



The inheritance distribution system for daughters of the Karo Patumbak community in Kampung, Deli Serdang Regency

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ARTICLE INFO

Article history:

Received Feb 9, 2025
Revised Feb 19, 2025
Accepted Feb 22, 2025

Keywords:

Empirical;
Distribution;
Inheritance.

ABSTRACT

The purpose of this study was to determine the factors behind Karo women not receiving inheritance, as well as the inheritance distribution system of the Karo Patumbak Village community in Deli Serdang Regency. The research method used in this study used qualitative research, namely a method of analyzing research results that produce descriptive analytical data, namely data obtained both in writing, verbally, and real actions that are researched and also studied as a whole. By using an empirical approach, namely the existence of field data as the main data source, such as interview results and observations. The results of this study indicate that there is an awareness in the Karo community to give their inheritance to daughters by bequeathing or granting. It is appropriate that the distribution of inheritance in the Karo community is carried out equally for men and women, or in a family way without any discrimination against women.

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1. INTRODUCTION

Indonesia is known for its many ethnic and cultural diversity, there are approximately 360 ethnic and cultural groups in Indonesia whose purity is still maintained and preserved by their successors without eliminating the customs or customary rules around them. The diversity of ethnic and cultural groups in Indonesia certainly has its own characteristics and differences in each place. With so many differences, of course each ethnic group and region has its own provisions and rules or what can be called customary law (Hatta & Subagiyo, 2024). Customary law is a legal system that applies to indigenous communities based on norms, traditions, customs, or rules that have existed for centuries. Customary law is a form of law that is not always written down like state regulations in general, but customary law is more often found through the customs of indigenous communities or is carried out from generation to generation orally (Bachri & Silvia, 2023).

In the era of globalization and developing modernization, social and cultural change is inevitable (Hatta & Subagiyo, 2024). In the midst of these changes, one aspect that has been impacted is the inheritance law system, especially in Karo society (Sirait, 2024)(SIANTURI, 2024)(Kaban et al., 2024). Karo society has a very unique cultural heritage that needs to be preserved. Inheritance laws that develop in Karo society generally adhere to the patrilineal kinship system. The patrilineal kinship system in Karo society draws the paternal line and adheres to an individual or personal inheritance system, namely each heir gets a share to be able to control or own inheritance according to their respective shares. This makes the position of men more dominant than women in terms of inheritance.

In Karo society, only sons can receive inheritance, while women do not receive inheritance. It's just that daughters receive gifts from the heir in the form of pemere (a gift of affection) in the form of gold, fields or rice fields that can be managed by the daughter during her lifetime. Or daughters can receive gifts of affection from their brothers. This is closely related to customary law that has existed since ancient times and has always been obeyed by the Karo people from generation to generation. The comparison is very far when viewed regarding inheritance rights between men and women in Karo society. Men have full power over inheritance compared to women.

However, if we observe the problems that arise in the Karo community in Patumbak village regarding women's rights to property, there has been a shift. What was initially in customary law, women did not receive inheritance or only received affection from their siblings has now changed. Parents in the Karo community in Patumbak village have realized the rights of daughters that must be given, especially in terms of inheritance. However, the process of dividing inheritance for daughters in Patumbak village is very different. Namely with a will or agreement between male siblings. Some parents leave a will in the form of a house or other useful objects. Then there is an agreement to share the profits from the sale of inheritance left by parents to daughters. However, the will left and the agreement made were not actually implemented.

There are several studies on the inheritance distribution system in the Karo community, especially in Patumbak Village, Deli Serdang Regency, it can be said that there is none. Some of the studies that are still related to the discussion in this article are as follows: Journal article written by Ida Nurjana Tamba, Poleman Padang, Mantasia Hasibuan, Devi Permata Br. Bangun, Adelina Aritonang, Parlaungan Gabriel Siahaan, and Sri Hadiningrum entitled Legal consequences of inheritance distribution in the Karo customary community according to customary law and the Civil Code: a comparative study, from the results of their research that the distribution of inheritance in the Karo customary community, which is different from the method of inheritance distribution in the Civil Code has different impacts on individuals and society. Impact on Individuals, the male majority inheritance system in Karo customary law can cause injustice to daughters who do not receive a fair share of the inheritance. The distribution of inheritance based on Karo customary law can maintain the cultural identity and traditional values of the Karo customary community, which can strengthen the sense of solidarity and togetherness in the community.

The thesis written by Kristina Sebayang entitled the implementation of the position of daughters in the settlement of customary inheritance disputes through arih-arih in the Batak Karo tribe, from the results of her research that the ignorance of the Karo community in the village of Nangbelawan of the existence of laws that benefit daughters in obtaining inheritance. However, the community still uses customary law because of a sense of not wanting to violate the customs that have been implemented since ancient times. The mechanism used in resolving inheritance disputes is carried out through deliberation or called ari-arih.

The journal article written by Ledi yana Br Kaban, Suheri Harahap, Ahmed Fernanda desk y entitled the shift in social values on the inheritance of Muslim Karo women in the Lingga cultural village, Karo district discusses, from the results of his research after the Karo community in the Lingga cultural village embraced Islam, there was a shift in the distribution of inheritance. The community has used Islamic inheritance law in the process of distributing inheritance.

Of the three previous studies above, although the relevance and relevance to what is discussed in this study can be reviewed in more depth, none of them have similarities in terms of the focus of the discussion.

Regarding the problem of inheritance distribution in the Karo Patumbak Village community, researchers are very interested in discussing this title because of the use of different methods in distributing inheritance to women. And in practice it is not in accordance with inheritance law in general (civil inheritance law and Islamic inheritance law). The importance of Based on the above phenomenon, the author will write a new paradigm that has emerged regarding women's rights in terms of inheritance. What are the factors behind Karo women not getting their rights in inheritance and how is the distribution of inheritance in the Karo community in Patumbak Village.

The article highlights the urgency of the research by explaining that Karo customary inheritance law still tends to prioritize men, so women often do not get their inheritance rights fairly.

Social changes and the mindset of the community, especially in Patumbak, Deli Serdang, are beginning to show an awareness of women's rights in inheritance. This study aims to analyze the inheritance distribution system in the Karo Patumbak community and how its practices have changed over time and identify forms of entitlement to women in inheritance, whether through wills, grants, or family agreements.

2. RESEARCH METHOD

The research method used by the author is the Empirical research method. The Empirical research method is a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and through direct observation. The type of research used by the author is classified as Observational Research which is commonly known as research through direct surveys in the field, with the aim of finding solutions or solving problems by using interviews as a data collection tool.

The location of the research was conducted in Patumbak Village, Deli Serdang Regency. This research was conducted in the sub-district so that researchers could dig up the data they wanted to study regarding the inheritance distribution system in the Karo community. In order for the research to obtain accurate, systematic and clear data, the author uses the following data sources:

Primary data

Primary data sources are data sources obtained directly from the field, such as: research locations, legal events and respondents who provide information to researchers through interviews.

Secondary data sources

Secondary data sources are data obtained from a collection of existing information and used as a complement to research. Such as important documents, literature that has a direct relationship with the research object, journals, articles and websites.

This research used empirical methods with an observational and interview approach. To overcome potential bias in data collection and analysis, steps were taken including variations in the selection of informants, involving women involved in inheritance cases, traditional leaders, as well as male community members to gain diverse perspectives. Data triangulation, which compares the results of interviews with observations in the field and references from inheritance law literature, to ensure that the research results are not affected by the subjectivity of certain individuals.

3. RESULTS AND DISCUSSIONS

Factors Behind Karo Women Not Getting Their Rights in Inheritance

Inheritance law is the law that regulates the assets or objects left behind by a person after death (Aini & Millati, 2021)(Nova, 2021)(Suhartono et al., 2022). When someone dies, the property they own will be transferred to the heirs. In principle, inheritance is the steps of forwarding or transferring inherited property, both tangible and intangible, from an heir to his heirs, however, in reality the process and steps of transfer vary, in this case both in terms of grants, gifts, and wills and other problems (Salim & Sh, 2021).

Customary inheritance law is closely related and connected to the form of society and the nature of kinship/family in Indonesia. Customary inheritance law in Indonesia is influenced by the kinship system that exists in Indonesian society (Subekti & Ucuk, 2020)(Kurnia & Santosa, 2024). The kinship system in Indonesia is divided into 3 parts: first, the patrilineal kinship system, namely the kinship system that draws only the father's lineage, starting from the father, son, brother, uncle and grandfather. Second, the matrilineal kinship system, namely the kinship system that draws only the mother's lineage, starting from the mother, daughter, sister and grandmother. Third, the parental kinship system, namely the kinship system that draws the father's and mother's lines (Maryani et al., 2022).

If we examine the three kinship systems above, then this is related to the inheritance distribution system in Karo customs which is classified as a patrilineal kinship system. The patrilineal kinship system is a system that draws the male or paternal lineage. Where in Karo customary law, men are more dominant as heirs. While women in Karo customary law are not

heirs, because women are not included in their father's lineage. Daughters and wives left by the testator only have the right to use the inheritance. If the testator does not have a son, the inheritance will later be given to his brother, besides the fact that the testator has a wife and daughters (Mulauli & Humaira, 2024). This is also related to the Batak Karo traditional marriage which is carried out to continue the lineage or generation of the clan. especially in the Batak tribe, the one who continues or continues his father's clan is a son. The presence of a son can be interpreted as the heir to the clan and also has an important position in protecting his sister. The position of women is seen to be very far from men, where in Karo society boys (kalimbubu) are highly respected. Karo society even considers that kalimbubu is like a god who must be respected and obeyed (Sebayang, 2021).

In a family in the Karo community, women have the position as children and wives. The position of women as children is not as successors in the family because it is temporary, this is because when the daughter is married, she will leave her family and join her husband and join her husband's family. Then the position of women as wives, in general, wives are figures who take care of the household, including children, maintain the integrity of the household accompanied by her husband and other wife's obligations (Sri, 2021)(Saragih, 2022)(Rohmah, 2023).

However, the position of Karo women in terms of inheritance is very unbalanced with men. Where daughters are sidelined and do not become one of the heirs in their families (Defri 2023). Karo women only receive pemere (affectionate gifts) such as gold or other useful items left by their parents as a sign that the daughter has looked after and cared for her parents during her lifetime. Pemere can also be in the form of fields or rice fields managed by the daughter while her parents were alive. When her parents have died, the rice fields and fields become inherited property left behind. In this case, a brother or called kalimbubu can also give a little of his wealth to his sister as a sign of affection. However, if the other brothers agree. In fact, what happens is that the gifts that the heir has given to the daughter are also taken over by the son. This is what makes Karo women not get any property or gifts left by their parents. And this also causes quarrels and hostility between siblings and even threatens to kill.

If we look at the problems that have occurred to women in the Karo community, there are several factors that have caused women in the Karo community not to become heirs. According to research conducted by the author, there are 2 factors:

- a) Internal factors: Marriage, in Karo tradition is called honest marriage, a marriage that is carried out by giving honest (dowry) from the man to the woman. The existence of this "honest" marriage is a form of gratitude from the man who has accepted the woman he proposed to by giving money or valuables from the man as (compensation). Honest marriage in Karo tradition causes women to leave their clan and move into their husband's clan (Ginting, 2021); b) Kinship system, the Karo tribe uses a patrilineal kinship system, where this kinship system draws lineage only from the father's side consisting of sons, brothers, uncles and grandfathers. Women in the Karo community are not included in their father's lineage, this is what makes women not receive inheritance; c) If a divorce occurs between husband and wife, the transfer of child custody falls to the husband. The husband will be responsible for the children left behind. The divorced wife will return to her parents' house (Pinem, 2019).
- b) External factors, external factors that influence are changes in people's way of thinking, habits that are passed down from generation to generation in a family, and changes in values and norms in that society (Kaban et al., 2024).

Inheritance Distribution System for Karo Girls

Customary law is a law that grows from the customs of society and unwritten legal products. Customary law contains regulations that regulate the life of society and will continue to be recognized by society even though the regulations are not made by an authorized institution. The regulations that apply to the Karo community in terms of inheritance are that women do not receive inheritance because the community uses a patrilineal kinship system. These regulations have existed since ancient times and are still used by some Karo people today (Brutu et al., 2023). inheritance division is a very crucial problem in a family. It is not uncommon to find in the inheritance division process that some family members control more parts of the inheritance and

even take rights that are not theirs. This causes disharmony in the family and legal provisions that are not in accordance with their implementation.

The scope of assets in the Karo traditional community is generally divided into 4 groups: a) Assets of the husband or wife obtained from family gifts or grants brought into the family; b) Assets obtained from joint efforts of husband and wife after marriage; c) Assets of the husband or wife in the form of gifts obtained during marriage; d) Assets owned by the husband or wife before marriage (Judiasih et al., 2020).

Along with the development of the era and the progress of human thinking. There has been a socio-cultural shift influenced by several factors, including communication and ways of thinking that have influenced the Karo community. This makes parents in the Karo community aware of the rights of women that must be given and to be fair to their children regarding inheritance. Without any differences between each other and not giving priority to men over women. With the legal policy issued by the government in the form of jurisprudence of the Supreme Court of the Republic of Indonesia No. 179 / K / SIP / 1961 dated October 23, 1961 concerning the case of customary inheritance in the Batak Karo indigenous community (Judiasih et al., 2020).

In the jurisprudence, the Supreme Court ruled that daughters have the right to inheritance left by their parents or husbands. Women are also considered as heirs who receive the same share as sons, and widows are also treated equally in inheritance. The Supreme Court is of the opinion that there should be changes to the old legal provisions, in this case customary inheritance law, which is considered no longer in accordance with justice and the development of social conditions (Turnips, 2021).

However, the problems that occur in some Karo communities in Patumbak Village, Deli Serdang Regency in the inheritance distribution system are known to be different from existing legal policies. It is known that the heir willed the house and made a profit-sharing agreement from the sale of the inheritance. In reality, the will and agreement were not implemented properly. All inheritance was controlled by the son without implementing the will and agreement. This made the women of the Karo community not receive anything from the assets left by their parents. Based on the results of interviews conducted by researchers by several informants in Patumbak Village, Deli Serdang Regency regarding the problem of the inheritance distribution of the Karo community, the cases that occurred were as follows: The first informant Jul Ginting, the problem that occurred was that Jul Ginting found a will from her parents in the form of a house measuring 10X15 meters that her parents left when they were still alive. Given that Jul Ginting is the only daughter of seven siblings. After her parents died, it turned out that the land certificate for the house was with her eldest brother. Then the will was not given to Jul Ginting and the house became the property of her brother. Considering that Jul Ginting will get married and live with her future husband.

The second informant, Bdy Tarigan, stated that indeed Karo women do not receive inheritance and indeed the distribution of inheritance using the patrilineal kinship system is common in some Karo communities. However, Bdy Tarigan's brothers promised to give a gift of affection or what is called pemere to the Karo community. At that time, each of his brothers received an inheritance in the form of land. Then his brothers promised to give the proceeds from the sale of the inherited land, each of which was Rp. 10,000,000; rupiah as a gift of affection from their brothers. The fact is that the money from the sale of the land has not been given until now.

The third informant, Mra Barus, is one of four daughters. After her parents died, the inheritance was divided. Given that Mra Barus received a will of fields left by her parents. After her parents died, the will was not carried out and the fields were sold by her brothers. It is known that one of the brothers wanted to give a gift of affection in exchange for the fields that had been sold but was prevented by the other brothers.

Based on the results of the interviews that have been conducted and it can be understood that the case that occurred in Patumbak Village, Deli Serdang Regency, that the parents have given their rights to their daughters in terms of inheritance but by making a will and making an agreement between siblings. In practice this is not implemented, the will given is controlled by the brother even to the point of selling it. and the money for affection that will be given to the sister is blocked by other siblings. In terms of giving affection from her siblings, the amount is not determined and there is no agreement from other siblings. In the Karo customary inheritance law, it

is stated that women do not receive inheritance, but if there is a will, grant or gift from her siblings, both money and other valuables are allowed. As for other brothers, they do not have the right to hinder the parents' giving to the daughter and it is better to be fair to the property given. The portion obtained by the daughter is certainly smaller than that of the other brothers.

The problems that occur in Karo women when viewed from two sides of the law, namely Islamic law and civil law, are certainly very inappropriate. In Islamic law, both boys and girls are heirs, because they have blood relations (Nastiya et al., 2023). In the provisions of Islamic inheritance law, the portions that each heir receives are also mentioned in the Koran (Amransyah et al., 2022). KHI emphasizes in article 174 paragraph 1 that the occurrence of mutual inheritance is due to the existence of a marriage relationship and blood relationship. Likewise with civil law, daughters and sons receive inheritance from their parents, even the distribution of inheritance is carried out fairly to all heirs with an even or equal distribution between one and the other (Barus & Natajaya, 2022).

Based on the explanation above, there is a new paradigm regarding women's rights in the distribution of inheritance. This change can be caused by the community itself realizing its rights. Where the driving force for legal changes is contact with other community cultures or the movement of territory, from customary areas to areas mixed with other customary tribes, community dissatisfaction with certain areas and the orientation of the community's thinking.

4. CONCLUSION

The above research shows that women's rights in inheritance have indeed been stated, although their share is less than men's. However, many brothers have not been able to accept and choose not to give women their share. Both in terms of wills or giving affection from their brothers. Of course, if there is a will left behind, it should be given to women even though only objects in their parents' house are left behind. It is only right that women's rights are equal to men's in a family, considering that they come from the same parents who gave birth to them, without any sense of selfishness in inheritance.

The problem of inheritance in the Karo community when viewed from two sides of the law, namely Islamic law and civil law, is certainly very contradictory. In Islamic law, both male and female children are heirs, because they have blood relations. In the provisions of Islamic inheritance law, the portions received by each heir are also mentioned in the Qur'an. Likewise with civil law, female and male children receive inheritance from their parents, even the distribution of inheritance is carried out fairly to all heirs with an even or equal distribution between one and the other.

Based on the results of the research, some policy recommendations that can be given are that the government and legal institutions need to socialize women's inheritance rights based on civil and Islamic law, as well as introduce Supreme Court jurisprudence that has recognized women's rights in customary inheritance and customary institutions and community leaders can play a role in upholding justice by ensuring that the distribution of inheritance is carried out more fairly based on applicable law.

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