

Normative Study on Inheritance Renunciation and Sanggah Obligations in Balinese Customary Law

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Abstract. Rejection of inheritance under civil law generally frees the heir from all obligations inherent in the inheritance. However, in the context of Balinese custom, even if someone rejects an inheritance, they may still be burdened with customary obligations, particularly regarding the management and maintenance of the sanggah (family shrine), which serves as a center of religious and social ties. This study aims to examine the legal implications of rejecting an inheritance under the Civil Code (KUHPperdata), specifically regarding the obligation to manage the sanggah under Balinese customary law. The method used is normative legal research with a statutory approach to analyze Articles 1043, 1045, and 1057 of the KUHPperdata concerning rejection of inheritance, as well as a conceptual approach to examine the meaning of inheritance in relation to spiritual obligations in Balinese custom. The legal materials used include primary sources (KUHPperdata, the 1945 Constitution, the customary laws of Buleleng Village, decisions of the Balinese Traditional Village Council, and court decisions), secondary sources (doctrines, journals, and academic literature), and tertiary sources (legal dictionaries). The analysis was conducted qualitatively through systematic, teleological, and comparative interpretation to identify harmonization and potential normative conflicts. The results of the study indicate a dualism between state law, which grants individuals the freedom to reject inheritance, and Balinese customary law, which still mandates the management of sanggah based on lineage. This disharmony underscores the importance of harmonization mechanisms to integrate formal legal certainty with cultural values, thereby preventing legal and social conflict in a pluralistic society.

Keywords: Civil Code; Sanggah; Customary Law

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1 Introduction

The concept of inheritance refusal in Indonesian civil law is explicitly regulated in Articles 1045 and 1057 of the Civil Code (KUHPerduta). Article 1045 states that no one is obligated to accept inheritance, thus inheritance is not compulsory and may be refused by prospective heirs. Such refusal is not merely a verbal statement but must be officially declared through a deed executed at the District Court within the testator's legal jurisdiction, as confirmed in Article 1057 of the Civil Code [1]. This demonstrates that Indonesian positive law recognizes individual rights to determine one's position regarding inheritance granted, whether due to moral considerations, the testator's debt burden, or other personal reasons [2]. Conversely, in customary inheritance law, particularly Balinese customary law, inherited property is understood more broadly, encompassing both material and immaterial assets.

Based on the provisions of Pasamuhan Agung IV of the Balinese Customary Village Council (MDA) 2023 Number: 04/KEP-PSM.IV/MDA-BALI/VIII/2023 concerning Basic Provisions of Marriage, Divorce, and Inheritance under Balinese Customary Law, inheritance in Balinese customary perspective is divided into two main categories: material and immaterial assets. Material assets include land, buildings, savings, debts, receivables, and jewelry, while immaterial assets encompass sacred places such as temples or *merajan*, as well as sacred objects inherited generationally within families. This distinction indicates that the inheritance system in Balinese customary law is not solely oriented toward physical property ownership but also contains spiritual values, customary responsibilities, and sociocultural continuity. Therefore, inheritance in the Balinese customary context is viewed not only as an economic asset but also as a symbol of identity, religious obligation, and social status inherent in the customary community structure.

Research on this issue employs a normative approach because its analytical focus lies on legal norms, both in the form of legislation and unwritten legal provisions applicable within customary communities. In Bali, customary law that lives and develops in society is regulated through *awig-awig* and customary village decisions, which serve as primary legal sources in inheritance implementation. The inheritance system in Balinese customary society is patrilineal, meaning lineage and inheritance rights are passed down through the male line. In this system, male children (*purusa*) become primary heirs who hold rights to ancestral property such as land, heirloom assets, and *sangguh* (family worship place). This is closely related to the majorat system, wherein inherited property is not divided among all children but is bequeathed to one eldest child, who bears full responsibility for preserving spiritual values, conducting customary ceremonies, and maintaining family honor [3]. Although the majorat inheritance system generally applies to male heirs (*mayorat laki-laki*), in certain situations it may also be applied to female heirs (*mayorat perempuan*), depending on social context and local customary considerations. Thus, Balinese customary law views inheritance as a unity between property rights and social-spiritual obligations that must be maintained for the continuity of customary community identity and structure.

Sangguh as a family sacred place constitutes part of immaterial inheritance containing ritual and spiritual dimensions. *Sangguh* management is not only related to physical ownership but also involves customary responsibilities and spiritual obligations that automatically attach to male heirs (*purusa*), regardless of whether they accept or refuse material inheritance under civil law. The normative dualism Balinese customary legal and various Civil Code provisions, descendant both of traditional and western law, created it. The Civil Code allows the will to be rejected entirely (*pemangku/refused inheritance altogether*) while Balinese customary law insists on maintaining responsibility for *sangguh*. According to Sukmaningsih, this gap in perspective is the source of the collision between inheritance [4]

practices and accentuates the necessity of an intermediate method as middle ground between customary law which are alive in society with positive law.

The resolution of inheritance disputes on the island of Bali is usually done in traditional mechanisms according to agama customary as regulated by *awig-awig* under the leadership of *bendesa adat* which does not through a formal process based on Applicable Law in District Courts. This consultative approach focused on village communities and spiritual values, where the well-being of the individual is subordinated to communal interests [5]. These unofficial mechanisms help in not only ironing out differences but they help in the very natural admission of guilt on a part of the accused, without him feeling cornered or victimised [6]. This demonstrates customary law's increasingly valued and considered position within the national legal system framework, proving that local wisdom can synergize with national law. Within the framework of increasingly broad recognition of customary law, developments in women's roles in Balinese customary inheritance systems also constitute an important part of legal dynamics worthy of attention. Although not directly related to *sangguh* management, recognition of women's inheritance rights through *Pesamuhan Agung* decisions marks the opening of new space for gender justice in Balinese customs. This simultaneously confirms that customary law is dynamic and capable of adapting to social changes in society. Therefore, this research employs a normative approach focused on analyzing various legal sources, both written and unwritten, such as the Civil Code, *awig-awig*, customary decisions, and official documents from the Customary Village Council and *Pesamuhan Agung*. The primary objective of this study is to explore harmonization possibilities between formal state norms and local customary norms, particularly regarding integration between individual rights protection (Civil Code) and fulfillment of customary communal obligations (*sangguh* management). This harmonization is expected to produce legal certainty that is materially just while being spiritually harmonious, and to strengthen legal pluralism principles within Indonesia's legal framework.

2 Methods

This study employs a normative legal research method, which is research conducted by examining and analyzing primary and secondary legal materials to understand and theoretically analyze applicable legal norms regarding specific legal issues [7]. The research uses a statutory approach to analyze provisions of the Indonesian Civil Code (KUHPerdata), particularly Articles 1043, 1045, and 1057 concerning inheritance renunciation, as well as constitutional recognition of customary law under Article 18B paragraph (2) of the 1945 Constitution. It also adopts a conceptual approach to explore the doctrinal and philosophical meaning of inheritance in relation to spiritual obligations and cultural values embedded in Balinese customary law, especially the role of *sangguh* as immaterial inheritance. The legal materials analyzed consist of primary legal materials, including the Civil Code, the 1945 Constitution, *awig-awig* of *Desa Pakraman* in Buleleng regulating obligations toward *sangguh* and patrilineal inheritance responsibilities, decisions from the Balinese Customary Village Council (MDA), and relevant court decisions; secondary legal materials in the form of doctrinal writings, textbooks, academic journals, and scholarly commentaries; and tertiary legal materials such as legal dictionaries. The analysis applies qualitative descriptive techniques using systematic and teleological interpretation, supported by comparative analysis, to identify harmony and conflict between positive law and customary norms. Furthermore, the study is guided by legal principles including the principle of individual autonomy in civil law (freedom to accept or refuse inheritance), the principle of legal certainty, the constitutional principle of recognition of customary law, the principle of harmonization within a plural legal system, and the principle of justice that ensures legal arrangements reflect formal legality as well as socio-cultural values prevailing in society.

3 Results and discussions

3.1 Civil Code Provisions Governing the Right to Refuse Inheritance

Inheritance is the process of transferring rights and obligations from a decedent to their heirs in Indonesia civil law system which is derived from *Burgerlijk Wetboek (BW)* or Civil Code (*KUHPerdata*). This includes not only the right to inherit, but also obligations; the heir or heirs will assume the debts and all other financial responsibilities of the deceased. But this system does not, by some automatic mechanism, compel each heir to take all the inheritance coming to him. In this case, the Civil Code allows heirs to decide on their own how they feel about inherited property, giving them legal opportunities through a particular way of passing by inheritance through refusal.

The provisions regarding the right to refuse the inheritance are clearly stated in Article 1045 of the Civil Code [8], which reads, "No one shall be coerced to accept an inheritance that falls upon him." This proves that acceptance of inheritance is not a duty but rather a right to be exercised optionally by every heir based on individual considerations. Such free will provides a form of legal protection for heirs whenever in such condition where more burdens are left by the testator as, for example, debts or other obligations than actual benefits. Therefore, this principle is very important in preventing coercion against taking over any responsibility burden that might not commensurate with the value of benefits.

Article 1057 of the Civil Code further provides that the repudiation of inheritance must be made through an explicit declaration to the District Court, specifically to the registrar at that seat of legal jurisdiction where the inheritance has been opened. The said declaration has also to be made officially and in writing for it to be valid and have binding legal force. Thus, original provision intended avoidance of any future possible emergence of legal uncertainty and conflict. If an heir does not declare their refusal formally according to the prescribed procedure, then according to Article 1043 of the Civil Code, they are deemed to accept the inheritance tacitly (*stilzwijgende aanvaarding*). The legal consequences of such refusal are significant, as a person who legally refuses inheritance is considered never to have been an heir, both in terms of obtaining rights to the estate and bearing the decedent's obligations [9]. In other words, inheritance refusal severs all legal relationships between the heir and the decedent's estate.

However, in practice, the right to refuse inheritance as regulated in the Civil Code often creates problems when confronted with customary norms, particularly in the context of Balinese society. One form of conflict that arises is when inheritance includes non-material elements such as *sanggah* (family shrine), which customarily holds spiritual and social value that cannot be separated from the identity and existence of the *purusa* (male) family line. In Balinese customary law perspective, *sanggah* is not merely an object of inheritance but also a symbol of spiritual continuity and communal responsibility passed down through generations. Therefore, even though a male heir refuses inheritance under civil law, he is still viewed by the customary community as bearing responsibility for the *sanggah*, including in conducting religious ceremonies and maintaining the sacred site. In certain cases, refusal of customary responsibility can even be interpreted as a form of "social identity rejection" which can subsequently lead to conflicts at the customary village level.

Inheritance under Article 103 of the *Awig-Awig of Desa Pakraman Buleleng* concerning Inheritance stipulates that "Inheritance refers to the tangible and intangible property left by the decedent to the heirs after the decedent's death." The terms *Sekala* and *Niskala* in this context mean that *Sekala* refers to the visible or material world, while *Niskala* refers to the invisible aspects, one of which is related to the *sanggah* (family shrine). However, this *awig-awig* does not provide any explanation regarding the concept of inheritance renunciation or the management of the *sanggah* in cases where an heir refuses the inheritance under national law, namely pursuant to the provisions of the Indonesian Civil Code. Thus, the right to refuse

inheritance as regulated in the Civil Code constitutes a protection mechanism for individual rights, but is not necessarily aligned with the collective values and obligations that exist in customary communities. Therefore, harmonization between national legal provisions and customary values is necessary to prevent normative gaps or conflicts between applicable legal systems.

3.2 Implications of Inheritance Refusal Under the Civil Code on *Sanggha* Management Obligations Under Balinese Customary Law

Inheritance refusal as regulated in Articles 1045 and 1057 of the Civil Code juridically provides freedom for every person not to accept inheritance that falls to them, including for moral reasons, the decedent's debt burden, or unpreparedness to bear responsibility for the estate. However, in the context of Balinese customary law, inheritance refusal has more complex implications, particularly regarding the obligation to manage *sanggha* (family shrine), which customarily constitutes a form of non-material inheritance attached to one's social status in the patrilineal lineage (*purusa*).

In Balinese customary law, the existence of *sanggha* is viewed not merely as an asset, but as the spiritual center of the family that functions to maintain relationships between descendants and ancestors. *Sanggha* management is not merely an inheritance right but becomes a customary obligation that cannot be avoided, particularly by male children in the *purusa* kinship system. Therefore, even though a person has formally declared inheritance refusal under civil law, the customary community still demands them to bear customary responsibility for the *sanggha*, including in conducting religious ceremonies and maintaining the sacred site.

The phenomenon of contradiction between national legal provisions and customary law practices creates a form of normative dualism in the Indonesian legal system. From the state law perspective, inheritance refusal conducted legally according to Civil Code provisions has clear legal consequences, namely eliminating all rights and obligations toward the decedent's estate. However, within the framework of customary law, particularly in Bali, there exist social and spiritual norms that are strongly attached to inheritance structures. One example is the obligation to manage *sanggha* (family shrine), which is viewed not only as part of immaterial inheritance property but also as a spiritual responsibility burden that cannot be released merely through formal refusal. In Balinese customary perspective, responsibility for *sanggha* is inherent in the lineage, particularly for male children as continuers of the *purusa*, and cannot be avoided through individual denial under civil law. This responsibility is not only social in nature but also spiritual and cultural, so its denial can create impacts on one's position in the customary community structure.

In the Indonesian legal system, there exists strong and explicit recognition of the existence and validity of customary law as an integral part of the national legal system. This recognition is embodied in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "The State recognizes and respects customary law communities and their traditional rights insofar as they remain alive and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia." This recognition is not merely symbolic but also has concrete juridical implications. This is reinforced through Article 5 paragraph (3) of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law on Job Creation into Law, which affirms that business activities and resource management must consider and respect the rights of customary law communities.

The implications have shown that the right to reject inheritance in positive law does not automatically waive customary obligations that are collective and spiritual. Herein lies the possible normative conflict between a national legal system, which is oriented toward individual rights, and customary law, which is oriented toward communal responsibility.

Thus, rejection of inheritance in this case cannot be viewed strictly as an individual legal act but must also be seen as an act that bears social and cultural impact on the status of the individual in customary structures and on the continuity of family spiritual values. Within harmonization of laws, this calls for interpretative mechanisms that can bridge the gap between the principle of individual freedom enshrined within national laws and communal responsibility within customary laws. Such reconciliation is important to prevent disparate treatment of individuals bound by two different legal systems simultaneously, namely as subjects of state law and as part of customary communities. Thus, understanding inheritance refusal must be placed in a broader context, encompassing juridical, social, cultural, and spiritual considerations, in order to produce legal solutions that are not only normatively valid but also just and contextual according to the reality of Indonesia's plural society.

To address the normative conflict between the Civil Code provisions on inheritance renunciation and the customary obligations related to *sangguh* management in Balinese society, several strategic steps are recommended. First, the government and customary institutions should develop a harmonization framework that provides legal certainty for heirs while respecting the socio-cultural and spiritual obligations embedded in customary law. This can be achieved by drafting local regulations or regional legal instruments that formally recognize *sangguh* obligations as part of non-material inheritance, with flexible mechanisms for delegation of responsibilities in cases where heirs legitimately renounce material inheritance under civil law. Second, customary communities, particularly through *Desa Pakraman* and the *Majelis Desa Adat* (MDA), should update their *awig-awig* to clearly outline procedures for transferring *sangguh* responsibilities to alternative family members or customary trustees when the primary *purusa* heir exercises the right to refuse inheritance under state law. Third, the judiciary should adopt an interpretative approach in inheritance disputes that prioritizes the principle of harmonization, ensuring that court decisions accommodate both individual civil rights and communal spiritual values. Lastly, further research should focus on empirical studies involving traditional leaders, heirs, and legal practitioners to develop practical models for conflict resolution that respect Indonesia's legal pluralism while promoting fairness and cultural sustainability.

4 Conclusion

Based on the findings of this analysis, it can be concluded that inheritance refusal under the Civil Code, as regulated in Articles 1045 and 1057, grants heirs the right to legally refuse inheritance that falls to them through official declaration at the District Court. However, within the context of Balinese customary communities, such refusal does not automatically eliminate customary obligations regarding *sangguh* management, as these responsibilities are spiritual and social in nature and inherent to the lineage within the *purusa* system. This disharmony demonstrates the existence of normative conflict between national law and customary law, necessitating legal reconstruction or more responsive state recognition of living customary law. Therefore, it is recommended that the government, particularly policymakers, proportionally accommodate customary law principles within the national legal system and promote integration mechanisms between individual civil rights and collective customary obligations to prevent legal vacuum or social conflicts at the local level.

References

1. N. K. I. A. Sukmaningsih, *Konflik Dan Harmonisasi Penolakan Warisan Dalam Perspektif Kitab Undang-Undang Hukum Perdata Dan Hukum Adat Bali: Studi*

- Tentang Hak Dan Kewajiban Ahli Waris, Kertha Widya Jurnal Hukum **12**, 77 (2024). <https://doi.org/10.37637/kw.v12i2.2205>
2. F. Nugraha, F. A. M. Radinda, and R. A. Fathonah, Akibat Hukum Pewaris yang Menolak Warisan, DIVERSI: Jurnal Hukum **6**, 1 (2020). <https://doi.org/10.32503/diversi.v6i1.634>
 3. I. W. W. W. Udytama and I. A. I. S. Dianti, Sistem Pewarisan Hukum Adat Bali Terhadap Kedudukan Perempuan Pada Masyarakat Adat Bali, Jurnal Yustitia, **10**, 1 (2024). <https://doi.org/10.62279/yustitia.v19i2.1346>
 4. I. G. S. Widyantara, I. K. Sukadana, and D. G. Sudibya, Peranan Bendesa dalam Penyelesaian Sengketa Tanah Waris di Desa Adat Buduk, Jurnal Analogi Hukum, **2**, 32 (2020). <https://doi.org/10.22225/ah.2.1.2020.32-36>
 5. R. Sanjaya, Fajriatunnisa, A. Yumarni, and R. Y. A. Ilyanawat, Hukum Waris Adat Bali Analisis: Putusan Nomor 55/Pdt.G/2019/PN Bli, Karimah Tauhid **4**, 3781 (2025).
 6. I. P. A. Warsita, I. M. Suwitra, and I. K. Sukadana, Hak Wanita Tunggal terhadap Warisan dalam Hukum Adat Bali, Jurnal Analogi Hukum **2**, 83 (2020). <https://doi.org/10.22225/ah.2.1.2020.83-87>
 7. T. Zuhra and Y. Roslaili, Pembagian Hak Waris Terhadap Wanita, Takammul: Jurnal Studi Gender Dan Islam Serta Perlindungan Anak **10**, 59 (2021). <https://doi.org/10.22373/takammul.v10i1.12601>
 8. S. Handayani, Kepastian Hukum Pembagian Waris Terhadap Orang Yang Dianggap Hilang Berdasarkan Penetapan Ketidakhadiran Di Pengadilan, Jurnal Ilmu Hukum: ALETHEA, **4**, 95 (2022). <https://doi.org/10.24246/alethea.vol4.no2.p95-114>
 9. W. F. Suryanata, Hukum Waris Adat Bali Dalam Pandangan Kesetaraan Gender, Paper Knowledge, Toward a Media History of Documents **7**, 7 (2021). <https://doi.org/10.33363/bb.v11i2.754>