

FAKULTAS HUKUM DAN KOMUNIKASI

Jl. Pawiyatan Luhur IV/ 1, Bendan Duwur, Semarang 50234
Telp. (024) 8441555, 8505003 (hunting) Fax. (024) 8415429 - 8445265
e-mail: unika@unika.ac.id http://www.unika.ac.id



SURAT - TUGAS

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NAMA	NIM	TUGAS
1. Prof. Rika Saraswati, SH.,CN.,M.Hum.,Ph.D.	NPP. 058.1.1992.120	Ketua
2. Emanuel Boputra, SH.,MH.	NPP. 058.1.1995.173	Anggota
3. Ihsa Aryan Amaranila	NIM. 19.C1. 0053	Anggota

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Dr. Marcella E. Simandjuntak
Dekan
Dr. Marcella E. Simandjuntak, S.H., C.N., M.Hum.
NPP - NPP. 058.1.1994.161

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THE INHERITANCE OF MINANG FAMILIES IN SEMARANG CITY: A STUDY OF COMPLIANCE WITH LEGAL CULTURE

Emanuel Boputra¹, Rika Saraswati², Ihsan Aryan Amaranila³

^{1,2,3} School of Law, Faculty of Law and Communication, Soegijapranata Catholic University, Central Java, 50234, Indonesia

Abstract

Many members of tribal communities in several areas have migrated outside their place of origin, settled in new areas for many years, and adapted to the values, norms, attitudes and mindsets of the people in the new environment. This change is expected to affect the value of the customary law of the area of origin held by the tribal community members who migrated, including customary inheritance law.

This study aims to determine the implementation of the inheritance of indigenous people who migrated and to find out how far the legal culture and customary values are maintained or shifted. This research is an empirical juridical research with a qualitative approach. This umbrella research involves students writing a bachelor thesis with the theme of inheritance. The type of data used is primary and secondary data. Primary data was obtained through interviews with the Minang families.

The results of the research show that inheritance is carried out regardless of gender and is based on the needs of each family using the principles of kinship, justice and *parimirma* (compassion), consensus and deliberation; The inheritance in the Minangkabau families studied are not appropriate with *faraidh* and the Compilation of Islamic Law because the money (inheritance) are distributed equally among all heirs; the way of such equal distribution is indeed according to Indonesian Civil Law (which European used it during Dutch East Indies government). The heirs used Indonesian Civil Law because it is seen as more appropriate and the needs of each family member.

Keywords: Inheritance, Minang families, legal culture

Introduction

The Indonesian nation has more than 1.340 ethnic groups spread throughout Indonesia (Mulachela, 2022). Each of these tribes has its customary law, including customary law in dividing up the inheritance. This customary inheritance system will be influenced by the kinship system, namely: the patrilineal, matrilineal and paternal kinship system (Nurmansyah et al., 2013). The Patrilineal Kinship System is a kinship system whose affinity is based on male or paternal lineage; the distribution of patrilineal kinship is found in people in Gayo Land, Alas, Batak, Bali, Irian Jaya, and Timor (Poespasari, 2018). The consequence

of the patrilineal kinship system, which is based on the male lineage (father), is that the descendants of the male o father have a higher position and receive more rights (Anwar, 2021; Situmeang, 2018; Depari, 2011).

The matrilineal kinship system is based on female or maternal lineage; the spread of the matrilineal system is used by the Minangkabau people (Komari, 2015; Poespasari, 2018). In this kinship system, children also connect themselves with maternal relatives based on the female lineage unilaterally (Nurmansyah et al., 2013). The consequence of the matrilineal kinship system is that descent from the mother's line is essential, especially in inheritance; people from the mother's lineage get more shares than the father's line. The paternal kinship system is a kinship system whose affinity is based on the lineage of the father and mother; the spread of the paternal kinship system can be found in the people of Java, Madura, Sumatra, East, Aceh, Riau, South Sumatra, throughout Kalimantan, Ternate and Lombok (Poespasari, 2018). The consequences in the paternal kinship system will be inherited from the father and mother.

Customary law is a law rooted in traditional culture and continues to grow and develop in society. Customary law grows and develops and adapts to the changes and developments of the times. Indonesian society is plural, with its customs, culture and traditions fostering different customary law practices. If indigenous peoples still live in their customary environment, it is only natural that the nuances of customary law still dominate their mindset, attitude and behaviour. However, it is unavoidable that many changes, the development of modern values, have caused tribes to experience changes little by little, especially in implementing their customary inheritance laws. This happens when members of an indigenous community migrate and live in a new area with a different legal culture from migrants from their area of origin.

Some researches have found that tribal people migrated as caused by various motivations, such as improving their education and lives. The migrated people come from their cultural backgrounds and live in a new place where most people in the new place have different cultural backgrounds. The culture in which they live will influence their own culture. The applicability of customary law cannot be separated from its supporting subjects, namely members of the customary law community; they are the ones who "decide" how customary law will continue. The perspective of the subjects towards customary law will be

very determinant. On the other hand, one's life journey in social interaction, whatever its form, will influence that perspective (Naim, 2012).

As migrants, whether they like it or not, are required to be able to build social interaction with local residents. The system of social interaction and cultural behaviour of overseas migrants will experience a "clash" with the primordial elements of the local population. Therefore, in building social interactions with local residents, the migrants will face at least three possible alternative cultural strategies, namely: a) maintaining ethnic identity, b) adaptive, by maintaining ethnic identity, but at the same time starting to enter into local ethnic identity, and c) escapist or stripping ethnic identity (Atlanta and Ranto, 2018). These strategies that the migrants choose will correlate with the issue of legal culture and compliance law.

Legal culture is the same general response from specific communities to legal phenomena, whereas legal culture is a response that accepts or rejects a legal event (Soekanto, 1982; Apriandhini, 2021). The general response is a unified view of the values and behaviour of individuals. Thus, the legal culture is essentially a pattern of individual behaviour as a member of society that describes the same response (orientation) to legal life that is lived by the community in which the members of that community are located (Muhtarom, 2015). The same response can be accepting or rejecting other legal cultures, as with other legal norms (Hadikusuma, 2003; Widati, 2023).

Legal culture is a power within a society whose roots originally come from tradition and the value system adopted, which will determine how law can be accepted and implemented (Hadikusuma, 2003; Widati, 2023). If this legal culture is complied with, there will be legal compliance by the community. Legal compliance is an awareness of the law's benefits that creates community loyalty to the legal values of living together. Legal awareness is an awareness of the values of humans about existing laws (Soekanto, 1982).

To determine to what extent adherence to legal culture and customary values are maintained or customary values have shifted, the authors are interested in conducting research titled "Implementation of the Customary Inheritance of Immigrant Communities in Semarang". In this research, two formulations of the problem are taken: 1) How is the implementation of the inheritance of overseas indigenous peoples based on their respective ethnic groups in Semarang City, considering that they already live in Semarang? 2) How are the legal values of customary inheritance maintained or abandoned by overseas indigenous

peoples in Semarang City? Through the two formulations of the problem, it is hoped that legal culture adherence to original customary law can be identified as an effort to preserve or there has been a shift or change in legal culture from original customary law considering mobility or migration, education, and association in the environment where that person lives daily. So, there is no contact between two or more cultures with local community members (Darwis, 2003; Febrianto, 2018). Moreover, in the digital era and globalisation, there is a demand to adjust to human rights and values such as gender equality between females and males.

Research Method

This research uses a qualitative approach because it is adapted to the research objective to understand or understand legal objects, symptoms or phenomena which are difficult/cannot be calculated with statistical or mathematical figures. In the context of legal research, this research is non-doctrinal (empirical) legal research carried out by conducting field studies on the implementation of the inheritance of overseas indigenous peoples based on several ethnic groups who live and settle in the city of Semarang. Using a qualitative approach, researchers can get answers based on experiences and perspectives from the points of informants or participants (Hammarberg et al., 2016). The research specifications are analytical and descriptive. Based on its nature, the purpose of the study is to provide an overview/description of the object of study under study. The object of the study is to various information about the implementation of customary inheritance in overseas communities in the city of Semarang.

The data used are primary and secondary—primary data was obtained through field studies through interviews. Interviews were conducted to obtain data regarding the implementation of customary inheritance by indigenous people who migrated and settled in Semarang. Interviews will be conducted with the Minang families. The question given in the interviews were open-ended to gain experience on customary inheritance from the respondents. Secondary data were obtained through a literature study consisting of books, journals, research results, laws and regulations and other documents related to the topic under study.

RESULTS AND DISCUSSION

Minangkabau or Minang is one of the archipelago ethnic groups in the area of West Sumatra. This ethnic has a matrilineal or maternal culture which its inheritance system on the base of mother's line from the first generation of women to the following generations. Female in this ethnic is always respected higher than male. this value was undertaken from Islamic teaching which states 'respect your mother, your mother, and your mother and then your father' (Karmila and Siregar, 2021). Communities who migrate, including Minang ethnics, are believed to uphold cultural values so that socio-cultural activities between overseas communities in an area are still maintained (Malik, 2016). However, in the issue of inheritance law, it seems that there has been a shift towards customary law that applies in the area of origin because there is a Minang saying "where the earth is stepped on, the sky is held up". The culture in which they live will influence their own culture (Malik, 2016).

The researcher interviewed two Minang families in Semarang City, namely the family of R and K.

1. The Family of R

R (who married her husband P) passed away in 2010 and has five children; the first and second (Y and D) are male, and the rest are female (I, S, H). however, before the inheritance was divided, S passed away and left three children (two females: N, T, and one male: F). During their marriage, R and P bought a piece of land in Semarang. The land they bought in the Minang customary inheritance law system is classified as a low inheritance. In 2015 her husband, P, passed away. P died without leaving a will or a precise distribution of assets for his five children. In 2017, Mamak from the family wanted to sell the land. However, given that there was no will left regarding the assets, this situation then gave rise to various opinions among the heirs on dividing the inheritance, whether using Minang Customary Law, Islamic Law, or Western Civil Law (Amaranila, 2022).

In 2018, the land was sold at a price of IDR 300,000,000 (three hundred million rupiahs), which was distributed equally to all heirs in the amount of IDR 60,000,000 (sixty million rupiahs) to Y, D, I, H, and the three children of S as substitutes for the heirs. S' inheritance. Before the amount of money was divided, the differences of opinion still occurred because R's two daughters, I and H, insisted on using Minang customs to distribute their parents' inheritance. Their reason was that they felt they

were still responsible for upholding the Minang customary law that flowed in their blood. They argued that they are responsible for teaching their children and grandchildren about Minang customary law as their ancestors come from that place. This statement demonstrates that they are descendants of the Minang people who obey their customs even though they have migrated for decades. On the other hand, as children of S, N and T want an equal distribution of inheritance because their last sibling, F, is a 14-year-old boy and needs many expenses for his life, especially for his school fees. This is supported by the Mamak of this family, who also wants an equal distribution of inheritance.

Y, as Mamak Gadang, the oldest brother in the family, has responsibility for her nephews' future, given that they are orphans and under his guardianship. Y also wanted an equal distribution of his parents' lower inheritance because he felt that he had migrated from Minang land for quite a long time, so there was less bond with Minang customary law. Y feels that the family has migrated to Java for tens of years, so Y thinks it will not be a problem if the division of inheritance does not apply to Minang customary law because Minang customary law does not have strict sanctions.

D (the second son of R and P) argued that his parents' low inheritance was supposed to be for the daughters, but there was no problem for him if his sister and brother wanted to divide the money equally for all heirs. D (male), R's second child, said he did not want disagreements among his family members regarding the inherited land. The opinion of D has demonstrated that D wanted a settlement in a family to keep harmony by reaching a consensus. This thought aligns with the principles of kinship and deliberation for consensus in customary law.

Finally, the distribution of inheritance was given to four children and three grandchildren as substitute heirs. This happened because the implementation of inheritance was carried out by consensus, which was mutually agreed upon by all children and grandchildren. If inheritance, according to Minang Customary Law is strictly applied, only I, S, and H are entitled to the heirs of R as the first generation.

The implementation of inheritance distribution in the R family shows that adherence to customary law culture has shifted away from using the Minang community kinship system, which is matrilineal because there is an opinion that Minang customary law does not have strict sanctions. This opinion reflects the non-

compliance of the Minang customary law culture by the overseas Minang community. However, this does not mean that the culture of family law towards Minang customary law has completely disappeared because while discussing plans for dividing and implementing inheritance distribution, it is still guided by the values and principles of customary law that apply, namely: consensus, justice, *parimirma* and the principles of customary law, equal rights, and togetherness. In addition, inheritance with a matrilineal system is not used because the heirs have considered the system more appropriate to their needs, the Civil Code/*Burgerlijk wetboek* (BW). This system regulates that all individual heirs by blood and marriage can get the inheritance regardless of their identities.

All this family members are Muslims. Based on the Compilation of Islamic Law (KHI), the implementation of the inheritance has fulfilled several elements related to Article 171, such as a Muslim who passed away, heirs who are related by blood or marriage and are Muslim, and properties left behind. The Compilation regulates the division of inheritance by giving male heirs' portion twofold compared to female heirs' portion. However, the distribution of the sales proceeds in R's family was not based on the Compilation of Islamic Law because it was distributed equally to all heirs individually, both male and female.

2. The family of K

K married her husband M (a Javanese) in 1960. They decided to migrate to Semarang in 1963. They have three children in their marriage, S (female), U and B (male). During their marriage, M and K had built two houses, one used as their residence and another rented out to other people because their children were already married, and some lived outside the city. In Minang customary law, their house becomes a low inheritance because M and K collected it during the marriage.

In 2018 K passed away, and M then intended to sell the rented house and handed over the money from the sale to S as a female heir according to Minangkabau Customary Law. M informed his plan to his children, who gathered to discuss it. S disagreed with her father's plan to give all the money from selling the house to herself. She prefers to divide the money equally among all M's heirs. S argued that they (she and her sibling) are also not fully Minang people because their father is Javanese, and both parents migrated to Java long ago. He also does not want all of

the proceeds for himself because his two younger siblings also have the right to the inheritance. During the discussion, U expressed his desire to move his family to Semarang. All family members welcomed this and gave rise to the idea for U to buy the second home. Then, all heirs calculated how much the house would be sold for and how much would be distributed among all their children. M followed his children's wishes for the amount of the distribution of her inheritance because she did not expect a share for herself. After all, she felt that living in her own house was sufficient and allowed S to manage this inheritance, while S as a daughter, felt that the distribution of the proceeds from the sale of this house was distributed equally so that it was fairer. S also wants M to get the same share. U then starts calculating the amount he has to pay for the house and the renovation costs if he buys the house. As the last child, B follows the wishes of his two older siblings because he feels he has had enough of his life and does not expect an extra share of the proceeds from the sale of this second house.

Finally, the amount for the house if it would be sold, is IDR 360,000,000.00 (Three hundred sixty million rupiahs), and U immediately agreed to buy. The distribution of proceeds from the sale of the house was also immediately thought of and led to an agreement that U would only pay an amount of Rp. 270,000,000 (two hundred and seventy million rupiahs) for the house, and M, S, and B would receive the same Rp proceeds—90,000,000 (ninety million rupiahs).

The implementation of low inheritance to the R and K families was also based on the customary law principles: consensus, justice and *parimirma* (*welas asih* or *mercifulness*), equal rights, and togetherness. The implementation of the inheritance for those families has also demonstrated a renewal of inheritance in the Minang customary community who had been living in the city of Semarang for decades (Febrianti, 2018). Based on the two cases, it can be seen that the distribution of inheritance of low inheritance to sons according to Minang customary law in overseas Minang Community Families in Semarang City did not use Minang customary law as it had been decided through the Urang Nan Ampek Jinih Grand Meeting and the Bukik Marapalam Declaration which states that the implementation of low inheritance is on the hands of the heirs. The opportunity to distribute the

property is based on Islamic law. It will be fairer for all heirs to benefit from the heir's inheritance equally, not only giving their rights to female heirs (Prasna, 2018).

Inheritance in the families of R and K, if reviewed based on Islamic faraidh law and the Compilation of Islamic Law, is not appropriate because in reality, all heirs agree that the proceeds from the sale of the second house as the inheritance of Mrs. K are distributed equally among all heirs.

The distribution of inheritance by the R and K families has used Indonesian Civil Law because it is seen as more appropriate and per the needs of each family member. The system of inheritance in civil law is individual, also known in customary law. The individual inheritance system means individuals with the characteristics that the inheritance left behind are divided into ownership among the heirs, who then have the right to use, process, and enjoy after the heir dies. The advantage of the individual inheritance system is that the heirs have the right to freely determine their will over the inheritance that is part of it. Still, even though the heir has the right to freedom over the portion he has received, the weakness of the individual inheritance system is usually that in the implementation of this system, not only the breakdown of the inheritance but also the breakup of brotherhood and kinship ties between their families with one another. Efforts to prevent the breaking of brotherhood and kinship ties have been carried out by deliberation to reach a consensus. By using this principle, it can be seen that these two families maintain a communal or societal style of Minang customary law culture that tries to avoid conflicts that will harm other people. The deliberation step to reach a consensus also shows respect for communal patterns in Indonesian customary law culture. This communal pattern prioritizes common interests rather than personal interests.

The inheritance in the families of R and K is not appropriate with faraidh and the Compilation of Islamic Law because in reality, the money (inheritance) is distributed equally among all heirs; the way of such equal distribution is accurate according to Indonesian Civil law (which European used it during Dutch East Indies government). The heirs used Indonesian Civil Law because it is seen as more appropriate and per the needs of each family member.

With the use of the Western legal inheritance system, it can be said that there has been a shift or change in compliance with the Minang legal culture. The change

in the legal culture does not entirely change the Minang customary law. Because in the process of dividing the inheritance, the heirs still prioritize the principles of applicable customary law, such as the principles of deliberation for consensus, justice, and *parimirma* which, in the end, the implementation of the inheritance is distributed equally to all heirs.

Legal compliance is an awareness of the law's benefits that creates community loyalty to the legal values of living together. Legal awareness is an awareness of the values of humans about existing laws. This legal compliance is called Identification legal compliance, namely compliance driven by the need for group membership to be maintained in order to maintain relationships, especially with those who are authorized to apply these legal principles; identification compliance has an appeal, where there are benefits derived from the relationship; thus compliance depends on excellent or harmful interactions. This means obedience is due to maintaining satisfying relationships with other people or groups.

Several bases give rise to legal compliance, including indoctrination, habituation, and utility. It can be explained if it is associated with the two cases studied. The basics of compliance with the legal culture are due to indoctrination. Indoctrination is the first reason society obeys the rule of law, namely because it is indoctrinated to do so. Humans have been educated since childhood to know and obey these rules. If it is related to the two cases studied, the basis for this indoctrination did not occur or was not vital, considering that the two families had lived in the city of Semarang for a long time. They only know their identity as descendants of the Minang people but do not know their customary law culture in depth. This is understandable because the first generation of both parents who moved from their area of origin was adaptive from the start in the sense of maintaining their old identities. However, at the same time, they also had to adapt to the new legal environment and culture in a new place. Thus, indoctrination does not occur or influence them as strongly as when they were in their land of origin, where the community was more numerous and more substantial in quality and quantity.

The next basis is habituation, where since childhood, humans have experienced a process of socialization, so over time, it becomes a habit to obey the rules that apply in society. This is experienced by the heirs of parents who have migrated for

a long time to the city of Semarang, where in order to live, they have to adapt to old norms and, at the same time to adapt the new norms so that new values or norms become part of their life and become their habits to be obeyed in daily life. This also influenced the mindset of some heirs who felt they were no longer an 'intact' part of their original community because they had lived in Semarang for a long time.

The last basis is utility, in which humans tend to live appropriately and orderly. Appropriate and orderly for one person is not necessarily appropriate and orderly for another. Therefore, we need a standard of appropriateness and regularity. This appropriateness and regularity are governed by customary law through the principles and values of applicable customary law, including Minang customary law. This appropriateness and regularity are also influenced by many factors (among them such as new norms and environment, education, and economy) so that applicable customary law (either from the area of origin or in a new place) will be used as a basis for determining 'measures' of an appropriate life and regular. This can be seen in the two cases where appropriate and orderly living 'measures' are used based on the real needs of each heir from each family.

CONCLUSION

The implementation of inheritance distribution of low inheritance to heirs according to Minang customary law to the overseas Minang Community Families in Semarang City has not used Minang customary law in some parts because the family studied used Indonesian Civil law. In the case of the R and K families applied the general principles of customary law, namely the principles of deliberation for consensus, justice, and *parimirma*, which in the end, the implementation of the inheritance of the lower inheritance is carried out evenly to all the heirs. With the use of the Western legal inheritance system, it can be said that there has been a shift or change in compliance with the Minang legal culture. The change of the legal culture does not completely change the entire Minang customary law because, in the process of dividing the inheritance, the heirs still prioritize the principles of applicable customary law, such as the principles of deliberation for consensus, justice, and *parimirma* which in the end the implementation of the inheritance is low distributed equally to all heirs.

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