

CLEARING THE DUTIES AND AUTHORITIES OF PECALANG AS A TRADITIONAL SECURITY TOOL IN BALI

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ABSTRACT

The maintenance of stability, security and order in traditional villages is the main goal to continue to uphold Bali as a strengthening of cultural identity. Creating security and order in traditional villages is not only the task of the police and the government, but the role of indigenous village communities is highly expected. Therefore traditional villages must be supported by other traditional institutions and organizations such as banjar adat, tempek, and sekaa-sekaa, as well as traditional organizations that are still alive and developing in other communities such as pecalang. Pecalang is a traditional Balinese security task force (task force) which has the authority to maintain security and order in the area of customary village jurisdictions, both at the customary Banjar level and in the customary village area. Security carried out by pecalang is a form of self-defense security, namely a form of security held on the will, awareness and interests of the community itself. The issuance of Regional Regulation No. 4 of 2019 concerning Traditional Villages does not clearly state and are still ambiguous about the duties of a pecalang, so there is a chance that these tasks will come out of the history of the formation of pecalang. To support the duties of the pecalang, the pecalang needs to coordinate with the National Police as stipulated in Article 47 paragraph (3) of Regional Regulation No. 4 of 2019, so that the pecalang and the state police are in a coordinative position. The purpose of this research is to clarify the boundaries of the duties and powers of the pecalang as a professional traditional security tool in Bali and to eliminate the arrogance of security duties between the pecalang (sesana) and the police so that there is a harmonious relationship for the sake of creating security and order in the traditional village according to regulations. current regulation. This research is a type of normative research, namely seeking clarity about the duties of independent security (pecalang) so that it is in accordance with the traditional security equipment in Bali.

Keywords: *Traditional Village, Pecalang, Traditional Institution, State Police*

1. INTRODUCTION

The modern state has four functions, namely as a provider, as a regulator, as an umpire, and as an entrepreneur (Friedman: 1885). As a provider, the state organizes government to achieve state goals. The State of Indonesia, which was proclaimed on August 17, 1945, has a set of goals, namely to protect the entire nation, promote public welfare and educate the nation's life and participate in world peace based on eternal freedom and social justice (4th paragraph of the Preamble of the 1945 Constitution).

Observing the development of the global, regional and national strategic environment, the trend of the development of criminal acts in Bali will increase both in quality and quantity, which will ultimately affect the activities of the Balinese people's lives (Mangku Pastika: 2004). Maintaining Bali's security is actually entrenched in the strength of local communities in traditional villages, such as subak, parisada and sekaa-sekaa, community leaders and cooperation with independent security agencies, such as pecalang. Pecalang is an important part of the traditional village (Naya Sujana: 2004).

Article 18B paragraph (2) of the 1945 Constitution does not explicitly state that a Customary Law Community Unit (KMHA) is a Traditional Village. But implicitly KMHA in Bali is a traditional village. Traditional villages in Bali have formed several traditional institutions to strengthen the position of the traditional village itself, one of these traditional institutions is *pecalang*. The existence of *pecalang* has an increasingly strong position with the issuance of Regional Regulation (hereinafter abbreviated as *Perda*) of Bali Province Number 4 of 2019 concerning Traditional Villages. Article 1 point 20 states, *Pecalang Desa Adat* or *Jaga Bhaya Desa Adat* or in other names is a traditional Balinese security task force formed by a Traditional Village which has the task of maintaining security and order in the territory of the Customary Village.

Bali Province Regional Regulation No. 4 of 2019 concerning Traditional Villages, Article 43 paragraph (2) that *pecalang* is a traditional institution. One of the objectives of establishing a *pecalang* institution in a traditional village is to create security, peace and public order in the customary village authority. The *pecalang* institution is known as a traditional security which is under the traditional village, so that *pecalang* is a sub-system of the traditional village. The existence of *pecalang* is very closely related to the three main problems of traditional villages, namely problems related to religious life (*parhyangan* problem), problems related to humans and other humans (*pawongan* problems), and problems related to the relationship between humans and their environment (*palahan* problems). Furthermore, article 47 paragraph (1) states that *pecalang* carries out tasks in the field of security, peace, and public order in the authority of the Traditional Village. However, law enforcement is the authority of the police. So that between *pecalang* and the state police to coordinate in creating security in traditional villages.

Some laws and regulations do not provide clarity or there is still a blurring of norms regarding the existence of *pecalang*. *Pecalang* duties contained in *Perda* no. 4 of 2019 has not provided clear boundaries for *pecalang*. Moreover, the security function carried out by *pecalang* is not only in the scope of traditional villages but also in the regional scope. In his position as an assistant to the police, it is not clear how wide the scope of the security function of other self-help assistants, such as civil service police, security guards, and others, is unclear. Limits of authority in carrying out functions need attention to avoid overlapping in the field. All activities in actualizing the functions of the *pecalang* mentioned above are derived from morality/ethics originating from the teachings of Hinduism and traditional village *awig-awig*. However, to ensure coordination of work with the state security apparatus (*Polri*), it is deemed necessary to pay attention to the applicable laws and regulations. *Pecalang* as a security officer in a traditional village in fact takes a lot of part in public security activities that are no longer a task within the scope of religious and village activities, such as guarding the Bali Arts Festival parade, securing demonstrations, and others. This reality cannot be denied that there is a tendency for a shift in tasks, the function of the *pecalang* itself, there are indications that the *pecalang* has carried out the main duties of the police, therefore it is our joint responsibility to find the best solution, so that in the field there is no overlap between the duties of the *pecalang* and the police, which is clear. authorized by law.

2. RESEARCH METODOLOGY

The method used in this research is the normative legal research method, namely research that is focused on examining the rules or norms in laws and regulations such as theoretical conceptualization as a grand concept in analyzing problems (directing the analysis process). Looking for materials as existing legal material to be analyzed further in order to obtain an analytical focus on the duties and powers of the *pecalang* so that they are in line with *sesana* as a traditional security tool in Bali.

3. RESULTS AND DISCUSSION

As described above, that the function of *pecalang* according to Regional Regulation No. 4 of 2019 concerning Traditional Villages is to realize security, peace and public order in customary village authority. Meanwhile, in other laws and regulations that implicitly recognize the existence of *pecalang* (with the designation of forms of security) is Law no. 2 of 2002 concerning the Indonesian National Police. Article 3 paragraph (1) of the Law states that the bearer of the police function is the Indonesian National Police who are assisted by:

- a. Special police
- b. Civil servant investigators, and/or
- c. Forms of self-defence

In the elucidation of the article it is explained that what is meant by forms of independent security is a form of security held on the will, awareness and interests of the community itself which then obtains confirmation from the Indonesian National Police. Meanwhile, the relationship between the state police and independent security is regulated in Article 14 paragraph (1) letter f and article 15 paragraph (2) letter g. The two provisions state that in carrying out its main tasks, namely maintaining security and public order, enforcing the law, providing protection, protection and service to the community, it is obligatory to carry out coordination, supervision and technical development of the special police, civil servant investigators and other forms of voluntary security.

- a. Philosophical Foundation

Pecalang was formed by a traditional village and must have a basic philosophy inspired by Hindu religious teachings which are institutionalized in traditional villages in Bali which cannot be separated from the development of Hinduism in Bali. Philosophically, the existence of *pecalang* can be linked to the philosophy of *Tri Hita Karana* which is the basis of traditional villages. The *Tri Hita Karana* philosophy is a Hindu philosophy which teaches that the welfare of mankind in this world can only be achieved if there is: (a) a balance in the relationship between humans and God; (b) the balance of human relations with the environment; (c) the balance of human relations with each other. Balance or a harmonious atmosphere in this relationship can be concretely translated as an atmosphere of order, safety and peace (*trepti, sukerta sekala niskala*). Thus, in order to achieve an orderly atmosphere,

- b. Sociological Basis

In terms of sociological basis, *pecalang* as security in the area of traditional villages has a strong foundation in society, namely: it is recognized by the traditional village community as a reality that forms *pecalang* according to community needs, namely to maintain security and order in traditional villages. This means that *pecalang* in maintaining security in the traditional village area has a duty to protect the community within the village area and has a strong togetherness nature to work together with the community. In accordance with this sociological basis, *pecalang* and society are values that live in society.

- c. Juridical Foundation

The existence of *pecalang* is implicitly regulated in Law no. 2 of 2002 concerning the Indonesian National Police. Article 3 paragraph (1), with the designation "forms of independent security" which states that: The bearer of the police function is the Indonesian National Police who are assisted by: (a) special police; (b) civil servant investigators, and/or; (c) forms of self-defense security. In the elucidation of the article it is explained that what is meant by "forms of independent security are a form of security held on the will, awareness and interests of the community itself which then obtains confirmation from the Indonesian National Police". Meanwhile, The relationship between the state police and independent security is regulated in Article 14 paragraph (1) letter f and article 15 paragraph (2) letter g of Law Number 2 of 2002 concerning the Indonesian National Police. These two provisions state that the National Police of the Republic of Indonesia in

carrying out its main tasks are in the form of: (a) maintaining public order and security; (b) enforce the law; (c) providing protection, protection and service to the community is obligated to carry out coordination, supervision and technical development of the special police, civil servant investigators and other forms of independent security. Based on other laws and regulations, the National Police of the Republic of Indonesia has the authority to provide guidance, educate and train special police officers and independent security officers in the technical field of policing.

Pecalang and the state police need to have limits on authority in carrying out functions to avoid overlapping practices in security duties. There are several principles of clarity of authority, namely:

- a. Territorial principle (*ratione loci* or *gebeid* territory)
- b. Substantial principle (*ratione materii* or *zaken* *gabeid*)
- c. The principle of time (*ratione temperi* or *tijd* *gebeid*)

The territorial principle teaches that an authority has a clear area of application, as well as if there is one authority that applies transregional (cross-regional) so that it is also clearly defined in the rules that underlie the emergence of that authority. The principle of substance teaches that the contents (material/substance) of authority are clearly described so as not to cause doubts about other authorities. Meanwhile, the principle of time states that officials/owners of authority have authority during their term of office. When the term of office ends, the authority attached to the official/owner of that authority ends (Pasek Diantha: 2004).

The principle of authority will clarify the duties and functions of *pecalang* and the police there is no overlap between the duties of *pecalang* and the police. For example, when there is a disturbance of security and stability in a traditional village, the state police are responsible and not the *pecalang*, because in this case the *pecalang* only serves as independent security (assisting the state police). Even though they are independent security (assisting the state police), in an effort to support the success of police work, the role of *pecalang* cannot be underestimated.

4. CONCLUSION

Based on the description that has been described above, the writer can draw the conclusion that The customary law community unit (KMHA) in Bali is called the Traditional Village starting from the provisions of Article 18B paragraph (2) of the 1945 Constitution, then it was confirmed by several regional regulations regarding Adsat Village and finally the issuance of Regional Regulation No. 4 of 2019 concerning Traditional Villages. Regional Regulation No. 4 of 2019 explicitly regulates traditional institutions, one of which is the *pecalang*. Likewise Law no. 2 of 2002 concerning the State Police, the forms of independent security whose job is to carry out security, peace and public order within the authority of the Traditional Village. Article 14 paragraph (1) letter f and article 15 paragraph (2) letter g of Law Number 2 of 2002 concerning the Indonesian National Police states that in carrying out its main tasks, the Indonesian National Police: (a) maintains security and public order; (b) enforce the law; (c) provide protection,

REFERENCE

- Ardika, I Wayan, 2007, *Cultural & Tourism Heritage*, Larasan Library, Denpasar
- Bambang Waluyo, 1996, *Legal Research in Practice*, Sinar Graphic, Jakarta.
- Budi Setiawan, 2002, "Optimizing the Synergy Between Security Forces and Traditional Local Forces in Dealing with Increasingly Complex Problems", (Seminar on Actualization of *Pecalang* Functions in the Era of Regional Autonomy, Denpasar: Center for Rural and Regional Studies of the Tri Hita Karana Foundation Bali, Denpasar
- Johnny Ibrahim, 2011, *Normative Law Research Theory & Methodology*, Bayumedia Publishing, Malang

- Merta, 2013, Pecalang Transformation and Policing Shift in Indonesia, Udayana University Press, Denpasar
- Parimartha, I Gde, Made Suasthawa Dharmayudha, Ida Bagus Wyasa Putra, I Made Pasek Diantha, Windia, P Wayan,, 2004, Pecalang Pakraman Village Security Devices in Bali, Community Service Institute (LPM) Udayana University
- Pasek Diantha, I Made, 2004, Pecalang, Traditional Village Security Devices in Bali, LPM Udayana University
- Siswanto Sunarso, 2015, Introduction to Police Science, Nusantara Peace Library, Jakarta
- Surpha, I Wayan, 2004, Existence of Traditional Villages and Service Villages in Bali, Bali Post Library, Denpasar
- Widnyani, Nyoman, 2003, Ajeg Bali, Pecalang and Moral Education, SIC
- Windia, I Wayan, 2004, "Sesana and Clothing of Pecalang", Pecalang Security Devices for Pakraman Village in Bali, Community Service Institute (LPM), Udayana University

Other legal documents :

- Ajeg Bali An Ideal, 55 Years of Bali Post
- Bali Towards Jagaditha Various Perspectives, Bali Post Library, 2004
- Tourist Attraction Inventory Book 2009