Sanak Value in Women’s Land Inheritance Rights: Case Study on Women Inheritance Land Rights in Karangpakuan, Sumedang, West Java

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Cover Page Footnote
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Sanak Value in Women’s Land Inheritance Rights: Case Study on Women Inheritance Land Rights in Karangpakuan, Sumedang, West Java

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Abstract

Karangpakuan Village is one of the villages in Sumedang, West Java, which territory was broken up into multiple parts by the government, as part of its land was submerged in the framework of the creation of the Jatigede Reservoir. Karangpakuan Village is one of the traditional Sunda Priangan villages, in which traditional customary inheritance norms based on bilateral kinship values are still practiced – despite the Islamic background of the community. These bilateral kinship values influence inheritance practices as these are not based on gender, but divided equally while considering other criteria, such as the number of children in the family and the role someone plays in the family. Using a qualitative-ethnographic research method, this article discusses the relationship between bilateral kinship values and customary inheritance practices in Karangpakuan Village. In addition, this article touches upon the issue of how parents reproduce bilateral kinship norms within a Muslim context.

Keywords: inherited land, women, sanak, Karangpakuan.

Abstrak


Kata kunci: tanah warisan, perempuan, sanak, Karangpakuan.
I. Introduction

Karangpakuan Village is one of the villages in Sumedang which has experienced village expansion. At first, Karangpakuan Village was one of the villages belonging to the Cipaku village which is now submerged to form a reservoir. The village, which being halved by the country highway, contains a population of around 4,928 people consisting of men with a total of 2,506 people and 2,422 people with heads of families in this village totaling 1752 people. Karangpakuan village is also one of the Sunda Priangan villages that still follow the rules of sanak. Sanak can be translated as the Sundanese cultural value in which relatives are central. Sanak is an important part for inheritance in Sunda Priangan, as sanak in inheritance seeing children as equals, which give both children, no matter whether they are a boy or a girl, the same status in the family. Which also means they get the same inheritance, depending on their parents’ bequest.

Sanak is different between villages. In certain villages, children-in-laws can also be counted, but in Karangpakuan, children-in-laws can’t. But there are few families where the daughters giving up their land ownership for their husbands, due to the husbands are the head of the family.

According to the Law Number 5 of 1960, both customary, collective, and state lands are lands that can only be accessed by people with certain interests or agreements, which in Indonesia the origin of land rights is derived from the two major sources, which the land that being granted by the state and through acquisition of customary land. According to Ribot and Peluso (2003: 156) access is about all possible ways that a person can benefit from various things from a property, in this case land. Access to property generally gives rise to socially recognized and supported claim or right—whether that recognition is based on law, custom, or convention. Right-holders enjoy a certain type and degree of social power when accessing them. There are various forms of access to land, some of which are access to capital (managing), access to labor and employment opportunities, access to authority and access to social identity (2003: 161-171).

In gender and property, Agarwal says that the relationship between gender and property subordination is sought not only in the distribution of property between households, but also in the distribution between men and women, not only in who owns property but also who controls it, and in relations not only to private property but also to communal property (1995: 12). In other words, both the form that a property takes, and its origin are important in determining its
significance and the possible conflicts there may be associated with it. In terms of the relationship between a woman's property rights and the control her relatives may exercise over her sexual and marital choices.

In Ajayi and Olotuah (2005), it is estimated that there are three forms of restrictions on access, including: (1) restricted access from patrilineal families, (2) restricted access from matrilineal families, (3) restricted access to widows (who abandoned by her husband). Restricting access from the family in a patrilineal manner in question is restricting access to children who are not of the male sex and these children get their wealth from their father's side. The same as patrilineal restraint, but matrilineal restraint is carried out if the daughter cannot give birth to a child or cannot become a "good wife" (what the authors call trophy wife). The last restraint is the restraint on a wife whose husband has died by her husband's family.

One of the papers that the author uses to compare the author's findings is what was written and researched by Mugniesyah and Mizuno (2007) in Kemang village, Cianjur. They also examine the value of gender equality and equity in land allocation using evidence of access to land capital among farming households in highland villages in West Java belonging to the Sundanese people with a bilateral sanak system.

In other writings, such as Tickamyer and Kusujiarti (2012) say that the problems in the status of women in rural Java have long been carried out by the clergy. On the one hand, women are seen as having substantial access to and control over resources within the household and wider community, compared to women from other Asian or Islamic societies. At the same time, while women can control household finances and own and manage property in their own name, this power is limited by a hegemonic gender ideology that limits women's autonomy and mobilizes the female workforce for political purposes. So, in essence, women are still constrained and cannot freely regulate and access what is their right.

Rao (2011) also presents the issue of access from an Asian perspective. The issue raised is how to access land capital and other assets which are generally given to the head of the household. Women, socially constructed as dependent wives and mothers, are expected to obey, and serve men and families throughout their life cycle, and if they fulfill these roles, their rights are protected. Divorced and separated women are the most vulnerable, due to a lack of protection and supervision by men, they are seen as deviant and denied their rights.

From the studies above, it has explained how culture influences women's access rights to land, especially in Mugniesyah and Mizuno which explains more deeply about how the division
of family land according to custom and religion (considering that the Sundanese use bilateral lineage and most adhere to Islam’s inheritance law). The writer’s thoughts after reading these articles are that they trying to see that social problems of women's rights in land inheritance and how the said problems prohibit women from gaining access forms of access to inherited land. And the writer wants to see, since most of these readings seeing external problems, if there’s same issues or problems to access their land in bilateral society.

In this paper, the author looks more closely at sanak values which are the "basic principles" which are currently being eroded and how it impacts on the customary inheritance of sanak value. Also, the author focuses on land—which on the previous page—is defined as individual or collective land, because in Karangpakuan it is privately owned by the each of the villagers, and the villagers who are influenced by the sanak value. But due to, some of the land had been sold to the government to form a reservoir, some of the lands are counted also as a state land, but not as much as the villager’s lands.

This paper is divided into 2 parts. The first part will discuss the general description of Karangpakuan village and look at the depiction of women in Karangpakuan. The second part will be divided into 2 sub-sections. First part will discuss bilateral and land inheritance conditions in Karangpakuan. Second part will focus on family values and social problems due to the erosion of sanak values and how it’s being seen in the eyes of the law and socio-legal studies. After that, it will be filled with final conclusions from the results of research conducted.

The analysis of this research was carried out using a qualitative-ethnographic method, namely by observing women's involvement in activities in Karangpakuan and observing inherited land both with possessions (shops and houses) as well as those used for farming. The author also conducted in-depth interviews with village land officials, village general staff and village elders, several women who own land and can access and manage land.

The author does research 7 out of 10 days when she is there. Almost every day the author makes observations, not interviews, especially observations at Mr. S's house/shop – one of the residents displaced by the dam, with his daughter who is already married but still spends time with him and his wife, Mrs. T. The author spent 2 of the 7 while chatting with residents who are members of the Women Farmers Group (KWT), especially Mrs. K, one of the top officials from KWT who participated in planting to complete the Research and Development Agency (BPP) program.
The author also spent 2 out of 7 crossing the village by boat to see some women farmers planting because at the time of research, the water in the reservoir was drying up. 1-3 days out of 10, the writer was interrupted when there were 3 weddings with 2 circumcisions taking place in the village, because it was August and it was a big Muslim holiday, so some of the author's informants could not meet in person because they are joined as a family who is holding a celebration or is helping with an event.

II. Karangpakuan (and) Women as Landscape

Karangpakuan Village is one of the villages in Sumedang which has experienced village expansion. At first, Karangpakuan Village was one of the villages belonging to the Cipaku village which is now submerged to form a reservoir. Around the 1980s, the government bought around 80% of the land in Cipaku village and many residents were relocated to the vicinity of Cipaku village, which now called Karangpakuan village. After that, the process began and around the 2010s it become a part of the Jatigede Reservoir.

The village, which being halved by the country highway, contains a population of around 4,928 people consisting of men with a total of 2,506 people and 2,422 people with heads of families in this village totaling 1752 people. Karangpakuan Village has 2 hamlets namely Ancol hamlet (dusun) and Karanganyar hamlet, with 4 RWs and 25 RTs. They own 10 blocks of land where blocks 2 and 3 have been submerged and have become the Jatigede Reservoir or what known as Cipaku village (Picture 1).

In this village, the people are part of the Sundanese Priangan ethnic community who are 99% Muslim. This village adheres to a bilateral sanak system in which the community considers that women and men have equal rights to inheritance, which is contrary to Islamic norms on inheritance. The distribution of inherited land in this village really depends on the number of children in the family and who will manage the land, irrespective of whether they are sons and daughters. However, the problem in Karangpakuan village is that there is no village regulation requiring everyone to register their respective lands, which then becomes a social identity problem where if women inherited the land, the land is in the possession of the men. That men (usually the husband of the female inheritor) in effect to become to be seen as the “owners” of the land and may eventually even register the land under their name. This is done by many families in Karangpakuan because of the problem of “effectiveness”, where women who inherited their family’s lands seeing that it is more effective to have the men (their husband)
names to be the” owners”, especially because of they (the husbands) seen as the head of the family figure and that they also have “rights” to the accessing the land’s capital (Table 1).

A large majority of the 2,422 women are registered as homemakers. The women who registered as employed, most of them work in the village office, become teachers at Islamic boarding schools and public schools in the local area, there are also those who migrate and work as errand boys, private employees/employees, laborers, etc. in big cities and there are those who become migrant workers abroad. Most of the women whom in the housewives category however work as well. Some have opened a shop on the same plot of land as their house. Or some use it as a small farm to grow vegetables, beans, and chilies. They use the remaining land in their homes or use the land inherited from their parents to grow crops. Most of these inherited lands have submerged because of the water reservoir. But when the reservoir water recedes, the land will be planted with fast-growing crops or fast-harvesting rice varieties, depending on land availability (Picture 2).

Most of these lands managed by these women, for example some of the land are being handled by the women farmer group or inherited lands are being managed by the women themselves. The land management is different based on needs and the management. Women do have access of inherited lands, but the problems will arise when the woman died and the process of inheritance reading begins (Picture 3).

In contrast to most existing RWs, in RW 02 the land around the receding reservoir is usually planted by women farmer groups (KWT) RW 02 (depending on land availability) to complete the BHLM (Research and Development Agency) program. This planting was carried out to also help the welfare of the people in Karangpakuan village. Usually, they plant this after the 10th of every month after the socialization carried out by BHLM. The plants they planted were the plants requested by BHLM to plant. The cost of planting and tools also comes from BHLM. The results of planting carried out by KWT are usually sold and the results of the sale will be shared together according to the number of people who work from start to finish or just share it between them. It depends on what is given by BHLM.

"From the stories of these women who speak Sundanese fast enough, the average KWT is needed to "make" and manage land whose seeds are given by BHLM, and they manage. On average, on the 15th of each month they carry out socialization and immediately plant in several days. Usually, the equipment and seeds come from BHLM. However, these mothers did not make it clear where they planted. Just saying near old Cipaku village area, close to Pasir Tugu."

(Mrs. K, 2019)
In Karangpakuan, there are women who managed shops or stalls that opens on the same plot of land as their house. Stalls are usually managed by the wife/daughter of the respective family who own land, at least, more than ten bricks and not more than 18-20 bricks. These stalls are usually opened for additional income or new forms of income. For example, stalls, fishing, and parking lots at Mr. S's place are managed by his daughter, Mrs. T. Mrs. T manages the stall from ordering goods, checking, and maintaining the stall, supervising parking and fishing grounds. She is not alone to manage, her father, Mr. S still helps, and Mr. S usually manages the parking lot with his wife to manage the shop when Mrs. T was unable, since she has to take care of her sons.

Arrangements like these have never cause problems with the community, community organizations and the local village government. Considering that in Karangpakuan there are still many economic problems that are being experienced and there are no village regulations governing Micro, Small, and Medium Enterprises (MSMEs). This also shown that since the fact of that the MSMEs’ are built on the inheritance land, beside the family home in one land. And since the owners aren’t taking care of permissions properly, this has become a legal issue, which still needs to be looked at thoroughly.

But such an arrangement is also a social conflict. In the limited village regulations, it is true that someone must own the land by having a permit and land certificate, otherwise it will be considered the village land under the adat law. Most of the land in Karangpakuan are registered to someone's name. The registered land could be a one name but for up to 3-4 lands and very few lands are named in the names of women, because most of the land is in the names of men. The ownership of the land in Karangpakuan is shown mostly in having land certificate and permit, but they also paid for their land taxes. According to Mr. D, in Karangpakuan, as long as they paid their land taxes, they are the rightful owners.

The reason is a matter of effectiveness and respect for men as the head of the family. This makes the social identity of women as managers and owners and inheritors of their family's land to be thrown as just "managers". Whereas those who work, manage, supervise are women. It also makes inherited land that should be owned by women become the property of men. Which thus, the women or their family member whom the women giving the lands as inheritance to, lose the ownership of the said land(s) either when she (the women) divorced or when they open up the inheritance.
This makes women's social identity as managers and owners and heirs of their family's land slammed as just "managers", if considered. Whereas those who work, care for, supervise are women. This also makes inherited land that should be owned by women become the property of men.

III. Dividing the Land: Gender and Inheritance in Karangpakuan’s Bilateral Society

The Sundanese people, especially the Sundanese Priangan, have a bilateral form of family, in which women and men have equal rights, including in inheritance. This is not an exception in the village of Karangpakuan, where women can inherit her inheritance land. In accordance with studied by Mugnesyiah and Mizuno (2007: 527-528) on access to land in the village of Kemang, Cianjur where they provide evidence of sanak values relating to inheritance rights, but in the form of property rights.

This cultural value called as sanak value. Sanak means 'family' and hence sanak values can be translated as the Sundanese cultural value in which relatives are central. With these values, parents treat children fairly regarding property including land purchased during marriage and property/land owned by them at the time of their marriage, even though they are Muslim (Mugniesyah and Mizuno, 2007: 528), as is the case with Karangpakuan is also 99% Muslim. This relative system is evenly applied in several areas in Sunda, especially in Karangpakuan Village with a different conception that in Kemang, children-in-law can access and own land and property, while in Karangpakuan, children in law has a right for the inheritance, although that right only limited to access and managing, not owning the land, because the sanak in Karangpakuan only counts the biological children of the couple who owns the said land.

Since the division of the lands are based on the total of the biological children, which also includes women. According to Mr. T, every children have equal rights to their parents lands. Which means, this also gives women the power to manage and access according to Ribot and Peluso's (2003:156) understanding of access.³

Besides being based on the equal division of the land for the children, inherited land in this village can be also based on a bequest from the father and mother to determine which child

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³ According to Ribot and Peluso (2003: 156) access is all ways in which a person can benefit from various things from a property, in this case land. Access to property can result in socially recognized and supported claims or rights — whether that recognition is based on law, custom, or convention. Right-holders enjoy a certain type and degree of social power when accessing them.
will get which land and what land. Bequest of the land becoming are more think about in Karangpakuan because of the scarcity of land, following the expropriation of lands in the framework of the water reservoir, so the land sale and purchase is adjusted to the functions and needs of the family and whether there is property in it. This also because the amount of land that can be traded is not much, and most of it is inherited land from generation to generation.

Since there is also these mechanisms of buying and selling of the land, this type of inheritance are usually in the form of money, depends on the bequest of the parents. But it will be depending whether there is a property that standing on the land that going to be sell. If there is no property on the land, the selling would much be easier and faster. But, if there is a property (or properties in this case, that includes warung for example) on the land, then the inheritance money that the children will get, will be divide accordingly with parent’s bequest.

If there is any bequest on both sides, there will be certain people, third parties who is more objective, will be helping with the said bequest. This third parties, is depends on who parents trusted the most, outside their family. They will be act as advisors, mostly, and they will be asked to be an objective voice. While some are trusting more to their religious leaders, in Karangpakuan, a village officials would be the third party. People in Karangpakuan are much likely to trust Mr. T judgement, since Mr. T is one of the elders in Karangpakuan village, and the person who people trust the most in case of inheritance, especially inheritance lands.

If land is inherited from the father's or mother's family, then the children get a share in each land according to the distribution of the parents who own the land themselves. Each process will be carried out in the presence of selected witnesses. These witnesses consist of one of the village officials, the head of the RT or head of the RW, and a family member from one of the parties (can also be a religious figure, depending on the needs of the party in need). In RW 02, the usual external witnesses are Mr. O as the head of the RW and Mr. T as the village's general staff and those who survey the land.

There are some cases where land division when it is depending on the number of children in the family. For example, if one of the parents (as an example, in this case the mother). Inside the immediate family, there are three children (two older daughters who are married and one younger son), and there’s inheritance for the children. According to this will, these children will each receive one-third of their mother’s land near the reservoir and in the other side of the village. This also means that they also inherited one of the properties in the said land. Since there is no say about the property, the children decide to sell it and split it between them, and
this also include the land without property on it. This agreement is being witnessed by some family members and third parties that being invited as witness. This will mean everybody will get inheritance money.

But, in certain families, the parents leave inside their will where the youngest child will be receiving the family home, if the parents died. This means that while the youngest child will own the family home, he/she will be not able to have big proportion on the lands without property on it, not like his/her siblings. Which also means that if the siblings decided to sell the lands, the younger sibling won’t receive benefit as much as the elder siblings or maybe, won’t be receiving any benefit at all.

There are some exceptions though. In some cases, like Mr. T for example, he has sufficient finances to buy a special house for his youngest child. This would mean that his children inheritance rights are not disturbed, and they would get their fair shares. In Mr. T’s case, since it is a land which being own solely to Mr. T. For Mr. T’s spouse, her land is not being disturbed.

"In the case of inherited land, the average parent will distribute it to their children in the following way. Parents' land will be divided fairly among their children depending on the number of children they have. From there, usually the youngest child will get the old father's house. If what is divided land for sale and purchase, then the land must be sold, and the amount sold must be divided equally. Usually, this process is carried out by bringing in experts to measure the land area. This process also requires witnesses in making land deeds, especially witnesses from the family. If the person is illiterate, then they need to be guided, usually by someone who is trusted by the family (can be a religious figure or traditional leader)."

(Mr. T, 2019)

There are certain cases, like Mr. S and his wife. Mr. S owns all his land and according to him, his wife and him are agreeing to give the old house to their youngest child and daughter (Mrs. T). Mr. S and his wife bought a new land, built a new house to live in and warung for business. Mr. S’s wife agreed to give her land to their son, who lives in the city at the time, while Mr. S give his land and business to his younger daughter. In cases like this, it is rather rare to find in Karangpakuan village, because not all of them have a decent business-like Mr. S. But again, it depends on the ability of the parents and the available land.

"While ordering a drink from the stall, the author chatted with Mrs. T who turned out to have inherited land from Mr. S after marriage with an area of approximately less than 10 bricks. Mrs. T house turned out to be Mr. S's old house. While he still owns the land, Mrs. T will be the one who taking care of it. This include the warung and the fishing business."

(Mr. T, 2019)
In certain families, the problem lies on not because of the clergy were exerting certain influences on women so they can’t inherit like Tickamyer and Kusujiarti case, but instead in some families’, women have this dependency more on their husbands. According to Mr. T and Mr. D, this because the women are trusting and thinking that the husband “have the right to register” in regard that he is the head of household.

“In Karangpakuan, most of those who register land are men and one name can be used for more than 3 lands. Because it is usually a man who registers and (he) is considered the head of the household, he has the right to register, although it is not forbidden for women to register their land.”

(Mr. T, 2019)

In addition to effectiveness, dependency, and trusting, according to Mr. D the village does not have any regulations that regulating inheritance land. Which can cause, what Mr. T said, as landowner transfer from wife to husband would have gone quickly and undetected. There are times the transfer of ownership is done when the wife is still alive, and there are times when the transfer of ownership is done when the wife is died. It depends on the bequest of the couple and, since the transfer doesn’t include witness and/or the process above, and/or the family presence, this creates a controversy between the families when the will reading.

IV. Sanak, Islam’s, and National Law about Women’s Inheritance Law

Sanak in inheritance is seeing children among Sunda Priangan households as equals, which give boys and girls from outside the family the same status as children within the family, no matter their sex or gender. Having these values, parents treat their children fairly regarding property including land purchased during their marriage and property/land owned by them at the time of their marriage, even though they are Muslim (Mugniesyah and Mizuno, 2007: 528). This system of relatives is applied in the same way in several areas in Sunda, especially in Karangpakuan Village with a difference in the conception that children-in-law can only access and not possess.

In Indonesia, there are few laws that considering this. In the Law Number 1 of 1974 concerning Marriage for example. In article 35 paragraphs 1 and 2 for example.

Article 35 (1) Law Number 1 of 1974:

“Property acquired during marriage becomes joint property.”
Article 35 (2):

“The inherited assets of each husband and wife and the assets each receives as gifts or inheritance, are under the control of each as long as the parties do not specify otherwise.”

In these paragraphs, stating that the land registration in Indonesia does not strengthen and complement the access and management of a woman's land rights if she is left by her husband or when she marries her husband, it is not certain that women can access the land.

Still in the Marriage Law, there are 3 articles listed here which discuss the arrangement of assets in marriage, such as article 29 which contains matters relating to marriage agreements related to property and the acquisition of other assets; Article 35 regulates marital assets, including joint assets and assets from other sources such as gifts and inheritance.

Brown (2003) explained that one of the influencing factors was the formal land transfer procedure, which required the wife's consent with a signature or proof of separate land access and management status (both the wife and husband have access to and different management of the land) which could allow land to be divided. Apart from one of the two parties this is claimed de facto as the lawful property belonging to the community of one of the two parties.

In Brown’s case, one of the factors is that there are customary (regional) practices inherent in "carrying out" land access rights. Especially in Brown's research looking at Javanese customary practices in recognizing and protecting the concept of marital property as community property. In Karangpakuan however, under sanak, properties being recognized as properties that belong either to husband or to the wife. If the husband and the wife bought a property together, then it is depending on their bequest whether they’re going to sell it or leave it to their children, because marital property, while the ownership is on the hands of patriarch of the family, if the patriarch died, the wife can owned that while the children and his immediate family can own the land only he owns. But back again it is depending on the bequest between parents.

In the Indonesian Compilation of Islamic Law (KHI), it is stated in article 174 which explains that heirs from the blood relationship line of the female group consist of mothers, daughters, sisters, and grandmothers. However, in article 176 it is explained that when the position of a daughter is the only child and heir, she will get half the share. Meanwhile, when sons and daughters become heirs, this article stipulates that sons get twice what women receive, while women only get half the share that boys receive. If there are two or more daughters in the family, then the 2/3 share is divided equally. Article 176 KHI guarantees that women can get...
their inheritance. However, the existence of a distinction based on gender is discrimination. In fact, before the eyes of the law, all children have the same status.

Contrary to Islamic norms and law, sanak in inheritance seeing children as equals, which give both children, no matter whether they are a boy or a girl, the same status in the family. Which also means they get the same inheritance, depending on their parents’ bequest.

But once they got the inheritance, it is up entirely to them whether they want to sign their spouse to be the one who have the ownership of the lands they inherited, because they are the head of the family, like I previously said, or not. Because when one of the kids get married, they will become new parents, and therefore, the need to do bequest between parents are needed.

V. Conclusion

Sanak value sees that those children, no matter their gender, are equal. This value has been a base of sorts for equal land inheritance in Sunda Priangan villages, even in Karangpakuan. With this background, making the right to inherit land in Karangpakuan village is based on the number of children in the family obtained and all children in the family have the right to access and manage the inherited land that the child has. This division also lies in the bequest of the father and mother to determine which child gets which land and what land. This is a contrary to the KHI where the daughters only get 1/3 of the inheritance.

For sale and purchase land that is being bought by the parents and listed outside of the parent ownings, is adjusted to the functions, and needs of the family and whether there is property in it. If you are going to get buying and selling land, the distribution will be carried out based on the agreement of the parents.

But once the children get their parents lands’, it is up to them whether they will be going through the bequest process, or just give the ownership of the land to their spouses. With that in mind, it meant that the women whom giving their ownerships to their husbands, they are giving up investments for future.

This means that sanak as an inheritance law is not mere enough. Idem ditto, law must also change to strengthen women’s access to and control over productive resources, especially land regulations. The mindset regarding relatives must also be changed so that it can lead to better representation and social status, which results in a greater contribution by women to national economic development.
Table and Picture

Picture


Picture 2. Old Cipaku village gate entrance, where some of the residents plant some crops as can be seen in behind the old village gate. Location is around 20 minutes from Pasir Tugu. Source: the writers’ document.
Two Karangpakuan women who just returned from planting crop and harvested some vegetables and picked up some firewood in the land across from the Jatigede Reservoir. Source: the writer’s documentation.

Table

Table 1. Women who live in Karangpakuan around the time of research. Source: Karangpakuan Village data.
References


