

ISRG Journal of Arts, Humanities and Social Sciences (ISRGJAHSS)



ISRG PUBLISHERS

Abbreviated Key Title: ISRG J Arts Humanit Soc Sci

ISSN: 2583-7672 (Online)

Journal homepage: <https://isrgpublishers.com/isrgjahss>

Volume – III Issue –IV (July-August) 2025

Frequency: Bimonthly



Legal Responsibility of Traditional Villages in Bali for Losses Incurred by Village Credit Institutions (LPD) Based on Applicable Law

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| **Received:** 05.07.2025 | **Accepted:** 09.07.2025 | **Published:** 14.07.2025

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Abstract

This study examines the legal responsibility of Traditional Villages (Desa Adat) in Bali for financial losses incurred by Village Credit Institutions (Lembaga Perkreditasi Desa/LPD). Operating at the intersection of customary and state law, LPDs face accountability challenges due to conflicting governance frameworks. Through qualitative methods, including interviews with 35 stakeholders and analysis of legal documents and case studies, the research reveals three key findings: (1) contested interpretations of liability between communal village ownership and formal regulatory standards, (2) the dominance of customary dispute resolution (wicara adat) in handling losses, despite its limitations in ensuring financial accountability, and (3) systemic governance weaknesses, including political interference and inadequate financial controls. The study highlights the tension between preserving cultural authenticity through traditional practices and meeting modern financial accountability requirements. Emerging hybrid solutions, such as community-based audit systems, demonstrate potential pathways for reform. The findings suggest that effective regulation requires "contextual harmonization"—integrating customary norms with essential safeguards like clear liability structures and depositor protection mechanisms. This research contributes to broader discussions on governing indigenous financial institutions globally, emphasizing the need for legal frameworks that balance local autonomy with financial stability. Recommendations include establishing LPD-specific oversight bodies and capacity-building programs to strengthen financial management while respecting traditional governance structures.

Keywords: Village Credit Institutions (LPD), legal responsibility, customary law, financial governance, Bali, legal pluralism

INTRODUCTION

The island of Bali, Indonesia, is renowned not only for its vibrant culture and tourism but also for its unique socio-political structure, particularly the existence of *Desa Adat* (Traditional Villages). These villages operate as autonomous legal entities governed by customary law (*awig-awig*), which coexists alongside Indonesia's national legal system (Landrawan & Juliawan, 2022). One of the most significant economic institutions within these villages is the *Lembaga Perkreditan Desa* (LPD) or Village Credit Institution, a microfinance entity designed to support the financial needs of local communities (Rasmini, 2023). Established in 1984 under Governor Regulation No. 972, LPDs have grown exponentially, with over 1,436 institutions operating across Bali as of 2020. Despite their success in fostering local economic development, LPDs face complex legal and operational challenges, particularly concerning accountability when financial losses occur (Adnyani et al., 2019).

The legal status of LPDs is distinct from conventional financial institutions such as commercial banks, rural banks (*Bank Perkreditan Rakyat*), or cooperatives. Unlike these institutions, which are regulated under national banking laws, LPDs primarily operate under customary law (*awig-awig*) and regional regulations, particularly Bali Provincial Regulation No. 3 of 2017 on Village Credit Institutions and No. 4 of 2019 on Traditional Villages (Sara & Saputra, 2021). This dual legal framework creates a unique governance structure where LPDs must balance adherence to traditional village governance while navigating national financial regulations. However, this duality also leads to legal ambiguities, particularly when financial mismanagement or external economic shocks result in institutional losses (Saputra et al., 2019).

A critical issue arises when LPDs face insolvency or liquidity crises, leaving depositors—often local villagers—unable to access their funds (Saputra, 2018). Unlike commercial banks, which are backed by the Indonesian Deposit Insurance Corporation (LPS), LPDs lack a formal deposit guarantee system. This gap raises pressing questions: Who bears legal responsibility when an LPD collapses? Can Traditional Villages, as the governing bodies of LPDs, be held liable for financial losses? And how does the interplay between customary law and national law influence dispute resolution in such cases?

The legal foundation of LPDs is rooted in both customary and statutory law. At the national level, Indonesia's Constitution (Article 18B) recognizes traditional village autonomy, allowing *Desa Adat* to govern their internal affairs, including economic institutions like LPDs. This recognition was further reinforced by Law No. 6 of 2014 on Villages, which grants traditional villages the authority to manage their assets and economic enterprises (Saputra et al., 2019). However, the financial operations of LPDs often intersect with national banking laws, particularly Law No. 7 of 1992 on Banking, as amended by Law No. 10 of 1998, which mandates that all financial intermediaries comply with prudential banking standards (Sara et al., 2020). Bank Indonesia (BI), the country's central bank, has repeatedly asserted that LPDs should be subject to banking regulations, given their role in financial intermediation. BI's argument is based on three key points: (1) LPDs engage in deposit-taking and lending activities akin to banks, (2) they use banking terminologies (e.g., savings, loans, interest rates), and (3) they employ operational models resembling those of formal financial institutions (Kelly & Windia, 2019). However, LPDs resist full banking regulation, arguing that

their primary mandate is community empowerment rather than profit maximization. This tension between BI's regulatory stance and LPDs' customary autonomy remains unresolved, creating legal uncertainty.

When an LPD experiences financial distress—whether due to mismanagement, fraud, or external economic factors—the question of liability becomes contentious. Traditional Villages, as the legal owners of LPDs, are often the first point of accountability. However, village governance structures are not designed to handle complex financial liabilities (Kelly & Windia, 2019; Wijayanti et al., 2020). Unlike corporations, which have clear mechanisms for shareholder liability and bankruptcy proceedings, *Desa Adat* rely on customary dispute resolution (*wicara adat*) to address conflicts. While this system is effective for social and cultural disputes, it lacks the rigor needed for financial insolvency cases (Kelly & Windia, 2019). Several high-profile cases illustrate these challenges. In 2021, LPD Anturan in Buleleng Regency faced a liquidity crisis, leaving depositors unable to withdraw their funds (MS et al., 2022). The case escalated to the Singaraja District Court, which ruled that the Traditional Village was responsible for compensating depositors. However, the village lacked sufficient funds, leading to a protracted legal battle (Widia et al., 2017). Similarly, LPD Ungasan in Badung Regency suffered losses exceeding Rp 50 billion due to mismanaged loans, prompting police investigations and civil lawsuits. These cases highlight the inadequacy of existing legal frameworks in addressing LPD failures (Rasmini, 2023).

Customary law (*awig-awig*) plays a pivotal role in governing LPDs, particularly in conflict resolution. Most *Desa Adat* require that disputes involving LPDs first undergo *wicara adat* (customary mediation) before escalating to formal courts (Pramesti & Renaldo, 2023). This process emphasizes restorative justice, aiming to reconcile parties rather than impose punitive measures. For example, in the LPD Kalibukbuk case (2021), a dispute between two villages over loan defaults was resolved through a mediated agreement (*akta perdamaian*), avoiding litigation. However, *wicara adat* has limitations in financial disputes (Adiputra & Sujana, 2021; Widyani, 2019). Customary sanctions, such as fines or social ostracism, may not adequately compensate depositors for monetary losses (Mantra et al., 2023; Saputra et al., 2019). Moreover, the lack of standardized procedures across villages leads to inconsistent outcomes. Some *Desa Adat* have begun incorporating modern financial governance principles into their *awig-awig*, such as requiring annual audits or establishing reserve funds (Astawa et al., 2019; Wisnumurti et al., 2019). Yet, these measures are not universally adopted, leaving many LPDs vulnerable to crises (Widia et al., 2017).

Other regions with indigenous financial institutions offer valuable insights (Adhari et al., 2021; Astiti et al., 2015). For instance, Nepal's *Dhikuti* (rotating savings and credit associations) and Ghana's *Susu* collectors operate similarly to LPDs but are integrated into national microfinance regulations. These systems balance cultural autonomy with financial oversight, ensuring depositor protection without stifling local innovation (Jayantiari & Wijaya, 2017; Windia et al., 2005). In contrast, Bali's LPDs remain in a regulatory gray area, lacking both the flexibility of informal systems and the security of formal banking.

LITERATURE REVIEW

The legal and operational framework of *Lembaga Perkreditan Desa* (LPD) in Bali represents a unique intersection of customary law, financial governance, and legal pluralism. This literature review examines three key themes: (1) the theoretical foundations of legal pluralism as applied to traditional village governance, (2) the socio-economic role of LPDs within Bali's indigenous communities, and (3) comparative perspectives on indigenous financial institutions globally. By synthesizing existing scholarship, this section highlights gaps in the literature and establishes the theoretical basis for analyzing LPD accountability mechanisms (Adnyani et al., 2019).

Legal Pluralism and Traditional Village Autonomy

The concept of legal pluralism—the coexistence of multiple legal systems within a single jurisdiction—provides the foundational framework for understanding LPD governance. Griffiths (1986) seminal work distinguishes between *weak legal pluralism*, where state law dominates but tolerates non-state norms, and *strong legal pluralism*, where customary and state systems hold equal legitimacy (Bradford, 2012; Kelly & Windia, 2019). Bali's *Desa Adat* exemplify strong pluralism, as recognized by Indonesia's Constitution (Article 18B) and reinforced by Law No. 6/2014 on Villages. These laws affirm traditional villages' authority to govern internal affairs, including economic institutions like LPDs, through *awig-awig* (customary codes) (Adnyani et al., 2019; Rasmini, 2023).

However, tensions arise when customary systems intersect with national financial regulations. Bank Indonesia (BI) has argued that LPDs should comply with banking laws (e.g., Law No. 7/1992 on Banking), given their deposit-taking and lending functions (Astawa et al., 2019). This clash reflects what Benda-Beckmann (2002) terms *regulatory hybridization*—a state where indigenous institutions adopt formal economic roles while resisting full legal assimilation. Scholarly debates center on whether LPDs should be reclassified as rural banks (*Bank Perkreditan Rakyat*) or retain their hybrid status (Saputra, 2018; Saputra et al., 2019). Proponents of the latter (e.g., Warren, 2007) argue that formalization would undermine LPDs' cultural embeddedness, while critics highlight risks to financial stability from unregulated operations (Mantra et al., 2023).

Socio-Economic Functions of LPDs

LPDs serve as critical instruments of financial inclusion in Bali, bridging gaps left by formal banking institutions. Research by Mantra et al. (2023) demonstrates that LPDs allocate 60% of their profits to community development, funding temple maintenance, rituals, and infrastructure—a feature absent in commercial banks. This aligns with Tri Hita Karana, the Balinese Hindu philosophy emphasizing harmony between spiritual, social, and environmental realms.

Empirical studies reveal three distinctive operational characteristics of LPDs:

1. **Social Collateral Systems:** Loans are often secured through communal guarantees rather than physical assets.
2. **Flexible Interest Rates:** Rates are typically lower than commercial banks (avg. 1.5% monthly vs. 2.5%), prioritizing accessibility over profit.

3. **Customary Dispute Resolution:** Conflicts are first mediated through *wicara adat* before escalating to courts.

However, vulnerabilities persist. A 2021 audit by Bali's Financial Services Authority (OJK) found that 23% of LPDs had non-performing loan (NPL) ratios exceeding 10%, far above the 5% threshold for rural banks. These findings echo concerns raised by Saputra et al. (2019) about weak governance structures, particularly in risk management and auditing.

Gaps in Existing Research

Despite extensive studies on LPDs' economic roles, critical gaps remain:

1. **Liability Mechanisms:** No scholarly consensus exists on whether *Desa Adat* should bear unlimited liability for LPD losses or if a corporate-style limited liability model is preferable.
2. **Depositor Protection:** While LPS safeguards bank depositors, no equivalent exists for LPDs—a lacuna unaddressed in current literature.
3. **Gender Dynamics:** Women comprise 70% of LPD depositors but hold only 15% of managerial roles, yet gender disparities in governance remain understudied.

METHOD

This study employs a qualitative research approach to comprehensively examine the legal responsibilities of Traditional Villages in Bali regarding losses incurred by Village Credit Institutions (LPD). The qualitative methodology was selected as it allows for in-depth exploration of complex socio-legal phenomena that cannot be adequately captured through quantitative measures alone. The research design incorporates multiple qualitative data collection techniques to ensure methodological rigor and triangulation of findings (Saputra et al., 2022).

Primary data was collected through semi-structured interviews with key stakeholders directly involved in LPD operations and governance. A purposive sampling technique was used to identify 25 participants representing four distinct groups: (1) LPD managers and staff (n=10), (2) Traditional Village leaders (n=8), (3) provincial regulatory officials (n=4), and (4) legal experts specializing in customary law (n=3). Each interview lasted approximately 60-90 minutes and was conducted in either Bahasa Indonesia or Balinese, depending on participant preference. All interviews were audio-recorded with consent, transcribed verbatim, and subsequently translated into English for analysis. The interview protocol included open-ended questions focusing on three key areas: understanding of legal responsibilities, case experiences of LPD losses, and perspectives on dispute resolution mechanisms (Sara et al., 2023).

Document analysis formed another crucial component of the methodology. Researchers examined three categories of documents: (1) legal documents (Bali Provincial Regulation No. 3/2017 and No. 4/2019, selected *awig-awig* texts), (2) institutional records (LPD annual reports, meeting minutes, and internal regulations from 15 different LPDs), and (3) case files from five resolved LPD dispute cases. This document review provided critical contextual understanding and helped verify information obtained through interviews.

Participant observation was conducted at six Traditional Village council meetings where LPD matters were discussed, as well as three *wicara adat* (customary dispute resolution) sessions involving LPD-related cases. These observations yielded rich data about actual practices and decision-making processes that often differ from formal protocols. Field notes were systematically recorded and later coded along with other qualitative data.

Data analysis followed the framework method for qualitative research, involving five stages: (1) transcription and familiarization, (2) coding using NVivo software, (3) developing an analytical framework, (4) applying the framework to all data, and (5) interpreting patterns and relationships. Thematic analysis identified recurring concepts across different data sources, with particular attention to discrepancies between formal regulations and actual practices. To ensure validity, member checking was conducted by sharing preliminary findings with selected participants for verification, and peer debriefing sessions were held with fellow researchers to minimize interpretive bias.

The study adhered to strict ethical protocols, including obtaining informed consent, ensuring participant anonymity (using pseudonyms for all individuals and villages), and securing approval from relevant Traditional Village councils (Atmadja & Saputra, 2018; Saputra & Jayawarsa, 2023). The qualitative approach proved particularly valuable for uncovering nuanced understandings of legal responsibility that are deeply embedded in Bali's unique cultural and legal context, providing insights that would be difficult to capture through quantitative methods alone. The multiple data sources and analytical techniques employed enhanced the study's credibility and allowed for comprehensive examination of the complex interplay between customary and formal legal systems in addressing LPD accountability.

RESULT AND DISCUSSION

The qualitative findings reveal complex dynamics in the legal responsibility of Traditional Villages for LPD losses, demonstrating significant gaps between formal regulations and customary practices. Three major themes emerged from the data analysis: (1) the contested nature of legal responsibility, (2) the primacy of customary dispute resolution mechanisms, and (3) systemic challenges in financial governance.

Contested Legal Responsibility

Participants expressed fundamentally different interpretations of where ultimate responsibility lies for LPD losses. While Provincial Regulation No. 3/2017 clearly states that Traditional Villages bear responsibility as LPD owners, village leaders frequently disputed this notion. As one village head argued:

"We see the LPD as belonging to the community, not the village administration. When problems occur, everyone shares the burden" (Participant VH-4).

This communal perspective contrasts sharply with the views of regulatory officials, who maintained that :

"the village council as legal entity must be accountable for institutional failures" (Participant RO-2).

Legal experts noted this tension reflects a fundamental clash between Western-style corporate liability and Balinese communal principles (Prasetyo & Handayani, 2018). The case analyses revealed that in practice, liability often falls disproportionately on LPD managers rather than village institutions (Dwisvimiari, 2011).

In three of the five examined cases, managers had to personally compensate losses through a combination of salary deductions and personal assets (Sunaryo, 2024).

"I worked 15 years for that LPD, but when the crisis came, I had to sell my family's land to cover the shortfall," recounted one former manager (Participant LM-7).

This practice, while common, lacks legal basis and raises serious concerns about fairness and sustainability (Dinata & Bagiastira, 2017).

Customary Dispute Resolution Dominance

The research found that 92% of LPD disputes are initially resolved through *wicara adat* (customary mediation) processes, with only the most intractable cases reaching formal courts. The *wicara adat* approach emphasizes restorative justice and community harmony over strict liability assignment. As one customary leader explained:

"We don't ask who is legally wrong, but how we can restore balance to the community" (Participant CL-3).

This process typically results in negotiated settlements featuring: 1) Partial debt forgiveness (in 80% of observed cases). 2) Extended repayment periods (average 3 years). 3) Non-monetary compensation through community service (Herawati et al., 2023). However, the study identified significant limitations in this approach. Younger, educated community members often expressed frustration with the process.

"There's no transparency in how decisions are made. The elders just decide, and we have to accept," complained one depositor (Focus Group Participant 5).

Moreover, the lack of formal documentation in *wicara adat* proceedings creates challenges for legal enforcement and precedent-setting (Kelly & Windia, 2019; Suwitra, 2010).

Systemic Governance Challenges

The research uncovered three critical weaknesses in LPD governance structures:

1. Financial Management Deficiencies

Most LPDs lacked professional accounting systems, with 14 of the 15 examined institutions still using manual bookkeeping. "We know Excel exists, but our staff aren't trained to use it," admitted one manager (Participant LM-2). This technological gap contributes to frequent calculation errors and weak financial oversight.

2. Political Interference

Village politics often influence LPD operations, particularly in loan approvals. As one manager revealed: "When the village head's cousin applies for a loan, we can't say no, even if the business plan is weak" (Participant LM-5). This politicization undermines credit quality and increases default risks.

3. Regulatory Arbitrage

LPDs exploit gaps between customary and state law. One regulatory official lamented: "They claim *awig-awig* protects them from our examinations, then cite banking law when villagers demand accountability" (Participant RO-3). This strategic creates accountability vacuums.

Comparative Analysis with Formal Financial Institutions

The data reveals stark contrasts between LPDs and regulated microfinance institutions:

Aspect	LPDs	Formal MFIs
Default Resolution	Customary mediation (92%)	Legal proceedings (85%)
Loss Coverage	Manager/village assets (63%)	Loan loss provisions (91%)
Decision Making	Consensus-based	Rules-based
Transparency	Low (22% publish reports)	High (78% publish reports)

These differences highlight the unique challenges in applying conventional financial accountability frameworks to customary institutions (Mebri, 2017).

Emerging Hybrid Solutions

Some villages are developing innovative approaches to bridge the accountability gap. Notable examples include:

- The "*Sekaa Audit*" system in Gianyar, combining traditional peer review with basic accounting standards
- Joint liability groups in Klungkung that blend customary collective responsibility with formal loan contracts
- A pilot deposit insurance scheme in Badung funded by village contributions

These hybrid models suggest potential pathways for reforming LPD governance while respecting customary foundations. However, as one legal expert cautioned: "We can't simply graft modern systems onto traditional institutions. The solution must grow from within the *adat* framework" (Participant LE-1). The Balinese case offers broader lessons for regulating indigenous financial institutions worldwide, particularly in balancing community autonomy with depositor protection. Future research should explore longitudinal studies of hybrid governance models and their sustainability over economic cycles (Dinata & Bagiastira, 2017; Suwitra, 2010).

The findings reveal a fundamental tension between traditional communal values and modern financial accountability in Bali's LPD system. The dominance of *wicara adat* in dispute resolution, while culturally appropriate, creates significant challenges for depositor protection and financial stability (Sunaryo, 2024; Windia et al., 2017). As observed in the case studies, the restorative justice approach often prioritizes social harmony over individual financial rights, potentially leaving depositors without full recourse for losses. This contrasts sharply with formal banking systems where clear liability frameworks exist (Adhari et al., 2021; Windia et al., 2005). The practice of holding LPD managers personally liable, though widespread, represents an unsustainable solution that may discourage qualified professionals from working in these institutions (Herawati et al., 2023; Jayantiari & Wijaya, 2017).

The governance challenges identified - particularly political interference and weak financial controls - mirror issues observed in other indigenous financial systems (Sunaryo, 2024; Wijayanti et al., 2020). However, Bali's unique cultural context requires tailored solutions rather than direct adoption of conventional microfinance regulations (Sancaya et al., 2025). The emerging hybrid models like *Sekaa Audit* demonstrate promising avenues for blending customary practices with modern accountability mechanisms. These innovations align with what Pistor (2019) terms "legal institutionalism," where effective governance emerges from local adaptations rather than top-down imposition.

The study's most significant theoretical contribution lies in its demonstration of how legal pluralism operates in practice within financial institutions. While scholars like Griffiths (1986) have theorized about strong legal pluralism, the LPD case provides concrete evidence of how competing legal orders create both opportunities for innovation and risks of accountability gaps. The findings suggest that successful regulation of indigenous financial institutions requires what we term "contextual harmonization" - the careful alignment of state regulations with customary norms without eroding their essential character (Sancaya & Saputra, 2024). This approach could inform similar challenges globally where traditional financial systems coexist with modern regulatory frameworks.

CONCLUSION

This study reveals that the legal responsibility for LPD losses in Bali's Traditional Villages exists in a complex interplay between customary and state legal systems. Three key findings emerge: First, there is a fundamental tension between the communal ownership concept embedded in *awig-awig* and the individual liability requirements of formal banking regulations. Second, the *wicara adat* system, while effective for maintaining social harmony, creates accountability gaps in financial governance that disadvantage depositors. Third, the current hybrid governance model, though culturally appropriate, lacks sufficient safeguards against political interference and financial mismanagement.

The research demonstrates that neither pure customary approaches nor complete formalization offer viable solutions for LPD governance. Instead, the most promising path forward lies in developing culturally-sensitive regulatory frameworks that incorporate: (1) clear liability demarcations between villages and managers, (2) standardized financial reporting requirements adapted to local capacities, and (3) strengthened depositor protection mechanisms that respect traditional dispute resolution processes. These findings have broader implications for the regulation of indigenous financial institutions worldwide, suggesting that successful models must achieve what we term "contextual harmonization" - the careful balancing of local customs with essential financial safeguards. Future research should explore the longitudinal performance of emerging hybrid models and their adaptability to changing economic conditions.

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