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The Jurisprudential Role in Resolving Customary Inheritance Disputes

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ABSTRACT

Customary inheritance law is influenced by three kinship systems: patrilineal, matrilineal, and parental. Disputes over customary inheritance often arise in traditional communities due to dissatisfaction with the division of assets. While these conflicts are commonly resolved through family deliberation or traditional institutions, dissatisfaction with a chief's decision can escalate to legal action in court. This research aims to understand how customary inheritance disputes are resolved within these kinship systems and how Supreme Court jurisprudence is applied following these resolutions. This study uses a legal methodology with a multi-faceted approach. A statute approach is used to analyze relevant laws and existing legal precedents. A conceptual approach examines applicable legal theories and doctrines, while a case approach is employed to analyze specific, legally binding court decisions that illustrate the development of customary inheritance law. The findings reveal that while initial resolutions are sought through customary channels, a persistent dissatisfaction can lead to legal action. However, the effective application of judicial precedent is hindered by a lack of knowledge within customary legal communities. Nevertheless, these court decisions have brought about significant change, particularly in Batak communities, where several legal precedents have led to women being granted and receiving inheritance rights.

Keywords: Customary Inheritance Law, Dispute Resolution, Kinship Law

INTRODUCTION

Customary law constitutes legal frameworks that emerge, exist, and develop within indigenous Indonesian communities in the form of unwritten law.¹² Customary law possesses dynamic characteristics that align with societal development, while also maintaining elastic properties, meaning it can easily adapt to legal events arising from community evolution.³ This principle applies equally to customary inheritance law in Indonesia. Indonesian customary inheritance law remains pluralistic in nature, influenced by existing kinship systems within communities.⁴

Indonesian society maintains diverse kinship or family systems. Theoretically, lineage systems in customary law can be categorized into three kinship or family systems:

1. Patrilineal kinship systems trace descent through male lineage or paternal lines, where male children hold superior positions compared to female children.⁵ In patrilineal kinship systems, honorable marriage customs prevail, as wives follow and become members of their husbands' kinship groups, including children born from such marriages. This system is practiced by Batak, Balinese, Nias, Lampung, and other communities.⁶
2. Matrilineal kinship systems trace descent through female lineage or maternal lines, where female children hold more prominent positions than male children. In matrilineal kinship systems, semenda marriage practices apply, whereby husbands follow their wives but remain members of their original kinship groups without joining their wives' kinship groups, while children follow their mothers' kinship groups. This system is practiced by Minangkabau communities.⁷

¹ Dewy Sarihastuti, "Optimalisasi Penyelenggaraan Statistik Sektor sebagai Upaya Pemenuhan Data Statistik Berkualitas Di Indonesia," *Jurnal Syntax Admiration* 5, no. 10 (October 29, 2024): 4343–4363, accessed August 13, 2025, <https://jurnalsyntaxadmiration.com/index.php/jurnal/article/view/1715>.

² Talita Syamantha, Dedi Hermawan Syahputra, and Zulfikar Zulfikar, "The Subject of Customary Law and the Relevance of Customary Law in the Indonesian Legal System," *International Journal of Research and Review* 12, no. 4 (April 19, 2025): 298–301, https://www.ijrrjournal.com/IJRR_Vol.12_Issue.4_April2025/IJRR36.pdf.

³ Aziz Siregar, "Characteristics of Customary Law and Its Characteristics," *Journal of Adat Recht* 1, no. 1 (May 27, 2024), <https://nawalaeducation.com/index.php/JOAR/article/view/322>.

⁴ Ellyne Dwi Poespasari et al., "SETTLEMENT OF DISPUTES OVER THE INHERITANCE PROPERTY DISTRIBUTION IN THE COMMUNITY OF JUWONO VILLAGE, NGANJUK," *Journal of Law Theory and Law Enforcement* (November 10, 2023): 106–118, <https://journal.jfpublisher.com/index.php/jlte/article/view/415>.

⁵ Bagus Anwar Hidayatulloh, "Implementasi Sistem Keterwakilan Perempuan Dalam Pemilu: Studi Pada Masyarakat Patrilineal Di Indonesia," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 3, no. 1 (January 28, 2020), <https://ejournal.uin-suka.ac.id/syariah/Supremasi/article/view/1954>.

⁶ Vidya Fani Ayuni, Dwi Safira Wardana, and Raudhatun Nafisa, "Variants of the Dayak Batak Kinship System," *JURNAL SOCIUS* 14, no. 1 (April 22, 2025): 57, <https://ppjp.ulm.ac.id/journal/index.php/JS/article/view/21198>.

⁷ Zainal Arifin, "Matrilineal Paradox in Semende and Minangkabau Culture," *Komunitas* 11, no. 2 (September 30, 2019), <https://journal.unnes.ac.id/nju/komunitas/article/view/20904>.

3. Parental or bilateral kinship systems trace descent through dual lines (father-mother), where male and female children receive equal treatment. In parental or bilateral kinship systems, free marriage practices prevail, where husband-wife positions are equal and balanced. This kinship system is practiced by Javanese, Acehnese, Kalimantan, Sundanese, and other communities.⁸

Fundamentally, original customary legal norms maintain traditional characteristics.⁹ For instance, in Batak, Balinese, Sulawesi, Papua, Ambon, and other customary law systems, communities are significantly influenced by patrilineal kinship systems that prioritize male lineage (paternal).¹⁰ Without male descendants, concerned families face extinction due to the absence of lineage continuation. However, this research focuses solely on patrilineal communities, specifically limiting analysis to Batak society. Therefore, in Batak inheritance law with patrilineal kinship systems, only male descendants qualify as heirs and are considered in parental (paternal) inheritance distribution. Meanwhile, Batak women (daughters and widows) do not serve as parental (paternal) lineage continuators nor clan perpetuators, thus excluding women from inheritance rights regarding parental (paternal) or spousal estates. This occurs due to Batak traditional practices predating religious adoption, based on ancestral beliefs centered on worldly life continuation by deceased ancestors through their male descendants. Their descendants worship and care for those residing in their kingdoms in the afterlife, where prosperity and poverty fluctuations reflect the worship and honor enjoyed by ancestral spirits.¹¹ Wealth of deceased individuals without male descendants will be inherited by family members with closest male descendants.

Original customary legal norms in matrilineal communities maintain female or maternal lineage systems. Research on matrilineal systems is limited to Minangkabau communities. Consequently, customary inheritance law in Minangkabau closely relates to matrilineal kinship or descent systems from maternal sides, encompassing those originating from one ancestral mother calculated through maternal lines, including maternal uncles and aunts, their siblings both male and female, grandmothers with their siblings both male and female, and so forth according to female lineage. Therefore, all children can only

⁸ Hilman Hadikusuma, *Hukum Waris Adat*, Cetakan 8. (Bandung: Citra Aditya Bakti, 2015).

⁹ Herlina Manik et al., "THE RECOGNITION AND RIGHTS PROTECTION FOR BATIN SEMBILAN COMMUNITIES OVER CUSTOMARY TERRITORY AND NATURAL RESOURCE MANAGEMENT," *Journal of Law Theory and Law Enforcement* (November 24, 2023): 119–130, <https://journal.jfpublisher.com/index.php/jlte/article/view/429>.

¹⁰ Gunawan Yosua Sitingjak et al., "Gender Roles in the Practice of Paulakhon within the Batak Toba Patrilineal System," *Literasi Bahasa dan Sastra Jurnal* 1, no. 2 (April 13, 2025): 96–103, <https://triedu.or.id/Libas/index.php/about/article/view/29>.

¹¹ Aiyana K. Willard et al., "Rewarding the Good and Punishing the Bad: The Role of Karma and Afterlife Beliefs in Shaping Moral Norms," *Evolution and Human Behavior* 41, no. 5 (September 1, 2020): 385–396, accessed September 2, 2025, <https://www.sciencedirect.com/science/article/pii/S1090513820300805>.

become heirs of their mothers, both for high ancestral property and low ancestral property. When deceased individuals are males (husbands), their children and widows do not become heirs to their estates; instead, all nephews (children of female siblings) become the heirs.¹²

Generally, original customary legal norms in parental or bilateral kinship systems do not differentiate between male and female children's positions. Therefore, both male and female children receive equal rights in parental inheritance distribution. This research on parental/bilateral systems is limited to Javanese communities.

Based on original norms in customary inheritance law influenced by these three kinship systems, communities frequently experience problems and disputes regarding inherited estates. Customary law kinship systems sometimes differentiate between male and female positions. For instance, patrilineal kinship systems only grant inheritance rights to male children while female children and widows receive no inheritance rights from parents (fathers) or spouses.¹³ Customary law kinship systems contain discrimination regarding social and legal positions between males and females. This is understandable since customary law formed from experiences and histories of respective community groups.

In patrilineal communities, historical male dominance in family and community life shaped these systems. Consequently, males in families occupy priority positions with greater rights compared to females, and conversely in matrilineal communities where dominant female positions supersede males in family and community life. Therefore, such conditions will experience development throughout Indonesia alongside demands for gender equality that continue evolving with changing times.¹⁴

Since customary inheritance law provisions applicable in communities constitute unwritten law, they still contain traditional values from concerned customary legal communities.¹⁵ For example, in Batak communities with patrilineal kinship systems (male lineage), female rights assessment often differs from male rights. In Minangkabau communities with matrilineal systems (female lineage), female positions tend to be higher than males. Exceptions occur in parental or

¹² Ahmad Jamburi and Mohammad Muhibbin, "Matrilineal System Mechanism for The Distribution of Inheritance Rights," *Jurnal Cakrawala Hukum* 15, no. 2 (August 1, 2024): 122–133, <https://jurnal.unmer.ac.id/index.php/jch/article/view/15159>.

¹³ Amri Panahatan Sihotang and Wafda Vivid Izziyana, "Reformulasi Kedudukan Janda Cerai Mati Dalam Hukum Waris Adat Batak Perspektif Gender," *Egalita Jurnal Kesetaraan dan Keadilan Gender* 18, no. 2 (January 20, 2024), <https://ejournal.uin-malang.ac.id/index.php/egalita/article/view/25408>.

¹⁴ Ellyne Dwi Poespasari, "Dinamika Penguasaan Tanah Oleh Perempuan Pada Masyarakat Batak Toba" (Universitas Gadjah Mada, 2013).

¹⁵ Dr. Ellyne Dwi Poespasari, Afga Samudera Erlangga, and Dr. Soelistyowati, "THE EXISTENCE OF CUSTOMARY INHERITANCE LAW NORM DEVELOPMENT IN JURISPRUDENCE SUPREME COURT," *Journal of Law Theory and Law Enforcement* (July 3, 2023): 85–101, <https://journal.jfpublisher.com/index.php/jlte/article/view/326>.

bilateral kinship systems (in Javanese communities) that do not differentiate between male and female positions.

Regarding customary law development, two applicable theoretical models exist: (1) linear models, where new customary law development does not contain old customary law (development through judicial decisions), exemplified in customary inheritance law; and (2) integrative models, where new customary law development still contains old customary law (customary law development within communities). Customary inheritance law development can be observed through several Supreme Court jurisprudences (judicial decisions):

1. Supreme Court Decision No. 179/K/Sip/1961 dated October 23, 1961 regarding Karo land inheritance law dispute resolution essentially states that based on humanitarian feelings and general justice, and upon the essence of gender equality principles, viewed as living law throughout Indonesia, daughters, besides male children, must be considered heirs with inheritance rights from parents.
2. Supreme Court Decision No. 136/K/Sip/1967 dated January 31, 1968 decided Batak community inheritance law cases. The decision stated that daughters deserve portions of parental (paternal) inheritance estates, whether property or land, based on Batak Holeng Ate customary law. Other considerations were based on advancing female positions and rights in Batak regions.
3. Supreme Court Decision No. 100/K/Sip/1967 dated June 14, 1968 stated that considering societal developments tending to recognize gender equality, widows are also established as heirs.
4. Supreme Court Decision No. 90/K/Sip/1952 dated November 30, 1955: When deceased individuals (testators) only leave widows and siblings (elder sisters), such sisters become sole heirs regarding original estates, but since widows are obligated to maintain and settle entire inheritance estates, including funeral arrangements, widows must receive provisions covering one-third inheritance estate results.
5. Supreme Court Decision No. 39/K/Sip/1968 regarding rice mill cases, involving disputes between woman Kalek (Pisang clan, Batipuh Buruh Village, Padang Panjang) representing herself and as guardian mother of underage children (Zulkarnaini, Zulfahmi, Murni, Ana, and Murdatiwarni) as widow of deceased Ibrahim titled Datuk Mudo, against Abdul Rahman titled Datuk Mudo (uncle head heir in their clan) along with women Nursiah and Nursilah, all three from Koto clan, Batipuh Ateh Village, Padang Panjang. Supreme Court Cassation Decision favored woman Kalek as widow of deceased Ibrahim titled Datuk Mudo regarding rice mill inheritance estates. Males in Minangkabau serve roles as fathers or husbands and uncles in customary law.

Before national legal system introduction, based on Jurisprudence No. 39/K/Sip/1968 dated February 12, 1968, fathers or husbands held no responsibility toward children considering *semendo bertandang* marriage forms, where fathers or husbands were merely considered guests, making children the responsibility of wives and their families. In other words, children only maintained relationships with mothers and maternal families, becoming heirs of mothers rather than fathers. Therefore, the rice mill case example indicates that Minangkabau customary inheritance law, when unresolvable through customary law, can be resolved through court proceedings up to the Supreme Court.

Supreme Court jurisprudence clearly demonstrates customary inheritance law development. This is evident from pre-jurisprudence conditions in several regions stating that widow or widower positions were not considered heirs of parental or spousal estates (for instance, in patrilineal, matrilineal, and parental communities).¹⁶ Therefore, following these jurisprudences, widow and widower positions were established by judicial decisions (jurisprudence) as heirs.

In development, when observing court decisions related to inheritance law disputes, tendencies toward parental or bilateral kinship systems emerge. Upon investigation, several reasons support this:

1. MPRS RI Decree No. II/MPRS/1960 concerning Provisional National Development Guidelines First Phase 1961-1969, Appendix A Number 402 paragraph (38) letters c 2 and 4, indicating efforts to establish National Inheritance Law directed toward parental/bilateral kinship systems;
2. Trends toward parental communities due to external influences, specifically community development itself;
3. Customary inheritance law dispute resolution processes influence parental/bilateral customary inheritance law dispute resolution patterns, placing all children as heirs; and
4. Legal politics implemented by the Supreme Court directed toward parental community dispute resolution patterns.¹⁷

These jurisprudential changes were actually driven by external forces, namely the State through courts regarding specific events. However, demands generating regulations and jurisprudences still raise questions about implementation effectiveness in community life still adhering to existing kinship systems. For instance, in patrilineal kinship (Batak) and matrilineal kinship (Minangkabau) as well as parental/bilateral kinship systems (Javanese). Through research titled “The Jurisprudential Role in Resolving Customary Inheritance Disputes,” answers are

¹⁶ Shinta Nofitrianti, Syuryani, and Anggun Lestari Suryamizon, “THE STATUS OF THE WIDOW AS HEIR TO THE ASSETS INHERITED FROM HER DECEASED HUSBAND IS REVIEWED ACCORDING TO CUSTOMARY LAW,” *DE’RECHTSSTAAT* 10, no. 1 (March 28, 2024): 34–45, <https://ojs.unida.ac.id/LAW/article/view/9795>.

¹⁷ Soelistyawati, Ellyne Dwi Poespasari, and Christiani Widowati, *Konstruksi Asas Hukum Yang Melandasi Norma Hukum Waris Adat Pada Masyarakat Parental Menurut Mahkamah Agung*, 2013.

expected regarding customary inheritance law development through Supreme Court jurisprudence and customary inheritance law norm implementation following Supreme Court jurisprudence in all three kinship systems.

Based on the above problem background, two primary issues emerge for investigation. First, this study examines how customary inheritance law dispute resolution operates within customary legal communities based on different kinship systems, specifically patrilineal, matrilineal, and parental systems. Second, the research investigates how customary inheritance law norms are implemented within these kinship systems following the establishment of Supreme Court jurisprudence.

RESEARCH METHODOLOGY

This study constitutes normative juridical research employing various methodological strategies to examine customary inheritance law transformation through judicial intervention.¹⁸ The investigation adopts qualitative methodology utilizing legal doctrinal research techniques, concentrating on analyzing juridical principles, regulations, and precedential decisions within their theoretical and applied frameworks. The methodological structure encompasses three integrated approaches designed to facilitate comprehensive examination of the research subject.

The investigation implements three specific methodological strategies: initially, the statutory approach,¹⁹ involving thorough assessment and evaluation of pertinent legislation, regulatory structures, and jurisprudential materials concerning customary inheritance jurisprudence, encompassing extensive examination of Supreme Court rulings and associated legal documentation; subsequently, the theoretical approach,²⁰ which extensively utilizes established juridical theories, academic viewpoints, and doctrinal bases supporting customary legal frameworks, integrating comparative juridical theory and constitutional foundations; and finally, the case study approach,²¹ which executes detailed analysis of significant court proceedings that have substantially influenced customary inheritance law advancement within the three kinship structures, emphasizing Supreme Court determinations that have obtained conclusive and legally binding status.

RESULT AND DISCUSSION

¹⁸ Tunggul Ansari and Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9, accessed September 2, 2025, <https://ejournal.umm.ac.id/index.php/audito/article/view/24855>.

¹⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, Revision Edition. (KENCANA, 2021).

²⁰ Ibid, p. 95.

²¹ Ibid, p. 97.

Resolution of Customary Inheritance Disputes in Indigenous Communities Based on Kinship Systems

Soerojo Wignjodipuro states that customary inheritance law is intrinsically linked to the family characteristics of a given community and influences the distribution of inherited assets. This is why any discussion of inheritance must also include an analysis of a community's kinship and marriage laws.²² Customary inheritance law is heavily influenced by the kinship system of the community itself, with each system having its own set of inheritance rules. Theoretically, kinship systems in Indonesia can be categorized into three types: patrilineal, matrilineal, and parental or bilateral. These systems of descent not only affect inheritance matters but also differentiate marriage practices from one kinship system to another.²³

Indonesian society fundamentally comprises communities structured upon three types of descent lines: paternal lineage (father's line), maternal lineage (mother's line), and parental lineage (father-mother lines).²⁴ In communities adhering to parental descent systems, children maintain equally strong relationships with relatives from both paternal and maternal sides, with legal relationships applying equally to both parties. This differs significantly from communities following patrilineal or matrilineal descent systems, where children's relationships with both family sides demonstrate unequal strength, significance, and importance. In matrilineal communities, familial relationships with the maternal side prove considerably stronger and more significant, whereas in patrilineal communities, relationships with paternal families appear closer and are considered more important with higher status.

Human existence involves several pivotal events: birth, marriage, and death. These events generate legal consequences involving rights and obligations. Birth as a legal event invariably produces legal consequences including rights such as legal equality, while corresponding obligations include birth certificate registration aimed at establishing human identity and serving as evidence for inheritance acquisition from deceased testators. Marriage represents another legal event experienced by humans, as marriage aims to produce descendants. Subsequently, every human experiences the legal event of death, which generates legal consequences regarding the management and continuation of rights and obligations of deceased individuals.

Inheritance matters constitute significant issues due to their connection with inherited property, where perceived unfair distribution can precipitate disputes

²² Soerojo Wingjodipoero, *Pengantar Dan Asas Asas Hukum Adat* (Jakarta: PT Toko Gunung Agung, 1995).

²³ Hadikusuma, *Hukum Waris Adat*.

²⁴ Alexander Stark and Fatan Hamamah Yahaya, "The Paternal Side of the Family within a Matrilineal Society: An Example of the Minangkabau in Indonesia," *IJUM JOURNAL OF HUMAN SCIENCES* 3, no. 2 (December 29, 2021): 54–67, <https://journals.iium.edu.my/irkh/index.php/ijohs/article/view/208>.

among heirs. Distribution of customary inherited property within these three kinship systems fundamentally occurs through deliberation and consensus among family members, though inheritance distribution can sometimes cause family or kinship fragmentation. When deliberations fail to achieve agreement, certain family parties may initiate legal action against others in judicial institutions.

Batak Toba communities recognize the practice of parental property transfer to children, encompassing both sons and daughters.²⁵ Property transferred by parents may originate from assets brought by fathers or mothers prior to marriage or property acquired during marriage. Such property may include rice fields and agricultural land (*hauma*), gardens (*porlak*), houses (*bagas*), gold, money (*hepeng*), and livestock (*pinahan*).²⁶ Causes of inheritance disputes literally emerge from inheritance law concerning property left by deceased individuals.²⁷ Descendants in traditional Batak customary inheritance law are male children who become heirs. Female children are not heirs of the deceased and bear no responsibility for debts, although women may request specific items from paternal inheritance through appropriate channels to male heirs, who must approve such requests.

Inheritance disputes in Batak communities arise from perceived inequality in inheritance distribution between sons and daughters, necessitating fair and equal distribution among children based on their rights. Additionally, contemporary developments demanding gender equality in rights and obligations between sons and daughters contribute to disputes. Secondly, daughters claim their rights as children, particularly when they predominantly care for aging and ill parents. Daughters often dedicate more time to parental care and financial support, leading to demands for equal rights with sons.

Regarding patrilineal kinship systems that prioritize male positions over female positions (both daughters and widows) in parental property distribution, Batak communities frequently experience inheritance disputes between sons and daughters. In resolving inheritance disputes, Batak communities generally prefer deliberative, harmonious, peaceful solutions that extend beyond disputing parties to include all deceased testator's family members. When all efforts through family, kinship, and community deliberation fail, cases are brought to court. Consequently, district court judges, high court judges, and Supreme Court justices must identify appropriate solutions for customary inheritance disputes, resulting in jurisprudential development. Therefore, jurisprudence represents societal development within patrilineal (Batak) communities, specifically

²⁵ Aisyah Aisyah and Novia Alexia, "Keberadaan Hukum Waris Adat Dalam Pembagian Warisan Pada Masyarakat Adat Batak Toba Sumatera Utara," *Mizan: Jurnal Ilmu Hukum* 11, no. 1 (June 14, 2022): 1, <https://ejournal.uniska-kediri.ac.id/index.php/Mizan/article/view/2323>.

²⁶ Djaren Saragih, *Hukum Perkawinan Adat Batak* (Bandung: Tarsito, 1980).

²⁷ J. C Vergouwen, *Masyarakat Dan Hukum Adat Batak Toba* (Yogyakarta: LKiS, 2004).

changes and developments regarding Batak women's inheritance rights to equal treatment with men concerning parental or spousal inheritance.²⁸

²⁸ Dwi Grace Rosalia Silalahi et al., "From Patrilineal Tradition to Gender Equity: The Evolution of Inheritance Law in Indonesia's Batak Toba Community," *Enigma in Law* 2, no. 2 (August 27, 2024): 129–143, <https://enigma.or.id/index.php/law/article/view/66>.

1. Extra-Judicial Resolution

a. Marhata (Family Deliberation)

Traditional communities frequently experience conflicts or disputes related to inheritance distribution. This occurs when family members feel dissatisfied with their inheritance portions or receive no inheritance at all. Such disputes can cause conflicts among family members, typically arising when women (daughters and widows) receive no inheritance portions. In Batak communities, inheritance legal disputes are initially resolved through marhata (family member deliberation), led by family elders such as uncles (tulang), eldest sons, or paternal relatives. Participants in marhata ceremonies are individuals within the Dalihan Na Tolu unit, where speaking rights are hierarchically ordered: first, boru (female child-giving group); second, dongan tubu (same-birth companions, kinship groups from both hula-hula and boru with clearly traceable male lineage origins); third, hula-hula (female-receiving group).

Marhata rules and procedures are highly formal, conducted using refined language with specific protocols regarding speaking rights, priority speaking rights, and spokesperson roles. Marhata ceremony participants are Dalihan Na Tolu unit members with hierarchical speaking rights: first, boru (female child-giving group); second, dongan tubu (same-womb companions or same clan, kinship groups from both hula-hula and boru with clearly traceable male lineage origins); third, hula-hula (female-receiving group); fourth (if present), dongan sa huta (same-village companions). In these deliberations, tulang (within the boru group) holds special status as decision-maker and marhata closer.

Case 1: B Manurung had one daughter named A boru Manurung. When B Manurung died, the deceased had seven brothers. Upon B Manurung's death, one brother demanded inheritance rights for brothers. Following traditional death ceremonies, this matter was resolved through marhata witnessed by all deceased brothers and close relatives, including parents. The marhata decision resulted in six brothers agreeing that A boru Manurung deserved full paternal inheritance rights, as this property represented her father's earnings and rightfully belonged to her, while they had obligations to protect A boru Manurung rather than opposing her. Ultimately, A Manurung received full inheritance rights from her deceased father, and the dissenting brother had to accept this decision.

Case 2: H boru Simatupang, a respondent, stated that after her husband P Manurung died, she could continue residing in the house left by her husband until her death, after which it could be sold. Other property was equally divided among all children, including her husband's ancestral property: one house and 2 hectares of rice fields in Medan, plus 2 hectares of palm oil plantations in Batak Toba land. This decision was deliberated through marhata among all children (both sons and daughters), witnessed by close relatives and daliha na tolu. They felt equal distribution was appropriate based on their children's economic conditions, as daughters, despite being married, remained economically disadvantaged while sons were financially stable with their own homes. Consequently, H boru Simatupang's decision was approved by both sons, who agreed to equal inheritance distribution and created written consent agreements.

These two cases demonstrate that marhata or deliberation represents the closest alternative institution for Batak people in discussing various family matters, particularly inheritance legal disputes among heirs.

b. Traditional Institutions

When marhata (family deliberation) processes involving family relatives fail to achieve settlement agreements, cases may be brought to traditional institutions for resolution by traditional leaders. Customary law implemented by traditional institutions represents manifestation of living values developing within communities.

The daliha na tolu traditional institution serves as a Batak traditional deliberation institution involving traditional leaders who truly understand, master, and internalize Batak customs. When marhata (family deliberation) processes fail to achieve agreements, cases may be brought to traditional institutions for resolution by traditional leaders. Existing Batak customary legal institutions play strategic roles in resolving legal disputes, particularly in inheritance civil cases. Customary law implemented by traditional institutions represents manifestation of living values developing within communities. Therefore, customary law should be positioned as the foundational basis of Indonesia's legal hierarchy structure, both juridically normative, philosophically, and sociologically, as all Indonesian positive legal regulations base themselves on and derive substantive sources from customary law, while contributing to better Indonesian law creation that aligns with justice and Indonesian societal values.

2. Judicial Resolution

When inheritance distribution disputes cannot be resolved through family deliberation or traditional institutions, parties may file inheritance distribution dispute lawsuits in court. In judicial dispute resolution processes, reconciliation between parties is rarely achieved. Communities generally avoid judicial dispute resolution methods due to shame, utilizing courts as last resorts when all extra-judicial dispute resolution methods reach impasses.

Disputing parties typically become adversarial due to court decisions that no longer favor negotiation or reconciliation, with court decisions often perceived as burdensome for losing or disadvantaged parties, severely limiting post-decision reconciliation possibilities. Courts represent final measures undertaken by parties feeling wronged. However, to understand why people choose state legal institutions for dispute resolution, several characteristic differences between state judiciary and traditional institutions can be examined based on regulatory sources, operational scope, resource potential for implementation, and ultimate objectives. State judiciary is based on uniform regulatory frameworks applicable to all people within broad scopes (national territory) and operated by legal officials within state bureaucracy.²⁹ Its coverage is extensive, with ultimate objectives involving winning and losing parties (win-lose solutions), as legal substance takes precedence over procedure. Conversely, traditional institutions (customary deliberation) are founded on local community law ways, with customary values, religious values, and other customs heavily embedded in customary law.

Judges cannot adjudicate solely according to personal justice feelings but must submit to objectively prevailing societal values.³⁰ Judges are bound to legal systems formed and developed within communities. Through each decision, judges declare and strengthen unwritten legal norm life. During such determination, customary behavioral regulations acquire legal character.³¹ Formal legal official determinations (decisions) contain legal regulations, though material strength of such legal regulations varies. When determinations (decisions) are actually obeyed by communities in daily social reality, their material strength is evident. Conversely, determinations not implemented in daily community life, despite formally containing legal regulations, possess nil material strength.

²⁹ Ibid p. 123.

³⁰ Prof. Dr. R. Soepomo Soepomo, *Bab-Bab Tentang Hukum Adat* (Jakarta Timur: PT Balai Pustaka, 2013).

³¹ Kusumadi Pudjosewojo, *Pedoman Pelajaran Tata Hukum Indonesia* (Jakarta: Sinar Grafika, 2008).

Case 1: The protracted inheritance case of D Siahaan family, despite family deliberation and traditional institution attempts, produced no results. Dissatisfied parties brought this matter to court. Judicial resolution resulted in inheritance property in Medan and Jakarta being equally divided between daughters and sons (while village property remained undiscussed). After court decisions were issued, to ensure recognition by all parties and families, traditional customs endorsed decisions through clan councils (punguan marga). In this case, state law issued through courts still required traditional institutional legitimacy. Legitimacy importance from clan councils (punguan) for Batak Toba individuals means that cases not endorsed by clan councils result in social ostracism for involved parties. For Batak people, such ostracism is extremely painful.

Customary inheritance legal dispute resolution in matrilineal kinship systems addresses significant human life processes regarding wealth transition (inheritance) to left-behind generations (heirs). Consistent with Minangkabau community customs, high ancestral property cannot be transferred through sales to other parties but only used (ganggam bauntuak). In Minangkabau communities, female children qualify as heirs. However, female heirs do not solely control and manage inherited property but are accompanied by maternal male relatives (mamak). This inheritance process does not always proceed smoothly but frequently generates disputes among heirs. Common Minangkabau community problems involve high ancestral property used for extended family (clan) interests, though implementation often involves deviations through personal benefit utilization and clan ancestral property pawning beyond predetermined conditions.

Regarding customary inheritance legal issues, particularly inheritance property distribution, this affects everyone when someone dies leaving wealth. Therefore, inheritance law is crucial in human life, especially for heirs, as it involves survival and inheritance recipient needs. Consistent with Minangkabau community customs, collectively owned inheritance among heirs based on maternal lineage (matrilineal). However, Islamic religious influence in Minangkabau shows changes in development that strengthen family relationships between husbands, wives, and children, bringing significant consequences and influences to acquisition property positions and such property inheritance.

Applicable law in inheritance property distribution for high ancestral property is Minangkabau customary law with heirs being family groups drawn from maternal lineage, both male and female. High ancestral property cannot be divided among heirs but is

collectively owned with rights to use and utilize ancestral property through *ganggam bauntuak* (designated grasp). Meanwhile, low ancestral property distribution (acquisition property and *suarang* property) applies Islamic inheritance law with heirs being wives and children, both male and female. Second, *mamak kepala waris* (chief inheritance uncle) still plays significant roles in high ancestral property distribution implementation but plays no role in low ancestral property distribution (acquisition and *suarang* property). Third, inheritance property dispute resolution in Minangkabau customary communities generally still follows Minangkabau customs. Inheritance distribution disputes in Minangkabau mostly prefer peaceful resolution through deliberation and consensus among clan members.

Regarding high ancestral property dispute resolution in Minangkabau, conflicts or disputes frequently occur within clans where high ancestral property is sold without clan knowledge. In Minangkabau customs, high ancestral property represents clan dignity and self-respect; therefore, high ancestral property sales equate to eliminating clan or tribal territorial portions, ultimately reducing customary territory or *nagari*. Ancestral property usage related to urgent interests includes: *Rumah Gadang Katirisan* (traditional house repair), *Gaduh Gadang Balum Balaki* (unmarried mature women), *Maiktabujua ditengah rumah* (corpse lying in house center), *Mambangik Batang Tarandam* (raising submerged stems). This research discusses high ancestral property dispute causes in Minangkabau, methods employed for high ancestral property dispute resolution, and Nagari Traditional Council (KAN) success in resolving high ancestral property disputes in Minangkabau.

Factors generating inheritance disputes in Solok Regency communities include: (1) clan ancestral property misuse by *mamak kepala waris* through clan ancestral property sales for personal interests; (2) clan ancestral property donations to other parties; (3) customary regulations granting land use rights of clan property to *mamak kepala waris* for decades. Legal principles used for inheritance dispute resolution in Solok Regency follow Minangkabau customary law provisions through: first, prioritizing familial resolution mediated by *ninik mamak* within clans; second, attempted resolution through Nagari Traditional Council (KAN) institutions providing customary considerations and community-developed customs; third, inheritance disputes resolved through courts based on Nagari Traditional Council (KAN) recommendations containing customary considerations appropriate to dispute problems.

One customary law kinship system is the parental or bilateral kinship system, where every person may trace their lineage upward through both fathers and mothers, as practiced by their fathers and mothers continuously. This system does not differentiate between male and female rights, exemplified in Javanese parental kinship systems.

Customary inheritance legal dispute resolution in parental or bilateral kinship systems follows the same patterns as patrilineal and matrilineal community dispute resolution, where disputes are initially resolved through deliberation among heirs. When deliberative consensus fails to provide solutions, parties may file court lawsuits.

In customary inheritance law, “harmony” (rukun) represents a fundamental principle guiding customary dispute or case resolution. The harmony principle relates closely to collective life perspectives and attitudes within environments among peers to achieve communal living atmospheres accepted by customs as “safe,” “peaceful,” and “prosperous” communities.³² Therefore, parental (Javanese) communities fundamentally resolve inheritance problems based on deliberation and distribution according to mutual harmony among heirs. However, in development, many heirs resolve customary inheritance disputes through judicial channels due to lack of justice in deliberative inheritance distribution.

Regarding judicial resolution of customary inheritance legal disputes in parental (Javanese) kinship systems, judges observe that customary inheritance legal rules in parental (Javanese) communities, for instance, position widows or widowers as non-heirs (based on unwritten rules or customary law), leading judges to employ legal discovery in resolving Javanese customary inheritance legal disputes.

a. Supreme Court Decision Number 561 K/Sip/1968

In 1960, a married couple named Hardjomarkrum and Karsimah from Sukomulyo village, Lamongan District, passed away leaving behind two children: Mat Rochman and Duk-Ikah. The deceased couple left gono-gini inheritance property consisting of two rice field plots and one dry field plot.

Following their parents' deaths, Duk-Ikah took control of all the lands while the inheritance remained undivided. Mat Rochman repeatedly requested that Duk-Ikah divide the inheritance between them or sell the properties and split the proceeds, but Duk-Ikah consistently refused these requests. This led Mat Rochman to file

³² Moh. Koesnoe, *Catatan-Catatan Terhadap Hukum Adat* (Surabaya: Airlangga University Press, 1979).

a lawsuit with the Lamongan District Court, seeking proper distribution of the inheritance properties.

The case progressed through multiple court levels. The Lamongan District Court granted Mat Rochman's request in Decision Number 41/1996/Pdt., ruling in his favor. When appealed, the Surabaya High Court upheld this decision in Decision Number 173/1976/Pdt. Finally, when Duk-Ikah brought the case to the Supreme Court through cassation, the highest court determined that the cassation grounds were merely documentary evidence used as objection bases and found that Mat Rochman's lawsuit had not been proven invalid. Consequently, the Supreme Court rejected Duk-Ikah's cassation petition.

The researcher's analysis of this case emphasizes that all biological children, regardless of gender, possess equal inheritance rights to their parents' property from both paternal and maternal sides, with distribution being conducted equally among all heirs.

b. Supreme Court Decision Number 89 K/Sip/1968

This case involved the death of H. Bahrudin on April 21, 1956, in Bajongbong Garut. He left behind his widow, Nyi Hj Marpuah, but no children from their marriage. H. Bahrudin did have a biological sister, Nyi Hj Habibah, who became central to the inheritance dispute. The deceased left joint property including rice fields, land, and houses, all of which remained undivided and under the control of his widow.

The inheritance dispute arose when Nyi Hj Habibah disagreed with the widow's exclusive control and demanded proper property division. The District Court initially ruled that the properties constituted joint property between H. Bahrudin and his widow, determining that each party should receive half portions. The court decided that Nyi Hj Marpuah must surrender and divide the property through mutual agreement, with court intervention if no agreement could be reached.

The Jakarta High Court amended this decision in Case Number 04/1965/PT. Pdt dated January 8, 1966, ruling that Nyi Hj Habibah should conduct the division and separation of the deceased's inheritance, resulting in half portions for each party. If no agreement could be reached regarding the division, each would receive half of the inheritance sale proceeds following a public auction.

However, the Supreme Court disagreed with both lower court decisions. The highest court established that according to customary law and jurisprudence, Nyi Hj Marpuah, as H.

Bahrudin's widow in a childless marriage, possessed the right to continue controlling all gono-gini property without consideration of adequacy for livelihood security. The Supreme Court rejected the equal division approach favored by the District and High Courts, instead establishing that widows who do not remarry have lifelong rights to control gono-gini property acquired during marriage with their deceased husbands.

c. Researcher's Analysis of Widow Inheritance Rights

The researcher supports the Supreme Court's position, arguing that widows who do not remarry deserve rights to control their deceased husbands' property for their daily necessities. The analysis categorizes widow inheritance rights under parental or bilateral customary inheritance law into two distinct groups.

Widows without descendants face specific inheritance rules where original or brought property returns to its origin, meaning widows do not inherit these assets. However, gono-gini or joint property falls entirely under widow control during their lifetime or until remarriage, becoming their absolute right during this period. The husband's inheritance rights only activate when the widow dies or remarries. At that point, original property returns to its origin, while gono-gini property undergoes division where half becomes the widow's absolute right and inheritance for the widow's siblings upon her death, and the remaining half becomes inheritance for the deceased husband's heirs.

Widows with descendants experience different inheritance arrangements where original or brought property becomes the children's inheritance rights. Gono-gini property handling varies depending on circumstances. It may remain intact under widow control during her lifetime or until remarriage, being divided only after death or remarriage. Alternatively, it might remain under widow control until children reach maturity, with division occurring when children become adults. In some cases, immediate division occurs where half becomes the widow's full rights and half becomes the deceased husband's rights, subsequently becoming inheritance for all children and the widow with equal distribution.

Implementation of Supreme Court Jurisprudential Norms Regarding Customary Inheritance Law Based on Kinship Systems

Kinship structures profoundly shape how inheritance laws function across Indonesia's diverse traditional societies. The methodology for distributing family wealth differs markedly among patrilineal, matrilineal, and bilateral social

organizations, with each system developing its own distinctive approach to property transfer between generations.

Batak communities exemplify patrilineal inheritance through their emphasis on ceremonial marriage arrangements. These unions require the groom's extended family to transfer valuable goods or monetary payments to the bride's kinship group, symbolically compensating for her departure from her natal community and entry into her husband's clan network. Such marriages establish expectations for male offspring who will perpetuate the family's genealogical heritage. Since Batak Toba society maintains strict adherence to paternal lineage tracking, family relationships connect exclusively through male ancestral lines. This framework designates sons as the sole legitimate successors to family wealth, while excluding daughters from paternal inheritance claims. Cultural beliefs position daughters as future contributors to other family networks through marriage, ultimately serving to reinforce external clan structures rather than continuing their original family's bloodline.

Minangkabau society demonstrates matrilineal inheritance principles by preserving maternal bloodline connections. Their legal framework encompasses kinship networks tracing back to common female ancestors, incorporating maternal relatives of all genders, grandmothers alongside their siblings, and additional family members linked through feminine hereditary connections. Children within this system inherit exclusively through their mothers for both prestigious ancestral holdings and routine family assets. Following the death of male family members, neither their offspring nor surviving wives qualify for inheritance benefits. The inheritance instead transfers to the deceased's nephews, specifically the sons of his sisters.

Javanese customary practices establish bilateral inheritance systems that maintain equal treatment for all children regardless of gender. Primary succession rights belong to the immediate next generation, especially children who grew up within the deceased's household, with biological offspring receiving preferential consideration. In situations where no direct descendants or adoptees exist, inheritance follows an ordered sequence beginning with surviving parents, progressing to biological siblings and their descendants if parents are unavailable, then advancing to grandparents when siblings are absent. Should grandparents also be deceased, inheritance consideration extends to aunts and uncles from both sides of the family, ultimately reaching other relatives if closer family members are unavailable.³³

Spousal inheritance status has experienced considerable evolution throughout Indonesian legal history. Initially, surviving spouses held no direct inheritance claims to their deceased partners' estates, though they maintained certain rights to inheritance portions or could postpone distribution for sustaining

³³ Soepomo, *Bab-Bab Tentang Hukum Adat*.

their livelihood needs. This limitation characterized pre-independence legal frameworks, while post-independence reforms acknowledged surviving spouses as legitimate heirs.

Modern court precedents have clarified spousal inheritance entitlements through significant rulings. The February 25, 1959 Supreme Court decision (387 K/Sip/1958) established that Central Javanese traditions grant widows half ownership of gono-gini marital assets. The October 29, 1958 ruling (298 K/Sip/1958) determined that childless widows retain authority over gono-gini property throughout their lifetime or until subsequent remarriage under Javanese custom.

Supreme Court Jurisprudence 179/K/SIP/1961 represents a watershed moment for Indonesian inheritance legislation by establishing nationwide recognition that male and female children deserve identical inheritance privileges with equal asset distribution. Although this precedent lacks universal legislative authority, it creates binding expectations for involved parties while offering judicial guidance for comparable future cases. This legal advancement functions as jurisprudential discovery, contributing significantly to national law development since judicial rulings constitute acknowledged legal foundations within Indonesia's framework. The precedent specifically influences Batak inheritance traditions by establishing gender-neutral inheritance principles.³⁴

Legal evolution through jurisprudence enables the transformation of obsolete regulations when existing laws fail to address contemporary social requirements. These judicial innovations seek to strengthen women's inheritance positions and promote equitable property succession practices. Acceptance of this jurisprudence within Batak territories faces limitations due to Indonesia's varied customary legal environment, where legal pluralism and contrasting dispute resolution methodologies across communities create implementation obstacles. Traditional governance structures that previously managed inheritance conflicts within their jurisdictions now encounter reduced authority in resolving disputes. Community-based conflict resolution systems have experienced declining effectiveness, especially concerning inheritance disagreements, encouraging individuals to pursue resolution through official court systems and generating increased jurisprudential development.

Article 5 of Law 48/2009 regarding Judicial Authority mandates that judges must research, comprehend, and implement community-based legal principles and justice concepts when rendering verdicts. This requirement supports customary law recognition as authentic legal framework representing community standards and traditions. Nevertheless, judicial determinations do not automatically achieve widespread community endorsement.

³⁴ Chidir Ali, *Himpunan Yurisprudensi Hukum Adat Batak*, First Edit. (Bandung: Tarsito, 1978).

Legal precedents establishing women's inheritance rights within Batak communities through multiple court decisions represent evolving national law that progressively adapts customary regulations to expand inheritance opportunities for females and widows. Various court rulings advance legal progress within patrilineal societies by promoting enhanced gender equality through judicial decisions that obtain governmental legal recognition. However, this jurisprudential framework primarily receives acknowledgment within official judicial systems rather than achieving comprehensive adoption within traditional community governance.

CONCLUSION

In customary inheritance disputes, resolving issues within patrilineal, matrilineal, and parental/bilateral kinship systems typically starts with family discussions among the heirs. If these discussions fail to produce an agreement, the matter is brought before traditional institutions or local customary elders. Should any party remain unsatisfied with the traditional leaders' decision, they have the option to pursue a judicial remedy through the court system.

While the Supreme Court has established legal precedents to guide these disputes, their application within customary communities has been inconsistent. This is largely because customary legal communities often lack awareness of these judicial rulings, which are primarily known and applied within the court system. Despite this, these court decisions have brought about significant changes in some customary practices. For example, in Batak communities, several legal precedents have led to women being granted and receiving inheritance rights, demonstrating a shift in traditional inheritance distribution.

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