

## ***The Uniqueness of Primogeniture in Traditional Inheritance Systems***

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### ***Abstract***

*The uniqueness of primogeniture in traditional inheritance systems is urgent to examine, as it reflects enduring gendered power structures that persist amid legal modernization and evolving social norms. This research analyzes the uniqueness and resilience of the primogeniture inheritance system in traditional communities, particularly in Ratenggaro Traditional Village, Indonesia. It is situated within the legal pluralism context of Indonesia and the human rights-based critique of customary laws that prioritize male heirs. The study is urgent because modernization challenges traditional norms, demanding a reevaluation of gender equity in inheritance. Using a descriptive qualitative method with in-depth interviews and participant observation, this study finds that primogeniture governs not only material assets but also spiritual roles and kinship status. Despite modern pressure, elders uphold it as a symbol of identity and harmony. A unique finding is that although women do not inherit property, they are symbolically acknowledged through ritual practices involving gifts such as woven cloth and livestock. This study offers novelty by providing a legal-anthropological analysis of primogeniture in a remote indigenous context, contributing to discussions on legal pluralism, gender justice, and cultural sustainability. It suggests the need for dialogical reform that harmonizes adat law with constitutional equality.*

**Keywords:** *Gender Justice; Legal Pluralism; Primogeniture; Ratenggaro Village; Traditional Inheritance*

## **1. INTRODUCTION**

Indonesia, where legal pluralism allows for the coexistence of state law, religious law, and customary (*adat*) law, inheritance remains a domain where customary traditions continue to assert strong influence, especially in indigenous communities.<sup>1</sup> One such tradition is the primogeniture system, where inheritance rights, particularly over land, houses, and ceremonial responsibilities, are given to the eldest son.<sup>2</sup> This system reflects not only the dominance of patriarchal norms in many *adat* communities, but also the persistence of gender discriminatory practices legitimized by tradition.<sup>3</sup>

Despite efforts to modernize inheritance law through national legislation and constitutional guarantees of equality, such as those enshrined in Article 27 and Article 28D of the 1945 Constitution, customary practices like primogeniture often conflict with human rights principles and the national agenda for gender justice.<sup>4</sup> The tension between traditional norms and modern

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<sup>1</sup> Tody Sasmitha Jiwa Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System," *Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (2021), <https://doi.org/10.1080/07329113.2021.1945222>.

<sup>2</sup> Kgopotso Maunatlala and Charles Maimela, "The Implementation of Customary Law of Succession and Common Law of Succession Respectively: With a Specific Focus on the Eradication of the Rule of Male Primogeniture," *De Jure* 53 (2020): 36–53, <https://doi.org/10.17159/2225-7160/2020/v53a3>.

<sup>3</sup> Lindiwe Mtsweni and Charles Maimela, "The Role and Effect of the Constitution in Customary Law of Succession," *De Jure* 56, no. 1 (2023), <https://doi.org/10.17159/2225-7160/2023/v56a39>.

<sup>4</sup> Erly Aristo, Karen Michaelia Arifin, and Shenny Rustam Moidady, "Establishment of Special Land Courts as an Effort to Settlement of Land Cases," *Jurnal Ius Constituendum* 8, no. 3 (2023), <https://doi.org/10.26623/jic.v8i3.7837>.

legal values poses serious challenges for harmonizing customary law with constitutional mandates.<sup>5</sup>

Academically, while numerous studies have examined customary inheritance systems in Indonesia, most have focused on social and gender dimensions without critically analyzing the legal interplay between *adat*, state law, and international human rights standards. Furthermore, there is a dearth of research that focuses on specific, remote indigenous communities, where customary law is not only practiced but also revered as sacred. One such community is Ratenggaro in Southwest Sumba, which adheres to a primogeniture inheritance system rooted in Marapu spiritual beliefs. These works tend to treat primogeniture descriptively, without offering a critical legal-anthropological perspective, and do not explore the implications of legal pluralism or the intersection with constitutional and human rights frameworks.<sup>6</sup>

This research seeks to fill that gap by offering an in-depth legal anthropological analysis of the primogeniture inheritance system as practiced in Ratenggaro Traditional Village. It aims to explore how this system functions as a legal institution within an indigenous setting, how it adapts or resists reform pressures, and how it interacts with national legal frameworks.<sup>7</sup> The study contributes not only to academic discourse on customary law but also provides empirical input for policy efforts toward inclusive and gender just legal reform.<sup>8</sup>

Therefore, this study aims to examine the uniqueness and resilience of the primogeniture inheritance system in Ratenggaro, its legal-cultural foundations, and its interaction with modern legal and social developments, particularly in the context of gender equality and legal pluralism in Indonesia.

## 2. METHOD

This study employs a field research approach, wherein the researcher is directly involved in observing and collecting data at the research site.<sup>9</sup> A descriptive qualitative method is used to examine and understand social phenomena related to the inheritance system of children's rights in Ratenggaro Traditional Village. This approach is particularly appropriate for exploring social phenomena that are deeply embedded in cultural values, symbolic meanings, and customary

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<sup>5</sup> Andi Itrma Ariani, Darmawan Salman, and Muhammad Syukur, "Investigation of Social Construction of Violence and Exploitation: A Case Study of Children and Women in Gowa Regency, Indonesia," *Journal of Law and Sustainable Development* 11, no. 12 (2023), <https://doi.org/10.55908/sdgs.v11i12.1865>.

<sup>6</sup> Euis Nurlaelawati, "Managing Familial Issues Unique Features of Legal Reform in Indonesia," 2013, <https://doi.org/https://doi.org/10.1017/9789048516254.009>; Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 25–48, <https://doi.org/10.15408/ajis.v23i1.32549>; Lena Hanifah Hasan Basuni, "Islamic Inheritance Law in Indonesia: The Experiences of Banjar Women" (University of New South Wales (Australia), 2020).

<sup>7</sup> Tahir Ali et al., "Facilitating Sustainable Disaster Risk Reduction in Indigenous Communities: Reviving Indigenous Worldviews, Knowledge and Practices through Two-Way Partnering," *International Journal of Environmental Research and Public Health* 18, no. 3 (2021), <https://doi.org/10.3390/ijerph18030855>.

<sup>8</sup> Ashley Hayward et al., "A New Era of Indigenous Research: Community-Based Indigenous Research Ethics Protocols in Canada," *Journal of Empirical Research on Human Research Ethics* 16, no. 4 (2021), <https://doi.org/10.1177/15562646211023705>.

<sup>9</sup> Sugiyono, "Buku Metode Penelitian Kuantitatif Kualitatif Dan R&D," 2022.

structures such as the primogeniture inheritance system, which are central to the indigenous community's way of life. The primary aim of this research is to analyze the implementation and impact of the inheritance system of child rights on the social structure of the indigenous community, as well as to investigate the factors that influence the continuity of this tradition in the face of modernization. This research is exploratory and contextual in nature, focusing on an in-depth understanding of customary practices as they are experienced and interpreted by local community members. Data were collected through participant observation, in-depth interviews with traditional leaders, parents, and children, as well as documentation of oral traditions and cultural artifacts. The qualitative data were analyzed using thematic analysis, a method that involves identifying, organizing, and interpreting key themes that emerge from the field data to uncover deeper meanings underlying the inheritance practices.

### **3. RESULTS AND DISCUSSION**

#### **3.1. Uniqueness of the Primogeniture Inheritance System in Ratenggaro Traditional Village**

The primogeniture inheritance system in Ratenggaro Traditional Village, Southwest Sumba Regency, shows uniqueness that is not only related to the inheritance of property, but also to the transmission of spiritual and structural values of the community in the tradition. In this system, the eldest son (primogeniture) receives primary rights to land, a traditional house (Uma Kelada), and the responsibility to carry out traditional rituals as a form of spiritual continuity of the family. The determination of this inheritance cannot be separated from the Marapu belief, which regulates the cosmology of the life of the indigenous community.

The uniqueness of this system is also reflected in the strangeness of customs towards the role of women. Although they do not receive formal inheritance of land or houses, women still receive symbolic recognition through customary rituals, such as the handover of woven cloth, livestock, and involvement in extended family processions. Rituals like this are considered a form of customary compensation and indicate the existence of symbolic space for women in a structurally patriarchal system. This practice shows that the primogeniture inheritance system in Ratenggaro has a unique integration between customary law, the patrilineal kinship system, and recognition of ancestral spirituality. The strength of the customary legal system lies in its ability to symbolically adapt to modern values while maintaining the core of tradition.

The inheritance distribution system in Indonesian indigenous communities reflects the rich diversity of cultures and customs. One interesting example is the inheritance distribution system in Ratenggaro Traditional Village, Southwest Sumba, which has unique characteristics in accordance with local values. The village is famous for its traditional house known as Uma Kelada, which has a towering roof and a structural design that is able to withstand strong winds. Uma Kelada is distinguished by its tall towers, around 15-20 meters. The roof of this traditional house is made of natural materials such as thatch, mahogany, teak, and rattan as binding

elements.<sup>10</sup> The selection of these materials is based on their availability in the surrounding environment and their ability to withstand wind loads. In addition, the use of natural materials reflects the local wisdom of the Sumbanese people in utilizing natural resources sustainably.<sup>11</sup>

Individual inheritance systems distribute assets to heirs personally, while collective and primogeniture systems use different approaches in asset distribution.<sup>12</sup> Customary inheritance law is strongly influenced by the kinship system adopted by the community, whether patrilineal, matrilineal, or bilateral, each of which has different implications for the distribution of inheritance.

In Ratenggaro, modernization and globalization present challenges to its sustainability. Younger generations have begun to emphasize gender equality in the division of inheritance.<sup>13</sup> Therefore, it is important to examine how this system can survive or evolve to remain relevant in the future. This study not only seeks to investigate the firstborn inheritance system but also to explore how indigenous communities are adapting to changing times.

Understanding this cultural adaptation is increasingly important, given the role of customary law in maintaining social order. Thus, this research is expected to contribute to the understanding of how this inheritance system survives and develops in indigenous communities, as well as how external and internal factors influence it. Inheritance systems play a vital role in shaping the social and cultural structures of traditional societies.

Ratenggaro Traditional Village is located in Kodi Bangedo Sub-district, Southwest Sumba Regency, and is known as a village that still preserves its customs and culture. The inheritance distribution system in this village is one form of custom preservation that is still sustainable despite the influence of modernization. According to Oktavianus Tadu's research, the village has maintained the location and number of traditional houses since its establishment, with the building materials used coming from the local area.

Within the village, there are many megalithic sites containing ancient stone graves. The high interest of domestic and foreign tourists in this village shows the importance of preserving existing cultural traditions. The primogeniture inheritance system grants primary inheritance rights to the eldest child, particularly males, who will receive property and social status within the traditional family.<sup>14</sup> This system sustains the social order that is passed down from generation

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<sup>10</sup> Ismail Ismail, Novi Hendri, and Putri Rahmah Nurhakim, "Minangkabau's Doro Tradition: Coexistence of Customary Law and Islamic Law in Caning Punishment," *Samarah* 7, no. 1 (2023), <https://doi.org/10.22373/sjhk.v7i1.15904>.

<sup>11</sup> Mohammad Hipni, "The Study of Maqashid Syariah Toward Maduresse Traditional Inheritance by Using System Approach," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 14, no. 1 (2019), <https://doi.org/10.19105/al-lhkam.v14i1.2159>.

<sup>12</sup> Mohd Hafiz Hanafiah et al., "Reframing Indigenous Tourism Entrepreneurial Personality, Experience, Sense of Community and Challenges in Community-Based Tourism-Related Business," *Journal of Enterprising Communities* 18, no. 2 (2024), <https://doi.org/10.1108/JEC-09-2022-0131>.

<sup>13</sup> Fahmi Fatwa Rosyadi Satria Hamdani et al., "Traditional Law vs. Islamic Law; An Analysis of Muslim Community Awareness in Inheritance Issues," *Al-Ahkam* 32, no. 1 (2022), <https://doi.org/10.21580/ahkam.2022.32.1.11000>.

<sup>14</sup> Christa Rautenbach, "Case Law as an Authoritative Source of Customary Law: Piecemeal Recording of (Living) Customary Law?," *Potchefstroom Electronic Law Journal* 22 (2019), <https://doi.org/10.17159/1727-3781/2019/v22i0a7591>.

to generation. In this context, the concept of first-born rights plays an important role in regulating the distribution of inheritance and determining social status within the indigenous community.<sup>15</sup>

The inheritance system of children's rights based on descent practiced in Ratenggaro Traditional Village, Kodi Bangedo Subdistrict, Southwest Sumba, is a form of local wisdom that is strongly influenced by the customs and social structure prevailing in the community. In this system, the main inheritance rights are given to the eldest child, especially the eldest son. The eldest son is expected to act as guardian and successor to the ancestral legacy, which includes land, houses and other assets. This division of inheritance is not only material but also concerns the social standing and role of the eldest child in the family and customary society.<sup>16</sup> The process of inheritance distribution is closely related to the rituals and customs adopted by the local community. For example, when someone dies, certain customary rituals are performed as part of the inheritance process, in which the right of inheritance is symbolically given to the eldest child. Although daughters are not granted inheritance rights directly, they may receive some through special rituals involving animal sacrifices or elaborate traditional ceremonies, which entail significant costs and procedures. This suggests that while firstborn rights remain dominant, there are efforts to recognize the role of women in this social structure.

The study found that although the first-child-based inheritance system has long been in place and widely accepted in indigenous communities, modernization has begun to challenge its relevance, particularly among younger generations. The younger generation in Ratenggaro traditional village is increasingly inclined to change inheritance patterns to incorporate gender equality, advocating that inheritance rights be given to both sons and daughters. This change in perspective is largely driven by education, which promotes awareness of equality and individual rights. However, these progressive views are not fully embraced by the older generation, who continue to uphold traditional principles.

Interviews with traditional leaders and locals revealed that despite calls for change, the system of inheriting firstborn rights has been preserved as a fundamental part of Sumba's cultural identity. The survival of this system reflects the important role that social and cultural structures play in people's lives, as well as the importance of strengthening customary values amid modernization.

Overall, despite shifting values among younger generations, the system of inheriting children's rights in Ratenggaro traditional village remains accepted and maintained within the framework of customs, with some possible modifications over time. This study highlights that although perspectives continue to evolve, the preservation of traditions through rituals and cultural understanding remains an important aspect of the Ratenggaro indigenous community.

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<sup>15</sup> Fatima Osman, "The Consequences of the Statutory Regulation of Customary Law: An Examination of the South African Customary Law of Succession and Marriage," *Potchefstroom Electronic Law Journal* 22 (2019), <https://doi.org/10.17159/1727-3781/2019/v22i0a7592>.

<sup>16</sup> Simon Butt, "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?," *Griffith Law Review* 32, no. 2 (2023), <https://doi.org/10.1080/10383441.2023.2243772>.

**Table 1.** Inheritance System of Primogeniture Rights in Ratenggaro Customary Village

Aspect	Description
Primary Inheritance Rights	Given to the eldest child, especially males.
The role of the eldest child	It is expected to be the guardian and successor of ancestral heritage, including land, houses and other assets.
Inheritance Rights for Women	Women do not receive direct inheritance rights but may acquire a share through certain rituals.
Impact of Modernization	Modernization is challenging the relevance of this system, especially among the younger generation.
Efforts for Change	Younger generations in Ratenggaro are considering gender equality in the division of inheritance, advocating for a fairer system.

Source: Interview with Hendrikus Hendropati, Ratenggaro traditional leader, August 2024.

Table 1 outlines the key aspects of the primogeniture inheritance system practiced in Ratenggaro Traditional Village. The first aspect shows that primary inheritance rights are granted to the eldest child, particularly males, who are regarded as the main successors of ancestral property and responsibilities. The role of the eldest child extends beyond material inheritance, as they are expected to safeguard the family's land, houses, and cultural legacy. Meanwhile, women do not receive direct inheritance rights but may obtain a share through specific customary rituals that carry symbolic value. The influence of modernization presents challenges to the continued relevance of this system, especially among the younger generation, who increasingly question its gender bias. In response, some members of the younger generation in Ratenggaro are advocating for gender equality in inheritance distribution, indicating efforts to reform the traditional system toward a more inclusive and equitable model. After analyzing the implementation of the firstborn inheritance system in Ratenggaro Traditional Village, it can be seen that despite the pressure to make changes, the cultural values contained in this system are still held firmly. The indigenous community in Ratenggaro strongly adheres to the principle of firstborn rights, where the eldest child, especially males, is given the main inheritance rights as guardians and successors of ancestral property. This inheritance system not only regulates material aspects such as land and houses, but also has deep social and cultural meanings.<sup>17</sup>

However, modernization has posed challenges to the relevance of this system, especially among the younger generation, who are more open to the concepts of individual rights and gender

<sup>17</sup> Muhammad Hasyim and Burhanuddin Arafah, "Social Media Text Meaning: Cultural Information Consumption," *WSEAS Transactions on Information Science and Applications* 20 (2023), <https://doi.org/10.37394/23209.2023.20.25>.

equality.<sup>18</sup> The rapid pace of social change has prompted the younger generation to adapt the firstborn inheritance system to a more egalitarian model, where inheritance rights are extended to daughters as well. This reflects a gradual shift in values, although not yet fully accepted by long-standing members of the indigenous community.

The role of culture and ritual in this inheritance system remains a central element that connects the community to its ancestral traditions.<sup>19</sup> The preservation of traditions through rituals and respect for ancestral values remains an integral aspect of their identity. This shows a dynamic interaction between tradition and modernization, where cultural preservation remains an integral part of the identity and sustainability of indigenous communities. Thus, despite facing various challenges due to modernization, the inheritance system of children's rights in Ratenggaro Traditional Village still plays an important role in maintaining the social and cultural integrity of the community.

One important aspect requiring clarification is the concrete mechanism by which inheritance rights are transferred. In Ratenggaro, inheritance is predominantly conferred through verbal declarations within customary forums, such as clan gatherings or traditional ceremonies. These verbal acts carry binding weight in the community and are often reinforced symbolically through ritual artifacts or participation in key rites. Written documentation is rare and not required in customary legal systems, making the process largely oral and symbolic, yet socially legitimate and accepted. However, this raises questions about legal certainty, intergenerational disputes, and alignment with formal legal structures. While the study presents a detailed descriptive account, further theoretical engagement is needed to interpret the findings. The system of primogeniture practiced in Ratenggaro is inherently patriarchal, where inheritance of land, house, and ritual leadership is reserved for the eldest son. Women are typically excluded from substantial material inheritance and instead receive symbolic recognition, such as the right to participate in certain rituals or receive modest gifts during family ceremonies. Applying patriarchal theory, this practice can be seen as a reinforcement of gendered power relations within the customary legal framework.

Additionally, using the lens of legal pluralism, the research highlights the coexistence of customary law (*adat*) and state law. The inheritance system in Ratenggaro, though valid within the community, often diverges from national legal principles, particularly those concerning gender equality under the Indonesian Constitution and the Marriage Law. The study also points to a need for a critical gender analysis. While women's roles are acknowledged symbolically, it is essential to ask whether this symbolic recognition translates into meaningful participation or simply functions as "cultural compensation" that masks deeper structural inequalities. The narrative should question whether symbolic inclusion fulfills the standard of substantive justice

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<sup>18</sup> S Abdullah and M Lalita, "Pengaruh Modernisasi Terhadap Praktik Waris Adat Di Era Revolusi Industri 4.0," *Jurnal Sosial Dan Budaya* 15, no. 3 (2023), <https://doi.org/10.572349/kultura.v1i5.557>.

<sup>19</sup> N Suryani, "Pengaruh Spiritual Dalam Sistem Pembagian Warisan Kesulungan Di Masyarakat Adat Sumba," *Jurnal Kajian Budaya Sumba* 10, no. 2 (2022), <https://doi.org/10.31004/cdj.v6i1.41107>.

or if it perpetuates the marginalization of women under the guise of tradition. To strengthen the clarity of the narrative, a visual representation such as a table or diagram should be included to illustrate the inheritance structure, stages of traditional rites, and the respective roles of men and women. For example, a chart showing the transfer of property, roles in rituals, and gendered responsibilities would offer clearer insights into the dynamics of the system and help balance the textual explanation with visual analysis.

### **3.2. Resilience of the Primogeniture Inheritance System Amidst Modernization**

The firstborn inheritance system practiced in Ratenggaro Traditional Village, Southwest Sumba, has been in place for centuries and remains an integral part of the well-preserved social structure. However, along with the presence of modernization and the influence of globalization, there is also a growing push from the younger generation to adapt or even change this tradition into a more egalitarian system, which gives equal rights to male and female heirs.<sup>20</sup>

Despite external pressures to make changes, indigenous communities, especially elders and respected figures in the village, remain steadfast in upholding the principles of their ancestral customs.<sup>21</sup> In this case, although modernization presents new challenges, the determination of customary leaders to maintain the system of inheriting children's rights remains a crucial factor in its survival. The elders and customary leaders in Ratenggaro view the firstborn inheritance system as more than just a distribution of wealth; it is an important part of their identity and social existence as indigenous people. For them, this tradition has proven effective in maintaining social balance and family relations while preserving the values passed down by their ancestors.

From their perspective, the eldest son plays an important role, not only as the recipient of the inheritance but also as the guardian of the ancestral legacy, responsible for safeguarding the family's land and property. The system is therefore not just about material wealth but also about maintaining family honor and identity in the context of a traditional society that places great importance on social hierarchy. Although times are changing and globalization is bringing in outside cultural influences through technology and education, the elders of Ratenggaro traditional village believe that the values embedded in their inheritance system remain relevant and cannot be changed. They address modern ideas that seek to reorganize their centuries-old social order with great caution.<sup>22</sup>

Traditional leaders, especially the elders, strongly emphasize that the system of firstborn inheritance is a fundamental part of their identity that should not be altered by external forces that do not fully understand their cultural and historical context. They believe that this system

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<sup>20</sup> Ahmad Zayyadi, "Dinamika Modernisasi Hukum Islam: Tinjauan Historis Dalam Pembacaan Mazhab Sociological Jurisprudence," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2020), <https://doi.org/10.24090/mnh.v14i1.1800>.

<sup>21</sup> Serasu Duran et al., "Re-Righting Renewable Energy Research with Indigenous Communities in Canada," *Journal of Cleaner Production* 445 (2024), <https://doi.org/10.1016/j.jclepro.2024.141264>.

<sup>22</sup> Syinta Amelia, "Progressive Legal Approach to Modern Community Law Enforcement in Indonesia," *Pancasila and Law Review* 4, no. 1 (2023), <https://doi.org/10.25041/plr.v4i1.2729>.

represents proven social stability and provides clarity regarding the role of each family member in upholding family and communal values. In addition, traditional leaders assert that their long-held customs and traditions have deep spiritual significance. According to them, prioritizing the eldest son in inheritance is not just a rule of customary law, but also a form of respect for their ancestors and the Marapu spirits who are believed to govern their social life.

From their perspective, violating these traditions would disrupt their relationship with their ancestors and disturb the harmony between humans and nature. Therefore, although modernization brings new opportunities and perspectives, the elders of Ratenggaro strongly believe that sticking to tradition is the key to maintaining balance in their lives, both within the family and in their relationship with nature and the ancestral spirits.<sup>23</sup>

The elders and community leaders of Ratenggaro traditional village also emphasize the importance of education in their community. However, the education they advocate is one that remains rooted in their traditional values and local culture. While they do not reject the advancement of science and technology, they ensure that the education received by the younger generation does not erode the noble values embedded in their traditions. They hope that the younger generation will continue to understand and appreciate the importance of the firstborn inheritance system while adapting to a modern and increasingly open world.

Thus, although the younger generation is pushing for a fairer inheritance system that gives equal rights to girls, the elders and traditional leaders in Ratenggaro remain firm in their stance that this system should be maintained. They believe that modernization should not destroy tradition, but should integrate with customary values to create a balance between cultural preservation and societal change. According to them, modernization does not mean eliminating tradition, but finding ways to keep it alive and relevant in an ever-evolving social context.

**Table 2.** Comparison of the Birthright Inheritance Tradition and Modernization Efforts in Ratenggaro Traditional Village

<b>Aspect</b>	<b>Traditions Maintained by Indigenous Elders</b>	<b>Modernization Efforts of the Young Generation</b>
Primogeniture Inheritance System	Given to the eldest son as the successor and guardian of the ancestral heritage.	Equal recognition of inheritance rights for sons and daughters.
The Role of Elders	The eldest son is considered the guardian of the ancestral heritage and is responsible for maintaining the family's land and property.	Younger generations want a more equitable distribution of inheritance, regardless of gender.

<sup>23</sup> Encarnación Roca Trías, "Freedom of Expression, Judicial Independence, Impartiality: The Judges in Social Networks. a Study of the Rulings of the European Court of Human Rights," *Revista Espanola de Derecho Constitucional* 2021, no. 122 (2021), <https://doi.org/10.18042/cepc/redc.122.01>.

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The Importance of Tradition	This tradition is considered an integral part of cultural and social identity that should not be changed.	Modernization is seen as an opportunity to adapt traditional values to be more inclusive.
The Influence of Marapu (Ancestral Spirits)	This system is linked to respect for ancestors and the spiritual power of Marapu, which governs social life.	Efforts to promote gender equality while preserving spiritual aspects.
The Influence of Education	Education remains rooted in indigenous values and local traditions, carefully filtering out external influences.	A more open approach to modern knowledge while still respecting traditional values.
Adaptation to Modernization	Modernization should be integrated with indigenous values rather than abolishing traditions.	Modernization is expected to create a balance between cultural preservation and contemporary development.

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Source: Interview with Hendrikus Hendropati, Ratenggaro Customary Elder, August 2024; Interview with Donatus Jamurbohe, Head of Ratenggaro Customary Institution, August 2024.

Table 2 compares the differing perspectives between indigenous elders and the younger generation regarding the primogeniture inheritance system in Ratenggaro Traditional Village. The table highlights how traditional leaders continue to uphold the primogeniture system, granting inheritance rights solely to the eldest son as the custodian of ancestral land and cultural responsibilities. Elders view this tradition as a core element of their cultural identity and spiritual harmony, deeply tied to the Marapu belief system and inherited social structures. This study has explored the resilience of the primogeniture inheritance system in Ratenggaro Traditional Village amidst increasing exposure to modern legal frameworks, gender equality discourses, and educational transformation. While the system maintains a stable preference for male firstborns in the transmission of land, houses, and ritual authority, it demonstrates a form of cultural persistence shaped by deeply held Marapu beliefs and customary law (*adat*). Women continue to play a largely symbolic role within the inheritance system, which highlights the selective adaptability of the tradition, retaining core structures while superficially responding to change.

However, the resilience of this system cannot be fully understood without analyzing the role of formal state institutions. To date, the involvement of agencies such as the National Land Agency (Badan Pertanahan Nasional), religious or civil courts, and gender protection bodies has been minimal or largely passive in Ratenggaro. Land ownership continues to be administered informally through communal recognition rather than formal land titling, thereby limiting the intervention of the BPN. Similarly, inheritance disputes are rarely brought to the courts, as community members prefer resolving conflicts internally through customary mechanisms. The absence of institutional engagement may reflect both the remoteness of the village and the state's recognition of customary autonomy, but it also raises critical questions about the protection of women's rights and the lack of legal recourse for those who challenge the system. Gender-

focused government institutions and legal aid services appear largely irrelevant in this context, as no local outreach programs or formal partnerships were identified during the fieldwork.<sup>24</sup> The tension between customary principles and state legal principles cannot be avoided. Although customary law is recognized in Article 18B, paragraph (2) of the 1945 Constitution, its existence is still limited by human rights principles. Thus, the practice of exclusive gender-based inheritance can be criticized if it conflicts with the constitutional rights of citizens, as emphasized in Law No. 39 of 1999 concerning Human Rights and the CEDAW Convention which has been ratified by Indonesia.<sup>25</sup>

This is where the importance of a dialogical approach between indigenous communities and state institutions lies in bridging the gap between preserving traditions and protecting citizens' rights. Such dialogue allows for non-destructive adaptation, while still ensuring equality as mandated by national and international law.<sup>26</sup> The impact of formal education on younger generations in Ratenggaro is evident in shifting views on gender roles and autonomy. However, legal and gender awareness remain underdeveloped, with no structured legal education in schools and only sporadic NGO-led programs. This limits the youth's capacity to question customary inheritance norms despite increased exposure to national equality discourses. There is a need to integrate culturally sensitive legal education into local curricula with involvement from community leaders.<sup>27</sup>

This study also highlights intergenerational cultural negotiation as key to the system's continuity. While younger women, especially the educated and urban-exposed, begin to question primogeniture, open rejection is rare. Instead, compromises such as symbolic gifts or ceremonial roles allow the system to appear flexible while preserving patriarchal structures.<sup>28</sup> Disputes are typically resolved through *musyawarah*, maintaining harmony without disrupting *adat* norms.<sup>29</sup> Using legal anthropological concepts of cultural resilience, the system's endurance is seen not as static preservation but as selective adaptation. It absorbs external pressures while retaining internal coherence, though often reinforcing existing power hierarchies that exclude women.<sup>30</sup> Thus, resilience here is not neutral but contested. In sum, Ratenggaro's primogeniture system

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<sup>24</sup> Dominique M. David-Chavez and Michael C. Gavin, "A Global Assessment of Indigenous Community Engagement in Climate Research," *Environmental Research Letters*, 2018, <https://doi.org/10.1088/1748-9326/aaf300>.

<sup>25</sup> Mtsweni, L., & Maimela, C. (2023). *The Role and Effect of the Constitution in Customary Law of Succession*. De Jure, 56(1). <https://doi.org/10.17159/2225-7160/2023/v56a39>

<sup>26</sup> Aristo, E., Arifin, K. M., & Moidady, S. R. (2023). *Establishment of Special Land Courts as an Effort to Settlement of Land Cases*. Jurnal Ius Constituendum, 8(3). <https://doi.org/10.26623/jic.v8i3.7837>

<sup>27</sup> Renata Leonhardt et al., "Government Instruments for Community Renewable Energy in Northern and Indigenous Communities," *Energy Policy* 177 (2023), <https://doi.org/10.1016/j.enpol.2023.113560>.

<sup>28</sup> Tahir Ali et al., "Integrating Indigenous Perspectives and Community-Based Disaster Risk Reduction: A Pathway for Sustainable Indigenous Development in Northern Pakistan," *International Journal of Disaster Risk Reduction* 59 (2021), <https://doi.org/10.1016/j.ijdrr.2021.102263>.

<sup>29</sup> Meliyani Sidiqah, "Interfaith Marriage in Kuningan and Jakarta: State Intervention and Human Rights," *Jurnal Ius Constituendum* 10, no. 1 (February 9, 2025): 42–66, <https://doi.org/10.26623/jic.v10i1.11331>.

<sup>30</sup> Nam Hoang Nguyen et al., "Barriers and Mitigating Strategies to Healthcare Access in Indigenous Communities of Canada: A Narrative Review," *Healthcare (Switzerland)*, 2020, <https://doi.org/10.3390/healthcare8020112>.

endures modernization by adapting superficially while maintaining its core logic.<sup>31</sup> However, limited institutional involvement and weak legal education hinder inclusive reform. True resilience should involve openness to change that respects tradition yet aligns with gender justice and constitutional principles.

#### 4. CONCLUSION

This study explores the unique and enduring nature of the primogeniture inheritance system in Ratenggaro Traditional Village, where male firstborns are prioritized in both material and symbolic inheritance. Deeply embedded in Marapu spirituality and *adat* (customary) law, the system continues to marginally include women, mainly through ritual roles that reflect symbolic rather than substantive gender inclusion. Employing an interdisciplinary legal-anthropological approach, the research critically examines how these traditional norms interact with Indonesia's plural legal system and constitutional commitments to equality and human rights. Unlike previous studies that treat gender inequality in *adat* as a fixed cultural trait, this research presents a dynamic critique that respects cultural identity while promoting gender justice. Village-level legal literacy programs using participatory and culturally relevant tools such as storytelling and local language, institutionalized village assemblies involving traditional leaders, women, legal scholars, and officials to negotiate reform, and a national initiative to map and compare customary inheritance systems to inform regionally sensitive legal policy. The study emphasizes that customary systems are not inherently opposed to change; rather, they can evolve in ways that maintain cultural integrity while aligning with constitutional values. Ultimately, it advocates for a dialogic model where tradition and modern law engage in mutual transformation, ensuring justice and dignity for all, regardless of gender.

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<sup>31</sup> Moh Thamsir, Mukhtar Latif, and Pauzi Muhammad, "Islamic Criminal Law Reform in Corruption Cases: Maqasid Al-Shariah Perspective," *Jurnal Ius Constituendum* 10, no. 1 (January 29, 2025): 16–27, <https://doi.org/10.26623/jic.v10i1.10932>.

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