



The Tradition of Hibah Andum Berkat as a Substitute for Inheritance: A Perspective of Justice and the Interconnectedness of Maslahah (A Case Study of the Mojoroto Community, Kediri, East Java)

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Abstract

Hibah andum berkat, a substitute for inheritance, is a hereditary tradition practised by the Mojoroto community in Kediri, East Java. This tradition is regarded as a preventive measure to avoid family conflicts by ensuring justice among the heirs in distributing parental assets. It is characterized by an equal division between male and female heirs, with an additional share granted to the child who cared for the parents during their lifetime. This study aims to examine the concept of justice embedded in the implementation of *hibah andum berkat* as an alternative to inheritance, analyzed through the perspectives of justice and the interconnectedness of *maslahah* (public interest). This research is expected to contribute an alternative model for distributing parental assets that upholds a greater sense of justice. The study employs an empirical legal approach using a descriptive-qualitative method. The findings reveal that: (1) The tradition of *hibah andum berkat* as a substitute for inheritance is more socially acceptable, as it reflects proportional justice and promotes equality, thereby maintaining peace among heirs. (2) From the perspective of *maslahah* interconnectivity, this tradition falls within the scope of *maqāṣid al-sharī'ah*, particularly *ḥifẓ al-māl* (the protection of wealth), which is interconnected with the other components of *al-uṣūl al-khamsah*.

Keywords: Hibah, Inheritance, Justice, Maslahah, Maqāṣid al-Sharī'ah

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Introduction

Fulfilling the right to justice between men and women is one of the principles embedded in Islamic inheritance law. This is based on the Qur’anic provision, in which the term *al-‘adl* (justice) is mentioned more than twenty-eight times. This indicates that, under Islamic law, the distribution of inheritance must uphold the principle of justice. The equal right of men and women to inherit is explicitly stated in Surah al-Nisā’ verse 7 of the Qur’an, affirming that both genders are entitled to inherit. However, the difference in the share received by male and female heirs is due to the greater *taklīf māli* (financial responsibility) imposed on men, which means men bear greater obligations than women in fulfilling family needs (Bahtiar Maryati, 2019, pp. 36–39) including responsibilities related to work, risk, livelihood, and financial burden in commerce (Amir Syarifuddin, 2004).

The distribution of inheritance is a highly significant matter in Islamic law due to its sensitivity and the high potential for family conflict if not properly managed. Inheritance disputes often stem from perceptions of injustice or dissatisfaction by one or more heirs regarding the share they receive. Such dissatisfaction may lead to tension and conflict among the heirs. While Islamic law has provided a detailed and structured framework for inheritance through the science of *farāid* (Islamic inheritance jurisprudence), in practice, this framework has not always been effective in preventing inheritance-related disputes within society.

In response to this, the concept of hibah (inter vivos gift) has emerged as a viable solution to mitigate conflicts arising from inheritance distributions perceived as unfair. Although scholars of Islamic jurisprudence (*fuqahā’*) hold differing opinions on the definition and application of hibah, they generally agree that hibah refers to the voluntary transfer of property to another person with benevolent intent during the lifetime of the donor (Kalam et al., 2021, p. 31). Within the Mojoroto community of Kediri, East Java, the tradition of hibah andum berkat, which serves as a substitute for inheritance, is viewed as a form of preventive wisdom aimed at avoiding inheritance-related conflicts. This preventive approach has been adopted not only by the general public but also by religious leaders and intellectuals, who often support and implement it as a peace-oriented solution (Aziz, 2016, pp. 48–49).

Based on the above explanation, the author is motivated to conduct a study entitled “The Tradition of *Hibah Andum Berkat* as a Substitute for Inheritance: A Perspective of Justice and the Interconnectedness of Maslahah.” This research employs the theory of justice and the *maqāṣid al-sharī‘ah* framework, focusing on the interconnectedness of *maslahah* as the analytical lens. The objective of this study is to understand the implementation of the hibah andum berkat tradition as a substitute for inheritance and to explore the values of justice and public benefit (*maslahah*) contained within it. This research is highly relevant, as its findings are expected to contribute an alternative model

for the distribution of parental assets that better ensures a sense of justice and promotes the realization of *maslahah* (public interest).

As far as existing literature reveals, no prior study has specifically examined the tradition of hibah andum berkat as a substitute for inheritance using the perspective of justice and the interconnectedness of *maslahah*. However, several studies have addressed related themes. First, a study by Shofatis Sa'adah and Muhammad Hatami titled "The Urgency of Granting Hibah to Heirs as a Substitute for the Inheritance System in Indonesia" (Sa'adah & Muhammad Hatami, 2022, pp. 232–245). Second, a publication by Raja Ritonga and Martua Nasution entitled '*The Dynamics of Alternative Inheritance: An Analysis of the Concept of Hibah in the Context of Inheritance Substitution*' (Ritonga, Raja dan Nasution, 2023, pp. 64–78).

Method

This study is an empirical legal research (field research), which involves investigating the object in the field to obtain clear and concrete data and descriptions related to the issue under study (Suryabrata, 1992, p. 18). This research is a qualitative case study because its procedures generate descriptive data, namely describing analytically an event or process as it naturally occurs in order to gain deeper understanding (Lexy J. Moleong, 2022, p. 3). Qualitative research methodology is used to study phenomena in their natural setting, where the researcher acts as the key instrument, data collection is conducted through triangulation (combined techniques), and data analysis is qualitative, emphasizing meaning rather than generalization (Sugiono, 2009, pp. 8–9). This research method was selected because it can contextualize social practices in the implementation of the hibah andum berkat tradition as a substitute for inheritance among the Mojoroto community in Kediri, East Java, which will be analyzed from the perspectives of justice and the interconnectedness of *maslahah* contained therein. The data types in this study comprise primary data collected through observation and interviews with relevant parties regarding the hibah andum berkat tradition, and secondary data gathered through document studies of reference books and scientific journals related to the research object. The research instruments used are an interview guide and observation sheets. Informants were selected using purposive sampling based on criteria such as social and religious leadership and knowledge of the hibah andum berkat tradition. Thus, the unit of analysis consists of key individuals within the Mojoroto community (spiritual leaders, community leaders, and heirs). This study adheres to the principles of ethical research, including obtaining informed consent and maintaining the confidentiality of informant identities.

An approach refers to a scientific discipline that serves as the foundational framework in a study or research. (Sahrodi, 2008, p. 64). This study employs two primary approaches. First, the *Maqāṣid al-Sharī'ah* approach posits that the ultimate purpose of legal enactments is to realize humankind's welfare (*maslahah*). Welfare is best attained when the five essential elements of human life are preserved: religion (*dīn*), life (*naḥs*), intellect (*'aql*), lineage (*nasl*), and property (*māl*). This approach provides a conceptual and normative foundation for implementing the hibah andum berkat tradition as an alternative to inheritance. Second, the sociological approach is adopted, which examines the reactions and interactions that occur when normative systems are operational within society. (Fajar Mukti, 2010, p. 47). In this context, it specifically investigates how the

community of Mojoroto responds to and engages with applying Islamic inheritance law and the *hibah andum berkat* tradition as a customary alternative.

The data processing technique employed in this study involves several stages following the collection of primary and secondary data. These stages include: editing, organizing, and drawing research findings, in which the organized data is analyzed through legal principles, theoretical frameworks, and textual evidence to formulate specific conclusions and adequately address the research questions (Naroko, Cholid & Achmadi, 2007, p. 63). The data analysis technique employed is based on the Miles and Huberman model (Huberman, 1992, pp. 18–19), which involves three key components: data reduction, data display, and conclusion drawing.

Result and Discussion

The Value of Justice in the *Hibah Andum Berkat* Tradition within the Mojoroto Community, Kediri, East Java

The *Hibah Andum Berkat* tradition, functioning as a substitute for inheritance, is a long-standing customary practice among the Mojoroto community in Kediri, East Java. This tradition is regarded as a preventive measure to avoid potential familial conflicts in the future by ensuring a sense of justice for all parties involved in the distribution of parental assets. It involves equal division between male and female heirs, with an additional share granted to the child who cared for the parents during their lifetime.

The Mojoroto community interprets and internalizes inheritance as an application of Islamic law (*sharī'a*) that is *ta'abbudī* in nature (devotion-based and not subject to reasoning) and holds intrinsic wisdom. Inheritance is also perceived as a symbol of sacredness, blessings, compassion, and peace. Within the community's religious worldview, Islamic inheritance is seen as a divine command that must be accepted as truth, considering that the majority of the population adheres to Islam. However, the community's understanding of justice in inheritance has also been shaped by evolving notions of equality and human rights. In contemporary contexts, equality generally refers to the principle of equal rights and responsibilities between men and women. Discourses surrounding feminism, gender equality, and emancipation often emphasize the importance of equal status and the protection of women's rights to participate in societal reforms.

This shift has also occurred among the residents of Nglebak Tumpang, Mojoroto. As time progresses, societal thinking becomes more dynamic in response to social demands, whether influenced by foreign cultures or social media. Such developments are considered inevitable and indicative of broader societal change. The transformation in the perception of equality in inheritance distribution reflects this social evolution. Equal division of inheritance is now viewed by many as a means to achieve justice. This practice embodies communal harmony, affection, and tolerance, aligned with contemporary social transformations (Sauri, 2024). Consequently, the community considers the proportional distribution of inheritance based on egalitarian principles to be more in line with the concept of *maṣlaḥah* (public interest or benefit). This aligns with the overarching objective of Islamic law, namely: "*Ma'an waḍ'u ash-sharā'i' annamā huwa li-maṣālihi al-'ibād fī al-'ājil wa al-ajil*" that is, "The enactment of Islamic legal rulings is intended for the benefit of humankind, both in this world and the hereafter" (Ali Muchasan, 2016).

Based on the above explanation, implementing inheritance distribution that considers gender equality within the Nglebak Tumpang community reflects a broader

understanding of Islamic teachings. Islam places a high priority on the value of justice in the realization of human rights. It emphasizes the importance of moral values in extending tolerance toward all people, where *maṣlaḥah* (public benefit) is regarded as more significant than mere utilitarian gains. This principle is also affirmed by Ibn ‘Abd al-Salām, who stated that the *maqāṣid* of the Qur’an revolve around a central principle (Thahir, 2015b): “*Jalb al-maṣāliḥ wa asbābuhā wa dar’ al-mafāsid wa asbābuhā*” means “the pursuit of benefits and their causes, and the prevention of harm and its causes.”

The Hibah Andum Berkat tradition represents a shift from the original interpretation of inheritance rules toward one grounded in *maṣlaḥah*. This tradition evolved from the *gendong mikul* custom, in which inheritance was distributed at a ratio of 2:1 between sons and daughters. The term *gendong* (to carry on the back) was traditionally associated with the role of women in carrying a child, symbolizing their entitlement to one share. Conversely, *mikul* (to carry on the shoulder) represented the perceived heavier burden borne by men, justifying their receiving a larger share. However, over time, this custom came to be perceived as misaligned with the principle of justice, especially as the social dynamics of the community changed. This is evidenced by the increasing number of women who pursue careers, contribute economically, and assume responsibilities once considered exclusive to men. These social transformations have led to a reinterpretation of justice in the distribution of parental assets (Zulaikah, 2024).

The *hibah andum berkat* tradition has emerged as a manifestation of proportional justice in the distribution of parental assets. This tradition aligns with the principles of need and benefit for the recipients, as the distribution process is conducted through deliberation (*musyawarah*), during which all relevant parties are present and witness the proceedings. The distribution is based on considerations of individual needs, benefits, and fairness, resulting in mutual consent and acceptance among the beneficiaries, as the division is the product of a collective agreement.

Classical Islamic jurists offer varying interpretations regarding *hibah* (grant or gift). Shaykh Abdurrahmān as-Sa‘di defines *hibah* as the gratuitous transfer of property during the lifetime and sound health of the donor. Sayyid Sabiq describes it as a contract whose core issue is the transfer of property ownership from one individual to another. At the same time, the donor is still alive, without expecting any return. Sulaiman Rashid characterizes *hibah* as the transfer of an asset without exchange or obligation. Similarly, HM Arsyad Thalib Lubis defines *hibah* as the act of giving something to another person to do good during the lifetime of the donor (Kalam et al., 2021).

As a substitute for inheritance, the *hibah* tradition represents a legal practice that integrates the principles of distributive justice, utility, and legal order. It may be considered a form of legal enforcement within the Indonesian context. This tradition refers to the *inter vivos* transfer of property by parents to their children prior to death, whereby assets are distributed equally between male and female heirs, with an additional share allocated to the child who provides care for the parents during their lifetime. It serves as a functional alternative to inheritance, fostering *maṣlaḥah* (public interest) by promoting equitable access to justice in the division of parental assets. The concept of justice in this distribution is assessed based on the monetary value of the assets rather than the quantity or physical size of the inheritance. This is intended to prevent potential disputes among heirs. The implementation of this tradition is methodical and practical, serving as a constructive solution to the *gendong mikul* practice, namely the traditional 2:1 inheritance distribution, which is increasingly viewed as unjust by segments of the

community. This tradition can also be seen as a form of legal integration. Article 211 of the Compilation of Islamic Law states: “Parental endowments to their children may be considered as inheritance.” (Putri, 2023, p. 13).

Islamic law (*shari‘ah*) was revealed as divine guidance aimed at realizing the welfare (*maṣlaḥah*) of humankind by promoting benefit and preventing harm (*mafsadah*) in both worldly (*dunyāwī*) and spiritual (*ukhrawī*) aspects of life. In pursuit of these objectives, establishing justice is paramount. However, the concept of justice (‘*adl*) itself is multifaceted, and interpretations vary depending on the social context and the evolving needs of society. Therefore, a broader and more dynamic understanding of justice is essential to address the realities of diverse communities and to allow for the application of just principles in line with local customs and mutual agreements.

Islam is a religion that upholds egalitarianism and promotes fairness in the allocation of rights between men and women. This view aligns with the thoughts of Nasaruddin Umar, who identifies several variables related to the principles of equality found in the Quran: Men and women are equal in status and obligation as servants of Allah. This indicates that both genders are equally responsible for fulfilling religious duties such as prayer, *zakāt*, fasting, pilgrimage (*hajj*), and promoting good while preventing evil. b) Both men and women are equal in their capacity as vicegerents (*khalīfah*) on earth. c) Men and women pledged to Allah before they existed on earth. d) Both are honored creations of Allah. e) Both possess the potential to achieve accomplishments.

In Islamic inheritance law, the principle of justice in distributing rights between men and women is also a fundamental tenet. The Qur’an mentions the term *al-‘adl* (justice) more than 28 times, both in the form of commands and declarative statements. The term appears in different contexts and serves various objectives, indicating its adaptable definition depending on the specific legal or moral application (Amir Syarifuddin, 2004, pp. 24–27). From a material standpoint, justice is reflected in the balance between rights and obligations, and between what one receives and one’s needs and benefits. This implies that the division of inheritance under Islamic law must adhere to the principle of justice. As explicitly stated in the Qur’an, Men and women have the right to inherit. Surah al-Nisā’ verse 7 affirms that male and female heirs are entitled to inheritance. Similarly, verses 11–12 and 176 further elaborate that fathers and mothers, sons and daughters, husbands and wives, and brothers and sisters all possess inheritance rights, signifying equal legal status within the framework of divine law.

The portions of inheritance received by male and female heirs are unequal. Firstly, there are cases in which both men and women are entitled to an equal share, as stated in Surah al-Nisā’ (Quran 4:11), wherein the father and mother receive one-sixth if the deceased leaves behind offspring. Likewise, brothers and sisters receive one-sixth each, unless the deceased has no direct heirs, such as a spouse, children, or parents. Secondly, in some instances, such as between spouses and sons and daughters, male heirs receive twice the share of female heirs. This differentiation is rooted in the concept of *taḳlīf al-mālī* (financial obligation), where men are deemed to bear greater financial responsibility than women. These responsibilities include providing maintenance (*nafaqah*), fulfilling family needs, business obligations, and bearing risks and burdens, as clarified in Surah al-Nisā’ verse 11 (Bahtiar Maryati, 2019, pp. 36–39).

Amidst contemporary social and cultural transformations, various emerging challenges necessitate adaptations in both positive law and Islamic law, including those

related to inheritance law. Hence, a dynamic understanding of the concept of justice becomes essential to address society's evolving traditions and expectations. This flexibility is crucial in the Indonesian context, which embraces legal pluralism, meaning that, alongside Islamic law, customary law or traditional legal norms remain highly respected and influential among the population.

Islamic law acknowledges and justifies the legitimacy of customary legal practices (*'urf or 'ādah*). This is evident in the legal theory of *Qawā'id al-Fiqhiyyah* (Islamic legal maxims), a branch of jurisprudence concerned with formulating general principles to derive rulings in matters not explicitly addressed in the foundational texts (*nusūṣ*) (Sofwan, 2018, p. 10) One of the fundamental maxims in this tradition is al-*'ādah muḥakkamah*, meaning that customary practice may serve as a legal basis, provided it does not contravene the principles of *sharī'ah*. Ibn Nujaym defines al-*'ādah* as "an expression of what is internalized within individuals' acts that recur consistently and are accepted by sound human nature." (Djazuli, 2010, pp. 79–80).

The term *muḥakkamah* is the passive participle of *taḥkīm*, which means dispute resolution or adjudication. Thus, whether general or specific, custom may serve as a legitimate legal source without explicit legal provisions, provided it does not contradict the general or particular nature of existing legal rules. (Al-Zarqo' Ahmad Ibnu Muhammad, 96 C.E., p. 219) The maxim "custom is a legal basis to be followed" implies that once established and widely accepted, societal practices become binding norms for all community members. These customs, grounded in collective experience, are presumed to embody justice, thereby contributing to the preservation of social harmony and peaceful coexistence.

Several legal and philosophical theories further illuminate the meaning of justice in relation to diverse social contexts. First, according to Plato, justice is understood as the awareness and participation of citizens and law enforcers in upholding and responding to the needs of the state. Such a justice system forms the normative foundation of laws that protect human rights within a nation-state and is codified into statutory law (Hyronimus Rhiti, 2011a).

Second, Aristotle conceptualizes justice as a form of balance. He introduces both numerical equality, where all individuals are treated equally regardless of their social status (e.g., equality before the law), and proportional equality, whereby individuals are entitled to rights in accordance with their abilities and achievements. Aristotle divides justice into two categories: distributive justice, which applies in public law and concerns the fair distribution of wealth and resources, and corrective justice, which pertains to rectifying injustices through compensation for harm or the imposition of appropriate penalties on wrongdoers. These notions of distributive and commutative justice were later expanded upon by Gustav Radbruch, who viewed justice as a personal attribute. He distinguished between subjective justice, personal convictions, and ethical positions, and objective justice, which he regarded as the primary and universal aim. Radbruch argued that equality is the core foundation of justice (Hyronimus Rhiti, 2011b, pp. 240–245).

Third, Jacques Derrida offered a post-structural critique of legal justice, asserting that true justice originates beyond the confines of established legal systems. In his view, conformity with written law does not necessarily ensure justice, especially in pluralistic societies with varying cultural and social conditions. For Derrida, justice is context-dependent and may vary from one society to another. His view contrasts with the utilitarian perspectives of Jeremy Bentham and John Stuart Mill, who defined justice as

achieving the greatest good or happiness for the greatest number (Hyronimus Rhati, 2011b, p. 248).

Fourth, John Rawls proposed a theory of substantive justice, framing it as a comprehensive concept of social values aimed at fairness for all. He introduced two central principles: equal liberty, which affirms that every individual should enjoy equal fundamental freedoms; and the difference principle, which acknowledges that social and economic inequalities are permissible only if they benefit the least advantaged and provide fair equality of opportunity.

In line with the aforementioned understandings of justice, local communities perceive the customary practice of *hibah andum berkat* (gift distribution as a substitute for inheritance) as more acceptable. This tradition reflects a proportional and equitable approach to justice that prioritizes equality and fosters peace among heirs. The implementation of justice through *hibah andum berkat* as an alternative to formal inheritance laws contributes significantly to social tranquillity and communal harmony (Hadi, 2024).

The Interconnection of Maslahah in the Tradition of Hibah Andum Berkat as a Substitute for Inheritance among the Mojooroto Community in Kediri, East Java

In the broader discourse of Islamic studies, Amin Abdullah asserts that the concept of interconnectivity is essential in understanding the complexity of human life, which constantly evolves in response to the progression of time. According to Abdullah, no body of knowledge can stand alone, whether in the realm of religion, the social sciences, the humanities, or the natural sciences. There exists a dynamic interplay involving collaboration, dialogue, mutual need, correction, and interdependence among these diverse disciplines (Thahir, 2015b, p. 73).

The connectivity in achieving the value of justice, as perceived by the community of Nglebak Tumpang, represents an effort to integrate religious, social, and cultural conceptions of justice. Islamic inheritance practices are regarded as valid and legitimate according to *sharī'ah* law, provided they align with the local environment and societal development. However, within the Nglebak Tumpang community, diverse perspectives and cultural variations have emerged, resulting in the view that the 2:1 Islamic inheritance distribution is no longer entirely relevant to the local social context. Consequently, a convergence of religious, social, and cultural thinking in the community has led to the emergence of the *hibah andum berkat* tradition as a contextualized solution for implementing justice in distributing parental wealth among children. (Hadi, 2024)

The pursuit of justice and public welfare (*maṣlahah*) through the principle of fundamental human equality, and the elimination of threats to essential human values caused by discrimination between individuals, has become a deeply rooted teaching in the Nglebak Tumpang community, where justice is held in the highest regard. The tradition of *hibah andum berkat* is perceived as a practical method of transferring wealth from parents to their descendants. The principle of justice is implemented through a proportional distribution aligned with the specific rights of each beneficiary. Suppose one of the heirs has taken on the responsibility of caring for the parents. In that case, that individual is granted an additional share relative to others, as a form of equitable compensation for services rendered. This tradition is carried out through mutual deliberation involving all relevant parties to reach a consensus-based decision on wealth distribution, ensuring that each party's rights are acknowledged and agreed upon (Sauri,

2024). The practice is aimed at achieving public welfare and embodying the principle of human dignity, which is considered an inherent right of every individual. Acts of humiliation, destruction, desecration, or violence against human beings constitute violations of their fundamental rights as free and autonomous individuals. This principle applies universally to all human beings, aiming to achieve public welfare and embodying the values of Muslims and non-Muslims alike, as well as both men and women, as reflected in the Qur'anic teachings on the sanctity and dignity of humanity (Shihab, 2006).

Maqāṣid al-sharī'ah, as a legal theory, remains a compelling subject of study in both classical and contemporary Islamic legal scholarship. Its relevance continues to grow in addressing the complex challenges of family law in every era. The importance of this concept lies in two main aspects. First, Islam, as a religious system, maintains its relevance across time by contextualizing its teachings to meet the demands of its environment and offering solutions to arising legal issues. Second, the dynamic changes in time and space necessitate an evolution of Islamic legal methodology, ensuring that the resulting laws are ethical, wise, beneficial, and adaptable. (Syaiful Arif, 2023)

Maqāṣid al-sharī'ah functions as a method of *istinbāt* (legal derivation) that must be taken seriously to fulfill its intended objectives. In other words, it serves as both a methodological tool and an analytical instrument to understand the language of the Qur'an and Hadith, resolve apparent contradictions between legal texts, and determine rulings for cases not explicitly addressed therein. It is thus fair to assert that the flexibility and adaptability of Islamic law are primarily determined by the extent to which the *maqāṣid al-sharī'ah* are realized in addressing the dynamics of legal challenges. (Satria Effendi M. Zein, 2017).

Therefore, the study, understanding, and actualization of the *maqāṣid al-sharī'ah* are crucial, given their central role in the science of *uṣūl al-fiqh* and as a core method in the formulation of Islamic legal rulings. This principle ensures that Islam upholds the rights of every individual, including the protection of their religion, life, intellect, lineage, and property, and affirms the obligation to uphold justice for all. The *maqāṣid al-sharī'ah* represents the welfare sought to be realized in the application of Islamic law, particularly through the preservation of the five essential values (*al-uṣūl al-khamsah*): religion, life, intellect, lineage, and property. These five objectives are hierarchically structured, prioritizing the protection of religion above the others, and so forth. The practical application of this principle also depends on its classification levels: *darūriyyāt* (essentials), *hājiyyāt* (needs), and *taḥsīniyyāt* (complementary benefits), which help to assess the level of importance of the issues being addressed. These five values are interconnected and mutually reinforcing in the realization of holistic justice.

The implementation of the hibah andum berkat tradition as a substitute for the formal system of inheritance in Lingkungan Nglebak Tumpang, Kelurahan Pojok, Mojoroto District, Kediri, East Java, reflects a community-based agreement that has evolved into a customary practice (*'urf*) aimed at achieving public welfare (*maṣlaḥah*) in the distribution of a parent's estate among their children. The term berkat (blessing) was chosen by the community to reflect the belief that the wealth distributed beneficially constitutes a blessing for the children, a form of valuable capital inherited from their parents to support the family's economic needs across religious, socio-cultural, educational, and other dimensions (Sholeh Habib, 2024).

From the perspective of Islamic law, the *maṣlaḥah* underlying the hibah andum berkat tradition aligns with the essential objective of the *sharī'ah*, as encapsulated in the

maxim *Ma'an waḍ'u ash-sharā'i' annamā huwa li-maṣālihi al-'ibād fī al-'ājil wa al-ajal*" meaning: "The enactment of legal rulings in the sharī'ah is intended to secure the welfare of the servants of God, both in this world and in the hereafter."

Maqāṣid al-sharī'ah, as a methodology of *istinbāt al-ḥukm* (derivation of legal rulings), provides an expansive analytical framework through the theory of interconnected *maṣlahah*. This framework enables the holistic identification of public benefit in the hibah andum berkat tradition by integrating the five foundational principles (al-uṣūl al-khamsah), thereby providing a comprehensive justification for legal validation. This is under the legal maxim. (Thahir, 2015b, p. 79). "Mā kāna akthara ittiṣālan bil-maṣāliḥ kāna akthara faḍlan," meaning: "That which is more strongly connected to the realization of benefit possesses greater merit."

The interconnectedness of *maṣlahah* (public interest) in the tradition of hibah andum berkat, based on the five fundamental principles of al-uṣūl al-khamsah—namely religion (*dīn*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and property (*māl*) is as follows:

1. *Hifz Al-Dīn* (Preservation of Religion)

The hibah andum berkat tradition supports the preservation of religious values. In Islamic law, hibah (inter vivos gift) is classified as sunnah (recommended), and its practice is meritorious in the sight of Allah. It also functions as a means of promoting social wisdom, fostering harmony, and strengthening community relations, as those who bestow gifts create social cohesion through acts of generosity. (Thahir, 2015b)

2. *Hifz Al-Nafs* (Preservation of Life)

The tradition requires that a hibah (inter vivos gift) be given voluntarily and without coercion, and that the recipient be physically present during the transaction to ensure mutual consent (*ijab* and *qabul*) between both parties. This requirement safeguards the legal rights of both the donor and the recipient, ensuring legal protection and preventing any form of physical, psychological, or reputational harm (Robist Hidayat, 2021).

3. *Hifz Al-'Aql* (Preservation of Intellect)

The tradition contributes to mental peace and avoids actions that could disturb rational thought. It encourages positive thinking and supports the advancement of social education, thus fulfilling both cognitive and emotional aspects of human well-being *Hifz*

4. *Al-nasl* (Preservation of Lineage)

From a familial perspective, the hibah andum berkat tradition preserves kinship bonds, familial harmony, and intergenerational peace. It prevents social jealousy and injustice in wealth distribution, fostering unity among descendants.

5. *Hifz al-māl* (Preservation of Wealth)

The tradition ensures wealth protection through a proportionate and just distribution, incorporating principles of distributive, commutative, and Islamic justice. It safeguards against inequality and discord in matters of inheritance (Thahir, 2015a) The level of *maṣlahah* interconnectedness in the aforementioned principle is an interpretation of the legal maxim:

"*Mā kāna akthara ittiṣālan bil-maṣāliḥ kāna akthara faḍlan*", which means "That which has greater interconnectedness with public interest (*maṣlahah*) possesses greater virtue." Accordingly, the *ittiṣāliyat al-maqāṣidī* (interconnectedness of the objectives of *Sharia*) in the implementation of the hibah andum berkat tradition.

Conclusion

The Mojoroto community in Kediri understands and interprets inheritance as implementing Islamic law, specifically *ta'abbudī*. It must be accepted with faith and obedience, as it carries divine wisdom, blessings, and sacredness. However, in their interpretation of justice within the distribution of inheritance, the community emphasizes equal rights between men and women, giving rise to the tradition of *hibah andum berkat* (a customary form of gift distribution). This practice embodies values such as harmony, compassion, and equality, and serves as a preventive measure to avoid familial conflict. Implementing *hibah andum berkat* as a substitute for inheritance (*farā'id*) reflects a broader understanding of Islamic teachings.

In Islam, the principle of justice in fulfilling human rights is given paramount importance; in fact, the pursuit of public welfare (*maṣlahah*) is prioritized over mere utility. Islamic jurisprudence legitimizes customary legal practices through the maxim *al-'ādah muḥakkamah*, which affirms that social customs can attain binding legal force when consistently practiced and accepted. This suggests that customary traditions inherently embody values of justice that promote the preservation of social harmony and peaceful coexistence within the community.

Aligned with this broader understanding of justice, the tradition of *hibah andum berkat* is more readily accepted by the local community as it embodies proportional justice and upholds the principle of equality, thus safeguarding peace among heirs.

The connection between this tradition and the concept of justice reflects a synthesis of religious, social, and cultural dimensions. While Islamic inheritance law is regarded as a valid and divinely mandated framework, its implementation is subject to the contextual dynamics of the community. In the case of Mojoroto, where diverse cultural and social perspectives prevail, the 2:1 inheritance ratio (for male and female heirs) is perceived as less relevant to contemporary societal conditions. The interconnected framework of thought established by the community, encompassing religious, social, and cultural dimensions, has resulted in the tradition of *hibah andum berkat* as a solution for implementing the value of justice in the distribution of parental assets. The term *berkat* (blessing) was chosen by the community based on the belief that wealth distributed in accordance with *maṣlahah* (public interest) brings blessings to the children and becomes valuable capital to support their economic needs within the scope of religious, socio-cultural, educational, and other familial spheres.

From the perspective of interconnected *maṣlahah*, the tradition of *hibah andum berkat* falls under the objective of Islamic law (*maqāṣid al-sharī'ah*), particularly *ḥifẓ al-māl* (protection of wealth), while simultaneously being connected to the other core elements of the five universal principles (*al-uṣūl al-khamsah*). This means that when all parties feel that justice has been fulfilled in the distribution of parental assets, it prevents intra-family conflict and contributes to the preservation of religion (*dīn*), intellect (*'aql*), life (*nafs*), lineage (*nasl*), and wealth (*māl*). Accordingly, the overall welfare (*maṣlahah*) of the family can be realized. The tradition of *hibah andum berkat*, as a substitute for formal inheritance distribution, is thus a form of preservation of Islamic legal principles aimed at preventing harm and promoting collective benefit.

The author acknowledges that this paper has several limitations, including the research location's scope, the number of informants, and the potential for cultural bias. Therefore, further research is necessary to address these limitations. As a continuation of this study, the author recommends conducting further investigations into the *hibah andum*

berkat tradition from other perspectives, such as gender analysis, the integration of customary and Islamic law, or comparative studies across different regions. Such efforts aim to explore the dynamics of alternative inheritance models, particularly with regard to the concept of *hibah* (gift), and offer a new paradigm in inheritance distribution that incorporates legal, ethical, and social dimensions.

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