



## Strengthening Traditional Villages as Legal Subjects in Tourism Business Management in Bali

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**Abstract** – This study explores the elevation of customary villages' status as legal entities in managing the tourism industry in Bali. Through philosophical, sociological, and empirical legal perspectives, this study investigates the challenges faced in regulating tourism on the island. An empirical legal framework approach is utilized with multi-approaches, relying mainly on the philosophical, historical, and case approaches. The development of the cultural tourism industry in Bali highlights the importance of strengthening local wisdom. The focus of this research includes fundamental questions such as the essence of strengthening customary villages as legal entities in managing the tourism industry, as well as mechanisms that contribute to the strengthening of customary villages in the realm of tourism management. The findings confirm that customary villages play an integral role in directing the tourism industry, by upholding customary laws and pararems and recognizing the unity of customary law communities. This highlights the importance of environmental preservation through *Tri Hita Karana* principles. Modernization of tourism business management includes digital strategies and the merging of traditional markets with modern markets, with an emphasis on traditional village branding. Strengthening indigenous villages in tourism business management requires cooperation between indigenous villages and the Bali Provincial Government, including profit-sharing schemes. Indigenous villages need capital strengthening through the Village Credit Institution (*LPD*). The success of tourism management led by indigenous villages depends on the use of customary law as a source of legal certainty in managing tourism based on the principles of *Pancasila* and *Tri Hita Karana*. Concrete recommendations include the formulation of tourism management standards involving HR, financial management, tour guides, and service standards. This approach aims to encourage sustainable tourism practices and maintain culture in Bali's Indigenous Villages.

**Keywords:** Customary Villages, Tourism Management, Legal Entities.

### I. INTRODUCTION

Tourism stands as a pivotal sector among nations globally. Rideng (2020) affirmed, "the contemporary significance of tourism development is increasingly recognized to bolster national progress." As this industry progresses, regulatory frameworks within the tourism sector become imperative to harmonize diverse interests. However, the expansion of tourism in Bali has yielded adverse effects, significantly impacting the environment and social fabric of the region designated for tourism. Bali, renowned as Indonesia's principal cultural tourism hub, predominantly thrives in rural domains. These rural settings encompass traditional village territories, managed and held accountable by the traditional villages themselves in cases of ecological degradation stemming from tourism exploitation.

The fortification of traditional villages mirrors the essence of the preamble to the 1945 Constitution. Bali is home to Balinese communities entrenched in a lifestyle steeped in rich cultural facets encompassing customs, religious practices, traditions, arts, and a reservoir of unique, picturesque, and sacred local wisdom with a profound spiritual essence (Suwardani, 2015).

This Balinese way of life with high culture is fully embodied in the traditional village. This makes the traditional village a place for the integration of symbols and values originating from

customs, religion, traditions, arts, and culture, as well as local wisdom implemented daily by Balinese (Artadi, 2012). All of this materializes into a distinctive/unique, beautiful, attractive, and at the same time *mataksu* (supernatural power) way of life, emitting a strong and brilliant inner power, thus attracting the world's attention. The distinctive/unique, beautiful, interesting, and also *mataksu* culture of Balinese manners is clearly reflected in the life of the people in traditional villages spread throughout Bali. This is further reinforced by the way of life of the traditional village community which is regulated by *awig-awig*, *pararem*, and other traditional rules so that the traditional village actually carries out the function of a self-governing community as well as a self-regulating community (Ernawati et al., 2019). The combination of the functions of a self-governing community as well as a self-regulating community at its peak has resulted in a traditional village having customs, traditions, arts, and culture, as well as local wisdom which is the source of the values of Balinese life. With these values of life, Balinese in traditional villages live in a communal community bond, as a united community group and have a spirit of mutual cooperation in a life system based on the *Tri Hita Karana* philosophy, including *Parahyangan* (God), *Pawongan* (human), and *Palemahan* (nature).

This *Tri Hita Karana* philosophy gives guidance to Balinese customs to love nature (*Palemahan*), be kind to fellow human beings (*Pawongan*), and as a form of devotion to God Almighty (*Parahyangan*). This philosophy of *Tri Hita Karana* is further explained in the local wisdom of *Sad Kertih*, covering efforts to purify the soul (*atma kertih*), maintain the sustainability of the forest (*wana kertih*) and lake (*danu kertih*) as a source of clean water, the sea and the coast (*segara kertih*), dynamic social and nature harmony (*jagat kertih*), and developing the quality of human resources individually (*jana kertih*). Currently, there are 1,493 traditional villages spread across 9 (nine) regencies/cities in Bali, with a Hindu population of 3,247,283 people, spread across all traditional villages, making up 83% of the total 4.2 million people (100%) residents of the island of Bali. Traditional villages in Bali are legal subjects in the development of tourism businesses. Traditional villages as legal subjects should be given definite authority to manage economic businesses including tourism. Management of forest land to customary villages has not been fully handed over and the state remains as the full rights holder, and management of coastal beaches is still under state management and not entirely controlled by customary villages (Dharmayuda, 2001).

The demand for land to sustain Bali's tourism industry has led to the utilization of land owned by indigenous communities. Traditional villages lack authority over their land rights to oversee these areas, which could potentially serve as a source of foreign exchange for the country. In Bali, traditional villages confront imminent peril due to the communal legal bonds and spiritual significance associated with the land, inhabited by *krama* (residents) residing in these traditional territories and their *banjar* (community group under the traditional village) or traditional village. These bonds are often expressed through *ayahan* (villagers' obligations), primarily entailing commitments to the banjar or traditional village. The gravest repercussion arises if all customary lands (village property) are transformed into private properties, available for purchase and sale to outsiders. Consequently, the traditional village would lose its functionality and eventually face destruction due to the erosion of its *palemahan* (territory) element. This loss would disrupt the fundamental principles of *Tri Hita Karana* and *Tri Mandala*, foundational concepts that traditionally uphold balance, ultimately resulting in a loss of their intended significance (Suwitra et al., 2020).

## II. METHOD

The empirical legal research presented in this study explores the enhancement of traditional villages as legal entities engaged in managing tourism enterprises in Bali. It investigates the diverse models employed for strengthening traditional villages in their administration of tourism activities within their respective areas, along with assessing the efficacy of policies governing tourism business management in fortifying these traditional villages. The research data comprises both primary and secondary sources. Primary data emanates from interviews conducted with traditional villagers overseeing tourism businesses in Bali's tourist destinations and the Bali Province Indigenous Community Advancement

Service. Additionally, primary data is derived from observational studies conducted within these traditional villages actively involved in managing tourism operations. Secondary data encompassing legal materials, including primary, secondary, and tertiary legal sources, was collected through rigorous library research. The process involved comprehensive literature reviews to identify, inventory, and procure relevant legal materials from diverse sources, acknowledging the library as a repository of evolving knowledge (Soekanto, 2010). The research focused on 11 traditional villages situated across 8 regencies and 1 city within the Bali Province, employing purposive sampling techniques to select the research locations.

### **III. RESULT AND DISCUSSION**

The legal status accorded to traditional villages in Bali, delineated in Regional Regulation Number 4 of 2019 regarding Traditional Villages in Bali, encapsulates the essence of these villages as legal subjects. It recognizes the unified existence of traditional law communities in Bali, defined by their territory, original structure, traditional rights, assets, rituals, and social customs passed down through generations within sacred precincts. As legal subjects, these villages possess the right to govern and administer their households, embodying the tenets of customary village law. Their role encompasses multifaceted duties spanning socio-economic, cultural, peacekeeping within Balinese norms, and religious sectors. This legal recognition, as prescribed by the aforementioned regional regulation, bestows clarity of status and legal certainty upon traditional villages. It delineates their position as holders of rights and obligations within the constitutional framework of the Republic of Indonesia, aimed at actualizing justice for all Indonesian citizens. As legal subjects, traditional villages are empowered to undertake lawful actions concerning the management of their assets and wealth, designated as the property of the traditional village. This acknowledgment affirms their lawful authority to engage in various legal activities pertinent to asset management, safeguarding their heritage, and ensuring sustainable development within the bounds of legal norms.

Indigenous communities are communities with a communal form. A communal society is a society where all areas of life are encompassed by togetherness. Indigenous communities show close relationships in interpersonal relationships and social interaction processes which give rise to certain patterns called "a uniform or customary of behaving within a social group" (Nurtjahjo & Fuad, 2010). Based on the description above, a traditional village/*pakraman* village is a customary legal community unit that has a unity of traditions and manners of social life among Hindu communities from generation to generation within the ties of *Kahyangan Tiga/Village Temples* which has a certain territory and its assets. A traditional village is a traditional institution that has a social-religious pattern and has an autonomous government based on its origins. In administering the government, traditional villages can establish their own rules called *awig-awig*.

The juridical concept of indigenous communities in Indonesia can be viewed from the authority of the customary rights of indigenous communities outward and inward, customary rights inward can be interpreted that only indigenous peoples can carry out legal actions in the environment and take advantage of their customary legal environment. Authority outside the customary law community can be interpreted as a statement to parties outside the customary law community not to take advantage of it. Based on this, legal authority arises for customary law communities to carry out legal actions limited to the territory of their customary community unit. The results of the research found that empirically villages in Bali are characterized by mountains (*bali aga*) and plain traditional Balinese villages. Villages in Bali that are in the mountains are the oldest (Yanuarda, 2018). And it has existed since pre-Hindu times. The uniqueness and diversity of traditional village settlements is an attraction in today's life which assumes that this attraction can bring added value or economic progress related to tourism businesses. One of the tourist villages that has developed is a tourism business managed by a traditional village. For the management of village-based tourism businesses, the Bali provincial government policy regulates the fundamentals of traditional villages in Bali, which means maintaining the sanctity and harmony of Balinese nature, to form business units in the

real sector of traditional villages, to form the *Baga Utsaha Padruwen Desa Adat* (village-owned enterprises) business.

The management structure within Penglipuran Traditional Village for tourism business administration is multifaceted, encompassing various natural and cultural attractions. The village boasts natural allure through wood and bamboo forests, offering a serene rural ambiance. Additionally, its distinctive architectural patterns, a heroes' monument, and adherence to unique customs, such as the prohibition of polygamy, constitute key attractions. Moreover, the village organizes special tourism events like the Penglipuran Village Festival and tailor-made packages for tourists. Recognizing the escalating complexities faced by traditional village administrators in handling tourism-related affairs that necessitate professional management, the Penglipuran Traditional Village established the Penglipuran Tourism Village Management Institution on May 1, 2012. Functioning under the traditional village's auspices, this institution operates with full accountability to the traditional village authority. The management framework of the tourism village management institution comprises key positions like the chairman, deputy chairman, administration, operations, and object development sections, complemented by additional support sections. Integrated within the traditional village governance structure, these positions shoulder distinct roles and responsibilities in ensuring effective tourism business management.

The following is a further explanation of the roles and responsibilities of each key position; (1) Chairman. The chairperson is responsible for the overall management of the tourism village, including strategy development, planning, and implementation. The chairperson is also responsible for ensuring that the tourism village management institution runs in accordance with the vision and mission of the tourism village. (2) Deputy chairman. The vice chairman assists the chairman in carrying out his duties, and is responsible for day-to-day operations. The vice chairperson is also responsible for representing the chairperson in activities that require the chairperson's presence. (3) Administration section. The administration section is responsible for the administrative and financial management of the tourism village. The administration section is also responsible for making regular tourist village financial reports. (4) Operational section. The operational section is responsible for managing the operational activities of the tourism village, such as services to tourists, marketing, and promotion. The operational section is also responsible for ensuring that services to tourists run well and according to standards. And (5) Object development section. The object development section is responsible for the management of tourist objects in the tourist village, such as homestays, restaurants, and tourist attractions. The object development section is also responsible for developing tourist objects in tourist villages to make them more attractive to tourists.

Financially, the tourism revenue is divided where 40% constitutes retribution for the Penglipuran Traditional Village, and the remaining 60% is allocated to the Bangli Regency Government. The legal framework for retribution collection is established under Regent Decree Number 116 of 1993, designating the Traditional Villages of Penglipuran as the authorized entity for tourism retribution collection. This integrated management institution, embedded within the traditional village structure, serves as an efficient mechanism for overseeing tourism affairs, contributing significantly to economic development by leveraging tourism revenue distribution and professional administration practices. The Sanur Traditional Village, situated in Denpasar City and encompassing the renowned Sanur Beach area, has effectively transformed its tourism potential into a thriving economic asset (Antara, 2022). Initially managing this attraction across four business units, the traditional village notably established the Sanur Traditional Village Owned Enterprise (referred to as *BUMDA*) well before the enactment of Regional Regulation Number 4 of 2019. Subsequently, pursuant to this regulation, *BUMDA* Sanur underwent a transformation into *Baga Utsaha Padruwen* Traditional (referred to as *BUPDA*), which currently oversees four business units, specifically handling parking management for the Sanur Beach tourist area. This managerial venture is conducted in collaboration with *PD Parkir* and the Regional Revenue Agency (*Bapenda*) of Denpasar City.

Following the issuance of this regional regulation, the Sanur Traditional Village experienced a significant increase in revenue, approximately 30% higher than previous figures, attributed to the expanded managerial flexibility granted by the government over the Sanur Traditional Village area. The proceeds generated from *BUPDA's* management serve as essential financial support for various initiatives and necessities within the Sanur Traditional Village. These funds are primarily allocated to fund diverse activities and necessities, including the construction and refurbishment of the Kahyangan Tiga (village temples), assisting in the welfare of villagers across eight banjars affiliated with the Sanur Traditional Village, covering pension costs for *Pecalang* (traditional security officers), providing compensation in the event of death, sustaining funds for traditional leaders' services, and various other communal needs. The division of funds follows a structured pattern aligning with *Baga Pawongan*, *Palemahan*, and *Parahyangan* aspects, bolstered by financial assistance from the Sanur Traditional Village. Tanjung Benoa Traditional Village is widely recognized for its marine tourism ventures. However, beyond managing marine tourism, the village extends its scope to include various other business units such as a minimarket (Tenten Mart), stall rentals for *angkringan* (culinary establishments), and functioning as a wholesale distributor (Pratiwi, 2014). This diverse portfolio contributes significantly to the village's economic sustenance, fostering *Palemahan Parahyangan* and *Pawongan* elements, resulting in an annual income reaching billions. The village accommodates thousands of water sports enthusiasts daily, overseen by a manager appointed by the traditional village head. Despite this, the management structure of the *BUPDA* (*Baga Usaha Padruwen* Traditional) remains unregulated as a state legal entity.

Traditional villages in Bali, as autonomous customary law communities, uphold local regulations known as *awig-awig* and their derivative, *Pararem*. These local statutes prevail over national laws and are not subject to international regulations. Strengthening tourism business management in traditional villages can be achieved through collaborative partnerships between provincial, district, or city governments. These collaborations must prioritize profit-sharing arrangements, ensuring traditional villages receive a more substantial share of the profits while remaining in line with respective *awig-awig* and *pararem* regulations. Within *awig-awig*, guidelines for preserving environmental functions based on the *Tri Hita Karana* philosophy are delineated (Widyastini & Dharmawan, 2013). Implementation of *Tri Hita Karana* is realized through the management of Kahyangan Tiga/Village Temples (*Desa Temple, Dalem Temple, Puseh Temple*). Traditional village-led tourism business management is overseen either by the traditional village head and their council members or by community groups formed under traditional villages, such as *Sekaa* (traditional groups) that adopt modern tourism management practices.

#### **IV. CONCLUSION**

The essence of strengthening traditional villages as legal subjects in tourism business management. Tourism business management still refers to *awig-awig* and *pararem* considering the recognition of the existence of traditional law community units, therefore in tourism business management, it is mandatory to preserve environmental functions based on *Tri Hita Karana*. Tourism business management can be carried out in a modern way by establishing digital-based business management, traditional markets, and modern markets with Traditional Village branding, of the 8 districts/1 city that have managed tourism businesses are Tanjung Benoa Traditional Village, Penglipuran Traditional Village, Beraban Traditional Village, Desa Sanur Traditional Village and Kalibukbuk Traditional Village, while Blimbingsari, Bakas, Bugbug, Bayung Gede and Manuaba Traditional Villages are just starting to manage tourism businesses independently and in collaboration with the private sector. Forms of Strengthening Traditional Villages in Tourism Business Management requires cooperative regulations between Traditional Villages and the Bali Provincial Government in the form of profit sharing and traditional villages require capital strengthening assisted by Village Credit Institutions and cooperation with Bank Indonesia, while in tourism management is needed which is managed by Traditional Villages. controlled by the Traditional Village Head and their members by forming a tourism business management institution (referred to as

LPUP), while the management standards still refer to *awig-awig*, namely not polluting the sanctity of the temple, not polluting the environment, maintaining polite dress code, maintaining environmental cleanliness, and no thuggery. This standard can be used as a standard when visiting tourist villages in Bali and can be used as an additional requirement for passport ownership, and financial standards. If there is a violation of the above standards, the traditional village through the traditional village head can impose *penanjung batu* (customary sanction) which can be cashed according to the traditional ceremony fee. So that traditional villages have the power of law in terms of maintaining the sanctity of temples, preserving the environment, and being free from thuggery. Whether a policy is effective or not can be seen from the Legal Substance. In its formation, accuracy is needed by involving traditional community leaders and not ignoring existing rules in the village. custom. Traditional villages in Bali can be said to be effective in strengthening the management of tourism businesses in Bali, which can be seen from the effectiveness of implementing local regulations or *awig-awig*, this *awig-awig* is a legal culture of cultural elements that must receive protection from all parties. Traditional villages are considered strong if national law continues to recognize the existence of customary law or *awig-awig*, because *awig-awig* in Bali is a rule that has lived in society for generations (living law).

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