



**PROCEEDINGS
INTERNATIONAL CONFERENCE**

GLOBAL CONNECTIVITY

**Cross Cultural Connections, Social Inclusion, and Recognition:
The Role of Social Sciences**

Editors:

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Prof. Nestor Castro, Ph. D.

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Bali, 11-12 September 2017

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WELCOMING REMARKS THE GOVERNOR OF BALI

Om Swastyastu,

The distinguished guests, Rector Warmadewa University, the President of International Federation of Social Science Organizations (IFSSO), ladies and gentlemen,

Welcome to 23rd IFSSO International Conference and General Assembly on "*Global Connectivity, Cross Cultural Connections, Social Inclusion, and Recognition: The Role of Social Sciences*".

First of all, I would like to express my gratefulness *angayu bagia*, to Ida Sanghyang Widhi Wasa, Tuhan Yang Mahaesa, the Almighty God.

I would like to express my deepest gratitude for the cooperation between Warmadewa University and IFSSO and all participants for this conference. I would like to thanks all presenters from different countries, including Turki, Japan, the Philippines, Thailand, India, Algeria, Indonesia, to mention a few.

I hope with the selection of Bali as the venue for such important international conference, Bali *taksu* with warm hospitality of the Balinese people will bring about positive aura for all participants.

This clearly would create the best solution as well as potential policies in the near future which in turn could spur the development for prosperity of the people.

Recently, there are more needs to better understand the issue of connectivity as the world becomes small with rapid globalization. We witness the stories of movements of people around the world due to economic gap as well as conflict, wars and so forth.

It is really timely for scholars to discuss the issue of connectivity in this globalised world.

Bali, located in a strategic place, as a hub from neighboring countries like Australia and Southeast Asian countries, has become a good place for understanding the issue of connectivity in term of

movements of people and ideas.

I hope that through this international conference will provide us all with an excellent opportunity for various scholars to discuss connectivity in particular.

I do hope this conference will **stimulate new ideas for us** in order to understand the recent phenomena on connectivity in globalised world.

I hope that besides this conference, Indeed, this international conference is not only broadening knowledge of our participants engaged in the connectivity issues, but also giving the opportunities to establish wider networks amongst scholars, from Balinese scholars and national and international scholars.

Indeed, Bali is a rich of cultural traditions and has developed creative industries in a very corner of Bali.

I hope the participants will have the spare time to visit Balinese Arts as well as enjoy the magnificent view of Balinese landscape.

I hope you will enjoy the beauty of Bali while you are here.

Thank you.

Denpasar, September 2017

I Made Mangku Pastika

Wellcome Message Rector Warmadewa University

Om Swastyastu,

First, I would like to show my gratefulness *angayu bagia*, to Ida Sanghyang Widhi Wasa, Tuhan Yang Mahaesa, the Almighty God, so I could have the opportunity to give this written speech for the 23rd IFSSO General Conference (International Federation of Social Science Organizations) with the theme of "*Global Connectivity, Cross Cultural Connections, Social Inclusion, and Recognition: The Role of Social Sciences.*"

I am proud that the Warmadewa University has been chosen as the place for this 23rd IFSSO General Conference, September 11 – 12, 2017.

Ladies, gentlemen and all participants,

I am happy to welcome you to international conference starting this morning in Warmadewa University Denpasar. On behalf of Warmadewa University, I would like to extend my warm welcome to distinguished guests: Prof. Nestor Castro, Ph.D., (The President of IFSSO), Prof. Dr. Kazuhisa Nishihara (as the First Vice President of IFSSO), Prof. Dr. phil. I Ketut Ardhana, M.A. (as the Second Vice President of IFSSO), Prof. Dr. Yazawa, Hakan Gullerce (Sociologist from Istanbul Foundation for Science Innovation), Prof. Morad Moulai Hadj (Department of Sociology, Faculty of Social Sciences, University of Oran 2- Algeria), Mari Shiba (Seijo University, Tokyo Japan), Prof. Joseph P. Lalo, Ph.D., (from the Philippines), Prof. Yekti Maunati, Ph.D. M.A., Dr. Ganewati Wuryandari, and Dr. Sri Sunarti Purwaningsih, M.A. (from the Indonesian Institute of Sciences, Jakarta), and all participants of the 23rd IFSSO General Conference.

This International conference covers areas like social science policy matters, providing information, and documentation services in the social sciences.

Delegates will have the opportunity:

To discuss topics ranging from ways to strengthen social sciences in a dynamic development process;

To examine the recent specific issues related to the development of social sciences and humanities studies.

By sharing our experiences on social sciences and humanities studies, the 23rd IFSSO General Conference Bali will elaborate this into concrete and practical solutions.

This grows participation shows that there is a need for a regular regional conference to provide a platform for the dissemination of research to each other and to the general public.

As the Rector of Warmadewa University, I was also concerned to express gratitude to all parties who have provided positive support, both material and spiritual towards the achievement of the International Conference.

This international conference bringing together more than 100 participants from across the world will explore the global connection in the world; share ideas and comments so that it will be fruitful for all of us and the ideas presented by the speakers will enrich our viewpoints and understanding on the development of social sciences and humanities studies.

I am sure as the conference progresses there will be many opportunities to learn one another as well as to develop new collaborations and partnership for the future good of the region.

I thank you all for being here. I wish you a fruitful conference and a happy stay in Bali

Thank you very much.

Om Shanti, Shanti Shanti Om



Rector of Warmadewa University

Prof. dr. Dewa Putu Wijana, DAP&E.Sp. Park

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LAW POLITICS OF TRADITIONAL VILLAGE IN BALI AND LOCAL GENIUS VALUE IN ELECTING HEAD OF TRADITIONAL VILLAGE (BENDESA ADAT KUTA)

I Wayan Wesna Astara

Lecturer of Faculty of Letters Warmadewa University

Abstract

This research was concerned with the political law of desa adat (customary villages) in Bali and the local genius value in electing the chief of the Desa Adat Kuta. It focused on three problems, namely: (a) how was the implementation of national political law in the Order Baru (New Era) in the customary village; (b) how is the construction of political law in Bali in the Era Reformasi (Reformation Era) in relation to implementing the election of the chief of the customary village; and (c) what is the impact and meaning of national political law politics in relation to the local genius value in electing the chief of the customary village of Kuta. A qualitative method was used based on data collected through in-depth interviews, participant observation, and documents. Analysis reveals that the implementation of national political law hegemonizes customary villages in Bali as it is produced by the nation to manage, transform and reconstruct society for the assurance of justice and welfare. In electing the chief of the customary village of Kuta, it is implemented based on local genius values and meaningful social law.

Keywords: politics, law, local genius value, election, bendesa adat, customary village chief

I. PREFACE

1. Background

In the history of villages in Bali, there are two types of village, traditional village (*Desa Adat*) and administrative village (*Desa Dinas*). The administrative village is under control by central government to manage villages in Indonesia. However, the traditional villages

in Bali have an authority to manage their problems independently, and also have their own rules (*Awig-Awig Desa Pakraman*) and have *Laba Desa* or village assets such as *tanah pelaba pura* or temple areas (*Pura Desa, Pura Dalem, and Pura Bale Agung*). Traditional village is organized based on *Awig-Awig Desa Adat* or *Pakraman* which led by officers who called *Bendesa Adat* and *Prajuru Desa Adat* or traditional village administrators. The traditional village in Bali is a village republic (*Dorprepubliek*). That means the traditional village in Bali as *Dresta* is the unity of traditional law society in Bali Province which has a unity of tradition and manners of social interaction of Hindu people from generation to generation in the bond of *Kahyangan Tiga* which has certain territory and own property, and Have the right to manage their own household (autonomy).

Traditional villages in Bali live based on the philosophy of *Tri Hita Karana* with *desa, kala, patra* principles based *Desa Mawacara, Negara Mawatata*. With those principles of *Desa Mawacara, Negara Mawatata* give an opportunity for traditional villages to still alive and understandable that traditional villages and administrative villages can live together without itegration each of them, basically that both villages have their task and function themselves that don't interfere each other. But, in the other way, the government wants to influence, fabricate traditional villages for political interests in the field of law (legal politics) in DPR and government. The government's hegemony to the traditional village is "the dark side" of the traditional village which is always "preserved", or empowerment traditional village in Bali.

The legal politics of traditional villages in Bali can be found in the Constitution of Republic of Indonesia which recognizes and respects the unity of customary law society and their traditional rights with the provisions are alive and in accordance with development of society and the principle of the Unitary State of Republic of Indonesia (NKRI). It is regulated in the Act (UUD 1945 Constitution of the Second Amendment, section 18B paragraph (2nd)). Indigenous villages in Bali as indigenous and tribal peoples live in the dynamics of the *desa, kala, patra*.

Legal politics in Bali concerning adat villages raises the term *Desa Pakraman* so that it experiences dynamics as a political

objective In maintaining the traditional village or *Desa Pakraman* requires a culture-based political defense system. Politics as a policy requires a legal basis, so as to be a protector of Balinese culture. A policy towards the realm of society, including in the field of economic development, is strongly influenced by persons who have a particular interest (Pramudya, 2007: xvii). In the New Order era, the political power in Bali is dominated from Golkar party. In government, the ruler supported by Golkar, freely determines public policies for the benefit of the profitable. In the New Order era, law was a tool of social engineering. The consequences of the legal paradigm as a means of social engineering resulted in the law being applied in a refresher manner.

The reformation was born as a reaction to discontent over the old situation. The reform era allows a shift in the legal paradigm that can create a more democratic social system that can absorb people's aspirations. In the era of reforming social and political reality shows the absence of political power that majority in Indonesia (Pramudya, 2007: xix).

Michel Foucault argues, every legal discourse can not be separated from the operation of power, knowledge and social realization between the two that produce truth and justice. Furthermore, Foucault in power and knowledge, seeking truth in law can not be interpreted as an exploration of the objectivity of knowledge in order to find a final truth (logos), but a battlefield, in which there is a cultural struggle (it can also be from the "Economy") and politics in order to gain access and power in defining truth itself, regardless of whether the truth product represents the final truth or not (Yasraf Amir Piliang, 2004: 299-300). Laws as part of a cultural product influenced by rulers and knowledge become the result of cultures that should be carried out with full responsibility.

Since the Provincial Regulation of Bali Province No. 3 of 2001, issued about the Regional Regulation of Pakraman by revoking the Regional Customary Law No. 06 of 1986, providing information that there is a power and knowledge relation such as Michel Foucault's theory in law products conducted by the Provincial Legislative of Bali. Perda Desa Adat is the dominant New Order product. And,

the majority of DPRD Bali Province is from Golkar. In contrast, the era of reform gave birth to the village law of Pakraman, as a product of the dominant and dominant DPRD Province of Bali from the PDI Perjuangan faction.

In discussing the political politics prevailing in Indonesia based on the hierarchy of the law itself, or with the terminology of Logemen, as the current law. But the classical interpretation of positive law is a law created or established by a state institution or an authority authorized to establish it.

In legal politics in Bali, history has noted that the New Order era marked the issuance of Law no. 5 of 1979 about the Village raises the country's hegemony against traditional villages in Bali and administrative villages become marginalized, because the regulated is the official village. In relation to the administrative village has not been regulated in the act, the Minister of Home Affairs issued Regulation no. 11 of 1984, on the fostering and Development of Customs in the Village. It is arranged in the form of local regulations, regional head decisions and other implementation policies (Article 6, Paragraph 2). In the context of hegemony through the legal product, the Bali Regional Government together with the Bali Regional House of Representatives issued Product of Administrative Village Regulation No. 06 of 1986 as a legal politics in saving the cultural assets of Hindu Balinese at the village level.

The traditional villages in Bali are as social-religious institutions for Hindu who are bound to *Pura Kahyangan Tiga*. In the juridical aspect this refers to the Regional Regulation of Bali's First Level Region No. 06/1986 on the status, function and role of traditional village as a unit of customary law community within the Provincial Level Region of Bali, Section 1 (e). Furthermore, in the Provincial Regulation of Bali Number 3 of 2001 on *Desa Pakraman*, Article 1, paragraph 4, *Desa Pakraman* is a unitary customary law community in the Province of Bali which has a unity of tradition and manners of Hindu community life in hereditary in *Kahyangan Tiga* or *Kahyangan Desa* that has a certain territory. In the tradition of Hindus in Bali, especially in traditional villages or pakraman, Kuta has a unique in *Bendesa* customary selection process. Kuta has the value of local wisdom and the value of national legal culture

that blend in the local cultural construction, in the value system of Indonesia.

The traditional Village as *Dresta Desa* is a unit of customary law community in the province of Bali which has a unity of traditions and manners of social life of Hindu people from generation to generation in the bond of *Kahyangan Tiga* or *Kahyangan Desa* which has certain territory.

Based on this background, it is necessary to examine *Bendesa* customary Kuta system which has local wisdom value, since in one side still use *awig-awig* of Kuta traditional village and the other side has adopted value and spirit of Law Number 32 Year 2004 about Local Government and enactment of UURI Number 6 Year 2014 on the Village. It is important to be observed and examined about the history, origin and thought of it in the formulation of the problem as below.

2. Research Problems

Based on the background of the problem, there is the formulation of the problem as follows:

1. How is the implementation of legal politics in the New Order era in the traditional village of Kuta?
2. How is the legal legal construction in Bali in the context of traditional village of Kuta in the era of Reformasi that is associated with the selection of custom *Bendesa* in Kuta?
3. What is the impact and meaning of political law of the state on the value of local wisdom in the selection of custom *bendesa* Kuta?

3. Theories and Research Methods

The theory used to discuss this research there are three namely: 1. hegemon theory, 2. theory of deconstruction and 3. theory of power relations and knowledge. This social group theory is used eclectically according to the issues discussed in relation to each other.

This research uses qualitative method and data collection using in-depth interview technique by doing observation and document study. Researchers do not give influence or intervention

on the object of research ethnografik. Researchers consider the specific elements of the research object. To achieve this, researchers become the main instrument of research. This study was studied by applying eclectic hegemonic theory, deconstruction theory, power relations theory and knowledge.

Hememoni Gramsci's theory comes from the thought of an Italian Marxist named Antonio Gramsci. Hegemony theory includes cultural leadership and through consensus can explain the role of state through Parliament to form Law, while through DPRD Bali can form law product in the form of Regional Regulation in its implementation to traditional village and *Desa Pakraman*. Apparently, the hegemony of the state against indigenous villages is continuous, in addition to the resistance of Bali Provincial DPRD to the central government to save the traditional village. The rescue of traditional villages from the direct interversion of the central government is by issuing Regional Regulation of Traditional Village. However, in cultural and political realities, the Regional Regulation of Traditional Village resulted in the uniformity of the traditional village *awig-awig* in Bali, through the provision of an *awig-awig* and a traditional village contest. On the one hand, the DPRD Bali has saved the cultural assets through the legal product of the regional regulation of traditional village but on the other hand, through the traditional village regulation, the traditional village has been hegemonized by the administrative village (*Kelurahan/Perbekel*) in running the government duties.

The Deconstruction Theory of Derrida who is a poststructural figure. Derrida's deconstruction is a rejection of that logocentrism or phenocentrism. Derrida focuses on dismantling this closed source so that it can liberate it from the enslaving. The exact sentence to describe Derrida's attention is "deconstruction of logocentrism". That is, deconstruction involves the decomposition of unity in order to reveal the hidden differences. In relation to the theme of research can be understood that the Regional Regulation of Bali, which is about *Desa Pakraman* No. 3 of 2001, especially the articles that are not aspirational to this indigenous people that will be dismantled. It will be tried to be dismantled and interpreted so that it can be clearly understood. The question is that the *bendesa adat* candidate

of Kuta should not be a politician or a member of a political party. This is dismantled because in the concept of *Desa Mawacara* and *Negara Mawatata*, the village is entitled to regulate in accordance with customs and the state regulate the community in accordance with state regulations.

The theory of power relations and knowledge of the Foucault (in Yusuf Lubis, 2004: 162), that power is relations that work in a certain space and time. Power produces truth because truth is within the network of relations that work in a certain space and time. Power produces truth, for truth is within the network of circular relationships with a system of power that produces truth and keeps it truth. Therefore truth does not exist by itself, the truth is not beyond power, but is within that power.

The The theory of power relations and knowledge of the Foucault does not discuss the power in the socio-political structure, the power in the proletarian-capitalist relationship, the relationship between master slave, the relationship between the center and the periphery, but he speaks of the mechanism and strategy of power. He does not speak of what power is, but speaks of how that power is practiced, accepted and seen as truth and how power functions in a particular field. Power not only works through intimidation and violence but also through rules and normalization. Power is closely related to knowledge. So close is the relationship between the two that there is no knowledge without power and no power without knowledge.

According to Foucault (in Gordon, 1977: 131, Yusuf Lubis, 2004: 162-175), in the power of the role of discourse regimes that can be seen in historical events, in addition to the discourse is seen a game about the truth. Thus it is not something that already exists, not something stable, but something related to an ever-changing history. Truth is the result of cultural and political construction. Truth is in the network of power and never separated from it. Truth is also in a world produced by many forms of coercion or opposition. The will of the ruler sees life as a continuous struggle. The will to power is the basis for all the motion of history, human thought and activity. Therefore the relevance of Power Relation's theory will be used to analyze the relation of power (politics) with

the law product (regional regulation) as the result of legal political construction.

When the New Order regime was controlled by Golkar politicians, it was produced by law product or by Local Regulation No. 6 of 1986 about *Desa Adat*. Then the regime change from the New Order to the Reformasi regime that won the election in Bali in 1999, then as a legal political construction was born law products (regional regulation) *Desa Pakraman* Number 3 of 2001. What is the political policy of the ruling during the New Order and the change of regime to the Reformation at the Provincial Government of Bali is very relevant to be answered by the theory of power relations and knowledge. Given the legal products produced by each epoch have episteme or systems of thought that lead to the practice of science in a particular age, such as the village regional regulation and the regulation of *Desa Pakraman* as well as in the context of the election of *bendesa adat* Kuta.

II. Results and Discussion

A. Dynamics Implementation of Balinese Traditional Law Politics in The New Order Era

The legal politics in accordance with Utrecht's opinion include the field of political science which states that the act of coveting the law is a legal political act (*daad van rechtspolitick*) and they doubt whether the idealized law is the object of legal science, and according to them, is a political science project. In a modern state, the administration of state power is based on the basic law (*droit constitutional*). The constitution or *verfassung*, by Carl Schmit is considered the highest political decision.

Legal politics of traditional villages in Bali can be found in the Constitution of the Republic of Indonesia to recognize and respect the unity of indigenous and tribal peoples as long as they are alive and in accordance with the development of society and the principle of the Unitary State of the Republic of Indonesia regulated by the Constitution 1945 Second Amendment of Section 18B Paragraph (2).

In practice the customary law of *Desa Desa* in Bali is familiar with the rural dualism as a product of history due to the Dutch

colonialism in Bali. In the other way, the traditional village is still alive to take care of its traditional rights, while to take care of the administration of the government was introduced modern bureaucracy by forming the administrative village as an extension of the Dutch colonial government in Bali.

The implementation of New Order political politics in indigenous villages in Bali occurred state hegemony against indigenous villages as a whole can be found in the centralistic spirit of the government in power through legal products (Law No. 5 of 1975 on Regional Government and Law No. 5 of 1979 on Village Government in the form Approval The traditional village of Bali, as a heterogeneous traditional village, can also be found in the traditional village of Kuta, the country has hegemonized the traditional village of Kuta, so as resistance to the hegemony of the State is responded as opposed by the legislative and executive of Bali Province to create or produce legal products Protect and preserve the essence of traditional villages in Bali with the issuance of the regional regulation No. 06 of 1986 on Desa Adat.

This regional regulation of traditional village was born as a dynamic process of the Balinese Hindu society to preserve customs, religion and culture as part of cultural protection through legal products with the birth of public policy form of regional regulation of traditional village. This legal politics is set forth in the regional regulation of traditional village which is implemented in Tri Hita Karana in the interaction of Balinese man in wewidangan (region) of Bali Province. In addition, the political protection against the cultural assets of Traditional Villages, but the state Hegemony occurs in the form of the substance of the regional regulation of traditional village section 12, paragraph (1,2, and 3) Traditional Village Development is by the Governor who is assisted by the Assembly of Indigenous Council (MPLA), BPPLA (Implementing Agency of Adat Institute Builders) whose structure (structure) is established by the Governor. It is also important to note that the birth of the regional regulation of traditional village No. 06 of 1986, the Governor provides the requirement for traditional villages in order to clarify the *awig-awig* of traditional villages. Indigenous villages that have dirtiest village *awig-awig* and simultaneously held

custom village contest. After the *awig-awig* and participate in the traditional village contest are given assistance to establish the Rural Credit Institution as a traditional village economic institution.

The dynamics of legal politics in the form of adat village regulations can be found in Article 13, the working relationship between traditional village counselors with village heads and village heads is consultative and coordinative. In the political reality of state hegemony through the village head or village chief against the traditional village is very thick. Village Head as Sole Ruler at village level, as well as LMD Chair at LKMD with a centralized government system. Satjipto Raharjo, states that the law is hegemonic of human life is no longer fully independent and natural, but has turned into a life that is designed and shaped by law. More clearly mentioned by Satjipto Rahardjo, *Bhineka Tunggal Ika* need to be a guide in arranging Indonesian plural society in legal politics based on the value of local wisdom. Diversity has not become a disciplined legislation.

According to the author of the law should be a tool to maintain the values of local culture in the life of the state in the concept of *Bhineka Tunggal Ika*. In the politics of Law No. 5 of 1979 on Village Government, it can be a good example of bad governance politics. The desire to rearrange uniformly the villages in Indonesia has to be paid very expensive, in the form of destruction of the original order in many places still work well. Working well means being able to be a fun home for the local community. Law No. 5 of 1979 is an example of par excellence of a criminogenic law.

Satjipto Rahardjo, argued that indigenous villages in Bali who felt life would be threatened by the issuance of Law No. 5 of 1979 promptly passed regional regulation No. 6 of 1986 on traditional villages protecting local life and local structures that are still working well.

Legal politics of indigenous villages in Bali flows to maintain indigenous villages or also called Desa Pakraman after the removal of traditional villages with the name of Desa Pakraman. The form of Balinese resistance was represented again by the Provincial Legislative Council of Bali in 1999-2004 period with the right of initiative of the Council (DPRD Bali Province) as stated in the

Decree of the Chairman of Bali Province DPRD Number: 26 / KPTS / DPRD / 2000, on Pansus Ranperda *Desa Pakraman* Further the establishment of perda desa pakraman No. 3 of 2001, and the change of Regional Regulation of *Desa Pakraman* No. 3 of 2003. Product of Regional Regulation of *Desa Pakraman* as power relation of DPRD Bali dominated by PDI Perjuangan. When the change from the traditional village to the *Desa Pakraman* of the Provincial Legislative Council of Bali Province is imbued with the spirit of reform and under Law No. 22 of 1999 as a flashback of the centralized spirit to the spirit of decentralization of government. In the context of the birth of perda *Desa Pakraman* in traditional village of Kuta as a case, the formation of Alit Assembly of *Desa Pakraman* contains the defect of procedure in the proper formation from below sent by *bendesa* (*desa Adat/Pakraman*), but in political reality contrary to the spirit of *Desa Pakraman*, Because it is still a system of appointment in the appointment of the *Majelis Alit Desa Pakraman*, that it is a mirror of the sentimental spirit of the New Order. Thus state policy, can not be sterilized from politics, because state policy is a response to a political system that exists around the Environment. George C. Edward III and Ira Sharkansky, defines state policy as what the government declares and does or does not do. According to David Easton revealed that public policy is the allocation of values forcibly against the whole society. This means that Easton's definition affirms that the government can legitimately do something to its people, and the government's choice to do something or not to do something is manifested in the form of allocating values to society.

Since the enactment of Provincial Regulation No. Bali. 3 of 2001, concerning *Desa Pakraman* as amended by the Provincial Regulation of Bali Province in 2003 on *Pakraman Desa Pakraman* by formal judicial terminology of *Pecalang* or security in traditional village and Assembly of *Majelis Alit Desa Pakraman*, and Implementing Agency of customary Institute (Regional Regulation of Traditional Village No. 06 Year 1986, section 12, Paragraph (2).

In relation to Regional Regulation of *Desa Pakraman* no. 3 In 2003, in the context of traditional village of Kuta, there is a controversial issue with respect to article 3 verse (6) For villagers

or *Krama Banjar Pekraman* which is not a Hindu religion only has *pawongan* and *palemahan* bonds within the village or *Banjar Pakraman* whose rights and obligations are regulated In the *awig-awig desa* or *banjar pakraman* respectively. In conjunction with the Regional Regulation of *Pakraman*, although the traditional village of Kuta is not clearly regulated in accordance with the mandate of Article 3, Paragraph (6) non-Hindu residents are not regulated in *awig-awig* or *pararem*, non-Hindu residents still only receive official service (administration). Obligation in *palemahan* (region) is to follow security and order, and must participate community share help every month. Likewise, the customary affairs shall be governed by *bendesa adat*, and the official affairs shall be governed by the head of the village chief. In the context of Article 3, Paragraph (6), it is necessary to regulate non-Hindu and Hindu in Traditional Villages in relation to *Tri Hitakarana* (*Parhyangan, Palemahan, and Pawongan*) relating to the rights and obligations and the interests of life in their environment. The need to be organized by the inhabitants of Hindu and non-Hindu immigrants so as not to be ngrebede or defiant. The interpretation and deconstruction of customary *bendesa, kaling, DPRD, Majelis Desa Pakraman*, community leaders and bureaucracy reflect that language factor is the main cause why law enforcement is impossible to do well (including the language of laws or local regulations) that is uncertain, Very open (open ended), manipulative and multifaceted.

Based on Law of the Republic of Indonesia Number 6 Year 2014, on Village, Article 6. Paragraph (1) Village consists of Village and Desa Adat; Paragraph (2) The mention of a village or traditional village as referred to in paragraph (1) shall be in accordance with the applicable mention in the local area. In Law No. 6 of 2014 on Villages, Article 96 reads: Provincial and District / Municipal Governments are organizing customary law community units and being designated traditional villages. The emergence of this Village Law, with the spirit of applying the constitutional mandate of customary law community in accordance with the provisions of article 18B paragraph (2) to be regulated in the composition of government in accordance with the provisions of section 18 paragraph (7). The new law reinforces that Desa and *Desa Adat*

basically perform almost the same tasks. While the difference is only in the implementation of the right of origin, especially concerning the social preservation of the village of traditional village, the arrangement and management of customary territories, custom peace meetings, the maintenance of tranquility and order for indigenous and tribal peoples, and governance arrangements based on the original arrangement. Whereas in this Act, the village head is elected democratically and directly by the local community, except for traditional villages can use local mechanisms.

B. Legal Political Construction in Bali in The Context of Traditional Villages of Kuta in the Reformation Era Associated With The Head of Traditional Village Selection in Kuta

The history, origins and legal thoughts of law in Bali involves the role of the Provincial Legislative Council of Bali and the Governor of Bali is very important in the history of traditional village life in Bali. As a basis and reason why traditional villages in Bali are preserved. It considers that the traditional village of Bali Province that has grown and developed throughout history for centuries, has made a very valuable contribution to the survival of traditional Balinese people. Traditional villages in Bali are a unit of customary law community whose role is very large in the field of religion, state ideology, socio-cultural, economic and defense of security so it needs to be preserved. It is also explained that in preserving traditional villages in Bali based on the teachings of Hinduism, their positions, functions and roles need to be regulated in the Provincial Regulation of Bali. The intended implementation is the Regional Regulation No. 06 of 1986 on traditional villages.

In this case law and society are like two sides of the coin, *yam societas ibi ius* (where there is society there is law). The core law is a tool or means to organize and maintain order in order to achieve a just society in carrying out social welfare in the form of rules that are coercive and give sanctions for those who violate it, either to regulate society or government apparatus as ruler.

In a legal construction contest as a policy of the Provincial Government of Bali to preserve traditional villages in Bali and the accompanying cultural assets associated with the head of

traditional village of Kuta selection, in legal products. This will reveal the historical aspect, the thought of the emergence of a policy to hold a selection of customary head of traditional village of Kuta which adopts and refers to the rules of traditional villages, the contemporary legal political environment so that there is a paradigm shift in the selection of head of traditional village of Kuta.

First Construction, Year 1986, that the belief of the DPRD and the Governor of Bali to save the customary village from the hegemony of the state (central government) since the traditional village of Bali has grown and developed throughout history for centuries, has made a very valuable contribution to the survival of society and the struggle for independence and development in Bali Province. That to preserve traditional village as a unity of traditional law community that originated in Hinduism in Bali area. It is also important to note that Traditional Villages in the Province of Bali are a unit of Traditional Peoples whose major roles are in the fields of religion, State ideology, socio-culture, economy and defense of security. This idea is outlined in Regional Regulation No. 6/1986 on the status, function and role of Traditional Village in the Province of Bali. The construction of the law as outlined in Section 1 paragraph (e) Traditional Village as *Dresta Desa* (village's rules) is a unit of traditional law community in the Province of Bali which has a unity of traditions and manners of social life of Hindu community from generation to generation in *Khayangan Tiga* Which has a certain territory and own property and is entitled to take care of the household itself. It is mentioned also in section 7 paragraph (1) of each traditional village to have written *awig-awig* (traditional rules); Paragraph (2) *Awig-awig* of Traditional Village shall not be contradictory to Pancasila, the 1945 Constitution and the applicable Laws and Regulations. Article 10 paragraph (1) Traditional Village is led by *Prajuru Desa Adat*; Paragraph (2) *Prajuru Desa adat* is selected and determined by each traditional villagers. In section 10 paragraph (2) it can be asserted that *Bendesa Adat (Prajuru Desa Adat* in the New Order era of *Krama* has the right to choose *Bendesa Adat* has not yet accommodate the product of Law issued by the State concerning Local Government. Pure uses the implementation and

enforcement of *awig-awig* traditional village of Kuta in the selection of *Prajuru Desa Adat* or *Bendesa Adat Kuta*. The understanding of traditional villagers of Kuta is formalistic towards the *awig-awig* and the rules of traditional village is the mouthpiece that should be applied in the selection of *bendesa adat*, less construct factors outside the traditional rules of Kuta. *Awig-awig* is the only one considered valid in the *Prajuru Desa* election.

Second Construction, the revocation of Regional Regulation Number 6 Year 1986, and replaced by Regional Regulation Number 3 Year 2001, concerning *Desa Pakraman*. That *Desa Pakraman* as a unity of Traditional Law community that is imbued by Hinduism and cultural values that live in Bali is very big role in religious and socio-cultural field so that need to diayomi, preserved and empowered. Section 1 letter (18) Pengayoman is providing protection to *Desa Pakraman*; Article 1 letter (19) Empowerment is a series of active efforts so that the condition and existence of the *Desa Pakraman* can be sustainable and more robust so as to play a positive role in development. While conservation is an effort to maintain and preserve the values of traditional Balinese culture, especially the values of ethics, morals and civilization which is the core customs and traditions of the Balinese community so that its existence is maintained and continues.

Regional Regulation concerning *Desa Pakraman*, section 7 paragraph (1) *Desa Pakraman* is led by *Prajuru Desa Pakraman*; Paragraph (2) of *Prajuru Desa Pakraman* selected or stipulated by villagers according to the rules set forth in the respective of village rules; Paragraph (3) the structure and composition of the councils of *desa pakraman* arranged in rules of *desa pakraman*. The management and use of village revenues is arranged in *awig-awig*. Section 11 paragraph (1) every *Desa Pakraman* implies its *awig-awig*; Paragraph 2, the rules of *desa pakraman* should not conflict with religion, Pancasila, 1945 Constitution, and human rights.

With the power relations, politics (Partai Demokrasi Perjuangan Indonesia) in the DPRD Bali as the winner of the 2004-2009 election, the name of Traditional village as the village of "*Dresta*" / Balinese tradition was changed to *Desa Pakraman*. Although the name of the traditional village was changed to *Desa*

Pakraman, but the principles of the origin, history and thinking about the village in Bali are maintained. Traditional villages in Bali (Indigenous Villages) are not administrative villages, have been tested in the history and politics of whoever governs, adat villages are allowed to develop in accordance with customary rights and their own autonomy and autonomy, country). The State protects, recognizes and respects, the unity of indigenous and tribal peoples and their traditional rights as long as they are alive (Section 18B Paragraph (2)).

State policies recognize and respect the continued development of the DPRD of Bali and the Executive to maintain the traditional village or *Desa Pakraman* remain steady and sustainable in the constantly changing political and legal dynamics of law.

C. The Impact and Meaning of Political Law of The State on The Value of Local Wisdom in The selection of Head of Traditional Village of Kuta

Legal politics in traditional villages in Bali is generally the opposition of local communities to legal products that should be responded by public policy makers in Bali. Laws that criminalize local communities (traditional villages) and state hegemony against indigenous villages in Bali with the issuance of Law No. 5 of 1979 on villages which states as follows:

In accordance with the nature of the Unitary State of the Republic of Indonesia, the position of the village government government as far as possible uniformed, taking into account the diversity of village circumstances and the provisions of the prevailing customs to strengthen village governance in order to be able to mobilize the community in its participation in development and administration of village administration is increasingly widespread and effective.

The above concept serves as a complement to the quality of the centralist regime, in this case not only placing the village as the spearhead, footwear (as the lowest unit organ) but also determined to uniform the village or community in the community The same scheme. Due to the uniformity of villages in Indonesia, traditional villages in Bali have the value of local wisdom (uniqueness) which is

not owned by other villages in Indonesia with native autonomy not a state grant. The value of local wisdom is that traditional villages in Bali have certain areas (traditional villages), their own property (*pelaba pura* and property rights), have *awig-awig* and *perarem* to arrange their citizens, have village leaders (*bendesa adat*) / *prajuru desa* and village security / *Pacalang*.

The meaning of legal protection of traditional villages in Bali, ie after the implementation of Law No. 5, 1979 on the village, progressively and Bali's Governor Head of the First Level Region of Bali and parliament protectively and progressively protecting traditional villages in the form of public policy was born Regional Regulation number 6 1986 on the status, function and role of traditional villages as a unit of customary law community in the province of Bali. Section 1 paragraph (e) The traditional village as the *dresta desa* is the unity of indigenous and tribal peoples in the Provinces of Bali which have a unity of tradition and manners of the Hindu community interiors in the *Kahyangan Tiga* (*Kahyangan Desa*) His own assets and entitled to take care of his own staircase. Having areas such as Banjar, Traditional Village weakening, Village winglands, customary law is Balinese customary law sourced and based on the teachings of Hinduism and traditions that live in society; Customary and *prajuru desa* (Section 1 paragraph (f, g, h, i, j, k).

As for the command of the Regional Regulation of Traditional Village No. 06 of 1986, section 6 paragraph (1) Traditional village as a unit of Indigenous Law community has a function:

- a. Assisting the government in the smoothness and implementation of development in all fields, especially in the field of religion, culture and society.
- b. Implementing customary law and customs in the their traditional villages.
- c. Giving legal position according to customary law on matters relating to the interests of social relationships of privat law.
- d. Educate and Developing Balinese traditional values in order to enrich, preserve and develop the national culture in general and Balinese culture in particular, based on *paras-*

paros salunnglung sabayantaka / discussion for consensus.

- e. Guarding, preserving and utilizing the richness of traditional villages for the welfare of traditional villagers

The function referred to in paragraph (1) is described in the *awig-awig* of traditional village. Section 7 on the *awig-awig* of traditional village, namely paragraph (1) Each traditional village has a *awig-awig* of traditional village; (2) *awig-awig* of traditional village shall not be contradictory to Pancasila, the 1945 Constitution and prevailing laws and regulations.

Specifically on the subject of traditional village (Article 10 paragraph (1): traditional village is led by *Prajuru Desa Adat*, (2) *Prajuru Desa Adat* is chosen and determined by each traditional villagers, (2) Structure and composition of *prajuru adat* rules of traditional village. In the selection of head of traditional village of Kuta in 2008-2013 based on rules of traditional village of Kuta *indik Prajuru* / Village Customary Board ie Pawos / Section 14 paragraph (1) Traditional Village of Kuta led by *Bendesa Adat*; Paragraph (2), *Banjar Suka-duka* is led by *Kelian Suka Duka*. Section 14 paragraph (3) *Kelian Desa* / *Bendesa Adat* and *Kelian Suka-Duka* came from:

1. Traditional Villagers / Society of *Banjar Adat*.
2. *Bendesa adat* selection is held every five years.
3. Received approval and awarding from God Almighty at *Pura Kahyangan Desa Adat Kuta*.

The structure of the traditional village management of Kuta, in accordance with the traditional village rules, Section 15 paragraph (1) *Bendesa Adat Kuta* is accompanied by (1) *Pangliman* / Deputy of *Bendesa Adat*, (2) *Withdrawal* / secretary; (3) *Petengen* / treasurer and (4) *Kesinoman* / public relations / custom village courier.

In the selection of *Bendesa Adat Kuta* formed the selection committee and committee inauguration of *Bendesa Adat Kuta*. The selection system of *Bendesa Adat* is as follows:

1. Directly, it means *Bendesa Adat Kuta* is chosen directly by *krama ngarep* traditional village of Kuta, without being represented.

2. General, that means all *krama ngarep* traditional village of Kuta has the right to choose and be chosen.
3. Free, that means all *krama ngarep* traditional village of Kuta in using the right to vote is guaranteed freedom without any element of coercion.
4. Secret, that means *krama ngarep* traditional village of Kuta in using its right to vote will be guaranteed confidentiality (Tatib Organizing Election and Inauguration of *Prajuru Desa Adat* Kuta Period Bakti 2008-2013).

The requirements of the candidate for *Bendesa Adat* Kuta are as below:

1. Each *Banjar Adat* of traditional village of Kuta is entitled to propose a prospective *Bendesa Adat* Kuta with the following criteria.
 - a. *Krame ngarep* in traditional village of Kuta.
 - b. Physically and mentally are healthy.
 - c. Minimum age of 40 years.
 - d. Minimum high school education or equivalent or former customary *bendesa* or former as *kelian*.
 - e. Not being party manager on many levels.
 - f. Not being a *banjar* board and LPM management.
 - g. Not in the process of criminal and civil law.

Based on the interviews result with the chairman committee of selection of *Bendesa Adat* Kuta, that is:

"In addition to the basic norms used are awig-awig, then guidelines for the Implementation of Elections and Inauguration of Customary Villages of Kuta Masa Bakti 2008-2013, there are special rules that must be obeyed by a candidate bendesa adat, that is, the lowest age of 40 years, Should not sit in party management structures at all levels. In this process, the committee will collect custom candidate bendesa in each banjar, and each banjar proposes krama in accordance with the requirements determined by the committee. How to crawl in banjar krama who propose to the banjar, then banjar that filter and send to the committee. The emergence of customary bendesa candidates from this banjar by the committee, affirmed that the candidate bendesa adat of this banjar, not candidate bendesa adat from banjar or candidate from the party, but candidates from the traditional

village of Kuta who have passed in stage I. (Interview with I Made Mastra, SH, chairman committee of selection of Bendesa Adat Kuta Year 2008-20013, 21 September 2008)."

Based on the opinion above, a candidate for *bendesa adat* is very strict in terms of age, not sitting in one party at all levels of the board to ensure the neutrality of a *bendesa adat*. What has been said by the chairman committee of selection of *Bendesa Adat Kuta*, I Made Mastra, S.H. Mentioned above, has indirectly accommodated the thought of Provincial Village Regulation No. 3 of 2001, the explanation of Section 3, Paragraph (1), states that in this case, including how village leaders can anticipate and minimize the entry of political and economic interests in the taking Decision, which could eventually trigger the emergence of cases of human rights violations in the name of customary.

The right to vote and to be elected can be explained as follows: in the right to vote *bendesa adat* is *krama ngarep* / traditional villagers of Kuta, widow / widower and also active member of Police as voting right, but for citizen from Police member and widow has no right to Selected.

IV. Conclusion

The implementation of legal politics in the New Order era experienced tidal processes related to legal products implemented in traditional villages in Bali. State hegemony is very strong in the New Order era in law products applied in traditional villages in Bali. The legal product of Law No. 5 of 1979 concerning Villages only regulates the village offices (village chief). However, the legislative responses of the DPRD Bali and the New Order ethics executive were also an integral part of the rescue and legal protection of traditional villages in Bali. This is evidenced by the birth of Regional Regulation No. 06 of 1986 on *Desa Adat*. When the Reform Era there is a new policy and a new paradigm in rescuing traditional village called *Desa Pakraman* with the issuance of Regional Regulation Number 3 Year 2001, about *Desa Pakraman*. The occurrence of rescue of cultural assets such as *Pecalang*, and in socio-cultural activities and religious organizations of religious tolerance, and in

the election of a candidate *bendesa adat* not allowed to engage in practical political content, because essentially customary *bendesa* is carrying out religious, cultural, customary duties And *awig-awig* and *perarem* as legal basis, in addition to legislation.

The construction of legal politics in Bali in the context of traditional villages of Kuta in the reform era reflects a paradigm shift in the model of the election of Kuta *bendesa adat* candidates. This can be seen from the change that is when the New Order electoral system *bendesa adat* of Kuta only pay attention to referrals or legal basis on *awig-awig* and *pararem* traditional villages of Kuta. The Era of Reform of the election of *bendesa adat* also refers to Regional Regulation of Bali Province Number: 3 Year 2001 about *Desa Pakraman*. The *Bendesa Adat* Selection Committee also included a requirement that a *bendesa adat* not be a party official at all levels.

The impact and meaning of state law politics on the value of local wisdom in the selection of *bendesa adat* Kuta reflects the norms and values of local wisdom Bali functioning and meaningful social, given the existing value in *awig-awig* and *pararem* traditional villages of Kuta determine the course of *bendesa adat* election of Kuta. Bali's local legal policy (traditional village protection) and the State recognizes and respects the unity of indigenous and tribal peoples with their traditional rights. Then these rights continue to be maintained by the Hindu Balinese community, because Hindus are cultured in accordance with the philosophy of *Tri Hita Karana*, and its place in the traditional or *Desa Pakraman* as the bastion of Balinese culture.

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Legislation Rules

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Recently, there is more need to better understand connectivity problems because of the world with rapid globalization. We are witnessing the story of the movement of people around the world because of economics and conflict, war and so on.

It's really time for scientists to experience connectivity problems in this globalized world.

Bali is in a strategic place, as a hub of neighboring countries like Australia and Southeast Asian countries, has become a good place to understand the problem in terms of movement of people and ideas.

I hope through this international conference will give you a scholarship to discuss connectivity in particular. I do hope this conference will stimulate new ideas for us in order to understand the recent phenomena on connectivity in globalised world.

I Made Mangku Pastika
GOVERNOR OF BALI

As the Rector of Warmadewa University, I was also concerned to express gratitude to all parties who have provided positive support, both material and spiritual towards the achievement of the International Conference.

This international conference bringing together more than 100 participants from across the world will explore the global connection in the world; share ideas and comments so that it will be fruitful for all of us and the ideas presented by the speakers will enrich our viewpoints and understanding on the development of social sciences and humanities studies.

I am sure as the conference progresses there will be many opportunities to learn one another as well as to develop new collaborations and partnership for the future good of the region.

Prof. dr. I Dewa Putu Widjana, DAP&E.Sp. Park
Rector of Warmadewa University

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