

Progressivity of Dum-Dum Kupat Inheritance Distribution in Java Community Perspective of Progressive Legal Theory Satjipto Rahardjo (Study in Pehserut Village, Sukomoro District, Nganjuk Regency)

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Abstract

Distribution of inheritance using the method dum-dum kupat or equally is the division of inheritance by establish equal rights and shares to all heirs regardless of gender (male/female), this type of distribution model is mostly practised by the Javanese-Islamic community in Pehserut Village, Sukomoro District, Nganjuk Regency. Of course this if observed would be contrary to the provisions of inheritance in Sunni fiqh which applies a 2:1 ratio between men and women, but that does not mean that this method of dividing inheritance is wrong and contrary to the objectives of Islamic law, therefore the author wants to examine the side of inheritance. the progressive use of the inheritance distribution method dum-dum kupat, as well as the reasons the Javanese-Islamic community in Pehserut Village use this method more than using the inheritance provisions in Sunni fiqh and the Compilation of Islamic Law (KHI). The type of this research is empirical research (field research), collecting data using the interview method by determining the informants who are considered capable and have a relationship with the distribution of inheritance with this method dum-dum kupat. The results of this study indicate that the reason the Islamic-Javanese community in Pehserut Village uses the dum-dum kupat method as a way of distributing inheritance, among others, is because of the harmony factor and so that it is farthest from divisions between families, and this step of inheritance distribution can be said to be a form of progressivism. Law because it has fulfilled the aspects of the indicators; 1) Law for Humans, 2) Reject the status quo in law.

Keywords

distribution of inheritance; dum-dum kupat; Javanese society



I. Introduction

In terms of the inheritance system, Indonesia is still dualistic and pluralistic. Is said to be dualism and pluralism because there are at least four systems of inheritance law is a positive law defined or enforced (enforcement) the court, namely Systems West Inheritance Law, Inheritance Law Customary System, a compilation of Islamic law and Islamic Inheritance Law System (Komari, 2011). The meaning of breaking the law is interpreted by jurists in various meanings (Purba, 2019). The law turns out to be able to provide solutions to so many impasse problems that cling to the human mind (Hartono, 2020). In social life, law

and society are two interrelated things that can never be separated or known as *Ibi Ius Ibi Societas* which can be translated to where there is a society there is law (Pratiwi, 2020). In Javanese society, which is predominantly Muslim, in dividing inheritance there are usually two types of inheritance laws that are commonly used, namely dividing inheritance according to Islamic law and according to Javanese customary law (Nasution, 2018). Both are recognized by the government for their existence and validity, but both have dominant differences, although there are some similarities.

One method of dividing Javanese traditional inheritance that is often used is the division commonly known as "dum-dum kupat", namely the share of boys and girls is equal and balanced in giving inheritance rights. This can be seen by the people of Pehserut Village, Sukomoro District, Nganjuk Regency. Of course, this is a unique event in inheritance matters, because the people in Pehserut Village who apply this inheritance distribution are those who are predominantly Muslim, so they do not use the inheritance system that has been stated in the provisions of the Sunni fiqh literature, which is the majority Islamic group in Indonesia. and also does not apply the provisions of inheritance in the Compilation of Islamic Law. Behind it all, the researcher also wants to look for the progressive aspect of inheritance with this method using Satjipto Rahardjo's progressive legal theory, therefore the researcher is interested in putting it in writing entitled "Progressivity of Dum-Dum Kupat Inheritance Division in Javanese Society Perspectives on Satjipto's Progressive Legal Theory Rahardjo".

II. Research Methods

Type of research used in this thesis is field research. The research approach used by the author is to use a qualitative approach, meaning that the data collected is in the form of interview scripts. In this case, the writer chose Qomaruddin as interview resource. The selection of these sources used a purposive sampling method, namely the sources were selected on the basis of having important information as research supporting data.

The location of this research is in Pehserut Village, Sukomoro District, and Nganjuk Regency. The selection of the location was based on the consideration that the issue of inheritance distribution of dum-dum kupat has become a trend in the area and could answer what was proposed in this study from the sources directly, which in Pehserut Village there is a practice of sharing the inheritance of dum-dum kupat which interesting to research.

III. Discussion

3.1 Concept of the Division of Inheritance in Javanese Indigenous Peoples Javanese Inheritance

In the system, the Javanese people recognize three kinds of inheritance systems, namely the first system individual inheritance, the second collective inheritance system, and the third major inheritance system (Setiady, 2009). The individual inheritance system is that each heir can control and/or own the inheritance according to their respective shares as is the case in parental society in Java (Hadikusuma, 1992).

As for the legal source of this Javanese customary inheritance system, Van Vollen Hoven said it came from customs related to folk traditions, and legal records by kings, such as in East Java, the *Ciwasana Law Book* by Raja Darma Wangsa, and the *Gajah Mada Law Book* and his successor "Kanaka" who gave the order to make the *Adigama law book*, in Bali the *KutaraManawa Code of Law*. The customary inheritance law that developed in Javanese society consists of five principles: the principle of divinity and self-control, the principle of equality and togetherness of rights, the principle of harmony and kinship, the principle of

deliberation and consensus, and the principle of justice (Ali, 2008). In Javanese customary inheritance law or wherever the issue of inheritance law will be discussed, then it will involve three pillars / elements, namely: first, the existence of inheritance or assets of the heir which is called inheritance, second, the existence of an heir, third, the existence of inheritance, namely the person who inherits the inheritance. Receive the transfer or inheritance or distribution of the inheritance which consists of heirs and may also not be heirs.

3.2 Inheritance

Sugangga stated, according to Javanese customary law, inheritance consists of: goods of origin or goods *gawangono* and *goodsgini*. The *gawan* goods consist of; First, heirlooms, namely items that are inherited from generation to generation from their ancestors. Second, luggage or *gawan*, which are items brought by the husband or wife before the marriage takes place, third, gift items that are obtained personally during the marriage. Meanwhile, *gonogini* goods, namely these goods or assets produced by husband and wife in mutual cooperation, are often also called joint assets or assets. This property in Central Java is a joint right of husband and wife (Sugangga, 1993).

3.3 Heir

In general who serves as heir in the composition of kinship that tends to maintain the lineage of Parental as applicable in the community of Java-Madura, is the father and mother together, or father or mother who lived the longest, or also the grandfather or grandmother up both paternal as well as from the mother's side to be heirs for their children and grandchildren.

3.4 Heirs

In the Javanese traditional community, the first heirs are male and female children and their descendants (grandchildren). If the testator did not have children at all, nor have children *poupon* or adopted child of a child's siblings or children of others, then the property will be inherited successively by parents, father or mother of the heir, and if no new siblings heirs or descendants, and if this does not exist then the grandfather or grandmother of the heir. And if the grandfather and grandmother of the heir are also not present then it is given to the uncle or aunt, either from the father's line or from the heir's mother line. If it is not up to this level, it will be inherited by other family members. According to Sudiyat, in Javanese customary law the heirs can be grouped in the following main order (Sudiyat, 2010): Descendants of the heirs; heir parents; the heir's siblings or descendants, and the parents of the inheritor's parents and descendants.

In the inheritance model in Javanese society, there is a way of dividing inheritance which is dominated by two inheritance systems, namely when the heir is still alive and after the heir dies (Vela, 2016). If the inheritance is distributed before the heir dies, then the process of inheritance while the heir is still alive can occur in various different ways, but the substance remains the same, including: first, forwarding or transferring (*transferlintiran*) namely the of assets while the heir is still alive is the giving of certain assets as a material basis as provisions for their children to continue living or to build a household (Vela, 2016). Second, the Appointment (*Acungan*) where the heir shows the inheritance of the inheritance for the heir but only for the management and the benefits are taken, regarding the ownership still fully belongs to the heir. Third, Messages or Wills (*Welingan* or *Wekasan*), are usually carried out when the heir is sick and cannot be expected to recover, or when he is going to go far, such as going on a pilgrimage. This method only applies after the testator does not return or actually dies. If the heir is still home or has not died, this message can be revoked.

Meanwhile, if the distribution is done after the heir dies, then the distribution of this inheritance depends on the situation of the Javanese themselves. Javanese students usually divide inheritance based on Islamic law, while others divide based on Javanese customary law which gives two possibilities, namely: based on the sapikul sagèndhongan method, or that all children get the same inheritance (cara dum dum kupat or sugar watermelon) (Koentjaningrat, 1994).

The sepikul sagèndhongan way, literally the word sepikul sagèndhongan means one shoulder and one sling. The meaning of this expression is that men get two inheritance (sharessapikul) compared to one (sagèndhongan) with women. So the meaning is that the share of boys is twice as big as that of girls, the same as in Islam which is 2:1 (Vela, 2016). In the view of Javanese society, men are considered to have heavier duties and responsibilities than women (Endraswara, 2006).

While in the Javanese community located in Pehserut Village, Sukomoro District, Nganjuk Regency, most of the inheritance distribution uses the method dum dum kupat or sugar watermelon where the share of boys and girls is equal and balanced in giving rights to boys and girls, because they assume all children are the same, it is assumed that both will build a family that requires a lot of capital. This equal share is intended as household capital. According to him, this system is fair because both the wife and husband contribute or help build the economy for their own family.

3.5 Model of the Distribution of Dum-Dum Kupat Inheritance in the Javanese Community of Pengserut Village Dum-Dum Kupat

At this stage the researcher tried to explore data related to the distribution of inheritance with the aim of obtaining information related to research. In this case, the researcher conducted an interview with Qomaruddin as an informant. Determination of informants because of heirs as well as parties who play a role in dividing the inheritance by the method dum-dum kupat.

In the initial step, the researcher wanted to confirm whether it was true that there was a process of dividing the inheritance using the method dum-dum kupat, then Qomaruddin responded accordingly.

"Yes, it's true, as you said, that in our family the inheritance is divided equally or dum-dum kupat" (Qomaruddin, 2021).

This shows that the distribution of inheritance by means of dum-dum kupat is true in Pehserut Village, especially in the Qomaruddin family. Then furthermore Qomaruddin also explained the factors behind the distribution of inheritance dum-dum kupat.

"As for the reason behind the distribution of inheritance in an equal manner or dum-dum kupat, it is because for the sake of family harmony, it is assumed that all of them will get equal rights, so after the distribution of inheritance there is no such thing as feeling 'you get a lot, how come I get so much'. Of course, this is also with the approval of all five heirs, consisting of four men and one woman." (Qomaruddin, 2021).

It is understood that the factors/background for using dum-dum kupat or equitably as a method of inheritance distribution is a form of solution to find a way out. Together in creating harmony in the midst of the distribution of inheritance which often arises in disputes in the name of injustice. Decision making using this method is also based on mutual deliberation which ends with the approval of all heirs.

Furthermore, Qomaruddin also explained about the timing of the distribution of inheritance with this dum-dum kupat method.

"Inheritance was distributed after the two parents did not exist, it was only inherited, in fact it was the inheritance of the father, even though the father had

died in 1991 and then the mother died in 2005. Well, it was not immediately that Father died and Mother is still there, the inheritance is not divided, still waiting more parents who are both after no and that too is still waiting for a thousand a day, so call after slametan seribunya, now it has shared legacy of the old folks”(Qomaruddin, 2021).

From these explanations show that one must wait for the parents to die first and also till the thousand days after the death of the parents, then the inheritance is distributed. Then regarding the position of the father's property that has not been divided after his death, Qomaruddin explains as follows.

“The assets left by the father when he died even though the mother was still there, all the assets are still managed by the mother, but the ones who provide for the children are all in order to support all the families who are still one, who are not yet married” (Qomaruddin, 2021).

The father's inheritance after his death will be managed by the mother with the help of her children, this aims to continue to meet the needs of the joint family, especially the heir's children who are still not married.

Then with regard to parties or people who are considered experts in dividing inheritance, Qomaruddin also explained that:

“Alhamdulillah, in our family I happened to be appointed by the brothers, perhaps considered the most educated up to college. Then there was the concept that was agreed upon, it turned out that the family really agreed with the concept I conveyed earlier, dum-dum kupa or equally. And also do not use other people because the consideration of inheritance issues is privacy between families only.” (Qomaruddin, 2021).

This shows that the distribution of inheritance does not involve third parties on the grounds that inheritance is private and exclusive between families who are involved in the distribution, in this case Qomaruddin himself is the one who leads the way. joint deliberation regarding the distribution of inheritance because they are considered the most educated. Then Qomaruddin continued his explanation regarding the use of the dum-dum kupa inheritance distribution method not only among his family.

“On average, there are almost one neighbouring village in Pehserut, it's the same as this, no one uses inheritance distribution like fiqh about inheritance then divided according to fiqh provisions, there's no such thing and the benefit of the family” (Qomaruddin, 2021).

From this explanation, it appears that the definition of justice that has developed in the Pehserut Village community is equal justice. So the use of the method dum-dum kupa has become a common habit in terms of inheritance distribution among the people of Pehserut Village.

Next regarding the form or model of inheritance left by the heir, Qomaruddin said that there are several forms of inheritance that will be distributed as well as explained about the management of the inheritance used as the management of the corpse and salvation until a thousand days after the death of the heir.

“Incidentally, in our family, when both parents were not there, the legacy was in the form of a house, even though the house was old, there was a yard, and there was rice field land. Yard land and paddy fields are different, if the yard is around the house, it is land that is ready to be occupied, to build a house. If it's a rice field, it's a place of livelihood, if it's like an employee in the field, it's his office, that's what he does. So there are 3 types in our family, namely houses, yards, and rice fields. Incidentally, there was also no inheritance in the form of money and gold, even before the inheritance was distributed, our family even spent money

together to pay for the funeral, the salvation of the two parents who died. Even if there is money, yes, the money has been used to pay for the funeral until the thousand days of salvation” (Qomaruddin, 2021).

Qomaruddin further explained the reasons for the distribution of inheritance after a thousand days after the death of the testator as follows.

“In our family, before a thousand days the distribution of inheritance is considered unethical, so if it is seen by neighbours that the parents just died, how come the inheritance has been distributed. There is a kind of image like that in our environment” (Qomaruddin, 2021).

The previous explanation shows that the inheritance is only distributed after a thousand days after the death of the heir, this is to avoid bad stigma by the surrounding community for distributing assets in the midst of grief. In addition, from the explanation above, it was also found that there are 3 types of inheritance, namely in the form of house land, rice fields, and yard land. Of course these three are not possible if they have the same amount of price, this may be a little difficult in terms of inheritance distribution in the future. In dealing with this, Qomaruddin carried out the distribution procedure as described below.

“Indeed, the inheritance in the form of land, yards, and rice fields is not the same value when converted into rupiah. Even if the rice fields are the same, the value is not the same, because thank God, the inheritance from the parents of the rice fields has several plots in different places, the values are also not the same. So in our family, before the property was divided between all of the heirs, it was agreed that everyone would appreciate it, assess how much the rice field was worth, how much per metre, then find out how much later the land area left by the parents would be. So before dividing the inheritance, first assess all the inheritance, whether the house is valued at how much. So, we don't know who the house will be, so we don't know yet, and also which side of the rice field will be whose part, who doesn't know, the important thing is to first evaluate the price of the legacy.” (Qomaruddin, 2021).

So before starting to be distributed, all inheritances are converted in the form of rupiah first in total to know the overall value of the inheritance, this is to make it easier to divide the inheritance equally. Then Qomaruddin explained the next step after the inheritance was converted into rupiah in its entirety.

“After being cashed, especially before it was distributed, there was a relative who had occupied the land that should not have been divided, so it was occupied, later if he continued to occupy it the value was more than the right to be received, then he had to add it, he had to enter the term, but if the If you haven't used it at all, you can choose land, if the value is below it, you'll get an implant, so you'll find the same value later.” (Qomaruddin, 2021).

From this explanation, it shows the procedure for distributing inheritance if there is an heir who has occupied or managed the land/land since before the inheritance was distributed, then he is still entitled to the land, but the term nyusuki or returning the surplus value to the land he occupies in the form of rupiah currency, while the other heirs who have not had time to occupy the land/land of inheritance then he has the right to choose, in this case the same thing applies, namely if the land/land has more value then he must return the rest in rupiah currency, or vice versa, if he gets less value, he will get rupiah money from other heirs whose land has more value.

After the distribution of the inheritance was carried out, Qomaruddin also considered that it was the best step because seeing the impact there was no division at all among the family regarding this matter. This he conveyed as follows.

"Alhamdulillah, there is no conflict, in fact the distribution in this way is actually smooth. After the distribution of inheritance, you feel relieved to be able to carry out the obligations of your parents, you can share it and it is no longer a problem, you are still using your parents' assets while you don't, there is nothing like this, all can be relieved. And also no one has a problem with each part on the grounds that it is more profitable, because it has been assessed in rupiah to achieve equality." (Qomaruddin, 2021).

With this method, Qomaruddin and his family believe that this is the right way in terms of family inheritance distribution while maintaining harmony to avoid divisions between families.

3.6 Progressivity of the Inheritance Distribution of Dum-Dum Kupat in the Javanese Community of Pehserut Village

It has been explained in the previous discussion that the division of inheritance for the Javanese community of Pehserut Village, basically uses the method dum-dum kupat or equally while still paying attention to its own provisions, this is based on the wishes of experts heirs who want a fair distribution of inheritance and avoid disputes. As for the distribution model dum-dum kupat that applies, among other things, all inheritance is converted into rupiah before being distributed to make it easier to divide equally.

The distribution using the method dum-dum kupat is a common distribution of inheritance among the Javanese people in Pehserut Village, even families of religious leaders also use this method in distributing inheritance. However, the problem is that the majority of Javanese people in Pehserut Village are followers of Islam and understand Sunni fiqh in general, then instead use the dum-dum kupat method in terms of inheritance distribution, which will contradict the conception of inheritance in both Sunni and Sunni fiqh inheritance provisions in the Compilation of Islamic Law.

The contradictions are in the form of; First, in Sunni fiqh there is a 2:1 division of inheritance between men and women (Samadi, 2013), while in the method dum-dum kupat it is considered to only benefit men, this is due to the assumption factor of the people of Pehserut Village who think that the roles between boys and girls are the same so it must be the same in obtaining inheritance rights. Second, in terms of the time of distribution, in the inheritance of Sunni fiqh distinguishing between father and mother's property, this will have implications when one of them dies, the inheritance distribution will apply to the heirs, while this does not apply to the inheritance model dum-dum kupat in Pengserut Village community, which has to wait until both parents die first, plus after a thousand days after his death, this is so that when the inheritance can still be managed and used to meet common needs, especially for heirs who are still not married. As for waiting after a thousand days of the death of the heir, this is nothing but a matter of ethics and propriety, because the people of Pehserut Village have a negative stigma towards inheritance distribution which is carried out in a state of mourning, therefore this time limit for mourning is agreed in writing in the form of custom for a thousand days after the death of the testator.

If referring to the Progressive Law theory of Satjipto Rahardjo, according to the researcher, the distribution of inheritance with the method dum-dum kupat can be said to be legal progressivism in the field of inheritance because of a change in order to achieve justice for the community where the law serves. Progressive law according to Satjipto Rahardjo is a series of radical actions, by changing the legal system (including changing legal regulations if necessary) so that the law is more useful, especially in raising self-esteem and ensuring human happiness and welfare. It is simpler that progressive law is a law that makes liberation, both in the way of thinking and acting within the law, so that it is able to just let

the law flow to complete its task of serving humans and humanity. Because the law aims to create justice and prosperity for all people (Rahardjo, 2004).

Based on the above, it can be concluded that the main characteristics of progressive law are: 1) The law exists for humans, not for themselves. 2) Progressive law refuses to maintain the status quo. In the following, the researcher explains the two characteristics of progressive law when it comes to the practice of dividing inheritance with the method dum-dum kupa in the Pengserut Village community.

3.7 The Law Exists for Humans

Law exists for humans, not for themselves. In essence, all humans are good, so this trait deserves to be capital in building a legal life. Law is not a king (everything) but just a tool for humans to give grace to the world and humanity. Law does not exist for itself, but for something greater and greater. So every time there is a problem in and with the law, it is the law that is reviewed and corrected, not humans who are forced to be included in the legal scheme (Rahardjo, 2009).

Basically the distribution of inheritance dum-dum kupa which is practised by Qomaruddin and his family is determined and divided equally, this is none other than because the people of Pehserut Village cannot accept the conception of inheritance provisions in the Sunni fiqh and KHI literature which is carried out in a 2:1 manner. , considering also the distribution in this way there will be a high possibility of disputes between the heirs, such as jealousy because they do not get the same rights and also in the Pehserut Village community, boys and girls are not differentiated, that is, they have the same role in the contribution family. The distribution of inheritance with dum-dum kupa is also based on the following matters:

1) Tradition

Tradition is one of the factors in the practice of distributing inheritance in a dum-dum kupa in Javanese society in Pehserut Village. This can be seen in Qomaruddin's explanation that not only his family uses inheritance distribution with this model, but the surrounding community for generations has long practised inheritance distribution with dum-dum kupa because parents do not see the difference between boys and girls as well in terms of inheritance. As explained by Qomaruddin that there are also families of religious leaders in Pehserut Village who use this inheritance distribution model, of course this indicates a mismatch of inheritance provisions in the Sunni fiqh literature when applied to inheritance in Javanese society in Pehserut Village. In the tradition/category surf, the method dum-dum kupa is a good tradition or urf sahihahserves, because as a cause for achieving justice in order to maintain division between families.

2) Justice

This factor has continuity with the previous factor, namely the tradition factor, because as previously explained that the people of Pehserut Village do not treat boys and girls differently, all have their own roles which cannot be considered easier or more difficult. This results in the income of inheritance rights being also undifferentiated. This means that justice for the people of Pehserut Village is getting equality in inheritance rights.

3) Harmony

Harmony is a factor to be addressed rather than the distribution of inheritance with this method dum-dum kupa, this is partly due to a tradition and the definition of justice by the people of Pehserut Village who are deeply rooted in life so that most heirs consider this method the most suitable step. to be applied to the distribution of inheritance. With this agreement, automatically the results of the distribution of the inheritance will be accepted

voluntarily between all heirs, this is where a state of harmony in the family is created and the furthest distance from disputes that lead to division.

The distribution of the inheritance *dum-dum kupa*t by the community is considered to be able to avoid disputes because they feel jealous of the larger share of other heirs. This is not just an assumption, but also based on several things, such as: tradition, the assumption of fairness for the local community, and harmony. According to families who practice inheritance distribution using the method *dum-dum kupa*t, if they are still forced to apply the inheritance system as in Islamic law, namely the determination of the share being determined by men being greater than women, then this kind of distribution according to them does not reflect a sense of justice. Because, as previously explained, this kind of distribution will cause serious problems in the form of disputes that lead to family divisions.

Referring to the reason, Qomaruddin applies the method of distributing inheritance in a *dum-dum kupa*t, namely to avoid conflicts or struggle for inheritance between heirs. So according to the researcher, this attitude is in accordance with the paradigm in progressive law that the law is for humans, meaning that in law enforcement does not see the law as something central, but humans are at the center of the rule of law. The law revolves around the human being at its center. If we hold on to the belief that humans are for the law, then humans will always be tried, maybe also forced, to enter into the schemes that have been made by law (Rahardjo, 2007).

Likewise, considering that the purpose of Islamic law is basically human benefit, so Islamic law tries to promote problems and prevent *mafsadah* to ensure a better life in this world and the hereafter. Therefore, in understanding Islamic law, it is not only based on its literal meaning, but also its sociological historical context as was done by Caliph Umar bin Khattab who was based on the soul and spirit of the goals of Islamic Law.

3.8 Refuse to Maintain the Status Quo

Progressive law refuses to maintain the status quo in law or the law is in the status of law in the making and is not final. This means that the law is not a final institution, but is determined by its ability to serve humans. He continues to build and change himself towards a better level of perfection. Progressive law has a responsive type, law will always be linked to goals outside the textual narrative of the law itself, which nonetheless and Selznick calls the sovereignty of purpose. This opinion at the same time criticises the doctrine of due process of law. The responsive type rejects legal autonomy which is final and cannot be contested.

The division and determination of assets that will become inheritance using the method *dum-dum kupa*t with considerations of justice from a shared perspective, according to the researcher, this kind of action is in accordance with the characteristics of progressive law, namely refusing to maintain the status quo in law or the law is in the status of law in the making and not final. So the law should be able to keep up with the times, be able to respond to changing times with all the basics in it, and be able to serve the community by relying on the morality aspect of the human resources of law enforcement itself.

If Progressive law was born as a result of disappointment with the legal system that often has a positivist perspective, which is only fixated on texts and laws without wanting to dig deeper into the justice that exists in society. So the determination and distribution of inheritance using the method *dum-dum kupa*t which is practised by the people of Pehserut Village is carried out because the determination and distribution of inheritance in a 1:2 manner according to the provisions in the Sunni *fiqh* literature is considered irrelevant to be applied to the inheritance model in Pehserut Village.

The distribution of the inheritance *dum-dum kupa*t in the Pehserut Village community, if seen, is in accordance with the objectives in the compilation of Islamic law, because the

elements have been fulfilled, namely prioritising deliberation. The principle of deliberation in the distribution of inheritance is in accordance with the principle of deliberation as contained in the KHI that experts can't agree to make peace in the distribution of inheritance, after each is aware of his share. The principle of deliberation in the distribution of inheritance dum-dum kupaat can be seen from its practice, namely still asking for approval from all heirs whether they want the method of inheritance distribution. If there are heirs who do not agree with the method used, it will be discussed again until there is an agreement from all parties.

Although contrary to the provisions in Sunni fiqh, the distribution of inheritance by dum-dum kupaat is in harmony when it is associated with inheritance principles in Islam, such as:

- 1) The individual bilateral principle is the principle where each heir, both male and female, can receive inheritance rights from the relatives of the father and mother, while the share is owned individually by the heirs in accordance with the predetermined portion. This principle can be seen from the sound of the texts in the group of core inheritance verses (Surah An-Nisa (4): 7, 11, 12, 33, 176). The essence of these verses emphasises that every (one) man or woman gets inheritance rights from the father's side and also the mother's side (Anshori, 2017). This is in line with the context of the distribution of the inheritance dum-dum kupaat in the Javanese community in Pehserut Village, it's just that the Pehserut Village community does the merging/mixing between the father's property and the mother's property before the distribution of inheritance is carried out, even though this principle still applies and lives in the distribution inheritance by method dum-dum kupaat.
- 2) The principle of equality of rights, Islamic inheritance law does not distinguish the right to inherit between men and women, between young children and those who have grown up. Everyone has the same right to inherit. However, what distinguishes it from Sunni fiqh is that Sunni fiqh enforces a 2:1 division between male and female heirs, while in the context of the Javanese community in Pehserut Village, it prioritises justice in a regional/community perspective, namely the equal share between male and female heirs. .
- 3) The principle of balanced justice, this principle means that in the provisions of Islamic inheritance law there is always a balance between rights and obligations, between the rights obtained by a person and the obligations that must be fulfilled. Men and women have rights commensurate with the obligations they carry in family and community life. It is this aspect that participates in the equal distribution of inheritance between men and women, this is because it is assumed that the roles and obligations of men and women are considered equally important. Until the income on inheritance rights is also equalised.

Thus, the distribution and determination of inheritance using the method dum-dum kupaat above is in accordance with the progressive legal character, namely the law is for humans and refuses to maintain the status quo in law, meaning that the law always evolves with the times to complete its task of serving humans and humanity, because the law aims to create justice and prosperity for all people. In addition, in this case the distribution of inheritance dum-dum kupaat in the Javanese community of Pehsertut Village, even though it is contrary to the inheritance provisions in Sunni fiqh, is still in line with the principles of inheritance in Islam.

IV. Conclusion

The distribution of inheritance using the method dum-dum kupaat carried out by the Javanese community in Pehserut Village was chosen because it is considered to have an

aspect of harmony, this is none other than the distribution of inheritance which negates the aspect of regional justice (for all the heirs concerned) will only lead to disputes and lead to conflict on family divisions. It is evident from the discussion above that the distribution of inheritance with this method is sufficient to say that it has achieved its goal, because the heirs concerned have arrived at the feeling of accepting each other with pleasure rather than the results of the division of inheritance. The stages are as follows, 1) waiting for both parents (heirs) to die first plus a thousand days after his death, 2) converting all inherited assets in rupiah, 3) if there are heirs who receive the excess of the inheritance that should be obtained, then it must return the excess so that it can be given to those who are still lacking in order to achieve an equal share between all heirs.

From the perspective of Satjipto Rahardjo's progressive legal theory, it can be said that the distribution of inheritance using the method *dum-dum kupa*t in the Javanese community in Pehserut Village has fulfilled legal progressivity. Because it has fulfilled the aspect that the law is for humans and refuses to maintain the status quo in law, this is what happened to the distribution of inheritance to the Javanese people in Pehserut Village, because they dared to take steps that were considered to bring together the common good, this is the main point of legal progressivity. On the other hand, although it is not in accordance with the provisions of inheritance in Sunni fiqh, it is still in line with the principles of inheritance in Islam and also the objectives of Islamic law.

References

- Ali, Zainuddin. *Pelaksanaan Hukum Waris di Indonesia*. Jakarta: Sinar Grafika. 2008.
- Anshori, Abdu Ghofur. *Hukum Kewarisan Islam di Indonesia: Eksistensi dan Adaptabilitas*. Yogyakarta: Gajah Mada University Press. 2012.
- Endraswara, Suwardi. *Falsafah Hidup Jawa*. Yogyakarta: Cakrawala. 2006.
- Hadikusuma, Hilman. *Pengantar Ilmu Hukum Adat Indonesia*. Bandung: Mandar Maju. 1992.
- Hartanto, D. (2020). *Sociology Review of Social Phenomenon, Social Rules and Social Technology*. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 3 (2): 1175-1184.
- Imam Sudiyat dan Agus Sudaryanto. "Studi Aspek Antologi Pembagian Waris Adat Jawa". *Jurnal Mimbar hukum*. Volume 22. Nomor 03. 2010.
- Koentjaraningrat. *Kebudayaan Jawa*. Jakarta: Balai Pustaka. 1994.
- Komari. *Laporan Akhir Kompendium Bidang Hukum Waris*. Jakarta: Bphn Puslit bank Dep. Hukum dan Ham. 2011.
- Kompilasi Hukum Islam
- Nasution, Adelina. "Pluralisme Hukum Waris di Indonesia". *Al-Qadha'*. Volume 5. Nomor 1. Juli. 2018.
- Pratiwi, P.F.P., Suprayitno, and Triyani. (2020). *Existence of Customary Law through Comparative Education between Dayak Ngaju Customary Law and National Law*. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 3 (2): 712-717.
- Purba, I.G., and Syahrin, A. (2019). *Demand against Law and Using Authority in Corruption Criminal Action*. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 2 (4): 194-206.
- Qomaruddin, Wawancara (Nganjuk, 04 Juni 2021).
- Rahardjo, Satjipto. *Biarkan Hukum Mengalir: Catatan Kritis tentang Pergulatan Manusia dan Hukum*. Jakarta: Penerbit Buku Kompas. 2007.

- Rahardjo, Satjipto. Hukum Progresif sebuah Sintesa Hukum Indonesia Yogyakarta: Genta Publishing. 2009.
- Rahardjo, Satjipto. Ilmu Hukum; Pencarian. Pembebasan dan Pencerahan. Surakarta: Muhammadiyah Press University. 2004.
- Rahardjo, Satjipto. Membedah Hukum Progresif. Jakarta: Penerbit Buku Kompas. 2006.
- Samadi, Sukris. Hukum Waris Islam di Indonesia: Perbandingan Kompilasi Hukum Islam dan Fiqh Sunni. Yogyakarta: Aswaja Pressindo. 2013.
- Setiady, Tolib. Intisari Hukum Adat Indonesia dalam Kajian Kepustakaan. Bandung: Alfabeta. 2009.
- Sugangga. Hukum Waris Adat Jawa Tengah Naskah Penyuluhan Hukum. Semarang: Fakultas Hukum UNDIP. 1993.
- Vela, Anggita. "Pembagian Waris pada Masyarakat Jawa Ditinjau dari Hukum Islam dan Dampaknya". As-Salam. Volume 4. Nomor 2. 2016.