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Pedum Pamong Against Tegak Umah Tua in Balinese Customary Law

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ABSTRACT

Umah Tua land is essential for the Balinese community's balance and must be preserved by every generation. Balinese customary law includes the concept of pedum pamong, which involves temporarily distributing inherited property until a final distribution occurs. However, there are no specific regulations in Balinese law addressing pedum pamong and its legal consequences for Umah Tua. This is necessary as Umah Tua ownership is communal and includes preservation duties, especially for the tegak sanggah within Umah Tua. This article aims to explain the concept of pedum pamong in the context of Balinese customary law and analyze its juridical consequences on the tegak umah tua. This research applies a descriptive normative legal approach, reliant on the analysis of literature related to Balinese customary law. The research findings revealed that no specific regulation on pedum pamong is identified in Balinese customary law. Pedum pamong focuses on the temporary distribution of inheritance until it is distributed in perpetuity. Due to its temporary nature, the ownership of tegak umah objects within the scope of umah tua may change upon the testator's passing or cremation, with the exception of tegak bale dangin and merajan. Therefore, it is necessary to establish a specific and comprehensive guideline regarding pedum pamong in Balinese customary law.

Keywords: *Balinese Customary Law, Pedum Pamong, Umah Tua*

INTRODUCTION

Earth and humans are closely related. The earth serves a number of significant functions in human life. This is reasonable as the earth is the place where all activities and lives of living beings, including humans, take place. In an indirect way, soil has become a basic necessity in human life. All living things depend on soil to grow plants, which are essential for humans and many other living things. From this understanding, it is evident that the earth has a significant role as it is the source of life itself. This is reflected in the fact that every human action is constantly requiring the earth to support it. The land is an integral part of human life. Humans are connected to the earth, for example, they grow crops for the sustainability of life, use land for the construction of dwellings, and in daily life, humans are always on the earth. As time passes, people realize the importance of land ownership. Conflicts over land ownership often occur.¹

Conflicts over land ownership often occur due to uncertainty over boundaries, lack of proper legal documentation, and competition over natural resources. This situation triggers disputes involving individuals, groups and governments, often resulting in complicated and long-term legal processes. The realization of the economic and strategic value of land increases the intensity of conflicts, placing the resolution of land disputes as an immediate priority to maintain social and economic stability. In this case, a transparent and fair land administration system is crucial to prevent and resolve emerging conflicts, and ensure that land rights are effectively recognized and protected.

Humans cherish the earth as a source of life since birth until death. Land is utilized as a shelter and source of livelihood for the community, for instance by harvesting rice, corn, and vegetables. Theoretically, land is an important basis for the sustainability of human life, moreover land is "a source of wealth for those who own and control it," because everything on it becomes a source of income or revenue. The importance of land for human life lies in its pivotal role for the "Indonesian Nation" in achieving and sustaining the country's development.

Land also functions as a unifying element of the nation, where every inch of it holds history and culture that forms national identity. The natural resources within Indonesia's land, such as minerals, forests and water, are strategic resources for human life. Considered in terms of sustainable development, wise land management is essential to ensure a balance between exploitation and environmental preservation. Therefore, an understanding and respect for the importance of land must be raised from an early age to enable future generations continue the struggle to build a sovereign, just and prosperous nation.

¹ I Putu Agus Adi Saputra and I Ketut Westra, "Kedudukan Desa Adat Sebagai Pemegang Hak Milik Atas Tanah Ditinjau Dari Hukum Positif Indonesia," *Acta Comitatus* 6, no. 03 (December 22, 2021): 696, <https://doi.org/10.24843/AC.2021.v06.i03.p17>.

In the perspective of Balinese customary law, land has significant and complex meanings and functions. One important concept in Balinese customary law is "Umah Tua." *Umah Tua* refers to land inherited from generation to generation within a family, which functions as the center of life and the continuity of generations. *Umah Tua* is not merely perceived as a material asset, it holds a high spiritual and cultural value. It is the place where family ancestors are buried and traditional rituals are performed. Therefore, the maintenance and management of *Umah Tua* land is of great concern among Balinese society.

This management is commonly governed by strict customary law, with the aim of maintaining the integrity and sustainability of the land for the next generation. *Umah Tua* in Bali is a house inhabited by a family during the Dutch colonial era, which continues to be occupied by subsequent descendants.² The core elements or essence of an *Umah Tua* in a region, such as in Buleleng, include *angkul-angkul* (entrance gate), *paon* (kitchen), *sanggah kemulan* (ancestral shrine), and *bale sakanem* (a pavilion used for religious ceremonies or funerals).³

The *Umah Tua* is continuously occupied by the family's descendants, hence it is nationally classified as a regular house with private ownership regulated similarly to a typical house. However, according to Balinese custom, *Umah Tua* is not privately owned but rather jointly owned by the extended family. Classifying this as a private house nationally could result in the possibility of buying and selling the *Umah Tua* since only one individual's name is listed on the certificate. This could lead to inheritance issues according to Balinese custom, where *Umah Tua* is jointly owned by the extended family instead of an individual.

The management of *Umah Tua* land also encompasses various aspects of Balinese life, including social, economic and spiritual structures. In terms of social structure, *Umah Tua* land strengthens solidarity and family bonds. Each family member has a responsibility to care for and maintain the land, creating a strong sense of belonging and togetherness. In economic terms, *Umah Tua* land is often used for agriculture or settlement, providing a source of livelihood for extended families. Efficient agricultural management on *Umah Tua* land can produce useful agricultural products and become an additional source of family income.

The spiritual aspect of the *Umah Tua* land holds great importance. The land is often used as a venue for various traditional and religious ceremonies such as *ngaben* (funeral pyres), *otonan* (Balinese birthday celebrations), and other ceremonies involving ancestors. The existence of a family temple or other sacred

² "Disbud Buleleng Segera Usulkan Rumah Tua Peninggalan Kolonial Jadi Cagar Budaya," SuaraDewata.com, 2017, <https://www.suaradewata.com/berita/201704200016/disbud-buleleng-segera-usulkan-rumah-tua-peninggalan-kolonial-jadi-cagar-budaya>.

³ I Ketut Mudra, "Kontribusi Program Desa Wisata Dalam Mentransisi Arsitektur Umah Tua Di Desa Julah, Kecamatan Tejakula, Kabupaten Buleleng, Bali," *Ruang-Space: Jurnal Lingkungan Binaan (Journal of The Built Environment)* 4, no. 1 (2017), <https://doi.org/10.24843/JRS.2017.v04.i01.p06>.

place on *Umah Tua* land strengthens its spiritual dimension, where family members can pray and ask for the blessings of ancestors.

The legal protection of *Umah Tua* land in Bali's customary legal system ensures that this land will be preserved. The customary rules governing the use and inheritance of *Umah Tua* land are crucial to maintaining the integrity and continuity of the land's ownership within the indigenous community. This ensures that *Umah Tua* land, which has great historical and cultural value, remains owned by the family or customary group concerned, making it impossible to separate or transfer ownership to any external parties. As such, this land remains an integral part of the community's cultural heritage, supporting the preservation of traditions and collective identity, as well as preventing potential conflict from land disputes with external parties.

Umah Tua land has a crucial role in maintaining balance in every aspect of the Balinese community's life. The sustainability and preservation of *Umah Tua* land is not merely the responsibility of one generation, but rather a shared obligation that must be maintained by every family member through the generations. Balinese customary law recognizes the term *pedum pamong*. *Pedum pamong* or *pedum raksa* (*pada ngamongin / ngeraksa /* equally holding) which means the process of distributing inherited property at a certain time until an absolute / final distribution process is held.⁴ The remaining issue is regarding the regulations governing *pedum pamong* in the Balinese customary law as well as the legal consequences for the establishment of *Umah Tua* in Bali. This should be considered as there is no specific provision in Balinese customary law that regulates *pedum pamong*. Furthermore, the ownership of *Umah Tua* in Bali is communal and its management involves preservation obligations, especially for the *tegak sanggah* in the *Umah Tua*.

Based on the above explanation, this research aims to identify the regulation of *pedum pamong* in the Balinese customary law as well as to reveal the juridical consequences of *pedum pamong* on *umah tua* in the perspective of Balinese Customary Law. In addition, this research aims to comprehend how *pedum pamong* functions in maintaining the continuity of tradition and cultural heritage, as well as how the implementation of this customary law affects the rights and obligations of community members. As such, this article is expected to provide a comprehensive insight into the significance of *pedum pamong* in maintaining the integrity of Balinese customary law communities and ensuring social justice and harmony.

RESEARCH METHODOLOGY

This article is compiled using normative legal research methods as there is no special regulation or registered Balinese customary law that specifically regulates

⁴ I Nyoman Suadnyana and Made Novita Dwi Lestari, "Hukum Waris Adat Bali Yang Ditinjau Dari Putusan Mahkamah Agung Nomor 179/K/1961/23/10/1961," *Pariksa: Jurnal Hukum Agama Hindu* 1, no. 1 (2017): 61–75, <https://doi.org/10.55115/pariksa.v1i1.636>.

the legal acts of *pedum pamong*.⁵ This article adopts statutory and conceptual approaches. All legal materials related to the legal issues discussed are collected using the method of documental study, and then analyzed. The normative legal research method is a method to examine legal documents, laws, and relevant legal literature. In this context, a statutory approach is used to examine various laws and regulations relevant to the legal issues under discussion. The conceptual approach is applied to comprehend relevant legal concepts and to provide a theoretical comprehension of the legal issues. The documental study as a data collection method includes analysis of laws and regulations, and the relevant legal literature. This analysis aims to provide answers to the prevailing legal issues. Using this method and approach, the article is expected to contribute significantly to understanding and developing the law governing the legal acts of *pedum pamong*.

RESULT AND DISCUSSION

Pedum Pamong in Balinese Customary Law

Inheritance is a particularly sensitive topic and often a source of dispute, especially in Bali. In Bali, the issue of inheritance often triggers quarrels that lead to disputes over inheritance. Inheritance is formally regulated in the Civil Code (KUHPerdata), customary inheritance law, and Islamic inheritance law, which generally involves three major elements: the testator, the heirs, and the inheritance. Disputes over inheritance often involve a complexity of family relationships, customary traditions, and different interpretations of the law. A solid comprehension regarding these three legal systems is essential to fairly manage inheritance disputes and ensure the continuation of harmony within Balinese families and society as a whole.

In Balinese customary law, property inheritance adopts a complex and structured order based on the principles of kinship and family hierarchy. Property inheritance is carried out through a primary inheritance system, where the eldest child (*uter*) receives the major share, while other family members are given equal proportional shares. *Tegak umah tua* plays an important role in the administration of inheritance, ensuring that customs and traditions are maintained in the process of distributing property. In addition, the *tegak bale dangin* and *merajan* have their own roles and rights in the maintenance of the collective family wealth.

In Indonesia, the legal systems of inheritance that are often used are Islamic inheritance law and the Civil Code. However, in Bali, inheritance law is also regulated through Balinese customary law which is considered powerful. In addition to Islamic inheritance law, the Civil Code, and strict Balinese customary law, there are several significant aspects in terms of inheritance law in Bali. First, the influence of modernization and globalization has brought changes in the

⁵ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif Dan Empiris*, Cet.2 (Depok: Prenada Media Group, 2018).

Balinese lifestyle and social values, which can affect people's views on inheritance issues. Second, efforts to protect women's inheritance rights are increasingly emphasized, despite the patrilineal nature of Balinese customary law. It is imperative to promote gender equality in the acknowledgment of inheritance rights. Third, Bali is endowed with traditional cultural and customary-based dispute resolution systems, such as customary institutions that prioritize mediation and deliberation in handling inheritance disputes. Furthermore, inheritance law in Bali also involves the protection of cultural and spiritual aspects, ensuring that the inheritance process is not solely focused on material aspects, but also maintains the sustainability of Balinese traditions and cultural identity holistically.

Inheritance under Balinese Customary Law is characterized by two types of inheritance, including heirloom property (laden with magical-religious value) and property (laden with economic value). In addition to this, heirs in Balinese customary law are divided into two, the *predana* heirs and the *purusa* heirs.⁶ *Predana* heirs refer to female descendants who obtain inheritance rights through the mother's lineage, while *purusa* heirs refer to male descendants who obtain inheritance rights through the father's lineage. This distribution reflects the strong patrilineal kinship system in Bali, where men have dominant roles in maintaining and continuing the family lineage. However, in specific cases, women can also obtain inheritance rights, especially if there are no male descendants in the family. This distribution of inheritance rights aims to maintain balance and harmony within the family and ensure the continuity of customs and traditions that have been inherited through the generations.

The distribution of inheritance rights aims to maintain balance and harmony in the family, as well as ensuring the continuity of customs and traditions that have been inherited from generation to generation. The granting of inheritance rights to women in this case can be a counterweight to the dominant patrilineal system, providing legal and economic protection to women in the family. Thus, although Bali adheres to a strong patrilineal kinship system, the recognition of *predana* heirs indicates an adaptation to contemporary needs and the increasingly widely recognized values of gender equality. It also reflects the importance of flexibility in maintaining social justice and cultural sustainability in the Balinese inheritance law.

Property in inheritance according to Balinese customary law is divided into 3 types, including heirloom property, inherited property, and joint property. Heirloom property is property with magical-religious value and is generally not divided. The inheritance process is kept within the family environment intact and hereditary, rather than beyond the family environment. Inherited property is property that is obtained not as a result of personal labor in marital status but rather as a gift due to a relationship for a specific purpose. Types of inherited property include:

⁶ I Gede Surata, "Kedudukan Ahli Waris *Predana* Menurut Hukum Adat Bali Hubungannya Dengan Hak Atas Tanah Terkait Dengan Pesamuan Agung III Tahun 2010," *Kertha Widya: Jurnal Fakultas Hukum UNIPAS* 7, no. 2 (2019): 20–24, <https://doi.org/10.37637/kw.v7i2.515>.

1. **Wealthy Assets:** Wealthy assets refer to tangible or material possessions. This includes all types of physical wealth that an individual can own, such as land, houses, jewelry, vehicles, and other items.
2. **Fund Life Assets:** Fund life assets are wealth that is non-physical or immaterial in character. It includes spiritual, moral and social values inherited from ancestors to descendants. It often relates to the social rights and customary obligations that an individual has within their community.

The joint property acquired by husband and wife during marriage is known as *druwe gabro* property. The distribution of this inheritance must be carried out in accordance with Balinese customary law regulations, which may vary depending on certain situations and conditions. The principles of fairness and balance are the basis for the distribution of property, by considering the contribution of each party during the marriage. The role and status of family members, such as the role of sons and daughters, also influence the distribution. In addition, the distribution of property is frequently based on consensus or family agreement through deliberation. Each traditional village (*desa pakraman*) has different rules and norms that may govern the distribution of inherited property, thus, local customs must be considered in each case. Consideration of traditions and obligations in traditional ceremonies also influences the division of property, for example, who will continue to be responsible for family or village ceremonies.

In the case of inheritance distribution disputes in Bali, mediation by traditional elders or community leaders is a common practice to reach a fair settlement. This mediation emphasizes the value of kinship and solidarity in Balinese society. The mediators prioritize deliberation and mutual agreement, respecting local customs and traditions. The process focuses not only on resolving legal disputes, but also considers social and cultural aspects. This approach maintains harmony within families and communities, ensures fair decisions, and respects the different opinions of heirs. This mediation practice reflects respect for local wisdom, is often more effective than formal litigation, and emphasizes the value of solidarity and kinship as the foundation of social balance and community harmony.

Daughters and widows who violate the rules or commit acts prohibited by customary law are not entitled to receive inheritance. This provision emphasizes the importance of adherence to customary norms and rules that apply in the community. Violation of customary provisions may lead to sanctions of losing the right to inheritance. Furthermore, in Balinese customary inheritance law, the distribution of inheritance can be carried out while the testator is still alive. This procession is known as "distribution of inheritance during life" and is conducted to ensure that the distribution of property is carried out fairly and in accordance with the testator's intentions. It also helps to avoid disputes in the future and provides an

opportunity for the testator to witness and direct the process of distributing their estate in accordance with applicable customary values and traditions. The distribution of inheritance during the testator's lifetime can take the form of *pedum pamong* or *pedung raksa*, as well as *pangupa jiwa*. This is a specific provision for the heirs to use in their family life until a permanent distribution of the estate is made.⁷

In Balinese inheritance customary law, *pedum pamong* or *pedung raksa* and *pangupa jiwa* are important for the welfare of the heirs. *Pedum pamong* or *pedung raksa* is a temporary gift of money, land, or other assets used for daily needs, education, or other family necessities. *Pangupa jiwa* is a gift in the form of a traditional ritual or ceremony to maintain the spiritual well-being of the heirs. This procession ensures material well-being and preserves inherited cultural and spiritual values.

If there is more than one heir, the testator usually divides his property during his lifetime to avoid difficulties in the future. This division can be temporary or permanent. A temporary distribution will be recalculated upon the death of the testator or after a funeral. This allows the heirs to manage the property while waiting for the final division once the traditional ceremony is held. In this way, the testator ensures everyone receives their fair share, reduces the potential for conflict, and maintains Balinese traditions. A temporary division also allows time for the heirs to prepare emotionally and financially to accept full responsibility for the inheritance.

Although the passing of the testator and the cremation ceremony are not absolute conditions for distributing the inheritance, they remain crucial parts of the inheritance process under Balinese customary law. They provide significant moments to finalize the inheritance as a whole. At the time of the passing of the testator and after the funeral ceremony, the distribution of the inheritance can be carried out permanently. This includes the process of "balik nama" on the land, where ownership of the land is officially transferred to the rightful heirs. Thus, although the distribution of inheritance can be made while the testator is still alive, death and funeral ceremonies nonetheless play a key role in confirming and finalizing the customary distribution of inheritance.⁸

The process of recognizing and determining heirs in Bali is carried out according to local customs and authorized by the head of the customary village or traditional leaders, ensuring that only individuals are entitled to receive inheritance. The concept of "sima adat" establishes a portion of the estate as a family legacy that may not be sold or transferred, maintaining the honor and continuity of the family.

⁷ I G. A. Mas Rwa Jayantiari et al., "Pewarisan Pada Masyarakat Adat Bali Terkait Ahli Waris Yang Beralih Agama," *Acta Comitas* 1, no. 1 (October 1, 2016): 131–41, <https://doi.org/10.24843/AC.2016.v01.i02.p01>.

⁸ Ni Ketut Tri Srilaksmi, Gede Arya Prabawa, and Kadek Suciani, "Ilmu Sebagai Kekuasaan Peran Dan Implikasinya," *Vidya Darśan: Jurnal Mahasiswa Filsafat Hindu* 1, no. 1 (2019): 94–104, <https://doi.org/10.55115/vidyadarsan.v1i1.421>.

Heirs must also honor ancestors through traditional ceremonies and the maintenance of family shrines, maintaining a spiritual connection with ancestors. Inheritance according to Balinese customary law is closely related to spiritual, social, and cultural values, ensuring the fair distribution of inherited property and maintaining family harmony.

Pedum pamong refers to a temporary endowment given by the testator to the heirs while the testator is still alive, aimed at ensuring the welfare and stability of the heirs' family life before the inheritance is permanently distributed. *Pedum pamong* can be in the form of money, land, or other assets that are used by the heirs to fulfill their daily needs, education, or other important needs. By giving *pedum pamong*, the testator helps to ease the economic burden on the heirs and maintain harmony in the family, while still respecting and preserving the customary values that have been passed down from generation to generation. In addition to *pedum pamong*, there is also the term *pedum raksa*, or *ngamongin* and *ngeraksa*, which have similar meanings of temporary division of the estate until a final distribution can be made. Both concepts play an important role in safeguarding the welfare of the heir's family and ensuring that customary values are respected in the inheritance process.⁹

Pedum pamong plays an important role in maintaining good relations between the testator and the heirs during the testator's lifetime. By giving *pedum pamong*, the testator shows responsibility in maintaining family welfare, building trust and respect from the heirs, and avoiding potential conflicts upon the passing of the testator. *Pedum pamong* also reflects the principles of cooperation and mutual assistance in Balinese culture, where the welfare of the individual is associated with the wellbeing of the community. *Pedum pamong* is not merely a material endowment, but also a manifestation of the strong social and spiritual values in Balinese society.

A permanent endowment in Balinese customary law, known as *jiwa dana*, is a grant of property by the testator to the heirs in a legal and permanent manner, usually while the testator is still alive. This grant includes assets such as land, buildings, or other wealth to ensure the welfare and economic stability of the heirs. The process is conducted officially with witnesses from traditional leaders and related parties to avoid disputes and ensure fairness according to custom. *Jiwa dana* serves as a transfer of wealth and a symbol of the heir's affection and responsibility, maintaining harmony and prosperity within the customary community.

There are currently no specific regulations in Balinese customary law regarding *pedum pamong*. Therefore, it is important to regulate it specifically to provide legal certainty and protection for all parties in the inheritance process. This regulation could include provisions on the types of assets that can be given, the procedure for granting, dispute resolution procedures, as well as the conditions for

⁹ N. P. A. D. Wulandari and I. M. G. S. Untara, "Nilai-Nilai Filsafat Ketuhanan Dalam Teks Ādiparwa," *Genta Hredaya* 4, no. 1 (2020).

pedum pamong recipients, such as kinship relations and status in the family. The aim is to ensure that the temporary distribution of inherited assets is carried out fairly in accordance with customary norms, as well as maintaining harmony and relationships between family members.

Definitive rules would help ensure that pedum pamong is administered in a fair and transparent manner, and prevent potential conflicts among heirs. With specific regulations in place, heirs will have better guidance in granting pedum pamong, and heirs will feel more secure and protected in their rights. This will also help to maintain harmony and balance within the family, and ensure that the inheritance process is in line with inherited customary values. Good regulations can facilitate supervision by traditional leaders or village authorities, ensuring that pedum pamong can be implemented more effectively and in line with its original purpose of safeguarding the welfare and stability of the heirs' family before the permanent distribution of inheritance takes place.

Juridical Consequences of *Pedum Pamong Against Tegak Umah Tua* in the Perspective of Balinese Customary Law

Consideration of Balinese customary inheritance law cannot be separated from the broader context of Indonesian inheritance law. Although Bali has a strong and distinctive customary law system, Indonesia's inheritance law arrangements also include Islamic law and the nationally applicable Civil Code. Indonesia is a country consisting of various ethnic groups, each with different inheritance rules and regulations, depending on the family system and type of marriage. In the Balinese customary law community, the principle of inheritance is often grounded in the patrilineal system, where paternal lineage determines inheritance rights.

However, this is in contrast to several other ethnic groups in Indonesia who may adhere to a matrilineal or bilateral system. This diversity shows that the implementation of customary inheritance law must be conducted by considering the local customs and traditions of each ethnic group. The diversity of inheritance systems in Indonesia reflects the complexity of cultures and customs that vary among ethnic groups. The patrilineal system dominant in the Balinese customary law community, which emphasizes paternal lineage in determining inheritance rights, is different from several other ethnic groups that may adhere to a matrilineal or bilateral system. In this context, the implementation of customary inheritance law must consider the diversity of local cultures and traditions of each ethnic group, adapting to the values and norms that have been adopted for generations.

The unilateral implementation of customary inheritance law among ethnic groups is the result of the government's failure to formulate a nationally applicable inheritance law. The idea of creating a national family law and succession law has been around for a long time, and efforts to create a National Inheritance Law have indeed begun since 1960. In the mandate of Decree of the General Assembly No. II / 1960, number 402 letter c sub 2, the need for legislation regarding inheritance law

based on the principles of bilateral parental inheritance is mentioned. This implies that the government at that time had recognized the importance of a comprehensive and clear law on the distribution of inheritance, which included the principles of justice and equality in inheritance between the descendants of both sides of the family.

The establishment of the National Inheritance Law aims to unify the various inheritance law traditions that exist in Indonesia, including in Bali, into one national legal framework. As such, it is not only relevant for regions excluding Bali, but can also provide clear and uniform guidelines on inheritance for the entire Indonesian people. Nonetheless, the implementation and harmonization of the National Inheritance Law with Balinese customary law remains a complex matter of debate. This is because Balinese customary law values and traditions often differ from the underlying principles of the national law.

Regarding the lack of domestic inheritance law, in addition to Islamic inheritance law and Western inheritance law, which is civil law (KUHPerduta), customary inheritance law applies in the field of inheritance of certain social groups. In this regard, the research focused on inheritance law in Bali. Balinese inheritance law includes Balinese customary inheritance law.¹⁰ In general, there are three essential elements that must be fulfilled in order for an inheritance to function properly: the testator, the inheritance, and the heirs. The testator is the person who leaves the inheritance, while the inheritance includes all forms of wealth, both tangible such as houses and land and intangible such as rights or obligations, left by the testator. Although the heir element often dominates in the context of inheritance as it relates to the issue of descendants, all of these elements are equally important.

In the inheritance process, the inheritor is an individual who left an inheritance, which can be in the form of tangible objects such as land and houses, or intangible such as rights and obligations. This inheritance becomes the core of the inheritance process as it will be passed on. Heirs are parties who are entitled to receive inheritance based on family relationships or legal provisions. Without heirs, the inheritance process cannot occur because there is nothing to inherit. Similarly, without the estate, the heirs have nothing to receive. The interconnection of these three elements is important to ensure that the inheritance process proceeds properly and fairly, maintaining the sustainability and welfare of the heirs in accordance with the applicable provisions.

Balinese communities that adhere to the patrilineal family system consider the father as the main heir. In this system, the lineage and inheritance of family rights and responsibilities are passed down through the paternal line. As a result, sons are considered to have an important role in continuing the family name and

¹⁰ Ketut Sudiarmaka et al., "Study of Balinese Customary Law on Inheritance Rights of Children from Interfaith Marriages," *Jurnal Komunikasi Hukum (JKH)* 9, no. 1 (December 14, 2022): 529–39, <https://doi.org/10.23887/jkh.v9i1.55349>.

inheriting family property. This tradition reflects cultural and social values that honor the role of men as the head of the family, while maintaining the continuity of the lineage across generations. This system also affects the social structure and relationships between family members in Balinese society.¹¹

The system also ensures that property ownership remains in the paternal bloodline, considered a way to protect and maintain family wealth and resources in the long term. However, social change and modernization have begun to affect several aspects of this system, with efforts to better value women's roles in the family and grant them greater rights in property inheritance. Nonetheless, traditional values remain strong in many Balinese indigenous communities, which continue to maintain the patrilineal system as an integral part of their cultural identity.

This is reflected in efforts to adjust the inheritance system to be more inclusive of women, recognizing their contribution in maintaining and developing family wealth. Nonetheless, traditional values are still highly influential in many Balinese indigenous communities. Balinese people continue to maintain the patrilineal system as an important part of their cultural identity, which includes strong connections to ancestors and the principle of sustainability in the management of inherited property. The social changes that are taking place are paralleled by efforts to preserve the rich and systematic customary values, which remain the basis of social and spiritual life in Bali.

The times and advances in science have brought significant changes in the mindset of some people, especially women. Today, women are no longer limited to working in the domestic (household) side of the workforce, but also actively participate in working within the public sector. This participation gives them the opportunity to earn an income equal to that of men, and opens up opportunities for them to provide substantial financial contributions to the family. With this income, women not only support the family economy today but also have the ability to pass on wealth to their children. This change promotes a shift in inheritance structures that is more inclusive and gender-equal, and strengthens women's position in society and the family. As such, women can also become heirs by owning property.¹²

The concept of inheritance in Balinese customary law is not only limited to property, but also includes societal rights important to the sustainability of Balinese culture. This includes the right to *tanah karang desa*, which is a collective right to customary land jointly managed by the village community. Inheritance also includes the right to utilize cemeteries, allowing respect for ancestors in accordance

¹¹ Elfrida R Gultom, "Development of Women Position in the Patrilineal Inheritance of Indonesian Society," *Jurnal Dinamika Hukum* 17, no. 2 (May 31, 2017): 194, <https://doi.org/10.20884/1.jdh.2017.17.2.886>.

¹² Jayantiari et al., "Pewarisan Pada Masyarakat Adat Bali Terkait Ahli Waris Yang Beralih Agama."

with Balinese spiritual traditions, as well as the right to worship at the Kahyangan Desa temple, a revered center of religious and cultural activity.

Sangghah Kamulan, as part of the guarded *Umah Tua*, is the place where ancestors who have reached the level of *siddhidewata* are honored in Balinese Hindu religious practice. *Siddhidewata* refers to a spiritual entity that reaches the highest level of spiritual perfection. By safeguarding *Sangghah Kamulan*, Balinese families not only maintain their cultural heritage but also pass on the spiritual values that are unique to Balinese society, maintaining the harmony of living together and respect for their ancestors.

In Kuturan's "lontar Tuter", it is explained that "Kemulan Rong 3" is a sacred place referred to as the stana for Sanghyang Tiga Sakti, which includes Brahma, Vishnu, and Shiva, the three main deities in Hinduism. This place is considered sacred as it is regarded as the residence or manifestation of the three main aspects of divinity in the Hindu pantheon. In another part, Kuturan also mentions that the part called "Batur Kemulan" or the room under "Rong 3" has a different meaning. This part is considered a sacred place for the spirits of the deceased ancestors and has been purified through the Pitra Yadnya ceremony. This ceremony is an important ritual in the Hindu-Balinese tradition that aims to honor and glorify the ancestors as well as cleanse and purify their spirits. Thus, the spiritual structure revealed in Kuturan's "lontar Tuter" reflects the hierarchy of sacred space in Hindu-Balinese belief, with "Kemulan Rong 3" as a place for the main deities and "Batur Kemulan" as a place dedicated to deceased ancestors.¹³

Customary law with its meaning regulates the relationship between land and customary law communities such as the occupying party. The relationship between indigenous peoples and land is tight and religio-magical in nature.¹⁴ Land in Bali is not only seen as a physical or economic resource, but also holds deep spiritual and sacred meaning. The land is considered the abode of ancestors, gods, or spirits that protect and bless the community. The relationship with the land is therefore governed by a set of rituals and beliefs that aim to maintain balance and harmony between humans and nature. These values are reflected in various traditional ceremonies and religious practices that emphasize respect for the land as an integral part of Balinese life and cultural identity. As such, the land is perceived as a sacred thing and should be managed wisely and respectfully, reflecting the deep connection between humans, nature and the spiritual world.

This concept encourages maintaining ecological and spiritual balance in the management of natural resources, including land and water, as an integral part of Balinese daily life and spiritual beliefs. Wise management not only refers to

¹³ Kadek Yuli Wahyu Astini, "Pentingnya Berelasi Dengan Bhatara Hyang Guru Melalui Sangghah Kemulan Dalam Mencapai Kelepasan," *Vidya Darśan* 2, no. 1 (2020): 52–62, <https://doi.org/10.55115/vidyadarsan.v2i1.887>.

¹⁴ Septya Hanung Surya Dewi, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha, "Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiemi Hutan Adat," *Jurnal Legislatif* 4, no. 1 SE- (December 27, 2020): 79–92, <https://doi.org/10.20956/jl.v4i1.12322>.

agrarian and ecological practices, but also pays attention to the social and spiritual values that govern the way of living and interacting with the surrounding environment. In this context, respect for land also includes a moral responsibility to preserve the sustainability of natural resources for future generations, in accordance with the *Tri Hita Karana* philosophy that describes the harmony between humans, nature and God.

The *pedum pamong* on the *tegak umah tua* is temporary and will be reconsidered after the heir passed away or cremated. The juridical consequence of this is that the ownership of the *umah tua* can change upon the passing of the heir. Under Balinese customary law, the *umah tua* is made for joint ownership, as it includes the *sangghah* and *kemulan*. Inheritance in Bali is not only in the form of money and land, but also includes *sangghah* and *kemulan*. This inheritance automatically creates an obligation to manage and maintain the *sangghah* and *kemulan*.

Umah tua is not only the epicenter of a family's material and spiritual heritage, but also a symbol of community unity and cultural identity. It symbolizes the deep connection between previous, current and future generations within a family or indigenous village. Joint ownership of the *umah tua* emphasizes the importance of collaboration and solidarity in safeguarding the cultural heritage and religious values inherited from the ancestors. It also reflects a commitment to protect and care for sacred places such as *sangghah* and *kemulan*, where traditional rituals and ceremonies are performed to honor ancestors and seek blessings from the gods. The responsibility of managing an *umah tua* is often shared among family or community members, each playing an important role in maintaining the continuity and sustainability of Bali's indigenous traditions. The management of *sangghah* and *kemulan* in Bali involves not only physical but also spiritual cleansing through special traditional ceremonies. These ceremonies are important for maintaining spiritual balance, obtaining blessings, and ensuring the well-being of the family and community. The implementation of these ceremonies is the joint responsibility of the heirs and descendants of the heirs, emphasizing the value of collaboration and solidarity.

Article 1 Paragraph 4 of Regional Regulation (Perda) No. 3/2003 stipulates that a customary village in Bali is a unit of customary law society within Hindu traditions and norms. Customary village land is divided into Tanah Desa, Tanah Laba Pura, Tanah Pekarangan Desa, and Tanah Ayahan Desa. This division indicates how land is managed to support community welfare and preserve traditions. Regarding the *umah tua*, its status can be either Tanah Pekarangan Desa (PKD) or private land. If it is private land, the sales and purchase process follows national law. Therefore, specific arrangements regarding the *pedum pamong* system for the *umah tua* are needed to preserve the culture and prevent inheritance disputes in Bali..

The designation of *umah tua* as *tanah pekarangan desa* or private land has significant implications for the way in which cultural heritage is managed and protected. Efforts to maintain harmony between customary and national law practices are important to avoid potential inheritance disputes that may arise in the future. Therefore, careful and inclusive regulation of the *pedum pamong* system towards *umah tua* is vital in ensuring cultural sustainability and social harmony amidst the ongoing dynamics of modernization. The active participation of local stakeholders, such as families, traditional leaders and village governments, is crucial in this process. In addition, the integration of technology for documentation and mapping, cultural education for the younger generation, and the development of sustainable economic models can strengthen the preservation of *umah tua*. A collaboration with non-governmental organizations and the implementation of restoration programs involving conservation experts will also help ensure that old houses are well preserved. Through these measures, the *pedum pamong* system can adapt to the changing times while still maintaining and respecting traditional cultural values in Bali.

Due to modernization and urbanization, there are potential changes in the ownership and management patterns of *umah tua*. Therefore, it is important to adapt the *pedum pamong* system to remain relevant and effective in maintaining traditional cultural values while accommodating the times. In addition, it is necessary to prioritize participation and consultation with local stakeholders, including families and traditional leaders, in formulating a *pedum pamong* that is sustainable and widely accepted by the community. Thus, the *pedum pamong* regulation can be an effective instrument in safeguarding cultural heritage and preventing inheritance conflicts in Bali.

Strengthening the role of customary law in the process of inheritance and management of *umah tua* has great potential to maintain a balance between tradition and times. The establishment of an information and consultation center for the community is also considered a strategic approach. This center will provide technical, legal and financial guidance for the community in dealing with various issues of inheritance and management of customary property. With the establishment of this center, the community would have better access to the necessary information and guidance, thereby minimizing potential inheritance conflicts in the future. In addition, the *pedum pamong* system, which has long been a cornerstone of community management in Bali, can be adapted to remain relevant to current social and economic dynamics. Through this approach, traditional cultural values will be respected and preserved, while allowing room for modernization and positive change for the community.

In essence, *pedum pamong*, or guidelines for the regulation of customary law communities, may serve as an effective instrument in preserving cultural heritage and preventing inheritance conflicts in Bali in several approaches. First, *pedum pamong* can regulate clear and transparent procedures in the determination of

inheritance according to customary values honored by Balinese society. This helps avoid uncertainty and potential disputes between heirs. Second, by incorporating widely accepted customary principles in the *pedum pamong*, it can strengthen the legitimacy of inheritance decisions in the Balinese customary law. Thus, *pedum pamong* not only accommodates cultural diversity, but also promotes social harmony and justice in inheritance arrangements in Balinese society.

CONCLUSION

No specific regulation on *pedum pamong* or *pedum raksa* is identified in Balinese customary law. *Pedum pamong* focuses on the temporary distribution of inheritance until it is distributed in perpetuity. Due to its temporary nature, the ownership of *tegak umah* objects within the scope of *umah tua* may change upon the testator's passing or cremation, with the exception of *tegak bale dangin* and *merajan*. Therefore, it is necessary to establish a specific and comprehensive guideline regarding *pedum pamong* in Balinese customary law. This regulation should include more detailed provisions regarding when and how *pedum pamong* can be applied, as well as the criteria for changing the ownership status of an object of *tegak umah* after the testator passed away or cremated. In addition, these rules should consider exceptions for *tegak bale dangin* and *merajan* which hold high spiritual and cultural value, hence their ownership cannot be changed easily. A more structured guideline is expected to prevent disputes and ensure that cultural and spiritual heritage remains protected and respected. It would also help maintain a balance between traditional customs and the demands of modernization, and provide legal clarity for the entire community in managing their heritage.

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