

Legal Protection of Men at Nyentana Nyelidihi Marriages in the Bali Traditional Legal Community

Ida Bagus Indra Brahmana^{1*}, I Wayan Gde Wiryawan²

¹Master of Notary Study Program, Faculty of Law, Tarumanegara University

²Maha Saraswati University.

*Corresponding Author
Ida Bagus Indra Brahmana

Master of Notary Study
Program, Faculty of Law,
Tarumanegara University.

Article History

Received: 20.09.2024

Accepted: 01.11.2024

Published: 30.11.2024

Abstract: *The Nyentana Nyelidihi marriage system in Balinese customary law society is a solution to preserve family lineage without any sons, but this system often places men in a legally and socially vulnerable position. This study analyzes the forms of legal protection that can be given to men in this system, especially through prenuptial agreements that regulate inheritance rights, asset distribution, and social status. An empirical approach is used to explore the practice of Nyentana Nyelidihi in Bali, especially in Tabanan Regency, with interviews and observations as the main methods. The findings show that the integration of customary law and modern law can create a better protection mechanism, providing guarantees of justice for men while maintaining Balinese customary values. This study emphasizes the importance of public awareness and government support in strengthening regulations that support gender equality and legal certainty in customary marriage.*

Keywords: *Nyentana Nyelidihi, Balinese customary law, men's rights, prenuptial agreements, gender equality.*

Cite this article:

Brahmana, I.B.I., Wiryawan, I.W.G., (2024). Legal Protection of Men at Nyentana Nyelidihi Marriages in the Bali Traditional Legal Community. *ISAR Journal of Arts, Humanities and Social Sciences*, 2(11), 163-167.

Introduction

Marriage is a social institution that not only serves to legally legitimize the relationship between a man and a woman, but also contains religious values. This is emphasized in Law Number 1 of 1974 Article 1 paragraph (1), which states that marriage is "a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family, household based on the One Almighty God." Paul Scholten describes marriage as a permanent legal relationship between a man and a woman, which is legal according to the state. Meanwhile, Prof. Soediman Kartohadiprojo, S.H. explains that marriage is eternal, making it an institution that must be maintained and respected.

In the legal context in Indonesia, the Civil Code (KUHPer) regulates that marriage refers to the principle of monogamy and the obligation of husband and wife to help each other and be faithful, as regulated in Article 27 and Article 103. However, the definition of marriage is not explicitly regulated in the KUHPer as found in Law Number 1 of 1974. This law explains that the purpose of marriage is to form a happy and eternal family, which is based on belief in God Almighty.

In addition, from a customary law perspective, the purpose of marriage also involves preserving cultural values and continuity of lineage. In a patrilineal society such as Bali, sons have the responsibility to maintain the family lineage. Conversely, in a matrilineal society, daughters take on this role. (Pudja MA, 1974) noted that Balinese customary marriages often follow a patrilineal kinship system, where the wife will enter the husband's family after marriage. However, for families without sons, the nyentana marriage system allows daughters to take on the role of heirs through the adoption of their husbands into their original families.

Nyentana marriage, which elevates the status of women in patrilineal families, has now developed into a more specific form of marriage, namely "nyentana nyelidihi." This form of marriage emerged as a response to the injustice that men often experience in this system. In many cases, men who participate in nyentana marriages lose their rights as heirs in their original families after divorce, and are often not accepted back by their families. To overcome this situation, the nyentana nyelidihi form is often accompanied by a prenuptial agreement that regulates the management of assets and the position of men in the new family. This aims to provide guarantees of rights for men who participate in this type of marriage, so that concerns about losing rights and status can be minimized.

However, public awareness of the importance of legal protection for men in *nyentana nyelidihi* marriages is still minimal. Article 29 of Law Number 1 of 1974 has actually opened up space for couples to make prenuptial agreements, including those related to the protection of rights in customary marriages. However, this kind of practice is rarely implemented in Indonesia because of the strong influence of customary law which often ignores the legal position of men in marriage. Considering the importance of justice for all parties in customary marriage, this study seeks to gain a deeper understanding of the process and legal implications of *nyentana nyelidihi* marriage. This study aims to identify alternative legal protections that can be applied to guarantee men's rights in the developing Balinese customary marriage system.

In addition to being a form of sacred bond, marriage has a strategic role in the sustainability of culture and social structure. In a patrilineal system, the presence of a son is considered the main pillar of family sustainability. However, the absence of a son in a family is often the reason for the implementation of the *Nyentana Nyelidihi* marriage system. This system allows the daughter to take over the role of the family successor, with her husband joining the female family structure.

However, the *Nyentana Nyelidihi* system often creates an imbalance in legal protection for men. In Balinese customary law society, the position of men who follow this system is often considered weaker than men who follow a patrilineal marriage pattern. This injustice includes inheritance rights, social status, and re-acceptance in the family of origin in the event of a divorce. Therefore, this study is important to identify ways to improve justice in this system, by considering the principles of customary law and modern law.

Problem Research and Method Research

This study focuses on the implementation of *Nyentana Nyelidihi* marriage in Balinese traditional society, then the legal impact of *Nyentana Nyelidihi* marriage on the protection of men's rights, especially in overcoming discrimination in the Balinese traditional marriage system. This study uses empirical methods to explore conditions that occur in the field. Primary data were obtained through direct observation and interviews in Tabanan Regency, the area with the highest number of *nyentana* marriages in Bali (Amirudin and Zainal Asikin, 2010). The type of approach applied is a fact-based approach. This is done by directly observing the implementation of the agreement in the *nyentana nyelidihi* marriage, which is then analyzed using legal theory to obtain a comprehensive perspective (Bambang Sunggono, 1997).

This study focuses on the influence of the *Nyentana Nyelidihi* marriage system on the legal and social position of men in Balinese customary law society. The position of men in this system is often the subject of injustice, especially regarding inheritance rights, social status, and re-acceptance in the family of origin in the event of a divorce. In addition, this study also evaluates the effectiveness of prenuptial agreements in providing guarantees of justice for men who undergo this marriage system. This agreement is expected to be able to strictly regulate the rights and obligations of each party, so that the potential for conflict and discrimination can be minimized. The integration of Balinese customary law and modern legal principles is an important issue in this study, especially in creating a fairer and more adaptive legal protection mechanism. This study examines how these two legal

systems can complement each other to overcome the challenges of gender discrimination in the context of customary marriage.

The study relies on two main data sources, namely Primary Data, This data was collected from interviews and direct observations with informants, including the Traditional Village Council, PHDI Tabanan Regency, and local notary officials. Secondary Data Information from literature, scientific journals, reference books, and related documents was used to support the research analysis (Soerjono Soekanto and Sri Mamudji, 2003). Data collection was carried out in two ways, namely through direct interviews to obtain primary information related to the implementation and regulation of *nyentana nyelidihi* marriages. Literature study, where relevant legal materials were reviewed, then recorded and analyzed to provide an accurate review (Soerjono Soekanto, 2008). The data obtained were analyzed descriptively qualitatively. The data was arranged systematically, then reviewed based on legal theory to obtain conclusions that could be scientifically accounted for (Peter Mahmud Marzuki, 2000).

This study also considers cultural factors, customary norms, and social dynamics that influence the implementation of *Nyentana Nyelidihi*. Interviews were conducted not only with family and customary institutions, but also with parties who have experienced this marriage system to gain a more comprehensive perspective. In addition, a literature approach was used to compare how customary legal systems in other regions in Indonesia handle similar issues.

Analysis & Discussion

The literature review in this study focuses on relevant literature to support the analysis of legal protection for men in *Nyentana Nyelidihi* marriages in the Balinese customary law community. (Hilman Hadikusuma, 2007) in Indonesian Marriage Law According to: Legislation, Customary Law, Religious Law explains that customary law has a significant role in regulating the family and marriage system. In a patrilineal system like Bali, customary law determines the position of women and men, including in inheritance and customary obligations. Furthermore, (Phillipus M. Hadjon, 1987) in Legal Protection for the Indonesian People discusses legal protection as an effort to provide justice for individuals from potential rights violations. In the context of customary marriage, legal protection for men who follow the *Nyentana Nyelidihi* system is important to avoid discrimination and ensure that their rights are protected.

The philosophy of Hindu marriage is described by (Pudja M.A. 1974) in Introduction to Marriage According to Hindu Law, which explains that marriage not only has a spiritual purpose, but also functions to maintain family harmony and continue the lineage. This view is relevant to understanding the basic values underlying Balinese customs, including the *Nyentana* system. According to (Setyowati, 2021) in Indonesian Marriage Law, the legal aspect of marriage, including prenuptial agreements, plays an important role in providing legal certainty to couples. In *Nyentana Nyelidihi*, this agreement serves to ensure the husband's rights to assets and clear social status in the wife's family.

Another study by (Sari, N. 2022) in the article Gender Justice in Family Law: Challenges and Opportunities highlights the importance of creating gender justice in family law. In the *Nyentana* system, which is different from traditional customary structures, men are often in a vulnerable position. Therefore, a

mechanism is needed to protect their rights, especially in terms of inheritance and customary status. Finally, (Yuliansyah, R. 2023) in *Legal Awareness and Access to Justice in Society* emphasizes the importance of legal awareness among indigenous peoples. In Balinese society, recognition of the rights of men who follow the Nyentana Nyelidihi system requires a deep understanding of customary norms and efforts to create justice.

This study focuses on legal protection for men in the Nyentana Nyelidihi marriage system, which is part of Balinese customary law. The concept of legal protection, according to Phillipus M. Hadjon, includes efforts to protect individual rights from potential violations through preventive and repressive mechanisms. In this context, legal protection for men in customary marriage aims to guarantee inheritance rights, social status, and roles in the family, which are often threatened by changes in a man's status after marriage.

Balinese traditional marriage itself is patrilineal, where the lineage is continued by the son. In certain cases, when a family does not have a son, the Nyentana system allows the daughter to take the position as the successor to the family. In this system, the husband enters the wife's family, leaving his position in the family of origin. This system was later modified into Nyentana Nyelidihi, where men are given additional protection through a marriage agreement that guarantees their rights, including inheritance rights and assets provided by the wife's family.

Nyentana Nyelidihi emerged as a response to social dynamics and modern legal needs in Balinese society. This system not only aims to continue the lineage but also ensures justice for men who enter the wife's family structure. Thus, the prenuptial agreement in Nyentana Nyelidihi becomes an important tool to regulate the rights and obligations of both parties, provide legal certainty, and reduce the risk of discrimination against men in a system that is usually dominated by patrilineal rules.

This study uses several legal theories as a basis for analyzing legal protection for men in the Nyentana Nyelidihi system:

1. **Legal Certainty Theory**, According to Gustav Radbruch, legal certainty ensures that the law can be enforced consistently and protects individual rights. In Balinese customary marriage, legal certainty is important to guarantee protection for men in Nyentana Nyelidihi.
2. **Legal Protection Theory**, Phillipus M. Hadjon explains legal protection as an instrument to maintain justice in society. This theory is relevant in assessing how the Nyentana Nyelidihi system provides legal protection to men so that they are not harmed socially or materially.
3. **Living Law Theory**, This theory emphasizes that customary law must reflect the norms and values that live in society. According to Eugen Ehrlich, Balinese customary law, including in the context of marriage, must consider social dynamics such as changes in gender roles in Nyentana Nyelidihi.
4. **Gender and Justice Theory**, According to Sari, N., a good legal system must pay attention to gender balance and avoid discrimination. In Nyentana Nyelidihi, this theory is relevant to ensure that men, who are in an unusual position, still receive fair treatment.

Requirements for a Valid Marriage in National Marriage Law. According to Law Number 1 of 1974 concerning Marriage, the requirements for a valid marriage in Indonesia are as follows:

1. **Pasal 2 ayat (1)**: A marriage is valid if it is carried out according to the laws of each religion and its beliefs. This means that the marriage must meet the requirements of the religion adhered to by the parties..
2. **Pasal 2 ayat (2)**: Every marriage must be registered according to the laws and regulations. This registration aims to provide legal protection to the husband, wife, and children of the marriage.
3. **Pasal 6**: The prospective bride and groom must meet the minimum age limit, which is 19 years for men and 16 years for women, although in the latest revision the minimum age was made the same at 19 years for both parties.
4. **Pasal 6 ayat (2)**: There must be agreement from both parties entering into a marriage.
5. **Pasal 12**: There are no obstacles to marriage, such as blood relations, in-law relations, or certain relationships prohibited by religious or customary law.

In the context of Balinese customary marriage, these requirements remain relevant, but must be adjusted to applicable customary norms, such as the recognition of the Nyentana Nyelidihi tradition. This system is considered valid as long as it does not violate religious law and the Balinese customary provisions that govern it.

The marriage agreement is regulated in Article 29 of Law Number 1 of 1974 concerning Marriage. This article provides space for prospective husband and wife to make an agreement that is mutually agreed upon before the marriage takes place. The main provisions are as follows:

1. **Time of Making**: The agreement must be made before the marriage takes place and is valid from the time the marriage is registered..
2. **Form of Agreement**: Must be made in writing in the form of a notarial deed..
3. **Contents of the Agreement**: Must not violate the law, religion, and morality. Usually this agreement regulates the separation of assets or other specific matters according to the needs of the parties.
4. **Validation and Recording**: This agreement must be registered at the civil registry office to ensure its legal force.

In the Nyentana Nyelidihi system, the marriage agreement is an important element to protect the rights of men who enter the wife's family. This includes regulations regarding inheritance rights, property distribution, and guarantees of the man's social status in the wife's customary family. The marriage agreement process in Nyentana Nyelidihi has the following stages:

1. **Initial Discussion**: The prospective groom and the bride's family hold a discussion regarding customary provisions and matters that will be regulated in the marriage agreement.
2. **Asset Transfer or Collateral**: In this system, the woman's family usually gives certain assets to the prospective groom as a form of collateral or symbol of seriousness. This aims to ensure that the man's position in the wife's family remains respected.

3. **Making an Agreement:** The agreement is made in written form by a notary who understands Balinese customary law. The contents of the agreement include the rights of the man, such as inheritance rights, social status in the wife's family, and provisions in the event of a divorce.
4. **Validation of the Agreement:** The agreement that has been made must be validated at the civil registry office or according to local customary law. This ensures that the agreement can be legally enforced both according to customary law and state law.
5. **Implementation of the Marriage Ceremony:** After the agreement is agreed upon, the traditional marriage ceremony is carried out by integrating the Nyentana Nyelidihi tradition.

This process shows that Balinese customary law, through the Nyentana Nyelidihi tradition, has developed by adopting modern legal principles to protect the rights of men while maintaining local cultural values.

Nyentana Marriage in Balinese Customary Marriage, In the Nyentana system, men enter the wife's family and play a role in replacing the position of the son in the Balinese customary family structure. The Nyentana Nyelidihi tradition developed to provide protection for the rights of men, who were previously vulnerable to injustice, such as loss of inheritance rights and social status after marrying and living in the wife's family. According to Hadikusuma, "Balinese customary law stipulates that men who marry women in the Nyentana system will join the wife's family and have rights and obligations like members of the original family" (Hadikusuma, 2007).

The legal position of men in Nyentana marriages traditionally does not provide adequate protection, especially regarding inheritance rights and social status. This puts men in this system at risk of losing their rights after marriage and entering the wife's family. However, in Nyentana Nyelidihi, legal protection is further enhanced by regulating the inheritance rights and social status of men in the wife's family. "Through the marriage agreement, men in Nyentana Nyelidihi are protected in their rights, including inheritance rights, and are given a guarantee of social status in the wife's family" (Pudja, 1974).

The marriage agreement in national law is regulated in Article 29 of Law No. 1 of 1974, which gives the couple the right to arrange the separation of their assets in marriage. In the context of Nyentana Nyelidihi, the separation of marital assets is important to ensure the protection of men's rights in the event of divorce or other problems. "The separation of marital assets, which is stated in the agreement, regulates the division of assets owned by each party before and during the marriage" (Hadjon, 1987). This system ensures that the man's rights to assets owned by the wife's family remain protected, even though the man is no longer in his family of origin.

Separation of property in Nyentana Nyelidihi marriages has important legal consequences, especially related to the division of property after divorce, death, or change in social status. In the Nyentana system without clear regulations, men risk losing their rights to the wife's family property. However, with a marriage agreement that regulates the separation of property, men's rights become clearer and more protected. "The legal consequences of the separation of property in Nyentana Nyelidihi are to provide legal clarity about the status of property and ensure fair distribution in

the event of divorce or other problems in the family" (Soekanto & Mamudji, 2003). With clear regulations through an agreement, men's rights remain guaranteed, and the potential for property disputes can be minimized.

Conclusion

This study found that the Nyentana Nyelidihi system is a form of innovation in Balinese customary law that aims to maintain the continuity of lineage without ignoring justice for men. In this system, men who enter the wife's family face legal and social challenges, such as loss of inheritance rights and social status in their family of origin. To overcome this, a prenuptial agreement becomes an important tool in providing legal protection for men. This agreement not only regulates the division of assets and inheritance rights, but also guarantees the social position of men in the wife's family so as to minimize the potential for conflict and injustice.

Through an empirical approach, this study highlights the importance of applying the theory of legal certainty, legal protection, and gender justice in forming an adaptive customary legal system. The prenuptial agreement in Nyentana Nyelidihi has succeeded in integrating customary values with modern legal principles, providing legal certainty for all parties involved, and reducing the risk of discrimination against men.

However, public awareness of legal protection for men in this system is still minimal. Therefore, there needs to be more intensive legal education among Balinese indigenous people. This aims to increase understanding of the importance of involving prenuptial agreements as a legal instrument that can protect men's rights and maintain family harmony.

As a recommendation, the government and traditional institutions need to collaborate in formulating policies that strengthen legal protection for men in traditional marriages, especially Nyentana Nyelidihi. Thus, Balinese customary law can continue to develop dynamically, responding to the needs of modern society without abandoning the deep-rooted cultural identity. This research also opens up opportunities for further studies to explore more deeply the legal implications of this traditional marriage system in a broader context.

In addition, this study emphasizes the need for reform in the Balinese customary law system to be more adaptive to social changes involving gender role dynamics. Nyentana Nyelidihi shows that customary law can be changed without eliminating the essence of culture, by creating a mechanism that is fairer for all parties. Men who enter into marriages in this system need legal guarantees, not only to protect their rights, but also to reduce the social stigma that often arises from changes in traditional roles.

Strengthening the legal aspect of Nyentana Nyelidihi through pre-marital agreements is a significant step to provide a balance between customary values and the principles of justice. With clearer regulations, men not only receive material protection, but also have a recognized social status in the customary community. This will encourage the creation of trust in customary law and increase community participation in preserving more inclusive cultural values.

The success of this system also depends on the synergy between traditional figures, legal institutions, and the community in creating supportive policies. The government can take an active

role by providing legal facilities, such as customary-based premarital counseling and affordable notary services, so that premarital agreements can be made easily and in accordance with applicable laws.

This study underlines the importance of developing a customary law model that not only maintains tradition, but is also able to respond to modern challenges, such as gender equality and protection of individual rights. Nyentana Nyelidihi is an example that Balinese customary law can transform into a more just and relevant system. With the strengthening of regulations, legal education, and collaboration between parties, it is hoped that this customary law system can make a significant contribution to social and cultural development in Indonesia.

This study confirms that Nyentana Nyelidihi is a form of adaptation of customary law that requires more attention in its implementation. With a prenuptial agreement as an important element, this system is able to provide adequate legal protection for men while maintaining traditional Balinese values. However, public awareness of the importance of this agreement is still minimal. To overcome this obstacle, strategic steps are needed, such as increasing legal education among indigenous peoples, as well as cooperation between the government, customary institutions, and social organizations. In this way, the customary legal system can develop to be more relevant and responsive to modern challenges.

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