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Bilateral Kinship Structure and Its Implications for the Distribution of Inheritance in Dayak Indramayu Customary Law

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Abstract

Introduction: The kinship system in the Dayak Indramayu community plays an important role in determining the pattern of inheritance distribution. Unlike the patrilineal or matrilineal systems, which emphasize a single line of descent, the Dayak Indramayu community adheres to a bilateral kinship system that allows inheritance rights to be obtained from both the father and mother. This condition gives rise to unique dynamics, especially in the context of legal pluralism in Indonesia.

Purposes of the Research: This study aims to analyze how the bilateral kinship system influences the pattern of inheritance distribution in the Dayak Indramayu community, emphasizing aspects of gender equality, recognition of adopted children, and its implications for social justice within the framework of customary law and national law.

Methods of the Research: This study uses a qualitative-descriptive method with a socio-cultural legal approach. Data was collected through field observations, semi-structured interviews with traditional leaders and community members, and documentation studies. Data analysis was conducted using Miles and Huberman's interactive model, supplemented with normative-legal interpretations to understand the relationship between traditional norms, social values, and positive law.

Results / Main Findings / Novelty/Originality of the Research: The study found that the bilateral kinship system of the Dayak Indramayu produces a relatively egalitarian inheritance pattern by granting equal rights to both sons and daughters. However, there are still weaknesses in guaranteeing the rights of adopted children and the potential for conflict due to differences in interpretation between subgroups. The originality of this research lies in its recommendation to reformulate customary law to be more adaptive to contemporary principles of social justice and in line with the national legal framework.

Keywords: Customary Law, Bilateral Kinship, Inheritance, Dayak Indramayu, Social Justice

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INTRODUCTION

The study of customary law in the Indonesian context occupies a very important position because Indonesia is known as a country with a diverse and layered legal system. This phenomenon is known in legal pluralism theory, which refers to the coexistence of state law, religious law, and customary law within society. In this framework, customary law is not only a reflection of local customs but also one of the recognized sources of national law, as affirmed in Article 18B of the 1945 Constitution.

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The existence of customary law is always closely related to the social and cultural realities of the community that gave birth to it.¹ Unlike positive law, which is written and formally binding, customary law is a *living law*, that is, a law that lives, grows, and develops in accordance with the dynamics of society.² Therefore, customary law possesses high elasticity and is able to adapt to social changes, while still adhering to the values of tradition and communal justice. In the context of this research, the discussion on the inheritance system within the Dayak Indramayu community needs to be positioned as a manifestation of living law that continues to endure amidst the pressures of modernization and the unification of national law.

The Dayak Indramayu community holds a unique position within the landscape of Indonesian customary law. Unlike the Javanese people, who predominantly adhere to patrilineal or, in some regions, matrilineal kinship systems, the Dayak Indramayu adopt a bilateral kinship system. In this system, lineage is recognized through both the father's and the mother's sides, thereby directly influencing the patterns of inheritance distribution. This phenomenon is particularly interesting as it demonstrates a relatively egalitarian model of inheritance compared to other customary communities. Nevertheless, such egalitarianism is not entirely free from challenges, as issues of injustice still arise in practice, especially concerning women and adopted children.

The bilateral kinship structure of the Dayak Indramayu carries implications for the principles of inheritance distribution characterized by *rechtsgemeinschaft*, namely a legal community bound together by collectively observed customary rules. This kinship system requires a balance in inheritance distribution so that every family member, both male and female, receives equal or at least proportional rights. However, the living customary provisions do not always fully align with the principles of distributive justice in modern law, thereby raising questions regarding the synchronization between *ius constitutum* (the law currently in force) and *ius constituendum* (the law aspired to in the future).

The urgency of this research is further reinforced by the fact that legal pluralism in inheritance practices often gives rise to potential conflicts. Some members of the Dayak Indramayu community still regard customary law as the primary legal framework, while others refer to Islamic law or state law. This situation leads to overlapping norms and legal uncertainty, which may ultimately result in disputes over inheritance distribution. Therefore, a juridical-sociocultural analysis becomes essential to assess the extent to which the bilateral kinship system influences inheritance practices, as well as how customary law may be reformulated to align with the principles of contemporary social justice.

In addition, this research carries academic urgency as it contributes to enriching the body of studies on customary law in Indonesia. Compared to the well-documented studies of Minangkabau, Balinese, or Javanese customary law, scholarship on the Dayak Indramayu remains relatively limited. Yet, the Dayak Indramayu possess distinctive cultural characteristics embodied in local wisdom concepts such as *Sejarah Alam Ngaji Rasa*, *Menyatuk dengan Alam*, and *Ngaula Ning Anak Rabi*. These cultural values function as a *grundnorm* or fundamental norm underlying customary practices, including the distribution

¹ Febrian Chandra et al., "Ritual Adat Sebagai Instrumen Hukum Tidak Tertulis Masyarakat Jambi Dalam Perspektif Filsafat Hukum," *Legalitas: Jurnal Hukum* 16, no. 2 (2024): 122–132.

² Bismar Siregar, "LIVING LAW DAN DINAMIKA SOSIAL: INTEGRASI NILAI-NILAI KEARIFAN LOKAL KE DALAM HUKUM NASIONAL," *Lex Lectio Law Journal* 4, no. 1 (2025): 14–28.

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of inheritance. By understanding these foundational values, the analysis of customary law becomes not merely legal-formal but also reveals the philosophical meanings embedded within it.

This research is also practically significant as it contributes to efforts of legal harmonization in Indonesia. In the context of inheritance distribution, there is often tension between locally oriented customary law and the unifying character of national law. Through a juridical-sociocultural approach, this study seeks to uncover how the bilateral kinship structure can serve as a basis for fair inheritance distribution, while also exploring possible pathways for integrating Dayak Indramayu customary law into the framework of national law without eroding its cultural identity.

Against this background, the research underscores the urgency of exploring, documenting, and analyzing the practices of Dayak Indramayu customary law as a form of *living law*. This endeavor is not solely for academic purposes, but also as a reflective contribution toward the reformulation of national law. The ultimate expectation is that Dayak Indramayu customary law may provide a tangible contribution to the development of Indonesian law—one that is more responsive to diversity, distributively just, and non-discriminatory toward vulnerable groups such as women and adopted children.

LITERATURE REVIEW (OPTIONAL)

Customary Law Theory and Legal Pluralism

Customary law in Indonesia is one of the legal systems that lives and develops within society, often referred to as *living law*.³ This term affirms that customary law is not merely a set of written norms, but is rooted in the social practices, traditions, and cultural values of the community. Van Vollenhoven, one of the foremost scholars of customary law, emphasized that customary law is characterized by its dynamic and flexible nature, constantly adapting to the needs of society.⁴ Therefore, customary law cannot be regarded as a static set of rules, but rather as a body of law that grows and evolves alongside the community that upholds it.

In the context of legal theory, customary law is often understood through the perspective of sociological jurisprudence as developed by Eugen Ehrlich, who asserted that "the center of gravity of legal development lies not in legislation, nor in juristic science, nor in judicial decision, but in society itself."⁵ In other words, the center of legal development lies in society, not solely in state institutions. This theory is relevant to explaining customary law in Indonesia, where social practices and collective consensus determine the validity of law more than written legislation.

Legal pluralism serves as an important theoretical framework for understanding the existence of customary law in Indonesia.⁶ Legal pluralism is a condition in which various legal systems coexist and interact within a single social space. In the context of Indonesia,

³ Mochamad Aditya Zulfikar, Nanda Sonia Salsabila, and Erlita Karisma Ariditya, "The Existence of Civil Law amidst the Embeddedness of Customary Law (Living Law) in Indonesia," *in-prolegurit* 3, no. 1 (2024): 104–116.

⁴ Maarten Manse, "The Plural Legacies of Legal Pluralism: Local Practices and Contestations of Customary Law in Late Colonial Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024): 328–348.

⁵ Svitlana Karvatska, "Socio-Historical Factors of Law Perception in 'Living Law' Concept by Eugen Ehrlich," *Ehrlich's Journal*, no. 1 (2017): 42–51.

⁶ James Kinunda, Helen Nabirye, and Ronald Muwanguzi, "Legal Pluralism in Postcolonial Nations: Reconciling Customary, Religious, and State Norms in Judicial Practices," *Rechtsnormen: Journal of Law* 3, no. 2 (2025): 199–208.

legal pluralism is manifested in the applicability of state law, religious law, and customary law.⁷ John Griffiths distinguishes between weak legal pluralism, which is controlled by the state, and strong legal pluralism, which arises autonomously from society without state intervention.⁷

Previous research has shown that customary law often forms the basis for dispute resolution in local communities, particularly in the areas of inheritance, marriage, and communal land.⁸ This is where legal pluralism is evident, as customary law coexists with positive law (Civil Code, Criminal Code, Basic Agrarian Law) and religious law such as the Compilation of Islamic Law (KHI). However, in practice, there are often conflicts of law, for example when egalitarian customary law conflicts with hierarchical religious law in the distribution of inheritance. This situation demonstrates that legal pluralism is not merely a phenomenon of coexistence, but also a arena of negotiation and even conflict.

The theory of legal pluralism put forward by Boaventura de Sousa Santos asserts that law should not be viewed as a closed system, but rather as interlegality or a space for interaction between legal systems.⁹ Within this framework, Dayak Indramayu customary law, for example, does not stand alone but interacts with Islamic law and national law. This interaction process results in normative compromises and unique hybrid practices, giving rise to variations in the implementation of inheritance rules in the field.

In addition, customary law within the framework of legal pluralism is often positioned as a mechanism to preserve cultural identity as well as a means of dispute resolution based on deliberation. The mechanism of customary deliberation, which prioritizes social harmony, differs from the litigation approach in formal courts. In legal theory, this can be associated with the concept of restorative justice, where the primary aim of law is not to punish but to restore broken social relations. Thus, customary law functions not only as a set of norms but also as a social institution that maintains community cohesion.

However, legal pluralism also presents challenges. First, the overlapping of norms may create legal uncertainty. Second, in certain cases, customary law tends to preserve discriminatory practices, for instance against women or adopted children, thereby conflicting with human rights principles and the constitution. Therefore, a reformulation of customary law is necessary to ensure its alignment with the evolving values of contemporary justice. This effort is known as the concept of adaptive customary law,

⁷ Marie Seong-Hak Kim, "Legal Pluralism That Wasn't: State and the Plurality of Law in Late Medieval and Early Modern Europe," *Tijdschrift voor Rechtsgeschiedenis/Revue d'histoire du droit/The Legal History Review* 93, no. 1-2 (2025): 130-167.

⁸ Agus Satory et al., "The Role of Customary Law in Land Dispute Resolution in Rural Areas: Challenges and Prospects in the Modern Era," *Journal of the American Institute* 2, no. 4 (2025): 511-522; Dedy Muharman, "The Effectiveness of Customary Law in Resolving Land Disputes in Rural Areas: Social and Legal Perspectives in the Modern Era," *Journal of the American Institute* 2, no. 4 (2025): 597-607; Hilman Syahrial Haq, "Legal Pluralism and Inheritance Rights: Resolving Conflicts between Local Customs and National Law in Indonesia," *Kosmik Hukum* 25, no. 1 (2025): 148-159; Fernando Marselino, Andika Wijaya, and Satriya Nugraha, "Inheritance Distribution under Dayak Ngaju Customary Law in the Kedamangan of Jekan Raya, Palangka Raya City (A Case Study of the Decision of the Kedamangan of Jekan Raya District, Palangka Raya City Number 056/DKA-KJR/V/2022)," *Journal of Law, Politic and Humanities* 5, no. 6 (2025): 4227-4235; Nam Rumkel and Muhamad Taufik La Ode, "JUSTICE OF INHERITANCE RIGHTS FOR WOMEN IN SAHU TRIBE CUSTOMARY LAW: A COMPARATIVE STUDY AND EFFORTS TOWARD HARMONIZATION," *Cepalo* 9, no. 1 (2025): 53-68.

⁹ César Bazán Seminario, "Decolonising Legal Theory: The Rule of Law and the Legalisation of Legal Pluralism," *Revista Via Iuris*, no. 36 (2024): 38-67.

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namely the renewal of customary law so that it remains relevant to the demands of the times without losing its identity.

The Concept of Bilateral Kinship in Legal Anthropology

The concept of bilateral kinship in legal anthropology refers to a kinship system that places the paternal and maternal lines of descent on an equal footing. In societies with a bilateral system, an individual's rights and obligations toward the family are not limited to one particular line of descent but encompass both. This system differs from patrilineal descent, which emphasizes the father's line, and matrilineal descent, which emphasizes the mother's line. Within the framework of legal anthropology, bilateral kinship is regarded as the foundation for regulating inheritance rights, marriage, and social responsibilities within customary communities.¹⁰

Legal anthropology views kinship not merely as a biological bond, but also as a social construct that gives rise to norms, rights, and obligations. The bilateral kinship system places every child, both male and female, in a relatively equal position in terms of inheritance and social support. In the context of customary law, this system functions as a mechanism for distributing social justice, as it does not restrict inheritance rights to one particular side. Thus, bilateral kinship demonstrates a more egalitarian model compared to the unilineal descent system.¹¹

In the study of legal anthropology in Indonesia, Hazairin is a prominent figure who introduced the concept of bilateral kinship in the analysis of customary inheritance law. According to Hazairin, Indonesia essentially adheres to a parental system, or bilateral system, in which a child's lineage is connected to both the father's family and the mother's family. This system is more in line with modern principles of justice, as it provides equal opportunities for both male and female descendants.¹²

In addition to Hazairin, Clifford Geertz, in his study of law and culture in Java, also emphasized that bilateral kinship forms a broader social network, as each individual is affiliated with both sides of the family. From the perspective of legal anthropology, this creates a more flexible social structure and enables dispute resolution through deliberation within the extended family.¹³ This means that bilateral kinship has implications not only for inheritance but also for more inclusive patterns of conflict resolution, as it involves a greater number of parties in the process of customary mediation.

However, the bilateral kinship system does not always guarantee full equality. In customary practices, there are often gender biases or specific preferences that still influence the distribution of inheritance. For instance, although daughters are recognized as heirs, in some customary communities the actual distribution may favor males. In this context, legal anthropology plays a role in analyzing law in action that is, how the norms of bilateral kinship are implemented in everyday practice, which does not always align with the normative principle that is supposed to be egalitarian.¹⁴

¹⁰ Koentjaraningrat, *Pengantar Ilmu Antropologi* (Jakarta: Rineka Cipta, 2009), 223.

¹¹ Satjipto Rahardjo, *Hukum Dan Masyarakat* (Bandung: Angkasa, 1980), 56.

¹² Hazairin, *Hukum Kewarisan Bilateral Menurut Al-Qur'an* (Jakarta: Tintamas, 1964), 15.

¹³ Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983), 167.

¹⁴ Soepomo, *Bab-Bab Tentang Hukum Adat* (Jakarta: Pradnya Paramita, 1982), 98.

METHODS OF THE RESEARCH

The type of research employed in this study is qualitative-descriptive research, which, within the tradition of empirical legal research, seeks to understand law not only as written norms but also as social behavior that lives within society.¹⁵ This approach was chosen because the Dayak Indramayu customary law is not systematically codified in the form of legislation but exists within social and cultural practices passed down through generations. By using this method, the researcher seeks to provide a comprehensive depiction of the reality of inheritance distribution as practiced by the local community, while also uncovering the cultural values underlying it. Qualitative-descriptive research is considered relevant because it is able to explore the contextual dimensions of law, thereby allowing law to be understood as a living law that is dynamic and continually evolving.

The approach used is juridical-socio-cultural, or in academic terminology, often referred to as the socio-legal approach. This approach combines the normative juridical method with sociological and anthropological analysis, so that the research not only examines customary norms from a formal legal perspective but also considers the social and cultural aspects of the community. Thus, customary law is viewed not merely as a normative text but also as a value system internalized in the daily life of the Dayak Indramayu community. Through this approach, the research aims to reveal the close relationship between the bilateral kinship structure and the applicable inheritance mechanisms, resulting in a more comprehensive and in-depth understanding.

Data collection was carried out through several methods. First, semi-structured interviews with customary leaders and members of the Dayak Indramayu community who served as key informants in explaining inheritance practices. Second, documentation studies, which included reviewing customary manuscripts, local legal records, and relevant academic literature. Third, participatory observation, which allowed the researcher to directly observe customary practices in everyday life. The combination of these three techniques was intended to ensure data validity through data triangulation, so that the research findings would have a level of reliability and credibility that can be academically justified.

Data analysis was conducted using the interactive model of Miles and Huberman, consisting of three main stages: data reduction, data display, and conclusion drawing/verification. The data reduction process was carried out to filter information relevant to the research focus, particularly concerning the kinship structure and inheritance system. The next stage was data display, presented in the form of matrices, tables, or analytical narratives to facilitate the interpretation of meaning. The final stage was conclusion drawing, based on legal reasoning and the interpretatio culturalis approach, which interprets law within the cultural context of the customary community. Through this analysis, the research is expected to provide theoretical contributions to the development of customary law studies, while also offering practical recommendations for a more just and inclusive reformulation of inheritance law.

RESULTS AND DISCUSSION

¹⁵ Galang Taufani Suteki, *Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktik)* (Depok: PT Radja Grafindo Persada, 2018).

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The Bilateral Kinship Structure of the Dayak Indramayu and Its Influence on the Distribution of Inheritance

The kinship structure serves as a fundamental basis for the formation of customary law norms, as it functions as a social framework that determines the rights and obligations of each family member. In the Dayak Indramayu community, the prevailing kinship system is bilateral, also referred to as an ambilineal descent system. This system recognizes lineage from both the father’s and mother’s sides, unlike the patrilineal system, which emphasizes the father’s line, or the matrilineal system, which emphasizes the mother’s line. The bilateral characteristic provides broader space for family members to claim rights through both paternal and maternal lines. This underscores that the Dayak Indramayu kinship system is structurally more inclusive compared to many other customary communities in the Nusantara.

The distinct feature of the Dayak Indramayu bilateral system is reflected in inheritance practices that do not discriminate based on gender. Both sons and daughters receive equal inheritance rights, thereby embodying the principle of equity before the law in the applicable customary law. Within the framework of rechtsgemeinschaft (customary law community), all children born from legitimate unions have full legitimacy to receive inheritance. This condition contrasts with customary communities that apply gender bias in inheritance, such as the dominance of sons in patrilineal systems. Thus, the Dayak Indramayu community can be said to uphold the principle of gender equality in their customary law, although variations exist in implementation among different subgroups.

The influence of this bilateral system becomes more complex when applied to the distribution of inherited property. The local Dayak Indramayu tradition emphasizes substantive justice rather than merely formal justice. In other words, inheritance distribution is not always carried out equally in a mathematical sense but takes into account the contribution, needs, and roles of each individual within the family. This pattern aligns with the theory of distributive justice, which prioritizes proportional fairness over simple quantitative equality. For example, a child who bears greater responsibility toward parents or the extended family may receive a larger share without being considered in violation of the principle of equality under customary law.

Variations in the application of the bilateral system are also influenced by subgroups within the Dayak Indramayu community, namely Dayak Blegir, Dayak Preman, and Dayak Seragam. These differences are primarily related to inheritance distribution methods shaped by customary traditions and the religious teachings adhered to by each group.

Dayak Group	Inheritance Principle	Implementation Characteristics
Dayak Blegir	Egalitarian, without distinguishing gender	All children receive equal shares; distribution considers needs, contributions, and collective well-being
Dayak Preman	Influenced by religious teachings and local beliefs	Distribution may be more structured; tends to consider social status and individual roles within the community; inequality may occur
Dayak Seragam	Combination of customary law, religion, and modern social systems	Inheritance tends to favor males; the normative rationale is to preserve the family’s reputation and lineage continuity

From the table, it can be seen that although all three subgroups adhere to the bilateral system, the inheritance principles they apply differ. The Dayak Blegir tend to emphasize absolute equality, where males and females have the same rights, in line with the concept of egalitarian inheritance. In contrast, the Dayak Preman and Dayak Seragam accommodate external influences such as religious teachings and social modernization, resulting in more varied distribution patterns. This condition illustrates that Dayak Indramayu customary law is pluralistic in practice, meaning there is internal pluralism within the customary community itself.

Interestingly, the influence of religion and beliefs is particularly prominent among the Dayak Preman and Seragam. In the Dayak Preman subgroup, religious teachings are often used as a reference for determining inheritance rights and can even create preferences for sons or individuals considered more pious (religious merit-based inheritance). This differs from the Dayak Seragam, which, while still recognizing the bilateral system, tends to allocate larger shares to sons, who are regarded as the primary heirs to the family name. This phenomenon reflects legal acculturation, that is, the blending of customary law with religious norms and modern standards.

Apart from religious factors, the dynamics of inheritance distribution in the Dayak Indramayu community are also influenced by the level of education and understanding of modern law. Communities more exposed to legal education tend to adopt the principle of full equality in inheritance, in accordance with Indonesian positive law that prohibits gender discrimination. Conversely, more traditional groups continue to maintain distribution patterns influenced by social status and cultural roles. This confirms that Dayak Indramayu customary law is adaptive to social change, making it a form of living law that is flexible and dynamic.

Thus, the bilateral kinship structure of the Dayak Indramayu community functions not merely as a kinship model but also as a key instrument in realizing principles of equality and justice in inheritance distribution. Variations in its implementation among the Dayak Blegir, Preman, and Seragam demonstrate a balance between tradition, religion, and modernity. Customary principles such as *Sejarah Alam Ngaji Rasa, Menyatuk dengan Alam*, and *Ngaula Ning Anak Rabi* reinforce the philosophy that inheritance is not only about material division but also about maintaining family harmony, social continuity, and respect for ancestors. Therefore, Dayak Indramayu customary law serves as a concrete example of how legal pluralism operates in practice in Indonesia and is relevant as a model for reconstructing a more just and inclusive inheritance law.

The Practice of Dividing Inheritance in the Dayak Indramayu Community

The practice of inheritance distribution in the Dayak Indramayu community is closely linked to the bilateral kinship system they follow. This system ensures that both sons and daughters receive relatively equal inheritance rights, without gender discrimination. Unlike the patrilineal system, which prioritizes males, or the matrilineal system, which favors females, the Dayak Indramayu community practices the principle of egalitarian inheritance. Parental property is considered collective family property, so its distribution must take into account the interests of all legitimate children. In this context, the principle

of justice is understood not merely as formal equality (equality on paper) but as substantive equality, which considers the actual conditions of each individual.

Sons in the Dayak Indramayu community do not automatically receive larger shares than daughters. They are expected to uphold family continuity, but this obligation does not automatically grant them greater inheritance rights. Conversely, daughters still receive a share of the property even after marriage and establishing their own households. In this regard, the Dayak Indramayu system differs from some other Indonesian customary communities that consider daughters who marry outside the family to forfeit inheritance rights. Therefore, the prevailing principle is that all children, regardless of gender or marital status, have equal standing under customary law.

However, in practice, there is flexibility. For example, if a child plays a larger role in caring for elderly parents or managing family property, they may be allocated a larger share as recognition of their contribution. This concept aligns with distributive justice, which emphasizes proportional fairness rather than absolute equality. Distribution is typically determined through family deliberation facilitated by customary leaders, following the principle of *consensus ad idem* (mutual agreement). Thus, inheritance is viewed not only as material property but also as a symbol of social recognition.

The role of adopted children in Dayak Indramayu customary inheritance is also significant. Generally, adopted children are recognized within the bilateral kinship system, though their inheritance rights are often not entirely equal to those of biological children. In many cases, adopted children receive specific portions of inheritance, especially if they have been integrated into the family through customary adoption rituals. However, if the extended family strongly maintains bloodline continuity, adopted children's rights may be limited, such as only to movable property or through gifts granted before the adoptive parents pass away. This reflects legal differentiation between biological and adopted children, even though both are recognized as heirs under customary law.

When examined across subgroups, inheritance practices in the Dayak Indramayu community show significant variation. In the Dayak Blegir group, inheritance is distributed equally without distinguishing between males and females. All children are considered to have equal rights, with emphasis on collective welfare. Even adopted children are usually fully recognized, as this community prioritizes family solidarity over biological lineage.

In contrast, the Dayak Preman group exhibits a stronger influence of the religious teachings followed by its members. Inheritance distribution in this group tends to be more structured according to religious prescriptions, for example, granting larger shares to sons in line with the principle of male-preference inheritance found in some religious traditions. Daughters still receive a portion, but it is often smaller. Adopted children's positions are frequently debated, depending on the consensus of the extended family and the views of religious leaders involved in the inheritance deliberation.

The Dayak Seragam group tends to adopt a hybrid system, combining customary law, religious influence, and elements of modernity. In practice, they still recognize the bilateral system, but inheritance is often allocated more to sons, especially those considered primary heirs of the family line. This is done to preserve family honor and ensure the continuation of socio-economic responsibilities in the community. Daughters still receive a share, albeit smaller, while adopted children generally inherit only if they have undergone

formal customary adoption. This pattern reflects cultural negotiation, a negotiation of values between tradition and modernity.

Thus, inheritance practices in the Dayak Indramayu community demonstrate a fundamentally egalitarian pattern, but with internal variation according to subgroups and external influences. The bilateral system ensures that sons and daughters, in principle, have equal rights, while adopted children still have opportunities to be recognized as heirs under certain conditions. Differences observed among the Dayak Blegir, Preman, and Seragam subgroups illustrate that customary law is not a monolithic system but a living law that is dynamic, flexible, and responsive to social, cultural, and religious contexts. This is what allows Dayak Indramayu customary law to remain both enduring and adaptive within the pluralistic legal landscape of Indonesia.

Implications for Social Justice in the Dayak Indramayu Inheritance System

The inheritance distribution system in the Dayak Indramayu community, based on a bilateral kinship structure, has significant implications for social justice. Gender equality is a prominent aspect, as both males and females are recognized under Dayak Indramayu customary law as having equal inheritance rights. This contrasts with the customary law structures in many regions that remain gender-biased. Such equality aligns with the principles contained in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Indonesia ratified through Law No. 7 of 1984, obligating the state to eliminate all forms of discrimination against women, including in family and inheritance law.¹⁶

From a legal theory perspective, this practice demonstrates the application of substantive equality rather than merely formal equality. According to H.L.A. Hart, law should not focus solely on formal rules but must also take into account the internal aspects of rules that are lived and practiced within society.¹⁷ By recognizing women's inheritance rights, the Dayak Indramayu community has practiced the principle of substantive equality, which is more closely aligned with social reality. This also corresponds with Satjipto Rahardjo's view of law as a means to achieve substantive justice in society, known as the theory of law as a tool of social engineering.¹⁸

Despite this, potential conflicts can still arise in inheritance practices. For example, differences in perception between families following an egalitarian pattern (Dayak Blegir) and those leaning more toward religious principles (Dayak Preman or Seragam) can create disputes over who is entitled and how large their share should be. In this context, inheritance conflicts can be categorized as *rechtsconflict*—legal conflicts arising from differences in value systems within society. If unmanaged, such conflicts may generate horizontal tensions that disrupt social harmony.

¹⁶ Halisma Amili, "Analisis Hukum Terhadap Diskriminasi Gender Dalam Ketentuan Perundang-Undangan Indonesia," *Jurnal Kolaboratif Sains* 8, no. 7 (2025): 4427–4442.

¹⁷ Dwanda Julisa Sisdiyawan et al., "The Development of Positivism's Legal Theory: From Bentham to Hart," *PETITA* 9 (2024): 777.

¹⁸ Rian Hidayatulloh Garuda Nusantara and Nadhif Tanzil Haikal Harahap, "FILSAFAT HUKUM DAN KEADILAN SOSIAL: ANALISIS TEORITIS TENTANG PERAN HUKUM DALAM MEWUJUDKAN KESEJAHTERAAN MASYARAKA," *Nusantara: Jurnal Pendidikan, Seni, Sains dan Sosial Humaniora* 3, no. 01 (2025).

To address these conflicts, the role of customary leaders as mediators is crucial. Customary leaders function as quasi-judicial authorities, who, although lacking formal legal powers like courts, are respected as moral and social authorities. They employ deliberation mechanisms (*musyawarah*) to reach *consensus ad idem*, or mutual agreement acceptable to all parties. This customary mediation aligns with the principles of Alternative Dispute Resolution (ADR) recognized in modern law, including in Indonesia under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. Thus, customary leaders play a vital role in maintaining social stability and preventing inheritance conflicts from escalating into formal litigation.

In relation to national law, the Dayak Indramayu inheritance system holds a unique position within Indonesia's legal pluralism framework. According to Article 18B paragraph (2) of the 1945 Constitution, the state recognizes and respects customary law communities and their traditional rights as long as they are still alive and consistent with societal development. This is reinforced by Law No. 6 of 2014 on Villages, which provides space for customary communities to govern themselves based on customary law. Consequently, the Dayak Indramayu customary inheritance system has constitutional legitimacy and can coexist alongside national law, provided it does not conflict with principles of social justice and human rights.

The relationship with Islamic law is also important to consider, given that the majority of the Indramayu population is Muslim. Under Islamic law as codified in the Compilation of Islamic Law (KHI) Articles 176-193, sons receive a share twice that of daughters, in accordance with the principle *li al-dzakari mitslu hadhz al-untsayain*. This differs from the egalitarian principle in Dayak Indramayu customary law. This discrepancy creates a condition of legal pluralism, where two distinct legal systems coexist and sometimes generate tension. However, customary practices show flexibility: some families prefer to follow adat, while others follow Islamic provisions.

From a social justice perspective, the difference between customary law and Islamic law opens an important discussion. Should justice be understood as mathematical equality (as in Dayak Blegir adat), or as proportional equality based on gender roles (as in Islamic law)? John Rawls, in his theory of *Justice as Fairness*, emphasizes that justice is about providing equal opportunity for everyone, though the distribution of resources may vary as long as it benefits the least advantaged (the difference principle). In the Dayak Indramayu context, the egalitarian principle aligns more closely with Rawls' idea, while the Islamic principle reflects a distributive approach that considers men's social role as providers.

Thus, the implications of the Dayak Indramayu inheritance system for social justice are quite complex. On one hand, the bilateral system and egalitarian pattern contribute significantly to gender equality and the protection of children's rights, including adopted children. On the other hand, variations among subgroups and differences with Islamic and national law may generate conflicts, which are then mediated by customary leaders. Yet this legal pluralism is actually a strength of Indonesia, demonstrating the ability of customary communities to negotiate among traditional values, religious principles, and state law. Therefore, Dayak Indramayu customary law is not only a form of living law but also functions as an instrument of social justice relevant in the context of modern Indonesian legal pluralism.

CONCLUSION

Based on the explanation above, it can be concluded that the bilateral kinship system in the Dayak Indramayu community shapes a relatively egalitarian pattern of inheritance distribution, as it provides equal opportunities for both sons and daughters to claim inheritance rights, in contrast to patrilineal or matrilineal systems, which tend to be imbalanced. However, weaknesses remain, particularly in guaranteeing the rights of women and adopted children, which often depend on customary interpretations or family agreements, potentially creating legal uncertainty. Therefore, a reformulation of customary law is needed—one that is more adaptive to contemporary social justice principles, grounded in respect for human rights, gender equality, and harmonization with national law and Islamic law so that it remains relevant as living law within the framework of Indonesia's legal pluralism.

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