Research Article

The Strategy of Institutional Collaboration to Expedite The Recognition of Customary Law Communities Through Land Registration in Aceh Besar, Indonesia

Sulaiman[1,2,*], Muhammad Adli Abdullah[1,2], Mitra Wulandari[3], Teuku Muttaqin Mansur[1,2], Lia Sautunnida[4,2]

[1]Faculty of Law, Universitas Syiah Kuala, Indonesia
[2]Research Centre for Law, Islam and Adat, Universitas Syiah Kuala, Indonesia
[3]School of Geosciences (Human Geography), The University of Sydney, Australia
[4]Faculty of Law, Universiti Malaya, Malaysia

ABSTRACT

The recognition of Indigenous Law Communities (Masyarakat Hukum Adat/MHA) involves a complex and multi-layered process. This article aims to analyze strategies for accelerating the recognition of MHA through the registration of customary land in Aceh Besar Regency. This research employs a qualitative methodology, with primary data obtained through fieldwork, preceded by a customary land survey, and complemented by legal materials. The analysis was conducted using a qualitative approach.The findings indicate that customary land continues to exist in Aceh Besar, covering an area of approximately 4,593.78 hectares, according to the survey. While this land holds potential for registration, the formal verification process remains challenging. The registration of such lands must be carried out at the Land Office—a regional branch of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN)—and requires the official designation of legal subjects by the Aceh Besar Regency Government.The study further emphasizes the intricacies of recognizing MHA, which require verification of both the subject (i.e., the community's legal status as MHA) and the object (i.e., the land claimed). One viable strategy to accelerate the recognition process is through institutional collaboration—integrating the object recognition process under the Land Office with the subject designation process handled by the regency government. This approach can be facilitated by forming a joint working structure based on submitted applications. Such a collaborative framework would improve communication and streamline policy decisions, enabling more efficient and effective recognition of both the MHA and the registration of their customary land.

Keywords: The Adat Land, Land Registration, Customary Law Communities, Mukim, Aceh Besar District.

A. INTRODUCTION

This article aims to analyze strategies for accelerating the recognition of customary law communities (Masyarakat Hukum Adat, MHA) through the registration of Adat land in the Aceh Besar community. The study addresses three main issues: (1) the challenges faced by customary law communities in proving ownership of Adat land; (2) government strategies for expediting the registration of Adat land; and (3) the challenges of legal reform in accelerating the recognition of MHA through Adat land registration.

These three issues arise from preliminary information gathered during a meeting with the Aceh Besar District Council of Customary Law on July 8, 2023, which confirmed the continued

existence of Adat land within the community. In practice, Adat land is not limited to sectoral affairs (Rato, 2023). Rather, various forms of Adat land can be found across different sectors within the community, including *tanoh umum* (land managed for public use), *tanoh paya* (land used as a water source), *padang* (grazing land), *reuleut* (rice fields used for water retention), *pante* (coastal or inland communal meeting grounds), and *rawa* (land with ecological significance for maintaining environmental balance) (Sulaiman, Adli, & Mansur, 2023).

There are three traditional land concepts recognized within the Aceh Besar community: *tanoh droe* (privately owned land), *tanoh gob* (land belonging to others), and *tanoh hakullah* (land fundamentally owned by the Creator and managed for public benefit) (Taqwaddin, 2010). In contrast, national agrarian law categorizes land into ownership land, state land, and *adat* (customary) land. The development of land regulations evolves in accordance with the country's prevailing political policies (Bola, 2017). One notable development is the Constitutional Court's Decision No. 35/PUU/2012 (MK 35/2012) concerning Law No. 41 of 1999 on Forestry, which addressed the status of customary forests vis-à-vis state forests. In this context, *adat* land is understood as a separate entity from state land (Jaya et al., 2021).

These sectoral distinctions have created significant challenges in the recognition of *adat* land (referred to as *tanah ulayat* in national terminology), which is intrinsically linked to the recognition of Indigenous Law Communities (MHA). Customary land is typically managed under the authority of MHA (Abdullah et al., 2023). Beyond the legal standing of land rights as an entity (Mahfud & Chin, 2024), this issue presents a broader dilemma in the governance of customary land (Marta & Sulaeman, 2019).

Since the enactment of Law No. 5 of 1960 on Basic Agrarian Principles—which mandates the registration of all land under Article 19(1)—more than 60 years have passed, yet the registration of *adat* (ulayat) land remains problematic. Unlike the relatively smooth registration processes for state and private ownership lands, the registration of *adat* land has not been optimally implemented. The challenges stem from the complexity of proving both the object (the land claimed as *adat*) and the subject (the community claiming MHA status). MHA must provide evidence for both in order to complete the registration process.

This evidentiary requirement has remained a persistent challenge over the years. Although Indigenous Law Communities (MHA) clearly exist within society, their actual presence (*ada*) does not always align with the legal definition of "existence" (*ada*) as stipulated in formal regulations. Since 1999, communities in Aceh Besar have been advocating for the recognition of their *adat* lands within the framework of MHA recognition. During the New Order era, *adat* lands that had already been granted as concessions were not subject to legal challenge (Abdullah et al., 2023).

Thus, the factual existence of *adat* land does not automatically equate to its recognition under legal categories. The evidentiary process is crucial for enabling the formal registration of *adat* lands.

With respect to land registration, two aspects must be processed simultaneously. Verification of the *object* (i.e., the land) is handled by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and is formally governed by Ministerial Regulation No. 14 of 2024 on the Administration and Registration of Customary Land Rights of Indigenous Law Communities. Meanwhile, recognition of the *subject* (i.e., the MHA itself) falls under the authority of the Ministry of Home Affairs, based on Ministerial Regulation No. 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Law Communities.

An additional layer of complexity stems from sectoral legal fragmentation. While such divisions are not acknowledged within MHA governance, they are codified through various sector-specific regulations. For instance, *adat* lands within forestry areas are regulated under Ministerial Regulation No. P.21/MenLHK/Setjen/ KUM.1/4/2019 on Customary Forests and Forest Concessions. In the fisheries sector, Ministerial Regulation No. 8 of 2018 governs the procedures for determining MHA management areas in the use of coastal and small island spaces.

This diversity of regulatory frameworks underscores the significant challenges in obtaining formal recognition for *adat* lands—challenges that are far from trivial. Several studies, including those conducted by Sulaiman et al., have highlighted the legal complexities and inconsistencies involved in securing MHA recognition in Indonesia. These studies have identified instances of legal disorder in the processes surrounding the acknowledgment of Indigenous Law Communities (Sulaiman, Adli, & Mansur, 2019).

This study adopts Griffiths' theory of legal pluralism, which distinguishes between strong and weak forms of legal pluralism (Griffiths, 1986). This theoretical framework facilitates the examination of the relationship between legal pluralism and state law (Benda-Beckmann & Turner, 2018), particularly in highlighting how the state engages with legal systems beyond its formal jurisdiction.

A review of existing literature further illuminates the variations of legal pluralism that will be analyzed in this research. The Arizona study demonstrates the difficulty of meeting constitutional requirements for recognition, as these were introduced through the 2002 amendment, while policies that have historically disadvantaged Indigenous Law Communities (MHA) have existed long before (Arizona, 2016). These challenges continue to be evident under current regulatory frameworks (Bedner & Arizona, 2019). In the recognition process of MHA, such legal requirements represent another form of the state's insufficient acknowledgment (Sukirno, 2013; Sukirno & Wibawa, 2024). At the practical level, defining the context and parameters of

recognition remains critical, yet largely unaddressed (Zakaria, 2016).

Numerous studies on *adat* (customary) land in Aceh Besar have been conducted since the 1980s. Elhakimy emphasized that customary law governing *ulayat* land falls under the authority of the *mukim* (Elhakimy, 1984). These works have been widely referenced to understand the link between *ulayat* rights and natural resource management in Aceh. This context is further supported by Taqwaddin, who asserts that the *mukim* is the institutional expression of MHA in Aceh (Taqwaddin, 2010). However, the position and authority of *mukim* have consistently been challenged by state policies (Tripa, 2016).

In 2015, the Prodelat Foundation conducted research on the legal recognition of *mukim ulayat* rights, identifying the *mukim* as central to the management of customary resources in Aceh (Tripa, 2015). In 2016, the Aceh Indigenous Communities Network carried out a legal and policy study on forest governance based on the *mukim* institution (Taqwaddin & Sulaiman, 2016). Later, in 2022, the Center for Legal Research, Islamic Law, and Customary Law at Universitas Syiah Kuala was entrusted with providing legal evidence that the *mukim* qualifies as MHA, specifically regarding the recognition of customary forests in Aceh (Yahya, Tripa, & Mansur, 2022).

Research on the acceleration of *adat* land registration is closely tied to the state's recognition of MHA. Within the current regulatory framework, such recognition remains inconsistent across different legal instruments (Sulaiman, Adli, & Mansur, 2019). Moreover, the conditional nature of recognition imposed on MHA—requirements that are often unattainable—has its roots in the New Order era (Sukirno, 2013). During that time, Indigenous communities were systematically labeled as "backward," a classification that contributed to their marginalization and legal disenfranchisement (Pradhani, 2019). This form of conditional recognition has significant ramifications, including regulatory overlaps and contradictions within investment-related legal frameworks (Wamafma et al., 2019).

Another critical issue is the imbalance between the government's authority as a formal institution and the position of Indigenous Law Communities (MHA), which hinders MHA from achieving equitable standing (Suartina, 2020). These findings collectively highlight the state's tendency to reinforce its control over the recognition of land rights related to MHA (Bedner & Arizona, 2019). As a result, this imbalance significantly limits the participation of MHA in land-related development policies (Putri, Pradhani, & Noor, 2020).

Based on previous research, a clear gap exists between the constitutional recognition of MHA and the prevailing legal and administrative realities. This gap is particularly apparent in the conditional nature of such recognition, which complicates the acknowledgment of customary land and the verification of both its objects (the land) and subjects (the community). Ideally, state

law should facilitate the recognition of customary law communities in relation to their traditional land. However, the current conditions reflect a stark contradiction, where the recognition process has become increasingly difficult and bureaucratically burdensome. This discrepancy underscores the importance and urgency of conducting a comprehensive study on this issue.

B. RESEARCH METHOD

This research employs a socio-legal method (Budianto, 2020), which allows for interaction with other disciplines (Fuad, 2020). The study began with a survey involving representatives from 68 *mukims* across 23 districts in Aceh Besar Regency (Sulaiman, 2024a). The survey was facilitated by the Chair of the Customary Council of Aceh Besar Regency through meetings held in three locations: (1) Seulimuem-Krueng Raya (covering 8 districts and 18 *mukims*), (2) Lhoknga-Lhong (5 districts and 16 *mukims*), and (3) Malaka-Indrapuri (11 districts and 34 *mukims*). The purpose of the survey was to collect information regarding *adat* lands within the *mukims*.

Table 1. Mukim Meeting Points

No.	Location	Mukim	Total
1	Seulimuem-Krueng Raya	Seulimuem (5), Mesjid Raya (2), Darussalam (3), Lembah Seulawah (2), Kota Jantho (1), Kuta Cot Glie (2), Kota Malaka (1), Baitussalam (2).	18
2	Lhoknga-Leupung	Lhoong (4), Lhoknya (4), Pekan Bada (4), Pulo Aceh (3), Leupung (1).	16
3	Indrapuri	Indrapuri (3), Montasik (3), Suka Makmur (4), Darul Imarah (4), Ingin Jaya (6), Kuta Baro (5), Simpang Tiga (2), Darul Kamal (1), Krueng Barona Jaya (3), Blang Bintang (3).	34

Source: (Sulaiman, 2024b)

During the field research, the survey was supported by four volunteers. The survey identified indications of *adat* lands in 21 *mukims* and 7 *gampongs* across 7 districts, resulting in a total of 28 *adat* land sites covering an area of 4,593.78 hectares. The collected data were then cross-verified using several online platforms: forest land tenure data via http://sigap.menlhk.go.id/sigap/peta-interaktif, land registration data via http://bhumi.atrbpn.go.id, and spatial planning patterns (RTRW) via http://gistaru.atrbpn.go.id/rtronline/.

Based on the preliminary survey data, each location was visited to collect detailed information

on both the objects and subjects, following a research approach that integrates legal materials with empirical realities. In determining the objects, geospatial tools were employed to assist with the mapping process (Asiama & Arko-Adjei, 2023). The data collected on the objects included land parcel polygons and estimated land area. For subject-related data, the research examined the institutions exercising control over the land and the legal basis for such control. Additional information gathered included land use, emerging disputes, and overlapping claims or rights.

Informants encountered at all sites included *Imuem Mukim*, *Keusyik* (village heads), and local community members actively cultivating the land. Key informants also included the Head of the Aceh Besar Land Office and customary law researchers from Universitas Syiah Kuala.

Data validation was carried out to ensure authenticity through triangulation. All data were analyzed qualitatively in relation to the recognition of *Masyarakat Hukum Adat* (MHA).

C. RESULTS AND DISCUSSION

1) Proof of Customary Land by *Mukim*

In the context of Aceh, *mukim* is classified as a *Masyarakat Hukum Adat* (MHA) or Indigenous Law Community (Tripa, 2016). Conceptually, the status of *mukim* as MHA is no longer contested (Yahya, Tripa, & Mansur, 2022). However, in practice, proof is still required regarding both the subject (the community) and the object (the land). In this regard, land represents the most vital resource for MHA (Husni, Mandala, & Bimarasmana, 2022). It can be said that the existence of MHA is fundamentally determined by its communal land rights (Hasan, Suhermi, & Sasmiar, 2020).

Therefore, based on this foundational concept, proof of land rights involves demonstrating the existence of communal rights held by the *mukim*. The term "communal rights" is further divided into *internal authority* and *external authority*, as originally introduced by Teer Har (Kristiani, 2020). In this framework, *internal authority* grants members of the community the right to benefit from *adat* land. In contrast, *external authority* requires individuals from outside the community to obtain permission from customary authorities before accessing or utilizing the land.

In the management of *adat* land by *mukim*, internal communal rights are manifested in three forms. First, members of the *mukim* community are permitted to utilize the land for daily needs—though these rights are not without limits. Second, any economic benefits generated from the land must be managed responsibly, ensuring that the advantages serve the long-term welfare of the community and the sustainability of the land. Third, *adat* land is also designated for the broader communal interest, such as burial grounds, pasturelands, educational facilities, and places of worship.

Communal rights extend beyond the *mukim* and are recognized in three forms. First, outsiders may receive management rights through approval from the *mukim*'s customary leader. This process

typically involves a formal meeting with the *imeum mukim* (customary elder) before any uncultivated *adat* land may be managed. Second, no individual or group is permitted to derive profit from managing the land without prior authorization from the *mukim*'s customary authority. Third, once such rights are granted, the management rights held by outsiders are considered equivalent to those enjoyed by residents of the *mukim*.

The *mukim* itself is expected to continue its customary practices and operations according to established traditions. However, it must also demonstrate to the state that it qualifies as an MHA and possesses the legitimate authority to govern its *adat* lands, in accordance with the legal hierarchy—from constitutional provisions to technical policies.

Under state law, providing such proof is not a straightforward task. Article 18B, paragraph (2) of the 1945 Constitution sets out four criteria for the recognition of MHA, which are notably difficult to satisfy (Sukirno, 2013). As a result, the constitutional protection of MHA remains a subject of ongoing debate (Rosyada, Warassih, & Herawati, 2018). This constitutional framework has led various government institutions to independently formulate their own guidelines on how MHA recognition should be implemented.

Consequently, this institutional fragmentation has resulted in the sectoralization of *adat* land affairs. Yet, in the *mukim*'s customary context, the management of land, forests, and coastal areas is integrated and indivisible—including the resources they contain. This situation gives rise to inter-sectoral competition, with each institution asserting dominant authority over land and forest governance.

As a result of this sectoral competition, it is not surprising that state law regulates land issues through various laws, including: Law No. 5/1960 (Agrarian Law), Law No. 5/1990 (Natural Resources Conservation and Ecosystems), Law No. 6/1996 (Waters), Law No. 41/1999 (Forestry), Law No. 7/2004 (Water Resources - annulled by Constitutional Court Decision No. 85/PUU-XI/2013), Law No. 11/2006 (Aceh Governance), Law No. 26/2007 (Spatial Planning), Law No. 4/2009 (Mining), Law No. 32/2009 (Environmental Protection and Management), Law No. 45/2009 and Law No. 31/2004 (Fisheries), Law No. 1/2014 and Law No. 27/2007 (Coastal and Small Islands Management), Law No. 6/2014 (Village), and Law No. 23/2014 (Regional Government). Some of these laws have been amended under the Omnibus Law.

There is an ongoing tug-of-war between sectors regarding the regulation of Indigenous Peoples and their rights. The causes of this situation include the tendency to subordinate customary law, which ultimately makes it easier to control MHA (Simarmata, 2006). Furthermore, the recognition of MHA is increasingly confined to the customary dimension (Abdullah, Arifin, & Tripa, 2018). The culmination of this process is the hegemony surrounding the exploitation of natural resources (Arizona, 2016).

The reasons mentioned above have led to increasing sectoralization. Regarding agrarian

issues related to MHAs, each sectoral agency tends to disregard various interests outside its jurisdiction. This condition has resulted in numerous conflicts, with the state becoming the primary actor both in these conflicts and their resolution processes (Rahmawati, Rahayu, & Sukirno, 2023).

The legal politics surrounding MHAs remain unresolved to this day (Warassih, 2018). The involvement of MHA is crucial (Nur, Fatih, & Intania, 2024). In the context of natural resource management related to MHAs, it seems that legal harmonization has yet to be concretely achieved (Warassih, Sulaiman, & Fatimah, 2018).

These conditions complicate the process of proving adat land by mukims. Following Ter Haar's concept, mukims continue to apply data processing regulations. The issue lies in the land claimed by mukims as the object, which, in practice, is already encumbered by specific government concessions.

The proof of the object is facilitated if there is anthropological evidence in the field. The existence of former dwelling places, old wells, or community production tools from the past can serve as evidence of customary land ownership prior to the granting of specific concessions. This anthropological evidence is complemented by historical records about the community.

Proof of the object is also gathered by tracing the parties who have been managing the land. In the survey conducted, identifying the parties involved in the management provides additional data, such as the extent of the land and the dynamics of disputes that arise—whether among community members, between the community and concession holders, or between community members and the state.

For mukim adat land, the proof process is carried out by the imuem. For gampong adat land, the process is conducted jointly by the imuem and keusyik (village chief). In addition to handling land management matters, the imuem and keusyik also act as parties in case of disputes within their areas. If the dispute goes to court, the imuem and keusyik are involved in the legal process.

Based on the previous concept, the object of adat land falls under the category of *tanoh haqqullah*. This land is considered to belong to Allah, either because it has not been cultivated or has been abandoned by its previous cultivators. If the land consists of fields, it is left to revert to wilderness, and the imuem reclaims it to be managed by others.

Table 2. Land Division

No.	Position	Category	Dimension
1	Tanoh gob	Customary Land	-
2	Tanoh droe	Customary Land	-
3	Tanoh Hak Allah	State Land	-
		MHA Land	*Ulayat* Land
			Communal Land

Source: (Sulaiman, 2024b)

From this foundational division, adat land develops in various forms that cross specific sectors.

Table 3. Variants of Customary Land in Aceh Besar

No.	Customary Land	Variant	Specific Variant
1	*Mukim* Land	*Padang gembala*; *mukim* forest; *panton* (hill land); *paya*; *tanoh jeut; tuwie* (river part); *pante* (coastal edge);	There is no difference between land (other use areas) and land in forests and coastal areas.
2	*Tanoh raja*	Communal Land	
3	*Tanoh uleebalang*	Communal Land	*Peukan* land; cemetery land; non-*waqf meusara* land.
4	*Tanoh gampong*	Public cemetery land; *wakaf* land; water sources; public sports fields; village gardens; customary hall land.	

Source: (Sulaiman, 2024b)

Looking at the variations of land in Table 3 provides an overview that adat land cannot be determined from a single perspective; rather, it must be understood by combining national law (agrarian, sectoral, and local government regulations) with the socio-anthropological realities of land management practiced by the community.

2) Government Strategy in Accelerating the Registration of Customary Land

The discourse surrounding the registration of adat land begins with the ambiguity in several laws and regulations. Referring to what is stipulated in Law No. 5 of 1960 concerning Basic Agrarian Principles, two key points are emphasized regarding ulayat land: the recognition of ulayat rights (Article 3) and the registration of the land (Article 19). These two articles, when critically examined, present two significant challenges in the proof process: how to operationalize ulayat rights and how to effectively prove adat land through the land registration scheme.

The issue of ulayat rights and Customary Law Communities has been a central concern

since the reform era. After the enactment of Law No. 5 of 1960, there were few functional regulations to resolve the various issues related to ulayat rights and MHA. New regulations emerged in 1999 with Minister of Agrarian Affairs Regulation No. 5 of 1999 concerning Guidelines for Resolving Issues of Customary Law Community Ulayat Rights. After 15 years, this regulation was replaced by Minister of Agrarian Affairs Regulation No. 9 of 2015 concerning Procedures for Establishing Communal Rights over Land of Customary Law Communities and Communities Within Certain Areas. This regulation was further replaced by Minister of Agrarian Affairs/Head of BPN Regulation No. 10 of 2016 concerning Procedures for Establishing Communal Rights over Land of Customary Law Communities and Communities Within Certain Areas, and Minister of Agrarian Affairs/Head of BPN Regulation No. 10 of 2019 concerning Procedures for Establishing Communal Rights over Land of Customary Law Communities and Communities Within Certain Areas. In the same year, Minister of Agrarian Affairs/Head of BPN Regulation No. 18 of 2019 was issued concerning Procedures for Land Management of Customary Law Community Ulayat Lands, followed by the issuance of Minister of Agrarian Affairs/Head of BPN Regulation No. 14 of 2024 concerning the Implementation of Land Administration and Registration of Customary Law Community Ulayat Land Rights. Nevertheless, these regulations are not without challenges. The alignment of administrative and registration frameworks concerning adat land remains a critical issue that requires resolution.

From a practical standpoint, the latest policy in 2024 can be considered a breakthrough in addressing various issues faced by MHA. The policy reflects a response to the need for regulations that can address the practical challenges encountered in the field. This regulation covers land administration, registration, and the positioning of subjects. The administration process for registering ulayat land includes identification and inventorying, land surveying, and providing registration copies. Subsequently, it enters the land registration phase by clarifying the distinction between MHA subjects related to ulayat rights and the unity of MHA based on social or genealogical ties through ownership rights.

This regulation was developed as part of the government's strategy to accelerate land registration. As outlined in Article 19, paragraph (1) of the UUPA (Basic Agrarian Law), of the three land entities (rights land, state land, ulayat land), only ulayat land has not seen significant progress. Rights land and state land have undergone registration through routine services and PTSL (systematic land registration).

As a result of the lack of registration for adat land, the state lacks detailed data on the extent of land owned by MHA. Another implication is that lands which should rightfully belong to MHA are instead managed under different sectors, leading to disputes.

However, this strategy is not without its challenges. Due to the complexities surrounding adat land—particularly regarding its objects and subjects—difficulties arise in proving them in the field. The proof of objects is submitted to the National Land Agency, while the determination of the subject must go through a separate process, specifically the regional heads' determination of mukim as MHA.

From the survey, a total of 28 indicative adat land locations were successfully identified, covering an area of 4,593.78 hectares. Of this total, 24 locations were identified as adat land (3,364.36 hectares), and 4 locations were identified as communal land (1,229.42 hectares).

Table 4. Adat Land and its extent

No.	Description	Number of points	*Mukim/ Gampong*	Area (Ha)
1.	*Ulayat* Land	21	Mukim	2.797,54
		3	Gampong	566,84
2.	Communal land	1	Mukim	960,54
		3	Gampong	268,87

Source: Analyzed Data.

The land of this extent was overlaid with several existing databases, yielding data as shown in Table 5. The databases referred to are the forest area data (http://sigap.menlhk.go.ig/sigap/peta-interaktif), land registration data (http://bhumi.atrbpn.go.id), and spatial RTRW (http://gistaru.atrbpn.go.id/rtronline/).

Based on the overlay, the types of adat land functions can be explained as follows.

Table 5. Types of Functions in Adat Land

No.	Description	Area	Details
1.	APL	4.571,20	
2.	HL	0,40	
3.	Tubuh Air	11.34	
4.	HP	2,46	
5	HPK	7,28	
	Total	4.593,78	

Source: Analyzed Data.

Based on survey data of 4,593.78 hectares identified as adat land, it turns out that most of this land falls within other designated land uses (APL), covering 4,571.20 hectares. Only 22.58 hectares overlap with protected forests, bodies of water, production forests, and conservation production forests. Further overlaying with land registration data reveals that, from the 4,571.20 hectares of APL, 26.63 hectares overlap with ownership rights. This situation indicates that the object is relatively secure to proceed as customary land.

Based on the analyzed data, several plots of land are deemed safe to follow up as adat land. However, upon review by various relevant sectors and departments, overlaps with existing land

functions were identified. In 2024, the Government of Aceh Besar Regency and the Aceh Besar Customary Council proposed two land parcels that were unanimously accepted by all parties involved. The first parcel is ancestral land from Mukim Seulimuem, covering 16.4 hectares, located in Gampong Alue Rindang and Gampong Iboh, Seulimuem District, Aceh Besar Regency. The second parcel is ancestral land from Mukim Siem, spanning 1.1 hectares, located in Gampong Krueng Kale, Darussalam District, Aceh Besar Regency.

The issue at hand is highly complex, as it involves validating land ownership, which pertains to both the object and the subject. Regarding the object, the authority lies with the Aceh Besar National Land Agency, which is responsible for determining the land status and ensuring there is no overlap with other land parcels. Additionally, the Public Works and Spatial Planning Office is involved in verifying that the area does not fall within any designated zones. According to the Public Works and Spatial Planning Office letter No. 650/349/TRTB/2024, the adat land in question is not identified as overlapping with any other land parcels.

The determination of the land object is carried out based on requests submitted by Mukim Seulimuem and Siem to the Head of the Land Office. Internally, the Land Office establishes a dedicated committee responsible for measuring and verifying the indicative map. Externally, the proposed customary land is subject to confirmation to ensure that it is secure and does not overlap with other land parcels. Following this, a public outreach and dissemination process is conducted to inform the broader community.

Proving the object alone is insufficient to accelerate the registration of adat land. Proving the subject must also be completed because both the object and subject are part of the same management package. The challenge arises because the subject falls under the Ministry of ATR/BPN, while proving the subject is under the Ministry of Home Affairs.

The acceleration of determining these subjects is not straightforward. Referring to Permendagri No. 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples, the process of recognition and protection of customary communities begins with the establishment of the Indigenous Peoples Committee, chaired by the regional secretary, with the head of the community empowerment unit serving as the secretary. Other members include the head of the legal section, the sub-district head, and the heads of relevant units focusing on customary communities.

This committee undertakes the process of proving the subject by identifying customary communities, verifying and validating them, and only then making the determination. Identification is carried out through a study of the history of the customary communities, their customary territories, applicable customary laws, traditional wealth and/or objects, and their institutional or customary governance systems. The results of

this identification will be verified, and within one month, the committee reports to the regional leadership for determination.

Differences of opinion arise during the identification process between community empowerment units and customary communities, who interpret their histories and customary laws differently. The units view the existence of customary communities in a limited way, perceiving them as separate from the lives of these communities. In contrast, the MHA (Customary Law Communities) integrates various attributes in resource management.

In the process of determining customary communities (MHA) by the Aceh Besar District Government, effective communication is maintained across sectors. In addition to the parties directly involved, the district government facilitates meetings by inviting relevant stakeholders to discuss how the recognition of MHA is to be interpreted, as required by Minister of Home Affairs Regulation No. 52 of 2014.

The district government also engages academics involved in various MHA advocacy efforts, proposing solutions such as forming collaborative groups to prove both the object and the subject. Furthermore, the district government communicates with the Land Office and addresses field issues with the Customary Council and mukim as MHA representatives.

In the recognition and protection of adat land (MHA) in Mukim Seulimuem and Siem, the Government of Aceh Besar established a dedicated committee. During the verification and validation process, the committee organized meetings and discussions to address various developments on the ground, particularly those regarding differing viewpoints about the status of mukim as MHA. Through the coordinated efforts of three key stakeholders—the Government of Aceh Besar, the Aceh Besar Customary Council as the custodian of the mukim, and Universitas Syiah Kuala (USK)—these differing perspectives were effectively reconciled.

The transparency of the Land Office regarding the object and the Government of Aceh Besar concerning the subject has facilitated the resolution of differing viewpoints in the field. This institutional coordination has significantly accelerated the process of establishing adat land. In addition to formal communication, informal interactions are also actively conducted by representatives of the relevant institutions, both through WhatsApp group discussions and informal meetings. These avenues have contributed to the expedited resolution of on-the-ground issues.

The transparency of the Land Office and the Government of Aceh Besar in addressing the findings of research on the identification of customary land conducted by Universitas Syiah Kuala has also expedited the formal recognition process of adat land.

3) Challenges in the Legal Reform of Land Registration as Recognition of MHA

While acknowledging the differences in perspectives regarding the administrative and registration processes of adat land, the issuance

of Regulation of the Head of the National Land Agency No. 14 of 2024 concerning the Administration of Land Administration and Registration of Customary Land Rights for Indigenous Customary Communities can be considered a significant legal breakthrough. Protecting MHA (Customary Law Communities) requires concrete and functional policies, and this regulation reflects the courage of policymakers. It represents an effort to provide legal certainty and facilitate legal protection for MHA.

In terms of the process, the drafting of this regulation was highly transparent. The Ministry of ATR collaborated with teams from three universities: Hasanuddin University, Gadjah Mada University, and Andalas University. Once the draft was completed, its substance was openly discussed.

Several challenges have emerged following the issuance of this regulation. First, the process of identification and inventorying needs to be driven more by the central government than by local governments. This process requires substantial funding, although this challenge can be mitigated by collaborating with third parties specializing in environmental issues or MHA. Local governments face policy constraints, often delayed due to various regulatory formations concerning MHA.

Second, the process of proving the object and establishing the subject can proceed concurrently. In the proof process, it should not be left to each ministry to handle independently. Since this involves two different agencies, simultaneous action would ideally foster a culture of mutual openness.

Third, a more transparent communication structure is required regarding the proof of objects and the establishment of subjects. Ideally, the processes of proving objects and subjects could be carried out simultaneously by each institution, while also involving other agencies to facilitate achieving the desired outcomes.

These challenges highlight that legal breakthroughs also require legal reforms. However, not all legal breakthroughs qualify as legal reforms. In the case of protecting MHA, several regulations have been issued, but they have not yet been sufficiently functional to resolve the underlying issues.

The concept of legal reform refers to the push for novelty and new pathways within the legal system. This concept takes two forms. First, legal reform is a tool for social engineering in its purest sense. Second, legal reform involves law reform, where the law is not just the concern of judges and law enforcers, but also a matter of public interest in general (Wignjosoebroto, 2007).

If we refer to the legal position as a system, then the concept of legal reform must encompass the renewal of that system. The idea of reform still stems from the fundamental constitutional arrangements and the affirmation of the state's goals, as outlined in the preamble of the 1945 Constitution, which includes protecting all Indonesian people and realizing the common welfare based on Pancasila.

In the Indonesian context, Pancasila, as the source of all legal authority, must guide the process of legal reform related to the protection of MHA (Customary Law Communities). The process of proving the object and subject of MHA must not deviate from this foundation.

Emphasizing this foundation is crucial, especially in the context of MHA protection, where three key issues should consistently be addressed. First, how each party understands the concept of MHA. Second, how major stakeholders can achieve harmonization in MHA protection, particularly within the framework of national law. Third, there must be openness to learning from and observing successful legal reform processes.

Fundamentally, the description above highlights the imbalanced nature of legal recognition. Drawing on Griffith's theory of legal pluralism, it can be argued that a form of weak legal pluralism is currently in effect, as evidenced by the predominance of state-driven technical policies in the recognition of customary law communities (MHA) and their associated objects.

In this context of recognition, and drawing on Griffith's theoretical framework, the prevailing form of legal pluralism can be characterized as weak. This perspective on legal pluralism aligns fundamentally with the principles of legal centralism. In this regard, legal pluralism is relegated to a minor component within the overarching framework of state law. Essentially, the validity of what is deemed applicable under the customary law of a specific community is intrinsically contingent upon the regulatory authority of state law. Therefore, for customary law to attain legitimacy, it necessitates formal recognition by the state legal system.

In the context of the expedited land registration process, which significantly influences how state law recognizes land rights, the aforementioned theory is both relevant and instrumental, particularly in the evidentiary phase. The challenges faced by MHA (Customary Law Communities) can be fundamentally attributed to the prevailing legal centralism inherent in this recognition framework. This centralism not only complicates the process of legal acknowledgment but also exacerbates the difficulties faced by customary law communities in asserting their rights within a system that prioritizes state law over customary practices.

This issue is also linked to how policies are being made more concrete. With regard to the state's perspective on the existence of MHA, it is crucial to ensure that all ministries have a consistent understanding. No ministry should handle MHA protection differently from the others. In this regard, all state institutions must adopt a more humanistic approach towards MHA, as opposed to a purely formalistic approach, which often leads to repression against MHA.

An unresolved issue persists regarding the tug-of-war over laws regulating MHA. This situation involves a push-and-pull dynamic within each sector. To address this issue, it is appropriate for the Coordinating Ministry for Political, Legal, and Security Affairs (Menkopolkam) to initiate coordinated efforts to

expedite the harmonization process. Menkopolkam should not allow the implementation of MHA protection to be based on the varying perspectives of related ministries. In other words, it should not be left to each sector to manage MHA interests independently.

During the previous administration, the Menkopolkam made efforts to coordinate inter-ministerial meetings aimed at achieving a unified approach to the recognition of adat land. However, such efforts have not been evident in the current administration. Such coordination is critical to accelerating the recognition and protection of MHA, particularly at the regional level. Regional agencies and sectors are, to a considerable extent, shaped by the policies and directives of central government institutions. This dynamic is also evident in Aceh Besar Regency, where disparate perspectives among various sectors present a significant challenge that requires resolution.

Another challenge lies in the implementation of surveys in remaining areas to substantiate the existence of adat land, which has now been delegated to the regional government and is no longer under the jurisdiction of the central government. Given the financial limitations of regional governments, it is unlikely that this survey can be conducted comprehensively.

D. CONCLUSION

The complexity of validating adat land rights arises from the fact that Mukim must navigate the proof of both the object and the subject before two distinct institutions. To address this complexity, the government has already completed a specific regulation aimed at expediting the registration of adat land, which will directly impact the protection of MHA. In terms of its conceptual framework, the deficiency of this regulation lies in its failure to differentiate between the administrative and registration contexts in the recognition of customary land. The divergence in conceptual approaches across sectors presents a significant challenge to the recognition of Indigenous Peoples' Rights (MHA), with these differences also affecting the operations of various regional institutions. Furthermore, resource limitations pose a distinct obstacle to the expedited recognition and protection of MHA.

REFERENCES

JOURNALS

Abdullah, Muhammad Adli., Arifin, Azmi., & Tripa, Sulaiman. (2018). Panglima Laot: His Legacy and Role in Conserving Marine Resources in Aceh. *SHS Web of Conferences,*Vol.45,p.603. https://doi.org/10.1051/shsconf/20184506003

Abdullah, Muhammad Adli., Mansur, Teuku Muttaqin., Sulaiman, Sulaiman., Jafar, Muhammad., Yahya, Azhari., Usman, Musliadi., & Puspitasari, Mitra. (2023). Analysis of Customary Land Conflict Resolution Strategies Based on Customary Law, Cultural Concepts, and Local Wisdom in Indonesia. *Journal of Law and Sustainable Development*, Vol.11*,* (No.11),

pp.1-29. https://doi.org/10.55908/sdgs.v11i11.1559

Arizona, Y. (2016). Perkembangan konstitusionalitas Penguasaan Negara atas Sumber Daya Alam Dalam Putusan Mahkamah Konstitusi. *Jurnal Konstitusi,* Vol.8*,* (No.3), pp.257-314. https://doi.org/ 10.31078/jk833

Asiama, Kwabena., & Arko-Adjei, Anthony. (2023). An experiment on the role of participatory GIS in the adjudication process of customary lands. *Survey Review,*Vol.55*,*(No.389),pp.178-191. https://doi.org/10.1080/00396265.2022.2040869

Bedner, Adrian., & Arizona, Yance. (2019). Adat in Indonesian Land Law: A Promise for the Future or a Dead End?. *The Asia Pasific Journal of Antropology,* Vol.20, (No.5), pp.416-434. https://doi.org/10.1080/14442213.2019.1670246

Benda-Beckmann, Keebet von., & Turner, Bertram. (2018). Legal pluralism, social theory, and the state. *The Journal of Legal Pluralism and Unofficial Law,* Vol.50, (No.3),pp.255-274. https://doi.org/10.1080/07329113.2018.1532674

Bola, M. (2017). Legal Standing of Customary Land in Indonesia: A Comparative Study of Land Administration Systems. *Hasanuddin Law Review,* Vol.3*,* (No.2), pp.175-190. http://dx.doi.org/10. 20956/halrev.v3i2.1132

Budianto, A. (2020). Legal Research Methodology Reposition in Research on Social Science. *International Journal of Criminology and Sociology,*Vol.9,pp.1339-1346. https://doi.org/10.6000/1929-4409.2020.09.154

Fuad. (2020). Socio Legal Research Dalam Ilmu Hukum. *Jurnal Widya Pranata Hukum,* Vol.2*,*(No.2),pp.32-47. https://doi.org/10.37631/widyapranata.v2i2.261

Griffith, J. (1986). What is Legal Pluralism? *The Journal of Legal Pluralism and Unofficial Law,*Vol.18,(No.24),pp.1-55. https://doi.org/10.1080/07329113.1986.10756387

Hasan, Umar., Suhermi, Suhermi., & Sasmiar, Sasmiar. (2020). Eksistensi Hak Ulayat Dalam Masyarakat Hukum Adat. *Jurnal Sains Sosio Humaniora,* Vol.4, (No.2), pp.649-660. https://dx.doi.org/10.22437/jssh.v4i2.11523

Husni, Anang., Mandala, Opan Satria., & Bimarasmana, Muhammad. (2022). Hak-Hak Masyarakat Adat Dalam Politik Hukum Agraria di Indonesia. *Fundamental Justice,* Vol.3*,*(No.2),pp.91-112. https://doi.org/10.30812/fundamental.v3i2.1964

Jaya, Daniel Jesayanto., Hidayah, Retna., Akmal, Diya Ul., & Kamlasi, Anjulin Yonathan. (2021). The Categorization Of Solutions For Indigenous People In Customary Land-Use Conflicts In Indonesia. *Journal*

*Sampurasun,*Vol.*7,*(No.1),pp.1-16. https://doi.org/10.23969/sampurasun.v7i1.3943

Kristiani, V. (2020). Hukum Yang Berkeadilan Bagi Hak Ulayat Masyarakat Hukum Adat (Kajian Dan Implementasi). *Adil Jurnal Hukum,*Vol.11,(No.1),pp.143-163. https://doi.org/10.33476/ajl. v11i1.1449

Mahfud, Muh. Afif., & Chin, Sia. Chin. (2024). Incongruence in the Definition of Land Rights in National Agrarian Law: A Path to Legal Uncertainty. *Law Reform,* Vol.20*,* (No.1),pp.22-33.https://doi.org/10.14710/lr.v20i1.49047

Marta, Aura Dian., & Sulaeman, Affan. (2019). Dilemma of customary land policy in Indonesia. *Masyarakat, Kebudayaan, dan Politik,*Vol.32,(No.2),pp.134-143. https://doi.org/10.20473/mkp.V32I22019. 134-143

Wamafma, Filep., Moenta, Andi Pangerang., Patittingi, Farida., & Ruslan, Achmad. (2019). The Arrangement of Investment Policy for the Protection of Indigenous Peoples' Rights. *Hasanuddin Law Review,* Vol.5,(No.2),pp.253-261. DOI:10.20956/halrev.v5i2.2403

Nur, Asrul Ibrahim., Fatih, Sholahuddin Al., & Intania, Clarissa Cristina. (2024). Revitalising Indigenous Rights Participation in Mining Lawmaking Process: Evaluation and Proposal for Indonesia. *Law Reform,* Vol.20,(No.1),pp.188-210. https://doi.org/10.14710/lr.v20i1.63684

Pradhani, Sartika I. (2019). Dynamics of Adat Law Community Recognition: Struggle To Strengthen Legal Capacity. *Mimbar Hukum,*Vol.31,(No.2),pp.280-292. https://doi.org/10.22146/jmh.34032

Putri, Karina., Pradhani, Sartika Indaning., & Noor, Hendry Julian. (2020). The Existence of Adat Law Community in Public-Private Partnership. *Yustisia,* Vol.9, (No.3), pp.306-332.https://doi.org/10.20961/yustisia.v9i3.25492

Rahmawati, Etika., Rahayu, Esmi Warrasih., & Sukirno, Sukirno. (2023). State Actors in Agrarian Conflicts. *Journal of Southeast Asian Human Rights,*Vol.7*,* (No.2), pp.276-298.https://doi.org/10.19184/jseahr.v7i2.43798

Rato, D. (2023). Unlawful Acts Committed By Land Mafias On Customary Lands Of Indigenous People In Indonesia. *Xinan Jiaotong Daxue Xuebao/Journal of Southwest Jiaotong University,* Vol.58*,* (No.5),pp.811-821. DOI:10.35741/issn.0258-2724.58.5.62

Rosyada, Amrina., Warassih, Esmi., & Herawati, Ratna. (2018). Perlindungan Konstitusional terhadap Kesatuan Masyarakat Hukum Adat dalam Mewujudkan Keadilan Sosial. *Kanun Jurnal Ilmu Hukum,* Vol.20*,* (No.1), pp.1-22. DOI:10.24815/kanun.v20i1.10021

Suartina, T. (2020). Between Control and Empowerment: Local Government and Acknowledgement of Adat Villages in Indonesia. *Indonesia Law Review,* Vol.10,

(No.3),pp.340-359. DOI:10.15742/ilrev.v10n3.679

Sukirno. (2013). Urgensi Persyaratan untuk Masyarakat Hukum Adat dalam RUU Pertanahan. *Jurnal Masalah-masalah Hukum,*Vol.42,(No.4),pp.486-489. DOI: 10.14710/mmh.42.4.2013.483-491

Sukirno, Sukirno., & Wibawa, Kadek Cahya Susila. (2024). Indigenous land dispute resolution in Indonesia: Exploring Customary Courts as an alternative to formal judicial processes. *Revista Brasileira de Alternative Dispute Resolution*, Vol.6, (No.12),pp.187–205. DOI:10.52028/rbadr.v6.i12.ART09.EN

Sulaiman, Sulaiman., Adli, Muhammad., & Mansur, Teuku Muttaqin. (2019). Ketidakteraturan Hukum Pengakuan dan Perlindungan Masyarakat Hukum Adat di Indonesia. *Law Reform,* Vol.15*,* (No.1), pp.12-24. https://doi.org/10.14710/lr.v15i1.23352

Tripa, S. (2016). Mukim di Hadapan Hukum Negara. *Digest Epistema,* Vol.6*,* (No.1), pp.23-26. https://epistema.or.id/download/Digest_Epistema_vol_6-2016.pdf

Warassih, E. (2018). Peran Politik Hukum Dalam Pembangunan Nasional. *Gema Keadilan,* Vol.5*,*(No.1),pp.1-15. https://doi.org/10.14710/gk.2018.3592

Warassih, Esmi., Sulaiman, Sulaiman., & Fatimah. (2018). Empowering Local Wisdom in Regional Mining Policies, Study in Pati Regency, Central Java. *Journal Environmental Policy and Law,* Vol.48*,* (No.5),pp.317-322. DOI:10.3233/EPL-180095

Zakaria, R. Yando. (2016). Strategi Pengakuan dan Perlindungan Hak-Hak Masyarakat (Hukum) Adat: Sebuah Pendekatan Sosio-Antropologis. *Jurnal Bhumi,* Vol.2*,* (No.2), pp.133-150. https://doi.org/10.31292/jb.v2i2.66

BOOKS

Elhakimy, T. (1984). *Hukum Adat Tanah Rimba di Kemukiman Lupueng Aceh Besar.* Banda Aceh: Lembaga Penelitian Unsyiah.

Simarmata, R. (2006). *Pengakuan Hukum terhadap Masyarakat Hukum Adat di Indonesia.* Bangkok: UNDP.

Sulaiman. (2024a). *Tantangan Identifikasi dan Inventarisasi Tanah Adat di Aceh.* Banda Aceh: Pusat Studi Hukum, Islam dan Adat Universitas Syiah Kuala.

Sulaiman. (2024b). *Laporan Pelaksanaan Identifikasi dan Inventarisasi Tanah Adat di Aceh.* Banda Aceh: Pusat Studi Hukum, Islam dan Adat Universitas Syiah Kuala.

Sulaiman, Sulaiman., Adli, Muhammad., & Mansur, Teuku Muttaqin. (2023). *Identifikasi dan Inventarisasi Tanah Ulayat di Provinsi Aceh.* Banda Aceh: LPPM USK dan Kementarian ATR/BPN.

Taqwaddin. (2010). *Penguasaan atas Pengelolaan Hutan Adat oleh MHA Mukim*

di Provinsi Aceh. Medan: Universitas Sumatra Utara.

Taqwaddin, Taqwaddin., & Sulaiman, Sulaiman. (2016). *Pengelolaan Hutan Adat Berbasis Mukim di Aceh.* Banda Aceh: JKMA.

Tripa, S. (2015). *Adat Berdaulat Melawan Kapitalisme di Aceh.* Yogyakarta: Insist Press.

Wignjosoebroto, S. (2007). *Wacana Pembaruan Hukum di Indonesia*. Jakarta: Perkumpulan Huma.

Yahya, Azhari., Tripa, Sulaiman., & Mansur, Teuku Muttaqin. (2022). *Mukim sebagai Masyarakat Hukum Adat dalam Pengelolaan Hutan Adat.* Banda Aceh: Pusat Riset Hukum, Islam, dan Adat USK.