

The Position Of Women *Sentana Peperasan* (Appropriate Children) View From The Perspective Of Bali Traditional Health Law

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ABSTRACT

The presence of children in a family is the most coveted thing by every married couple. Various efforts can be made by humans to obtain children, one of which is by adopting children. One of the goals of adopting a child is none other than as a successor to the offspring and heirs of his adoptive parents. In Bali, the adoption of a child has a separate legal relationship between the child and his adoptive parents. Through the Dewa Saksi ceremony, religiously the child will become the biological child of his adoptive parents. In addition, even though Bali adheres to a patrilineal system, adopted daughters have the opportunity to be the main heirs in their adoptive families, namely by being made *sentana rajeg*. *Sentana rajeg* is a condition in which the daughters are given the status of sons (*purusa*) in *Nyeburin* marriages in Bali. Thus, the adopted daughter can be domiciled as the main heir in the adoptive family. To find a solution to these problems, therefore an analysis is needed regarding the position of adopted daughters in Balinese customary inheritance law. The method used to compile this article is literature study or literature study. The result of this research was through the decision of *Pasamuhan Agung III/2010*, the position of the woman can be one of the heirs and get a certain portion of the inheritance without having to be made a *sentana rajeg* first.

Keyword: Adat Bali Inheritance law, Adopted children, Balinese women.

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1. INTRODUCTION

The presence of children in a family is the most coveted thing for every married couple. However, when viewed from the reality, not a few married couples have not or are not blessed with children at all. To overcome these obstacles, efforts that can be made to have children are by adopting children. The purpose of the adoption or adoption of a child is nothing but a complement to a family because children can be a source of happiness. In this case, later the adopted child is also expected to be able to take care of his adoptive parents in old age, inherit property, and even to

continue the lineage of the family who adopted him.

As a country that recognizes the existence of customary law community units, Indonesia itself has various customary law rules, particularly related to the position of adopted children (Suwendi, 2021). From these various regions, views on adopted children differ. For example, the *Minangkabau* tribe is prioritized for girls, even for adoption, women are prioritized, because they adhere to a matriarchal system.

On the other hand, in Bali the family system adopted is patrilineal, which means following the *purusa* lineage, so some Balinese indigenous people give priority to

adopting a son. In Balinese customs, boys have a duty in all forms of worship of their ancestors, therefore as the successor of descendants, boys have the right to be domiciled as the main heirs in the family. It should be noted that in Bali itself, it is rare to find a girl who, if she already has a brother, will inherit from her parents. This is because, based on the patrilineal family system adopted in Bali, in marriage the girls tend to follow the men. So all forms of dependents or expenses incurred by girls will be the responsibility of the men. However, this condition will also cause its own problems, especially for families who only have adopted daughters, if they fully follow this patrilineal system then the families who only have adopted daughters will be disadvantaged because they cannot continue their offspring. To find a solution to these problems, therefore an analysis is needed regarding the position of adopted daughters in Balinese customary inheritance law.

2. METHOD

The method used to compile this article is literature study or literature study. Literature study is to examine sources, be it books, articles, and other references related to the adoption of daughters and their position as heirs based on customary law in force in Bali.

3. RESULTS AND DISCUSSIONS

3.1 Nyentananyang (Child Adoption) System in Balinese Customs

Adoption of a child is a term taking a child from another person to be cared for and cared for like a biological child in the adoptive family. In Balinese customs, adopting a child is known as *nyentanayang*, *meras pianak* or *meras sentana*. The word *meras* comes from the word *peras* which

means offerings (*banten*) which serves as a symbol that the two adoptive parents have recognized the child as their adopted child. While the words *pianak* and *sentana* have the same meaning, namely children / descendants. For the term adopted child in Bali, it is known as *sentana peperasan*, namely a child who has passed the *pemerasan* ceremony (adoption of a child) (Winata, 2012).

Because Bali adheres to a patrilineal family system, to adopt a child is taken from the husband's family (*purusa*). However, currently adopting children can be done from the wife's relatives, this condition is allowed but provided that it is still within the scope of the husband's family. This is because, as long as they are in the same family clump, the adopted child can still maintain a strong bond with his previous ancestors. If the wife is not a relative with the husband's family, then the adoption of children cannot be allowed. The exception exists and arises because Bali itself has traditionally adhered to a *patrilineal* family system.

Based on the Supreme Court decision Number 696K/SIP/1973, whether or not a child adoption is legal in Bali must meet the requirements for adoption based on the local customs, namely the presence of a *dewa saksi*, *manusa saksi*, and *siar* (Rusmayanti, 2012). *Dewa Saksi* is the most important requirement in adopting a child. Evidence that the *widhiwidana* (*dewa saksi*) ceremony has been carried out is by making a letter of extortion or a legal letter of customary adoption by the local village officer. Without this *widhiwidana* ceremony, the adoption of a child cannot be legalized. Meanwhile, *manusa saksi* is an agreement and also a testimony from various parties who have an interest. And the term *Siar* is the announcement of the

adoption of a child that took place in the local village.

In the ceremony of the *dewa saksi*, it implies that religiously the child will be released from the bonds of his biological parents, relatives, and also his ancestors. After the ceremony of the *dewa saksi* is carried out, a legal bond arises between the adopted child and his adoptive parents, including in terms of inheritance law (Komang, 2020). So that legally the relationship between the child and his biological parents will be severed, and result in the end of the inheritance bond between the two parties.

This is the hallmark of the adoption of a child in Balinese customary law, if we compare it with the adoption of a child based on customary law outside the area of Bali, the child does not have legal consequences like in Bali. The position of the adopted child is only part of the adoptive family and cannot have the status of a biological child.

3.2 Balinese Traditional Inheritance Law System

As part of the customary law community units, in Indonesia the inheritance system will be influenced by the family system adopted in each region. The family system here is defined as a way to draw a lineage, so that it can be known with whom a person has a family legal relationship (Sujana, 2017). In Indonesia, there are 3 family systems, namely matrilineal, patrilineal and parental. If matrilineal, then the heirs are based on the mother's lineage. If it is patrilineal, then the heirs are based on the father's side. Whereas parietal, the heirs are based on the father or mother (Santika et al., 2018).

The essence of inheritance in customary law communities is blood relations. So, the main heirs in Balinese

customary law are biological children. Based on the patrilineal system adopted by Bali, the heirs who are prioritized are men, on the other hand women cannot be used as the main heirs, and even many of them do not get a portion of the inheritance. However, customary law in Bali is unique from other regions in Indonesia, namely that there are exceptions for families who do not have sons. If a family only has a girl child, then the solution is that the child is made as *sentana rajeg* through *Nyeburin* Marriage. This term means entering the male party into the female family clump, which results in an exchange of positions, namely women as *pradana* and men as *purusa*. When the woman has become a *pradana*, she has the right to be the main heir in her family. On the other hand, for husband and wife who do not have children, the family can adopt a son who comes from the husband's relatives. This is in line with the statement of Paswara Residents of Bali and Lombok in 1900. Article 11 of the Paswara states that a person is allowed to receive *sentana* (adopted children) only from relatives of the *purusa* party (Rusmayanti, 2012). If it deviates from these provisions, then the adoption of a child is allowed with the approval of the extended family or with the permission of the government.

In inheritance law based on Balinese customs, there are three groupings of inheritance that are inherited by the heir to his heirs. First, *tatamian* treasures are things of magical and religious value. Which includes *tatamian* treasures are sanggah, merajan, kris, kawitan etc. Second, innate property (*tatadan*) is property that is inherited on the basis of love and the gift is based on sincerity, this type of property is generally prepared as a provision for the child's life in the future. Third, *drue gabro*

assets, namely assets produced during marriage, these assets are not only goods but also obligations and rights (*swadarma* and *swadikara*) (Sukerti & Dkk, 2016).

3.3 *Sentana Peperasan (Adopted Children) of Women in Balinese Traditional Inheritance Law*

In Bali itself adheres to the principle of patrilineal kinship, so adopted children are prioritized for boys. So what if in the *purusa* family there are no sons who want to be adopted and it is only possible to adopt daughters? As time goes by, adoption of daughters has occurred in many Balinese indigenous peoples. This is a breakthrough against the values of Balinese customary law in accordance with the progress of people's views. In Balinese customs, the consequence of adopting a child here is that all forms of rights (*swadikara*) and obligations (*swadharna*) of the adoptive parents will be passed on to the adopted child. Thus, actually *sentana* children, whether adopted daughters or sons, get the same position and rights as biological children.

Although most Balinese people use the patrilineal system as part of their family system, it is possible to adopt a daughter, especially as an heir for the adopting family. In Bali itself, there is an inheritance solution for families who only have daughters, namely by making it *sentana rajeg*. *Sentana rajeg* is a condition where girls will be set as boys (*purusa*). Thus, the adopted daughter can be made the main heir in the adoptive family.

Previously, in Balinese customs, a daughter (both adopted and biological), before being made a *sentana rajeg*, she could not be made the heir of the family. However, along with the development of people's thinking, the current position of girls is allowed to be one of the heirs and

get a certain portion of the inheritance without having to be made a *sentana rajeg* first. This is in line with the Decree of the Main Assembly of Desa Pakraman Bali, No. 01/KEP/PSM-3/MDP Bali/X/2010. That a woman (both biological children and adopted children) is entitled to a portion of the inheritance rights of men (*purusa*) after deducting 1/3 for inheritance (Lesmana & Lemes I.N., 2016). If the woman decides to follow another religion, then she cannot be one of the heirs. However, if it is sincere, both parents are allowed to provide life provisions for their children voluntarily.

This indicates that customary law can provide a great opportunity in an effort to realize community justice based on the principle of equality for both men and women (Arum, 2021). In addition, inheritance of adopted daughters can be permitted as long as the child does not forget his rights and obligations to his adoptive parents. Based on customary law in force in Bali, the obligation of an adopted child cannot be separated from his obligation to take care of his adoptive parents when they are old, to perform a cremation ceremony as a form of respect for their adoptive parents when they die, and to be able to fulfill their obligations in worshipping their ancestors. When it has fulfilled its obligations as an adopted child according to Balinese customary law, then the child has the right to become an heir in the adoptive family.

4. CONCLUSION

The existence of children in a family is considered important for the continuity of the lineage of both parents. Various efforts can be made by someone to get a child, one of them is by adopting a child. In Bali, adoption of a child has its own legal ties to the child and the adopting parents. Through

the *DewaSaksi* ceremony, religiously the child will become the biological child of his adoptive parents and the child is released from his ties to his parents and previous ancestors. So that the *swadarma* and *swadikara* of the adopted child are obtained as if they were biological children. Balinese customary law in the adoption process is considered appropriate and fair for both girls and boys, and is expected to serve as an example for other regions in Indonesia. Although Bali adheres to a *patrilineal* system, it does not rule out the possibility of adopted daughters being the main heirs in their adoptive families, namely by being used as *sentana rajeg*. Thus, the adopted daughter has the right to become the main heir in her adoptive family. In addition, over time, the position of daughters (both biological and adopted) in inheritance in Bali has changed slightly. Through the decision of Pasamuhan Agung III/2010, the position of the woman can be one of the heirs and get a certain portion of the inheritance without having to be made a *sentana rajeg* first.

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