**DESA ADAT PROVINCIAL LAW: EXISTENCE STRENGTHENING OR POWER FLEXING?**

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**Abstract**  
* The Desa Law gave rise to a discussion about the legitimacy of Desa Adat in Indonesia. Along with the main objective of the Desa Law to empower villages, some regions thought the normalization of Article 5 of the Desa Law would go hand in hand with the strengthening of the Desa Adat. The Siak Regency Government issued the Siak Regency Regulation No. 2 of 2018 concerning the Establishment of Desa Adat in Siak Regency, to compel the villages in their area to meet the criteria as Indigenous Villages as mandated by the Desa Law. The Regional Regulation of the Province of West Sumatra Number 7 of 2018 concerning Nagari shows political debate to fulfill the mandate of the Village Law, which is criticized as large among the minimal nuances of custom and culture. Bali, which has been living in a circle of the existence of Desa Adat and Desa Dinas, has also examined the responses to the existence of the Desa Law drawn from discussions and discourses on village integration and/or village elections. In the midst of this process, the Provincial Law of Bali Province No. 4 of 2019 was published in the Adat Law (Perda Desa Adat). This paper will show that the Desa Adat Law, which is rich in nuances of customs and culture, was not published to fulfill the mandate of the Desa Law, but instead strengthened the existence of Desa Adat in Bali. This Perda has revised traditional and official relations in Bali by giving more space to the Customary Villages to work together with the Dinas Desa in synergy to empower the community within the philosophical framework of the Balinese people. The effectiveness of this regional regulation needs to be tested to prove the authority of the Desa Adat and Desa Dinas in Bali.

**Keywords:** Village Law, Adat Village, Provincial Law

**Abstrak**  

**Keywords:** UU Desa, Desa Adat, Peraturan Daerah
I. INTRODUCTION

The term desa (village) and its variations all across Indonesia was originally understood as a local, autonomous community organization ruled by local customs, hence defined as a “self-governing community.” President Suharto’s New Order underlined the conceptualization and practice of government centralism, which consequently led to the “death of adat (customary) society.” Furthermore, the New Order effectively clogged up the expression of adat identity, thus marginalizing the rights associated with adat society on a large scale. The forcing of a single state identity happened through the various dimensions of adat society, especially in relation to natural resources and autonomy. The autonomy of adat society is built upon the exercise of customary law, in which the original structures are historically rooted. On the opposing end of the argument, the concept of “Negaraisasi” was created to consolidate the government policy and the possibility that decentralization in adat society serves as incongruent to the very core. This concept has been put in place since the enactment of Law No. 5 of 1979 regarding to Village Governance (Village Governance Law), where all adat institutions were managed the same, as is in line with the village forms and structure in Java. It is because of this that many regions have lost their roots. The amendment of the field of government and adat society began during the country’s Reform Era with the enactment of Law No. 22 in 1999 regarding Regional Governance, which pertained to all forms of the lowest level of governance, which, in accordance to the Village Governance Law is equivalent to the villages in Java, with no exception. This is when regions started to shift back to their root values or customs.

With the evolution of decentralized politics and the determination to further develop villages, the government is at a roadblock to find the appropriate format to define the status of villages. One of their efforts is the enactment of Law No. 6 in 2014 concerning villages. The status of villages in the formulation of Article 5 of the Village Law comes back to the compromise over the debate regarding Article 18 paragraph (7) and Article 18 B paragraph (2) of the 1945 Constitution. The Village Law has placed Desa within the district/city jurisdiction. As a compromise for the assimilation of these villages into the jurisdiction of cities or districts, the constitutional foundation placed toward the village elevated the principles of recognition and subsidiarity. In this case,

3 Ibid.
4 The concept of Desa Adat has emerged as a nomenclature of indigenous peoples such as the nagari to enter and be involved in the framework of recognition of indigenous peoples in the state structure. The concept of Desa Adat intends to strengthen the reorganization of traditionally rooted villages that developed since the birth of decentralization, especially in terms of the position of Desa Adat as a public legal entity (legal subject) that has authority based on original rights, including customary rights. See Yando Zakara, "Baliak Ka Nagari dan Desa Adat: Geliat Lokal di Aras Nasional," Wacana: Jurnal Transformasi Sosial Vol. 35 (February 2016): 125-162.
recognition needs to be seen through the lens of cultural diversity while subsidiarity relies on the basis of villages being allowed to manage themselves. However, it should be noted that the regulation of the position of the village makes it a subordination of the governance of the district and the city. The amendment of the status of Village Law No. 22/1999, Law No. 32/2004, and the Village Law aims to ensure that the village is no longer the object of development but is the subject of development.

The construction of the village governance adopted in the Village Law has a variety of notions brought forward by the principles vested into the law. Indeed, the General Explanation of Village Law states explicitly: “With the construction combining the function of self-governing community and local self-government, it is hoped that the unity of adat legal society that is a part of village territory has been arranged in such a way as to become that established both villages and customary villages (Desa Adat).” Pointing to prior arguments, the principle of recognition and subsidiarity has allowed villages to thrive under the arena of decentralization. In principle, Village Law seeks empower villages and at the same time gives more authorities to the existence of Desa Adat in Indonesia. Village Law explicitly states that there are only two types of villages, villages and Desa Adat, and there is no overlap between Desa and Desa adat in a single region.

The establishment of Village Law rekindled discussions about the legitimacy of Desa Adat, especially pertaining to their total authority. Some customary law communities whose existence had initially been in question due to the state’s limitation in its recognition in the confines of the state’s limited recognition of them, seem to have a gotten breath of fresh air by placing the phrase “Desa Adat” in the normalization of Article 6 of the Desa Law. The Local Government seems to be competing to issue regional regulations to accommodate the mandate of the Village Law while hoping that this will further strengthen the existence of their Desa Adat. However, this leads to various approaches and interpretations when it comes to the application of the law. For example, the Regional Government of the West Sumatra Province is trapped in local political contestation in formulating the concept of the nagari (an abbreviation of Negararasi) in accordance with the current conditions but still prioritizing the customs and culture of the community, to make the Nagari the subject of the Desa Law.

Moreover, looking toward Bali as a unique community, it is basically the same as other people who are experiencing social change and cultural transition. This means, on the one hand, the Balinese are required to maintain traditional and cultural values that are based on religious noble principles as the main foundation of Balinese culture. On the other hand, the Balinese are required to make various adjustments based on current and future conditions. The debate about the status of the village in the Village Law, whether as a village or a Customary Village, also touched the Balinese who had been living in the circle of the Desa Adat-Desa Dinas. Hence, in light of the circumstances, this paper will examine how Bali’s response to the Village Law indirectly “asks” Bali to choose between the Customary Village and its Official Village, and whether the response is an attempt to strengthen the existence of the village or just a show to maintain the status quo of Bali.

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7 This can be seen from the construction of the Village Law, which combines the concepts of self-governing community and local self-government. This kind of construction affects the principle of regulation in the Desa Law that not only prioritizes the principle of recognition but also the principle of subsidiarity.

8 This term was used by Wayan P. Windia, Professor of Adat Law at Udayana University when describing the type of authority of the Desa Adat. This interview was conducted at July 3rd of 2016.
II. THE DYNAMICS OF BALINESE VILLAGE STRUCTURE

Before the fall of the Kingdom of Buleleng into the hands of the Dutch East Indies government in 1849, Bali was divided into nine kingdoms. The fall of several kingdoms in Bali opened wider opportunities for the Netherlands Indies government. However, the kingdom of Bali did not remain silent and launched resistance through the Bellows War. The Dutch response was swift and harsh.

After the two puputan wars, the Dutch government drastically changed its colonial policy in Bali and introduced a policy concept called Baliseering or the “Balinization of Bali.” The essence of this policy is to allow and even protect the Balinese to continue their way life free from any disturbance. From a colonial perspective, the Balinese, with their unique lives, are seen as a “living museum” of the world that must be protected and maintained. Therefore, when the colonial government began to establish the building blocks of government bureaucracy at the lowest level, especially by drafting and developing what was then called the Official Village (Dienst), so that the existence of the Customary Villages was not disturbed. The colonial government divided the two administrative regions of Bali: North Bali, under the control of residen in Singaraja, and South Bali, under the control of assistant residen in Denpasar. In each region of the kingdom, a civil servant of the Dutch East Indies government was installed as a controller.

From this point, three kinds of power relations between kings in Bali with the administration of colonial rule were formed. The first kind was direct governance (rechtstreeks bestuurd gebeid) that includes Buleleng, Jembrana, and Lombok. Here the local kings directly came under the rule of the colonial government. The second was self-government (zelfbesturend landschappen), which includes Badung, Tabanan, Klungkung, and Bangli. Here the local kings, although they were part of the administrative authority of the colonial government, were still given autonomous autonomy in local government. The third kind involved acting as the representatives of the Dutch government (stadehauder), which include the Gianyar and Karangasem regions. Here the local kings gained status as representatives of the colonial government. Furthermore, under the governmental structure of the kings there are districts headed by punggawa. Under these punggawa stood perbekels, who headed

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10 “The Massacres of 1906 and 1908, the two puputan, were a source of shame and international embarrassment to the Dutch as they tried to present their colonial march in lofty terms. They argued that they had not realized the Balinese would act so suicidally instead of more sensibly submitting to Dutch rule, but this was something of strange claim considering that puputan tradition had been well documented.” See A. Vickers, Bali: A Paradise Created, 2nd ed., (Hongkong: Tuttle Publishing, 2012), p. 35.


12 When examined, the formation and development of the official village itself was actually part of the colonial effort to consolidate its power throughout Bali. What should also be noted is that before developing the bureaucratic network at the village level, the colonial government had first organized the political structure of government power at the regional level, or the Balinese royal territories, by installing the Balinese kings as part of the administrators of the colonial government.


14 Ibid.

15 These punggawa were generally relatives or close people of the king. Therefore, loyalty is mainly to the king. This is in accordance with the king’s goal to build a network of power at the lowest level that
the newly established Dinas Villages created by the colonial government.

In contrast to Desa Adat, whose territories encompass a unity of a particular adat community, the existence of Official Villages is the result of the construction of the colonial government based on a unitary territory with a more or less uniform structure. This uniformity is possible because Official Villages is the lowest level of the government bureaucratic administrative structure. The organizational structure of Official Village was designed uniformly from the start.

Due to the fact that the scope of the area was different but was located in the same royal territory, the Official Village and territories often overlap. This remains the case. It should be noted, however, that although the territories can overlap, the territorial boundaries and, authority of the government is different. The Official Village relates to the political power of the administration and bureaucracy of the colonial government, while the Customary Villages relates to the administration of indigenous peoples, whose management remains autonomous following the colonial notion of Baliseering. In its development, it was through the Official Village that the Dutch colonial government strengthened its power to the village level. The existence of the Official Village government itself apparently continued when the Dutch colonial government ceded its power to Japan. This customary-service division persisted until the New Order era when the state penetrated deeper into village affairs, and Customary Villages became increasingly subordinated under the Dinas Desa.16

The existence of traditional villages in Bali is different from traditional villages outside Bali because of the Hindu tradition, which organizes the functions of traditional community governance in the concept of Tri Hita Karana (Religious Dharma). Conversely, the existence of Dinas Desa as part of the structure of the state government was formed by the government, carrying out the function of government (Dharma Negara). So, the existence of the two villages is not dualism that overlaps but it can be argued that it is in fact duality that results in the synergy to support and strengthen one another, not rivalry, because each has a separate function.17 The concept of duality is also developing. One of them is due to the Rwabhineda mindset that is believed to be true by the villagers in Bali. Rwa means two, and Bhineda means different. So the word Rwabhinedasecar term can be interpreted as “different two” but the essence is one, as the appearance of San Hyang Widi Wasa, The God Almighty.18

In everyday life, Rwabhineda’s meaning can be interpreted that in the life of this world, reality often displays itself in two sides of different categories (black-and-white, good-bad, right-wrong, downstream-upstream, sekala-niskala). They are different, but the actual existence of each part can not be separated from one another. This is because the existence of the two presupposes each other; the essence is one. Such is the case of the official villages and the customary villages which, like opposing

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17 An interview with Bapak Wayan P. Windia, Professor of Adat Law at Universitas Udayana Law Faculty on October 25th of 2016 in Bali Shanti Lembaga Penelitian dan Pengabdian Masyarakat (LPPM) Universitas Udayana.

18 Mpu Tantular, Kakawin Sutasoma (Depok: Komunitas Bambu, 2009), p. 504-505.
factors can actually mutually benefit from each other; both in terms of the interests residing from the government and the other being subjected to a more spiritual or cultural mandate.

III. CUSTOMARY VILLAGES (DESA ADAT) AND THEIR EXISTENCE IN BALI

Van Vallenhoven explained that the implementation of adat law is supported by social units of indigenous peoples such as the nagari, the state, Huta, etc. \(^{19}\) However, the existence of these social units experienced ups and downs from the colonial era to the reform era.

At present, the politics of recognition of Indigenous Villages have two dimensions:

A. Dimensions of social units in the function of the state (government) as a form of integration of social units of adat society in the government system called the Desa (or by other names). This integration originated in the provisions of Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia that is in Chapter III concerning Regional Government;

B. Cultural dimension, a form of broad recognition of the identity of adat society, reflects the provisions of Article 28I of the 1945 Constitution of the Republic of Indonesia, contained in Chapter XA on Human Rights.

These two dimensions ultimately influence the existence of the Desa Adat, which is not only seen as an entity that wants to preserve its cultural and traditional identity but on a broader spectrum of community identity meetings in exercising authority relating to the public rights of its people.

The existence of a Customary Village in Bali is broadly illustrated in the legal politics of the Provincial Government of Bali in regulating and positioning customary villages as follows:

A. Regional Law of Bali Province Number 3 Year 2001 and Its Implication to Desa Pakraman

In 2001, the Provincial Government of Bali issued Regulation No. 3 of 2001, which replaces Regional Regulation No. 6 of 1986 concerning Desa Adat. In many respects, this new regulation reflects the concerns of the urban middle class of Bali, who believe that Balinese culture must be protected from the threat of globalization. Furthermore, the Balinese people who judge that Balinese culture is rooted in villages, and villages are based on adat, then adat is the basis of Balinese culture. To emphasize the authenticity and autonomy of traditional villages, the word “adat,” which was considered too colonial and too Islamic, was replaced by the term pakraman, which was picked from ancient documents dating from the 10th and 11th centuries. \(^{20}\)

The Regional Regulation concerning the Pakraman Village no doubt gives birth to

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some changes. During the New Order Era, Official Villages became the main channel for the flow of government funds to villages, so since decentralization, the provincial government in Bali has preferred to subsidize the Pakraman Village. The debate over the use of Pakraman Village took place, but on the other hand, they appreciated the flow of new funds, which supported the improvement of temples and ritual activities and strengthened the sense of togetherness of Hindus. However, the main problem has not been resolved, which concerns the relationship between customary rules and national law. Adat rules are highly subordinated under national law, which undermines the basic autonomy that should be owned by Pakraman Village.21

Criticism also flows over the issuance of this regulation, concerning the position of migrants and criticism of the quasi-republican image of Pakraman Village. Regarding migrants, according to the new regulations, they are not obliged to fulfill any religious duties even though they are members of Desa Pakraman. The same modernist ideas that separate caste from religion also distinguish the realm of religious and social interaction in the village. Here, migrants are only expected to carry out social and environmental responsibilities that are relatively lighter than the continuous flow of religious obligations.

The concept of Desa Pakraman is also criticized for ignoring the many connections between villagers and the outside world. This concept is based on a rational desire for cultural authenticity mixed with Dutch colonial ideas about the autonomy and republican nature of Balinese villages, not based on realistic assessments of village communities. Consequently, decentralization in Bali has resulted in autonomy and fragmentation at the village level. The Pakraman Village Law gives full authority to the Pakraman Village to carry out its internal affairs and make the village council the highest authority. Desa Pakraman has the right to village land that cannot be sold and is not subject to government tax. This regulation also normatively distinguishes the authority of Desa Pakraman from the Village Office so that it does not overlap. Desa Pakraman has so far only been authorized in terms of maintaining the upholding of customs in the Balinese people, but does not directly intersect with the administrative problems of its citizens.

On paper, the Regional Regulation of Desa Pakraman does provide a radical repositioning to the adat village and/or pakraman. It seems that this regulation recognizes an extraordinary degree of autonomy at the village level. However, the Pakraman Village Law did not directly touch on the subject of the removal of the Official Village, which was the most hotly debated topic after the fall of the Suharto regime. The role of the Official Village in relation to land affairs and regional development and the leniency of the influx of migrants to Bali is seen as a critical authority that can weaken Pakraman Village. Abolishing Desa Dinas has become a demand of some intellectuals in the Hindu movement for several reasons.22

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21 Ibid., p. 36.
22 The Indonesian Hindu Dharma Observer Forum was established as a reaction to the growing influence of the Indonesian Muslim Intellectuals Association (ICMI) on state policy and as dissatisfaction with the policies of several officially recognized Hindu organizations, namely Parisada Hindu Dharma Indonesia (PHDI), from the New Order era. Some members of this new group associated with the publication of a monthly newspaper called Suara Bali, which in its first publication (August 1999) called for the removal of the service village. At present, there is also a steady discourse in Bali to refine local values based on Hinduism.
B. Provincial Law of Bali Province No. 4 of 2019 regarding Official Villages (Desa Adat)

The legal construction of the Village Law drew Bali into a debate about the very existence of the Customary Villages and Official Villages. Each party must look within themselves to identify their status and position. The authority of the Customary Villages and Official Villages is again reviewed to analyze each other’s contributions to the empowerment of the Balinese people. Village duality or integration becomes an echoing question through continued analysis of the strengths and weaknesses of each choice.

The practice of Indigenous Villages and Dinas Villages and the ups and downs of authority relations between the two villages has been going on for a long time and go hand in hand. The authority of customary institutions becomes the focus of efforts to improve the excesses of the New Order regime, and in particular the issue of exclusion due to capital-intensive development through large-scale tourism projects at that time. That is why provincial legislation in the reform era paid special attention to the Customary Villages (at that time it was called Desa Pakraman.)

The Customary Villages in Bali is also philosophically, sociologically, and historically a place for its citizens to carry out their lives based on customary law, religion, traditions, arts, and culture as well as unique and unique local wisdom. This is reinforced by the norms of the Customary Village that are regulated through Awig-Awig, Pararem, and other customary regulations. Customary Villages have actually functioned as a self-governing community as well as a self-regulating community. That is why Krama Bali in the Indigenous Village lives in a communal community bond, as a unit of community groups that is united and espousing a spirit of mutual cooperation in a life order based on the philosophy of Tri Hita Karana, which includes: Parahyangan, Pawongan, and Palemahan and the philosophy of Rwa Bhinneda.

The Tri Hita Karana philosophy gives guidance to Krama Bali for; as a form of devotion to God Almighty (Parahyangan), punia to fellow humans (Pawongan), and compassion to nature (Palemahan). Tri Hita Karana’s philosophy comes from the values of Balinese local wisdom (Sad Kertih), including: efforts to purify the soul (atma kertih), preserve the forest (wana kertih) and lakes (danu kertih) as a source of clean water, the sea and the beach (segara kertih), dynamic social and natural harmony (universe kertih), and building the quality of human resources (jana kertih).

The implementation of the Tri Hita Karana philosophy and the conception of Rwa Bhinneda not only encompasses the joint life of Balinese manners in their relationship with the Customary Village, but also in the daily life of the Official Village. This concept is referred to as village duality: two different entities whose existence is complementary and that functions as one. Therefore, the governance and management arrangements of Customary Villages in Bali cannot be left apart, between Customary Villages and between Regencies or Cities, but must be in one unified governance and governance, one island, one pattern, one governance (one island, one management, one command)

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23 In the case of the Padanggalak project, for the first time since the rise of resort development around the 1990s, a hotel project involving top-class political interests was stopped, not via demonstrations, impact analysis, or court decisions, but by the indigenous peoples responsible for the sacred site, which is a meeting of two rivers and two ocean currents. The customary sanction of eviction (kasepekan) against the governor at the time, which came from the customary essay where the project was to be built, proved to be effective in stopping the project. However, some argue that adat sanctions can succeed in Padanggalak only because the governor from the Adat village where the project is located shows the limited form of power that is very focused at the local level. See ibid, p. 189.
in the territory of the Province of Bali, which is returned to the basic nature of the reality of the unity of customary law communities in Bali as a form of social, cosmic unity and implementation of the teachings of Balinese Hinduism. Governance and arrangement that takes into account all aspects and dimensions of life, the sacred and the noetic, the dimensions of space and time according to the teachings of Padma Bhuwana, Tri Semaya, and dimensions of life according to Sad Kerthi’s values.24 This fact made reveals that Bali did not need the Village Law. The Village Law will empower villages, in this case, the Desa Dinas in Bali, and indirectly will empower the Customary Villages as well. The main problem is how the empowerment of the Village in the Village Law can be made similar to the existence of a Customary Village.

For this reason, the regulation of customary community unity in the Province of Bali must be able to restore the position and function of the Desa Adat as a cultural center and center for religious mentality development. It is intended for the Indigenous Village to function as the seat of Balinese culture, which has contributed greatly to the socio-economic development of not only the Balinese people but also Indonesia and even the world at large.

Situations and conditions that continue to move dynamically to the conclusion that the Pakraman Village Regional Regulation is no longer compatible with Bali. Therefore, under the leadership of its new governor, the Provincial Government of Bali drafted a law on Adat Villages until the issuance of the Provincial Regulation on Adat Villages Number 4 of 2019 concerning Adat Villages (hereinafter referred to as Perda Desa Adat).

C. Differences of Provisions between Provincial Law regarding to Pakraman Village and Provincial Law regarding to Customary Village

The Regional Regulation on Pakraman Villages and Customary Villages have systematic differences in formulating the position and authority of the Customary Village in Bali as follows:

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24 Indonesia, Province of Bali Peraturan Daerah tentang Desa Adat (Regional Regulation on Adat Villages), Perda No. 4 Tahun 2019, LD No. 4 Tahun 2019 (Regional Regulation Number 4 Year 2019, RG No. 4 Year 2019), General Provisions.
The increase from eleven chapters to eighteen implies that there were only general aspects governed by the Pakraman Regional Regulation, which are now more detailed. Some basic changes regarding the regulation of Customary Villages will be described as follows:

1. **Nomenclature Changes: Pakraman Villages as a Customary Villages**

   The choice of the term *Desa* Pakraman, in Regional Regulation Pakraman, as a substitute for the Customary Village aims to replace labels originating from the Arabic language (*adat*) with those from the Indian language (*krama*). This causes confusion in the community, which has used “*Desa Adat*” for so long. Some parties consider that the use of the term *pakraman* is a shift to find identity consciously for the drafters.25

   The definition of the Pakraman Village according to the Regional Regulation of Pakraman

25 Jamie S. Davidson, David Henley, Sandra Moniaga (Eds.), *Adat Dalam Politik Indonesia* (Jakarta: Yayasan Pustaka Obor Indonesia, 2010), p. 190.
Village: Pakraman Village is a unified law-abiding community in Bali Province that has a unified tradition and ethos of Hindu civilization traditionally inherent in the bond of three or three villages with specific territories and their own property and the right to manage their own households.

The definition of Desa Adat, according to the Regional Regulation of Desa Adat, contains one element that is a special feature of the Balinese Adat People, which is the foundation of Hindu religious philosophy. This can be found in the editorial, “which has a unity of tradition and social order of the Hindu community for generations in the bonds of heavenly triple.” This can be interpreted as a declaration that the activities of the Balinese Indigenous Peoples are social religious activities, to keep them out of the public domain, which is related to government administrative matters. The Hindu phrase also signifies the limitation of the subject of law, which is bound by customary rules that will be regulated in the awig-awig later.

In the Indigenous Village Law, on the contrary, the phrase Hindus are omitted: Adat village is an adat law community unit in Bali that has territory, position, original arrangement, traditional rights, own assets, traditions, social life manners for generations in the bonds of a sacred place (heaven of three or village of heaven), duties and authorities as well as the right to regulate and manage their own households.

The definition above shows that the legislators position the Desa Adat not only in the spectrum of religious societies but as a balanced partner of the Dinas Desa, which together will realize the empowerment of the Balinese people. The term “Hindu” is indeed not included in the definition, but in the provisions regarding village manners, this phrase becomes the main criterion so that a person can be said to be village manners who are bound to the rights and obligations of each of their Customary Villages.

The changes in nomenclature invited questions from the Golkar and Gerindra factions during the discussion on the Draft Bill on Desa Adat, but the DPRD still decided to use the Adat Village for the following reasons:

a. Judicial

The term “Customary Village” is used to adjust to existing laws and regulations. The legislation does indeed open space for the mention of Desa Adat that are adapted to their respective communities, but the Village Law expressly uses the Desa Adat nomenclature in the process of recognition of the existence of Desa Adat in Indonesia. The use of the term Desa Adat also needs to be done because it relates to financial matters, namely the nomenclature of the line items from the center and the regions.

ii. Sociological reasons

Village terminology in Pakraman actually has more authority in Bali, because the term “Pakraman” is derived from the Old Balinese languages from the root krama, which means “a way of life” or “behavior,” and has also come to mean the community members and their various activities. But apparently the Balinese are prefer the term “Customary Village,” because this term is used earlier and longer than “Pakraman” Village. This can be seen from the existence of a number of Pakraman Villages in Bali that still continue to use the Customary Village in their awig-awig, especially most

26 Indonesia, Regional Regulation Number 4 Year 2019, Art. 1 Number 4.
27 Ibid., Art. 1 Number 8.
28 An interview with Wayan P. Windia, Adat Law Professor at Universitas Udayana, on September 12th of 2019.
of the Pakraman Villages in Badung Regency and Denpasar Regency. “Indigenous Village” is also used in the new regulations, as it complements with customary law, customary clothing and other customary attributes.

2. Customary Village as a Legal Subject

The birth of Bali Regional Regulation No. 4 in 2019, concerning Indigenous Villages, gives strict and explicit recognition to Indigenous Villages as legal subjects, an arrangement not found in the Pakraman Village Law. As a legal subject, this means that the Customary Village has the same rights and obligations as other legal subjects and can act alone both inside and outside the court. Positioning Customary Villages as a legal subject brings legal consequences to Customary Villages carrying out legal actions with other parties.

This has an effect on the relationship of authority between the Customary Villages and the *Dinas* Villages. The Provincial Government of Bali, it seems, no longer emphasizes the recognition of third parties on the existence of the Customary Villages in Bali, because automatically the position of the Customary Villages as a legal subject has legitimized the existence of the Customary Villages and the authority that follows them.

3. The Authority of Customary Villages

Adjusting to the current conditions as well as the legal politics regulating the Village or Customary Village, the Customary Village regulation also identifies the authority of the village data based on the origin rights and local scale village authority. The identification of this authority certainly wants to give an illustration that the Customary Villages in Bali always synergize with the *Dinas* Villages in carrying out their respective duties and authorities. *Desa Dinas* is implemented based on statutory regulations but is still in harmony with Balinese traditional law and vice versa.

Customary Village also has the right to make technical regulations in the context of implementing the *awig-awig* provisions, which are not regulated in the Perda Pakraman. Teknisi regulations will certainly make it easier for Indigenous Villages to respond to Official Village policies.

4. The Connectivity of Customary Villages

According to the author, one of the benchmarks of the *Desa Adat* Regional Regulation is the regulation regarding the relationship of the *Desa Adat* with various parties, ranging from the *Desa Dinas*, the local government, other Indigenous Villages, traditional institutions, and the private sector. This arrangement is adjusted to the authority of the *Desa Adat* and the framework for the implementation of the philosophical concept of Tri Hita Karana. The relationship arrangements are as follows:

i. Authoritative, namely the relationship between the Customary Villages and various parties based on the authority of the Customary Villages to verify and validate that activity in the Customary Villages has been in accordance with Awig-Awig, Pararem, and/or Indigenous Village policies.

Padang Tegal Customary Village in Ubud Subdistrict has regulations that regulate that every economic activity must be carried out in accordance with the approval

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29 Indonesia, Regional Regulation Number 4 Year 2019, Art. 5.
of the Customary Village. Investments must be preceded by a presentation before the Customary Village to determine if the activity is in accordance with existing traditional provisions.30

ii. Coordinative, namely the relationship between the Customary Villages with various parties, each of which has an equal position to align policies or conduct an activity related to the interests of the Desa Adat. An example of a form of coordinative relationship is the resolution of disputes over the boundary between the Desa Adat Padang Tegal and the Desa Adat Pengosekan. This dispute is not only a matter of village boundaries, but also relates to the status of each village’s manners.31

iii. Consultative. Consultative, namely the relationship between the Desa Adat with various parties to exchange ideas to get the best advice or advice for problem-solving. This pattern of relationship is applied in the relationship between the Desa Dinas and the Desa Adat, because each Desa Adat policy must also adjust to the conditions of the Desa Adat.

IV. CONCLUSION

The above description shows that there are some fundamental changes in the regulation of the Desa Adat in Bali. The traditional village, which so far has only been seen as a place for the development of traditional symbols and Hinduism, currently has more scope for movement. This wider space does not mean that Desa Adat will take over the authority of Desa Dinas, but cement the synergy between Desa Adat and Desa Dinas.

Through the Perat Desa Adat, the more difficult task is carried out by the Adat Village because the strengthening of their existence has an impact on the administration’s relationship with adat. Desa Adat is not only the silent partner of Desa Dinas but also plays an active role in interpreting the dynamism of the community with local government policies through Desa Dinas.

Strengthening the existence of Indigenous Villages in Bali cannot be separated from Desa and Desa Adat discourse in the Village Law. History shows that the state is always hesitant to recognize indigenous peoples. This hesitation has an impact on the damage to the original structure of indigenous peoples. Bali, which is one of the lucky ones because of the construction of the separation of official and traditional affairs since the colonial era that has preserved the original structure of the community and its customary rules.

At first glance, Bali seems to not need state recognition of its Adat Village, because Adat Villages, in general, are able to prove that their existence is important for Dinas Desa and will give birth to inequality if it eliminated. The problem is that not all regions are able to show data synergy with the department. This is made worse because the legislation is always blunted in the effort to recognize and strengthen the Customary Village. The Village Law, which seeks to provide legitimacy for the existence of a Customary Village, escapes seeing that not all regions in Indonesia are compatible with the village and customary village dichotomy.

Bali did respond to the Desa Adat but did not necessarily submit to the provisions

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of the Village Law. Perat Desa Adat is Bali’s smart answer to the polemic of desa and desa adat because besides being an door to strengthening the existence of desa adat. This regulation also wants to show the atmosphere of mysticism of Balinese people, who have been steadfast in the presence of Desa Adat and Dinas. Both are interconnected in a complementary space of duality, full of tolerance and not trying to label themselves the most instrumental in empowering Balinese society.

The effectiveness of Desa Adat Laws, especially in the governance of Indigenous Village relations with stakeholders, certainly needs to be tested for a few years to prove the harmonious relationship between the Desa Adat and Desa Dinas that develops in the concept of village duality.
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