

IMPLEMENTATION OF BALINESE *TRI HITA KARANA* CONCEPT FOR ENVIRONMENTAL CONSERVATION OF CULTURAL HERITAGE OF LAND CONSOLIDATION ARRANGEMENTS

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Abstract

This article explores the application of the Balinese Tri Hita Karana concept in the context of land consolidation arrangements and environmental conservation of cultural heritage. The method which is used in this research is normative legal research by reflecting on the values contained in legal norms related to land consolidation in Bali using a statutory approach, a conceptual approach, a historical approach, and the case approach, then analyzed by descriptive analysis, evaluation, and argumentation techniques. The article analyses the legal and environmental implications of the Tri Hita Karana philosophy in Bali., emphasizing the importance of sustainable use of limited and non-renewable resources. The article argues that land consolidation arrangements should consider the Tri Hita Karana concept and ensure the preservation of cultural heritage and environment environment. The report highlights the significance of the Tri Hita Karana philosophy in shaping Bali's legal and environmental landscape.

Keywords: *Tri Hita Karana; Land Consolidation; Bali; Environmental Conservation; Cultural Heritage*

Introduction

Land consolidation is rearranging fragmented land parcels into more extensive and efficient units. It involves voluntary agreements among landowners to combine their properties into more comprehensive and valuable units for agriculture, forestry, or other purposes. Land consolidation can improve agricultural productivity, reduce soil erosion, and promote sustainable land use. In many countries, land consolidation is regulated by government authorities to ensure that the process is carried out fairly and transparently. The government can provide technical and financial assistance to landowners and oversee the consolidation process to ensure it benefits all parties involved. Land fragmentation can only persist with proper regulations and arrangements for land consolidation, leading to efficient land use, conflicts among landowners, and environmental degradation. The government needs to establish clear guidelines and procedures for land consolidation to promote sustainable land use and protect the rights of landowners.

Land use can be categorized into two main types, rural land use and urban land use, which are based on the characteristics of the land use pattern [1]. This difference is due to differences regarding the center of gravity of land use. Land use in rural areas is more focused on activities in the agricultural sector, while urban land use is more focused on non-agricultural

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activities [2]. Another factor determining these differences is the characteristics of life in rural communities with traditional features, while urban communities have elements of modern life. Based on these factors, a distinction is made between the principle of land use stewardship for rural areas and land use stewardship for urban areas. The principles of land use stewardship for rural areas are Sustainable, Optimal, Harmonious and Balanced [3]. While the principles of land use stewardship for urban areas are: Safe, Orderly, Smooth and Healthy [4]. Land consolidation is part of the spatial planning system, aimed at utilizing land through institutional regulations that govern land use for the benefit of society in a just and fair manner. It is based on integration efficiency, effectiveness, harmony, balance, sustainability, openness, equality, justice, and legal protection [5]. Land consolidation activities are the use of land that is already attached to land rights, which also gives right holders authority to manage their land [6]. Land rights with individuals or legal entities do not automatically justify using the land for personal or group interests at will. Since land rights are all subject to a social function, the government maintains the highest level of land control [7].

As per Article 2 - paragraph 2 of the Basic Agrarian Law, the state is granted the power to regulate and manage the allocation, utilization, provision and preservation of land, water, and space through the right to control. The state can also govern the relationships between individuals or legal entities and legal processes related to land, water and freedom. Land policy is essential because, in reality, land parcels have been controlled and possessed by persons or corporate entities with various forms of legal relations, which are subject to applicable laws and regulations as well as customary law. In the end, the holders of land rights become the executors of government policies regarding land use contained in the regional spatial planning sub-system. In this context, the land use adjustment program in regional spatial planning cannot be separated from implementing land tenure and ownership arrangements [8]. Therefore, the preparation of regional spatial layout plans should consider land aspects, including land tenure, supply and use, by emphasizing the priority of restricted interests and environmental preservation.

Paragraph 4 of Article 1 of the Basic Agrarian Law defines land as the earth's surface. Meanwhile, Paragraph 1 of Article 4 1 elaborates that land use refers to land utilization following the regional spatial plan and provision in Article 4 of paragraph 2 of the fundamental agrarian law. This provision authorizes land rights holders to utilize the land and the earth, water and space on it only for direct interests related to land use within statutory limits. Furthermore, Article 13 in first paragraph of the Basic Agrarian Law states that the government aims to regulate agricultural businesses to increase the production and prosperity of the people, as referred to in paragraph 3 of Article 2. This provision ensures that every Indonesian citizen has a decent standard of living under human dignity for themselves and their families. This paragraph is an implementation of paragraph 3 of Article 2, which directs the government's efforts in the agricultural sector towards increasing the production and prosperity of the people and guaranteeing a decent standard of living under human dignity for every Indonesian citizen.

Furthermore, paragraph 2 stipulates that the Government prevents businesses in the agricultural field from organizations and individuals that are private monopolies. This is because trust can easily lead to extortion by one group against another; the monopoly of individuals or non-governmental organizations, therefore, must be prohibited. Paragraph 3 emphasizes that the Government can only carry out monopolistic practices in the agricultural sector by enacting a law. This indicates that the Government has the exclusive right to monopolize the agrarian business within legally defined limits. Whereas in paragraph (4), the Government is trying to promote social certainty and security, including in the field of labor, in efforts in the agricultural area. This versfieldslements the principle of humane social justice in the farm fields.

Article 14 of the Basic Agrarian Law stipulates that to achieve national goals there is a need for a comprehensive plan for the allocation, utilization and availability of land, water and

airspace to meet various societal needs. This comprehensive plan will be further divided into specific goals for each region, commonly known as regional planning. Through well-structured planning, land usage is expected to be directed and organized in a way that provides maximum benefits for the country and its people. Referring to the general plan as mentioned in the first clause of article 14, the fundamental agrarian law and following relevant regulations, local government is responsible for managing the supply, usage and allocation of land, water and airspace in its territory while taking into account the unique conditions of each area. The third paragraph of this chapter also explains that The Regional Government Regulation referred to in paragraph 2 of this article shall come into force after obtaining approval, for Level I Regions from the President, for Level II Regions from the Governor/Head of the relevant Region and Level III Regions from the Regent/Mayor/Head of the appropriate Region.

Local government regulations require approval from higher authorities. Support for regional government regulations must be done under the general plan created by the central government and in line with its policies. Land use, as defined in Article 1 - paragraph 2 of Government Regulation No. 16 of 2004 on Land Utilization, refers to the surface covering of the earth, whether natural or human made. Article 1 - paragraph 3 states that land utilization relates to activities that add value to the land without altering its physical form of use. In Article 3, it is stipulated that land utilization aims to regulate the ownership, use and utilization of land for various development activities that are under Spatial Planning and to achieve the ownership, use, and utilization of land under the directives of the function of areas in the Spatial Planning. Spatial planning aims to [9]:

- i. Realize orderly land use that includes land ownership, use, and utilization, including soil conservation and land use control;
- ii. Ensure legal certainty for the community to possess, use and utilize the land under the established Spatial Planning.

The spatial arrangement with a strategic value approach aims to develop, preserve, protect and coordinate the integration of strategic value development of the respective area to achieve successful, functional and sustainable utilization [10]. The identification of strategic areas in different levels of administrative regions is based on their substantial impact on national sovereignty, defense, security, economy, social, cultural and environmental aspects. This includes areas that are recognized as world heritage sites. Identifying strategic locations at the national, provincial and district/city levels is assessed based on the externalities approach, accountability and efficiency in managing these areas. Space utilization, control and planning are interdependent and must be carried out by spatial planning principles. This is achieved through the system of spatial planning [11], so that it is expected to realize successful and functional spatial utilization and support sustainable environmental management while avoiding wasteful utilization of space and preventing a decline in spatial quality.

The environment's finite space should be utilized sustainably as a unified entity following a dynamic system that draws from Bali's culture and the Hindu religion, guided by the Tri Hita Karana philosophy. Agricultural land initially formed under Tri Hita Karana's philosophy, namely palemahan, pawongan, and parahyangan, can carry out sustainable farming practices perfectly by preserving the natural environment (land and water) that is very good, as well as safeguarding superior agricultural culture. As an illustration, most ceremonial facilities come from farm products (plants and animals). This phenomenon has disappeared in urban areas, as the palemahan has changed its function to concrete land, the pawongan is lost and the degradation of Parahyangan experience, with a thousand thoughts to eliminate it [12]. The original landowners are marginalized and replaced by owners of capital and other macro, meso, and micro-entrepreneurs who take over the ownership of the land. Urban communities are generally more resilient and able to identify business opportunities in various sectors. Space constraints occur everywhere. Commercial areas replace green open spaces in the form of

fields. Likewise, sports facilities, cemeteries and housing, considered uneconomical, are replaced by modern markets and other commercial areas deemed of higher economic value.

Through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, the government has explicitly outlined eleven land-related agendas. The objective is to reinforce an individual's land rights (land tenure) to attain the optimal benefit of land for the population, per the third paragraph of Article 33 of the 1945 Constitution. This also applies to Druwe Desa land, communal land owned by the Adat village. Strengthening is necessary so that the adat village, as the owner and ruler of the village druwe land, can prove and protect its ownership with valid evidence, especially with the increasing demand for individual land ownership. One of the autonomy rights of the traditional village is to create and enforce its legal system known as Awig-Awig. The authority of the pakraman town in preparing Awig-Awig is strongly protected by Pancasila and the 1945 Constitution, namely Article 18 and Article 29. Article 29 of the 1945 Constitution comprises the following provisions: firstly, the foundation of the state is faith in one divine entity; secondly, the state ensures the liberty of all citizens to practice their chosen religion and worship according to their beliefs.

The concept of Tri Hita Karana, teaching from Hinduism, serves as the philosophical foundation for religious freedom, as indicated in the article and is employed in the creation of Awig-Awig, reflecting the implementation of the principle. In the field of land, the Tri Hita Karana concept in Awig-Awig is closely related to the Palemahan element because all forms of village activities cannot be separated from the place/land as part of its environment. Simply put, Palemahan can be interpreted as the area of a settlement or place of residence.

The management and progress of Palemahan adhere to the guidelines stated in the Bali Province Regional Regulation Number 16 of 2009 on Bali Province Spatial Planning for 2009-2029. The rules governing the usage and development of Palemahan apply the Tri Mandala principle, which is a zoning scheme that divides spaces, areas, and yards into three tiers, namely Utama Mandala (central location), which is used to build a place of worship, Madya Mandala (middle room) which is used to build family homes and Nista Mandala (outer area) which is commonly used to create a bathroom. The entire concept of Tri Mandala is used as the basis for the two pakraman villages in arranging the land use pattern in their environment, such as selecting locations for temples, settlements, graves and other public facilities. Even before this regulation was issued, the arrangement of accommodations in the two pakraman villages had applied the Tri Mandala concept. This is a manifestation of Awig-Awig, which firmly clings to the concept of Tri Hita Karana, which is then elaborated into the concept of Tri Mandala.

The existence of village druwe land as village property was established around the years 988-1011 AD through the Pesamuan Agung. The Bali Provincial Government later recognized this more clearly through Bali Provincial Regulation No. 3 of 2001. The detailed regulation regarding village druwe land is the authority of each pakraman village, and higher laws are its protector. The pakraman town relies on Awig-Awig in arranging village druwe land. In the Tri Hita Karana concept context, the village's druwe land is considered a part of the Palemahan element. It is expected that the Pakraman village will always strive to maintain and manage this land to establish a harmonious relationship between humans and the environment, reflecting the Palemahan element. The three words in Tri Hita Karana hold significance, with "Tri" referring to three, "Hita" meaning good, happy, joyful and sustainable, and "Karana" referring to the cause or source of something [13]. Thus, Tri Hita Karana can be understood as three fundamental elements that are the origin or reason for creating excellent and harmonious relationships between humans, nature, and the divine. Tri Hita Karana contains the philosophy of harmony (Fig. 1): the relationship between humans and God, humans and fellow human beings and humans and the environment. This harmony is under Hindu teachings, which is the purpose of life for Balinese people.

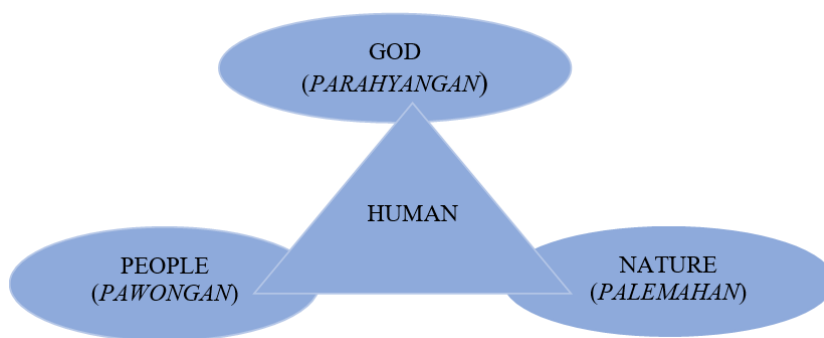


Fig. 1. The Concept of Tri Hita Karana

The three elements of Tri Hita Karana are [14]:

- a. Parhyangan is a sacred place of worship for Hindu people,
 - b. Palemahan means land. Palemahan refers to the land where people live or the environment,
 - c. Pawongan means people; it relates to everything concerning the lives of people in Bali.
- These three elements, according to Dharmika, in Jiwa Atmaja, contain details including:
- a. Hyang Widhi/Supreme God,
 - b. The human element,
 - c. Natural element.

These three elements are then used as a model or pattern by the Balinese community, for example, in the creation of settlement patterns, which become:

- a. Parhyangan in the form of temple units as a reflection of the divine,
- b. Pawongan in the form of the organization of customary communities as a manifestation of humanity,
- c. Palemahan in the form of the expression of natural elements.

According to Dharmayuda, this teaching teaches a pattern of balanced relationships among the three sources of prosperity and peace. Thus, humans are always expected to strive to maintain harmonious relationships among these three elements, namely:

- a. Cooperative relationships between humans and God
- b. Collaborative relationships between humans and nature,
- c. Collaborative relationships between humans and other humans.

The Tri Hita Karana concept emphasizes relationships' significance and highlights their interconnectivity. According to Amirin in Jiwa Atmaja, these connections can be vertical or horizontal. Vertically, they comprise the relationship between humans and God (parhyangan) and the relationship between humans and nature (palemahan). Horizontally, it can be seen in the relationship of one person to another or a group of people to another (pawongan) and in land consolidation in Bali, related to the system of land ownership known as krama desa adat as the pawongan element, agricultural land as the palemahan element and the Temple Kahyangan Tiga as the place of worship as the parhyangan element.

The merging of land in Bali must adhere to the government's philosophy, which regards land as a valuable asset owned by the Indonesian people to be optimally utilized for the betterment of the population. This philosophy is an essential reference in carrying out land consolidation in Bali. This essential reference aims to achieve the mandatory use of land by regulating land ownership and use through land consolidation to increase the usefulness and productivity of land use and to align individual interests with the social function of land in the implementation of development. Furthermore, enhancing landowners' active engagement in the development and ensuring equal distribution of its outcomes should be executed through land consolidation in urban and rural regions. This philosophical principal functions as the

fundamental standard in implementing land consolidation. Land consolidation data in Bali Province from 9 (nine) Regencies/Cities, as follows:

Table 1. Land Consolidation Data in Bali

No	Regency/City	Total
1	Denpasar	8 locations
2	Badung	8 locations
3	Gianyar	3 locations
4	Tabanan	3 locations
5	Bangli	3 locations
6	Jembrana	2 locations
7	Buleleng	2 locations
8	Klungkung	2 locations
9	Karangasem	0 Locations

From the land consolidation data, some of the consolidations are complete, while others still need to be completed. The incomplete land consolidations are due to several reasons, including:

- a. Many LC locations have not formed road bodies or road hardening;
- b. The development process exceeds the boundaries that should be owned, resulting in the shrinking of specific fields, especially fields that have not been built for a long time;
- c. Several land area deficiencies should be received or become their rights;
- d. Not all remaining land or TPBP is controlled by the city/regency government and there is remaining land or TPBP owned by other parties without recommendations from the government or without being followed up with land certification.

Considering the philosophical, juridical and sociological aspects, it is crucial to examine the fundamental principles of land consolidation and the laws regulating it, which should reflect the values of the Tri Hita Karana philosophy. This exploration is conducted in scientific research with the theme "Balinese Tri Hita Karana Concept: Juridical Analysis of Land Consolidation Arrangements and Environmental Conservation of Cultural Heritage."

Numerous specialists talk about the concept of land consolidation. One article in particular, titled "Economic, social and environmental impact of land consolidation in Galicia," [15]. This article explores the effects of land consolidation in Galicia, a region in northern Spain that has a rich tradition of implementing this practice. The article delves into the economic, social and environmental outcomes of land consolidation in the area. This article explores the effects of land consolidation in Galicia, a northern Spain region with a rich tradition of implementing this practice. The report delves into the area's economic, social and environmental outcomes of land consolidation. The article evaluates land consolidation's positive and negative impacts on the local community, environment and economy. The report shows land consolidation can provide significant economic benefits, such as increased agricultural productivity and property value. However, there are also negative impacts, such as the loss of productive land, biodiversity, and environmental damage from using fertilizers and pesticides. The second article is Rural Vitalization in China: A Perspective of land consolidation [16]. This article discusses rural revitalization in China through the perspective of land consolidation. The report highlights that land consolidation is an essential strategy to enhance the vitality and sustainability of rural areas in China. The article explains that land consolidation can benefit rural communities economically, such as increased agricultural productivity and reduced production costs. In addition, land consolidation can also help improve environmental quality and reduce the ecological damage caused by using fertilizers and pesticides. This research will assess the extent to which the Tri Hita Karana concept is applied in the juridical analysis of land consolidation arrangements and environmental conservation of cultural heritage in Bali and What are the legal and ecological implications of

the implementation of the Tri Hita Karana philosophy in land consolidation and cultural heritage conservation is.

Methods

In research, a method is needed to obtain and collect data. A problem being studied requires a research method because a research method is a way that aims to solve a problem.

The study in question uses normative legal research as its research methodology. This method comprehensively analyzes a range of primary, secondary and tertiary legal sources to understand the relevant legal framework [17]. The collected legal materials are analyzed using qualitative methods by describing legal principles, expert legal opinions and normative provisions regarding land consolidation regulations to realize a Tri Hita Karana-based spatial plan in Bali. Arief Sidharta stated that the character of legal science lies in its research methodology, namely normative research methodology. This research is conducted by examining literary materials. Thus, it encompasses research on legal principles, legal system organization, vertical and horizontal integration levels, comparative law and legal history.

The approach is a researcher's perspective that is expected to provide clarity. In legal research, there are several approaches, including the statute approach, the case approach, the historical approach, the comparative approach, and the conceptual approach. This research uses four methods, as follows:

- a. Statute approach: This approach involves examining all laws related to land consolidation [18].
- b. Conceptual approach: This approach originates from perspectives and doctrines that have evolved within the domain of law, resulting in concepts about regulating land consolidation in realizing Bali's spatial planning based on Tri Hita Karana.
- c. Historical approach: This approach stems from the gap between "das sollen" (what should be) and "das sein" (what is), as well as examines the philosophical basis of land consolidation.
- d. Case approach: This approach involves studying cases related to land consolidation in Bali.

Techniques for Collecting Legal Materials

The process of gathering legal materials commences with an inventory process that entails organizing the legal materials into an information system, facilitating their retrieval. These legal materials are accumulated through documentation studies, which document primary and secondary legal sources, followed by an inventory of pertinent legal materials using a card system. Each card is given an identity of the cited lawful source and the page of the citation source. In addition, they are classified according to the research plan systematics so that there are cards for materials in Chapter I and II and so on, except for the conclusion section. Then, the fact and legal qualifications are carried out.

Techniques for Analyzing Legal Materials

After the legal materials have been collected, an analysis is carried out to obtain a final argument in the form of an answer to the research problem. The legal materials related to the three main issues studied are then inventoried and identified. These legal materials are analyzed using the normative legal science method. The analysis techniques used in this research are:

- a. The descriptive technique is an essential and fundamental analytical approach that must be considered. Description entails presenting the state or status of legal and non-legal propositions. The current study will utilize this technique to examine Bali's philosophical foundation of land consolidation.
- b. The evaluation technique involves the researcher judging a proposition, statement, norm formulation, or decision presented in primary and secondary sources. The researcher will assess whether the request is correct or incorrect, agreeable or disagreeable, true or false and

valid or invalid. This study will use the evaluation technique to examine the regulation of land consolidation in Bali, particularly in realizing the region's spatial planning based on Tri Hita Karana principles.

c. The argumentation technique is an analytical approach that goes hand in hand with the evaluation technique, as the evaluation must be grounded in legal reasoning. In legal discourse, multiple arguments indicate the depth of legal reasoning. This study will utilize the argumentation technique to provide arguments regarding whether land consolidation in Bali aligns with the principle of Tri Hita Karana.

Results and discussion

Land Consolidation Under Customary Law in Bali

Article 1, clause 1 of Law Number 6 of 2014 on villages defines a legal community unit referred to as the village, that has a territorial boundary and the authority to regulate and manage local government affairs, as well as the interests of its community based on ancestral or traditional rights recognized and respected by the Indonesian government. This provision serves as the basis for traditional villages, is a part of the village and plays a distinct role and function. On the other hand, the town has ancestral and traditional rights to regulate and manage the local community's interests. It contributes to realizing the ideals of independence based on the 1945 constitution.

The traditional village, which has thrived and evolved for centuries and possesses ancestral and customary rights and original autonomy to manage its affairs, has significantly contributed to the sustainability of community life in the country. As a legal community unit based on the tri hita karana philosophy rooted in the local wisdom of Sad Kerthi, which draws inspiration from Hindu teachings and cultural values, as well as the unique wisdom that exists in Bali, the traditional village plays a significant role in the development of the community, nation and state. As such, it is essential to nurture, protect, develop and empower the traditional village to achieve political sovereignty for the Balinese people, self-sufficiency in economic matters and preserve their distinct culture.

The implementation of customary village governance is based on Article 1 number 14 of the traditional village regional regulation, which defines everyday village government as the organization of community life in the ancestral village related to Parahyangan, Pawongan and Palemahan. These elements are recognized and respected in the government system of the Republic of Indonesia and are essential to the implementation of customary village governance [19]. These three elements are a unity called Tri Hita Karana. In carrying out the traditional village governance, it is accompanied by the Customary Village Council under its position. The Customary Village Council is vital in realizing the customary village governance based on Tri Hita Karana and Sad Kertih [20]. Article 1, Number 24 of the Customary Village Regulation states that the Customary Village Council (MDA), abbreviated from its Indonesian name, is a hierarchical union of Customary Villages at the Provincial, District and Subdistrict levels. The customary village council practices customs and traditions based on Hinduism, local wisdom, and customary law. It provides advice, guidance, interpretation, and decisions related to customs, traditions, culture, social-religious affairs, local knowledge, and traditional economy. Considering the duties and powers of the customary village council, it can be inferred that it plays a significant role in upholding and preserving the cultural and social values of the community [21], its authority is pervasive in organizing traditional villages in Bali according to their hierarchical levels.

Regarding this hierarchy, of course, each traditional village assembly has tasks according to the capacity of the authority it holds. Specifically, regarding conventional village assembly at the provincial level, the study is comprehensive. This means that the task is related to the Adat village as a whole in Bali. The mission of the traditional village assembly at the

provincial level is regulated in Article 76 - paragraph 1 of the Desa Adat Regional Regulation, which states that the conventional village assembly at the local level, as referred to in Article 72 - paragraph 3 letter has the following tasks:

- a. Upholding, nurturing and developing customs and traditions;
- b. Providing advice, suggestions and opinions/recommendations on matters related to customs and local wisdom to the Local Government and various parties, both individuals, groups and institutions;
- c. Implementing every decision of Paruman and Pasamuhan as referred to in Article 73;
- d. Assisting Desa Adat in drafting Awig-awig and Perarem;

We are conducting comprehensive education on Balinese society's customs, traditions, and local wisdom.

The regulation of the tasks of the traditional village assembly at the provincial level makes the conventional village assembly have extensive studies. The numerous functions can be seen in each letter in the article, where each letter gives many general studies. While comprehensive means that the tasks could be more specific and abstract. The tasks undertaken reflect the functions of the traditional village assembly itself. Carrying out these tasks requires authority as the legal basis. The legal basis for the power of the conventional village assembly is regulated in Article 76 - paragraph 2, which states that the Majelis Desa Adat at the provincial level, as referred to in paragraph 1, has the authority to:

- a. Discovering, formulating and establishing a unified interpretation related to customary law and Balinese customary law;
- b. Establishing customary institution organizations as referred to in Article 52;
- c. Compiling and establishing customary provisions related to institutional governance and management of daily affairs;
- d. Conducting deliberations on Balinese cultural and customary issues to protect the interests of the Desa Adat;
- e. Resolving customary disputes/verbal disputes in a tiered manner that cannot be resolved at the level of the Majelis Desa Adat at the district level;
- f. Providing considerations based on the values of customs, traditions, culture and local wisdom of the Balinese community regarding any development plan implemented in the cross-Desa Adat area;
- g. Making decisions based on the values of customs, traditions, culture and local wisdom of the Balinese community regarding allegations of violations committed by Prajuru Desa Adat;
- h. They are making decisions based on the values of customs, traditions, culture and local wisdom of the Balinese community regarding allegations of violations of prohibitions as referred to in Article 32.

These authorities give the impression of being very broad. The breadth of the power of the Majelis Desa Adat creates various perceptions related to traditional values, everyday activities, the formation of conventional organizational institutions, and the handling of typical cases. Based on the tasks and authority of Majelis's Desa Adat, the role of the Desa Adat is very important in everyday activities.

In Bali, traditional villages play a vital role in land consolidation, as outlined in National Land Agency Head Regulation No. 4 of 1991. This regulation pertains to land policy and aims to reorganize land ownership and use and facilitate land acquisition for development purposes. This policy seeks to enhance environmental quality and conserve natural resources by engaging the community and encouraging active participation. The involvement of traditional villages is critical in effectively implementing this policy. Thus, the role of the orthodox village community is crucial in land consolidation in Bali. The need for indigenous communities can be seen from their active participation in land acquisition for development purposes in Bali. In addition to the indigenous community, the traditional village also plays a vital role in land

consolidation [22]. The role of the traditional village can be seen from their active participation in realizing land consolidation in Bali based on the Tri Hita Karana concept. The part of the traditional village can be carried out by actively participating in land acquisition to realize land consolidation in Bali.

Every traditional village as a territorial customary law community in Bali has landed. At the very least, the pakraman village (traditional village) has land that is used as the location of village buildings, such as the temple kahyangan (village temple) as a place of worship for the community, land used for the construction of meeting halls such as balai banjar, wantilan desa, and others. Each pakraman village also has land used as a cemetery (Setra). Some pakraman towns also have land for public spaces such as marketplaces, open fields etc.

Traditionally, the relationship between the pakraman village and its land is one of ownership, so the land owned by the pakraman town is commonly referred to as village druwe land, which means village land. A study by Hendriatiningsih concluded that Balinese society and government have long recognized the rights of pakraman villages over their lands. However, she suggested that this relationship should be further examined from the perspective of applicable law.

The second Awig-Awig of the pakraman village regulates the assets of the pakraman town, including efforts for their preservation and management. From this, it can be seen how the Pakraman village highly values the existence of the Village druwe land as a valuable asset. The land is strictly regulated through the existing Awig-Awig provisions, such as the obligation for krama desa to provide clear boundary marks on their land. It is also mentioned in the Awig-Awig that krama desa should not encroach on the existing Druwe Desa land. Some provisions in the Awig-Awig prohibit the sale, division, or separation of Village druwe land without the consent of the prajuru adat and krama desa. Overall, this is a pattern of arrangement implemented by the Pakraman village to preserve and maintain their valuable assets.

Regarding the pattern of druwe land ownership since ancient times, village residents who own Ayahan Desa land will be granted the right to Pekarangan Desa land. Unlike village residents who own Pekarangan Desa land, they are not necessarily given ownership of Ayahan Desa land. This proves that village residents who own Ayahan Desa land have greater Ayahan responsibilities than their ownership of Pekarangan Desa land. However, for now, such ownership patterns are complicated to implement because the increasing population is not accompanied by an increase in the amount of druwe land, which tends to remain the same. As for the explanation of druwe land in each traditional village, first, the existence of druwe land in the territory of the Belancan Traditional Village is under the supervision of conventional village leaders, which includes:

1. Tanah Druwe Desa (narrow definition) is mainly used for public facilities [23]. This type of land is often included in other kinds of Tanah Druwe Desa. This is the decision of the Belancan Village that consists of the Village Office, market and Banjar Hall categorized as Palaba Temple Bale Agung land; Health Center, Posyandu and settlement land classified as Tanah Pekarangan Desa; Elementary School and Kindergarten categorized as Palaba Temple Jaba Kuta land and the Village Credit Institution (LPD) Office, field and cemetery classified as Palaba Temple Dalem Prajapati land.

2. Temple land, recorded as 15 main temples owned by the traditional village, spread across several locations with their respective functions. These temples are apart from the privately owned temples (krama desa clans) in the Belancan formal village area. The main temples are Bale Agung Temple, Puseh Temple, Dalem Gede Temple, Prajapati Temple, Anggarkasih Temple, Peninjoan Temple, Ulun Suwi Temple, Jaba Kuta Temple, Bintang Nawu Temple, Pelapuan Temple, Susunan Temple, Pendem Temple, Pengeradana Temple, Dukuh Temple and Lembang Temple. Besides being used as a place to build Temple buildings (Tegak Temple land), some are also used for farming, selling stalls and public facilities, as explained in the narrow definition of Tanah Druwe Desa.

3. Tanah Pekarangan Desa (Village Yard Land) exists in the Belancan traditional village and is concentrated in two areas: east and west of Temple Bale Agung. There are a total of 173 plots of land, each averaging between 150-250 square meters. The use of this land is governed by the Awig-Awig customary law to ensure its arrangement is aesthetically pleasing and sustainable. The borders between the plots are marked with dividing walls and they are arranged uniformly using the Tri Mandala concept.

4. Tanah Ayahan Desa (Village Temple Land) consists of 193 plots, each averaging 6,000-10,000 square meters, and spread throughout the Belancan ancestral village. This land is vital as the primary funding source for every activity in the ancestral village, such as the construction of temples, village facilities and traditional ceremonies. The ayahan system attached to this land is more significant than that of Tanah Pekarangan Desa, making those who possess Ayahan land the backbone of the traditional village.

Philosophically, the traditional village that has grown and developed for centuries, and has the rights of origin, customary rights, and original autonomy to manage its household, has made a significant contribution to the sustainability of community life in the context of nation and state. Thus, traditional villages play a vital role in land consolidation in Bali. The active part of traditional villages is very much needed for the sustainability of nation and state life. This philosophy provides a solid basis for implementing land consolidation in Bali.

The concept of land consolidation in Bali is closely tied to traditional villages. These villages are considered units of customary law communities, and they operate based on the principles of Tri Hita Karana, which are rooted in local wisdom and the philosophy of Sad Kerthi. In Bali, these villages play a crucial role in developing communities, the nation, and the state. As such, they must be safeguarded, nurtured, developed, and empowered to help establish a politically sovereign, economically independent, and culturally distinct Balinese community.

Traditional villages play a crucial role in Bali's culture, social fabric, and development (Fig. 2). The philosophy of Tri Hita Karana, which emphasizes harmony and balance between humans, nature, and the divine, is deeply ingrained in Balinese culture and is reflected in the traditional village system. The traditional village represents a community that operates based on customary laws and functions as a unit based on shared values, social cohesion, and collective decision-making.

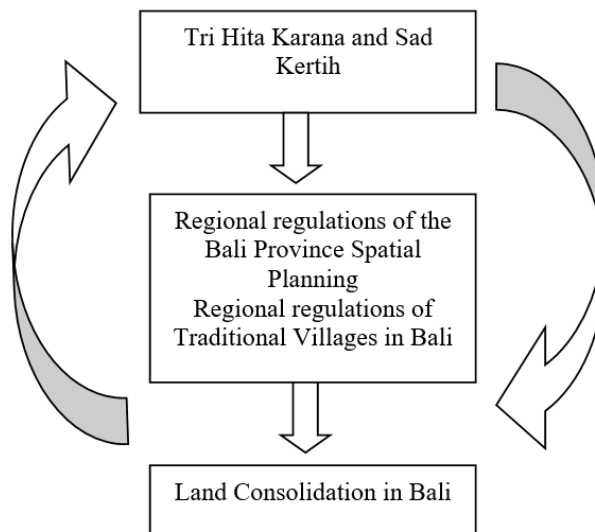


Fig. 2. Land Consolidation Philosophy in Bali

Land Rights Issues in Bali

Fifty years have passed since the Basic Agrarian Law was enacted in 1960 and a legal vacuum still exists regarding the position of village-owned land (*drive desa*). Sastrawan, in his study, referred to this condition as a legal vacuum because no lawful provision legalized the relationship between the village and its land as a property ownership relationship. Article II of the Agrarian Law Conversion Provisions does specify that village-owned land (*druwe desa*) is included in the land rights that can be converted into property ownership rights as long as the subject who controls it meets the qualifications as a property owner subject. The legal issue of who meets the qualifications as a property owner subject is determined in Article 21 of the Agrarian Law, which states that parties who can become property ownership subjects over land are:

1. Indonesian citizens;
2. corporate entities designated by the Government.

Then, legal entities that can have land with ownership rights are designated based on Government Regulation No. 38 of 1963. According to this Government Regulation, *desa adat* is not included as a legal entity that can have land with ownership rights. The unclear position of *desa adat* as a subject of land rights raises specific problems in the life of the orthodox community in the *desa adat*. In the study on the Status of *Druwe Desa* Land Ownership in Bali, with *desa adat* not being designated as a subject of ownership rights, the status of *desa adat* ownership over land becomes ambiguous. This condition harms the existence of *desa pakraman* because what happens is that the land is certified in the name of individuals. Suwitra's findings proved that in several places in Bali, *desa adat* lands had been certified as individual ownership rights through the conversion process, especially for *desa adat* lands that had been transferred for management to individual members of *desa adat*, namely *desa yard land* and *Desa Ayahan Land*.

Another problem is the local government's takeover of customary village land as state assets on the grounds of the state's right to control the public interest, regional autonomy management and the principle of decentralization. The conversion of customary village land into individual ownership or the transfer of ownership to the government as assets is a severe problem because it will endanger the existence of traditional villages as a unit of everyday law society in Bali. Ancestral village land is one form of ancestral land. In a broader sense, the term "customary land" can refer to two meanings, namely:

- i. customary land in the sense of "formerly owned by customary law" and
- ii. land owned by customary law communities.

Indonesia's customary land has not been converted into land with certain rights as mentioned in the Basic Agrarian Law and has yet to be registered at the local Land Office. The term "customary land" emerged in this sense from the dualism of land law systems during the Dutch colonial period inherited until 1960 when the Basic Agrarian Law was issued and implemented. At that time, there were two types of land rights, namely:

- i. lands subject to Western Law, commonly called Western Land Rights, such as Eigendom Rights, Opstal Rights, Erfpacht Rights, and Vruchtgebruik Rights;
- ii. land rights subject to customary law called Indonesian Land Rights or ancestral lands, such as agrarische eigendom rights, ownership, *andarbeni*, *yasani*, rights over village land, *pasini*, *altijddurende erfpacht grant-sultan*, *landerderijenbezitrecht*, former private land rights that are equivalent to ownership rights, *gogolan* rights, *sanggan* rights, *pekulen* rights and land rights that are equivalent to use rights, such as *bengkok*, *pituas*, and others.

Western Land Rights were applied to the European population of the Dutch colonial subjects subject to Western Law. In contrast, Indonesian Land Rights were applied to people subject to customary law, namely indigenous people (*bumiputra*). In this case, "*tanah adat*" is used in the second sense as lands owned by ordinary law communities. Article 3 of the Basic

Agrarian Law recognizes the right of customary law communities over land, referred to as "hak ulayat." In traditional law literature, as cited by Arisaputra, this right is also referred to as "hak pertuanan," a translation of the term used by Cornelis Van Vollenhoven, namely "beschikkingrecht."

Various types of customary land can be identified in Bali by conceiving ancestral land as the property of traditional indigenous communities. The Constitutional Court identified three types of orthodox communities:

- i. Genealogical customary communities are formed based on criteria of bloodline descent;
- ii. Functional customary communities are formed based on specific functions that concern common interests that unite the respective ordinary community and are not dependent on blood relationships or territories and
- iii. Territorial customary communities are formed based on a particular area where members of the orthodox community have lived for generations and have produced ulayat rights that cover rights to the use of water, forests and so on.

In Bali, all three types of orthodox communities exist in their society. The form of customary territorial communities is called "desa pakraman" (previously known as "desa adat"). The structure of familiar genealogical communities is called "dadia/panti" or by other names. In everyday life, "dadia" or "panti" can refer to two things. First, it refers to a unit of joint worship place of a group of people from the same lineage. The location of worship is called "temple dadia," which is sometimes called dadia or panti. Second, it can refer to a group of people (sekaa) from the same lineage (wit) who worship the same ancestors in the temple dadia/panti. This group is then called sekaa dadia/sekaa panti.

The functional form of customary community units in Bali is the Subak, an organization of a group of peasant communities that coordinates the irrigation system management and use in a particular paddy field area. The three customary community units (pakraman village, dadia/panti and subak) meet the criteria as regular community units as mentioned in the Decision of the Constitutional Court of the Republic of Indonesia in Decision Number 31/PUU-V/2007 concerning the Testing of Law Number 31 of 2007 concerning the Formation of Tual City in the Maluku Province against the 1945 Constitution. In the decision read on June 18, 2008, the Constitutional Court stated that a customary community unit can be said to be still alive de facto (actual existence) if it contains at least the following elements:

- a. the presence of a community whose members have a sense of group identity (in-group feeling);
- b. the presence of customary governance institutions;
- c. the presence of cultural wealth and familiar objects;
- d. the existence of expected legal norms and
- e. the company of a particular territory, especially in traditional community units with a territorial nature.

Each of these indigenous communities (territorial, genealogical and functional) has a communal place of worship called a pura, as a sacred place to connect the unity with God and the gods and ancestral spirits worshipped in the pura. The relationship between the unity of the indigenous legal community and the pura is solid. The pura is the main binding element that unites the agreement spiritually and socio-culturally. The land where the pura building stands is called the pura land, the size of which varies depending on the needs. Some puras may have one or more other land areas that are agricultural or plantation land (rice fields, gardens, forests) whose results are specifically used directly or indirectly for the needs of the relevant pura, whether for the development and preservation of pura buildings or the continuity of religious, social activities (rituals) in the pura. This land is commonly called pura profit land. All Pura land, both pura land and pura profit land, has long been registered as property rights under the

Basic Agrarian Law based on SK Mendagri No SK. DJA/1986, the Pura has been designated as a religious legal entity that can have property rights over land.

In addition to pura land, the legal communities of the pakraman village also have land with various types and characters, both in terms of the subject that controls it, its function and use, and the location of the respective customary land. In general, lands managed by the legal communities of the pakraman village are called village land or *druwe desa* land. Regarding the subject who works and utilizes the village land, Suasthawa has identified the classification of village land quite well [24]:

- a. village land directly controlled and utilized by the pakraman village and
- b. village land is used by individuals in the town given by the village.

The first group, namely village lands directly controlled and utilized by the pakraman village as a unity. Generally, this group of land is called *druwe* or *duwe desa* land in the narrow sense, while in the broader sense, the concept of *druwe desa* land includes all the villages, as mentioned earlier lands. Etymologically, the term *druwe* or *duwe*, which forms the phrase "*druwe*" or "*duwe desa*", "means ownership" or "property", so the concept of *druwe desa* land is a concept of communal ownership, in this case, the collective ownership of the pakraman village.

The second category consists of village lands granted ownership and utilization rights by the village to members of the respective village community (*krama desa*). Regarding its function, two types of land fall into this category. The first type is village homestead land (*tanah PKD*), also known by other names such as upright village land, Karang kawis etc. These are village lands granted utilization rights by the village to the community members for residential purposes. Generally, each community member's area of village homestead land has a specific and uniform size for all members, such as around 200m² or 400m², thus called *sikut satak*.

Although they have different functions, similarities are inherent in village courtyard land and village cultivation land. First, both types of land are similar to individual ownership; they can be managed and enjoyed individually and can be inherited. Second, every holder of rights to courtyard land and cultivation land must fulfill a set of obligations to the village, whether in the form of physical labor or material compensation (money or goods), as compensation for their rights. These obligations are called *ayahan*. If these obligations are neglected, the village can take action to take over control of the land up to certain limits. This shows that the rights held by the villagers over the village land are known in customary law as tied ownership.

The existence of *Druwe Desa* land is the responsibility of each respective *desa pakraman*. Although the arrangement and regulation of both *desa pakraman* have been set based on the *Awig-Awig*, it must be revised in practice. This is due to the local wisdom of each *desa pakraman* area, both in terms of the number of temples, *krama desa*, village assets and the characteristics of its *krama desa*. For example, the arrangement of *Druwe Desa* land in Belancan Village was once included in implementing mass certification known as the Coffee Project Certification. The certificate was carried out to legalize agricultural land with a maximum area of 5,000m². It is recorded that 25 plots of *Ayahan Desa* land in Belancan *Desa Pakraman* and ten plots in *Bukih Desa Pakraman* were certified by the *krama desa*.

The *Ayahan Desa* land, which is a village asset, if administered in the name of an individual, is undoubtedly vulnerable to problems in the future. The rights holder in the certificate has the authority to take legal action on the land. This becomes a concern if the *Krama desa* transfers the land to people not part of the *Krama desa*. This transfer process can eliminate the concept of *ayahan*, making *Druwe Desa* land even more threatened.

The philosophical foundation of land consolidation in Bali lies in the understanding that the environment is a limited and non-renewable resource that must be utilized sustainably. Land consolidation seeks to create a unified space in a dynamic order grounded in Balinese culture and inspired by Hinduism and the philosophy of *Tri Hita Karana*. In carrying out land consolidation in Bali, it is imperative to consider the harmonious relationship between humans

and God [25], manifested in establishing places of worship in the land consolidation environment. The balanced relationship between humans is implemented by organizing community meetings in the background as a forum for social interaction. In contrast, the harmonious relationship between humans and the natural environment manifests in maintaining cleanliness and preserving the environment in the land consolidation area.

Environmental Implications of The Application of The Tri Hita Karana Philosophy in Land Consolidation

Applying the tri hita karana philosophy in land consolidation has significant legal and environmental implications in Bali [26]. From a legal standpoint, the philosophy emphasizes the importance of using limited and non-renewable ecological resources. Land consolidation arrangements must consider the tri hita karana concept and ensure the preservation of cultural heritage and the environment. For example, when determining land use and zoning, authorities must consider the impact on the surrounding environment and cultural sites. Furthermore, the Tri Hita Karana philosophy promotes harmonious relationships between humans, the environment, and God [27].

Therefore, any land consolidation arrangements must also consider the interests of local communities and their relationship with the land. This includes recognizing the traditional customary rights of indigenous communities and ensuring their participation in the decision-making process [28]. From an environmental perspective, the Tri Hita Karana philosophy advocates for protecting and conserving the natural environment [29]. It emphasizes the importance of maintaining the balance between humans and nature and the need to minimize the negative impacts of development. Inland consolidation arrangements ensure that land use and development activities are carried out in an environmentally sustainable manner.

Moreover, the Tri Hita Karana philosophy recognizes the interdependence between humans and nature and emphasizes preserving natural resources for future generations [30]. This has significant implications for land consolidation, as it necessitates the sustainable use of land and resources to ensure their availability for future generations. In conclusion, applying the Tri Hita Karana philosophy in land consolidation arrangements in Bali has significant legal and environmental implications. By promoting sustainable development and a harmonious relationship between humans, the environment and God, the philosophy can ensure the preservation of cultural heritage and natural resources for future generations.

Conclusions

The extent to which the Tri Hita Karana concept is applied in the juridical analysis of land consolidation arrangements and environmental conservation of cultural heritage in Bali varies depending on various factors, such as the specific location and context of the land consolidation project, the level of awareness and adherence to the concept among the relevant stakeholders, and the effectiveness of legal and regulatory frameworks in promoting its implementation. However, the article suggests that the Tri Hita Karana concept is increasingly being recognized and integrated into land consolidation arrangements and environmental conservation efforts in Bali, particularly in light of the growing importance of sustainable development and cultural heritage preservation in the region.

The legal and environmental implications of applying the Tri Hita Karana philosophy in land consolidation and cultural heritage conservation are significant. From a legal standpoint, the philosophy emphasizes the importance of sustainable use of limited and non-renewable environmental resources, which has implications for land consolidation arrangements. The philosophy also emphasizes the importance of preserving cultural heritage, which can impact the application of land use regulations. From an environmental standpoint, the Tri Hita Karana philosophy promotes harmonious relationships between humans, the environment and God.

This has implications for ecological conservation efforts, as it encourages protecting and preserving the environment to maintain balance and harmony. Applying the Tri Hita Karana philosophy in land consolidation and cultural heritage conservation can lead to a more sustainable and harmonious relationship between humans and the environment, with positive legal and environmental implications for the future.

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