

The Pattern of *Tunggu Tubang* Inheritance of Semende Tribe in Gunung Agung Village from the Perspective of Islamic Inheritance Law

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Keywords: *Tunggu Tubang*, Semende Tribe, Perspective, Islamic Inheritance Law.

Abstract: Indonesia has unique and diverse systems of inheritance distribution. The customs and tradition of inheritance often cause pros and cons in society. This phenomenon can also be found in the system of *tunggu tubang* practiced by Semende tribe in the area of Gunung Agung, Muara Enim, South Sumatra. This study aims to describe and analyze the *tunggu tubang* from the perspective of Islamic inheritance law. This research uses descriptive-analytic method with qualitative approach. The data were collected through observation, interviews, and documentation. The data were analyzed through data reduction, data presentation, and conclusions. The results show that the *tunggu tubang*, in essence, have two functions. The first is as a habit of keeping the heritage of the ancestors; and the second is as a sole female beneficiary overseen by boys (*meraje*) to conserve inheritance and strengthen family relationships. The function of maintaining customs to strengthen relationships among family members is not contrary to Islamic Sharia Law. However, the function of *tunggu tubing* as the only beneficiary is contrary to Islamic inheritance law. In sharia law, male and female have the same inheritance rights.

1 INTRODUCTION

The culture and customs of Indonesian people is very diverse. They remain alive or practiced indefinitely by indigenous peoples, even when they do not get legality from the state (Murdan, 2016). The diversity makes Indonesia very rich of local wisdom. Local wisdom is usually taught, inherited, and passed down from generation-to-generation in tangible and intangible forms, such as language, literature, art, ceremonies, customs, and so on. Local wisdom is usually reflected in long-lasting habits of nature that conserve and preserve nature (Dokhi et.al, 2016).

One of the indigenous local wisdom that still survives is in terms of distribution of inheritance. The arrangement of inheritance among the heirs is a manifestation of the recognition of individual ownership of both movable and immovable properties. It is also a manifestation of one's possessions and must be equitably shared with the heirs after fulfilling certain conditions (Ali, 2011).

In Indonesia, custom in the distribution of inheritance is very diverse. One of the factors

causing such diversity is gender consideration, considering the division between male and female. Handayani et al. (2015) writes about the custom of Ulun Lampung Saibatin Pekon Sukabanjar, the District of Lumbok Seminung, West Lampung Regency. She reveals eldest son as a full heir to the estate of the parents. Batak custom does not give the widow an opportunity to inherit her husband (Olivia and Lubis, 2007). In contrast to the customary law of the Banjar community in which the position of women in the legal norms of inheritance in the "peace institution" by means of *islah* and *faraid-islah* can be relative, greater, equal, or smaller than the male (Muzaainah, 2012).

The uniqueness of the division of inheritance happened to Semende tribe with *tubang tunggu* system. However, this system invites pros and cons for privileging one gender, including among the Semende tribe community itself (Saputra and Wirawan, 2016).

Diversity, uniqueness, and the existence of the pros-cons is the basis of this research to perform in-depth analysis on the pattern of the inheritance

system among the Semende people. The analysis is based on in the perspective of Islamic view.

2 RESEARCH METHOD

This research uses descriptive analytic method to describe phenomenon or situation that is related to *tubang tunggu* among the people of Semende (Sukmadinata, 2006; Setyosari, 2010). The research uses qualitative approach because the phenomena is related to the behavior of indigenous Semende tribe (Moleong, 2010).

The location of the research was conducted in Gunung Agung village, Central Semende Land District, Muara Enim Regency, South Sumatera Province. There were eight key informants and two supporting informants. They consist of indigenous Semende tribal leaders, Village Head, and the people who are considered as *tubang tunggu* and common people.

The data collection is done through observation, interview, and documentation. The collected data is analyzed by referring to Sugiyono (2011) opinion, i.e. data reduction, data presentation, and conclusion about the distribution of *tubang tunggu* system from the perspective of Islamic inheritance law.

3 RESEARCH RESULT AND DISCUSSION

Semende is a tribe in the South Sumatra Province of Indonesia. The people of Semende are spread in several villages, districts, and regencies. In the inheritance system, this tribe uses a *tubang tunggu* system with the following description.

First, *tubang tunggu* is a status given to girl who was born first in a family. The females of the tribe have a special position.

Second, the girl who is waiting tubang is the heir of the estate of the parents of both home and a field of rice fields.

Third, the inherited house and rice field should not be traded by *tubang tunggu*. The results can be used by the *tubang tunggu* or by other family members.

Fourth, a *tubang tunggu* is an inheritor of her parents' wealth but she cannot sell the wealth. The duty of a *tubang tunggu* is to call for the gathering of the big family, to represent the big family, to take care heritage, to respect *meraje*, and to obey

his orders, and to obey and to adhere customary rules. When the siblings of the *tubang tunggu* are gathered, the banquet is the result of the heritage.

Fifth, *meraje* is a brother of *tubang tunggu*'s mother who is in charge of watching the *tubang tunggu*. If he finds mistakes committed by the *tubang tunggu*, *meraje* is obliged to reprimand. The *meraje* can even take the treasure if the mistake is considered fatal according to custom.

Sixth, if a family does not have a daughter, then position of *tubang tunggu* falls to the wife of the first son. Alternatively, the position falls to the daughter of the *tubang tunggu*'s sister. However, there is also a phenomenon in which a girl who do not want to be a *tubang tunggu*, the family holds a meeting to determine or to elect *tubang tunggu*.

Seventh, *tubang tunggu* is restricted by some rules. (1) She must not reject a family member who visits her house. (2) She cannot behave roughly on her family. (3) She cannot sells the family treasures. (4) She cannot mortgage the treasures without permission and consideration from *jurai jenang* (family meeting). (5) She cannot abandon her unmarried siblings under her care as a substitute for parents. (6) She cannot open the family secrets.

In the perspective of the functional structure theory, *tubang tunggu* has a function of integrity and stability of a system (Saifudin AF., 2006: 64). The focus of the theory, according to Haryanto (2012) is that there are parties who adapt to the *tubang tunggu* system among the inhabitants of Gunung Agung village with the custom of *tubang tunggu*, and vice versa. Therefore, there is unification and application of the system among the Semende people, which according to Soekanto (2011) is very obedient to the custom. The process of adaptation, unification, attainment of goals, and the maintenance of traditional values of *tubang tunggu* in Parson's theory is called *latency*.

The next adaptation is between *tubang tunggu* and other family members, especially the males (*meraje*). In the Semende tribe, the position of *meraje* is still respected (Hutapea and Thamrin, 2009). The process of adaptation in Dahrendorf's theory is between the class that has the dominant authority, i.e. *meraje*, and the class that has no authority (subject), i.e. *tubang tunggu* (Setiadi and Kolip, 2011).

There are pros and cons concerning the tradition of *tubang tunggu* inheritance-system from the perspective of Islamic inheritance law. Fauzi (2016) mentions that philosophically the *tubang tunggu* system is not inheriting property

(houses, rice fields, and gardens) for absolute ownership, but rather trusting women in maintaining family (*jurai*) from generation to generation. He states that in the context of the social change reality and *maqashid al sharia* (virtue), the inheritance system of *tubang tunggu* is not contrary to the Islamic law. Kurnaesih (2016) suggests that the *tubang tunggu* system is not in conflict with the Islamic Sharia. According to her, *tubang tunggu* illustrates cooperation between females who are obliged to take care of inheritance and family; especially those who are not married while male wander out the area to earn money and the collect the results for the family.

Habidin (2012) has a contrast opinion since he identifies *tubang tunggu* as a tradition (*urf*) of management of inheritance; and is not as an inheritance system. The goal is to avoid conflicts between heirs. However, the *tubang tunggu* system is not in line and aligned with the perspective of the Islamic inheritance law system.

In the Islamic inheritance law, the wealth of a deceased person is a heritage that must be distributed to the heirs in accordance with the provisions of the Sharia. Suryati (2013) analyzes that the Islamic inheritance law is a response to the injustice of pre-Islamic Arab heir system where female children are not entitled to receive the relics of relatives. The difference between men and women (2:1) in the Islamic inheritance law is not a matter of gender, but rather based on the amount of burden on men as in the conventional standard theory. Based on the principle of justice (Syarifuddin, 2008: 24), the principle is in accordance with the provisions of God. It is not the will of the heirs (the principle of *ijbari*). The inheritances are distributed after death (Muhibbin and Wahid, 2009: 23 and 29).

The difference of share in the the Islamic inheritance system is considered unfair for some people. Therefore, few Muslims do not run it. Ali's (2014) shows that the cause of non-implementation of Islamic inheritance law is a notion of fairness and strong ties of people to the customary law of inheritance.

4 CONCLUSION

Tunggu tubang has two function, namely as a custom to preserve the treasures of family and to give the position of heir to a female child that is supervised by male children (*meraje*) with the aim of maintaining heritage treasures and

strengthening family relationships. Keeping the custom to strengthen the relationship among family members is not contrary to Islamic sharia. However, in the function of *tunggu tubang* as a sole heir, it is contrary to Islamic inheritance law because in the Shari'a, both male and female have a strong right of inheritance.

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