

Legal Policy of the Notarial Profession and the Protection of Cultural Capital of *Desa Adat* in Bali

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Abstract. This study examines the legal politics of the Notary's role in the preparation of authentic deeds related to Balinese customary land amid the development of the tourism industry. Balinese customary land not only holds economic value but also embodies religious, social, and cultural values as the cultural capital of indigenous communities. In practice, notaries hold a strategic position in legal acts involving padruwen land of indigenous villages; thus, they are not only bound by the formal provisions of the Notary Office Act but also by the principles of prudence and ethical responsibility. This study employs a normative legal method with a socio-legal approach through an analysis of legislation, a conceptual approach, and empirical data regarding notarial practices concerning customary land. The results of the study indicate that a notary's authority cannot be exercised in a formalistic manner but must integrate positive law and Balinese customary law as a living law. Such harmonization is essential to ensure legal certainty while safeguarding the sustainability of customary land and the cultural values of Balinese society amidst the development of tourism.

1. INTRODUCTION

As a country governed by the rule of law, Indonesia subjects the profession of notary to strict regulation through legislation. Based on Article 1(1) of the Notary Office Act, a notary is a public official authorized to draw up authentic deeds and exercise other powers in accordance with the law. As the primary legal product of a Notary, an authentic deed holds the status of a written instrument of evidence with the highest probative value (*probatio plena*), as stipulated in Article 1868 of the *Burgerlijk Wetboek* (Civil Code).¹ This role makes the notary an important instrument in ensuring legal certainty and protection, including in the drafting of deeds related to customary land or padruwen in traditional villages in Bali. Legal issues may arise if notaries fail to apply the principles of prudence, diligence, and professionalism, particularly in agreements for the sale, purchase, or lease of customary land. Therefore, developments in the legal framework governing the notary profession require the strengthening of standards of prudence in producing authentic deeds that provide legal certainty, justice, and protection for the parties involved.

Legal policies are linked to ecotourism in Bali as key variables, namely education, conservation, empowerment, environmental preservation, and satisfaction (benefits). This study examines the value of local wisdom (as a village asset) and the government's legal policies (as governance frameworks) in "designing" tourism that is oriented toward the principle of community benefit (for local residents), thereby fostering empowerment.²

In exercising their authority, notaries are bound by the provisions of Article 38 in conjunction with Article 1(7) of the Notary Law, which governs the formal requirements for the preparation of authentic deeds. In a democratic state governed by the rule of law (*democratische rechtstaat*), authentic deeds hold the status of perfect written evidence in the resolution of legal disputes. Sudikno Mertokusumo explains that deeds serve a formal function (*formalitas causa*) and an evidentiary function (*probationis causa*), namely as a requirement for the validity of a legal act and simultaneously as a means of proof in the future.³

Legal protection for customary land or *layat* land in Bali is crucial under the UUJN to ensure legal certainty for Bali's traditional villages and indigenous communities. Sudikno Mertokusumo argues that since law is meant for people, its implementation or enforcement must benefit society.⁴ This protection is realized through land registration pursuant to Article 19 of the Basic Agrarian Law in conjunction with Government Regulation No. 24 of 1997, with the certificate serving as strong evidence. In Bali, the rising value of land due to tourism development has created complexities regarding the status and control of customary land. Customary villages in Bali, as legal communities, have a close connection to communal land or customary land, which in the *awig-awig* is known as "*tanah druwen desa*" that is, land owned by the Customary Village. Customary land is understood as land owned communally by customary legal associations, such as clans, tribes, lineages, or villages, and is not private property, although it may be utilized by specific individuals to support their lives.⁵

Based on the above, this study aims to analyze the legal policy governing the office of the Notary and the legal considerations involved in the preparation of authentic deeds related to customary land (padruwen of traditional villages) in Bali. The focus of this study is directed at (a) how notarial legal policy shapes the authority of notaries in the preparation of authentic deeds related to customary land/padruwen of traditional villages in Bali; and (b) what are the legal considerations of notaries in the practice of

¹ Tjukup. I K, et.al, 2016, "Akta Notaris (Akta autentik sebagai alat Bukti dalam Peristiwa Hukum Perdata)" *Acta Comitatus: Jurnal Hukum Kenotariatan*, vol 1, no. 2.

² Wesna Astara, I Wayan, 2025, *Politik hukum Pariwisata, Ekowisata dan Persoalan Tanah Untuk Kepentingan Industri*, Larasan, Denpasar, hal. 98.

³ Saifurrahman, 2011, *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*, Mandar Maju, Bandung, hal. 67.

⁴ Sudikno Mertokusumo, 2005, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, hlm. 160.

⁵ M. Suastawa Dharmayuda. 1987. *Status dan Fungsi Tanah Adat Bali Setelah Berlakunya UUPA*. Cetakan I. CV Kayu Mas. Denpasar. Hal 27.

preparing authentic deeds where one of the parties is a legal subject of customary land/padruwen of traditional villages in Bali.

2. METHODOLOGY

This study employs a normative legal methodology with a socio-legal approach to examine the legal policy regarding the role of notaries in the preparation of authentic deeds related to Balinese customary land. The normative approach involves an analysis of legislation and legal concepts, while the empirical approach involves interviews and a review of documents related to the practice of land agreements concerning padruwen land in traditional villages. Data analysis was conducted qualitatively and descriptively-analytically to understand the relationship between positive law and Balinese customary law in notarial practice, particularly regarding the application of the principle of prudence and the protection of the social, cultural, and religious values of the Balinese indigenous community.

3. RESULT AND DISCUSSION

3.1. Notarial Legal Policy on the Notary's Authority to Draft Authentic Deeds Related to Customary Land (Ulayat/Padruwen) in Traditional Balinese Villages

The legal policy regarding notarial practice in the context of the notary's office reveals that land owned by traditional villages in Bali possesses unique characteristics, as it is not merely viewed as an object of civil law but also embodies religious, communal, social, and cultural values inherent to the existence of Bali's customary legal community. In practice, various issues arise regarding the legal status, management, utilization, transfer, and cooperative use of traditional village land for investment and tourism purposes. Constitutionally, recognition of customary law communities is regulated in Article 18B paragraph (2) of the 1945 Constitution, which states that the state recognizes and respects the unity of customary law communities along with their traditional rights as long as they remain alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.

In the Dutch East Indies colonial era, land policies were used to generate profits for the colonizers without regard for the welfare of the people. Then, under the provisions of the *domeinverklaring*, all land owned by the inhabitants of the Dutch East Indies became the property of the Dutch East Indies government, because rural residents had no land rights under the Western legal system.⁶ After Indonesia gained independence, the state had a duty to promote the general welfare, namely to achieve social justice for all the people of Indonesia. In the context of legal policy, Moh Mahfud, MD, noted that the legal policies that the Indonesian government has implemented or plans to implement nationally include: (a) legal development centered on the creation and revision of legal provisions to align with current needs, and (b) the role of law in serving society. Indonesian legal policy prioritizes the development of laws that promote social justice.⁷ Because the Indonesian people were free from colonial rule. I Wayan Wesna Astara's view is that legal policy is a means of shaping the law based on the "will" of those in authority within a state, grounded in the interests of society and the rulers; the substance of the law can be explored sociologically, through the will of society, and philosophically, through the principles of statehood, to achieve the objectives for which the Unitary State of the Republic of Indonesia was established.⁸

3.1.1. Notarial Law Policy and the Authority of Notaries in the National Legal System

A notary is a public office that performs state functions in the field of civil law, as stipulated in Article 1(1) and Article 15 of the Notary Law. These authorities derive directly from the law as part of the state's legal policy to ensure legal certainty and protection for the public. From the perspective of office theory, a notary is viewed as an *ambtdrager* or public office holder who has rights and obligations based on the office, not on the individual holding the office. Therefore, the office of notary has a dual character, namely performing public functions while also playing a role in civil legal relationships. The office of notary not only exercises normative authority but may also become a party in legal disputes as a consequence of its institutional responsibility.⁹ This is consistent with Legemann's view, which defines the state as an organization of interrelated offices and authorities that carry out governmental functions..¹⁰ Therefore, notaries serve as an instrument of the state to ensure legal certainty in civil legal relationships.

A notarial deed, as the primary product of the notary's office, is an authentic deed drawn up by or in the presence of a notary in accordance with the form and procedures prescribed by law. In legal doctrine, there are two types of notarial deeds: deeds drawn up by (door) a notary, known as a *relaas* or minutes, and deeds drawn up in the presence of (ten overstaan) a notary, known as a party deed (*partij akte*). In a *relaas*, the notary directly records everything that is seen, heard, and personally witnessed regarding the legal event that has occurred.¹¹ This characteristic confirms the position of the Notary as a public official who guarantees the formal validity of legal events set forth in deeds. As a public office, the Notary performs state functions in the field of civil law through the creation of authentic deeds as evidence possessing full probative force. This authority is a manifestation of the state's legal policy to ensure legal certainty, order, and protection, thereby granting the Notary the authority to use the state emblem in the performance of their duties. Tan Thong Kie emphasizes that the Notary is a public official entrusted with providing legal advice, so the deeds they prepare are deemed accurate and possess strong legal force.¹² The political dynamics of notarial law have evolved from society's need for written evidence that provides legal certainty. Since the time of Emperor Justinian in Rome, witness testimony has been considered insufficient for complex legal relationships involving significant economic stakes.¹³

⁶ Wesna Astara, I Wayan, 2025, *Politik Hukum Pariwisata, Ekowisata dan Persoalan Tanah Untuk Kepentingan Industri Pariwisata*, Larasan Denpasar, hal. 3.

⁷ Moh. Mahfud MD, 1998, *Politik Hukum di Indonesia*, LP3ES, Jakarta, hal. 10-11.

⁸ Wesna Astara, I Wayan, *op.cit.*, hal. 7.

⁹ Utrecht, 1957, *Pengantar Hukum Tata Usaha Negara Indonesia*, Bali Buku Indonesia, Jakarta, hal 144.

¹⁰ F, Marbun, 2001, "Eksistensi Asas-asas Umum penyelenggaraan Pemerintahan yang Layak dalam Menjelmakan Yang Baik dan Bersih di Indonesia" Disertasi Program Pascasarjana Fakultas Hukum Universitas Padjajaran, Bandung, hal. 50.

¹¹ G.H.S, Lumban Tobing, *Peraturan Jabatan Notaris*, Erlangga, Jakarta, hal. 51. Habib Adjie, 2009, *Hukum Notaris Indonesia*, Tafsir Tematik Terhadap UU No. 30 Tahun 2004, Tentang Jabatan Notaris, Reflika Aditama, Bandung, hal. 45.

¹² Tan Thong Kie, *Studi Notariat dan Serba-Serbi Praktik Notaris*, Buku I, Ichtiar Baru Van Hoeve, Jakarta, 2000, hlm. 157.

¹³ Abdul Ghofur Anshori, 2009, *Lembaga Kenotariatan Indonesia, Perspektif Hukum dan Etika*, UII Prees, Yogyakarta, hal. 7.

Therefore, a notarial deed must be in writing, clear, and in accordance with the provisions of applicable laws and regulations to ensure its validity and prevent forgery.

The format and procedures for the preparation of notarial deeds are regulated in Articles 38–56 of Law No. 30 of 2004 on the Office of the Notary. From a legal-political perspective, notarial deeds serve not only as evidence but also as a state instrument to ensure legal certainty in civil relationships. The status of authentic deeds as perfect evidence (*volledig bewijs*) highlights the importance of the notary's role in the national legal system. Historically, notarial deeds were initially positioned solely as authentic evidence without direct executory power within the traditions of Continental European law and the *Burgerlijk Wetboek*. This executory power evolved in response to the need for legal certainty and the effectiveness of law enforcement. This indicates that notarial legal policy continues to evolve and requires normative reinforcement, including in the practice of drafting deeds related to customary lands or *padruwen* of traditional Balinese villages. Furthermore, Article 15(1) of Law No. 2 of 2014 Amending Law No. 30 of 2004 on the Office of the Notary states that a notary is authorized to draw up authentic deeds regarding all acts, agreements, and determinations required by laws and regulations and/or desired by interested parties to be stated in an authentic deed, ensuring the certainty of the deed's date of execution, storing the deed, and issuing the original, copies, and extracts of the deed, provided that the execution of such deeds is not assigned or reserved for other officials or persons designated by law.

3.1.2. Tanah Padruwen in Traditional Balinese Villages as Cultural Capital from a Legal-Political Perspective

The communal lands, or *padruwen*, of traditional villages in Bali possess a communal character distinct from the concept of land under individualistic civil law. Customary lands hold not only economic value but also serve as the foundation of the social, religious, and cultural life of Bali's indigenous communities; consequently, their use is governed by the customary values and traditions that are alive within the traditional villages. From a legal anthropology perspective, Balinese customary land is linked to the *Tri Hita Karana* philosophy, particularly the *Palemahan* dimension, which emphasizes the harmonious relationship between humans and nature. Customary land also serves a sacred function as it is the site of temples and the performance of customary and religious rituals; thus, it cannot be viewed solely as an object of economic transactions.

This concept positions Balinese customary land as cultural capital in the broader sense as articulated by Pierre Bourdieu that is, non-material capital that embodies symbolic value, social legitimacy, and the capacity to reproduce culture.¹⁴ In the context of Bali, customary land not only supports economic activities but also serves as a means of transmitting values, upholding customary legitimacy, and ensuring the sustainability of the indigenous community's socio-religious system. Therefore, any legal policy governing customary land including in the context of the preparation of authentic deeds by a notary must fundamentally take into account this cultural capital dimension, rather than focusing solely on formal legal aspects. Notary I Made Setiasa, who practices as a Notary/PPAT in Bali, opines that a Notary has the authority to draft authentic deeds, provided this is done with a spirit of understanding Balinese culture regarding *awig-awig* and *pararem*, so that notarial deeds are in harmony with both state law and Balinese customary law. Land in Bali is a cultural asset that must be protected by the state and the indigenous Balinese community. Traditional villages in Bali are social-religious institutions and serve as bastions of the culture of the Balinese Hindu community (from an interview with I Made Setiasa, March 11, 2025).

In the national legal policy on land and notarial affairs, there is a disconnect between the state's formalistic legal regime and Balinese customary law as a living law. Although Article 3 of the Basic Agrarian Law (UUPA) recognizes customary land rights, this recognition is limited in scope and has not been accompanied by effective protection mechanisms, particularly regarding customary lands that are at odds with the interests of investment and the tourism industry. In Bali, the expansion of the tourism industry has driven the intensified use of *padruwen* land in traditional villages through various civil law arrangements, such as long-term leases and other land tenure agreements. These practices, while formally valid, have the potential to undermine the communal functions and cultural value of customary land as the cultural capital of Bali's customary legal community. In the academic world focused on culture particularly regarding customary land in Bali as cultural capital I Wayan Wesna Astara posits that customary land serves as Bali's cultural asset, managed by traditional villages. These include Village Ayahan Land (*Ayds*), Village Compound Land (*PKD*), Temple Land (*Tanah Pelaba Pura*), and Village *Padruwen* Land. Land is crucial for tourism activities in Bali; the land in Bali and the traditional villages serve as the bastions of Balinese culture. In legal theory, "Culture" refers to the embodiment of the values and culture of Balinese society/communities through the practice of local laws (*awig-awig*) as traditional village policies in Bali for managing cultural, economic, and ecological activities based on local wisdom.¹⁵ Legal politics, as viewed by Moh. Mahfud, MD, is a political product that regards law as the formalization of interacting and competing political wills.¹⁶

Notarial law places notaries in a strategic position between the legal interests of the state and the protection of customary law. Authentic deeds drawn up by notaries serve not only as conclusive evidence but also as instruments for formalizing legal relationships that affect the existence of customary lands. Therefore, the authority of notaries must be understood as part of the state's legal policy in balancing legal certainty, economic interests, and the protection of the cultural capital of indigenous communities.

Satjipto Rahardjo emphasizes that the law must not be confined to formal legalism, but must instead be oriented toward substantive justice and social reality. In the context of Balinese customary land, an approach that focuses only on formal requirements has the potential to create structural injustice toward indigenous communities.¹⁷ In line with this, Suteki emphasized the importance of a progressive and contextual legal approach so that state law does not override customary law as a living law.¹⁸ Notarial legal policy has direct implications for the protection of Balinese customary land. A formalistic approach risks treating authentic deeds as the legal basis for the control of customary land, whereas an approach that integrates positive law and Balinese customary law positions the notary as an instrument for the protection of customary land and cultural sustainability. Therefore, notarial legal policy must be oriented toward substantive legal protection based on the cultural values and social justice of the

¹⁴ Pierre Bourdieu, *The Forms of Capital*, dalam J.G. Richardson (ed.), *Handbook of Theory and Research for the Sociology of Education*, Greenwood Press, New York, 1986.

¹⁵ I Wayan Wesna Astara, 2026, *Hukum Dalam Ruang Budaya: Pluralisme Hukum dan Hukum Negara Kontemplasi Filsafat Hukum dan Teori Hukum Bermakna Budaya*, Larasan, Denpasar, hlm. 139.

¹⁶ Moh. Mahfud MD, 1998, *Politik Hukum di Indonesia*, Pustaka LP3ES, Jakarta, hlm. 7.

¹⁷ Satjipto Rahardjo, *Hukum dan Perubahan Sosial*, Kompas, Jakarta, 2009.

¹⁸ Suteki, *Metodologi Penelitian Hukum: Filsafat, Teori dan Praktik*, Rajawali Pers, Depok, 2018.

Balinese people.

3.2. Legal Considerations for Notaries in the Practice of Drafting Authentic Deeds Where One of the Parties Is a Legal Entity Holding Customary Land (Ulayat/Padruwen) in a Traditional Balinese Village

In exercising their authority, notaries are bound by the obligations set forth in the Notary Public Act. When assuming their office, they take an oath or make a pledge based on their respective religions as notaries. This oath or pledge encompasses two key points that must be understood: (1) Vertically, they are accountable to God. This refers to the oath or pledge taken in accordance with their respective religions. This means that we will be held accountable for everything we do in a manner recognized by God. (2) Vertically, they are obligated to be accountable to the state and society. This means that the state has entrusted the notary to carry out state duties in the civil sphere, specifically in the creation of legal documents such as deeds that possess full legal force, and that society trusts the notary to accurately capture their intentions in the form of a notarial deed, and to keep confidential all information or statements made in the notary's presence.¹⁹

In terms of a notary's considerations regarding an ideal legal policy, by applying I Wayan Wesna Astara's theory of culturally meaningful law,²⁰ the integration of customary law with national law notaries may take this into account when verifying the interests of customary villages, as reflected in the minutes of customary village meetings in Bali, as a decision of the customary village or Banjar before drafting a deed. From a sociological perspective, the social function of a notary extends beyond merely drafting deeds; they also serve as a mediator among interested parties, a balancer of interests, and a bridge between state law and customary law, by understanding the structure of traditional villages, awig-awig, pararem, and the mechanisms of traditional village assemblies in Bali.

Legal protection for the Padruwen communal land of the traditional village in Bali such as temple grounds, cemetery land, market land, village administrative land (Ayds), and village residential land (PKD) according to Valerene Jaqueline Kriewkorff, who argues that customary land can be defined as land governed by customary rules.²¹ Furthermore, with the enactment of the Basic Agrarian Law (UUPA), customary lands such as AYds, PKD, lands belonging to traditional village temples (Tri Kahyangan Desa), and village Padruwen lands in Bali are still recognized as long as they continue to exist and do not conflict with national and state interests, as stipulated in Article 3 of the UUPA, namely:

In accordance with the provisions of Articles 1 and 2, the exercise of customary land rights and similar rights by customary law communities, to the extent that such rights still exist in practice, must be conducted in a manner consistent with the national interest and the interests of the state, based on national unity, and must not conflict with laws and other higher-ranking regulations.²² The application of the Basic Agrarian Law is explained in Article 3: if the national interest so requires for the purpose of public development (for example, for government offices), there is no reason for customary villages to retain village homestead land, because the public interest takes precedence and customary villages are under the authority of the state.²³

3.2.1. The Principle of Prudence and Legal Considerations by Notaries in Customary Land Transaction

Article 15, paragraphs (1) and (2) of the Notary Public Act (UUJN) grant notaries the authority to draw up authentic deeds regarding legal acts, agreements, and determinations desired by the parties or required by law, including in the field of land affairs. This authority is accompanied by the obligation to act with integrity, honesty, diligence, independence, and impartiality as stipulated in Article 16(1) of the UUJN. Therefore, a Notary not only functions as a drafter of deeds but also as a public official who ensures legal certainty, justice, and the protection of the parties' interests.

In transactions involving customary village land in Bali, the application of the principle of due diligence is of the utmost importance, given that customary land constitutes a communal right with economic, social, religious, and cultural value. Since authentic deeds possess full probative force, any violation of procedures or the presence of fraudulent elements may result in the annulment of the deed or a claim for damages.²⁴ Notaries are required to verify the legal status of the land, the authority of customary law entities, and the existence of approval from the Customary Village Council in accordance with Bali Provincial Regulation No. 4 of 2019 on Customary Villages. This obligation has become even more relevant following the recognition of Pakraman Villages in Bali as holders of communal rights through Ministerial Decree No. 276/Kep-19.2/2017 of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency.

Notarial law policy establishes the principle of due diligence as a means of protecting the communal rights of indigenous communities and ensuring harmony between state law and customary law. Violations of this obligation may result in administrative sanctions as provided for in Article 16(11) of the UUJN, as well as civil liability under Article 16(12) of the UUJN if they cause harm. In the context of customary land, the resulting harm is not only material in nature but can also disrupt the communal rights and social harmony of the Balinese indigenous community.

3.2.2. Notarial Practice and the Challenges of Protecting Customary Land in Bali

The rise in agreements regarding Village Homestead Land (PKD) in Bali indicates a shift in the function of traditional village communal land from a social-customary basis to an object of economic contracts. PKD, which was originally intended for village residents as a place of residence and for the fulfillment of customary obligations, is now widely used for commercial activities, such as hotels, villas, and other tourism businesses. This situation places notaries in a strategic position, as they must balance the principle of freedom of contract with the protection of communal rights of traditional villages.

In practice, disputes often arise when deeds of use or lease for traditional village land (PKD) are drawn up solely based on individual consent without collective approval through the Traditional Village Assembly (Paruman Desa Adat). In fact, Bali

¹⁹ Habib Adjie, 2009, *Meneropong Khazanah Notaris dan PPAT Indonesia*, PT Citra Aditya Bakti, Bandung, hal. 5-6.

²⁰ Wesna Astara I Wayan, 2026, *Hukum dalam Ruang Budaya: Pluralisme Hukum dan Hukum Negara Kontemplasi Filsafat Hukum dan Teori Hukum Bermakna Budaya*, Pustaka Larasan, Denpasar, hal. 5-26.

²¹ Valerene Jaqueline Kriewkorff, 1991, *Kedudukan Tanah Dati sebagai tanah adat di Maluku Tengah suatu kajian dengan memanfaatkan pendekatan antropologi hukum*, Disertasi, Program Doktor Ilmu Hukum Fakultas Pascasarjana Universitas Indonesia, hal. 24.

²² Suwitra, I Made, Cs, 2022, *Sengketa Pemanfaatan Tanah Setra di Desa adat Ungasan Bali*, Pustaka Larasan, Denpasar, hal. 66-67.

²³ *Ibid.*

²⁴ Dendy Francysco Sinurat, "Analisis Yuridis dan Tanggung Jawab Notaris terhadap Akta Pengikatan Jual Beli Tanah Adat Tanpa Sertipikat Hak Milik", *Jurnal Hukum, Humaniora dan Politik*, Vol. 5, 2025, hlm. 1837, diakses melalui media.neliti.com.

Provincial Regulation No. 4 of 2019 stipulates that the use of traditional village land must comply with the *awig-awig* and *pararem*. Consequently, a deed that is valid under civil law may raise issues from the perspective of customary law. According to I Wayan P. Windia, traditional village land, including PKD, is not merely an economic asset but an instrument of the traditional village's sustainability that integrates the village community, customary institutions, and religious values.²⁵ Therefore, traditional villages possess both private authority as holders of communal land rights and public authority to regulate the use of such land through *awig-awig* and *pararem*.

In terms of the political-legal perspective of the notarial profession, this situation indicates that a notary's neutrality cannot be interpreted passively. Notaries remain obligated to apply the principle of due diligence by ensuring that the legal acts set forth in deeds do not conflict with customary provisions and communal interests. Experiences from various regions with customary lands also show that disregarding customary procedures can undermine the social legitimacy of an agreement, even if it is formally valid. Therefore, the principle of prudence must be established as a substantive principle to prevent the commodification of customary lands and ensure fair legal protection for the indigenous communities of Bali.

4. CONCLUSION

1. Based on the discussion, it can be concluded that the legal policy on notaries in Indonesia positions the Notary as a public official authorized to create authentic deeds to ensure legal certainty and protection. However, in the context of customary land or *padruwen* in traditional Balinese villages, this authority cannot be exercised in a formalistic manner because customary land possesses communal, religious, and cultural characteristics as the cultural capital of indigenous communities. Therefore, the Notary serves as a bridge between state law and customary law (living law), so notarial legal policy must be directed toward substantive legal protection of customary land as mandated by Article 18B(2) of the 1945 Constitution.
2. The research findings indicate that a notary's legal considerations in the practice of drafting authentic deeds related to PKD require the substantive application of the principle of prudence. Notaries must not only ensure the formal validity of the agreement but are also obligated to take into account the consent of the traditional village council, the *awig-awig*, the *pararem*, and the communal interests of the Balinese indigenous community. Disregard for customary mechanisms has the potential to lead to disputes and undermine the social legitimacy of the deed. Thus, notaries are required to act as legal gatekeepers so that authentic deeds do not become instruments for the commodification of customary land, but rather a means of fair and sustainable legal protection.

5. RECOMMENDATIONS

First, policymakers need to strengthen the synchronization between the Notary Public Law, national land law, and Balinese customary law through more operational regulations, particularly regarding the mechanisms for drafting deeds for *padruwen* customary village land and Village Garden Land (PKD). The affirmation of customary village collective approval procedures in positive law will minimize the potential for conflict between formal legality and customary legitimacy.

Second, notaries, as public officials, need to enhance their cultural sensitivity and understanding of Balinese customary law in exercising their authority, by prioritizing the principle of prudence as a substantive guideline. Notaries must not merely act as recorders of the parties' intentions but must actively serve as legal gatekeepers ensuring that the deeds they draft do not negate the communal rights of indigenous communities.

Third, customary institutions and local governments are advised to strengthen the documentation of *awig-awig* and *pararem* regarding the management of customary village land, as well as to establish more systematic coordination with notaries and the Land Office. This step is crucial so that the protection of customary land does not rely solely on individual awareness but is institutionalized within daily legal practice.

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