

Awig-Awig As Traditional Law Written in Traditional Law

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“Awig-Awig As Traditional Law Written in Traditional Law Perspective in Indonesia”

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ABSTRACT

This study aims to find that customary law regulations exist in written form. This research also wants to prove that the customs regulations in each region in Bali are different according to the customs of other regions in Indonesia and the existence of this awig-awig still exists according to the needs of the community according to current conditions. Awig-awig is a system of social life that is characterized by several characteristics, such as interaction, binding patterns of unique behavior in all aspects of life that are steady and continuous, as well as a sense of identity towards the group in which the individual is a member. Awig-awig is made as an effort to maintain order and peace between indigenous villagers. The method used in this study begins with identification from various literature related to customary law in Indonesia. Then arranged in such a way as to bring up the right problem formulation which later can be comprehensively reviewed through field studies, literature studies, and direct observation, especially related to the problems taken in this research, namely awig-awig as customary law written in the perspective of Indonesian customary law. The results of the research in this study are expected to be able to contribute positively to the development of Customary Law Courses.

Keywords: Awig-awig, written customary law, Pakraman village

Introduction

Customary law as one of the legal systems that apply in Indonesia besides the Islamic legal system and the western civil law system, which is currently not widely discussed and is not liked by most law students and scholars (Nuzul, 2013). Customary law as a legal field has a low degree of respect compared to other laws, and is even considered to have no legal certainty or is considered out of date. Customary law that exists in Indonesia is the original law of the Indonesian people, a distinctive law, which developed with the Indonesian nation as stated by von Savigny or van Valenhoven, a law that was born from the real legal needs of the people concerned, constructed in norms as a guide or guide all members of the community to behave in everyday life. Customary law as part of the culture of the Indonesian nation will always exist because its pattern is adaptive to the dynamics of life amid the swift currents of globalization and developments in information and technology (Katerina & Anet, 2014).

The development of the National Law System in Indonesia in diversity and wisdom with the of local laws enriches the repertoire of the of national law. Moh Koesno stated that customary law is a legal model of the Malay ethnic group as a legal statement of the ethnic culture. E. The existence of customary law in various regions in Indonesia continues to be explored, discovered and introduced in the framework of establishing the National Legal System. This is because it is realized or not in some contexts of legal and egal problems, customary law is a more effective trigger than national law (Priambodo, 2018).

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In this regard, social life in Bali which is known as the village of Pakraman has existed for a long time because of the strong attachment between individual communities. This attachment exists based on the growing belief among all its citizens to respect one another, including in terms of environmental preservation. In the container of the Pakraman village, a religious egula function is carried out which is closely tied to the values of the customs and habits that apply in the Pakraman village. These values and habits are poured out and normalized in the form of awig-awig in the Pakraman village and are binding on all krama (residents) of the Pakraman village (Prasetyo et al., 2017). Awig-awig is an order of social life which is characterized by several characteristics, such as interaction, binding patterns of unique behavior in all aspects of life that are steady and continuous, as well as a sense of identity towards the group in which the individual is a member. In social life, humans are always faced with other human forces, so that norms and rules are needed to determine which is permissible and which is not to be done.

In general, what is meant by awig-awig are standards of behavior, both written and unwritten, made by the community concerned based on a sense of justice and appropriateness that lives in society in the relationship between krama (pakraman village members), with God, between manners and manners with the environment. The current changing conditions in Pakraman village, for example, are immigrants who from time to time need serious attention related to environmental problems which are mainly affected due to Bali's very strategic position.

In accordance with the above, the existence of awig-awig in Pakraman Village needs an in-depth study to see how awig-awig can respond to global challenges that affect the culture of the surrounding community.

The material of this book is the result of research and processing of lecture materials / materials as a teacher of the Customary Law Course, then it is developed from the results of previous research, journals and articles. This book discusses awig-awig as customary law written in the perspective of customary law in Indonesia. C. Van Vollenhoven has shown how closely the relationship between law and the culture of a nation is. The law of a nation is a reflection of one of the cultural aspects of the nation concerned. Customary law is built with everything that belongs to the Indonesian culture. Customary law is a legal model built both real and idiosyncratic from the Indonesian nation.

By taking into account that awig-awig is a form of written customary law, it is hoped that it will be able to develop courses in customary law and provide understanding to students of the Faculty of Law and the general public that customary law is in fact written and is currently alive and well. obeyed by the Balinese indigenous people.

Description of the research product

Changes and developments in science and technology and information greatly contribute to the development of society which should be followed by laws and regulations. In such circumstances, even though customary law is underestimated, some people in Indonesia still maintain it. As a living law in society, it is fitting that the drafting of legislation really needs to pay attention to the customary laws that apply in Indonesian society. C. Van Vollenhoven has shown how closely the relationship between law and the culture of a nation is. The law of a nation is a reflection of one of the cultural aspects of the nation concerned. Customary law is built with everything that belongs to the Indonesian culture. Customary law is a legal model built both real and idiosyncratic from the Indonesian nation. As for awig-awig, in general, it regulates 3 aspects related to people's life, both their relationship with God, ego and the environment. Awig-awig is a customary village awig-awig which is the basic law and has been established by the customary village which functions as a guideline for the implementation of the tri hita karana which regulates the way of life of the indigenous villagers and their sanctions (Arjawa & Jayantiari, 2017).

In the life of an indigenous community, there will certainly be many egal interactions that are more or less influenced by various interests and the increasingly complex needs of the community

in the current era of globalization, so in the interaction process there have been several violations of awig-awig provisions which should be obeyed and guided in every movement and manners of the customary village as an institution tend to experience a change in accordance with the times. For violations of the awig-awig provisions, the settlement process should be done as much as possible in the form of namely in the form of legal sanctions such as direct warning.

Based on the results of the research that has been done, awig-awig as written customary law exists because of demands in the community to create order and peace in the customary community, which in each village has different characteristics. Coastal areas and plains of course the contents of awig-awig are not the same, this is adjusted to their natural conditions, in coastal areas the content of awig-awig regulates the use of marine resources and the tourism potential in them. Like Pandawa Beach which is included in the Kutuh Village area, in the village awig-awig it also regulates how the beach, which is one of the famous tourist attractions in Bali, can be maintained even though many tourists visit. Then in addition to the content of awig-awig which is based on natural conditions, this awig-awig also regulates ritual. Whereas in every village even though the rituals are the same, the procedures for its implementation are different. This is one of the things that differentiates awig-awig in coastal and plains areas.

Bali as a destination for and foreign tourism certainly influences the culture of its people to a lesser extent, however awig-awig is still effective to be applied in the current era of globalization. Awig-awig as a source of customary law has a pararem as the implementing regulation, which in that pararem regulates more detailed matters and is tailored to the needs of indigenous peoples and the times. So that this awig-awig not only regulates matters relating to customary law but also the daily behavior of the customary community. Of course, the existence of awig-awig does not replace other positive legal positions in Indonesia. By taking into account that awig-awig is a form of written customary law, it is hoped that it will be able to develop courses in customary law and provide understanding to students of the Faculty of Law and the general public that customary law is in fact written and is currently alive and well. obeyed by the Balinese indigenous people. To answer the development of science and technology and information as well as to develop courses on Customary Law, this book was created, entitled *Awig-Awig As Customary Law Written in the Perspective of Customary Law in Indonesia*.

This book consists of 12 chapters, namely chapter 1, in the form of definitions and terms of customary law, which includes the meaning of customary law, elements in customary law, sources in customary law, universal values of customary law and the special characteristics and characteristics of customary law. In Chapter 2, discusses the system and the basis for the application of customary law, which is divided into: the classification of customary law, customary rights and individual rights as well as the material strength of customary law. Chapter 3 discusses the alliance of Customary Law, which contains the factors of a customary law partnership and the customary law environment. Then in Chapter 4, it describes the position of customary law in the national legal system, which contains the position of customary law in Indonesian law and the system and basis for which it applies. Chapter 5, presents the customary law of the Balinese people, which contains the terms and definitions of Balinese customary law, sources of Balinese customary law and sanctions in Balinese customary law. Chapter 6, discusses Pakraman and Awig-awig Villages, this discussion contains the definition of Pakraman Village, Awig-awig and sanctions in awig-awig. In Chapter 7, the discussion that will be raised is the Application of Awig-awig in Balinese culture, which in this discussion is the result of the author's research in 2018 and 2019 entitled *Awig-Awig Adat Regulations as State-Based Environmental Conservation Efforts in Pakraman Pedungan Village Bali Province (2018) and the Effectiveness of Awig-Awig as Customary Law in Balinese Culture (Case Studies in Coastal and Plains Areas)*, and the material to be discussed is the application of awig-awig in the plains and coastal areas, as well as efforts to protect the environment in Pakraman Bali village. Chapter 8 in this book discusses the Marriage Law in Bali,

which in this chapter will discuss the customary law of marriage in Bali, Ngerorod. Chapter 9, discusses inheritance in Balinese customary law, which in this chapter will explain about, the law of inheritance in Bali, the inheritance rights of girls in Bali. Chapter 10 discusses the Land Rights of Balinese Communities, the material to be discussed is the definition of Land Rights, Balinese Customary Land and Land Rights of Balinese Indigenous Peoples. Chapter 11 describes Dispute Resolution in Awig-awig, the contents of which are dispute resolution in customary law in Indonesia, dispute resolution in awig-awig. Chapter 12 discusses Awig-awig.

Objectives and benefits research

The purpose of implementing research activities to improve the quality of learning

The material of this book is the result of research and processing of lecture materials / materials as a teacher of the Customary Law Course, then it is developed from the results of previous research, journals and articles. This book discusses awig-awig as customary law written in the perspective of customary law in Indonesia. Customary law is built with everything that belongs to the Indonesian culture. With this Awig-awig being recorded and linked to the Customary Law View in Indonesia, it can make people especially know that customary law is made in writing.

Benefits of implementation activities learning quality improvement research

Being able to open up educational treasures for the course of customary law, which so far has been considered customary law as Unwritten Law, with this Awig-awig being recorded and linked to the Customary Law View in Indonesia, hopefully it can make the community, especially Law Faculty students reading this book, know that Customary law is made in writing. With this Awig-awig being recorded and linked to the View of Customary Law in Indonesia, it can make the public, especially Law Faculty students who read this book, know that Customary Law is written in writing and there are developments in the Customary Law Course.

Methods

The method of implementing this research activity to improve the quality of learning will be carried out in three steps, namely:

The preparatory steps start from the pre-research stage, for example, the researcher collects literature material to prepare research proposals that are primarily for formulating the making of this book. After the proposal passed, the researcher immediately carried out a field study supported by a study. Data obtained from studies will be separated between relevant and irrelevant data. Relevant data will be analyzed for data processing in order to formulate the contents of the book in this study.

The results of the analysts are then compiled in a research report, where monitoring and evaluation will be carried out aimed at producing an ideal research outcome. After the book is made in hardcopy and soft copy, the drafting team contacts the publisher partner for book publication, an agreement is made between the author and the publisher, and the contents of the agreement explain the rights and obligations of the author and publisher. The publisher will provide the ISBN and Copyright for the book.

Methods Main healing of the analysis or result

This book consists of 12 chapters, namely:

- *chapter 1*, in the form of definitions and terms of customary law, which includes the meaning of customary law, elements in customary law, sources in customary law, universal values of customary law and the special characteristics and characteristics of customary law. customary law.

- In *Chapter 2*, discusses the system and the basis for the application of customary law, which is divided into: the classification of customary law, customary rights and individual rights as well as the material strength of customary law.
- *Chapter 3* discusses the alliance of Customary Law, which contains the factors of a customary law partnership and the customary law environment.
- Then in *Chapter 4*, it describes the position of customary law in the national legal system, which contains the position of customary law in Indonesian law and the system and basis for the application of customary law.
- *Chapter 5*, presents the customary law of the Balinese people, which contains the terms and definitions of Balinese customary law, sources of Balinese customary law and sanctions in Balinese customary law.
- *Chapter 6*, discusses Pakraman and Awig-awig Villages, this discussion contains the definition of Pakraman Village, Awig-awig and sanctions in awig-awig.
- In this *chapter 7*, the discussion that will be raised is the Application of Awig-awig in Balinese culture, which in this discussion is the result of the author's research in 2018 and 2019 entitled Awig-Awig Adat Regulations as State-Based Environmental Conservation Efforts in Parkraman Village Pedungan Bali Province (2018) and the Effectiveness of Awig- Awig as Customary Law in Balinese Culture (Case Studies in Coastal and Plains Areas), and the material to be discussed is the application of awig-awig in plains and coastal areas, as well as efforts to protect the environment in the village of Pakraman Bali.
- *Chapter 8* in this book discusses the Marriage Law in Bali, which in this chapter will discuss the customary law of marriage in Bali, Ngerorod.
- Then in *Chapter 9*, discusses inheritance in Balinese customary law, which in this chapter will explain about, Inheritance Law in Bali, the inheritance rights of girls in Bali.
- *Chapter 10* discusses the Land Rights of the Balinese Community, the material to be discussed is the definition of Land Rights, Balinese Customary Land and Land Rights of Balinese Indigenous Peoples.
- *Chapter 11* describes Dispute Resolution in Awig-awig, the contents of which are dispute resolution in customary law in Indonesia, dispute resolution in awig-awig.
- *Chapter 12* discusses Awig-awig as customary law written in the perspective of Customary law in Indonesia.

There is an appendix on awig awig and pararem. The output that will be targeted in this research is the National Journal or proceeding with ISSN as a scientific contribution in the corridor of law and the output is in the form of textbooks with ISBN and IPR registered which can support and develop Customary Law courses.

Plan and next steps

The material of this book is the result of research and processing of lecture materials/ materials as a teacher of the Customary Law Course, then it is developed from the results of previous research, journals and articles. When viewed from the Research Quality Improvement of Learning (PMP) that this book discusses awig-awig as customary law written in the perspective of customary law in Indonesia, it is hoped that it can open up educational treasures for the course of customary law courses, which so far customary law is considered as Unwritten Law. With this Awig-awig being recorded and linked to the View of Customary Law in Indonesia, it can make the public, especially Law Faculty students who read this book, know that Customary Law is written in writing and there are developments in Customary Law Courses. Therefore, the researcher of Awig-Awig Learning Quality Improvement Research (PMP) as Traditional Law Written in the Perspective of Customary Law in Indonesia so that it can be of wider use planning for registration related to

Intellectual Property Rights in this book. Providing legal protection for creators or inventors by granting special rights to commercialize their creations. This is to encourage research and development activities for new discoveries in various fields of technology and to give creators the flexibility to make their work useful for society.

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