



Distribution of Assets to Children Viewed From The Perspective of The Sociology of Inheritance

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Abstract

The pre-death inheritance distribution practice in the village of Wonokerto is a phenomenon of inheritance that adheres to Javanese customary law, prioritizing several aspects of communal benefit. However, the inheritance distribution model observed in the community of Wonokerto does not obtain legal recognition in classical Fiqh or Indonesian positive law. This article aims to describe the background aspects leading the villagers of Wonokerto to engage in the pre-death inheritance distribution of the deceased, and to comprehend this practice from the perspective of the prophetic social science theory. The method employed in this writing is field research, where data is gathered through interviews with relevant informants and supplemented with supporting documentation. The research findings conclude that the distribution of parental assets to pre-deceased children is an implementation of transcendent justice.

Keywords: *Asset Distribution, Javanese Community Inheritance, Sociology*

Abstrak

Praktik pembagian waris pra-kematian di Desa Wonokerto ini merupakan sebuah fenomena waris yang mengikuti hukum adat jawa dengan mengedepankan beberapa aspek kemanfaatan bersama, namun model pembagian waris yang terjadi pada masyarakat Desa Wonokerto ini tidak mendapatkan legalitas dalam Fiqh klasik maupun hukum positif Indonesia. Adapun artikel ini bertujuan untuk Mendeskripsikan aspek yang menjadi latar belakang masyarakat desa Wonokerto melaksanakan pembagian harta warisan prakematian pewaris, serta memahami pembagian waris pra-kematian pada masyarakat Desa Wonokerto dari perspektif teori ilmu sosial profetik. Metode yang digunakan dalam

tulisan ini yakni studi lapangan (field research), data diperoleh dengan melakukan wawancara beberapa narasumber terkait dan ditambah dengan dokumentasi pendukung. Hasil penelitian menyimpulkan bahwa praktik pendistribusian harta orang tua kepada anak pra kematian merupakan implementasi dari keadilan transenden.

Kata Kunci : *Pendistribusian Harta, Waris Masyarakat Jawa, Sosiologi*

INTRODUCTION

The Javanese community holds distinct perspectives on inheritance, contrasting with the Islamic inheritance system. Unlike Islam, which dictates the distribution of inheritance after the demise of the inheritor, in Javanese tradition, the concept of "inheritance" can be addressed while the inheritor is still alive.¹ This process is conducted through deliberation, wherein religious figures are summoned to render decisions regarding the allocation of assets among the heirs in accordance with Islamic law or local customs.² Although such a form of inheritance distribution is not recognized in classical fiqh, this practice has evolved into a "law of inheritance" embraced by the Javanese society. The fundamental differences between these two inheritance systems underscore the unique local wisdom adhered to by the Javanese community, distinct from the value system embedded in Islamic inheritance law.

The pre-mortem inheritance division practice in Wonokerto Village is a phenomenon of inheritance that adheres to Javanese customary law. In the customary Javanese inheritance division, two models are recognized: pre-mortem inheritance division of the deceased and post-mortem inheritance division of the deceased.³ In the pre-mortem inheritance division model, various methods are employed to distribute the inheritance among the heirs, namely through *welingan*, *acungan*, and *wekasan*.⁴ These methods are utilized when distributing the

¹ Fauzan Zenrif and Zaenul Mahmudi, "Pembagian Waris Pra-Kematian Pada Masyarakat Islam Jawa Perspektif Hukum Progresif," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 1 (2022): 231–50.

² Raja Ritonga, "Sistem Kewarisan Adat Masyarakat Muslim Suku Tengger Perspektif Hukum Islam," *El-Ahli: Jurnal Hukum Keluarga Islam* 1, no. 1 (2020): 1–19.

³ Agus Sudaryanto, "Aspek Ontologi Pembagian Waris Dalam Hukum Islam Dan Hukum Adat Jawa," *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2010): 534–52.

⁴ Moh Zeinudin, "Studi Komparatif Tentang Aspek Ontologi Pembagian Waris Menurut Hukum Islam Dan Hukum Adat Jawa," *UNIFIKASI: Jurnal Ilmu Hukum* 3, no. 2 (2016): 1–19.

inheritance while the deceased is still alive. This complex practice has become a generational inheritance division tradition in the Wonokerto Village Javanese community across various societal strata.

The paragraph describes a progressive step of local wisdom within the mentioned practice.⁵ This is evident when assuming that the one who understands the needs of the heir is the heir's own parent (the inheritor), certainly considering the principles of justice and equal rights for heirs.⁶ Consequently, by nature, parents do not want future disputes over inheritance to occur among their descendants. Therefore, this practice serves as a proactive measure by parents who possess inheritance to prevent conflicts among their offspring, ensuring that their legacy is distributed appropriately.⁷ Fundamentally, this inheritance distribution is a preemptive step to avoid conflicts, disputes, and even family divisions. Regardless, the integrity and harmony of the family are deemed more crucial than the intrinsic value of the inheritance itself.⁸

From a preliminary investigation in this article, several supporting data have been found. One such instance is evident in the verdicts of the Ambarawa Religious Court, where the number of cases involving conflicts, divisions, and disputes related to inheritance in Wonokerto Village is negligible or nonexistent. This illustrates the existence of a proactive measure undertaken by the Wonokerto Village community in the distribution of inheritances, effectively eliminating instances of discord. The typology of inheritance distribution in Javanese society while the testator is still alive is diverse; it includes *Wekas* or *Weling* (bequeathing or bequeathal), *Acungan* (designation), and *Lintiran* (diversion). Essentially, all of these methods embody values that prioritize familial and communal harmony. This is reflected in the process, which is conducted through deliberative methods, ultimately minimizing the

⁵ Zenrif and Mahmudi, "Pembagian Waris Pra-Kematian Pada Masyarakat Islam Jawa Perspektif Hukum Progresif."

⁶ Miftahul Jannah and Emizal Amri, "Konflik Perebutan Harta Warisan Dalam Keluarga Pada Masyarakat Pulau Temiang," *Culture & Society: Journal Of Anthropological Research* 1, no. 1 (2019): 16–23.

⁷ Putri Wulandari, "Dampak Pembagian Harta Sebelum Pewaris Meninggal Perspektif Sosiologi Hukum Islam (Studi Kasus Di Dusun Boto Desa Legowetan Kecamatan Bringin Kabupaten Ngawi)" (UIN RADEN MAS SAID, 2023).

⁸ Iksan Iksan, Syamsuddin Syamsuddin, and Zuhrah Zuhrah, "Praktek Pelaksanaan Hukum Waris Pada Masa Pandemi Covid-19 Di Kelurahan Penanae Kota Bima," *TAJDID: Jurnal Pemikiran Keislaman Dan Kemanusiaan* 6, no. 1 (2022): 75–85.

likelihood of disputes in the future. The inheritance distribution process in Javanese society, as described, indirectly aligns with the concept of inheritance in the Quran, aiming to achieve justice and harmony.⁹

The inheritance law in the majority of fiqh schools and the determination of the Religious Court in Indonesia have garnered attention from the general public due to the frequent occurrence of detrimental consequences for the relatives left behind by the deceased.¹⁰ This phenomenon often arises because the distribution of inheritance is carried out in accordance with the textual nature of the law, which empirically may not align with the unique conditions and circumstances of each family. Moreover, considering the diverse customs and cultures present in Indonesia, this situation is further complicated, as it inevitably influences their perspectives on the concept of justice in the context of inheritance distribution.¹¹

When examined from the perspective of positive law, there is no provision addressing such a situation. The closest reference can be found in Article 211 of the Compilation of Islamic Law (KHI), which states, "A gift from parents to their children is also considered as part of the inheritance." However, this provision is optional in nature and not implemented in its entirety. This implies that there is still room for heirs themselves to distribute the inheritance after the demise of the deceased, thereby not providing legal certainty regarding the application of inheritance distribution within the Javanese community in the village of Wonokerto.

Based on the description above, there is a matter worthy of investigation, as the inheritance distribution model occurring in the community of Wonokerto Village lacks legality in both classical Fiqh and Indonesian positive law.¹² Furthermore, the Islamic community in Wonokerto Village, which ostensibly adheres to the opinions of Sunni scholars in fiqh matters, distinguishes between the terms "hibah" (gift), "wasiat" (will), and "waris" (inheritance). However, when compared with the

⁹ Sri Astutik, "Karakteristik Pembagian Waris Adat Jawa," *Jurnal Aktual Justice* 4, no. 2 (2019): 46.

¹⁰ Agus Wantaka, Abdul Rosyid, and Eka Sakti Habibullah, "Pembagian Warisan Dalam Perspektif Hukum Islam Dan Hukum Adat Jawa (Studi Komparasi)," *Prosa AS: Prosiding Al Hidayah Ahwal Asy-Syakhshiyah* 1, no. 1 (2018): 13–33.

¹¹ M Pudjiraharjo and Nur Faizin Muhith, *Fikih Muamalah Ekonomi Syariah* (Malang: Universitas Brawijaya Press, 2019).

¹² Agus Wantaka, Abdul Rosyid, and Eka Sakti Habibullah, "Pembagian Warisan Dalam Perspektif Hukum Islam Dan Hukum Adat Jawa (Studi Komparasi)," *Prosiding Al Hidayah Ahwal Asy-Syakhshiyah* 01, no. 1 (2019): 13–33.

inheritance model in the community of Wonokerto Village, a lack of coherence between the two is evident.

Therefore, this study will prioritize the consideration aspects utilized by the community of Wonokerto Village, as well as the objectives sought to be achieved through the implementation of the wealth distribution model to children before the testator passes away, employing the perspective of the prophetic social science concept by Kuntowijoyo. This concept emphasizes that legal matters must encompass three aspects, namely liberation, humanization, and transcendence. Hence, this is deemed significant and compelling in order to discern the prophetic values within the inheritance legal practices evolving in the Wonokerto Village community.

In a casuistic manner, research with a theme such as this exhibits several similarities with several previous studies, such as the study titled: "Pembagian Waris Pra-Kematian Pada Masyarakat Islam Jawa Perspektif Hukum Progresif (Studi Kasus Di Desa Wonokerto, Kecamatan Sukomoro, Kabupaten Nganjuk)".¹³ The focus of this research is to discern the manifestation of progressive values in the execution of pre-mortem inheritance distribution. The findings of this study indicate that the allocation and determination of pre-mortem inheritance align with the progressive legal character, which posits that the law is designed for the benefit of humanity and rejects the preservation of the status quo in legal matters. The following research, entitled: "pembagian harta waris sebelum muwaris meninggal dunia dari sudut pandang hukum waris Islam". The focus of this research is to understand how Islamic law addresses the phenomenon of inheritance distribution while the testator is still alive. This research falls under the category of normative research. The findings of this study indicate that the occurrence of inheritance distribution while the testator is still alive is due to the lack of understanding among the society regarding the regulations of inheritance in Islamic law. The pre-death inheritance distribution model is considered irrelevant to the concept of Faraid.¹⁴

¹³ Zenrif and Mahmudi, "Pembagian Waris Pra-Kematian Pada Masyarakat Islam Jawa Perspektif Hukum Progresif."

¹⁴ Nursyamsudin Nursyamsudin, "Pembagian Harta Waris Sebelum Muwaris Meninggal Dunia Menurut Perspektif Hukum Waris Islam," *Mahkamah: Jurnal Kajian Hukum Islam* 3, no. 1 (2018): 69–85.

In terms of approach, research of this nature bears similarity to prior studies, such as the one titled: "Tinjauan Sosiologi Hukum Terhadap Pembagian Harta Waris Dengan Cara Hibah (Studi Kasus Di Desa Sukorejo Kecamatan Sukorejo Kabupaten Ponorogo)." ¹⁵ The focus of this research is to understand the sociological aspects of the legal phenomenon related to the distribution of inheritance through a gift mechanism. The findings of this study indicate that the distribution of inheritance through gifting is intended to prevent disputes among heirs. However, such practices also contribute to conflicts among heirs. The subsequent research, entitled: "Dampak Pembagian Harta Sebelum Pewaris Meninggal Perspektif Sosiologi Hukum Islam (Studi Kasus Di Dusun Boto Desa Legowetan Kecamatan Bringin Kabupaten Ngawi)." ¹⁶ The focus of this research is to discern the impacts of estate distribution prior to the demise of the testator, as well as to comprehend the processes involved in such distribution and the underlying reasons for its execution prior to the testator's demise. The findings of this study indicate that this process yields both positive and negative consequences, affecting both the testator and the beneficiaries.

When juxtaposed with this paper, there are some similarities, namely studying the transfer of pre-death inheritance, but after looking for aspects of originality, it can be seen that this paper has its own differences and originality, namely the research theory that focuses on the study of the division of inheritance in Javanese society and uses the concept of prophetic social science from Kuntowijoyo.

METHOD

The type of study used in this article is field research. Observations to the field are generally also called empirical studies. In this article using two data sources, namely, Primary Data, is information obtained from interviews conducted, analyzed, and reported from the main source. The origin of primary data in this study

¹⁵ Muhammad Maftuch Bahrn Ilimi, "TINJAUAN SOSIOLOGI HUKUM TERHADAP PEMBAGIAN HARTA WARIS DENGAN CARA HIBAH (Studi Kasus Di Desa Sukorejo Kecamatan Sukorejo Kabupaten Ponorogo)" (IAIN Ponorogo, 2022).

¹⁶ Wulandari, "Dampak Pembagian Harta Sebelum Pewaris Meninggal Perspektif Sosiologi Hukum Islam (Studi Kasus Di Dusun Boto Desa Legowetan Kecamatan Bringin Kabupaten Ngawi)."

is the results of interviews from families who carry out pre-death inheritance in Wonokerto Village totaling 5 families and also religious leaders in the village because they have a very important role as community consultants for the enactment of this pre-death inheritance distribution. Second, Secondary Data, secondary data in this study are in the form of books that study inheritance, social life of the population in Java and there are also several articles and books on prophetic social science. The data that has been collected is then analyzed by reducing the data, displaying the data, and then drawing conclusions on the data obtained.¹⁷

RESULTS AND DISCUSSION

Model of Distribution of Assets to Children of Javanese Islamic Society in Wonokerto Village

In the distribution of pre-death inheritance carried out by Wonokerto Village residents, there are several laws that have a relationship with each other, namely the law of inheritance, grants, and wills. Inheritance law is a law that regulates the transfer of property rights of the heirs (tirkah), determining which parties have the right to become heirs and the amount of each party's share.¹⁸ The Compilation of Islamic Law states in the provisions of Article 171 letter g of KHI, a grant is a voluntary handover of an object and does not expect compensation from an individual to another living individual to be controlled.¹⁹ Whereas a will is defined as a gift of an object from the testator to another individual or institution that is to take effect after the death of the testator.²⁰

The distribution of pre-death inheritance carried out by residents of Wonokerto Village, Bancak Subdistrict is essentially grouped into 2 distribution methods, namely: First, the testamentary grant, which means that the property to be used as inheritance will be divided by half for the heirs when the testator is still alive while the

¹⁷ A Huberman, *Qualitative Data Analysis a Methods Sourcebook* (Thousand Oaks, California SAGE Publications, Inc., 2014).

¹⁸ "Kompilasi Hukum Islam" (n.d.).

¹⁹ "Kompilasi Hukum Islam.

²⁰ "Kompilasi Hukum Islam.

other half will be left for the needs of the testator's life where the remaining property will then be divided again through the will then given after the testator dies. Secondly, the division is carried out through grants only, which means that the division of property to be used as inheritance by the heir to the prospective heirs while still alive is decided according to the grant and will be applied when the grant is made.

When observed, the distribution of inheritance is in accordance with Islamic law regarding grants and wills according to Islamic law. According to the Compilation of Islamic Law, regarding the provisions of the validity of grants based on KHI, it can be found in Article 210, the contents of which are: 1) Grantor. The youngest age is 21 years old, has good sense, is not in technology, can give a grant of at most one third of the assets owned for agencies and other individuals, in front of 2 witnesses so that the ownership is valid. 2) The property that becomes a grant must be the right of the grantor. The following articles explain that grants from parents to children can be considered inheritance. Grants cannot be taken back, except for grants from parents to their children.²¹ Grants made when the testator is ill and near death must be approved by the heirs. These policies are similar to the regulations in Islamic law (fiqh).²²

Meanwhile, the pillars of the will according to KHI are grouped into 4 categories, namely: a) The individual who gives the will. b) The individual who gets the will. c) The editor (Sighat) of the will. d) The Wasiat Goods. The description of the conditions and pillars in the Compilation of Islamic Law (KHI) is managed through Article 194 and Article 195. According to both articles, it can be concluded that: The requirements for individuals who want to make a will are at least 21 years old, not under pressure from any party or under guardianship, and the property to be made into a will is the full property of the testator. s for the procedure, the will is executed in front of 2 witnesses or a notary in writing or orally. The will is also constant, no more than 1/3 of the estate. In relation to the will for the beneficiary of the inheritance, it is considered valid if it has been agreed upon by all heirs.²³ The agreement of the heirs is intended to prevent unwanted things.

²¹ Khairunnisa Ela, "KETENTUAN HIBAH DALAM KOMPILASI HUKUM ISLAM DAN KOMPILASI HUKUM EKONOMI SYARIAH PERSPEKTIF FIQH KONTEMPORER" (IAIN Purwokerto, 2019).

²² "Kompilasi Hukum Islam.

²³ "Kompilasi Hukum Islam.

The fulfillment of the pillars and conditions of grants and wills as contained in KHI and Islamic law can be seen from the method of distribution. The division of pre-death inheritance in Wonokerto Village includes grants and wills carried out through kinship, while the steps to divide it are described as:

First, gather all family members. The gathering of all family members is generally held in the house occupied by the testator. The parties participating in the pre-death distribution of inheritance include the heir, the recipient of the inheritance, and other relatives, who act as witnesses. Second, expressing the purpose of the meeting and determining the share. When all parties have gathered, the parents will then explain the purpose of the meeting, which is to carry out the pre-death distribution of inheritance, through various methods such as wills and grants. After that, the parents will inform each of the prospective heirs of their share and the reason why it has been determined that way.

Meanwhile, the intended object can be in the form of a house, yard land, garden land, and rice fields or other valuable property. As for the flow, first, parents ask for approval from the heirs. If there are heirs who do not agree to the division that has been determined, then the discussion will be held again until reaching an agreement from all parties. Then, if the whole family has agreed to the division. Parents will explain the division of each.

When referring to the Compilation of Islamic Law regarding grants, from parents to their children can be carried out if they get approval from all heirs. Then it is added in article 211 that parents' grants to children can be considered as inheritance, at a glance at the formulation of the article, and there is a limitation in article 210 that grants can be made at most 1/3 in the presence of two witnesses to be owned. There is a picture of trying to harmonize the three basic values of expediency, justice, and legal certainty in a practice made by the population without ignoring the basic value of obedience to God's teachings contained in the text.

However, what happens in the pre-death inheritance distribution of the Wonokerto Village community is often not in accordance with the article, as explained in the previous explanation, that the characteristics of the amount of pre-death inheritance distribution in Wonokerto village are two kinds; 1) *sapikulan rong*

gendhongan, meaning 2: 1 usually more boys than girls. 2) *sigar semangka*, meaning that between sons and daughters get equal inheritance.

After determining the characteristics of the distribution of inheritance, it is then divided equally to all heirs, or in certain cases a portion is left for the parents' expenses as their living expenses until death, then divided again when the parents die by will. This phenomenon shows that the concept in KHI that grants cannot be more than 1/3 of the total assets is not implemented.

Similar to the provisions of grants, people who have the right to accept wills in the Compilation of Islamic Law (KHI) itself in article 195 regarding the permissibility of giving wills to after obtaining approval from other heirs. It also applies the principle of limiting the recipient of the will to the heirs as much as 1/3. This aims to prevent the prevalence of accumulation of assets on certain heirs, because this has become a debate among scholars regarding the permissibility of making grants and wills for heirs, the agreement of other heirs, and the provisions of the maximum amount.

The amount of assets whether bequests and wills are allowed to exceed 1/3 or not. In a hadith it is explained that Sa'd bin Abi Waqas RA intended to make a will to give away all his inheritance even though he had a daughter. Then the Prophet explained that it was not allowed. Sa'd bin Abi Waqas then reduced the value of the property he wanted to give away to 1/3 of the property. Then the Messenger of Allah. Answered;

*"One-third (for bequests), and one-third is plenty, for it is better for you to leave your heirs rich than to leave them poor and a burden on others."*²⁴

This Hadith indicates that grants and bequests cannot exceed 1/3 of the estate if there are heirs. Even if there are no heirs, one can make a will with all the wealth. The legal reason for this is to ensure that the heirs do not fall into poverty. If the hadith is examined, there is a saying that "leaving heirs in a rich condition is better than leaving them in a poor condition so that they become a burden to others." This statement, based on a strong opinion, is the legal reason for limiting the will to a maximum of 1/3.

Therefore, it can be concluded that the purpose of limiting the amount of wills and inheritances is to prevent heirs from burdening other heirs. Therefore, if the

²⁴ Ibnu Hajar Al Asqalani, *Fathul Baari Shahih Al Bukhari* (Riyadh: Maktabah Darussalam, 2020).

agreement is made with the interests of the family in mind, it is in line with the intent of the Hadith.²⁵ The division and determination of pre-death inheritance practiced by Wonokerto Village residents is carried out because the division and termination of inheritance carried out after the heir's death by residents cannot be trusted anymore, because such division has a high probability of causing disputes between the heirs.

Like the existence of a struggle over the location / position of the inheritance and allows the existence of control of property by the designated heir. Therefore, many heirs end up dividing property while still alive to familiarize children with the rights of the heirs themselves. In addition to the provision of a maximum limit of 1/3 for grants and wills, this paper reviews that there is no significant difference between the distribution of pre-death inheritance in Wonokerto Village and the inheritance law itself, which can be viewed from various aspects:

First, the recipient of the inheritance. If all heirs exist, then those who have the right to inherit are mothers, fathers, children, widows and widowers.²⁶ Individuals who receive inheritance in the distribution of pre-death inheritance here are individuals who have the right to become potential heirs, in this context, namely children. Because there are many times when the distribution of inheritance is children and parents only. Because those who have the right to obtain inheritance are descendants only.

Secondly, the value of the inherited property and its respective division. The value of the property bequeathed to the heirs depends on what method of division is applied to the division. First, Grant. If the division is carried out by grant alone, the inheritance that is granted is all the property to be used as inheritance, and after the division of the property has officially transferred ownership to the heirs / children. Second, testamentary grants. If the division is carried out by bequest, the inheritance will be divided by half for the heirs when the testator is still alive while the other half will be left for the needs of the testator's life where the remaining property will then be divided again through the will then given after the testator dies.

²⁵ Muhamad Muizz Abdullah, Abdul Bari Awang, and Nasrul Hisyam Nor Muhamad, "Wasiat Dan Wisayah: Analisis Perbandingan Dalam Perancangan Harta Pusaka Muslim (Will And Wisayah: An Analytical Study In Muslim Estate Planning)," *UMRAN-International Journal of Islamic and Civilizational Studies* 8, no. 1 (2021): 55–74.

²⁶ "Kompilasi Hukum Islam.

The share of each heir varies greatly, which is influenced by the agreement of various parties. There are 3 probabilities that exist in the division of property by will in Wonokerto Village, namely: First, Sapikulan rong gendhongan, male 2 parts female 1 part (2:1). Second, Sigar Semangka, Equally between men and women (1:1). Third, the youngest and male child will be the owner of the house. The following is an explanation of the three parts:

Sapikulan Rong Gendhongan, male 2 parts female 1 part (2:1). This kind of division occurs in Nayiri's family, a fair division is a division that has been stipulated in Islamic law, namely 1 part of the son is equal to 2 parts of the daughter. She considers this not only because of the religious text but there is a match with what happened in her family, that men have more responsibility than girls.

Dum-Dum Kupat, Equal division between male and female (1:1) The reason for the fair division between male and female in each family is not the same. Nasikun's family made an equitable distribution of inheritance for their children, both male and female. Each child gets a rice field. Later, heirs who get rice fields with high selling value must give money to heirs who get rice fields with lower value, this only applies when the inheritance in the form of money has been distributed. The division of this according to the Nasikun family so that all heirs get balanced assets achieved in the distribution of fair inheritance.

Meanwhile, according to the Solikin Family, the division in Islam 2: 1, the man 2 parts while the woman 1 part is not relevant in his family, if the division is still carried out in this way, according to him it is unfair. Atek himself as a parent has never differentiated the rights and responsibilities between boys and girls. For example, the boys always go to the fields to farm corn, so the girls are in charge of sending food to the fields. He considers it a balanced role.

The difference in the distribution method is based on the conditions and needs of the heirs themselves, and it is also based on the agreement of all heirs. Therefore, even though the distribution of property for some residents in Wonokerto Village, namely sons get 2 parts and women get 1 part and are also called 2:1. But it does not rule out the possibility because there are considerations of the conditions and needs of the heirs so that it can be balanced, this kind of difference is often found in families in Wonokerto Village.

Aminah Wadud believes that the determination of the 2:1 inheritance is not a necessary requirement, but only a variation of division. She explained that the division of inheritance needs to be carried out in various ways, including the situation of the family left behind, the principle of utility and the needs of the heirs and the use of the inheritance itself. Therefore, according to Aminah Wadud, the division of inheritance can be flexible and have various probabilities of division, influenced by the function of property for each heir. Therefore, the division only illustrates the nature of justice.²⁷

The purpose of distributing parents' wealth in Wonokerto Village

As an action, the practice of distributing parents' property to children before they die, shows the existence of various feelings and internal conditions. This is then manifested in a form of grafting orientation towards action. Thus, it can be understood that in an action taken by each individual or group, there are different reasons or motives. There are several reasons that encourage the Wonokerto Village community to distribute the assets they have to their children. These reasons will be explained as follows:

Preventing family conflict

The first reason for this practice is the fear of potential conflict. There have been many family conflicts arising from inheritance disputes. Therefore, the community uses this method as an anticipatory measure against the potential loss of brotherly relations, even between siblings.²⁸ This concern also encourages people to divide their assets before they die. This is done so that they still have control over possible conflicts that will occur between their children.²⁹

This concern is also due to past experiences with conflicts related to inheritance. Therefore, they do not want the same thing to happen to their children. Because they realize that conflicts that occur due to fighting over inherited property do not have the slightest benefit. In fact, with this conflict, their children will lose

²⁷ Amina Wadud, "Reflections on Islamic Feminist Exegesis of the Qur'an," *Religions* 12, no. 7 (2021): 497.

²⁸ Jannah and Amri, "Konflik Perebutan Harta Warisan Dalam Keluarga Pada Masyarakat Pulau Temiang."

²⁹ Wulandari, "Dampak Pembagian Harta Sebelum Pewaris Meninggal Perspektif Sosiologi Hukum Islam (Studi Kasus Di Dusun Boto Desa Legowetan Kecamatan Bringin Kabupaten Ngawi)."

many times over.³⁰ For the community, harmonious life in a family must be maintained, so things that trigger conflict must be avoided.³¹

In Weber's perspective, such actions are included in the action of value rationality. This is because the practices carried out by the community in the process of distributing their assets are based on the values they believe in, such as peace and justice. This can be seen from the reasons put forward by the community, that this grant method is used as a medium to maintain harmonious relationships and maintain a sense of justice in the family. Furthermore, these reasons also show that the community takes into account the possibilities associated with the success or failure of the use of this method.³²

Forms of Parental Love for Children

The second reason that encourages the practice of using the grant method as a substitute for the inheritance method in Wonokerto Village community is due to the economic conditions of their children after marriage. The emergence of this reason is due to the economic difficulties experienced by their children after marriage. These difficulties are caused by several things, such as husbands who are affected by Termination of Employment Rights (PHK), husbands' income that does not meet the needs of the family, and the burden of education costs.

The existence of the above, then encourages the community to immediately give the wealth they have to their children. The wealth that is usually given is in the form of land or rice fields, which can be managed by their children. Although in other cases, assets are distributed in the form of gold, cars and so on.³³ . Such conditions are only possible by using the grant method. Because, the distribution of assets using this method can be done without having to wait for the heir to die first.³⁴ So

³⁰ Iksan, Syamsuddin, and Zuhrah, "Praktek Pelaksanaan Hukum Waris Pada Masa Pandemi Covid-19 Di Kelurahan Penanae Kota Bima."

³¹ Yasin Arief et al., "FAKTOR-FAKTOR YANG MEMPENGARUHI KEHARMONISAN RUMAH TANGGA MUSLIM DI JAWA TENGAH," *ADHKI: JOURNAL OF ISLAMIC FAMILY LAW* 5, no. 1 (2023): 17–30.

³² Pip Jones, *Pengantar Teori-Teori Sosial* (Jakarta: Pustaka Obor, 2003).

³³ Agustan Agus, Asni Zubair Asni, and Andi Jusran Kasim, "IMPLEMENTASI PEMBAGIAN WARISAN MELALUI HIBAH ORANG TUA TERHADAP ANAKNYA DI DUSUN CENRO-CENRONGE DESA MICO KECAMATAN PALAKKA KABUPATEN BONE," *QISTHOSIA: Jurnal Syariah Dan Hukum* 3, no. 2 (2022): 116–25.

³⁴ Hasna Mardanus, "Tinjauan Hukum Islam Terhadap Pemberian Hibah Orang Tua Kepada Anak Sebagai Pengganti Warisan (Studi Kasus Di Kecamatan Belopa Kabupaten Luwu)= Review of Islamic Law on Giving Parental Grants to Children as a Substitute for Inheritance (Case Study in Belo" (Universitas Hasanuddin, 2022).

the community believes that by using this method, the process of distributing their assets will be quickly transferred to their children. By giving the property, it is hoped that it will help their children in facing their household life.³⁵ This gift is a manifestation of parental affection for their children.³⁶

In addition to speeding up the process of distributing wealth, this method of granting is also used by the community so that all assets owned only fall to their children. In other words, this view also shows that there is a concern that, when the division uses the inheritance method, the property will also be shared with other heirs. Because in inheritance law, children are not the only heirs, but there are other heirs, such as father's siblings, mother's siblings, grandparents, grandmothers and others.³⁷ Therefore, it can also be said that the use of the grant method as a substitute for the inheritance method in the process of dividing property is so that the property owned is not divided with other heirs.³⁸ So that all assets owned fall under the control of the child.

In Weber's perspective, such actions are included in the action of instrumental rationality.³⁹ This is because these actions are based on achieving the goals they want to achieve. Based on the description above, it can be seen that the goals that the community wants to achieve are the independence, stability and welfare of their children. Therefore, the community believes that the use of the grant method as a substitute for the inheritance method is a way that can be a way to realize these goals. In addition, the use of the grant method as a substitute for the

³⁵ Mohd Khairy Kamarudin and Nasrul Hisyam Nor Muhammad, "FAKTOR PEMBERIAN HIBAH MENURUT PERSPEKTIF PENTADBIR TANAH (FACTORS OF GRANTING HIBAH FROM THE LAND ADMINISTRATION'S PERSPECTIVE)," *UMRAN-International Journal of Islamic and Civilizational Studies* 4, no. 3-1 (2017).

³⁶ Wildan Fauzi, "Kewajiban Anak Terhadap Orang Tua Menurut Hadits Bukhari," in *Gunung Djati Conference Series*, vol. 24, 2023, 114-32.

³⁷ Israfil Israfil, Muzakir Salad, and Aminullah Aminullah, "Legitime Portie Dan Zhawil Furudh Menurut Hukum Kewarisan Kuhperdata Dan Hukum Kewarisan Islam," *Jurnal Ilmiah IKIP Mataram* 8, no. 1 (2023): 45-56.

³⁸ Muliana Muliana and Akhmad Khisni, "Akibat Hukum Akta Hibah Wasiat Yang Melanggar Hak Mutlak Ahli Waris (Legitieme Portie)," *Jurnal Akta* 4, no. 4 (2017): 739-44.

³⁹ Jones, *Pengantar Teori-Teori Sosial*.

inheritance method also shows a change in family form, namely from an extended family to a small family (nuclear family).⁴⁰

Distribution of Assets to Children in Wonokerto Village from the Perspective of Sociology of Inheritance

It has been explained in the previous discussion that the distribution of pre-death property in Wonokerto Village is basically divided when the heir is still alive in order to avoid disputes and divisions between relatives in the future. In the process of distribution using a method resembling grants and wills, but the Javanese community of Wonokerto Village does not call it that but calls it the term "inheritance". The division through this method is a division that is usually found in the division of inheritance in the Javanese community in Wonokerto Village, where the inheritance of deceased parents will be arranged and divided for their children before their parents die, and the division through this method is generally carried out through deliberations between families. The problem here is that the distribution of inheritance uses a method similar to the method of grants and wills, but differs in terms of the maximum limit of assets granted / bequeathed and the Wonokerto Village Javanese community does not use contracts according to the provisions of grants and wills as in the Compilation of Islamic Law.

When referring to Kuntowijoyo's prophetic social theory, the practice of distributing parents' property to children before death is an implementation of transcendent justice. Because transcendence is seen as the intended value, the practice is devoted to the goals of transcendence.⁴¹ The concept of transcendence in prophetic social science is the basis or main pillar. This transcendent value can be reached when the other two pillars are also fulfilled, namely the value of liberation and the value of humanization. If three philosophical optics are used, namely ontological, epistemological, and axiological, then the three pillars appear sequentially. Humanization is the ontological foundation, then liberation is the

⁴⁰Nanang Syaggap Armanda, "TRANSFORMATION OF FAMILY SHAPE POST EARTHQUAKE AL-FARUQI'S'AILAH LAMYA'THEORY PERSPECTIVE," *Al-Masail: Journal of Islamic Studies*, 2023, 13–24.

⁴¹ Suwandi Suwandi and Teguh Setyobudi, "Sintesa Hukum Islam Dan Kebudayaan Jawa Suatu Pendekatan Profetik," *De Jure: Jurnal Hukum Dan Syari'ah* 12, no. 2 (2020).

epistemological foundation, and transcendence as the axiological foundation.⁴² In the view of prophetic social science, social science should not be complacent in trying to explain or understand reality and then just forgive it but more than that, social science must also carry out the task of transformation towards the ideals idealized by its society.⁴³

Libertaion Values

Liberation is a process of human liberation from the confinement of interpretations that deny the ability of human rationality which is endowed with the ability to think by God Almighty to be able to stand free before God correctly, which is actualized by obeying His law, loving each other with others, acting fairly and guarding themselves from bad deeds and the commandment of taqwa. Actually, the liberation of human rationality potential is the essence of Islamic law that will lead humans to a noble and dignified position. Islamic law in the context of Islam can be said to be at the forefront of religion which is expected to be able to deliver humanity in accordance with its nobleness.⁴⁴

The liberation of human rationality is also seen in the purpose of the practice of distributing parents' hatrta to their children carried out by the Wonokerto Village community. The community assumes that justice, benefit and family harmony are very important. This assumption is in line with the opinion of Fazlur Rahman, who said that justice and benefit are definite arguments contained in the Qur'an.⁴⁵ Especially when faced with the context as described above, this view finds its relevance. The concept of religious teachings talks about the dynamics of life in the universe that positions humans as subjects and objects with the dynamics of their lives. Through the concepts offered by Islamic law, it is essentially sufficient for humans to carry out their role in the universe as realizers of benefit and goodness.

⁴² Putri Wulansari and Nurul Khotimah, "Membumikan Ilmu Sosial Profetik: Reaktualisasi Gagasan Profetik Kuntowijoyo Dalam Tradisi Keilmuan Di Indonesia," *Prosiding Konferensi Integrasi Interkoneksi Islam Dan Sains 2* (2020): 431–35.

⁴³ Heddy Shri Ahimsa-Putra, *Paradigma Profetik Islam: Epistemologi Etos Dan Model* (UGM PRESS, 2019).

⁴⁴ Ellectrananda Anugerah Ash-shidqiqi, "Meneropong Ilmu Hukum Profetik: Penegakan Hukum Yang Berketuhanan," *Amnesti Jurnal Hukum 2*, no. 1 (2020): 33–42.

⁴⁵ Fazlur Rahman, *Islam* (University of Chicago Press, 2020).

Humanization Values

Humanization is an effort to position humans as their nature, or in other languages humanize humans. Humans in this context are played as actors (subjects) in Islamic law who free themselves from the various paradigms of a person or certain groups that have religious authority and competence. Prophetic humanization considers all people to have the same position without exception. In other words, humanization is a derivation of *amar ma'ruf*.⁴⁶

In the context of the practice of distributing parents' property to children carried out by the Wonokerto Village Community, this humanization is actualized in the equal distribution between men and women. The community considers that there is no difference between boys and girls. The only difference that exists in both is only the biological reality. Whereas in sociological reality, the two have no difference. Such a view is a reflection of humanist values, that universal goals in Islam can only be realized when there are no things that are discriminatory.⁴⁷

The Value of Transcendence

The third prophetic element is transcendence as the main target in the process of approaching the object of study. Transcendence is actually an abstract and spiritual reality to transcend a phenomenon. The contact of Islamic law with Javanese culture through the concept of transcendence is actually a form of concept that makes Muslims realize that they should not only understand Islamic law limited to its external aspects without exploring the substance of its teachings. Because the understanding of Muslims that is limited to the outer aspects of religious teachings tends to lead them to a rigid mindset and oriented to physical Islamic law.⁴⁸

This transcendence value is reflected in the practice of distributing parents' property to their children. Because, people in Wonokerto Village consider that the distributed property is a form of their love for their children. In addition, with this practice, they consider that it will make it easier for them to achieve universal goals

⁴⁶ Supriyadi Supriyadi, "Kebijakan Penanganan Covid-19 Dari Perspektif Hukum Profetik," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 8, no. 2 (2020): 91–109.

⁴⁷ Yuni Masrifatin, "Konsep Pendidikan Profetik Sebagai Pilar Humanisasi," *JURNAL LENTERA: Kajian Keagamaan, Keilmuan Dan Teknologi* 18, no. 2 (2019): 165–74.

⁴⁸ S H Kelik Wardiono, *Ilmu Hukum Profetik: Hampiran Basis Epistemologi Paradigmatik* (Muhammadiyah University Press, 2020).

in Islam, such as justice, benefit, and welfare. Although they also do not guarantee that the practice can eliminate potential conflicts that may occur in the future. But at least, they have tried to minimize it, to prevent greater *mafsadat*.⁴⁹

Thus it can be said that the Wonokerto Village community no longer considers that Islamic law is only oriented towards physical matters, but more than that the community has led to an understanding of the substance of Islamic law.

CONCLUSION

The Javanese community of Wonokerto Village believes that the pre-death division of inheritance is an effective way to prevent divisions between families after the division of inheritance, the reason the Wonokerto Village community does not use the provisions of inheritance in sunni fiqh or positive law and switches to its customary provisions because the pre-death inheritance model is not mentioned in it, although there are terms that are close, namely grants and wills, but the three are not the same. This is justified because customary law can apply in society as long as it does not contain harm and is relevant to the principles of Islamic teachings in general. In other words, custom can be used to exclude the general provisions in the nash in the field of inheritance, where customary inheritance is more inclined to achieve benefits in community life. The division and determination of pre-death inheritance is in accordance with the three values in Kuntowijoyo's prophetic social science concept, namely liberation, humanization, and transcendence.

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⁴⁹ Khudzaifah Dimiyati et al., "Pemikiran Transendental Model Profetik" (Prosiding Seminar Nasional & Call for Papers Hukum Transendental, 2018).

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