

ABSTRAK

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“Pembagian Waris Batak Toba Tarutung dalam Perspektif Hukum Perdata dan Hukum Adat”

Dalam hukum adat Batak Toba Tarutung, tanah dianggap sangat berharga dan diwariskan melalui garis keturunan dengan sistem patrilineal. Namun, pengaruh hukum waris dan tanah nasional di Indonesia mempengaruhi pembagian waris tanah adat tersebut. Penelitian ini membahas ketentuan pewarisan tanah adat dalam Hukum Waris Adat Batak Toba Tarutung dan validitasnya dibandingkan dengan Pengaturan Hukum Tanah Nasional sebelum dan setelah Keputusan Mahkamah Agung No 179 K/Sip/1961. Metode penelitian yang digunakan adalah yuridis-normatif dengan pendekatan wawancara ahli Adat Batak Toba Tarutung dan kepustakaan. Data penelitian berupa peraturan perundang-undangan dan hukum Adat Batak Toba Tarutung. Pengumpulan data dilakukan secara kualitatif melalui studi kepustakaan dan analisis. Kesimpulan penelitian ini adalah pewarisan tanah adat dilakukan secara turun-temurun mengikuti garis keturunan. Hak pewarisan tanah adat dalam Hukum Waris Adat Batak Toba Tarutung cenderung mengikuti pola patriarki, dengan anak laki-laki atau keturunan pria tertentu sebagai ahli waris utama. Validitas ketentuan pewarisan tanah adat ini sangat tergantung pada pengakuan dan penerimaan oleh masyarakat adat Batak Toba Tarutung. Dibandingkan dengan Pengaturan Hukum Tanah Nasional, validitasnya dapat menjadi perdebatan dan memiliki keterbatasan dalam pengakuan hukum secara nasional. Sebagai saran, partisipasi aktif dan keterlibatan masyarakat adat Batak Toba Tarutung diperlukan dalam perumusan kebijakan pewarisan tanah adat. Dialog dan konsultasi inklusif dapat mencapai kesepakatan yang lebih luas tentang kebutuhan dan harapan masyarakat adat dalam menjaga dan melindungi hak-hak mereka terkait pewarisan tanah adat. Diperlukan pula upaya penyalarsan antara Hukum Waris Adat Toba Tarutung dan Pengaturan Hukum Tanah Nasional untuk mencapai keselarasan yang lebih baik antara kedua sistem hukum tersebut.

Kata Kunci: *Hukum Waris, Hukum Adat Batak Toba Tarutung*

ABSTRACT

In the customary law of Batak Toba Tarutung, land is considered highly valuable and is inherited through the patrilineal system, following the ancestral lineage. However, the influence of inheritance and national land laws in Indonesia affects the distribution of customary land inheritance. This study examines the provisions of customary land inheritance in Batak Toba Tarutung's Customary Inheritance Law and its validity compared to the National Land Law regulations before and after the issuance of Supreme Court Decision No. 179 K/Sip/1961. The research methodology used is juridical-normative with an approach that includes interviews with experts in Batak Toba Tarutung customs and literature review. The primary data sources are legislation and Batak Toba Tarutung customary laws. Data collection is conducted qualitatively through literature studies and data analysis. The research concludes that customary land inheritance is traditionally passed down along the ancestral lineage. The right to inherit customary land in Batak Toba Tarutung's Customary Inheritance Law tends to follow a patriarchal pattern, with male children or specific male descendants as the main heirs. The validity of these provisions depends greatly on the recognition and acceptance by the Batak Toba Tarutung community. When compared to the National Land Law regulations, its validity may be subject to debate and limitations in legal recognition at the national level. As a recommendation, active participation and involvement of the Batak Toba Tarutung indigenous community are crucial in formulating policies related to customary land inheritance. Through inclusive dialogue and consultations, a broader understanding of the needs and aspirations of the indigenous community in preserving and protecting their rights regarding customary land inheritance can be achieved. Furthermore, efforts should be made to harmonize the Batak Toba Tarutung Customary Inheritance Law with the National Land Law regulations to achieve better alignment between the two legal systems.

Keywords: *Inheritance Law, Batak Toba Tarutung Customary Law.*

