

Tradição de Pauseang-Gift para filha no direito comum de Batak Toba
Pauseang-Gift Tradition for Daughter in Batak Toba Common Law
La tradición del regalo de Pauseang para la hija en la ley común de Batak Toba

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Resumo

O povo Batak Toba é formado a partir de sistemas patrilineares de parentesco, que seguem os homens na linhagem. Portanto, a posição dos homens é mais importante que as mulheres. O casamento tradicional das pessoas de Batak Toba é um casamento honesto, em que os parentes dos homens precisam pagar uma certa quantia de dinheiro ou geralmente são chamados de preço da noiva para os parentes das mulheres. O povo de Batak Toba explicou que o casamento honesto é um princípio, crenças e uma atitude de magis religiosa (relação entre a coisa espiritual e suas crenças). O requisito mais importante para o campo de pausa é o casamento honesto e o preço da noiva (sinamot / tuhor). O preço da noiva deve ser pago integralmente por homens, parentes e mulheres. Há consequências se o parente dos homens não receber o dinheiro integralmente, o parente do homem terá uma dívida costumeira e deve ser cumprido como dever tradicional. Portanto, o campo de pausa não pode ser dado à filha e ao marido. O campo de pausa de Tanah dos pais (pai) será administrado pelo marido, porque em Batak Toba, a filha não pode possuir nenhuma herança.

Palavras-chave: Tradição; Casamento; Religião.

Abstract

Batak Toba people are formed from kinship patrilineal systems which follow men side in lineage. Therefore, the position of men is more important than women. Traditional marriage of Batak Toba people is honest marriage where men relative has to pay certain amount of money or it usually called as bride-price to women relative. People of Batak Toba explained that honest marriage is a principal, beliefs and an attitude of magis religious (relationship between spiritual thing and their beliefs). The most important requirement for pauseang-field

is honest marriage and giving bride-price (sinamot/tuhor). Bride-price must be fully paid by men relatives to women relatives. There is a consequences if men's relative are not fully paid the money, men's relative will have customary debt and must be done as traditional duty. Therefore, pauseang-field cannot be given to daughter and her husband. Tanah pauseangfield from parent (father) will be managed by her husband, because in Batak Toba, daughter could not own any inheritance.

Keywords: Tradition; Marriage; Religion.

Resumen

Las personas Batak Toba se forman a partir de sistemas patrilineales de parentesco que siguen al lado de los hombres en el linaje. Por lo tanto, la posición de los hombres es más importante que la de las mujeres. El matrimonio tradicional de la gente de Batak Toba es un matrimonio honesto en el que un pariente masculino tiene que pagar cierta cantidad de dinero o, por lo general, se llama precio de novia a un pariente femenino. La gente de Batak Toba explicó que el matrimonio honesto es un principio, creencias y una actitud de magis religiosos (relación entre lo espiritual y sus creencias). El requisito más importante para pauseang-field es el matrimonio honesto y dar el precio de la novia (sinamot / tuhor). El precio de la novia debe ser pagado íntegramente por hombres parientes a mujeres parientes. Hay consecuencias si el pariente de los hombres no recibe el dinero por completo, el pariente de los hombres tendrá una deuda habitual y debe hacerse como un deber tradicional. Por lo tanto, el campo pauseang no se puede dar a la hija y a su esposo. Tanah pauseang-field del padre (padre) será administrado por su esposo, porque en Batak Toba, la hija no podía poseer ninguna herencia.

Palabras clave: Tradición; Matrimonio; Religión.

1. Introduction

Land has important value and function for human needs. Therefore land is a precious asset for human's living, because without land, human cannot live and doing their daily activity in normal way. Thus, Land have two functions, first land as a production function which is related to economic value; second, land as non-production function which is as ground or has meaning as religious-magis.

Essentially, people have different perceptions of functions of land itself. Land for Batak Toba people, beside economical function, land has religious and political function.

Because every people have different point of view which can lead their basic thinking of making their own philosophy on life in the middle of their community. Batak Toba people have philosophy which is famous as hamoraon (wealth), hasangapon (social status) and hagaboen (heirs).

In Batak Toba, a person who has land will be considered as the symbol of wealth or hamoroan. In traditional Batak Toba law value system, land is symbol of wealth, which is why for people in Batak Toba, land is a precious heritage which considered as a part of their ancestors heritages that needs to be guarded, preserved and manifested.

Batak Toba people is a patrilineal (pure) and genealogic which their relationship between members absolutely drawn based on male lineage (father), therefore only male has a authority as a successor, as successor of family name, and the heirs of their father inheritance. Female children not a priority of parent's lineage, not a successor for family name, nor the heirs of parent's inheritance. According to the common law of Batak Toba, female only prepared to be other family member which can build other family names (Poespasari, 2018a).

Characteristic of Batak Toba people is their family name as their identity of ancestors' lineage. Family name of Batak people always come from father side (patrilineal) and it keep continues to their male lineage. According to Batak Toba people, children (male children) born to be King, while female children is Boru which means their family name will be cut off, because their family name will not following them if they are married. Can be considered as Batak Toba family name, if their family name is in Batak and stay in Batak Toba area (Poespasari, 2018b)

Honest Marriage (sinamot/tuhor) is a traditional marriage of Batak Toba people. Giving an object or bride-price (sinamot/tuhor) which done by future husband's relative to future wife's relative as a symbol of handing their daughter over from her father family name and law system to her husband family name and law system. After marriage, Batak Toba people tend to hoping they will get male children as the heir of family name and the heir of their parent genealogy (Hajati, Poespasari, & Soelistyowati, 2018)

Family inheritance of Batak Toba consist of land which belong to deceased people, such as rice field, home, field, forest, granary, cattle, trees, movable property, traditional property (traditional object such as traditional clothes, ceremonial tools and others). Relating to inheritance problem on Batak Toba people, they only considered male children as their legal heir. The original assets in form of original land (ancestor land) for Batak Toba people are the most essential rights to be maintained by their heir (male descendants), while female descendants is not their legal heir, therefore they do not deserved parents inheritance. But

female descendants have an authority of “pauseang-field”. Pauseang-field is a rice field land given by father to their daughter and her husband when they are getting married.

J.C Vergouwen stated that pauseang-field is an innate line from bride is a given object by parborou (bride’s parent) to boru (daughter) and their husband. Innate property (tanah pauseang) can be given right at their marriage or after marriage (Vergouwen, 2004).

Pauseang gift is the main form of land belonging diversion, but on Batak Toba pauseang gift is not often happen, in Silindung and it surrounding, pauseang gift only happen when there is a worries of having a big loose over their golat (traditional land) because of the loss of clan or chief. In Silindung, people tend to give their land in form of parriparean right (a kind of right to collect income during their stay in the village or in the area), different in Batak Toba, Batak Toba tend to give pauseang-field bride’s father before his daughter getting married. The purpose of giving pauseang-field is when his daughter geting married and living with her husband family, her life will have no difficulties and as a material basis (Vergouwen, 2004)

According to the common law of Batak Toba, giving and taking of pauseang-field must be under traditional ceremony, witnessed and attended by the head of area and Dalihan Na Tolu. Dalihan Na Tolu (three cooking furnaces), is a framework of bloodline sibling relationship and marriage relationship of a group or community. And this becomes a basic framework of every relation on traditional social organization of Batak Toba (Simanjuntak, 2009). Dalihan Na Tolu consists of three aspects, hula-hula (parents in law), boru (family from son in law) and dongan tubu (friend from same family name).

Pauseang process happens when honest marriage happens along with bride-price (sinamot/tuhor). Payment process of bride-price must be paid in full by man relatives to woman relatives. There is a consequence if their bride-price is not fully paid, man relatives will have a customary debt or traditional duty that must be pay in full. Therefore, if those cases happen, pauseang-field cannot be given to the daughter and her husband. Tanah Pauseang will be managed by her husband, because based on the principal of Batak Toba, daughter do not reserve the right to be heir, even though daughter have her own property, their property must be given to husband and fully belong to husband and the next generation will be given to their son.

The process of giving Pauseang for daughter often occur a controversy which lead into legal action, that is why a lot of marriage in Batak Toba does not end up in good way or divorce, and it causing a mess of tanah pauseang, there is a transaction of buy and sell Pauseang-field. Thus, Pauseang often lead into legal issues.

People of Batak Toba is dynamic people who can easily able to keep up with the development of time, therefore it can be said that Batak Toba are not static group. Batak Toba leads into the dynamic of Pauseang gift for their daughter before marriage. Pauseang gift and honest marriage originally was a traditional obligation that must be implemented by Batak Toba people as requirements of Pauseang gift. However within the development of time, there is a dynamics in Pauseang gift for woman in Batak Toba.

According to the title of this article "*Pauseang Gift Tradition for Daughter In Batak Toba Common Law*", the problem can be taken from honest marriage on Batak Toba common law as requirement of Pauseang and the position of woman in the process of Pauseang gift from parents to their daughter in Batak Toba.

2. Discussion

a. Honest Marriage of people in common law of Batak Toba as Tanah Pauseang Requirements.

People of Batak Toba is people with kinship patrilineal system and genealogic and their relationship is pure from male lineage side or from father side. Therefore, male has an obligation as successor of his father. While female not a lineage or inheritance successor of their father. Thus, daughter or female does not deserved to get their parents (father) inheritance. According to Batak Toba people, daughter only prepared for other family member.

Their marriage is an honest marriage; it means marriage with system of giving money as bride-price by groom relatives to the bride relatives. This honest marriage has an aim to continue the tradition of parents (father) lineage and maintain the culture. Moreover, on people with patrilineal system, honest marriage is a principal or belief of magis religious (relationship among their spiritual beliefs).

Ter Haar (Haar, 1999) explained a term "bruid schathuwelijk" as "honest marriage of male relatives giving cash in advance before the marriage". If given object or brideprice received by female relatives, means that the woman enters into an agreement to participate on part of husband both personally and property that she brought will be subject to the husband's customary law, unless there are other provisions concerning certain wife's objects.

According to Bushar Muhammad(Bushar, 2006), honest marriages consist of three functions as below:

- a) Juridical, to change the clan status of bride.
- b) Social (politic), to strengthen the relation between two clan, families and eliminate the enmity.
- c) Economical, to bring a wealth (exchange of money).

Related to honest marriage (giving sinamot/tuhor/bride-price) after woman officially belongs to men relatives, every legal action of the wife will be depend on her husband agreement, under her husband family names or under the agreement of her husband family. As wife, women is not allowed to do anything by herself, wife's duty only helping her husband, taking care, educate their children and accompanying husband on their social life.

Based on common law of Batak Toba, honest marriage is a traditional marriage with paying bride-price/sinamot/tuhor and that is a mandatory requirement which has to be followed and paid when a man of Batak Toba will marry a woman. Principally, brideprice/tuhor/sinamot is an obligation for men relatives (future husband) toward women relatives (future wife). Bride-price must be paid in cash and the process of giving sinamot/tuhor must be witnessed by Dalihan Na Tolu¹ which consists of hula-hula (wife's parent, boru (wife in law) and dongan tubu (friend from same family name).

Originally, given process of sinamot has to be relatable with Dalihan Na Tolu, which has to be an object that precious and eternal or can be spend easily like money. But along with the growth of people tradition of Batak Toba, sinamot meaning has change into bride-price in this modern era.

Sabam Huldrick Wesley Sianipar (Sianipar, 2001) stated that the meaning of sinamot has been underlined by their ancestors for social life of people in Batak Toba. Sinamot is an eternal object or gift that will be lasting forever as a symbol of giving from men relatives to women relatives before their marriage to get into a new phase on their marriage living. Therefore, sinamot originally must be an object or land like field, rice field and jewelry. Sinamot in Batak Toba common law was not money, but an object that will last forever.

Sinamot is a gift from man for woman and it can be money or precious object. In previous time, sinamot can be animal or an object, but now as the time developed, sinamot can be given in form of money, therefore the word sinamot has similarity with tuhor. The

¹ Dalihan Na Tolu, in Batak Toba, has three supported factors. First, hula-hula (in law); second, dongan tubu or dongan sabutuha (relation of same family name); third, boru (husband relatives). In social life, hula-hula has higher position than boru. Though, ideally those three are in same position.

process of giving sinamot in Batak Toba marriage always begin with several stages of traditional ceremony, one of ceremony is marhata sinamot as a tradition before marriage process. It has a purpose to know how much the cost needed for marriage. Merhata sinamot is a stage of decision in marriage. Thus, from man side (paranak) and woman side (parboru) making a deal about how marriage process will be and what is the right and obligation of each man and woman side.

Furthermore, by giving bride-price/sinamot/tuhor, traditionally, parents of woman side has to give pauseang property as a given property berofe his daughter getting married. Pauseang property is an original property/wealth of wife, but the management of pauseang will be given to husband, because as a woman of atraditional tribe, they do not deserved any property or inheritance from her relatives and parents. Pauseang gift (Pauseang-field or property) must be done together with bride-price/tuhor/sinamot, because without sinamot, daughter could not get her Pauseang-property or Pauseangfield from her father. Process giving of Pauseang-field must be witnessed by Dalihan Na Tolu and all guest attended.

Bride-price/Sinamot/Tuhor is a basic requirement of marriage in Batak Toba, and if it not fulfilled, the process of marriage will be obstructed. Amount of money from bride-price/sinamot/tuhor must be the same with how much the bride's family want. As a result, families are selective of choosing partner for their children in the future.

Daughter in family will not getting any inheritance, because in Batak Toba she don't have the right to be heir. But as a part of family, daughter can politely ask for her shares in form of land of origin. Even though the amount of her shares is not as much as what man will get. There are some ways for woman to obtain their shares from her father, such as:

- a. Indahan arian, a gift of land from father to daughter when his daughter already have a child (whether it girl or boy). This gift directed to his grandchild.
- b. Batu ni assimun, a gift of animal and gold from father to daughter when his daughter already have a child. This gift directed to his grandchild.
- c. Dondon tua, a gift from father to his daughter who already have a child (boy or girl) in form of a rice-field to his grandchild and it only can give after grandfather passed away.
- d. Punsu tali, is a last gift from father to daughter and it can only receive when her father passed away.

e. Ulos naso ra buruk, is a gift from father to daughter as her asset for her next marriage life².

According to people of Batak Toba, if someone died without having any son, their wealth and property will move to other side (collectively). Therefore, their wealth and property will be vanished if family does not have any son. Simple term for collective inheritance is a property from deceased person. Besides, woman will get a share of property but in different amount with man. Because woman does not have any right for parent inheritance, to achieve some shares, collective side of property recipient should be agree at some point with the daughter of family. This is because common law has characteristic of harmony and togetherness.

b. The position of woman in giving Pauseang-field by her parent on Batak Toba

Ter Haar explained that property which included with the bride will be consider as her “supplies” (uitzet), in some cases will be stay as her belonging and can be given to her children. But when she died without any children, her property will be given to her husband. If she already divorced with her husband, her wealth will be brought back to where it belongs or it original place. Land of Batak tribe which given as a bruidsgift or usually called as Pauseang-field or property, will be belong to husband, even though this condition seems dominating (beschikking) all of it process must happen through discussion with wife relatives. When they have children, property will be given to their children as an inheritance. Children have a role as a place of every family object and every family property (original properties) (Haar, 1999)

Property or Pauseang-field is an origin property that given when daughter getting married. Pauseang-property usually in form of a land and rice-field. Generally, it consider as one of a way to transferring land without taking it back from one family name to another. Pauseang-gift is one effective form to transfer it ownership.

On the common law Batak Toba, pauseang-field is a religious-magis and it makes the process of giving pauseang-field needs traditional ceremony and it done together with marriage ceremony. Without traditional ceremony, the process of giving a land did not consider as giving Pauseang-gift or it consider as a common giving which can be done anytime.

² Interview with Aden Manurung (Kepala Adat Batak Toba), 06 June 2012.

A father who has a good economic condition can give pauseang to his daughter because he loves his daughter. But pauseang-field is not an absolute requirement, if families economic condition not in stable. Pauseang-field is permanent gift that cannot be taken if it already gave it. The purpose of pauseang-field is for daughter life; daughter can take it outcomes and save it or sell it depends on what they need at the time. (Poespasari, 2013)

Pauseang-field usually $\frac{1}{4}$ hectare of field. In Silindung and it surrounding, pauseang gift only happen when there is a worries of having a big loose over their golat (traditional land) because of the loss of clan or chief. Batak Toba people tend to give their field to affina (one of female lineage) in parrippean right; parrippean is a right to collecting result of people in one area (Vergouwen, 2004).

Principally, pauseang-field cannot be sold permanently, but just being mortgaged. In some area of Batak Toba, pauseang property is a field that can be sold with allowance from the one who gave (parents from daughter/wife). If they want to sell pauseang, buyer must from closer associate first. In some cases, pauseang are bought by wife's parent to become pauseang for other daughter.

Based on the development of Batak Toba tribe, some parents still promised their children that they will give pauseang on the day of the grandson birth. Birth of grandchild is a proof that husband and wife in a good condition and his son-in-law can prove to daughter's parents, that their marriage can be maintained forever. Therefore, sometimes parent do not give pauseang before marriage, this is one of safest way for father to save his daughter pauseang therefore, and his son in law will not exploit his pauseang-field. According to Batak Toba tradition, father should give pauseang-field and it harvest to daughter and her husband. However, if a father still doubting his son in law, he can save the harvest result of pauseang-field and give it to his daughter when his daughter encounter a hard economic condition. Hence, parents still try to give his daughter a harvest result sufficiently for her life after marriage. Actually, this kind of parents' attitude can reduce his daughter marriage stability which can lead into divorcement. Those kind of condition urge Government Council of Bumiputera Parmitness 1924 establish pauseang law about 20% of bride-price with requirement exclude from ulos ni mas, and can be paid at the same time with marriage payment. There is a different point in Batak Toba than other area, a father can mortgage his pauseang-field if his daughter's husband was late to pay every remaining marriage payment (bride-price/ tuhor) (Poespasari, 2013)

There is also a limitation of husband rights for using pauseang. In Batak Toba, giving pauseang called as mandanggurhon batu na marihur-ihur (throwing rocks with that tail, and

take it home). If husband wants to sell pauseang-field, he should ask for permission to his wife, and telling the truth to hula-hula (in-law), probably pauseangfield will be bought by his in law and will not be taken by other family unless his hula-hula (in-law) giving him permission to sell it for other families. This attitude intended a meaning of when a married couple occur economic hardship, hula-hula should be the first one to be asked for help. Thus, it will help to reduce giving precious object/meaningful thing (pauseang) to other family.

If there is a divorce, total amount of bride-price should be given back to men relative and giving back pauseang to it original owner hula-hula. If husband passed away and left his wife alone without having any children and without remarrying again, wife has a right to take all the property for her life. Regarding the pauseang she brought on her marriage, if a wife decline to life together with her late husband's relative, pauseang will be given back to hula-hula if she turns back her bride-price.

Based on the information of interviewee from Batak Toba, Simon Manurung³ related with pauseang property, if all the family member passed away including husband, wife and their children, pauseang-field will be stay on husband's relative side, because husband relatives already gave bride-price on wife's relative.

3. Conclusion

Batak Toba embrace the system of patrilineal, every people consequently following the rule of their descendants come from father side. That belief is a principal and an attitude of magis religious. Honest marriage is a marriage which comes along with giving money or certain object according to agreement between brides and grooms relative. Giving certain amount of money or certain object, man can get his woman, and then bring his woman to his relative's place. Furthermore, after marriage, women are fully belongs to his man, their daily life and even their future kids are under husband's or husband's relative responsibility.

Pauseang gift are given along with sinamot/tuhor. There is a consequence if their bride-price is not fully paid, man relatives will have a customary debt or traditional duty that must be pay in full. Therefore, tanah pauseang cannot be given to the daughter and her husband. The process of giving tanah pauseang from parent (father) and will be managed by her husband, because based on the principal of Batak Toba, daughter do not reserve the right

³ Interview with Simon Manurung (Head Tribe of Gala-Gala Pangkailan Porsea Toba Samosir), 08 June 2011.

to be heir, even though daughter have her own property, their property must be given to husband and fully belong to husband and the next generation will be given to their son. The process of giving Tanah pauseang for daughter often occur a controversy which lead into legal action, that is why marriage in Batak Toba does not end up in good way or divorce, and it causing a mess of tanah pauseang, there is a transaction of buy and sell tanah pauseang. Thus, tanah pauseang often lead into legal issues.

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