

IMPLEMENTATION OF DAUGHTERS' INHERITANCE RIGHTS UNDER THE AWIG-AWIG OF SEMINYAK CUSTOMARY VILLAGE

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abstract

The position of daughters in Balinese customary law is traditionally weak in inheritance matters due to the patrilineal kinship system. To address this injustice, the Bali Customary Village Council issued the Third Great Assembly Decree of 2010 regarding the Position of Daughters. This study aims to analyze the implementation of sentana rajeg in Seminyak Customary Village and the factors affecting its effectiveness. This research uses empirical legal research with a qualitative approach. Data were obtained through interviews, Awig-Awig document studies, and observations in Seminyak Customary Village. The results show that normatively Seminyak Customary Village has synchronized the 2010 PHPB into Awig-Awig Article 76. However, empirically, during 2010-2025 there were only 5 sentana rajeg applications with a 20% success rate. The low effectiveness is caused by 5 factors: legal, law enforcement, facilities, community, and cultural factors. It is recommended to revise Awig-Awig, conduct regular socialization, and establish a customary social fund. The background of this research is the study of the legal status of women Bali weak in terms of inheritance, because according to the Customary Law Bali rightful heir only male offspring and the families of men and male foster child. Women in the Indigenous people of Bali are still suffering discrimination in terms of provision law. The Third Grand Assembly Decision of MUDP Bali in 2010, or PHPB 2010, equalizes the inheritance rights of daughters and sons through the sentana rajeg institution. However, 15 years after PHPB 2010, its implementation in Seminyak Customary Village remains suboptimal. This study aims to analyze the legal status of daughters as heirs under PHPB 2010 and the effectiveness of its implementation in Seminyak. The research uses an empirical juridical method with statute, conceptual, and sociological approaches. The results show: First, normatively, daughters have legal heir status if they are sentana rajeg. Second, the effectiveness of PHPB 2010 in Seminyak is not optimal due to three factors: a vacuum of technical pararem, disparity in prajuru capacity, and economic resistance from krama purusa. **Keywords:** PHPB 2010, Daughter's Inheritance Rights, Sentana Rajeg, Legal Effectiveness, Seminyak Customary Village.

A. INTRODUCTION

Customary law essentially serves to enrich the treasury of Indonesia's national legal system. Customary law acts as a mainstay for indigenous communities regarding customary

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decisions established in social interactions within the community environment. The function of customary decisions here is to set boundaries through provisions that regulate their behavior and attitudes, as a lack thereof would lead to an imbalance in society.

Customary law the realization of which can take the form of customary decisions resulting from traditional council assemblies (*pesamuhan*) substantively contains provisions that regulate human behavior or serve as guidelines for action to maintain a balance of interests within society. Article 18 of the 1945 Constitution of the Republic of Indonesia states that the Indonesian state respects the existence of customary law community units along with all the socio-cultural aspects that encompass every single one of their decision-making processes.

Historically, Balinese customary law adheres to a patrilineal family system known as *Kapurusan*. In this system, lineage and inheritance are traced through the male line. Male children, as *purusa*, hold a central position because they bear the responsibility for *yadnya* (religious offerings/obligations), *swadharma* (duties), and the maintenance of the family *sanggah/pemerajan* (ancestral shrine). Conversely, female children are considered *nyeburin* or leaving their family of origin after marriage. Consequently, female children do not have rights to inherited property and only receive a share in the form of *perbekel* (provisions/provisions for departure) or voluntary gifts from their parents.

On October 15, 2010, the Main Council of Pakraman Villages in Bali (MUDP) held its third congress, which made a major breakthrough in Balinese customary law regarding inheritance. At the 3rd MUDP Bali General Assembly, it was decided that daughters are limited heirs. Limited heirs mean they are only entitled to inherit their parents' property based on the principle of *ategen asuun*, after deducting 1/3 of the joint property (the average amount that must be paid) (Sukerti, 2020).

Daughters in Balinese customary law are children who do not receive inheritance rights over their parents' estate, consistent with the patrilineal system applied in Balinese society. A daughter only has the right to enjoy her parents' wealth as long as she is unmarried; once she marries, the right to enjoy it is forfeited (Ni Putu, 2021). This is because when a female child marries, she leaves the kinship ties of her family of origin (exits the clan) and enters the kinship ties of her husband. It is a different case if a woman marries without leaving her family's kinship ties through a **nyentana** marriage; in this circumstance, the woman's status is elevated to **purusa**, and her husband is the one who relinquishes kinship ties from his family of origin.

Kinship systems can have consequences on the principles of inheritance law. The influence of the family system on inheritance law is clearly evident in determining heirs. Only male children in a family hold status as heirs. Adopting this *purusa* family system leads to distinctions in gender relations within Balinese families and society, where men are seen as having greater importance than women in both family and societal spheres. Based on this *purusa* kinship system, it is also determined that only male children hold the status of heirs, while female children are only entitled to enjoy the yields for sustenance from the family inheritance.

The patrilineal inheritance system is a provision regulated in the Paswara of October 13, 1900, a written *awig-awig* (customary regulation) of Pakraman/Customary Villages regarding the rights of men as the sole recipients of inheritance, excluding women's rights to inherited property. According to Balinese customary law, the inherited property in question consists of

material and non-material assets. Material assets can be distinguished by type, form, and legal status such as indivisible property, heritage property, ancestral assets, jointly earned property (gono-gini), and others (Gede Pudjha, 1997).

The kinship system in Bali follows patrilineal principles. This means that lineage, property inheritance, and the continuity of the sanggah kawitan (origin shrine) pass solely through male children (Surpha, 2008). As a result, female children lack inheritance rights and cannot become successors of the sanggah. This condition gives rise to injustice, particularly for families that only have daughters.

To address this issue, the Main Council of Pakraman Villages in Bali (*MUDP*), through the Grand Assembly III in 2010, issued Decree No. 01/KEP/PSM-3/MDP-BALI/I/2010 concerning the Position of Female Children. The decree sets out 2 mechanisms: *sentana rajeg* and inheritance rights over earned property (*harta guna kaya*). Sentana rajeg is the customary elevation of a daughter to the status of a "male child" so that she can continue the Sanggah and become an heir.

Fifteen years after the 2010 PHPB decree, the implementation of *sentana rajeg* should theoretically have been widespread. However, data from the Seminyak Customary Village shows a different reality. In the 2010–2025 period, there were only 5 applications, with 1 successful, 3 failed, and 1 in progress. This low figure raises a question: has the law actually been effective?

B. LITERATURE REVIEW

Inheritance Rights in Balinese Customary Law

Balinese customary law adheres to a patrilineal inheritance system. Inherited property is referred to as "harta ayahan" and can only be inherited by male children. Female children only receive "peparab" or gift property upon marriage. This is based on the role of male children as the continuers of lineage and custodians of customary traditions.

Inheritance Rights in National Law

Article 35 of the Basic Agrarian Law (UUPA) and Article 852 of the Civil Code (KUHPdata) adhere to a bilateral inheritance system. Male and female children hold equal status as heirs, with no distinction based on gender.

Legal Pluralism

According to Griffiths, legal pluralism is a situation in which more than one legal system exists within a single social arena. In Bali, a clash occurs between customary law, religious law, and state law.

Soerjono Soekanto's Legal Effectiveness Theory

The effectiveness of law is influenced by five factors: the law itself, law enforcement, facilities/resources, society, and culture. If even one factor is weak, the law becomes ineffective.

Theory of Dignified Justice

According to Teguh Prasetyo, the law must reflect respect for human worth and dignity. Discrimination against women contradicts the second principle of Pancasila.

C. RESEARCH METHODOLOGY

This research uses empirical legal research methodology. Empirical legal research examines law in the context of society, rather than solely within regulatory texts. The approach applied is descriptive qualitative.

The research location is in the Seminyak Customary Village, Kuta District, Badung Regency. This location was selected because Seminyak is an urban customary village with a high degree of modernization.

Data sources consist of primary and secondary data. Primary data was gathered through interviews with the Bendesa Adat (customary village chief) of Seminyak and two krama (customary community members) who have previously applied for sentana rajeg. Secondary data consists of the 2012 Awig-Awig (customary regulations) of Seminyak Customary Village and the 2010 PHPB decree. Data analysis techniques utilize qualitative analysis. Research Question 1 (RM 1) is analyzed using Legal Pluralism Theory and Soekanto's Legal Effectiveness Theory. Research Question 2 (RM 2) is analyzed using the Theory of Dignified Justice.

D. RESULT AND DISCUSSION

Implementation of Female Children's Inheritance Rights under *Awig-Awig* in Seminyak Customary Village

Based on Legal Pluralism Theory, there are three patterns of implementation in Seminyak:

- Implementation according to Awig-Awig: As stated in an interview with the Bendesa Adat (customary village chief) of Seminyak: "Women in Seminyak indeed do not have inheritance rights to *ayahan* property. If there is a male child, female children only receive *peparab* when everything is settled." This demonstrates the lingering strength of patrilineal norms.
- Compromise implementation: If there are no male children, a daughter is required to undergo *nyentana*. If she refuses, she is only granted limited residential land that cannot be sold.
- Forum shopping implementation: Some daughters choose to file lawsuits with the Denpasar District Court based on the Civil Code (KUHP *perdata*). This represents a clear conflict between customary law and state law.

This implementation is classified as ineffective. Patrilineal cultural factors and customary law enforcement factors remain exceptionally dominant, whereas legal factors and socialization mechanisms remain weak.

Obstacles to the Implementation of Female Children's Inheritance Rights under Awig-Awig in Seminyak Customary Village

- Based on the Theory of Dignified Justice, every human being must be treated with equal dignity. However, three main obstacles were identified:
- Customary Obstacle: Fear that "*harta ayahan*" (customary land) will leave the village if a daughter marries outside the community.
- Social Obstacle: As expressed by one interviewee: "Women who demand inheritance are stamped as ignorant of custom. Later, they get ostracized in the *banjar*."
- Legal Obstacle: The Awig-Awig has not been revised and is not yet aligned with the Basic Agrarian Law (UUPA), resulting in substantive injustice.

Under Balinese administrative procedures, a customary village has the authority to regulate inheritance matters through written regulations (Awig-Awig and Pararem) tailored to dresta (local tradition). The absence of this pararem is suspected to be a primary hindering factor, as it leads to multiple interpretations at the Kelian Banjar Adat level and creates legal uncertainty for krama (community members).

Seminyak Customary Village possesses unique characteristics that set it apart from other customary villages in Bali. Geographically, Seminyak is a premium tourism area in Badung Regency, with Taxable Object Sale Value (NJOP) of land reaching IDR 2,500,000 per m^2 or IDR 2.5 billion per are in 2024. This extremely high economic value of land directly influences the dynamics of customary law, particularly in the realm of inheritance.

According to an interview with the Bendesa Adat of Seminyak on June 27, 2026, only 5 cases of sentana rajeg confirmation were recorded over the last 10 years (2015–2025). This number is remarkably small compared to the estimated number of families without male children in an urban area like Seminyak. The minimal figure of 5 cases indicates a deadlock in field implementation. Customary law has evolved, yet the legal behavior of the community and its enforcers has not. This gap forms the core problem of this study.

Why have only 5 out of so many potential families dared to pursue the **sentana rajeg** route? Soerjono Soekanto's Legal Effectiveness Theory helps dissect this issue through 5 factors:

1. Legal Factor: The regulation itself. The weakness of Seminyak's Awig-Awig is that it does not regulate the details: requirements, timing, and costs of sentana rajeg*. This normative vacuum leads to uncertain processes and misinterpretations.
2. Law Enforcement Factor: The Prajuru (customary leaders) of the village. Interviews reveal that the Prajuru remain passive and lack massive socialization programs regarding the 2010 PHPB decree, waiting instead for community members to report first.
3. Resource/Facility Factor: The primary resource issue is financial. The peras sentana ceremony in Seminyak costs between IDR 20–30 million. For ordinary community members, this cost is burdensome, and no aid funds exist from the customary village yet.
4. Community Factor: The community is still heavily influenced by patriarchal culture. Stigma exists that families applying for sentana rajeg are "defying custom," making members hesitant to apply despite having the right.
5. Cultural Factor: The greatest concern is that the sanggah kawitan (ancestral shrine) will be relocated. Extended families fear there will be no one left to perform ngayah (voluntary community service) at the temple. These cultural values hold stronger sway than written law.

General Overview of Sentana Rajeg and the 2010 PHPB Decree

Etymologically, Sentana rajeg derives from "sentana" (descendant) and "rajeg" (upright/straight). Customarily, sentana rajeg is the process of elevating a daughter to a position equivalent to a male child through the peras sentana ceremony.

The 2010 PHPB decree provides daughters with 2 options:

1. Sentana rajeg: Full rights, including continuing the sanggah.

2. Inheritance rights over harta guna kaya (acquired property): Granted without undergoing sentana rajeg.

Implementation of Sentana Rajeg in Seminyak Customary Village

Seminyak Customary Village adjusted its 2012 Awig-Awig. Chapter X Article 47 states that a daughter may be designated as a sentana rajeg with the approval of the Prajuru and through customary ceremonies.

Seminyak Customary Village, Kuta District, Badung Regency, serves as an example of an area experiencing intense pressure from social change. Seminyak is an urban territory with massive tourism activity, high land value ownership, and heterogeneous social interactions. On one hand, many local families have begun granting inheritance to daughters due to economic and educational factors. On the other hand, customary chiefs and residents still face dilemmas regarding sanggah responsibilities and the risk of social ostracization if awig-awig regulations are violated. The disparity between 2010 PHPB norms and field practice raises legal issues that require empirical examination.

However, pre-research findings in Seminyak Customary Village reveal that the implementation of Sentana Rajeg provisions under the 2010 PHPB decree has not operated in a standardized manner. This is evident from the low volume of processed cases just 5 cases over a 10-year span. Consequently, the author aims to further analyze the "Implementation of the 2010 PHPB Grand Assembly Decree on the Inheritance Rights of Female Children in Seminyak Customary Village."

E. CONCLUSION

The implementation of inheritance rights for female children in Seminyak Customary Village is currently divided into three primary patterns. Examined through Soerjono Soekanto's Legal Effectiveness Theory, the field implementation of these rules remains under-effective. This shortfall is driven by fundamental obstacles across customary, social, and legal factors, where current practices do not yet fully align with the principles of Dignified Justice Theory that uphold respect for the rights and dignity of daughters.

As a corrective step, Seminyak Customary Village needs to revise its existing Awig-Awig (customary regulations) to accommodate gender equality and dignified justice. This reform of customary regulations must be synergistically supported by the Badung Regency Government through structured, continuous legal guidance provided to customary leaders and village institutions.

Furthermore, extensive public education and socialization regarding equal rights and responsibilities between male and female children are essential for all krama (customary community members). Through a more open and adaptive understanding within the community, social stigmas can be gradually dismantled, ensuring that legal protection for daughters in Balinese customary inheritance becomes a concrete reality.

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