

INHERITANCE IN BALINESE CUSTOMARY LAW: DYNAMICS AND ITS LINKAGE WITH HINDU LAW

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ABSTRACT

Keywords: Balinese customary law; dynamics; Hindu law; inheritance;

The inheritance system in Balinese customary inheritance law is known as the kapurusa system. This kapurusa system is patrilineal and is inspired by Hinduism. The issuance of the Decree of Pasamuhan Agung MUDP Bali Province in 2010 was an initial milestone in the change in the mindset of granting inheritance rights to girls and boys who married nyentana or married out with their wives. Therefore, it is necessary to research the dynamics of inheritance according to Balinese customary inheritance law and its relationship with Hindu law regarding inheritance. Using empirical-normative legal research methods, the findings in this research are the development of a shift in thinking that only sons have the right to inherit the gunakaya or wealth of their parents, which has begun to be seen from the existence of financial gifts or bequests which were previously not done by many people. Parents to their daughters or sons who are getting married is illegal, but now it is common practice. The connection between Hindu law and Balinese customary inheritance law in the field of inheritance can be seen from adopting the kapurusa or patrilineal system in Hindu law. However, it still allows daughters to be the principal heirs by being confirmed as Santana jeg or elevated to equal status with sons.



Introduction

Balinese Customary Law is a law that grew within the Indigenous Community in Bali, based on the teachings of Hinduism, and developed following the customs and sense of propriety within the Balinese Indigenous Community itself (Danaswara, 2022). The inseparability of customs and religion is because the customs themselves originate from the teachings of the Hindu religion, so people, in carrying out their customary religious activities, use ethics, morals, and ceremonies (Danaswara, 2022). Ethics, morals, and ceremonies are reflected in everyday life. Customary law community day in Bali, where these three things lead to the principles of decency and balance. This principle of decency and balance is also reflected in Balinese customary law, which maintains harmony in society. If this harmony is disturbed, legal measures such as customary reactions or customary sanctions will restore the disturbed balance (Wedanti et al., 2023).

The customary law community in Bali is one of the customary law communities recognized in Indonesian law. Its existence is regulated in Bali Provincial Regulation Number 4 of 2019 concerning Desa Adat in Bali (Warsita, Suwitra, & Sukadana, 2020). Article 1 point 8 of the 2019 Traditional Village Regulation stipulates that a Traditional Village is a customary law community unit in Bali that has a territory, position, original structure, traditional rights, assets, traditions, and community social customs that have

been passed down from generation to generation in ties. Holy place (kahyangan tiga or kahyangan desa), duties and authority, and the right to regulate and manage one's household. The recognition of traditional law communities in Bali as traditional villages through their regulation in the PERDA on Traditional Villages has clarified the position of Traditional Villages in the Indonesian government. Traditional law communities in Bali adhere to a patrilineal or fatherly family system, better known as kapurusa or purusa. The principles of the Purusa family system adopted by traditional law communities in Bali are imbued with the teachings of Hinduism. The family system in traditional law communities in Bali concerns drawing lineages, ancestors, kinship relationships, and descendants.

Most traditional law communities in Bali adhere to Hinduism, making inheritance one of the most important processes in traditional law communities in Bali. According to Balinese customary law, inheritance transfers obligations and rights from generation to generation. Inheritance in Balinese customary law is a process that does not apply immediately like other legal systems. Thus, the death or demise of a person (the heir) is not the main thing in the process because the process can take place while the testator is alive, and there are times when inherited assets can be divided even though the testator has long died. In Balinese customary law, what is transferred is material property and the heir's obligations, both obligations within the family, village, and third parties (debts and receivables). Inheritance in Balinese Customary Law involves the distribution of inheritance in the form of property or material. It includes material inheritance in responsibilities and obligations (swadharma) to ancestors and the community. Children can be appointed as successors who can continue the swadharma of their deceased parents as heirs. By the concept of purusa and pradana as legal principles in the inheritance of Balinese Customary Law, purusa does not have to mean a son, and pradana does not have to mean a daughter. Both boys and girls can become a purusa or a pradana.

In this kapurusa system, the child's relationship with his father's family (clan) is the sole basis for his father's constitution. Based on the kapurusa kinship system adopted, the descendants who become heirs have purusa status, and generally, those who become purusa are sons. Boys are prioritized to become heirs or purusa because boys are more likely to take care of and continue their parents' or heirs' obligations (swadharma). After all, they remain at home even though they have married. Meanwhile, daughters who have pradana status tend not to remain at home because they will leave the house to follow their husbands as a result of marriage, making it impossible for them to take care of and continue the obligations (swadharma) of their parents or heirs.

The Kapurusa kinship system can also be said to be a patrilineal alternating system, as Hazairin's opinion was quoted by Soekanto, "even though the society is patrilineal in terms of its kinship, it has a way of drawing a possible lineage for them through the channel of a woman depending on the form marriage of distributors or liaison" (Soeripto, 1979). Therefore, the kapurusa system is considered a patrilineal one because of the nyeburin form of marriage, which allows women to become purusa in their families. Marriage and inheritance in Balinese customary law are interrelated because the

form of marriage chosen determines the inheritance process that will take place next and who becomes the purusa in the family.

Changes in society will always be accompanied by changes in law, which are influenced by external factors such as cultural plurality, awareness of the importance of human rights, developments in science and technology, and progress in education. These factors influence people's awareness to continue progressing and developing in a better direction, influencing the laws that apply in society. Legal changes are not only limited to statutory regulations. Changes also occur in Customary Law, a typical Indonesian legal system that grows and develops in the patterns of life of indigenous peoples, starting to gradually shift towards unification, especially after contact with the legal system. Other legal systems include customary law and Western law, customary law and statutory regulations, or customary law and another customary law. Especially after the issuance of the Decree of the Main Council of Pakraman Village (MDP) Bali Number: 01/Kep/Psm-3/MDP Bali/X/2010 (2010 MDP Bali Decree), which in one of its chapters specifically regulates inheritance, namely in CHAPTER III. Field of Customary Law, I. The Position of Balinese Women in the Family and Inheritance will, of course, influence the development of inheritance in traditional law communities in Bali. With the 2010 Bali MDP Decree, in this case, it is interesting to research the dynamics of inheritance of Balinese customary law and its link with Hindu law so that it can explain the development of inheritance after the 2010 Bali MUDP Decree and the link between Hindu law and Balinese customary law regarding inheritance. So, the problem that will be studied in this article is what developments are seen in the inheritance of Balinese customary law after the 2010 Bali MUDP Decree and analyzing the interaction between Hindu law and Balinese customary law in inheritance.

Research Methods

This article is the result of a literature and empirical-normative review that combines studies of primary legal materials such as statutory regulations related to inheritance and the latest research on inheritance with the results of processing interview data about inheritance in the Balinese traditional law community. In legal research methodology, this type of research is included in the typology of empirical and normative legal research because it examines the norm system related to the development of inheritance in traditional law communities in Bali (Soerjono Soekanto, 2014). Empirical or non-doctrinal legal research looks at the workings of law in society, so primary data is used to present the research results (Mukti et al., 2010). So, this research adds data from interviews with traditional village heads to see what developments in inheritance are according to Balinese customary law. The research locations are Desa Adat Tambawu, Denpasar City, and Desa Adat Santi, Karangasem Regency. This research is descriptive and analytical, describing developments in inheritance according to Balinese customary law and links between Hindu law and Balinese customary law regarding inheritance. Legal materials and primary data are used to interpret and build arguments in discussing research results, so legal concepts and doctrines are needed from secondary legal

materials in the form of legal literature and to strengthen arguments based on primary data. As far as necessary, non-legal materials, such as dictionaries and other non-legal literature, are also used to understand the concepts found in the above legal materials. These legal materials were collected through literature searches in libraries and on the Internet. The research results were analyzed qualitatively using legal reasoning and argumentation techniques. Next, the study results are presented narratively in the form of articles.

Results and Discussion

Balinese Customary Inheritance Law

Customary Inheritance Law is an inheritance law that contains inheritance, who the heirs and heirs are, as well as how inheritance (rights and obligations) are passed from heir to heir. Customary Inheritance Law is one of the legal aspects within the scope of customary law issues, which includes norms that determine assets, both material and immaterial, which of a particular person can be handed over to their descendants and which also regulates the time, manner and process of transfer of the assets. Anisitus Amara (Ariani & Sudiana, 2022) said that in terms of inheritance, there are three important elements, namely:

1. Heir
2. Heirs;
3. Inheritance.

In other words, heirs can use Article 830 of the Civil Code, which states that every person who dies has proof of a death certificate. Erman Suparman (Adi, 2021) said that an heir is a person who dies, both male and female, who leaves behind several assets, rights, and obligations that must be carried out during his or her lifetime, either with a will or without a will. Idris Ramulyo (Sutanto & Tanuwidjaja, 2017) said that an heir is anyone who dies and leaves an inheritance (wealth). This means that the requirements for being an heir are rights and several obligations. From the opinions of the experts mentioned above, it can be seen that not everyone who dies is called an heir because the requirement to be called an heir is that the person who dies must leave behind various rights and obligations that must be fulfilled by third parties which can be valued in the amount of money. It is called inheritance.

An heir is a person who replaces the heir in legal position regarding his inheritance, either in whole or in proportion to the portion. Replacement of rights by them on the heir's inheritance in whole or in proportion to parts makes them people who acquire rights with general title. Emeliana Krisnawati said that an heir is a person who replaces the position of the heir or a person who gets/receives the heir's inheritance. Erman Suparman said that heirs are all heirs, meaning people with the right to receive the heir's inheritance (Kurnia & Santosa, 2024).

Customary Inheritance Law in Indonesia is pluralistic, and this follows the provisions of customary law in each existing customary legal community group (Nasution, 2018). This is caused by different lineage systems, which are the basis of the

system of each customary law community in Indonesia. Customary Inheritance Law contains regulations that regulate the process of passing on and passing on property and intangible items from a generation of people to their descendants. Customary inheritance law is customary law that contains provisions regarding the system and principles of inheritance law about inheritance, heirs, and heirs, as well as how control and ownership of inherited assets are transferred from the heir to the heirs (Rahman, 2023). Customary inheritance law is the law of passing on wealth from one generation to its descendants. This inheritance law is based on communal or togetherness principles as part of the personality of the Indonesian nation. The principle of togetherness in customary inheritance law. It makes customary inheritance law not recognize certain parts for heirs in its distribution system. Balinese customary inheritance law takes the terms given by Soeripto in his book entitled Balinese Customary Inheritance Law, which provides the meaning, namely, "Balinese customary inheritance law contains regulations that regulate the process of passing on the property and intangible goods (material and immaterial) from a human generation or generation to male descendants."

Inheritance Process According to Balinese Customary Inheritance Law

The traditional law community in Bali adheres to a patrilineal family system. In contrast, in social reality, the Balinese traditional community recognizes three types of inheritance systems: collective, individual, and mayoral, with various variations depending on the *desa*, *kala*, *patra* (place, time, and circumstances), and the type of inheritance. In the individual inheritance system, it is usually carried out for assets that can be divided, such as wealth, rice fields, and others. The primary inheritance system can also be seen in inherited assets that cannot be divided, which have a religious magical nature, for example, places of prayer, heirloom objects, and so on, which contain magical powers. In some instances, a major inheritance system can also be seen; if the heirs are still minor, then the right to control the inherited assets will be delegated to the eldest child, who is a substitute for the parents. This major inheritance system is very dependent on the leadership of the eldest child in his position as a substitute for deceased parents in managing assets and using them for the benefit of all family members. In his position as successor to the deceased parent's responsibilities, the eldest child is obliged to take care of and look after his other siblings, especially being responsible for using the inherited property and the lives of his younger siblings until they can settle down and become independent. Each Heir only has the right to use and enjoy the results of the joint inheritance, without the right to control and own it individually.

While the Heir is still alive, he can divide the inherited assets temporarily, the aim of which is to be managed by the heirs in order to enjoy the results of the processing of the temporarily distributed inheritance and avoid problems in the future because, in general, the distribution of inherited assets when the Heir still alive if there is more than one Heir (Interview with I Nyoman Suweca, Bendesa Adat of Desa Adat Tambawu). Inherited assets that are divided while the Testator is still alive are inherited assets that can be divided individually (this includes the individual inheritance system). So, it can be said that the process of passing on inherited assets can begin when the Testator is still

alive, especially for individual inherited assets, whether the gift is temporary or permanent. The provision of inheritance is temporary while the Heir is still alive in the form of a soul pangupa using padum pamong or padum raksa, where this temporary gift is only given to the heirs as a symbol/sign or reminder of which parts the heirs will later get as a permanent inheritance (Interview with I Nyoman Suweca, Bendesa Adat of Desa Adat Tambawu). The inheritance process can be said to be complete when, after the Heir dies and the dedication ceremony is completed, the Heir will receive his inheritance permanently. Pangupa soul is a temporary gift to heirs that aims to cover household living expenses while waiting for the distribution of permanent inheritance to be carried out. This soul panga is usually given to heirs living independently because they have a family. However, the gift is permanent until it is considered again when the distribution of permanent inheritance is carried out. The giving of soul panga is carried out using pedal among/pedum laksa, namely the distribution of temporary inheritance, which is divided equally among the heirs.

While the Heir is still alive, he can also freely give gifts or dhana souls from the heirs to the heirs. Apart from that, the spirit of dhana is generally given to someone who does not have the status of an heir, namely a daughter who marries out or a son who marries away. The gifts given are generally known as Sebastian/tetadan (inherited assets), brought as marriage provisions. This inheritance/Sebastian is usually carried out by the Heir who is capable or wealthy because usually the inheritance/Sebastian given comes from joint assets during the marriage or wealth assets, which can be in the form of gold jewelry, money savings, land, paddy fields, fields, houses, or vehicles. Some Heirs provide inheritance as property and give their children higher education (Interview with I Nyoman Suweca, Bendesa Adat of Desa Adat Tambawu). In giving this gift or tetadan/Sebastian, of course, the Heir still limits the giving so that it does not end up harming the existing heirs.

The inheritance process only begins when both parents die and the burial ceremony is completed. So, the inheritance system in Bali only opens as wide as possible if both parents have died and the body has been buried. When inheritance is open, the scattered inheritance is collected again and then divided. Then, the amount of inherited assets divided is based on the amount of assets deducted net of existing debts. This amount is divided equally among the heirs. For the implementation of the Yadnya Ceremony, each Heir spends an equal amount. In this case, the newly inherited assets are completely divided and can become property rights to the heirs if the Heir dies and after the completion of the burial ceremony. The distribution order starts from the division of swadharma, swadikara, and finally, arta berana (wealth). The distribution of inheritance is usually carried out by deliberation among the heirs based on the principles of harmony and fairness. The eldest son leads the distribution of inheritance after the Heir Inauguration ceremony, and sometimes, during the distribution process, traditional village officials are invited to act as witnesses. Inheritance that is divided is not only in the form of material objects but also in the form of swadharma and swadikara (rights and obligations). Before the distribution of inheritance in the form of assets (arta brand) is

carried out, everything is discussed first regarding the distribution of responsibilities for each Heir and their rights. Acceptable, and what inherited assets can be divided and which are collective.

Inheritance assets that can be divided are generally inherited individually by each Heir (individual inheritance system). The distribution of inheritance that can be divided is based on the principle of harmony and mutual agreement and is not based on arithmetic; therefore, according to Balinese Customary Law, there are no definite provisions regarding how much the Heir can receive. Regarding inherited assets that cannot be shared or are collective or other matters that need to be discussed. Only after the discussion is complete is it then continued with a mutual agreement regarding the share of each Heir. Not only is there the distribution of inheritance assets that can be divided but there is also discussion regarding inheritance assets that cannot be divided because they are religious-magical, such as heirlooms. There is also inheritance in the form of customary land, such as village father's land and village yard land, which is usually only inherited by a child, usually inherited by the eldest son, but the inheritance of customary land depends again on the rules of Balinese Customary Law from the local traditional village.

In the deliberation on the distribution of inheritance, not only do you agree on the size of the share that the heirs will receive, but you also agree on the distribution of swadikara based on the ability of the heirs to fulfill their swadharma. Fulfillment of the Heir's swadharma is calculated from when the Heir is still alive until the Heir dies. Next, deliberations were held again regarding whether or not the heirs could continue the swadharma left behind by their heirs. An heir who has been able to carry out his swadharma towards his family properly will have the right to swadikara (rights) over the inheritance left by his heirs (Interview with I Gusti Ngurah Ananjaya, Bendesa Adat of Desa Adat Santi). If an heir has been able to implement swadharma towards the traditional community/village, he can have self-reliance over various facilities that belong to the traditional village. Thus, in inheritance, according to Balinese Customary Law, not all children/descendants can become heirs because heirs are only children/descendants who are ready, willing, and able and have implemented swadharma appropriately towards the family and community. Meanwhile, children/descendants who are not ready, unwilling, or impossible to carry out swadharma properly towards their family and community cannot become heirs. They cannot receive swadikara as heirs (Interview with I Nyoman Suweca, Bendesa Adat of Desa Adat Tambawu).

Looking at this description, it can be said that the inheritance system that still applies in the Balinese Customary Law community still adheres to inheritance based on a patrilineal kinship system, usually called kapusa inheritance. In the inheritance process, according to Balinese Customary Law, the inheritance system uses three Customary Law inheritance systems, namely individual, collective, and mayoral.

Dynamics of Inheritance Aspects in Traditional Law Communities in Bali

The Balinese Indigenous People adhere to a Patrilineal kinship system. The patrilineal kinship system is taken from the father's/male's lineage, which causes

inequality between men's and women's rights in Bali's inheritance system. Men have a high and very important position in Balinese society. Even though the daughter is a biological child obtained from a legal marriage, the daughter still does not receive inheritance. This inheritance system cannot be separated from the flow of the Manawa Dharmasastra book, which is one of the legal books for Hindus because most Balinese adhere to Hinduism. Essentially, the heir or inherited inheritance will be inherited and passed on to sons (Ni et al., 2017). In Balinese customary law, the view of women as second-class after men is increasingly shifting. Men are considered the original heirs who control all the heir's assets. Meanwhile, women can only enjoy these assets as life support without ownership of inherited assets (Cahyani & Amelda, 2022).

This provision can be deviated so that a female child in Balinese customary inheritance can become the heir provided the female child obtains legal status as a male (Santana jeg) (Adnyani & Purnamawati, 2020). The status of Santana rajeg can be obtained by girls if there is no son in the family or if they are an only child so that both parents can appoint their daughter as Santana rajeg, who has the same position as a son. In her marriage, the daughter of Sentana rajeg will carry out a nyeburin marriage; that is, the woman with the status of Sentana rajeg will propose to the man so that the man will leave his family tree and join the woman's family so that the position of the man is The man in his wife's family is away lush (prana). His wife has the status of meawak man (Purusha). The offspring born in this marriage are descendants of the wife's side (Interview with I Nyoman Suweca, Bendesa Adat of Desa Adat Tambawu).

Nyeburin marriage is an effort for a woman to become an heir to her father's family. If she is the only child owned by both parents or does not have brothers and only has daughters, then one of them can become a sentence rajeg is one thing that. Suppose a Balinese family does not have sons. In that case, the sentence rajeg process can be carried out because Santana rajeg is the process of increasing the status of girls to pursue (equal to boys) through the papers ceremony. Or status appointment according to Balinese customary inheritance law (Interview with I Gusti Ngurah Ananjaya, Bendesa of Santi Traditional Village). In this case, the daughter will attract and bring the man who will become her husband into her family and then dissolve the legal ties of the woman's family (Mayasari & Lyanthi, 2021). This change in status results in women in their marital status having the status of purusa. The next effort can be through grants or providing financial resources. Grants or soul funds are a breakthrough or effort made by Balinese customary law so that daughters can also receive gifts from their parents or get the same rights as men, namely getting property given to them by their parents (Same opinion in Interview with I Nyoman Suweca and I Gusti Ngurah Ananjaya, Bendesa Adat of Desa Adat Tambawu and Desa Adat Santi).

Apart from that, there is also the Decree of the Main Council of Bali Pakraman Village (MUDP) Bali No.01/KEP/PSM-3/MDP Bali/X/2010, dated 15 October 2010, concerning the Results of Pasamuhan Agung III MUDP Bali (Decision of MUDP Bali Year 2010). This regulation explains the position of inheritance for biological daughters, widows, and adopted daughters. It was explained that after 2010, Balinese women had

the right to inheritance based on the Decree of Pesamuan Agung III MUDP Bali No.01/Kep/PSM-3MDP Bali/X/2010, 15 October 2010. This decree explained that Balinese women could receive half of the inheritance. Pursue inheritance rights after cutting 1/3 for inheritance and preservation purposes (Arta, Sudiatmaka, & Windari, 2018). If Balinese women convert to another religion, they are not entitled to inheritance rights. If the parents are sincere, they will remain open by providing their souls with funds or voluntary provisions. The law is again based on the responsibilities the heirs will carry out (purusa). A person carrying full responsibility will receive full inheritance rights and vice versa. It also depends on the status; for those who have nikedaton status, their inheritance rights are lost, while those with limited edition status are still entitled to their parent's inheritance by limited responsibility, and their inheritance rights are also limited. The 3rd Pasamuan Agung MUDP Decree explains the meaning of Keaton: a person who abandons family responsibilities and is not entitled to family inheritance. There are 2 (two) types of ninggal kedaton, namely ninggal kedaton terbatas and ninggal kedaton penuh. Those said to ninggal kedaton are: 1). People who are no longer Hindu; 2)—dismissal of his position as a child by his parents (pegat mapianak); 3). Leaving the house (ngumban) without a clear reason or running away; 4). Women who are in regular marriages; 5). Men who carry out nyentana marriages or nyeburin marriages; 6). Adopted by another family; 6). He voluntarily renounces kinship ties with his family and surrenders himself to another family (makidihang raga). A daughter who leaves Keaton Height Limited no longer must take care of her parents but still has a moral bond with her parents. This is because the girl child no longer has the rights she previously received from her parents when she was a girl, and her obligations have moved to her husband's house because Bali adheres to a patrilineal kinship system. (Adnyani & Purnamawati, 2020).

According to Ardika, if a girl leaves as a ninggal Keaton penuh, then her legal relationship with her family of origin is completely severed, or there is no longer any moral bond between the child and her parents and is considered to no longer exist, including for boys who choose to leave religion, from Hindus to convert to another religion, it includes as a Full Kedaton (Ardika, 2016) For example, a Hindu Balinese man who resides in a traditional village in Santi Traditional Village, Selat District, Karangasem, married a Christian woman. He had a Christian wedding ceremony, and the man left his family and changed his religion. from Hinduism to Christianity to follow his wife's religion and moved to live in his wife's house (interview with I Gusti Ngurah Ananjara, Bendesa Adat of Desa Adat Santi).

The inheritance system in Bali uses a patrilineal kinship system. This patrilineal kinship system places men in a higher position. This causes gender discrimination between men and women in customary law in Bali. The position of men in Bali is as heirs, as continuers of the family name, as successors of descendants, as members of traditional communities, and also have a role in decision-making for the family or the wider community and even though they usually have daughters, people in Bali tend to think that they do not have children because they do not have male descendants. This is where girls

are seen as unable to continue the family lineage and purusa (Dewi, Astara, & Sukadana, 2020). Besides that, there is a lack of sources that discuss old Balinese women, namely unmarried Balinese women *ora daha tua*, regarding the position of inheritance rights for those who are old. The reality on the ground shows that women who feel disadvantaged by the distribution of inheritance carried out through deliberation do not demand much distribution from joint assets because they are afraid of being separated from kinship relations.

Even though the 2010 Bali MUDP Decree has been issued, up to now, no one has adopted the provisions regarding the possibility that girls also have the right to inherit the *Gunakaya* property of their biological parents, as the results of interview data with two Traditional Village Heads *ora Bendesa Adat* as a sampling in this research, have the same opinion, that the community has not been able to fully accept the 2010 Bali MUDP Decision regarding women having the right to inherit even if it is limited to their parents' wealth (Same opinion in Interview with I Nyoman Suweca and I Gusti Ngurah Ananjaya, Bendesa Adat of Desa Adat Tambawu and Desa Adat Santi). Of course, talking about inheritance will be related to obligations that must be fulfilled. Even though it is limited to *Gunakaya* assets, obligations such as caring for their parents exist. At the same time, they are still alive and taking part in the cremation ceremony of their parents when they die because women who have married out will take on responsibilities as a wife and as the daughter-in-law of their husband's families, such as participating in traditional village manners, carrying out duties and obligations as a wife, carrying out *ayah* or duties both within the community in the traditional village and within the scope of her husband's family. Because it is not possible for women who have married out to be able to fully fulfill their obligations to their parents if they receive an inheritance of *gunakaya* property from the heir (Same opinion in Interview with I Nyoman Suweca and I Gusti Ngurah Ananjaya, Bendesa Adat of Desa Adat Tambawu and Desa Adat Santi). For this reason, as a form of love from parents towards their daughters, giving their *jiwa dhana* as provisions or *tartan* is the solution.

Apart from that, the community, in general, is of the view that the 2010 Bali MUDP Decree is only considered as a guideline, and the legal rules that are binding on the community are only the *wig-a wig*, *pararem*, and *dress*, which have been in effect for generations in the traditional village *ora desa adat*. However, giving *jiwa dhana* to girls has long been practiced in society. However, there are various forms of spiritual donations or *tartan* given to families who are classified as well-off, so apart from being provided with education, they are also given property, whether in the form of a house, vehicle, or gold jewelry. In contrast to those classified as low-income families, they can usually only provide provisions in the form of education and an amount of money that their parents can afford (Same opinion in Interview with I Nyoman Suweca and I Gusti Ngurah Ananjaya, Bendesa Adat of Desa Adat Tambawu and Desa Adat Santi). Apart from that, most people ignore and disagree with the decision, especially men who have to share some of their property with women due to the decision of the Main Council of *Pakraman Village* and these provisions using the pretext of Balinese Customary law. For female

citizens, it has become a pattern of thinking that women do not have the right to inherit, so they do not dare to demand rights that should be obtained. So far, their parents' property can only be enjoyed if the woman is not married. The Balinese traditional community, especially in desa adat Tambawu and desa adat Santi, only adheres to the provisions of customary law based on the awig-awig of the desa adat and the people themselves do not want to know if currently there have been new developments in the field of inheritance and still adhere to the dress or awig-awig desa adat is still valid, so it is difficult to accept new rules that are made because they follow the times.

From several things that have been explained above, although the 2010 MUDP Bali Decree has not yet been fully accepted, the Pesamuhan Agung Decree of the Main Council of Pakraman Village Bali Number 01/KEP/PSM-3/MDP Bali/X/2010 has brought major changes to the system Balinese traditional inheritance from previously not paying attention at all to the position of daughters as heirs, became taken into account to obtain inheritance of property or gunakaya obtained by their parents. In reality and the cultural customs in Bali, women do not have the right to be heirs, but parents try to give property as provisions to their daughters, which is known by several terms such as inheritance or soul fund. From the existence of grants or funds, the tadtadan's assets will later be used to provide living expenses for married girls. In this case, gifts from parents to their daughters can be in the form of movable objects such as jewelry and household furniture or immovable or attached objects such as land, fields, houses, or rice fields. In essence, the inherited assets will continue to be attached to the Balinese woman even if she marries out and cannot be sued by her brothers as inherited assets as long as the inherited assets do not come from inheritance or duwe tengah.

The Relationship Between Hindu Law and Balinese Customary Law of Inheritance

Proof of the influence of Hindu law on customary law has been proven since the founding of the Hindu kingdom in Indonesia. This reinforcement was given by Gde Pudja when discussing the beginning of the growth of Hindu law. Gde Puja said that parts of history and articles in the Dharmasastra were transferred and used as law during the Hindu kingdom in Indonesia, not only during the Hindu kingdom, because without realizing it, Hindu law is still valid and also has an influence on positive law in Indonesia through forms of customary law. The most obvious form of Hindu law and legal life that still feels very influential is the form of customary law in Bali and Lombok, as a law that applies only to Hindu groups (Gde Pudja, 1977). Inheritance, according to Hindu law, is a shift in control of objects from ancestors to their descendants over inherited objects such as rights to land, which is the object of inheritance, according to Agrarian Law, is called the acquisition of rights from their heirs, due to a legal event.

The free translation follows the explanation that middle children are children between the eldest and the youngest. If there is a division of inheritance, their shares are the same except for the daughter, the eldest child, and the youngest child.

From the two Slokas mentioned above, it can be interpreted that the distribution of inheritance according to Hinduism does not differentiate between the positions of girls and boys, only that the distribution is not the same between girls and boys. As stated

above, inheritance according to Hinduism is fundamentally different from inheritance according to customary law in Bali because the system used by each is different. Namely, according to customary law in Bali, inheritance is based on the patrilineal kinship system. According to customary law, inheritance is inheritance after deducting obligations, or in other words, the inheritance is the net result. Paswaran, a Resident of (Bali & Lombok, 1900), determined that inheritance occurs from the net proceeds of the heir's wealth after deducting his debts, including debts made for organizing the heir's funeral (Gde Panetje, 2004). Meanwhile, according to Hinduism, inheritance is based on the Manawa Dharma Sastra book.

Absorbing the inherited values from the Manawa Dharmasastra, the kapurusa system applies, giving rise to two concepts: purusa and pradana. If observed, kapurusa cannot be translated into patrilineal or pradana as matrilineal. The kinship system in Bali does not recognize the term parental or terms equivalent to that term. So, Bali only adheres to purusa and pradana. These two systems are closely related to the system adopted in marriage law and inheritance law, where only the descendants have the right to be the successors of the descendants and become the heirs of the family. Patrilineal is not the same as kapurusa, and pradana is not the same as matrilineal because legally, men can have the position of pradana, and women can have the position of kapurusa. This is seen in marriage law in Bali, where if a marriage occurs because the groom is marrying or joining his wife, the kapurusa status that was previously owned changes to pradana, and vice versa, the wife who previously had pradana status changes to kapurusa.

In terms of inheritance, the Purusa, the wife, has the right to inherit just like the son of Purusa. The connection between Hindu and Balinese customary law can be seen in inheritance. This link can be seen in the case of inheritance, namely the existence of heirs, heirs, and inherited assets; the main heir is a male child, both a biological male child and a legally adopted male child, and it is possible for a female child to become an heir; inheritance can be carried out after the death of the testator; A daughter or son who marries is entitled to life estate funds or grants. It is called the kapurusa system because in determining the heir, it adheres to the purusa or patrilineal principle, which takes the lineage from the father. However, the Balinese patrilineal kinship system has a broader meaning than the understanding of the patrilineal kinship system in general because it includes the definition of the male line, which is biologically male, called purusa, and women who have legal status as men, called Santana jeg. So, in the broader sense of the patrilineal kinship system, besides men (purusa), there are also women (Santana jeg). This way of grouping kinship based on purusa lines is inspired by Hinduism, which in everyday life has been integrated with the customs and customary law of traditional law communities in Bali. The patrilineal kinship system imbued with Hinduism contains the view that men have a higher position in the family and society compared to women because the hope of sons being the next generation, replacing their father's position in society when they are married, is pinned (become krama banjar or village karma), look after and provide for parents if they are no longer able, carry out religious ceremonies

(such as cremation and others) and always serve the ancestors who reside in the sanggah or Trajan.

Examining it from the perspective of the reception theory is complex, which states that if a society adheres to a certain religion, the customary law of the society concerned is influenced by the law of that religion. If things are not under religious law that has been accepted as a whole, then it is considered a deviation. Next, reception theory emerged as an opponent of reception in complex theory. Receptie theory states that it is not true that religious law is identical to customary law because customary law is the original law of the Malay people. Only a small part absorbs the values of their religious law. Linking Balinese customary law with Hindu law, especially in inheritance law, does not fully absorb the inheritance system in Hindu law. Several parts in the Manawa Dharmasastra are not adopted by Balinese customary law, such as determining the size of the share of inheritance for each heir and also that Balinese customary law does not fully have a major system because generally, the eldest son is only more responsible for maintaining the inheritance and getting it. Equal shares with other heirs. However, some families determine the amount of inheritance divided based on each heir's responsibility. So here, it is more likely to use the theory of acceptance that not all inheritance regulated in the Manawa Dharmasastra is adopted by Balinese customary law because it adapts to the traditions and conditions of the customary law community in Bali, as well as the existence of legal awareness of the community in sorting and choosing which inheritance norms in Manawa Dharmasastra is suitable for the tradition and conditions of traditional law communities in Bali but is still based on Hindu religious values.

Conclusion

The inheritance system that still applies in the Balinese Customary Law community currently adheres to inheritance based on a patrilineal kinship system, usually called kapurusa inheritance. After the 2010 MUDP Bali decision was issued, it influenced the mindset of the traditional law community in Bali, who previously thought that daughters had no right to inherit even though it was only limited to wealth. Rarely does anyone give grants to their daughters. However, after 2010, Society accepted that daughters are also entitled to gunakaya assets or are entitled to life and funds as a form of parental love for their daughters. In its development, the right to inherit daughters' inheritance of their parent's wealth has yet to be fully visible. However, giving gifts or funds to both daughters who marry out and sons who marry outside is an initial development before the customary law community in Bali can fully accept it—the daughter's right to inherit. Linking Balinese customary law with Hindu law, especially in inheritance law, it can be said that it does not fully absorb the inheritance system in Hindu law. It is called the kapurusa system because in determining the heir, it adheres to the purusa or patrilineal principle, which takes the lineage from the father. However, the Balinese patrilineal kinship system has a broader meaning than the understanding of the patrilineal kinship system in general because it includes the definition of the male line, which is biologically male, called purusa, and women who have legal status as men, called Santana jeg. So, in the broader

sense of the patrilineal kinship system, besides men (purusa), there are also women (Santana jeg). This way of grouping kinship based on purusa lines is inspired by Hinduism, which in everyday life has been integrated with the customs and customary law of traditional law communities in Bali.

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