

## **Muhammadiyah Community and Pluralism of Legal Inheritance: The Harmonization on Wealth Distribution of Javanese People**

**Syaifuddin Zuhdi**

Universitas Muhammadiyah Surakarta

[sz123@ums.ac.id](mailto:sz123@ums.ac.id)

**Khudzaifah Dimyati**

Universitas Muhammadiyah Surakarta

[kd255@ums.ac.id](mailto:kd255@ums.ac.id)

**Widi Astuti**

Sekolah Tinggi Agama Islam Masjid Syuhada Yogyakarta

[widi@staimsyk.ac.id](mailto:widi@staimsyk.ac.id)

**Abdul Hakim**

University of Malaya

[iva170089@siswa.um.edu.my](mailto:iva170089@siswa.um.edu.my)

**Mutimatun Niami**

Universitas Muhammadiyah Surakarta

[mn272@ums.ac.id](mailto:mn272@ums.ac.id)

**Muhammad Andi Saputro**

Universitas Muhammadiyah Surakarta

[msaputro041@gmail.com](mailto:msaputro041@gmail.com)

### **Abstract:**

Inheritance law in Indonesia exists in a situation of pluralism, including within the Muhammadiyah community, which ideologically emphasises the purification of teachings and rationalisation of Sharia law, while the practice of property distribution at the family level is much more fluid and negotiable. This article aims to explain the patterns of property distribution practices within Muhammadiyah families and to analyse how they harmonise customary law and Islamic inheritance law through the framework of *maṣlahah* in three dimensions: the timing of property distribution, the mechanism of distribution, and the proportion of shares. The research uses a socio-legal method with a phenomenological approach, with fifteen informants selected purposively. Data was obtained through semi-structured interviews, observation of family deliberations, and document study, then analysed using thematic analysis combined with triangulation of sources, methods, and theories of legal pluralism, *fīqh mawārīt*, and *maṣlahah/maqāṣid*. The results of the study reveal three typologies of practice: local wisdom-based inheritance, partial religiosity-based inheritance, and religious spirituality-based inheritance, each of which produces a different

configuration of the five indicators of *maṣlahah*: family harmony, conflict prevention, certainty of rights, sustainability of livelihood, and dispute costs, with the partial religiosity pattern emerging as the most balanced form of harmonisation. Scientifically, this article enriches the study of pluralism in inheritance law and Muhammadiyah religious practices in Java, and offers a matrix of five indicators of *maṣlahah* as an analytical tool for assessing and designing a model for harmonising the distribution of inheritance between custom and Islamic law.

**Keywords:** Muhammadiyah; Inheritance; Pluralism; Javanese; Local Wisdom.



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## Introduction

Inheritance law in Indonesia is a complex topic due to the existence of legal pluralism in this country. In Indonesia, three main systems exist, namely Islamic law, customary law, and Western civil law.<sup>1</sup> These three systems often coexist, and in many cases, they can conflict, interact, or even adapt to each other.<sup>2</sup>

As a country with a majority Muslim population, Islamic inheritance law has a strong foothold, especially because the rules of inheritance distribution in Islam are explicitly regulated in the Qur'an and Hadith. However, in practice, the implementation of inheritance law does not always rely entirely on Islamic law, because customary norms and civil regulations also influence the procedures for distributing inheritance in society.<sup>3</sup>

In a pluralistic society like Indonesia, this legal form creates various interesting social dynamics, especially when discussing highly personal issues such as inheritance<sup>4</sup>. Diverse customary laws in each region and Western civil law institutionalized in the legal system often influence family decisions in the distribution of inheritance, even among devout Muslim families.<sup>5</sup> This raises the question of how Muslim communities, especially

<sup>1</sup> Muh. Haras Rasyid, "Dinamika Hukum Islam Dan Aktualisasi Teori-Teori Berlakunya Hukum Islam Di Indonesia," *Diktum: Jurnal Syariah Dan Hukum* 11, no. 1 (2013): 15–23, <https://doi.org/10.28988/diktum.v11i1.65>.

<sup>2</sup> Adelina Nasution, "PLURALISME HUKUM WARIS DI INDONESIA," *Al-Qadha* 5, no. 1 (2018): 20–30, <https://doi.org/10.32505/qadha.v5i1.957>.

<sup>3</sup> Ahmad Badawi, *Warisan Menurut Hukum Islam Dan Adat Jawa: Studi Kasus Di Kecamatan Medan Sunggal* (Deepublish, 2019); Mohammad Iqbal Fatayat and Mutimatum Ni'ami, *Implementasi Hukum Waris Islam Dalam Praktik Pembagian Warisan Di Kalangan Masyarakat Desa Sribit Kecamatan Delanggu Kabupaten Klaten (Implementation of the Islamic Inheritance Law among People of Sribit Village, Delanggu District, Klaten Regency)* (Universitas Muhammadiyah Surakarta, 2020); Muhammad Nasir Khalidah, "Penyelesaian Pembagian Warisan Di Kecamatan Simpang Ulim Dalam Perspektif Hukum Islam Dan Hukum Adat," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 8, no. 1 (2021): 33–49, <https://doi.org/10.32505/qadha.v8i1.2997>.

<sup>4</sup> Sulistyowati Irianto, "Inheritance Legal Pluralism and Gender Justice: A Court Room Study in Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024): 459–78, <https://doi.org/10.1080/27706869.2024.2379738>.

<sup>5</sup> Syaikhu Syaikhu et al., "Legal Harmonization in the Distribution of Inheritance in the Dayak Ngaju Community in Central Kalimantan, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 195, <https://doi.org/10.22373/sjhk.v7i1.12410>; Mariana Zhuo and Benny Djaja, "Judges' Consideration On Decision Number 582/PDT.G/2019/PN.JKT.TIM Related Legitieme Portie From The Perspective Of The Civil Law Regarding The Division Of Inheritance," *Jurnal Jurisprudence* 13, no. 1 (2023): 79–93, <https://doi.org/10.23917/jurisprudence.v13i1.1779>.

those affiliated with certain Islamic groups or organizations, such as Muhammadiyah community in jatinom, respond to the pluralism of inheritance law.

Muhammadiyah, as one of the largest Islamic organizations in Indonesia, has a unique position. Known as an Islamic renewal movement,<sup>6</sup> Muhammadiyah seeks to modernize religious practices by adhering to the Qur'an and Hadith, but also adapting to the contemporary socio-cultural context.<sup>7</sup> Within Muhammadiyah's teachings, the emphasis on a rational and contextual approach to sharia is very strong,<sup>8</sup> including in terms of inheritance distribution. Therefore, Muhammadiyah organization members are expected to apply Islamic inheritance law as regulated in the fundamental texts of Islam. However, in practice, this may not always be the case. The legal pluralism that exists in Indonesia places Muhammadiyah members in a position that demands adaptation or even compromise with customary or civil law in the implementation of inheritance.

Various previous studies have been conducted on the implementation of the inheritance law in Indonesia. The study of Sudaryanto (2005) discussed the harmonization of inheritance wealth portions for children.<sup>9</sup> Then, Pongoliu (2019)<sup>10</sup> explained that the Muslim society of Gorontalo, Sulawesi, Indonesia, divides inheritance using the customary law which is based on the Islamic Sharia. Next, Rahman (2021)<sup>11</sup> explained that harmonization in the wealth division of the Semende society of South Sumatra, Indonesia, is based on equality. After that, the research of Syaikhu et.al (2023)<sup>12</sup> explained that the customary inheritance division system in the Dayak Ngaju ethnic group, Kalimantan, Indonesia cannot stand by itself. However, it must be supported by other laws. Lastly, the research of tono et.al (2019)<sup>13</sup> found that the Minangkabau customary law of Sumatera, Indonesia, can be juxtaposed with the Islamic inheritance law based on the principle of "*adat bersendi syara*", *syara* ' bersendi *kitabullah* (customs based on the Islamic Sharia and the Islamic Sharia based on the Holy Book of God)". These research studies studied the theme of inheritance law plurality and the harmonization of inheritance law in Indonesia.

The novelty of this study lies in the special focus on Muhammadiyah members and how they interact with the inheritance law pluralism that exists in Indonesia. No previous research has studied the plurality and the harmonization of Javanese society's wealth division, especially in Javanese societies that are affiliated with the Muhammadiyah

<sup>6</sup> Haedar Nashir, *Muhammadiyah a Reform Movement* (Muhammadiyah University Press, 2015).

<sup>7</sup> Syamsul Anwar, "Fatwā, Purification and Dynamization: A Study of Tarjih in Muhammadiyah," *Islamic Law and Society* 12, no. 1 (2005): 27–44, <https://doi.org/10.1163/1568519053123894>.

<sup>8</sup> Haedar Nashir, *Understanding the Ideology of Muhammadiyah* (Muhammadiyah University Press, 2015).

<sup>9</sup> Agus Sudaryanto, "Sepikul Segendong: Harmonisasi Hukum Adat Dan Islam Dalam Pewarisan Terhadap Anak (Sepikul Segendong: Harmonization of the Islamic and Customary Laws on Inheritance for Children)," in *Ekpresi Islam Dalam Simbol-Simbol Budaya Di Indonesia (Islamic Expression and Cultural Symbols in Indonesia)* (Lembaga Kebudayaan, Pimpinan Pusat 'Aisyiyah, 2005).

<sup>10</sup> Hamid Pongoliu, "Pembagian Harta Waris Dalam Tradisi Masyarakat Muslim Di Gorontalo," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 2 (2019): 187–202, <https://doi.org/10.24090/mnh.v13i2.3166>.

<sup>11</sup> Haidir Rachman, "Harmonisasi Hukum Adat Dan Hukum Islam Dalam Sistem Pewarisan Di Semende Provinsi Sumatera Selatan Berasaskan Keseimbangan Sebagai Kontribusi Pembentukan Hukum Kewarisan Nasional," *Himmah: Jurnal Kajian Islam Kontemporer* 3, no. 1 (2021), <https://doi.org/10.47313/jkik.v3i1.1091>.

<sup>12</sup> Syaikhu et al., "Legal Harmonization in the Distribution of Inheritance in the Dayak Ngaju Community in Central Kalimantan, Indonesia."

<sup>13</sup> Sidik Tono et al., "The Harmonious Relationship between Minangkabau Custom and Islam in the Distribution of Inheritance," *Al-Shajarah* 2019, no. Special Issue Sharia hand Law (2019): 39–55, <https://doi.org/10.31436/shajarah.v0i0.931>.

organization. As an Islamic organization with a modernist approach, Muhammadiyah plays an important role in shaping its members' understanding of Islamic law, including in terms of inheritance<sup>14</sup>. However, in social reality, do Muhammadiyah members fully follow Islamic inheritance law consistently, or are they also influenced by customary and civil law like the Indonesian Muslim society in general? Is there a difference in the attitude between Muhammadiyah members who live in areas with strong customary traditions and those in urban areas which is strongly influenced by civil law? and what is the response from stakeholders such as the Muhammadiyah Tarjih Council, the government or the community regarding this matter?

In addition, this study aims to explore the factors that influence the attitudes of Muhammadiyah members in choosing an inheritance law system. Are they driven by strong theological beliefs, or are there other considerations such as social harmony, economics, or practical needs in dividing inheritance? This question is important because it can provide a more comprehensive picture of how modernist Islamic groups deal with inheritance practice in Indonesia.

This study is expected to provide new contributions to the study of inheritance law, especially by highlighting how Muhammadiyah members respond to legal pluralism in Indonesia. By taking a closer look at the practices and attitudes of Muhammadiyah members, this study can help explain how this modernist Islamic organization negotiates the inheritance law amidst the diversity of legal systems in force in Indonesia. This is different from previous studies that have focused more on the influence of customary law or state law in general, and thus, offers a new perspective in the study of inheritance law in Indonesia.

## Method

The method used in this study is the socio-legal method, which examines how law operates within society<sup>15</sup> by observing the symptoms that arise through a phenomenological approach, to examine how the practice of inheritance distribution is interpreted, negotiated, and decided in the socio-religious context of the Muhammadiyah community in Jatinom. According to Irwan Abdullah, these variants are divided into three main criteria, namely Islam-KTP, *Ummat*, and *Santri*<sup>16</sup>. The unit of analysis was set at the family level, while the experiences and considerations of key individuals (parents/heirs, Muhammadiyah leaders, and religious leaders) were treated as entry points for understanding the decision-making process at the family level. Informants were selected through purposive sampling with the following main criteria: (1) Muslim, (2) part of the Muhammadiyah organization either as a sympathizer, member or administrator, (3) had been directly involved in the distribution of family assets. There were a total of fifteen informants in this study, representing a variety of categories of Jatinom community division relevant to the research focus. Data saturation was

<sup>14</sup> Satria Effendi and Mahmid Arifi, "ISLAMIC STUDY: CULTURAL ASPECTS (HISTORIC MOSQUES)," *Profetika: Jurnal Studi Islam* 24, no. 01 (2023): 131–36, <https://doi.org/10.23917/profetika.v24i01.1688>.

<sup>15</sup> Khudzaifah Dimyati and Kelik Wardiono, "Metode Penelitian Hukum," *Surakarta: Fakultas Hukum Universitas Muhammadiyah Surakarta*, 2004; Kelik Wardiono, "Prophetic : An Epistemological Offer for Legal Studies," *Journal of Transcendental Law* 1, no. 1 (2019): 17–41, <https://doi.org/10.23917/jtl.v1i1.8797>.

<sup>16</sup> Irwan Abdullah, *The Muslim Businessmen of Jatinom: Religious Reform and Economic Modernization in a Central Javanese Town* (Universitiest Van Amsterdam, 1994).

determined when no new codes/themes emerged in the last two interviews in each category.

Data collection was conducted using three techniques. First, semi-structured interviews with an average duration of 45–60 minutes per session, covering questions on: normative understanding, determination of heirs, mechanisms for distribution of assets, determination of share proportions, the role of deliberation/mediation, factors influencing the distribution of assets, both from the aspects of customs and religion, as well as indicators of benefits/detrimentals considered by the family. Second, observation of the relevant family deliberation/mediation process, documented through structured field notes. Third, document studies covering court decisions/rulings, deeds of gift/wills, family statements, minutes of deliberations, organisational archives, and normative and religious references referred to during decision-making.

Data analysis followed the thematic analysis steps (Braun & Clarke), namely data identification, initial coding, code grouping, theme establishment and review, theme naming, and compilation of findings narratives.<sup>17</sup> Triangulation was applied at three levels: sources (heirs, religious leaders/Muhammadiyah – documents), methods (interviews – observations – documents), and theory (legal pluralism; KHI/fiqh mawārith; maṣlaḥah/maqāṣid). To maintain consistency in the evaluation, the operational indicators of maṣlaḥah observed in the field include: Preservation of religion (*Hifdz ad-din*) is marked by the use of Islamic inheritance law, preservation of life (*Hifdz an-nafs* and *Hifdz nasl*) and offspring is marked by family harmony and continued financial support, preservation of property (*Hifdz maal*) is marked by certainty of rights, and preservation of reason (*Hifdz al-Aql*) is marked by the absence of conflict in the distribution of property.

Research ethics and reliability of findings were maintained through written informed consent procedures and anonymisation of identities using codes. Credibility is strengthened by brief member checking (confirmation of key themes/interpretations with informants). Limitations of the study include contextual constraints (single location and Muhammadiyah network), purposive selection of informants that does not statistically represent the population. Therefore, the expected generalisation is qualitative analytical/contextual transferability, not statistical.

## Discussion

### The Legal Inheritance Practice of the Javanese Muhammadiyah Community in Jatinom District, Klaten Regency, Indonesia

The implementation of inheritance division of Javanese people who are affiliated with the Muhammadiyah organization can be classified into three forms (trichotomy), namely: (1) local wisdom-based inheritance division, is an inheritance practice that is based on the value, cultural, and custom-habit system that grows in society. In a society that uses local wisdom as its basis of inheritance law, the wealth division practice tends to be linked to tradition, norms, and regulations which were inherited from the previous generation. The decision-making process in inheritance wealth division is often influenced by various factors, such as familial relationships, social roles, and ethical norms that are acknowledged in a traditional sense. They contain wisdom that grew in that society's life process.

<sup>17</sup> Gillian Hendry et al., “Thematic Analysis: A Practical Guide,” *Psychology Teaching Review* 28, no. 1 (2022): 64–65, <https://doi.org/10.53841/bpsptr.2022.28.1.64>.

(2) partial religiosity-based inheritance which is the inheritance implementation refers to habits that are deemed virtuous that grow in society as well as part of the stipulations in the Islamic inheritance law. The society which uses this model strives to compromise between the inheritance implementation of these two sources. However, in its implementation, the values that are sourced from customs and habits tend to dominate religious regulation-based stipulations, and (3) religious spirituality-based inheritance which is an inheritance wealth division process that is based on religious norms and regulations. Thus, in the inheritance process, religious regulations have a greatly dominant influence in influencing decisions and forms in the inheritance wealth division, The characteristic of this category is that the religious factor is the most important factor of the inheritance wealth division in the family.

#### a. Local Wisdom-Based Inheritance

In this category, the aspect of religious rites and norms, especially those which originate from the Islamic inheritance law which contains specific regulations, is not the dominant or important factor of consideration. Thus, in the practice of wealth division in this category, there are visible deviations that are not according to the stipulations of the Islamic inheritance law's norms, including the Indonesian Islamic inheritance law's norms in the Compilation of Islamic Laws or the *Fiqh mawaris* (the Islamic Law on Inheritance)<sup>18</sup>.

The inheritance practice has the tendency to refer to the customary/habitual inheritance law, especially the habits of the Javanese society in Jatinom District, Klaten Regency, Central Java Province, Indonesia. These habits refer to the implementation of Javanese customary inheritance principles that emphasize the society's socio-humanity aspect. The existing values in the inheritance process are based on the growing habits that are deemed virtuous in society<sup>19</sup>. The custom-based inheritance law has several features that differ from the Islamic law. For instance, if the decedent appoints a single heir to receive all of his wealth, other heirs will not obtain any wealth. This is an example of inheritance norms based on the Javanese local wisdom<sup>20</sup>.

The value of benefit fulfillment in local wisdom-based inheritance laws focuses on the human aspect. In general, in the local wisdom context, the inheritance wealth division does not only involve material asset distribution. However, it also considers the importance of maintaining the socio-cultural sustainability in that community<sup>21</sup>. For instance, the *abangan* society has the tendency to not carry out religious rites. Thus, their habits influence the method that they use to divide inheritance wealth.

Local wisdom also often influences the concept of inheritance wealth ownership and rights. In several cultures, the ownership concept may have a collective characteristic. Or, it may be closely linked to the concept of social responsibility for family members or the community,<sup>22</sup> the *abangan* society perceives that land or natural resources sourced from heirloom/original wealth is inheritance wealth which may only be inherited by the

<sup>18</sup> Zamruddin Tulabi, "Wawancara Pribadi," preprint, Jatinom, 2022.

<sup>19</sup> Hisyam, "Wawancara Pribadi," preprint, Jatinom, 2023.

<sup>20</sup> Muntasir Muntasir, "Wawancara Pribadi," Tuban, 2025.

<sup>21</sup> Jarwanto Jarwanto, "Wawancara Pribadi," preprint, Jatinom, 2022.

<sup>22</sup> Abdul Mutakabbir et al., "The System of Inheritance Distribution in South Sulawesi," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 57–76, <https://doi.org/10.18326/ijtihad.v23i1.57-76>.

owner's descendants. Then, individual ownership over that part is regulated by socially acknowledged norms <sup>23</sup>.

Apart from that, the aspects that grow in society include the familial aspect, the harmony aspect, and the mutual cooperation concept. Then, the familial welfare concept may also play an important role in the local wisdom-based inheritance wealth division <sup>24</sup>. These values often influence the inheritance wealth division process and regulate the rights and obligations that are deemed valid in the familial concept.

The dominant wealth division practice of this category is that the inheritance process starts when the parents or decedents are still alive. Then, if there is still some wealth which has not completely been divided, it continues after the decedents die.

The principle of wealth regeneration before and after death is highly dominant. This reflects a key element in the social structure of the Javanese society. This two-step regeneration process is triggered by the existence of family wealth, which includes the husband's original wealth, the wife's original wealth, and common wealth, which are used as a material foundation for the family's life sustenance. This wealth is deemed as a material source for the life of the family's next generation. Therefore, the role of offspring (children) is deemed crucial in the family dynamics and it becomes the main goal in the context of marriage, i.e., to continue the bloodline.

In this perspective, the death of a decedent is insignificant in the inheritance process, which leads to the understanding that the inheritance process is carried out before the death of the decedent. Even so, the death of the parent still becomes a crucial event in this context. Even though most Javanese people identify themselves as Muslims, where the inheritance process is ideally carried out after the parent's (decedent's) death, in its praxis, the inheritance process happens when the parent is still alive. It is carried out by appointing certain heirs to inherit certain wealth, which may be different. Even so, the effectiveness of the inheritance (i.e., the event where the heirs obtain the inheritance willed to them) only occurs when the decedent dies although the decision on which heir obtains which wealth starts when the decedent is still alive.

From this information, one can conclude that the inheritance relationship in this category is an inheritance relationship between parents to their offspring. The wealth given aims to support the sustenance and prosperity of those parents' descendants.

The attitude and steps that these parents took emerged as a response to a concern over potential conflicts which may occur between heirs concerning inheritance wealth division. Conflict prevention also seems to be the dominant factor that encourages parents to carry out inheritance wealth division during their lives. A characteristic of this first category's wealth distribution method is the use of mechanisms which have already been applied in that society from generation to generation. The method of wealth transition or transfer is carried out through some mechanism forms, namely: (1) Giving (2) Appointing (*acungan, cung-cungan*) (3) Message (*wekasan*) and (4) Inheritance (*Turun waris*) <sup>25</sup>.

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<sup>23</sup> Agus Sudaryanto, "Aspek Ontologi Pembagian Waris Dalam Hukum Islam Dan Hukum Adat Jawa," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2012): 534, <https://doi.org/10.22146/jmh.16238>; Abdullah, *The Muslim Businessmen of Jatinom: Religious Reform and Economic Modernization in a Central Javanese Town*.

<sup>24</sup> M Psuedonym, "Wawancara Pribadi," Sukoharjo, December 28, 2022.

<sup>25</sup> Sulastri, "Wawancara Pribadi," preprint, Jatinom, 2022; Sudarto, "Wawancara Pribadi," preprint, Jatinom, 2023; Suparmin, "Wawancara Pribadi," preprint, Jatinom, 2022; Jarwanto, "Wawancara Pribadi," 2022.

Such a method of wealth division is carried out by the Javanese society which uses local wisdom as their basis of wealth division. In general, in the case of wealth division through appointment (*acungan/cungcungan*), the wealth owned by the decedent or the parent may be used by the heir. However, the ownership transfer does not happen when that wealth is appointed to the heir. This is different from the giving process, where the wealth ownership transfer in this concept directly occurs, namely when that wealth is given to the heirs or their descendants, this was explained by an informant:

*"acungan are The appointment is a designation by a living person to one of their heirs to manage and use certain assets. But remember, ownership has not yet been transferred; ownership remains with the heir until the estate is distributed"*<sup>26</sup>.

Meanwhile, in the giving model, the wealth transfer happens after the parent gives it to their heirs even if the decedent/parent is still alive<sup>27</sup>. This shows a difference compared to the *acungan* concept, where the wealth ownership transfer does not happen until the decedent dies. Before the decedent's death, heirs may only use the wealth or acknowledge that a certain wealth is appointed to them or given to them by their parents. Meanwhile, in the giving model, the wealth transfer happens after the parent gives it to their heirs even if the decedent/parent is still alive.

If we refer to the legal norm in the compilation of Islamic law article 171(g), the two above matters tend to be similar to the concept of gift in Islamic inheritance law, except that in relation to the concept of *acungan* in society, it has the same legal implications as the concept of will, whereby the transfer of assets occurs after death.<sup>28</sup>

The next model is *wekasan* or message. It is a wealth division concept that happens through messages from the parents to the parties that are deemed responsible for managing the decedent's wealth ownership<sup>29</sup>. In its practice, *wekasan* is carried out when the decedent/parent is still alive. The majority of this *wekasan* or message occurs when the decedent/parent is in a sick condition that leads to death or when they suffer from a very severe illness<sup>30</sup>.

*"Wekasan is not a grant that immediately transfers rights. It is more like a last will and testament: after he passes away, his assets will be divided according to his wishes. As long as he is still alive and well, his wishes are not binding and can be revised."*<sup>31</sup>

The *wekasan* implementation mechanism is usually carried out when decedents/parents summon their family members or people who are deemed responsible for handling the wealth division process. Then, the parents carry out inheritance wealth division according to their will. In general, *wekasan* is divided into two, namely: (1) *wekasan* for heirs. This concept is similar to the appointment concept in the same inheritance category and (2) *wekasan* is appointed for people outside of the wealth owner's nuclear family<sup>32</sup>. For instance, a parent/wealth owner/decedent gives her wealth to her relatives' children or to her foster children. Thus, in this case, the foster children or the children of her relatives obtain wealth from the decedent. This wealth transfer in the *wekasan* happens after the death of the decedent. This concept is similar to a will (*wasiat*)concept in Islamic law.

<sup>26</sup> Sulastri, *Wawancara Pribadi*, (Jatinom), 2022; Sudarto, *Wawancara Pribadi*, (Jatinom), 2023.

<sup>27</sup> Suparmin, *Wawancara Pribadi*, (Jatinom), 2022.

<sup>28</sup> Abdurrahman, *Kompilasi Hukum Islam Di Indonesia* (Akademika Presindo, 2004).

<sup>29</sup> Sudarto, "Wawancara Pribadi," 2023.

<sup>30</sup> Sulastri, "Wawancara Pribadi," 2022.

<sup>31</sup> Jarwanto Jarwanto, *Wawancara Pribadi*, (Jatinom), 2022.

<sup>32</sup> Wiyoto, "Wawancara Pribadi," preprint, Jatinom, 2022.

The next concept is *turun waris*. This concept is carried out after the decedent's death or after that decedent is declared to have died. In this local wisdom-based inheritance typology, *turun waris* does not require the direct division of inheritance wealth. However, its division may be suspended.<sup>33</sup>

*Turun waris* happens when the wealth owned by the decedent during his lifetime has been divided through a pre-death inheritance wealth mechanism. Then, some wealth has not yet been divided. Thus, after the decedent's death, there is still some wealth that will be divided through the *turun waris* division mechanism with specific proportions or parts. The two types of specific proportions are: (1) *turun waris* division with the *sepikul gendongan* proportion and (2) *turun waris* division with the *dum-dum ketupat/dum-dum kupat/sigar semongko* proportion<sup>34</sup>.

In principle, the *turun waris* division with the *sepikul gendongan* proportion pays attention to the roles of each party in a family. The meaning of *sepikul* is that a person brings two burdens, just like a person that brings a shoulder pole (*pikulan*). In bringing a shoulder pole, a person brings two burdens on his shoulders. This is because a shoulder pole consists of two baskets that are placed on a person's shoulder. It is to symbolize the situation that a man has two responsibilities in the family, namely his responsibilities to his original family and his responsibilities to his new family after marriage. Meanwhile, the term *segendong* is defined as someone who carries a burden that is carried out on his back. In a sling (*gendongan*), a person only brings one burden as he carries it on his back. This means that a woman brings one burden in her family life. This is because based on this local wisdom, a woman is brought in. Thus, her main burden lies in her original family<sup>35</sup>.

In practice, this *sepikul gendongan* concept results in a 2:1 proportion, where a man obtains double the portion of a woman. For instance, a man obtains two parts, while a woman obtains one. Or, a man obtains one part, while a woman obtains half. Upon observation of the Javanese society's socio-communal condition, this situation is an effect of the familial system in that society that tends to embrace patriarchy. Men feel that they have a greater role in the family. Thus, he obtains a greater portion compared to his female counterpart.

What grows in society may or may not violate Islamic law. Even, if it may be in line with Islamic law. The discussion on the wealth proportion of an heir cannot be separated from who the heirs are. If one perceives this issue from the perspective of the heirs, there is the tendency that the heirs who have the right to obtain inheritance wealth are the descendants of the decedent. Thus, when talking about the descendants of the decedent, the discussion on the proportions of sons and daughters occurs. This 2:1 proportion above reflects the proportions for the decedent's children. If no child is present and the wealth is divided horizontally, there is a high chance that the wealth will be divided with the same 2:1 proportion mechanism for men and women<sup>36</sup>.

Meanwhile, in the division with the *dum-dum kupat* or *sigar semongko* proportion, men and women obtain the same proportion of inheritance or 1:1 for men and women. In

<sup>33</sup> Syaifuddin Zuhdi, "TRIKOTOMI PEMBAGIAN HARTA MASYARAKAT JAWA: Studi Pembagian Harta Waris Pada Masyarakat Jatinom" (Universitas Muhammadiyah Surakarta, 2024).

<sup>34</sup> Sudaryanto, "Sepikul Segendong: Harmonisasi Hukum Adat Dan Islam Dalam Pewarisan Terhadap Anak (Sepikul Segendong: Harmonization of the Islamic and Customary Laws on Inheritance for Children)."

<sup>35</sup> Sudaryanto, "Aspek Ontologi Pembagian Waris Dalam Hukum Islam Dan Hukum Adat Jawa," 2012.

<sup>36</sup> Nanda Trisna Putra, "Wawancara Pribadi," preprint, 2024.

this category, the partner of the decedent, either the widow or widower, often only obtains joint property. According to the Javanese people, the original wealth or heirloom is given to the decedent's offspring or those who have a blood relationship with the decedent. Thus, the line or relationship of inheritance from the bloodline is highly visible in this category<sup>37</sup>.

Even so, it should be known that in the local wisdom-based inheritance of the Javanese society, they regard all wealth that was given by or that originated from or was obtained from the decedent as inheritance wealth. Apart from that, it is common wealth or joint property or heirloom or original wealth of the decedent. When such wealth is given to the heir, they regard it as inheritance wealth. It should be known that heirloom or original wealth from the decedent's parents may only be given to his/her offspring<sup>38</sup>. Meanwhile, joint property or the wealth which were obtained during the marriage can be inherited by the offspring or the partner.

This makes the familial aspect have a great influence on the inheritance division of local wisdom-based society as explained in this discussion. The value aspect that grows within a society highly influences the inheritance wealth division in this category. Even though it is based on local wisdom, it does not close the opportunity for the emergence of *maslahah* (benefit) aspects based on customs and habits. According to the thought of Al-Tufi, *maslahah* that lives in society may be contrary to the text or manuscript. Thus, it may be acknowledged as a footprint in carrying out an action or in deciding the law on a particular thing<sup>39</sup>.

Inheritance in this category tends to put aside the implementation of religious rituals in the inheritance law sector that is specifically shown in the form of numbers or symbols on the proportion of each heir.

#### **b. Partial Religiosity-Based Inheritance**

In this category, the religious factor has an influence and it becomes a consideration in implementing inheritance. This is marked by the use of basic inheritance implementation regulations based on Islamic law, especially related to the determination of decedents and heirs<sup>40</sup>.

In other words, in its implementation, this partial religious-based inheritance does not use the Islamic inheritance law as a whole. Only a part of this law is used. Part of the Islamic inheritance law is used on the elements of the decedent, the heir, the portion of wealth for the decedent's children, as well as the resolution of conflicts on wealth distribution. Meanwhile, in other aspects, the inheritance division is based on customs that are deemed virtuous in society.

The concept of decedents and heirs has a similarity in the local wisdom-based inheritance category. The relationship on inheritance is based on the bloodline (descendants). However, in this category, there are additional stipulations related to the relationship of giving inheritance to each other.

<sup>37</sup> Hisyam, "Wawancara Pribadi."

<sup>38</sup> Suparmin, "Wawancara Pribadi," 2022; Sudarto, "Wawancara Pribadi," 2023; Sulastri, "Wawancara Pribadi," 2022.

<sup>39</sup> Rahmad Setyawan and Muhaman Taufik Kustiawan, "Najmuddīn Al-Tūfī's Thoughts on The Dynamics of Inheritance Law 2:1 Perspective of Maṣlahah," *AL-HUKAMA'* 11, no. 2 (2021): 85–114, <https://doi.org/10.15642/alhukama.2021.11.2.85-114>; Maimun Maimun et al., "Analyzing the Maduranese's Traditional Inheritance from al-Tūfī's Maslahah Theory," *AL-'ADALAH* 18, no. 1 (2021): 35–54, <https://doi.org/10.24042/adalah.v18i1.8649>.

<sup>40</sup> Nur Kholis, "Wawancara Pribadi," preprint, Jatinom, 2022.

A living person who gives wealth to his descendants is deemed as a decedent. There is a requirement that the inheritance relationship is based on the similarity of religion, especially the Islamic religion. Decedents and heirs must both be Muslims to create a relationship of inheriting each other, apart from marital and blood relationships <sup>41</sup>.

Relating to heirs in this category, in general, there are two types of heirs, namely heirs based on marital relationships and heirs based on blood relationships. Inheritance wealth which originates from original wealth is prioritized to be given to heirs with a blood relationship. Meanwhile, part of the joint property is given to the partner. In general, the structure of heirs in this category is as follows: 1) children, 2) partners, 3) parents, and 4) horizontal relatives <sup>42</sup>. This heir structure is similar to the heir concept in Islamic law. It is just that in Islamic law, children cover the inheritance obtainment of horizontal relatives. However, in this category, it is not only the relatives that are restricted from obtaining inheritance wealth in case there are children, but parents are also restricted from obtaining this wealth.

The inheritance implementation process starts during the lifetime of the wealth owner, with a mechanism that is similar to the first category, namely transfer, appointment, and *wekasan*. The portions obtained by heirs follow the customs that exist in society, especially for their children. There is the focus that sons obtain double the portion of daughters. This is based on religious teachings. Meanwhile, the portions for other relatives are based on societal norms.

The situation where this category prioritizes heirs are the children is based on the Qur'an, Chapter An-Nisa (Women), verse 11, which states:

يُوصِّيُكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِذِكْرٍ مِّثْلُ حَظِّ الْأُنْثَيْنِ

*Allah commands you regarding your children: the share of the male will be twice that of the female* <sup>43</sup>.

Concerning inheritance wealth, this category regards all wealth that was given to or that originated from parents or decedents as inheritance wealth, whether it was given before or after the decedent's death <sup>44</sup>. This wealth conception has a similarity with the first category in this wealth division trichotomy. It is just that a real difference occurs in its relation to who has the right over the original wealth or joint property. In the local wisdom-based inheritance category, joint property is given to the partner as a whole and the original wealth is given to the children. Meanwhile, in this second category, half of the joint property is given to the partner. Meanwhile, the children obtain the other half of the joint property and the original wealth. The joint property is given to the partner as a form of provision in life. Usually, the children will take care of the widow or widower, i.e., their parents <sup>45</sup>.

In general, this partial religiosity-based inheritance emphasizes familial aspects that were developed from religious and customary values. This concept is manifested through the emphasis on the harmony principle that orients towards familial welfare and the principle of sincerity that orients towards the sincerity of the heirs. This principle is based on Sharia arguments in the Al-Qur'an and Hadith.

<sup>41</sup> Surono, "Wawancara Pribadi," preprint, Jatinom, 2022.

<sup>42</sup> Wahono, "Wawancara Pribadi," preprint, Jatinom, 2022.

<sup>43</sup> Kementerian Agama Republik Indonesia, "Al-Qur'an," accessed March 15, 2023, <https://quran.kemenag.go.id/>.

<sup>44</sup> H. Idris, "Wawancara Pribadi," preprint, Jatinom, 2022; Kamtono, "Wawancara Pribadi," preprint, Jatinom, 2023; Wahono, "Wawancara Pribadi."

<sup>45</sup> Wahono, "Wawancara Pribadi."

In general, in the case of conflicts in wealth division in the family, they will seek solutions based on customs in society, such as considering equal wealth division for all heirs. Or, as a form of conflict prevention, the wealth is holistically divided before the decedent's death.

### c. Religious Spirituality-Based Inheritance

In this category the religious factor is the most crucial factor in one's life, especially in implementing inheritance wealth division. The existing value of the benefit must be based on religious orders. Even though such values are part of society's habits, they try to carry out confirmation with religious regulations. Habits that violate religious norms are exempted, while those that are in line with religious norms are used only if needed.

They regard inheritance division using Islamic law as the will of Allah. Carrying it out as a form of worship and piety to Allah<sup>46</sup>. Regulations that exist in the Qur'an and Hadith are rules that bind every Muslim society. Thus, in dividing family wealth, they will use such a basis.

If familial conflicts occur in dividing family wealth, after carrying out wealth division based on the Islamic legal norms, they will seek solutions outside of the Islamic legal norm's stipulations. Even so, they will still use the values of *maslahah* (benefit) and *maqashid syariah* (goals or objectives of sharia) as a basis. They believe that the messages in the Qur'an are universal messages that may be applied in the family. They regard that wealth division does not only have a partial characteristic on inheritance *nash* (a phrase that has clear instructions, i.e., the Qur'an and Hadith). However, outside of these *nash*, there are many messages that may be used to resolve issues on inheritance<sup>47</sup>.

They try to manifest the goals of the Islamic law (*Maqasid Syariah*) which consist of five points through *maslahah* in the family<sup>48</sup>. *Maslahah* in inheritance wealth division is manifested through the wealth division that emphasizes the five points of *maqashid syariah*, namely: (1) the protection of the religious aspect (*hifdz din*), marked by the use of the Islamic inheritance law based on the Qur'an and Hadith; (2) the protection of the soul (*hifdz nafs*), shown by the division of inheritance which emphasizes the value of kinship and mutual cooperation. This is marked by the inheritance division that is carried out through the familial deliberation mechanism<sup>49</sup>; (3) the protection of the mind (*hifdz aql*) is shown by the principles of harmony and sincerity in obtaining inheritance wealth. This is because the lack of sincerity is the basis for the occurrence of conflicts in inheritance wealth division; (4) the protection of the offspring (*hifdz nasl*) is shown by the wealth division that considers the welfare of the family members that the decedent left after his/her passing; and (5) the protection of the wealth (*hifdz maal*) is shown by the wealth division mechanism that is protected from methods that violate the religious teaching<sup>50</sup>.

<sup>46</sup> Arif Munandar, "Wawancara Pribadi," preprint, Jatinom, 2022; Tulabi, "Wawancara Pribadi"; Kamtono, "Wawancara Pribadi"; Wiyoto, "Wawancara Pribadi."

<sup>47</sup> Munandar, "Wawancara Pribadi"; Kamtono, "Wawancara Pribadi."

<sup>48</sup> Rahmat Agung Sedayu, "Muhammad Syahrur's Thoughts on Inheritance from the Maqasid Al-Shari'ah Perspective and Hermeneutics," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 7, no. 1 (2022): 1–14, <https://doi.org/10.25217/jm.v7i1.2330>.

<sup>49</sup> Andika Catur Prastyo, "The Application of Maslahah Mursalah in A Mediation Process Between Disputant Parties," *Journal of Islamic Economic Laws* 3, no. 1 (2020): 1–14, <https://doi.org/10.23917/jisel.v3i1.9756>.

<sup>50</sup> Felicitas Opwis, "Maşlaḥa in Contemporary Islamic Legal Theory," *Islamic Law and Society* 12, no. 2 (2005): 182–223.

The characteristic of a religious spirituality-based inheritance concept is that each element in the inheritance wealth division must be based on the stipulations of religious regulations. This is the main point of this type and its main difference compared to other typologies of the inheritance wealth division.

The wealth is divided after the death of the decedent. If there is wealth given before the death of the decedent, that wealth is deemed as *hibah* (inter vivos gift) wealth rather than inheritance wealth, unlike the other two categories. There is a difference in the wealth concept in this category. A certain wealth is deemed inheritance wealth if it is given to the heirs after the death of the decedent. They regard that an inheritance only occurs after the decedent's death<sup>51</sup>.

Even though inheritance wealth division is carried out after the death of the decedent, this category acknowledges the terms *hibah* and will. *Hibah* is a term to specify wealth that is given during the lifetime of the wealth owner aside from the wealth that is divided through the inheritance mechanism. Meanwhile, a will is a term used to refer to a message on wealth that contains the rights of other people aside from the nuclear family. The *hibah* mechanism is often used as one of the solutions if a conflict occurs in the family regarding inheritance wealth division.

Conflict resolution mechanism is initiated with each heir's obtainment of the main portion of wealth according to the Islamic legal stipulations. Then, there is a deliberation of peace to divide wealth through the *hibah* mechanism. This form accommodates the value of customs that are supported by the Islamic Sharia. It is a form of *maslahah mu'tabarah*, i.e., *maslahah* that is supported by *nash* or *dalil* (the strongest and most principal basis to determine a law or a correct understanding in Islam). *Maslahah mu'tabarah* is *maslahah* that does not violate the *nash* but there is no *nash* that regulates it<sup>52</sup>.

In this category, the heirs consist of all family members who have a relationship with the decedents, both through marital and bloodline relationships. There is the requirement that the heirs must embrace the Islamic religion and there must not be an obstacle from obtaining inheritance.

As explained above, the important point lies in compliance with implementing the Islamic inheritance law. The obstacles of inheritance obtainment also follow the regulations of the Islamic inheritance law, consisting of an obstacle that totally inhibits an heir from obtaining inheritance wealth and an obstacle that decreases the portion obtained by the heir.

### **The Harmonization of *Maslahah*-Based Inheritance Distribution**

In the distribution of wealth among families affiliated with Muhammadiyah, there is a clear harmony in the implementation of wealth distribution, particularly in The time of Assets distribution, Wealth division mechanism and The Magnitude of Wealth Proportions. As discussed earlier, the distribution of inheritance cannot be separated from the aspect of *maslahah*. In general, indicators of *maslahah* are derived from several aspects, namely family harmony, conflict prevention, certainty of rights, continuity of livelihood, and dispute costs.

#### **1. The time of Assets distribution and Wealth division mechanism**

<sup>51</sup> Kamtono, "Wawancara Pribadi"; Wiyoto, "Wawancara Pribadi"; Munandar, "Wawancara Pribadi."

<sup>52</sup> Afidah Wahyuni and Harisah Harisah, "Humanism in Inheritance Distribution in Sampang Madurese Culture," *AHKAM: Jurnal Ilmu Syariah* 19, no. 2 (2019), <https://doi.org/10.15408/ajis.v19i2.13899>; Mutakabbir et al., "The System of Inheritance Distribution in South Sulawesi."

In the practice of inheritance within the Muhammadiyah family in Jatinom, the distribution of assets does not occur at a single point in time, but rather spans three phases: before death, at the time of death, and after death. Each phase opens up opportunities for the use of different instruments—mainly *Hibah* (inter-vivo gifts), wills, and *faraid*—and each has different consequences for the five indicators of *maṣlahah*: family harmony, certainty of rights, continuity of livelihood, dispute costs, and conflict prevention. Thus, the dimension of time is not merely a procedural sequence, but part of the *maṣlahah* design regarding when, to whom, and how family assets are distributed.

During the pre-mortem phase, the heir still has full authority to manage and transfer assets through *hibah* or other ownership arrangements<sup>53</sup>. The concept of *hibah* (inter vivos gift) is the granting of wealth carried out by decedents during their lifetimes to whomever they want. The *hibah* can be given to their children, their relatives, or even those outside of their families<sup>54</sup>. In the *maslahah* context, *hibah* is often perceived as a solution that emphasizes family welfare and harmony. This is because decedents can directly determine to whom their wealth is to be given and with what proportion.

The use of *hibah* at this stage has the potential to strengthen family harmony, when the reasons for the grants are explained openly, linked to the contributions and vulnerabilities of family members, and discussed in deliberations<sup>55</sup>. This transparency also enhances conflict prevention because suspicion and misunderstanding can be prevented early on<sup>56</sup>, and the owners can correct decisions if they encounter resistance. From the perspective of continuity of livelihood, this phase an important space to secure livelihoods for vulnerable parties, for example by granting productive assets to wives without income or children who have been supporting the family economy<sup>57</sup>. By giving *hibah* during their lifetimes, decedents can prevent potential conflicts from occurring among heirs after their death. In many cases, the division of wealth during the decedents' lifetimes through *hibah* also allows heirs to fulfil their urgent needs, such as education fees, marital fees, or to start a business. All this is in line with the aim of *maslahah*, namely to maintain and increase the family's welfare<sup>58</sup>.

If the grant is set out in a deed and followed by adjustments to official documents, the certainty of the grantee's rights is strengthened. However, when the proportion of the grant becomes excessive or is carried out secretly, conflict prevention weakens and the risk of future conflict increases. Other heirs feel that the inheritance has been 'used up'

<sup>53</sup> Arskal Salim, "Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism," *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism* 6 (2015): 1–214, <https://doi.org/10.1080/14442213.2015.1125772>.

<sup>54</sup> Aris Priyadi, "Tinjauan Hukum Tentang Hibah Dan Batasan Pemberian Hibah," *Wijayakusuma Law Review* 5, no. 1 (2023), <https://doi.org/10.51921/wlr.v5i1.232>.

<sup>55</sup> Mohammad Takdir et al., "The Takharrij Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia," *JIL: Journal of Islamic Law* 4, no. 1 (2023): 104–22, <https://doi.org/10.24260/jil.v4i1.1044>.

<sup>56</sup> Ahmad Kamil Rizani, "Musyawarah Sebagai Alternatif Penyelesaian Sengketa Waris Beda Agama: Avidence Based Solution From Indonesia," *El-Mashlahah* 10, no. 2 (2020): 52–64, <https://doi.org/10.23971/maslahah.v10i2.2063>.

<sup>57</sup> Rita Khoerunnisa et al., "Tinjauan Hukum Islam Terhadap Kewarisan Masyarakat Adat Kampung Naga, Kabupaten Tasikmalaya," *Petanda: Jurnal Ilmu Komunikasi Dan Humaniora* 5 (2023), <https://doi.org/10.32509/petanda.v5i2.3379>.

<sup>58</sup> Gusti Muzainah and Firqah Annajiyah Mansyuroh, "Integration of Islamic Law and Banjarese Customary Law of Inheritance System Tionghoa Muslim Community in Banjarmasin, South Kalimantan," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 678, <https://doi.org/10.22373/sjhk.v6i2.12386>.

before the *faraid* takes effect, and disputes over the validity of the grant or the status of the assets are almost inevitable.

In the phase leading up to death, the focus of distribution shifts to wills and various final messages from the deceased. According to Article 171 of the KHI, Wills are instructions made by the decedent to divide his wealth among certain people after his death<sup>59</sup>, Normatively, in KHI article 209, wills are limited to a maximum of one-third of the estate after deducting debts and funeral expenses<sup>60</sup>, except with the consent of the heirs<sup>61</sup>. Wills allow decedents to make sure that the parties that normally wouldn't obtain part of the inheritance wealth but still matter to the decedent obtain benefits from his wealth after his death<sup>62</sup>.

In the context of family harmony, this phase has the potential to be constructive if the will has been thought out well in advance, communicated to the family, and directed towards those who are socio-economically disadvantaged (e.g. adopted children, elderly relatives, or certain social institutions)<sup>63</sup>. Such arrangements not only strengthen the continuity of livelihood for those who are not protected by the *faraid* structure, but also serve as a conflict prevention mechanism<sup>64</sup>. Clarity of content, one-third limits, and written documentation reduce speculation about 'last wills and testaments,' which are often a source of dispute. Conversely, wills that appear suddenly, are only verbal, and deviate far from the family's perception of justice weaken the certainty of rights and open the door to high dispute costs; disputes about the mental capacity of the heir, the influence of third parties, or the assessment of the value of one-third of the estate can easily lead to cases in the Religious Court<sup>65</sup>. This phase shows that the proximity of death is not a reason to ignore maslahah design; it is precisely at this point that the difference between conflict prevention and conflict triggers becomes very sharp.

In the post-mortem phase, the distribution of assets enters the realm of *faraid* over the remaining inheritance after funeral expenses, debt repayment, and the execution of a valid will<sup>66</sup>. The certainty of rights reaches its strongest form: who the heirs are and how much each will receive can be calculated with relative certainty, and this framework has been adopted in the Compilation of Islamic Law and the practice of the Religious Court<sup>67</sup>.

<sup>59</sup> Rosidi Jamil, "HUKUM WARIS DAN WASIAT (Sebuah Perbandingan Antara Pemikiran Hazairin Dan Munawwir Sjadjali)," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 1 (2017): 99–114, <https://doi.org/10.14421/ahwal.2017.10108>; Abdurrahman, *Kompilasi Hukum Islam Di Indonesia*.

<sup>60</sup> Abdurrahman, *Kompilasi Hukum Islam Di Indonesia*.

<sup>61</sup> Arief Budiman et al., "Wājibah Will for Non-Muslim Heirs in Indonesia: A Legal Political Perspective Based on Justice and Welfare," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024): 223–50, <https://doi.org/10.18326/ijtihad.v24i2.223-250>.

<sup>62</sup> Brooke Thompson, "Family Provision and Islamic Wills: Preserving the Testator's Wishes through Testamentary Arbitration?," *UNIVERSITY OF NEW SOUTH WALES LAW JOURNAL* (Sydney, N.S.W.) 46, no. 1 (2023): 205–34.

<sup>63</sup> Yuliatin Yuliatin, "HUKUM ISLAM DAN HUKUM ADAT (STUDI PEMBAGIAN HARTA WARIS MASYARAKAT SEBERANG KOTA JAMBI)" (UIN SUNAN KALIJAGA YOGYAKARTA, 2015), <https://digilib.uin-suka.ac.id/id/eprint/16148/>.

<sup>64</sup> Muhammad Husni, "Mencegah Potensi Konflik Dalam Pelaksanaan Wasiat Pembagian Harta, Mungkinkah?," *De Jure: Jurnal Hukum Dan Syar'iah* 11, no. 2 (2019): 90–99, <https://doi.org/10.18860/j-fsh.v11i2.6728>.

<sup>65</sup> Sidik Tono and M. Roem Syibly, "Prinsip Keadilan Dalam Pembagian Waris Dan Wasiat Pada Masyarakat Muslim Yogyakarta," *Istinbath* 16, no. 2 (2017): 419–41, <https://doi.org/10.20414/ijhi.v16i2.12>.

<sup>66</sup> Otje Salman, *Kesadaran Hukum Masyarakat Terhadap Hukum Waris* (PT. Alumni, 2007).

<sup>67</sup> Yeni Salma Barlanti, "INHERITANCE LEGAL SYSTEM IN INDONESIA: A LEGAL JUSTICE FOR PEOPLE," *Indonesia Law Review* 3, no. 1 (2013), <https://doi.org/10.15742/ilrev.v3n1.28>.

The timely and consistent application of *faraid* serves as a conflict prevention mechanism because it closes the space for manipulative bargaining; families have an objective point of reference when deliberations reach an impasse<sup>68</sup>. On the other hand, the delayed implementation of *faraid*—whether due to uncertainty regarding the inventory of assets, the dominance of one of the heirs, or a reluctance to open discussions—actually increases dispute costs and weakens the continuity of livelihood, especially for heirs who are economically dependent on these assets<sup>69</sup>. From the perspective of family harmony, the success of this phase greatly depends on whether the family understands *faraid* as a rational framework of justice that can be linked to their economic reality. In some cases, heirs choose to re-donate part of their share to adjust to actual needs, so that *faraid* functions as a foundation rather than a barrier to solidarity<sup>70</sup>.

The three-phase pattern of asset distribution is in line with the discourse of Islamic estate planning, which is understood as a series of intertemporal decisions to balance the freedom of heirs, certainty of rights, and prevention of family disputes<sup>71</sup>. A systematic review of inheritance planning behavior also confirms that the timing of distribution has a direct impact on reducing unclaimed assets, lowering dispute costs, and maintaining the livelihood of vulnerable parties after the death of the heir<sup>72</sup>. In the context of Southeast Asia, studies on Islamic inheritance show that the choice of timing between gifts, wills, and *faraid* is commonly used by Muslim families to navigate legal pluralism while maximizing *maṣlahah*<sup>73</sup>.

Studies in Malaysia, for example, position grants as a pre-death distribution mechanism that reduces unclaimed assets and provides financial protection for widows and vulnerable heirs without negating the role of *faraid* as the foundation of legal certainty<sup>74</sup>. At the same time, studies on the dilemma of Islamic estate planning and the practice of *waṣiyah wājibah* show that wills function as a limited corrective valve on the *faraid* structure—based on *maṣlahah*—to accommodate parties outside the heirs while reducing the potential for long-term conflict<sup>75</sup>. A normative-historical reading of ‘Umar ibn al-Khaṭṭāb’s *ijtihad* in inheritance cases reinforces the argument that adjusting the

<sup>68</sup> Suwarti Suwarti et al., “Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia,” *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (2022): 214–27, <https://doi.org/10.22219/ljih.v30i2.21020>.

<sup>69</sup> Wahyuni and Harisah, “Humanism in Inheritance Distribution in Sampang Madurese Culture.”

<sup>70</sup> Rachman, “Harmonisasi Hukum Adat Dan Hukum Islam Dalam Sistem Pewarisan Di Semende Provinsi Sumatera Selatan Berasaskan Keseimbangan Sebagai Kontribusi Pembentukan Hukum Kewarisan Nasional.”

<sup>71</sup> Norazlina Abd. Wahab et al., “Developing Best Practices of Islamic Estate Planning: A Construction Based on the Perspectives of Individuals and Estate Planning Providers,” *ISRA International Journal of Islamic Finance* 13, no. 2 (2021): 211–28, <https://doi.org/10.1108/IJIF-03-2020-0052>.

<sup>72</sup> Faziatul Basir et al., “Estate Planning Behaviour: A Systematic Literature Review,” *Journal of Risk and Financial Management* 16, no. 2 (2023): 84, <https://doi.org/10.3390/jrfm16020084>.

<sup>73</sup> Norhazlina Ibrahim, “A Systematic Literature Review of Islamic Inheritance in Malaysia,” *Islamiyat* 46, no. 1 (2024): 113–31, <https://doi.org/10.17576/islamiyyat-2024-4601-09>.

<sup>74</sup> Amylia Fuziana Azmi et al., “UNVEILING THE SIGNIFICANCE OF PROPOSING HIBAH AS AN ALTERNATIVE TO NAFKAH SECURITY FOR WIDOWS,” *Malaysian Journal of Syariah and Law* 12, no. 2 (2024): 529–34, <https://doi.org/10.33102/mjsl.vol12no2.947>; Amylia Fuziana Azmi et al., “Hibah as an Alternative Method of Distribution in Malaysia: The Importance of Using Social Media as a Medium in Raising Muslims’ Awareness About Hibah Products,” *Jurnal Islam Dan Masyarakat Kontemporeri* 22, no. 1 (2021): 198–204, <https://doi.org/10.37231/jimk.2021.22.1.527>.

<sup>75</sup> Habibur Rahman et al., “WASIYYAH WAJIBAH IN ISLAMIC ESTATE PLANNING: AN ANALYSIS,” *Jurnal Islam Dan Masyarakat Kontemporeri* 21, no. 3 (2020): 72–86, <https://doi.org/10.37231/jimk.2020.21.3.448>.

mechanism of wealth distribution on the basis of *maṣlahah* and preventing family disputes is in fact part of the classical tradition of Islamic law, rather than deviating from it<sup>76</sup>.

When *hibah* and wills are harmonized with the Islamic inheritance law, it can create a more comprehensive mechanism that is based on the *maslahah* principle. The wealth division that is carried out through *hibah* during the decedent's lifetime will make sure that the decedent has full control over his wealth during his lifetime. Meanwhile, the will gives him the opportunity to continue carrying out virtuous deeds to society even after his death<sup>77</sup>. This mechanism still respects Sharia's stipulations that regulate the portions of heirs, as *hibah* and wills cannot decrease the rights of heirs that have been determined by God. In this context, the *maslahah* concept has the role of becoming a bridge that connects the practical needs of heirs and decedents with a just mechanism that has been outlined in Islam<sup>78</sup>.

If *hibah*, wills, and *faraid* are read together, it appears that the *maṣlahah*-based Wealth Division Mechanism is not the domination of one instrument, but rather the orchestration of all three in a conflict-aware design. Gifts are used in a measured way to recognise services and protect the most vulnerable parties, but not to the extent that they take away from *faraid*; wills are used within the limit of one-third to close the protection gap for non-heirs without triggering jealousy among heirs,<sup>79</sup> and *faraid* maintains the minimum framework of normative justice that guarantees the rights of all heirs. The design of such a mechanism will be considered harmonious to the extent that it: (1) strengthens family harmony through deliberation and an acceptable perception of justice, (2) increases the certainty of rights through clear documentation and compliance with sharia and positive law limits, (3) ensures continuity of livelihood for family members who are most dependent on the assets, (4) reduces dispute costs by narrowing the scope of disputes to residual issues, and (5) is designed from the outset as a conflict prevention strategy so that potential disputes are resolved at the design and communication level, rather than being allowed to develop into legal cases. It is within this framework that the wealth distribution mechanism in Jatinom can be understood as a practice of inheritance harmonisation based on *maṣlahah*, rather than merely a technical variation in the application of *hibah*, wills, and *faraid*.

## 2. The Magnitude of Wealth Proportions

The Findings show that differences in inheritance patterns are not only a matter of mechanism but also of how much of the estate is distributed through each mechanism. This is where all aspects become crucial: the proportion of gifts, the portion regulated by wills, and the portion that is actually divided according to *faraid*. The three typologies—local wisdom-based inheritance, partial religious alignment, and religious spirituality—

<sup>76</sup> Muhammad Yusron, "Penalaran Rasional Dan Maslahah: Ijtihad Umar Ibn al-Khattab Pada Kasus-Kasus Kewarisan Islam," *JIL: Journal of Islamic Law* 2, no. 2 (2021): 197–223, <https://doi.org/10.24260/jil.v2i2.327>.

<sup>77</sup> Takdir et al., "The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia."

<sup>78</sup> Laras Shesa, "Keterjaminan Kedudukan Dzaul Arham Dalam Kewarisan Islam Melalui Wasiat Wajibah," *Al-Istinbath : Jurnal Hukum Islam* 3, no. 2 (2018): 145, <https://doi.org/10.29240/jhi.v3i2.615>.

<sup>79</sup> Muhamad Ichsan Hidayat et al., "THE DIVISION OF PARENTAL INHERITANCE BEFORE DEATH FROM THE PERSPECTIVE OF NIKLAS LUHMANN'S SOCIAL SYSTEM THEORY," *Hukum Islam* 25, no. 1 (2025): 91–102, <https://doi.org/10.24014/hi.v25i1.34613>.

basically reflect three different ways in which communities negotiate the proportions between custom, religious texts, and socio-economic needs.

In the typology of local wisdom-based inheritance, the proportion of distribution is more ‘regulated’ by local wisdom and family deliberation. Prenuptial gifts, verbal agreements, and traditional distribution patterns (e.g., ‘equal shares’ or ‘larger shares for children who live with and care for their parents’) often account for a significant portion of the total estate, while *faraid* is only mentioned as a moral reference that is rarely calculated mathematically<sup>80</sup>. This configuration is strong in terms of family harmony: deliberation, modesty, and appreciation for concrete services (e.g., caring for parents) create a perception of culturally ‘reasonable’ justice. Continuity of livelihood is also relatively protected, as local wisdom is usually sensitive to those most in need (widows, children living at home, elderly relatives). In this context, Javanese families often consider economic situations, social relationships, as well as moral responsibilities of each heir<sup>81</sup>.

Partially religious-based practices display a more balanced pattern: families begin to use *faraid* as a mutually agreed reference point for proportions, but still leave room for grants and deliberation to adjust to the socio-economic context. In practice, pre-death grants are used in moderate proportions to correct points of vulnerability (for example, giving productive assets to wives without income, or to children who manage the family business), while most of the inheritance remains divided ‘close to’ the *faraid* formula—although not always calculated down to the last detail. Wills are used, but rarely exceed the one-third limit.

In this configuration, family harmony receives double support: the distribution can be described as both ‘fair according to religion’ and ‘fair according to reason’<sup>82</sup>. Certainty of rights is stronger than in the first typology because the principles of *faraid* are understood and often formalised, at least through written records, deeds of gift, or consultation with the Religious Court. Continuity of livelihood is maintained because the grant and (if any) will are directed to the parties who are factually most vulnerable. In terms of dispute costs, this pattern tends to reduce the costs of disputes: deliberations can indeed be time-consuming, but when negotiations reach an impasse, the family still has a ‘way home’ to the mutually recognised *faraid* calculation.

Interestingly, this typology also demonstrates a relatively high capacity for conflict prevention. The proportion of grants is not allowed to be too large so as to eliminate *faraid* rights, but it is significant enough to recognise certain services and financial burdens; the proportion of *faraid* is large enough to make all heirs feel that they are ‘still receiving their sharia rights’; and the consultation room is used to clarify expectations before a final decision is made. In this way, the typical sources of inheritance tension—feelings of being neglected, perceptions of being ‘played’ by secret gifts, or surprise at the existence of a hidden will—are mitigated from the outset through a transparent and predictable design of proportions.

<sup>80</sup> Agus Sudaryanto, “Aspek Ontologi Pembagian Waris Dalam Hukum Islam Dan Hukum Adat Jawa,” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2012): 534–534, <https://doi.org/10.22146/jmh.16238>.

<sup>81</sup> Imelda Martinelli et al., “The Principle Of Inheritance Distribution In Javanese Civil And Customary Law,” *Asian Journal of Social and Humanities* 2, no. 2 (2023): 1645–53, <https://doi.org/10.59888/ajosh.v2i2.174>.

<sup>82</sup> Syaifuddin Zuhdi et al., “Between Customary and Islamic Law: Financial Inheritance Practices in the Surakarta Sunanate Royal Family,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 65–84, <https://doi.org/10.14421/ahwal.2025.18204>.

The typology of religious spirituality places *faraid* as the most dominant framework of proportion. Most tirkah are divided according to the *faraid* formulation, while grants and wills—if any—are usually small in proportion and complementary in nature. In terms of certainty of rights, this configuration is the strongest: the share of each heir is clear, easy to calculate, and in line with the Compilation of Islamic Law and the practices of the Religious Court. Dispute costs in the short term tend to be low; the collective commitment to ‘return to Allah’s provisions’ narrows the room for bargaining that could potentially lead to conflict.

In the Islamic inheritance law, regulations on inheritance wealth proportions are strictly determined through *nash* (Al-Qur'an and Hadith), where each heir obtains a proportional part. For instance, in many cases, a son obtains twice the proportion of a daughter. Meanwhile, husbands or wives who became widows/widowers will obtain a quarter or an eighth depending on whether or not the decedent has a child. Parents of the decedent also obtain a certain portion, as well as the biological siblings of the decedent if there is no direct heir. These rules are strict stipulations that regulate proportions in a just manner according to Sharia principles, where there is a balance between inherited rights and responsibilities<sup>83</sup>.

However, its impact on family harmony and continuity of livelihood greatly depends on social conditions and how families manage the distribution of assets. In families with high spiritual awareness and a culture of sharing after distribution (for example, some heirs voluntarily donate their share back to weaker family members), the ‘pure *faraid*’ proportion can actually produce solid *maṣlahah* in five indicators: clear rights, secure livelihood, low conflict, and the potential for disputes prevented from the outset because everyone feels they have fulfilled religious commands. Conversely, if the *faraid* proportion is applied rigidly without room for social solidarity—for example, a widow without income receives a small share but no additional grants from her children, or a disabled child is treated the same as other siblings even though their burden is much heavier—then formally the configuration of the proportion is valid, but substantively it leaves vulnerability to harmony and sustainability of livelihood. In situations like this, conflict prevention is not fully achieved; emotional tension and a sense of injustice can easily arise, although this does not necessarily immediately turn into a legal dispute.

The technical harmonization between these two systems may be carried out through an approach which integrates sharia stipulations with customary adaptations. At the initial stage, families may determine the inheritance based on Islamic law as a basis. However, the customary mechanism is then applied by giving room for additional adaptation according to the family’s needs. For instance, if in Islamic law a daughter only obtains half of the son’s portion, the family may determine through deliberation to increase the proportion of the daughter if, for instance, she has a greater financial burden or if she has provided a greater financial contribution during the parent’s lifetime. At the technical level, this adaptation process is based on the *maslahah* principle, which emphasizes that the division must bring benefits to the family and maintain harmony<sup>84</sup>.

Within this framework, the practice of partial religious alignment appears as the form of harmonisation that most closely approximates *maṣlahah*: the proportions of grants

<sup>83</sup> Mursyid Djawas et al., “The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law,” *Jurnal Ilmiah Syariah* 21, no. 2 (2022): 207–19, <https://doi.org/10.31958/juris.v21i2.7495>.

<sup>84</sup> Sakirman Sakirman, “Konvergensi Pembagian Harta Waris Dalam Hukum Islam,” *Al-‘Adalah* 13, no. 2 (2016): 155–64, <https://doi.org/10.24042/adalah.v13i2.1853>.

and bequests are set moderately to acknowledge services, protect the weak, and accommodate non-heirs; the proportions of *faraid* remain dominant so that no heir feels excluded from the structure of rights; and the overall configuration is structured with the awareness that transparency, minimal documentation, and mutual reference to *faraid* are essential conditions for conflict prevention. In other words, it is not simply a matter of 'what percentage' is gifted or *faraid*, but whether the combination of proportions reduces the likelihood of conflict from the planning stage, not just reducing the costs after a conflict has occurred.

### Conclusion

The conclusion of this article states that in Javanese people who are affiliated with Muhammadiyah, in most cases, there is a harmonization effort between the Islamic inheritance law and the customary law in the practice of inheritance wealth division. The inheritance division that accommodates local wisdom, partial religiosity, and religious spirituality does not only comply with the formal stipulations of Islamic sharia. However, it also considers the socio-cultural values that live in society. The flexibility in the wealth division mechanism, including those that are carried out during the lifetime of the decedent as well as after the decedent's death, aims to maintain the welfare of the family, minimize potential conflicts, and make sure that the heirs' rights are still fulfilled. This integrative approach is based on the *maslahah* principle which emphasizes the achievement of the family's *maslahah* and social harmony. Therefore, the combination of the Islamic inheritance law and the customary norms not only fulfills Sharia stipulations but is also relevant to the local socio-cultural dynamics. Through this application, substantive justice is not only valid according to the Islamic law but also contextual with the actual need of society, so that justice may be achieved. It becomes an inheritance division model that is responsive towards the legal plurality and the social reality.

### Declaration of AI Tool Usage

During the preparation of this manuscript, the authors used [DeepL AI] to assist with [The authors to translate articles into English]. All AI-generated content was critically assessed and substantially edited to ensure factual accuracy, clarity, and academic integrity. The authors take full responsibility for the final content of this manuscript.

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