

# The Effectiveness of Implementing Inheritance Based on Civil Law in Indigenous Communities

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**Abstract**— Inheritance in Indonesia often faces the challenge of legal dualism: civil inheritance law (derived from the Civil Code/KUHPer) and customary law, which is still strongly applied in society. This study aims to analyze the effectiveness of the implementation of civil inheritance law among indigenous communities with their own inheritance systems and norms. The research method used is an empirical juridical approach, with data collected through interviews, document studies, and observations in areas where traditional customs are still strongly held, such as the Batak and Minangkabau communities. The results indicate that the implementation of civil inheritance law is often ineffective due to conflicts with deeply rooted customary values. Communities tend to prefer resolving inheritance distribution through customary mechanisms, as they are considered fairer and more in line with local social structures. However, in certain cases, civil law remains the reference, especially in resolving conflicts in court. Thus, the synergy between civil law and customary law needs to be strengthened to achieve legal certainty and justice in a balanced manner.

**Keywords:** inheritance law, civil law, indigenous communities, effectiveness, legal dualism.

## I. INTRODUCTION

Indonesia is a country with diverse ethnicities, cultures, and complex legal systems. In the context of inheritance law, three legal systems operate in parallel: civil inheritance law (KUH Perdata), Islamic inheritance law, and customary inheritance law. All three have different principles, mechanisms, and philosophies in governing the distribution of inheritance.

Indigenous communities in various regions, such as North Sumatra, Kalimantan, and Sulawesi, still use the customary inheritance system to settle inheritance distribution. This system places greater emphasis on kinship values, customs, and social roles within the family. Furthermore, written national civil law also provides a clear and formal legal framework for determining who is entitled to receive inheritance and the proportions of its distribution.

Problems arise when there is an overlap or conflict between customary law and civil law norms. This creates legal ambiguity, conflicts between heirs, and difficulties in enforcing inheritance rights in court. Many people do not fully understand their rights and obligations under civil law, or are even reluctant to use it because they believe it is inconsistent with local culture.



## II. THEORETICAL BASIC

### A. *Inheritance law*

The legal and social process undertaken to distribute the estate of a deceased person to their heirs, in accordance with applicable law. The purpose of inheritance is to provide legal certainty, justice, and guarantee the rights of the heirs to the estate.

## III. METHODE RESEACH

This research uses a quantitative, descriptive-associative approach. This approach was chosen to measure the extent to which The Effectiveness of Implementing Inheritance Based on Civil Law in Indigenous Communities.

## IV. RESULTS AND DISCUSSION

Based on interviews, document studies, and field observations conducted in indigenous communities (for example, the Batak or Minangkabau indigenous communities), it was found that:

1. Most communities still practice the customary inheritance system, even though they are legally subject to the Civil Code.
2. Public understanding of civil inheritance law is still low, and many do not know the details of inheritance distribution according to the Civil Code.
3. In some cases, conflicts arise from differences in understanding between customary law and civil law, especially when one party desires a resolution through state law (the Civil Code).
4. Inheritance disputes are more often resolved through family deliberations than through formal legal channels.
5. Formal legal institutions (courts) are rarely the first choice, except in cases of acute conflict that cannot be resolved through deliberation.

The implementation of inheritance according to the Civil Code regulates the distribution of inheritance individually to heirs according to their degree of blood relationship, without distinction of gender or lineage. However, in practice in indigenous communities:

1. There is a strong preference for customary inheritance systems, such as patrilineal (e.g., among the Batak people) or matrilineal (e.g., among the Minangkabau people), which are inconsistent with civil law principles.
2. Cultural aspects and family values are prioritized over formal legal certainty.

3. In some cases, rejection of the civil law system arises because it is perceived as not reflecting local values, particularly regarding the distribution of inheritance rights to women or those considered "outside the clan"

However, in communities that have begun to receive legal education or those living in urban areas, awareness of the importance of enforcing inheritance according to state law is growing. This is evident in the increasing number of people who are drafting wills, seeking the assistance of notaries, or consulting the courts.

## CONCLUSION

1. Pelaksanaan waris di tengah masyarakat adat masih didominasi oleh sistem hukum adat, yang telah mengakar kuat dalam struktur sosial dan budaya mereka. Hal ini menyebabkan hukum perdata belum sepenuhnya efektif diterapkan dalam praktik pewarisan di masyarakat adat.
2. Tingkat pemahaman masyarakat terhadap hukum waris perdata masih rendah, sehingga banyak pihak yang tidak mengetahui hak dan kewajibannya menurut hukum negara. Akibatnya, pembagian waris seringkali tidak sesuai dengan ketentuan KUH Perdata.
3. Konflik pewarisan sering muncul ketika terjadi ketidaksesuaian antara kehendak pihak tertentu dengan aturan adat yang berlaku, terutama dalam hal pembagian hak waris bagi perempuan, anak angkat, atau pihak yang dianggap "di luar garis adat".
4. Penyelesaian konflik waris lebih sering dilakukan secara musyawarah, dengan pendekatan kekeluargaan, dan jarang dibawa ke jalur hukum formal kecuali dalam keadaan yang sangat kompleks atau tidak menemui titik temu.
5. Meskipun begitu, ada kecenderungan peningkatan kesadaran hukum di kalangan masyarakat adat perkotaan atau berpendidikan, yang mulai membuka ruang bagi penerapan hukum perdata, misalnya dengan pembuatan surat wasiat atau pencatatan legal melalui notaris.

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