

AKIBAT HUKUM PERALIHAN PERKAWINAN NYENTANA MENJADI PERKAWINAN BIASA TERHADAP KEDUDUKAN ANAK KANDUNG DAN HARTA PERKAWINAN MENURUT HUKUM ADAT BALI DI KABUPATEN TABANAN

INTISARI

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Penelitian ini bertujuan untuk mengetahui dan menganalisis faktor-faktor yang mempengaruhi peralihan perkawinan *nyentana* menjadi perkawinan biasa serta menganalisis akibat hukumnya terhadap kedudukan anak kandung dan harta perkawinan menurut hukum adat Bali di Kabupaten Tabanan.

Penelitian ini merupakan penelitian yuridis empiris, yaitu penelitian yang menggunakan data primer yang diperoleh dari masyarakat melalui wawancara, sedangkan data sekunder dalam penelitian ini diperoleh melalui studi dokumen terhadap berbagai bahan hukum. Seluruh data yang terkumpul dianalisis menggunakan metode kualitatif dan dipaparkan secara deskriptif melalui logika berpikir induktif.

Hasil penelitian menunjukkan, faktor-faktor yang mempengaruhi peralihan perkawinan tersebut yaitu, faktor politis, faktor sosial budaya, dan faktor *niskala* (alam gaib). Peralihan karena faktor politis dilatarbelakangi oleh adanya perjanjian, sedangkan peralihan faktor lainnya disebabkan oleh konflik dalam perkawinan *nyentana*. Akibat hukum terhadap kedudukan anak kandung, yaitu bagi (1) anak yang dikandung dan lahir saat *nyentana*; dan (2) anak yang dikandung saat *nyentana* dan lahir saat perkawinan biasa, adalah tetap mempunyai kedudukan hukum di kerabat asal ibunya; sedangkan bagi (3) anak yang dikandung dan lahir pada perkawinan biasa, berkedudukan hukum di kerabat asal ayahnya. Akibat terhadap harta perkawinan, yaitu (1) harta bawaan suami dibawa kembali ke rumah asalnya; (2) harta milik istri saat *nyentana* menjadi harta bawaan dalam perkawinan biasa; (3) harta bersama saat *nyentana* menjadi harta bersama dalam perkawinan biasa; (4) laki-laki yang kembali ke kerabat asalnya tetap diberikan bagian warisan; (5) harta pusaka kerabat istri yang dikelola selama perkawinan *nyentana* tetap menjadi milik kerabat istri.

Kata kunci: perkawinan *nyentana*, perkawinan biasa, anak kandung, harta perkawinan, hukum adat Bali.

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**THE LEGAL CONSEQUENCES OF TRANSITION OF NYENTANA
MARRIAGE INTO REGULAR MARRIAGE TOWARDS THE STATUS
OF BIOLOGICAL CHILDREN AND MARITAL PROPERTY
ACCORDING TO BALINESE ADAT LAW IN TABANAN REGENCY**

ABSTRACT

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This research aims to discover and analyse the factors that effects the transition of *nyentana* marriage into regular marriage as well as analysing the legal consequences against the status of biological children and marital property according to Balinese adat law in Tabanan regency.

This research is empirical juridical research, which utilize primary data that obtained from the society through interviews, while the secondary data in this research were obtained through document studies on various legal materials. All data collected were analysed by using qualitative method and descriptively presented through inductive thinking logic.

The result of this research shows the factors that influence the marriage transition are political factor, socio-cultural factor and the *Niskala* factor (*faerie*). The transition influenced by political factor is motivated by an existing agreement, while other transitions caused by other factors occurred due to conflicts in *nyentana* marriage. The legal consequences towards the status of biological children are for (1) children conceived and born during *nyentana*; and (2) children conceived during *nyentana* and born during regular marriage, the legal status is in the relatives of the mother side, while for (3) children conceived and born in regular marriage, the legal status is in the relatives of the father side. The legal consequences towards marital property are (1) The husband's separated property is brought back to his home; (2) The property of wife during *nyentana* becomes separated property in regular marriage; (3) communal property during *nyentana* becomes communal property in regular marriage; (4) the husband who returns to his relative remains inherited; (5) the inheritance of wife's relatives managed during *nyentana* marriage still belongs to wife's relatives.

Key words: *nyentana* marriage, regular marriage, biological children, marital property, Balinese adat law.

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