

# Female Status of Inheritance Customary Law in Batak Toba Society in Humbanghasundutan Regency, Lintongnihuta District

Angelina Katrin<sup>1\*</sup>, Rusnaini<sup>2</sup>, Muh. Hendri Nuryadi<sup>3</sup>

<sup>1</sup> Universitas Sebelas Maret, Indonesia

\*) Corresponding author: [angelinakatrinlumbantoran@gmail.com](mailto:angelinakatrinlumbantoran@gmail.com)

## Abstract

The well-known family system in the Toba Batak community is the patrilineal system, which follows the male lineage and is the generation of the parents' ancestors, while daughters are not the parents' generation. The consequences of this system greatly affect the position of daughters in terms of inheritance. TAP MPRS Number II of 1960 and Supreme Court Decision Number 179 K/Sip/1961 are developments in the position of girls as heirs of their parents. This research uses empirical juridical research methods. Samples were taken by random sampling. The analysis carried out is by using descriptive analysis which will describe, explain and reveal the actual position of girls in the traditional inheritance law of the Toba Batak community who live permanently in Lintongnihuta District and what factors influence the development of girls' inheritance. From the research results obtained, in principle the patrilineal family system is maintained and what changes and develops is the influence of this system on the position of daughters in terms of inheritance. With the issuance of Supreme Court Decision Number 1769K/Sip/1961, we are moving towards a parenting system that provides equality, humanity, justice and equal rights between sons and daughters in inheriting their parents' assets. The conclusion from the research results is that the position of girls has experienced development in sharing the same inheritance as boys. With this neutral nature, modernization occurs which leads to homogeneity, namely showing the existence of equality between men and women and has a large influence in the field of customary law, especially the Batak customary inheritance law that exists overseas.

Keywords: female status; inheritance; customary law.

## Introduction

The development of national law must be rooted in and lifted from the law existing people, so Indonesian national law must serve interests of the Indonesian people and nation. The results of the Seminar on Customary Law and National Legal Development, are wrong one item formulated, states: That Customary Law is an important source for obtain materials for National Development towards unification laws and especially those that will be carried out through regulatory acts legislation without ignoring the emergence/growth and development of Customary Law and Courts in Development

Law. In the 2000-2004 national development program UU RI Nomor 25 Tahun 2000 tentang Program Pembangunan Nasional (Propenas) Tahun 2000-2004, it was designed various development efforts including in the field of women's empowerment.

The goal of women's empowerment is to improve their position and the role of women in various fields of life and development, so that can be equal partners with men in participating and enjoy the results of development and become increasingly empowered by institutions and institutions including government institutions, community institutions that have a vision of empowering women and women's organizations to play a

greater role and independent in supporting the realization of gender equality and justice.

Customary law is a living law that grows and develops in the midst of society in accordance with developments public. The patrilineal system is known as honest marriage, which is a form marriage with the payment of money from male relatives to female relatives with the aim of including women in her husband's clan. The kinship system in patrilineal societies also influences this position of widows and daughters. From the case description above, the author feels that it is very important to do this study to provide a true picture of the situation and the development of Batak customary inheritance law, relating to rights issues inheriting daughters in the Batak traditional tribe who are overseas especially in Lintongnihuta District, North Sumatra.

## **Literature Review**

Customary law regulates customary marriage law, inheritance law custom, and customary contract law. The term customary inheritance law in this case is intended to distinguish it from the terms Western inheritance law, Islamic inheritance law, Indonesian inheritance law, Batak inheritance law, Minangkabau inheritance law and etc. Customary inheritance law is customary law that contains provisions about the system and principles of inheritance law, about inheritance, heirs and how the inherited assets are transferred.

According to C. Van Vollenhoven (1925), customary law is legal rules which applies to native people and foreign eastern people, who are in one side has sanctions (hence the word "law") and the other side has sanctions codification (hence the word "custom"). According to Ter Haar, customary law is the totality of regulations incarnate in the decisions of legal functionaries (in the broadest sense) who has authority and influence and whose implementation is carried out applies immediately (spontaneously) and is obeyed wholeheartedly.

Customary Family Law is customary law that is not written and in it there are regulations regarding legal/kinship relationships that exists between one individual and another individual, whether the

relationship between father and son, mother and son, grandfather and grandson and so on. Theoretically, the family system can be divided into three types, namely:

### **a. Patrilineal Family System**

The hereditary system is based on the father's line, where men have a higher position its influence is more prominent than the position of women in inheritance. (Gayo, Alas, Batak, Nias, Lampung, Buru, Seram, Nusa Tenggara, Irian).

### **b. Matrilineal Family System**

The hereditary system is based on the mother's line, where women have a higher position its influence is more prominent than the position of men in inheritance (Minangkabau, Enggano, Timor)

### **c. Parental or Bilateral Family System**

The hereditary system is drawn along the lines of parents, or according to lines two sides (father and mother), where the positions of men and women are not differentiated in inheritance (Aceh, East Sumatra, Riau, Kalimantan, Sulawesi and etc).

Changes/developments that occur in the child's position women in inheritance law, currently influenced by the principles mummy's patrilineal system and the principle of inequality towards girls. However, with the issuance of MPRS Decree No II/1960, this was followed by a decline Supreme Court Decision No. 179K/Sip/1960 and Supreme Court Decision No. 179 K/Sip/1961 and until the issuance of Law no. I of 1974 concerning Law Marriage is also influenced by politics, economics and science, the position of daughters in inheritance, especially for the Batak people, has experiencing changes.

## **Method**

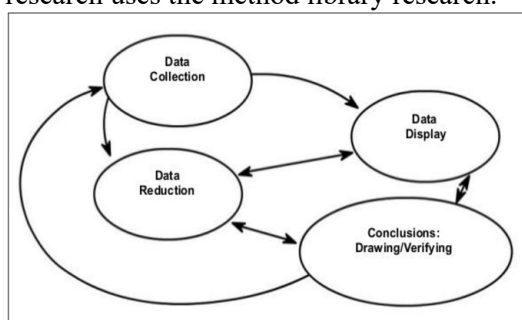
The approach used in this research is the approximation method empirical juridical. The juridical approach is an approach that is carried out/used to serve as a reference in highlighting problems based on legal aspects valid inheritance. Meanwhile, the empirical approach is to look at the response Toba Batak indigenous community relates to the position of children's inheritance rights women in Toba Batak society. In this study the population is the community Toba Batak in Lintongnihuta District.

The sampling technique used in this research was non random sampling with purposive sampling technique (purposeful sample).

#### Data Collection

In this research, primary data will be used, which is data field. Field data was obtained through: Interviews, namely conducting questions and answers to respondents about the problems studied. In this research, secondary data will also be examined. Therefore, that will be carried out in carrying out this research, namely literature study.

The data collection method in this research uses the method library research.



#### Result and Discussion

The inheritance system is greatly influenced by social structure locally, in Batak land there is a patrilineal social structure, namely a society based on blood relations drawn through lines male descendants, so that only those who have the right to continue the lineage are male descendants male children/descendants, while married daughters will out of his family's patrilineal kinship and then into it patrilineal husband. Views about justice are not always the same in one place and different times. Justice is raised from the feelings of society and made legal rules. In societies where life is still simple, then The laws are still simple, even in modern society the legal provisions are complex. After the issuance of MPRS Decree Number II/1960, it was followed by a decision that really brought developments in inheritance law, especially regarding the position of daughters and widows which has an influence on equality the position of women in general with boys who are also supported by Law Number I of 1974, namely regarding marriage.

In the patrilineal society in Batak land, who is responsible for care and education of children is the biological father or all male descendants (relatives) of his biological father. There are factors that can influence development The position of daughters' inheritance rights in Toba Batak customary inheritance law are as follows :

- a. Educational Factors
- b. Overseas/Migration Factor
- c. Economic Factors
- d. Religious Factors
- e. Social Factors

The distribution of inheritance among the Toba Batak people has been carried out fairly and equally due to equal rights between boys and children women to their parents' inheritance. Considering the growth of society today towards equality the position between men and women and you as the heir.

Therefore, it is clear that the position of children women have developed according to equality in rights inheriting their parents' inheritance with male children being considered equal to inheritance. Thus, system patrilineal society in the Batak tribe, especially society/people The Batak who live abroad have developed towards a Parental/ Bilateral.

With the existence of TAP MPRS Number I of 1960 and the Court's decision Agung which is jurisprudence whose function is to create new law by changing the old law by legal considerations that the old law is no longer in accordance with the feelings of the community where the law applies, hope for development what has been done by these judge's decisions can be lifted daughters' rights to equal inheritance and inheritance is also the heir of the deceased.

The Supreme Court's decision has the determination to deliver uniformity of decisions in placing the position of girls as heirs and tend to want legal developments custom towards parents.

#### Conclusion

Based on the patrilineal system of the Batak Toba traditional community, in where the position of sons is more respected in the family, this has an impact on the division of inheritance between sons and daughters. Several court decisions ultimately became the basis for a jurisprudence as stated in the Court

Circular Agung, that in the distribution of inheritance to both daughters and sons considered the same.

There are several factors that influence the development of internal changes indigenous communities, especially the Batak Toba indigenous community, this factor is among other factors include education, overseas/migration, economic, religious and social factors, and internally it is a factor in individual awareness.

## References

- C. Van Vollenhoven : *Het Adatrecht Van Nederlandsch Indic*, deel I.E.J.Brille, Leiden 1925
- Metodologi Penelitian. PT. Bumi Aksara. Jakarta 2002.
- Hadikusuma. Hilman, *Hukum waris Adat*, Citra Aditya Bakti, Bandung, 1994.
- Haar. B. Ter, *Beginselen en stelsel van het adatrecht*, dalam buku Hilman
- Purba. Rehngena, *Sikap Mahkamah Agung Terhadap Kedudukan Duda dan Janda Dalam Hukum Adat*, Kanun No.35 Edisi April 2000.
- Saragih Djaren, Samosir Djisman, *Sembinng Djaya*, 1980, *Hukum Perkawinan Adat Batak Khususnya Simalungun, Toba, Karo, dan Undang-undang Tentang Perkawinan (UU No. 1/1974)*, Tarsito, Bandung.
- Sitohang Jailani dan Sibarani Sadar, 1988, *Pokok-Pokok Adat Batak Toba (Tata Cara Perkawinan di Toba)*, Mars 26, Jakarta.
- Soekanto. Soerjono, *Meninjau Hukum Adat Indonesia*, CV. Rajawali, Jakarta, 1981.
- , *Pengantar Penelitian Hukum*, UI Press, Jakarta, 1986.
- Soekanto. Soerjono dan Sri Mamuji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Penerbit Raja Grafindo Persada, Jakarta, 2001.
- Soemadiningrat. Otje Salman, *Rekonseptualisasi Hukum Adat Kontemporer Telaah Kritis terhadap Hukum Adat sebagai Hukum yang Hidup dalam Masyarakat*, Alumni, Bandung, 2002.
- Soemarman. Anto. *Hukum Adat Perspektif Sekarang dan Mendatang*, Adi Cita, Yogyakarta. 2003.
- Soepomo, *Bab-Bab Tentang Hukum Adat*, Penerbitan Universitas, Jakarta, 1967.
- Tambunan E.H 1982, *Sekelimit Mengenal Masyarakat Batak Toba Dan Kebudayaanannya Sebagai Sarana Pembangunan*, Tarsito, Bandung.
- Vergouwen. J.C., *Masyarakat dan Hukum Adat Batak Toba*, LkiS. Yogyakarta. 2004.
- Peraturan UU No. 14/1970 Undang-undang Pokok Kehakiman UUN No. 1/1974 Tentang Perkawinan