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Portion of Married Daughters in Inheritance Share among Angkola Batak Community

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Abstract:

It is believed that Islamic law provides a fair share for inheritance among men and women or among sons and daughters. However, it does not always happen that way like what occurs in Angkola Batak community with Muslims as its majority at the South Tapanuli. This article focuses on married daughters' gain in inheritance share. The problems discussed are: *First*, what are the types of married daughters' inheritance

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gain in Angkola Batak's customs? *Second*, what are triggering factors beyond the types of married daughters' inheritance gain? *Third*, how does the sharing practice imply to the Islamic law? This field research relies on primary data obtained from both observation and interviews. Research informants were selected based on relevance criteria to the research subject, Angkola Batak women who get the inheritance share from their birth families and some relevant parties. Additionally, it also used secondary data from a literature study employing a sociological approach to reveal the reality vividly. The interpretative data analysis was through several stages starting from data collection and reduction and then drawing conclusions. It reveals four types of married daughters' share in inheritance: (1) in contrast to the share of sons, (2) the share is collectively distributed among fellow sisters, (3) the share is temporary, and (4) no inheritance gain at all. *Second*, the four types stem from both socially constructed considerations as well as divinely given factors. *Third*, the share implies either improvisation, deviance, as well as local values embed in Islamic law.

Keywords:

Angkola Batak; Inheritance; Share; Married Daughters; Islamic law

Introduction

Dividing inheritance in Batak Angkola community typically occurs after the death of a deceased.¹ However, sometimes, it happens when the predecessor who inherit are still alive due to some specific reasons, such as to avoid any conflict among heirs.² The decision to

¹ Jaja Ahmad Jayus, "Eksistensi Pewarisan Hukum Adat Batak," *Jurnal Yudisial* 12, no. 2 (2019): 235-53, <https://doi.org/10.29123/jy.v12i2.384>.

² Endah Amalia and Ashif Az Zafi, "Penyertaan Gender dalam Hal Pembagian Warisan," *AHKAM* 8, no. 2 (2019): 213-32, <https://doi.org/https://doi.org/10.21274/ahkam.2020.8.2.213-232>; Abu Yazid Adnan Quthny, "Peralihan Kekayaan Warisan dalam Madzhab Syafi'i (Studi Pemikiran Syaikh Said Ibn Saad Ibn Nabhan Al-Hadlramiy dalam Kitab *'iddat Al-Fāriḍ*)," *Jurnal Asy-Syari'ah* 6, no. 2 (2020): 98-111, <https://doi.org/https://doi.org/10.55210/assyariah.v6i2.345>; Zainal Muttaqin, "Hukum Penyegeraan Pelaksanaan Pembagian Harta Warisan (Analisis Ushul Fiqh terhadap Hadis *Alḥiqul Farā'iqh bi Ahlihā*)," *Syaksia : Jurnal Hukum Perdata Islam* 22, no. 2 (2021): 183-96, <https://doi.org/10.37035/syakhisia.v22i2.5515>.

either organize the inheritance distribution sooner or later usually depends on familial consideration and situation. Moreover, although taking and giving inheritance certainly aim to continuously turn over the ownership of any property to the heirs so that they can get benefits³ and take care of it,⁴ inheritance sharing typically causes problems and conflict in a family, including that of Angkola's society.⁵ Therefore, the timing of the distribution typically considers efforts to avoid this type of conflict.

Conflict over inheritance particularly happens when some heirs assume that the distribution is not fair⁶ and or contradictory with what is believed to be the right of gain belonging to each of the heirs.⁷ In the context of Angkola Batak community, however, this sort

³ Fabry Isman, "Analisis Yuridis Bercampurnya Harta Warisan dengan Harta Pribadi dalam Hukum Islam; Studi Kasus Putusan Pengadilan Mahkamah Syar'iah Bireuen No. 297/PDT.G/2012/MS-BIR" (Fakultas Hukum Universitas Sumatera Utara, 2015); Said Ali Assagaff dan Wira Franciska, "Perlindungan Hukum Bagi Ahli Waris terhadap Harta Warisan yang Beralih Tanpa Persetujuan Seluruh Ahli Waris," *Jurnal Kemahasiswaan Hukum dan Kenotariatan* 1, no. 1 (2021): 279-90.

⁴ Raja Ritonga, "The Concepts and Methods of Dzawil Arham Heritage Calculation: Analysis and Practice," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 21, no. 2 (2021): 159-74, <https://doi.org/10.19109/nurani.v21i2.8687>; Raja Ritonga, "Ta'yin; Penentuan Bagian Ahli Waris Sebelum Pembagian Warisan," *Al-Syakhshiyah* 3, no. 1 (2021): 29-47, <https://doi.org/10.35673/as-hki.v3i1.1348>.

⁵ Anita Kamilah and Rendy Aridhayandi, "Kajian terhadap Penyelesaian Sengketa Pembagian Harta Warisan Atas Tanah Akibat Tidak Dilaksanakannya Wasiat oleh Ahli Waris Dihubungkan dengan Buku II Kita Undang-Undang Hukum Perdata tentang Benda (Van Zaken)," *Jurnal Wawasan Yuridika* 32, no. 1 (2016): 22, <https://doi.org/10.25072/jwy.v32i1.87>; Maria Kaban, "Penyelesaian Sengketa Waris Tanah Adat Pada Masyarakat Adat Karo," *Mimbar Hukum* 28, no. 3 (2016): 453-65, <https://doi.org/10.22146/jmh.16691>.

⁶ Kamilah and Aridhayandi, "Kajian terhadap Penyelesaian Sengketa Pembagian Harta Warisan Atas Tanah Akibat Tidak Dilaksanakannya Wasiat oleh Ahli Waris Dihubungkan dengan Buku II Kita Undang-Undang Hukum Perdata tentang Benda (Van Zaken)"; Ahmad Falih Mahrus, "Kekuatan Hukum Penyelesaian Sengketa Waris Melalui Mediator Tokoh Masyarakat di Desa Wonosalam Kecamatan Wonosalam Kabupaten Demak," *Al-Hukama'* 9, no. 1 (2019): 47-75, <https://doi.org/10.15642/alhukama.2019.9.1.47-75>.

⁷ Raja Ritonga, "Hak Waris Janin dan Metode Hitungan Bagiannya dalam Waris Islam, Analisis dan Aplikatif," *Mizan: Journal of Islamic Law* 5, no. 1 (2021): 29, <https://doi.org/10.32507/mizan.v5i1.900>; Salman Alfarisi, "Hak Waris Anak dalam Kandungan Menurut Fikih Syafi'i dan Kompilasi Hukum Islam," *Juripol (Jurnal Institusi Politeknik Ganesha Medan)* 3, no. 1 (2020): 134-40, <https://doi.org/10.33395/juripol.v3i1.10566>.

of complaint or dissatisfaction usually comes from male heirs or sons,⁸ while female heirs or daughters tend to be passive and reluctant to actively engage in the discussion because they are accustomed to do so for a long time.⁹ In other words, they tend to agree on the decision without considering their own share of the inheritance which tends to be so little compared to that of males.

This situation stems from Angkola Batak's patrilineal system which recognizes that inheritance comes from the father or men's line.¹⁰ Likewise, *marga* as one of the basic identities in Angkola's society can only be inherited through the male's line.¹¹ As a consequence, men become the ones who get the ownership of inheritance property while women tend to be in a marginalized position with lower gain.¹² They are deemed to have a passive role in daily life, including in family discussions in which they only serve as listeners.¹³

⁸ Miftahul Huda, Niswatul Hidayati, and Khairil Umami, "Fiqh and Custom Negotiation in Avoiding Inheritance Dispute Tradition among Mataraman Society East Java," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 15, no. 2 (2020): 224–50, <https://doi.org/10.19105/al-ihkam.v15i2.2714>; Faisal Bin Husen Ismail Muzana, Zaitun, Jasni Bin Sulong, "Customary Practices of Sharing Inheritance: An Analysis of Society Practices in Pidie Aceh Darussalam," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 11, no. 2 (2016): 275–92, <https://doi.org/10.19105/al-ihkam.v11i2.1037>; Andi Sukmawati Assaad et al., "Gender Equity in Inheritance System: The Collaboration of Islamic and Bugis Luwu Customary Law," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 17, no. 2 (2022): 458–79, <https://doi.org/10.19105/al-ihkam.v17i2.6761>.

⁹ Xiao Lan Curdt-Christiansen, "Observations and Field Notes," in *The Routledge Handbook of Research Methods in Applied Linguistics* (Angkola Julu, 2020), 336–47, <https://doi.org/10.4324/9780367824471-29>.

¹⁰ Zuhraini Zuhraini, "Hak Kewarisan Suami dalam Pernikahan Semanda pada Masyarakat Hukum Adat Lampung Sebatin," *Asas* 10, no. 02 (2019): 46–63, <https://doi.org/10.24042/asas.v10i02.4531>; Hilman Hadikusuma, *Hukum Waris Adat* (Bandung: Citra Aditya Bakti, 2003).

¹¹ Amrar Mahfuzh Faza, Dedisyah Putra, and Raja Ritonga, "Perkawinan Semarga Masyarakat Batak Angkola: Implementasi *Hifz Al-'Ird* dan *Hifz Al-Nasl* Pada Sanksi Adat," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 11, no. 2 (2021): 29–54, <https://doi.org/https://doi.org/10.15642/alhukama.2021.11.2.29-54>.

¹² Sumper Mulia Harahap, "Islam dan Budaya Lokal: Studi terhadap Pemahaman, Keyakinan, dan Praktik Keberagamaan Masyarakat Batak Angkola di Padangsidimpuan Perspektif Antropologi," *Toleransi* 7, no. 2 (2015): 154–76, <https://doi.org/http://dx.doi.org/10.24014/trs.v7i2.1428>; Muhammad Nuddin, *Pendidikan Islam Berbasis Multikultural: Analisis Konsep Dalihan Na Tolu Masyarakat Batak Angkola-Mandailing* (IAIN Padangsidimpuan, 2021).

¹³ Curdt-Christiansen, "Observations and Field Notes."

Whether married or not, Angkola Batak women typically deal with a similar situation. Unmarried women are economically dependent on their birth family, while the married ones are to their husbands. If a single woman still goes to school, for instance, her parents or older brothers will cover the tuition and living costs and so will the wedding cost. Once they get married, the responsibilities move to their husbands or the husbands' families. Therefore, it is deemed ok when married daughters only get some coconut trees as their inheritance from their birth family.¹⁴

In fact, Islamic law mandates that everyone has the same rights and equal opportunities to get an inheritance from their family.¹⁵ Women even get the priority share¹⁶ when categorized as *ashabul furudh*. *Ashabul furudh* is a group whose inheritance gain is mentioned and determined in the Qur'an and Sunnah. It was categorized as the first-class heirs among fellows.¹⁷

Meanwhile, most male heirs are categorized as *ashobah* whose portion is not firmly determined in both sources. There are three possibilities for their share and position; *First*, they get all properties if there are no other heirs. *Second*, they get the remainder property if there find *ashabul furudh*. *Third*, they do not get the inheritance because there is no remainder after the share among *ashabul furudh* or the first group of heirs is distributed.¹⁸

In short, there is a gap between what the Islamic law guides and how Angkola Batak people practice the share of inheritance.

¹⁴ Curdt-Christiansen.

¹⁵ Muhammad Khalifah and Taha Abu Al 'Ala, *Aḥkām Al-Mawārith Dirāsah Taṭbīqīyah* (Kairo: Dar Al Salam, 2005); Syekh Muhammad Ali Shobuni, *Al-Mawārith Fī Ash-Sharī'ah Al-Islāmīyah Fī Ḍaw' Al-Kitāb Wa as-Sunnah* (Kairo: Daar Ash Shobuni, 2002); Naser Farid Muhammad Washil, *Fiḥḥu Al-Mawārith Wa Al-Waṣīyah* (Kairo: Dar Al Salam, 1995).

¹⁶ Raja Ritonga, "The Firts Class of Women Heir Member in The Observation of Surah An-Nisa Ayat 11, 12 and 176," *Al- ' A Dalah : Jurnal Syariah dan Hukum Islam* 6, no. 1 (2021): 1-17, <https://doi.org/10.31538/adlh.v6i1.1362>.

¹⁷ Raja Ritonga and Martua Nasution, "Teori Penentuan Bagian Ahli Waris Ashabul Furudh Menurut Konsep Syajarotul Mirats," *TERAJU: Jurnal Syariah Dan Hukum* 4, no. 01 (2022): 15-25, <https://doi.org/10.35961/teraju.v4i01.414>.

¹⁸ Lajnah Qism Al Fiqh Fak. Syariah wal Qonun, *Fiḥḥ Al Mawarits* (Kairo: Universitas Al Azhar, 2010); Abu 'As'ad Mansur bin Hasan Yahya 'As'ad, *Aina Haqqu Haulain Nisa Min Al Irst* (Riyad: Maktabah Malik Fahd, 1995); Muhammad El 'Id Al Khothrowi, *Ar Roid Fi 'Ilmi Al Faraidh* (Madinah Al Munawwaroh: Maktabah Darul Turats, n.d.).

While the Qur'an explains that men and women equally have the same rights and share with their parents,¹⁹ Angkola Batak community always puts males as the obstacles for female heirs to get the share. The former is put as bringing unfortunate to the latter.²⁰ This occurs the same in the case of married daughters, the subject of this study which, as mentioned earlier, are considered to be under their husband's protection and responsibility, mainly in the economic sector.

The global discussion related to the distribution of inheritance in Angkola's society has been elaborated by scholars. Martua Nasution, for instance, observed the distribution of inheritance among Angkola Batak using the perspective of the Qur'an.²¹ Another researcher discussed inheritance disputes among Angkola Batak community resolved through local wisdom reinforcement.²² It also found a discussion with different types, like that of Rizkon Hasanah which reveals the influence and transformation of perspectives on the distribution of inheritance among Angkola Batak community.²³

Although the study subject is the same as those previous researches, namely inheritance among Angkola Batak's tribe, this current one differs by its main focus on women, or particularly married daughters' share of inheritance which, to many extents, shows a lower portion compared to that of sons. This study will describe the types of inheritance share gain of Angkola Batak married daughters, the triggering factors beyond the gain, and its implication on Islamic law.

¹⁹ Kementerian Agama Republik Indonesia, *Al- Qur'ân Al- Karîm Dan Terjemahannya* (Surabaya: Halim, 2014).

²⁰ Sumper Mulia Harahap, Martua Nasution, and Raja Ritonga, "Konsep Dan Metode Penyelesaian Kewarisan Antara Kakek Dengan Saudara Menurut Syekh Ali Ash Shobuni," *Istinbath* 21, no. 1 (2022): 57-86, <https://doi.org/10.20414/ijhi.v21i1.486>.

²¹ Martua Nasution Raja Ritonga, "Sistem Waris Masyarakat Muslim Batak Angkola dalam Tinjauan Alqur'an (Studi Komparasi Surah An-Nisa Ayat 11, 12 Dan 176)," *Asy-Syari`ah: Jurnal Hukum Islam* 7, no. 2 (2021): 209-33, <https://doi.org/10.36835/assyariah.v7i2.544>.

²² Framita Utami, "Analisis Yuridis Penyelesaian Sengketa Pembagian Waris Berdasarkan Hukum Adat Angkola di Kabupaten Tapanuli Selatan," *Tesis* (Universitas Sumatera Utara, 2016).

²³ R Hasanah, "Pembagian Harta Warisan Menurut Adat Angkola terhadap Anak Perempuan (Studi di Lembaga Adat Jus Ni Roha Kecamatan Angkola Barat Tapanuli Selatan)" (Universitas Muhammadiyah Sumatera Utara, 2019).

Methods

This field research-based study aims to vividly describe the phenomenon of married daughters' inheritance gain among Angkola Batak's community. The data was obtained through relevant observations, interviews and literature studies. Observations were carried out on families who distributed the inheritance around a sub-district called Angkola Julu due to its reachability and availability. Meanwhile, deep interviews were carried out specifically for families with female heirs, namely married daughters, people who share the inheritance, and religious and traditional leaders. They are listed using purposive sampling techniques to obtain valid data. The approach used is a sociological approach in order to reveal the reality of law in society, while the analysis used is interpretative.

Results and Discussion

Types of Women Heir's Gain in Angkola Batak Community's Customs

Indonesia has a variety of customs and cultures, from one region to another, the customs and cultures are different.²⁴ Angkola Batak tribe is a Batak sub-tribe originating from North Sumatra. In daily use, the term Angkola can be interpreted as a name of either a tribe or a region in Padangsidempuan City and Southern Tapanuli in North Sumatra. In general, people who live in Angkola's area are Angkola Batak's tribe. They still enliven local customs in their daily life rooted in local wisdom related to both pleasant (*siriaon*) and sad moments (*siluluton*), including when dividing the inheritance.²⁵

One of Angkola Batak's community local wisdom is marriage which is deemed as a symbol of maturity and independence. Married men are required to *manjajae*, namely leaving their parents' houses and

²⁴ Elfia, Surwati, and Bakhtiar, "The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023): 75-94, <https://doi.org/10.29240/jhi.v8i1.5480>; Elfia, Surwati, and Yan Fajri, "Kewarisan Beda Agama di Nagari Persiapan Bancah Kariang Kecamatan Kinali Kabupaten Pasaman Barat," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 2 (2021): 341-66, <https://doi.org/10.29240/jhi.v6i2.3479>.

²⁵ Abbas Pulungan, *Dalihan Na Tolu*, ed. Ahmad Bulyan Nasution, *Perdana Publishing* (Medan: Perdana Mulya Sarana, 2018); Suheri Harahap, *Tapabuli Selatan Bumi Dalihan Na Tolu* (Medan: CV. Manhaji, 2019).

moving into their own. Meanwhile, married women are prohibited from coming alone to their parents' house unless there is any urgent business. Visits without any urgent need would be seen as bringing down the dignity of the family. This understanding emerges because, for Angkola Batak's community, husbands are fully responsible for their wives and they cannot just come to their parent's house with no purpose.²⁶

The different treatment for men and women in Angkola Batak's community is due to their respective roles in society. Men who are prepared as the family's successors typically get much support from the family. Meanwhile, women who will get out of their birth family and become part of their husband's families do otherwise. This inevitably has an impact on their inheritance portion, namely for married daughters and sons.²⁷ In most cases, the formers get a smaller gain rather than the later presented in Table 1.

Table 1. Angkola Batak Married Daughters' Inheritance Gain Type and Respective Condition

No	Married Daughters' Gain	Condition
1	Obtaining a very contrasting ratio to the sons' share	When the sons agreed to do so
2	Obtaining a collective share of inheritance among fellow sisters (joint ownership among daughters)	When there found two or more daughter in the heirs list
3	Obtaining a temporary share; pulled back by her birth family	When daughters do not have children or male descendants
4	Not getting any inheritance at all	When the sons agreed to do so

Table 1 shows the comparison of inheritance gain received between sons and daughters which is very contrasting with one another. In the first type, sons can receive almost all the inheritance which left behind. Meanwhile, female heirs only get a relatively small

²⁶ Shinta Romaulina Nainggolan, "Eksistensi Adat Budaya Batak Dalihan Na Tolu pada Masyarakat Batak (Studi Kasus)" (Universitas Negeri Semarang, 2011), <http://lib.unnes.ac.id/6287/1/7794.pdf>; D Andarini, H Hidayat, and I Hajar, "Tradisi Marpege-Pege dalam Upacara Adat Perkawinan Batak Angkola Padangsidimpuan," *Jurnal Antropologi Sumatera* 17, no. 1 (2019): 56-58, <https://jurnal.unimed.ac.id/2012/index.php/jas/article/view/20026>.

²⁷ Curdt-Christiansen, "Observations and Field Notes."

share, such as receiving several coconut trees or a plot of rice field whose nominal value is far lower than the share received by sons. It is even common to find many cases where daughters do not receive any inheritance²⁸ like at the fourth type.

Meanwhile, the second and third types respectively show the different situations yet with the same small gain for the daughters. In the second type, their gain—which is already small compared to that of sons—is still divided among fellow daughters. This typically happens in a family with more than one daughter. Another type, namely the third one, implies not only inequality but also discrimination in which women's access to the inheritance share depends on the existence of other people, namely offspring from their marriage with a preferable sex, namely male children. In another word, the inheritance gain can be pulled back when they are found to be childless in their marriage or have no sons. Compared to others, this type is relatively unique and can be barely found in other cultures.

Despite its diverse details with respective conditions, those four types clearly show how women, either in general meaning or daughters, are put in an unfortunate position, let alone in their inheritance gain. In fact, access to inheritance gain assures them higher prestige, respect, and bargaining position in both family and society. Therefore, when they get (certainly) a smaller share, dependent gain, or even no access at all to it, they will remain in the same position as a passive part in their own circle or even worse with no possibility to actively engage in playing any important role, let alone in decision making or for doing self-actualization.

Triggering Factors beyond Married Daughters' Inheritance Gain Types

For Angkola Batak's community, men are prepared to be successors of the family due to their—deemed to own—advantages over women. They also have a big chance to become heads of clan as well as traditional leaders, while women have no access on to those positions. This perception makes the position of women increasingly marginalized in both of their families and society. This also has an impact on procedures for dividing inheritance in the family. In other

²⁸ Curdt-Christiansen.

words, because men have an important role in society, their share is greater than that of women.²⁹

The expression above is in line with the statement of an informant, namely MM Harahap, a traditional figure in the society as follows.

“Men are given priority to receive inheritance because the traditional responsibility falls on their shoulders. Meanwhile, women are (economically) supported by their husband and cannot become successors of traditional leaders”³⁰ (Interview excerpt, 20 February 2023-translated)

The above excerpt implies that the greater share for men is reasonably set due to a common belief on the role they are going to play in the future. Interestingly, Angkola women tend to consider it as a normal thing. Another informant, namely HM Harahap, a married woman, seemed to agree that women cannot become traditional leaders in Angkola Batak’s community and likewise, their role in the family circle is very limited. She added that respective roles between both impact the distribution of inheritance, so it makes sense for married women to get a collective share. Verbally, she mentioned so;

“As women, we cannot become traditional leaders because according to tradition, only men have the right to lead traditional activities. When a woman is married, she must fully join her husband or her husband's family. Our role in the society is determined by gender and birth family structure. So even in dividing the inheritance, we

²⁹ Harisan Boni Firmando, “Orientasi Nilai Budaya Batak Toba, Angkola dan Mandailing dalam Membina Interaksi dan Solidaritas Sosial Antar Umat Beragama di Tapanuli Utara (Analisis Sosiologis),” *Studia Sosia Religia* 3, no. 2 (2021): 47–69, <https://doi.org/10.51900/ssr.v3i2.8879>; Nainggolan, “Eksistensi Adat Budaya Batak Dalihan Na Tolu Pada Masyarakat Batak (Studi Kasus Masyarakat Batak Perantauan di Kabupaten Brebes).”

³⁰ Sumper Mulia Harahap & Raja Ritonga, “Interview with MM Harahap” (Angkola Julu, 2023).

only get a little by a collective share”³¹ (Interview excerpt, 04 February 2023-translated)

The second excerpt implies that HM has a fellow sister(s) in her birth family, so she only gets a collective share of the inheritance. Additionally, it is very likely that there were no male heirs with greater share than her and her fellow sisters because she mentions gender as a determining factor in both society’s role and inheritance gain. HM’s expression also shows no objection indicating her compliance with the tradition. Existing and future roles of both men and women in the family and society, therefore, do matter in setting the little inheritance gain for women.

While men are prepared as leaders, Angkola Batak’s community put women, particularly married daughters, as partners to discuss before carrying out any traditional events. When there is no such event, they will not be involved in their birth family’s discussion, namely about inheritance. This is because their role is expected to be more dominant in their husband’s family considering that the husband’s duties as the successor of traditions require assistance from their wives. This was conveyed by R Siregar, a married female informant as follows:

“When women are married, they are only invited to discuss the traditional activities in their birth family. Other than that, they live and play a role in their husband’s families. Therefore (in our birth family’s inheritance share), we only received a piece of rice field, while men still got a garden, a house, and rice fields too. The comparison is indeed very contrasting, but the tradition sets it this way”³² (Interview excerpt, 15 February 2023-translated)

Different from the first two informants, the third informant shows soft resistance to the inheritance share. However, she ended up admitting that she had no other choice but to obey the tradition. It is

³¹ Sumper Mulia Harahap & Raja Ritonga, “Interview with HM Harahap” (Angkola Julu, 2023).

³² Sumper Mulia Harahap & Raja Ritonga, “Interview with R Siregar” (Angkola Julu, 2023).

also clear from the excerpt that another rationale beyond the greater share of men is because that women, namely married women, are considered as a part of their husband's family rather than their birth family. It is their husband who gets a greater share in his family rather than female heirs so the inheritance portion they get reasonably becomes less in their birth family.

Using this rationale, very contrasting shares between men and women are considered normal like what was conveyed by DR Siregar, another married woman. She mentioned that her family divided the inheritance with a very big difference in which married daughters only receive their share in the form of *salak* (snake fruit) garden. On the contrary, sons get houses, rice fields, gardens, and a field. The ratio of gain is very different from one another.

"I only received *salak* garden from my birth family's inheritance. Meanwhile, men in our family get houses, rice fields, and gardens, including a field. Their share is certainly much larger and bigger than mine. What I received were just mementos or memories from my family. This means that as a daughter, I also get a share of the family inheritance, no matter how little it is."³³
(Interview excerpt, 15 February 2023-translated)

It becomes more obvious that in addition to considering the role of both in society and families of each, another factor beyond women's little inheritance gain is formality. Meaning to say, no matter how little they get the inheritance portion, as long as they get it, it will be considered done. Moreover, the ownership could be possibly taken down when a bad thing happens. A married daughter who does not get any offspring in her marriage is required to return the inheritance they get.

Angkola Batak society assumes that the inheritance given to descendants is the heirloom property belonging to the big family. Therefore, if the inheritance can't be given to the next generation and stops at that point because of childless marriage, it needs to be turned

³³ Sumper Mulia Harahap & Raja Ritonga, "Interview with DR Siregar" (Angkola Julu, 2023).

into other members of the big family. In other words, those women do not have the right to give their inheritance to their husbands.

Among others, this happens in T Harahap's, a married woman informant who returned the inheritance to her family as she told as follows:

“The rice fields I received from my family inheritance will certainly be returned later because I have no living descendants. Meanwhile, this property is a family heirloom that cannot be given to anyone other than my extended family members”³⁴ (Interview excerpt, 5 February 2023-translated)

This aspect is perhaps the most peculiar one that anyone can barely find it in another culture. It strongly suggests the low position of women in inheritance gain in the community. Not only do they get less share than of men in any case, there is also found possibility that they need to return the inheritance they once got. This certainly puts them in a double unfortunate position, namely when considering that infertility can happen to both men and women and only women who get the consequence of returning the inheritance.

Putting women in unfortunate positions also occurs in another case. An heir who does not have sons possibly needs to return the inheritance as experienced by AS Harahap, a married woman, who told so;

“Rice fields that we have been managing this far will be withdrawn by my uncle because my father does not have any sons. The rice fields were a legacy from my grandfather or are called heirlooms. According to the tradition, female descendants do not have the right to inherit the family's inheritance”³⁵ (Interview excerpt, 17 February 2023-translated)

³⁴ Sumper Mulia Harahap & Raja Ritonga, “Interview with T Harahap” (Angkola Julu, 2023).

³⁵ Sumper Mulia Harahap & Raja Ritonga, “Interview with SA Harahap” (Angkola Julu, 2023).

This unwritten norm can be said to be more discriminatory. It also depends on each family's agreement on whether they will apply the rule and to which family members the withdrawal will be turned. Apart from this, the scheme of this withdrawal highly indicates how society puts women in a very unfortunate position. Being a woman oneself or having (only) daughters likely brings to the withdrawal of inheritance assets that no one will not experience joyfully. In short word, although women have the possibility to get an inheritance gain which can be certainly said to be lesser than that of men, they are still treated with the withdrawal scheme impacting not only themselves but also their families.

The scheme of withdrawal of inheritance assets was reinforced by IT Hutasuhut, a traditional figure who seems to strongly adapt this tradition. He mentioned as follows:

“Family assets are intended (as inheritance) for family members only. In our tradition, only men can carry on the family clan, so the ownership of property can only be continued through their line. Meanwhile, married daughters cannot inherit the surname of the family (because they are entitled to their husband's surname) and neither do they get inheritance. Family members who do not have any children or only have female descendants must return the inheritance assets to the extended family”³⁶ (Interview excerpt, 20 February 2023-translated)

As a part of the excerpt indicates, eventually, among all the possibilities, the situation when women get nothing at all is the worst one. This is experienced by RN Simanjuntak, a married woman who did not receive any inheritance at all. In accordance with her explanation, married women are considered free (from any right to get inheritance from their parental family) due to the shifting responsibility to their husbands once they get married. She mentioned the situation as follows:

³⁶ Sumper Mulia Harahap & Raja Ritonga, “Interview with IT Hutasuhut” (Angkola Julu, 2023).

“In our family, women do not get inheritance. All of our parents' property was divided among men. Women are considered as a part of responsible (scope) of their husbands”³⁷ (Interview excerpt, 15 February 2023-translated).

From the whole representative cases above, it can be inferred that triggering factors beyond women's inheritance portion among Angkola Batak community, whether lesser than men, jointly owned by fellow sisters, required to be returned, or not getting inheritance at all are due to four; men's future role in society, division of labor between both in the family circle, the shifting role of women after married, and the matter of descendants (existence and sex types of children). Among the four, it is the last factor that is heavenly given in which no human intervention plays any role, while the other three are socially constructed.

Implication of Angkola Batak Inheritance Share for Married Women to Islamic Law

Islamic law regulates all aspects of human life both to realize happiness in this world and to seek happiness in the hereafter.³⁸ The study of Islamic inheritance has become a serious study by Muslims, especially Islamic thinkers, because of the Qur'anic explanation that provides a more detailed formulation of the procedure for distributing inheritance as stated in surah al-Nisa" (4) verses 11, 12, and 176.³⁹ In this case, Islamic inheritance becomes an interesting discussion when it is related to the position of male and female heirs.⁴⁰

³⁷ Sumper Mulia Harahap & Raja Ritonga, "Interview with RN Simanjuntak" (Angkola Julu, 2023).

³⁸ Abdul Mutakabbir, Hastuti, and Mikdar Rusdi, "The System of Inheritance Distribution in South Sulawesi," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 57-76, <https://doi.org/10.18326/IJTIHAD.V23I1.57-76>; Ridwan, "Gender Equality in Islamic Inheritance Law: Rereading Muhammad Shahrur's Thought," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (2022): 181-92, <https://doi.org/10.24090/mnh.v16i2.6916>.

³⁹ Lalu Supriadi Bin Mujib, "Revitalisasi Hukum Waris Islam dalam Penyelesaian Kasus Sengketa Tanah Waris Pada Masyarakat Sasak," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 19, no. 1 (2019): 67-87, <https://doi.org/10.18326/ijtihad.v19i1.67-87>; Syabbul Bachri, "Rekonstruksi

Various sampling cases clearly show that in any situation, women, let alone married daughters, always get a lower gain compared to men or sons. The four types of married daughters' inheritance strengthen this as presented in Table 2.

Table 2: Cases of Inheritance of Married Women

Types	Findings of Inheritance Cases of Married Women	Cases
1	Getting a very contrasting share to the men's share	Siregar and Lubis' family
2	Getting a collective share (joint ownership among daughters)	Harahap's family
3	Getting a share but was pulled back by the extended family	Hutasuhut and Harahap's families
4	Not getting any shares at all	The Simanjuntak's Family

Table 2 shows that in addition to the situation in each family (existence and formation of heirs), agreement and deliberation do matter. This particularly happens for the first and fourth types in which married daughters' inheritance gain depends much on how each family makes the decision. It is by chance that both families have two sons respectively and give the same asset to their married daughters, namely gardens. Additionally, although Siregar family has two daughters, they decided not to share the asset jointly. Instead, they give gardens for each of both. This implies that the preferred type of inheritance sharing is due each family's consideration and decision.

In relation to Islamic law, particularly *fiqh mawaris*, it becomes clear that the Qur'anic and hadith guidance happened to be not always verbally or formally followed, though this does not always mean deviance. For instance, the Qur'anic guidance likes to use

Kewarisan Islam: Studi Hermeneutika Ibn Abbas Atas Ayat-Ayat Waris," *Al-Istinbath: Jurnal Hukum Islam* 5, no. 1 (2020): 21-50, <https://doi.org/10.29240/jhi.v5i1.1197>.

⁴⁰ Kamarusdiana, Muhammad Ilham Fuadi, and Muhammad Ishar Helmi, "Keadilan Waris Islam dalam Kedudukan Anak Perempuan Sebagai *Hājib Hirmān* terhadap Saudara dalam Putusan Mahkamah Agung," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 221-32, <https://doi.org/10.24090/mnh.v15i2.4960>.

numerical gain for each heir's right of gain, while what happens in reality is typically not the same because the gain takes the forms in asset, like houses, garden, rice field, and others. Other than that, *fiqh mawaris* determine heirs from various lines, ranging from parents, children, siblings, to spouses. However, what occurs in reality is that the inheritance gain is likely distributed among children only. When some shares are factually given to the living spouse, it is typically attributed to the unmarried child, if any, who lives with and takes care of him/her and therefore will inherit the asset after the spouse passes away.

Furthermore, Islamic law clearly does not differentiate between married children or single ones. There is no difference gain between married daughters and unmarried daughters; neither is between married sons and unmarried ones. This is a clear difference from pre-Islamic Arab customs which required the ability to fight in the war as condition for getting an inheritance or so-called comradeship in arms.⁴¹ Therefore, young children not going to war were excluded from the heir list. Islamic law, meanwhile, only blocks to cancellation any heir's privilege to murderers, apostate persons, or slaves.⁴²

Another aspect of Islamic law intertwining with this sort of customary inheritance is the concept of *nafqah* as an obligation that men have to pay. This relates quite closely to the local belief of Angkola Batak community which considers marital status in determining inheritance gain. To this point, it becomes obvious that the Islamic law (verbatim) principle which gives two for men and one for women is modified in a way that the local people can contextualize it into their own culture.

In the second type, married women receive a collective share of inheritance among fellow sisters. This happens in Harahap family with 5 children. Three are sons, while the other two are daughters. While sons get inheritance assets for each of them with certainly in bigger and more diverse portions, married daughters only get one garden with joint ownership both formally and culturally. Each gets a

⁴¹ Adnan Gunawan, *Women and The Glorious Qur'an: An Analytical Study of Women-Related Verses of Sura An-Nisa'* (Gottingen: Universitatdruke Gottingen, 2004), 36.

⁴² Muhammad Ali Ash-Shahbuni, *Pembagian Waris Menurut Islam*, transl. A.M.Basalamah (Jakarta: Gema Insani Press, 1995), 41-44.

share of a plot of garden land to cultivate and the harvest results proceeds will then be shared. The preference to give gardens to married daughters is the same as that of Siregar's family which raises a question about the relevance of inheritance asset type to each of the heirs. On the other hand, it also implies that decision to share one asset jointly between two or more heirs or to give each of them different assets does depend on family deliberation. Meaning to say, a family can choose this option or not like what occurred in both Harahap and Siregar families respectively.

From a closer look, it is crystal clear that this joint ownership is in vain with the portion determined in the Qur'an Surah 4: 11, namely $\frac{2}{3}$ for daughters when there found more than two daughters in a family. Although the measurement is not exactly equivalent, the joint ownership between what mentioned in the Qur'an and what practiced among Angkola Batak have the common ground that implies recontextualization. At least, it employs the same spirit to share the portion for fellow sisters like the privilege given for women to be a witness in the court.

The third type, meanwhile, describes the situation in which an heir can lose the inheritance assets he/she once got depending on the offspring they have, either the existence or sexual preference. This can occur due to two possibilities. The former is when a woman does not have offspring from her marriage and the latter is when a marriage does not have any male offspring. This withdrawal, although dependent on family deliberation, has become a habit and tradition among Angkola Batak community which particularly occurs after the heir passes away. It is reinforced by the belief that only men can continue both family and community leadership in the future, so that family asset ownership should not be moved to other people (husband of childless daughter) or female heirs.

Consequently, when a childless woman does not have any offspring, she can't inherit the assets she got from her birth family to her husband. Instead, it will be taken down and the ownership will be moved to other family members based on deliberation. This happens, among others, to Harahap and Hutasuhut families in which married daughters from those two were required to give the inheritance asset back due to their childless marriage. Another almost same case is taking down the inheritance assets because the lack of male offspring. Compared to the first case, this current case rarely happens because

although a few families still prefer to implement it for the same reason, i.e. exclusive eligibility for men to be family and community leaders, the continuation of asset ownership transfer still happens within the family inner circle.

In Islamic law, however, there is no discussion about returning the inheritance asset back to the family. There are only some criteria by which heirs are prohibited from getting the inheritance, namely being apostate, slave (at its particular time long before this age), or proven to kill the predecessor or the one who inherited. Other than those criteria, there is no information about getting blocked from inheritance rights, let alone the obligation to return the inheritance asset back when some specific situation takes place. Like other types, this type further accentuates discrimination against women beyond their right to get inheritance as the big evolution after getting themselves being the one inherited. Although they are freed from any threat of childless marriage as soon as they get pregnant, for instance, they are made worried by another threat, namely having female children which gives them the same possibility to return the inheritance asset back to their birth big family.

Eventually, the last type displays another discriminatory scene in which a women heir, or married daughter, in this case, gets no inheritance at all. This occurs to two daughters of Simanjuntak family who did not get anything while their brothers get diverse assets ranging from a house, and rice fields, to gardens. The decision to prefer this type of distribution is due to each family's consideration, yet the economic situation of a family also plays a significant role, including the marital status of each child. When the sons still go to school and the daughters get married, for instance, it makes sense to find the sons getting bigger gain of inheritance. Still, not gaining any inheritance asset at all couldn't be understood for the same reason. It is also likely to cause a conflict between heirs due to unfair share distribution and dissatisfaction in certain parties.

In this talk, Islamic law did introduce something new by turning women as the inheritance goods to be the ones who deserve for inheritance share. Although their share is not textually the same as that of men, this is deemed a revolutionary step among patriarchal Arabics at that time who liked to inherit wives after the death of their

husbands ⁴³ (Gunawan Adnan, *Women and the Glorious Qur'an: An Analytical Study of Women Related Verse of. Sura An-Nisa'*, Gottingen: Universitatdrucke Gottingen, 36-37). Therefore, ignoring the share of married daughters by giving them nothing seems to disrespect the change that Islam had made. A wife's right to get *nafaqah* (living) from their husbands has nothing to do with the privilege she got from her birth family, such as access to get the inheritance, so the former should not be an obstacle for the latter.

Relating to this, however, there found another local custom in Angkola Batak which seems to neutralize unequal portions of inheritance for sons and daughters. It is a habit of requiring sons to help their (typically unmarried) sisters financially. However, this depends on each situation, preference, and personality of the son, including how he manages and makes a priority in distributing living between his wives and children, if any, and her sisters. Above all, in any situation, whether married or not, getting the inheritance or not, or being required to return the inheritance assets, daughters still have the second access on the inheritance that their parents left behind. Some neutralizing concepts, into some extent, potentially lead to a more moderate proportion or egalitarian perspective through, among others, family deliberation.

Conclusion

This article reveals how Angkola Batak's community negotiate their religious belief with their local habit of sharing the inheritance. Married daughters, in this context, becomes the central as they are supposed to play a big role in the husband's family circle yet are put in a disadvantageous position in another role, namely access to inheritance rights from their birth family. The four types indicate that in any scheme, discrimination does exist in the sense of portion, asset types, giving—and taking over—procedure because the whole triggering factors are socially constructed belief stemming from the idea of men's superiority over women. In fact, although Islamic law does not abruptly call for exactly the same portion for both, it does accentuate that every child deserves inheritance assets from their parents. On the other hand, parents' obligation to treat them fairly is

⁴³ Gunawan, *Women and The Glorious Qur'an: An Analytical Study of Women-Related Verses of Sura An-Nisa'*.

quite relevant to the context of inheritance and recent development for both son's and daughter's flexible roles in public and private life. This article does explore the rarely discussed subject, namely married daughters in the inheritance context, yet it lacks various perspective from larger informants so further research on the same subject and topic with more diverse perspectives are needed for heating both academic discussion and relevant policy-making on women's access for inheritance asset.

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