Legal Strategy For Empowering Customary Institutions Through Customary Land Registration

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Abstract

The purpose of this research is first, to analyze the existence of indigenous peoples through three indicators: (1) there is a customary law community (2) there is an area or customary land (3) there is a customary legal order. Second, to analyze the registration of customary land rights as a legal strategy to empower customary institutions. The type of research used is qualitative with a normative-empirical approach. There are two types of data used, namely primary data obtained through interviews and secondary data obtained through the review of laws and regulations, journals and legal literature. The results showed that first, the existence of Patongloan customary law communities fulfills the indicators: (1) There is a group of people who have an attachment to hereditary traditions adhered to as guidelines for daily life including in dispute resolution, (2). There is a customary area occupied by the community to fulfill the needs of life together, called customary land. (3), There is a customary legal order inherited by the Patongloan community. Second, the strategic step to empower Patongloan customary institutions is through the registration of customary land rights at the Enrekang Regency Land Office. This study recommends that Patongloan customary institutions register their customary land in the form of management rights and/or as joint property rights.

I. Introduction

Environmental Customary institutions are customary devices that carry out government duties, are authorized to regulate, manage and resolve legal issues of indigenous peoples (Haji, 2022). Customary law communities live in groups regularly and settle in a certain area, have their own power in regulating daily life and none of the members have the mind to dissolve the bonds that have grown (Soekanto, 2021). The community that has been formed has rights to the area it occupies, which is called ulayat land or ulayat rights (beschikkings recht), also commonly called land rights (Bayo et al., 2023). Hak ulayat over customary land in the Decree of the Minister of Agrarian Affairs/Head of BPN Number 5 of 1999, in Article 1 stipulates that hak ulayat is the authority possessed by a customary law community in a certain area that allows them to utilize natural resources, including land in the area to fulfill their survival rooted in external attachment (Tekege, 2024). Customary law communities and customary land have a magical-religious relationship, a relationship bestowed by God Almighty (Boho & Tuasikal, 2023).

The position of customary rights is recognized and protected constitutionally through Article 28 D paragraph (1) of the 1945 Constitution of the Republic of Indonesia that everyone is entitled to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law. This constitutional mandate is implemented through Article 6 paragraph (2) of Law No. 39/1999 on Human Rights that "the cultural identity of customary law communities, including their customary land rights are protected in line with the times". Although customary rights are recognized and protected, the implementation of customary rights must be subject to the provisions of Article 3 of Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, that the implementation of customary rights of customary law communities is considered to exist as long as the reality still exists and must be in accordance with national and national interests (Cahyaningrum, 2022). National agrarian law recognizes the existence of customary law communities because customary law was applied before Indonesia's independence (Sirait & Sitanggang, 2023).

The position of customary land is regulated through the Regulation of the Minister of Agrarian Affairs/Head of BPN No.5 of 1999 concerning Guidelines for

Resolving Problems of Customary Law Communities' Ulayat Rights, that the implementation of ulayat rights as long as in reality they still exist is carried out by the relevant customary law community according to local customary law (Wattimena & Hattu, 2021). The recognition of customary law communities is very important in creating an inclusive rule of law, respecting socio-cultural diversity and sustainable development (Shartika et al., 2024), considering that the number of customary law communities in Indonesia according to the Customary Territory Registration Agency (BRWA) is around 70 million customary law communities divided into 2,371 customary communities spread across 31 provinces in Indonesia. The largest distribution of indigenous communities is in Kalimantan, which has 772 indigenous communities, Sumatra has 392, Bali and Nusa Tenggara have 253, Maluku has 176, Papua has 59, Java has 55 and Sulawesi has 664 indigenous communities (Andriarsi, 2020).

One of the indigenous communities in South Sulawesi that still has traces of cultural traditions is the Patongloan indigenous community, located in Redak Village, Baroko District, Enrekang Regency with the name tongkonan Banua Kasalle. The Patongloan indigenous community existed before Indonesia was colonized until today. This tongkonan was once destroyed during the colonial era, but with the strength of cultural values, the Patongloan community was able to rebuild the Banua Kasalle tongkonan as a symbol of their culture. The existence of indigenous peoples is not enough to have a tongkonan but legal certainty and protection of the existence of indigenous peoples are needed so that they can empower themselves by utilizing customary land as human rights, economic and cultural rights (Risky Surya Pratama et al., 2022). The Patongloan indigenous community has currently obtained recognition through the Regional Government, but this recognition is not normatively sufficient because it has not been registered in the customary land register so that it cannot apply for management rights. The government should be obliged to provide legal protection to the objects and subjects of customary institutions through accurate land documents (Chairi et al., 2022).

The results of supporting research are from Lalu Sabardi that indigenous peoples have immovable property in the form of customary land, heirlooms and have the right to benefit from customary land. Therefore, the right to customary land is important to maintain as common property (Cahyaningrum, 2022). Research (Kristhy & Al., 2022) that in the Dayak Ma'anyan customary law community in Awang District, the

customary institution only received verbal recognition from the customary law community itself, has not yet received support from the Regional Government. The results of other studies concluded that to meet the need for land, other parties (investors) often buy customary land from customary law communities on behalf of individuals as happened in Marauke Papua because of the poverty factor of the community so that they sold the customary land of the Marind Tribe. The same thing also happened in Lebak Banten and West Sumatra (Cahyaningrum, 2022). The results of research (Fatmi, 2018) on the land of the people in Minangkabau show that the inviolability of customary land into individual property rights because the strength of customary rights tends to weaken and individual rights strengthen. The position of customary land and its customary institutions in reality is not always as expected because it is highly dependent on the enforcement of customary law by customary law communities and government support (Yuliartini & Pramita, 2022). The results of the study are different from the research that will be conducted with a focus on the legal strategy of empowering customary institutions through the registration of customary land of indigenous peoples according to the provisions of the Regulation of the Minister of Agrarian and Spatial Planning / Head of BPN (Permen ATR / Head of BPN No.14 of 2024 concerning the Implementation of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples).

This research is important to analyze the empowerment strategy of Patongloan customary institutions by emphasizing the aspects of the existence of Patongloan customary law communities and the registration of Patongloan customary land through the Enrekang Regency land office. Registration of customary land of indigenous peoples is a strategic legal step to ensure legal certainty over the existence of customary institutions and legal protection of customary land is often taken over by other parties which results in the loss of rights to customary land because it is considered state land (Novianti et al, 2023).

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2. Research Method

The The research location is the Patongloan customary law community in Redak Village, Baroko District, Enrekang Regency. The research method used is qualitative with a normative-empirical approach. The normative approach uses Law No.5 of 1960 and Ministerial Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (Permen ATR BPN)

Number 14 of 2024. The empirical approach is done through a survey of the existence of Patongloan indigenous people. To understand the empowerment of tongkonan Banua Kasalle Patongloan, it is analyzed anthropologically, namely studies that focus on patterns aspired by humans, culture and the environment both in the past and in the present (Soekanto, 2021).

Data sources are primary data and secondary data. The technique of obtaining primary data, the author conducted interviews with the Chairperson of the Alliance of Indigenous Peoples (AMAN), customary leaders, indigenous community leaders and members of indigenous peoples. Meanwhile, secondary data was obtained through a review of legal literature, relevant previous research journals and Patongloan customary law literature. At this stage, variables and achievement indicators are determined to understand the problems and solutions to empower Patongloan customary institutions through customary land rights. To understand and analyze the empowerment of Patongloan customary institutions, two variables are used, namely first, the existence of Patongloan customary law communities which are analyzed through three indicators: indigenous peoples, customary land and customary law orders. Second, the inventory of Patongloan customary rights which is analyzed through indicators: customary law subjects, community relationships with customary land and the determination of customary law communities.

The data clarification process is carried out with a triangulation model, namely exploring the truth of certain information using various data sources such as documents, interview results, survey results (Jannah et al., 2022). This research process produces descriptive data about the existence of Patongloan customary land rights to be registered administratively through the Enrekang Regency Land Office. The results of the analysis at both stages are narrated in the form of conclusions and suggestions to the Enrekang Regency Government and Patongloan Customary Institution.

3. Results And Discussion

Customary law is the personality of a nation and a reflection of the nation's soul from century to century. Each customary law community can own land either individually or collectively. Customary land is land under the

control of traditional rights of indigenous peoples that is not attached to individual land rights. The legal protection of traditional rights of indigenous peoples and communal land is currently the responsibility of the Regional Government (Yuliartini & Pramita, 2022). The Decree of the Minister of Agrarian Affairs/Head of BPN No. 5/1999 substantially recognizes the authority of customary law communities and customary institutions in certain areas to utilize natural resources including customary land to meet their survival (Tekege, 2024). However, recognition of the existence of customary institutions is not enough from a normative point of view, but what is more important is material recognition, namely real legal protection in the form of empowerment of customary institutions and/or customary land rights

A. The The existence of the Patongloan Customary Law Community

1. The existence of the Patongloan Customary Law Community

Based on Law No. 5 of 1960 concerning Basic Agrarian Principles, Article 3 stipulates that the implementation of customary rights and other similar rights of indigenous peoples "as long as in reality they still exist", must be in such a way that it is in accordance with national and state interests, based on national unity and does not conflict with higher laws and regulations. Technically, the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (Permen ATR/Head of BPN) Number 14 of 2024 concerning the Implementation of Land Administration and Registration of Customary Law Communities' Ulayat Rights in Article 2 paragraph (2) stipulates that ulayat rights "as long as in fact they still exist" if they fulfill the following indicators:

- There is a group of people who still feel bound by their customary law order and apply the provisions of the Association in their daily lives.
- There is a certain customary land that becomes the living environment of its citizens and continues to take their daily needs
- There is a legal order regarding the management, control and use of customary land that applies and is obeyed by its citizens.

According to the provisions of Article 6 paragraph (1) of Permen ATR / Head of BPN No. 14 of 2024 stipulates that the inventory of the existence of

customary rights is carried out through a survey of the existence of indigenous peoples. Inventory activities are carried out to collect data regarding:

- Subjects and characteristics of indigenous peoples
- Customary land of indigenous peoples
- Relationship between indigenous peoples and customary land
- Determination of the existence of indigenous peoples
- Other data and information.

Based on the data obtained through interviews and surveys on the existence of the Patongloan customary law community as an indicator in Article 2 paragraph (2), the following is described:

A. There is a Customary Law

Society Customary law society is a group of people who live in the same geographical area known as ulayat (beschikking). They have distinctive socio-cultural values and systems, organise and manage natural resources and their survival together according to rules that have been passed down from generation to generation (Madiong et al., 2023). In addition to geographical factors, they live together because of genealogical factors, there is a unity of ancestors and they have the same perspective and character. They live in harmony and peace under the leadership of someone they consider sacred, referred to as the Chief of Adat.

The harmony of the Patongloan legal community is based on the principles of life passed down from ancestors whose teachings are believed to bring salvation in the world and the hereafter. These teachings contain deep meaning, have a philosophy of life value, grow and develop in the hearts of indigenous people so that repetitive behaviour is formed which is called a habit. This guide to life that is full of good values is called local wisdom. For example, in Bugis society, the principle of community life is known as 'si pakatau, si pakalebbi and si pakainge', meaning mutual respect, mutual kindness and mutual reminder. In Makassarese society, the principle of siri' napacce (shame and pain) is known. (Risky Surya Pratama et al., 2022). In Balinese society, the Tri Hita Karana principle is known as the three causes of human happiness. The cause of human happiness comes from the harmony of three relationships, namely human relations with God, human relations with others and human relations with the social environment (Wijaya & Lantika, 2021). Customary law communities with

customary land have sacred values inherent in land ownership relationships that cannot be ignored. (Ardiansyah et al., 2020).

Based on the results of an interview on 14 December 2024 with Paundanan, a traditional leader of Patongloan Village, the Patongloan community is one of the customary communities bound by the Patongloan customary law order. Living together in the customary law area, the subject and characteristics of the community have a language or dialect that is different from Enrekang society in general. The existence of these characteristics is because the Patongloan area is located in the border area between Tana Toraja Regency and Enrekang Regency so that the community has a different language. The language used by the Patongloan Indigenous People is almost the same as the Toraja language but the language they use is a mixture of the Toraja language and the Duri language, this is what then becomes the distinctive feature of the Patongloan Indigenous people". The majority of the Patongloan customary law community adheres to Islam. Their sources of livelihood are plantations and goat farming. The famous garden products from Patongloan are arabica coffee and cloves. Based on the author's analysis, the existence of Patongloan customary institutions measured from the first indicator, namely the existence of customary law communities, has been fulfilled.

B. Territory or Ulayat

Land The legal status of communal land, state land and individual land has different characteristics. Customary land is customary land that is owned collectively, individual land is owned by individuals with private interests attached (Hastarini & Luthfan, 2022). Meanwhile, state land is land controlled by the state, on which the interests of the entire nation are attached (Julius Sembiring, 2016).

Patongloan Village was established and formed through Enrekang Regency Regional Regulation No. 28 of 2007, consisting of four hamlets namely Redak, Rantebaba, Korang and Kombang Bura. The four villages are in the Baroko sub-district. The expansion of Benteng Alla Village into Patongloan Village became the basic support for the formation of Baroko Sub-district, which initially only had four villages, namely Baroko, Tongko, Benteng Alla and Benteng Alla Utara. The formation of Patongloan Village became the centre of government of the Patongloan customary law community, precisely in Redak hamlet. After the

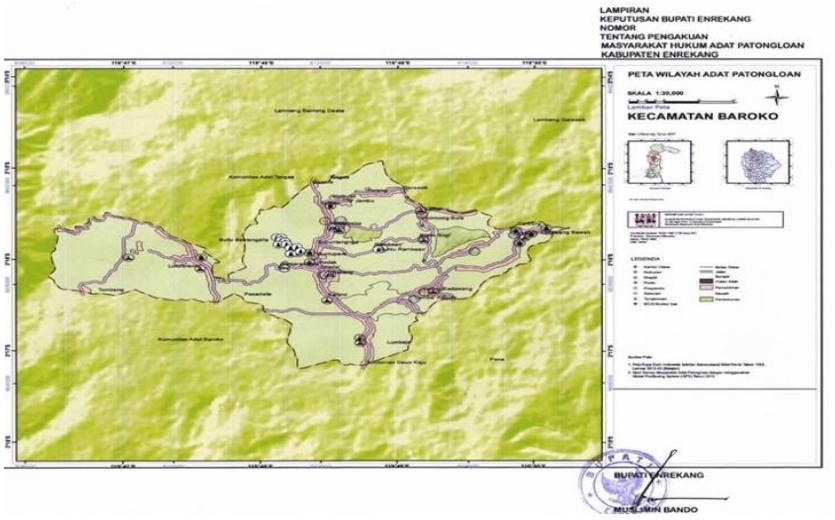
Patongloan customary community was formed based on an agreement (basse) between other customary leaders, slowly one by one customary institutions began to form.

Patongloan has an area of 1,289 ha and is located in the northern part of Baroko with the following boundaries:

- In the north, it borders the Tangsa indigenous community and the Mangkendek indigenous community;
- In the east, it borders the Pana indigenous community;
- In the south, it borders the lisunna umbu (the centre of the field in Barokoan);
- In the west, it borders the Rano (Tator) indigenous community.

The type of land controlled by the Patongloan customary law community consists of communal land, which is communal land owned by the Patongloan indigenous community in the form of gardens and limestone clusters, while private land is land that can be traded (certified) and mana'or inherited land, which is land that is managed in turn by one descendant or family clan.

Picture 1. Map of Patongloan Area



Based on the results of an interview with Paundanan, Head of Tongkonan Banua Kasalle, on 15 December 2024, the Patongloan customary law community occupies clear territorial boundaries so that the customary land boundaries are also clear. Thus, the legal consequence is that the Patongloan customary law community has a legal relationship with Patongloan customary land. The community has the right to take advantage of land, water and forests

within the Patongloan customary law area such as gardens, rice fields, customary gardens and land designated for the management of Tongkonan Banua Kasalle. Especially the gardens and rice fields are managed by the tongkonan with the help of the community. The results of rice fields and gardens are used for the traditional activities of the Banua Kasalle tongkonan, the development of traditional schools and partly for the community who are directly involved in cultivating. Customary land is also used as a facility for traditional schools such as plant gardens that can function as traditional medicine. The principles of local wisdom underlying the implementation of customary schools are 'everyone is my teacher, the natural environment is my school', 'resopa tammangi' malomo naletei pammasena dewatae (with serious effort, God's blessings will be more and more)', 'mesa' soe mesa tengka on tallan on lingdan (with the spirit of togetherness, what is aspired to, God willing, will be achieved)'".

Customary land management is carried out through three systems, namely communal land management, rotating land management (Padang Mana') and individual land management. The land tenure system according to Patongloan customary law is::

- Tongkonan customary land (Uma dipasikampa), which is land that is specifically cultivated by indigenous people who live in the tongkonan;
- Lumbangan land, which is land owned by a tongkonan that is cultivated by families from the tongkonan; and
- Diparokko palakna land is land owned by the tongkonan that is given to people outside the tongkonan who do not have land to cultivate with the provision that it cannot be transferred and the tongkonan land holder is expected to help the tongkonan when holding traditional rituals.

According to Amrullah, a youth leader, interviewed on 15 December 2024, there are several other activities on customary land such as the customary library and the Customary Community Business Group (KUMA). KUMA activities as a business group such as planting and maintaining various types of plants on customary land such as coffee plants, cloves, cocoa and traditional medicinal plants with a profit-sharing system between the tongkonan and the cultivator community. They cultivate on customary land based on the principle of

natural balance that humans benefit from the forest and in return the environment also benefits from humans (environmentally friendly). Based on the author's analysis, the existence of Patongloan customary institutions measured from the second indicator, namely the existence of customary territories or lands, has been fulfilled.

C. Customary Law Order

Based on an interview with Badeng or Ambe Aki, a community leader, 14 December 2024, the Patongloan customary law community is led by a customary chief called Tomatoa (elder). The leading element of the customary institution is known as 'Tongkonan A'pa' consisting of:

1. Tongkonan Bola Kasalle
2. Katongkonan
3. Buntu
4. Rampunan

The customary institution 'Tongkonan A'pa' each has a different task and covers four fields of interest of the Patongloan indigenous community, namely:

1. Religion;
2. Agriculture;
3. Socialisation;
4. Youth.

The functions and responsibilities of the four fields are carried out by twelve customary institutions, namely:

1. Tongkonan Tongkonan Bola Kasalle, which is the customary institution that holds the mandate as: To Mamma Lan Ullunna Kalo' (responsible for the source of life or welfare of the community); To Sirio Masakkana (determining good success); To Tarro Lan Panguluan (valued or respected); To Tang Nairi Angin Tangna Simbol Lalinding (honoured); To Di Pa'Paelei (occupied to report); To Torroan Indo" (who gave birth/created). Serves to provide customary judgement. It is held by H. Paundanan Paundanan Embong Bulan.

2. Katongkonan, is the leader of the customary institution in the judicial field who is given the mandate as: Pera'pak Tomauku (limiting one's arbitrariness); Petumpak To Madodong (protecting the weak); Urrantei Menggaroga'na (giving justice); Issali Menggarotona (giving a sense of justice). Responsible for upholding customary rules.
3. Buntu is the leader in charge of information and communication who was given the mandate as: To Ma'pa Issani Tama Lisunna Umbu' Kadenni Pangngalukan Jaona Karua Tedong (providing information in Baroko sub-district).
4. Rampunan is the leader of the customary institution in charge of administration who is given the mandate as: To Irrampun Kada-Kada Narampo Lako Tonkonan Bola Kasalle (collecting decisions and information to be reported to Tongkonan Bola Kasalle.
5. Pebulian, the religious field, is in charge of offering prayers to the Almighty.
6. To' Panga, which is the religious field in charge of preparing ritual equipment with the term To Massaji or To' Tingngo lako (taking care of customary traditions).
7. Tondon Redak, namely the religious field in charge of preparing ritual completeness (To Massaji) distinguishes only in the term To Tingo Lako.
8. To Ma'nyemu, which is a religious field that takes care of rituals and prays for people who have died long ago with another term Ma Tojolo (To Tingngo Tama).
9. Lombok, which is the social field, functions as To Marauk, the person who slaughters animals.
10. Ambe "Peamoane, which is the youth sector in charge of the success of traditional activities.
11. To Manyampan, which is the social field, is in charge of dividing the meat to the customary leaders (To Inggaragai Kande Ada').
12. To Mentaun, the agricultural sector, is in charge of reading natural signs related to the beginning of the planting season (To Patiro Allo Pelingi' Tanda Masiang).

The leader of the Banua Kasalle tongkonan is called Tomatua, elected from generation to generation through deliberation. Tumatua are responsible for implementing customary regulations (Aluk Anna Pemali). The elected tongkonan leader is provided with a plot of rice field to be managed as a source of funding in carrying out the duties and responsibilities as the leader of the Patongloan customary law community. The status of the rice field is the same as that of state land which is hereditarily controlled by Tongkonan Banua Kasalle and may not be managed by others (Uma Dipasikampa Tonkonan Banua Kasalle).

As historical evidence of the existence of the Patongloan indigenous community, documented in Tongkonan Banua Kasalle are the names of those who have served as leaders in Tongkonan Banua Kasalle:

1. Datu (1520 - 1570)
2. Kalakea' (1575 - 1625)
3. Pongbakka (1630 - 1680)
4. Bamban (1685 - 1735)
5. Borek (1740 - 1790)
6. Galla (1795 - 1845)
7. Laku (1847 - 1897)
8. Po'do' (1912 - 1953)
9. So' Oran (1958 - 1999)
10. H. Paundanan Embong Bulan, (2007 - present).

One of the strategies to empower customary institutions in the future is to educate the younger generation to preserve the cultural values of Patongloan as a social control of foreign cultural influences that are not relevant to the philosophy of the Indonesian nation.

Based on the results of an interview with Paundanan Embong Bulan, Leader of Tongkonan

Banua Kasalle, on 14 January 2024, there are three customary rules that must be obeyed by the Patongloan customary law community, namely:

1. *Pemali*

Pemali or prohibition to perform certain actions. People who violate pemali will be subject to customary sanctions (didosa). This form of didosa sanction has different levels, namely light, medium and heavy sanctions. Pemali with severe sanctions are theft in the cemetery, called 'Meloko' (stealing items in the cemetery) and cutting down/cutting caropy trees. A karopi tree is a tree planted during the funeral ceremony of a customary leader. This offence carries the sanction of having to cut down a buffalo as ordered by the customary leader. If the offender does not carry out the sanction, it is believed by the customary community that the offender will experience life difficulties or his fate, including his descendants, will experience misfortune throughout life.

2. *Pepasan Tojolo*

Pepasan Tojolo or ancestral messages that are full of local wisdom values passed down by the ancestors to the next generation of the Patongloan tradition. Pepasan is in the form of poems (kada-kada melo) that are spoken at certain times such as during traditional rituals. Examples of Pemali that are still very strong are prohibited from selling land, prohibited from killing, prohibited from burning forests etc. Violations of these are severely sanctioned by being expelled from the village.

The author's analysis of the existence of Patongloan customary institutions measured from the third indicator, namely customary rules and customary leaders, has been fulfilled..

Based on interview data and documentation, it can be identified that the existence of Patongloan customary institutions or customary land has fulfilled the indicator 'customary law communities are considered to still exist'. Thus, the legal strategy that can be carried out by the Patongloan customary institution is to submit an application for verification of physical data and juridical data to the Land Office (Article 9 paragraph (2) Permen ATR / Head of BPN No. 14 of 2024) and the process of registering customary land to the Enrekang Regency Land Office. In addition to fulfilling the provisions of Article 2 paragraph (2) Permen ATR / Head of BPN No. 14 of 2024, Patongloan customary institutions have also received recognition from the Enrekang Regency government through the Decree of the Enrekang Regent Number 157 / KEP / II / 2018 concerning Recognition of Patongloan Customary Law Society of Enrekang Regency. This recognition by the local government provides a strong legal basis for indigenous peoples to maintain

their cultural identity and traditional rights (Cintya Lauren, 2023). After the inventory and identification process is carried out by the Director General in charge of determining rights and land registration at the Enrekang District Land Office, the next legal process is to register the Patongloan customary institution/customary land through the customary land register.

2. Empowerment of Customary Institutions through Customary Land Registration

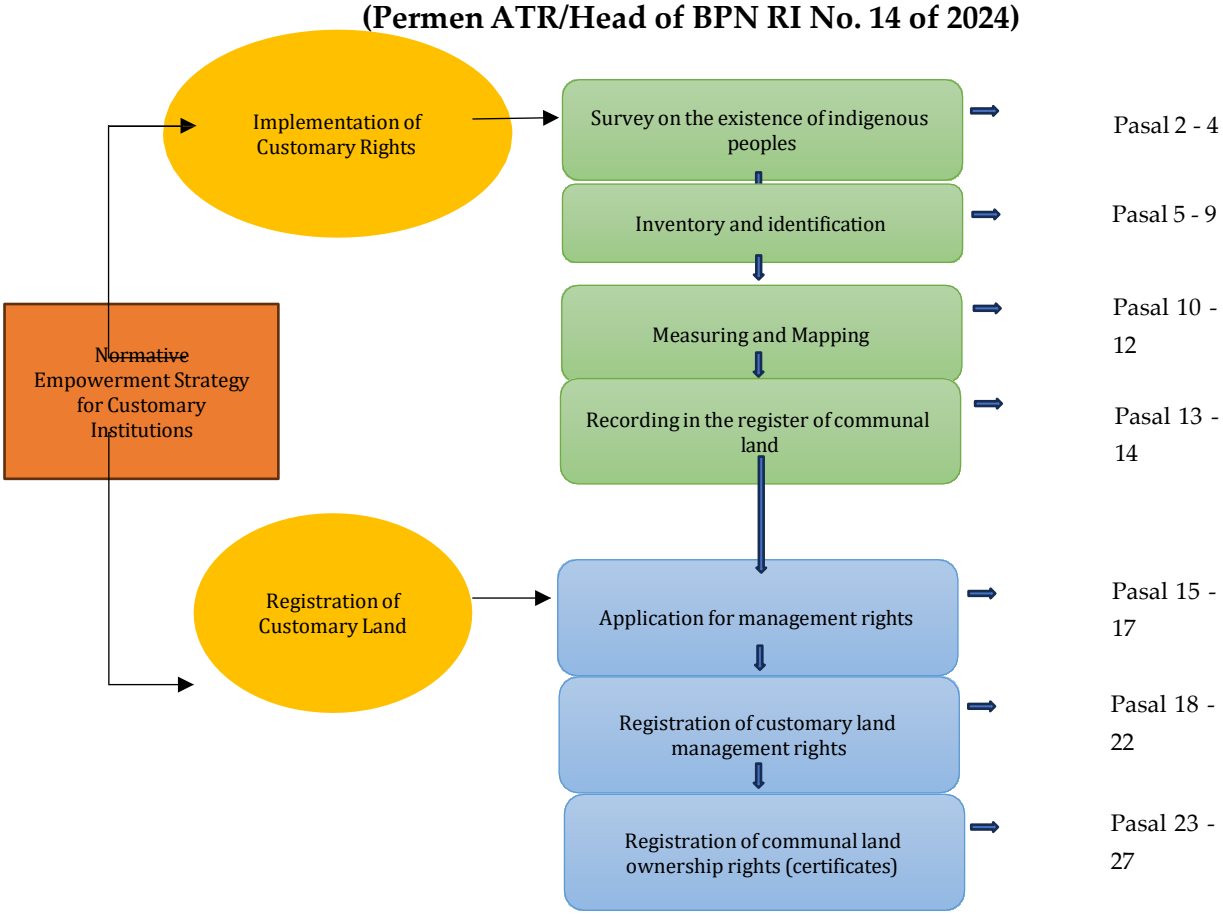
Since the Dutch era, customary land has been considered to exist, as evidenced by the obligation of indigenous peoples to pay taxes on the land they control. Proof of tax is given in the form of girik, petok, ketitir and so on (Rahmawati et al., 2022). The provisions of Article 24 paragraph (2) of PP No. 24 of 1997 concerning land registration stipulate that a person can be recognised as a land owner if the person concerned has physically controlled the land for 20 (twenty) consecutive years with good ethics, and during that time there are no parties who object to the land (Efrianto, 2023). The recognition of customary law communities is an important step in implementing the mandate of the 1945 Constitution, as a fulfilment of human rights and a form of state obligation. Through Enrekang Regency Regional Regulation No. 1/2016, the Guidelines for the Recognition and Protection of Customary Law Communities in Enrekang Regency are established. This regulation is a ray of hope for legal certainty and protection of indigenous peoples in Enrekang. Protection is a form of service provided to indigenous peoples in order to ensure the fulfilment of their rights so that they can grow and develop as a group of people who participate in accordance with their human dignity and are protected from discriminatory actions. (Article 1 point 8 of Enrekang District Regulation No.1 Year 2016). Since the regulation was enacted, 10 (ten) customary institutions have been recognised, including the Patongloan customary institution, among 23 (twenty-three) members of the Alliance of Indigenous Peoples of the Archipelago (AMAN) that have not been recognised by the local government.

Based on the provisions of Article 2 paragraph (1) of Permen ATR / Head of BPN Number 14 of 2024 that customary rights are implemented as long as the reality still exists. The fact 'still exists' referred to in paragraph (2) if it fulfils three indicators, namely there is a community, there is an area or customary land and

there are customary rules. A survey of the existence of customary law communities can be conducted by a committee formed by the Regional Government or a Research Team of Higher Education. If the survey results fulfil the provisions of paragraph (2), then an inventory and identification shall be conducted by the Director General of rights determination and land registration and the Research Team to collect data as stipulated in Article 6 paragraph (2) above. The data identification is a land administration action on customary land prior to the measurement and mapping of the land according to the condition of the customary law community area (provisions of Article 10 to Article 12).

The results of data inventory and the results of measurement and mapping are juridical documents that are used as the basis for registering customary land in the Customary Land Register as referred to in the provisions of Article 13 and Article 14. Customary land parcels that have been recorded in the Customary Land Register as referred to in the provisions of Article 13 paragraph (1) can be submitted for management rights by the customary law community unit to the Minister through the Land Office (Article 16 to Article 19). However, if no application for management rights is submitted, the status of the land remains communal land. According to Jerome, based on its nature and authority, management rights can be categorised as land rights, whose rights are only to use the land, cannot be transferred, and cannot be used as debt collateral encumbered by mortgage rights (Pasandaran et al., 2021). With the status of customary land, customary law communities can collaborate with third parties in accordance with applicable regulations. If the customary land has been registered, the customary law community can apply for property rights on behalf of a group of members of the customary law community as common land in accordance with the provisions of Article 23 to Article 27 of Permen ATR/Head of BPN Number 14 of 2024. The description above, the author presents in the form of the following figure:

Picture 2
Stages of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples
(Permen ATR/Head of BPN RI No. 14 of 2024)



If the Patongloan customary law community has registered its customary land in the Customary Land Register, the legal certainty of the Patongloan customary institution is stronger and provides the first benefit, strengthening the legal status of customary institutions can guarantee the implementation of customary land control rights through cooperation with third parties (investors). The second benefit is that it provides protection for the rights of indigenous peoples in organising governance, planning and implementing welfare programmes by establishing businesses managed by customary institutions. Businesses that utilise Patongloan's natural resources such as improving the management of packaged or ready-to-serve Arabica coffee based on local wisdom so that it has the potential to become a cultural tourism object of ready-to-serve coffee management for tourists. The third benefit is to ensure that all parties

respect the existence of customary law communities and their customary territories because customary institutions are legally registered so that there is no discrimination. The registration of customary land in the Register of Customary Land provides legal certainty and protection to customary institutions and the Patongloan indigenous community from discrimination. Registered customary land rights authorise customary institutions to apply for management rights and/or property rights on behalf of indigenous peoples. By having management rights or property rights to land jointly, customary institutions can make agreements with third parties for the management of natural resources and develop Patongloan.

Based on the picture of the administration and registration of customary land above, this research is only at the survey stage to inventory and identify the existence of Patongloan customary law communities and analyse the norms of customary land registration as a legal strategy for empowering customary institutions. The Patongloan customary law community unit has not made efforts to register customary land. For this reason, this research recommends that Patongloan customary institutions and customary land be registered through the Customary Land Register.

4. Conclusion

The existence of the Patongloan customary law community fulfils the indicators: (1) There is a group of people who have an attachment to hereditary traditions adhered to as guidelines for daily life including in dispute resolution, (2). There is a customary area occupied by the community to fulfil the needs of life together, called communal land. (3), There is a customary legal order that is inherited by the Patongloan community. Then, The strategic step to empower Patongloan customary institutions is through the registration of customary land rights at the Enrekang Regency Land Office. Registration of customary land through the Customary Land Register gives the main position to the customary institution and the Patongloan indigenous community to be able to apply for management rights and/or property rights applications on behalf of customary institutions. By having management rights or property rights to the land jointly, the customary institution can make agreements with third parties to develop the Patongloan customary law community.

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