



Theoretical Basis for Setting Baga Utsaha Druwen Traditional Village (BUPDA) as an Economic Institution for Traditional Village Communities in Bali

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ABSTRACT

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Bali is one of the provinces that does not manage its economy with the strength of natural resources, but with the strength of cultural resources. Just like natural resources, culture as an economic resource needs to be cared for. From the point of view of the science of law, differences in the positions of the burdens and the benefits resulting from these assignments constitute injustice. The allocation of these functions does not necessarily result in the establishment of a fair (structured, programmed, routine and systematic) cultural development system that connects budget recipients with cultural development actors. This research uses normative research methods, normative legal research is a scientific research method to find the truth based on scientific logic from the normative side. As is well known, each traditional village in Bali has different village potentials ranging from potential in the fields of agriculture, plantations, fisheries/marine affairs, tourism, to other creative industries. The formation of BUPDA is the best strategy in managing the potential and assets of traditional villages in Bali. Traditional villages that have grown and developed for centuries and have rights of origin, traditional rights, and original autonomy rights to manage their own household, have made a very large contribution to the continuity of people's lives in the nation and state that need protection and empowerment. As a community economic institution, BUPDA receives legal and political protection both nationally and internationally in accordance with applicable laws and regulations.

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1. INTRODUCTION

Bali is one of the provinces that does not manage its economy with the strength of natural resources, but with the strength of cultural resources. Just like natural resources, culture as an economic resource needs to be maintained and cared for. Until now, the preservation of Balinese culture as an economic resource is the responsibility of the indigenous village community. This cost includes all costs incurred by individuals, families, family/clan groups, social security groups and community groups in traditional villages. These costs include certain regular or special costs and relate to the type, location, scope, amount and time of activity.

Although it has never been studied specifically, the expenditure for maintaining this culture must be quite large. Indigenous peoples in Bali have never calculated and

complained about the amount of these costs. The basic philosophy of organizing the maintenance of this culture is sincerity and a deep-rooted sense of devotion to God rooted in religious teachings (Hinduism).

Balinese culture is the spirit and basic capital for organizing Bali tourism. Bali's gross domestic income, as well as revenue from the tourism sector, is fully generated from the maintenance of that culture (30.92% from the trade, hotel and restaurant sector; 21.52% from the agricultural sector; and 13.63% from the tourism supporting services sector). Even though it provides such broad and large benefits, the burden of maintaining culture remains the full responsibility of the traditional village and all its citizens, not the government or the tourism business community.

From the point of view of the science of

law, the difference in the position of burdens and benefits resulting from the maintenance or development of this culture is an injustice. The maintenance burden lies with the adat village, while the benefits are enjoyed by the government (in the form of taxes) and the tourism business community (in the form of profits). There is no structured and systematic channeling that makes the benefits flow to traditional villages. Unstructured and unsystematic assistance and donations (in various names: coaching money, etc.) from the government or donations and assistance (in various names: corporate social responsibility, etc.) from the tourism business community are not assistance or donations included in the construction of the understanding and concept of justice.

The allocation of these functions does not necessarily result in the establishment of a fair (structured, programmed, routine and systematic) cultural development system that connects budget recipients with cultural development actors. The budget recipient has set the budget for certain activity blocks and the amount of the budget received by the budget recipient does not allow the budget recipient to take over the burden of routine development costs as borne by the customary village. The breakthrough that has been made by the Provincial Government of Bali is to create a source of financing and potential management of economic resources that exist in each traditional village which is independent, managed and developed by the traditional village itself.

Law Number 6 of 2014 concerning Villages states that village development aims to improve the quality of human life and alleviate poverty, through the provision of meeting basic needs, building facilities and infrastructure, developing local economic potential, and utilizing natural resources and the environment in a sustainable manner, by prioritizing togetherness, kinship and social justice. As we know that Villages are not poor in potential, but poor in innovation (Suryanto, 2016). Furthermore, Article 87 of the Law states that the village government can form a business entity called BIM Desa which is managed in a spirit of kinship and mutual cooperation to utilize all economic potential, economic institutions, as well as the potential of natural and human resources in order to improve the welfare of village communities.

Empowerment of BUPDA reform acces in village land asset management in Bali (Utama,

2022). Another research about local tourism conducted Astara et al (2022) which focus on penglipuran traditional village, kubu village, bangli regency, bali as a cultural tourism village based on local wisdom and creative economy.

2. RESEARCH METHOD

This research uses normative research methods, normative legal research is a scientific research method to find the truth based on scientific logic from the normative side (Efendi & Ibrahim, 2011). Legal materials in normative research can be in the form of primary legal materials, secondary legal materials and non-legal materials (Amiruddin & Asikin, 2008). There are 3 (three) approaches in this writing, namely Statute Approach, Case Approach, and Historical Approach (Irwansyah, 2020).

3. RESULTS AND DISCUSSION

In the area of Bali which covers 5,636.66 km², there are currently 1,493 Traditional Villages spread across all 9 (nine) Regencies/Cities in Bali. This customary law community unit in Bali is a social-religious bond. Traditional Village as a customary law community unit based on the philosophy of Tri Hita Karana which is rooted in the local wisdom of Sad Kertih, imbued with Hindu religious teachings and cultural values and local wisdom that lives in Bali, has a very large role in the development of society, nation and state so that it needs to be protected, protected, fostered, developed and empowered in order to realize the life of Krama Bali who are politically sovereign, economically independent and have a personality in culture.

As is well known, each Traditional Village in Bali has different village potentials ranging from potential in the fields of agriculture, plantations, fisheries/marine affairs, tourism, to other creative industries (Sumiasih, 2018). So far, what has happened is that the community or Krama Desa Adat in Bali only act as spectators because the potential of the existing villages is more exploited by outsiders. The potential possessed by the Traditional Village should be managed by the Traditional Village itself and utilized as much as possible to improve the welfare of the Traditional Village Krama. Therefore, the formation of BUPDA or Baga Utsaha

Padruwen Traditional Village is the best strategy in managing the potential and assets of a Traditional Village in Bali (Biro Hukum Setda Provinsi Bali, 2022).

In 2020 the Provincial Government of Bali sparked an idea to assist traditional villages in carrying out such a heavy cultural function. The Provincial Government of the Level I Region of Bali sparked the idea of forming a BUPDA in the economic sector and the real sector in each traditional village (Putra & Werastutui, 2022). BUPDA is a business entity mandated by Regional Regulation Number 4 of 2019 and Governor Regulation Number 4 of 2020 as an effort to accommodate all activities in the economic sector and/or public services managed by Traditional Villages and/or cooperation between Traditional Villages. Because the number of traditional villages is currently 1,493 traditional villages, the formation of BUPDA is carried out in the form of a pilot project and is formed in several traditional villages in Bali. At this time, approximately 250 BUPDA have been formed out of a total of 1,493 customary villages.

Philosophically, business entities in the village contain economic principles in accordance with Article 33 of the 1945 Constitution and also uphold the Pancasila economic pillar because they use a deliberation system for decision making so that residents can play an active role so as to increase citizen solidarity. A village business entity is a business entity whose capital is wholly or substantially owned by the village through direct participation originating from village assets that are separated to manage assets, services and other businesses for the maximum welfare of the village community.

Business entities that have high social value have also begun to appear in traditional villages in Bali under the name Baga Utsaha Padruwen Desa Adat, hereinafter abbreviated as BUPDA. This institution is a business unit belonging to a traditional village that carries out business activities in the real economy, services and/or public services, except for businesses in the financial sector, which are organized based on customary law and managed with modern governance to improve the welfare and independence of customary village residents. Activities carried out with the principles of independence (satyagraha) and

sovereignty (swadesi) and in accordance with local Balinese wisdom such as Kawigunan (benefits), Menyama braya (family), Masikian (union), Gilik-saguluk (togetherness), Parasparos (conference), Salunglung sebayantaka (mutual cooperation), and Pade gelahang (shared ownership).

BUPDA can manage traditional village padruwen which is wealth owned by traditional villages, both material and immaterial for the benefit of traditional villages and the welfare of krama (traditional village communities). Padruwen Traditional Villages that are material in nature can be in the form of: a) Traditional Village authority; b) Traditional Village land; c) natural resources; d) economic resources which are the traditional rights of the Traditional Village; e) sacred areas, sacred places, sacred buildings belonging to the Traditional Village; f) buildings belonging to the Traditional Village; g) objects of a magical religious nature; h) financial and sarwa mulé; and i) other material assets. Whereas Padruwen Traditional Villages that are immaterial can be in the form of belief systems, traditional values, customs, arts and culture, as well as local wisdom imbued with Hinduism.

With regard to legal status, the position of this business entity cannot be equated with business entities such as PT, CV, or cooperatives because the basis for establishing a village business entity is a regulation, not a deed. BUPDA is a collective customary village institution, on a local village and rural area scale whose establishment is discussed in deliberations and determined through customary village regulations. In its management, those with legal entities are business units formed by BUPDA. Because BUPDA is a village business entity, there are three types of capital that can be used, namely; 1) sourced from the Traditional Village Revenue and Expenditure Budget funds; 2) Traditional Village Equity Participation through grants/cooperation, government assistance, village assets; 3) Village community capital participation.

In essence, the prosperity of the Indonesian people must be built starting from the village level (Penabulu, 2016). BUPDA provides space for taking the role of the state through the Traditional Village to manage the natural resources owned by

the Traditional Village and the areas of production which are important for the Traditional Village which controls the livelihood of manners. BUPDA plays a strategic role as one of the main interventions for Traditional Villages in improving the welfare of krama through improving public services, growth and economic equity in Traditional Villages. This business entity can carry out business in the economic and/or public service sector and its activities are not only oriented towards financial gain, but also oriented towards supporting the improvement of the welfare of krama. BUPDA can carry out the functions of services, trade, and other economic development. Because this institution is in a village setting, it is necessary to have organizational management that emphasizes community traditions. This tradition parallels the wealth of social capital and political capital and influences the resilience and sustainability of business entities in the village (Putra, 2015).

The constitutional juridical basis for BUPDA arrangements is:

- a. The Preamble of the 1945 Constitution of the Republic of Indonesia - protects the whole nation and all of Indonesia's bloodshed - promotes public welfare.
- b. Article 18b paragraph (2) – the state recognizes and respects customary law community units along with their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia regulated in law.
- c. Article 18b paragraph (3) – cultural identity and traditional community rights are respected in accordance with the times and civilization.

The organic juridical basis for the regulation of customary village BUPDA, includes:

1. Law no. 39 of 1999 concerning Human Rights Article 6 paragraph (1) – in the context of upholding human rights, differences and needs within customary law communities must be considered and protected by community and government laws. Article 6 paragraph (2) – the cultural identity of indigenous and tribal peoples including rights to communal

land is protected, in line with the times.

2. Law no. 23 of 2014 concerning Regional Government Article 1 number 43 - a village or what is called by another name, is a legal community unit that has territorial boundaries that are authorized to regulate and manage the interests of the local community, based on local origins and customs that are recognized and respected within the NKRI government system. Article 2 paragraph (9) – the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia.
3. Act. No. 15 of 2023 concerning the Province of Bali Article 6 states that within the territory of the Province of Bali there are traditional villages and subak which are regulated by Regional Regulations of the Province of Bali in accordance with the provisions of laws and regulations. In the elucidation of Article 6 what is meant by a traditional village is a Balinese customary community unit that has a unity of Balinese customs, traditions, arts and culture with the same or different territorial boundaries from the village as referred to in the Law on villages and has its own institutional structure and is authorized to carry out affairs of Balinese customs, traditions, arts and culture based on local wisdom. Furthermore, what is meant by subak is a traditional organization in the field of water use and/or crop management at the farming level of the Balinese indigenous people who are socio-agrarian, religious and economic in nature which have historically continued to grow and develop.
4. Regional Legal Products of the Provincial Government of Bali
The formation of BUPDA in each Traditional Village in Bali is in accordance with the Regional Regulation of the Province of Bali Number 4 of 2019 concerning Traditional Villages in Bali.

Where explained in CHAPTER IX regarding Padruwen and Utsaha Traditional Villages that the Traditional Village has Utsaha Traditional Villages in the form of Village Pacingkreman Labda (LPD) and Baga Utsaha Padruen Traditional Villages (BUPDA). Bali Province Regional Regulation Number 4 of 2022 concerning Guidelines, Mechanisms, and Establishment of Baga Utsaha Padruwen Traditional Villages.

5. People's Law - Customary Law – Awig-awig – Traditional Village Pararem in Bali.

4. CONCLUSION

From what is explained above it can be concluded as follows:

1. Philosophically, a traditional village that has grown and developed over centuries and has rights of origin, traditional rights, and original autonomy rights to manage its own household, has made a very large contribution to the continuity of community life in the nation and state, it needs protection and empowerment so that it becomes: 1) a strong traditional village; 2) developed traditional village; 3) independent traditional village; and 4) prosperous traditional village. The implications of forming a traditional village with such characteristics are expected to become a strong foundation in carrying out governance and development towards independent and prosperous customary manners.
2. Sociologically, Strengthening Traditional Villages in the Province of Bali requires governance and regulation that takes into account all aspects and dimensions of life, sakala and niskala, dimensions of space and time, and dimensions of life according to Sad Kerthi's values. One form of strengthening the Traditional Village is carried out by establishing the Baga Utsaha Padruwen Desa Adat, hereinafter abbreviated as BUPDA, which is a business unit owned by a

Traditional Village that carries out business activities in the real economy, services and/or public services, except for businesses in the financial sector. BUPDA is held based on customary law as well

3. Juridically, BUPDA is a form of economic institution that fulfills community requirements in full and intact, both in terms of human scale, ownership identity, obligations, fulfilling *gemeinschaft* requirements (human groups with close relationships and very close interactions), and culture. As a community economic institution, BUPDA has very strong legal and political protection, including from the United Nations Declaration on Indigenous Peoples (United Nations Declarations on the Rights of Indigenous Peoples, 2006); national and international policies entitled community development and community management from the United Nations Development Program, the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2014 concerning Regional Government, Law Number 39 of 1999 concerning Human Rights, Law Number 15 of 2023 concerning the Province of Bali, Regional Regulation Number 4 of 2019 concerning Traditional Villages in Bali, Regional Regulation Number 4 of 2019 2022 Concerning Guidelines, Mechanisms, and Establishment of Baga Utsaha Padruwen Traditional Villages, Customary Law/Awig-awig, Pararem of traditional villages in Bali.

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