

Child Adoption According To Customary Law In Desa Pemo Kecamatan Kelimutu Kabupaten Ende

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ABSTRACT

The execution of child adoption in Indonesia each district one differing from other district since done legalistic of custom going into effect in pertinent district. One of them district is in Desa Pemo. Thought of generally in Java with society which have system of familiarity patrilineal with system of child adoption done do not bodily and do not in cash, however in this district is child adoption conducted by bold and cash. This research target is to know execution of child adoption in endowment in Desa Pemo and to know legal consequences of child adoption in endowment in Desa Pemo. Used by research method is method qualitative since in this research depicted by an event as things have panned out, that is hit execution of child lifting and domicile foster child of according to customary law in Desa Pemo. This research use method of empirical approach juridical that is aim to comprehend that law is do not solely as an a set the legislation order having the character of mere normatif, however law comprehended by as society behavior which symptom in life socialize, always have the interaction and relate to social aspect. Pursuant to research result earn taken by a conclusion that is child adoption in Desa Pemo executed boldly and the case that is done according to customary law in Kabupaten Ende well-held almost always in hand of big family according to line of familiarity patrilineal.

ABSTRAK

Pelaksanaan penangkatan anak di Indonesia setiap daerah satu berbeda dengan daerah yang lain karena di lakukan sesuai dengan hukum adat di daerah yang bersangkutan. Salah satu daerah itu adalah di desa Pemo. Meskipun pada umumnya di Kabupaten Ende dengan masyarakat yang bersistem kekeluargaan patrilineal dengan sistem penangkatan anak di lakukan tidak secara terang dan tidak secara tunai, akan tetapi di daerah ini penangkatan anak di lakukan dengan cara terang dan tunai. Tujuan penelitian ini adalah untuk mengetahui pelaksanaan penangkatan anak di Desa Pemo dan untuk mengetahui akibat hukum penangkatan anak dalam pewarisan di Desa Pemo. Metode penelitian yang digunakan adalah metode kualitatif karena dalam penelitian ini digambarkan suatu peristiwa sesuai dengan kenyataan, yaitu mengenai pelaksanaan penangkatan anak dan kedudukan anak angkat menurut hukum adat Lio di Desa Pemo. Penelitian ini menggunakan metode pendekatan yuridis empiris yaitu bertujuan untuk memahami bahwa hukum itu tidak semata-mata sebagai suatu seperangkat aturan perundang-undangan yang bersifat normatif belaka, akan tetapi hukum dipahami sebagai perilaku masyarakat yang menggejala dalam kehidupan masyarakat, selalu berhubungan dengan aspek kemasyarakatan. Berdasarkan hasil penelitian di ambil kesimpulan yaitu : dari akibat hukum penangkatan anak di Desa Pemo Kecamatan Kelimutu, yaitu: Apabila anak angkat tersebut diangkat dengan tujuan meneruskan keturunan dari orang tua yang mengangkatnya, maka anak angkat tersebut menjadi ahli waris dan berhak atas harta peninggalan orang tua angkatnya.

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I. INTRODUCTION

Indonesia is a country that recognizes the validity of customary law. Customary law is a system of rules in the life of the Indonesian people that comes from customs and is carried out from generation to generation, respected and obeyed by the community. Customary Law is implicitly recognized in the 1945 Constitution of the Republic of Indonesia through a general explanation, which stipulates that: "The 1945 Constitution is a written legal basis, while in addition to that the Constitution also applies an unwritten legal basis. are the basic rules that arise and are maintained in the practice of state administrators, even though they are not written.

Unwritten customary law grows and develops and is rooted in traditional culture as a real embodiment of people's law in the lives of Indonesian people. Every person or couple (male and female) if they are married, then there is a bond of obligations and rights between them and the children born from the marriage.

Marriage according to Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law), is not only a civil act, but also a religious act, because whether or not a Law Number 1 of 1974 concerning marriage refuses the measurement is entirely in the laws of each religion and the beliefs it adheres to.

Marriage is an important event in human life, because marriage is not only related to the personal of the two prospective husband and wife, but also involves family affairs and the surrounding community. In essence, marriage is considered as something sacred and sacred, therefore every religion always connects marriage methods with religious principles. Married couples who have married, generally want to have children or have children from the marriages they have done, but there are also married couples who live together in a long marriage bond but do not get children.

From the marriage of husband and wife, it is expected that they will get good offspring and can continue the inheritance of their parents. A marriage can be said to be imperfect, if the husband and wife do not have the gift of children, because children have a very important position and are one of the goals of marriage. A family is only said to be complete if it already consists of a father, mother and child.

Adoption usually occurs when the husband and wife do not have or do not have children. The desire to have children is a human instinct, everything is the will of God, so the desire to have children is not achieved. To overcome the effort to have children, one of the ways that humans or married couples do to have children is by adopting children or adopting them.

Adoption of children is usually carried out in accordance with customary law that lives and develops in the area concerned. In Pemo Village, Kelimutu District, Ende Regency, Child Adoption in the initial stages, namely: both parents of biological children and adoptive parents hold discussions together at home with both extended families in the matter of asking or taking a child from the child's biological parents to be adopted by Him, if this has been approved or agreed upon by the child's two biological parents, then, it is followed by the next stage where both biological parents and adoptive parents are ready to report to the adat party. and the local government to carry out the traditional ceremonial adoption of children. In the traditional ceremony of child adoption, Mosalaki together with the Village Head/Lurah announced the adoption of a child which was then followed by a ceremony of handing over the child to be adopted by his biological parents and acceptance by his adoptive parents, which was expressed in traditional language by Mr. Mosalaki Ria Tau Dari Nia Bewa Tau Pasa La,e wake from you know the exciting sambu ola na,u Ame you; Which means being the successor to the heirs of his adoptive parents and as a substitute

for the heirs of his parents and will follow everything related to customs or be ready to carry out traditional ceremonies that will be made by the Mosalaki in the customary law area. Customs Official Adoption of the Child.

II. RESEARCH METHODS

This research employs a normative or doctrinal research methodology. Research that examines an existing norm or requirement is referred to as normative research. Because this study is conducted by looking at secondary materials from libraries or other repositories, it is sometimes known as doctrinal research or library research (Irwansyah & Yunus, 2015). and after that, it will be examined in light of the laws and rules that apply in Indonesia (positive law) as well as current theories. By using qualitative analysis, which goes beyond just the stage of data collection and preparation and also includes analysis and interpretation of the data itself, problems are solved and the descriptive approach is put into practice. Qualitative analysis procedures, which are carried out by interpreting, describing, characterizing, and compiling a logical systematic that is tailored to the research objectives, are employed in drawing conclusions from the data and facts acquired in the research done.

III. DISCUSSION RESULTS

Process of Adoption of Children According to Customary Inheritance Law

Inheritance law in Indonesia is still pluralistic, because currently three systems apply inheritance law, namely Customary Inheritance Law, Islamic Inheritance Law, and Book Inheritance Law Civil Code (KUH Perdata). Specifically, customary inheritance law covers all principles, norms and decisions/legal decisions related to the process transmission and control of (material) assets and ideals (non-material) of the next generation the one to the next generation.

Adoption of children in the Lio customary law area in Pemo Village, Kelimutu District Ende Regency, is a legal action that releases children from family ties the parents themselves and put the child into the adoptive father's family, so the child has the status of being a biological child to continue the rights and continue inheritance from his adoptive father.

Adoption Events Children who have been adopted as children by parents pick it up with the hope that the child will get protection, responsibility and the obligation of the child towards his parents in society is to carry out his filial piety and to continue and guard all the assets inherited from the two people he adopted, if his adoptive parents pass away.

It is he must be responsible for always carrying out a good ceremony burial, and traditional ceremonies relating to the death or also with matters other things, but they are in doing the adoption of children choose foster children those who come from close relatives and in choosing prospective adoptive children are free which is wide, provided that the person who raised it still chooses from the adopted child of the person those who are in the area and those who are of the same religion, namely the Catholic religion.

Related to the purpose and true intent of Child Adoption in that area is to have someone as a Substitute, in Lio's traditional language, namely: (*Tau dari nii pase lae, Tau Susu nggugu (bapu's name)*) which means Continuing to act in carry out the Ceremony or Traditional Rituals in the

worship of the ancestors and with acceptance of the adopted child as a member of the association of one group family/descendant of the person who raised him.

strict stipulations about who can adopt children and limits age for adoptive parents, unless the minimum is 15 years. This is based on the results of the interview with some traditional figures and mosaics in the legal area of Pemo Pemo Village Kelimutu Sub-District, Ende Regency, which is of utmost importance to those with families already married and have no children or it can happen to married couples who have children, but only girls, then do the adoption that is, the purpose of a boy is to act as a successor or substitute for their position in to receive all of his inheritance.

Meanwhile, according to the customary law of Lio, in Pemo Village, Kelimutu District, Ende there is no certainty in the customary law provisions that determine the age limit for parents who raise children. But what often happens is husbands and wives who don't having a son may do the adoption in order to continue all tasks and assets inherited from them. (result of interview with Mr. Gaspar Gasa as a Pu,u mosaic in Pemo Village, Kelimutu District on 18 September 2022) In Pemo Village, Kelimutu District, Ende Regency or for Ende Lio Customs that a woman who has never been married cannot do the appointment children, but widows or widowers According to the Lio Customary Inheritance Law it is permissible, but in relationship between nephew or closest family (result of interview with Xavier Peme as Head of Pemo Village on 18 September 2022).

With regard to anyone who can be adopted or adoptees at in general the indigenous people of Lio in Pemo Village, Kelimutu District, Ende Regency in do Adoption only son, this is caused by society that adheres to the male lineage system (patrilineal). To get meet the requirements for adoption of a child is the person who will do adoption or adoption should be eligible to do so.

Even so, when carrying out a child adoption ceremony, one cannot it is determined that the adopted child does not inherit the adoptive parents. adopted child has been dismissed in his position as a foster child can not get his rights back at his original home or his biological parents, if there was no son who is entitled to inherit.

Adoption of children in Pemo Village, Kelimutu District, Ende Regency carried out by the adoptive parent in the hope that the adopted child will be able to continue descendants, accept the obligations imposed by custom and carry out religious social ceremonies at the church or at the house of the adoptive parents and perform traditional rituals, namely giving food to the melting or with the local customary language, namely "*Pati Ka Tii Sepa*" when his adoptive parents passed away (Interview with Mr. Petrus Besu as Mosalaki Koe Li is timeless, September 22, 2022).

According to Mr. Kristoforus Edo as Mosalaki Kago Kao Kula Java said that at the Ceremony of Confirming the Adoption of this Child it is a legal requirement Appointment of a jolt. At this validation ceremony usually attended by leaders custom/community leaders to witness or act as witnesses for the appointment children become bright, such as: mosalaki, Village Head, Traditional leaders, Stakeholders (leaders ceremony), and the families of both parties as well as the local community. (interview results with Mr. Kristoforus Edo on 22 September 2022) With

the witnesses present at the adoption ceremony that, it can be seen that the function of each of these witnesses, namely:

- a. Witnesses from the customary officials are to authorize the adoption of children who related to the child himself.
- b. Witnesses from the official department confirmed this even more corroborating the position of the adopted child later.
- c. The adat holder is to legalize it in relation to religion (ancestor).
- d. Families of both parties are to obtain consent legally and avoid unwanted things in the future.
- e. the local community is an announcement that must be made in the village community so that the community knows there is an appointment son. (Interview with Mr. Xavier Pemo as Head of Pemo Village date, 21 September 2022).

IV. CONCLUSION

According to Customary Law, what remains as an inheritance is not an homogeneous roundness which is inherited in the same way, namely: There are innate assets that are attached to family ties, there are assets that are nurtured in family ties, there are objects that include honors, There are things that are still embedded in the bonds of the legal alliance, in the unity ordinances of the people's arrangement with customary rights that still have an effect on inheritance of assets individuals who have been abandoned by their owners, Inherited assets can be attached to debt, can also carry receivables, If the heir does not have children, then the original items will be returned to his relatives, while the treasures of his livelihood fell into the hands of his spouse or wife who stay. In connection with the above, the author can conclude that inherited property, inherited property, or those objects which are still bound in the fellowship laws with customary rights are still in effect with individual heirs left behind by the owner then the inherited assets in bequeathing must go through deliberation and consensus from each member of the family, and if some of the family members it's still not agreed to be shared, so the inheritance still can't be shared. The aim of marriage in the Lio indigenous community, in principle, is to acquire offspring and thus come to family formation. Marriage not only the affairs of the future husband and wife, but also the interests of the family next to the prospective bride and groom. Especially after the birth of children from this marriage, the bond between the two families became tightly.

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