

Juridical Analysis of The Prohibition of Same Clan Marriage in Simalungun Batak Custom Based on Law No.1 of 1974

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Abstract. This study aims to: (1). Know the cause of marriage of same clan in the Batak Simalungun custom, (2). Know the sanctions given to those who marry same clan in the Batak Simalungun custom. (3). Able to analyze juridically the prohibition of marriage of same clan in the Batak Simalungun custom based on Law Number 1 of 1974. This research method is qualitative research with an empirical normative approach method. The data collection techniques used are interviews, observations. The results of this study show that: (1). The cause of marriage of same clan is caused by the environment. (2) The sanction given to people who marry same clan is exile from their place of residence, (3) The prohibition of marriage of same clan in Batak customs can refer to Law Number 1 of 1974 concerning Marriage article 8 letter f.

Keywords: Custom, Juridical, Marriage

1. Introduction

Indonesia is a country that has thousands of tribes, languages, and cultures that certainly have their own characteristics. Culture is a way of life that develops and is owned by a group of people. Then it will be passed on to the next generation. In the culture of Indonesian society, there are traditions that must be obeyed and must not be arbitrarily violated, if violated, sanctions will be imposed on the tradition itself because in a society there is what is called customary law. Customary law is a binding custom or tradition contained in the community that is carried out by the community from down and down and must not be violated if violated it will be subject to sanctions according to existing rules, customary law itself is unwritten.

In the patrilineal kinship system of the indigenous Batak Simalungun people, this kinship has a form of exogamous marriage, which is a form of marriage that requires taking a partner outside the clan or clan. This is because the Batak tribe knows clan to be an identity that shows which family the person comes from. Several categories found in the Batak tribe

have similarities in the form of clan. The family origins of the Batak people can be traced from the family owned by the Batak community since birth.

Marriage Law No. 1 The Year 1974 on Marriage accommodates the principles and lays the foundation that the marriage law that has been the handle and has been applicable to many groups of Indonesian citizens. A marriage is considered valid if it has fulfilled the conditions specified in the law both internally and externally. That is, if the man and woman who intend to carry out marriage are ready to be born and mental and also ready in terms of material to support the needs of life after marriage is carried out, and carried out according to the legal requirements of the religion adopted and applicable laws.

Marriage in Indonesia is different in each region depending on traditions that have existed from the past to the present. Although the purpose of the wedding is the same, there continue to be differences between regions and tribes ranging from wedding receptions, bridal makeup, bridal dowry, and other customary laws. Marriage according to customary law not only means a bond between a man and a woman as husband and wife for the purpose of descending offspring and creating and building a domestic family life, but also means a legal relationship involving family members who come from the wife or party husband.

According to the Batak community, Batak custom is a custom or regulation designed by a traditional leader in the Batak tribe to be a guideline in carrying out daily life activities in the community. Clan is a kinship group in indigenous communities, where the clan in Batak custom is passed down from father to descendant or also called the patrilineal system and so on to the descendants below. Perkawinan orang batak is a marriage outside the clan, so marriage with one clan is not allowed. But the fact is that there are still many Batak people who do clan marriage.

From the above formulation, it can be seen that in the Batak community which until now still upholds its customs, there are still some who carry out clan marriages. Based on the background described above, the author is interested in making an article with the title: "juridical analysis of the prohibition of arbitrary marriage in Simalungun batak customs based on Law No. 1 of 1974". Problems : (1). What is the cause of intermarriage in Simalungun Batak custom? (2). What are the sanctions given to people who perform arbitrary marriages in the Batak Simalungun custom? (3) What is the juridical analysis of the prohibition of arbitrary marriage in Simalungun Batak customs based on Law No. 1 Year 1974?

2. Method

This research is qualitative research. Bog and Taylor (1975: 5), define qualitative research methods as research procedures that produce descriptive data in the form of written or spoken words derived from people and observed behavior. To obtain results that are in accordance with the expectations of researchers using data collection techniques, namely interviews, observations, and document techniques. The data in this study is divided into two,

namely primary data and secondary data. Primary data is data obtained directly from indigenous leaders through interviews / interviews conducted. In the interview that has been conducted, the questions to be asked have been prepared in advance which is a reference so that the interview remains directed but these questions can change according to the conditions during the interview. Secondary data is data obtained from literature studies that provide explanations regarding the provisions on Batak customary marriage and on marriage conditions.

3. Results and Discussion

Arbitrary marriage in the Batak Simalungun tradition is a taboo thing to do. As time goes by, there are those who violate because of their ignorance, especially from among young people who lack attention and care less about customs. Random marriages should not be allowed to occur because those in the Simalungun Batak caste are blood relatives.

It is not allowed to have arbitrary marriages in Batak Simalungun because the Batak Simalungun community sees brotherhood derived from the existence of tarombo or clan genealogy. According to the ancestors of the Batak people, the clan was made to know the level of descent and that the same is always a sibling. The important things that Batak people know before marrying must first know the clan of our candidate. And also have to know the surname of the female parents of our prospective bride because if the surname of the mother of the bride and groom has the same surname, then it is said that they are both brothers. From the results of an interview with Iwan Paris Matua Purba (48 years old), one of the parhata kings (traditional leaders) in Pematang Raya village stated that the cause of arbitrary marriage in the Simalungun Batak community was caused by the development of the times and modernization and was also influenced by the living environment. Batak people usually like to migrate out of their territory, aiming to get a better life. Some people who migrate or leave their territory lose their clan identity and lack of advice from parents about customary rules also result in a person marrying someone who is similar to him.

In addition, the factor causing the occurrence of arbitrary marriage is also caused by love. Man was created in need of a companion in living his life to continue his offspring. A marriage without love will feel bland and there is no point in living without love, because human love can live its life happily. Love can result in feelings of liking between men and women. Men and women will perform arbitrary marriages even if it is violated and do not think much about clan issues because the most important thing is that they love and cherish each other.

Arbitrary marriage, if performed by Batak people, means violating customary law so it is called "Na So Maradat" or people who do not know customs and manners. People who perform arbitrary marriages will be punished by the customary Batak rules that apply until now.

The sanctions given to people who perform arbitrary marriages are as follows:

- a) Expelled from his residence or residence. People who perform arbitrary marriages will be ostracized and expelled from their homes or residences because they have violated Batak customs.
- b) Marriage is not recognized by custom so that a person who marries his family can no longer accept his marriage custom until he dies (mangadati). His position in custom was also not recognized so that he no longer got his rights in the traditional wedding ceremony of his family.
- c) In the church, the Batak tribe is also not counted as a member or congregation of the church. But it is agreed to return to the congregation if he worships diligently and fulfills his obligations during the period set by the tribal church.
- d) Sanctions for people who violate customary law are also believed by the community to come from the curse of the spirits of ancestors which are believed to, for example, not compress turmoil, diseases that do not heal, and economic losses in work.

As explained above that there are systems in marriage, namely: endogamy, exogamy and eleutherogami. The indigenous Batak Simalungun community adheres to the exogamous marriage system, which is a marriage system that requires a person to marry someone from outside his family clan. That means a man marries a woman of a different clan or different clan, and vice versa. But in fact this is violated by some indigenous Batak people who carry out clan marriages. So this is what causes problems in the Batak indigenous people. Marriage of one clan is strictly prohibited in Batak customs because one clan means brothers (marboto).

Law of the Republic of Indonesia No. 1 of 1974 In Law of the Republic of Indonesia No. 1 of 1974, the prohibition of marriage is mentioned in articles 8 and 9. Article 8 explains that marriage is prohibited between two people who:

- a) Blood related in a straight down or upward lineage;
- b) Blood relations in the sideways lineage i.e. between siblings, between one and one's parents' siblings and between one and his grandparents;
- c) Have temporary relationships, namely in-laws, stepchildren-in-law, and mother/stepfather;
- d) Related, namely arrangement parents, milk children, milk siblings and milk aunts / uncles;
- e) Relative relationship with wife or as aunt or security of wife, in this case a husband with more wife;
- f) Having a relationship that by agmanya or other applicable regulations, is prohibited from marrying.

In chapter 9 it is explained that: A person who is still married to another person cannot marry again. (except in the case of article 3 paragraph (2) and article 4 of this Law). From the

marriage ban above, there is no prohibition on marriage of one clan. As is known that the Batak tribe has a patrilineal kinship where the Batak people are bound by a unity of descent drawn according to the father's lineage which can be seen from the clan.

In the Indonesian legal system, just like the KHI, there is no prohibition that leads to clan marriage, as Batak customs in general. The prohibition according to Batak customary rules on marriage can actually refer to law No. 1 of 1974 concerning Marriage article 8 point f which reads "Having a relationship that by religion or other applicable regulations, marriage is prohibited," prohibition of marriage in the form of other rules, customary law can actually also be included in these other rules. So indirectly there is actually a prohibition in this law on clan marriage.

4. Conclusion

Based on the results of the research and discussion above, the conclusions in the study on the juridical analysis of the prohibition of semarga marriage in the Batak Simalungun custom based on Law No. 1 of 1974 are as follows: First, arbitrary marriage in the Batak Simalungun community is not allowed or prohibited because it is considered a brother. Second, the factors causing intermarriage in Simalungun Batak customs are love, environment and modernization, and lack of direction from parents regarding the rules of customs. Third, the punishment given to people who perform arbitrary marriages is expelled from their homes, their marriages are not legally valid by custom and their position is not recognized by custom, in the Batak tribal church is also not counted as a member or congregation of the church and is believed to be cursed by the spirits of the ancestors believed by the Batak people. Fourth, in Law of the Republic of Indonesia Number 1 of 1974 In Law of the Republic of Indonesia Number 1 of 1974, the prohibition of marriage is regulated in articles 8 and 9. From the above arrangement, there is no prohibition on marriage of one clan. However, the prohibition can refer to Law No. 1 of 1974 concerning Marriage article 8 point f. So indirectly there is actually a prohibition in this law on clan marriage.

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