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Justice in Madurese Inheritance Practices: The Sangkolan Tradition and Islamic Law in Sampang

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Abstract

This study examines justice in Madurese inheritance practices through the sangkolan tradition in Sampang Regency. Previous studies have discussed Islamic inheritance and customary practices, but have paid limited attention to how local concepts of justice shape inheritance distribution and interact with Islamic law. This study analyzes the forms of sangkolan, the factors underlying its practice, and its position within Islamic law. Using qualitative empirical legal research, the study collected data through interviews, observation, documentation, and relevant literature. The findings show that Madurese families shape inheritance distribution by considering individual needs, social responsibilities, property functions, family deliberation, and preserving family harmony, rather than numerical equality alone. Sons generally receive agricultural or other productive assets, while daughters commonly receive houses and residential property. The study also finds that sangkolan may involve hibah when property is transferred while parents are still alive. Thus, sangkolan reflects a customary approach to inheritance that seeks to reconcile family justice with Islamic legal principles, while lifetime transfers require distinction from inheritance under faraidh.

***Keywords**: Islamic Inheritance, Sangkolan, Hibah (Gift), Customary Law, Madurese Community.*

Abstrak

Penelitian ini mengkaji keadilan dalam praktik kewarisan masyarakat Madura melalui tradisi sangkolan di Kabupaten Sampang. Penelitian terdahulu telah membahas kewarisan Islam dan praktik adat, tetapi perhatian terhadap bagaimana konsep keadilan lokal membentuk pembagian warisan dan berinteraksi dengan hukum Islam masih terbatas. Penelitian ini bertujuan menganalisis bentuk sangkolan, faktor yang melatarbelakangi praktik tersebut, dan kedudukannya dalam perspektif hukum Islam. Penelitian menggunakan metode hukum empiris dengan pendekatan kualitatif melalui wawancara, observasi, dokumentasi, dan kajian literatur. Hasil penelitian menunjukkan bahwa masyarakat Madura mengonstruksi keadilan dalam pembagian warisan berdasarkan kebutuhan individu, tanggung jawab sosial, fungsi harta, musyawarah keluarga, dan keberlangsungan hubungan keluarga, bukan semata-mata kesamaan nominal. Anak laki-laki umumnya memperoleh lahan pertanian atau aset produktif, sedangkan anak perempuan memperoleh rumah dan properti tempat tinggal. Penelitian juga menemukan bahwa sangkolan dapat melibatkan hibah ketika harta dialihkan saat orang tua masih hidup. Dengan demikian, sangkolan mencerminkan pendekatan adat dalam kewarisan yang berupaya mempertemukan keadilan keluarga dengan prinsip hukum Islam, dengan tetap membedakan hibah semasa hidup dari kewarisan berdasarkan faraidh.

***Kata Kunci**: Waris Islam, Sangkolan, Hibah, Hukum Adat, Masyarakat Madura.*

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Introduction

Indonesia is characterized by diverse cultural traditions, kinship systems, and legal practices that shape how families manage and distribute property. Among Muslim communities, inheritance is a key part of family life because it concerns the transfer of property after a property owner's death and the rights of family members as heirs. Islamic inheritance law provides detailed provisions concerning eligible heirs, their respective shares, and the procedures for distributing inherited property (Amir, 2015). Nevertheless, the application of inheritance law takes place within social environments shaped by kinship, family responsibilities, and customary values. Consequently, inheritance practices may reflect an interaction between normative Islamic rules and the social values that develop within particular communities.

Customary law provides an important context for understanding such practices. In Indonesian customary inheritance systems, the transfer and distribution of family property are closely tied to kinship structures, family relationships, and community values (Hilman, 2003). This indicates that inheritance cannot be understood solely as a technical distribution of property, but also as a social practice embedded in relationships among family members. In the context of gender and family roles, previous research has also shown that the distribution of inheritance may be associated with socially constructed responsibilities and expectations within customary families (Wasurip & Zaenul, 2024). These perspectives provide an important basis for examining how communities understand justice when the form and amount of property received by family members are not necessarily identical.

The Madurese community provides an important context for examining this relationship between inheritance, customary practice, and Islamic law. In Pengarengan District, Sampang Regency, inheritance distribution is associated with a local tradition known as *sangkolan*. The practice does not always follow the textual distribution of *faraidh* in the same form. Instead, families may consider the needs, social conditions, responsibilities, and roles of individual children when determining the form of property transferred. Sons commonly receive agricultural or other productive assets, whereas daughters may receive houses or residential property. From the community's perspective, differences in the form of property do not necessarily indicate unequal treatment because justice is associated with the suitability of the property to the circumstances and responsibilities of each child.

This situation raises an important issue concerning the meaning of justice in inheritance practices. If justice is understood solely as conformity with predetermined numerical shares, differences in the form of property may be viewed differently from when justice is understood in relation to family

needs, responsibilities, and social functions of property. The central issue, therefore, is not simply whether the *sangkolan* tradition differs from the formal provisions of *faraidh*, but how community members understand and justify such differences as fair within their family and social context. This perspective matters because inheritance distribution involves property rights, family relationships, customary values, and religious norms.

The references used in this study offer three key perspectives for examining this issue. Islamic inheritance law provides the normative framework for determining inheritance rights and shares (Amir, 2015). Customary inheritance law explains how kinship and local social values shape the distribution of family property (Hilman, 2003). Meanwhile, research on inheritance and social justice in customary families highlights the role of family roles and gendered responsibilities in shaping inheritance distribution (Wasurip & Zaenul, 2024). However, these perspectives need to be brought together to examine how the Madurese community constructs justice through the *sangkolan* tradition. This study therefore positions itself at the intersection of Islamic inheritance law, customary inheritance practice, and the community's understanding of justice.

This study's novelty lies in focusing on the construction of justice underlying the *sangkolan* tradition rather than merely describing the forms of inheritance distribution. The study examines how considerations of need, responsibility, property function, family deliberation, and family harmony are used by the community to understand a distribution as fair. It also examines how these customary considerations relate to Islamic inheritance principles, particularly when family property is transferred through hibah while parents are still alive. This distinction is important because a transfer made during the owner's lifetime has a different legal character from inheritance distributed after death.

Building on this background, this study analyzes three issues: first, the forms of inheritance distribution practiced through the *sangkolan* tradition in Pengarengan District; second, the social and family factors underlying the practice; and third, the *sangkolan* tradition's position from the perspective of Islamic law. Through these questions, the study seeks to explain how the Madurese community constructs and negotiates the meaning of justice in inheritance distribution while maintaining the relationship between customary values and Islamic legal principles.

Method

This study employs empirical legal research with a qualitative approach to examine inheritance practices within the Madurese community in

Pengarengan District, Sampang Regency. The empirical legal approach was selected because the study focuses on how Islamic inheritance principles operate within the community's social and cultural practices. Rather than examining Islamic inheritance law solely as a normative legal framework, the study explores how the community practices, understands, and negotiates inheritance distribution within family relationships and customary traditions. This approach allows the study to examine how Islamic law, customary law, and social practices interact within the *sangkolan* tradition.

The study uses primary and secondary data. Primary data were obtained through field research involving community leaders, religious leaders, village government officials, and community members who had practiced inheritance distribution or were directly involved in the process. These sources were selected because they provide perspectives on the social, religious, administrative, and family dimensions of inheritance distribution. Secondary data were obtained through a review of books, scientific articles, previous studies, legislation, and other relevant legal and scholarly sources concerning Islamic inheritance law, customary inheritance law, *hibah*, and justice in family property distribution.

Data were collected through observation, interviews, and documentation. Observations were conducted to understand the social conditions and inheritance practices in the research setting. Interviews explored the experiences, considerations, and views of community members and other relevant actors regarding the *sangkolan* tradition and inheritance distribution. Documentation complemented the field data through relevant records, archives, and other documents related to the research subject. Using multiple data collection techniques allowed the researchers to examine the practice from different sources and perspectives.

The researchers analyzed the collected data descriptively and analytically. First, the field data were organized by forms of inheritance distribution, the factors underlying the *sangkolan* practice, and the community's understanding of justice. The findings were then interpreted by relating the empirical practices to the principles of Islamic inheritance law and customary law. Particular attention was given to the distinction between inheritance distributed after the property owner’s death and property transferred while the owner was still alive through *hibah*. This distinction was used to examine the legal position of the *sangkolan* practice without treating lifetime property transfers automatically as inheritance under *faraidh*.

The analysis was subsequently directed toward identifying the relationship between customary considerations and Islamic legal principles in inheritance distribution. The study examined how considerations of family

needs, social responsibilities, property functions, deliberation, and family harmony shape the community's understanding of justice. The findings were then interpreted against the normative principles of Islamic inheritance law and the customary practices identified in the field.

Results and Discussion

The Sangkolan Tradition as a Customary Mechanism of Property Transfer

In Pengarengan District, Sampang Regency, family property distribution is associated with a customary tradition known as sangkolan. The practice has been passed down through generations and forms part of the local community's customary approach to transferring property between parents and children. In practice, sangkolan is not always implemented only after the property owner’s death. Some families transfer part of their property while the parents are still alive through a family gift mechanism locally referred to as hibbe. Thus, the practice involves both customary distribution of family property and transfer during the parents' lifetime through *hibah*.

The timing of the distribution is closely related to the community's concern with maintaining family relationships and preventing disputes among children after the death of their parents. When property is transferred while the parents are still alive, they can explain the reasons for the distribution and observe the transfer process. This arrangement also provides an opportunity for family members to discuss possible objections before the parents' death. Consequently, the community views lifetime distribution as a way to reduce the likelihood of future conflict over family property.

The process involves parents, children, and, in some circumstances, other family members. Parents play an important role because they determine the property’s form and distribution. Families deliberate to reach agreement on the distribution, especially because the community considers each child's economic circumstances, responsibilities, and needs. Family involvement aims to create mutual acceptance of the distribution and minimize disagreement among relatives. The article also indicates that parents may involve family leaders or elders in deliberations about property distribution.

The assets transferred through *sangkolan* generally reflect the social and economic roles children are expected to play. Sons commonly receive agricultural land, fields, or livestock because they are seen as having greater economic responsibility for supporting family life and continuing to manage their parents' productive assets. Daughters, meanwhile, more commonly receive houses or yards as housing provisions after marriage, as a form of social security, and to maintain a connection to their families of origin.

The distribution therefore does not necessarily involve identical forms or nominal values of property for every child. Instead, the community considers the property's usefulness, the recipient's circumstances, and each child's social responsibilities. From the community's perspective, giving different types of property does not necessarily constitute unequal treatment when the distribution fits each child's needs and responsibilities. This understanding frames *sangkolan* as a customary mechanism of family property transfer oriented toward family acceptance, harmony, and the prevention of future disputes.

Accordingly, *sangkolan* in Pengarengan can be understood as a customary practice in which parents transfer family property to their children based on family-developed considerations. The practice is characterized by the involvement of parents and children, family deliberation, consideration of the social and economic circumstances of the recipients, and the use of different forms of property according to their perceived functions. At the same time, the distinction between property transferred while the parents are alive through *hibbe* and inheritance distributed after death is important for analyzing its position under Islamic law.

The Social Construction of Justice in Sangkolan

The practice of *sangkolan* demonstrates that the Madurese community in Pengarengan District does not understand justice in inheritance distribution solely in terms of mathematical equality or equal nominal shares. In the local community's view, all children have the same position as their parents' descendants and are therefore entitled to a share of family property. However, the form and type of property received generally adjust to each child's social role, needs, responsibilities, and conditions. Thus, equality is reflected in recognizing each child's right to receive family property, while the form of distribution may differ according to the recipient's circumstances. This understanding was also expressed by H. Ahmad, a community leader in Pengarengan District, who explained that justice in *sangkolan* is not necessarily measured by equal nominal shares but by whether the distribution corresponds to the needs, responsibilities, and social conditions of each heir (Interview with H. Ahmad, Community Leader of Pengarengan District, Sampang, May 15, 2026).

The consideration of needs and responsibilities is reflected in the different forms of property sons and daughters generally receive. Sons generally receive rice fields, fields, or livestock because they are considered to have greater economic responsibility for supporting family life and continuing to manage their parents' productive assets. Daughters, meanwhile, are more often given houses or yards as housing provisions after marriage and to

establish their own households, while maintaining social security and ties to their families of origin. This pattern reflects the social and economic roles assigned within the family: productive assets are generally associated with sons' economic responsibilities, while residential property is provided to daughters as housing and family support. Within the *sangkolan* tradition, however, these differences are understood as a distribution based on each child's needs, responsibilities, and the function of the property, rather than as a differentiation of rights to family property (Ellyne, 2018; Soerojo, 1995).

Property's usefulness is therefore an important consideration in the community's understanding of justice. Agricultural land, fields, and livestock are treated as productive assets that can support sons' economic responsibilities, whereas houses and yards are associated with daughters' residential needs. Consequently, the difference in property type becomes part of the community's consideration of what constitutes an appropriate distribution. In *sangkolan* practice, the usefulness and social function of property shape the form of property each child receives. This understanding emphasizes suitability to each child's circumstances over an identical mathematical division of property.

Family harmony is another important consideration in constructing justice within *sangkolan*. The practice is maintained partly because family property can become a source of conflict when its distribution is not resolved through careful consideration and family agreement. The community therefore seeks to arrange the distribution according to the children's economic conditions, responsibilities, and needs so the result can be accepted by family members. The continuation of *sangkolan* is influenced by several interconnected social and family factors, including blood relations and family closeness, the continuity of Madurese tradition, parents' desire to distribute property fairly among their children, and the effort to prevent family conflict and disputes.

This orientation toward family harmony is also reflected in the use of deliberation in the distribution of property. Before carrying out the division, family members may gather to discuss a distribution that is considered fair and acceptable. The deliberation may involve parents and children and, in some cases, family leaders or elders. According to the article, this process is intended to prevent social jealousy, misunderstanding, and disputes among relatives after the death of the parents. The community values maintaining family relationships more than ensuring an equal share for every heir. The community generally respects the deliberation as a family agreement intended to maintain brotherhood, harmony, and the continuity of family relationships.

The construction of justice in *sangkolan* is shaped by the recognition that all children are entitled to receive family property, while the form of distribution is adjusted to their respective circumstances. Needs, responsibilities, the usefulness of property, and family harmony are among the main considerations in determining what is regarded as fair within the family. Gender roles shape the tendency to distribute productive assets such as agricultural land, fields, and livestock to sons, while houses or yards are more commonly given to daughters, according to their respective social roles and responsibilities. In this context, justice is understood as the suitability of the distribution to each child's conditions and needs, and its ability to maintain family relationships and avoid future conflict, rather than as mathematically equal shares. This understanding is consistent with the social values of family solidarity discussed by Koentjaraningrat (2009) and the contextual understanding of justice discussed by Satjipto Rahardjo (2009).

The practice of *sangkolan* has been associated with several positive effects in family life. One of the main benefits is reducing potential conflicts among heirs after the parents' death. When parents distribute property while they are still alive, children know what property they will receive, and parents can witness the distribution and explain the reasons for their decisions. This arrangement is considered to provide greater openness and mutual acceptance among family members and to reduce the possibility of disputes over family property and strained relationships among siblings. Agustan et al. (2022) also support the conflict-reduction function of lifetime distribution.

The distribution is also adjusted to children's needs and living conditions. The grant mechanism's flexibility allows parents to consider each child's social responsibilities and economic conditions rather than applying an identical nominal distribution. In practice, sons who are considered to have greater economic responsibilities are generally given rice fields or fields as sources of income, whereas daughters are generally given houses or yards as residential provision after marriage. The community views this pattern as beneficial and as a way to maintain social balance within the family.

At the same time, *sangkolan* may create problems when the distribution is not open, fair, and based on family deliberation. When parents dominate decisions and exclude other family members, it can lead to disappointment and dissatisfaction among some heirs. Family members may also differ in how they understand justice: some consider distribution according to need fairer, while others expect an equal distribution based on nominal value. These differences indicate that the community does not necessarily have a single understanding of what constitutes a fair distribution of family property.

Another issue is that some community members have a limited understanding of *faraidh*. The original findings indicate that limited understanding of Islamic inheritance law contributes to the preference for maintaining customary practices without a sufficient understanding of the limits permitted under Islamic law. In such circumstances, continuing *sangkolan* may create difficulties when customary distribution is not accompanied by an adequate understanding of Islamic inheritance principles. The practice therefore requires attention to both customary values and Islamic legal principles so family members continue to accept the distribution of family property and avoid potential disputes.

Sangkolan between Hibah and Inheritance under Islamic Law

The legal position of *sangkolan* under Islamic law depends primarily on when the property is transferred. When property is transferred while the parents are still alive, the transfer is a lifetime grant (*hibah*), whereas property distributed after the owner's death constitutes inheritance and is subject to the rules of *faraidh*. This distinction is important because inheritance rights arise in relation to the death of the property owner, while ownership remains with the owner during his or her lifetime.

Islamic inheritance is governed by the Qur'an and hadith, including QS. An-Nisā' verse 11, which provides the normative basis for the shares of male and female heirs:

لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ.

"The share of a son is equal to the share of two daughters."
(QS. An-Nisā': 11)

This provision establishes the prescribed inheritance shares and therefore applies to the distribution of an estate after the property owner's death. It is further reinforced by the hadith of the Prophet Muhammad ﷺ:

"Give the inheritance to the one who has the right to receive it, then the rest is given to the man who is closest to his kinship."
(HR. Bukhari and Muslim)

Accordingly, property that is transferred during the parents' lifetime should not be treated as inheritance because the legal basis and timing of the transfer are different. In *sangkolan*, lifetime transfers locally referred to as *hibbe* can be understood within the concept of *hibah*. Islamic jurisprudence defines *hibah* as a voluntary transfer of property from the giver to the recipient while the giver is still alive. Such a transfer is permissible when the giver has legal capacity and ownership of the property and when it does not harm others or unjustly deprive family members of their rights (Wahbah, 1985; Sayyid, 1983; Muhammad, 2011).

The permissibility of lifetime giving is also supported by QS. Al-Baqarah verse 177, which includes giving wealth to relatives among acts of virtue. The Prophet Muhammad ﷺ also encouraged gift-giving: "Give gifts to each other, surely you will love each other." (HR. Bukhari in Al-Adab al-Mufrad). These principles provide a basis for understanding *hibbe* as a lifetime transfer rather than as a distribution of inheritance.

Thus, sangkolan has two distinct legal dimensions. Property transferred during the parents' lifetime through *hibbe* falls under *hibah*, while property distributed after the owner's death constitutes inheritance and must follow the provisions of *faraidh*. The distinction is therefore essential to assessing the compatibility of the sangkolan tradition with Islamic law.

'*Urf*, *Maslahah*, and the Limits of Customary Accommodation

In Islamic law, customary practices or 'urf may be considered in determining legal matters as long as they do not contradict the Qur'an and hadith and do not contain elements of harm to the community. A custom that is continuously practiced, accepted by the community, and provides benefits may be considered in matters of *muamalah* and social relations. This principle allows local traditions to develop within society while maintaining the basic principles of Islamic law. The rules of *fiqh* state:

الْعَادَةُ مُحَكَّمَةٌ.

"Customary practices can be used as the basis for legal considerations."

This principle supports considering local traditions in social and family matters, including the Madurese community's practice of *sangkolan*. In Pengarengan, *sangkolan* remains a customary practice in distributing family property and is associated with efforts to maintain family harmony and avoid disputes among heirs. The practice is also connected with values of togetherness, respect for parents, and the preservation of relationships between siblings. Family deliberation is used in determining the distribution so that the decision can be accepted by family members and potential disputes can be avoided. These characteristics are consistent with the social identity and family values associated with Madurese society (Kuntowijoyo, 2002; Hilman, 2003).

However, the acceptance of *sangkolan* as a customary practice is not without limits. Islamic law can accommodate it as long as it does not involve injustice, does not harm particular heirs, and continues to observe the principle of justice. The customary nature of the practice therefore does not by itself determine its acceptability. The practice must remain within the boundaries of the basic principles of Islamic law, particularly when it concerns the transfer and distribution of family property.

Considering *maṣlaḥah* provides another basis for understanding the continuation of *sangkolan*. The practice aims to maintain harmony among family members, strengthen relationships between heirs, and prevent conflicts, disputes, and inheritance problems that may arise after the parents' death. The distribution is carried out through deliberation and takes into account the needs and conditions of the heirs. From this perspective, *sangkolan* is connected with the effort to realize benefits and prevent harm (jalb al-maṣāliḥ wa dar' al-mafāsid). As long as the practice does not unjustly eliminate heirs' rights, is carried out with the parties' consent, and does not contradict the basic principles of Islamic law, it can be understood as contributing to the realization of *maṣlaḥah* (Jasser, 2008).

The concept of maṣlaḥah is also linked to the objectives of *maqāṣid al-syarīʿah*, which include preserving religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʿaql*), posterity (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) (Al-Syatibi, 2004). In the context of sangkolan, the practice is particularly associated with *ḥifẓ al-nasl* by preserving family relationships and avoiding conflict among family members. It is also related to *ḥifẓ al-māl* because the distribution is carried out in a planned manner and through family agreement, allowing family property to continue to be used according to the circumstances of its recipients.

Thus, the accommodation of *sangkolan* within Islamic law depends on the extent to which the customary practice continues to fulfill these conditions. Its role in maintaining family harmony and preventing disputes supports its social value, while the principles of justice, willingness, deliberation, and the protection of family members' rights set important boundaries. The preservation of customary values therefore remains connected to the application of Islamic legal principles, so that *sangkolan* can function as a customary mechanism for distributing family property without losing sight of the benefits, justice, and stability of family relationships.

Conclusion

This study examined how Madurese inheritance practices construct justice through the *sangkolan* tradition in Sampang, with particular attention to its forms of property distribution, the considerations underlying the practice, and its position within Islamic law. The findings show that *sangkolan* is a customary mechanism through which families negotiate property distribution by combining local understandings of justice with Islamic legal principles.

Several key findings emerge from the study. First, *sangkolan* may involve property distribution after death as well as lifetime transfers through *hibbe*,

requiring a clear distinction between inheritance and *hibah*. Second, justice is not understood solely as mathematical equality of shares but is constructed through considerations of needs, responsibilities, the usefulness of property, and family harmony. Third, gender roles influence the forms of property distributed, with sons generally receiving productive assets and daughters receiving houses or residential property. Fourth, family deliberation and mutual acceptance play important roles in preventing disputes and maintaining kinship relations. Finally, *sangkolan* can be accommodated within the concepts of *'urf* and *maṣlaḥah* when it is based on willingness and justice, does not harm family members or unjustly deprive heirs of their rights, and does not contradict fundamental Islamic legal principles.

These findings help explain how Islamic inheritance law and customary practices interact by showing how justice is negotiated within specific familial and social contexts. In practice, families, community leaders, and religious leaders should strengthen deliberation and understanding of the distinction between *hibah* and inheritance to prevent legal ambiguity and family disputes. Future research could examine *sangkolan* across different Madurese communities and explore more deeply how heirs experience and evaluate fairness in its implementation.

Declaration

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