



## Legal Protection for Girls in the Distribution of Inheritance Based on Batak Toba Customary Law (In Janjiraja Village, Samosir Regency)

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### ABSTRACT

The Batak Toba customary law adheres to a patrilineal inheritance system, where male children are the primary heirs of family assets, while female children only receive symbolic portions in the form of gifts or jambar. This study aims to examine the legal protection for female children in inheritance distribution in Janjiraja Village, Samosir Regency, focusing on customary practices and gender equality. The research uses a juridical-sociological method, combining legal analysis with observations of the implementation of customs in the community. The findings show that although there are protective mechanisms such as parjambar and family discussions, their implementation is hindered by the patrilineal culture, lack of understanding of national law, and social pressures from the customary environment. However, there is a shift in attitudes among the younger generation, who are more supportive of gender equality, influenced by education, urbanization, and national legal frameworks. This study concludes that legal protection for female children in Batak Toba inheritance requires an approach that combines customary values with gender equality principles, leading to a more equitable distribution of family inheritance.

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which lineage is determined through the male line, as seen in the use of *marga* (clan names). This system is upheld through the tradition of *jujur* marriage, which involves the giving of *sinamot*. *Sinamot* or *tuhor ni boru* is the dowry provided by the groom's family (*paranak*) to the bride's family (*parboru*) as an initial symbol of family formation. This dowry is given by the groom's family to the bride's family to integrate the woman into her husband's clan. In Batak Toba tradition, sons are considered the successors of the *marga*, while daughters are viewed as carrying the lineage of their husband's family.

In daily life, the Batak Toba indigenous community adheres to the philosophy of *Dalihan Na Tolu*, which consists of three core values:

1. *Somba marhula-hula*, which means respecting the maternal uncle (mother's male relatives),
2. *Elek marboru*, which emphasizes protecting and cherishing women, and
3. *Manat mardongan tubu*, which encourages politeness and caution in interactions with fellow clan members.

The *Dalihan Na Tolu* philosophy serves as the primary foundation guiding the social life of the Batak Toba community. The patriarchal structure reinforced by this philosophy places men at the center of society, often resulting in women not receiving equal roles in various legal aspects, including inheritance law. In a patrilineal inheritance system, women's rights to inherit are often questioned. Since men are seen as the successors of the *marga* (clan), while women are considered to have "moved" into their husband's *marga* after marriage, daughters are no longer regarded as part of their natal family. Sons are expected to continue the lineage and uphold the family's *marga*, giving them primary inheritance rights within the family. Meanwhile, daughters, upon marriage, become part of their husband's *marga* and are no longer considered members of their original *marga*.

Several expressions illustrate the lower status of daughters in Batak Toba society, including:

1. *Sigoki jabu ni halak do ianggo boru* (daughters are merely seen as additions to another household),
2. *Mangan tuhor ni boru* (daughters are considered as commodities that can be traded),
3. *Holan anak do sijalo teanteanan* (only sons are recognized as the legitimate successors of the family).

These expressions reflect how daughters often have limited roles in Batak Toba's social structure. Such traditional views prioritize sons as the inheritors of the *marga*. As a result, sons receive primary inheritance rights and hold authority in making customary legal decisions.

Janjiraja Village in Samosir Regency is an example of a community that practices the patrilineal inheritance system. In this system, inheritance is typically passed down to male heirs, who are regarded as the *marga* successors and bear the family's responsibilities. Daughters tend to receive little or no inheritance, as they are expected to marry and become part of their husband's family.

Consequently, the inheritance rights of daughters become weak and vulnerable, affecting their economic well-being and future rights.

The population of Janjiraja Village is approximately 1,205 people, consisting of 615 males and 590 females. The village still strongly adheres to Batak traditions, including the patrilineal inheritance system, with around 95% of the population maintaining this practice, while 5% have begun to deviate due to modernization and changes in family structures. Some families in the village have only daughters, leading them to equalize inheritance rights between sons and daughters.

The disparity in inheritance rights between men and women has significant economic consequences for daughters. If their inheritance rights are limited or entirely removed, daughters become more dependent on their husband's family or male relatives for financial support. This situation can restrict their opportunities to improve their quality of life, own personal assets, and achieve financial independence. In some cases, such inequality may lead to family disputes or tensions, potentially disrupting social harmony.

Over time, many women have grown dissatisfied with the patrilineal system and have started resisting it. Women no longer passively accept traditional rules, especially concerning inheritance distribution. Indonesia has established legal provisions ensuring gender equality, as stated in the 1945 Constitution, particularly in Articles 27 and 28. The principle of equality before the law guarantees that all citizens have equal rights without discrimination. Every individual, regardless of religion, ethnicity, gender, social status, or group affiliation, is entitled to fair treatment under the law and by the government.

Moempoeni Martojo stated, "*The term 'citizen' includes both men and women.*" This statement is accurate because, in every country, citizens consist of both males and females. Recognizing this equality affirms that there should be no distinction between men and women in terms of civil rights. However, traditional customs often influence how these laws are applied, sometimes limiting the role and recognition of women's rights.

At the international level, Indonesia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW is an international treaty aimed at eliminating all forms of discrimination against women. The convention establishes principles that women's rights are fundamental human rights and sets norms, standards, and obligations for states to eradicate gender discrimination. Indonesia signed and ratified this convention through Law No. 7 of 1984 on July 24, 1984. This convention is one of the eight human rights instruments ratified by Indonesia.

Despite this, national laws often face challenges in being enforced in regions that still strongly adhere to customary law. For instance, the customary law in Janjiraja Village continues to prioritize the patrilineal inheritance system, meaning daughters' inheritance rights are still not fully recognized. This study aims to examine the adaptation of customary law to societal legal developments.

Legal protection for daughters in inheritance distribution under Batak Toba customary law has undergone significant progress. Although challenges remain, gender equality is increasingly acknowledged and implemented. To

ensure more effective protection, collaborative efforts from various parties – including the government, customary institutions, and society – are essential.

### **B. Formulation of the problem**

Based on the description that has been presented in the background above, the formulation of the problems that can be identified are as follows:

1. How is the legal protection for girls in the distribution of inheritance based on Toba Batak Customary Law?
2. What are the obstacles faced by girls in obtaining inheritance rights in the context of Toba Batak Customary Law in Janjiraja Village, Samosir Regency?

## **METHODOLOGY**

This study adopts a research method that combines normative and empirical approaches. The normative approach is used to analyze the applicable legal rules, particularly Batak Toba customary law related to inheritance distribution. Meanwhile, the empirical approach is applied to observe real-life practices in the field, especially in Janjiraja Village, Samosir Regency, regarding inheritance distribution and legal protection for daughters. Data collection is conducted through interviews with traditional leaders, family members, and local communities, as well as through the study of relevant documents. The collected data is analyzed qualitatively by linking Batak Toba customary law theories with existing community practices.

This research aims to understand the extent to which customary values influence the protection of daughters' inheritance rights and the challenges faced in achieving gender equality in inheritance distribution. The data sources used include interviews with competent informants, field observations, and literature studies on customary law and inheritance rights. With this approach, the study is expected to provide an in-depth understanding of legal protection for daughters in the context of Batak Toba customary law.

## **LITERATURE REVIEW**

### **1. General Overview of Batak Toba Customary Law**

#### **a. Definition of Batak Toba Customary Law**

Batak Toba customary law is a traditional legal system passed down through generations within the Batak Toba community. This system includes rules governing various aspects of life, such as marriage, social relations, and inheritance. Batak Toba customary law is unwritten and is practiced based on the community's belief in the customary values they uphold. One distinctive characteristic of this customary law is the application of a patrilineal kinship system, where lineage and family rights are passed down through the male line. In Batak Toba society, customary law functions not only as a guide for daily life but also as a means to maintain harmony within the extended family. This tradition aims to preserve the clan, which is considered a person's primary identity in the customary community. While this system holds strong historical and cultural value, it often presents challenges in modern contexts, particularly regarding gender equality issues.

#### b. Principles of Inheritance Distribution in Batak Toba Customary Law

Inheritance distribution in Batak Toba society is heavily influenced by the principle of patrilineal kinship. In this system, sons have the primary right to family assets, while daughters often receive only symbolic portions. The inheritance rights of sons are based on their role as clan successors and as bearers of family customary responsibilities.

However, daughters are not entirely disregarded. They may receive gifts in the form of *pauseang* or *jambar*, usually given as goods or money as a token of parental affection. These gifts are not considered inheritance rights but rather voluntary grants from parents. Nonetheless, the amount received by daughters is often significantly smaller than the inheritance rights granted to sons.

#### c. The Role of the Dalihan Na Tolu Philosophy in Inheritance

Dalihan Na Tolu is the core of the social life of the Batak Toba community. The three main values in this philosophy – *somba marhula-hula* (respecting the maternal family), *manat mardongan tubu* (maintaining good relations with fellow clan members), and *elek marboru* (protecting women) – form the foundation of various customary decisions, including inheritance distribution.

In the context of inheritance, this philosophy encourages respect for all family members, including daughters, even though they are not the primary heirs. Dalihan Na Tolu also emphasizes the importance of maintaining harmony within the extended family, so inheritance disputes are sought to be resolved through deliberation involving all relevant parties.

## 2. General Overview of Legal Protection for Daughters

### a. Definition of Legal Protection

Legal protection for daughters can be defined as efforts to ensure that their rights are respected, protected, and fulfilled in social, cultural, and legal contexts. In the context of inheritance, legal protection aims to address the discrimination that daughters often experience, particularly in customary societies that still prioritize sons as primary heirs.

According to Satjipto Rahardjo, legal protection consists of two main aspects: preventive protection, which aims to prevent rights violations, and repressive protection, which serves to provide justice after rights violations occur. In customary communities, legal protection for daughters is often hindered by strong traditions, necessitating an approach that integrates customary values with gender equality principles.

### b. National and International Legal Instruments

Indonesia has various legal instruments that guarantee women's rights, including inheritance rights. Article 27(1) of the 1945 Constitution ensures equality before the law for all citizens. Additionally, Law No. 39 of 1999 on Human Rights and Law No. 7 of 1984 on the Elimination of Discrimination Against Women (CEDAW) provide a strong legal foundation for protecting women's rights, including in inheritance matters.

At the international level, the CEDAW Convention, ratified by Indonesia through Law No. 7 of 1984, obliges the state to eliminate all forms of discrimination against women. This includes recognizing equal inheritance rights for men and women. However, the implementation of these legal instruments often faces challenges in regions still strongly bound to customary law.

### c. Challenges and Solutions in Legal Protection

One of the main challenges in protecting daughters' inheritance rights is the dominance of deeply rooted patriarchal traditions in customary societies. These traditions often sideline women's inheritance rights under the pretext of preserving the clan's continuity. Additionally, a lack of community understanding of national laws and social pressure from the customary environment also pose significant obstacles.

To address these challenges, a holistic approach is needed, including:

- **Harmonizing Customary and National Laws:** Creating a balance between customary values and gender equality principles in national law.
- **Community Education:** Raising awareness among customary communities about the importance of gender equality and women's rights.
- **Mediation Approach:** Engaging traditional leaders, government authorities, and the community in resolving inheritance disputes peacefully and fairly.

## DISCUSSION

### A. Legal Protection for Daughters in Inheritance Distribution Based on Batak Toba Customary Law

The inheritance system of the Batak people is closely related to their kinship system, which follows paternal lineage. In other words, sons inherit their father's clan and follow an individual inheritance system, where each heir has the right to manage, enjoy, and develop inherited assets according to their designated share. The primary heirs include sons, adopted sons (though they do not have the same inheritance rights as biological sons), the father or full siblings of the deceased, the closest relatives, and finally, the customary community. These heirs inherit in order, meaning that if there are no male heirs in the first category, the second category becomes the heirs, and so on.

In cases where the deceased leaves only daughters and a wife, they are entitled to use the inheritance only to meet their basic needs (Sihombing, 2018). The strict adherence to a patrilineal kinship system in Batak Toba society has resulted in the existence of five "**Supreme Male Rights**", which include:

1. The right to continue the clan;
2. The desire to have a son;
3. The right as *sombaon*;
4. The right to inheritance; and
5. The right to establish customary laws.

These rights are exclusively granted to men in Batak Toba customary society. The philosophy closely related to inheritance in Batak Toba society is

*anak mangihutihuthon na tinadinghon ni amana*, meaning a son follows his father's legacy.

If a deceased person has no male heirs, the inheritance is passed to the next male kin in the designated order. In Batak society, having no male children is considered highly disadvantageous, as only sons are seen as successors of the clan. This condition is known as "**Napuna**", meaning the family lineage has ended, and their name will no longer be remembered in Batak customary society. Daughters do not have inheritance rights unless their parents voluntarily allocate a portion of the inheritance as a gift (*pauseang*). However, Batak Toba customary law does provide certain mechanisms and customary values to offer some protection to daughters, though this protection is often symbolic or conditional, depending on family and community circumstances.

One form of protection in Batak Toba society is through the granting of *jambar*, an honorary portion traditionally given during important events such as weddings or when parents pass away. This *jambar* reflects respect for daughters, although its value is often smaller compared to the inheritance received by sons. In some cases, *jambar* is also given as a way to maintain good relationships between the nuclear family and the extended family, including the daughter's husband's family.

Besides *jambar*, there is also the concept of *parjambar*, which refers to the special allocation of assets from parents to daughters while they are still alive. *Parjambar* usually consists of money, goods, or specific assets intended as initial capital for the daughter to start her new life in her husband's family. This allocation serves as tangible support from parents, especially for daughters who require financial assistance. In some families, *parjambar* is given in a significant amount, reflecting a more inclusive parental perspective on daughters' rights.

*Parjambar* serves several important purposes. First, it acts as initial capital for daughters to start their new lives in their husbands' families, as daughters are traditionally considered to "leave" their birth families after marriage. Second, *parjambar* is a form of recognition and respect for daughters' roles within the family. Although they are not the primary heirs, *parjambar* demonstrates that daughters still hold a valued place within the family. Third, *parjambar* helps maintain family harmony by preventing conflicts or feelings of unfairness between sons and daughters.

Batak Toba customs also recognize the concept of *sahata mata ni ari*, a principle emphasizing justice and balance within the family. This principle teaches that every family member, including daughters, has the right to be treated fairly. Parents who uphold this principle often strive to allocate a portion to their daughters to maintain family harmony. Additionally, *sahata mata ni ari* reflects spiritual values, where justice is not only seen from a material perspective but also in maintaining balanced relationships among family members. Parents who strongly adhere to this principle may allocate portions to their daughters, even though, in Batak Toba tradition, sons are the primary heirs. This practice helps maintain family harmony and demonstrates that daughters remain respected members of the family, despite being considered as "leaving" after

marriage. In this context, *sahata mata ni ari* represents not only a sense of justice but also spiritual values that emphasize balance in family life.

In cases where disputes arise over inheritance distribution, Batak Toba customary law prioritizes resolution through family discussions (*musyawarah keluarga*). These discussions involve various parties, such as *suhut* (family heads), *dongan tubu* (relatives from the same clan), and *hula-hula* (maternal relatives). Daughters who feel they have been treated unfairly can present their claims in this forum, supported by influential family members. This process not only aims to resolve conflicts but also ensures that all parties feel respected and treated fairly. Family discussions play a crucial role in Batak Toba society as they emphasize dialogue, consensus, and respect for family values.

The *hula-hula* (maternal relatives) play a particularly important role in protecting daughters. In Batak Toba society, *hula-hula* hold a respected and influential position. They often exert moral pressure on the paternal family to grant a portion of inheritance to daughters. In some cases, *hula-hula* also act as mediators in family disputes, particularly when daughters feel they have been treated unfairly in inheritance distribution. The presence of *hula-hula* underscores the importance of balance in family relationships within Batak Toba customs.

The principle of *Dalihan Na Tolu* (*Somba Marhula-hula, Manat Mardongan Tubu, Elek Marboru*) is also a fundamental aspect of Batak Toba customary law. This philosophy emphasizes the importance of balanced relationships within the family and society. In the context of inheritance, *Dalihan Na Tolu* highlights respect for all family members, including daughters, as part of maintaining family harmony. Although daughters are not the primary heirs, they hold an essential role within the traditional structure, particularly in relation to their husbands' families. Therefore, allocating a portion of family assets to daughters is seen as a way to honor this principle.

Despite these protective mechanisms, the practice of inheritance distribution in Batak Toba society still faces significant challenges. One major challenge is the dominance of the patrilineal tradition, which often results in daughters receiving only a symbolic portion or, in some cases, nothing at all. Additionally, varying interpretations of customary law within different families or communities affect how well these protections are implemented. In some cases, daughters accept customary provisions without questioning their rights, particularly if they are unaware of the principles that support fairness.

In modern Batak Toba society, the influence of national legal values that emphasize gender equality is beginning to shape perceptions of inheritance distribution. Indonesian national law, based on the principle of equality, grants sons and daughters the same inheritance rights. This has started to drive changes in Batak Toba customary practices, particularly among younger generations who are more open to modern values. Furthermore, education and urbanization are encouraging more inclusive interpretations of customary law. As a result, while Batak Toba customary law still adheres to traditional principles, there is growing space for better protection of daughters through more progressive interpretations and open dialogue.

## **B. Challenges Faced by Daughters in Obtaining Inheritance Rights Under Batak Toba Customary Law in Janjiraja Village, Samosir Regency**

In Janjiraja Village, Samosir Regency, the challenges faced by daughters in obtaining inheritance rights are highly complex, encompassing cultural, social, and practical factors. These challenges are closely tied to the still-dominant Batak Toba customary system. Jusner Sibatuara, a 47-year-old community leader, explains that the patrilineal system in Batak Toba society is the root cause of this injustice. Under this system, lineage is recognized only through the paternal line, and sons are considered the primary heirs and family successors. Sons are responsible for maintaining the family's honor and customs through the *jujuran* concept, reinforcing the belief that only they deserve to inherit. Daughters, despite sharing the same bloodline, are often marginalized because they are perceived as unable to fulfill these customary obligations.

Mordia Sitinjak, an 88-year-old woman who has lived in the village for a long time, provides a deeper perspective. She explains that most of the community still relies on customary law for inheritance distribution. Many do not realize that national law actually grants equal inheritance rights to sons and daughters. This lack of awareness leads many daughters to accept unfair inheritance distribution without knowing they have legal protection. The 1945 Constitution, the Indonesian Civil Code (*KUHPerdata*), and the Marriage Law clearly establish equal inheritance rights for all children, regardless of gender. However, ignorance of these laws remains a major barrier preventing daughters in Janjiraja Village from claiming their rights.

Social barriers also play a significant role. Jusner Sibatuara states that daughters who dare to claim inheritance rights are often seen as challenging deeply ingrained customs and social norms. In Batak Toba tradition, such actions are considered a threat to family harmony. Married daughters face additional dilemmas, as they fear losing support from their extended family – especially their husband's family – if they pursue inheritance claims. Mordia Sitinjak adds that fear of being ostracized and accused of disrupting family relationships is a primary reason why many daughters choose not to fight for their rights, even when they recognize the injustice.

Beyond cultural and social barriers, there are also practical challenges. The remote location of Janjiraja Village makes access to legal institutions and courts extremely difficult. Mordia Sitinjak explains that long distances, high travel costs, and the time required for legal proceedings create burdens that many families cannot bear. High legal costs further exacerbate the situation, particularly for economically disadvantaged families. Jusner Sibatuara adds that the complexity of legal procedures and the lack of legal assistance make many daughters feel incapable of navigating the legal system.

Rinawati Nainggolan, a 39-year-old woman born and raised in Janjiraja Village, shares her perspective on the challenges faced by daughters in obtaining inheritance rights in Batak Toba society. According to her, this injustice is deeply felt because the community remains strongly bound to customs that prioritize sons as the primary heirs.

"In this village, Batak Toba customs are still the foundation of daily life. When it comes to inheritance, sons are always prioritized because they are considered the

successors of the clan and the family lineage. Meanwhile, daughters are often deemed unnecessary to receive an inheritance because once they marry, they become part of their husband's family," said Rinawati. She also explained that this way of thinking is deeply ingrained in society. Many parents feel that giving an inheritance to daughters is a violation of tradition and could bring shame to the family. "Even though we know that national law grants equal rights to sons and daughters, here, tradition is still stronger. Parents fear being seen as going against tradition if they give an inheritance to their daughters," she added.

Furthermore, Rinawati highlighted the social pressure faced by women who try to claim their inheritance rights. "If a woman dares to ask for a share of the inheritance, she is often labeled as greedy or disrespectful of tradition. In reality, she is simply trying to claim what is rightfully hers. But this kind of stigma makes many women choose to remain silent," she explained. She also pointed out that the lack of legal assistance worsens the situation. "Many women here don't even know where to start if they want to fight for their rights. The legal process is complicated, and without help, it feels impossible to go through it alone," she stated.

Nevertheless, Rinawati remains optimistic that change is possible. She believes that legal education is crucial in raising public awareness. "If people better understand that national law grants equal rights to all children, their perspectives may begin to shift. But this will take time and collective effort," she said. She also hopes for more open dialogue between traditional leaders and the community to find a fairer solution. "Tradition is important, but justice should not be ignored. I believe we can find a way to honor tradition without sacrificing women's rights," she added.

As a closing statement, Rinawati delivered a message to the women in her village: "Do not be afraid to speak up. We have the same rights as our brothers. If we do not start now, this injustice will continue. Change is difficult, but it is not impossible," she concluded with determination.

## CONCLUSION AND RECOMMENDATION

The inheritance system in Batak Toba customary society is closely tied to a patrilineal kinship structure. In this system, sons play a central role as clan successors and primary heirs. Meanwhile, daughters are not considered heirs, except through a form of parental gift known as *pausageang*. This gift is given out of parental affection rather than as an inherent right of the daughter.

Although daughters do not receive direct inheritance rights, customary mechanisms such as *jambar* and *parjambar* serve as forms of respect and economic support. The principle of justice within the family is also upheld through the philosophy of *sahata mata ni ari*, which emphasizes the importance of balance and respect for all family members.

However, this inheritance practice faces various challenges, especially in areas like Janjiraja Village, Samosir Regency. Cultural barriers, particularly the dominance of the patrilineal system, remain the primary obstacles. Daughters who attempt to claim their rights are often seen as defying tradition and face significant social pressure. Additionally, limited access to legal institutions and a lack of public awareness about national law further exacerbate the issue.

On the other hand, the influence of modern values and national laws emphasizing gender equality is beginning to bring change. Younger generations, who are more open to education and equality values, are pushing for a more inclusive interpretation of customs. This suggests that while Batak Toba traditions continue to be respected, there is room to create better justice for daughters through dialogue and deeper understanding.

### **Recommendations**

The author suggests that the government and relevant institutions intensify public education on women's rights in inheritance systems, focusing on the application of gender equality principles in national law. This aims to ensure that women receive equal inheritance rights as men within the context of Batak Toba customary law.

Additionally, it is important to develop customary education that accommodates gender equality values, allowing Batak Toba traditions to adapt to modern changes. The government is also encouraged to facilitate mediation in inheritance disputes to create fair and balanced solutions for all parties. Further research on the implementation of Batak Toba customary law in modern society is also necessary to understand how younger generations contribute to driving social change toward greater justice and gender equality in inheritance distribution.

## **ADVANCED RESEARCH**

### **1. Research Objectives**

This follow-up research aims to:

- Identify the extent to which Batak Toba customary law protects daughters' rights in inheritance distribution.
- Analyze the factors influencing the implementation of customary law amidst social changes and national legal frameworks.
- Formulate strategies to integrate gender equality values into customary law practices without eliminating the essence of tradition.

### **2. Research Methods**

This study employs a socio-legal approach through:

- **Normative analysis**, to examine customary and national legal regulations related to inheritance distribution.
- **Empirical research**, through interviews with traditional leaders, community members, and daughters in Janjiraja Village, Samosir Regency.

### **3. Research Benefits**

This research is expected to:

- Contribute to the development of policies that support gender equality in customary societies.
- Serve as a reference for customary communities in understanding the importance of women's rights in inheritance distribution.
- Provide relevant data for further research on the integration of customary law and national law in Indonesia.

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