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ARTICLE

IMPLEMENTATION OF THE ROLE OF CUSTOMARY VILLAGES IN CONTROLLED INVESTMENT ACTIVITIES IN CUSTOMARY VILLAGES (RESEARCH IN CUSTOMARY VILLAGE OF KEROBOKAN)

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Abstract

This research examines the implementation of the role of Desa Adat in controlling investment activities in Desa Adat Kerobokan. The rapid growth of investment in Badung Regency, particularly in areas experiencing significant tourism development, has provided positive impacts on improving the community's economy but has also generated various issues related to land-use changes, environmental sustainability, and the preservation of Balinese customary and cultural values. Desa Adat, as a customary law community unit, plays a strategic role in maintaining a balance between economic development interests and the preservation of cultural and environmental values through customary authority derived from awig-awig, pararem, and regional legal provisions. In this context, this research aims to determine the implementation of the role of Desa Adat in controlling investment activities, as well as the obstacles and efforts undertaken in its implementation. The type of research used in this study is empirical legal research with a sociological juridical approach. This research was conducted in Desa Adat Kerobokan using primary data obtained through observation and interviews with the Bendesa Adat, customary officials (prajuru adat), and parties involved in investment activities within the Desa Adat Kerobokan area. This research is also supported by secondary data in the form of laws and regulations, awig-awig, pararem, books, journals, and relevant legal literature. All data obtained were analyzed qualitatively to describe the implementation of the role of Desa Adat in controlling investment activities along with the factors influencing its implementation. The results of the research indicate that the implementation of the role of Desa Adat in controlling investment activities in Desa Adat Kerobokan is carried out through the application of awig-awig, pararem, customary deliberations, providing considerations regarding investment plans, and supervising investors' compliance with customary, social, and environmental values. Desa Adat also plays a role in resolving conflicts between the community and investors through customary deliberation mechanisms and encourages the implementation of the Tri Hita Karana concept in investment activities. However, the implementation of this role still faces several obstacles, including the limited formal authority of Desa Adat in the field of licensing, suboptimal coordination with local governments, limited human resources, increasingly complex forms of investment development, and the lack of full understanding and compliance by some investors. Therefore, it is necessary to strengthen awig-awig and pararem, improve the capacity of customary officials, optimize cross-sectoral coordination, increase the participation of indigenous communities, and utilize information technology to achieve investment control that is aligned with Balinese cultural values and environmental sustainability.

Keywords: Desa Adat, Investment, Supervision, Awig-Awig, Balinese Local Wisdom.

A. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia recognizes the existence of customary law communities (*masyarakat hukum adat*) as part of the nation's diversity. This recognition is explicitly articulated in Article 18B Paragraph (2), which states that "The State recognizes and respects customary law community units along with their traditional rights as long as they remain alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law." Furthermore, Article 28I Paragraph (3) affirms that "Cultural identity and traditional community rights are respected in harmony with the progress of times and civilization." Both articles demonstrate the state's commitment to protecting the rights of customary law communities, including recognizing their collective rights over traditions, social systems, and customary governance structures.

One of Bali's unique characteristics lies in its governance system, which features two concurrent administrative systems at the village level: the Customary Village (*Desa Adat*) governance system and the Official Village (*Desa Dinas*) governance system. The Official Village government operates as part of the state's administrative hierarchy, whereas the Customary Village government functions as an autonomous administrative system that predated independence and continues to exist today (Saraswati et al., 2023). Bali possesses specific regulations regarding customary villages issued by the Governor of Bali, namely Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali (Tilatama et al., 2021).

Customary villages in Bali Province play a crucial role in preserving customary values, culture, and local social order. A customary village structure involves various institutions and individuals, including *prajuru* (customary leaders), customary institutions managing community affairs, and the *krama desa* (customary community members) themselves (Satjipto, 2010). For these functions to operate optimally, the capacity of customary stakeholders, traditional institutions, and customary communities must be upgraded to meet contemporary demands, particularly in addressing challenges to cultural identity amidst modernization (Hadikusuma, 2003).

Investment activity serves as a driver for economic growth across various regions. However, in implementation, investment often exerts pressure on the environment, particularly when short-term profit orientations override sustainable natural resource principles (Farhan, 2024). This challenge becomes increasingly apparent alongside the rising demand for space, intensified land utilization, and infrastructure development that can degrade environmental quality. This condition underscores the urgency of directing investment activities to focus not solely on economic growth, but also on environmental preservation as an integral component of sustainable development.

A sustainable investment approach requires integrating Environmental, Social, and Governance (ESG) principles. This paradigm obligates investors to ensure that every executed project minimizes ecological impacts, maintains ecosystem balance, and provides long-term benefits to the community. Governments alongside customary communities hold strategic roles in formulating regulations, spatial planning, and supervisory systems that promote eco-friendly investment principles.

Badung Regency has developed into an economic and tourism hub attracting investors from various regions, including foreign nations. This growth offers substantial opportunities to increase local revenues and community welfare (Mahagangga, 2021). Conversely, rapid investment growth exerts pressure on the living spaces of customary communities, particularly in areas preserving traditional values and structures. The Customary Village, as a social and cultural institution, plays a key role in balancing development needs with local value preservation. This dynamic demands strengthening the role of Customary Villages in regulating and supervising investment activities to keep them aligned with customary norms, local community interests, and environmental sustainability principles that form the foundation of Balinese life.

The influx of large-scale investments frequently impacts spatial planning and natural resource utilization, while sparking potential social conflicts. In Badung, various cases demonstrate that investment activities can trigger tension between economic interests and obligations to preserve area sanctity, environmental integrity, and social harmony. Customary Villages possess organizational structures and authority grounded in *Awig-Awig* (customary laws), enabling them to regulate community behavior and define customary spatial boundaries. However, this authority does not always function optimally when facing stronger capital influences. Consequently, analyzing how Customary Villages design investment oversight mechanisms and evaluating how effectively these roles protect cultural identity and the surrounding environment is necessary.

Investment activities in Badung Regency display an upward trend driven by rapid tourism sector growth and increasing infrastructure demands. This investment growth yields positive economic impacts locally, including higher community income, expanded employment opportunities, and strengthened village infrastructure (Awandari & Indrajaya, 2016). Nevertheless, these investment dynamics introduce new challenges to the sustainability of customary orders and environmental preservation. Customary villages, as traditional institutions holding strategic roles in maintaining social, cultural, and ecological balance, frequently face pressure from land-use changes, intensive resource exploitation, and spatial planning that does not always align with local wisdom values.

The natural environment in Badung remains the most vulnerable aspect impacted by investment activities. Land conversion, tourism facility developments, and specific spatial utilizations frequently strain local ecosystems. Grounded in the concept of *Tri Hita Karana*, Customary Villages hold the responsibility to maintain harmonious relationships between humans, nature, and spiritual values. This local wisdom serves as an essential foundation for sustainable environmental management. However, its implementation is not always effective in curtailing rapid investments that neglect ecological aspects. Research into the Customary Village's role in this context is necessary to examine how customary instruments serve as control mechanisms to prevent long-term environmental damage.

Beyond environmental issues, investment inflows spark social changes that can alter the social fabric of customary community life. Modernization and intensive interaction with external parties subject customary values to growing pressures. Customary Villages in Badung are often strategically positioned to define boundary limits for investor involvement to safeguard social stability. Customary mechanisms—such as *paruman* (customary assemblies), customary sanctions, and collective agreements—serve as key control instruments. However, studies show that applying these controls is not always consistent, as each village possesses distinct characteristics and needs. This creates an opportunity to further analyze the effectiveness of Customary Villages in protecting social orders amid increasingly open development policies.

National and regional legal frameworks also influence the operational scope of Customary Villages. Various regulations acknowledge the existence and authority of Customary Villages in governing their territories. Nevertheless, coordination among local governments, investors, and customary institutions does not always run effectively. Customary Villages frequently encounter obstacles in voicing aspirations when development policies conflict with customary rules. This study is important to examine how the integration between customary law and formal law is applied in investment control, and how such synergy can be strengthened to provide optimal protection for culture and the environment.

The increase in investment activities within the Kerobokan Customary Village area has introduced various legal issues, including commercial developments that do not fully comply with *awig-awig* and *pararem* (customary rules and regulations), land-use conversions, and sub-optimal involvement of customary villages in investment decision-making processes. On the other hand, Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali grants customary villages the authority to safeguard their territory, customs, and the interests of customary law communities. In practice, however, differing interpretations persist regarding the boundaries of customary village authority in controlling investment activities relative to local government authority and business licensing. This situation creates issues regarding how the customary village executes its role in controlling investment activities, as well as the obstacles encountered during implementation.

Given these complex issues, studying the role of the Customary Village in supervising investment activities in Kerobokan Customary Village is highly relevant. This research can provide an overview of the Customary Village's capacity to exercise control over investments from both cultural and environmental aspects. Furthermore, this study has the potential to identify various constraints and opportunities that can strengthen the standing of customary institutions when facing modern development pressures. The research findings are expected to serve as valuable considerations for local governments, customary institutions, and other stakeholders in formulating policies that are more responsive to cultural values and environmental sustainability, ensuring economic development proceeds in harmony with the social structure and life philosophy of the Balinese people

B. LITERATURE REVIEW

Role Theory

Role is a dynamic aspect of the position held by an individual or an institution in exercising rights and fulfilling obligations in accordance with their position. In an institutional context, role denotes a series of actions, functions, and responsibilities executed by an organization to achieve specific objectives. The Customary Village (*Desa Adat*), as a customary law community unit, possesses origin rights, traditions, and authority to regulate and manage the interests of the customary law community based on customary values developed within society. In investment execution, the Customary Village carries out its role by applying *awig-awig* and *pararem* (customary rules and regulations), providing considerations for investment plans, supervising investor compliance, and resolving conflicts through customary deliberation (*musyawarah adat*). Thus, role theory is utilized to analyze how the Kerobokan Customary Village executes its functions and responsibilities in controlling investment activities within its customary territory. Indicators of role theory:

- Execution of functions
- Execution of authority
- Execution of responsibilities
- Maintaining social harmony
- Inter-institutional cooperation

Supervision Theory

Supervision is a process to ensure that an activity proceeds in accordance with established provisions, objectives, and standards. Supervision is conducted through monitoring activity execution, examining compliance, and taking corrective action against identified deviations. In this study, supervision by the Customary Village pertains to efforts ensuring investment activities remain aligned with customary provisions and do not disrupt the social, cultural, and environmental interests of the community. The Kerobokan Customary Village supervises investors by monitoring compliance with customary rules, including preserving the sanctity of holy sites, respecting religious activities, maintaining environmental order, and participating in local social activities. Supervision is also conducted through communication with investors, customary deliberations, coordination with the government, and utilizing information technology to gather information regarding investment activities. Indicators of supervision theory:

- Establishment of provisions
- Monitoring
- Compliance examination
- Follow-up action

C. RESEARCH METHODOLOGY

This study employs an empirical legal research method with a socio-legal approach, examining the role of the *Desa Adat* (Customary Village) in overseeing investment activities within Kerobokan Customary Village, based on applicable legal provisions and their implementation in the community. The research relies on primary data obtained through observation and interviews with the *Bendesa Adat* (Customary Village Head), customary officials (*prajuru adat*), and parties involved in investment activities in Kerobokan Customary Village; this is supplemented by secondary data comprising legislation, *awig-awig* (customary village statutes), *pararem* (customary village regulations), books, journals, and relevant literature. Additionally, the study utilizes a statutory approach by analyzing legal provisions concerning customary villages, capital investment, local government, and investment regulations within the territory of Kerobokan Customary Village.

D. RESULT AND DISCUSSION

Execution of the Role of Customary Villages in Controlling Investment Activities in Kerobokan Customary Village

The Customary Village (*Desa Adat*) in Bali is a customary law community unit possessing origin rights, traditions, and authority to regulate and manage the interests of the customary law community based on customary values that have lived and evolved for generations. The position of Customary Villages is further reinforced by Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali, which grants Customary Villages the authority to maintain a balance between economic development, cultural preservation, and environmental conservation. In the context of investment, the presence of Customary Villages becomes essential, as any investment activity conducted within customary territory concerns not only economic aspects but also the continuity of cultural values, site sanctity, and the interests of the customary community.

Kerobokan Customary Village is one of the customary villages in Badung Regency undergoing rapid investment growth. The expansion of the tourism sector in the Badung region has driven increased investment in tourist accommodation, villas, restaurants, shopping centers, and various other service enterprises. This growth yields positive impacts by stimulating local economic activities and expanding employment opportunities. However, increased investment simultaneously introduces various challenges, such as land-use conversion, growing infrastructure demands, diminishing green open spaces, and potential conflicts between investor interests and customary community priorities (I Nyoman, 2013).

In addressing these conditions, Kerobokan Customary Village executes its role as a customary institution possessing supervisory functions over investment activities within its territory. The execution of this supervisory function is carried out through various customary mechanisms guided by *awig-awig* (foundational customary laws), *pararem* (operational implementation rules), and decisions resulting from customary village assemblies (*paruman desa adat*). *Awig-awig* serves as foundational guidelines for customary community life, whereas *pararem* functions as operational provisions formed to regulate specific issues in accordance with societal developments (I Gede, 2018). Through these customary legal instruments, the Customary Village holds a structural foundation to supervise investment activities, ensuring they remain aligned with customary community interests.

Investment supervision generally commences through a communication process involving the investor, the official village government (*desa dinas*), and the Customary Village prior to construction. Investors intending to build within customary territory are expected to obtain approval from the customary community through deliberation (*musyawarah*) or village assembly (*paruman*) mechanisms. This process serves as an expression of respect for

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customary law community rights while providing a channel for the Customary Village to offer considerations regarding potential social, cultural, and environmental impacts arising from investment activities (Ni Made, 2022).

Beyond evaluating investment plans, the Customary Village oversees investment execution once operations are underway. This supervision is conducted by monitoring investor compliance with applicable customary provisions, including obligations to preserve the sanctity of sacred sites, respect religious activities, maintain environmental order, and participate in social community activities within the Customary Village territory. This form of oversight demonstrates that the Customary Village functions not merely as a guardian of tradition, but as a strategic partner to the government in realizing sustainable development (I Ketut, 2020).

In practice, Kerobokan Customary Village also acts as a mediator during disputes between community members and investors. Disputes may involve land boundary conflicts, public facility usage, disruptions to religious activities, or environmental impacts caused by development. Dispute resolution is pursued first through customary deliberation involving the *Bendesa Adat* (customary village head), *prajuru adat* (customary officials), community members, and investors. This deliberative approach implements Balinese local wisdom values that prioritize amicable conflict resolution and harmonious inter-party relationships (I Made, 2017).

The role of the Customary Village in controlling investment activities is also reflected through the application of the *Tri Hita Karana* concept—maintaining harmonious relationships between humans and God (*parahyangan*), among humans (*pawongan*), and between humans and the environment (*palemahan*). Every investment activity is expected to look beyond economic profit to maintain social, cultural, and environmental balance. Consequently, Kerobokan Customary Village strives to ensure that investor developments do not disturb sacred areas, degrade the environment, or diminish benefits delivered to the customary community (I Wayan, 2018).

Additionally, the Customary Village encourages investors to fulfill social responsibilities toward the surrounding community. Social responsibility may encompass employing local labor, participating in customary activities, supporting religious ceremonies, and contributing to public facility development. Investments that deliver direct local benefits strengthen relationships between investors and the customary community, thereby minimizing potential conflicts.

Nevertheless, the Customary Village's execution of its supervisory role is not yet fully optimal. A primary constraint is the increasing complexity of investments emerging within tourism areas. Not all investment activities can be directly supervised by the Customary Village because most obtain business permits directly from local government authorities. Consequently, the operational scope of the Customary Village remains largely concentrated on socio-cultural aspects rather than formal administrative licensing. Thus, coordination between the Customary Village and the local government is vital to ensure effective supervisory processes (I Putu, 2023).

Furthermore, the rising economic value of land in the Kerobokan area presents a specific challenge for the Customary Village. The conversion of agricultural land into commercial zones creates dilemmas between local economic interests and efforts to preserve the environment and culture. Under these conditions, the Customary Village must make equitable decisions that accommodate development needs while safeguarding the cultural identity of the customary community (I Nyoman, 2022).

Investment supervision in Kerobokan Customary Village demonstrates that customary institutions play a strategic role in balancing economic development and cultural preservation. Exercising authority derived from *awig-awig*, *pararem*, and Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali, the Customary Village acts as a partner to the government in managing investment activities to uphold the interests of the customary law community. The success of this role depends heavily on synergy among local government, investors, and the customary community to achieve sustainable, equitable development grounded in Balinese local wisdom values.

Obstacles and Efforts in the Execution of the Customary Village's Role in Controlling Investment Activities in Kerobokan Customary Village

The Customary Village's execution of its role in controlling investment activities in Kerobokan Customary Village constitutes an exercise of authority by the customary law community to balance economic development, cultural preservation, and environmental conservation. Although the Customary Village possesses a solid legal foundation under Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali, various practical obstacles hinder the optimization of its supervisory function. These obstacles span legal, institutional, social, economic, and inter-institutional coordination dimensions. Comprehensive efforts are therefore required to enable the Customary Village to exercise its authority effectively amid rapid investment growth in the Kerobokan area.

The first obstacle is the limited formal authority of the Customary Village regarding investment licensing. Authority to issue or revoke business and construction permits rests with local government entities through statutory licensing mechanisms. The Customary Village lacks authority to issue or cancel investment permits granted by the government. Consequently, the Customary Village can only provide input or considerations based on *awig-awig* and *pararem* provisions without administrative authority to halt investment activities that have secured legal government permits. This situation creates dilemmas when an investment meets administrative criteria yet is perceived to conflict with customary interests or local cultural values (Gede Oka, 2021).

The second obstacle is sub-optimal coordination between the Customary Village and the local government. In practice, investment licensing processes often focus heavily on administrative requirements without fully involving the Customary Village during the planning phase. Yet, the Customary Village directly understands the socio-cultural and environmental conditions of its territory. This lack of coordination means the Customary Village often discovers investment activities only after construction has begun, narrowing the scope for proactive oversight.

The third obstacle relates to intense economic pressure resulting from tourism expansion. Kerobokan Customary Village is situated in a zone experiencing rapid investment growth due to its proximity to key tourism destinations in Badung Regency. High land values incentivize community members to convert agricultural or productive land into commercial properties. While this increases local income, it risks reducing green open spaces, displacing agrarian cultural values, and disrupting the long-term social sustainability of the customary community (I Nyoman, 2019).

The fourth obstacle is the increasing complexity of investment formats. Contemporary investment extends beyond traditional hotel or restaurant developments to encompass villas, apartments, co-working spaces, digital enterprises, and online platform-based accommodation rentals. These developments require the Customary Village to possess a broader understanding of modern investment characteristics, ensuring supervision addresses not only physical construction but also business activities that impact customary community life (I Ketut, 2021).

Additionally, human resource constraints within the Customary Village hinder effective investment supervision. Customary leaders (*prajuru adat*) typically serve voluntarily as a form of community service. Consequently, not all customary officials possess formal backgrounds in law, spatial planning, or capital investment. Evaluating diverse investment proposals sometimes requires technical assistance from local governments or domain experts to ensure decisions align with applicable statutory laws.

Another obstacle is low compliance among certain investors regarding customary provisions. Not all investors recognize the Customary Village as an institution holding authority to regulate customary community life. Some investors focus strictly on meeting government administrative requirements while neglecting social, cultural, or environmental obligations within Kerobokan Customary Village territory. As a result, certain investment activities fail to respect religious ceremonies, sacred zone boundaries, or participation in local social activities (I Gusti, 2018).

Despite these obstacles, Kerobokan Customary Village continuously undertakes efforts to strengthen its supervisory functions over investment activities. The first effort involves refining *awig-awig* and *pararem* to adapt to evolving societal conditions. Updating customary regulations aims to provide legal certainty regarding investor rights and obligations, coordination procedures with the Customary Village, and customary sanctions for violations of agreed provisions. Clearer regulations facilitate more effective investment oversight (I Ketut, 2020).

The second effort focuses on enhancing coordination with local government agencies and related institutions. The Customary Village seeks intensive communication with official village governments, sub-district offices, the Department of Investment and Integrated Licensing Services (*Dinas Penanaman Modal*), the Tourism Office (*Dinas Pariwisata*), and other technical agencies to ensure early notification of incoming investment plans. Early coordination allows the Customary Village to offer socio-cultural considerations before construction permits are issued, thereby minimizing potential conflicts.

The third effort involves expanding customary community participation in investment supervision. The Customary Village encourages community members (*krama adat*) to actively express aspirations through village assemblies (*paruman*) and deliberative forums. Community involvement is essential because residents directly experience both positive and negative investment impacts. Broad public participation ensures Customary Village decisions reflect collective needs and interests (Luh, 2019).

Furthermore, the Customary Village employs persuasive approaches with investors through dialogue and deliberation. This approach aims to help investors understand Balinese cultural values, respect *awig-awig* and *pararem*, protect the sanctity of temples (*pura*) and sacred areas, participate in customary events, and fulfill social responsibilities to the local community. Dialogic approaches are considered more effective in fostering harmonious relationships than resolving disputes strictly through formal litigation.

Another effort focuses on building capacity among customary leaders (*prajuru adat*) through training, workshops, and partnerships with universities and local government entities. Capacity building equips customary officials with knowledge of investment law, spatial planning, environmental protection, and regional development regulations. Enhanced capacity enables customary officials to conduct investment oversight professionally while preserving local wisdom values (I Gede, 2022).

Finally, the Customary Village has begun integrating information technology to support supervisory activities. Implementing village information systems, digital documentation, and electronic communication media streamlines coordination among customary leaders, community members, government agencies, and investors. Leveraging technology allows information regarding construction plans, permits, and investment execution to be accessed rapidly, enabling continuous, sustainable oversight (I Kadek, 2023).

Overall, obstacles facing Kerobokan Customary Village in controlling investment activities stem from limited formal authority, sub-optimal inter-institutional coordination, increasing investment complexity, human resource constraints, and variable investor compliance with customary rules. Nevertheless, efforts such as refining *awig-awig* and *pararem*, improving cross-sector coordination, empowering the customary community, engaging investors persuasively, upgrading customary leadership capacity, and utilizing information technology demonstrate the Customary Village's commitment to balancing economic development with cultural and environmental preservation. Through this synergy, Kerobokan Customary Village can effectively exercise its supervisory functions as part of Bali's local wisdom-based governance system.

E. CONCLUSION

The execution of the Customary Village's role in controlling investment activities in Kerobokan Customary Village has been implemented through the enforcement of *awig-awig* (customary laws), *pararem* (operational rules), customary deliberation (*musyawarah adat*), and monitoring investor compliance with customary, social, and environmental values. This role supports creating a balance between economic development and cultural preservation. However, its execution still requires strengthened coordination with local government and increased community participation to ensure investment control functions effectively, sustainably, and remains grounded in Balinese local wisdom.

The obstacles and efforts in executing the role of the Customary Village in controlling investment activities in Kerobokan Customary Village demonstrate that investment supervision still faces various challenges. These include limited formal authority of the Customary Village, sub-optimal coordination with the government, human resource constraints, and low compliance among certain investors regarding customary provisions. Meanwhile, undertaken efforts encompass refining *awig-awig* and *pararem*, improving cross-sector coordination, empowering the customary community, building the capacity of customary leaders (*prajuru adat*), and utilizing information technology to achieve investment control that aligns with cultural preservation, environmental integrity, and the interests of the customary law community.

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