



Article

Problems of Implementing Village Origin Rights in Indonesia: Lessons Learned from Nagari in West Sumatra and Desa Pakraman in Bali

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Abstract

Local democracy in the village is essentially based on these rights of origin and traditional rights. This paper aims to discuss the problems of villages in exercising their rights of origin in Indonesia. To understand how these rights of origin are implemented, this article refers to the practice of *Nagari* as a customary legal community unit in West Sumatra Province. Not only that, enrichment related to implementing rights of origin also refers to *Desa Pakraman* in Bali Province. This article uses a literature study derived from documents that have been published from various sources such as articles in scientific journal, mass media news, and official government documents. This article finds that problems in the application of origin and traditional village rights arise because of strict government regulations that encourage village governments to focus on carrying out governance functions in their area. Using the principles of recognition and subsidiarity in the administration of village government results in an attitude of ambiguity in the administration of village government. As a result, the village government prefers to implement the household authority handed over to it accompanied by a budget through Village Fund transfers rather than developing the original rights that have become the identity of pre-existing local democracy.

INTRODUCTION

Villages in Indonesia have a diverse history. Almost every region has different village characteristics according to the habits that live in the community (Koentjaraningrat, 2007). These people's habits become the social and cultural capital of the people in the village to overcome the problems they face together. The important thing about this condition is that the state recognizes the diversity of these villages and becomes part of the village's original rights (Sukiyono & Noviansyah, 2019; Lainsamputti, 2019). However, how the village government manages this diversity is a serious issue today. The government has yet to explain in detail what it means to "recognize" what is in the 1945 Constitution with its true meaning, namely how the government "regulates" it in the Village Law. The fact is that the village government has yet to be able to carry out its autonomous household affairs. From another aspect, the government intervened deeply in the village government to exercise its autonomy rights. For example, this is done through strict regulations related to village administration and financial management issues handed over to the village government, accompanying the granting of authority in government affairs. As a result, the village government is preoccupied with organizing and accounting for administrative affairs and assignments (co-administered tasks) given to them. There is only one choice for the village government except to focus on being

accountable for administrative and financial matters in administering village governance, which are mainly funded by the Village Fund, so as not to cause legal problems. In fact, from ICW's findings in 2021 alone, there were 154 cases of Village Fund corruption carried out by the village government (Antaranews, [2022](#)). The problem so far has been the weakness of village framework competence, leadership, internal control, and external pressure, which has impacted the accountability of Village Fund management (Diansari et al., [2023](#)).

Indeed, one thing that has received public attention is how village communities' rights to communal land ownership often become problematic when the state intervenes. Furthermore, a primary traditional village right is the community's right to control communal land, which is part of their life. Customary land has economic meaning for village communities and symbolic meaning related to their existence in state life. Usually, the management of customary land is carried out by traditional communities in villages, which also symbolizes the existence of the implementation of traditional rights of village communities and being part of the autonomy rights of village communities (Bedner & Arizona, [2019](#)). This practice also reflects that the state must recognize the existence of traditional rights of village communities, which are held autonomously, the aim of which is to strengthen the community's economic independence while strengthening the government's legitimacy. Unfortunately, the facts contradict village communities who have to deal with the state and entrepreneurs who control community customary land, resulting in conflicts over customary land (Hardiyanto, [2021](#)). Only now, the issue of recognizing traditional village rights is still problematic, thus having an impact on how village autonomy is practiced in Indonesia.

Village autonomy is closely related to how the rights of origin and or traditional village rights are implemented. Article 19 of Law Number 6 of 2014 concerning villages explains that the authority of this origin right has the same position as other authorities, such as the authority to administer government, development, guidance, and community empowerment based on community initiatives. Following the right to autonomy in household affairs, except for the right of origin, the authority in administering government, development, fostering, and community empowerment is inherited and becomes part of the village's government administration. This administration's implementation is also supported by a number of financing that can be sourced from the Village Fund, the amount of which continues to increase from year to year. For example, data from the Directorate General of Regional Finance transferred Village Funds to villages, totaling 74,954, reaching Rp. 70 trillion, an increase from the previous year, was only Rp. 68 trillion (DJP, [2023](#)). Of course, this is very tempting, and the village community hopes to get this Village Fund.

This original right can be linked to the local wisdom owned by the community. This local wisdom is a value system in society that is applied as a guide in life which includes the habits and activities that they carry out daily. This local wisdom is an essential part of the sociocultural system that lives and develops in a society that has been practiced for generations, including how to govern. The local wisdom of governance includes the knowledge of the community and their wisdom in leading and maintaining peace and order for a common goal. This reality indirectly confirms that what is part of the village community's control because it is part of their lives is a human right that the state must recognize. This condition is in line with what was stated by Forrest "...attempted assertions of local control have taken the form of local environmental protectionism, smallholder land claims by third world villagers, ... It ought to be regarded, jurisprudentially, politically, and ethically, as a human right." (Forrest, [2021](#), p.1)

The community in the smallest unit, such as a village, has also practiced how power is organized to achieve common goals, especially in implementing autonomy rights, which existed long before the nation-state was formed in 1945. However, over time, the emergence

of post-colonial countries such as Indonesia integrated the existence of this village into the smallest unit of government in the national government system. This integration process also has implications for a village with its main character, such as the right of origin. The neglect of the use of village-origin rights is the result of them being combined with the day-to-day administrative affairs of the village government. The village government focuses more on its household affairs, which are regulated by law or assistance tasks given by the central government. Although at the initial stage, many parties supported that the issuance of the village law was part of the affirmative policy carried out by the government so that villages in Indonesia would become more advanced (Irawan, [2017](#), p. 17). However, after a decade of implementation, many other problems emerged in the village, including how the village with its original rights existed.

Meanwhile, the village's original rights, which should be the main characteristics of an autonomous village, cannot be explored and appropriately developed by the government and village communities. Meanwhile, village origin rights are part of the customary village authority. The question is, what about village communities that do not organize traditional villages? Can the authority of origin rights not be exercised even though their community also practices *adat* in daily life? Does their village have to be transformed into a traditional village first?

By taking the example of *Nagari* in West Sumatra Province and *Desa Adat (Desa Pakraman)* in Bali Province, this article explains that the low ability to explore the village's original rights and traditional rights has not been maximized by the village government. The powerlessness of these villages to elaborate on their rights of origin impacts the practice of local democracy in Indonesia. The village's existence as a legal community unit is in implementing the village's original rights. However, what stands out is the assignment given by the government. The problem is not only the limited human resources in the village but also the result of the village government not being focused on exercising the authority of this original right because of the heavy burden on the authority to administer the village government, which is related to the increasing Village Fund. Almost all villages in Indonesia have needed more focus on developing village origin rights due to attention being focused on managing the Village Fund effectively. The government even places its programs in the Village Fund, which the village government must implement. This article also explores the issue of exercising these original rights and their implications for local democratic practices in Indonesia.

RESULT AND DISCUSSION

Village Origin Rights and Their Problems

Since the submission of Village Funds by the central government, villages have received a sizeable amount of funds to manage. Management of Village Funds aims to help villages carry out their functions, significantly improving the quality of public services, community development, and empowerment. Gradually, the government has transferred 400.1 trillion Village Funds since 2015, which aims to improve the welfare of village communities through improving village infrastructure such as roads, reservoirs, irrigation, bridges, markets, clean water facilities, drainage, and so on (DJPB, [2022](#)). The government even encourages villages to plan the utilization of this Village Fund by involving community participation. Various regulations have been issued for villages to carry out what has been stipulated so that the Village Fund can be appropriately accounted for and benefit the community. Unfortunately, the Village Fund provided by the central government raises new problems in village

communities. First, people compete to become village managers, especially village heads. Although this desire can be justified, it cannot be denied that there is an economic motive behind the strengthening desire of many individuals to become village heads. Moreover, the government does have a desire to increase Transfer Funds to the Regions, including the addition of this Village Fund. Second, the increase in Village Funds being transferred to this area has implications for the obligation of the village government to account for its use by its designation. This phenomenon is undoubtedly a challenging matter for the village government. Especially with the limited human resources, it has to manage the Village Fund, which is very large for the village government. As a result, the focus of the village government is only on how to manage the Village Fund and be accountable for it by the designation existing regulations have regulated. Consequently, the village government only focuses on exercising its rights in governance. It must remember that it has other rights, namely the right of origin as an essential part of the village's existence.

If one looks at it, the village-origin rights regulated in this law tend to direct village autonomy to follow the government's goals. It means that the character of the ruling regime has its interpretation of how to direct the implementation of autonomy in villages. For example, before Law Number 6 of 2014 was issued, there was already a Government Regulation (Peraturan Pemerintah) Number 72 of 2005 concerning villages. There are significant differences when compared to the articles governing the rights of origin. In the Peraturan Pemerintah, the essence of this original right can be included in the administration of village governance, which is commonly known today. With conditions as long as the implementation of village government affairs is from the perspective of state government administration that keeps up with changing times. Even in practice, this original right is implicitly recognized as part of the village's autonomous household affairs in administering government. It can be seen in the explanation of this Peraturan Pemerintah that:

"government affairs which are the authority of the Village, include government affairs that already exist based on Village origin rights, government affairs which are the authority of the Regency/City which are handed over to the Village, co-administration tasks from the Government and Regional Government, other government affairs which are handed over to the Village by laws and regulations."

Given this difference, the basis for considering the granting of village authority depends on the interpretation of authority by the government by taking into account the political dynamics that occur in the region and the community's demands for the government. As a result, the authority of this original right needs to be implemented more consistently and tends to change. It can be seen from the shift in the implementation of origin rights in the administration of village governance and origin rights that only belong to customary villages. However, suppose the government prioritizes that the democracy aspect at the local level is based on the village. In that case, then strengthening this right of origin is the primary consideration that the government must give in drafting the Village Law without changing the form of a village to become a traditional village. Choices like this also weaken the spirit of the community to try to explore their rights of origin and traditional rights.

There are at least three important reasons why the government gave this authority of origin rights. First, the administrative interest in placing the village in the government structure. Second, political interests that see the dynamics of village community life that are increasingly participatory so that the government recognizes its existence in democracy. Third, social and cultural interests see the village's uniqueness as part of local wisdom in strengthening national life. These three are undoubtedly inseparable and interrelated with one another.

Placing the village as the spearhead of governance is essential. As a legal community unit, the village has the territory and resources the government needs. The government can

only manage its vast resources with state agencies in society. The village is a social institution that has existed for a long time in people's lives with solid ties of values and norms governing interactions among its citizens. Even long before the birth of a nation-state, especially in post-colonial countries like Indonesia, village communities had already shown their existence. For example, they have their system of government based on socio-culture, customs, and traditions that live in society. The character of the village government like this does feature traditional leaders as its leaders. Why is that? Because they get legitimacy from society traditionally.

In contrast to today's village heads, their legitimacy comes from the district government. In order to get a village head who is following the government's interests, characters that highlight customs and traditions are integrated into the administration of modern governance. Even in Peraturan Pemerintah No. 72 of 2005, this character is minimized by making this origin right to the preservation of the customs and culture of the village community. The government makes village authority subordinate to government authority. The process strengthens state infrastructure by making laws and regulations as the basis. The strength of this country's infrastructure makes the country autonomous and sovereign in the face of existing social organizations in society, including community units at the village level.

This infrastructure strength is part of the state autonomy that is indeed owned by a modern state (Gorski, [2005](#)). Besides, Mann explains that the power of infrastructure is the power the state possesses to penetrate civil society to carry out its actions in its territory (Mann, [2008](#)). This infrastructure strength is different from the state's despotic power, which tends to be anti-democratic because it does not provide space for discussion with the public. Meanwhile, the strength of this infrastructure arises because of the existence of laws made by the state, which become the basis for the government to carry out its actions toward the community. That is the government, on behalf of the state, regulates and controls what is in its interests based on existing laws and regulations.

In the context of authority based on village origin rights, the government, on behalf of the state, uses its infrastructure power to control these origin rights so that it ignores what should be owned by an autonomous village. Even though referring to the history of villages in Indonesia, the origin rights of this village also have characteristics that are almost the same as the state because the village also has capacities that are identical to the state, such as the power to regulate, control and carry out its functions which are recognized by the community. For example, this can be seen in customary law community units such as *Nagari* in West Sumatra Province or *Desa Pakraman* in Bali Province. The *Nagari* has characteristics like a modern state with extractive, distributive, regulative, symbolic, and responsive capabilities to protect its people, for example, in understanding *Nagari's* extractive capabilities, especially in exploring the potential of existing resources in the region. Among them are *Ulayat Nagari* land, forests, markets, rivers, and so on to strengthen its existence as an institution that controls the resources in its territory. The goal is to get a source of financing to carry out its second function, namely distributive ability. In other words, this function aims to allocate welfare sources to the people the *Nagari* government exploits. If people's welfare increases, the legitimacy of the *Nagari* government will also improve.

Desa Pakraman (Traditional Villages) in Bali Province also have an autonomous dimension with state character in carrying out their functions. Moreover, traditional villages in Bali, apart from official villages, have extractive, distributive, regulative, and symbolic capacities following the heritage of their ancestors, which is the guideline in village practices today. The conception of *Catur Dresta* and *Tri Hita Karana* represents the overall rights of village origin, which are still firmly held by the people of villages in Bali (Gunawan, [2014](#)). *Desa Pakraman* practices reflect the implementation of *Tri Hita Karana*, which includes

elements of *Parahyangan*, *Pawongan*, and *Pabelasan*. These elements are implemented in *Desa Pakraman* in Bali (Wedawitry et al., [2022](#)). However, the dynamics of traditional village communities that have to deal with modernization are shifting the essence of traditional villages, which should ideally be maintained and developed under their original rights.

The third ability is a regulative ability which is the dimension of *Nagari* sovereignty in front of its people. The *Nagari* regulations regulate how the community acts and behaves in the *Nagari* under the provisions made together. Violation of these *Nagari* regulations will be subject to sanctions from the *Nagari* government. Thus, the community will submit and obey what has been regulated. In Bali, it is also known that there are *Awig-awig*, which are village rules that make people's lives orderly. Many legal experts emphasize that the rights of origin in villages are reflected in their customary law (Mulyadi, [2015](#)). Another ability that is no less important is the symbolic ability which emphasizes the symbols of *Nagari* sovereignty in its territory. For example, there are *Nagari* banners known as *Marawa*, which symbolize the greatness of customary values in *Nagari*, which are the identity of each *Nagari*, which is autonomous. Traditional stakeholders who are essential to the *Nagari* government have authority over these symbols. The granting of customary titles and their use is regulated by the *Nagari* Traditional Council (KAN), which is the place where the traditional chieftains in *Nagari* gather (Asrinaldi, [2020](#)). Almost all villages in Indonesia also have symbolic capabilities by upholding the identity of their respective villages, which symbolizes their existence before joining the state. From this aspect, it is evident that the *Nagari* in West Sumatra and *Desa Adat* in Bali used to have authority over the rights of origin that lived and developed in their communities. Of course, this is also the case with villages or other names in other areas of Indonesia with abilities inherent in the presence of villages, especially those that existed before the colonial period in Indonesia.

If examined closely, *Nagari* and *Desa Adat* have almost identical characteristics, particularly as non-formal societal organizations. Although formal organizations are prominent in the administration of villages, in the practice of the lowest level of governance, *Nagari* and *Desa Adat* hold a solid social and cultural position within the community. For example, these *Nagari* and *Desa Adat (Pakraman)* represent the reality of the development of democracy in West Sumatra and Bali. However, in their development, this democratic practice has begun to be neglected by village governments because the responsibilities imposed by the government are more focused on the administration of governance at the lowest level. An example of local democratic practice in West Sumatra is depicted in the activities of *Nagari*. Nevertheless, since the Provincial Government of West Sumatra implemented the "return to *Nagari*" policy based on Regional Regulation (Perda) Number 9 of 2000, the government's focus has instead been on organizing administrative governance at the lowest level. This administrative organization became crucial because, during the New Order era, centralization in the administration of governance was the preferred choice to control power in the regions down to the village level.

The euphoria in *Nagari* has encouraged the community to organize *Nagari* based on the local social and cultural systems. However, problems arise when *Nagari* has less authority than the *Wali Nagari*. KAN, which is led by *ninik mamak* from the amalgamation of four or more clans in a *Nagari*, is an organization that preserves culture and customs based on the philosophy of *Adat Basandi Syara', Syarak Basandi Kitabullah*, actually lacks absolute authority in the administration of *Nagari* governance. KAN only functions as an organization that maintains religious practices (Islam) in *Nagari* and preserves the culture and customs in *Nagari*. KAN is also positioned as an institution that advises the *Wali Nagari* and its apparatus in administering the governance of *Nagari*. Meanwhile, in terms of executing and utilizing *Nagari*'s wealth for development, it is dominated by the *Wali Nagari*. Even with this, the ownership of *Nagari*'s

wealth by KAN tends to be symbolic, making it difficult for KAN to finance its activities and heavily dependent on funding from the Nagari government.

This reality is different from the traditional government in Bali, which controls the wealth of the *Desa Adat*, making the *Bendesa Adat* position very strong in terms of authority within the *Desa Adat*. The *Bendesa Adat* even controls the resources of the *Desa Adat* because they genuinely preserve the culture and customs of the Balinese people. The *Bendesa Adat* leads the *Desa Adat* (*Desa Pakraman*), which also serves as a Hindu Balinese community organization centered on territorial unity and spiritual and religious aspects. However, *Desa Adat* forms the basis for patterns of relationships and social interactions in Bali, grounded in tradition, customs, culture, and religion. The *Desa Adat* is closely associated with the three main temples (*Kahyangan Tiga*). The *Desa Adat* is autonomous in Bali, performing functions related to Hindu religion, culture, and customs. Under the *Perbekel*, the *Desa Adat* has autonomy in administering governance, and it coordinates with the *Bendesa Adat* when their duties and authorities are related to religious and cultural aspects. However, this situation changed during the New Order era, with the *Desa Dinas* becoming more significant due to the administrative authority granted by the government to manage its community (Gunawan, [2014](#), pp. 170-171).

Unfortunately, when the government places the *Wali Nagari* and the head of the *Desa Dinas* (*Perbekel*) as part of the administration at the lowest level, the aspects of democracy that should be implemented tend to be neglected. The ancestral rights in *Nagari* and *Desa Adat*, recognized by the state, are set aside due to the busy tasks and responsibilities assigned to the *Nagari* and *Desa Dinas*. The practice of democracy is considered to proceed naturally according to local customs. The *Nagari* government and the *Desa Dinas* government do not specifically carry out democratic affairs. Implementing the ancestral rights of *Nagari* and *Desa Adat*, the essence of local democracy is left to develop naturally. For the government, the success of democracy is measured by how well the administration and utilization of *Dana Desa* (village funds) are carried out and their impact on the community's welfare. For instance, they are encouraging the involvement of non-formal organizations in *Nagari* and *Desa Adat* to participate in the government's agenda, such as the *Musrenbang* (development planning meetings) (Putra, [2020](#)). *Musrenbang* is an important development agenda at the lowest level in Indonesia. Although there is an element of democracy, it does not compare to the essence of ancestral rights within the Indigenous community that needs to be developed.

It can be stated here that villages in Indonesia carry out the functions of a modern state even though they existed in the past. Even though today, this village power has merged into the power of the Unitary State of the Republic of Indonesia (NKRI), it still needs to be removed from the Village Law. It means there are aspects of village sovereignty that cannot be intervened by the state, which become the identity of the recognized village origin rights. Suppose one pays attention to Article 103 of Law Number 6 of 2014. In that case, it emphasizes that the character of the authority for village origin rights is only owned by traditional villages, not villages that have been known so far. By understanding this condition, what is visible is the regulatory process carried out by the government as well as directing the village government to carry out the functions of modern government by "removing" the right of origin—unless it transforms into a traditional village first.

First, this requirement is undoubtedly onerous for today's village government, which hopes the Village Fund will support the implementation of modern village governance today. Among them is improving the quality of public services, community development, and empowerment. At a glance, this matter is very relevant and needed by the community because this aspect is in direct contact with their interests. However, politically this dimension is

different from the nature of a genuinely autonomous village. The practice of carrying out the affairs entrusted to the village government is accompanied by administrative authority. However, the affairs of village administration are, of course, not just administrative but also political aspects, namely how to carry out government administration affairs while simultaneously exploring the authority that originates from the origin rights of the village.

For example, it encouraged the emergence of village government power based on local customs and culture. It means there is a special authority that belongs to the village government, which the government cannot intervene in because its existence precedes the presence of the state. This policy will benefit the village government by making it self-sufficient and developed. So it is not just carrying out administrative obligations imposed by statutory regulations, since so far, the village government has been seen to be more busy taking care of these administrative tasks and authorities because of the Village Law orders and their derivatives and have forgotten other principles that become their true power. Moreover, the government has set targets for implementing village government affairs submitted, including village administration work as an evaluation indicator evaluating village government performance. As a result, the village government's energy will be drained of administrative functions that they have to carry out. This condition reduces the meaning of an autonomous village due to the use of state infrastructure power in implementing the Village Law. Demands for performance realization, described by the targets and realization of compiled programs and activities, eventually become a "trap" for the village government. The focus of the village head is no longer to strengthen his political position as an entity that has autonomy but to become an entity that carries out government administration given and supervised by the government.

Second, the meaning of the political authority that belongs to the village as a right of origin is integrated into the authority to administer village governance. The government gives space for this original right to the village government in the context of preserving traditional customs, which are part of the socio-cultural system of the community in the village. The meaning of this political authority does not merely translate into socio-cultural affairs with mere traditional customs. Because of the history of the formation of this village, only some originate from the formation carried out by the state. Many of these villages emerged before the formation of the modern nation-state of Indonesia, which must be recognized as a form of the recognition principle contained in the village law. Therefore, the government should ideally acknowledge the existence of these rights of origin widely and simultaneously recognize the existence of villages. Unfortunately, the government places the authority for this right of origin into the socio-cultural authority that grows and develops in society. Not only that, but the government also emphasizes this right of origin in the aspect of economic management based on regional potential, which aims to improve the welfare of the community, such as in Ponggok village, Klaten (Putra, [2020](#)). However, such a policy is only partially appropriate. However, the legitimacy of the village government comes from more than just the economic sector. The power of the village government, which boils down to political action, originates from the socio-cultural system that develops in society. Thus, they recognize the traditional authority of the village leader. Unfortunately, in the Village Law, the government only recognizes this socio-cultural system as a tradition that must be maintained and becomes part of the village government's work program.

So what appears to be an attempt to obfuscate this right of origin is to say it has been eliminated. As a result, the legitimacy of traditional leaders in the village is no longer as a leader in administering government but only to maintain and preserve traditional customs. Meanwhile, the government legitimizes village heads' duties and powers through elections involving village communities. On the one hand, this process is very democratic because it encourages community participation in choosing its leaders. However, on the other hand, the

traditional authority, which is also the character of village-origin rights, has disappeared because liberal democratic practices have replaced it. In other words, a democracy that introduces direct elections electing village heads denies deliberative democracy, an original right in the village. Unfortunately, through the Village Law, the government is trying to standardize this democracy into the village head election procedure based on the most votes.

Third, another important aspect that needs to be highlighted is the socio-cultural system in society. The government views this socio-cultural system as nothing more than a village community identity. As a result, this dimension is only developed into the authority of the village government in the form of a work program to preserve traditional customs in the community. Interestingly, the village government left the implementation of this program to the customary entities in the village. The result is a reduction in the meaning of the socio-cultural system that forms the basis of traditional authority, leading to traditional leaders' political actions. Unfortunately, this socio-cultural system is only to complement village activities in Indonesia. Although several regions in Indonesia desire to revive political power based on a socio-cultural system, it is not easy. It is the impact of the people in the village getting used to the arrangements made by the government with all the financial consequences it provides. This phenomenon can be seen in West Sumatra Province, which has issued Regional Regulation (Perda) Number 7 of 2018 concerning Nagari. This regional regulation aims to revive the Nagari Adat as a requirement for exploring the original rights of the Nagari. This regional regulation expressly states that giving authority back to KAN to elect a Wali Nagari is indeed the original right of the Nagari. However, the mechanism for electing a Wali Nagari through KAN was rejected by the Nagari community in West Sumatra. After all, it was seen as no longer democratic because it did not involve community choices. Communities that are used to implementing direct democracy regulated in the Village Law to elect their leaders reject the authority of the traditional authorities to elect the Wali Nagari or village head. The reason is no longer in the context of the authority of origin rights but that the public interest needs to be represented by KAN, which tends to become the new oligarchic power in Nagari. Moreover, almost all village communities in Indonesia are used to direct elections which place themselves as subjects in directly selecting their leaders. Of course, this is a paradox because the people in Nagari reject the implementation of this right of the origin, even though the Perda on Nagari encourages the transformation from Nagari to Nagari Adat.

Meanwhile, in Bali, the existence of *Desa Pakraman* is regulated through Regional Regulation (Perda) Number 4 of 2019 concerning Traditional Villages, which is not much different from *Nagari* in West Sumatra, which has a traditional mechanism involving the Traditional Village Council (Pasikian) in administering traditional village governance. The Traditional Village Council, whose existence starts at the provincial, district/city, and village levels, aims to maintain the customs of the Balinese people, arranged hierarchically. Of course, some agree with this condition, and some oppose it because it is considered to homogenize traditional villages, thereby eliminating the essence of autonomy in the village (Widiantara, 2023). This condition is part of the rights of origin, which are being strengthened again by the indigenous peoples of Bali. Indeed, it is different from Nagari in West Sumatra, where the implementation of the election of the Nagari Mayor through deliberation and consensus by KAN still received resistance from the Nagari community. The differences in the implementation of rights of origin in West Sumatra and Bali will also be found in many villages in Indonesia, which are very diverse and dynamic, reflecting how the rights of origin are actually implemented. Indirectly, the Village Law gives rise to the village government's ambiguous attitude in understanding the village's original rights. Implementing the principles governing the authority of household rights receives more attention from the village government because of the incentives they receive through Village Fund transfers. Meanwhile,

implementing the recognition principle regulation leads to implementing the authority of village origin rights, which needs to be addressed because there are no incentives and demands from the central government to implement it.

Table 1. Principles for regulating village government authority and their consequences

| Regulatory Principles | Authority | Consequence |
|-----------------------|---------------------------------------|---|
| Recognition | Village origin rights | Village governments need to pay more attention to this authority because the village government receives no direct incentives. In addition, sanctions are only accepted if the village government implements this authority. |
| Subsidiarity | Local-scale village household affairs | The village government pays special attention to this authority because it receives incentives directly through Village Funds. There is a responsibility imposed on the village government to carry out this authority in the form of achieving targets, which will be rewarded by the government and punished if the accountability of the Village Funds used is not completed |

Sources: Processed from various library sources

Issues of Strengthening Village Origin Rights and Their Impact on Local Democracy

Even though the Village Law already regulates the implementation of village origin rights, these rights still need to be revised. However, the arrangement of these original rights can be improved under the realities and needs of the village community. The problem lies with the village government and its people to explore and develop how these rights of origin are implemented in village regulations. The regulations carried out by the government, especially the implementation of the principle of recognition and the principle of subsidiarity, are taken into consideration by the government, thus influencing how the village government digs deeper into the rights of village origin. This condition affects how the village government performs its functions in society, leading to the following problems.

First, administrative autonomy has to do with the authority of the village government to carry out the affairs entrusted to it. The problem is how the village government and the community explore and develop this administrative authority, but it is related to the original rights they have. The village government, together with the community, is expected to be able to explore what administrative authority needs to be added, which originates from these original rights. However, many village governments need to pay more heed to this right of origin and prefer to exercise the administrative authority granted by the Village Law. In the context of administrative autonomy for managing village affairs, the government also hands over the Village Fund, which must also be accounted for so that applying this authority has legal consequences. The administration of village government is also required to follow the principles of good governance so that the use of Village Funds in carrying out government functions can be carried out well. Even though Village Fund corruption problems are still being discovered (Putri et al., [2023](#)). Every year the government adds to this Village Fund so that the village government is preoccupied with the affairs assigned to it.

Meanwhile, the government will oversee the implementation of village government affairs along with the budget the village government uses. Through the rules made by the government, the village government and other government units are "forced" to work according to the "agenda" made by the government. Moreover, in carrying out village autonomy, the government also issued Norms, Procedures, Standards, and Criteria (NPSK) that bind villages to carry out their autonomy. Unfortunately, the NPSK limits the nature of village autonomy, which should be an actual feature of local democracy. With the conditions of development targets and realization set by the government, it is difficult for the village government to determine the authority of their original rights, especially in relation to autonomy in this field of government administration.

Second, financial autonomy is derived from providing affairs to the village government. Government affairs can only be carried out with adequate financial resources. Therefore, it is unsurprising that the Village Law regulates village finances, especially regarding the Village Fund. The government also encourages the emergence of innovative policies in order to stimulate the emergence of individuals in villages who are oriented toward economic independence. Unfortunately, the dependence of the village on the finance provided by the government is very high, which affects the independence of the village. What are the consequences? Not all villages focus on exploring their financial potential because they use Village Fund assistance. Village autonomy requires a creative village government to seek independent sources of financing to carry out its programs and activities. Only a few villages have been able to explore this potential for Regional Original Income (PAD) because, apart from the problem of limited village potential, there are also human resource issues that have yet to be able to explore this potential to generate PAD. Although, one of the powers in these original rights is in this economic and financial aspect which is part of the village's extractive and distributive capabilities. Moreover, in the practice of governance in the village, there are structural obstacles to exploring and developing these origin rights because they are tied to the NPSK in managing village finances, especially related to PAD.

The third is political autonomy that grows and develops in village communities. This political issue has always been a dynamic and a source of conflict in the village. For example, the village head election always gets more attention from the village community than the implementation of public services (Ahmad et al., [2023](#)). This phenomenon is interesting to observe. The community's high interest in power originating from the government through village head elections is part of the autonomy in the political field granted by the Village Law. Unfortunately, people only know that aspect. In fact, in the context of village-origin rights, authority in the political field is not just how to elect a village head. This dimension of political autonomy can also be related to the village government's symbolic power and regulatory power. For example, in the context of symbolic power, a socio-cultural system in rural communities lives and develops as a symbol that they must obey. The analogy can be seen in state power led by a president who becomes a symbol of the state when dealing with other countries. The village head should also be a symbol when interacting with other institutions outside their village. Therefore it is necessary to strengthen the village head election mechanism from the village socio-cultural system. Despite this fact, the village head election mechanism is regulated in the Village Law without referring to the socio-cultural system in a pluralistic society. Moreover, villages also have local wisdom in electing their village head according to their socio-cultural system. However, the government often neglects this space, so it also denies symbolic power, which is an essential part of village-origin rights in the political field.

Likewise, the regulative power, which is also part of the political autonomy owned by the village, is only limited to Village regulations (Perdes), whose application is nothing but

strengthening the implementation of administrative authority. These rights of origin in the political field, if developed, allow the village to make other rules, not only in the implementation of programs and activities that the government has determined through delegated affairs or assignments but also in the traditional authority in the political field that lives and develops in society. Moreover, these village regulations are at the discretion of the village head and the Village Consultative Body, which provides space to strengthen rights of origin as long as they do not conflict with statutory regulations (Damayanti & Saravistha, 2022). Unfortunately, the ability to make village regulations only focuses on how to carry out the administrative authority granted by law. It is not that village regulations are deliberately drafted to explore origin rights in the political field, even though the village government can dig into it from the historical side of the village it owns, especially villages that are not the result of the expansion. Even though the village government can dig into it from their history, especially villages that are not the result of division by the government, such as *Nagari* in West Sumatra, *Desa Pakraman* in Bali, and *Gampong* in Aceh, if this can be done, then the essence of the local democracy of this right of origin can be strengthened. The following table can summarize how village-origin rights have yet to receive attention from the Village Law. Likewise, it has yet to receive serious attention from the village government for development, even though many traditional authorities of the village community need to be explored, especially those related to political power. For example, the power of traditional authority is still alive and developing in society and can influence the political preferences of the village community (Asrinaldi, 2022).

In daily reality, rural communities live alongside informal politics played by traditional elites. Unfortunately, this informal politics has not been appropriately institutionalized because often the government sees that this informal politics of traditional elite power is considered to be contrary to the Village Law, which is enforced formally. It is, of course, a severe problem that needs to be addressed by the government if it wants to strengthen democracy at the local level.

Table 2. Problems and potential for developing village origin rights

| Field of Village Authority (Village Autonomy) | The Problem of Examining Origin Rights | Potential Development of Origin Rights |
|---|---|--|
| Administrative | Only focus on the authority granted by the Village Law | The village government added other indicators in implementing village administration outside of the administrative authority given by law based on the habits that live in society. |
| Finance | Only focus on the elaboration of administrative authority | The development of non-village village financial potential is not only the aspect of PAD but also the habits of the village community that can help the village economy, which has a substitute value for PAD. |
| Politics | Only reduce the authority from the administrative aspect | Refers to the history of the village and the habits that live in a society based on a developing system of customary and cultural values |

Sources: Processed from various library sources

CONCLUSION

This article has explained how the existence of village-origin rights has problems in its application. By studying the phenomena that exist in *Nagari* in West Sumatra and *Desa Pakraman* in Bali, which have a clear history of exercising the authority of their rights of origin, they experience conditions of ambiguity. The village government tends to pay special attention to implementing village household authority accompanied by several budgets from the central government through Village Fund transfers. Meanwhile, the authority of origin rights that can be developed with the principle of recognition through Village Regulations tends to be ignored because it has no consequences for village communities. This article finds the emergence of an ambiguous attitude of the village government when implementing the authority delegated to it through arrangements based on the principle of subsidiarity. Applying this principle encourages village governments to focus on how to carry out government affairs with the demands of targets that must be achieved.

On the other hand, Village Fund transfers accompanying the implementation of village authority must be administratively accountable, often leading to legal issues. Meanwhile, another regulatory principle essential to implementing village origin rights, namely the principle of recognition, receives less attention. These rights of origin are the identity of village communities with their local democratic practices, which are now starting to shift due to the principles of modern government that continue to develop. However, this article certainly has limitations as the data used to analyze this issue is very limited, relying solely on secondary data. Therefore, to enrich the findings of this research, a more in-depth study using empirical data is needed to explain how the implementation of ancestral rights in villages in Indonesia is carried out.

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