

The Realization Of The Decision Of The Pesamuhan Agung III MUDP Bali Number 01/Kep/PSM-3/MDP Bali/X/2010 On The System Of Integrity Of Bali Hindu Women As The Heir

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Abstract. This study aims to determine (1) the acceptance of Bendesa Adat, the head of the traditional village institution and society of Bali Aga village, Buleleng regency, about the content of Pesamuhan Agung III/2010 MUDP Bali concerning the position of Balinese Hindu Women in term of inheritance in Bali Buleleng regency, (2) the realization of its content, and (3) the implication of its realization toward women in Bali Aga, Buleleng regency. This research was conducted by using a method of empirical juridical approach. The researcher used a purposive sampling technique to determine the sample for this research. Then the collected data were analyzed in a descriptive qualitative way. The result shows that (1) Bendesa Adat and the society of Bali, Buleleng regency have not been able to accept the content of Pesamuhan Agung III/2010 MUDP Bali yet because they still strongly defend dresta, awig-awig (rules), as well as habits which only boys get the inheritance; (2) The content of Pesamuhan Agung III/2010 MUDP Bali decision has not realized yet. (3) there is no implication toward the woman in Bali about the realization of the result of Pesamuhan Agung III/2010 MUDP Bali since there are no women who dare to claim inheritance rights in their respective families.

Keywords : Bali MUDP Decision, Woman Position, Inheritance, Bali.

1. Introduction

The 2010 Bali Pakraman Village Main Assembly (MUDP) was mentioned by the expert An heir who marries out and has predana status or is not at home in Balinese terms is called a limited ninggal kedaton, is entitled to half the inheritance for the rich (work/property gono gini) of his parents, after deducting one third for the duwetengah or for parental care. In other words, women are entitled to half of the Gunakaya inheritance received by their brothers who have purusa status. However, the heirs who were categorized as passed away full kedaton or change religion, are not entitled to any inheritance, but can be given provisions (spirit of funds) from their parents. The decision of the Bali Pakraman Village Main Assembly (MUDP) implies that boys have the right to inherit and girls also have the right to be included as heirs [1]. However, the decision of the 2010 Pakraman Village Main Assembly (MUDP) Bali in

Banjar Village Until now, Tegeha has not been implemented properly in the field and there are still many who do not know about the decision.

The presence of Pesamuhan Agung III MUDP Bali has positioned girls as heirs which previously were not taken into account in the patrilineal family system. If examined implicitly, the inheritance system regulated in the Great Pesamuhan III MUDP is individual bilateral which is in line with the concept of Equilibrium which emphasizes the partnership between women and men in family life. The goal is to create customary justice and gender equality with the construction of a bilateral inheritance system Individuals along with the position of sons and daughters will get inheritance, but in women it is limited to inheritance to be rich from their parents on the principle of ategen asuun or comparison. Based on the background described above, the authors are interested in studying further related to these problems to write in the form of a thesis with the title "Realization of the Decision of the Great Order III MUDPBali Number 01/KEP/PSM 3/MPD BALI/X/2010 Regarding the patrilineal inheritance system Balinese Hindu women as heirs.

The diverse Indonesian society does not rule out the possibility of interfaith marriages, where interfaith marriages are not strictly regulated which results in problems related to the validity of marriages and results in inheritance. Inheritance is a term used to express the act of passing on the assets that will be left by the testator or the act of distributing the inheritance to the heirs. This forwarding does not mean the transfer of assets only but also the obligations of the heirs that have not been resolved [2].

Marriage is included as a basic need (basic) of every human being, the purpose of which is to form a happy and eternal family or household based on the One Godhead [3]. The heterogeneity of Indonesian society has led to several laws governing marriage. The enactment of Law Number 16 of 2019 concerning Marriage is the embodiment of the unification of the marriage law to answer all needs regarding regulations related to marriage in Indonesia. However, it does not contain rules regarding interfaith marriages.

The marriage regulation for the Indonesian people is Law Number 16 of 2019 concerning Marriage, which is officially valid from the date of promulgation, which is October 14, 2019 in Jakarta. The law has been legally valid for the Indonesian people, and has become part of positive law. This marriage law, in addition to laying down principles, also accommodates principles and provides a legal basis as a guide and applies to various groups of Indonesian society. Where in the Act regulates the principles of marriage itself, joint property of husband and wife in marriage and the relationship of parents with children and so on.

The conception of Indonesian law, the issue of marriage has received national legal regulation, namely Law Number 16 of 2019 concerning Marriage (Marriage Law). Along with the increasingly complex development of Indonesian society, the problems that occur are also increasingly complex. Including the complexity of marital problems. Various types or cases of marriage in Indonesia that deserve to be discussed, because marriage is a legal act that causes cause and effect between the couple doing the marriage and the country inhabited by the couple, one of which is interfaith marriage which has recently become a phenomenon in Indonesia, both from within the community. artists and ordinary people, even interfaith dialogue activists and educated clergy [4].

Marriage between people of different religions and countries, in this paper is called "interfaith marriages." Interfaith marriage is an inner and outer bond between a man and woman of different religions and countries, causing the union of two different regulations

regarding the requirements and procedures for implementation according to the laws of their respective religions, with the aim of forming a happy and eternal family based on God Almighty [5].

Article 2 paragraph (1) of Law no. 16 of 2019 [6], confirms that marriages carried out on the religious basis of interfaith couples are said to be valid. Religious law is a guideline in carrying out marriages that have full force in Indonesia which is decisive, so the Indonesian people are required to obey the applicable law, not to marry outside of religious law.

Regarding the regulation of interfaith couples in Indonesia regarding the legality of marriage, there is no strict regulation that prohibits interfaith marriages, so interfaith marriages can be carried out through ways, namely circumventing the laws that apply in Indonesia through court decisions.

Customary inheritance law is customary law that contains lines of provisions regarding the system and principles of inheritance law, regarding inheritance, heirs and heirs and how the inheritance is transferred to control and ownership from the heir to the heirs [7]. Therefore, inheritance law is based on the principles and various forms of customary law inheritance systems, the diversity in the form of customary law inheritance systems will have different consequences, then inheritance law must be adapted to the respective customs and cultures that already exist in the area. accompanied by the advantages and disadvantages of the traditional inheritance system.

One of the customary inheritance laws that we can learn is the Balinese Customary Law, the Balinese Indigenous community adheres to a patrilineal or patrilineal family system. In Bali only adhere to purusa and predana. These two systems are closely related to the system adopted in marriage law and also inheritance law. Inheritance is only given to heirs who are entitled to inherit the property, but if the heirs have different religions then this has a big influence on inheritance.

The influence of this religious conversion has an impact on the inheritance system because most people in Indonesia still adhere to the patrilineal system or the inheritance distribution system from the male lineage [8]. Experts argue that the principle of lineage that applies in the community concerned still often influences the customary law of inheritance.

Interfaith marriages can cause problems or differences of opinion in terms of inheritance distribution. Related to research by Sudiatmaka, Adnyani and Wulandari [9], concluded that in Hinduism, the heirs who are prioritized are men and have certain criteria and the inheritance system is the patrilineal principle (transfer of inheritance through one direction only from the line men only), whereas in Islam it is a bilateral principle (transfer of property through two directions from the male and female lines). Interfaith marriages have occurred in various regions in Indonesia, even giving rise to various differences of opinion, these differences of opinion can be seen in terms of inheritance regarding inheritance. Based on data obtained through statistics at the Department of Religion of Buleleng Regency in 2020, in the village of ± 21 person or 4,51% Buddhists in the village.

Interfaith marriages invite a lot of debate in the community, many parties oppose the occurrence of interfaith marriages, because it is feared that interfaith marriages will cause problems that are difficult to resolve. One of the problems that will arise is related to the validity of marriages and inheritance from interfaith marriages. There are various differences in views regarding interfaith marriage, so in this research with the Basic Research scheme, we

examine more deeply about interfaith marriages in the village of Alatkger, especially from the perspective of Balinese Customary Law. The findings of this study are expected to be recommended as a form of mutual consensus in Balinese Customary Law on the inheritance rights of children born from interfaith marriages in Bali in general and in the village of Alatkger, Buleleng District, Buleleng Regency in particular.

2. Method

The type of research used is empirical juridical research, namely legal research that puts the law as a building system of norms. The norm system that is built is about principles, norms, rules from laws and regulations, court decisions, agreements, and doctrines (teachings) related to the problems to be discussed, and also a field approach to obtain information as supporting material. The type of research used by the author in this study is a type of empirical legal research, namely research that looks at a legal reality in society. To obtain the necessary information or legal materials that are relevant and relevant to the issue of inheritance rights for children born of interfaith marriages (Case Study in Reasons Village, Buleleng District, Buleleng Regency).

This type of research is an empirical juridical research with the Undiksha DIPA Basic Research scheme. This study uses the approach method, which consists of: the legislation approach and the conceptual approach. 1. Legislative approach (Statute Approach), which is an approach that examines laws and regulations related to the problems that will be discussed in this research. The Legislative Approach (Statute Approach), is carried out by examining all laws and regulations related to the issues discussed, in the statutory approach it is necessary to understand the hierarchy and principles in the legislation. 2. Legal concept analysis approach (The Analytical and Conceptual), which is an approach that departs from the views and doctrines that develop in the science of law.

The views/doctrines will clarify ideas by providing legal understandings, legal concepts, and legal principles relevant to the issue of inheritance rights for children born from interfaith marriages (Case Study in Reasons Village, Buleleng District, Buleleng Regency). Sources of legal materials in this study consist of: 1. The primary legal material used in this research is data obtained directly from field research. This research was conducted by conducting interviews with informants at the research location. Informants are people or individuals who provide data information needed by researchers to the extent that they know. Related interviews were at the Ministry of Religion of Buleleng Regency and the community in the village of Alatkger, Buleleng District, Buleleng Regency, namely children born from interfaith marriages and families who carried out interfaith marriages. 2. Secondary sources of legal materials are data obtained from library research, namely by collecting data and laws and regulations, scientific books, and expert opinions related to the issues discussed. In this study, secondary legal materials are sourced from: 1) the 1945 Constitution of the Republic of Indonesia; 2) Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration; 3) Civil Code, Burgerlijk Wetboek voor Indonesia 4) IS (Indische Staatsregeling) paragraph 2 b (Staateblad1925 No. 415 Juncto. 577); and 5) Balinese Traditional Inheritance Law.

The technique of collecting legal materials has a close relationship with the sources of legal materials, because with the collection of legal materials, the necessary supporting legal materials will be obtained which will then be analyzed and adjusted to the expected goals

or desires. Viewed from the perspective of its nature, the specifications used in this study are descriptive analytical research, namely research that aims to describe the real situation, then the legal material obtained is analyzed qualitatively. The point is that research that describes the reality that happened is analyzed so as to produce legal research materials based on facts in the field. 1) Document Study Techniques The technique of collecting legal materials with this document study is closely related to the sources of data used, legal materials obtained by reading, identifying, and understanding legal materials in the form of literature, laws and regulations that have relevance to research problems related to inheritance rights. children born from interfaith marriages (Case Study in Reasons Village, Buleleng District, Buleleng Regency). 2) Observation/Observation Techniques The observation technique is an observation that is carried out intentionally and directly to obtain information that you want to study relating to the inheritance rights of children born from interfaith marriages (Case Study in Reasons Village, Buleleng District, Buleleng Regency).

3. Results And Discussion

Traditional Inheritance in Bali until now It adheres to the Patrilineal System. System Patrilineal, that is, the system lineage/family that draws a line descendants of male ancestors. This system, the position of the party's influence men are very prominent [10]. The provisions of customary inheritance law in patrilineal society determines that only male descendants are entitled to inherit inheritance. Heirlooms can distinguished between high inheritance and heirloom low. High Heirloom Treasure is a treasure a relic from the ancestral era, which because of his condition, his position and inappropriate and inappropriate nature divided. Whereas Low inheritance is a treasure that left in the generation above the father, For example, grandfather's inheritance or grandmother whose condition, position and is not absolute to be divided, either mastery or use or may also be the owner [11].

In terms of receiving the Bendesa customs and Prajuru/traditional administrators as well as community leaders at the research site there are still receiving or those who are still can't accept the content of the decision The Great Assembly III/2010 MUDP Bali the. But the one who receives the Decision it's just one of the traditional village chiefs with reason because according to thought personal and the traditional village chief are intellectuals. Decree No.01/Kep/PSM-3MDP Bali/X/2010, October 15 of this 2010 which reads "Balinese women accept" half of purusa's inheritance after cut by 1/3 for heirlooms and preservation interests. Only if people Balinese women who convert to other religions, they are not entitled to inheritance rights. If his parents are sincere, stay open to giving souls and/or voluntary provisions" [12].

This decision does give justice Balinese women's gender and rights noticed. But there is still Bendesa customs and traditional warriors and leaders community in Bali Aga Village, Regency Buleleng who still can't accept Contents of the Decree of the Great Order III because it is based on an awigawig and dresta which is still recognized by customary manners. Awigawig Pakraman Village that's what the community holds strong It is customary to maintain that only sons (Purusa) have the right to inherit.

In addition, if researched to the roots, the grass of the people in Bali Aga Village Buleleng Regency is still a lot unable to receive the contents of the Decision the Great Assembly III/2010 MUDP Bali regarding the position of Hindu girls Bali in inheritance because of culture crystallized paternalism so Decision The Great Assembly III/2010 MUDP

Bali it is difficult to implement so there is the saying "mule keto early child" (indeed like that here). Balinese people's view heir is a father (male) [13]. This understanding seems to be based on thought that in the kepurusa kinship system which is patriarchal, that the father is head of the family, breadwinner and owner family property inherited from generation to generation. In this logic, the inheritance is inherited through the male line or pancer, so that all property belongs to men, while women are not property owners. Before marriage, daughters are property and responsibility of his father, after marriage belongs to her husband. This view based on the provisions of Article 3 Chapter IX The Manawa Dharmasastra which reads : His father who protected him while he was still small and when she grows up it is her husband who protect and his sons protect after he is old, women are never worthy free. Observing Article 3, women unfit as a property owner because always in the responsibility of men [14].

Giving to children women depend on the agreement and family considerations

Giving to children women depend on the agreement and family considerations as well as the terms at the research site, namely Girls are not given a place but given their contents which means people old people can give away treasures but not inherited from generation to generation. By indirectly actually the people in Bali Aga Village, Buleleng Regency has put into practice the contents of the House Decree Great but not exactly the same with the contents of the Supreme Order's Decree III/2010 MUDP Bali regarding the position of children Balinese Hindu women in inheritance.

Sometimes it's so sad for parents to his daughter. If child married women are given provisions in the form of moving objects such as cars as well as motorcycles. Indirect giving not to girls same as men but wisdom parents who provide supplies to his daughter was accepted by boy [15]. The soul of the fund is a treasure luggage brought in marriage as provision and hope with inheritance by daughter those who marry out have status with a new family (family husband). Giving Soul funds or grants to people who are not heirs can given as long as within the limits worthy and does not harm the heirs.

It's a kind of legitimacy portie in the Code of Law Civil Code (KUHPerd). Decent size according to jurisprudence is as much as possible one third of the total property the estate of the heir based on the Decision Kertha Singaraja Court No. 81/Civil, November 24, 1939, inheritance which can be inherited individually by heirs (individual inheritance system) is a valuable inheritance non-magical-religious [14]. Based on Supreme Court Decision August 23, 1960, No. 225 K/Sip/1960, namely the grant does not require approval of the heirs, no grants resulted in the heirs of the beneficiary no longer entitled to the inheritance of Sipengibah and testamentary grants are not allowed harm the heirs of the heir [15].

Meaning in Court Decisions and Decisions the Supreme Court showed that the grant process can be granted for girls and Decision it is clear to see girl for get a gift from someone his parents without being hindered by the consent of the heirs (Purusa), as well as the rights the girl started to continue noticed by giving a wisdom.

If wisdom continues implemented and implemented will be reflected family spirit and legal character Dynamic custom, which means law In principle, the custom is continuous change and development through decisions or settlements that issued by the community as a result brainstorming through deliberation, so make a good contribution for the process of child development girls in Bali.

4. Conclusion

Village Reception customs and Prajuru/traditional administrators as well as Village community leaders in Bali Regency Buleleng still can't receive contents Decree of the Supreme Order III/2010 MUDP Bali regarding the position of children Balinese Hindu women in inheritance, because of the paternalistic culture that has crystallize until Decision The Great Assembly III/2010 MUDP Bali it is difficult to implement so there is the saying "mule keto early child" (indeed like that here). This is what lead to a MUDP Decision it's hard to get to the root the grass in the district Buleleng.

Heritage in Bali Buleleng Regency based on dresta, awig-awig and habits that have been passed down from generation to generation so that they have not realizing the contents of the custodial decision Agung III/2010 Bali MUDP related Balinese Hindu girls position in Inheritance. But sometimes children women in the district Buleleng is indirectly given a voluntary provision of wisdom from his parents and male heirs (Purusa).

The decision is not give an implication to the people women in Bali Regency Buleleng. This is proven by not there are women who dare to sue to get inheritance rights in each family and the MUDP decision it is a formal juridical and the existence of the Pakraman Village Council (MDP) This is regulated in Regional Regulation No 2001 concerning Pakraman Village, so that the Pakraman Village Council (MDP) legal existence in the eyes of the law and Apart from that, decisions The Pakraman Village Council (MDP) is binding on the Traditional Villages in Bali.

For Indigenous Bendesa and Prajuru/Traditional Administrators in Bali Buleleng Regency, it is recommended that socializing the contents of the Great Pesamuhan III/2010 MUDP Bali regarding the position of children Balinese Hindu women in Inheritance, so that customary manners know clearly about the contents of the Decision. For indigenous peoples in Bali Regency Buleleng is advised to start considering girls by giving a policies in the form of provisions voluntarily at the time he married and even though not in the form of inheritance but it will be very respect and value children women in Bali Regency Buleleng, so that gender justice can be well realized. For the Main Assembly Pakraman Village (MUDP) is expected to socialize the contents of the decision The Great Assembly III/2010 MUDP Bali regarding the position of Hindu girls Bali in Heritage in Bali Buleleng Regency, so that the Balinese people.

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