

Shifting Values and Practices of Customary Inheritance Law in Indonesia's Multicultural Society

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Abstract

The shift in values in the practice of customary inheritance law in Indonesia is an inevitable phenomenon along with social, economic, and cultural developments in multicultural societies. Customary inheritance law, which was initially based on the principles of kinship, deliberation, and social balance, now faces challenges due to the entry of modern values, national law, and religious influences. This study aims to analyze the dynamics of these value shifts, the factors that drive change, and their implications for the social order of indigenous peoples. The research method used is a juridical-sociological approach with literature study. The results of the study show that the shift in the value of customary inheritance law is more influenced by modernization, urbanization, and awareness of gender equality. This shift has a positive impact in the form of growing the value of justice and the protection of women's rights, but it also has negative impacts such as weakening social cohesion and the fading of cultural identity. Thus, a strategy of reconstruction of customary inheritance law that is adaptive to the development of the times, without eliminating the values of local wisdom that are the main foundation of customary law.

Keywords: Customary inheritance law, value shift, multicultural society, legal pluralism



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INTRODUCTION

Indonesia is known as a multicultural country consisting of hundreds of ethnicities with diverse value systems, customs, and customary laws. In the context of customary law, one of the most important aspects and loaded with cultural values is inheritance law. Customary inheritance law not only regulates the distribution of heritage property, but also reflects social, religious, and kinship values that live in society (Soepomo, 2003). However, social dynamics characterized by modernization, globalization, and intercultural interaction in Indonesia's multicultural society have given rise to a shift in values in the practice of customary inheritance law.

This shift in values occurred due to changes in the mindset of the younger generation, increasing awareness of gender equality, and the increasingly strong influence of national and religious laws (Hilman Hadikusuma, 1993). For example, in some indigenous peoples that adhere to the patrilineal system, women's inheritance rights are often overlooked. However, as the discourse on equality and human rights has evolved, many indigenous communities have begun to open up greater space for women to acquire their share of inheritance (Ratno Lukito, 2008). This phenomenon shows the existence of a dialectic between traditions that have been passed down from generation to generation with modern values that demand justice and equality.

Furthermore, legal pluralism in Indonesia, which recognizes the existence of customary law, religious law, and state law, often creates a tug-of-war in the practice of inheritance. In the reality of a multicultural society, there is often a dilemma between maintaining ancestral customs or adapting to more formal and uniform state laws (Maria SW. Sumardjono, 2011). This

causes customary inheritance law to undergo transformation, both in the form of adaptation, acculturation, and resistance to new values.

The study of the shift in the value and practice of customary inheritance law is important because it does not only concern legal aspects, but also touches on the social, cultural, and identity dimensions of the community. By understanding these dynamics, it is hoped that a balance can be found between the preservation of customary law traditions and the demands for change that come from the development of Indonesia's multicultural society (Koentjaraningrat, 2009).

METHOD

This type of research is descriptive-analytical, namely describing the phenomenon of customary inheritance law as practiced in people's lives, then analyzing it in the framework of legal pluralism in Indonesia (Ronny Hanitijo Soemitro, 1990). This research uses a normative-sociological approach (socio-legal research). A normative approach is used to analyze customary inheritance law rules from the perspective of legal doctrines, laws and regulations, and court decisions related to customary inheritance practices (Peter Mahmud Marzuki). Meanwhile, a sociological approach is used to examine how these customary law norms are applied in multicultural societies, as well as how social changes affect shifting values in inheritance practices (Soerjono Soekanto, 1986). Library research, which is collecting legal documents, books, and scientific articles related to customary inheritance law (Johnny Ibrahim, 2006). The collected data was analyzed qualitatively, with an emphasis on deep understanding of customary inheritance law practices. The analysis is carried out through three stages: data reduction, data presentation, and conclusion drawn. The results of the

analysis are then presented in the form of a descriptive description that relates customary law norms to the social reality of multicultural societies (Miles, Matthew B. & A. Michael Huberman, 1994).

RESULT AND DISCUSSION

1. Customary Inheritance Law in the Framework of Legal Pluralism

a. Pluralism and the Position of Customary Law

Legal pluralism in Indonesia was born as a consequence of cultural, ethnic, and religious diversity. In this context, customary inheritance law occupies a very important position because it represents the local values that live in the community. The concept of legal pluralism in Indonesia not only means the existence of a state *law* system, but also includes religious law and customary law whose existence is both recognized by the 1945 Constitution and various related laws and regulations (John Griffiths, 1986).

Customary law, including inheritance law, is recognized as one of the sources of national law. This is affirmed in Article 18B paragraph (2) of the 1945 Constitution which states that the state recognizes and respects the units of customary law communities and their traditional rights as long as they are alive and in accordance with the development of society. Thus, customary inheritance law still has legitimacy in the midst of Indonesian legal pluralism.

b. Characteristics of Customary Heirs Law

Customary inheritance law is different from Islamic inheritance law and western civil inheritance law. Its main characteristics are:

- 1) Family: the division of inheritance is not always oriented to legal certainty, but to the principles of harmony, deliberation, and balance (Soepomo, 2003).
- 2) Not Rigid: customary inheritance law is more flexible, can be adapted to social, economic, and family needs (Hilman Hadikusuma, 1993).
- 3) Communalistic: inheritance is often considered to belong to the extended family, rather than an individual right (Hazairin, 1960).
- 4) Diverse: each region has a different system of customary inheritance law, for example the parental system in Java, the patrilineal system in Batak, and the matrilineal system in Minangkabau (Ter Haar, 1981).

c. Customary Inheritance Law in the Perspective of Legal Pluralism

Legal pluralism places customary inheritance law as an alternative to the inheritance system in addition to Islamic inheritance law and western civil inheritance law. This recognition shows that the Indonesian people are given the freedom to choose which laws will be used in the division of inheritance, taking into account their cultural and religious identity (B. Ter Haar, 1930). In some cases, legal pluralism actually raises potential conflicts. For example, in the Minangkabau society which adheres to the matrilineal system, there is a debate between the division of inheritance according to custom (high inheritance inherited to the mother line) and the distribution of inheritance according to Islam (proportional division based on the provisions of sharia) (Taufik Abdullah, 1992). This situation shows

how legal pluralism can present dynamics, both in the form of harmony and conflict of values.

d. Shifts and Challenges of Customary Inheritance Law

Modernization, urbanization, and the influence of state law have made customary inheritance law undergo a shift in value. Young people living in urban areas tend to prefer a civil or Islamic inheritance system that is considered more definite and clear. On the other hand, many indigenous peoples still maintain the traditional system because it is considered to maintain family integrity and communal ties (Koentjaraningrat, 2009). The biggest challenge of customary inheritance law within the framework of legal pluralism is how to position itself in the midst of the flow of globalization and the formalization of state law. Efforts to codify customary law often deal with the principle of flexibility of customary law itself, which is actually lively, dynamic, and unwritten (Satjipto Rahardjo, 2000).

e. Legal Prospects of Customary Heirs

The existence of customary inheritance law in Indonesian legal pluralism is not only part of the romanticism of the past, but also a necessity. A democratic and multicultural national legal system must continue to provide space for the sustainability of customary inheritance law. However, there needs to be a reconstructive approach so that customary inheritance law can be synergized with national law without losing its local characteristics (Otje Salman, 2005). One solution is selective integration: customary law can be used as a reference when it is in accordance with the values of justice and the

needs of modern society, while on the other hand religious law or civil law can be used for legal certainty. Thus, legal pluralism in Indonesia truly reflects substantive justice, not just formal (Maria SW. Sumardjono, 2009).

2. Value Shifts in the Practice of Customary Law Heirs

Customary inheritance law in Indonesia is part of a living, dynamic, and ever-changing customary law system according to the development of society. Customary law is not written, but lives in the daily practices of the community and is inherited through oral traditions and customs. In the context of customary inheritance law, the shift in values began to appear along with the influence of modernization, legal pluralism, and changes in the socio-economic structure of society.

a. Concept of Customary Inheritance Law

Customary inheritance law is basically different from Islamic inheritance law and western civil inheritance law. Customary heirs not only regulate the distribution of heritage property, but also contain social, cultural, and spiritual meaning. Heritage is seen not only as an economic object, but as a symbol of family bonds, successors to the lineage, and a means of maintaining balance in social relations (Soepomo, 2003).

In patrilineal societies (e.g. Batak, Bali), inheritance tends to be given to male lineages. In contrast, in matrilineal systems (e.g. Minangkabau), inheritance is inherited through the maternal line (Hilman Hadikusuma, 2003). Meanwhile, bilateral societies (Javanese, Sundanese) tend to provide a relatively balanced distribution of inheritance between boys and girls (Ter Haar).

b. Factors Causing Value Shifts

The shift in value in customary inheritance law practice is inseparable from various factors, including:

1) The Influence of National Law.

The Marriage Law No. 1 of 1974 and the Islamic inheritance law system accommodated in the Compilation of Islamic Law (KHI) provide another alternative in settling inheritance. Many indigenous peoples have switched to using state law or religious law in the division of inheritance because it is considered more certain and has formal legitimacy (Ahmad Rofiq, 2015).

2) Modernization and Urbanization

Modernization has led to a change in people's mindset, including in looking at inheritance. Urbanization also results in indigenous peoples living in a multicultural environment so that customary inheritance practices are adapted or even abandoned (Koentjaraningrat, 1997).

3) Changes in Social and Economic Structure

Traditional societies that were once agrarian based have now turned to the industrial and trade sectors. As a result, the symbolic meaning of customary property (land, rice fields, traditional houses) is decreasing, shifting to mere economic interests. This also influences a more individualistic pattern of inheritance (A. Sonny Keraf, 2010).

4) Gender Equality

The development of thinking about human rights and gender equality also has an influence. Discriminatory practices in traditional inheritance, for example, denying women's rights

in the patrilineal system are now beginning to be abandoned because they are contrary to modern justice values (Ratna Saptari & Brigitte Holzner, 1997).

c. Value Shift Forms

The shift in values in customary inheritance law practice can be seen in several aspects:

- 1) From collectivity to individuality, where inheritance that was originally seen as the common property of the extended family, now tends to be seen as the individual right of the heir.
- 2) From symbolic-cultural to economic, where heirloom land that was once maintained to maintain indigenous identity, is now often sold for the economic benefit of the nuclear family.
- 3) From the rigid lineage system to flexibility, for example in Minangkabau, there began to be a recognition of inheritance rights for boys who used to not get a share of the high inheritance.
- 4) From pure customary law to hybrid law, which is a combination of customary law, Islamic law, and national law according to family agreement (Maria S.W. Sumardjono, 2008).

d. Implications of Value Shifts

This shift has a double impact. On the one hand, it paves the way for the achievement of justice in the context of modern society, especially for women and children. But on the other hand, it raises concerns about the loss of cultural values and local identity. This requires a balance between the preservation of customary law traditions and the acceptance of modern values that are more egalitarian (Otje Salman, 2001).

3. Factors Driving Value Shifts in Customary Inheritance Law

Customary inheritance law in Indonesia has experienced significant dynamics along with the development of society. The shift in values in customary inheritance practices does not occur suddenly, but is influenced by various factors that drive these changes. These factors include:

1) Modernization and Globalization

Modernization brought a new mindset that was more rational and individualistic in society. If in the past the customary inheritance system emphasized the collective interests of the family or relatives, now the orientation has begun to shift to individual rights (Soepomo, 2003). Globalization also reinforces this shift in values, as intercultural interactions give birth to a new awareness of justice and equality in inheritance.

2) The Influence of National Law and Legal Unification

The existence of the Civil Code (BW) and the Compilation of Islamic Law (KHI) has a great influence on the practice of customary inheritance. Communities that originally purely used the customary system are now beginning to adopt national legal rules, especially when it comes to legal certainty before the courts (Hilman Hadikusuma, 2003). The process of unification of inheritance law in Indonesia encourages people to adapt customary practices to formal state rules.

3) Changes in Social Economic Structure

The social structure of indigenous peoples, which was originally agrarian, has now changed a lot into an industrial and urban society. In modern society, land and inheritance are no longer seen as

symbols of communal status, but rather as economic assets that can be traded. This shift in function has an impact on changing the pattern of inheritance distribution (Soerojo Wignjodipoero, 1995).

4) Gender Equality Demands

The women's emancipation movement and the principle of gender equality have also influenced the shift in the value of customary inheritance law. Certain customary systems that originally placed women in subordinate positions, for example in Batak patrilineal customs, or Balinese customs, began to undergo criticism and adjustment. Many societies are now adopting inheritance patterns that provide a fairer space for girls (Ratno Lukito, 2008).

5) Development of Education and Legal Awareness

The higher level of education makes indigenous peoples more critical of inheritance practices that are considered unfair. Increased legal awareness also encourages people to seek systems that are more in line with the principles of universal justice and human rights (Satjipto Rahardjo, 2000).

6) Inter-Ethnic Marriage and Cultural Pluralism

Inter-ethnic marriage in Indonesia's multicultural society has given rise to acculturation of customary law. In many cases, couples of different customs choose to compromise by combining or adjusting the inheritance system. This accelerates the shift in values in customary inheritance law (Koentjaraningrat, 1994).

4. Implications of Shifting the Value of Customary Heirs

The shift in values in customary inheritance law is not only a legal phenomenon, but also has an impact on positive social, cultural, and legal aspects in Indonesia. The process of modernization,

globalization, and penetration of national and religious laws has caused customary inheritance law to undergo a significant transformation. The implications of this value shift can be seen from the following aspects:

1) Social Implications

Changes in customary inheritance practices have implications for the social structure of the community. In traditional societies, the traditional inheritance system—such as the patrilineal (Batak), matrilineal (Minangkabau), and parental/bilateral (Javanese) systems—not only regulates the distribution of property, but also maintains the continuity of the family's social status. The shift in values towards gender equality and the acceptance of Islamic inheritance law and civil law has changed social relations in the family, especially the position of women in obtaining inheritance rights that were previously limited in some customary systems (Soepomo, 2003).

2) Cultural Implications

Customary inheritance law basically reflects local wisdom and cultural values of the community. Shifting values cause a potential erosion of cultural identity when people prefer religious law or national law as the main reference (Hilman Hadikusuma, 1993). For example, in Minangkabau society, the shift from *a matrilineally inherited high inheritance* system to an individualistic pattern of inheritance indicates a change in cultural orientation from collectivism to individualism (Yulia, 2017).

3) Legal Implications

From a legal aspect, shifts in the value of customary inheritance give rise to a plurality of legal choices that can cause conflicts. People

often face a dilemma between choosing customary law, religious law (Islam), or national law (Civil Code) (Satjipto Rahardjo, 2006). This condition shows that legal pluralism in Indonesia can give birth to legal uncertainty, especially when inheritance disputes are brought to court. Judges must ultimately use the living law approach to adjust the verdict to the values that develop in society (Otje Salman, 2002).

4) Economic Implications

Economically, the shift in the value of customary inheritance has an impact on the way family assets are distributed. A collective customary system tends to maintain the sustainability of assets, while an individual national legal system often leads to fragmentation of family assets. This has implications for a decrease in the economic value of land or assets due to smaller and fragmented divisions (WirjonoProdjodikoro, 1965).

5) Implications for Gender Equality

One of the most obvious impacts is the change in women's position in inheritance. If previously there was a customary system that limited women's rights, now there is a tendency to adjust to the principle of gender equality as regulated in Islamic law and national law. This shows a shift from discrimination towards legal egalitarianism (Maria SW Sumardjono, 2008).

CONCLUSION

The shift in values in customary inheritance law practice in Indonesia's multicultural society is a logical consequence of the interaction between local traditions, national laws, and global values. Customary

inheritance law, which was originally rooted in the principles of kinship, deliberation, and social balance, has undergone a transformation due to the influence of modernization, urbanization, and awareness of gender equality. This process of shift has two faces: on the one hand, it provides space for the creation of new justice that is more in line with the social context of modern society, especially in the protection of the rights of women and children; On the other hand, it has the potential to erode social cohesion and reduce the role of local wisdom as the cultural identity of indigenous peoples.

Therefore, the effort needed is to formulate an adaptive reconstruction of customary inheritance law, namely by integrating the values of universal justice into the customary system without eliminating the essence of local wisdom which is the main foundation. Customary inheritance law must be seen as part of Indonesia's legal pluralism that is alive, developing, and remaining relevant in a multicultural society.

BIBLIOGRAPHY

- Ali, M. (2019). *Customary Law in the Perspective of Legal Pluralism in Indonesia*. Jakarta: Rajawali Press.
- Atmadja, I. D. G. (2018). *Legal Pluralism and the Legal Dynamics of Customary Inheritance in Indonesia*. Denpasar: Udayana University Press.
- Azizy, A. Q. (2017). *Islamic Hereditary Law and Its Interaction with Customary Law*. Yogyakarta: Student Library.
- Dewi, N. P. (2020). Shifting in the value of customary inheritance law in modern society. *Journal of Law and Development*, 50(2), 123–140.
- Fadli, M. (2018). *The Existence of Customary Inheritance Law in the National Legal System*. Bandung: Alumni.
- Hadikusuma, H. (2015). *Customary Inheritance Law*. Bandung: Citra Aditya Bakti.

- Ibrahim, J. (2019). *Normative Law Research Theory and Methodology*. Malang: Bayumedia.
- Koentjaraningrat. (2009). *Introduction to Anthropology*. Jakarta: Rineka Cipta.
- Manan, B. (2016). *Customary Law in the Indonesian Legal System*. Bandung: Mandar Maju.
- Nurjaya, I. N. (2019). Customary law in the framework of legal pluralism in Indonesia. *Journal of the Law Pulpit*, 31(1), 45–62.
- Rahardjo, S. (2017). *Law and Society*. Bandung: Angkasa.
- Rato, D. (2016). *Indonesian Customary Law: Existence in the Dynamics of Legal Politics in Indonesia*. Yogyakarta: LaksBangPressindo.
- Ritzer, G. (2012). *Sociological Theory: From Classical Sociology to Postmodern Developments*. Yogyakarta: Discourse Creation.
- Soekanto, S. (2013). *Principles of Customary Law*. Jakarta: Rajawali Press.
- Subject. (2018). *Principles of Civil Law*. Jakarta: Intermasa.
- Susanto, A. (2021). The dynamics of shifting customary inheritance law in multicultural societies. *Journal of Law Ius Quia Iustum*, 28(3), 411–430.
- Tamanaha, B. Z. (2017). *A General Jurisprudence of Law and Society*. Oxford: Oxford University Press.
- Wignjodipoero, S. (2008). *Introduction and Principles of Customary Law*. Jakarta: Mount Agung.
- Yamin, M. (2020). *Customary Inheritance Law: A Perspective of Justice and Gender Equality*. Malang: Setara Press.
- Zainuddin, M. (2019). Shifting customary law in the midst of legal globalization. *Journal of Legal Research*, 8(1), 25–40.