

Implementation of the Validity of the Belis System Marriage Related to the Reduction of Inheritance Rights on Land in Hambapraing Village, East Sumba Regency

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Abstract

Indonesia has cultural diversity that is reflected in marriage traditions, including belis, which is an important dowry in the customs of the people of Hambapraing Village, East Sumba Regency. Belis not only has a material value, but it is also symbolic, reflecting the appreciation and binding of the family relationship between the bride's family. Although national law through the Marriage Law regulates the conditions for the validity of marriage, traditional traditions such as belis are still considered valid if they meet the provisions of religious and state law. This study examines the validity of marriage with belis and its impact on inheritance rights, especially in patrilineal societies that prioritize boys as the main heirs. Girls generally receive a smaller share of the inheritance, depending on the gift from their parents or brother. Customary law is recognized by the 1945 Constitution and the UUPA, as long as it does not conflict with the national interest. With empirical legal research methods and conceptual approaches, this study combines primary and secondary data to analyze the interaction between customary law and national law. The results showed that marriage with belis was legally legal, with belis reflecting the value of nobility and family interaction in society.

Keywords : Berlis; Patrilineal Inheritance Rights; Traditional Marriage

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1. Introduction

Indonesia is a country rich in various varieties ranging from ethnicity, race, religion, and culture/customs, each of which is different, in carrying out marriage. Every region in Indonesia when carrying out the marriage process, is always filled with a very sacred and thick atmosphere. This is due to the power of customs, which have been believed by the people for generations, Indonesia as something that must be carried out by the community.¹ Local wisdom has an important role in strengthening the nation's identity and must be explored, studied, and revitalized to face the challenges of globalization. The question that arises is whether local cultural values are still relevant in solving problems in the global era, especially in the process of marriage customs such as the giving of "Belis" or dowry in Hambapraing Village, East Sumba Regency. In the village, customary law stipulates that only boys are entitled to inheritance, while girls do not get inheritance rights because they are expected to marry and follow their husbands. The

¹ Salman, R. Otje, 1993, Kesadaran Hukum Masyarakat Terhadap Hukum Waris, Alumni, Bandung, hal 7.

distribution of inheritance is sought through family deliberation to maintain social harmony and peaceful settlement.

This is very different from the inheritance of BW law and Islamic law where the inheritance must be distributed when the heirs have died. If the inheritance is given when the heir has not passed away, then it is called an ordinary gift or in Islamic law it can be called a grant. One of the legal bases for this is article 832 of the Civil Code which reads:²

"According to the law, those who have the right to become heirs are blood relatives, both legal and extramarital, and the husband or wife who lives the longest, according to the following regulations. If the blood family and the husband or wife who lived the longest are absent, then all the inheritance belongs to the state, which is obliged to pay off the debts of the deceased, as long as the inheritance is sufficient for it".

The term "Belis" is an important element in marriage, symbolizing respect for women as well as bonding relationships and family. Belis must be given by men to women's families as a symbol of marriage. In the Wewewa tribe on the island of Sumba, belis is the main condition of marriage, and in many cases, marriage is based more on tradition than love. Each village in Sumba has differences in the implementation of the belis tradition, but this tradition remains a cultural heritage that strengthens kinship, even though it has undergone social, cultural, and economic changes. Mamoli, which has been part of the dowry for hundreds of years, varies depending on social status, with prices ranging from Rp 25 million to Rp 100 million per package. Marriage models such as "piti maranggangu" and "tama rumbak" suggest that belis also reflects social status, where the number of mamolis depends on the woman's family status. The belis tradition is different from other traditional marriages in Indonesia, and although it has changed, belis still plays an important role in East Sumbanese traditional marriages.

Ideally, the validity of marriage is governed by Article 2 of the Marriage Law, which includes the conditions in Articles 3 to 10, including prohibitions that must be avoided. This Marriage Law applies to all communities in Indonesia, including Hambapraing Village, East Sumba Regency, which has a tradition of "Belis" in marriage. However, in reality, the people of Hambapraing Village consider marriage valid if "belis" has been given by the groom to the bride's family. "Belis" is seen as the bride's absolute right and groom's obligation, consisting of money, animals, and goods as a condition of marriage. This conflict between the ideals of national marriage law and local customs raises questions regarding the validity of "belis" marriage and its impact on the inheritance rights to land, which is the focus of this research. The research will examine the validity of the marriage and its legal consequences on the decline of inheritance rights in Hambapraing Village.

2. Method

According to Soerjono Soekanto³, that a legal research is a scientific activity based on certain methods, systematics, and thoughts, which aims to study a certain law or signs with an analytical pattern.

Legal research consists of two elements, namely "research" which means careful and careful action, and "law" which refers to the norms established and enforced by public authorities to govern society. The purpose of legal research is to find relevant legal rules, principles, or doctrines in answering the legal problems faced. In empirical law research, law is seen as a part of society's behavior that can be analyzed through everyday interactions. This research uses a conceptual approach, which focuses on legal views and doctrines to analyze problems arising from vague norms.

The data sources in this study consist of primary data, obtained directly from the field through interviews and observations, as well as secondary data, which includes relevant research results and scientific papers. The legal materials used include primary laws such as laws, secondary laws in the form of scientific research results, and tertiary laws such as bibliographies and dictionaries.

² Lihat Ketentuan Dalam Pasal 832 KUHPerduta

³ Soerjono Sukanto, 2014, Pengantar Penelitian Hukum, Universitas Indoensia, Jakarta, Hal. 54

The data was collected by following a hierarchy of laws and regulations and using snowball techniques to search for relevant literature.

Data analysis is carried out by a descriptive method, where legal events are described in accordance with applicable legal norms. In addition, legal construction techniques are used to expand the application of legal rules in relevant contexts. After the data is classified, verified, and analyzed, relevant conclusions are drawn to answer the problems raised in this study.

3. Results and Discussion

The validity of Belis' marriage is related to the decrease in inheritance rights to land in Hambapraing Village, East Sumba Regency

In Indonesian, marriage comes from the word 'kawin' which according to the language means to form a family with the opposite sex; have sexual intercourse or have sex. Marriage is also called 'marriage', derived from the word nikah which according to the language means to collect, include each other, and is used to mean sexual intercourse (*wathi*). The word 'nikah' itself is often used for the meaning of *coitus*, as well as for the meaning of the marriage contract.⁴ Marriage is a legal relationship between a man and a woman for a long time.⁵ Marriage is the behavior of creatures created by God Almighty so that life in the world multiplies.⁶ Article 1 of Law Number 1 of 1974 concerning Marriage states that 'Marriage is a bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead'. Based on all the definitions mentioned above, it can be understood that marriage is a legitimate relationship between a man and a woman to form a happy and eternal family as husband and wife based on the One Godhead.

Marriage is a bond between a man and a woman that has legal consequences, so its validity must be clearly regulated to create certainty, benefits, and legal protection. Article 2 of the Marriage Law states that marriage is valid if it is carried out according to the laws of their respective religions and recorded in accordance with applicable regulations. In addition, the validity of marriage is also regulated in Articles 3 to 7 of the Marriage Law which include the conditions for the validity of marriage, including licensing for husbands who want to have more than one wife and the consent of both the prospective bride and parents if the bride is not yet 21 years old. Articles 8 to 10 of the Marriage Law prohibit marriages that have blood relations or conjugation, as well as multiple marriages without court permission. Although the provisions of the national law clearly regulate the validity of marriage, the people of Hambapraing Village, East Sumba Regency, follow customary law that considers marriage valid only if the 'belis' has been given by the groom to the bride's family, pointing out the difference between national and local customary rules.

This is because 'belis' for the indigenous people of Hambapraing Village, East Sumba Regency is seen as a right for the bride that must be fulfilled. This statement is in line with the definition of 'belis' as a sum of money, animals, and goods that will be given by the groom's family to the family of the bride-to-be as a condition for marriage legalization,⁷ At the same time, it is the absolute right of the prospective bride and the obligation of the groom to give it before the process of carrying out the marriage takes place.⁸ The concept of 'belis' in marriage for the indigenous people of Hambapraing Village, East Sumba Regency is a tradition that has noble and sacred values as a form of appreciation for women. However, on the other hand, belis also has a function as a

⁴ Abd. Rahman Ghazaly, 2006, *Fiqh Munakahat*, Kencana, Jakarta, hal. 7

⁵ Subekti R, 1976, *Pokok-Pokok Hukum Perdata*, Intermasa, Jakarta, hal. 23

⁶ Hilman Hadikusuma, 2007, *Hukum Perkawinan Indonesia Menurut Perundangan, Hukum Adat, Hukum Agama*, CV Mandar Maju, Bandung, hal. 1

⁷ Kosmas Minggu, 2022, *Pengaruh Belis Dalam Proses Perkawinan Adat Ende-Lio Dikaitkan Dengan Undang-Undang No: 16 Tahun 2019 Perubahan Atas Undang-Undang No 1 Tahun 1974 Tentang Perkawinan*, *Jurnal Inovasi Penelitian*, Volume 3 Nomor 2, Fakultas Hukum, Universitas Flores, hal. 4854-4855

⁸ *Ibid*,

bond of brotherhood between the two families and as a symbol in uniting men and women as husband and wife.⁹

Belis is an important element in the institution of marriage because the validity of a marriage is if the belis given by the man's family has been approved by the woman's family. In addition, belis is also seen as a tradition that has noble values and also as a form of appreciation for women. However, on the other hand, the belis has a function as a bond of brotherhood between the two families and as a symbol in uniting men and women as husband and wife. Belis is a culture that is still firmly held by the indigenous people of Hambapraing Village, East Sumba Regency, where belis in marriage is a means that can legalize a marriage relationship, without belis a marriage cannot be legalized religiously. The tradition of marriage with the condition of belis is that in the indigenous people of Hambapraing Village, East Sumba Regency, there are two parties, namely the receiving party (the female party), and the giving party (the male party).¹⁰

The male family involved in the giving of belis is Ine ema (father and mother) and Eja weta (sister of the man who is about to get married). The form, method of payment, and amount of belis are not the main focus, because basically belis has a symbolic value in marriage. The most important thing is not the nominal amount of money, goods, or animals given before the wedding, but the family interaction between the bride-to-be's family and the noble meaning of the marriage itself. The most important thing is not the price or the price of belis, but the love, willingness, sincerity and appreciation that each bride and groom and each family give to each other, as well as the noble and transcendental value and marriage.¹¹

Apart from being a symbol of kinship for the second party, belis is also a symbol of appreciation for noble values in a marriage. Marriage experiences the value of sacralization, therefore the need for belis is as a traditional means as a stage that shows the institution and sacralization. After a person gets married, at that time his status will change which will be as a husband / wife and as a father / mother.¹² Belis is a mechanism to transfer and change the status of a woman from her family of origin, either from the father's or mother's tribe, to be part of her husband's tribe. The woman not only changed tribes or clans, but also left her parents and siblings to live with her husband's family. This happens because the indigenous people of Hambapraing Village, East Sumba Regency adhere to a patrilineal marriage system, where inheritance and social status are higher for men than for women.¹³

This change of tribe or clan is the reason why the prospective groom must give belis to the bride-to-be's family. Belis is considered as a reward for the hard work of parents who have raised their children, as well as as a form of respect from the groom-to-be to the bride-to-be and her parents.¹⁴ The tradition of giving belis in the indigenous people of Hambapraing Village, East Sumba Regency, is based on the patrilineal system, which is a lineage that follows the father's side. This patrilineal principle calculates kinship relationships through the male side only, so that all relatives from the paternal side are included in the kinship relationship, while relatives from the mother's side are outside the limit. In contrast, the matrilineal system calculates the lineage

⁹ *Ibid*,

¹⁰ Mathias Jebaru Adon, 2021, *Perkawinan Lili di Manggarai: Antara Hukum Adat dan Agama, DHARMASMRITI: Jurnal Ilmu Agama dan Kebudayaan*, Volume 21 Nomor 1, Sekolah Tinggi Filsafat Teologi Widya Sasana, Malang, hal. 41-46

¹¹ Finsensia Clarita Gharu Leta, dan Oksiana Jatiningasih, 2019, *Fungsi Belis Pada Masyarakat Desa Kurulimbu Kecamatan Ndona Timur Kabupaten Ende Flores Nusa Tenggara Timur*, Kajian Moral dan Kewarganegaraan, Volume 7 Nomor 2, Fakultas Sosial dan Hukum, Universitas Negeri Surabaya, Jawa Timur, hal. 618

¹² Kosmas Minggu, *Op. Cit*, hal. 4856

¹³ Tedi Sutardi, 2007, *Antropologi Mengungkap Keragaman Budaya, Setia Purna Inves*, Bandung, hal.

43

¹⁴ *Ibid*,

through the maternal side, in which the inheritance and social status of women are higher than those of men.¹⁵

The obligation of belis in customary marriage of the people of Hambapraing Village, East Sumba Regency, is different from what is regulated in the Marriage Law, which emphasizes that the validity of marriage does not depend on the giving of belis. Although belis has an important meaning in indigenous peoples, the validity of marriage according to the Marriage Law does not depend on belis. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia recognizes and respects customary law as long as it is in accordance with the development of society and the principles of the Republic of Indonesia. The Marriage Law accommodates customary law in the implementation of marriage, as long as it does not conflict with religious law and national regulations. Although customary law is not explicitly mentioned in the Marriage Law, this regulation recognizes the existence of customary law in marriage through Article 2 and Article 16 paragraph (1).

In the legal context in Indonesia, customary marriages involving belis, such as those carried out by the people of East Sumba, can be considered valid if they comply with the requirements of Article 2 of the Marriage Law. The purpose of belis is actually good, it is not intended to burden or be a barrier to marriage. Belis has a symbolic value, where the form, method of payment, and amount are not the main thing. The most important thing is the family interaction between the bride-to-be's family and the noble meaning of the marriage itself. The most important thing is not the price or the price of belis, but the love, willingness, sincerity and appreciation that each bride and groom and each family give to each other, as well as the noble and transcendental value and marriage.¹⁶

Marriage on the condition of belis, which is considered valid, will have legal consequences, including related to inheritance. In the indigenous people of Hambapraing Village, East Sumba Regency, which adheres to the patrilineal system, the lineage follows the paternal side. Kinship relationships are calculated through the male line, so that men have higher social status and inheritance rights than women. Boys have the primary right to inheritance, and if he dies without male descendants, the inheritance will be passed on to the grandfather or brother of the deceased. Although girls can receive inheritance, their share is usually smaller than that of boys. The distribution of inheritance is often done through deliberation while the parents are still alive, although the decision can be made unilaterally by the parents. This process must be witnessed by heirs, both men and women, as well as neighbors or traditional leaders.¹⁷

The distribution of inheritance to heirs is carried out after the heirs pass away. In the patrilineal inheritance system of the East Sumba community, there are 2 (two) main ways of inheritance distribution:

1. Grant, as a legal act where a person gives an item to another person in accordance with the applicable legal rules. According to Article 1666 of the Civil Code, a grant is an agreement in which the grantor, during his or her lifetime, gives something to the grantee selflessly and irrevocably. This grant is usually given by parents to their children during their lifetime and is done through deliberation and agreement involving all heirs, witnessed by heirs, other heirs, neighbors, and customary chiefs;¹⁸ and

¹⁵ Siany L, dan Catur Atiek B, 2009, *Khazanah Antropologi 1*, Pusat Perbukuan, Departemen Pendidikan Nasional, Jakarta, hal. 62-64

¹⁶ Finsensia Clarita Gharu Leta, dan Oksiana Jatiningsih, *Loc. Cit*

¹⁷ Hilarius Kunto Dewandaru, Paramita Prananingtyas, dan Mujiono Hafidh Prasetyo, 2012, *Pelaksanaan Pembagian Waris Dalam Sistem Kewarisan Patrilineal Menurut Masyarakat Timika, Papua, Jurnal Notarius*, Volume 13 Nomor 1, Fakultas Hukum, Universitas Diponegoro, Semarang, Jawa Tengah, hal. 497-498

¹⁸ Wahyu Azikin, 2018, *Hibah dan Wasiat Dalam Perspektif Hukum Perdata (BW) dan Kompilasi Hukum Islam, Meraja Journal*, Volume 1 Nomor 3, Sekolah Tinggi Ilmu Administrasi Al Gazali Barru, Sulawesi Selatan, hal. 83-84

2. A will, is a person's last message to their heirs. According to Article 957 of the Civil Code, a will is a document that expresses a person's desire for what he wants to happen after his death, and the will can be amended again. The will serves to inform the heirs about the distribution of property, the origin of the property, common property, debts, and other obligations. This will aims to prevent disputes between future heirs. In a will, the person who is about to die can give his inheritance to a person outside of his or her children or heirs, and the heirs cannot protest the decision. This often happens if the heir is a woman. If the heir does not have an heir, the property can be given to relatives, friends, or anyone he wants.¹⁹

In the patrilineal inheritance system, the primary right to inheritance is given to the son. If the heir is a woman, the share she receives is usually small, with inheritance in the form of personal items such as jewelry and household appliances. Women can also inherit land if it is donated by their brother or parents, and the land becomes an absolute right after it is granted. Although girls have inheritance rights, the patrilineal system tends to favor boys, so women only receive a share based on family tolerance.

Article 5 of the UUPA recognizes customary law, including the patrilineal system in land inheritance, as long as it does not conflict with the national interest. In the indigenous people of Hambapraing Village, land inheritance still prioritizes men, while women only receive a share if it is given by the family. The UUPA does not explicitly regulate land inheritance in the context of patrilineal customs, but recognizes the role of customary law as long as it is in accordance with the national interest. In the event of a dispute, the court will consider the applicable customary law and national regulations.

Conclusions

Based on the description, it can be concluded that the validity of marriage with belis in Hambapraing Village, East Sumba Regency, related to the decrease in inheritance rights to land has been fulfilled. Customary marriages that require belis are still considered valid because Indonesian law accommodates customary law, as stipulated in Article 18B paragraph (2) of the 1945 Constitution as well as Articles 2 and 16 paragraph (1) of the Marriage Law. The purpose of belis is positive, not as a burden or hindrance, but reflects family interaction and the noble value of marriage. Because marriage is legal, it arises due to the law related to inheritance. The indigenous people of Hambapraing Village adhere to a patrilineal system, where the main right to inheritance is given to boys. Girls usually only get a small share, but can receive land if donated by a brother or parent.

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¹⁹ *Ibid*, hal. 84-86

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