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# Reassessing Collateral Residuary Inheritance in Indonesia through Al-Sarakhsī's Al-Mabsūṭ and Supreme Court Jurisprudence

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**Abstrak**

Penelitian ini mengkaji hak waris kerabat garis samping sebagai ʿaṣabah dengan membandingkan pembahasan al-Sarakhsī dalam al-Mabsūṭ, Kompilasi Hukum Islam, dan literatur putusan Mahkamah Agung. Penelitian hukum normatif ini menggunakan pendekatan konseptual, perundang-undangan, dan analisis kasus terbatas. Kajian membedakan dasar kekerabatan dalam fikih, penafsiran walad yang mencakup anak perempuan, serta gagasan penulis mengenai kontribusi pengasuhan dan ekonomi. Pembahasan al-Mabsūṭ yang dirujuk tidak menetapkan kontribusi ekonomi aktual sebagai syarat umum hak ʿaṣabah. Literatur putusan menunjukkan bahwa penafsiran walad dapat memengaruhi kedudukan saudara pewaris, tetapi tidak membuktikan adanya kaidah kontribusi yang berlaku umum. Penelitian menawarkan model kondisional dan proporsional sebagai gagasan pembaruan hukum yang memerlukan dasar normatif, perlindungan bagian tetap, dan aturan pembuktian. Kontribusi sosial tidak dengan sendirinya membenarkan penghapusan hak waris yang sah menurut hukum yang berlaku.

**Kata Kunci:** ʿaṣabah; al-Mabsūṭ; waris garis samping; putusan Mahkamah Agung; pembaruan hukum

***Abstract***

*This study examines collateral residuary inheritance by comparing al-Sarakhsī's discussion in Al-Mabsūṭ with the Compilation of Islamic Law and literature on Indonesian Supreme Court decisions. It uses doctrinal research combining conceptual and statutory analysis with a limited examination of judicial materials. The analysis distinguishes kinship-based entitlement, the interpretation of walad as including daughters, and the authors' proposal to consider care and financial contributions. The cited classical passages do not establish actual economic support as a general condition of residuary entitlement. Judicial literature indicates that the interpretation of walad may affect the position of the deceased's siblings, but does not demonstrate a general contribution-based rule. The article proposes a conditional and proportionate model for legislative debate, subject to a clear legal basis, protection of fixed shares, and defined evidentiary safeguards. Social contribution alone does not authorize the cancellation of an inheritance entitlement under existing law.*

**Keywords:** *ʿaṣabah; Al-Mabsūṭ; collateral inheritance; Supreme Court jurisprudence; legal reform*

## Introduction

Islamic inheritance law distinguishes fixed-share heirs from residuaries entitled to a legally remaining estate. The relevant class and order of kinship must be established before any residue is allocated.[1] Contemporary accounts of ʿaṣabah explain the relationship between these categories and the relevant scriptural materials.[2] Al-Sarakhsī's discussion provides a classical point of comparison, but its propositions must be read within their specific doctrinal context.[3]

Hazairin's bilateral approach raises questions about the relationship between inherited kinship categories and Indonesian family arrangements.[4] Household statistics provide social context but do not establish whether a particular brother or uncle supports the deceased's immediate family.[5] The legal issue is therefore specific: whether a collateral relative qualifies to receive the residue under the applicable rules, and whether any proposed contribution-sensitive reform can be justified without conflating social need with an existing legal entitlement.

Supreme Court Decision No. 86 K/AG/1994 is discussed in judicial and academic literature as recognizing that daughters may exclude the deceased's siblings through an interpretation of walad that includes both sons and daughters.[6] This issue differs from substitute inheritance under Article 185 KHI and obligatory bequests under Article 209 KHI.[7] Although jurisprudence may contribute to family-law development, the legal basis and facts of each doctrine must remain distinct.[8]

The issue also concerns the discipline of judicial reasoning. Article 5(1) of Law No. 48 of 2009 requires judges to consider living legal values and the community's sense of justice.[9] That duty does not confer unrestricted authority to disregard the applicable inheritance rules. A reasoned decision must identify the heirs, the governing provisions, the facts proved, and the interpretive steps leading to the distribution.

The reviewed literature addresses three related questions. Kamarusdiana and colleagues examine the position of daughters as heirs who exclude collateral siblings.[10] Mahmud analyzes a later Supreme Court inheritance decision involving

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[1] Wahbah al-Zuḥaylī, *Al-Fiqh al-Islāmī wa Adillatuhu*, vol. 7 (Damascus: Dār al-Fikr, 1985).

[2] Khairunnisa Khairunnisa, Putri Utami, and Dwi Noviani, M.Pd.I., "Konsep Ashabah dalam Warisan Islam Menurut Beberapa Hadis Bukhori," *Intellektika : Jurnal Ilmiah Mahasiswa* 2, no. 4 (2024): 14–22, https://doi.org/10.59841/intellektika.v2i4.1256.

[3] Muḥammad ibn Aḥmad al-Sarakhsī, *Al-Mabsūṭ*, vol. 29 (Beirut: Dār al-Maʿrifah, 1993).

[4] Hazairin, Hukum Kewarisan Bilateral Menurut Al-Qur'an and Hadith (Jakarta: Tintamas, n.d.).

[5] Badan Pusat Statistik, "Persentase Rumah Tangga Menurut Provinsi, Daerah Tempat Tinggal, Dan Jenis Kelamin Kepala Rumah Tangga, 2009–2023," n.d., https://www.bps.go.id/id/statistics-table/1/MTYwNCMx/persentase-rumah-tangga-menurut-provinsi-daerah-tempat-tinggal-dan-jenis-kelamin-kepala-rumah-tangga-2009-2023.html.

[6] Mahkamah Agung Republik Indonesia, Putusan Mahkamah Agung Republik Indonesia Nomor 86 K/AG/1994 (1995).

[7] Republik Indonesia, "Instruksi Presiden Nomor 1 Tahun 1991 Tentang Penyebarluasan Kompilasi Hukum Islam" (1991).

[8] Islamiyati et al., "Eksistensi Yurisprudensi Mahkamah Agung (MA) Dalam Penegakan Hukum Keluarga Islam Indonesia," *Law, Development and Justice Review* 3, no. 1 (2020): 1–14, https://doi.org/10.14710/ldjr.v3i1.7349.

[9] Indonesia, Law No. 48 of 2009 concerning Judicial Power, art. 5(1).

[10] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan

daughters and siblings.[11] Comparative fiqh scholarship discusses differences among schools and their relevance to the KHI.[12] The fairness of a particular allocation remains a separate question from the identification of a legally qualified heir. Hazairin offers a broader bilateral account of inheritance.[13] This article connects these debates while distinguishing a kinship rule from a proposed test of care and financial contribution; its claim of contribution is limited to the literature reviewed.

The study asks how Al-Mabsūṭ explains the priority of relatives, how judicial literature interprets the position of daughters and collateral siblings, and what safeguards a contribution-sensitive reform would require. Its contribution lies in separating these levels of reasoning, rather than treating a modern policy proposal as a rule already stated by a classical jurist or adopted by the courts.

**Research Method**

This doctrinal study combines statutory, conceptual, and limited case analysis. The comparison concerns the reasoning of classical inheritance doctrine and Indonesian judicial materials; it is not a comparison of entire national legal systems. The KHI supplies the principal applied-law framework, while scholarship on Supreme Court jurisprudence identifies interpretive questions concerning daughters and collateral relatives.[14]

The materials include the Qur'an, the KHI, the identified volumes of Al-Mabsūṭ, published judicial materials, and scholarship on inheritance. Statistical materials are used only to describe household context. Neither aggregate household data nor a change in family form is treated as proof that an individual relative failed to provide support.

The case analysis centers on Decision No. 86 K/AG/1994 as discussed in judicial publications and academic literature. Decision No. 184 K/AG/1995 is considered through secondary accounts. The analysis uses a focused selection of identified judicial materials rather than an exhaustive survey of inheritance decisions; its conclusions are limited accordingly.

The analysis first identifies the rules on heir classification, exclusion, and return of residue. It then distinguishes a proposition expressly supported by a text from an inference offered by later scholarship. Finally, it evaluates a possible contribution-sensitive reform against fixed shares, creditor priority, procedural fairness, and institutional authority. A comparison based on a small judicial corpus cannot establish the uniform practice of the Supreme Court.

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Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[11] Sutan Mahmud, Muhammad Hasan, and Moh. Fadhil, "Analisis Putusan Perkara Perdata Mahkamah Agung Nomor 706 K/Ag/2015 Dalam Menetapkan Bagian Anak Perempuan Bersama Saudara," *Al-Usroh* 1, no. 2 (2021): 171–182, https://doi.org/10.24260/al-usroh.v1i2.429.

[12] Abd. Ghafur, Dwi Aprilia Widyastutik, and Iftitah Firdausiyah, "Hukum Waris Islam: Kajian Komparatif Mazhab Fikih dan Relevansinya dengan KHI di Indonesia," *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 4 (2025): 6234–6243, https://doi.org/10.31004/riggs.v4i4.4310.

[13] Hazairin, Hukum Kewarisan Bilateral Menurut Al-Qur'an and Hadith (Jakarta: Tintamas, n.d.).

[14] Islamiyati et al., "Eksistensi Yurisprudensi Mahkamah Agung (MA) Dalam Penegakan Hukum Keluarga Islam Indonesia," *Law, Development and Justice Review* 3, no. 1 (2020): 1–14, https://doi.org/10.14710/ldjr.v3i1.7349.

The principal limitation is evidentiary: the study does not measure actual support among collateral relatives or establish the effectiveness of a new allocation formula. The distinction between the court's reported reasoning, the classical source, and the authors' reform proposal is maintained throughout. Broader claims require a larger collection of complete judgments and empirical research.

## Results and Discussion

### 1. Residuary Entitlement and the Interpretation of Walad

Classical doctrine distinguishes ʿaṣabah bi-nafsih, ʿaṣabah bi-al-ghayr, and ʿaṣabah maʿa al-ghayr. The first concerns eligible male agnates; the second concerns specified female heirs who become residuaries together with corresponding male heirs; the third concerns specified sisters who become residuaries alongside daughters or son's daughters under the relevant conditions.[15] Under the KHI, the presence and priority of heirs must be examined under the applicable provisions rather than inferred solely from a family label.[16] Article 174(2) identifies the relatives entitled when all listed categories are present.[17] Article 193 concerns the return of residue where the specified conditions, including the absence of a residuary heir, are met.[18]

The interpretation of walad in Qurʾan 4:176 is central to the judicial literature considered here. A reading that includes daughters may exclude collateral siblings, while other classical constructions allow particular siblings to inherit alongside a daughter. The distinction concerns the interpretation of the relevant inheritance texts and classes of heirs. It does not, by itself, establish a requirement that a collateral heir prove past financial support.[19]

Exclusion (ḥajb) and return of residue (radd) must also be distinguished. If a sibling is legally excluded, the subsequent allocation of the residue raises a separate question under the applicable rules. A reference to an allocation analogous to radd cannot supply the missing legal basis for first excluding an otherwise qualified heir. This sequence is essential to assessing the proposed reform.

### Kinship Priority in Al-Sarakhsī's Al-Mabsūṭ

The cited discussion of dhawī al-arḥām in volume 30 connects entitlement with kinship. The phrase al-istiḥqāq hunā bi-al-raḥim means that entitlement in that context rests on kinship; it should not be translated as a universal rule concerning the maternal line alone. Its doctrinal context must be distinguished from every category of residuary inheritance.

The cited passages also address relative priority through the strength of kinship. They support a limited conclusion about the organization of family relationships. They do not expressly make every residuary entitlement conditional on proof of actual economic assistance. The classical lineage rule and the authors'

[15] Wahbah al-Zuḥaylī, *Al-Fiqh al-Islāmī wa Adillatuhu*, vol. 7 (Damascus: Dār al-Fikr, 1985).
[16] Indonesia, Compilation of Islamic Law (1991), arts. 174, 176, 181–182.
[17] Indonesia, Compilation of Islamic Law (1991), art. 174(2).
[18] Indonesia, Compilation of Islamic Law (1991), art. 193.
[19] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

separate proposal concerning social responsibilities must therefore remain distinct.[20]

The concepts of nuṣrah, meaning assistance or protection, and ghurm, meaning burden or liability, may illuminate the social purposes of inheritance. The maxim al-ghunm bi-al-ghurm connects benefit with responsibility in relevant legal contexts. Applying those ideas to a new contribution-sensitive inheritance rule nevertheless requires an additional normative argument; it is not a direct quotation of al-Sarakhsī's rule.

The distinction between ʿillah and ḥikmah limits the argument. An operative legal cause determines when a rule applies, whereas a rationale or benefit may explain its wisdom without becoming an individual eligibility condition. Without evidence that actual support is the operative cause of the entitlement, absence of support cannot automatically extinguish the heir's right.

**2. Supreme Court Reasoning and Its Limits**

Academic literature describes Decision No. 86 K/AG/1994 as an important application of a reading of walad that includes daughters.[21] Judicial materials identify the decision as dated July 27, 1995.[22] The relevant relationship is that of a daughter to the deceased's siblings: a relative may be the daughter's uncle while remaining the deceased's brother. Keeping the reference person clear avoids an artificial distinction between those descriptions.

The reported interpretive issue is whether the presence of a daughter excludes collateral siblings. The position attributed to Ibn ʿAbbās supplies an interpretive basis for including daughters within walad. A claim that the court separately adopted a test of economic contribution or household poverty requires support from the judgment's expressed reasons. The cited literature does not justify treating that further functional test as an established holding.[23]

Decision No. 184 K/AG/1995 is discussed as a related authority in secondary literature.[24] Other studies examine later disputes involving daughters and siblings, including Decision No. 706 K/AG/2015.[25] These decisions should be assessed

[20] Muḥammad ibn Aḥmad al-Sarakhsī, *Al-Mabsūṭ*, vol. 30 (Beirut: Dār al-Maʿrifah, 1993).

[21] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[22] Supreme Court of Indonesia and partner institutions, Pedoman Mengadili Perkara Perempuan Berhadapan dengan Hukum, 68, https://kepaniteraan.mahkamahagung.go.id/images/artikel/pmppbdh.pdf.

[23] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[24] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[25] Sutan Mahmud, Muhammad Hasan, and Moh. Fadhil, "Analisis Putusan Perkara Perdata Mahkamah Agung Nomor 706 K/Ag/2015 Dalam Menetapkan Bagian Anak Perempuan Bersama Saudara," *Al-Usroh* 1, no. 2 (2021): 171–182, https://doi.org/10.24260/al-usroh.v1i2.429.

individually; a common subject does not establish identical facts, reasoning, or dispositive orders.

**Table 1. Judicial Materials on Daughters and Collateral Relatives**

| Judicial material | Question addressed | Scope of use |
|---|---|---|
| Decision No. 86 K/AG/1994 | Whether walad includes daughters when considering exclusion of collateral siblings | Discussed through judicial publications and case literature; no contribution-based holding is inferred. |
| Decision No. 184 K/AG/1995 | Related interpretation reported in secondary literature | Supplementary secondary account; facts and reasons should not be assumed identical. |
| Studies of Sigli and Banjarbaru decisions | Different approaches to daughters inheriting alongside siblings | Illustrates variation in selected studies, not a national frequency. |

Source: Judicial materials and the case literature cited in the text. Secondary accounts are identified in the table.

Three limits follow. First, an interpretation concerning collateral siblings must be connected to the precise class of heir under examination. Second, neither kinship terminology nor the presence of a daughter proves whether a relative contributed support. Third, the authors' social-function argument remains a reform hypothesis unless the relevant decision expressly adopts it.

A comparison of Sigli and Banjarbaru first-instance decisions reports differing approaches to daughters inheriting alongside siblings.[26] This illustrates interpretive variation within the selected studies, rather than a measured rate of inconsistency across Indonesia. It supports clearer reasoning and publication of judgments, but does not prove that a contribution-based test would produce more predictable outcomes.

## Judicial Authority and Precedential Weight

Judges must decide cases and give reasons where legal interpretation is required. The KHI's status as an applied-law reference does not give judges unlimited discretion to replace a kinship entitlement with a preferred social policy. Any departure or development should explain the legal source, interpretive method, and consequences for all affected parties.[27]

Supreme Court jurisprudence guides consistency, while the Indonesian system does not apply an unqualified doctrine of stare decisis.[28] This makes the quality and accessibility of reasons especially important. A proposal for a general contribution-

[26] Arif Rahman Hakim, "Putusan Hakim Mahkamah Syar'iyah Sigli Dan Pengadilan Agama Banjarbaru Tentang Kewarisan Anak Perempuan Bersama Saudara," *Sakina: Journal of Family Studies* 4, no. 3 (2020).

[27] Islamiyati et al., "Eksistensi Yurisprudensi Mahkamah Agung (MA) Dalam Penegakan Hukum Keluarga Islam Indonesia," *Law, Development and Justice Review* 3, no. 1 (2020): 1–14, https://doi.org/10.14710/ldjr.v3i1.7349.

[28] Islamiyati et al., "Eksistensi Yurisprudensi Mahkamah Agung (MA) Dalam Penegakan Hukum Keluarga Islam Indonesia," *Law, Development and Justice Review* 3, no. 1 (2020): 1–14, https://doi.org/10.14710/ldjr.v3i1.7349.

sensitive rule should therefore be considered through the appropriate lawmaking process, rather than assumed to follow from a single reported outcome.

**Separating Textual Interpretation from the Authors' Proposal**

The reported interpretation of walad operates within the framework of inheritance texts and the KHI.[29] A teleological assessment of the protection of daughters is a distinct level of analysis.[30] Unless expressly stated in a judgment, a claim that the court used poverty prevention or financial contribution as a decisive criterion remains an authorial reading rather than the ratio decidendi.

A contribution-sensitive model adds a further question: whether and how law should recognize care and economic responsibility outside the existing kinship rules. This article presents that question as a subject for reform. It does not infer that the court has already converted contribution into a condition of residuary entitlement.

**Comparing Classical Doctrine and Judicial Interpretation**

Al-Sarakhsī's discussion and the reported judicial interpretation address different legal questions. The former organizes entitlement through kinship; the latter concerns the scope of walad and the exclusion of collateral siblings.[31] The case literature does not establish that the Supreme Court adopted al-Sarakhsī's reasoning or expressly used the maxim connecting benefit with burden.[32]

The proposed synthesis is consequently normative. The authors ask whether social responsibilities should inform future design of collateral inheritance, while recognizing that such a design would require independent justification.[33] Functional similarity between two ideas is insufficient to establish historical influence or an existing legal rule.

Hazairin's bilateral framework offers a further perspective on the position of descendants and collateral relatives.[34] It differs from a model that retains residuary categories but introduces contribution-sensitive safeguards. Neither model can be treated as automatically governing every present dispute.

Hazairin's account also reveals a difficulty for gradual reform: retaining classical categories while making entitlement depend on a new condition may change the substance of the system.[35] The proposed model must therefore justify

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[29] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[30] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[31] Muḥammad ibn Aḥmad al-Sarakhsī, *Al-Mabsūṭ*, vol. 30 (Beirut: Dār al-Maʿrifah, 1993).

[32] Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan sebagai Hajib Hirman terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221–232, https://doi.org/10.24090/mnh.v15i2.4960.

[33] Muḥammad ibn Aḥmad al-Sarakhsī, *Al-Mabsūṭ*, vol. 30 (Beirut: Dār al-Maʿrifah, 1993).

[34] Hazairin, Hukum Kewarisan Bilateral Menurut Al-Qur'an and Hadith (Jakarta: Tintamas, n.d.).

both its doctrinal basis and its allocation method, rather than assume that it is necessarily more conservative or more acceptable than a bilateral approach.

**Household Context and Evidentiary Limits**

Statistics on the sex of household heads describe household organization, not the amount or source of support received from relatives.[36] A female household head is not necessarily the sole earner, and a male-headed household may depend on women's earnings or unpaid care. Such categories cannot determine the eligibility of an individual heir.

Likewise, a nuclear household may receive substantial assistance from relatives living elsewhere. Household size and co-residence do not establish the absence of financial transfers, debt payments, or caregiving. Changes in family structure therefore identify questions for empirical investigation; they do not prove that collateral inheritance has lost its social rationale.

A future empirical study should define the support being measured, the observation period, and the relationship to the deceased. Interviews and documentary evidence could distinguish voluntary gifts, legally recoverable debts, unpaid care, and assistance after death. Those categories have different legal consequences and should not be combined into an undefined contribution score.

**3. A Conditional and Proportionate Model for Legislative Debate**

The following four stages describe a proposed framework for future lawmaking. They are not a statement of an existing judicial power to cancel an inheritance entitlement.

Stage I identifies the estate, debts, valid bequests, fixed-share heirs, and the order of kinship under the applicable law. These determinations precede consideration of a new contribution-sensitive supplement.

Stage II records the immediate family's demonstrable needs, including accommodation, education, health, and care. Need is an input for evaluating a reform proposal; it does not itself authorize redistribution of fixed shares or the exclusion of a qualified residuary. Creditor priority must be respected.

Stage III records contributions by collateral relatives, distinguishing recoverable debts and reimbursement claims from voluntary support and unpaid care. Evidence may include transfers, receipts, care records, and reliable testimony. Any future rule should protect relatives whose poverty, disability, or distance limited their ability to contribute.

Stage IV evaluates lawful options. Existing debts and valid settlements may be recognized under current law. A compulsory contribution-based allocation would require a clear legal basis, defined limits, procedural safeguards, and a justified formula. In the absence of that framework, failure to prove support cannot automatically forfeit a residuary entitlement.

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[35] Hazairin, Hukum Kewarisan Bilateral Menurut Al-Qur'an and Hadith (Jakarta: Tintamas, n.d.).

[36] Badan Pusat Statistik, "Persentase Rumah Tangga Menurut Provinsi, Daerah Tempat Tinggal, dan Jenis Kelamin Kepala Rumah Tangga, 2009–2023," https://www.bps.go.id/id/statistics-table/1/MTYwNCMx/persentase-rumah-tangga-menurut-provinsi-daerah-tempat-tinggal-dan-jenis-kelamin-kepala-rumah-tangga-2009-2023.html.

The proposed framework does not derive a numerical allocation from the limited case materials. Lawmakers would need to define the relevant contributions, observation period, valuation of care, maximum adjustment, and interaction with fixed-share heirs. A guideline may standardize evidence and reasons within existing authority, but cannot create a new substantive power to redistribute an estate.

For example, suppose a deceased person leaves a widow, two daughters, and a brother. The decision maker must first establish the applicable shares and exclusions. The brother's documented payment of the deceased's debt may support a separate reimbursement claim; assistance with education may instead be a voluntary contribution. Neither fact, by itself, determines the brother's residuary entitlement. This hypothetical illustrates classification of claims, not a new allocation formula.

**Table 2. Existing Entitlements and the Proposed Contribution-Sensitive Framework**

| Issue | Existing-law inquiry | Proposed reform inquiry |
|---|---|---|
| Basis of entitlement | Kinship, legally applicable shares, and exclusions | Whether defined care or support should inform a future supplementary rule |
| Position of a collateral relative | Determine the specific class and priority of heir | No automatic forfeiture for failure to prove past support |
| Separate claims | Distinguish debts, reimbursement, gifts, and settlement | Specify eligible contributions and avoid double recovery |
| Evidence | Prove status, estate, debts, and relevant facts | Define observation period, unpaid care, and fair evidentiary burdens |
| Limits | Respect the applicable substantive law and creditor priority | Require a legal basis, justified allocation method, and review |

Source: The author's analysis based on the sources cited in this article.

**Objections and Safeguards**

A doctrinal objection is that established inheritance entitlements cannot be displaced merely because their perceived social benefits have changed. The authors accept that nuṣrah and ghurm have not been established here as operative legal causes whose absence extinguishes an entitlement. The proposal must instead be defended openly as a reform argument concerning welfare and distributive justice, subject to the limits imposed by the governing legal sources.

A second objection concerns uncertainty and additional litigation. A contribution test could create disputes about undocumented care, reward wealthier relatives, and burden those unable to provide financial help. Any future rule would require limited and reviewable criteria, protection against unequal evidentiary burdens, and an allocation method justified independently of the small case corpus. These risks remain unresolved by the present doctrinal analysis.

**Implications for Reform and Judicial Practice**

Reform should distinguish substantive inheritance rules from procedural guidance. A change to entitlement requires an appropriate legal instrument and deliberation on doctrinal diversity. Judicial guidance can improve identification of heirs, treatment of reimbursement claims, disclosure of evidence, and the explanation of interpretive choices without creating a new forfeiture rule.

Mediation may address voluntary arrangements once the parties understand their legal rights. A settlement should record informed consent, the assets involved, obligations to creditors, and safeguards against pressure on vulnerable heirs. Recognition of unpaid care may be discussed within that process without presenting a negotiated outcome as the mandatory inheritance rule.

**Contribution and Limits of the Study**

Compared with studies of daughters excluding collateral siblings, this article emphasizes the difference between textual interpretation and a new social-function argument.[37] Comparative fiqh scholarship remains necessary to evaluate the proposed condition against established doctrines.[38] Hazairin's bilateral account provides a distinct conceptual alternative.[39] The present contribution is the separation of those arguments and the identification of safeguards, rather than proof that a contribution-based allocation is already lawful or effective.

**Conclusion**

The cited discussion in Al-Mabsūṭ supports kinship-based priority but does not expressly establish actual economic support as a general condition of residuary entitlement. Judicial literature concerning Decision No. 86 K/AG/1994 identifies an interpretation of walad that includes daughters and affects the position of collateral siblings. That interpretation must be distinguished from a contribution-based rule, which is not established by the materials examined.

The proposed conditional and proportionate framework is therefore an option for legislative debate. It requires a clear legal basis, protection of fixed shares and creditors, recognition of unpaid care, defined evidentiary burdens, and a defensible allocation method. Until those issues are resolved through lawful reform, social contribution may inform separate claims and voluntary settlements but cannot, by itself, cancel a qualified heir's entitlement. Further research should examine complete judgments and actual support practices before asserting broader doctrinal or empirical conclusions.

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