



JURIDICAL REVIEW OF THE GRANTING OF INHERITANCE RIGHTS TO DAUGHTERS IN BALINESE CUSTOMARY LAW BASED ON THE DECISION OF THE THIRD GREAT ASSEMBLY (PESAMUHAN AGUNG III) OF THE MAIN COUNCIL OF PAKRAMAN VILLAGES (MUDP) BALI IN 2010. DECISION NO. 01/KEP/PSM-3MDPBALI/X/2010

Rajuniper Manurung¹, Ni Ketut Sari Adnyani², Komang Febrinayanti Dantes³

Universitas Pendidikan Ganesha, Universitas Pendidikan Ganesha, Universitas Pendidikan Ganesha

Email: rajurajuuu703@gmail.com, sari.adnyani@undiksha.ac.id, febrinayanti.dantes@undiksha.ac.id

Info Artikel

Received: July 1, 2025

Accepted: August 1, 2025

Published: September 1, 2025

Keywords:

*Balinese customary law,
Women's inheritance
right,
MUDP 2010, Gender
equality*

Corresponding

Rajuniper Manurung, email:

rajurajuuu703@gmail.com

Author:

Abstract

The purpose of this study is to find out the implementation of the Decision of the Pesamuhan Agung III Majelis Utama Desa Pakraman (MUDP) regarding the distribution of inheritance for Balinese Hindu women and explain the obstacles faced in implementing this decision. The research method that used is a normative juridical approach with a qualitative analysis method, using data collection techniques through primary, secondary, and tertiary legal materials. The results of the research is that the 2010 MUDP Decision is a progressive step that opens opportunities for Balinese Hindu daughters to obtain inheritance rights, although proportionally only half of what male heirs receive and still subject to certain conditions. The legal consequences of granting inheritance rights to women in the Balinese customary law community indicate a significant normative change, although it has not yet been fully realized in practice.

Introduction

Inheritance law constitutes a branch of law that is intrinsically connected to the social, cultural, and religious dimensions of society (Natania & Lesmana, 2024:15). In Indonesia, three inheritance law systems are officially recognized and applied: the Civil Law system as codified in the *Burgerlijk Wetboek* (BW), Islamic inheritance law, and customary inheritance law. Each system possesses its own distinctive characteristics and functions within the community it governs. In the context of Bali, the prevailing inheritance system is the Balinese customary inheritance law, which adheres to a patrilineal kinship principle or *purusa* system where lineage is traced through the male line (the father). This system presents serious issues concerning gender equality and social justice, particularly in the modern era, which upholds the principles of non-discrimination and human rights. The tension between Hindu philosophical teachings which place women in an esteemed and sacred position and discriminatory practices in customary inheritance law has become a focal point of legal and ethical discourse (Haitsam, 2024:22). Responding to the growing concern over such inequalities, the *Majelis Utama Desa Pakraman* (MUDP) of Bali Province issued Decree No. 01/Kep/PSM-3/MDP BALI/X/2010 during the *Pesamuhan Agung III* held on October 15, 2010 (Maulidi, 2019:12). This decree represents a significant milestone, affirming that Balinese Hindu women are entitled to inheritance rights. Under the decree, a daughter is entitled to receive half of the inheritance portion granted to a son (*purusa*), after deducting one-third of the estate for ancestral property and customary preservation (Padmawati & Putra, 2021:27). The decree also stipulates that a woman retains her inheritance rights unless she converts to another religion. Nevertheless, despite this progressive customary regulation, the implementation of the MUDP Decree continues to encounter substantial challenges (Budiarta, 2022:33). Research conducted by Putra, Ardhya, and Sudiatmaka (2021) in *Jinengdalem Traditional Village* revealed that the local customary community has not yet fully accepted or enforced the decree due to the persistent influence of the patrilineal culture and the continued enforcement of *awig-awig* (customary village rules) that contradict the decree's substantive provisions (Putra et al., 2021:44). Hence, a comprehensive juridical analysis of the granting of inheritance rights to daughters under Balinese customary law—particularly in reference to the 2010 MUDP Decree is of critical importance. Such a study holds not only academic and legal significance but also strategic relevance in promoting social transformation toward greater justice and inclusivity within Balinese society.

Research Methods

This study employs a normative juridical method using a conceptual approach. The data sources consist of primary legal materials (the 1945 Constitution of the Republic of Indonesia, the Human Rights Law, the Civil Code, Supreme Court Decisions, and the MUDP Decree), secondary legal materials (academic journals, books, and scholarly articles), and tertiary legal materials (legal dictionaries). The analysis is conducted using a qualitative descriptive method, grounded in John Rawls' Theory of Justice and Lawrence M. Friedman's Legal System Theory as the theoretical

Results and Discussion

The Position of Women in Balinese Customary Inheritance

Traditionally, only men (*purusa*) are recognized as heirs within Balinese customary law, while women are considered to have exited their natal lineage upon marriage. As a result, daughters do not inherit from their biological families unless specific

customary rituals are performed. One such ritual is sentana rajeg, through which a daughter may be formally designated as an heir and allowed to continue the family lineage. This system reflects the deeply rooted patrilineal orientation of Balinese society, where inheritance is closely tied to religious obligations and the preservation of ancestral lineage.

Analysis of the 2010 MUDP Decree

The 2010 Decree of the Majelis Utama Desa Pakraman (MUDP) represents a landmark development in Balinese customary law, as it formally acknowledges the inheritance rights of women. Under the decree, a daughter is entitled to receive half of the inheritance portion granted to a son, after deducting one-third of the estate for ancestral and customary preservation. Nevertheless, the decree's legal force remains recommendatory rather than mandatory, meaning it does not automatically apply across all customary villages (*desa adat*). The effectiveness of this decree therefore depends on the willingness of individual customary communities to incorporate its provisions into their *awig-awig* (local customary regulations).

3. Legal Implications and Implementation Challenges The issuance of the MUDP Decree carries significant legal implications, as it provides normative recognition of women's inheritance rights within Balinese customary law. However, its implementation faces multiple obstacles, including the absence of integration into local *awig-awig*, the lack of sanctions for customary villages that reject the decree, and the limited dissemination and socialization by customary institutions. Moreover, judicial precedents from the Indonesian Supreme Court, such as Decision No. 179/Pdt/2007, serve as an important corrective measure against discriminatory customary inheritance practices. These developments highlight the need for stronger legal harmonization between customary law, national law, and human rights principles, to ensure that equality and justice are substantively realized for Balinese women.

Conclusion

The analysis demonstrates that the inheritance system within Balinese customary law continues to reflect a strong patrilineal orientation, which places women in a structurally disadvantaged position. Despite the egalitarian values embedded in Hindu teachings, traditional practices have long restricted daughters from receiving inheritance due to their perceived transfer of lineage upon marriage. The issuance of the 2010 MUDP Decree marks a pivotal step toward the recognition of women's inheritance rights in Balinese society. By granting daughters the right to inherit albeit at a reduced portion compared to sons the decree signifies a gradual yet meaningful shift toward gender justice and equality within customary legal frameworks. However, the persistence of cultural norms, village regulations (*awig-awig*), and patriarchal attitudes continues to hinder the full implementation of this progressive regulation. Therefore, a stronger integration between customary law and national legal principles particularly those upholding human rights and equality is necessary to ensure that the spirit of justice envisioned by the MUDP Decree can be effectively realized. Continuous legal education, community-based dialogue, and policy reinforcement are essential to transform traditional legal practices into a more inclusive and equitable system that respects both cultural identity and fundamental human rights.

References

Books

- Apriyanto, H., Haryanti, T. and Sari, L. (2024) *Hukum Perdata: Teori dan Praktik*. Jakarta: Prenadamedia Group.
- Arsawan, I.M. (2018) *Hukum Adat Bali: Dinamika dan Tantangannya*. Denpasar: Udayana University Press.
- Astari, N.K.Y. and Widiastuti, N.K.S. (2022) *Perempuan dan Warisan: Perspektif Sosial Budaya Bali*. Denpasar: Pustaka Bali.
- Dewi, N.L.S. and Pranata, I.B.G. (2024) *Kedudukan Perempuan dalam Hukum Adat Bali*. Singaraja: Undiksha Press.
- Groho, S.S. (2016) *Hukum Waris Adat di Indonesia*. Yogyakarta: Pustaka Pelajar.
- Karimah, N. (2021) *Penerapan Hukum Waris dalam Keluarga Patrilineal*. Bandung: Refika Aditama.
- Koentjaraningrat. (2015) *Pengantar Ilmu Antropologi*. Jakarta: Rineka Cipta. (Edisi Revisi, cetak ulang)
- Laksito, T. (2023) *Hukum dan Keadilan Gender di Indonesia*. Surakarta: UNS Press.
- Leks & Co Lawyers (2020) *Kamus Hukum Indonesia*. Jakarta: Leks & Co Publishing.
- Lubis, R. and Triadi, D. (2024) *Studi Kritis tentang Sistem Hukum Adat dan Nasional*. Medan: Pustaka Bangsa.
- Made, S., Dewi, A.K. and Tobing, D. (2025) *Perubahan Sosial dalam Masyarakat Adat Bali*. Denpasar: Media Dharma.
- Muhammad, A. (2023) *Dasar-dasar Hukum Waris Adat dan Islam*. Jakarta: Kencana.
- Pahmiyanti, S. (2022) *Hukum Keluarga dan Waris di Indonesia*. Bandung: Alfabeta.
- Putra, I.K.G. et al. (2021) *Reformulasi Hukum Adat dalam Sistem Nasional*. Denpasar: Udayana University Press.
- Razak, A. (2023) *Perempuan dalam Perspektif Hukum dan Budaya*. Makassar: Nurul Ilmu.
- Reformasi, G. and Dewi, M.P. (2024) *Revitalisasi Hukum Waris Adat Indonesia*. Jakarta: Prenadamedia Group.
- Sari, M. (2022) *Perempuan dan Hak Waris: Studi Sosiologis*. Surabaya: Pustaka Nusantara.
- Simanjuntak, M. (2019) *Hukum Adat: Teori dan Praktik*. Jakarta: RajaGrafindo Persada.
- Sumantra, I.M. (2023) *Pewarisan Nilai dalam Keluarga Adat Bali*. Gianyar: Bali Press.
- Suparman, D. (2023) *Antropologi Hukum dan Dinamika Budaya*. Yogyakarta: Deepublish.
- Syaikhu, M. (2022) *Hukum Waris dan Gender di Indonesia*. Jakarta: PT Prenadamedia Group.
- Trisnawati, N.L.S. and Suardana, I.M. (2023) *Perempuan dalam Sistem Patrilineal Bali*. Denpasar: Bali Mandiri Press.
- Winardi, A. (2020) *Pengantar Ilmu Hukum Adat*. Bandung: Remaja Rosdakarya.
- Yulistyaputri, R. (2018) *Hukum dan Keadilan Sosial*. Jakarta: Mitra Wacana Media.
- Zainuddin, A. (2017) *Pengantar Hukum Waris Indonesia*. Jakarta: Prenadamedia.

Journals

- Aditya, Z.F. and Yulistyaputri, R. (2019) 'Romantisme sistem hukum di Indonesia: Antara idealisme dan realitas', *Jurnal Rechts Vinding*, 8(1), pp. 12–26. (masih relevan, meskipun 2019)
- Ambarwati, A.A. (2024) 'Putusan Nomor 4/PUU-XVIII/2023 dan Implikasinya terhadap Hukum Waris', *Jurnal Humaniora dan Sosial Sains*, 5(2), pp. 101–115.

- Ariawan, I.P.M. (2024) 'Peran Kementerian Agama dalam Mengatur Sengketa Waris di Bali', *Jurnal Ilmiah Gema Perencana*, 6(1), pp. 22–34.
- Ayu, L.P.N. and Putri, I.M.A. (2023) 'Kedudukan Anak Perempuan dalam Sistem Pewarisan Adat Bali', *Jurnal Kajian Adat dan Budaya*, 4(1), pp. 45–57.
- Budhi, I.K.S. (2020) 'Tinjauan Hukum Adat Terhadap Hak Waris Perempuan dalam Masyarakat Bali', *Jurnal Hukum dan Kebudayaan*, 2(1), pp. 13–24.
- Dewi, A.K. (2021) 'Modernisasi Hukum Adat dalam Sistem Hukum Nasional', *Jurnal Yustisia Nusantara*, 3(2), pp. 89–103.
- Fadillah, A. (2022) 'Kontestasi Gender dalam Hukum Waris Adat', *Jurnal Sosiologi Hukum*, 5(1), pp. 66–78.
- Gunawan, A. (2024) 'Perspektif Yuridis terhadap Reformasi Hukum Waris Adat', *Jurnal Konstitusi dan Hukum Tradisional*, 4(1), pp. 55–69.
- Handayani, R. and Sutrisno, T. (2020) 'Harmonisasi Hukum Nasional dan Adat dalam Penyelesaian Sengketa Waris', *Jurnal Hukum Progresif*, 8(1), pp. 30–44.
- Indrayana, G. (2023) 'Posisi Perempuan dalam Pewarisan Adat Bali Pasca-Keputusan MUDP 2010', *Jurnal Antropologi Hukum Indonesia*, 3(2), pp. 74–88.
- Junaidi, M. (2022) 'Analisis Sosiologis terhadap Diskriminasi Warisan Perempuan di Komunitas Adat', *Jurnal Hukum dan Keadilan Sosial*, 6(1), pp. 39–52.
- Krisna, A.W. (2023) 'Perempuan Bali dalam Sistem Kekerabatan Patrilineal', *Jurnal Studi Budaya Bali*, 5(1), pp. 58–72.
- Lestari, N.P. and Santosa, B. (2021) 'Implikasi Sosial Hukum Waris Adat di Era Digital', *Jurnal Transformasi Sosial*, 2(2), pp. 21–33.
- Mahayasa, I.W. (2023) 'Konflik Internal Keluarga akibat Pembagian Warisan dalam Masyarakat Adat Bali', *Jurnal Resolusi Konflik dan Budaya*, 3(1), pp. 64–79.
- Margaretha, N.L. (2020) 'Pergeseran Nilai Pewarisan dalam Masyarakat Adat', *Jurnal Sosiokultural*, 4(1), pp. 50–61.
- Rachmawati, E. and Syahrir, A. (2024) 'Analisis Yuridis terhadap Hak Waris Anak Perempuan dalam Adat Batak dan Bali', *Jurnal Multikultural dan Hukum*, 6(2), pp. 77–91.
- Satria, P.D. (2023) 'Hak Waris dalam Peraturan Adat Bali: Antara Norma dan Praktik', *Jurnal Hukum Adat Nusantara*, 4(2), pp. 31–47.
- Suardana, I.M. and Trisnawati, N.L.S. (2023) 'Implementasi Keputusan MUDP Bali terhadap Hak Waris Perempuan', *Jurnal Dinamika Adat dan Hukum*, 5(1), pp. 12–25.
- Supriyanto, A. (2021) 'Pemikiran Kritis terhadap Dualisme Sistem Hukum Waris di Indonesia', *Jurnal Teori Hukum dan Praktik*, 3(1), pp. 17–28.
- Yuliastini, N.M. and Mahendra, I.G.N. (2022) 'Penerapan Prinsip Keadilan dalam Pewarisan Adat Bali', *Jurnal Hukum dan Gender*, 4(1), pp. 48–62.