



Involvement of Traditional Villages in Bali in Empowerment of Area and Land Indicated Abandoned for Sustainable Tourism Development

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Abstract. The state has the power to regulate land use in order to ensure that it is utilized for the benefit of the community, the country, and the state as well as the rights holders. The state has the authority to designate an area and land into an area and abandoned land. Considering this context, it is interesting to learn: 1. What is the nature of the regulation of abandoned areas and lands? and 2. Why is the involvement of traditional villages in Bali important in utilizing abandoned areas and lands for sustainable tourism development? Utilizing statutory and philosophical methodologies, normative legal research is the study methodology used. In order to reorganize and actualize land as a source of people's welfare, enhance the environment, combat poverty, and generate jobs, abandoned areas and lands must be properly regulated. The involvement of traditional villages in Bali is important in the utilization of areas and lands that are indicated to be neglected in regulating in an “awig-awig” regarding the physical use of land by “krama desa” who live around the land for tourism pursuits, which is in keeping with the idea of tourism sustainable.

Keywords : Traditional villages, area and abandoned land, sustainable tourism development

1 Introduction

After the Indonesian people proclaimed their independence on 17 August 1945, the Republic of Indonesia, a Unitary State was established as an independent and sovereign nation based on Pancasila and the Republic of Indonesia's 1945 Constitution (hereinafter referred to as the 1945 Constitution). From a formal juridical point of view, the proclamation of independence is a momentum to stop enforcing colonial law and a momentum to start enforcing federal law, while from a political perspective the proclamation of independence means that the nation is free from foreign colonialism and has sovereignty to determine its own destiny. According to Urip Santoso, the

proclamation of independence has two crucial implications for the planning of the Countrywide Agrarian Law, namely that the Indonesian Nation breaks the connection to Colonial Agrarian Law and the Indonesian Nation at the same time compiles the National Agrarian Law Sahnan (2015).

Law of the Republic of Indonesia No. 5 of 1960 establishing Basic Regulations on Agrarian Principles, State Gazette No. 104 of 1960, is the country's first land-related law (hereinafter referred to as UUPA). The UUPA, which was enacted on September 24th, 1960 was a fundamental overhaul of the prevailing land law in Indonesia. The overhaul had a huge influence, because before the UUPA was passed, the relevant law was customary law. for the majority of the Indonesian population. Customary law continued to apply only to the extent that it was in line with the UUPA, national unity, and the interests of the state Fitzpatrick (1997). That there is customary law as explicitly stated in the UUPA does express the legislator's desire to use customary law as the principle of Agrarian Law in Indonesia. The customary law in question is to meet the development of modernisation of a society. Thus, after the enactment of UUPA, the Earth-specific legislation, Water and Spaces is the National Agrarian Law Soerodjo (2003).

Considering the guidelines of UUPA's Article 1 Point (3), the relationship between the nation and the earth, water and airspace of Indonesia is an enduring connection. This indicates that no force will ever be able to sever or nullify the bond as long as the Indonesian people, who are united as the Indonesian nation, and the earth, water, and airspace of Indonesia still exist. The state has the power to exercise supervision the use of land so that it is cultivated, utilised and used to realise prosperity for all Indonesian people. The state is in charge to determine an area and land to be an area and abandoned land. Regarding abandoned areas and land, apart from being regulated in the UUPA, the present laws and rules in Indonesia governing vacant spaces and land are Government Regulation No. 20 of 2021 of the Republic of Indonesia relating to the Control of Abandoned Areas and Land, Supplement to State Gazette of the Republic of Indonesia No. 30 for 2021 and State Gazette No. 6632 (also known as PP Number 20 of 2021 about the Control of Abandoned Areas and Land) Jo. Permen ATR/KBPN Number 20 of 2021 on Procedures for the Ordering and Utilisation of Abandoned Areas and Land (hereinafter referred to as Permen ATR/KBPN Number 20 of 2021 on Procedures for the Ordering and Utilisation of Abandoned Areas and Land) is a regulation issued by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency in 2021.

In addition to the welfare of the rights holders, the State must also consider the welfare of the community, the nation, and the state when granting land rights or management rights to right holders. Every time the State bestows rights on individuals or entities, the rights come with responsibilities outlined in the UUPA and the Decree bestowing the rights. Therefore, landowners are not allowed to abandon their property, and the UUPA has outlined the legal repercussions in the event that they do, including the voiding of the relevant land rights, the termination of any ongoing legal agreements, and confirmation of the property as being under the direct control of the government. To lessen or eliminate its detrimental effects, land abandonment must be prevented and strictly enforced. As required by the 1945 Constitution, UUPA, and

National Long-Term Development Plan, preventing, controlling, and using abandoned land are crucial first measures and precondition for carrying out national development programmes, particularly in the agrarian sector. It simply makes sense that the land should be well-maintained in relation to its societal role, as this will boost its fertility and prevent damage. Every person, legal institution, and agency that has a legal relationship with the land is required to maintain it in addition to the owner or holder of the relevant right. The interests of the economically vulnerable will be taken into account when implementing this provision. Periodic actions are required to improve policies, laws, and regulations to safeguard and recognize land rights by drawing on experience.

To coordinate government activities in the area of agricultural, land, and spatial planning as part of the authority and administration of state government is the task of the National Land Agency, also known as the Ministry of Agrarian Affairs and Spatial Planning (hence, the Ministry of ATR/BPN). According to the responsibilities and powers of the Ministry of ATR/BPN, the establish area and land as an area and abandoned land is the authority possessed by the ATR/BPN Ministry based on the determination in the form of a Decree on Determination of Abandoned Areas and Land. However, in reality, state administrative products determined by the ATR/BPN Ministry in the form of a Decree on Determination of Abandoned Areas and Land often experience cancellation or defeat when filed a lawsuit in government administrative court. For example, in a state administrative case in a judicial review, which based on the ruling of the Supreme Court Number 138 PK/TUN/2014 dated 14 April 2015 decided to reject the request for judicial review filed by the Decree of the Head of the National Land Agency of the Republic of Indonesia Number 4/PTT-HGB/BPN RI/2012 was revoked by the Head of the Cilegon City Land Office. concerning the Determination of Abandoned Land on Building Rights Title Number 4 in the name of PT. Pasetran Wanarattindo which was determined by the Head of the Cilegon City Land Office.

The panel's judgment of judges that sees the use and utilisation of land classified as vacant land by the Ministry of ATR / BPN in a broad sense by taking into account the economic value of the land, can actually also be followed by the exploitation and utilisation of land physically by involving the community around the land, especially in the context of organising tourism activities, which is actually in line with the concept of sustainable tourism. The involvement of communities around the land can begin at the level of traditional villages. A development strategy known as community-based sustainable tourism gives rural communities, one of which is a traditional village in this instance, the most opportunity to get involved in the growth of the tourism industry by Purnamawati (2021). The Bali Province Regional Regulation No. 4 of 2019 concerning Customary Villages in Bali, Bali Province Regional Gazette of 2019 No. 4, Supplement to Bali Province Regional Gazette No. 4 (hereinafter referred to as the "Bali Regional Regulation No. 4 of 2019 concerning Customary Villages"), contains regulations pertaining to these settlements. The survival of communal life in the nation and state has been substantially enhanced by the traditional villages that have developed over many years and possess original rights of origin, traditional rights, and original autonomy rights to manage their own families.

2 Research Methods

Legal normative research is the research methodology used. Legal study that is normative is based on standards found in laws and regulations. Law is considered in terms of what is specified in law (law in books) Ammirudin (2003). Normative legal research makes legal norms the object of its research because the law itself is a system of norms (law as a system of norm) Pasek (2008). This research employs both a conceptual approach (conceptual approach) and a statutory approach (the statute approach). The statutory strategy is used to examine in depth the legal provisions in the UUPA, the Bali Regional Regulation No. 4 of 2019 about Customary Villages, PP No. 20 of 2021 concerning the Ordering of Abandoned Areas and Land, Permen ATR/KBPN No. 20 of 2021 concerning Procedures for the Ordering and Utilization of Abandoned Areas and Land, and the Tourism Law. A conceptual approach is used to examine legal concepts regarding the involvement of typical Bali settlements in the utilisation of abandoned areas and land for sustainable tourism development. Legal materials were then analysed using analytical and argumentative construction techniques with the research results presented descriptively.

3 Results and Discussion

3.1 The Nature of Abandoned Areas and Land

According to Article 6 of the UUPA, "Every land right serves a social purpose." This means that regardless of a person's land rights, it is not acceptable for him to use (or not use) his land only for his own benefit, especially if doing so harms the community. In order to be advantageous for the owner's well and happiness as well as the welfare of the community and the State, the use of the land must be appropriate given its surroundings and the type of right granted.

The requirements listed in Article 1 Point 1 of Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land. "Abandoned Areas are non-forest areas that have not been attached to Land Rights that already have licenses, concessions, or business licenses, which are deliberately not cultivated, not used, and/or not utilised," according to provisions of Article 1 number 2 of Permen ATR / KBPN Number 20 of 2021 concerning Procedures for Curbing and Utilizing Abandoned Areas and Land. In the meantime, in accordance with the provisions of Article 1 Point 2 of PP Number 20 of 2021 Concerning the Control of Abandoned Areas and Land Jo. the provisions of Article 1 Point 12 of Permen ATR / KBPN Number 20 of 2021 Concerning Procedures for the Control and Utilisation of Abandoned Areas and Land states that "Abandoned Land is Land Rights, Management Rights Land, and Land Obtained Based on the Basis of Land Tenure, which is Deliberate. "The land, water, and natural resources contained therein shall be under the control of the State and shall be utilized for the greatest prosperity of the people," according to Article 33, paragraph 3, of the 1945 Constitution of the Republic of Indonesia. According to Article 6 of the UUPA, "all land rights have a social function."

Land is a gift from God Almighty to the Indonesian people, nation, and State, and it must be farmed, used, and used Supriyanto (2010) for the greatest prosperity of the people. From a philosophical standpoint, organizing and providing state public reserve land is the nature and goal of the regulation of abandoned places and land. In order to reorganize and realize land as a source of people's welfare, to create a more just existence, to secure the sustainability of the Indonesian social and national system, and to improve social harmony, control over abandoned regions and land is necessary. Additionally, in order to enhance environmental quality, combat poverty, generate employment, and increase food and energy security, it is essential to maximize the exploitation, use, and use of all land on Indonesian territory. Abandoning land in rural or urban regions is not only foolish, imprudent, and unjust (losing the chance to realize the property's economic potential), but it also violates the duties that right holders or parties who have secured the foundation of land tenure are required to uphold. The obstruction of various development program objectives, the vulnerability of food security and national economic security, the closure of community socio-economic access to land, particularly for farmers, the disturbance of a sense of justice and social harmony are all impacted by land abandonment. God gave us land as a gift, and it is a valuable natural resource for our country, state, and people. It requires state intervention to control land in administrative law rules because it can be utilized as a tool to realize the welfare of the Indonesian people. Both in terms of land ownership and use to uphold the integrity of the Indonesian people's way of life, according to Nuriyanto (2020).

Involvement of Traditional Villages in Bali in the Utilisation of Areas and Land indicated as Abandoned for Sustainable Tourism Development

The Law of the Republic of Indonesia No. 10 of 2009 Concerning Tourism, State Gazette of the Republic of Indonesia No. 11 of 2009, Supplement to the State Gazette of the Republic of Indonesia No. 4966 (hereinafter referred to as the Tourism Law), contains provisions that govern the tourism industry. According to the guidelines in Article 1 number 3 of the Tourism Law, tourism is a broad category of leisure activities supported by a range of amenities and services offered by local businesses, the government, and regional governments. Accordingly, the provisions of Article 1 Number 4 of the Tourism Law regulate all aspects of tourism, including interactions between tourists and local communities, other tourists, fellow tourists, governments, local governments, and business owners, as well as general tourism-related activities that are multidimensional and multidisciplinary in nature.

Resources and the environment must be used sustainably, and tourism's contribution to the economy and society must keep growing. Economic, social, and environmental concerns are all significantly impacted by the rise of tourism. The tourism industry contributes to the economy by bringing in foreign currency from international visitors and by boosting GDP and its subcomponents. In terms of society, tourism contributes to employment, the enjoyment of the country's traditions, art, and culture, and the strengthening of national identity. The richness and uniqueness of nature and the sea can be promoted as tourism goods and services in the environmental context. Ecotourism is also a powerful weapon for protecting the environment and traditional

cultural arts. The Quebec Declaration defines ecotourism as "sustainable tourism," which includes the following particular actions:

1. Active contribution to nature and cultural conservation;
2. Locals' involvement in the development, planning, and management of tourism-related activities, as well as their enjoying of prosperity;
3. Inform visitors about the cultural and natural heritage;
4. Creates separate or compact tour groups.

Meanwhile, Ecotourism is sustainable tourism, according to the United Nations Commission on Sustainable Development:

1. Ensure that all stakeholders participate equally, effectively, and actively;
2. Ensure that locals are involved in decisions on community, land, and regional development;
3. Enhance local residents' methods for resource management and upkeep.

In order to be considered sustainable, tourism must be able to strike a balance between two types of need fulfillment: economic development and preservation of the environment's natural potential. Three components make up a sustainable tourism plan, namely:

1. Sustainable, high-quality tourism enhances the lives of host communities and the environment while giving visitors worthwhile experiences;
2. Sustainable, or "green," tourism guarantees the continued availability of natural resources and the cultural vitality of host communities while providing visitors with pleasurable experiences; and
3. Equilibrium is the state in which environmentalists, local communities, and the requirements of the tourism sector are all balanced.

For communities around tourism sites, local residents act as subjects and objects in tourism development. As subjects, the mindset, local institutions and wisdom of local residents can be adopted in the planning process. Local residents can also play an active role, through increased education and skills, in a variety of ecotourism service economic activities. Locals and their environment must be managed as objects in order to fulfill conservation goals and provide a flow of benefits for numerous parties. It is necessary to create policies that are able to balance or maintain the flow of benefits to local residents. They need to be given the opportunity to actively identify, process and sell tourism products and services that are unique to their environment. Local cultural offerings, with specific packaging, are a valuable source of knowledge for visitors. The participation of local residents generates employment opportunities and sources of income as an important element of community welfare.

Tourism that fully considers present and future economic, social, and environmental implications and addresses the needs of travelers, the (tourism) sector, the environment, and host communities is considered sustainable tourism, according to the World Tourism Organization (UN WTO). This indicates that ecotourism makes the community the main actor of the regional tourism business. One of the initiatives to

help communities grow where tourism is used as a vehicle is community-based tourism. In order to increase community participation in tourism development Sedarmayanti (2022).

The existence of traditional village customary rights is acknowledged by the state. has positive consequences for the recognition of traditional rights or powers held by traditional villages. One of the traditional rights of traditional villages is the right to autonomy. In relation to the concept of autonomy, Cornelis van Vollenhoven with his Catur Praja theory argued that autonomy includes the power to: (i) to form its own laws (*zelfwetgeving*), (ii) to execute its own laws (*zelfvoering*), (iii) to conduct its own police work (*zelf-politie*) and (iv) to administer its own justice (*zelfrechtspraak*). Local regulations governing customary villages in Bali have been enacted four times until the latest one, Bali Regional Regulation No. 4/2019 on Customary Villages. Bali Regional Regulation Number 4 of 2019's formation concerning Customary Villages one of the objectives is aimed to reinforce Bali's traditions, culture, and manners while also strengthening the bargaining position. Considering the idea of developing tourism sustainably, the involvement of traditional villages in Bali is important in the utilization of areas and land indicated as abandoned in regulating in an "awig-awig" regarding the physical use of land by "krama" traditional villages who live around the land for tourism activities so as not to be designated as an area and abandoned land, which is in line with the concept of sustainable tourism. The "krama" or Balinese people who live in Bali have a high culture that includes distinctive, fascinating, sacred, and beautiful customs, religion, traditions, arts, and local knowledge. They also have a high level of spirituality. The Balinese krama life system with this high culture is contained as a whole in the traditional village. This makes the traditional village a place where symbols and the Balinese "krama" lives according to ideals inherited from customs, religion, traditions, arts and culture, and local knowledge. All of this materialises into a unique, beautiful, interesting, and *mataksu* realm of life, radiating a strong and brilliant inner power, thus attracting world attention. Bali's unique, beautiful, interesting, and *mataksu* "krama" culture is clearly reflected in the lives of people in traditional villages scattered throughout Bali. Bali's customs are an integral part of its cultural tourist industry. Traditional villages on Bali are well run by a *Bendesa*, who is responsible for maintaining the traditional community's balance and upbringing it. The traditional village also contributes to the harmony between three factors: the divine, the human, and the natural factors. These factors are each bundled in a legal document that is governed by an *awig-awig* in the traditional village. The *awig-awig* is a legal product of traditional villages in Bali that can accommodate tourism-related activities, particularly tourism investment in a traditional village setting by giving local populations a place to live.

The judge's paradigm sees the use and utilisation of land broadly from a financial perspective. The physical use of land by the "krama" of the surrounding traditional villages for tourism activities can certainly be a way out and obtain a "win win solution" from the designation of the land as an area and abandoned land by the Ministry of ATR / BPN which later experienced cancellation when filed a State Administrative Court complaint. This is in line with sustainable tourism as an idea, which is to include the surrounding community to be able to take advantage in organising tourism

activities to improve their welfare. On the one hand, landowners still get economic values from the land they own, and on the other hand, the land can be physically utilised by the surrounding community for tourism activities. Tourism cannot be separated from the social environmental conditions around the tourist environment, so that tourism activities not only have an impact on local government profits, but the surrounding community will also feel the impact. The impact provided by tourism activities is expected to have a positive impact so as to improve economic welfare and reduce unemployment Harianto (2020).

4 Conclusion

The discussion can be concluded as follows based on the description:

1. In order to be useful for the well and happiness of individuals who own it as well as the community and the State, the use of land must be tailored to its state and the nature of its rights. The essence of regulating abandoned areas and land is to restructure and realize land as a source of people's welfare, enhance the environment's quality, lessen poverty, and provide employment. Land abandonment has an impact on the accomplishment of certain development program goals, the fragility of food security and the resilience of the national economy, the restriction of community members' socioeconomic access to land, particularly farmers, and the disruption of social peace and a sense of fairness.
2. Making the community the primary player in local tourism enterprises is one of the ideals of sustainable tourism development. Traditional villages as a forum for the unification of symbols and values sourced from practices in customs, religion, traditions, the arts, and local knowledge in carrying out the daily life of Balinese "krama" which is regulated by awig-awig. The involvement of Bali's traditional villages is important in the utilization of abandoned areas and land in regulating in an "awig-awig" regarding the physical use of land by the "krama" of traditional villages who live around the land for tourism activities so as not to be designated as an abandoned area and land, which is in line with the concept of sustainable tourism.

References

1. Amirruddin and Zainal Asikin, 2003, *Introduction to Legal Research Methods*, PT RajaGrafindo Persada, Jakarta.
 2. I Made Pasek Diantha, Ni Ketut Supasti Dharmawan, and I Gede Artha, 2018, *Legal Research Methods and Dissertation Writing*, Private Nulus, Denpasar.
 3. Irawan Soerodjo, 2003, *Legal Certainty of Land Rights in Indonesia*, Arloka, Surabaya.
 4. Iwan Nugroho, 2019, *Ecotourism and Sustainable Development*, Cet. III, Student Library, Yogyakarta.
 5. Ni Ketut Arismayanti, Made Budiarsa, and I Made Bakta, 2021, *Quality Bali Tourism Development Model of Destination Study and Tourist Experience*, Pustaka Larasan, Denpasar.
 6. Sahnun, 2016, *Indonesian Agrarian Law*, Setara Press, Malang, p. 21.
 7. Sedarmayanti, Gumelar S. Sastrayuda, and Lia Sfriza, 2022, *Tourism Development & Development*, Cet. II, PT Refika Aditama, Bandung.
 8. Fitzpatrick, D. (1997). Disputes and pluralism in modern Indonesian land law. *Yale J. Int'l L.*, 22, 171.
 9. Harianto, S. P., Walid Masruri, N., Winarno, G. D., Tsani, M. K., & Santoso, T. (2020). Development strategy for ecotourism management based on feasibility analysis of tourist attraction objects and perception of visitors and local communities. *Biodiversity Journal of Biological Diversity*, 21(2), 689-698.
 10. Liu, Z. (2003). Sustainable tourism development: A critique. *Journal of sustainable tourism*, 11(6), 459-475.
 11. Nuriyanto, N. (2020). The Urgency of Agrarian Reform; Towards Socially Just Land Use Arrangement. *Journal of Pancasila and Citizenship Studies*, 6(1), 29-45.
 12. Purnamawati, I. G. A. (2021). Sustainable Tourism Development Through Improving the Role of Customary Village. *International Journal of Social Science and Business*, 5(1), 26-33.
 13. SARA, I. M., SAPUTRA, K. A. K., & JAYAWARSA, A. K. (2020). Regulatory Impact Assessment Analysis In Traditional Village Regulations As Strengthening Culture In Bali. *International Journal of Environmental, Sustainability, and Social Science*, 1(3), 16-23.
 14. Srinivas, S., Bell, K. C., Toha, K., Zaenal, A., & Collier, W. (2015, March). A review of Indonesian land-based sectors with particular reference to land governance and political economy. In *Annual World Bank Conference on Land and Poverty*.
 15. Sukadana, K., Sudantra, K., Sarasvitha, D. B., & Sutarna, N. (2023). The Essence of Pami-danda (Customary Sanctions) in Balinese Customary Law. *BiLD Law Journal*, 8(1s), 31-37.
 16. Supriyanto, S. (2010). Criteria for Abandoned Land in Indonesian Legislation. *Journal of Legal Dynamics*, 10(1), 51-59.
 17. Udytama, I. W. W. W., Perbawa, K. S. L. P., Wiryawan, I. W. G., & Permadi, I. P. L. O. (2021). The role of traditional villages in supporting tourism investment in traditional vil-lage regions in Bali. In *Proceeding International Conference Faculty of Law (Vol. 1, No. 1, pp. 100-105)*.
- Legislation
18. Constitution of the Republic of Indonesia 1945
 19. Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, State Gazette Number 104 of 1960

20. Law of the Republic of Indonesia Number 10 of 2009 concerning Tourism, State Gazette of the Republic of Indonesia Year 2009 Number 11, Supplement to State Gazette of the Republic of Indonesia Number 4966
21. Government Regulation of the Republic of Indonesia Number 20 of 2021 concerning the Control of Abandoned Areas and Land, State Gazette of the Republic of Indonesia of 2021 Number 30, Supplement, State Gazette of the Republic of Indonesia Number 6632
22. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 20 of 2021 on Procedures for the Control and Utilisation of Abandoned Areas and Land, State Gazette of the Republic of Indonesia Year 2021 Number 813
23. Regional Regulation of Bali Province Number 4 of 2019 concerning Customary Villages in Bali, Regional Gazette of Bali Province of 2019 Number 4, Supplement to Regional Gazette of Bali Province Number 4

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