



Ratio Legis of Heirs Who Change Religion According to Bali Traditional Health Law

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Abstract. The legis ratio of heirs who change religions according to Balinese customary inheritance law based on the author's opinion can be carried out by heirs to heirs who change religions, namely 1) can you give the Soul Fund (Grant) from the heir to the heirs as evidence that there is still a relationship between parents and children, 2) With the severance of the relationship between the heir and the heir according to Balinese customary law, social relations should not be limited as in the life of the community in general. And as an heir, even though he has changed religion, he should still carry out his obligations honestly and correctly as a social relationship between the heir and the heirs.

Keywords: Ratio Legis · Heirs · Change Religion · Health Law

1 Introduction

Talking about inheritance law, especially Balinese customary inheritance law, we can imagine our picture with the discovery of tangible and immaterial assets from one generation to the next. Where the process will require norms as an arrangement.

Indonesia has long been independent, so it is appropriate to have national laws that apply to all citizens. Considering the state of the country which consists of various tribes, different customs, and religions, this is very difficult and takes a long time to achieve legal unification. So that the government until now recognizes the customary law of each region, as long as it does not conflict with Pancasila and the 1945 Constitution, and does not hinder ongoing national development. Therefore, in this case, there are various kinds of customary laws that apply in Indonesia. One of the traditional laws that still exist in the community is Balinese customary law which is inspired by Hinduism [1].

Inheritance is the most difficult part of customary law and everything related to inheritance is closely related to the nature of kinship adopted and inherited property is not only concrete objects that are material but also immaterial. Basically, the heirs according to Balinese customary law are boys looking at the patrilineal kinship line. Because this is influenced by the familial nature of the Balinese Hindu community, only men or purusa are entitled to become heirs.

The function of inheritance law according to the Balinese Inheritance Law is to regulate the forwarding and transfer of material and immaterial goods of the heir to his heirs. The function of the customary law of inheritance according to the customary

law of Bali is aimed at keeping the inheritance intact into one where its use is for the maintenance of the welfare of all family members in the relationship of worshipping the ancestral spirits of the family in one place of worship [2], in this case, Merajan or Pura. The inheritance of parents in a family in Bali is generally held by the eldest son or the youngest son so that the inheritance remains intact. However, this situation also creates problems, namely when the family wants to divide the inheritance, and there is even a possibility that the family or heirs may convert to another religion from the Hindu religion adopted by the heir.

In inheritance according to Hinduism, that a man according to a patrilineal lineage is the heir of the heir (his parents), but in social life that a man cannot become an heir from his parents is caused by moving from Hinduism to other religion. This is closely related to the duties and responsibilities of heirs. In the case of heirs who change religions, this is very difficult in the distribution of inheritance. According to Balinese customary law, changing religion is called the dying of Keaton. Moreover, in terms of inheritance, we also see that there are influential factors that are religious and customary in Balinese society, namely the problem of distributing inheritance assets which are closely related to the problem of maintaining Sanggah/Permerajan, parental care, parenting, and ngayah to Banjar or to other places. Traditional Village.

2 Theory and Discussion

Changing Religions as we know that customary law is dynamic because the development of customary law is very easy to adapt to the lives of the people who support it [3]. Regarding religious freedom in our country, it is regulated in Article 29 of the 1945 Constitution which reads.

The state guarantees the independence of each resident to embrace their respective religions and worship according to their beliefs.

Freedom of religion is the most basic of human rights because freedom of religion is directly human dignity as God's creation. The right to freedom of religion is not a gift from God nor is it a gift from a group. Religion and belief in God Almighty itself do not force every human being to embrace and adhere to it.

With the freedom to embrace religion, people tend to change religions according to their respective beliefs and beliefs. In connection with Article 29 of the 1945 Constitution mentioned above, the person who converts to religion has an effect on individual law, especially in terms of inheritance in accordance with the situation and conditions of the customary law of inheritance in the customary law area.

Changing religion is an act of a person who originally embraced a certain religion and then moved according to beliefs and beliefs to another religion which he later embraced. The legal consequence of the act of changing religion is the religious status of changing religions which he then embraces, as well as causing legal consequences on the law of inheritance.

The family structure in Bali is patrilineal, which is basically based on Hinduism. Therefore, still embracing the same religion as the heir here seems to be a view that as a child, you still carry out your obligations or swadharma as a child. According to I Ketut Soebandi, based on the philosophy of Balinese society, a person who runs the son of a

gym is: "Following the swadharma of a child towards his parents can enjoy his life in old age and more than that, strive for the welfare of his ancestral spirit in the afterlife [4].

A person who converts to religion based on Balinese customary law of inheritance and patrilineal family law in Bali shows that he no longer has anything to do with the issue of inheritance (family lineage) or not as the recipient of the rights and obligations of the heir. After a person converts to another religion, the family relationship that still exists is a relationship that does not involve an inheritance relationship. In the Balinese language, it is said that there is no *makedeng-kedengan* relationship (the Inheritance Family Association) because the rights and obligations of the heirs have been severed due to the change of religion from the heir. The relationship between the child and the parent that still exists is merely a blood relationship or biologically because as a child born to his parents, it is undeniable that the child is his own child. Therefore, in this case, the relationship between a child who converts to religion and his parents despite carrying out obligations to parents is in the context of carrying out moral obligations only. So that it can be said that the relationship that changes religions (boys) is based on the customary law of inheritance and family law by using the terms in the Hindu community in Bali mentioned above in family relationships who still embrace Hinduism with children who have converted to other religions. From what his parents hold is limited to the relationship of rights and obligations, psychological feelings for blood relations and moral relationships. However, the legal status of the relationship between rights and obligations has been separated since a person has converted to another religion from Hinduism which is embraced by the heir.

Changing religion according to Balinese customary law means that a person no longer has a relationship with *sanggah* (*merajan*) which is closely related to the origin of the inheritance. In addition, people who change religion (in this case from Hinduism to another religion), have no relationship with the traditional village and the three heavens.

An heir claiming his rights as an heir, in this right there is a very heavy obligation. Therefore, the main heirs who carry out their obligations are sons who are legal descendants of the heirs who leave the inheritance. Inheritance property which is closely related to obligations, both material obligations and immaterial obligations to the inheritor or ancestor who left inheritance in the form of tangible objects or intangible objects.

Inherited assets, especially heirlooms, have a close relationship that is not limited by time to immaterial obligations or religious obligations to the heirs as well as to religious duties in holy places where ancestors are buried. In this connection, it is required that only the closest family to the heir has natural ties to these obligations.

As for the legal status of heirs who change religion according to Balinese customary law, they are left as heirs. So that the rights and obligations of the heirs are severed, both related to religion, traditional villages, and Balinese culture.

Meanwhile, the legal consequences for heirs who change religion according to Balinese inheritance law cause the loss of rights as heirs and the disconnection of rights and obligations to families and traditional villages, namely not being allowed to use traditional village facilities such as graves, or other facilities related to customs. In this regard too, he has no obligation to carry out what is the obligation of the heir.

The legis ratio of heirs who change religions according to Balinese customary inheritance law based on the author's opinion can be carried out by heirs to heirs who change religions, namely:

1. Can you give the Soul Fund (Grant) from the heir to the heirs as evidence that there is still a relationship between parents and children.
2. With the severance of the relationship between the heir and the heir according to Balinese customary law, social relations should not be limited as in the life of the community in general. And as an heir, even though he has changed religion, he should still carry out his obligations honestly and correctly as a social relationship between the heir and the heirs.

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