

## Contextualization of the Constitutional Court's Decision on Women's Inheritance Rights in Customary and Islamic Marriages

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### Abstract

This study critically analyzes the influence of legal system pluralism on the reality and reconstruction of women's inheritance rights in customary and Islamic practices in Indonesia, highlighting the crucial role of Constitutional Court decisions. Based on the diversity of Islamic, customary, and civil law inheritance systems, this study finds that women often face structural obstacles, both due to conservative normative interpretations and the dominance of patriarchal traditions in inheritance distribution. Using normative juridical methods and an examination of Constitutional Court Decision No. 46/PUU-VIII/2010 and related jurisprudence, this study confirms a paradigm shift toward more inclusive and equitable protection for women heirs. However, the implementation of this progressive legal substance still faces cultural resistance and social obstacles that require state intervention through regulatory harmonization, law enforcement, and public education. These findings are expected to provide a foundation for reforming family law that guarantees equality and justice for women's inheritance rights in Indonesia.

**Keywords** : Women's Inheritance Rights; Legal Pluralism; Customary Law

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### Introduction

The problem of contextualizing the Constitutional Court's ruling on women's inheritance rights in customary and Islamic marriages stems from Indonesia's pluralistic family law. The country recognizes more than one inheritance law system: Islamic law, customary law, and Western civil law (KUHPerdota). The existence of these diverse systems creates complexities in enforcing women's rights as heirs, particularly when customary and religious rules run parallel to or even contradict the universal principle of egalitarianism guaranteed by the constitution and international conventions ratified by Indonesia.<sup>1</sup>

Amidst the dynamics of social and legal change, inheritance often becomes a source of conflict when women born and married into traditional or Muslim communities are confronted with regulations that are still gender-biased. The Compilation of Islamic Law (KHI), as the reference for Islamic inheritance in Indonesia, as outlined in Articles 174 to 193, does regulate the rights of women and men according to faraidh law, but still leaves fundamental differences with customary practices and civil law that adopt a system of individualism and freedom of will.<sup>2</sup> In customary law, women's inheritance rights often depend on local social structures,

<sup>1</sup>Soleman, Wasikoh et al. (2022). "Fiqh Mawaris Dan Hukum Adat Waris Indonesia." *Al-Mujtahid: Journal of Islamic Family Law*, 2(2): 92. Retrieved from <https://journal.um-surabaya.ac.id/Maqasid/article/view/26748/9675>

<sup>2</sup>Articles 174 to 193 of the Compilation of Islamic Law (KHI) establish the principle of inheritance

distribution according to the law of faraidh, namely that sons receive twice the share compared to daughters, and determine clear rights for fathers, mothers, wives, and widowers, but this system is based on the principle of ijbari which is collective and limits the freedom of the heir in determining the portion or recipient of the inheritance through a personal will,

such as the patriarchal system in some regions that places men as the primary heir.

Various Constitutional Court (MK) decisions over the past two decades have brought significant changes to inheritance rights, particularly for marginalized groups such as women, illegitimate children, and children from interfaith marriages. A significant milestone was Constitutional Court Decision No. 46/PUU-VIII/2010, which affirmed that the civil relationship of illegitimate children extends not only to the mother and her mother's family, but also to the father and his father's family if legally proven.<sup>3</sup> The legislative implications of this decision have expanded the rights of women and children as heirs without having to be subject to customary or religious restrictions.

However, Article 171c of the Compilation of Islamic Law (KHI) explicitly states that heirs in the Islamic context must be related by blood or marriage to the heir and be Muslim.<sup>4</sup> This raises issues when women, whether wives, children, or widows, who have a different religion from the

testator, are automatically barred from inheriting. In practice, some Religious Courts still allow heirs of different religions to inherit through the mandatory will mechanism.<sup>5</sup>

On the other hand, Supreme Court Decision No. 172/K/Sip/1974 has become the legal basis for mixed inheritance cases, where the applicable law is the law of the testator.<sup>6</sup> This reinforces the dualism of the legal system in inheritance matters, so that women in interfaith or inter-customary marriages are often marginalized from fair access to inheritance, especially in areas that strongly adhere to local traditions.

Customary inheritance systems vary from community to community, ranging from bilateral, matrilineal, to patrilineal. In patrilineal systems like those in Minangkabau, women have rights to high-ranking inheritances, while lower-ranking inheritances can be inherited by men. However, in the context of patrilocal marriages, women can lose their inheritance rights if they choose to settle outside the

thus resulting in fundamental differences with customary law which is strongly influenced by local social structures and the Civil Code which emphasizes gender equality and provides space for individualism and absolute freedom in making wills, so that in practice the rules in the KHI often give rise to resistance or requests for justice in pluralistic societies.

<sup>3</sup>If initially based on Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage, illegitimate children only had a civil relationship with their mother and their mother's family, after the Constitutional Court's decision, illegitimate children can now also have a civil relationship, including inheritance rights, with their father and their father's family as long as it can be proven scientifically and legally, such as through a DNA test. This change expands the protection of the rights of illegitimate children and confirms the principle of equality before the law, although within the framework of traditional Islamic jurisprudence this still gives rise to debate regarding inheritance and lineage.

<sup>4</sup>Article 171c of the Compilation of Islamic Law (KHI) specifically stipulates that a person can only become an heir if at the time of the testator's death they are related by blood or marriage to the testator, are Muslim, and are not legally prevented from inheriting. This provision confirms that the basic requirements for inheritance in the Indonesian Islamic inheritance system include the elements of kinship

(lineage or marriage), the same religion, and the absence of legal obstacles such as the murder of the testator or a legally binding judge's decision. Therefore, women, whether as wives, children, or widows, can only receive inheritance if they fulfill these three requirements, so that the Compilation of Islamic Law closes the possibility of granting inheritance to those of different religions or who are in a status prevented as regulated in Articles 172 and 173 of the KHI.

<sup>5</sup> Aksilogi.org. (2025). "Akibat hukum perkawinan beda agama terhadap warisan." Court Review: Jurnal Penelitian Hukum, 5(4), 2-6. Retrieved from <https://aksiologi.org/index.php/courtreview/article/download/1968/1279/11915>

<sup>6</sup>Supreme Court Decision No. 172/K/Sip/1974 is the primary jurisprudence in mixed inheritance cases in Indonesia. This decision firmly establishes that in inheritance disputes involving differences in legal systems or religions between the testator and the heirs, the inheritance law applicable is the law of the deceased heir. The application of this principle provides legal certainty in the distribution of inheritance, maintains justice for all heirs, and prevents legal gaps that could give rise to new disputes. Therefore, it has been used as a reference by judges and the public in the context of multicultural inheritance in Indonesia.

community. Similarly, in Bali and Batak, inheritance is prioritized for men, while women often only receive a share through gifts or wills.<sup>7</sup>

In Islamic law (KHI and Islamic jurisprudence), inheritance distribution is regulated in detail and proportionally, but still places a larger share on men than on women. While the rationale is to align responsibilities within the family, in the context of modern society, this continues to raise debate about gender equality and women's rights, which are universally recognized under Article 27 of the 1945 Constitution and the CEDAW Convention.<sup>8</sup>

The conflict and dualism of norms are further evident when women in interfaith marriages are denied inheritance rights from their Muslim husbands, even though the marriage is legally valid. The Constitutional Court, through Decision No. 24/PUU-XX/2022, rejected the petition for automatic recognition of interfaith marriages and emphasized the legal implications for the status of wives and children as heirs, which in the Islamic context are only recognized if they share the same religion as the testator.<sup>9</sup>

This situation is complicated by the fact that empirical data shows that local practices often exclude women, whether as children, wives, or widows, from the fair distribution of inheritance. This is because judicial interpretations are not yet unanimous: in some cases, courts accept women's inheritance claims based on principles of justice and fundamental rights, while in others, they continue to uphold strict traditions or religious doctrines.

In practice, the implementation of Constitutional Court and Supreme Court

decisions often faces resistance from communities that view inheritance as a male privilege. However, in civil courts, inheritance distribution is not based on religion or gender, as stipulated in Article 852 of the Civil Code, which states that women, both children and wives, have equal status with men.

Efforts to harmonize Islamic, customary, and civil law continue, particularly with the argument that the philosophy of inheritance in Indonesian society must adapt to current developments and protect women's rights as citizens, which are fully guaranteed by the constitution. Furthermore, the growth of urban society and interfaith marriages increase the relevance and urgency of this issue in the context of women's inheritance rights.

This issue becomes even more urgent internationally as Indonesia commits to CEDAW and the Sustainable Development Goals (SDGs), which emphasize guaranteeing women's rights to economic resources and equal legal protection. However, the challenge of harmonizing the legal system and strengthening regulations protecting women's inheritance rights still faces cultural resistance and normative religious interpretations.

As a multicultural nation governed by the rule of law, Indonesia needs to affirm its commitment to protecting women's rights as heirs by adapting its inheritance law system to align with the principles of social justice and gender equality. Progressive Constitutional Court decisions, such as Decision No. 46/PUU-VIII/2010 and Decision No. 24/PUU-XX/2022, should

<sup>7</sup> Samsidar. (2025). "Hukum Islam dalam perkawinan di Indonesia." Ekspose, 5(2): 34. Retrieved from <https://www.jurnal.iain-bone.ac.id/index.php/ekspose/article/download/9517/2487>

<sup>8</sup>Article 27 of the 1945 Constitution and the CEDAW Convention constitutionally obligate the state to guarantee equal rights and protection against gender-based discrimination; consequently, all inheritance policies and regulations, including those governing the differences in inheritance proportions between men

and women in Islamic law, must always be evaluated and reformed to align with the principles of substantive justice, civil equality, and respect for women's human rights in the Indonesian family law system.

<sup>9</sup> Aksiologi.org. (2025). "Akibat hukum perkawinan beda agama terhadap warisan." Court Review: Jurnal Penelitian Hukum, 5(4), 2-6. Retrieved from <https://aksiologi.org/index.php/courtreview/article/download/1968/1279/11915>

serve as primary references in the development of contemporary family law.

Thus, reform of the inheritance law system, both in jurisprudence and legislative policy, must be directed at efforts to recognize and protect women's inheritance rights across customary and religious practices, so that women's human rights to inherit are fully recognized by the state and protected from systemic discrimination.

### Research methods

The research method in this study uses a normative-juridical legal approach that focuses on analyzing the content of norms, principles, and legal doctrines related to the issue of women's inheritance rights in customary and Islamic marriages.<sup>10</sup> The researcher relies on secondary data sources, namely primary legal materials, such as laws and regulations, decisions of the Constitutional Court and the Supreme Court, and the Compilation of Islamic Law; in addition to secondary legal materials in the form of academic literature and previous research results. The analysis is carried out by systematically examining the content and hierarchy of each regulation, examining legal arguments, and the consequences of interpretations and court decisions relevant to women's inheritance practices in marriages across legal systems.

As part of the method, the research combines several approaches, namely a statute approach for regulatory review, a case approach for analyzing court decisions, and a conceptual approach in dissecting the principles of justice, gender equality, and recognition in family law. The researcher compares the legal construction between the Compilation of Islamic Law, customary jurisprudence, and the Civil Code as the basis for guaranteeing women's inheritance rights.

Furthermore, this study critically explores the influence of Constitutional Court decisions on the reconstruction of women's rights, particularly the implications in cases of mixed marriages, and assesses the synchronization and effectiveness of regulations in national and local practices.

### Results and Discussion

#### The Reality of Women's Equal Inheritance Rights in the Pluralism of the Indonesian Legal System

The reality of women's equal inheritance rights within the pluralistic legal system in Indonesia reflects the intersection of textual tradition, normative interpretation, and modern developments. Islamic law explicitly regulates women's inheritance rights, particularly in Surah An-Nisa, which establishes the principle of a two-for-one distribution of inheritance between men and women for heirs.<sup>11</sup> This principle was later incorporated into Article 176 of the Compilation of Islamic Law, which explicitly states it as a source of positive law for resolving inheritance cases in Religious Courts.<sup>12</sup>

This inheritance distribution structure is intended to reflect the economic and social responsibilities of men as heads of families. However, this traditional concept is often viewed as a source of gender inequality, particularly as the development of women's roles in society has shown new dynamics. This textual interpretation has drawn increasing criticism from a substantive justice perspective, especially when compared to the principle of equal rights for citizens as stipulated in Article 27 of the 1945 Constitution, which rejects discrimination based on gender.<sup>13</sup>

Meanwhile, customary law in Indonesia is highly varied and local. In the

<sup>10</sup>Juliardi, B., Runtuwun, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). Metode penelitian hukum. CV. Gita Lentera.

<sup>11</sup> Al-Qur'an Surah An-Nisa verse 11

<sup>12</sup>Muhalli, M., & Jannah, S. (2021). Hak Waris Perempuan dalam Perspektif Islam Kontemporer. Jurnal Mitra Syariah, 3(1), 14-27.

<sup>13</sup>Ahyani, H., Putra, H. M., Muharir, M., Sa'diyah, F., Kasih, D. K., Mutmainah, N., & Prakasa, A. (2023). Prinsip-Prinsip Keadilan Berbasis Ramah Gender (Maslahah) Dalam Pembagian Warisan Di Indonesia. Al-Mawarid Jurnal Syariah Dan Hukum (JSYH), 5(1), 73-100.



Minangkabau community, which adheres to a matrilineal system, women are the primary recipients of high-ranking heirlooms, ensuring the continuity of the family line and economic sovereignty. However, in patrilineal systems like those of the Batak or Balinese, women's inheritance rights are severely limited and often ignored, leaving them vulnerable to marginalization.<sup>14</sup>

In many cases, customary law lacks a single standard, but is instead influenced by social structures, kinship positions, and the cultural developments of local communities. Shifts in the meaning of tradition can be seen in some communities now embracing a more egalitarian distribution of inheritance, although these changes are often driven by economic necessity or the influence of the state's legal system.<sup>15</sup>

Civil law, rooted in the Civil Code (KUHPerdara), promotes a gender-neutral paradigm in inheritance. The KUHPerdara clearly states that all children, both male and female, regardless of status or gender, have the right to inherit equally. Likewise, wives and widows have equal rights to the inheritance of their husbands or parents, reflecting the influence of egalitarian Western-European legal systems.<sup>16</sup>

However, while normatively adequate, the application of the Civil Code in social practice often clashes with local values, so women living in indigenous or Muslim communities still face cultural resistance in asserting their rights. Furthermore, the civil law system is more often applied to non-Muslim groups or those who marry outside

the Islamic faith; this selective approach prevents women from always choosing the legal system that best benefits them.

Legal pluralism in inheritance in Indonesia not only demonstrates the diversity of laws as coexisting normative entities, but also the interplay of influence, adoption, and contestation between systems. In many cases, compromises or negotiations occur between customary, religious, and civil law, with outcomes highly dependent on social realities, the influence of family authority, and community understanding of inheritance rights.<sup>17</sup>

Court jurisprudence also plays a crucial role in promoting women's equal inheritance rights. Several Supreme Court and High Court decisions have affirmed women's legal standing to sue and obtain an equal share of inheritance with men. Important decisions include 179 K/SIP/1961 and 3/Yur/Pdt/2018, in which judges awarded equal inheritance shares (1:1) to daughters and sons, regardless of wills that differentiated according to local customs.<sup>18</sup>

This progressive step is increasingly being accepted in many regions. In fact, some customary courts have adopted egalitarian thinking, as has been the case in Batak, Balinese, and even Chinese communities, as evidenced by ruling 2017K/Pdt/2017, which emphasized that there is no longer any justification for limiting women's inheritance rights based on traditional interpretations.

Empirically, in a number of indigenous communities, inheritance reform is often mediated by socioeconomic factors, such as

<sup>14</sup>Samsidar. (2025). "Hukum Islam dalam perkawinan di Indonesia." *Ekspose*, 5(2): 34. Retrieved from <https://www.jurnal.iain-bone.ac.id/index.php/ekspose/article/download/9517/2487>

<sup>15</sup>Efrianto, G. (2024). *Hukum Adat*. PT. Literasi Nusantara Abadi Grup.

<sup>16</sup> Article 852 of the Civil Code adheres to egalitarian and individualistic principles, which affirm that all children—both male and female, including those born from various marriages—have the same inheritance rights to the inheritance of both parents, grandparents, and blood relatives in a straight line upwards, without distinction of gender, birth order, or marital status of

the parents; this provision guarantees absolute equality in the distribution of inheritance for every child and heir of the first class in accordance with the principle of equality before the law as regulated in the Civil Code.

<sup>17</sup>Irianto, S. (2024). *Pluralisme Hukum Waris dan Keadilan Perempuan*. Jakarta: Kompas

<sup>18</sup>Marinews.mahkamahagung.go.id. (2025). *Legal Standing Perempuan Menggugat Pembagian Harta Waris*.

<https://marinews.mahkamahagung.go.id/putusan/legal-standing-perempuan-menggugat-pembagian-harta-waris-0uX>

educational needs or the burden of family responsibilities experienced by women. This phenomenon marks the birth of "pragmatic justice," a case-by-case approach to the implementation of inheritance rights, as also depicted in the book *Legal Pluralism*.<sup>19</sup>

John Rawls' theory of distributive justice is highly relevant for assessing how the Indonesian inheritance system should prioritize needs-based justice and the protection of the more vulnerable, including women. Distributive justice demands that inheritance rights be distributed not merely in accordance with legal texts but also in a balance between rights and social responsibilities.

For both Islamic and customary law, the path to substantive justice can be achieved through normative reinterpretation and family deliberation mechanisms. In the Islamic context, many contemporary jurists emphasize the principle of benefit (*maslahat*) to re-interpret inheritance provisions to ensure they remain in line with the demands of modern justice.<sup>20</sup>

The plurality of systems also creates space for women to choose the resolution forum that best supports their inheritance rights. However, this choice is often constrained by social norms that place women in a structurally weaker position, making state intervention essential to strengthen legal protection for female heirs.<sup>21</sup>

Women's strong position as heirs has received constitutional support and recognition from both the Supreme Court and the Constitutional Court. However, the gap between normative provisions and the reality of implementation remains a challenge that must be addressed through policy reform, the internalization of substantive justice values within society, and

strengthening inheritance rights education at various social levels.

The reality of pluralistic inheritance law in Indonesia presents a dialectic between tradition, local values, religious doctrine, and modern legal principles. Justice for women's inheritance rights cannot rely solely on a single system, but must emerge from the dynamic interaction of legal certainty, cultural sensitivity, and the affirmation of the principles of non-discrimination and distributive justice that underpin the Indonesian constitution and legislation. Therefore, strengthening the role of the state, enforcing progressive jurisprudence, and transforming society's legal culture are absolute prerequisites for ensuring justice for women's inheritance rights within the framework of Indonesian legal pluralism.

### **The Influence of the Constitutional Court Decision on the Reconstruction of Women's Inheritance Rights in Customary and Islamic Practices**

Constitutional Court (MK) decisions have become a crucial anchor in the reconstruction of women's inheritance rights, both within customary and Islamic practices in Indonesia. Historically, provisions regarding women's inheritance rights are clearly stated in Surah An-Nisa, verse 11 of the Quran, and are enshrined in Article 176 of the Compilation of Islamic Law, which stipulates that the share for female children is smaller than that of males. However, the Constitutional Court's decisions have reformulated this classical interpretation toward a more inclusive and equitable perspective, while also affirming constitutional recognition of the principle of gender equality.<sup>22</sup>

<sup>19</sup>Irianto, S. (2024). *Pluralisme Hukum Waris dan Keadilan Perempuan*. Jakarta: Kompas

<sup>20</sup>Muhalli, M., & Jannah, S. (2021). Hak Waris Perempuan dalam Perspektif Islam Kontemporer. *Jurnal Mitra Syari'ah*, 3(1), 14-27.

<sup>21</sup>AlZayn. (2025, Agustus 21). Analisis Peran Perempuan Sebagai Ahli Waris Dalam Perspektif Islam dan Adat di Indonesia.

<https://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn/article/view/1819>

<sup>22</sup>Lollyta Julius, M. Sudirman, & Benny Djaja. (2025). Analisis Normatif terhadap Hak Waris Perempuan dalam Perspektif Hukum Islam, Hukum Adat dan Hukum Perdata di Indonesia. *Desentralisasi : Jurnal Hukum, Kebijakan Publik, Dan Pemerintahan*, 2(3), 16-27. <https://doi.org/10.62383/sentris.v2i3.730>

A major change in the Islamic and customary inheritance systems began with Constitutional Court Decision No. 46/PUU-VIII/2010. This ruling affirmed that illegitimate children whose blood relationship can be proven have a civil relationship, including inheritance rights, with their biological father and his family, not just with their mother and her mother's family. This consequence also opened up space for daughters born outside of legal marriage to obtain inheritance rights, a legal innovation that challenged conservative interpretations and placed the legitimacy of justice above mere formal law.<sup>23</sup>

The impact of this Constitutional Court ruling is clearly felt in the practice of religious and general courts. In a number of cases after 2010, the courts tended to progressively interpret women's inheritance rights, both as primary heirs and illegitimate children, thereby reconstructing previously discriminatory norms. The breakthrough decisions of the Supreme Court No. 179 K/SIP/1961, 4766 K/Pdt/1998 to 1048 K/Pdt/2012 also strengthened the position of women as equal heirs, although often faced with local cultural resistance.

The substance of the Constitutional Court's ruling emphasizes that the legal system must adapt to social dynamics and scientific developments, particularly in the realm of proving blood relations and the civil status of girls. The principle of substantive justice is the primary foundation for ensuring that inheritance rights are not merely normative but are realized in society. In this context, the theory of gender equality developed by Matsani (2022) emphasizes that women and men must have equal rights and opportunities in every dimension of private and public law.

The domino effect of the Constitutional Court's ruling has spread across many customary systems in Indonesia. While many customary communities

previously placed men as the primary heirs, a wave of court decisions has begun to encourage more inclusive redistribution. This is demonstrated in decision 1048 K/Pdt/2012 concerning the Rote Ndao custom, which explicitly states that discrimination against women in inheritance conflicts with fundamental principles of Indonesian law, particularly Article 17 of the 1999 Human Rights Law on the right to non-discrimination by gender.

Practically, the courts have drawn heavily on landmark Supreme Court jurisprudence and progressive Constitutional Court decisions. This adoption of considerations is reflected in inheritance distribution among the Batak, Karo, Chinese, and Balinese indigenous communities, where cassation decisions have equalized the shares of women and men as a manifestation of the state's commitment to the ratification of CEDAW and the principle of distributive justice introduced by John Rawls.

However, the gap between progressive legal construction and its implementation in society remains wide. Low legal literacy, the dominance of conservative interpretations and patriarchal bias, mean many women must fight for their rights through protracted judicial processes. Research by Gultekin et al. (2013) identified various structural and cultural barriers, ranging from pressure from extended families and traditional norms to limited access to legal aid services, as real challenges to implementing Constitutional Court decisions on the ground.

In the realm of Islamic law, although norms still place a greater role on men, there are opportunities for reconstruction through the practice of family deliberation and the mandatory will, as accommodated by Article 209 of the Compilation of Islamic Law. Judges are also beginning to consider women's economic role and contribution to the family in formulating a more equitable distribution of inheritance, in line with the

<sup>23</sup>Hukumonline. (2012). Putusan MK Berpengaruh pada Hukum Waris. [https://www.hukumonline.com/berita/a/putusan-](https://www.hukumonline.com/berita/a/putusan-mk-berpengaruh-pada-hukum-waris--lt4f41e31435676/)

[mk-berpengaruh-pada-hukum-waris--lt4f41e31435676/](https://www.hukumonline.com/berita/a/putusan-mk-berpengaruh-pada-hukum-waris--lt4f41e31435676/)

spirit of masalah mursalah in contemporary Islamic legal theory.

The judges' courage in making decisions in favor of women's inheritance rights is also supported by the living law theory developed by Eugen Ehrlich, which states that the law must live and evolve in harmony with the needs of society. In many cases, judges have adapted to social changes and confirmed the need for transformation of women's inheritance law to align with modern principles of justice.

In addition to illegitimate children and women in patrilineal marriages, the Constitutional Court's ruling also impacted the recognition of inheritance rights for women in interfaith marriages. Although the Compilation of Islamic Law (KHI) limits inheritance based on shared religion, the court's decision boldly compromised by allowing non-Muslim women to inherit through a mandatory bequest or will, thus ensuring the principle of equality before the law remains intact.

Progressive articles are also found in Articles 28D and 28I of the 1945 Constitution, which mandate fair treatment and protection of women's rights as heirs without discrimination.<sup>24</sup> National legislation, such as Law No. 39 of 1999 concerning Human Rights and the Marriage Law, complement the constitutional framework for implementing the Constitutional Court's ruling on women's inheritance practices in both customary and Islamic systems.

However, the implementation of the Constitutional Court's ruling in society still faces significant challenges, particularly in indigenous communities deeply rooted in patriarchal values. Although customary law

forums, such as the Pesamuhan Agung MUDP in Bali, have begun to recognize women's inheritance rights, substantive change is only occurring on a case-by-case basis and requires systematic encouragement through outreach, education, and legal affirmation from the state.<sup>25</sup>

Theoretically, transforming legal interpretation toward substantive justice requires combining an understanding of regulatory plurality with the principles of gender non-discrimination and distributive justice. These principles are reflected not only in legislation and court decisions, but also in policy formulation and legal culture reforms to ensure women receive equal inheritance rights in line with current developments.

At the implementation level, the strength of Constitutional Court decisions depends on the consistency of law enforcement officials and the structural support of state institutions. Strengthening the state's role in ensuring legal certainty for women through gender-sensitive legal aid and judicial services is a prerequisite for enforcing inheritance justice. Furthermore, intersectoral synergy between the Ministry of Religious Affairs, the Supreme Court, and local institutions is necessary to eliminate legal loopholes that could discriminate against women in inheritance practices.

Overall, this study confirms that the Constitutional Court's ruling has been a major catalyst in dismantling structural barriers and redesigning the national inheritance system to be inclusive and gender-friendly. Through progressive jurisprudential interventions and constitutional affirmations and national laws

<sup>24</sup>Article 28D paragraph (1) of the 1945 Constitution states: "Everyone has the right to recognition, guarantees, protection and certainty of fair law and equal treatment before the law." Article 28I paragraph (2) of the 1945 Constitution states: "Everyone has the right to be free from discriminatory treatment on any basis and has the right to receive protection against such discriminatory treatment." These two articles provide a concrete constitutional basis that women as heirs must be treated equally in the distribution of

inheritance rights and may not be discriminated against based on gender, status or any other reason. If in the practice of inheritance distribution there is discrimination against women, then this is contrary to the explicit command of the constitution.

Dandapala.com. (2025). Quo Vadis: Dapatkah Perempuan Hak Mewaris dalam Perspektif

Hukum

Adat

Bali.

<https://dandapala.com/opini/detail/quo-vadis-dapatkah-perempuan-hak-mewaris-dalam-perspektif-hukum-adat-bali>



supporting gender equality, women have increasingly gained legal recognition as heirs, both within customary and Islamic law. However, for this ideal of justice to be fully realized, the state is obliged to strengthen the implementation of rulings, harmonize norms, and disseminate legal information at the grassroots level.

### Conclusion

Pluralism of inheritance systems in Indonesia Fulfilling women's rights as heirs remains a real challenge. The complex interaction between customary law, Islamic law, and the Civil Code often places women in an unequal position, despite the existence of various national and international legal instruments that affirm the principles of gender equality and non-discriminatory treatment. Recent jurisprudence indicates a paradigm shift toward greater egalitarianism, but implementation barriers at the local level and continued resistance to patriarchal culture remain realities that must be faced and overcome in the Indonesian family law system.

The Constitutional Court's ruling has become a significant catalyst in the reconstruction of women's inheritance rights in both customary and Islamic systems, particularly by affirming the rights of illegitimate children and women in interfaith families. This jurisprudential transformation has expanded legal recognition for marginalized groups, while emphasizing the importance of substantive justice over textual adherence to formal norms. To realize equal rights for women in inheritance practices in the future, the state needs to strengthen regulatory reforms, strengthen the role of progressive justice, and streamline legal education in society, so that all women in Indonesia receive protection and justice as heirs without discrimination.

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**Conflict of Interest Statement:**

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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