

Legal Protection for Watangan Performers in Calonarang: Harmonizing Positive Law and Balinese Customary Law

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Abstract:

Purpose:

This study analyzes the legal status and qualification of watangan performers as legal subjects and cultural actors within the Indonesian positive-law system and formulates a model of legal protection by harmonizing positive law with Balinese customary law to anticipate safety risks faced by performers.

Methodology:

The study employs normative legal research combined with a sociological examination of living law in Balinese customary communities. It applies statutory, conceptual, and sociological approaches and analyzes primary, secondary, and tertiary legal materials through grammatical, systematic, and teleological interpretation.

Findings:

The findings show that watangan performers remain legal subjects whose rights and obligations are protected by the 1945 Constitution, Law No. 39 of 1999 on Human Rights, and Law No. 5 of 2017 on the Advancement of Culture. The study also identifies an operational legal gap concerning safety standards for high-risk cultural actors.

Implication:

Legal protection should combine preventive measures—such as informed consent, standardized safety procedures, risk identification and mitigation, and the precautionary principle—with repressive protection through tort liability under Article 1365 of the Indonesian Civil Code and customary sanctions under awig-awig and pararem, provided that such customary norms do not conflict with national law.

INTRODUCTION

Balinese culture regards sacred performing arts as an inseparable part of the religious and social life of its communities. Calonarang is a form of sacred performance that combines dance, drama, and ritual, including symbolic scenes depicting the struggle between benevolent and malevolent forces (Paramadhyaksa, 2017). One of the characters appearing in the performance is the watangan, which symbolically represents a corpse or death. The watangan role generally requires the performer to remain in a vulnerable and static condition and, in certain practices, involves a level of physical risk that cannot be disregarded. In the practice of watangan matah, for example, the performer may even be placed in a state resembling suspended animation, creating risks that may threaten personal safety and life (Bali Tribune, 2022; Kompas.com, 2024).

As a living tradition that continues to be preserved, calonarang possesses substantial historical, religious, and aesthetic value and is recognized as an object of cultural advancement under Article 5 of Law Number 5 of 2017 on the Advancement of Culture, which identifies customs, rites, and arts as objects of national cultural advancement. Nevertheless, the sacred and symbolic values attached to the watangan role do not eliminate the performer's legal status as a human being who retains legal rights, including the rights to life, security, health, and dignity. Legal concerns arise when performances are conducted without standardized safety measures, adequate risk identification, or a clear informed-consent mechanism for performers, thereby creating the potential for physical and psychological harm to watangan performers.

Indonesian positive law, through the 1945 Constitution of the Republic of Indonesia and Law Number 39 of 1999 on Human Rights, expressly guarantees the rights to life, security, and personal protection for every citizen without exception, including individuals who undertake high-risk cultural roles (Asshiddiqie, 2011). Law Number 5 of 2017 on the Advancement of Culture also establishes a normative basis for the protection of cultural actors; however, it has not been followed by operational technical regulations specifically governing safety standards for cultural actors involved in high-risk performing arts. This absence of technical regulation creates legal vulnerability, particularly in determining the legal status of watangan performers and the form of liability that applies when harm occurs during a performance.

Balinese customary communities have long maintained their own customary legal systems, embodied in *awig-awig* and *pararem* as forms of living law governing the conduct of ceremonies and sacred performances, including *calonarang* (Soepomo, 1966; Soemadiningrat, 2002). In practice, these customary provisions place greater emphasis on sacred values and ritual procedures and have not fully incorporated modern safety standards for performers. This condition demonstrates the need to harmonize positive law and Balinese customary law in order to establish a comprehensive legal-protection framework that, on the one hand, preserves the continuity of the *calonarang* tradition and, on the other, safeguards the safety and dignity of *watangan* performers as legal subjects. Such an absence of technical regulation corresponds to the concept of a normative vacuum or legal gap, namely a situation in which a legal event has not been expressly regulated by existing legislation (Rahardjo, 2000).

Based on this background, the study formulates two principal research questions: first, what is the legal status and qualification of *watangan* performers as legal subjects and cultural actors within the Indonesian positive-law system; and second, how should legal protection and normative harmonization between positive law and Balinese customary law be constructed to anticipate safety risks faced by *watangan* performers? Accordingly, this study aims to analyze the legal status of *watangan* performers as both legal subjects and cultural actors and to formulate a model of legal protection that harmonizes positive law with Balinese customary law to guarantee performer safety and dignity without diminishing the sacred values of the *calonarang* tradition.

METHODS

This study employs normative legal research (juridical-normative research) combined with a sociological examination of the living law operating within Balinese customary communities (Marzuki, 2017; Soekanto & Mamudji, 2015). The approaches used include a statutory approach to examine the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 on Human Rights, Law Number 5 of 2017 on the Advancement of Culture, and the Indonesian Civil Code; a conceptual approach to analyze the concepts of legal subjects, cultural actors, and legal protection; and a sociological approach to examine the living-law practices of Balinese customary communities as embodied in *awig-awig* and *pararem* governing the organization of *calonarang* performances.

The legal materials consist of primary legal materials in the form of the legislation identified above; secondary legal materials comprising books, scholarly journal articles, and relevant previous studies concerning the legal status of cultural actors and the protection of human rights; and tertiary legal materials, including legal dictionaries and encyclopedias, used to clarify legal terminology (Soekanto & Mamudji, 2015). Legal materials were collected through library research. All materials were subsequently analyzed qualitatively using grammatical, systematic, and teleological interpretation and were presented in a descriptive-prescriptive manner to address the research questions.

RESULTS AND DISCUSSION

Legal Status and Qualification of *Watangan* Performers as Legal Subjects and Cultural Actors in the Indonesian Positive-Law System

In legal doctrine, a legal subject is understood as any entity capable of holding rights and obligations and of performing legal acts (Mertokusumo, 1988: 53). A human being (*natuurlijke persoon*) is a legal subject in the most fundamental sense because, from live birth, a person becomes a bearer of rights and possesses inherent civil rights (Subekti, 2003: 19–21). This principle applies universally and does not depend on the role, profession, or social and cultural function undertaken by an individual, including roles performed in sacred cultural contexts such as *calonarang*.

Although a *watangan* performer enacts a role that symbolically represents death, the performer cannot thereby lose civil status as a living human being. The *watangan* role is performative and symbolic; it is not a legal event that extinguishes a person's legal subjectivity. Consequently, the *watangan* performer has a dual status: as a legal subject possessing rights and obligations like any other person and, simultaneously, as a cultural actor who performs a function in preserving tradition (Jurnal Mitra Warga, 2023). These two statuses are cumulative rather than alternative, meaning that qualification as a cultural actor must not reduce or eliminate the performer's rights as a legal subject.

Normatively, this status has a constitutional foundation in the 1945 Constitution of the Republic of Indonesia, particularly Article 28A, which guarantees every person's right to life; Article 28G paragraph (1), which

guarantees the right to protection of oneself, family, honor, dignity, and property as well as the right to security; and Article 28D paragraph (1), which guarantees recognition, guarantees, protection, and fair legal certainty. These provisions are reinforced by Law Number 39 of 1999 on Human Rights, which affirms that the rights to life and security and the right to be free from treatment that degrades human dignity are fundamental rights that cannot be derogated under any circumstances (non-derogable rights) (Asshiddiqie, 2011).

Law Number 5 of 2017 on the Advancement of Culture complements this normative framework by recognizing cultural actors within the broader framework of cultural advancement that must be protected, developed, utilized, and sustainably fostered. This recognition confirms that qualification as a cultural actor does not position the *watangan* performer as an object of performance or as stage property, but as an active and dignified subject in the process of cultural preservation. The legal consequence is that *watangan* performers are entitled to protection, safety, health, and legal certainty, and neither cultural status nor the sacred nature of the role may be used as grounds for setting aside those legal rights.

Construction of Legal Protection and Harmonization of Positive Law and Balinese Customary Law in Anticipating Safety Risks for *Watangan* Performers

Although Law Number 5 of 2017 on the Advancement of Culture provides a normative basis for protecting cultural actors, an examination of its implementing framework reveals a substantial operational legal gap (Rahardjo, 2000). The law does not technically regulate safety standards, informed-consent mechanisms, risk identification and mitigation, performance oversight, or accountability mechanisms for cultural actors involved in high-risk arts and cultural activities, including *calonarang* performances involving the *watangan* character. This gap creates legal uncertainty in the practical organization of such performances.

To address this gap, an appropriate framework of legal protection should be constructed through harmonization between positive law and the living law of Balinese customary communities (Soepomo, 1966; Soemadiningrat, 2002). Such harmonization is not intended to subordinate one legal system to another, but rather to develop complementary normative synergy, provided that applicable customary norms do not conflict with the Constitution and national legislation. This synergy can be realized through two forms of protection: preventive legal protection aimed at preventing disputes or harm, and repressive legal protection providing remedies after a dispute or harm has occurred (Hadjon, 1987).

Preventive legal protection is intended to prevent risks before and during a performance. It may be implemented through informed consent, namely consent given by a *watangan* performer after receiving adequate information concerning the risks associated with the role, by analogy with consent mechanisms governing risky interventions in other fields (Minister of Health Regulation No. 290/Menkes/Per/III/2008; Guwandi, 1994); the establishment of standardized safety standard operating procedures (SOPs) for performance organizers; systematic risk identification and mitigation before the performance; and application of the precautionary principle by all parties involved, including customary leaders, organizers, and technical assistants, to ensure that the performer remains within reasonable safety limits.

Repressive legal protection is required as a form of accountability where negligence causes harm to a *watangan* performer. Under positive law, the basis of liability may refer to the law of unlawful acts (tort) under Article 1365 of the Indonesian Civil Code, which requires the existence of an unlawful act, fault, damage, and a causal relationship between the act and the resulting harm (Fuady, 2002). Where an organizer or other party responsible for a performance is proven negligent in implementing safety standards and that negligence causes harm to the performer, that party may be held civilly liable.

Such repressive mechanisms may be strengthened through customary mechanisms and sanctions embodied in *awig-awig* and *pararem* applicable within each traditional village in Bali, whose existence is required for traditional villages under regional regulation (Sumarjo, 2018; Bali Provincial Regulation No. 4 of 2019). As written law within customary-law communities, *awig-awig* and *pararem* possess strong sociological binding force and may contain more specific provisions concerning procedures, organizers' obligations, and customary sanctions for negligence in conducting sacred performances, provided that their content does not conflict with national law. Harmonizing civil-law mechanisms under positive law with these customary mechanisms therefore provides an important foundation for building a protection system that can sustain the *calonarang* tradition while safeguarding the safety and dignity of *watangan* performers as legal subjects.

CONCLUSION

The study concludes that watangan performers hold the status of both legal subjects and cultural actors with independent legal standing. Their rights and obligations as human beings therefore remain attached and are not extinguished by the symbolic role of representing death in calonarang performances. This status is normatively grounded in the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 on Human Rights, and Law Number 5 of 2017 on the Advancement of Culture, which place watangan performers not as objects or stage property but as human beings entitled to protection, safety, health, dignity, and legal certainty.

The study also identifies an operational normative gap in the regulation of cultural advancement, particularly concerning safety standards and specific protection mechanisms for cultural actors participating in high-risk arts and cultural activities. An appropriate legal-protection framework should be constructed through harmonization between positive law and the living law of Balinese communities. Such protection encompasses preventive measures through informed consent, standard operating procedures, risk identification and mitigation, and the precautionary principle, as well as repressive measures through tort liability under Article 1365 of the Indonesian Civil Code reinforced by customary mechanisms and sanctions under awig-awig and pararem, insofar as these do not conflict with national law.

Accordingly, this study recommends the development of technical regulations, either through implementing regulations under Law Number 5 of 2017 or through regional regulations, specifically governing safety standards for cultural actors involved in high-risk sacred performances. In addition, the capacity of traditional villages should be strengthened by updating awig-awig and pararem to incorporate technical provisions on informed consent and safety standards for calonarang performances, thereby maintaining a balance between the preservation of tradition and the protection of the human rights of watangan performers as legal subjects.

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