



The Urgency of Ulayat Land Registration in Indonesia

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ABSTRACT

The State Constitution stipulates that the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and following the development of the nation, society, and the Unitary State of the Republic of Indonesia as outlined by law. The outcomes of the second and fourth constitutional amendments and the constitution's three articles are strong evidence of the state's recognition of customary law in Indonesia. There are always issues, although customary lands are constitutionally and legally protected. Interviews are a component of this normatively-based legal research method. The formulation of the issue concerns the legal protection of indigenous peoples against ulayat rights and the urgency of registering ulayat land in Indonesia. The first conclusion of this study is that the constitution and laws protect the rights of indigenous peoples to customary land. However, the community and other parties against indigenous peoples must balance constitutional and regulatory protections. Second, it is not sufficient for indigenous peoples to recognize customary land; it must also be determined by the regional director and administered at the National Land Agency office so that administration is streamlined and information is made more accessible.

ABSTRAK

Konstitusi Negara menyatakan bahwa Negara mengakui dan menghormati kesatuan-kesatuan masyarakat hukum adat beserta hak-hak tradisionalnya sepanjang masih hidup dan sesuai dengan perkembangan bangsa, masyarakat dan prinsip-prinsip Negara Kesatuan Republik Indonesia yang diatur dalam undang-undang. Hasil amandemen ke-2 dan ke-4 serta Tiga Pasal yang termuat dalam konstitusi merupakan bukti kuat pengakuan negara tentang Hukum Adat di Indonesia. Meskipun secara konstitusi dan regulasi tanah ulayat dilindungi namun selalu ada permasalahan. Metode penelitian ini adalah metode yuridis normatif yang dilengkapi dengan wawancara. Rumusan masalah adalah bagaimana perlindungan hukum masyarakat adat terhadap hak ulayat dan bagaimana urgensi pendaftaran tanah ulayat di Indonesia. Hasil dalam penelitian ini pertama bahwa hak masyarakat adat terhadap tanah ulayat sudah dilindungi oleh konstitusi dan regulasi. Namun perlindungan secara konstitusi dan regulasi wajib diimbangi oleh seluruh masyarakat dan juga pihak lain terhadap masyarakat adat. Kedua, tanah ulayat tidak cukup diakui oleh masyarakat adat saja, namun sebaiknya harus mendapatkan penetapan oleh kepala daerah dan dilanjutkan penatausahaan di kantor Badan Pertanahan Nasional, sehingga tertib administrasi dan mempermudah Informasi.

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I. INTRODUCTION

Indigenous peoples in various regions of the globe view their environment as an integrated ecosystem. Beliefs, knowledge, art, and other cultural expressions have been transmitted from one generation to the next. Numerous tales, songs, dances, paintings, and other forms of expression are significant aspects of the indigenous peoples' knowledge, power, and original cultural identity known as local wisdom (Helmi, 2020). As a pluralistic nation, Indonesia is home to numerous tribes and cultures, with each tribe having its own and distinct customs (Sembiring et al., 2018). Even though there are differences between customs, the constitution of Indonesia regulates these various cultures and tribes.

Article 18 B of the Constitution of 1945 states that the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of the nation, society, and principles. -legally codified principles of the Unitary State of the Republic of Indonesia In addition to Article 18 B of the NRI Constitution, Article 28 I paragraph (3) of the second amendment to the NRI Constitution specifies forms of respect and recognition of customary law to ensure that cultural identity and traditional community rights are respected in harmony with the times and civilization. The results of the 4th amendment to the 1945 Constitution of the Republic of Indonesia at the MPR session 1-11 August 2002 strengthened the form of recognition of customary law in Article 32 paragraph (1), which states that the State promotes Indonesian national culture in the context of global civilization by ensuring the freedom of society to maintain and develop cultural values. The three articles in the Indonesian constitution are strong evidence that the state recognizes customary law.

In Indonesia, the recognition of communities governed by customary law is thus recognized by various regulations in addition to the constitution. This rule strengthens the existence of common law. As per Law No. 1 of 1974 pertaining to Marriage. This law specifies that marriages conducted in accordance with religion and belief are valid. Religion and customary law are typically assimilated throughout Indonesia. Especially in the implementation of customary marriage law, where the implementation of marriage is an integral part of the customary marriage law procession. Similarly, in the Environmental Protection and Management Act (UU 32 of 2009). Article 2 paragraph 1 of the law explains that environmental protection and management are conducted in accordance with the principles of indigenous knowledge. The recognition of customary law is also governed by Law No. 41 of 1999 on Forestry and Law No. 18 of 2004 on Plantations. The two regulations explain that the existence of communities governed by customary law is acknowledged so long as the communities continue to exist as associations, there are institutions within the customary ruling apparatus, there are distinct customary law areas, and there are legal institutions.

In addition to the various laws and regulations mentioned previously. In accordance with the provisions of Articles 1 and 2 of Law No. 5 of 1960 on Basic Agrarian Regulations, the implementation of customary rights and similar rights from customary law communities, to the extent that they still exist, must be in accordance with national and state interests, which are based on national unity and may not conflict with laws and other higher regulations. All legal products relating to land tenure and ownership that are contrary to the 1945 Constitution of the Republic of Indonesia and the UUPA may be revoked and/or adapted to customary law rules or norms that develop in society in accordance with the dynamics of customary communities and are still valid and binding on customary community alliances (Yunus & Muddin, 2019).

Customary land belongs to the customary law community, which has long held control due to the agricultural lifestyle of indigenous people. One of the origins of customary land is the clearing of the forest, which is then carried out by the indigenous people who require it. Ulayat rights can be described as concrete legal relationships and legal relationships established by the ancestors when they left or bequeathed the land in question to a particular group of people (Rasyad, 2019). Ulayat

land is owned by communities governed by customary law. In other words, customary law communities own customary lands that are burdened with customary rights related to authority, including the obligations of the customary law communities themselves concerning the environment in their region. In addition, customary rights extend to customary forests so long as they are utilized for the survival of members of communities governed by customary law (Sukirno, 2018).

Customary land as a high inheritance is essentially a shared right (Wulandari et al., 2020). Ulayat rights are passed down from generation to generation or are referred to as the ancestors of a community governed by customary law. Customary rights can arise as a result of the transformation of the previous customary community into a new or independent indigenous community. This incident occurred as a result of multiple mechanisms, one of which is based on the mutual division of territories. (Rasyad, 2019) One of the characteristics of communities governed by customary law is that they are communal, in the sense that the members share something of value. The concept of indigenous peoples' shared authority derives from their shared ownership. Even though the land is jointly owned, the customary law community has the authority and responsibilities associated with the land's surroundings (Harsono, 1994). So that indigenous peoples and customary land have a relationship with one another. Indigenous lands and indigenous peoples have reciprocal relationships and interests. Interests between two parties where the existing land is used for residence and sources of income for the local community, as well as event venues and places of worship. This is the reason why indigenous peoples and the land they inhabit have an inextricable relationship (Marulak Togatorop, 2020).

Considering the preceding relationship, empowerment and preservation are required for the development of society, so that it not only supports culture but also advances existing development (Alting, 2011). Indigenous populations with property rights. Even in the hierarchy of tenure rights over land, customary rights are positioned third. Inconsistencies in the recognition of customary land ownership continue to make these rights a problem, and this is always a possibility. In actuality, the problem of applying customary law and the institutionalization of customary justice frequently conflicts with formal law. This contradicts the historical reality that decades of colonialism led to the dominance of European law in the legal systems of many nations around the world (Zulfa, 2012). Therefore, customary law, which is recognized in Indonesia, is frequently inferior to European law, which mandates that land ownership be registered with the appropriate official institution. The transfer of rights contributes to the emergence of a second issue. Because the transfer of rights requires clear documentation, anyone who wishes to transfer rights over it must present them. For instance, if someone wishes to transfer SHM, he or she need only demonstrate that the recipient has SHM issued by the BPN. However, if it is solely due to legal buying and selling, there is a possibility that someone could be prosecuted, as they would not have full ownership rights. Thus, the sale and purchase agreement that was signed only by hand remains unclear, article by article. Similar to the purchase and sale of land used for gardens, it cannot be interpreted by the land, but only by the garden. This is distinct from those who receive grants from holders of customary rights (Wulandari et al., 2020).

In reality, the recognition of customary land is still governed by applicable regulations when there is some form of recognition from the local community of customary law practitioners. The issue is that the state must be aware of and recognize the existence of these customary lands. The form of recognition from the state, namely that customary land must be recorded in the state book in addition to being recognized by the local community governed by customary law. Consideration of customary land usage is expansive. Even Government Regulation Number 18 of 2021 regarding Management Rights, Cultivation Rights, Flat Units and Land Registration allows communal land to be used as cultivation rights after a legal act is performed and the land is released to become state land.

But take whatever actions are necessary. The best course of action, especially in the land sector, is to minimize issues at the outset. It is more specifically related to customary land rights because the

constitution formally recognizes the existence and rights of communities that follow customary law (Thontowi, 2015). The state has made it possible for tribal and indigenous people to register their customary lands. the actual process of registering customary land with a local land office through an application process. The goal of this research is to examine how Indonesian law protects indigenous peoples from having their customary rights violated as well as how urgent it is to register customary land. Because of this, and in light of this context, the research's title is *The Urgency of Registration of Ulayat Land in Indonesia*.

II. RESEARCH METHOD

This study intends to reveal the truth as an expression of the human desire to know what is confronting us (Soerjono, 1986). The research technique employed is normative research technique. The author employs a normative legal methodology supplemented by interviews. The method of research is library law research, which involves examining library materials or secondary data. (Mahmud Marzuki, 2002) There were interviews with the traditional chief of the Baduy tribe. The approaches utilized are the statutory and socio approaches. In the statutory regulation approach, legal issues are addressed by analyzing relevant regulations (Sunggono, 2003). Meanwhile, the socio approach describes data regarding communities governed by customary law and customary land. The method of analysis utilized in this study is descriptive analysis. This analysis employs descriptive analysis techniques to identify problems, circumstances, and events associated with the urgency of customary land registration in Indonesia. This method is also used to provide a comprehensive and detailed description of the problem under investigation. The collected data was analyzed qualitatively, i.e., by grouping and selecting data from field research based on its quality and veracity, and then arranging it systematically. It was then studied using deductive reasoning techniques connected to theories from literature studies (secondary data). Then, conclusions are drawn that are helpful for addressing the problem formulation in this study (Abdulkadir Muhammad, 2004).

III. RESULT AND DISCUSSION

1. Legal Protection of Indigenous Peoples Against Customary Rights

Ulayat land is land owned by the community that is attached to civil elements related to ownership; however, in this instance, the ownership of customary land is communal / jointly owned and is represented by the customary leader. Customary land rights cannot be transferred in principle. The transfer may take the form of a gift, a sale, an acquisition, or an exemption for certain interests. The management of customary land is either conducted jointly or delegated to the customary chief(Nugroho, 2015).

Customary land management must be protected. Where to grant indigenous peoples the right to manage land with a sense of security, so that no third party can interfere with the management of customary law communities' land. Protection can also be accomplished by recognizing the existence of all indigenous peoples and customary lands in a particular region. Recognition can be carried out by the regional government, and more importantly, the central government recognizes its existence in regards to the granting of authority, the responsibility of establishing policies regarding the recognition of indigenous peoples, including local wisdom and their rights(Nasution, 2020).

If special protection has been given for indigenous peoples and customary lands in the context of regulations, legal protection can be realized. If we compare it to regulation in terms of protection. One of the factors affecting the type of protection in the context of regulation is legislation at the national and regional levels (Taupiqqurrahman, 2022). The enactment of the applicable laws and regulations in Indonesia serves as evidence of this. The enforcement of these laws does not stop at the central and regional levels; regulations that apply at the village level must also be followed. Despite the fact that since 2011, laws at the village level have not been categorized in the hierarchy of statutory laws.

The most crucial factor in ensuring the protection of customary rights is the existence of Village Regulations or comparable laws. The significance of village regulations stems from the fact that they are laws that really affect the neighborhood in a direct way.

Obviously, one of the weaknesses of village regulations is the process by which they are created, as there are limited human resources available at the village level to create these regulations. In the study of the first topic, the author elaborates only on the fundamental law down to the level of district/city regional regulations. Constitutionally mandated protection is the starting point. Article 18B, paragraph 2, of the 1945 Constitution of the Republic of Indonesia states: "The state recognizes and respects customary law community units and their traditional rights so long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law." The Republic of Indonesia's 1945 Constitution states in Article 28I, paragraph 3, that "cultural identity and traditional community rights are respected in accordance with the times and civilization." According to Bagir Manan, he provided a real and concrete example of the rights of communities governed by customary law, namely traditional rights, the community's right to enjoy or utilize the results obtained from the land, water, or forest products in its vicinity.

There are numerous legal regulations that recognize the existence of communities governed by customary law and customary land. For additional information, see the table below:

Table 1. Laws Related to Forestry, Environment and Plantations

Law 41 of 1999	Law 32 of 2009	Law 39 of 2014
<p>Article 4 paragraph 1 Forest control by the State still pays attention to the rights of customary law communities, as long as, in reality, they still exist and their existence is recognized and does not conflict with national interests.</p> <p>Article 5 paragraph 3 The government determines the status of forests as long as, in reality, the indigenous peoples concerned still exist and their existence is recognized.</p>	<p>Article 63 In environmental protection and management, local governments have the authority to implement policies regarding procedures for recognizing the existence of indigenous peoples, local wisdom, and rights of indigenous peoples related to environmental protection and management at the district/city level.</p>	<p>Article 12 Suppose the land required for a plantation business is the customary land of the customary law community. In that case, the plantation business actor must consult the customary law community holding the customary rights to obtain approval regarding the land transfer and its compensation.</p>

The above laws and regulations, as a concrete manifestation of the government in providing legal protection for indigenous peoples against ulayat lands, including customary forests. In the three regulations, in 2020, several articles were changed, namely after the birth of the law on job creation. But the changes in Law Number 11 of 2020 do not eliminate the rights of indigenous peoples related to customary rights and customary forests.

Apart from the three regulations above, there are other regulations governing indigenous peoples and customary rights. As a concrete example, legally, the LoGA, which is a perfect law, also regulates customary rights; apart from the UUPA in Papua itself through the Special Autonomy Law, there is also a regulation on Ulayat Rights. for more details can be seen in the table below:

Table 2. The Basic Agrarian Law and the Papua Special Autonomy Law

Basic Agrarian Law	Papua Special Autonomy Law
<p>Article 3 Bearing in mind the provisions in Articles 1 and 2 of the implementation of customary rights and similar rights from customary law communities, as long as they are. Still exist, it must be such that it follows national and state interests, which</p>	<p>Article 1 Ulayat rights are communal rights owned by specific customary law communities over an area, which is the living environment of its citizens, including the right to utilize land, forest, and water and their contents following statutory regulations.</p>

is based on national unity and may not conflict with laws and other higher regulations

Despite the fact that they are two separate laws, the UUPA and the Papua Special Autonomy Law. However, it is clear from this that both laws apply to ulayat land. The Papua Special Autonomy Law specifically states in Article 38 paragraph (2) that economic activities in Papua Province that make use of natural resources must be conducted in a way that respects the rights of indigenous peoples, offers legal certainty guarantees for business owners, and promotes sustainable development under Perdasus's direction. (BPK RI, 2014) Without compromising the rights of indigenous peoples, this has significance. As part of their efforts to strengthen the current economy, local governments still have a responsibility to protect entrepreneurs' interests.

The Special Autonomy Law in Papua has five related regulations in the form of laws now that it has been explained. These regulations pertain to communities with customary law, customary land, including customary forests. It is possible to say that the government has protected ulayat land within the context of the law through the five regulations in the form of laws that regulate it. The law on villages, known as Law Number 6 of 2014, also governs other customary lands. Customary land is considered one of the village's assets under this law.

Apart from the laws described above, there are various local regulations governing customary land. for more details on regulations at the regional level governing customary land. Can be seen in the Table 3 below:

Table 3. Local Government Regulation Related To Ulayat Land

Sumatra Local Government Regulation Number 6 of 2008 concerning Communal Land and Its Utilization	Local Government Regulation Number 12 of 2001 concerning the Protection of the Ulayat Rights of the Baduy	Kutai Local Government Regulation Number 14 of 2019 concerning the Status and Territory of Customary Land
Article 6 The rulers and owners of ulayat land are: a. Ninik mamak KAN for Nagari Ulayat Land b. The tribal leaders represent all members of the tribe as the owner of the Tribal Ulayat Land, each tribe in Nagari, c. Mamak Head of Inheritance represents the members of each jurai/paruik clan as the owner of the ulayat land in the Kaum d. The eldest man who inherits Rajo, representing members of the clan in the maternal line, is the rajo ulayat land owner.	Article 2 The customary rights of the Baduy people are limited to land in the Kanekes Village, Leuwidamar District area. Article 3 The ulayat rights area of the Baduy community is outlined in the basic land registration map by including an appropriate cartographic mark. Article 4 All land allotments to the customary rights of the Baduy people are left entirely to the Baduy people.	Article 10 Determination of ulayat land must be based on a district head's decision which stipulates that the ulayat rights of customary law communities and/or individual rights of customary law community members over land still exist. Article 15 The customary law community that has the authority to regulate the management of customary rights over land is obliged to improve welfare.

The three regional regulations have different scopes. First, the Regional Regulations in West Sumatra, in the West Sumatra Regional Regulations, only regulate in general without neglecting those related explicitly to customary land. Where Regional Regulation No. 6 of 2008 gives district/city regional governments authority to determine communal land with the provisions of district/city regional regulations that may not conflict with the W Sumatra regional regulations.

Almost the same as the regional regulations in West Sumatra, the Kutai Regional Regulation Number 14 of 2019 only regulates general customary land. The mandate of the regional regulation gives authority to the Regent to determine ulayat land. Determination through decisions made by the regent can undoubtedly lead to positive and negative sides. The positive side is that the administrative determination does not take long, while the weak side is that changes to customary land will be easy

because different regional heads will have different policies related to the determination of the customary land itself.

Meanwhile, in Lebak Regency, Banten. Local Government Regulation Number 32 of 2001 has already discussed the specifics of determining customary land. Where the Perda directly stipulates that the Baduy indigenous people have ulayat land. So that with the accuracy regulated by the Regional Regulation, which also contains customary land boundaries. This means that the stipulation of customary land must follow a regional regulation, a joint legal product between the regent and DPRD. The stipulation was carried out through regional regulations, which included the boundaries of the customary land, which had been regulated directly by regional regulations. So other regencies must learn from Lebak Banten Regency in determining customary land.

Indeed, the Baduy people highly uphold traditional values. Even there, they are unfamiliar with self-owned land as ownership is regulated in Article 21 of the UUPA. Efforts to designate customary land long before 2001 have often been carried out. This can be seen from the Decree of the Governor of West Java at that time, a letter signed on August 19, 1968, giving a determination of the "Prohibited" Forest Status of Kanekes Village, Baduy Region as "Absolute Protected Forest" in the Area of Customary Land Rights in the Province of West Java. (Lebak, 2001) Based on the results of interviews with Mursyid's father, the National Land Agency had previously measured the customary land of the Baduy tribe, and even that the customary land of the Baduy people had been determined through a regent's decision. Further interviews with Mursyid's father, an elder of the Baduy Tribe, explained that the customary land in the Baduy Tribe is 5,000 Ha. The community always guards the customary land by maintaining the land so that the benefits are felt during the dry season. The land is always maintained because it was entrusted with the ancestral heritage entrusted to the Baduy community.

Of the three regions that already have a legal umbrella regarding customary land above. There are still other areas where the acquisition of rights occurs when land is cleared for the first time. At the time of the first land clearing, it was then that the rights owned by the local community emerged. An opening is done in various ways but still with makeshift equipment (Barkatullah et al., 2019). Apart from that, there are also specific areas where the local community has rights, which include shared housing rights, village property rights, state ownership rights, and individual rights (Muldjabar, 2018).

The legal protection of customary law communities for customary land itself has also been agreed upon through the UN Declaration. The declaration held on 29 June 2006 declared the Rights of Indigenous Peoples. Indonesia, one of the countries present in the declaration, must comply with what has been agreed upon with the countries in the world. The form of compliance with the agreement is by strengthening the protection of the rights of indigenous peoples in Indonesia (Maramis, 2013). Given that there are many indigenous peoples whose rights have not been fully protected.

2. The Urgency of Registration of Ulayat Land in Indonesia

The State's recognition of ulayah rights is still conditional and layered. This must start with recognizing their indigenous peoples' rights before moving on to recognize their caterpillar rights. The highest rights under customary law, known as ulayah rights, are frequently connected to real estate that is known as "customary land." Although communal land is not explicitly addressed in the UUPA, if certain conditions are met, customary rights are recognized as valid land rights under the UUPA. (Wulandari et al., 2020) Article 1 of Minister of Agrarian Regulation No. 5 of 1999 specifically states that customary rights are authorities under customary law owned by specific customary law communities over specific areas that serve as the living environments of their citizens to benefit from natural resources, including land in the area, for the survival life and life, which arise from an outward and inward relationship that is hereditary and uninterrupted between the customary law communities (Ismi, 2012).

As stated in PP No. 24 of 1997 concerning Land Registration, the state's recognition of customary land is distinct from the land registration process relating to other land rights. This registration provides legal certainty for landowners. Obviously, this differs from customary land, as customary/ulayat land belongs to the local customary communal community, is owned by a large number of individuals, and the customary head represents the land's ownership. The customary head as the leader acquires communal rights, meaning communal rights to land can be registered with the Land Office and certificates can be issued. For customary land to be recognized and protected, the relevant customary law community must first be recognized and specified by the regent/mayor through the representative of the customary head of customary land owned by indigenous peoples. Then, and only then, can the administration of ulayat land be conducted, so that ulayat land can be registered in the land register and the fact that the land is ulayat land of indigenous peoples is recorded.

Of course that's a question. What types of customary land are eligible for registration at the land office. The answer to this question can be found in paragraph 2 of Article 2 of Ministerial Regulation No. 18 of 2019. Customary rights of community units governed by customary law are still considered to exist if they meet certain criteria, including the following:

- a. Communities and customary law institutions;
Explains that indigenous peoples and their institutions must be proven to exist and actively carry out customary activities within them. This criterion emphasizes that there must be real indigenous peoples and indigenous tribes whose existence can be proven.
- b. The area where the Ulayat Right takes place;
Each indigenous tribe must have a residential area inhabited by their indigenous people. Indigenous peoples are like people in their country. One of the conditions for becoming a state is the existence of a territory led by a head of state. So from this, to legally become customary land/communal land, it must have an area and be headed by a customary head, which includes traditional active activities as an indigenous tribe.
- c. relationship, linkage, and dependence of the Customary Law Community Unit with its territory;
The hallmark of a community is having a strong family nature and dependence on one another. The Customary Law Community is a group of people who have been living in some geographical regions for generations in the Unitary State of the Republic of Indonesia because of ties to ancestral origins, strong relationships with the land, territory, and natural resources, customary governance institutions, and customary law systems. In their customary territories, following statutory provisions. (Palit, 2019) Based on this explanation, it can be said that indigenous peoples have a strong relationship with land, territories, and natural resources that local indigenous peoples can fully manage.
- d. Authority to jointly regulate land use in the area of the customary law community unit concerned, based on customary law that is still valid and obeyed by the community.

Indigenous peoples are able to fully manage their land, as described in the previous section. Indigenous peoples' lands are collectively owned lands based on the concept of kinship. Each member of the Adat tribe is accorded the same land use rights. A customary head has the authority to fairly regulate the distribution of rights to the use of this land.

This is consistent with paragraph 1 of Article 67 of the Forestry Law. Nonetheless, the Constitutional Court has invalidated a number of provisions of Law No. 41 of 1999. Specifically concerning customary forests. Where in the decision does it state that a customary forest is not a state forest? Legally, the Indonesian government recognizes that customary forest/customary land managed by indigenous peoples is not state-owned land. The customary law community of customary land is a

fact that must be maintained as a gift. Customary forest/customary land serves as a home for them, and at a certain point, the customary forest becomes sacred and must be protected for the remainder of their lives. Indigenous peoples believe they have lost their rights to communal land as a natural resource essential to their survival, including the existence of traditional rights therein. Land ownership in Indonesia is regulated by law, which requires the land to be registered with an authorized body. However, it is different for communities governed by customary law. Legally, and it has been acknowledged, customary law communities in Indonesia are not subject to land regulations; instead, they must register their land with the appropriate authority. Customary law communities own their customary land automatically so long as the customary law community exists.

Without the legality of the state, the granting of authority in carrying out legal actions against ulayat lands cannot be carried out optimally. So that if there is none, it is recorded in the land book. can create new issues for ulayat land in Indonesia. According to Arie Sukanti Hutagalung, land is a state asset that serves as the fundamental capital for the development of a just and prosperous society (Hutagalung & Gunawan, 2008) Whether land is state-owned, privately owned, or communally owned, its legal status must be crystal clear.

Clarity regarding the status of customary land as a form of protection for indigenous peoples' rights. if the land already has local government approval and has been registered with the National Land Agency office. If certain parties wish to transfer, then the procedure is straightforward. What else for the purposes of investment. Several legal actions can facilitate the transfer of land rights, including communal land. The transfer of customary land rights may be accomplished through purchase and sale, grants, or other legal actions. Although the Indonesian national land law neither mentions nor prohibits the transfer of customary land rights. Regarding the transfer of customary land rights, conditions must be met under customary law (Andiki et al., 2019). In the transfer of customary land, the customary rights' object must be made clear. The subject of customary rights is all land and its contents within the territory of the territorial community of customary law in question. Ulayat rights encompass all land, so in an environment of customary law communities that do not exist as "res nullius," ulayat rights have external and internal characteristics (Rasyad, 2019). This indicates that the process is carried out by a party with the power and authority to carry out legal actions: the customary leader. This right gives rise to the customary leader's responsibilities, which include maintaining welfare, protecting the legal community's interests, preventing land use disputes, and, if a dispute does arise, resolving it (Rasyad, 2019).

The obligation of the customary leader is not only to carry out legal actions in terms of transferring customary rights. But also for controlling land administration, as stated in the UUPA. The provisions in the UUPA are further emphasized in Article 2 paragraph (1) of the Minister of Agrarian Regulation Number 18 of 2019 concerning Procedures for Administrative Procedures for the Administration of Indigenous Peoples' Unitary Lands that the Implementation of the Customary Law Community Unitary Rights over Land in its territory as long as it still exists, is carried out by The customary law community unit concerned according to local customary law provisions.

For customary land that already has recognition from the local government and is registered with the National Land Agency. Of course, it will minimize the problems in the land sector. If the settlement is carried out according to national law, this will take a long time, bearing in mind that customary law communities have their settlement procedures. However, if it is resolved legally in force among these indigenous peoples, this will be easier to complete because there are many ways to solve land problems. Several aspects of civil dispute resolution through mediation provide many benefits for parties to seek justice (Setiawan, 2018). This solution takes less time. In addition, settlement through a win-win solution will provide comfort for the parties, in which the points of the agreement are made by both parties in a case according to their wishes as known as the principle of freedom and the principle of consensuality (Setiawan, 2018).

IV. CONCLUSION

The rights of indigenous peoples to ulayat land are safeguarded by the constitution and regulations. The State Constitution recognizes the existence of customary law communities, as stated in Article 18 B of the 1945 Constitution, which states that the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of the nation, society, and principles. The constitution protects the rights of indigenous peoples to customary lands, but there are still issues, particularly with customary lands that have not been determined by the local government. Customary land must be safeguarded by the entire community and all interested parties. It is not sufficient for indigenous peoples to recognize customary land; it must also be determined by the regional director and administered at the National Land Agency office, so that administration is orderly and information is simplified.

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