

THE POSITION OF DAUGHTERS IN THE DISTRIBUTION OF INHERITANCE IN BATAK TOBA AND MINANGKABAU COMMUNITIES

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Abstract

The purpose of this research is to know how the distribution of inheritance and the position of daughters in the distribution of inheritance in Batak Toba and Minangkabau communities. This research uses descriptive qualitative research method. The data of this research consist of primary data and secondary data. Primary data was taken from the interview result of researcher with informant from both tribes, while secondary data was taken through literature study from journals, books and literature related to the problem under study. The results of this research show that in the Batak Toba community, daughters do not get a share of inheritance. The kinship system of the Batak Toba community embraces the patrilineal system, in which the lineage is withdrawn from the father's clan so that the inheritance belongs only to the sons. All heritages can only be passed on to the sons. But daughters can get the inheritance that is called *holong ate*. *Holong ate* is only given to married girls. The wealth gift is considered a gift of a father to his daughter. While in the Minangkabau community that embraces the matrilineal family system, where the familial system is withdrawn from the mother line, the heritage treasures are only given to daughters. Sons do not have high treasures and the low treasure (search treasure) is given to children and wives.

Keywords: community, Batak Toba, Minangkabau, inheritance, daughter

Introduction

Indonesia has ethnic and cultural diversity. The geographical location of Indonesia in the form of the archipelago caused cultural differences that affect the pattern of life and behavior of the community. We can see this in the tribes of Indonesia. Batak is one of the tribe in Indonesia. Batak tribe is divided into several parts namely Batak Toba, Batak Simalungun, Batak Karo, Batak Pakpak and Batak Mandailing. In this case, the author takes a discussion of Batak Toba.

The relationships of Toba Batak tribe are very strong and this continues to be maintained wherever they live. In knowing the kinship relationship between someone with others, it is done by tracing ancestral pedigree of several generations above

those. In Batak language called "*Martarombo*" or "*Martutur*" is with *Marga* (family's name).

Batak society who embraces the patrilineal family system of the line is drawn from the father. This is seen from the clan worn by the Batak tribe who descends from his father's clan that automatically the position of fathers or men in indigenous people is higher than women. Because of the influence of the times, the status of women and men have equated, especially in terms of education.

In the Batak Toba community, son is considered as the successor of the descendants (*marga*) on Batak Toba, while the daughter of Batak Toba who has married, she will enter her husband's relatives and released from her parents who died.

Batak Toba culture is different from Minangkabau culture. Batak Toba is based on patrilineal line, while Minangkabau is based on matrilineal line. Minangkabau is one of place in Indonesia where one can encounter a society that is governed by the order of the mother's law, from the small living environment, from the family, to the uppermost environment of a "*nagari*" so that it can be seen that mother is a factor that regulates the organization of the community, although in the latter environment that it is mentioned in the *nagari*. We still encounter other binding factors. The life in the *nagari* is arranged according to the mother's legal order which is referred to in everyday terms as life according to their custom.

This unwritten customary law makes customary law is so dynamic that it is easy to adapt to the developments needed by the times. Minangkabau inheritance law which is part of customary law that many ins and outs because on one hand Minangkabau inheritance law is a continuation accordance with orderly arrangement to mother's law, but on the other hand, it has relationship and influenced by the law of *syarak* (religion). In accordance with the orderly arrangement based on the mother's law, the heirs according to Minangkabau customary law are calculated from the maternal line. This heir will appear if there has been a treasure left by a deceased person.

The search treasure is the treasure of a husband and wife search while the husband and wife are still living in the marriage ropes. Most of the time, they lived the treasure had been granted to their children, when the parents died, their sons were their heirs. Against this inheritance, it is often seen that if the amount of this treasure is large and of great value, then the nephew's brother of the deceased will not remain silent and want to get a share of the property, so this will often lead to disputes. The search of treasure may consist of movable property such as jewels, cars, houses, and fixed goods such as rice fields, fields, and others

The influence of Islamic Law is very strong in the field of inheritance of Minangkabau society that looks real. Although the way of inheritance distribution between Minangkabau's customary laws based on maternal lineage is very contradictory to the Islamic heritage, which is the distribution of it based on the patrilineal line.

Both of these cultures have a striking difference regarding to the position of daughters in lineage and customary law of inheritance. Based on the explanation above, the researcher wants to examine how the equality and difference of daughter's position in distribution of inheritance in Batak Toba and Minangkabau society and how the daughter's position in distribution of inheritance in Batak Toba and Minangkabau society. The purposes of this research are to know 1) how the distribution of inheritance in Batak Toba and Minangkabau communities, 2) how the position of daughters in the distribution of inheritance in Batak Toba and Minangkabau communities.

Research Method

This research is used the descriptive qualitative method by using the method and technique of research which are presented by Sudaryanto (2015). According to Sudaryanto (2015: 203) the research methods and techniques are divided into several stages: 1) data provision stage, 2) data analysis stage, and 3) presentation stage of data analysis result. This study takes the object of study in the form of the position of daughters in the distribution of inheritance in Batak Toba and Minangkabau communities where the implementation of this research focused on the city of Medan. This region is an area of study that is quite representative because the speakers of Batak Toba and Minangkabau majority live here. The data contained in this study are primary data and secondary data. The primary data in this study are data obtained by the researcher after interviewing informants from both tribes. The secondary data are data obtained by the researcher from books, journals and other literature-related to the problems studied the researcher.

Methods and Techniques of Data Provision

The method used for the provision of data is the method refers. The method of referring is done by the way of listening, how the position of Batak Toba and Minangkabau daughter in the distribution of inheritance. The basic technique used is tapping technique. This technique is done by tapping the ways of dividing inheritance between Batak Toba and Minangkabau from informants. Tapping techniques have advanced techniques, namely, interview, note taking, and recording techniques.

Tapping technique means that tapping is done by the way of participation while listening, and directly involved in the conversation. It means that researcher plays an active role to filter data from informants. When the discussion takes place, the author does taking notes and recording. These four techniques are used together because the data taken is oral.

Taking notes technique is done by tapping the event of inheritance distribution in Batak Toba and Minangkabau society and how the position of daughter in distribution of inheritance. The researcher acts as observers of the event and observers of the events told by the informant. At the same time, the author does taking notes and recording with tape recorder. Furthermore, the researcher also conducted advanced techniques by reading method of reading some books, journals and other literature to support the primary data obtained from the informants.

Data Analysis Technique

The data analysis technique used by the researcher is the data analysis technique proposed by Miles and Huberman (2014) which states the activity in qualitative data analysis includes data collection, data reduction, data presentation and conclusion and verification. The stages are presented by researchers as follows.

1. Data collection is the researcher collects all primary data and secondary data obtained by field researches.
2. Data reduction is a form of analysis that sharpens, classifies, directs, discards the unnecessary, and organizes the data in such a way that its final conclusions can be drawn and verified.
3. Presentation of data is the process of presenting the results of data reduction as a set of arranged information that gives the possibility of drawing conclusions and data retrieval.
4. Verification is the last step to draw conclusions. Verification is the process of searching for the meaning of things, nothing order, patterns, explanations, possible configurations, causal paths and propositions. After the researchers draw the conclusions from the results of research, researchers need to study and review the data from the results of research.

Discussion

Batak Toba

Inheritance Batak Toba Customary Law

Batak people embrace the kinship system that has relationship with patriniel lineage, which takes into account family members according to the lineage of the father. People from one father are called *paripe* (one family), in Karo tribe called *sada bapa* (one family), while in Simalungun called *sapanganan* (one family).

In Batak Toba community is known for giving the wealth of parents to their children, both sons and daughters. The parents' assets or wealth can be derived from the possessions of a man or woman's parents bring before they marriage or the wealth that acquired during they marriage. The treasures can be rice fields and fields (*hauma*), gardens (*porlak*), houses (*bagas*), gold, money (*hepeng*) and pets (*pinahan*). In *Ruhut-ruhut* on Batak Toba customary (Batak customary law) it is explained that the distribution of inheritance is given to daughter, in terms of the distribution of inheritance that daughter only get land (*Hauma pauseang*), Rice Day (*Indahan Arian*), inheritance from Grandfather (*Dondon Tua*), and just land (*Hauma Punsu Tali*).

The rules of Batak customs are more strictly impressed and more assertive. It is shown in the distribution of inheritance. Daughters get nothing. The child who gets the most inheritance is the youngest child or it is called *Siapudan*. The inheritance earned in the form of heritage land, parent house or relics of parents and other property is divided equally by all sons. The youngest child of the Batak Toba tribe is also not allowed to leave his hometown, because the youngest child has been regarded as his father's successor.

There are several ways that daughters can also enjoy the rights of their fathers. The gift of property from parents to their children, whether male or female, is called "Holong Ate" (affection). The giving of these properties has different terms. The property given to sons is referred means "*Harta Panjaean*" while the property which is given to the daughter is called "*Pauseang*". It actually has the same meaning. Apart from the *pauseang* and *harta panjaean*, there are still more luggages whose functions are the same as *pauseang* and *panjaean*, they are:

1. *Indahan Arian* is a gift of a field to a daughter who has already done a marriage when a child is born from the marriage. *Indahan arian* is a grandfather's gift basically giving to his grandson who has been born through his mother.
2. *Batu ni assimun*, which is a pet and gold that is given by a father to his daughter who already has children. So as if a gift for his grandson.
3. *Dondon tua* is a gift of a paddy field by a father to his daughter that given to his grandchild when he dies.
4. *Punsutali* is a gift from a father to his greatest grandchild from his daughter. This gift is the last gift that can only be accepted by the daughter if her father dies.
5. *Ulos naso ra buruk* is a gift from a father to his daughter. The gift of this gift is the main capital at the start of building a household.

The Status of Woman in the Distribution of the Batak Toba Heritage

The word of position means the level or dignity of the actual state, the state of the state or the level of a person, body or country.

a. The position of daughter as child

The customary law of Batak Toba is one of the customary laws that are still alive with their kinship system following the father's line (patrilineal) which distinguishes the position of sons and daughters. Sons are the next generation of fathers, while daughters are not, because daughters are considered to be only temporary, and one day a daughter will marry and follow her husband, and enter into her husband's clan. As long as the daughter is not married, she is still her father's group. In Batak Toba community, sons are become the heirs of their parents. The daughter is not her father's heir. The daughters only get something from their parents as a gift.

b. The position of daughter as wife

The purpose of marriage is to continue the offspring. When a wife has given birth to a boy, then her position is strong in the family. Therefore, if in a Batak family only has a daughter, then the family is considered extinct. The position of husband and wife in the household and society is unbalanced because of the influence of the patrilineal family system adopted by the Batak Toba community.

There are several factors that can affect the development of daughter in the division of indigeneous Batak Toba heritage are as follows :

1. Educational factors

The higher education of a person and the way of thinking will progress more and adjust to change and development in the surrounding environment. Education brings someone more critical in the face of a change that will benefit him, the environment and society in interacting with each other.

2. Overseas Factors/ Migration

The movement of people from a region (hometown) to another area so that the next life is better and guaranteed, especially in the overseas areas. This affects the customs or customs of inheritance law from the patrilineal region of origin to follow the parental inheritance laws in its overseas territory.

3. Economic Factors

The economic factors in each individual greatly affect the life in the family. Considering the Batak Toba customary provisions that are affected by the patrilineal system and also when associated with the conditions of the people in Indonesia, it is usually the male parents who are responsible for providing living expenses to the family, since it is generally the man who works. If we meet the women or wife who works, it is none other than to support the family's economic life.

4. Social Factors

The terms of marriage in Batak Toba society is giving of *uang jujur*. *Uang Jujur* is a custom of Batak Society which is still retained and very important in showing one's social status to the woman who will be proposed. The submission of *uang jujur* to the woman should be witnessed by both parties that is called *Dalihan Na Tolu*, because the role of *Dalihan Na Tolu* in the Batak Toba tradition is very important. In this Batak philosophy, the social standing of woman then is very honorable to get a part of their husbands' parents or in other words the women get inheritance by way of grant. The position of daughter is considered to be only temporary, and one day the daughter will marry and follow her husband, and enter into her husband's clan. If the daughter is unmarried, she still remains his father's group forever.

Minangkabau

The distribution of Inheritance in Minangkabau Customary Law

In contrast, the Minangkabau society treasures of hereditary derived from the ancestors cannot be divided. The beneficiary shall receive the whole heritage entirely. This irrevocable treasure of the Minangkabau people is also called *Harta pusaka tinggi*. Each child belongs to a family complex that has heritage treasures. If the number of family members is too large, then the members of the family will be divided into two families that each stand alone, so that the treasure is also divided into two parts. This is so called "*gadang manyimpang*".

Each family has its own heritage which should not be distributed to its members. The members of the family may only enjoy the treasures together. However, if the member of the family has his own possessions that he has got in his lifetime, then this treasure is called "*pusako randah*". The search property discussed in this article is the quest property of a married couple throughout the marriage. The heritage of the search property can be seen into two ways:

1. The Party Who Receives the Heritage

The treasure sought together is not lodged in heritage treasures. It is the treasures that inherited to the children and his wife. In Minangkabau, it is now a customary that the inheritance of the search property is regulated by Islamic law by not

excluding to the matrilineal rule of Minangkabau inheritance. It is not said to be ruled out because the treasure of a dead heir will be kept aside for his nephews that means the nephew has a "*mamak*" who remains concerned with the survival of his niece despite his death. If there is a dispute over the inheritance from the search property, this issue will be considered to customary problem, and the party disputes the settle of issue at *Lembaga Kerapatan Adat Nagari*. If the issue is brought to the Court, then the customary stakeholders in the district assume that the issue is a purely civil matter, it is not anymore the matter of customary inheritance that must be settled at the *Nagari* Customary Council that has already provided.

2. The Ownerships Way of Inheritance

The determination of the heirs who are entitled to the search property is a child and wife. The way of child and wife have a property inheritance of the search properties, there have variations. For the high treasures, inheritance does not mean the transition of property from the heirs to the heirs, but the transition of caretaker to the heritage. Thus, there is a difference in the transitional system of treasures between high treasures and low treasures known as search treasures. In completing the distribution of inheritance on this treasure, the family invites the clerics who are considered more knowing the way of distribution of inheritance according to the law of *faraid* or by Islamic law. The religious cleric who is referred here is a judge of religious courts, but the distribution of inheritance is not brought to the Religious Courts because if the matter is brought to the court, the distribution of the inheritance is not considered as a matter of custom and among the parties feels no need to bring this matter to the court because there is no dispute among them.

From the data that the author obtains, the inheritance that has been three derivatives are not divided, it will enter into the class of heritage treasures. They do not think about the impact of communal thoughts that they have for the future. The *Faraid* inheritance is inheritance for children and wives. From the research is found, that the distribution of *Faraid* is a family problem that can be resolved in kinship. They have no difficulty in dividing the inheritance of the treasure. They avoid the settlement of problem in the Court because they think by settling the problem through the Court means they open their own internal family affairs. The incidence of disputes in the distribution of inheritance on the property is generally due to the party who wants to control the property individually and demanded his share of the inheritance. The Economic factors are major factors and the only problem triggers the distribution of inheritance.

The Rights of Minangkabau Woman in the Distribution of Inheritance

In distribution of the inheritance of Minangkabau community, there are two inheritances, namely 1) *high pusako* treasure and 2) *low pusako* treasure (livelihood). The *High pusako* treasures cannot be divided. It is only used for taking the results of inheritance. This *high pusako* treasure can only be passed on to daughters, whereas sons are not the heirs of *pusako* treasures but only assigned to guard them. In this

case, there is no prohibition for sons to using the proceeds of the *high pusako* treasure.

The inheritance of *high pusako* treasures is always passed by the descendants of woman, if there are no more the descendants of woman, and then this is called the term breaking inheritance. The inheritance will fall into the hands of the next rightful of woman. According to the custom, the heir of inheritance is the nephew of one tribe.

The *low pusako* treasure is as well as the search treasures that is referred to Islamic religion. The way how to divide the inheritance, it is by using the law of *faraidh*. Most of Minangkabau people prefer to discuss it first. The agreement cannot turn away from the elements of Islamic religion. First, each of heirs has to know their each respective part, and then divided it according to the results obtained deliberation.

Among Batak Toba and Minangkabau have differences for the position of daughters in terms of distribution of inheritance. In Batak Toba, the heritage only falls on a son because he is considered his father's successor, while in Minangkabau, inheritance is only inherited to daughter because the family system is withdrawn from the mother line. Sons are solely responsible for guarding the treasures.

Conclusions

Based on the result of the research, the researcher concludes that: Batak Toba society only distributes the heritage to son because the line of descent is pulled from the father's clan, while daughter only gets the heritage of *harta holong* after her marriage; The son of Batak Toba is entitled to heritage treasures, while the daughter of Batak Toba is not entitled to the heritage of treasures. While in Minangkabau society, the heritage is only inherited to the daughter of Minangkabau because the lineage drawn from the mother's line, while the son of Minangkabau only duty to keep the heritage of *pusako*; and, The search treasures only will be inherited to the son of Batak Toba, while the search treasures in Minangkabau society is herited only to a child and wife based on the Islamic regulation.

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