

# Overlapping Regional Regulations on Subak in Bali and Their Conflict with National Law

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## ABSTRACT

Subak is a traditional Balinese agrarian system recognized by UNESCO as a World Cultural Heritage. However, its sustainability faces serious threats due to regulatory overlaps between regional and national legislation, particularly regarding the protection of agricultural land. This study aims to examine the normative conflict between regional regulations in Bali and Law Number 41 of 2009 on the Protection of Sustainable Agricultural Land. Using a normative juridical method and statutory approach, the research reveals substantial differences in the regulation of Subak land use. Several regional bylaws permit the conversion of agricultural land for development purposes, which contradicts national legal norms that emphasize the preservation of sustainable agriculture. The study recommends regulatory harmonization and policy revision at the regional level to align with the goals of Subak protection and national food sovereignty.

**Keywords:** *Subak, Regional Regulation, National Law, Legal Conflict, Sustainable Agriculture.*

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## 1. INTRODUCTION

The Subak system is a traditional irrigation method in Bali that also functions as a social organization for farmers in managing water resources for agriculture. Beyond its economic significance, Subak holds deep cultural and religious values, as it is rooted in the Tri Hita Karana philosophy, which emphasizes harmony between humans, nature, and the divine [1]–[3]. Historically, Subak is part of Bali's cultural heritage, ensuring fair distribution of water among its members. It operates under customary rules and sanctions to govern water usage and prevent conflicts among farmers. Due to its unique features, UNESCO designated Subak as a World Cultural Heritage site in 2012 [4].

The global recognition of Subak's importance was affirmed when it was officially inscribed as a World Heritage site by UNESCO on June 29, 2012 [4]. However, modernization and infrastructure development in Bali have increasingly threatened the sustainability of Subak. A major contributing factor is the overlap of regional regulations concerning Subak, which often contradict national laws.

For instance, Bali Provincial Regulation No. 9 of 2012 acknowledges and provides protection for Subak. Yet, in practice, some local policies allow the conversion of rice fields—integral to Subak—into residential or tourism zones, as seen in Badung and Tabanan Regencies, where many Subak lands have been repurposed [5].

Conversely, Law No. 41 of 2009 on the Protection of Sustainable Food Agricultural Land mandates that local governments prevent the large-scale conversion of agricultural land [6]. This regulatory conflict creates legal uncertainty for Subak communities, as some laws support their protection, while others accelerate the loss of farmland. Therefore, a comprehensive review is needed to address the regulatory overlaps between local bylaws on Subak and national legislation, and to formulate harmonized policies that ensure the long-term preservation of the Subak system.

Based on the background described earlier, this study seeks to examine two core issues. The first focuses on how the Bali Provincial Regulation regulates the Subak system. The second explores the relationship and legal implications between these regional regulations and national laws that also govern Subak. This paper aims to provide insight into the legal relationship and implications between Bali's regional regulations on Subak and the relevant national laws, contributing to a better understanding of how these regulations interact and affect the sustainability of Subak.

## 2. METHODS

This study adopts a normative legal research approach, which is examined through a statutory approach and a conceptual approach. Data is collected through literature reviews and document analysis of relevant laws and regulations. The research focuses on the inventory of positive law, legal principles and doctrines, legal systematics, legal theories, comparative law, and legal history. Legal materials used in this writing are drawn from legislation and academic literature. These materials are then processed and analyzed, with the findings presented descriptively to draw meaningful conclusions.

## 3. RESULTS AND DISCUSSION

### 3.1 Regional Regulations on Subak

The Provincial Government of Bali has taken concrete steps to protect the existence of Subak through the issuance of several regional regulations. One of the most significant regulations is Bali Provincial Regulation Number 9 of 2012 concerning Subak, which officially recognizes Subak as a cultural heritage that must be preserved. This regulation affirms that Subak functions as a customary institution with the right to manage water resources traditionally (Article 4) [5]. The local government is also obliged to provide legal protection for the existence of Subak (Article 7) and stipulates that the conversion of Subak land can only be carried out with special permission under certain conditions (Article 12). Although this regulation is designed to protect Subak, its implementation in the field often faces challenges, especially due to exceptions that actually open opportunities for land conversion for tourism and infrastructure development purposes. In addition, other regional regulations also affect the existence of Subak, such as Badung Regency Regional Regulation Number 26 of 2013 concerning Spatial Planning (RTRW), which allows the conversion of agricultural land into residential and tourism areas, and Bali Governor Regulation Number 99 of 2018, which promotes the use of local products but has not been effective enough in curbing land conversion [7].

### 3.2 National Laws Related to Subak

At the national level, the protection of Subak is closely related to several laws governing spatial planning, land protection, and environmental management. Law Number 41 of 2009 on the Protection of Sustainable Food Agricultural Land, for example, explicitly mandates that local governments must prevent the conversion of agricultural land that is not in line with national policy (Article 44), and every land conversion must obtain permission from the central government (Article 50). Meanwhile, Law Number 26 of 2007 on Spatial Planning emphasizes that spatial policies must prioritize sustainability and environmental conservation principles (Article 2) and prohibits spatial changes that harm ecosystems and local wisdom (Article 35). Subak, as a traditional irrigation system, should be protected under this principle. Furthermore, Law Number 32 of 2009 on Environmental Protection and Management also stresses the responsibility of local governments to preserve ecosystems and prohibits policies that have the potential to damage the environment (Articles 63 and 69). However, in reality, local policies often contradict national laws, resulting in suboptimal protection of Subak in practice.

### 3.3 Comparison and Identification of Conflicts

An analysis of regional regulations and national laws reveals several fundamental conflicts that directly impact the sustainability of Subak. One major conflict lies in land conversion policies, where Bali Provincial Regulation Number 9 of 2012 (Article 12) allows land conversion under certain conditions, while Law Number 41 of 2009 explicitly prohibits land conversion without permission from the central government. This shows that regional policies are more lenient compared to national policies [6]. Conflicts also appear in spatial planning policies, where the Badung Regency Spatial Planning Regulation opens opportunities for the conversion of Subak land, contradicting Law Number 26 of 2007 which prioritizes ecosystem sustainability. Moreover, environmental protection in the Subak Regulation lacks strict sanctions for violators, whereas Law Number 32 of 2009 prohibits policies that cause environmental degradation. These conflicts indicate a regulatory clash that creates legal uncertainty, weakens protection for Subak, and opens loopholes for development interests that are not aligned with sustainability principles.

### 3.4 Impacts of Regulatory Overlaps on Subak

The overlap of regulations between regional and national laws has complex impacts on the sustainability of Subak, from social, economic, environmental, and legal perspectives. Socially, conflicts between Subak farmers and local governments often arise due to land conversion decisions that ignore farmers' aspirations, leading to distrust towards the government [8]–[10]. In addition, the shrinking of Subak land threatens the continuity of local culture that has been passed down for generations. Many farmers are eventually forced to switch to the tourism sector due to the loss of their farmland, resulting in a shift in the village's economic structure. The economic impact is also felt through the decline in local agricultural productivity, affecting Bali's food security and widening the gap between rural and urban communities. Environmentally, land conversion triggers water crises due to increased water demand in the tourism sector and accelerates soil quality degradation. Legally, overlapping regulations create uncertainty for farmers regarding their land rights and result in violations of national regulations, which should have higher legal authority.

### 3.5 Solutions to Resolve Subak Regulation Conflicts

To address the regulatory conflict over Subak, efforts are needed to harmonize regional and national policies by revising the regional regulation to align with Law Number 41 of 2009 on the Protection of Sustainable Food Agricultural Land. The government also needs to provide financial incentives and subsidies to Subak farmers as a form of appreciation for their contributions in maintaining food security and local culture. Legal protection must be strengthened through the dissemination of farmers' rights and the establishment of advocacy institutions that can provide legal assistance in facing land conversion issues. In addition, revitalizing Subak based on the Tri Hita Karana philosophy should be encouraged so that Subak continues to function in accordance with local wisdom values. The government can also develop Subak-based ecotourism as an alternative development model that preserves agricultural land functions. Equally important, monitoring and law enforcement need to be strengthened through strict evaluation of land conversion permits and the imposition of sanctions for violations of regional regulations, so that Subak protection is not only written in policy but is truly implemented in the field.

## CONCLUSION

Based on this research, it can be concluded that the overlapping regulations concerning the Subak system in Bali stem from inconsistencies between regional policies and national laws. Although Bali Provincial Regulation No. 9 of 2012 aims to protect the Subak system, other regional regulations such as Badung Regency's Spatial Planning Regulation (Perda RTRW) No. 26 of 2013 — allow the conversion of rice fields into non-agricultural zones.

These regulatory conflicts are at odds with several national laws, including Law No. 41 of 2009 on the Protection of Sustainable Agricultural Land, Law No. 26 of 2007 on Spatial Planning, and

Law No. 32 of 2009 on Environmental Protection and Management. The consequences of these conflicting policies are far-reaching, ranging from decreased agricultural productivity and environmental degradation to social conflict and legal uncertainty for farmers.

To address this issue, regulatory harmonization between central and regional governments is urgently needed to ensure that Subak protection policies are aligned with higher-level legislation.



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