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CUSTOM, HINDU RELIGION, LOCAL LAW, AND SOCIAL CHANGE IN BALI IN
THE CONTEXT OF TOURISM

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Abstract

This article explains that the island of Bali has its own uniqueness because of its tradition, Hinduism, culture, and local laws. Throughout the advancement of tourism in Bali, the local law should be able to filter the global capitalism tourism culture in Bali. The culture of Bali which was originally very strict with the local values, then get in touch with tourism neo-liberalism and capitalism. The value of cultural tourism is subjected to neo-liberalism global capitalism. On the one side they are synergizing, but on the other hand, the indigenous people of Bali are just watching and serving the neo-liberalism of tourism. The scopes of problems in this writing can be formulated as follows. (1) What cultural values and laws that can strengthen the cultural tourism in Bali? (2) What are the meanings of the Balinese culture values in social change in the context of tourism? The goal of this writing is expected to be able to clarify the correlation values of the Balinese culture in the context of cultural tourism development in Bali. It also aims at anticipating the negative global tourism (neo-liberalism) for the growth of cultural tourism in Bali. This study uses qualitative methods and in the data collection, it used depth interviews, involved observation technique, and documents study.

The results of this study, are expected be able to provide some inputs to either government of the province or the government of regencies. It is also hoped the government will be able to dig into their local wisdom values for competitiveness and welfare of the local community, by making regulations and, or a pro-people's policy for the indigenous peoples and indigenous villages in Bali. The result of the battle of global capitalism with the local tradition values, shows that in Bali social change has occurred and there are some correlations among the Balinese culture values with the tourism, culture, and social change in Bali.

Keywords: custom, local law, tourism, culture, and social change.

I. Introduction

A. Background

The island of Bali has the power to be developed sustainably in the field of tourism. The potential of tourism has been recognized by the world with the value of customs, traditions, Hinduism, and Balinese culture has fused into a potential to be developed into a strength, ability, capability and competitiveness. Hinduism in Bali has a unique religious ceremony, customs, and traditions in each of the traditional villages, livelihoods, and arts of Balinese people that can not be found in any part of the world. This potential can be developed as a tourist attraction. The arrival of tourists to Bali will strengthen the bonds of the Balinese against their cultural traditions by revitalizing values of culture and traditions that live in the local communities.

In the context of tourism, the value of local wisdom in Bali has been excavated by the Provincial Government of Bali, especially the arts for the show at the Bali Arts Festival (PKB), various

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In the context of tourism, the value of local wisdom in Bali has been excavated by the Provincial Government of Bali, especially the arts for the show at the Bali Arts Festival (PKB), various

dances revitalized to support the tourism culture of Bali. In line with the authors' opinion, Ardika predicted that in the era of globalization, issues such as culture, religion, ethnicity, gender, and life style will be more important than the economic conflicts that occurred in industrial times. In this connection Ardika exemplifies archaeological relics, as the past cultural heritage remains a source of inspiration. Furthermore, according to Ardika (2003), there are ten components of Balinese culture that can be used as tourist attraction, they are: handicraft, tradition, history, architecture, local food, art and music, way of life, religion, regional languages, and local traditional clothes⁸.

In organizing tourism in Bali Province, the role of law can not be ignored. In this case, the law as a means of social control, as stated by Roucek, Soerjono Soekanto, named the mechanism of social control "everything that is done to carry out planned and unplanned processes to educate, invite, or even compel the local community to adapt with the customs and values of people's lives⁹.

Custom, according to Radcliffe-Brown, is a complex of ideas that lie above the individual, that is steady, continuous, and coercively. The adherence to the custom is occurred and if there is a violation, then automatically there will be a public reaction to punish the violator¹⁰.

B. Problem Formulation

Based on the background mentioned above, some issues related with custom, religion, cultural tourism in Bali which are associated with social change. So, in this writing, the problem that will be explored and raised can be formulated as follows.

1. Which cultural and legal values can strengthen cultural tourism in Bali?
2. What does Balinese cultural values mean in social change in the context of tourism?

C. Research Methods and Theoretical Framework

The research method used in writing this article is a type of normative legal research, quoted from various laws and regulations, the theories of experts, and various documents related with the object of the study. The legal study developed in accordance with the development of society as all aspects of the community is dynamic.

Satjipto Rahardjo who has discovered the term of progressive law, stated that, law is made for human and contains the moral of humanity. The law that controls human interaction and the universe should be based on spiritual values¹⁰. Hugo Shinzeimer stated that the law is not in a vacuum, but it always faced with a dynamic society. This situation, however, requires a humanist law¹¹.

The writing of this article uses an interdisciplinary jurisprudence approach in the opinion of Schut cited in (Satjipto Rahardjo, 2001), stated that "Wetenschap is afkijken" (Science is looking at all directions). The point is that legal science is not stuck in a narrow but holistic view of the law has ethical, moral, religious content to create justice, happiness, prosperity, peace. The law moves in three dots: state law, society, and religion, ethics and morals called triangle concept of law (Werner Menski, 2006). The situation can not be established if the legal science that leads and forms the law is only positivistic paradigm that struggles with formalistic, procedural, partial, elitist inherent in power and dominated by politics and economy¹³. The point is that the narrow-minded law has ignored the role of human beings both in the process

of legislation, implementation, law enforcement, and people in society. Therefore, the science of law in its development can not be separated from the human element. In this case the legal science emphasis on socio-legal studies is a type of study that represents the way the law sees more to the context than the text¹⁴.

In this article, the legal science method is used by referring Soetandyo Widnyosoebroto's opinion, looking at the law of two sides. Firstly, the law as the norm (sollen, statements that are substantially mandatory). Secondly, the law as nomos (statements about the presence or absence of certain behaviors in a factual collective life.) The first is called the rule, and the second is the order. The notion of law as a rule (norms) and order (nomos, fact) is a duality, not a decotomy. Conceptually, both concepts can not be separated⁶, this is what dissected in this article. Furthermore, law as a norm in which when it is obeyed, it will transform into a steady behavior over a long period of time, will be understood as the norm.

In relation to the above reflections and constructions, the theoretical framework relevant to this study is as follows.

1. Theory of legal pluralism

Legal pluralism is an idea that law comes from social pluralism. The law is not only state order produced produced by society in social relations. The fact that indeed shows that most of the life of a person is among the many types of rules, such as custom village rules, religious rules, family, division of parker land, or school. Not all rules are produced by the state as the greatest power, but arise from local institutions (local) or even individuals who are related to each other. In many ways these rules called social orders actually play a role in making order semraut become regular. This means that the function of the rules have the same role with the state rules .

2. Theory of Law as Means of Social Engineering

In the description of this theory, explains that the law was created and done with full of wisdom and awareness to achieve certain goals in modern law by David M. Trubek. Trubek distinguishes modern law as a particular social process arising from the process of development in general. Three basic features are as follows.

- a. It is a system of regulation.
- b. It is a deliberate act of human action.
- c. It is part but also at the same time autonomous to the state.

In the case of this discussion related to the letter b the focus of attention. The trait implies, modern law is in fact very instrumental in nature, therefore it can be assumed that social life can be formed by a certain will. If the elite class of power is from the modernists, it will bring changes through the making of legislation and strive to make it happen in reality . Modern law does not merely recapture the patterns of behavior found in society, but it is attempted to be a means of channeling those policies which may mean creating new circumstances or changing something that already exists. This means that the law illustrates that the function of the law has undergone a shift to become more active political forces, which become stronger and interfere in many areas of socio-economic life such as cultural tourism and the determination of tourist village areas in Badung regency.

Principally, theory of Law as social engeneering is consciously to achieve order or condition of society as aspired or to make the desired changes. Likewise eclectically will use Parsons

theory into law as done by Bredemeir, has been raised the relationship between politics and law. It is proposed that the law regulates further the decisions taken by the political life sector.

3. Law as a means of Social Control

In legal theory as a means of social control, quoting Roucek, Soerjono Soekanto, calls the mechanism of social control "everything that is done to carry out planned and unplanned processes to educate, invite or even compel citizens to conform to habits and the values of people's lives". The work of law as a social control can be observed in legal engagement with social change. The existence of such involvement can be observed with the birth of Local Regulation No. 3 of 1974 on Cultural Tourism, in consideration in essence that the Regional culture as part of national culture, is the basic and dominant potential for tourism development, which must be fostered and nurtured, and distinctive features in their contact with tourism activities.

The dynamics of tourism in Bali and economic development, especially can actually be realized tourism aspiration for Bali and not Bali for Tourism, then this Regional Regulation was revoked and replaced by Regional Regulation of Bali Province No.3 Year 1991 about Cultural Tourism. Article 5 paragraph (c, and d) Development of objects and power Attraction shall be conducted with due observance of: c) cultural preservation and environmental quality; d). tourism itself. Then 11 years after the enactment of Regional Regulation No. 3 of 1991, the dynamics of tourism in Bali and the existence of national tourism policy as regulated in Law No. 10 of 2009 on tourism, the Regional Regulation of Bali governing Cultural Tourism revoked and replaced with Regional Regulation Bali Province No. 2 Year 2012 on Balinese Culture Tourism. The important thing in this rule focuses on some of the following objectives.

- a. To preserve Balinese culture inspired by the values of Hinduism.
- b. Improve economic growth.
- c. Improve community welfare.
- d. Creating business opportunities.
- e. Creating employment.
- f. Preserving nature, environment and resources.
- g. Raising the image of the nation.
- h. Strengthen the love of the homeland and the unity of the nation.
- i. Strengthen friendship among nations (Article 3).

The development of tourism culture of Bali is directed to include the following.

- a. Improve pride and dignity, and strengthen the identity of Balinese people.
- b. Increasing the welfare of Balinese people equally and sustainably.
- c. To preserve Bali's natural environment as a basis for sustaining the life of Balinese society and culture (Article 4).

Similarly also the birth of Badung Regent Regulation number 47 of 2010, about the determination of the tourist village area in Badung regency, mention that the tourist village is the area of nature conservation of the ecosystem environment and the traditional cultural knot of the

community by not hampering the development of its citizens to improve the livelihood of its life through tourism business. Cultural tourism is a tourism activity as an effort to preserve the re-growth of traditional values, which are packed in such a way as to be a tourist attraction. The implementation of cultural tourism aims to maintain the norms and values of culture, religion and natural beauty of Bali with an environmental perspective (Article 3 paragraph (f)).

II. Discussion and Analysis

A. Cultural and legal values that can strengthen the tourism culture of Bali

Balinese Hindu communities, especially those living on the island of Bali, have a valuable value that is maintained sustainably by Hindu Balinese krama. Indigenous villages as a place for religious, cultural and customary struggles, in the context of cultural tourism and cultural strongholds have guaranteed Balinese stability. Cultural values that live in tat-twam ation, karma nutmeg, tri hita karana philosophy, as well as other cultural values, become a doctrine in Balinese Hindu human behavior. Art, is the power of Bali, either in traditional villages, in the castle, or in the dance studio. There is a special dance associated with Hinduism as a Wali dance and dance art that can be shown to tourists.

Bali is also a cultural heritage of the archipelago that continues to be guarded. One of the interesting global phenomenon today is the growing tourism becomes one of the main pillars of the world economy. The development of global tourism, among others, is driven by advances in communications, information technology and transportation. On the other hand, the development of global tourism is influenced by the 4T Revolution: Transportation, Telecommunication, Trade, and Tourism. In addition, the most important thing is the increasing welfare of the community, so that tourism becomes one part of lifestyle (lifestyle), become one of the basic needs in addition to food and clothing .

Culture characterizes a nation. What do distinguish Indonesian people from Indian and Indo-Chinese people? On the matter, they are all within the same civilization: the Indus Valley Civilization, the area of Sindu civilization? It is a Culture. The culture distinguishes the Indian nation from the Indonesian people from the Indo-Chinese peoples, whether they are from Cambodia, Thailand, Vietnam or Burma. There may be similarities between Indonesian culture and other cultures mentioned above.

Furthermore, it should be explained that what is culture or budaya ? The word budaya is derived from Budi and Daya. Budi in Sanskrit, means mind that has been processed, a clear mind, mind that has been illuminated. Daya means effort or activity, can also be interpreted as "behavior". Power is the thrust of the word hridaya in Sanskrit; means heart, that is conscience, means efforts, actions, or behaviors that are in accordance with the conscience.

Tourism as an economic generator of global society is a paradox. On one hand, tourism is in contact with the welfare of society. On the other hand, tourism requires land (land) to move well as hotels, restaurant and other facilities in contact with tourism. The right to travel is the freedom to travel and the use of leisure in the form of a tour is part of human rights. (UURI No.10 Year 2009, About Tourism, Consideration weighing letter b) .

The Balinese, Indonesian Man, and investor (foreign, domestic) are obliged to maintain and preserve Balinese culture because Bali tourism is a Hindu religion, Balinese culture. Therefore, the implementation is in Tri Hita Karana which is poured in the regulation of Bali Provincial to maintain Balinese Hindu culture. Bali based on Tri Hita Karana perspective is a unified whole,

so that all programs and policies concerning, it must be done synergistically, integrally and systemically .

The value of Hindu culture in Bali, the cultural value of mebanten inherited by the ancestors of the Hindu Balinese, across generations also has a sacred mission of saving and nature conservation along with it (flora, fauna, and other physical elements). Actualization of mebanten wisdom value has high value of conservation and empowerment. The essence of value is exposed from the ability of interpretation and perception of society in the actualization of their activities or daily life . The activity is done repeatedly in daily regulation (saiban), monthly (full moon, tilem, kajeng kliwon), six monthly (Galungan, Kuningan, Sugihan Bali, Sugihan Jawa), and annual Nyepi holiday.

In protecting the Hindu religion, customs and traditions, in the realization of tourism in Bali, legally Bas⁶ on the Provincial Regulation No. 1 of 1974 on "Cultural Tourism" jonto Local Regulation No. 3 of 1991, Article 6, the development of objects and attractions with regard to the following.

- 7
a. Ability to promote the improvement of economic and socio-cultural life;
- b. Religious values, customs and views and values that live in society;
- c. Cultural preservation and environmental quality;
- d. The sustainability of tourism itself.

6
Furthermore, the Regional Regulation No. 3 of 1991 on cultural tourism is declare⁹ to be inapplicable in accordance with Bylaw No. 2 of 2012 on Balinese Cultural Tourism. Bali Culture is a Balinese culture that is imb⁸ed with the values of Hinduism (Local Regulation No. 12 of 2012, Article 1, 13). However, Balinese cultural tourism is Bali tourism based on Balinese culture inspired by Hinduism and Tri Hita Karana philosophy as the main potential by using tourism as its vehicle of actualization, so as to create a dynamic mutual relationship between tourism and culture that makes them develop synergistically, harmoniously and sustainably to provide welfare to the community, cultural and environmental sustainability (Article 1, number (14) Article 6, the development of Balinese Cultural Tourism includes.

- a. Tourism business.
- b. Tourist destinations.
- c. Marketing.
- d. Tourism institutional.

Article 10, paragraph (1) the provincial government develops tourism destinations; paragraph (2) the development of tourism destinations as referred to in paragraph (1) shall included.

- a. Feasibility study.
- b. Planning.
- c. Network infrastructure.

Paragraph (3) in the development of tourism destinations as referred to in paragraph (2) of the Provincial Government may cooperate with the kabupaten / kota.

Article 11; the development of tourism destinations should be made with due regard to:

- 1
a. Local wisdom such as the beliefs of the Balinese people based on Tri Hita Karan and

imbued with Hinduism;

b. Cultural and environmental sustainability, such as traditions, Balinese customs, and environmental rules;

c. The economic potential of such communities provides opportunities for local businesses in both handicrafts and agricultural products to showcase their works in hotels, restaurants and other tourist attractions; and

d. Tourism business sustainability.

Then pay attention to development of Bali tourism and tourism attraction, the component of Balinese culture which become the potential of tourism attraction include:

- a. art,
- b. archaeological;
- c. historical;
- d. enthusiasm;
- e. literature; and
- f. tradition;

Bali as a tourist destination, pakraman villages and traditional institutions have the right to develop rural tourism in accordance with local potential, as well as managers of tourist attraction is entitled to provide special guides (Article 26, paragraphs (2 and 3)). Government of Bali Province can provide funding assistance for tourism development managed by pakraman village or traditional institution (Article 31) . As a duty of a tourism entrepreneur.

- a. Preserving Balinese culture, keeping and respecting religious norms, customs, culture and values living in society;
- b. Build a means of tourism

B. The meaning of Balinese cultural values in social change in the tourism context

Reflection and legal construction and the context of Balinese cultural values in relation to Balinese cultural tourism between “blessings” and “disasters” that appear in the dynamics and phenomenon of Balinese life. Many blessings of Bali tourism cases that end also brings “disastrous”. There have been cases of “Bali Bomb I, and II, as anti-climatic trials of cultural tourism versus tourism” exploitation of capitalism “, and cultural tourism hedonism wrapped” with the grandeur of Kuta tourism. Indeed Kuta has been known since the time of the kingdom as the area where the “slave purchase” of Bali and the Dutch colonial era by Ketut Tantri, Kuta as a beautiful place to travel. Then in the era of independence (New Order) as a strategic place for tourists “thin pockets”. Kuta Beach becomes a very attractive charm for the class of foreign tourists “thin pouch”. But Kuta tourism continues to move from Culture tourism to tourism Culture “multi dimensional”.

It is necessary a method and arrangement about tourism that holistically to view and to study tourism based on Hinduism and culture of Bali. In the aspect of social change of tourism in Bali, the law must be able to reach the period that will come in the effort of sustainable cultural tourism, including issues of change that will be desired .

1. The Meaning of Community Empowerment by exploring the potential value of local wisdom to support Cultural Tourism

Indigenous peoples of Bali Hindu have a culture that is worthy to be developed in tourism industry. Tourism Bali can not be separated from the role of Prof. Dr. Ida Bagus Mantra (Governor of Bali period 1978-1983, and 1983-1988). At the initiative of the Governor of Bali in 1979 made the Bali Arts Festival (PKB) in terms of supporting tourism activities which basically done as means of the empowerment of local communities of Bali. The Bali Arts Festival is held annually on a regular basis with four missions held by the PKB, they are: exploring; developing; fostering; and preserving Balinese culture. First, PKB held to rediscover the various forms of art that once existed and has drowned away. Then, it rebuilt according to its original existence. Second, develop, that is packing traditional artwork (local) according to the demands of the era without removing the roots of the original culture. Third, fostering, which is to train a person, a group of people and the community of various forms and types of art and preserving in an effort to improve the quality and quantity. Fourth, preserving the maintenance of various forms and types of art that have for its existence sustainable both in quantity and quality.

Art in Balinese society is an element that is very popular with tourists. One of the tourist village in Badung Utara Bongkasa Village is very pursue various types of art both performing arts and literature. According to its function, traditional dance art can be classified into three types, namely: 1) wali dance (sacral dance); namely sacred religious dance; 2). Dance bebalihan, namely ceremonial accompaniment dance; 3). Balinese dance-balihan, the dance that serves as entertainment. The types of art in the village of Bongkasa Pertiwi are: sekehe Gong: 3 units; sekehe angkelung 1 unit; sekehe sacred dance drama 2 units and sekehe rindik 1 unit.

2. The meaning of Welfare for indigenous peoples / local Bali in increasing the value of local wisdom

Cultural Tourism Bali provides benefits for rural communities, especially areas that are directly opened as a tourist village. Badung district government in developing the tourism area in addition to Kuta, Tuban, and Nusa Dua. Based on Badung Regent Regulation number 47 of 2010, on the Determination of Tourism Village are in Badung regency, since 2010 badung district has 11 villages of tourism village: 1. Tourism Village; 2. Pangsari Village; 3. Kerta Village; 4. Plaga Village; 5. Desa Belok; 6. Carang Sari Village; 7. Sangeh Village; 8. Baha Village; 9. Village Ship (District of Mengwi); 10. Mengwi Village; 11. Canggu Village (Mengwi Sub-district). In the cultural reality of the village Plaga Tourism (Banjar Kiadan) Petang district, in addition the cool air and beautiful natural scenery. There is a beautiful panorama of natural scenery. There are also Bukit temple and Pura Kahyangan Tiga, Tukad Bangkung bridge and Agricultural Culture Festival event annually held at Tukad Bangkung Bridge, the highest bridge in Bali. 16

The concept of local wisdom for the Indonesian nation is rich in cultural diversity, ethnicity, ethnicity and race with more than 389 ethnic groups that have different customs, languages, values and cultures. The existence of customary law community is inseparable with the existence of local wisdom, where there are indigenous peoples there is local wisdom attached to good state rules that have been written according to adat or unwritten.

The value of local wisdom in Bali when associated with the development of tourism in southern

Badung such as Nusa Dua, Kuta, Seminyak and now even leads to Canggu and Munggu, so rapidly provide changes and benefits for the community of Badung regency in particular and the people of Bali in general welfare contained in tourism industry services. In the effort to develop tourist village in Badung regency, many tourism village potency but not optimal in its arrangement and packing; need to strengthen the position of the tourist village in performance; so far the understanding of tourist villages is mass tourism, creating excellent service and hospitality because the community base is the agricultural sector; continue to use customs and culture as the spearhead of the tourist village; during this village village tourism expressed the capital is the same problem from the perspective of human resources require a lot of training, especially foreign languages and accommodation; need to pick up the ball with facilitation / facilitation in the early stages.

In real terms, it is necessary to understand the local community about the tourist village through a planned and measured socialization process so that the Regulation of Badung Regent Number 47 Year 2010, not as a “tiger pa¹³” as the name of the villages mentioned above. Therefore, the role of the state continues in the management and supervision of the Tourism Village implemented functionally by the relevant agencies within the local government and coordinated by the Regional Secretary and accountable to the Bupati. The ¹² development and management of tourist villages developed and utilized as much as possible for improving the welfare of the community, especially people around the area of tourist villages. Supervision of tourism village arrangement by related institutions within the local government by taking into account the inputs of the stakeholders (Article 9, paragraph (1,2, and 3).

In developing Plaga a tourist village, for instance, need to build adequate infrastructure to develop the object of tourism, many potential that can be expanded, such as the potential of archeology, Arts, culinary tourism, nature tourism, Ganesha statue found which was estimated to have existed in the 9th century. Tourist village planning in northern Badung needs a touch of academics and support from Local Government of Badung to accelerate the model of tourist village and tourism activities developed include: a. agro-tourism; b. natural tourism; c. culture tour; d. culinary tour; e tourist tirta; f. spiritual tourism; g. tourist attractions; h. historical tour (Result of Interview with Roni, Jro Bendesa (the head of of Plaga Indigenous Village, dated 24 February 2018).

The other tourist village set by the Badung Regent in 2010, as mentioned above, is Bongkasa Pertiwi Village The village has beautiful ¹¹ scenery, rafting location, Balinese architecture, dance studio and silverware. Sangeh tourist village has also a natural tourist attraction in the form of nutmeg forest inhabited by monkeys and trekking path. Pangsas tourist village is known for rafting tour, trekking and cycling and offers unique cultural attractions of the tradition of ngendar, lampat, and nyerah saye.

Ngendar tradition is done once a year on the feast of Galungan by making porridge in temple upgrading done by children aged 5-12 years. The process of making this porridge should not be watched by an adult if it is not scorched. This slurry is then distributed to the people who come to the temple upgrading. Lampat, a tradition that is done every full moon by teenagers who have been behind, begins with picking seven types of vegetables around the village and no one should prohibit this adolescent. These vegetables are also cooked by them in temples upgrading is shared with rice for the people who come to temple upgrading. The menyerah saye tradition done once a month on Tuesday at the first week. This tradition represents the responsibility of Kelian Desa to residents to remind citizens with responsibility.

III. Conclusions

1. The local traditions of indigenous villages in Bali have the potential to be excavated to explore Bali's tourism culture. Hinduism and local law (Awig-awig and Pararem) can serve as an update tool in regulating tourist villages in cultural tourism activities, in addition to state law. The philosophy of Tri Hita Karana as a guide to format cultural tourism as a control to provide legal certainty, nobility and tourists' culture of Bali. The beautiful nature of Bali given by God Almighty needs to be guarded based on the philosophy of Tri Hita Karana. The Balinese, Indonesian people, tourist actors are obliged to preserve and preserve the natural environment, and its culture. Indigenous villages have the right to manage a community based tourist village of Balinese customary law. The management rights may be further regulated in the local indigenous village law.
2. The meaning of Balinese cultural values, Hinduism, Traditions and customs provide welfare value for Hindus if the local government of the regency / municipality ensures legal certainty, courtesy and benefit and governance rights are granted to local adat villages by providing education, training on the concept of tourism culture.
3. The value of local Balinese wisdom in the adat village becomes an extraordinary potential if the state is able to empower the local community that is connected with cultural tourism so that the welfare of indigenous peoples is guaranteed and will bring up independent tourist villages.

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