



## A shift of inheritance tradition in Batak migrant communities in Yogyakarta

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### Abstract

This article examines the shift in customary inheritance in the Batak community that migrated to Yogyakarta. Traditionally, among the Batak people, the patrilineal system is a cultural heritage still preserved today. The enactment of the patrilineal system is one of the causes of the unequal position of Batak women's inheritance rights because only men have the right to become heirs. Interaction with people of different ethnicities, customs, and customs in overseas places not only expands the horizons of Batak nomads but also allows them to change their point of view so that leaving the roots of Batak customs will be inevitable. Until now, some Batak nomads still make boys as heirs, but it is undeniable that there is a mixture of heterogeneous communities in overseas areas that can give rise to a shift in the views of Batak nomads so that they become more open, such as accepting women as heirs with different parts. Equalizing the position between men and women through the division of inheritance indicates a shift in Batak inheritance customs that apply in the environment of the migrants. The emergence of the balance of position between men and women in the implementation of inheritance increasingly shows that the non-maintenance of customary rules that do not give inheritance rights to women is not solely preserving the identity of the Batak Toba people overseas. However, it should be suspected as one of the dynamics that emerged in the settlement of heritage by Toba Batak nomads.

**Keywords: Custom law; Batak migrant community; shifting; inheritance**

### Introduction

Legal pluralism is a classic discussion in the context of the development of the Indonesian legal system. In modern law characterized by unification, pluralism is an antithesis. One of the



factors of pluralism is customary law, the original law of the Indonesian people. As Irianto (2012, pp. 1-2) argues that legal pluralism in Indonesia refers to several things that cannot be ignored, including the influence of customary law. Customary law is tied to local cultural concepts, containing local wisdom and cultural knowledge that is urgently needed to carry out the life of the community concerned.

The existence of customary law is maintained because the state recognizes its validity formally, especially in the civil realm. In addition, factually in some Indonesian people, customary law is still firmly binding in regulating various aspects of life. One of the customary laws that is still firmly rooted to this day is the Batak Customary Law. The strength of the Batak people to bind them to customary law includes, because of their love for their ancestral customs which is manifested in the form of obedience to their customs. In addition, the existence of moral sanctions, such as social ostracism, and exclusion from the community, which can lead to loss of social and economic support, is also a determinant of obedience to Batak customs (Afriliani & Widiastuti, 2022, pp. 24-25).

The Batak community is an ethnic group that adheres to the patrilineal family system, descendants are traced according to the paternal line. In the patrilineal system, boys are in a strategic position, because they are the successors of the clan. The clan continued by the boys is the name of the clan that shows the family tree that has been the identity of the Toba Batak tribe since birth. *Marga* is an important identity for the Batak Toba people. With the existence of a clan, the Toba Batak tribe can find out their kinship relationship. This was the beginning of the formation of a patriarchal culture in the Toba Batak Tribe. This system has significant implications for inheritance rights, as it often results in the unequal distribution of wealth and property among family members.

Nadapdap (2019, p. 8) states that the consequence of the patrilineal system is the dominance of men over women. Until now, male domination continues to occur in the cultural realm embraced by the Toba Batak ethnicity. It can be suspected as follows: *first*, women are highly valued if they are able to give birth to boys and are considered low if they do not give birth to boys because they cannot continue the clan, *second*, the marriage system with honest payments (*sinamot*), positioning women as the 'bought' party. With a *sinamot*, the female surname as the child of her father will be released and must follow the family status of her husband. *Sinamot* payments, which are a form of dowry, have an impact on the imbalance in the position of husband and wife, where the position of husbands is higher than that of women. In almost all aspects of life, men are the rulers over women, both in economic aspects, and in religion and customs. *Third*, the unequal position of women in inheritance rights is because women do not have the right to inherit and are not heirs. An heir is a man; If a father dies without leaving a son, then his inheritance goes to his brother.

In line with the opinion of Hadikusuma (1990, p. 37), who stated that the Batak Toba people with a *patriarchal kinship system*, are adherents of an individual inheritance system that still distinguishes genders, where the male side is the party who has the right as the heir. From the results of her research, Irianto stated that inheritance in Batak customs is still tied to the patrilineal kinship system. Those who get inheritances are boys, while Batak women do not have inheritance rights, but the recipients of grants are usually received after marriage. Interestingly, the Batak Toba community in urban areas also still holds a customary inheritance system that refers to the patrilineal kinship system (Irianto, 2011). Nalle (2018, p. 437) added that in the traditional inheritance of Batak Toba, the right to a father's inheritance only belongs to the son. Daughters and their eldest descendants can only obtain agricultural land or livestock from their fathers

So, it becomes evident that the Batak community's inheritance customs are not without their challenges. The gender bias in these customs, while being addressed with a push for equality, remains a point of contention. The demand for equality, while noble, is seen as inconsistent with the principle of justice according to the original Batak customs. The measure of justice in the Toba Batak indigenous people must be adjusted to the responsibilities carried

out, with the greatest moral responsibility being the care for parents. Among other things, this is implemented as an obligation for a son who carries a clan to replace his father's position who is already weak in all customary positions (Nadapdap, 2019, p. 8).

Another characteristic of the Toba Batak community is togetherness, which manifests in prioritizing common interests over individual ones. This principle of togetherness is in line with the principle of *dalih natolu*, which is a social institution and the basis of interaction between Batak tribes in speaking, calling, and behaving, also showing the kinship system of the Toba Batak. Rights and obligations in marriage, birth, death, and a person's position in the custom are arranged in the pretext of *na tolu*. The relationship between *boru*, *mora*, and *kahanggi* (*dalihan na tolu*) is evident in traditional ceremonies and dispute settlement in the Batak Toba community. Another characteristic of the Batak community is that it is open and straightforward. The Batak community openly accepts input from elements that come from outside if it does not contradict the spirit of customary law itself (Jayus, 2019, p. 24).

Another peculiarity of the Batak community, namely the *sinamot* of marriage with *honest payments*, strengthens the patrilineal system that is oriented towards maintaining the continuity of the patrilineal family by including women (wives) in their husband's clan (Nadapdap, 2019, p. 8). As a result, there is a dominance of boys, which boys characterize as heirs and girls, not as heirs.

However, in its development, many refer to empirical reality by prioritizing equal rights between men and women so that girls also get inheritance. The generation assumes that "women and men should be treated equally." This is very contrary to the principle of justice, which says that there is equality of rights, which, if fulfilled, is also an obligation. However, the meaning of justice for each person is very different. Justice is a balance between necessity and utility. The measure of justice in the indigenous Batak Toba community must be adjusted to the responsibilities carried. However, moral responsibility is more significant than responsibility to a person or parent (Nadapdap, 2019, p. 8).

Kinship relationships in the Batak Toba community will never be broken because of the clan and heritage that describes the family's descendants. Based on Batak tradition, the custom called *partuturan* will always remain wherever the Batak people are. For parents in the Batak Toba custom, children are essential to fight for, especially in education, because science is an inheritance that cannot be lost or eliminated. Therefore, with science and education, a person will get abundant wealth and a better position in life (Nadapdap, 2019, p. 9).

The enforceability of customary law cannot be separated from its supporting subjects, namely members of the customary law community; they are the ones who "decide" how customary law lasts. The subject's perspective on customary law will be very determinant. On the other hand, a person's life journey in social interaction, whatever the form, will affect this perspective. This will be increasingly seen when members of indigenous peoples go abroad.

*Merantau* is a social phenomenon that has occurred since ancient times. In the modern era, where social mobility is very high, migration is a norm. One community with a strong tradition of traveling abroad is the Batak Tribe, whose overseas areas are scattered, including the Special Region of Yogyakarta. Interacting with people of different ethnicities, customs, and customs in overseas places not only expands the horizons of Batak nomads but also allows them to change their points of view so that leaving the roots of Batak customs will be inevitable. The old values of the Batak tradition are still "there" and respected, but they may no longer be implemented in their daily lives when they face complex problems overseas. *Merantau* will create cultural acculturation that allows for strengthening or even cultural change, which appears as abandoning its original customs. Acculturation can be interpreted as the entry of value systems, developmental sequences, roles, and personality factors that contribute to how individuals accommodate when they meet each other (Padilla & Perez, 2003). This aligns with the opinion that migrating can result in cross-culture through adaptation, acculturation, and cultural assimilation. They assume that there will be a shift and the creation of new wisdom

that regulates individual relationships within the group and offers many alternative rules regarding intergroup relationships, including on the issue of inheritance rights for girls (Afif & Bahri, 2009, p. 205). Various problems are not only in the kinship system but can also impact the inheritance system because many want equality between girls and men in terms of inheritance. This is, of course, a challenge for Batak nomads in solving the problem of their customary inheritance.

The above conditions can cause the social ties of the Batak community to weaken and social control to loosen because traditional social institutions lose their authority due to the increasing diaspora. Batak overseas activities in the Special Region of Yogyakarta make communication between customs possible, especially for Batak nomads who carry out intermarriage with fellow Batak. Unknowingly, Batak nomads will be faced with new values, such as the parental family system, which is very different from the patrilineal family system and can affect their attitudes and mindsets. So, it is not impossible that these Batak nomads will be in a dilemmatic position and choose whether to remain loyal to maintain their customs or leave their ancestral customs and follow the customs in their new place by making changes to solve the inheritance problem.

The problem that Batak nomads have yet to study much is about the change in the value system and their social life. The length of time and the distance of the place of migration is not impossible to fade the closeness, obedience, and loyalty of Batak nomads to their ancestral customs. This study aims to describe the obedience of Batak nomads to customary inheritance law, as well as the openness of the overseas Batak community so that there is a shift in the implementation of Batak customary inheritance in the Special Region of Yogyakarta.

## Method

This study aims to describe the obedience of Batak migrants to their customary inheritance law and the openness of Batak migrants so that there is a shift in the implementation of customary inheritance in the Special Region of Yogyakarta. This research uses a qualitative approach, to explore domains related to the main problem, 'The extent of the shift in the implementation of Batak customary inheritance among Batak nomads in the Special Region of Yogyakarta,' which will then be described into several focuses of research problems which are divided into several domains. The specification of this study is descriptive, namely describing the obedience of Batak nomads to their customary inheritance law and the shift in the implementation of customary inheritance in Batak nomads in Yogyakarta.

The research subject, identified by Snowball, is a key informant who plays a pivotal role in this study. This key informant is the Pastor at Huria Kristen Batak Protestant (HKBP), a person who possesses a profound understanding of Batak customs and has comprehensive knowledge about the members of his association. The initial informant, the Pastor, then informed Batak nomads who were married (with Batak women or women of other tribes) and had experience in completing inheritances in the environment of their relatives or families. From this pool, 6 Batak nomads were selected as the subjects of this research.

The data of this study was meticulously collected through interviews and document studies. Data validity at the data collection stage is ensured by the thorough process of creating *a good rapport* with informants, conducting peer *debriefing* with peers, and *crosschecking* data sources and data collection methods. Inductive analysis was used to assess and analyze data focused on Batak nomads' obedience to customary inheritance laws and Batak nomads' openness to changes in implementing customary inheritance in Yogyakarta.

## Result and Discussion

### Overview of Overseas Batak Communities in the Special Region of Yogyakarta

The Toba Batak community is one of the many tribes in Indonesia that migrate to the Special Region of Yogyakarta (DIY). The Batak tribe is known as one of the great ones, and it comes from the west coast and east coast of North Sumatra. The Batak tribe is one of the

indigenous peoples whose social structure is formed genealogically patrilineally, *which* is tied by blood or kinship from the paternal line. This social structure plays a significant role in their community dynamics, influencing their family relationships, inheritance systems, and social hierarchy. Until now, it is not known precisely the beginning of the existence of Toba Batak migrants in the Special Region of Yogyakarta (DIY). It is estimated that the Batak people migrated to DIY in 1861, which is suspected to be the result of the establishment of the Huria Christian Batak Protestant Church (HKBP) that year. HKBP, which was established in Kotabaru, is a gathering place for Toba Batak nomads in Yogyakarta.

The Batak people are known as people who often migrate and are unique; overseas, they still hold fast to the values of religion, culture, and Batak traditions. Although these nomads have a lot to do with people of different ethnicities, it does not mean that the nomads are "less Batak" or deny their ethnic origin. The nomads remain oriented towards the values of traditional culture, especially if they meet family issues such as marriage, death, and inheritance. One of them is maintaining horizontal relationships between humans and their fellow humans. In Yogyakarta, they formed various communities as a medium of friendship to take care of the traditional values of Batak culture overseas.

The kinship relationship between the overseas Toba Batak people and their relatives will never be broken because of the clan and heritage that describes the descendants of the family. Based on Batak tradition, wherever the Batak people are, the custom called *partuturan*, which is a set of rules and norms that govern social interactions and relationships, will never disappear. For parents in the Batak Toba custom, children are significant to fight for, especially in terms of education, because science is an inheritance that cannot be lost or eliminated. Therefore, with science and education, a person will gain abundant wealth and have a better position in life in the future.

So far, the Batak people who migrated to Yogyakarta still hold the main life goals and values in life, namely *hagabeon* (blessed because of heredity), *hamoraon* (rich), *hasangapon* (prestige or honor). However, in its development, along with the increasingly intense interaction with people of different ethnicities in overseas places, it has expanded its horizons and was able to change the perspective of the Batak nomads. So, there is a shift in Batak nomads in implementing the values that are the goals of the above life goals. If culturally conceptualized, wealth (*hamoraon*) is connected to the property physically (especially land). Descent (*hagabeon*) is associated with many children, and honor is associated with our relationships and relationships with many people. In the present time, the purpose of life has changed into capital, labor, knowledge, information, education, and the formation of a network with respected traditional Batak elders. This is in line with the opinion of Sinaga (2023, p. 248), who states that the Batak educate their female children to become worthy wives so that later their children will become a way to foster kinship relationships with people who have high positions. Another impact that occurred was the scarcity of land to own, and the Batak *Pauseang* custom, namely the giving of land to girls as a wedding gift, began to disappear, leading to changes in the traditional system of land ownership and inheritance.

### **Settlement of Heritage Properties for Toba Batak Nomads in Yogyakarta**

For the overseas Batak people, holding fast to the customs as expected by the ancestors conveyed through *poda* or advice is a glory. The advice that is consistently given is "*Unang gabe lupa lului Garejam dohot lului natoras mu*," which means "Do not forget to look for your Church and look for your parents." The advice means that the Toba Batak generation in *tano parserakan* (overseas land) continues to preserve their faith, so the gathering Batak nomads to become the HKBP Church congregation in DIY is inevitable. Furthermore, the Batak Toba people are expected to continue to know, maintain, and comply with the Batak Toba customs, which are rooted in the patrilineal kinship system and bind members in a relationship of *pretext na tolu*.

So far, the overseas Batak community in Yogyakarta still adheres to the principle that genealogical and historical relationships of the Batak people can only be traced through the male line because boys are the successors of their descendants. At the same time, girls and wives are not recorded in the line. This is in line with the opinion of Irianto (2011, p. 9), who states that for the indigenous people of Batak Toba, boys and women have different responsibilities towards their clans. A boy will know his father's clan throughout his life, while a girl will know two clans: his father's clan and her husband's. Thus, in the corridor of relations between the two clans, the position of the girls becomes unclear. Although they are related to both, the women are never full members of the two clans. Batak men and women have different rights and obligations towards their *clans*. Since childhood, boys have been aware that they must understand the Batak Toba customs and be responsible for the continuity of their father's clan. This understanding integrates into every Batak man, from the customs that cover the time of birth, clan giving, and marriage to the inheritance of inheritance.

Batak women are considered figures who will follow their husbands and leave the family. After Batak women marry, they follow their husbands and leave the family. Based on that thought, the family considers that women are no longer included in their inheritance list. That is why the conflict of injustice arises, as well as the woman's statement, "*Mother, we are your child too.*" Women who sometimes always get discriminated against in everyday life often feel safer when they are widowed by having a son than having a husband without a son. A cultural factor that requires boys to bear the family name is pressure from several parties, especially for those who do not have a son. In the custom itself, women are second after men (Sinaga, 2023, p. 250).

In accordance with customary traditions, the process of distributing inheritance is tried to take place peacefully, without disputes. Usually, the process is carried out through *marhata* (deliberation) between family members led by the elder in the family. For example, uncles (*bones*) or the eldest son can also be a brother on the father's side. Those who are present in this *marhata* are those who are in the *Dalihan Na Tolu*, those who have the right to speak, first in *boru* (a group of female givers), second in *dongan tubu* (a group of birth mates, a group of relatives both from *hula* and *boru*, but whose origins can still be traced clearly from the male line), and third. *hula-hula* (group of female recipients). The process of distributing the inheritance begins by calculating the inherited property, by deducting the expenses incurred when the heir dies, for example: funeral ceremony fees, *sinamot* (*honest* paid to the daughter-in-law), *indahan arian* (gift for the daughter who gives birth to the first son/grandson) and heirs' debts. Only after that is the inheritance ready to be distributed to the heirs.

For Batak nomads, their parents' inheritance is precious. The importance of people's inheritance is as follows: a) for the next living capital, b) as a marker that the recipient of the inheritance is the son of the deceased. If we do not get an inheritance, then we are not his descendants.

From the results of the study, there are dynamics in the settlement of heritage in the Batak nomadic environment. Although the nomads still adhere to the Toba Batak customs in their daily lives, completing the family inheritance is partially the same as the ancestral customs. It was found that there were several variations in dividing the inheritance, according to family deliberations or the opinion of the father as the heir. So that several variations of inheritance settlement can be proposed for Toba Batak nomads in Yogyakarta.

#### 1. Inheritance is only inherited by boys

The Batak nomads understood the consequences of the patrilineal system, which, among other things, did not give inheritance rights to women. The one who was indeed considered his father's heir was the son. The ambiguous relationship of a daughter to *her father's* clan and her husband's *clan* is why a woman does not become an heir to her father, nor is she an heir to her husband. The provision that outlines that only boys have the right to be heirs is closely related

to the principle of *king parhata*, which positions the boy's urgency for continuing the lineage and preventing the *punu* (extinction) of his father's clan.

In the Batak community, giving inheritance or heirlooms in the form of land to boys is interpreted as a symbol of the glory and preservation of the clan. Meanwhile, girls are not considered heirs because they cannot continue their father's family lineage. Traditionally, a daughter cannot represent her father because, after marriage, she will belong and be part of her husband's clan.

Batak customs require inheritance to belong to the clan's successor, namely the son. However, it does not mean that girls do not get any share. There is a solution, through an instrument called *olong ate*, which is a form of giving as a sign of a father's or brother's love for a daughter. According to the expatriates, because of their blood relationship, it is customary and humane for a daughter to ask for a part of the inheritance from her father or brother. A daughter can ask her father or brother for part of the property as a marriage gift and for her living capital, which in Batak terms is called *pauseang*. The girl can also ask for some treasure as a gift for the birth of her first son, which is referred to as *an arian beauty*.

From the above explanation, daughters can also enjoy their father's property. The only difference is that if a boy has the right to inherit his parents' property, then the girl is only limited to the right to ask, which is based on compassion. The request can be granted if the parents or brother can do so, or it may not be granted. However, if the woman does not ask for a share of the property, she will not be given. The daughter's request for her father's property is only appropriate if she is married and is still the responsibility of her parents. In addition, if the parents still have a son who has not yet married or if there is still a mother whose living expenses are a burden from the property

This is in line with Vergouven (2004, p. 316), who states that a father can give gifts to his daughter since the heir is a man. It is given when the daughter is still a child, when the daughter is married, or given to her grandchildren. However, what the daughter received was not in the sense of rights but an appeal to her brother to be given a part of the wealth left by her father. The appeal can be addressed to uncles or other relatives if there are no boys.

## 2. Passed on to all children

The Batak nomadic community understands that the inheritance will fall on male descendants because the men carry the surname, while the women are "lost." Although normatively, girls are not included in the group of heirs, in their development, most of the Toba Batak people who migrated to Yogyakarta have included their daughters as heirs, with a very varied portion.

Among the Batak people who migrated to Yogyakarta, there was a shift in their understanding of heritage solutions. Several factors cause this shift. The first factor is the mixing of Batak nomads in Yogyakarta, causing them to know and be more familiar with different customs, even diverse ones, considering that Yogyakarta is an area with a heterogeneous population. Nomads face a new culture in Yogyakarta so that this condition will cause a kind of cultural shock for them. Without realizing it, they will face new values that require them to adjust constantly. One of the consequences is the non-implementation of honest marriage by the Toba Batak diaspora in Yogyakarta. As a result, the bloodline from the father will be severed. In addition, several problems arise, namely, a change in a person's position, inheritance rights, and so on.

The second factor is education. Batak migrants who have a good education tend to have an open mind. They no longer view the concept of Batak customary inheritance with a narrow interpretation and think more contextually with the paradigm of gender equality and human rights. Among Batak nomads who have an open view, there has been a change in their views on the inheritance system in their family environment. From the original pure use of the patrilineal inheritance system, it has changed and seems to be influenced by the parental inheritance system, which can be suspected from the inheritance given to boys and girls.

This group of Batak nomads is of the view that the position of boys and girls should be the same. They associate it with the Batak metaphor which reads *ia dompat marmeme anak, do marmeme boru, sian na martua debata*, which means that boys and girls are treated equally; both are given milk and affection without any different treatment. According to the Batak nomads, the same treatment should be received by boys and girls in all respects, including in receiving inheritance, even though with different parts.

All human beings have the same position, and there is no difference between boys and girls. Daughters are entitled to their parents' inheritance along with their brothers. In the future, the inheritance obtained from their ancestors will be inherited by the son, while the daughter will receive the property (movable object). While the house and the land acquired during his marriage, he will inherit it to his sons and daughters, but with a larger share for the sons.

Batak nomads still comply with the provisions that state that the share of the heirs is based on the principle of equality which is implemented by referring to the principle of virtue or *hasurungan*. For example, because the eldest child is a substitute for his parents for his younger siblings, he will receive a blessing in the form of an inheritance that exceeds his sibling's share. The provision of *hasurungan* can also be given because a child who has a greater responsibility in caring for his parents at an advanced age has been taking care of his parents since before his parents died.

Currently, only the Batak Toba people who live in their home areas are still implementing the original traditional inheritance. The positive things that can be concluded from the Toba Batak customary inheritance law are the man responsible for protecting his family, the kinship relationship that is never broken because he is united by the clan, and the inheritance that is a symbol of the existence of the descendants.

Among Batak nomads who have an open mind, they tend to give the same position to all their biological children, both men and women. Boys and girls have the same value. It is just that it is the customary law system that constructs gender differences in the family and society, which has an impact, among other things, causing injustice in the settlement of inheritance.

This aligns with the nature of togetherness in the Batak Toba community, where shared interests take precedence over individual interests. This principle of togetherness is in line with the principle of *dalihan na tolu*, which is a cooking stove placed on top of three equally large, equally spaced, and equally high stones (Jayus, 2019, p. 238). The principle of togetherness can be the basis for a shift in customary inheritance law norms, leading to the recognition of women's inheritance rights.

### 3. Inheritance in families without sons

For a small number of Batak migrants in Yogyakarta, it seems that there is still an affirmation of customary rules that do not give inheritance rights to women. So, when a parent dies, women are never considered in family meetings (*marhata*) that discuss the distribution of inheritance, and only male family members play an essential role. If a woman does not give birth to a son and has no brothers, then she is not entitled to anything because it is considered to have caused her clan to become extinct. The woman is called a *sitenaon*, and all the inheritances of the father and husband must be inherited by the father's brother or her husband's brother.

A woman who has the status of a widow without children will lose access to her deceased husband's property, and her husband's clan will control the property. Although the relative will later inherit the property of the extinct relative, it is believed by the Batak people that *manean* or inheriting the property of a poor relative can bring undesirable consequences. These relatives will inherit the phenomenon of property of people who are not of male descent is recognized by the Batak nomads as quite unsettling, so a gap is sought to solve the problem. For example, by doing *mangain* (adopting children), remarrying (polygamy), or making a will



#### 4. *Mangain child* (adopted child)

Married couples who do not have a son can perform *mangain* in a customary way, aiming to pass their offspring on by the son they adopt through the clan given to the adopted child. The surname given is the surname of the adoptive father. The adopted boy, called the term *anak na niain* must come from the family environment close to the adoptive parents.

This child's *mangain* must be paraded or held in a traditional ceremony led by an elder and respected person, who must ask for opinions and blessings from *dalihan na tolu*. After it is legally held according to the Batak Toba custom, the relationship between the adopted son and his biological parents is severed, and a kinship relationship with his adoptive parents is established. Furthermore, the adopted son will live with his adoptive parents, has the right to bear the surname (surname) of his adoptive parents, and becomes the successor of the descendants of his adoptive parents' clan.

As a result of the adoption of a boy in a customary manner or being customarily decorated with a traditional ceremony of *mangain*, the family relationship with his biological parents is severed, including the loss of his inheritance rights. From now on, adopted children are given the same position as biological children, so that later adopted children will inherit from their adoptive parents.

Adopted sons have the right to inherit the inheritance of their adoptive parents. Inheritances that can be given to adopted sons include land, houses and other immovable property. The property that cannot be inherited from an adopted child is an inheritance because this type of property can only be inherited from generation to generation to the original descendants of the ancestors of the adoptive parents' family.

#### 5. Holding a second marriage (polygamy)

In general, the Batak Toba people uphold religious and customary values that only allow people to marry only once in their lifetime (monogamy). However, because the Batak Toba custom focuses on the principle of descent being continued by boys, the Batak people tolerate the existence of a second marriage (polygamy). Although after Christianity developed in North Sumatra, the polygamous system gradually disappeared, and the Batak Toba people firmly held the monogamous system. Christianity has succeeded in making the tradition of polygamy a history in the Batak Toba community. However, in small numbers, there are still Toba Batak people who practice polygamy due to the lack of male descendants. For the father's clan not to become extinct, a husband performs a second marriage (polygamy) with the hope that from this marriage a son will be born.

For the Batak Toba people, the first child is *mata ni ari binsar* in the family, namely the rising of the morning sun that brings happiness to the family. So, the birth of the first child, especially a boy, became a long-awaited event. His father's name will change and be adjusted to the name of his first child. That name is what a father is proud of in front of his relatives and the Batak community. Ironically, if a woman cannot provide a successor to the clan, it is considered her fault and imperfection as a wife.

A Batak nomad who does not have a son added, customarily, he is required (encouraged) to practice polygamy. However, as a devout Christian, the insistence of the custom was rejected, even though it was interpreted as violating the custom. He added that many Batak nomads have a dual view of marriage. On the one hand, Batak men justify the prohibition of polygamy. However, on the other hand, because of the principle of *hagabeon*, the priority value in life is to have offspring, so it is as if they tolerate polygamy. However, because they obey religion more than custom, many Batak nomads persist in the principle of monogamy, even though all their children are women.

#### 6. Testament

In the Batak Toba community, inheritance can be done when a father (heir) has died or when the father is still alive, namely through a will. The father can give a will on how to inherit

his property to his heirs. The father's own will can make a will as an heir or because of input from others. Wills are usually made because a father has no sons or no descendants. This will is binding as an expression that reads *tona na mate inda tola muba*. This will abort previous messages that contradict the will.

### **The Position of Women in the Inheritance System According to the Batak Inheritance System**

Admitted by the migrants, the mixing of Batak nomads in Yogyakarta causes them to be more familiar and accustomed to different customs, even diverse customs, because Yogyakarta is an area with a heterogeneous population. This adaptation process is not without its challenges, as Heryadi and Silvana (2013, p. 102) argue that a person who migrates will face various challenges in his new place, such as language, community attitudes, belief systems, and cultures that are very different from their previous environment. This understanding of the migrants' struggles can invoke a sense of empathy in the audience.

Among the Batak Toba people who migrated to Yogyakarta, there was a shift in understanding of inheritance settlements and who received the inheritance. There are several factors that cause this shift. The first factor is the process of continuous integration and interaction with overseas communities. Toba Batak nomads live amid a diverse community in Yogyakarta. This diversity also encourages the emergence of inter-ethnic marriages, marriages between individuals from different ethnic groups, which can have an impact on the continuity of the Batak Toba inheritance system.

The second factor is the transformative power of education among Batak nomads. The Batak community places great importance on children's education, considering it an inheritance that cannot be lost. With education, abundant wealth and a higher position in life will be obtained in accordance with the basic values of the Batak community: *hamoraon* (wealth), *hagabeon* (having descendants), and *hasangapon* (honor). This emphasis on education and its potential to bring about positive change can make the audience feel hopeful about the future of the Batak community.

The third factor is the Supreme Court Decision No. 179K/Sip/1961, dated October 23, 1961. This decision, based on the fact that 'in addition to the sense of humanity and general justice, as well as the nature of equal rights between women and men, in some decisions take a stance and consider as a living law throughout Indonesia that the daughter and the son of a deceased heir are jointly entitled to inheritance in the sense that the boy's share is the same as the daughter and that the daughter has the position of heir together with the son and gets the same share as the son.' This decision significantly altered the traditional inheritance system in the Batak Toba community.

The points as mentioned above bring about a change in the position of women, especially about inheritance settlements, as follows:

#### **1. The position of women as children**

In its development, most of the overseas Toba Batak people in Yogyakarta equate boys with girls. By including their daughters as heirs, along with sons with varying shares of inheritance

The equality of position between men and women through the division of inheritance indicates that there are differences in Batak customs that apply in the environment of nomads with the patrilineal customary kinship system that positions boys as the successors of the descendants and has an impact as heirs to their fathers and ancestors. The emergence of the balance of position between men and women shows that the inheritance in Batak nomads is suspected to be a characteristic of the parental system. Batak nomads no longer carry out purely patrilineal. It even includes the status of their children, who have the same rights and obligations, both in the father's and mother's families. This is one of the dynamics that emerges in the settlement of heritage by Toba Batak nomads.

The main thing can be seen in education, where nomads give equal opportunities to boys and girls. All get priority with no difference. One thing found in this study is that the understanding of the difference in roles between men and women in the Batak Toba community in Yogyakarta is not only negative; furthermore, but the difference in roles also aims to provide protection and security (emotional security) for their daughters, both single and married. The blood relationship between the daughter and the holder of control over the inheritance (the male side) can still be extended today. Although girls cannot be expected to be the successors of the clan, it is increasingly felt by nomads that girls are more reliable as social security providers than boys (Irianto, 2012, p. 283)

This equality of position between men and women is in line with various regulations, including Presidential Instruction No. 9 of 2000 concerning Gender Equality. In the consideration section, it reads: "In national development, it can also be seen that in order to improve the position, role, and quality of women, as well as efforts to realize gender equality in family life, society, and the country, it is considered necessary to carry out a gender equality strategy throughout national development." In the general explanation, the Presidential Instruction states that Gender is a concept that refers to the roles and responsibilities of men and women that occur as a result of changes in society's social and cultural conditions. Gender equality is the same conditions for men and women to obtain their opportunities and rights as human beings in order to be able to play a role and participate in political, economic, socio-cultural, defense, and national security activities.

## 2. Position of women as widows

In the Batak Toba community, a woman who is a widow with or without a son cannot inherit her husband's inheritance. Widows get common property if they are integrated into the husband's relatives. In general, widows only have the right to manage, maintain, cultivate, and enjoy their husband's inheritance for their living needs and their children before their deceased husband's property is inherited by their son.

If the widow has no children or only has female offspring, she is called *a sitenaon*, then all her husband's inheritance must be inherited to her husband's brother. The widow without children will lose access to her deceased husband's property, and her husband's clan will control the property.

Among Batak nomads, there has been a change in the evaluation and granting of status to women who have the status of widows. With the consideration that before her husband dies (before she has the status of a widow), the woman is a wife who has noble obligations.

In her household, a wife is obliged to maintain the integrity of her household, be loyal and devoted to her husband, and take care of and educate her children until they are adults. The wife is the husband's companion in upholding the household. Acknowledged by the Batak nomads, the role of wives who cooperate with their husbands to meet household needs and the role of women in it is also quite significant in making a living. It is also recognized that there is a sacrifice of women namely since her marriage, a woman will enter her husband's relatives and give up family relations with her relatives. Although, in fact, the relationship still exists as contained in *dalihan na tolu*.

The principle of togetherness is also often the basis of shifts in customary inheritance law norms that lead to the recognition of women's rights. In Batak society, especially non-Muslims, there is a change/shift in patrilineal inheritance norms where widows and girls can be recognized for their rights when inheritance occurs.

In the Batak Toba society, there is a shift in the norm of patrilineal inheritance, where widows and daughters can be recognized for their rights when inheritance occurs. The development of the Toba Batak customary inheritance law occurred due to the influence of several factors, including travel, better education, and mixed marriage, as well as an increase in the role of women in taking care of the family. (Daniel S. Lev, 2018: 1-2). With the existence of *merantau* activities, the overseas nuclear family is prioritized. On the contrary, the attachment

of the Toba Batak nomads to their ancestral customs is no longer as strong as the previous Batak Indigenous people. The weakening bonds of indigenous peoples also cause weak obedience to customary law.

Migrating also results in widows living separately from their husbands' extended families, which hinders widowhood management by their husbands' extended families. With the development and change of needs, the rights of widows as holders of gono gini property and as heirs are increasingly recognized. The recognition of the rights of widows and girls due to changes in the needs and culture of the community is also basically by the principle of togetherness in customary law, which prioritizes the interests and justice of all parties according to their needs. In the Batak Toba community, for example, it is undeniable that currently husbands and wives work together to meet household needs, whereas, in some areas, the role of women is also quite significant in terms of earning a living (Judiasih et al., 2020, p. 76).

In addition to being caused by socio-cultural developments and the community's needs, several Supreme Court decisions influence the shift in the settlement of inheritance that gives women (daughters and widows) as heirs. First, the Supreme Court's decision Number 110K/Sip./1960 which was strengthened by the Supreme Court's decision Number 302K/Sip./1960. which decides that the widow can be seen as the heir of her husband, especially the husband's original property which is absolute. The two Supreme Court decisions No. 1037/K/Sip/1971 and No. 284/K/Sip/1975 on the case in Pematang Siantar stated that the daughter of a father surnamed Batak has the same right to inherit her father's property as a son. It can be concluded that the Supreme Court's jurisprudence has stated that daughters and widows in patrilineal families have the right to inherit their father's and late husband's property. The position of girls is considered equal to that of boys.

It can be stated that there is a phenomenon of legal pluralism, especially in the issue of inheritance in the Batak Toba community, which is suspected of various inheritance law rules, namely customary law, state law, and customs that arise in the development of the Batak Toba community still pose problems so that a Batak related to inheritance issues becomes the subject of more than one legal system (Irianto, 2012, pp. 2-5). Normatively, Batak customary law does not give inheritance rights in the form of land, houses, and immovable objects to women or widows. Meanwhile, various national laws and regulations have formulated legal instruments that guarantee equal rights between women and men, including various court and Supreme Court decisions that grant inheritance rights to Batak women. Furthermore, the custom that has emerged among the Batak Toba people today is the existence of "consent" to give part of the inheritance to women through various ways, such as making a will and giving a part in the form of jewelry, jewelry, or education. However, the gift to the women mentioned above is still not considered a right.

## Conclusion

At the end of this paper, it can be said that the patrilineal system that traditionally aims to continue the male lineage of the Batak ethnic group has crystallized the position of men who are more dominant than women. Furthermore, it causes gender bias in the inheritance customs of the Batak community. So far, men have received more equality than women. Although in Batak customs, women are included in *Dalihan na tolu*, a concept that refers to the three pillars of Batak society: mother, the father, and the child, *which is* interpreted as a figure who should be appreciated, but in the distribution of inheritance, the position of women is very uneven.

In subsequent developments, there is a dynamic understanding of Batak customary inheritance law, especially among overseas communities. These communities, through their nomadic lifestyle and interaction with other cultures, have developed a more open view. They have accepted daughters as heirs and given widows access to control the property of their late husbands. This adaptability of the Batak community to accommodate changes while still holding the main principles of Batak customary inheritance law is truly commendable.

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