



Legal Deconstruction of Ecotourism-Based Cultural Tourism Management in Creative Economic Development in Badung-Bali District

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ABSTRACT

The tourism political journey in Bali continues to develop Balinese cultural tourism, the philosophy of Tri Hita Karana, and Balinese culture, traditions, and customs according to Balinese religious and cultural norms. In the Regional Regulation of the Province of Bali Number 5 of 2020, regarding Balinese cultural tourism standards, the author deconstructs laws related to mass tourism versus ecotourism. For this reason, the purpose of this research is to find out the legal arrangements for the concept of ecotourism-based cultural tourism in Bali and the implementation of the concept of cultural tourism in Bali in managing ecotourism in each traditional village. The results of the research on the legal deconstruction of cultural tourism practices in Bali and ecotourism in Subak Umalambing, Subak Mambal, and Pandawa Beach Kutuh-Kuta Utara are processed based on "legal behavior" from below, not based on "state legal texts" but instead based on Balinese customary law based on Pararem.

INTRODUCTION

Laws are made by humans for those who are given the authority to produce them. Then, since the law required a tradition to be written down (written law) (Anthon Freddy Susanto, 2005), In the context of this writing, the legal text becomes a very important issue. Every formulation in legal norms can be accepted as absolute truth. In ecotourism legal products, does it provide justice when it is formulated in words or sentences of regulations? Justice is one thing, but there are others such as justice, utility, doelmatigheid, and bilijkheid. In legal deconstruction in the context of ecotourism, these texts are interpreted because they are "a finite-closed scheme of permissible justification, while nature and social life are not a "finite-closed" scheme but constantly changing and moving dynamically. This can be dismantled (deconstructed) by the law of the concept of cultural tourism, which is delicious when you just look at it, but if you enjoy it, you will feel that there is something that needs to be explored or learned to find a concept that is considered the truth for Balinese culture.

The concept of cultural tourism in the Regional Regulation of the Province of Bali Number 5 of 2020, regarding Cultural Tourism Standards, Article 1 number (12) of Bali Cultural Tourism is Balinese tourism that is based on Balinese culture, which is imbued with the philosophy of Tri Hita Karana, which originates from cultural values and local wisdom of Sad Kerthi and is based on Balinese taksu. The purpose of Sad Kerthi's local wisdom in Article 1 point (9) Sad Kerthi is an effort to purify the soul (atma kerthi), preserve forests (wana kerthi), and lakes (danu kerthi) as sources of clean water, sea, and beaches (Segara kerthi), create dynamic social and natural harmony (Jagat kerthi), and build the quality of human resources (Jana kerthi). Article 1 number (29): A Tourism Village is a village administrative area that has the potential and uniqueness of a unique DTW, namely experiencing the uniqueness of life and traditions of rural communities with all their potential.

This research focuses more on ecotourism, which has an agricultural character, and ecotourism, which has a beach ecotourism character. For agricultural ecotourism, the authors focus on two subaks, namely Subak Mambal, an agricultural area that has been developed into ecotourism. Furthermore, Pandawa Beach is a beach ecotourism destination.

The research problems studied are: (1) How is the legal regulation of the concept of ecotourism-based cultural tourism in Bali. (2). How is the implementation of the concept of cultural tourism in Bali managed in each traditional village.

LITERATURE REVIEW

Legal Deconstruction as a legal development strategy in post-reform Indonesia, written by Inayatul Anizah discusses the fact that humans must be positioned as subjects who have the reality of diversity. In such a situation, deconstruction of the legal paradigm that adheres to the principles of a modern "grand narrative" is urgent to do, not just to dismantle, let alone delete, but to reconstruct a new construction that can answer the problem, not "silence" the reality at issue. In this case, deconstruction is positioned not as a discourse merely as a formal method used to dissect discourse and non-discriminatory practices

but as a strategy to reveal the dichotomous discourse of a discourse by tracing every paradoxical "reality" that exists in the institutional discourse (Anisah, 2010). Furthermore, Nadir, in his writings on legal philosophy and the deconstruction of Critical Legal Studies: A Paradigm of Legal Reform, challenges the existence of the Domination of the Assumption of Legal Stability. Critical Legal Studies criticizes the applicable law, which is in favor of politics and is not at all neutral. The process of intervention and suppression carried out by developed countries like that is then wrapped in a form of international agreement to make it appear more humane. In such circumstances, it is appropriate that Karl Marx consider that the main function of the law is to veil or cover up unequal relations between forces. In looking at legal issues, critical legal studies reject the difference between theory and practice and also reject the difference between facts and values, which is a characteristic of liberalism. Therefore, critical legal studies reject the possibility of pure theory and place more emphasis on theories that have the power to influence practical social transformation (Nadir, 2020). Study of legal deconstruction related to cultural tourism and ecotourism in the district This Badung will be increased to conduct research in 2024, with a focus on legal deconstruction associated with the policy of the Provincial Government of Bali regarding the conversion of land for the benefit of the tourism business.

METHODOLOGY

The type of research chosen is empirical legal research with legal anthropology and legal sociology approaches. Source of data: primary data obtained from the first source or directly through observation or in-depth interviews. Furthermore, secondary data was obtained from literature studies and document studies. The researcher's legal anthropology approach examines the fairness of the facts and claims of the Balinese indigenous people by comparing legal justice. Thus enabling researchers to find legal truth that can be combined with the truth of factual claims and the truth of legal justice. If the truth of legal facts and legal truths is factual justice and legal justice (Leopold Pospisil, 2016). The deconstruction of cultural tourism laws becomes clear; the concept is always changing due to cultural, economic, and state political interests (Antara, dkk, 2019). Traditional villages in Bali, in managing ecotourism-based cultural tourism, have factual justice based on origin, and the state has the duty to protect claims of factual justice into legal justice and legal certainty to obtain texts of legal norms based on ecotourism-based Balinese culture managed by Balinese indigenous people.

RESEARCH RESULT AND DISCUSSION

Legal Deconstruction in Setting the Cultural Tourism Concept of Ecotourism-based Tourism Law

In this study, the author will identify Subak Umalambing Ecotourism, Subak Mambal Ecotourism, and Pandawa Beach Ecotourism on the island of Bali, which inherit Balinese Hinduism, customs, traditions, and culture through their respective customary villages. Therefore, traditional villages in Bali have their customs and traditions that reinforce Hindu culture and religion. Before coming

into contact with the roar of tourism activity, most Balinese people live from agriculture, and Subak is a Balinese irrigation system that concerns customary law (Adat Law) and has characteristics, namely social-agriculture-religious, with determination and a spirit of cooperation in the effort to obtain water to fulfill the need for water in producing food crops, especially rice, and pulses.

The history of the birth of the Subak Umalambing Ecowisata in 2018 was the collaboration of the Green School with Kelian Subak Umalambing. This ecotourism activity is driven by the Astungkara Way Foundation. Activities related to farmers, and farmers are expected to be able to plant organic rice. The agricultural area in Subak Umalambing is 86.77 ha. For farmers who grow rice under organic conditions, it is purchased by the Astungkara Way Foundation. (Interview with Wayan Suwendi Kelian Subak Umalambing) The total number of Krama farmers is 240. Ecotourism activities in Umalambing include 4-5 km of trekking, and every Friday there is an agricultural market. The buyers are foreign tourists, and we offer cooking tours of Subak Umalambing agricultural products. The point of ecotourism in Subak Umalambing is to return agriculture to nature.

Referring to the Regional Regulation of the Province of Bali No. 02/PD/DPRD/1972, Subak is a customary law community with religious agrarian characteristics, which is a group of farmers who manage irrigation water in paddy fields. Subak Uma Lambing is located in the Sibangkaja Traditional Village, Kec. Abiansemal, along with the demands of the times, the need for land for settlements and tourist facilities requires a large amount of land, so Subak, as a traditional organization of farming communities in Bali, has the authority to control land function experts in Balinese society. Obstacles experienced in preventing land conversion are due to the lack of reporting by Subak residents who will convert their agricultural land, socio-economic factors, and an increase in population (offspring) (Putra, dkk, 2021). Based on the social reality in Subak Umalambing and Steps taken to prevent land conversion, researchers found a strategy that for roads to Subak, for the sake of trekking, the road is only a maximum of 1.5 meters wide, so there is no desire to make Subak Lambing an ecotourism accommodation in the middle of rice fields. This means that the de facto land use change was carried out by the Subak Kelian with the strategy of not widening the road to Subak so that it is possible for Subak lands to become residential areas. This, according to researchers, can be done by strengthening the creation of ecotourism pararem, whose substance is legal norms that function Subak Umalambing while maintaining the function of agriculture towards organic from inorganic.

The relationship between Subak Umalambing and a vision of sustainable ecotourism can be associated with a norm or rule when viewed from another angle, which is also the result of abstraction from a pattern of behavior. If empirically a behavior is repeated in the same form, then the behavior becomes a pattern of behavior (Soekanto, 1986). The process of a pattern of behavior then becomes the norm; this is what the authors call behavior as law. It can be understood that Pound argues that law is a process that takes shape in determining statutory regulations.

Bali Provincial Regulation Number 5 of 2020, regarding Cultural Tourism Standards, Clause 5 (1) Components of Tourism Destinations include a. DTW; b. tourism village; c. accessibility; and D. facilities, public infrastructure, and tourism facilities. (2) DTW and tourism villages as referred to in paragraph (1), letters a and b, include a. natural; b. culture; c. spiritual; and D. artificial. In paragraph (1), letter (a), there is still a blurring of norms, whether it includes Subak, which is the basis of Balinese life in agriculture. When Subak can also become a Tourist Destination Area, there should be a clear explanation as to who can manage it. However, some articles expressly provide an opportunity to manage tourism villages "not called ecotourism," such as Article 8, paragraph (1). Traditional villages, traditional institutions, and community groups have the right to develop rural tourism based on local potential and the provisions of laws and regulations. invitation.

In the rule of law theory, the state establishes a Tourism Law to guarantee legal certainty for ecotourism actors. In legal reality, empty and blurred norms occur in implementation in the field, especially related to Subak ecotourism and Pandawa ecotourism in the traditional village of Kutuh. In Law Number 10 of 2009, regarding Tourism and the purpose of tourism, whether it includes ecotourism is still unclear. However, in the Regulation of the Minister of Home Affairs, Number 33 of 2009, concerning Guidelines for Developing Ecotourism, Clause 4, paragraph (1), Regional Governments in developing ecotourism are carried out through planning, utilization, and control; paragraph (2), planning, utilization, and control of ecotourism as referred to in paragraph (1) are carried out in an integrated manner by tourism actors (Antara, 2022). The Subak Umalambing ecotourism was formed in collaboration with the Astungkara Way. On the website page www.astungkaraway.com, there are seven tours, as explained in the description below. Ecotourism standards are carried out in an integrated manner between Subak Umalambing, the official Village Government, and the Astungkara Way Foundation as a companion to strengthening ecotourism in Subak.

In the context of Subak in Bali, it can be seen that Subak is an irrigation system for the Balinese people that concerns customary law (Adat Law) and has characteristics, namely social-agriculture-religious, with the determination and spirit of cooperation to obtain water to meet the needs of the community. water in producing food crops, especially rice and pulses. The Subak irrigation system is also a farmer association that manages irrigation water in rice fields. The uniqueness of the Subak irrigation system can be seen in the religious ritual activities carried out regularly by Subak members according to the stages of rice growth, starting from cultivating the land until the rice harvest is stored in the barn. Several studies conducted by expert state that the subak irrigation system is a reflection of Tri Hita Karana (THK).

Agriculture in Bali, especially in Badung Regency, is a very unique form of agriculture in Indonesia, where agriculture in Badung Regency is managed by traditional irrigation institutions, which are often known as subak. UNESCO, at its 36th session on June 29, 2012, in St. Petersburg, Russia, officially announced the recognition of subak irrigated land as a world cultural heritage with the

attributes Cultural Landscape of Bali Province: The Subak System As A Manifestation Of The Tri Hita Karana Philosophy (Sriartha and Windia, 2023).

The recognition of irrigated land as a world heritage site has forced the government of Badung Regency to have a rule that prohibits the construction of buildings in agricultural land areas so that agricultural land is maintained and subak irrigation areas still exist. For this reason, the Badung Regency government, through the Agriculture Service, always evaluates regulations, from government regulations to regional regulations. Clearer rules for governing regulations regarding the protection of agricultural land in Badung Regency can be seen in Badung Regency Regional Regulation Number 26 of 2013 concerning Spatial Plans for Badung Regency Areas for 2013-2033. In Article 81 Paragraph (2), which states the Zoning Regulations for Agricultural Allotment Areas, the cultivation of food crops, as referred to in paragraph (1) letter a, includes:

- a) Securing Subak-based productive food crop cultivation areas as sustainable agricultural land areas.

Regarding the shift in the function of agricultural land in Badung Regency, it is very important to find an alternative way to find a solution to this problem. In this case, the Government of Badung Regency has issued Badung Regency Regional Regulation Number 26 of 2013 concerning Spatial Plans for Badung Regency 2013-2033, which contain policies regarding land use regulations such as the establishment of Regional Spatial plans, especially for agricultural areas. The contents of Badung Regency Regional Regulation Number 26 of 2013 concerning the Spatial Plan for the Badung Regency also explain that there are several zoning issues related to the spatial management of the area in Badung Regency. Zoning policies can be grouped into three categories, namely:

1. The control zone where this zone is protected land is not allowed to be converted.
2. Limited function zone: this zone can be converted but is limited by the government.
3. The zone may be converted without the approval of the local government.

The sanctions imposed by Badung Regency Regional Regulation Number 26 of 2013 concerning the 2013-2033 Badung Regency Regional Spatial Plan in Article 112 state that everyone who violates the provisions is subject to administrative sanctions in the form of:

- a. written warning;
- b. temporary suspension of activities;
- c. temporary suspension of public services; d. business closure;
- d. license revocation;
- e. license cancellation;
- f. demolition of buildings;
- g. restoration of spatial function;
- h. administrative fines. (Amanda and Rudy, 2023)

The arrangement needs to be made so that there is no conversion of agricultural land. The Badung Regency government issued Badung Regency

Regional Regulation Number 26 of 2013, concerning the Spatial Planning for the Badung Regency Area for 2013–2023. Article 1, paragraph 62: Ecotourism is a form of travel to natural areas that is carried out to conserve the environment and preserve the life and welfare of the local population.

Clause 5, district area spatial planning strategy; then in Article 3, paragraph (d), develop the Sarbagita Urban Area, which has the identity of Balinese Culture and controls the conversion of land for sustainable food agriculture. Furthermore, in Clause 5, paragraph 5, the strategy for the development of the North Badung region with the main functions of integrated conservation and agriculture as referred to in Article 4 paragraph (2) letter d includes:

- a) Protect and preserve the protected forest area in Plaga Village, Petang District;
- b) Develop community forests as protected forest buffer zones that are oriented towards environmental sustainability;
- c) Controlling the use of space in the catchment area and water catchment areas;
- d) Developing an integrated agricultural system-oriented agribusiness, including the provision of production infrastructure, yield management, marketing, support for financial institutions, counseling, and research;
- e) Developing effective, efficient, and competitive business institutions; supporting farmers economies with adequate facilities and infrastructure;
- f) Develop KDTKWKp and DTW based on Agrotourism and ecotourism.

Regulation of the Minister of Home Affairs No. 33 of 2009 concerning ecotourism was broken down (lowered) in the form of Regional Regulation of Badung Regency Number 26 of 2013 concerning Spatial Plans for Badung Regency 2013-2033. So that this Regional Regulation can prevent the erosion of agricultural land. Subak ecotourism is a tool to maintain agricultural land so as not to accelerate the process of transferring agricultural land in Bali. However, for Subak Ulamaming, a "trick" and strategy for the road to Subak related to trekking is only 1.5 meters wide, so that agricultural land does not develop into a place to live or thoughts of making accommodations in ecotourism grow.

Legal Reconstruction in the Implementation of the Cultural Tourism Concept in Bali: Managing Ecotourism in Traditional Villages or Subak

Bali Provincial Regulation Number 5 of 2020, regarding Cultural Tourism Standards, Article 2, states that the Bali Cultural Tourism Implementation Standards are prepared based on principles imbued with the Tri Hita Karana philosophy, which originates from Sad Kerthi's local wisdom, including: a. environmentally friendly; b. continuity; c. balance; d. alignment with local resources; e. independence; f. citizenship; g. togetherness; h. participatory; i. transparency; j. accountability; and K. benefit. Article 3: Bali Cultural Tourism Implementation Standards are organized in one unified area, one island, one pattern, and one governance. This creates a legal vacuum related to Subak, Pekaseh, and Krama Subak agreeing to manage ecotourism independently from "undercurrents".

The Tri Hita Karana philosophy, which originates from Sad Kerthi's local wisdom, should be an inspiration for managing Mass Tourism through the concept of sustainable tourism development. This concept was not necessarily born from local ideas, which are philosophies, traditions, and customs that were born in Balinese Hindu society. However, the collaborative concept of sustainable development was formulated by The World Commission for Environmental and Development (WCED), namely the World Commission for Environment and Development established by the General Assembly of the United Nations (Arida, 2017). Satjipto Rahardjo, one of the sociologists of law, observes that in Bali there has been a social change from an agrarian society to a society with the dynamics of cultural transformation and cultural tourism services. The work structure is differentiated due to the law and culture of tourism services (Rahardjo, 1978). According to Picard, the unique religious ordinances, livelihoods, and art of the Balinese people, which cannot be found anywhere else in the world, can be developed as a tourist attraction (Picard, 1992). Clause 5 (1): Components of Tourism Destinations include a. DTW; b. tourism villages; c. accessibility; and D. facilities, public infrastructure, and tourism facilities. (2) DTW and tourism villages as referred to in paragraph (1), letters a and b, include a. natural; b. culture; c. spiritual; and d. artificial.

Legal issues related to the meaning of reconstruction can be understood through renewal or actualization. This has three meanings, namely:

- 1) Reconstructing or renewing things that have existed before (reviving);
- 2) Reconstruct or renew something that has expired (patchwork);
- 3) Reconstructing or renewing it in a completely new or creative-innovative form (Syafiq, 2014)

Reconstruction of Cultural Tourism in the context of ecotourism can be done by desacralizing (reinterpreting textual legal sources). Bali Cultural Tourism in legal politics develops from Ecotourism Tourism; for example, "Kuta Traditional Village" which first represents Bali, is desacralized to become Cultural Tourism's "Mass Tourism Version". This is not wrong if the writer compares it with Subak Umalambing Ecotourism, Subak Mambal, and Pandawa Beach in Badung Regency. Related to Subak Mambal, with an area of 166 hectares, it was first developed by Krama Subak from agro-tourism by the community to eco-tourism. According to Pekaseh Subak Mambal Gusti Putu Adnyana, the planning process for Ecotourism in Subak Mambal, Badung Regency, is because of the natural scenery in Subak's landscape with stretches of rice fields. The design plans highlight the cultural traditions of agriculture. The agricultural culture that will be offered to tourists is the process of plowing agricultural land with the help of cows, making nurseries, transplanting, and other sequences of rice planting activities. Apart from that, it is also planned to establish a track for jogging as well as running around the Subak area. This track crosses Munduk Semana and Munduk Kedampal. The length of this track is estimated to reach 1.5-2 Km. So tourists can do sports activities like jogging or running around Subak while enjoying views of the surrounding rice fields. Based on information from Subak Mambal's colleagues, this idea was inspired by Subak

Umalambing Ecotourism, which also has a jogging track. The legal issue of ecotourism in Subak Mambal is actually not a purely empirical phenomenon but also shows normative characteristics. In a legal situation, *sein* and *sollen* cannot be separated sharply from one another. Law is the atmosphere of *das sein*, in which *das sollen* finds its form. Facts and rules in law always go hand in hand. The law is both a fact and a rule. With Jogging in the Ecotourism Area, it is hoped that it can improve the health and fitness of visitors and promote awareness about the importance of environmental conservation.

There are also plans to sell places around the four Subak Mambal ecotourism tracks that sell local products. By prioritizing local products around ecotourism, it can promote cultural diversity and local wisdom owned by the local community. Furthermore, legal issues related to Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages require an in-depth study of whose interests are being fought for. The laws that are formed are not always complete and clear. Sometimes the makers of laws and regulations either intentionally or unintentionally use terms or understandings that are general in nature so that the result can be given more than one meaning. Furthermore, sometimes the terms used in laws and regulations do not have a clear meaning or cannot be realized in the reality of a society that has experienced development and change (Prakoso, 2019). Another thing is that sometimes you can find problems in society that don't exist or haven't been regulated by laws and regulations. In this statement, the author dissects the case based on Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages, Clause 60, letter b. Traditional Villages have *Utsaha Desa Adat*, which consists of BUPDA. Clause 62, number 1, BUPDA as referred to in Clause 60, letter b, is *Utsaha Desa Adat* in the economic sector and the real sector; Paragraph number 2, the BUPDA as referred to in paragraph (1) is formed, regulated, and managed based on customary law; Paragraph 3, further provisions regarding guidelines, mechanisms, and the establishment of BUPDA are regulated in Regional Regulations. Clause 104 of this Regional Regulation shall come into force on the date of promulgation in the Regional Gazette of the Province of Bali, the Year 2019, Number 4 Noreg Regional Regulation of the Province of Bali (4-131/2019), Promulgated in Denpasar on May 28, 2019, Regional Secretary of the Province of Bali In the reality of culture, customary law, and economic phenomena in the traditional village of Kutuh regarding the birth of the Pandawa Beach Ecotourism Traditional Village Business Managed by "BUMDA" (Baga *Utsaha Manunggal Desa Adat*) in 2014. The existence of BUMDA in the Kutuh Traditional Village found arrangements in the Dinas Village government through Village Regulation Number 08 of 2014 concerning the Establishment of BUMDA. Furthermore, *Bendesada Kutuh* also issued Decree *Bendesada* No. 12/KEP.DAK/XII/2014, dated December 12, 2014, regarding the same matter. In customary law, it turns out that the Head of the Kutuh customary village of the Kutuh Traditional Village has issued the *Pararem* of the Kutuh Traditional Village Number 01 of 2014 concerning the Formation and Management of the *Utsaha Manunggal Baga* of the Traditional Village (BUMDA) of the Kutuh customary village, which was stipulated by the Head of the Kutuh Traditional

Village, I Ketut Suwena, S.Pd.H, on June 16, 2014. Related to the Regional Regulation on Traditional Villages No. 4 of 2019, regarding traditional villages, this BUMDES existed before the enactment of the regional regulation. In the context of a large rule-of-law nation, people are needed who can grasp the meaning of the development of the rule of law well and intelligently. The rule of law is not just a document but a project that goes far beyond words and concepts. The point is that the rule of law is also the behavior of the people who implement it (Raharjo, 2002).

In the context of the legal regulations established by the Desa Dinas Kutuh and the traditional village mentioned above, there are two legal arrangements for the BUMDES issue. This issue can be studied through "law in the book" and "law in action" which means discussing "law as a legal fact" and "law as a social fact" so that it fully discusses "law and social society". In that context, the law is not a condition but a process. Roscoe Pound's main idea is that law is not a condition but a process, so the law is good because of the process of making it, interpreting it, and applying it.

In modern law, a critique of liberal legalism itself is about the idea that the goal of justice can be achieved through an objective, impartial, and autonomous system of rules and procedures. The principle of the rule of law in liberal legalism has been unable to overcome fundamental problems regarding social justice and has also become the main supporter of power. This means dissecting the BUPDA case and giving juries space to find out where the alignment of indigenous peoples is in their respective traditional villages and how it is implemented? Do you really find justice for indigenous peoples, or can you maintain the philosophy of Tri Hita Karana in the local context? It is not surprising, therefore, that experts state that the essence of critical legal studies lies in the fact that law is politics. Critical legal studies seek to prove that behind the law and social order that appear to the surface as something neutral, they are actually filled with certain interests that are biased toward culture, race, gender, and even economic interests (Munir Fuady, 2003)

If we follow the perspective of Karl Marx, he considers that the main function of the law is to veil or cover up unequal relations between forces. In looking at legal issues, critical legal studies reject the difference between theory and practice and also reject the difference between facts and values, which is a characteristic of liberalism. Therefore, critical legal studies reject the possibility of a pure theory and place more emphasis on theories that have the power to influence practical social transformation.

In legal politics related to the management of ecotourism in Bali, dynamics occur due to changes in society and legal developments in the current conditions. This means that the law is late in changing society in the context of ecotourism and tourism, which really need legal assistance as a tool for community change related to tourism. In Bali Province Regional Regulation Number 4 of 2019, regarding customary villages, what is called customary law is unwritten (not unwritten) law. In the legal text of Clause 13 paragraph (1), every customary village has an awig-awig; awig-awig as in paragraph (1) consists of a) an explicit awig-awig and b) an awig-awig that has not been written yet. Awig-awig has not

been written down; it must follow the perspective of customary law, which is an unwritten law, meaning that law is community behavior. It can be understood that Pound argues that law is a process that takes shape in determining statutory regulations and the decisions of judges and courts (Ibid, 2021)

The process of the birth of ecotourism is due to the behavior of indigenous peoples (traditional villages in Bali) and the Subak/Krama Subak community in Bali, who want to keep agricultural land from turning into residential land and other industries. In the reality of farmer culture, Subak Umalambing is proceeding towards organic farming-based ecotourism. At first, it was the initiative of Krama Subak to maintain subak as a tool for rice production. Furthermore, it was designed because of its strategic location and its potential to be used for ecotourism by collaborating with the Astungkara Way Foundation. The establishment of this ecotourism, based in the Subak community in 2018, which is also related to the Green School for Subak Umalambing, is made into a social laboratory where students will see real agricultural models in the community. After the COVID-19 pandemic, the student activities to enter the Subak Ecotourism Laboratory were postponed. However, during the COVID-19 pandemic, Subak Umalambing saw an increase in Subak residents from 240 to 275. The COVID-19 pandemic has turned those who are sprawled out in tourism into farmers. The potential of Subak Umalambing has natural beauty in the form of expanses of rice fields and flowers, a strategic location, diverse agricultural communities, cattle and fish, ritual activities, and processed Umalambing agricultural products.

Subak Umalambing Ecotourism, in collaboration with Astungkara Way, offers seven tours on the www.astungkaraway.com website page: Jungle Crossing, which is a two-day off-grid trip through the last primary forest that bridges South and North Bali. The total walking distance is 24 Km, for experienced hikers only. Children under 12 years old are not allowed. Second, the Grounded Course is a grounded course conducted for 3.5 months to go through the rice cycle, from seed to harvest, with local farmers. In addition, learning to use local endemic plants as food and medicine, sell and share with local people, and spend quality time in the fields Third, the half-day Farm Tour (the half-day farm tour), which is an agricultural tour that takes place every Wednesday morning, and tourists are welcome to stay until the afternoon to take part in cooperation (participating in communal farming), for example harvesting agricultural produce and cooking yourself guided by a local guide or local chef related for the sake of lunch, and enjoy the tranquility of nature, rice fields, and rice. Fourth, Coast to Coast (coast to coast): this journey starts along the most visited beaches in Bali and progressively takes you back in time. The path that is passed is a remote route. The student then learns about composting and the importance of soil, with a focus on plastic waste. Fifth, Balinese Immersion (Balinese immersion), which is carried out for 2 days and 1 night from eucalyptus trees, one of the oldest trees in Bali, to the Pinge traditional village and a unique water blessing ceremony to the Alam Sandan plantation, Sixth, the Overnight Farm Experience (overnight farm experience) is an overnight stay in a quiet rice field with a farming experience. Seventh, A Journey From Tree to Sea (a journey

from tree to sea) is a 6-day journey to a remote place to find authentic northern Balinese villages and is truly connected with local culture and customs, a total distance of 77 km on foot. The Subak Ulamanging ecotourism model was designed by the Astungkara Way Foundation. In the relationship between Subak Ulamanging and a vision of sustainable ecotourism, it can be associated with a norm or rule when viewed from another angle, but it is also the result of abstraction from a pattern of behavior. If empirically a behavior is repeated in the same form, then the behavior becomes a pattern of behavior (Soekanto, 1979).

CONCLUSIONS AND RECOMMENDATIONS

The regulation regarding ecotourism in Law Number 10 of 2009, concerning tourism, basically says that there is a void of norms in the Tourism Law. Furthermore, in the Regulation of the Minister of Home Affairs Number 33 of 2009, concerning Guidelines for the Development of Ecotourism through Planning, Utilization, and Control (Clause 4, paragraph (1)), Clause 5, paragraph (2), ecotourism planning as in paragraph (1) letter (a) outlined in the RPJPD, RPJMD, and RKPD Paragraph (2): Ecotourism planning, as referred to in paragraph (1), is part of Regional tourism. In Badung Regency Regional Regulation Number: 26 of 2013, concerning the spatial planning of Badung Regency, in Clause 1, number (62), ecotourism aims to protect forest areas, develop an effective farmer's economy, and in Clause 4, letter (f), develop agro-tourism and ecotourism.

The implementation of ecotourism law in Bali is related to Bali Provincial Regulation Number 5 of 2020, concerning Cultural Tourism Standards. Whereas Clause 2 in the Bali Cultural Tourism Implementation Standards was prepared based on the principle imbued with the philosophy of Tri Hita Karana, which originates from the local wisdom of Sad Kerthi, there is a legal vacuum in the context of ecotourism with cultural tourism standards. Clause 5 paragraph (2) DTW and Tourism Village, as referred to in paragraph (1) letters a and b, include a. natural; b. culture; c. spiritual; and d. artificial. This is just mentioning the tourist village. On the issue of ecotourism and cultural tourism, cultural tourism law can be reconstructed in the context of ecotourism by desacralizing (reinterpreting textual legal sources).

ADVANCED RESEARCH

There needs to be an understanding between regulation makers and stakeholders in Bali in developing cultural tourism and ecotourism that are synergistic in the development of laws that are responsive and culturally meaningful.

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REFERENCES

- Abintoro Prakoso, (2019), *Penemuan Hukum: Sistem, Metode, Aliran dan Prosedur dalam menemukan Hukum*, LaksBang PRESSindo, Surabaya.
- Amad Syafiq, (2014), *Rekonstruksi Pemidanaan Dalam Hukum Pidana Islam (Perspektif Filsafat Hukum)*.
- Anthon Freddy Susanto, (2005), *Semiotika Hukum dari Dekonstruksi Teks Menuju Progresivitas Makna*, Refika Aditama, Bandung.
- I Gede Putu Ambara Putra, I Putu Lantika Oka Permadi, (2021), *Fungsi Subak Umalambing Dalam Upaya Pencegahan Alih Fungsi Lahan Pertanian di Desa Aat Sibangkaja*, <https://e-journal.unmas.ac.id/index.php/jhm/article/view/3468>.
- I Putu Sriartha dan Wayan Windia, (2023), *efektivitas implementasi kebijakan pemerintah daerah dalam mengendalikan alih fungsi lahan sawah subak: studi kasus di kabupaten Badung Bali* URL : <http://www.ojs.unud.ac.id> diakses tanggal 11 Juli 2023.
- I Wayan Wesna Astara, (2022), *Pertarungan Budaya dan Politik Hukum Dalam Pengelolaan Ekowisata, Berbasis Filosofi Tri Hita Karana' Dalam Pidato Ilmiah Pengukuhan Guru Besar Tetap Bidang Ilmu Hukum Pada Fakultas Ilmu Hukum Universitas Warmadewa"*.
- Kadek Chedi Sinar Amanda, Dewa Gede Rudy, (2023) *Peraturan Terkait Perlindungan Lahan Pertanian Dari Alih Fungsi Di Kabupaten Badung*, [file:///C:/Users/ASUS/Downloads/52199-1021-121765-1-10-20190822%20\(3\).pdf](file:///C:/Users/ASUS/Downloads/52199-1021-121765-1-10-20190822%20(3).pdf). Diakses tanggal 11 Juli 2023.
- Leopold Pospisil, (2016), *Antropologi Hukum Sebuah Teori Komparatif*, Nusa Media, Bandung.
- Nyoman Sukma Arida, (2017), *EKOWISATA, Pengembangan, Partisipasi Lokal, dan Tantangan Ekowisata*, Cakra Press, Denpasar,
- Peter Fitzpatrick, dalam Munir Fuady, *Aliran Hukum Kritis : Paradigma Ketidakberdayaan Hukum*. Bandung: Tp.
- Picard, Michel, (1992), *Bali Tourism Culture et Culture Touristique (Bali: Pariwisata Budaya dan Budaya Pariwisata)*. Paris: Editions I'Harmattan.

Astara, Budiarta, Wesna

Satjipto Rahardjo, (1978) *Hukum dan Perubahan Sosial, Suatu Tinjauan Teoritis Seta Pengalaman Pengalaman di Indonesia*, Genta Publising, Yogyakarta.

Satjipto Rahardjo, (2003), *Hukum itu Perilaku Kita Sendiri*, Kompas, 23/9/2002.

Soerjono Soekanto, 1986, *Mengenal sossilogi hukum*, Offset Alumni.

Soerjono Soekanto, (1986), *Mengenal sossilogi hukum*, Offset Alumni.