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Resolution of Disputes in Inheritance Through Islamic Law and *Surat Tumbaga Holing* in The Bataknese Community in South Tapanuli

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Abstract: It is not uncommon that any conflict in a society is caused by disputes over inheritance. The research employed a juridical empirical approach, utilizing real and applicable law within a specific society. The result of the research shows that the resolution of dispute in inheritance in the Bataknese community is performed through *Marpokat* (negotiation) consisted of five types: *Pokat Ulu Tot*, negotiation of dispute resolution in inheritance among closed relatives, *Pokat Dalihan Na Tolu* (negotiation of dispute resolution in inheritance among heirs by making parent-in-laws, son and daughter-in laws, and the other relatives participate in it, *Pokat ni Parsahutaon*, negotiation of dispute resolution in inheritance attended by adat (customary) leaders, *Pokat Haruaya Mardomu Bulung* or *Pokat Pokat Hombar Balok*, negotiation of dispute resolution in inheritance attended by adat leaders or king descendants from the neighboring villages, and *Pokat Suhut Sihabolonan*, negotiation of dispute resolution in inheritance attended by local government officials. Resolution of disputes in inheritance based on negotiation, as it is done by the Bataknese community, is in accordance with the Islamic law, which is found in verse 139 of Surah Ali Imran, which reads, *amruhum* (their affairs). In general terms, it encompasses all types of affairs, including the resolution of disputes related to inheritance. Resolution of disputes through negotiation is more effective and efficient because it prioritizes a sense of cooperation without any feelings of hatred or hostility. Heirs in the Bataknese community are only for men, whereas women only get a share, which is called *Olongate* (love and affection gift), in which their share can be bigger or smaller than men's.

Keywords: *Resolution, Disputes, Inheritance, Tumbaga Holing, Bataknese Community, Heirs*

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Abstrak: Tidak jarang berbagai konflik yang timbul di tengah-tengah masyarakat adalah sering disebabkan oleh persoalan pembagian harta warisan. Metode yang digunakan metode penelitian hukum empiris, yakni penelitian tentang hukum yang hidup dan diterapkan dalam masyarakat. Hasil penelitian menunjukkan, penyelesaian sengketa warisan pada masyarakat Batak dilakukan melalui Marpokat dalam lima jenis, yakni: Pokat Ulu Tot yakni musyawarah penyelesaian sengketa di antara keluarga dekat, Pokat Dalihan na Tolu (musyawarah penyelesaian sengketa antara ahli waris dengan mengikutkan pihak mertua, pihak memantu dan pihak keluarga di anatara ahli waris), Pokat ni Parsahutaon yakni musyawarah yang dihadiri oleh tokoh adat, Pokat Haruaya Mardomu Bulung atau Pokat Pokat Hombar Balok yakni musyawarah penyelesaian sengketa warisan yang dihadiri oleh tokoh adat atau keturunan raja yang beraasal dari beberpa desa yang bertetangga dan Pokat Suhut Sihabolonan yakni musyawarah dalam penyelesaian sengketa warisan yang dihadiri oleh unsur aparat pemerintah setempat. Penyelesaian sengketa pembagian harta warisan berdasarkan musyawarah sebagaimana diselenggarakan masyarakat Batak sejalan dengan Hukum Islam Surat Ali Imran ayat 139. Kalimat amruhum (urusan mereka) bernentuk umum melingkupi segala jenis perkara, termasuk penyelesaian sengketa warisan. Penyelesaian sengketa lewat Musyawarah lebih efektif, efisien, karena mengedepankan raasa sukarela tanpa ada unsur kebencian dan dendam. Sedangkan ahli waris dalam masyarakat adat Batak hanya ditujukan kepada pihak laki-laki, perempuan hanya mendapatkan bagian Olongate (bagian kasih sayang) yang jumlahnya bisa sama atau lebih banyak dari bagian laki-laki.

Kata Kunci: Penyelesaian Sengketa; Warisan; Surat Tumbaga Holing; Masyarakat Batak; Ahli Waris

Introduction

It is not uncommon for conflicts in a society to arise from disputes over inheritance. Due to inheritance, conflicts, hostility, and sibling rivalry among siblings or between parents and their children, as well as between families and their neighbors, can arise. It is also uncommon for conflicts to end in death. For instance, the conflict in distributing inheritance occurred at Pengkol Rejo Village, Blora, Central Java, on September 26, 2002, when Sahari bin Sumobi was killed by his own brother-in-law, Sujani bin Mahfudi was killed by his own brother-in-law in Mojokerto, Est Java on March 28, 2014, because of conflict in inheritance, and Liu Nyat Thin alias Kujaw and his mother, Jong Manfa, were killed by their own biological son on Jalan Jerendeng, Kelurahan Bumi Emas, Benkayang Regency, West Kalimantan on April 29, 2013. This murder was because his father did not keep his promise to bequeath the property to him.

This series of accidents in inheritance disputes was not only caused by the lack of firmness and fairness, as well as the improper use of legal materials in

resolving inheritance disputes, but was also caused by not formally involving the potency of local adat in resolving inheritance disputes.

Actually, among the numerous adat tribes and communities in Indonesia, there is an adat community that has its own traditional model or value for resolving disputes in inheritance, such as the Bataknese adat community through the *Surat Tumbaga Holing* regulation.

It is undeniable that several Bataknese Muslims in North Sumatra also face the same problem, even though most of them can be resolved fairly and wisely without arousing prolonged conflicts by using the *Surat Tumbaga Holing* regulation. It is because in this *Surat Tumbaga Holing*, it has been regulated

1. The procedure and system of negotiation in resolving any disputes in distributing inheritance through *Surat Tumbaga Holing* regulation in the Bataknese community;
2. Regulation on *adat* sanction imposed upon anyone who violates the regulation on inheritance as it has been regulated in the *Surat Tumbaga Holing* regulation;
3. Resolution of disputes is in the compatibility of requirements and conditions of the people who receive the will and gift;
4. Resolution of disputes in violation of the maximum threshold of the amount of inheritance;
5. Regulation on the share of each heir;
6. The person who has the right to be the heir and substituted heir;
7. Any parties that face obstacles in getting the inheritance.

Resolution of disputes in inheritance has become a social project for which legal materials are urgently needed to be established by adopting the local wisdom of the adat, the local people.¹ If a dispute in inheritance is neglected without being resolved wisely and fairly, it can cause more serious conflicts, which not only can affect families but also can cause harmful conflicts between families and other community members.

Resolution of disputes in inheritance cannot only be relied on the regulations in the Civil Codes, the KHI (Compilation of the Islamic Laws), and the Criminal Codes but it should also be combined with the regulations of the *adat* laws which exist in society so that the outcome of resolution can be accepted by all parties since it is considered fulfilling justice and benefits.

¹John R. Bowen, *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (New York: Melbourne Cambridge University Press, 2003). Mursyid Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law," *JURIS: Jurnal Ilmiah Syariah* 21, no. 2 (2022), <https://doi.org/10.31958/juris.v21i2.7495>; Ratno Lukito, "Religious ADR: Mediation in Islamic Family Law Tradition," *Al-Jami'ah: Journal of Islamic Studies* 44, no. 2 (2006).

The potency of the *adat* community is so significant that it should be managed properly, so that the resolution of disputes in inheritance does not rely solely on law enforcement and the government. It must involve all elements, encompassing people with various sets of laws and local wisdom.

Based on the background above, the research problems can be formulated as follows: a) what has caused disputes in inheritance according to the Islamic Law and *Surat Tumbaga Holing* regulation in the Bataknese community, b) how about the resolution of disputes in inheritance according to the Islamic Law and *Surat Tumbaga Holing* regulation in the Bataknese community, c) who will be the heir(s) according to the *Surat Tumbaga Holig* and Islamic Law, d) how about the share of each heir, and e) who is prohibited to inherit according to the Islamic Law and *Surat Tumbaga Holing* regulation in the Bataknese community in South Tapanuli.²

This research employed a juridical empirical approach, examining laws in real-life settings and applying them in a societal context.³ It also used an anthropological approach (a science which studies the patterns of dispute and its resolution in a simple society and in a society which is still in a process of development), and a socio-legal approach, or a juridical empirical approach, or people's real laws by analyzing social phenomena from its legal aspect.⁴ The research activities focused on conducting an inventory and analysis of the legal provisions related to the research subject matter.⁵ The research location was in South Tapanuli, as the majority of the inhabitants were Muslim.

This research employed a triangulation technique, combining various methods to analyze interrelated phenomena from different perspectives and viewpoints, in order to achieve a reliable level of truth. Triangulation was employed to validate the data.

The source of data in this research consisted of two types: primary data and secondary data. The primary data sources included the Bataknese *adat*

²Sulistyowati Irianto, *Perempuan Di Antara Berbagai Pilihan Hukum; Studi Mengenai Strategi Perempuan Batak Toba Untuk Mendapatkan Akses Kepada Harta Waris Melalui Proses Penyelesaian Sengketa* (Jakarta: Yayasan Obor, 2005). Anwar Sadat Harahap et al., "South Batak Tradition for the Settlement of Environmental Disputes: A Tumbaga Holing Letter Model," *Journal of Environmental Management and Tourism* 12, no. 7 (2021); Anwar Sadat Harahap and Ahmad Lahut Hasibuan, "Social Conflict Settlement Through Regulation Of Surat Tumbaga Holing In Batak Angkola Society," *Jurnal Dinamika Hukum* 16, no. 2 (2016)

³Sulistyowati Irianto, "Praktik Penelitian Hukum: Perspektif Sosiolegal," in *Metode Penelitian Hukum: Konstelasi Dan Refleksi*, ed. Sulistyowati Irianto and Shidarta (Jakarta: Yayasan Obor Indonesia, 2009), p. 297–315; Imam Koeswahyono, *Sosio Legal: Bekal Pengantar Dan Substansi Pendalaman* (Malang: Intimedia, 2014).

⁴Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020).

⁵Soerjono, *Pokok-Pokok Sosiologi Hukum* (Jakarta: Rajawali Pers, 2006).; Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).

community, adat leaders, religious figures, and the staff of the Religious Agency in the research location. Secondary data were gathered through library research, specifically related to the research materials, which included all relevant legal instruments regarding the resolution of disputes in inheritance. All the data were gathered through observation, interviews, documentary studies, and the distribution of questionnaires. The gathered data were analyzed using a descriptive method. What was meant by 'descriptive' was to provide the data as carefully as possible about human beings, atmosphere, and other phenomena.⁶

Disputes in Inheritance in Islamic Law and *Surat Tumbaga Holing*

In general, the causes of inheritance disputes within society include:

a) The presence of greed among some heirs in taking the inherited property. The greed referred to here is the act of someone attempting to obtain as much inheritance as possible without considering the existence of other heirs who hold the same rights; b) Misunderstandings among the heirs. Such misunderstandings occur when some heirs do not understand the specific shares allocated to each heir; c) The dominance of the eldest heir over the estate. The eldest heir tends to demand a larger portion than the other heirs. d) Unequal distribution of gifts (hibah) or bequests among the heirs. This includes the giving of gifts or bequests that are unfair or not properly documented.⁷

There are several causes of disputes in distributing inheritance according to *Surat Tumbaga Holing* regulation in the Bataknese *adat* community in South Tapanuli.

First, Postponing Distributing Inheritance. It is customary for the Bataknese *adat* community in South Tapanuli to postpone distributing inheritance to the heirs because they think that the property of the deceased person is joint property, so that it is not necessary to distribute it to the heirs promptly in order to give homage to the deceased who has bequeathed the property.

The allocation of the property left by the deceased person is always applicable, as it was made before the owner passed away. The heirs give permission to the family to use it as it has been allocated. As long as the property

⁶Anwar Sadat Harahap et al., "Dalihan Na Tolu as a Model for Resolving Religious Conflicts in North Sumatera: An Anthropological and Sociological Perspective," *Samarah* 7, no. 3 (2023); Khairuddin Hasballah et al., "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in Aceh Community," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021).

⁷Maria Kaban and Runtung Sitepu, "The Efforts of Inheritance Dispute Resolution for Customary Land on Indigenous Peoples in Karo, North Sumatra, Indonesia," *International Journal of Private Law* 8, no. 3–4 (2017); Sayuthi Sayuthi and Dedy Sumardi, "Model Penyelesaian Sengketa Waris Dalam Masyarakat Aceh," *Indonesian Journal of Shariah and Justice* 1, no. 2 (2021); Livia Holden and Azam Chaudhary, "Daughters' Inheritance, Legal Pluralism, and Governance in Pakistan," *Journal of Legal Pluralism and Unofficial Law* 45, no. 1 (2013).

has not been distributed yet, the other family members are allowed to use it since the other heirs do not need it.

This postponement of distributing inheritance is based on the regulation embodied in *Surat Tumbaga Holing* regulation as follows: *Ulang ligin hortoni na mulak, ligin dohot pabahat hortomu tu jolo*. This regulation means that we must not look on and be fascinated with the inheritance given by the deceased person, but we have to think how many properties we have to collect in our future.

The consequence of postponing distributing the inheritance is that it is not impossible that one of the heirs of the deceased person dies so that he does not get the inheritance because the distribution is postponed, and it is distributed after he has died. Compromise about distributing inheritance and determining the share that will be received by each of the heirs is very transparent. It is done just after the testator dies. On the other hand, if the inheritance is distributed long after the testator's death, the compromise of determining the share that each heir will receive becomes blurred, as new heirs have already been substituted. The problem of postponing distributing inheritance is also triggered by the factor of the absence of some of the heirs so that the distribution of inheritance has to be postponed until all of them are present.⁸

There are some negative effects of postponing distributing inheritance; it can arouse a conflict among the heirs, can break off friendship, can use the property in a bad way, and can decrease the portion of the inheritance so that the heirs who die before the inheritance is distributed will get less than the share he should have.⁹

Secondly, Heirs do not understand the procedure for distributing inheritance. The heirs' lack of knowledge about the procedure for distributing an inheritance can influence how the inheritance is distributed to them. The higher their level of understanding of the procedure for distributing inheritance, the easier it is for them to receive their inheritance, so that it is distributed cordially and in accordance with the rules. If all of the heirs understand the rules and regulations of distributing inheritance, there will be a good compromise among them in the inheritance distribution, so that any conflicts in the family can be avoided wisely.

The reason for postponing the distribution of the inheritance is that there are still the heirs' husbands or wives who are responsible for paying their

⁸Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023).

⁹Ali Abubakar et al., "The Postponement of The Implementation of Inheritance Distribution in The Seunuddon Community, North Aceh in The Perspective of 'Urf Theory and Legal Pluralism," *El-Usrah* 6, no. 2 (2023); Fauzi, "The Concept of Patah Titi: The Problem of Inheritance and Its Solution in Aceh Tengah," *Studia Islamika*, 2019.

children's tuition or school fees. Additionally, there are heirs who still reside in the house that was inherited.¹⁰

Postponing the distribution of inheritance can also be influenced by people's lack of understanding of Islamic Inheritance Law, as not all of them comprehend it. Additionally, socialization about the procedure for distributing inheritance is also inadequate.¹¹

Thirdly, some of the heirs get *Hibah*. A conflict in distributing inheritance can be caused by some heirs who have received hibah from their father before the latter's death. The *hibah* will eventually cause feelings of jealousy among the other heirs who do not get it from their father. Meanwhile, the heir who has received hibah still wants to inherit with the same share as the other heirs, because he thinks that all of them have the same position as heirs. He does not understand that there is no relationship between *hibah* and inheritance because *hibah* is the prerogative right of a person to give their property to anyone they like, and it is done before they die, whereas inheritance occurs after the person becomes a testator after they die.

Generally, *hibah* is given to someone to provide protection to the person who receives it. Besides that, it is also considered a pressing problem of the need for the receiver, so that he has to be prioritized for receiving the hibah, which might be used to fulfill his primary needs or start his business, etc.

According to Article 211 of the KHI (Compilation of the Islamic Laws), a gift from parents to their children (while the parents are still alive) is considered as inheritance. Consequently, when they die, the share of the children who have received hibah from their parents will be reduced, or even these children may not receive any inheritance, as they received the *hibah* from their parents while the latter were still alive.¹²

Fourthly, the third party in the Distribution of Inheritance. The existence of a third party, such as spouses, children, or other individuals, in the distribution of an inheritance can cause conflict over the inheritance. Actually, distributing inheritance to the heirs internally can be done smoothly since all of them have agreed and are willing to receive their share through negotiation done by all

¹⁰Abubakar et al., "The Postponement of The Implementation of Inheritance Distribution in The Seunuddon Community, North Aceh in The Perspective of 'Urf Theory and Legal Pluralism.," Muhammad Lutfi Hakim, "Ismail Mundu On Islamic Law Of Inheritance: A Content Analysis of Majmū' Al-Mirāth Fī Ḥukm Al-Farā'Id," *Al-Jami'ah* 61, no. 1 (2023).

¹¹Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 1, no. 2024 (10AD); Daniel S. Lev, "The Supreme Court and Adat Inheritance Law in Indonesia," *The American Journal of Comparative Law* 11, no. 2 (1962).

¹²Anantdeep Singh, "Women, Wealth and Law: Anglo-Hindu and Anglo-Islamic Inheritance Law in British India," *South Asia: Journal of South Asia Studies* 40, no. 1 (2017); Ismail et al., "The Contribution Of 'Urf To The Reform Of Islamic Inheritance Law In Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (2022).

family members. However, the agreement to receive inheritance by the heirs internally often turns into a conflict due to the presence of a third party. The tension will arise when a third party becomes actively involved.

Some reasons of the conflict in distributing inheritance, among others, are the difference in the inheritance share for sons and daughters since, they think, the frequency of their needs is equal without considering gender, the right to receive inheritance by the children from an unregistered marriage, and the position of an adopted/foster child in inheriting as it is specified in PP (Government Regulation) No. 54/2007.¹³

Resolution of Disputes in Inheritance in *Surat Tumbago Holing* Regulation

Although the legal materials regarding the distribution of inheritance are embodied in the Surat Tumbago Holing regulation, many people still violate or disobey it. Therefore, if there is a dispute in distributing inheritance, it can be resolved through *Marpokat* (a negotiation system in the Batakese community) in 5 (five) levels as follows:

First, Pokat Ulu Tot involves resolving disputes among close relatives or family members internally. At this level, the oldest son plays a crucial role in resolving this dispute. It is because he is not only the oldest child who will substitute his father, but he also has the authority to give orders to his younger brothers and sisters.

Resolving a dispute at this level generally uses the following rule: *Ulang haut na so hasurungon ni ba, boi doi maroban cego* (Do not take or receive anything which is not your share from inheritance because it will cause disaster and misfortune to other people).

Secondly, Pokat Dalihan na Tolu involves the negotiation of resolving disputes in inheritance among heirs, with parents-in-law, sons/daughters-in-law, and other relatives of the heirs participating in the process. Negotiation at this level occurs when a dispute over inheritance remains unresolved at the initial level. The purpose of inviting the whole family, including parents-in-law, son/daughter-in-law, and other relatives, is to make the conflicting heirs socially awkward in front of the other people who are in conflict, so that each of them will be patient in receiving their respective portion.

The legal material read before the conflicting heirs, among others, is *Sarupo do halak na marakkang maranggi* (the equal position of siblings, specifically biological brothers). Essentially, each heir should agree when there is a discrepancy in the share of the amount or in the area of land in the inheritance. The heir who lives in the village will get twice the share of the heir who lives

¹³Nur Aksin, Rahmat Robi Waliyansyah, and Nugroho Dwi Saputro, "Sistem Pakar Pembagian Harta Waris Menurut Hukum Islam," *Walisono Journal of Information Technology* 2, no. 2 (2020), p. 115

outside the village. Another regulation is *Horto na di raup sian halak, nanggo bisa pagodakkon, songoni muse na paurakkon na adong* (The inherited property of other people, which is taken by us, will not make us rich, and we cannot 'reduce' the property of the people we have taken illegally)

Thirdly, Pokat ni Parsahutaon, a negotiation attended by adat leaders, parents-in-law's relatives, son-in-laws' relatives, and relatives of the same blood. Their presence will help settle the dispute over the distribution of the inheritance. Negotiation at this level is attended by respectable *adat* leaders in the village so that the decision will be accepted whole-heartedly by the conflicting parties. Generally, the legal material read to the audience is *padao rohamu sian mambuat hasurungon ni halak dohot pabahat mangalehen bagian niba tu halak na mambutuhon* (Avoid taking other heirs' share and let them choose their own share which they need urgently).

Fourthly, Pokat Haruaya Mardomu Bulung or Pokat Pokat Hombar Balok, negotiation of resolving a dispute in inheritance is attended by *adat* leaders or the descendants of kings from several neighboring villages. Negotiation at this level occurs when disputes regarding the distribution of inheritance have not been resolved at the first, second, or third levels. The presence of adat leaders from neighboring villages is very important because they are influential and charismatic, and they are familiar with the disputed inheritance.

It is very common for the Bataknese *adat* community that all the adat leaders in neighboring villages are well aware of the amount, area, and status of the inheritance, especially those closely related to agriculture and plantation. In the negotiation at this level, the material of inheritance law is usually conveyed as follows: *Pabahat hasurungon na di huta, harana ia mandongani hangoluan dohot manutupi ila* (Allow more amount of the inheritance to be given to the heir who lives in the village because he has helped his parents manage the farm and the plantation, and he has participated in making the family's contribution).

Based on this regulation, all heirs who have migrated and spent their parents' money should be willing to give some of their shares to the other heirs who reside in the village. This type of legal material embodies the principles of justice and wisdom, thereby helping to prevent conflicts in the distribution of inheritance.

Fifthly, in Pokat Suhut Sihabolonan, the negotiation of resolving a dispute in distributing inheritance is attended by local government officials, such as the village head or the sub-district head. The presence of local government officials is crucial as mediators in resolving disputes over inheritance among heirs. According to the *Surat Tumbaga Holing* regulation, the Government has the authority to participate in resolving any conflicts that occur in the communities, including conflicts over the distribution of inheritance. Usually, the legal material which are conveyed by the government officials in resolving a dispute in inheritance is *Ulang digadis tano, rimba salobasmu* (inherited land must not be

sold to other people; it has to be sold by the heir who does not need it to the heir who needs it to be cultivated). This legal material gives the opportunity to the heirs who have low income to use the inherited land of the heirs who have better income. This resolution of a dispute in inheritance through negotiation is also performed by various *adat* communities in Indonesia, utilizing the local wisdom they possess. The result is that many inheritance disputes can be resolved quickly, cheaply, and fairly among the conflicting parties.

In the Minangkabau *adat* community, disputes over inheritance are resolved by *adat* leaders through mutual negotiation with *niniak mamak*, as there is a slight difference in the process of distributing inheritance, where a woman's share is greater than that of a man.¹⁴ The resolution of a dispute over distributing inheritance in the patrilineal *adat* community is achieved in two ways: first, through non-litigation, which involves family negotiation and adherence to *adat*, and second, through litigation.¹⁵ Meanwhile, Brayen K. Sundalangi points out that the resolution of a dispute in inheritance by non-litigation is done through consultation, negotiation, mediation, and a conciliatory approach.¹⁶

Mediation is one of the alternatives of resolving a dispute in distributing inheritance, according to the Islamic law. It can create more harmonious family atmosphere because the conflict can be settled completely.¹⁷ A fair resolution of a dispute in inheritance within the Kajang *adat* community is based on local wisdom, involving three stages: negotiation at the village head level, mediation by village heads, and a decision by an *adat* court institution.¹⁸ The resolution of a conflict over inherited land in Saenama village, Rinhat Sub-district, Malaka Regency, is achieved through family-mediated negotiation or mediation, where all parties are present without any partiality.¹⁹

Uswatun Hasanah points out that the Madura community prefers choosing *adat* or customary law over using legal affairs in every resolution of a dispute

¹⁴Elfia et al., "Patterns for Settlement of Puhah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 17, no. 2 (2022).

¹⁵Yasrul Huda, "Islamic Law Versus Adat: Debate about Inheritance Law and the Rise of Capitalism in Minangkabau," *Studia Islamika* 15, no. 2 (1970).

¹⁶Ajidar Matsyah et al., "Cultural Continuity and Legal Adaptation: The Evolution of Suluh in Aceh's Conflict Resolution System," *JURIS: Jurnal Ilmiah Syariah* 1, no. 24 (2025): 101–10. Irianto, "Praktik Penelitian Hukum: Perspektif Sosiolegal."

¹⁷Syaikhu, Gusti Muzainah, and Rabiatul Adawiyah, "Acculturation in the Inheritance Law of the Dayak Ngaju Community," *Al-'Adalah* 18, no. 1 (2021).

¹⁸Siah Khosyi'ah and Ayi Yunus Rusyana, "Inheritance Settlement of Descendants of Children and Siblings in Islamic Law with Local Wisdom in Indonesia," *Cogent Social Sciences* 8, no. 1 (2022).

¹⁹Khosyi'ah and Rusyana; Sayuthi and Sumardi, "Model Penyelesaian Sengketa Waris Dalam Masyarakat Aceh."

related to inheritance.²⁰ The resolution of a dispute over inheritance is conducted through an adat meeting led by a *gampong* (village) head, based on a report from one of the heirs who feels that they have been harmed.²¹ The same model also occurs in resolving disputes over inheritance with a family-oriented approach led by a village head.²²

Islam provides an opportunity for all Muslims to distribute their inheritance, which can create advantages and avoid disadvantages. This inheritance distribution creates advantages because it incorporates an element of justice for each heir, ultimately leading to a mutual agreement.²³ Resolution of a dispute in inheritance can also be done by providing an equal share for each of the heirs so that they can receive it satisfactorily.²⁴

After various explanations concerning the system of resolving disputes in distributing inheritance done by the Batakese *adat* community through the *Surat Tumbaga Holing* regulation and the system of resolving disputes in distributing inheritance in other *adat* communities in Indonesia, it is found that all of them approve of resolving conflicts in distributing inheritance through negotiation. The primary consideration for using the negotiation approach in resolving inheritance disputes is that the elements of agreement and mutual willingness should be prioritized, ensuring that any decision made can be accepted by all parties involved in the conflict.

Resolution of disputes in distributing inheritance, based on negotiation, is in accordance with the Islamic Law as it is specified in Surah Ali Imran, verse 139, which reads "...Therefore, forgive them, pray for their repentance, and negotiate with them in their business."

The word "amruhum" (their business) has a general meaning that includes any business, including the resolution of disputes related to inheritance. Resolution of a dispute in inheritance is very suitable to be done by non-litigation because the problem of inherited property is closely related to family and

²⁰Ilyas Ilyas et al., "The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives," *Samarah* 7, no. 2 (2023).

²¹Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over Adat, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (2024).

²²Franz Von Benda-Beckmann and Keebet Von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," *Journal of the Economic and Social History of the Orient* 55, no. 4–5 (2012).

²³Franz Benda-Beckmann and Keebet von Benda-Beckmann, "Changing One Is Changing All: Dynamics in the Adat-Islam State Triangle," *Journal of Legal Pluralism and Unofficial Law* 38, no. 53–54 (2006).

²⁴Arskal Salim, *Contemporary Islamic Law in Indonesia-Shariah and Legal Pluralism* (Eidinburgh: The Aga Khan University, 2015).

kinship.²⁵ Negotiation always prioritizes mutual willingness and consent, without coercion. The result of negotiation becomes a binding law and a strong element for the meeting members.

The implementation of distributing inherited property is carried out through negotiation, which is done in a family atmosphere where the heirs are willing to distribute the inheritance through mutual agreement. This type of system in distributing inheritance resembles the Islamic Law in distributing inheritance. Article 183 of the KHI (Compilation of Islamic Law) discusses the distribution of inherited property through negotiation. Distribution of inherited property should fulfill some requirements as follows: a) capacity to act according to law, b) having reached the age of reason, and c) having the capacity to control property (*rusdy*). Distributing inheritance through negotiation is considered a prudent decision to avoid conflicts among heirs, and it is permitted in Islam. Its sole purpose is to give advantages to the heirs.

Resolution of disputes in inheritance based on negotiation is a system of resolving disputes that contains the value of flexibility, which opens the space of forgiveness, and the person who has been harmed can be compensated, and the conflict can be settled so that any decisions can be mutually accepted by all parties without any coercion or hostility among them.

Inherited property is the parents' inheritance, in which the family bond is closely related to the heirs, either in blood relationship or in relation by marriage. Therefore, if a dispute arises over inheritance, the most suitable choice for resolving it is through negotiation, rather than litigation.

Every decision made by the judge of the court will cause the prolonged feeling of grudge or hatred of the conflicting parties since the verdict is handed down based on legal consideration, whereas the decision made through negotiation is accepted and agreed upon by the conflicting parties since it is based on mutual agreement, mutual understanding, and forgiveness.

Heirs Receiving a Certain Share According to the *Surat Tumbaga Holing*

According to the *Surat Tumbaga Holing* regulation in the Bataknese *adat* community, lineage on the male side serves as the initial benchmark for determining who has the right to be an heir. On the male side of a family, lineage typically designates the main heir who inherits his parents' property.

According to the *Surat Tumbaga Holing* regulation, heirs are only men, whereas women are not considered as heirs. Every *adat* community in Indonesia has its own way of determining heirs. The inheritance is equally shared by all heirs without considering their genders or lineage on either side of sex. The

²⁵Patricia Beata Kurnia, "Sanak Value in Women's Land Inheritance Rights: Case Study on Women Inheritance Land Rights in Karangpakuan, Sumedang, West Java," *Indonesian Journal of Socio-Legal Studies* 2, no. 2 (2023).

distribution of inheritance is carried out through negotiation among the heirs based on their mutual agreement.

Mangara Pandaloan Harahap points out that women are not included in the category of heirs, but they usually receive their share of the inheritance due to the generosity of the male heirs. It is not uncommon for women to have an equal share with the male heirs.²⁶ Parlindungan Siregar points out that the portion received by male heirs is called inherited property, as he is an heir, while the portion received by women is considered a part of *ingot-ingot* (a token of love and affection) given by male heirs, even though it is taken from the inheritance. In the tradition, this kind of gift is called a gift based on *olong ate* (a gift is merely based on love and affection).²⁷

Soripada Harahap points out that it is very fair when the heirs are males because they are responsible for their sisters' necessities of life, such as food, drink, clothes, housing, their children's tuition or school fees, wedding costs, and other social needs. To fulfill their obligation to protect their sisters, they need to have a stable income. Therefore, it is very fair and wise if men become heirs because they take the responsibility for their sisters' necessities of life.²⁸

However, the male heirs are always happy to give a part of their share to their sisters as a gesture of *olong ate* (a feeling of love and affection). This is, of course, the attitude of philanthropy, love, affection, and dignity toward women that is the principal attitude of the Batakese *adat* community.

There are 5 (five) types of male heirs in the Batakese *adat* community in South Tapanuli: *Amang* (biological son), *Pahoppu* (biological son's grandchildren and his generation), *Aya* (biological father), if there is no son or grandson), *Abang* (biological brother), *Popparan ni Abang dohot Anggi* (biological brother's sons), if there are no persons mentioned above.

Tarida Hamolomoan Harahap points out that the amount of the heir's share according to the *Surat Tumbaga Holing* regulation is based on the principle of *Sahudon Sapanganan*, *Salupak Sapanyabian* (food from one cooking pot is enjoyed together, and one business place is managed together). This principle means that inherited property should be shared equally by all heirs without exception. The shares can differ from one another, but they must be mutually agreed upon by all heirs without any influence from other parties.²⁹

According to the *Surat Tumbaga Holing* regulation, the heirs who get their share should be men, while women do not. They only get *olong ate* (a gift is merely based on love and affection), either movable or immovable properties such

²⁶Interview with Mangara Pandaloan Harahap, The Figure of Batak Community, December 10, 2024

²⁷Interview with Parlindungan Siregar, Batak Community, November 25, 2024

²⁸Interview with Soripada Harahap, Batak Community, November 4, 2024

²⁹Interview with Tarida Hamolomoan Harahap, Batak Indigenous Community, October 23, 2024

as wet rice fields, buffalo, plantations, etc. The gift for women is called *Ulos na so ra buruk* (blanket which cannot be mildewed), or *olong ate* (a gift is merely based on love and affection). A father's inherited property is prioritized to be used for his wife's necessities of life, and the rest will be used to support his children.

Buana Nadapdap points out that, according to the Bataknese tradition, inheritance is passed down to sons, while daughters only receive *indahan harian* or *sileon-leon* (support from parents or their brothers). Most of the inheritance is passed down to sons, as they are responsible for supporting the family and representing their parents in traditional ceremonies, which helps them achieve the Batakese goal or philosophy, shaping their basic philosophy of life.³⁰

The implementation of the principle of distributing inheritance in the Batak Toba *adat* community highly depends on the patrilineal system, which prioritizes men rather than women, because they believe that women will eventually be 'bought' by their husbands' families.³¹ In the patrilineal system of the Toba Batak, the position of sons is stronger and more respected within the family, and this position significantly influences the distribution of inheritance between sons and daughters.³² According to the *adat* (customary) law of the Toba Batak, in the inheritance system, men are the only persons who become heirs, whereas women are not considered heirs; they only receive gifts given to them by their parents. The position of men as heirs is very strong and valid. The Batakese *adat* community always prioritizes genealogical and legal society based on the patrilineal line of descent, which becomes the main principle in determining who will receive the inheritance of a marriage in the Batakese community.³³

Heirs Receiving a Certain Share in the *Surat Tumbaga Holing* and Islamic Law

The principle of the Batakese *adat* community in prohibiting women from becoming heirs is contrary to the Quran, in which Allah makes women, together with men, heirs, even though the amount of inheritance is, of course, different. It is found in the Quran, Surah An-Nisa, verse 11, as follows: "...Concerning (the inheritance of) your children God enjoins (this) upon you. The male shall have the equal of two females ' share...'

³⁰Interview with Buana Nadapdap, Batak Indigenous Community, September 13, 2024

³¹Hertiana Eva Y. L. Tobing, *Penerapan Prinsip Dalam Waris Adat Batak Toba Antara Halak Batak Yang Masih Tinggal Di Wilayah Adat Dan Yang Diluar Wilayah Adat* (Semarang: Universitas Negeri Semarang, 2018).

³²Torop Eriyanto Sabar Nainggolan, *Kedudukan Anak Perempuan Dalam Hukum Waris Adat Pada Masyarakat Batak Tobadi Kecamatan Pontianak Kota Di Kota Pontianak* (Semarang: Universitas Diponegoro Semarang, 2015).

³³Mesri Elisabeth Aritonang, *Pembagian Warisan Anak Laki-Laki Yang Manuhor Marga Berdasarkan Hukum Adat Batak Toba: Studi Di Kecamatan Tarutung Kabupaten Tapanuli Utara* (Medan: Universitas Sumatera Utara, 2019).

This verse indicates that sons and daughters can become heirs who have the right to receive their share of an inheritance from a testator, because women are also considered children who have the same rights as men in the distribution of inheritance, even though the share of a man may differ from that of a woman. However, this concept of distributing inheritance in the ratio of 1:2 is not absolute; it can be in the ratio of 1:1, depending on the social conditions of the people who develop it.³⁴

The group of heirs and their share is as follows: a) An heir who gets $\frac{1}{2}$ (a half) of the inheritance: husband, daughter, granddaughter from the son, biological sister, and half-sister from one father, b) An heir who gets $\frac{1}{4}$ of the inheritance: husband and wife, c) An heir who gets $\frac{1}{8}$ of the inheritance: wife. One or more than one wives will get one eighth of her or their husband's inheritance if the husband has children or grandchildren, either they are born from her womb or from the other wives' wombs, d) An heir who gets $\frac{2}{3}$ of the inheritance: two daughters (siblings) or more, two daughters from the same father or more, e) An heir who gets $\frac{1}{3}$ of the inheritance: mother and two siblings (either male or female) of the same mother, and f). An heir who receives $\frac{1}{6}$ of the estate includes the father, grandfather (the father of the father), mother, granddaughter from the son, sisters of the same father, grandmother, and brothers and sisters of the same mother.³⁵

The group of heirs other than the one that has been mentioned above is the *Ashābah* group; that is, a group of heirs who do not get any specific inheritance even though they get the remaining share from the real heirs (*dzawul furūd*). The *Ashābah* group of heirs consists of two types: *Ashabah Sababiyyah* is a group of heirs because they have freed slaves. A person who has freed a slave has the right to get the inheritance of his slave, on condition that the slave does not have an offspring from his descent. Another one is the *Ashabah Nasabiyah* group of heirs. They become the relatives of the male heirs who are interrupted by a woman. The group of heirs that has no specific share of the inheritance is clearly mentioned in the Quran and Hadits. For example, a son and a grandson from the male line of descent, biological brother (sibling), brother of the same father, biological uncle, and all male heirs besides husband, and brothers of the same mother.

The heirs of Batak Toba at Simsom Toruan village, Pahae Julu Sub-district, Tapanuli Utara Regency, always perform negotiation with family members, attended by *adat* leaders to settle a dispute in inheritance. If the dispute

³⁴Irianto, *Perempuan Di Antara Berbagai Pilihan Hukum; Studi Mengenai Strategi Perempuan Batak Toba Untuk Mendapatkan Akses Kepada Harta Waris Melalui Proses Penyelesaian Sengketa*.

³⁵Irianto.

is not resolved in the level of family negotiation, it will be settled in the Religious Court.³⁶

The daughters in the Batak Mandailing community and according to the Islamic Law have different position. The position of sons is stronger than that of daughters. In practice, however, the *adat* regulation in the Bataknese community in the distribution of inheritance is not completely carried out and used anymore, especially by the Bataknese who live the different parts of the country such as the Batak Mandailing who live in Pontianak. They bequeath their property to their sons and daughters even though the daughter get smaller amount. Meanwhile, according to the Supreme Court Ruling No. 179/Sip/1961, it is stated that a son's position is equal to a daughter's and both of them have the right to get inheritance.³⁷

According to the Bayan *adat* community, distribution of inheritance is done by doing calculation in which the share received by a male heir is as twice as that of a female heir. This type of system is called *melembah/memonggoq* (a man carries something on his shoulder) while a woman *menyeyoon* (carries something on her head) which means that a man has more responsibility than a woman does.

Provision of the Portion of Share

The person who has the right to get inheritance, according to *Surat Tumbaga Holing*, regulation, is the family from the patrilineal line of descent. Meanwhile, the amount of inheritance which will be received is varied as it is specified in the *adat* law. The share which is received by *siakkaan* (the oldest son) is as twice as the share received by *sianggan* (his younger brother). For instance, a man who has three sons dies; his inherited property has to be divided into four shares. Two shares are given to the oldest son, and each of the other sons gets one share.

At first glance, it seems unfair to distribute inheritance to the four sons above when the oldest son gets more share than his younger brothers. However, if we look into it more carefully, there are some reasonable reasons and considerations, according to *adat*, why the oldest son gets more share than the other sons. The reasons are as follows: 1) *Siakkaan* (the oldest son) has toiled away with his parents to *mangarimba* (working hard) on rice fields. In other words, he has helped his parents support their family members, 2) the oldest son

³⁶Rasid Suriadi Simamora, *Pembagian Harta Warisan Berdasarkan Hukum Adat Batak Pada Masyarakat Muslim Di Desa Simasom Toruan Kecamatan Pahae Julu Kabupaten Tapanuli Utara* (Medan: Universitas Muhammadiyah Sumatera, 2020).

³⁷Adji Yoga Pamungkas, "Pandangan Tokoh Masyarakat Terhadap Tradisi Penbalan Marga Dalam Pernikahan Adat Batak Mandailing (Studi Di Kecamatan Rantau Selatan Kabupaten Labuhan Batu Provinsi Sumatera Utara)," *Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang* (2021).

is required to pay *tutup ila* (paying dues in order to avoid or conceal shamefulness) of all his younger brothers, 3) the oldest son has laboriously protected and taken care of his younger brothers; it is reasonable if he gets more shares than those of his younger brothers, 4) when the father dies, all of the responsibility to take care of the family members lies upon the oldest son, 5) according to the *adat* law, the oldest son always gets two shares even though the son who lives in the village is the younger son, except the oldest son agrees to receive the inheritance in one share only and gives another share to his younger brother who lives in the village, but it does not follow the *adat* law, it is only the policy which is agreed by them.

Rospita Riska Siregar points out that, in reality, the main requirement that justifies an heir receiving two portions of the share compared to the share of the other heirs is that he has helped his parents till the rice fields in the village. When it is found that there are two or more heirs who live in the village and help their parents work on the rice fields or plantation, the inheritance will be distributed equally because all of them work together to help their parents work on their rice fields or plantation.³⁸

Batara Nauli Harahap points out that *Siakkaan's son does not always get his share twice as* as the other heirs. The other younger sons also have the opportunity to receive twice the inheritance of the oldest son and the other heirs, on the condition that they live in the village by themselves, help their parents care for family members, and assist their parents in tilling their rice fields or plantation.³⁹

In the *Surat Tumbaga Holing* regulation, a daughter does not inherit from her parents. This principle is influenced by some reasonable reasons as follows: 1) Every woman will get her share from the inheritance received by her husband whose share is often bigger than his own sister, 2) A married woman becomes the responsibility of her husband since she does not rely on her brother; therefore, she has the right to get property from her husband rather than from her own parents, 3) All of the needs of a married woman become the responsibility of her husband; therefore, it is reasonable if a man has more share than that of a woman. Inherited property of a man is not only for him personally, but it is for every person who is under his protection to be taken care of, including his own sisters, and 4) Even though a daughter does not get inheritance from her parents and she is still single, she is taken care of by her brother.

When a man dies and he has had some sons as his heirs, and one of them also dies, his grandsons (the sons of his late son) will represent (substitute) the position of their late father to inherit their grandfather's property. This case is allowed by the *adat* with various considerations and wisdom.

In the Bataknese tradition, the son of a second wife can inherit from his biological mother, but he does not inherit from his father or his stepmother. If he

³⁸Interview with Rospita Riska Siregar, Batak Mandailing Community, October 13, 2024

³⁹Interview with Batara Nauli Harahap, Batak Mandailing Community, October 26, 2024

gets a share, it is only a kind of gift of love and affection. The provision on the share of inheritance gotten by an heir which is as twice as that of other heirs is not in accordance with the Islamic Inheritance Law because in the Islamic Inheritance Law the share in inheritance will be given equally among the male heirs, between the oldest son and the younger ones as it is specified in Surah An-Nisa, verse 11 which reads, "...Concerning (the inheritance of) your children God enjoins (this) upon you. The male shall have the equal of two females'share...".

This verse indicates that the share of a son is the same as two shares of a daughter. It means that even though there are many sons, as heirs of the inheritance, they always receive an equal share. It means that the *adat* provision regarding the share of inheritance received by male heirs is contrary to Islamic Law.

Prohibition to Inherit According to the *Surat Tumbaga Holing*

Primarily, in the Bataknese adat community, all children have the right to inherit their parents' property. However, on some occasions, heirs are prohibited from inheriting their parents' estate. Some reasons, according to *Surat Tumbaga Holing* regulation, why a person is prohibited from inheriting his parents' inheritance are as follows:

First, Pamittop Jolma, or Mambunu, has killed another person intentionally, not unintentionally, nor because the victim is a criminal. Prohibition to inherit for a murderer is specified in Surat Tumbaga Holing regulation, which reads as follows: *Na Tola Dilehen Pusako tu Jolma na Mambunu* (Inherited property is prohibited to be given to a person who has killed someone else).

Killing or murder is an obstruction to getting an inheritance. A person who has killed another person cannot inherit the victim's property; a difference in religion is an obstruction to inheritance, and a difference in nationality is an obstruction to inheritance (for example, between the Islamic nation and the non-Islamic nation). A slave becomes an obstruction to getting an inheritance, whether he is a complete slave or not. This prohibition to inherit occurs because of murder committed against a testator or a person who owns the property. Prohibition to inherit because of murder is in accordance with Islamic Law.⁴⁰ A difference in religion can also be the reason for prohibiting a person from inheriting his parents' property. Therefore, conversion to another religion can become an obstruction for a person to inherit his parents' inheritance.

Secondly, Halak na so Saugamo refers to a person who has a different religion from that of the testator. Whoever has a different religion from the testator's, whether that person is the father, the mother, the biological brother,

⁴⁰Ismail Fahmi Arrauf Nasution et al., "Covid-19 In Islamic Theology And Its Impact On Socio-Religious Affairs In Indonesia," *European Journal of Science and Theology* 18, no. 1 (2022), p. 51–65.

etc., is prohibited from inheriting the testator's inheritance because it is set aside for the heir with the same religion. If there is no choice but to receive the share of the inheritance, he will be given the property as a gift, not an inheritance.

Thirdly, Marippe Sumbang, a person who gets married to a woman of the same clan. According to the *Surat Tumbaga Holing* regulation, a man is prohibited from marrying a woman from the same clan because people of the same clan are considered to have the same line of descent, and thus, they are prohibited from marrying each other. Sudi Martua Daulay points out that people who are from the same clan are prohibited from marrying. Whoever gets married to a person of the same clan has to be imposed a sanction such as *Dipaorot sia Huta* (evicted from the village) and imposed the sanction of *Na Tola Mandapot Pusako* (prohibited from inheriting).⁴¹

Fourthly, Mangalattuk Jolma, conducting serious torture intentionally, which causes serious injury to the victim. This kind of act, according to the Bataknese tradition, can cause obstruction for the perpetrator to inherit the victim's property. Torturing is considered a part of failed killing because the victim's body is quite resistant or because of other factors that cause the victim to survive. This prohibition to inherit is caused by the similarity between killing and torturing.

Inheritance distribution, whether the father, as the testator, is still alive or has died, is always referred to as the distribution of inheritance, as the term *hibah* (gift) is not recognized by the adat community of South Tapanuli. They only know the term 'Distribution of Inheritance' or 'Inherited Property'. There are two operational meanings of the term. Distribution of Inheritance in Bataknese tradition is as follows: a) Distributing the whole property of the parents after they die. In this case, parents' property can only be inherited after the father dies by using the Inheritance Law or by negotiation among the children, and b) the father bequeaths his property to his sons while he is still alive. Here, the testator bequeaths his property while he is still alive, if he is afraid that there will be conflicts among the heirs when he has already died.⁴²

The prohibition to bequeath is embodied in the *Surat Tumbaga Holing* regulation. Some parts of the regulation align with the prohibitions specified in Islamic Law, while others are not found in the Islamic Law. The Bataknese community prohibits a person who has killed another person from inheriting the property and the wealth of the descendant of the person who has been killed by him. By the time he commits the killing, the prohibition is applicable, and, at the same time, there is no longer a family relationship between them. The killer does not have any right to inherit the property of the victim. *Mazhabs* (Religious Sects)

⁴¹Interview with Sudi Martua Daulay, Batak Indigenous Community, November 14, 2024

⁴²Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law."

of Maliki and Syafii are of the opinion that killing another person intentionally due to anger becomes the obstruction of getting inheritance, while killing another person because of coercion or defending the right cannot be used as the obstruction of getting inheritance.⁴³

Moreover, the Batakese adat community also prohibits non-Islamic heirs from inheriting the property of an Islamic testator because a difference in religion is a sign that there is no consanguinity anymore between them. This principle is in accordance with the Islamic Law, in which an heir can inherit the property of a testator who is Muslim because there is consanguinity between the testator and the heir since both of them are Muslims, as it is specified in Article 832 of the Civil Code and in Article 171, point (c) of the Compilation of Islamic Law in Indonesian. On the other hand, a non-Muslim heir is not allowed to inherit the property of a Muslim testator. Even though the non-Muslim heir cannot inherit the wealth of a Muslim testator, in order to fulfill justice and humanity, the non-Muslim heir can get the inherited property through wasiat wajibah, which is a process based on the court's verdict.

Conclusions

Long before the issuance of a legal provision that regulates the resolution of disputes in inheritance, the adat community of South Tapanuli had possessed its own regulation on resolving disputes in distributing inheritance. Resolution of a dispute in inheritance in the Batakese community is done through *Marpokat* in (five) types: *Pokat Ulu Tot*, negotiation of dispute resolution in inheritance among close relatives, *Pokat Dalihan na Tolu*, negotiation of dispute resolution in inheritance among heirs by making parent-in-laws, son-in-laws, and family members of the heirs participate in the negotiation, *Pokat ni Parsahutaon*, negotiation of dispute resolution in inheritance attended by *adat* leaders, *Pokat Haruaya Mardomu Bulung* or *Pokat Pokat Hombar Balok*, negotiation of dispute resolution in inheritance attended by *adat* leaders or king descendants from some neighboring villages, and *Pokat Suhut Sihabolonan*, negotiation of dispute resolution in inheritance attended by local government officials. Resolution of disputes in distributing inheritance through negotiation, as practiced by the Batakese community, is in accordance with Islamic Law, as specified in the Quran, Surah Ali Imran, verse 139. The phrase "amruhum" (their affairs) has a general meaning that encompasses all affairs, including the resolution of disputes related to inheritance. Resolving disputes through negotiation is more effective and efficient because it prioritizes volunteering without any hatred or hostility. Meanwhile, heirs in the Batakese community are intended for men, whereas women only get their share as *olong ate* (love and affection gift), which can be in

⁴³Mohamed Paleker, "Murder And Fraud For Inheritance: Smit V The Master Of The High Court, Western Cape," *South African Law Journal* 140 (2023).

equal share or more than the men's share. There are several causes of dispute in inheritance in the Bataknese adat community, as follows: postponing the distribution of inherited property, heirs not understanding the procedure for distributing inheritance, some heirs receiving hibah (gifts), and third parties getting involved in the distribution of inheritance.

Suggestion

It is recommended that the government involve *adat* communities in resolving disputes over inheritance by utilizing their local wisdom, ensuring a fair and wise resolution that avoids feelings of hostility among the heirs.

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