

Strengthening the Legal Framework of Subak-Based Ecotourism in Bali: Between Cultural Policy and Legal Pluralism

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Keywords:

Deepfake technology,
Digital content misuse,
Identity fraud,
Legal implications,
Privacy,
Regulatory frameworks,
Social media.

Abstract. This study examines the dynamics of legal pluralism in the governance of community-based ecotourism in Bali, with a particular focus on the Subak system as a cultural landscape recognized by UNESCO. While Subak is legally acknowledged through the Bali Provincial Regulation No. 9/2012 and reinforced by Law No. 6/2014 on Villages, its legitimacy also derives from *awig-awig* (customary rules), reflecting the coexistence of state law and living law. Using a socio-legal and comparative approach, this research explores two Subak communities Subak Sembung (Denpasar) and Subak Umalambing (Badung) to analyze how customary law interacts with formal regulations in responding to land conversion pressures and tourism commercialization. The findings reveal that *awig-awig* remains more effective than formal law in controlling land conversion, yet its effectiveness depends on the strength of sanctions and community compliance. The study highlights the need for legal hybridization, whereby state law provides formal legitimacy and certainty, while customary law offers substantive values rooted in *Tri Hita Karana* philosophy. This research contributes to the discourse on legal pluralism by proposing the concept of “law with cultural meaning”, which integrates indigenous norms into tourism governance. Practically, it recommends the formulation of a special regional regulation on Subak-based ecotourism to safeguard agrarian, ecological, and spiritual sustainability in Bali.

1. INTRODUCTION

Subak in Bali represents a customary legal entity deeply rooted in the philosophy of *Tri Hita Karana*, and has been internationally recognized as a World Cultural Heritage by UNESCO since 2012.¹ As a traditional irrigation system, *subak* is not merely a mechanism for water distribution, but also embodies a form of resource governance based on customary law (*awig-awig*) that binds all members (*krama*). From a legal perspective, *subak* may be qualified as a *sui generis* institution with ecological, social, and spiritual functions, positioning it as part of the *living law* that deserves protection.²

According to Law of the Republic of Indonesia No. 15 of 2023 on the Province of Bali, Article 6, both *Desa Adat* (customary villages) and *Subak* are explicitly recognized and regulated through Bali Provincial Regulations in line with the national legal framework. In the context of ecotourism, the normative basis is provided by the Ministry of Home Affairs Regulation No. 33 of 2009 on Ecotourism Guidelines in the Regions, Article 1(1), which defines ecotourism as a responsible nature-based activity that emphasizes education, awareness, conservation, and the improvement of local community income. In Bali, ecotourism development may therefore be managed directly by *Desa Adat* and *Subak* through planning, utilization, supervision, and control.

Although Bali has a clear legal framework concerning *Desa Adat* and *Subak*, empirical practices show that *subak* faces serious pressures due to the conversion of agricultural land into tourism facilities and housing. Agricultural statistics indicate a significant decline in rice field areas over the past two decades, threatening the sustainability of *subak*. As Maria S.W. Sumardjono observes, without adequate legal engineering, land conversion will continue to erode agrarian space and weaken the protection of indigenous peoples' rights.³ Thus, the legal problem is not merely agrarian, but also concerns the protection of customary legal systems within the framework of national legal pluralism.

Subak-based ecotourism is regarded as an alternative instrument to reduce land conversion pressures by integrating environmental conservation with economic diversification, thereby providing farmers with economic incentives to maintain the agrarian function of rice fields. Wall argues that participatory ecotourism can create a balance of interests between economy and ecology.⁴ The empirical practices in Subak Sembung (Denpasar) and Subak Umalambing (Badung) illustrate that customary norms (*awig-awig*, *perarem*) and regional regulations can synergize to form a governance model rooted in legal pluralism. This resonates with Satjipto Rahardjo's perspective that law must be understood as a social institution living within its community, rather than merely a normative text.⁵

Furthermore, I Wayan Wesna Astara emphasizes the importance of the theory of “law with cultural meaning” (*hukum bermakna budaya*) in examining *subak* within the context of ecotourism and tourism law, so that community expectations are not neglected by legislators in the process of law-making.⁶ In essence, *subak* is a socio-economic and religious organization of the Balinese people, where policies are enacted and applied within its territorial jurisdiction (*wewidangan*) through *awig-awig* and/or *perarem*. This perspective derives from McDougal's⁷ notion of “community” as the locus where legal norms are created and applied.

¹ UNESCO, *Cultural Landscape of Bali Province: the Subak System as a Manifestation of the Tri Hita Karana Philosophy* (World Heritage List, 2012).

² B. Ter Haar, *Asas-Asas dan Susunan Hukum Adat* (Jakarta: Pradnya Paramita, 1981), hlm. 17.

³ Maria S.W. Sumardjono, *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya* (Jakarta: Kompas, 2008), hlm. 77.

⁴ Geoffrey Wall, *Tourism: Change, Impacts and Opportunities* (Pearson Education, 2006), hlm. 98.

⁵ Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban* (Jakarta: UKI Press, 2006), hlm. 54.

⁶ Astara, Wesna, I Wayan, 2025, *Politik Hukum Pariwisata, Ekowisata dan Persoalan Tanah Untuk Kepentingan Industri Pariwisata*, Larasan, Denpasar, hal. 99.

⁷ Myres S. McDougal, *Law as a Proses of Decision: A Policy-Oriented Approach to Legal Study*, Yale Law School Legal Scholarship Serie, Yale

According to Ida Bagus Wyasa Putra, McDougal's concept provides a strong foundation for community-expectation-based policymaking, which reflects the community's aspirations regarding the content, function, and objectives of law and policy.⁸ The goals of the *subak* community, therefore, extend beyond agricultural production, encompassing legal protection, preservation of identity, enhancement of community welfare, sustainability, and the safeguarding of cultural-spiritual functions in the broader social system.

Accordingly, the urgent need for Indonesian law is to establish a political-legal framework that protects *subak* through harmonization between customary law, agrarian law, and tourism law. Such an approach can serve as the basis for strengthening *subak* protection while avoiding legal fragmentation in the governance of ecotourism in Bali.

2. METHODS

This study employed a socio-legal approach using qualitative methods. The research sites included Subak Sembung (North Denpasar) and Subak Umalambing (Badung Regency). Data were collected through in-depth interviews with customary leaders, Subak administrators, and government officials, as well as through participatory field observations. In addition, a document study of relevant regulations was conducted to complement the primary data.

The collected data were analyzed thematically and comparatively to examine the implementation of customary law, cultural policies, and legal pluralism in the governance of community-based ecotourism. Empirically, the researcher's interaction with *krama subak* (Subak members) and local stakeholders revealed that the success of ecotourism governance depends not only on the existence of formal regulations but also on community solidarity, the continuity of traditional agricultural practices, and the capacity to adapt to external pressures such as mass tourism and land-use changes within regional spatial planning policies.

3. RESULT AND DISCUSSION

This study focuses on two case studies that represent the practice of legal pluralism in the governance of culture-based ecotourism in Bali, namely Subak Sembung in Denpasar City and Subak Umalambing in Badung Regency. Subak functions not only as an irrigation system but also as an indigenous legal institution governed by *awig-awig* (customary rules), ensuring ecological balance, social solidarity, and spiritual values. Lansing describes Subak as a *self-governing irrigation system* that has endured for centuries because it is grounded in the principle of harmony between human beings, nature, and the divine.⁹

4. SUBAK SEMBUNG, DENPASAR

Covering approximately 100 hectares divided into eight *tempek* (small management units) and involving around 180 farmer members (*krama subak*), Subak Sembung has been internationally recognized by UNESCO as a World Cultural Heritage. The Subak's *awig-awig* permits the sale of rice fields but strictly prohibits land conversion from agricultural to non-agricultural use. This regulation is intended to safeguard the agrarian function of Subak amidst urbanization pressures.

The cropping cycle is conducted twice a year, with the main planting seasons in January and July. Water distribution is managed collectively by the Subak leaders to ensure equal allocation across plots, in line with the principles of *paras-paros* (mutual cooperation) and *sagilik-saguluk* (equity), which are derived from the *Tri Hita Karana* philosophy.

Over the past decade, Subak Sembung has developed community-based tourism that integrates food production with recreational and environmental education activities. Ecotourism programs include jogging tracks, cycling tours, and agricultural education packages that engage visitors in traditional activities such as plowing, planting rice, and learning the irrigation system. Farmer empowerment is supported by training and workshops facilitated by both government and private actors. An example of external support is the Corporate Social Responsibility (CSR) program *Uma Palak*, which emphasizes environmental conservation and community capacity-building.

However, the management of Subak Sembung encounters several structural challenges. First, limited skilled human resources hinder optimal service delivery in ecotourism. Second, financial constraints and inadequate facilities such as public sanitation, organized jogging paths, and environmental interpretation facilities remain obstacles to destination development. Third, the sustainability of ecotourism is still dependent on government assistance, making it vulnerable to policy shifts or budgetary changes.

Conflicts of interest also arise between Subak managers and tourism operators, particularly regarding water use. During the dry season, water demands for ecotourism facilities (such as ponds and non-productive green spaces) compete with irrigation needs. Such disputes are usually resolved internally through deliberation and rescheduling of water distribution, prioritizing agricultural needs.

Despite these challenges, Subak Sembung holds significant potential as an educational ecotourism destination that integrates environmental conservation, food production, and cultural tourism. Nevertheless, serious challenges remain, including the declining participation of younger generations in farming, insufficient professional management capacity, and the limited application of *awig-awig* in the context of modern tourism. If these issues can be addressed, Subak Sembung has the potential to serve as a model for integrating traditional irrigation systems with socially just and sustainable ecotourism.

5. SUBAK UMALAMBING, BADUNG

Subak Umalambing in Badung Regency represents another example of a Subak institution that continues to function as a farmer-based irrigation organization as well as a socio-cultural and religious institution. Its governance is based on the principle of *desa kala patra* (contextual adaptation according to space, time, and circumstance), allowing flexibility in agricultural practices. This principle has enabled the Subak to maintain water quality, preserve terraced landscapes, and conserve the ecological functions of rice fields.

However, Subak Umalambing faces severe risks from land conversion. The reduction of rice fields has diminished agricultural

Law School Faculty Scholarship, 1956, hal. 66.

⁸ Ida Bagus Wyasa Putra, 2016, *Teori Hukum dengan Orientasi Kebijakan (Policy-Oriented Theory of Law): Pemecahan Problem Konteks dalam Proses Legislasi di Indonesia*, Udayana University Press, Denpasar, hal. 7.

⁹ J. Stephen Lansing, *Perfect Order: Recognizing Complexity in Bali* (Princeton: Princeton University Press, 2006), hlm. 64.

productivity while also causing ecological degradation, such as the loss of biodiversity, reduced water absorption, and weakened carbon sequestration capacity. These impacts also disrupt sacred agrarian rituals, such as *tumpek uduh* and *pakelem*, which are integral to Balinese cultural identity. Thus, the existence of Subak Umalambing extends beyond food production to encompass ecological conservation and the spiritual continuity of indigenous communities.

Normatively, Subak Umalambing is legally recognized through Bali Provincial Regulation No. 9 of 2012 on Subak, which affirms the role of Subak in agrarian, socio-cultural, and environmental domains. However, the regulation does not provide effective instruments to prevent the conversion of productive land. The *awig-awig* of Subak Umalambing primarily regulates irrigation practices and religious rituals, without binding conservation norms or sanctions. This legal gap has rendered Subak Umalambing vulnerable to subordination under economic development interests.

Within the framework of legal pluralism, Subak Umalambing remains positioned at the local level as a moral-cultural institution without the binding authority of state law. Therefore, revising the *awig-awig* to incorporate land conservation norms, alongside synergizing with customary village regulations and sustainable agricultural policies, constitutes an urgent agenda. Such efforts are essential not only to protect rice fields from conversion but also to uphold *Tri Hita Karana* as a conservation philosophy that harmonizes human relationships with the divine, with fellow human beings, and with nature.

The variation in the characteristics of Subak Sembung and Subak Umalambing reflects the complex interaction between customary law, regional policies, and formal state regulations. This phenomenon aligns with the framework of legal pluralism, which views state law, customary law, and social norms as overlapping systems that regulate community life. While both Subaks contribute to cultural and ecological preservation, differences in their autonomy, institutional capacity, and regulatory support have created challenges ranging from limited access to ecotourism revenue, the absence of effective legal instruments, to weak protection of productive agricultural land.

This study addresses three main research focuses: (1) the synergy of cultural policies with formal and customary law in managing sustainable and equitable ecotourism; (2) the position of customary law in facing cultural commercialization and mechanisms to prevent erosion of traditional values; and (3) legal strategies and policies to strengthen the role of Subak and customary villages in managing ecotourism that is participatory, adaptive, and rooted in the *Tri Hita Karana* philosophy.

5.1. Synergy of Regional Cultural Policy, Formal Law, and Customary Law

As a traditional Balinese institution, Subak possesses dual legitimacy: customary legitimacy through *awig-awig* and formal legitimacy through state regulation. Subak is not only a cultural heritage institution that transcends generations but is also legally recognized by the Bali Provincial Regulation No. 9 of 2012 on Subak, which defines it as a traditional organization of Balinese customary law communities managing agricultural water resources based on *Tri Hita Karana*. This philosophy emphasizes harmony between humans and God (*parahyangan*), humans and fellow humans (*pawongan*), and humans and nature (*palemahan*), positioning Subak as not merely agrarian but also ecological and spiritual in function.

Furthermore, institutional strengthening is reinforced by Law No. 6 of 2014 on Villages, which recognizes customary villages as public legal entities with autonomous authority based on origin rights and local wisdom. Subak, as part of the customary village, thereby gains institutional space to integrate customary authority with village administration. This is further confirmed by Bali Provincial Regulation No. 4 of 2019 on Customary Villages, which explicitly affirms the role of customary institutions, including Subak, in socio-cultural governance and environmental protection.

From a sociology of law perspective, Subak embodies Eugen Ehrlich's concept of *living law* that is truly alive and effective within society, often more influential than written regulations.¹⁰ In Subak Sembung, *awig-awig* that prohibits the conversion of rice fields into non-agricultural uses has functioned as a powerful instrument of social control to sustain the farming ecosystem. Although the state, through Law No. 26 of 2007 on Spatial Planning, holds ultimate authority over land use, in practice, farmers' compliance with *awig-awig* proves to be more effective than adherence to formal spatial plans.

By contrast, Subak Umalambing in Badung, despite having *awig-awig*, lacks strong sanction mechanisms, resulting in weaker capacity to resist agricultural land conversion. Landowners maintain full discretion over land use, rendering *awig-awig* less effective in controlling liberalized land markets. Here, Satjipto Rahardjo's notion of law as a tool of social engineering becomes relevant: law should not merely serve as a repressive norm but should act as an instrument of progressive transformation toward social welfare.¹¹ Customary law, therefore, must not remain symbolic but should transform into an effective norm supported by state regulation.

Table 1. Comparative Characteristics of Subak Sembung and Subak Umalambing.

ASPECT	SUBAK SEMBUNG (DENPASAR)	SUBAK UMALAMBING (BADUNG)
Customary Legal Basis	<i>Awig-awig</i> prohibiting land conversion	<i>Awig-awig</i> exists, but without sanctions
Effectiveness	Effective in protecting rice fields	Weak; high rate of land conversion
Relation With State Law	Supported by Denpasar RTRW & Subak by-law	Badung RTRW exists but weakly implemented
Community Participation	Strong farmer participation	Weak; landowners more dominant

This duality of law reflects structural imbalance. While Subak as *living law* continues to command respect, the state remains dominant in spatial and land control through its regulatory apparatus. This aligns with Boaventura de Sousa Santos's observation that modern law tends to be hegemonic, marginalizing "unofficial" local norms that, in fact, are most contextual in everyday community life.¹²

Accordingly, the synergy between *awig-awig* and formal regulation should be institutionalized through a process of legal hybridization, whereby customary norms gain recognition and legitimacy within formal legal frameworks. For example, local governments may adopt Subak's prohibitions on land conversion into spatial planning by-laws, thereby extending the binding force of *awig-awig* beyond the community level. This approach resonates with Article 18B (2) of the 1945 Constitution, which guarantees recognition of indigenous communities and their traditional rights so long as they remain alive and relevant to societal development.

From the perspective of Balinese Hindu legal philosophy, such integration reflects the principle of *desa kala patra*, the flexibility

¹⁰ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1936), hlm. 493.

¹¹ Satjipto Rahardjo, *Hukum dan Perubahan Sosial* (Bandung: Alumni, 1979), hlm. 15.

¹² Boaventura de Sousa Santos, *Toward a New Legal Common Sense* (London: Butterworths, 2002), hlm. 85–87.

of law to adapt to spatial, temporal, and social contexts.¹³ While state law is often rigid and bureaucratic, customary law provides adaptive legitimacy and social acceptance. Therefore, their relationship should not be subordinate but complementary: state law offers certainty and formal legitimacy, while customary law contributes substantive values and cultural depth representing the identity of Balinese society.

5.2. The Position of Customary Law in Confronting Cultural Commercialization

Subak-based ecotourism is essentially designed to strengthen local economies while preserving the environment and sustaining agrarian socio-cultural systems grounded in Balinese Hindu values. However, within the logic of modern tourism driven by spatial capitalization and cultural commodification Subak is often reduced to a mere “tourist attraction” or even a “cultural commodity” marketed to visitors. Clifford Geertz underscores that Balinese symbols, rituals, and cultural expressions carry profound religious significance, yet are vulnerable to losing their sacred essence when transformed into spectacles within the global tourism industry.¹⁴ This phenomenon represents forms of “cultural appropriation” and “cultural pollution,” eroding the authenticity of traditions.

In the case of Subak Sembung, Denpasar, although it has relatively succeeded in maintaining its agrarian-spiritual orientation by offering educational tourism such as rice planting, irrigation learning, and ritual participation, pressures of commercialization are increasingly evident. Demands for jogging tracks, cafés, and recreational facilities risk contaminating cultural meaning (*cultural pollution*). A similar pattern is observed in Ubud, Badung, and Gianyar, where luxury hotels such as Alila Ubud and the Four Seasons Resort at Sayan capitalize on Subak’s rice terraces and irrigation systems as “exotic landscapes” for international guests. Likewise, in Sibang Kaja, Badung, the Green School Bali—an international school with an ecological orientation—while contributing to environmental education, still exploits the Subak ecosystem as both an attraction and a living space, creating additional pressures on the ecological and social balance of nearby customary communities.

From the perspective of Balinese Hindu legal philosophy, such practices risk contradicting the principle of *Tat Twam Asi* (“I am you, you are me”),¹⁵ which teaches an ethical awareness of interrelatedness among all beings, as well as *Tri Hita Karana*, which demands harmony between *parahyangan* (the divine), *pawongan* (society), and *palemahan* (nature). When hotels, cafés, or international schools sacrifice rice fields and irrigation systems, what is disrupted is not only the agrarian ecosystem but also the spirituality and local wisdom that form the foundation of customary community life.

Within the legal framework, customary law embodied in *awig-awig* and *perarem* is intended to serve as a social safeguard against excessive exploitation of Subak lands. However, its effectiveness is often limited because it lacks formal coercive power against large-scale investors. This resonates with Satjipto Rahardjo’s argument that law should not merely preserve the “status quo” but must also act as *social engineering* to create a just and sustainable social order.¹⁶ Accordingly, customary law requires reinforcement through formal legal mechanisms.

Article 18B (2) of the 1945 Constitution of the Republic of Indonesia provides constitutional legitimacy for the existence of customary law communities and their traditional rights as long as they remain viable and relevant to societal development. Furthermore, Law No. 6 of 2014 on Villages strengthens the legal standing of customary villages as public legal subjects authorized to manage their territories, including spatial arrangements based on local wisdom. Similarly, Bali Provincial Regulation No. 9 of 2012 on Subak recognizes Subak as a customary institution grounded in *Tri Hita Karana*, which should serve as a legal basis for local governments to reject development projects that threaten rice fields and irrigation systems.

Therefore, the position of customary law should not remain inferior to the logic of tourism-driven capitalization. The integration of *awig-awig* with formal regulations through regional by-laws, spatial planning, and tourism policies has become imperative to ensure Subak’s sustainability as a world cultural heritage (UNESCO, 2012) and as the agrarian economic foundation of Bali. Such integration exemplifies *legal hybridization*, whereby state law provides formal legitimacy and certainty, while customary law contributes substantive values, moral legitimacy, and social acceptance in protecting Subak from excessive commercialization.

5.3. Legal and Policy Strategies for Strengthening Subak

Based on field research, three fundamental strategies can be framed as a culturally oriented legal policy to reinforce the institutional existence of *subak* in facing the challenges of globalization and modern tourism in Bali. These strategies are not merely normative but also demand institutional courage to reformulate the relationship between customary law, state law, and market interests.

5.3.1. Reformulation of *Awig-Awig* and *Perarem*

The reformulation of *awig-awig* and *perarem* is both a sociological and juridical necessity, given that *subak* exists within the vortex of social change driven by tourism expansion. Static *awig-awig* risks losing relevance; therefore, it must be transformed based on the principle of *desa kala patra* adapting law to space, time, and justice.¹⁷ For example, in the context of ecotourism, *awig-awig* may incorporate norms concerning: (i) equitable distribution of tourism revenues among *krama subak*; (ii) dispute resolution mechanisms through *Kertha Desa* or village arbitration; and (iii) governance of tourism facilities such as jogging tracks, cafés, and cultural attractions so as not to disrupt the primary agrarian-spiritual function of *subak*.

This approach aligns with Satjipto Rahardjo’s concept of the *living law*, which emphasizes that effective law is that which truly lives in society rather than merely written norms.¹⁸ Accordingly, renewed *awig-awig* can become a *lex artis* capable of addressing contemporary challenges without abandoning its philosophical foundation, namely *Tri Hita Karana*. This resonates with Japan’s *Satoyama* practices, where community law adapts traditional forest and rice field management to support tourism without undermining ecology, and with the Philippines’ recognition of Ifugao customary law to regulate tourism revenue-sharing in the

¹³ I Made Titib, *Filsafat Hukum Hindu: Relevansinya dalam Pengembangan Hukum Nasional* (Denpasar: Paramita, 2003), hlm. 87.

¹⁴ Clifford Geertz, *The Interpretation of Cultures*, New York: Basic Books, 1973, hlm. 89.

¹⁵ I Gusti Ngurah Bagus, *Agama Hindu dan Kebudayaan Bali*, Denpasar: Upada Sastra, 2005, hlm. 54.

¹⁶ Satjipto Rahardjo, *Hukum dan Perubahan Sosial: Suatu Tinjauan Teoritis Serta Pengalaman-Pengalaman di Indonesia*, Yogyakarta: Genta Publishing, 2006, hlm. 112.

¹⁷ I Made Titib, *Teologi dan Simbol-Simbol dalam Agama Hindu* (Denpasar: Widya Dharma, 2003), hlm. 121.

¹⁸ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Press, 2009), hlm. 15.

Rice Terraces a form of legal pluralism that effectively safeguards cultural heritage.¹⁹

5.3.2. Integration with Formal Law

To gain full legitimacy in spatial and tourism governance, *subak* requires integration with formal legal instruments. This has a constitutional basis in Article 18B (2) of the 1945 Constitution, which recognizes the unity of customary law communities and their traditional rights as long as they remain viable and relevant. Furthermore, Bali Provincial Regulation No. 4 of 2019 on Customary Villages explicitly affirms that customary villages are authorized to manage assets and resources, including *subak*, within the framework of cultural preservation and local wisdom-based economic development.

This integration is not merely technocratic but represents the realization of what I Wayan Wesna Astara terms “Law with Cultural Meaning” law concretized from the values and culture of Balinese customary communities by practicing local law (*awig-awig*) as the policy framework of customary villages in tourism governance.²⁰ Such an approach underscores the centrality of local values in norm formation and decision-making processes.

Within spatial planning (RTRW), this integration requires local governments to regard *subak* not merely as “green space” in planning documents, but as a protected agrarian-cultural institution with instruments to prevent land conversion. For example, the 2022–2042 Badung Regency RTRW designates *subak* protection zones in Mengwi and Abiansemal, explicitly prohibiting conversion of productive rice fields into built-up areas. Likewise, Denpasar City’s 2021–2041 RTRW emphasizes protection of *Subak Sembung* as both a sustainable agricultural zone and an educational ecotourism destination. This policy approach parallels Japan’s integration of *Satoyama* into the National Biodiversity Strategy and the Philippines’ inclusion of Ifugao Rice Terraces in the National Cultural Heritage Act, thereby granting formal legitimacy to customary law and embedding it into development planning.²¹

5.3.3. Empowerment of Local Economic Institutions

Another key aspect is the empowerment of local economic institutions. *Subak* cannot survive solely on normative and spiritual grounds without sustainable economic support. Thus, the establishment of Village-Owned Enterprises (*BUMDes*) and Customary Village-Owned Enterprises (*BUPDA*) serves as strategic instruments for collectively managing tourism revenues. Article 87 of the Village Law (Law No. 6/2014) explicitly provides the legal basis for *BUMDes* as locally based productive enterprises, while Bali Provincial Regulation No. 4/2019 affirms the existence of *BUPDA* as an economic instrument of customary villages.

From Mochtar Kusumaatmadja’s theory of law and development, law functions not only as an instrument of social control but also as a means of social engineering.²² Thus, customary village economic institutions can empower *krama subak* so that tourism benefits are not monopolized by external investors but reinvested into environmental conservation, ritual revitalization, and farmers’ welfare. This model is comparable to Japan Agricultural Cooperatives (JA), which empower farmers through community-based cooperatives, and the Philippines’ Irrigators Associations, which manage collective tourism and agricultural funds to sustain cultural landscapes.

Within Balinese Hindu philosophy, economic empowerment grounded in balance also represents the principle of *lokasangraha* (maintenance of collective welfare) as taught in the *Bhagavadgita*, which emphasizes that all human activities should be directed toward the well-being of society as a whole rather than individual profit. Thus, tourism development through *subak* is not merely profit-oriented but constitutes a manifestation of *dharma* in maintaining socio-ecological harmony.

6. CONCLUSION

Based on the findings of this research, several key conclusions can be drawn:

1. The synergy between regional cultural policies, formal law, and customary law demonstrates that *Subak* as a traditional Balinese institution possesses dual legitimacy: customary recognition through *awig-awig* and formal recognition through state regulation. However, the effectiveness of customary law largely depends on the strength of sanctions and community compliance, thereby necessitating legal hybridization to ensure effective protection of *Subak*.
2. The position of customary law in facing cultural commercialization shows that *awig-awig* serves as a social safeguard against the exploitation of *subak* lands. Nevertheless, its formal enforceability remains limited when confronted with the pressures of tourism capitalization. Strengthening customary law through formal regulation is therefore imperative.
3. Legal and policy strategies for strengthening *Subak* emphasize the importance of reformulating *awig-awig*, integrating them with formal law, and empowering local economic institutions. These strategies not only preserve the agrarian-spiritual functions of *Subak* but also affirm its role in sustainable ecotourism grounded in the philosophy of *Tri Hita Karana*.

7. RECOMMENDATIONS

Based on the findings of this study on the synergy between customary law, state law, and tourism policies in strengthening *Subak* as a foundation for ecotourism, several strategic recommendations can be proposed:

7.1. For Central and Regional Governments

- Formulate a special Regional Regulation on *Subak* Ecotourism that explicitly integrates *awig-awig* into spatial and tourism governance.

¹⁹ Berkes, F., & Folke, C. (1998). *Linking Social and Ecological Systems: Management Practices and Social Mechanisms for Building Resilience* (pp. 265–289). Cambridge: Cambridge University Press.

²⁰ Wesna Astara I Wayan, *Teori Hukum Bermakna Budaya Dalam Membedah Kasus Eksistensi Kerta Desa di Bali Menuju Harmonia tau Konflik*, dalam “*Pergolakan Penguatan Desa Adat Bali: Silang Pandang Aneka Perspektif*”, Pustaka Larasan, Denpasar, 2022, hlm. 231-240.

²¹ Takeuchi, K. (2010). *Rebuilding the Relationship Between People and Nature: The Satoyama Initiative*. *Ecological Research*, 25(5), 891–897.

²² Mochtar Kusumaatmadja, *Hukum, Masyarakat dan Pembinaan Hukum Nasional* (Bandung: Binacipta, 1976), hlm. 12.

- Designate *Subak* as a strategic protection zone within provincial and district/municipal spatial plans (*RTRW*), with strict prohibitions on the conversion of productive rice fields.
- Provide fiscal incentives (e.g., fertilizer subsidies, land tax reductions, or environmental compensation schemes) for *subak* farmers who maintain the ecological functions of rice fields.
- Establish a hybrid coordination body between the *Majelis Desa Adat* (MDA), the Tourism Office, and the Agriculture Office to ensure that *subak* governance aligns with the philosophy of *Tri Hita Karana*.

7.2. For *Subak* Institutions

- Reformulate *awig-awig* and *perarem* to adapt to tourism dynamics, including rules on the distribution of ecotourism income, regulation of tourism facilities, and dispute resolution mechanisms based on *Kertha Desa*.
- Develop economic institutions such as *Badan Usaha Milik Desa* (BUMDes) or *Baga Usaha Padruwen Desa Adat* (BUPDA) to collectively manage tourism revenues for farmers' welfare and environmental conservation.
- Establish land ownership rules rooted in local values, for example through *perarem* stipulating that agricultural land can only be purchased by local residents, thereby preventing speculative land acquisition.

7.3. For Krama *Subak* (Farmers)

- Uphold compliance with *awig-awig* as a form of legal consciousness that underpins the sustainability of *Subak*.
- Actively participate in educational ecotourism programs (e.g., agricultural tourism training, *subak* rituals, or irrigation learning tours) so that farmers act not merely as objects, but as primary subjects of tourism management.
- Adopt the principles of *Tat Twam Asi* and *Lokasangraha*, ensuring that every economic activity based on *subak* remains oriented toward collective welfare rather than individual profit.

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