

## Transformation of Inheritance Rights in Balinese Customary Land

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### ABSTRACT

*This study examines the transformation of inheritance rights in Balinese customary land within the context of customary and national legal systems. The research addresses legal issues arising from changes in customary membership, which may alter or terminate inheritance rights over communal land. Employing a normative legal research method with statutory and conceptual approaches, this study analyzes the interaction between customary norms and national agrarian law. The findings reveal that inheritance rights over customary land are inherently linked to social-religious obligations and active membership within the customary community, resulting in the transformation or loss of such rights when these obligations are no longer fulfilled. Furthermore, the study identifies a normative tension between the communal character of customary law and the individualistic principles of national inheritance law, leading to legal uncertainty. The novelty of this research lies in its integrative analysis of inheritance transformation through the lens of legal pluralism, emphasizing the need for harmonization between legal systems. The study concludes that clearer legal recognition and contextual legal approaches are necessary to ensure certainty and substantive justice in customary inheritance disputes. Future research is recommended to explore empirical perspectives and judicial practices in resolving similar disputes.*

**Keywords:** Balinese Customary Law, Customary Land Inheritance, Inheritance Rights Transformation, Legal Pluralism, Ninggal Kedaton

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### INTRODUCTION

Customary law constitutes an integral component of the Indonesian legal system, reflecting the socio-cultural values that continue to govern community life alongside formal state law. In Bali, customary law remains particularly influential in regulating land tenure and inheritance systems, especially in relation to *tanah ayahan desa*, a form of communal land controlled by traditional villages and allocated to members based on socio-religious obligations, as follows. Unlike individual ownership recognized in national law, rights over such land are inherently conditional, depending on active participation and compliance with customary duties within the community (Suwitra, 2011 Dharmayuda, 1987). This distinctive characteristic positions customary land not merely as an economic asset but as a medium for maintaining spiritual, social, and intergenerational continuity.

Legal complexities arise when a member of the customary community (*krama desa*) undergoes a change in status, particularly through an act known as *ninggal kedaton*, which signifies departure from customary membership. This transition raises critical questions regarding the continuity, transformation, and termination of inheritance rights over customary land. Within Balinese customary law, such rights are closely tied to

communal obligations and membership status, whereas national inheritance law tends to emphasize individual rights and genealogical relationships (Windia, 2014 Suwandi, 2017). This divergence creates normative tension between communal and individual legal paradigms, often resulting in ambiguity and legal uncertainty in the resolution of inheritance disputes in the country.

Previous studies have explored various aspects of Balinese customary inheritance, including gender roles, patrilineal systems, and the legal status of customary land (Artawan, 2018 Cahyani & Amelda, 2022). Other studies have examined disputes over customary land and the role of legal institutions in addressing such conflicts (Susila et al., 2023). However, these studies generally focus on inheritance structures or dispute resolution mechanisms without specifically analyzing the transformation of inheritance rights resulting from changes in customary membership status. In particular, limited attention has been given to the legal implications of *ninggal kedaton* in relation to the continuity of rights over *tanah ayahan desa* and its intersection with national legal frameworks.

This study identifies a significant research gap due to the lack of an integrative analysis that connects inheritance transformation, customary membership dynamics, and legal pluralism within a single framework. While earlier works acknowledge the existence of normative conflicts between customary and national law, they often do not examine how such conflicts concretely affect the status and transformation of inheritance rights. Furthermore, the absence of clear regulatory harmonization exacerbates legal uncertainty, indicating the need for a more comprehensive legal perspective (Ramli, 2021 Nurjaya, 2008).

The novelty of this research lies in its focus on the transformation of inheritance rights over *tanah ayahan desa* as a consequence of changes in customary membership, analyzed through the lens of legal pluralism. This study highlights the dynamic interaction between customary and national legal systems and offers a deeper conceptual understanding of how communal rights are reshaped under shifting socio-legal conditions. By integrating doctrinal analysis with a critical evaluation of normative tensions, this study contributes to the development of a more contextual and responsive legal framework.

Accordingly, this study aims to analyze the mechanism of transformation of inheritance rights in Balinese customary land and examine its legal implications within the framework of both customary and national law. Through this approach, this study seeks to provide a clearer understanding of the legal status of customary inheritance rights and support the development of more coherent and equitable legal solutions to address customary land disputes.

## RESEARCH METHOD

This study employs a normative legal research design to examine the transformation of inheritance rights in Balinese customary lands. The primary materials consist of legal norms derived from statutory regulations, customary law principles, and relevant legal doctrines that govern inheritance and land rights in Indonesia. Secondary materials included scholarly books, peer-reviewed journal articles, and prior studies addressing customary inheritance systems, legal pluralism, and agrarian law. These materials were selected using a purposive approach to ensure relevance to the research topic.

This study adopts statutory and conceptual approaches. The statutory approach is used to analyze national legal frameworks related to inheritance and land law, while the conceptual approach is applied to examine key legal doctrines, such as inheritance rights, customary membership, and legal pluralism. Additionally, a case-based analytical perspective is employed to understand how changes in customary status, particularly in the context of *ninggal kedaton*, influence the transformation of rights within customary land systems.

Data were collected through a documentary study involving the systematic identification, classification, and review of legal texts and academic literature. The collected materials were organized based on thematic relevance, including customary land status, inheritance mechanisms, and the relationship between rights and obligations in customary communities.

Data analysis was conducted using qualitative legal analysis, focusing on legal interpretation and normative reasoning. This includes interpreting statutory provisions, comparing them with customary legal principles, and evaluating their consistency within the broader framework of Indonesia's pluralistic legal system. This study applies a descriptive-analytical method to explain the transformation process and an interpretative approach to assess the legal implications arising from such transformation.

Rather than employing statistical models, this study emphasizes doctrinal analysis and legal argumentation to construct a coherent understanding of the information of inheritance rights. References to established legal research methodologies are based on widely recognized approaches in normative legal studies (IRAC method and legal interpretation techniques), ensuring methodological rigor and academic validity of the study.

## RESULT & DISCUSSION

The findings demonstrate that inheritance rights over *tanah ayahana desa* in Bali are inherently conditional and structurally embedded within the customary system of the *desa adat*. These rights are not merely derived from genealogical lineage but are closely tied to an individual's status as *krama desa*, which entails continuous socio-religious obligations and participation in communal life. Consequently, inheritance in this context reflects a functional and relational system in which rights and obligations are intertwined. This confirms that customary land tenure in Bali operates within a collective framework, where the legitimacy of rights is determined by active engagement in customary institutions (Artawan, 2018; Suwitra, 2014; Wiguna & Jayantiari, 2021).

A central finding of this study is the existence of a transformative mechanism of inheritance rights triggered by changes in customary membership status. The practice of *ninggal kedaton*, which signifies withdrawal from customary obligations, constitutes a decisive legal event that affects the continuity of inheritance rights. When an individual ceases to fulfill communal responsibilities, the normative basis for holding rights over *tanah ayahana desa* is weakened or extinguished. This transformation reflects a fundamental principle of Balinese customary law, where rights are conditional upon the fulfillment of obligations rather than being absolute or permanent (Windia, 2018; Sariwisesa & Rosando, 2024; Swetasoma & Winatha, 2024).

The study further reveals that this transformation creates normative tension between customary and national law. While national inheritance law emphasizes individual ownership and blood relations, customary law prioritizes communal belonging and social function as the basis for entitlement. This divergence leads to a dual legal position in which individuals may retain their inheritance status under national law but lose recognition within the customary system. This condition reflects the broader dynamics of legal pluralism in Indonesia, where multiple legal orders coexist but are not fully integrated (Febrianti & Mansur, 2020; Wulandari & Kusuma, 2023; Ranawijaya & Utami, 2020).

Another important result concerns the legal uncertainty arising from the lack of harmonization between legal systems. Although customary law is formally recognized in Indonesia, its implementation in disputes over customary land remains inconsistent and often ineffective. This is particularly evident in cases involving *ninggal kedaton*, where conflicting interpretations emerge between customary and formal legal institutions. The absence of clear regulatory frameworks governing the transformation of inheritance rights exacerbates this uncertainty and weakens legal protection for both individuals and communities (Mahendra, 2020; Guntur, 2023; Lubis et al., 2025).

In addition, the transformation of inheritance rights performs redistributive and preservative functions within the customary system. When rights are withdrawn from individuals who no longer fulfill their obligations, they are reassigned to active community members. This process ensures the continuity of the socio-religious functions associated with *tanah ayahana desa* and maintains the integrity of the customary village structure. Such redistribution reflects the adaptive capacity of customary law to respond to social changes while preserving its foundational values (Merta, 2024; Suwitra, 2022).

The findings also indicate that changes in customary membership status, including those caused by religious conversion or social transition, significantly influence individuals' legal position relation to customary land. Individuals who are no longer recognized as part of the customary community may lose access to land rights, even if they maintain genealogical ties to the community. This reinforces the principle that customary inheritance is not solely based on descent but also on continued social integration within the community (Suartama Yasa, 2020).

In relation to previous studies, this research expands the discourse by focusing on the dynamic transformation of inheritance rights rather than static inheritance structures. Earlier works have examined gender roles, lineage systems, and the distribution of inheritance (Cahyani & Amelda, 2022; Parama, 2020; Dewi & Sudantra, 2021), as well as dispute resolution mechanisms (Susila et al., 2023; Putra et al., 2024).

However, these studies have not sufficiently explored how changes in customary membership status directly reshape inheritance rights within the communal land system. By integrating the dimensions of membership transformation, legal pluralism, and land rights, this study provides a comprehensive analytical framework.

From an analytical perspective, the results support the argument that the transformation of inheritance rights is a coherent and legitimate outcome within customary law logic. However, the limited integration of this principle into national legal doctrine creates a gap that leads to inconsistent legal interpretations and contested claims. This indicates that a purely formal legal approach is insufficient to address disputes involving customary land, as it fails to account for the socio-cultural foundations of rights (Ilka Haque, 2023; Sitinjak & Ratnadunita, 2025; Zuliana, 2024).

Therefore, this study emphasizes the need for a more integrative and contextual legal framework that bridges the customary and national legal systems. Such a framework should explicitly regulate the legal consequences of changes in customary membership while recognizing the communal nature of land rights. Without this integration, legal pluralism risks producing fragmentation and uncertainty rather than coherence and justice.

Overall, the findings confirm that the transformation of inheritance rights is not an anomaly but a structural characteristic of Balinese customary inheritance law. Understanding this transformation is essential for ensuring legal certainty, preserving communal values, and developing a legal system that is responsive to the socio-cultural realities of Indonesian society.

## CONCLUSION

This study concludes that the transformation of inheritance rights in Balinese customary land is an inherent and legitimate consequence of the conditional nature of rights within the customary legal system. Inheritance over *tanah ayahan desa* is not solely determined by lineage but is fundamentally linked to active participation in socio-religious obligations as a member of the customary community. Consequently, changes in membership status, particularly through *ninggal kedaton*, lead to the reconfiguration or termination of inheritance rights to preserve communal continuity and maintain the functional integrity of the customary system. However, this transformation is not fully accommodated within the framework of national law, which tends to emphasize individual ownership and genealogical entitlement, creating normative tension and legal uncertainty. This study demonstrates that the coexistence of these differing legal paradigms requires a more integrative and contextual legal approach that recognizes the communal foundations of customary rights while ensuring legal certainty. By highlighting the dynamic relationship between rights, obligations, and membership, this study contributes to a deeper understanding of inheritance within a plural legal system and underscores the need for harmonization between customary and national laws to achieve substantive justice.

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