

# Inheritance status of widow's in an office-less batak toba christian communities due to the death of the husband

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## ABSTRACT

Marriage in the Batak Toba community has a patrilineal kinship system, namely honest marriage, a form of marriage with payment. Money from male relatives to female relatives with the aim of including women in her husband's relatives. If the husband dies and leaves no children, the position of the widow without offspring is a foreigner. This research is to obtain an overview of the division of inheritance of divorced widows who die without children. This study aims to obtain legal certainty in the distribution of inheritance for widows without children due to divorce and death, sent home or returned to Parboru's relatives or their parents. And are not entitled to property unless there is an agreement from both parties. This study uses a qualitative method. The results of the analysis show that the division of inheritance for divorced widows without children occurs in disputes regarding the distribution of inheritance to the inheritance of husbands who died from the parents (husband's side).

## ABSTRAK

Perkawinan pada masyarakat Batak Toba menganut sistem kekerabatan patrilineal yaitu perkawinan jujur, suatu bentuk perkawinan dengan pembayaran. Uang dari kerabat laki-laki kepada kerabat perempuan dengan tujuan mengikutsertakan perempuan dalam kerabat suaminya. Jika suami meninggal dan tidak meninggalkan anak, kedudukan janda tanpa keturunan adalah orang asing. Penelitian ini untuk memperoleh gambaran tentang pembagian harta peninggalan janda cerai yang meninggal tanpa anak. Kajian ini bertujuan untuk memperoleh kepastian hukum dalam pembagian harta peninggalan bagi janda tanpa anak karena perceraian dan kematian, dipulangkan atau dikembalikan kepada kerabat Parboru atau orang tuanya. Dan tidak berhak atas harta kecuali ada persetujuan dari kedua belah pihak. Penelitian ini menggunakan metode kualitatif. Hasil analisis menunjukkan bahwa pembagian harta peninggalan bagi janda cerai tanpa anak terjadi dalam perselisihan mengenai pembagian harta peninggalan suami yang meninggal dunia dari orang tua (pihak suami).

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## I. INTRODUCTION

The Batak tribe is divided into six clans which are also called categories, namely: Toba Batak; Simalungun Batak; Karo Batak; Pakpak Batak; Mandailing Batak; Angkola Batak. Administratively, the area where the Batak tribe lives in North Sumatra Province is divided into four districts: North Tapanuli, Humbang Hasundutan Regency, Toba Samosir Regency, and Samosir Regency. The Batak Toba community adheres to a patrilineal system. So that patrilineal kinship, namely the

lineage from the father's side or from the man's side functions to continue the lineage of their parents while girls are to become children of other families in the same kinship so that their position produces offspring from other families, whereas if they do not have sons then they are considered drop off

In the Toba Batak custom, uniting two members of the community through marriage cannot be separated from the interests of the community groups concerned. Marriage for the Batak Toba community is a custom that not only binds a man and a woman but also binds the extended family of the man called paranak and the woman called parboru. The highest philosophy of life for the Batak people is the philosophy of Dalihan Na Tolu, an expression which states the unity of family relations in the Batak tribe, which has three elements of kinship, namely: dongan sabutuha which means friends from the same clan, hula-hulu including the wife's family, and boru is the family of the our male side

Marriage in the Batak Toba community has a patrilineal kinship system, namely honest marriage, a form of marriage with payment. Money from male relatives to female relatives with the aim of including women in her husband's relatives. So that the children who are born will be the next generation of their father. Therefore, in a patrilineal society that draws lineage according to the father's line, the position of men is more prominent than the position of women in terms of inheritance. Therefore, in a patrilineal society that draws lineage according to the father's line, the position of men is more prominent than that of women. Therefore in a patrilineal society, which draws lineage according to the father's line. So that the position of men is more prominent than the position of women in terms of inheritance

In the Batak community there are two types of kinship systems, namely, kinship based on lineage or genealogy, meaning that all Batak tribes have a clan, while sociology is formed as a result of marriage. Therefore this sociological kinship system affects the position of widows and girls. According to custom, the position of a widow is based on the principle that women are foreigners, so they are not entitled to inherit. As long as the husband is still alive, the wife also owns the assets acquired during the marriage bond. Thus, in Batak society, the widow is required to become one with her husband's relatives, meaning that the widow is obliged to live and earn a living with her husband's relatives. If the widow separates herself from her husband's relatives, the widow is not allowed to take her husband's property, as if she had not inherited it

Becoming the heir of the widow is her late husband who has an interest in selling or making transactions on the inheritance of the inheritance, because the widow is a foreigner who enters her husband's kinship as a result of an honest marriage relationship with her late husband. Whereas in law the rights and obligations of individuals are the same, both men and women. This means that a wife can act independently in the field of law without assistance or power of attorney by her husband, therefore the wife can bind herself in a legal agreement and can act as a plaintiff or defendant in a trial.

Whereas in the Marriage Law, namely Law number 1 of 1974 article 31 states that, "the rights and position of husband and wife are balanced in domestic life and in marital association and each has the right to take legal action." Therefore, the statement above is not appropriate in the Toba Batak Christian community where there is no recognition of the existence of a widow's rights to her husband's inheritance to provide justice and legal certainty for widows).

## II. RESEACH METHOD

### 1. Types of research

This study uses a qualitative method according to Bogdan and Taylor as quoted by Moleong defines that qualitative methodology as a research procedure that produces descriptive data whose source comes from interviews with people . The primary data source for this research is interviews with informants who have been determined in this study.

### 2. Time and place

The time of the research was carried out for 3 (three) months from August 2022 to October. The research location is Sitirejo I sub-district, Medan sub-district, North Sumatra Province. Research subject. The informants in this study were divorced widows who died without children.

### 3. Data collection technique

Primary data collection was obtained from the results of data collection in the form of interviews and observations from informants, while secondary data was data collected by researchers but obtained from other parties. While secondary sources are news, journals, articles, and other relevant research reports, with the problem of inheritance for widows who die without children in the Toba Batak community.

## III. RESEARCH RESULTS AND DISCUSSION

### 1. Marriage to the indigenous Batak people

Law number 1 of 1974 concerning Marriage, article 2 confirms that marriage is valid if it is carried out according to the laws of each religion and belief. from the stipulation that marriage is valid if it is performed according to the laws of each religion and belief. This provision states that the marriage must be valid according to the religious beliefs adhered to by the party carrying out the marriage. According to Article 2 paragraph (2) of Law number 1 of 1974 it states that every marriage is recorded according to the applicable laws and regulations. In relation to the principles of marriage adhered to by Law 1 of 1974 concerning Marriage, the principles of marriage according to customary law are as follows: 1). Marriage aims to form a household family and kinship relations that are harmonious and peaceful, happy and everlasting; 2). Marriage must not only be valid according to religious law and or beliefs, but must also receive recognition from members of the family; 3) marriage can be carried out by a man with several women as wives whose respective positions are determined according to local customary law; 4). Marriage must be based on the consent of parents and relatives. Indigenous peoples can reject the position of a husband or wife that is not recognized by indigenous peoples; 5). Marriage may be carried out by men and women who are not old enough or are still children. Likewise, even though they are old enough to marry, they must be based on the permission of their parents/relatives, based on the permission of their parents/family and relatives; 6). Some divorces are acceptable and some are not allowed. Divorce between husband and wife can result in the breaking of the kinship relationship between the two parties; 7). The balance of position between husband and wife is based on the provisions of applicable customary law, there are wives who are housewives and wives who are not housewives.

Marriage in the Toba Batak community is inseparable from honest money, which in the Toba Batak language is called sinamot. The validity of a Toba Batak marriage is preceded by the provision of sinamot. Sinamot is Tuhor Ni Boru which means money to buy Batak women from male parents. In ancient times, sinamot was given in the form of animals such as livestock which were considered to be of high value or agricultural products, but in its development, sinamot payments changed to using money, this was due to the fact that payments had more economic value . As a result of the sinamot payment, the position of the husband and wife is not balanced, meaning that the position

of the husband is higher than that of the wife. By giving sinamot payments, it means that women are considered to have bound themselves to an agreement to join the husband's side.

## **2 Inheritance Status of Widows in Christian Batak Communities Without Offspring Due to Husband's Death.**

The results of the interview with Mariasi Sitorus, the widow of the deceased husband, Juni Mahulae. Marisi Sitorus was a widow at the age of 31. Her marriage lasted only four years, then her husband, Juni Mahulae, died. They live in Panara village which is one of the villages in Tanjung Morawa sub-district, Deli Serdang Regency, North Sumatra Province. Tells that she and her husband built a house. He sold the gold he earned before marriage, the proceeds from the sale of gold were used to build their house. Meanwhile, the land for the house was a gift from her late husband's parents, Juni Mahulae, Mariasi Sitorus' parents-in-law, Tua Mahulae. After her husband died, the late Juni Mahulae, members of her husband's family, from the Mahulae clan, ordered Marisi boru Sitorus to leave the village. Mariasi boru Sitorus asked the Mahulae to return the money for the capital they built for the house they built, because of the proceeds from selling the gold she had earned before marriage. However, the Mahulae refused to give it, instead they said just take the bricks. Mahulae's party thinks that with the breakup of a marriage due to divorce, there is no longer any relationship with the Mahulae family because there are no children from the descendants of the late Juni Mahulae. Therefore the widow of Mariasi boru Sitorus returned to her relatives (parboru), and now Mariasi boru Torus is still a widow and lives in Medan.

Tiur Siregar is a divorced widow from husband Saut Silalahi, in Dolok Raja village, Harian sub-district, Samosir district, North Sumatra province. Tiur Siregar, the wife of the late Saut Silalahi, was a substitute wife, while his first wife, Sonti Sihombing, was deceased. The duration of his marriage to the late Saut Silalahi was about fifteen years, from the results of his marriage to the late Saut Silalahi he had no children. The marriage of Alamarhum Saut Silalahi with his first wife, the late Sonti Sihombing, had six children, three boys and three girls. After Saut Silalahi died, Tiur Siregar returned to his relative parboru (to his relatives), and now he is still a widow living in Medan.

The settlement of disputes over the division of marital property/inheritance among Christian Batak people often becomes a dispute. Moreover, the distribution of inheritance of divorced widows who died without children.

Interview St. A. Sihite elder GPP Student street no. 34 Medan Pelajar Timur states that divorced widows who die without children are enforced by the paranak family (male side) due to lack of love. The widow just resigned herself to not being able to do anything, because the paranak had full authority. The paranak should give something to the wife who was left behind by the death of her husband, it is called a leaf of sihol (giving memento).

Interview St. H. Sinaga Church elder at HKBP Lumban Julu, Lintongnihuta District Church elder at HKBP Lumban Julu, Lintongnihuta District, Humbang Hananglean Regency, is also a traditional leader. Whereas in Batak customary law if a woman is legally married to her husband then all the assets owned by the woman cannot be taken back, unless before marriage the husband and wife make a pre-marital agreement in terms of inheritance.

The division of inheritance and inheritance status of divorced widows without children generally requires a harmonious and peaceful settlement. It is not only limited to the disputing parties but also includes all family members of the deceased heir, so the community does not want a win or lose decision but rather a balance that wants disputes to be resolved peacefully so that the balance that destroys family harmony can be restored to be whole and harmonious. Disputes arise from the inevitable friction between relatives who live together and are made worse by the lack of social manners and the rudeness that characterizes the Toba Batak community in general. However, with

the issuance of the TAP MPRS Number II of 1960 and the Supreme Court's Decision in the MA Decision No. 179 K/SIP/1961 it brought developments to inheritance law, especially to equalize inheritance, especially to the position of widows as heirs and had an influence on the equal rights of sons and daughters. women by law as well as widows regarding inheritance, which is supported by Law number 1 of 1974 concerning Marriage which is stated in article 35 stated: assets acquired during marriage become joint assets. The position of a widow with no children due to the death of her husband in the Batak community, based on developments in the widow's position occurred with the issuance of TAP MPRS Number II of 1960, regarding the development of national law in Appendix A article 402 , namely: efforts are made towards homogeneity of unity in which business must pay attention to the fact that is still alive. The principles and development of national law are adapted to the direction of the state and based on customary law which does not impede the development of a just and prosperous society. According to Soetandyo Wignjo Soebroto, TAP MPRS NO. III of 1960 stated that every effort to obtain unity must pay close attention to the realities that exist in Indonesia and that the principles used to form national law are customary law . With the TAP MPR number II of 1960 and the Supreme Court Decision No. 179 K/SIP/1961. is Jurisprudence which functions to create new laws by changing the old laws, with the consideration that the old laws are no longer in accordance with the feelings of the community where the place for community law is, so that widows who do not have children obtain justice and legal certainty as heirs when their marriage broken by death.

#### IV. CONCLUSION

As a result of the sinamot payment, the position of husband and wife is unequal. This means that the position of the husband is higher than the position of the wife. By giving sinamot payments mean that women are considered to have bound themselves to an agreement to join the husband's side. The division of inheritance and inheritance status of divorced widows without children generally requires a harmonious and peaceful settlement. It is not only limited to the disputing parties but also includes all family members of the deceased heir, so the community does not want a win or lose decision but rather a balance that requires disputes to be resolved peacefully so that the balance that destroys family harmony can be restored to be whole and harmonious. Giving something to a wife who has been left behind by the death of her husband is called a sihol leaf (giving memento) from the paranak (husband's side).

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