

## INHERITANCE ADAT LAW IN INDONESIAN PEASANT SOCIETY

### Part I. INTRODUCTION

#### A. *Purpose and Concepts*

In writing about inheritance in peasant society in Indonesia, I am primarily concerned with attempting a comparative study of several Indonesian villages exhibiting different principles of descent. Inheritance, considered as a process of transferring material as well as non-material property from generation to generation, will be discussed in terms of several Indonesian ethnic groups. The purpose is to obtain a general view of the similarities and differences among Indonesian peasantry concerning their inheritance in the light of the fact that there are many ethnic groups each with its own social and cultural background. It appears that there are in the main, four principles of descent, namely, the patrilineal, the alternating patrilineal, the matrilineal and the bilateral systems. Each system will be represented by one ethnic group as an example. The ethnic groups to be considered are respectively: the Batak of Tapanuli (North Sumatra), the Lampung of South Sumatra, the Minangkabau of West Sumatra and the Javanese of Central Java. Some ethnic groups are furthermore divided into sub-ethnic groups. For instance, the Batak comprise six sub-ethnic groups, namely, the Karo, the Simelungan, the Pakpak, the Toba, the Angkola and the Mandailing. I will only refer to the Toba Batak who reside mainly in the southern part of Tapanuli. The Lampung of South Sumatra are divided into two large groupings. The division is based primarily on the differences in their Adat Law.<sup>1</sup> I will only deal with the Lampung Pepadon group, while the other group, called Lampung Peminggir,<sup>2</sup> will not be taken into account. Although the Minangkabau consist of many sub-ethnic groups, they have on the whole a common Adat Law. Of course there are minor differences. But since this paper proposes to give an overall picture, I will focus on the general elements.

For the purposes of this study, I refer to Kroeber's concept of peasants: "part societies with part cultures". "Peasants are definitely rural — yet live in relation to market towns; they form a class segment of a larger population which usually contains also urban centers....

1. In very simple words, Adat Law may be defined as adat (custom) that has legal consequences.
2. The Lampung Pepadon is a group exhibiting genuine Adat law, while the Lampung Peminggir is very much influenced by cultural elements from the outside. Formerly, the Lampung Peminggir was ruled by Banten, an Islamic kingdom in West Java.

They lack the isolation, the political autonomy, and the self-sufficiency of tribal populations; but their local units retain much of their old identity, integration and attachment to soil and cults".<sup>3</sup>

In describing peasant society, I will use the term "village" to mean the region inhabited by peasants,<sup>4</sup> and the term "peasants" to mean the people inhabiting villages.

### B. *Types of Indonesian villages*

There are several criteria which can be used to develop a typology of Indonesian villages. A very important classification is the one based on the two main systems of subsistence economy: sedentary rice cultivation with irrigation and shifting cultivation without irrigation. Villages based on sedentary rice cultivation are mainly located in Java, Bali and a large part of Lombok.<sup>5</sup> Outside those areas, sedentary agriculture with irrigation only forms enclaves in several places in North and West Sumatra, in the coastal areas of Kalimantan, in North and South Sulawesi and in several places in the Moluccas. In the remaining part, covering almost 89% of the total area of Indonesia, the population practises shifting cultivation.

Another very important way to classify Indonesian villages is by considering the principles of relationship underlying their social organization. This method of classification suggests two such principles of relationship: ties of kinship and the ties of proximity of residence, thus distinguishing villages with genealogical organization from those with territorial basis. This method of classification was used by a prominent scholar on Adat Law, ter Haar, in his famous textbook on Adat Law entitled "Beginselen en Stelsel van het Adatrecht".<sup>6</sup> According to ter Haar,<sup>7</sup> villages in which the territorial factor has no significance are rare and unimportant throughout the archipelago. On the other hand, villages in which the genealogical factor has no significance are numerous. Even though a link with kinship organization may be clear in some of these villages, they are now solely territorial in character. This kind of village can be found in Java, Madura, Bali, Atjeh (North Sumatra), and elsewhere in the Moluccas. Both factors, the genealogical and the territorial, dominate villages of Batak, Minangkabau, Lampung, etc., in which case, it is important to study both factors with respect to the local situation.

First of all, it is relevant to study the principles of descent as a factor of integration in genealogical as well as in genealogical-territorial

3. Kroeber 1948, p. 284.

4. It should be noted that a "village" is called by different names in different regions, e.g., Javanese, Madurese and Balinese villages are called "desa"; Atjehnese villages, "gampong"; and villages in the Moluccas, "negory".

5. Lombok is one of the islands belonging to Nusa Tenggara (the Lesser Sunda), east of Bali.

6. A major part of this book has been translated by E. Adamson Hoebel and A. Arthur Schiller: *Adat Law in Indonesia*, published in 1948.

7. ter Haar, 1948, pp. 50-55.

villages. As has been noted, these principles can be distinguished into four systems as follows:

1. the patrilineal system
2. the alternating patrilineal system
3. the matrilineal system, and
4. the bilateral system.

The first, the second as well as the third are usually called the unilineal system which is based on genealogical groupings known as minimal lineage or maximal lineage. By the patrilineal system is understood the reckoning of common descent from one common male ancestor along the male line by means of which membership in kin-groups are determined. Of this the Batak of Tapanuli in North Sumatra is a typical example. The alternating patrilineal system is actually patrilineally oriented, but occasionally women appear along the line of descent.<sup>8</sup> It depends on the form of marriage in correlation with the inheritance system. Such system dominates the Redjang and the Lampung of South Sumatra. The Minangkabau of West Sumatra is an extreme example of the matrilineal system. The system is based on descent along the female line. A common female ancestor is the important link in legal relationships.

In the bilateral system both the male and the female lines of descent count. A child is affiliated with a special group consisting of some of the members of his father's kin group as well as some of his mother's on an equal basis. In most cases, they are his own nearest genealogical kinsmen irrespective of through which parent they are related to him. This system is highly developed among the Javanese. Especially in villages, the Javanese do not stress principles of descent (except in cases of conflict concerning division of property in inheritance which however rarely takes place), because the factor of unification among the Javanese is primarily their residential ties. Among the Javanese, one's nuclear family is far more important than the extended family.

The interaction of genealogical and territorial factors may lead to different types of social organization, which can sometimes be found side by side in a given region.

In the first instance, there is a minimal lineage which is established within a territory in intensive interaction with neighbouring minimal lineages of the same territory. The village as the unit of social organization is formed by these minimal lineages in their common territory. This type of village can be found in Buru which is an island within the Moluccas. In the next instance, there is a minimal lineage inhabiting its own territory along with intruders from other minimal lineages elsewhere. The latter are relegated to a subordinate "citizenship" status in the community. That is to say, their position is limited with respect to the exercise of authority and also in individual rights to land, such

8. E.g. where the patrilineal rule is suspended for a generation in the case of a family without sons, matrilineal descent supervenes to continue the family line.

as in the case of the Batak of Tapanuli (North Sumatra). In the third instance, a minimal lineage could become subordinated to an alien lineage which has entered its territory and gained ascendancy as a dominant and ruling group as was the case in Central and East Sumba.<sup>9</sup> Lastly, there is a fourth situation such as that which has occurred in Minangkabau where various unrelated minimal lineages live within the same territory.<sup>10</sup> The lineages keep to their own divisions, thus jointly constituting a territorial community which consists of contiguous but separate minimal lineages' holdings.

According to ter Haar, the villages, which may be taken as the units of social organization, are always of an intermingled territorial and genealogical nature.<sup>11</sup> If we see every village in Indonesia as described previously, we will be able to have a clear insight in proceeding to examine such subjects as marriage, inheritance, land law, etc. in Indonesian peasant society.

## Part II. INHERITANCE

It is understood that inheritance is a process of passing material as well as non-material property from generation to generation. The process of inheritance usually takes place when a person dies, leaving property and heirs to inherit. But occasionally the process may begin before a person's death. This is to avoid conflicts among his heirs, which otherwise may possibly occur in the future. This kind of pre-inheritance will not be dealt with in this paper. To obtain a clear delineation of the inheritance patterns common among Indonesian peasants, I will focus on the following topics:

- A. Systems of inheritance
- B. Principles of inheritance
- C. Process of inheritance
- D. The impact of principles of descent upon inheritance
- E. The influence of religious elements.

### A. *Systems of inheritance*

The system of inheritance refers primarily to the regulation of the passing of property as to whether it can be divided or must remain undivided.

According to Eric Wolf, there are basically two systems of inheritance, namely, the impartible inheritance and the partible inheri-

9. The Island of Sumba belongs to Nusa Tenggara (the Lesser Sunda).

10. A village in Minangkabau is called "Nagari".

11. ter Haar, 1948, p. 55.

tance,<sup>12</sup> the difference being whether the property is passed to a single or to many heirs. From the terms he used, we may draw a conclusion that Eric Wolf also distinguished undivided property from divided property but only in a very limited sense since he did not further elaborate on it. By further elaboration I mean that Eric Wolf did not mention the possibilities of division in impartible inheritance or the existence of impartible factors in partible inheritance. I will try to avoid these weaknesses by suggesting a more complete delineation. This is to suggest that there are three systems of inheritance as follows:

1. The individual system — According to this system which is highly developed among the Javanese and the Toba Batak, the inherited property is divided among the heirs in the sense that the heirs possess their respective shares absolutely. In certain cases, the deceased person's debts do not devolve on his heirs, meaning that the property remains undivided until the debts are settled.
2. The collective system — In this system, property passes to the heirs as a unit or as a group. This unit possesses the property. Only the right to use the property is divided equally. In this case the element of partible inheritance emerges. This system dominates the Minangkabau.
3. The undivided property system — In this system a single heir or heiress is firmly established, who is the first born child. This system is common among the Lampung of South Sumatra, where the first son is the sole heir. If the eldest son predeceased his father, the property would go to the former's heir; and if the eldest son left no offspring at all, the property would then pass to his nearest younger brother. But in other regions such as in Redjang (in the western part of South Sumatra) another kind of undivided property system obtains. In this case, the sole heir is the oldest son surviving the deceased. The single heir or heiress has the duty to take care of his younger brothers and sisters in the role of a guardian until they get married.

Thus, there is no one general system of inheritance among the Indonesian peasants. However it is notable that the element of collectivism or "undivided property" is a common phenomenon throughout the archipelago. But the systems of inheritance as described do not serve as a device for ascertaining the heirs. For the purpose of selecting heirs who have the right to inherit, the principles of inheritance are commonly used.

#### B. *Principles of inheritance*

Generally speaking, the near relatives of the succeeding generation — those who grew up in the house of the deceased — are the heirs. Usually, the deceased's children come first; but in certain cases this direct household relationship is superceded by unilineal ties. The right of children to inherit from either parent or both parents is a defining feature in bilateral groups such as the Javanese or the Dyak. But, as for instance

12. Wolf 1966, p. 73.

in Minangkabau, children do not inherit from their father but from their mother's brother, because the father remains in his family complex on the matrilineal side. The children have to reckon with the female line through their mother only. Thus, in this case, the principle of inheritance is kinship ties which exclude household or familial ties. In conclusion, it appears that there are two main principles of inheritance:

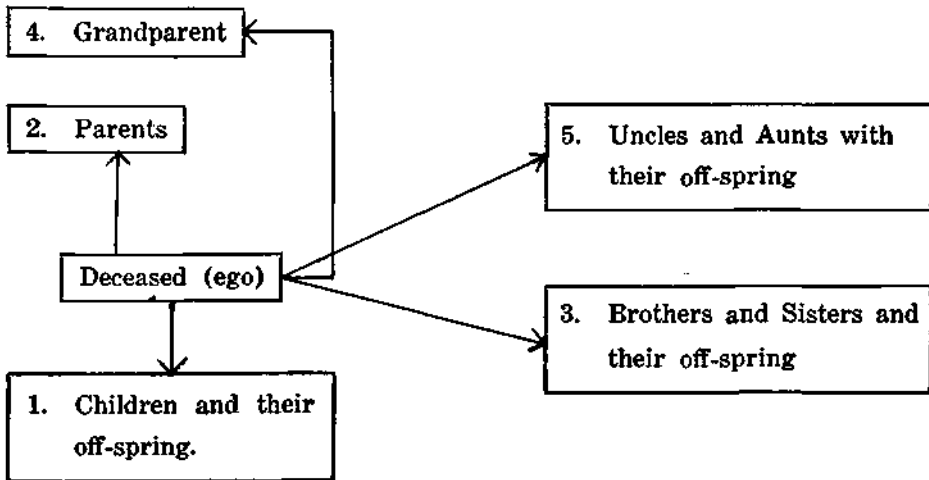
1. the principle of nuclear familial ties which is predominant in bilateral ethnic groups such as the Javanese, and
2. the principle of genealogical ties, which is very common among unilateral ethnic groups such as the Minangkabau of West Sumatra.

It will be realised that the principles of inheritance only determine the heirs at large, and do not settle the question as to who, among them, have the priority to inherit to the exclusion of the others. For the latter purpose, certain working rules as will next be considered, will apply.

*C. Process of inheritance*

The process of inheritance is primarily concerned with the hierarchical ranking of groups of heirs and determining who have the ultimate right to inherit. According to Indonesian Adat Law, the first group to inherit are the children and their offspring. If a person dies childless, then his parents will be his heirs; and if the parents have died before the deceased, his brothers and sisters (and their offspring) will inherit. I will elaborate the process by the following diagram:

DIAGRAM I



The numbering of the groups indicates the sequence of their ranking. The ultimate heirs are those who have a direct blood relationship with the deceased person, and the presence of any intermediary group will exclude the other groups lower down in the order of the sequence.

The property of a deceased person is not to be considered as a homogenous estate. The actual nature of the component parts of the property is often significant in the laws of succession. Generally, a deceased person's property will include different kinds of property as follows:—

- a). *Extended family property.* — This kind of property is called “barang asal” (meaning original or genuine property) and should be kept within the family. The nature of extended family property is noticeable when the deceased left no children. The “barang asal” goes back to his own extended family and does not descend to the surviving spouse. The same holds true on the death of either spouse. To give an example, among the Toba-Batak, land which is given as dowry to the daughter, will remain after the death of the woman with the surviving husband and his family, but the husband and his family may not use it without first consulting the deceased wife's family.
- b). *Sacred property.* — This kind of property in a family is usually tied up with the status of the possessor. The sacred objects can only be bequeathed to a qualified heir.
- c). *Household goods* — Household goods include all property obtained during marriage through the efforts of either the husband or wife or both. Inherited property and gifts are commonly excluded. Household goods become particularly notable where there is a second marriage. Only the children of the first marriage will inherit the goods acquired during that marriage, while children of the second marriage will receive nothing.
- d). *Communal property.* — This kind of property usually consists of land. In Indonesia, it is understood that land is owned by the community as a whole. Each community member has the right to cultivate the land. The communal right to own land is called “hak ulajat”. In certain aspects, the “hak ulajat” becomes more individualized especially in Java where land is scarce in comparison with population density. Peasants in Java, who formerly obtained the right from the community to cultivate land, tend towards possessing it as a private ownership. But in other regions such as Sumatra where land may still be acquired easily, the “hak ulajat” is surviving. The community's right of disposal often operates to prevent succession to land because at the death of a first villager, his landholdings revert to the community by reason of the right of disposal, and are granted to a fellow villager of lower rank who is next in turn.

Another aspect concerns the payment of debts. In all places, the rule is that parts of a deceased person's property should first be used for the care of the corpse and burial and also, if the deceased person was sick, for the payment of medical expenses. But for payment of debts, according to ter Haar,<sup>13</sup> there are two different principles in practice:

13. ter Haar, 1948, p. 211.

1. The heirs are responsible for the debts of the deceased. Creditors should claim within forty days after the death. If the estate is not enough to pay the debts, the heirs are responsible for making up the difference from their private property. This principle is practised by among others, the Toba-Batak, the Dyak (e.g. Punan Dyak, Kenya Dyak, Maanyan Siung Dyak, Lawangan Beloh Dyak, etc.) and the Bali.
2. The other principle does not hold the heirs responsible for the debts. In this case, division of property will not take place until all debts are paid. This principle is in some respects to the disadvantage of the creditors, if the deceased's property is relatively small and is insufficient to meet all the debts.

D. *The Impact of Principles of Descent upon Inheritance*

I will deal with this topic with reference to the following aspects:—

- a). the relationship between principles of descent and systems of inheritance ;
- c). the effects of principles of descent upon the process of inheritance. and
- c). the effects of principles of descent upon the process of inheritance.

There is to a certain extent a relationship between principles of descent and systems of inheritance. The systems of inheritance highly developed in patrilineal groups can also dominate bilateral groups— but, of course, differences exist. For instance, the individual system is highly developed not only among the Toba-Batak as a patrilineal group but also among the Javanese as a bilateral community. The outstanding difference between them lies in that only the sons will inherit in the case of the Toba-Batak, while in Central Java all of the deceased's children, regardless of their sex, are entitled to inherit. It can therefore be concluded that the elaboration of a certain system of inheritance in a particular ethnic group does not depend on their particular principle of descent. Generally, there is evidence of more than one system of inheritance: one of them may be considered as the prominent phenomenon while the other an epiphenomenon.

In contrast, the influence of principles of descent on principles of inheritance is determinant. Among unilineal groups, the principle of genealogical ties are prominent. The heirs must be members of the minimal lineage to which a deceased person belonged. In other words, the heirs are those who take part in maintaining the common ancestor's line of descent. On the other hand, the principle of nuclear familial ties is relied on in bilateral-oriented communities, because the nuclear family is considered as the basic unit of the community.

The effects of principles of descent upon the process of inheritance will be explored according to the ethnic groups mentioned before and also with respect to the kinds of property involved.

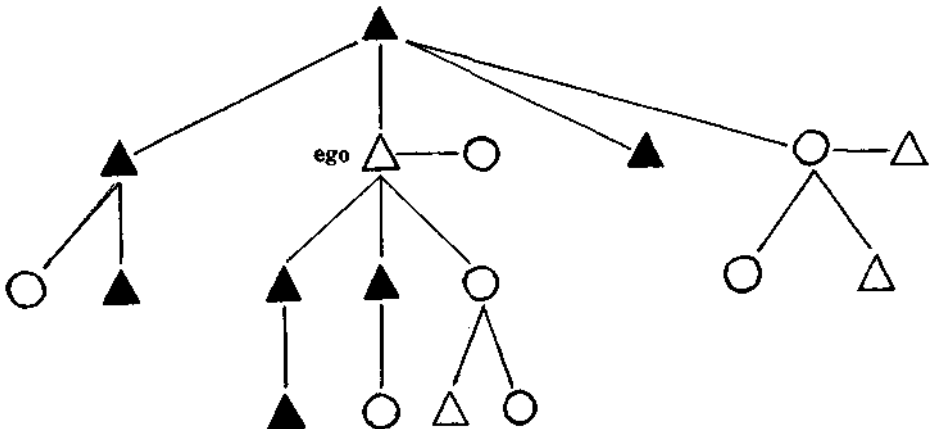


*The Toba-Batak*

The Toba-Batak of Tapanuli is extremely patrilineal. Inheritance is in the direct male line which is continued through the birth of sons. Such inheritance is therefore called “mangihut-ihuton” (meaning “to succeed to or to continue on”) and “na tinadinghon ni amana, siihuthonon ni anakna” (meaning “the sons must succeed to what their father leaves”).<sup>14</sup> If there are no sons, the property goes to the deceased’s father if he is still alive. But usually, whether the father is still alive or not, the property accrues to the collateral male line, namely, the deceased’s brother or his offspring. In and only in Balige, a part of the property is usually set aside to provide dowry for the daughters (if any).

Extended family property as well as sacred property is inherited by the eldest son. Elements of primogeniture are here evident. If the deceased person has a partner-ownership in undivided land which is communal property, the ownership will devolve on his sons, while the land is to remain undivided. But in the case of the deceased person leaving no sons, such ownership expires. The surviving spouse will get nothing, because she is considered an outsider. She has the duty to take care of her sons’ share of inheritance as long as they are under age. If the wife predeceased her husband her property will pass to her husband. And if there is any dowry, it will also remain within her husband’s family. The following diagram will provide a scheme of the whole process.

DIAGRAM II



Only those marked black are the only possible heirs among the Toba-Batak. The order of priority between the groups of heirs is as shown in Diagram I. Here the principle of agnatic clan ties emerges.

14. Vergouwen 1964, p. 271.

### *The Lampung Pepadon*

The Lampung Pepadon consist of five main large groups. The differentiation is based on Adat Law. The five groups are:

1. The Abung Siwo Migo
2. Tulang Bawang Mego Pak
3. Pubian Telu Suku
4. Buay Lima, and
5. Sungkai.

Although there are differences to some extent, these groups share the same general rules of inheritance. The Lampung Pepadon retains the undivided property system, in the sense that the first born son is the single heir. The first born son has the duty to take care of his younger brother as well as his younger sisters until they get married. This rule is valid for all kinds of property.

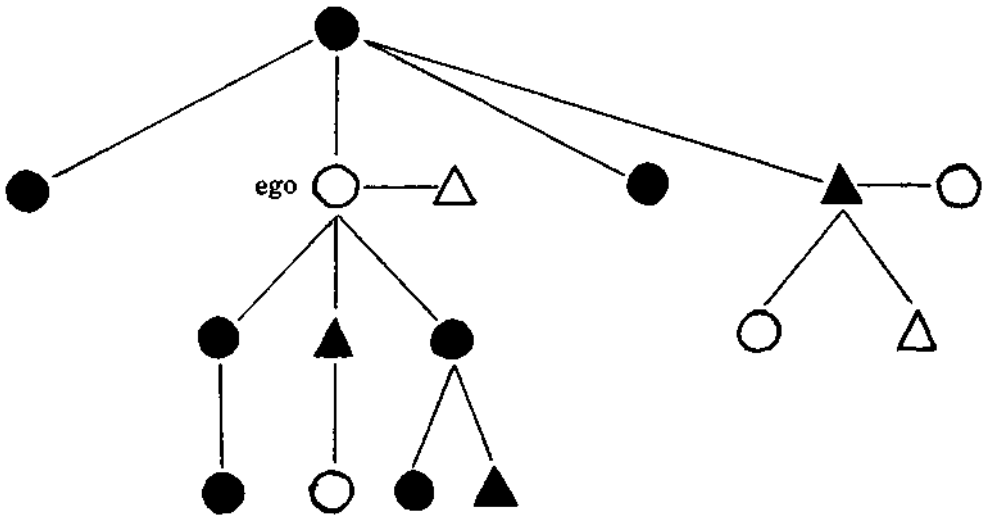
If no sons are born, the eldest daughter is married by way of the so called "semendo marriage". The "semendo marriage" is matrilineal. It means that her husband is entrusted with the duty of a custodian of the property in anticipation of passing it to his male offspring. The male off-spring of such marriage reckons only to the female line, namely to his mother. In other words, the "semendo marriage" is to solve the problem when there are no sons, while the undivided property system of inheritance is maintained. It is not proper to make an absolute statement that in certain circumstances women can be heirs, because as in the above case where a deceased person leaves only female issue, the process of inheritance along the patrilineal side is only delayed until a male descendant is born. And so the patrilineal line is still in operation, while the principle of genealogical ties is highly developed.<sup>15</sup>

### *The Minangkabau*

The Minangkabau area, which lies on the west coast of Sumatra, is inhabited by its indigenous people who are matrilineal. The matrilineal system is highly developed among the Minangkabau, and the principle of genealogical ties emerges strongly. The husband is considered an outsider who remains belonging to his maternal family although the matrilineal residence pattern is widely common. The main duty of taking care of the children rests on the shoulders of the eldest brother of the wife. On the death of the husband, his property is not inherited by his own children, but by his nieces and nephews. This rule is common because the children are not members of their father's minimal lineage, but are members of their mother's. All children can be their mother's heirs, regardless of their sex. But, as regards the next generation, only the offspring of the daughters, and not the sons, are the heirs. The following diagram will be of use to clarify the above described process.

15. Adatrechtbundels 1932, pp. 359-415.

DIAGRAM III



Only those marked black are the heirs.

### *The Javanese of Central Java*

The Javanese of Central Java are bilateral and the prominent unit in the community is the nuclear family. Thus the principle of inheritance is mainly the nuclear familial ties. Among the Javanese, usually the property left by a deceased person remains undivided. A Javanese, as is common, tends to give some part of his property to his sons and daughters to help them start a living of their own. If he dies, the residue is inherited by the surviving spouse to sustain her living. The sons and daughters usually do not claim anything, because it is believed to be a sin to quarrel over a deceased person's property. But rarely, as where the widow marries again, the children of the first marriage can claim the property, because their mother will be maintained by her new husband.

In some circumstances, elements of primogeniture and ultimogeniture appear. It is common that sacred property goes to the eldest son, while the house goes to the youngest because it is usually the latter who looks after their mother.

### *E. The Influence of Religious Elements*

The Toba-Batak are mostly Christians, but as Vergouwen said, it is not easy to state with any precision how far the Toba-Batak who has become a Christian has abandoned his traditional religious concepts.<sup>16</sup> The old ideas have never been replaced in a balanced concept-for-concept

16. Vergouwen 1964, p. 102.

manner. So inheritance based on Adat Law is still maintained. But, to a limited extent, it has undergone some changes which can be attributed to the influence of Christianity in an indirect way. For example nowadays, daughters may also get some part of their father's property not by way of inheritance but as a gift. Such gifts can only be drawn from household goods.

The Minangkabau area is one of the most Islamized regions in Indonesia. At the same time it is famous for its strong attachment to its "Adat" (custom), which, it has commonly been assumed, stands opposed to Islamic Law.<sup>17</sup> But in Minangkabau, the concept of conflict in the society is institutionalized within the social system itself. Conflict is seen dialectically as essential to the achieving of the integration of the society. The conflict between Islamic Law and "Adat" is also reflected in the field of inheritance. According to the "Adat", on the death of a father none of his property will pass to his children as it is to stay within his maternal family. On the other hand, Islam stipulates that first priority should be given to one's own children. This problem has been partly solved by the individualizing process created by urbanization. It is generally accepted in theory that the disposal of household goods depends entirely on the owner's will. It is assumed that even where the deceased has left no will, his sister's children or other members of his maternal family have no right to claim such property. The Islamic rule of inheritance which prescribes that the son's part of inheritance is twice the daughter's, is not highly developed in this area.

The Lampung area is greatly influenced by Islam which penetrated the region in the beginning of the nineteenth century. During my research in this area in 1968, I did not find any elements of Islam in inheritance. I only found that the undivided property system is not firmly implemented. There are tendencies indicating a process of individualization. Where sons and daughters (excluding the eldest son) have the right to inherit, this right is limited to household goods. There is no indication as to whether this change is due to influence from Islam.

The Javanese of Central Java are mostly Muslims, but, so far, the Islamic rules of inheritance are rarely adopted. Inheritance based on Adat Law is more common. As was said by ter Haar,<sup>18</sup> the Islamic rules of inheritance conflict with the indigenous Adat relating to inheritance. This conflict is not like the one in Minangkabau. It is not common among the Javanese that a person would follow Islamic rules in certain matters (e.g. marriage) while practising the "Adat" in other matters (e.g. inheritance).

17. See Taufiq Abdullah, "Adat and Islam: An Examination of Conflict in Minangkabau", *Indonesia*, 2 (Oct. 1966), pp. 1-24; Datoek M. Adam, "Agama Islam di Minangkabau" *Pandji Islam*, 22 (June 1941), pp. 9120-9121; J. Prins, *Adat en Islamitische Plichtenleer in Indonesia* (Adat and Islam in Indonesia), 's Gravenhage, W. van Hoeve, 1950.

18. ter Haar 1950, p. 525.

As a concluding remark, it can be observed that the influence of religion on inheritance is slight. Perhaps, with regard to Islam, this is due to the fact that inheritance as stipulated in the Holy Qur'an is very complicated<sup>19</sup> in comparison with inheritance based on "adat" which is rather flexible.

### Part III COMPARATIVE ANALYSIS AND CONCLUSIONS

In order to give a clear overall picture of the inheritance patterns of the above mentioned ethnic groups, I will set them out in separate columns side by side to show their similarities and differences.

	<b>The Toba-Batak</b>	<b>The Minang-kabau</b>	<b>The Lampung Pepadon</b>	<b>The Javanese</b>
System of Inheritance	The individual system	The collective system	The undivided system	The individual system
Principle of Inheritance	Genealogical ties	Genealogical ties	Genealogical ties	Nuclear familial ties
Process of Inheritance				
(a) sequence of heirs	<ol style="list-style-type: none"> <li>1. children or offspring</li> <li>2. parents</li> <li>3. brothers and sisters or their offspring</li> <li>4. grandparents</li> <li>5. uncles/aunts or offspring</li> </ol>	<ol style="list-style-type: none"> <li>1. children or offspring</li> <li>2. parents</li> <li>3. brothers and sisters or their offspring</li> <li>4. grandparents</li> <li>5. uncles/aunts or offspring</li> </ol>	<ol style="list-style-type: none"> <li>1. children or offspring</li> <li>2. parents</li> <li>3. brothers and sisters or their offspring</li> <li>4. grandparents</li> <li>5. uncles/aunts or offspring</li> </ol>	<ol style="list-style-type: none"> <li>1. children or offspring</li> <li>2. parents</li> <li>3. brothers and sisters or their offspring</li> <li>4. grandparents</li> <li>5. uncles/aunts or offspring</li> </ol>
(b) ultimate heirs				
i. if the deceased is a married man leaving children	sons or their male offspring	nieces and nephews of the female line or the offspring of nieces	eldest son or his eldest male offspring	sons and daughters or their offspring
ii. if the deceased is an unmarried man	father	if he has no nieces or nephews property is inherited by his mother	brother	parents

19. For an intensive study on the subject, see Hazairin 1968, p. 37 *et esq.*

iii. if the deceased is a married woman leaving children	husband	children or the offspring of daughters	husband*	husband
iv. if the deceased is an unmarried woman	father (if she is married but childless property passes to her husband)	mother	father†	parents

\* Where the marriage is "semendo" her eldest son has the priority.

† If there is a "semendo marriage", the mother will be the heiress.

It is clear that the four ethnic groups differ from one another mainly with reference to the principles of descent but exhibit close similarities as regards the ranking of heirs. This phenomenon is due to priority being given to particular heirs by excluding others in the sequence. A common element can also be found in their systems of inheritance. That is the collective element. The collective element obtains within the individual system as long as the property remains undivided. To some extent, the undivided property system also contains an element of collectivism, because the eldest son has the duty to take care of his younger brothers and sisters. In other words, among the Lampung Pepadon, all children have the right to use the inherited property kept by their eldest brother. Why is this element common? Because the Indonesian believes that mutual assistance or "gotong-rojong" is essential in life. Since the beginning of the socialization process, the Indonesian is taught to be always helpful to others, and to share bitterness as well as happiness with others. Besides, as has been noted, it is deemed a sin to have disputes over the property of a deceased person.

It seems that the principles of descent determine the corresponding principles of inheritance. The unilineal system brings about the principle of genealogical ties as such a society is founded on minimal lineages or maximal lineages; whereas the bilateral system operates with the basic unit—the nuclear family, thus developing the principle of nuclear familial ties.

### Conclusions

- a). There is no one general rule of inheritance among Indonesian peasants, owing to the existence of different principles of descent.
- b). However, common elements can be found among different ethnic groups such as concerning the ranking sequence of heirs and the collectivist aspect of inheritance.
- c). The impact of Islam in the field of inheritance is relatively slight probably because the Islamic system is too complicated for the modest Indonesian peasant.

- d). The practice relating to inheritance among Indonesian peasants has undergone some changes because of the process of individualization under the influence of urbanisation. The Toba-Batak have now begun to provide for their daughters by giving them gifts. In the Minangkabau area, as may be further observed, attention is paid firstly to one's children, whereas nieces and nephews are taken care of by their own parents; and there is a tendency, particularly among the Minangkabau living in urban areas, to increase the role of the nuclear family in society.

Lastly, it may be noted that the Indonesian Government has attempted to establish a uniform inheritance law. The Provisional People's Deliberative Council's Decree No. II/1960 declares, *inter alia*, that the widow and all children, regardless of their sex, are the heirs of the deceased. However, this rule has so far not been implemented in detail.

SOERJONO SOEKANTO \*

#### BIBLIOGRAPHY

- Adatrechtbundels. (Bundles of Adat Law) No. XXXV, Sumatra, 's Gravenhage, Martinus Nijhoff, 1932.
- Haar Bzn, B. ter, *Adat Law in Indonesia*, translated by E. Adamson Hoebel and A. Arthur Schiller, the Institute of Pacific Relations, 1948.
- Haar Bzn, B. ter, *Verzamelde Geschriften* (Selected Writings), volume II, Noordhoff-Kolff. N.V., Djakarta, 1950.
- Hazairin, *Hukum Kekeluargaan Nasional* (National Family Law), Penerbit Tintamas, Djakarta, 1968.
- Koentjaraningrat, R.M., *A Preliminary Description of the Javanese Kinship System*, Yale University, Southeast Asia Studies, Cultural Report Series, 1957.
- Koentjaraningrat, R.M. (ed.), *Villages in Indonesia*, Cornell University Press, Ithaca New York, first published 1967.
- Koentjaraningrat, R.M., "Beberapa Pokok Antropologi Sosial" (Principles of Social Anthropology), Penerbit Dian Rakjat, Djakarta, 1967.
- Kroeber, A.L., *Anthropology*, Harcourt, Brace & World, Inc., New York and Burlington; new ed., 1948.
- Murdock, G.P., *Social Structure*, The Free Press, New York; Collier Macmillan Limited, London; 1st paperback edition, Free Press, 1965.
- Potter, Jack M., Diaz, May, N., & Foster, George M., (ed.), *Peasant Society, A Reader*, 2nd pt., Little, Brown and Company, Boston, 1967.
- Selo Soemardjan, "The dynamics of community development in rural Central and West Java" (a comparative report), Monograph series, Modern Indonesia Project, Southeast Asia Program, Department of Asian Studies, Cornell University, Ithaca New York, 1963.
- Soerjono Soekanto, "Struktur Sosial Masyarakat Lampung (Pepadon dan Pesisir)", (Social Structure of the Lampung Pepadon and Pesisir), unpublished paper, prepared for the Social Development Committee, National Planning Board, Djakarta, 1967.
- Vergouwen, J.C., "The Social Organization and Customary Law of the Toba Batak of Northern Sumatra", translated by Jeune Scott-Kemball, the Hague - Martinus Nijhoff, 1964.
- Wolf, Eric., *Peasants*, Foundations of Modern Anthropology Series, New Jersey, 1966.

\* LL.M. (U.I.), M.A.(UCB), Lecturer in Adat Law and Sociology, Faculty of Law, University of Indonesia, Deputy Dean, Faculty of Social Sciences, University of Indonesia.