



(MUDIMA)



Harmonization Model of Customary Law and State Law in Settlement of Inheritance Disputes in Lombok and Its Implications for Legal Development

Haeratul^{1*}, Sri Hariati²

FHISIP UNRAM

Corresponding Author: Haeratul bohariaeratul@gmail.com

ARTICLE INFO

Keywords: Legal Harmonization, Sasak Customary Law, State Law, Inheritance Disputes, Legal Pluralism, Legal Development

Received : 1 April

Revised : 25 May

Accepted : 26 June

©2026 Haeratul, Hariati: This is an open-access article distributed under the terms of the [Creative Commons Attribution](https://creativecommons.org/licenses/by/4.0/)

[4.0 Internasional](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

This study aims to analyze models for harmonizing customary law and state law in the resolution of inheritance disputes in Lombok, as well as their implications for national legal development. The Sasak community in Lombok still maintains various mechanisms for resolving inheritance disputes based on customary law—such as family deliberation (*musyawarah keluarga*), *belembah*, *bebande*, and *assulhu*—which coexist alongside state law and Islamic law. This situation reflects a legal pluralism that requires harmonization to ensure legal certainty, justice, and the public good. This study employs an empirical or non-doctrinal legal method (socio-legal research) using a normative-empirical legal approach. Legal data were collected through literature reviews, interviews, and documentation, which were subsequently analyzed qualitatively. The research findings indicate that the harmonization model developed in Lombok is integrative and collaborative, achieved through recognition of customary dispute resolution mechanisms that remain within the framework of national law. Harmonization is carried out through customary deliberations, mediation by customary and religious leaders, and the strengthening of the role of state institutions as a means of resolution when customary mechanisms fail to reach an agreement. This model is capable of preserving the values of local wisdom while ensuring the protection of the rights of the disputing parties. The implication of this harmonization for national legal development is to strengthen the recognition of the regarding customary law as a living law, promoting the development of laws that are responsive to the needs of the community, and supporting the realization of a national legal system that is just and based on legal pluralism

INTRODUCTION

As a multicultural and multiethnic nation, Indonesia has a pluralistic legal system. Legal pluralism in Indonesia is constitutionally recognized; in addition to state law (positive law) and religious law, there is also customary law that remains alive and in force within society. Customary law is an unwritten legal system that has grown and evolved from social norms, cultural values, and the beliefs of local communities. One important aspect of customary law that remains highly relevant to this day is customary inheritance law, which governs the distribution of a person's estate to their heirs based on local customary provisions.

The harmonization of legal systems in Indonesia is an effort to align the various legal systems that coexist and are in force within Indonesian society. As a nation with diverse cultures, religions, and traditions, Indonesia does not adhere to a single legal system but rather to three main legal systems: customary law, Islamic law, and Western law (a legacy of colonialism). These three systems operate within the framework of a modern rule-of-law state, as affirmed in Article 1, paragraph (3) of the 1945 Constitution.

Legal harmonization is the process of adjusting and aligning legal norms to prevent conflicts, overlaps, or legal vacuums. In the Indonesian context, harmonization is necessary due to legal pluralism—a condition in which more than one legal system applies within the same territory. There are several objectives of legal harmonization, namely: to ensure legal certainty, to guarantee justice, to create a unified national legal system, and to accommodate local and religious values.

Customary inheritance systems often differ from nationally applicable legal inheritance systems, such as Islamic inheritance law and Western civil inheritance law. These differences extend not only to who is entitled to inherit but also to the form and method of distributing the estate. In indigenous communities, the distribution of an estate is

understood not merely as a legal process, but also as part of an effort to maintain social balance, family harmony, and the continuity of cultural values. Therefore, the resolution of inheritance disputes in indigenous communities is not solely aimed at determining who is right and who is wrong, but rather at preserving the social order and preventing divisions within extended families and communities.

Lombok, a region in West Nusa Tenggara, is known for its rich culture and customs, which are still strongly upheld by its people. One important aspect of life in Lombok is the practice of inheritance distribution, which is based not only on national law or Islamic law but also on customary law that is alive and evolving within the community. In the context of Lombok's customary law, inheritance is not merely a matter of asset distribution but also concerns kinship values, social status, and the continuity of family responsibilities. However, differing interpretations of customary rules or dissatisfaction with the distribution often lead to inheritance disputes. This is where the role of customary institutions becomes crucial in resolving conflicts through deliberation and a family-oriented approach.

Within the context of indigenous communities in Lombok, particularly the Sasak people, customary law plays a central role in regulating social life, including matters of inheritance distribution. The Sasak people generally follow a patrilineal kinship system, in which lineage and rights to inherited property are passed down through the male line. In practice, sons—especially the eldest son—are considered the family's heirs, bearing the responsibility to preserve and carry on the ancestral legacy, including heirlooms such as land, traditional houses, and inherited rice fields. Meanwhile, in some Sasak customary traditions, daughters often do not receive a fixed share of the inheritance but only provided as a dowry upon marriage or in the form of other temporary gifts that are not passed down to future generations.

However, in today's social context, public understanding is beginning to shift. Awareness of the principles of justice and gender equality is growing, driven by education, the media, and the influence of

national and religious laws that better safeguard women's rights. This shift in values often leads to conflicts between conservative traditional values and more open-minded modern values. It is not uncommon for inheritance disputes to arise within families, involving dissatisfaction from daughters or other parties who feel their rights have been overlooked in the distribution of the estate.

Inheritance disputes within Lombok's indigenous communities are no trivial matter. Such conflicts can cause divisions within extended families, damage social relationships among siblings, and even lead to more significant legal problems if brought before the courts. In some cases, inheritance conflicts can also impact the social stability of a village, particularly when they involve extended families or community leaders. For this reason, it is crucial to understand and academically examine the mechanisms for resolving traditional inheritance disputes.

The indigenous communities of Lombok have their own dispute resolution mechanisms based on the values of deliberation and consensus, and a sense of family. Inheritance disputes are typically resolved first through family deliberation, which involves family leaders and elders. If family deliberation fails to reach an agreement, the dispute is brought before local customary institutions, such as customary leaders, hamlet leaders, and village customary councils. In these forums, resolutions are based on applicable customary law, as well as moral and social considerations grounded in the principle of customary justice.

Decisions made by customary institutions are generally not legally binding in a formal sense, but they carry significant social and moral weight. Parties who fail to comply with customary decisions face social pressure from the community and may even be viewed as bringing dishonor to the family. This is where the strength of customary law lies—it is based not only on regulations but also on social values and collective norms. Customary dispute resolution aims not only to grant inheritance rights but also to restore family ties, prevent protracted

conflicts, and preserve the dignity of the extended family in the eyes of the community.

However, customary dispute resolution mechanisms are not without their challenges. The lack of written regulations, differences in the interpretation of customary law among villages, and the weakness of customary institutions in some areas often prevent dispute resolution from functioning optimally. On the other hand, the existence of a national legal system that is not fully aligned with the customary system also gives rise to jurisdictional overlaps. When one party is dissatisfied with a customary decision, they can bring the dispute to court, which will then adjudicate based on Islamic inheritance law or civil law, rather than customary law.

As a nation governed by the rule of law, Indonesia has a pluralistic legal system that encompasses state (positive) law, religious law, and customary law. This diversity often poses challenges in achieving harmonization, particularly when there are overlapping norms, conflicts of authority, or differences in the values upheld by each legal system. Based on this background, the research questions in this study can be outlined as follows :

1. What are the challenges of harmonizing customary law and state law in the resolution of inheritance disputes in Lombok?
2. What is the ideal model for harmonizing customary law and state law in the resolution of inheritance disputes in Lombok, and what are its implications for national legal development?

METHODS

This study is a non-doctrinal or empirical legal study (socio-legal research) using a qualitative approach. The study aims to examine models for harmonizing customary law and state law in the resolution of inheritance disputes in Lombok, as well as their implications for national legal development. This study employs several approaches, including: 1) The Statutory Approach, which involves analyzing Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, the Judicial Power Act, the Basic Agrarian Law, the Compilation of Islamic

Law, and local regulations pertaining to customary law communities; 2). The Conceptual Approach, which involves examining the concepts of legal harmonization, legal pluralism, “living law,” and customary dispute resolution; 3). The Sociological Approach, which analyzes the practices of inheritance dispute resolution within the Sasak community of Lombok. Legal sources were obtained from primary legal materials through interviews with customary leaders, religious leaders, village chief judges, and parties who had been involved in inheritance disputes, as well as from secondary legal materials, including books on customary law, books on inheritance law, academic journals, and legislation. The techniques used to collect legal data included library research, in-depth interviews, and documentation of court decisions and customary dispute resolutions. Meanwhile, the analysis of legal materials was conducted by linking empirical findings among the Sasak community with the theories of legal harmonization, legal pluralism, and national legal development, thereby deriving an ideal model for the harmonization of customary law and state law in the resolution of inheritance disputes in Lombok.

RESULTS AND DISCUSSION

1. Challenges in Harmonizing Customary Law and State Law in the Resolution of Inheritance Disputes in Lombok

In practice, the people of Lombok still strongly adhere to customary law values that have been passed down through generations, including in the distribution of inheritance. However, state law—through legislation and the formal judicial system—has its own standards that are written, standardized, and prioritize legal certainty.

This situation often leads to conflicts between the two legal systems. The challenges that arise can take the form of differences in fundamental principles, such as regarding the distribution of inheritance, the status of heirs, and dispute resolution mechanisms. Additionally, there are structural challenges, such as the limited formal recognition of customary law within the national legal system, as

well as a lack of integration between customary institutions and state judicial institutions.

From a sociological perspective, the people of Lombok—particularly the Sasak community—still hold customary law values in very high regard as part of their cultural identity and social system. Customary law not only governs aspects of daily life but also serves as the primary mechanism for resolving disputes, including inheritance disputes, through family deliberation or customary institutions.

However, in the context of modern states, formal, written, and structured state law holds a dominant position. This gives rise to various obstacles to harmonization. First, there are normative obstacles, namely differences in principles between customary law, Islamic law (which also exerts a strong influence in Lombok society), and state law. For example, differences in the division of inheritance, the status of women as heirs, and whether inheritance is collective or individual. Second, there are structural and institutional challenges: the recognition and integration of customary institutions into the national legal system remain suboptimal, so that customary rulings often lack formal legal binding force. Third, cultural obstacles, namely a shift in societal values due to modernization, which has led to a decline in trust in customary mechanisms, particularly among the younger generation.

Customary law faces the challenge of obtaining formal legitimacy without losing its flexible and contextual character. Customary law demands state recognition of the existence of customary law communities as mandated by the constitution, while also requiring integration mechanisms that do not erode local values. In the social reality of Lombok, communities still strongly uphold the values of customary law that have been passed down and evolved from generation to generation, particularly regarding the regulation of kinship relations and the distribution of inheritance. Customary law often serves as an alternative for dispute resolution because it is considered more in

line with local values, upholds consensus-building, and prioritizes family harmony.

On the other hand, state law is characterized by its formal, written nature and possesses legally binding force. The resolution of inheritance disputes under state law is carried out through judicial mechanisms with clear and standardized procedures. These differences in character pose challenges in creating harmony between the two legal systems.

Obstacles to harmonization can be seen from several aspects. First, there are normative obstacles, namely differences in the substance of the rules between customary law and state law. These differences may encompass the system of inheritance distribution, the determination of heirs, and the principles of justice applied. In practice, customary law is often more flexible and context-specific, while state law is rigid and universal. Second, there are structural and institutional obstacles, namely the lack of a clear mechanism for integrating customary-based dispute resolution into the formal legal system. Customary institutions that resolve disputes are not always officially recognized within the state's judicial system, so the outcomes of customary resolutions may lack definitive legal force when compared to court rulings. Third, cultural and sociological obstacles, which are related to the dynamics of social change. Modernization and the development of education have led to a shift in people's mindsets, with some beginning to turn to formal channels for dispute resolution. This can create a dual legal system that actually increases the potential for conflict, especially when the outcomes of customary resolutions and court rulings differ. Fourth, challenges regarding legal certainty and uniformity, as customary law—which is unwritten and varies across communities—can lead to differing applications in similar cases. This poses a challenge within the national legal system, which prioritizes certainty and uniformity as part of the rule of law.

In community life, inheritance disputes are not only related to the distribution of assets but also concern family relationships, social status, and family honor. Therefore, the resolution of

inheritance disputes often serves as both a meeting ground and a point of conflict between various value systems and legal norms.

One of the main challenges lies in the differing approaches to dispute resolution. Customary law tends to focus on restorative resolution—that is, restoring balance and harmony within the family through deliberation and mutual agreement. In contrast, state law is more oriented toward adjudicative resolution—that is, determining who is right and who is wrong based on applicable legal rules. This difference in orientation often creates tension, especially when one party feels aggrieved by the outcome of customary deliberations and subsequently brings the case to court.

Additionally, there are challenges regarding the choice of law by the disputing parties. In a context of legal pluralism, communities have relative freedom to choose the dispute resolution mechanism they deem most advantageous. This can give rise to the practice of “forum shopping,” in which a particular party chooses the legal avenue that offers the greatest advantage to itself, whether through customary mechanisms or through the courts (choice of forum). As a result, the dispute resolution process becomes inconsistent and has the potential to prolong the conflict.

Another equally important challenge is the lack of alignment between the outcomes of customary resolutions and court rulings. In some cases, inheritance disputes that have been resolved through customary means can be reopened in court by dissatisfied parties. When a court issues a ruling that differs from the outcome of a customary deliberation, this not only creates legal confusion but can also spark new conflicts within families and communities. This situation indicates the absence of an effective mechanism to bridge or integrate these two resolution systems.

Furthermore, there are challenges regarding social legitimacy and legal legitimacy. Customary law possesses strong social legitimacy because it is rooted in the values that are alive within the community. However, this legitimacy is often not accompanied by formal legal legitimacy within the

state system. Conversely, state law possesses strong formal legitimacy but does not always receive full acceptance from the community, especially if the resulting rulings are perceived as inconsistent with the local sense of justice. The disparity between these two forms of legitimacy is one of the factors hindering harmonization.

In addition, changes in family and economic structures within society also present their own challenges. Lombok society, which was once dominated by agrarian and communal lifestyles, is now shifting toward a more individualistic and economically driven society. This shift has influenced the way inherited property is viewed; it is no longer seen solely as part of family bonds but also as an economic asset of high material value. As a result, inheritance disputes have become more complex and tend to be resolved through formal channels, which are considered to provide greater certainty regarding rights.

Another challenge is the lack of documentation and codification of customary law, making it difficult to ensure consistency in its application. In many cases, customary rules regarding inheritance are known only to customary leaders or are based on the collective memory of the community. This can lead to differing interpretations, resulting in uncertainty and the potential for new conflicts.

Thus, the challenges of harmonizing customary law and state law in resolving inheritance disputes in Lombok lie not only in differences in norms but also in the dynamics of practice, the community's choice of law, differences in legitimacy, and ongoing social change. This complexity demonstrates that the issue of harmonization is dynamic in nature and requires an approach that is not only normative but also empirical and contextual.

2. The Ideal Model of Harmonization and Its Implications for National Legal Development

Indonesia is a pluralistic country in terms of its culture, religion, customs, and legal system. Therefore, the ideal model of legal harmonization is not one that eliminates customary law and Islamic

law in order to create a uniform legal system, but rather one that is capable of integrating these various legal systems into the national legal framework in a balanced manner. Legal harmonization must be carried out while respecting the social and cultural diversity of Indonesian society and maintaining the unity of the national legal system. In the context of Indonesia's pluralistic legal system, harmonization is not interpreted as absolute unification or standardization, but rather as a process of adjustment, alignment, and integration among different legal systems so that they can function in harmony and complement one another.

In formulating an ideal model of harmonization, it is important to understand that customary law has characteristics that differ from state law. Customary law is unwritten, flexible, contextual, and rooted in the sociocultural values of the community, whereas state law is written, formal, and prioritizes legal certainty. Therefore, the harmonization model developed must be able to bridge these differences in character without erasing the identity of each legal system.

One model that can be developed is an integrated coexistence model—an approach that allows customary law and state law to coexist, with clear common ground in dispute resolution practices. Under this model, inheritance disputes can first be resolved through customary mechanisms as a form of resolution based on deliberation and local wisdom. Subsequently, the outcome of such a resolution can be reinforced through recognition within the formal legal system, thereby granting it greater legal certainty and binding force.

Additionally, a model of conditional recognition can be developed, in which the state allows for the application of customary law as long as it does not conflict with the fundamental principles of national law, such as justice, legal certainty, and the protection of human rights. This model positions customary law as a recognized part of the national legal system, yet it remains subject to state oversight.

In the context of Lombok, a harmonization model must also take into account the religious values that are deeply rooted in society, particularly

those related to inheritance law. Therefore, an ideal harmonization must accommodate the interaction between customary law, social norms, and nationally applicable legal principles, thereby creating a balance between formal legal aspects and social acceptance.

The implications of implementing this harmonization model for national legal development are significant. First, in terms of access to justice, harmonization can expand the range of dispute resolution mechanisms that better suit the needs of the public, through both formal and informal channels. This will make it easier for the public to obtain justice quickly, simply, and at low cost.

Second, in terms of legal legitimacy, the integration of customary law into the national legal system can increase public trust in the law. Laws that are in harmony with local values tend to be more readily accepted and complied with, thereby enhancing the effectiveness of law enforcement.

Third, from the perspective of responsive legal development, harmonization allows national law to evolve dynamically by accommodating cultural diversity and the needs of the community. This aligns with the concept of legal development that is oriented not only toward legal certainty but also toward substantive justice and social benefit.

However, there are also implications that need to be anticipated. One of these is the potential for inconsistencies in the application of the law, given that customary law varies from one region to another. Additionally, there is a risk that certain practices within customary law may conflict with universal principles, such as equality and the protection of human rights. Therefore, oversight and adjustment mechanisms are necessary to ensure that harmonization remains within the framework of the rule of law.

Furthermore, the development of national law through a harmonization approach also requires institutional and regulatory reforms, including strengthening the role of customary institutions, enhancing the capacity of law enforcement officials to understand customary law, and formulating

policies capable of effectively integrating various legal systems.

Thus, an ideal harmonization model serves not only as a solution for resolving inheritance disputes in Lombok but also as part of a national legal development strategy that is more inclusive, adaptive, and just. Successful harmonization will create a legal system that not only provides legal certainty but also reflects the values of life within Indonesia's diverse society.

To strengthen the construction of an ideal harmonization model, an approach is needed that is not only normative but also institutional and operational. This means that harmonization must be translated into concrete mechanisms that can be consistently implemented by both the community and law enforcement officials. In this context, one relevant approach is the development of a hybrid mechanism for resolving inheritance disputes—that is, a combination of customary and formal procedures. For example, the results of customary deliberations can be formalized through registration or ratification by state institutions, thereby giving them greater evidentiary weight should further disputes arise in the future.

Furthermore, the harmonization model also needs to be supported by regulatory synchronization, both vertically and horizontally. Vertically, there must be alignment between constitutional norms, laws, and local regulations that recognize and govern the existence of customary law. Horizontally, there must be consistency among legal sectors related to inheritance, including civil law, family law, and judicial practices. Without this synchronization, harmonization risks remaining merely theoretical without effective implementation.

An ideal harmonization model must provide space for local values to serve as a source for the formation of national law. Many values in customary law reflect the spirit of deliberation, kinship, balance, and peaceful conflict resolution—all of which align with the philosophy of the Indonesian nation. These values can serve as the

foundation for drafting laws and regulations that are better suited to the needs of the Indonesian people.

Legal harmonization should not be oriented solely toward uniformity of rules but must also take substantive justice into account. Harmonious law is law that provides tangible benefits to society and addresses evolving social needs. An approach grounded in substantive justice allows the law to be more responsive to diverse social, economic, cultural, and religious conditions.

An ideal harmonization model places dialogue at the center as the primary mechanism for resolving differences between legal systems. The state must foster ongoing communication among state institutions, traditional leaders, religious scholars, academics, and the public throughout the processes of both lawmaking and law enforcement. Such dialogue facilitates mutual understanding and reduces the potential for conflict between state law and the living law within society.

Laws formulated based on the values that are alive in society will be more readily accepted and obeyed by the public. This is because the public feels that these laws reflect their identity, needs, and aspirations. Strong social legitimacy will enhance the effectiveness of law enforcement and reduce the rate of legal violations. National legal development is no longer centralized and formalistic, but has become more responsive to the needs of the public. Laws can evolve in response to social change without losing the cultural roots and local values that form the nation's identity. A responsive legal system is capable of providing more effective solutions to various societal issues.

Recognition of legal diversity will not threaten national unity if managed through proper harmonization. On the contrary, respect for customary law and Islamic law can actually strengthen the sense of justice and solidarity in national and state life. People from diverse backgrounds will feel recognized and protected by the state. One of the goals of national legal development is to create laws that reflect the character of the Indonesian nation. Through harmonization, national law not only adopts foreign

legal concepts but also integrates indigenous, religious, and cultural values of Indonesia. Thus, national law will possess a distinct identity that aligns with the character of Indonesian society.

The harmonization model allows for the recognition of dispute resolution mechanisms based on customary law and local wisdom. In many cases, customary dispute resolution is more effective in restoring social relationships than formal litigation approaches. This aligns with the evolving concept of restorative justice, which is currently gaining traction within the national legal system. Legal harmonization provides a stronger foundation for the recognition and protection of the rights of indigenous communities, including customary land rights, rights to natural resources, and the right to preserve cultural identity. Such protections are essential for achieving social justice and preventing conflicts between indigenous communities and the state or private entities. Through harmonization, overlapping regulations can be aligned to create a more consistent and integrated legal system. Greater legal certainty will support economic development, investment, and social stability.

CONCLUSION

Based on the above discussion, the following conclusions can be drawn:

a). The harmonization of customary law and national law still faces various obstacles, such as differences in the values and characteristics of the two legal systems, the diversity of customary law across regions, overlapping regulations, and the lack of optimal recognition and protection for customary law communities. Therefore, legal policies are needed that can accommodate pluralism, strengthen recognition of customary law, and create a balance between legal certainty, justice, and local values in the development of national law.

b). The ideal harmonization model for Indonesia is an integrative-pluralistic harmonization model that combines the unity of national law with recognition of legal pluralism. This model positions national law as the primary framework while still providing space for customary law and Islamic law

as sources of legal values and substance. The implementation of this model has significant implications for national legal development, including enhancing legal legitimacy, strengthening national integration, realizing a responsive legal system with an Indonesian character, supporting fair dispute resolution, and strengthening the protection of the rights of indigenous communities. Thus, legal harmonization serves as a vital foundation for the development of a national legal system that is fair, effective, and in line with the character of the Indonesian nation.

REFERENCES

- Bushar Muhammad, 2013, Pokok-Pokok Hukum Adat, Jakarta: Pradnya Paramita
- Dominikus Rato, 2015, Hukum Adat Kontemporer, Surabaya: LaksBang Justitia
- Hilman Hadikusuma, 2014, Hukum Adat Indonesia, Bandung: Mandar Maju
- Hilman Hadikusuma, 2015, Hukum Waris Adat, Bandung: Citra Aditya Bakti
- Inpres Nomor 1 Tahun 1991 Tentang Kompilasi Hukum Islam
- John Griffiths, 1986, What is Legal Pluralism? Journal of Legal Pluralism and Unofficial Law
- Nur Iskandar, Lalu Hendri, 2025, “Konstruksi Hukum Islam Terhadap Tradisi Lokal Pembagian Waris di Lombok: Perspektif Keadilan Gender dan Syariah”. JURISY: Jurnal Ilmiah Syariah
- Sally Engle Merry, 1988. Legal Pluralism Law and Society Review
- Satjipto Rahardjo, 2009, Hukum dan Perubahan Sosial, Yogyakarta: Genta Publishing
- Soepomo, 2003, Bab-Bab tentang Hukum Adat, Jakarta: Pradnya Paramita
- Soerjono Soekanto, 2014, Pengantar Penelitian Hukum, Jakarta: UI Press
- Syibly, M. Roem & Walijah, Nurhasanah, 2024, “Legal Culture of Customary Inheritance Division in the Sasak Community: A Review from the Perspective of Legal Plurality and Islamic Legal Anthropology”, Unisia
- Undang-Undang Dasar 1945
- Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman