

PEMBAGIAN HARTA WARISAN PADA MASYARAKAT HUKUM ADAT DAYAK  
LUNDAYEH DI KAMPUNG PA' BAWAN KALIMANTAN UTARA DAN  
KAMPUNG BA' KELALAN MALAYSIA TIMUR

INTISARI

Naftali<sup>1</sup>, Sulastriyono<sup>2</sup>

Penelitian ini bertujuan mengetahui dan menganalisis tentang pelaksanaan pembagian harta warisan, perubahan dalam pelaksanaannya, penyebab terjadinya sengketa dan cara-cara penyelesaian sengketa pembagian harta warisan pada Masyarakat Hukum Adat Dayak Lundayeh di kampung Pa' Bawan Kalimantan Utara dan kampung Ba' Kelalan Sarawak Malaysia.

Metode yang digunakan dalam penelitian ini adalah yuridis empiris dengan mendapat data primer di bidang hukum langsung dari narasumber dan responden dengan sifat penelitian deskriptif. Jenis pengumpulan data diperoleh melalui kepustakaan dan data lapangan. Lokasi Penelitian dilakukan pada Masyarakat Hukum Adat Dayak Lundayeh di kampung Pa Bawan Kalimantan Utara dan Kampung Ba Kelalan Sarawak Malaysia Timur dengan cara pengambilan sampel *purposive sampling*. Subyek penelitian terdiri dari 21 (dua puluh satu) responden dan 23 (dua puluh tiga) narasumber dengan teknik pengumpulan data wawancara langsung di lapangan serta data di analisis secara kualitatif dengan metode penguraian deskriptif.

Hasil penelitian (1) pelaksanaan pembagian warisan dikenal dengan istilah "*Magi befat* atau *Mefat binawah*" mengatur tentang perpindahan harta kekayaan dari satu generasi ke generasi berikut dan mengatur cara proses peralihannya kepada keturunannya atau orang lain yang dapat memiliki hak atas harta warisan pewaris, waktu pelaksanaan pembagian harta waris ketika pewaris masih hidup atau setelah pewaris meninggal dunia. (2) Sistem pewarisan telah mengalami pergeseran sebelum tahun 1930-an memakai sistem pewarisan mayorat laki-laki berubah berlahan-lahan menjadi sistem pewarisan Individual atau perorangan sesudah tahun 1930-an, karena perubahan dalam masyarakat. (3) Timbul sengketa "*Fetari* atau *Petari*" di sebabkan karena harta warisan berada dalam penguasaan orang lain, Ahli waris tidak mendapat bagiannya "*Lun Luk Kuan Befat a'm nalapbefat*", Pembagian harta warisan tidak jelas "*Magi Befat Seraber*" dan Pewaris meninggal dunia tapi belum melakukan pembagian harta warisan "*Lemerar Fenge Nate am ye magi befat*". (4) Penyelesain sengketa pembagian harta warisan dilakukan dengan beberapa cara yaitu "*Fero*" Perdamaian, pengadilan adat "*besara*" dan Sumpah "*pebulung*".

Kata Kunci: Harta warisan Dayak Lundayeh

<sup>1</sup> Desa Pa' Butal Tanjung Karya kecamatan Krayan kabupaten Nunukan Kalimantan Utara

<sup>2</sup> Fakultas Hukum Universitas Gajah Mada, Yogyakarta

INHERITANCE DIVISION AMONG THE INDIGENOUS PEOPLE OF DAYAK  
LUNDAYEH IN PA'BAWAN VILLAGE OF NORTH KALIMANTAN AND  
BA'KELALAN VILLAGE OF EAST MALAYSIA

ABSTRACT

Naftali<sup>1</sup>, Sulastriyono<sup>2</sup>

This research was aimed at determining and analyzing the ways inheritance is divided, changes in the ways it is divided, causes of disputes and the ways such disputes relating to the division of inheritance are resolved among the Indigenous People of Dayak Lundayeh in Pa'Bawan Village of North Kalimantan and Ba'Kelalan Village of East Malaysia.

This is descriptive research. It employed the empirical-juridical research method. The primary data in the field of law were obtained directly from the sources and respondents. The data were gathered by conducting library research and collecting field data. The research was undertaken into the Indigenous People of Dayak Lundayeh in Pa'Bawan Village of North Kalimantan and Ba'Kelalan Village of East Malaysia using purposive sampling. The research subject consisted of 21 (twenty one) respondents and 23 (twenty three) sources with the data collected using the technique of direct interviews and then analyzed qualitatively using the descriptive explanation method.

The findings suggest that (1) the ways inheritance is divided are called "*Magi befat* or *Mefat binawah*" which govern the wealth from one generation to the subsequent generation and the ways it is transferred to the descendants or other persons eligible for such inheritance from the person bequeathing it, such inheritance can be divided either at the time when the person bequeathing it remains alive after the person has died. (2) The inheritance system has shifted from the inheritance system of male heirs in 1930's into the individual inheritance system after 1930's. (3) The "*Fetari*" or "*Petari*" dispute emerges as a result of the inheritance controlled by others, the heirs do not get their share (*Lun Luk Kuan Befat a'm nalapbefat*), the division of the inheritance is unclear (*Magi Befat Seraber*), and the person bequeathing the inheritance has died before the person arranges division of the inheritance (*Lemerar Fenge Nate am ye magi befat*). (4) To solve such disputes concerning inheritance division, there are a number of ways, namely amicable settlements (*fero*), customary courts (*besara*), and vows (*pebulung*).

Keywords: Inheritance of Dayak Lundayeh

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<sup>1</sup> Pa' Butal Village, Krayan Sub-district, Nunukan Regency, North Kalimantan

<sup>2</sup> Faculty of Law, Gadjah Mada University, Yogyakarta