

Analysis of the Role of Regional Autonomy on the Existence of Customary Land under Agrarian Law in Indonesia

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Abstract : *Regional autonomy grants local governments greater authority in managing natural resources, including land. This raises the question of the role of regional autonomy in preserving the existence of customary land, which often faces challenges in terms of protection and recognition of its rights amidst rapid development and national land policies. The main objective of this analysis is to examine the role of regional autonomy in the existence of customary land and the legal implications of recognition by local governments regarding customary land existence through regional regulations. The approach used in this research is a normative juridical approach, with secondary materials as the primary source. Regional autonomy plays a crucial role in maintaining the existence of customary land through recognition, inventory, and identification of customary land rights, as well as protecting, receiving aspirations, and processing complaints or legal actions related to violations of these rights. Recognition by local governments of the existence of customary land through regional regulations can strengthen the position of customary law, prevent conflicts, increase awareness and participation of indigenous communities, and provide legal protection for their rights to customary land.*

Keywords : *Regional Autonomy, Regional Regulations, Customary Land*

Abstrak : Otonomi daerah memberikan kewenangan yang lebih besar kepada pemerintah daerah dalam mengelola sumber daya alam, termasuk tanah. Hal ini menimbulkan pertanyaan mengenai peran otonomi daerah dalam menjaga eksistensi tanah adat, yang seringkali menghadapi tantangan dalam hal perlindungan dan pengakuan hak-haknya di tengah pesatnya pembangunan dan kebijakan pertanahan nasional. Tujuan utama dari analisis ini adalah untuk mengkaji peran otonomi daerah terhadap keberadaan tanah ulayat dan implikasi hukum dari pengakuan pemerintah daerah terhadap keberadaan tanah ulayat melalui peraturan daerah. Pendekatan yang digunakan dalam penelitian ini adalah pendekatan yuridis normatif, dengan bahan sekunder sebagai sumber utama. Otonomi daerah memegang peranan penting dalam menjaga eksistensi tanah ulayat melalui pengakuan, inventarisasi, dan identifikasi hak-hak atas tanah ulayat, serta melindungi, menerima aspirasi, dan memproses pengaduan atau gugatan hukum yang berkaitan dengan pelanggaran hak-hak tersebut. Pengakuan oleh pemerintah daerah terhadap keberadaan tanah ulayat melalui peraturan daerah dapat memperkuat kedudukan hukum adat, mencegah konflik, meningkatkan kesadaran dan partisipasi masyarakat adat, serta memberikan perlindungan hukum terhadap hak-hak mereka atas tanah ulayat.

Kata kunci : Otonomi Daerah, Peraturan Daerah, Tanah Ulayat



I. INTRODUCTION

Land is a basic human need given by God Almighty, there is no development activity that does not require land and every legal subject needs land to sustain life. The availability of land as a natural resource generally remains stable and unchanged despite the growing human population on Earth. Humans continuously exploit natural resources, especially land, to fulfill basic needs such as shelter, food, agricultural production, and various other purposes. Land is intrinsically linked to human existence, and vice versa.

The largest source of income for indigenous peoples to fulfill their needs is land. Land for indigenous peoples is not just a place to live and settle, but a place of livelihood and a place to produce crops. Indigenous land has historical value, making it one of the sources of legal arrangements regarding land in Indonesia.

A set of rules governing the use, classification, management and ownership of land in Indonesia is necessary as land is fundamental to human survival. Under Indonesia's land regulations, established by the Basic Agrarian Law Number 5 of 1960. National land law is based on the concept, principles, institutions, norms, and system present in customary law and originates from the improvement of customary law.¹

Article 33 paragraph 3 of the 1945 Constitution stipulates that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people, so land issues receive great attention from the state.²

Law No. 5/1960 on the Basic Regulation of Agrarian Principles (UUPA) is based on Article 33 paragraph 3 of the 1945 Constitution. In this article, "tenure" is defined as the regulation and supervision of all uses of land in such a way as to prevent landowners or other rights holders from damaging, abandoning, exploiting, or extorting the land. This does not mean that every Indonesian citizen must lose his or her right to own land, but rather that all land use must follow certain standards.

In Indonesia, those charged with enforcing the law are highly committed to upholding customary law and recognizing its validity. Native American communities are governed by two main bodies of law: national agrarian law and customary law. National law deals with everyday human behavior that dates back to prehistoric times, while customary law is based on traditions that are passed down from generation to generation and thus maintained despite societal changes.

The customary rights of communities governed by customary law also relate to customary land. Any piece of land over which a particular indigenous group has a longstanding legal claim is considered customary land. Unlike the individual rights associated with land in Western legal systems, customary land rights are communal. Therefore, customary land rights cannot be separated from indigenous peoples due to the

¹ Alfi Taufiq Asyidqi, Sultan Alvaro Dwiyanto, and Anwar Hafidz Amrullah, "Privatization Through Building Use Rights in The Tangerang Sea Fence Area According to Positive Law," *Syiar Hukum Jurnal Ilmu Hukum*, Vol. 22, No. 2, 2025, p. 60

² 1945 Constitution of the Republic of Indonesia, Article 33 paragraph 3

strong structural relationship between indigenous peoples and the environment in which they live.

The manifestation of customary rights is the existence of customary land for communities governed by customary law. Communities that rely on customary law have recognized and used customary land rights before Law No. 5 of 1960, which established the Basic Agrarian Principles (UUPA), was enacted. Different communities in Indonesia that adhere to customary law use different terms to describe these rights; for example, “patuanan” in Ambon, “panyamperto” in Kalimantan, “wewengkon” in Java, “prabumian” in Bali, “pawatasan” in Kalimantan, “totabuan” in Bolaang Mongondow, “limpo” in South Sulawesi, “nuru” in Buru, and “ulayat” in Minangkabau.³

State tenure rights arise from the state's legal relationship with land, customary land rights from indigenous peoples' legal relationship with their traditional lands, and land rights for individuals from their relationship with land. In a perfect world, these three things would go together, with each having equal weight and status and never undermining the other two.⁴

It is crucial for indigenous peoples to have legal certainty to ensure that no one infringes on their customary rights, as the state has the authority to regulate all legal relationships between people and land, including the relationship between indigenous peoples and their customary lands. This includes the recognition and protection of rights arising from such legal relationships. Therefore, the relationship between the state and land cannot be separated from the relationship between customary law communities and their customary land.

Hence, the power to control land and customary rights is held by District/City Governments in Indonesia, as stated in Law No. 23 of 2014, which deals with Local Government and is associated with the Regulation of the Minister of Agrarian Affairs/Head of the National Defense Agency, as well as Regulation No. 14 of 2024, which deals with the Implementation of Land Administration and Land Registration of Customary Law Communities. However, without a demand for indigenous land rights, it is highly doubtful that local governments will make regulations. Establishing the existence of indigenous peoples in designated areas is an important first step in pursuing customary rights.

The land falls under the jurisdiction of the government unless there is evidence of the existence of indigenous peoples. The validity of customary land rights can be decided by the state. In cases where the customary law community concerned is still active, customary land rights can be traced back to its existence.

The recognition of customary law communities has several consequences, such as 1) the recognition of customary law communities as legal subjects; 2) the recognition of

³ R. Soerojo Wignjodipoero, *Introduction and Principles of Customary Law*, Jakarta: PT Gunung Agung, 1980, p. 198

⁴ Muhammad Bakri, *The Right to Control Land by the State*, Jakarta: Citra Media, 2007, p. 7

customary governance structures; and 3) the recognition of property rights, including communal land rights.⁵

The existence of regional autonomy on the existence of customary land in Indonesia is very important, because the existence or absence of customary rights in indigenous peoples is indicated by the issuance of regional regulations by the regional government. To maintain the existence and legal protection of the customary rights of indigenous peoples, the role of regional autonomy is very important.

Law No. 23 of 2014, which regulates local government, gives greater powers to local governments in Indonesia, allowing them to better manage land and other natural resources. This has implications for the function of regional autonomy in preserving customary lands that are legally recognized under Indonesian law. In the face of rapid growth and national land policies, indigenous peoples' customary lands - property managed by them in accordance with local customary law - often find it difficult to have their rights recognized and protected. Therefore, it is important to analyze how regional autonomy can play a role in strengthening the recognition and protection of such customary lands, while considering the perspective of prevailing agrarian law in Indonesia.

With regard to this study, the author will analyze the role of regional autonomy on the existence of customary land for the Sakai tribe in Riau province. Among the indigenous peoples in Riau Province, the Sakai people have long had claims to certain tracts of land and forests that are still in a natural state or protected by customary law. The Sakai live in several areas in Riau province, including in Bengkalis district. Forests cleared for plantations with government permits are further stressing their ability to survive due to the erosion of customary rights, including the loss of customary forests located on indigenous peoples' lands.⁶

The Sakai were displaced from their homeland due to their outdated social and economic conditions. They are not getting richer despite owning customary land that stretches from Minas to Dumai and has the major oil reserves in the archipelago. Minas, Belutu, Tingaran, Sinangan, Semunai, Panaso and Borumban are part of Sakai territory, according to a map drawn by German anthropologist Moszkowski in 1911.⁷ Entrepreneurs with forest exploitation licenses and industrial timber plantations have taken over customary forests, which are outside the Sakai's customary rights, leaving the Sakai with nowhere to find food and shelter. As the Sakai basically have no title documents, they are obliged to sell their property to foreigners at low prices, which has a significant effect on the Sakai's level of living. There is little to no compensation for the acquisition of land, as some of the land has been sold by Sakai tribe members or confiscated without compensation.⁸

⁵ Amalia Syaucher and Bambang Karsono, "Duality of Leadership: The Existence of Indigenous Communities, (Pakraman) in Kutuh Village, Bali Towards an Anti-Corruption and Wealthiest Village in Indonesia," *KRTHA Bhayangkara*, Vol. 16 No. 2, 2022, p. 417

⁶ Syarifah M., *Existence of Customary Land Rights in the Era of Regional Autonomy in the Sakai Community in Bengkalis Regency, Riau Province*, Thesis, Medan: University of North Sumatra, 2010, p. 13

⁷ Ahmad Arif and Agnes Rita, *The Broken Wings of the Sakai*, Kompas Newspaper, April 24, 2007, p.14

⁸ Urip Santoso, "The Existence of Management Rights under National Land Law," *Mimbar Hukum Fakultas Hukum Universitas Gadjah Mada*, 24(2), 2012, pp. 275–288

II. RESEARCH METHODS

The research in this work follows a normative juridical methodology that emphasizes the citation of secondary sources. Various kinds of literature sources and relevant legal sources are reviewed by the author. The approach used is descriptive analysis, which aims to outline the current legal framework and relate it to relevant positive legal ideas. The purpose of this normative research is to determine whether there is a correlation between legal norms and legal rules, in particular whether the rules are consistent with the current prevailing norms and whether the norms, expressed as prohibitions or orders, are based on legitimate legal principles. Furthermore, this research intends to evaluate whether the actions of legal subjects conform to relevant legal principles and standards.

III. DISCUSSION

The Role of Regional Autonomy on the Existence of Customary Land

Autonomy comes from the Greek words 'auto' meaning 'self' and 'nomos' meaning 'law' or 'rule'. The Encyclopedia of Social Sciences defines autonomy as the legal independence of a social entity and its genuine self-reliance. Autonomy includes two fundamental characteristics: legal independence and genuine self-reliance. In the context of politics or governance, regional autonomy refers to self-government or the state of existing under one's own legal framework. Regional autonomy refers to a jurisdiction that has legal independence, characterized by self-government governed and managed by its own laws. Hence, autonomy is more of a desire than a condition.⁹

Koesoemahatmadja says that, based on Indonesia's historical process, autonomy includes not only law (*regeling*) but also government (*bestuur*). However, while this includes self-government, self-sufficiency and true independence, autonomy is still limited within the parameters set by the central government which distributes responsibilities to the regions.¹⁰ Autonomy, as articulated by Manan and referenced by Sondang P.S., signifies the independence to oversee and control one's own affairs (household).¹¹

Therefore, it can be said that regional autonomy is essentially local autonomy :¹²

1. The right to manage one's own household for an autonomous region. The authority to govern one's own home within an independent zone. This privilege derives from the fundamental powers and responsibilities of the central government assigned to the region. The power to govern one's own household is fundamental to regional autonomy; if the region cannot make its own policies, implement them, and manage its own financing and accountability, then the power reverts to the entity that granted it, returning it to the central government.
2. Regions cannot expand their autonomous rights and authorities beyond their boundaries in the exercise of the right to regulate and manage their own households.

⁹ I Nyoman S, *Effectiveness of Regional Autonomy Policy Implementation*, Jakarta: Citra Utama, 2005, p. 39

¹⁰ Ibid, p. 40

¹¹ Sondang P.S, *Development Administration; Concept Dimensions and Strategies*, Jakarta: Bumi Aksara, 2007, p. 10

¹² I Nyoman S, op.cit, p. 41

3. Regions must avoid abuses of authority in controlling and managing the households of other regions, in accordance with the authority and responsibility given.

Regional autonomy has an important role in maintaining the existence of customary land. Local governments are given the power to control and oversee the interests of their own communities and government activities within the framework of regional autonomy. This includes the management of natural resources, including customary land. Therefore, customary law-dependent communities can benefit from regional autonomy by taking a more active role in protecting and managing their customary lands.

Some communities still use the leadership structure of customary institutions to jointly manage the legal recognition and preservation of customary land rights. There is still a possibility that indigenous peoples' rights will be abused because there is no local regulation that explicitly recognizes and protects indigenous land rights.¹³

From the point of view of regional autonomy, it is the prerogative of local governments to control and direct their own government operations and community interests, including the administration of natural resources, especially customary land. Therefore, indigenous peoples can benefit from regional autonomy in two ways: first, by being able to actively manage and supervise their customary lands; and second, by being able to assert their rights over such properties. Regional autonomy therefore plays an important role in protecting customary land, which is crucial for indigenous groups to keep their land rights and cultural practices alive.¹⁴

As long as it is necessary and does not conflict with the national interest, the authority to regulate the state can be transferred to autonomous regions and communities governed by customary law (Law of the Republic of Indonesia, 2014).¹⁵ Local governments as representatives of the state in exercising these rights have a role to recognize the existence of customary land rights of indigenous peoples.

Ulayat land is characterized as land that is collectively or jointly owned by members of the customary law community concerned, thus distinguishing it from individually owned land. Hak ulayat refers to the authority and responsibility of customary law groups over the land within their territory.¹⁶

Land that physically still exists and is not legally bound to a specific owner is considered customary land according to Article 1 point 4 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 on the Implementation of Land Administration and Land Registration of Customary Land

¹³ Adrianus Jerabu, *Recognition and Legal Protection of Customary Land Rights of Customary Law Communities in the Framework of Regional Autonomy in Colol Village, East Ponorok Subdistrict, East Manggarai Regency*, Thesis, Yogyakarta: Atma Jaya University Yogyakarta, 2014, p. 160

¹⁴ Ibid, p. 161

¹⁵ Law Number 5 of 1960 Concerning the Basic Regulation of Agrarian Principles, Article 2 paragraph 4

¹⁶ Sovia Hasanah, "Types, Management and Utilization of Customary Land," <https://www.hukumonline.com/klinik/a/jenis--pengelolaan--dan-pemanfaatan-tanah-ulyat-lt595af37742832/>, accessed on December 30, 2024, at 09.20 WIB.

Rights, Customary Land Rights of Customary Law Communities. This land is located within the area controlled by the indigenous community.¹⁷

Indigenous peoples in Indonesia are diverse and plural, both nomadic and settled within customary land areas. Agrarian laws and regulations recognize and regulate this customary right. For as long as they have existed, these rights have been enshrined in Law No. 5/1960 on Basic Agrarian Regulations.¹⁸

Hazirin argues that societies with specific legal, political, and environmental characteristics, such as Village law in Java, Marga law in South Sumatra, Nagari law in Minangkabau, Kuria law in Tapanuli, and Wanua law in South Sulawesi, are self-sustaining social units. Agriculture, animal husbandry, fishing, and the collection of forest products and water resources form the backbone of the economy, with small contributions from wild animal hunting, farming, and handicrafts; the type of family law, whether patrilineal, matrilineal, or bilateral, influences this administrative system. The responsibilities and privileges of each member are equal.¹⁹ Cooperation, mutual aid, peace and community centrality are the principles of their way of life.²⁰

According to the Regulation of the Minister of ATR/BPN Number 14 of 2024, customary rights can be established in three ways: first, when community members continue to live in accordance with the customary legal order, second, when there is a certain plot of customary land that functions as a place of residence as well as a source of food and other basic needs for its residents, and third, when there is a customary legal system that regulates the administration, control, and utilization of customary land that applies and is obeyed by its residents.²¹ In line with this, the administration of customary land rights is through the process of inventory and identification, measurement and mapping, and recording of customary land lists.²²

The above-mentioned inventory and identification should be conducted by the local government, universities, and/or customary institutions appointed by the local government. Local governments play an important role in actively researching and recognizing indigenous peoples' customary land rights.

Article 5 of Permendagri 52/2014 has regulated that the identification process as referred to is carried out by the Regent/Mayor through the Sub-District Head or other designation involving customary law communities or community groups, by means of observation.²³

¹⁷ Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 on the Implementation of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples, Article 1 point 4.

¹⁸ Law Number 5 of 1960 Concerning the Basic Regulation of Agrarian Principles, Article 3

¹⁹ Aprianti and Kasmawanti, *Hukum Adat di Indonesia*, Bandar Lampung: Pusaka Media, 2020, p. 168

²⁰ Soejono Soekanto, *Indonesian Customary Law*, Jakarta: PT. Raja Grafindo Persada, 2003, p. 93

²¹ Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 on the Implementation of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples, Article 2 paragraph 2.

²² Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 on the Implementation of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples, Article 4 paragraph 3.

²³ Minister of Home Affairs Regulation No. 52/2014 on Guidelines for the Recognition and Protection of Customary Law Communities, Article 5

1. History of Masyarakat Hukum Adat;
2. Customary territory
3. Customary law
4. Customary property and/or objects; and
5. Customary institutions/government system.

The results of the identification will be checked and rechecked by the District/City Indigenous Peoples Committee. Then, within one month, the local indigenous people will be notified of the results of the verification and validation.

Based on the results of the validation and verification, the committee formed to recognize and protect indigenous peoples in the district or city will provide recommendations to the regent or mayor.²⁴

The regent/mayor decides on the recognition and protection of indigenous peoples based on the proposal of the indigenous peoples' committee and the decision of the regional head.²⁵

In relation to the case of the Sakai tribe, to maintain the existence of their customary territory or land, the role of the Regional Government is needed. To record and ensure the existence of the customary rights of the Sakai indigenous people, Regional Regulations from local governments will facilitate the recognition of these rights.

In its development, the Regional Regulation has mandated the recognition, respect and defense of customary rights. Regulations relating to customary rights already exist in several regions. For example, Regional Regulation No. 12 of 1999 in Kampar District addresses customary land rights, Regional Regulation No. 32 of 2001 in Lebak District protects the customary rights of the Baduy community, and Regional Regulation No. 8 of 1974 in East Nusa Tenggara addresses the affirmation of land rights.²⁶

Three (3) principles relating to the legislative process should underlie the drafting of this Regional Regulation:²⁷

- 1) Philosophical foundation;
- 2) Juridical foundation; and
- 3) Sociological foundation.

The philosophical foundation relates to the core and time-sensitive nature of its development. The legal basis relates to the legislation and case law that upholds its procedures and contents. The legislation aims to address a range of social, economic, and communal issues, and the sociological foundation is related to this.²⁸

Recognition of the customary rights of indigenous peoples also recognizes their customary legal territories, including customary land rights. The Regional Government plays a role in protecting, receiving aspirations, and processing complaints or legal remedies related to violations of the customary rights of indigenous peoples.

²⁴ Minister of Home Affairs Regulation No. 52/2014 on Guidelines for the Recognition and Protection of Customary Law Communities, Article 6 paragraph 1

²⁵ Minister of Home Affairs Regulation No. 52/2014 on Guidelines for the Recognition and Protection of Customary Law Communities, Article 6 paragraph 2

²⁶ Adonia Ivonne Laturette, "The Authority of the Local Government over the Ulayat Rights of Customary Law Communities after the Enactment of Law No. 32 of 2004," *Sasi Journal*, Vol. 7, No. 3, 2011, pp. 8

²⁷ Ibid

²⁸ Marthinus J. Sapteno, *Substantial Principles and their Function in the Formation of Laws*, Thesis, Surabaya: Airlangga University, 2007, p. 31

Legal Implications of Recognition by the Regional Government of the Existence of Customary Land through Regional Regulations

As explained earlier, that the Regional Government has an important role to recognize the existence of customary land, this is intended as an effort to protect the law for indigenous communities in certain areas so that with the existence of Regional Regulations, indigenous peoples will get legal certainty and legal protection of their customary rights, including rights to customary land of indigenous peoples.

A strong relationship with land exists in every human society. Land has many functions: as a place to live, a burial place, and a home for ancestral spirits, which are said to guard a community. For societies governed by customary law, land is the most important economic resource. Legal relationships are formed within and outside customary law communities as a result of these groups' deep connection to the land. As such, land is managed by community units in customary land studies, which may be based on territorial or genealogical groupings (Sofyan Pulungan, 2023).²⁹

National agricultural law primarily protects people's rights to land, water and space. Land, water and space are recognized as:³⁰

- a. Customary law, as long as it does not conflict with national and state interests;
- b. Based on the unity of the nation;
- c. Based on Indonesian socialism;
- d. Based on the various regulations contained in the law and other laws and regulations; and
- e. All with due regard to the elements derived from Religious Law.

Based on Article 2 paragraph 2 of the Regulation of the Minister of ATR / BPN Number 14 of 2024, customary rights are declared to still exist if:³¹

1. A group of individuals remain constrained by their traditional legal system, which recognizes and applies communal provisions in everyday life.
2. The specific customary land serves as habitat for the occupants and source of their daily needs. and or
3. Customary legal frameworks govern the administration, regulation and utilization of customary lands, which are adhered to by the occupants.

Ulayat rights are constitutionally recognized by the state in Article 18B of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects the unity of customary law communities and their traditional rights as long as

²⁹ M. Sofyan Pulungan, "Examining the Past, Organizing the Future: The History of Customary Law Land and its Social Conflict Handling Model," *Undang: Journal of Law*, Vol. 6 No. 1, 2023, p. 237

³⁰ I Ketut Drawi, Arba, and Widodo Dwi Putro, "The Existence of Customary Law Communities' Ulayat Rights to Forests After the Establishment of the Regional Regulation of North Lombok Regency Number 6 of 2020 on the Recognition and Protection of Customary Law Communities," *Jatishwara*, Vol. 39 No. 2, 2024, p. 214

³¹ Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 on the Implementation of Land Administration and Land Registration of Customary Land Rights of Indigenous Peoples, Article 2 paragraph 2.

they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.³²

Recognition by the Regional Government of the existence of customary land through regional regulations has several significant legal implications, among others:

1. This recognition can strengthen the status of customary law within the national legal framework. In some cases, local regulations have been used to recognize and protect indigenous peoples' land rights. In many locations, laws have been enacted to recognize and protect indigenous peoples' land rights, thus strengthening the role of customary law within the national legal framework. In other words, the material in regional regulations must be able to guarantee legal certainty,³³ especially for customary land that is part of the area where indigenous peoples live.
2. This recognition can help avoid disputes between the government and indigenous peoples. Conflicts have arisen between the government and indigenous peoples around lands that are considered customary property. Local government recognition through regulations can help reduce this tension by ensuring indigenous peoples' rights to land. In other words, the material in local regulations must be able to create peace for the community,³⁴ as it is known that land is an object that is prone to causing disputes or conflicts.
3. This recognition can help raise indigenous peoples' awareness of their rights. In some cases, indigenous peoples do not have a clear awareness of their land rights. Recognition by local governments through local regulations can help raise indigenous peoples' awareness of their rights, enabling them to be more active in managing and administering their lands. Therefore, through the aspect of transparency,³⁵ local regulations on customary rights will increase the awareness and participation of indigenous peoples, especially in the management of customary land.
4. This recognition can increase indigenous peoples' involvement in decision-making processes. In some cases, indigenous peoples do not have fair access to be involved in land-related decision-making processes. Local government recognition through regulations can increase the involvement of indigenous groups in decision-making, empowering them to actively manage and safeguard their property. Therefore, it is crucial to implement the notion of

³² Krisna Angela dan Anik Setyawati, "Analysis of the Implementation of Land Acquisition on Customary Land of Customary Law Communities in the Framework of National Strategy Projects (PSN) for the Public Interest," *Lex Generalis Law Journal*, Vol. 3 No. 3, 2022, p. 214

³³ Tim Hukumonline, "Regional Regulation: Function, Content, and Important Aspects", "<https://www.hukumonline.com/berita/a/fungsi-peraturan-daerah-lt62a6fc176a0f9/?page=2>", accessed on December 30, 2024, at 13.05 WIB.

³⁴ Ibid

³⁵ Ibid

equity in local regulations, which embody the fair application of justice for all citizens without exception.³⁶

Local regulations have been used to recognize and protect indigenous peoples' rights to their land, thus creating a sense of security for indigenous peoples over their customary rights. Regional regulations will also become a legal umbrella for indigenous peoples to protect their customary rights, especially to customary land rights.

Regarding the case of the Sakai tribe, the importance of the Regional Government recognizing the existence of the indigenous Sakai tribe, especially their rights to their territory, so that regional regulations will become a legal umbrella for the Sakai tribe community, and can avoid exploration activities that can harm the existence of the Sakai tribe community.

IV. CONCLUSION

Regional autonomy plays an important role in preserving customary law and customary land through formal recognition in local regulations, along with the inventory and identification of indigenous peoples' customary rights. This recognition formally acknowledges the customary rights of indigenous peoples, thereby protecting their rights, reducing disputes with the government, and increasing awareness and involvement of indigenous peoples in decision-making processes. It enhances the status of customary law within the national legal framework, protects customary rights, and provides indigenous peoples with the opportunity to articulate their aspirations and pursue legal recourse in cases of rights violations.

³⁶ Bojonegoro Regency Government, "Regional Regulations and Regional Head Regulations , " <https://satpolpp.bojonegorokab.go.id/berita/baca/14>, accessed on December 30, 2024, at 13.15 WIB.

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Marthinus J. Sapteno. (2007). *Substantial Principles and their Function in the Formation of Laws*.

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