

PATIWANGI SANCTION IN BALINESE HINDU COMMUNITY'S LEGAL CULTURE*

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Abstract

Hindu community, having a vertically closed social stratification called dynasty, commonly held inter-dynastic marriage. Couples who want to perform inter-dynastic marriages before 1951 are required to conduct patiwangi ceremony in addition to the expulsion into areas outside Bali (Selong). Sanctions of patiwangi ceremony have been removed by some rules, but the community still conducts it. From this background, problems arise as follows: What is the meaning of patiwangi ceremony in the Hindu community in Bali? Why are people still performing the patiwangi ceremony sanction? The method used is empirical legal research, using qualitative descriptive analysis. The meaning of patiwangi sanctions is to lower dignity and honor of woman of caste. People still perform patiwangi because patiwangi is a legal culture that has penetrated into the soul of Hindu community in Bali.

Keywords: *patiwangi, community legal culture, Bali.*

Intisari

Makna sanksi upacara *patiwangi* adalah menurunkan derajat, kehormatan, keharuman *wangsa* dari perempuan yang memiliki *wangsa brahmana, ksatria, dan weisya*. Upacara *patiwangi* mengandung pelecehan baik dari segi sebutan istilah maupun pelaksanaan upacara *patiwangi*. Oleh karena itu sudah sepatutnya upacara *patiwangi* dihapus, karena tidak sesuai dengan nilai-nilai kesetaraan, nilai-nilai kemanusiaan, nilai-nilai keadilan, dan nilai-nilai kearifan lokal. Berdasarkan hasil penelitian upacara *patiwangi* masih tetap dilakukan oleh masyarakat Hindu karena merasa yakin sanksi upacara *patiwangi* akan membawa keseimbangan dan kebaikan bagi pelaku perkawinan antar-*wangsa*. Upacara *patiwangi* sudah menjadi budaya hukum bagi sebagian masyarakat Hindu di Bali.

Kata Kunci: *patiwangi, budaya hukum masyarakat, Bali.*

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A. Background

The social changes that have taken place since the independence of Indonesia has been hand in hand with changes in legal aspects. Some laws used in the monarchy and colonial eras have been renewed, changed, or abolished entirely. However, there are times where the people of certain communities refused to implement new laws, considering the fact that the old laws have deeply penetrated the heart and soul of the community, in this case being the Hindu community in Bali. This creates difficulties in socialization of renewed laws. As an example, the *patiwangi* sanction with regards to inter-dynasty marriage is still upheld until this day.

The custom of *Asupundung* and *Alangkahi Karang Hulu*¹ in inter-dynastic marriage has been erased, or can no longer be practiced. The deletion of this sanction, which takes form in a *patiwangi* ceremony, is supported by the decision of DPRD Bali number 11 of 1951, which clearly states in its Article 4 that the custom of *Asupundung* and *Alangkahi Karang Hulu*, which are enshrined in articles 2 and 3, is erased. This decision was named “connecting rule of marriages between *caturwangsa* in Bali” and was enacted from 12 July 1951. However, this legal basis seemed not so strong, as there exists no sanction for people or families still practicing the *patiwangi* ceremony.

In year 2002, Central PHDI had also promulgated *Bhisama Sabha Pandita* no. 03/Bhisama/Sabha Pandita Parisadha Pusat/x/2002. This *Bhisama* was with the intention of strengthening the Decision of DPRD Bali number 11 of 1951. In the *Bhisama*, it is stated that the marriage called *nyerod* marriage has to be abolished, as enshrined in Annex C number 9, while number 10 states that *patiwangi* ceremony has to be abolished in line with the abolition of *Asupundung* and *Alangkahi Karang Hulu* tradition by Balinese Governmental Body in year 1951. Number 11 regulates on the usage of language in societal ethics between dynasties to be

respectful to other dynasties. Kinship values are reflected in the articles, which is then developed in Bali to become “*Sesana manut linggih, linggih manut sesana*”,² meaning that the role of a person is to be aligned with his/her position, and that his/her position will entail a role accordingly.

In its development, up until the promulgation of Pakraman Village Primary Assembly’s Decision (MDP) Bali number 01/Kep/Psm-3/MDP Bali/X/2010, inter-dynastic marriage still entails some problems among the society, that is that the *patiwangi* ceremony is still being practiced in marriages often called *nyerod* marriage. This particular phenomenon needs to be taken into consideration, as it is in violation with human rights and is not in line with women’s equality in familial roles, either inside the marriage or after the divorce. This was the background of the decision by Grand Congregation III MDP Bali, which re-decided that *patiwangi* ceremonies are no longer linked to marriage ceremonies.

Based on the research conducted in year 2014, it turns out that after the promulgation of the MDP Bali’s Decision year 2010, *patiwangi* ceremonies are still practiced, and this is even done in local *Bale Agung*. The rules on abolition of such ceremonies, and the surrounding phrases undermining women’s role in marriages in *adat* law sphere seem to be ineffective in practice, as it has been deeply rooted in Balinese Hindu society.

In accordance with the background elaborated above, the author is inclined to find out of **First**, what is the meaning behind *patiwangi* ceremony in inter-dynastic marriage in Balinese Hindu society? **Second**, why is *patiwangi* ceremony still practiced? The phrases of “inter-dynastic marriage” is used by the author to avoid the use of “marriages between *different* dynasties”, as such phrase would entail different meanings, which then would lead to the result of *patiwangi* ceremony practices, as long as the society’s realization of legal values are low.

¹ Gde Panetje, 1989, *Aneka Catatan tentang Hukum Adat Bali*, Guna Agung, Denpasar, p.13.

² I Made Suastika Dharmayudha, et al., 1991, *Filasafat Adat Bali*, Upada Sastra, Denpasar, p. 29.

B. Research Methods

The type of research used is empirical legal research, which consists of primary and secondary data. Secondary data are collected through primary law materials such as DPRD Decision number 11 of 1951, MDP Bali III's decision year 2010, *Bhisama Pandita* year 2002, and Pakraman Village's *awig-awig* which still regulates on *patiwangi* ceremony's sanctions. Secondary law materials such as references on books and dissertations are used to obtain theories to analyze problems in the paper. This paper also used primary data obtained through interviews with informants explaining on the symbols and process of *patiwangi* ceremony, and through respondents that have practiced *patiwangi* ceremony after year 2002. The location of the research took place in several *pekraman* villages in Bali. The analysis made was descriptive, qualitative, and argumentative.

C. Research Results and Analysis

1. Meaning of *Patiwangi* Ceremony in Balinese Hindu Society

a. Balinese Hindu

Balinese Hindu society is closely linked to aspects of societal layers in itself. This aspect affects the existence and implementation of marriage laws conducted by the caste or dynasty members, including *patiwangi* ceremony in inter-dynastic marriage, which is related to the existence of dynastic system in Bali. Commonly, a layperson would call "dynasty" as "caste" in the layering of society in Balinese Hindu society. Caste system in its actuality is different with dynastic (*wangsa*) and *warna* systems. Balinese society knows of these three layering system, which in themselves have different characteristics.

Historically, caste system was brought by the Portuguese to Indonesia in 16th century. The phrase "caste" came from the latin *castus*, meaning clean, pure, a phrase directed to the condition of societal structure at that time. Caste is a system of institutionalized difference, which is why it is different with *warna* system.³ Wiana and Raka Santri stated that the phrase "caste" in its actual meaning is to characterize society based on the difference of hereditary social status.⁴

As a comparison, India's caste system differentiates humans' prestige and dignity based on heredity. Caste system differentiates the people into four categories, by ways of vertical genealogic,⁵ starting from *brahmana*, *ksatria*, *weisyia*, and the lowest is *sudra*. There is even a lower category called *candala* (disabled), which is also called *paria*. This differentiation is then used as guidance for most Balinese Hindu society.

Ardika stated that the caste system is a system that differentiates its people into several units that is separated wholly.⁶ The relation between units is regulated ritually in a type of classification. Caste is also explained as a social group possessing two characteristics, which are: (a) The members are limited only for those born from the group (based on heredity); (b) The members are strongly prohibited to conduct marriage with people outside of the group. Every member in said group would have a certain names by which they choose to be called by.

The effect of caste system in Balinese Hindu society is of great value. Up until now, most of the society members cannot differentiate between dynasty system and

³ I Wayan Ardika, et al., 2013, *Sejarah Bali Dari Prasejarah Hingga Modern*, Penerbit Udayana University Press, Denpasar, p. 272.

² I Ketut Wiana, et al., 2006, *Kasta Dalam Hindu Kesalah Pahaman Berabad-abad*, Offset BP, Denpasar, p. 25-26.

⁴ *Ibid*, p. 18.

⁶ I Wayan Ardika, et al., *Op. cit.*, p. 317.

caste system. This is such as in the dynasty system, *brahmana* still holds the highest position. However, the society tend to forget the obligation that comes with the existence of this caste system, as is enshrined in *Brahmakta Widhi Sastra* and *Tri Agama*.⁷ In the scripture, the duties of each caste are laid out, and it is of a holy duty in accordance with Hindu teachings. As such, caste system is no different than the realization of social norms regulated by religious norms. This is why each caste has their own regulations that needs to be adhered to, and if violated can cause dismissal (*petita*) from caste membership.

Balinese Hindu society's social stratification is vertical, called *catur wangsa*. According to Soerjono Soekanto, social stratification means differentiation of people into classes hierarchically.⁸ He clearly cited Balinese Hindu society as an example, which is differentiated into castes. Social stratification is a vertical system of social life. Criteria to decide this are hereditary. Soetandyo Wignjosoebroto stated that in the cultural environment of Hindu, the inter-status difference is lined with an impermeable line.⁹ This stratification is guided with very authoritative tradistions, which then gave rise to layers called caste. This impermeable line is made possible, as the criterion to decide caste membership is very clear-cut. The difference between the highs and lows of the caste is determined since birth.

The same view is held by Svalastoga who lays out theories of open and closed class system.¹⁰ Closed systems are among

others Indian caste system, which is within certain limitations, as is Balinese dynasty system. Dynasty system in Bali limits the possibility of a person moving his or her class to a higher class hierarchically. Open systems, on the other hand, gives chance for people to change classes in accordance with their achievements, or in other words, social mobility highly depends on economic, social, educational, positional, and occupational aspects. This opinion is strengthened by the opinion of Putra Agung, which states that Balinese Hindu society rarely has inter-caste mobility vertically.¹¹ Vertical criteria, impermeable based on heredity, will not change, as opposed to horizontal systems (*warna*).

In line with this, Immanuel Kant in Friederich strongly opposes inequality based on heredity, as it implies unfairness.¹² It is often ignored that this speciality and equality is based on a biological misconception, such as the dynasty concept in Bali that is based on "blood" as the main criteria. Blood, as we know, is not related to genetics. This is proven by the possibility of blood donors when needed, without having any effect on the character of the donor or the receiver, except those related with blood conditions. Koentjaraningrat, applying this social stratification in Bali, stated that: in accordance with customs enshrined in Balinese Hindu society's holy scriptures, the people are generally divided into four layers, which are: *brahmana*, *ksatria*, *weisya*, dan *sudra*. In his opinion, this is a reflection of Hindu holy scriptures coming into Bali through Hindu

⁷ Anak Agung Putra Agung, 1964, *Perubahan Sosial dan Pertentangan Kasta di Bali Utara, 1924-1928*, Tesis, Fakultas Sastra Universitas Indonesia, Jakarta, p. 62.

⁸ Soerjono Soekanto, *et. al.*, 1980, *Sosiologi Hukum dan Masyarakat*, Rajawali, Jakarta, p. 179.

⁹ Soetandyo Wignjosoebroto, 2008, *Keragaman Dalam Konsep Hukum, Tipe Kajian Dan Metode Penelitiannya, dalam Butir-Butir dalam Hukum*, Memperingati 70 Tahun Arief Sidarta, Penyunting Niken Savitri, Refika Aditama, Bandung, p. 179.

¹⁰ Svalastoga, 1989, *Diferensiasi Sosial*, Bina Aksara, Jakarta, p.53.

¹¹ Anak Agung Gede Putra Agung, *Op. cit.*, p.135.

¹² Carl Joachim Friederich, 2010, *Filsafat Hukum Perspektif Historis*, Nusa Media, Bandung, p. 241.

people in East Java at times of Majapahit monarch's heyday.

Balinese caste system has grown and developed greatly since the colonial ages. This leads to the condition where laws are made difficult to retain neutrality.¹³ Hindu holy scriptures refers to laws made in Dutch colonialism ages, which uses the phrase *godsdielige wetten* to refer to *adat* laws, up until the 19th century. This is proving the theory *reception in complexu* as a whole acceptance.¹⁴ Religious laws found in scriptures have shown sanctions for caste members for violations of such laws, such as inter-dynasty marriage. One of this is included in *Brahma Tatwa* scripture, where there are sanctions of exile and *patiwangi* sanctions for women of *brahmana* and *kesatrya dalem* in cases of marriage with the *sudra* dynasty.

b. The meaning of Patiwangi Ceremony Sanction

Before getting into the meaning of *patiwangi* ceremony sanction, it needs to be taken into account the meaning of marriage ceremonies for Balinese Hindu society. Before marriage ceremony is conducted, both bride and groom is seen *leteh* (dirty) in a spiritual sense, not in a physical sense. According to *kuna dresta, eka pertama*, it is stated that sexual intercourse before marriage ceremony (which is called *pedengen-dengenan/pakala-kalaan* according to Balinese adat law and Hindu religion) will be seen as a bad thing ("*kama parangan*") wherein *kama*¹⁵ meeting between bride and groom will give birth to "*rare dia diu*", which means a child that

won't listen to the parents or God's advice.¹⁶

Patiwangi ceremony sanction is a ceremony that is specially conducted to degrade one's dynasty, as a result of violating dynasty laws, as a consequence for people in accordance with religious laws. In this sense, religiousness is shown in form of faith to God. The people believe that every action, in whatever form, will always have repercussions (reward and punishment) from God, in accordance with the action.¹⁷ Faith to God in Hindu religion is done through religious ceremony.

As sanctions are repercussions to one's actions, the enforcement can be done without one's will.¹⁸ According to Achmad Ali, "legal sanctions do not need to be in physical sense or ownership revocation; the form of sanction correlates to the culture and sub-group where the sanction is conducted, and such sanction may be in a physical or psychological form."¹⁹ The definition of *adat* law according to Adat Law Seminar in 1975 in Yogyakarta is a genuine Indonesian law not written in Indonesian positive law, which in numerous aspects contain religious norms.²⁰ As such, *patiwangi* ceremony is an *adat* law sanction, even if it is not promulgated in positive law. It has been conducted by the people to restore balance in communal life.

In line with the aforementioned description, Widnyana stated that *adat* sanction is meant to restore the balance in the society that is interrupted by the violation of *adat* law.²¹ Widnyana also stated that *adat* law grows and changes, as is *adat* sanctions that

¹³ Satjipto Rahardjo, 1991, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, p. 151.

¹⁴ Iman Sudiyat, 1985, *Asas-Asas Hukum Adat Bekal Pengantar*, Liberty, Yogyakarta, p. 2-3.

¹⁵ Kama means the meeting of man's sperm and woman's eggs which will give birth to a baby.

¹⁶ Ida Bagus Anom, 2010, *Perkawinan Menurut Adat Agama Hindu*, CV Kayumas Agung Denpasar, p.19.

¹⁷ H.R.Otje Salman Seomadiningrat, 2002, *Konseptualisasi Hukum Adat Kontemporer*, Alumni Bandung, p.30.

¹⁸ Chainur Arrasjid, 2004, *Dasar-Dasar Ilmu Hukum*, Sinar Grafika, Jakarta, p.23.

¹⁹ Achmad Ali, et al., 2012, *Resep Hukum Sebuah Bunga Rampai*, Kencana Prenada Media Group, Jakarta, p. 83.

²⁰ I Gede A.B. Wiranata, 2005, *Hukum Adat Indonesia Perkembangan dari Masa ke Masa*, Citra Aditya Bakti, Bandung, p. 52.

²¹ I Made Widnyana, "Eksistensi Delik Adat dalam Pembangunan", *Orasi Ilmiah* disampaikan di hadapan sidang Terbuka Senat Universitas Udayana Tahun 1992, p.11.

arise, develop, and disappear in accordance with societal changes. Commonly, changes in society will also bring about positive changes to the law, to a more just and humane law. In this sense, the eradication of *patiwangi* ceremony is a positive change, however the people retains this tradition albeit inhumane.

Patiwangi sanction in inter-dynasty marriage arises from Brahma Tatwa scripture,²² which in this scripture is called *pepegatan wangsa*. The phrase *patiwangi* itself is sourced from Adigama scripture, which is used to call a servant (*parekan*) that has made a mistake. The example of the conduct regulated in the scripture is theft. If a person is able to warrant the repercussion of servant's conduct by paying 1.600, then the servant will be let alive. If there is no one able to warrant the servant's mistake, he will be exiled to the village's borders. In the Adigama scripture, it is stated, "...*patiwangi watanipun, pateh ring sakit gde alanipun*",²³ which in essence means that it is called *patiwangi*, exile him to the borders, as the mistake is in par with leprosy, which will infect the people around him. Wherefore the phrase *patiwangi* is taken from Adigama scripture, whereas the process and structure is taken from Brahma Tatwa scripture. *Patiwangi* sanction apparently is the creativity of the lawmakers in the monarch ages consisting of priests from *brahmana* dynasty, in the sense of changing, interpreting, adjusting, and giving symbols to the conducts that is deviating from the custom in such age.

One of the conducts that has symbolic meaning is if a *brahmana* or *ksatria* woman marries a man from different dynasty, which

is called *asupunding* marriage. In the literal sense, *asu* means dog and *punding* means carry, joint together meaning to carry a dog.²⁴ The dog in this phrase is referring to the man from different dynasty. The phrase *asupunding* is sourced from Purwadigama scripture that is *asumunding*. *Asumunding* in such scripture does not only include aforementioned kind of marriages, but also incest marriages (*gamia gemana*), which is also called *lembu makulah*.²⁵ *Asumunding* conducts in the Purwadigama scripture is as follows:

"*Wang caca-cuca, mangrug sanggar parhyangan, wang mangrabiyanituhan, mangrabyani taniya daraning tuhan, amejahi swami panayakan, manglawani strining wiku lawan sang brahmana, amejahi san wrede-carya sampun kreta, amati lembu sekandang, mengisingi mangoyehi candi-prasada, ika tang mangkana lwirnia, Asu Munding ngaranja.*"²⁶

Meaning that the people in wrong are anyone that conducts destruction to temples or holy places, or marries women from *brahmana* or *ksatria dalem*. Because the women have *brahmana* blood in her, the men that become their husband will be killed. *Asumunding* also includes anyone marrying the wife of a priest/*pedanda*, killing priests, killing cows of one cage, and peeing or littering in holy sites. Looking at the abovementioned conducts; the people of old ages have high creativity in giving magic-religious symbols to conducts that they deem prohibited. Symbols in Hindu are believed to be able to balance reality and supernatural world (in Bali, *sekala* and *niskala*).²⁷ The

²² Brahma Tatwa scripture is written by *pengelingsir* Gria Ida Bagus Putu Gria in year 1923, Gria Jumpung Desa Sesandan.

²³ Adigama scripture concerning theft by servants such as: *juruy anyi, juruy ayahin, yiaadin parekan, yan melaksana anyah, pituwi memaling*, all conducts are dubbed *patiwangi*.

²⁴ Made Kembar Kerepun, 2004, *Benang Kusut Nama Gelar Di Bali*, Bali Media Adhikarsa, Denpasar Bali, p. 77.

²⁵ Purwaagama, Milik Ida Pedanda Gde Ngenjung, Gria Liligundi, Gedung Kertia, dapat dibaca pada p. 5.

²⁶ *Ibid.*

²⁷ I Gede A.B Wiranata, *Op. cit.*, p.61.

Adigama, Purwagama, and Brahma Tatwa scriptures are sources of sanctions to *asupunding* marriage called *patiwangi*.

In Brahma Tatwa scripture, *patiwangi* ceremony is done by circulating the *Bale Agung* three times with rotation facing left, booed by people, then beaten or stabbed with the edges of red *andong* leaves. This ceremony is a symbol of degrading the position of *brahmana* or *ksatria dalem* women. This is done as Hindu people are still affected by clan (*dadia*) and dynasty system, and therefore marriage should be conducted with the people deemed to be in the same hierarchy with his/her dynasty.²⁸ This marriage system is called dynasty endogamy.

Symbolic sanction of *patiwangi* ceremony turned out to have a degrading meaning to the women's dignity, as based on Symbolic Interactionism by Blumer, referring to George Herbert Mead's notion.²⁹ The target approach of this theory is social interaction, and the phrase "symbolic" refers to the usage of symbols having certain meanings. In relation to *patiwangi* sanctions, the word *patiwangi* comes from the word "*petita*", meaning to be downed, eradicated, and humiliated. The word "*wangi*" means fragrance, degree, or honor. Joint together, *patiwangi* means to be downed of its honor, to be erased of its dynasty.

Based on the number of respondents

researched after the promulgation of DPRD Bali's Decision number 11 of 1951 until the year 2014, there exist 59 inter-dynasty marriages. Amongst them are 28 couples who did not conduct *patiwangi* ceremony, and 31 who did. The respondents whose experience will be further elaborated are only the ones that conduct *patiwangi* ceremony from 2002 onwards, which are:

- a. Denpasar City: Anak Agung Mahyuni Paramita Sari with I Made Sudarsana conducted *patiwangi* ceremony in year 2009,³⁰ I Gusti Agung Suci Wathi Pinatih³¹ with I Wayan Adi Arta Wijaya conducted *patiwangi* ceremony in 1 January 2014, Anak Agung Marlina Dianawati³² with Ketut Alit Wiguna conducted *patiwangi* ceremony in year 2008.
- b. Gianyar Regency: Kadek Aditya Adi Guna with Gusti Ayu Putri Rismayanti *patiwangi* ceremony in 10 January 2014.³³ Wayan Wedastra with I Gusti Ayu Wikrama Dewi conducted *patiwangi* ceremony in 21 Mei 2014.³⁴ I Nyoman Gede Martana with Ida Ayu Putu Nila Dani conducted *patiwangi* ceremony in year 2003.³⁵
- c. Tabanan Regency: conducted *patiwangi* ceremony in the year 2006,³⁶ Ida Ayu Candra with I Gusti Wiratma conducted

²⁸ Soerjono Soekanto, 2001, *Hukum Adat Indonesia*, Rajawali Pers, Jakarta, p. 222.

²⁹ George Ritzer, 1992, *Sosiologi Berparadigma Ganda*, Rajawali Pers, Jakarta, p. 52.

³⁰ Anak Agung Mahyuni Paramita Sari, positioned as the actor of the *patiwangi* ceremony, born in 1986, lives in Desa Pedungan Denpasar Selatan, interview dated 30 April 2014.

³¹ I Gusti Agung Sucitawathi Pinatih, positioned as the actor of the *patiwangi* ceremony, born in 1987, lives in Desa Pedungan Denpasar Selatan, interview dated 27 January 2014.

³² Anak Agung Marlina Dianawati, positioned as the actor of the *patiwangi* ceremony, born in 1977, lives in Desa Pedungan Denpasar Selatan, interview dated 7 May 2014.

³³ I Gusti Ayu Putri Rismayanti, positioned as the actor of the *patiwangi* ceremony, born in 1988, lives in Desa Blahbatuh Gianyar, interview dated 20 July 2014.

³⁴ I Gusti Ayu Wikrama Dewi, positioned as the actor of the *patiwangi* ceremony, born in 1979, lives in Desa Sukawati Gianyar, interview dated 19 June 2014.

³⁵ Ida Ayu Putu Nila Dani, positioned as the actor of the *patiwangi* ceremony, born in 1983, lives in Desa Medahan Gianyar, interview dated 20 July 2014.

³⁶ Anak Agung Sagung Intan Ardiyana Wati, positioned as the actor of the *patiwangi* ceremony, born in 1971, lives in Desa Wanasari Tabanan, interview dated 23 June 2014.

patiwangi ceremony in year 2008,³⁷ Ida Ayu Nyoman Ngurah with Komang Kerta Yasa conducted *patiwangi* ceremony in year 2013,³⁸ Desak Putu Sri Widari with Kadek Hary Artana conducted *patiwangi* ceremony in 9 May 2014.³⁹

- d. Buleleng Regency: no inter-dynasty marriage between respondents conducted *patiwangi* ceremony.

Patiwangi ceremony is done by circulating the *Bale Agung* three times with rotation facing left, booed by people, then beaten or stabbed with the edges of red *andong* leaves. Circulating the *Bale Agung* three times with rotation facing left has a meaning of throwing away, or degrading. Booed by people is a symbol of mistake, expulsion, or eradication. According to Ida Pandita Mpu Jaya Acharya Nanda, the red *andong* leaves in its burgeoning form, with its sharp edges is symboling weapons of eradicating the degree or honor of the dynasty. As such, this is no other than a symbolic death sentence with the leaf as the symbol of Brahmana God, the creator, as a process of eradication.⁴⁰

From the aforementioned description, the meaning of *patiwangi* ceremony sanction is to degrade the honor and dignity of women in *brahmana*, *ksatria*, and *weisya* dynasty. *Patiwangi* ceremony has a demeaning nature, whether by phrasing or the conduct itself. As such, it is only appropriate if this sanction is erased, as it is deviating from values of equality, humanity, justice, and local wisdom.

2. The People are Still Conducting *Patiwangi* Ceremony

Even though the *patiwangi* ceremony sanction and *nyerod* phrases have been officially eradicated in effect of DPRD Bali's Decision number 11 of 1951, Central PHDI Bhisama year 2002, and Grand Congregation III MDP Bali's Decision year 2010. However, in reality, most of the *tri wangsa* families have not been able to let their daughters marry freely without taking the dynasty into consideration.⁴¹ This makes the phrase *nyerod* and *patiwangi* ceremony sanction to still have force in the people's beliefs.

A marriage will inevitably affect social structures of the people related. There are times when a marriage upgrades one's degree, and the other way around. This kind of event is common in people that have a closed social stratification system.⁴² Svalastoga stated that such closed social stratification the ones that has certain boundaries, like in India or dynasty in Bali.⁴³ This closed system rules out the possibility of moving one's class from lower to higher hierarchy. Marriages conducted in this system should be a dynasty endogamy. If marriages are conducted in an inter-dynasty nature, it is deemed as a violation of marriage laws. Such violation is obliged to be sanctioned with *patiwangi* ceremony in certain areas of Bali.

One of the pakraman villages' *awig-awig* which is *Awig-Awig Desa Pakraman Kuwum* regulates on the obligation of conducting *patiwangi* ceremony sanction, which is written in *Pawos 39 Tatacaraning Pawiwahan* article (5) which states:

“Yaning pawiwahan pengambilannya tiyos wangsa patut ngemargiang mepatiwangi magenah ring Bale Agung, utawi

³⁷ Ida Ayu Candra, positioned as the actor of the *patiwangi* ceremony, 27 years old, lives in Desa Sesandan Tabanan, interview dated 24 June 2014.

³⁸ Ida Ayu Ngurah, positioned as the actor of the *patiwangi* ceremony, born in 1990, interview dated 21 June 2014.

³⁹ Desak Putu Sri Widari, positioned as the actor of the *patiwangi* ceremony, born in 1990, lives in Desa Gelagah Marga Tabanan, interview dated 2 May 2014.

⁴⁰ Ida Pandita Mpu Jaya Acharya Nanda, positioned as an expert in Hindu ceremonial aspects, 48 years old, graduate degree, occupation as *Sulinggih*, interview dated 10 October 2014.

⁴¹ Wayan P Windia, 2004, Danda Pacamil, Catatan popular Istilah Hukum Adat Bali, Upada Sastra, Denpasar, p. 87.

⁴² Soerjono Soekanto, 1992, *Intisari Hukum Keluarga*, Citra Aditya Bakti, Bandung, p.15.

⁴³ Svalastoga, *Op. cit.*, p. 53.

munggah wangi ring merajan sang sane mawiwaha. Yening tiyos agama patut ngemargiang upacara sudhiwidani sedurung ngelaksanayang pengantenan".⁴⁴

This means that if there are inter-dynasty marriages, they will have to conduct *patiwangi* ceremony (degrading their honor), taking place in local *Bale Agung* temple, or *menek wangi* (upgrading their honor), taking place in family temple. If there are interfaith marriages, they will have to conduct *sudhiwidani* (to convert one to Hindu) before the marriage takes place. It is seen that the aforementioned *Awig-Awig Desa Pakraman Kuwum* violates the DPRD Bali's Decision number 11 of 1951 on the eradication of *patiwangi* ceremony. Due to this ineffectiveness, Central PHDI Bhisama number 03 of 2002 is promulgated, regulating the *Catur Warna* application.⁴⁵

The Bhisama is aimed to strengthen the eradication of the *patiwangi* ceremony and *nyerod* marriage phrase. However, it also appears that this Bhisama is ineffective in its function. Lastly, the Pakraman Village Primary Assembly's Decision (MDP) Bali through the Grand Congregation III held in Wisma Sabha Bali Governor's Office dated 15 October 2010 made a decision, which in its content states not to conduct *patiwangi* ceremony in *nyerod* marriages.⁴⁶

As is already stated before, *patiwangi* marriage means to demean one's dignity. In Hindu teachings, law on demeanings is called *Paradara Parapriya*.⁴⁷ Demeaning is not an endorsed conduct, and thus is prohibited by Hindu teachings to be done to other people, especially women. This view is strengthened by Maha Rsi Kautilya and Manu on women, which states that "*yatra naryastra pujoyonte tatra ramante devatah*".⁴⁸ This means that the gods will come down to explore the world if the women

are respected. Kautilya again affirms in his teaching that respecting women would mean to respect the government's laws. If linked to the existence of *patiwangi* ceremony in present day, it can be seen that the people does not pay attention to the rules made by Bali Government Body, PHDI, or the MDP.

Therefore, the conduct of *patiwangi* ceremony sanction is a legal culture in Bali. As has been numerous times mentioned, there have been many laws promulgated on the eradication of *patiwangi* ceremony, however the people still conduct the ceremony based on their strong beliefs. According to Friedman, the true legal culture refers to the parts in common culture, custom, opinions, way of thinking and acting that directs the social powers to or away from the law.⁴⁹ Legal culture is the engine to move people's beliefs in order to enforce the law, in this sence is the rule on eradication of *patiwangi* ceremony and the phrase *nyerod*. However, in reality, *patiwangi* is too deeply embedded in the hearts of the people. Such is why the regulations made on its eradication have failed to be effectively enforced.

Paying close attention to the aforementioned legal culture, Yehezkel Dror stated, "...It was also one of the most conspicuous failures, showing that there are strict limits to the effective uses of law to bring about social change".⁵⁰ This essentially means that law enforcement may fail to bring social changes, especially on those related to the beliefs grown into the legal culture of the people. The aforementioned sentence outlines that there may be boundaries difficult to overcome for usages of law to effectively bring social changes. Usages of law has boundaries in bringing social changes, especially taking into account that "basic institution in traditions and values, such as the family, seem to be extremely resistant to change imposed by law".⁵¹

⁴⁴ Awig-Awig Desa Pakraman Kuwum Kecamatan Marga Kabupaten Tabanan, Warsa/year 2014, p. 22.

⁴⁵ *Catur Warna* is categorization of people based on his or her function in the community.

⁴⁶ I Ketut Sudantra, at al., 2011, *Hukum Perkawinan Menurut Hukum Adat Bali*, LPPM Universitas Udayana Bali, p. 41.

⁴⁷ I Ketut Subagiasta, 2012, *Praktek Agama Hindu*, Pustaka Bali Post, Denpasar, p. 84.

⁴⁸ Ida Bagus Gunadha, 2012, *Aneka Politik Hindu*, Widya Dharma bekerjasama dengan Program Pascasarjana Universitas Hindu Indonesia, Denpasar, p. 126.

⁴⁹ Lawrence M. Freidman, 1969, *The Legal System ; A Social Science Perspective*, Russel Sage Foundation, New York, p. 15.

⁵⁰ Yehezkel Dror, *Law and Social Change*, dalam Wilhem Aubert, 1973, *Sociology of Law*, Penguin Books, Minddlssex, p. 95.

⁵¹ *Ibid*, p. 98

In line with Dror, Soerjono Soekanto stated that the use of law as means of development would be effective if the aspect intended to be developed are the ones that is neutral and nonspiritual in nature.⁵² In the view of Daniel S. Lev, legal culture relates to the substantive value of what is right and wrong by certain groups of people. What is considered right by a group may not be right for others. If linked to the *patiwangi* ceremony, it is still being practiced up to the present times. This may be so because the people deems such practice as what is right, especially so as it is being endorsed by village *awig-awigs*, such as *Awig-awig Desa Pakraman Kuwum* in Tabanan regency.

Legal culture is identical with legal awareness. If legal awareness is correlated with morals and laws, there are possibilities that most of the parties to whom the law is enforced do not see the law as morally binding; rather, they see it as a voluntary act of faith to conduct such requirement morally. The aims of law would be stable if such is the case. However, there are times where noncompliance happens due to considerations such as traditions, hereditary tracts, or following others. This is what constitutes the dynamics of the people's laws. In the sense of the conduct of *patiwangi* ceremony, most of the people still believe that such conduct is a hereditary tradition, and some others are just following the recommendations and advices of *brahmana* priests. Based on the interviews with the informants, Ida Bagus Gunada⁵³ states, "the *patiwangi* ceremony is to balance the degree of honor of the bride and groom". Jero Mangku Desa Sasetan⁵⁴ states "the *patiwangi* ceremony is the act of paralleling the degrees of the couple, and to change the bride's name". If this ceremony is not

conducted, the couple is believed to have problems in the future. As such, this is why the people still strongly believe of this obligation.

However, there exist contradicting views, such as the view of Pandita Empu Acarya Nanda,⁵⁵ stating, "the *patiwangi* ceremony is a violation of human rights. This inter-dynasty marriage laws exist due to the *Raad Kertha* politics adopting the rules in Majapahit ages, then the Dutch colonization sharpens such law to gain faith of the people of great influence in Bali." As the research in the year 2014 shows, the *patiwangi* ceremony is still conducted by some of the Balinese Hindu community members. Buleleng regency is the only place that has left such practice. This is shown by the fact that some informants do not even know, or ever heard of the phrase *patiwangi*, of which are: I Gusti Ngurah Nyoman Dana⁵⁶ dan I Putu Santra⁵⁷, which stated, "the people in Buleleng do not know of *patiwangi* as a sanction. Inter-dynasty marriage takes place just as is other marriage is taking place."

As has been elaborated above, the people in Buleleng do not practice *patiwangi* anymore. The people in this regency are more open to changes, even though they still use the phrase *nyerod*. This phrase is seen as a common phrase. Budiana gave the opinion that such condition in the changing nature of the people, along with the development of education and knowledge of humanity values, will give rise to the eradication of discriminative traditions. The old custom of finding suitors of the same dynasty is starting to be dismissed, which means that the individuals are more open to inter-dynasty marriages.⁵⁸

Even though *patiwangi* ceremony is still practiced by some people of the community, this

⁵² Soerjono Soekanto, 1976, *Beberapa Permasalahan Hukum dalam Kerangka Pembangunan di Indonesia*, Universitas Indonesia, Jakarta, pp. 148-150.

⁵³ Ida Bagus Gunada, positioned as an UNHI lecturer and as *Pengelinsir Gria*, born in 1945, lives in Desa Wanasari Tabanan, interview dated 16 October 2014.

⁵⁴ Jero Mangku Desa Sasetan, positioned as the functionary of *patiwangi* ceremony in Pura desa Sasetan Denpasar, 72 years old, lives in Desa Sasetan Denpasar Selatan.

⁵⁵ Pandita Empu Jaya Acarya Nanda, positioned as *sulinggih*, 48 years old, lives in Gria Mumbul Desa Lebih Gianyar.

⁵⁶ I Gusti Ngurah Nyoman Dana, positioned as *Kelihan Adat* Desa Sukasada Buleleng, born in 1948, interview dated 10 June 2014.

⁵⁷ I Putu Santra, positioned as *Kelihan Adat* Desa Banjar Tegal Buleleng, born in 1950, interview dated 11 June 2014.

⁵⁸ I Nyoman Budiana, 2009, *Perkawinan Beda Wangsa dalam Masyarakat Bali*, Graha Ilmu, Yogyakarta, p. 53.

does not deter the *tri wangsa* women to marry men of different dynasty. In contrast, inter-dynasty marriages are increasing in number. Based on the research, inter-dynasty marriages have included the form of marriage of *nyeburin antar-wangsa* which is promulgated by the Tabanan District Court in year 1985. The pioneer of this marriage form is the couple Ida Ayu Putu Stiti and Ketut Bakti, in which Ketut Bakti is then upgraded of his degree and changed his name into Jero Wangi⁵⁹.

From there onwards, this marriage form is increasingly popular, such as the marriages of Dewa Ayu Sri Kirana and Putu Arcana⁶⁰, and Ni Ketut Nova Arini and I Gusti Ngurah Jana Eka Putra.⁶¹ Another pioneer in inter-dynasty marriage is the marriage form *pada gelahang antar-wangsa* conducted between a *ksatria* woman from Tabanan and a *jaba wangsa* man from Singaraja, that is I Gusti Ayu Winda Tri Wijayanti and I Putu Yudi Admika.⁶² As such, it shows that inter-dynasty marriages in Bali consists of multiple forms of marriages. Inter-dynasty marriages are increasing in number, and moving more and more towards acceptance by the people.

D. Conclusion

Based on the elaborations above, conclusions can be taken. **Firstly**, the Balinese Hindu people are closely related to the layering aspect of the people,

which is called caste or dynasty system. This aspect may affect the existence and the practice of the laws of marriage conducted by the people in the community, wherein it included the *patiwangi* sanction in inter-dynasty marriage. The meaning of this ceremony is to degrade one's honor and dignity of dynasty for women of *brahmana*, *ksatria*, and *weisya* dynasty. The ceremony has a demeaning nature, whether by its literal or practical sense, as it is deviating from the values of equality, humanity, and justice.

Secondly, the *patiwangi* sanction is still practiced by the community as it is a hereditary tradition, and is usually endorsed by the *brahmana* priests. Based on the research, this practice is still in force, as the people believe this sanction will bring about the balance and goodness for the couple conducting inter-dynasty marriage. The ceremony is a legal culture for some people of the community. This ceremony is conducted in multiple ways and means. The place of the ceremony can be one's home yard, or in local *Bale Agung* temples.

As such, the author suggests that there needs to be socialization of the rules concerning the eradication of the *patiwangi* ceremony continuously. *Awig-awig* that still obliges this practice should adjust to such rules. The law enforcers in Balinese Hindu community (*sulinggih*, *bendesa adat*, *kelihan adat*) shall support the eradication of such practice.

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⁵⁹ Ida Ayu Putu Stiti, positioned as the respondent conducting *nyeburin antar-wangsa* marriage in Desa Wanasari, 51 years old, lives in Desa wanasari Tabanan, interview dated 21 June 2014.

⁶⁰ Putu Arcana, positioned as the respondent conducting *nyeburin antar-wangsa* marriage, born in 1971, lives in Jero Klating Tabanan, interview dated 19 July 2014.

⁶¹ Ni Ketut Nova Arini, positioned as the respondent conducting *nyeburin antar-wangsa* marriage whose husband conducted *patiwangi* ceremony, born in 1986, lives in Desa Sukawati Gianyar, interview dated 19 June 2014.

⁶² I Gusti Ayu Winda Tri Wijayanti, positioned as the respondent conducting *pada gelahang antar-wangsa* marriage, 28 years old, lives in Desa Banjar Tegal Buleleng.

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