

## Tracing the Continued Existence of Ulayat Land: Granting Management Rights in the Context of Protecting the Rights of Indigenous Peoples

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### Abstract

The issue of granting management rights over ulayat land to third parties is still being debated. Management rights originating from communal land are contrary to the concept of the management right itself. Management rights, which are part of the authority of State control rights, are contradicted by management rights that can originate from ulayat land because indigenous peoples have ulayat rights on the ulayat land. For ulayat land that still has the status of ulayat rights of indigenous peoples, if given management rights, the ulayat rights must be released by the indigenous peoples. Thus, the communal land becomes free state land. The granting of management rights on ulayat land is becoming increasingly relevant and complex. Several changes related regulations have raised significant questions regarding the existence of ulayat land and its impact on the sustainability of the lives of indigenous peoples. To accelerate the economy, the government needs to pay attention to the ulayat rights of indigenous peoples over their ulayat land and ensure that these rights are protected and respected. The government also needs to ensure that effective national law enforcement mechanisms are in place to resolve ulayat land disputes. As a result of the granting of HPL on ulayat land, legal uncertainty arises. The existence of ulayat land for indigenous peoples is very important in maintaining the identity, culture, and sustainability of indigenous peoples. Ulayat rights protect the rights of ownership and management of communal land by indigenous peoples so that they can continue cultural practices, traditions, and customs that have existed since the time of their ancestors.

**Keywords:** Management Rights; Ulayat Land; Indigenous People.

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### Introduction

*Ulayat* rights are the authority of indigenous people to manage their resources. This right is recognized and protected by the Indonesian State, and is a very important right for indigenous people in Indonesia. *Ulayat* right is a concept in Indonesian *Adat* Law that refers to the collective (shared) rights of indigenous people including the authority over their ancestral lands or what is referred to in legislation as communal land. These rights

include the right to use, manage, and control the land, as well as the right to prohibit others from using it without permission from the indigenous people. *Ulayat* land is very important for the lives of indigenous peoples, because in addition to being a place to live, it also functions as a source of livelihood.<sup>1</sup> In recent years, the importance of these rights has been increasingly recognized, both in Indonesia and internationally, in an effort to protect the rights of indigenous peoples and promote sustainable development.

In October 2023, the Minister of Agrarian and Spatial Planning issued and handed over certificates of management rights (HPL) on *ulayat* land to indigenous peoples in the provinces of West Sumatra and Papua. In West Sumatra Province, the HPL certificates were given to four tribes with a total land area of 107,714M2 (one hundred seven thousand seven hundred fourteen square meters),<sup>2</sup> while in Papua they were given to one tribe with a total land area of 699.7 hectares.<sup>3</sup> These certificates were given as a form of recognition of the land ownership rights owned by the tribes. With HPL certificates, the tribes have legal certainty over the land they own and can manage it according to their needs and traditions. The HPL certificates also provide legal protection to the tribes in managing and utilizing their land in accordance with their needs and customs.

The government insists that the land certification standard is intended to ensure legal certainty and provide economic benefits to indigenous peoples. The issuance of land certificates enables indigenous peoples to obtain economic reason for these economic benefits, such as cooperation with investors in the management of their land. The reason for these economic benefits can easily be interpreted as investment returns. I Gusti Agung Mas Rwa Jayantiari<sup>4</sup> in his research states that there is a co-existence between. on

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<sup>1</sup> Dian Cahyaningrum, 'Hak Pengelolaan Tanah Ulayat Masyarakat Hukum Adat Untuk Kepentingan Investasi' (2022) 13 Negara Hukum; See also in Muazzin, 'Hak Masyarakat Adat (Indigenous Peoples) Atas Sumberdaya Alam: Perspektif Hukum Internasional' (2014) 1 Padjadjaran Jurnal Ilmu Hukum (Journal Of Law).[322-345] <<https://jurnal.unpad.ac.id/pjih/article/view/7072>>.

<sup>2</sup> Abr, 'Tanah Ulayat Masyarakat Adat Di Sumbar Akhirnya Bersertifikat!' (*detik.com*, 2023) <<https://www.detik.com/properti/berita/d-6979182/tanah-ulayat-masyarakat-adat-di-sumbar-akhirnya-bersertifikat>>.

<sup>3</sup> Humas Kementerian ATR/BPN, 'Kementerian Pendayagunaan Aparatur Negara Dan Reformasi Birokrasi - Menteri ATR/Kepala BPN Serahkan Sertifikat Tanah Ulayat Di Papua' (*PAN RB*, 2023) <<https://www.menpan.go.id/site/berita-terkini/berita-daerah/menteri-atr-kepala-bpn-serahkan-sertifikat-tanah-ulayat-di-papua>>.

<sup>4</sup> I Gusti Agung Mas Rwa Jayantiari, 'Eksistensi Tanah Adat Di Bali Dan Problematika Hukum Dalam Pengembangan Investasi' (2017) 39 Kertha Patrika.[108-119].

the one hand, the phenomenon and investment policy and, on the other hand, efforts to protect land owned by indigenous peoples. It can be argued that the existence of *ulayat* land will be greatly influenced by the determination of State policies in investment both from the level of basic norms, national regulations, and including living law products.

The issuance of management rights certificates on *ulayat* land of indigenous people is full of political elements that lead to the interests of investors; this has led to new conflicts in agrarian law in Indonesia. The government provides policies related to the issuance of management rights certificates on *ulayat* land of indigenous peoples. This policy not only benefits investors but also has the potential to cause horizontal and fundamental conflicts with indigenous peoples in the future.

The legal basis for the issuance of HPL certificates on *ulayat* land is Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units, and Land Registration. The regulation is allegedly a derivative of the Job Creation Law or what is known as the Indonesian *Omnibus Law*. However, the *Omnibus Law* only regulates HPL on State land and does not include *ulayat* land. The problem with this certification policy relates to regulatory rights over land. Government Regulation No. 18 of 2021 states that the authority to issue certificates rests with the Minister. With the issuance of HPL certificates on *ulayat* land, the government indirectly takes over the authority to manage the land rights of indigenous people. I Made Suwitra *et al.*<sup>5</sup> state that the purpose of registering land rights is to obtain legal certainty and protection for holders of rights to a parcel of land, a unit of flat house, and other registered rights so that they can easily prove themselves as holders of the rights concerned.

The issue of granting management rights over *ulayat* land to third parties remains contentious. On the one hand, proponents argue that such arrangements can provide economic benefits to indigenous peoples, by allowing them to enter into partnerships with companies or other organizations that have the resources and expertise to develop the land sustainably. On the other hand, such arrangements could lead to the exploitation

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<sup>5</sup> I Made Suwitra and others, 'Model Pendaftaran Hak Atas Tanah Pauman Sebagai Pemberian Raja Untuk Pelestarian Warisan Nilai Budaya Di Kabupaten Karangasem' (2017) 4 Padjajaran Jurnal Ilmu Hukum.[399-418].

of indigenous peoples, by allowing outsiders to take advantage of their resources without providing adequate compensation or protection.

Looking at the background of the above problems, this article will discuss the urgency of maintaining the *ulayat* rights of indigenous peoples and providing management rights over *ulayat* land within the framework of formal law.

### **Research Methods**

The type of research used is legal research with a *statute approach* and *conceptual approach* that can be used to examine the existence of *ulayat* land of indigenous peoples against the granting of management rights on *ulayat* land. The *statute approach* is carried out by examining primary legal materials, namely laws, government regulations, and regional regulations related to *ulayat* rights and *ulayat* land management rights. The *conceptual approach* is carried out by examining concepts related to *ulayat* rights and *ulayat* land management rights. These concepts can be derived from primary and secondary legal materials. The concept analysis used adopts the inductive method, namely drawing conclusions from existing data in the concept studied. Through this research, it is expected to provide a deeper understanding of the existence of *ulayat* land of indigenous peoples toward the granting of management rights on *ulayat* land. The final output of this research activity is also expected to provide recommendations or suggestions that can help resolve legal issues related to *ulayat* rights and management rights on *ulayat* land.

### **The Concept of Granting Management Rights in Indonesia**

Land has an important role in human livelihood. Indonesia as an agricultural country considers the regulation of land tenure important, because, based on the Indonesian Constitution, land is controlled by the State and used to the greatest extent for the benefit and prosperity of the people. The State as the holder of the right to control the earth, water and natural resources contained therein as outlined in Article 33 paragraph (3) of the Indonesian Constitution, determines “the earth, water and natural resources contained therein shall be controlled by the State and shall be used for the

greatest prosperity of the people” adopting a philosophical and juridical basis for the State of Indonesia in order to manage natural resources as well as regulate and organize the allocation, use, supply, and determine legal relationships between legal subjects and legal acts concerning the earth, water and space with the principles of togetherness, efficiency, justice, sustainability, environmental insight.<sup>6</sup>

Management rights according to the term is a translation of the Dutch ‘Beheersrecht’ which means the Right of Control.<sup>7</sup> Meanwhile, according to Boedi Harsono, the management right is a derivative of the State’s Right of Control, giving the holder the authority to use his private land. Boedi Harsono further explained that management rights are not only used for private interests, but also have objectives aimed at other parties in need.<sup>8</sup> Management rights are part of the State’s control rights as stipulated in Article 2 paragraph (4) of the UUPA which is a derivative of Article 33 paragraph (3) of the Indonesian Constitution so that, in its implementation, this management right is not solely intended for the private interests of the right holder but there are other objectives contained in this management right, namely in the context of public interest.<sup>9</sup> The concept of management rights was first introduced by Government Regulation Number 8 of 1953 concerning State Land Tenure. The Government Regulation regulates the control of State lands by ministries or swatantra regions, which is a translation of beheersrecht<sup>10</sup> where the Right of Control over State land is given to the ministry or swatantra region as stipulated in Government Regulation No. 8 of 1953.<sup>11</sup>

The management right is a right of control from the State whose implementation authority is partially delegated to the holder. The delegation of authority is the authority

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<sup>6</sup> Hamler, ‘Penegakan Hukum Tanah’ (2018) 1 Nagari Law Review.[168-178].

<sup>7</sup> AP Parlindungan, *Hak Pengelolaan Menurut Sistem Undang-Undang Pokok Agraria* (Mandar Maju 1994).[6].

<sup>8</sup> Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Penjelasan* (Djambatan 1999).[266].

<sup>9</sup> Heri Herdiansyah, Yuli Indrawati and Hendriani Parwitasari, ‘Paradoks Hak Menguasai Negara Dalam Hak Pengelolaan Atas Tanah Berdasarkan Putusan Peninjauan Kembali Mahkamah Agung Nomor 171 PK/TUN/2016’ (2020) 2 Indonesian Notary.[305].

<sup>10</sup> Moch Dinur Zulfiqara, Yani Pujiwatib and Sari Wahjunic, ‘Kedudukan Hak Pengelolaan Dalam Hukum Tanah Nasional Dikaitkan Kepemilikan Barang Milik Negara/Daerah’ (2022) 1 LITRA: Jurnal Hukum Lingkungan Tata Ruang dan Agraria.[234].

<sup>11</sup> Urip Santoso, *Hukum Agraria Kajian Komprehensif* (Prenadamedia Group 2015).[152].

to design land utilization, select legal entities that are suitable for the designation in utilizing land, or legal subjects who have been given the right to utilize land with a land right that is rarely determined, but is very important in controlling the concept of State control according to the UUPA.<sup>12</sup> Management rights can be distinguished from property rights because property rights are rights that give the holder full authority to control, use and utilize the land. Land for which management rights are granted to legal entities can come from State land or *ulayat* land.

Management rights have several characteristics, namely: First, the right to control from the State. Management rights are rights that come from the State. The State still has authority over the land to which it grants management rights. Second, the implementation authority is partially delegated. The State authorizes the holder of the management right to manage the land. However, the State still has the authority to supervise and control the management of the land. Third, it can be owned by legal entities. Management rights can only be owned by legal entities. Legal entities are limited liability companies, cooperatives, foundations, and other legal entities formed under Indonesian law. Fourth, management rights can be used for the purpose of constructing buildings, such as houses, buildings, and factories. Management rights can also be used for non-building purposes, such as agriculture, plantations, and mining.

Management rights are regulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA). In the latest development, management rights are regulated by the Job Creation Law and its implementing regulations, namely PP 18 of 2021. The strengthening of management rights is expressly regulated in the Fourth Part of Land Paragraph 2 Article 136 to Article 142 of the Job Creation Law.<sup>13</sup> Management rights can only be granted to legal

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<sup>12</sup> Aditya Darmawan Zakaria, 'Kebijakan Pemberian Hak Guna Usaha Di Atas Hak Pengelolaan Dalam Perspektif Undang-Undang Pokok Agraria' (2022) 5 Notaire.[5].

<sup>13</sup> Dewi Nawang Wulan, Veronica Tjokroaminoto and Abdul Ghofur, 'Analisis Hukum Pemberian Hak Pengelolaan Yang Berasal Dari Tanah Ulayat Pasca Terbitnya Undang-Undang Cipta Kerja' (2022) 5 Notaire 83 <<https://e-journal.unair.ac.id/NTR/article/view/32708>>.[89]. See also in Risdiana Risdiana, 'Perlindungan Hukum Hak Atas Tanah Hutan Yang Dikelola Masyarakat Adat Dalam Kawasan Taman Nasional Gunung Rinjani Dusun Jurang Koak Desa Bebidas Kecamatan Wanasaba Kabupaten Lombok Timur' (2017) 5 Jurnal IUS Kajian Hukum dan Keadilan 337 <<http://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/463>>.



entities whose main tasks and functions are related to land management. Management Rights Land is used for the purpose of constructing buildings and/or non-buildings. The subjects of management rights holders as referred to in Article 67 paragraph (1) of the Regulation of the Minister of Agrarian Affairs / Head of BPN No. 9 of 1999 concerning Procedures for Granting and Cancellation of State Land Rights and Management Rights, including government agencies, BUMN, BUMD, PT Persero, Authority Bodies, and other government legal entities appointed by the government. Thus, the subject of the management right holder cannot be given to a private legal entity. In addition, management rights do not have a period of time and cannot be encumbered by mortgage rights.<sup>14</sup>

The granting of management rights is based on several principles that must be upheld. First, the principle of legal certainty. In granting management rights, it must be done in accordance with applicable law. This is important so that there is no uncertainty in the implementation of the management rights. With legal certainty, the party holding the management right can carry out its duties clearly and without hesitation. Second, the principle of justice. The granting of management rights must be done in a fair and non-discriminatory manner. Every individual or party who has an interest in the management rights must be treated equally and no party should receive special treatment or benefit unfairly. This principle of justice is important to maintain balance and harmony in granting management rights. Third, the principle of prudence. In granting management rights, it must be done carefully and considerately. This aims to avoid mistakes or errors in the process of granting management rights. By making careful considerations, it can minimize the risks and negative consequences that may arise from granting inappropriate management rights. Fourth, the principle of expediency. The granting of management rights must provide optimal benefits for the State, society and the management right holders themselves. The benefits in question can be in the form of increased State revenue, increased community welfare, or increased investment value for management right holders. The principle of expediency is important to ensure

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<sup>14</sup> Irawan Soerodjo, *Apakah Hak Pengelolaan Merupakan Jenis Hak Atas Tanah?*, dalam Oemar Moechthar (ed), *Dinamika Hukum Agraria Indonesia* (Prenadamedia Group 2020).[449].

that the granting of management rights does not only benefit one party, but also has a positive impact on all parties involved.

The granting of management rights is carried out by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (ATR/BPN). Granting management rights can be done in two ways, namely confirmation of conversion or granting rights.<sup>15</sup> Affirmation of conversion is carried out by establishing management rights on State land that has been granted use rights or building use rights to legal entities, while granting rights is carried out by granting management rights to legal entities on State land that has not been granted rights.

The procedure for granting management rights is regulated in Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights. The procedure for granting management rights includes: (a) Application. Legal entities applying for the granting of management rights must fulfill the predetermined requirements. (b) Examination. The land office conducts an examination of the application and the requirements that have been met by the legal entity. (c) Granting of decision. The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency gives a decision on the granting of a management right.

Once a management right certificate has been issued, the holder of the management right has several obligations, namely: (a) Manage the land in accordance with its purpose. The holder of the management right must manage the land in accordance with the objectives set out in the decree granting the management right; (b) Pay taxes and levies. The holder of the management right must pay taxes and levies on the land for which the management right is granted; (c) Implement the provisions of laws and regulations. The holder of the management right must implement the provisions of the prevailing laws and regulations.

The granting of management rights can be canceled if it violates the rules.

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<sup>15</sup> Sri Hajati and others, *Politik Hukum Pertanahan Indonesia* (Kencana-Prenadamedia Group 2021). [150].



Cancellation of management rights can be canceled by the Minister of Agrarian and Spatial Planning / Head of the National Land Agency based on several reasons, namely: First, the management right holder does not fulfill its obligations. The management right can be canceled if the holder of the management right does not fulfill its obligations, such as not managing the land in accordance with its purpose or not paying taxes and levies; second, the land is used for the public interest. Management rights can be revoked if the land is used for the public interest, such as for the construction of roads, bridges, or other public facilities; third, the land is used for defense and security purposes. Management rights can be revoked if the land is used for defense and security purposes.

The concept of granting management rights in Indonesia basically aims to increase optimal and sustainable land utilization. The granting of management rights to legal entities whose main tasks and functions are related to land management is expected to provide benefits to the wider community. The concept of granting management rights in Indonesia has several advantages and disadvantages.

The granting of management rights has several advantages, including: (1) With the existence of management rights, land utilization can be carried out optimally. This is because holders of management rights have the freedom to manage the land according to their needs and potential. For example, holders of management rights can develop land for agricultural activities, plantations, or infrastructure development that can provide maximum benefits for the community and the economy. (2) Granting management rights can also increase investment in land. With the guarantee of management rights given to investors, they will feel more secure and encouraged to invest in the land sector. This can encourage economic growth and create new jobs. (3) Another advantage is that management rights can increase State revenue from the taxation sector. Holders of land management rights will be taxed on income earned from activities carried out on the land. This tax revenue can be used by the State to finance various development programs and public services that benefit the community. Thus, granting management rights can provide significant benefits for land utilization, investment, and State revenues.

The granting of management rights also has several disadvantages, including: (a) The potential for a monopoly on land ownership by certain legal entities. When

management rights are granted to one legal entity, this can result in unbalanced dominance in land ownership, thus reducing opportunities for other communities to access and utilize the land. (b) The occurrence of conflicts between legal entities and indigenous people. Management rights granted to legal entities often conflict with *ulayat* rights held by local communities. This can trigger conflicts between legal entities and indigenous people, potentially damaging social relations and harmony between the two parties. (c) The potential for social inequality. Granting management rights to certain legal entities may result in a social gap between those with access to land and those without. This can exacerbate social and economic inequality in society, as only a small number of people can utilize the land for their own benefit.

The government has an important responsibility in conducting strict supervision of the implementation of management rights in order to reduce deficiencies that may occur. By conducting strict supervision, the government can ensure that management rights are implemented properly and in accordance with applicable regulations. Strict supervision can also prevent misuse of management rights that can harm the community. In addition to conducting strict supervision, the government also needs to provide socialization to the community about management rights. This socialization aims to enable the community to understand their rights and obligations as holders of management rights. With a good understanding of management rights, the community will be more careful and responsible in exercising these rights. This socialization can be done through various means, such as counseling, seminars, or campaigns involving various related parties. Through strict supervision and effective socialization, the government can create an environment conducive to the exercise of management rights. With strict supervision, existing shortcomings can be minimized and misuse of management rights can be prevented. Meanwhile, effective socialization will provide the community with a good understanding of management rights, so that the community can exercise these rights responsibly. Thus, the government can achieve the goal of ensuring good implementation of management rights and benefitting the community.

## The Relationship between Indigenous People and their *Ulayat* Land

Indigenous people is a group of people who are bound by the legal order as citizens of a legal community because of the similarity of residence or on the basis of descent.<sup>16</sup>

What is meant by legal community is quoted from Ter Haar's opinion:

*"permanent and organized groups of people with their own authority and their own tangible or intangible wealth. According to the law, the definition of indigenous people is also contained in several laws and regulations"*.

On the other hand, Martinez Cobo,<sup>17</sup> the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, defines indigenous people as:

*"Indigenous communities, peoples and nations are those that have historical continuity with the pre-invasion and pre-colonial societies that developed in their territories, considering themselves distinct from other sectors of society now prevailing in those territories, or parts of them. They form today the non-dominant sector of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continuity as a society, in accordance with their own cultural patterns, social institutions and legal systems"*.

In the Job Creation Law and Plantation Law, indigenous people are defined as a group of people who have been living in certain geographical areas in Indonesia for generations because they have ties to their ancestors, strong relationships with land, territory and natural resources, and have government institutions and *adat* law in their areas in accordance with statutory provisions. Another definition states that indigenous people is a group of people who live in an *adat* law in their territory.<sup>18</sup> From some of these definitions, it can be concluded that indigenous peoples are a group of people who live together in a certain area and have a *adat* law system that regulates their lives.

From the definition of indigenous people given by Ter Haar, it can be seen that indigenous people have a tangible and intangible power, in the tangible community power that is referred to as *ulayat* rights.<sup>19</sup> Indigenous people have *ulayat* rights to the land they control. *Ulayat* right is a right that exists and is owned by indigenous people

<sup>16</sup> R Soepomo, *Bab-Bab Tentang Hukum Adat* (Pradnya Paramita 2003).[10].

<sup>17</sup> Yuliana Primawardani, 'Perlindungan Hak Masyarakat Adat Dalam Melakukan Aktivitas Ekonomi, Sosial Dan Budaya Di Provinsi Maluku' (2017) 8 Jurnal HAM.[1-11]. See also in Candra Perbawati, 'Dampak Politik Hukum Pertanahan Yang Belum Berperspektif HAM Bagi Masyarakat Hukum Adat Mesuji Lampung' (2015) 44 Jurnal Masalah-Masalah Hukum.[521-531].

<sup>18</sup> Cahyaningrum (n 1).[26].

<sup>19</sup> Hajati and others (n 15).[72].

in Indonesia and has very unique characteristics, it can even be called *sui generis*. There are several terms used to refer to this right, namely Ancient Rights, Pertuanan Rights, and *Ulayat* Rights.<sup>20</sup> *Ulayat* rights are historical rights owned by tribal groups scattered in the territory of Indonesia that contain wisdom in regulating the control, use, utilization, supply and maintenance of agrarian resources including land.<sup>21</sup> The definition of *ulayat* rights implies that indigenous peoples have rights to land that are authorized to utilize various natural resources in the region, so that various activities related to the utilization of natural resources in the territory of indigenous peoples must have the knowledge of the local *adat* leader. However, in reality, indigenous peoples are not involved in decision-making to obtain permission to utilize natural resources within their territory. This has caused the utilization of natural resources to change the order of life of indigenous peoples, even leading to human rights violations, as a result of an act of omission.<sup>22</sup>

*Ulayat* rights itself has also been regulated in the legal system (especially land law) in Indonesia. One of the elements in the regulation of *ulayat* rights is the mechanism in determining the existence of the *ulayat* rights. The existence of *ulayat* rights is regulated in Article 3 of the UUPA. The article states that:

*“In view of the provisions in Articles 1 and 2, the implementation of Ulayat Right and similar rights of Indigenous People, to the extent that they still exist in reality, shall be in such a way that it is in accordance with the national and state interests, which are based on national unity, and shall not conflict with the Law and other higher regulations”.*

In addition to Article 3 of the UUPA, recognition of the existence of *ulayat* rights is regulated in Articles 18B paragraph (2) and 28I paragraph (3) of the Indonesian Constitution, as well as TAP MPR No. XVII/MPR/1998 on Human Rights.<sup>23</sup>

This *ulayat* right is the right to control and utilize land that is hereditary and non-transferable. *Ulayat* rights refer to the rights of ownership and management of land

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<sup>20</sup> Muhamad Agil Aufo Afinnas, ‘Perbandingan Hukum Penetapan Eksistensi Hak Ulayat Dengan Penetapan Native Title Di Australia’ (2022) 8 *Diversi Jurnal Hukum*. [139-168].

<sup>21</sup> Rianda Dirkareshza, Aji Lukman Ibrahim and Roni Pradana, ‘Urgensi Hak Ulayat Terhadap Perlindungan Masyarakat Hukum Adat Di Indonesia’ (2020) 5 *Jurnal Ilmiah Hukum De’jure: Kajian Ilmiah Hukum*. [96].

<sup>22</sup> Primawardani (n 17). [1-11].

<sup>23</sup> Afinnas (n 20). [139-168]; See also in Ikbal, ‘Prinsip Free And Prior Informed Consent Terhadap Perlindungan Masyarakat Adat Atas Tanah Dalam Perspektif Hukum Hak Asasi Manusia Internasional’ (2014) 6 *Fiat Justisia*. [1-16]; Compared with Sandi Ersya Arrasid, ‘Eksistensi Hak Ulayat Masyarakat Adat Dalam Undang-Undang Pokok Agraria’ (2021) 1 *IPMHI Law Journal*. [80-90].

inherent in indigenous people. This right does not only apply to individuals, but also applies to the entire indigenous people living in the area. *Ulayat* land, on the other hand, refers to land that is collectively owned and managed by indigenous people. *Ulayat* land has historical, cultural and spiritual values that are very important to indigenous peoples. *Ulayat* land is land that is controlled by indigenous peoples for generations. *Ulayat* land has an important position for indigenous peoples, because it is a source of livelihood, identity and culture.

Before explaining the relationship between indigenous peoples and their *ulayat* lands, it is important to understand that indigenous peoples have a close relationship with their *ulayat* lands. *Ulayat* land is not only their source of livelihood, but also an integral part of their cultural and spiritual identity. Therefore, maintaining the *ulayat* rights of indigenous peoples is a necessity to maintain the sustainability of their culture and lives. Granting management rights over *ulayat* land to indigenous people also has significant benefits. Indigenous people have unique local knowledge and wisdom in managing natural resources. By granting management rights to them, it can ensure that *ulayat* land and related natural resources are managed in a manner. It can also encourage active community participation in decision-making related to natural resource management, thereby strengthening local democracy and community empowerment. It is important to recognize that granting management rights over *ulayat* land within a formal legal framework is an important step to protect indigenous people from external threats. In many cases, indigenous peoples' *ulayat* lands are often subject to exploitation by irresponsible parties. By recognizing and protecting the *ulayat* rights of indigenous peoples in formal law, we can provide strong legal protection for them and prevent the misuse of their *ulayat* lands.

The relationship between indigenous people and *ulayat* land is an interrelated and mutually influencing relationship. *Ulayat* land is a source of livelihood for indigenous peoples. *Ulayat* land is used for various purposes, such as agriculture, plantations, livestock, and fisheries. *Ulayat* land is also a source of income for indigenous peoples.

In addition, communal land is also an identity for indigenous peoples. *Ulayat* land is a place to live, a place to hunt, a place to farm, and a place for traditional ceremonies

of indigenous peoples. *Ulayat* land is also a manifestation of the culture of indigenous peoples. The relationship between indigenous people and *ulayat* land is also spiritual. *Ulayat* land is considered a place where the spirits of the ancestors of the indigenous people reside. *Ulayat* land is also considered a sacred and holy place.

The Indonesian government has recognized the existence of indigenous people and their *ulayat* rights. This is stated in the Indonesian Constitution and the UUPA. Article 33 Paragraph (3) of the Indonesian Constitution states that: “the earth, water, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people.” However, in the explanation of Article 33 Paragraph (3), it is stated that the *ulayat* rights of indigenous people are recognized and respected by the State. Article 3 of the UUPA states that communal land is land owned in common by the indigenous population of an area which constitutes a specific *adat* law unit.

The existence of an indigenous people unit occurs when its *adat* values are still maintained by its supporting community, so that the State recognizes it and regulates it in the provisions of applicable laws and regulations or is regulated and guaranteed in positive law.<sup>24</sup>

The government has issued various policies to protect the *ulayat* rights of indigenous peoples. These policies include: (a) Regulation of the Minister of Home Affairs No. 52/2014 on Guidelines for the Recognition and Protection of indigenous people; (b) Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 18/2019 on Procedures for Administration of *Ulayat* Land of indigenous people; (c) Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 18/2021 on Procedures for Determining Management Rights and Land Rights. These policies are expected to protect the *ulayat* rights of indigenous people and ensure the sustainable use of *ulayat* land. *Ulayat* land is land owned by indigenous people in Indonesia. *Ulayat* land has a very important role for indigenous peoples in Indonesia, because it is a source of life and their cultural identity. However,

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<sup>24</sup> Novyta Uktolseja and Pieter Radjawane, ‘Tinjauan Juridis Perkembangan Tanah-Tanah Adat (Dahulu, Kini Dan Akan Datang)’ (2019) 25 SASI.[25]; See also in Ikhana Indah Barnasaputri, ‘Jalan Panjang Pengakuan Kesatuan Masyarakat Hukum Adat Melalui Peraturan Daerah: Beberapa Persoalan Yang Belum Selesai’ (2021) 4 Notaire 1 <<https://e-journal.unair.ac.id/NTR/article/view/22805>>.



the existence of *ulayat* land is often a source of conflict, especially when management rights over *ulayat* land are granted to other parties, such as companies or investors. Therefore, it is necessary to maintain the existence of *ulayat* land as the spirit of national land law by consistently applying its restrictions.

### **Granting of Management Rights on *Ulayat* Land**

Prior to the Job Creation Law, management rights were only briefly regulated in the UUPA. The term management right first appeared when the Minister of Agrarian Affairs Regulation No. 9 of 1965 on the Implementation of Conversion of State Land Tenure Rights and Provisions on Further Policy was issued.<sup>25</sup> After the establishment of the Job Creation Law, management rights were strengthened by being regulated in more detail in Articles 136-142 of the Job Creation Law. These arrangements include the authority of management right holders, requirements for granting management rights, and procedures for granting management rights.

In the Job Creation Law and Government Regulation No. 18 of 2021, what is meant by a management right is a right of control from the State whose implementation authority is partially delegated to the holder of the management right.<sup>26</sup> Indigenous people can also become holders of management rights over *ulayat* land. With this management right, indigenous peoples have the authority to regulate the use and cooperate their *ulayat* land with investors, without having to sell it.

Based on Article 137 paragraph (4) of the Job Creation Law, management rights can be granted to: (a) central government agencies; (b) local governments; (c) land bank agencies; (d) BUMN/BUMD; (e) State/region-owned legal entities; or (f) legal entities appointed by the Central Government.<sup>27</sup> The management rights are granted on State

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<sup>25</sup> Urip Santoso, 'Eksistensi Hak Pengelolaan Dalam Hukum Tanah Nasional' (2012) 24 Mimbar Hukum.[278]; See also in Wimba Roofi Hutama, 'Eksistensi Hak Ulayat Pasca Berlakunya Peraturan Menteri Agraria Nomor 18 Tahun 2019' (2021) 4 Notaire.[489-502]. <<https://e-journal.unair.ac.id/NTR/article/view/28036>>.

<sup>26</sup> According to the Job Creation Law, the definition of management rights is mentioned in Chapter VIII (Land Acquisition), Paragraph II (Strengthening Management Rights), Article 136. Meanwhile, in Government Regulation No. 18 of 2021, the definition of management rights is contained in Article 1 point 3 of Government Regulation No. 18 of 2021.

<sup>27</sup> Article 137 paragraph (1), Paragraph 2, Third Section, Chapter VIII of the Job Creation Law

land.<sup>28</sup> Based on Article 4 of Government Regulation No. 18 of 2021, management rights can originate from State land and *ulayat* land. Management rights originating from *ulayat* land are contrary to the concept of the management rights themselves. Management rights, which are part of the authority of the State's control rights, are in conflict with management rights that can originate from *ulayat* land, because there are *ulayat* rights of indigenous peoples on the *ulayat* Land. On *ulayat* land that still has the status of *ulayat* rights of indigenous peoples, if given management rights, the *ulayat* rights must be released by the indigenous peoples. Thus, the communal land becomes free state land. According to Agus Sekarmadji, *ulayat* land that will be granted management rights must be released by the indigenous people. The release of these rights will make the communal land into free state land that can be granted management rights. Thus, management rights can be granted on the State land without contradicting the conception of management rights.<sup>29</sup> Management rights derived from communal land are assigned to indigenous people.<sup>30</sup> Based on the Explanation of Article 4 of Government Regulation No. 18 of 2021, the determination of *ulayat* land rights into management rights is a form of recognition to indigenous people.

According to Himawan Arief Sugoto, Secretary General of the Ministry of ATR/BPN, PP No. 18 of 2021 strengthens management rights. This reflects that the State is present to organize and maintain the existence of State land and *ulayat* land.<sup>31</sup> However, with the development of industrialization and the entry of foreign investment into Indonesia, it has encouraged increased development activities which on the one hand have a positive impact on economic growth in the country, and on the other hand have an impact on increasing the need for space and agrarian resources, especially land. This condition has provided opportunities for access to capital and politics with all its impacts, conversion of agricultural land and forests, and displacement of *ulayat*

<sup>28</sup> Article 137 paragraph (4) of the Job Creation Law.

<sup>29</sup> Agus Sekarmadji, 'Catatan Akhir Tahun Bidang Hukum Pertanahan' (*surabayapagi.com*, 2021) <<https://surabayapagi.com/read/catatan-akhir-tahun-bidang-hukum-pertanahan>>.

<sup>30</sup> Article 5 paragraph (2) of Government Regulation No. 18 of 2021.

<sup>31</sup> Yanita Petriella, 'PP Dari UU Cipta Kerja Beri Jaminan Pengelolaan Hak Atas Tanah' (*bisnis.com*, 2021) <<https://ekonomi.bisnis.com/read/20210420/47/1383939/pp-dari-uu-cipta-kerja-beri-jaminan-pengelolaan-hak-atas-tanah>>.

rights of indigenous peoples.<sup>32</sup> Sabardi<sup>33</sup> in his research related to the constitutional protection of the basic rights of indigenous peoples mentioned that the State's protection and recognition of the human rights of indigenous peoples in the land sector is still patterned on conditional recognition in several categorizations such as in reality it still exists, does not conflict with national interests; does not conflict with higher laws and regulations; and is stipulated by regional regulations. The most significant impact can be seen in the interpretation of State control rights. The State is seen as a subject that has full legitimacy over all resources while ignoring the moral rights of indigenous people. In addition, the implementation of laws and regulations toward the fulfillment of human rights of indigenous peoples in the land sector is highly dependent on power relations and the desire for power. Many cases in the regions ignore what is an obligation for the government, especially local governments, to realize the social rights of indigenous peoples.

In this case, Maria SW Soemadjono argues that the determination of *ulayat* rights into management rights actually reduces the authority of indigenous people over their land because management rights are rights granted by the State. Thus, indigenous peoples only have partial authority from the State, not full authority over their *ulayat* land. With this stipulation, it actually reduces the power of indigenous peoples to use, utilize and manage land and natural resources in their territory. Indigenous peoples ultimately become more dependent on the State to manage land and natural resources in their territory. Indigenous people actually already have authority over their land and natural resources, without the need to be delegated by the State. According to Maria SW Soemadjono, indigenous people can directly grant land rights over their *ulayat* land to others, without the need to first change the status of the *ulayat* land to State land. This is regulated in Article 4 Paragraph (2) of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 concerning Guidelines for

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<sup>32</sup> Yul Ernis, 'Perlindungan Hukum Hak Atas Tanah Adat Kalimantan Tengah' (2019) 19 Jurnal Penelitian Hukum De Jure.[435-454]. See also in Aushofi Zuhrotul Ulya and others, 'Akibat Hukum Berlakunya Undang-Undang Ibu Kota Negara Terhadap Hak Ulayat Di Kalimantan Timur' (2022) 5 Notaire 329 <<https://e-journal.unair.ac.id/NTR/article/view/38341>>.

<sup>33</sup> Lalu Sabardi, 'Perlindungan Konstitusional Hak Masyarakat Hukum Adat Atas Tanah' (2014) 19 Jurnal Cakrawala Hukum.[49-58].

Settling *Ulayat* Land Rights Issues of Indigenous People.<sup>34</sup>

The granting of management rights on communal land is one form of utilization of communal land. The granting of management rights can be made to indigenous people or to other parties. Management rights are not directly obtained by indigenous people, but must first be determined by a Ministerial Decree. The Minister referred to here is the Minister who organizes government affairs in the field of agrarian/land and spatial planning. After obtaining the decree, the management right must be registered with the Land Office and the holder is given a certificate as proof of ownership of the management right. Management rights cannot be used as debt collateral encumbered by mortgage rights, and cannot be transferred to other parties.<sup>35</sup>

The granting of management rights over *ulayat* land is an effort to accommodate the interests of external parties, such as the government or companies, who want to use *ulayat* land for economic or development activities. The granting of management rights must be done by taking into account the *ulayat* rights of indigenous peoples as owners and managers of *ulayat* land. This is important so that the rights of indigenous peoples are protected and the sustainability of their culture is maintained.

The granting of management rights on *ulayat* land can have consequences for the *ulayat* rights of indigenous peoples. These consequences can be positive or negative.

**Table 1.** Pros and Cons of Granting HPL on *Ulayat* Land of Indigenous Peoples

Positive Impact of Granting HPL on <i>Ulayat</i> Land	Negative Impact of Granting HPL on <i>Ulayat</i> Land
Increase the optimal utilization of <i>ulayat</i> land. The granting of management rights can encourage indigenous people to utilize <i>ulayat</i> land optimally. This is because the holder of the management right has the authority to manage the land in accordance with its purpose.	Potential conflict between indigenous of peoples and management right holders. The granting of management rights can lead to potential conflicts between indigenous peoples and management rights holders, if management rights holders do not respect the rights of indigenous peoples.
Improving the welfare of indigenous peoples. Optimal utilization of <i>ulayat</i> land can improve the welfare of indigenous peoples. This is because indigenous people can benefit from the utilization of the land.	Potential loss of <i>ulayat</i> rights of indigenous peoples. If the holder of a management right does not fulfill its obligations, the management right can be canceled. This can lead to the loss of <i>ulayat</i> rights of indigenous peoples over the land.

<sup>34</sup> Maria SW Sumadjono, 'Tata Kelola Pertanahan Pasca UU-CK' ([www.kompas.id](http://www.kompas.id), 2021).

<sup>35</sup> Cahyaningrum (n 1).[32].

Encouraging economic growth. Optimal utilization of *ulayat* land can encourage economic growth. This is because communal land can be used for various economic activities, such as agriculture, plantations, and mining.

Potential environmental degradation. If the management right holder does not manage the *ulayat* land sustainably, it may cause environmental degradation. This can be detrimental to indigenous people and the wider community.

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*Source: personal documents*

If you look at the table 1, then the granting of management rights on *ulayat* land is not a solution, but rather reduces the authority of indigenous peoples over their territory. Settlement of indigenous peoples' claims to *ulayat* land that was originally given to the State and has had its rights removed and in fact the *ulayat* land still exists, needs to be done by considering the rights of indigenous peoples to their territory. The submission of claims to *ulayat* land that still exists should be done by considering the concept of the position of *ulayat* land as an independent entity in accordance with the legal relationship between the State and the land. This process involves handing over State land to indigenous peoples so that it can be reclaimed as their *ulayat* rights.

Considering that it is still difficult for indigenous peoples to defend their *ulayat* lands when dealing with formal authorities or parties that base their legitimacy on formal authorities, it is considered contrary to national and local legal instruments that increasingly emphasize recognition and respect for indigenous peoples.<sup>36</sup> As a form of protection for indigenous peoples, Marthen B. Salinding<sup>37</sup> states that a principle of free, prior and informed consent is needed in favor of indigenous peoples. This principle has positioned indigenous peoples as subjects of development and not objects of development. This principle refers to the right of indigenous peoples to give or withhold consent for actions that will affect them, especially actions that affect their lands, territories and natural resources. Given that the recognition and protection of the rights of indigenous peoples in Indonesia is scattered in various sectoral laws and regulations, its recognition is sectoral as well. In line with this, the recognition and protection of the rights of indigenous peoples in Indonesia should be regulated in one law, namely the

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<sup>36</sup> Ernis (n 32).[435-454].

<sup>37</sup> Marthen B Salinding, 'Prinsip Hukum Pertambahan Mineral Dan Batubara Yang Berpihak Kepada Masyarakat Hukum Adat' (2019) 16 Jurnal Konstitusi.[148-169].

Law on the Protection of Indigenous Peoples. Furthermore, Muazzin<sup>38</sup> mentions that the government, both the central government and local governments must be able to ensure that the government can protect the rights of indigenous peoples and eliminate discrimination against indigenous peoples, as well as effectively implement laws on the protection of indigenous peoples. There must be recognition that the prioritization of indigenous peoples' rights to land and natural resources that they have controlled and maintained for generations.

The granting of management rights on *ulayat* land can have various complex consequences. The existence of *ulayat* rights of indigenous peoples is very important in maintaining the identity and sustainability of indigenous culture. *Ulayat* rights protect the ownership and management rights of *ulayat* land by indigenous peoples, so that they can continue cultural practices, traditions and customs that have existed since the time of their ancestors. The existence of *ulayat* rights also provides a sense of security and emotional attachment for indigenous peoples to their *ulayat* land.

## Conclusion

*Ulayat* land is land owned by indigenous people in Indonesia. *Ulayat* land has a very important role for indigenous peoples in Indonesia. *Ulayat* land that still has the status of *ulayat* rights of indigenous peoples, if given management rights, the *ulayat* rights must be released by the indigenous peoples. Thus, the *ulayat* land becomes free state land (land that has not been controlled by the subject of certain land rights). The granting of management rights on *ulayat* land is not a solution, but rather reduces and even eliminates the authority of indigenous peoples over their territory. The settlement of indigenous peoples' claims to *ulayat* land that was originally given to the State and has had its rights removed and in fact the *ulayat* land still exists, needs to be done by considering the rights of indigenous peoples to their territory. The granting of management rights over *ulayat* land can have various complex consequences. The existence of *ulayat* rights of indigenous peoples is very important in maintaining the identity and sustainability of

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<sup>38</sup> Muazzin (n 1).[322-345].



indigenous culture. *Ulayat* rights protect the ownership and management rights of *ulayat* land by indigenous peoples, so that they can continue cultural practices, traditions and customs that have existed since the time of their ancestors.

In order to accelerate the economy, the government needs to pay attention to the *ulayat* rights of indigenous peoples and ensure that these rights are protected and respected. The government also needs to ensure that effective national law enforcement mechanisms are in place to resolve *ulayat* rights disputes. Thus, economic acceleration can be achieved without compromising the rights of indigenous peoples. In this context, it is important to examine the existence of *ulayat* rights of indigenous peoples against the granting of management rights on *ulayat* land. Therefore, in order to minimize the negative impact of granting management rights, appropriate arrangements need to be made. The government needs to make efforts to protect the rights of indigenous peoples over their *ulayat* land. These efforts can be done through: *First*, mapping and recording of *ulayat* land. Mapping and recording of *ulayat* land can help to ensure that the *ulayat* land of indigenous peoples has been recognized by the State. *Second*, the establishment of laws and regulations governing the granting of management rights on *ulayat* land. Such laws and regulations must guarantee the protection of the rights of indigenous peoples. *Third*, raising awareness of indigenous peoples about their basic rights. Indigenous peoples need to be given an understanding of their rights to *ulayat* land. With these efforts, it is hoped that the granting of management rights on *ulayat* land can provide benefits to indigenous peoples without causing significant negative impacts and maintain the preservation of *ulayat* land and protection for indigenous peoples.

## Bibliography

### Books

Hajati S and others, *Politik Hukum Pertanahan Indonesia* (Kencana-Prenadamedia Group 2021).

Harsono B, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Penjelasan* (Djambatan 1999).

Moechthar O (ed), *Dinamika Hukum Agraria Indonesia* (Prenadamedia Group 2020).

Parlindungan AP, *Hak Pengelolaan Menurut Sistem Undang-Undang Pokok Agraria* (Mandar Maju 1994).

Santoso U, *Hukum Agraria Kajian Komprehensif* (Prenadamedia Group 2015).

Soepomo R, *Bab-Bab Tentang Hukum Adat* (Pradnya Paramita 2003).

Soerodjo I, *Apakah Hak Pengelolaan Merupakan Jenis Hak Atas Tanah?*.

### Journals

Afinnas MAA, 'Perbandingan Hukum Penetapan Eksistensi Hak Ulayat Dengan Penetapan Native Title Di Australia' (2022) 8 *Diversi Jurnal Hukum*.

Arrasid SE, 'Eksistensi Hak Ulayat Masyarakat Adat Dalam Undang-Undang Pokok Agraria' (2021) 1 *IPMHI Law Journal*.

Barnasaputri II, 'Jalan Panjang Pengakuan Kesatuan Masyarakat Hukum Adat Melalui Peraturan Daerah: Beberapa Persoalan Yang Belum Selesai' (2021) 4 *Notaire 1* <<https://e-journal.unair.ac.id/NTR/article/view/22805>>.

Cahyaningrum D, 'Hak Pengelolaan Tanah Ulayat Masyarakat Hukum Adat Untuk Kepentingan Investasi' (2022) 13 *Negara Hukum* 22.

Dirkareshza R, Ibrahim AL and Pradana R, 'Urgensi Hak Ulayat Terhadap Perlindungan Masyarakat Hukum Adat Di Indonesia' (2020) 5 *Jurnal Ilmiah Hukum De'jure: Kajian Ilmiah Hukum*.

Ernis Y, 'Perlindungan Hukum Hak Atas Tanah Adat Kalimantan Tengah' (2019) 19 *Jurnal Penelitian Hukum De Jure*.

Hamler, 'Penegakan Hukum Tanah' (2018) 1 *Nagari Law Review*.

Herdiansyah H, Indrawati Y and Parwitasari H, 'Paradoks Hak Menguasai Negara Dalam Hak Pengelolaan Atas Tanah Berdasarkan Putusan Peninjauan Kembali Mahkamah Agung Nomor 171 PK/TUN/2016' (2020) 2 *Indonesian Notary*.

Hutama WR, 'Eksistensi Hak Ulayat Pasca Berlakunya Peraturan Menteri Agraria Nomor 18 Tahun 2019' (2021) 4 *Notaire* 489 <<https://e-journal.unair.ac.id/NTR/article/view/28036>>.

Ikbal, 'Prinsip Free And Prior Informed Consent Terhadap Perlindungan Masyarakat Adat Atas Tanah Dalam Perspektif Hukum Hak Asasi Manusia Internasional' (2014) 6 *Fiat Justisia*.

- Jayantiari IGAMR, 'Eksistensi Tanah Adat Di Bali Dan Problematika Hukum Dalam Pengembangan Investasi' (2017) 39 *Kertha Patrika*.
- Muazzin, 'Hak Masyarakat Adat (Indigenous Peoples) Atas Sumberdaya Alam: Perspektif Hukum Internasional' (2014) 1 *PADJADJARAN JURNAL ILMU HUKUM (JOURNAL OF LAW)* 322 <<https://jurnal.unpad.ac.id/pjih/article/view/7072>>.
- Perbawati C, 'Dampak Politik Hukum Pertanahan Yang Belum Berperspektif HAM Bagi Masyarakat Hukum Adat Mesuji Lampung' (2015) 44 *Jurnal Masalah-Masalah Hukum*.
- Primawardani Y, 'Perlindungan Hak Masyarakat Adat Dalam Melakukan Aktivitas Ekonomi, Sosial Dan Budaya Di Provinsi Maluku' (2017) 8 *Jurnal HAM*.
- Risdiana R, 'Perlindungan Hukum Hak Atas Tanah Hutan Yang Dikelola Masyarakat Adat Dalam Kawasan Taman Nasional Gunung Rinjani Dusun Jurang Koak Desa Bebidas Kecamatan Wanasaba Kabupaten Lombok Timur' (2017) 5 *Jurnal IUS Kajian Hukum dan Keadilan* 337 <<http://jurnalius.ac.id/ojs/index.php/jurnaliUS/article/view/463>>.
- Sabardi L, 'Perlindungan Konstitusional Hak Masyarakat Hukum Adat Atas Tanah' (2014) 19 *Jurnal Cakrawala Hukum*.
- Salinding MB, 'Prinsip Hukum Pertambahan Mineral Dan Batubara Yang Berpihak Kepada Masyarakat Hukum Adat' (2019) 16 *Jurnal Konstitusi*.
- Santoso U, 'Eksistensi Hak Pengelolaan Dalam Hukum Tanah Nasional' (2012) 24 *Mimbar Hukum*.
- Suwitra IM and others, 'Model Pendaftaran Hak Atas Tanah Pauman Sebagai Pemberian Raja Untuk Pelestarian Warisan Nilai Budaya Di Kabupaten Karangasem' (2017) 4 *Padjajaran Jurnal Ilmu Hukum*.
- Uktolseja N and Radjawane P, 'Tinjauan Juridis Perkembangan Tanah-Tanah Adat (Dahulu, Kini Dan Akan Datang)' (2019) 25 *SASI*.
- Ulya AZ and others, 'Akibat Hukum Berlakunya Undang-Undang Ibu Kota Negara Terhadap Hak Ulayat Di Kalimantan Timur' (2022) 5 *Notaire* 329 <<https://e-journal.unair.ac.id/NTR/article/view/38341>>.
- Wulan DN, Tjokroaminoto V and Ghofur A, 'Analisis Hukum Pemberian Hak Pengelolaan Yang Berasal Dari Tanah Ulayat Pasca Terbitnya Undang-Undang Cipta Kerja' (2022) 5 *Notaire* 83 <<https://e-journal.unair.ac.id/NTR/article/view/32708>>.

Zakaria AD, 'Kebijakan Pemberian Hak Guna Usaha Di Atas Hak Pengelolaan Dalam Perspektif Undang-Undang Pokok Agraria' (2022) 5 Notaire.

Zulfiqara MD, Pujiwatib Y and Wahjunic S, 'Kedudukan Hak Pengelolaan Dalam Hukum Tanah Nasional Dikaitkan Kepemilikan Barang Milik Negara/Daerah' (2022) 1 LITRA: Jurnal Hukum Lingkungan Tata Ruang dan Agraria.

### Website

Abr, 'Tanah Ulayat Masyarakat Adat Di Sumbar Akhirnya Bersertifikat!' (*detik.com*, 2023) <<https://www.detik.com/properti/berita/d-6979182/tanah-ulyat-masyarakat-adat-di-sumbar-akhirnya-bersertifikat>>.

Humas Kementerian ATR/BPN, 'Kementerian Pendayagunaan Aparatur Negara Dan Reformasi Birokrasi - Menteri ATR/Kepala BPN Serahkan Sertifikat Tanah Ulayat Di Papua' (*PAN RB*, 2023) <<https://www.menpan.go.id/site/berita-terkini/berita-daerah/menteri-atr-kepala-bpn-serahkan-sertifikat-tanah-ulyat-di-papua>>.

Petriella Y, 'PP Dari UU Cipta Kerja Beri Jaminan Pengelolaan Hak Atas Tanah' (*bisnis.com*, 2021) <<https://ekonomi.bisnis.com/read/20210420/47/1383939/pp-dari-uu-cipta-kerja-beri-jaminan-pengelolaan-hak-atas-tanah>>.

Sekarmadji A, 'Catatan Akhir Tahun Bidang Hukum Pertanahan' (*surabayapagi.com*, 2021) <<https://surabayapagi.com/read/catatan-akhir-tahun-bidang-hukum-pertanahan>>.

Sumadjono MS, 'Tata Kelola Pertanahan Pasca UU-CK' (*www.kompas.id*, 2021).

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