Hukum Islam: Pemikiran Munawir Sjadjali," *Jurnal Akademika* 17 (2012), <https://doi.org/10.33367/tribakti.v32i1.1393>.

السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دِينٍ إِبَاؤُكُمْ وَأَبْناؤُكُمْ لَا تَدْرُونَ أَيْهُمْ أَقْرَبُ لَكُمْ  
 ٤٤ نَفْعًا فَرِيضَةٌ مِّنْ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Translation “God ordained thee concerning (the division of inheritance to) your children. Namely: the share of a son is equal to the share of two daughters; and if the children are all girls more than two, then for them two-thirds of the property left behind; if the daughter is alone, then she gets half the property. and for two parents, for each one-sixth of the property left behind, if the deceased has children; if the person who dies has no children and he is inherited by his parents (only), when his mother gets a third; If the deceased has several siblings, then his mother gets one-sixth. (The distributions mentioned above) after the will has been fulfilled or (and) after the debt has been paid. (About) your parents and your children, you do not know which of them closer to (many) benefits to you is. This is a decree from Allah. Verily, Allah is All-Knowing, All-Wise” (Q.S. An-Nisa [4]: 11)<sup>45</sup>

The above verse, especially in the editorial "للذكر ل الأنثيين الله أو لادكم" (Allah prescribes for you about the division of inheritance/inheritance for) your children. i.e the share of a son is equal to the share of two daughters) a lot reviewed by modern-contemporary commentators, especially for those who seek to understand the Qur'ān as a dynamic text, so it is necessary to contextualize the verse with the current situation as a solution to the increasingly diverse problems of Muslims with different areas of residence and socio-cultural differences.

The distinction of 11<sup>th</sup> *An-Nissai* with the approach of Ibn 'Aṣūr is translation as follow: *first*, mentioning *asbāb al-nuzūl*. That surah al-Nisa' verse 11 was revealed as an explanation (*al-bayān*) as well as details (*al-taṣīl*) of the previous verse, namely surah al-Nisa' verse 7 which explains that men are in coalition with women in inheritance. Namely, sons and daughters alike get a share of the inheritance of their parents and relatives. It is understood that the verse is the source of the Shari'a for inheritance along with the provisions on who becomes the heir based on marital relations (husband/wife) and kinship relations (such as, verse, mother, children, and siblings). In addition, it also determines the level (size) of the share of each heir along with the steps that must be taken before dividing it (completing the testator's will and paying the debt), then it is called inheritance.

Regarding *asbāb al-nuzūl* QS. 4:11, Ibn 'Aṣūr also mentions two related riwayahs. The Sahih Bukhari which narrates that Jabir bin Abdullah complained to the Messenger of Allah when he was sick, and asked what he should do with his wealth? Then come down (يوصيكم الله لادكم). There is also a narration from Jabir bin Abdullah that

<sup>44</sup>Al-Qur'ān, 4: 11.

<sup>45</sup> Departemen Agama RI, *Al-Qur'ān Dan Terjemahnya* (Bandung: PT Sygma Examedia Arkanleema, 2007), 78.

the widow of Sa'ād bin al-Rabī' once complained to the Prophet Muhammad that Sa'ād had died leaving behind two daughters. But Sa'ād's brother took all of his inheritance and nothing was left, while Sa'ād's two daughters needed money for their marriage. Then the Messenger of Allah called Sa'ad's brother and said to him, "Give two-thirds of Sa'ād's property to his daughter, one-eighth to his wife, and the rest to you" as the inheritance verses reveiled.<sup>46</sup>

Additionally, the interpretation of (الذكر مثل حظ الأنثيين), Ibn Aṣūr elaborated as follow:

وقوله (الذكر مثل حظ الأنثيين) جعل حظ الأنثيين هو القدار الذي يقدر به حظ الذكر، ولم يكن قد تقدم تعين حظ الأنثيين حتى يقدر به، فعلم أن المراد تضعيف حظ الذكر من الأولاد على حظ الأنثى منهم، وقد كان هذا المراد صالحًا لأن يؤدّي بنحو: للأنثى نصف حظ الذكر أو للأنثيين مثل حظ الذكر، إذ ليس المقصود إلاً بيان المضاعفة ولطن قد أوثر هذا التعبير لنسكتة لطيفة وهي الإيماء إلى أن حظ الأنثى صار في اعتبار الشرع أهم من حظ الذكر.

Ibn Aṣūr pointed out the objective of (الذكر مثل حظ الأنثيين) by the verse, the double of the son's share to the daughter's share. Specifically, the share of a daughter is half of that of a son or the share of two daughters is equal to the share of one son. However, he also explained that this verse was revealed with a signal to pay more attention to the share of daughters because, during the Jahiliyah era, girls did not receive any inheritance. This shows that in his interpretation, Ibn 'Aṣūr applies the concept of maqāṣid to explore the purpose of the verse, namely this verse was revealed to provide benefits for women by fulfilling the rights they deserve.

### The Munawir Sjadjali's Perspective of QS. 4:11

The initiative of Munawir Sjadjali to reinterpret the QS. 4:11 (الذكر مثل حظ الأنثيين) should be traced wheh he was Indonesian Ministry of religious Affairs, indeed, figured out the fraud within Muslim society who reported about legal issue. For example, when a Muslim afamily dies, the inheritance should be settled in the Religious Court with *farāid* for provisions, instead they go to the District Court to be resolved with provisions outside of *farāid* science. This is not only happening among the ordinary Muslim community but also carried out by Muslims who are considered qualified in *farāid* discourse.<sup>47</sup>

In addition to the above cases, there are also cases of families who take pre-emptive policies, namely when the head of the family (father) is still alive, they have divided most of their wealth to their children in an equal distribution without distinguishing gender and leaving only part small assets for survival and needs at the time of death. Thus, if the head of the family (divider of inheritance) has died, there has been no division of inheritance. This is done in the spirit of justice to maintain harmony and avoid conflicts between siblings in the family. In this case, according to

<sup>46</sup> (Ibnu 'Aṣūr 1984), 255-256.

<sup>47</sup> Sjadjali, *Kontekstualisasi Ajaran Islam*, 88.

Munawir, formally there is no deviation from the provisions of the Qur'ān, but whether the implementation of religious teachings in such a spirit needs a re-inspection.<sup>48</sup>

Reffering the social society condition above, Munawir proposed an *ijtihad* approaches to comprehend the QS. 4:11 (الذكر مثل حظ الأنثيين). First, by using a historical approach, Munawir refers to the asbab al-nuzul of the verse. According to him, Surah al-Nisa 'verse 11 was revealed to contain the value of the spirit of justice for men and women. This is because women in the period of ignorance (before the revelation of the verse) had no right to inherit. And with the revelation of this verse, it makes women pay more attention to justice by giving them an inheritance, which is half of the men's share. It can be concluded that over time, the position and role of women, which are relatively the same as men, is very possible to give inheritance with the same share as men. Therefore, Munawir formulated the share of inheritance for men and women from 2/1 to 1/1. This is considered fairer and under the conditions of the Indonesian people because according to him the consequences of the new era in social life are now very different from the past.<sup>49</sup>

Second, Munawir uses the naskh mansukh theory approach. Munawir argues that naskh is to replace by not erasing the verse. According to him, naskh mansukh is a shift or cancellation of the law that is used as a guide contained in the text of the Qur'ān which was accepted by the Prophet Muhammad. And these changes are related to changes in time, place, and circumstances. This is only limited to the law of mu'ammalah, such as the law of inheritance, and does not apply to the law of worship. In this he quotes Rashid Rida's opinion:

"Indeed, the law is different due to differences in time, place (environment), and situations. If a law has been promulgated at a time when the law is urgently needed, then the need is no longer the same at another time, then the wise action is to abolish the previous law and replace it with a new law that is under the situation and conditions of the latter"<sup>50</sup>

The *ushul fiqh* scholars also project a similar account. It indicates the possibility of *ijtihad* for *mu'ammalah* by corresponding to all greater good for human life as stated in QS. 2: 185,<sup>51</sup>that Allah eliminates narrowness and difficulties and does not burden His people both in life and in religion.<sup>52</sup>

Referring to these opinions, Munawir then applied them to the understanding of QS. 4:11 (الذكر ل الأنثيين) that the part one boy is the same as part two girls (2:1) is irrelevant to use among Indonesian people. and changed to 1:1 which is more just and relevant to the civilization, social structure and needs of the Indonesian people.

<sup>48</sup> Sjadjali, 89.

<sup>49</sup> Munawir Sjadjali, *Reaktualisasi Hukum Islam* (Jakarta: Pustaka Panjimas, 1988), 12.

<sup>50</sup> Sjadjali, 12

<sup>51</sup> "يريد الله بكم اليسر ولا يريد بكم العسر" Allah wants relief for you and does not want hardship"

<sup>52</sup> Musthafa Ahmad al-Zarqa, *Hukum Islam Dan Perubahan Sosial: Studi Komparasi Delapan Madzhab Fikih, Ter. Ade Dedi Rohayana* (Jakarta: Riora Cipta, 2007), 27.

Third, Munawir uses a traditional approach. According to Munawir, he quoted the opinion of Abu Yusuf al-Hanafiyah that if the text of the Qur'ān was revealed based on custom, then the legal provisions contained in it would be invalid if the custom was changed.<sup>53</sup> The customs that are used as legal stipulations are valid customs, namely those that can bring goodness and benefit to the community. Referring to the hadith of the Prophet:

عن ابن مسعود قال رسول الله صل الله عليه وسلم وما رأي المسلمين حسنا فهو عند الله حسن وما رأي المسلمين سيئا فهو عند الله سيئا.<sup>54</sup>

The hadith above shows Allah gives freedom to various human creativity that affects religious practice and becomes a habit that affects goodness. According to Munawir, the Islamic inheritance of the QS. 4: 11 determines based on the customs of the ignorant society and at the same time becomes a response to the actions of those who look down on women. Currently, customs such as the Jahiliyah era no longer exist because there have been changes. Then the share of inheritance in the surah changes, that is, the share of sons and daughters becomes the same distributions.<sup>55</sup>

Fourth, Munawir uses the *maqāṣid al-syaī'ah* approach. As explained in the previous discussion, in the theory of *maqāṣid al-syaī'ah* Munawir refers to the concept of *maslāhāh* which was initiated by al-Tūfi which has the principle that if the public interest conflicts with the text of the Qur'ān, the public interest must take precedence. In this case, the QS. 4: 11 according to Sjadzali contains *maslāhāh* values for Muslims, especially for Muslims when the revelation was revealed. Because Allah cannot send down the verses of the Qur'ān without containing the value of *maslāhāh*. However, as the times change and the development of society, the *maslāhāh* value contained in the verse decreases and does not bring good to the Muslim community. Therefore, to achieve perfect *maslāhāhan*, one solution that can be done is to give sons the inheritance rights equal to the daughters' inheritance rights. This method is seen as carrying more *maslāhāh* value and contains true justice. Munawir also revealed that this is under the word of Allah in the QS.16: 90, which has the mission of giving trust to humans to intervene in determining and considering justice that can be felt by everyone.<sup>56</sup>

<sup>53</sup> Sjadzali, *Reaktualisasi Hukum Islam*, 93. Considering the case, the Prophet Muhammad SAW once stated that in buying and selling wheat, a measure of measure must be used because it followed the customs of the local community at that time. Then the custom changed. People no longer use measurements, but switch to scales. And the prophet was just silent watching the incident. The silence of the prophet is a sign of his approval.

<sup>54</sup> M. Abu Zahrah, *Ushul Al-Fiqh* (Kairo: Dar al-Fikr, 1958), 216.

<sup>55</sup> Abdul Helim, "Bagian Anak Laki-Laki Dan Perempuan Dalam Kewarisan Islam Menurut Pandangan Munawir Sjadzali," *Jurnal Studi Agama Dan Masyarakat*, 2 (2015): 87, <http://digilib.iain-palangkaraya.ac.id>.

<sup>56</sup> Sjadzali, *Reaktualisasi Hukum Islam*, 91.

### The Comparison And Contrast Of Ibn 'Aṣūr And Munawir Sjadjali Interpretations

To address the inheritance verse, QS. 4: 11, Ibn 'Aṣūr and Munawir Sjadjali have points of similarities and differences as well. The similarity between the two is that in interpreting QS. 4: 11, Ibn 'Aṣūr and Munawir Sjadjali both use a historical approach by looking at the *asbāb al-nuzūl* verse and both use the *maqāṣid* approach to find the moral ideal of the verse. Both agreed that the verse was revealed to pay more attention to women's rights. More than that, the verse also brings benefits for Muslims by giving equal rights between men and women in inheritance matters. Men have the right to inherit, as well as women, also have the right to inherit.

The point of these similarities, also gave birth to differences between Ibn 'Aṣūr and Munawir Sjadjali. The difference lies in the application of the *maslāḥāh* value of the verse. According to Ibn 'Aṣūr, QS. 4: 11 does indicate to pay more attention to women, but in the inheritance section, the rights of one son are equal to the share of two girls or 2:1. According to him, this division has shown the value of *maslāḥāh* considering that women before the revelation of the verse had no rights at all and were not considered. In contrast to Munawir Sjadjali, in fact, the *maslāḥāh* values contained in the text are adapted to the times, and the socio-cultural conditions in which he lives, by providing a 1:1 concept, namely that the share of boys is equal to the share of girls by reason of the role and position of women along the development of the era is relatively the same as the role of men.

From the explanation above, it can be seen that in addressing the inheritance verse, QS. 4: 11, Ibn 'Aṣūr and Munawir Sjadjali have points of similarities as well as differences. The similarity between the two is that in interpreting QS. 4: 11, Ibn 'Aṣūr and Munawir Sjadjali both use a historical approach by looking at the *asbāb al-nuzūl* verse and both use the *maqāṣid* approach to find the moral ideal of the verse.

**Table 1. The Comparison and Contrast of Ibn 'Aṣūr and Munawir Sjadjali Interpretations for the QS. 4: 11**

No	The Scholars	Method	The Result
1	Ibn 'Aṣūr	1. Historical approach ( <i>asbāb al-nuzūl</i> ) 2. The concept of <i>maqāṣid</i> to explore the purpose and intent of the verses	This verse was revealed to provide benefits for women by fulfilling the rights they deserve. So this verse indicates to pay more attention to women by giving them a share of the inheritance. That is, the right of a daughter is equal to half of the share of a son or the share of two daughters is equal to the share of one son (popularly known as 2:1). According to Ibn 'Aṣūr, this is a major revolutionary which contains

			maslāhāh. The reason is that there is no inheritance for daughters to exist and be noticed after the revelation of the verse.
2	Munawir Sjadjali	1. Historical approach ( <i>asbāb al-nuzūl</i> ) 2. Naskh mansūkh 3. Customary Law 4. The concept of <i>maqāṣid ala maslāhāh al-Tūfi</i>	The moral ideal and the purpose of the revelation of al-Nisa (4): 11 is the recommendation to give attention to women's rights. The existence of maslāhāh values from before the verse was revealed, women did not receive any inheritance, until after the verse was revealed, and women's rights were considered by giving them half of the share of men. So that it can be drawn a common thread that at the present time along with the development of the times with the equalization of the roles of men and women and based on the principles of justice and the public interest, the law of 1:1 inheritance distribution for boys and girls can be applied. So get an equal share.

Observing at the differences in the way of an analysis carried out by Ibn 'Aṣūr and Munawir Sjadjali, it can be concluded that Ibn 'Aṣūr in taking a fatwa regarding inheritance verses, he understands that historically the revelation of the verse has brought maslāhāh to the lives of Muslims by elevating the status of women over fulfillment of women's rights by giving them an inheritance. Meanwhile, according to Munawir Sjadjali, maslāhāh in the determination of inheritance distribution is the value of justice. So, according to him, the fair should be with equal and equal distribution.

Regarding the fair value in the issue of the distribution of inheritance provisions, there are indeed many pros and cons from commentators from contemporary scholars, feminist figures, and Muslim scholars. According to those who are pro gender, they will understand the value of fairness with "equality and equality". Meanwhile, according to figures who tend to be moderate, they will understand that fair value does not have to be the same, but is proportional to the rights and obligations of men and women.

As for the mention of numbers in the Qur'ān in the provisions of inheritance law, it shows that it is sensitive and gives rise to many opinions so that its application to the lives of the people is also different. However, in the current context, the main basis for distributing inheritance is deliberation with the local wisdom of each family to avoid conflicts between families and to achieve *maslāhāh* (peace of life) among family members.

### Conclusion

The discussion in this paper concludes that Ibn 'Aṣūr and Munawir Sjadzali both agree that the revelation of QS. 4: 11 has a moral message (*maqāṣid*) to elevate the status of women by giving inheritance rights. However, for the value of the inheritance obtained by each of them, these two reviewers of the Qur'ān have different opinions in the application of their interpretation.

Ibn 'Aṣūr's interpretation of QS. 4: 11 uses two methods, namely the historical approach (*asbāb al-nuzūl*) and the *maqāṣid al-syarī'ah approach*. Based on *asbāb al-nuzūl*, the verse was revealed in connection with the previous verse, namely al-Nisa' verse 7 that boys and girls are equally entitled to inherit the inheritance of their families with a predetermined share, namely 2/1, children twice as many boys as girls. While the *maqāṣid* value of the verse is the existence of *maslāhāh* values by taking into account the rights of women which were previously not considered at all.

Munawir Sjadzali's interpretation of QS. 4: 11 uses 4 approaches. Namely *asbāb al-nuzūl*, *naskh mansūkh*, customary law, and *maqāṣid al-syarī'ah*. He explained the verse was revealed to elevate the status of women by giving an inheritance from their family inheritance with an equal share with men, i.e. 1/1. The concept of division is considered *maslāhāh* because it contains the spirit of justice. And according to Munawir, along with the times, a muamalah law, including inheritance issues may change according to the situation, conditions, and the place where the law is enforced by prioritizing the *maslāhāh* principle.

## REFFERENCES

Abdul Halim Mahmud, Mani'. *Metodologi Tafsir, Kajian Komprehensif Metode Para Ahli Tafsir*. Jakarta: PT RajaGrafindo, 2006.

Abu Zayd, Washfi 'Ashur. *Metode Tafsir Maqashidi*. Jakarta: PT Qaf Media Kreativa, 2020.

Al-Ghali, Balqasim. *Shaikh Al-Jami' Al-A'zam Muhammad Al-Thahir Ibnu 'Ashur: Hayatuh Wa Asharuh*. Beirut: Dar ibnu Hazm, 1996.

Al-Hamid, Muhammad ibnu Ibrahim. *Al Taqrib Li Tafsir Al-Tahrir Wa Al-Tanwir Li Ibnu 'Ashur*. Tunisia: Dar ibnu Khuzaimah, n.d.

Al-Zarqa, Musthafa Ahmad. *Hukum Islam Dan Perubahan Sosial: Studi Komparasi Delapan Madzhab Fikih, Ter. Ade Dedi Rohayana*. Jakarta: Riora Cipta, 2007.

Amin Abdullah. *Neo Ushul Fiqih Menuju Ijtihad Kontekstual*. Yogyakarta: fakultas Syariah Press dan Forum Studi Hukum Islam, 2004.

Amina Wadud Muhsin. *Wanita Di Dalam Al-Qur'an*. Bandung: Penerbit Pustaka, 1994.

Azra, Azyumardi dan Saiful Umam. *Menteri-Menteri Agama RI: Biografi Sosial-Politik*. Jakarta: INIS dan PPIM Departemen Agama RI, 1998.

Ibn Khauzah, Muhammad al-Habi. *Muhammad Thahir Ibnu 'Ashur Wa Kitabuhu Maqasid Al-Shari'ah*. Qatar: Wizarah al-Auqaf wa al-Shu'un al-Islamiyyah, 2014.

Departemen Agama RI. *Alquran Dan Terjemahnya*. Bandung: PT Sygma Examedia Arkanleema, 2007.

Fazlur Rahman. *Islamic Modernity: Transformation of Intellectual Tradition*. Chicago: The University of Chicago Press, 1982.

Fitria, Vita. "Reaktualisasi Hukum Islam: Pemikiran Munawir Sjadjali." *Jurnal Akademika* 17 (2012). <https://doi.org/10.33367/tribakti.v32i1.1393>.

Frida Nur Rizkia. "Peran Perempuan Dalam Meningkatkan Perekonomian Keluarga Melalui Program P2WKSS Di Sumber Gamol, Balecatur, Gamping, Sleman." *Journal Social Studies* 64 (n.d.): 417.

Ganayim, Nabil. *Qawa'id Al-Maqashidiyah 'inda Al-Thahir Ibnu 'Ashur*. UK: Al-Furqan Islamic Heritage Foundation, 2013.

Hammad, Muchammad. "Waris Dan Wasiat Dalam Hukum Islam: Studi Atas Pemikiran Hazairin Dan Munawir Sjadjali." *Jurnal At-Tahdyib*, 2014, 54–55. <http://ejournal.uin-suka.ac.id/syariah/Ahwal>.

Haniru, R. "Hukum Waris Di Indonesia Perspektif Hukum Islam Dan Hukum Adat," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 04, no. 02 (2014): 456–74

Helim, Abdul. "Bagian Anak Laki-Laki Dan Perempuan Dalam Kewarisan Islam Menurut Pandangan Munawir Sjadjali," *Jurnal Studi Agama Dan Masyarakat*, 2 (2015): 87, <http://digilib.iain-palangkaraya.ac.id>.

ibnu 'Ashur, Muhammad Thahir. *Maqashid Al-Shari'ah Al-Islamiyah*. Yordania: Dar al-Nafa'is, 2001.

———. *Tafsir Al-Tahrir Wa Al-Tanwir*. Tunisia: Dar al-Tunisiyyah, 1984.

Iqbal, Muhammad Piliang dan M. Najib. "Penafsiran Modern Ayat-Ayat Waris: Perbandingan Muhammad Shahrur Dan Munawir Sjadjali." *Jurnal Refleksi* 18

(2019). <http://journal.uinjkt.ac.id/index.php/refleksi>.

Labib Muttaqin. "Aplikasi Teori Double Movement Fazlur Rahman Terhadap Doktrin Kewarisan Islam Klasik." *Al-Manahij: Jurnal Kajian Hukum Islam* 7 2 (2013): 202–3.

Mauluddin, Muh. "Tafsir Ayat-Ayat Waris Perspektif Tafsir Maqashidi Ibnu 'Ashur." UIN Sunan Ampel Surabaya, 2018.

Mahsus, Moh. "Tafsir Kontekstual Dan Eksistensi Perempuan Serta Implikasinya Terhadap Penyetaraan Bagian Waris Laki-Laki Dan Perempuan," *Journal of Islamic Law* 1 (2020): 27, <http://ejournal.iainptk.ac.id>.

Millati, Halya. "The Reconstruction Of Kaidah Al-Tazkîr And Al-Ta'nîs In Paradigm Of Gender Equality Interpretation," *Jurnal At-Tibyan: Jurnal Ilmu AlQur'ân Dan Tafsir* 5, no. 2 (2020): 259–80, <https://doi.org/10.32505/jurnal.v5i2.1625>

Muhammad Abduh. *Al-A'mal Al-Kamilah Li Al-Imam Muhammad 'Abduh*. Kairo: Dar al-Shuruq, 1993.

Muhammad Rasyid Ridha. *Tafsir Al-Manar*. Kairo: al-Hay'ah al-Misriyah al-'Amah li al-Kitab, 1999.

Muttaqin, Labib. "Aplikasi Teori Double Movement Fazlur Rahman Terhadap Doktrin Kewarisan Islam Klasik," *Al-Manahij: Jurnal Kajian Hukum Islam* 7 2 (2013): 202–3, <http://ejournal.iainpurwokerto.ac.id>.

Nur Rizkia, Frida. "Peran Perempuan Dalam Meningkatkan Perekonomian Keluarga Melalui Program P2WKSS Di Sumber Gamol, Balecatur, Gamping, Sleman," *Journal Social Studies* Vol. 6, No. 4 (30 November, 2017), 417, <http://journal.student.uny.ac.id>.

Pagar, Sukati, dan Muhammad Sanif. "Hak Perolehan Anak Perempuan Dalam Pembagian Warisan Menurut Munawir Sjadjali." *Jurnal At-Tafahum* 2 (2018). <http://jurnal.uinsu.ac.id/index.php/attafahum>.

Purwanto, Muhammad Roy. *Dekonstruksi Teori Hukum Islam Kritik Terhadap Konsep Mashlahah Najmuddin At-Thufi*. Yogyakarta: Kaukaba Dipantara, 2014.

Qadir, Faqihuddin Abdul. *Qira'ah Mubadalah: Tafsir Progresif Untuk Keadilan Gender Dalam Islam*. Yogyakarta: IRCiSoD, 2019.

Rasyid, Idris. "Eksekusi 'Ab Intestato' Warisan Dua Banding Satu: Rasionalisasi Surah Al-Nisa' Ayat 11." *Jurnal Hukum Diktum* 14 (2016): 204. <https://doi.org/10.28988/diktum.v14i2.233>.

Siti Miftikhatul Jannah dan Puji Lestari. *Women's Dual Roles in Family Economic Life*, n.d.

Sjadjali, Munawir. *Kontekstualisasi Ajaran Islam*. Jakarta: Ikatan Persaudaran Haji Indonesia, 1995.

———. *Reaktualisasi Hukum Islam*. Jakarta: Pustaka Panjimas, 1988.

Wahyuni, Afidah. "Sistem Waris Dalam Perspektif Islam Dan Peraturan Perundangan Undangan Di Indonesia," *SALAM: Jurnal Sosial Dan Budaya Syar'I* 5, no. 2 (2018): 147–60, <https://doi.org/10.15408/sjsbs.v5i2.9412>

Zahrah, M. Abu. *Ushul Al-Fiqh*. Kairo: Dar al-Fikr, 1958.

Zaid, Musthafa. *Al-Mashlahat Fi Al-Tashri' Al-Islami Wa Najm Al-Din Al-Thufi*. Beirut: Dar al-Fikri al-'Arabi, 1964.

Zaid, Nasr Hamid Abu. *Tekstualitas Alquran Kritik Terhadap Ulum Alquran*. Yogyakarta: LkiS, 2005.