

Economic Influence Relating to Traditional Village Role in the Welfare of Children According to Local Regulations on Traditional Village in Bali

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ABSTRACT

The change of status of Traditional Village into a subject of law makes Traditional Village possess more comprehensive legal relations, especially economic relations with the private sector. It is in the interest of the welfare of their people, especially children. Along with the change of status of Traditional Village into a subject of law, children's vital role as the nation's next-generation is not explicitly outlined in Local Regulations on Traditional Village. Based on the conducted analysis, it is acknowledged that one of the rights obtained by children in Traditional Village is access to religion-based education such as Pasraman, as stipulated in Article 50 of the aforementioned local regulation, thus in fulfilling such right, Traditional Village must provide religion-based education or Pasraman with commitments and consistency by their apparatus for the interest of the children.

Keywords: *Children Welfare, Pasraman, Traditional Village.*

1. INTRODUCTION

Indonesia's ideals as a nation, as mentioned in the preamble of Indonesian 1945 Constitution, are to protect all the people of Indonesia and their entire native land, and in order to improve the public welfare, to advance the intellectual life of the people, and to contribute to the establishment of social justice. They are Indonesia's ideals in their occurring national development. In order to continuously live their nation's beliefs, development is administered in every aspect. Besides the legal aspect, economic aspects are one of the many prioritized aspects.

The issuance of local regulation of Bali number 4 the year 2019 concerning traditional village (hereafter mentioned as local regulation on traditional village) is an implementation of the principles of autonomy as imposed on Article 1(8) of Indonesian Act number 23 the year 2014 concerning local government which states that decentralization means the transfer of government affairs by the central government to autonomous regions based on the principle of autonomy. Moreover, ideals to be conducted by the Indonesian government which relates to basic needs such as education, health, public work, and so forth, as mentioned in Article 12(1) of the Indonesian Act concerning local government, are already adopted in local regulation on traditional village in Article 1(35),

Article 3(1)(f), Article 3(2)(e), Article 22(f), Article 25(1)(k) and (l), and Article 60.

The phrase traditional village consists of two traditional words and village. In accordance to Article 1(1) of Indonesian Act number 6 the year 2014 on village, "village shall be the village and traditional village or as referred to by other names, hereinafter referred to as village, shall be a unit of community that has boundaries with the authority to regulate and manage the affairs of government, interests of the local communities based on the community's initiatives, right of the origin, and/or traditional rights recognized and respected in the system of government of the Republic of Indonesia." The term adat (traditional) is adopted from Arabic, which translated into Indonesian means "tradition" [1]. Balinese tradition acts as life guidance that is sourced from Hindu teachings and local customs. Traditions are recognized in not only traditional villages but also cities. In accordance to local regulation on traditional village, traditional village is the unity of communities on customary laws in Bali which possess territory, seat, original structure, traditional rights, wealth, tradition, hereditary manners, and social interaction attached to certain sanctum (Kahyangan Tiga or Kahyangan Desa), duties, authority and rights to manage and administer their affairs.

Updates on applied regulations are in most cases influenced by the needs of the people, especially relating to the economic aspect. The economy is getting bigger every year. Its development is determined by investment growth. Investment in traditional village can be seen from establishing lpd and bupda as regulated under article 60 of local regulation on traditional village. lpd is a financial institution owned by traditional village, seated in its territory (wewidangan).

In comparison, bupda is their business in the economic sector. The governor created those institutions to conduct training and supervision to the economy of traditional village. This effort is considered successful as many traditional villages in bali, especially in southern parts of bali, own significant assets, thus gaining capital for their village. Generally, traditional villages build business relations with the private sector to cooperate in developing tourist facilities. The village provides location or land, and the private enterprise builds the hotels, restaurants, etcetera. due to the cooperation agreement, both traditional villages and private enterprises will obtain profits by using a profit-sharing method.

The cooperation becomes possible for both parties because traditional village can act as a subject of law, as regulated under article 5 of local regulation on traditional village. This means traditional village is allowed to establish a business and economic relationship with the private sector. One of the aims of traditional village in establishing cooperation with the private sector is to prosper their people, especially in children's education. as proposed, the welfare of the people is conceptualized as providing prosperity and safety (free from any interference) [2]. this matter is aligned to the principles of justice under the human rights principles [3]. in order to guarantee the people's merriment, the creation of law is parallel to the conscience of the people, as it is created to usher justice, prosperity, and joy to humankind [4].

In discussing further children's education in traditional village, article 50(1) of local regulation on traditional village states that pasraman is an educational platform based on hindu teachings which focus on self-development, moral integrity, and quality of traditional village community (krama desa adat). it is regulated under article 30(1), (3) and (4) of indonesian act number 20 the year 2003 concerning the national education system, that religious education is organized by government and/or religious communities, by the law may be held in formal, non-formal and informal, in the form of diniyah, pesantren, pasraman, pabhaja, samanera, and any other similar kinds.

As concluded by a previous study by ni nyoman sudiani [5] titled "character building through gending rare ethnography study to early age children in tenganan traditional village, karangasem regency, bali province (pendidikan karakter melalui gending rare studi etnografi pada anak usia dini di desa adat tenganan pengringsingan, kabupaten karangasem, provinsi bali)," education shall

mean every effort conducted as a process in order to assist growth and development in physical, intellectual and character aspects, as of the children will gain awareness as a human being who has obligations in building and maintaining the connection with god, another humankind and beings around them. furthermore, a study by i made siryadana [6] is titled "character building of children through pasraman lascarya parama seva activities in tianyar village kubu district karangasem regency (pembentukan karakter anak melalui kegiatan pasraman lascarya parama seva di desa tianyar kecamatan kubu kabupaten karangasem)," concluded that the existence of pasraman emphasizes spiritual and mental building for children and the importance in implementing character building for children.

Children are the next generation of the nation, and as god's creation has human rights, thus no one may seize their rights. children are an investment that becomes a success indicator for a nation developing their country [7]. Success in children's development will determine the quality of future human resources. this matter is stipulated under the indonesian 1945 constitution in article 28b(2), which states that "children have a strategic role and the government guarantees the rights of every child to live, grow, and develop, and to be protected from violence and discrimination. therefore, the best interest of children must be met and internalized for the sake of humankind."

Local regulation on traditional village does not explicitly mention the term children. however, article 1(10) states that the traditional village community (krama desa adat) is the hindu people of bali mipil and is registered a member of their home-grown traditional village. furthermore, article 1(21) regulates that a traditional village organization (yowana desa adat or daa taruna desa adat or any other aliases) consists of young people in a traditional village. The term young people is not clearly defined as children or not. in a study titled "behind the prevalence of agitating child marriage; national law versus customary law (di balik prevalensi perkawinan usia anak yang menggelisahkan: hukum negara versus hukum adat)" by sudantra and laksana [8], stated that criteria "not yet 18 years of age" as a criteria to define children is aligned to the international law definition of children as determined under convention on the rights of the child. article 1 of the convention states that "for the present convention, a child means every human being below the age of eighteen years unless the majority is attained earlier under the law applicable to the child." based on the description above, there are two problems discussed in this study: how is the position of children in local regulation on traditional village relating to their welfare fulfillment? how is the role of traditional village in prospering the children?

2. METHOD

This article is structured using the juridical normative research method, and this method is used because the focus of this research is based on the void of the

norm. *Juridical normative method* is a method that prioritizes the approach to legal norms. Normative legal research can be functioned in giving legal arguments to void, obscurity, and conflict of norms. The approach method used is the statutory approach and conceptual approach. The legal sources used to consist of acts, books, articles, and online sources. The writing of this study used legal resources or data collection through a literature study. The legal resources analytical method used is a description analysis technique, interpretation technique, and systematization technique.

3. RESULT AND DISCUSSION

Regulation on Traditional Village relating to their welfare fulfillment, Article 1(1) of Indonesian Act Number 4 the Year 1979 concerning the Welfare of Children stipulates that the welfare of children means an order of life and livelihood which guarantees the growth and development of children reasonably, spiritually, physically and socially. The government is making an enormous effort in the welfare of children. This effort is proven by issuing Ministry of Women Empowerment and Child Protection Regulation Number 13 the Year 2011 concerning Guidance on Children.

Friendly District and City Development. In improving and fulfilling the welfare of children through developing children-friendly districts and cities, local governments may involve children representatives, legislative bodies, judicial bodies, enterprises, religious/traditional leaders, and society. Religious leaders in Bali, also called Prajuru Desa as representatives of Traditional Villages, are also asked to be involved in the improvisation and fulfillment of the welfare of children.

The aforementioned local regulation does not explicitly regulate the term children. It can be concluded that children are part of the Traditional Village community (Krama Desa Adat). By the law, the Traditional Village community (Krama Desa Adat) has rights and complete independence in the field of parahyangan, pawongan, and palemahan of the Traditional Village as stipulated under Article 9(2)(a). In the commentary section of the law, "full independence" (swadikara penuh) means the right to obtain service and/or harness entire facility in the field of Parahyangan, Pawongan, and Palemahan, consistent with local customs (Awig-awig and/or Pararem) of the Traditional Village.

More specifically, one of the rights children obtain under Local Regulation on Traditional Village is to gain access to education. As proposed, education is based on Hindu teachings for the self-development, moral integrity, and quality of Traditional Village community (Krama Desa Adat) such as Pasraman, as stated in Article 50(1) of the local regulation. The term pasraman is rooted in "asrama" (primarily written and read as ashram), which means a place to conduct teaching and learning. Pasraman education emphasizes self-discipline, noble

morals development and intelligence, hard-working, lust restraining, and the trait to help others.

Moreover, Article 50(3) of Local Regulation on Traditional Village stipulates that Traditional Village in forms of: conducts formal Pasraman

- a. Pratama Widya Pasraman A equivalent to early age education;
- b. Pratama Widya Pasraman B equivalent to kindergarten;
- c. Adi Widya Pasraman equivalent to primary school;
- d. Madyama Widya Pasraman equivalent to junior high school;
- e. Utama Widya Pasraman equivalent to senior high school; and
- f. Maha Widya Utama Pasraman equivalent to higher education.

Meaning, besides gaining education in the formal educational platform such as school, children also gain education facilitated by Traditional Village. To provide special attention to children, it is essential to add the term children to clarify that Pasraman is already given to the right group of age. It is also essential to recall that children are the nation's next generations who need to be given education as early as possible for the sake of their ability to contribute to their nation and country. A study by Ni Nyoman Sudiani as titled "Character Building Through Gending Rare Ethnography Study To Early Age Children in Tenganan Traditional Village, Karangasem Regency, Bali Province (Pendidikan Karakter Melalui Gending Rare Studi Etnografi Pada Anak Usia Dini di Desa Adat Tenganan Pengringsingan, Kabupaten Karangasem, Provinsi Bali)," education shall mean every effort conducted as a process in order to assist growth and development in physical, intellectual and character aspects, as of the children will gain awareness as a human being who has obligations in building and maintaining the connection with God, another humankind and beings around them. If this matter is linked to law protection theory, it could be described that:

As cited from the article by Ahmad Zaini, it is mentioned that law protection theory is "the development of the concept of recognition and protection to human rights which longs for the existence of certain elements in the management of state administration system." By giving limits and responsibilities to the people and the government, is also protecting human rights. Satjipto Rahardjo stated that "law protection is an effort to organize multiple interests in society to prevent conflict of interest and enjoy every right given by law." The way to organize multiple interests is to limit specific interests and give an appropriate authority. By the existence of pasraman, which is consistently done, and inserting term children to Local Regulation on Traditional Village will provide special attention to children and materialize the improvisation of the welfare of children, as well as respecting their rights in education or pasraman in Traditional Village.

As a social being, human needs education. Especially in the societal system of Hindu people in Bali, every person is under one same platform called Traditional Village. Inside this societal system, the people of Bali are taught to develop their social sensitivity. They also learn how to recognize a solid traditional connection. Thus education is needed to build social solidarity among the people of Traditional Village.

In Local Regulation on Traditional Village, several regulations stipulate fulfillment to the welfare of children. Those regulations can be found in Article 1(35), which states that Baga Utsaha Padruwen Desa Adat (BUPDA) is a business unit owned by Traditional Village with a duty to conduct business activities in the field of the real economy, service, and/or public work, except business relating to finance, which is based on customary laws and managed by modern management to improve the prosperity and independence of Traditional Village community (Krama Desa Adat). Furthermore, in Article 3(1)(f), the regulation on Traditional Village is aimed to improve quantity and quality of service for the Traditional Village community (Krama Desa Adat) to embody prosperity. Hereinafter, Article 3(2)(e) is stated that the regulation on Traditional Village is functioned to administer Pasraman as an educational institution based on Hindu teachings for self-development, moral integrity, and quality of the people. Article 22(f) stated that Traditional Village's duty in materializing kasukretan sakala and Niskala is to administer Pasraman based on Hindu teachings for self-development, moral integrity, and quality. Lastly, in Article 25(1)(k) and (l), it is stated that it is the Traditional Village's apparatus authority to administer art and culture studio, and pasraman; kapustakaan and reading place.

The role of Traditional Village in guaranteeing the welfare of its people, especially children, can be seen from administering Pasraman in several villages. Such as Pasraman in Guliang Kangin Traditional Village, Bangli District, Bangli Regency, Pasraman is held with Rejang and Pendet dance practice, and uparengga, an activity of weaving, and so forth. Furthermore, Galungan Village in Sawan District, Buleleng Regency, also held Pasraman to preserve the culture of Bali. The pasraman was participated by primary school students in the village with activities such as making klatkat, kwangen, dress etiquette for spiritual activities at Hindu temple, Balinese language materials, and Dharmagita kawitan Wargasari. Besides Pasraman activities which is aimed for children, there are also Pasraman for community of wives (Krama Istri) in Padang Luwih Traditional Village, Dalung Village, Kuta Utara District, Badung Regency, which has successfully held Pasraman Srati Banten with a theme "Malarapan Pasraman nangun jnana sakti krama istri, nincapang kawruhan magama Hindu ring Desa Adat Padang Luwih." In the village, the pasraman was participated by 66 (sixty-six) traditional Banjar and 6 (six) Banjar tempekan.

However, based on research conducted by Ni Komang Sutriyani, with the title "The Perception of

Hindu Society to the Existence of Formal Pasraman in Bali (Persepsi Masyarakat Hindu terhadap Keberadaan Pasraman Formal di Bali)," the existence of Pasraman is welcomed by various responses, both positive and negative responses. The positive responses include the people feeling proud because the community owns a formal education. On the other side, the Hindu community is still reluctant to put their kids in formal Pasraman. Furthermore, Sutriyanti also concluded that students' interest to gain education in formal Pasraman is insufficient. The lack of support by the people impacts the effectiveness of Pasraman. This becomes a challenge for Traditional Village to hold Pasraman consistently and continuously and commit further to improving the children and the people of Traditional Village.

Legal certainty theory is meant to give those who are rightful to obtain their rights and the appropriate decisions. In Riduan Syahrani's book, Utrecht stated that "legal certainty consists of two interpretations: Firstly, regulations that are general results in understanding about action which is legal and illegal. Secondly, individual who has legal safety from injustice, government to individuals as a result from such regulations makes them acknowledge all matters that the country may charge to the individual."

Regarding legal utility theory, according to Sudikno Mertokusumo, society expects an advantage from the administration or enforcement of the law. Law is for every human. Thus the administration or enforcement shall give advantages to society lest the law creates insecurity in the society. Moreover, Jeremy Bentham, as an adherent of utility theory, stated that law is not recognized as law until it provides the most significant advantages to the majority of people. Meaning, Local Regulation on Traditional Village is only recognized as law after it can provide advantages to most people, especially children.

4. CONCLUSION

Based on the analysis, it is acknowledged that one of the rights obtained by children in Traditional Village is to gain access to religious-based education such as Pasraman as stated in Article 50 of Local Regulation of Traditional Village, to obtain the right, the critical role of Traditional Village is needed through Traditional Village apparatus in administering Pasraman with commitment and consistency for the sake of children's interest as the nation's next generations.

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