

Between Customary and Islamic Law: Financial Inheritance Practices in the Surakarta Sunanate Royal Family

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ABSTRACT

This article aims to analyze the division of inheritance carried out by the royal family of the Surakarta Sunanate in Central Java Province. Data were collected through interviews and observations involving six royal families. The findings show that the descendants of the Surakarta Sunanate royal family divide inheritance based on agreements reached with the family. Within the royal family, there are two types of inheritance. The first is the king's personal property, which is divided according to *Paugeran* (royal customary law), using a ratio of 2:1 between sons and daughters, unless the king has left a testament. The king's testament, known as *sabda pandita ratu*, is considered absolute. If the king issues a testament that removes the inheritance rights of a family member, that person's rights are annulled. This stands in contrast to Islamic law, which limits the scope of a testament to one-third of the estate and prohibits the disinheritance of a rightful heir. The second type of inheritance is palace property,

which may only be inherited by the son or heir who succeeds the late king. These practices illustrate the (dis)harmony between Islamic inheritance law and royal customary inheritance law in specific contexts.

[Artikel ini bertujuan untuk menganalisis pembagian harta warisan yang dilakukan oleh keluarga kerajaan Kasunanan Surakarta Provinsi Jawa Tengah, Indonesia. Pengumpulan data dilakukan dengan metode wawancara dan observasi terhadap enam keluarga kerajaan keturunan Kasunanan Surakarta. Hasil penelitian menunjukkan bahwa keturunan keluarga kerajaan Kasunanan Surakarta membagi harta warisan berdasarkan kesepakatan yang dilakukan melalui musyawarah keluarga. Dalam keluarga raja, terdapat dua jenis warisan, yaitu harta pribadi raja, yang dibagi berdasarkan Pugeran (hukum adat) dengan perbandingan 2:1 bagi anak laki dan perempuan. Hal ini berlaku kecuali jika raja berwasiat. Wasiat raja yang disebut sabda pandita ratu bersifat mutlak, dimana jika ia menentukan pembagian rata, maka warisan akan dibagi rata. Atau, jika ia berwasiat menghapus hak waris salah satu anggota keluarga, maka akan terhapus. Di dalam hukum Islam, seorang pewaris hanya dapat wasiat maksimal 1/3 dari hartanya dan tidak bisa menghapus ahli waris. Jenis harta kedua adalah harta keraton yang tidak bisa diwariskan secara pribadi kepada semua keluarga raja, namun hanya akan diberikan kepada satu saja ahli waris yang menggantikan mendiang raja. Praktik-praktik ini menggambarkan adanya (ketidak)selarasan antara hukum waris Islam dan hukum waris adat kerajaan dalam konteks tertentu.]

KEYWORDS

Surakarta Sunanate, Customary Law, Inheritance, *Pugeran*

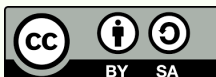
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Introduction

The application of the law in Indonesia during the Dutch East Indies era placed Islamic law into three conditions: (1) the condition of the holistic acceptance of Islamic law (the *receptie in complexu* theory), (2) the condition of the acceptance of the Islamic law by customary law (the *receptie* theory), and (3) the condition of the Islamic law as the formulator of the national law (the existence of the Islamic law theory).¹ In the customary inheritance law, the determination of heirs and the

¹ Fitra Mulyawan and Dora Tiara, "Karakteristik Hukum Islam Pada Zaman Penjajahan Belanda Dan Jepang (Characteristics of the Islamic Law During the Dutch and Japanese Colonial Era)," *UNES Law Review* 3, no. 2 (December 2020): 113–25.

division of wealth in society is influenced by the bloodline.² According to the civil inheritance law concept, inheritance is the transfer of human property rights from one generation to the next.³ This means that according to civil law, inheritance may be transferred to heirs because the predecessor died.⁴ Thus, Islamic kingdoms that established governments purely based on Islam have experienced modernization and a shift of entity due to the legal pluralism.⁵ As one of the legacies of the Islamic kingdom during the colonial era, the Surakarta Sunanate has started to lose its power of governance.⁶ This research found that there were stipulations in the *Paugeran* (Royal customary law) that applies among the kingdom or people of Surakarta Sunanate that is actually against the Islamic law. This leads to two different types of wealth, i.e., the king's personal wealth and the palace property (such as the palace land, the palace, the castle, and other heirlooms). The palace property can only be given to one heir who succeeded the late king. Meanwhile, the king's personal wealth can be divided among his heirs.

Apart from that, in the *Paugeran*, there are stipulations on the special rights of the king (*Sunan*), where the king can make an absolute will that is accepted in the Sunanate customary law. The king can make a will to erase the inheritance rights of one family member or more. Or, the king can make an heir receive more share compared to the rest which is called the *sabda pandita ratu* or the King's testament. If the king does not make a will, according to the *Paugeran* of inheritance (for personal wealth), it will be divided according to Islamic law. This special feature only exists in the Sunanate family as a stipulation of the inheritance customary law in the *Paugeran* and this only applies to the king or the *sunan*. This feature of special rights does not exist in the Islamic law.

This article aims to analyze the division of inheritance carried out by descendants of the Surakarta Sunanate royal family. As previously discussed, customary law and Islamic law developed side by side. It is known that the inheritance law in Islam is based on Qur'an, the hadith (Islamic oral tradition), *ijma'* (agreement of the Muslim community on a religious point), and *qiyas* (analogical reasoning). Meanwhile, in the Surakarta Sunanate, it is based on *Paugeran*, which has been passed on from generation to generation since the Islamic Mataram Kingdom. The inheritance system of *Paugeran* is identical to the inheritance law in Islam, as heirs have the same rights as those in Islamic law. Features such as the amount of inheritance for each husband/wife, husband/wife

² Muhamad Syaifullah Abadi Manangin, Leni Dwi Nurmala, and Nurmin K Martam, "Pengalihan Atas Harta Warisan Di Indonesia (The Transfer of Inheritance Wealth in Indonesia)," *DiH: Jurnal Ilmu Hukum* 16, no. 2 (July 2020): 177-89.

³ Sulastriyono Sulastriyono and Sartika Intaning Pradhani, "Pemikiran Hukum Adat Djojodigono Dan Relevansinya Kini (Djojodigono Customary Legal Thought and Its Relevance)," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 3 (October 2018): 448.

⁴ Sonny Dewi Judiasih and Efa Laela Fakhriah, "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 5, no. 2 (2018): 315-30.

⁵ Arskal Salim, "Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism," *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism* 6 (2015): 1-214.

⁶ Adhi Cahya Fahadayna, "The Implementations of Islamic Law and Post-Conflict Development in Aceh, Northern Indonesia" 129, no. 1csps 2017 (2018): 19-25.

with children, as well as the rights of daughters and sons are identical to those in Islamic law.

The inheritance system in the Surakarta Sunanate is actually based on the Islamic law with several additional stipulations. For instance, there are two types of inheritance, namely the king's personal property and palace property. The palace property cannot be inherited or divided. The only wealth that can be divided is the king's personal property. The law of inheritance division that is carried out based on *Paugeran* is actually according to the Islamic law, unless the king has a will. In this context, the difference is that the king or the *sunan* has a full right over the inheritance division process to his heirs based on his will. This right is a feature that is different from the Islamic law and the positive law. This is why the Islamic law and the Surakarta Sunanate customary law on inheritance are developed side-by-side. Thus, we try to uncover to what extent the inheritance legal system used by the descendants of the Surakarta Sunanate royal family is the same as the inheritance system used by common people. Based on the background above, in this paper, we analyze the division of inheritance carried out by descendants of the Surakarta Sunanate royal family. The practice of this division will be analyzed according to the perspective of Islamic law, and how the practice of the inheritance of Islamic law can be side by side with the customary law.

Previous studies on the intersection of Islamic and customary inheritance law in Indonesia reveal diverse patterns of interaction. Sakirman emphasizes the challenges in implementing Islamic inheritance law,⁷ while Yuliatin's study shows that customary law often dominates.⁸ Similarly, Darussamin's research on the Malay community in Siak highlights that the acceptance or rejection of custom within Islamic law depends on considerations of *maslahah* (benefit) and *mafsadat* (harm).⁹ Ivantra's work, however, suggests the opposite dynamic, showing how Islamic law shapes customary family law through the adoption of Arabic terms and jurisprudence.¹⁰ Lukito offers yet another perspective, portraying Islamic and customary law as engaged in a dynamic relationship that can also be complementary rather than merely competitive.¹¹ Beyond the Indonesian context, Shabana's study of *'urf* and *'ādah* situates custom within Islamic legal theory, linking it to the broader framework of *maqāṣid al-sharī'ah*.¹² These studies demonstrate that the relationship between Islamic and customary law is neither uniform nor static but reflects context-specific negotiations of authority, culture, and legal legitimacy.

⁷ Sakirman, "Konvergensi Pembagian Harta Waris Dalam Hukum Islam," *Al-'Adalah* 13, no. 2 (2016): 155–164.

⁸ Yuliatin, "Hukum Islam Dan Hukum Adat: Studi Pembagian Harta Waris Masyarakat Seberang Kota Jambi" (UIN Sunan Kalijaga Yogyakarta, 2014).

⁹ Zikri Darussamin, "Interaksi Hukum Islam Dan Hukum Adat; Studi Pelaksanaan Kewarisan Masyarakat Melayu Di Daerah Siak" (UIN Sunan Kalijaga Yogyakarta, 2003).

¹⁰ Pioci Ivantra, "Pengaruh Hukum Islam Terhadap Hukum Keluarga Adat Sumatera Selatan; Studi Terhadap Hukum Keluarga Dalam Kitab Oendang-Oendang Simboer Tjahaja" (UIN Sunan Kalijaga, 2004).

¹¹ Ratno Lukito, "Islamic Law and Adat Encounter: The Experience of Indonesia," 1997.

¹² Ayman Shabana, *Custom in Islamic Law and Legal Theory; The Development of the Concepts of 'Urf and 'Ādah in The Islamic Legal Tradition* (New York: Palgrave Macmillan, 2010).

During field work, we managed to interview six descendants of King Pakubuwono XII of the Surakarta Sunanate. The interview were conducted within the palace. After the interview, we wrote a report paper which is transform to be this paper. The systematic discussion in this research begins with the presentation of data regarding the implementation of family inheritance at the Surakarta Sunanate Palace, then the data is presented and analyzed for its conformity with Islamic legal norms, then the application of Islamic inheritance law which run (un)simultaneously with customary law through the interrelation of legal harmony as indicated by the distribution of *segendong sepikul* (2:1 for son and daughter), minimizing conflict which contains aspects of *maslahah*.

The Establishment of Surakarta Sunnanate

The history of Surakarta Sunanate's establishment was associated with the fall of the Islamic Mataram Kingdom in 1755. The Islamic Mataram Kingdom (whose territory encompassed the current area of Central Java Province, East Java Province, and part of West Java Province, Indonesia) had its capital city relocated several times.¹³ When Amangkurat II ascended to the throne, he moved the center of the government to the Wanakarta area, which was then known as Kartasura. This relocation was triggered by the rebellion led by Trunojoyo. Up to now, the Surakarta Sunanate (Surakarta Kraton/Palace of the Javanese Kingdom) becomes the place of residence for the Sunan (a king on the island of Java, Indonesia) and the royal family that still embraces the Sunanate tradition.¹⁴ The Surakarta Palace is a historical building that is one of the heritages of the Islamic Mataram Kingdom located in Surakarta City, Central Java Province, Indonesia.¹⁵

The Type of Wealths

There is a difference between the wealth of the palace and the wealth of the king. In the dynasty system used by the palace, the palace wealth is descended from one throne heir to another and it cannot be inherited. Apart from that, the inheritance relic inscription of the dynasty is based on the obtainment of the inheritance.¹⁶ Palace wealth is the property in the name of the palace whose usage is only based on the interests of the palace. Such assets cannot be inherited by the king by other successors of the king. But there is also the king's property which is his personal property that can be inherited by his descendants.¹⁷ The king obtained his wealth after being inherited by his predecessors or he obtained it from the proceeds of his personal businesses. Discussing the descendants of the palace starting from King Pakubuwono I to King Pakubuwono XIII, there are around 2 million descendants

¹³ Nanang Saptono, "Tata Ruang Kota Ciamis Pasca Perdagangan Dunia Abad Ke-19 – 20 (Spatial Planning of Ciamis City Post-World Trade of the 19th and 20th Centuries)," *Panalungtik* 1, no. 1 (January 2019): 41–60.

¹⁴ Ahmad Adib and Kundharu Saddhono, "Paradigma Budaya Islam-Jawa Dalam Grebeg Maulud Kraton Surakarta," *AL Qalam* 35, no. 2 (December 2018): 119.

¹⁵ Supriadi Supriadi, *Dinamika Kehidupan Religius Era Kasunanan Surakarta (Dynamics of Religious Life in the Era of the Surakarta Sunanate)* (Jakarta: Litbangdiklat Press, 2017).

¹⁶ HRM. Goenadi Joko Pikukuh, interview with the author, December 2022.

¹⁷ Gusti Tunjung Pamugkas, interview with the author, December 2022.

spread all over Indonesia.¹⁸ Even in some conditions where the king had a lot of wealth, not all of his descendants could use palace assets. Only the heirs who succeeded as kings can use it.

The concept of palace assets and king assets discussed above is related to the unique cultural and historical context of the Surakarta Palace in Indonesia. In this dynastic system, the palace assets are considered hereditary and they cannot be inherited. Palace assets are categorized into two types: "palace heritage" (*harta karun kraton*) and "palace property" (*harta istana*). Palace heritage refers to objects that have cultural, historical, and artistic value, such as heirlooms, jewelry, and ceremonial objects. Palace property, on the other hand, refers to assets that are used for the daily needs of the palace, such as land, buildings, and livestock.¹⁹

The inheritance of palace assets and king assets is regulated by specific rules that are different from the Islamic and civil inheritance laws in Indonesia. The inheritance of palace assets follows the dynastic system, where only the successors of the king are eligible to inherit them. Meanwhile, the palace property belongs to the palace itself and cannot be inherited by the king or his descendants. This is based on the *Paugeran Keraton*, which is obtained from the traditional palace council. This rule is a hereditary order of inheritance which is also known as *sabdo pandito ratu* or oral testament from the king.²⁰ Furthermore, the king perhaps had personal assets mentioned in the statement. Such are personal properties that belong to the king as a person and can be passed on to his relatives. This is similar to the regular inheritance laws in Indonesia, where personal assets can be inherited by the heirs of the deceased.

Overall, the concept of palace assets and king assets discussed in the statement reflects the unique cultural and historical context of the Surakarta Palace in Indonesia, highlighting the importance of understanding the local cultural and legal context when studying inheritance practices. The discussion on the inheritance of a king's personal wealth inherited by mothers and fathers according to Compilation of Islamic Laws Article 174 paragraphs 1 and 2; commonwealth that will be inherited, heirlooms, and commonwealth are stipulated in Article 35 clause 1 of Law No. 1 of 1974 on Marriage.²¹

Common wealth is the wealth obtained when a couple stays in a marital relationship, from the efforts of both or one of them. Inheritance is wealth gained by other people that is given to one of the couple or wealth that he/she previously owned. Undivided inheritance wealth is commonwealth owned by heirs. In the regulation according to the Western civil law system based on the Civil Code, this type of wealth is the absolute right of heirs. Inheritors cannot decrease or deviate from it according to stipulations of the *legitieme portie* in Article 913 of the Civil

¹⁸ Pamugkas.

¹⁹ Abdul Wahid, *Sistem Pembagian Waris Di Keraton Kasepuhan Cirebon Ditinjau Dari Hukum Islam (Inheritance Division System in the Cirebon Palace Perceived from the Islamic Law)* (Jakarta: Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2019).

²⁰ Pikukuh.

²¹ The Government of the Republic of Indonesia, "Law No. 1 of 1974 on Marriage" (1974).

Code. Similar things are regulated in Islamic and customary legal systems.²² Then, according to the customary inheritance system, in the Surakarta Sunanate, there is wealth that cannot be divided (the high heirlooms) as this wealth is passed on from the king to their successor. The sales of inheritance that are not yet divided by heirs are a legal violation against the inheritance system, considering that undivided inheritance wealth is common wealth (*boedel*).

Wealth Division Methods

On one hand, based on the background of Surakarta Sunanate's establishment that originated from the Islamic Mataram Kingdom, the applicable inheritance laws are a transition from the Islamic law, with the goal of '*amar ma'ruf nahi munkar*' (preaching for the truth and preventing the wrong).²³ On the other hand, it also uses the customary law that cannot be intervened by anyone. For example, if a king has many sons and one of them marries a non-Muslim, then that son is automatically hindered from obtaining his rights for inheritance wealth from the king. This rule aims to keep blood purity.²⁴

Thus, with time, the Islamic law applied in the Surakarta Sunanate is "*segendong sepikul sepenanggungan*". The philosophy of the concept is as follows: *segendong* means one part (a sling usually consists of one part); *sepikul* means a shoulder which usually consists of 2 parts; and *sepenanggungan* is an inheritance that is divided. This means that the male heir obtains twice the share of the female heir. This principle implies that men and women both have the same inheritance rights, but their respective parts are different (*sepikul*= 2 parts for men, while women obtain *segendong*= 1 part).²⁵ This means that the inheritance is prioritized for the male descendants with a comparison of 2:1. Many aspects of the customary law still divide wealth following the development of the era.²⁶ The "*segendong sepikul sepenanggungan*" tradition used by the Sunanate strengthens the Javanese nuance. This is because this tradition departs from Javanese culture. In essence, the Surakarta Sunanate is the center of Javanese culture that must be preserved even up to the current era.

The inheritance wealth is divided using the deliberation method. The inheritance wealth division process carried out by the descendants of the Surakarta Sunanate royal family is applied by establishing a deliberation between families from the direct descendant of the deceased sunanate king. According to Islamic Law and *Paugeran*, the qualification of legal heir inheritance is that the heir must be a direct descendant who is Muslim.²⁷

²² Liky Faizal, "Harta Bersama Dalam Perkawinan (Common Wealth in Marriages)," *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam* 8, no. 2 (2015): 77-102.

²³ Pikukuh.

²⁴ Pikukuh.

²⁵ 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)* (Yogyakarta: Lembaga Kebudayaan, Pimpinan Pusat 'Aisyiyah, 2005).

²⁶ RM. Armaya Mangkunegara, interview with the author, December 2022.

²⁷ Sayid Sumramto, interview with the author, December 2022.

Among the content of the *Paugeran* is that inheritance only applies to Muslim heirs. Then, there is the philosophy of *segendong* (1 part) and *sepikulan* (2 parts) for daughters and sons respectively. Another content of the *Paugeran* is the stipulation that the palace assets cannot be inherited. This is based on the regulation or *ugeran*, "*Kraton Surakarta saiki dudu duwekku, sanajan nganti saiki aku minangka jejerling raja, nanging Kraton Surakarta warisane leluhurku wis dudu darbekku*" (The Surakarta Sunanate or Kingdom is no longer mine (of the king), even though I am currently the king, but it is an inheritance from my ancestors and it is not mine).²⁸

Another feature of the *Paugeran* is the application of the *sabda pandita ratu* feature concerning the king's personal property. It has an absolute position and it can erase the inheritance rights of family members or give more than a third of the inheritance to an heir. So far, no objections have been made concerning the inheritance of the king's personal property that was divided based on the (the will of the *sunan*/king). All these *ugeran* are still effectively applied in the palace environment, including the rules that the wealth may only be inherited to Muslims, the comparison of 2:1 for sons and daughters in dividing wealth, as well as the stipulation that palace property which cannot be inherited.

This data indicates that descendants of the Surakarta Sunanate royal family still follow customs of the Javanese culture that upholds familial and togetherness values in making important decisions. The deliberation method in dividing inheritance wealth also reflects the principles of justice and togetherness in the Javanese culture. In the Javanese culture, deliberation is deemed the best method to achieve the best decision for all concerned parties.²⁹ It is deemed an important principle in making decisions as it strengthens the familial relationship. Cooperative dispute resolution keeps family unity.

This aims so that the inherited wealth is divided using a 'clean' norm. It means that if the predecessor has debt that is unknown to the heirs, the repayment of the debt may be subtracted from that inheritance wealth. In the deliberation agreed upon by all heirs, the ownership rights from the inheritance wealth can directly shift to the heirs. The deliberation is carried out to prevent jealousy between heirs, especially if the relationship between the heirs and the predecessor is between children and parents. Thus, this method is deemed as just as it uses a balanced division method.³⁰

But there are also agreements in deliberations that prioritize daughters before sons. All this depends on the agreement of all heirs in the family deliberation. The use of deliberation is backgrounded by customs that are passed on from generation to generation of the previous family members.³¹ Apart from that, it was influenced by the environment and society that lives by emphasizing

²⁸ Sutapa Mulja Widada and Istadiyantha, "Pemberdayaan Local Wisdom Dalam Penyelesaian Konflik Di Keraton Surakarta Hadiningrat," *Journal of Law, Society and Islamic Civilization* 3, no. 2 (2015): 77–98.

²⁹ Hilman S. Haq, *Pengantar Hukum Adat Indonesia (Introduction to the Indonesian Customary Law)* (Klaten: Penerbit Lakeisha, 2020).

³⁰ Sumramto.

³¹ Mangkunegara.

the deliberation principle. Deliberation is a custom that is part of the cultural life of the local people, especially in dividing inheritance wealth which may cause conflicts between families.³²

When to Divide the Inheritance Wealth

In principle, in the inheritance system applied by descendants of the Surakarta Sunanate royal family, there is no determination on when the wealth is divided. But based on the interviews carried out with descendants of the Surakarta Sunanate royal family, there are two periods when that inheritance wealth is divided. First, the inheritance wealth can be divided before the predecessor dies. This is carried out through the succession, gifts (known as *hibah*), or appointment of heirs based on a will or the predecessor's message before death.³³

According to the results of interviews conducted by the researchers, these messages or wills are carried out under the agreement of heirs with instructions from the predecessor. For instance, in the case where the mother divides inheritance wealth to her children as heirs, the division method must follow the guidelines and messages of the mother as the predecessor.³⁴ Second, the division of inheritance wealth after the predecessor has died. In this case, the oldest son usually admits the leadership role in conducting the deliberation for wealth division. This role may also be delegated to someone capable of leading that deliberation. According to H. R. M. Goenadi Joko Pikukuh, a descendant of the Surakarta Sunanate royal family in an interview with the researchers, the division of inheritance from the parents to children is carried out by appointing a child as the leader to divide the wealth for the parents' descendants considering that they have many children that are spread to different cities.³⁵

There are two methods of inheritance wealth division carried out by descendants of the Surakarta Sunanate royal family. The first is dividing the wealth before the death of the ascendant. The division of this wealth must follow the guidelines or messages of the ascendant. It is also carried out under an agreement between heirs following the guidelines of the ascendant.³⁶ The second method is the division of wealth after the ascendant has died. This role may be delegated to other people who are deemed as capable of leading that deliberation.

The Distribution of Shares Among Heirs

It was found that the inheritance was carried out by equally dividing the inheritance wealth.³⁷ Male and female heirs obtain equal shares.³⁸ The interviewee who was a descendant of the Surakarta Sunanate stated that gender does not influence the amount of wealth obtained by heirs as daughters are deemed as

³² Sumramto.

³³ Mangkunegara.

³⁴ F Psuedonym interview with the author, December 2022.

³⁵ Pikukuh.

³⁶ Sumramto.

³⁷ Sumramto.

³⁸ Psuedonym.

having the same position as sons. The use of the deliberation method in inheritance aims to prevent harm due to conflicts or disputes between family members who feel that they obtain less compared to others and the like. Apart from that, the usage of this method is based on a sense of wanting to help one another among family members. It is also a method of thanking each other.³⁹

This inheritance system did not follow Islamic inheritance laws, even though the Sunanate was the successor state of the Islamic Mataram kingdom. In general, this was used as a comparison method, considering that each family member has a different economic condition.⁴⁰ If there is an heir that is deemed to have a weaker financial situation than others, after deliberation, an agreement may be made to give more to that person. Meanwhile, heirs of a stronger financial situation will obtain less inheritance according to the agreement of the concerned parties.⁴¹ But this is only a voluntary deliberation from the descendant with strong finances. If one of them rejected, then no one would receive more than the others.⁴² Based on information from another source, it was found that women obtain more than men as the latter are deemed to be more capable of being independent compared to the former.⁴³

The division of wealth according to customs (deliberation)⁴⁴ in the framework of the descendants of the Surakarta Sunanate royal family becomes a parameter to prevent the occurrence of controversies. It also aims to prevent jealousy and minimize disputes. This is because the discussion on inheritance law is a sensitive thing that often causes family conflicts.

The division of inheritance from the king's personal property seldom results in conflicts, whether it is divided using the the King's will model or the Islamic law. This is shown from the fact that almost no objections have been made on the inheritance of the king's personal property. Conflicts usually occur concerning the palace property which cannot be inherited personally to the king's family or other heirs, but will only be given to one heir who succeeded the late king. Palace property will only be given to the family member who succeeded the late king as king considering the kingdom and palace assets cannot be shared.

³⁹ Akhmad Kamil Rizani, "Musyawarah Sebagai Alternatif Penyelesaian Sengketa Waris Beda Agama: Evidence Based Solution From Indonesia (Deliberation as an Alternative to Resolving Inheritance Dispute of Different Religions: Evidence Based Solution From Indonesia)," *El-Mashlahah* 10, no. 2 (December 2020): 52-64.

⁴⁰ 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 (December 2022): 678.

⁴¹ Sumramto.

⁴² Mangkunegara.

⁴³ Mohammad Takdir et al., "The Takharrūj 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 (February 2023): 104-22; Ahmad Agis Mubarok, "Musyawarah Dalam Perspektif Al-Quran (Deliberation in the Perspective of the Holy Qur'an)," *MAGHZA: Jurnal Ilmu Al-Qur'an Dan Tafsir* 4, no. 2 (December 2019): 147-60.

⁴⁴ Lalu Supriadi Bin Mujib, "Revitalisasi Hukum Waris Islam Dalam Penyelesaian Kasus Sengketa Tanah Waris Pada Masyarakat Sasak (Revitalization of the Islamic Inheritance Law in Resolving Cases of Inheritance Land Dispute of the Sasak Community)," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 19, no. 1 (June 2019): 67-88.

Conflicts or disputes usually occur regarding the shares of palace wealth and the position as king or *sunan*. Cases of disputes regarding this palace wealth in the period before the Indonesian independence were resolved through bloodshed and battle. Conflicts on the division of palace wealth first occurred between Sunan Amangkurat the Second and Prince Puger, as the latter did not agree that his brother, i.e., Sunan Amangkurat II obtained the palace wealth, considering that they were both the sons of the queen. Another consideration was that Prince Puger stayed in Plered Palace, while Amangkurat built a palace in Kartasura. These conflicts were resolved through a battle, which was known as the First Javanese Succession war. Then, it was mediated by the VOC (Dutch Colonial Forces). Then, there was a ceasefire. Sunan Amangkurat the Second died, and he was replaced by his son Sunan Amangkurat the Third. Prince Puger objected to this situation and rebels against Sunan Amangkurat the Third. With the help of the VOC, he became Sunan Pakubuwana the First.⁴⁵

The next conflict was in the form of a great and bloody war, known as the Second Javanese Succession war, where the palace wealth inheritance and the position as *sunan* after the death of Sunan Pakubuwana the First were replaced by his son Sunan Amangkurat the Fourth. This was rejected by his relatives. The Second Javanese Succession war happened between 1719 to 1723, involving the Sunan Amangkurat the Fourth and his army against Prince Blitar, Prince Purbaya, Prince Arya Mataram, and Prince Dipanagara (different Dipanegara with the leader of the Java war). This war brought Sunan Amangkurat the Fourth to victory. As a result, all relatives who disagreed with him were killed in the war except for Prince Purbaya, who was caught by the VOC and was exiled to Tangerang.⁴⁶

The next stage of conflict was the Third Javanese Succession war from 1749 to 1757 when the son of Sunan Amangkurat the Fourth, namely Pakubuwana the Second, was crowned. This was objected by his relatives from the Sunanate, namely Prince Mangkubumi and Prince Sambernyawa. This great war ended with the involvement of the VOC and the Gayanti Agreement. VOC forced the conflicting people of the Sunanate to divide its nation (called *palihan nagari*), where Prince Sambernyawa became King Mangkunegaran I and Prince Mangkubumi became Sultan Yogya with the title Hamengkubuwana the First. Then, son of Pakubuwana the Second namely Pakubuwana the Third became Sunan Surakarta.⁴⁷ This is the first and last precedent, the Keraton Wealth divided to several successor.

After the independence, family members of the sunanate often have conflicts over who has the right to obtain the palace wealth and become king. The last conflict was the fight for palace wealth between the heirs of Sunan Pakubuwana the Twelfth namely Pakubuwana the Thirteenth and Prince Tedjowulan. This conflict ended in court trials rather than in the battlefield in the form of a bloody

⁴⁵ H. Y. Murdiastomo, "Pengembangan Maket Pusat-Pusat Pemerintahan Kerajaan Mataram Islam Sebagai Alternatif Media Pembelajaran Sejarah," *NOSARARA : Jurnal Pendidikan Dan Ilmu Sosial* 1, no. 1 (2015): 1–29.

⁴⁶ Merle Calvin Ricklefs, *Sejarah Indonesia Modern 1200-2008* (Jakarta: PT. Serambi Ilmu Semesta, 2008).

⁴⁷ Al Faiz, M. Anang, and Aminuddin Kasdi, "Perang Suksesi Jawa II 1719-1723 (Siasat Amangkurat IV Melawan Pangeran Blitar Dan Pangeran Purbaya)," *Avatara* 1, no. 3 (2013): 357–66.

war.⁴⁸ The greatest source of these conflicts was the fight for the palace wealth and the *sunan* position that can only be inherited by one heir rather than conflicts on the inheritance of personal wealth.

The principle of deliberation can implicitly be found in the customary inheritance law, or what is more commonly known as the principle of deliberation for consensus. The principle of deliberation for consensus means that in dividing the inheritance, inheritors carry out a deliberation, led by a respected inheritor. The agreement in that deliberation has sincere and cordial characteristics based on the true feelings of each inheritor.⁴⁹ When seeing it further, this deliberation system also has similarities with the inheritance system based on customary law. It is a collective inheritance system where the system continues the wealth inheritance from the predecessor to the heirs whose power and ownership are an inseparable unity. Because of that, heirs have the right to use or obtain their rights from their descendants. The method to use or obtain the inheritance wealth is based on the needs of each inheritor and is regulated during the joint deliberation or consensus between all family members that have rights over that inheritance.⁵⁰

Dividable inheritance wealth includes movable and immovable assets. Movable assets include jewelry, vehicles, savings, securities, etc. Then, immovable assets include land and buildings. In the Surakarta Sunanate, the dividable wealth is the king's personal property which was obtained from previously inherited wealth or the businesses of the king. Thus, that wealth may be divided among the heirs. Meanwhile, the palace wealth in the forms of land, buildings, etc. under the name of the palace cannot have its inheritance divided as it is not considered as an inheritance property.

Based on the information obtained from respondents, the use of the deliberation method in inheritance aims to prevent harm due to conflicts or disputes between family members who feel that they obtain less than they should and the like. Apart from that, the use of this method is based on the sense of wanting to help each other as fellow members of the family. It is also a way of thanking each other. According to Ashfaq et al,⁵¹ this has commonly become a method of comparison, considering that each family has a different economic situation. In the name of love and care between families, some parties sometimes give their rights to other parties that are deemed to be disadvantaged financially.

In his research, Mark explained that during the division of the inheritance wealth, all heirs must be present or sent their legal representation.⁵² Family

⁴⁸ Sri Winarti, *Sekilas Sejarah Karaton Surakarta* (Sukoharjo: CV Cenderawasih, 2013).

⁴⁹ Patricia Sarah Pongoh, "Analisis Pengaturan Hak Anak Tiri Dalam Mewaris Menurut Hukum Waris Adat (Analysis on the Ruling of Step Children in Obtaining Inheritance According to the Customary Inheritance Law)," *Lex Privatum* VII, no. 2 (2019): 128–35.

⁵⁰ Pongoh.

⁵¹ Mohammad Iqbal Fatayat and Mutimatun Ni'ami, *Implementasi Hukum Waris Islam Dalam Praktik Pembagian Warisan Di Kalangan Masyarakat Desa Sribit Kecamatan Delanggu Kabupaten Klaten (Implemetation of the Islamic Inheritance Law in the Practice of Dividing Inheritance Among the People of Sribit Village* (Surakarta: Universitas Muhammadiyah Surakarta, 2020).

⁵² Nanda A. Pungki, Rizda Sabti Yulnita, and Dian Latifiani, "Civil Law Analysis of Application for Change of Name at Rembang District Court," *Analysis of Application for Change of Name at Rembang District Court.* 7, no. 1 (2022): 98–108.

members, religious figures, customary council (*lembaga dewan adat*) as well as the regional government must participate in witnessing that division to prevent disputes between family members.⁵³ This must be shown in a letter of agreement. Thus, no dispute between heirs will happen as there is proof of an agreement between each heir and the regional government. Islam does not forbid the division of inheritance wealth with considerations, as this religion gives room for its embracers to conduct a division method that may bring benefit and prevent harm. This method of inheritance division brings benefits as each heir experiences the element of justice and they can create a mutual agreement.⁵⁴

Results from the inheritance division that was carried out through deliberation do not always make it permissible if it aimed to show dislike or to violate the Islamic inheritance law, according to Rahmat Djafar quoted by Pongoliu. If it is possible, the shares of each heir may also be determined with an equal amount under the requirement that it follows the stipulations and guidelines regulated in the Compilation of Islamic Laws as well as the guidelines on *takharruj*.⁵⁵ *Takharruj* is an alternative method to dividing an inheritance. The *takharruj* means that heirs are sincere about the part that is given away after receiving the inheritance in exchange for what has been agreed upon. Because of that, *takharruj* may happen or it may be applied from the start under the personal willingness of the heirs without previously knowing the shares of each heir and then to whom that share is given, either as a gift or as a means of giving charity in the name of that heir.⁵⁶

Noordin and Anuar stated that the voluntary division of wealth is permissible so long as the heirs have the capability to legally act under the full agreement of all heirs. In the Islamic inheritance law, deliberation with *takharruj* may be carried out by one person or by all heirs.⁵⁷ This can be carried out after all heirs have known of their shares according to the Sharia. Then, they agree to divide it according to the interests of the heirs. This can be said to follow and observe the stipulations of the Sharia.

Hanifah and Yatim stated that the application of inheritance division can be carried out rationally so long as the shares of each heir are according to their

⁵³ Andi Erwin Nur, "Urgensi Pembagian Warisan Secara Musyawarah Dalam Meminimalisir Perselisihan Ahli Waris Dan Perspektif Hukum Islam (Studi Desa Sugiale Kec. Barebbo Kab. Bone) (Urgency for the Division of Inheritance Using Deliberation to Minimize Disputes Among Heirs And" (Institut Agama Islam Negeri Bone, 2020).

⁵⁴ Muhammad Nasir Khalidah, "Penyelesaian Pembagian Warisan Di Kecamatan Simpang Ulim Dalam Perspektif Hukum Islam Dan Hukum Adat (Inheritance Division Resolution in Simpang Ulim District in the Perspective of the Islamic Law and the Customary Law)," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 8, no. 1 (July 2021): 33–49.

⁵⁵ Hamid Pongoliu, "Pembagian Harta Waris Dalam Tradisi Masyarakat Muslim Di Gorontalo (The Division of Inheritance in the Tradition of Muslims in Gorontalo)," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 2 (2019): 187–202.

⁵⁶ Mursyid Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 207–19.

⁵⁷ Satria Effendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer: Analisis Yurisprudensi Dengan Pendekatan Ushuliyah (Legal Problems of Contemporary Muslim Families: Jurisprudence Analysis with Ushuliyah Approach)*, 1st ed. (Jakarta: Kencana Prenada Media Group, 2010).

positions and needs, even though the sum of that share is different from their rights. This statement is according to the stipulations of Article 183 of the Compilation of Islamic Laws and the method of *takharruj* according to the Hanafi school of thought. The reference is choosing which is most accurate and which has the greatest and most benefit as well as the least harm. Legal experts of the Hanafi school of thought have carefully practiced *takharruj* as a method to buy and sell inheritance to avoid violating the Islamic principles of the inheritance system. *Takharruj* may become a model for experts of heirs in meaningfully dividing their inheritance.⁵⁸

Therefore, *takharruj* is the voluntary division of inheritance under the principle of deliberation. In this method of division, heirs have the role of determining the method of division as well as the sum obtained by each heir.⁵⁹ The division of inheritance of this form can deviate from the inheritance wealth division determined by the Qur'an and the hadeeth of Prophet Muhammad. But it is carried out under the agreement and sincerity willingness of heirs for their benefit.

The use of the deliberation method has several positive values with the aim of creating benefits. These positive values are: (1) creating togetherness between heirs as there are no disputes between them, (2) avoiding ongoing family conflicts. The continuance of dispute on inheritance causes ongoing conflicts between the disputing heirs. Even, familial conflicts can continue to their descendants as the seeds of hostility will be inherited by each of their descendants, (3) the inheritance will quickly be divided and they can immediately be enjoyed by every heir. Thus, the heirs can use it for the interests of their families. It also aims to bring contentment to the families' lives because the creation of a happy family must be supported by the wealth that is obtained through permissible means. This is what makes heirs strive to obtain wealth in their lives to be enjoyed by their descendants, rather than to create conflict and disputes.⁶⁰ It means that these positive values do not cause conflicts or other negative things. On the contrary, it brings peace and justice to each heir. Thus, the division of inheritance through deliberation is not forbidden (*haram*) or a wrong thing. This is because when we further understand its essence, the aim of religion is solely to bring good and prevent harm in this world, especially to Muslims.⁶¹ This is in line with God's words in the Holy Qur'an, Chapter An-Nisa verse 32.

The division of inheritance through the deliberation method can be carried out, according to Djafar as quoted by Pongoliu, so long as it does not aim to show dislike or violate the Islamic inheritance law. It is possible that the shares of each

⁵⁸ Mohammad Daud Ali, *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia (Islamic Law: Introduction to Legal Studies and Islamic Legal Order in Indonesia)*, 6th ed. (Jakarta: Raja Grafindo Persada, 2005).

⁵⁹ H Hamdani, "Konsep Takharuj Alternatif Pembagian Warisan (The Takharuj Concept, An Alternative in Dividing Inheritance)," *Al Hisab: Jurnal Ekonomi Syariah* 1, no. 1 (2020): 32–43.

⁶⁰ Brooke Thompson, "Family Provision and Islamic Wills: Preserving the Testator's Wishes through Testamentary Arbitration?," *University of New South Wales Law Journal* 46, no. 1 (April 2023): 205–34.

⁶¹ Ainol Yaqin, "Yūsuf Al-Qarḍāwī's Istibāṭ Method and Its Implementation in the Moderation of Islamic Law," *Al-Ahkam* 31, no. 1 (April 2021): 109–40.

heir may be equal so long as it is according to the rules and guidelines stipulated in the Compilation of Islamic Laws as well as the guidelines on *takharruj*.⁶² Division of wealth by deliberation cannot be accepted if it is not according to regulations and guidelines in the Compilation of Islamic Laws Article 183 or the guidelines on *takharruj* in the Islamic inheritance law.

Conclusion

The descendants of the Surakarta Sunanate royal family divide inheritance based on an agreement between the parties through family deliberation. This method has been applied from generation to generation but it also follows the development of the era. This practice of inheritance division is the same as the method used by commoners outside of the royal family, as this method is an adaptation to the local inheritance law which prioritizes mutual agreement. On the other hand, there are palace properties, which are inherited from the deceased king to the new king, which can be called dynastic inheritance, these assets do not belong to the descendants but belong to the palace.

In Islam, the division of inheritance wealth does not have to absolutely be applied according to God's rulings, such as the 2:1 division for sons and daughters, as this division basically aims to introduce and bring justice. Thus, if a Muslim chooses to divide inheritance through deliberation, it is not wrong so long as it brings justice and prevents conflicts or other negative things. Even so, some points need to be considered before dividing inheritance through deliberation: (1) heirs have understood the sum of their shares or rights according to the Islamic inheritance law, (2) the division of wealth is carried out using the *takharruj* method where all parties made an agreement on whether or not they will divide the sum of each inheritance equally, (3) if the heirs want to divide the inheritance with the principle of togetherness due to certain factors, they must do so under the feelings of sincerity and heartiness. There must not be doubt, jealousy, and envy in the agreement of the concerned parties, and (4) the deliberation must not only aim to win the interests of one party. However, it must be based on mutual agreement and full acceptance of the amount of wealth obtained. This condition shows that the interrelation of legal harmony in Islamic inheritance law and customary inheritance law runs side-by-side.

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⁶² Pongoliu, "Pembagian Harta Waris Dalam Tradisi Masyarakat Muslim Di Gorontalo (The Division of Inheritance in the Tradition of Muslims in Gorontalo)."

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