



## **LEGAL UNIFICATION POLICY ON THE COMPARISON OF THE TRADITIONAL LEGAL SYSTEMS OF BALI AND LOMBOK**

**Md. Shodiq  
Arya Bagiastra  
Giyarto**

Jayabaya University Indonesia  
[emdeshodiq@pascajayabaya.ac.id](mailto:emdeshodiq@pascajayabaya.ac.id)

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<b>Received:</b> November 11 <sup>th</sup> 2023 <b>Accepted:</b> December 10 <sup>th</sup> 2023 <b>Published:</b> January 18 <sup>th</sup> 2024	One manifestation of the nation's socio-cultural values is the application of customary law rules as living laws in society. Customary law, as the living law, grows and develops in accordance with the development of the community's sense of justice. the reality of the application of the customary law system in Indonesia, namely between the customary law system in Bali and that in force in Lombok, West Nusa Tenggara. We chose these two study loci randomly, but are still based on discourse regarding the customary legal system on the one hand, and its relevance to legal development in Indonesia on the other hand. Problem formulation What is the urgency of the customary law system, in this case including Balinese and Lombok customary law, towards legal development in Indonesia? How is the implementation of the customary law system in Bali and Lombok for legal development efforts in Indonesia viewed from the context of legal pluralism? Normative legal research methodology with a statutory approach, a historical approach, a comparative approach and a conceptual approach. Conclusions and recommendations for a comprehensive search regarding the comparison of customary legal systems in Indonesia so that it can be more comprehensive. carried out intensively, considering that the urgency of law for the way of life of the people of this nation is still very much needed on the one hand. Meanwhile, on the other hand, it becomes a "laboratory" for state legal officials or in this case those representing the government to always consider aspects of the benefits of the law itself for society in the midst of efforts to implement legal unification or legal pluralism policies.

**Keywords:** Customary law system, Lombok and Bali, legal pluralism

### **INTRODUCTION**

System originate from The Greek word is systema, meaning : the whole that consists from many kinds of part . System law according to Subekti is something arrangement or orderly order , a \_ the whole consisting on related parts One each other, arranged according to something plan or pattern , result from something writing For reach something objective . System law can interpreted as gathering attitude that has rooted strong and formed in a long time so influential to enforcement law in society . Development thinking related system law Keep going develop and give rise to various theory continues criticized and implemented even though Not yet there is agreement about is theory This pure heuristic , scientific and fundamental or is useful in a way theoretical and descriptive . Even when draft about system law used although Not yet There is criteria the classification . Neither has it yet There is agreement regarding with

grouping various system law . Understanding system law in a broad sense interpreted as philosophy The same juristic and techniques used by a number of different countries general own similarity system law . System law in a broad sense This describe A family law parent , like Islamic Law, Civil Law, Common Law, Customary Law and Socialist Law families . Development system current law in Indonesia This is impact from diverse thoughts For going to system supporting law Spirit nation . Customary Law, Islamic Law and European Law ( law Continental ) still applies in Indonesia however Already own clear boundaries about its validity . All order law Already arranged like that appearance so that although happen contradiction between system law , then Already There is agreed solution . Completion the only nature general , that is law custom special applies in certain areas , Islamic law applies for people who are Muslim and civil law applies in a way common in Indonesia. If there contradiction its



validity between system law, then law national become source highest use law with state apparatus as the executor.

Temporary concerning system law custom itself, it is known together that far before the Dutch colonized the Indonesian nation and Indonesians at that time still known with the name of the archipelago, all over areas in the country already arranged from various kingdom, fine that kingdom big nor kingdom small. From work-kingdom there is habit their respective traditions are still there endure until moment this. Therefore that, Indonesia is called as a pluralistic country because until now diversity custom in every ethnic group nation that belongs to Indonesia in every the area still still sustain and become a identity for the Unitary State Republic of Indonesia (NKRI). Wignjodipoero mention that custom is reflection personality something nation, is one – incarnation than soul the nation concerned from century to century. Hence, every nations in this world own custom habit one by one with the others no the same. If habit the develop in groups society, incarnate constancy in the form of "law custom". Customary law is part important in something discipline law, because in reality in society, provisions about law custom means ideal still and remains maintained, meanwhile behavior deviate will charged penalty. One of embodiment values social culture nation is enactment rule law custom as law that lives in the middle public. Customary law as the living law, grows and develops in accordance with development feeling justice public. According to Djojodigoeno, that state that law custom that is the law does not based on regulations. Whereas formulation of the Seminar on Customary Law and National Law Development, defining that law custom is voriginal Indonesian law which does not written in legislation Republic of Indonesia, here and there contain religious elements. Although law custom that no is regulation legislation, however he obeyed and always obeyed by society where the law that applies. Arief furthermore state that one study a very urgent and appropriate alternative with the idea of renewal law national moment this is study to system the law that lives within public. It said thereby because often stated that system law national on the side should can support development national and needs association international, however must also be sourced or not ignore values and inspiration law that lives and develops in public that, you can sourced or dug from values law custom, incl values religious law.

With thus, it applies system law positive or national for Indonesian citizens, of course no so refused reality historical, sociological nor philosophical about existence system the law has applies more long

ago, far away before Indonesia existed as a agreement political nationality, that is system law custom. Therefore, in chance this is also the case conversation about system law custom that myself still applies for almost part big group society in Indonesia as the living law, then discussion in our paper in a way normative specific want to inspect context system law custom the from aspect comparative reviewed from context pluralism law. So that the most prominent reason regarding which of them system law in Indonesia (read: Continental, custom or Islam) as appropriate good for used as footing life social become no so urgent and interesting if compared to with effort collective all party in layer public for keep going each other appreciate and encourage existence system existing and applicable laws for sustainability life public. No no possible including in matter this is debate about confession to rights public obligatory custom upheld tall.

Approach comparative (comparative approach) is used in writing paper this especially aim for see reality application system law customs in Indonesia, namely between system law customs in Bali and those that apply in Lombok, West Nusa Tenggara. Second locus studies we chose this in a way random, but still based on discourse about system law custom it's in one side, as well its relevance to development law in Indonesia on the other hand. However as a research, study about law custom in the second area this actually already once done. Specifically in a book entitled: "Inner Bali and Lombok Customary Law Indonesian jurisprudence", a work book written by Chidir Ali, published in 1979 from publisher Pradya Paramita, Jakarta. Book the of course not yet we can access until moment this, so discussion formulation problem about theme comparison system law this custom in Indonesia between Bali and Lombok no based on or referring to the book intended as a literature about law Balinese and Lombok traditions.

## **METHOD**

Type of research used that is normative juridical approach research used is approach legislation (*State Approach*) and Approach Case (*Case Approach*) by taking primary sources of legal materials obtained through interviews, legislation and jurisprudence, then secondary legal materials sourced from literature, books, opinions of legal experts, research results, as well as tertiary legal materials originating from dictionaries and encyclopedias.

Method analysis study this is with decipher conditions nor facts about the research object. Legal facts this analyzed with various law, theory as well as doctrine or opinion purposeful expert for look for



answer on problem to be discussed further , the data obtained from study This in the form of data from results studies library and studies document to ingredients primary , secondary, and tertiary law .

## **DISCUSSION**

### **1. Urgency system law custom to development law in Indonesia**

Legal terms custom among public generally very rare found . Society tends to use the term " custom " only . Mention This leads to something habit that is series actions in general must applies to structure public concerned . Legal terms and terms custom That separated usage and meaning . This matter caused Because law coming from outside society , of ruler , government or based on religion. Whereas custom is provisions that arise as well as grow from in public That yourself and obeyed as law . Terminology custom allegedly originate from Arabic grammar " adah " which refers to : variety the act carried out in a way over and over again . Custom is interpreted as obedient habits assumption public has formed , fine before or after existence of society. Likewise with law , originates from Arabic term " law " ( form plural : ahkam ) which means : command .

Debate about urgency system law to development law in Indonesia or what is also known as law national regarding with problem political law about which of them policy unification law or pluralism the law must considered For applied as direction development law That alone in Indonesia. This matter it should can become consideration fundamental remember both , fine policy unification nor pluralism law You're welcome own strong reason For considered as direction development law national meant . As has been stated above , that its reality until with moment Indonesia uses this system law national must side by side with system law customs and systems Islamic law .

Speak about relation between law and politics is speak How law Work in A situation political certain . In terms of this is what is meant is law as embodiment from the values that develop and the values in question is justice . With thereby ideally law made with consider exists interest For realize values justice the . With characteristic features contain commands and prohibitions , demands compliance and existence sanctions , then applicable law will create order and justice in society . Clear direction from political laws that will be , are and have been implemented in Indonesia is very important , because matter the will become as guidelines base in the determination process values , determination , formation and development law in Indonesia. That means , good in a way normative nor

practitioner-functional , state administrators must make political law as reference first and foremost in the above processes . According to Daniel S. Lev, the most decisive in formation law is conception and power politics , that is that law A little Lots always is tool politics , and that place law within countries, hanging in the balance politics , definition power , evolution ideology political , economic , social and so on .

In Indonesia in general historical unification law Alone Actually new lifetime corn , only just development latest more leads to unification in line with formation of the state. Temporary pluralism law Already There is Far before the formation of the state, so when come culture unification , pluralism law threatened its existence . Existence other laws that have been around for a long time in Indonesia such as law Islam and laws custom Indonesian society is different threatened too.

#### **a) Legal Unification**

Along with exists culture unification in Indonesian state law then There is Lots the fighting group product law become law unification and validity For all over society in Indonesia. Between product unification law is law marriage . On the other hand , along with exists culture unification , laws custom Still rooted and owned influence strong inside public . Even in several regions in Indonesia, Islamic law exists live and be base from law custom . According to Erman plurality is characteristic typical of Indonesia since formerly Far before independent . In the 19th century govt The Dutch East Indies decided For enforce law Dutch civil law for Indonesia. Van Vollenhoven as a defiant Dutchman enforcement law the . According to Van Vollenhoven geen juristenrecht voor de Inlanders ( no will There is just the law understandable experts law Can applied for the deep native people life daily has own the law Alone ). More be quick perhaps if people's law (which by van Volenhoven and Snouck Hurgronje predecessor called " law customs ") were recorded and studied Formerly For Then codified For guided action - action the people's law Alone

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Alone . However business That precisely No continued by the Indonesian people after the formation of a unitary state Republic of Indonesia. Development law national event in Indonesia took place along with development power of nation states . National law that 's the essence is ratified law its formation and implementation sourced from state power and authority . When life develop to in more scales broad , of circumference - circumference life community local (old societies) to circles large in nature translocal at the level life organized nation as something community politics called a modern nation state (new nation state), necessity will something system one and certain law very much definitely . There is unification to condition compounds that exist in Indonesia cause Lots problem when law in group public applied in transaction certain or moment happen conflict , so There is confusion which law applies ? For individual particular and how somebody can determine which law applies to him .

#### **b) Legal Pluralism**

Temporary that , deep Anne Griffith 's article entitled The Commission on Folk Law and Legal Pluralism explains that moment This We life No with One law but with various law so that understanding about pluralism law need given to taker policy , expert law , anthropologist , sociologist and scientist social other . Understanding will pluralism law will create law in different formats and accommodate differences in each system law . That matter will make enforcement law can accepted by society in a way voluntary and without exists coercion . Pluralism existing laws in Indonesia , though as law No written precisely capable become unifying , and becoming solution even create peace in association life public . Pluralism law in Indonesia dynamic follow development its people with still based on characteristics public customs and patterns think participierend coschmish interesting experts ' interest from corners of the world for made object study .

Development pluralism law in movement change law appear through advocacy to public custom . In context This is pluralism law used For defend lands taken by society forced by the state or perpetrator private . In short , concept pluralism law used For lift return existence law custom , in effort For protect source Power nature has public custom from legalized plunder state law . People 's voting movement pluralism the law also tried penetrate realm solution dispute , that is with push creation institutionalization to institutions solution law custom ( judicial custom). This matter considered as one of the answer to situation institution solution state ( court ) disputes that have not yet Can dig values justice in society . The purpose of movement

This is For give offer For let public finish the problem Alone through Justice custom without through involve court . Movement for change law in Indonesia with use pluralism law as footing , has step Enough Far . One of them is with he admitted rights public custom , incl the law in constitution . Here's in between validating regulations enactment law custom : Regulations Minister of Home Affairs Number 3 of 1997 concerning Empowerment and Preservation and Development of Customs , Community Habits and Traditional Institutions in the Region. 1945 Constitution Amendment , law custom recognized as stated in Article 18B paragraph (2) which states : The State recognizes and respects units public law custom along with rights \_\_ its traditional throughout Still lively and appropriate with development society and the principle of a unitary state Republic of Indonesia, which is regulated in Constitution .

In context pluralism law the system law custom Keep going develop as A system recognized law existence between system existing law ( read : positive / continental / written and Islamic) in Indonesia at the moment This . This means that both Bali and Lombok fall under the jurisdiction Other customs in Indonesia are the basis of development pluralism law .

#### **2. *Implementation system law customary in Bali and Lombok for effort development Indonesian law is reviewed from context pluralism law***

Aspect pluralism law in development law in Indonesia up to moment This Of course become A reality that is not Can avoided . In section discussion This , we are trying highlighting in a way comparative about development laws and conditions other related things with confession to right public law custom through implementation system law custom That itself , both in Bali and Lombok. Legal society custom is unity public nature territorial or genealogy who have riches own , have residents who can differentiated with inhabitant public other laws and can Act to in or outside as One unity law ( subject law ) which is independent and governing self they Alone . Many experts opinion that understanding public custom must differentiated with public law custom . Draft public custom is understanding For mention public certain with characteristic features certain . Whereas public law custom is understanding technical referring jurisdiction a group of living people in a region ( ulayat ) place residence and environment life certain , have wealth and leaders in charge guard interest groups ( out and in ), and have legal and governmental rules ( systems ) .





By factual every there are provinces in Indonesia unity - unity public law custom with their respective characteristics have been There is since hundreds last year . The 1945 Constitution has confirm existence public law custom . In Article 18 B paragraph (2) of the 1945 Constitution as results amendment second state that the state recognizes and respects units public law custom along with rights its traditional throughout Still lively and appropriate with development society and the principle of a unitary state Republic of Indonesia, which is regulated in Constitution . The provisions of Article 18 B paragraph (2) of the 1945 Constitution are strengthened with provision article 281 paragraph (3) of the 1945 Constitution that identity culture and society traditional respected aligned with development of time and civilization . Apart from the 1945 Constitution, several Recognition and protection right public law custom of course important , because must recognized traditional public law custom was born and has been There is Far before the Unitary State The Republic of Indonesia was formed . However in its development rights traditional this is what must be adapt with the principles and spirit of the Unitary State Republic of Indonesia via requirements normative in regulation legislation That Alone . On many side , requirements normative the become constraint existence rights public law custom , because :

1. In practice maintenance development , formulation the phrase " throughout Still lively and appropriate with development society and the principle of the Unitary State Republic of Indonesia" is interpreted that presence rights public law custom as recognized institutions \_ throughout No contradictory with Spirit development , so There is impression government ignore right public law custom . Temporary in a way factual in society happen Spirit strengthen return rights public law custom .
2. In the 1945 Constitution it is stated that rights traditional public law custom respected throughout Still lively and appropriate with development society and the principle of the Unitary State Republic of Indonesia, which is regulated in Constitution .

Provision This give recognition and awards to public law adat ( adatrechtgemeenschappen ) which is A draft base or pole joints from law custom .

#### **a) Bali**

Bali, island petite who has uniqueness separately . Various nickname has given to enchanting island \_ this , among others is : The Last Prayer on Earth ( Heaven last on Earth); The morning of the world (

Morning of the world); The Island of Gods Gods ); The Interesting Peaceful Island (Island full enchanting peace ) , to a expert ancient named Bernet Kempers said island This with nicknamed Land of One thousand Temples ( Island Thousand Temples). The reality according to expert ancient Currently , the number of temples in Bali is more of 20,000 pieces . Beside \_ that , relationship between Hinduism and Balinese culture is like weave thread on fabric endek Bali already each other intertwine - intertwine with distinctive colors and patterns .

By territorially , Bali consists of from a number of islands , namely : Bali Island as island the largest , Nusa Penida Island , Nusa Ceningan Island , Nusa Lembongan Island , Nusa Attack Island ( located around the foot of Bali Island ), as well as Island Menjangan is located in the western part of Bali Island . Temporary in a way administrative territorially , Bali consists of from several districts /cities, including : Jembrana , Tabanan, Badung, Gianyar , Klungkung , Bangli, Karangasem, Buleleng and Denpasar. Furthermore about index development human (human development index) Bali at the moment This reached 76.44%.

Legal society Balinese customs are community that forms and implements it the law Alone ie law Balinese custom . They are the ones in question with public law this Balinese tradition are Balinese people who are Hindu (Hindu Bali) who are bound by fellowship The law is fine attachment in bond territorial ( village ) and attachment in bond genealogical ( soroh ). In his attachment to village and soroh here it is they undergo his life in regulation and order by law the custom , that is law Balinese custom .

Existence law Balinese customs and cultures able to coexist with modernization and the era of globalization This . This matter can seen from existing concepts in Awig-awig , that is bunch rule law functioning Balinese customs For arrange life Balinese people guard peace , tranquility and comfort fellow highly valued society its existence and has been There is in a way down hereditary from grandma ancestors public Balinese custom .

• Basic Principles of Balinese Customary Law. By general the principles contained in law Balinese customs can outlined as following :

Compliance and Balance

Principles of decency and balance is is principle general in law custom . Principles of decency and balance This is is principle common among people who understand communal . Legal society custom is is public communal importance togetherness and harmony in life social . Interest general will more takes priority compared to with interest individual .



Appropriateness This teach to public For life in natural propriety and reasonableness , whereas balance teach balanced behavior in alive Where between one with others there are in life reasonable equality . The term reasonable balance This used For differentiate it with understanding equal in the sense of the same in overall , will but balance interpreted to circumstances or acquisition in accordance with the situation . Therefore inside law Balinese customs take precedence is obligations that will juxtaposed with a right that must be He get . So it's different with which law It is in society that individuals prioritize right than obligation .

Tri Murti as something Confidence is something confidence for public law Balinese customs about cycle life definite human will carried out , that is birth , life , and death . Is a something confidence that third matter That Certain will happen in life this , therefore matter This implemented in Tri Murti teachings , namely exists three god does it third cycle life This . All three are : first Brahma, as creator natural life This ; secondly Vishnu, as custodian ; and third Ciwa, as returner to origin . Trust towards this Tri Murti implemented in form existence three temples always is in everyone village pakraman in Bali, namely :

- Village Temple or also often Pura Bale Agung is mentioned , namely the temple of the place resides in Lord Brahma as creator natural universe ;
- Pura Puseh or some have mentioned it with Segara Temple , namely place resides in Lord Vishnu as custodian natural universe with all contents ; And
- Pura Dalem, namely place Ciwa Village resides as editorial that is returner to origin .

These three temples called with Heaven Three or Village Heaven . Every village Pakraman Certain own these three temples and therefore existence the three temples is characteristic existence from something village , where every inhabitant village the is supporters who own it obligations and rights in sustainability existence these three temples . Beside trust towards Tri Murti, there is a number of principle life in social law custom , namely :

- a. Tri Hita Karana, which means that There is three reason Happiness , namely : balance connection man with God, balance connection man with humans , and balance connection man with natural surroundings . Connection This must still harmonious because \_ harmony connection that's is source from happiness .
- b. Tat wam asi , which means that You is I . It means is in social should treat each other The same with treat himself , because hurting others is The same with hurt

self Alone . Therefore in live in society law custom always expected exists a life of harmony and peace For going to well-being life together .

c. Tri Kaya Parisuda , namely three principle basic must done namely : think good , do good , and speak good . Through teachings kind This is expected everyone alive in public always spread goodness , so order and peace in public always will awake .

Principles base as stated this is what it is must For held in undergo life in public law customs , and all This implemented in provisions in law Balinese customs carried out by the community law deep Balinese traditions undergo his life .

#### •Customary Law and Parkaman Village

Maintenance law Balinese custom clear looks in life public law custom , that is life public as a krama ( citizen ) of the village pakraman . In life daily public law Balinese customs exist in bond village Pakraman as fellowship law on attachment territorial Where they live and live his life . Pakraman Village as unity public law has territory, citizens , rules life , management , property outside wealth owned by its members , as well gone something desire from its citizens For dissolve it . Membership somebody as village manners is based on :

(a) enjoy land village Good as place stay nor match planting ; (b) because has do marriage ; and (c) above will Alone For follow as well as as village manners . With his position as village manners so they will undergo obligations and earnings rights as village manners . Obligation the ie obligation over fathers village Good form material nor power , medium acquired rights \_ include , among other things right as inhabitant village For accept service and protection as Citizens , enjoy treasure riches village Good form yard village as place stay or land father village form land agriculture , use cemeteries , and other rights accordingly with condition the village concerned .

When seen from How village Pakraman the held , can seen exists three type village , namely :

- a. Old Village, is type village in the mountains . Type village old This is type villages that don't affected kingdom . Maintenance village done with the ulu apad leadership system , namely with determine leader his village with appointment through sequence marriage . Intent of order marriage , is that leadership village highest there are those who are married moreover first , next structure down followed by those mating behind him . Thereby next , if they died then



will be replaced by someone who marries behind it, that is so on.

- b. Appanage Village, is type village that has get influence kingdom. Villages \_ type This also called as village plain because of course are in the area plain. Influence the kingdom was very visible in the villages type This namely the rules applicable law as well as determination his leadership has done with system election.
- c. Anyar Village ( new ), namely new villages formed through transmigration local. Village with type This usually the settings follow village origin, and sometimes also arrive Name the village followed suit village origin like villages in the area West Jembrana, for example Nusa Sari village which is settlements of native people from Nusa Penida.

• Some things inside Customary Law Arrangements. As is known that law applicable customs now in Indonesia, in general more Lots arrange things of that nature private mainly in arrangement law family. Furthermore law applicable family \_ in public law custom will be very influential to law marriage and law heir.

Legal society adhere to Balinese customs system patrilineal kinship so child born from something marriage is follow family his father. System kinship Patrilineal kinship in Bali has a big influence on the form his marriage, that is form marriage Honest. In a marriage that takes place so party man will deliver giving to family female ( in Balinese is called with pebaang ) ie form set clothes or form symbolic other. Purpose of giving This is as form exchanger in principle known balance in law custom form giving as symbol out bride Woman from his parents' house ( origin ) for enter in a way full to in family bride man as her husband. With displacement This so child born from marriage will follow the lineage his father.

There are three system known inheritance \_ in law custom, namely: (a) system individual inheritance, its characteristics is that treasure legacy can shared among experts heir; (b) system inheritance collective, characteristic is that treasure legacy That inherited by a group expert joint heirs is some kind of legal entity, where they are That only have right use just ( No own ); and (c) system inheritance majorat, characteristic is that treasure legacy inherited in a way whole or part big by one child just. When system inheritance This embraced by society law Balinese customs, namely in accordance with type inherited

property. He embraced it system this individual inheritance can seen from can shared treasure inheritance individually by experts inheritance in accordance with their respective parts. System inheritance collective This applies to property object material nor immaterial will enjoyed in a way together by experts heir. Treasure enjoyed inheritance in a way collective This can seen in forwarding things holy religious, place prayers, as well as enjoyed lands in a way together by all family in frame continuation descendants from the heir concerned. Whereas system inheritance major This its validity can differentiated between families nobility and family public normal although No in a way whole public law Balinese customs apply system major This. Majority rights This given to one of them expert inheritance is accompanied with not quite enough answer more \_ big compared to expert other heirs. \_ In society from descendants nobility, rights major This is in the child oldest. Meanwhile in society normal right major usually is in the child smallest.

#### **b) Lombok**

By region, Lombok itself is divided area to in several districts in West Nusa Tenggara, namely: West Lombok, Central Lombok, East Lombok and North Lombok. Temporary index development human development index in West Nusa Tenggara as of 2022 is 69.46 %, with the average percentage in the Lombok region being as following: West Lombok

In section discussion This is a debate about context development law in review pluralism law based on several points discussion in research conducted by Murtir \_ Jeddawi and Abdul Rahman in Journal Constituent Vol. 2, no. 2, August 2020. Research the entitled: " Identification of Customary Laws That Are Still in Effect ." in Social Solutions in Kawo Village, Central Lombok Regency. " A number of points in discussion about system law Lombok customs— necessary underlined that mentioned Central Lombok yet concerned or mrepresentation throughout the Lombok region as mentioned above among others:

• Customary Law in Finish Social Problems in Kawo Village

In the era of reform and autonomy area Now these areas inclined For own widest autonomy. Condition like This No inevitably will highlight privilege or peculiarity areas including respect \_ to law customs and religious laws in the region concerned. Constitution Number 6 of 2014 concerning Villages, has give freedom public custom put law custom as laws that live and apply in the midst public will occupy place or decisive position, and very instrumental in organize and maintain order public. According to Widnyana, about autonomy village



that, " Traditional village is autonomous village so that have authority For manage and organize life House the stairs Alone . In development more Next , autonomy This only nature social religious and social society ". criminal custom is The same with law criminal positive applicable writing \_ moment This . Beside \_ that's the law criminal customs in each region own differences , however Still also have the same principles and will still own big role in formation law criminal national law (National Criminal Code). This is what puts it law criminal the customs that apply in regions are of the same status with law criminal written other . All this time in Kawo Village law criminal custom Still role and function . Role law criminal custom in Kawo Village is as enforcement law , zoom out violation , creating balance in the middle society and as preservation culture . Whereas function law criminal custom in Kawo Village is as court Because hear and issue decisions , and as an educational medium Because public can Study through sanctions imposed on people who violate .

- Offense ( Act Customary Crimes ) which are still in force in Kawo Village In order renewal law criminal , presumably need noticed a number of offense customs that still exist apply and live in society both listed in awig-awig village custom nor in religious law / teachings . The results of research in Bali written by Widnyana , show that in Bali is known four type custom offense , namely : (1) offense related customs decency ; (2) offense related customs \_ treasure object ; (3) offense violating customs interest personal ; (4) offense custom Because negligence or No carry out obligation . In the Dayak tribal area , the islands of Seram, Buru and other Maluku , Sudyat mention a number of type offense certain which is offense heavy are : betrayal , burning of villages, insulting in a way personal to head custom , deed magic or sorcery , disturbing strength inside public or defiling place chaste , incestuous , pregnant out of wedlock , running away a woman, commit adultery, commit murder , sell buy humans ( slaves purchase ) , action injury , and theft .

Vollenhoven, offense custom That as actions that are not allowed . Understanding This very broad meaning about all something violation Good violation to law as well as norms, feelings and so on . Muhammad, offense custom is deed unilateral from somebody or a group of people, threatening or touch on as well as bother balance and life fellowship material or immaterial , towards somebody or public form unity . Opinion This emphasize that offense custom is disturbing act balance public . Ter Haar said that was considered something offense is every nuisance nature unilateral to balance and every nature of collision one-sided in the fields life material and immaterial of an individual or than many

people who are something unity , action thereby That give rise to something reaction custom ( custom reactie ), because which reaction is equilibrium can and must restored return . Opinion This confirm For can called offense , deed That must result shaking in balance sheet balance public . Any contrary action with regulation law custom is deed illegal and necessary There is repair law If law That violated .

- Customary Sanctions . Penalty custom is one of reaction custom to violation rules or to No implementation regulations custom . Penalty custom intended For return disturbing balance \_ consequence exists violation custom . Penalty custom This always accompanied with something incident or necessary actions \_ held accountable by the perpetrator nor his family . Penalty custom That it's not intended as something torment or something suffering , will but For return balance society and leave effect deterrent . Penalty custom is one of reaction custom to violation rules custom or to No implemented it regulations custom . Penalty custom This intended For return disturbed balance \_ consequence exists violation custom . Penalty custom This always accompanied with something incident or necessary actions \_ held accountable by the perpetrator or his family . Narrative from somebody religious figure that usually deed or incident in carry out penalty custom always accompanied with something ceremony Where if in Kawo Village Alone called with foster that is ceremony purify self from deeds evil that has been done . Foster carried out by the community For throw away Unlucky consequence deeds that have been done done by someone inhabitant hamlet , and at the same time For give effect deterrent to perpetrator Because known by many people . Activity foster That nothing else was intended For build and guide perpetrator so No repeat his deeds , and returned to the right way . Actions in build and guide This in Language Sasak called as " babysitting " . For example There is words babysit child , meaning is nurturing and guiding child . That's it in application penalty custom for inhabitant which has make offense , taken care of or guided so that people violate it rule custom the No repeat Again his actions . As for types penalty customs that still exist applies in Kawo Village There are two , namely : loss and fine . Is lost This given to someone Because do something ( action ) that violates applicable customs . \_ For example : do marriage that is not shah that is marry with child birth or step , marry with younger brother in-laws and so on ; often do trouble in public or bother other people. People like above must is lost or removed or thrown away Because his actions No suitable or No in accordance with applicable customs . Whereas fine





given to somebody Because violate rule customary at three level namely : first , main or fine starch , second intermediate or half from fine starch , and thirdly , blasphemous special one used in beheading events aji krama

•Customary Fines and Procedures for Payment . Fines are one of them penalty the most frequent custom used in straighten up law custom in Kawo Village Because the implementation is the easiest and fastest . According to narrative from a figure custom in Lombok, fine That known there are 3 kinds namely : first , main fine or fine starch , second , fine intermediate or half fine starch , and third , fines disgusting or in accordance aji kerame breaker / cutter . Starch fines is penalty the hardest custom . In fines starch , which is worn fine namely " gawenan starch " that is what gives rise threatened soul somebody between other : Crazy hands , crazy lips , crazy eyes , misbehavior , actions normal But threaten soul . Crazy hands means hand Nosy , like it touching women , meanwhile \_ Crazy lips It means Like said lewd in front of women . Crazy eyes It means Like peeking at people. Become awkward for example in a way as it happens found currently be in place quiet with another type and then is known suspected by society has do deed disgraceful , and other acts that can be give rise to threat soul . Second , fines intermediate is penalty customary level middle . The acts imposed in fine intermediate This including : Breathing aken ( Ngampahang ) , bale gandang ( ngoros and helped by others), Nduge ( bedugaq ) , Ngamberayang ( especially in the implementation custom ) , melting base ( bero ) , pelangkung / pelengkak ( preceding her brother marry ) . And third , fines disgusting is penalty customs imposed \_ moment There is violations in the implementation of " Soroh Serah Aji Krama" and fines customized with the size of the aji krama is moderate held . Procedures \_ payment fine done through sangkep or discussion custom . Termination / drop event penalty This done on the spot residence Traditional Pengamong ( hamlet head ) . Ceremony This attended by Mr actor , character custom as breaker , religious figure , character public as witnesses , along with all over public custom . Next show is trial . In court here it is Then mentioned error or violation committed by the \_ perpetrator . If si perpetrator Already confess his actions so Traditionalists and figures custom other drop penalty in accordance with mistakes made . After termination , against si perpetrator required For pay fines that have been determined . Half of fine the used for a banquet at a time purification self si perpetrator .

A number of aspect comparative that can be stated based on discussion about system law the customs that

apply in Bali and Lombok are good equality nor the differences are :

#### 1. Eq

A number of possible equations noticed in form system law custom among both traditional territories This including

o Both Bali and Lombok, both know term Awig - awig , that is bunch rule law functioning customs For arrange life public nfor guard peace , tranquility and comfort fellow highly valued society its existence and has been There is in a way down hereditary from grandma ancestors public custom . A rules (orders and regulations ) always life throughout the ages always followed and obeyed from generation to generation . Therefore , divide violating society these rules and regulations (awig-awig ) , will given reaction custom , correction custom or penalty custom by the community through administrator the custom .

o You're welcome know the concept of a differentiated "Traditional Village". from the meaning of "Service Village" or " Administrative Village " . By specifically , in Bali, Traditional Villages are called as Parkaman Village .

o Believe system patrilineal as system kinship . So that about law inheritance of course customized with system patrilineal the .

#### 2. Difference

A number of the differences are :

o Subject development law No No Possible No be measured

based on achievements development the humans , though tool he measured is statistics . In the Central Statistics Agency (BPS) report , index development humans in Bali is 76.44%. Meanwhile, West Nusa Tenggara is 69.46%, with an average

the percentage in the Lombok region is as as follows : West Lombok 69.41%, Central Lombok 67.57%, East Lombok 67.59%, and North Lombok 65.70%.

o System beliefs in Bali which also represent system law The customs are based on Hindu teachings of course different with system The beliefs in Lombok are based on Islam.

o System trust the at a time become base for system marriage between \_ both regions and communities custom the . o In Lombok, based on the explanation above , is known a number of mechanism custom in solution social , among other things offense ( law criminal ) customs , fines customs and sanctions custom . Temporary in Balinese context , explanation to direction mechanism This Not yet so clear .

### **CONCLUSION**

Subject urgency system law custom to development



Laws in Indonesia include : give explanation regarding : First , that law and custom That These are two different words that have different meanings . After put together become one word has deep meaning changing terminology . Temporary law custom means emerging laws as well as growing inside society and obeyed as law . However need emphasized here , the term law custom That No arise from public That Alone but just refers to the rules customs prevailing among society that doesn't shaped regulation formal legislation by the state. Second , debate about urgency system law to development law in Indonesia or what is also known as law national regarding with problem political law about which of them policy unification law or pluralism the law must considered For applied as direction development law That alone in Indonesia. Third , in Indonesia historical unification law Alone Actually new lifetime corn , only just development latest more leads to unification in line with formation of the state. Development law national event in Indonesia took place along with development power of nation states . National law that 's the essence is ratified law its formation and implementation sourced from state power and authority . When life develop to in more scales broad , of circles life community local (old societies) to circles large in nature translocal at the level life organized nation as something community politics called a modern nation state (new nation state), necessity will something system one and certain law very much definitely . Fourth , pluralism law Already There is Far before formation of the state.

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