

GENDER ROLES IN ISLAMIC JURISPRUDENCE: A COMPARATIVE ANALYSIS OF CLASSICAL FIQH TEXTS

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ABSTRACT

Introduction. This paper examines gender roles in classical Islamic jurisprudence, with a particular focus on women's rights in marriage and inheritance as articulated in the foundational fiqh texts of Imam Shafi'i (*Al-Umm*) and Imam Malik (*Al-Muwatta*). It explores variations in interpretation across the four major Sunni madhhabs, the influence of historical contexts on legal reasoning, and the relevance of contemporary feminist perspectives for addressing modern gender concerns. **Research Methods.** Using a library-based qualitative approach, this study analyzes primary classical fiqh texts alongside secondary scholarly literature on Islamic law, gender, and feminist hermeneutics. The research relies on textual sources from different Sunni legal schools to enable comparative analysis. **Data Analysis.** The collected texts were analyzed through qualitative textual and comparative analysis. Key themes related to women's rights, marital authority, and inheritance were identified and compared across madhhabs, with attention to historical context and interpretive patterns. **Results.** The results show that classical fiqh combined legal protections for women, such as consent in marriage, mahr, and property rights, with historically conditioned patriarchal assumptions. Differences among the Sunni madhhabs demonstrate jurisprudential pluralism rather than uniformity in the treatment of gender roles. Historical factors, including pre-Islamic customs and Abbasid socio-economic developments, significantly shaped legal interpretations. Contemporary feminist hermeneutics, grounded in Qur'anic principles of justice, *maqāsid al-sharī'a*, and existing jurisprudential flexibility, offers viable pathways for promoting greater equity in family law. **Conclusion.** Based on the findings, this study concludes that Islamic jurisprudence contains internal resources that allow for adaptation and reform in response to contemporary gender issues. By engaging classical texts critically and contextually, it is possible to align Islamic legal tradition with evolving understandings of justice and equality while remaining faithful to its normative sources.

Keywords: Islamic jurisprudence, fiqh, gender roles, women's rights, madhhab, classical texts, feminist reinterpretation, historical context, marriage, inheritance, gender equality, Islamic feminism, *maqāsid al-sharī'a*

A. INTRODUCTION

Islamic jurisprudence (*fiqh*) constitutes a foundational framework for regulating legal, moral, and social life in Muslim societies, deriving its authority primarily from the Qur'an and the Sunnah. Over centuries, *fiqh* has developed into a sophisticated legal tradition that governs matters ranging from worship and commerce to family relations and personal rights. Classical jurists such as Imam al-Shāfi'ī and Imam Mālik articulated legal doctrines within specific historical and social milieus, which inevitably shaped their interpretations of gender relations. Contemporary scholarship emphasizes that *fiqh* is inherently interpretive and pluralistic, allowing for contextual reasoning (*ijtihād*), even though many premodern rulings reflected patriarchal social structures dominant in their time (Hallaq, 2020). As Muslim societies confront modern concerns such as gender equality and legal reform, *fiqh* continues to function both as a historical legacy and as a living legal discourse requiring critical engagement.

Gender representation within classical *fiqh* remains a central issue in current academic and public debates, particularly regarding marriage and inheritance. Classical juristic discussions of marriage emphasize reciprocal rights and obligations between spouses, yet they frequently institutionalize male authority through concepts such as guardianship (*wilāyah*) and obedience (*ṭā'ah*). Similarly, inheritance regulations that allocate different shares to men and women were justified by assumptions about economic responsibility and family structure prevalent in premodern societies. Recent legal-historical studies argue that these rulings should be understood within their socio-economic context rather than as immutable expressions of divine intent (Mir-Hosseini, 2021). Feminist and reformist scholars contend that literalist readings of such rulings risk perpetuating inequality, whereas contextual and purposive interpretations (*maqāṣid al-sharī'a*) reveal ethical commitments to justice and welfare embedded within Islamic law (An-Na'im, 2022). These debates highlight the tension between continuity and reform in interpreting gender norms within *fiqh*.

This study addresses several interrelated research questions through a comparative jurisprudential approach. First, it examines how classical *fiqh* texts attributed to Imam al-Shāfi'ī and Imam Mālik conceptualize women's rights in marriage and inheritance, focusing on underlying legal rationales. Second, it compares interpretations of gender roles across the major Sunni schools of law—Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī—to identify areas of convergence and divergence. Third, it explores how historical contexts, including pre-Islamic customs and early Islamic socio-political realities, influenced juristic constructions of gender. Fourth, it investigates how contemporary feminist scholarship engages classical *fiqh* to address modern concerns such as economic agency, bodily autonomy, and legal equality. Comparative analysis is crucial in this regard, as it demonstrates the internal diversity of Islamic legal thought and its capacity for reinterpretation (Abou El Fadl, 2023).

The objectives of this research are both analytical and constructive. It seeks to critically assess historical interpretations of gender in *fiqh* while identifying methodological tools that allow for ethically grounded reinterpretation in contemporary contexts. Central to this effort is the principle of justice (*'adl*), which many modern jurists and scholars identify as a core value

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capable of guiding legal renewal. By foregrounding justice, welfare (*maṣlaḥa*), and human dignity, contemporary readings of *fiqh* can challenge patriarchal assumptions without abandoning the tradition's normative foundations (Kamali, 2022). In doing so, the study aims to contribute to broader discussions on gender equity in Muslim societies, offering insights relevant to legal reform, education, and public policy.

This paper is structured to provide a systematic examination of these issues. Following this introduction, the literature review surveys classical jurisprudential texts and contemporary scholarly debates on gender and *fiqh*. The methodology section outlines the library-based qualitative approach employed in the study. The results and discussion sections present comparative findings and analyze their implications for gender justice in Islamic law. The conclusion synthesizes key insights and proposes directions for future research. Given ongoing global debates on women's rights and religious authority, revisiting *fiqh* through a critical and contextual lens remains both timely and necessary (Mir-Hosseini, 2021). Engaging with Islamic jurisprudence in this way affirms its enduring relevance while enabling its ethical evolution in response to contemporary challenges.

B. LITERATURE REVIEW

Recent scholarship on gender roles in Islamic jurisprudence has expanded substantially, offering more critical and nuanced readings of how classical *fiqh* texts conceptualize women's legal and social positions. Canonical works such as *Al-Umm* by Imam al-Shāfi'ī and *Al-Muwatta'* by Imam Mālik remain central to discussions of family law, particularly in areas of marriage, divorce, and inheritance. These texts affirm women's rights to consent in marriage and to receive financial maintenance, yet they often situate these rights within hierarchical family structures that privilege male authority. Contemporary legal historians argue that such formulations reflect jurists' attempts to reconcile Qur'anic ethics with prevailing social norms of their time rather than immutable religious mandates (Hallaq, 2020). As a result, these classical rulings continue to influence modern Muslim legal systems while simultaneously prompting calls for contextual reinterpretation in light of contemporary gender norms (Mir-Hosseini, 2021).

Comparative studies across the major Sunni schools of law (*madhhabs*) reveal significant diversity in interpretations of gender-related legal issues. The Ḥanafī school, for example, is frequently noted for allowing greater contractual flexibility in marriage, enabling women to negotiate stipulations concerning property and divorce. Mālikī jurisprudence places strong emphasis on communal practice (*'amal ahl al-Madīna*), which can yield more context-sensitive rulings in marital disputes but often retains classical inheritance hierarchies. The Shāfi'ī school prioritizes textual rigor and consistency with transmitted reports, producing relatively fixed legal outcomes in matters of gender, while the Ḥanbalī tradition tends to emphasize adherence to early precedents, often resulting in more restrictive interpretations of women's public and legal roles. Recent methodological analyses attribute these differences to divergent legal theories, particularly in the use of analogy (*qiyās*), public interest (*maṣlaḥa*), and customary

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practice (*urf*) (Kamali, 2022). This jurisprudential plurality demonstrates that *fiqh* is not monolithic and contains internal resources for rethinking gender equity.

Historical scholarship further demonstrates that classical *fiqh* rulings on gender were deeply shaped by their socio-political contexts. Pre-Islamic Arabian kinship structures, characterized by patriarchal authority and tribal solidarity, influenced early legal reasoning, even as jurists sought to align their rulings with Qur'anic ideals of justice and moral responsibility. During the Abbasid period, the consolidation of political power and urbanization contributed to legal interpretations that favored social stability and elite interests, often at the expense of women's legal agency. Recent historiographical studies emphasize that early jurists were not operating in a vacuum but were responding to concrete social realities, including economic organization, family structures, and political authority (Ali, 2022). Recognizing these historical dynamics allows contemporary scholars to distinguish between context-bound legal formulations and enduring ethical principles within Islamic law.

Feminist and reform-oriented approaches to Islamic jurisprudence have become increasingly influential in recent decades, offering alternative frameworks for interpreting classical *fiqh*. Scholars working in this tradition emphasize the Qur'an's overarching commitments to justice, dignity, and moral equality as interpretive anchors for legal renewal. Using hermeneutical and ethical methodologies, they argue that patriarchal readings of *fiqh* represent historically conditioned interpretations rather than definitive expressions of Islamic norms. Recent feminist legal studies also incorporate intersectional perspectives, examining how gender interacts with class, ethnicity, and socio-economic status in shaping women's lived experiences under Islamic law (Bano & Kalmbach, 2020). These approaches highlight the potential for reinterpreting rules on inheritance, marital authority, and financial responsibility in ways that better reflect contemporary realities while remaining grounded in Islamic ethical reasoning.

Despite the richness of existing scholarship, several gaps remain evident in the literature. Many studies focus on individual schools of law or prominent jurists, limiting opportunities for broader comparative synthesis across *madhhabs*. Historical analyses often privilege Arab-centric narratives, underrepresenting the influence of non-Arab contexts on the development of *fiqh*. Moreover, while feminist reinterpretations offer compelling theoretical frameworks, fewer studies examine how these ideas are received and applied within diverse Muslim communities. Recent review articles in Islamic legal studies call for more interdisciplinary research that integrates jurisprudence with sociology, history, and gender studies to assess the practical implications of legal interpretations for women's rights (Abou El Fadl, 2023). Addressing these gaps provides a strong justification for the present study's comparative and contextual approach, which seeks to contribute to a more inclusive and dynamic understanding of gender in Islamic jurisprudence.

C. METHOD

This study employs a qualitative library-based research methodology, which is particularly appropriate for examining historical, doctrinal, and interpretive dimensions of Islamic jurisprudence. Library research enables systematic engagement with classical legal texts and contemporary scholarly analyses without reliance on primary empirical data such as interviews or surveys. Within the field of Islamic legal studies, this approach is widely used to trace the development of legal concepts and to compare interpretive traditions across schools of law. By prioritizing textual analysis, the method allows for careful examination of how gender roles are constructed, justified, and contested within *fiqh* literature. Recent methodological scholarship in the humanities emphasizes that documentary research is especially effective for normative and comparative inquiries where meaning, context, and interpretation are central concerns (Bowen, 2020). Accordingly, this design aligns closely with the study's objectives of analyzing classical jurisprudential texts and evaluating contemporary reinterpretations from gender-sensitive perspectives.

Data collection focuses on both primary and secondary sources relevant to gender in Islamic jurisprudence. Primary materials include authoritative *fiqh* texts attributed to major Sunni legal schools, such as *Al-Umm* by Imam al-Shāfi'ī, *Al-Muwatta'* by Imam Mālik, and selected legal manuals representing the Ḥanafī and Ḥanbalī traditions. These texts are accessed through university libraries and reputable digital repositories specializing in Islamic studies. Where possible, academically recognized English translations published by established presses are used to ensure accuracy and scholarly reliability. Secondary sources consist of peer-reviewed journal articles and academic monographs that analyze gender, family law, and legal methodology in Islam. Selection criteria prioritize relevance, academic credibility, and publication within the 2020–2026 timeframe. Keyword searches such as “gender in Islamic jurisprudence,” “women's rights in fiqh,” and “comparative madhhab analysis” are employed to identify pertinent literature. This structured selection process ensures comprehensive coverage of both classical doctrine and contemporary scholarly debates (Zaman, 2023).

The analytical procedure combines systematic literature review with comparative textual analysis. The systematic review component synthesizes existing scholarship to identify recurring themes related to marriage, inheritance, authority, and justice in *fiqh*. Comparative analysis is then used to examine how different *madhhabs* articulate and justify gender-related rulings, highlighting both convergences and divergences in legal reasoning. Thematic coding is applied to organize findings into analytical categories such as “legal authority,” “gendered responsibility,” “contextual reasoning,” and “reinterpretive potential.” Coding is conducted either manually or with qualitative analysis software to ensure consistency and transparency. Recent qualitative research manuals underscore that thematic analysis is particularly suitable for text-based studies seeking to uncover underlying patterns and normative assumptions within legal and religious discourse (Guest et al., 2024). Cross-referencing multiple sources helps mitigate interpretive bias and enhances analytical rigor.

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Ethical considerations are addressed through careful and respectful engagement with religious texts and scholarly interpretations. Given the normative and sacred status of *fiqh* within Muslim communities, the study avoids decontextualized or polemical readings and seeks to represent juristic positions accurately. Intellectual integrity is maintained through precise citation and acknowledgment of all sources. Although library research does not involve human subjects, reflexivity remains important; potential researcher bias, particularly in the use of gender-critical frameworks, is managed through engagement with a wide spectrum of scholarly perspectives, including traditional and reformist voices. Ethical guidelines for humanities research emphasize transparency, fairness, and respect for cultural and religious contexts, all of which guide this study's analytical practice (Tracy, 2020).

Several methodological limitations are acknowledged. Dependence on translated texts may result in the loss of linguistic nuance, particularly in complex legal terminology related to gender and authority. Additionally, classical *fiqh* texts themselves reflect historical social hierarchies that may influence interpretation if not critically contextualized. The library-based approach also limits engagement with contemporary lived experiences of Muslim women and legal practitioners. To address these constraints, the study triangulates findings across multiple translations and consults recent secondary analyses that contextualize classical rulings. While these strategies strengthen validity, future research could complement textual analysis with empirical methods such as interviews or case studies to explore how jurisprudential interpretations are applied in practice (Hefner, 2024).

To clarify the analytical process, Table 1 presents the main stages of thematic coding and comparative analysis employed in this study, illustrating how data were systematically organized and interpreted.

Table 1. Thematic coding and comparative analysis framework for *fiqh* texts

Step	Description	Tools/Methods	Expected Outcomes
1. Initial Reading	Comprehensive review of selected <i>fiqh</i> texts and commentaries.	Manual annotation.	Identification of raw data excerpts on gender roles.
2. Code Development	Creation of thematic codes based on research questions.	NVivo software or spreadsheets.	Categories like "marriage rights" and "inheritance variations."
3. Coding Application	Assigning codes to text segments across madhhabs.	Iterative qualitative analysis.	Pattern recognition in interpretations.
4. Comparative Synthesis	Contrasting coded data between schools and historical contexts.	Matrix comparisons.	Insights into variations and influences.
5. Feminist Reinterpretation	Applying modern lenses to coded themes.	Reflexive integration of secondary sources.	Proposals for contemporary applications.
6. Validation	Cross-checking with additional sources for accuracy.	Peer review simulation.	Refined and reliable findings.

This table summarizes the procedural rigor, ensuring the methods are replicable and transparent for other scholars.

D. FINDINGS AND DISCUSSION

1. How do classical fiqh texts, such as those by Imam Shafi'i and Imam Malik, define women's rights in marriage and inheritance?

Classical *fiqh* literature authored by Imam al-Shāfi'ī and Imam Mālik conceptualizes marriage as a legally binding contract (*'aqd*) founded upon consent, reciprocal obligations, and financial responsibility. In *Al-Umm*, Imam al-Shāfi'ī explicitly maintains that a marriage contract is invalid without the voluntary agreement of the woman, thereby rejecting coercion even when family members are involved in arranging the union. He further affirms the woman's unconditional right to *mahr* (dower), defining it as her exclusive property and a central mechanism for economic security. Similarly, Imam Mālik, in *Al-Muwatta'*, emphasizes that consent is indispensable and reinforces the husband's duty to provide *nafaqa*, including shelter, clothing, and sustenance, regardless of the wife's personal wealth. Both jurists thus frame marriage as a partnership governed by rights and duties, while assigning the primary economic burden to men in line with prevailing social structures (Ali, 2022).

Despite this contractual emphasis, both jurists embed marriage within a framework of male guardianship (*wilāyah*), though with notable differences in application. Imam al-Shāfi'ī considers the presence of a legal guardian essential for the validity of a woman's marriage, arguing that guardianship functions as a protective institution designed to prevent exploitation. Imam Mālik, by contrast, allows for greater autonomy in certain circumstances, permitting adult women of sound judgment to conclude their own marriage contracts if no legitimate objection exists. Contemporary legal historians note that these divergent positions reflect early juristic debates over autonomy and protection rather than uniform patriarchal intent (Saleh, 2022). Importantly, both schools affirm that a woman retains the right to refuse a proposed marriage and that coercion invalidates the contract, indicating an effort to preserve agency within a male-mediated system.

In matters of inheritance, both *Al-Umm* and *Al-Muwatta'* adhere closely to Qur'anic prescriptions that allocate fixed shares to heirs, commonly granting women half the share of men in equivalent kinship positions. Imam al-Shāfi'ī provides detailed expositions of these rules, linking differential shares to men's legally mandated financial obligations toward dependents. Imam Mālik similarly treats inheritance allocations as divinely determined and therefore resistant to juristic alteration. At the same time, both jurists underscore women's absolute ownership of inherited property, which cannot be appropriated by male relatives. They also acknowledge mechanisms such as bequests (*wasīyya*), through which parents may allocate up to one-third of their estate to address individual circumstances, including favoring daughters. Recent scholarship emphasizes that these provisions reveal an internal logic of distributive justice grounded in familial responsibility rather than simple gender hierarchy (Qasmi, 2024).

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The rationale for unequal inheritance shares is consistently tied to the principle of complementary obligation. Classical jurists assume a socio-economic order in which men are legally bound to provide for wives, children, and in some cases extended kin, while women bear no comparable financial duties. Imam al-Shāfi'ī frames this arrangement as a form of substantive equity, arguing that rights must be evaluated alongside burdens. Imam Mālik invokes similar reasoning through the concept of *taklīf* (legal responsibility), suggesting that greater obligations justify larger shares. Contemporary analysts note that this reasoning is inseparable from premodern economic realities and loses coherence when applied to contexts in which women participate equally in economic provision (Rahman, 2025). As such, modern critiques often target the assumptions underlying the rule rather than the ethical intent of the jurists.

Women's entitlement to maintenance during marriage receives sustained attention in both texts. Imam al-Shāfi'ī stipulates that *nafaqa* must correspond to the husband's means and the wife's customary standard of living, while Imam Mālik emphasizes that this obligation persists regardless of the wife's independent wealth. Both jurists recognize women's right to seek judicial intervention if maintenance is withheld, potentially resulting in dissolution of the marriage. These provisions reflect a clear concern with protecting women from economic vulnerability and granting them access to legal remedies. Scholars of Islamic family law note that such safeguards were comparatively advanced in their historical context, even though they coexist with structural asymmetries in authority (Shahin, 2021).

Divorce regulations further illustrate the balance between constraint and agency within classical *fiqh*. Imam al-Shāfi'ī recognizes *khul'*, allowing women to initiate divorce in exchange for returning the *mahr*, though typically contingent on the husband's consent. Imam Mālik expands women's options by permitting judicial dissolution (*faskh*) in cases of harm, abandonment, or failure to provide maintenance. Both jurists affirm that women retain financial rights when divorce results from the husband's unjust action. These mechanisms indicate an attempt to restrain unilateral male power while preserving social stability. Nevertheless, the asymmetry in initiating divorce remains a defining feature of the classical framework, prompting ongoing debate among modern scholars (Hallaq, 2022).

A comparative reading of al-Shāfi'ī and Mālik reveals substantial agreement on foundational principles alongside meaningful methodological variation. Both prioritize fidelity to the Qur'an and Prophetic tradition, resulting in similar rules on inheritance and maintenance. Al-Shāfi'ī's reliance on transmitted reports yields greater uniformity, while Mālik's integration of Medinan practice introduces contextual flexibility, particularly in guardianship and judicial intervention. Recent comparative studies emphasize that this diversity demonstrates early *fiqh*'s interpretive pluralism and undermines claims of a single, fixed Islamic legal position on gender (Karim, 2022).

The socio-economic assumptions embedded in these texts profoundly shape their articulation of women's rights. Both *Al-Umm* and *Al-Muwatta'* presuppose patriarchal household structures characterized by male provision and female economic dependence. These

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assumptions were consistent with early Islamic urban and tribal societies but do not necessarily align with contemporary realities such as dual-income households and women's legal autonomy. Scholars argue that recognizing these historical foundations is essential for distinguishing between enduring ethical values and context-bound legal formulations (Farooq, 2025). Such awareness enables critical engagement without dismissing the juristic tradition.

Contemporary feminist and reformist readings often focus on the ethical objectives underlying classical rulings rather than their literal application. By foregrounding principles such as justice (*'adl*), equity (*qisṭ*), and protection of the vulnerable, scholars argue that equal inheritance or expanded marital autonomy can be justified in changed socio-economic conditions. The classical recognition of women's property rights, contractual agency, and access to legal remedies provides a foundation for these reinterpretations. Feminist jurists thus view classical *fiqh* not as an obstacle but as a resource for advancing gender justice through principled reinterpretation (Bajwa, 2024).

In sum, the classical *fiqh* texts of Imam al-Shāfi'ī and Imam Mālik define women's rights in marriage and inheritance through a framework that combines contractual consent, economic protection, and gendered responsibility. While these texts offer significant safeguards for women within their historical context, they also institutionalize patriarchal assumptions that pose challenges in modern settings. The methodological differences between the two jurists demonstrate early interpretive flexibility, providing a foundation for contemporary debates. Understanding both the protective intent and contextual limitations of these rulings is essential for informed engagement with gender in Islamic law today.

2. What variations exist in the interpretation of gender equality across different schools of Islamic jurisprudence (madhhab)?

The four major Sunni schools of Islamic jurisprudence, namely Hanafi, Maliki, Shafi'i, and Hanbali, exhibit substantial variation in their interpretations of gender equality, particularly in areas such as marriage contracts, guardianship, inheritance, divorce, and public authority. These differences emerge from distinct methodological priorities, including how each school weighs Qur'anic verses, Prophetic traditions, juristic consensus, customary practice, and analogical reasoning. As a result, women's legal agency and social positioning are articulated differently across the madhhabs, challenging claims that Islamic law offers a single, uniform model of gender relations (Bano, 2020).

One of the clearest areas of divergence concerns women's autonomy in marriage contracts. The Hanafi school is widely recognized for granting adult women full legal capacity to contract their own marriages without the consent of a guardian, provided they choose a socially suitable spouse. This position is grounded in the Hanafi emphasis on legal competence (*ahliyya*) and contractual capacity. In contrast, the Shafi'i and Hanbali schools require the presence of a *wali* for the validity of the marriage, viewing guardianship as a protective institution derived from textual evidence. The Maliki school occupies an intermediate position, generally requiring a guardian but allowing exceptions when an adult woman's interests are clearly safeguarded.

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Contemporary legal studies emphasize that these divergent rulings reflect jurisprudential pluralism rather than disagreement over women's moral worth (Zaman, 2023).

Inheritance law provides another domain in which madhhab variation produces different outcomes for women, despite all schools affirming the Qur'anic allocation of fixed shares. Hanafi jurists adopt an expansive understanding of residuary heirs (*'aṣaba*), which can reduce women's shares when distant male relatives are present. Maliki scholars, drawing heavily on Medinan legal practice, tend to limit the reach of such agnatic claims, sometimes resulting in comparatively stronger inheritance positions for women. Shafi'i jurisprudence adheres closely to literal textual interpretation, generating predictable but often less flexible outcomes. Hanbali rulings generally parallel Shafi'i positions, maintaining conservative boundaries around inheritance distribution. Recent comparative analyses demonstrate that these technical distinctions can produce significant economic differences for female heirs depending on the madhhab applied (Qureshi, 2024).

Regulation of polygamy further illustrates contrasting approaches to gender equity. While all four schools recognize polygyny as legally permissible, they differ in how far women may limit it through contractual stipulations. Maliki jurisprudence stands out for allowing wives to include enforceable conditions of monogamy in marriage contracts, with violation constituting grounds for judicial dissolution. Hanafi scholars accept such stipulations but often limit the remedies available. Shafi'i and Hanbali jurists are more restrictive, sometimes viewing conditions against polygyny as conflicting with male marital prerogatives. Scholars of Islamic family law note that Maliki doctrine has been particularly influential in modern reform efforts because it embeds internal constraints within the classical legal tradition (Saleh, 2022).

Divorce procedures represent one of the most significant areas of variation affecting women's legal equality. Maliki jurisprudence is frequently described as the most accommodating, recognizing broad grounds for judicial divorce, including harm (*ḍarar*), non-maintenance, and persistent discord. Hanafi law traditionally restricts women's access to judicial dissolution, although later jurists expanded acceptable grounds. Shafi'i and Hanbali schools allow dissolution for clear injury but impose stricter evidentiary requirements. Contemporary legal historians emphasize that the Maliki model provided a doctrinal foundation for many twentieth-century family law reforms in Muslim-majority countries, demonstrating that classical fiqh already contained gender-sensitive legal tools (Sabry, 2023).

Custody and guardianship of children also vary considerably across the madhhabs, with direct implications for women's post-marital authority. Hanafi rulings grant mothers custody of young children but transfer guardianship to paternal relatives relatively early. Maliki jurisprudence extends maternal custody significantly longer and, in some cases, allows mothers to retain guardianship if they are deemed the most capable caregivers. Shafi'i and Hanbali approaches generally align with the Hanafi model but permit judicial discretion. These differences highlight contrasting assumptions about maternal authority and child welfare within classical jurisprudence (Rahim, 2022).

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Economic rights within marriage show greater convergence but still reflect nuanced distinctions. All four schools affirm a woman's independent ownership of property and earnings and deny any obligation to contribute financially to the household. However, Hanafi jurists tend to emphasize male authority in managing shared household resources, whereas Maliki and Shafi'i scholars give greater weight to consultation and mutual agreement. Hanbali rulings often mirror Shafi'i positions but may impose stricter limits on large financial transactions. Recent feminist legal analyses identify the principle of separate property as one of the strongest egalitarian features shared across madhhabs (Karim, 2022).

Rules of legal testimony are often cited as evidence of gender inequality, yet even here, madhhab variation is evident. While all schools reference Qur'an 2:282 in financial matters, Hanafi and Maliki jurists allow women's sole testimony in cases involving female-specific knowledge, such as childbirth or nursing. Shafi'i and Hanbali schools apply narrower exceptions. Contemporary scholars argue that these classical allowances demonstrate contextual reasoning rather than fixed assumptions about women's intellectual capacity, providing a basis for modern reinterpretation (Hallaq, 2022).

Interpretations of women's eligibility for public and judicial authority further underscore jurisprudential diversity. Hanafi jurists historically permitted women to serve as judges in civil matters, while Maliki scholars allowed limited judicial authority in family law cases. Shafi'i and Hanbali positions generally restrict judicial office to men. Although such roles were rarely realized in practice, modern Islamic legal theorists highlight these doctrinal differences as evidence that female public authority was not categorically rejected in classical jurisprudence (Verkaaik, 2021).

Taken together, these variations reveal a pattern of methodological pluralism rather than doctrinal uniformity. The Hanafi school often appears the most expansive in recognizing female agency, while the Hanbali school tends toward conservatism. Maliki and Shafi'i positions occupy intermediate spaces, with Maliki jurisprudence showing particular flexibility in family law. This diversity challenges essentialist claims about Islamic law and demonstrates that gender equality has always been an interpretive question shaped by legal reasoning and social context (Hefner, 2024).

These madhhab differences provide important resources for contemporary reform efforts. By engaging selectively with classical precedents, scholars and policymakers can ground gender-equitable reforms within the Islamic legal tradition itself. The existence of divergent rulings underscores that *fiqh* is neither static nor monolithic but a dynamic tradition responsive to context. Gender equality within Islamic law thus remains an open field of interpretation rather than a settled or closed question (Peters, 2024).

3. How have historical contexts influenced the portrayal of gender roles in early Islamic legal literature?

Early Islamic legal literature emerged during a formative period marked by rapid political expansion, social transformation, and engagement with pre-existing cultural norms. Between

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the seventh and ninth centuries CE, Muslim jurists operated within societies that retained strong tribal kinship structures, patriarchal household models, and inherited assumptions about gendered social roles. Although the Qur'an introduced significant ethical reforms—such as affirming women's rights to property, consent in marriage, and legal accountability—these reforms were articulated within social environments where male authority and agnatic lineage remained dominant. Recent historical studies emphasize that early *fiqh* was shaped through an interaction between revelatory principles and prevailing social practices rather than through abstract legal reasoning alone (Berkey, 2021).

Pre-Islamic Arabian customs exerted a particularly strong influence on early constructions of gender roles in legal discourse. Practices such as male guardianship, patrilineal inheritance, and expectations of male economic provision were deeply embedded in the social fabric of the Hijaz and surrounding regions. When early jurists systematized Islamic law, they did so in dialogue with these customs, selectively modifying rather than wholly dismantling them. Contemporary socio-legal scholarship notes that this continuity explains why classical rulings often preserved hierarchical gender arrangements even while embedding new moral constraints, such as limits on polygamy and the recognition of women's independent legal personality (Lapidus, 2022).

The expansion of the Islamic empire during the Umayyad and Abbasid periods introduced new historical pressures that further shaped gender portrayals in *fiqh*. Urbanization, administrative complexity, and increasing economic stratification in cities such as Baghdad and Cairo required jurists to regulate increasingly intricate family structures and property relations. Recent research highlights how these conditions encouraged the development of more formalized legal doctrines governing marriage, inheritance, and divorce, often reinforcing gender hierarchies in the name of social stability and legal clarity (El-Rouayheb, 2020). As households became larger and wealth more diversified, jurists emphasized male financial responsibility as a justification for differentiated inheritance shares and marital authority.

Interactions with late antique legal traditions also left a discernible imprint on early Islamic jurisprudence. Byzantine and Sasanian legal systems, encountered through conquest and governance, employed various forms of male tutelage and restrictions on women's public participation. Comparative legal historians argue that early Muslim jurists adapted certain structural features of these systems—such as guardianship requirements and differentiated evidentiary standards—while reframing them within an Islamic ethical vocabulary (Ebstein, 2021). Although the Qur'an affirmed women's independent ownership of property, surrounding legal cultures influenced how such principles were operationalized in juristic reasoning.

Economic realities of the early Islamic world further shaped legal constructions of gender. Agrarian and mercantile economies relied heavily on male mobility, physical labor, and responsibility for extended kin networks. Jurists justified allocating greater inheritance shares to men by referencing these material obligations, presenting gender differentiation as a mechanism for achieving distributive justice within the family unit. Recent economic analyses

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of Islamic law stress that these rationales were historically contingent, reflecting specific modes of production rather than timeless metaphysical assumptions about gender (Singer, 2021). As such, the logic underpinning many classical rulings was closely tied to early Islamic economic structures.

The consolidation of *madhhab* boundaries between the ninth and eleventh centuries further entrenched historically situated gender norms within authoritative legal corpora. As juristic schools formalized their methodologies, earlier regional practices were preserved as normative precedents rather than treated as context-dependent responses. Contemporary studies of legal canonization observe that this process transformed flexible interpretive judgments into enduring doctrinal positions, limiting later jurists' willingness to reassess gender-related rulings even as social conditions evolved (Knysh, 2023). What began as pragmatic regulation gradually acquired the status of immutable tradition.

Imperial governance and interreligious encounters also shaped gender portrayals in early legal literature. As Muslim rulers governed religiously diverse populations, jurists were required to regulate interfaith marriage, conversion, inheritance, and custody. Legal solutions frequently prioritized Muslim male authority as a means of preserving communal boundaries and political cohesion. Recent scholarship on Islamic law under empire argues that such rulings were often driven by concerns of governance and identity rather than by purely theological imperatives, contributing to more conservative gender constructions in family law (Krstić, 2021).

Later historical encounters, particularly with European colonial powers, reshaped how early gender norms in *fiqh* were interpreted and transmitted. Colonial critiques of Islamic family law prompted both defensive and reformist responses among Muslim intellectuals. Some scholars emphasized the moral coherence of classical rulings, while others sought reinterpretation to reconcile Islamic law with emerging global discourses on equality. Although colonialism occurred centuries after the formative period, recent historiography demonstrates that it profoundly influenced which elements of early legal literature were emphasized, questioned, or reimagined in modern scholarship (Burke, 2023).

Taken together, these layered historical contexts produced a body of Islamic legal literature that reflects multiple temporal influences rather than a single, unified vision of gender. Pre-Islamic customs, late antique legal norms, imperial governance, economic structures, *madhhab* consolidation, and colonial encounters all left discernible traces in classical *fiqh*. Recognizing this composite character challenges simplistic portrayals of Islamic law as either inherently patriarchal or inherently egalitarian and instead highlights its historically situated nature (Makdisi, 2020).

Contemporary scholars increasingly treat historical contextualization as an essential hermeneutical tool for reassessing gender roles in Islamic jurisprudence. By situating classical rulings within their original socio-political and economic environments, researchers are better able to distinguish between enduring ethical principles and context-bound assumptions. This

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approach allows for reinterpretation grounded in continuity rather than rupture, preserving the authority of the tradition while enabling ethical renewal (Hefner, 2024).

In summary, historical contexts profoundly influenced the portrayal of gender roles in early Islamic legal literature through interactions among inherited customs, economic realities, political imperatives, and cross-cultural exchanges. While the Qur'an and Sunna introduced transformative ethical principles, the ways in which those principles were articulated and institutionalized were shaped by specific historical environments. Understanding this dynamic is essential for interpreting classical *fiqh* responsibly and for engaging in contemporary discussions on gender justice within Islamic law.

4. In what ways can contemporary feminist perspectives reinterpret classical *fiqh* to address modern gender issues?

Contemporary feminist scholarship in Islamic law increasingly employs an objectives-based (*maqāṣid al-sharī'a*) interpretive framework to reassess classical *fiqh* rulings related to gender. Rather than privileging literal adherence to individual legal precedents, this approach foregrounds the overarching ethical aims of Islamic law, such as justice, human dignity, prevention of harm, and the promotion of social welfare. Recent studies argue that when classical rulings no longer fulfill these objectives under modern conditions, reinterpretation becomes not only permissible but necessary (Auda, 2021). Feminist scholars applying this framework contend that legal norms developed in patriarchal and premodern contexts must be reevaluated in light of contemporary realities, including women's economic participation, legal autonomy, and access to education. By situating reform within internal legal theory rather than external critique, *maqāṣid*-based feminist reasoning remains firmly embedded within Islamic jurisprudential discourse while advancing gender-equitable outcomes.

Another significant feminist strategy involves reexamining the epistemological foundations of classical *fiqh* and distinguishing between divine revelation and human juristic interpretation. Feminist legal theorists emphasize that *fiqh* represents a historically situated scholarly enterprise rather than immutable divine law. Recent historiographical research demonstrates that early jurists operated within specific social, economic, and intellectual environments that shaped their assumptions about gender roles (El Shamsy, 2020). By highlighting the human and contingent nature of juristic reasoning, feminist scholars open interpretive space for rearticulating legal norms without challenging the authority of the Qur'an and Sunna themselves. This approach reframes gender reform as a renewal of jurisprudence rather than a rejection of tradition.

Contemporary feminist perspectives also recover early Islamic practices and precedents that demonstrate women's active participation in religious, economic, and intellectual life. Historical studies document women's roles as transmitters of hadith, jurists, patrons, and community leaders during the formative period of Islam. Feminist scholars argue that these realities complicate later patriarchal codifications found in classical legal manuals and suggest that gender restriction is not intrinsic to Islamic norms (Asani, 2020). By foregrounding these

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early precedents, feminist interpreters challenge claims that restrictive gender roles reflect an unbroken Islamic consensus. Instead, they present them as historically contingent developments that can be reassessed through engagement with early communal practice.

Legal reform in several Muslim-majority contexts illustrates how feminist reinterpretation of *fiqh* has moved beyond theory into practice. Comparative legal research shows that family law reforms in North Africa, Southeast Asia, and parts of the Middle East have drawn explicitly on feminist readings of Islamic jurisprudence to revise regulations on guardianship, marriage, divorce, and custody (Peters, 2024). These reforms often rely on classical juristic diversity—particularly Maliki positions on harm and public interest—to justify change while maintaining Islamic legitimacy. Such examples demonstrate that feminist hermeneutics can inform statutory reform, judicial reasoning, and policy debates, even amid resistance from conservative religious institutions.

Feminist reinterpretation also challenges gender hierarchies by prioritizing substantive justice over formal equality. Rather than focusing solely on numerical parity, feminist scholars emphasize ethical outcomes such as protection from violence, economic security, and legal agency. Recent gender-focused studies of Islamic law argue that principles such as *‘adl* (justice) and *rahma* (compassion) provide a stronger normative foundation for reform than rigid adherence to inherited legal forms (Bajwa, 2024). This approach allows reinterpretation of inheritance rules, marital authority, and testimony standards in ways that align Islamic ethics with contemporary human rights concerns without collapsing Islamic law into secular legal frameworks.

Critics often argue that feminist reinterpretations impose modern ideological assumptions onto premodern texts. Feminist scholars respond by noting that classical jurists themselves interpreted revelation through the conceptual frameworks of their own eras. Contemporary legal historians emphasize that *fiqh* has always evolved in response to social change, political authority, and moral reasoning (Hallaq, 2022). From this perspective, feminist reinterpretation represents continuity rather than rupture, as it reflects the same juristic responsibility to respond to lived realities. The key question is not whether context influences interpretation, but which context should inform present-day legal reasoning.

In sum, contemporary feminist perspectives offer multiple, textually grounded strategies for reinterpreting classical *fiqh* to address modern gender issues. Through *maqāṣid*-based reasoning, historical contextualization, recovery of early precedents, engagement with juristic plurality, and influence on legal reform, feminist scholars seek to align Islamic law with contemporary understandings of justice and dignity. Although these approaches remain contested and face institutional resistance, they have already reshaped scholarly discourse and practical legal outcomes. The diversity of feminist methodologies reflects the interpretive pluralism inherent within the Islamic legal tradition itself, underscoring that reform is not external to *fiqh* but part of its historical vitality. Sustained engagement, methodological rigor, and inclusive dialogue will determine the future impact of feminist reinterpretation within Islamic jurisprudence.

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E. CONCLUSION

This study has examined gender roles within Islamic jurisprudence through a comparative lens, focusing on classical fiqh texts and their implications for contemporary gender debates. The analysis of works by Imam Shafi'i and Imam Malik reveals that women's rights in marriage and inheritance were defined within a framework that combined contractual protections, financial safeguards, and clearly gendered responsibilities. Consent, mahr, maintenance, and independent property ownership were consistently affirmed, yet male guardianship and differential inheritance shares reflected the patriarchal assumptions of their historical context. These findings demonstrate that classical fiqh sought to balance protection and agency, even while operating within socio-economic structures that placed primary economic and protective burdens on men.

A comparative survey across the major madhhabs further illustrates significant interpretive diversity. The Hanafi school generally granted adult women greater contractual autonomy in marriage, while the Maliki school offered broader grounds for judicial divorce and extended maternal custody. Shafi'i and Hanbali positions tended toward stricter textual adherence, often resulting in more conservative outcomes regarding guardianship and testimony. Such variation underscores that classical Islamic jurisprudence was never monolithic; it contained multiple, sometimes competing, approaches to gender equality within family law. This pluralism provides historical precedent for flexibility and contextual adaptation rather than rigid uniformity.

Historical context emerges as a decisive factor shaping the portrayal of gender roles in early fiqh literature. Pre-Islamic Arabian customs, late antique imperial legal traditions, Abbasid urbanization, economic realities of agrarian societies, and later colonial encounters all left visible imprints on juristic reasoning. Many rulings that appear restrictive today were formulated as practical responses to specific social conditions—conditions that no longer fully apply in contemporary Muslim societies. Recognizing this historical situatedness allows modern interpreters to distinguish between context-bound elements and enduring ethical principles embedded in the Qur'an and Sunna.

Contemporary feminist perspectives have demonstrated considerable potential to reinterpret classical fiqh in ways that address pressing modern gender issues. By prioritizing Qur'anic values of justice and dignity, re-contextualizing classical rationales, operationalizing maqāṣid al-sharī'a, recovering early egalitarian practices, and building on existing jurisprudential flexibility, feminist scholarship offers credible pathways toward greater equity in marriage, inheritance, divorce, and women's public participation. These reinterpretations have already influenced progressive family law reforms in several countries and continue to stimulate constructive academic and public dialogue.

The findings collectively indicate that classical fiqh contains both constraints and possibilities. While many rulings reflect patriarchal norms of their time, the tradition also preserves mechanisms, contractual stipulations, judicial discretion, maqāṣid reasoning, and

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madhhab diversity, that can support meaningful adaptation. The tension between textual fidelity and evolving social realities is therefore not an insurmountable barrier but rather an invitation to responsible, principled *ijtihād*. Engaging seriously with both the historical legacy and the ethical aspirations of Islamic law remains essential for any effort to promote gender justice within Muslim communities today.

In conclusion, this research affirms that Islamic jurisprudence is a living tradition capable of responding to changing circumstances without losing its normative grounding. By combining careful textual analysis, historical contextualization, and creative yet faithful reinterpretation, scholars and communities can work toward family laws that more fully reflect the Qur'an's commitment to justice, compassion, and human dignity. The path forward lies not in rejecting the classical heritage but in allowing its internal resources and ethical vision to guide continued reform. Such an approach holds promise for fostering more equitable gender relations while remaining authentically rooted in Islamic values.

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