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Involvement of Traditional Villages in Bali as Legal Subjects of Druwe Village Land Registration: An Effort to Prevent Conflict

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Abstract

This study is aimed at analyzing the existence of padruwen village land as customary land in Balinese society investigated from the perspective of Indonesian land law. At this time, its position is getting challenges and pressures due to the strengthening of individual land rights. The phenomenon of converting these lands into individual property rights is one of the triggers for customary land conflicts. The problem becomes even more complicated when the customary village as the owner is not aware of the conversion, and is not even involved in the process. As an effort to prevent conflict, it is very important to involve traditional villages in the registration process. Important to discuss First, the position of traditional villages in Bali as legal subjects; Second, ideally the involvement of traditional villages in Bali in the process of registering the village druwe land. De facto, traditional villages in Bali can be qualified as customary law communities domiciled as legal subjects. Legal subjects in this context are legal subjects that are equivalent to other legal subjects or are equally original, where one is not derived from the other, for the benefit of the nation and the State as a whole. The ideal of the involvement of the traditional village is carried out in terms of determining who is written as the right holder or on behalf of the village Druwe land, especially that which is controlled by the villagers. First of all, this must be conveyed and decided in a paruman (traditional meeting). The results of the decision became the basis for implementing the village Druwe land registration. After the decision was made, then formal procedures based on state law were applied until the issuance of a certificate of land rights. This compromising condition between the State and the customary law

community is able to position the traditional village in Bali as one of the natural social entities, having co-existence with the State and other social entities.

Keywords

Traditional village; village druwe land; land registration

JEL Classifications: J11, F43

1. Introduction

The existence of customary law communities has been constitutionally recognized in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), namely in Article 18B paragraph (2) which affirms that "The state recognizes and respects customary law community units and their rights. traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in law". Likewise, this recognition can be found in various laws and regulations.

Nevertheless, this recognition is said to be a pseudo recognition given by the State. It is said to be pseudo recognition because there are conditions that are strictly regulated both in the constitution and in laws and regulations that have an impact on the decline in the position and capacity of customary law (Nurjaya, 2014). One of the regions in Indonesia that has customary law communities whose existence is still maintained is Bali. Until now, the customary law community in Bali still maintains customary rights, especially customary land which has an important function in people's lives, both related to religious activities and related to traditional activities.

Customary land as part of customary rights, in its development, is still needed by indigenous peoples (Arianto, 2015). Land as one of the very primary needs for the life of indigenous peoples is used for various activities, both for religious activities as well as for customary and personal activities such as for settlements, fields or agricultural land, up to as a place for the final resting place of community members after he died. These customary lands are owned by the customary village as a customary institution that regulates its management and is generally led by a customary village chief. Traditional land in Bali is called the Prabumian Land or the Village Padruwen Land (Setiady, 2009).

However, the existence of village Padruwen land as customary land, at this time is indeed facing challenges and pressures due to the strengthening of individual land rights. This resulted in their control not being free from problems that often appeared to interfere with the existence of the control of these lands, especially over customary lands which were individually controlled by indigenous villagers, commonly known as Karang Ayahan lands.

One of the problems that arise is the phenomenon of converting these lands into individual property rights. This phenomenon was opened because of the existence of Article II paragraph (1) Provisions on the Conversion of Law Number

5 of 1960 concerning Basic Regulations on Agrarian Principles or commonly known as Basic Agrarian Law (BAL). The article states that the rights to the village *druwe* are converted into property rights. The problem becomes even more complicated when the customary village as the owner is not aware of the conversion, and is not even involved in the process. This problem has occurred to the *druwe* village land belonging to the Lembeng Traditional Village, Gianyar Regency which was certified through a conversion process by the customary village officials (customers) who control the customary land parcels (Denpasar High Court Decision No 4/PDT/2016/PT.DPS).

In this case, after being converted into individual property rights, the land rights are transferred to external parties who do not have the status of traditional villagers. As a result, customary land parcels that have been converted into individual property rights (according to the BAL) are separated from the life order of the customary law community who are bound to the *Kahyangan Tiga* Temple (three sacred places that are mandatory for *adat* in a traditional village in Bali). This is not in accordance with the *dresta* in the local traditional village. Warren mentions the term *dresta* as the closest concept to the term *adat*, considering that it is a habit of local institutions which are inherited from their ancestors who try to maintain their relationship through ritual activities and the concept is an accumulation of ancestral experiences that are practiced repeatedly in manners with based on local regulations (Warren, 1993). As an effort to prevent land conflicts, it is ideal to involve the customary village as the owner of the village's *druwe* land in the *druwe* land registration process.

Based on the introductory description above, it is interesting to point out the things that will be discussed in this article. First, it is important to describe the position of traditional villages in Bali as legal subjects; Second, it explains ideally the involvement of traditional villages in Bali in the process of registering the village *druwe* land.

2. Traditional Village in Bali as a Legal Subject

2.1 Traditional Villages in Bali Are Indigenous Law Communities

In the context of the discourse on customary land in Bali as a traditional village *padruwen*, it cannot be separated from the discussion about traditional villages in Bali as legal subjects. When discussing rights as objects, it cannot be separated from the legal subject as the owner of the object. Therefore, first, we will discuss the basic matters regarding the position of indigenous peoples as legal subjects. Furthermore, it is described that customary land is *padruwen* or belongs to a traditional village.

Recognition of the existence of customary law communities should not only stop at the issue of regulating the recognition in laws and regulations. But it is important to put forward that the concept of recognition is included in the realm of the substance of the recognition itself. The hope is that as soon as possible the

principles of respect (to respect), to protect (to protect) and to fulfill (to fulfill) are more substantive. In order to realize this hope, the discourse on the recognition of indigenous peoples and their traditional rights should lead to discussions about what legal powers or skills they have.

The discourse on this matter leads to the positioning of indigenous peoples as legal subjects who are authorized and capable of carrying out various legal actions (Wiharma, et al, 2018). These legal actions are carried out in order to strengthen the rights and carry out the obligations that are their responsibility, both internally and externally. In this regard, Nurjaya said that by consistently recognizing the substance of the legal authority of the customary law community as a legal subject, it can prevent them from political neglect or political ignores (Putusan Perkara Nomor 3/PUU-VIII/2010).

In fact, the decision of the Constitutional Court of the Republic of Indonesia also confirms this. In the Constitutional Court's Decision on Judicial Review of Law Number 41 of 1999 concerning Forestry against the 1945 Constitution, the Court is of the opinion that the recognition given in the provisions of Article 18B paragraph (2) of the 1945 Constitution should also be interpreted as confirming the position of indigenous peoples as legal subjects. Considering that the recognition is fundamental to strengthen the existence, rights and obligations of indigenous peoples within the scope of legal relations. The following is an excerpt of the opinion of the Constitutional Court (Putusan Perkara Nomor 35/PUU-X/2012):

"...in the constitutional provisions, there is one important and fundamental thing in the traffic of legal relations. The important and fundamental thing is that the customary law community is constitutionally recognized and respected as a person with rights, which can also be burdened with obligations. Thus, customary law communities are legal subjects. As legal subjects in a society that has become a state, customary law communities must receive attention as other legal subjects when the law wants to regulate, especially regulating in the context of allocating sources of life..."

Based on the opinion of the Court above, constitutionally the position of customary law communities as legal subjects is positioned on an equal footing with other legal subjects. Especially in terms of the use of the sources of life, including land as a natural resource which is indeed their right, which is determined in customary law as living law and traditional values from generation to generation.

Recognizing the position of customary law communities as equal to other legal subjects, it will certainly be able to protect indigenous peoples from deprivation of rights that have been passed down from generation to generation. Protecting forced extraction and even trying to restore various rights owned by indigenous and tribal peoples that have been previously taken by other parties has attracted international attention. Since 1982, the working group, which focuses on Indigenous Populations and is part of the United Nations Sub-Commission on the Protection of Human Rights, has been working to develop a document on the declaration of the rights of Indigenous Peoples. Stavenhagen explained that the

cultural rights that stand out in the document are the right to be protected from genocide and cultural ethnocides, in addition to the right to return cultural, intellectual, religious and spiritual property that was taken without full prior and informed consent which violates the law, tradition. and customs of the community (including the intellectual rights of indigenous peoples which are their cultural heritage) (Stavenhagen, 2001).

Bali is one of the provinces in Indonesia that has the customary law community. Based on data from the Office for the Advancement of Indigenous Peoples of the Provincial Government of Bali, there are 1,493 Indigenous Villages, spread across all regencies/cities in Bali (Bali Provincial Government). Traditional villages in Bali are customary law communities whose existence has been maintained to this day. As the criteria for determining the existence of customary law communities are regulated in various laws, traditional villages in Bali also have customary law institutions, customary territories, customary administrators and assets.

Juridically, the concept of a traditional village is written down in the Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages in Bali (*Perda Desa Adat*), namely Article 1 number 8 writes "Indigenous Villages are customary law community units in Bali which have territory, position, original composition, traditional rights, own assets, traditions, manners of social life of the community from generation to generation in the bonds of sacred places (*kahyangan tiga* or *kahyangan desa*), duties and authorities as well as the right to regulate and manage their own household. Referring to the concept of the traditional village and matching it with the requirements in determining the presence or absence of customary law communities, traditional villages in Bali can be classified into it.

For example, by using the conditions stated in the constitution. In de facto, each traditional village in Bali has a customary community called *krama desa*, bound to the Kahyangan Tiga Temple (three main temples that must exist in a traditional village in Bali), generally divided into *banjar adat* (traditional groups). which is smaller than the traditional village). In the context of having an in-group feeling, it is indicated by the implementation of *ayahan* which is an obligation to do social work for the traditional village which is bound to every customary villager as a form of responsibility for the sustainability of customs and traditions. This indicates that the traditional villagers in Bali are closely related to elements of religion, tradition and culture. Picard said that the identity of the Balinese is closely related to the beliefs of the people who still adhere to the connectivity of religion, customs, traditions and culture (Picard, 1999).

Then if it is measured by the existence of legal institutions and customary government, these two things are owned by the customary village. *Awig-awig* and *perarem* are customary law norms that are a source of law in managing their customary life, and village *prajuru* are customary administrators who run customary government. The customary law norms are made by the villagers through an agreement in the village *paruman* (customary meeting) which is

prepared based on the values of the teachings of Hinduism. Furthermore, traditional villages in Bali also have a customary area called *palemahan* or *wewidangan* village and also have assets that are completely separate from the assets of their administrators.

The description of the conditions for the existence of customary law communities in Bali that de facto exists can be represented by the Kawan Traditional Village in Bangli Regency. In the applicable customary law, it is clearly written that the villagers are families who embrace Hinduism and are responsible for controlling the land or rice fields belonging to the village. In Article 4 paragraph (1) *Awig-awig* Traditional Village Kawan. Each of the villagers has the responsibility to carry out fatherhood as a form of collective responsibility to bear the same feelings for the continuity of traditions, rituals and culture in the traditional village. This seems to be in line with Friedman's statement that "older societies, and their legal systems, tend to locate important rights and duties not in individuals but in groups, classes, families, or clans. Ancient and traditional societies, on the whole, subordinated individual rights to the rights of larger collectivities" (Friedman, 1990).

The customary government in the Kawan Adat Village is led by a Bendesa Adat. A Bendesa Adat in leading a traditional village is assisted by other management structures, including *petajuh* or *pengliman* who is the representative of the customary village chief, *sarikan* is the secretary and the *petengen* is the treasurer who manages the assets of the traditional village, as stated in Article 12 paragraph (1) *awig-awig*. Regarding the boundaries of the customary area, it is clearly explained in Article 1 paragraph (2) *Awig-awig* Kawan Traditional Village, the area is limited by four sides, namely the east side is bordered by the Tegalalang Traditional Village, the west side is bordered by Banjar Penatahan, the north side is bordered by Cempaga Traditional Village and the south side is bordered by Bebalang Traditional Village). Likewise, the traditional village assets owned by the Kawan Traditional Village include the Village Temple and Bale Agung, the Village Credit Institution (VCI) of the Kawan Traditional Village and customary lands.

2.2 Traditional Villages Are Not Subjects to Artificial Law

Classifying traditional villages in Bali into the form of legal entities as in legal concepts in general, can reduce the naturalness of customary law communities. Legal entities are legal subjects that are needed in the traffic of legal relations, therefore legal entities are born in their fictional or artificial nature. Based on this, then the legal entity gets its rights and obligations as a legal subject with all the authority or legal skills it bears. In contrast to traditional villages in Bali and customary law communities in general, which have a collective character.

The collective character is based on the existence of individual citizens who merge into a common identity by being represented by the customary law community itself as an alliance. Not only the identity that merges into the identity of the community, also various interests based on traditional values and beliefs

that are collective in nature are also fused in it. Simarmata and Steny explained that this then became the basis of the personality of the customary law community as a legal subject, not an artificial personality. Therefore, customary law communities are said to be natural legal subjects as well as people as legal subjects (Simarmata & Steny, 2017). In other words, all the rights and obligations it bears are not gifts, but are created in such a way naturally, on the basis of the common interest.

The inauguration is in the context of protecting freedom and autonomy in determining their collective interests. Asshiddiqie views it as important for indigenous peoples to have a constitution that is a collective agreement on values as a collective guide in carrying out life, government, including its organizational structure with the aim of improving the quality of life together. The constitutional text or agreement with the customary law community will be positioned as the highest reference source regarding its existence, as well as the highest legal norms (constitutional law) and the highest ethical norm system (constitutional ethics) (Asshiddiqie, 2015).

In order to resolve the issue of the position of customary law communities within the scope of the structure of state life, Hardiman offers a deliberative model (Hardiman, 2006). According to him, the model was inspired by A. Aratyo, Cohen, B. Peter and Habermas. The basic assumption of the deliberative model that positions a plural society within the scope of democratic life is that all citizens, various social groups including indigenous peoples as ethnic groups, have equal positions in political communication for public decision making. In this model, it is said that cultural identity is still recognized, but with the view that the interests of the ethnic group must be seen for the interests of the nation and the state as a whole. Therefore, the sovereignty of indigenous peoples who are ethnic in nature and political sovereignty of the nation as a nation are equiprimordial or equally original, where one is not inherited from the other.

By elaborating the views of Asshiddiqie and Hardiman, a thread can be found. The meeting point of the two views is that first of all, declarative recognition is needed by acknowledging the natural position, legal authority and collective interests of traditional villages in Bali as customary law communities. Then the constitution of the customary law community presented by Asshiddiqie is in order to strengthen the cultural identity of the customary law community in Bali as a legal subject (in the perspective of the State) with all its primordial characteristics. In the end, it must be seen that by positioning the traditional village in Bali as a legal subject, it can strengthen and realize its various collective interests which have a primordial character and provide space for them to participate in political communication, in order to produce public policies for the benefit of the nation and the wider state and thorough.

2.3 Druwe Village land belonging to the Traditional Village

In terminology, the word Padruwen comes from the root word Druwe, which means belonging or belonging. In this case, the village Padruwen land is the legal relationship between the traditional village in Bali as a legal subject and the customary lands that are the object of ownership. On the basis of this legal relationship, the customary village as the legal subject of the owner has the authority and legal ability to act on the land it owns. The legal consequence for other parties to the property of the customary village is to respect it. Village Druwe can also be interpreted as objects owned by traditional villages. As Article 1 number 33 of the Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages in Bali (*Perda Desa Adat*), states that the Padruwen traditional village is defined as "all assets of the Traditional Village, both immaterial and material". Referring to this, in the aspect of customary village wealth, land is a material property of traditional villages.

Characteristics of the customary village padruwen land, first, is the customary village land. Second, the customary village is the legal subject of the owner of the rights to the lands of the traditional village padruwen. Third, all land parcels are druwe or property of the customary village as a unit of the customary law community in Bali, which has historically been recognized as the padruwen land of the customary village, both internally and externally. This includes the land of Karang Ayahan whose physical control is given to indigenous villagers which are used to build houses. Even though it is controlled and occupied by indigenous villagers, it does not eliminate the relationship between customary village ownership and its druwe land. Fourth, in the legal relationship between customary villages and their customary lands, druwe or property in the concept of village padruwen land must be interpreted as part of the ulayat rights of traditional villages in Bali. This concept contains both public and private aspects. As mentioned by Sumardjono, that the public dimension of the right is related to land as a living space including its use and maintenance, then also relates to the legal relationship of customary law communities to their land and legal actions related to their land. The private dimension is that it is a manifestation of shared ownership (Sumardjono, 2018). The most prominent characteristics are closely related to the existence of the Kahyangan Tiga Temple in the local traditional village and other interests for the traditional village as well as the socio-religious values that apply based on local customary law.

The authority and legal skills possessed by traditional villages in Bali over their customary land rights are part of the power that is nothing but the right itself. That power can be used by the right holder to carry out and realize the various interests that exist in him. Rahardjo explained that the power that exists in the public sphere is called authority, while the power that lies in the civil realm is called skill (Rahardjo, 2008).

The authority of the customary village over land in the public aspect is evident in the Local Regulation on Traditional Villages, as is the case in the effort

to maintain the sustainability of the status of land rights over the traditional village padruwen which is included in the authority originating from the rights of origin and the traditional village-scale authority. The provisions are mentioned in Article 22 letter i and Article 24 letter f. Also included in the effort to implement this, are given the authority to regulate all forms of management or use of land that becomes the padruwen of the traditional village based on the provisions of local customary law. all forms of regulation and management of the druwe village land are carried out based on the principle of benefit for the traditional village and the welfare of the indigenous villagers.

In the context of civil skills related to village druwe land, in the Customary Village Regulation it is said that traditional villages have the ability in the event that there is a desire to transfer and change the status of the traditional village padruwen, as long as it gets approval in the traditional village paruman (meeting). Civil skills possessed by traditional villages, referring to the provisions of Article 82 of the Customary Village Regulation, it is clearly stated that traditional villages can enter into cooperation with external parties as outlined in the form of a collective agreement or written agreement. It can be interpreted that the cooperation is also carried out on the traditional village padruwen land in an effort to increase the economic capacity of the traditional village and the welfare of the villagers.

Implicitly, rights that are private are also regulated in the awig-awig of traditional villages. As is the case in the awig-awig of the Lembeng Traditional Village which asserts that the traditional village through its traditional prajuru has the authority to regulate village income and druwen which are used as a source of financing for traditional and religious ceremonies at the temple as well as for the construction of temples and other uses. This is stated in the awig-awig of the Lembeng Pawos Traditional Village (Article) 25. However, the use of the private rights of the traditional village in any form, including cooperation, must be based on the approval of the traditional village community, not contrary to values, religion, customs, local traditions and wisdom.

In connection with the authority and legal skills in managing, using and taking advantage of the village padruwen land, these various activities must be adapted to the types of land that become the traditional village padruwen. In order for various activities in the context of management and utilization to be appropriate in accordance with their respective functions. The types of padruwen land in traditional villages in Bali are generally divided into two classifications, namely customary lands which are directly controlled by traditional villages and customary lands controlled by individual indigenous villagers (Dharmayuda, 1987).

Generally, the types of padruwen lands in traditional villages in Bali according to their functions consist of, among others: (Dharmayuda, 1987)

- a. Pasar Land, which is used to establish a Traditional Village-owned Market.
- b. Field Land. This land is generally used to organize various social activities, and not infrequently it is also used as a place for religious activities.

- c. Setra/graveyard land, namely land that is clearly functioned as a place to bury or carry out a funeral ceremony for the bodies of dead traditional villagers.
- d. Evidence land, which can be in the form of agricultural land to be given to village officials or officers.
- e. Pura lands are lands that were previously controlled by traditional villages, but in its development, there are Pura lands and Pura Profits which have been certified as temple property rights based on the Decree of the Minister of Home Affairs Number 556/DJA/1986. This land is basically functioned as a place to build the main temple building and there is also agricultural land that is used for use/utilization, the results of which are used for various ceremonial needs and temple maintenance.
- f. Village yard land, land whose control is given to customary village residents to build a residence with a shape and area that is more or less the same as the others. The granting of this land tenure will generally be charged with an obligation in the form of a father to every customary villager who gains control. This type of village padruwen soil has another name, namely Karang Ayahan soil.
- g. Village Ayahan land, generally in the form of agricultural lands or fields belonging to traditional villages whose control is given to villagers for their benefit. However, it is the same with village yard land, where villagers who gain control are charged with an obligation in the form of fathers to the traditional village.

In reality, the traditional village padruwen land as described above is also described in the traditional village awig-awig. It can be mentioned, for example, that the awig-awig of the Lembeng Traditional Village in Gianyar-Bali Regency, states that based on Article 23 it is stated that the padruwen lands of the Lembeng Traditional Village include: Kahyangan village (land to build a temple in the customary village area), *Karang Ayahan* Village (land controlled by villagers to establish a place to live), *Setra* (grave land), *Pelaba Pura* (land managed and used for the purpose of financing temple rituals) and *Carik* (rice field land).

Overall, it can be said that the Padruwen lands of the traditional village belong to the customary village. In the context of market land tenure, field land and setra land (graveyards) are generally controlled directly by traditional villages. Meanwhile, other types of Padruwen customary village land are controlled by other traditional village elements, according to their function. It is important to emphasize that the other elements of the traditional village and the function of each of these lands are a unit and become an inseparable part of the traditional village. There is also a village Padruwen land which is physically controlled by the villagers, namely *Karang Ayahan* land. This type of customary village Padruwen land is indeed very intersected with the rights that are individual control of the

villagers over the land. So, if the basic principles and values that underlie the concept of land are not understood, it is very easy to cause customary conflicts.

3. Involvement of Traditional Villages in The Land Registration Process

3.1 Cultural Considerations in Involving Traditional Villages

The land rights to village padruwen are one of the rights that are the scope of the traditional rights of the customary law communities in Bali. In this case, the concept of control and ownership is not only related to law. Rather, it has become a cultural tradition for the people, so it is very important and valuable in the way of life. In various international human rights instruments, in general, norms have been constructed as a step to protect the property rights of indigenous peoples. Fahmi and Armia explained that: (Fahmi & Armia, 2022)

First, it is stated that customary land rights are protected by the principle of internal self-determination. Based on these principles, customary law communities can determine various aspects of their lives which include politics, socio-culture, including economics. This principle strongly reflects the concept of autonomy in regulating and determining the internal affairs of indigenous peoples. Second, indigenous peoples should not be hindered or discriminated against from getting recognition and respect from the State for intangible culture. In the context of Indonesia, the State in principle recognizes the cultural diversity of the people in Indonesia. However, this is not the case in the matter of recognizing customary lands of indigenous peoples. The recognition must meet both procedural and substantial requirements to be valid under the national legal system.

Therefore, in order to recognize and protect at the same time in an effort to prevent conflicts over customary lands, one should not only understand the recognition and protection legally and formally, but the law should also be understood as a form of concretization of community culture. Tamanaha has also explained that the law, legal institutions and the legal system are not actually a single entity. However, the law is constructed from social processes, history, community interactions, interests and others (Tamanaha, 2001).

Indigenous peoples who tend to still hold on to traditional values, along with their customary rights, are often understood by the government using an evolutionist approach. By Bedner and Arizona, this approach is the dominant approach used by governments that perceive adat as backward. It is also understood that adat can hinder the pace of modern economic growth and create legal uncertainty due to the diverse customs and cultures in Indonesia. Its proponents think that this custom will be lost in the process of modernization and nation-building (Bedner & Arizona, 2019).

Inglehart and Welzel view that modernization is a social change that tends to enter into various aspects of human life, ranging from economics, social life to political institutions. This brings a form of awareness about change and innovation

regarding the idea of a society that is progressing (Inglehart & Welzel, 2007). Based on this view, the ideas of the progress of a society are measured based on economic, social and political progress. Thus, people who still adhere to traditional values are not yet included in the category of modern society.

However, keeping in mind that modernity does not always negate the existence of *ulayat* rights and their customary law community units (Nasir, et al, 2019). For example, in Bali, even though it is said that people's lives are being bombarded by modernization such as the entry of an economic system with a western model, maximizing the use of technology in household and work life, there are traditional values that are still firmly held. In other words, the entry of modernization does not necessarily separate the village Padruwen land as a manifestation of *ulayat* rights with cultural values inherited by traditional villagers in Bali.

According to Warassih that "law is a concretization of values formed from the culture of a society, law is always present in people's lives and shows their respective characteristics" (Warassih, 2005). Thus, the law that was born from the cultural development of the community, will then return to become a binder in the context of preserving the ideal picture of life. The relationship between culture and law also shows its form in the concept of land tenure in the village of Padruwen in Bali. It is conceptualized as an effort to concretize social-religious principles, values and traditions. The ability to create a legal mechanism that is able to consider these cultural aspects in the land registration process is deemed to be able to realize justice and legal certainty for traditional villages in Bali.

This should be a guideline for the State to seriously recognize and protect the existence of indigenous peoples and their relationship with their customary lands. Whereas contemporary human rights encourage the participatory involvement of indigenous and tribal peoples who have different characteristics from society in general, as part of and related to a larger socio-political structure (Anaya, 2004). This recognition and protection is even carried out by taking into account the values, customs, traditions and land tenure systems of the indigenous peoples concerned. It is beginning to be understood that there are concepts, perceptions, understandings and values contained in the control of customary lands (customary land rights) as conveyed by Kasimbazi. These various variables are a form of fundamental difference between the concept of control of customary land rights and control of land rights that are subject to positive state law, which was introduced more during the colonial period (Kasimbazi, 2017).

4. Gap in Normative and Empirical Aspects

There is a relationship between Article II paragraph (1) of the provisions for the conversion of the BAL and the registration procedure. It is explained in Article 26 paragraph (1) PP Land Registration and Article 86 paragraph (2) Regulation of the State Minister of Agrarian Affairs/Head of National Land Agency Number 3 of 1997 concerning Provisions for Implementation of Government Regulation Number

24 of 1997 concerning Land Registration, hereinafter referred to in this article (Ministerial Regulation) that there is a mechanism for the results of collection and research of juridical data along with maps of plots or plots of land as a result of the measurement being announced for 60 (sixty) days at the local Regency/Municipal Land Office and the Office of the Village/*kelurahan* Head where the land is concerned. The mechanism is normatively intended to provide an opportunity for interested parties to raise objections.

It appears in these provisions, there is no role for traditional villages in Bali and their customary law norms. Referring to Griffiths' view, the BAL is an example of weak legal pluralism. In this context, customary law and state law do not co-exist simultaneously within the same regulatory scope. The application of legal pluralism, as explained above, is very dependent on the recognition of the legal system of the State that controls it (Griffiths, 1986).

Therefore, the normativeness of the mechanism regulated in these provisions in the empirical realm is not implemented properly. This condition is evidenced by the case in the Lembeng Traditional Village (Denpasar High Court Decision Number 4/PDT/2016/PT.DPS). The emergence of the lawsuit shows the ignorance of the villagers about the announcement. Formally, perhaps the announcement was posted at the Ketewel Village Government Office, Gianyar Regency. However, the reality is that the existence of this case shows that substantially the traditional administrators and the traditional villagers do not understand or even know that the procedure exists.

This implies that not all communities know, know and understand the processes of land registration, including indigenous villagers in Lembeng Traditional Village. The provisions regarding this matter are considered as something new and foreign by the villagers. Bernard L. Tanya stated that in many cases, state legal institutions and institutions are still considered as something foreign by the community (Tanya, 2011). In this context, the community is defined as a local community group that has values, norms, territory and others as well as local truths based on tradition and various symbols that are full of meaning.

This ignorance can occur because traditionally and culturally, knowledge of the concept of land tenure of village *druwe* land by villagers is commonly practiced with control with an *ipso facto* concept based on physical control (Wignjosoebroto, 1990) and is only proven by carrying out traditional obligations called *ngayah*. Windia explained that the evidence for the control of rights to customary lands in Bali was only in the form of fathers or carrying out obligations as customary law communities for the benefit of the customary village in order to maintain the continuity of the village concerned (Windia, 2004). Carrying out this *ayahan*, traditionally, the understanding of the villagers is recognized as proof of the control of the land by the villagers. This knowledge has been passed down from generation to generation and socially constructed in each generation. According to Ellickson, there is a conflict between the values contained in communal land tenure by upholding equality and social ties at the same time as values that uphold individual

rights in liberal terms, namely individual freedom, privacy and determination. self-determination (Ellickson, 1992).

In this context, indigenous villagers experience a process of internalizing knowledge about the concept of land tenure of the village *druwe* which has been internally and structurally controlled, thus forming the awareness of villagers who live in their traditional village environment for generations. The internalization process occurs because of the awareness of indigenous villagers who were born through the objectivation process as a result of externalization into an objective reality (Berger, 2011). The existence of inner knowledge in the conscience of the villagers from generation to generation regarding the concept of land tenure of the village *Druwe* by the villagers along with its traditional proof, causes the presence of the conversion provisions, to be something foreign and even contrary to the natural understanding, traditions, culture and norms of the villagers.

There are at least four things that can be captured from the statement that state law is something foreign to society. First, there are differences about the idealized truth in state law and local community law. Second, regarding the necessity to understand the laws, forums and mechanisms that must be entered. Third, the presence of different devices and purposes that are not yet understood by the public. Fourth, the construction of state law buildings that are different from those they have (Tanya, 2011).

In the context of the concept of village *Druwe* land tenure, there is a construction of truth that is different from the truth in state law. The truth of control according to local law, land tenure is based on the reality of physical control accompanied by the implementation of *ayahan* which must be carried out by the villagers who control it. The rights of the villagers who control it are not interpreted as full property rights. The property rights are in the customary village. this is different from the truth in the building of national land law which can justify that with a long physical mastery, let alone having been controlled for generations, it can become an object of registration to obtain land ownership rights. Rahardjo said that in this case there was a clash of truth according to [State] law and a claim of truth according to local law. Consequently, as a new law that enters people's lives, it must be able to convince [even communicate] to the local community about its usefulness (Rahardjo, 2008).

Observing the regulations regarding land registration based on state law, there are goals to be achieved. One of them is to provide legal certainty to holders of land rights. However, in the context of the case that occurred, it did not provide legal certainty to the real right owner, namely the customary village. Especially in the registration of the conversion of village *druwe* land into individual village rights, it creates legal uncertainty for the customary village as a unit of customary law community as the owner of the rights to the converted land parcel. This is contrary to the purpose of the concept of land tenure in the village *druwe* by villagers. The main purpose of land tenure is to maintain the continuity of the traditional village

and the continuity of the implementation of various religious ceremonies at the Kahyangan Tiga Temple, as one of the main elements of the traditional village.

Based on the description above, there are actually differences regarding the purpose of converting village Druwe land into property rights with the aim of controlling village Druwe land based on concepts that are believed and understood by traditional village residents. These differences make it something that is not understood, considering that there are also differences regarding the procedures, institutions and parties that are formally involved in the process. Therefore, the conversion into individual property rights of villagers and the concept of land tenure of the village Druwe are believed and understood as different and conflicting legal dualities according to customary law, local traditions and beliefs.

Conflicts regarding the provisions on the conversion of Druwe village land into individual property rights, make it incompatible with the original concept based on the norms believed and justified in the customary village. The incompatibility of the conversion provisions causes the public response to not always take the form of obedience, even though the state law contains truth, goodness and justice (Tanya, 2011). This discrepancy has the consequence that the law cannot be implemented. There was even a negative reaction from the villagers, by filing a lawsuit against the act of converting the land. It has also been conveyed by Tamanaha that one form of relationship between positive law and custom is when positive law is inconsistent with custom, the impact of positive law is invalid. At the extreme, it is said that the custom or custom is law (Tamanaha, 2001).

The existence of a law that is foreign to the villagers as an address of the law that is promulgated and cannot be implemented by Fuller can lead to failure in creating and maintaining a legal system. Even Fuller states there are eight things that cause this. First, failure to reach a rule of law, consequently every problem must be decided on an ad hoc basis; Second, the failure to publish, or at least provide the public with the rules that should be obeyed; Third, retroactive abuse of a law, which does not guide action and at the same time undermines the integrity of the applicable regulation; Fourth, failure to make a rule understandable; Fifth, the application of contradictory regulations; Sixth, regulations that require behavior beyond the capabilities of those for which the regulation is intended; Seventh, changing the rules too often; Eighth, the incompatibility of published regulations with actual administration (Fuller, 1969).

It seems that the fulfillment of one of the eight things causes the non-realization of a good legal system. This is emphasized by Fuller, who states that a total failure of any of the eight things not only results in a bad legal system, but also results in something that is not at all called a legal system (Fuller, 1969). Atmadja and Budiarta citing the views of Hilare MacCobrey and Nigel D. White conclude that in this context Fuller wants to guide the formation of legislation for legislative or other legal activities into eight negative criteria, so that they are morally appropriate. Considering Fuller's argument, the main part is related to the requirements to form moral norms (Atmadja & Budiarta, 2018).

The conversion of land which is actually a traditional village padruwen into individual property, especially if it is transferred to an external party, is certainly detrimental to the sustainability of the traditional village and the balance in the implementation of religious rituals in the traditional village. Even these provisions are unacceptable and cannot be implemented properly in practice in the field. Listening to the reality that occurs in the knowledge of the villagers about the substance of the regulation, indicates the principle of legal fiction, which assumes that the community understands the contents of the enacted regulations, does not just happen.

If we refer to the principles of the formation of legislation that are currently developing, there is a discrepancy with these principles. Referring to Law Number 12 of 2011 concerning the Establishment of Legislation, there are several principles that are not in accordance with the problems that occurred in this study. At least it can be seen from the effectiveness of the regulation. In fact, there are problems related to this. This is contrary to the principle that can be implemented in the formation of legislation. This condition will also have an impact on the efficacy of the regulation (Indrati, 1998). Indeed, the formation of a regulation is to be useful and beneficial for the regulation of people's lives, as well as being able to protect the community for peace in their lives. Finally, openness, community participation in the process of its formation is very much needed, so that it is in accordance with the aspirations and needs of the community.

Therefore, a more progressive legal breakthrough is needed in the registration mechanism for village *druwe* land conversion, by actively involving the customary village as the actual owner of the land rights. Rahardjo offers progressive law as a form of correction of various weaknesses possessed by legal policies that were born in the modern legal system with all its bureaucracy and procedures, which have the potential to marginalize truth and justice (Rahardjo, 2009).

In order to avoid situations that marginalize truth and justice, sometimes in the process of forming a (positive) law, it should lead to the formation of a more responsive law. In Philippe and Selznick's view, responsive law is a law capable of acting as a facilitator of various responses to social needs and aspirations (Philippe & Selznick, 2017). Therefore, a new legal order is needed to replace the old legal order which has the potential to hinder the achievement of substantive justice. Substantive justice is the goal to be achieved from responsive law. Justice is a priority compared to other legal goals, as Radbruch revealed (Herget, 1996).

In the Indonesian context, which has a different cosmology from the cosmology of other countries, the legal order should also pay attention to the various values that are believed and understood by the people. Rahardjo encouraged the development of law in Indonesia not to use the cosmology of other nations or societies, but to use the cosmology of the nation itself. Therefore, it is also mentioned that each state of law has the peculiarities of the social life of its respective people (peculiar form of social life) (Rahardjo, 2009).

The formation and application of law in Indonesia has become a necessity, not only done and understood textually, but also paying attention to and finding legal meanings contextually. Because in building law in Indonesia, which is said to use the cosmology of the Indonesian people, it must be understood contextually. Contextually, aspects of Indonesian social life are always based on spiritual values.

This can be understood from the precepts of Pancasila which positions the One Godhead in the First principle. This position has the meaning that every effort to realize the various values contained in the other precepts remains based on religious teachings, namely Belief in One God. Warassih in his view to develop law in Indonesia, based on the fact that socio-culturally and socio-religiously Indonesian society has a close relationship with the values of Pancasila, especially Belief in One God. Therefore, it is said that the truth of the rule of law, legal principles, justice, decisions must be rooted in divine values (Warassih, 2016).

5. The Form of Involvement of Traditional Villages in the Village Druwe Land Registration Process

The involvement of traditional villages in Bali in the process of conversion or registration of druwe land is a logical thing to do. Considering that in the internal environment, customary villages as community groups are smaller than the state, they also have customary law norms that are enforced. This is in accordance with Moore's concept of a semi-autonomous social field, which is that there is a smaller group of people in the social field who have the autonomy and capacity to make rules and a means of coercion for the creation of compliance. However, at the same time these smaller groups of people are very vulnerable to various regulations made by the outside world that surrounds them. These various norms and rules are actually law (Moore, 1973). Furthermore, it is also explained that even though they are under the jurisdiction of the government, they continue to use their own laws informally (Moore, 2014).

Besides the traditional village as the owner, the traditional village in its concept of customary land tenure and social life order is also closely related to spiritual values, especially the teachings of Hinduism. Involving traditional villages in this context indirectly also embodies the values in Pancasila, especially the value of God in the development and application of law in Indonesia.

Efforts to involve customary villages as customary law community units in the land registration process is a progressive step. This step can be said to be a contextual meaning regarding the control of village Druwe lands by indigenous villagers in Bali. According to Handoko, this effort is a form of Progressive Publication Stelsel. It was explained that the stelsel was a contribution of thought to perfect the negative publication system with positive elements in the existing land registration process. One of the substances of the progressive publication stelsel thinking is that the State can provide land registration policies, especially customary lands while remaining aspirational and responsive to local customary

law rules that are not in line with national land law, with reference to the principles of justice according to customary law that have been established. applies and is considered fair for indigenous peoples (Handoko, 2014).

In order to realize the implementation of the progressive publication system, Handoko refers to the principle of accuracy. The principle of accuracy is interpreted so that the implementers of the land registration process have serious interests and intentions, and are also required to pay close attention, be thorough and efficient. This means that the implementers must prepare everything carefully and carefully, considering that all the risk of responsibility lies with the executor, if it is not carried out accurately (Handoko, 2014). Everything that must be prepared carefully, thoroughly, sparingly and carefully is nothing but the physical data and juridical data of the object of land registration. The hope is that the data can be accounted for and able to provide certainty and justice for the real owners.

If the principle of accuracy is the basis in the land registration process, it can have a positive impact on the sustainability of traditional villages and the control and ownership of Padruwen lands in traditional villages in Bali. The implementers will seriously examine and ensure every physical data and juridical data (including finding the legal subject of the actual right owner). this can prevent village Druwe land disputes in the future. This is also related to efforts to maintain the three main characteristics of traditional villages in Bali, including "the three-village temple system (kahyangan Tiga or kahyangan village) and a village territory (palemahan). The villagers Pakraman are also seen as those who have an inner and outer attachment to the temples and the ceremonies carried out there. Furthermore, awig-awig or village regulations, are based on the Hindu Balinese concept of Tri Hita Karana (Three Causes Wellbeing) and are part of the village properties" (Hauser-Schäublin, 2013).

This will further emphasize the recognition and protection of the State against the existence of indigenous peoples in Indonesia. It even strengthens the position of traditional villages in Bali as customary law communities that are domiciled as legal subjects. It has been previously known that based on the provisions of Article 18B paragraph (2) of the 1945 Constitution, the State provides recognition and protection to the existence of customary law community units along with their traditional rights. Furthermore, with almost the same intent, Article 28I of the 1945 Constitution provides constitutional recognition and protection.

Although, against the two articles there is an opinion that, there is a problem regarding the bureaucratic-universalistic paradigm which is indicated by the use of language that is subject-centric, paternalistic, asymmetrical and monoBALI in these provisions. This, is against the spirit of democracy. For example, the use of the phrase "The State recognizes, the State respects and so on". This phrase reflects the large role of the State in defining, acknowledging, legitimizing, and legitimizing the existence of "ethnic groups" as long as the entity is willing to be positioned under state regulations (Hardiman, 2006).

With a view to further confirming the recognition and legal protection, several decisions of the Constitutional Court provide explanations regarding the elaboration of the requirements for recognition of customary law communities. One of them is the Constitutional Court's Decision on Case Number 31/PUU-V/2007 concerning the Review of the Law of the Republic of Indonesia Number 31 of 2007 concerning the Establishment of the City of Tual in Maluku Province against the 1945 Constitution, regarding the criteria for fulfilling the requirements for recognition. customary law community. Observing the above, one should remember that the law should be a reflection of the social intellectuality of the villagers, as explained by Tamanaha. In this context, there is a custom which is a consensus for villagers regarding the management of the Druwe village land that must be adhered to. The relationship between tradition and positive law in this case is that it should come from a custom that has been mutually agreed upon by the community.

Such positive law should involve traditional villages in Bali in the mechanism for registering village Druwe land. Such involvement is the right step as a form of recognition and protection. In addition, this step will be an affirmation of the recognition that traditional villages are legal subjects who have the authority, rights and obligations in carrying out a legal action. the action or legal action is represented by the Bendesa Adat as the leader in the structure of its customary organization based on the results of the decisions of the Parumanagung (customary meeting) in each traditional village. This is a form of the legal personality of the customary village as a customary law community in Bali. In this context, Simarmata and Steny are of the view that the legal personality is not artificial, but natural (Simarmata & Steny, 2017).

This nature can be understood from the various authorities, rights and obligations possessed by traditional villages as attributes of the customary law community in Bali. These various attributes have been passed down in an understanding of traditional values, norms and culture from generation to generation. Even long before the formation of the State as an entity, these customary law communities have existed applying various attributes they have. Both in terms of internal and external affairs. It is better with this understanding that there is a compromising condition between the State and the customary law community (Indradewi, 2017), which is then able to position the traditional village in Bali as one of the natural social entities, having co-existence with the State and other social entities. With this understanding, the model of recognition and protection of state law will be better for the existence of traditional villages which are positioned as legal subjects.

Being an entity that has the status of a legal subject, a traditional village in Bali in reality can carry out public legal actions as well as private legal actions. Therefore, it is difficult to include it in the category of public and private legal subjects (legal entities). In their opinion, Simarmata and Steny call it a special legal subject (Simarmata & Steny, 2017). This privilege can be found in its implications

for affirming or affirming the inherent rights or authorities of indigenous peoples, where the recognition of regularity in the public and private dimensions based on customary law, is not separate. Likewise, it is observed from the rights that are owned by the State in terms of carrying out legal actions, even though they are not part of state institutions. Finally, the members [customers of the village] merge into a common identity, therefore their legal personality is more natural.

In its development, the involvement of customary villages has begun to be carried out by government institutions implementing land registration. Progressive steps to recognize the traditional rights of traditional villages in Bali have begun. This form of involvement has recently materialized when the Complete Systematic Land Registration Program (CSLR) was implemented.

Implementing land registration in this case the Land Office in the Regency, in terms of determining who is written as the right holder or on behalf of the village *druwe* land, especially the village *druwe* land controlled by the villagers (customary village or individual of each village *krama*) in the certificate, based on the certificate. the results of the *paroman agung* in each traditional village (Results of an interview with Arie Hardono, 2021). So, in that context, it must first be conveyed and decided in the *paroman* regarding the land registration process that will be carried out on the traditional village *padruwen* land which is controlled and occupied by village manners. The results of the decision become the basis for the land registration executors to carry out the land registration process. After the decision was made, then formal procedures based on state law were applied until the issuance of a certificate of land rights.

The results of the decision of the Great *Paruman* became the basis for the implementation of land registration. By *prajuru* and traditional villagers, the results of these decisions must be adhered to as a result of mutual consensus. Meanwhile, for land registration implementers, the results of the decision must be respected to be implemented as a form of state recognition of the authority of customary villages in regulating and managing the rights to their village *druwe*. Considering that the *Paruman* is the highest decision-making instrument by a traditional village in Bali in the form of a traditional meeting attended by traditional village *prajuru*, villagers and other related parties to discuss and make a decision on certain strategic matters. At the time of the implementation of the *Paruman*, villagers have the right to even be obliged to attend and use their right to have an opinion (voting rights) in making decisions.

6. Conclusions

The involvement of traditional villages in Bali in the process of registering village *druwe* land with socio-religious characteristics is something that should be done. Considering that traditional villages in Bali are customary law communities that actually meet the requirements to be domiciled as legal subjects. In this context, it is very appropriate to qualify him as a legal subject whose position is equiprimordially with other legal subjects or equally original, where one is not

derived from the other, for the benefit of the nation and the State as a whole. Recognize and protect by involving traditional villages in the process of registering village Druwe land, as well as in an effort to prevent conflicts over customary lands. This should be understood not limited to legal-formal, but also as a form of cultural concretization of society.

The involvement of traditional villages is an effort to realize accuracy and prudence in collecting physical data and juridical data from the object of the village druwe land registration. The hope is that these data can be accounted for and able to provide certainty and justice for traditional villages. Progressive steps to recognize the traditional rights of traditional villages in Bali have begun. This form of involvement has recently materialized when the Complete Systematic Land Registration Program (CSLR) was implemented. In the case of determining who is written as the right holder or on behalf of the Druwe village land which is controlled by the villagers, it must first be submitted and decided in the paruman (custom meeting). The results of the decision became the basis for implementing the village Druwe land registration. After the decision was made, then formal procedures based on state law were applied until the issuance of a certificate of land rights. The involvement of traditional villages as mentioned above is a reflection of a compromising condition between the State and customary law communities, which is then able to position traditional villages in Bali as one of the natural social entities, having co-existence with the State and other social entities.

Reference

- Arianto, H. (2015). Perlindungan Hukum Terhadap Hak Ulayat Masyarakat Baduy Dalam. *Lex Publica*, 1(2), 153-164.
- Asshiddiqie, J. (2015). *Gagasan Konstitusional Sosial: Institusionalisasi dan Konstitusionalisasi Kehidupan Sosial Masyarakat Madani*, Jakarta: Pustaka LP3ES (Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial).
- Atmadja, I., & Budiarta, I. (2018). *Teori-Teori Hukum*, Malang: Setara Press.
- Bedner, A., & Arizona, Y. (2019). Adat in Indonesian Land Law: A Promise for the Future or a Dead End?. *The Asia Pacific Journal of Anthropology*, 20(5), 416-434.
- Berger, P. L. (2011). *The sacred canopy: Elements of a sociological theory of religion*. Open Road Media.
- Dharmayuda, I. M. S. (1987). *Status dan fungsi tanah adat Bali setelah berlakunya BAL*. Denpasar: CV. Kayumas.
- Ellickson, R. C. (1992). Property in land. *Yale LJ*, 102, 1315.
- Fuller, L. L. (1969). *The Morality of Law*, London: Yale University Press.
- Fahmi, C., & Armia, M. S. (2022). Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms. *JSEHR*, 6, 1.
- Friedman, L. M. (1990). The Concept of the Self in Legal Culture. *Clev. St. L. Rev.*, 38, 517.

- Anaya, S. J. (2004). International human rights and indigenous peoples: the move toward the multicultural state. *Ariz. J. Int'l & Comp. L.*, 21, 13.
- Griffiths, J. (1986). What is legal pluralism?. *The journal of legal pluralism and unofficial law*, 18(24), 1-55.
- Handoko, W. (2014). *Kebijakan Hukum Pertanahan Sebuah Refleksi Keadilan Hukum Progresif*, Yogyakarta: Thafa Media.
- Hauser-Schäublin, B. (2013). How indigenous are the Balinese? From national marginalisation to provincial domination. *Adat and indigeneity in Indonesia*, 133.
- Hardiman, B. (2006). Posisi Struktural Suku Bangsa dan Hubungan antar Suku Bangsa dalam Kehidupan Kebangsaan dan Kenegaraan di Indonesia (Ditinjau dari Perspektif Filsafat). *Jakarta: Komnas HAM*.
- Herget, J. E. (1996). *Contemporary German legal philosophy*. University of Pennsylvania Press.
- Indradewi, A. A. S. N. (2017). Sinergitas Prinsip Bhineka Tunggal Ika Dengan Prinsip Pluralisme Hukum. *Lex Publica*, 3(2), 577-582.
- Indrati, M. F. (1998). *Ilmu Perundang-undangan Dasar-Dasar dan Pembentukannya*, Yogyakarta: Kanisius.
- Inglehart, R., & Welzel, C. (2007). Modernization. *The Blackwell encyclopedia of sociology*.
- Kasimbazi, E. (2017). Land tenure and rights.
- Moore, S. F. (1973). Law and Social Change: The Semi-autonomous Field as An Appropriate Field of Study. *Law and Society Review*, 7(4).
- Moore, S. F. (2014). Legal pluralism as omnium gatherum. *FIU L. Rev.*, 10, 5.
- Nasir, G. A., Dimiyati, K., & Absori, A. (2019). Jaminan Hukum atas Pengakuan dan Eksistensi Hak Ulayat pada Masyarakat Hukum Adat. *Lex Publica*, 6(1).
- Nurjaya, I. N. (2014). Constitutional and legal recognition over traditional adat community within the multicultural country of Indonesia: is it a genuine or pseudo recognition?. *Jurnal IUS Kajian Hukum dan Keadilan*, 2(3).
- Pemerintah Provinsi Bali, <https://dpma.baliprov.go.id/wp-content/uploads/2021/10/daftar-desa-adat-1.pdf> , Accessed 23 September 2022
- Philippe, N. & Selznick, P. (2017). *Law and Society in Transition: Toward Responsive Law*, New York: Routledge Taylor & Francis Group.
- Picard, M. (1999). The discourse of kebalian: transcultural constructions of Balinese identity. *Staying local in the global village: Bali in the twentieth century*, 15-49.
- Rahardjo, S. (2006). *Ilmu Hukum*, Bandung: Citra Aditya Bakti.
- Rahardjo, S. (2008). *Biarkan Hukum Mengalir Catatan Kritis tentang Pergulatan Manusia dan Hukum*, Jakarta: Kompas.
- Rahardjo, S. (2009). *Hukum Progresif Sebuah Sintesa Hukum Indonesia*, Yogyakarta: Genta Publishing,

- Rahardjo, S. (2009). *Negara Hukum yang Membahagiakan Rakyatnya*, Yogyakarta: Genta Publishing.
- Setiady, T. (2009) *Intisari Hukum Adat Indonesia Dalam Kajian Kepustakaan*. Bandung: CV Alfabeta.
- Simarmata, R., & Steny, B. (2017). *Masyarakat hukum adat sebagai subjek hukum: kecakapan hukum masyarakat hukum adat dalam lapangan hukum privat dan publik*. Samdhana Institute.
- Stavenhagen, R. (2001). Cultural rights: a social science perspective. In *Economic, Social and Cultural Rights* (pp. 85-109). Brill Nijhoff.
- Sumardjono, M. S. (2018). *Regulasi Pertanahan dan Semangat Keadilan Agraria*, Yogyakarta: STPN Press.
- Tamanaha, B. Z. (2022). Sociological Approaches to Theories of Law. *Elements in Philosophy of Law*.
- Tamanaha, B. Z. (2001). *A General Jurisprudence of Law and Society*, New York: Oxford University Press.
- Tanya, B. L. (2011). *Hukum Dalam Ruang Sosial*, Yogyakarta: Genta Publishing.
- Warassih, E. (2005). *Pranata Hukum Sebuah Telaah Sosiologis*, Semarang: PT. Suryandaru Utama.
- Warassih, E. (2016). Ilmu Hukum Kontemplatif, dalam *Penelitian Hukum Interdisipliner Sebuah Pengantar Menuju Sosio-Legal*, Yogyakarta: Thafa Media, hal. 19-20.
- Warren, C. (1993). *Adat and Dinas: Balinese communities in the Indonesian state*. Oxford University Press.
- Wignjosoebroto, S. (1990) Perbedaan Konsep Tentang Dasar Hak Penguasaan Atas Tanah Antara Apa yang Dianut Dalam Tradisi Pandangn Pribumi dan Apa yang Dianut Dalam Hukum Positif Eropa, *Jurnal Arena Hukum*, XV(1).
- Wiharma, C., Hasanudin, A., Megawati, L., & Koswara, H. (2018). Keadilan dan Kepastian Hukum dalam Ganti Rugi Pengadaan Tanah bagi Kepentingan Pembangunan Ruas Jalan Tol. *Lex Publica*, 5(1), 44-50.
- Windia, W. P. (2004). *Mamitra Ngalang, Catatan Populer Hukum Keluarga Perspektif Hukum Adat Bali*, Denpasar: Upada Sastra.