

DOES BATAK TOBA WIDOWER GET THE WIFE'S FAMILY'S INHERITANCE?

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ABSTRACT

The problem that will be discussed in this article is about the inheritance rights of a widower according to the customary inheritance of the Batak Toba, whether the widower according to the customary inheritance law of the Batak Toba gets an inheritance from his wife's family. The type of normative legal research used in this article is supported by references or secondary data as the basic material for research related to the issues discussed, that is the rights of the inheritance of widowers in Batak Toba. The data sources used are primary data and secondary data. The data from the results of this study will be analyzed with a qualitative approach, then will be described descriptively. The conclusion obtained from this study is that a Toba Batak widower, in the customary inheritance law of the Batak Toba does not inherit from his wife's family because the wife is a family member of the husband (honest marriage), because the wife herself does not also get an inheritance from his parents, because in Batak Toba community, only sons (his wife's brother) get a share of the inheritance and become the heirs of the wife's parents.

Key Words: inheritance; batak toba; widower.

INTRODUCTION

The characteristic found in the inheritance system of the Batak Toba community is that it adheres to kinship characteristics but the pattern focuses on the Patrilineal kinship system, which is drawing the lineage from the father (Riste, 2015). The Patrilineal kinship system emphasizes that the position in a family lineage is controlled by the position of men which seems to be more prominent when compared to the position of women in the inheritance law, and the inheritance system used can be classified as an individual inheritance system. This also applies to the Batak Toba community who are also part of the Batak indigenous community unit (Wiranata, 2005).

The individual inheritance system adopted by the Batak Toba indigenous people forms their society so that they have an identity and customary law that has always been binding on them to present. This system divides the inheritance according to their respective parts and of course, only

sons can become heirs, which means that they can receive an inheritance from an heir. However, if a son does not have an heir, the inheritance or inheritance from the heir, will fall to his brother, because it indicates that from this son, the heir does not have any heirs or legitimate successor when seen from the point of view of the Batak Toba customs (Purba, 2001).

Men who can become heirs according to Batak Toba customs are men who have married with honest payments or if viewed from the Batak Toba custom, this marriage tradition is called a *taruhon jual* marriage and its implementation is exogamous and patriarchal. Heirs are people who will later be entitled to get a share of the inheritance, but there are also people who are not actually heirs, but still receive an inheritance and are usually in the form of gifts from the related heirs (Rajamarpodang, 2002).

In Patrilineal kinship as embraced by the Batak Toba indigenous people, it is the son who becomes the heir, and none of the daughters becomes the heir, but in the future, it is possible to receive part of the inheritance in the form of a gift from his brother. as well as from the heirs themselves (Sinaga, 2019).

The level of a civilization and a way of life that has been affected by modernization, it turns out that it has not been able to eliminate the customs or habits that are usually carried out by indigenous peoples to live side by side with the customs and habits that coexist with these indigenous peoples, not even disappear. , these customs and habits have been adjusted to the conditions of the times over time so that the customs that are taught can continue to live in each community of its stakeholders.

In the Batak community that uses a pure Patrilineal kinship system, if a marriage breaks up and is caused by divorce, usually the family concerned will hold a meeting called a *hasiran* meeting which in its implementation aims to determine between the two people in the marriage, who is guilty and who is guilty be the cause of the breakup of the marriage or the divorce, and it will also discuss the joint assets owned by the former husband and wife (Purba, 2001).

The same applies to the wives of a family or household, whether they are still bound or widowed because their husbands have died, but if the child owned by both of them when they are in a household relationship is still small and has not been able to control the property of the inheritance that will be handed over to the heirs. Then the wife who is a widow will control the inheritance given by the heir, and a mother or widow has an obligation to take care of the children until they become adults and are approximately able to manage and control the inheritance that comes from the heir. If the child or the heirs have grown up, then the inheritance will be distributed to them, and the mother who becomes a widow because she is left dead, may get a share in it, or follow her oldest son. (Sinaga, 2019).

This article discusses the following questions: what if a man is left behind by his wife and becomes a widower? What is the principle of inheritance distribution in the Batak Toba Customary Law? And what is the position of a widower in the Batak Toba Inheritance Law system? Does the widower get wealth from his wife's family?

RESEARCH METHODS

This article uses a method to answer the problem. This method includes an explanation of the type of research, the nature of the research, data sources, data collection methods, data processing methods, data analysis, and how to draw conclusions (Qamar, 2017). The type of research used in this article is the type of normative legal research, that is research conducted by examining references or secondary data as basic materials to be researched by conducting a search on regulations in the form of books and literature related to the problem discussed, the inheritance rights of widowers in the Batak Toba. Sources of data used are primary data and secondary data, including official documents, books, research results in the form of reports, diaries, and so on. The data from the results of this study are analyzed using a qualitative approach, meaning that the literature data is analyzed in-depth, then described descriptively.

DISCUSSIONS AND ANALYSIS OF RESULTS

In Indonesia, the system of indigenous peoples is bound by territorial factors (viewed from an area or territory) and genealogical factors (based on the blood of a particular lineage) (Jayus, 2019). Customary law is an important source of law in the context of obtaining material to form or make national laws which will not only be used by an indigenous people but will be used by all Indonesian people and its manufacture aims to unification or unification of law which in the future will be implemented as regulation-making each legislation. The existence of this customary law is also used as the basis for the formation of various other legal products, not only statutory regulations.

This customary law is made in order to show the existence and reflection of the diverse nature and characteristics of the Indonesian people and uphold pluralism so that the laws used are based on customary laws found in indigenous peoples whose existence is spread throughout the world. throughout Indonesia, although in reality, the customary law is not in writing, it still lives in the souls of the indigenous peoples who use it (Wiranata, 2005).

This article discusses the Batak tribe, originating from the province of North Sumatra which stands on the island of Sumatra with a land area of 71,680 km². Medan is the capital of the province of North Sumatra, which also houses the government offices of the province of North Sumatra, as well as a business center. There is no doubt that Medan City is one of the big cities in Indonesia, even the fact that the size of this city makes Medan City the 3rd largest city in all around of Indonesia (Situmeang, 2018).

The Batak tribe is a very diverse and patterned indigenous community because in its division. This tribe has different sub or sections in, for example, Tapanuli, Pakpak, Simalungun, Mandailing, Angkola, Karo, and Toba. The Batak ethnic group, that are the Batak Toba tribe, lives in the area around Samosir Regency, North Tapanuli Regency, Dairi Regency, Humbang Hasundutan Regency, Dairi Regency, Toba Samosir Regency, and its surroundings. At first, the Batak tribe was

a kingdom which at that time was centered on the Bakara area and was headed by a king who came from the Sisingamangaraja dynasty (Siregar, 2009).

The descendants of the Batak indigenous people are one of the many people who use the customary system based on genealogical factors or are influenced by blood. It is also a fairly large influence that was born on the customs prevailing in these indigenous peoples, and basically, adat is a reflection that reflects the personality or nature of the community that holds the custom and is the embodiment of every soul of the community from time to time.

Therefore, every society in the world has its own customs or habits and is different from each other because the humans in it are also different in nature and characteristics. Because of the diversity and inequalities that exist in each of the existing indigenous peoples, this gives birth to an important element that gives identity to the community.

Inheritance law actually contains three important parts that cannot be separated from each other. They are the existence of inheritance, the existence of an heir who leaves an inheritance or property, and the presence of an heir as the recipient of the inheritance and who will continue the management of the heir. Customary law in Indonesia, including the law of inheritance, is not necessarily separated from the influence of each form of community structure, it can be a hereditary or kinship system, it can also be other factors that influence it.

This customary inheritance law has its own style from the shape and mindset of the people which will naturally be formed with a kinship system or a hereditary system in the form of patrilineal, matrilineal, and parental or bilateral. Theoretically, the kinship system which has these three features can be interpreted as follows (Tamakiran, 2002):

a. Patrilineal System

It is a kinship system in which the lineage is drawn according to the father's line or a father, and the position of men is of course more prominent in this kinship system, and its influence is stronger when compared to the position of a woman. This system that leans towards men is used by

indigenous peoples from various regions in Indonesia, for example, Gayo, Nias, Alas, Lampung, Seram, Buru, Nusa Tenggara, Irian, Bali, and Batak.

b. Matrilineal System

It is a kinship system drawn through the maternal line, and in contrast to the patrilineal system, in this kinship system, the position of women is more prominent when compared to the position of men when viewed from the point of view of the inheritance system. This matrilineal kinship system is used by people from the Enggano, Timor, and Minangkabau regions.

c. Parental or Bilateral System

It is a kinship system that does not look at gender and the lineage is drawn from two sides, that is from the father's side and the mother's side. In this kinship system, both men and women are considered equal and there is no difference in inheritance. This system is most widely used in regions in Indonesia when compared to patrilineal or matrilineal kinship systems, and those who use it are indigenous peoples from Riau, Aceh, East Sumatra, Java, Kalimantan, and Sulawesi (Nainggolan, 2019).

In its implementation in life, the inheritance system is not only focused on the kinship system and does not necessarily apply to the same inheritance system, so from the inheritance system in Indonesia, but there are also three types that are the most common and often used, namely (Situmeang, 2018):

a. Individual Inheritance System

It is an inheritance system in which every inheritance or inheritance from the heir will be divided according to the statutory law of the Civil Code and Islamic law, this system is used by the indigenous peoples who are in families who come from the Java area, and also Batak Toba tribe with a patrilineal kinship system.

b. Collective Inheritance System

It is an inheritance system in which every inheritance or inheritance from the heir will be inherited to a group of heirs in an undivided condition and as if shaped like a relative or family legal entity. This inheritance system is used by indigenous peoples who come from Minangkabua and from Lampung.

c. Mayorat Inheritance System

It is an inheritance system in which every inheritance from parents (called low inheritance) or inheritance from ancestors (high inheritance), will remain intact and not divided among the heirs while being directly controlled by the eldest son (called male *mayorat*) in the patrilineal community of Lampung, and Bali, or can also be controlled by the eldest daughter (*mayorat* women) in the matrilineal community of Sumando and South Sumatra, and also Lampung.

The inheritance which is the main object in terms of the distribution of inheritance can be defined as all inheritance in the form of money or goods left by a person (usually a parent) who dies (as heir) to the heir, both all property that has been divided or not, or not shared before (Komari, 2015). The Batak community is a tribe that adheres to the strictest Patrilineal kinship system (lineage is drawn from the father's side) when compared to other tribes in Indonesia, the evidence of this can be seen from the family name or surname system used by the descendants of the Batak people. (Hadikusuma, 2003), is the same name or surname owned by his father.

No other evidence is needed to support the fact that the Batak tribe is the one who most upholds the use of the patrilineal kinship system, so from these things, it can be concluded that the position of men or those who will become fathers in a family, has a higher degree when compared to of the people who will become mothers in a household, namely women (Prasetyo, 2016).

In the Batak Toba customary inheritance law system, the son is entitled to receive the inheritance or hereinafter referred to as the heir (because the Batak tribe uses a Patrilineal kinship system), while the position of a daughter is seen from the division of inheritance, does not become an heir for the inheritance of her parents, because a woman will one day marry a man and become

part of her husband's clan, the daughter will get a share of the inheritance from her husband's parents, because of this, it can be said that the daughter in the customary inheritance system Batak Toba get their inheritance through a process called a grant (Jayus, 2019).

Grant or what is meant by giving is usually made by someone, to another party, and must be done while still in a healthy state of mind and body, the implementation of this grant must also be done when the donor is also still alive. Giving in the form of a grant is never and should not be reproached by another party, even though the person who denounces it is an heir because the granting of this grant is carried out by the testator or donor with full awareness and with the rights that he fully owns as of the owner of the property or inheritance in later it will be used as an object or goods to be donated. A giver of this property has the right and freedom to give it to anyone, not tied to his kinship or relationship, as long as that person has the desire to give and gives it sincerely, this grant occurs.

Some things that of course need to be considered when someone is going to make a grant are (Sinaga, 2003): (1) A grant is an agreement that is made unilaterally and is carried out while the grantor is still alive, and aims to provide an item or object for free to the recipient of the grant. (2) The grant is made when the giver and the recipient of the grant are still alive and well. (3) The grant must be made by means of a Notary Deed or a person authorized by the grantor to serve as a guide for the treatment of this grant. If a grant is not accompanied by a notarial deed, then this grant will be considered null and void because according to the Bugerlijk Wetbook, the formal requirement is that the grant is granted with a notary deed. However, if viewed from the point of view of customary law, the terms of the grant are quite pronounced and carried out in the presence of the relatives of the donor, and this is considered valid and can be accepted by other family members or family members. (4) A grant made by a husband and wife, if it is carried out with an ongoing marital status, then the law is prohibited or may not be carried out, unless the object used as a gift is a movable object whose price can be considered affordable or not too expensive.

This grant or grant when viewed from the point of view of Customary Inheritance Law is the opposite of property left by an heir or donor and cannot be divided because the grant is a division of the whole or part of the assets that will be inherited by the grantor or heir while the owner is still alive. life.

The division carried out in the Batak Toba Indigenous inheritance system does not necessarily divide equally between all sons in a family who is distributing inheritance, because this inheritance distribution has its own specificity, for example, the youngest son in the family. a family or in the Batak language commonly referred to as ready and have a special amount of inheritance (Nasution.Et.all, 2015).

Today, due to the mixing of Batak Toba customs with culture from outside and as a result of the development of the times, the implementation of the distribution of inheritance has changed slightly. It was from initially girls not getting anything from the inheritance to getting some part or amount from it, even though the assets that are distributed are also very dependent on the situation or the actors of this division. The distribution of inheritance is not infrequently mixed with the doctrine of the religion adopted by the perpetrators of the distribution of inheritance, and it is not uncommon to find Batak Toba people who choose to use national inheritance law in accordance with Indonesian civil law which prioritizes justice for all his heirs (Nalle, 2018).

In Batak Toba customary law or what is commonly referred to as *Ruhut-ruhut* ni Batak custom, women can only get *Tanah* (a land), *Nasi Siang* (a lunch), inheritance from grandfather, and land only. Batak customs, which seem old-fashioned, and the rules that seem strict and very firm, can be seen in the implementation of the inheritance system. For example, a daughter who does not receive a penny from the inheritance of her parents, as well as the youngest child or Readyudan who gets the largest share of the property and the most in the inheritance, because the youngest child or Ready to be considered as the successor of his father and must protect his

hometown so that the descendants of the father can continue to grow and multiply in his hometown (Sibarani, 2015).

Batak Toba Customary Inheritance Rules or Laws also have their own rules and regulations in some cases, for example the following: if a person does not have a son so that no one becomes the successor of the clan or becomes a successor to his father, then all his inheritance goes to his brother. - the father's man, due to the vacancy of the heir, and the law also states that the father's brother who gets the inheritance, must and is obliged to finance and provide for all the needs of the daughter left by the heir until the woman is married later (Lolaroh ,2018).

Batak Toba customary inheritance law must also be based on the philosophy or basic guidelines of the Batak indigenous people which can be used as a benchmark for the Batak community's inheritance system so that its implementation can run well and smoothly. In their culture, the Batak Toba people recognize and practice the way of life or important points that are still connected to the descendants who are the basic reference for the life of the Batak people, usually this philosophy is also divided into three parts, namely (Sihombing, 2018): (1) *Hamoraon* or what is commonly referred to as wealth. (2) *Hagabeon* or the size used by the Batak people, if and only if that person already has children, both sons and daughters. (3) *Hasangapon* or which is interpreted as an example for his family, especially his descendants who are exposed to the community at large.

If it is said that the inheritance law in the Batak Toba Customary Law does not uphold justice in it because girls are not considered. It is actually a mistake because in its meaning justice is the fulfillment of rights that must also be fulfilled. But humans are creatures that are very different from each other, therefore the meaning of justice is very different for every human being, even though justice is the existence or emergence of a balance between needs and uses and sizes in Batak Toba society must also be adjusted to the responsibility or obligations imposed on the perpetrators of their customs.

Far from that, the actual moral responsibility is greater than the responsibility to someone (Elpina, 2015). But why does this happen? Because basically, the Toba Batak custom upholds the existence or existence of a man and the high position of a man as a clan bearer and as a customary actor if one day his parents can do nothing else. Wherever the Batak people are, the traditions or customs that they carry will never be lost or extinct, and for parents in this custom too, children are very important to fight for, both in terms of whatever because they are the inheritance that cannot be eliminated or abolished.

Widower is a term that refers to a man whose marital status has broken up, either due to divorce or the death of his partner. In the Batak Toba society, neither a daughter nor a wife can become heirs, but if the woman has not carried out an honest marriage carried out by the Batak Toba people to establish a marriage relationship, then she has the right to use and enjoy every property of her parents who will later act as heirs. on the assets left behind by him after death or before death, and the use of this parental property is used in order to meet the needs of his life from birth to carrying out honest marriages.

Even a widow who is not an heir of her husband who has died or died, will become a liaison or become a bridge for the heirs to pass on their inheritance to their children whose legitimate male becomes the heir of the heir, that is his own father.

This also applies to husbands, because husbands are not heirs of their dead wives. Basically, this is because of the kinship system or mindset adopted by the Batak Toba indigenous people. The wife is positioned as the property of her husband and has become part of the husband's clan or family if she has performed an honest marriage because previously it was purchased with honest objects, which were given to her in order to give parents, goods commensurate to buy her daughter.

Innate assets from both parties or livelihood assets obtained during the marriage are intertwined, united into a unified whole and are not separated in their use, and are not divided into positions.

So, if in the Batak Toba customary inheritance arrangement, the widow does not get a penny from the inheritance of the husband's family. The widower can be said to have not encountered or will not encounter significant problems in terms of inheritance like this, because the widow is in charge and has to take care of the resulting child from the marriage and property of a former husband and wife, with a record that this widower has produced a son to continue the clan or continue his position as a customary holder or customary head for his family.

If in the future the widower marries or remarries by taking a younger sibling from his previous wife, or with other people who are not related or have no interest and rights in the distribution of inheritance with him or his wife, because of the opportunity he gets to become an expert the inheritance will remain with every child who is male or male, born from an honest marriage.

CONCLUSIONS

In the Batak Toba Customary Law of Inheritance, a man is an heir to his heir and not a daughter. However, the position of a widower in the customary inheritance law of the Batak Toba only gives full opportunity to inherit the inheritance from his parents, but not from his wife's family or clan. It is due to the wife is a member of the clan of the widower or husband, who does not also receive an inheritance from his parents. themselves, for only sons (brothers), get a share of the inheritance and become heirs of their parents.

This is possible given the existing jurisprudence in the customary inheritance law of the Batak Toba which says that a widower cannot receive an inheritance from his wife because the wife herself is not an heir to her own family, but belongs to a husband. It is due to it has been bought with goods, honest marriage or commonly called dowry and is carried out at the time of the implementation of honest marriage which is usually carried out by people or indigenous peoples

who come from customary areas using a patrilineal kinship system or using a kinship system that draws their lineage from the father's line or male line.

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