

Regulation of Customary and Official Village Authority in Managing Village Assets in Bali

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ABSTRACT

The dualism of the village government system in Bali, consisting of Customary Villages and Service Villages, creates its own legal dynamics in the management of village assets. The enactment of Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages strengthens the legal position of Customary Villages, including their authority over the Padruwen of Customary Villages as customary village assets. However, this regulation raises normative issues due to differences in the legal construction of village asset management with Law Number 6 of 2014 concerning Villages. This condition creates overlapping authority, unclear asset ownership status, and potential disputes between Customary Villages and Service Villages. This study aims to analyze the legal meaning of the Padruwen of Customary Villages according to Bali Provincial Regulation Number 4 of 2019 and formulate regulations that provide legal certainty in the management of assets between Customary Villages and Service Villages. This research is a normative legal research using a statutory approach, a conceptual approach, and a historical approach. The legal materials used consist of primary, secondary, and tertiary legal materials obtained through literature studies and analyzed qualitatively using prescriptive methods. The analysis focused on identifying disharmonious norms between national and regional regulations governing village asset management. The Padruwen Desa Adat (Customary Village) is not only interpreted as an asset of economic value but also as a representation of the collective identity, ancestral rights, and autonomy of indigenous communities in Bali. Current regulations still show disharmony regarding the legal subject of asset ownership, management authority, asset classification, oversight mechanisms, and accountability systems. This disharmony has resulted in legal uncertainty and has the potential to lead to conflicts in village asset management. Therefore, regulatory harmonization is needed through a clear division of authority, strengthening legal recognition of Customary Village assets, and establishing an integrated asset management model between state law and customary law to achieve legal certainty, justice, and sustainable protection for village assets in Bali.

Keywords: Regulation, Traditional Village, Official Village, Village Assets, Legal Certainty.

1. INTRODUCTION

Recognition of the existence of customary law communities is a constitutional mandate affirmed in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This provision affirms that the state recognizes and respects the unity of customary law communities and their 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. This constitutional recognition shows that customary law communities are not only seen as part of the nation's history, but as legal subjects who have the right to maintain their identity, institutions, and governance of social life. In this context, the state is obliged to provide legal instruments that are able to guarantee the continuity of the rights of customary communities in a sustainable manner. (The 1945 Constitution; Tutik, 2020).

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The existence of customary law communities in Indonesia is reflected in various forms of social organization that develop according to the characteristics of their respective regions. One form of customary law community that still exists and exerts a strong influence on community life is the Traditional Village in Bali Province. Traditional Villages function not only as traditional social organizations but also as institutions that regulate religious life, culture, economy, and social relations based on customary law that has lived and developed through generations. The existence of Traditional Villages is an inseparable part of the cultural identity of the Balinese people. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Bali Province has distinct characteristics compared to other regions in Indonesia due to its dual village governance system: the Customary Village (Desa Adat) and the Service Village (Desa Dinas). These two institutions coexist within the same territory but have different legitimacy bases. The Customary Village derives its legitimacy from customary law, tradition, and the ancestral rights of the Balinese people, while the Service Village derives its legitimacy from the state government system and national laws and regulations. The existence of these two village governance systems creates a unique and complex legal configuration for the practice of village governance in Bali.

Historically, the dualism between Customary Villages and Service Villages has existed since the colonial era and persists to this day. Customary Villages carry out social, cultural, and religious functions based on the Tri Hita Karana philosophy, while Service Villages carry out government administration, public services, and development functions. Despite their distinct scopes of duties, in practice, these two institutions often interact in various aspects of community life, including the management of village resources and assets. This situation demands clear authority arrangements to avoid conflicts or overlapping authority.

The strengthening of the status of Traditional Villages in Bali gained significant momentum through the enactment of Bali Provincial Regulation No. 4 of 2019 concerning Traditional Villages in Bali. This regulation provides stronger recognition of Traditional Villages as legal entities with the authority to regulate and manage their own affairs based on their ancestral rights, customs, and traditions that have developed within Balinese society. Through this regulation, Traditional Villages gain clearer legitimacy within the regional legal system, including in the management of their wealth and assets. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Bali Regional Regulation No. 4 of 2019 specifically regulates the assets of Traditional Villages, known as Padruwen Desa Adat. Padruwen Desa Adat encompasses various forms of wealth, both tangible and intangible, owned and controlled by the Traditional Village to support



the livelihoods of the traditional community. Recognition of Padruwen Desa Adat demonstrates that village assets possess not only economic value but also social, religious, and cultural values that are integral to the identity of the Balinese traditional community. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

On the other hand, Law Number 6 of 2014 concerning Villages also regulates village assets as part of the implementation of village governance. In this provision, village assets include village treasury land, village markets, village buildings, and various other forms of wealth belonging to the village government. The regulation of village assets in the Village Law is intended to support the implementation of village governance and development effectively, transparently, and accountably. However, these regulations are essentially designed within the framework of administrative village governance or Village Service. (Law No. 6 of 2014; Bali Provincial Regulation No. 4 of 2019).

The paradigm differences between Bali Regional Regulation No. 4 of 2019 and Law No. 6 of 2014 raise interesting normative issues worth examining. The Regional Regulation on Customary Villages positions Customary Villages as entities with original autonomy based on ancestral rights, while the Village Law places villages within the framework of the national government system, subject to guidance and supervision by local governments. These differences in legal construction have the potential to create disharmony in the regulation of authority, particularly when both regulations address the same object, namely village assets. (Law No. 6 of 2014; Bali Provincial Regulation No. 4 of 2019).

This disharmony is increasingly evident in the regulations regarding legal ownership of assets. Bali Regional Regulation No. 4 of 2019 allows customary villages to own and manage assets on their behalf, while the Village Law places the village government as the authority to manage village assets. In the Balinese context, this situation has the potential to create uncertainty regarding who has the legal authority to control, manage, and account for assets within the same area. (Law No. 6 of 2014; Bali Provincial Regulation No. 4 of 2019).

Beyond ownership issues, differences are also evident in asset management. The Balinese Regional Regulation grants authority to manage the Padruwen of a Traditional Village to the Prajuru of the Traditional Village, while the Village Law grants authority to manage village assets to the Village Head or Perbekel. This duality of authority has the potential to give rise to administrative and legal conflicts when an asset has a historical connection to the Traditional Village but is administratively located within the Village Office. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).



These issues are not merely theoretical but are also reflected in various disputes over customary land and assets in Bali. Numerous conflicts involving customary villages and third parties demonstrate that the unclear legal status of assets can pose serious challenges to the protection of indigenous peoples' rights. Customary land disputes in several areas of Bali demonstrate the lack of regulations that fully provide legal certainty regarding the control and management of village assets. (Radbruch, 2006; Mertokusumo, 2019).

Furthermore, the recognition of Customary Villages as subjects of land rights through the national land policy has also created new dynamics. On the one hand, this policy provides stronger legal protection for customary land. However, on the other hand, the certification and registration process for customary assets has the potential to create new problems if it is not accompanied by clear regulations regarding the boundaries of authority between Customary Villages and Village Administrations. This situation demonstrates the importance of synchronizing customary law, agrarian law, and village governance law.

Similar issues are evident in the institutional aspects of village economics. Bali Regional Regulation No. 4 of 2019 recognizes the Baga Utsaha Padruwen Desa Adat (BUPDA), while the Village Law recognizes the Village-Owned Enterprise (BUM Desa). The presence of two distinct economic institutions within the same region has the potential to lead to overlapping functions, competing authority, and unclear management of productive village assets if not regulated harmoniously. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Based on the perspectives of the theory of legal certainty and the theory of the hierarchy of legal norms, every regulation of authority must be formulated clearly, firmly, and without the possibility of multiple interpretations. When two regulations address the same object with different approaches, the potential for normative disharmony is unavoidable. Therefore, a comprehensive legal analysis is needed to identify points of normative conflict and formulate a regulatory model capable of providing legal certainty for both Customary Villages and Administrative Villages in managing village assets. (Radbruch, 2006; Mertokusumo, 2019).

Based on these various issues, this research is crucial to examine the meaning of Customary Village assets according to Bali Provincial Regulation Number 4 of 2019 and to analyze the ideal and legally certain authority arrangements in asset management between Customary Villages and Administrative Villages. This research is expected to find a formulation for regulatory harmonization that can provide legal certainty, prevent conflicts of authority, and maintain the existence and characteristics of Customary Villages as part of the social and cultural identity of the Balinese people. (Marzuki, 2021; Soekanto & Mamuji, 2013; Ibrahim, 2008).



2. RESEARCH METHODS

This research is a normative legal research that is oriented towards the study of legal norms as a system of rules that regulate the authority of Customary Villages and Service Villages in managing village assets in Bali Province. This research uses a statutory approach, a conceptual approach, and a historical approach. The statutory approach is used to examine the suitability and harmonization between Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages with Law Number 6 of 2014 concerning Villages and other laws and regulations related to village asset management. Meanwhile, the conceptual approach is used to analyze the concepts of authority, village assets, Padruwen Customary Villages, legal certainty, and legal harmonization based on doctrines and the views of legal scholars. The historical approach is used to understand the development of regulations for Customary Villages and Service Villages in Bali and the background to the emergence of dualism of authority in managing village assets. (Marzuki, 2021; Soekanto & Mamuji, 2013; Ibrahim, 2008).

The sources of legal materials in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 6 of 2014 concerning Villages, Law Number 23 of 2014 concerning Regional Government, Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages, and other relevant laws and regulations. Secondary legal materials were obtained from books, scientific journals, research results, and legal doctrines related to customary law, regional government law, and village asset management. All legal materials were collected through library research and analyzed qualitatively using prescriptive methods to identify disharmony in legal norms, discover the legal meaning of Customary Village assets, and formulate a model of authority regulation that provides legal certainty in asset management between Customary Villages and Official Villages in Bali. (Marzuki, 2021; Soekanto & Mamuji, 2013; Ibrahim, 2008).

3. RESULTS AND DISCUSSION

Traditional Village Assets According to Bali Provincial Regional Regulation Number 4 of 2019 Concerning Traditional Villages

1. The Concept and Position of Traditional Villages in Bali Regional Regulation Number 4 of 2039

Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages is an important milestone in the development of customary law in Indonesia, particularly in providing more comprehensive recognition of the existence of Customary Villages as customary legal



community units that live and develop in Bali. This regulation not only recognizes the existence of Customary Villages as legal subjects, but also recognizes various elements that support the sustainability of the life of customary communities, one of which is the Padruwen of Customary Villages. In the legal construction of Customary Villages, the Padruwen of Customary Villages has a very strategic position because it is the main foundation that allows Customary Villages to carry out social, cultural, customary, religious, and economic functions in a sustainable manner. Therefore, understanding the concept and position of the Padruwen of Customary Villages is important to explain the meaning of Customary Village assets as regulated in Bali Regional Regulation Number 4 of 2019. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Conceptually, the term Padruwen Desa Adat has a different meaning from the concept of assets known in modern administrative law. In administrative law terminology, assets are understood as all forms of wealth owned or controlled by a legal entity or government institution that have economic value and can be used to support the implementation of institutional functions. However, from the perspective of Balinese customary law, Padruwen Desa Adat includes not only objects of economic value, but also elements that have religious, historical, social, and cultural value. Thus, Padruwen Desa Adat cannot be reduced to mere material wealth, but rather represents the collective identity of the customary law community that is passed down from generation to generation. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

When examined from a legal historical perspective, the concept of Padruwen Desa Adat existed long before the formation of the modern Indonesian state. In the traditional Balinese social system, the existence of village land, temple pelaba land, sacred areas, traditional buildings, sacred objects, and certain traditional rights have been viewed as the common property of the indigenous community and cannot be separated from the existence of the traditional village itself. The relationship between indigenous communities and this wealth is not based on the concept of individual ownership as known in Western civil law, but rather on a collective communal relationship. Therefore, the enactment of Bali Regional Regulation Number 4 of 2019 does not essentially create new rights for Traditional Villages, but rather provides positive legal recognition to rights that have in fact existed and developed within Balinese indigenous society for centuries. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Bali Regional Regulation Number 4 of 2019 recognizes the Padruwen of Customary Villages as legal entities capable of owning, controlling, managing, and maintaining the assets under their control. This position is crucial because for years, many Customary Village assets have been in a state of legal uncertainty due to the lack of clear recognition within the national legal system. Consequently, many Customary Village assets have been transferred to other parties, either



due to land administration processes, individual ownership, or due to weak legal protection of the rights of indigenous communities. Through the provisions contained in Bali Regional Regulation Number 4 of 2019, Customary Villages gain stronger legitimacy to maintain and manage the assets that are part of their identity. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Recognition of the Padruwen of Customary Villages is also closely related to the recognition of the original rights of customary law communities as guaranteed in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This constitutional provision provides a legal basis that the state is obliged to recognize and respect the unity of customary law communities and their 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. In this context, the Padruwen of Customary Villages is one concrete form of traditional rights held by customary law communities. Therefore, protection of the Padruwen of Customary Villages is actually part of the implementation of the constitutional mandate to protect the rights of customary law communities. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

From the perspective of customary law community theory, the existence of the Padruwen Desa Adat is an inseparable element from the existence of the Adat Village itself. A customary law community is not only determined by the presence of community members, customary territories, and a living customary legal system, but also by the existence of shared assets that serve as a means of maintaining the continuity of the community's life. In the Balinese context, various customary assets such as *druwe desa* land, *pelaba* temple land, sacred areas, and various other sacred objects are elements that connect the indigenous community to their history, culture, and beliefs. Thus, the loss of the Padruwen Desa Adat not only means the loss of economic assets, but can also threaten the continuity of the indigenous community's identity. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Furthermore, the concept of Padruwen Desa Adat (Customary Village Property) in Bali Regional Regulation No. 4 of 2019 demonstrates a shift in the legal paradigm, from a more administrative approach to one that accommodates legal pluralism. Previously, many national regulations tended to view village assets solely from the perspective of government administration and economic development. However, Bali Regional Regulation No. 4 of 2019 broadens this perspective by recognizing that certain forms of indigenous community wealth possess unique characteristics that cannot be equated with village government assets in general. This recognition is important because it reflects the law's efforts to adapt to the social and cultural realities of Balinese society. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).



The position of the Padruwen Desa Adat is also inseparable from the Tri Hita Karana philosophy, which underpins Balinese life. This philosophy emphasizes the importance of maintaining a balanced relationship between humans and God (Parahyangan), humans with other humans (Pawongan), and humans with the environment (Palemahan). Within this framework, the Padruwen Desa Adat has a very broad function. Customary land and other assets are used to support religious ceremonies, finance community social activities, maintain environmental sustainability, and support various traditional activities that are part of Balinese life. Therefore, the meaning of the Padruwen Desa Adat cannot be separated from its inherent spiritual and social functions. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Furthermore, the regulations regarding the Padruwen of Customary Villages demonstrate that the drafters of Bali Regional Regulation No. 4 of 2019 are striving to establish a stronger legal protection system for customary assets amidst increasing economic pressures and the development of the tourism sector in Bali. The ever-increasing economic value of land and customary assets often gives rise to various forms of disputes and conflicts over ownership. Under these circumstances, the existence of regulations that provide recognition of the Padruwen of Customary Villages is crucial to ensure that these assets can continue to be utilized for the benefit of the customary community and are not transferred to other parties illegally. In other words, the regulations on the Padruwen of Customary Villages have both a preventive and protective function in maintaining the sustainability of customary community assets. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Based on the overall description, it can be understood that the concept and position of the Padruwen Desa Adat according to Bali Regional Regulation Number 4 of 2019 is not only interpreted as assets owned by the Adat Village, but also as a symbol of the existence, identity, and sovereignty of the Balinese customary law community. The Padruwen Desa Adat is a manifestation of ancestral rights that are passed down from generation to generation and is the main instrument in maintaining the continuity of the social, cultural, economic, and religious functions of the customary community. Therefore, the recognition and protection of the Padruwen Desa Adat is not only important from a legal asset perspective alone, but is also part of an effort to maintain the continuity of the customary law community as one of the treasures of the Indonesian nation that must be protected by the state. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).



2. Characteristics of Padruwen Traditional Villages as Communal Wealth of Traditional Law Communities

The Padruwen of a Customary Village is one of the fundamental elements that distinguishes a Customary Village from other forms of government organization. In Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages, the Padruwen of a Customary Village is positioned as an asset owned and controlled by the Customary Village to support the implementation of the life of the customary law community. In contrast to the concept of assets in state administrative law which emphasizes economic and administrative functions, the Padruwen of a Customary Village has more complex characteristics because it contains social, cultural, religious, historical, and communal values that cannot be separated from the life of the Balinese customary community. Therefore, understanding the characteristics of the Padruwen of a Customary Village is important to explain the legal meaning of Customary Village assets as regulated in Bali Regional Regulation Number 4 of 2019. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The first characteristic inherent in the Padruwen of a Traditional Village is its communal or collective nature. The Padruwen of a Traditional Village is not owned by an individual or by a specific village administrator, but rather represents a shared asset shared by all members of the Traditional Village. This communal ownership stems from the recognition that the assets of the Traditional Village are the result of the collective struggle, management, and sacrifices of the indigenous community that have been passed down through generations. Therefore, the rights to the Padruwen of a Traditional Village cannot be separated into individual rights, as is the concept of ownership in modern civil law. Every member of the indigenous community has an attachment to these assets, even if they do not have private ownership rights to any particular portion of them. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

These communal characteristics reflect the principle of togetherness, a key characteristic of customary law communities in Indonesia. In the Balinese customary law system, collective interests are always placed above individual interests. Therefore, management of the Padruwen Desa Adat must be carried out for the greatest benefit of all members of the Desa Adat and must not be directed towards the interests of any particular group or individual. This concept differs from the individual ownership system, which grants owners complete freedom to use and transfer rights to their assets. In the Padruwen Desa Adat, all forms of management must consider the interests of the customary community as a whole. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).



The second characteristic is the religious-magical nature inherent in most Padruwen (traditional village) structures. In Balinese society, many traditional village assets are directly linked to religious activities and traditional ceremonies. Land used for temples, sacred areas, traditional buildings, shrines, statues, and various religious ceremonial facilities are part of the Padruwen (traditional village) structures, which possess not only economic but also profound spiritual value. These assets are viewed as part of the sacred relationship between the community and their ancestors and God Almighty. Therefore, their management cannot be solely based on economic considerations but must also take into account the inherent sacred values within them. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

This religious-magical nature demonstrates that the Padruwen of a Traditional Village has a much broader dimension than typical public assets. In many cases, customary land may have significant economic value due to its location in a strategic tourism area, yet indigenous communities maintain its existence because it serves irreplaceable religious and cultural functions. This demonstrates that the value of a Padruwen of a Traditional Village cannot always be measured economically. In fact, in many situations, spiritual and cultural values outweigh its economic value. This characteristic makes the Padruwen of a Traditional Village unique within the Indonesian legal system. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The third characteristic is its hereditary or sustainable nature. The Padruwen of a Traditional Village is a collective heritage passed down from one generation to the next. These assets were not born overnight, but rather formed through a long historical process involving contributions from indigenous communities over many years, even centuries. Therefore, each generation of indigenous communities has a moral and legal obligation to safeguard and maintain the Padruwen of a Traditional Village so that future generations can enjoy them. This concept of sustainability demonstrates that the management of Traditional Village assets is not solely oriented towards current interests but also considers the long-term interests of indigenous communities. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The next characteristic is the functional nature inherent in the Padruwen of the Traditional Village. Various forms of Traditional Village assets are essentially used to support the implementation of customary, social, cultural, and religious functions within the community. Proceeds from the management of customary land, customary markets, and businesses owned by the Traditional Village are generally used to finance religious ceremonies, temple maintenance, the construction of customary facilities, and various other social activities. Thus, the Padruwen of the Traditional Village serves not only as a source of income but also as an instrument that ensures the



sustainability of the social and cultural life of the Balinese indigenous community. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

In addition to its social and cultural functions, the Padruwen Desa Adat also serves as an instrument for protecting the identity of indigenous communities. From a sociological perspective, the existence of an indigenous community is strongly influenced by its ability to maintain its territory, traditions, and resources. When a community loses its communal assets, its existence will gradually weaken. Therefore, the Padruwen Desa Adat is not only seen as material wealth, but also as a symbol of the identity and sovereignty of Balinese indigenous communities. Through the existence of the Padruwen Desa Adat, indigenous communities can maintain the traditional values that characterize their lives. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Another crucial characteristic is its non-transferability. In principle, the Padruwen of a Traditional Village is not an asset that can be freely traded, as is the case under civil law. The transfer or utilization of Traditional Village assets must be carried out through mechanisms that comply with customary law and take into account the interests of the indigenous community as a whole. These restrictions aim to prevent the loss of strategic assets that support the livelihoods of indigenous communities. In this context, customary law serves as a protective instrument, preventing communal wealth from being transferred to individual ownership, potentially diminishing the social and cultural functions of these assets. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The final characteristic is the multidimensional nature inherent in the Padruwen of Traditional Villages. Padruwen of Traditional Villages does not have a single function or specific value, but encompasses various dimensions: economic, social, cultural, religious, historical, and ecological. For example, customary land can serve as a source of village income, a location for religious ceremonies, a historical symbol of the indigenous community, and an area that serves an ecological function for the surrounding environment. Because of these diverse dimensions, the management of Padruwen of Traditional Villages must be carried out carefully and sustainably to ensure that all of its inherent functions are maintained. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Based on all these characteristics, it can be understood that the Padruwen Desa Adat is a form of communal wealth that has unique properties and is different from the concept of assets known in the government administrative law system. The communal, religious-magical, hereditary, functional, protective, non-transferable, and multidimensional character shows that the Padruwen Desa Adat is not just a wealth of economic value, but rather an instrument that maintains the continuity of life of the Balinese customary law community. Therefore, the regulation and



protection of the Padruwen Desa Adat must be carried out comprehensively to ensure the existence of the Desa Adat as a customary law community unit that continues to live and develop within the Indonesian national legal system. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

3. The Meaning of Padruwen Traditional Villages from the Perspective of Legal Certainty and Protection of Indigenous Peoples' Rights

The existence of the Padruwen Desa Adat in Bali Provincial Regulation Number 4 of 2019 not only means regulating the assets of Adat Villages, but also represents a concrete form of legal recognition of the existence of indigenous legal communities in Bali. From a legal perspective, recognition of an asset is not merely related to the aspect of ownership, but also relates to certainty regarding the legal status, the subject of rights holders, management authority, and protection mechanisms for those assets. Therefore, the regulation of the Padruwen Desa Adat is very important because it provides a clearer legal basis for Adat Villages in maintaining and managing the assets that are part of their identity. Without legal certainty, assets owned by indigenous communities have the potential to experience disputes, control by other parties, or the loss of their inherent social and cultural functions. (Radbruch, 2006; Mertokusumo, 2019).

From the perspective of the legal certainty theory put forward by Gustav Radbruch, the law must be able to provide clarity, order, and protection for the rights held by legal subjects. Legal certainty requires clear rules regarding who owns the rights, what objects are protected, and how the mechanism for protecting those rights. In the context of Padruwen Traditional Villages, Bali Regional Regulation Number 4 of 2019 seeks to provide legal certainty by affirming that Traditional Villages are legal subjects that have rights to the assets under their control. This recognition is important because for years, many customary assets have been in a state of unclear legal status, giving rise to various conflicts and disputes in the community. (Radbruch, 2006; Mertokusumo, 2019).

Legal certainty regarding the Padruwen of Customary Villages also has a close relationship with the constitutional recognition of customary law communities as regulated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This provision confirms that the state recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society. In this context, the Padruwen of Customary Villages is one form of traditional rights inherent in customary law communities. Therefore, protection of the Padruwen of Customary Villages is actually part of the implementation of the state's obligation to provide respect and protection for the rights of customary communities that have been guaranteed by the constitution. (Radbruch, 2006; Mertokusumo, 2019).



The meaning of the Padruwen of Customary Villages from a legal protection perspective can also be understood as an instrument to maintain the continued existence of Customary Villages as customary law communities. A customary law community cannot survive if it loses the resources that support its social, cultural, and economic life. Therefore, protection of the Padruwen of Customary Villages aims not only to protect the objects or wealth owned by the customary community, but also to protect the sustainability of the customary community itself. In other words, protection of customary assets is an inseparable part of protecting customary law communities as collective legal subjects. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

In practice, the need for legal certainty regarding the Padruwen of Customary Villages is increasingly pressing given the high economic value of customary assets in Bali. The development of tourism, investment, and infrastructure development has led to a significant increase in the value of land and customary assets. While this situation provides economic opportunities for indigenous communities, it also poses various threats, including ownership disputes, control by third parties, and conflicts of interest in their management. Therefore, regulations that provide legal certainty regarding the status and position of the Padruwen of Customary Villages are an essential need. (Radbruch, 2006; Mertokusumo, 2019).

In addition to protecting physical assets, regulations regarding the Padruwen of Customary Villages also serve to safeguard the cultural and spiritual values contained within them. Many Customary Village assets cannot be valued solely on their economic basis due to their close ties to the history, traditions, and religious life of the Balinese people. Land belonging to temples, sacred areas, temples, and various other sacred objects are part of the Padruwen of Customary Villages, which play a vital role in maintaining the continuity of the community's traditional and religious life. Therefore, the meaning of legal protection for the Padruwen of Customary Villages must be understood broadly, encompassing not only the protection of property rights but also the protection of cultural values that exist within the community. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

From the perspective of legal pluralism, the regulation of the Padruwen Desa Adat demonstrates the state's recognition of the existence of a vibrant and thriving customary legal system within society. To date, the national legal system has often emphasized a formal approach oriented toward state law. However, Bali Regional Regulation No. 4 of 2019 demonstrates that state law can provide space for customary law to develop and receive adequate protection. Recognition of the Padruwen Desa Adat demonstrates the state's recognition of customary norms



as part of the legal system within Indonesian society. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The meaning of the Padruwen of Customary Villages can also be viewed from a social justice perspective. In many cases, Customary Village assets are the result of the accumulated management of indigenous communities over several generations. Therefore, the benefits generated from these assets should be enjoyed by all members of the indigenous community fairly and proportionally. Regulations regarding the Padruwen of Customary Villages aim to ensure that asset management is carried out for the common good, not for the benefit of a particular individual or group. Therefore, protecting the Padruwen of Customary Villages also represents an effort to realize distributive justice within indigenous communities. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Furthermore, the existence of the Padruwen of Customary Villages plays a strategic role in maintaining the independence of Customary Villages. Through the management of their assets, Customary Villages can finance various customary, religious, social, and development activities needed by the community without having to rely entirely on government assistance. This independence is a concrete manifestation of the implementation of the ancestral rights held by customary law communities. Therefore, the Padruwen of Customary Villages serves not only as village assets but also as an instrument supporting the continued autonomy of Customary Villages in exercising their authority. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Based on the overall description, it can be understood that the meaning of Padruwen Desa Adat from the perspective of legal certainty and protection of the rights of indigenous peoples has a very broad dimension. Padruwen Desa Adat is not merely an asset or wealth owned by the Indigenous Village, but rather a manifestation of state recognition of the original rights of indigenous legal communities, an instrument for protecting the cultural and spiritual identity of the Balinese people, a means to realize social justice, and a foundation for the independence and sustainability of Indigenous Villages. Thus, the regulation of Padruwen Desa Adat in Bali Regional Regulation Number 4 of 2019 must be understood as a legal effort to ensure certainty and sustainable protection for the existence of indigenous legal communities in Bali in facing various challenges of modern development. (Radbruch, 2006; Mertokusumo, 2019).

Regulation of Authority for Management of Traditional Villages and Service Villages from the Perspective of Legal Certainty

1. Disharmony in the Arrangement of Authority for Managing Assets of Traditional Villages and Administrative Villages in the Legal System in Bali



The implementation of legal assistance for suspects during the investigation stage has essentially gained a strong legal basis in the Indonesian legal system. However, in practice, various legal obstacles remain that affect the effectiveness of the implementation of this right. These legal obstacles stem from the substance of the law, including unclear norms, legal gaps, disharmony in existing laws and regulations, and weak enforcement mechanisms. In the context of protecting suspects' rights, legal obstacles are a significant issue because they can lead to legal uncertainty in the implementation of legal assistance. Although the spirit of criminal law reform through Law Number 1 of 2023 prioritizes the protection of human rights and substantive justice, implementation in the field still faces various normative obstacles that have the potential to reduce the effectiveness of suspect protection during the investigation process.

One frequently encountered legal obstacle is the lack of detailed regulations governing the technical mechanisms for implementing the legal aid obligation from the initial stages of an investigation. In practice, there are still differing understandings regarding when the right to legal aid should be granted and the procedure for appointing legal counsel if the suspect is unable to appoint their own attorney. These differing interpretations can lead to unequal treatment of suspects across jurisdictions. The principle of legal certainty requires that all law enforcement officials have the same guidelines for implementing the legal aid obligation. This lack of clarity in technical regulations can ultimately lead to inconsistent application of the law, impacting the protection of suspects' rights. (Radbruch, 2006; Mertokusumo, 2019).

Another legal obstacle relates to weak regulations regarding sanctions for violations of the right to legal aid. In many cases, when a suspect's right to legal assistance is not optimally provided, there are not always strict legal consequences for officials who ignore this obligation. This situation often results in legal aid provisions being viewed merely as administrative obligations that do not have serious implications if violated. As a result, protection of suspects' rights is less effective because it is not supported by adequate law enforcement mechanisms. From a justice perspective, a legal norm will struggle to achieve its objectives if it is not accompanied by monitoring instruments and sanctions capable of ensuring compliance by law enforcers.

Furthermore, legal obstacles arise from disharmony between various regulations governing legal aid. While the state has regulated the right to legal aid through various legal instruments, there are still differences in regulations regarding the criteria for legal aid recipients, financing mechanisms, and implementation procedures. This disharmony often creates confusion for both law enforcement officials and the public seeking legal assistance. In the context of investigations, regulatory disharmony can delay the process of appointing legal counsel and hinder suspects' access to the legal protection they should receive quickly and effectively.



Based on this description, it is clear that legal barriers are a significant factor influencing the effectiveness of legal aid during the investigation stage. These barriers relate not only to the existence of legal regulations but also to the quality of the legal substance governing their implementation mechanisms. Therefore, regulatory harmonization, improvement of legal norms, and strengthening of oversight and sanction mechanisms are necessary to ensure the optimal implementation of the right to legal aid. In this way, the goal of criminal law reform, which focuses on protecting human rights and substantive justice, can be effectively realized in law enforcement practices.

2. Implications of Disharmonious Authority on Legal Certainty in Village Asset Management

The disharmony in the authority arrangements between the Traditional Village and the Village Administration in managing village assets not only raises normative issues at the statutory level but also has significant implications for legal certainty in the practice of village governance in Bali. Legal certainty is one of the primary objectives of law, which must be realized through clear, consistent, and effectively enforceable norms. When two legal regimes regulate the same object but use different approaches, legal certainty becomes difficult to achieve. In the context of village asset management, this situation creates uncertainty regarding who has the authority to control, manage, utilize, and account for assets within the village area. As a result, both the community and village officials often face difficulties in determining the legal basis that should be used as a reference in managing these assets. (Radbruch, 2006; Mertokusumo, 2019).

One of the most obvious implications is the emergence of unclear legal statuses for village assets. In practice, various assets historically constitute part of the Padruwen of the Traditional Village, yet are administratively registered as village government assets or even have received legal recognition under the state administrative system. Conversely, there are also assets that are administratively managed by the Village Office but are considered by the indigenous community to be part of the communal wealth of the Traditional Village. This situation creates uncertainty regarding who holds the legal rights to these assets. When the legal status of assets is unclear, various legal actions related to assets, such as utilization, cooperation, transfer of rights, and legal protection of assets, become vulnerable to disputes. (Fauziah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The next implication is the increasing potential for conflict of authority between the Bendesa Adat (Customary Village Head) and the Perbekel (Village Head), as leaders of two distinct village entities. In the Customary Village system, the Bendesa Adat has customary legitimacy to manage the Padruwen of the Customary Village based on the prevailing customary



laws and customary law. Meanwhile, the Perbekel, as head of the Village Administration government, has administrative authority based on the Village Law. When both parties feel they have a legitimate legal basis to manage certain assets, conflict of authority becomes difficult to avoid. This conflict not only impacts institutional relationships but can also hinder the management of assets that should be utilized for the benefit of the wider community. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

Disharmonious authority also has implications for the increasing potential for land disputes in Bali. Most of the assets subject to conflict between Customary Villages and Administrative Villages are land of strategic and high economic value. In some cases, customary land previously used for the benefit of indigenous communities has become the subject of disputes due to claims of ownership or control under the national land administration system. The lack of clarity regarding the status and authority to manage this land often leads to protracted conflicts between indigenous communities, village governments, the private sector, and local governments. This situation demonstrates that regulatory disharmony not only impacts government administration but also directly impacts the protection of indigenous peoples' rights.

Besides giving rise to disputes, disharmonious authority arrangements also impact the effectiveness of village asset management. When authority is not clearly defined, decision-making regarding asset utilization often encounters obstacles. For example, in implementing cooperation on land or village asset utilization with third parties, questions arise regarding which party has the authority to grant approval and sign the agreement. This lack of clarity has the potential to cause delays in the implementation of development programs, lost economic opportunities, and reduced effectiveness in village asset management. Ultimately, the village community, which should benefit from these assets, is the one who suffers.

Another equally important implication is the emergence of uncertainty in the asset management accountability system. In the Village Service system, asset management must be implemented based on the principles of accountability and transparency, manifested through reporting mechanisms to the community, the Village Consultative Body, and the local government. In contrast, the management of the Padruwen Village Customary is more based on customary accountability mechanisms through the village council and internal supervision of the customary community. This difference in systems raises questions about the accountability standards that must be applied when managed assets are linked to both village entities. This ambiguity can raise doubts in the audit, supervision, and dispute resolution processes related to village assets. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).



From the perspective of legal certainty theory, this situation indicates that the prevailing legal norms do not fully fulfill the elements of clarity and consistency. Gustav Radbruch stated that the law must provide certainty so that the public can clearly understand their rights and obligations. In the context of village asset management in Bali, the existence of two different regulations regarding asset management authority makes it difficult for the community to determine which rule should be used as a guideline. As a result, the law loses one of its primary functions as a means of creating order and certainty in community life. When legal certainty is lacking, public trust in the legal system can also decline. (Radbruch, 2006; Mertokusumo, 2019).

Disharmonious authority also impacts the investment and development climate in Bali. Many village assets, particularly customary land, are located in areas with high economic potential and are targets for various forms of investment. However, the lack of clarity regarding the authority to manage and approve the use of these assets often raises doubts among investors and partners. This situation can hinder investment processes that could potentially provide economic benefits to village communities. Furthermore, if investments are made without regard for the rights of indigenous communities, they have the potential to trigger greater social conflict in the future. (Law No. 6 of 2014; Bali Provincial Regulation No. 4 of 2019).

From the perspective of protecting indigenous legal communities, disharmonious authority arrangements also have the potential to weaken the position of Indigenous Villages in defending their assets. When there is no clear demarcation between Indigenous Village assets and Village Office assets, assets historically belonging to indigenous communities are at risk of losing adequate legal protection. This can open up opportunities for asset control by certain parties exploiting legal loopholes created by unclear regulations. Therefore, disharmonious authority is not only an administrative issue but also a threat to the continued rights of indigenous legal communities that have lived and developed for centuries in Bali. (Law No. 6 of 2014; Bali Provincial Regulation No. 4 of 2019).

Based on the overall description, it can be understood that the disharmony of authority between Customary Villages and Village Offices in managing village assets has broad implications for legal certainty. Unclear legal status of assets, increased potential for disputes, conflicts of authority between village institutions, ineffective asset management, uncertainty of accountability, investment barriers, and weakened protection of indigenous peoples' rights are real consequences of the current lack of harmony in regulations. Therefore, a reformulation of regulations is needed that can provide clear boundaries of authority between Customary Villages and Village Offices to create legal certainty, justice, and benefits in the management of village assets in Bali. (Radbruch, 2006; Mertokusumo, 2019).



4. CONCLUSION

The Padruwen of the Traditional Village in Bali Provincial Regulation Number 4 of 2019 cannot be interpreted solely as wealth or assets owned by the Traditional Village, but rather as a representation of the original rights, identity, and existence of the Balinese customary law community. The Padruwen of the Traditional Village has unique characteristics because it contains economic, social, cultural, religious, and historical dimensions that are interrelated and cannot be separated from the life of the customary community. The existence of the Padruwen of the Traditional Village serves as an instrument to maintain the continuity of tradition, support the implementation of customary and religious activities, and strengthen the independence of the Traditional Village in exercising its authority. From a legal perspective, recognition of the Padruwen of the Traditional Village demonstrates the state's respect for the traditional rights of the customary law community guaranteed by the constitution. Therefore, the meaning of the Padruwen of the Traditional Village lies not only in its economic value, but also in its role as a means of protecting the cultural identity and sustainability of the life of the Balinese customary community that is passed down from generation to generation. (Fauziyah & Hasanah, 2021; Suwitra, 2020; Nurjaya, 2016).

The regulation of asset management authority between Customary Villages and Administrative Villages still shows disharmony, which has implications for legal certainty in village asset management in Bali. Differences in regulations regarding the legal subject of asset ownership, management authority, asset classification, oversight mechanisms, and accountability systems have created unclear boundaries of authority between the two village entities. This situation has the potential to give rise to disputes over asset ownership, conflicts over institutional authority, uncertainty over the legal status of assets, and weakened protection of the rights of indigenous peoples. To achieve legal certainty, regulatory harmonization is needed that can integrate the interests of state law and customary law through a clear division of authority, firm asset classification, and an effective coordination mechanism between Customary Villages and Administrative Villages. This harmonization is crucial so that village asset management not only provides legal certainty but also ensures justice, benefits, and sustainable protection for the existence of indigenous peoples in Bali. (Radbruch, 2006; Mertokusumo, 2019).

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