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ISLAMIZATION OF CUSTOMARY LAW OR ADAPTATION OF SHARIA ? A CRITICAL EXAMINATION OF THE TRANSFORMATION OF INHERITANCE PRACTICES AMONG THE BATAK SIMALUNGUN ETHNIC GROUP



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Abstract

This article examines the transformation dynamics of inheritance law within the Batak Simalungun community, focusing on the intersection between Islamic legal norms (faraid) and the patrilineal structure of local customary law. The study seeks to answer whether the observed changes in inheritance practices represent a process of Islamization of adat law or rather a contextual adaptation of sharia within local cultural frameworks. Employing a qualitative case study approach, data were collected through in-depth interviews, participant observation, and document analysis of both customary and religious sources. The findings reveal that inheritance practices in Batak Simalungun are undergoing a non-linear transformation. While some communities incorporate Islamic legal elements symbolically, customary structures remain largely intact. This phenomenon indicates a pattern of sharia adaptation that is contextual and conciliatory, rather than a normative and comprehensive Islamization. The study underscores the importance of understanding legal hybridity in multicultural societies and highlights the relevance of anthropological approaches in analyzing Islamic law at the local level.

Abstrak

Artikel ini mengkaji dinamika transformasi hukum kewarisan dalam masyarakat Batak Simalungun sebagai bagian dari perjumpaan antara norma hukum kewarisan Islam (faraid) dan tradisi hukum adat lokal yang bersifat patrilineal. Penelitian ini bertujuan menjawab pertanyaan apakah perubahan dalam praktik pewarisan masyarakat Batak Simalungun merepresentasikan proses Islamisasi hukum adat atau justru menunjukkan adaptasi syariah dalam kerangka budaya lokal. Dengan menggunakan pendekatan kualitatif dan studi kasus, data diperoleh melalui wawancara mendalam, observasi partisipatif, dan analisis dokumen adat dan keagamaan. Hasil penelitian menunjukkan bahwa praktik pewarisan dalam masyarakat Batak Simalungun mengalami transformasi yang tidak bersifat linear. Sebagian masyarakat mengadopsi elemen hukum Islam secara simbolik, sementara struktur adat tetap dominan. Fenomena ini mencerminkan pola adaptasi syariah yang bersifat kontekstual dan kompromistis, bukan proses Islamisasi yang normatif dan menyeluruh. Studi ini memperlihatkan pentingnya memahami hibriditas hukum dalam masyarakat multikultural serta menekankan perlunya pendekatan antropologis dalam analisis hukum Islam di tingkat lokal.

INTRDUCTION

In the context of Indonesia's pluralistic society, the interaction between Islamic law and customary (adat) law has long been a complex field of negotiation, particularly in matters of family law and inheritance. The Islamic inheritance system, derived from the Qur'an and Hadith,



emphasizes specific principles such as proportional distribution based on gender and lineage. This fundamentally often differs from local customary inheritance structures, which are shaped by traditional social organization, kinship systems, and the community's cosmological worldview.¹

Simalungun, one of the regencies in North Sumatra Province, Indonesia, is home to the Batak Simalungun ethnic group, whose majority population still upholds a patrilineal customary inheritance system. In this system, inherited property is typically granted exclusively to male descendants or specific members within the clan (*marga*), based on distinctive socio-cultural considerations.² However, with the growing influence of Islam through education, religious preaching (*dakwah*), and shifts in the community's religious orientation, a process of interaction, negotiation, and transformation has emerged within these inheritance practices.³

The question that then arises is whether this change represents a form of *Islamization of customary law* that is, the systematic application of Islamic norms that replace traditional laws or rather a *selective and contextual adaptation of sharia* within the framework of local culture. In many cases, the Muslim Batak Simalungun community does not entirely abandon the customary system; instead, they accommodate Islamic elements to reinforce the socio-religious legitimacy of inheritance practices without fundamentally altering the structure of adat.⁴

This phenomenon reflects the unique dynamics of legal pluralism within the Muslim Batak Simalungun community. This study aims to critically examine the transformation of inheritance practices in the Muslim Batak Simalungun society by questioning the dominant narrative of Islamization, and instead offering the perspective of *sharia adaptation* as a local strategy to respond to changing times. By combining an anthropological approach with normative legal analysis, this article seeks to explain how the interaction between these two legal systems shapes a new configuration of inheritance practices at the grassroots level.

Previous studies have explored the dynamics between Islamic and customary inheritance laws, particularly in communities such as the Minangkabau, Bugis, or Acehnese. However, research that specifically examines the encounter between Islamic inheritance law and Batak Simalungun customary law remains extremely limited. Yet, as part of the broader Batak community one that maintains a distinctive customary system while undergoing a complex process of Islamization the Batak Simalungun context offers a rich analytical space for understanding how law operates within a socially plural reality.

This article aims to critically explore and analyze how the Muslim Batak Simalungun community negotiates between two legal systems in inheritance practices. It raises a central question: Is this a case of the Islamization of customary law, or a sharia adaptation by custom? This study not only offers an empirical description but also contributes theoretically to the discourse on legal pluralism, normative hybridity, and socio-legal transformation in Indonesia. Furthermore, it provides a more contextual understanding of how Islamic law is practiced within a culturally diverse society that continues to uphold the authority of adat.⁵

¹ Zainuddin Ali, *Hukum Waris Islam*, (Jakarta: Sinar Grafika, 2010), 15–17.

² Paulus Simanjuntak, *Sistem Kekerabatan Batak Simalungun dan Pewarisan Adat*, (Medan: Yayasan Adat Simalungun, 2004), 45–52.

³ Shafira Amelia, *Pergeseran Hak Waris Anak Perempuan Dalam Masyarakat Adat Batak Simalungun (Studi Di Ikatan Keluarga Islam Simalungun Siantar)*, Skripsi Fakultas Hukum Universitas Muhammadiyah Sumatra Utara, (tidak diterbitkan), 2019, 34

⁴ Tim Lindsey, *Indonesia: Law and Society*, 2nd ed. (Sydney: The Federation Press, 2008), 227–230. Lihat juga tentang variasi pembagian waris di Simalungun; Muhammad Zuhirsyah dkk, *Penerapan Distribusi Harta Warisan Komunitas Muslim Suku Batak Simalungun Dalam Perspektif Hukum Islam*, *Istibath*, Vol 21, No 1, 2022, 87-107

⁵ Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): 869–896.

A. Islamic Inheritance Law (Fara'id)

Islamic inheritance law, known as *fara'id* or *fiqh al-mawarith*, is a component of Islamic family law that is normative in nature and has been thoroughly regulated through the Qur'an, Hadith, and scholarly *ijtihad*. The *fara'id* system emphasizes the principle of proportional justice, with clearly defined rules for the distribution of inheritance to eligible heirs both male and female. Within this system, women's inheritance rights are guaranteed, although the shares may differ from those of men in specific contexts, as outlined in *Surat An-Nisa* (4): 11 and 12. Moreover, *fara'id* does not uphold the marginalization of certain lineages, a practice often found in patriarchal customary laws.⁶

B. Customary Inheritance Law of the Simalungun Batak

The Batak Simalungun community, as part of the broader Batak ethnic group, adheres to a patrilineal kinship system, in which inheritance structures typically favor male descendants or relatives from the paternal line. This system is upheld through customary institutions that hold authority in deciding and overseeing the distribution of inheritance. In practice, women often do not receive a direct share of the inheritance, except in the form of livelihood guarantees or through other informal social mechanisms.⁷ In this context, customary law does not merely represent a set of rules, but also embodies values, symbols, and a social order that are preserved and passed down across generations.

C. Islamization of Customary Law: Theory and Practice

According to Hooker and Salim, the term Islamization of customary law refers to the process by which Islamic values—whether through *dakwah*, education, or state policies—enter and transform local legal structures or norms to align with *sharia* principles. This process may occur either formally or informally, depending on the socio-political context and the level of community acceptance.⁸ In some cases, Islamization may lead to the complete replacement of customary law with Islamic norms; however, in many instances, it instead produces hybrid forms that reflect an ongoing negotiation between the two legal systems.

D. Sharia Adaptation in the Local Context

Unlike Islamization, which tends to be top-down or transformational, *sharia adaptation*—as argued by Sally and Griffiths—reflects an acculturative process in which local communities absorb elements of Islam without fundamentally altering the overall structure of customary law. In this approach, Islamic norms are integrated symbolically or selectively, according to specific needs and social contexts. This theory aligns with the concepts of legal pluralism and legal hybridization, which emphasize that societies do not operate under a single legal system, but often function within a plural legal landscape.⁹

E. Previous Studies and Research Gaps

Several studies on the relationship between Islamic inheritance law and customary law have been conducted in various regions of Indonesia, particularly among ethnic groups considered to be “more” Islamic. For example, research on the matrilineal Minangkabau community illustrates how Islamic law and customary law “coexist” through the guiding principle of *adaik basandi syarak, syarak basandi Kitabullah, syarak mangato adaik*

⁶ Al-Qur'an, Surah An-Nisa ayat 11 dan 12.

⁷ Paulus Simanjuntak, *Sistem Kekerabatan Batak Simalungun dan Pewarisan Adat* (Medan: Yayasan Adat Simalungun, 2004), 48–53.

⁸ M.B. Hooker, *Adat Law in Modern Indonesia* (Kuala Lumpur: Oxford University Press, 1978), 83–87. Lihat juga Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: University of Hawai'i Press, 2008), 115–130.

⁹ Sally Engle Merry, “Legal Pluralism,” *Law & Society Review* 22, no. 5 (1988): 869–896. John Griffiths, “What is Legal Pluralism?” *Journal of Legal Pluralism and Unofficial Law* 24, no. 1 (1986): 1–55.

mamakai which means *custom is founded on Islamic law, Islamic law is founded on the Qur'an, what Islamic law commands, custom enacts*.¹⁰ A similar, though not identical, phenomenon can also be observed in Aceh, where Islamic law and customary law “walk side by side”, as reflected in the popular local adage: *hukum ngon adat hanjeut cre, lagee zat ngon sipeut* meaning *Islamic law and customary law cannot be separated, as their relationship is as inseparable as the essence and attributes of a substance or object*.¹¹ In the Bugis and Makassar communities, the interaction between Islam and customary law is characterized as being more pragmatic and flexible in nature.¹²

In the context of the Batak Simalungun, which is often perceived as being “less” Islamized, there have indeed been studies conducted such as those by Ruth Angel, Aarce Tehupeiry, and Haposan Sahala Raja Sinaga,¹³ Muhammad Chaidir,¹⁴ dan Muhammad Zuhirsyan, Pagar dan Anshari.¹⁵ Ruth Angel et al. conducted a study on the implementation of inheritance distribution among the Batak Simalungun from the perspective of customary law. According to their findings, the inheritance rights of daughters in Batak Simalungun society are often equated with those of wives, with their status and inheritance entitlements being influenced by various factors such as educational background, social and economic status, religious affiliation, and parental affection. Meanwhile, Muhammad Chaidir, in his research on inheritance practices among Muslim Batak Simalungun families in Siantar Martoba Subdistrict, found that the influence of customary inheritance law, which emphasizes patrilineal kinship, remains dominant in determining the distribution of inheritance within Muslim families in the area. In contrast, Muhammad Zuhirsyan et al., who investigated the distribution of inheritance among the Muslim Batak Simalungun community from the perspective of Islamic law, discovered that current inheritance practices have become highly diverse. Their study concluded that inheritance is generally distributed through four main mechanisms: Deliberation (*musyawarah*), Faraid (Islamic inheritance law), Equal distribution among heirs, and Based on parental wills.

These studies suggest that further in-depth exploration of this issue is still needed. To date, there has been no research that specifically examines the dynamics of inheritance law transformation within the Batak Simalungun community as part of the encounter between Islamic inheritance norms (*faraid*) and the patrilineal structure of local customary law. A key question that remains is whether the changes in inheritance practices among the Batak Simalungun represent a process of Islamization of customary law, or rather reflect a form of sharia adaptation within the framework of local culture. Filling this research gap is crucial to understanding how a society with a strong patrilineal adat system responds to Islamic teachings that grant inheritance rights to women and prescribe fixed formulas of distribution.

METHODS

This study employs a qualitative approach using a case study strategy to provide an in-depth portrayal of the dynamics of inheritance law transformation within the Batak Simalungun

¹⁰ Taufik Abdullah, *Adat dan Islam: Perspektif Sejarah Indonesia* (Jakarta: Rajawali, 1971), 56–62.

¹¹ Taufik Abdullah, -----, *Islam and Adat: The Aceh Case*. Monash University Press, 2018.

¹² John R. Bowen, *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), 101–105.

¹³ Ruth Angel dkk, *Penerapan Pembagian Warisan Di Adat Batak Simalungun Dalam Perspektif Hukum Waris Adat*, Jurnal Hukum to-ra: Hukum Untuk Mengatur dan Melindungi Masyarakat, Vol 10, No. Special Issue, 2024, 357-367

¹⁴ Muhammad Chaidir, *Praktek pembagian waris keluarga Muslim Suku Batak Simalungun di Kecamatan Siantar Martoba*, tesis sarjana UIN Sunan Gunung Jati Bandung, (tidak diterbitkan), 2024,

¹⁵ Muhammad Zuhirsyan dkk, *Penerapan Distribusi Harta Warisan Komunitas Muslim Suku Batak Simalungun Dalam Perspektif Hukum Islam*, Istibath, Vol 21, No 1, 2022, 87-107

community. This approach is chosen because it is well-suited to explore social processes, cultural meanings, and living legal practices embedded in the daily lives of the people. It also enables the researcher to examine the relationship between Islamic norms and customary law within the framework of legal pluralism.

The research location was purposively selected in several *nagori* (customary villages) in Simalungun Regency, North Sumatra, which have a significant Muslim population while still maintaining a patrilineal customary structure. The research subjects include customary leaders (*parhata*), religious figures (such as *ustadz* and mosque *imams*), heirs (both male and female), and village officials who are often involved in the inheritance distribution process.

Primary data were collected through in-depth interviews and participant observation. The interviews were conducted in a semi-structured manner to explore the informants' understandings, experiences, and normative considerations related to inheritance practices.¹⁶ Observation was carried out during inheritance deliberations, dispute resolution sessions, and other customary events related to family property.

In addition, secondary data were collected from customary documents such as *patik nagori* (local customary regulations), meeting records, and religious references used by the community, including locally circulated books on *fiqh al-mawaris*. These documents were analyzed to identify the legal narratives that serve as the community's reference points in navigating between the two legal systems.

The data were analyzed using the thematic analysis method, which involved coding the field data based on key themes such as "customary legitimacy," "women's inheritance rights," "religious authority vs. customary authority," and "legal compromise practices."¹⁷ This analysis helps to reveal patterns of interaction between customary law and Islamic law, as well as the forms of legal hybridity that emerge. Data validation was carried out through source triangulation, by comparing information obtained from various informants and documents.

RESULT AND DISCUSSION

Inheritance Practices in Simalungun Society: Between Customary Law and Sharia

The research findings indicate that inheritance practices among the Muslim Batak Simalungun community do not fully adhere to the *faraid* system as prescribed in Islamic law. Instead, the structure of inheritance remains heavily influenced by the patrilineal customary system, in which male children are the primary heirs, while female children are often given only symbolic portions or voluntary gifts (*pemberian suka rela*).¹⁸ In many cases, women do not explicitly claim their inheritance rights because doing so is perceived as contrary to customary norms and may risk triggering family conflict.¹⁹

Nevertheless, there are indications of Islamic values being incorporated into the inheritance system. For example, some families have begun to allocate a small portion of the estate to daughters as a form of *charity* (*amal*), referring to it as a "sharia-compliant share," even though the amount does not conform to the *faraid* regulations.²⁰ This indicates that Islamic law

¹⁶ Steinar Kvale dan Svend Brinkmann, *InterViews: Learning the Craft of Qualitative Research Interviewing*, 3rd ed. (Los Angeles: Sage Publications, 2015), 97–102.

¹⁷ Virginia Braun dan Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (2006): 77–101.

¹⁸ Paulus Simanjuntak, *Sistem Kekerabatan Batak Simalungun dan Pewarisan Adat* (Medan: Yayasan Adat Simalungun, 2004), 49–55. Bandingkan dengan; Shafira Amelia, *Pergeseran Hak Waris Anak Perempuan Dalam Masyarakat Adat Batak Simalungun...*

¹⁹ Interview with Mak Itam (tokoh adat), Nagori Tiga Balata, 14 Februari 2025.

²⁰ Interview with Ustaz A. M. Saragih, Imam Masjid Raya Simalungun, 18 Februari 2025.

does not directly replace customary law, but is instead selectively inserted in symbolic and compromising forms.

The Role of Traditional and Religious Authorities in Regulating Inheritance Practices

In practice, inheritance settlement in Simalungun involves two main actors: customary leaders (*parhata*) and religious figures (such as *ustadz* or mosque *imams*). The *parhata* remain the dominant authority in determining who is entitled to the inheritance and how much they receive, while religious figures are only consulted when disputes arise regarding sharia compliance.²¹ The role of religious figures tends to be consultative rather than determinative, meaning that customary authority remains the primary reference in actual practice.

However, in some cases particularly within families with a higher level of religious education the decisions regarding inheritance distribution have begun to refer to *faraid* principles. This indicates that the transformation of inheritance practices is occurring in a gradual and non-linear manner, depending on the negotiating power of each social actor involved.²²

Legal Hybridity: The Adaptation of Sharia within the Customary Framework

These forms of compromise between *adat* and *sharia* reflect what Sally refers to as the phenomenon of legal hybridization the blending of two legal systems that produces a new practice, one that is not entirely identical with either system on its own.²³ This hybridity occurs not only at the level of formal rules but also at the symbolic and social legitimacy level. For instance, in some cases, customary inheritance distributions are framed with the narrative of being “based on Islam,” even though the structure and shares remain rooted in *adat* principles.²⁴ This signifies a process of sharia adaptation within the framework of *adat*, rather than an Islamization that replaces it.

Thus, rather than viewing these changes as a normative Islamization of customary law, it is more accurate to understand them as a form of contextual adaptation, in which elements of Islam are modified to fit pre-existing social structures. This process also highlights how local communities negotiate their religious identity without losing their cultural grounding.

CONCLUSION

This study demonstrates that the transformation of inheritance practices among Muslim Simalungun communities does not necessarily reflect a normative or structural Islamization of customary law. Rather than replacing *adat* norms with the principles of Islamic law (*faraid*), the community tends to selectively, symbolically, and pragmatically adopt sharia elements within a customary framework that remains dominant. In this context, the process is more accurately described as sharia adaptation an effort to internalize Islamic values into existing social and cultural structures without overhauling the traditional *adat* system.

The patrilineal structure of Batak Simalungun customary law continues to serve as the foundational basis for determining inheritance rights. However, the space for religious legitimacy is gradually expanding in line with increasing religious awareness and the influence of Islamic education. The dual roles of customary leaders and religious figures in resolving

²¹ Observasi pembagian warisan keluarga Haji Umar, Desa Marubun Jaya, 3 Januari 2025.

²² Bowen, John R., *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), 98–100.

²³ Sally Engle Merry, “Legal Pluralism,” *Law & Society Review* 22, no. 5 (1988): 870–875.

²⁴ Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: University of Hawai'i Press, 2008), 123.

inheritance matters have fostered a pattern of legal hybridization, wherein the blending of norms gives rise to new, contextual, and flexible legal practices.

Thus, the dynamics of inheritance law in Simalungun illustrate a distinct form of legal pluralism in Indonesia, where communities are not bound to a single legal system, but continually negotiate and reconcile between religious norms and customary traditions. These findings highlight the importance of viewing Islamic law within the framework of local context, and caution against rigid binary approaches that sharply separate “Islamization” from “custom.” This study also opens up space for the development of theories on local Islam and the flexibility of sharia in multicultural societies.

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