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Revisiting Adoption in Islamic Law: A Maqashid-Based Reconstruction of Inheritance Rights in Bangladesh and Muslim Countries

Tasnuva Anika[1*], Tasnuva Tabassum Eshara[2], Samaun Ferdousi Orthy[3]
[1,3] Department of Law, American International University-Bangladesh, Dhaka, Bangladesh
[2] Legal Counsel, Foodi Express Ltd. (US-Bangla Group), Dhaka, Bangladesh

[1]tasnuva@aiub.edu, [2]tasnuvaatabassum@gmail.com, [3]23-50673-1@student.aiub.edu

[*]Correspondence Author: tasnuva@aiub.edu

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Abstract: The concept of adopted children is not recognized under classical Islamic law for the reason that inheritance is traced not to lineage, or '*nasab*', but also to blood relations as stated in Qur'ān 33:4–5, so that adopted children are not included in the list of legal heirs. This leaves Bangladesh with a legal paradox: Muslim families can obtain guardianship with the Guardians and Wards Act 1890 but adopted children are not granted an inheritance or any other financial safeguard. Others Muslim-dominated jurisdictions have taken other measures. In Indonesia guardianship is called *kafālah* and in Malaysia, financial protection is available in the form of that statutory bequest, called *waṣhiyyah wājibah*. This article investigates if there is evidence of affaring such same protection in Islamic law on the basis of maqāṣid al-sharī'ah. The study observed using a doctrinal legal approach which took into account the Qur'ān, ḥadīth, classical fiqh, commonly practiced among Bangladesh, Indonesia, Malaysia, North Africa, and Gulf states, the study revealed that the Islamic law prohibits fictive lineage, not financial protection for adopted children. It states that the objectives of Sharī'ah are upheld in this principle, which protects human life, the family, and property and maintains the inheritance system of *farā'iḍ*, and it argues that this is consistent with the objectives of Sharī'ah. The authors conclude that the statutory instrument of bequest for adopted children can be implemented in Bangladesh as a financially protective mechanism for adopted children that respect Islamic rules of inheritance.

Keywords: Reconstruction**,** Islamic inheritance law, adoption, maqāshid

Introduction

Adoption, which was a simple and lawful process in Bangladesh immediately after independence, has been prohibited since 1981 (Children in Need of Homes, n.d.). The inheritance entitlements of adopted children in Islam remain incompletely explored, whether one relies on the early legal texts or on current legislation (Rozikin, 2025). These questions have now acquired practical significance in Bangladesh. Under the Guardians and Wards Act 1890, guardianship applies to Muslim families, while mutabannā (legal adoption with fictive lineage) has not been officially practised since the Guardians (Amendment)

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Act 1981 (Jahan, 2016). At the same time, contemporary Muslim scholars such as Jasser Auda and Wael Hallaq have argued that ijtihād (independent legal reasoning), combined with the higher objectives of Islamic law (maqāṣid), is capable of reconciling apparently rigid Qur'ānic rules with the changing needs of society, as in the acceptance of an obligatory bequest notwithstanding the prohibition of full adoption (Marwinata et al., 2026).

Within this framework, the present study examines whether reforms that serve the interests of adopted children may be introduced while upholding the goals of Islamic inheritance law. It considers, first, the classical Islamic legal foundations of adoption and inheritance; second, the manner in which contemporary Muslim jurisdictions such as Bangladesh, Indonesia, Malaysia and North Africa handle the financial rights of such children; and third, whether *waṣiyyah wājibah* (obligatory bequest) offers a maqāṣid-aligned and Sharīʿah-compliant remedy. The methodology includes a doctrinal analysis of the Qur'ān, the ḥadīth and classically-derived fīqh, along with comparative analysis of legislation and jurisprudence to inform policy decisions that may change while respecting the principles of the Sharīʾah.

The finding is presented to the decision-makers in Bangladesh and other countries with similar jurisdictions to show that imposition of compulsory bequests (or similar provisions) does not clash with the fundamental principles of the Sharīʿah. Classical Islamic position on adoption and nasab under the approach of classical Islamic jurisprudence, adoption and acquisition of heirship under the nasab (lineage) system are very far apart. Adopted children are prohibited in the Qur'ān and are demanded to be called by their natural father's name and it is not an affirmation of sonship (al-Aḥzāb 33:4-5). Muslim thinkers early on interpreted these literally as meaning that the adopted child remained a member of his or her birth father's bloodline.

As a result, most of the classical jurists agreed that adopted children have no right to automatic inheritance based upon the Qur'ān or the ḥadīth, and especially those of the Shāfiʾī and Ḥanbalī schools. In this regard, the land of nasab is considered sacred by Islamic Law, and the right of inheritance only passes down the blood of the deceased person, so tabannī was thus abolished to prevent the contamination of the right of inheritance. The traditional way of supporting the adoptee in classical fiqh is the waṣiyyah document, which means it's giving between one third and one half of the estate.World Without Orphans offers assistance to the adoptee through the waṣiyyah, which can be up to one third or half the estate. In other words, in Islam there is no law of full adoption - full adoption which includes the inheritance - for orphans, even though Islam has strongly encouraged the care of orphans (World Without Orphans, 2012).

According to UNICEF (2021), globally, over 140 million children lose their mothers, fathers or both. Many in actual practice are found in overcrowding or casual homes, and studies show that some Muslim households are reluctant to care for an orphan due to legal taboo associated with formal adoption. Communities also give generously, endowments (*waqf*) and donations are the common and customary ways to provide for the needs of the orphans and the needy family members as mandated by the orders of the Qur'ānic verses. These arrangements, however, are informal and unequal: in the absence of formal rights, children without parents can get no education, health care or inheritance, and inequalities in society reinforce the situation.

Adoption does not exist under the Muslim Law of Bangladesh. In painting guardians for minors, the judiciary thus adopts the provisions of the Guardians and Wards Act 1890, which is a statute of the colonial era. Section 4 of that act gives a guardian the care of a child and the use, custody and control of its property, but does not seem to give him a new nasab or a right of inheritance. Academic comment notes that the word 'adoption' has never been used in relation to Muslim personal law, and that the adopted child has no right to any inheritance from the legal guardian according to current rules. The child becomes a non-heir and automatically lacking in portion of the guardian's estate. This is an imbalance against related reforms that have taken place in neighboring states and counties. In Indonesia adopted children and *kafālah* children are expressly recognized with a one-third waṣiyyah in the Compilation of Islamic Law (KHI), while in Malaysia, state laws allow wasiat wajibah up to one-third of an estate.

The law of Bangladesh, in contrast, does not require any guardians to leave assets. As long as there is no reform in the statute, the bonded fostered/orphaned children in Bangladesh will lead their lives in deprivation and marginalisation in economy and politics (Das, 2024). The research problem can be formulated in two propositions that are related. The first question raised is whether Islamic inheritance law is incompatible with adoption itself and the second is whether the maqāṣid al-sharī'ah can justify the protection of adopted children by inheritance law. Such propositions begin an inquiry into coherence among the provisions of Islamic law, and not into reform that is driven out from Islamic law. There are three research questions given below. The study aims to examine the extent of classical Islamic jurisprudence on adoption and inheritance and how the financial protection of adopted children is being protected by Muslim jurisdictions, and then consider if *waṣiyyah wājibah* can be a maqāṣid-compliant solution. These objectives will be met by first analysing classical Islamic jurisprudence surrounding the issues of adoption and inheritance, next examining modern-day approaches to such issues within Muslim courts, and finally by evaluating *waṣiyyah wājibah* as a means in Islam of protecting adopted children on basis of their maqāsid.

The study plays a role in the current debate on the relationship between social welfare and Islamic law. For example, Rahman and Monawer (2020) state that bequest rules are congruent with the maqāṣid of fairness and assistance to orphans and thus reform could take place on Sharīʿah principles. This article continues that debate by showing how maqāṣid-based reasoning can be applied in order to argue for a new approach to the inheritance of foster children. The study also has policy implications for Bangladesh, where the legislature has already passed laws to protect orphaned grandchildren by introducing compulsory bequests. The research bases the argument in Islamic jurisprudence, providing national policy makers with a legal framework for developing Islamic laws and policies that would address gaps in the current law with Islamic principles. Theoretically, the project illustrates the use of the maqāṣid al-sharī'ah for the interpretation of the rules of adoption in the context of the modern problem of adoption, and how objective-based goals like preservation of lineage (ḥifẓ al-nasl) and preservation of wealth (ḥifẓ al-māl) can be applied to the interpretation of those rules.

Methods

This study adopts a doctrinal (normative) legal approach, which focuses on

the systematic study of authoritative bodies of law, supplemented by a comparative approach. The doctrinal component critically examines classical Islamic jurisprudence, drawing upon the Qur'ān, the Ḥadīth and juristic rulings in order to outline the conventional legal framework governing the inheritance rights of adopted children. The comparative component then sets those classical norms against contemporary Indonesian reform, and in particular Article 209 of the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which provides an obligatory bequest to adopted children. Synthesising the two methods permits a comparison between the principles of classical jurisprudence and codified statutes of the present age, and allows both the continuities and the historical changes to be identified. It further enables the study to distinguish traditional ideals that have been preserved from modifications introduced into the Indonesian inheritance system, so that the latter may serve as an illustration of how traditional Islamic inheritance is either preserved or reinterpreted (Lukito & Marsya, 2026).

The research employs a qualitative design based upon documentary and literature review. Analysis is conducted on primary sources including the Qur'ān, the Ḥadīth, consensus (*ijmāʿ*) and the opinions of classical and contemporary scholars. Comparison between the schools of law is combined with a review of the positive legal policies in force in several Muslim countries, Indonesia foremost among them. The research is anticipated to contribute to a more inclusive and adaptable understanding of Islamic inheritance law, capable of resolving modern concerns while adhering to the ideals of justice and welfare. The comparative dimension examines adoption (*mutabannā*) in Islamic doctrine by investigating Qur'ānic decrees and prophetic instruction that transformed pre-Islamic adoption practice. It draws material from five settings, namely Bangladesh, Indonesia, Malaysia, North Africa and the Gulf states, so that the range of available responses to a shared doctrinal constraint becomes visible.

This comparison illustrates the flexibility of Islamic law through uṣūl-based istinbāṭ, applying early juristic deductive processes (ijtihād) to a contemporary problem, particularly by way of *waṣiyyah wājibah*. Indonesian flexibility is especially evident in Article 209 of the KHI. The concept of the maqāṣid al-sharīʿah underlies the equitable inheritance system of the Qur'ān, resting upon the protection of life (*ḥifẓ al-nafs*), the protection of offspring (*ḥifẓ al-nasl*) and the protection of property (*ḥifẓ al-māl*). The social distribution of property likewise encourages care for vulnerable children such as foster children and orphans.

The third methodological element is the analytical use of the maqāṣid as an evaluative standard against which both classical doctrine and modern statutory reform are assessed. Under classical Sharīʿah, paternity is established by a valid marriage, by physiognomic resemblance (*qiyāfah*), by the statement of the mother and by the testimony of witnesses, and these evidentiary rules define the boundary within which any reform must operate. Values relating to the protection of life, of offspring and of property are fundamental principles in the implementation of an inheritance system informed by the maqāṣid al-sharīʿah. Those three values constitute the basis and cornerstone for ensuring the fair implementation of the inheritance system in accordance with the maqāṣid framework (Uthman & Abdulsalam, 2026), and they accordingly supply the criteria applied throughout the analysis that follows.

Results and Discussion

Colonial Codification and Hybrid Legal Systems

Colonial powers significantly altered Islamic law by codifying it, converting flexible Sharīʿah interpretation into strict, state-controlled personal law, especially in fields such as inheritance. British officials in India relied upon Ḥanafī compilations such as the Hedaya (1791) and the Fatāwā ʿĀlamgīrī (1865) in formulating Anglo-Muhammadan law. This placed administrative uniformity across the colonies above traditional diversity and confined the Sharīʿah to matters of family law, inheritance rights among them. The resulting duality persisted after independence, as the Pakistani Constitution of 1973 combined secular-colonial and Islamic law, each subject to distinct mechanisms of application such as the Federal Shariat Court. Although Islamic inheritance law was followed as the primary law for Muslims, colonial courts could and did induce communities to adopt customary (adat) or civil procedures for the resolution of disputes wherever this proved more efficient for the administration (Rasyid et al., 2024).

Reform across national borders continues to follow religious sensibilities, as Nadjma Yassari's examination of the position of the adopted child in Iran demonstrates. Such fidelity has at times produced conflict between Middle Eastern family law and international human rights conventions. Yassari observes that hybrid post-colonial codes, combining civil-law drafting techniques with selected notions of nasab and inheritance, are found across many Muslim jurisdictions. Within these systems the prohibition of tabannī and the preference for statutory rules over blood-based farāʾiḍ are matters of law as much as of religious belief. Without explicit legislation it is therefore difficult to include adopted or fostered children within inheritance, and the maqāṣid may be deployed to reconstruct the position of *kafālah* children so as to enhance their economic security without violating the injunction against fictive filiation.

Adopted children can be legally recognised as children, but if they are not given their rights as children to their adoptive parents through a wasiat wajibah they have no inheritance rights whatsoever (Amalia, 2025). Adoption is not accepted as a fictive relationship between the adoptive parent and the adopted person in Islam (Pollack et al., 2005). It does not permit legal adoption, nor does it permit severance from the nasab of the child's original family, but it certainly promotes care and protection of orphans, in the form of *kafālah* which translates as legal fosterage or guardianship. The basic legislation that regulates guardianship of minors in Bangladesh is the Guardians and Wards Act 1890, which was based on the colonial law. However, judicial practice shows that the family courts have increasingly awarded guardianship to Muslim petitioners, thereby effectively regulating and formalizing previously informal types of adoption. The pattern has raised issues about the provision of Bangladeshi adoption law and the protection of the children's rights (Hossain & Khan, 2017).

Article 1(4) of Government Regulation Number 54 of 2007 concerning the Implementation and Adoption of Children provides that adoptive parents are persons given the authority to care for, educate and raise children on the basis of statutory regulation and custom (Surbakti et al., 2024). The Supreme Court of the Republic of Indonesia has exercised considerable influence through its judicial output, functioning at times as a source of doctrinal clarity (Yetta et al., 2024). In Decision No. 368 K/AG/1995 it was held that adopted children are not entitled to inheritance, and later judgments relied upon Article 209 of the KHI in order to give effect to compulsory bequests instead (Basid, 2025). Under the KHI, adopted children hold the status of legitimate children as determined by judicial decision,

without severing ties of lineage or blood with their biological parents (Zubair et al., 2014).

Article 209 of the KHI provides *waṣiyyah wājibah* on behalf of adopted children and adoptive parents as a substitute for inheritance rights (Roziqi et al., 2025). The provision stipulates that an adopted child should receive an obligatory bequest of no more than one third of the estate of the adoptive parents. According to Muhamad Asni and Sulong (2018), two schools of Muslim scholarship hold differing views on the practice: supporters of the obligatory bequest cite Qur'ān 2:180 and 4:8, while opponents maintain that these verses were abrogated (mansūkh) by 4:11–12, which concern the farā'iḍ (Alma'amun et al., 2022).

The upbringing or adoption of a child is carried out in accordance with Article 7(2) of the 2014 Law on Child Protection, applicable legal norms, and customary and religious practice, while Article 33(2) of the same law requires that guardianship be established by court decision (Soemitro, 1990). The operation of Article 209 of the KHI may accordingly be summarised in two limbs. Where the adoptive parent has died without leaving a bequest, the estate is distributed in accordance with Articles 176 to 193 and an obligatory bequest of not more than one third is deemed to have been made in favour of the adopted child. Where no will has been left, the adopted child correspondingly receives one third of the assets of the adoptive parents. The Article thus confers upon adopted children a right to a bequest from those who adopted them, provided they have not already received a bequest from their birth parents (Atiyatunnajah & Setyawan, 2023).

In pre-Islamic Arabia, adopted children were entitled to inheritance, bore the name of their adoptive parents, and were regarded as biological offspring in all social and legal matters. An adopted son was consequently treated as equivalent to a biological son and was, for example, forbidden to marry the former wife of his adoptive father after divorce. Inheritance conflicts were among the many difficulties that resulted from this approach (Kanwal et al., 2024). Distinguishing between the divine worldview of Sharīʿah and its humanly derived jurisprudential application in fiqh is critical when evaluating the political, social, economic, moral and spiritual framework by which practising Muslims are bound (Davis, 2024). Adoptive parents may also establish an endowment (waqf) with the intention of sustaining and caring for an adopted child after their death (Yusuph, 2018). Islam treats descent as the basis of social order and reinforces it with strong legal protections against corruption and disorder, its foundations resting upon the principles of legitimacy and clarity (Haider, 2025). The conviction that lineage matters is treated as an innate human disposition, and the divine law protects these basic instincts so that rights are preserved, justice is maintained and oppression is avoided. The Sharīʿah must therefore address questions of lineage directly.

The way the Qur'ān (33:4-5) explicitly states the harm of treating adopted children as biological children is well worth considering. The second passage from the Qur'ān (4:11–12) also establishes fixed shares of inheritance (farāʾiḍ) for specific heirs, establishing a prescriptive framework which classical legal theory interprets as restricting the reconfiguration of inheritance in informal kinship groups. The main theory that binds all the other theories together in modern scholarship is the theory of maqāṣid, which is the theory linking the limitation of the textual inheritance rules with the evolving duty of welfare. Contemporary studies of the maqāṣid, exemplified by the systems-theoretic approach of Jasser

Auda, have contended that interpretive reasoning with purpose not only respects the limits of scripture but can also contribute to the evolution of policy and fiqh that can deal with social harm and vulnerability (Auda, 2008). The idea of a closed gate of ijtihād is also challenged in the study of Islamic law, most notably by Wael Hallaq (Hallaq, 1984).

Indonesian law recognises customary adoption without recognising full adoption in the classical sense (Nurlaelawati & van Huis, 2019). Article 171 of the KHI defines an adopted child as one whose daily maintenance, educational expenses and related responsibilities are transferred from the original parents to the adoptive parents on the basis of a court decision (Khalid & Ramadani, 2023). Indonesia therefore functions as a reform leader, having preserved the doctrinal prohibition upon tabannī while creating a statutory channel through which the material welfare of the child is secured.

Adoption in Malaysia takes two forms. The first involves taking the child of another as one's own, with the result that the adopted child stands on an equal footing with the natural children of the adoptive parents; the second involves taking a child into one's custody without affecting the biological status of that child (Mohd, 2012). Malaysian Islamic inheritance law (fara'id) excludes adopted children from direct shares as heirs, treating them as non-blood relatives. The obligatory bequest model known as wasiat wajibah nevertheless affords them limited rights through state-specific Muslim Wills Enactments, capping the benefit at one third of the estate (Lubis et al., 2025). The Malaysian experience thus parallels the Indonesian one while operating through state rather than national instruments.

Adoption is further understood as an institution that places the child in an improved environment and as a social instrument by which society provides a substitute family to children whose parents are unable or unwilling to care for them (Assim, 2009). The Moroccan Family Code (Moudawana) sets out the *kafālah* procedure in detail and prioritises the best interests and rights of the child. Moroccan law does not assimilate *kafālah* to adoption, the latter being prohibited under Islamic law, but centres instead upon the maintenance, education and protection of the child. Mechanisms also exist for governmental monitoring of the welfare of children placed under *kafālah*, with regular reporting by those responsible for their care (Hani, 2024).

The *kafālah* system in Egypt, also described as foster care, is available irrespective of the applicant's faith and is consistent with Islamic law as reflected in the Personal Status Laws. Unlike adoption, it does not permit the fostering family to alter the family name given to the child, and the child acquires no right to inherit the property of that family. The system is governed by the Egyptian Child Law of 1996 and its Executive Regulations, together with the rules of the Ministry of Social Solidarity. Fadel (2025) identifies the underlying motives as the retention of the child's blood relationship and heritage, or the retention of whatever name the child has been given where parentage is unknown.

Maqāṣid al-Sharīʿah as a Framework for Reform

In contemporary Muslim-majority states the role of the Sharīʿah in public life remains a long and often heated debate, which has generated the perception of a divide between secularism and traditionalism (Hussain & Ahmed, 2025). The maqāṣid al-sharīʿah, understood as the higher purposes of Islamic law, provides a comprehensive ethical framework capable of enriching the examination of human

rights (Harun et.al., 2025). The maqāṣid paradigm, systematically articulated by classical jurists such as Abū Ḥāmid al-Ghazālī and Ibrāhīm al-Shāṭibī, conceptualises Islamic law as a moral framework designed to protect fundamental human interests, namely religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-ʿaql), lineage (ḥifẓ al-nasl) and property (ḥifẓ al-māl) (Bhuiyan et al., 2026). Three of these five interests bear directly upon the position of the parentless child and are considered in turn below.

As for the concept of ḥifẓ al-nafs, research into the decisions of religious courts in Indonesia shows a gradual move away from the logic of madhhab to more contextualised, best-interest logic in cases of child custody and inheritance rights, and the judges cite the psychological and social wellbeing of the child as a part of ḥifẓ al-nafs and ḥifẓ al-nasl (Anisa, 2025). The welfare of the orphaned children is thus made accessible to the analytical language of the maqāṣid and not left up to charity. The protection of progeny (nasl) is one of the five universal ends of Islamic law, and ḥifẓ al-nasl has functioned as a rigid protective mechanism designed to ensure that every child is born into a clear, legitimate and traceable lineage (Nasiri, 2022). Recognition of civil relations with the biological father provides stronger guarantees for the fulfilment of maintenance rights, legal identity, social protection and potential inheritance rights. Such recognition does not validate sharʿī lineage arising from extramarital relationships, being confined instead to civil legal relationships.

The protection of property (ḥifẓ al-māl) is engaged through the mechanism of fair and reasonable distribution, by imposing a one-third limit upon *waṣiyyah wājibah* and by rectifying the distribution of proportionate bequests alongside the farāʾiḍ of *kafālah* children, so that the estate is not dissipated and family members are not driven into poverty. On the basis of Qur'ān 4:11–12, distributions must be proportional and fair according to the principle of farāʾiḍ, which rewards and secures each blood heir without prejudice to the others. In the context of *kafālah*, the obligatory bequest applies the maqāṣid by permitting the distribution of structured shares from the pool of bequests in order to ensure the ward's continued livelihood and to facilitate the prosperity of the family (Ado et al., 2025). This remains a normative process, as the uncodified Ḥanafī position in Bangladesh illustrates.

Rahman and Monawer, in a maqāṣid register, maintain that shifting the nature of a waṣiyyah into a wājibah would reinforce social bonds and help keep the welfare of the needy dependants intact, while maintaining the existing farāʾiḍ hierarchy (Rahman & Monawer, 2020). The maqāṣid al-sharīʾah and the concept of maṣlaḥah, which translates to fairness or public welfare, are thus the theoretical foundations for this study. The Arabic words farāʾiḍ and mīrāth are used in the Qur'ān and Sunnah to refer to division of the property of the deceased among his or her legal heirs; in other words, Islamic inheritance is the distribution of a deceased person's property to those who are recognised as Islamic legal heirs (Saujan et al., 2022).

The interest of the child is not the only one at stake since lineage is a natural and reciprocal requirement of both the father and the child (Kanwal et al., 2025). Allāh does not divide people according to their birth but (Allāh) stresses on piety (Gusmarani, 2025). Inheritance law, however, in Islamic tradition does not usually include such children unless the father recognizes them. In some instances, alternative ways of distributing the share to the child include obligatory bequest

(wasiat wajibah), but this is not widely accepted and consistently applied (Saputra & Hussin, 2025).

The movement from biological to societal filiation undertaken by both Islamic and international legal regimes seeks to safeguard the right of a child to a name and an identity (Ali, 2019). Qualitative research indicates that the concept of inheritance in Islam is regulated by a comprehensive legal framework in which each heir's entitlement is determined by the Qur'ān, the Ḥadīth, consensus (ijmāʿ) and analogy (qiyās) (Simatupang & Nasution, 2025).

Islamic inheritance law and other legal systems governing the inheritance of adopted children differ most visibly in the concept of wasiat wajibah. Under classical Islamic law a bequest may be revoked, and where it exceeds one third of the estate the heirs must consent to it; the bequest is voluntary in character (Mahargiani et al., 2025). The governing principle of inheritance is the relationship of blood or womb (Kasdi & Anwar, 2019), and that principle does not recognise adopted children as heirs. Scholars of the four Sunnī schools, Ḥanafī, Mālikī, Shāfiʿī and Ḥanbalī, largely concur that adopted children are not legitimate heirs (Mahargiani et al., 2025).

The classical philosophy of nasab exclusivity and the priority of the farā'iḍ is capable of supporting a modern child welfare system built upon *kafālah* and *waṣiyyah wājibah*, which together oblige the financial and emotional protection of the child through the realisation of the maqāṣid and the sustenance of the family line. The classical understanding of *kafālah*, combined with *waṣiyyah wājibah*, reconciles the modern necessity of child welfare with the limitation upon tabannī and the Qur'ānic injunction to protect orphans. Permanent guardianship, maintenance and education are provided under *kafālah* without altering nasab, while the obligatory bequest secures economic provision of up to one third of the estate as a post-mortem obligation discharged before farā'iḍ distribution, an arrangement fully compatible with the Ḥanafī permission for bequests to non-heirs (Hani, 2024).

Evaluating the Indonesian Model for Bangladesh

Inheritance law within the Indonesian Civil Code was influenced by Roman and French inheritance law brought from the Netherlands and applied since colonial times (Sukirman et al., 2025). Islamic law, commonly referred to as fiqh, may ordinarily be divided into four categories, namely sharīʿah, fiqh, statutory law and fatwā, one of which addresses inheritance specifically (Wafi et al., 2025). The *waṣiyyah wājibah* model of the KHI, which incorporates an obligatory bequest into the inheritance procedure for *kafālah* children, offers Bangladesh a doctrinally sound route to inheritance equity without tabannī. Both jurisdictions operate hybrid systems, combining Sharīʿah with colonial adat in Indonesia and Sharīʿah with the Guardians and Wards Act in Bangladesh (Monsoor & Thambapillay, 2024). The KHI declines to accept tabannī, as does Bangladeshi law, yet the obligatory bequest succeeds in supplying the equity that Bangladeshi law presently lacks.

The rights and duties of adoptive parents and of the adoptee should be adequately specified in any future statute. In addition to stating the rights of the adoptee in respect of the adoptive parents, the rights of the adoptive parents in respect of the adopted child should also be stated, so that they enjoy a right to maintenance from the adopted child equivalent to that of natural parents (Das, 2024). The legality of *waṣiyyah wājibah* has already been examined in the light of

the maqāṣid al-sharīʿah (Rahman & Monawer, 2020). Its incorporation offers a Sharīʿah-compliant reform option for the inheritance rights of adopted and *kafālah* children, mandating up to one third of the estate by court order and balancing the preservation of nasab against maqāṣid objectives such as ḥifẓ al-nafs and ḥifẓ al-māl. A donor may in addition make a gift from his or her assets to any person during their lifetime, and no restriction attaches to the size of such a gift unless the intention is to injure the legal heirs.

In several Muslim-majority jurisdictions judges have begun to articulate their reasoning through the maqāṣid, particularly in family disputes concerning custody, inheritance and children born outside conventional marital arrangements (Nazah et al., 2025). Within this pattern, several authors describe how maqāṣid-oriented judicial and legislative techniques might be extended or systematised in fields such as adoption and obligatory bequests, though they generally advance these as possibilities rather than requirements (Lubis et al., 2025).

Conclusion

This study was based on the core principles of Islamic law as mentioned in the Qur'ān and Sunnah to analyze and find out whether it is possible to reconcile Islamic inheritance law with protecting adopted children. It concludes that tabannī had been aimed at preserving nasab (blood line) and preventing false inheritance and that this concern led to the farāʾiḍ, which only allowed blood relations and spouses to inherit. There has, however, always been an alternative source for those who do not belong to it, namely waṣiyyah, hibah and waqf. The analysis reveals that Islamic law is not static, because it allows for development and that development is part of maqāṣid al-sharīʿah, which is to preserve the life, lineage and property for the benefit of vulnerable children, as demonstrated by the introduction of *waṣiyyah wājibah* on Indonesia and Malaysia. There is a large gap between social practice and legal requirement in Bangladesh as adoption is not recognized in the law and guardianship does not give an inheritance right. Lack of any way in which an orphaned child can receive material provision makes them even more vulnerable as there are still many children in need of such care. Based on the analysis, a compulsory bequest, with justification based on the maqāṣid, can provide a viable method for legal reform; moreover, maqāṣid-based interpretation can help create adaptive mechanisms that can provide protection for vulnerable individuals while maintaining the validity of the farāʾiḍ system. Further research will be useful if it could compare this proposal with the judicial practice in Bangladeshi family courts and could assess the administrative capacity needed to enforce this bequest in a jurisdiction where the personal law is not codified, but the Ḥanafī law is followed.

Generative AI and AI-Assisted Technologies Statement

In writing this article, ChatGPT was used as a tool to enrich and refine the sentences in the paragraphs to make them more engaging, to paraphrase, and to assist with the data analysis process. All results generated with the help of ChatGPT have been reviewed, verified, and revised by the author. The author assumes full responsibility for the accuracy, substance, and final content of the article

Author Contribution Statement

Each author played a role in writing this article. The first author (Tasnuva Anika) was responsible for compiling and developing the initial draft of the article. The second author (Tasnuva Tabassum Eshara) contributed by reviewing, checking, and refining the structure and language of the article. The third author (Samaun Fardosy Orthi) played a role in expanding the references, reviewing the substance of the article, and performing final corrections and editing. All authors contributed according to their respective roles and responsibilities in producing an article suitable for publication.

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