

The Value of Justice Regarding the Prohibition of Ngejot in the Community of Kutaraga Traditional Village, Badung

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ABSTRACT: This research is an empirical legal research. The approach used in this research is the sociology of law, with two types of data: primary and secondary. Primary data were collected through interviews with informants. Based on the research results and the statement of the Kutaraga Traditional Village, the prohibition on ngejot was not intended to erase Balinese cultural values as local wisdom. The ban on ngejot was designed to respect residents who are unable to perform ngejot, so they would not be embarrassed as citizens in front of other residents. So the direction is to equalize the krama desa (indigenous communities), according to the development of society. Regarding the obedience of indigenous residents to these awig-awig rules, they highly respect them and consider them effective. Based on the results of interviews with krama desa, they obey the rules because they have become the decision of the paruman desa (indigenous community meeting), so that if they violate it, it means going against the results of the paruman desa.)

KEYWORDS: Awig-awig; Balinese Customary Law; Traditional Village; Ngejot, Customary Sanctions

I. INTRODUCTION

Traditional Villages are traditional institutions that play a vital role in the management of socio-religious affairs in Bali. As an autonomous social organization, the Customary Village maintains the order of life in harmony with Hindu teachings and local wisdom. According to Pradnyana Yoga (2023), Customary Villages have now gained stronger legal legitimacy through regional regulations, which position them not just as remnants of traditions, but as dynamic legal subjects in maintaining the cultural identity of the Balinese people in the contemporary era (Pradnyana Yoga, 2023; Rahmi, 2025). Etymologically and functionally, Customary Villages are autonomous territories authorized to regulate residents under customary law and morality, which encompass the dimensions of Sekala (real) and Niskala (spiritual). Melani Hastuti (2023) explained that the governance of Customary Villages cannot be separated from the Tri Hita Karana philosophy, in which the regulations created aim to foster harmony among humans, the environment, and the creator. This approach ensures that any customary policy has a deep ethical and spiritual dimension, not merely an administrative one (Pradnyana Yoga, 2023)

As a unit of customary law communities, Customary Villages in Bali have a constitutional right recognized by the state to manage their own households. According to Praditha & Artajaya (2024) and Rahmatunnisa et al., (2023), this autonomy provides villages with the independence to respond to social and economic challenges without losing their cultural roots. This right to autonomy includes full authority to manage village assets and to regulate the unique management of collective life in each region (kala patra village), which is the main bulwark against the negative impacts of globalization. The scope of autonomy of Customary Villages is emphasized through four main pillars: the right to establish customary law (Awig-Awig), the right to administer government, the right to maintain territorial order through Pecalang, and the right to exercise customary courts. Herawati et al., (2023) emphasized that integrating these pillars enables independent, rapid resolution of internal problems through deliberation. With this authority, Customary Villages can maintain security, stability, and social justice at the grassroots level while remaining grounded in the values of decency and applicable customary law.

Bali is an integral part of the Unitary State of the Republic of Indonesia (NKRI), a country known for its plurality, including cultural, ethnic, religious, and class diversity. As an integral element of the nation, Balinese identity provides a distinctive color in the Indonesian mosaic. According to Komala, (2025), this integration is not just a geographical unification, but a form of sociopolitical agreement that places local uniqueness as a pillar of support for solid national unity under the motto of Bhinneka Tunggal Ika. Indonesia's vast territory, stretching from Sabang to Merauke, holds an extraordinarily diverse wealth of natural and cultural resources. This wealth is a strategic asset that distinguishes Indonesia in the eyes of the world. As explained by Komala (2025), the cultural diversity of regions such as Bali constitutes a cultural configuration that reflects the nation's

identity. Without this diversity, Indonesia will lose its unique character as an archipelagic country with a depth of history and tradition that goes beyond the boundaries of modernity (Putra & Adhika, 2023; Sadiyani et al., 2025).

Furthermore, cultural diversity is empirically a key element in the process of forming and strengthening the Republic of Indonesia. National identity is not built by homogenizing differences, but rather by embracing each cultural entity as part of a larger national narrative. Ardhitia et al., (2025) emphasized that recognition of traditional and local cultural rights is a crucial strategy for maintaining national stability, in which each region feels it has a role in the historical course of the Indonesian nation. From the perspective of national development, cultural diversity also functions as cultural capital and cultural power that drives the wheels of national and state life. Fitria (2021) argues that cultural potential is no longer seen only as a legacy of the past but also as an engine of innovation and international diplomacy. By optimizing this cultural strength, Indonesia can strengthen its bargaining position in the global arena while building national resilience grounded in adaptive local wisdom.

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II. METHOD

This research uses empirical legal research as a basic framework to examine the reality of norm implementation in society. The primary focus of this research is the implementation of customary law (*awig-awig*) in everyday life, not just studying the text of the regulations. According to Rizkia & Fardinsyah (2023) and Rifai et al., (2025), empirical legal research enables researchers to identify gaps or alignment between written law (law in books) and laws that actually apply in society (law in action), thereby providing an accurate picture of the effectiveness of these customary rules. The approach used in this study is the sociological approach to law. This approach was chosen because the research aims to explore the mindset and perception of specific communities towards the implementation of a decision or customary rule. As explained by Abas (2023), the sociology of law treats law as a social phenomenon that interacts with people's behavior. With this approach, researchers can delve deeper into the reasons behind citizens' compliance or violation of customary rules, as well as how social values shape their perception of legality.

The research area was determined using a sampling method in which one customary village was deliberately selected as a representative sample to explore the phenomenon under study. The use of this sample method is intended to enable researchers to make more in-depth and specific observations of a particular locus. According to Rizkia & Fardinsyah (2023), selecting the right sample in legal sociology research is crucial to ensure that the data obtained have the qualitative depth needed to address the complexity of socioreligious problems at the village level. The data collection technique in this study relies on a combination of documentation studies and in-depth interviews. Interviews were conducted with respondents classified into three age groups: young, old, and elderly. This age categorization, according to Arifuddin et al., (2025), is essential in customary law research to capture shifts in values or the consistency of intergenerational perspectives. Thus, the data produced is not only one-dimensional, but reflects the dialectic of thought between traditional custodians (elderly) and the next generation (young) regarding the applicability of customary law in the present.

III. RESULT AND DISCUSSION

1. The Philosophical Prohibition of Ngejot in Traditional Villages

Many people equate custom with customary law, but these two variables are distinct entities with distinct characteristics. The most prominent characteristic of legal norms, compared to other norms, is the legitimate sanctions that serve as a coercive tool, implemented by institutions tasked with and authorized to enforce them. Melani Hastuti (2023) reinforces this by stating that the strength of Balinese customary law lies in its communal enforcement mechanism, which ensures that social norms transition into binding legal obligations. L. Pospisil distinguishes between custom and customary law as follows: 1) the attribute of authority; 2) the attribute of universal application; 3) the attribute of obligation; and 4) the attribute of sanction. Bali, one of the regions in Indonesia that is very thick with customary law, has a Traditional Village that serves as a supporter and preserver of customary law. A Traditional Village in Bali is one of the legal associations (*adatrechtsgemeenschappen*). Ter Haar gave the term “customary law community” with “*adarechtsgemeenchap*”.

As a legal concept (*adatrechtsgemeenschappen*), the Traditional Village was first formulated in the Bali Provincial Regulation Number 06 of 1986. However, in the current legal context, Bali Provincial Regulation No. 4 of 2019 has further strengthened this position by explicitly recognizing the Traditional Village as a legal subject with the right to manage its own territory and wealth. Based on the provisions of Article 1, Traditional Village as *Desa dresta* is a unit of customary law community in Bali Province that has a unity of tradition and manners of social interaction of the Hindu community from generation to generation in the bond of *kahyangan tiga* (*kahyangan desa*), which has a specific territory and its own wealth and has the right to manage its own household. Customary Law Communities (Legal Associations) are conceptualized as units with a regular and eternal structure and their own management and wealth, both material and immaterial.

As a customary law community, traditional villages in Bali have the right to manage and regulate their own affairs. This right is commonly referred to as customary village autonomy. The contents of the *Awig-awig* of the Kutaraga Traditional Village include regulations on various aspects of traditional village life, especially those concerning the relationship among the elements of *Tri Hita Karana*. Pradnyana Yoga (2023) notes that *Awig-awig*'s adaptability to contemporary issues, such as economic shifts, is a testament to the resilience of Balinese local wisdom.

Specifically, the ban on *ngejot* was enacted in 2021. At that time, the entire world was gripped by the COVID-19 pandemic. According to the Kutaraga Traditional Village Head, I Gusti Ngurah Oka Arsajaya, it was agreed in a *paruman* (meeting) that *ngejot* was unnecessary. The ban on *ngejot* is intended to honor those unable to perform *ngejot* so that they won't feel embarrassed. Thus, it aims to equalize the status of the village community, in line with societal developments. This socioeconomic adjustment is described by Rahmatunnisa et al., (2023) and Supriyanti et al., (2022) as “responsive customary law,” where traditional rules are modified to prevent social inequality during times of crisis.

2. Compliance with Customary Laws

At the constitutional level, the right of customary villages is recognized under Article 18B paragraph (2) of the 1945 Constitution. This means that the State recognizes and respects the existence of customary law communities, provided they comply with the basic principles of the NKRI. Komala (2025) emphasizes that this recognition is the cornerstone of Indonesia's multicultural stability, allowing traditional entities to coexist with modern state structures.

Historically, Indonesian laws have come from two sources. Mr. C. van Vollenhoven succeeded in proving that Indonesia has original customary law. Customary law communities are human communities that obey rules that are truly alive because they are believed in and adhered to. Although the State has recognized the existence of customary law, it must also be wise in “adapting”. This is necessary to avoid the stigma of customary law as old-fashioned. Herawati et al., (2023) argues that the modernization of *Awig-awig* in villages such as Kutaraga demonstrates that customary law is not a static relic but a dynamic tool for social justice.

In essence, the development of customary law cannot be separated from the development of the community. Balinese customary law is outlined in the *awig-awig*. This aligns with Hans Kelsen's statement regarding law as a coercive order. According to Mochtar Kusumaatmadja, law is also a social phenomenon, never separated from the values of society. Pradnyana Yoga (2023) further explores this by noting that in Bali, the “living law” often carries greater psychological weight than state law because it is deeply rooted in religious identity.

In light of the above concept, changes in customs and norms are not unusual. In relation to the research theme on the adherence of indigenous peoples to customary laws, data from 20 samples showed that 15 agreed, while five disagreed but still respected them. According to the records of the Kutaraga Traditional Village Council, no villagers have *nungkasin* (resisted/violated) this rule. Arifuddin et al., (2025) highlights that such high compliance is typical in Balinese villages because the *paruman* (village meeting) provides a platform for deliberative democracy, ensuring that even those who disagree feel heard and thus remain bound by the collective decision.

IV. CONCLUSION

Based on the analysis and discussion, it can be concluded that Customary Villages in Bali are highly dynamic customary law entities and exhibit high resilience in the face of changing times. The autonomy of Customary Villages, as emphasized in the latest regional regulations, provides constitutional authority for villages to formulate policies responsive to the sociological realities of their citizens. The phenomenon of prohibiting the ngejot tradition in Kutaraga Traditional Village proves that customary law is not static but an instrument that adapts to economic crises. The ban is not an attempt to erase the values of local wisdom, but rather a legal strategy to maintain social equality and protect citizens from disproportionate economic burdens in difficult times. This confirms the theory of Melani Hastuti (2023) that the strength of Balinese customary law lies in its ability to harmonize traditions with the principle of benefit for its community.

Furthermore, the effectiveness of implementing this customary rule is primarily determined by the strength of social legitimacy derived from the mechanism of consensus deliberation, or *paruman*. The residents of Kutaraga Traditional Village's obedience to rules prohibiting the act of openly "giving" indicates a shift in sociological perspective, where territorial order and collectivity take precedence over individual desires. In the sociology of law, this success reflects that *awig-awig* is a reflection of the living law that is obeyed not because of fear of physical sanctions, but because of moral awareness to maintain harmony in human relations (Pawongan). Herawati et al., (2023) emphasized that the integrity of Customary Villages is maintained as long as the resulting regulations address aspects of the sense of justice and inner welfare of all village *krama*.

As a strategic step forward, it is recommended that each Customary Village in Bali continue to evaluate its customary law products regularly so that they remain relevant to global dynamics while grounded in Hindu noble values. A review of consumptive traditions needs to be conducted wisely to avoid becoming a burden on the community, as exemplified by the Kutaraga Traditional Village. Rahmatunnisa et al., (2023) suggested that the modernization of customary law must still maintain its spiritual essence, so that the changes made do not uproot the cultural roots of the Balinese people.

In addition, synergy between local governments and customary institutions needs to be strengthened to support the preparation of inclusive village regulations. The government is expected to continue facilitating the strengthening of Indigenous leaders' capacity to understand national law, so that the autonomy of Indigenous Villages can operate in harmony without clashing with human rights and higher laws and regulations. For future researchers, a more specific study of the long-term psychological and social impact of the elimination of certain traditions on the social cohesion of Balinese society is needed to ensure that these changes actually provide sustainable benefits.

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