

The Loss of Land Rights under *Kasepekan*: Balinese Customary Law and Indonesian Agrarian Law

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Abstract. *This study explores the application of kasepekan, the most severe customary sanction in Balinese traditional law, and its implications for land rights over peduruwen desa, particularly Pekarangan Desa (PKD) and Ayahan Desa (ADS). The sanction of kasepekan is imposed on individuals or families who commit serious violations of awig-awig or pararem desa, leading to the loss of their status as members of the customary village (krama desa). This loss of status results in the forfeiture of rights to PKD and ADS lands, which are often inherited and cultivated for generations. Such practices raise complex issues when examined under Indonesia's national agrarian law, as the Basic Agrarian Law No. 5 of 1960 and Government Regulation No. 24 of 1997 explicitly safeguard long-term land tenure and constitutional rights guaranteed under Article 28H of the 1945 Constitution. The objective of this research is to analyze the concept of kasepekan in Balinese customary law, evaluate its compatibility with national agrarian principles, and formulate a harmonization framework that allows the enforcement of customary sanctions without violating constitutional protections. Employing a normative legal method with statutory, conceptual, and comparative approaches, this study applies Philipus M. Hadjon's Theory of Legal Protection, Gustav Radbruch's Theory of Legal Certainty, and John Rawls' Theory of Justice. The findings confirm that while kasepekan is legitimate within customary law as an instrument of social and religious order, it cannot be extended to revoke PKD and ADS land rights. The novelty of this study emphasizes restricting kasepekan to socio-religious domains, supported by clear mechanisms for mediation and rehabilitation, thereby ensuring legal certainty while preserving the integrity of customary law within the national legal system.*

Keywords: *Ayahan; Harmonization; Kasepekan; Pekarangan.*

1. INTRODUCTION

Customary law in Indonesia holds a significant position as an integral part of the national legal system, as recognized in Article 18B paragraph (2) of the 1945 Constitution, which affirms that the state acknowledges and respects customary law communities along with their traditional rights, as long as they remain alive and are in harmony with societal developments and the principles of the Unitary State of the Republic of Indonesia (Sri

Jaya Lesmana, 2023). In Bali, one of the most tangible manifestations of the application of customary law is the existence of *desa adat* (traditional villages), which possess the authority to regulate the social, cultural, religious, and economic life of their members. These villages manage communal assets in the form of *tanah pedruwen desa* (village-owned land), which not only serves as a source of livelihood but also embodies the communal bond of the customary community (I Dewa Made Sasrawan & Ida Bagus Anggapurana Pidada, 2024). Broadly, there are two types of *tanah pedruwen desa* passed down through generations. The first is *Pekarangan Desa* (PKD), land allocated by the *desa adat* to members (*krama desa*) as residential plots. The second is *Ayahan Desa* (ADS), farmland granted to members as cultivation plots and, at the same time, as part of their customary obligations (Widjaya et al., 2021). These two categories of land are not merely communal assets but also serve to reinforce social cohesion between individuals and the community, since rights over such land are inherently tied to a person's status as a *krama desa*.

In practice, rights over *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS) are closely linked to an individual's membership in the *desa adat*. If a person loses their status as a *krama desa* due to violations of the *awig-awig* (customary regulations), their entitlement to PKD and ADS land may be revoked. One of the most severe sanctions that a *desa adat* can impose is *kasepekan*, a form of social ostracism directed at individuals or families deemed to have committed serious transgressions (Pratomo, 2025). This sanction carries profound consequences not only for social and spiritual relations but also for the loss of rights to residential and agricultural land that may have been inherited and cultivated across generations.

The problem arises when the enforcement of *kasepekan* sanctions is confronted with the principles of national agrarian law. The Basic Agrarian Law (BAL) No. 5 of 1960, particularly Article 3, does recognize the existence of *hak ulayat* (communal rights) of customary law communities; however, such recognition is limited so that it does not conflict with national interests or statutory regulations (Sukirno, 2018). Furthermore, Government Regulation No. 24 of 1997 on Land Registration stipulates that individuals who have possessed land in good faith, openly, and continuously for 20 years or more are entitled to register it in order to obtain legal certainty (Nurwahid et al., 2023). Consequently, the revocation of rights over PKD and ADS land as a result of *kasepekan* sanctions has the potential to create normative conflicts, as it contravenes the principles of rights protection, legal certainty, and justice upheld by national law.

Previous studies on *kasepekan* have predominantly examined its sociological and religious dimensions, viewing it as an instrument for maintaining harmony within customary villages. For instance, research by Gede Agus Perdika Putra et al (Gede Agus Perdika Putra et al., 2022) emphasized the existence of *kasepekan* and the practical obstacles to its implementation within customary communities, while Meita Dewi's study on the *Lembaga Perkreditan Desa* (LPD) of Bebetin Village (L. A. M. Dewi & I Putu Julianto, 2025) linked customary sanctions to the effectiveness of internal controls on non-performing loans, where *kasepekan* served as a social mechanism to enforce debtor compliance. However, there has been limited research that comprehensively analyzes *kasepekan* in relation to rights over *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS) from the perspective of national agrarian law and human rights. This gap highlights the urgency of reassessing the compatibility of customary sanctions with the principles of national law. Accordingly, this study seeks to analyze the concept of

kasepekan within Balinese customary law and its implications for PKD and ADS land rights, examine its relevance to the principles of national agrarian law, and formulate harmonization strategies that allow customary sanctions to be enforced without infringing upon citizens' constitutional rights. In doing so, this research aims to contribute to the integration of customary law into the national legal system while preserving a balance between respect for tradition and the protection of fundamental rights.

Identifying the core issues in this study is crucial to highlight the point of disharmony between customary law and national law in the regulation of land rights. Without a clear identification of these problems, the research would lose direction in addressing its central question: to what extent *kasepekan* can affect an individual's legal standing over land within the framework of Indonesian law. Accordingly, this study aims to: (1) explain the concept of *kasepekan* in Balinese customary law and its implications for land rights; (2) analyze its compatibility with the principles of national agrarian law; and (3) formulate harmonization strategies between customary law and national law in order to achieve legal certainty while still respecting the role of customary law.

2. RESEARCH METHODS

This research employs a normative legal method, focusing on the study of prevailing legal norms (Nurwahid et al., 2023). The approaches applied include the statute approach, the conceptual approach, and the comparative approach, in order to develop a comprehensive understanding of the relationship between *kasepekan* as a customary law institution and Indonesia's national agrarian law. The research is specified as descriptive-analytical, aiming to describe, explain, and analyze statutory regulations, legal doctrines, and customary practices related to *kasepekan* and their impact on land rights. The data used in this study are secondary in nature, obtained through a literature review consisting of statutory regulations, legal scholarship, and journal articles.

In analyzing the issues, this study applies Philipus M. Hadjon's Theory of Legal Protection to assess the extent to which the state is obliged to safeguard the land rights of individuals subject to the customary sanction of *kasepekan* (Sulaksono, 2023). In addition, Gustav Radbruch's Theory of Legal Certainty is employed to examine whether the implementation of *kasepekan* within customary practice aligns with the principle of legal certainty guaranteed under national law. Furthermore, the analysis draws on John Rawls' Theory of Justice, which conceptualizes justice as fairness. Rawls' perspective underscores that both legal rules and customary sanctions must ensure fair treatment for all parties, so that no individual or group is disproportionately sacrificed for the sake of collective interests (Santiago & Asnawi, 2024). Through these theoretical frameworks, the study seeks to evaluate whether the practice of *kasepekan*, which may result in the deprivation of land rights, can still be regarded as just within the Indonesian legal system, which upholds the principles of human rights.

All collected data were analyzed qualitatively by interpreting legal norms, linking them with legal theories, and comparing the practice of customary law with the framework of national law. Through this analytical method, the study aims to identify points of harmonization between *kasepekan* as customary law and national agrarian law, thereby producing conclusions that are argumentative, fair, and academically sound.

3. RESULTS AND DISCUSSION

3.1. The Concept of *Kasepekan* in Balinese Customary Law

Within Balinese customary law, *kasepekan* is regarded as the most severe sanction imposed on an individual or family who has committed a serious violation of the *awig-awig* (the fundamental regulations of the *desa adat*) and/or *pararem* (more technical customary provisions) (Wibawa & Ali, 2022). The essence of this sanction lies in religious and social ostracism, whereby the sanctioned person is temporarily or permanently severed from social, religious, and cultural relations with the community. They are no longer recognized as a *krama* (member) of the village, their participation in ceremonies and communal activities is restricted, and they are denied access to customary services that are normally the rights of every *krama*. In a society rooted in the principle of *Tri Hita Karana* the harmonious relationship between humans and God, fellow humans, and nature (Sukmayasa & Mahardika, 2024), such exclusion is not merely a social punishment but also a sign that the violation has disturbed the cosmological balance of the village. Sociologically, *kasepekan* serves a dual function: it is preventive, deterring repetition of violations and fostering compliance, and restorative, restoring communal order by demanding accountability from the offender.

For this reason, many *desa adat* treat *kasepekan* as an *ultima ratio* sanction, applied only when warnings, reprimands, customary fines, or lighter penalties prove ineffective, or when the violation is considered extremely serious—such as repeated neglect of *ngayah* (obligatory community service), refusal to contribute to village decisions, actions that undermine the village's dignity, or other acts explicitly classified as serious under the *awig-awig*. *Kasepekan* may also be imposed on members proven to have committed grave criminal offenses, including immorality, sexual harassment, or corruption, as such acts not only violate state law but also damage the dignity and reputation of the *desa adat*. Within the Balinese customary framework, *kasepekan* functions as a supplementary socio-religious sanction that reinforces deterrence: beyond formal state punishment, the offender must also endure the social consequences of ostracism from the customary community. This application is particularly relevant in cases of corruption, which directly harm collective interests (Agung & Darma, 2024).

In practice, the intensity of *kasepekan* is not uniform. It may take the form of limited ostracism (temporary and confined to specific domains, such as exclusion only from certain ceremonial activities) or full ostracism (a complete severance from all customary services and communal activities). The type of sanction imposed depends on the gravity of the violation, the individual's record of compliance, the social impact of the misconduct, and the wise deliberation of the *prajuru* (customary leaders such as the *Bendesa Adat*, *kelian banjar*, *penyarikan*, and *petajuh*) together with the *krama* in a customary assembly. The normative foundation of *kasepekan* derives from the *awig-awig* and *pararem* of each *desa adat*, reinforced by state recognition of the authority of traditional villages to regulate their communal assets and social life. Within Indonesia's pluralistic legal framework, however, such recognition applies only insofar as customary practices do not contradict higher-level statutory regulations or public interests. Thus, while *kasepekan* is legitimate as a customary institution, its application remains bound by the principles of the rule of law, human rights, and justice.

The imposition of *kasepehang* in Balinese customary law is not carried out unilaterally but follows a process that resembles a customary court procedure (A. A. M. A. T. Dewi, 2022). The stages begin when an alleged violation is reported by a *krama* (village member) or discovered by the *prajuru* (customary leaders). The *prajuru desa* then conduct a preliminary review by tracing the incident, examining evidence, and gathering initial statements to ensure that the matter is indeed relevant under the *awig-awig* or *pararem*. Subsequently, the alleged offender is formally summoned and given the opportunity to clarify their position. At this stage, they are granted broad rights to defend themselves, including presenting witnesses and supporting evidence. The case is then brought before the *paruman desa*, the customary deliberation forum. In the first hearing, the substance of the case, the provisions allegedly violated, and the findings of the preliminary review are presented. If possible, settlement is sought through mediation, accompanied by lighter sanctions such as warnings, customary fines, or obligations to perform *ngayah* (community service).

If mediation fails or the violation is deemed severe, the *paruman* proceeds with deliberations to impose sanctions. The decision is formalized in a written record or *paswara*, which includes the parties' identities, a brief chronology of events, the normative basis, considerations, the sanction ruling (type and duration of *kasepehang*), and conditions for rehabilitation. The decision is then publicly announced and must be observed by all *krama*, under the supervision of the *prajuru desa*. Nevertheless, *kasepehang* is not absolute and, in principle, may be revoked. Rehabilitation is possible when the sanctioned party fulfills the prescribed obligations, such as paying customary fines, performing *ngayah* (communal service), or conducting specific purification rituals. Once a formal apology is delivered before the *paruman*, the village may restore the individual's status as *krama* through an official decision. In cases of prolonged disputes, external mediation at the regency or provincial level may be pursued to ensure objectivity.

The most critical consequence of *kasepehang* is the loss of *krama* status—a prerequisite for enjoying rights over *tanah pedruwen desa* inherited and utilized across generations, particularly *Pekarangan Desa* (PKD) as residential land and *Ayahan Desa* (ADS) as agricultural land. Since rights over PKD and ADS are attached to membership rather than individual ownership, the revocation of *krama* status through *kasepehang* systematically results in the forfeiture of usage rights over such lands. This highlights the urgency of a careful and fair procedure: each stage must guarantee the right to be heard, a clear normative foundation, proportionate sanctions, and realistic rehabilitation mechanisms—so that the sanction continues to serve its restorative function within customary law without undermining the principles of rights protection, legal certainty, and justice upheld by the national legal system.

3.2. The Analysis of Kasepehang's Conformity with National Law

The relationship between *kasepehang* and land rights in Balinese customary law is inseparable, as *krama desa* status is the primary prerequisite for enjoying and possessing *tanah druwen desa* (village-owned land). *Tanah druwen desa* refers to communal land owned by the *desa adat* and managed for the benefit of all its members. Its legal standing is affirmed in Bali Provincial Regulation No. 4 of 2019 on *Desa Adat*, which stipulates that customary villages have the authority to regulate and manage communal assets, including land (A. A. M. A. T. Dewi, 2022). There are several types of *tanah*

druwen desa. First, *tanah laba pura*, land whose proceeds are designated for temple maintenance and religious activities. Second, *tanah setra*, land reserved exclusively for funeral ceremonies. These two categories are purely communal and are not granted as hereditary usage rights to individuals but instead serve collective purposes. Third, *Pekarangan Desa* (PKD), which consists of residential plots allocated by the *desa adat* to *krama* for housing. Fourth, *Ayahan Desa* (ADS), agricultural land or gardens assigned to *krama* for cultivation as a means of livelihood as well as a customary obligation. Among these, PKD and ADS are the most directly linked to villagers' daily lives, as they provide tangible benefits to the households of *krama desa*. Lastly, *tanah laba desa*, whose revenues are allocated to support customary activities and the operational needs of the *desa adat* (Surata & Sena, 2021).

The implications of *kasepekan* for land rights are evident: once a person is subjected to this sanction, their status as *krama desa* is revoked. Since rights over *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS) are attached to this membership status, such rights automatically lapse. Families affected by *kasepekan* may lose their homes (PKD) as well as their rights to cultivate farmland (ADS). Thus, *kasepekan* is not merely a social sanction that severs religious and cultural ties, but also one that directly impacts the economic existence and livelihood sustainability of the family.

From the perspective of national agrarian law, however, the enforcement of *kasepekan* with consequences that extend to the loss of rights over PKD and ADS presents fundamental problems. In Balinese customary law, *kasepekan* is considered legitimate as a social sanction to preserve village order. Membership as a *krama desa* is an absolute requirement for occupying PKD as residential land or cultivating ADS as farmland. When this membership is revoked, the rights over PKD and ADS automatically lapse.

Yet, under the framework of national agrarian law, such revocation is difficult to justify, particularly when it results in depriving a family of land that has been continuously occupied or cultivated by their ancestors for generations. Article 3 of the Basic Agrarian Law (BAL) No. 5 of 1960 does recognize the existence of *hak ulayat* and similar rights of customary law communities, provided they still exist in practice and do not conflict with national interests or statutory regulations. This means that the authority of *desa adat* to regulate PKD and ADS is indeed recognized. However, such recognition is not absolute, as customary law may not be enforced in a way that undermines the legal protection guaranteed by the Constitution.

Moreover, Article 24(2) of Government Regulation No. 24 of 1997 on Land Registration affirms that an individual or their family who has possessed land openly, in good faith, and continuously for 20 years or more may register it to obtain legal certainty. This indicates that national law protects long-term land tenure. Therefore, the revocation of rights over PKD and ADS due to *kasepekan* potentially conflicts with the principles of national agrarian law, which upholds protection for hereditary land tenure. Furthermore, the BAL, as part of the national legal system, must be read within the constitutional framework. Article 28H(1) of the 1945 Constitution guarantees the right of every person to adequate housing, while Article 28H(4) ensures the right to private property, which cannot be taken arbitrarily. Consequently, the elimination of rights over PKD and ADS through *kasepekan* risks violating the constitutional rights of citizens.

In line with Philipus M. Hadjon's Theory of Legal Protection, the state is obligated to protect individuals against arbitrary actions that may deprive them of their fundamental rights, including land rights. Accordingly, *kasepekan* in relation to PKD and ADS can only be deemed consistent with national agrarian law insofar as it concerns internal customary regulation and does not result in the expulsion of families who have possessed land for generations. If customary sanctions extend to the extinguishment of rights over PKD and ADS, they conflict with the principles of rights protection, legal certainty, and justice. Within the framework of John Rawls' Theory of Justice, justice must be understood as fairness: while customary sanctions are legitimate for preserving communal harmony, they must not disproportionately sacrifice the fundamental land rights of individuals inherited across generations.

Table 1. The Implications of Kasepekan for Village-Owned Land (Tanah Druwen Desa)

Type of <i>Tanah Druwen Desa</i>	Function in Balinese Customary Law	Implications under <i>Kasepekan</i>	Perspective of National Law
Tanah Laba Pura	It is designated for temple maintenance and religious activities and is purely communal in character	The loss of the right to access or benefit from <i>tanah laba pura</i> , including its proceeds, occurs once an individual is no longer recognized as a <i>krama desa</i>	It does not give rise to significant conflict, but it has implications for customary participation rights, which are not explicitly protected under national law.
Tanah Setra	It is used for funeral ceremonies and is purely communal in nature.	They are no longer entitled to use <i>tanah setra</i> for their own funeral rites or those of their family members	It has the potential to create conflict with the principle of the right to basic public services, even though it is not specifically regulated under the BAL (Basic Agrarian Law).
Pekarangan Desa (PKD)	It has the potential to create conflict with the principle of the right to basic public services, even though it is not specifically regulated under the BAL (Basic Agrarian Law).	They lose the right to reside on the house built upon <i>Pekarangan Desa</i> (PKD), and the family is required to vacate the village yard.	This contradicts Article 28H (1) and (4) of the 1945 Constitution, which guarantee the right to adequate housing and the right to private property.
Ayahan Desa (ADS)	Farmland or gardens allocated to <i>krama</i> for cultivation as a source of livelihood and as part of their customary obligations.	They lose the right to cultivate <i>Ayahan Desa</i> (ADS); the farmland is reverted to the village and may be reallocated to another <i>krama</i> .	This contradicts Article 24(2) of Government Regulation No. 24 of 1997 and Article 3 of the Basic Agrarian Law (Law No. 5 of 1960), which protect hereditary land tenure.
Tanah Laba Desa	Land whose yields are used to support the financing of customary activities and the operational needs of the <i>desa adat</i> .	They are no longer permitted to utilize or receive the proceeds from <i>tanah laba desa</i> .	It does not create direct conflict, but it eliminates the collective economic rights that have traditionally been enjoyed as a <i>krama desa</i> .

This table demonstrates that *kasepekan* not only affects PKD and ADS but also revokes all access to *tanah druwen desa*, including *tanah laba pura* and *tanah setra*. As a result, families subjected to the sanction no longer retain the right to reside, cultivate, or even

use communal land for customary ceremonies. From the perspective of customary law, this is regarded as the logical consequence of losing *krama desa* status. However, from the standpoint of national law, such a condition may potentially violate the principle of fundamental rights protection, particularly when it concerns hereditary rights over PKD and ADS as well as access to customary facilities tied to social and religious life

3.3. The Harmonizing *Kasepekan* and National Law

The application of *kasepekan* in Balinese customary law often raises problems when it intersects with land rights, particularly *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS). At the customary level, *kasepekan* is a legitimate sanction that functions to preserve village harmony and uphold the authority of the *awig-awig*. However, from the perspective of national law, the sanction becomes problematic when it results in the elimination of family rights over land that has been occupied for generations (Utami & Handayani, 2024). This normative tension necessitates harmonization measures so that customary law continues to be respected while not conflicting with the principles of rights protection guaranteed by the Constitution. National agrarian law, through the Basic Agrarian Law (Law No. 5 of 1960), does recognize the *hak ulayat* (communal rights) of customary law communities, but such recognition is limited in order to avoid conflicting with national interests or higher-level legislation (Fernando, 2023). This means that customary villages retain the authority to regulate PKD and ADS, but such authority must not be exercised in a way that negates the legal protections owed to citizens. Therefore, *kasepekan* should ideally remain confined to the social and religious sphere and should not be extended to the revocation of hereditary land rights.

Harmonization can be pursued through the strengthening of mediation mechanisms between customary villages and state institutions. When customary sanctions have implications for the revocation of land rights, their resolution should involve state bodies, such as the land office or mediation institutions under the local government. In this way, the rights of citizens who have occupied PKD or cultivated ADS for generations remain protected, while the authority of the *desa adat* in maintaining social order is also preserved. Moreover, clearer regulations can be articulated in regional bylaws or legally recognized *pararem*. Through such instruments, customary villages can establish boundaries stipulating that *kasepekan* sanctions must not eliminate hereditary family rights over land. With clear guidelines in place, legal certainty can be ensured, and communities need no longer fear losing their land rights merely because of customary conflicts.

It is also essential to emphasize the existence of open and transparent rehabilitation mechanisms. Individuals subjected to *kasepekan* must have a pathway to restore their status as *krama desa* once they fulfill customary obligations, whether through paying fines, performing *ngayah* (communal service), or carrying out specific purification rituals. Rehabilitation ensures that customary sanctions are not permanent or arbitrary, but rather temporary instruments aimed at restoring village harmony. From a theoretical standpoint, this harmonization aligns with Gustav Radbruch's idea of legal certainty, which demands clear and consistent rules, as well as Philipus M. Hadjon's view that the state must protect citizens' rights from arbitrary actions. At the same time, John Rawls' concept of justice as fairness provides a normative basis that justice can only be achieved if customary sanctions do not deprive individuals of their fundamental rights to land and housing.

Accordingly, the proposed harmonization framework emphasizes that *kasepekan* may continue to be implemented as a legitimate customary sanction, but its scope must be adjusted to remain consistent with national law. The ultimate outcome is the realization of legal certainty that guarantees the constitutional rights of citizens while simultaneously respecting the continued existence of customary law as an integral part of Indonesia's legal system.

Table 2. Harmonization Solutions between Balinese Customary Law and National Law

Aspek	Balinese Customary Law	National Law	Implications / Harmonization Solutions
The Legal Standing of <i>Kasepekan</i>	The most severe customary sanction, legitimate for preserving harmony and upholding the <i>awig-awig</i>	It is not recognized under national law and may raise human rights concerns if it results in the deprivation of land rights	It should be limited to a socio-religious sanction and must not extend to the revocation of hereditary rights over PKD and ADS
Land Rights over PKD and ADS	These rights are inherent in the status of <i>krama desa</i> . If a person is subjected to <i>kasepekan</i> and thereby loses that status, their rights over the land are consequently revoked	Hereditary land rights are protected; Article 24(2) of Government Regulation No. 24 of 1997 provides the basis for registering rights after 20 years of actual possession.	Hereditary rights remain recognized; customary sanctions must not negate the protections guaranteed by the Basic Agrarian Law and the 1945 Constitution
Legal Recognition	Customary villages (<i>desa adat</i>) hold full authority based on the <i>awig-awig</i> and Bali Provincial Regulation No. 4 of 2019.	Article 3 of the Basic Agrarian Law (BAL) recognizes <i>hak ulayat</i> (communal rights) insofar as they do not conflict with national interests or higher-level regulations	Recognition of customary authority remains valid, but it is subject to limitations to ensure alignment with the Constitution.
Mechanisms of Dispute Resolution	It is determined through the <i>paruman desa</i> (village assembly), decided collectively, and publicly announced to all <i>krama</i> .	It requires legal certainty and the protection of constitutional rights (Article 28H of the 1945 Constitution)	Mediation with state institutions (such as the land office or local government) is required when the dispute concerns land rights.
Theoretical Framework	<i>Kasepekan</i> serves to preserve communal harmony	Radbruch: legal certainty; Hadjon: legal protection; Rawls: justice as fairness	The harmonization of customary and national law ensures that <i>kasepekan</i> remains enforceable without sacrificing constitutional rights.

The table illustrates that in Balinese customary law, *kasepekan* is regarded as a legitimate sanction for preserving village harmony and upholding the *awig-awig*. However, its implications for rights over *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS) present serious concerns, as it may result in the loss of hereditary family rights to land. From the standpoint of national law, the Basic Agrarian Law (Law No. 5 of 1960), Government Regulation No. 24 of 1997, and the 1945 Constitution instead provide protection for hereditary land tenure and guarantee the constitutional rights of every citizen to housing and private property that cannot be arbitrarily taken. Therefore, harmonization solutions are required, which include confining *kasepekan* to the socio-

religious sphere without extending it to the revocation of land rights, strengthening mediation mechanisms between customary villages and state institutions, and reinforcing rehabilitation procedures. Through these measures, customary sanctions can remain validly enforced without contravening the principles of legal certainty, rights protection, and justice

4. CONCLUSION

As a customary sanction in Balinese law, *kasepekan* is legitimate for preserving village harmony. However, when it leads to the revocation of rights over communal land (*tanah pedruwen desa*) such as *Pekarangan Desa* (PKD) and *Ayahan Desa* (ADS), it creates tension with national agrarian law, which emphasizes the protection of individual rights and legal certainty. The Basic Agrarian Law (Law No. 5 of 1960), Government Regulation No. 24 of 1997, and the 1945 Constitution safeguard hereditary land tenure and guarantee every person's right to housing and private property. Accordingly, the novelty of this study lies in highlighting the need for harmonization so that *kasepekan* may continue to function as a socio-religious instrument without undermining citizens' constitutional rights, thereby achieving both legal certainty and respect for the existence of customary law.

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