

Strengthening Balinese Customary Laws through Awig-Awig Writing in Pekutatan Negara Traditional Village

I Made Suwitra¹, I Wayan Wesna Astara², I Ketut Kasta Arya Wijaya³, I Wayan Arthanaya⁴
Universitas Warmadewa, Bali, Indonesia^{1,2,3,4}

{madesuwitra27@gmail.com¹, wesna_astara@yahoo.com², kastaaryawijaya@gmail.com³,
arthanaya.wayan@gmail.com⁴}

Abstract. The purpose of this research is to analyze the legal certainty aspects on *Awig-Awig* in an effort to strengthen the Traditional Village based on the Tri Hitakarana philosophy. The *Awig-Awig* writing is a codification of Balinese customary law which regulates the various activities of *Krama Desa* (village residents). *Parhyangan* is a forum for villagers to connect themselves with *Ida Sang Hyang Widi Wasa* (God Almighty) and a means of preserving the Balinese culture. *Palemahan* is the manifestation of harmonized relationship between territories or the foundation of life sources and beachhead from live until death. In developing the village residents life which is always progressive, it is necessary to affirm the arrangements through the *Awig-Awig* writing in accordance with their rights, obligations, marriage, and inheritance. Therefore, it is consistently enforced according to the value of propriety in society.

Keywords: *Awig-awig*; Balinese Culture; Traditional Villages; Propriety

1 Introduction

The term of *Desa Adat* is the equivalent of customary law association which is a translation of the term “*adatrechtgemeenschap*” which was originally referred to as a traditional village. In its development the term Traditional Village was raised in an effort to differentiate it from the village formed by the government which was known as the Village Service in Bali.

Traditional village for the first time was normatively stipulated by the Bali Level I Regional Regulation (Perda) Number 06 of 1986 concerning the position, function, and role of the traditional village as a Customary Law Community Unit in the Province of Bali. Article 1 letter e is formulated: Traditional Village as *Dresta Village* is a customary law community unit in the Province Level I Bali which has a unity of tradition and social manners of Hindu community life from generation to generation in the ties of *Kahyangan Tiga* (*Kahyangan Desa*) which has a certain area and own assets and the right to manage their own household.

Then, in the version of Perda No. 3 of 2001 concerning *Desa Pakraman* Jo Perda No. 3 of 2003, the term *desa adat* was later replaced by the name *pakraman village*, but the two terms were given no different meanings, so that *Pakraman Village* was none other than what was formerly known as *Desa Adat*. According to Parwata & Wijaya (2018) The existence and

traditional rights of Pakraman Village are protected by the Constitution (UUD.NRI 1945). The Council for the Trustees of Customary Institutions (hereinafter abbreviated as MPLA) emphasized that before the Dutch colonialism, in Bali several terms that had relations with aware known *customary village*, namely: *meaningful sima*, *lekita*, *paswara*, *awig-awig*, *karaman* or *krama* and *thani*. In 2019 the Provincial Government of Bali again made changes to the Pakraman Village Regional Regulation with Perda No. 4 of 2019 concerning Traditional Villages in Bali with the aim of "strengthening traditional villages". Currently, there are 1493 Traditional Villages in Bali that are planned managed by a separate OPD, namely the OPD for the Advancement of Traditional Villages.

In subsequent developments, these customary rules are better known as *awig-awig*, which comes from the word '*wig*' (Old Balinese) meaning 'damaged', got the preposition "a" to be the word *awig* which means 'undamaged' (Putri et al., 2018). So *awig-awig* is a regulation in a customary village both in written and unwritten form to strengthen and strengthen a customary village so that it is not damaged, to guarantee the upholding of the customary village. In line with the above statement, the MPLA emphasizes that this conceptual rule is then poured into written and unwritten rules, giving rise to an understanding, that *awig-awig* are rules of living together for village *krama* in traditional villages, to realize life which is safe, peaceful, orderly, and prosperous in a traditional village.

The role of *Awig-Awig* by the Regional (Provincial) Government is felt very big so that in the first Seminar of 1969 concerning "Fostering *awig-awig* and in community order" together with the Faculty of Law, Udayana University it is necessary to make a written form or need to be written in the interests of government officials, the generation of will come or other parties who want to learn about customary law in Bali in its development. The purpose of this correspondence is to have uniformity and order in the form and systematics of *awig-awig* village in Bali. Besides being written in Balinese script, it can also be written in Latin letters and in Indonesian. In the traditional village housing throughout Badung Regency in 1974 it was reaffirmed that the strengthening of *awig-awig* so that all villages in Badung Regency immediately wrote *awig-awig* in their respective villages. What is written in *awig-awig* is only the main points of its content, while the specificity which is constantly changing and developing according to the situation can be formulated in deliberation notes as a complement to *awig-awig*.

The Pekutatan Traditional Village was founded around 1916 and is one of the 13 (thirteen) Traditional Villages in Pekutatan District. The area of Pekutatan Village is 16.62 Km² (1,662 Ha) with fertile soil conditions making it suitable for agriculture. The total population is 4,858 people or 1,356 households. This Traditional Village/Pakraman consists of 7 (seven) Adat Banjars, namely: Banjar Yeh Kuning, Banjar Koprahan, Banjar Dangin Pangkung, Banjar Dauh Pangkung, Banjar Budhi, Banjar Bakthi, and Banjar Sumbermis.

Currently, the Pekutatan Traditional Village already has *awig-awig* written / written, but it is realized that it still needs to be harmonized regarding the language, its systematization, and some of its contents according to developments and various statutory regulations as State law, so that later their effectiveness can be coexistence both institutionally and from regulations.

Partner problems in the observations of the servants, namely that there are conditions in which the Balinese people and generally *the village krama* Pekutatan Identify with several problems, namely: (1) The use of language in the *Awig-Awig letters* of the Traditional Village is still found difficult to understand by the younger generation; (2) the *Awig-Awig Desa material* still requires adaptation to current conditions, and (3) the *awig-awig mailing* has not referred to the systematic reference of the mailing guidelines.

A number of similar studies were examined by one of them (Wisnumurti et al., 2019) regarding the Empowerment of Indigenous Peoples and Awig-Awig Lettering in Pakraman Siangan Village, Gianyar Bali Indonesia. Furthermore (Suwitra, Astara, Irianto, & Datrini, 2017) studied Interpreting the Content of the Formulation of Norms in Awig-awig in Pinggan Traditional Village Kintamani Bangli. (Widyastini & Dharmawan, 2013) analyzed the Effectiveness of Awig-Awig in Regulating the Life of Fishermen Communities on Kedonganan Beach, Bali. The last is (Parwata & Wijaya, 2018) looked at the existence of Pakraman Village in the Management of Balinese Cultural Tourism (Study of Bali Provincial Regulation No.2 of 2012, concerning Balinese Cultural Tourism).

Taking into account this condition, several formulations of the planned study problem can be given, namely as follows:

- a. How is the revision of norms in *awig-awig correspondence*?
- b. How to formulate the revised norms in *awig-awig correspondence* in order to ensure legal certainty for the new Balinese era generation?
- c. How is the adaptation of *Awig-Awig* with the development of laws and regulations?

2 Research Method

The steps taken in answering the issues faced by partners are to re-take inventory of the norms that have been formulated, inventory *perarem* (results of discussion of each issue), adjusting aspects of language, systematics. The results of all the writing on the work covered by Paruman Inventory *prajuru* penyuratan *awig awig* models of *the Focus Group Discussion* (FGD). Revision and adjustment of drafts according to the results of the FGD, Socialization of the complete Awig-Awig draft in Paruman Desa from the results of several FGDs in Paruman Prajuru (Pamucuk). Finally, the finalization of the draft was submitted.

3 Results and Discussion

3.1 Interpreting Legal Functions as "Social Control" and "Social Engineering" In Awig-Awig Letters

Law can basically perform two functions, namely: *First*, as a means of social control, which is tasked with keeping society in order be in the patterns of behavior that have been accepted by him. According to this function, the law only maintains what has become something that is permanent and accepted in society or the law is the guardian of the *status quo*. It is relevant to the condition of customary law in Bali, which starts from steady behavior so that it forms habits, then because it is considered good and useful, strong and eternal, its integrity becomes custom, finally becomes customary law through decisions (*beslissingenleer*). *Second*, law as a means of "social engineering", which functions to bring about changes in society. So the law is used to bring about a real social change. Therefore, the customary law norms function to change behavior towards what the community wants through *paruman*.

The function of law as social engineering (*law as a tool of social engineering*) was revealed by Roscoe Pound, who is known as one of the supporters of the school *Sociological Jurisprudence*, with the aim of eliminating the habits of society that are seen as negative. So in this theory, the law is used as a tool to renew (manipulate) community behavior (*krama*

village adat). The island of Bali has a customary law association called the Pakraman Village (Artajaya, 2017) (Mahadewi, Sukadana, & Suryani, 2020).

This idea of Pound in Indonesia was later developed by Mochtar Kusumaatmadja, who became known as the Unpad School of Law Philosophy. Mochtar's conceptual law is not interpreted as a "tool" but as a "means" of community renewal, which is based on several considerations, namely: (1) that order and order in development and renewal efforts are desirable, even absolutely necessary, and (2) that law in the sense of rules is expected to direct human activities in the direction desired by development and renewal. Therefore a means is needed inform the legal regulations written (both legislation and jurisprudence), and the written law must comply with the laws that live in society. This Pattern social engineering appears to be adopted or replicated in the *Awig-Awig letters* of the traditional Villages in Bali. To maintain customary values and culture, awig-awig is a tool or basis for regulating the community in their daily activities in the indigenous community (Rindawan, 2017). Especially in the *Awig-Awig* lettering of the *Pekutatan* Traditional Village, the concept of *social engineering* is very relevant, because several arrangements in the field of marriage (*nyentana*, *nyeburin*) and inheritance are deliberately emphasized so that they can be used as guidelines for both the Prajuru Adat and the next generation of the *manners* Pekutatan Traditional Village. Adhering to customary law norms in *Awig-Awig* Desa Adat Pekutatan in addition to being matched in its function as *social control* in the form of upholding and maintaining customary law that has been in effect and respected for a long time, can also be matched with the function of *social engineering*, which is to change the behavior of law. *manners* customary village towards modern law which prioritizes written / express norms such as in the field of *manners* to negate the classification of *village manners* with their rights and obligations in the context of the state, negates the form of marriage (ordinary or *nyeburian/nyentana*) with various legal consequences, the minimum age requirement to be allowed to marry, does not there is a ban on marriage because of the closest blood relationship. So the *Awig-Awig* Desa Adat Pekutatan was revised by keeping in mind the simplification of language, namely by avoiding using Kawi as much as possible. In addition, due to various systematic changes and the content or legal material according to State law, such as the Bali Provincial Regulation No. 4 of 2019, amendments to Law No. 1 of 1974 with Law no. 16 of 2019.

The formulation of norms in *Awig-Awig* is general in nature but can be applied to all individual cases covered within the area of the Pekutan Traditional Village (the principle of territoriality) and applies to all *manners* Pekutatan Traditional Villagewherever they are (personality principle), such as setting norms. India Inheritance"which confirms who is declared an heir, their rights and obligations, the loss of their rights as heirs, inheritance with various variations. Conditions need to be emphasized due to the existence of several cases of disputes over immaterial inheritance in the form of *Family Temple (Merajan)* between brothers who are still loyal to Hinduism and other brothers who have converted to other religions, but by the Court Judge, the immaterial inheritance in the form of a *temple (Merajan)* is precisely determined to be the right of his brother who has changed religions, as in the case of the dispute over Pura Hyang Pasek Gaduh in the traditional village of Canggu Badung. So the strengthening of Traditional Villages in Bali can be done through *awig-awig letters* which have functions both as *social control* and as *social engineering*.

3.2 *Awig-Awig* Coexistence as Balinese Customary Law with State Law

Coexistence is the operation of customary law and State law in harmony and direction to achieve the same goal, namely certainty, justice and benefit. This includes the functioning of

institutions according to their functions without denying each other the awareness of their respective positions in the Unitary State of the Republic of Indonesia by avoiding duplication of authority.

Writing *Awig-Awig* apart from negating the customary law which is still adhered to and respected, can also adapt the customary law norms written in *Awig-Awig* to the provisions of State law, such as in regulating the rights and obligations (Duarsa, Sugiarta, & Sudibya, 2020) of *tamiu* and *tamiu registration* with population and civil provisions to avoid the existence of illegal levies by Traditional Villages by exploiting the existence of *tamiu* and *tamiu kramau* who live in the Village of Adat.

Krama tamiu in the Bali Provincial Regulation No. 4 of 2019 regarding Traditional Villages in Bali is defined as Balinese Hindu citizens who are not *civil*, but are registered in the local Traditional Village. Meanwhile, *Tamiu* is a person other than *Krama Desa Adat* and *Krama Tamiu* who isat *temporarily wedangan* Traditional Village or resides and is registered in the local Traditional Village.

Druwe Ownership or customary village in the form of *ulayat* or customary land, its existence can be adjusted to the statutory regulations in the Agrarian sector to obtain legal certainty, such as requesting for proof of ownership in the form of a certificate or in the form of a base map for land registration as an effort to strengthen it. Another aspect that has been adapted is the field of marriage and the break-up of the marriage relationship which includes implementation according to customary law, such as the process *broadcasting* or publication through the "*Kulkul*" facility, followed by religious ceremonies that are integrated with adat.

Institutional coexistence between Traditional Villages and Service Villages occurs in the implementation of development, fostering cultural centers, so that almost all government programs are implemented through Traditional and Banjar Villages, such as socialization of family planning programs, Posyandu, Jumantik, Population Census, prevention and prevention of drugs, rabies eradication, fever, and bloody.

4 Conclusion

One of the activities in the Traditional Village strengthening program is through the *Awig-Awig lettering* of the Traditional Village, because until now not all Traditional Villages in Bali have *written Awig-Awig*. In addition, the *Awig-Awig*, which has a written formulation of norms, has not been adapted to the development of state legal regulations, the language used is more Kawi, so it is very difficult for the young generation to understand in the current millennial era. Strengthening Traditional Villages through *penyuratan Awig-Awig* may include execution of the function of *social control* and *social engineering* is done through the adaptation of norms by state law. Hence several attempts are required. First, it is necessary to affirm the formulation of norms in the *Awig-Awig lettering* to maintain legal certainty by making more detailed arrangements and minimizing the risk of transfer of inheritance to unauthorized persons, marriage and divorce should be carried out according to State law and customary law by working together to achieve certainty law and justice. Finally able to provide benefits and benefits to most people.

References

- [1] Artajaya, I. W. E. (2017). Eksistensi Awig-awig terhadap Penduduk Pendetang di Desa

- Pakraman Tegallalang. *Jurnal Advokasi FH Unmas*, 7(2), 257–265.
- [2] Duarsa, I. G. Y. P., Sugiarta, I. N. G., & Sudibya, D. G. (2020). Penerapan Sanksi Adat Kasepe kang di Desa Adat Tanjung Benoa Kecamatan Kuta Selatan Kabupaten Badung. *Jurnal Konstruksi Hukum*, 1(1), 170–175.
- [3] Mahadewi, I. G. A. M., Sukadana, I. K., & Suryani, L. P. (2020). Pengesahan Awig-Awig Desa Adat Berdasarkan Peraturan Daerah Nomor 4 Tahun 2019. *Jurnal Konstruksi Hukum*, 1(1), 187–191.
- [4] Parwata, A. G. O., & Wijaya, I. K. K. A. (2018). Eksistensi Desa Pakraman dalam Pengelolaan Kepariwisata Budaya Bali (Kajian terhadap Peraturan Daerah Provinsi Bali No. 2 Tahun 2012, tentang Kepariwisata Budaya Bali). *Kertha Wicaksana*, 12(1), 69–75. <https://doi.org/10.22225/KW.12.1.415.69>
- [5] Putri, K. A. M. P., Puspitasari, N. W. F., Dewi, N. K. K., Ekarini, N. W., Dewi, I. A. P. P., & Mertadana, D. P. K. (2018). Pengaruh Hukum Adat Atau Awig-Awig Terhadap Pengelolaan Dana Desa di Desa Banjar Kecamatan Banjar Kabupaten Buleleng Provinsi Bali. *Jurnal Ilmiah Akuntansi Dan Humanika*, 8(1), 1–13.
- [6] Rindawan, I. K. (2017). Peranan Awig-Awig dalam Melestarikan Adat dan Budaya di Bali. *Jurnal Kajian Pendidikan Widya Accarya FKIP Universitas Dwijendra*, 7(1). Retrieved from <http://ejournal.undwi.ac.id/index.php/widyaaccarya/article/view/433>
- [7] Suwitra, I. M., Astara, I. W. W., Irianto, I. K., & Datrini, L. K. (2017). Memaknai Isi Rumusan Norma dalam Awig-awig di Desa Adat Pinggan Kintamani Bangli. *Wicaksana: Jurnal Lingkungan & Pembangunan*, 1(1), 72–79.
- [8] Widyastini, T., & Dharmawan, A. H. (2013). Efektivitas Awig-Awig dalam Pengaturan Kehidupan Masyarakat Nelayan Di Pantai Kedongan Bali. *Solidarity: Jurnal Sosiologi Pedesaan*, 01(01), 37–51.
- [9] Wisnumurti, A. A. G. O., Astara, I. W. W., Suwitra, I. M., Rideng, I. W., Budiarta, I. N. P., Widyantara, I. M. M., & Irianto, I. K. (2019). Pemerdayaan Masyarakat Adat dan Penyuratan Awig-Awig Desa Pakraman Siangan Gianyar Bali Indonesia. *Community Services Journal (CSJ)*, 1(2), 32–37.