

ANALISIS YURIDIS TRADISI BELIS DAN REKONSTRUKSI PERJANJIAN PERKAWINAN UNTUK KEPASTIAN HUKUM DI NUSA TENGGARA TIMUR

ABSTRAK

Pada mulanya belis hadir dalam perkawinan adat masyarakat Nusa Tenggara Timur bukan sebagai harga, melainkan sebagai penanda hormat kepada perempuan sekaligus simpul yang mengikat dua keluarga melalui prinsip resiprokal. Tekanan ekonomi dan perubahan sosial kemudian menggeser titik berat tradisi ini pada masyarakat adat di berbagai daerah Nusa Tenggara Timur. Belis yang semula simbolik bergerak menuju fungsi ekonomis serta transaksional, lalu dibaca sebagai takaran status sosial dan berubah menjadi beban finansial. Persoalan hukumnya lahir dari sifat kesepakatan itu sendiri. Karena lazimnya hanya diikat secara lisan, kesepakatan belis nyaris mustahil dibuktikan ketika pertunangan batal maupun ketika perkawinan berakhir dengan perceraian. Dua sasaran hendak dicapai lewat penelitian ini. Pertama, membaca arah pergeseran nilai belis beserta akibatnya bagi bangunan hukum perkawinan. Kedua, menyusun rekonstruksi hukum yang menempatkan kesepakatan belis di dalam perjanjian perkawinan. Penelitian ini bertumpu pada metode hukum normatif dengan tiga pendekatan sekaligus, yaitu pendekatan perundang-undangan, konseptual, dan kasus, yang dilengkapi bahan faktual berupa pemberitaan media, ekspresi masyarakat digital, serta keterangan informan asal Nusa Tenggara Timur sebagai potret *law in action*. Temuan penelitian menunjukkan bahwa belis tidak sedang bergerak menuju kepunahan. Ia justru berdiri pada titik kritis transformasi nilai, sebuah kondisi yang menuntut respons hukum dan bukan penghapusan. Kekosongan pengaturan mengenai status hukum, pengembalian, dan wanprestasi belis dapat dijawab dengan memformalkan kesepakatan tersebut ke dalam akta perjanjian perkawinan berdasarkan pasal 29 Undang-Undang Nomor 1 Tahun 1974 pasca Putusan Mahkamah Konstitusi Nomor 69/PUU-XIII/2015. Kesepakatan belis terbukti memenuhi syarat Pasal 1320 KUH Perdata, sehingga formalisasinya dapat ditempuh melalui asas kebebasan berkontrak yang dibatasi Pasal 1337. Rekonstruksi dijalankan dalam dua tahap yang berkelanjutan, yaitu musyawarah adat dan formalisasi ke dalam akta otentik, sehingga belis memperoleh kepastian hukum tanpa kehilangan makna kulturalnya.

Kata Kunci: *Belis*, Perjanjian Perkawinan, Hukum Adat, Rekonstruksi Hukum.

JURIDICAL ANALYSIS OF THE BELIS TRADITION AND THE RECONSTRUCTION OF MARRIAGE AGREEMENTS FOR LEGAL CERTAINTY IN EAST NUSA TENGGARA

ABSTRACT

Belis was originally practised in the customary marriage of East Nusa Tenggara not as a price but as a mark of respect towards women and as a knot binding two families through the principle of reciprocity. Economic pressure and social change have since shifted the centre of gravity of this tradition among customary communities across East Nusa Tenggara. What was once symbolic has moved towards an economic and transactional function, so that belis is now read as a measure of social status and has turned into a financial burden. The legal problem grows out of the nature of the agreement itself. Because it is typically sealed only orally, a belis agreement is almost impossible to prove once an engagement is broken off or a marriage ends in divorce. This study pursues two aims. The first is to trace the direction in which the value of belis is shifting and to assess its consequences for the architecture of marriage law. The second is to construct a legal proposal that places the belis agreement inside the instrument of a marriage agreement. The research rests on a normative legal method and applies three approaches at once, namely a statutory approach, a conceptual approach, and a case approach, complemented by factual material drawn from media reporting, public expression in digital spaces, and interviews with informants from East Nusa Tenggara as a depiction of law in action. The findings show that belis is not moving towards extinction. It stands instead at a critical juncture of value transformation, a condition that calls for a legal response rather than abolition. The normative vacuum concerning the legal standing of belis, its restitution, and breaches of the agreement can be addressed by formalising the agreement into a marriage agreement deed under Article 29 of Law Number 1 of 1974 following Constitutional Court Decision Number 69/PUU-XIII/2015. The belis agreement is shown to satisfy the requirements of Article 1320 of the Indonesian Civil Code, so that its formalisation may proceed through the principle of freedom of contract as limited by Article 1337. The reconstruction runs in two continuous stages, namely customary deliberation and formalisation into an authentic deed, so that belis attains legal certainty without losing its cultural meaning.

Keywords: Belis, Marriage Agreement, Customary Law, Legal Reconstruction.