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Cultural Activities, Legal and Public Policy of Bali On *Desa Pakraman* and the Response of *Prajuru* the Traditional Village Management Kuta

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CULTURAL ACTIVITIES, LEGAL AND PUBLIC POLICY OF BALI ON *DESA PAKRAMAN* AND THE RESPONSE OF *PRAJURU* THE TRADITIONAL VILLAGE MANAGEMENT KUTA

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Abstract

In the New era, Bali was hegemonized by the politics of the State's law against traditional villages. There is a response from Bali Provincial Government to create a policy to protect traditional villages in Bali. The power of Bali in the traditional village is maintaining Balinese culture based on Hinduism and the philosophy of Tri Hita Karana. Relevant critical theories in this article's discussion are public policy theory which is micro, hegemonic theory, power relation theory and deconstruction theory. Qualitative method with case study design in traditional village of Kuta is used as the research of cultural studies. The result of the research explains that public policy in Bali in defending traditional village is that Bali Provincial Government responds to state law politics by establishing Bali Provincial Regulation. However, when the Provincial Regulation of Bali No. 3 of 2001 on traditional village, the traditional village of Kuta responded to Article 3 paragraph (6) was not accepted by the prajuru and also received a response from the traditional village council, so the pros and cons of the traditional village in Bali emerged.

Keywords: *Public Policy; Governance Response; Pros and Cons of Traditional Village.*



A. Introduction

Bali is a part of the Unitary State of the Republic of Indonesia as the provincial government has the right to regulate and manage its own governmental affairs according to the principle of autonomy and co-administration (see Article 18, Paragraph (2) of the 1945 Constitution, Second Amendment). In implementing the task of autonomy and co-administration, the regional government shall have the right to enact regional regulations and other regulations to implement autonomy and assistance tasks (see Article 18, Paragraph (6) of the 1945 Constitution, Second Amendment). In this context, the traditional village of Kuta as part of the Kuta Village, Kuta District of Badung Regency of Bali-Indonesia Province. Provincial Government of Bali has obligation to give birth public policy generally must be legalized in the form of law. Furthermore, basically a law is the result of public policy, which means that all public policy outcomes and processes must be standardized in a legal provision basically public policy must generally be legalized in legal form. Furthermore, basically a law is the result of public policy which means that all public policy outcomes and processes should be standardized in a legal provision (Muchsini, and Putra, 2015: 37-38).

In the political reality that Public policy as a political decision is made by the authorized public institutions. This public institution is an institution funded from public funds, ie collected money or collected from the public, whether in the form of taxes, retribution, or other formal levies (Riant Nugroho, 2013: 8). Formal policies are decisions that are codified in writing and authorized or formalized in order to apply. In this paper explained that formal policies are grouped into three, namely: 1. Legislation; 2. Law; 3. Regulation.

Taking into account the legislation in public policy with regard to the development efforts of the nation, both with regard to the State as well as the society or the people. In Indonesia's development, legislation is mobilizing, dynamising, anticipating and providing space for innovation in regulating people or traditional villages (See Article 1, number (1) of Law of the Republic of Indonesia Number 6 Year 2014, About the Village).



In the context of legislation there are two understandings of the Anglo-Saxon pattern, which are legislative and executive decisions; and continental patterns, consisting of macro, meso, and micro patterns. Therefore, Indonesia adheres to the Continental system inherited by the Dutch, then all policies are equated with the law (Riant Nugroho, loc. cit). The formulation of the problem in this article is as follows: first, how is the policy of Governor/ executive of Bali Province in anticipating *ajeg* (surviving) traditional village in Bali; second, how the response *Prajuru* Kuta traditional village, when the Regulation No. 3 2001 of Bali Provincial, about traditional village come?

B. Method

This study uses a qualitative method. Implementation of research with interview technique is not structured by interviewing public policy maker (Chairman of DPRD Bali Province and member of DPRD period 1999-2004, initiative to issue Regional Regulation of Bali Number: 3 Year 2001, about Desa Pakraman). The researcher also interviewed the executive, expert staff of the Provincial Legislative Council of Bali. Data analysis with triangulation method. Based on the assumption that meaning and process are crucial in understanding human behavior, that the data is descriptive, and the best analysis is done inductively, and the best data collection is also used with participant observation as well as by document analysis (Asmadi, 2004: 52). According to Bogdan & Biklen (1982), in qualitative research the research design is temporary. Therefore, as the research progresses, researchers continually adjust the design to the research process and the reality that occurs in the field. In cultural studies take whatever is needed from the field of other sciences, then adopt it to be tailored to its purpose, without following the conventional scientific rules so-called antidiscipline (Lubis, 2004: 144). Similarly, in using eclectic theory such as the theory below:

The theory is used to discuss the topic of this research there are three namely public policy theory, hegemonic theory, and deconstruction theory. Theories of this critical social group are used eclectically according to the character of the issues discussed in relation to each other.



According Riant Nugroho, public policy is a political decision made by political institutions. Generally there are four types of public policy: 1. Formal policy, 2. Conventions (common practice of public institutions that have been accepted together); 3. Statement of public officials in public forums; 4. The behavior of public officials. Then formal policies are grouped into three, namely a) Legislation; b) the law; c.) Regulation. Legislation is a public policy with respect to the State as well as people or society. In this case, legislation is usually movable, so it is dynamic, anticipating, and providing space for innovation. For legislation, there are two understandings of the Anglo-Saxon pattern, which are legislative and executive decisions; and a continental pattern that usually consists of macro, meso and micro patterns. For Indonesia by embracing the continental system inherited by the Dutch, then all policies are equated with the law (Nugroho, 2013: 9).

In law No. 12 of 2011 on the Establishment of Laws and Regulations, in Article 7, regulates the hierarchy of Regulations as follows:

- 1) The 1945 Constitution of the State of the Republic of Indonesia.
- 2) TAP MPR.
- 3) Law / Government Regulation in Lieu of Law.
- 4) Government regulations.
- 5) Presidential decree.
- 6) Provincial Government Regulation
- 7) Regency/City Regulations.

In this study will discuss public policy on the Village Law of traditional village Number 3 of 2001 on *Pacalang* as a micro policy and as long as there is relevance to the policy of meso, and macro policy. It can be understood that public policy can be grouped into three namely:

1. Public policies that are macro or general, or basic, commonly accepted include the Constitution, MPR Decree, Law, *perpu*.
2. Meso or intermediate public policies, or implementation explanations, which are commonly accepted include Government Regulations and Presidential Regulations.

3. Micro-public policy is a policy that regulates the implementation or implementation of the generally acceptable policies commonly accepted including the Regional Regulations of Regions (Nugroho, 2013: 10).

The Hegemonic Theory of Gramsci as the cultural leadership used by the ruling class in the form of policy by making the law product that is in the form of traditional village's regional regulation. The theory of hegemony, power is understood as a relationship, namely the relationship of power (State) to civil society that is the intervention of the ruler (Simon, 2004) in the field of traditionality and law (*Perda Desa Pakraman*) or social religious institution in Bali. In this case the role of the State can be as guardian and can also as a destroyer against the existing order so as to bring up the resistance of traditional village in the form has not received the name of traditional village as a social-religious institution and still calling traditional village of Kuta (*desa adat Kuta*). State dominance of villages in hegemonic cultural construction is the government as a wise teacher, the government is considered to uphold the common interest so that it is considered never guilty.

Then, according to the Foucault theory of power relations and knowledge, power is the relations that work in a certain space and time. Power produces truth because truth is within networks of relationships that work in a certain space and time. Power and authority are practiced and not only work through intimidation and violence but first through rules and normalization. Power is related to knowledge (Lubis, 2004: 162-175; see also Astara, 2010: 176). This Theory of Relationship Relation can explain the role of Bali Provincial People's Representative Council and the Governor of Bali when the New Order has produced Regional Regulation Number 06 Year 1986 regarding Position, Function and Role of Indigenous Villages as a Unity of Regional Law Community in Bali Province. Regional Regulation No. 06 of 1986, born in response to Law Number 5 of 1979, has not yet set the Traditional Village in Bali. Although Domestic Affairs regulation No. 11 of 1984 concerning the development and development of customs at the village level, has not yet



accommodated and/or regulated traditional villages in Bali (Astara, 2010: 36-37). Only the arranged are customs and habits that live in society based on *Pancasila*. Furthermore, Theory of Relations Authority is used to recognize the Regional regulation Number: 3 of 2001, the product of the right of initiative of house of representative (*DPRD*) Bali Province which majority of *PDI Perjuangan*. However, the law product of the Village Government of Traditional Village is experiencing pros cons by the *prajuru* traditional village of Kuta.

Derrida's deconstruction theory exists in the way of interpretation. First, the so-called restropective interpretation, the attempt to reconstruct original or original meaning or truth. Second, a prospective interpretation that explicitly opens the door to the indetermination of meaning in a free game. This theory of deconstruction in law is known in the flow of critical legal studies in principle trying to develop a radical aspect of legal realism and applying it to the framework of Marxism, especially in terms of Marxist criticism of Liberal thought. The point of this Deconstruction theory is to deconstruct the text of the articles of Perda Desa Pakraman "dismantled" based on the theory of interpretation and deconstruction (Salman, 2004: 113, see Astara, 2010: 210-211, and Fuady, 2005: 85 -86).

C. Research Finding and Discussion

1. Public Law and Policy and the Role of Governor in anticipation of *Ajeg Desa Adat* in Bali.

Law and public policy of all walks of life, including in the field of traditional villages (socio-cultural development), is strongly influenced by certain interest groups to anticipate and to save. Preservation, empowerment and custom village development in Bali. People of Bali who are Hindus are very concerned to preserve the religious social values of Balinese people. This reality shows that it embraces an elite model in making public policy (Pramudya, 2007: xvii-xxi). In this context, law is a tool of engineering (social engineering). That law is a means of social engineering, so the law becomes a tool of power and politics becomes commander. But whatever the process of making public policy, it often

has value conflict, because the values adopted are contrary to the values that live in society. For that matter, need to identify the problem, then make a clear formula what is the core of the problem, The next stage is incorporating issues identified in the government agenda. A government agenda is not a formal list that has a priority weight on the issues that decision-makers should discuss, but which illustrates which issues require more attention from decision makers.

Once the issues are on the agenda of the government, the next is the proposed State policy, which is to develop and develop a series of actions necessary to solve the problem. Activities are identifying alternatives, defining and formulating alternatives, assessing each available alternative, and selecting the best assessed alternatives to be implemented.

In the implementation of Law Number 5 Year 1979 on Village Government in Bali, custom village has not been regulated in it. Except in reply to the General Section of the House of Representatives on the draft law on village administration which was presented by the Minister of Home Affairs on 29 June 1979 before the Plenary Session of the House of Representatives affirming the status of traditional villages as follows.

"In accordance with the title of the Draft Law on Village Governance, the draft law only regulates the village in terms of its government, while other aspects in this case, including traditional villages, will be regulated in separate laws and regulations. Thus, the right of traditional village life does not conflict with the public interest in terms of its government" (Margono, 1980: 71).

The existence of this explanation means that the position of adat villages in Bali and even those found in other areas throughout Indonesia is not yet regulated in Law No. 5 of 1979. In fact, in this law many of the words "customs" then it is customs and not the position of the village of adat. As the executor of Law Number 5 Year 1979, especially regarding adat development, the Minister of Home Affairs has issued the Regulation of the Minister of Home Affairs Number 11 of 1984 on the Development and Development of Customs at the Village Level related to the



implementation of customs in accordance with Article 1, 4, 5, and 6 as referred to below:

Article 1:

- a. Traditionality are living habits and maintained in the daily life of society in accordance with *Pancasila*.
- b. Guidance and development are all activities in order to maintain and promote the customs that support the continuity of development and national resilience and not contrary to the interests and provisions of applicable legislation.

Article 4:

In preserving the local culture to enrich the cultural treasures of the nation, the government apparatus at all levels has an obligation to guide and develop its living and beneficial traditionality in development.

Article 5:

The sub-district head and village head and their apparatus are obliged to carry out the guidance and development of traditionality that live among the community in their area.

Article 6, Clause (2):

The implementation policy as referred to in clause (1) may be arranged in the form of regional regulations, regional head decisions and other implementation policies in accordance with the conditions of customs in their respective regions.

Furthermore, the choice and response of the Balinese people to the Regulation of the Minister of Home Affairs No. 11 of 1984 through the Provincial Government of Bali is to take legal action by issuing the Regional Customary Regulation No. 06/1986, to anticipate the permanence of customs and customs village in Bali.

Based on the instruction of Article 6, clause (2) of Regulation of the Minister of Home Affairs Number 11 of 1984 concerning the Guidance and



Development of Traditionality at the Village Level as mentioned above, it can be explained that traditional villages in Bali have not been accommodated in legal products, anticipating customs that live in a region. Traditional villages have not been secured "safe" and "comfortable" for the sake of Balinese people. Despite the fact that the existence of traditional villages in Bali has existed, it has been assured that it has had original autonomy. However, with the enactment of Law No. 5 of 1979, the existence of traditional villages is ignored.

The desire to rearrange uniformly villages in Indonesia has to be paid very expensive, in the form of destruction of the original order in many places. Because the order is still working well, like a traditional village in Bali. In this case working well means being able to be a "fun house" for the local community. In this connection, Law No. 5 of 1979 is an example of a criminal law or criminal law of Satjipto Rahardjo, 2007: 28). Bali, who felt his life threatened by the issuance of Law Number 5 Year 1979, immediately issued the Regional Regulation No. 06/1986 on the Status, functions and Roles of Traditional Villages as a Unity of Traditional Law Community in the Province of Bali. The sociological foundation of the Ruling of Traditional Villages in Bali, to preserve traditional village as a unity of peoples based on the Hinduism. Moreover, historically traditional villages have grown, throughout history throughout the centuries have made a very valuable contribution to the survival of society. Through the Traditional Villages in Bali, Hindu Religion is fertile its people's creativity, in the field of state ideology, economy, defense and security is united in diversity (see Local Regulation No. 06 year 1986 weighing a, b, c and d), indigenous villages in Bali is "comfortable and pleasant" for the Balinese community.

In this case Law No. 5 of 1979 can indeed work relatively effectively in areas that have been penetrated by industrialization so that the society is more urban, such as Java. It is not too risky to rearrange rationally the already industrialized and urbanized society, but not for the people whose traditionality is still strong.



In history, traditional villages in Bali are influenced by the nation's political journey in the house of representative (DPR) and / or house of representative Bali Province. Therefore, however, the political dynamics at the state level have influenced local politics. To avoid the eroding of traditional villages from the dangers of the domination and the full hegemony of the state, as part of the politics of law and response from the Governor of Bali as a form of resistance to "save the Balinese culture" on traditional village published by the Provincial Regulation of Bali Province No. 06 of 1986. Born Perda Desa Adat, Number 06 of 1986 can be seen as a struggle for environmental sustainability, Balinese culture, custom, as a reaction of the government and the Bali Provincial Legislative to maintain the traditional village to be protected and still exist as part of public law and policy to preserve Desa Adat Bali.

In fact, although legally Indonesian public policy has the motto of Unity in Diversity (*Bhineka Tunggal Ika*), but it is not purely and consistently executed, while it is a guideline and a grip in governing a very diverse society. But unfortunately, he is still a slogan rather than a reality. The wisdom of diversity has not been a disciplined legislation.

Key Informant I Wayan Waya, SH (former Bali Provincial Legislative Council) said (Interview with key informant, Member of Bali Provincial Level Regional Council I Wayan Waya, SH) "The emergence of this custom village regulation is an initiative of the executive (government) of Bali Province and usually prepared by the Village Governance Bureau (the drafting bureau) in coordination with the Bureau of Law, Bapeda and Finance. It is expected that the substance of the articles in the Local Regulations on Adat Villages in order to provide safeguards, protection, salvation, and peace that can be implemented at the village level.

Based on the above expression, the birth of Traditional Village Regulation No. 06 of 1986 is expected to protect the institution of traditional village through the Regional Regulation so as to protect Hindu culture and religion. The customary village regulation as Product of Bali Provincial DPRD 1982-1987 period is a political protection/ rescue against

traditional villages that have been pressed or oppressed from legal products.

- a. Assist the government, local government, village government/ village government in the smoothness and implementation of development in all fields, especially in the field of religion, culture, and society.
- b. Implementing regional law and tradionality in their traditional village; giving legal status according to traditional structure to matters relating to the interests of civil and religious social relations.
- c. To guide and develop Balinese traditional values in order to enrich, preserve and develop the national culture in general and Balinese culture in particular, based on *paras-paros salunglung sabayantaka*/discussion.
- d. Maintain, protect and utilize the wealth of traditional villages for the welfare of traditional villages (regional regulation of traditional villages No. 06/1986, Article 6, clause (1)).

In the Provincial Legislative Council of Bali at the time, there was no expert staff found, and when in exploring the thoughts relating to the substance of the article invited experts to take part in discussing the draft of the traditional village regional regulation draft (*ranperda*) "(Interview with I Wayan Waya, SH, on February 21, 2008, from 12:00 to 13:30 pm, located at the Secretariat of the Korpri Kesejahteraan Foundation of Bali).

Meanwhile, in the reality of Law and public policy in Bali the traditional village regulation is a product of executive and legislative law, but the legislative task only provides "stamp alone" or approves and accepts. The emergence of customary village regulations in Bali as part of law and public policy for Bali in particular to preserve Traditional Village, because "there is no convenient place for traditional villages in Bali" as a political form of legal protection against traditional villages hegemonized by the state. Therefore, normatively mentioned in the customary law regulation of Article 1, clause (e) that adat village as *dresta* village is a unit of regional law community in the Province of Bali which has a unity of



tradition and manners of social life of Hindu people in descending -the descendants of the three heavenly bonds (*kahyangan desa*) that have a certain territory and their own property and are entitled to take care of their own household. Furthermore, people of traditional village are a member of traditional village; the procedures and requirements of traditional village are regulated in the *awig-awig* of the traditional village concerned (Article 4, clause (1, 2) .The Article 6, clausr (1) is mentioned as follows:

- a. Assist the government in the smoothness and implementation of development in all fields, especially in the areas of religion, culture, and society.
- b. Implementing regional law and traditionality in its traditional village.
- c. Providing legal status according to customary law on matters relating to the interests of social relationships civil and religious.
- d. To guide and develop Balinese traditional values in order to enrich, preserve and develop the national culture in general and Balinese culture in particular, based on *paras-paros salunglung sabayantaka* (consensus for consensus).
- e. Maintain, protect, and utilize the richness of traditional villages for the welfare of customary village communities; (1) in the traditional village law (based on traditional Village Regulation No. 06 of 1986, article 6, clause (1).

Implementing in traditional village Kuta mentioned in Article 6, clause (1), which is described in the regional law of the traditional village so that the written regional law is not contradictory to: (1) Pancasila; (2) the 1945 Constitution, under article 18; (3) of Regional Regulation Number 6 Year 1986 of the Province of Dati I Bali; (4) *Trihita Karana* (*Awig-awig Desa Adat Kuta Pawos 2*).

As explained above that from the Traditional Village confrence in Badung Regency held on 12 s.d. July 15, 1974, located in Kesiman, gave birth to the product of the Local Village Regulation No. 06 of 1986 which implicated the traditional villages in Bali to organize local law (*awig-awig*)

in accordance with the paruman agreement so that there is a model/pattern of uniformity in local law. In addition to the above described on the need for local law, the conclusion of conference I of local law Development and Community Order by Faculty of Law & Community Knowledge Udayana University together with Bali Provincial Government on 8-9 September, 1969 felt the role of local village law is very large because in it has formulated things as follows.

Local village law is one of the realization of traditional village law in Bali, plays a very important role in regulating the life of Balinese people, both in the field of religion/ culture and in the field of social economy. The Balinese still uphold and respect the local law of traditional villages and obey and adhere to its provisions so that local law village in national law development must be taken into account. Local law contains benchmarks about the behavior that must be carried out by the village people. Among the standards there are clear and definite standards determining the forms of traditional reactions to be undertaken where the content of the provisions is implemented or not exercised. These standards are born out of a sense of justice and propriety that lives in the psyche of the village in carrying out its relationship with God, with society, and with fellow human beings.

In the local law procedure that is in line with the First Law conference of 1969, there are several instructions as follows.

- a. In order to make the meeting among village people (*sangkepan*) to get the problems and materials that need to be formulated in the village local law.
- b. If from the meeting (*sangkepan*) obtained problems and materials, then the meeting (*sangkepan*) village people should form a small committee whose members consist of village leaders. This small committee is in charge of formulating and inventorying all material issues raised in the village people (ad.1) into the writing of local law.
- c. The small committee, if required, is accompanied by a team of experts from the local government. The team of experts (now) is



done by the Implementing Agency of the Traditional Institution Counselor together with the Assembly of the Balinese traditional Institution I. The expert team is on duty to assist in directing and advising the small committee in its task of drafting the village awig-awig.

- d. The local village law plan prepared by the small committee is proposed in the village people again to get a review for the decision and endorsement of village manners. All of this is done by way of consultation and consensus.

It has also been used by the Traditional Village Development Team as the executor of the Governor of Bali's First Level Project to Faculty of Law & Community Knowledge Udayana University to carry out the Development since 1974 in Badung, Tabanan, Gianyar and Bangli regencies since then the establishment of the Assembly of Traditional Institutions of the First Level Region of Bali is also used in the guidance of work guidance in Klungkung, Karangasem, Jembrana and Buleleng in 1980, 1981, and 1982.

Taking into account the enactment of local law simultaneously in all traditional villages in Bali, the "state" represented by the Provincial Government of Bali has hegemonized the traditional village. Therefore, adat villages have the spirit of interview, *negara mawatata* in making the choice of law in their village.

Bali as the territory of the Unitary State of the Republic of Indonesia to feel the life of its "traditional institutions" will be threatened by the issuance of the above law so that it immediately holds "resistance with legal politics". Bali issued Local Regulation No. 06/1986 on traditional villages that protect local life and local order that are still working well. However, not all regions acted like Balinese so that the village structure collapsed, which is still a comfortable home for the people there (Rahardjo, 2007: 31).

Nugroho (2013), grouped public policy models adopted in Indonesia that left the Dutch "Dutch" model of colonialism into three groups:

- a. Public policies that are macro or general, or basic, commonly accepted include the Constitution, TAP MPR, Law / Government Regulation in regional regulation (*Perpu*).
- b. Medium or messianed public policies or commonly accepted implementation explanations include Government Regulations and Presidential Regulations.
- c. Micro-public policy is a policy that regulates the action or implementation of the above commonly accepted policies including Regional Regulations.

In the cultural practice of maintaining traditional villages in Bali, there needs to be a Law and Public policy protection for Bali in the implementation of Local Regulation No. 06/1986 on traditional villages in Bali which are micro by juxtaposing the "Cases of Local Government Law" (Law Number 5 Year 1979) which ultimately undermines local governance structures that have functioned well for hundreds of years. National law not only gives blessings to society, but also can become a burden for the local community. Therefore, the dynamics of societies that live for years as a social and legal process accommodate the social process, and the law will be able to heal itself. Law as public policy let it flow to solve the problems of "more social" to build a "law-based" public policy. However, Law No. 5 of 1975 on Villages, has damaged the village order in Bali "unity in diversity (*Bhineka Tunggal Ika*)" with the centralistic system by changing the *Banjar* as an official village to "Environment" and / or "hamlet". This, has "damaged" Balinese society that is "comfortable" with the name *Banjar*.

Hegemonic theory is used to recognize the interaction traditional village and regional government in relation to state power, that is, the state has the means / means of power to protect, to influence the society for the sake of the state. In addition, the state has an officer who can



perform tasks that have become his authority. In the political reality of traditional villages form the hegemony of the village of the Bali Provincial Service (state) in the form of the local law program of Traditional Village of Kuta which previously local law many traditional villages are not written. However, the local law is usually written in Balinese letters in palm leaves placed in the temple of the local traditional village.

To view other hegemonic contexts of traditional villages in Kuta, clearly and clearly stated in local law traditional village of Kuta article 82, clause (2) Awig-awig puniki orangin by Kelian Desa Adat Kuta, kesarengin kelian likes, saha kesaksinin Bananas BPPLA Badung regency, Head of Kuta, Lurah Kuta, mihah the head of the neighborhood of Kuta Adat Village. (Awig-awig is signed by Kelian Desa Adat Kuta along with kelian likes of grief, and witnessed by Badung Institute of Badung Institution, Kuta Head Cultivator, and head of environment in Kuta Adat Village).

Public policy is micro with Local Regulation on traditional Village Number 06 Year 1986 valid on the date of promulgated in the provincial gateway of Bali's First Level Region No. 3 dated 27 February 1988 to 21 March 2001 since the enactment of Regional Regulation Number 3 Year 2001 regarding traditional village promulgated on May 8, 2001, number 29 series D, by revoking the regional regulation of traditional village Number: 06 of 1986. In Article 18 of the Regional Village Law of traditional village Number 3 of 2001, this regional regulation shall become effective no later than one year after it is enacted. According to Satjipto Rahardjo, law has changed human behavior as a factor that much determines how the law is formed and work (Rahardjo, 2009: 3).

2. Prajuru/Committee of Traditional Village of Kuta Response on the Implementation of Regional Regulation Number: 3 Year 2001 About Traditional Village.

Cultural practices in Bali in the context of tourism in Bali, especially the traditional village of Kuta cultural tourism is packed with the spirit of the philosophy of *Tri Hita Karana* in a "model that *Pelelisan/melasti*" which is held every year in welcoming new year *caka*

become a cultural spectacle "free" at the beach Kuta, means that economic resources are not only born from natural resources, but also from cultural resources, from natural human thought resources that give rise to culture. It can not be denied that Balinese culture is now the main capital of Bali Provincial Government and Regency/city in Bali in the development of Balinese economy. Balinese culture is a culture that grows and develops in the life of local people's unity. Local peoples in Bali are the owners of Balinese culture, as well as responsible parties in maintaining, managing and developing Balinese culture (Wyasa Putra Ida Bagus, 2015: passim).

The change of traditional village regulation to regional regulation of traditional village resulted in a fundamental change from traditional village regulation to local law of traditional village is when the traditional village regulation called "*krama*" is for those who are bound by their traditional village in the context of *Trihita Karana*, namely *parahyangan* (*Pura Kahyangan Tiga*), *palemahan* (*region*), and *pawongan* (*community*) that can not be separated with Hinduism. However, when the village regulation of *pakraman* is made there is a change in the sense of *krama*, which includes those living in non-Hindu *pakraman* villages as stated in Article 3, clause (6), for non-Hindu traditional village/*krama krama* only have *pawonganpalemahan* within the village / *banjar pakraman* area whose rights and obligations are regulated in the village local law/*banjar pakraman* respectively. Article 3 clause (6) is not accepted by the *Prajuru* Traditional Village of Kuta, because it is considered a source of future conflict with the *krama tamiu*/non-Hindu immigrant population (Astara I Wayan Wesna, 2010: 538). Opinion not only at the level of *Prajuru* Traditional Village of Kuta, but the difference of opinion occurred also at the level of assemblies of Bali's Traditional Village. Main Assembly's opinion, Putu Sueca SH; Article 3 clause (6), can not be viewed in isolation or apart with Article 1 Number (4) which reads as follows:

Traditional Village is a unity of local law community in Bali Province which has one unity of tradition and manners of social interaction of Hindu community from generation to generation in *kahyangan tiga* or *kahyangan desa* clans of villages that have certain



territory and their own property and have the right to take care of their own household.

This means that, as *krama* is a *krama*/local citizen which is Hindu, non-Hindu is prevented in the context of utilization of traditional village wealth, such as local land (*tanah adat*), *setra*, and traditional village facilities (interview with I Wayan Putu Suwena, Majelis Utama Desa Pakraman). Even according to Sumarta (Skr. of Majelis Majelis Desa Pakraman), as a traditional village *krama*/local citizen requiring the requirements should be formulated by local committee and its *prajuru* as *krama*. For that reason, this *krama* can be analogy as membership, that is status as *kramatraditional* village whose rights and obligations can be arranged in local law and/or *pararem*. (Interview with I Ketut Sumarta, Secretary of Bendesa Agung Desa pakraman, January 27, 2009).

The issue of text (Article 3 clause (6) of the Village Local Law and the context in cultural reality is questioned by the committee traditional vilage of Kuta. The traditional village, in relation to the government mentioned that one of the duties of the traditional village, is to regulate the village manners, and together the government undertakes development in all fields, especially in the areas of religion, culture and society (Article 5, clause (d)). This is recorded from Parimartha (2003^a, Passim), because the lack of clarity on the implementation of the relationship between the village of pakraman and the government (the intended village). The conflicts of "idea", the substance of the law village" and the improvement of the status of the village of traditional village into official village "*desa dinas*" or the village of service integrated into the traditional village very attached after the traditonal local local law is formed. There has not been a complete solution from the legislative house of representative of Bali province who "*membidani*" local law of traditional village. Then, the executive "let" the Local Law (*Perda*) goes on in accordance with existing procedures and rules and awaits a "sort of" lawsuit from the traditional village committee/administrators to which way the regulation goes and then crystallize.

Now, it has been answered what traditional village, become official village, that is with the enactment of Law No. 6 of 2014 about the Village. Based on Law No. 6 of 2014 on Villages, Article 1 point (1) Village and traditional village or called by another name, hereinafter referred to as the Village, is a legal community Unity which has territorial boundaries to regulate and manage government affairs, based on community initiatives, origin rights, and/or traditional rights recognized and respected within the system of government of the Unitary State of the Republic of Indonesia. Article 6 clause (1) Village shall consist of village and traditional; paragraph (2) The mention of village or traditional village as referred to in paragraph (1) shall be in accordance with the applicable mention in the local area.

In other respects, debates and discussions on improving the status of traditional village into official villages have been answered with the enactment of Law No. 6 of 2014 on Villages. the issue of the transformation of "thinking" and also the discourse to improve the status of the village of traditional to become the "official village" contained in the explanation of the Village Law Article 7, clause (1), *pakraman* or local citizen village, in addition to the unity of the legal community as well as a government organization that stands alone. "Traditional village functioned and played a role in managing village life" which in its implementation was carried out by village leaders "although in Article 7, clause (1) reads", Traditional Village is led by traditional village counselor". Given the thought of changing the "status of the traditional village" to "the official village" there was "pro-cons" among the intellectuals. The transformation of thought in the form of discourse, "Bali does not need to have an official village" was revealed when Andi Malaranggeng as a speaker in the dialogue "Development in Tourism Sector and Implementation of Regional Autonomy" which took place at Balai Budaya Gianyar, June 26, 2003. In this case Andi Malaranggeng concept for traditional village offices and villages are united under one authority so that there is no conflict between traditional villages and village offices or official village (Bali Post, Saturday Kliwon, Bali Do not



Need a District Service). Meanwhile, Surpha said that it is not necessary to eliminate the traditional village and official village, because both are already running in harmony, even helping each other and complement each other. On the contrary, Parimartha firmly stated that Bali still needs an official village to revive traditional villages, and even traditional villages and official village should unite in determining the boundaries of authority in its territory. Both need to co-exist, filling each other with each other in rural development. Each plays in accordance with the *swadarma* (mission, the value of unity, nationality, mission of cultural values, and local tradition) without any sense dominated by others.

During the Reform era and the fall of the New Order the enactment of Law Number 22 Year 1999 on Regional Government. During the New Order era, traditional villages were dominated by official villages, but now there was a reversal tendency, namely the dominance of traditional villages over official villages, meaning that the pendulum moved from the traditional extremes to the extreme service. This is a flashback of the dominance of the village office against the traditional village, no half-hearted sounds echoed in Bali, "Destroy the village service." This phenomenon is captured by Andi Mallaranggeng (Bali Post, Wednesday Wage, July 2, 2003, Bali Still Needs (official villages). In this case the discourse phenomenon in the form of the transformation of ideas or ideas, both physically "legal substance in local law of traditional village" or nonphysical, that is still in the form of "discourse" is dualistic. According to Piliang (2004: 56) this dualistic world portrait of reality has created an ideologization of reality and the truth-seeking of traditional village into a official village which doubles as an traditional village, and functions to perform the duty of the state (Yasraf Amir Piliang, 2004: 313). Furthermore, I Wayan Wesna Astar mentioned that Bali is famous for *desa adat* (Bali Provincial Regulation No. 6 of 1986), then changed to *Desa Pakraman* (Perda Desa Pakraman Number 3 of 2001), which Althuser called the ideology apparatus in the sense that it is not a direct part of the state structure, but beyond it, traditional villages have the right and

authority to govern themselves without state interference in it (Astara I Wayan Wesna, 2014: 22).

It seems that with the enactment of Law No. 6 of 2014 on Villages in the District there is a thinking about the Village to be a village based on Article 100 clause (2), in traditional village can be changed into village, the wealth of traditional village will be changed into village wealth. Then in the case of adat villages changed status into political district administered by a village chief, the wealth of adat village switching status to the wealth of local government district / city. Village customary regulations (Article 110) are in accordance with local law and traditional norms prevailing in traditional village as long as they do not conflict with the provisions of legislation. Then with the enactment of Law Number: 6 of 2014 about the Village, there is the desire of the Regent of Badung, that the status of the village changed to Village. However, there were cross-polls of opinion from community leaders in Kuta, especially in Tuban Village, including traditional village of Tuban and Kelan traditional village. Changes in the status of the village of Tuban, based on the opinion of Kelan traditional village leaders of Tuban urban village, changed its name to «Kelan» village. This is strongly opposed by the traditional village leaders of Tuban, and the facilitator team of the formation of the village of Tuban, who believes that Kelan traditional village leaders who do not understand article 100 verse (1): village status may turn into *adat* villages, *adat* can be turned into a village, and *adat* village may be transformed into political district administered by a village chief based on community initiative concerned through village consultation and approved by regency/ municipal government.

D. Conclusion

In maintaining (ajeg) Balinese culture, especially the traditional village of Kuta in the practice of culture and law experience changes in public policy. Cultural practices related to traditional villages in Bali are changing in public policy. The changes are related to the legal and cultural aspects, namely, first, the Regional Regulation No. 06 of 1986, on



traditional, meaning as a form of Balinese resistance against the "State" represented by the Governor of Bali and the Provincial Legislative of Bali. Secondly, the Hegemony of "State" further after the enactment of Bylaw No. 06 of 1986, in Bali especially in traditional village of Kuta is practiced in the form of local law program of traditional village of Kuta which previously local law many traditional villages are not written to be written in Latin letters, Balinese language and Balinese letters. In addition, there needs to be deconstruction associated with the hegemony of "state" in the meaning of protection, guiding, preservation of traditional villages in Bali. the occurrence of legal protection related to indigenous villages in Bali, especially indigenous villages of Kuta which contains the meaning of protection, guarding, preservation of traditional villages in Bali.

Response of *Prajuru* traditional village of Kuta to the Provincial Government of traditional village Number 3 of 2001, that the name "traditional village" is sociologically not accepted by the traditional village council, because it contains conflict in the future. The conflict relates to article 3, clause 6, relating to *non-Hindu tamiu krama* interpreted as "krama" / or people of traditional village in relation to the philosophy of *Tri Hita Karana* entering the element of *pawongan* (*human relationship*). With the entry as *tamiu krama* / non-Hindu immigrants, it is interpreted that they will enjoy the facilities of the *tanah adat* such as, cemetery, *tanah ayahan desa* (AYD), the village yard (*Tanah Pekarangan Desa* PKD), and the public facilities owned by the traditional village.

Bibliography

- Arka, I Wayan, (2016). *Desa Adat Sebagai Subyek Hukum Perjanjian*, Udayana University Press, Denpasar.
- Astara, I Wayan Wesna. (2010), *Dinamika Sosial Politik Desa Adat Kuta Bali Dari Desa Adat ke Desa Pakraman: Perspektif Kajian Budaya*, (Disertasi), Program Pascasarjana Universitas Udayana, Denpasar.
- Astara, I Wayan Wesna. (2010), *Pertentangan Poltik Hukum Negara & Politik Kebudayaan, Otonomi Desa Adat di Bali*, Udayana University Press.



- Astara, I Wayan Wesna. (2015), *Dinamika Politik Kebudayaan, Hukum, dan Pariwisata Bali*, “dalam Ragam Wacana, Bahasa, Sastra dan Budaya”
- Fuady, Mudir. (2005). *Filsafat dan Teori Hukum Postmodern*, PT Citra Aditya Bakti, Bandung.
- Lubis, Akhyar Yusuf. (2003), *Setelah Kebenaran dan kepastian Dihancurkan. MASIH ADAKAH TEMPAT BERPIJAK BAGI ILMUWAN: Sebuah Uraian Filsafat Ilmu Pengetahuan Kaum Posmodernis*, Percetakan BYRU, Yogyakarta.
- Muchsin, & Putra, Fadillah. (2015), *Hukum dan Kebijakan Publik*, Averroes Press, Malang.
- Nugroho, Riant. (2013). *Metode Penelitian Kebijakan Publik*, Pustaka Pelajar, Yogyakarta.
- Pamela, C., Villalobosl, L., & Peralta, N. (2017). Difference Cultural Structure and Behavior Students In Learning Process. *Jurnal Ilmiah Peuradeun*, 5(1), 15-24.
- Piliang, Yasraf Amir. (2004). *POSREALITAS, realitas Kebudayaan dalam Era Posmetafisika*, Jalasutra, Yogyakarta.
- Pramudya. (2007). *Hukum Itu Kepentingan*, Batara Offset, Salatiga.
- Rahardjo, Satjipto. (2007). *Biarkan Hukum Mengalir, Catatan Kritis Tentang Pergulatan Manusia dan Hukum*, Penerbit Buku Kompas, Jakarta.
- Rahardjo, Satjipto. (2009). *Hukum dan Perubahan Sosial Suatu Tinjauan Teoritis Serta Pengalaman-Pengalaman di Indonesia*, Genta Publishing, Yogyakarta.
- Salman, Otje. (2006). *Teori Hukum Mengingat, Mengumpulkan dan Membuka Kembali*, PT Refika Aditama, Bandung.
- Simon, Roger. (2004). *Gagasan-gagasan politik Gramsci*, Pustaka Pelajar, Yogyakarta.
- Sudarsana, I. K. (2016). Development Model of Pasraman Kilat Learning to Improve The Spiritual Values of Hindu Youth. *Jurnal Ilmiah Peuradeun*, 4(2), 217-230.
- Suzanne, R., & Nathalie, L. (2016). Multiculturalism as an Alternative A Cultural Orientation to Education in the Aspect of Culture as the Axiological Focus. *Jurnal Ilmiah Peuradeun*, 4(3), 383-394.



Windia, P, Wayan. (2008). *Bali Mawacara, Gagasan Satu Hukum Adat (awig-awig) dan Pemerintahan di Bali*, Pusat Penelitian Hukum Adat Universitas Udayana, Denpasar.

Wyasa Putra, Ida Bagus. (2015). *A Contra-productive Impact of Indonesian New Legislation on Administrative Village against Indonesian Indigeneous culture as an Economic Resource*,9-11.

Legislation

Undang-undang Nomor 5 Tahun 1979 tentang Pemerintahan Desa.

Undang-undang Nomor 5 Tahun 1975 tentang Pemerintahan Daerah.

Undang-Undang Nomor 12 tahun 2011 tentang Pembentukan Peraturan Perundang-undangan.

Undang-Undang Nomor: 6 tahun 2014 tentang Desa.

Peraturan Daerah Provinsi Bali Nomor: 6 tahun 1986, tentang Kedudukan, fungsi dan peranan Desa adat sebagai Kesatuan Masyarakat Hukum Adat dalam Propinsi daerah Tingkat I Bali.

Peraturan Daerah Provinsi Bali Nomor: 3 tahun 2001, tentang Desa Pakraman.