

# PUNISHMENTS OF BRAHMIN WOMEN MARRIAGE IN BALI (IN THE PRESPECTIVE OF HINDU VALUES)\*

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## **Abstract**

*Brahmin women marriage to men of different castes in Bali is called intermarriage. Punishments for such marriages still exist among people, especially patiwangi ceremonies and other social punishments. This study is conducted based on that issue. The research problems are how do punishments of Brahmin women marriage to men of different castes apply? How are marriage punishments in the perspective of Hindu values? The method used is empirical legal research, then are analyzed qualitative descriptive. Punishments for this marriage include: killed by jumping into the fire, drowned in a sea, isolated, downgrading, not allowed to go home. These punishments in Hindu perspective are contrary to the teachings of Tri Hita Karana, Tri Kaya Parisudha, Vasudaiva Kutumbakam, Tat Wam Asi, Manusapada, Ardhanareswari, Akhroda, Ahimsa.*  
**Keywords:** marriage, punishments, hindu values.

## **Intisari**

Perkawinan perempuan *brahmana* dengan laki-laki yang berbeda kasta di Bali merupakan perkawinan campuran. Sanksi perkawinan masih dilakukan khususnya sanksi upacara *patiwangi* dan sanksi sosial lainnya, itulah yang melatarbelangi penelitian ini. Permasalahan yang diangkat bagaimana sanksi perkawinan perempuan *brahmana* dengan laki-laki yang berbeda kasta? Bagaimana sanksi perkawinan dari perspektif nilai-nilai Hindu? Metode yang digunakan adalah metode penelitian hukum empiris, kemudian dianalisis secara deskriptif kualitatif. Sanksi dibunuh dengan cara terjun ke dalam api, dibuang ke laut, diasingkan, sanksi penurunan derajat, dan tidak diperbolehkan pulang. Sanksi perkawinan tersebut dari perspektif Hindu bertentangan dengan ajaran *Tri Hita Karana*, *Tri Kaya Parisudha*, *Vasudaiva Kutumbakam*, *Tat Wam Asi*, *Manusapada*, *Ardhanareswari*, *Akhroda*, *Ahimsa*.

**Kata Kunci:** perkawinan, sanksi, dan nilai-nilai hindu.

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## A. Background

Customary law or *dresta*<sup>1</sup> has locally applicable scope which means applying to the local people. For the Balinese, the existence of customary law is still very strong, meaning that they are recognized and obeyed by the people of Bali, particularly in family law. Family law is the overall norms of law whether it is written or unwritten that governs the legal relations concerned with family relationship by blood or by a specific legal act. Legal acts that may lead to family relationships include adoption and marriage. Family relationships contain rights and obligations of family life, such as children's rights and duties towards their parents or vice versa and so on. Legal norms that are not written in the legislation governing these relations are called customary family law.<sup>2</sup>

From the foregoing, it appears that the family law scope also includes intermarriage in different *wangsa*.<sup>3</sup> In the past the *wangsa* system in Bali in any term: caste, color, *wangsa*, *soroh*, *tegak* (linggih) turned out to bring certain legal implications that may lead to injustice for women. *Triwangsa* women, especially those who are Brahmin (name starts with the word Ida Ayu) in the past were banned from marriage to men from *Kshatriyas*, *Vaishyas* and *Shudras*.<sup>4</sup> This marriage is commonly called *asupundung*.<sup>5</sup> The term *asupundung* is often called *nyerod* (slip), *ulung* (fall), *hanyud* (carried by currents), and others. At the time of monarchy still exist, *asupundung* is customary offense punishable by the death penalty. All of these are negative labels meaning punishments.

Today, legally *asupundung* marriage is no longer an offense custom because it was removed in

1951 by the DPRD Bali Decree No. 11 of 1951. In Article 4 of the DPRD Decree stated that customary law called *asupundung* and *alangkahi karanghulu* is officially removed. Elimination of this marriage (*asupundung* and *alangkahi karanghulu*)<sup>6</sup> through DPRD Bali Decree No. 11 of 1951 is one of the important milestones in the development of customary law marriage in Bali. The government at the time recognizes that the prohibition is no longer in line with the times. Thus, they use the law to change the values and behaviors that exist in society. The concept of changing the cultural values of society through the law in legal theory is commonly called *Law as a tool of social engineering*.<sup>7</sup>

DPRD Bali Decree No. 11 of 1951 appears to be less successful in changing values and behaviors in accordance with the teachings of Roscoe Pound. One of the reasons is the agent of change that is not ready for this change, in addition to social, cultural condition that does not support. Balinese people still seem to believe that *asupundung* marriage is a marriage that violates customary law that will cause a catastrophe in their marriage life. Although the explanation is mere mythology that cannot be proved by common sense but it sometime unsubstantiated. Since the Balinese way of thinking is still influenced by the things that are magical religious, it is difficult to apply the rule that changes the behavior of a society, unless the Brahman as the agent of change is willing to support these changes.

*Patiwangi* ceremony means eliminating the bride's position (caste, *wangsa*, name, degrees) which is considered higher and marries to whom is considered from a lower caste.<sup>8</sup> In connection with *patiwangi*, in 2002 the real agent of change

<sup>1</sup> *Dresta* is a habit that exists in the traditional village in Bali

<sup>2</sup> I Wayan Windia and I Ketut Sudantra, 2006, *Introduction to Bali Customary Law*, Faculty of Law Udayana University, Denpasar, p. 75.

<sup>3</sup> *Wangsa* in Bali also means caste because Balinese people do not adhere to the caste system, but adopts *wangsa* system. *Wangsa* shows a descent or ancestry. If ancestors of Hindu community in Bali are pulled up, it would appear that their ancestors are one. So actually there is no difference vertically. Hindu community should embrace the color system because it exists in the Hindu teachings in Menawa Dharmacakra and Begawadgita.

<sup>4</sup> I Gde Panetje, 1989, *Miscellaneous Notes on Bali Customary Law*, Gunung Agung, Denpasar, p. 22.

<sup>5</sup> *Asupundung* is the marriage of Brahmin women and Kshatriyas women (Sri Krishna Kepakisan descendants) to Kshatriyas men not dalem, Vaishyas and Shudras.

<sup>6</sup> *Alangkahi KarangHulu* is the marriage of Kshatriyas women and Vaishyas women with Shudra men.

<sup>7</sup> Achmad Ali, 1996, *Uncover The Veil of Law (A Philosophical and Sociological Study)*, Candra Pratama, Jakarta, p. 101.

<sup>8</sup> Jiwa Atmaja, 2008, *Gender Bias in Forbidden Balinese People Marriage*, Udayana University Press, Denpasar, p. 149.

represented by a *Brahmin*, Ida Padanda Gede Ketut Bali Tianyar Arimbawa and Ida Pandita MPU Jaya Dangka Suta Reka already made a breakthrough by issuing *Bhisama Sabha Pandita Parisada Hindu Dharma Indonesia Pusat Nomor 03/Bhisama/Sabha Pandita Parisada Pusat/X/2002* on the practice of Color system (hereinafter referred Bhisama PHDI). In the annex Section C, point 6 Bhisama PHDI expressly states that the priests, should not refuse to “*muput*” (complete) *pawiwahan* (marriage) ceremony of different *wangsa*/caste. Furthermore, in point 7 it is stated that in terms of *Manusayadnya* ceremony *mepandes* (cutting teeth) people do not discriminate - distinguished their sons and daughters because of different *wangsa*.<sup>9</sup>

Not infrequently in *asupundung* marriage, *patiwangi* still exists. This punishment is contrary to Hindu values. In the *Vedas*, there is no *wangsa* system, but it is set by color system. This system does not recognize differences in social stratification, yet it teaches color difference according to *guna* (talent) and *karma* (work). So it can be said that the punishment of *asupundung* marriage which is still believed by the public of its existence is contrary to the teachings of the *Vedas*. In Hindu law *Menawa Dharmasastra* is also not found. Punishment of *asupundung* marriage is found in *Brahma Tatwa* which is the legal construction of the Hindu kingdom era in Bali.

Based on the description of the above-mentioned background, the author conducts the study entitled “Punishments of *Brahmin* Women Marriage to Men of Different Castes in Bali (In the Perspective of Hindu Values)” with 2 (two) problems: (1) How do punishments of Brahmin women marriage to men of different castes applied?; (2) How are marriage punishments in the perspective of Hindu values?

## B. Research Methods

This study employs empirical legal research

method. The research location in Bali covers some pekraman villages whose data show variation. The data is obtained by implementing direct interviews with informants and respondents. In addition to the data, this study also uses primary and secondary legal materials obtained by conducting study of documentation, as well as the card system. Data and legal materials are analyzed using qualitative descriptive principles, theory, and then legal arguments are provided.

## C. Research Result and Discussion

### 1. Punishments of *Brahmin* Women Marriage to Men of Different Castes

Marriage involves social position. In general a marriage takes place between people who have equal social standing, but sometimes marriages were even dignity certain people or otherwise degrading. Such circumstances generally seen in people who are in closed system of social stratification. Hence the caste system are rules that limit members of the community to move from the bottom to the top layer. Caste system in the Hindu community in Bali brings consequence regulation of inter-caste marriage.

Customary law marriage of Hindu community in Bali relate to aspects of society level (social stratification). This community in Bali aspect of the leveling can affect the existence and implementation of customary law known as the caste marriage. The concept of caste that persons position in society is determined by birth or offspring, this concept is vertical. Pasek Diantha calls “vertical stelsel of four-caste (*catur wangsa*) system, while the system four-color (*catur warna*) adopts a horizontal system”.<sup>10</sup>

Based on the history, the *Kepakisan* dynasty is an early formations of a new *wamsakerta* in Bali *Wamsa* Sri Kreshna *Kepakisan*, which then run in the family of the kings derived from *Majapahit*, among others *Samprangan*, *Gelgel*, *Klungkung*. *Dalem* Sri Krishna *Kepakisan* was considered the king who

<sup>9</sup> Sudiana, 2007, *Samhita Bhisama Parisada Hindu Dharma Indonesia*, Indonesia Parisada Hindu Dharma of Bali Province, Denpasar, p. 146.

<sup>10</sup> Made Pasek Diantha and I Gede Pasek Eka Wisanjaya, 2010, *Caste in The Verspective of Legal and Human Rights*, Udayana University Press, Denpasar, p. 100.

has managed to fulfil duties as a facilitator of Bali and the Regional conquests.<sup>11</sup> According to Wiana and Raka Santri, system of social stratification of Hindu society called *wamsa*,<sup>12</sup> the public is calling the *wangsa*. *Wamsa* term equal to the caste that has the same meaning offspring. The system of social stratification in the Yajurveda XVIII.48 that states as follows: “*Brahmane brahmanam, ksatria rajanyam, marudbhovaisyam, tapase sudram*”. Color system is system of social stratification that are horizontal/open. Hindu community in Bali have characteristic identical to community groups such as the above is called *catur wangsa*; *brahmana, ksatria, wesya and sudra*. The system brings certain legal implications in the law marriage in particular inter-caste marriage, there are two types of legislations relating to marriage that endogamy and exogamy. *Tri wangsa* embrace endogamy, which prohibits members of the family to marry out (exogamy) with the *sudra*-caste, because it was considered demeaning family. Violation of the above rules called *Asu Pundung* and *Alangkahi Karang Hulu*. *Asupundung* interprets that act brahmin women holding a dog, the dog in questions is male *sudra*, *Alangkahi Karang Hulu* as an act of stepping or skipping “sacred territory” (*karang hulu*).

In Bali customary law *Brahmin Women* marriage to men of different caste is intermarriage in terms of customary law. The bride and groom are from different castes. This marriage has two kinds of marriage; *Asupundung* and *Alangkahi Karanghulu*. There is a sense of imprecision in *Paswara* governing communication between *wangsa* systems in Bali, which is between *Brahmin Women* and *ksatria dalem* women with *ksatria, Vaishyas* and *Shudra* men based on DPRD Decree No. 11 of 1951 Appendix II.<sup>13</sup> According to Hilman

Hadi Kusuma, “Intermarriage takes place between a man and woman of different ethnic origin, or different cultural customs and religious affiliations.<sup>14</sup> When linked to the National Marriage Act, it does not regulate such a case. Intermarriage takes place between a man and woman of different nationality as stated in Article 57 of Law No. 1 of 1974.<sup>15</sup> From the description, Article 57 does not regulate the prohibition of marriage between man and woman of different *wangsa*, hence by the Marriage Act in force, the marriage of different castes / *wangsa* cannot be called intermarriage.

According to Jiwa Atmaja, “*Asupundung*” literally means holding the dog, depicting a woman from a higher caste holding a dog and the man from lower caste (*Shudra*) is symbolized as a dog.<sup>16</sup> By knowing *asupundung*, the caste for *triwangsa* and *Shudrawangsa* does not have a caste then men from *Shudra* are symbolized as a dog. According to *Kembar Kerepun*, this expression indicates a higher status or prestige.<sup>17</sup> In terms of ethnolinguistic, these expressions can be known the efforts to maintain the caste to set the language as a metaphorical playing field.

*Asupundung* expression can cause any Brahmin family to preserve and defend the existence of caste fanatically until their descendants particularly *Brahmin Women* are banned to marry men from a different *wangsa*. In addition to purify the *wangsa*, patriarchal culture is also reflected therein. Men are destined to regulate women and strong. *Asupundung* is a term created by local Balinese because it is not found in the Book of the Law of Majapahit as in the Kutara Manawa phrase. The book mentions *pratiloma* marriage. In Kutara Manawa *pratiloma*, it is not prohibited as long as it is done with the consent of the woman’s

<sup>11</sup> I Wayan Ardika, et al., 2013, *The History of Bali: From Prehistory to Modern*, Udayana University Press, Denpasar, p. 110.

<sup>12</sup> Ketut Wiana and Raka Santri, 2006, *Caste in Hinduism: AA Misunderstanding for centuries*, Percetakan Offset, Denpasar, p. 115.

<sup>13</sup> Jiwa Atmaja, *Op. cit.*, p. 148.

<sup>14</sup> Hilman Hadi Kusuma, 1992, *Introduction to Indonesia Customary Law*, Mandar Maju, Bandung, p. 188.

<sup>15</sup> Article 57 Law No. 1 of 1974 regarding Marriage declare that “yang dimaksud dengan perkawinan campuran dalam undang-undang ini adalah perkawinan antara dua orang yang di Indonesia tunduk pada hukum yang berlainan, karena perbedaan kewarganegaraan dan salah satu pihak berkewarganegaraan Indonesia”.

<sup>16</sup> JiwaAtmaja, *Loc. cit.*

<sup>17</sup> *Ibid.*, p. 149.

parents. In Pratiloma marriage, the woman is called *jawikapateh* (controlled ox). In this case the one who controls is the man. Thus, it can be seen that the men manage to build a patriarchal culture to control the bulls that are strong and very charming.

In the opinion of Panetje, *asupunding* is a marriage of caste, the woman of a higher caste than her husband. Before 1951, it is an impediment for man of lower caste to marry a woman of higher caste, even it is deemed as a violation of customary law. After 1951 the different caste is not an obstacle anymore.<sup>18</sup> Removal of *asupunding* marriage and *alangahi karang hulu* is done using the DPRD-Bali Decree No. 11 of 1951. This decree at the same time eliminates the legal consequences of caste in Hindu society in Bali. Removal of the legal consequences of social interaction among groups from different castes is in accordance with the demands of time.

Removal of customary law punishments in Balinese Hindu community has consequences or criminal elements with the decree has not been successful. It is more appropriate that the abolition employs law such as the elimination of Customary Court (*Raad Kerta*) in Bali with Emergency Law No. 1 of 1951 (dated January 13, 1951) and is replaced by the District Court.

Punishments of *Brahmin* women marriage to men from a lower caste include downgrading caste and she gets her husband's caste by performing the *patiwangi* ceremony. The above provisions already become established jurisprudence of *Raad Kerta*. Other social punishments are given to women who marry to men from a lower caste which include: they are not allowed to return home where they come from, shall reprove his parents and family in

refined Balinese, not allowed to pray in the temple and other appropriate local customs. Examples of *Raad Kerta* Decision that decide such cases is *Raad Kerta* Decision 1948. The case occurred in Br. Celuk Desa Adat Bualu, the marriage of I Wayan Rodang and Ni Gusti Ayu Oka (deceased). Based on *Raad Kerta* Decision, they were sentenced for 6 months imprisonment. They are not allowed to pray in Pura Kahyangan Tiga.<sup>19</sup>

Looking at the case, the punishment stipulated in *Raad Kerta* is tough. When compared to Tri *Wangsa* men marrying *Shudra* Women, they are not penalized as in *asupunding* marriage. A man has more freedom in choosing a woman. *Brahmin* men are not required to *dopepadan*.<sup>20</sup> They are encouraged to find women from higher caste. Unlike the women, even today women with high caste are required to marry men in the same caste. Changes in the customary law of marriage till now still leaves dark spots, but already has some improvements. As experienced by Ida Ayu Sekretarini, she was not given any punishments by her parents and families.<sup>21</sup> At home, the husband does not do *patiwangi* ceremony and his family is allowed to bring *piuning nganten* ceremony.<sup>22</sup> The process of change seems to keep rolling after Parisadha Hindu Dharma Indonesia issued *bhisama* to return to the color system based on *guna* and *karma*.<sup>23</sup> From some *Awig-Awig Pakraman*, only one *Awig-Awig Pakraman* Kuwum Village<sup>24</sup> requires the people to perform *patiwangi* ceremony. *Awig-Awig* Adat Panjer Village<sup>25</sup>, *Awig-Awig* Medahan Village<sup>26</sup>, *Awig-Awig* Kesiman Village<sup>27</sup>, *Awig-Awig* Sesetan Village<sup>28</sup> already removed *patiwangi* ceremony, however there are those who still perform the

<sup>18</sup> G. Pudja and Tjokorda Rai Sudharta, 1973, *Manawa Dharmasastra (Manu Dharma Sastra), or Weda Smrti : Hindu Law Compendium*, Pustaka Mitra Jaya, Jakarta, p. 136.

<sup>19</sup> Wiana, 2006, *Understanding The differences of Chaturvarna Caste and Wangsa*, Paramitha, Surabaya, p. 162.

<sup>20</sup> *Pepadani* is the ideal marriage of parents in Bali, where their children get a mate of the same caste even from the same clan.

<sup>21</sup> Interview with Ida Ayu Sekretarini, *Brahmin* Women married to *Sudra* Men, Desa Banjar Tegal Singaraja Bali, June 11 2014.

<sup>22</sup> *Piuning nganten* ceremony in this context means the ceremonial request to the ancestors, parents, families and communities to hold marriage and will undertake the obligations of life at husband's home.

<sup>23</sup> Jiwa Atmaja, *Op. cit.*, p. 165.

<sup>24</sup> Based on *Pakraman* Kuwum Village Customary Law, Marga District, Tabanan Regency.

<sup>25</sup> Based on Panjer Village Customary Law, Denpasar 1998.

<sup>26</sup> Based on *Pakraman* Medahan Village Customary Law, Blahbatuh District, Gianyar District 2009.

<sup>27</sup> Based on Kesiman Village Customary Law, East Denpasar District, 2010.

<sup>28</sup> Based on Sesetan Village Customary Law, South Denpasar District, Denpasar.

*patiwangi* ceremony to the *Brahmin Women*.

## 2. Punishments of Marriage in The Prespective of Hindu Values

### a. The Beginning of Caste System of Hindus in Bali

One important aspect that needs to be addressed in a marital problem in Bali is the coating system of society (social stratification) that affects the existence and implementation of such marriage which is known by caste. Caste is essentially unknown in the Hindu scripture because it will locate the position and the place of humanity and society in high and low strata (vertical stelsel). The meaning of caste grows because mastery and appreciation of Hindu teaching still seems to be low. Sociological and historical factors of influx of Hinduism to Bali brought by the maharsi of East Java seems to also affect the existence of caste in Bali, and it was at the peak when Mpu Nirartha arrived in Bali.<sup>29</sup>

Social stratification in Hindu is called color relating to the profession or the individual functions in the community (the profession in society) which is set in the *Arthawa Vedas XIX.15 (7.8.1)*. The weak point of Hindu teaching is a deviation of the actual color meaning according to the scriptures the *Vedas* into caste. Caste comes from the Portuguese language which means descendants. Holy Word of God Almighty affirms that each profession has the same position and is glorious.<sup>30</sup> In the *Yajur Veda XXX.5*, stated God Almighty has created Brahmins for knowledge, *Kshatriyas* for protection, *Vaishya* for trade and *Shudra* for physical work. Further, *Yajur Vedas XXXI.11* declares Brahmins are the mouth of God Almighty, *Kshatriyas* are the arms, *Vaishya* and *Shudra* are the feet.<sup>31</sup> It can be described

that the color as the whole person including head to think which is the duty of the Brahmin. Shoulders and arms are *Kshatriyas*, the stomach is *Vaishya* while the foot is *Shudra*. Conceivably, if one of the parts is not there then the man are unable to perform duty as required by the Almighty God. So professions in Hindu society are not on the basis of birth, but on the basis of the nature or tendency of talent (*guna*) and work (*karma*) of someone in the community.

Intermarriage is set in the book IX but none discuss the Brahmin Women marriage to the *Shudra*. It regulates more in triwangsa group also called *dwijati* (priest) marry to a woman who would have lower descendant and a lot of stuff. Implicitly, the author captures the existence of an abstract rule, women who have a lower degree are considered as the fields that were dry and vice versa. Seeds that were planted are diverse. Its success depends on the fertility of the fields. It means the presumed fertile field comes from the *Brahmins* who will deliver successful children because of the mother.

### b. Punishments of Marriage in The Prespective of Hindu Values

*Asupundung* marriage is specifically regulated in the *Brahma Tatwa* in this papyrus color seems to be interpreted into *wangsa*. Color position does not fit anymore. It causes injustice to *Brahmin Women*. *Brahma Tatwa* in Sadnyini states *patiwangi* ceremony to kill the caste of a woman so that she has the same caste as her husband. That rule is called *Brahma Wangsa Tatwa*. Punishments are also well organized in the *Dandang Bang Bungalan* concerning the *pitutur juang kejuang* (advice on the prohibition of marriage)<sup>32</sup>.

<sup>29</sup> Wiana and Raka Santri, 1993, *Caste in Hindu : A Millennial Misunderstanding*, Dharma Naradha Foundation, Denpasar, p. 101.

<sup>30</sup> I Made Titib ,1996, *Holy Word Vedas : Practical Guidelines for Life*, Paramita, Surabaya, p. 388.

<sup>31</sup> *Ibid.*, p. 391.

<sup>32</sup> Ida Ayu Sadnyini, 2010, *Uncovering Asupundung Marriage in Bali Customary Law*, Penerbit Universitas Pendidikan Nasional, Denpasar, p. 76.

At the time of the royal judicial power in the hands of the king, the King's duty is to decide all cases (*wya wahara*) arising among people. For practical purposes, the king is assisted by the Brahmins who are the Expert judges. The Board function is as an independent institution or aids the government (king) by deciding the case in the trial court (*Dharma Sabha*) to establish the applicable legal certainty.<sup>33</sup> In *Menawa Dharma Sastra*, it is concluded that the Board of *Brahmins* are the priests. They construct the *Tatwa Brahma* which set the norms of *Brahma Tatwawangsa*. *Brahmins* Council position also acts as the judiciary even in *parisadha* institutions or *wipra/brahmin* assemblies as a legislative body with the politics of law to regulate the marriage punishments.

Marriage punishment in the royal era up to the time of independence as a result of research can be seen in the following description. The respondents or family who experience the punishment of marriage are as follows:

1. Punishment of marriage in the Hindu kingdoms era is death penalty. It is based on the testimony of informant Ida Bagus Anom that the death penalties include *Labuh Geni* (plunge into the fire), *Melebok* (drowned in the sea).<sup>34</sup> He cannot mention names of the victims because it happened long time ago. Punishments in Hindu Kingdom era can be seen in the

results of research by Frederich in his book, "The Civilization and Culture of Bali"<sup>35</sup> published in 1949 that describes the cruel punishment of women from high caste who marry to men from lower caste, namely death punishment by being burned alive, men drowned into the sea with stones tied around the legs.

2. Marriage punishment in colonial era is *Selong* (exile). According to the informant, there were two *Brahmin* Women were exiled to the Lombok island, namely Mbah Damuh (Ida Ayu, the real name is not known yet),<sup>36</sup> and Ida Ayu Rata was exiled to Buleleng. In Singaraja, I Gusti Ayu Singkring Kshatriyas Dalem Persada was exiled to Parigi, Sulawesi Island<sup>37</sup>. In Gianyar, Ida Ayu married to I Dewa Gde whose full names are unknown. They were exiled to Nusa Penida island<sup>38</sup>.
3. Marriage punishment at the time of Independence which is *pati-wangi* ceremony was removed in 1951 and some *Brahman* women suffered from other social punishments among others: Ida Ayu Suwinih,<sup>39</sup> Ida Ayu Kade Wati,<sup>40</sup> Ida Ayu Made Taman,<sup>41</sup> Ida Ayu Ketut Budastri,<sup>42</sup> Ida Ayu Kade Sukerti,<sup>43</sup> Ida Ayu

<sup>33</sup> Puja, *Op. cit.*, p. 10.

<sup>34</sup> Interview with Ida Bagus Komang, *Penglingsir Gria Sesandan Village*, Tabanan, June 21, 2014.

<sup>35</sup> R. Frederich, 1959, *The Civilization and Culture of Bali*, Susil Gupta Private Ltd, Calcuta, p. 101-102.

<sup>36</sup> Interview with I Noman Windia, grand daughter of Mbah Damuh (*Brahmin Women*), Wanasari Village, June 21, 2014.

<sup>37</sup> Interview with Ratu Ayu Rija, *Penglingsir (Puri Kawan Singaraja Elders)*, Singaraja, April 27, 2014.

<sup>38</sup> Interview with Dewa Gede Sumertha Yasa, Retired Police of *Penglingsir Puri*, July 16 2014.

<sup>39</sup> Interview with Ida Ayu Suwinih, *Brahmin Women married to Sudra Men*, Senandan Village, Tabanan, October 13, 2014.

<sup>40</sup> Interview with Ida Ayu Kade Wati, *Brahmin Women married to Sudra Men*, Jegu Village, Penebel Tabanan, June 23, 2014

<sup>41</sup> Interview with Ida Ayu Taman, *Brahmin Women married to Ksatria Men*, Sukasada Village, Singaraja, June 12, 2014.

<sup>42</sup> Interview with Ida Ayu Budastri, *Brahmin Women married to Sudra Men*, Panjer Village, Denpasar, April 29, 2014.

<sup>43</sup> Interview with Ida Ayu Kade Sukerti, *Brahmin Women married to Ksatria men*, Timpag Village, Kerambitan, July 7, 2014.

Kade Sumarti,<sup>44</sup> Ida Ayu Kade Adnyani,<sup>45</sup> Ida Ayu Sriani,<sup>46</sup> Ida Ayu Yasmini,<sup>47</sup> Ida Ayu Putu Stiti,<sup>48</sup> Ida Ayu Kartini,<sup>49</sup> Ida Ayu Putu Nila Dani,<sup>50</sup> and Ida Ayu Paramita.<sup>51</sup>

Of the respondent's name, there are two women who suffered inhuman treatment. They are Ida Suwinih and Ida Ayu Putu Stiti. Ida Ayu Suwinih married to I Made Jagra in 1964 was not approved by her family. She got harassment and violence both physical and spiritual. According to the explanation, she was stripped by because she does not want to separate from her husband. Her family then does not want to admit her as a daughter and sister or discarded. She felt it for decades. After her parents and brother died she had the courage to return. Another story is from Ida Ayu Putu Stiti who married to a low caste man, I Ketut Bakti in 1984. Her life was full of menace society. Her marriage was never recognized despite the marriage ceremony that was held for three times. The cause is caste and people agreed not to attend the marriage which was considered invalid. Such circumstances led her father to take the case to the court. Tabanan court's Judge I Wayan Narba won her case so that the marriage is legal with Decision No. 8/ PDT.P/1985 PN.

Tabanan District Court has referred to the DPRD Bali Decree No. 11 of 1951 on the abolition of *asupundung* marriage. Moreover, it refers to the Pancasila and Act No. 1 of 1974 on marriage. When it is analyzed by the legal theory, it is the Behavior of Judges

of Benjamin Cardozo mentioning socio-economic factors as well as psychological aspects have indeed helped influence the judge's decision. A judge should not forget the normative aspects of the law which serves the general interest of justice. The authority of a judge upholds his loyalty which lies precisely in the legal purpose. Therefore, the judge's decision should not be made freely without limits. Judges activities remain bound to the public interest as the essence of justice. So the verdict is very proper and correct by having reference to the Pancasila as the source of all sources of law, the Constitution of the Republic of Indonesia Year 1945, Act No. 1 of 1974 on the Marriage Law in Indonesia, as an aspect of mandatory normative law upheld by the judge. The existence of Tabanan Court decision indicates there is no prohibition of marriage based on caste.

Marriage punishments in the Hindu kingdom era up to the time of independence, among others: *labuh geni* (plunge into the fire), *selong* (exiled to a remote place) *patiwangi* ceremony (downgrade) and social punishments such as discarded by the family or not allowed to return home, *asupundung* or *nyerod* labels are contrary to the Hinduism values which include:

1. *Tri Hita Karana* teaching values, which teach human relationship with God. Human is God's creation, so they must worship, bow down and thank God.<sup>52</sup> Human relationship with other human beings, they can not live alone and shall live in harmony, no hurting and demeaning

<sup>43</sup> Interview with Ida Ayu Kade Sukerti, *Brahmin Women married to Ksatria men*, Timpag Village, Kerambitan, July 7, 2014.

<sup>44</sup> Interview with Ida Ayu Kade Sumarti, *Brahmin Women married to Sudra men*, Timpag Village, Kerambitan, July 7, 2014.

<sup>45</sup> Interview with Ida Ayu Kade Adnyani, *Brahmin Women married to Sudra Men*, Pedungan Village, Denpasar, May 1, 2014.

<sup>46</sup> Interview with Ida Ayu Sriani, *Brahmin Women married to Sudra Men*, Pedungan Village, Denpasar, May 6, 2014.

<sup>47</sup> Interview with Ida Ayu Yasmini, *Brahmin Women married to Sudra Men*, Sesetan Village, Denpasar, April 30, 2014.

<sup>48</sup> Interview with Ida Ayu Putu Stiti, *Brahmin Women married to Sudra men*, Wanasari Village, Tabanan, June 23, 2014.

<sup>49</sup> Interview with Ida Ayu Kartini, *Brahmin Women married to Sudra men*, Buruan Penebel Village, Tabanan, June 22, 2014.

<sup>50</sup> Interview with Ida Ayu Putu Nila Dani, *Brahmin Women married to Sudra Men*, Medahan Village, Gianyar, June 21, 2014.

<sup>51</sup> Interview with Ida Ayu Paramita, *Brahmin Women married to Ksatria Men*, Tampaksiring Village, Gianyar, October 10, 2014.

<sup>52</sup> K.M Sukardana, 2007, *Tri Kaya Parisuda : Study Materials for Good Thinking, Good Saying and Good Behavior*, Paramita, Surabaya, p. 74.



each other. Human relationship with the environment means maintaining the environment in harmony so that people feel safe and secure.

2. *Tri Kaya Parisudha* values; good thinking, good saying and good behavior. Punishments of marriage are contrary to these values because human beings are not different. Whatever the types of marriage punishment, they mean bad deeds. If this teaching is carried out properly, respect and appreciation for human will be in line with the values.
3. *Vasudeiva Kutumbakam* teaches noble-minded people to look people all over the world as brothers.<sup>53</sup> Marriage punishment is contrary to the dignity of man as distinguished by birth.
4. *Tat Twam Asi* teaching in the dictionary of Hinduism is the doctrine that say I was you, punishing and degrading women are contrary to those values.<sup>54</sup>
5. *Manusapada* teachings can be found in the explanation of devotion to God which mentions there is no difference between low groups of people and high groups of people.<sup>55</sup> All men are equal before God. Punishments are against the teachings because they adhere to the social stratification stelsel vertical that distinguish position by descent.
6. *Ardhanareswari* concept, a symbol of husband and wife.<sup>56</sup> This symbol describes half male and half female in one body

exemplified between Siwa and Uma. Agastya<sup>57</sup> declared that the concept of *ardhanareswari* unification of women with men in marriage form as unified consists of two equal parts, equally strong, and equally significant for complementarity in creating harmony in life in this world. In relation to this, Pasek Diantha<sup>58</sup> believes husband and wife symbolized as *ardhanareswari* which points out the similarities between men and women.

7. *Akrodha* means to control anger, to be tolerant.<sup>59</sup> *Akroda* is included in the *Panca Niyama Brata* which means not compromised by anger.<sup>60</sup> Parents whose children married to people from different caste would be angry to their own children or to messengers who told them that their children have eloped (*ngerorod*). Parents usually will not attend the marriage. This was done in honor of the family of Brahmins.
8. *Ahimsa* in the *Bhagavad-Gita* does not hinder the life of any living beings who want to progress from one type of life to another kind of life.<sup>61</sup> In the dictionary of Hinduism (*a* = no; *himsa* = kill) there is no killing and hurting. *Ahimsa* is the first foundation in *astanga yoga* to achieve meditation. In *Dharma Prawerti*, it also mentions the teachings of *ahimsa in pūṣṭinoma*: "*Ahimsa malukawuwus, solah tan memati-mati, sahimondo-*

<sup>53</sup> Ida Ayu Sadnyini, 2015, *Punishments for Forbidden Marriages in Bali Then and Now*, Udayana Press, Denpasar, p. 166.

<sup>54</sup> Anonym, 2005, *Hinduism Dictionary*, Provincial Government of Bali, Denpasar, p. 3.

<sup>55</sup> Sri Srimad A.C. Bhaktivenanda Swami Prabhupada, 2000, *Bhagawad-Gita*, Hanuman Sakti Tangerang, p. 496.

<sup>56</sup> Anonym, *Op. cit.*, p. 8.

<sup>57</sup> Ida Bagus Agastya, "The figure of Bali Women, Overview of Religion Aspects", *Paper*, Seminar of Bali Women figure with the theme: The Role of Women in Culture Perspective Development, organized by a team of Increasing Role of Women (P2P) of the Province of Bali, Denpasar, 19-20 April 1994, p. 17.

<sup>58</sup> Interview with I Made Pasek Diantha, Lecturer of Udayana University, Denpasar, March 24, 2014.

<sup>59</sup> Sri Srimad.A.C., Bhaktivenanda Swami Prabhupada, *Op. cit.*, p. 742.

<sup>60</sup> I Ketut Subagiasta, 2010, *Hindu Leadership in the Palm of Wratu Sesana*, Paramita, Surabaya, p. 28.

<sup>61</sup> Sri Srimad.A.C., Bhaktivenanda Swami Prabhupada, *Op. cit.*, p. 742-743.

*ngasihsayang, marepsareng ring sarwamaurip, patuh-sayange ring raga, entosolah-darmajati.*<sup>62</sup> *Ahimsa* means that human behavior does not hurt or kill living beings, has a sense of compassion towards all living beings, the same affection as you love yourself. Those are the correct behaviors according to the teachings of *ahimsa*. Relation to punishment of marriage, at the time of Hindu kingdom era, brahmin woman and her husband are murdered. At the Colonial Period, they are exiled to a remote place.

Punishments of marriage are clearly contrary to the values of Hinduism, therefore, based on the DPRD Bali Decree 1951, Bhisama Sabha Pandita 2002, and the MDP Bali Decree 2010 *patiwangi* ceremony is removed and should no longer be performed to the sons and daughters of the *Brahmins* whose first name is Ida Ayu.

### C. Conclusion

In Bali Customary Law, Brahmin Woman (Ida Ayu) marriage to men of different castes;

*Kshatriyas, Wesia, and Shudra* is intermarriage in terms of customary law, commonly called *asupundung*. Punishments for such marriages, among others: jumping into the fire, drowned into the sea with stone tied around legs, exiled, downgrading ceremony, not allowed to return home, refined speaking. Finally they are removed in 1951 and strengthened by Bhisama PHDI Center 2002 and MDP III Decree in 2010. Punishments of marriage in Hindu perspectives are contrary to the teachings of *Tri Hita Karana, Tri Kaya Parisudha, Vasudaiva Kutumbakam, Tat Wam Asi, Manusapada, Ardhanareswari, Akhroda, Ahimsa*, because marriage punishments in the Hindu kingdom era up to the time of independence, among others: *labuh geni* (plunge into the fire), *selong* (exiled to a remote place) *patiwangi* ceremony (downgrade) and social punishments such as discarded by the family or not allowed to return home, *asupundung* or *nyerod* labels are contrary to the Hinduism values.

Nowadays, the caste problems no longer exist because the Hindu society who employs the teaching of color does not recognize distinction based on descent. Social and psychological punishments should not be imposed again as they are contrary to the teachings of Hinduism.

## REFERENCES

### A. Books

- Ali, Achmad, 1996, *Uncover The Veil of Law (A Philosophical and Sociological Study)*, Candra Pratama, Jakarta.
- Anonym, 2005, *Hinduism Dictionary*, Provincial Government of Bali, Denpasar.
- Ardika, I Wayan, et al., 2013, *The History of Bali: From Prehistory to Modern*, Udayana University Press, Denpasar.
- Atmaja, Jiwa, 2008, *Gender Bias in Forbidden Balinese People Marriage*, Udayana University Press, Denpasar.
- Diantha, Made Pasek and Wisanjaya, I Gede Pasek Eka, 2010, *Caste in the Verspective of legal and Human Rights*. Udayana University Press, Denpasar.
- Frederich, R., 1959, *The Civilization and Culture of Bali*, Susil Gupta Private Ltd, Calcuta.
- Kusuma, Hilman Hadi, 1992, *Introduction to Indonesia Customary Law*, Mandar Maju, Bandung.
- Panetje, I Gde, 1989, *Miscellaneous Notes on Bali Customary Law*, Gunung Agung, Denpasar.
- Prabhupada, Sri Srimad A.C. Bhaktivenanda

<sup>62</sup> *Pupuh sinomis* songs in Balinese which contain advices that are correct and based on custom and religion.

- Swami, 2000, *Bhagawad-Gita*, Hanuman Sakti, Tangerang.
- Pudja, G. and RaiSudharta, Tjokorda, 1973, *Manawa Dharmasastra (Manu Dharma Sastra), or Weda Smrti : Hindu Law Compendium*, Pustaka Mitra Jaya, Jakarta.
- Sadnyini, Ida Ayu, 2010, *Uncovering Asupundung Marriage in Bali Customary Law*, Penerbit Universitas Pendidikan Nasional, Denpasar.
- \_\_\_\_\_, 2015, *Punishments for Forbidden Marriages in Bali Then and Now*, Udayana Press, Denpasar.
- Subagiasta, I Ketut, 2010, *Hindu Leadership in the Palm of Wrati Sesana*, Paramita, Surabaya.
- Sudiana, 2007, *Samhita Bhisama Parisada Hindu Dharma Indonesia*, Indonesia Parisada Hindu Dharma of Bali Province, Denpasar.
- Sukardana, K.M, 2007, *Tri Kaya Parisuda : Study Materials for Good Thinking, Good Saying and Good Behavior*, Paramita, Surabaya.
- Titib, I Made, 1996, *Holy Word Vedas : Practical Guidelines for Life*, Paramita, Surabaya.
- Wiana, Ketut and Santri, Raka, 2006, *Caste in Hinduism: AA Misunderstanding for centuries*, Percetakan Ofset, Denpasar.
- Wiana, 2006, *Understanding The differences of Chaturvarna Caste and Wangsa*, Paramitha, Surabaya.
- Wiana and Santri, Raka, 1993, *Caste in Hindu : A Millennial Misunderstanding*, Dharma Naradha Foundation, Denpasar.
- Windia, I Wayan and Sudantra, I Ketut, 2006, *Introduction to Bali Customary Law*, Faculty of Law, Udayana University, Denpasar.
- B. Papper**
- Agastya, Ida Bagus, “The figure of Bali Women, Overview of Religion Aspects “, *Papper*, Seminar of Bali Women figure with the theme: The Role of Women in Culture Perspective Development, organized by a team of Increasing Role of Women (P2P) of the Province of Bali, Denpasar, 19-20 April 1994.
- C. Others**
- Interview with Ida Ayu Sekretarini, *Brahmin Women married to Sudra Men*, Desa Banjar Tegal Singaraja Bali, June 11 2014.
- Interview with Ida Bagus Komang, *Penglingsir Gria Sesandan Village*, Tabanan, June 21, 2014.
- Interview with I NomanWindia, grand daughter of Mbah Damuh (*Brahmin Women*), Wanasari Village, June 21, 2014.
- Interview with Ratu Ayu Rija, *Penglingsir (Puri Kawan Singaraja Elders)*, Singaraja, April 27, 2014.
- Interview with Dewa Gede Sumertha Yasa, Retired Police of *Penglingsir Puri*, July 16 2014.
- Interview with Ida Ayu Suwinih, *Brahmin Women married to Sudra Men*, Senandan Village, Tabanan, October 13, 2014
- Interview with Ida Ayu Kade Wati, *Brahmin Women married to Sudra Men*, Jegu Village, Penebel Tabanan, June 23, 2014
- Interview with Ida Ayu Taman, *Brahmin Women married to Ksatrya Men*, Sukasada Village, Singaraja, June 12, 2014.
- Interview with Ida Ayu Budastri, *Brahmin Women married to Sudra Men*, Panjer Village, Denpasar, April 29, 2014.
- Interview with Ida Ayu Kade Sukerti, *Brahmin Women married to Ksatrya men*, Timpag Village, Kerambitan, July 7, 2014.
- Interview with Ida Ayu Kade Sumarti, *Brahmin Women married to Sudra men*, Timpag Village, Kerambitan, July 7, 2014.
- Interview with Ida Ayu Kade Adnyani, *Brahmin Women married to Sudra Men*, Pedungan Village, Denpasar, May 1, 2014.
- Interview with Ida Ayu Sriani, *Brahmin Women married to Sudra Men*, Pedungan Village, Denpasar, May 6, 2014.
- Interview with Ida Ayu Yasmini, *Brahmin Women married to Sudra Men*, SesetanVillage, Denpasar, April 30, 2014.
- Interview with Ida Ayu Putu Stiti, *Brahmin Women married to Sudra men*, Wanasari Village,

- Tabanan, June 23, 2014.
- Interview with Ida Ayu Kartini, *Brahmin* Women married to *Sudra* men, Buruan Penebel Village, Tabanan, June 22, 2014.
- Interview with Ida Ayu Putu Nila Dani, *Brahmin* Women married to *Sudra* Men, Medahan Village, Gianyar, June 21, 2014.
- Interview with Ida Ayu Paramita, *Brahmin* Women married to *Ksatria* Men, Tampaksiring Village, Gianyar, October 10, 2014.
- Interview with I Made Pasek Diantha, Lecturer of Udayana University, Denpasar, March 24, 2014.
- Pakraman Kuwum Village Customary Law, Marga District, Tabanan Regency.
- Panjer Village Customary Law, Denpasar 1998.
- Pakraman Medahan Village Customary Law, Blahbatuh District, Gianyar District 2009.
- Kesiman Village Customary Law, East Denpasar District, 2010.
- Sesetan Village Customary Law, South Denpasar District, Denpasar.