

Indigenous Forest Management Model for Tenganan Pegringsingan Traditional Village Welfare in Karangasem Bali

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Abstract. Until the present time, customary land in the form of indigenous forests can still be controlled by the Tenganan Pegringsingan Traditional Village, Karangasem. The regulation in its utilization is regulated in customary village law called awig-awig (customary law). The enactment of state law in the field of agrarian affairs in 1960 and forestry in 1999 recognized the existence of traditional villages and their traditional rights in the use of forest products for welfare. Indigenous peoples can utilize non-timber and timber forest products according to the village's awig-awig. Village communities can get forest products in the form of wood if the phon (wood) in question is no longer productive, has died, and has permission from the village's leaders (prajuru). Non-timber forest products can only be used when they have fallen from the tree, such as Durian, hazelnut, Pangi, Tehep. The community can also use the palm/sap tree to be tapped which produces Tuak (palm wine) with a profit-sharing agreement between the tapper and the village with a 1:1 ratio. This model of forest product utilization is relevant to Aristotle's principles of justice, namely according to the law, and what is comparable or appropriate. It is also in accordance with Notohamidjojo's social justice by prioritizing what is his right. This indigenous forest management model is also relevant to Bentham Utility which is oriented towards benefits for the entire village community. Therefore, this established pattern needs to be maintained through the establishment of awig-awig which is coordinated with state law.

Keywords: bali indigenous village, indigenous forest, tenganan pegringsingan, tuak (palm wine).

1. Introduction

The traditional village of Tenganan Pegringsingan is one of the Ancient Balinese Villages or Bali Aga as an alliance of customary law (*adatrechtsgemeenschappen*) that can still survive with traditional markers and sustainable village layouts. This village has also received recognition since the Dutch colonial rule in Indonesia.

This writing aims to criticize the phenomena that interfere with the autonomous and *autohton* nature of traditional villages through the issuance of state law, especially on the recognition of *ulayat* forests as customary forests. The village government in Bali adheres to the duality of village government, namely the official village (*Keperbekelan*) and the traditional village. Each of these villages has its duties and authorities in accordance with

existing laws and regulations, which are welfare-oriented for the community, either as villagers or as village members.

The enactment of the Regional Regulation (*Perda*) of Bali Province No. 4 of 2019 concerning Traditional Villages in Bali, is intended to strengthen traditional villages. The concept of “strengthening” is one of the indicators and approaches to measure whether efforts are made to strengthen and make traditional villages independent from various perspectives, such as from the political, economic, resilience and security aspects, customs and religion, social and culture as well as in the management of agrarian resources or natural resources. Natural resources that exist within their jurisdiction, known as village *ulayat* rights, become a source of village income. In *awig-awig* (customary law) the village *ulayat* land is known as the village *druwe* (property) which has both public and private aspects. The public aspect implies that the traditional village has the authority to regulate and lead its designation. While the private aspect implies that the traditional village can use and utilize its *ulayat* land for welfare, social and religious purposes.

One of the *ulayat* forests as customary forests that are managed until now is still subject to *awig-awig* as village customary law by the Tenganan Pegringsingan Traditional Village. In the 2015-2019 National Medium-Term Development Plan, it is targeted that 12.7 million hectares of forest will be managed by the community through social forestry schemes, one of which is the Village Forest. Meanwhile, for customary forests, there is no clarity, such as the Village Forest Management Rights (referred to as HPHD) by the Village Institution which was formed by the Village Service through Village Regulations (referred to as *Perdes*) known as Village-Owned Enterprises (BUMDes). Village Forest is a State forest managed by the community in a rural organization and utilized for the welfare of the village community. Titian described that the purpose of village community-based forest management is to provide legal access on the one hand to village communities around the forest and on the other hand to make forest resources sustainable. The goal is to improve the welfare of the local community in a sustainable manner [1].

In Article 1 number 2 of Law no. 41 of 1999 (Law 41/1999) it is formulated that forest is an ecosystem unit in the form of a stretch of land containing biological natural resources which are dominated by trees in their natural environment, which cannot be separated from one another. Whereas what is meant by customary forest is a forest located within the territory of customary law communities. This is emphasized by Article 1 point 4 of the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia No.P.17/MENLH/SETJEN/KUM.1/8/2020 concerning Customary Forests and Private Forests. With the issuance of the Decree of the Minister of Environment and Forestry of the Republic of Indonesia No. SK.1546/MENLHK-PSKL/PKTH/KUM.1/2/2019 which lists as a Customary Forest covering an area of approximately 591 hectares for the Tenganan Pegringsingan Customary Law Community with a Protection Function of ± 226 (two hundred and twenty-six) hectares and a Production Function covering an area of ± 365 (three hundred and sixty-five) hectares. Therefore, how is the use of the customary forest for the welfare of the indigenous people of Tenganan Pegringsingan?

2. Research Methods

The research method used is in the form of empirical legal research, keeping in mind that the function of state law is oriented towards strengthening established patterns of legal behavior carried out by villagers for the management of their *ulayat* forest as customary forest.

So the law being researched here is in the form of actual behavior patterns from villagers and village leaders in taking forest products by prioritizing the principle of economic benefits, and at the same time preserving forests through tradition and belief in forest guards which are packaged in *awig-awig* as village customary law. The approach technique uses statutory, analytical, case, and customary law approach. The main data in the form of primary data is obtained from traditional practitioners through interviews. Besides that, it is also accompanied by observations, especially on village spatial planning, forest sustainability, and management of environmental services. Meanwhile, secondary data called legal materials are obtained from primary and secondary legal materials. This data is then processed through tabulation and analyzed by interpretation and qualitative techniques

3. Result and Discussion

Village Forest Management Rights (HPHD) as part of social forestry are oriented to reduce poverty, unemployment and inequality in the management/utilization of forest areas. Through HPHD, communities around the forest are given legal access in the form of rights to manage forest to village institutions through the issuance of "Regulation of the Minister of Environment and Forestry of the Republic of Indonesia No: P.83/MENLHK/SETJEN/KUM.1/10/2016 concerning Social Forestry"

Social forestry is a sustainable forest management system implemented in State forest areas or private forest/customary forests carried out by local communities or customary law communities as the main actors to improve their welfare, environmental balance, and socio-cultural dynamics in the form of Village Forests, Community Forests, Community Plantation Forests, Community Forests, Customary Forests, and Forestry Partnerships. The issuance of "Regulation of the Minister of Forestry of the Republic of Indonesia No: P.89/Menhut-II/2014 (Permenhut P.89/2014)" concerning Village Forests is intended to provide opportunities for rural communities to manage forests in the village aimed at improving the welfare of local communities sustainably. and ensure environmental sustainability. It is hoped that this opportunity can be utilized for the greatest prosperity.

Village Forest Management Rights (HPHD) are management rights in protecting forest areas or production forests that are given to village institutions, namely village community institutions in charge of managing Village Forests. In "Government Regulation (PP) No. 43 of 2014 concerning Implementing Regulations of Law No. 6 of 2014 concerning "Villages" stated that village community institutions were formed on the initiative of the Village Governance and the community ("Article 150 paragraph 1"). The tasks are: (a) empowering the Village community, (b) participating in the planning and implementing of development; and (c) improving village community services ("Article 150 paragraph 2"). Its formation is regulated by Village Regulation. Village institutions which is developed to manage Village Forests by the Village Service such as in Buleleng Regency are "Village Owned Enterprises" better known as "BUMDes". The said village meant in the Minister of Forestry and Environment Regulation is a village according to Law Number 6 of 2014 concerning Villages (Village Law). So BUMDes as the Village institution is only owned by the Official Village. Meanwhile, the management of the Traditional Forest in Tenganan Pegringsingan Village is managed according to *awig-awig* as village customary law according to *dresta* (tradition) which has been applied from generation to generation by not distinguishing between protection functions and production functions but remains oriented towards forest

sustainability. The following shows the data on the Traditional Forest Management in the Tenganan Pegringsingan Traditional Village, Karangasem Bali.

Table1. Data Of Tenganan Pegringsingan Ulayat Forest.

ADMINISTRATOR	ULAYAT FOREST PRODUCTS	MANAGEMENT MODEL	INVOLVING PARTIES	OBSTACLES	MANAGEMENT RESULT
Traditional Villages, Villagers, farming communities, Youth Community	<p>Timber:</p> <ul style="list-style-type: none"> • champagne, jackfruit Belalu, • Mahogany, • Bayur, Wangkal, coconut, • Huyung (palm tree), • Bamboo, • Areca nut tree, Belalu, • Bayur, <p>Non-Timber:</p> <ul style="list-style-type: none"> • Nira/palm wineAren, • Sugar palm fruit, • Ijuk, • Honey, • Durian, • Hazelnut, • Terep, • Panggi, • Ate <p>Environmental Service:</p> <ul style="list-style-type: none"> • Culinary of eating durian under the tree, • Drink “palm wine ” under the tree 	<ul style="list-style-type: none"> • Cooperation with sharecroppers /captive farmers with a profit-sharing system <p>Note: According to the needs of village development, it is allowed to cut wood anywhere and not necessarily dead/old ones. But because the village also manages a large area of land, so far, if there is such a need, it is only limited to land managed by the village. In addition to wood, the village can also take <i>ijuk</i> and areca nut trees, bamboo called "<i>ngerampag</i>" for <i>ijuk</i> and "<i>ngalang</i>" for bamboo</p>	Traditional Villages and Official Villages as regional rulers/supervisors, Managers (holders of inherited Management Rights), namely Members of Traditional Villages, Cultivating Farmers/ sharecroppers/ captive farmers <i>Bongsanak</i> (capturing coordinator), Pengalu (collectors of palm wine).	<ul style="list-style-type: none"> •Lack of innovation in product development that utilizes forest resources •Cultivators/captive farmers tend to no longer cultivate the land but only use the land for housing. •Lack of supervision by holders of Management Rights on land use and processing by cultivators. •Provisions of customary regulations that tend to be less responsive/a daptive to the times, such as regulations on Ijuk, Ron, Ambu, etc. 	<p>Timber for Building Materials, for sale or private use,</p> <p>Profit sharing from non-timber forest products</p>

From this data can be given analysis as follows:

Tenganan Pegringsingan Traditional Village in Karangasem Regency is one of the Bali Aga (ancient) Villages that still exists in the Province of Bali. The government system was not influenced by Majapahit Kingdom which was spread by several Rsi/Empu (priest) such as Rsi

Markandya, Kuturan. But it is still original, so it is also known as Traditional Village or Ancient Balinese Village. The Tenganan Pegriingsingan Traditional Village has a customary forest in the form of a customary forest consisting of fields and rice fields. Its management is based on the attachment of village "ulayat rights", namely the rights of customary village members to take or collect products from existing plants for the benefit of themselves and their families or for the benefit of other parties as regulated in village awig-awig. The profit-sharing pattern in customary forest management is inherited from generation to generation and is always used as a reference from generation to generation, because it is felt to be fair even though this pattern has not been written in awig or perarem (regulation created due to unavailability on the awig-awig) in traditional villages but can provide assurance of certainty based on belief and the maintenance of harmonious relationships between individual of villager members with their traditional village.

Another aspect that can be informed is that the management of ulayat forest or customary forest is still subject to awig-awig as the customary law of Tenganan Pegriingsingan village. Although since 2019 the Minister of Environment and Forestry of the Republic of Indonesia issued Decree No. SK.1546/MENLHK-PSKL/PKTH/KUM.1/2/2019 concerning the Inclusion of the Tenganan Pegriingsingan Traditional Forest Covering an Area of \pm 591 (Five Hundred Ninety-One) Hectare Located In Br. Tenganan Pegriingsingan Village, Manggis District, Karangasem Regency, Bali Province and at the same time stipulates in the Protection function an area of \pm 226 (two hundred and twenty-six) hectares and the Production Function an area of \pm 365 (three hundred sixty-five) hectares. However, in real use by indigenous peoples, it is not based on its protection and production functions but is based on the benefits for the life of villagers and the needs of their traditional village. So the function of state law here is only "affirmation" or more of carrying out its function as "social control" not as "social engineering" as stated by Roescoe Pound[2]. Awig-awig as a village customary law in Tenganan Pegriingsingan remains effective until the present time, although violations of this rule have previously occurred and can still be found, apart from the relatively small number of violations, these violations also do not disturb the local forest ecosystem. In addition to these facts, the implementation of the sanctions given is still in accordance with the provisions and the obedience of the indigenous peoples as well as immigrants and people who are looking for work in this traditional village in complying with them is still quite good. This shows that its existence has not undergone a shift [3]. Utilization of customary forests in the form of timber products, non-timber products, and environmental services, among others: tracking through the forest, agro-tourism of durian fruit that has fallen under a durian tree in the middle of the forest during the durian season, agro-tourism of pure Tuak/Nira Aren (palm wine) under a palm tree in the middle of the forest. facilities for seating and shelter are still very simple. So there has been an increase in the utilization of customary forest resources compared to the results of previous studies. What can still be maintained is the implementation of awig-awig as village customary law in Tenganan Pegriingsingan which is autonomous and otonom, which is relevant to what was said by Martua Sirait, et al [4]. The principles and concepts of communal religious and local legal wisdom as the basis which are referred to in awig-awig as village customary law in Tenganan Pegriingsingan seem relevant to be used as the basis for building "Cosmic Religious Law" both as the main material and as complementary materials.[5] In the perspective of Aristotle's theory of justice, the profit-sharing model designed by the Traditional Village is perceived as fair by the cultivators as village members that prioritize the balance between obligations in the form of achievements and rights. It is also fair according to Notohamidjojo who is oriented towards social justice in the conception of the Indonesian nation. Justice is an assessment by giving to anyone according to what is their right, namely

by acting proportionally and not violating the law[6]. With the issuance of the Decree of the Minister of Environment and Forestry of the Republic of Indonesia No. SK.1546/MENLHK-PSKL/PKTH/KUM.1/2/2019 implies that the State must be present in saving forests by giving recognition and protection to customary forests called "Customary Forests" from the perspective of "Legal Certainty" so that the state in the conception of having the "Right of Control" as confirmed in Law no. 5 of 1960 concerning Basic Agrarian Law, the state through its control rights can regulate and lead in the allocation of agrarian resources for the greatest prosperity of the people. Therefore, the concept of coexistence in harmonizing the pattern of utilization of ulayat forest as the customary forest is relevant so that awig-awig as village customary law can still be used as a basis for regulation by Traditional Villages on the one hand, while on the other hand Traditional Villages are also required to follow state law keeping in mind that within the reasonable limits of the state, it is obligatory to be present in saving agrarian resources from being claimed as ownership by some communities in their territory, but can take advantage of it through the provision of legal access to participate in preserving the forest through utilization rights for the welfare of local communities in accordance with the principle of propriety in the form of results. timber, non-timber, and environmental services. So the development of the concept of coexistence of customary law with state law becomes relevant in the control and management of customary forest as customary forest in Tenganan Pegringsingan Village

4. Conclusion

The management of customary forest as ulayat in the Tenganan Traditional Village from the beginning has applied the principle of conservation as a protected forest and the principle of utilization as a production forest for both timber and non-timber products as permitted by the customary village. In its development, traditional villages also take advantage of environmental services in the form of tracking tours, agro-tourism tourism in the form of eating durian fruit that has fallen from a tree in the garden during the durian season, agro-tourism drinking palm wine around the palm tree without knowing the season. This model of customary forest management as village ulayat is based on the attributive authority and its autonomous nature so that there is a coexistence between customary law and state law. As an empowerment effort, the people of Tenganan Village (villagers) are given the right to collect non-timber forest products such as Durian, hazelnut, Tehep, Pangi, Jackfruit, Wani fruits that have fallen from the tree for themselves, their families, and others. All the results obtained belong to him. As for the results from tapping the Palm trees in the form of Tuak (palm wine), profit sharing is carried out with a 1:1 ratio between the tappers and the Traditional Village. In addition, village members can also collect forest products in the form of wood used for buildings with the permission of the Traditional Village. The implementation of the customary rights of village manners in collecting forest products is carried out with the principles of justice and certainty as regulated in awig-awig and carried out properly and consistently. The enactment of the Basic Agrarian Law No 41/1999, and the Decree of the Minister of Environment and Forestry No.:1546/2019 do not change the model of village forest utilization based on customary rights, and functions as social control. The preservation of ulayat forests as customary forests can still be maintained until now with the myth of "Lelipi Lem Bukit" which is still believed to exist and inhabit bamboo forests and the affirmation of awig-awig as village customary law so that on the one hand the community can use and collect forest products for the welfare of village manners. and as a source of traditional village income.

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