

Reassessing David S. Powers' Thesis On The Formation of Islamic Inheritance Law

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Abstract.

*This article critically reassesses the historical-critical thesis of David S. Powers, an American historian of Islamic law at Cornell University, as presented in his influential monograph *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance* (1986). Western scholarship on Qur'anic law has long been divided between studies of Muslim exegesis and independent Western reconstructions of Qur'anic themes; Powers' work belongs to the latter and has shaped subsequent debate on the historicity of Islamic inheritance law, yet critical engagement with it from Muslim academic circles, particularly in Indonesia, remains limited. This study addresses that gap through a qualitative library research design, using content analysis combined with a historical-critical approach to Powers' primary text and to recent scholarship on Qur'anic inheritance and Orientalist method. The analysis shows that Powers simultaneously revises two established positions: he rejects Joseph Schacht's thesis that Islamic law only crystallised around 725 CE, arguing instead that Qur'anic legislation on inheritance was operative from the Prophet's lifetime; and he argues that the early Muslim community subsequently altered the reading of the inheritance verses, replacing a flexible, will-based "proto-Islamic" system with the fixed-share doctrine later codified as 'ilm al-fara'id. The discussion further shows that, while methodologically provocative, Powers' reconstruction rests on an unverified assumption of coordinated textual manipulation and an interpretation of Q. 4:12 that is not fully supported by the transmitted asbab al-nuzul, leaving the classical understanding of naskh a stronger explanatory account.*

Keywords: *hadith studies; Islamic inheritance law; Orientalism; Qur'anic exegesis and 'ilm al-fara'id.*

I. INTRODUCTION

Western scholarship on the Qur'an, as part of the broader Orientalist tradition, has followed a trajectory and methodological character distinct from other branches of Islamic learning. Since the nineteenth century, this scholarship has produced a wide range of studies, from the historical-philological criticism associated with Theodor Nöldeke and the source criticism of Ignaz Goldziher to the radical revisionism of John Wansbrough. These studies generally proceed from the premise that Islam, like any other religion, may be examined from any scholarly vantage point, so that many of their conclusions diverge sharply from the way Muslims traditionally understand the foundational teachings of their own faith.

Broadly speaking, Western attention to the Qur'an falls into two tendencies: studies of how Muslim exegetes have interpreted the Qur'an across history, and independent Western attempts to offer conceptual accounts of specific Qur'anic themes. The second tendency quantitatively dominates Western scholarship, and within it, Islamic law—particularly inheritance law—occupies a prominent place because of its unusually direct textual grounding in the Qur'an itself. Among the most influential contributions in this area is David S. Powers' *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance* (1986), which explicitly challenges two major currents of thought at once: Joseph Schacht's revisionist thesis that situates the formation of Islamic law far from the Prophet's own time, and the traditional Muslim understanding of the relationship between the bequest verses and the verses of obligatory inheritance shares.

The significance of Powers' study lies in its far-reaching implications. If his thesis were accepted, 'ilm al-fara'id—one of the most intricate and mathematically rigorous constructions in classical Islamic jurisprudence—would have to be regarded as the product of historical distortion rather than as a faithful representation of the Qur'an's original intent. This is not merely an antiquarian dispute: contemporary debates on gender justice in Islamic inheritance continue to invoke competing readings of the very same verses that Powers reinterprets (Essop, 2026; Kerwanto, 2025), which underscores the continuing relevance of revisiting his argument.

Despite the long-standing importance of Powers' work in Western legal-historical scholarship, sustained critical engagement with it from within Muslim academic discourse—and especially within Indonesian scholarship—remains comparatively scarce. Indonesian Islamic studies have engaged extensively with Orientalist critiques of hadith transmission (Nugroho, 2022; Safitri, Marna, & Amin, 2023; Saifullah, 2021), and a small number of studies have directly examined Powers' inheritance thesis and situated it within a postcolonial framework (Wardani, 2020), yet a systematic evaluation of the argument's internal consistency against classical *usul al-fiqh* remains underdeveloped, particularly as Western Qur'anic studies gain wider circulation within Indonesian Islamic universities (Rahman & Nurtawab, 2024). This article addresses that gap.

Inheritance law offers a particularly instructive test case for this broader revisionist project, precisely because it is one of the few areas of Islamic law whose textual basis in the Qur'an is unusually explicit and detailed, down to the level of numerical shares. Where other areas of *fiqh* rely heavily on hadith and juristic reasoning to fill textual gaps, the inheritance verses (Q. 4:8, 4:11–12, 4:176) already specify fractional entitlements with a precision rarely matched elsewhere in the Qur'an. This textual density is what allows Powers to mount a close linguistic and historical argument rather than a purely speculative one, and it is also what makes any successful revisionist reading of these verses unusually consequential: if the argument holds for the most textually explicit branch of Islamic law, its implications for less explicit branches would be considerably harder to resist. It is this combination of textual specificity and doctrinal centrality that justifies treating Powers' inheritance thesis, rather than his broader remarks on Islamic legal history in general, as the focal point of the present study.

Accordingly, this study seeks to answer three questions: first, what position does David S. Powers occupy within the contemporary field of Qur'an and Hadith studies? Second, what method does he employ in analysing Islamic inheritance law? Third, how may his central thesis on proto-Islamic inheritance law be critically evaluated, both in terms of its methodological consistency and its implications for the classical understanding of *fiqh*? In answering these questions, the article aims to contribute a systematic, text-grounded Muslim scholarly response to a revisionist thesis that continues to inform debate on gender and inheritance justice in Islamic law today.

II. METHODS

This study employs a qualitative library research design intended to describe and critically evaluate an existing body of scholarly argument rather than to test a numerically stated hypothesis; the implicit working proposition is that Powers' proto-Islamic inheritance thesis, while methodologically innovative, does not withstand close comparison with the classical apparatus of *naskh* and *asbab al-nuzul*. The unit of analysis ("population") is the corpus of published scholarship surrounding the formation of Islamic inheritance law; the "sample" consists of purposively selected primary and secondary texts most directly relevant to Powers' argument.

The primary source is Powers' *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance* (University of California Press, 1986), together with his earlier article "The Islamic Law of Inheritance, Reconsidered: A New Reading of Q. 4:12b" (1982). Secondary sources include classical and contemporary Orientalist literature on the origins of Islamic law, classical works of tafsir on the inheritance verses, and recent journal literature on Qur'anic inheritance law, gender justice, and the reception of Orientalist method in Muslim scholarship (Essop, 2026; Harnides, Abbas, & Hasballah, 2023; Hasan, 2023; Kerwanto, 2025; Wardani, 2020).

Data were collected through purposive documentary search and close reading of these texts, and were analysed using content analysis combined with a historical-critical approach. The analytical procedure comprised three steps: (1) identifying the core argument and reasoning structure of Powers' thesis; (2) mapping its argumentative position relative to Schacht's thesis on one side and the traditional Islamic understanding on the other; and (3) critically evaluating the validity of Powers' argument with reference to internal consistency, the sufficiency of textual evidence, and its coherence with the established principles of

usul al-fiqh and *'ulum al-Qur'an*, particularly the doctrines of *naskh* (abrogation) and *asbab al-nuzul* (occasions of revelation).

To strengthen the trustworthiness of this qualitative reading, three procedures were followed. First, source triangulation: every claim attributed to Powers was checked directly against his own text rather than against secondary summaries, and cross-checked against an independent reception study of his work that situates it within a postcolonial framework (Wardani, 2020), to guard against uncharitable or distorted paraphrase. Second, comparative reading across opposing positions: Schacht's own *Origins of Muhammadan Jurisprudence* (1950) was read alongside Powers' critique of it, so that Schacht's argument is represented in its own terms rather than only as refracted through Powers. Third, classical tafsir on the inheritance verses (al-Tabari, Ibn Kathir, and al-Zamakhshari) was used as an independent benchmark against which Powers' reading of Q. 2:180 and Q. 4:12 could be evaluated, rather than allowing the evaluation to rest solely on the researcher's own inference.

III. RESULTS AND DISCUSSION

Position within Qur'an and Hadith Studies

David S. Powers (b. 1951, Cleveland, Ohio) earned his B.A. in Near Eastern Languages and Literatures from Yale University (1973) and his Ph.D. in Islamic History from Princeton University (1979). He subsequently built his career at Cornell University, rising from Instructor of Arabic to Professor of Islamic History, and later served as founding editor of the journal *Islamic Law and Society*. Beyond the 1986 monograph under discussion, his influential publications include *Islamic Legal Interpretation: Muftis and Their Fatwas* (1996, co-edited with M. Khalid Masud and Brinkley Messick) and *Law, Society, and Culture in the Maghrib, 1300–1500* (2002).

Methodologically, Powers positions himself among scholars—such as Noel J. Coulson, Nabia Abbott, Fuat Sezgin, and M. M. A'zami—who reject Schacht's chronology and instead argue that Islamic law, including the hadith that partly constitutes its sources, developed continuously from the time of the Prophet Muhammad rather than emerging abruptly a century later. His inheritance study is thus best read not as an isolated inquiry but as part of a broader revisionist current that takes the Qur'an itself, rather than later juristic literature, as the starting point for reconstructing the history of Islamic law (Wardani, 2020).

This positioning is worth dwelling on, because it complicates any simple binary between "Orientalist" and "Muslim-sympathetic" scholarship. Powers is, in one sense, more conservative than Schacht: he insists, against Schacht, that the Qur'an's legal content was already authoritative and operative during the Prophet's lifetime, a position much closer to the traditional Muslim self-understanding than to Schacht's radical scepticism about early Islamic legal history. Yet in another sense Powers is more radical than either Schacht or the tradition he examines: whereas Schacht doubts that Islamic law existed early, and the tradition holds that the law revealed to the Prophet is substantially the law codified afterward, Powers alone insists that a real system existed early but that it was subsequently and substantively altered. His work therefore cannot be assimilated either to the Schachtian skeptical camp or to traditionalist apologetics; it constitutes a distinct third position, one that grants the antiquity of Islamic law while denying the continuity of its content. Recognising this three-way structure is essential for evaluating Powers fairly, since criticisms adequate against Schacht's scepticism about early Islamic law do not automatically apply to Powers' quite different claim about post-prophetic alteration of an early law that he agrees existed.

Powers' Critique of Schacht's Thesis

Schacht's thesis, formulated in *The Origins of Muhammadan Jurisprudence* (1950), holds that Islamic law as a systematic jurisprudence only took shape around 725 CE, nearly a century after the Prophet's death, and that many legal hadith isnads were retrojected to lend religious legitimacy to practices that had in fact developed later. Powers identifies two fundamental weaknesses in this account.

First, he points to an internal inconsistency: Schacht acknowledges that many rules of Islamic law—particularly family and inheritance law—derive from the Qur'an from the outset, yet still situates the beginning of Islamic legal development around 725 CE. Schacht attempts to reconcile this by arguing that

early legal practice had deviated from Qur'anic provisions, with Qur'anic norms only integrated into legal doctrine at a later, secondary stage. For Powers, this explanation overlooks the plain fact that legal verses, including the inheritance verses, functioned as binding reference points from the moment of revelation—something the first generation of Muslims, living in close proximity to the revelation itself, could hardly have ignored.

Second, Powers highlights Schacht's failure to distinguish clearly between jurisprudence (the systematic theory of law) and positive law (the norms actually applied in practice). Although Schacht's title refers to jurisprudence, he and his followers write as though both jurisprudence and positive law began simultaneously in 725 CE. Powers insists that anyone tracing the origins of Islamic positive law must begin with Qur'anic legislation on family law, inheritance, and ritual, since the first generation of Muslims after the Prophet inevitably turned to Qur'anic provisions to resolve such matters long before formal jurisprudence took shape.

Tribal Custom and Qur'anic Legislation

Classical Islamic tradition records the development of inheritance law across three stages over the twenty-two years of prophetic mission (610–632 CE). In the first, Meccan stage (610–622 CE), at least six verses regulate testamentary inheritance (Q. 2:180–182, 2:240, 5:105–106). In the second stage, shortly after the migration to Medina (622 CE), verses establishing obligatory inheritance shares were revealed, beginning with Q. 4:8, which affirms women's right to inherit, followed by Q. 4:11–12, which specifies the fixed shares (*furud*) of heirs, and Q. 4:176. These verses came to be known as *ayat al-mirath* and form the core of *'ilm al-fara'id*. In the third stage, after the conquest of Mecca (630 CE), the Prophet established a limit on bequests clarifying the relationship between the two sets of revelations, declaring that no bequest may be made to an heir.

Against this chronology, the nineteenth-century Orientalist W. Robertson Smith was the first scholar to trace the basic elements of Islamic inheritance law to pre-Islamic Arab tribal custom, identifying *'asabah* as a customary tribal element later absorbed into Islamic law. Some years later, the French Orientalist W. Marçais developed what became known as the superimposition theory. Unlike Smith, Marçais recognised the existence of settled social organisation in the Hijaz and argued that Meccan inheritance practice was comparatively open to women, while Medinan practice was more male-oriented; he concluded that Muhammad "superimposed" a new regime favouring women upon existing Medinan inheritance practice.

The synthesis that may be drawn from these two theories is that the Qur'an established inheritance rights for wives and close female relatives by assigning them fixed shares (*fard*)—not as an entirely new system, but as a modification inserting a new category of heirs above the old one. The *'asabah*, the pre-Islamic heirs, continued to inherit, but now only the residue remaining after the Qur'anic fixed shares had been distributed. These two historically heterogeneous elements—Arabian tribal custom and Qur'anic legislation—subsequently merged to form *'ilm al-fara'id*, so that the mathematical complexity of its calculations is, in effect, a direct consequence of this dual foundation.

It is precisely this "layered" account—Qur'anic *fard* shares superimposed on residual tribal *'asabah entitlement*—that Powers sets out to displace. Where Smith and Marçais treat the classical *fara'id* system itself as the direct historical successor of the Qur'anic intervention (differing only on how open or closed the pre-Islamic baseline was), Powers denies that classical *fara'id* is the direct successor at all. In his account, the true Qur'anic successor to tribal custom was the more flexible, testamentary proto-Islamic system described below; *'ilm al-fara'id* is, on his reading, a later and distinct construction that itself required suppressing part of what the Qur'an had originally legislated. This is an important point of method: Powers is not merely adding a third stage to the Smith–Marçais sequence, but relocating the decisive break in the sequence—from the pre-Islamic/Islamic boundary that Smith and Marçais treat as decisive, to a boundary internal to the Islamic period itself, between the Prophet's own generation and those that followed. Evaluating Powers therefore requires assessing not only whether Qur'anic legislation modified tribal custom, a point on which there is now wide scholarly agreement, but whether a second, intra-Islamic modification of the kind he proposes actually took place.

Reconstructing Proto-Islamic Inheritance Law

Building on his critique of Schacht, Powers advances a thesis that simultaneously revises two positions at once. He argues that inheritance law developed continuously from the Prophet's time onward, but in a direction opposite to that assumed by Islamic tradition: in the years following Muhammad's death, the Muslim community altered the reading and interpretation of the Qur'an in ways that transformed the inheritance system he had originally introduced. Powers terms this original system "proto-Islamic law of inheritance."

Proto-Islamic inheritance law differs from *'ilm al-fara'id* in two principal respects. First, rather than imposing strict limits on testamentary inheritance, the proto-Islamic system gave a prospective testator full freedom to name heirs and distribute property through a will—whether to sons, daughters, or affinal relatives such as a wife or son-in-law. Where an affinal relative was named, blood relatives who would otherwise inherit *ab intestato* retained a right to compensation (Q. 4:12); a testator could also bequeath up to one-eighth of the estate to parents or other close relatives (Q. 2:180). Second, under the proto-Islamic system, the fixed distribution rules applied only in the absence of a valid will (*ab intestato*), whereas in *'ilm al-fara'id* obligatory distribution became the general norm. Powers thus contends that the Qur'an originally introduced a complete inheritance system—covering both testamentary and intestate succession—intended to replace pre-Islamic tribal custom entirely, not merely to modify it.

Table 1 summarises the principal points of contrast between the two systems as reconstructed in Powers' argument.

Table 1.

Comparison between Powers' Proto-Islamic Inheritance System and Classical *'Ilm al-Fara'id*

Aspect	Proto-Islamic system (Powers)	Classical <i>'ilm al-fara'id</i>
Basis of distribution	Primarily testamentary (will-based)	Primarily fixed obligatory shares
Role of the will	Free disposal to chosen heirs, including affines	Restricted to non-heirs, capped at one-third
Default rule	Fixed shares apply only <i>ab intestato</i>	Fixed shares are the general norm
Historical source	Reconstructed from Q. 2:180 and Q. 4:12	Q. 4:11–12, 4:176 as read through <i>naskh</i>

This thesis carries genuine methodological appeal, since it attempts to explain why the relationship between the bequest verses (Q. 2:180) and the verses of obligatory distribution (Q. 4:11–12) appears less than fully harmonious when read solely through the conventional framework of *naskh*. Even scholarship sympathetic to reopening the gender implications of Qur'anic inheritance law has revisited precisely this tension between the bequest verses and the later fixed-share verses (Essop, 2026), which suggests that Powers identified a genuine interpretive difficulty rather than an artificial one.

The thesis nonetheless leaves several fundamental problems unresolved. First, Powers' argument depends heavily on the assumption that a broad textual and transmission consensus—one shared, independently, across legal schools and exegetical traditions that developed largely apart from one another—could have been coordinated and altered without leaving significant traces of transmission dispute; this is a claim that is difficult to substantiate historically and that effectively privileges methodological suspicion over positive evidence. A coordinated reinterpretation of this scale would need to have succeeded not merely in Medina, where the earliest legal authorities were concentrated, but across the rapidly expanding and doctrinally competitive early Muslim world, including regions and later schools that had every institutional incentive to preserve divergent readings if such readings had genuinely circulated. The near-total absence of a rival, textually attested "proto-Islamic" reading in the classical tafsir and hadith corpus is not, by itself, decisive against Powers—absence of evidence is not evidence of absence—but it does raise the evidentiary bar considerably higher than his largely inferential reconstruction manages to clear.

Second, Powers' reading of Q. 4:12 as a basis for compensating heirs "displaced" by a will requires an interpretive leap not fully supported by the *asbab al-nuzul* transmitted through the *mutawatir* exegetical tradition. Where the classical exegetes read the spousal shares in Q. 4:12 as a straightforward specification of fixed inheritance entitlement, Powers must read the same verse as an indirect, compensatory mechanism responding to a hypothetical testamentary practice that the verse itself never explicitly describes. This is not

an impossible reading, but it is a considerably less economical one than the classical alternative, and the burden of proof for preferring a less economical reading over a well-attested traditional one falls squarely on the revisionist argument.

Third, from the standpoint of *usul al-fiqh*, the concept of *naskh* that explains the relationship between the bequest verses and the obligatory-share verses has been built upon principles refined and tested across generations of exegetes, from al-Tabari and Ibn Kathir to al-Zamakhshari; rejecting this framework, as Powers does, would require considerably stronger textual proof than an argument from historical plausibility alone. It is telling that even scholarship most sympathetic to reopening the gender implications of these verses tends to work by contesting specific applications of *naskh* to particular verse pairs (Essop, 2026), rather than by adopting Powers' far more sweeping claim that the entire post-prophetic transmission process was compromised; this suggests that the more surgical, verse-specific critique of *naskh* has proven more durable in subsequent scholarship than Powers' global claim of manipulation.

At the same time, Powers' contribution cannot be dismissed as mere reckless deconstruction. His linguistic and historical-critical method successfully demonstrates that the structure of the inheritance verses contains complexities not yet fully resolved by classical fiqh explanations, particularly regarding the logical relationship between bequest and obligatory inheritance. Comparable inheritance disputes in contemporary Indonesian practice—where local custom and Qur'anic provision continue to interact in ways not fully anticipated by classical *fara'id* doctrine (Harnides, Abbas, & Hasballah, 2023; Hasan, 2023)—likewise suggest that the boundary between textual command and historical practice in Islamic inheritance law remains a live question rather than a settled one. In this sense, Powers' thesis functions as a productive academic provocation: it compels Muslim scholars to articulate, with sharper argument, why the traditional reading of the inheritance verses remains the stronger explanation when weighed against his proto-Islamic reconstruction.

Implications for Contemporary Debates on Gender and Inheritance Justice

Although Powers' thesis was formulated primarily as a historical-critical argument about textual origins, its afterlife has been most visible in contemporary debates over gender justice in Islamic inheritance. If the fixed 2:1 male-to-female inheritance ratio codified in *'ilm al-fara'id* is, as Powers suggests, a post-prophetic narrowing of a more flexible testamentary system, then reformist readings that seek greater gender equity in inheritance distribution gain an additional historical argument beyond purely ethical or *maqasid*-based reasoning. Recent scholarship revisiting the bequest verses alongside the fixed-share verses shows that this move continues to be made, whether by questioning the abrogation of Q. 2:180–182 and Q. 2:240 (Essop, 2026) or by comparing Sunni and Shia inheritance jurisprudence against the standard of contemporary justice frameworks such as the Sustainable Development Goals (Kerwanto, 2025). Comparable reform arguments in the Indonesian context, framed around gender equality within *fara'id*, likewise draw on a similar diagnosis that classical fixed-share doctrine leaves unresolved tensions requiring contextual reinterpretation (Rozi, 2024).

At the same time, ethnographic and judicial evidence from Indonesian inheritance practice suggests that Muslim communities have long negotiated the tension between textual command and lived equity without needing to adopt Powers' historical thesis at all. Field-based studies of inheritance settlement in South Aceh show that affective and customary considerations—captured locally in notions of familial regard—operate alongside, rather than in place of, the fixed-share system, producing outcomes perceived as fair without displacing the *fara'id* framework itself (Harnides, Abbas, & Hasballah, 2023). Similarly, judicial practice at the Religious Court of Pontianak shows judges actively using *ijtihad* to construct contextually responsive applications of inheritance law within, not against, the classical doctrinal architecture (Hasan, 2023). Read together, these findings suggest that the substantive concerns motivating Powers' revisionist history—flexibility, family-specific equity, protection of female and affinal heirs—are already being addressed through interpretive and judicial mechanisms internal to the classical tradition, which somewhat blunts the practical urgency of accepting his more radical historical claim about textual manipulation, even as it leaves

his narrower observation about unresolved tension between the bequest and fixed-share verses worth taking seriously on its own terms.

Taken together, these strands of contemporary literature suggest a more modest but arguably more durable legacy for Powers' work than the one he himself claimed. His strongest and most lasting contribution is not the global historical claim that the early community coordinated a wholesale manipulation of the inheritance verses, but the narrower, more defensible observation that the textual relationship between the bequest verses and the fixed-share verses is more genuinely contested than a straightforward reading of *naskh* doctrine alone would suggest. It is this narrower observation, rather than the sweeping proto-Islamic reconstruction built upon it, that continues to animate serious contemporary engagement with Qur'anic inheritance law, both within reformist gender-justice scholarship and within doctrinally conservative Indonesian judicial practice alike.

IV. CONCLUSION

This study finds that David S. Powers, in *Studies in Qur'an and Hadith: The Formation of the Islamic Law of Inheritance*, simultaneously revises two established positions in the study of the Qur'an and Hadith, rejecting Schacht's thesis that Islamic law only emerged around 725 CE by demonstrating that inheritance law developed from the Prophet's own lifetime, while also challenging the traditional Muslim understanding through his proto-Islamic inheritance thesis, a more flexible, will-based system substantively different from the classical doctrine of 'ilm al-fara'id; his linguistic, lexicographic, and historical-critical method exemplifies a revisionist Orientalist approach that privileges textual evidence over the authority of transmitted tradition, yet, as this study's evaluation shows, the thesis rests on an assumption of coordinated historical manipulation that is difficult to substantiate and on an interpretive leap regarding Q. 4:12 that does not fully align with the established doctrines of *naskh* and *asbab al-nuzul*, so that Powers' contribution is best understood as a productive methodological provocation rather than a definitive historical reconstruction, one that invites Muslim scholars, and Indonesian scholarship in particular, to develop a more systematic, evidence-based response to this and comparable currents of revisionist scholarship, with direct relevance to ongoing contemporary debates on gender justice within Islamic inheritance practice.

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