

## POLITICAL LEGAL PLURALISM IN THE SETTING OF THE SACRED SITE OF ULUWATU TEMPLE IN BALI

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### Abstract

Political legal pluralism is a policy approach as a middle ground or intersection for solving the problem of differences about construction in the setting of a sacred site. This paper looks at this topic related to the Uluwatu Temple in Bali – both from state law in the form of regional regulations concerning spatial planning and areas of the Bali Province and the customary law of the village of Pecatu. Political legal pluralism aims to be an alternative way to unify the elements of state law, ethics, morals, religions, and society in order to achieve a sense of justice for members of the customary community of Pecatu who own land adjacent to the radius of the sacred site of the Uluwatu Temple. Issues faced and findings draw from an interpretive descriptive qualitative research from a socio-legal research approach with a constructivism paradigm of law based on data from field observations and documents analyzed in view of the legal theory of law and the theory of legal pluralism. Results suggest that political legal pluralism is a means for developing legal policy based on the values of Pancasila philosophy.

Key words: legal pluralism, Uluwatu Temple

### A. Introduction

#### A.1 Background Issues

In the era of globalization of the island of Bali with its uniqueness to experience the rapid development of tourism. The development of tourism is in addition to contributing in the form of employment and investment, but on the other hand has resulted in high migration to the island of Bali, especially in the area of southern Bali, both originated from Bali and outside Bali. The development of Bali as a tourism destination can not be separated with the development of the existence of tourist destinations in Bali. One of the tourist destinations in Bali is the existence of Uluwatu Temple including the surrounding area which has experienced significant impact on the tourism development side, especially the spatial planning and the area of Uluwatu Temple.

As a holy place of Hindu Uluwatu Temple serves to worship God with all his manifestations. Therefore, Uluwatu Temple as a holy place needs to be kept holy both *niskala* (not real) and *sekala* (as real) as one of the biggest temple in Bali with the status of *Sad Kahyangan* located in *Desa Adat Pecatu*, South Kuta District, Badung Regency, Bali in particular guard against the onslaught of tourism development.

Although the development of tourism in Bali has made progress in various areas of life, but on the other hand has also led to various development problems, which have direct implications for the carrying capacity of space, such as: increased demand for land (both for settlements and tourism activities), increasing and rapidly agriculture land degradation, reduced vegetation cover, increased traffic congestion resulting in traffic congestion, increased number

of critical land, declining levels of regional facilities and infrastructure, social demography and employment problems, and waning of cultural values (including endangered the sacred value of the holy place) as a marker of the identity of society and the area of Bali.

The Provincial Government of Bali undertakes efforts to prevent the problem of spatial support capacity in Bali, namely by the enactment of Bali Provincial Regulation No. 16/2009 concerning Spatial Planning and Regional Province of Bali Year 2009-2029. One of the interesting things in Bali Provincial Regulation Number 16/2009 related to the existence of Uluwatu Temple is the arrangement of spatial layout of the temple area of Pura which adopt the Hindu religious norm namely *Bhisama Kesucian Pura*<sup>1</sup>. Briefly it can be seen that Bhisama Kesucian Pura regulated on Article 50 Paragraph (2) of Bali Provincial Regulation Number 16/2009 stating that the area of holy place as referred to in Article 44 paragraph (1) letter b, is set to refer to Bhisama Parisadha Hindu Dharma Indonesia Pusat (PHDIP) Year 1994, with criteria:

1. a holly space around Sad Kahyangan Temple with a radius of at least 5,000 (five thousand) meters call of apeneleng agung (5,000) meters from the outer side of the walls penyengker of the temple;
2. the holly space around Dang Kahyangan Temple with a radius of at least apeneleng alit equivalent to 2,000 (two thousand) meters from the outer side of the walls penyengker of the temple; and
3. a holly space around Kahyangan Tiga Temple and other temples, with a radius of at least Apenimpug or Apengkengker.

The existence of the law of the shrine area also impact on the spatial planning of Uluwatu Temple. Uluwatu Temple because it has the status as Sad Kahyangan Temple hence its sanctuary radius that is with the apaneleng agung size that is equivalent to 5 (five) kilometers. It means a holly space with a radius of 5 (five) kilometers. There are consequences to the existence of the law of the holly space of Uluwatu Temple, where land owned by both government, private sector and society can not be used as a periphery. Utilization of land exposed to the radius of the holly space may only be used in connection with Hindu spiritual means only, prohibited to be used other than that prescribed, including also prohibited in constructing tourism supporting accommodation.

As a result of restrictions on the use of land affected by radius of the sacred area of Uluwatu Temple get resistance from people who have rights to the land affected by the radius of the shrine. The opposition came from members of the indigenous peoples of Desa Adat Pecatu who felt that access to justice over their land was restricted. Affected peoples demand justice to the state under the pretext that the state should guarantee human rights, especially the right to justice and economy to their lands.

The problem occurs because the 16/2009 regulation as a law is deemed inconsistent with the reality of local law in the community. The law as a reality, examines the implementation of law in society, the law becomes one of the sub-systems in society where the other sub-

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1 To maintain the purity of the temple from the onslaught of globalization and the transfer of land, the Parisada Hindu Dharma Indonesia Center (PHDI Pusat) established Bhisama on the holly space temple Number: 11 / Kep / I / PHDI / 1994, on January 25, 1994 (Hereinafter called Bhisama holly space temple). In Bhisama the holly space temple divides the radius of the shrine into 3 (three) parts, namely, the apeneleng agung, apeneleng alit, and apenimpug or apengkengker

systems, such as economy, politics, culture, religion, etc. Thus, the law will be full of values that exist in society that is not free from the values of interest in it that can be positive or negative.

One of the legal consequences in the context of society, then the law will always be influenced by various factors one of them globalization. Globalization has changed society, including its laws have undergone changes in tune with the changing globalized society. The law in arranging the life of nation and state in Indonesia in the era of globalization has a very important role. Problems will arise when designing law in a global era in accordance with the values and social structure of Indonesia. Indispensable critical attitude and willingness to think open and holistic in this case. In accordance with the idea that the law should be considered not separated with the economic, political, social and cultural<sup>2</sup> fields after the reality in society.

Law in the reality of society is a system that works complement each other. To borrow Lawrence Freidman's<sup>3</sup> opinion, to declare law as a system composed of structure as a real element in law as a permanent body framework in this case related to the structure of the shaper and enforcer of the radius of the sacred area of Uluwatu Temple. The substance is composed of rules and regulations on how the institution of legal structure must behave in relation to the regulation of the radius of the sacred area by both government and indigenous peoples. While the legal culture is a social force that continues to move the law which is an element of social attitudes and values associated with community awareness in the interaction associated with the radius of the sacred area of Uluwatu Temple.

The form of resistance against the provision of radius of holly space of Uluwatu Temple can be seen one of them at the resistance is also carried out by individual, group and unity of customary law community of Desa Adat Pecatu by juridical by conducting material rights lawsuit as much as 7 (seven) times to Perda 16/2009 to Supreme Court (MA). The main reason in the lawsuit because of the loss of income opportunity for their respective families on the land they own, resulted in the decline in the economic value of the land and also because it is not in accordance with the sanctity of Uluwatu Temple based on the customs they inherited so far. The birth of the public lawsuit because the public is aware that the law as part of the legal system is an instrument to protect their rights to obtain justice. If the law does not protect their rights, then they should sue the law<sup>4</sup>. However, the result of the petition was rejected through the Supreme Court Decision Number. 30,31,32,33,34,35,36 P / HUM / 2010 and Case Number 65 P / HUM / 2013 with the main reason that the law does not contradict higher laws and regulations. The material test related to the provisions of the holy sites of Uluwatu Temple in local Regulation Bali Province Number 16/2009 can be described briefly below.

Resistance of the community to the local regulation Bali Number 16/2009 if observed is caused by the difference of construction thinking about the radius of the holly space between the radius of the holly space of Uluwatu Temple determined by the Bali Provincial Government adopting Bhisama PHDI which is 5 (five) km with the perception of the indigenous peoples of Uluwatu Temple which is set in awig-awig (custom rule) with an area of not more than 1 (one) km which is called the pedestal.

This difference of perception raises a discourse between what is believed by the Government through local regulation Bali Number 16/2009 with what is believed by indigenous peoples about the pedestal. Borrowing Habbermas's opinion, in the discourse requires the

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2 Yusriyadi, Tebaran Pemikiran Kritis Hukum dan Masyarakat, Surya Pena Gemilang, Malang, 2009, p.54

3 Lawrence M. Freidman, Sistem Hukum Perspektif Ilmu Sosial, Nusa Media, Bandung, 2009, p. 2-17.

4 Sulistyowati Irianto, Akses Keadilan dan Migrasi Global, Kisah Perempuan Indonesia Pekerja Domesik di Uni Emirat Arab, Yayasan Pustaka Obor, Jakarta, 2011, p.33.

removal of the constraints of action, removes all motives other than the desire to reach a rational agreement and suspend the validity of the claim. The consensus generated by the evidence and the power of the arguments contained in the arguments presented<sup>5</sup>.

Ideally, the development of spatial law in Bali, besides having to pay attention to local wisdom, should also be based on the legal ideology of Indonesia, namely the values of Pancasila which are then spelled out in the form of legislation, one of them in the form of spatial and regional regulation in Bali. Related to the effort to build spatial law of radius of holy space temple in Bali based on Pancasila it should be emphasized that spatial law of temple area of Pura should be framed with the spirit of the 5 (five) values in Pancasila. Ideally, the construction of spatial law of radius of the holly space based on Pancasila Pura Uluwatu is part of the Pancasila law system development in Indonesia. The role of government is needed in achieving it. In accordance with the nature of the government exists in order to achieve the goals of the nation and state<sup>6</sup>, the role of legislation is very dominant and essential because in essence the legislation is a set of norms that regulate and enable the state to perform its functions and protect the citizens<sup>7</sup>.

The existence of an unconnected relationship between the state law, the local wisdom of society as well as the moral, ethical and religious elements in the regimentation of the holly space of Uluwatu Temple as described above has become the background for raising the title "Political Legal Pluralism in the Regulation of the Holy Place of Uluwatu Temple in Bali".

This study raises 2 (two) problems based on the background of the above problems, among others:

1. What is the basic idea of the need for regulation of the holy space of Uluwatu Temple based on legal pluralism?
2. Political principles of legal pluralism whether as direction in the regulation of the holly space of Uluwatu Temple?

Novelty (research novelty) can be seen later on the form of mutually reinforcing relationship between the laws of the state, morals, ethics, and religion, as well as the community in the arrangement of the holly space of Uluwatu Temple in Bali. The relationship to these three elements is framed in the approach of legal pluralism. So far, the regulation of the holy sites of Uluwatu Temple in Bali is more emphasized on the enforcement of state law (Regional Regulation).

Specific Objectives of this study are in accordance with the formulation of the problems that have been conveyed above, among others: 1) to examine and analyze the foundation on which the need for regulation of the holy space of Uluwatu Temple based on legal pluralism, and 2) to examine and analyze political principles legal pluralism which becomes the direction in the regulation of the holly space of Uluwatu Temple in the future.

The targeted findings in this research are: the use of legal pluralism approach in regulation of holly space of Uluwatu Temple gives more sense of justice for people affected by radius of holly space of Uluwatu Temple. The approach of legal pluralism becomes the midpoint between the laws of the state, morals, ethics, and religion and society in the regimentation of

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5 Thomas McCarthy, *The Critical Theory of Jurgen Habermas*, MIT Press, Massachusetts, 1982, translate from Nurhadi, *Teori Kritis Jurgen Habermas*, Kreasi Wacana, Bantul, 2011, p.377-378

6 M.Mas'ud Said, *Birokrasi Di Negara Birokratis*, UMM Press, Malang, 2007, p. 218.

7 S.F. Marbun, *dkk, Dimensi-dimensi Pemikiran Hukum Administrasi Negara*, UII Press, Yogyakarta, 2004, p.19.

the holy space of Uluwatu Temple. The development of science, especially the science of law at the point of emphasis on the use of socio-legal methods research, dengan legal pluralism approach is still rarely used by law researchers who in general still much struggling in the flow of legal positivism.

## A.2 Literature Review

Menski<sup>8</sup> provides an understanding of the importance of legal pluralism to understand law and order of law, the law in review not only examines the norms, but also must consider the values, facts, meanings, processes, structures, power relationships, personnel, and technology. Legal pluralism develops an interactive legal model between state law, values/ethics/religion and socio-cultural norms. The legal pluralism model puts forward the legal waters. Borrow Menski's thoughts on legal pluralism are very relevant to be used in discussing the research entitled Political Legal Pluralism in the Regulation of the Holy Place of Uluwatu Temple in Bali.

In addition, there are several other literature reviews used as a reference in this study, among others:

A review from Sudiarta in 2011 in the Journal of Legal Issues that raised the title of "Penetapan Kawasan Tempat Suci dan Kawasan Pariwisata dalam Penataan Ruang di Bali". This study discusses the overlapping of regulation regarding the area of the shrine as a protected area, or even as a tourism area that is set in the product of local law. The contribution of Sudiarta's study lies in the idea that the sacred area is a protected area that must be preserved. Legal arrangements are very important to be done in guarding the area of the shrine. However, the study of Sudiarta has not touched upon the discussion about the differences in the regulation of the holly space which is based on the different conditions of each region in Bali. Differences in the arrangement of the sacred sites studied in the framework of legal pluralism in this study have not been touched by Sudiarta.

Furthermore, Arniati in 2015 in Dharmasmrti Journal raises the title of "Bhisama Parisada Tentang Kesucian Pura: Pergulatan Interpretasi Atas Kawasan Suci Pura Uluwatu". The Arniati study discusses 3 (three) points, namely: the reason for the struggle of Bhisama Parisada's interpretation of the Uluwatu Temple Area, discussing the process of the struggle of Bhisama Parisada's interpretation of the Uluwatu Temple Area, and discussing the implications of the struggle of Bhisama Parisada's interpretation of the holly space Uluwatu Temple. Arniati's research contributes to the fact that there are 2 (two) arrangements regarding the holly space of Uluwatu Temple, but has not raised the issue of politics of legal pluralism as a midpoint or consensus on differences in the regulation of the sanctuary area either by the state or by indigenous local wisdom will be the topic of discussion of research that will be done this.

Further literature review from Sutrisna 2016 in Jurnal Lingkungan Binaan that raised the study about the "Pelanggaran Bhisama Kesucian Pura di Sekitar Pura Dang Kahyangan di Kecamatan Kuta Selatan, Kabupaten Badung". This study raises about the violation of the radius of holly space temple due to the development of tourism and economy. Sutrisna's research contributes particularly to the understanding that the development of tourism and the economy is one of the factors of violation of the regulation of the holy sites. However, Sutrisna's research is different from this study which raised specifically about the politics of

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<sup>8</sup> Werner Menski, *Perbandingan Hukum dalam Konteks Global, Sistem Eropa, Asia, dan Afrika*, Nusa Media, Bandung, 2008, p.795

legal pluralism in the regulation of the sacred area of Uluwatu Temple. Political pluralism that became the way out for the holy shrine area Uluwatu Temple remain awake in the future.

### A.3 Research Methods

This research is qualitative research type. The method used specifically is descriptive interpretative, using constructivism research paradigm and socio-legal research approach. Focusing the topic of study on politics of legal pluralism in the regulation of the holly space of Uluwatu Temple with research location in Desa Adat Pecatu, South Kuta district, Badung regency, Bali province. Data source namely primary data obtained from conducting interviews and field observations, while secondary data can be from the primary legal materials namely legislation including the Regional Regulation Bali Province No. 6 of 2009 on Spatial Plans Bali Province Province Year 2009-2029 and secondary law material that is library material in the form of reference books related to research title.

Primary and secondary data that have been collected later in though with legal interpretation methods, both historically, philosophically, and sociologically. After done data processing, then do data deduction which lead to the use of legal pluralism method.

## B. Discussion

### B.1 The Law of the Sacred Site of Uluwatu Temple in Bali, Unlawful Law

Law in the global era must be able to stand in the middle between the economic interests and the interests of the ruler in exercising his power<sup>9</sup> and the interests of society, including arranging the radius space of the holly space of Uluwatu Temple as one of the tourism destinations in Bali. Laws should be made as controls in spatial activities that take into account the values that exist. In the future, the construction of the spatial law of the radius of the holy space of temple in Bali is based on the values of local wisdom in accordance with the *desa, kala* and *patra* are framed by *Pancasila*, the spatial arrangement that considers the religiosity of a region, taking into account the rights of the local people to the space, ensuring the sustainability of the nation's integration in spatial planning, by applying deliberation if there is a difference of perception to achieve social justice in the utilization of space. This can not be separated from the purpose of law that is to stabilize the association of life, realizing order and peace and realizing justice, where there are certain values that must be held<sup>10</sup>.

Thus, when relativity or legal flexibility can be maintained in relation to the spatial arrangement of the holy site, each individual, group, and / or independent institution continues to actively 'construct' the law. Thus the democratization of the law can be safeguarded, through consensus or agreement continuously established among individuals, groups, and / or agencies. With the reduced state domination in arranging the sacred area of Uluwatu Temple by paying attention to local wisdom of local area, hence ideals of Indonesian state to reach religious welfarestate not impossible to achieve. Religious welfarestate associated with the arrangement

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9 .....The core elements of both economic and political activity -capital, labour, credit, and money, as well as public or private power and right – are legal institutions. Law is the link binding centres and peripheries to one another and structuring their interaction..... look, David Kennedy, *Leiden Journal of International Law* (2013), 26, pp. 7–48 C \_Foundation of the *Leiden Journal of International Law*, 2013, *International Legal Theory, Law and the Political Economy of the World* <http://journals.cambridge.org>, access on 14 April 2016.

10 FX Adji Samekto, *Justice Not For All, Kritik terhadap Hukum Modern dalam Perspektif Studi Hukum Kritis*, Genta Press, Yogyakarta, 2008, p.9

of the sacred area of Uluwatu Temple can be interpreted, the government guarantees the people to use their rights including the right to land to achieve common prosperity while still referring to the spiritual values of the community, in this case the spiritual value of the holy space temple. In other words, to achieve prosperity while maintaining the sanctity of the temple which is governed by the government by still paying attention to local wisdom as a state organ having authority in regulation<sup>11</sup>.

The integration of local wisdom, religious law and national law in a spatial law of radius of the sacred area of Uluwatu Temple in legal theory is referred to as legal pluralism. Legal pluralism will reduce the tension between universalism and localism so that social stability will remain intact<sup>12</sup>. Pluralism is a legal concept whose contents are more than one principle and the substance of the law, as well as looking at the situation with different existing social facts<sup>13</sup>. State legal pluralism as called Gordon Woodman<sup>14</sup>, or weak legal pluralism like John Griffiths<sup>15</sup>. State legal pluralism emerges when state law comes partly from the body of the norm that was originally formed as a state law and the rest comes from non-state norms recognized by state law, such as customary law and religion. Thus, the legal basis of legal pluralism in the regimentation of the holy space of Uluwatu Temple in Bali departs from the perception that the law in Bali especially concerning the regulation of the holy space of Uluwatu Temple is a non-single law. That is, in Bali hegemony of state law through the Regional Regulation on Spatial and Regional Bali Province in which also regulate the area of holy space Uluwatu Temple based on the values of Hinduism in Bhisama was in conflict with the arrangement of the holy space of Uluwatu Temple through customary law Desa Adat Pecatu. The contradiction must be looked for way out, one of which is to put forward the political principle of legal pluralism in the regimentation of the holy space of Uluwatu Temple.

## **B.2 Political Model of Legal Pluralism in the Regulation of the Holy Space of Uluwatu Temple**

Related to that in the study of legal pluralism, it borrows the thought of the triangular Menski<sup>16</sup>, which divides 3 (three) points of view ie the point of view of the state; society; as

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11 The birth of new construction on the radius of the holy space of Uluwatu Temple in Bali at least reduces the tension of constellation between Nationality, Religiosity and local politics of society

12 ...such regionalism and pluralism alleviate the tension between universalism and localism associated with globalization and improve social stability throughout the world...Look James D.fry, *Pluralism, Religion, and Moral Fairness of International Law*, Vol. 3 Oktober 2014, Oxford Journal

13 ...legal pluralism is as much a social fact as normative pluralism. It is important to distinguish between state legal, legal polycentricity, autonomos and semi-auotonoms legal and social fact.....William Twining, *Normative and Legal Pluralism: A Global Perspective*, Duke Journal of Comparative and International Law, Vol.20:473, 2010, p. 488-489, Duke Law University,<http://scholarship.law.duke.edu>, access on 13 April 2016.

14 Gordon R. Woodman, 'Mungkinkah Membuat Peta Hukum?', on Tim HuMa, eds., *Pluralisme Hukum: Sebuah Pendekatan Interdisiplin*, Product of Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis (HuMa), Jakarta, 2005, p.152.

15 John Griffiths, "Memahami Pluralisme Hukum, Sebuah Deskripsi Konseptual, on Tim HuMa, eds., *Pluralisme Hukum: Sebuah Pendekatan Interdisiplin*, Penerbit Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis (HuMa), Jakarta, 2005, p.74-75. John Griffiths poses an understanding of the weak legal pluralism which refers to the ideology of legal centralism, which is a small part of the law of the state, which is valid as long as ordered (implicitly) by a ruler or by a basic principle mandate against a small group of people based on certain considerations, ethnic, religious, national or geographical factors

16 Modification from Sukirno, *Rekonstruksi Politik Hukum pengakuan Negara terhadap Hak Ulayat (Studi Pengakuan dan Perlindungan Eksistensi Hak Ulayat Masyarakat Hukum Adat Baduy dari Hegemoni Negara)*, Disertasi, Program Doktor Ilmu Hukum, UNDIP Semarang, 2014, p. 378. Next see. Werner Mensky, *Comparative Law In A Global Context, The Legal System IN Asia and Africa*, Cambrige University Press, United Kingdom, 2006, p,186-188.

well as morals, ethics and religion within the framework of legal pluralism. The State Corner (located in the left corner of the triangle), the state's recognition of the right to community land is based on the terminology of protecting, even though the state has the right to control land in Indonesia. In addition, the state must also be present with the responsibility of respecting, fulfilling and protecting human rights from people who have rights to land exposed to the radius of the holy space of Uluwatu Temple.

From a community standpoint (at the right-hand corner of the triangle), the state's recognition of the land rights of peoples affected by the radius of the sacred area should be protected also on the basis of social reality. This is in accordance with the direction of Law No. 26 of 2007<sup>17</sup> on the compliance of space. The justice demanded by indigenous peoples as a customary law unity which has a law regarding the holy space of Uluwatu Temple or as a people who have the right to land properly with the government happens a bargain to achieve justice. This is in accordance with John Rawls's<sup>18</sup> opinion, which states that the principle of justice is the result of fair agreement and bargaining. Due to the existence of the position situation, the relation of everyone becomes symmetry, then this initial situation is fair between individuals as moral person, that is, as a rational being with their purpose and ability to recognize the sense of justice. Equality of position between the community as a unity of indigenous peoples and as individuals with the state in determining the radius of the holy space of the temple is indispensable for achieving justice.

From a moral, ethical and religious point of view (located in the upper corner of the triangle), the state (regional government) in formulating legislation should be able to integrate ethical differences to the perception of the community about the radius of the sacred area of Pura, based on their beliefs which is moral by applying transitional social justice (the difference between one place and another). Any form of government policy concerning directly or indirectly with indigenous peoples should be communicated until the policy is acceptable without any party being harmed .

In its development the triangle model of legal pluralism of Menski has undergone a shift into legal pluralism of the kites model . This model of pluralism still refers to the earlier triangle theory of Menski Pluralism in which, 1) the upper corner of the kite is a moral, ethical and religious element, 2) the left-hand corner of the kite is the legal element of the State, 3) the right-hand corner of the kite elements of community law, as well as added with the bottom corner of the kite namely the principles of Human Rights. In relation to the political principle of legal pluralism in the regulation of the holy space of Uluwatu Temple in Bali, the principle of human rights should also be forwarded because it contains at least 2 (two) elements, namely the respect for the human rights of individual citizens in the economic field to utilize property rights land that has been owned according to the applicable law and the existence of respect for human rights institutionally to the existence of existence of Desa Adat Pecatu. Desa Adat Pecatu is a unitary customary law community that is still alive to date in Indonesia so it needs to be respected and protected existence. The form of respect and protection of the existence

<sup>17</sup> Article 7 Paragraph (1) states that the State shall organize the spatial arrangement for the greatest prosperity of the people, then paragraph (2) In performing the duties as referred to in paragraph (1), the state shall give the authority of spatial arrangement to the Government and regional government, (3) The implementation of spatial arrangement as referred to in paragraph (2) shall be conducted with respect to the right owned by the people in accordance with the provisions of the law. Then in the explanation of Paragraph (3) Rights owned by people include also the rights of indigenous peoples in accordance with the provisions of legislation. Obviously this is different from what is set by the Bali RTRWP Regulation that ignores the rights of indigenous peoples and the rights that people have in arranging space and territory in Bali.

<sup>18</sup> John Rawls, A Theory of Justice, The Belknap Press Of Harvard University Press, Cambridge, Massachusetts, London, England, 2005, p.11-12.



of Desa Adat Pecatu must be followed by the recognition of the existence of their customary law in arranging the holy space of Uluwatu Temple located in their area. So there is no longer expected tension between one element with other elements in legal pluralism. Just as the political model of legal pluralism of Menski in his kite theory keeps the existence of each element (co-existence).

The complementarity between customary law (local wisdom) and state law in arranging spatial law concerning the radius of the holy space of Uluwatu Temple in Bali can be termed as a symbiosis of spatial law in Bali. In another sense, spatial law is constructed by 2 (two) different types of law which then interact with each other to become an ideal force in arranging the spatial layout of Uluwatu Temple in Bali. It is necessary to avoid the political struggle of state law and cultural politics, due to the attraction of state (local government) through legal instrument with custom village which has the character of village law, *desa*, *kala*, *patra*, and *desa mawacara*.

## **C. Closing**

### **C.1 Conclusion**

Based on the above discussion, there are 2 (two) conclusions that can be submitted, among others:

1. That the need for political legal pluralism in the regimentation of the holy space of Uluwatu Temple in Bali is based on the existence of non-single law in Bali which regulates the holy space of Uluwatu Temple. Not single in the sense other than the law of the State in the form of regional legal products on spatial planning in Bali, there are also elements of moral values, ethics, and religion, as well as existing law in Desa Adat Pecatu community plus more than their human rights value inside.
2. The politically relevant model of legal pluralism is adopted in the regulation of the holy space of Uluwatu Temple in Bali.

### **C.2 Suggestion**

The suggestions that can be conveyed so that the future model of legal development in Bali associated with local wisdom Bali put forward the principle of legal pluralism.

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