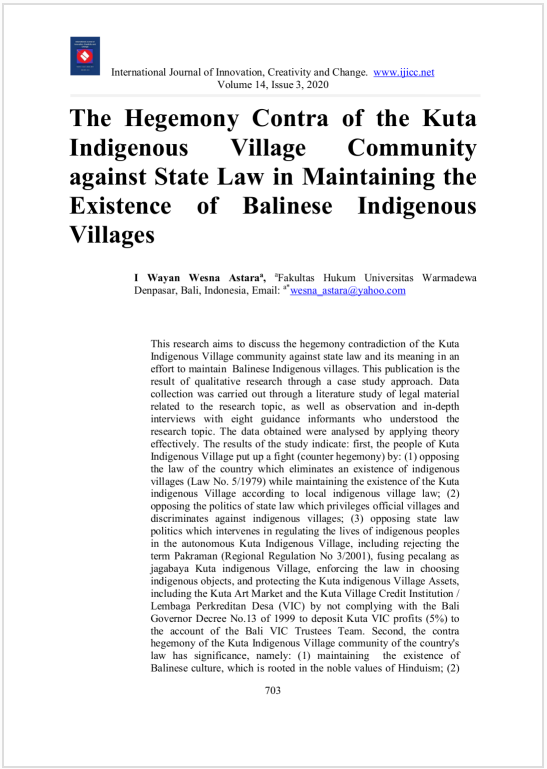
Digital Receipt

This receipt acknowledges that Turnitin received your paper. Below you will find the receipt information regarding your submission.

The first page of your submissions is displayed below.

Submission author:	I Wayan Wesna Astara
Assignment title:	Article Assingment
Submission title:	The Hegemony Contra of the Kuta I…
File name:	14345_Astara_2020_E_R.pdf
File size:	519.64K
Page count:	20
Word count:	8,096
Character count:	45,175
Submission date:	14-Oct-2020 07:48PM (UTC+0700)
Submission ID:	1414909801



International Journal of Innovation, Creativity and Change. www.ijicc.net
Volume 14, Issue 3, 2020

The Hegemony Contra of the Kuta Indigenous Village Community against State Law in Maintaining the Existence of Balinese Indigenous Villages

I Wayan Wesna Astara[a], [a]Fakultas Hukum Universitas Warmadewa Denpasar, Bali, Indonesia, Email: [a]wesna_astara@yahoo.com

This research aims to discuss the hegemony contradiction of the Kuta Indigenous Village community against state law and its meaning in an effort to maintain Balinese Indigenous villages. This publication is the result of qualitative research through a case study approach. Data collection was carried out through a literature study of legal material related to the research topic, as well as observation and in-depth interviews with eight guidance informants who understood the research topic. The data obtained were analysed by applying theory effectively. The results of the study indicate: first, the people of Kuta Indigenous Village put up a fight (counter hegemony) by: (1) opposing the law of the country which eliminates an existence of indigenous villages (Law No. 5/1979) while maintaining the existence of the Kuta indigenous Village according to local indigenous village law; (2) opposing the politics of state law which privileges official villages and discriminates against indigenous villages; (3) opposing state law politics which intervenes in regulating the lives of indigenous peoples in the autonomous Kuta Indigenous Village, including rejecting the term Pakraman (Regional Regulation No 3/2001), fusing pecalang as jagabaya Kuta indigenous Village, enforcing the law in choosing indigenous objects, and protecting the Kuta indigenous Village Assets, including the Kuta Art Market and the Kuta Village Credit Institution / Lembaga Perkreditan Desa (VIC) by not complying with the Bali Governor Decree No.13 of 1999 to deposit Kuta VIC profits (5%) to the account of the Bali VIC Trustees Team. Second, the contra hegemony of the Kuta Indigenous Village community of the country's law has significance, namely: (1) maintaining the existence of Balinese culture, which is rooted in the noble values of Hinduism; (2)

The Hegemony Contra of the Kuta Indigenous Village Community against State Law in Maintaining the Existence of Balinese Indigenous Villages

by I Wayan Wesna Astara

Submission date: 14-Oct-2020 07:48PM (UTC+0700)
Submission ID: 1414909801
File name: 14345_Astara_2020_E_R.pdf (519.64K)
Word count: 8096
Character count: 45175

International Journal of Innovation, Creativity and Change. www.ijicc.net
Volume 14, Issue 3, 2020

The Hegemony Contra of the Kuta Indigenous Village Community against State Law in Maintaining the Existence of Balinese Indigenous Villages

I Wayan Wesna Astara[a], [a]Fakultas Hukum Universitas Warmadewa Denpasar, Bali, Indonesia, Email: [a*]wesna_astara@yahoo.com

This research aims to discuss the hegemony contradiction of the Kuta Indigenous Village community against state law and its meaning as an effort to maintain Balinese Indigenous villages. This publication is the result of qualitative research through a case study approach. Data collection was carried out through a literature study of legal material related to the research topic, as well as observation and in-depth interviews with eight guidance informants who understood the research topic. The data obtained were analysed by applying theory effectively. The results of the study indicate: first, the people of Kuta Indigenous Village put up a fight (counter hegemony) by: (1) opposing the law of the country which eliminates an existence of indigenous villages (Law No. 5/1979) while maintaining the existence of the Kuta indigenous Village according to local indigenous village law; (2) opposing the politics of state law which privileges official villages and discriminates against indigenous villages; (3) opposing state law politics which intervenes in regulating the lives of indigenous peoples in the autonomous Kuta Indigenous Village, including rejecting the term Pakraman (Regional Regulation No 3/2001), fusing pecalang as jagabaya Kuta indigenous Village, enforcing the law in choosing indigenous objects, and protecting the Kuta indigenous Village Assets, including the Kuta Art Market and the Kuta Village Credit Institution / Lembaga Perkreditan Desa (VIC) by not complying with the Bali Governor Decree No.13 of 1999 to deposit Kuta VIC profits (5%) to the account of the Bali VIC Trustees Team. Second, the contra hegemony of the Kuta Indigenous Village community of the country's law has significance, namely: (1) maintaining the existence of Balinese culture, which is rooted in the noble values of Hinduism; (2)

maintaining the existence of The Kuta Indigenous Village in particular, and traditional villages in Bali in general based on the Tri Hita Karana philosophy; (3) as a form of the Balinese Ajeg action, namely the efforts of the Balinese to uphold their cultural traditions based on the teachings of Hinduism, and remain a host in their own hometown.

Keywords: *Hegemony contra, Kuta's indigenous people, State law, Defending indigenous villages.*

Introduction

The shift of the New Order era to the reform era in 1998 was marked by constitutional changes governing regional governance and village existence. The amended constitution was named the Republic of Indonesia 1945 Constitution/ *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (*UUD NRI Tahun 1945*). Through provision 18B of the Indonesia 1945 Constitution, the state expressly recognises and respects special local government units and recognises and respects the indigenous law community units along with their traditional legal rights as long as they are alive and in accordance with society developments and Unitary Republic of Indonesia principles.

In an effort to carry out the mandate of Article 18B of the 1945 NRI Constitution, Law Number 32 of 2004 concerning Regional Government (*UU Pemda*) was enacted. Through this Local Government Law, villages are not included in the territorial decentralisation scheme. The Regional Government Law does not admit Village autonomy, but only admits regional autonomy. Village regulation is contained in Chapters XI Article 200 to Article 216 of the Regional Government Law and Government Regulation No. 72 of 2005 concerning General Guidelines for Regulations Regarding Villages (*PP No. 72/2005*). According to the Local Government Law, the Village is a legal community unit that has territorial boundaries that are authorised to regulate and administer the interests of the local community, based on local origins and customs that are recognised and respected in the system of the Republic Indonesia Unitary State.

The existing villages before the invaders had to be recognised and respected by the state. They are local community organisations that have territorial boundaries, are inhabited by a number of residents, and have indigenous customs to manage themselves (self-governing community). Some areas in West Kalimantan, Aceh, East Nusa Tenggara, Maluku, and Bali traditional village institutions have a stronger influence than the village agency (PP No.72 / 2005).

The life of the Bali indigenous village community continues to develop dynamically in accordance with the principles of the village, *kala, patra.* The people of the Kuta Traditional Village still uphold customary law and do not simply accept and implement state law. In an effort to enforce customary law, the people of the Kuta Indigenous Village tend to fight (counter hegemony) against the politics of state law, especially those related to indigenous villages. The people of the Kuta indigenous Village continue to maintain the traditions and culture of Bali originating from Hinduism (Karmini, 2020), (Karmini, 2019), (I. C.-J, 2020) , (Sueca, 2020).

Balinese indigenous villagers live according to the philosophy of *Tri Hita Karana*, a balance between humans and their peers (pawongan), humans and their environment (*palemahan*) and human relationships with His Lord or Worship (Mantra, 1996). In addition to the philosophy of *Tri Hita Karana*, traditional villages in Bali also implement village principles, kala, patra based "*desa mawa cara, negara mawa tata*". That principle provides an opportunity for indigenous village to remain stable and understandable that indigenous village and village agency can coexist without integration of two villages into one for indigenous villages in Bali (Waya, et al. 2020), (Karmini., 2020).

In order to regulate the existence of indigenous villages in Indonesia, the government implements legal and political rights by issuing a series of legal policies. According to *Garuda Nusantara*, legal politics is a legal policy implemented nationally by a state government. Legal policy is an effort to develop law through the making and updating of legal materials in order to be in accordance with the needs (Rittich, 2004).

The process of developing state law related to indigenous villages continues to be carried out by the government, both the central and regional governments from the New Order of the current Reform Order. In this new order era, the government has issued policies related to village governance arrangements, including Law Number 5 of 1979 concerning Villages, Regional Regulation Number 06 of 1986 concerning indigenous villages. Furthermore, in the reform era, the central government also has issued legal policies, including RI Law Number 32 of 2004 concerning Regional Government and RI Law Number 6 of 2014 concerning Villages. In the reformation era, the Balinese provincial government also issued legal products related to indigenous villages, namely the Province Bali Region Regulation No. 3 of 2001 concerning *Pakraman* Village and Province Bali Region Regulation No. 4 of 2019 concerning Balinese indigenous villages.

All of the country's legal products have hegemonised the existence of the Balinese indigenous villages, The UU no. 5 of 1979 concerning Village Government, for example, which in real terms does not accommodate (not concede) the existence of Balinese indigenous villages. Many parties consider that law governing village government (No. 5 of

1979) is a centralised policy and uniformity of the Village Government system, regardless of cultural dynamics and origins of villages in carrying out a task according to culture in community lives.

Besides developed state law by the government of the Republic of Indonesia, local government and state law products also hegemonise the existence of Balinese indigenous villages. The state's legal products among the regions are: Bali Provincial Regulation Number 06 of 1986 concerning indigenous villages. The autonomous Indigenous Village has been fully regulated by the ruler (Country). This is reflected in Article 12, Paragraphs (1,2 and 3) which states that there is Indigenous Villages Development, namely the Governor assisted by *Majelis Pembina Lembaga Adat* (MPLA), BPPLA (*Badan Pelaksana Pembina Lembaga Adat*) whose composition (structure) is determined by the Governor. This indicates that the existence and fate of an indigenous village is in authorities' hands (Rideng and Sukandia 2018).

In an effort to respond to an enactment of hegemony indigenous state law, people of the Kuta Indigenous Village took the fight (counter hegemony) with efforts to enforce local customary law (*awig-awig*). The Kuta Indigenous Village does not heed the existence of Law No. 5 of 1979, being critical of the country's legal products and maintaining the extension of the Kuta indigenous village.

Kuta Indigenous Village people continue to uphold the Kuta indigenous village autonomy principle, including implementing *awig-awig* to select the indigenous Kuta *prajuru*. Kuta Indigenous Community people also seek to protect the assets (economic capital) owned by the Kuta Indigenous Village, including managing Village Credit Institute/ *Lembaga Perkreditas Desa* for Indigenous Kuta manners prosperity. In safeguarding the Kuta *VIC* economic assets, the Kuta Indigenous Village take counter-hegemonic actions to the Bali Provincial *VIC* founder team.

Through that background, this research will discuss: (1) how Kuta Indigenous Village carries out counter-hegemony against state law?; (2) what is the meaning of counter hegemony towards the country's law in an effort to maintain the existence of a Balinese indigenous village?. Hopefully, theoretically this publication will become part of critical law study related to the existence of Indonesia's indigenous villages. Furthermore, this publication can also be used as valuable input for relevant stakeholders who deal with legal issues in the lives of the Balinese indigenous peoples.

Literature Review

This research discusses the hegemony community specifically of Kuta Indigenous Village against state law in an effort to maintain Bali's indigenous village's existence. It is suitable for research publications related to customary law and state law and the implementation of Village Governance enforcement.

The existence of customary law as the basis for implementing village governance in Indonesia has gone through a long history. The Customary law's existence in the Village Government Administration has existed for a long time. In Bali, the *Pakraman* Village applies Customary law directly to community members in the form of services for religious/indigenous interests; while the Dinas village applies it indirectly, namely in the Village Regulation to serve social needs based on solidarity and mutual assistance. The customary law applies in the village governance, administration is reflected in attitudes and behaviour of citizens towards implementation of the village government system. The community members feel partly responsible for the village government system implementation. People obey the rules of customary law because they fear sanctions if they break them. A constraint to customary law applicable in the administration of the village government is the occurrence of differences in norms between state and customary law. Wise and appropriate anticipation solutions are needed. It is recommended that: (1) The diversity of village governance systems needs to be addressed as a social reality. A legislator should be more careful in making regulations regarding villages in Indonesia so that on the one hand it does not cause improper impacts by the community, on the other hand, it must also remain in the corridor to maintain the continuity of *N.K.R.I*; (2) *Awig-awig* unity throughout Bali needs to be realised, in order to facilitate social interaction among Balinese citizens; (3) If there are obstacles in the form of differences in state law norms with customary law, it is necessary to anticipate this by synchronising both. With living law and living ethics, the law can be obeyed in Bali.

Aside from being guided by customary law, villages, in Bali's existence, are also regulated by national law. In this connection, the research findings shown by (erspektif, 2015), (Jatiswara, 2018) indicate that: (1) After the enactment of Law Number 6 of 2014, the position of villages in Bali is divided into two: Indigenous Villages which functions to take care of matters relating to the indigenous and Agency Village, which functions to take care of matters related to population administration; (2) Until now, the position of villages in Bali is still based on Law Number 6 of 2014, because it has implications for harmony and the preservation of Balinese culture in a global era.

It may be concluded that the village is a political entity that has a strategic role in achieving welfare goals for Indonesian people (Sukma, 2004), (Gindarsah, 2015). State Urgency

recognises the functions of indigenous villages, including; (a) Restoring the identity and culture of rural communities, (b) Developing and preserving local wisdoms which are the life systems of indigenous villages, (c) As controlling the effects of globalisation that can destroy the social and cultural Indonesian society, and (d) Restoring national identity. The concept of unification is one of the causes of the displaced power system and character of indigenous peoples' lives through policies issued by the State. Therefore, it is important to realise the concepts of law that describe the character and culture of Indonesian society, according to the times and the laws that exist in society. In its development, the concept of Indigenous villages is difficult to operationalise because it is influenced by various struggles related to the concept of legal unification, pluralism, and internationalisation in the Indonesia legal system.

Balinese indigenous villages have customary law, *awig-awig*. (Roth and Sedana, 2015) concluded that through Article 18B of the 1945 Constitution of Republic Indonesia (NRI 1945), indigenous and indigenous unity peoples have a special position in village government administration. Village governance, administration in Bali can be seen from the concept of *Tri Hita Karana's* application in village governance, administration with one concrete proof that there is a *Pakraman* Village other than an agency village.

Customary law upholds human values. In this connection, (Yusa, 2018), examined whether the substance of traditional Balinese legal instruments (*Awig-awig*) is contrary to human rights law. This study uses normative legal research. The results showed that *Awig-awig* as a traditional legal instrument on the one hand was shaped as unwritten law, but on the other hand, it was constructed in the *Pakraman* Village based on Bali Regional Government Regulation No. 3/2001. Therefore, from the norm hierarchy, *Pakraman* Village is not a community that is fully autonomous in making provisions, let alone separated from the Republic of Indonesia Unitary State. Traditional legal instruments must be in line with national law and international law, especially those related to human rights values. Although it aims to maintain a cosmic balance of the universe, it seems that international and national instruments related to human rights need to be used as a reference by *Pakraman* Village in establishing customary rules, especially those relating to loneliness (rejection from *Pakraman* Village) and erroneous manners (related to sanctions for male and female twins born at the same time) that have potential to cause social friction due to interference with human rights values and decent living standards.

None of the research publications above address the issue of counter-hegemony of the Kuta Adat Village community on state law in an effort to preserve Balinese culture. However, all of these publications are valuable references for preparing this research.

Method

This research is made up of qualitative research results with a case study approach. Case studies are research tools that aims to describe in detail the background, character, and particular case characteristics in the form of individuals and organisations so that these characteristics can be used as general things (Goyena and Fallis, 2019), (Baxter and Jack, 2020). As a result of the case study, the research specifically discusses the resistance (counter-hegemony) of the Kuta Indigenous Village against state law, specifically related to an indigenous village existence.

This research discusses the research object, namely customary law's existence (*awig-awig, pararem*), which opposes (counter-hegemony) state law in the Kuta Adat Village, Bali. The determination of the object and location of this research is based on several reasons: (a) Kuta Indigenous Village is part of a Balinese indigenous village that is located in the Kuta tourism centre area; (b) Despite being in touch with tourism and modern life, the customary law (*Awig-awig*) of the local indigenous village is still alive and strongly held by its supporters; and (3) The indigenous village's existence and customary law (*Awig-awig*) is still maintained consistently despite being contradictory (counter-hegemony) to national law.
The data collection process was carried out through document study, participatory observation, and in-depth interviews with eight informants who understood the research topic. The data obtained were analysed by applying theory effectively, namely Lawrence M. Friedman's legal system theory, Michel Foucault's power/knowledge theory, and Bourdeau's social practice theory (Bourdieu, 1977), (Foucault, 1980).

Results and Discussion

The Hegemony Contra of Kuta Indigenous Village Community Against State Law

Besides being regulated by local customary law (*awig-awig*, *pararem*), the life of Kuta's indigenous people is also governed by state law politics. According to (Roth and Sedana, 2015), (Sassen, 2008) legal politics are a statement of the will of the state authorities regarding the force of law in their territory, and regarding the direction of built legal development. The statement regarding the force law in territory contains the law in force understanding today (constituting) and regarding the development direction of the law which is built to contain the notion in future law (constituendum). In the political context, national law includes: (1) Consistent implementation of existing legal provisions; (2) Legal development which is essentially a renewal of the existing legal provisions and considered obsolete, and the creation of new legal provisions needed to meet development demands that occur in society; (3) Affirmation of law function enforcement agencies or law implementation and development of its members; (4) Increases in public legal awareness according to perceptions of elite groups of policymakers.

A country has its own legal politics that are different from other countries' legal politics. This difference is due to variations in historical backgrounds, world views, socio-cultural and the political will of each government. In other words, legal politics are local and particular (only applies to and from certain countries), not universal (applies all over the world). Therefore, a country's legal politics ignores reality and international legal politics. According to Sunaryati Hartono, the factors that will determine legal politics are not solely determined by what we aspire to or depend on the will of lawmakers, practitioners or mere theorists, but they are also determined by the reality and the development of law in other countries and the development of state law (Niessen, 2006, A. B, 2020).

From the New Order era to the current era of reform, the Balinese indigenous village's existence, including the Kuta Indigenous Village, was hegemony by state law. Because the country's legal politics are detrimental to Kuta Indigenous Village's existence, resistance (counter-hegemony) of the Kuta Indigenous Village community against state law took place. The substance of the contents of state law, which is opposed by the people of the Kuta Indigenous Village includes sharing aspects of life as listed in Table 1.

Table 1. *Some Legal Substances Opposed by the Kuta Indigenous Village Communities Source: Processed from Field Findings [27], [28].*

State Legal Products	The Content Substance of Opposed Law
1. Law No.5 of 1979 concerning Village Government 2. Regional Regulation No 06 of 1986 concerning Customary Villages 3. Regional Regulation No 3 of 2001concerning *Pakraman* Village 4. Bali Provincial Regulation No 4 of 2019 concerning Customary Villages in Bali 5. Bali Governor Decree No. 13 of 1999 concerning Depositing and Using *VIC* Net Profit 6. Bali Provincial	Resistance from Kuta Indigenous Village people: ▪ Not accepting "Abolition of indigenous villages" (Law No.5 / 1979) ▪ Disagreeing with the designation of the hamlet (Law No.5 / 1979, Article 7), and still maintaining the Banjar as part of the village area ▪ Disagreeing that the position of an indigenous preacher is under the sub-district head (Law No. 5/1979, article 1 letter a) ▪ Poor acceptance of the discriminatory treatment of indigenous villages' position (official villages are superior to indigenous villages) ▪ Did not accept the hegemony of the indigenous guard/ indigenous village coach (Regional Regulation No 06/1968, Article 12) ▪ Do not accept the term village *Pakraman*, and still choose the term indigenous village (according to Regulation No. 066/1986)

Regulation Number 4 of 2012 concerning Village Credit Institutions (*VIC*).	▪ Do not accept arrangements related to migrant populations (Regional Regulation No / 3/2001, Article 3, Paragraph 6) ▪ Demanding that the status of indigenous villages is equal to official villages, indigenous villages as legal subjects (Regional Regulation No. 4/1919, Article 5), receive funding allocations from the government (Regional Regulation No. 4/1919, Article 68) ▪ Maintaining indigenous village assets (*VIC* profits), by refusing to deposit development funds to the Bali Provincial Government (Kepgub No13 / 1999)

First, the Kuta Indigenous Village's people are conducting counter-hegemony against Law Number 5 of 1979 concerning the Village Government with efforts to maintain Kuta Indigenous Village existence. In addition to not accommodating the existence of adat villages, the issuance of state law in the form of Law Number 5 of 1979 concerning Village Government aims to strengthen the authority of the New Order government at the village level. The village is defined as "One area occupied by a number of residents as a community unit, including a legal community unit that has the lowest government organisation directly under a headman and has the right to organise its own household in a union of Republic Indonesia unitary state".

Law No. 5 of 1979 only mentions official villages and eliminates the existence of indigenous villages, and places village officials under sub-district officials so that central government legal products are referred to by various circles as centralistic regime policies. The application of this policy not only puts the village as the spearhead, footwear (as the lower unit organ) but also is determined to uniform villages or communities in the same scheme community (local). The nuances of the 'occupation' and 'mastery' of the state over the village are very thick.

According to, every legal discourse cannot be separated from the operation of power, knowledge, and social realisation between the two, which results in what is called truth and justice. The search for legal truth is not just an attempt to explore the objectivity of knowledge in order to find a final truth (logos), but a battlefield, in which there is a cultural

battle (also from the "economic" aspects) and politics to gain access and power in defining the truth itself, no matter whether the truth product represents the final truth or not.

The law as a cultural product should be influenced by power and knowledge relations as an instrument to uphold justice and uphold the rights and potential of the local people. However, in Law No. 5/1979 there is a compulsory nomenclature in the designation of sub-villages, namely *Dusun* (village) which is headed by the *Dusun* head (Law No.5 / 1979, Article 7). If the policy on the existence of this village is implemented in Bali, the Banjar will disappear, and so will the customary interpreter, especially *kelian* adat, but also will not exist. In fact, the Banjar indigenous-led by *kelian* indigenous has an important role in the life of the Balinese Hindu community.

Law No. 5 of 1979, which only regulates official villages, is not at all suitable for Bali, which has a village dualism system (traditional villages and official villages). For this reason, the people of the Kuta Traditional Village reject the existence of a central policy on the existence of the village (Law No.5/1979) and still maintain the existence of their traditional village.

Not only the Kuta indigenous people rejected Law No. 5 of 1979, the community and Bali provincial government also carried out resistance (counter-hegemony) to the new order regime's policy of wanting to homogenise villages in Indonesia. In an effort to save the Balinese indigenous village's existence, the Bali Provincial Government and Bali *DPRD* have issued Regional Regulation No. 06 of 1986 concerning Indigenous Villages. This policy was deliberately issued to care for and protect indigenous villages and the local order of the Balinese Hindu community. This policy was developed to compliment the Minister of Domestic Affairs Regulation No. 11 of 1984, regarding the fostering and development of village customs and traditions.

Kuta Indigenous Village people are carrying out counter-hegemony against the state law, politics that privileges official villages and discriminates against indigenous villages. This demand is in line with the current changes in the reform era in the early 2000s. The Republic Indonesia Government of issues Law No. 22/1999 concerning Regional Government. UU no. 22 of 1999 defines the Village as follows: "Village or referred to by other names, hereinafter referred to as Village, is a legal community unit that has the authority to regulate and manage the interests of local communities based on local origins and customs recognised in the national government system and in the Regency Area ".

Law No.22 of 1999 provides space for regions to regulate their regional governments. Incidentally, in this reform era the majority of *DPR* members sat in the *DPRD* Bali *PDI Perjuangan* as the winner of the election. Like [23] theory of power-knowledge relations, the Bali *DPRD* revoked Regional Regulation No. 06/1986 because it was judged as a new order

product, and replaced it with a newly legal product, namely Regional Regulation No. 3/2001 concerning *Pakraman* Village.

Regional Regulation No. 3/2001 concerning *Pakraman* Village is expected to be able to accommodate the interests and aspirations of the Balinese people in maintaining indigenous villages. However, it turns out, the position of indigenous villages is not yet equivalent to official villages, and even indigenous villages tend to be discriminated against. According to the Kuta indigenous officers, as well as observers of the Bali customary law, the official village is treated with more privilege than the indigenous village, even though the two forms of village have an equal role. When official villages have more roles in administration, indigenous villages play a role in the fields of traditional, indigenous, and religious life. The Kuta Indigenous Community does not agree if the traditional village is treated more imperially than the official village. For this reason, Kuta indigenous officers tend to acknowledge the existence of Regional Regulation No 06 of 1986, which gives a place to traditional villages in line with the official villages. The working relationship between the Prajuru Indigenous Village and the Village Head is consultative and coordinating (Article 13).

The Kuta Indigenous Village community, as well as the Bali indigenous community in general, have made endeavours to demand and maintain the indigenous village existence and want a position where the indigenous village is equal to the official village. The struggle and aspirations of the Balinese people to further empower and strengthen the existence of indigenous villages in the current reform era are increasingly being realised. The position of the indigenous village is more aligned with the service village. This is clearly reflected in the contents of the Regional Regulation of the Province of Bali No. 4 of 2019 concerning Balinese Indigenous Villages. The new policy of the provincial government of Bali (Regional Regulation No 4/2019) was issued to regulate the development of indigenous village organisations.

The Bali Indigenous village has been officially recognised as a legal subject (Article 5, Regional Regulation 4/2019); before this policy was born, the status of the Indigenous village was only as a subject of treaty law. In addition, like official villages, indigenous villages also receive funding support (budgeting) sourced from the Provincial Regional Revenue and Expenditure Budget allocated through regional apparatus that handles the affairs of the Indigenous Villages (Article 68). Of course, this budgetary support is needed by Bali villages in an effort to realise Indigenous Village concreteness which includes peace, prosperity, happiness, and sacred, and noetic peace (Regional Regulation No. 4/2019, Article 21).

Kuta indigenous villagers oppose state political laws, which intervene in regulating the lives of indigenous peoples in the autonomous Kuta Indigenous Village, both concerning the issue

of poverty, pawongan problems, and the problem of the devil. In this regard, Kuta's indigenous people seek counter-hegemony regarding the following legal issues in state law.

Opposing Nomenclature "Pakraman Village", Defending the term Indigenous Village

The Kuta Indigenous community does not fully accept Regional Regulation existence No. 3/2001 on *Pakraman* village, and rejects the nomenclature (term) "*Pakraman*", because the use of the term "*Pakraman*" has consequences for membership treatment of local indigenous communities. This relates to Article 3 Paragraph (6) "For the village manners of Banjar *Pakraman* who are not Hindus only have pawongan ties and *palemahan* within the territory of the village / banjar *Pakraman* whose rights and obligations are regulated in indigenous village *awig-awig* or *pararem* banjar *Pakraman* each". This article was interpreted and deconstructed by the Ben*desa* adat, the Kuta adat prajuru, and Kuta community leaders, that this article contains "conflicts" is forward because it includes non-Hindu elements in village manners who will demand rights and obligations.
The Regional Regulation presence in *Pakraman* Village (No. 3/2001), indeed reaped the pros and cons. The traditional officers of the Kuta Indigenous Village did not accept it. The reason: the effort to change the Kuta Indigenous Village into a *Pakraman* village means that it will change *awig-awig*, which is a very long process both on a scale and noetic basis. This counter-attitude was reinforced by the MUDP Secretary, who argued that the migrant population did not need to be taken care of by the indigenous village so that it would be administered only by the official village. The migrant population is not manners, as a "membership" in the adat village. They do not have the rights, both in terms of pawongan, *palemahan*, and parahyangan [27], [28].

Responding to municipality's attitude towards *Pakraman* Village Regional Regulation (No.3/2001), Representatives of the Bali Regional House in the 1999-2004 period continued to try to defend themselves. As an institution that initiated the birth of the Regional Regulation of *Pakraman* Village, they kept on establishing that the implementation of migrant population regulation (Regional Regulation No. 3/2001 / Article 3) could be carried out by the adat village party. Alit Kelakan, a PDIP spokesperson, believes, "with its autonomy rights, adat villages can regulate the pawongan problem and the palpitation of migrants. This legal policy is multicultural in the container of the Indonesia Unitary Republic" [27], [28].

The Kuta Indigenous Village has a separate policy in managing local residents. It was stated that "The person who manages the village is a person who is a member of the village according to the procedures and conditions stipulated in village *awig-awig* (Regional Regulation No.3 / 2001, Article 3). To become a village manner is not only based on the principle of domicile, but also applies the principle of an active system which is the request

of someone (who is married) to become a village manner. Thus, it can happen that a traditional manner does not live in the local Banjar, but outside the village area concerned. Provisions are made on autonomous Kawacara villages, and villages, *Kala*, *Patra* with the spirit of human rights, nationalism in the Unitary State of the Republic of Indonesia.

Krama Kuta Indigenous Village, including migrants, is regulated by *Awig-awig* and the *Pararem* Kuta Indigenous Village. In accordance with the philosophy of *Tri Hita Karana*, the Kuta Adat Village actively supports migrant residents so that harmonious relations between residents (pawongan) are realised. When problems occur that a threat or danger (baya) associated with pawongan and *palemahan* will be resolved based on *awig-awig* or *pararem* of the Kuta Customary Village, or resolved through a process of paruman village / local banjar [27], [28].

Strengthening Weakened Environment Security of Kuta's Indigenous Village

The Kuta area is the centre of world tourism activities in Bali. In line with the socio-political dynamics of the Kuta Indigenous Village, which is in contact with cultural tourism, since 1984 the Kuta Indigenous Village has owned and played the role of pecalang as the jagabaya section of the Kuta Indigenous Village. The legality of the existence of this pecalang has been regulated in *awig-awig* the Kuta Indigenous Village in 1984 to anticipate jagabaya in Kuta Adat Village, especially in melasti and brata seclusion. In accordance with the mandate of state law (Regional Regulation No 3/2001), at the present time, pecalang as a section of jagabaya has existed and is distributed evenly in all traditional villages in Bali. The role of pecalang developed dynamically, not only securing Hindu worship activities in the temple, but also being trusted to run the security section in various social moments, including helping to maintain environmental security and regulate vehicle parking order during celebrations (circumcision, marriage/pilgrimage), and Friday prayers at various urban mosques in Bali. When traced in terms of its history, Pecalang has been born and has been a jagabaya section of the Kuta Customary Village environment since 1984, long before the Regional Regulation of *Pakraman* Village was born (in 2001). Regarding pecalang regulation, "normatively" *awig-awig* Kuta Adat Village is more advanced than the newly emerging state legal policy, namely Regional Regulation No. 3 of 2001 concerning *Pakraman* Village.

Refusing Outside Intervention and Enforcing Customary Law (Awig-awig) in Selecting the Indigenous Prajuru Kuta

The leadership regulation (traditional prajuru) in an indigenous village environment is legally based on state law, namely Regional Regulation No. 3 of 2001 concerning *Pakraman* village (Article 7) as well as in Regional Regulation number 4 of 2019 concerning Bali Indigenous

Villages (Article 29, paragraph 4). Both of these state legal products mandate that the top selection of indigenous village leaders (Ben*desa* adat) and other traditional prajuru based on *awig-awig* local indigenous villages [27], [28].

While the procedures for determination or selection of indigenous prajuru are regulated by state law, Kuta's indigenous people also guide local *awig-awig* and perarem. In the election of the 2013 Kuta indigenous village, Kuta indigenous Village people referred to *awig-awig* Kuta Traditional Village (Indik Prajuru Section, Pawos 14). In the process of selecting the Kuta, custom prajuru demonstrates that 'local wisdom procedures' are highly valued. The indigenous village existence is autonomous, applies village principles and agreements in governing of local indigenous community leadership. Kuta Indigenous Village people do not tolerate intervention from other parties (rulers) in determining the local custom prajuru. The determination and selection of Kuta Indigenous prajuru are carried out with full reference to *awig-awig* Kuta Adat Village according to local cultural values, namely the *Desadresta* principle [2], [12], [18], [27].

Defend and Protect Kuta Indigenous Village Assets

The concept of Kuta as the centre of world tourism activities has been contested by various political and economic forces to make power economic tourism available in Kuta, Bali. The investors engaged in various fields of tourism service businesses want to make a profit from the Kuta tourism events. In the midst of competition from tourism service businesses in Kuta, Kuta Indigenous Village has also tried to maintain and protect its economic assets, including the Kuta art market and the Village Credit Institution owned by the Kuta Indigenous Village.

Figure 1. *Kuta Art Market as Kuta Indigenous Village Asset (Source:* [30], [31].

The Kuta Village Credit Institution is an autonomous traditional financial institution whose establishment is based on local policies, namely Regional Regulation of the Province of Bali

Number 4 of 2012 concerning Village Credit Institutions (VIC) and village *awig-awig* in Kuta. VIC Kuta is able to strengthen social life, improve the economic welfare of the Kuta indigenous peoples, including in the form of providing business capital for manners that sell at the Kuta Art Market [30], [31].

To support the development of the VICs, every VIC throughout Bali is required to deposit 5% of its profits to the Bali Provincial Credit Institution Development Team in accordance with the Decree of the Governor of Bali No. 13/1999 concerning Depositing and Using the VIC Net Profit. Because the role of the VIC advisory team at the provincial level in Bali was considered ineffective, the Kuta indigenous Village supported the Badung Regency Government not to comply with the Bali Governor's Decree No.13 of 1999. Ben*desa* indigenous Kuta as an internal supervisor of Kuta VIC conducts social disobedience to not deposit their obligations (5%) to the Bali Provincial VIC Guidance Team [30], [31].

The Meaning of Contra Hegemomics Against State Law in Maintaining Indigenous Villages in Bali's Existence

In accordance with structural-functional theory, the customary law (*awig-awig*) of the Kuta Indigenous Village functions to organise the life of the local indigenous people. In a structural-functional theory, society is seen as a social system consisting of parts or elements that are interrelated and united in balance. Changes that occur in one section will also bring changes to other parts. In accordance with the dynamics of their lives, the substance of customary law (*awig-awig*) has been upheld by the Kuta indigenous community to oppose a state law that is not in accordance with local customary law.

The resistance (contra hegemony) of the Kuta Indigenous Village community towards various aspects of life listed in state law in general and fundamentals aims to maintain Balinese culture's existence, which is rooted in the noble values of Hinduism [4], [12]. As a fortress for Balinese culture's existence is the existence of an indigenous village.

In addition, the contra hegemony of the people of Kuta Village against the country's law is also a manifestation of the efforts of the Kuta people in maintaining the existence of their indigenous villages, as part of Bali indigenous villages. Bali indigenous villages have origins and autonomous rights in managing their own households. Indigenous villages have their own rules (*awig-awig*, *pararem*), have village profits (village assets), in the form of pelaba temple or temple-owned land (*Desa* temple, *Dalem* temple, and *Balai Agung* temple).

The indigenous Village is regulated based on the *Awig-awig Desa* and is headed by an indigenous Bendesa and assisted by local indigenous village officers. The Bali indigenous village is called a village republic (*Dorprepubliek*). This means that the Bali indigenous

village as the Dresta village, namely the unity of customary law communities in Bali Province which has a unity of tradition and social etiquette of Hindu society for generations in the boundaries of *Kahyangan Tiga* which has a certain area and its own assets, as well as being entitled to take care of their own autonomous households [27], [28].

Kuta's Indigenous Village existence is based on the philosophy of *Tri Hita Karana*, which is an effort to create a balance of relations between humans and their peers (pawongan), humans with their environment (*palemahan*) and the balance of human relationships with their Lord or Witness [16], [28], [32]. In addition to the philosophy of *Tri Hita Karana*, the Kuta Adat Village also upholds the principles of the village, when, patra is based on "*desa mawa cara, negara mawa tata*". With the principle of the mawa way village, the mawa tata state provides an opportunity for the indigenous village to remain steady and it is understood that the indigenous village and the agency village can coexist according to their respective duties. The village office has the duty to take care of matters relating to the administration, while the indigenous village takes care of the issues of tradition and traditional life and Hinduism.

Tradition and the Kuta Indigenous Village, which is being attacked by the modernisation of tourism in the era of the industrial revolution (4.0) at this time indeed needs to be saved [34], [35]. Indigenous Prajuru, representatives of the people who sit as councillors as well as organic intellectuals from the campus in Bali have synergised in maintaining the existence of Bali indigenous villages, including the Kuta indigenous Village - as reflected in the initiatives of all Kuta indigenous cadets who continue to oversee and implement awig- awig in every beat of Kuta indigenous people live. In accordance with [21], academics, Kuta custom officers, parliamentarians, and observers of Balinese culture who advocate for the existence of Balinese traditional villages do have the habits (the mental structure), understanding and owning the domain (authority) - the battlefield - according to their respective roles. They support the Kuta indigenous community in maintaining the Kuta indigenous village's existence by criticising various state legal products related to Bali strengthening indigenous villages.

The counter-hegemony attitude of the Kuta indigenous Village community towards a number of policy products related to indigenous villages - as discussed in the previous section - is an effort to preserve and preserve Balinese Hindu cultural traditions, namely the *Ajeg* Bali. *Ajeg* Bali aims to inspire Balinese awareness, maintain, strengthen, and preserve their culture from outside influences. The Balinese *Ajeg* Movement indirectly brings with it an "identity politics" to Bali to revitalise its position to face the brunt of globalisation which surrounds Bali [33]. *Ajeg* Bali is a movement carried out by Balinese people to keep upholding their cultural traditions that are based on the teachings of Hinduism and remain a host in their own hometown. Whilst entering the modern life of the present 4.0 era, Kuta's indigenous people want to continue to carry on their traditional village life tradition.

Conclusions

The people of Kuta Indigenous Village put up a fight (counter-hegemony) by: (1) Opposing the country law which eliminates indigenous village's existence (Law No. 5/1979), while maintaining the existence of the Kuta Indigenous Village in accordance with local indigenous village *awig-awig*: (2) Opposing state law politics which privileges official villages and discriminates against indigenous villages; (3) Opposing state law politics which intervenes in regulating the lives of indigenous peoples in the autonomous Kuta Indigenous Village, including rejecting the term *Pakraman* (Regional Regulation No 3/2001), fusing pecalang as jagabaya Kuta Indigenous Village since 1984, upholding *awig-awig* in selecting customary objects, and protecting the Kuta Customary Village assets, including Kuta Art Market and Kuta Village Credit Institution (VIC) by not complying with the Bali Governor's Decree No.13 of 1999 to deposit profit of Kuta VIC (5%) into the VIC Development Team account Bali.

The hegemony cons of Kuta Indigenous Village community against the country's law has meaning, namely: (1) Maintaining the Balinese cultural existence, which is rooted in the noble values of Hinduism; (2) Maintaining the Kuta traditional village existence in particular, and the Bali indigenous village in general based on the *Tri Hita Karana* philosophy; (3) As a form of Balinese *Ajeg* movement, namely the efforts of the Balinese to uphold their cultural traditions based on the teachings of Hinduism, and remain a host in their own hometown.

Novelty

Although located in the centre of world tourism activities in Kuta Bali, the customary law existence (*awig-awig*, *pararem*) in the Kuta indigenous Village is still strong and consistently enforced by local indigenous people. Kuta's indigenous people still uphold the values of local wisdom, namely customary law in the form of *awig-awig* traditional villages, *pararem*, and the principles of *Desadresta*, *Desamawacara*, and *Negara mawatata.*

REFERENCES

N. W. Karmini, "Ecotourism management based on local wisdom in tenganan village, Karangasem Bali," *Talent Dev. Excell.*, vol. 12, no. 1S, pp. 295–310, 2020, Accessed: Jun. 06, 2020. [Online]. Available: http://iratde.com/index.php/jtde/article/view/107.

Karmini, N. W. Ruastiti, N. M. and GPradana, . Y. K. (2019). "Tumpek uduh ceremony as an education medium in the preservation of natural environment in Bali: A case study in Canggu Village, Kuta Utara District, Badung Regency, Bali, Indonesia," *Asia Life Sci.*, vol. 28, no. 1, pp. 115–139.

I. C.-J. of T. D. (2020). Excellence and undefined, "Teo-Cosmology of Traditional Architecture of Hindu Society in Bali," *iratde.com*, Accessed: Jun. 11, 2020. [Online]. Available: http://iratde.com/index.php/jtde/article/view/83.

Sueca, I. N. K.-J. of T. D. and Excellence, and undefined (2020). "Teacher Pedagogic Competence in Student Characters Development Based on Religius Culture," *iratde.com*, Accessed: Jun. 11, 2020. [Online]. Available: http://iratde.com/index.php/jtde/article/view/596.

Wayan, N. Karmini, N. (2020). Made ruastiti, and g. yoga kharisma pradana, "Kecimol Traditional Music as a Non-Formal and Cultural Education in Lombok, West Nusa Tenggara," *Int. J. Adv. Sci. Technol.*, vol. 29, no. 8, pp. 761–766.

Karmini, N. W. Suda, I. K. Agung, A. G. and Suasti, G. A. (2020). "Academic system digitalization of 'campus independence' in universitas Hindu Indonesia denpasar in creating entrepreneurs based on local wisdom," *Talent Dev. Excell.*, vol. 12, no. 1, pp. 224–240.

Rittich, K. (2020). "Part of the Comparative and Foreign Law Commons, and the Rule of Law Commons Recommended Citation Recommended Citation Kerry Rittich, The Future of Law and Development: Second Generation Reforms and the Incorporation of the Social," 2004. Accessed: Jun. 11, [Online]. Available: https://repository.law.umich.edu/mjilhttps://repository.law.umich.edu/mjil/vol26/iss1/8.

M. H.-P. (2020.). language and oratory in traditional society and undefined 1975, "Orators and patrons: two types of political leader in Balinese village society," *academia.edu*, Accessed: Jun. 11, [Online]. Available: https://www.academia.edu/download/55491592/1975_-_Orators_and_patrons.pdf.

Rideng, W. and Sukandia, N. (2019). "Implementation of Indigenous Sanctions 'Kasepekang (Exiled)' in Resolving a Credit in Village Credit Institution in Bebetin

Village, Buleleng Regency," *pdfs.semanticscholar.org*, 2019, doi: 10.4108/eai.21-9-2018.2281141.

Jatiswara, I. N.- and undefined (2018). "Sustainable cultural development: The future of balinesse adat village posterior the enactment of law number 6 year 2014 concerning village," *jatiswara.unram.ac.id*, Accessed: Jun. 11, 2020. [Online]. Available: http://jatiswara.unram.ac.id/index.php/js/article/view/153.

Sukma, R. (2004). "Islam in Indonesian foreign policy: Domestic weakness and the dilemma of dual identity," 2004, Accessed: Jun. 11, 2020. [Online].

Gindarsah, I. and Priamarizki, A. (2015). "Politics, Security and Defense in Indonesia: The Pursuit of Strategic Autonomy," in *Indonesia's Ascent*, Palgrave Macmillan UK, 2015, pp. 130–154.

Roth, D. and Sedana, G. (2015). "Reframing tri hita karana: from 'balinese culture' to politics," *Asia Pacific J. Anthropol.*, vol. 16, no. 2, pp. 157–175, Mar. 2015, doi: 10.1080/14442213.2014.994674.

I. Yusa, N. D.-P. J. of Law, and undefined (2018). "The balinese traditional law instrument: *Jurnal.Unpad.Ac.Id*, Accessed: Jun. 11, 2020. http://jurnal.unpad.ac.id/pjih/article/view/19065.

Goyena, R. and Fallis, A. (2019). "済無No Title No Title," *J. Chem. Inf. Model.*, vol. 53, no. 9, pp. 1689–1699, 2019, doi: 10.1017/CBO9781107415324.004.

Baxter, P. and Jack, S. (2020). Qualitative case study methodology: Study design and implementation for novice researchers," 2008. Accessed: Jun. 11, 2020. [Online]. Available: http://www.nova.edu/ssss/QR/QR13-4/baxter.pdf.

Bourdieu, P. (2020). "Outline of a theory of practice," 1977, Accessed: Jun. 10, 2020. [Online]. [22] L. Friedman, "Law and society: An introduction," 1977.

Foucault, M. (1980). "Power/knowledge: Selected interviews and other writings, 1972-1977," 1980.

Sassen, S. (2020). "Introduction to Territory, Authority, Rights: From Medieval to Global Assemblages," 2008. Accessed: Jun. 11, 2020. https://www.researchgate.net/publication/24117953.

Niessen, N. (2020). "Environmental law in development: Lessons from the Indonesian Experience," 2006, Accessed: Jun. 11, 2020.

A. B.-L. (2020). development in I. S. for the and undefined 2016, "Indonesian land law: Integration at last? And for whom," *books.google.com*, Accessed: Jun. 11, 2020.

W. A.-J. P. & (2017). Globalization and undefined 2017, "Human Right and Conflict of Custom in Bali," *HeinOnline*, Accessed: Jun. 11, 2020. [Online]. Available: https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/jawpglob60&section=6.

The Hegemony Contra of the Kuta Indigenous Village Community against State Law in Maintaining the Existence of Balinese Indigenous Villages

ORIGINALITY REPORT

13%	10%	6%	7%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	Submitted to Universitas Brawijaya Student Paper	4%
2	eudl.eu Internet Source	1%
3	dinamikahukum.fh.unsoed.ac.id Internet Source	1%
4	jurnal.unpad.ac.id Internet Source	1%
5	Submitted to Chulalongkorn University Student Paper	<1%
6	"The International Conference on ASEAN 2019", Walter de Gruyter GmbH, 2019 Publication	<1%
7	Submitted to UIN Maulana Malik Ibrahim Malang Student Paper	<1%
8	Submitted to Universitas Warmadewa Student Paper	<1%

9	Agung Wardana. "Contemporary Bali", Springer Science and Business Media LLC, 2019 Publication	<1%
10	Rodiyah .. "Management of Implementation of Village Government in Empowering Village Enterprises (BUMDes)", KnE Social Sciences, 2019 Publication	<1%
11	edepot.wur.nl Internet Source	<1%
12	sim.ihdn.ac.id Internet Source	<1%
13	Submitted to Academic Library Consortium Student Paper	<1%
14	www.ssbfnet.com Internet Source	<1%
15	repo.isi-dps.ac.id Internet Source	<1%
16	arpgweb.com Internet Source	<1%
17	docplayer.net Internet Source	<1%
18	Submitted to Universitas Pendidikan Ganesha Student Paper	<1%

19	Rifqi Ridlo Phahlevy. "The Concept of Village Autonomy in Indonesia (Indonesian Constitution Perspective)", Rechtsidee, 2016 Publication	<1%
20	theartsjournal.org Internet Source	<1%
21	Submitted to iGroup Student Paper	<1%
22	sinta3.ristekdikti.go.id Internet Source	<1%
23	ejournal.warmadewa.ac.id Internet Source	<1%
24	Indro Budiono, Moch. Bakri, Moh. Fadli, Imam Koeswahyono. "Legal Implications of the Norms Conflict in the Governance Regulation of the Water Resources", EU agrarian Law, 2020 Publication	<1%
25	I Nyoman Norken. "Efforts to preserve the sustainability of subak irrigation system in Denpasar city, Bali Province, Indonesia", MATEC Web of Conferences, 2019 Publication	<1%
26	Submitted to Sriwijaya University Student Paper	<1%
27	I Ngurah Suryawan. "Desa Mawacara, Negara	

	Mawatata: Bali's Customary Village-Based State Policies in the Time of the Covid-19 Pandemic", Jurnal Politik, 2020 Publication	<1%
28	Praptining Sukowati, Muhammad Usman, I Made Weni, Kridawati Sadhana. "STUDY OF SOCIAL REALIZATION OF COMMUNITY PARTICIPATION ON DEVELOPMENT IN GAMPONG MERDUATI VILLAGE BANDA ACEH", Humanities & Social Sciences Reviews, 2020 Publication	<1%
29	www.iratde.com Internet Source	<1%
30	garuda.ristekbrin.go.id Internet Source	<1%
31	www.iiste.org Internet Source	<1%
32	discovery.ucl.ac.uk Internet Source	<1%
33	Suwari Akhmaddhian. "Recruitment of Village Apparatus in the Regions and Implementation", Substantive Justice International Journal of Law, 2019 Publication	<1%
34	A J Silubun, J J J Kalalo, A B Inggit, C N Kalalo,	

—	E B Rahail. "Village authority and position in realizing village autonomy", IOP Conference Series: Earth and Environmental Science, 2020 Publication	<1%
35	jurnal-perspektif.org Internet Source	<1%

Exclude quotes	On	Exclude matches	Off
Exclude bibliography	On		