
SHIFTING THE CUSTOMARY INHERITANCE OF THE MINANGKABAU TRIBE BASED ON THE PERSPECTIVE OF JUSTICE AND GENDER EQUALITY

Vini Aprila D. Andra, Sonny Dewi Judiasih, Hazar Kusmayanti

Faculty of Law, Universitas Padjadjaran, Indonesia

Email: vini20001@mail.unpad.ac.id, sonny@unpad.ac.id,

hazar.kusmayanti@unpad.ac.id

ABSTRACT

The richness of Indonesian culture has an impact on the variation of regulatory systems that apply in each region, including the enactment of customary inheritance law for the Minangkabau Tribe. Modernity has an impact on the social adaptation of the community in addressing customary inheritance law. The research conducted examines the impact of injustice and gender inequality in Minangkabau customary inheritance law, as well as the shift in its provisions related to the principle of justice. The method used in the research is a normative juridical approach that focuses on exploring the interaction between customary inheritance law and positive law in the context of justice and gender equality. This qualitative approach research uses primary data through interviews and observations, as well as secondary data in the form of books, journals, and legal documents. The results of this study show that Minangkabau customary inheritance law which adheres to the matrilineal system gives the main role to women as heirs of high heirlooms. This reflects gender equality in Minangkabau society, where women are considered more capable of maintaining and caring for cultural and family heritage. However, over time, there has been a shift in gender roles, including men who have begun to become heirs influenced by migration and cultural acculturation. Nonetheless, the system still seeks to maintain a balance between customary traditions and the principles of Islamic law, which form the basis of inheritance distribution.

KEYWORDS *justice, gender equality, minangkabau tribe, customary inheritance.*



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International

How to cite:

E-ISSN:

Andra V.A.D et all. (2025). Shifting The Customary Inheritance of The Minangkabau Tribe Based on The Perspective of Justice and Gender Equality. Journal Eduvest. Vol 5(1): 457-469

2775-3727

INTRODUCTION

Indonesia is a country formed by its cultural diversity or can be said to be pluralistic (Hoon, 2017; Mietzner & Muhtadi, 2020; Sunarko, 2018). Pluralism refers to a view or approach that recognizes, appreciates, and accepts diversity in various aspects of community life, such as culture, ethnicity, religion, language, and tradition (Bahauddin, 2023). This pluralism emerges as a response to the reality of diversity that exists in Indonesian society (Efendi & Ibrahim, 2018). Indonesia as a country with an abundance of cultural heritage, reflects deep diversity in various aspects of life, including in its legal system (Lestari, Judiasih, & Nugroho, 2023). One aspect that is much discussed in the context of this diversity is customary inheritance law because customary inheritance law has significant implications in every generation (Sari & Ismail, 2021). Waris is the process of transferring ownership rights of a person's property to his heirs after the owner of the property dies (Kusmayanti, Kania, Rajamanickam, & Masykur, 2023). In its implementation, inheritance can be a source of potential conflict because it involves the division of property which is usually very valuable (Ahyani et al., 2023).

This process creates regulations in the process of dividing and transferring property ownership rights, known as inheritance law (Ilyas, Rani, Bahri, & Sufyan, 2023). Inheritance law is a rule that regulates who is entitled to become an heir, as well as how the division of the inheritance is carried out (Pradipta, 2020). Inheritance law determines the recipient of the inheritance and the amount of inheritance to be divided (Iqbal, 2020). Inheritance law also regulates the division of inheritance between the nuclear family and other relatives, as well as if the heir dies before receiving the inheritance (Herman, 2022). There are 3 (three) types of inheritance law in Indonesia, namely customary inheritance law, Islamic inheritance law, and civil inheritance law (Siregar, Rahma, & Perangin-angin, 2020).

Customary inheritance law is a system of inheritance in Indonesia and is interesting to study considering that the regions in Indonesia are very diverse, including in relation to the systems and rules that apply (Tedla & Mekonen, 2023). The diversity of systems and rules that apply to each region in Indonesia reflects the diversity of culture, history, geography, local beliefs, and adaptations that are unique to each community. Indonesia has more than 1,300 ethnic groups, which have unique cultural heritages, diverse historical influences, as well as different geographical conditions which all play a role in shaping the rules and practices of customary inheritance law. Customary inheritance law is the rules that apply in a community or tribe that have been passed down from generation to generation from their ancestors regarding how the inheritance should be distributed to the surviving heirs after a person dies. Customary inheritance law generally varies from one ethnic group to another because it is based on the unique beliefs, customs and traditions of the community.

The customary inheritance system in Indonesia is divided into several types, one of which is the inheritance system based on lineage which is divided into 3 (three) types, namely patrilineal, matrilineal, and bilateral. Patrilineal is the withdrawal of inheritance lines based on the father's lineage, matrilineal based on the mother's lineage, and bilateral

based on the lineage of both parents. The differences in customary inheritance based on lineage are due to the spread of cultural values, traditions, and social structures in various societies. The individual system is the type where each heir receives an inheritance according to their respective shares. This system is applied in societies that apply the concept of bilateral inheritance such as the Javanese and Batak tribes. The collective system is another type where the heirs receive the inheritance as a whole without dividing the duties or ownership. Each heir also has the right to use or receive the proceeds from the inheritance, while the majorate system, transfers the inheritance as a unit with ownership rights given to certain children. The Balinese and Lampung people divide the inheritance by giving it to the eldest son, while in South Sumatra it is given to the eldest daughter.

The customary inheritance law of the Minangkabau tribe is interesting to study further because it applies a customary inheritance law system that is different from the customary inheritance law applied in most ethnic groups in Indonesia. The majority of ethnic groups in Indonesia tend to apply the patrilineal system. The Minangkabau tribe or commonly called Minang, is an ethnic group unit that speaks and upholds Minangkabau customary law. The term 'Minang' is popular among the public as a generic term that refers to the people of Padang, a location in West Sumatra Province. In reality, Minangkabau refers to a customary jurisdiction, not a province and the term 'Minang' refers to a person whose mother is from a recognized tribe or ethnicity within the Minangkabau customary jurisdiction. The area covered by the Minangkabau culture includes parts of West Sumatra, the western half of Riau, the northern part of Bengkulu, the western part of Jambi, the southern part of North Sumatra, Southwest Aceh, and also Negeri Sembilan in Malaysia.

The Minangkabau culture has a matrilineal (maternal) kinship or lineage, which in determining relatives and descendants is drawn from the mother's line. This lineage not only determines a person in the rules of kinship law, but also in the distribution of inheritance where high pusako property is passed down through the mother's line to daughters. Minangkabau customary law divides inheritance into several types of heirloom property, namely high pusako property which is passed down through the mother's line to daughters who are then managed by their eldest son as the leader of a family or commonly referred to as *mamak*. High pusako property is generally not allowed to be sold, but may be mortgaged. This is a form of appreciation for the inheritance that has been given. Types of high pusako property include rice fields, fields, houses, ponds, and forests. Low pusako property is inheritance in the form of property obtained by a family or spouse during their lifetime and marriage that is not included in high pusaka, inherited in accordance with Islamic inheritance law. Sako is inheritance that is not in the form of objects but in the form of customary titles, passed down through the matrilineal system, and also *ulayat* rights, which are rights owned by a customary law group over everything in its territory. This right is the highest right in Minangkabau.

Minangkabau customary law has a strong tradition, but the introduction of Islam slowly changed the dynamics of law in the area. Slowly the principle of *lex superior*

derogate legi inferiori prevailed in the Minang tribe. The statement "lex superior derogat legi inferiori" means that laws and regulations that are higher in hierarchy will override lower regulations. The conflict between Islamic inheritance law and Minang customary inheritance law is resolved by the rule that Islamic inheritance law will be higher in hierarchy and apply to override Minang customary inheritance law

Equality between men and women in Minangkabau society has always been a major topic. One of the stereotypes that is often considered a form of injustice in inheritance law according to Islam is the inequality of inheritance rights between boys and girls where boys receive twice as much inheritance as girls. This is clearly contrasted with Minangkabau customary law, which places women as the beneficiaries of inheritance rights. The difference in the amount of inheritance received by men and women according to Islamic law is based on the thick role of men who are considered heavier, for example, providing dowry and providing family needs. Of course, a dynamic society has an impact on the development of social roles between men and women that can change, for example, women can also become the main breadwinners. So, it can be said that women can have the same heavy burden as men in relation to meeting economic needs.

This inequality or injustice arises when the division of inheritance only considers Islamic inheritance law without considering other legal contexts such as customary law. This unfair assessment of inequality arises especially when viewed from the perspective of gender equality between men and women. Indeed, customary inheritance law must continue to be applied to the Minangkabau indigenous people as it has been passed down by their ancestors. This is certainly a conflict between customary inheritance law and Islamic inheritance law.

In this modern era, equality is often defined as equal rights and responsibilities between men and women. Debates about equality often begin with debates based on the values of feminism, gender equality and emancipation. This certainly demands equal rights between men and women. Minangkabau customary inheritance law places women in a higher position or position than men. The Minangkabau customary inheritance system has become a serious concern in inheritance law research in Indonesia. At a time when the majority of the population embraces Islam, which in the distribution of inheritance emphasizes more rights to men, the matrilineal Minangkabau customary system is still maintained and has a strong influence on the lives of Minangkabau people. Research on the Minangkabau customary inheritance system not only helps in understanding cultural diversity in Indonesia, but can also provide useful information for the development of a more inclusive and just national inheritance law and provide further insight into how the customary law can be studied more broadly towards justice and concepts of thought based on feminism, emancipation and gender equality. The information generated from the research can serve as a foundation for considering changes or improvements in national inheritance law. Understanding the Minangkabau customary inheritance system can create more inclusive and fair inheritance law policies for all Indonesians.

Based on data from the repository of the Faculty of Law, Padjadjaran University, research that discusses the shift in Minangkabau customary inheritance law from the

perspective of justice and gender equality has never been done before and is the first time it has been done. Research related to the Minangkabau customary inheritance system is important to understand the role and rights of women in Minangkabau society. The first research conducted by Sonny Judiasih, et al, entitled "Transsexual inheritance status in the perspective of Minangkabau customary inheritance law" discusses the impact of the times on gender identity, especially related to transsexuals. The focus of this research is mainly on the legal aspects and daily life related to how the existence of transsexuals is rejected in Minangkabau customary society which raises challenges in the context of inheritance in customary inheritance. The second research by Achmad Haykal, et al, titled "conflict of knowledge of land ownership in Minangkabau" discusses the problems in knowledge that affect land ownership in Minangkabau. This research illustrates how Minangkabau customary knowledge about land, especially in the context of joint ownership based on matrilineal lineage, often conflicts with other knowledge that has an interest in land ownership. Research conducted by Ilyas, et al, with the title "the accomodation of customary law to islamic law: distribution of inheritance in Aceh from a pluralism perspective" states that this accommodation between customary law and Islamic law has positive impacts, such as the preservation and strengthening of customary law, law as social control, and fostering Islamic law in society. Research conducted by Wondale Tedla and Kasahun Mekonen shows that there are disputes that occur in Ethiopia related to inheritance between family members based on customary law and positive law so that disputes can continue. This shows that problems related to inheritance are still things that need to be reviewed more deeply so that harmony between families is maintained.

There are similarities between the previous studies in that both explore the impact of social change on norms in Minangkabau society. However, there are also differences in that the first study focuses more on gender identity and inheritance for transsexuals, while the second study highlights conflicts in land ownership knowledge. The current research proposes a unique approach by focusing on shifts in Minangkabau customary inheritance law from the perspective of gender justice and equality. While there have been previous studies exploring certain aspects of Minangkabau customary inheritance law, this research adds a new dimension by highlighting how social change, including in terms of gender identity and affects inheritance norms in this society. With a gender justice and equality framework in mind, this research will look at how the Minangkabau customary inheritance system accommodates or ignores women's rights in inheritance, as well as how customary knowledge about land and property inheritance is affected by gender dynamics.

In describing the problem formulation, the author will focus on several questions that will be discussed in this study:

1. How is the shift in the provisions of Minang customary inheritance law and its relationship with the principles of justice associated with Islamic Law?
2. How is the impact of gender injustice and inequality in the practice of Minang customary inheritance law associated with Islamic Law?

RESEARCH METHOD

Method is a way that needs to be done to achieve a goal by using certain tools, while writing is an effort to find, develop, and test knowledge, namely efforts made with certain methods. This research uses a normative juridical approach, namely analyzing the norms that apply in the customary inheritance law of the Minangkabau tribe and evaluating norms based on aspects of legal theory and principles in relation to justice and gender equality. The normative juridical approach used focuses on research that explores the interaction between customary inheritance law and positive law such as international legal standards on women's rights or principles of gender equality. The data analysis used in this research uses qualitative methods with data analysis stages, namely data reduction, data display, and conclusion drawing.

Interviews were conducted with indigenous Minangkabau people and ordinary people to find out the differences in perspectives related to Minangkabau customary inheritance law with Islamic inheritance law and by examining secondary data sources, namely data sources obtained from knowledge and information contained in books, journals, documents, laws and regulations, and various other sources relevant to the research. This legal writing will use two types of data, namely primary legal material data, which are legal materials that bind the problems to be studied, including Minangkabau customary inheritance law, the results of interviews with sources namely Yasraf Iwan Piliang who is a native of Minangkabau, and using secondary materials such as books that discuss legal issues, legal dictionaries, news about law, legislation and policies.

RESULT AND DISCUSSION

Shifting Provisions of Minang Customary Inheritance Law in Relation to the Principles of Justice and Gender Equality

Deeply rooted customs are one aspect that is difficult to change. Respect for the cultural heritage and identity of indigenous peoples makes customary law tend to be static. This is understandable given that adat has become a hereditary tradition that contains cultural values that are highly respected. Researchers argue that despite this, change in adat is not impossible. With a wise approach and respect for traditional values, changes can be made without disturbing the essence of adat itself. Customary law itself emerges as jurisprudence which is a system with constituent elements that relate mechanically and harmoniously. However, although difficult, change is possible if it is done wisely and prioritizes an appropriate approach without violating the norms that have been previously established

Based on data mining through interviews conducted by researchers, it is known that Minangkabau customary inheritance law adheres to matrilineal lineage or is calculated on the lineage of the mother. The informant explained that Minangkabau has been included in the Aceh Region where the area is thick with Islam so that every existing activity is always carried out by adhering to Islamic law. Customary inheritance law has actually been justified by Islamic law. This customary law related to inheritance has been accommodated in the acceptance of the concept of 'urf', which is something that has become a habit of the community and is done repeatedly in an area so that it has been considered good and does not conflict with Indonesian law and even religion. From the

researcher's perspective, this shows that customary law is able to adapt to social dynamics and religious influences, as long as local values are respected.

The scholars accept this customary inheritance law in the context of the implementation of mu'amalah law only, not in the law of worship and aqidah. Mu'amalah can be interpreted as a law or rule that regulates the fulfillment of human physical needs according to Islamic law. Customary inheritance law is the rules and legal norms that have been ongoing and implemented for a long period of time in the community which regulates the determination of how inheritance property is passed on to the heirs from one generation to the next. In its implementation, customary inheritance law is part of customary law which adheres to the rules and provisions of the pattern of transfer of property and its principles, inherited property, heirs, and heirs, as well as the transfer procedures.

Regarding who is allowed to receive inheritance according to customary law, it really depends on the customary law they follow. The majority of Indonesian society adheres to two family systems, namely the bilateral system and the unilateral system. The bilateral system explains that the rightful recipients of inheritance are sons or daughters. Meanwhile, the unilateral system explains that only one of the lineages will receive the inheritance, possibly the male line (patrilineal) or the female line (matrilineal).

As written by Mutia, the Minangkabau community has several types of inheritance property, namely high pusako inheritance property, low pusako inheritance property, and sako. High pusako inheritance is an inheritance that has a high value and social status in Minangkabau society. This type of property is often closely related to family heritage so that it is passed down from generation to generation. Some forms of high pusako property are land, fields, forests and sacred places. Meanwhile, low pusako property is property that has a lower social value than high pusako property. This type of property includes households, appliances, and other valuables that are passed down to family members. Low pusako property is more personal and has an economic value that may not be as great as high pusako property. There is also Sako which is an inheritance consisting of property passed down by parents to their children. This includes gold, silver, money or other valuables. Sako is usually passed on to daughters during marriage or as a form of economic support when the children grow up.

In the inheritance distribution system, the Minangkabau community does not only carry out the inheritance system based on the Islamic inheritance system, but also still prioritizes the Minangkabau customary inheritance law. The resource person gave an understanding that the Minangkabau community prioritizes customary law in the distribution of high pusako inheritance where daughters get a large share or as the main heir. The resource person also provided an explanation of women who are the main heirs in the high pusako inheritance.

"This is due to our belief that the bahaso padusi have an uncommon ability to manage and maintain the heritage of the baarago that has existed for generations. In the Minangkabau tradition, padusi are valued for their expertise in maintaining cultural values, traditions, and family heritage."

This statement is proof that women who are chosen as the main heirs have advantages compared to men where women have tenacity in caring for and protecting something so that the goods or property given can be well guarded by women. Minangkabau tradition sees women valued for their expertise in maintaining cultural values, traditions, and family inheritance. This is because women are considered to have advantages in caring for and maintaining the sustainability of family culture and property,

including the high pusako inheritance property. Therefore, in the context of inheritance, women are given great responsibility to maintain and inherit cultural wealth and family property. In the interviewees' view, women have a central role in continuing the ancestral heritage and ensuring that Minangkabau values and traditions remain alive and thriving in the future. This view certainly reflects that there is a deep understanding of gender equality in Minangkabau society. In the Minangkabau customary tradition, women are not only considered equal to men in terms of their ability to care for inherited property, but are also valued for their important role in maintaining and inheriting cultural values and family traditions. By giving women the responsibility of looking after the inheritance, Minangkabau society not only recognizes their abilities, but also respects their right to be involved in decision-making regarding the family estate.

Gender justice and equality in this case is reflected in Minangkabau beliefs and practices that give women a central role in continuing the family's cultural heritage and property. This removes gender boundaries and shows that both women and men have equal abilities and responsibilities in maintaining and continuing family heritage traditions. However, when viewed from the role of men, of course gender justice cannot be said to be upheld in this Minangkabau custom because men only become supervisors in the inheritance given to Mamak (the female party). In the division of low pusako inheritance, the informant stated that there were no provisions in the heirs in the division. Families can conduct deliberations and mutual agreements to utilize the Low Pusako Heirship.

Along with the development of the times and globalization, it is known that there is a shift related to customary inheritance law in Minangkabau. The high flow of migration in Indonesia causes a lot of cultural acculturation that affects the marriage system, and can even affect pure traditional culture. In her writing, Febrianti states that there are changes in the reality of Minangkabau customary inheritance where Mamak as the head of the inheritance often mortgages high heirlooms. In the provisions of Minangkabau custom, high pusako inheritance property cannot be traded or even used outside the provisions that have been given. In Minangkabau custom, it is known that men only act as supervisors of the existing inheritance, but nowadays many men have become heirs.

Related to the principles of justice and gender equality in the context of Minangkabau customary inheritance law, there are several things that can be reviewed. The matrilineal inheritance system in Minangkabau custom gives women the main role as heirs of inherited property, especially in the Harta Waris Pusako Tinggi. This reflects the awareness of women's ability and expertise in caring for and inheriting cultural wealth and family traditions. In this case, the principle of gender justice is reflected by giving women equal opportunities and responsibilities with men in terms of the distribution of inherited property.

Second, the recognition of women's central role in maintaining and continuing family heritage traditions shows respect for women's rights in decision-making regarding family property. This is in line with the principle of gender equality, which views both women and men as having the same abilities and responsibilities in maintaining and continuing cultural values and family traditions. However, the shifts that have occurred in Minangkabau customary inheritance law, such as men becoming heirs and the practice of mortgaging high heirlooms, raise questions regarding gender justice. While women continue to play an important role in inheritance traditions, the presence of men as heirs suggests the potential for inequality in access to inherited property. Without proper contextualization, gender-based injustice in the distribution of inheritance can occur.

This principle emphasizes that Minangkabau customs are based on Islamic law, which in turn is based on Kitabullah (the Qur'an)

"Minangkabau customary law is guided by adat basandi syarak, syarak basandi kitabullah, which means that God's provisions are the main law (adat nan sabana adat), so that in inheritance of property, it still refers to Islamic and customary law."

Thus, God's provisions are considered the primary law, which in local terms is called "adat nan sabana adat." This concept has direct implications for the rules of property inheritance in Minangkabau, where the provisions of adat and Islamic law complement each other. Although Minangkabau has a strong matrilineal system, where heirlooms descend through the maternal line, in day-to-day inheritance practices, Islamic law as set out in the Qur'an and Hadith is often referenced. This shows how the Minangkabau community tries to maintain a balance between customary traditions and religious demands, ensuring that the division of inheritance remains fair and in accordance with Islamic provisions. This approach reflects the Minangkabau community's efforts to comply with religious law while maintaining their cultural identity.

In the interview, the interviewee as a judge of the Bale Bandung District Court explained that Minangkabau recognizes the matriarchal system, which means that the lineage and inheritance of property follows the female line. This system is designed in such a way that there is no overlap or shift in rights between men and women in the social and family structure.

"Minangkabau recognizes the matriakad system so that there is no overlap or shift between men and women, but in inheritance there are differences between men and women"

However, in the context of inheritance, there are significant differences between the rights of men and women. Although inheritance passes down through the maternal line and is administered by women, the division of property under Islamic law still takes into account gender differences. Men, according to Islamic inheritance law, generally receive a larger share than women. This difference arises because Islamic law has specific rules regarding the distribution of inheritance designed to ensure different financial responsibilities between men and women. While the Minangkabau matriarchal system gives women an important role in the ownership and management of inherited property, Islamic inheritance rules are still implemented, creating a unique dynamic in the distribution of inheritance that combines customary principles and religious provisions. Minang customs embody the values of gender equality and justice by establishing proportional rights, obligations and responsibilities for men and women in accordance with their roles and functions, both in the family, customary society and in customary government structures.

In an interview with a judge of the Bale Bandung District Court, it was explained that Minangkabau has applied the principle of gender equality in the implementation of property and pusako (inheritance property).

"Minangkabau has implemented gender equality in the implementation of harta and pusako, with reference to adat sabana adat and mandated adat"

This application is based on two main concepts in Minangkabau custom, namely "adat sabana adat" and "civilized adat." Adat sabana adat refers to the original and pure customary law, which follows the provisions of syarak (Islamic law) and Kitabullah (the Qur'an). Meanwhile, adat yang diadatkan are customary rules that have evolved and adapted to the social and cultural context of the Minangkabau people. With this reference,

the implementation of property and pusako in Minangkabau tries to maintain a balance between matrilineal customary traditions and the principles of justice in Islam. This means that although heirloom property is inherited through the maternal line, its management still takes into account the rights of all parties, both men and women, in accordance with customary provisions and Islamic law.

The Impact of Gender Injustice and Inequality on Minang Customary Inheritance Law Practices

The shift in gender roles has also significantly impacted on injustice and inequality in the practice of Minangkabau customary inheritance law. It is known that men in Minangkabau traditionally only play the role of overseer of the inheritance, while the Mamak is the main decider. However, in the current situation, many men have become heirs, signaling a change in social and cultural dynamics. The researcher argues that although this shift in gender roles provides an opportunity for men to play a more active role, the reality is that women are still more dominant in the customary inheritance system. This suggests that gender equality has not been fully achieved, as unequal access to high heirloom property still tends to occur.

This change can also be interpreted as a response to society's growing recognition of gender equality in various aspects of life. However, greater challenges arise with migration and cultural acculturation. Rapid migration in Indonesia has brought in a variety of outside cultural influences, triggering an exchange of values and social practices. This phenomenon creates a new dilemma in efforts to maintain customary traditions, particularly in terms of gender roles and inheritance rights. There needs to be a balance in maintaining traditional Minangkabau norms and accommodating more equitable changes related to gender roles, so that the community can continue to develop without losing its cultural identity.

This is justified by the source where the current globalization has caused many people to meet each other so that long-held customary traditions have begun to fade due to cultural acculturation that is increasingly fused.

"It is true that at this time, the pure traditions related to arato warih have undergone changes. Currently, the indigenous Minangkabau people are married to people from other regions, so of course it is very difficult to be able to maintain the tradition of warih adaik iko."

This explanation means that there is a complex situation in Minangkabau with regard to changes in the customary inheritance tradition. Interviewees stated that it is true that, in the pure Minangkabau tradition, marriage between fellow Minangkabau people is the recognized norm. However, today, many Minangkabau people choose to marry people from outside their region. This phenomenon represents a significant change in marriage practices that directly affects Minangkabau inheritance traditions. This intercultural marriage creates new challenges in maintaining the sustainability of the Minangkabau inheritance tradition. With many Minangkabau people marrying people from outside the region, it is very difficult to maintain customary inheritance practices that conform to pure tradition. These deviations may involve questions of who is entitled to inherit the high heirloom property and how Minangkabau customary values can be safeguarded in the context of mixed marriages.

Gender roles also play an important role in relation to the aforementioned shifts in Minangkabau inheritance traditions. Traditionally, in Minangkabau culture, men usually have the role of overseer of the estate while the Mamak is the head of the estate. There has been a shift in the roles of men and women in the Minangkabau inheritance system

as a result of the increase in intercultural marriages and changes in the structure of marriage. Marriage with people from outside the region and cultural acculturation have affected the Minangkabau inheritance tradition. The situation of mixed marriages means that there is no longer a rigid division of gender roles where men are only the overseers of the estate. Women can also be heirs or have rights to inheritance, indicating a shift towards gender equality in the customary inheritance system.

There are four aspects that can see the realization of gender equality in society, namely:

- a. Women and men have equal access
- b. Have the opportunity to participate
- c. Control over development
- d. Obtaining equal and fair benefits in society.

Gender justice theory is a conceptual framework that describes equality between women and men in a society. There are 4 (four) main aspects in this theory. First, gender equality is reflected in equal access between women and men to various resources and opportunities. Second, equality also includes opportunities for women and men to actively participate in all aspects of community life, without discrimination or unfair barriers. Third, control over development is an important element in gender justice theory, which emphasizes that women and men should have equal opportunities to contribute to the development and decision-making processes that affect their lives. Finally, gender equality is reflected in the provision of equal and fair benefits to women and men in society, so that no one is discriminated against or treated unfairly based on their gender. Thus, gender justice theory aims to create a social order that respects and fulfills the rights and needs of both women and men equally and fairly in all aspects of life. Equality basically does not mean uniformity, but equal rights and access to opportunities in society and development.

Shifts in Minangkabau inheritance reflect the complex dynamics between tradition, globalization and social dynamics that are also reflected in the four aspects that assess gender equality in society. Although changes in the role of Mamak as the head of inheritance and gender changes in the inheritance system show steps towards equality, inequalities remain. This is particularly reflected in the unequal access to high pusako inheritance, where Mamak or women still have a tendency to dominate inheritance rights. However, with more men becoming heirs to the pusako tinggi property in mixed marriage situations, there is progress towards gender equality. This also reflects a shift in control over development and more equal and equitable delivery of benefits within the community. While there are still challenges in maintaining customary values, steps towards gender equality in the context of Minangkabau inheritance indicate a positive direction towards greater inclusion and justice in society.

The shift in Minangkabau customary inheritance law provides perspectives from district court judges and religious courts where District Court Judges provide a positive legal perspective related to the legal protection of women's rights in terms of inheriting property, as well as upholding the principles of gender justice in the context of inheritance distribution. The Religious Court explained that in the context of Islamic inheritance law, the principle of gender equality is also recognized, albeit with an emphasis on the differences in roles and responsibilities between men and women in the division of inheritance. Religious Courts tend to interpret Islamic law in the context of gender justice and equality, taking into account the rules contained in the Qur'an and hadith. This view can vary in its implementation, which can be influenced by the interpretations made by

Religious Court judges as well as the social and cultural factors that influence decision-making.

Despite progress towards gender equality in customary inheritance, challenges remain. These changes may create new opportunities for women to manage and maintain inherited property, but can also face resistance from traditional norms that still pass on high heirlooms through the male line.

The judge of the Bale Bandung District Court said that disputes over the division of inheritance within a clan in Minangkabau are resolved through deliberation and consensus.

"Disputes over the division of inheritance in one family in Minangkabau are resolved by consensus, and do not become the authority of the judiciary in accordance with the customary *langgam*, "*kamanakan barajo kamamak, mamak barajo ka nan bana, nan bana badiri* itself".

In accordance with local customary traditions. This method emphasizes the importance of reaching a mutual agreement without the intervention of formal judicial institutions. This tradition is in accordance with the principle of "*kamanakan barajo ka mamak, mamak barajo ka nan bana, nan bana badiri sendiri*," which means that the nephew submits to the *mamak* (uncle), the *mamak* submits to the truth, and the truth stands alone. In this context, the *mamak*, as the leader of the family, has a central role in facilitating discussions and making fair and wise decisions.

After the decision of the deliberation is read out, the *kaum* leaders are given three to seven days to consult with their *kaum* regarding the decision, whether they will accept it or appeal it through the *Kerapatan Adat Nagari*, the court, or any other legal mechanism they choose. If there is no response within this period, it is deemed that all parties agree and must comply with and implement the decision. In deciding disputes, the *Nan Salapan Niniak Mamak* Institution uses *Bainah* law or based on existing testimony.

Settlement through deliberation and consensus reflects the local wisdom and spirit of collectivity of Minangkabau society, which prioritizes harmony and family harmony. As such, the process not only preserves traditional values, but also strengthens social bonds among *kaum* members, ensuring that every decision made is accepted with sincerity and a sense of justice.

CONCLUSION

The research findings highlight the impact of gender injustice and inequality in Minang customary inheritance law, where the matrilineal system grants women a central role in inheriting high *pusako* property, while men are limited to overseeing the estate, creating disparities and potential conflicts. However, social changes, including globalization and mixed marriages, are gradually influencing gender roles, opening opportunities for greater equality. Additionally, shifts in Minangkabau inheritance provisions reflect efforts to balance tradition with gender justice, as modernity and migration have led to men increasingly being recognized as heirs. While the system still values women's role in preserving family property and culture, ensuring equitable distribution remains a challenge. Dispute resolution through deliberation and the integration of *adat* with Islamic law demonstrate a move towards maintaining tradition while incorporating principles of fairness, signaling progress toward gender equality in Minang customary inheritance practices.

REFERENCES

- Ahyani, Hisam, Putra, Haris Maiza, Muharir, Muharir, Sa'diyah, Farhatun, Kasih, Dien Kalpika, Mutmainah, Naeli, & Prakasa, Armelia. (2023). Prinsip-Prinsip Keadilan Berbasis Ramah Gender (Maslahah) Dalam Pembagian Warisan Di Indonesia. *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)*, 5(1), 73–100.
- Bahauddin, Azizi. (2023). The Matriarch, the Matrilineal System, and the Minangkabau Rumah Gadang. In *Eco-Urbanism and the South East Asian City: Climate, Urban-Architectural Form and Heritage* (pp. 199–222). Springer.
- Efendi, Jonaedi, & Ibrahim, Johnny. (2018). *Legal research methods: normative and empirical*. Jakarta: Kencana Prenamedia Group, Cet, 2.
- Herman, Mimi. (2022). Kajian Teoritis Bundo Kanduang Simbol Kesetaraan Gender Berdasarkan Islam Dan Minangkabau. *Marwah: Jurnal Perempuan, Agama Dan Jender*, 21(2), 93–105.
- Hoon, Chang Yau. (2017). Putting religion into multiculturalism: Conceptualising religious multiculturalism in Indonesia. *Asian Studies Review*, 41(3), 476–493.
- Ilyas, Ilyas, Rani, Faisal A., Bahri, Syamsul, & Sufyan, Sufyan. (2023). The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(2), 897–919.
- Iqbal, M. (2020). The system of inheritance law in Minangkabau: A social history study. *Indonesian Journal of Education, Social Sciences and Research (IJESSR)*, 1(2), 87–93.
- Kusmayanti, Hazar, Kania, Dede, Rajamanickam, Ramalinggam, & Masykur, Mohammad Hamidi. (2023). The Justice for Illegitimate Children of Indonesian Women Workers Through Constitutional Court Decision No. 46/PUU-VIII/2010. *Jurnal IUS Kajian Hukum Dan Keadilan*, 11(2), 253–264.
- Lestari, Putri Wartina, Judiasih, Sonny Dewi, & Nugroho, Bambang Daru. (2023). Inheritance Rights of Extramarital-Children after the Constitutional Court Decision of 2010. *Indonesian Comparative Law Review*, 6(1), 46–61.
- Mietzner, Marcus, & Muhtadi, Burhanuddin. (2020). The myth of pluralism. *Contemporary Southeast Asia*, 42(1), 58–84.
- Pradipta, Lengga. (2020). Land Resources Management in Southeast Asia: Redefining the Role of Women as Land Managers. *Komunitas*, 12(2), 198–208.
- Sari, Gusti Rahma, & Ismail, Ecep. (2021). Polemik Pengarusutamaan Kesetaraan Gender di Indonesia. *Jurnal Penelitian Ilmu Ushuluddin*, 1(2), 51–58.
- Siregar, Multhahada Ramadhani, Rahma, Sitti, & Perangin-angin, Alemina Br. (2020). The application of feminism in Minangkabau matrilineal system. *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 3(4), 100–103.
- Sunarko, Adrianus. (2018). Religion in a democratic and pluralistic society (the experience of Indonesia). *International Journal of Public Theology*, 12(3–4), 440–454.
- Tedla, Wondale Temesgen, & Mekonen, Kasahun Desyalew. (2023). Inheritance-induced familial disputes in north-west Ethiopia: the role of legal-policy gaps and aggravating socio-economic dynamics. *Humanities and Social Sciences Communications*, 10(1), 1–10.