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## The Malay-Chinese Family Inheritance System in East Belitung Regency within the Framework of Legal Pluralism in Indonesia

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### Abstrak

Penelitian ini bertujuan untuk memahami sistem kewarisan keluarga Melayu-Tionghoa di Belitung Timur dalam kerangka pluralisme hukum di Indonesia. Fenomena yang dikaji berfokus pada dinamika interaksi antara hukum adat, hukum agama dan hukum negara dalam praktik pewarisan pada masyarakat multietnis yang hidup berdampingan secara sosial dan kultural. Dengan menggunakan pendekatan kualitatif normatif-empiris, kajian ini menggali dan melihat hukum waris mana yang secara spesifik digunakan pada masyarakat multikultural di Indonesia. Data dikumpulkan melalui wawancara semi terstruktur dan dokumentasi, melibatkan tokoh agama, sesepuh adat, pejabat Kementerian Agama, serta anggota keluarga campuran Melayu-Tionghoa. Hasil penelitian menunjukkan bahwa sistem kewarisan masyarakat Melayu-Tionghoa bersifat hibrid dan fleksibel, dengan pola pembagian yang tidak sepenuhnya mengikuti satu sistem hukum tertentu. Praktik pewarisan didasarkan pada prinsip keadilan distributif berbasis kebutuhan, di mana harmoni keluarga dan musyawarah menjadi dasar legitimasi sosial. Terjadi pula pergeseran peran gender yang menandai perubahan nilai terhadap kesetaraan antara anak laki-laki dan perempuan. Ditemukan bahwa kompromi antara hukum adat, agama dan negara mencerminkan bentuk koeksistensi adaptif pluralisme hukum, di mana kepatuhan sosial lebih ditentukan oleh nilai moral daripada aturan formal.

*Kata Kunci : kewarisan, Melayu-Tionghoa, pluralisme hukum, keadilan distributif, budaya hukum lokal*

### Abstract

This study aims to understand the inheritance system of Malay-Chinese families in East Belitung within the framework of legal pluralism in Indonesia. The phenomenon studied focuses on the dynamics of interaction between customary law, religious law and state law in inheritance practices amongst multi-ethnic communities living side by side socially and culturally. Using a normative-empirical qualitative approach, this study explores and examines which inheritance laws are specifically

used in multicultural communities in Indonesia. Data was collected with, through semi-structured interviews and documentation, involving religious leaders, customary elders, officials from the Ministry of Religious Affairs, and members of mixed Malay-Chinese families. The results show that the inheritance system of the Malay-Chinese community is hybrid and flexible, with a distribution pattern that does not fully adhere to any particular legal system. Inheritance practices are based on the principle of distributive justice based on need, where family harmony and deliberation form the basis of social legitimacy. There has also been a shift in gender roles that marks a change in values towards equality between sons and daughters. It was found that the compromise between customary law, religion and the state reflects a form of adaptive coexistence of legal pluralism, where social compliance is determined more by moral values than by formal rules.

*Keywords: inheritance, Malay-Chinese, legal pluralism, distributive justice, local legal culture*



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## Introduction

The phenomenon of legal pluralism within the context of Indonesia's multi-ethnic society presents a fascinating social and legal issue worthy of in-depth study. Within the framework of a constitutional state that recognises a shared system of values, Indonesia presents complexities in inheritance practices due to the interaction between state law, religious law and customary law.<sup>1</sup> The Malay-Chinese community is one of the ethnocultural groups that demonstrates a tangible form of legal pluralism, particularly in the division of inheritance, which is often influenced by Malay

customary values and Chinese patrilineal traditions.<sup>2</sup> This phenomenon indicates that the plurality of legal systems is not merely normative, but also sociological and cultural.<sup>3</sup>

At the national level, legal pluralism in the field of inheritance often gives rise to tensions between the state's unifying laws and social practices that still adhere to local customs.<sup>4</sup> This is evident in inheritance distribution practices in various regions such as South Kalimantan, where the Malay-Chinese community has developed a hybrid legal culture that combines Islamic principles, Malay customs and Chinese Confucian norms.<sup>5</sup> In the context of East

<sup>1</sup> Article 18B(2) of the 1945 Constitution of the Republic of Indonesia regarding the recognition of the unity of customary law communities.

<sup>2</sup> Adelina Nasution, "Pluralism in Inheritance Law in Indonesia," *Al-Qadha* 5, no. 1 (2019): 20–30, <https://doi.org/10.32505/qadha.v5i1.957>.

<sup>3</sup> Moniquelly B. Silva, "LEGAL CULTURE HYBRIDITY OF THE SOUTH KALIMANTAN MALAY-CHINESE IN THE DIVISION OF INHERITANCE," *AL-BANJARI*

1, no. 9 (2016): 1–10, <https://doi.org/10.1017/CBO9781107415324.004>.

<sup>4</sup> Li Xiaojia et al., *A COMPARATIVE STUDY OF LEGAL SYSTEMS (The Winding Path of National and Global Legal Harmonisation)*, *Lex Localis - Journal of Local Self Government*, vol. 23, 2025, <https://doi.org/10.52152/801841>.

<sup>5</sup> Silva, "LEGAL CULTURE HYBRIDITY OF THE SOUTH KALIMANTAN MALAY-CHINESE IN THE DIVISION OF INHERITANCE."

Belitung, this dynamic is particularly intriguing as the local community lives within a socially pluralistic network in terms of religion and ethnicity, yet maintains a collective identity through kinship systems and family inheritance.

From a socio-cultural perspective, inheritance practices amongst the Malay-Chinese community not only reflect the distribution of economic assets, but also demonstrate that Malay-Chinese families have a unique inheritance system, in which women play a symbolic role in maintaining family harmony, even though their economic rights are often inferior to those of men.<sup>6</sup> This situation highlights a shift in social roles and a transformation of values amidst the growing influence of modernisation and the globalisation of the law.<sup>7</sup>

However, previous research has been limited to macro-level studies of Chinese-Malay relations within a national context, whilst micro-level studies focusing on inheritance practices at the local community level remain scarce.<sup>8</sup> For

instance, the research by Atmaja et al. emphasises the dynamics of socio-ethnic interaction without discussing in detail how inheritance mechanisms are implemented within cross-cultural families.<sup>9</sup> This gap highlights the importance of exploring the meanings and subjective experiences of local communities in practising their inheritance laws.<sup>10</sup>

This study employs a qualitative approach of a normative-empirical nature and combines *field research* with *library research*.<sup>11</sup> The research location was set in East Belitung Regency, specifically in the sub-districts of Damar, Manggar and Gantung, which are known as areas with intensive interaction between the Malay and Chinese communities.<sup>12</sup> Data collection was carried out using two main methods: semi-structured interviews and documentation. Data analysis was conducted following the interactive stages outlined by Miles & Huberman, namely data reduction, data presentation, and drawing conclusions/verification.<sup>13</sup>

<sup>6</sup> YAN FANG WANG et al., "Focusing on Filial Piety: A Scoping Review Study From Cultural Differences To Educational Practices," *Quantum Journal of Social Sciences and Humanities* 6, no. 3 (2025): 374–85, <https://doi.org/10.55197/qjssh.v6i3.561>.

<sup>7</sup> Wiwin et al., "Contextualisation of the Constitutional Court's Decision on Women's Inheritance Rights in Customary and Islamic Marriages," *JULLA: Jurnal Litigasi Amsir*, 2025, 9–18.

<sup>8</sup> Richmond Stroupe and Lilie Roosman, *ENGAGING INDONESIA: Critical Dialogues on Culture and Society Applied Linguistics in the Indonesian Context Society, Culture and Language* (Depok: Yayasan Pustaka Obor Indonesia, 2025), [https://books.google.co.id/books?id=yJXnDQA-AQBAJ&redir\\_esc=y](https://books.google.co.id/books?id=yJXnDQA-AQBAJ&redir_esc=y).

<sup>9</sup> Ni Komang Ariani, Sri Nitta Crissiana Wirya Atmaja, and Sri Putri Winingrum W A, "Stories of Childhood and Adolescence: An Ethnographic Study of Indonesian-Chinese People," *Jurnal Onoma: Pendidikan, Bahasa, Dan Sastra* 9, no. 1 (2023): 238–47, <https://doi.org/10.30605/onoma.v9i1.2231>.

<sup>10</sup> Research on the Malay-Chinese community is generally trapped in the dichotomy of

ethnic conflict or cultural assimilation. To date, aspects of private law—particularly inheritance mechanisms that syncretically combine Islamic and Confucian norms—have not received in-depth discussion in contemporary legal sociology literature.

<sup>11</sup> Debora Endang Rahayuningsih et al., "Constructing Sustainable Justice in Indonesia: Judges' Legal Considerations in Grant and Inheritance Disputes," *Architecture Image Studies* 6, no. 3 (2025): 470–77, <https://doi.org/10.62754/ais.v6i3.236>.

<sup>12</sup> A purposive selection of locations was carried out to ensure that the phenomena under study (inheritance distribution practices, the role of women in customary law, and the interaction between national and customary law) were genuinely observed within a real social context, rather than being based solely on normative or documentary data.

<sup>13</sup> Qomaruddin and Halimah Sa'diyah, "A Theoretical Study on Data Analysis Techniques in Qualitative Research: The Perspectives of Spradley, Miles and Huberman," *Journal of Management, Accounting and Administration* 1, no. 2 (2024): 77–84.

This study aims to understand how the Malay-Chinese family inheritance system in East Belitung is formed, negotiated and implemented within the context of Indonesia's legal pluralism.<sup>14</sup> The focus of the study is directed at the process of adapting Malay customary values—which are oriented towards the principles of *Faraidh* and Chinese ethics—to state legal provisions, as well as how negotiations among family members reflect the plurality of value systems in everyday legal practice. Using a qualitative approach, this research will explore the narratives, experiences and social symbols that shape inheritance patterns within Malay-Chinese families.

<sup>15</sup> <sup>16</sup>

## Discussion

### General Findings and Patterns of Inheritance Practice

The research findings indicate that the inheritance system of the Malay-Chinese community in East Belitung reflects a form of legal hybridisation, namely a process in which customary norms, religious values and state law interact and adapt to one another without

negating each other.<sup>17</sup> Based on field interviews, it was found that inheritance distribution practices do not follow a specific legal system, but are instead grounded in family values and moral consensus. According to informant Bambang, a Buddhist religious figure and administrator of the Kasih Maitraya Vihara in Damar Sub-district, the main principle in Chinese customary inheritance is “*equal distribution in meaning, not in numbers*”, whereby each child receives a share according to their respective responsibilities and needs.<sup>18</sup> This principle demonstrates that justice, in a local context, is understood as a balance of benefits, rather than arithmetic equality as in positive law.<sup>19</sup>

These findings indicate a shift from a formalistic paradigm towards a cultural-harmonious paradigm, in which the legitimacy of the law is determined more by social acceptance than by normative legality.<sup>20</sup> These results are consistent with Griffiths' (1986) view of *'living law'*, that is, that the law which is alive within a community is often recognised as having greater authority than the written laws of the state.<sup>21</sup> In the context of the Malay-

<sup>14</sup> Ilhamsyah Zufikar, “Integration of Legal Systems in a Multicultural State: A Literature Review on Customary Law, Islamic Law, and State Law in Indonesia” *JurisSpectrum: Journal of Law & Society* 1, no. 2 (2025): 69–74.

<sup>15</sup> Novita Dewi Masyithoh, “THE DIALECTIC OF LEGAL PLURALISM: Efforts to Resolve the Threats Posed by Diversity and Religious Pluralism in Indonesia,” *Walisongo: Journal of Religious Social Research* 24, no. 2 (2016): 359, <https://doi.org/10.21580/ws.24.2.1289>.

<sup>16</sup> This is in line with the mandate of Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognises and respects customary law communities and their traditional rights as long as they remain in existence and are in accordance with the principles of the Unitary State of the Republic of Indonesia.

<sup>17</sup> The term ‘legal hybridisation’ in this context refers to Marc Galanter’s concept of *legal pluralism*, wherein various legal systems interpenetrate and form distinctive new patterns at the local level.

<sup>18</sup> Interview with Bambang (Buddhist religious leader/administrator of the Kasih Meitraya Vihara), in Damar Sub-district, East Belitung Regency, on 13 November 2025, at 9.00 pm WIB.

<sup>19</sup> Compare this with the principles of Western inheritance law in the Civil Code (*Burgerlijk Wetboek*) Article 852, which emphasises equal numerical division based on the degree of kinship without considering the subjective needs of the heirs.

<sup>20</sup> Daryoko and Elza Qorina Pangestika, “The Role of Responsive and Progressive Law in Addressing Legal Issues from a Sociological Perspective,” *Widya Pranata Hukum: Journal of Legal Studies and Research* 6, no. 2 (2024): 190–202, <https://jurnal.ugm.ac.id/jmh/article/view/15905>.

<sup>21</sup> John Griffiths, “What is Legal Pluralism?,” *Journal of Legal Pluralism and Unofficial Law*, Vol. 18, No. 24 (1986), pp. 1–55. For a contemporary review of the application of this theory in transitional societies, see also Geoffrey Swenson, “Legal Pluralism in Theory and Practice,”

Chinese community, customary norms and family ethics function as instruments of social mediation that maintain the stability of relationships between family members.

The principle of “consultation and sincerity”, which forms the foundation of the inheritance process, demonstrates that this system serves an integrative social function.<sup>22</sup> Rather than being a source of dispute, the process of dividing an inheritance actually serves as a means of strengthening family ties. As expressed by community leader Anwari from the Ministry of Religious Affairs in East Belitung, “if all heirs are willing and sincere about the distribution, even if Islamic law is not applied, it is perfectly acceptable; the important thing is that it does not cause conflict.”<sup>23</sup> This perspective highlights the flexibility of local customary law, which allows for the coexistence of sharia principles, adat (customary law) and norms within a framework of adaptive legal pluralism—a concept often referred to in Islam as Takharuj.<sup>24</sup>

### Shifts in Gender Values and the Principle of Distributive Justice

Field findings indicate a significant shift in gender relations within the Chinese community of East Belitung. Whereas in the past the inheritance system placed sons as the primary heirs due to patriarchal roles, it has now moved towards equality of rights between sons and daughters. A community elder, *Ayi*, stated that “whereas in the past sons received a larger share of the inheritance, now daughters also receive a share, though this is still adjusted according to circumstances.”<sup>25</sup> This pattern illustrates the application of distributive justice based on equity rather than equality.<sup>26</sup>

These changes stem from two main factors. Firstly, the rising levels of education and economic participation among Chinese women, which have made them active participants in the management of families and businesses.<sup>27</sup> Secondly, shifts in social values resulting from modernisation and the influence of national legislation promoting the principle of gender equality. These findings are consistent with the research by Mustakim et al., which found that shifts in inheritance systems within traditional Indonesian societies tend to follow a logic of participation and economic equality.<sup>28</sup>

*International Studies Review*, Vol. 20, No. 3 (2018), pp. 438–462.

<sup>22</sup> Dicky Eko Prasetyo, Adam Ilyas, and Felix Ferdin Bakker, “Building Morality and Law as an Integrative Mechanism in Society from a Progressive Law Perspective,” *Mimbar Keadilan* 14, no. 2 (2021): 128–38, <https://doi.org/10.30996/mk.v14i2.4694>.

<sup>23</sup> Interview with Anwari (a Muslim Malay traditional leader/Head of the Religious Affairs Office of the Ministry of Religious Affairs for East Belitung, Manggar, on 13 November 2025, at 11.00 WIB.

<sup>24</sup> Muhammad Adib Alfarisi Adib Fadhil Fadani, “The Harmonisation of Customary, State, and Islamic Law in the Practice of Dayak-Muslim Senganan Customary Inheritance in Sintang, Indonesia,” *L-Mazaahib Journal: Comparative Law* 12, no. 2 (2024), <https://doi.org/10.14421/al-mazaahib.v12i2.3657>.

<sup>25</sup> Interview with *Ayi* (Elder of the Chinese Community), in Gantung Sub-district, East Belitung Regency, on 17 November 2025, at 17:30 WIB.

<sup>26</sup> The Embodiment of Pancasila et al., “The Application of the Principle of Justice as Fairness According to John Rawls in Indonesia as an Embodiment of Pancasila,” *Das Sollen: Journal of Contemporary Studies in Law and Society* (2023), no. 2023 (2024): 1–13, <https://doi.org/10.11111/dassollen.xxxxxxx>.

<sup>27</sup> Aldinto Irsyad Fadhlurahman, “Muslim Heirs in Non-Muslim Families in Indonesia from an Islamic Law Perspective,” *JURNAL SYARIAH & HUKUM* 32, no. 3 (2021): 167–86, <https://doi.org/https://doi.org/10.20885/mawari.d.vol1.iss2.art3>.

<sup>28</sup> Mustakim Mustakim et al., “Inheritance of Work Culture as Informal Education: A Qualitative Study of the Woodworking Community

However, the justice to which the community refers is not mathematical equality but moral justice, namely the granting of rights based on a child's responsibilities and contributions to the family. This narrative is clearly evident in the views of *Tony*, also known as *Thiuk Tet Khong*, a Chinese businessman married to a Malay woman, who stated that “an inheritance is not merely money or land, but a means of supporting a child's future in accordance with their individual potential.”<sup>29</sup> These findings indicate that the concept of distributive justice within the Malay-Chinese community is relational; they view inheritance as a social mechanism to maintain balance among family members, rather than an instrument for fulfilling individual rights.<sup>30</sup>

### Legal Negotiation in Mixed Families

In mixed families comprising Malay and Chinese members, a process of cross-system legal negotiation has been observed between Chinese customary law, Islamic law and state law (the Civil Code).<sup>31</sup> Interview results indicate that the choice of legal system for the distribution of inheritance depends on the head of the family's religion, their level of education, and social relations within the family. Informant *Arman*, also known as *Chong Kwi*

*Kiong*, a convert of Chinese descent, emphasised, “We follow Islam, but we haven't abandoned our customs. Everything is divided by mutual agreement, so there's no fighting over it.”<sup>32</sup>

These findings reveal a pattern of *legal compromise* that is characteristic of multicultural societies. In the context of legal pluralism, formal systems such as the Compilation of Islamic Law or the Civil Code serve merely as symbolic references; actual decisions are still determined by the Malay-Chinese community in Indonesia, which tends to develop a hybrid legal culture that does not reject state law but adapts it to the local social context and customary values.<sup>33</sup>

Furthermore, the practice of needs-based distribution is also evident in the family of *Ferly Bong*, also known as *Bong Kim Hau*, who emphasised that “the children will see for themselves who is in greater need; they can sort it out themselves with a sense of responsibility.”<sup>34</sup> This model demonstrates that moral obligations supplant the role of written law, and decisions regarding distribution are driven by collective consciousness rather than external authority.<sup>35</sup> Thus, law in the Malay-Chinese community does not exist in a normative form, but rather as a continuously negotiated social process.<sup>36</sup>

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of West Java, Indonesia Mustakim,” *JPPM (Journal of Education and Community Empowerment)* 12, no. 2 (2025): 158–74.

<sup>29</sup> Interview with Tony alias Thiuk Tet Khong (Head of a mixed family), in Gantung Sub-district, East Belitung Regency, on 25 December 2025, at 23:00 WIB.

<sup>30</sup> Rahayuningsih et al., “Constructing Sustainable Justice in Indonesia: Judges' Legal Considerations in Grant and Inheritance Disputes.”

<sup>31</sup> Katherine Becerra Valdivia, “Legal Pluralism, Interlegality and the Principle of Interculturalism in Latin America: Developing the Concept of Intercultural/Legalities,” *Law and Critique* 36, no. 3 (2025): 483–501, <https://doi.org/10.1007/s10978-025-09418-8>.

<sup>32</sup> Interview with Arman, also known as Chong Kwi Khiong (head of a mixed-ethnicity

household), in Manggar Sub-district, East Belitung Regency, on 1 December 2025, at 7:00 pm.

<sup>33</sup> Achmad Hariri and Basuki Babussalam, “Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia,” *Walisongo Law Review (Walrev)* 6, no. 2 (2024): 146–70, <https://doi.org/10.21580/walrev.2024.6.2.25566>.

<sup>34</sup> Interview with Ferly Bong (Bong Kim Hau), an ethnic Chinese resident, in Manggar Sub-district, East Belitung Regency, on 23 November 2025.

<sup>35</sup> Ma'rifatullah Maulana Ibrahim, Anggara Kusuma, “The Role of Customary Law in the Resolution of Land Disputes in the Village of Sesela,” *Legal Note* 64, no. 763 (1939): 737, <https://doi.org/10.1039/AN9396400737>.

<sup>36</sup> Firdaus Arifin et al., “Recognition of Customary Norms Within the Framework of Indonesian Legal Positivism,” *Khazanah Hukum* 7,

### Rules of the Game within a Single Legal Framework

Within the context of the Malay-Chinese community in East Belitung, inheritance practices do not take place in a normative vacuum, but operate within a plural legal framework that is socially recognised and implemented.<sup>37</sup> Although the Indonesian legal system formally recognises a distinction between customary law, religious law and state law, local communities treat all three as complementary rules within a single social order.<sup>38</sup> This means that there is no strict dichotomy between ‘state law’ and ‘community law’, but rather a process of functional integration that allows for flexibility in the application of norms in accordance with social needs.<sup>39</sup>

The results of field interviews indicate that the Malay-Chinese community operates an inheritance distribution mechanism based on the principle of ‘living and felt justice’.<sup>40</sup> The inheritance process begins with family deliberation, in which customary norms serve as the primary moral reference. Religious law (Islam for converts and Buddhist-Confucian ethical principles for non-Muslims) serves as spiritual

legitimation, whilst state law is used as an administrative mechanism to formalise the outcome of the agreement in the form of a deed or will.<sup>41</sup> This pattern demonstrates that law is not understood hierarchically, but rather as a network of norms and options operating simultaneously within the social sphere of the community.<sup>42</sup>

The principle of social harmony lies at the heart of this rule. In practice, decisions regarding the division of an estate rarely involve litigation in court.<sup>43</sup> Conflicts are resolved through moral negotiation under the guidance of religious leaders or traditional elders. As explained by Anwari, S.Ag, from the Religious Affairs Office of the Ministry of Religious Affairs in East Belitung, “if all heirs agree, then any law may be applied, provided it does not cause division.”<sup>44</sup> Thus, the legality of the outcome of an agreement is not measured by compliance with a specific legal system, but by the level of social acceptance and family harmony it produces.<sup>45</sup>

This phenomenon illustrates a model of coherence based on a plurality of values. In this model, society does not reject the existence of state law, but positions it as the final layer that serves to ensure formal certainty regarding the outcome of

no. 1 (2025): 92–104, <https://doi.org/10.15575/kh.v7i1.39409>.

<sup>37</sup> Franz von Benda-Beckmann and Keebet von Benda-Beckmann, “Legal Pluralism and Legal Anthropology: Experiences from Indonesia,” 2017, <https://doi.org/10.1355/9789814762724-007>.

<sup>38</sup> Zulfikar, “Integration of Legal Systems in a Multicultural State: A Literature Review on Customary Law, Islamic Law, and State Law in Indonesia.”

<sup>39</sup> Rolib Sitorus, “Challenges and Hopes for the Formation of a National Legal System,” *ABDISOSHUM: Journal of Community Service in the Social Sciences and Humanities* 4, no. 2 (2025): 167–81, <https://doi.org/10.55123/abdisoshum.v4i2.5158>.

<sup>40</sup> Adriaan Bedner, “The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia,” *Asian Journal of Law and Society* 12, no. 1 (2025): 18, <https://doi.org/10.1080/00472336.2024.2440855>.

<sup>41</sup> Aldinto Irsyad Fadhlurahman, “Muslim Heirs in Non-Muslim Families in Indonesia from an Islamic Law Perspective.”

<sup>42</sup> Jaime Ubilla, “Legal Forms and Reflexive Legal Forms: A New Approach to Reflexive Law,” explains that legal systems interact in a circular and non-linear manner with their social environment, *Soziale Systeme* 29, no. 1–2 (2024): 268–310, <https://doi.org/10.1515/sosys-2024-0011>.

<sup>43</sup> Helena Whalen-Bridge, “Understanding and Comparing Access to Justice,” *The Role of Lawyers in Access to Justice*, 2022, 1–16, <https://doi.org/10.1017/9781009042253.003>.

<sup>44</sup> Anwari interview, East Belitung, 13 November 2025

<sup>45</sup> Ahmad Auri Aji Zarianto and Nadhira Wahyu Adityarani, “The Existence of Legal Sociology in Indonesian Society (A Literature Review of Eugen Ehrlich’s Theory of Living Law),” *Journal of Legal Research* 2, no. 2 (2025): 3030–9506, <https://jurnal.bisakonsul.com/index.php/juridische>.

deliberation. Thus, formal law functions merely as an administrative support for social legitimacy that has already been established. This concept aligns with the theory of *interlegalism*, which emphasises that legal practice in a pluralistic society does not operate in isolation, but rather through the interplay and negotiation between intertwined legal systems.

Within the national legal framework, the existence of such a system actually demonstrates a concrete implementation of the principle of recognition of customary law as stipulated in Article 18 of the 1945 Constitution and Law No. 12 of 2011 on the Formation of Legislation.<sup>46</sup> This means that legal pluralism at the local level is not a deviation, but rather the embodiment of the principle of legal diversity in Indonesia. In the context of Malay-Chinese inheritance, the rules of the game developed by the local community represent a form of *‘living law’*, that is, law that adapts to the cultural context, moral values, and actual needs for justice.<sup>47</sup>

Thus, *the “rules of the game within a single legal framework”* in the Malay-Chinese community of East Belitung demonstrate a collective awareness that substantive justice is more important than procedural justice. The community operates a pluralistic legal system within a unified set of social values that ensures cohesion, harmony and the sustainability of relationships between family members.

Law is no longer viewed as an external authority, but rather as a moral instrument that grows from local values and is universally accepted in their lives.

### Practices of Harmony and Dispute Resolution

Another notable aspect of this study is the importance of *the ‘ethics of harmony’* in the resolution of inheritance disputes. Community leaders act more as moral mediators than as judges who pass judgement. Religious figures such as *Bambang* explain that their role is *“to act as mediators so that the parties concerned can resolve inheritance issues based on kinship and brotherhood.”*<sup>48</sup> This mechanism not only prevents conflict but also strengthens social cohesion between ethnic and religious groups.<sup>49</sup>

In the context of legal pluralism, this form of dispute resolution represents a practice of *legal pluralism with cultural legitimacy*, whereby customary resolutions are considered valid provided they are socially recognised and satisfy the community’s sense of justice. This finding is consistent with Santos’s (2002) theory of *interlegality*, which emphasises that in a plural society, legal systems never exist in isolation, but rather interpenetrate and influence one another in social practice.<sup>50</sup>

Furthermore, legal documents such as wills or notarial deeds are only used when potential conflicts arise, as *Ayi*

<sup>46</sup> Article 18B(2) of the 1945 Constitution of the Republic of Indonesia; see also Law No. 12 of 2011 on the Formation of Legislation, State Gazette of the Republic of Indonesia 2011 No. 82, in particular Article 6(1)(i) which affirms recognition of customary law communities and the living law values within society.

<sup>47</sup> Theresia N A Narwadan, “The Existence of Customary Law as a Living Law within Indonesia’s Legal System: A Legal Pluralism Analysis” 28—38. Compare with R. Simarmata, A.W. Bedner & J.A.C. Vel, ‘Pluralism in Indonesian Customary Law: Dynamics of Adaptation and Legal Identity’, *Indonesia Journal of Socio-Legal Studies*, Vol. 9 No. 1 (2025)

<sup>48</sup> Bambang, interview, East Belitung, 13 November 2025

<sup>49</sup> Dyto Arisjulyanto, “The Role of Customary Law in Maintaining Social Harmony in Indonesian Village Communities,” *Journal of Social and Education Research* 02, no. February (2024): 14–20. Compare with Rahmatullah, I. Subekti, & Y. Prasetyo, “Local Wisdom and Ethical Mediation in Customary Justice Systems of Southeast Asia,” *Asian Journal of Law and Society*, Vol. 11 No 2 (2024)

<sup>50</sup> Anggi Purnama Harahap et al., “Legal Pluralism and Customary Justice in Indonesia: Reconstructing Adat Law under State Legal Dominance,” *Littera Legis: Journal of Law, Society, and Justice* 1, no. 1 (2025): 1–16.

explained: “Only when there’s a problem do we go to a notary, so there’s no squabbling.”<sup>51</sup> This phenomenon reveals a hierarchy of preferences in legal practice: social consensus takes precedence over formal legality, and written law is used as a last resort for protection, rather than as the primary guideline.

### Conceptual Discussion: Legal Pluralism as a Social Process

Conceptually, the findings of this study reinforce the idea that legal pluralism in Indonesia is dynamic, relational and rooted in community morality. Within the Malay-Chinese community, pluralism is not merely the coexistence of three legal systems (customary, religious and state), but a process of social negotiation in which individuals and families select the principles of justice that best align with their values. Thus, law functions as a tool for social adaptation, rather than as a *top-down* coercive system.<sup>52</sup>

This inversion expands upon the perspective of *legal pluralism* put forward by Griffiths (1986) and contextualised by Suryadinata (2022), who states that Chinese communities in Southeast Asia tend to adopt legal norms selectively based on social needs.<sup>53</sup> In the context of East Belitung, legal pluralism operates through three mechanisms: (1) value negotiation, namely the adaptation between customary norms and formal law; (2) the social practice of deliberation, which serves as a

means of consensus-based dispute resolution; (3) distributive ethics, which prioritises family welfare over individual rights.

In theory, the findings of this study enrich empirical legal research in Indonesia by affirming that legal pluralism can be viewed not merely as a system of parallel legal frameworks, but as an interplay of values and norms that mutually shape the reality of social law. In practice, these findings offer a new paradigm for resolving inheritance disputes within multi-ethnic communities, namely through a mediation approach rooted in local wisdom that emphasises dialogue, empathy and sincerity.

From a theoretical perspective, this study affirms that legal pluralism must be understood as a dynamic cultural phenomenon, rather than merely a normative system. In practice, legal justice is determined not only by written regulations, but also by social legitimacy built through cultural and spiritual values. Meanwhile, in practical terms, the findings of this research can serve as a reference for judicial institutions and policymakers in designing more contextually appropriate mechanisms for customary mediation and mixed-family cases. Such an approach has the potential to strengthen public confidence in the national legal system through recognition of the living law within society.<sup>54</sup>

### Conclusion

<sup>51</sup> Ayi, interview, East Belitung, 17 November 2025

<sup>52</sup> Marco Goldoni, “The Politics of Global Legal Pluralism,” *SSRN Electronic Journal*, 2014, <https://doi.org/10.2139/ssrn.2448313>. the perspective of Paul Schiff Berman, who views pluralism as a space for managing diverse identities and values within society through a dialogical process rather than coercion. See Paul Schiff Berman, *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders*, (Cambridge University Press, 2012).

<sup>53</sup> Leo Suryadinata, “The Chinese Weaving Indonesian Identity,” ed. Didi Kwartanada (Surabaya: Ciputra University, 2022), 63–80.

<sup>54</sup> This paradigm supports the strengthening of Non-Litigation Dispute Resolution (NLDR) mechanisms that are more sensitive to cultural diversity. As explained in Didik Sukriono et al., “Local Wisdom as Legal Dispute Settlement: How Indonesia’s Communities Acknowledge Alternative Dispute Resolution?,” *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (2025): 261–85, <https://doi.org/10.22219/ljih.v33i1.39958>. Mediation that integrates local values tends to be better able to maintain social cohesion compared to court rulings that are *win-lose* in nature.

This study confirms that the Malay-Chinese family inheritance system in East Belitung is a tangible manifestation of the legal pluralism that exists in Indonesia, where inheritance distribution practices are not based on a single legal system, but rather result from an adaptive synthesis of customary, religious and state law through family deliberation and a sense of justice grounded in need and contribution. Theoretically, these findings expand our understanding of legal pluralism as an interactive and dynamic phenomenon, whilst enriching the concept of legal-cultural hybridity by demonstrating that inter-system integration occurs naturally within everyday social practices. In practical terms, this research has significant implications for the development of inheritance policies that are more inclusive of local wisdom, including the use of customary-based mediation to maintain social harmony, and serves as a guide for multicultural families in managing inheritance fairly and peacefully. Thus, this study affirms that inheritance justice is not determined solely by formal legal norms, but by moral values, humanity, and local wisdom that continue to thrive and evolve within Indonesia's pluralistic society.

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## INTERVIEW

- Interview with Arman alias Chong Kwi Khiong ( Head of a mixed), in Manggar Manggar, Belitung , on 1 December 2025, at 7.00 pm.
- Interview with Bambang (Religious Buddhist / Vihara Kasih Meitraya), in the Damar, Regency East Belitung, on 13 November 2025, at 21.00 WIB.
- Interview with Anwari (Malay Traditional Malay of the / Head of Religious of the Ministry of Religious Affairs for East Belitung , Manggar, on 13 November 2025, at 11.00 WIB.

Interview with Ayi (Elder Chinese), in Gantung Sub-district, East Belitung, on 17 November 2025, at 5.30 pm.

Interview with Ferly Bong (Bong Kim Hau), a resident of Chinese descent, in the sub-district Manggar, East Belitung Regency, on 23 November 2025.

Interview with Tony, alias Thiuk Tet Khong (Head of the mixed), in Gantung Gantung, Belitung, on 25 December 2025, at 11.00 pm