

## The Position of Daughters in Batak Customary Inheritance Law from the Perspective of Islamic Law

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Received: 17-05-2025

Revised: 31-06-2024

Accepted: 13-06-2025

### Abstract

This study aims to examine how the Batak Muslim community reconciles the conflict of values between the patrilineal customary inheritance system and egalitarian Islamic inheritance law regarding women's inheritance rights. The method used is normative juridical with qualitative analysis of laws and regulations such as the Compilation of Islamic Law, customary law, and legal doctrines and expert views. Data were collected through literature studies from primary, secondary, and tertiary sources. The results of the study show that the Batak customary system places sons, especially the eldest, as the main heirs, while daughters formally do not have inheritance rights. Meanwhile, Islamic law grants inheritance rights to women with a certain portion based on socio-economic responsibility. The tension between these two legal systems creates social and legal dilemmas for the Batak Muslim community. In practice, various reconciliation strategies emerge, such as granting grants or wills to daughters before the testator dies to balance customary values and Islamic law. This study emphasizes the importance of a contextual and participatory approach in harmonizing customary norms and religious law for the sake of justice and social acceptance.

**Keywords:** Batak Customary Inheritance, Patrilineal, Islamic Law, Women, Justice.



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### INTRODUCTION

Customary law constitutes an integral part of Indonesia's plural legal system, coexisting alongside national and religious laws. Within this framework, customary inheritance law represents a crucial aspect that reflects the local values and cultural identity of various communities. Unlike Islamic inheritance law or civil inheritance law, customary inheritance systems are not uniform throughout Indonesia (Haryono et al., 2024). Each ethnic group has distinct inheritance rules, often patriarchal in nature and focused on preserving lineage. In several communities, women are not granted formal inheritance rights over family property, including ulayat land or ancestral assets, as they are considered to have become part of their husband's family or clan after marriage (Sujadi, 2020). Supreme Court Decision No. 179/K/Sip/1961 has allowed for the application of customary law, provided it does not conflict with principles of justice. However, as gender equality and human rights principles have progressed, customary inheritance practices that discriminate against women are increasingly being questioned.

One of the most prominent examples of a patriarchal customary inheritance system is found among the Batak people. The Batak community adheres to a strong patrilineal system, in which only male descendants especially the eldest son (amangta) are recognized as legitimate

heirs to ancestral property such as ulayat land, traditional houses, and heirlooms. Women are considered to "exit" the lineage upon marriage and thus are not formally granted inheritance rights under customary law (Hasibuan, 2023). Although in practice some parents provide gifts or hibah to daughters as a gesture of affection, such rights are not officially acknowledged within the traditional structure.

The issue becomes more complex when Batak individuals convert to Islam. In Islamic law, daughters are entitled to inheritance, albeit in proportions different from sons (Qur'an, Surah An-Nisa: 11). The discrepancy between customary and Islamic inheritance laws generates legal and identity-related tensions. Daughters who are entitled to a share of inheritance under Islamic principles are often excluded from inheritance structures governed by customary norms. This disparity places Muslim Batak women in a vulnerable position, potentially depriving them of their economic rights. For instance, in some cases, daughters are unable to inherit their parents' land despite urgent economic needs, as customary norms continue to be the primary reference (Sihotang et al., 2015).

The issue of gender inequality in the Batak customary inheritance system, particularly concerning Muslim Batak women, warrants in-depth analysis due to its implications for social justice and the practice of legal pluralism in Indonesia. This study contributes to the ongoing discourse by examining efforts to reconcile customary and Islamic legal frameworks in communities undergoing both cultural and religious value transformations. The research may serve as a reference for reformulating more inclusive customary law policies and strengthening women's access to economic rights without undermining deeply rooted cultural identities. Moreover, it underscores the importance of contextual legal approaches in resolving conflicts that arise from the intersection of customary and religious values.

Several prior studies have addressed gender disparities in the Batak customary inheritance system. Gunawan & Kamil (2025) highlighted how the Batak inheritance system discriminates against women and advocated for legal reforms aligned with Islamic principles of justice. Similarly, Ferba Editya et al. (2023) found that Batak women are frequently disadvantaged due to the exclusivity of the patrilineal system. Nastiya et al (2023) observed that social changes and national regulations have begun to create opportunities for Batak women to claim land rights, although comprehensive reconciliation with Islamic law has yet to be fully achieved.

Unlike earlier studies, which have primarily focused on gender discrimination in customary law or broader social changes, this article presents a more focused approach to the dynamics of reconciliation between customary and Islamic legal systems in inheritance practices. The novelty of this article lies in its exploration of how Muslim Batak communities navigate these legal tensions and the strategies they employ whether through reinterpretation of customary norms, integration of values, or modification of practices reflecting contextually grounded and participatory social adaptation.

This article aims to examine how Muslim Batak communities reconcile customary inheritance laws with Islamic legal principles, particularly regarding the fulfillment of inheritance rights for daughters. It also seeks to identify the challenges and strategies involved in maintaining a balance between adherence to traditional customs and commitment to religious teachings. By exploring these dynamics, this study aspires to contribute to the development of

a more inclusive, contextual, and justice-oriented customary legal framework that is responsive to the evolving values of gender equality in Indonesian society.

## RESEARCH METHODS

This study employs a qualitative method with a literature review approach, as its primary focus is an in-depth analysis of texts and documents that represent the practices of Batak customary inheritance law and the principles of Islamic law. Data were obtained from secondary sources, including books, scholarly journals, dissertations, statutory regulations, court decisions, and relevant prior research reports. The literature was gathered through access to various academic databases such as Google Scholar, Garuda, and Sinta. Legal documents such as the Compilation of Islamic Law and the Marriage Law served as the primary normative references, while anthropological and customary law literature provided the contextual foundation.

The data were analyzed using a descriptive qualitative approach with content analysis techniques to identify patterns and dynamics in the reconciliation between customary law and Islamic law, particularly regarding the position of daughters in inheritance matters. This research was not conducted through fieldwork but through a comprehensive review of documents and previous studies that illustrate how Muslim Batak communities navigate the dilemma between adherence to customary norms and obedience to Islamic teachings. Through this approach, the study aims to offer an argumentative and contextual understanding of the potential for reforming customary law to be more responsive to Islamic justice values, particularly in addressing gender equality in inheritance..

## RESULTS AND DISCUSSION

### The Patrilineal Inheritance System in Batak Customary Law

In the Batak Toba customary legal system, lineage is determined patrilineally that is, through the paternal line. An individual's social identity is heavily influenced by the marga (clan name) inherited from the father, which functions not only as a family name but also as the foundation of the Batak community's customary and social structure. The marga serves as the basis for regulating rights, obligations, and kinship relations within the community (Firmando, 2020). Male children, particularly the eldest son, are traditionally positioned as the primary heirs, while female children receive only a "jambar" a symbolic token of appreciation given during customary ceremonies which does not constitute part of the main inheritance (Sinaga, 2017). This inheritance structure reflects a patriarchal society in which family wealth continuity is preserved through the male lineage. Daughters are seen as belonging to their husband's family after marriage and are therefore excluded from inheriting the marga and ancestral property (A. Dewi, 2024). Inheritance in this context is not merely an economic matter, but also a reflection of social responsibility in preserving the continuity of the marga and ancestral land (Khoirunnisa & Pandamdari, 2019).

The Batak Toba customary inheritance system stipulates that properties such as land and houses are to be inherited by sons, especially the eldest. This reinforces male dominance within the social structure and emphasizes their role as the primary bearers of familial responsibility (D. K. Dewi, 2020). However, since the 1990s, Indonesian national law has begun introducing

principles of gender equality, including in matters of inheritance. This influence has prompted indigenous communities to reassess their traditional inheritance systems (Saputra et al., 2025).

Islamic law has also exerted significant influence, particularly among Batak communities who have converted to Islam. Under Islamic inheritance law, women are entitled to inherit, albeit in smaller proportions compared to men. This presents a particular challenge in integrating customary norms with Islamic legal principles, especially in the context of gender justice (Soleman et al., 2022). Today, some Muslim Batak women have begun receiving a share of inheritance, although implementation remains inconsistent due to the strong adherence to customary norms.

Legal developments in Indonesia, such as the Supreme Court Decision No. 909 PK/Pdt/2019, reflect a commitment to principles of positive legal justice that protect women's rights. This marks a shift toward a more inclusive reform of customary inheritance law, highlighting the importance of dialogue between customary institutions and the national legal system. Such reform is expected to foster an inheritance system that honors tradition while also being responsive to values of social justice and gender equality (Lasmaria & Adiasih, 2019).

### **The Position of Daughters in Batak Customary Inheritance**

In Batak society, particularly among the Toba and Karo communities, the inheritance system assigns sons as the primary heirs based on a patrilineal lineage. Although daughters are part of the nuclear family, they do not receive formal inheritance rights such as customary land (*tanah ulayat*) or traditional houses (*rumah adat*) (Maharani & Sidik, 2024). They are generally only given *jambar*, a symbolic gift that reflects parental affection, rather than being considered part of the formal inheritance. In this regard, Hasgelter Lumbantoruan and Rosando (2025) note that the status of daughters as heirs in Batak Toba customs remains highly restricted.

Roma Cita Sibatuara et al (2025), in their study of inheritance practices in Janjiraja Village, Samosir Regency, found that women only receive symbolic shares in the form of *jambar*. They emphasize the need for legal protections that merge Batak customary values with principles of gender equality to create a more equitable distribution of inheritance. The study highlights how shifts in attitudes toward women's inheritance rights are increasingly influenced by education, urbanization, and national legal regulations, thereby opening opportunities to integrate gender equality into customary practices.

Empirical research in Simpang Mesuji Village by Sidabalok et al (2023) shows a changing position of daughters within the inheritance system among Batak migrant communities. Although daughters are still considered minor players in inheritance, factors such as legal awareness, religious understanding, and a sense of justice have encouraged broader recognition of their inheritance rights.

Gender inequality in Batak customary inheritance is not only a local issue but also intersects with national law. A comparative study by Gultom (2021) contrasts egalitarian national legal norms with the patriarchal nature of Batak customary law. He finds a clear disparity: under national law, daughters have equal inheritance rights, whereas customary law continues to restrict their role in family decision-making, including inheritance matters. Nevertheless, social change is evident among modern Batak communities, especially those living outside their ancestral regions. Studies of Batak migrants reveal that they increasingly

adopt more egalitarian inheritance practices, driven by the need to balance cultural values with demands for fairness in their new social environments.

This shift also reveals that core Batak philosophical principles such as *Elek marboru* (respecting daughters), as explained by (Widihastuti et al., 2024) can serve as a discursive foundation for strengthening daughters' inheritance rights. However, implementation remains largely symbolic rather than providing substantive economic rights. In summary, the status of daughters in Batak customary inheritance can be outlined as follows: traditionally, they are not recognized as primary heirs; their inheritance rights are symbolic; current practices sometimes include them through gifts, wills, or social pressure; and among migrants and younger generations, there is a trend toward equality. There is also increasing potential for harmonizing customary practices with Islamic and national law through normative and sociological approaches.

### **The Islamic Legal Perspective on Women's Inheritance Rights**

Islamic law firmly affirms the inheritance rights of women, as articulated in the Qur'anic verses of Surah An-Nisa (verses 11 and 12) (Nawawi et al., 2023). These verses assign fixed portions of inheritance to women, although in smaller shares compared to men. This differentiation is not a form of discrimination but reflects the principle of distributive justice, considering the different economic responsibilities assigned to men and women within the family. Simanjuntak & Yustikarini (2024) assert that this unequal distribution is not unjust but rather an adjustment to the social roles and familial duties prescribed by Islamic law, consistent with the objectives of *maqāṣid al-sharī'ah*, which emphasize justice, welfare, and the protection of individual rights.

Cahyarani & Damanik (2023) explain that the recognition of women's inheritance rights in Islam marks a significant advancement compared to pre-Islamic societies, which completely denied such rights. By granting even a smaller share, Islamic law formally acknowledges women's legal and social standing. However, among Muslim Batak communities, a complex interaction exists between patrilineal customary law and Islamic principles that affirm women's inheritance rights. While Batak custom recognizes only male heirs, Islamic law requires the inclusion of women, often leading to familial tension and potential conflict (Aisyah & Alexia, 2022).

Takapente (2020) underscores the importance of a contextual and flexible approach to applying Islamic inheritance law, which can bridge the gap with local cultural norms without compromising the essence of justice. A contextual interpretation of *maqāṣid al-sharī'ah* allows Islamic inheritance law to be adapted to the social dynamics of Batak Muslim communities. This approach seeks to balance religious teachings with deeply rooted cultural traditions.

Conflicts between Batak customary inheritance and Islamic law and national law have become increasingly apparent as Muslim Batak women demand inheritance rights traditionally reserved for men. These disputes carry not only legal but also social implications, as women who assert inheritance claims are often seen as violating customary norms and risking the family's honor (D. K. Dewi, 2020). In this context, Supreme Court Decision No. 909 PK/Pdt/2019 is a landmark precedent affirming that customary inheritance systems that discriminate against women can be invalidated when they conflict with principles of justice and positive law.

In light of these developments, various reconciliation strategies have emerged, such as providing gifts (*hibah*) or wills (*wasiat*) to daughters before the death of the testator. This allows daughters to receive property without disrupting the still-strongly held customary order (Sianturi et al., 2022; Soleman et al., 2022). In *Fikih Mawaris Kontemporer*, Soleman et al. state that *hibah* is the most flexible mechanism for navigating inheritance dynamics in modern Muslim families, seeking to balance justice with social harmony.

In Batak tradition itself, inheritance is strictly patrilineal, with priority given to the eldest son (*amangta*), who often receives the largest or most symbolic assets such as houses and ancestral lands. Daughters typically receive a token of affection (*sagojou*), which is symbolic and does not constitute legal ownership (Sihotang et al., 2015). In the absence of sons, a male adopted heir may be appointed, or inheritance may pass to a male sibling to preserve the *marga* lineage (D. K. Dewi, 2020).

Understanding the contrast between Batak customary inheritance and Islamic law is essential in the context of Batak Muslim society. Islamic law clearly grants inheritance rights to women, as stated in Surah An-Nisa (verses 7 and 11), where both sons and daughters are entitled to inherit from their parents and relatives (Nastiya et al., 2023). Although sons typically receive twice the share of daughters, this is based on their role as financial providers, not on discrimination.

The implementation of Islamic inheritance law among Batak Muslims reflects a legal dynamic that requires an inclusive and culturally sensitive approach. Dialogical and participatory efforts involving both customary and religious leaders are crucial for achieving a fair and harmonious understanding (Simanjuntak & Yustikarini, 2024). These efforts align with the principle of substantive justice as envisioned by *maqāṣid al-sharī'ah* and with Indonesia's increasingly progressive legal stance on gender equality and human rights (Juniardi & Marjito, 2018)

### **Points of Conflict and Reconciliation Efforts**

The conflict between Batak Toba customary law and national law regarding inheritance systems is evident in several landmark cases, one of which is reflected in the Supreme Court Decision No. 909 PK/Pdt/2019. In this ruling, the court annulled an inheritance distribution based on Batak custom that granted inheritance rights solely to male descendants, as it was deemed to violate principles of positive law and justice, particularly in terms of gender equality (Rumapea et al., 2024). This case has become a crucial turning point in the protection of women's inheritance rights, which have long been neglected under patriarchal customary systems.

This conflict not only exists in legal terms but also permeates the socio-cultural sphere. Many Batak families still consider daughters who claim inheritance rights as violators of custom and bringers of disgrace to the family. Women who fight for their rights may be socially ostracized, excluded from traditional rituals such as *mangulosi* (the ceremonial bestowal of *ulos* cloth as a sign of honor), or denied participation in customary ceremonies (Juniardi & Marjito, 2018). This reflects the strong influence of traditional values in maintaining a patriarchal social structure within Batak society.

In response to the tension between custom and modern justice, various reconciliation efforts have been initiated. One commonly used practical solution is through grants and wills.

By these means, property can be given to daughters before the inheritance process begins, formally circumventing patrilineal customary restrictions while still ensuring substantive justice for women (Asmara et al., 2020). This approach provides a middle ground that avoids direct confrontation between tradition and gender justice demands.

Additionally, some customary institutions in North Sumatra have begun opening internal dialogues to re-examine patrilineal inheritance practices. In several communities, social agreements have emerged allowing daughters to receive rights to certain assets usually through personal grants without claiming clan-based inheritance directly (Batubara, 2023). Although limited in scope, this reflects progress in aligning customary norms with modern principles of justice.

Khoirunnisa & Pandamdari (2019), in their book *Customary Law Reform in the Perspective of State Law*, argue that reforming customary law is more effective when initiated internally by community leaders and customary institutions rather than being imposed by state or religious law. They emphasize a participatory approach so that indigenous communities feel their traditions are being updated rather than abolished.

Meanwhile, contextual interpretation within Islamic law also serves as a reconciliation strategy. Asmara et al (2020) and Darwis et al. (2024) propose that the *maqāṣid al-sharī'ah* the overarching objectives of Islamic law such as justice and protection become the foundation for resolving inheritance law conflicts. This opens the door for social *ijtihad*, or adaptive legal reasoning that harmonizes Islamic principles with the socio-cultural realities of local communities, including Batak Muslims.

Overall, the dynamics of Batak Toba inheritance law reflect a long-standing effort to balance the preservation of tradition with the demands for justice and gender equality. Inclusive dialogue among customary leaders, religious scholars, and policymakers is essential to create a more equitable inheritance system that respects cultural identity while upholding universal rights.

## CONCLUSION

The inheritance system in Batak Toba customary law reflects a patriarchal structure that prioritizes male lineage as the main heirs especially the eldest son while daughters generally receive only symbolic portions such as *jambar* or *tali kasih*, without legal ownership of inherited property. This system embodies the social norms and the responsibility of preserving the *marga* (clan lineage), which is highly valued in Batak culture. However, the influence of national law and Islamic law has opened space for critical reassessment. Islamic inheritance law grants women a share of the inheritance, albeit smaller, and the principle of gender equality upheld in national law as exemplified by Supreme Court Decision No. 909 PK/Pdt/2019 has begun to prompt customary communities to consider reforming their inheritance systems. In modern and diaspora Batak communities, especially among the more educated and urban populations, a value shift is occurring toward more inclusive inheritance practices for women, whether through grants, wills, or direct recognition. Although customary norms remain strong, the growing need for gender justice and the influence of external sociocultural forces are reinforcing efforts to reconcile customary law with national and Islamic legal principles. Therefore, reforming the inheritance system among the Batak people requires a contextual and

dialogical approach to achieve justice that respects tradition while responding to the demands of the times.

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