

ARTICLE

Sad Kerthi as a Legal Concept of Self-Determination for Indigenous People in Bali

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Abstract

This study aims to examine the historical and cultural aspects of *Sad Kerthi* as a legal terminology that is part of the traditional knowledge of indigenous people in Bali, one of Indonesia's culturally richest provinces. The recognition and respect for indigenous communities have been a significant topic outlined in Article 18B paragraph (2) of the 1945 Constitution. This Article underpins legislations and regulations aimed to empower Indigenous communities to exercise self-governance in their social context within the framework of the contemporary globalised society. By using socio-legal research methods with a statute approach and legal facts, this research finds that the lack of a legal definition of Indigenous people adversely impacts the self-determination of Indigenous people in Indonesia. At the same time, the common problems faced are not unequivocal, by considering Bali, *Sad Kerthi* as local wisdom is incorporated in Bali Province Act 15/2023. This legislation is further broken down into local regulations that allow Balinese communities to preserve their social structures and self-determination in everyday activities. Based on legal evidence collected from three different types of customary villages in Bali, which are *Baliaga*, *Apanage*, and *Anyar*, the indigenous communities in each of these traditional villages are autonomous and enjoy specific privileges maintained since their ancestors.

Keywords: Indigenous People; Local Wisdom; Self-Determination; Traditional Knowledge.

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INTRODUCTION

The recognition and respect for Indigenous peoples have been a persistent subject of conversation, especially in relation to the International Labor Organisation Convention of 1989 (ILO Convention). This Convention acknowledges the presence and aspiration of Indigenous peoples to assert control over the government to safeguard their ancestral rights and maintain their cultural, religious, and customary practices.¹ The importance of recognising Indigenous peoples was further emphasised by the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. As promoted by the United Nations, this Declaration seeks to advance the fair treatment of Indigenous peoples within modern society. It highlights the necessity of respecting the unique identities of all individuals, particularly those of Indigenous communities. Like all other nations, Indonesia is required to support the principles outlined in both the ILO Convention and UNDRIP.

The terms above are significant for countries with indigenous peoples' alliances within their territories. The discussion surrounding the acknowledgement and honour of indigenous communities has been a prominent subject in Indonesia after the amendment of the 1945 Constitution (1999-2002). This amendment solidifies Indonesia's stance on recognising and respecting indigenous peoples, as stated in Article 18B(2) of the 1945 Constitution. Indonesia acknowledges and honours the cohesion of current communities and their customary entitlements. State recognition of Indigenous peoples is subject to three conditions: their existence, alignment with societal progress, and adherence to the ideals established by the state in its laws and regulations. Article 28I(3) of the 1945 Constitution acknowledges the Indonesian nation's stance on respecting indigenous peoples' cultural identity and traditions following the changing times and civilisations. The inclusion and acknowledgement of the customary cultural entitlements of Indigenous communities are vital in a nation's legal framework and statutes. Fulfilling Indigenous peoples' rights is essential for their self-determination and ability to thrive and progress within society.

The self-determination of indigenous peoples in Indonesia is significantly hindered by the absence of explicit legal norms and definitions that uphold their existence. However, not all indigenous peoples in Indonesia face this problem. The indigenous population in Bali is a cohesive community that has actively attained self-governance and preserved their self-determination. Based on legal evidence collected from three different types of customary villages in Bali: *Baliaga*, *Apanage*, and *Anyar*. *Baliaga* villages are indigenous Balinese settlements, representing the earliest form of hamlet in Bali. The *Baliaga* community does not possess a caste system. Instead, the leadership of Bali Aga villages follows a twin or collective structure determined by seniority and referred to as *Ulu-Ampad*. *Apanage* village was originally a village in *Baliaga*. However, it underwent significant changes after Majapahit Kingdom conquered Bali in 1460-1552.² This conquest profoundly affected the villages' religious rituals, social structure, and government system, as the spiritual teachings of Majapahit Hinduism influenced them. *Anyar* villages are newly formed communities that operate under a government system like a village republic. It has a specific territory, governing body, customary laws, and the capacity to organise and

¹ The General Conference of the International Labour Organisation, "Indigenous and Tribal Peoples Convention, 1989 (No. 169)" (1989).

² I Ketut Ardhana, et. al. *Sejarah Desa Adat Dan Kekhususannya, Pemetaan Tipologi Dan Karakteristik Desa Adat Di Bali* (Denpasar: Cakra Media Utama, 2020).

support its community independently. The village also has a customary penalty system that aligns with local oral traditions and can be adjusted to suit changing situations.

It is a fact that the indigenous communities in each of these traditional villages are autonomous and enjoy specific privileges that have been maintained since the time of their ancestors. Indigenous peoples are the aboriginal residents of a particular area, preserving unique cultural customs and traditions frequently transmitted across multiple generations. Andi Abidah and colleagues in 2021 explained that numerous Indigenous communities worldwide possess distinct architectural styles, construction materials, and spatial arrangements, demonstrating their profound bond with the land and environment.³ Indigenous peoples frequently possess distinct cultural customs and traditional ecological knowledge that have allowed them to inhabit their surroundings sustainably for centuries. Budiaman and colleagues in 2023 elucidated that preserving Indigenous cultures and traditional lifestyles is essential for upholding the biodiversity and environmental well-being of the regions they occupy.⁴ In addition to Bali, other indigenous communities in Indonesia possess self-determination or privileges in safeguarding their history and traditions, including unique self-determination over the design and structure of dwellings owned by the Manggarai indigenous people. The research conducted by Dwi Wulan Titik Andari and colleagues in 2023 highlights the importance of acknowledging the significance of the traditional architecture of the "*mbaru gdrum*" house and the "*lingko*" land division system in representing the historical, cultural, and identity aspects of the Manggarai Indigenous community in Indonesia.⁵

Previous studies have primarily concentrated on the overall rights of indigenous peoples regarding the natural environment, ensuring access to food, and preserving cultural customs.⁶ Other studies prioritise the enhancement of education, traditional economic practices, and social interactions within

³ Andi Abidah, Muhammad Yahya, and Bakhrani A. Rauf, "The Healthy Homes of the Ammatoa Kajang Indigenous People, Indonesia," *Conservation Science in Cultural Heritage* 21 (2021): 67–82, <https://doi.org/10.48255/1973-9494.JCSCH.21.2021.01>.

⁴ Budiaman, Achmad Nur Hidayat, and Nandi Kurniawan, "Local Wisdom in Agricultural Management of the Samin Indigenous Peoples, Indonesia," *IOP Conference Series: Earth and Environmental Science* 1190, no. 1 (2023), <https://doi.org/10.1088/1755-1315/1190/1/012018>.

⁵ Dwi Wulan Titik Andari et al., "Local Wisdom in the Land System of Manggarai's Indigenous People, Indonesia," *ISVS E-Journal* 10, no. 9 (2023): 223–43, <https://doi.org/10.61275/ISVSej-2023-10-09-16>.

⁶ Laurence L. Delina, "Topographies of Coal Mining Dissent: Power, Politics, and Protests in Southern Philippines," *World Development* 137 (2021): 105194, <https://doi.org/10.1016/j.worlddev.2020.105194>; L. Massaro et al., "Balancing Economic Development and Environmental Responsibility: Perceptions from Communities of Garimpeiros in the Brazilian Amazon," *Resources Policy* 79, no. October (2022): 103063, <https://doi.org/10.1016/j.resourpol.2022.103063>; Pia Marchegiani, Elisa Morgera, and Louisa Parks, "Indigenous Peoples' Rights to Natural Resources in Argentina: The Challenges of Impact Assessment, Consent and Fair and Equitable Benefit-Sharing in Cases of Lithium Mining," *International Journal of Human Rights* 24, no. 2–3 (2020): 224–40, <https://doi.org/10.1080/13642987.2019.1677617>; Ginbert Permejo Cuaton and Yvonne Su, "Local-Indigenous Knowledge on Disaster Risk Reduction: Insights from the Mamanwa Indigenous Peoples in Basey, Samar after Typhoon Haiyan in the Philippines," *International Journal of Disaster Risk Reduction* 48, no. April (2020): 101596, <https://doi.org/10.1016/j.ijdrr.2020.101596>; Ana C. Rorato et al., "Environmental Threats over Amazonian Indigenous Lands," *Land* 10, no. 3 (2021): 1–28, <https://doi.org/10.3390/land10030267>; John E. Fa et al., "Importance of Indigenous Peoples' Lands for the Conservation of Intact Forest Landscapes," *Frontiers in Ecology and the Environment* 18, no. 3 (2020): 135–40, <https://doi.org/10.1002/fee.2148>; Ashleigh Domingo et al., "Indigenous Community Perspectives of Food Security, Sustainable Food Systems and Strategies to Enhance Access to Local and Traditional Healthy Food for Partnering Williams' Treaties First Nations (Ontario, Canada)," *International Journal of Environmental Research and Public Health* 18, no. 9 (2021), <https://doi.org/10.3390/ijerph18094404>; Lin Fang and Fengping Wu, "Can Water Rights Trading Scheme Promote Regional Water Conservation in China? Evidence from a Time-Varying DID Analysis," *International Journal of Environmental Research and Public Health* 17, no. 18 (2020): 1–14, <https://doi.org/10.3390/ijerph17186679>.

the overarching topic of "living in harmony with nature."⁷ However, these studies still do not reveal the traditional forms of indigenous peoples' knowledge that should be preserved and adopted to maintain the existence of indigenous peoples. Therefore, an essential aspect of this study is the presence of indigenous peoples in Bali who possess traditional knowledge that enables them to maintain their existence and achieve self-determination without conflicting with state principles. Specifically, they adhere to the principle of *Sad Kerthi*, which encompasses six essential elements that must be preserved to achieve a harmonious way of life in this world. This study will examine the concept of *Sad Kerthi* in applying self-government to indigenous peoples in Bali. *Sad Kerthi* is a local cultural wisdom concept that is significant to indigenous peoples in Bali. It is deeply rooted in Balinese traditions and encompasses values, beliefs, and practices passed down through generations, promoting harmony with nature and the community.⁸ Currently, *Sad Kerthi loka* Bali, commonly referred to as the "socio-cultural landscape of Bali," is a crucial component of both Balinese culture and the tourism industry.⁹ It symbolises the balanced and cooperative connection between humans, deities, and the natural world. It has a crucial impact on the conservation and long-term viability of the Balinese society, traditions, and surroundings.

Sad Kerthi is an intrinsic aspect of Balinese culture that signifies the symbiotic connection between humans and their natural environment. It includes ecological sustainability, societal cohesion, and emotional well-being.¹⁰ *Sad Kerthi* is a cultural wisdom that is the philosophical basis for Balinese special self-determination. Its purpose is to safeguard and promote Bali's customs and local traditions while operating within the framework of the Republic of Indonesia. The objective of implementing

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- ⁷ Jesster P. Eduardo and Arnel G. Gabriel, "Indigenous Peoples and the Right to Education: The Dumagat Experience in the Provinces of Nueva Ecija and Aurora, in the Philippines," *SAGE Open* 11, no. 2 (2021), <https://doi.org/10.1177/21582440211009491>; Victoria Reyes-García et al., "Recognizing Indigenous Peoples' and Local Communities' Rights and Agency in the Post-2020 Biodiversity Agenda," *Ambio* 51, no. 1 (2022): 84–92, <https://doi.org/10.1007/s13280-021-01561-7>; Agnieszka Szpak, "Arctic Athabaskan Council's Petition to the Inter-American Commission on Human Rights and Climate Change—Business as Usual or a Breakthrough?," *Climatic Change* 162, no. 3 (2020): 1575–93, <https://doi.org/10.1007/s10584-020-02826-y>; Nancy Postero and Jason Tockman, "Self-Governance in Bolivia's First Indigenous Autonomy: Charagua," *Latin American Research Review* 55, no. 1 (2020): 1–15, <https://doi.org/10.25222/larr.213>; Lana D. Hartwig et al., "Water Colonialism and Indigenous Water Justice in South-Eastern Australia," *International Journal of Water Resources Development* 38, no. 1 (2022): 30–63, <https://doi.org/10.1080/07900627.2020.1868980>; Christina M. Kennedy et al., "Indigenous Peoples' Lands Are Threatened by Industrial Development; Conversion Risk Assessment Reveals Need to Support Indigenous Stewardship," *One Earth* 6, no. 8 (2023): 1032–49, <https://doi.org/10.1016/j.oneear.2023.07.006>; Chairul Fahmi and Muhammad Siddiq Armia, "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms," *Journal of Southeast Asian Human Rights* 6, no. 1 (2022): 1–25, <https://doi.org/10.19184/jseahr.v6i1.30242>.
- ⁸ I Gusti Made Andrian Sumantri, "The New Iconic Landmark of Bali in 2023: Turyapada Tower KBS 6.0 Kerthi Bali," *Bali Tourism Journal* 6, no. 2 (2022): 38–42, <https://doi.org/10.36675/btj.v6i2.7>.
- ⁹ I Gede Mudana, Ni Made Ernawati, and Mihai Voda, "Analysis of the Evolving Cultural Tourism Implementation in Bali Indonesia," *Multicultural Education* 7, no. 6 (2021): 608–19, <https://doi.org/10.5281/zenodo.5035637>; Putu Ronny Angga Mahendra, "Conception of Local Wisdom Nangun Sad Kerthi Loka Bali In Character Education," *Social, Humanities, and Educational Studies (SHEs): Conference Series* 4, no. 4 (April 2021): 78, <https://doi.org/10.20961/shes.v4i4.50589>; Putu Yudha Asteria Putri and Komang Adi Kurniawan Saputra, "Regulatory Impact Analysis on Local Government Regulation Standards for Organizing Cultural Tourism in Bali," *American Research Journal of Humanities & Social Science (ARJHSS)* 5, no. 4 (2022): 22–32.
- ¹⁰ I Nengah Subadra, "Cultural Tourism and the Covid-19 Pandemic: Understanding Government Policies and Balinese Reactions," *Journal of Bali Studies*, 2021; I Made Mai Noval, A.A.N Oka Suryadinatha Gordha, and A.A.N Eddy Supriadinata Gordha, "Navigating Village Credit Institutions Based On Sad Kerthi Loka Bali In Buleleng Regency," *Jurnal Keuangan Dan Perbankan* 26, no. 2 (May 2022): 335–49, <https://doi.org/10.26905/jkdp.v26i2.7046>; Anak Agung Gede Oka Wisnumurti, "Tourism Recovery Policy Post Corona Virus Disease Outbreak 2019 (COVID-19) in Bali Province," *Kasetsart Journal of Social Sciences* 44, no. 2 (2023): 573–84, <https://doi.org/10.34044/j.kjss.2023.44.2.28>.

Balinese self-determination is to enhance the robustness of Hinduism, preserve the culture, and promote sustainable development in Bali, emphasising the importance of *Sad Kerthi* as a guiding principle.¹¹ Wayan Koster and Wayan Ramantha have previously explained that *Sad Kerthi*'s teachings are crucial in Bali's economic transition. These teachings emphasise the need for welfare and pleasure by harmonising the environment, people, and Balinese culture.¹² Hence, it is crucial to establish *Sad Kerthi* as a governance model for protecting the autonomous rights of indigenous peoples in Indonesia from the standpoint of *ius contituendum*. This research aims to establish *Sad Kerthi* as a paradigm of traditional knowledge in safeguarding the self-determination rights of indigenous communities in Indonesia. This research aims to serve as a guiding framework for the Indonesian government in developing legislation and regulations rooted in the principles of indigenous rights.

This study will specifically examine the state's acknowledgement of indigenous peoples, with a particular emphasis on their traditional wisdom, known as *Sad Kerthi*. *Sad Kerthi* plays a fundamental role in forming conventional legal systems and creating self-governing traditional communities in Bali. Based on preliminary research findings, it is evident that indigenous peoples in Bali possess a significant level of self-determination even without specific laws about their rights. Nevertheless, this study promotes the acknowledgement and reverence of Indigenous populations' customary rights and cultural traditions within the legislation domain, aiming to achieve the legal goals of certainty, efficiency, and fairness. Comprehending this *Sad Kerthi* knowledge is anticipated to contribute to the Indonesian government's formulating forthcoming legislation. Furthermore, this research will offer a prescriptive viewpoint on developing indigenous peoples' laws, known as *ius contituendum*, by examining the concept of local wisdom, *Sad Kerthi*.

METHODOLOGY

This research employed socio-legal research as its research methodology.¹³ Socio-legal approaches were employed in this research because they focus on doctrinal legal analysis of the self-determination of Indigenous people's rights, which incorporated social aspects into the study. Another rationale for employing socio-legal methodologies was the adoption of an interdisciplinary approach, namely examining the subject matter from legal anthropology. This study used statutory, historical, and legal concept analysis approaches as analytical techniques. The primary legal sources in this study included the United Nations Declaration on the Rights of Indigenous Peoples in 2007, the 1945 Constitution of the Republic of Indonesia, the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX/MPR/2001 (*Tap MPR Number IX*), Act Number 6 of 2014 on Villages, and Regional Regulation of Bali Province Number 4 of 2019 on Customary Villages in Bali. Additionally, this study employed a semi-structured interview technique to gather corroborating data. Interviews

¹¹ Kadek Cahya Susila Wibawa and Sri Nurhari Susanto, "Establishing a Special Autonomy Model in Bali as a Means of Preserving Hindu Balinese Culture and Space," *International Journal of Scientific and Technology Research* 9, no. 4 (2020): 1609–14.

¹² Wayan Koster and Wayan Ramantha, "Ekonomi Kerthi Bali: Economic Transformation Based on Bali Nature, Human and Culture," *Journal of Positive School Psychology* 2022, no. 5 (2022): 7382–92.

¹³ Reza Banakar & Max Travers, *Theory and Method in Socio-Legal Research, Theory and Method in Socio-Legal Research* (London: Hart Publishing, 2021); Adriaan W Bedner et al., *Kajian Sosio-Legal, Kajian Sosio-Legal* (Denpasar: Pustaka Larasan, 2012); Kristen McConnachie Naomi Creutzfeldt, March Mason, *Routledge Handbook of Socio-Legal Theory, Routledge Handbook of Socio-Legal Theory* (London: Routledge, 2020).

were conducted with three distinct types of traditional communities in Bali: *Baliaga*, *Apanaga*, and *Anyar*. The participants in this interview were traditional leaders or local village officials who possess formal power. This study employed a prescriptive data analysis methodology.

THE LEGAL DISCOURSE OF INDIGENOUS PEOPLE

Indigenous peoples are collectives of individuals whose presence cannot be negated. Indigenous peoples possess unique characteristics and distinctions that warrant the provision of certain rights within various rules.¹⁴ There is a crucial question about the legal treatment of indigenous peoples and whether the existence of indigenous peoples warrants specific rights in various legal frameworks. The question highlights the indigenous peoples' call for comprehensive legal safeguards to ensure their survival, self-determination, and equal rights as other communities.¹⁵ Nevertheless, under international law regimes, indigenous people are considered to be distinct and have some rights that have been incorporated into international human rights discussions and implementation. The discourse that must be considered in preserving cultural diversity among indigenous peoples of the Southern world goes beyond mere rhetoric. It is crucial to prioritise practical and fundamental matters over campaigning and asserting customary status.¹⁶ Indigenous peoples play a crucial role in advocating for their rights in human rights diplomacy forums at the international level.¹⁷ To fully grasp the difficulties or challenges encountered by indigenous groups, it was elucidated that it is necessary to consider the whole perspective of national interests about the indigenous peoples residing inside the country's borders.¹⁸

Indigenous peoples can effectively advocate for their human rights even without state support. He supports this claim by highlighting their achievements in legalising their rights through legislation.¹⁹ The evidence of this achievement is evident in the establishment of the UNDRIP in 2007. Moreover, practice from Ecuador and Norway shows that the involvement of the state is crucial in acknowledging indigenous peoples, particularly regarding customary law, which plays a significant role in the overall existence of indigenous communities. The involvement of the state in acknowledging Indigenous peoples starts with recognising their existence in constitutional provisions through awareness, acceptance, and granting them legal authority.

¹⁴ Delina, "Topographies of Coal Mining Dissent: Power, Politics, and Protests in Southern Philippines"; Massaro et al., "Balancing Economic Development and Environmental Responsibility: Perceptions from Communities of Garimpeiros in the Brazilian Amazon."

¹⁵ Lawrence Rosen, "Law and Indigenous Peoples," *Law & Social Inquiry* 17, no. 2 (1992): 363–71.

¹⁶ Douglas E. Sanders, "Indigenous Peoples: Issues of Definition," *International Journal of Cultural Property* 8, no. 1 (1999): 4–13, <https://doi.org/10.1017/S0940739199770591>.

¹⁷ Kristen Carpenter and Alexey Tsykarev, "Symposium on The Impact of Indigenous Peoples on International Law Indigenous Peoples and Diplomacy on The World Stage," *AJIL Unbound* 115, no. 2013 (2021): 118–22, <https://doi.org/10.1017/aju.2021.7>.

¹⁸ Cuaton and Su, "Local-Indigenous Knowledge on Disaster Risk Reduction: Insights from the Mamanwa Indigenous Peoples in Basey, Samar after Typhoon Haiyan in the Philippines"; Marchegiani, Morgera, and Parks, "Indigenous Peoples' Rights to Natural Resources in Argentina: The Challenges of Impact Assessment, Consent and Fair and Equitable Benefit-Sharing in Cases of Lithium Mining."

¹⁹ William H. Meyer, "Indigenous Rights, Global Governance, and State Sovereignty," *Human Rights Review* 13, no. 3 (2012): 327–47, <https://doi.org/10.1007/s12142-012-0225-3>.

CUSTOMARY VILLAGES IN BALI

As explained in the introduction, there are three types of customary villages in Bali: Baliaga, Apanage, and Anyar. This section provides an in-depth explanation of the three villages' characteristics.

A. Baliaga Customary Village

Bali is a region that firmly preserves its customs and culture, making the existence of indigenous people in Bali sustainable today. As explained in the previous sub-chapter, the customary law society is divided into three parts: genealogical, territorial, and genealogical territorial. In its development, Bali is currently included in the category of indigenous peoples who adhere to genealogical-territorial principles. Genealogically, Indigenous peoples in Bali have a *sekeha dadia*. Indigenous peoples in Bali also have legal alliances prioritising common interests in the territorial realm, such as Subak, which is engaged in water management for rice fields and plantations (Subak Abian). In addition, in Bali, territorially, indigenous people attach importance to the interests of their territory to be guarded, which is called a traditional village.

Bali Province recognises two types of village forms, namely traditional villages (*desa adat*) and official villages (*desa*), each with a different function, system or organisational structure. However, the existence of official villages does not rule out the existence of traditional villages in Bali. *Desa Adat* is an institution that carries out customary law, and today, customary villages have been given a legal umbrella with the establishment of Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali. Customary Villages are essential elements for indigenous people in Bali to carry out their social lives. The provisions of Article Number 8 of the customary village bylaw show that customary villages are a unity of indigenous peoples in Bali. This legal community unit has territory, position, traditional rights and property. Balinese customary village bylaws are one form of local regulation that provides legal strengthening and protection to indigenous peoples in Bali.

Geographically, customary villages in Bali can be inventoried based on the area where they live. Customary villages in Bali can easily see the similarities based on the territorial grouping of mountains known as Baliaga village. The social layer in the indigenous Balinese community strongly reflects one element of the customary law community, which is simple. For example, in the traditional village of Baliaga, community members can be distinguished based on *Ulu-Ampad*, which means to see seniority or marriage. *Krama desa*, or village members with a higher position in terms of age, have authority in tradition, and the consideration is that older members know more about tradition and are considered sacred. The customary law above has been followed for generations by the customary village of Baliaga, for instance, at *Desa Adat* Cempaga in Buleleng Regency.

Cempaka Customary Village is one of the ancient villages of *Baliaga* villages. Until now, no text related to the Village's existence has been found in an inscription or lontar. However, the story of the existence of this village is told orally and passed down from generation to generation (RI 1).²⁰ However, in the Banyusri Inscription, Cempaga Traditional Village was once ruled by a king named Sri Suradipa in 1115 AD. The Cempaga indigenous people believe that worship of God and ancestors should be carried out in the area of the house. Until now, the community does not have a place of

²⁰ Nyoman Budi Asa, Cempaga Village Head, Interview, 7 August 2023 at 09.00 AM.

family worship (*mrajan/sanggab*) as generally indigenous people in Bali. The indigenous people of Cempaga also have a characteristic simple house called *Rumah Saka Roras*. The difference between traditional houses in Cempaga and other villages is that the house is used for all activities carried out in one house, such as resting places, places of worship and others.

Cempaga traditional Village implements a village institutional system, namely the *ulum-ampad* system or among the Cempaga Indigenous people know the term "*mulu gugun puon mulu apad*".²¹ When choosing the concept used is "*takin kenawan, takin keke, penginter juru betek*". Traditional knowledge above means traditional elders are elected based on marital/family seniority, "*kelib-keliban dadia*", or called "*para ulu*". Then, the traditional elders will be given a position called a monument. The task of the traditional management is to carry out ceremonial activities. Uniquely, the implementation of religious ceremonies in the traditional Village of Cempaga must be driven by traditional elders. Otherwise, the younger village administrators cannot carry out the ceremony. For this reason, the institutional system of this traditional Village is communal.

The traditional Village of Cempaga maintains its self-determination in carrying out religious rites, specifically focusing on the *Sad Kerthi* philosophy. One aspect of this concept is *Jana Kerthi*, which refers to the endeavour to achieve personal purity and harmony. The development and management system of customary villages still refers to favourable laws in Indonesia. In the event of a customary violation, the Cempaga *prajuru adat* will carry out *paruman agung* (village court) by imposing customary sanctions in the form of fines. In addition to customary sanctions, in carrying out customary village activities, especially in ceremonial rituals, the Cempaga Indigenous people are guided by "*lontar ten petulis*," this refers to the application of customary law based on customs and verbal commands, incorporating components of *Jagat Kerthi*, a doctrine in *Sad Kerthi* that aims to preserve the holiness and harmony of relationships among all beings.

Another historic village recognised as Baliaga village is Tenganan Pegringsingan Traditional Village, in addition to Cempaga Village. Unlike the Cempaga Traditional Village, Tenganan Pegringsingan Traditional Village is a Bali aga village that has a reasonably accurate historical record in the *awig-awig lontar* recorded in 1842 with the assistance of the Klungkung Kingdom at that time.²² The institutional system of Tenganan Pegringsingan Traditional Village also applies the *ulu ampat* system based on marital seniority. The community of Tenganan Pegringsingan Traditional Village consists of *krama desa*, *krama gumi*, and *krama gumi pulangan*. The traditional village management (*prajuru desa*) in Tenganan Pegringsingan is communal, but in determining customary village decisions, determined by 2 pairs of husband and wife who fall into the category of materials first and are positioned as *klian desa*.²³

One of the dancing characteristics of the Tenganan Pegringsingan Traditional Village is its inheritance system. Bali has a legacy system based on *purusa* or patrilineal system. But in Tenganan Pegringsingan, this does not apply. Both men and women have the same inheritance rights or instead carry out the bilateral customary partnership system (parental). Another characteristic is that each house can only be occupied by 1 family, so if the head of the head of the family marries, then the child will separate

²¹ *Ibid.*

²² Putu Yudiana, Administrator of Tenganan Pegringsingan Traditional Village, Interview, 21 September 2023 at 02.00 PM.

²³ *Ibid.*

the house and be given land by the customary Village to occupy. And more uniquely for the indigenous people of Tenganan Pegringsingan, who, in the category of indigenous people (*kerama desa*), do not recognise divorce in their marriage system.²⁴ So, if there is a mismatch between the couple, they tend only to separate beds or houses still in 1 customary village area. In addition, one form of effort in maintaining the territory of their customary villages, customary law (*awig-awig*) in Tenganan Pegringsingan, stipulates a prohibition for Indigenous people to sell or mortgage land given by customary villages (village yards).

Tenganan Pagringsingan Traditional Village cares about the community outwardly and mentally. Of course, this concern cannot be separated from the pattern of customary law communities with magical religious patterns. For example, during the COVID-19 pandemic, in the Tenganan Traditional Village, to ward off bad experiences (COVID-19) in the Village, the indigenous people concerned carried out religious rituals for several months marked with a symbol of *sanggah cucuk* in every traditional villager's house made of bamboo and equipped with offerings of shallots and garlic, chili, and a pandan leaf. The aforementioned ritual symbolises the *yadnya* ceremony conducted for *sarwa bhuta*, which refers to the lower natural beings, animals, plants, and elements of nature, along with their power dynamics. The purpose of this ritual is to preserve the sanctity and harmony of relationships among all beings, as emphasised in the teachings of *Sad Kerthi's Jagat Kerthi*.

B. *Apanage Customary Village*

There was a dynamic of traditional villages in Bali after Majapahit succeeded in conquering it. The influence of Majapahit, which was so intensely carried out, made traditional villages in Bali begin to change, especially in religious implementation procedures, community structures and systems and did not miss the leadership system. The villages that get influence from Majapahit are known as Bali Plain villages. The characteristics of the Village are economic resources based on rice fields with irrigation systems, the introduction of the Devaraja Cult's system, namely the king's position system as a representative of God, the presence of Brahmin figures known as pedanda, religious concepts made in writing in lontar, the existence of a corpse burning system in funeral ceremonies, and the most striking is the caste system or what is referred to as *Catur Warna*. One of the villages undergoing this transition is Sepang Traditional Village in Buleleng.

Sepang Traditional Village is a village located in Buleleng Regency. Sepang Village, historically, is a subdivision inhabited by people residing in a hilly region known as Basturi.²⁵ Sepang Traditional Village is also recorded in the *Dalem Tarukan* Inscription in Sai Traditional Village, Pupuan District. Sepang Traditional Village is an ancient village with a self-determination system in terms of *upakara* that does not follow the ideas of Majapahit or Mpu Kuturuan. At first, even Sepang Traditional Village did not know the existence of *Padmasana* and *Dalem* Temple. Sepang Traditional Village, from the beginning, only had *Puseh* Temple and Gunung Urip Temple. The worship at Gunung Urip temple is founded on the teachings of *Wana Kerthi* in *Sad Kerthi*, which signifies the need to preserve the sacredness of forests and mountains. Until now, Sepang Traditional Village has an *upakara* system that is different from other traditional villages in Bali, but with the influence of Mpu Kuturan and

²⁴ *Ibid.*

²⁵ I Made Parmayasa, Head of Sepang Traditional Village, Interview, 22 July 2023, at 10.00 AM.

Majapahit Understanding, Sepang Traditional Village currently only follows a village institutional system that adheres to a single leadership.²⁶

Sepang Traditional Village consists of 33 *dadia sanggah*, the forerunner of the establishment of Sepang Traditional Village. Uniquely, these 33 *dadia* rebuttals must become village leaders (Bendesa Adat). In addition, the Sepang Traditional Village also shows a hierarchical system of *awig-awig*, as in stufanbau theory or the hierarchy of laws and regulations. So, every family in Sepang has its family *awig-awig*, descendants of the *awig-awig* of Sepang Traditional Village.²⁷ The ownership of the family *awig-awig* must be under the jurisdiction of the village *awig-awig*, and it must adhere to the regulations set by the village *awig-awig* without any contradictions.

Sepang Traditional Village has a village court divided into 2, namely *paruman adat* and *paruman banjar*.²⁸ The *paruman adat* focuses primarily on the performance of religious rituals. However, it also deals with matters related to resolving disputes over customary delicacies and the development of traditional villages. The above efforts are based on the teachings of *Sad Kerthi*, which aim to maintain the balance of the universe through six specific actions. Meanwhile, *paruman banjar* discusses traditional village programs and official villages or the government's implementation of specific programs. *Paruman banjar* is routinely carried out once every 1 month, while traditional *paruman* is scheduled every 3 months (*anggara kasih medangsia and dukut*) in Bale Agung. In each *paruman* decision, a *jugjug* process will be carried out by traditional elders (Bendesa Adat) using *keris* and witnessed by 33 representatives of the *suoan* or rebuttal. The above judicial system is so that the customary decision is declared valid.

C. Anyar Customary Village

Today, the understanding of customary law communities in Bali regarding customary villages is that they are a place to live in village krama. In detail, customary villages for krama villages in Bali are more than residences, namely as areas that have village wealth (village profit), the existence of Indigenous people's life (*krama desa*), certain areas (*wewidangan*), the existence of customary village management (*prajuru*), and *kahyangan desa* as a place of worship for *krama desa*. The responsibility of *krama desa* is to maintain the sanctity of temples and villages, and the general understanding that is consistently applied by *krama desa* is the philosophy of *Tri Hita Karana* (THK) and *Sad Kerthi*. Understanding the balanced relationship between humans and God (*parahyangan*), humans with humans (*pawongan*), and humans with the environment (*palemahan*) to realise harmony is always maintained and implemented by Indigenous peoples in Bali.

Description of traditional villages, especially those that fall into the new category (*anyar*), are traditional villages that currently occupy coastal plain areas. Still, there are also new traditional mountain villages, such as Central Batur Traditional Village. Central Batur Traditional Village is a new village that has experienced expansion from the beginning and is called Batur Traditional Village.²⁹ Central Batur traditional village has 3 official villages and 1 traditional village. The majority of the indigenous people of Central Batur are farmers in the category of *subak abian* (dry) farmers. In

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ I Made Sasmika, Head of Batur Tengah Traditional Village, Interview, 6 June 2023, at 1.00 PM.

addition, the indigenous people of Central Batur also work as fishermen using the Floating Net Cage Technique (KJA). Most people in Central Batur Traditional Village embrace Hinduism, marked by the consistent implementation of Hindu religious rituals such as water cleansing ceremonies (*Danu kerthi*) as contained in the teachings of Sad Kerthi, namely *ngebeg danu*. *Ngebeg danu* is conducted to uphold the integrity and conservation of freshwater sources, including lakes, diverse springs, and rivers.³⁰

Central Batur Traditional Village has several treasures such as springs, village customary land, and hot springs. In its implementation, Central Batur Traditional Village has priority rights in carrying out religious ceremonies, managing and utilising spring water sources for farmers, and using and utilising existing conservation forests in the village area.³¹ One form of village authority assisting customary village retribution is managing customary village-owned businesses such as hot spring tourism destinations. Jati Luwih Traditional Village is one of the new traditional villages with special self-determination in *Subak* agriculture. This is because UNESCO authorises Jatiluwih Traditional Village to be a world heritage site in terms of its *Subak* concept.³² Jatiluwih consists of 1 official Village and 1 traditional village. With an area of 227 hectares, indigenous people in Jatiluwih work together through the principle of cooperation to take care of each other and preserve the *Subak* tradition that has been passed down by the ancestors of the Jatiluwih indigenous people (RI 5). Jatiluwih's indigenous people have priority rights in using and utilising springs for *subak* agricultural land, which gets the best rice harvest. In addition, customary villages also have priority rights to manage rice fields autonomously and not only in managing tourist attractions in Jatiluwih, including getting a levy on Jatiluwih *subak* tourism profits of 55%. One of the autonomies of Jatiluwih customary villages in promoting and maintaining their authenticity is a priority right for Indigenous people as tourism business owners and land owners in the Jatiluwih Traditional Village area.

In preventing land use change, the *awig-awig* of Jatiluwih Traditional Village determines that customary villages have priority rights in using and managing *Subak* land.³³ In addition, there are other provisions regarding priority rights related to conditional development permits by indigenous peoples and communities outside the scope of the Village. Jatiluwih has village wealth, such as springs, village customary land, and *Subak* cooperatives to help market agricultural products. For this reason, Jatiluwih traditional village has self-determination in managing *Subak* and tourist attractions through the agreement (*paruman*) of traditional villages.³⁴ Jatiluwih's traditional Village also has the authority to determine cooperation with private parties for post-harvest production of Jatiluwih rice. In the implementation of *Subak* management, Jatiluwih Traditional Village manages traditionally called *ngendagin*, *ngewitwit*, *ngerasakin*, *ngenanana*, *ngemandur*. After one month of rice growth, the Jatiluwih indigenous people will jointly perform prayer in 15 stages of ceremonies, 4 collectively in the implementation of the ceremony and 11 individually. The stages of the ceremony are *ngeresiti*, *ngeluasin*, *ngusaba*, and *nyangket*. The purpose of this event, which follows the teachings of *Wana Kerthi*

³⁰ *Ibid.*

³¹ *Ibid.*

³² Wayan Mustra, Chief Water Manager of Jatiluwih Traditional Village (*Jro Pekaseh Desa Adat*), Interview, 6 June 2023, at 3.00 PM.

³³ *Ibid.*

³⁴ *Ibid.*

and *Danu Kerthi* in *Sad Kerthi*, is to seek divine intervention in safeguarding the springs that nourish the rice crops, ensuring their optimal growth and freedom from any disruptions.

The resistance is carried out by the *Petali Ulun Sivi* Temple village community, while *ngusaba* at *Subak* Temple (Bedugul) are each farmer. The *ngusaba* ritual, a rice harvesting ceremony, is carried out personally by each farmer. At the same time, the *mapag toya* ritual is a ceremonial ritual that starts with flowing water in the primary channel and continues by flowing water to the farmers' rice fields, where this ritual is carried out collectively.³⁵ The culture and traditions carried out by indigenous people of Jatiluwih above attract domestic and foreign tourists. Therefore, Jatiluwih has become one of the icons of echo tourism in Indonesia. In addition to echo tourism, Jatiluwih Traditional Village is also very focused on the sustainability of its region's environment from existing tourism activities. For this reason, Jatiluwih Traditional Village indirectly implements sustainable tourism to protect the natural environment and its traditions.

Related to echo tourism, culture tourism, or even mass tourism in Bali, Kutuh Traditional Village is one of the new villages active in developing tourism activities with 3 beaches managed by traditional villages. The first stage of beach management was prompted by the concerns of village officials on the challenges of accessing the coast for conducting ceremonies. The collaboration between village officials and the indigenous people of Kutuh resulted in the successful upkeep and development of the coastal areas, transforming them into popular tourist destinations known as Pandawa Beach and Gunung Payung Beach.³⁶ Kutuh Traditional Village is one of the traditional villages that is proactive in developing tourism potential in collaboration with the local government. Kutuh traditional Village is a division of Ungasan Village located in Badung Regency, Bali.³⁷ Kutuh Traditional Village consists of 4 traditional *banjar*, 1 official village, and 1 traditional village. Kutuh Traditional Village has tourism potential in the form of 3 beautiful beaches: Pandawa Beach, Gunung Payung Beach (Gunung Payung Culture Park), and Tanah Barak Beach. Kutuh Traditional Village has a motivation that Indigenous people in Kutuh should be the owners, not the spectators.³⁸ For this reason, Kutuh Traditional Village manages the 3 tourist destinations above.

Indigenous people in Kutuh Traditional Village consist of 3 community groups: *krama ngarep* (Indigenous people), *krama tamiu*, and *tamiu*. In implementing village management, all administrators are prioritised for *krama ngarep*. One of the prioritised development programs of Kutuh Traditional Village is the development of tourism destinations. Kutuh Traditional Village has priority rights in using and managing the coast, which is also its wealth.³⁹ In implementing the management of coastal tourist destinations, Kutuh Traditional Village has priority rights to get 75% of the profit levy proceeds. The Badung Regency Government gets 25%, and this agreement has been stated in the decree on managing tourist destinations in Kutuh Traditional Village.⁴⁰ Apart from the levy on tourist destination profits, Kutuh Traditional Village has full priority rights in managing parking in every tourist destination, and the results of parking retribution will be given in full to traditional villages. I Nyoman Mesir, as *Bendesa Adat* (leader of the Village) Kutuh, emphatically stated that all managers of

³⁵ *Ibid.*

³⁶ I Nyoman Mesir, Head of Kutuh Traditional Village, Interview, 19 June 2023 at 3.00 PM.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

traditional administrators, Village Owned Enterprises (BUMDA) are fully managed by *kerama ngarep*. Not only that but to improve Indigenous people's economy, Kutuh Traditional Village gives priority rights for *kerama ngarep* to get stalls (shops) to trade around tourist destination areas, where the above efforts become the mission of Kutuh Traditional Village in building the quality of human resources (*Jana Kerthi*). To express their appreciation for the accomplishments of the Kutuh customary law community in promoting tourism in their region, the community regularly conducts the *Segara Kerthi* ceremony. *Samudra Kerthi* ceremony aims to preserve the purity and protection of the coastal areas and the ocean, following the principle of *Sad Kerthi*.

Padangtegal Traditional Village is one of the new traditional villages that pioneered the role of traditional villages in carrying out tourism management independently. Padangtegal Traditional Village is a traditional village in Ubud District, Gianyar, Bali. This traditional Village has a traditional forest tourist attraction containing monkeys, where this tourist attraction is called Wanara Wana (Monkey Forest) Ubud. Padangtegal Traditional Village has managed Monkey Forest tourist destinations since 1986 independently without cooperating with the local government.⁴¹ Customary villages manage their tourist destinations independently and professionally with priority rights utilising human resources in traditional villages.

Padangtegal Traditional Village carries out tourism management based on the concept of *Tri Hita Karana* (THK) and also the concept of *Sad Kerthi*, especially *parahyangan*, *palemahan*, *Wana Kerthi*, and *Danu Kerthi* in maintaining the sanctity of temples in the customary forest area, as well as maintaining and preserving the monkey population that lives in the customary forest. The THK philosophy is one of the philosophies used in maintaining and preserving temples in the Monkey Forest customary forest. THK is one of the essential points in the preservation of temples and the environment of indigenous people. Indigenous villages work with academics to protect monkey populations living within customary forest areas. Until now, the indigenous people of Padangtegal have lived in harmony with the monkeys in the Monkey Forest tourist destination. With the initial area of customary forest, which is 12.5 hectares, and with the struggle of customary villages, the customary forest has increased by 26 hectares.⁴² Outside the forest area, Padangtegal Traditional Village also arranges areas with the concept of *palemahan* to carry out a compost house program by managing waste so that Padangtegal Traditional Village remains clean from waste. The concept above aims to comfort the indigenous people of Padangtegal and the tourists.

Padangtegal Traditional Village has a significant role in the sustainable development of the environment in Gianyar Regency, especially in the Ubud District. The above programs are because Padangtegal Traditional Village is the heart of the life of Ubud District with its customary forest. In addition, the efforts of the compost house program run by Padangtegal Traditional Village are constructive in sustainable development in terms of a healthy environment.

Based on the explanation above, the dynamics of transforming ancient traditional villages into new ones in Bali can be seen. The most apparent differences are from geographical positions and single and collective leadership systems. In sustainable development, customary villages in Bali have the priority right to manage their wealth and have an impact in sustainable development based on THK

⁴¹ I Made Parmita, Head of Padangtegal Traditional Village, Interview, 1 June 2023 at 11.00 AM

⁴² *Ibid.*

understanding, which is in line with the concept of sustainable development, which aims to meet the needs of the community by maximising natural resources for the benefit of the community.

RIGHT TO SELF-DETERMINATION OF INDIGENOUS PEOPLES IN INDONESIA'S POSITIVE LAW

Self-determination is a crucial element that holds significance in many aspects of life, particularly in ethical disciplines and professional practices. The concept of self-determination plays a significant significance in various domains, such as health ethics, corporate ethics, state constitutions guaranteeing personal protection and freedom of expression, and social policies concerning social welfare.⁴³ When examined in the context of the concept specific, self-determination becomes a highly abstract notion. However, it is crucial to note that self-determination refers to a human disposition, either individual or collective, to comprehend and make decisions for oneself to pursue a fulfilling life. Lankford Dorsey's statement in Thomas May highlights the parable of the traffic law, which grants individuals complete self-determination in making decisions regarding their actions.⁴⁴

In the context of education, self-determination refers to a type of learning that is highly efficient in a professional setting. Self-determination refers to a type of motivation connected to the independence of human attitudes, leading to increased work effectiveness.⁴⁵ According to Leslie Dickinson, this type of self-determination can be demonstrated by the manifestation of self-governing choices, attitudes, or behaviours.⁴⁶ Self-determination is the basis for deciding to carry out a policy, especially a public policy, to select the appropriate course of action. According to Stephen Darwall, self-determination, as understood by Immanuel Kant, refers to the ability of an individual or group to construct their own principles and laws independently, directed by their purposes.⁴⁷

The concept of self-determination holds particular significance in three key domains: justice, freedom of expression, and the attributes of a liberal state.⁴⁸ This concept pertains to the concepts put forward by previous scholars like John Rawls, who, in his principle of justice, elucidates self-determination as

⁴³ Thomas May, "The Concept of Autonomy," *American Philosophical Quarterly* 31, no. 2 (1994): 203–13; Marchegiani, Morgera, and Parks, "Indigenous Peoples' Rights to Natural Resources in Argentina: The Challenges of Impact Assessment, Consent and Fair and Equitable Benefit-Sharing in Cases of Lithium Mining"; Postero and Tockman, "Self-Governance in Bolivia's First Indigenous Autonomy: Charagua."

⁴⁴ May, "The Concept".

⁴⁵ Leslie Dickinson, "Autonomy and Motivation a Literature Review," *Pergamon, Elsevier* 23, no. 2 (1995): 165–74.

⁴⁶ *Ibid.*

⁴⁷ Stephen Darwall, "The Value of Autonomy and Autonomy of the Will," *Chicago Journal* 116, no. 2 (2006): 962–63; Nina G. Jablonski, "Skin Color and Race," *American Journal of Physical Anthropology* 175, no. 2 (2021): 437–47, <https://doi.org/10.1002/ajpa.24200>; Paula Uimonen, "Decolonising Cosmopolitanism: An Anthropological Reading of Immanuel Kant and Kwame Nkrumah on the World as One," *Critique of Anthropology* 40, no. 1 (2020): 81–101, <https://doi.org/10.1177/0308275X19840412>; Tazim Jamal and Jaume Guia, "Global Coordination and Regulation of Tourism: Radicalizing Kant's Cosmopolitanism," *RECERCA. Revista de Pensament i Anàlisi* 26, no. 1 (November 2020): 9–31, <https://doi.org/10.6035/Recerca.2021.26.1.2>; José García Martín, Arturo Morales Rojas, and Roman Králík, "The Kantian Ethical Perspective Seen from the Existential Philosophy of Søren Kierkegaard's Victor Eremita," *Ethics and Bioethics (in Central Europe)* 11, no. 1–2 (2021): 48–57, <https://doi.org/10.2478/ebce-2021-0003>; Jaume Guia and Tazim Jamal, "An Affective and Posthumanist Cosmopolitan Hospitality," *Annals of Tourism Research* 100 (2023): 103569, <https://doi.org/10.1016/j.annals.2023.103569>.

⁴⁸ Aline Bogossian Eric Racine, Sarah Kusch, M. Ariel Cascio, "Making Autonomy an Instrument: A Pragmatist Account of Contextualized Autonomy," *Humanities and Social Sciences Communications* 139, no. 8 (2021): 1–15, <https://doi.org/10.1057/s41599-021-00811-z>; Víctor Bret et al., "Peasant and Indigenous Autonomy before and after the Pink Tide in Latin America," *Journal of Agrarian Change* 22, no. 33 (2022): 547–75, <https://doi.org/10.1111/joac.12483>.

a connection between justice and the moral principles of an individual who possesses freedom and equality.⁴⁹ Rawls argues that self-determination is a mindset of willingly adhering to the concept of justice.⁵⁰ Thomas Scanlon addressed his position on the Millian principle, which asserts that freedom of expression is intricately tied to societal self-determination, referring to the restricted power of a state. In his essay "Liberal Theory," Ronald Dworkin defines self-determination as the state's equitable treatment of individuals, particularly in liberal countries.⁵¹ Research indicates that self-determination plays a crucial role in the lives of indigenous peoples, particularly in their ability to shape their destiny throughout the era of modernisation.⁵² The provision of special self-determination by the state for indigenous peoples is an exemplary approach to promoting the notion of communal equality.⁵³

Indigenous peoples in Indonesia refer to the native inhabitants of the country who possess a wide range of distinct traits and local knowledge, including customary law and a self-governing system that has been transmitted through traditional wisdom throughout generations. Indonesia's proclamation at a customary law symposium in Yogyakarta in 1975 affirmed that customary law serves as the foundational unwritten law of the country, characterised by a strong presence of religious components in its application.⁵⁴ Customary law governs the self-governance of indigenous communities, particularly in legal matters such as marriage, debts, and trade. Moreover, customary law serves as the foundation for the self-governance of indigenous communities in overseeing the natural surroundings inside their customary lands. Furthermore, it is essential to clarify that village self-determination should not be confused with regional self-determination granted by the state to indigenous peoples or indigenous villages. Instead, the self-determination of indigenous peoples is inherently linked to their ancestral rights, as previously explained.

According to Silubun and colleagues, the position of indigenous peoples in their communities,

⁴⁹ Izawati Wook, "Addressing the Rights of Indigenous Peoples to Resources in Malaysia: A Procedural Justice Approach," *International Journal on Minority and Group Rights* 26, no. 1 (2019): 40–66, <https://doi.org/10.1163/15718115-02601003>; Cuaton and Su, "Local-Indigenous Knowledge on Disaster Risk Reduction: Insights from the Mamanwa Indigenous Peoples in Basey, Samar after Typhoon Haiyan in the Philippines"; Eduardo and Gabriel, "Indigenous Peoples and the Right to Education: The Dumagat Experience in the Provinces of Nueva Ecija and Aurora, in the Philippines."

⁵⁰ Iason Gabriel, "Toward a Theory of Justice for Artificial Intelligence," *Daedalus* 151, no. 2 (2022): 218–31, https://doi.org/10.1162/DAED_a_01911; Ben Jackson and Zofia Stemplowska, "A Quite Similar Enterprise ... Interpreted Quite Differently? James Buchanan, John Rawls and the Politics of the Social Contract," *Modern Intellectual History* 18, no. 4 (2021): 1010–33, <https://doi.org/10.1017/S1479244320000487>; Francis Dupuis-Déri, "Youth Strike for Climate: Resistance of School Administrations, Conflicts Among Students, and Legitimacy of Autonomous Civil Disobedience—The Case of Québec," *Frontiers in Political Science*, 2021, <https://doi.org/10.3389/fpos.2021.634538>.

⁵¹ Gerald Dworkin, "The Nature of Autonomy," *Nordic Journal of Studies in Educational Policy* 28479, no. 2 (2015): 7–14.

⁵² Koen Lenaerts and Stanislas Adam, "Exploring the Autonomy of the European," *The Nomos ELibrary* 81, no. 2021 (2024): 47–87, <https://doi.org/10.17104/0044-2348-2021-1-47>; William Riggs, Bruce Appleyard, and Michael Johnson, "A Design Framework for Livable Streets in the Era of Autonomous Vehicles," *Urban, Planning and Transport Research* 8, no. 1 (2020): 125–37, <https://doi.org/10.1080/21650020.2020.1749123>; G M Fix, M Rikkerink H T M Ritzen, and J M Pieters W A J M Kuiper, "Learning within Sustainable Educational Innovation: An Analysis of Teachers' Perceptions and Leadership Practice," *Journal of Educational Change* 22, no. 1 (2021): 131–45, <https://doi.org/10.1007/s10833-020-09410-2>.

⁵³ H. Orri Stefánsson, "Ambiguity Aversion behind the Veil of Ignorance," *Synthese* 198, no. 7 (2021): 6159–82, <https://doi.org/10.1007/s11229-019-02455-8>; Uskali Mäki, "Puzzled by Idealizations and Understanding Their Functions," *Philosophy of the Social Sciences* 50, no. 3 (2020): 215–37, <https://doi.org/10.1177/0048393120917637>.

⁵⁴ Hilman Hadikusuma, *Pengantar Ilmu Hukum Adat Indonesia (Edisi Revisi)*, *Pengantar Ilmu Hukum Adat Indonesia (Edisi Revisi)* (Bandung: Mandar Maju, 2014).

referred to as customary villages, confirms the inherent self-rule of these villages through their rights of origin. It confers customary communities with the authority to establish their governmental entities.⁵⁵ The right to self-determination of Indigenous peoples is a multifaceted human right that pertains to endeavours aimed at enhancing the ability of Indigenous peoples to thrive and make decisions at an elevated level within the ever-changing circumstances of life.⁵⁶ Self-determination, as a right, is the intricate concept of enhancing the ability of individuals or groups, regardless of their level of development, to exert greater control and influence over decision-making processes.⁵⁷ Within Indigenous peoples' self-governance framework, the established power system is referred to as traditional knowledge in local wisdom, more commonly known as customary law, which applies to the respective Indigenous communities.⁵⁸ Nevertheless, traditional knowledge is diverse and not universally applicable to all indigenous communities. Consequently, the principle of self-determination of indigenous peoples emphasises the importance of recognising and respecting this diversity.

As previously elucidated, the fundamental tenets of indigenous peoples' self-determination are diversity and respect. Diversity entails acknowledging and honouring the value systems present in Indigenous communities and respecting the value systems of the broader society. The principle of recognition mandates that the state recognises and upholds the ancestral rights of indigenous peoples. The aforementioned two concepts serve as the foundation for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provisions in Article 4. These provisions explicitly state that Indigenous peoples are entitled to self-determination in deciding their destiny and establishing local governance. The recognition principle is cited in the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX / MPR / 2001 (Tap MPR Number IX), which pertains to Agrarian Reform and Natural Resources Management. Article 5, letter j, in the Tap MPR Number IX refers to the acknowledgment and admiration of the rights of indigenous peoples. The following article acknowledges the rights of indigenous peoples in Indonesia to cultural variety and their rights to agrarian and natural resources through the principle of diversity.

Self-determination is the foundation for Indigenous peoples to exercise authority, guided by relevant principles outlined in Law Number 6 of 2014 concerning Villages. Article 3, specifically letters a, c, g, and i, establishes principles such as recognition, diversity of deliberation, and independence. These principles act as a means to facilitate Indonesia's endeavour to grant self-determination to indigenous peoples, enabling them to have self-sufficiency and authority in village governance. The power of indigenous peoples in customary villages is explicitly established in Article 19, specifically in letters A and b. These provisions grant indigenous peoples authority based on their right of origin and the authority of customary villages at the local level. Nevertheless, Article 19 imposes restrictions on the

⁵⁵ Silubun, et al., "Village".

⁵⁶ Carpenter and Tsykarev, "Symposium on The Impact of Indigenous Peoples on International Law Indigenous Peoples and Diplomacy on The World Stage"; Reyes-García et al., "Recognizing Indigenous Peoples' and Local Communities' Rights and Agency in the Post-2020 Biodiversity Agenda"; Kennedy et al., "Indigenous Peoples' Lands Are Threatened by Industrial Development; Conversion Risk Assessment Reveals Need to Support Indigenous Stewardship"

⁵⁷ David A J Richards, "Rights and Autonomy," *Ethics* 92, no. 1 (1981): 3–20; Sanders, "Indigenous Peoples: Issues of Definition"; Cuaton and Su, "Local-Indigenous Knowledge on Disaster Risk Reduction: Insights from the Mamanwa Indigenous Peoples in Basey, Samar after Typhoon Haiyan in the Philippines."

⁵⁸ Fahmi and Armia, "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms"; Rorato et al., "Environmental Threats over Amazonian Indigenous Lands"; Hartwig et al., "Water Colonialism and Indigenous Water Justice in South-Eastern Australia."

jurisdiction of indigenous communities, specifically in clauses c and d, which stipulate that the power of customary villages is subject to the approval of local governments in compliance with existing laws and regulations.

This limitation deviates slightly from the regulations outlined in UNDRIP, which emphasise the exercise of self-determination in each clause. Nevertheless, similar to the findings of the prior study, Indigenous people in Bali have been able to exercise their self-determination and authority without the need for specific Indigenous laws or regulations, following the practices established by their predecessors. One of the factors enabling Balinese indigenous people to assert their self-determination and power is their ability to fully utilise their inherent right to traditional knowledge, known explicitly as *Sad Kerthi*.

Balinese customary law communities are categorised into three types of customary villages: *baliaga*, *apanage*, and *anyar*. These villages provide a solid foundation for implementing the notion of *Sad Kerthi* in the consistent practices of Balinese customary law communities. *Baliaga's* traditional Village is known for its distinctive ceremonies that focus on purifying the soul (*Atma Kerthi*) and developing its community's human resources (*Jana Kerthi*). The explanation above has led to special recognition and self-determination for *traditional Baliaga villages that conduct* ceremonies according to Bali's laws. Similarly, the *apanage* traditional village shares parallels with the *baliaga* traditional Village in terms of its distinctive religious events but differs in their village administration system. There is no text provided. Both *baliaga* and *apanage* have distinctiveness and guiding principles in implementing *Atma Kerthi*. While there may be variations in the village government system, they share similarities in *Jana Kerthi*, which focuses on enhancing the quality of human resources. *Jana Kerthi*, includes promoting self-determination in developing and preserving customary values, religion, traditions, art, culture, and local wisdom. The new Village embraced *Sad Kerthi's* philosophy completely. Autonomous traditional villages in Bali, particularly those in the new classification, have the authority to conduct religious ceremonies (*Atma Kerthi*) encompassing rituals dedicated to deities, humans, nature, and their environment.

Furthermore, Customary Villages in Bali have been granted special self-determination to establish customary village-owned business units in the real economy known as *Baga Utsaha Padruwen Desa Adat (BUPDA)*. The main goal of this effort is to improve the quality of Balinese customary law communities (*Jana Kerthi*). The research findings on customary villages in Bali reveal that toddlers, *apanage*, and new categories share similar priority rights in managing their territorial regions, which include forests, water supplies, coastlines, and sacred places at a local level. The Balinese customary law community, guided by the teachings of *Sad Kerthi*, exemplifies a solid commitment to managing its territory. This commitment is evident in the consistent efforts of traditional villages like Padangtegal, Kutuh, and Batur Tengah to maintain and preserve natural resources such as customary forests (*Wana Kerthi*), coastlines (*Segara Kerthi*), and lakes (*danu kerthi*). The self-determination the Regional Government of Bali granted to the Customary Law Peoples of Bali, who are members of their separate traditional villages, originated from the spirit of *Sad Kerthi*.

SAD KERTHI: THE BASIS OF SELF-DETERMINATION OF INDIGENOUS PEOPLES

Equality is the underlying basis for the right to self-determination. Equality refers to the principle of

treating all individuals with impartiality and fairness.⁵⁹ Ensuring equal treatment is a fundamental moral principle that fosters harmonious relationships between people and other living beings. Ensuring equality for all individuals is an ethical obligation that applies universally, notwithstanding much uncertainty around current concepts.⁶⁰ The idea of self-determination, when viewed through the lens of equality, demonstrates a recognition of the ability of Indigenous peoples to independently exercise their rights and fulfil their obligations in the context of the modern period of globalisation.

Self-determination is an intrinsic characteristic of Indigenous peoples, manifested via cultural practices encompassing components of responsibility, capability, and entitlements.⁶¹ *Sad Kerthi* refers to the accumulated wisdom and customs of the Indigenous Balinese community, developed and passed down over generations, encompassing their behaviours, skills, obligations, and entitlements. *Sad Kerthi*, a fundamental doctrine in Bali, underscores the significance of safeguarding cultural heritage and promoting sustainable progress. It acts as the intellectual basis for implementing special self-determination in Bali, enhancing Hinduism, customs, local traditions, and the conservation of nature. *Sad Kerthi*, a fundamental notion, permeates all facets of Balinese existence, encompassing governance, social dynamics, religious rituals, and cultural manifestations. It is an essential value for people and the community and substantially impacts Bali's attitude to unique self-determination and cultural preservation.

The preceding elucidation is presented in Chapter 2 of the Regional Regulation of Bali, which pertains to the obligations and entitlements of indigenous peoples in terms of their ownership of assets, including natural resources, land, and territorial domains. The information is explicitly outlined in Article 25 Regional Regulation of Bali Province Number 4 of 2019 concerning Customary Villages in Bali. Nevertheless, this study focuses on indigenous populations' capacity to effectively exercise and optimise their autonomous rights. It is crucial to recognise that the situation of indigenous peoples is fundamentally straightforward. The state must prioritise education and empowerment to ensure their right to self-governance and the sustainable management of their land and natural resources. The statement above aligns with the elucidation provided by Irène Belier and Martin Préaud, who assert that Indigenous peoples' rights encompass two fundamental concerns: education and preserving land and natural resources.⁶² Equality is the underlying basis for the right to self-determination. Equality

⁵⁹ Zhengxing Zou, René van den Brink, and Yukihiro Funaki, "Compromising between the Proportional and Equal Division Values," *Journal of Mathematical Economics* 97 (2021): 102539, <https://doi.org/10.1016/j.jmateco.2021.102539>; Stefan Hochrainer-Stigler et al., "Adaptive Risk Management Strategies for Governments under Future Climate and Socioeconomic Change: An Application to Riverine Flood Risk at the Global Level," *Environmental Science and Policy* 125, no. August (2021): 10–20, <https://doi.org/10.1016/j.envsci.2021.08.010>; Catriona Cannon, "Freedom of Religious Association: Towards a Purposive Interpretation of the Employment Equality Exceptions," *Industrial Law Journal* 50, no. 1 (2021): 1–35, <https://doi.org/10.1093/indlaw/dwz025>.

⁶⁰ Yuna Han and Sophie T. Rosenberg, "Claiming Equality: The African Union's Contestation of the Anti-Impunity Norm," *International Studies Review* 23, no. 3 (2021): 726–51, <https://doi.org/10.1093/isr/viaa065>; Daria Tisch and Tamara Gutfleisch, "Unequal but Just? Experimental Evidence on (Gendered) Distributive Justice Principles in Parental Financial Gifts," *Socio-Economic Review* 21, no. 3 (2023): 1369–90, <https://doi.org/10.1093/ser/mwac041>; Gill Kirton and Cécile Guillaume, "Towards 'Racialising' the Union Agenda on the Front Lines of Healthcare Professions," *Work, Employment and Society*, 2022, <https://doi.org/10.1177/09500170221135260>; Richards, "Rights and Autonomy."

⁶¹ Phil Benson, "The Multiple Meaning of Autonomy: Responsibility, Ability and Right," *Proceedings of The International Conference Autonomy 2000: The Development Learning Independence in Language Learning*, no. August 1997 (1996): 1–11.

⁶² Irène Bellier and Martin Préaud, "Emerging Issues in Indigenous Rights: Transformative Effects of the Recognition of Indigenous Peoples," *International Journal of Human Rights* 16, no. 3 (2012): 474–88, <https://doi.org/10.1080/13642987.2011.574616>.

refers to the principle of treating all individuals with impartiality and fairness.⁶³ Ensuring equal treatment is a fundamental moral principle that fosters harmonious relationships between people and other living beings. Ensuring equality for all individuals is an ethical obligation that applies universally, notwithstanding much uncertainty around current concepts.⁶⁴ The idea of self-determination, when viewed through the lens of equality, demonstrates a recognition of the ability of Indigenous peoples to independently exercise their rights and fulfil their obligations in the context of the modern period of globalisation.

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SELF-DETERMINATION OF INDIGENOUS PEOPLES' MODEL IN SAD KERTHI

The self-determination of indigenous peoples is an inherent and inviolable entitlement that should be upheld within their respective communities, referred to as customary villages in Indonesia. There is a

⁶³ Zou, van den Brink, and Funaki, "Compromising between the Proportional and Equal Division Values"; Hochrainer-Stigler et al., "Adaptive Risk Management Strategies for Governments under Future Climate and Socioeconomic Change: An Application to Riverine Flood Risk at the Global Level"; Cannon, "Freedom of Religious Association: Towards a Purposive Interpretation of the Employment Equality Exceptions."

⁶⁴ Han and Rosenberg, "Claiming Equality: The African Union's Contestation of the Anti-Impunity Norm"; Tisch and Gutfleisch, "Unequal but Just? Experimental Evidence on (Gendered) Distributive Justice Principles in Parental Financial Gifts"; Kirton and Guillaume, "Towards 'Racialising' the Union Agenda on the Front Lines of Healthcare Professions"; Richards, "Rights and Autonomy."

⁶⁵ Benson, "The Multiple Meaning of Autonomy: Responsibility, Ability and Right."

⁶⁶ Belier and Préaud, "Emerging".

need for a comprehensive overhaul of Indigenous peoples' rights by advocating for policies prioritising the well-being of Indigenous communities and the preservation of biodiversity.

Victoria Reyes Garcia and her colleagues identified vital components necessary for the development of policies regarding the rights of indigenous peoples. One of these components is safeguarding indigenous peoples' traditional knowledge, which is both practical and impactful in enhancing their local way of life.⁶⁷ The reasoning above, the findings of this study indicate that the depletion of traditional knowledge among indigenous peoples is disheartening. In both the administration of *Baliaga*, *Apanage*, and *Anyar* traditional villages, the focus is on keeping and protecting the *Sad Kerthi* knowledge. This knowledge serves as a foundation for local self-determination in determining the future and optimising the possibilities for livelihood at a local level.

The execution of Indigenous village development should prioritise not only the enhancement of physical infrastructure but also the cultivation of human capacity. In this context, it is crucial to consider the development of indigenous peoples carefully. The indigenous Balinese people consider *Sad Kerthi* a form of local wisdom that guides the development of human attributes that promote responsibility towards the natural and social surroundings. *Sad Kerthi* mentors the Balinese Indigenous community, ensuring that they navigate global changes while preserving their local wisdom as a defining characteristic of their identity⁶⁸ Bali Province upholds traditional knowledge through implementing policies, such as Bali Provincial Regulation Number 4 of 2019, which focuses on preserving Customary Villages in Bali. Article 1, number 28 of the provisions above establishes the definition of *Sad Kerthi*, which pertains to the development of the character of the Balinese indigenous peoples in the future. This development is achieved through various efforts, such as purifying the soul (*Atmana Kerthi*), preserving forests (*Wana Kerthi*) and lakes (*Danu Kerthi*) as sources of clean water, protecting the sea and coastline (*Segara Kerthi*), promoting social harmony and a dynamic environment (*Jagat Kerthi*), and enhancing the quality of human resources (*Jana kerthi*).

Sad Kerthi is a comprehensive approach to spatial planning that incorporates and synchronises all elements, including humans, bodies of water, and woods.⁶⁹ Utilising this indigenous wisdom can serve as a remedy to the peril of catastrophe in the cosmos. The people of *Penglipuran* Traditional Village in Bangli Regency demonstrate the use of *Sad Kerthi*, a philosophy of environmental protection, by safeguarding their bamboo woods. Furthermore, the inhabitants of Tenganan Pegringsingan Traditional Village in Karangasem Regency actively implement the principle of environmental preservation by safeguarding forested regions and water reservoirs.⁷⁰ *Sad Kerthi* refers to the integration of human moral principles with the environment. The notion of *Sad Kerthi* remains widely embraced by the Balinese, particularly as a fundamental framework for establishing traditional norms and regulations in Bali. According to Anak Agung Bagus Willy Pradnya and his colleagues, the incorporation of *Tri Hita Karana* and *Sad Kerthi* principles in the development of the *Awig-awig Subak*

⁶⁷ Reyes-García et al., "Recognizing Indigenous Peoples' and Local Communities' Rights and Agency in the Post-2020 Biodiversity Agenda."

⁶⁸ Mahendra, "Conception".

⁶⁹ I Wayan Suasta Manuaba and Ida Bagus Arya Lawa, "Membangun Dunia Dengan Sad Kertih," 2015.

⁷⁰ Made Ferry Kurniawan Ida Bagus Gede Candrawan, Wayan Mudana, "Nangun Sad Kerthi Loka Bali and Its Relevance to Environmental Sustainability," *Boletín de Literatura Oral* 10 (2023): 623–45.

Anggabaya was successful, despite specific standards being modified and not entirely operational.⁷¹

Indigenous peoples' self-determination in Bali is significantly influenced by local wisdom, such as *Sad Kerthi*. *Sad Kerthi* embodies the fundamental principles, practices, and heritage firmly established in the Balinese culture. It functions as a fundamental principle that directs local communities in their decision-making and problem-solving processes within their communities. *Sad Kerthi* serves as a basis for upholding harmony, conserving the natural environment, and advancing the welfare of the Balinese people, all within traditional self-governance.⁷² By maintaining *Sad Kerthi*, Indigenous peoples in Bali can affirm their cultural identity and exercise self-governance in defining their progress while safeguarding their distinct heritage.

CONCLUSION

The study found that Indigenous peoples may maintain their independence and participate in social relationships by employing traditional knowledge. The study illustrates that indigenous groups in Bali strictly cling to their ancestral knowledge, usually known as *Sad Kerthi*. The indigenous population in Bali has been granted unique authority to preserve and protect nature under the guidance of the teachings of *Sad Kerthi*. This self-determination includes performing religious rituals (*Atma Kerthi*), conserving natural resources such as forests, lakes, and beaches (*Wana Kerthi*, *Danu Kerthi*, and *Segara Kerthi*), improving the quality of human resources through BUPDA, and managing village courts (*paruman adat*) to uphold social and ecological balance (*Jana Kerthi* and *Jagat Kerthi*). *Kerthi*, despite the absence of specific national legal tools, can adapt to the era of globalisation while still safeguarding their rights. Recognising and respecting the self-governance of indigenous communities is of utmost importance to provide legal protection and prevent any violations of their rights.

This study investigates *Sad Kerthi* as a manifestation of indigenous knowledge that can be utilised by the government to bestow self-governance onto indigenous communities in Indonesia. *Sad Kerthi* can serve as a benchmark for governmental or municipal authorities located outside Bali to grant self-governance to indigenous communities. Moreover, it is imperative for local authorities throughout Indonesia to proactively examine and recognise the local knowledge of Indigenous groups, as stipulated in their regional laws, to bestow upon Indigenous peoples in their respective areas distinct self-determination. Moreover, it is imperative to enact nationwide law recognising the existence of indigenous communities and their indigenous knowledge as the essential basis for providing customary village self-determination by all local governments in Indonesia.

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⁷¹ Anak Agung et al., "Arrangement and Implementation of Tri Hita Karana and Sad Kerthi in Awig- Awig Subak Anggabaya (Penatih Village, East Denpasar District, Denpasar City)," *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 8, no. 1 (2024): 80–90, <https://doi.org/10.58258/jisip.v7i1.5930/http>.

⁷² Mahendra, "Conception".

completed. It is essential to pay tribute to the traditional leaders and elders above as compensation for perfecting this research.

COMPETING INTEREST

The authors declared that they do not have a conflict of interest.

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