

ABSTRAK

HAK MEWARIS ANAK LUAR KAWIN WARGA NEGARA INDONESIA KETURUNAN TIONGHOA DALAM PRAKTIKNYA DI KOTA SINGKAWANG

Perkawinan Warga Negara Indonesia Keturunan Tionghoa di Kota Singkawang dilakukan secara adat mengakibatkan adanya anak luar kawin. Penelitian ini bertujuan untuk mengetahui pelaksanaan perkawinan dan hak mewaris anak luar kawin warga negara keturunan Tionghoa dalam prakteknya di kota Singkawang

Metode yang dipergunakan dalam penelitian ini yaitu metode *yuridis empiris* dengan sumber data primer diperoleh dari penelitian langsung dilapangan, penelitian lapangan dilakukan dengan mewawancarai responden dan narasumber yang telah dipilih. sedangkan sumber data sekunder diperoleh dari kepustakaan dengan menggunakan bahan hukum primer dan bahan hukum sekunder kemudian data yang diperoleh di analisa secara kualitatif guna menjawab permasalahan dari penelitian.

Setelah dilakukan penelitian dan pembahasan, kesimpulannya adalah Pelaksanaan Perkawinan Warga Negara Indonesia keturunan Tionghoa di Kota Singkawang dilakukan secara hukum adat, mereka menganggap apabila mengikuti prosedur Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan tersebut cukup rumit dan juga beranggapan perkawinan tetap sah sepanjang mereka telah mengikuti tata cara perkawinan menurut adat leluhurnya dimana telah berlangsung secara turun-temurun, dan hak mewaris anak luar kawin warga negara Indonesia keturunan Tionghoa dalam prakteknya di kota Singkawang berhak mendapat bagian harta warisan orang tuanya menurut adat Tionghoa setempat, walaupun belum dilakukan pengakuan anak luar kawin oleh bapak atau orang tuanya, seperti yang disyaratkan oleh ketentuan KUH Perdata. Hal ini karena secara hukum adat setempat sudah dianggap sebagai anak sah. Untuk bagian masing-masing ahli waris anak luar kawin diberikan sesuai dengan kesepakatan musyawarah mufakat setiap keluarga, sehingga tidak menurut bagian mereka sebagaimana diatur dalam KUH Perdata.

Kata-kata kunci : Hak mewaris, Anak Luar Kawin, Keturunan Tionghoa.

ABSTRACT

INHERITANCE RIGHT OF EXTRA MARITAL CHILDREN OF CHINESE DESCENDANTS INDONESIAN CITIZENS IN ITS PRACTICE IN SINGKAWANG CITY

Marriage of Chinese descendants Indonesian citizens in Singkawang city is conducted using traditional law resulted in a extra marital children. This research has the objective of finding out the inheritance right of extra marital children of Chinese descendants Indonesian citizen in its practice in Singkawang City.

The method used in this research is the juridical-empirical method with the source of primary data is collected from a direct research in the field. The field research is conducted by interviewing selected respondents and informants. Meanwhile, the source of secondary data is obtained from the literature by using the primary legal materials and secondary legal materials, and then the collected data are analyzed qualitatively in order to answer the research problems.

After the research and discussion have been conducted, the conclusion is that, the execution of the marriage of Chinese descendats Indonesian citizens in Singkawang City is conducted using traditional law. They consider that if they follow the procedures of Act Number 1 of 1974 concerning Marriage, it will be to complicated, and they also consider that the marriage is still legal as long as they have followed the marriage procedures according to their ancestor's tradition that has been prevailing from generations of generations. Concerning the inheritance right of extra marital children of Chinese descendants Indonesian citizens in its practice, those children have had the right to receive the inheritance from their parents according to the local Chinese tradition, although the recognitions of extra marital children by their fathers or parents have not been conducted yet, as rerequired by the provisions of Civil Code. This is because according to the local traditional law, they have been considered as legal children. For each part of heirs of extra marital children, it is given according to the agreement of the discussion per family, so that, it does not follow their parts as regulated in the Civil Code.

Keywords: inheritance right, extra marital children, chinese descendants.