

The Role of Balinese Customary Law as a Social Institution for Immigrants and Tourists: Sanctions in *Awig-Awig* Against *Krama Adat*, *Krama Tamiyu*, and *Tamiyu*

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Abstract

The Balinese customary law is vital as a social institution regulating interactions between newcomers, tourists, and the local community. This research explores the sanctions embedded in the *awig-awig* (customary regulations) concerning three categories of society: *krama adat* (Indigenous community members), *krama tamiyu* (local residents), and *tamiyu* (newcomers/tourists). The study addresses numerous cases that have disrupted the societal balance, highlighting the need to examine the position of Balinese customary law in addressing such phenomena. Utilizing a sociolegal research method, this research reviews Bali Regional Regulation No. 4 of 2019 concerning Balinese Traditional Villages to conceptually assess the authority of traditional villages in enforcing these regulations towards indigenous communities and newcomers, coupled with the occurrences observed within society.

Keywords: Balinese Customary Law, Social Institutions, Awig-Awig, Krama Adat, Krama Tamiyu, Tamiyu.

Abstrak

Hukum adat Bali memiliki peran penting sebagai pranata sosial yang mengatur interaksi antara pendatang, wisatawan, dan masyarakat lokal. Penelitian ini mengeksplorasi sanksi yang terdapat dalam awig-awig (peraturan adat) terhadap tiga kategori masyarakat: *krama adat* (masyarakat adat), *krama tamiyu* (penduduk lokal), dan *tamiyu* (pendatang/wisatawan). Penelitian ini mengacu pada banyaknya kasus-kasus yang menyebabkan terganggunya neraca keseimbangan masyarakat, sehingga perlu kiranya mengkaji posisi hukum adat Bali dalam penanganan fenomena tersebut, dengan menggunakan metode penelitian yuridis sosilogis dengan mengkaji Peraturan Daerah Bali Nomor 4 Tahun 2019 tentang Desa Adat Bali untuk meninjau kewenangan desa adat secara konseptual dalam melakukan penegakannya terhadap masyarakat adat maupun pendatang dipadukan dengan fenomena-fenomena yang terjadi di masyarakat.

Kata kunci: Hukum Adat Bali, Pranata Sosial, Awig-Awig, Krama Adat, Krama Tamiyu, Tamiyu.

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Introduction

Bali is known as one of the leading international tourism destinations, annually attracting millions of tourists from various parts of the world. As an area rich in cultural heritage and strong religious traditions, the social life of the Balinese people is not only based on the provisions of national law, but also enriched by the application of customary law that has been passed down from generation to generation.

One of the central components of the Balinese customary law system is the "*awig-awig*", which is a set of customary rules that govern various aspects of people's lives, including the relationship between the local population (*krama adat*) and the guests (*tamiyu*). This rule covers temporary guests, such as tourists, to guests who stay longer in the Bali area. Through the application of *awig-awig*, harmonization between local culture and tourist needs can be achieved, thus creating a balance that maintains the preservation of traditional values and the comfort of visitors.¹

The transformation of the tourism sector in Bali through modernization has resulted in changes that have a wide impact on the social and cultural life of the local community.² It is undeniable that the development of the tourism industry, which is increasingly adopting advanced technology and global trends, has brought a significant influence on the traditional order of life in Bali. The modern transformation carried out in Bali has been an important factor driving the increase in foreign tourists. With various

¹ I Wayan Eka Artajaya, "Eksistensi Awig-Awig Terhadap Penduduk Pendetang Di Desa Pakraman Tegallalang Eksistensi Awig-Awig Terhadap Penduduk Pendetang Di Desa Pakraman Tegallalang," *Jurnal Advokasi* 7, no. 2 (2017): 257–65.

² I Dewa Ayu Puspitadewi, Wayan Windia, and Ni Wayan Sri Astiti, "Analisis Pengaruh Penerapan Tri Hita Karana Terhadap Tingkat Kepuasan Wisatawan Di Kawasan Agrowisata Ceking, Kecamatan Tegallalang, Kabupaten Gianyar," *Jurnal Manajemen Agribisnis* 3, no. 1 (2015): 43–52.

modernization efforts in the infrastructure, tourism facilities, and public service sectors, Bali has increased its attractiveness in the eyes of foreign tourists. This modernization includes not only the development of more accessible means of transportation but also the improvement of the quality of accommodation services and various attractions that take advantage of the latest technology. All these efforts make Bali more competitive as a global tourist destination, thus attracting the attention of tourists from all over the world to visit and enjoy the beauty of this island.

However, the many tourists visiting Bali often causes clashes with traditional norms that have long been rooted in the local community. Some tourist behaviors are often considered to damage social harmony and spiritual balance that is the foundation of Balinese people's lives, such as actions that lack respect for sacred places, violations of local rules and regulations, and behaviors that hurt environmental conservation. This shows an urgent need to create harmony between tourism activities and efforts to maintain local wisdom and environmental sustainability in Bali.

On that basis, the indigenous people of Bali feel the need to regulate guests' behavior through customary regulations called *awig-awig* strictly. This regulation is designed not only to regulate social interaction, but also as a concrete step in preserving cultural values and local wisdom passed down from generation to generation. Through *awig-awig*, any action that is considered contrary to local customs will be subject to strict sanctions. The imposition of this sanction is intended as an effort to maintain the balance and harmony of the environment and preserve the traditions that are the identity and cultural richness of the Balinese people.

In the provisions of *awig-awig*, there are strict and structured arrangements regarding the grouping of social status as well as the rights and obligations inherent to each individual in the indigenous village community. This division includes three main categories: *traditional krama*, *tamiyu krama*, and *tamiyu*. *Customary customs* refer to indigenous people who have been an integral part of the customary village for generations and have full rights and obligations as members of the village. Meanwhile, *krama tamiyu* are immigrant individuals who have settled for a certain period of time and have built social attachment with the indigenous village community, so that they are given some rights and obligations recognized by the village. The *tamiyu* are a group of immigrants or tourists whose presence is temporary and does not have a deep attachment to the village,

so their rights and obligations are limited following local customary rules. Through this division, the awigs maintain social balance in the community and regulate the dynamics of interaction between natives and immigrants by considering common interests.³

In every indigenous community, there is a diversity of rules and sanctions that apply to each group in it. This variation reflects the roles, functions, and responsibilities of each group in the social structure of the indigenous people. The norms imposed are not just guidelines for behavior, but also serve as a tool to maintain balance and harmony in common life. Each rule and sanction is designed to follow the position and contribution of these groups so that they can strengthen social cohesion and maintain the sustainability of customs that have been passed down from generation to generation.

The diversity of rules such as *traditional krama*, *tamiyu krama*, and *tamiyu* applied in Bali, which has long functioned as a social institution for immigrants and tourists, is an interesting topic that deserves to be discussed in more depth in this article. Therefore, this article will thoroughly examine and analyze the various forms of rules and sanctions that apply, which not only regulate the social life of local communities but also directly impact the behavior of migrants and tourists. This paper is expected to provide a comprehensive understanding of how these rules function in maintaining social order and harmony in Bali and highlight their implications for visitors from various cultural backgrounds.

Based on this background, to answer and know and understand this phenomenon, several problems will be formulated in this study, including:

1. How does the role of Balinese customary law, especially through awig-awig, regulate the actions of tourists who disturb the Balinese people's social and spiritual balance?
2. What is the settlement mechanism and sanctions taken by the indigenous people of Bali in enforcing customary law against tourists who violate customary rules?

Method

This study adopts the sociolegal method, an interdisciplinary approach, combining law and social sciences, aiming to analyze legal phenomena in a broader social

³ Ni Luh Gede Yogi Arthani and Ni Putu Noni Suharyanti, "Sinergy of Desa Pakraman Intaran and Administrative Village of Sanur in Structuring the Immigrants," *Kertha Wicaksana* 12, no. 2 (2018): 124–32, <https://doi.org/https://doi.org/10.22225/kw.12.2.2018.124-132>.

framework. The main focus of this research is to explore the mutual relationship between law and society and how various norms, values, cultures, and existing social conditions influence law. In this context, this study will specifically examine the role of Balinese customary law as a social institution that not only regulates the social interaction of the local population but also for immigrants and tourists who visit the region. To achieve this goal, the approach applied includes a legislative approach, which emphasizes the analysis of applicable regulations and norms and a conceptual approach that allows for a deeper understanding of relevant legal concepts. The data used in this study are secondary, consisting of primary and secondary legal sources collected through literature study methods, thus providing a strong basis for the analysis.

Discussion

Balinese Customary Law Arrangements Against Tourists' Actions in Awig-Awig

Balinese customary law, which is reflected through awig-awig and perarem, has a very important position in maintaining social harmony between the local community and the immigrants, including tourists. Awig-awig is a set of customary rules that are prepared by mutual cooperation by the village of Pakraman, based on the principle of consensus deliberation, so that it reflects the collective will of the indigenous community. This rule is binding, not only for the native residents of the village but also applies to migrants who settle temporarily or tourists who stop in the village area. In other words, *awig-awig* functions as the basis of customary law that ensures that anyone in the area of Pakraman village still adheres to the norms, values, and traditions that have been passed down from generation to generation, to create order and social peace that is in harmony with the local culture.⁴

In *awig-awig*, several actions can be considered to disturb the balance. First, violations of the sanctity of places of worship. Tourists often do not understand or appreciate the sacred value inherent in temples in Bali. This includes acts such as dressing inappropriately while in the temple area, taking photos at prohibited locations for documentation, or committing acts that are considered disrespectful in the holy area. This

⁴ I Ketut Rindawan, "Peranan Awig-Awig Dalam Melestarikan Adat Dan Budaya Di Bali," *Widya Accarya* 7, no. 1 (2021).

kind of behavior is seen as a form of harassment against the religious and spiritual values of the Balinese people, who highly uphold the honor of their places of worship.

Second, violations of environmental order. The Balinese people have a strong commitment to nature preservation and environmental sustainability. Therefore, actions that damage or pollute the environment, such as littering, damaging local flora and fauna, or damaging sacred sites, violate customary values that have been upheld for many years. This kind of violation not only harms the aesthetics of the environment, but also tarnishes the harmony that is the core of Balinese people's lives.

Third, behavior that is not following customary norms. For example, organizing excessive parties that disturb the peace of the village, or showing disrespectful attitudes and disrespecting indigenous peoples in daily interactions. Behavior contrary to local customs and customs can cause discomfort and social tension, ultimately undermining the harmonious order that indigenous communities strive to maintain.

The Balinese customary law system has special and unique arrangements related to enforcing sanctions for violations committed by tourists. This customary law comprehensively emphasizes the importance of maintaining social harmony and local wisdom so that every violation is seen not only in terms of positive law but also through customary norms that govern the life of the Balinese people. The sanctions applied can vary, ranging from moral sanctions such as harsh reprimands or the obligation to formally apologize to indigenous communities, to material sanctions such as fines in the form of money or certain customary goods. In certain cases, if the violation is considered serious and threatens the local order and cultural values, the violating tourist may be expelled from the customary territory.

Furthermore, the status of individuals in Bali—such as *customary krama*, *tamiyu krama*, and *tamiyu*—plays an important role in the context of the enforcement of these customary laws. *Customary krama* refers to members of a full indigenous community who are directly bound by customary obligations, while *tamiyu krama* are usually residents who live in customary territory but are not fully part of the indigenous community. *Tamiyu*, on the other hand, is a newcomer or tourist who enjoys the facilities without strong customary attachments. Each of these statuses determines how customary sanctions are enforced, where *customary customs* may be subject to heavier sanctions because they have greater responsibility for preserving Balinese customs and culture.

In Balinese customary law, indigenous peoples are divided into three main categories that reflect their role and position in the social structure of customary villages. The first category is Traditional Customs, which consists of indigenous villagers. They have full rights and obligations in carrying out various customary rules regulated in *awig-awig*, or local customary regulations. As fully integrated members of the community, they not only play a role in preserving indigenous values, but are also subject to sanctions set based on their status as indigenous residents of indigenous villages.

The next category is *krama tamiyu*, which are migrants who have lived in the village for a long time and have strong social and economic ties with the local indigenous people. Although they are recognized as part of the community, their rights differ from those of customary customs. In the case of violations, they remain tied to *the awigs*, but the sanctions imposed may differ due to their status as non-natives. The last is *tamiyu*, which refers to guests or tourists who live temporarily in the traditional village area. Although they do not have certain rights in the indigenous community, they must remain respectful and comply with the rules in force while in the village. This obligation shows respect for the local culture that must be adhered to by every individual, both permanent and temporary, to maintain social harmony in the region.

With this grouping system, Balinese customary law emphasizes the importance of the role of each individual in maintaining the social and cultural balance of the indigenous village, as well as regulating how they, both natives, immigrants, and guests, interact and comply with applicable norms.⁵ Bali Provincial Regional Regulation Number 4 of 2019 concerning Customary Villages regulates the three terms to preserve and maintain the continuity of the social and cultural order of the Balinese people.⁶ Through this arrangement, the local government seeks to provide a strong legal basis to ensure that the customary values and traditions that characterize the life of the Balinese indigenous people are maintained from generation to generation. This regulation not only regulates, but also strengthens the role of customary villages as entities that have the authority to regulate the lives of their communities autonomously, in line with local values that have been inherited.

⁵ I Gede Yoga Paramartha Duarsa, I Nyoman Gede Sugiarta, and Diah Gayatri Sudibya, "The Application of Kasepekang Customary Sanctions in Tanjung Bena Traditional Village, South Kuta District, Badung Regency," *Journal of Legal Construction* 1, no. 1 (2020): 170–75.

⁶ Duarsa, Sugiarta, and Sudibya.

This regional regulation serves as a guideline that clearly regulates the rights and obligations of each category of related communities and affirms the applicable customary law enforcement mechanism.⁷ Through this arrangement, it is hoped that there will be harmony in applying customary rules so that they can continue to protect, preserve, and promote distinctive Balinese cultural values. This regulation not only underlines the importance of respect for tradition, but also seeks to create a balance between modernization and cultural preservation, so that the heritage of ancestors remains alive and relevant in the midst of the dynamics of today's society.

In the context of community life in the region, both customary customs, tamiyu customs, and tamiyu have a shared responsibility that binds each other to ensure the sustainability and balance of applicable customary law. This attachment not only reflects collective obligations, but also becomes a manifestation of efforts to preserve local wisdom values that have been inherited from generation to generation. By maintaining and respecting these customary laws, they also preserve the local cultural identity which is rich in social norms, ethics, and traditional values that are the foundation of local people's lives.

Settlement Mechanisms and Sanctions Taken by Balinese Indigenous Peoples in Enforcing Customary Law Against Tourists Who Violate Customary Rules

Customary law basically prioritizes the principle of restoring balance and harmony in society. When there is a disturbance that results in disharmony in the order of indigenous people, both triggered by the community members themselves and by immigrants, the event is considered a violation of customary norms. This reflects the essence of the philosophy of "*Tri Hita Karana*", a concept that is the foundation of the life of the Balinese indigenous people, which emphasizes the importance of balance and harmony between humans and God (*parahyangan*), humans and their neighbors (*pawongan*), and humans and the surrounding nature (*palemahan*). This philosophy not only serves as an ethical guideline in social interaction, but also reflects the Balinese

⁷ I Dewa Ayu Putri Wirantari, "Sistem Pemerintahan Ulu-Apad Berdasarkan Perda No 4 Tahun 2019 Di Provinsi Bali Dalam Penanganan Covid-19 Studi Kasus: Desa Songan Kintamani," *Ethics and Law Journal: Business and Notary* 2, no. 1 (2024): 238–242, <https://doi.org/https://doi.org/10.61292/eljbn.126>.

indigenous people's view of life, which covers all aspects of their lives, from religious to social to environmental.

Law has a crucial role in restoring social balance that is disturbed by an event. When there is a violation or act that disrupts the harmony of society, the law exists not only to take action against the perpetrator individually, but also to ensure a wider range of accountability, which can include the family or relatives of the perpetrator. In addition, in certain contexts, the law may require local communities to participate in the restoration of balance through a series of collective actions, such as implementing traditional ceremonies or other activities to reinforce severed social ties. Overall, the law serves as a reactive mechanism that aims to respond to and correct various actions that potentially damage the social order, attempting to restore the state of balance to its original state.

In Balinese customary law, the term "*pamidanda*" is known which refers to corrective actions or sanctions imposed in response to the behavior of individuals or groups in society that are considered to violate public order.⁸ This concept does not solely refer to the violation of social norms, but more broadly includes any action that has the potential to damage the balance of harmony in the order of indigenous peoples. These violations are considered a threat to preserving collective values that have been maintained for generations.

In the Balinese customary law tradition, *tri danda* is known as a form of customary reaction and correction that aims to restore the disturbed magical balance in society. This concept includes three sanctions types: *artha danda*, *jiwa danda*, and *sangaskara danda*. *Artha danda* is a sanction given in the form of material fines, generally in the form of money, to recover for losses or violations that occur, so that justice can be upheld and social balance is maintained. Meanwhile, *the soul is a* punishment that not only targets physical, but also psychological, by causing a sense of regret or inner suffering for the perpetrator. This punishment aims to make the perpetrator realize his mistake and not repeat his actions. *Sangaskara danda* is an action that restores harmony through the implementation of religious ceremonies, which serves to purify the state that is considered tainted by violations, so that spiritual balance in society can be restored. These three sanctions complement each other and play an important role as an effective customary

⁸ I Nengah Wijana and Deli Bunga Saravistha, "Keberadaan Awig-Awig Dalam Mengatasi Aksi Tindak Pidana Ringan Di Desa Marga Kabupaten Tabanan, Bali," *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum* 1, no. 2 (May 29, 2023): 23–29, <https://doi.org/10.58707/aldalil.v1i2.452>.

law instrument in overcoming violations and maintaining the social and spiritual order of the Balinese people.

Within the framework of the concept of pamidanda, as explained above, these forms of pamidanda function as a social institution that applies to the lives of the Balinese indigenous people. This institution is designed to uphold social order by providing moral sanctions in the form of deterrence and shame on legal subjects who commit reprehensible acts or desecrate the values upheld by indigenous peoples. This pamidanda mechanism not only aims to punish violators, but also to maintain the harmony and integrity of the social order that has been mutually agreed upon by the Balinese indigenous people, so that customary values are maintained and respected in community life.

Artha danda, in the context of customary law, is not always limited to giving money as a form of compensation. This sanction can also be manifested in other forms, such as livestock (cattle), agricultural products (rice), or other goods whose value is adjusted to the provisions of *awig-awig* (customary regulations) that apply in the local customary village. Furthermore, the soul of danda refers to social sanctions that require the perpetrator to perform certain actions within a specified period. For example, the perpetrator may be required to clean the customary territory or a certain area, following the rules set by the indigenous people through *awig-awig*. As for sangaskara danda, it is a sanction that involves efforts to repurify spiritually (*niskala*), manifested through traditional ceremonies. In this case, all preparations and implementation of the ceremony are the full responsibility of the perpetrators who are subject to the sanction.

Conclusion

Balinese customary law is a set of rules that govern the life system of indigenous peoples in Bali, which functions as a social institution that reflects local cultural values and traditions. The enforcement of this customary law covers all groups of people who live and operate in customary areas, both those who come from local communities (*krama adat*) and immigrants (*krama tamiyu* and *tamiyu*). Bali Provincial Regulation Number 4 of 2019 officially recognized and affirmed this arrangement concerning Balinese Customary Villages. In it, it is stated that any violation of customary law that has the potential to disrupt the balance and harmony of the life of indigenous peoples will be

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subject to sanctions following the provisions of the applicable customary law, as an effort to maintain and preserve social harmony that is the basis of life in the customary territory.

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