

Tirkah Negotiation: A Social Interpretation of Pension Salaries on Inheritance Practices in Situbondo District

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Abstract

This study examines how the Situbondo Muslim community negotiates the meaning of tirkah (inheritance property) in the context of pension salaries, which administratively can only be disbursed by legal spouses, while other heirs often do not get equal access. Problems arise when inheritance in the form of pension salaries creates tension because there is no standardized agreement on its status as part of the tirkah. The purpose of this study is to understand how social interpretations of pension salaries are shaped, negotiated and enacted in local inheritance practices. This research used a qualitative approach with ethnographic type, involving ten informants consisting of civil servants, ulama, bureaucrats, and intellectual youth. Data collection techniques were conducted through observation, in-depth interviews, and documentation, using purposive sampling techniques. Data analysis used the Miles and Huberman interactive model, with a descriptive approach. The results show that pension funds are understood differently in Islamic law and positive law; Islam considers it part of tirkah if it comes from the right of the heir, while positive law stipulates it as the right of the legal spouse. The views of contemporary scholars also vary; some consider it inheritance, while others see it as a grant. In Situbondo, the community interprets pension funds socially through family deliberation, emphasizing justice and benefit, so the distribution of inheritance is flexible and contextual.

1. Introduction

The phenomenon of sign transformation in contemporary Muslim societies gives rise to an interesting dialectic between classical religious norms, positive law and modern social practices. One of the most dynamic meeting rooms of the dialectic is *tirkah* (Muttaqin & Zubir, 2023). In the context of inheritance law, *inheritance* refers to the property left behind by a person after death, which is then distributed to his or her heirs based on the governing principles in Islamic law. However, in modern socio-economic dynamics, especially in relation to management wages, pensions, the meaning of *tirkah* experiences a significant expansion of meaning in both interpretation, law, contemporary Islamic inheritance, and also social practice.

In general, classical Islamic inheritance law regulates the *tirkah* within a very limited scope of the estate after the death of an individual, which is divided among the heirs based on the provisions of *faraidh*. This division involves a very clear component, where each heir receives the heir's rights that have been expressly determined by sharia (Lusiana, 2022). However, the concept of *tirkah* in classical Islamic inheritance law has not covered modern entities such as pension funds. Most scholars from the classical school of thought tend not to give a firm ruling on the status of pension funds as *tirkah* (Wijaya & Iskandar, 2024).

At this point, the inheritance of retirement wages as a form of post-employment economic benefit through modern bureaucratic systems, raises legal complexities in the context of Islamic inheritance (Husein, 2018). This is due to the lack of consensus among scholars regarding the underlying contract of the pension fund, right? Including *tabarru'*, *mu'awadah* or *wadi'ah*. Each interpretation for the contract carries different implications regarding the legal status of the pension fund - whether it is considered a true inheritance or simply a non-hereditary social assistance (Bahar et al., 2021). This tension between normative construction law and practical reality becomes an important entry point for understanding how Muslim societies articulate Islamic law in the contemporary context.

In general, most scholars in contemporary Muslim countries, including Indonesia, tend to follow the opinion that rejects pension funds as part of inherited property. Nonetheless, in practice, the status and distribution of pension funds in Situbondo is not entirely subject to the norms of Islamic jurisprudence adopted in the dominant way. Rather, it is interpreted through contextualized social interpretations, where considerations for structuring the family, and local understandings of justice and blessings play an important role in determining the form of inheritance (Suryantoro, 2025).

Situbondo district in East Java is an interesting social space to study these dynamics. Characterized by a strong traditional Islamic culture, as well as a network of *pesantren* that influence local religious authority structures, inheritance practices in Situbondo represent how traditional publics negotiate interpretations of *tirkah* law for pension funds in

progressive ways through concrete experiences and local values. In this region, pension funds are often positioned not only as economic entities, but also as symbols of family blessings that must be distributed fairly and with dignity. The inheritance practice of pension funds in Situbondo shows that the meaning of *tirkah* is not static, but rather negotiated in an active way through the interaction between textual jurisprudence, social interpretation, and the life of everyday reality.

At this level, the negotiation of *tirkah* in pension fund cases is a reflection of the Situbondo community's efforts to negotiate normative justice with substantive justice, both of which are not always in line. This study emphasizes the importance of understanding *tirkah* not merely as a final legal category, but as a social construct open to negotiation and reinterpretation. Thus, pension funds as an artifact of the modern economy become an important locus for the study of intersections between religion, law, and sociology, where Islamic universal values of justice and answerability are passed on through local mechanisms rich in interpretation. This research not only offers a contextualized reading of the legacy of practice, but also attempts to formulate an epistemological iterative paradigm of the relationship between Islamic normative and social praxis in contemporary Muslim societies.

Retiring the status of benefits as *tirkah* in Islamic law reflects the tension between juridical text and social reality, especially in pluralistic Indonesian Islamic law. This issue needs multidisciplinary synthesis, integrating theological, institutional, and socio-cultural dimensions (Nurfaizah et al., 2025). To argue that pension benefits received before death are included in the *tirkah*, as rights fully pass to the recipient, while periodic pensions are viewed as *Grant ba' da al- mawt*. Fadhel et al. use the *Maqāṣid al-sharī'ah* framework to evaluate pensions as social protection, but note the absence of explicit norms in Islamic inheritance distribution law regarding post-mortem, creating tensions between modern and traditional institutions. Through a field study in East Java, the phenomenon of pension distribution guided by local ethics and family deliberation was found.

Actually, there have been many previous studies that mention *Tirkah*, Research (Rafi, Moh Vaza, 2023) confirms that Minangkabau customary inheritance does not conflict with Islamic law and positive law. High pusako assets are collective and not inherited individually, while low pusako assets are in line with the inheritance provisions in the Compilation of Islamic Law (KHI). research results (Siahaan & Nurcahaya, 2025) focuses on the practice of dividing inheritance with Islamic law due to cultural and social influences. The division outside the court is often unfair and deviates from sharia, so it is necessary to increase public understanding so that inheritance rights are carried out fairly and according to Islamic principles. research results (Zaini, 2024) focuses on the position of children in the womb as heirs in Islamic law. The child is entitled to inheritance if born alive, with the distribution of inheritance carried out in three ways depending on the time of birth and gender to guarantee his rights according to sharia.

Based on the background and previous research above, "Negotiating the Meaning of Tirkah" presents a novelty by examining pension salaries as an object of inheritance that has not been widely discussed in Islamic inheritance law studies. Different from previous studies that focus on traditional property, gender inequality, or the status of children in the womb. The purpose of the research is to find out the meaning of tirkah as an object of inheritance in positive law and Islamic law, the position of pension funds in tirkah according to the views of contemporary scholars and the negotiation of the meaning of tirkah in the social interpretation of the Situbondo Muslim community. This social interpretation becomes a bridge between Islamic law, positive law, and local values, and shows that legal adaptation can work without ignoring the principle of justice.

2. Research Methods

This research uses a qualitative approach with an ethnographic research type. This approach was chosen to explore in depth the social meanings negotiated in the practice of inheriting pension salaries among the Situbondo Muslim community (Sugiyono, 2023). The research subjects consisted of ten purposively selected informants, namely those who were considered to have knowledge, involvement, and direct experience related to inheritance practices, namely retired civil servants, clerical leaders, local bureaucratic officials, and intellectual youth. The determination of the subjects was based on their relevance to the phenomenon being studied in order to provide relevant and rich information.

Data were collected through participatory observation, in-depth interviews, and documentation of practices and narratives that developed in the community. The main data sources came from direct interviews with informants, and were strengthened by literature studies to examine theoretical concepts related to tirkah, inheritance, and social interpretation (Bado, 2021). The data analysis technique follows the interactive model of Miles and Huberman which includes data reduction, data presentation, and conclusion drawing (lexy J Moleong, 2021). The data obtained were then analyzed descriptively to understand how the social interpretation of pension salaries as part of inheritance property is negotiated in the local context of Situbondo.

3. Results And Discussion

The Meaning of Tirkah as an Object of Inheritance in Positive Law and Islamic Law

In the study law of Islamic inheritance, the term *tirkah* (tirkah) fundamentally positions itself as an inherited object. Etymologically, *tirkah* comes from the word *taraka* which means leave). In general terminology *tirkah* refers to all assets, rights and obligations left by a person after death, both in the form of the transfer of treasure and also immovable, contractual rights, as well as non-material assets that have economic signs (Wijaya & Iskandar, 2024). In madzhab fiqh, the concept of tirkah is interpreted with various definitions. The Hanafiyah Mazhab articulates the definition of *tirkah* as all assets left by the deceased that are pure from the attachment of other parties' rights. This view is conceptually based on the principle of *al-milk al-tāmm* (absolute ownership).

The Maliki School presents a conceptual contribution to Islamic inheritance jurisprudence by expanding the definition of *tirkah* to include non-material rights. This approach is derived from the normative definition, which is a right that can be divided and remains valid for the recipient after the death of the owner (Herlambang & Juliandi, 2018). The conceptual core of this definition rests on two key constructs: *yuqbal al-tajzī*, which indicates the divisibility of the right and its possibility to be allocated to multiple heirs; and *yathbut li-mustahiqq*, which confirms the legal existence of the right to the rightful party, despite its non-physical nature. By recognizing ownership of intangible entities, the Maliki school legitimizes non-material forms of property such as contractual rights, economic benefits, or post-death claims as part of the *tirkah*, provided they meet the conditions of legality and can be legitimately transferred to heirs.

The Shafi'i school adopts a short but normative definition of *tirkah* as an object of inheritance "*ma yukhallifuhu al-mayyit*" everything left by the deceased. Although the wording of the definition is general, its application in jurisprudential practice is restrictive. This school strictly limits *tirkah* to assets that have concrete material value and are legally recognized under sharia law. Symbolic, moral or non-economic rights are excluded from the category of inheritance, as they do not meet the criteria of *milk tamm* nor the transactional conditions that allow the transfer of ownership. In contrast, the Hambali Mazhab offers a more inclusive approach through the definition of "*ma yatrukuhu al-mayyit min al-amwal wa al-ḥuquq muṭlaqan*" all forms of property and rights left by the deceased absolutely. This definition includes both material and non-material rights, as long as it is sharia-justified to be transferred to the heirs.

The Hambali approach not only affirms material ownership, but also accommodates social rights and collective obligations as part of the *tirkah*. Although there are conceptual differences between the schools of jurisprudence in formulating the definition of *tirkah* as an object of inheritance distribution, scholars agree that the validity of a property as *tirkah* depends on the fulfillment of two main conditions: first, the property must be in the full and legal ownership (*milk al-tam*) of the heir; second, it must have been actually controlled or actually received by the heir (*qabḍ*). The *milk al-tam* requirement refers to complete ownership in a shar'i manner, which is free from third party claims, is not subject to certain conditions, and is not in a legal dispute. Substantively, *milk al-tam* includes two main dimensions; (1) legal legitimacy of the acquisition of assets, namely ownership obtained through Shari'ah-justified mechanisms such as sale and purchase contracts, grants, or legal business results; and (2) independent *tasarruf* capacity, which indicates the full authority of the heir in managing and utilizing the property before death.

The *qabḍ* requirement emphasizes that the property that is validly inherited must have been in the legal possession of the testator before his death. In *muamalat* jurisprudence, *qabḍ* includes both physical and legal possession, such as through an official document or transfer of funds. Assets that are still administrative in nature such as pension salaries that

have not been disbursed do not meet this qualification and therefore do not constitute *tirkah*. *Qabḍ* serves as the ontological boundary between potential ownership and completed ownership (*tamam al-tamalluk*), as well as a fundamental condition for the validity of inheritance under Islamic law. Both *milk al-tam* and *qabḍ* serve as legal validation conditions that ensure that only assets with legal and actualized ownership can be inherited. These principles not only safeguard the validity of inheritance distribution, but also protect the rights of third parties, avoid conflicts between heirs, and ensure that the inheritance process takes place within the framework of justice, transparency, and legal certainty, which are the main principles in the Islamic inheritance law system (Taqiuddin et al., 2023).

Thus, the status of *milk al-tam* is not automatically attached to every inherited property, but is determined by a number of legal and factual variables, such as clarity of object, certainty of rights, freedom from third party claims, and the type of contract underlying its acquisition. In the context of Islamic muamalah, the type of contract plays a central role as the basis for the legality of ownership, including in determining the status of pension salary as part of the *tirkah*. An asset can only be considered as *milk al-tam* if it is acquired through a substantially and formally valid contract, and all its legal consequences have been completed before the death of the owner. Thus, the contract not only represents the acquisition process, but also establishes the legality of the transfer of ownership rights, which is a basic requirement for inheritance.

At this level, the issue of whether or not the pension is included in the *tirkah* category so that it can be passed on to the heirs depends on an assessment of the status of the underlying contract. The clarity of the form, nature and legal consequences of the contract become essential parameters in determining whether the funds fulfill the elements of *milk al-tam* so that they are valid for inheritance according to Islamic law.

The Position of Pension Funds in Tirkah according to the Views of Contemporary Scholars

In the context of muamalah fiqh, the issue of whether or not pension salaries can be positioned as part of the *tirkah* cannot be determined a priori, but requires a critical analysis of the type of contract underlying the collection process and the actual control of the heir before his death. In this case, the form of acquisition of the funds becomes the main determinant in assessing whether the funds fulfill the element of *milk al-tam* (perfect ownership) that is valid for inheritance. As a framework for understanding the status of civil servant pension contracts, especially in relation to whether or not they can be categorized as *Tirkah* (inherited property), a substantial analysis is needed through an in-depth study of the structure, legal nature, and contractual relationships that underlie them. This approach is important so that pensions are not simply seen as an administrative fiscal allocation, but as part of the financial rights that arise from a formal and binding employment relationship.

In Indonesia, the State Civil Apparatus (ASN) pension system is regulated in Law

Number 11 of 1969, with the main funding coming from the State Budget (APBN). Although previously a cost-sharing model between the state and ASN was applied, currently all pension financing is fully covered by the APBN. ASN is required to deposit a contribution of 4.75% of monthly income which includes basic salary and family allowances. The collected funds are managed by PT Taspen through financial investment instruments, with the proceeds allocated back to the state treasury as non-tax revenue.

Participation in the pension scheme for ASN is automatic and cannot be selected, as a result of employment status. Retirement benefits are provided to ASNs who meet administrative and legal requirements, namely reaching retirement age or being honorably discharged after completing the specified service period. If the pension participant dies, the right to pension benefits is passed on to the legal spouse as the main beneficiary, with the amount of benefits reaching 36% of the last basic salary, plus other benefit components in accordance with applicable regulations.

From the perspective of contemporary law and fiqh, this ASN pension structure not only has an administrative dimension, but also contains strong contractual characteristics. Pension funds are the result of contributions that are legally bound and have become permanent rights after fulfilling the specified conditions, so that in the context of muamalah fiqh, they can be considered as legal and valid assets in ownership (*milk al-tam*), and have the potential to be inherited as long as they have fulfilled the elements of *qabḍ* (legal control). Referring to the structure, legal nature, and contractual relationship underlying the civil servant pension contract, there are different views among scholars on the contract underlying the collection and acquisition of civil servant pension salaries.

The first opinion from contemporary scholars such as Abd Allah al-Mani, Abd al-Raḥman al-Barrak, and Abd al-Raḥman al-Ajlan states that retirement pay is considered conventional insurance (*ta'min tijari*) because it involves risk transfer and periodic contributions, so it is considered an insurance contract, not full property (*milk al-tām*), and does not automatically fall under the category of *tirkah* (Kamaluddin & Nisak, 2024). Pension funds are analogous to speculative insurance due to the uncertainty of benefits and the possibility of not reaching retirement age. Therefore, pension salaries are considered haram due to the presence of *gharar* (uncertainty) and *qimar* (speculation) elements that cause an imbalance between contributions and benefits, similar to conventional insurance contracts.

The second opinion states that pensions are compulsory social insurance based on solidarity and cross-subsidization, not commercial transactions. Pension salaries are considered a *tabarru'at* contract aimed at ensuring the welfare of participants, so the element of *gharar* does not undermine the validity of the contract according to fiqh. Unlike insurance, where only some participants receive benefits in the event of a loss, the civil servant pension program guarantees a full return of contributions, even providing survivor benefits to heirs. This indicates that there is no substantive *gharar* in the scheme, making it valid in terms of *ijtima'i* contracts. The third opinion views the management of civil

servants' pension salaries as a mixed contract of *wakalah* and *ju'alah*. Employees deduct an obligatory contribution of 4.75% of their salary which is deposited with PT Taspen as the fund manager and investor. The funds are invested, the results of which are returned to the state to be allocated in the pension budget and distributed to participants according to the rules.

This scheme uses a *wakalah* contract, where the state appoints PT Taspen as a representative to manage participants' pension funds. The *ju'alah* element can be seen in PT Taspen's compensation, which is conditional, depending on the success of fund management, so that rewards are given based on results, not fixed services. The civil servant pension scheme is *wakalah ijbariyyah*, where employees automatically represent the management of salaries to PT Taspen without the option to refuse, is institutional and binding. In addition, there is an element of *ju'alah* in the form of additional compensation if the management result is less, under certain conditions. Thus, the scheme combines compulsory *wakalah* and conditional *ju'alah*, reflecting a blend of institutional mandate and results-based incentives.

Although there are different views among scholars regarding the status of contracts in civil servant pension schemes, the most dominant opinion is that the practice is permissible. This permissibility is supported by a number of fatwas from religious organizations such as MUI, NU, Muhammadiyah, and Persis. This support is based on the principle that the pension fund management contract contains public benefits (*maṣlaḥah ammah*), fulfills the pillars and conditions of the contract according to Shariah, and does not contain elements of usury, *gharar*, or exploitation prohibited in Shariah.

Although pension schemes for civil servants (PNS) in Indonesia are generally viewed as a valid form of contract under the provisions of Islamic law, the issue of whether post-death pension benefits can qualify as part of the property (*harta karun*) that must be distributed to all heirs under the provisions of *faraid*, or only individual financial rights that are subject to administrative provisions that are exclusive and not communal.

When examined from the perspective of regulations governing the transfer of post-death pension benefits, in general, researchers conclude that the benefit distribution mechanism is exclusive and limited, both in terms of the recipient subject and the conditions for receiving it. Because the applicable normative provisions expressly stipulate that if a pension participant dies before all pension benefits are realized, the right to the benefits is transferred directly and limited to the surviving legal spouse, as the main recipient based on the legal status of the administratively recognized marriage. If the spouse no longer meets the administrative qualifications either due to death or other causes that cause loss of eligibility status, the right to pension benefits is hierarchically transferred to the participant's children.

Thus, the distribution of pension benefits does not have an open or inclusive nature as is characteristic of the inheritance system in Islamic law, but is rigidly limited by

administrative criteria that are selective and non-communal. Although normatively this clause can be qualified as a mubaḥ provision, the substance of the arrangement contains elements of taqyidi conditions, namely conditions that limit the distribution of rights to certain subjects with specific criteria (Sauqi, 2023) .

Based on this normative construction, the muamalah fiqh perspective categorizes this exclusive form of transfer of pension benefits as *syuruṭ fī al-'uqud* (a condition in the contract). On that basis, the majority of contemporary scholars conclude that civil servant pension benefits cannot be classified as *tirkah*. This argument is based on the conceptual distinction between *mal mutaḳawwam* (property that can be fully owned without limit) and *ḥaqq muḳayyad* (limited financial rights that depend on certain conditions). In this context, pension benefits are clearly classified as *ḥaqq muḳayyad*, because their existence is not the result of perfect ownership by the heir, but is entirely determined by selective and exclusive state administrative regulations.

At this point, the perspective of contemporary muamalah fiqh positions pension benefits as *manafi' muḳayyadah*, namely benefits that are limited and conditional, and do not have the characteristics of perfect ownership (*al-milk al-tamm*). The legal status of pension salary benefits is deemed not to contain elements of *tamalluk tamm* (full control over property), because the rights to these benefits have not fully transferred and are owned by pension participants definitively at the time of death. In this framework, the distribution of pension benefits to widows, widowers, or children who meet administrative requirements is not understood as *tawaruth*, but as *nafaqah ba'da al-wafah* based on family relations and institutionally determined (Halim, 2017) . Thus, this mechanism is not subject to the inclusive and proportional faraid system, but is selective and limited by positive legal regulations.

The rejection of the status of pension benefits as part of the *tirkah* is also reinforced by the scientific authority of contemporary scholars such as Yusuf al-Qaraḍawi and Wahbah al-Zuhayli and supported by the institutional consensus of fatwa institutions such as the Indonesian Ulema Council (MUI) and Majma' al-Fiqh al-Islami. In this view, pension funds are not included in *al-mal al-murtaḥal*, but are derivative rights attached to family relationships through regulatory provisions.

Negotiating the Meaning of Tirkah in the Social Interpretation of Situbondo Muslim Society

In the Situbondo Muslim community, the concept of *tirkah* as part of the inheritance property has become a dynamically debated discourse. One of the main issues is the difference of opinion regarding the status of civil servants' pension salaries, whether they are assets that must be divided according to faraid law or are merely personal and administrative work compensation. This tension arises from the clash between classical fiqh views that do not recognize pension salaries as inheritance and the socio-economic conditions of people who rely on them as a support for family welfare. Using Pierre

Bourdieu's praxis theory approach, it can be seen that the interpretation of the inheritance of pension salaries takes place in a social arena where symbolic, economic and cultural capital interact with each other and determine the positions and strategies of the parties involved in shaping meaning.

Within these social dynamics, various interpretations have emerged, reflecting different views on the status of civil servant pensions as part of the *tirkah*. This study identifies two main trends, one of which is the dominant group that refuses to include pension salaries in the *tirkah* category. This group generally comes from *pesantren*, *ustaz*, and *kiai* who have conservative backgrounds and control religious authority, with interpretations that refer to the traditional *fiqh* paradigm, especially NU fatwas (Rohim, 2020). They view civil servant pension salaries as personal rights from *ijarah* contracts that cannot be inherited, only allocated according to contractual and administrative rules, so they are not included in *tirkah* according to Islamic inheritance law.

The rejection of pensions as *tirkah* reflects the dominance of conservative views that separate personal contractual rights from sharia inheritance, reinforcing the administrative status of pensions as non-hereditary rights for legal spouses. On the other hand, the lay community and the testator's family reject this view because of the distribution inequality that ignores the economic rights of other heirs, even though these rights were morally and functionally attached to the testator during his lifetime. The unequal distribution of pension salaries has led to family rifts and social resistance that rejects the legitimacy of the law alone. The family asserts inheritance rights to pension salaries based on the moral and contribution of the testator, so their resistance becomes a form of social praxis that challenges dominant interpretations...

The injustice experienced by the community became the basis for demanding a reinterpretation of pension from an individual administrative right to become part of the *tirkah*. This social experience encouraged a shift in the meaning of *tirkah* towards a more inclusive and contextual interpretation, where the community collectively negotiated between textual norms and substantive justice. This process is supported by local intellectuals who act as agents of epistemic transformation, using *maqāṣid al-syariah* and *fiqh muamalah* approaches to reconstruct inheritance law to make it more relevant to current socio-economic realities. The reinterpretation of the concept of *Tirkah* for civil servant pensions in Situbondo is carried out with a substantial understanding approach, the logic of substantive justice, and considering the reality of the financial system, as an effort to realize Islamic inheritance law according to modern socio-economic dynamics.

With the approach of progressive Islamic concepts such as *al-milku at-tam*, *maṣlaḥah 'ammah*, and *istihsan*, the people of Situbondo develop a new interpretation that views civil servant pension salaries as a legitimate financial right that is established from the employment contract, even though the disbursement is delayed. They consider that the pension has become part of the sharia-authorized work compensation and has met the

requirements of perfect ownership. Therefore, the pension is considered part of the *tirkah* that must be distributed through the mechanism of Islamic inheritance (*faraid*), even though access to it is only open after the heir dies.

The people of Situbondo interpret pension salaries as part of the *tirkah* with reference to the modern non-physical financial system. They apply the concept of *al-milku at-tam* substantially based on legal legitimacy and economic benefits, not just physical possession. Retirement salaries are considered valid inheritance because they fulfill the legal aspects, benefits, and social recognition. This view challenges the boundaries of physical possession and benefits, asserting that retirement pay is a legally, socially and morally valid economic right. In the social context, the interpretation of *tirkah* is based on distributive justice and the benefit of the family so that pension salaries are not monopolized by one party, but are shared according to contribution and need. Society distinguishes administrative rights and substantial rights, indicating a shift in understanding of *tirkah* from physical ownership to substantive rights whose realization is administratively delayed.

Civil servant pension funds are normatively included in the *tirkah* category and should be distributed to all heirs. However, in practice, access to its disbursement is limited to recognized administrative parties, usually the legal wife of the deceased, resulting in inequality between heirs. Although the people of Situbondo want to adjust the distribution of pension funds to sharia principles, the state's positive law considers pension funds as a personal non-hereditary right attached to employee status. This reflects the difference between state law and religious law regarding the inheritance of administrative benefits. To overcome this, the community adopted a pragmatic strategy of still following the bureaucratic procedure of disbursing the fund through the legal wife, while viewing this action as a transformative step to change the status of the pension fund into a part of the *tirkah* that can be distributed according to *faraidh*.

The second strategy involves two methods: giving the wife the right to use the pension fund for daily needs while the rest is converted into assets and divided through family deliberation, and using the pension decree as collateral for credit, the proceeds of which are divided among the heirs. This approach combines compliance with state regulations and reinterpretation of Islamic inheritance law for distributional justice. However, there was criticism from religious leaders regarding the larger share for daughters, which they felt should be considered *ṣadaqah* instead of inheritance, demonstrating the tension between formal and substantive justice in the community....

This study found that the distribution of pension funds in Situbondo does not fully follow formal *faraidh* principles, but rather uses a selective and contextual model that focuses on the nuclear family (spouse and children). This approach prioritizes moral, relational and economic aspects as an adaptation to the socio-economic conditions of the heirs. The community applies two models of deliberation: first as a formal legitimization with a *faraidh*-style proportional division, and second as an advanced deliberation that

considers local justice and the real needs of the heirs. This pattern reconciles fiqh orthodoxy and local social dynamics, while maintaining religious normative legitimacy.

The second model uses a direct distribution approach through internal deliberation without going through symbolic faraid. The focus is on functionality by considering the economic and social contributions of heirs, emotional closeness, socio-economic conditions, and the administrative role of wives or children. This model is called "Contextual-Substantive Inheritance Redistribution," which emphasizes family solidarity and distributive justice according to maqasid al-syariah. The pension fund that remains after the wife's needs are met is divided based on the principle of substantive justice, taking into account the social realities, contributions, and conditions of each heir.

In this arrangement, the wife is still recognized as the main beneficiary of the administrative benefits as well as the bearer of the burden after death. However, as her entitlement has been largely fulfilled at the initial utilization stage, the remaining funds are then distributed more proportionally and functionally to the children. This distribution takes into account factors such as economic and social contributions during the testator's lifetime, emotional relationships, and the level of economic vulnerability of each heir.

Table 1. Composition of the Residual Distribution (100% of the remaining tirkah funds)

No .	Heirs	Percentage	Contextual Considerations
1	Wife	20%	The symbolic allocation of a continued domestic role, even when basic needs are met.
2	Boy 1	25%	Representation of the breadwinning role and social responsibility as the future head of the family.
3	Boy 2	25%	Similar considerations, unless there are disparities in contributions or other social conditions.
4	Daughter 1	15%	May be increased if in a vulnerable state (e.g. unmarried or child-bearing).
5	Daughter 2	15%	Tailored to actual socio-economically relevant contribution levels or needs.

Source: data processed by researchers

The application of this pattern is actually questioned by many because it contradicts Islamic inheritance law. Some leaders in the Situbondo community suggest that the excess share of girls should be considered *sadekah* from the share of boys. This is so that it still does not conflict with Islamic inheritance law. Nevertheless, the practice of distributing *tirkah* from pension funds in Situbondo shows a shift from formal *faraidh* calculations towards a paradigm of substantive justice. The allocation of inheritance is based on economic needs and affective contributions, with wives often receiving a larger portion to compensate for their domestic roles and post-death burdens. This pattern represents the application of *justice of need* and marks a contextualized reinterpretation of sharia, responsive to local structures of vulnerability and social dynamics.

4. Conclusions

In the Muslim community of Situbondo, the understanding of Islamic inheritance law is not only rigidly and formally implemented, but also changes based on justice and family needs. Although the general view, especially from conservative religious leaders, is that pension funds are administrative rights that cannot be inherited and only belong to the legal wife, the community, especially the testator's family and the open-minded younger generation, make a different interpretation. They see the pension fund as a legitimate financial right belonging to the deceased since he was alive. This new interpretation emerged because of real-life experiences of injustice in the distribution of funds and became a way for people to adapt Islamic inheritance law to fit social circumstances, a sense of justice, and the objectives of Islamic law.

The Situbondo community faced an obstacle because civil servant pensions can only be disbursed by legal spouses, so other heirs do not have the same access. To overcome this, they developed a family deliberation strategy with two approaches: first, symbolically following Islamic inheritance rules and then agreeing on a more flexible division according to needs; second, directly dividing the funds based on contributions and needs. Sometimes pension funds are collected first, invested in assets, and then distributed. Although not always in strict accordance with the rules of *faraidh*, this step aims to maintain justice in the family by adapting sharia to real conditions without ignoring the values of justice, benefit and togetherness.

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