

Problems with the Legal Status of Land Ownership Anak Dalam Tribe Indigenous People

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Abstract

This study aims to examine and analyze the legal status of land ownership for the indigenous people of the Suku Anak Dalam in Batanghari Regency, as well as the legal status of land ownership for the indigenous people of the Suku Anak Dalam in Batanghari Regency. This research will be conducted by looking at the positive and negative aspects of land ownership. In this technique, the author's legal research is used as the main emphasis (legal research). The results of the study show that the existence of regulation P.6/KSDAE/SET/Kum.1/6/2018 has not accommodated the intent of Law Number 5 of 1990 concerning Conservation Article 32 and Law Number 41 of 1999, which state that national park areas are managed with a zoning system consisting of core zones, utilization zones, and other zones according to requirements. This regulation indicates that other zones within a national park, such as rehabilitation zones, special zones, and religious, cultural, and historical zones, are allowed to be managed in accordance with the mandate, while Perdirjen P.6/KSDAE This condition will certainly lead to multiple interpretations of access zoning management by related parties, including the village government and the local community.

I. Introduction

Basically, land law was a part of agrarian law ¹. Article 33 (3) of the 1945 Constitution states that "Earth, water, and natural resources contained therein are owned by the state and utilised for the greatest prosperity of the people." This article established governmental authority over land in Indonesia. This article serves as the foundation for Law No. 5 of 1960 regarding Basic Agrarian Regulations, also known as UUPA (LoGA). Hence, Indonesian land management was based on these philosophical principles. In general, according to Imam Sudiyat, the term "*ulayat land* (or refers to customary land which defined as the common land of the citizens of the indigenous people concerned)" can be used to refer to a region inhabited by a certain number of indigenous tribal communities ². According to Boedi Harsono, *ulayat land* is shared land that is believed to have been inherited from the ancestors or given supernatural powers to the

¹ Urip Santoso, "Kewenangan Pemerintah Daerah Dalam Penguasaan Atas Tanah," *Jurnal Dinamika Hukum* 13, no. 1 (2013): 99–108.

² B Ter Haar Bzn, "Asas-Asas Dan Susunan Hukum Adat," *Terjemahan, Jakarta, Pradnya Paramita*, 1983.

tribe/indigenous community as the primary source of support for the tribe's existence forever³.

Although the UUPA does not specify what constitutes "ulayat land" or "customary land," it does acknowledge the existence of such land and the rights associated with it (customary right). Rights to ulayat land are recognized in Article 3 of the UUPA (UU Principal Agrarian). Yet, there should be prerequisites for such recognition, such as the observance of national interests by customary rights. The UUPA (Agrarian Lawrecognition)'s of customary rights is not particularly reliable as a source of legal certainty due to the lack of clarity in the governing laws⁴. Land conflicts between customary law communities and other groups with roots in customary law continue to arise despite increasing efforts to recognize these people's right to their land. According to 2017 data from the Supreme Court, 14 customary land/disputes were resolved⁵.

The significance of land in social life is immense. As the subject of agrarian law, land is also of great significance to the human experience. Land also holds a significant place in customary law because it is the only property that will continue to exist in its original form regardless of its condition. People require land for their survival, which is especially true for indigenous peoples. In Indonesia, the customary law communities that inhabit Indonesian territory are referred to collectively as "customary law peoples," which is a more common term. In societies governed by customary law, formal knowledge of legal science and theory exists. However, in light of recent events, indigenous peoples are proving to be more and more adamant that they should be taken into account in relation to all facets and stages of life and are refusing to be classified solely within the specifications of the law.

Indonesian nationals like the Anak Dalam Tribe (Orang Rimba) have the right to stay in their ancestral land. According to Article 28I paragraph (1) of the 1945 Indonesian Constitution, people merely require help from diverse parties to survive and live well. Article 3 of the 2012 Regulation of the Ministry of Social Affairs defines KAT as "Remote Indigenous Community," which includes Anak Dalam Tribe (SAD). These are small dispersed social and cultural communities that participate little or nothing in social, economic, and political networks and services. Remote Indigenous Peoples Empowerment is a set of policies, strategies, programs, and activities that empower local KATs to find problems and needs and solve them using their own strengths and abilities by protecting, strengthening, developing, consulting, and advocating to improve their social welfare. Muntholib Soetomo's first dissertation was entitled "Orang Rimbo: Structural-Functional Study of Remote Communities (SAD) in Makekal, Jambi Province" which serves as initial publication in the Batanghari Regime. Although there is no difference in connotation, some anthropologists object to the use of the dissertation title "Orang Rimbo" with an "o" at the end. The last "o" in "Orang Rimbo" is the Jambi and Minang Malay dialects.

In addition to unclear customary and ulayat area boundaries, one of the weaknesses of customary and ulayat law is that the nature and characteristics of ulayat and ulayat

³ Andi Bustamin Daeng Kunu, "Kedudukan Hak Ulayat Masyarakat Adat Dalam Hukum Tanah Nasional," *Inspirasi* 1, no. 10 (2010).

⁴ Rosalina Rosalina, "EKSISTENSI HAK ULAYAT DI INDONESIA," *SASI* 16, no. 3 (2010): 44–51.

⁵ Christina Ella Yonatan and Xavier Nugraha, "Analysis on the Legal Force of Copyright Registration Document as Evidence of Ownership of Indigenous Land," *Yuridika* 36, no. 1 (2021): 15–38.

rights vary by region. This is only one of the many issues with these two legal systems. The limited and inadequate infrastructure in the form of a road network that can be traversed by transportation facilities is the primary reason why SAD settlements are inaccessible via transportation. This is due to the fact that the road network is accessible by means of transportation. In some instances, the location of these manufacturing operations is in close proximity to the settlements of indigenous peoples known as Remote Indigenous Communities. Small-scale and temporary population migration is a logical consequence of industrial activities that employ a large number of workers. In addition to industrial activities carried out by investors and SOEs in the form of HPH grants from the Ministry of Forestry to establish large-scale plantations with an educated and trained workforce, both experts and individuals who have received training, this phenomenon occurs. This is closely similar to what occurred with SAD in the areas surrounding palm oil mills in Bungku, Batu Sawar, and Sialang Pungguk.

The SAD and Orang Rimbo communities are spread across various districts in Jambi Province. Some of these groups have adopted a sedentary lifestyle, while others continue to follow a nomadic lifestyle. As a consequence of environmental changes and their interactions with various parties, SAD residents themselves are divided into several diverse groups, each of which has unique socio-ecological conditions. According to information compiled from Bappeda Jambi, the total population of trained and untrained KAT (SAD) between 1973 and 2010 amounted to 6,773 families and 28,883 individuals spread over 8 (eight) sub-districts. Over the past two years, a total of 82 households, consisting of 328 individuals, have been empowered. The first phase of empowerment which was carried out in 2010 was attended by 32 families with a total of 128 people, and in the third year 50 families were followed by a total of 205 individuals.

In 2013, the districts of Batanghari, Sarolangun, and Merangin Jambi, along with seven other locations, were empowered through the KAT (SAD) program. The tribal community of children in their life was nomadic, but as the development of the life of the community was increasingly advanced, the tribe of children also follows the current era, the tribal community of children in need of legal certainty over land as with other general people in order to have clear land ownership status. Indigenous tribes, especially in Bungku Village, Batanghari Regency, who have long occupied the forest as their place of residence and they admit that the land was inherited from their ancestors, related to this it is important to know the legal status of land ownership occupied by the Anak Dalam Tribe community because the absence of proof of land ownership in the form of written evidence which can lead to the absence of legal certainty over the ownership of the land.

Several previous studies have been performed, according to ⁶ in their research entitled "Ownership Status of Customary Land Rights in the Agrarian Reform Asset Management Policy in Southeast Maluku Regency" which focused on the legal implications of the ownership status of ulayat (customary) clan rights under the policy. In Southeast Maluku Regency, it is believed that agrarian disputes and conflicts can occur over the right to recognize the existence of customary rights for the community which are regulated by customary law because of difficulties in structuring agrarian reform assets. Although this was explicitly stated in Regulation no. 10 of 2016, which was issued by the Minister of ATR/Ka. BPN (Minister of Agrarian affairs and Spatial Planning/Head of the

⁶ Saija et al. (2020)

National Land Agency), it indicates that indigenous peoples in Indonesia no longer accept this.

Furthermore, a research by ⁷ revealed that Minangkabau customary land was included in the concept of ownership in a limited sense. High heirlooms may be utilized by community members or handed to outsiders via limbago-rich rituals. These assets may be handed down from generation to generation. Meanwhile, the payment (giving money to the king and the owner of the customary land by a third party who manages and controls the customary land in accordance with the community agreement) of the customary land to the king and/or the owner was in accordance with the community agreement, which states that Minangkabau customary land cannot be sold or mortgaged but can be transferred or transferred temporarily in an emergency.

Meanwhile, according to Primayana (2021) study on land settlement in Nagari Sungai Patai with the Forestry Service was resolved by debating the issue with the community and asking them to find a solution. This was achieved with assistance from the Forestry Service. Although customary lands in Nagari Sungai Patai originate from state forests according to the 1999 forestry law, customary lands in Nagari Sungai Patai cannot be separated from the relevant legal rules even though they have been owned by the Nagari tribe for centuries. This is the case even though the Nagari have held the property for centuries. According to the provisions of Forestry Law No. 41/1999, customary lands located in Nagari Sungai Patai are state property and must be returned to the state. In other words, this land was required by law to be returned to the state. On the other hand, the problem of law enforcement was not only a legal problem, there are additional elements that must be considered, especially the idea of the benefits of the Forestry Law. To ensure that the use rights to customary land used by the Nagari Sungai Patai group are not confused with property rights, this is done for the benefit of the community. However, according to the results of a study conducted by the head of the forestry service, this problem can be resolved by setting the goal of agrarian reform, namely removing land that is part of state land, residential land and agricultural land from forestry land and giving it to the people of Nagari Sungai Patai and subsequently will become the exclusive property of the community. In addition, Patai will also be converted into a private plantation.

It is important to discuss the issue of the legal status of the indigenous tribal community, because it is well-known that land ownership is not supported by written evidence, and the tribal community in particular lacks such evidence, which can lead to uncertainty regarding the land occupied by Anak Dalam Tribe. In addition, regulations that have not accommodated the implementation of higher-level regulations. Based on the preceding description, it is necessary to conduct additional research into the issues indigenous peoples face with regard to the legal standing of the Anak Dalam Tribe in terms of property ownership. As a result, the goal of this research is to discover and investigate the legal status of land ownership of the Anak Dalam Tribe indigenous peoples in Batanghari Regency, as well as the issue of the legal status of land ownership of the Anak Dalam Tribe indigenous peoples in Batanghari Regency.

⁷ Citrawan (2021)

2. Research Method

This legal investigation was carried out with the purpose of evaluating and gaining a more in-depth understanding of the legal status of land ownership as well as the issue of the legal status of land ownership owned by the Indigenous People of the Anak Dalam Tribe in Batanghari Regency. Data collection is carried out through a series of reading and internet browsing activities that are contained in the legal standards contained in laws and regulations and other legal sources such as books and journals. By using the legislation approach (statue approach). Case approach, historical approach, comparative approach are the types of methodologies used in legal research⁸. Legislative and judicial actions include the following data: the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 1960 on Basic Regulations on Agrarian Principles, Law No. 41 of 1999 on Forestry, Law No. 19 of 2004 on Stipulation of Government Regulation in Lieu of Law No. 1 of 2004 on Amendment to Forestry Law, and Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 9 of 2015 on Procedures for Difficult Land Cases⁹. Data collection techniques was carried out by means of literature study and interviews. Interviews was conducted by authors with relevant respondents, namely the Land Office of Batanghari Regency, Batanghari Regency Environmental Service, Batanghari Regency Social Service, Batanghari Regency Regent's Office, Bungku Village Head, Batanghari Regency, and Deputy Chief of the Anak Dalam Tribe. The analysis of the legal materials used in this legal research was carried out qualitatively, by providing an interpretation of the legal materials obtained by looking at the rule of law, theory and legal principles with the aim of answering the problem, which followed by drawing conclusions by deductive method. Deductive reasoning involves drawing conclusions from general to specific statements¹⁰.

3. Results and Discussion

Legal Status of Land Ownership of the Anak Dalam Tribe Indigenous Peoples in Batanghari Regency

The Anak Dalam Tribe (Orang Rimba) was considered to be one of the earliest communities to originate from the Jambi area. Some historical sources state that the Anak Dalam Tribe is a descendant of the marriage between the Vedas and the Negrito tribe, which in the course of history came to be known as the Weddoid tribe. The Weddoid tribe is distinguished by curly hair, tanned skin, slightly protruding eyes, petite stature, and between medium and large sized heads. The Anak Dalam Tribe and the majority of these tribes have a significant degree of similarity. They are very adept at hunting with traditional tools such as spears, kujur, and arrows. In general, the Anak Dalam Tribe civilization focused on hunting and gathering. This ancient ethnic group is referred to as the Kubu tribe. They eventually became known as the Anak Dalam Tribe. In Jambi Province, the Anak Dalam Tribe is spread over four second-level regions. These areas include Batanghari Regency, Tanjung Jabung Regency, Bungo Tebo Regency, and Sarolangun Bangko Regency. In 1991, Batanghari had 2.224 Anak Dalam Tribe,

⁸ (Marzuki, 2005: 133)

⁹ Mahmud Marzuki.

¹⁰ (Marzuki, 2017: 89)

Sarolangun had 2.331 Anak Dalam Tribe, Bungo Tebo had 1.631 Anak Dalam Tribe, and Tanjung Jabung had 1.631 Anak Dalam Tribe (2.971 people).

Law No. 41/1999 on Forestry, which repealed Law No. 5/1967 on Basic Forestry, has raised doubts regarding customary law groups and their land rights. A problematic provision of the 1999 Forestry Law defines a forest area as an area designated and/or designated by the government with a view to preserving its existence as a permanent forest (Article 1 paragraph (3)) and a customary forest as a state forest within the territory of a government-owned community as stated in common law rules (Article 1 paragraph 6). The government determines forest areas under Articles 1(1), 1(2), and 1(3) of the Forestry Law. As long as the customary law community still exists and is acknowledged (Article 5(3)) and the local laws (which relate to Perda) confirm and eliminate indigenous peoples (Article 67(2)), customary forests may be designated.

As the Forestry Law of 1999 does not give extra legal protection, indigenous peoples are at a disadvantage. Article 50 of Law 41 of 1999 limits forest operations. Illegal forest activities include working, using, or occupying forest areas; encroaching on forest boundaries within a certain radius or distance; cutting down trees; harvesting or collecting forest products without rights or permits from authorized officials; and herding cattle in non-designated areas. In addition to imprisonment, offenders will be subject to fines and other penalties. The results of the social service agency's interview revealed that the proof of ownership of the SAD land was his son's inheritance. Although, they did not have the certificate. In contrast to the kayakers in Baduy, they have a place to live, written customs, and continue to practice traditions. Customary forests in Batanghari Regency are recognized by law as state property with the status of a national park even though people are free to move around and enter the forest area. But the legal status of the SAD in the village area, the status of the village because a resident there, for example in the village of Bungku, is a member of Bungku, is determined by the status of the village itself. In addition to legal protection and legal certainty for SAD, the social service provides social guidance and food assistance, which is collected at the Community Center Hall.

The legal status of SAD corresponds to the status of customary rights and is recognized by the state. The issuance of decree (SK) from land without a certificate was the result of government pressure, the company took the position that there were subsidiaries that lacked legal rights and this was accepted, it was agreed that a piece of land and its park facilities would be given to PT. Asiatic as a form of compensation for the demands of SAD and what happened next, and the regent returned the land to traditional institutions to determine whether SAD reclaimed it (there is not a single human being in this). The Batanghari SAD regulations and the regent's regulations in Batanghari do not yet exist hierarchically in the legislation, the provincial regulations are above the Regency/City, so in principle, this is still awaiting the provincial regulations' contents. Regency/City is ready for immediate implementation. The form of legal certainty or legal standing in Batanghari Regency is still a policy, the SK 180 decision. Certainty exists in the form of a policy in the form of a decision, but if we follow the common thread, we find that the decision is also a product of regional law. Mr. Usman, the deputy head of SAD customs, stated:

("Land ownership after being verified and validated by the Batanghari customary institution, the community was placed, it should have been the SAD community of Bungku village, right, they were

placed from logan, tanjong lebar, teluk beringin etc. The Bungku Village SAD has only been a spectator for weeks, so we speak up since we lost our patience. If the status of this land is the first subsidiary of a MPX company, the principle permit was issued in 1985-1986, 2005 the permit was expired, there was no HGU (Business Use Rights), and in 2005 the regent had a letter issuing the revocation of the MPX because the principle permit had expired, The regent revoked the company, the company handed over this land to the government, which according to our demands, since many people's rights had been destroyed at that time, this was handed over as compensation. Well, in fact, the victims are SAD from Bungku Village from BDU, meaning that those who have to enjoy the land are SAD from Bungku Village, not Chinese immigrants, the Dutch. In SAD, what is my ownership of this land, if there is no correspondence because of the old days, if it is today, yes, during my father's time, there was no such thing as my father's era, the important thing is that it is my father's right to be planted with durian, rubber, this rambutan trees as a border A with B, because this is implied rather than stated. As long as this SK 180 is not revised, this will not be finished, there will be no resolution, as long as the SK 180 is not revised, then this will not be completed or there is no resolution, because this is what brought disaster, with the arrival of the English people, which is why they are located here, we are based on SK 180, that is the answer. This is a disaster, this is already based on SK in my opinion".)

In line with the statement of Mr. Suroso as the Head of the Section for Determination of Rights and Registration of the Land Office of Batanghari Regency that:

"The legal status of their individual ownership is that they admit that they are from SAD but not as MHA (customary law community) SAD. The status is indeed mostly owned by the state, but there are also those outside the forest area."

According to Perdirjen KSDAE Number P.6/KSDAI/SET/KUM.1/6/2018, technical guidelines for conservation partnerships in nature reserves and nature conservation areas exist, but local regulations have not yet been implemented. One group is doing conservation, but it takes time, so BPN members first socialize the group. In the future, the government will construct a conservation cooperation program that allows SAD residents to cultivate or plant in a conservation area lawfully without owning land. No ownership is crucial. The Forestry Law has failed to provide customary law communities a clear position from which to exercise their tenure rights over customary forests, as seen above. Despite Boschordonnantie Java en Madoera 1927 nullifying Law No. 41/1999 on Forests, "modern" domain verbklaring is still in force today.

State woodlands SAD customary lands of the Anak Dalam Tribe in Batanghari Regency cannot be removed from legal boundaries under Forestry Law Number 41 of 1999. Yet, Article 33, paragraph 3 of the 1945 Indonesian Constitution specifies that the government manages land, water, and natural resources for the people. That being said, land should not be utilized for any purpose, and legal complications are not solely about legal certainty. Customary land that was once a state forest must be returned to the state so that it can be repurposed as a state forest if it is limited to the law. Nevertheless, the issue with law enforcement is not only a problem with the law itself, but also with the value of law enforcement to society. The sociology of law, on the other hand, clearly indicates that the law must be beneficial to society. In truth, real estate is extremely valuable, and villages along the Patai river can purchase customary land from state forests in various locations. Conversely, if there is documentation stating that the community cannot convert the land into private property, then the land cannot be converted. Community administration success can only be achieved by focusing on outcomes. The state must be the owner because the criteria of Forestry Law 41/1999

stipulate that the owner is the state and the merchandise issued belongs to the state. In accordance with the findings of the research conducted by the head of the Forestry Service, the Batanghari Regency forest area that contains settlements and agricultural land is a public forest area. For the purposes of agrarian reform, the forestry service is currently delineating land boundaries to prevent individuals from re-opening land in the Batanghari forest region.

The issuance of certificates of customary rights on behalf of members of the clan adat community resulted in the privatization of customary land ownership. Ownership of individual property has changed the concept of ulayat rights, which are now considered ulayat rights and classified as general rights based on Article 13 paragraph 3 of Perka BPN No. 10 of 2016. As a direct result of this provision, the substance of ulayat rights, which has been regulated by the LoGA as the main statutory regulation governing ulayat rights, is immediately abolished by private law. Since the LoGA is the main law governing ulayat rights, this has happened. According to Maruarar Siahaan, the issuance of certificates to indigenous peoples can be the basis for protecting their ulayat rights. In particular, this can be achieved in terms of indigenous peoples' involvement in current investments and activities through equity participation by assessing the fair economic value of community lands governed by customary law and used in entrepreneurial ventures.

The concept contained in the Regulation of the Head of BPN Number 10 of 2016 replaces the concept contained in the Regulation of the Head of the National Land Agency Number 9 of 2015. The phrase Perka BPN Number 10 of 2016 implies that the notion of human rights society is different from customary rights recognized in Article 3. This gap can be detected by comparing the topic of rights with the nature of rights. Meanwhile, the subject and nature of rights are different. The notion of ulayat rights applies not only to communities governed by customary law, but also to geographically concentrated groups of individuals. Second, ulayat rights can be interpreted in either a public or private context, while community rights are often seen in a private or civil context. In contrast to ulayat rights which can be considered as ownership rights to land and can be given a certificate, ulayat rights cannot be categorized as land rights as referred to in Article 4 and Article 16 of the LoGA. However, ulayat rights can also be seen as land rights ¹¹

Although the Regulation of the Head of the National Land Agency No. 10 of 2016 which regulates customary rights to land does not have a legal basis in the LoGA, the legal basis for customary rights to land can be found in the LoGA through systematic reading of the text. Article 2 of the LoGA states, as is common knowledge, that the state has the greatest control over land, and by virtue of this control authority, the state has the ability to regulate legally binding relationships between individuals and property. Further, in the first paragraph of article four it is stated that based on the power of state control, various land rights can be granted to and owned by individuals or groups of individuals or legal entities. These individuals and legal organizations can be individuals or legal entities. According to the first paragraph of article 16, property rights are included among the rights listed in the first paragraph of article 4. Therefore, ulayat

¹¹ Maruarar Siahaan, "Pengakuan Dan Perlindungan Hak Ulayat: Aspek Penting Pembangunan Indonesia Menuju Sebesar-Besar Kemakmuran Rakyat," *Jurnal Ketatanegaraan* 9 (2018).

rights are property rights granted to the community which are regulated by customary law and jointly held by individuals and legal entities. Common property rights are another name for community rights ¹²

The first step in achieving agrarian reform is to resolve agricultural conflicts. The distribution of assets related to land legalization for agrarian reform will be carried out after the resolution of agrarian disputes and conflicts. If agrarian reform is not implemented, it will result in new conflicts. Agrarian reform must be carried out to prevent the emergence of new conflicts. The issue that unintentionally arises is that policy objectives are focused on initiatives to encourage development of industries that support rapid economic growth but are not grounded in land mapping. This is because the policies will promote quick economic growth. In order to achieve justice and legal clarity regarding the control, ownership, use, and utilization of land, Indonesia is implementing agrarian reform. This involves changing the structure of control, ownership, use, and land use. This will make it possible to reorganize how land is used. The greatest impact on the resolution of land disputes, which keep growing year after year without a real resolution, will come from the current phase of agrarian reform in Indonesia.

Agrarian reform reorganizes land ownership, administration, and usage. "Agrarian reform comprises a continual process with respect to the realignment of control, ownership, usage, and use of agricultural resources," according to Article 2 of TAP MPR No. IX/MPR/2001." ¹³. According to MPR Decree No. IX/MPR/2001, Agricultural Reform aims to reduce land and agricultural conflicts, end poverty, and increase community access to economic resources, notably land. Agrarian disputes and conflicts are caused by agricultural resource management strategies that overlook justice and people's wellbeing, resulting in wealth disparity. This policy caused this imbalance. ¹⁴. The Ministry of Agricultural Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN) has not selected the best community certification. The Ministry of ATR/BPN and IPB's Center for Agrarian Studies (2017) research on Communal Land Registration found that the form of land tenure and control, the power to govern land, and the legalization method are crucial to the execution of customary rights. This study concludes that communal rights must pay attention to these three factors. Legal recognition (rights) involves the recognition of subjects, objects, and types of rights. For example, the certificate of a plot of land must clearly identify the legal subject. Legal recognition and repatriation of indigenous peoples' rights will not be effective if there is ambiguity ¹⁵. Presidential Regulation no. 86 of 2018 may have the following impacts on communities governed by customary law: (a) the dispossession of individuals from their

¹² I Ketut Sudantra, "Implikasi Keputusan Menteri ATR/Kepala BPN Nomor 276/KEP-19.2/X/2017 Terhadap Kedudukan Tanah Milik Desa Pakraman," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 7, no. 4 (2018): 546–64.

¹³ Sulasi Rongiyati, "Reforma Agraria Melalui Perpres Nomor 86 Tahun 2018," *Kajian Singkat Terhadap Isu Aktual Dan Strategis* 10, no. 19 (2018): 1.

¹⁴ Ricco Survival Yubaidi, Mazliza Mohamad, and Saidatul Nadia Abd Aziz, "Kaedah Pendaftaran Tanah Di Indonesia Sebagai Penyelesaian Konflik Agraria (Land Registration Principles in Indonesia as an Agrarian Conflict Resolution)," *Jurnal Undang-Undang Dan Masyarakat*, 2021.

¹⁵ R Yando Zakaria, "Strategi Pengakuan Dan Perlindungan Hak-Hak Masyarakat (Hukum) Adat: Sebuah Pendekatan Sosio-Antropologis," *BHUMI: Jurnal Agraria Dan Pertanahan* 2, no. 2 (2016): 133–50.

lands and villages. This immediately destroys property rights, livelihoods, and residences, resulting in the loss of the socio-cultural life of the community; (b) reduced living space for indigenous peoples; (d) the expansion of agricultural disputes into other types of conflict, such as conflicts between villages and conflicts between indigenous peoples and migrants; (c) deteriorating trust in government victims; and (d) reduced trust in government victims ¹⁶.

The findings of this study are in accordance with the conflict resolution theory proposed by Dahrend. According to Dahrend's theory, conflict can be resolved through mediation when both parties agree to seek advice from a third party who is considered to have in-depth and expert knowledge about the problem at hand. However, the advice given by the mediator was not legally binding on either party ¹⁷. According to Zatman, the function of third parties is very much carried out in long-standing disputes, especially if there is a deadlock in the conflict resolution process. Both parties to the conflict believe that they have achieved their goals by continuing the conflict. But neither of them have the inclination to find a way to reconcile ¹⁸.

Justice is still considered the crown of law, according to the theories of natural law that have developed in the philosophy of law from Socrates to Francois Geny. " The Search For Justice" got high priority in the theory of natural law. There are many different perspectives on what constitutes justice and what forms a just society. This philosophy addresses issues related to rights and freedoms. The process of justice, in its most basic form, is a process that is never completed. On the contrary, it is a process that constantly reproduces itself, from one generation to the next, and that is constantly undergoing change, which is a bold and best call. Legal rejuvenation must be carried out consistently so that the Bajo tribe community can develop in Pohuwato Regency. In progressive legal theory, the process of change is not concentrated on new laws as before, but rather on the creative power of law actors who then practice the law at the right place and time. Without the need to wait for permanent reforms, progressive legal actors can achieve change by proposing innovative interpretations of the current legislation (changing the law) ¹⁹.

Legal Status Issue of Land Ownership for Indigenous Peoples of the Anak Dalam Tribe in Batanghari Regency

The Bungku Village area, Batanghari Regency, Jambi Province, was motivated by a land dispute case, as does the Village of the Anak Dalam Tribe (SAD) 113 hamlets,

¹⁶ Saija et al., "Status Kepemilikan Hak Atas Tanah Adat Marga Dalam Kebijakan Penataan Aset Reforma Agraria Di Kabupaten Maluku Utara."

¹⁷ Bambang Selviani, Bambang Utoyo, and Simon Hutagalung, "RESOLUSI KONFLIK AGRARIA DI KAWASAN REGISTER 45 SUNGAI BUAYA (Studi Desa Talang Batu Kecamatan Mesuji Timur Kabupaten Mesuji)," *Jurnal Ilmiah Administrasi Publik Dan Pembangunan ADMINISTRATIO* 8, no. 2 (2017): 161174.

¹⁸ Dio Muamar Ramadhan, "Sengketa Tanah Antara Pt. Berkas Sawit Utama Dengan Masyarakat Suku Anak Dalam 113 Desa Bungku Kecamatan Bajubang Kabupaten Batang Hari" (Ilmu Hukum, 2022); Nurul Khoiratul Hijriah, "Peran Tim Terpadu Kabupaten Batang Hari Dalam Penyelesaian Konflik Lahan Antara Pt. Berkas Sawit Utama Dengan Kelompok Suku Anak Dalam 113 Di Desa Bungku Kabupaten Batang Hari" (Ilmu Hukum, 2022).

¹⁹ Muhammad Nasir, "Hakikat Status Kepemilikan Hak Atas Tanah Masyarakat Suku Bajo Di Kabupaten Pohuwato Di Provinsi Gorontalo," *Jurnal Pendidikan Tambusai* 6, no. 2 (2022): 15623–34.

three hamlets located in the HGU area of an oil palm company that has not yet been released. This case stems from the Nature Reserve which was stipulated by the Jambi Governor's Decree No. 188.4/599/1985, which limits oil palm plantations to 40.000 hectares. Required by law to release communal living space, fields, and shrubs, hereinafter referred to as the customary land of the Anak Dalam Tribe (SAD). The lands are located in Padang Salak, Pinang Tinggi, and Anah Menang, all of which are the territory of Dusun Tua. The company's in-principle license contains a legal requirement to relinquish the area. This permit allows the corporation to force residents of Tanah Wins, Pinang Tinggi, and Padang Salak to leave their homes. Land grabbing is often accompanied by human rights violations, which creates a very precarious situation for the Orang Rimba community. A conference between the Jambi local government, SAD 113, and corporations was mediated by Komnas HAM (National Commission on Human Rights) and took place in September 2012. During the discussion, it was decided that the company would be responsible for the costs of carrying out the process of measuring the enclaveing area and making the border in the form of an elephant trench. Both of these tasks must be completed. However, the corporation has not yet implemented the terms of the agreement.

A similar statement was made by the Head of the Legal Division of the Regent's Office, Mr. AM Safrir that:

"The problem with the legal status of ownership of MHA SAD In Batanghari Regency, it's not that far between the PT and the SAD community, it's usually like that, so usually, for example, they claim that it's actually their land, their land has been confiscated or property, right? like that, it means that one form of settlement in 2014 was through this decree, it was recorded that several SAD based on verification and validation were recognized by the Batanghari local government, so the conflict was not far from PT, if it was from the local government it was rare, but right there The regional government must be fair to act as a mediator, usually the settlement goes to the Kesbangpol (National Unity and Political Bodies)".

Meanwhile, the deputy head of the SAD adat, Mr. Usman, said that if they were in the area first, according to his narrative, which was from 1986 to 1987 he was already 10 years old, He was here. When his father was born here, he lived here too. He said that this problem started with a fight with immigrants who I thought were Dutch and the SAD were still fighting. From the days of the ancestors of the SAD rules, it's okay to be a spied beard at the location of a dimly lit datuk, but if someone want to look for rattan, he may have permission. In relation to this issue, the government has never sent a letter or any other form, in this case the SAD community often demands the land. This was shown by their protest, as walking from Jambi to the state palace for 43 days, From the Batanghari government, the 2000 scheme has been given, but the facts on the ground were different. Until a member of Anak Dalam Tribe suffered and died during their journey. According to the deputy chairman of the SAD customary scheme, the scheme was on behalf of the Bungku Village SAD, but SAD was just a spectator.

From the Batanghari district customary institution, it was stated that SAD was not included in their MHA Cluster outside. Jambi province has not yet issued customary rights. Where in general terms is that when MHA will obtain rights to their land, they must first be designated as customary law communities, where their determination as customary law must be determined by the regent, until now in Batanghari Regency there was not a single customary law community designated as MHA, which other tribes do

too. Head of Section for Determination of Rights and Registration of the Land Office of Batanghari Regency, Mr. Suroso said that:

"How do you want to register, they haven't even been appointed as MHA by the Regent, so they haven't obtained SAD land rights, but personally, there are already one or two SADs who have certificates, but as individuals, not under SAD customary law. Individually there are, but individually we can't identify whether they belong to SAD or not, but we personally know they are SAD, they mention SAD, but when we came here the documents as MHA SAD were not listed, so we don't have specific data. The problem is that there has been no decision from the regent regarding MHA SAD. In Batanghari Regency, there is no MHA, while in Kerinci, the customs are high. We have never issued a certificate for MHA, because if MHA is issued, it is not a certificate of property rights, but customary rights, customary rights are in Jambi Province, not in the Regency. Batanghari, in Jambi Province alone has never published. Jambi Province has a higher MHA, it's thicker, which is true in Kerinci, while the fact that there's even not Kerinci."

This statement is reinforced by a statement from the Head of Social Empowerment and Rehabilitation Mr. Taufiq :

"if you are an independent one, yes, follow the residents there, but if you are fostered by the Social Service Office (DinSos) if you roaming, yeah you can roam there, move in those 12 hill areas, so the explore areas was there. As a result, there were no documents establishing ownership or securing property rights. But the Government understands, people are there, yes it is from the past, in terms of documents, there is none at all (such as ID card, Family Card). But, the is one who has been recorded, one of them is a form of state recognition on his population rights. So one of the state recognitions of the granting of population rights. The government just gives them access, and they stays there. Meanwhile, the girl can't be recorded in picture because we can get a fine if we do, unless we ask for permission first"

Regarding government regulations for SAD, Mr. taufiq added that there was once a government regulation for SAD from the director general specifically regarding KAT, the local government told about assistance for people, if they were sick, there was an MOU with the hospital so they could get treatment free this as a form of protection for them. Besides that, there used to be documents in the Dutch era, but their liaison with the SAD community was called WARSI, it couldn't be done all of a sudden. The environmental service, a young expert forestry instructor, Mr. Pauzan, S.Hut, said that his authority was only in the Tahura area. There are 12 villages 1 village, one of which is water pump, singkawang, sridadi, tenam village, trapping village, jangga baru, kilangan, so we are in our working area only in the tahura area, if in the past we were indeed the forestry service first, so it was a fraction of the forestry service because the Forestry Law is a tahura area that does not cross the district then, the area is managed under the district, if it crosses the district then the management is under the province, it happens that tahura is inside Batanghari Regency, then it is under Batanghari Regency. The scope of SAD lands in TAHURA, since long ago SAD existed, until now there are also descendants of SAD. Up untill this point, no SAD has asked the government to grant the land where they live as proof of ownership, because they know that they live in the area but some of them told the social service.

The Forestry Law ought to be capable of resolving the issues that have arisen in the forestry industry thus far. Although, the implementation of the Forestry Law, which occurred after it was enacted, still creates issues in the relationship between the government, in its capacity as a state administrator, and forest-dependent communities. Among other complexities, these problems manifest as disputes over competing claims to authority over portions of land and forests (agrarian disputes). Due to the various

provisions contained in the articles comprising the Forestry Law, there are numerous disagreements regarding land tenure rights in forest regions. In numerous ways, the implementation of the Forestry Law has given the community and local government the impression that they have been disadvantaged. The Right to Control the State grants the government certain powers; consequently, it tends to prioritize.

One of the consequences of the many juridical irregularities (incongruent rules) that occurred during the process of making forest management legal instruments in Indonesia is the recurrence of prolonged conflicts between local communities and the government regarding the administration and utilization of forest resources²⁰. If the government and local communities can see their respective roles in the same perspective, then there is no need for land tenure disputes. This means that the government that brings in corporations must be able to respect the way of life of the local community, and vice versa. This eliminates the need for conflict, may have a better understanding of the importance of growth in their area and can work to improve the overall standard of living of the community²¹. The derivative regulation in the form of a Decree of the Minister of Forestry has caused problems in its implementation which have a wide impact on the community, especially for holders of land rights in forest areas or customary law communities who have inhabited regional forest areas for decades before the HPHTI permit was issued. These issues have become a source of contention between the community and the government. The Supreme Court was asked to conduct a judicial review to overturn a decision that had been issued by the Minister of Forestry. The decision on the petition for judicial review of the Forestry Law discussed in this paper is the Constitutional Court Decision Number 45/PUU-IX/2011 concerning the constitutionality of the definition of forest area. This decision was taken in response to the question of whether the definition of forest area is in accordance with the law or not.

The Social Transmigration land (*transos* land) is included in the forest area but so far the environmental service has not seen a letter that the land belongs to them for SAD transos. Transos land that is removed from the area should be certified, but until now it cannot be certified because it is included in the area.²² highlighted the underlying sources of protection problems in nature reserves that may be the result of adjacent management and people with competing agendas and interests. A paradigm for sustainable protection management, the suggested strategy consists of five different tactics. Strategies for developing a network of conservation areas, cooperation, conservation, area utilization, and community empowerment. Therefore, the government is obliged to perfect the laws and regulations governing the implementation of regional government. The community was first given access to KSA and KPA based on Government Regulation (PP) No. 28/2011, which was substantially amended through PP No. 108/2015. In the name of community empowerment, the following activities can be carried out: (a) development of conservation villages; (b) providing access for the collection of non-timber forest products in traditional areas or blocks or for traditional uses; (c) facilitation of partnerships between forest utilization permit

²⁰ Abdul Muis Yusuf and Muhammad Taufik Makarao, *Hukum Kehutanan Di Indonesia* (Rineka Cipta, 2011).

²¹ (Yamin & Comments, 2003)

²² Zuhri & Sulistyawati (2007)

holders and communities; and/or (d) issuance of a business license for commercial nature tourism services.

However, ²³ believes that the participation mechanism mandated by the law cannot be considered perfect, because it has not contributed much to the implementation of collaborative conservation area management. Several things were found, i.e public consultation on conservation area management which was only a formality and only involved elites, community compensation rights due to loss of access or ownership of forest areas that were not granted, and patterns of cooperation that remained in the form of cooperation. Further, ²⁴ found another fact that national park managers have a tendency to play a dominant role in the process of planning and programming activities, whereas communities are only involved in these activities if they are offered incentives. According to ²⁵ community involvement in forest conservation initiatives will be limited if the constraining elements, such as poor infrastructure, low community income for business, and low levels of community education, are not immediately identified and addressed. Law enforcement, delimitation, and providing direct benefits to surrounding communities are three factors that contribute to effective conservation area management ²⁶.

Minister of ATR Regulation Number 9 of 2015 amends natural resource management and agricultural reform laws in compliance with MPR Decree Number IX/MPR/2001. The Ministry of Agricultural Affairs and Spatial Planning rules recognized customary land rights as common property rights governed by customary law. It also affirms the right to govern communal property for Indonesian development. Based on these characteristics, it should be utilized as a legal breakthrough to instantly preserve indigenous peoples' rights to administer their customary lands or territories. This protects indigenous peoples' legal rights to their customary lands. The Ministerial Decree is based on TAP MPR No. IX of 2001, the highest legislation on agrarian reform and natural resources management. This regulation should be the main basis for implementing Article 18 letter b paragraph (2) of the 1945 Constitution and Article 28 letter I paragraph (3), because the main purpose of the stipulation in Permen ATR No. 9/2015, observing letter b, is to clarify that the customary rights referred to in the Ministerial Regulation are the same as those in Article 3 of the LoGA, which regulates indigenous peoples' ulayat rights.

According to Maria Sumardjono's "regarding community rights to land" study, Ministry of Agricultural Affairs and Spatial Planning Regulation No 9/2015's combination of ulayat rights and ulayat rights is inappropriate due to their diverse features. Hence, Minister of Agricultural Affairs and Spatial Planning Regulation No 9/2015 should not equalize ulayat rights. Ulayat rights are public, MHA members have legal links with their lands, and MHA takes legal actions related to their customary lands to govern upkeep and usage. Customary law communities in their regions privately own customary rights.

²³ Peranginangin(2014)

²⁴ Sadono (2013)

²⁵ Yanto (2013)

²⁶ Aaron G Bruner et al., "Effectiveness of Parks in Protecting Tropical Biodiversity," *Science* 291, no. 5501 (2001): 125–28.

Based on the premise that a rule must offer legal certainty to produce order, peace, justice, and the public good, it is acceptable. the law on the existence of ulayat rights in the community regulated by customary law. As ulayat rights and communities governed by customary law are eternal and indivisible, legal ambiguity will necessarily affect rights maintenance and customary law continuation. This article claims that Minister of Agricultural Affairs and Spatial Planning Regulation No 9/2015 was released too soon to clarify and preserve indigenous peoples' rights to govern their customary lands. Community land rights controlled by customary law, notably customary rights, are distinct from customary land rights. Before moving on, study and understand this.

The new land rights that emerged as a direct result of the ratification of Minister of Agrarian affairs and Spatial Planning Regulation No. 9/2015 contradicts the requirements outlined in Article 16 of the LoGA. In the formulation of laws and regulations, Indonesia adheres to several principles, one of which is the concept of *lex superior derogat legi inferior*. This concept underscores the need to ensure that lower regulations do not conflict with higher regulations. According to Minister of Agricultural Regulation No. 5 of 1999, indigenous peoples' customary lands must be recorded "by affixing cartographic marks and, if feasible, clarifying their borders and entering them in the land register" to safeguard them. Since the Minister of Agricultural Affairs and Spatial Planning Regulation No. 9/2015 superseded the Agrarian Regulation No. 5/1999, customary law communities' customary rights are unregulated. Given the absence of law, people who adhere to customary law do not loss of customary rights as a result of existing laws and regulations that recognize customary rights. As it is known that Indonesia in theory adheres to a form of legal pluralism known as weak legal pluralism, meaning that even though the State recognizes the rights to the community's ulayat rights which are regulated by customary law, this must be done in accordance with statutory regulations. In addition, this implies that the government must be able to look at the diversity of social or economic conditions when issuing policies or laws. Indonesian culture that may still be witnessed today. this implies that the government must be able to look at the diversity of social or economic conditions when issuing policies or laws. Indonesian culture that may still be witnessed today. this implies that the government must be able to look at the diversity of social or economic conditions when issuing policies or laws. Indonesian culture that may still be witnessed today.

Based on some of the evidence provided above, it can be concluded that for customary areas the process of determining customary land rights requires further investigation. This procedure must take into account the current characteristics of indigenous peoples' rights, particularly ulayat rights, so that in the future the government's mandate to preserve the rights of indigenous peoples can not only be promulgated, but also implemented in the field. Therefore, it is hoped that the government, especially the Ministry of Agrarian Affairs and Spatial Planning, will immediately revoke or revise this Minister of Agrarian affairs and Spatial Planning Regulation in order to achieve the objectives outlined in PMK No 35, namely providing legal protection and legal certainty to indigenous peoples. These targets are intended to be achieved in order to meet the stated decision objectives.

Envious residents use customary land. P.6 of 2018 restricted the area. Some people who never had access have less access than others, which may generate arguments. Article 32 of Law Number 5 of 1990 concerning Conservation and Law Number 41 of

1999 necessitate a core zone, usage zone, and additional zones to administer the national park area. Rehabilitation, special, religion, culture, and history may be controlled under this law. Village administration and communities will view zoning management differently. If conventions or memoranda of agreement no longer bind the rules between groups and people or between groups, every community wants to work the land their way, generating horizontal conflict.

Local communities continue to want to manage their land in the same way they always have, ignoring the regulations of Perdirjen P.6/KSDAE/SET/Kum.1/6/2018, because of a lack of understanding about legal access to conservation partnerships among some communities that are members of forest farmer groups. This is supported by the fact that land managers in the national park region are opposed to having their territory included into the customary area's group work area. Disagreements may arise between the locals and the Anak Dalam Tribe as a result of their divergent perspectives on the importance of granting the tribe legal access to conservation partnerships (vertical conflict). Perdirjen P.6/KSDAE/SET/Kum.1/6/2018 is there, but it is not enough to solve the issues that have arisen because of the existence of populations in and around the National Park that rely on these unique ecosystems.

Vertical conflicts may persist if legal access views remain divergent. This disagreement may also cause conflict between those who recognize the constraints and others that continue to claim customary land usage as private property (horizontal conflict). As a suggestion, the Perdirjen Law P.6/KSDE/SET/Kum.1/6/2018 should be revised to reflect the existence of special areas as mandated by Law no. 5 of 1990 (Article 32), Law no. 41 of 1999 (Article 24), and P.76/Menlhk-Setjen/2015 Articles (10, and 16) and P.56/menhut-ii/2006 (Article 6.7) that the activities of people living in The Director General of KSDAE No. 6/2018 oversees three regulations: 83/2016 MoEF; 43 (c) Permenlhk No. 44/2017. The mandate, which is also a factor in paying attention to the Director General of KSDAE No. 6/2018, genuinely combines a desire for change under three separate rules. What is the spirit of change in Perdirjen KSDAE No. 6/2018 distinguishes it from partnership or community involvement in conservation area management, as stated in the seven rules reviewed in Part II. Partnership Before the Director General regulation of KSDAE No. 6/2018 Regarding Conservation.

In this context, regulation of Director General of KSDAE No. 6/2018 requires equal community participation in protected area management. This indicates that the first stage of community engagement is to propose a conservation partnership for conservation area management, followed by the development of a partnership strategy, implementation of a conservation partnership, and monitoring and assessment of implementation on conservation partnerships Law no. 83/2016, which regulates social forestry, provided the impetus for this early spirit. The community proposes to actively obtain social forestry schemes, including forest concession rights for village forests, business permits for community forest utilization, business permits for utilization of timber forest products in community plantation forests, forestry partnerships, and customary forests. According to the Director General of KSDAE No. 6/2018, communities are now considered as equal partners in conservation area management. The conservation partnership legalization system, which uses a cooperative agreement structure rather than a permit mechanism, demonstrates this. This is different from the majority of other legalization regimes that use a licensing system. Third, the

Conservation Partnership Regulation (Perdirjen KSDAE No. 6/2018) stipulates two alternative arrangements for implementing conservation partnerships. Especially conservation partnerships in the context of community empowerment and conservation partnerships in the context of ecological restoration. The two programs are community empowerment programs regulated in the Regulation of the Minister of Environment and Forestry No. 43/2017 and the environmental recovery program as outlined in Permenlhk No. 44. These two programs are merged into one and both of these initiatives ensure the utilization of non-timber forest products (HHBK) obtained from protected areas.

Although implementation varies, conservation partnership policies have been protected by law since the birth of Law no. 5 of 1990 until the issuance of the Director General of KSDAE No. 6/2018. This has been the case since the beginning of legal history. In order to establish a conservation partnership based on Perdirjen KSDAE No. 6/2018, the Director General of KSDAE, namely seeks for a combination of policies to maximize the implementation of the Director General of KSDAE No. 6/2018. The policy mentions the conservation partnership's contributions to the 2020-2024 KSDAE Strategic Plan, including the target of 5,000 individuals with access to conservation area management; includes conservation partnerships as one of the tenurial dispute resolution proposals in the guidelines and typology of tenure conflicts in conservation areas, which will become the D's latest policy; and Prepare data and maps of open spaces to begin tenure resolution in conservation areas. Following that, the conservation area management unit will review and detail the newly opened area map for better usage. Tenure conflicts may be categorized and resolved. The 2020-2024 RPJMN study estimates 1.8 million hectares cleared. Map 554 conservation area collaborations. The technical directorate and conservation area management units will use this suggested map to create conservation partnerships in each management unit. As of March 2019, the conservation collaboration covers 3.452.172 hectares, including an ecosystem restoration plan of 747.840,33 hectares, community empowerment initiatives in the form of access grants of 1.329.062,8 hectares, and empowerment projects of 1.375.062,8 hectares. Permitholder-community collaborations are public.

Ratification and issuance of the Director General of KSDAE No. 6/2018, which governs conservation partnerships, is a win-win solution that will help balance conservation goals with the lives and well-being of the communities living around protected areas. In addition, the Director General of KSDAE incorporates a number of additional policies to optimize the effectiveness of the implementation of the Director General of KSDAE No. 6/2018. The KSDAE Strategic Plan 2020-2024 contains several additional policies, including guidelines for resolving tenure issues in conservation areas, data accumulation and open space maps, as well as making indicative maps of conservation partnerships. The researchers advise the following to improve conservation partnerships to settle tenure issues in conservation areas while balancing conservation goals and community well-being: (a) Enhancing community engagement in conservation partnerships for ecosystem restoration via Perdirjen KSDAE No. 6/2018. The Ministry of Agricultural Affairs and Spatial Planning Regulation No. 18 of 2019 acknowledges and protects customary law community units or similar entities as long as they exist and are consistent with community development and the Unitary State of Indonesia. Indonesia's land law preserves community units managed by customary law

or analogous organizations. "There are still ulayat lands of customary law community units whose administration, management, and use are based on local customary law principles and recognized by community unit members,"

Legal clarity comes from recording customary land rights. Customary rights are not registered under the customary rights rules. While the Minister of State Administration and Regional Regulation does not explain land management, the Customary Law Community Unit for the Management of Customary Land oversees customary land rights. The land administration resolves all legal issues, and the government manages ulayat lands. According to Article 3 of the Ministry of Agricultural Affairs and Spatial Planning Regulation Number 18 of 2019, Indigenous Law Community Units are recognized and protected. This illustrates that the recognition decision governs ulayat property rights management for legal protection. Customary land rights are based on the recognition decision.

According to Article 4 of Ministerial Regulation Number 18 of 2019, customary rights over land controlled by community units do not apply to land parcels controlled by individuals or legal entities with land rights or obtained or issued by a government agency, legal entity, or individual in accordance with the legislation. This provision states that ulayat rights or customary rights are only granted to community units regulated by customary law based on the stipulation of recognition only if land parcels are not controlled by individuals or legal entities with land rights or obtained or issued by a government agency, legal entity, or individual. This regulation further stipulates that community units administered by customary law only get ulayat rights based on recognition criteria if the local land office head approves their land management applications. Community entities governed by customary law must measure ulayat lands. After mapping the Customary Law Community Unit, the land register contains customary land.

Customary land rights granted prior to the implementation of Ministerial Regulation Number 18 of 2019 concerning Processes for Administration of Indigenous Land Community Units, as detailed and explained above, are proclaimed to remain valid. After the release of Ministerial Regulation 18 of 2019 on State Administration, this relates to the unique aspects of indigenous peoples' customary rights. As long as they continue to live in accordance with development and do not violate national law, people who live in groups from generation to generation based on a relationship of origin or ancestor or the same place of residence have the same culture, live in a particular area, own joint assets, and have customary institutions that contain sanctions. These distinguishing features of customary law-based communal rights. Communities governed by customary law are responsible for enforcing customary land tenure. The legal relationships between customary law communities and their lands, as well as the legal procedures pertaining to customary law community lands, give rise to a civil component.

4. Conclusion

Legal uncertainty and scepticism about the existence of indigenous and tribal peoples and their land rights have increased since Forestry Law No. 5 of 1967 was superseded by the Forestry Law No. 41 of 1999. This happened because the Principles of

Forestry Law (Law No. 5 of 1967) was replaced by the Forestry Law (Law No. 41 of 1999). Unfortunately, indigenous peoples cannot freely and securely exercise their tenure rights over customary forests because the Forestry Law has yet to make it feasible for them to do so. Boschordonnantie Java en Madoera abolished Law No. 41/1999 on Forestry in 1927, although the idea of "modern" overlaying land was still used. Notwithstanding SAD's centuries-long hold on Batanghari Regency's customary land, the area is still subject to several legal restrictions. Law No. 5 of 1990, Article 32, respecting Conservation, and Law No. 41 of 1999, which say that national park lands are governed by a zoning system consisting of a core zone, usage zone, and additional zones as required, are at odds with the presence of Regulation P.6/KSDAE/SET/Kum.1/6/2018. A zoning system including a core zone, a usage zone, and different zones with the requisite degree of supervision is required by law to ensure the proper upkeep of national park lands. Because of this situation, there will be numerous interpretations of the planned access zone management by various stakeholders, such as village government officials and community members. Traditional leaders' day-to-day duties span all parts of communal life, and their power over the customary rights of the community regulated by customary law is a critical factor in the smooth functioning of legal alliances. The standard head is responsible for establishing and stipulating specific law regulations as the basis upon which community life is built, as well as resolving customer disputes that arise in a community governed by customary law, changing customary law that has been violated by the community, rehabilitating the excellent name of established law so that it remains valid and can be maintained, and so on. The ultimate goal is to figure out how the Regent of Batanghari Regency, who stands in for the Indigenous Law Community, would approve of the SAD Customary Law Community. This may be inferred because its legal position is ambiguous at the moment.

References

- Bruner, Aaron G, Raymond E Gullison, Richard E Rice, And Gustavo A B Da Fonseca. "Effectiveness Of Parks In Protecting Tropical Biodiversity." *Science* 291, No. 5501 (2001): 125-28.
- Bzn, B Ter Haar. "Asas-Asas Dan Susunan Hukum Adat." *Terjemahan, Jakarta, Pradnya Paramita*, 1983.
- Citrawan, Fitrah Akbar. "Konsep Kepemilikan Tanah Ulayat Masyarakat Adat Minangkabau." *Jurnal Hukum & Pembangunan* 50, No. 3 (2021): 586-602.
- Hijriah, Nurul Khoirotul. "Peran Tim Terpadu Kabupaten Batang Hari Dalam Penyelesaian Konflik Lahan Antara Pt. Berkas Sawit Utama Dengan Kelompok Suku Anak Dalam 113 Di Desa Bungku Kabupaten Batang Hari." *Ilmu Hukum*, 2022.
- Kunu, Andi Bustamin Daeng. "Kedudukan Hak Ulayat Masyarakat Adat Dalam Hukum Tanah Nasional." *Inspirasi* 1, No. 10 (2010).
- Mahmud Marzuki, P. "Penelitian Hukum." *Jakarta: Kencana Prenada Media* 55 (2005).
- Marzuki, Peter Mahmud. "Penelitian Hukum," 2013.
- Nasir, Muhammad. "Hakikat Status Kepemilikan Hak Atas Tanah Masyarakat Suku Bajo Di Kabupaten Pohuwato Di Provinsi Gorontalo." *Jurnal Pendidikan Tambusai* 6, No. 2 (2022): 15623-34.
- Peranginangin, Lily Sri Ulina. "Partisipasi Masyarakat Dalam Pengelolaan Kawasan

- Konservasi." *Jkap (Jurnal Kebijakan Dan Administrasi Publik)* 18, No. 1 (2014): 66–78.
- Ramadhan, Dio Muamar. "Sengketa Tanah Antara Pt. Berkas Sawit Utama Dengan Masyarakat Suku Anak Dalam 113 Desa Bungku Kecamatan Bajubang Kabupaten Batang Hari." *Ilmu Hukum*, 2022.
- Rongiyati, Sulasi. "Reforma Agraria Melalui Perpres Nomor 86 Tahun 2018." *Kajian Singkat Terhadap Isu Aktual Dan Strategis* 10, No. 19 (2018): 1.
- Rosalina, Rosalina. "Eksistensi Hak Ulayat Di Indonesia." *Sasi* 16, No. 3 (2010): 44–51.
- Sadono, Yulian. "Peran Serta Masyarakat Dalam Pengelolaan Taman Nasional Gunung Merbabu Di Desa Jeruk Kecamatan Selo, Kabupaten Boyolali." *Jurnal Pembangunan Wilayah Dan Kota* 9, No. 1 (2013): 53–64.
- Saija, Ronald, Fransiscus Xaverius Roger Vincen Letsoin, Rory Jeff Akyuwen, And Pieter Radjawane. "Status Kepemilikan Hak Atas Tanah Adat Marga Dalam Kebijakan Penataan Aset Reforma Agraria Di Kabupaten Maluku Utara." *Jurnal Sasi* Vol 26, No. 1 (2020).
- Santoso, Urip. "Kewenangan Pemerintah Daerah Dalam Penguasaan Atas Tanah." *Jurnal Dinamika Hukum* 13, No. 1 (2013): 99–108.
- Selviani, Bambang, Bambang Utoyo, And Simon Hutagalung. "Resolusi Konflik Agraria Di Kawasan Register 45 Sungai Buaya (Studi Desa Talang Batu Kecamatan Mesuji Timur Kabupaten Mesuji)." *Jurnal Ilmiah Administrasi Publik Dan Pembangunan Administratio* 8, No. 2 (2017): 161174.
- Siahaan, Maruarar. "Pengakuan Dan Perlindungan Hak Ulayat: Aspek Penting Pembangunan Indonesia Menuju Sebesar-Besar Kemakmuran Rakyat." *Jurnal Ketatanegaraan* 9 (2018).
- Sudantra, I Ketut. "Implikasi Keputusan Menteri Atr/Kepala Bpn Nomor 276/Kep-19.2/X/2017 Terhadap Kedudukan Tanah Milik Desa Pakraman." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 7, No. 4 (2018): 546–64.
- Yamin, Muhammad. "Beberapa Dimensi Filosofis Hukum Agraria, Medan." Pustaka Bangsa Press, 2003.
- Yanto, Eko Wahyu Budi. "Partisipasi Masyarakat Dalam Usaha Konservasi Hutan." *Journal Of Educational Social Studies* 2, No. 1 (2013).
- Yonatan, Christina Ella, And Xavier Nugraha. "Analysis On The Legal Force Of Copyright Registration Document As Evidence Of Ownership Of Indigenous Land." *Yuridika* 36, No. 1 (2021): 15–38.
- Yubaidi, Ricco Survival, Mazliza Mohamad, And Saidatul Nadia Abd Aziz. "Kaedah Pendaftaran Tanah Di Indonesia Sebagai Penyelesaian Konflik Agraria (Land Registration Principles In Indonesia As An Agrarian Conflict Resolution)." *Jurnal Undang-Undang Dan Masyarakat*, 2021.
- Yusuf, Abdul Muis, And Muhammad Taufik Makarao. *Hukum Kehutanan Di Indonesia*. Rineka Cipta, 2011.
- Zakaria, R Yando. "Strategi Pengakuan Dan Perlindungan Hak-Hak Masyarakat (Hukum) Adat: Sebuah Pendekatan Sosio-Antropologis." *Bhumi: Jurnal Agraria Dan Pertanahan* 2, No. 2 (2016): 133–50.
- Zuhri, M, And E Sulistyawati. "Pengelolaan Perlindungan Cagar Alam Gunung Papandayan." In *Presented On Seminar Nasional Penelitian Lingkungan Di Perguruan Tinggi*. Jakarta, 2007.