



ISSN: 2617-6548

URL: www.ijirss.com



The recognition and protection of customary law communities in maintaining culture as a tourist attraction in Sembalun village East Lombok

Komang Mahawira^{1*}, Ali Muhtasom¹, Amirosa Ria Satiadji¹, Rezzy Eko Caraka^{2,3,4}, Achlan Fahlevi Royanow¹

¹Politeknik Pariwisata Lombok, West Nusa Tenggara 83521, Indonesia.

²Research Center for Data and Information Sciences, Research Organization for Electronics and Informatics, National Research and Innovation Agency (BRIN), Bandung 40135, Indonesia.

³School of Economics and Business, Telkom University, West Java 40257, Indonesia.

⁴Department of Information Management, Chaoyang University of Technology, Taichung, Taiwan.

Corresponding author: Komang Mahawira (Email: komangmahawira@ppl.ac.id)

Abstract

The rapid growth of tourism and advancements in information technology are influencing the culture of communities in tourist destinations. Sembalun Village, situated on the slopes of Mount Rinjani on Lombok Island, Indonesia, is a suitable example of a community that has successfully preserved its cultural heritage and remains a compelling tourist attraction through generations. Therefore, this study aimed to explore how customary law communities in Sembalun Village are recognized and protected to maintain culture as a tourist attraction in East Lombok, West Nusa Tenggara. By using a descriptive juridical method, the study obtained data through observation, interviews, and documentation. The results showed that the West Nusa Tenggara Provincial Government recognized and protected customary law communities as legal entities. This study further contributed to academic knowledge by enhancing theoretical insights and providing valuable literature for studies on the recognition and protection of customary law communities in the context of cultural preservation as a tourist attraction. Additionally, the practical implications of this study offered guidance for stakeholders, specifically in shaping policies related to the recognition and protection of customary law communities in maintaining cultural heritage for tourism.

Keywords: Culture, Customary law, Protection, Recognition, Tourism.

DOI: 10.53894/ijirss.v8i2.5289

Funding: This research supported by Politeknik Pariwisata Lombok.

History: Received: 24 January 2025 / **Revised:** 27 February 2025 / **Accepted:** 5 March 2025 / **Published:** 11 March 2025

Copyright: © 2025 by the authors. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

Competing Interests: The authors declare that they have no competing interests.

Authors' Contributions: All authors contributed equally to the conception and design of the study. All authors have read and agreed to the published version of the manuscript.

Transparency: The authors confirm that the manuscript is an honest, accurate, and transparent account of the study; that no vital features of the study have been omitted; and that any discrepancies from the study as planned have been explained. This study followed all ethical practices during writing.

Institutional Review Board Statement: The Ethical Committee of the Ministry of Tourism and Creative Economy/Tourism and Creative Economy Agency, Republic of Indonesia, and Politeknik Pariwisata Lombok, Indonesia has granted approval for this study (Ref. No. SRTF/01/52.3/PTP.IV/2022).

Publisher: Innovative Research Publishing

1. Introduction

Legally, customary law communities in Indonesia hold a strong position as outlined in Article 18 B, paragraph (2) of the 1945 Constitution. This article recognizes and respects customary law communities and their traditional rights, provided the citizens remain relevant and correlate with societal developments and the principles of Indonesia, as regulated by law [1]. Although specific national legislation may be lacking, many regions, including provinces and regencies, have enacted regional regulations.

In this context, West Nusa Tenggara is a province that has implemented a Regional Regulation concerning the recognition, respect, and protection of customary law communities, as outlined in Regional Regulation Number 11 of 2021 [2]. According to this regulation, customary law communities are Indonesian citizens with distinct characteristics who live in harmony under customary law. These citizens also maintain connections with ancestral origins or common residence, possess a strong connection to the land and environment, and secure a value system that influences the economic, political, social, cultural, and legal institutions. Customary law communities further use specific areas across generations, as defined in Article 1 (4) of the West Nusa Tenggara Regional Regulation Number 11 of 2021 [3].

In this context, Sembalun Village, situated on the slopes of Mount Rinjani in East Lombok Regency, West Nusa Tenggara Province, is home to unique customary law communities. Every three years, this village hosts a gathering of 100 kings from across the Nusantara region, including Indonesia, Malaysia, and Brunei Darussalam. The unique characteristics of Sembalun Village's customary law communities have made it a renowned tourist destination at national, regional, and international levels. Based on its role as a tourist attraction, the preservation of the culture needs careful attention, recognition, and protection to ensure its existence and sustainability, which underscores the significance of this study, as shown in Figure 1 [4].

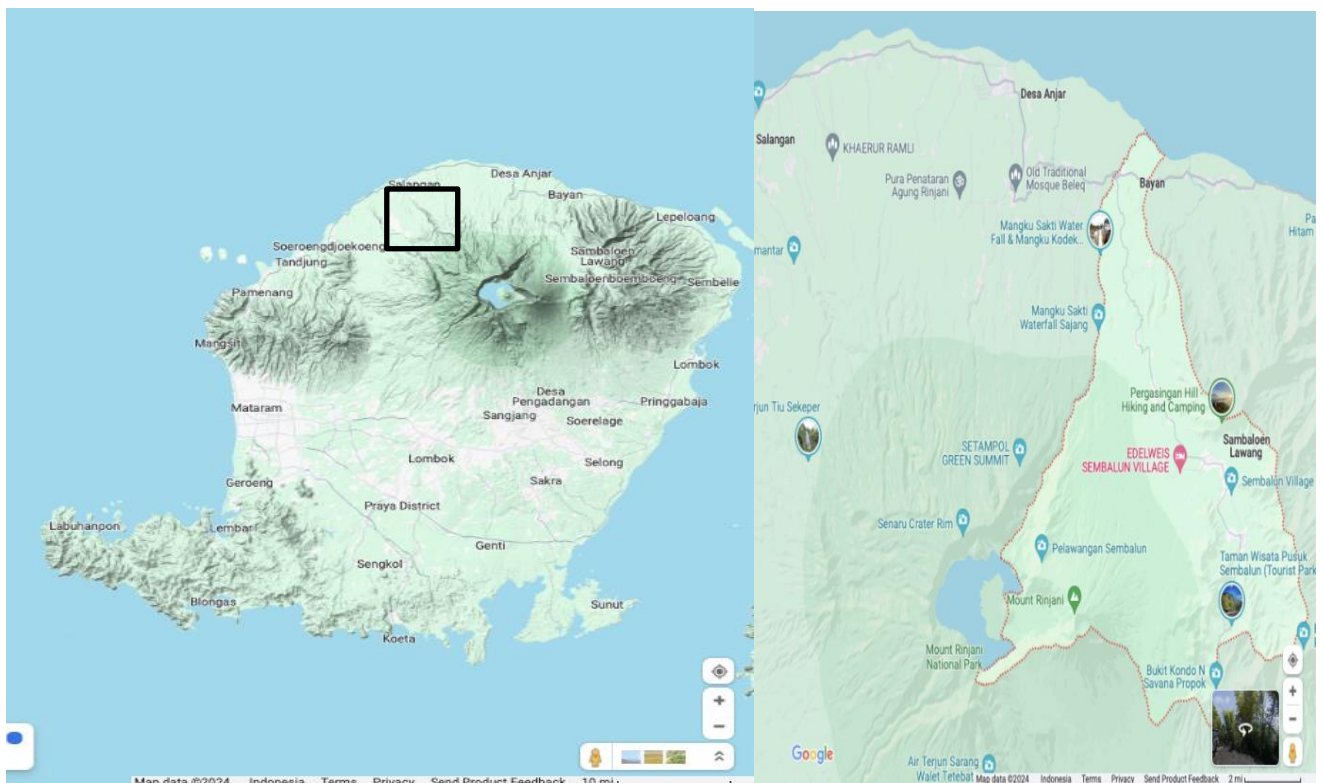


Figure 1.
Study Location (source: <https://www.google.com/maps> accessed: August 3, 2024)

Previous studies have explored the recognition and protection of customary law communities [5-7]. However, there is a gap in the publications specifically addressing the recognition and protection of the customary law communities of Sembalun Village, particularly in the context of maintaining culture as a tourist attraction.

Based on this objective, the problem statement includes: How is the recognition and protection of customary law communities implemented to sustain culture as a tourist attraction in Sembalun Village, East Lombok, West Nusa Tenggara? Relating to the problem formulation, this study aims to determine how the communities preserve the cultural heritage as a tourist attraction.

The expected benefits of this analysis include, academically, enhancing theoretical knowledge and providing literature for scientific studies on the recognition and protection of customary law communities within the context of tourism. Practically, the study will offer guidelines for stakeholders, contributing to the formulation of policies related to the recognition and protection of customary law communities for maintaining cultural heritage as a tourist attraction in Sembalun Village, East Lombok, West Nusa Tenggara.

2. Theoretical Review

2.1. Recognition of Customary Law Communities

As outlined in Article 1, paragraph 5 of the West Nusa Tenggara Regional Regulation Number 11 of 2021, which addresses the Recognition, Respect, and Protection of Customary Law Communities, recognition refers to the state's acceptance and respect for the existence of customary law communities alongside all their rights and identities. Additionally, the 1945 Constitution was amended in Article 18 B, paragraph 2 [8], which states that "the state recognizes and respects customary law communities and the traditional rights, provided the provisions are still alive and in accordance with the development of the community and the principles of Indonesia regulated by law" [9, 10]. From the two definitions of recognition, the study concluded that the state recognizes the existence of customary law communities, provided the provisions are alive and do not conflict with the principles of Indonesia [11].

2.2. Protection of Customary Law Communities

The protection of customary law communities includes efforts to guarantee and safeguard the rights to live, grow, and develop in a manner that respects human dignity and honor, as described in Article 1, paragraph 6 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 concerning the Recognition, Respect, and Protection of Customary Law Communities [12, 13]. Based on this definition, the study concluded that customary law communities in Indonesia are not only recognized but also receive protection. This protection ensures that citizens can continue to grow and develop, preserving cultural heritage as part of Indonesia's cultural wealth and serving as a tourist attraction [14].

2.3. Customary Law Communities

There were several definitions of customary law communities, with distinctions drawn between indigenous, traditional, indigenous Indonesian communities, and others. However, Article 1, paragraph 4 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 provided a clear definition. It stated that customary law communities were Indonesian citizens with distinctive characteristics, living harmoniously in groups according to customary law. The citizens also possessed ties to ancestral origins and/or the same residence while maintaining a strong relationship with the land and environment. Furthermore, the Indonesian citizens upheld a value system that determined the economic, political, social, cultural, and legal institutions, using a certain area across generations [9, 15].

From this explanation, several key elements of the definition of customary law communities were identified. These elements formed an inseparable unity, implying that when one or more elements were missing, the group could not be classified as customary law communities [16]. The elements of this definition included the following.

1. Indonesian Citizens: The primary requirement for the recognition and protection of customary law communities was that members had to be registered as citizens with rights and obligations as Indonesian citizens [17].
2. Distinctive Characteristics: Customary law communities possessed unique traits that set them apart from other groups [18].
3. Living in Groups Harmoniously: These communities lived peacefully across generations with established mechanisms for resolving conflicts [19].
4. Customary Law: The presence of sanctions for violating the norms within communities [20].
5. Ties to Ancestral Origins: Customary law communities were often of common descent, tracing the lineage back to a single ancestor [21].
6. Common Residence: These communities had occupied the same area for generations [9].
7. Strong Relationship with the Land and Environment: These communities were deeply connected to nature, particularly the land and forests that were relied on for survival [12].
8. Value System: Communities upheld noble values passed down from the ancestors.
9. Use of a Certain Area for Generations: Customary law communities had the right to manage the land they had occupied for generations, land that was not acquired through purchase or other forms of rights transfer [22].

2.4. Principles and Objectives for the Recognition and Protection of Customary Law Communities

The protection of the Sembalun Village customary law communities adheres to several principles as outlined in Article 2 of the West Nusa Tenggara Regional Regulation Number 11 of 2021, which focuses on the recognition, respect, and protection of customary law communities. These principles include the following.

1. Participation: This principle emphasizes the full and effective participation of every member of the Sembalun Village customary law communities in development. Each member is included in all stages and plays a key role in decision-making for all programs or projects carried out within the community [23].
2. Justice: This principle ensured fair treatment of customary law communities as Indonesian citizens across all aspects including law, politics, economy, society, and culture [24].
3. Gender Equality: This principle focused on fair treatment, recognizing the relationship between women and men as equal partners. Both genders received equal opportunities to access resources, control, participate, and benefit from development [25].
4. Equality Before Law: This principle ensured that all members of the Sembalun Village customary law communities were treated equally before law with no discrimination in the application of law [26].
5. Transparency: This principle promoted openness in information related to the planning, implementation, and evaluation of programs that impacted the rights and protection of customary law communities [27].

6. **Humanity:** This principle focused on fulfilling human rights through three main obligations namely respecting, protecting, and fulfilling the basic rights and freedoms of citizens [28]. Customary law communities were therefore placed within the principles of just and civilized humanity as stated in the fifth principle of Pancasila [1].
7. **National Interests:** This principle included recognizing and protecting the diversity of the Sembalun Village customary law communities and the rights, thereby acting as a unifying force for Indonesia and ensuring the continuity of national development [29].
8. **Harmony:** This principle aimed to recognize, protect, empower, and harmonize customary law communities along with existing institutional frameworks to contribute to national development [30].
9. **Preservation and Sustainability of Environmental Functions:** This principle affirmed global awareness that human fate depended on the ability to manage the environment widely. It further urged for an intelligent method of environmental management, recognizing the critical role of the environment in human survival [31].

The objectives of recognizing and protecting the Sembalun Village customary law communities as regulated in Article 3 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 could be summarized in the following.

1. **Providing Legal Certainty:** The objective was to establish legal certainty regarding the position and existence of the Sembalun Village customary law communities to grow and develop in connection with the dignity and honor [32].
2. **Guaranteeing Rights:** The objective included guaranteeing the right of customary law communities to practice the traditions and customs [33].
3. **Maintaining Natural Resources:** The objective included maintaining and preserving natural resources within the Sembalun Village customary law community area and the surroundings.
4. **Preserving Traditions and Customs:** The objective was to preserve the traditions and customs of customary law communities as local wisdom and as part of the national cultural heritage [34].
5. **Enhancing Socio-Cultural Resilience:** The recognition aimed to increase the socio-cultural resilience of customary law communities as a component of national resilience.
6. **Developing Traditional Knowledge:** The objective was to develop the traditional knowledge heritage of customary law communities, along with the inherent potential [35].
7. **Preserving Genetic Resources and Ecosystems:** The objective included preserving, maintaining, and using genetic resources, geographical indications, botanical and zoological potential, and their ecosystems.
8. **Providing aesthetic, artistic, and ethical freedom:** Finally, the recognition aimed to ensure aesthetic, artistic, and ethical freedom in the lives of customary law communities [36].

3. Methodology

The study adopted a legal case method focusing on the recognition and protection of customary law communities, particularly in the context of preserving culture as a tourist attraction in Sembalun Village, East Lombok, West Nusa Tenggara. The analysis was correlated with the provisions of the West Nusa Tenggara Regional Regulation Number 11 of 2021 concerning the Recognition, Respect, and Protection of Customary Law Communities.

Initially, the study presented various laws and regulations governing the recognition and protection of customary law communities. This was necessary because the specific law governing the recognition, as stated in Article 18B, paragraph 2 of the 1945 Constitution, had not been stipulated.

The primary data sources consisted of information directly gathered from the study field. This included conducting observations and interviews with 100 residents of Sembalun Village and two community leaders who served as respondents.

Secondary data sources included information obtained from pre-existing materials such as documents, literature, and specific laws and regulations. These sources provided context regarding the recognition and protection of customary law communities, particularly in preserving culture as a tourist attraction in Sembalun Village, East Lombok, West Nusa Tenggara. The study used three data collection techniques, including the following:

1. **Field Study:** This included conducting interviews with respondents in Sembalun Village.
2. **Library Study:** Data were collected through books, literature, and documents related to the recognition and protection of customary law communities, with a focus on maintaining culture as a tourist attraction in Sembalun Village, East Lombok, West Nusa Tenggara.
3. **Online Study:** This technique included searching for data online using internet facilities to gather information about the existence of the Sembalun Village customary law communities.

The validity of the collected data was tested using the source triangulation technique, which included confirming the data with respondents. Documents such as Regional Regulation Number 11 of 2021 and other relevant laws and regulations were verified with respondents in Sembalun Village. The study relied solely on the information provided by these respondents.

The collected data were then analyzed using qualitative descriptive techniques, which included describing or explaining the data obtained from both primary and secondary sources. After thorough analysis, conclusions were drawn to address the problems studied.

3.1. Ethical Considerations

This study received ethical approval from the Institutional Ethical Committee of Politeknik Pariwisata Lombok, under the Ministry of Tourism and Creative Economy, Republic of Indonesia, during its meeting held on 15 January 2022. The approval number for this study is SRTF/01/52.3/PTP.IV/2022. All research procedures were conducted in accordance with relevant ethical guidelines and regulations.

4. Results

4.1. Characteristics of the Respondents

The respondents in this study included 100 residents of Sembalun Village, consisting of 67 women and 33 men. The majority of these respondents (85 in total) were farmers, while 11 were private workers, and four were civil servants. The age distribution was as follows: 32 individuals were aged 15-30 years, 46 were aged 31-46 years, and 22 were over 47 years old. Additionally, two community leaders, namely Mr. Haji Mardisah (Head of the Sembalun Village Customary Institution) and Mr. Sunardi (Head of Sembalun Village), were also included as respondents. These two individuals were selected due to their deep understanding of the applicable customary law derived from their knowledge, experience, societal position, and ancestral lineage, as shown in Figure 2.



Figure 2.
Picture of communities and figures in Sembalun Village as respondents in 2024

4.2. Sembalun Village Customary Law Communities

The study showed several reasons why the Sembalun Village communities maintained customary law, as obtained from interviews with respondents in the following points.

- The community believed that Sembalun Village was guarded by supernatural powers, specifically their ancestors, from the entrance gate to the exit. This belief was so strong that no one dared to violate customary law. The existence of strange and supernatural events when the community violated these laws, which had been passed down through generations, reinforced this belief. As a result, adherence to customary law became a deeply ingrained habit within the Sembalun Village community.
- Violations of customary law were met with sanctions, both physical and non-physical (supernatural). Physical sanctions, imposed by the Head of the Sembalun Village Customary Institution, ranged from fines and public shaming to ostracization, depending on the severity of the violation. Supernatural sanctions manifested as natural signs, such as rainbows foretelling disaster, poor agricultural yields, dying plants, drying water sources in rice fields, and rivers running dry, all of which significantly disrupted the community's way of life.
- The community held deep respect and obedience toward their tribal chief or traditional leader, the Head of the Sembalun Village Customary Institution. This respect stemmed from the leader's wisdom, authority, and role as a model within the community.

Customary law was understood to be the entirety of written and unwritten rules or norms originating from the customs or habits of the Indonesian citizens, regulating behavior in community life with sanctions imposed on those who violated these norms.

Based on the explanation provided, the elements defining customary law in Sembalun Village were understood in the following points.

1. All Rules or Norms

The first element emphasized that customary law in Sembalun Village was an inseparable unity of various rules and norms. This customary law was closely intertwined with religious norms, particularly Islam, and the noble values passed down from the ancestors. The values further played a crucial role in maintaining order and peace within the community. Customary law served as the foundation for fostering harmonious relationships between the community, God, and fellow citizens.

2. Written or Unwritten

The second element emphasized that customary law existed both in written and unwritten forms. Customary law in Sembalun Village had been a living tradition within the community. Although not formally written or codified as positive law, it was articulated through various forms including Awig-Awig concerning Sembahrn, the Sembawyan customary state, Awig-Awig on Rules of Order, Violations, Dispute Resolution, and Legal Procedures, and Awig Negeri Sembahrn, which dealt with visiting regulations to the customary area.

3. Derived from Customs or Habits

Customary law originated from the customs and habits that had long existed within the community. In Sembalun Village, this law was created and upheld by the ancestors, respected, and maintained across generations. It was solely based on the noble values of the Sembalun Village community and had never been influenced or inherited from external sources.

4. Regulating the Behavior of Community Life

The fourth element showed that customary law, similar to other legal systems, regulated behavior within the community. It outlined permissible actions and those that were not. Customary law in Sembalun Village fulfilled this element by establishing rules, particularly through the four Awig-Awig, which addressed both prohibited and unregulated actions for residents and tourists. For example, bringing goods from outside the village was permissible under specific conditions.

5. Sanctions for Violators

The fifth element, which was considered the most crucial, included sanctions for violators. Without the imposition of sanctions, customary practices were merely considered customs, not customary law. In Sembalun Village, sanctions for violating the Awig-Awig included both physical and non-physical (supernatural) punishments. For instance, in 2019, a member of the Pemanku community, the Batala Guru (Water Guardian), failed to draw water from 13 springs needed for a ritual. After being processed according to the existing Awig-Awig, sanctions were imposed, including the payment of customary fines and dismissal from position. The violator experienced illness that persisted until death, reflecting the supernatural aspect of the sanctions.

From the description, the study concluded that the law in Sembalun Village had fulfilled the elements of customary law. Therefore, the law that had been maintained and adhered to by the community could be academically recognized as customary law. The specific customary law of Sembalun Village, as articulated in the Awig-Awig of the customary institution, was outlined as follows.

4.3. Basic Considerations

Based on observations and interviews with respondents, eight key considerations were identified in the Awig-Awig of the Sembalun Village Customary Institution which included the following.

1. Preservation and continuity of customary traditions from the ancestors.
2. Maintenance of societal order and principles.
3. Respect for and adherence to the 1945 Constitution and applicable law in Indonesia.
4. Upholding the truth, justice, and customs while respecting human and privacy rights within the customary area.
5. Safeguarding the mandate of the Sembalun Village Customary Institution in defending the interests of communities right to life within customary area.
6. Ensuring security and order in customary areas.
7. Resolving conflicts and disputes within the customary law community wisely and judiciously, following the principles of deliberation and consensus as outlined in Pancasila, without coercion or forced compliance.
8. Promoting religious law, firmly adhering to the *Sunnatullah* and the Sunnah of the Apostle.

These eight considerations formed the foundation for drafting the Awig-Awig of Sembalun Village. Upon examination, these considerations covered all aspects of community life, leading to a deep respect and adherence to the resulting Awig-Awig by all community members across generations, continuing to the present day. The following diagram depicts the eight basic considerations that underpinned the formulation of the Awig-Awig in Figure 3.



Figure 3.
Our Awig-Awig Basic Consideration.

4.4. Prohibition or Warning from Customary Institution

Individuals were strictly prohibited from inciting, advocating, or suggesting unlawful actions to any individual or group within the Sembalun Village community. This prohibition extended to both customary law and Indonesian constitutional law, particularly before the main issue, case, or dispute had been properly and clearly understood, and before the investigation of the case according to Sembalun Village customs had been thoroughly completed.

No individual was allowed to make unilateral decisions regarding comfort, peace, privacy rights, or social and community rights within customary area. Before making these decisions, individuals were expected to remember and consider wisely the implications of the choices, specifically since decisions or assertions had not been known, determined, or ratified through deliberation and consensus with all relevant figures in customary area.

Additionally, individuals or groups were forbidden from engaging in activities that could eliminate, obscure, embezzle, or usurp ownership, inheritance, personal, customary, or other social rights. These actions, whether carried out openly, secretly, or politically, could lead to misunderstandings, disputes, conflicts, or even loss of life. Violations of this nature would lead to sanctions and punishments according to Sembalun Village customs, or the matter could be handed over to authorized legal institutions in Indonesia, depending on the severity of the offense. The Sembalun Village Customary Institution clearly stated that it would not acknowledge, justify, or validate any decision, assertion, or action related to customary, public, social, or community interests unless such actions had been known, approved, validated, and determined through deliberation and consensus with all customary elements within the Sembalun Village Customary Institution.

4.5. Types of Prohibited Actions

Several actions were strictly prohibited within customary area of Sembalun Village. These actions were detailed in the following points.

1. Actions that tarnished the reputation of institutions or individuals in customary areas.
2. Theft, fraud, or embezzlement of immovable property, such as land rights, building rights, rice fields, plantations, intellectual rights, and copyrights.
3. The spread of new beliefs or ideologies contrary to the customs and traditions of Sembalun Village or Islamic teachings generally practiced by the Prophet Muhammad (SAW) as passed down through generations. This was carried out to avoid conflict and disagreements that could cause a sense of insecurity, discomfort, disorder, and disharmony in communities.
4. Intentionally inviting other communities, both residents of Sembalun Village and outsiders, to damage natural resources, nature reserves, historical sites, or customary wealth assets in the village.
5. Damaging any point of life sources and livelihoods of communities such as agricultural irrigation, rice fields, plantations, forests, electricity sources, and other vital resources.
6. Engaging in unauthorized mining activities that could jeopardize water availability, particularly since Sembalun Village located in a mountainous area often faced water shortages during the dry season.
7. Constructing temples or similar structures that were not part of the customary history of Sembalun Village.
8. Inciting, ordering, or slandering others to violate customary rules or Indonesian law.
9. Physical abuse or neglect of biological parents or children, particularly in the context of selling or buying biological children which had become a concern in various regions of Indonesia.
10. Discarding babies or aborting children with the intent to kill the child, as well as aiding in the acts.
11. Engaging in immoral or lewd acts, either with the opposite or same sex, specifically sexual harassment of minors.
12. Committing adultery with others' wives or with women who are not mukhrim.
13. Insulting or belittling traditional leaders, religious leaders, Islamic worship places, or the Islamic religion.
14. Committing acts of persecution or murder that resulted in physical or mental disabilities or taking someone's life.
15. Associating with evil forces, such as practicing black magic or witchcraft.
16. Mistreating or destroying livestock and plants managed by individuals, groups, or through mutual agreement.
17. Gambling, including dice gambling, illegal lotteries, and similar activities, could damage the morals and personalities of future generations.
18. Operating special places or rental houses (lodging, homestays, hotels, etc.) that facilitated prostitution or adultery within customary area.
19. Establishing cockfighting arenas or similar venues where animals were pitted against each other for gambling purposes.

The detailed formulation of these prohibited actions made the law easy to understand for all members of the Sembalun Village community and tourists to the customary area. Following the clear explanation of these 19 prohibitions, the regulations were concluded with a clause stating that any matters not covered in the customary regulations of Sembalun Village would be addressed later and integrated into the existing regulations.

4.6. Sanctions and Punishments for Actions

Awig-Awig of Sembalun Village Customary Institution laid out clear guidelines for sanctions and punishments in response to actions or violations. The method started with providing warnings, advice, and suggestions to the violators of customary regulations. When the perpetrator ignored three warnings issued by the Sembalun Village Customary Institution, more severe sanctions, including fines and strict punishments, were imposed to serve as a deterrent.

For minor violations, light punishment includes compensating for losses and paying fines equivalent to the damage caused. In cases of serious violations, the perpetrator is required to replace losses and pay double the fine, intending to serve

as a deterrent and set an example for others, discouraging offenders from making similar mistakes. When the perpetrator refuses to acknowledge or accept responsibility, the Sembalun Village Customary Institution escalates the matter to the civil or criminal courts, including the authorized legal institutions of the Indonesian government.

Confiscation and seizure of the perpetrator's rights were enforced when the actions led to significant losses, damage, embezzlement, or similar offenses that severely affected the victim under both customary law and the national constitutional law of Indonesia. In cases of serious violations such as rape, adultery, murder, and other grave crimes, the perpetrator would be reported and handed over to the appropriate authorities or competent parties for handling criminal cases according to both customary law and the government constitution.

Expulsion from the customary area was another punishment for individuals who repeatedly committed minor, moderate, or serious violations that disrupted social and community order in Sembalun Village. These actions caused insecurity, discomfort, and disturbances to others in the area, leading to the removal of the perpetrator from the community.

Based on the description, the categories of sanctions for violations committed by the perpetrators were divided into three levels, namely minor, moderate, and serious. The results of interviews with respondents showed that among these categories, the most feared sanction was expulsion from the customary area. The levels of sanctions were visually represented in the following Figure 4.



Figure 4.
Customary Law Sanctions in Sembalun Village.

4.7. Recognition of Sembalun Village Customary Law Communities

The study addressed the recognition of the Sembalun Village customary law communities. As outlined in the theoretical review, customary law communities refer to Indonesian citizens with unique characteristics who live harmoniously in groups according to customary law. These communities have ancestral ties, a strong relationship with the land and environment, and uphold a value system that influences the economic, political, social, cultural, and legal institutions. The citizens have also used a specific area for generations, as stipulated in Article 1, paragraph 4 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 concerning the Recognition, Respect, and Protection of Customary Law Communities. Furthermore, the elements of the definition of customary law communities serve as the basis for the discussion of the Sembalun Village communities as follows.

1. Indonesian Citizens: The Sembalun Village communities were Indonesian citizens with the same rights and obligations as others, fulfilling the first element.
2. Distinctive Characteristics: The Sembalun Village communities have unique characteristics that set the citizens apart from other groups. Although similar to nearby villages such as Senaru, the Sembalun Village communities maintain distinct differences that make them a unique attraction for tourists, thereby fulfilling the second element.
3. Living in Groups Harmoniously: The Sembalun Village communities had lived peacefully in groups for generations with established mechanisms for resolving issues, fulfilling the third element.
4. Customary Law: The community adhered to customary law, particularly regarding sanctions for violations of applicable norms, fulfilling the fourth element.
5. Ties to Ancestral Origins: The Sembalun Village communities share ancestral origins, tracing their lineage to a common descendant, further fulfilling the fifth element.
6. Same Residence: Community had occupied Sembalun Village for generations with clearly defined territorial boundaries, fulfilling the sixth element.
7. A Strong Relationship with Land and Environment: The Sembalun Village communities had a strong dependence on the land and forests, emphasizing an inseparable connection to the environment, fulfilling the seventh element.

8. A Value System: Community upheld a value system rooted in noble values passed down from the ancestors, fulfilling the eighth element.
9. Using a Certain Area Across Generations: The Sembalun Village communities have the right to manage the land they have occupied for generations without participation in buying, selling, or other rights transfer processes, fulfilling the final element.

From the description above, the study concluded that the Sembalun Village communities met all nine elements defining customary law communities, as outlined in Article 1, paragraph 4 of West Nusa Tenggara Regional Regulation Number 11 of 2021. These elements include unique characteristics, harmonious living, customary law, ancestral ties, consistent residence, a strong relationship with land and the environment, a value system, and generational use of land.

The recognition of Sembalun Village customary law communities was further explored. According to Article 1, Paragraph 5 of the West Nusa Tenggara Regional Regulation Number 11 of 2021, the recognition included the State and/or Government acknowledging and respecting the existence of customary law communities alongside their inherent rights and identities. Additionally, Article 18B, Paragraph 2 of the amended 1945 Constitution stated that "The State recognizes and respects customary law communities and the traditional rights provided the citizens remain alive and in correlation with the development of Indonesian community and principles as regulated by law."

Article 4 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 further outlines that the Provincial Government should recognize and respect customary law communities to thrive, be maintained, protected, and developed within the province. Since the Sembalun Village customary law communities were active, maintained, protected, and developing, the citizens fell under the obligation of the West Nusa Tenggara Provincial Government to recognize and respect these communities. The Provincial Government further undertook data collection on these communities to provide recognition. Interviews with respondents also showed that the Sembalun Village customary law communities have been recognized, and data collection by the West Nusa Tenggara Provincial Government was conducted.

The data collection process included verifying several requirements, including (1) the history and origins of the Sembalun Village customary law communities, (2) the presence of communities living in organized groups, (3) common descent and/or territorial ties, (4) inhabitation of a clearly defined customary area (Sembalun Village) across generations, (5) shared local wisdom and cultural identity, and (6) established legal institutions such as the Awig-Awig of the Sembalun Village Customary Institution. Furthermore, communities possessed a recognized and functional institution to be legal subjects with rights and obligations.

4.8. Protection of Sembalun Village Customary Law Communities

Protection of customary law communities aims to guarantee and safeguard the rights, allowing citizens to live, grow, and develop with dignity, as articulated in Article 1, paragraph 6 of the West Nusa Tenggara Regional Regulation Number 11 of 2021 concerning the Recognition, Respect, and Protection of Customary Law Communities. Furthermore, Article 6 of the Regional Regulation states that customary law communities designated as legal subjects have the right to protection. The Regional Government is responsible for ensuring this protection to uphold the rights, which include the following.

1. Safeguarding customary area.
2. Ensuring communities' status as legal subjects.
3. Returning the customary area for management, adoption, and preservation according to the customs of Sembalun Village.
4. Providing compensation for any loss of rights related to managing customary area with authorization from the Central or Regional Government.
5. Supporting the development and maintenance of local culture and wisdom to preserve environmental functions.
6. Enhancing the standard of living.
7. Preserving local wisdom and traditional knowledge.
8. Protecting the wealth and/or customary objects owned by the Sembalun Village Customary Institution.

Sembalun, which is a village in Indonesia, has successfully maintained its culture, making the community a unique destination for both domestic and international tourists. Cultural tourism in Sembalun Village has thrived due to the active customary law. Customs such as ceremonies, social life, traditional dances, clothing, historical relics, and traditional buildings attract visitors to the village.

4.9. Critical Points on the Recognition and Protection of Sembalun Village Customary Law Communities

Based on the earlier description of customary law, the study concluded that customary law was a living tradition within society. Similarly, the customary law of Sembalun Village, as outlined in the Awig-Awig of the Sembalun Village Customary Institution, had been a living tradition passed down through generations. This continuity would persist without formal recognition and protection from both the Central and Regional Governments of West Nusa Tenggara Province and East Lombok Regency.

Unwritten customary law, which lacked formal codification, evolved with societal changes. Furthermore, interviews with respondents showed that the Sembalun Village customary law had been observed through generations. This was observed not solely due to governmental recognition and protection but also because of the enforcement by the Sembalun Village Customary Institution.

The West Nusa Tenggara Regional Regulation Number 11 of 2021 concerning the Recognition, Respect, and Protection of Customary Law Community Units (Article 6) regulates the protection of customary areas, legal subject status, management, adoption, and preservation of customary areas, compensation for rights loss, development and maintenance of

local culture and wisdom, as well as the preservation of local wisdom, traditional knowledge, and customary objects. Regulating customary law communities through laws such as the West Nusa Tenggara Regional Regulation aims to provide legal certainty. While the regulation is beneficial, the customary law of Sembalun Village has existed and been respected before the enactment of the regulation in 2021. The Sembalun Village customary law communities have existed since before Indonesia's independence on August 17, 1945, proving that customary law endures within society (Living Law) with or without formal governmental recognition and protection.

5. Conclusions

Protection of the Sembalun Village customary law communities is based on Article 4 of the West Nusa Tenggara Regional Regulation Number 11 of 2021, which addresses the Recognition, Respect, and Protection of Customary Law Communities. The Provincial Government further recognizes and respects these communities by conducting data collection and subsequently determining the citizens as legal subjects with rights and obligations.

The recognition of the Sembalun Village customary law communities was outlined in Article 6 of the same regulation. It stipulated that once recognized as legal subjects, these communities were entitled to protection. This protection included safeguarding the customary area, ensuring the communities' status as legal subjects, returning the customary area for management, adoption, and preservation according to customs, and providing compensation for any loss of rights in managing the customary area with authorization from the Central or Regional Government, as well as supporting the development and maintenance of local culture and wisdom. Additionally, protection covered improving the standard of living, preserving local wisdom and traditional knowledge, as well as safeguarding the wealth and/or customary objects owned by the Sembalun Village Customary Institution. The Central and Regional Governments should recognize and protect the Sembalun Village customary law communities following applicable regulations to ensure the continuation of customary law as a tourist attraction.

The Sembalun Village communities should continue to uphold and respect customary law passed down through generations, maintaining both the quantity and quality of this tradition as a tourist attraction. Tourists should respect and adhere to customary law to prevent any issues that could harm both the citizens and customary law communities, ensuring Sembalun Village remains a unique and distinctive destination.

References

- [1] A. Lubis, M. Kaban, and E. Ikhsan, "The concept of Pancasila in guaranteeing the legal protection of Indonesian customary law communities," *KnE Social Sciences*, vol. 8, no. 21, pp. 225–235, 2024. <https://doi.org/10.18502/kss.v8i21.14720>
- [2] R. Lestari and D. Sukisno, "Study of customary rights in Kampar Regency from the perspective of legislation and customary Law," *Ius Quia Iustum Law Journal*, vol. 28, no. 1, pp. 94–114, 2021.
- [3] F. Osman, "Custom versus customary law: Does South African jurisprudence draw the distinction?," *Journal of African Law*, vol. 68, no. 3, pp. 323–339, 2024. <https://doi.org/10.1017/S0021855324000159>
- [4] R. E. Caraka *et al.*, "Connectivity, sport events, and tourism development of Mandalika's special economic zone: A perspective from big data cognitive analytics," *Cogent Business & Management*, vol. 10, no. 1, p. 2183565, 2023. <https://doi.org/10.1080/23311975.2023.2183565>
- [5] N. G. Antaguna and I. N. P. Budiarta, "Development of Balinese customary law in the perspective of local Wisdom of Tri Hita Karana," *Sociological Jurisprudence Journal*, vol. 6, no. 2, pp. 144–149, 2023.
- [6] I. W. W. Astara, N. P. Budiarta, P. A. S. Wesna, I. K. Selamat, and I. K. M. Wijaya, "Penglipuran tourism village, Kubu Village, Bangli District, Bali in maintaining Bali local wisdom values," *Journal of Legal and Cultural Analytics*, vol. 2, no. 3, pp. 175–190, 2023.
- [7] A. K. Jaelani, R. D. Luthviati, R. O. Kusumaningtyas, S. Al Fatih, and A. Siboy, "Legal protection of Balinese traditional law during global tourism destination development," *KnE Social Sciences*, pp. 1101–1109, 2024. <https://doi.org/10.18502/kss.v8i21.14825>
- [8] N. Indonesia, A. Yang, M. Kuasa, and P. N. Indonesia, *Republic of Indonesia, the 1945 constitution of the Republic of Indonesia*. Jakarta: Government of the Republic of Indonesia, 1945.
- [9] I. M. M. Widyantara and A. L. Ashton, "Violation of law against exploitation of new," in *3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, 2023: Atlantis Press, pp. 975–979.
- [10] J. K. Boateng, H. K. Golo, S. Ibrahim, and B. T. Erinosh, "Reconciling conflicts between cultural beliefs, and human rights standards in coastal communities of Ghana: Preserving cultural rights and promoting sustainable fishing practices," *Cogent Social Sciences*, vol. 10, no. 1, p. 2340427, 2024. <https://doi.org/10.1080/23311886.2024.2340427>
- [11] I. K. Ardhana and N. W. R. N. Puspitasari, "Adat law, ethics, and human rights in modern Indonesia," *Religions*, vol. 14, no. 4, p. 443, 2023. <https://doi.org/10.3390/rel14040443>
- [12] B. Adiyanto, M. Evi, J. W. Murti, and S. Salahidin, "Recognition of the existence of traditional legal communities from the perspective of legal philosophy," *Journal of Political and Legal Sovereignty*, vol. 1, no. 3, pp. 72–77, 2024.
- [13] Y. Febrianty, E. Rohaedi, A. U. Hosnah, and M. M. Wijaya, "The local government concept to protect the value of community cultural traditions (Pariaman West Sumatra) in Regional Regulations," *Journal of Law and Sustainable Development*, vol. 11, no. 3, pp. e434–e434, 2023.
- [14] I. S. Jucu, "Sustainable rural development through local cultural heritage capitalization — analyzing the cultural tourism potential in rural Romanian areas: A case study of Hărman Commune of Braşov Region in Romania," *Land*, vol. 12, no. 7, p. 1297, 2023. <https://doi.org/10.3390/land12071297>
- [15] T. Istiqomah, "Analysis of obstacles of community rights to accelerate blue economic development of the East Fakfak," *Jurnal Scientia*, vol. 12, no. 04, pp. 2250–2255, 2023.
- [16] A. P. Pratama, A. E. Chandra, N. R. Isnanto, and A. N. K. Nisa, "Transformation and marginalization of indigenous communities: The Ata Modo tribe's experience amidst the hegemony of Komodo National Park tourism development," *The Indonesian Journal of Socio-Legal Studies*, vol. 3, no. 2, p. 1, 2024. <https://doi.org/10.54828/ijsls.2024v3n2.1>

- [17] S. Dahwal and Z. J. Fernando, "The intersection of customary law and Islam: A case study of the Kelpeak Ukum Adat Ngen Ca'o Kutei Jang in the Rejang Tribe, Bengkulu Province, Indonesia," *Cogent Social Sciences*, vol. 10, no. 1, p. 2341684, 2024. <https://doi.org/10.1080/23311886.2024.2341684>
- [18] A. Abbas and N. Hidayah, "The impact of customary wedding culture Rampanan Kapa ' in strengthening the customary law and improving cultural tourism in Tana Toraja- South Sulawesi," in *2nd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2021)*, 2021: Atlantis Press, pp. 42-46.
- [19] I. N. Nurjaya and I. N. Budiarta, "Sustainable national tourism development based on the conservation of nature and culture of traditional law communities," *Law Doctoral Community Service Journal*, vol. 2, no. 1, pp. 28-35, 2023.
- [20] E. Indrizal, E. Ermayanti, A. Irwandi, and Y. Nurti, "Scrambling for Cuan? social conflict in the development of batuinding waterfall ecotourism," *Indonesian Journal of Tourism and Leisure*, vol. 5, no. 1, pp. 76-92, 2024. <https://doi.org/10.36256/ijt.v5i1.405>
- [21] C. Brooks, E. Waterton, H. Saul, and A. Renzaho, "Exploring the relationships between heritage tourism, sustainable community development and host communities' health and wellbeing: A systematic review," *PloS one*, vol. 18, no. 3, p. e0282319, 2023. <https://doi.org/10.1371/journal.pone.0282319>
- [22] A. Tira, M. Ruslan, and A. Karim, "Strengthening legal institutions for performing rights to preservelocal art creations as national tourism assets," *Russian Law Journal*, vol. 11, no. 5, pp. 2465-2471, 2023.
- [23] N. Syahrul *et al.*, "Survival strategies of two changing societies' customary consultative assemblies: The orahua of Nias and the kerapatan adaik of West Sumatra," *Cogent Arts & Humanities*, vol. 11, no. 1, p. 2286733, 2024. <https://doi.org/10.1080/23311983.2023.2286733>
- [24] M. Peseyie and R. Gaur, "Reimaging of the Angami collective cultural identity: kenyu and customary law in the select Angami folktales," *Asian Ethnicity*, vol. 25, no. 4, pp. 738-757, 2024. <https://doi.org/10.1080/14631369.2024.2351432>
- [25] N. Wayan and G. Adnyani, "Balancing traditions and tourism: The dynamic roles of Balinese women," *Jurnal Kepariwisataaan Indonesia: Jurnal Penelitian dan Pengembangan Kepariwisataaan Indonesia*, vol. 17, no. 2, pp. 334-345, 2023.
- [26] A. Agung, G. Agung, I. Prathama, I. M. Suwitra, N. Luh, and M. Mahendrawati, "Strengthening traditional villages as legal subjects in tourism business management in Bali," *Journal Equity of Law and Governance*, vol. 3, no. 2, pp. 105-110, 2023.
- [27] D. Putu and D. Kasih, "Policies concerning sacred and open traditional cultural expressions: Tourism and creative economy In Bali context," *Jatiswara*, vol. 38, no. 1, pp. 14-27, 2023.
- [28] I. K. Sukadana, C. I. A. Mahayuni, and A. I. A. C. Anomsari, "Wisdom in the implementation of ngerampag sanctions in balinese customary law," in *International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, 2023: Atlantis Press, pp. 646-655.
- [29] A. Pramudianto, "The existence of international agreements on national and regional legislation related to handling Marine plastic waste in Indonesia," *International Journal of Law and Politics Studies*, vol. 5, no. 6, pp. 84-94, 2023. <https://doi.org/10.32996/ijlps>
- [30] I. K. Widia and I. D. K. Tantra, "Industry strategies for promoting , strengthening , and empowering customary villages to reduce prison population in the perspective of the tourism industry," in *Proceeding of International Community Service Seminar*, 2023, vol. 2, pp. 73-83.
- [31] A. History, N. Nurjaya, I. Corresponding, and N. N. Email, "Legal policy of sustainable tourism development: Toward community-based tourism in Indonesia," *Journal of Tourism Economics and Policy*, vol. 2, no. 3, pp. 123-132, 2023.
- [32] E. P. Gede, I. Putu, M. Yusuf, and J. H. Heslinga, "How can communities better prepare for future disasters? Learning from the tourism community resilience model from Bali, Indonesia," *Journal of Tourism Futures*, vol. 10, no. 3, pp. 504-523, 2024. <https://doi.org/10.1108/JTF-04-2023-0092>
- [33] B. R. Nurhayati, "Cultural objects and traditions of Negeri Soya," in *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, 2023, vol. 721: Springer Nature, p. 136.
- [34] S. Jayadi, A. R. Ridho, and R. Rahmawati, "Customary law "Merariq" marriage in the sasak ethnic society in Lombok Eastern Indonesia," in *International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, 2023: Atlantis Press, pp. 1480-1486.
- [35] A. N. Mzembe, K. Koens, and L. Calvi, "The institutional antecedents of sustainable development in cultural heritage tourism," *Sustainable Development*, vol. 31, no. 4, pp. 2196-2211, 2023. <https://doi.org/10.1002/sd.2565>
- [36] Z. Zefri and S. Sanggam, "Development model of tourism area based on local wisdom in Lake Toba, North Sumatra," *Eduvest-Journal of Universal Studies*, vol. 3, no. 12, pp. 2184-2193, 2023.