

THE EXISTENCE OF THE LAW OF THE TRADITIONAL INHERITANCE OF THE BONOKELING COMMUNITY IN THE MIDST OF LEGAL PLURALISM

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Abstract. The distribution of inheritance in Indonesia still adheres to legal pluralism, namely law for Europeans, law for foreign easterners, and law for *Bumiputras*. This is implemented in the distribution of inheritance under the Civil Code, Islamic Law, and Customary Law. One of the regions in Indonesia that continues to enforce its customary law is the Bonokeling indigenous community, located in the south of Central Java Province, specifically in Pekuncen Village, Jatilawang District, Banyumas Regency. This research is an empirical juridical study employing a structural, cultural, and pluralist approach. The study was carried out in Pekuncen Village, Jatilawang District, Banyumas Regency. Primary data were obtained through in-depth interviews with Bonokeling traditional leaders, heirs, and indigenous peoples; Focus Group Discussions (FGDs) with community leaders, village officials, and customary law academics; and field observations of inheritance distribution practices in the Bonokeling customary environment. Meanwhile, secondary data was obtained through a literature review of laws and regulations, books and scientific articles. The data are then presented as a narrative description. The results of the study show that. The results of the study show that harmony in the Bonokeling inheritance system is not based on written rules but on the internalisation of Pitutur Khaki (ancestral teachings), understood as Ilmu Laduni (spiritual knowledge). The core value of *manut* (communal obedience) is the foundation that puts harmony above individual interests. Consensus deliberation is central to the inheritance system among the Bonokeling Indigenous People, which is based on kinship rather than a formal legal hierarchy. The division of inheritance is carried out collectively by the family or the oldest surviving person, with priority given to balance and justice. This research demonstrates how indigenous communities can maintain and adapt their legal practices amid legal pluralism in Indonesia. These findings confirm that the legitimacy of customary law comes from social consensus, which is effective in maintaining social harmony and cohesion within the community.

Keywords: customary law, bonokeling indigenous people, inheritance

1. Introduction

Indonesia consists of various ethnic groups. The ethnic group's culture is inherited from generation to generation, thereby shaping customs. Customs are local values and traditions that govern human interaction, including traditional ceremonies. Local wisdom in Indonesia is very important to maintain the culture, identity, and life of indigenous peoples in Indonesia. A variety of traditional ceremonies and religious rituals are observed and preserved by each of their followers. In addition to rituals, customs are embedded in the rules and regulations governing daily activities, including inheritance distribution [1] [2].

The distribution of inheritance in Indonesia still adheres to legal pluralism, namely law for Europeans, law for foreign easterners, and law for *Bumiputras*. This is implemented in the distribution of inheritance under the Civil Code, Islamic Law, and Customary Law. Currently, the choice of inheritance law to be implemented is returned to the heirs and their families. In

many areas, overlap between legal systems often leads to uncertainty, disputes, and struggles for legitimacy between formal rules and social practices that have long existed in society. Various studies have shown that legal pluralism often creates conflicts of authority in land tenure, the determination of heirs, and the legitimacy of customary leadership. However, certain indigenous communities have succeeded in maintaining inheritance stability amid the pressures of modernising state law.

One notable example of this phenomenon is the Bonokeling indigenous community in southern Central Java, specifically in Pekuncen Village, Jatilawang District, Banyumas Regency. The Bonokeling indigenous community is an Islamic community that continues to use and practice the Javanese calendar. The Bonokeling indigenous community is found not only in Banyumas Regency but also in Pekuncen Village. This community is also present in the Cilacap Regency, spanning several sub-districts, including Kroya, Sidareja, and Adipala. However, the centre of activity for this indigenous community is in Banyumas, specifically in Pekuncen Village. This village is the centre of the Bonokeling indigenous community because it contains the tomb of Eyang Bonokeling, the founder and ancestor of the Bonokeling indigenous group. The cultural process in the Bonokeling indigenous community is subject to the Bonokeling curse. *Ipat is a guide that contains prohibitions on what may and may not be done in people's lives, including ritual activities.* The Bonokeling community implements Islamic law, Javanese law, and local values that evolve within the community.

Unlike many other indigenous communities that have experienced integration with state law through land certification, notary legalisation, or intervention by agrarian institutions, the Bonokeling community continues to run a customary inheritance system without formal legal instruments. Interestingly, the practice does not give rise to hereditary conflicts, although land inheritance and customary authority are issues commonly disputed across communities. The harmonisation of inheritance in the Bonokeling community has been carried out for generations through the value of *manut* (communal obedience), the teachings of *Pitutur Khaki*, and the mechanism of family deliberation that prioritises collective interests.

However, academic studies on the Bonokeling community are still limited and tend to be descriptive. Previous studies have focused more on aspects of culture, religious rituals, or traditional leadership, without linking inheritance practices to the theoretical frameworks of legal pluralism, living law, or socio-legal approaches developed in the global literature. In fact, the interaction of the Bonokeling community with state law reflects a broader phenomenon in the study of legal pluralism: how local communities strategically select norms from different legal systems to maintain their social autonomy. On the other hand, the Bonokeling inheritance mechanism illustrates how living law functions as the primary source of legitimacy in the absence of written rules, a dynamic that is rarely examined in depth in studies of customary inheritance.

The research gap is also evident in the lack of analysis of how the Bonokeling people selectively interpret and use state legal instruments. For example, the use of *SPPT PBB* as proof of land ownership is not followed by the desire to certify land rights through *BPN* or legalise the distribution of inheritance through a notary. This phenomenon is often understood as "legal lagging behind", even though it can be viewed more critically as a form of local rationality aimed at maintaining customary sovereignty. The explanation of this strategy requires a socio-legal approach that understands law as a social practice rather than merely a formal norm [3].

2. Methods

The type of research in this study is empirical juridical. Empirical legal research is a method that examines law in practice and studies how the law operates in the community. The research

was conducted using a structural, cultural, and pluralist approach. The structural approach to the work of law in society is based on the structures found in society. The artistic approach emphasises that the law is seen as the embodiment of the culture embraced by its people. Meanwhile, the pluralism approach emphasises the existence of legal pluralism, which yields different outcomes from the applicable positive law. The research was conducted in the Bonokeling indigenous community in Pekuncen Village, Jatilawang District, Banyumas Regency. Primary data was obtained through in-depth interviews with Bonokeling traditional leaders, heirs, and indigenous peoples who were directly involved in the practice of inheritance, focus Group Discussions (FGD) with community leaders, village officials, and customary law academics, as well as field observations on inheritance distribution practices in the Bonokeling customary environment. Meanwhile, secondary data was obtained through a literature review of laws and regulations, books and scientific articles. The data are then presented in a descriptive narrative that is logical, systematic, and analytical, and relate the practice of Bonokeling inheritance to the frameworks of customary law, Islamic law, and national law[4].

3. Results And Discussion

3.1. Inheritance Mechanism

Inheritance is a concept known to the public as the transfer of a person's wealth. The concept of inheritance is governed by three distinct laws: civil, Islamic, and customary inheritance law. Soepomo said, "Customary law of inheritance contains regulations that regulate the process of forwarding and passing goods, property, and intangible goods (*Immateriële Goederen*) from a human generation (*Génération*) to its derivatives. That process has begun while the parents are still alive. Inheritance is the transfer of property from the deceased to the surviving heirs; this is the inheritance system in Islam. However, under customary law, inheritance may be opened while the heir is still alive [5].

In the Bonokeling community, inheritance under customary law is still maintained. This research examines the inheritance system, the subjects of inheritance, and the objects of inheritance among the Bonokeling indigenous people.

1) Inheritance system

The inheritance system is a set of mechanisms for transferring wealth, whether held individually or jointly by the community, from one generation to the next. Indigenous peoples' inheritance systems exhibit characteristics and specificities across peoples, shaped by applicable social and cultural rules. In accordance with the social and cultural rules that have been applied traditionally by the ancestors of the people in Manuk Mulia village, the traditional inheritance system in the Manuk Mulia community comprises individual, collective, and majority inheritance. Tria Septi Wulani, Fahmi Fatwa Rosyadi Satria Hamdani, with the title "*Tinjauan Hukum Islam Terhadap Praktik Pembagian Harta Warisan Adat Suku Mandar.*" From his research, the author obtained results indicating that the inheritance property was transferred. At the same time, the heir was still alive, using the method of assigning shares for the heirs [6] [7].

In the practice of customary inheritance transfer in the Mandar Tribe, who are the heirs of women, children and wives or husbands, and the position of adopted children is the same as that of a biological child. According to the Mandar tribe women, all children are descendants who will continue the existing legacy. If the

heir has no children, the person entitled to the property is the woman of his family. Then, in a scientific paper entitled "*Sistem Warisan: Hak Perempuan dalam Hukum Adat Bali*", written by Gede Agus Suparta and Made Erna Wintari, as published in *Pariksa: Jurnal Hukum Agama Hindu*, it is explained that in Balinese customary law, the distribution of inheritance is carried out after the heir dies, and generally the property is handed over to boys. In practice, Hindu girls in Bali are not automatically recognised as heirs because the prevailing kinship system is patrilineal. However, the journal explained that girls among the Balinese indigenous people are divided into two categories, namely girls who have inheritance rights and those who do not. For Balinese Hindu girls to obtain inheritance rights, they must, among other things, change their social status by performing a cesarean marriage and attaining the status of a *sentana rajeg*, so that they can be recognised as heirs by the indigenous Balinese people [8].

In Javanese customary law, the concept of "*sepikul segendongan*" is well known. The concept of *sepikul segendongan* imposes a limit on the inheritance received by men, which is greater than that received by women, in accordance with Islamic law. Therefore, in this study, the concept of *sepikul segendongan* is understood as an interaction between Islamic law and customary law. The Bonokeling community in Banyumas adheres to the inheritance system based on consensus deliberation. The distribution of inheritance will be carried out in accordance with the agreement of all children who are entitled to the inheritance owned by the heir. The Bonokeling people still hold that tradition is important, so they are highly obedient to customs. Therefore, traditional elders will usually advise heirs to conduct deliberations regarding the distribution of inheritance [9] [10] [4].

2) Legal subjects in inheritance

In the inheritance process, the subject of law is intended as the party who carries out the inheritance. In customary inheritance, the subjects of inheritance law are:

- a. Heir. An heir is a person or subject who is in the position of the owner of the property who continues/inherits his inheritance while he is still alive or when he has died. In the Bonokeling indigenous community, heirs are those who die and leave an inheritance.
- b. Heirs. Heirs are those who are entitled to the inheritance given by the heir. Heirs are usually the children of the heirs, or members of the same family in the upward and lateral lines. In the Bonokeling indigenous community, heirs may be male or female, according to the agreement of all family members.

3) Heritage objects

In the process of inheritance in the indigenous people of Bonokeling, the objects of inheritance are divided into two, namely [4]:

- a. Things. Objects are everything owned by the heirs that can be valued with money, be it in the form of: Houses, Agricultural Fields/Plantations, Vacant Land, Cars, Valuable Objects, and Livestock. Heirlooms, including inherited property, are transferred individually. Heirs who are not strong enough to

receive an inheritance are usually discarded. The inheritance of the land is given equally, or it could be that the one who gets more is given to the child who 'ngewulani wong tuo'. If there are no children, they are returned to their family tree origin. Adopted children can inherit and require administrative procedures, such as those administered by Social Services.

- b. Non-objects are everything that cannot be valued in monetary terms, such as culture. One of them is the election of leaders among the Bonokeling people. The selection of leaders is carried out in 3 ways, namely:

- 1) *Ancer* is an effort to elect leaders on the basis of lineage. Typically, the leader is chosen through male descent and is considered inviolable by virtue of lineage (breed).
- 2) *Incer* is an effort to elect leaders based on family lines that are not direct descendants of previous leaders. *Incer* is practised when the previous leader lacks a male heir.
- 3) *Inger* is an effort to elect leaders when the previous leader lacks male lineage or a male family that can assume his leadership. *Inger* is intended to identify potential leaders outside the previous leader's family through consensus deliberation. The elected leader must meet the requirements for leadership and be considered capable of leading. In the Bonokeling indigenous community, there has never been an *Inger*.

In addition, the Bonokeling indigenous community strives to preserve its culture, including traditional ceremonies, customary routines, and other practices. This is done by involving the younger generation in conventional activities. In addition, inheritance is transmitted through the family, where children are taught about their parents' duties in indigenous communities. For example, in a ritual, a group of young people is assigned to cook, arrange ceremonies, serve food and drinks, and perform other tasks. There is also the assumption that if the outside world knows about the Bonokeling, the younger generation will love their culture more.

3.2. Conflict and Resolution

Conflict is a difference of opinion between two or more parties over a matter. Conflict can also be described as the various forms of antagonistic interactions among two or more parties. Social conflicts must be resolved appropriately to prevent larger problems. Based on interviews with the sources, to date, there has been no major conflict over the distribution of inheritance among the Bonokeling indigenous people. Nevertheless, traditional elders prepare a plan for conflict resolution should an inheritance-related conflict arise[11].

Conflict resolution is carried out in accordance with the customs and laws that develop in society, including customary law. Among the Dayak Indigenous Peoples, for example, there is a conflict-resolution mechanism grounded in customary law. Customary law is administered through Temenggung Adat, which serves as a judge or mediator. The Dayak Mualang Customary Judicial Institution has a tiered structure, with *Temenggung Adat* as the leader and the Customary Minister under him. Problem-solving is carried out in accordance with the mechanisms already established in the

applicable customary law. It is well known that Madura is renowned for the Carok culture, a form of dispute resolution. Usually, *Carok* is carried out if an act is considered to hurt the feelings of one party, which is felt to bring down the dignity of [12] The related party. There is also the *Lonto Leok* culture. The research by Agustinus Mahur and Francis Bustan shows a very close relationship [13]. Between the Manggarai language, Manggarai culture, and the conceptualisation of the Manggarai people about the world. This relationship is reflected in the Manggarai people's conceptualisation of BLL as a responsive sociological customary law instrument for resolving land conflicts and maintaining social harmony [14].

In many cases, community conflicts can be resolved through customary forums, such as *rembug desa* or other deliberative processes. For the Bonokeling people, deliberation is the primary means of resolving conflicts. In the face of the impact of globalisation, efforts are needed to strengthen the recognition of customary law, respect indigenous rights, and involve indigenous peoples in decision-making that affects their lives [15] [16].

3.3. Implementation of Customary Law in the Inheritance Process of the Bonokeling Community

Mr Karso, as the Head of Pekuncen Village, explained that the concept of inheritance in the local community is understood as something given by parents or older people based on the hierarchy of descent or genealogy, including material objects (land, houses, heirlooms) and non-objects (character, nature, knowledge). Since heirlooms are not formally "administered", their existence remains in the realm of customary customs, not a written legal system. In administrative practice, the Pekuncen people come to the village hall to obtain a death certificate and population documents to determine who is entitled to be the heirs.

In the process of distributing inheritance, the community does not apply a standard pattern, such as *sepikul-segendongan* (i.e., a differential inheritance model for men and women), but instead uses a model that is relative and adjusted to the needs and habits of each family. The role of the village government is limited to facilitating administrative matters; the primary decision-making remains in the hands of the family through deliberation. Status as a biological or adopted child is not an absolute determinant of inheritance distribution, but adoptees can still be entitled to a share of the inheritance based on family ties, either through lineage or social connections outside the bloodline. In the inheritance distribution scheme, traditional leaders do not have a dominant influence; Decisions are still made through family agreements. During the course of history, there has never been an extreme case, such as a disobedient child who kills his parents, which can trigger a major conflict in the inheritance, so that open conflicts can be said to be rare or rarely occurring. On the other hand, the use of notaries is very limited: out of about six thousand citizens, only a few hundred have land certificates. Common land documents include SPPT (Notice of Taxes Repayable) records and Letters C or D, which are informal land documents.

In the kinship system of the Bonokeling indigenous people, genealogical records and a list of descendants serve as the basis for historical and internal legitimacy. Mr

Sumitro, Chairman of the Bonokeling Indigenous Community, stated that inherited non-material inheritance includes descendants and "chaos bekti" (blessing prayers), particularly during wedding preparations. The community also uses the Turkish Book (*Pitutur Khaki*) as a guide for daily life. The Turkish book is believed to contain *laduni*, a form of knowledge or wisdom that is supposed to come directly from Allah SWT through inspiration or guidance, including a form of *karamah* (spiritual glory) accepted only by those whose hearts and spiritual relationships are holy and close to God.

In the practice of inheritance, the division is often conveyed orally before the heir dies, thereby preparing the intergenerational transition. This characteristic reinforces the observation that open conflict is rare, as decisions are first consulted within the family and then inherited through collective deliberation. The public does not use notary services, but orderly pays the United Nations, which indicates that they respect the state's formal mechanisms even if they do not depend on it completely.

Conceptually, the Bonokeling Indigenous Community employs a flexible, egalitarian, deliberation-based, adaptive inheritance model for property distribution, thereby maintaining social harmony despite the challenges posed by formal legal uncertainty. For intangible assets (cultural knowledge, indigenous leadership), communities apply the *Ancer*, *Incer*, and *Inger* mechanisms as traditional succession rules, which are inherited through patrilineal lines (male descendants or *pancers*). This model reflects the phenomenon of Dynamic Legal Syncretism, in which society adopts values of justice that are often close to modern law, yet still legitimises its practices through sacred and communal processes. In this case, deliberation is the primary instrument in conflict resolution and a source of social legitimacy. Intangible assets play a strategic role in maintaining the community's cultural resilience, as the control of the succession of traditional leadership and spiritual knowledge preserves collective identity. The *Ancer* mechanism refers to the direct male lineage; *Incer* denotes an indirect family line; and *Inger* opens the possibility of finding a successor outside the family line, although in the Bonokeling community practice, *Inger* has never been used.

Overall, the primary inheritance model in the Bonokeling Indigenous Community is the Deliberation-Based Adaptive Customary Model, which combines the flexibility of property division with the rigidity of tradition in the domains of leadership and knowledge. This approach clearly reflects legal pluralism in Indonesia, where people choose customary law as the basis for inheritance, rather than state or religious law.

In the application of the division of tangible assets, the model used is flexible, relative, and normative-contextual, without a standard pattern. The division is determined by the agreement of all family members and is adjusted to the needs of each individual. In fact, inheritance can be opened during the heir's lifetime (*inter vivos*). Children who care for their parents (*ngewulani wong tuo*) often receive a larger share as a form of moral appreciation for social responsibility and devotion. For the inheritance of intangible assets such as customary leadership, knowledge, and culture, the system is completely patrilineal (patrilineal) through the *Ancer*, *Incer*, and *Inger* mechanisms.

The inheritance model of the Bonokeling Indigenous Community, when compared to customary law, is generally described as follows:

Table 1. Comparison of the inheritance of the Bonokeling Indigenous Community with customary law in general

Aspects	Bonokeling Traditional Inheritance Model	Model of Common Customary Inheritance in Indonesia
Legal Basis	The customary law of the Bonokeling community that has been passed down from generation to generation	The customary laws of each region/region vary.
Inheritance System	Inheritance emphasises the value of cooperation and collectivity	Patrilineal, matrilineal or bilateral kinship systems
Inheritance Mechanism	Inheritance tends to be jointly owned as an ancestral inheritance	Usually, the division of individuals is based on family lines
The Role of Generation	The real role of the older generation/customary institutions in managing heritage	The nuclear family and heirs determine the division.
Cultural Preservation	Inheritance of local wisdom through communication and traditional rituals	Strengthening local customary norms through deliberation
Effectiveness Indicators	Maintaining social harmony and the sustainability of Bonokeling customs	Adherence to norms, justice and social stability
Excess	Strong in the preservation of tradition and community unity	As per local and social norms, flexible
Deficiency	Less formal and less explicit in individual rights	Conflicts can arise if the norms are unclear.

3.4. An Effective Model of Inheritance Based on Legal Pluralism

The model of inheritance in Indonesia reflects a plurality of legal systems consisting of customary law, Islamic law, and Western civil law, with their respective characteristics in the determination of heirs and the mechanism of property distribution. Customary law prioritises patrilineal or matrilineal kinship, which affects who is entitled to inheritance and how property is distributed. Meanwhile, inheritance under Islamic law is strictly regulated in the Compilation of Islamic Law, which distributes inheritance according to the share prescribed by the Sharia. The Western civil-law model adopted in the Civil Code provides flexibility in determining heirs and the division of inheritance, grounded in the principles of kinship and the equality of inheritance rights, without gender discrimination [8] [17] [18].

Indicators of the effectiveness of the inheritance model can be analysed through two main approaches: legal theory and positive law.

First, from a legal-theoretical perspective, the effectiveness of the inheritance model is assessed against the principles of justice, legal certainty, social benefit, and the protection of heirs' rights. Justice is the primary benchmark to ensure that the distribution of inheritance does not cause conflict or inequality. Legal certainty ensures that inheritance rules can be implemented consistently and predictably. Meanwhile, the

benefits emphasise the social function of inheritance in maintaining the continuity of the family and cultural heritage [19].

Second, from a positive legal perspective, which encompasses the provisions of the law and its implementing regulations, the effectiveness of the law is assessed by the community's access to the law, the completeness of the rules, and the mechanisms for resolving inheritance disputes. Clear and harmonious regulations between legal systems strengthen the legitimacy of inheritance law amid the plurality of Indonesian society. An efficient and fair dispute-resolution mechanism supports the protection of heirs' rights [20].

In the context of legal pluralism, the Bonokeling inheritance model shows how local communities negotiate between customary law and the demands of modern justice. This is consistent with the finding that, in inheritance cases, customary law often interacts with and penetrates state and religious law. The principle of deliberation as the main mechanism for conflict resolution reflects the characteristics of living law among indigenous peoples, which is dynamic and not constrained by state formalities [21]. The state's recognition of customary law is often a source of distortion of the dynamics of customary law itself. This flexible and contextual model aligns with practices in other indigenous communities in Indonesia, such as the pre-death distribution of inheritance, which is part of the "low-inheritance customary law" in migrant Minangkabau communities. Because the Bonokeling model does not use notaries and relies on only a few formal certifications, the community relies heavily on internal social legitimacy and customary genealogical records as the basis for the validity of inheritance rights. This underscores that social legality can serve as a substitute for formal legality in customary settings [22] [23].

4. Conclusion

The Bonokeling Indigenous Community implements a Deliberation-Based Adaptive Customary Inheritance Model, which reflects legal pluralism in Indonesia. Inheritance of tangible assets is flexible and egalitarian, with the distribution determined through family deliberation and effected while the heirs are still alive (*inter vivos*). The amount of the share can be influenced by the child's role in caring for the parents (*ngewulani wong tuo*), with moral reciprocity as the primary basis rather than a rigid legal norm.

In contrast, the inheritance of intangible assets, such as customary knowledge and leadership, is patrilineal within the Ancer, Incer, and Inger systems, which help ensure the sustainability of sacred authority and the cultural resilience of the community. This dual approach reflects Dynamic Legal Syncretism, in which modern egalitarian values coexist with traditional holy legitimacy. Deliberation serves as both a dispute-resolution mechanism and a source of legal legitimacy, thereby maintaining social harmony even when formal legal certainty is limited.

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