



SASAK CUSTOMARY INHERITANCE LAW: DAUGHTERS' POSITION AND ADAT LEADERS' INFLUENCE

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Abstract: According to the customary law of the Sasak ethnic group in Lombok, women are traditionally excluded from inheritance rights, in line with a patrilineal system that prioritizes male lineage. However, influenced by Islamic teachings adhered to by the majority of the Sasak population, women have begun to assert their rights to inheritance, leading to disputes between male and female heirs. This study aims to examine the status of women in the Sasak customary inheritance system and the role of traditional leaders (Kepala Adat) in resolving inheritance disputes.

The research employs an empirical juridical and descriptive-analytical approach. Data were collected through field interviews (primary data) and literature review (secondary data), and analyzed qualitatively. The findings indicate a shift in the position of women in Sasak customary inheritance, particularly following the Supreme Court Decision No. 179/K/Sip./1961, which affirmed equal inheritance rights for sons and daughters. Inheritance disputes are generally resolved through family deliberations, customary council meetings, or religious courts. The Kepala Adat plays multiple roles: as a mediator in family discussions, a customary judge in adat councils, and a supervisor in the execution of court decisions. This study recommends public education and socialization efforts to foster a unified understanding of women's inheritance rights, with the aim of reducing intra-family conflicts.

Keywords: Sasak Inheritance, Women's Rights, Kepala Adat, Dispute Resolution, Customary Law

INTRODUCTION

Customary inheritance law is the set of rules and systems that regulate inheritance. It includes the categories of property that can be inherited, the rights of heirs and the deceased, and the steps that need to be taken to transfer ownership and control of assets from the deceased to the heirs. Inherited property might be property that has been passed down

through generations, property that was acquired during marriage, property that was gained before marriage, or property that was acquired together (Soepomo, 1982). A decedent is someone who leaves behind an estate or property that can be passed down. In short, customary inheritance law is a way to pass on wealth, both physical and non-physical, from one generation to the

next. Ter Haar says, "Customary inheritance law comprises the legal rules governing the intergenerational transmission and transfer of wealth, from century to century" (Ter Haar, 1950).

The Sasak people of Lombok, Indonesia, are one of the native groups that still follow traditional ways of passing down property. The Sasak people are mostly Muslim, while their Balinese neighbors are mostly Hindu. Sasak customary law says that women can't inherit property. This is because the patrilineal kinship structure traces descent and inheritance through the male line (Koentjaraningrat, 2002). Because of this, daughters are not allowed to inherit from their parents. This is because of patriarchal social structures where power and property go to the father's family (Soedjito, 1996).

Islamic law, on the other hand, recognizes the right of daughters to inherit. This has led women in Sasak society to claim their inheritance rights, which has caused tension between religious and customary rules (Al-Qur'an, Surah An-Nisa: 7; Zuhairini, 1997). Islamic law and Sasak adat law are at odds with each other, which has led to legal and social problems, especially in areas where customary norms are still strong.

In the case of Sitepu vs. Ginting (1961), the Supreme Court of Indonesia changed the Batak Karo inheritance system, which only allowed sons to inherit, setting a new legal precedent (Supreme Court Decision No. 179/K/Sip./1961). The Court said that this kind of

discrimination went against the values of humanity and the idea that men and women should be treated equally under the law. It said that sons and daughters should have the same amount of inheritance (Mahkamah Agung RI, 1961).

In the Sasak culture, daughters' inheritance rights are still affected by deeply ingrained patriarchal values (Endraswara, 2006). With this system, daughters generally get reduced shares or don't get any inheritance at all. The Kepala Adat, or traditional leader, has a lot of power when it comes to understanding and following traditional rules on inheritance. These interpretations often show patriarchal biases, which makes gender inequality worse (Koentjaraningrat, 1984).

Even though national laws like the Compilation of Islamic Law (KHI) recognize daughters' rights to inherit, it is hard to put these laws into practice in Sasak customary structures. This is mostly because the Kepala Adat has a lot of power and the principles of gender equity are not very clear in adat law (KHI, 1991; Nurjaya, 2014). To move toward more fair interpretations of adat law, both understanding and practice need to change, and traditional leaders need to be involved.

Most of the research that has been done so far has looked at how inheritance is divided among the Sasak based on gender. A research by Putri in 2019 looked at the conflict between customary and national inheritance law, concentrating on how women fought against unfair adat standards. The study took place in a number of villages, such as Sade,

Teruwai, Penujak, and Bayan, where traditional customs are carefully followed. It used interviews, observations, and document analysis. The results showed that patriarchal kinship networks and male-dominated social roles make it hard for women to get a fair share of the family property. This has led many women to fight these conventions through the law. This ongoing disagreement is bad for family stability and social cohesiveness. The study suggested using mediation to find ways to bring traditional practices in line with constitutional protections for gender equality (Putri, 2019). A second study looked at Hindu inheritance law in Lombok, which says that daughters can inherit, but not equally (Surata, 2016). In fact, conventional standards often take precedence over Hindu teachings. This is because some people believe that daughters do not have to follow two sets of rules. The study found that differences in how people understand the law in different parts of the country make women's inheritance rights even more difficult to enforce. The research called for a rethinking of fairness principles in Hindu-influenced adat law (Surata, 2016; Rahmawati, 2020) as Indonesia's legal system moves toward more inclusive and gender-sensitive approaches, like the Islamic inheritance transition from patrilineal to bilateral (parental) models. Hafidz (2021) says that Sasak women should get their share of marital property because they helped out during the marriage. But most of the time, inherited property still goes to children, especially males, because people think they have more family

responsibilities. Also, many Sasak women don't stand out for their rights because they don't want to hurt family relationships. Inheritance practices are shaped by the time, place, and social setting, as well as the norms of the community (Hafidz, 2021).

MAIN PROBLEM

The current study is distinctive in its integration of both legal and sociological approaches to investigate the evolving role of the Kepala Adat in promoting more equitable inheritance rights for women within the Sasak community. Previous scholarship has given limited attention to this intersection of customary law, gender equality, and traditional leadership (Nurjaya, 2014; Putri, 2019).

In the Sasak customary inheritance system, women have historically been marginalized due to prevailing gender norms and patriarchal practices rooted in a patrilineal tradition. Although Islamic legal principles—widely adhered to by the Sasak population—recognize women's inheritance rights, the integration of these principles into customary practice has been inconsistent. This creates a tension between tradition and evolving legal standards, often resulting in disputes among heirs. This study examines women's participation in Sasak customary inheritance processes, with particular emphasis on gendered norms that influence decision-making and conflict resolution. It also investigates the role of the Kepala Adat as a mediator in inheritance disputes, analyzing how their authority and influence can be leveraged to bridge the gap between

customary norms and modern legal principles.

The primary aim is to provide a comprehensive understanding of how gender dynamics, cultural traditions, and legal authority interact in shaping Sasak inheritance practices, thereby contributing to broader discussions on legal pluralism and gender justice in Indonesia.

METHOD OF RESEARCH

This study utilizes a multi-method qualitative approach, integrating juridical-empirical and descriptive-analytical methodologies to examine the status of women in Sasak customary inheritance law and the dispute resolution functions of Kepala Adat in Lombok. The research employs a *juridical-empirical approach*, or *sociological jurisprudence*, which aims to comprehend law not solely as a collection of normative rules, but as a dynamic institution that engages with social structures and cultural practices (Pound, 1910; Cotterrell, 1989). This methodology is crucial for analyzing the practical application of customary inheritance law, especially concerning gender norms and social roles within the Sasak community. It enables the researcher to examine the interpretation and enforcement of legal standards by traditional authorities and their coexistence with Islamic law and national legal systems.

The research is characterized as descriptive-analytical. The objective is to delineate the existing legal norms and their application in the domain, while concurrently

examining them through theoretical frameworks and juxtaposing them with the tenets of positive law, specifically concerning the safeguarding of women's inheritance rights and conflict resolution methods within customary legal systems. The descriptive aspect emphasizes the framework and role of customary law, whilst the analytical facet examines the interplay of tradition, religious interpretation, and formal legal institutions. The study's population comprises members of the Sasak ethnic group in Sakra Barat District, East Lombok Regency, with purposive sampling utilized to choose two sample villages based on the robustness of their adherence to traditional inheritance traditions. This method guarantees that the sample accurately represents the fundamental dynamics pertinent to the research issue (Patton, 2002). The data collection encompassed both primary and secondary sources. Primary data were acquired via semi-structured interviews with religious court judges (Hakim Pengadilan Agama), traditional leaders (Kepala Adat), and village heads (Kepala Desa). Secondary data were obtained by library research, encompassing statutory papers, judicial judgments, scholarly articles, and pertinent literature on customary law, inheritance, and gender. The study included field observation and comprehensive interviews as primary data gathering methods, facilitating triangulation and a profound contextual comprehension. The data were subsequently evaluated employing a qualitative method, which prioritizes the interpretation of

meanings, values, and patterns arising from the interactions between legal norms and social reality. This research was based on legal anthropology and feminist legal theory, which examine the differential operation of law across gendered social contexts and the capacity of legal institutions to both uphold and contest patriarchal norms (Merry, 1990; Smart, 1989). This methodological design offers a thorough, context-aware analysis of the changing legal status of women in Sasak customary inheritance law and the crucial function of traditional leaders in resolving conflicts within a diverse legal framework

RESEARCH RESULT AND DISCUSSION

1. The Status of Women in the Customary Inheritance Law of the Sasak Tribe in Lombok

Customary inheritance law in Indonesia is deeply influenced by the structure of its traditional kinship systems, such as patrilineal, matrilineal, and bilateral lineages. As noted by Hazairin, customary inheritance law reflects the indigenous worldview and kinship patterns that define a community's social order. Among the Sasak people of Lombok, who adhere to a patrilineal system, women historically have not held equal status in matters of inheritance. Based on field research in Sakra Barat District, East Lombok Regency, it was found that daughters are often excluded as legal heirs to parental property and are instead given token gifts or symbolic shares by their families. By contrast, sons are viewed as the rightful heirs,

entitled to manage and own the family estate.

This unequal distribution is gradually being challenged by both legal reform and changing social norms. A turning point occurred with the Supreme Court Decision No. 179/K/Sip./1961, which established that daughters and sons have equal inheritance rights under Indonesian law, even within patrilineal systems. Influenced by Islamic principles, which allocate daughters a specific inheritance share, Sasak communities now describe the female portion as *sepersonan* (a basket carried on the head), and the male share as *sepelembah* (two baskets carried on the shoulders), reflecting a 2:1 ratio in favor of sons. This symbolic differentiation illustrates the fusion between customary values and Islamic legal norms.

Although daughters are now increasingly recognized as rightful heirs, the principle of equal distribution remains uneven in practice. Sasak society, shaped by its patrilineal lineage, continues to prioritize sons in inheritance matters. However, jurisprudential developments and the broader movement toward gender equity have initiated a shift in mindset. Women in the Sasak community are increasingly participating in various professional roles, and their social status is improving. With this, there is growing recognition that their legal rights, especially in inheritance, must also evolve.

This evolution is not only grounded in jurisprudence but also in philosophical and constitutional values, such as those enshrined in

Pancasila and the 1945 Constitution, which guarantee equality before the law. The Supreme Court's 1978 ruling (Decision No. 1589 K/Sip/1974) further affirmed that daughters should be considered legitimate heirs, referencing similar developments in regions such as Tapanuli. The ruling emphasized that a sole surviving daughter was entitled to inherit the entirety of her father's estate.

In resolving inheritance disputes, Indonesian courts increasingly adopt decisions that reflect both the prevailing legal norms and the living values of local communities. Law, as a tool of social engineering, is applied not only to regulate but also to transform and accommodate evolving social expectations.

In practice, many women in East Lombok particularly in Sakra Barat who feel excluded from inheritance now seek redress either through the Religious Courts or via customary mechanisms. Often, inheritance disputes arise when daughters are denied land or property. Many of these cases are resolved through family deliberation (*musyawarah keluarga*), a common practice in Sasak society.

2. Dispute Resolution and the Role of the Kepala Adat in Sasak Customary Inheritance

Field data show that inheritance disputes in Sasak communities are primarily resolved through three mechanisms: family deliberation, customary forums, and the religious court system. The preferred route is often the *musyawarah keluarga*, or family consensus meeting. Disputes typically arise when daughters are

dissatisfied with not receiving any share of land or estate. According to local sources, including Moh. Marzuki Ihsan, in the past two years alone, around 80 inheritance disputes have been submitted for resolution through family deliberation involving traditional leaders (*Kepala Adat*) and elders.

In such cases, the *Kepala Adat* and customary elders act not as decision-makers but as witnesses or mediators. Leadership in the deliberation process is often held by the eldest male relative from the paternal line. For instance, in Gadung Mas village in Sakra Barat, community members typically seek the counsel of senior male relatives when a dispute arises. Upon reaching consensus, property is distributed in a way that reflects both customary principles and the desire to maintain familial harmony, even if daughters receive unequal shares.

This method is widely accepted because it maintains family unity and is perceived as fairer than formal adjudication. In many cases, respondents indicated that this form of resolution offers better protection for daughters, especially when compared to court processes, which may lead to familial estrangement. As such, family-based negotiation is seen as a progressive and culturally appropriate mechanism for upholding women's rights within the framework of Sasak tradition.

Nonetheless, the customary legal institution in East Lombok plays a critical role in mitigating inheritance-related conflicts. If disputes are escalated to the formal courts, outcomes may be met with resistance from community members who view

them as unjust or culturally insensitive. In some instances, such outcomes have even resulted in physical altercations.

Sasak customary law remains a reflection of the values and social contracts recognized by its people. It functions not merely as a normative system but also as *a living law*—one that evolves with its community. Therefore, from both a normative and philosophical perspective, it is essential to place customary law at the core of Indonesia's legal hierarchy, providing a foundation for a more culturally grounded and inclusive national legal system.

According to the author, the high number of inheritance disputes among the Sasak community—particularly in Sakra Barat District—is now more commonly resolved through family deliberation (*musyawarah keluarga*). Respondents indicated that this method is more effective in maintaining family harmony and offers better protection for daughters. There is growing awareness that the traditional rationale for excluding daughters from inheritance is no longer justifiable. Thus, the author argues that granting inheritance rights to both sons and daughters represents a more progressive and appropriate approach, aligned with legal developments that promote gender equality in the field of law.

According to informants, when inheritance disputes cannot be resolved through family deliberation (*musyawarah keluarga*), the matter is escalated to a customary deliberation (*musyawarah adat*), which is presided

over by the Kepala Adat (traditional leader). These deliberations also involve religious leaders and customary elders, ensuring a broader moral and cultural framework. Furthermore, the presence of local government officials (village authorities) serves to reinforce the legitimacy and enforceability of the outcomes agreed upon during these customary forums. In cases that were successfully resolved, daughters received portions of the inherited estate alongside their paternal male relatives. Although the shares were not always equal, they were deemed acceptable and fair by all parties involved. The Kepala Adat, in their role as a customary judge, plays a central role not only in dispute resolution but also in the restoration of social harmony disrupted by such conflicts.

For example, in 2013, the number of inheritance disputes handled by the *Kepala Adat* in two villages of Sakra Barat District was as follows:

Village	Resolved Disputes	Unresolved Disputes (*)
Buntiang	19 cases	2 cases
Gadung Mas	24 cases	5 cases

Cases that were forwarded to the **Religious Court** (*Pengadilan Agama*)

Filing Claims to the Religious Court In accordance with Law No. 8 of 2004, which amends Law No. 2 of 1986 on the General Judiciary, Article 12(1) provides that: "Judges of the court are officials who carry out judicial authority." Furthermore, Law No. 4 of

2004 on Judicial Power, Article 5(2), affirms: "The courts shall assist justice seekers and endeavor to overcome all obstacles and impediments to ensure simple, swift, and low-cost proceedings." Based on these statutory provisions, judges are vested with the authority to examine and adjudicate cases submitted to them. Inheritance disputes that remain unresolved through family or customary channels are ultimately brought before the Religious Court. These cases are adjudicated according to normative Islamic law, wherein judges rely on the Compilation of Islamic Law (Kompilasi Hukum Islam) as the primary legal framework. Even after a final and binding decision (*inkracht van gewijsde*) is issued by the Religious Court, the Kepala Adat often continues to play a role by supervising the enforcement of the court's ruling at the community level.

The dispute resolution process within the Sasak customary inheritance system consistently involves the Kepala Adat, who performs several critical roles throughout the proceedings. First, the Kepala Adat acts as a mediator, working alongside customary and religious leaders to facilitate consensus during family deliberations (*musyawarah keluarga*). Second, in the context of customary forums (*musyawarah adat*), the Kepala Adat assumes the role of a customary judge, presiding over deliberations and rendering decisions in accordance with traditional norms. Finally, the Kepala Adat serves as a supervisory figure in the

implementation of inheritance decisions issued by the Religious Court, ensuring that court rulings—once legally binding—are carried out in a manner that aligns with local customs and preserves community harmony.

CONCLUSION

The Sasak community in Lombok, traditionally governed by a patrilineal kinship system, has seen a shift in inheritance rights. The Supreme Court of Indonesia's Decision No. 179/K/Sip./1961 confirmed that both sons and daughters of a deceased person have equal inheritance rights, with daughters' shares being equal to those of boys. This change is influenced by Islamic inheritance law, which allows Sasak girls to inherit a share of the estate, which can be established through mutual consent or a religious court decision. Inheritance conflicts within the Sasak community are resolved through family consultation, traditional consultation, and submission of claims to the Religious Court. The Kepala Adat (traditional leader) plays a crucial role in these dispute settlement processes. The notion of equal rights for male and female heirs calls for justice and legal certainty. Public education and awareness initiatives are needed to promote the recognition of daughters' legal rights, which could reduce familial disputes. A cohesive national legal framework regulating inheritance distribution is recommended to ensure equitable distribution among legitimate heirs.

REFERENCES

- [1]. Al-Qur'an. (n.d.). *Surah An-Nisa*: 7.
- [2]. Arifin Haji Munir, Z. (2022). Wealth distribution among Sasak communities through inheritance: A quest for justice. *Mazahib*, 20(2), 225–250. <https://doi.org/10.21093/mj.v20i2.4241>
- [3]. Cotterrell, R. (1989). *The politics of jurisprudence: A critical introduction to legal philosophy*. London: Butterworths.
- [4]. Hafidz, R. (2021). *Hak waris perempuan dalam perspektif hukum adat Sasak* [Unpublished thesis]. [Institution Name].
- [5]. Hasanudin. (2021). Transformasi fiqh mawaris dalam Kompilasi Hukum Islam di Indonesia. *Islamadina: Jurnal Pemikiran Islam*, 22(1), 43–62. <https://doi.org/10.30595/islamadinav22i1.6816>
- [6]. Koentjaraningrat. (1984). *Manusia dan kebudayaan di Indonesia*. Jakarta: Djambatan.
- [7]. Koentjaraningrat. (2002). *Pengantar ilmu antropologi* (Revised ed.). Jakarta: Rineka Cipta.
- [8]. Mahkamah Agung Republik Indonesia. (1961). *Putusan Mahkamah Agung No. 179/K/Sip/1961 (Sitepu vs. Ginting)*.
- [9]. Merry, S. E. (1990). *Getting justice and getting even: Legal consciousness among working-class Americans*. Chicago: University of Chicago Press.
- [10]. Nurjaya, I. N. (2014). *Living law dan pluralisme hukum: Telaah terhadap perkembangan hukum adat dan hukum Islam dalam sistem hukum nasional*. Malang: Setara Press.
- [11]. Patton, M. Q. (2002). *Qualitative research and evaluation methods* (3rd ed.). Thousand Oaks, CA: Sage Publications.
- [12]. Pound, R. (1910). Law in books and law in action. *American Law Review*, 44, 12–36.
- [13]. Putri, A. N. (2019). *Konflik antara hukum adat dan hukum nasional dalam pembagian waris masyarakat Sasak* [Undergraduate thesis, Universitas Mataram].
- [14]. Rosmita, R., Nurfiah, N., & Fatmawati, M. (2025). Implementasi kaidah *al-Ādah muhakkamah* pada hak waris anak perempuan Sasak. *AL-QIBLAH: Jurnal Studi Islam dan Bahasa Arab*, 4(2). <https://doi.org/10.36701/qiblah.v4i2.2043>
- [15]. Smart, C. (1989). *Feminism and the power of law*. London: Routledge.
- [16]. Soedjito. (1996). *Pokok-pokok hukum adat*. Jakarta: Rineka Cipta.
- [17]. Soepomo. (1982). *Bab-bab tentang hukum adat*. Jakarta: Pradnya Paramita.
- [18]. Surata, I. M. (2016). *Hukum waris Hindu di Lombok: Antara agama dan tradisi adat*. Denpasar: Pustaka Bali.
- [19]. Syafi'i, M., Abdullah, A., Muslihun, & Mutawali. (2025). Peace agreement on *masalah* in distribution of inheritance in Sasak tribe's Muslim community. *Jurnal Hukum Islam*,

- 23(1).
<https://doi.org/10.28918/jhi.v23i1.03>
- [20]. Syibly, M. R., & Walijah, N. (2024). Legal culture of customary inheritance division in the Sasak community: A review from the perspective of legal plurality and Islamic legal anthropology. *Unisia*, 42(2).
<https://doi.org/10.20885/unisia.vol42.iss2.art3>
- [21]. Ter Haar, B. (1950). *Asas-asas dan susunan hukum adat*. Jakarta: Pradnya Paramita.
- [22]. Zuhairini, Z., et al. (1997). *Fiqh mawaris: Ilmu waris Islam*. Jakarta: Raja Grafindo Persada.