

Customary Sanctions Against Indigenous Communities Who Never Carry Out *Ngayah* Obligations Based On The Awig-Awig Of Siladan Traditional Village

Anak Agung Mas Adi Trinaya Dewi ^{1*}, Ni Made Trisna Dewi ², Agus Surya Manika ³

¹ Law Study Program, Faculty of Law, Dwijendra University

² Law Study Program, Faculty of Law, Dwijendra University

³ Law Study Program, Faculty of Law, Dwijendra University

¹Email: agungmasadi@gmail.com

²Email: madetrisnadewishmh@gmail.com

³Email: suryamaneeka@gmail.com

ABSTRACT

This study aims to determine the factors that cause the people of Siladan Traditional Village to not carry out their *ngayah* obligations in accordance with the customary laws of Siladan Traditional Village and the customary sanctions against the indigenous people who have never carried out their *ngayah* obligations based on the customary laws of Siladan Traditional Village. The type of research in this study is an empirical legal research, namely a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior carried out through direct observation. The results obtained from this study are that the people of Siladan Traditional Village who do not carry out their *ngayah* obligations in accordance with the customary laws are still given customary sanctions, and if they cannot carry out their obligations they are required to report to buy ayah-ayahan. The conclusion in this study is that the factors that cause the people of Siladan Traditional Village not to carry out their *ngayah* obligations in accordance with the customary laws are caused by several things. One of them is the busyness and demands of work, especially for people who work outside the village, so they have difficulty finding time to participate in *ngayah* activities. Customary sanctions generally include fines in the form of material or in-kind payments, as well as social sanctions in the form of restrictions on customary rights. Communities that repeatedly ignore these obligations without justification may be subject to more severe sanctions, including exclusion from customary activities. Sanctions aim to revitalize collective awareness and ensure the preservation of the *ngayah* tradition among the Siladan Traditional Village community.

Keywords: Obligations, *Ngayah*, Customs and Regulations

*Corresponding Author:

E-mail: agungmasadi@gmail.com (Anak Agung Mas Adi Trinaya Dewi)

Law Study Program, Faculty of Law, Dwijendra University

1. INTRODUCTION

The Republic of Indonesia recognizes the existence of Executive, Legislative, and Judicial institutions in the 1945 Constitution by implementing the division of power between these institutions. (Manika et al., 2023) The implementation of regional government is based on the

principle of real and responsible autonomy in order to further strengthen, solidify the unitary state and facilitate the implementation of national development. (Dyatmikawati, 2015) A village is a legal community unit that has territorial boundaries that is authorized to regulate and manage the interests of the local community, based on the origins, local

customs that are recognized and respected in the government system of the Republic of Indonesia. (Zuhraeni, 2016) Meanwhile, in Law Number 6 of 2014 concerning Villages in Chapter I General Provisions Article I paragraph (1), it states that "A village is a traditional village which is called by another name, hereinafter referred to as a village, is a legal community unit which has territorial boundaries which are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, original rights, or traditional rights which are recognized and respected in the Government system of the Republic of Indonesia." (N. M. L. Dewi, 2018)

Customs and regulations Those who live in society not only differentiate between rights and obligations but also provide customary sanctions in the form of fines, physical sanctions, psychological sanctions and spiritual sanctions, so that the violation is felt as suffering.

Based on Bali Provincial Regulation Number 3 of 2003 concerning Traditional Villages, it is stated that customary law (*awig-awig* and *pararem*) is Balinese customary law that lives in Balinese society, sourced from Catur Dresta and inspired by Balinese Hinduism. Catur Dresta is religious teachings, kuna dresta is cultural values, loka dresta is a way of life, and Desa Dresta is local customs.

Based on Article 1 Number (13) of Bali Governor Regulation Number 4 of 2020

concerning Implementing Regulations for Regional Regulation Number 4 of 2019 concerning Traditional Villages in Bali, it defines *Awig-Awig* as a legal basis made by Traditional Villages and/or Traditional Banjars which applies to Krama Desa Adat, Krama Tamiu, and Tamiu. Meanwhile, paragraph (14) states that *Pararem* is a rule/decision of the Paruman Desa Adat as the implementation of *Awig-Awig* or regulating new matters and/or resolving customary/dialectical matters in Traditional Villages.

In the village's customary laws, prohibited acts and their associated customary sanctions can be identified. (Darman, 2021) These customary sanctions can be imposed on an individual, a family, or the village community itself, but this depends on the quality of the act. (Widnyana, 2013) Customary sanctions are a response from the traditional village to restore the disturbed magical balance. The types of customary sanctions regulated in the customary laws and regulations include:

- a. Mengaksama (I am sorry)
- b. Dedosaan (finance)
- c. Kerampag (possession of property)
- d. Kasepekan (not spoken to) for a certain period of time
- e. Kaselong (expelled from his village)
- f. Prayascita Ceremony (village cleansing ceremony).

Tabel 1
Indigenous Communities Who Never Carry Out *Ngayah* Obligations
In Siladan Traditional Village

No	Year	Amount
1	2021	1
2	2022	3
3	2023	1
4	2024	4

Source: Siladan Traditional Village

Of the 4 existing banjars, this data shows global data. This data shows the number of indigenous people in Siladan Traditional Village who did not carry out their *ngayah* obligations from 2021 to 2024. *Ngayah* is a form of voluntary service that is usually carried out by indigenous people to support traditional or religious activities in the village.

1) 2021

This year, there was 1 indigenous person who did not carry out his *ngayah* obligations because he was away from home.

2) 2022

This year, three indigenous people did not fulfill their *ngayah* obligations. This should raise concerns for the traditional village authorities, who should understand the reasons behind their non-participation.

3) 2023

The number of people who did not perform *ngayah* decreased to one person. This decrease may reflect increased public awareness of the importance of *ngayah* or the effectiveness of outreach efforts by traditional villages.

4) 2024

This year, the number increased again to four. This increase requires further analysis

to determine whether it is due to internal factors such as individual business or external factors such as a lack of coordination or changes in customary policies.

The problem that often happens that villagers who migrate do not participate in *ngayah* ceremonies held in the village. However, many migrants do not pay the fines for their actions. In Bali, *ngayah* is a form of mutual cooperation carried out by village residents. Although traditional villages have customary laws that regulate fines for residents who do not perform village *ayahan-ayahan*, this is what can easily cause problems in the traditional village/traditional village.

Based on the background description above which has provided a description of the problems, the problem can be formulated regarding the factors that cause the Siladan Traditional Village community not to carry out *ngayah* obligations in accordance with the customary laws of the Siladan Traditional Village and customary sanctions against the customary community who never carry out *ngayah* obligations based on the customary laws of the Siladan Traditional Village.

2. METHODS

This research uses empirical legal research, a legal research method that utilizes empirical facts derived from human

behavior, both verbal behavior obtained through interviews and actual behavior through direct observation. The research location is the Siladan Traditional Village.

This empirical research uses a descriptive approach, collecting primary data through interviews and documentation, as well as secondary data in the form of legal materials. The analysis used is qualitative data analysis.

3. RESULT AND DISCUSSION

3.1 *Factors Causing the Siladan Traditional Village Community to Not Carry Out Ngayah Obligations in Accordance with the Customary Laws of Siladan Traditional Village*

In general, there are often deviations in the field of customs related to the concept of *Tri Hita Karana*, including *parahyangan*, *pawongan*, *palemahan*. This has happened, where the community or *Krama Banjar* (hamlet) had a conflict or dispute over violations by the *Krama* of the traditional village as part of the Traditional Village, not obeying all applicable regulations regarding the order, as well as the implementation of the *Awig-awig* of the Traditional Village which should be carried out by the *krama* in the Mengwi Traditional Village environment, because of the violations committed by the *Krama Banjar* as part of the Traditional Village, not implementing one concept of *Tri Hita Karana*, including *Parahyangan* which is a must for all *krama* of the Traditional Village, namely in terms of the use of *Tirta Griya* (village holy water). For the implementation of the *Panca Yandya* ceremony (a ceremony in the Hindu traditional community consisting of five stages of sacrifice).

The application of sanctions of the *Awig-awig* of the Traditional Village against violations by the people of the Siladan Traditional Village, as with customary law communities in other places, is a reality that cannot be denied. So that if there is a

violation of the agreed provisions (*awig-awig*) it will cause an imbalance or disharmony on the *niskala* scale (the afterlife). For this reason, there needs to be a restoration of the imbalance, where this restoration is also carried out on a scale and *niskala*. Violations of the *Awig-awig* of the Traditional Village, the authority to handle a case or problem in the Siladan Traditional Village is the *Prajuru* along with the Traditional Village apparatus assisted by the *Kelihan Banjar*. The traditional village was born in line with the interests of people to collectively bind themselves into a territorial group bond and facilitate the achievement of their various life needs, both territorial and spiritual. Apart from the traditional village being formed for the benefit of its citizens, it seems that the application of sanctions for violations committed by the *krama* cannot be separated from the organizational structure and regulations (*awig-awig*) that apply to the *krama* of the village.

Based on an interview with I Nengah Mudiasa, a community leader in Siladan Traditional Village, several key factors contribute to the community's failure to fulfill its *ngayah* obligations in accordance with the prevailing customary laws. Nengah Mudiasa explained that changes in community lifestyles are one of the main causes of the decline in participation in *ngayah* activities. With the changing times, many people are busier with jobs outside the village, especially the younger generation who migrate to earn a living. This situation makes it difficult for them to find time to participate in various traditional activities that require physical presence. In addition to busyness, Nengah Mudiasa also highlighted a shift in cultural values within the community. Previously, *ngayah* was considered a moral obligation that not only

demonstrated devotion to the village but also served as a form of respect for ancestors and solidarity among residents. However, these values are currently beginning to fade, especially among the younger generation, who tend to prioritize personal interests over social responsibilities within the traditional community. According to him, advances in technology and information have also influenced people's perspectives on local traditions, with many beginning to view *ngayah* as a burden rather than a sacred form of devotion.

I Nengah Mudiasa also revealed that the lack of public awareness regarding the contents of the customary laws and regulations (*perarem*) is another factor contributing to the low level of community participation. He stated that although the rules regarding *ngayah* are stipulated in the Village Customary Laws (*Perarem*), not all residents fully understand the contents and consequences of violating these rules. Many residents, especially those who have recently become part of the village community, feel confused about the obligations they must fulfill. Limited public awareness results in some community members not fully realizing the importance of *ngayah* for the continuity of traditions and social life in the village. Economic factors are also a major cause of non-compliance with *ngayah* obligations. In an interview, I Nengah Mudiasa explained that some families with low economic status find it difficult to participate in *ngayah* activities, which often require sacrifices of time and energy. For them, working to meet daily needs takes priority over carrying out customary duties. This situation creates an imbalance in participation, with those with better resources able to fulfill their obligations, while those experiencing

economic hardship tend to be absent from customary activities. In addition to internal community factors, I Nengah Mudiasa also touched on the role of traditional village officials in enforcing regulations. He argued that weak enforcement of sanctions against violators of *ngayah* (traditional customary law) contributes to low community compliance. Although customary law (*adat-awig*) stipulates sanctions in the form of fines or restrictions on customary rights for those who fail to comply with *ngayah*, its implementation is often inconsistent. He believes a firmer approach and intensive outreach are essential to rebuild community awareness and responsibility for customary obligations.

3.2 Implementation of Empowerment Policy Women in the Village by the Puhu Village Government, Payangan District, Gianyar Regency

Neglecting the obligations imposed by the traditional village on its residents also carries risks. If a villager fails to fulfill their obligations to the traditional village, sanctions will naturally be imposed by the traditional village through the traditional village apparatus, in accordance with the sanctioning regulations agreed upon in a decision called a *perarem*. The sanctions imposed under the *perarem* are naturally adjusted according to the severity of the negligence or violation committed by the traditional village resident. (A. A. M. A. T. Dewi et al., 2024) The types of sanctions that can be imposed by traditional villages on traditional village residents who neglect their obligations are as follows:

- 1) The fine is in the form of money.

If a villager commits a violation by neglecting his obligations, a sanction in the form of a fine/*dedosan* can be imposed on

him. For example, during the tedun to carry out something/plan a *piodalan* ceremony at the Kahyangan Tiga temple, if someone does not attend without notifying the village/banjar officials, then he can be subject to a fine/dedosan sanction in accordance with the regulations. This fine/dedosan sanction can be paid by the villager who is sanctioned once a month, during a customary meeting or once every six months at the same time as a customary meeting. This fine is paid after the total number of absences of a resident from customary activities is multiplied by the amount of the fine in accordance with the regulations.

2) Sanctions for carrying out religious ceremonies in the form of (mecaru, Rsi Gana, Perascita) as an effort to restore the balance that has been disturbed due to the existence of traditional village residents who violate/neglect their obligations. This sanction can be imposed on indigenous village residents for certain violations, so that the violation can be considered to have disrupted the balance within the community. The imposition of sanctions, such as performing religious ceremonies, is an effort to restore the previously disturbed balance.

3) Temporary suspension from membership of the traditional village. If a violation is deemed to be more serious than the obligations imposed by the customary village on its residents, the level of sanctions imposed will also be heavier according to the level of error committed by the customary village residents. For example, not paying tedun several times, and not having good faith to fulfill obligations, especially the obligation to pay dues/contributions. Village residents who do this can be temporarily suspended from being customary village residents until all

their debt obligations are paid off. In practice, this temporary suspension means that the sanctioned village residents are denied use of public facilities, and there is no notification about customary village activities, so the residents feel isolated.

4) Revocation of the right to control village yard land. Because the basis for controlling the Village Yard Land by the residents of the Traditional Village is that they are able and willing to implement all the rules and regulations for the traditional village in general, and especially regarding the existence of Kahyangan Tiga as a temple belonging to the traditional village which continuously throughout the life of the traditional village residents regularly calls/performs ceremonies and maintains it, for the continuity of Balinese customs and as an embodiment of the implementation of the Hindu religion.

Regarding the sanctions imposed by the traditional village, it is the obligation of the affected village residents to carry them out. The most severe sanctions imposed on traditional village residents who occupy village yard land are the revocation of the right to control the village's karang land. Traditional village residents who violate the rules and neglect their obligations, meaning that their obligations are not carried out at all. Whether in the form of fathers or descendants who are deposited into the village treasury to finance ceremonies at the temple owned by the traditional village as well as construction costs and maintenance costs so that the life of the traditional community can continue. If a traditional village resident suddenly converts from Hinduism to another religion, then this is not in accordance with the pawos 3 awig-awig village, then the traditional village has the right to revoke the right to control the karang village land occupied by that person,

and give it to someone who is able to bear all obligations. This is taken because all the obligations of the person who has converted to the traditional village are impossible to carry out.(Widnyana, 2013)

Based on an interview with I Nengah Mudiasa, one of the community leaders in Siladan Traditional Village, that one of the rules of *Ngayah* is contained in the Parerem of Sulang Traditional Village. According to I Nengah Mudiasa in the interview conducted, it was explained that one of the rules regarding *ngayah* is contained in the Parerem of Sulang Traditional Village. This rule regulates the obligations for krama desa (village residents) to participate in social activities and traditional rituals as a form of devotion to the village. This Parerem serves as a guideline in the implementation of *ngayah* which includes the type of activity, the time of implementation, and the consequences for those who do not fulfill these obligations. This rule aims to maintain the preservation of tradition, strengthen social solidarity, and ensure that every member of the community participates in maintaining cultural and traditional values in Siladan Traditional Village.

Then regarding the sanctions, it is stated in Article 7 Paragraph 1 of the Regulation which states that:

"Anyone who violates the provisions of Article 2 and Article 3 as mentioned above will be subject to sanctions in the form of:

- a. Verbal warning from the officer
- b. Written warning from the Bendesa Adat Baluk
- c. Unsorted waste will not be collected.
- d. The maximum fine is IDR 5,000,000 (five million rupiah) for violations of Article 3.
- e. Not receiving administrative services from the head of the environment in their

area and a maximum fine of IDR 50,000,000 (fifty million rupiah) for entrepreneurs who produce waste but do not subscribe to the composting house waste service."

Apart from that, in the Awig-Awig of Sulang Traditional Village, in Pawos 13 there is a rule which reads:

"Prade rikalaning *ngayah* wenten sinalin tunggil Krama matilar saduning puput Karya, tan pasadok ring Prajuru, author Krama inucap keni pami danda tanjer laler manut *pararem*"

Once a decision regarding the resolution of a violation is made and approved by the village council, the decision becomes a bylaw and must be implemented by those designated in the bylaw. For example, if the bylaw decides to impose sanctions on someone deemed negligent, the village council will technically implement the sanctions, referring to previous decisions regarding sanctions in similar cases. The implementation is supervised by the village council, and all villagers are then notified that the sanctions have been implemented.(Pastika & Arka, 2022)

Based on the aforementioned understanding, sanctions are mostly imposed through cleansing ceremonies such as mecaru, rsigana, or meguru piduka, as well as prascita ceremonies. Fines and other forms of sanctions are also imposed. Revocation of the right to occupy village land is the final sanction, after all other avenues for resolving disputes have failed. Land revoked by the traditional village can then be transferred by the traditional village to residents who are willing to care for the land, meaning to maintain it or occupy it as a residence/home, and fulfill all their obligations to the interests of the traditional village and *Kahyangan Tiga*.

The case that occurred in Siladan Village was a resident who never once carried out the obligations of *ayah-ayahan* or *metulung* in every activity carried out in the Village or the activities of *metulung krama* in the Village because he was busy working and gave the excuse of not having time to go home, then the village customary *prajuru* and *krama adat* agreed to give a warning first, but in the event that the warning was still not heeded then the *prajuru* and *krama adat* agreed to give sanctions to the person because it was considered not to carry out the obligations of *ayah-ayahan* based on the applicable *parerem* and negligent for not heeding the warning that had been given, therefore the *prajuru adat* gave sanctions in the form of sanctions *kasepekang*. People who are subject to this sanction may not participate in the village *ayah-ayahan*, do not get *banjar* services, may not use facilities belonging to the traditional village including *setra* (cemetery) and are not invited to communicate in the community. The implementation of the customary sanction *kasepekang*, in it contains elements of exclusion or discrimination. The reason the *kasepekang* sanction is still applied in community life is because the individual in question behaves excessively and is difficult to manage, thus being considered to be going against the traditional village. This type of sanction is still included in the customary laws, so that customary leaders (*prajuru adat*) have a legal basis to enforce it against people who violate customary laws. However, customary leaders are not reckless in simply implementing the sanctions in the customary laws. Residents are given the opportunity to improve themselves, but it is the violators who leave the village, not because they are expelled. (Darman, 2021)

4. CONCLUSIONS

Several factors contribute to the failure of the Siladan Traditional Village community to fulfill their *ngayah* obligations in accordance with customary law (*adat-awig*). One is the busyness and demands of work, especially for those working outside the village, making it difficult for them to find time to participate in *ngayah* activities. Furthermore, social and cultural changes resulting from modernization have led to a shift in values within the community, leading to a waning commitment to traditional traditions. A lack of awareness and concern for the importance of *ngayah* as a form of devotion to the village also influences community participation in carrying out these obligations. Customary sanctions against communities who fail to fulfill their *ngayah* obligations in Siladan Traditional Village are regulated in the customary law (*adat-awig*) as a means of enforcing regulations and maintaining social harmony. These sanctions generally take the form of fines in the form of material or goods, as well as social sanctions in the form of restrictions on customary rights. Communities who repeatedly ignore these obligations without clear reason may be subject to more severe sanctions, including exclusion from customary activities. These sanctions aim to revitalize collective awareness and ensure the sustainability of the *ngayah* tradition within the Siladan Traditional Village community.

REFERENCE

- Darman, K. (2021). Penerapan dan Sanksi Hukum Adat pada Masyarakat di Kecamatan Tewang Sanggalang Garing Kabupaten Katingan. *Satya Dharma*, 4(1), 1–19. <https://doi.org/https://doi.org/10.33363/sd.v4i1.776>

- Dewi, A. A. M. A. T., Dewi, N. M. T., & Dewi, N. P. L. (2024). Peranan Desa Adat Dalam Menerapkan Sanksi Terhadap Pelanggaran Proses Perkawinan Dalamawig-Awig Desa Adat Di Desa Adat Takmung Kecamatan Banjarangkan Kabupaten Klungkung. *Kerta Dyatmika*, 21(1), 42–52. <https://doi.org/https://doi.org/10.46650/kd.v21i1.1525>
- Dewi, N. M. L. (2018). Sinergitas Kemitraan Antara Polri Dengan Pecalang Dalam Menjaga Keamanan Desa Pakraman. *Kerta Dyatmika*, 15(2), 1–10. <https://doi.org/https://doi.org/10.46650/kd.v15i2.910>
- Dyatmikawati, P. (2015). Peranan Lembaga Pemberdayaan Masyarakat Dalam Sistem Administrasi Pemerintahan Desa Di Kabupaten Badung. *Kerta Dyatmika*, 12(1), 1–15. <https://doi.org/https://doi.org/10.46650/kd.v12i1.363>
- Manika, A. S., Dewi, N. M. T., & Dewi, A. A. M. A. T. (2023). Analisis Pengaturan Hak Imunitas Terhadap Anggota Dewan Perwakilan Rakyat (Dpr) Yang Terjerat Kasus Hukum. *Jurnal Komunikasi Hukum (JKH)*, 9(2), 118–127. <https://doi.org/https://doi.org/10.23887/jkh.v9i2.65367>
- Pastika, K. P., & Arka, I. W. (2022). Implementasi Perjanjian Dalam Pengelolaan Lahan Parkir Antara Desa Adat Denpasar Dengan Pemerintah Kota Denpasar. *Kerta Dyatmika*, 18(2), 33–47. <https://doi.org/https://doi.org/10.46650/kd.v18i2.1202>
- Widnyana, I. M. (2013). *Hukum pidana adat dalam pembaharuan hukum pidana*.
- Zuhraeni. (2016). *UU Pemerintahan Desa*. Research and Publishing Center LP2M Raden Intan Lampung.