

ARTIKEL 11

Review of the Widow's Position in the Customary Inheritance System in the Batak Toba Community

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Review of the Widow's Position in the Customary Inheritance System in the Batak Toba Community

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Abstract: Researchers conducted research on the Review of the Position of Widows in the Traditional Inheritance System in the Batak Toba Society Study in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province. Most of the Batak people who live in Sitapongan Village still adhere to a patrilineal kinship system which does not allow widows as heirs and does not recognize the division of inheritance/inheritance. The purpose of this study was to determine the position of widows in the customary inheritance system, in the Toba Batak community, especially in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province. The type of research used in this research is observational research by means of a survey, meaning that a research conducted by the author directly goes down to the field to obtain information and data related to the author's research. The results of the study concluded that the position of the widow in the customary inheritance system in the Batak Toba Community due to the death of her husband has 2 options, namely the widow can remain under power and in the circle of relatives of her late husband and not remarry and the widow can return to her relatives (parboru). Settlement of disputes that occurred against widows who were abandoned in Batak custom in Sitapongan village, ended in marhata settlements or family settlements, there was no effort by the widows who were sampled to carry out settlements through the courts.

Keywords: position of widow; traditional inheritance

1. Introduction

Adat is a reflection of the nation, so the division of customary inheritance law in Indonesia is very important where adat shows the identity of a nation and region. Basically, the Civil Code book II Chapter XII-Chapter XVIII regulates inheritance law but customary inheritance law is still applied to indigenous people as well. When viewed in terms of its formation, law consists of written law and unwritten law. In Indonesia, unwritten law is considered as customary law which grows from the ideals and thoughts of the Indonesian people..

The Toba Batak community has a male lineage system based on Patrilineal. The marriage system that is generally used is exogamy, which means a marriage where men must get prospective wives from outside their clan. Furthermore, the form of marriage is honest marriage, which means that the marriage is marked by an honest payment by the relatives of the male party to the relatives of the female party which is a sign of replacement of the woman's release out of the father's kinship and into the husband's kinship. Honest payments (sinamot) were originally made with magical objects (kris, land, large animals), but honest payments in their development changed to using money for payment, because the objects used in

honest payments (sinamot) have economic value (money), so honest are considered the same as purchase money and women are considered the same as the goods purchased..¹ Therefore, the honest payment (sinamot) results in the unbalanced position of the husband and wife, or in other words, the husband's position is higher than the wife's position (the husband is the head of the family and the wife is the second person in managing the household).

In Batak society, which is a purely patrilineal society, if the break-up of a marriage is caused by death, the question of inheritance and maintenance of children arises. If a father dies, then it is considered very appropriate if the mother continues to care for her children until the child reaches adulthood, due to the view that the mother in taking care of the interests of her own children is better than anyone else. The mother (widow) of course requires a lot of money to continue the maintenance. So that the mother (widow) is more appropriate to manage and control the child's wealth obtained in the inheritance from his father who has died as long as the child is still under age. ²

Based on Batak customary law, widows are not heirs of their deceased husbands. On the basis of the consideration that the widow does not have a blood relationship with her husband, therefore the widow is not entitled to inherit it, because only sons are heirs in Batak society. In continuing the family lineage, sons have a very important position, of course this is felt to be unfair, because there is such a close physical or mental relationship between a husband and his wife in a marriage, even far exceeding the relationship between the husband and his blood relatives. Thus, a proper position should be given to the widow in addition to the position of the children of the heir's descendants. However, in traditional Batak customary law, the husband is placed in a stronger position than the wife in domestic life.

The position of women in husband-wife relationships and towards marital property is weakened because the acceptance of honest payment (sinamot) means that women are considered to have bound themselves to the agreement to join the husband's side, both personal and property brought will be subject to the husband's customary law.³

There are times when the widow cannot enjoy the right to use the husband's inheritance / inheritance if the family who is the heir of her late husband has a need to make a sale or transaction against the inheritance / inheritance, because the widow is only a stranger who enters the kinship of her husband which is the result of a marital relationship, so that the position of the widow against the husband's inheritance / inheritance is not guaranteed because there is a possibility that the widow is not entitled to the husband's inheritance / inheritance, whereas the rights and obligations of individuals in marital law are the same, whether male or female, which means that a wife can act alone in the field of law without the assistance or

¹ A. Pitlo, *Hukum Waris Menurut Kitab Undang-undang Hukum Perdata Belanda*, Terjemahan M.Isa Arief, (Intermasa, Jakarta:2008) hal 71.

² *Ibid*, hal 16.

³ *Ibid*, hal 73

granting of power of attorney by her husband, the wife can bind herself in a legal agreement, and can act as a plaintiff or defendant in court proceedings.⁴

The position of the widow is not guaranteed when dealing with the interests of the late husband's relatives, so it requires legal protection which means recognition of the widow's rights to the husband's inheritance / inheritance, especially if there is a lawsuit from the widow against the interests of other parties who want to control and take advantage of the inheritance. Thus the author is interested in researching the position of widows in the customary inheritance system in the Toba Batak community, especially in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province.

In a pure patrilineal society in Batak, which draws lineage through the father's line, has a tendency to carry out a form of honest marriage. Where honest goods as a sign that the wife's family relationship with her parents, siblings and even her community has been broken. The result is that the children who will be born from the marriage will draw the lineage and enter the paternal clan. The wife in marriage is obliged to join the husband's residence (patrilocal) and all the rights and obligations of the wife enter the husband's family. So that the author is interested in conducting research in the form of **"A Review of the Position of Widows in the Customary Inheritance System in the Toba Batak Community (Study in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province)"**.

2. Method

The method contains the form or nature of research, data sources, data, data collection techniques, data collection instruments, data collection procedures, and data analysis methods.

The type of legal research used by the author is observation research, so in this study primary data is used, choosing the census method so that researchers use the entire population as respondents. In an effort to realize the representativeness of this research data, those who are used as population and respondents are:

1. Batak traditional leaders of Sitapongan Village;
2. Widow of Sitapongan Village;
3. Sitapongan Village Protestant Christian Religious Leaders;
4. and overseas Batak traditional leaders (Pekanbaru).

Then Primary Data in this study was obtained through respondents using interviews. The secondary data that the author uses are all publications on the customary inheritance system, which are official documents, textbooks and the results of scientific works of scholars / experts as well as the results of research related to the topic of this research. The data collection technique used in this research is to interview the respondents..

The processing and presentation of data in this study is presented using descriptive analysis techniques. So that the data collected is classified according to the formulation of the problem, after which it is processed and presented. The method of drawing conclusions used in this research is the inductive method, which concludes specific data towards the general one..

⁴ S.A Hakim, Hukum Adat, *Individuals, Marriage, and Inheritance*, (Stensilan, Jakarta:2001), hal 3

3. Result and Discussion

Results and Discussion can be presented in subchapters of no more than three levels using numbers according to the format. This section presents and discusses clearly the subject matter with reference to the problem and writing objectives.

A. The Position of Widows in the Customary Inheritance System of the Toba Batak Community in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province

In the Batak community with a patrilineal system, generally the heirs are only sons, but this does not mean that girls do not get anything from the property / inheritance from the heir / father. In the Toba Batak tribe it has become a custom during the lifetime of the heir / father to give land to daughters. In Batak society with a patrilineal system, wives generally enter the husband's kinship and remain members of the husband's family.⁵ If the testator dies, leaving a wife and children, the property / inheritance, especially joint property obtained as a result of joint livelihood during marriage, can be controlled and enjoyed by the widow of the testator, for the benefit of the continuation of the life of the widow and the children left behind.⁶

Widows are parties who are separated after a legal marriage, either a living divorce or a divorce due to the death of her husband, and widows can inherit or not inherit the inheritance depends on the family system adopted by the customary community. Widows who are left by their husbands due to death for Batak widows in Sitapongan Village, Sijama Polang Sub-District, Humbang Hasundutan Regency, usually do not remarry a second time because of love and affection for their children and late husband. (The results of the author's interview with Mr. Tohap Sianipar, as a Batak Traditional Leader)

In the Batak community in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasundutan Regency still upholds Dalihan Na Tolu (Three-legged Fire Furnace) and the patrilineal kinship system, as evidenced in marriages with honest payments (sinamot) and in inheritance who can become heirs to the inheritance / inheritance of the heirs is male because the inheritance system is based on the kinship system used by the Batak community, namely the patrilineal kinship system.⁷

According to Bushar Muhammad, the development of customary inheritance law in patrilineal societies is caused by several factors, including:⁸

1. Educational Factors This factor has the effect of human thinking becoming more rational than before, which means that to carry out a human action, humans use more logic, calculation and consider the negative aspects of things, events and actions that will be carried out whether it will be beneficial or not so that the

⁵ The author's interview with Mr. Tohap Sianipar, as a Batak Customary Leader in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency on the date of the interview. September of 13th 2020

⁶ *Ibid*, page 31.

⁷ Author's interview with Batak Traditional Leaders in Sitapongan Village, Mr. Tohap Sianipar on September 13th 2020

⁸ Bushar, Muhammad, Principles of Customary Law, (PT. Pradnya Paramita, Jakarta:1997), page 129

nature of speculative thinking or giving in to circumstances is reduced. This has an effect, especially in Batak customary inheritance, which used to be that only sons were entitled to inheritance (patrilineal system), so logically a person will be more likely to choose a situation in terms of distributing inheritance property, therefore the share of inheritance to boys and girls is equal.;

2. Migration Factors The existence of population movements or people - people from remote areas moving to places - places that are more secure for their lives, then the person will leave the nature of life that is presumably not good from the area of origin and switch to a better nature of life in the overseas area. The effect on inheritance law, for example, in the area of origin the inheritance law is based on the patrilineal system while in the overseas area the inheritance law is based on the parental system, so the person will tend to follow the system in the overseas area, namely the inheritance law based on the parental system.;
3. Migration Factors The existence of population movements or people - people from remote areas moving to places - places that are more secure for their lives, then the person will leave the nature of life that is presumably not good from the area of origin and switch to a better nature of life in the overseas area. The effect on inheritance law, for example, in the area of origin the inheritance law is based on the patrilineal system while in the overseas area the inheritance law is based on the parental system, so the person will tend to follow the system in the overseas area, namely the inheritance law based on the parental system.;
4. Revolution / War Factors Revolution is a major and profound change in society, which takes place at a very fast tempo and brings about changes to old ways of life such as ways of living, habits, traffic, mental and spiritual attitudes so that there is equality of status between men and women (bilateral);
5. Jurisprudence Factors In seeking a settlement regarding inheritance disputes, in general, customary law communities want a harmonious and peaceful settlement, not only limited to the parties to the dispute but also including all members of the deceased heir, with the hope that the dispute can be resolved peacefully so that the disturbance of balance that destroys family harmony can be restored to its original integrity. Peaceful settlement can be made by limited deliberation within the family members themselves (relatives) and if it is deemed necessary to be deliberated in a customary peace meeting witnessed by customary elders, and if all efforts to reach peace in front of close family (relatives) and in front of customary elders fail, then the case will be brought to court, then this will be the task of the judge to find the right solution for the customary inheritance dispute so that various kinds of jurisprudence arise as a solution to customary inheritance disputes. With the existence of jurisprudence, in the future, if an inheritance dispute occurs, the party who feels aggrieved, especially the woman, can file a lawsuit with the court because the distribution of inheritance rights is the same between sons and daughters..⁹

The inheritance system used by the Batak community in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasundutan Regency, includes the following:¹⁰

1. Limited Collective Inheritance System

⁹ *Ibid*, page 24-38

¹⁰ The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Tohap Sianipar on the date of 13th September 2020

Is the inheritance passed on and transferred ownership from the testator to the heirs as a unit that is not divided into control and ownership, each heir has the right to cultivate, use or get the results of the inheritance.

2. Majority Inheritance System

The transmission and transfer of control rights over undivided property is delegated to the eldest child who serves as the head of the family.

The death of a husband creates a situation that can give birth to all kinds of family ties and the wife left behind by her husband (*na mabalu*) has two events, namely:¹¹

1. Widows who are divorced due to the death of their husband have two options, including:

a. The widow may remain under the control of and within the circle of relatives of her deceased husband and not remarry, categorized into two instances, namely:

1) The position of widows with children, both sons and daughters, due to the death of their husbands in the overseas Batak community against the inheritance / inheritance of their late husbands in honest marriages according to Batak customary inheritance law is not as heirs of their late husbands, even though widows have an honorable and special position because widows have a dual role as fathers and mothers for their children, meaning that as long as the widow lives, she has the right to enjoy / use and manage / manage the inheritance / inheritance of her late husband to be passed on to her children;¹²

2) The position of widows with no children due to the death of their husbands in the overseas Batak community against the inheritance / inheritance of the late husband in an honest marriage according to Batak customary inheritance law is not as an heir of her late husband but with the policy of her late husband's relatives, widows during life are entitled to get / obtain food and clothing costs because widows do not work so that the inheritance / inheritance of her late husband as an economic source to survive and widows are also given provisions to open a business;

b. Widows can return to their relatives (*parboru*).

The return of the widow to her relatives (*parboru*) then terminates the separation (*pasaehon*) which can be arranged in an atmosphere of friendship and kinship between the parties concerned or with the intervention of a judge who will begin by determining the amount of marriage payments to be returned by the female relatives (*parboru*).

Widows who are left by their husbands due to death, do not have children so the widow returns the marriage payment (*sinamot*) and is balanced with the return of the marriage gift (*pauseang*), whereas if the widow who is left by her husband due to death, The widow is not required to return the marriage payment (*sinamot*) and the property / inheritance of her late husband and the marriage gift (*pauseang*) is in the control of the widow, meaning that the widow will handle the inheritance

¹¹ *Ibid*, page 7

¹² The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Mangatur Siburian, on the following date 13th September 2020

/ inheritance of her late husband and manage the property until her children grow up, the widow's control of the property is limited to daily shopping expenses and maintenance. (Results of the author's interview with Batak Traditional Leaders in Sitapongan Village, Mr. Mangatur Siburian)

"The intervention of close relatives of the deceased husband (inheritance) is only limited to advising and warning the widow, if the widow uses the inheritance / inheritance of her late husband extravagantly and secretly the widow gives goods to close relatives (hula - hula), and provides a decision or solution in the event that the widow wishes to mortgage or sell the inheritance / inheritance of her late husband (eg. land, house) and marry her daughter, and close relatives of the late husband (uaris) should not impose a widow and her children at will: land, house) and marry off her daughter, and close relatives of the deceased husband (uaris) should not treat a widow and her children as they please.." ¹³

2. Living divorcee

In Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasundutan Regency, there has never been a living divorce in the Batak community and the possibility of living divorce is very small because when a man and a woman get married, they make a marriage vow in the dialtar witnessed by many people, the promise contains "what has been united by God cannot be separated by humans unless death separates", so that if there is a living divorce with children or no children, the position of widows in the Batak community in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasundutan Regency, is as follows:

- a. "Widow will be repatriated/returned to her relatives/parents;
- b. The widow must return the honest money that was given by the man's relatives at the time of the marriage.;
- c. Widows are not entitled to property unless there is an agreement from both parties;
- d. The husband is obliged to provide for his children.." ¹⁴

The implementation of the distribution of inheritance for widows due to the death of the husband cannot be implemented because the widow does not have the right to own the inheritance/inheritance of her late husband, she only has the right to inherit the property of her husband.: ¹⁵

- a. "The right to enjoy/use during life and while not remarried because of the inheritance/inheritance of her late husband as an economic source to survive.;
- b. he right to manage/administer the estate/inheritance of her deceased husband to be passed on to her children.."

The same thing was also said by Mrs. Erna Silaban who said that by not placing the wife as her husband's heir, the widow's right to her late husband's inheritance depends on her ability to care for her children for kinship interests, meaning that even though the widow has a relationship in the patrilineal kinship system, the arrangements regarding marriage, housing, descent and inheritance

¹³ The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Mangatur Siburian, on the following date 13th September 2020

¹⁴ The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Mangatur Siburian, on the following date 13th September 2020

¹⁵ The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Mangatur Siburian, on the following date 16th September 2020

are rarely designed in such a way as to guarantee the widow's access to resources, especially land.¹⁶

Other heirs such as children and close relatives left by the deceased husband in general, each heir has the same status and is also treated equally, the inheritance / inheritance is considered as a whole sphere that can be divided into a number of equal parts, for example: a house cannot fall on one of the heirs alone but must be divided or not divided at all, if it is not divided, the inheritance / inheritance will be placed under common ownership (ripe - ripean) and obey the general rules of ripe-ripe, namely: "ugasan ripe-ripe ndang tarbahen panghimpalan, ugasan panghimpalan ndang tarbahen ripe-ripe (what belongs together should not be taken as one's own, what marks the property of others should not become the common property of the group).

To determine who - who is entitled to appear as an heir depends on:¹⁷

1. Principal Line of Virtue

Is a legal line that determines the order of priority between groups in the family of the heir in the sense that one group takes precedence over another group with the result that a group may not be included in the calculation if there is still a group that is more important, in other words, the group closest to the heir will close the more distant group;

2. Replacement Principal Line

Is a way to determine who is the real heir among the heirs of the testator.

In pure patrilineal societies that perform honest marriages where the wife enters the husband's family, if the heir is male (husband) then the composition of the keutamaannya group, as follows:

1. "Virtue Group I consists of sons and male descendants";
2. Virtue Group II consists of the father of the heir only;
3. Virtue Group III consists of brothers and their male descendants;
4. Virtue Group IV consists of the heir's grandfather only;
5. Virtue Group V consists of the father's brothers and their male descendants."

If the heir is a woman (wife) then there is no priority group because the property is directly controlled by the husband but if the wife dies as a widow in the husband's family (the husband has died first) then the priority group, as follows:¹⁸

1. "Virtue Group I consists of sons and male descendants.;
2. Virtue Group II consists of father-in-laws;
3. Virtue Group III consists of the husband's brothers and their male descendants.;
4. Virtue Group IV consists of the husband's grandfather;
5. Virtue Group V consists of the brothers of the father-in-law and their male descendants."

Thus in patrilineal societies the main heirs are sons and if they do not have sons then they can be replaced by daughters as sons or by the appointment of sons. If no children are raised, the inheritance is passed on to the surviving father, if the father has died, he is replaced by a brother, if there is no brother, he appears as a

¹⁶ Author's interview with Mrs. Erna Silaban, as a widow in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasudutan Regency on the date of 13 September 2020

¹⁷ *Ibid*, page 6

¹⁸ *Ibid*, page 17

substitute for the uncle of the heir and everything is determined on the basis of deliberation and consensus by family members who are male descendants.

The position of widows in customary inheritance law has a varied position, this is because customary law as an original Indonesian law recognizes several different kinship structures, thus placing widows with different roles. For example, in a patrilineal kinship such as in the Batak region. They only recognize that male children or male descendants are entitled to be heirs. So that widows in this fatherly system are not heirs of their husbands but are a link or bridge of inheritance from the father to his male children..¹⁹

Likewise, a husband is not the heir of his deceased wife, because according to this kinship system, the wife belongs to the husband, especially since her inheritance and livelihood during marriage are a separate and undivided unit. So regardless of whether the widow has offspring with her deceased husband or does not have offspring is the same. The Batak community as the most extreme type adheres to the patrilineal system which is absolutely genealogical in nature. Where the kinship system is absolutely according to the father or male line. In this system, men are the backbone of the Batak indigenous community. So all ties and values of activities are interconnected according to the male line of blood descent.

In the division of parental inheritance, the one who gets the inheritance is the son while the daughter gets a share from her husband's parents or in other words the woman gets the inheritance by grant. The distribution of inheritance for sons is also not arbitrary, because the distribution of inheritance is specific, namely the smallest son or in Bataknya language called Siapudan, and he gets a special inheritance.

Indeed, the position of widows is influenced by the hereditary system of customary law societies and the form of marriage that applies among them. According to Soerjono Soekanto, "The widow does not get a share of her husband's inheritance as an heir but the widow has the right to enjoy / withdraw income from the property if necessary for life." For his livelihood, the widow can be given a lump sum from the inheritance / inheritance of her husband, for this livelihood is mainly provided gono-gini goods, if these goods are sufficient for livelihood then other heirs can demand that the original goods of the testator be accepted to them, and if the goods -gono-gini goods are not sufficient for livelihood then the original goods of the husband can be used for that purpose. The inheritance / inheritance can be divided - divided as long as the widow is maintained in her life, for example, the widow has been able to inherit or maintenance is guaranteed by several heirs and if the widow remarries then the widow leaves the first husband's household and he enters into a new household. In a special concrete situation a woman has not been married for a long time, has not had offspring, there is no more gono - gini goods, and her husband dies then her husband's original goods return to her own family..²⁰

While Bushar Muhammad concluded:

¹⁹ I Gede A.B Wiranata, *Indonesian Customary Law (development from time to time)*, (PT.Citra Aditya Bakti, Bandung:2005), page 37.

²⁰ Soerjono Soekanto dan Yusuf Usman, *The Position of Widows Under Customary Inheritance Law* (Jakarta:2006), page 20.

- a. The widow is entitled to a guarantee of maintenance for life, both from the gongoni property and from the proceeds of the husband's property until further neglect after her husband dies.;
- b. The widow has the right to control her husband's property / inheritance to draw income from the goods - the goods, more - especially if you have children, the property remains a unit under undivided care;
- c. The widow has the right to retain her husband's property as long as the property is really needed by her for her maintenance.;
- d. The widow is entitled to a share or to demand a share equal to the child's share in the event of a forced division with the child, for example, the widow remarries and the child asks for a portion for business capital.

From these two opinions, the position of widows is relatively guaranteed even though they are not heirs. In general, in the Batak indigenous community in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasudutan Regency, the customary inheritance is patrilineal in nature by performing honest marriage so that the widow is not the heir of her late husband but as long as the widow obeys the custom on the side of the husband's relatives/family, resides in the husband's relatives/family, does not commit despicable acts then she has the right to manage, maintain, cultivate and enjoy her husband's inheritance/inheritance which is not in the form of position/office and inheritance property for her needs and to be passed on to her sons. In managing and maintaining the inheritance, the widow is assisted by the eldest brother of the testator, if their sons are not yet mature. If the widow's life is difficult because the inheritance/inheritance is small or non-existent, the widow and children are taken care of and maintained by the relatives/family of the testator until the children can stand on their own and the widow dies.²¹

If the breakdown of a marriage is caused by death, then the issue of inheritance and maintenance of children arises. If the deceased is a husband, then it is appropriate for the mother (widow) to continue to care for the minor child and control the child's assets obtained as an inheritance from his father who has died. The widow is only given the right to control and enjoy the property (not to own it), and in time, the property will belong to her son or to her late husband's family if she remarries or has no children.²²

According to Koentjaraningrat, "The patrilineal lineage system takes into account kinship relationships through men only and therefore results in each individual in society, all of his father's relatives are included in the boundaries of his kinship, while all of his mother's relatives fall outside the boundaries". An example in Batak society.

With the previous explanation it can be concluded that widows in terms of heirs have a lower degree than men, this is also said by Batak traditional leaders, namely, the position of widows in our village is lower than men, so regarding inheritance sometimes widows get inheritance, also do not get inheritance but can maintain but if the family wants to give then it is based on pity alone. This is reaffirmed by Hazairin who argues "that the Batak people, both men and women,

²¹ Author's interview with Mrs. Ester Simorangkir, as a widow in Sitapongan Village, Sijama Polang Sub-district, Humbang Hasudutan Regency on the date of 17 September 2020

²² Author's interview with Mrs. Hutagalung, as a widow in Sitapongan Village, Sijama Polang Sub-District, Humbang Hasudutan Regency on the date of 18 September 2020

draw their lineage upwards only through a male link as a blood channel, namely each person only connects himself to his father and from his father to his father's father, namely his grandfather and so on, connecting himself upwards always according to the channel or male link, so that for the Batak people a woman according to the patrilineal family system is not suitable to produce offspring for the family of the woman's father".²³

Photos/Documentation of Research Activities

Table 1
(Group Photo with Respondents in Sitapongan Village)



Table 2
(Author's interview with Rev. Kadir Nababan as HKBP Religious Leader in Sitapongan Village)



Table 3

²³ *Ibid*, hal 42

(Author interview with Batak traditional leaders in Pekanbaru City, Mr. Mangasa Panjaitan)



Table 4

(Author's Interview with Mrs. Erna Silaban, a Widow in Sitapongan Village)



4. Conclusion

From the results of the research and discussion above, the author concludes that the Position of Widows in the Customary Inheritance System in the Toba Batak Community, especially in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasundutan Regency, North Sumatra Province due to the death of the husband has two options, including:

- A. A widow may remain under the authority and in the circle of relatives of her deceased husband and not remarry, classified into two instances, namely:
 - 1) Widows have children not as heirs but have the right to enjoy / use and have the right to manage / manage the inheritance / inheritance of her late husband and then passed on to her children;
 - 2) A widow with no children is not an heir, but she has the right to receive food and clothing during her lifetime.
- B. Widows can return to their relatives (parboru), if:
 - 1) If there are children, the widow does not need to be required to return the payment of honest money (sinamot) and wedding gifts (pauseang) and the widow can enjoy and manage the inheritance / inheritance of the deceased husband to be passed on to her children.;
 - 2) If there are no children, the widow must be required to return the payment

of honest money (sinamot) and wedding gifts (pauseang) and for the inheritance / inheritance of her late husband returned to her late husband's relatives.

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- The author's interview with Mr. Tohap Sianipar, as a Batak Customary Leader in Sitapongan Village, Sijama Polang District, Humbang Hasudutan Regency on the stairs on September 13th 2020
- The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Tohap Sianipar on the date on September 13th 2020
- The author's interview with Batak traditional leaders in Sitapongan Village, Mr. Mangatur Siburian, on the following date September 13th 2020
- The author's interview with Mrs. Marleni Sinaga, as a widow in Sitapongan Village, Sijama Polang Subdistrict, Humbang Hasudutan Regency on the stairs on September 16th 2020
- Author's interview with Mrs. Erna Silaban, as a widow in Sitapongan Village, Sijama Polang Sub-district, Humbang Hasudutan Regency on September 13th 2020
- Author's interview with Mrs. Ester Simorangkir, as a widow in Sitapongan Village, Sijama Polang Sub-district, Humbang Hasudutan Regency on September 17th 2020
- Author's interview with Mrs. Hutagalung, as a widow in Sitapongan Village, Sijama Polang Sub-district, Humbang Hasudutan Regency on September 18th 2020

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ICMI: The Cross Culture, and Challenge of Sustainability, Vol 2, 2021
P-ISSN 2964-1187
E-ISSN 2964-1179
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Review of the Widow's Position in the Customary Inheritance System in the Batak Toba Community

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Abstract: Researchers mailto:ketut.piter@student.uir.ac.id tion of Widows in the Traditional Inheritance Polang District, Humbang Hasundutan Regency, North Sumatra Province. Most of the Batak people who live in Sitapongan Village still adhere to a patrilineal kinship system which does not allow widows as heirs and does not recognize the division of inheritance/inheritance. The purpose of this study was to determine the position of widows in the customary inheritance system, in the Toba Batak community, especially in Sitapongan Village, Sijama Polang District, Humbang Hasundutan Regency, North Sumatra Province. The type of research used in this research is observational research by means of a survey, meaning that a research conducted by the author directly goes down to the field to obtain information and data related to the author's research. The results of the study concluded that the position of the widow in the customary inheritance system in the Batak Toba Community due to the death of her husband has 2 options, namely the widow can remain under power and in the circle of relatives of her late husband and not remarry and the widow can return to her relatives (parhara). Settlement of disputes that occurred against widows who were abandoned in Batak custom in Sitapongan village, ended in marriage settlements or family settlements, there was no effort by the widows who were sampled to carry out settlements through the courts.

Keywords: position of widow; traditional inheritance

1. Introduction
Adat is a reflection of the nation, so the division of customary inheritance law in Indonesia is very important where adat shows the identity of a nation and region. Basically, the Civil Code book II Chapter XII-Chapter XVIII regulates inheritance law but customary inheritance law is still applied to indigenous people as well. When viewed in terms of its formation, law consists of written law and unwritten law. In

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