

Efforts to Strengthen and Protect Customary Land in Lampung

ABSTRACT

Customary land for the Lampung Pepadun community has a meaning that is more than just an economic asset, but also reflects the identity, spirituality, and socio-cultural system inherent in the life of the community. In the Lampung Pepadun traditional view, land is "heritage land" that is passed down from generation to generation and managed by customary leaders based on the values of Pil Pesenggiri and Sai Batin. However, to date, this customary land has not received formal recognition from the local government, making its legal status weak and vulnerable to takeover by outside parties. This study uses a normative juridical approach by examining the Basic Agrarian Law (UUPA) of 1960 and its various implementing regulations. The results show that the recognition of customary rights of indigenous communities is declarative, not constitutive, thus creating ambiguity in its implementation. In addition, obstacles faced by the Lampung Pepadun indigenous community include the lack of mapping of customary territories, weak public legal awareness, and overlap between customary law and national positive law. Therefore, regional regulations are needed that specifically recognize and protect the customary rights of the Lampung Pepadun community, with the active involvement of traditional institutions and the local government. Efforts to strengthen legal protection can be carried out through customary land registration, the integration of customary legal values into land policies, and improving legal education for indigenous communities. With these steps, the protection of Lampung Pepadun's customary land can be realized in a just and sustainable manner in accordance with the principle of social justice mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia.

Keywords: Customary Land, Lampung Pepadun, Customary Rights, Legal Protection

INTRODUCTION

Land plays a vital role for the majority of Indonesians. Their lives are closely tied to the existence of cultivated land, whether for agriculture, plantations, or livestock, as well as for establishing homes for themselves and future generations. Through the results of this land cultivation, Indonesians can meet their living needs, so they naturally view land as a primary need. This experience has occurred and is felt in the reality of community life, both before and after independence. The history of land law in Indonesia before the enactment of the Basic Agrarian Law (UUPA) includes western agrarian law and

customary law. This customary law encompasses the recognition of customary rights, ownership rights, and use rights. As one of the fundamental elements in the formation of the state, land plays a very important role in the lives and livelihoods of communities, especially in countries with agrarian systems. It is necessary to regulate customary land law varies in each region, considering that each region has different customary sources. Land, from a customary law perspective, is not only a means of production, but also has social, cultural, and religious dimensions. For the indigenous people of Lampung Pepadun, land is an ancestral heritage, guarded from generation to generation and a source of social legitimacy within the customary structure. These customary land rights are known as customary rights, which affirm the community's communal ownership of their customary territories.

However, the existence of customary land in Indonesia generally still faces serious challenges particularly following the enactment of the 1960 Basic Agrarian Law (UUPA), which defined customary land as a recognized right as long as it exists in reality. This clause creates ambiguity because it relies on administrative recognition from the state. This situation has led to many customary territories, including in Central Lampung, experiencing overlapping claims between indigenous communities and the state.

Lampung Pepadun community known for upholding the principles of Piil Pesenggiri and the customary system of *sai batin*, has a unique customary land governance system, where each area is governed by a customary authority (*penyimbang*) as the administrator of customary rights. However, the lack of formal recognition through regional regulations makes their customary land vulnerable to expropriation and conversion by outsiders (Irianto & Sinaga, 2011).

RESEARCH METHODS

This study uses a qualitative approach with data analysis methods that analyze efforts to strengthen and protect customary land in Lampung,

particularly in the Pepadun community. Secondary data were sourced from books, journals, articles, and websites on Lampung customary law.

RESULT AND DISCUSSION

The Concept of Customary Land in Lampung Pepadun Customary Law

Lampung Pepadun customary law recognizes a land ownership system based on lineage and customary status. Land is managed collectively by the clan or tribe, and may not be bought or sold without the approval of the customary ruler. In this system, land has "heritage" value, not simply as an economic object. The customary ruler plays a role in maintaining the balance of the relationship between humans, ancestors, and nature.

In Lampung Pepadun customary law system land has profound significance and is not simply viewed as an economic asset. Land ownership is based on lineage (genealogy) and position within the customary structure. Customary land is managed collectively by the clan or tribe, and any action related to the transfer or use of land must obtain the approval of the customary ruler, the customary leader. In Lampung Pepadun community, land is positioned as "heritage land" that is passed down from generation to generation and symbolizes the spiritual connection between humans, ancestors, and nature. Therefore, customary land has social and spiritual functions that cannot be separated from the customary values entrenched in the community.

Regional governments have a crucial responsibility to regulate and provide legal protection for indigenous people's rights to this land. This regulation aims to ensure legal certainty, prevent ownership conflicts, and protect indigenous peoples' rights from being harmed by the interests of other parties including in the context of development. With regulations that favor indigenous peoples it is hoped that a harmonious balance between the interests of indigenous peoples, the community, and the state can be maintained (Hasan, 2025).

State Legal Protection for Customary Land

Article 3 of the 1960 UUPA affirms that customary rights and similar rights are recognized as long as they exist in reality provided that their implementation must not conflict with national interests and laws and regulations. This means that this recognition is conditional not constitutive. According to Article 1 paragraph 2 of Home Affairs Ministerial Regulation No. 52 of 2014, Customary Territory is customary land consisting of soil, water, and/or aquatic resources along with the natural resources therein, within certain boundaries, owned, utilized, and preserved for generations and in a sustainable manner to meet the community's living needs acquired through inheritance from their ancestors or through ownership claims in the form of customary land or customary forests.

As stated by Sri Marjiyati in her book *Ilmu Hukum Adat* (Jakarta: Studi Utama), recognition of customary land ownership rights is part of the state's efforts to ensure justice and legal certainty for all citizens. This is in line with the opinion of Abdul Rahim Pailaka et al. In his article "The Mechanism for Acquiring Customary Land in Indonesia for Public Facilities" (*Ma'mal: Jurnal Laboratorium Syariah dan Hukum*, Vol. 4), he emphasized that customary law plays a crucial role in maintaining a balance in the legal relationship between individuals, society, and the state (Hasan, 2025). Thus, the regulation of customary land in Lampung Pepadun is not merely a matter of ownership, but also concerns social and moral responsibility to safeguard ancestral heritage and environmental sustainability for the common good.

Challenges and Obstacles to Customary Land Protection

Some of the main obstacles to customary land protection in Lampung region include the lack of mapping of customary areas, low public awareness of data collection, the entry of investors without customary consultation, and conflicts between customary law and positive law. Customary land rights are a form of land tenure rights passed down from generation to generation reflecting the principles of sustainability, continuity, and respect for the environment for

indigenous communities. For Pepadun Lampung indigenous people, customary land rights symbolize local wisdom that regulates community lifestyles to maintain harmony and connection with nature. These values should serve as a moral bulwark against the behavior of modern society which tends to ignore environmental sustainability, impulsive, and often carries out development activities that damage natural ecosystems.

In this context the government particularly local governments has a significant responsibility to ensure the protection and preservation of customary land rights of indigenous communities. This effort must involve academics, scientists, and customary leaders in every process of policy formulation and regional development. In this way the noble values embodied in the Lampung Pepadun customary system can be maintained, respected, and integrated into the life of the nation and state.

However, the reality on the ground shows that the customary rights of indigenous communities are increasingly weakened. One cause is the increasing power of individual rights among community members which is gradually displacing the spirit of customary collectivity. External factors also exacerbate this situation particularly through development policies and private industrial activities that often fail to consider customary and environmental aspects.

The absence of clear and specific regulations regarding customary rights in national legislation adds to the complexity of this issue. The government's difficulty in establishing general policies is caused by the different characteristics and uniqueness of customary rights systems in each region, including in Lampung. As a result, legal uncertainty often arises, potentially leading to land conflicts between indigenous communities, the government, and the private sector.

Specifically, in Lampung region several key challenges face in efforts to protect customary land, including:

1. The lack of official mapping of customary territories, making customary land boundaries difficult to legally identify;

2. Low awareness among indigenous communities regarding the need to collect and register customary land;
3. The entry of investors without proper customary consultation mechanisms, which has created friction with stakeholders and local communities; and
4. Conflicting norms between customary law and positive law, weakening the legal position of indigenous communities in resolving land disputes.

Given these challenges, concrete steps are needed from the local government and the Lampung Pepadun indigenous community to strengthen the legal basis for recognizing customary rights, develop maps of customary territories, and build synergy between customary law and national law so that customary land protection can be realized in a just and sustainable manner.

Efforts to Strengthen Legal Protection

Efforts to strengthen legal protection for customary land can be achieved through the establishment of special regional regulations, collaboration between customary communities and the government, the integration of customary law in dispute resolution, and the establishment of a legal community for customary communities. Therefore, Lampung Pepadun customary law needs to be positioned as a living source of law within the national legal system. Regulating land rights is a significant responsibility for the state to ensure legal certainty and protect community rights, including those of customary communities. In addition to guaranteeing legal certainty, land regulations also serve as a legal protection instrument for citizens to prevent overlapping ownership or abuse of land rights.

As a legally constituted entity recognition of ownership rights in Indonesia is regulated by various laws and regulations that are binding on both the community and the government. The primary purpose of these regulations is to ensure a balance in the legal relationship between individuals and the state, ensuring that each party obtains its rights fairly without harming the interests of others.

Before Indonesia's independence land management was based on traditional norms applicable in each region, including in the Lampung Pepadun customary territory. After the Dutch colonial period, Western civil law began to be widely implemented through colonial policies that ignored local customary legal systems. However, after independence, the Indonesian government attempted to unify various land legal systems through the enactment of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).

The UUPA became a significant milestone in the unification of land law in Indonesia. Based on Article 1 paragraph (2) of the UUPA, land, water, and airspace, along with the natural resources contained therein, are gifts from God Almighty and constitute part of the national wealth, the use of which is intended for the greatest prosperity of the people. This affirms the eternal relationship between the Indonesian people and their land and serves as the basis for legal protection of community rights, including the customary rights of indigenous communities (Hasan, 2025).

As an implementation of the UUPA the government regulates land registration to ensure legal certainty of ownership. Land registration is regulated in Article 19 of the UUPA, which was further elaborated in Government Regulation Number 24 of 1997 concerning Land Registration (replacing Government Regulation Number 10 of 1961), defines land registration as a series of activities carried out continuously and regularly by the government, encompassing the collection, processing, presentation, and maintenance of physical and legal data on land parcels, including the issuance of land title certificates.

The primary purpose of land registration is to provide legal certainty and legal protection to land rights holders, enabling them to easily prove ownership and protect themselves from disputes. In the context of the Lampung Pepadun indigenous community, this effort is crucial to encourage formal recognition of customary land (heritage land or customary land) to prevent it from losing its legal status due to development and investment.

Therefore efforts to strengthen legal protection for customary land in Lampung Pepadun can be implemented through several strategic steps, including:

1. Participatory mapping and registration of customary land involving customary leaders and the local community;
2. Integration of Lampung Pepadun customary law values into national and regional land policies;
3. Strengthening coordination between local governments, customary institutions, and the National Land Agency (BPN) to ensure legal certainty; and
4. Legal education for indigenous communities to ensure they understand their rights within the national legal system.

With these steps, it is hoped that indigenous peoples' land rights will be legally protected, customary values will be maintained, and development will proceed in harmony with the principles of social justice as mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia.

CONCLUSION

Efforts to strengthen and protect the legal rights of Lampung Pepadun customary land have not been fully effective because they are still limited to normative recognition without administrative implementation. Although local customary law has an internal protection system through customary balancers, the absence of a strong regional legal umbrella makes customary land easily threatened by development and investment policies. Therefore, strengthening customary land protection needs to be directed at integrating customary law and national law through the ratification of regional regulations, mapping customary areas, and empowering customary institutions. Customary land for the Lampung Pepadun community is not only an economic resource, but also has very deep social, cultural, and spiritual meaning. It is an ancestral heritage (heritage land) that symbolizes the identity and social legitimacy of the indigenous community, and is maintained through the Piil Pesenggiri value system and customary leadership by the balancers. In this system, land functions as a glue for the relationship between humans, ancestors, and nature, reflecting the balance of life of the Lampung Pepadun indigenous community. However, the existence of

customary land today faces serious challenges due to the weak formal recognition from the state.

The absence of regional regulations specifically governing the recognition of customary territories in Lampung makes customary lands vulnerable to expropriation, land conversion, and conflicts with both the private sector and the government. Furthermore, the lack of awareness among indigenous communities regarding the need to collect and map customary territories increases the potential for the loss of these communal rights. Within the national legal framework, recognition of customary rights is regulated in Article 3 of the 1960 UUPA and clarified through Minister of Home Affairs Regulation No. 52 of 2014. However, this recognition is conditional and requires administrative proof, which is often difficult for indigenous communities to fulfill. As a result, the implementation of legal protection for customary lands has not been optimal and continues to face various obstacles in the field.

Therefore, efforts to strengthen legal protection for customary lands in Lampung Pepadun need to be directed at several strategic steps, namely:

1. Drafting a Regional Regulation on the Recognition and Protection of Indigenous Communities;
2. Implementing participatory mapping of customary territories involving traditional leaders and local communities;
3. 3. Integration of Lampung Pepadun customary legal values into land and regional development policies; and
4. Strengthening education and legal awareness of indigenous communities so they can defend their rights within the national legal framework.

With these steps it is hoped that the customary rights of the Lampung Pepadun community will be legally recognized, legally protected, and passed on to future generations without losing their noble customary values. Strong legal protection not only serves as a form of social justice for indigenous communities but also embodies the spirit of Article 33 of the 1945 Constitution of the Republic of Indonesia, which affirms that Indonesia's land and natural resources shall be used for the greatest possible prosperity of the people.

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