

# Traditional Village as Legal Subject of Culture Owner from The State Constitution Perspective and Legal Pluralism

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**Abstract.** The Constitution of the Republic of Indonesia Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia has the position of restructuring the relationship between the state and citizens in terms of respect and recognition of customary law community units in the constitutional system of the Republic of Indonesia. The embodiment of state recognition of the existence of traditional villages, namely that Indonesia has ratified Law no. 11 of 2005 concerning the Ratification of the Covenant on Economic and Cultural Rights. Sociological facts show that traditional villages still need to be included in managing cultural assets in their territorial areas. The existence of traditional villages is very much needed as a means of developing and preserving local wisdom, customs, and cultural values. They are using a futuristic approach to examine legal pluralism towards the dynamics of the customary law community units in several regions of Indonesia that still require textual and contextual recognition. The constitution provides a logical place for traditional villages as subjects of cultural owners as a reflection of legal pluralism.

**Keywords:** traditional villagel, culture, the theory of legal pluralism, territorial area.

## 1 Introduction

Constitutional Court Decision No.31/PUU-V/2007, there are important things, because the Court emphasized that "...the recognition of the existence of indigenous peoples as rights holders or legal subjects is fundamental. The important and fundamental thing is that the customary law community is constitutionally recognized and respected as a person with rights, so of course it can also be burdened by law in a society that has become a state, the customary law community must receive attention as other legal subjects when the law wants to regulate in the context of allocating the resources of life." [1] The part of the consideration of the Constitutional Court's decision above, confirms the existence of customary law communities in this case customary villages as unique legal subjects. The uniqueness of a traditional village as a legal subject is that it is a unitary/group nature which makes customary values and the equality of traditional rights, including over certain areas, a condition of its existence [2].

Characteristics of customary values and traditions that are symbols of local wisdom of each traditional village in the territory of the Unitary State of the Republic of Indonesia define the form of legal pluralism. The scope of the study of legal pluralism continues to grow to explain various legal phenomena. Moore observes that the social field as the subject of legal

studies is a semi-autonomous field because in this field various legal orders compete with each other, collaborate, and exchange to form a relationship and rules with effective sanctions.[3] Griffiths said that legal pluralism is the co-existence of more than one legal order in a social field and classifies legal pluralism into weak and strong legal pluralism.[4] Post-Griffith, legal pluralism is no longer seen as an approach that can clearly separate one legal order from another. Irianto said that today's legal pluralism approach is not only for mapping of the legal universe, but rather to explain laws that move in the realm of globalization and glocalization [5].

From the perspective of legal pluralism, a traditional village is a semi-autonomous social area that produces laws based on mutually influencing relationships with other legal communities.[6] The role of the constitution in this regard supports the recognition of customary villages.[7] Nonet & Selznick in Nurjaya, [8] to realize a culturally integrated community order in a social building called the state, to achieve this goal, one of the efforts that must be made is to build a legal development paradigm that gives full recognition and protection (genuine recognition) to legal systems other than state law, such as law adat (customary law), religious law (religious law), and local regulatory mechanisms (inner order mechanisms) that actually grow and develop in society. The implication is that values, legal principles, institutions, and folk law traditions must be accommodated and integrated into the national legal system, and poured concretely into state legal norms (laws and regulations).

This means that the legal characteristics that must be developed to foster and strengthen the integration of a multicultural nation are responsive laws, namely laws that respond to and accommodate values, principles, norms, institutions, and traditions that grow and develop empirically in life. community, such as the value of local wisdom of traditional village culture.

Traditional villages as legal subjects, legal objects and customary village authority over territorial (territorial), genealogical (descendant) and genealogical (territorial) similarities, so that there is a diversity of forms of traditional customary villages from one place to another.[9] The Tri Hita Karana philosophy is closely related to traditional villages. The concept of Tri Hita Karana traditional village in Bali is not only a tradition of the community because it also develops with the development of local government politics.[10] The adhesive customary law is Pancasila which is extracted from customary law. Operationally, the traditional village with its customary law reflects legal pluralism and has been integrated into the values of Pancasila. For example, the traditional village order is imbued with the values of Tri Hita Karana, namely the three causes of humans to achieve happiness. The values of Tri Hita Karana are a pattern of harmonization of the relationship between humans and His God, humans with others and humans with their environment. The term traditional village refers to community units that have legal unity, authority and environmental unity, such as traditional villages in Bali, villages in Java, clans in South Sumatra, nagari in Minangkabau, curia in Tapanuli and wanua in South Sulawesi.[11] The areas mentioned above have an original structure and therefore can be considered as special areas. [12] The embodiment of state recognition of the existence of traditional villages, namely that Indonesia has ratified Law no.11 of 2005 concerning Ratification of the Covenant on Economic and Cultural Rights. Based on the results of the ratification, the state has an obligation to the people to respect, to protect and to fulfill economic and cultural rights, in this case, to respect, protect and fulfill the rights of traditional villages. The rights of indigenous peoples are recognized in various laws and regulations at various levels of government and also in court decisions [13].

Recognition and respect for traditional villages as regulated in Article 18B paragraph (2) and 28I paragraph (3) of the 1945 Constitution has not been implemented, and therefore

MHA has not received real benefits. The traditional village, which from the beginning has maintained order and peace in life, maintains the balance and harmony of the various interests of the citizens within itself, now has to face the harsh reality, withholding steps with full calculation in exercising rights and authority in regulating its territory as a result of the intrusion of various values of life. modern society. This situation is fully felt by several traditional villages in various forms such as: ways of thinking, ways of behaving, ways of behaving indigenous villagers, changes in social situations, increasing tensions and social conflicts, and serious obstacles in exercising their historical and cultural rights such as managing and manage the territory [14].

The conception of culture as a form of ideas, forms of activity, and forms of objects made by humans. Culture is not merely seen as a collection of goods or cultural objects, but the result of from the human way of thinking in responding and articulating all the causes that cause humans to think and create something for themselves respond to that. Humans who always give new forms to existing cultural patterns. [15] Culture is also a product from the ways humans break through the facts of nature by evaluating, and then pouring it into a form of policies and decisions [16].

The existence of customary villages is analyzed from Griffiths legal pluralism, namely by referring to the concept of pluralism or legal pluralism from Griffiths quoted from Sulastriyono, [17] dividing legal pluralism or legal pluralism into two, namely weak legal pluralism (weak legal pluralism) implies that a legal plurality seeks to merge or reconcile customary law with state law. Strong legal pluralism, namely the existence of various laws that apply in certain social fields without having to refer to state law. Based on this, in relation to the management of tourism objects by customary villages, there are several applicable rules or laws, such as local regulations (written law) and local laws (unwritten/customary law or or awig-awig or perarem). The regulation of cultural tourism, it is deemed necessary to emphasize that the two legal systems work, in fact, are interrelated and influence the two legal systems so that regulatory conflicts can be avoided and it is necessary to clarify the role or participation of traditional villages in Bali in the field of culture which is a supporting element of development. sustainable tourism in setting the Standards for the Implementation of Balinese Cultural Tourism.

Based on such legal facts, the problems that will be studied through this research are: (1) Analyzing the recognition of traditional village participation in sustainable tourism development from a constitutional perspective; (2) Analyzing Legal Pluralism as a direction for recognizing traditional village participation in sustainable tourism development.

## **2. Method**

The nature of qualitative descriptive research that functions for data analysis by providing an overview of the object under study and is based on examination of a particular population or sample. The approach in this study is a tourism sociology approach that examines cultural growth oriented to local wisdom to develop strategies for recovering Balinese cultural tourism and restructuring the economy.

Sources of primary data and secondary data in this study. Primary data was obtained to determine traditional villages as legal subjects of cultural owners from the perspective of state administration and legal pluralism. Data collection was carried out through observation, interviews, questionnaires, participatory action research, and focus group discussions. (i) Observation is not limited to preparing written notes but also using sketches, photographs and audio-visual aids. (ii) Interviews were conducted using a semi-structured interview technique in which the interviewer asked several questions listed in the list. Then the data was analyzed

to find out information about the characteristics of Paiketan Krama Wife and their participation in the restoration of cultural tourism in several traditional villages in Bali. (iii) distributing questionnaires to every tourism village managed by traditional villages in Bali, (iv) participatory action research, and (v) Focus Group Discussions. While secondary data is used to collect data that comes from documents, quotes from other sources, or obtained during research. First, the review of written documents is carried out through a literature review of related books and writings. Research results are used in the process of identification and analysis; (ii) Second, agency data in the form of data collection from related agencies, such as literature, traditional village websites, and traditional village documents.

### **3. Results and Discussion**

#### **3.1. Recognition of Participation of Traditional Villages in Sustainable Tourism Development from a Constitutional Perspective**

The juridical construction established by the 1945 Constitution concerning the recognition of customary law communities is placed in Article 18B paragraph (2) of the 1945 Constitution: The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

The regulation regarding the customary law community unit is also contained in Article 28I number (3) of the 1945 Constitution that the cultural identity and rights of traditional communities are respected in line with the development of the times and civilization. There are formulas that contain noble values and the soul of customary law. The preamble to the 1945 Constitution which contains the Pancasila view of life reflects the nation's personality that lives in values, mindsets, and customary law. Article 29 paragraph (1) is determined by the State based on the One Godhead, Article 33 paragraph (1) that the Economy is structured as a joint effort based on the principle of kinship, at a practical level based on the 1945 Constitution the state introduces a right called the right to control the state, the right to deity, which is traditionally recognized in customary law.

Strengthening traditional villages considering that they are protected by customary law community units according to Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia in the development of tourism that aligns with the standards of organizing Balinese cultural tourism now has a central role. Today's tourism development should be directed at tourism development that puts forward the spirit of preservation of natural and cultural resources as well as community welfare considering that a number of experiences in pro-investor tourism management have caused the erosion of Balinese cultural roots through commercialization and commodification which has almost exceeded the limit. Moreover, Bali tourism is emphasized on the Tri Hita Karana philosophy which has been animating the order of life in traditional villages as regulated in Regional Regulation No. 4 of 2019 which is also mandated to be the responsibility of traditional villages. The Preamble to the 1945 Constitution of the Republic of Indonesia accommodates the values of Pancasila which are reflected in these main ideas, namely:

1. The state protects the entire Indonesian nation and the entire homeland of Indonesia.
2. The state wants to realize social justice for all Indonesian people.
3. The people's sovereignty is based on democracy and deliberation.
4. The state is based on the One Godhead according to a just and civilized humanity.

Based on the third main idea contained in the Preamble to the 1945 Constitution of the Republic of Indonesia and the second guiding principle of traditional village participation.

Mahfud's second guiding rule, briefly emphasized that in forming the law it is based on democracy, namely the law is formed based on the people's agreement or the participation of the people. Furthermore, in the second guiding principle, it is also stated that the law is made based on the substance of the law, namely humanity and justice.

Mahfud's view which puts that the principle of democracy guarantees community participation in the process of law formation, including in determining the legal political direction of traditional village participation in sustainable tourism development so that legal politics that is formed and enforced reflects a feeling of justice for the community. Furthermore, the principles of democracy contained in the guiding principles of Mahfud mean that in the formation of legislation, including the formation of legal politics, it must reflect justice.

With regard to the legal politics of recognizing traditional village participation in sustainable tourism development, it can be understood that community participation is the practice of democratic principles as contained in the values of the Pancasila precepts which are accommodated in the main ideas of the Preamble to the 1945 Constitution of the Republic of Indonesia and the recognition of traditional village participation in development. Sustainable tourism reflects the ideal of law, namely justice. Based on the above understanding, the Preamble to the 1945 Constitution of the Republic of Indonesia in the first paragraph shows humanity and justice as legal ideals, providing the basis for recognizing the participation of traditional villages in sustainable tourism development.

With regard to the acknowledgment of the participation of traditional villages in sustainable tourism development, in Bali today there are substantially and functionally different village organizations, namely traditional villages and official villages. Each of these two villages has its own structure and function. The attachment of the customary law community in the Province of Bali is to the unity of tradition and social etiquette living in the bonds of Kahyangan Tiga, and having territory, assets, and the right to take care of their own household and their own administrators.

Traditional village as a unit of living customary law community, their existence and traditional rights are protected by the Constitution (NRI 1945 Constitution) Article 18B Paragraph (2). With the provisions of Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it means that the constitution recognizes that traditional villages have legal capacity to defend their traditional rights before the court. The legal capacity is not only against the actions of individuals but also against the actions of the state [18].

Furthermore, because these traditional rights are expressly recognized by the Constitution, these rights have the status as constitutional rights so that any violation of these rights is a constitutional violation. The law must not violate the traditional rights of customary villages which have been recognized as constitutional rights. That is why, Law no.24 of 2003 concerning the Constitutional Court (hereinafter referred to as UUK) granting legal standing (legal standing, *cham standi in iudicio*) to community units as long as they meet the requirements, to act as petitioners in judicial review of the 1945 Constitution of the Republic of Indonesia, Article 51 Paragraph (1) The Constitutional Court Law determines:

"The applicant is a party who considers that his constitutional rights and/or authorities have been impaired by the enactment, namely:[19]

- a. Individual Indonesian citizen
- b. The customary law community unit is still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in law.
- c. Public or private legal entity

d. State institutions.

Traditional village which is a traditional social institution to accommodate activities social, cultural, and religious communities of Hindus in Bali which are based on the Tri Hita Karana philosophy. With the Tri Hita Karana philosophy, a safe, peaceful, orderly and harmonious life atmosphere will be realized in a traditional village forum based on kinship or togetherness or community principles. Such living conditions provide motivation for the growth of a culture that develops creatively. A conducive atmosphere is very important for the emergence and growth of creativity in various forms of cultural creations in traditional villages in Bali. Thus the traditional village as a place or place of birth, life, growth, and development of culture.

In relation to this, the Bali Provincial Regulation No. 5 of 2020, concerning Standards for the Implementation of Balinese Cultural Tourism, CHAPTER I Article 1 number 11 determines:

Tourism is the entire activity related to tourism and is multidimensional and multidisciplinary in nature that arises as a manifestation of the needs of each person and country as well as interactions between tourists and local communities, fellow tourists, the government, regional governments, and entrepreneurs.

Article 2 stipulates: Standards for the Implementation of Balinese Cultural Tourism are based on principles inspired by the Tri Hita Karana philosophy which is sourced from the local wisdom of Sad Kerthi.

Furthermore, Article 3 paragraph (2) regulates the Standards for the Implementation of Balinese Cultural Tourism with the aim of:

Setting Standards for the Implementation of Balinese Cultural Tourism aims to preserve the natural environment and Balinese culture which is imbued with the Tri Hita Karana philosophy based on the values of local wisdom of Sad Kerthi and improve the quality of the implementation of Bali Tourism.

Article 3 paragraph (5) stipulates that Bali Cultural Tourism Development is directed to: The development of Balinese Cultural Tourism is carried out based on the Bali Province Spatial Plan.

Article 32 Regional Regulation no.5 Year 2020 is determined:

- (1) The community can play an active role in the implementation of this Regulation.
- (2) The active role of the community as referred to in paragraph (1) can be carried out individually and in an organized manner.
- (3) The active role of the community as referred to in paragraph (1) can be carried out at the implementation and law enforcement stage of this Regional Regulation.
- (4) The active role of the community as referred to in paragraph (1) can be carried out through: a.submission of suggestions/opinions; b.submission of reports;and/or c.submission of complaints.
- (5) The active role of the community as referred to in paragraph (4) is submitted in writing to the Provincial Service. (6) The active role of the community as referred to in paragraph (4) shall be taken into consideration in making policy.

Article 32 Paragraph (1) stipulates that there is an active role for the community, but the procedures (procedures) for the active role (participation) of the traditional village are not clearly detailed in Article 32 Paragraph (1).Synergizing with the acknowledgment of traditional village participation in sustainable tourism development associated with the Bali

Provincial Regulation on Standards for the Implementation of Balinese Cultural Tourism above, it is undeniable that traditional villages are an established and functional social system in supporting the existence of Balinese culture originating from Hinduism as well as the basis for its application and the development of Hindu religious values and Balinese culture, thus indirectly very functional for the development of tourism in Bali.

As already mentioned, the traditional village is a tool or fortress of life in giving color and rhythm to the dynamics of its people, and at the same time as a place for Balinese culture. Besides that, traditional villages also provide identity and at the same time play a role as a component of supporting tourism. If Bali chooses to develop cultural tourism, it should be so, because it is culture which is the biggest attraction that Bali has to live, grow and develop in traditional villages.

Cultural tourism has more value as a broad cultural buffer that shows national identity. So far, tourism which cannot be separated from modernization and globalization tends to bring changes to all areas of social and legal life. The reality of these changes can clearly be seen through various phenomena of the growth of accommodation facilities and tourism facilities which do not hesitate to even penetrate into areas that are sacred to the community. The neglect of traditional village participation in a number of tourist areas such as the Bongkasa traditional village, Candidasa traditional village and Jati Luwih traditional village, there are many traditional village areas in Bali Province which even though the Bali Provincial Regulation Number 5 of 2020 concerning Standards for Organizing Balinese Cultural Tourism places traditional villages as one that plays an active role, but the procedures (procedures) for the participation of traditional villages in sustainable tourism development are not yet clear so that from the aspect of certainty, benefit and justice need to be emphasized.

Discussing the authority of traditional villages cannot be separated from the provisions of Article 18B (2) of the 1945 Constitution of the Republic of Indonesia, as an acknowledgment of their constitutional rights, Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages in Bali. The regulation of customary village is regulated in Article 3 paragraph (1). Bali Provincial Regulation Number 4 of 2019 The regulation of customary villages aims to:

- a. give recognition and respect for the position and role of the existing Traditional Village with its diversity before and after the formation of the Unitary State of the Republic of Indonesia;
- b. provide clarity on the status and legal certainty of Traditional Villages in the constitutional system of the Republic of Indonesia in order to realize justice for all Indonesian people;
- c. promote customs, traditions, arts and culture, as well as local wisdom of the Traditional Village community in a salacious and nocturnal manner;
- d. encourage the initiative, movement, and participation of the Traditional Village Krama in developing the potential and the Traditional Village Padruwen for mutual prosperity;
- e. empowering the traditional village government that is professional, efficient, and effective, open, and responsible;
- f. increase the quantity and quality of services for Traditional Village Krama in order to realize general welfare;
- g. improve the socio-cultural resilience of the Traditional Village Krama in order to realize the Traditional Village Krama that is able to maintain social unity as part of national resilience;

- h. realizing a strong and independent customary economic system as part of efforts to strengthen the national economic system; and
- i. strengthening the Traditional Village Krama as the subject of development.

The word "regulated" according to Palguna, the Regional Regulation on Traditional Villages in Bali is not a "legal source" of the authority possessed by a traditional village but only a provision that shows as well as confirms or confirms that a traditional village has that authority. Village Regulations Adat does not give authority to traditional villages but only confirms or shows that customary villages have certain authorities according to customary law.

If you pay attention to the provisions of Article 3 paragraph (1) of the Regional Regulations for Traditional Villages in Bali mentioned above, it should emphasize or confirm the procedures (procedures) for the participation of traditional villages in sustainable tourism development in their territory, including development based on Balinese culture in the Tri Hita Karana frame.

Establishing the legal politics of recognizing the participation of traditional villages in sustainable tourism development, in this case what is meant is cultural tourism, culture must be seen as a human process of adapting to the natural environment around which he lives by using his mind, mind or cultivation. The regulation of Balinese cultural issues must pay attention to components related to one another and mutually supportive, for example, humans as supporters of culture, and nature as a forum for that culture. This must be done systematic, structured and comprehensive, touching the three components (culture, people and nature (custom village)).

Relevance to the regulation of the recognition of customary villages in sustainable tourism development related to cultural tourism should include:[20]

- a. Cultural preservation policy, which is called the main policy;
- b. Strengthening policies towards the community as owners and supporters that culture;and
- c. The policy of maintaining the environment where the cultural heritage is created, maintained and developed. Policies b and c, are supporting policies.

Bali's nature is the cause that drives Balinese people to create the culture. Alam Bali is a traditional village which is the home of culture Bali. Balinese culture will survive in its meaning and quality if Balinese people are successful and Balinese nature is able to maintain the meaning and quality of Bali's nature as its cultural home. Balinese nature, Balinese people and Balinese culture, are mutually connected, bound, dependent, and influence each other. The decline in one of the cultural components will affect the quality of Balinese culture and ultimately affect the identity of the Balinese people.[21]

This enormous cultural potential should be obtained protection in the area. However, the protection and use of culture has not been structured and coordinated with processes and mechanisms that take into account society as the owner of the culture itself.

In this regard, the regulation of the participation of traditional villages in the development of Sustainable Tourism which is closely related to Balinese culture in the articles has not implicitly regulated how the procedures (procedures) for the participation of traditional villages in sustainable tourism development are. With regard to the role of the traditional village as a buffer for cultural tourism, it is necessary to clarify the procedures (procedures) for the participation of the traditional village as a unit of customary law community which with its autonomy carries out a system of self-government, still within the framework of the Unitary State of the Republic of Indonesia. Traditional villages whose existence maintains order and security by maintaining balance and harmony as a fortress of



Balinese culture must be emphasized in their position in the management of Balinese cultural tourism as a form of empowerment as well as their participation in supporting Balinese Cultural Tourism, both in management, tourism business, tourism attraction development, coaching and supervision.

In the development of sustainable tourism, it is appropriate to provide a rational place for traditional villages as subjects of cultural owners. In line with this, the policy of managing cultural tourism in the area includes the maintenance that is under the ownership of the traditional village. Recognition of the participation of traditional villages in sustainable tourism development in terms of the constitutional perspective, namely constitutionally customary villages obtain recognition for participating in sustainable tourism development in their capacity as owners or cultural forums. The constitution provides justification for customary villages as legal subjects for sustainable tourism development because there is an integral bond between culture and traditional villages as the main supporting subjects.

### **3.2 Legal Pluralism as a Direction for Recognizing the Participation of Traditional Villages in Sustainable Tourism Development**

The government and local governments have an important role in shaping the ideal tourism regulations and policies to create a welfare state. The results of the inventory of regulations related to tourism policies, found recognition of the participation of traditional villages in the tourism sector in a number of laws and regulations. Tourism policies must have a positive impact in the form of increasing the country's foreign exchange and must be able to improve the economy in tourist destination locations, for example increasing the number of workers, increasing the number of local and foreign tourists, increasing the development of Indonesian culture and arts and culture.

Recognition of traditional village participation in sustainable tourism development is a goal that emphasizes the economy people and empowering people. This goal is a reaction to the failure of modernization that has been implemented so far in developing countries. Top-down policy making is considered to have forgotten the basic nature development itself so that the people are not increasing their quality of life, but are actually disadvantaged and tend to be marginalized in their own environment. The participation of the local community (customary village) is important, considering the fact so far, namely the benefits of tourism are more in favor of capital owners who generally come from outside the local community.

In this study, that legal pluralism as a direction of recognition of traditional village participation in sustainable tourism development aims to realize prosperity contains elements elements of regulatory and institutional support that accommodate local community participation. Legal pluralism-based tourism policy to create a welfare state.

Sustainable tourism development must of course pay attention to the surrounding environment and still provide benefits for future generations. Carrying the concept of sustainable tourism, traditional villages as owners of culture which are one of the economic resources of tourism are given the opportunity to establish and manage tourist villages. Organizing tourism by empowering indigenous peoples means providing opportunities for traditional villages to manage tourist villages, providing traditional villages with livelihoods, improving the welfare of traditional villages and of course the profits obtained are also used to maintain, preserve the culture and natural beauty of tourist villages.

Based on Article 19 paragraph (2) and the Tourism Law, communities in and around tourism destinations have priority rights to become workers/labor, consignment and or management. Article 8 paragraph (1) Perda on Standards for the Implementation of Balinese

Cultural Tourism gives rights to traditional villages/traditional institutions/community groups to develop rural tourism in accordance with local potential and in accordance with the provisions of laws and regulations. The Province of Bali as a rule model based on Article 23 paragraph (1) of the Regional Regulation of the Province of Bali Number 5 of 2020 concerning the Implementation of Balinese Cultural Tourism, emphasizes that the implementation of tourism can be carried out by the Regional Government, the private sector, traditional villages and/or the community.” The customary law community in the tourist village area is certainly a resident of the customary village/Pakraman. Article 5 Regional Regulation of the Province of Bali Number 4 of 2019 concerning Balinese Traditional Villages. Traditional Villages have the status as legal subjects in the government system of the Bali Province. Synergizing with this, further emphasizes the rights of Balinese traditional villages, including their customary law communities, to be significantly involved in the management of tourist villages.

It is undeniable that the traditional village is an established and functional social system in supporting the existence of a vibrant Balinese culture sourced from Hinduism and is the basis for the application and development of Hindu religious values and Balinese culture. Thus indirectly very functional for sustainable tourism development. The traditional village as a supporter or cultural house should be explicitly regulated the rights and obligations of the traditional village in managing cultural tourism. Moreover, the 1945 Constitution, Article 18B (2) recognizes that their rights are protected by the constitution. Further attention is paid to the provisions of the articles of the Bali Cultural Tourism Standards Regulation as stated above, there is not a single article that expressly explicitly mentions the procedures (procedures) for the participation of traditional villages in sustainable tourism development.

Indeed, in Article 32 Paragraph (1), it is regulated on the Active Role of the Community, while it does not explicitly regulate the procedures (procedures) for the participation of traditional villages in sustainable tourism development. This needs to be emphasized because traditional villages in the arrangement of their tourism objects, besides being guided by written rules (Perda, Laws) are also made rules in awig-awig or perarem in their management.

Refers to the concept of pluralism or legal pluralism from Griffiths quoted from Sulastriyono, [22]dividing legal pluralism or legal pluralism into two, namely weak legal pluralism (weak legal pluralism). implies that a legal plurality seeks to merge or reconcile customary law with state law. Strong legal pluralism (strong legal pluralism), namely the existence of various laws that apply in certain social fields without having to refer to them on state law.

Legal pluralism as a direction of recognition of traditional village participation in sustainable tourism development is categorized into strong legal pluralism, namely the existence of various laws that apply in certain social fields without having to refer to state law. Based on this, in relation to sustainable tourism development with the recognition of traditional village participation, there are several applicable rules or laws, such as regional regulations (written law) and local laws (unwritten/customary law or or awig-awig or perarem). Setting the Standards for the Implementation of Balinese Cultural Tourism, it is deemed necessary to get an emphasis, namely that the two legal systems work in reality and the implication is that the two legal systems influence each other.

#### **4. Conclusion**

Sustainable tourism development provides a rational place for traditional villages as subjects of cultural owners. In line with this, the policy of managing cultural tourism in the area includes the maintenance that is under the ownership of the traditional village. Traditional village with a legal system embodiment of legal pluralism as a direction of recognition of traditional village participation in sustainable tourism development is categorized into strong legal pluralism. Living law or the law that lives in the midst of society, customary law and local wisdom are the material substances in the formulation of the ideal model for regulating traditional village participation in sustainable tourism development, as well as natural law (morals and religious norms). The use of this triangular pluralism approach in recognizing the participation of indigenous villages in sustainable tourism development leads to the recognition of traditional village participation, namely sustainable tourism development in accordance with living legal values and in accordance with the needs of traditional villages.

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