

Position of Women in Indigenous Customary Law in Nanggulan Village, Klaten District, Central Java



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Abstract Indigenous peoples in Indonesia are very plural, so they have a variety of kinship or kinship forms, which cause diversity in patterns in the inheritance system. In general, the people in Nanggulan Village, Cawas District, Klaten Regency, recognize parental forms of kinship. Namely the balance of position between husband and wife or interesting from the line of father and mother, then there is a similarity in status inherited between boys and girls. However, in Nanggulan Village there were families who when dividing inheritance, only boys received inheritance from their parents, while their daughters did not get a share. This happens because of a factor, that girls who have married and have their own homes with their husbands and children, they are considered capable and do not need their parents' property in the form of houses. Whereas boys who have married, are more prepared to obtain inheritance in the form of a place to live, because they are considered to have more responsibility than their sisters. Then there is the prevalence of a boy who has a status as a husband and must be responsible for providing a place to live or a house for his wife and child.

Keywords: position of women, indigenous customary law, kinship system, Central Java.

I. INTRODUCTION

The inheritance law in force in Indonesia is still diverse. There are three legal systems governing inheritance issues, namely: customary law, Islamic law, and western civil law. The law that applies to the inheritance of someone who has died depends on the inheritance law that applies to the deceased party (Lev, 2017). If the deceased is a community that is still subject to customary law, then what applies is customary inheritance law, while foreign or eastern foreigners apply Western civil law and if the deceased is Muslim then the Islamic inheritance law applies. Indigenous peoples in the territory of Indonesia are very plural, so that they have various forms of family or kinship. The diversity of customary law in Indonesia causes a diversity of patterns in the marriage and inheritance system. The form of customary marriage is influenced by the composition of kinship. The customary form of marriage with honest payments is found in the patrilineal family relationship. The form of the traditional

marriage is found in the composition of the matrilineal kinship. While the customary form of free marriage or mentas and search, is

found in the parental arrangement of kinship. The inheritance system will not be separated from the kinship system adopted by the customary law community in Indonesia. For example: a. The Patrilineal system, the position of the boy in the inheritance law is very prominent; b. The Matrilineal system, the position of the daughter in inheritance law is very prominent; and c. Parental system, the position of boys and girls in the inheritance law is equal and equal. In Central Java, which adheres to a parental kinship system, family law is based on attracting fatherly-mother lines (Poespasari, Hajati, & Soelistiyowati, 2017). Such communities are usually there are ways of marriage and search or free marriage. Namely the form of marriage that is usually a husband and wife who are bound by marriage to determine their place of residence. The parental kinship system adopted by the indigenous people of Central Java - including in Nanggulan Village, Cawas District, Klaten Regency - affects and simultaneously determines inheritance. This is evident, that in general in the area, boys and girls are considered as heirs. This fact is in line with Wirjono Prodjodikoro's view that states that the inheritance in a particular society is closely related to the family nature of the society (Prodjodikoro, 1986). This brings the consequence that boys and girls are seen as heirs, because both are entitled to inherit the inheritance left by the heir. Nanggulan Village, District of Cawas, Klaten Regency, is the area of study, because it is motivated by the lives of its people who still uphold their customs. This is reflected in the existence of the principle of togetherness or communal in the order of life of the people, which further emphasizes the social element to help fellow citizens. So that it can be said that it still has applicable customary law provisions. However, the data obtained is that there is a small proportion of families who when dividing inheritance, only boys get inheritance from the heir, namely their parents, while their daughters receive no share at all. In the people who apply their customary rules, of course they will be in conditions that are in harmony or not facing each other. So that the inheritance of customary law towards equal rights inherited between boys and girls who have long been obeyed, should have a stronger influence on the pattern of life of all residents of the Nanggulan Village, District of Cawas, Klaten Regency. Accordingly, this research aims to analyze the position of girls in the law of customary inheritance in the Nanggulan Village, District of Cawas, Klaten Regency.

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The problems studied in this study are formulated, as what is the position of the daughter of customary inheritance rights in Nanggulan Village, Cawas District, Klaten Regency?, and what factors cause there is no inheritance in Nanggulan Village?

II. RESEARCH METHODS

This research is an empirical legal research using an empirical juridical approach. Empirical legal research is a law identified as patterned behavior or understanding of social meaning. Juridical approach, because this research stems from the principles and principles contained in certain legal rules used to see and examine the problems to be examined. This empirical juridical approach was conducted to outline the actual facts about the position of girls in customary inheritance law in Nanggulan Village, Cawas District, Klaten Regency. Primary data is obtained from informants who are directly related to the problem under study. Data analysis was carried out in qualitative analysis.

III. THEORETICAL FRAMEWORK

The form of customary marriage is influenced by the composition of kinship. In Central Java, which adheres to a parental kinship system, family law is based on drawing a line to the father-mother. Such communities are usually there are ways of marriage and search or free marriage. Namely the form of marriage that is usually a husband and wife who are bound by marriage to determine their place of residence. Has left his home environment, or has been independent from his home family. The inheritance system will also not be separated from the familial system adopted by the customary law community in Indonesia. The patrilineal system that draws the lineage of the male ancestors, the position and influence of men in inheritance law is very prominent. The matrilineal system that draws the lineage of the female ancestors, the position and influence of women in inheritance law is very prominent. Parental/bilateral system that draws bloodlines from both sides, both from the father and from the mother, the position of boys and girls in equal and equal inheritance law, meaning that both boys and girls are heirs from their parents' inheritance (Suparman, 1985). The parental kinship system adopted by the Central Java indigenous people influences and simultaneously determines inheritance, therefore, it applies, that boys and girls are considered as heirs in the view of Central Java traditional law. This fact is in line with Wirjono Prodjodikoro's view which states that the nature of inheritance in a particular society is closely related to the character of family in that society (Prodjodikoro, 1987). This brings the consequence that boys and girls are seen as heirs, because both are entitled to inherit the inheritance left by the heir.

IV. RESULTS AND DISCUSSION

A. Position of Daughter of Customary Rights in the Village of Nanggulan, District of Cawas, Klaten Regency.

Nanggulan Village, Cawas District, Klaten Regency, is one of the government areas located on the outskirts of Klaten

Regency, precisely at the border area with Sukoharjo regency. In general, people know parental forms of kinship. Namely the kinship system is a balance of position between husband and wife or withdraw from the line to the father of the mother (Interview with the former Head of Village, in March 2019). The data above, in accordance with Hilman Hadikusuma, that the kinship system is parental, the blood connection system is not different from the system of descendants of the father and mother and generally free marriage customs apply, where after marriage the husband and wife live independently. Then if you don't have children you can apply for the appointment of male or female children (Hadikusuma, 1987). So that it can be understood parental / bilateral kinship system, is a kinship system that draws bloodlines from two sides, both from the father's side and from the mother's side. Further data is obtained, that generally in the Nanggulan Village community, there is a similarity in inheritance between boys and girls, or in other words the similarity of rights to the acquisition of inheritance from the heir, namely his parents. This is in accordance with the provisions that apply to the parental or bilateral system that draws bloodlines from both sides, both from the father's side and from the mother's side, the position of boys and girls in equal and equal inheritance law, meaning both boys nor daughters are heirs of their parents' inheritance (Suparman, 1985). However, the data obtained is that there are families who when dividing inheritance, only boys get inheritance from the heir, namely their parents, while their daughters have no share at all. This happened to the family of Mr. Yoso who lived in Hamlet Sidodadi, and to the family of Mr. Supardi who resided in the hamlet of Surtakan, Nanggulan Village. Mr. Yoso has 7 (seven) biological children. 2 (two) men and 5 (five) women. All children are married, some live in the local village, and some live outside the city. In 1997, Mr. Yoso's family gathered all of his children for an inheritance sharing meeting. Then it was decided by Mr. Yoso, that his inheritance in the form of two plots of land which had already been built, were given to 2 (two) sons, while his daughter did not receive any inheritance at all. Until twenty years more, five of his daughters did not sue for their inheritance rights from their masters. The status of the inheritance that was received by his son has now been certified for his son. Whereas in the family of Mr. Supardi who resides in Surtakan Hamlet, Nanggulan Village, has two children, namely women and men. His two children were married. Her inheritance is the land that was established by the house, which has been determined to be the right of her son. The daughter of Mr. Supardi also did not sue even though he did not obtain inheritance from his parents (FGD results with heirs, February 2019).

Based on the data above, if it is related to the provisions of customary inheritance law that apply in general in the Nanggulan Village community who know the composition of Parental relations, then both boys and girls from the families of Mr. Yoso and Mr. Supardi should have equal rights to property the legacy of his master. However, the rights which are regulated by customary law are not used by the heirs of their daughters to make a request to their parents to be given a portion of their inheritance.

As understood, that inheritance customary law is customary law rules governing how the inheritance or inheritance is passed on or shared from the heir to experts from generation to the next (Hadikusuma, 1992). Of course there is a separate mystical atmosphere for each family to share inheritance for their children or generations of their offspring. Because customary law is a dynamic law, it can adjust to certain situations and conditions. So when the provisions of customary inheritance law are not carried out by certain families, it does not mean that they must be disputed by the community. The most important thing is the principles of the distribution of customary inheritance are fulfilled.

B. Factors Causing Girls In Nanggulan Village Do Not Get Inheritance

Regarding the causes of the existence of daughters in Nanggulan Village do not get inheritance from their parents' assets, the data obtained as described below is obtained (FGD results with heirs, February 2019). A girl who has married and already has her own home with her husband and children, she is considered capable and does not need her parents' house in the form of housing. Boys who have married, are more prepared to obtain inheritance in the form of a place to live, because it is assumed that boys have more responsibility than their sisters. Because there is a prevalence of the status of a husband as a husband, he must be responsible for providing a living place or house for his wife and child. The process of distributing inheritance by using cumulative principles or togetherness, the principle of deliberation and the principle of expediency, makes one of the causes of the inheritance of daughters not to obtain inheritance. So the most important thing is that girls can accept the results of deliberations while upholding the principle of harmony. The law of traditional inheritance shows features that are distinctive from the traditional mind of Indonesia, which are based on principles arising from the mind that are imbued with communal nature, kinship, unity, and unity. Some of the legal principles that underlie inheritance customary law are as follows. According to the customary law system, inheritance is not as a unit that can be valued with money but is a non-divided entity or can be divided according to type and type and based on the interests of the inheritors. According to the customary law system, inheritance is based on equality of rights, meaning that the rights of each inheritance are needed equally in the process of continuing and operating assets, and are placed on the basis of harmony in the distribution process. Customary inheritance law adheres to the principle of opening inheritance can be done when the heir is alive and after death. So, customary inheritance law does not recognize any time experts demand the opening of inheritance. In the settlement of inheritance using the principles of divinity law, self-control, deliberation and consensus, harmony and kinship, and togetherness of rights (Samosir, 2013). Customary law inheritance is a form of legal system that applies to Indonesian people, especially people who are subject to customary law. Traditional inheritance law is based on or based on the principles of the traits of traditional Indonesian thought, which have a distinctive style, namely communal, religious, concrete, and cash (cash) features. Hazairin said that customary inheritance law has its own style, which is derived from the minds of

traditional people with kinship forms whose ancestral systems are based on patrilineal, matrilineal, and parental / bilateral (Hadikusuma, 1992). With this distinctive pattern that customary inheritance law is different from inheritance law, Islamic law, and the west. These differences stem from ways of thinking and outlook on life, such as customary inheritance law based on collective-communal rationalism, while western inheritance law is based on individualism.

V. CONCLUSION

In general, the people in Nanggulan Village, District of Cawas, Klaten Regency, recognize parental forms of kinship. Namely the kinship system is a balance of position between husband and wife or interesting from the line of the father and mother. The existence of equal status inherited between boys and girls, or the similarity of rights to the acquisition of inheritance from the heirs, namely their parents. However, the data obtained is that there are families who when dividing inheritance, only boys get inheritance from the heir, namely their parents, while their daughters have no share at all. This happened to two families living in Hamlet Sidodadi, and in the Surtakan Hamlet of Nanggulan Village. The causes of the existence of girls in Nanggulan Village did not get inheritance from their parents' assets, namely a girl who has married and already has her own home with her husband and children, she is considered capable and does not need her parents' house in the form of housing. Boys who have married, are more prepared to obtain inheritance in the form of a place to live, because it is assumed that boys have more responsibility than their sisters. Because of the prevalence of boys who have status as husbands, they must be responsible for providing shelter or a home for their wives and children. The process of inheritance sharing uses the principle of family, the principle of togetherness, the principle of deliberation and the principle of expediency, making one of the reasons for the heirs of girls not to inherit. So the most important thing is that girls can accept the results of deliberations while upholding the principle of harmony.

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