



# Inheritance Distribution in Jalawastu Indigenous Community

Astika Nurul Hidayah<sup>1</sup>, Nur Ade Candra<sup>2</sup>, Selamat Widodo<sup>2</sup>

<sup>1</sup>Doctoral Program Faculty of Law, Universitas Jenderal Soedirman, Purwokerto, Indonesia

<sup>2</sup>Universitas Muhammadiyah Purwokerto, Purwokerto, Indonesia  
astikanurul87@gmail.com

**Abstract.** Customary inheritance law is customary law that contains provisions regarding the system and principles of inheritance law, namely regarding the ways of transferring control and ownership of inheritance from the testator to the heir using applicable customary rules. Although the majority are Muslims, the Jalawastu indigenous people have their own arrangements related to their customary inheritance law which are different from the arrangements in Islam because the Jalawastu indigenous people still hold tightly to their customary law. The purpose of this research is to find out how the distribution of inheritance in the Jalawastu indigenous community and how to resolve inheritance disputes. The method used in this research is empirical sociological. The conclusion in this study is that the process of dividing inheritance in the Jalawastu indigenous community uses Jalawastu customary rules led by local traditional leaders and assisted by village officials. If problems arise in the distribution of inheritance, the inheritance dispute will be resolved by the Jalawastu customary leader with the assistance of village officials by conducting deliberations.

**Keywords:** inheritance, inheritance distribution, Jalawastu indigenous community

## 1. Introduction

Indonesia is the fifteenth largest country in the world, has a total population of 270.6 million, of which 120 million people live in 74,093 villages. It has various customs and cultures, as well as backgrounds that underlie the life of its people. Likewise, the customary inheritance law in it varies greatly, depending on the nature of the customary area.[1] The large number of ethnic groups in Indonesia means that there are also many customary laws in Indonesia, including the diversity of customary inheritance law in accordance with the customary law of each tribe.

Customary inheritance law has a distinctive style that comes from the traditional Indonesian mind. Because customary inheritance law is based on principles arising from the communal and concrete thoughts of the Indonesian nation.[2] Communal thinking is a thought on a view that shows where the individual is always seen as a member of the fellowship. Thus, it means that each

individual only has meaning in his position as a member of the fellowship. So therefore, the behavior of the individual must be carried out in his position as a member of the fellowship. Meanwhile, concrete thinking is every action or certain relationships or desires expressed by tangible objects.[3]

Customary inheritance law is actually a set of arrangements regarding the transfer of control and ownership of property from one generation to the next. Customary inheritance law is a set of regulations governing the process of passing on and passing on property and intangible goods (*immateriele goederen*) from a human generation to its descendants.[4] Customary inheritance law is customary law that contains lines of provisions regarding the system and principles of inheritance law, regarding inherited property, heirs and heirs, and how the inherited property is transferred control and ownership from the heir to the heir.[5] Customary inheritance law is influenced by various things, including the style and form of society based on genealogical and territorial factors. Thus, every kinship system found in Indonesian society has different styles and characteristics from one another.[6] Among the various inheritance systems in Indonesia is the inheritance system in the Jalawastu Traditional Village located in Ketanggungan Subdistrict, Brebes Regency, Central Java, which has its own rules in dividing inheritance.[7]

In 2015 Jalawastu was named one of the cultural heritage villages in Indonesia. This is in accordance with Brebes Regency Regional Regulation Number 10 of 2015 concerning Cultural Heritage. In the regional regulation, Jalawastu is included in the cultural heritage that must be preserved. Jalawastu also received an award from the Indonesian Ministry of Education and Culture as an Intangible Cultural Heritage (WBTB) in the category of traditional rites. With the stipulation of regulations and awards given to Jalawastu Village, indirectly the existence of the community and its local wisdom has been recognized and considered by the local government.[8]

Jalawastu is a hamlet located in Cisureuh Village, Ketanggungan Subdistrict, Brebes Regency. To reach this hamlet, the road traveled through the mountain with inadequate road contours because the hamlet is located deep in the forest, more precisely at the foot of Mount Kumbang. The majority of Jalawastu's population is Muslim. This hamlet is inhabited by around 92 households, the various kinds of cultural uniqueness in it are very thick, both from their residence, habits, to unwritten rules that are still held firmly by the community. [9]

The Jalawastu community is a cultural entity with a distinctive character in Sundanese culture because it is still very much maintained by strong customary rules. The character is built on values that are still closely held by all members of the community. This makes the Jalawastu community a traditional village in Brebes Regency that is still very strong in holding its customs.[8]

One of the specialties of the Jalawastu indigenous community is in the art of traditional architecture which is still maintained to this day. When building a building or house, based on local customary rules, the Jalawastu Chief ordered his people not to use materials from cement, tiles and ceramics. This rule has existed

for a long time, so their houses look unique because the walls are made of woven bamboo wood and the tiles are replaced with zinc, making the Jalawastu indigenous people's houses look uniform and different in modern times like now. This is one of the things that makes the Jalawastu indigenous people live peacefully without envy because philosophically, the uniformity of the shape, materials, and structure of buildings in Jalawastu symbolizes equality which makes no difference between rich and poor, everything is the same in their eyes.

Another distinctive feature of the customs of the Jalawastu community is the holding of a traditional ceremony that is still carried out from generation to generation to this day, namely the Ngasa Ceremony. This ceremony is held as a form of expressing the gratitude of the Jalawastu indigenous people for the abundant agricultural products in one year. In addition, the Ngasa Ceremony is also a manifestation of appreciation and respect for ancestors. This is a symbol of the relationship between the Jalawastu indigenous people and their ancestors.[10]

The Ngasa ceremony is held on Tuesday Kliwon or Friday Kliwon once a year. At this ceremony the Jalawastu community will wear all white clothes. The Ngasa tradition is carried out in Gedong Paseran, which is a small forest in which there are large trees and there are several sacred tombs and there is a small river which is said that if we wash our faces with the water it can smooth our faces and eliminate skin diseases. After that, the community prays together in the Gedong Paseran and ends with eating together.[11]

The Jalawastu Customary Law community is inhabited by around 92 family heads. The religion adhered to by the majority of the community is Islam, but in the distribution of inheritance the Jalawastu Customary Law community still uses customary inheritance law or still uses the rules of their ancestors and does not use the process of dividing inheritance according to Islam. This is because the Jalawastu indigenous people view that the distribution of inheritance using customary rules is better and fairer according to them.[12]

To clarify the study, researchers also study and present studies that have been carried out previously that are relevant, to provide more direction for the studies that researchers conduct.[13] The practice of dividing inheritance assets in the Jalawastu Hamlet community still uses customary customs, namely by distributing inheritance assets only to children, no other heirs participate in obtaining inheritance assets. The division of inheritance is given with the portion of the most inheritance given to the child who cared for and took care of the testator before the testator died. This division is then analyzed based on Islamic law, and it is concluded that the distribution of inheritance is not in accordance with what has been regulated in the Quran. However, the researcher stated that the division carried out by the Jalawastu customary community was still legal because the division had obtained the willingness of the family.

In addition to the above writings, researchers no longer find writings that raise customary inheritance or customary inheritance law in the Jalawastu indigenous people. The existing writings raise the inheritance process in the

Jalawastu indigenous people and are analyzed from the perspective of Islamic inheritance law. Thus, the study that the researchers conducted, namely regarding customary inheritance law and the process of resolving inheritance disputes in the Jalawastu indigenous community, was the first writing to raise this matter. The benefits of this paper are expected to add to the knowledge and repertoire of customary law diversity in Indonesia, especially regarding the customary inheritance law of the Jalawastu indigenous community in Cisureuh Village, Ketanggungan District, Brebes Regency, as an indigenous community that received a Certificate of Appreciation from the Ministry of Education and Culture of the Republic of Indonesia as an Intangible Cultural Heritage (WBTB) on March 30, 2020.

Based on the description above, the researcher wants to find out more about how the division of inheritance and settlement of inheritance disputes in Jalawastu Traditional Village and raise it in research with the title "Inheritance Distribution in Jalawastu Indigenous Community".

## **2. Problems**

- a. How is the inheritance distribution system in the Jalawastu indigenous community?
- b. How is the settlement of inheritance disputes in the Jalawastu indigenous community?

## **3. Method**

The method used in this research is an empirical sociological approach with a historical approach. The historical approach is to examine sources that contain information about the past and its development.[12] The specification in this research is descriptive research. Descriptive research specification is a study intended to find out the data studied as accurately as possible with humans, the current situation and other symptoms, and describe a state of the object of the problem without intending to draw conclusions that already apply in general.[13] In this study, there are data collected, consisting of two types of data sources, namely primary data and secondary data.[14]

## **4. Discussion**

### **4.1. Inheritance Distribution System in Jalawastu Indigenous Community**

The Jalawastu indigenous community is located in Cisureuh Village, Ketanggungan Subdistrict, Brebes Regency, where the culture, culture and language are dominantly Sundanese. The community has traditionally maintained traditions that have existed since the time of the ancestors, including traditions and rules in the inheritance

process. The regulations in the distribution of inheritance carried out by the Jalawastu indigenous community still use customary regulations originating from the previous parents in Jalawastu Village.

The division of inheritance is led by the local customary leader. The inheritance process can be carried out either when the heir is still alive or after the heir dies. The heirs are the parents, namely father and mother, while the heirs are all children. If the testator has no children, the heirs fall to the brother or sister of the testator, or other relatives who take care of the testator until the testator dies.

The division of inheritance, which is carried out before the heir dies, is carried out directly by the customary leader and witnessed by the head of the hamlet (kadus). The purpose of distributing the inheritance when the testator is still alive is so that later there is no conflict between the heirs, because the testator witnesses the distribution process. The division is carried out in a family manner with the presence of the testator and his heirs. Whereas the inheritance that is distributed after the heir dies, is carried out after all affairs related to the corpse have been completed by the family. These affairs include paying off the debts of the deceased (if any), and the needs used for commemorating the day of death according to custom, namely at 7 days, 40 days, 100 days, and twice mendak. Mendak is a term used to commemorate the death of the deceased after one year has passed. After all matters have been settled, the inheritance is then distributed to the heirs.

The inherited property is usually in the form of rice fields, houses, and savings from the heirs given or deposited before the heirs died. For inherited property in the form of rice fields or agricultural land to be inherited, it is divided into 2 (two), namely wet land and dry land. Wet land generally has a higher price than dry land, because wet land is easier to plant various types of plants. In contrast to dry land, dry land can only be planted with certain types of plants so that the selling price is cheaper so that the price of the two types of land is different.

The next inheritance assets are houses and money. For inheritance in the form of a house, it will usually be given to the heir who takes care of the heir for the last time before the heir dies, which in the tradition of the Jalawastu indigenous people is usually the youngest child. Apart from the house, money is included in the inheritance left by the heirs to the heirs. Money is usually in the form of savings that will be given when the testator has a premonition of death. Before the testator dies, the testator will give the money and it is not uncommon for the money from the testator to be entrusted to one of the heirs. When it is time for the inheritance to be distributed, the money will be distributed to the heirs.

In the process of dividing the inheritance, the inheritance will be divided into several parts. First, the inheritance is distributed evenly to the heirs, not distinguishing between men and women, all of whom get the same share. Second, the child who is the last to take care of the heirs will get an additional part of the inheritance. Third, the inheritance is specifically for the youngest child. The youngest child will get more shares because the youngest child needs to spend

more money during Eid to stay in touch or visit his older siblings' houses as per local customs.

The division of the inheritance if illustrated, in a family that has three children, when the parents die, the inheritance will be divided into 5 (five) parts. Each child takes their own share, namely the first child takes one share, the second child takes one share, and the third child takes one share. The remaining two parts will then be given to the youngest child as much as one part, and for children who care for and take care of the testator in his old age get one part. If the youngest child is also the child who takes care of the testator, then one more part belongs to the youngest child. Thus, the youngest child can get three parts derived from: one part of his portion as a child, one part because of his position as the youngest child, and one part for caring and taking care of the testator until his death. While the first and second children each get one share each according to their portion as children.

In families that do not have children, the division of inheritance is still carried out with the heirs, namely the brother or sister of the testator, or other closest relatives if they do not have a brother or sister. However, the brother or sister must care for and take care of the testator until he dies, including taking care of all the affairs of the testator, namely the management of the testator's debts, as well as the need to commemorate the death, namely at 7 days, 40 days, 100 days and 2 times mendak. After all the affairs and needs of the testator are completed, only then can the inheritance from the testator be distributed to the brother or sister who takes care of the testator. Another alternative to the distribution of inheritance if the testator does not have children, can share part or even all of the inheritance by donating to the village for the common good, as well as a charity of worship from the testator. Thus, it is clear that the regulation of inheritance distribution based on the customary inheritance law of the Jalawastu community regarding inheritance issues has been carried out for generations since the time of the ancestors.

The customary rules regarding inheritance in the Jalawastu indigenous community are always maintained and obeyed by all components of the Jalawastu indigenous community in order to maintain harmony and peace in the Jalawastu community system. In relation to the customary inheritance law, quoting the opinion of O. Notohamidjojo regarding the law, better known as The Truth of Law, states that law is a complex of written and unwritten rules that are compelling for human behavior in society, which applies in the type of environment and society-state that leads to justice, for the sake of order and peace, with the aim of humanizing people in society. Law, apart from being an idea of order and an idea of regulation, also has a more essential element, namely Justice. Law is based on and has the spirit of justice. Justice itself is a virtue to *suum cuique tri buere* (give to each its share). [15]

The inheritance arrangement in the Jalawastu indigenous community when associated with O. Notohamidjoho's opinion regarding The Truth of Law is appropriate to be said to be the true law, namely as a complex of unwritten, coercive rules for the Jalawastu indigenous people so that it is adhered to strongly

in terms of inheritance distribution in order to maintain peace, by humanizing humans in the rules regarding the distribution of inheritance and prioritizing justice which is reflected in the inheritance distribution system. Justice as the essence of a rule is upheld with mutual awareness and willingness by all members of the community, namely by ensuring that there is a share of inheritance for the heirs who take care of and care for the testator until death and help complete all the affairs of the testator. In addition, there is also a special share for the youngest child because in the customs of the Jalawastu community, the youngest child has an obligation to visit his older siblings during big or special days in the Jalawastu traditional community. All of these things reflect that the customary inheritance law of the Jalawastu community is in accordance with the concept of The Truth of Law.[18]

#### **4.2. Settlement of Inheritance Disputes in the Jalawastu Indigenous Community**

During the inheritance distribution process, it is possible that disputes will arise between the heirs. Disputes that occur can arise due to many factors, but the most common cause in the Jalawastu customary community is a dispute over the value of the inheritance being distributed. As explained that the price or value between wetlands and drylands is different, the difference is because wetlands are more potential for planting various types of plants. In addition, the road access to the wetland is relatively easier to pass because it is close to the settlement. In contrast, dry land tends to be more difficult to cultivate and utilize by community members. In addition, access is also more difficult because it is far from the main road and is in the hills. Thus, the value or price of wet land is higher than the value of dry land. This difference is what causes many heirs to prefer to obtain wetlands and causes differences or disputes between heirs regarding their respective shares of inheritance.

If a dispute arises in the distribution of inheritance, the Jalawastu customary community already has its own settlement mechanism. Just like when the inheritance is distributed, the process of resolving inheritance disputes is led by the customary leader with the assistance of the local Hamlet Head (Kadus). The method taken is through deliberation to take a middle ground until an agreement or mutual acceptance is reached from both parties to the dispute. Dispute resolution is conducted jointly and takes place in the home of the disputing heir.

As an example of how to resolve inheritance disputes caused by land value, if the testator has one hectare of dry land and one hectare of wet land and has three heirs, then the total wet and dry land is divided into three parts. The division is that the dry land is counted as one part, the wet land is then divided into two parts because the price is higher. Thus, the three parts of land are one part of dry land and two parts of wet land. Furthermore, the division process is carried out with the first heir will get one part of the land, namely one hectare of dry land. The second and third heirs will each get half a hectare of wetland. Given that wetland has a higher value, it is not positioned the same as dry land but is divided again with the value of land that is considered commensurate. This is the settlement mechanism agreed

upon and accepted by the Jalawastu customary community through joint deliberation among the heirs by prioritizing justice for each heir.[19]

Regarding the fulfillment of justice in the process of resolving inheritance disputes in the Jalawastu indigenous community, it can be correlated with the Theory of Justice conveyed by Aristotle, which states that justice is a social order that corrects a wrong, compensates the injured party and punishes the perpetrator. This theory means that justice will be achieved if the parties have the same sense of fairness and are treated equally according to their rights.[16] Related to Aristotle's opinion, in the process of resolving inheritance disputes in the Jalawastu indigenous community, they have implemented the right attitudes and actions, in which there are mechanisms, processes and problem-solving rules that regulate so that fellow citizens can treat or place themselves according to their rights and obligations. Thus, it can create a sense of justice obtained from the settlement of disputes that are considered fair, namely by dividing the disputed land according to the price and according to the rights of the heirs. The decision taken in the deliberation forum led by the customary leader and the Kadus is considered correct and fair by the Jalawastu indigenous community, which is reflected in the acceptance of the Jalawastu indigenous community of the decision taken without any protests or more serious conflicts from the disputing parties.[18]

## 5. Conclusion

The division of inheritance in the Jalawastu indigenous community is carried out according to the Customary Inheritance Law used by the Jalawastu indigenous community for generations. The process of inheritance distribution is usually led by the customary leader and assisted by the local dusun head (kadus). The way the inheritance is distributed is by distributing it evenly without any difference between sons and daughters, all of them get the same share, except for the youngest child who gets more inheritance and the child who wants to take care of the heir for the last time until the heir dies. The division of inheritance can be done when the testator is still alive or has died. Heirs who do not have children are entitled to inheritance is the brother or sister of the testator who wants to take care of the last time until death.

Settlement of inheritance disputes is prioritized using consensus deliberation led by the customary leader and assisted by the kadus. Disputes that usually occur during the distribution of inheritance in the Jalawastu indigenous community are about the location of land and land prices, in this case usually wetlands and drylands due to differences in land values or prices. Dispute resolution is carried out in the disputing house by way of deliberation to reach an agreement on the subject matter or inheritance dispute

## References

- [1] S. Afriani, M. Syukur, E. G. Ekaputra, Y. Parawita, and R. Darman,



- “Development of GIS for Buildings in the Customary Village of Minangkabau Koto Gadang, West Sumatra, Indonesia,” *ISPRS Int. J. Geo-Information*, vol. 9, no. 6, p. 365, Jun. 2020, doi: 10.3390/ijgi9060365.
- [2] E. D. Poespasari, *Pemahaman Seputar Hukum Waris Adat di Indonesia*, 1st ed. Jakarta: Prenadamedia Group, 2018.
- [3] D. Saragih, *Pengantar Hukum Adat Indonesia*. Bandung: Tarsito, 1982.
- [4] Soepomo, *Bab-bab tentang Hukum Adat*. Jakarta: Pradnya Paramita, 1983.
- [5] R. Haniru, “Hukum Waris Di Indonesia Perspektif Hukum Islam Dan Hukum Adat,” *Al-Hukama*, vol. 4, no. 30, pp. 2089–7480, 2014.
- [6] M. S. Arif, “Mengenal Sistem Hukum Waris Adat,” *Siyasah J. Huk. Tata Negara*, 2022.
- [7] M. Salim, “Bhinneka Tunggal Ika Sebagai Perwujudan Ikatan Adat-Adat Masyarakat Adat Nusantara,” *Al Daulah J. Huk. Pidana dan Ketatanegaraan*, vol. 6, no. 1, pp. 65–74, Jun. 2017, doi: 10.24252/ad.v6i1.4866.
- [8] R. N. W. Muhaemin Muhaemin, Achmed Sukendro, “Pendidikan Perdamaian Kearifan Lokal Di Kampung Budaya Jalawastu,” *J. Damai dan Resolusi Konflik*, vol. 7, no. 1, pp. 342–363, 2021.
- [9] W. Wijanarto, “Harmoni Di Kaki Gunung Kumbang Ngasa, Komunitas Jalawastu Dan Jejak Sunda Di Kabupaten Brebes,” *Aceh Anthropol. J.*, vol. 2, no. 2, p. 37, Oct. 2018, doi: 10.29103/aaj.v2i2.1157.
- [10] S. R. Adawiyah, “Upacara Adat Ngasa di Kampung Budaya Jalawastu dalam Perspektif Teologis,” *J. Ris. Agama*, vol. 2, no. 1, pp. 200–219, Feb. 2022, doi: 10.15575/jra.v2i1.17124.
- [11] E. P. Zulfah Khumaeroh, Sulyana Dadan, “Aktualisasi Nilai Religius Dalam Upacara Ngasa Di Kampung Budaya Jalawastu Kabupaten Brebes,” *J. Nusant.*, vol. 9, no. 4, pp. 1412–1425, 2022.
- [12] H. Umar, *Metodologi Penelitian*. Jakarta: PT Rineka Cipta, 2005.
- [13] Y. Nurhayati, I. Ifrani, and M. Y. Said, “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum,” *J. Penegakan Huk. Indones.*, vol. 2, no. 1, pp. 1–20, Jan. 2021, doi: 10.51749/jphi.v2i1.14.
- [14] S. Arikunto, *Metode Penelitian*. Jakarta: PT Rineka Cipta, 2017.
- [15] O. Notohamidjojo, *Demi Keadilan dan Kemanusiaan*. Jakarta: BPK Gunung Mulia, 1975.
- [16] L. E. Susanti, “Kajian Terhadap Sila Keadilan Dan Teori Keadilan Berfalsafah Libertarianisme Dari Sudut Pandang Berideologi Pancasila,” *Yust. MERDEKA J. Ilm. Huk.*, vol. 4, no. 2, Jan. 2019, doi: 10.33319/yume.v4i2.11.

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

