

Batak Toba Customary Inheritance Law from a Gender Justice Perspective

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Abstract: The customary inheritance law of the Batak Toba adheres to a patrilineal system that prioritizes male descendants as the primary heirs, while female descendants have limited inheritance rights. This system is based on customary values that position men as the successors of lineage and guardians of family assets. However, the development of national law and the growing awareness of gender equality have driven changes in the inheritance practices of the Batak Toba, creating tensions between customary law and national law.

Purpose: This study aims to analyze the inheritance system in Batak Toba customary law and explore the position of female descendants in obtaining their inheritance rights. It also seeks to identify the dynamics of changes in Batak Toba customary inheritance law in the context of gender justice.

Design/Methodology/Approach: This study employs a normative juridical method with a statutory and conceptual approach. The primary legal materials used include relevant legislation and court decisions, while secondary legal materials consist of academic literature, journals, and other legal documents.

Findings: The research findings indicate that the Batak Toba customary inheritance system is still dominated by patrilineal principles but has undergone shifts due to national legal intervention and social changes within the community. Supreme Court decisions have set precedents for recognizing the inheritance rights of female

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descendants, although gaps between customary law and national law persist in practice. Factors such as education, population mobility, and economic conditions also contribute to changes in the inheritance system.

Originality/value: This study contributes to the understanding of the interaction between customary law and national law in inheritance matters and provides recommendations for creating a more inclusive and equitable legal system for women in the Batak Toba indigenous community.

Keywords: customary inheritance law; Batak Toba; patrilineal system; gender justice

Paper Type: Research-Article

Introduction

Inheritance law is a form of legislation that plays a fundamental role in the lives of Indonesian society. As part of the national legal system, inheritance law regulates transferring assets from generation to generation. According to customary law, inheritance law reflects the social, cultural, and religious values upheld by specific communities (Asyrofil, Bagus, and Rozieq 2023; Muzainah 2018). One form of customary inheritance law still practiced in society is the Batak Toba customary inheritance law, which has distinctive characteristics, particularly in its patrilineal inheritance system. In the Batak Toba patrilineal system, inheritance is primarily passed down through the male lineage (Aisyah and Alexia 2022). Male descendants are considered the successors of the clan and are responsible for preserving and continuing the family lineage. In contrast, female descendants are regarded as part of their husband's family after marriage, leading to the frequent exclusion or even disregard of their inheritance rights. Although certain mechanisms allow daughters to receive a portion of their parents' assets, such as through inter vivos gifts or dowries, these rights remain unequal compared to those granted to male descendants.

The passage of time and the growing awareness of women's rights have brought significant changes in the perspective of gender justice, including in the context of Batak Toba customary inheritance law. With increasing levels of education and legal awareness among women, many have begun to challenge the injustices of the inheritance system that restricts their rights. This often leads to family disputes and encourages women to seek legal protection to claim their rightful inheritance from their parents.

Indonesia's national law has established a strong foundation for the principle of equality between men and women in various aspects of life, including inheritance. Law Number 1 of 1974 on Marriage (Law No. 1/1974) affirms that the rights and status of husbands and wives are equal in both family life and social interactions (Waluyo 2020). Provisions in Articles 35 and 36 of Law No. 1/1974 that joint property acquired during marriage is considered shared ownership, while inherited, gifted, or personal assets remain under the control of each respective party (Masri and Handayani 2022). Additionally, Law Number 7 of 1984 on the Elimination of All Forms of Discrimination Against Women explicitly states that all forms of gender-based discrimination must be abolished, as they contradict the principles of justice and human rights (Kalmykova 2019; Rufanova 2021).

Although various legal provisions recognize women's inheritance rights, the reality in society still reveals a gap between customary law and national law (Fadholi and Sari 2022). Certain terms in Batak Toba society even reflect gender bias that undermines women, such as *mangan tuhor niboru* (daughters are considered commodities), *holan anak do sijalo* (sons as the primary heirs), and *sigoki jabu ni halak do ianggo boru* (daughters are only meant to manage another household). These perspectives reinforce the exclusion of women from inheritance rights and further solidify male dominance in the social structure of Batak Toba society. In the Batak Toba customary inheritance system, the

primary heirs entitled to inheritance, based on hierarchical order, include: the son of the deceased, the father of the deceased, the deceased's male siblings, the deceased's father's male siblings, the deceased's paternal grandfather, and individuals who share the same paternal grandmother with the deceased (Rantan and Adiasih 2023; Simorangkir, Sari, and Idris 2023). This structure highlights the exclusivity of the patrilineal system, which does not accommodate daughters' inheritance rights, except in specific circumstances where exceptions may be granted based on customary practices.

However, legal developments in Indonesia have shown changes in customary inheritance patterns. Supreme Court Decision No. 179K/Sip/1961 marked a significant milestone in recognizing the position of daughters as heirs in Batak Toba customary law. This ruling set a precedent for the acknowledgment of women's inheritance rights within a legal system that was previously exclusive to men. With this jurisprudence, women now have a legal basis to claim their inheritance rights in court if discrimination occurs in the distribution of inheritance.

The main issue in this study is how Batak Toba customary law regulates the mechanism of inheritance distribution and the position of daughters within the prevailing inheritance system. Based on this background, the study aims to analyze the inheritance distribution system in Batak Toba customary law and explore the position of daughters in obtaining their inheritance rights. Thus, this research will contribute to a broader understanding of the relationship between customary law and national law in the context of gender justice, particularly within the Batak Toba indigenous community. Given the increasing debate on equal inheritance rights and the social implications of the existing customary inheritance system, this study is relevant in formulating a more inclusive and equitable legal approach. It is

expected that the findings of this research will provide recommendations for policymakers, academics, and legal practitioners in creating a legal system that is more responsive to social dynamics and the evolving values of justice in Indonesian society.

Methods

This research is a normative juridical study that employs two main approaches. The statutory approach is used to examine the legal foundations underlying the legal issues under investigation (Peter Mahmud Marzuki 2016). Meanwhile, the conceptual approach serves to analyze the framework, concepts, and theoretical foundations relevant to the legal issues addressed (Marzuki 2016). In this study, the legal materials utilized are categorized into primary and secondary legal materials. Primary legal materials include legislation and court decisions that possess legal authority and binding force. Several regulations referenced in this study include the Civil Code; Law No. 1/1974; Law No. 7/1984; and Law No. 16 of 2019 on the Amendment to Law No. 1 of 1974 on Marriage (Law No. 16/2019). Additionally, the Supreme Court Decision No. 179 K/SIP/1961, which affirms that daughters are entitled to a share of their parents' inheritance, is also considered. Apart from primary legal materials, this study also utilizes secondary legal materials, consisting of legal textbooks, articles in scientific journals, and other literature that support a deeper understanding of the legal issues analyzed. These secondary legal materials serve to enrich the analysis and provide a broader perspective on the legal principles established in existing regulations.

Discussion and Findings

Batak Inheritance System

The inheritance system in Batak Toba society reflects the social structure it upholds, namely the patrilineal kinship system (Jayus 2019). In this system, lineage is traced through the paternal

line, directly influencing the pattern of inheritance within families. Inheritance in Batak Toba society can be categorized into several forms: the individual inheritance system, the male majorate inheritance system, and the male minorate inheritance system. The individual inheritance system refers to the distribution of assets equally among heirs, although sons remain the primary beneficiaries. Meanwhile, the male majorate system grants the eldest son exclusive rights to control and maintain the entire inheritance. In contrast to the majorate system, the male minorate system assigns a greater role to the youngest son in managing family assets, particularly when he is designated as the heir responsible for preserving the parents' inherited home.

In Batak Toba customary marriage, assets given to children originate from various sources, including those brought by each spouse before marriage and those acquired jointly during the marriage. The assets brought by the husband are referred to as *modal panjaean* (Naibaho et al. 2023), while the assets given to the wife by her parents are known as *paueang* (Poespasari 2020). After marriage, the couple accumulates additional assets known as joint property, which they typically acquire after establishing an independent household, a process referred to as *manjae*.

The legal subjects in the Batak Toba customary inheritance system consist of the testator and the heirs. The testator is the individual who owns property and has the right to bequeath it, while heirs in the Batak Toba customary legal system have traditionally been male descendants. Daughters in this system do not have equal rights in inheritance distribution, although in some cases, they may receive assets through grants or gifts from the husband's family. The objects of inheritance in Batak Toba customary law include all forms of inherited property, whether directly transferred during the testator's lifetime or left behind after their passing. The inheritance distribution process in Batak Toba society occurs in two main stages: first, while the testator is

still alive, allowing direct distribution according to the testator's wishes; and second, after the testator's death, which is generally governed by customary law applicable within the Batak Toba community.

Historically, the Batak ethnic group is believed to have originated from the Proto-Malay group that migrated from South Asia and later settled in the North Sumatra region (Damanik 2018). The cultural development and lifestyle patterns of the Batak people have been influenced by geographical conditions, which led them to live in relatively isolated communities. The social structure of Batak society is strongly influenced by the clan (*marga*) system, which regulates kinship relations and determines various aspects of social life, including the inheritance system. Social relations in Batak society are structured within the framework of *Dalihan Na Tolu*, a social system based on reciprocal relationships among three main groups: *hula-hula* (the wife's family), *dongan sabutuha* (members of the same clan), and *boru* (the recipients of the bride). This structure not only influences social interactions but also affects the inheritance system, in which inheritance rights prioritize male descendants to ensure the continuity of the patrilineal lineage.

In inheritance practices, sons have the primary right to their parents' assets, while daughters typically receive their share from their husband's family or through gifts granted before marriage. However, in some more modern Batak communities, there has been a shift in inheritance practices, where daughters are beginning to receive greater rights in inheritance distribution, albeit still within certain limitations. The development of national law has also influenced the Batak Toba customary inheritance system. With various legal regulations, such as Law No. 1/1974 and Supreme Court Decision No. 179K/Sip/1961, changes have occurred in the status of daughters in inheritance law. Through its ruling, the Supreme Court has granted more equal inheritance

rights between sons and daughters, marking a shift from a purely patrilineal system toward a more inclusive one. This transformation reflects social dynamics influenced by economic development, education, and increasingly rational legal thought. The Batak Toba customary inheritance system, which was originally exclusive to male descendants, is now undergoing adjustments to align with the principles of equality and justice in national law. Consequently, the inheritance system within Batak Toba society continues to evolve in response to social and legal changes in Indonesia.

The inequality in inheritance rights between sons and daughters in Batak Toba customary law indicates gender-based discrimination that contradicts the principle of equality in law. The provision that prioritizes males as primary heirs disregards the rights of women, which are guaranteed under Article 27(1) of the 1945 Constitution, stating that "all citizens shall have equal status before the law and government and shall be obliged to uphold the law and government without exception." The dominance of sons in inheritance also contradicts Article 28H(2) of the 1945 Constitution, which affirms that every person has the right to receive equal treatment and to be free from any form of discrimination. In addition to being inconsistent with the Constitution, the Batak Toba customary inheritance practice that discriminates against daughters also does not align with Law No. 7/1984. This convention obliges the state to eliminate all forms of discrimination against women, including in family law and inheritance matters. By maintaining an inheritance system that is exclusive to males, Batak Toba customary law continues to reinforce the subordination of women and neglects the principle of substantive justice (Rantan and Adiasih 2023).

From the perspective of positive law, although customary law is recognized under Article 18B(2) of the 1945 Constitution and Article 5 of Law No. 48 of 2009 on Judicial Power, its existence

must still adhere to the principles of justice and equality. The Supreme Court Decision No. 179K/Sip/1961, which granted inheritance rights to daughters, represents a progressive step in addressing structural inequalities within the Batak Toba customary inheritance system. However, the implementation of this ruling continues to face resistance within communities that culturally uphold the patrilineal system. Moreover, the argument that daughters can acquire assets through gifts or grants from the husband's family cannot serve as a justification for maintaining a discriminatory inheritance system (Simorangkir, Sari, and Idris 2023). Inheritance rights should be inherent and not contingent upon the goodwill or discretion of others, as emphasized by the principles of legal certainty and the protection of human rights (Nalle 2018). Establishing a more equitable inheritance arrangement between men and women is not only crucial within the framework of national law but also serves as an effort to harmonize customary law with positive law, grounded in the values of social justice and gender equality. Thus, the reform of Batak Toba customary law concerning inheritance is imperative to accommodate the principle of gender justice. This transformation is not only essential to eliminate discrimination but also to ensure that customary law remains relevant to the development of national legal standards and human rights principles that are more inclusive and just.

The Position of Women in Batak Inheritance

The inheritance system in Batak Toba society is closely tied to its patrilineal social structure, which recognizes only male descendants as legitimate heirs to family assets, while daughters do not hold the same legal standing under customary inheritance law (Simangunsong and Gultom 2024). This system is based on the principle that lineage and clan continuity can only be passed down through male descendants, who also bear the responsibility of maintaining social and customary obligations within the Batak

community. The application of this principle is particularly evident in the *harta asal pauseang*—ancestral property inherited through generations in Batak Toba families. Traditionally, land or rice fields classified under *harta asal pauseang* can only be inherited by sons, ensuring that these assets remain under the control of the male lineage, both before and after marriage. Consequently, daughters are automatically excluded from rights to this land, as they are expected to become part of their husband's family after marriage (Simangunsong and Gultom 2024). Under Batak Toba customary law, women—whether daughters or widows—are not recognized as legitimate heirs to ancestral land, inherited property, or acquired assets. However, legal developments have brought changes to this rule through the intervention of Supreme Court jurisprudence. Supreme Court Decision No. 136K/Sip/1967, dated January 31, 1968, marked a turning point in Batak customary inheritance practices. This ruling was based on considerations of justice and evolving social dynamics within Batak Toba society. Further, the Supreme Court has ruled that daughters can be recognized as heirs with rights equal to those of sons, as established in Decision No. 1037K/Sip/1971, dated July 31, 1973. This transformation was further reinforced by Supreme Court Decision No. 179K/Sip/1961, dated October 23, 1961, which explicitly affirmed inheritance equality between sons and daughters. This ruling was grounded in the principles of general justice and gender equality. As a result, daughters who were previously excluded from inheriting their parents' property are now legally recognized as heirs with equal shares to sons.

The transformation of Batak Toba customary inheritance law from an exclusively patrilineal system toward a more inclusive model is not solely the result of court rulings but is also influenced by social changes within Batak society itself (Sidabalok, Amir, and Manik 2023). Several factors, including education,

population mobility (migration), economic conditions, and shifts in social values, have contributed to the gradual shift away from the traditionally accepted inheritance paradigm in Batak Toba society. Education has played a crucial role in driving changes in Batak Toba customary inheritance law. A more educated society tends to have a higher awareness of justice and gender equality, including in inheritance matters. As educational opportunities expand, new and more progressive understandings of women's rights within the family—including inheritance rights—have emerged. Individuals who receive higher education are more likely to adopt justice-oriented perspectives, thus supporting a more equitable inheritance practice that grants daughters a rightful share. In addition, migration (*perantauan*) has significantly influenced inheritance patterns within Batak Toba society. Many Batak individuals migrate to other regions and are exposed to more inclusive inheritance systems in their new environments. As a result, they bring these ideas back to their home communities, leading to a shift in inheritance practices that increasingly recognize daughters as legitimate heirs.

Economic factors have also played a determining role in the transformation of the Batak Toba customary inheritance system. Women have become active participants in sustaining family livelihoods and are no longer solely dependent on their husbands or male relatives. With the increasing participation of women in the workforce and economic activities, the demand for equal inheritance rights has become more relevant and urgent. A fair distribution of inheritance between sons and daughters not only reflects the principle of justice but also serves as an economic strategy to enhance the overall well-being of families. Social aspects have likewise contributed to the evolution of Batak Toba customary inheritance law. Within Batak society's social structure, the status of women has become increasingly recognized and valued. While traditionally, women were not acknowledged as

legal heirs, in practice, there exist mechanisms for granting property to daughters, either through gifts or donations, commonly known as "*holong ate*". This practice serves as a way to ensure that daughters receive a portion of their parents' assets, even though it is not formally recognized as inheritance within the customary legal framework.

Before legal changes were introduced through court rulings, Batak Toba customary law established that marriage followed an exogamous system, requiring the groom's family to provide a "*uang jujur*" (bride price) to the bride's family as compensation for the transfer of her social status into the husband's lineage. As a consequence of this system, women were considered part of their husband's clan and therefore lost their inheritance rights from their parents (Simangunsong and Gultom 2024). Consequently, sons remained the sole legitimate heirs entitled to inherit all family assets.

However, in practice, daughters still receive a share of family assets in alternative forms, such as land or money grants known as "*abit sora buruk*." This indicates that, although women were not officially recognized as heirs under Batak customary law, social mechanisms still allowed them to obtain a portion of their parents' wealth. Therefore, legal changes recognizing daughters' inheritance rights are not merely formal-legal adjustments but also reflect the evolving social dynamics within Batak Toba society itself. The transformation of Batak Toba customary inheritance law demonstrates that customary law is not a static entity but rather a dynamic and adaptive system responsive to social, economic, and political changes within the community. What was once a strictly patrilineal inheritance system has now evolved toward a more inclusive model, accommodating demands for justice and gender equality. The jurisprudence of the Supreme Court has played a crucial role as a legal instrument accelerating these changes, reinforcing the organic shift within society. Based

on these developments, it can be concluded that the position of daughters in Batak Toba inheritance law has evolved from an exclusively male-centered system toward a more equitable framework that includes women. This shift has been driven not only by legal interventions through court rulings but also by social factors such as education, migration, economic changes, and shifting societal values within Batak communities. As a result, Batak Toba customary law demonstrates its flexibility in responding to contemporary demands, ensuring its continued relevance in a modern society that increasingly prioritizes equality and justice in inheritance distribution.

From the perspective of gender justice and feminist legal theory, the Batak Toba customary inheritance system, as previously described, reflects a strong alignment with patriarchal legal structures that continue to dominate the social and legal framework within customary communities. The primary criticism of this inheritance system centers on the exclusion of women from inheritance rights, which not only perpetuates the subordination of women under customary law but also contradicts the principle of equality as mandated by both national and international legal frameworks.

From the perspective of feminist legal theory, an inheritance system that prioritizes the rights of male heirs reflects gender bias embedded within the social structure of Batak Toba society. Feminist legal theory, particularly radical feminism, views customary legal structures that deny women's inheritance rights as institutional mechanisms that reinforce male dominance over women (Charlesworth, Chinkin, and Wright 1991; Dwipayana and Astawan 2021). This implies that law is not merely a reflection of societal values but also a tool to maintain the patriarchal status quo, which places women in a subordinate position (K. Bartlett 2018; West 2019; MacKinnon 2018). One of the key criticisms against the Batak customary inheritance system is its justification

that women become part of their husband's family after marriage, thereby losing their inheritance rights from their own parents. This reasoning contradicts the principle of gender equality in modern legal frameworks, which recognize that women have equal rights as men, both in their natal family and in the family they establish after marriage (Akimova 2020; Markovych and Shardakova 2024). The gender-based division of inheritance rights also has broader implications, particularly in limiting women's access to economic resources, which ultimately reinforces structural inequalities within customary communities.

Furthermore, although Supreme Court jurisprudence has paved the way for the recognition of women's inheritance rights, this does not automatically eliminate the structural barriers that women face in claiming their rights. Women continue to encounter social and cultural pressures that hinder them from asserting their inheritance claims. Post-structuralist feminist legal theory emphasizes that law cannot be separated from broader power structures, meaning that formal legal changes do not always lead to substantive transformations in social practices (Alcoff 1988). In Batak Toba customary law, the concepts of "*holong ate*" and "*abit sora buruk*" as compensatory mechanisms for women cannot be considered equivalent substitutes for formal inheritance rights. Liberal feminism asserts that women must have equal access to ownership and control over economic assets, including inheritance, without relying on discretionary distribution mechanisms (Arat 2015; Shi 2024). As long as women's inheritance rights remain conditioned by a social system that grants full authority to men, the legal system fails to reflect the principles of justice.

Thus, the changes occurring in Batak customary inheritance law must be understood within a broader context—a transformation toward a legal system that is more responsive to women's rights. Formal recognition of women's inheritance rights

must be accompanied by concrete measures, such as legal awareness campaigns, gender education, and the strengthening of legal mechanisms to ensure that women can exercise their rights without social pressure or cultural stigma. Without a comprehensive approach, legal reforms will remain symbolic, lacking tangible impact on women within Batak Toba customary society.

Dispute Resolution in Batak Toba Customary Inheritance Law

In Batak customary law, male children are the primary heirs, while female children do not have inheritance rights, except under certain conditions agreed upon by the family. In customary inheritance law, the decedent is the individual who passes away, leaving behind assets that become the subject of inheritance. Heirs are those who have a blood relationship with the decedent and are entitled to inheritance according to the applicable customary law. The distribution of inheritance in the Batak customary system must go through a family deliberation mechanism, aiming to reach a consensus that is acceptable to all parties.

Inheritance in Batak society is divided into two main mechanisms: inheritance before the decedent's death and inheritance after the decedent's death. Inheritance before the decedent's death occurs through the transfer of assets by the decedent to his male children as a form of preparation for their future, such as granting land or agricultural fields. Additionally, the decedent may designate specific heirs who will receive a portion of the inheritance after their passing. Meanwhile, inheritance after the decedent's death begins with a family deliberation involving customary elders. In this deliberation, decisions are made regarding the distribution of inheritance shares among heirs and the execution mechanism for the allocated inheritance.

When conflicts arise regarding the distribution of inheritance, the Batak community recognizes a dispute resolution

mechanism known as "*marhata*", a family deliberation led by respected family members such as an uncle or the eldest son (Sinaga, Tampake, and Supratikno 2024). If the deliberation fails to reach a consensus, the dispute is brought before a customary institution that holds authority in resolving inheritance conflicts. These customary institutions play a crucial role in maintaining balance and ensuring that customary law is implemented under the traditional values of the Batak community.

In the development of modern law, gender equality in inheritance law has increasingly gained attention, particularly within customary legal systems still practiced by various communities in Indonesia. One of the key issues that has emerged is the demand from daughters in Batak society to obtain inheritance rights equal to those of sons. As the Batak customary system adheres to a patrilineal principle, inheritance has traditionally been granted to male descendants as heirs to the lineage, while daughters do not have the same inheritance rights. However, in practice, daughters often take on greater responsibilities in caring for aging parents, leading to demands for a fairer inheritance distribution based on the principle of legal equality (Simorangkir, Sari, and Idris 2023). The conflict between customary principles, which prioritize sons as primary heirs, and the principle of justice in the national legal system presents a complex legal challenge. Indonesia's national legal framework recognizes legal pluralism, wherein customary law remains acknowledged and respected, provided it does not contradict fundamental principles of national law, including justice and gender equality. Consequently, it is not uncommon for daughters to bring inheritance disputes to state courts in pursuit of a fairer share, particularly by referencing national laws that guarantee women's rights in social, economic, and legal aspects.

The patrilineal principle in Batak customary inheritance can be critically analyzed through John Rawls' theory of distributive

justice. This theory emphasizes that the distribution of resources must adhere to the principles of equality and fairness, particularly for disadvantaged groups (Rawls 1971). In the context of Batak customary inheritance law, the favoritism towards sons as primary heirs can be seen as inconsistent with the principles of distributive justice, as it systematically excludes daughters from inheritance rights. According to Rawls' "difference principle", the distribution of resources—including inheritance—should be structured in a way that provides the greatest benefit to the most disadvantaged groups (Rawls 1971). In this case, an inheritance system that discriminates against daughters can be considered unjust, as it reinforces existing structural inequalities in society. Furthermore, from the perspective of feminist legal theory, the Batak customary inheritance system can be criticized as a form of structural discrimination that restricts women's access to their economic and social rights (Alcoff 1988; Akimova 2020). Feminist legal theory highlights how both statutory and customary law often reproduce gender injustice by legitimizing patriarchal social structures (K. Bartlett 2018). This suggests that Batak customary inheritance, as a norm that upholds male dominance in the inheritance system, can be viewed as a form of "institutionalized discrimination," where women are systematically excluded from accessing economic resources that should rightfully belong to them. The feminist legal perspective asserts that law should not merely be formally neutral but must also be responsive to the social realities faced by women, particularly in gaining access to inheritance rights.

The principle of *lex non scripta*, which serves as the foundation of Batak customary law, is a manifestation of the living law, developed through generations of deeply rooted practices and traditions. However, in a modern legal state that upholds the principle of equality before the law, the existence of customary law that differentiates rights and obligations based on gender,

particularly in inheritance systems, warrants deeper examination. The principle of equality before the law, a fundamental tenet of the national legal system, asserts that all individuals must be treated equally under the law, without discrimination based on race, religion, social status, or gender. Consequently, any legal norm, including customary law, must be assessed in terms of its alignment with constitutional principles, particularly regarding the protection of individual rights. In the context of Batak customary law, inheritance practices that exclusively recognize men as primary heirs can be seen as contradicting the principle of equality, which has become an integral part of modern legal development.

The implementation of a patriarchal-based customary inheritance system creates legal inequality in fulfilling women's inheritance rights. Women in the Batak customary community face limited access to their inheritance rights, which leads to injustice in socio-economic aspects. From the perspective of distributive justice theory, this inequality has the potential to violate women's fundamental rights to ownership and economic well-being, as recognized by various national and international legal instruments. Furthermore, the legal pluralism approach adopted in Indonesia's legal system accommodates the existence of customary law, but with the limitation that customary legal norms must not contradict constitutional principles and human rights. In this regard, the supremacy of national law must remain the primary parameter in assessing the validity of customary law, particularly when it creates disparities that disadvantage certain groups. Therefore, a reinterpretation of Batak customary law within the framework of a more inclusive national legal system is necessary. One possible approach is the codification and harmonization of customary law with national law, ensuring that existing norms remain relevant to the principles of justice and gender equality. This effort can be pursued through progressive

court rulings in customary inheritance disputes or through legislative interventions that reinforce the principle of equality in customary inheritance systems.

In the practice of inheritance dispute resolution, several categories of parties are involved: women as plaintiffs, men as defendants, and judges from either customary institutions or state courts. Women may first file claims with customary institutions before turning to state courts if they do not obtain the desired outcome. During legal proceedings, they may choose to fully adhere to customary law, partially comply with state law, or fully submit to state law. Men, as defendants, often insist on using customary law as the basis of their legal arguments. In some cases, men refuse to comply with state court rulings that contradict customary principles. This situation creates tension between customary legal norms and positive legal norms, which aim to establish a more universal sense of justice.

With the growing awareness of gender equality and the influence of modern national law, the Batak customary inheritance system faces challenges in adapting to contemporary legal and social norms. One possible transformation is greater flexibility in inheritance distribution, which takes into account the roles and contributions of daughters within the family. Some customary communities have begun to introduce compromise solutions, granting daughters certain inheritance rights in the form of gifts (*hibah*) or specific assets distributed before the testator's passing.

However, this transformation is not immediately accepted by all Batak communities. More conservative groups continue to uphold the patrilineal principle as an integral part of their cultural identity that must be preserved. Therefore, a dialogue between customary institutions, communities, and the government is necessary to find a middle ground that accommodates social developments without disregarding relevant customary values. The future sustainability of the Batak Toba customary inheritance

system will largely depend on maintaining a balance between cultural preservation and the application of broader principles of justice. Thus, customary institutions and the national legal system must engage in dialogue to ensure that the patrilineal inheritance principle can adapt to evolving social needs. Additionally, academic studies and jurisprudence on Batak customary inheritance should be further developed to create harmony between customary law and national law, ultimately achieving substantive justice for all parties involved.

Conclusion

The inheritance system in Batak Toba society has traditionally been based on a patrilineal system, where only male descendants are recognized as the primary heirs. Sons hold exclusive rights over their parents' inheritance to ensure the continuity of the family lineage and maintain the social structure of Batak society. Conversely, daughters in this system generally do not receive equal inheritance rights, as they are considered part of their husband's family after marriage. This system reflects customary values that have been passed down for generations and hold legitimacy within the Batak customary community. However, the development of national law and the increasing awareness of gender equality have led to changes in the inheritance practices of Batak Toba society. Various national regulations, such as Law No. 1/1974 and Law No. 7/1984, affirm the principle of equal rights between men and women, including in matters of inheritance. Furthermore, the jurisprudence of the Supreme Court, including Decision No. 179K/Sip/1961 and other rulings, has provided legal recognition of daughters' inheritance rights under Batak customary law. These decisions serve as important milestones, creating opportunities for women to obtain a fairer share of inheritance. Despite the legal recognition of daughters' inheritance rights, in practice, there remains a gap between customary law and national law. Some Batak

communities still uphold the traditional inheritance system that prioritizes male heirs, leading many women to pursue legal channels to claim their inheritance rights. This situation highlights the tension between customary norms, which have been preserved for generations, and the principle of justice within national law, which promotes a more inclusive legal framework. Changes in the Batak Toba customary inheritance practices are also influenced by various social factors, including education levels, population mobility, and economic conditions. Batak communities that have migrated to other regions tend to be more open to the concept of equal inheritance rights, particularly due to exposure to more inclusive legal systems in their new environments. Additionally, the increasing role of women in the workforce and family economy has further driven shifts in inheritance practices, encouraging greater recognition of daughters' rights within the Batak community.

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