

THE DIVISION OF INHERITANCE OF CHINESE CUSTOMS IN THE SOUTHERN CITY OF GORONTALO

Sofyan W.P Bempa, Nur Mohamad Kasim, Johan Jasin

Faculty of Law Public University of Gorontalo

Email; nurkasim76@yahoo.co.id

Abstract

The purpose of this research is (1) to know the implementation of the Division of property of the heritage of indigenous people in the Chinese community in the city of Gorontalo, (2) to find out how to dispute the inheritance in Chinese society in the indigenous town of Gorontalo. This type of research is empirical legal research, legal research is the socio-type research, engineering analysis with qualitative data sourced from primary data and secondary data. In addition to using normative approaches, sociology and historical approach.

Based on the results of the research, it can be concluded that (1) the implementation of the Division of indigenous heritage in Chinese society in the city of Gorontalo is based on an agreement with the family (the heir). Whereas in the Straits Chinese community assimilated local customs in this custom of Gorontalo, embraced the parental kinship system, in which seat boys and girls equally so in the Division of the inheritance rights of boys and girls equal rights, (2) on the Chinese community in the city of Gorontalo, rarely there is a dispute of inheritance. If there is a dispute, then how are customary inheritance dispute resolution on the Chinese community in the city of Gorontalo is by way of a limited discussion in the sphere of the family, and trying not to let the issue be brought to the level of the Court, because Chinese society is considered a disgrace if family until there is a dispute between the fellow's family just because a matter of inheritance.

Keywords. The Division of the Inheritance and the Chinese of Gorontalo.

I. Introduction

The nation of Indonesia is a nation that has the diversity of the population. The diversity of the population consisting of various tribes, culture, customs and of course each have different habits.

The rules of human behavior in a society that is not written as expressed by Soepomo (Setiady that customary law is the law of life as the Convention on the law of the State agencies. Legal life as a habitual rule maintained in the Association live in cities or didesa-desa (customary law).

Diversity and difference is a valuable asset to the people of Indonesia can be capital in order to build this nation towards a great nation and prosperous society. Tolerance and mutual valuing is key so that the inhabitants of this pluralism can co-exist peacefully.

Since the 7th century Chinese tribes already entered and coloring of life in the archipelago. Still fresh in our minds how Wahid defended ethnic Chinese during hard times in 1998. And steps taken for Wahid is considered difficult even accepted, contrary to the general opinion that cast the blame on the Chinese people as the cause of the economic crisis at that time.

Shortly after the tragedy in May 1998, Wahid (who was still serving as Chairman of the OUTGOING) calls upon the descendants of Chinese who are outside the country to immediately return to Indonesia and guarantee their safety. And to the indigenous peoples, Wahid appealed to receiving and blending with the citizens of Chinese descent. Wahid's struggle to defend the minority Chinese Indonesians increasingly assertive when he became the fourth President of Indonesia diwujudkan melalui a variety of policies, presidential instruction No. 14 tahun 1967 who was followed by Megawati with the determination of the Chinese New Year as national holiday through Kepres No. 19 of 2002.

At the same time, Wahid was also invited nation Indonesia realize reconciliation with China. Not simply because he himself is a Chinese descendant, but Wahid's view on the future of China as a networking (*guanxi*) need to be embraced to rebuild Indonesia's economy which has just been hit by the crisis. And to restore the national economy, the first step he was doing was calling back the owners of capital to invest in Indonesia. Wahid assured, a Government that does not implement the racialist politics, will make the "*guanxi*" feel secure invest in Indonesia.

A group of ethnic Chinese in insight Wahid's nationality is the same as the other peoples, such as the ethnic ethnic-Javanese, Batak, Papua, Saudi, India, Japan and Europe that have long life and be a resident or citizen of Indonesia. They also have the same rights as legitimate citizens as mandated by the Constitution.

Tribe is one of the Chinese who account for quite a lot and spread evenly on the whole territory of the city of Gorontalo and included in district of the southern city accounted 468 inhabitants. Tribal Chinese citizens in the southern city of mostly Christians and most other religion Confucianism, and Buddhism. In their day-to-day work as traders. Their kinship with the people of Gorontalo, entwined with harmony and mutual respect with each other both in religious activities, customs as well as social events. In everyday life they have a kinship with the surrounding community but maintain customs and Chinese culture. This corresponds to the fact that they are still running the culture and customs such as the celebration of the festival Cap Go Meh, Chinese New Year, Hari Raya Day Cheng Beng, the Duan Wu and other big days..

II. Research Methods

This research was carried out in the southern city of Gorontalo. The time required for the research activities it is 4 months. The method used is the method of approach which is *yuridisempiris*, where the data is gathered from sources regulations of law apply later in associate with the data field. The *bersifat yuridis* approach and then use a secondary data source with the purpose untuk menganalisa *sosioyuridis* Division of Chinese society's legacy in the City South of the city of Gorontalo province of Gorontalo. Empirical juridical method is an approach that uses *sumber data*, i.e. the primary data is directly retrieved from the respondents who used to know the description of the implementation of the Division of inheritance in masyarakat Tionghoa in the southern city of Gorontalo Province of Gorontalo.

The approach is both juridical approach is empirical socio through observation and research on matters related to the legal norms should be applicable and governing the Division of inheritance of Chinese padamasyarakat in the southern city of Gorontalo City, Gorontalo Province are summarized with observations about the response of the community towards these norms with the aim to find out things mempengaruhi hipotesis legal socialization in society.

Data collection technique is how to get the desired data. According to Suratman and Dillah that denganketepatan techniques of data collection, data obtained will correspond to the yangdiinginkan. Data collection techniques used in this research is the primary data and secondary data.

Data analysis in this research was done qualitatively, i.e. from the data yangdiperoleh after it was composed is systematically analyzed then qualitatively in order to achieve clarity against the problems that will be discussed. Qualitative data analysis is a way of generating research descriptive data analysis, i.e. what the respondent in writing by repeated an or lisandan also his behaviour that real, researched and studied as a whole.

III. The Results of The Research and The Discussion

A General Overview

Gorontalo province and more specifically the city of Gorontalo area local wisdom Islamic institution which claims that Indonesia as the "porch of the Medina" in accordance with the philosophy of Indonesia: culture law of Gorontalo symbolic religion and religion by Al-Qur'an "'s (book). But this is not the compound of Indonesia society regardless, which has a rich ethnic diversity, culture or religion. No exception Gorontalo which has compound of the society itself, which consists of a wide range of peoples, cultures, or different belief systems, one of which is ethnic Chinese. The arrival of the Chinese people is not known for sure because some sources say that they get into Indonesia through the North Sulawesi. To be able to keep track of evidence the existence of the Chinese, we can know through a grave headstone oldest (in kampong Siendeng). The role of the Chinese merchants is very important in the chain of Commerce in Indonesia, besides Europeans and Bugis. A privileged position to the Chinese group as an "intermediary traders" (handlanger). They generally purchase the main forest products rattan and resin from indigenous people and selling them to other traders or trading company Netherlands.

in a general observation of activity of residents in Chinese Cities tribes South of the tribal population in the Chinese southern city of 2014 IE for village Biawao as many as 273 people, village Biawau as many as 26 people, Limba B as much as 96 people and village Limba U2 as much as 73 people so obtained a total number of population of 468 people. Chinese natives in this southern city, in addition to maintaining their customs and culture also retains the system of Division of inheritance by using Chinese customs. The results of a short interview in the field suggests that the system of Division of property inheritance in Chinese custom the position of boys and girls are different. The boys have a higher position in the family, whereas in the book the laws of civil law Division of inheritance between girls and boys is the same.

Implementation Of The Division Of Property Inheritance In Chinese Community, According To Indigenous Customary Law

Table 1

The results of the reduction and analysis of Basic Data partition of Inheritance¹

No	The Informant Code	The basic division of property Inheritance
1	HM, DB	Deliberations or negotiations are held
2	BM	No because the inheritance has been distributed
3	HK	The word elderly family varies
4	TL	Can be shared

The results of this research show that the basic division of property inheritance is deliberations or negotiations are held between fellow heirs.

Table 2

The results of Data analysis and reduction of the time she was the Division of the Inheritance²

No	The Informant Code	The Time She Was The Division Of The Inheritance
1	HM, DB,	The time she was the Division of Inheritance Generally after the old man died
2	HK BM	There's also when parents haven't died
3	TL	When Children know the beneficiary already or have been married

¹ Henry Ming dan Djino Benawan, Tokoh Masyarakat (Kota Gorontalo)

Tgl 25 – Mei – 2016

Beni Moto, Hendra Kurniawan dan Tony Lanti, Tokoh Masyarakat (kota Gorontalo)

Tgl 20 – Mei – 2016

² Henry Ming dan Djino Benawan, Tokoh Masyarakat (Kota Gorontalo)

Tgl 25 – Mei – 2016

Hendra Kurniawan, Beni Moto Dan Tony Lanti, Tokoh Masyarakat (Kota Gorontalo)

Tgl 20 – Mei – 2016

The time she was the Division of inheritance generally after a parent dies, there's also when parents haven't died and when children or heirs of the already large or has been married but parents still alive.

The system of Division of inheritance is not a problem depending on family discussions and be done equally to all divisions of the beneficiary. How the determination of the eligible family members inheritance preceded by children, lift and close family who is still with the blood of voters.

The terms eligible family members inheritance, still with blood that has its own children's warisandan of a legitimate marriage. Object inheritance beneficiaries in the implementation of the Division of the estate among other business stores and yards and warehouses. The principle used in Division stuff awarding i.e. deliberation but it is rarely diakukan because the estate had been divided beforehand, divided evenly or fairly and depending on your needs and what is.

On the basis of the nonprofit community in the order to parents (parental) or draw the line descended from two sides, from the paternal and maternal (bilateral), did not distinguish the position of boys as well as girls as heir. Good children. men and girls are entitled to part of the inheritance from his parents

The tendency of bilateral nature of parental inheritance/discharging system individually, where inheritance was divided pemilikannya to the heirs. Individual parental inheritance system/this bilateral most embraced by the nation of Indonesia, such as occurred in Aceh, Malay (North Sumatra), South Sumatra, on the island of Java and Madura, Kalimantan and Sulawesi. Lately, many are also implemented by modern families, who set the community unilaterally (matrilineal or patrilineal people). As in the Chinese community in Indonesia used to be the Chinese society has undergone a change then a patrilineal people to now become wedded to the system of parental kinship. Because the system of kinship affects the nature of inheritance of traits inherited a patrilineal people changed into the nature of parental inheritance. So the legal system used in the Chinese community in Indonesia that is using the legal system of the indigenous Indo-Chinese or peranakan Chinese are more likely on the customary law of Java which are parental.

The Chinese community only boys that have inheritance while the girls are not arguing when the girls get married then he participated in the family of the husband. Now on the Chinese community in Indonesia and the position of older men and older women as heirs of his parents have the same rights to get the Division of the inheritance, with the understanding that equal rights among men and women yet means it will get the same Division. because of the stuff that's kind of heritage and its not the same, the local customs that are not the same, so on the Chinese community in Indonesia is generally the Division of inheritance based on an agreement with the family, to determine whether the Division is equally, or who is entitled and obliged to acquire parts more. In Chinese society itself also often occurs the Division based on an agreement with the family usually this occurs on the initiative of male heirs. On the Chinese community in Indonesia there are three types of treasure that is as follows: (a) the default property of the husband/wife who came from

their parents or their own property that was taken when the marriage (e.g. jewelry, Kris). (b) the awarding of the prize/the treasure obtained spouses from parents or relatives at the time of marriage (some plots of land), which belong together for the household and the children, (c) a shared property (search) the husband and wife during the marriage bond. These three kinds of the property when the parents died is the inheritance that will be divided to the heirs with based on the prevailing customs in Chinese society. Now the veneration of ancestors is very rare because the overwhelming majority of the Chinese community in Indonesia Christian or Catholic. It used to be that the succession arrangements ancestors only by the eldest boy, but now it is possible that the succession arrangements ancestors in girls. so the husband must opt to stay at home parents are uxori lokal (a man out of his own family and settled on his wife's family). With the position of women, there is no longer a trend to have boys, so if you only have a daughter there is no necessity to raise boys.

Custom home bequeathed gede (large family heritage home) is very rare because in General at the time of the Division of the inheritance of the House sold for divided equally. If there are still houses that are usually used to cede management granted to the eldest boy. now it is possible given the oldest child living with parents, not the perspective of boys or girls, the youngest or oldest child.

The habit of surviving is the habit of giving jewelry to women usually by his mother, although right now it's difficult to be called family jewelry because usually it recently purchased or if the jewelry belonged to mom myself eventually sold to bought jewelry which favored because his model is already outdated. Unless it has historical value jewelry is sometimes maintained.

Chinese families now mainly Chinese peranakan does not differentiate between inheritance of men and older women, both types of these children have equal rights, is entitled to treatment, education, inventory purposes in life. In this last case no exception provision granting new family formation or Division of property remains the elderly. Instead they have the same obligations. The death of both parents if family still not mentas all, girls or boys oldest might become surrogate parents as head of the family.

On the first Chinese indigenous serves as the heirs are sons of men and women as well as their descendants (his grandchildren). Children who are still in the womb of a mother also be heirs, the origin of the time the child was born he was alive. So did against children born alive from her mother being pregnant when her biological father's death, he was the heir of her father.

How to Dispute the inheritance in the customary Chinese society.

The results of Data analysis and reduction of The dispute that often appear in the Division of property Inheritance³

³ Henry Ming dan Djino Benawan, Tokoh Masyarakat (Kota Gorontalo)

No	The Informant Code	Disputes Often arise in the Division of the Inheritance
1	HM, DB	There is, for example, dispute the amount of inheritance that is distributed to heirs
2	BM	Never appears to have been divided during the life
3	HK	There is also primarily about how the Division of inheritance, such as what for all the heirs or descendants based on the heirs male.
4	TL	Depending on your needs and what is the usual problem, the type of inheritance and family or heirs who receive

Dispute resolution due to the Division of the inheritance that is can be done by means of *tengahi* by the elders in the family, completed by a troubled family's parents and siblings of the parents of the man who *memediasi*.

The results of the analysis of the Data reduction and completion of *Sangketa* due to the Division of Inheritance⁴

No	The Informant Code	Completion of the dispute Due to the Division of The Inheritance
1	HM, DB	In <i>tengahi</i> by the family elder
2	BM	Completed by the family problems parentsh
	HK	Almost unheard of
	TL	The brother of the elderly male mediated

In the event of a dispute in the Division of property remains in the present mainly in the town of Gorontalo, where there is no indigenous elders called the biased Chinese and indigenous

Tgl 25 – Mei – 2016

Beni Moto Hendra Kurniawan dan Toni Lanti, Tokoh Masyarakat (Kota Gorontalo)

Tgl 20 – Mei - 2016

⁴ Henry Ming dan Djino Benawan, Tokoh Masyarakat (Kota Gorontalo)

Tgl 25 – Mei – 2016

Beni Moto Hendra Kurniawan dan Toni Lanti, Tokoh Masyarakat (Kota Gorontalo)

Tgl 20 – Mei - 2016

judicial Chinese, then the solution is as follows: (a) finished among the beneficiary concerned itself with a meeting (Conference) of the family under the leadership of a living heir or led the oldest child (male), or one of his heirs in between authoritative and thoughtful of the paternal or maternal (b) if there is no agreement among the heirs cannot agree on a matter, then the talks suspended for some time, providing opportunities for the parties to consult and compromise among members of the beneficiary of the one and the other, directly or by intermediaries, (c) in the next meeting is given the possibility of intervening parties wishful elder family (grandfather, grandmother) and members of the family (uncle, aunt) influential as a mediator to seek a way out of dissent so that it can find the intersection a mutually agreed (d) what if also not reached an agreement with pillars and peace between the parties, the matter had to be filed with the matter to State Court (District Court for non Chinese or Chinese religion to Court) to decided by the Judges. This last effort on the part of the community is the Act of reprehensible, because it can result in rupture life of family harmony.

Based on the results of the interviews on the respondents, rare dispute regarding the Division of the inheritance on the Chinese community in Indonesia. The authors found only one dispute that never happened, namely the case of the family of Ms. Ita. In customary law known legacy is given at the moment in the heir was still alive. Grandpa nona Ika had six children. At the time he was still alive he often said on one of his son, that's because it was acquiring part of the legacy that many at the time of the grandfather still alive then the conserved if the grandfather died so the child does not acquire part of heritage again. But after the grandfather died, the children keep asking for the same section over the inheritance still exist after the grandfather died. The settlement in the case of families, because it does not want to fight and for the sake of maintaining the harmony of the family, his brothers after a family meeting held unanimously decided to divide the inheritance with the median actual brothers have got the first heritage section.

Basically the family relationship on Chinese society is very strong because since childhood Chinese people already trained to be obedient and dutiful parents, older brothers have obligations in younger brother, younger brother shall be subject to and respect for his older brother, so rarely occurs a dispute/disputes especially regarding inheritance in Chinese communities in Indonesia. In case of disputes especially regarding inheritance in General sought to be settled exclusively by way of amicable meetings are limited in scope, the family rarely dispute regarding the Division of the inheritance was taken to court because of the level of Chinese society is considered a disgrace if family until there is a dispute between the fellow's family just because the question of inheritance.

IV. Conclusion

Implementation of the Division of indigenous heritage in Chinese society in the city of Gorontalo is based on an agreement with the family (the heir). Whereas in the Straits Chinese community assimilated local customs in this custom of Gorontalo, has parental kinship, in which

seat boys and girls equally so in the Division of the inheritance rights of boys and girls of the same magnitude.

Dispute resolution in the Chinese community in the city of Gorontalo with the way the discussion was limited in the scope of the family, and trying not to let the issue be brought to the level of the Court, because Chinese society is considered a disgrace if family until there is a dispute between the fellow's family just because the question of inheritance.

V. Sugestian

1. For custom figures of Chinese society needs to be considered when the heirs of the women currently in the customs of the Chinese got a legacy as with male heirs then there needs to be form or statute so consistently enforceable in the future.
2. For the Chinese community to consider to formed an institution that serves as a conflict resolution of indigenous Chinese inheritance conflicts so consistently problem solving the Division of the estate is settled through indigenous.

Bibliography

- Suratman dan Philips Dillah. 2012. *Metode Penelitian Hukum*. Bandung, Alfa Beta
- Setiady Tolib, 2009. *Intisari Hukum Adat Indonesia (dalam kajian Kepustakaan)*, Bandung: Alfa Beta
- Sugangga. IGN.2009. *Hukum Adat Khusus. Hukum Adat Waris pada Masyarakat Hukum Adat yang bersistem Patrilineal di Indonesia*. (Semarang, Fakultas Hukum Universitas Diponegoro Semarang
- Suryokusumo, Sumaryo,.(1995) *Hukum Adat dan Kasus, Bandung: Alumni*.
- Tolib Setiady, *Intisari Hukum Adat Indonesia (dalam kajian Kepustakaan)*, (Bandung: Alfa Beta, 2009), h.16