



Legal politics in the management of tourism villages through a traditional customary law-based agreement model In Bali

I Wayan Wesna Astara*, Nyoman Putu Budiarta, Putu Ayu Sriasih Wesna, I Made Sepud, Anak Agung Laksmi Dewi

Warmadewa University, Denpasar-Bali, Indonesia

Corresponding Author: I Wayan Wesna Astara

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Abstract

This study examines the legal politics of tourism village management in Bali through a customary-law-based agreement model. Its urgency lies in the distinctive character of tourism village management, which depends on the socio-cultural and natural potential of each customary village. Using empirical legal research with statutory, conceptual, and socio-legal approaches, the study analyses Desa Adat Penglipuran, Desa Adat Tenganan Pegringsingan, and Desa Adat Sangeh through the theory of culturally meaningful law. The findings show that Penglipuran shifted from a government cooperation agreement toward a village-owned business entity (BUPDA), Tenganan Pegringsingan applies an independent, tradition-based system, and Sangeh moves from state-dominated management toward customary empowerment through BUPDA.

Keywords: Legal politics, BUPDA, empowerment of Balinese customary communities

Introduction

Tourism developed in Indonesia makes a significant contribution to community income. Law, in this context, functions as an instrument to promote the welfare of the people it governs. Indeed, law serves as a means of enhancing the well-being of Indonesian society. In the process of formulating laws into statutory regulations, the Government and the House of Representatives (Dewan Perwakilan Rakyat, DPR) inevitably play an intervening role, raising the question of whether the resulting legal products truly serve the interests of the people or merely the interests of particular groups. The legal norms that are established should reflect the will of the people, thereby ensuring conformity between statutory regulations and public conduct. In essence, individuals read legal provisions and act in accordance with what the law prescribes. However, empirical reality demonstrates a different situation, one that is not entirely consistent with the common understanding of how law operates. This illustrates what is meant by the intervention of human behavior. In the context of Bali's cultural tourism, empirical evidence supports the theoretical proposition that law is not merely a business of rules, but also a matter of behavior. Law is therefore not an absolute and final institution; rather, it depends fundamentally on how people perceive and utilize it. Ultimately, human beings are the determining factor (Rahardjo, 2009: 5).

The politics of law governing tourism in Bali, particularly with respect to cultural tourism, demonstrates that Bali's identity as a destination for cultural tourism is not a matter of coincidence. Rather, it originates from the intrinsic values of Hinduism, Balinese culture, traditions, the natural environment of Bali, and the Balinese people, whose lives are inseparably integrated with nature, culture, and customary practices as expressions of cultural behavior. To strengthen this cultural behavior, law functions as an instrument of social engineering, particularly within the context of tourism development vis-à-vis ecotourism. Furthermore, the politics of law cannot be separated from the relationship between law within the cultural sphere and

state law, whereby state law adopts local law or customary law (adat law) as a legal order that is recognized and accepted in regulating the dynamics of human life within the cultural sphere (Astara, 2025: 59) ^[2].

The concept of law in Bali is not understood solely through the provisions of statutory legislation. Rather, law exists within a cultural sphere and is embedded in the daily practices of customary law communities (masyarakat adat). This is what is referred to as law as a cultural meaning (law with cultural significance): a form of law that is not rigid or detached, but is deeply rooted in customary values, traditions, and the collective beliefs of the community (Astara, 2026: 20) ^[3].

Tourism constitutes a public policy that may be understood at multiple levels of meaning, particularly as a decision-making process (Kurniawan & Lutfi, 2017: 15) ^[9]. Public policy represents a form of intervention by the Central Government and the Provincial Government of Bali in the governance of tourism in Bali. In examining law and public policy, there are at least two approaches: first, by analyzing how policies are actually formulated and implemented (policy process); and second, by examining the substance of the policy (policy content) through a normative legal analysis of the applicable legal norms (Kurniawan & Lutfi, 2017: 20) ^[9]. The concept of culture-based tourism, as a matter of legal substance, is naturally examined within the framework of ecotourism law by analyzing the legal processes governing ecotourism, for example, in the subak irrigation systems of Bali and ecotourism initiatives managed by desa adat (customary villages). In essence, a policy that is not supported by appropriate legal instruments will be difficult to implement and cannot effectively serve as a guideline for its execution. Against this background, although legal norms regulating ecotourism have been enacted, their implementation has often fallen short of the objectives prescribed by those regulations. Consequently, provincial and regency governments throughout Indonesia have enacted regional regulations (peraturan daerah) as legal frameworks to explore and develop the potential of villages and, particularly in Bali, desa adat (customary villages).

Based on this background, the study is directed by two research aims. The first is to examine the legal construction for the development of ecotourism policy law that is oriented toward and benefits the local communities of Bali. The second is to identify how culturally meaningful law (law with cultural significance) can be recognized in the implementation of the legal texts governing cultural tourism in order to promote the welfare of Bali's customary law communities.

The novelty of this research lies in its innovative idea of identifying law with cultural significance within the framework of ecotourism law through the concept of Law in the Cultural Sphere. A previous study, later published as a book by Isharyanto *et al.* entitled *Tourism Law and the Welfare State (Between Public Policy and Local Pluralism)*, examines the authority of regional governments in formulating public policies to regulate tourism law. From the governmental perspective, that study argues that a tourism policy model based on local pluralism, aimed at realizing the welfare state, requires an integrated policy framework characterized by cultural values (Haryanto *et al.*, 2019) [7]. Nevertheless, the present research differs substantially, as it employs Balinese culture as the foundational basis for the formulation and development of legal policy.

Methodology

This study employs empirical legal research supported by statutory, conceptual, and sociology-of-law approaches, in accordance with the legal issues that constitute the focus of the study. This is consistent with legal research methodology, which recognizes that legal research is *sui generis*, encompassing both the study of legal norms and the examination of how law operates and is implemented in practice within society. Legal science is an applied discipline concerned with both what ought to be (*das Sollen*) and what actually exists in society (*das Sein*). Accordingly, this study addresses the gap between the legal policies governing ecotourism and the reality of their implementation in practice (Haryanto *et al.*, 2019) [7]. The research was conducted at three sites, namely Desa Adat Penglipuran (Bangli), Desa Adat Tenganan Pegringsingan (Karangasem), and Desa Adat Sangeh (Badung), using interviews with customary leaders (*bendesa adat*, *prajuru adat*, and managers), focus group discussions, and the analysis of customary legal instruments (*awig-awig* and *pararem*) as well as related regional regulations. The data were analyzed qualitatively through the theory of culturally meaningful law.

Research Results

The Legal Construction of Baga Utsaha Padruwen Desa Adat (BUPDA) as a Local Economic Institution in Bali

Baga Utsaha Padruwen Desa Adat (hereinafter referred to as BUPDA) is a local economic institution of Bali's customary law communities (*masyarakat adat*) founded upon the philosophy of Tri Hita Karana. This philosophy may be applied to the relationship between human beings (*pawongan*) in managing local economic enterprises at the level of *desa adat* (customary villages) in Bali. From a constitutional perspective, the Constitution provides the legal legitimacy for customary communities to engage in community-based economic activities. Article 18B paragraph (2) of the 1945 Constitution of the Republic of

Indonesia provides that the State recognizes and respects units of customary law communities together with their traditional rights, insofar as they remain in existence and are consistent with the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law. This constitutional policy serves as the legal foundation for the implementation of community-based local economic activities through the enactment of Regional Regulation of Bali Province Number 4 of 2019 concerning Customary Villages in Bali. Article 41 paragraph (3) letter (g) provides for the establishment and management of BUPDA. Furthermore, Article 60 stipulates that a *desa adat* may establish *Utsaha Desa Adat* (Customary Village Enterprises), consisting of the *Lembaga Perkreditan Desa* (LPD) and the BUPDA. In addition, Article 62 paragraph (1) provides that BUPDA constitutes a *Utsaha Desa Adat* operating in the fields of economic activities and the real sector.

Within the context of the objectives of law, the urgency of BUPDA may be understood through the legal theory of Gustav Radbruch (Ali, 2002: 8) [1], which emphasizes the realization of justice (*Rechtsgerechtigkeit*) in the establishment, implementation, and evaluation of BUPDA. Radbruch further maintains that the law must also embody utility (*Rechtsutilität*) and legal certainty (*Rechtssicherheit*). In practice, the development of Bali's tourism industry, particularly in advancing sustainable cultural tourism, requires legal regulations that possess cultural significance. According to this concept, legal policy should be formulated through the concretization of cultural values, the philosophy of Tri Hita Karana, and the cultural practices of Bali's customary law communities. Such an approach seeks to harmonize local legal instruments including *awig-awig*, *pararem*, and the Regional Regulations of Bali Province from both sociological and philosophical perspectives rooted in Balinese Hindu culture (Astara, 2025: 99) [2], thereby enabling state law to function effectively within the cultural sphere.

The development of mass tourism characterized by capitalist orientations within the dynamics of Balinese society has given rise to a thesis, antithesis, and dialectic in the development of Bali's cultural tourism. This condition has resulted in disparities in Regional Original Revenue (*Pendapatan Asli Daerah*, PAD), which remains concentrated in South Bali, particularly with respect to infrastructure development. In addition, the expansion of mass tourism has generated various challenges, including economic inequality, land-use conversion, the marginalization of customary law communities, environmental degradation, and the commercialization of Bali's sacred sites and cultural heritage. Within the framework of sustainable tourism development, the role of *desa adat* in managing ecotourism and culture-based tourism villages has become imperative, requiring legal recognition through the delegation of authority to *desa adat* to independently manage tourism villages and ecotourism initiatives. Accordingly, there is a need for a legal construction capable of establishing an ecotourism policy model founded upon the principles of social justice, environmental sustainability, and the empowerment of Bali's customary law communities.

Deconstructing the Legal Text of Baga Utsaha Padruwen Desa Adat

The deconstruction of the legal text governing BUPDA constitutes a critical approach to understanding legal norms by identifying their underlying meanings, the limitations of their normative construction, and the regulatory gaps that have not yet fully addressed the needs of customary law communities. From the perspective of Jacques Derrida, a legal text is not a closed text; rather, it remains open to multiple interpretations in accordance with the evolving social context in which it operates. Accordingly, law should not be understood merely as law in books, but also as living law, whose meaning is continuously shaped through the social practices of the community.

This perspective is closely related to the concept of law with cultural significance, which regards law as a reflection of the values, needs, and legal consciousness of the society in which it develops. Based on this perspective, the existence of BUPDA cannot be understood solely as an institutional framework established under Regional Regulation of Bali Province Number 4 of 2019 concerning Customary Villages in Bali. Rather, it should be critically examined to determine the extent to which state law is capable of accommodating the dynamic economic governance of customary law communities, particularly in the development of culture-based tourism villages. Accordingly, the deconstructive approach adopted in this research is intended to identify the relationship between state legal norms and the practices of customary law as the foundation for constructing a legal framework that is more responsive to the needs of Bali's customary law communities.

State recognition of the existence of BUPDA is normatively stipulated in Regional Regulation of Bali Province Number 4 of 2019 concerning Customary Villages in Bali. Article 60 provides that Customary Village Enterprises consist of the Village Credit Institution (LPD) and BUPDA. Furthermore, Article 62 paragraph (1) stipulates that BUPDA constitutes a Customary Village Enterprise operating in the economic and real sectors, while Article 62 paragraph (2) provides that BUPDA shall be established, regulated, and managed in accordance with customary law. These provisions demonstrate the State's recognition of the authority of customary villages as legal subjects possessing the right to manage their economic potential based on customary values, traditions, culture, and the local wisdom that exists within Balinese society. Such recognition is consistent with Article 18B paragraph (2) of the 1945 Constitution.

Nevertheless, when these provisions are examined through a deconstructive approach, the legal framework governing BUPDA still reveals limitations in the operationalization of its normative provisions. The regional regulation provides legal legitimacy for the establishment and management of BUPDA based on customary law, yet it does not further regulate the institutional form of the enterprise, the mechanisms for asset management, legal relationships with third parties, or the development model for business units that corresponds to the economic needs of customary law communities. This condition indicates that state law continues to leave broad interpretative space for customary villages to develop their own legal constructions. From the perspective of law with cultural significance, such interpretative space constitutes a form of recognition of the existence of living law as it evolves within Balinese customary law communities. However, unless this space is

further constructed through more operational customary legal instruments, it may lead to inconsistencies in the governance of BUPDA and hinder the optimization of its function as the economic institution of desa adat.

The phrase "established, regulated, and managed in accordance with customary law," as stipulated in Article 62 paragraph (2), constitutes a critical point for the deconstruction of the legal text governing BUPDA. From a normative perspective, this phrase reflects the delegation of authority from the State to customary villages to determine the regulatory mechanisms governing BUPDA in accordance with the characteristics of their respective customary law communities. However, from the perspective of Derrida's theory of deconstruction, this phrase should not be understood as a complete or self-contained legal norm; rather, it represents an open norm that requires further interpretation through the social practices of the community, because the regional regulation does not specifically prescribe the substance of customary law to be incorporated, the form of customary legal instruments to be employed, or the scope of matters to be governed. Consequently, customary law becomes a fundamental element in filling this normative space, functioning not merely as a supplement to state law but also as an instrument of legal formation that reflects the actual needs of customary law communities.

In the context of Desa Adat Penglipuran, this delegation of authority is manifested through the establishment of the Pararem Baga Utsaha Padruwen Desa Adat of Desa Adat Penglipuran as a customary legal instrument regulating the establishment and management of BUPDA. The existence of this Pararem demonstrates that Desa Adat Penglipuran has translated the normative recognition provided by the State into internal regulations that are aligned with the social, cultural, and economic potential of the local community. One provision that is particularly relevant is Article 32, which stipulates that BUPDA may conduct business activities independently and/or cooperate with Village-Owned Enterprises (Badan Usaha Milik Desa) or other parties based on the principle of mutual benefit through joint ownership or partnership. This provision provides a legal basis for BUPDA to develop business activities independently as well as through partnership arrangements with external parties.

The research findings indicate that the need to strengthen the operational norms of BUPDA has developed within the practice of managing Desa Wisata Penglipuran. Based on interviews with the Bendesa Adat of Penglipuran, BUPDA is no longer directed solely as an institution responsible for managing tourism-sector revenues, but rather as an economic institution of desa adat that integrates various community-based business potentials. In its development, the establishment of business units under the coordination of BUPDA is being planned, along with the possibility of establishing a legal entity-based business institution, including a Limited Liability Company (PT), as a strategy to strengthen the economic capacity of desa adat. This condition demonstrates the emergence of new legal needs that have not yet been fully accommodated within the Pararem, particularly concerning institutional structure, the division of authority, coordination mechanisms, and the legal relationship between BUPDA and business activities owned by the krama desa adat.

The limitations of these regulations indicate that the development of BUPDA requires a more responsive legal construction through the refinement of the Pararem. Such refinement is not intended to restrict community economic activities, but rather to establish a governance system

capable of integrating the economic potentials of desa adat in a more structured and directed manner. Based on the research findings, the construction of BUPDA business units in Desa Adat Penglipuran can be formulated as presented in Table 1.

Table 1: Reconstruction of BUPDA Business Units of Desa Adat Penglipuran

No	Village Business Unit	Scope of Management
1	Tourism Village Management Unit	Managing tourism visit systems, ticketing, tourism packages, tourism information services, and tourist guide services.
2	Conservation, Ecotourism, and Agrotourism Unit	Managing the natural assets of Desa Adat, particularly the bamboo forest area, including conservation functions, environmental education tourism, restaurant management within the bamboo forest, and the development of plant and ornamental flower nurseries as part of environmentally based attractions and creative economic activities.
3	UMKM, Culinary, and Creative Economy Unit	Managing the development, promotion, marketing, and integration of community-based businesses engaged in food, beverages, souvenirs, handicrafts, and creative products based on local cultural values.
4	Customary Village Assets and Infrastructure Unit	Managing the utilization of padruwen Desa Adat and economic supporting facilities for the community, including the management of clean water resources as part of public services and the sustainability of community needs and tourism activities.
5	Investment and Business Partnership Development Unit	Managing cooperation relationships with third parties and preparing the development of legal entity-based business structures, including the potential establishment of a Limited Liability Company (PT), as a long-term strategy to strengthen the economic capacity of Desa Adat.

The reconstruction of these business units demonstrates that BUPDA does not merely function as an economic institution, but also as a customary legal instrument that connects cultural values with the demands of modern economic management. Through the regulation of business units within the Pararem, Desa Adat obtains a clearer legal foundation for managing assets, developing business activities, establishing partnerships, and ensuring that the economic benefits generated from tourism are returned to the customary law community. Therefore, the deconstruction of the BUPDA legal text produces a new legal construction that positions the Pararem as a form of living law in strengthening the governance of Bali's communal economy.

Development of Baga Utsaha Padruwen Desa Adat

In the development of the relationship between customary villages and regional governments, the strengthening of the economic institutional capacity of desa adat through BUPDA cannot be separated from the dynamics of customary communities' trust in governmental institutions. Historical experiences demonstrate that, in certain circumstances, development policies formulated by the government have not always fully considered the characteristics, authority, and decision-making mechanisms that exist within customary communities. The dominance of an administrative approach in managing the potential of desa adat may create the perception that the space for customary authority is becoming increasingly limited, particularly when economic and tourism development is predominantly directed through top-down policy approaches.

This condition has encouraged the emergence of new awareness among customary communities to strengthen their internal capacity in managing the resources they possess. BUPDA represents one form of institutional

response by customary communities in developing economic independence while ensuring that the utilization of padruwen desa adat (customary village assets) remains under the authority and control of desa adat. From this perspective, BUPDA does not merely function as a business entity, but also serves as an instrument for strengthening the position of desa adat as a legal subject with the capacity to determine the direction of resource management based on the values, needs, and interests of its community.

The trust of customary communities toward governmental institutions is ultimately determined not only by the existence of regulations that recognize desa adat, but also by the extent to which the government is capable of establishing an equal partnership with desa adat. Therefore, the development of BUPDA should not be perceived as a contestation of authority between desa adat and the government, but rather as a mechanism for strengthening collaboration while respecting the autonomy and customary characteristics that continue to exist within Balinese society.

The Role of Bendesa Adat and BUPDA Management in Business Operations

The development of BUPDA is essentially part of an effort to strengthen the people's economy by positioning the community as the main actor in economic development. This is particularly important considering that disparities in development and income distribution continue to exist among regions and sectors in Bali. I Nyoman Erawan explains that the development of the people's economy is not merely aimed at improving community welfare, but also at eliminating the dichotomy between the modern and traditional sectors by expanding community participation in generating economic growth while ensuring the equitable distribution of development outcomes (Erawan, 2003: 141) ^[6].

History demonstrates that the people's economy possesses strong resilience in responding to various economic changes, including the forces of globalization. This strength lies in the community's ability to develop self-reliance by utilizing social capital, local resources, and institutions that emerge from within the community itself. This principle is reflected in the mechanism of *paruman desa*, which places the community as the party responsible for determining the direction of *desa adat* policy through deliberation and consensus. Every strategic decision, including the establishment of economic institutions and the management of *desa adat* enterprises, must obtain approval from the *krama desa adat* through this mechanism. In line with this spirit, the Provincial Government of Bali, through Governor Wayan Koster, launched the BUPDA program in 2022 as an instrument to strengthen the economic independence of *desa adat* in managing their potential and *padruwen desa adat* in a sustainable manner.

The research findings demonstrate that the role of the *Bendesa Adat* constitutes a key factor in encouraging the transformation of economic governance within *Desa Adat Penglipuran*. This finding represents a continuation of previous research that identified the dynamics of legal relations between *Desa Adat Penglipuran* and the Government of Bangli Regency in the management of the tourism village through a Cooperation Agreement (*Perjanjian Kerja Sama*). Although there was previously an intention not to continue the cooperation due to problems in the implementation of the PKS, *Desa Adat Penglipuran* ultimately maintained a new cooperation arrangement with the Government of Bangli Regency, which has been effective since March 2026. According to the *Bendesa Adat Penglipuran*, I Wayan Budiarta:

"The PKS has been implemented since March 2026, and an agreement has been reached to establish cooperation with the regional government for a period of one year. The agreement regulates the management of entrance fee or ticket revenue, which is fully managed by the customary village, with a revenue-sharing arrangement of 40% for the regional government and 60% for *Desa Adat Penglipuran*." Although cooperation with the regional government continues to be maintained, *Desa Adat Penglipuran* seeks to strengthen its economic independence through the establishment of BUPDA. The establishment of BUPDA is considered a strategic step to reduce the dependence of *desa adat* on economic management that has previously relied primarily on the tourism sector and cooperation with the regional government. Furthermore, BUPDA of *Desa Adat Penglipuran* has established a *Pararem*, obtained official registration, and received the Decree of the Bali Provincial Customary Village Council (*Majelis Desa Adat*) Number 063/SK/MDA-PBali/IV/2026. Furthermore, he stated:

"The current follow-up planning concerns the operational management of BUPDA, including the establishment of an organizational structure involving the individuals who will manage it. The structure will consist of the *Panghoreg* and *Panureksa*, under which heads of business units will subsequently be established."

These findings indicate that the *Bendesa Adat* plays a role as both a policy director and a strategic decision-maker in

the development of the economic capacity of *desa adat*, including the willingness to undertake institutional transformation in order to strengthen the independence and welfare of customary communities. This model demonstrates an effort to professionalize the management of *desa adat* enterprises while maintaining *desa adat* as the authority responsible for controlling and managing customary village assets.



Fig 1: Focus Group Discussion on the Planning of BUPDA of *Desa Adat Penglipuran*, Bangli

In contrast to the findings in *Desa Adat Penglipuran*, which emphasize the role of the *Bendesa Adat* in determining the policy direction for BUPDA development, the research findings from *Pancoran Solas*, *Desa Adat Sangeh*, provide an overview of the implementation of such policies at the operational level. An interview with the Head of the Management of *Wewidangan Jagat Sangeh* at *Utsaha Desa Tirta Taman Mumbul Penglukatan Pancoran Solas*, I Gusti Ngurah Putu Buda, indicates that tourism destination management is carried out through a managerial system that positions the management team as the operational executor, while *Desa Adat* remains the authority responsible for asset management and strategic policies. In practice, the management of *Pancoran Solas* is based on a *pararem* formulated by the *Bendesa Adat* together with *prajuru adat* as a guideline for the administration and development of the tourism area. The implementation of managerial functions can be observed through the clear division of tasks within the management organizational structure. The Manager is responsible for supervising financial systems, area development and arrangement, art and cultural development, as well as formulating various operational provisions that support tourism destination management. In addition, management activities are supported by several divisions, including personnel, *tetangunan*, *panureksa*, and *kesinoman*, each of which performs duties according to their respective organizational functions. Conversely, the formulation of *awig-awig* and *pararem* does not fall within the authority of the Manager, but remains under the authority of the *Bendesa Adat* together with *prajuru adat* as the holders of institutional authority within *desa adat*.



Fig 2: Interview with the Manager of Pancoran Solas Tourism Management, Taman Mumbul Sangah

These findings demonstrate a clear division of authority between regulatory functions and managerial functions. The management team is granted flexibility in developing business operations, while normative authority remains under the control of the Bendesa Adat and prajuru adat. This model reflects the application of professionalism while maintaining respect for the customary legal system as the primary foundation for managing tourism villages. Professionalization of management is also reflected in the financial governance system, which applies an accountability mechanism. All income generated from tourism operations is first deposited with the treasurer of desa adat before being reallocated as operational funds. Regarding this mechanism, Putu Buda explained:

"All income obtained from tourism operations is first deposited with the village treasurer. Deposits are made every two to three days, while entrance ticket revenues are deposited daily. The management team also routinely submits proposals every month as a form of accountability as well as a request for operational requirements."

This system demonstrates that the management team does not possess full authority over business revenues, but rather acts as an executor who is required to account for financial management to desa adat. Such a pattern reflects the implementation of an internal control mechanism that strengthens accountability in the management of desa adat enterprises while ensuring that the management of assets remains under the control of customary institutional structures.

In addition to financial aspects, professionalization of management is also realized through organizational arrangements and human resource management. Pancoran Solas has twelve employees who are divided into three service areas, namely Nista, Madya, and Utama, as well as six pemangku (custodians) who perform their duties alternately on a daily basis. The position of Manager is also limited to a five-year term and may be renewed through a selection mechanism. The research findings indicate that the development of desa adat enterprises does not solely depend on the role of the Bendesa Adat as the holder of strategic authority, but is also determined by the capacity of management personnel in translating these policies into

professional, accountable, and service-oriented governance. The relationship between the Bendesa Adat and business managers is complementary, in which the Bendesa Adat performs regulatory functions through awig-awig and pararem, while the management team carries out administrative and operational functions based on the authority granted by desa adat.

Desa Adat Tenganan Pegringsingan maintains a tourism management model that is fully grounded in the values of Bali Aga customary traditions. As one of the ancient villages of the Bali Aga community that continues to exist today, Desa Adat Tenganan Pegringsingan possesses a customary legal system, social structure, and territorial governance that have been preserved across generations. Therefore, various policies related to village management, including tourism activities, are not solely determined by economic considerations, but must also remain aligned with the customary values inherited from their ancestors. The results of an interview with I Nyoman Sadra, as the Penglingsir (elder) of Desa Adat Tenganan Pegringsingan, reveal a critical perspective toward the practice of cultural commercialization that has developed within the modern tourism industry. According to him, culture should not be positioned merely as a commodity displayed for economic gain. He emphasized:

"If a ticketing system is applied, customary communities would become like animals displayed for tourists."

This statement reflects a rejection of tourism concepts that position customary communities merely as objects of spectacle. For the people of Tenganan Pegringsingan, traditions such as Mekare-kare (Pandanus War Festival), village spatial arrangements, patterns of community life, and various customary rituals are not attractions deliberately created for tourists, but rather integral parts of customary life that continue to be practiced as a form of respect for ancestral heritage. Based on this consideration, Desa Adat Tenganan Pegringsingan continues to maintain the medana punia system as a mechanism for receiving tourist visits. This system is based on the voluntary willingness of visitors to provide donations to the desa adat without any obligation to pay entrance fees as applied in other commercial tourism destinations.



Fig 3: Focus Group Discussion with Prajuru and Community Leaders of Desa Adat Tenganan Pegringsingan, Karangasem

This perspective is also consistent with the statement of I Putu Suarjana, the Kelihan Desa Adat Tenganan

Pegringsingan, who explained that the management of the tourism village has, until now, been carried out independently by the customary community without involving formal cooperation with the government or private sector. According to him, although Desa Adat Tenganan Pegringsingan has been designated as a Cultural Tourism Attraction through Regional Regulation of Karangasem Regency Number 17 of 2020, the management of tourism activities remains under the authority of desa adat based on awig-awig and the decisions of paruman desa. He emphasized that the customary community has never transferred the management of the tourism village to external parties because the primary objective to be maintained is not merely the increase of economic income, but rather the sustainability of customary values, traditions, and the identity of the Bali Aga community inherited across generations. Therefore, tourism in Desa Adat Tenganan Pegringsingan is positioned as a consequence of the preservation of customary culture and traditions, rather than as the primary objective that must transform the social order or customary legal system that has existed for centuries.

State Legal Politics and Legal Pluralism in Ecotourism Management

The development of tourism in Indonesia requires a planned, directed, and sustainable strategy because this sector is expected to improve community welfare and serve as one of the instruments of national development. Tourism does not merely function as a driver of economic growth, but is also closely interconnected with social, cultural, environmental, and natural resource governance aspects. In its development, the dynamics of tourism products have generated various legal issues, ranging from land conflicts, environmental degradation, and socio-cultural changes within communities, to the unequal distribution of economic benefits that have not been fully experienced by local communities. Therefore, tourism development must be positioned within a legal framework capable of providing protection, legal certainty, justice, and welfare for all levels of society.

Conceptually, Indonesia can be categorized as a welfare state, which carries the obligation to ensure the general welfare of all Indonesian citizens. This concept is explicitly stated in the Fourth Paragraph of the Preamble to the 1945 Constitution, which affirms that the objectives of the State are to protect the entire Indonesian nation and all of Indonesia's territory, to promote public welfare, to educate the life of the nation, and to participate in implementing world order based on independence, eternal peace, and social justice. This constitutional formulation demonstrates that every state policy, including tourism development policy, must be directed toward realizing public welfare as the primary objective of state administration. According to Mahfud MD, legal politics (*politik hukum*) refers to the legal policy that will be or has been implemented nationally by the Government of Indonesia, which includes the development of legal materials so that they are aligned with the needs of society, and the implementation of existing legal provisions, including strengthening the functions of institutions and developing the capacity of law enforcement officials (Mahfud MD, 1998: 9) ^[11]. In line with this view, Teuku Mohammad Radhie defines legal politics as a

statement of the will of state authorities regarding the law applicable within its territory, as well as the direction of legal development that will be established in the future.

Meanwhile, I Wayan Wesna Astara argues that legal politics is an instrument for establishing law based on the will of the authorized state institutions by taking into account the interests of society, the interests of those in power, and the values that live within society. These values must be explored through sociological and philosophical approaches in order to achieve the objectives underlying the establishment of the Unitary State of the Republic of Indonesia (Astara, 2025: 7) ^[12].

Balinese customary communities possess distinctive characteristics compared to other customary communities in Indonesia. These characteristics are reflected in the existence of Hinduism as the spiritual foundation of society, the customary village system that continues to live and develop, customary laws that are practiced across generations, and various traditions and cultural expressions that remain preserved to this day. Therefore, legal protection for tourism villages based on Hindu religious values, customary practices, local traditions, and Balinese culture is essential and relevant to ensuring the sustainability of Balinese cultural identity amid the development of the global tourism industry (Astara *et al.*, 2018) ^[14]. Legal protection for tourism villages in Bali cannot be separated from the existence of customary villages as legal subjects possessing original autonomy in regulating and managing their own affairs. Desa adat in Bali possess distinctive characteristics, including clearly defined territories, customary residents, *parhyangan* as the spiritual center, and customary legal systems embodied in the forms of *awig-awig* and *pararem*. Article 47 paragraph (1) letter a of Regional Regulation of Bali Province Number 4 of 2019 affirms that the development of desa adat aims to strengthen the rights of origin, traditional rights, customary practices, cultural values, and local wisdom of Balinese communities. In addition to being culture-based, tourism development in Bali has increasingly been directed toward the development of ecotourism as a tourism model that emphasizes the principles of environmental sustainability, cultural preservation, and the improvement of local community welfare. Ecotourism is not merely understood as tourism activities that utilize natural beauty, but also as a development approach that positions local communities as the main actors in managing natural and cultural resources responsibly. From a legal perspective, ecotourism management is closely related to the concept of sustainable development, which requires that the utilization of natural and cultural resources be carried out wisely without reducing the ability of future generations to fulfill their own needs. Thus, the state's legal politics in ecotourism management should not merely be oriented toward increasing investment and regional economic growth, but must also guarantee environmental protection, the rights of customary communities, and the sustainability of cultural values that constitute the identity of a region.

From a cultural perspective, the management of tourism villages cannot rely solely on a formalistic state-law approach. Van Peursen emphasizes the importance of a cultural strategy in understanding and managing community life. This approach places culture not merely as an object regulated by legal norms, but as a living system containing values, meanings, and collective consciousness that guide

the behavior of society (Van Peursen, 1988) ^[13]. Therefore, law cannot be measured merely based on what is considered correct from an external perspective (etic), but must also be understood through the perspective of the community that practices and lives by such values (emic) (Tanya, 2011: 38) ^[18]. The state's legal politics in the management of cultural tourism in Bali obtains a more concrete form through Regional Regulation of Bali Province Number 5 of 2020 concerning Standards for the Implementation of Balinese Cultural Tourism, which emphasizes that tourism in Bali must be carried out based on Balinese cultural values inspired by the philosophy of Tri Hita Karana and implemented within the vision of Nangun Sat Kerthi Loka Bali.

Nevertheless, the implementation of such legal politics does not occur uniformly throughout Bali. The research findings indicate that each desa adat has its own approach in interpreting and implementing the principles of cultural tourism and ecotourism in accordance with its social, cultural, and customary legal characteristics. Desa Adat Penglipuran develops economic institutions through the establishment of BUPDA and the management of businesses based on padruwen desa adat. Desa Adat Tenganan Pegringsingan continues to maintain a management model based on awig-awig and the medana punia system as a form of rejection of cultural commercialization through an entrance-ticket system. Meanwhile, Pancoran Solas develops a management model that integrates spiritual aspects, environmental conservation, and economic utilization for the customary community.

Implementation of Culturally Meaningful Law in Balinese Cultural Tourism

Culture is a collective identity that emerges from human creativity, feelings, and intentions, inherited across generations within community life. Etymologically, the term culture originates from the word buddhayah, the plural form of buddhi, which means intellect or reason (Muhaimin, 2001: 153) ^[12]. In the Kamus Besar Bahasa Indonesia, culture is defined as thoughts, customs, something that has developed, and a practice that has become a habit that is difficult to change (Departemen Pendidikan dan Kebudayaan, 2005: 149) ^[5]. According to Koentjaraningrat, culture is the entirety of systems of ideas, actions, and human creations that become part of human beings through a learning process, encompassing universal elements such as language systems, knowledge systems, social systems, systems of living equipment and technology, livelihood systems, religious systems, and arts (Koentjaraningrat, 1993: 9) ^[8].

In the context of customary law communities, culture cannot be separated from the living space (lebensraum) of the community itself. Friedrich Ratzel explains that living space is a place where the existence of a community develops, enabling values, norms, and social identity to be inherited from one generation to the next (Ratzel, 1898: 45). Desa adat does not only function as a social and religious organization, but also serves as a cultural space where living law operates through awig-awig, pararem, traditions, and various social mechanisms. Balinese desa adat is based on the philosophy of Tri Hita Karana, which emphasizes the balance of relationships between humans and God (parahyangan), humans and one another (pawongan), and humans with the environment (palemahan). This philosophy

is implemented through the principle of desa, kala, patra, based on the principle of desa mawa cara, negara mawa tata, meaning that each desa adat possesses different characteristics, governance systems, and regulatory mechanisms according to the needs of its community (Astara, 2025: 79) ^[2].

The implementation of culturally meaningful law can be clearly observed in Desa Adat Penglipuran. As one of the most recognized cultural tourism villages in Bali, Penglipuran does not merely utilize culture as a tourism attraction, but also positions customary law as an instrument to maintain cultural sustainability while strengthening the economic independence of the customary community. The Bendesa Adat Penglipuran explained:

"As a customary village, Penglipuran is expected to be able to manage its finances and economy independently in accordance with customary village regulations. Therefore, customary villages are expected to establish BUPDA, and the customary village utilizes this opportunity by forming BUPDA according to the establishment procedures directed by MDA. BUPDA has subsequently been designed through pararem, officially registered, and the decree related to BUPDA has been issued."

This demonstrates that customary communities are no longer positioned merely as objects of tourism development, but rather as subjects who possess the authority to determine the direction of managing their own economic and cultural resources. From the perspective of culturally meaningful law, BUPDA represents a form of institutionalization of customary law into modern economic governance without eliminating the cultural values that constitute the identity of customary communities. As stated by Wesna Astara, customary communities have the right to preserve their cultural heritage while also obtaining economic benefits from the utilization of such culture (Astara, 2025: 93) ^[2]. This independence is also reflected in the utilization of tourism revenue, which is not solely directed toward economic aspects, but is also used to maintain the balance between parahyangan, pawongan, and palemahan. The income obtained from the tourism sector is utilized to support the implementation of customary ceremonies, community social activities, environmental maintenance, and the preservation of traditional buildings that constitute the identity of Desa Adat Penglipuran.



Fig 4: Student Interview with the Bendesa Adat of Desa Adat Penglipuran

A different implementation of culturally meaningful law is found in Desa Adat Tenganan Pegringsingan. While Penglipuran demonstrates the strengthening of customary economic institutions through BUPDA, Tenganan

Pegringsingan illustrates the dominance of customary law as an instrument for protecting culture and the living space of the customary community. All social activities of the community, including those related to tourism, continue to be guided by awig-awig inherited across generations. The Perang Pandan (Mekare-kare) tradition, which has become a major attraction for tourists, has never been positioned as a tourism performance intentionally created for economic purposes. The Kelian Desa Adat Tenganan Pegringsingan, I Putu Suarjana, emphasized:

"We do not want to attract tourists, but rather simply make tourists interested. Tourists come because the culture exists, not because we create performances for them."

This principle is also reflected in the community's rejection of entrance-ticket systems and tourism retribution. The community continues to maintain the dana punia system, which is voluntarily provided by tourists. In addition to preserving culture, customary law also plays a role in protecting the living space of the community. The prohibition on selling or mortgaging land to external parties, the preservation of traditional spatial arrangements, the protection of customary forest areas, and restrictions on land-use changes are concrete forms of the implementation of culturally meaningful law, which places culture and the environment as an inseparable unity.



Fig 5: The Presentation of the Book *Hukum dalam Ruang Budaya* as Legal Literacy Material

The implementation of culturally meaningful law is further observed in the management of spiritual tourism at Pancoran Solas Taman Mumbul Sangeh. Unlike Penglipuran, which is oriented toward cultural tourism villages, and Tenganan Pegringsingan, which emphasizes the preservation of Bali Aga culture, Pancoran Solas develops from a sacred space that has religious functions for the customary community. In its development, the customary community is able to manage the area as a spiritual tourism destination without eliminating the sacred values inherent in the area. The management of Pancoran Solas remains under the authority of Desa Adat Sangeh and is carried out based on pararem as the foundation for managing the tourism area. Interestingly, the implementation of culturally meaningful law at Pancoran Solas does not stop at preservation aspects, but also

encourages innovation that remains rooted in local cultural values. As explained by I Gusti Ngurah Putu Buda:

"In addition to providing penglukatan services, Pancoran Solas also offers various spiritual packages such as healing, meditation, and palm reading. These packages are generally intended for tourists from outside Bali."

These findings indicate that customary law does not become an obstacle to innovation, but rather serves as a foundation for developing tourism that continues to respect local values. The cultural space that initially functioned as a religious space remains preserved in its sacredness, while economic activities develop through mechanisms controlled by the customary community.



Fig 6: The Presentation of the Book *Hukum dalam Ruang Budaya*

Based on the three research locations, it can be observed that the implementation of culturally meaningful law in Balinese cultural tourism takes place in different forms according to the characteristics of each desa adat. Desa Adat Penglipuran demonstrates culturally meaningful law as an instrument for economic independence through BUPDA. Desa Adat Tenganan Pegringsingan illustrates culturally meaningful law as an instrument for protecting culture and the living space of the customary community. Meanwhile, Pancoran Solas Taman Mumbul Sangeh demonstrates culturally meaningful law as an instrument for innovation and adaptation of spiritual tourism that remains rooted in customary values. These findings also demonstrate that the implementation of Balinese Cultural Tourism as regulated in Regional Regulation of Bali Province Number 5 of 2020 does not occur uniformly, but is strongly influenced by the cultural characteristics, history, social structure, and living law within each customary community.

Social Cultural Space as a Legal Space

The development of cultural tourism and ecotourism in Bali demonstrates a transformation in the function of the social and cultural spaces of customary communities. Spaces that previously functioned as places for social, customary, religious, and cultural activities have now simultaneously become economic spaces with high commercial value. Desa adat, sacred areas, customary forests, subak systems, traditions, and traditional cultural expressions are no longer

viewed solely as cultural identities, but also as assets possessing strategic value within the tourism industry. This phenomenon has encouraged state involvement through various legal policies regulating the management of both material and immaterial cultural assets. On the one hand, the presence of the state is necessary to provide legal protection for the sustainability of customary community culture. On the other hand, state intervention often brings administrative and economic perspectives that have the potential to shift the meaning of culture that lives within customary communities. In this context, the legal politics of tourism development must be designed through an approach of culturally meaningful law, rooted in the local values of Balinese customary communities while prioritizing cultural preservation and ecological sustainability (Astara, 2026: 136) ^[3].

Constitutionally, Article 32 paragraph (1) of the 1945 Constitution affirms that the state advances Indonesian national culture by guaranteeing the freedom of communities to preserve and develop their cultural values. This provision demonstrates that the cultural space of communities is not merely an object of development, but also a source of norm formation whose existence must be respected by the state. From the perspective of legal sociology, law does not emerge suddenly as a product of state power; rather, it is rooted in social life, which is shaped by human awareness to think, will, and feel (Soekanto & Sulistyowati, 2017: 5) ^[16]. This awareness gives rise to

social values that develop into social norms to regulate collective life.

At this point, the social cultural space develops into a legal space. This transformation occurs when values, traditions, customs, and social practices that live and are recognized within a community no longer function merely as moral guidelines or social ethics, but begin to be formulated into norms that regulate rights, obligations, authorities, and mechanisms for managing various interests in collective life. In the context of Balinese customary law communities, this process can be observed through the emergence of various customary legal instruments such as awig-awig and pararem, which essentially represent the crystallization of cultural values into living legal norms (living law). Thus, law does not exist as an entity separate from culture, but rather as a result of social construction that grows from the collective awareness of communities to maintain order, preserve cultural identity, and protect their living space. Therefore, the legal space is essentially an extension of the social cultural space that has undergone a process of institutionalization of values, whereby law functions not only as an instrument of regulation but also as a means of preserving identity, collective memory, and the cultural sustainability of customary communities.

Matrix of Tourism Villages and Ecotourism as a Sustainable Tourism Process

The comparison of the three research locations in realizing sustainable tourism in Bali is presented in Table 2.

Table 2: Comparison of Tourism Villages in Realizing Sustainable Tourism in Bali

Analysis Aspect	Desa Adat Penglipuran	Desa Adat Tenganan Pegringsingan	Pancoran Solas Taman Mumbul Sangeh
Management Basis	Cultural Tourism Village	Bali Aga Cultural Tourism Village	Spiritual Tourism and Ecotourism
Role of Customary Law	Pararem BUPDA as the basis for customary economic management	Awig-awig as a regulator of social, cultural, and environmental life	Awig-awig and Pararem
Development Orientation	Economic independence of desa adat	Preservation of culture and the living space of the community	Preservation of sacred areas and development of spiritual tourism
Cultural and Environmental	Preservation of traditional spatial arrangements and local culture	Protection of customary forests, customary land, spatial arrangements, and ancient village traditions	Protection of water sources and the sanctity of the area
Form of Tourism	Community-based cultural tourism	Conservative cultural tourism based on customary values	Managerial-based spiritual ecotourism

The matrix above demonstrates that sustainable tourism in the three research locations is developed through different characteristics according to the social and cultural conditions of each customary community. Desa Adat Penglipuran positions tourism as an instrument for the economic independence of the customary village through the strengthening of BUPDA institutions. Desa Adat Tenganan Pegringsingan develops tourism by placing the preservation of culture and the living space of the customary community as its main orientation. Meanwhile, Pancoran Solas Taman Mumbul Sangeh develops spiritual tourism oriented toward the protection of sacred areas and natural resources. From the perspective of the Theory of Culturally Meaningful Law, these three models demonstrate that the development of tourism villages should not be directed toward a mass-tourism pattern, but rather toward a cultural and ecotourism-based tourism model that maintains a balance between economic interests, cultural preservation, and environmental sustainability. Thus, desa adat becomes the main actor in realizing the sustainable tourism process in Bali.



Fig 7: Community-Owned Accommodation in the Area of Desa Adat Penglipuran as a Form of Tourism Business Development Based on Desa Adat



Fig 8: Fish Pond as One of the Tourism Attractions in the Pancoran Solas Area



Fig 9: Gringsing Cloth as a Distinctive Cultural Heritage of Desa Adat Tenganan Pegringsingan as a Cultural Tourism Attraction

Discussion

The development of the tourism industry over several decades demonstrates that development orientations solely focused on economic growth often generate various social,

cultural, and environmental issues. In the context of Bali, the success of the tourism sector in increasing regional income has not always been followed by the strengthening of the position of customary communities as the owners of cultural spaces that constitute the main attractions of tourism. Even in certain conditions, development orientations that focus on increasing the number of tourist visits tend to encourage mass-tourism practices that have the potential to shift the function of cultural spaces, reduce environmental carrying capacity, and weaken the control of customary communities over the resources they possess. Therefore, tourism legal politics should not only be directed toward achieving economic growth, but must also be able to maintain a balance between economic interests, cultural preservation, and environmental sustainability.

The results of research conducted in Desa Adat Penglipuran, Desa Adat Tenganan Pegringsingan, and Pancoran Solas Taman Mumbul Sangeh demonstrate that the success of tourism management is not determined by the magnitude of investment or the high number of tourists, but rather by the ability of customary communities to preserve the cultural values that live within their communities. At the three research locations, it was found that customary law, both in the form of *awig-awig* and *pararem*, does not only function as an instrument of social regulation, but also serves as a means of maintaining harmonious relationships between humans, culture, and the environment. These findings demonstrate that law derives its meaning not solely from state legitimacy, but from its ability to reflect the values that live within customary communities.

This construction is aligned with the *Tri Hita Karana* philosophy, which places harmony as the primary goal of Balinese community life. This philosophy teaches the importance of maintaining balance in the relationship between humans and God (*parahyangan*), humans and other humans (*pawongan*), and humans and the natural environment (*palemahan*). From the perspective of culturally meaningful law, these three elements are not only understood as philosophical values, but also as normative foundations in the formation and implementation of living law within customary communities.

In the aspect of *parahyangan*, culturally meaningful law functions to maintain the sanctity of spiritual spaces that form part of the identity of customary communities. Research findings at Pancoran Solas Taman Mumbul Sangeh demonstrate that the development of spiritual tourism continues to place the sanctity of the area as a primary principle that cannot be compromised by economic interests. In the aspect of *pawongan*, culturally meaningful law is directed toward strengthening the welfare of customary communities through the development of customary-based economic institutions, as demonstrated in Desa Adat Penglipuran, which develops BUPDA as an instrument of village economic independence. Meanwhile, in the aspect of *palemahan*, culturally meaningful law functions to maintain environmental sustainability and the living space of customary communities, as demonstrated by Desa Adat Tenganan Pegringsingan, which consistently preserves customary forests, traditional spatial arrangements, and various customary regulations that limit the exploitation of natural resources.

Based on these findings, this research proposes the Model of Culturally Meaningful Law Based on *Tri Hita Karana* as a construction of legal politics in the management of Balinese

ecotourism. This model positions law as an instrument that simultaneously integrates the protection of spiritual values, the empowerment of customary communities, and environmental preservation. Within this model, welfare is not only interpreted as an increase in the economic income of communities, but also includes the preservation of cultural identity, the sustainability of living spaces, and the continuity of spiritual values inherited across generations. Thus, the Model of Culturally Meaningful Law Based on Tri Hita Karana becomes an alternative legal-political approach to tourism development that is more appropriate to the characteristics of Balinese customary communities, ensuring that the economic benefits of tourism activities can be enjoyed fairly by customary communities as the owners of cultural spaces.

Conclusions and Recommendations

The legal construction in the development of ecotourism policies that favor local Balinese communities is built through the harmonization of state law and customary law by positioning *desa adat* as the main subject in cultural tourism management. This harmonization is realized through strengthening the authority of *desa adat* in managing Baga Utsaha Padruwen *Desa Adat* (BUPDA), so that ecotourism development is not only oriented toward economic growth, but also toward the empowerment of customary communities, cultural preservation, and environmental sustainability. Furthermore, the implementation of culturally meaningful law in Balinese cultural tourism demonstrates that the success of tourism village management is not determined by the uniform application of state law, but by the ability to integrate state law with living customary law within the community. This integration becomes the foundation for realizing sustainable tourism management that is oriented toward the welfare of Balinese customary communities.

For legislators and regulatory policymakers, it is necessary to strengthen legal policies that provide certainty regarding the governance of tourism villages and ecotourism based on customary law communities through the harmonization of state law and customary law, so that cultural tourism management is able to guarantee cultural preservation, environmental protection, and the sustainable welfare of customary communities. For the Central Government and Regional Governments, it is necessary to strengthen synergy with the Majelis *Desa Adat* (MDA) and regional government institutions responsible for advancing customary village communities in formulating policies, providing guidance, assistance, and supervision of tourism village and ecotourism management based on customary law, while ensuring that policy implementation is adapted to the characteristics, potentials, and living customary laws of each *desa adat*. For future researchers, further studies should be conducted on culturally meaningful law in various models of tourism village management, ecotourism, and customary law communities in other regions to enrich the development of culturally meaningful law theory and indigenous community-based tourism policy models in Indonesia.

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