

FUKUN (HEAD OF TRIBE) AS THE RIGHT HOLDER CONTROL OVER TRIBAL LAND IN THE MATABESI TRADITIONAL VILLAGE, WEST ATAMBUA DISTRICT, BELU REGENCY EAST NUSA TENGGARA PROVINCE

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ABSTRACT

The existence of the Matabesi traditional village Ulayat Right can be seen through: a). There is tribal chief or Fukun and the total tribal members are 12 tribes with 12 traditional houses which are located in Matabesi traditional village: Uma Isberan or Uma Kakaluk as the center or older of the twelve tribes; Uma Bot, Uma Bei Hale Uma Bot, Uma Bei Hale Kiik, Uma Bei Bere, Uma Matabesi Kiik, Uma Ba'a, Uma Mahein Lulik, Uma Meo, Uma Manehat, Uma Mane Ikun and Uma Lokes. b). There is Ulayat land which unable to be divided, but it can be used together in the form of customary forest, grazing fields and traditional village. c). There is customary law. However, the ritual is not carried out on Ulayat land but is carried out on private land that has been distributed and passed down hereditary. Fukun (tribe chief) as the Right Holder who control over Tribal Land has the authorities: a). to organize land use which is no longer exists due to Ulayat lands have been divided among members of their respective tribes. The authority possessed by Fukun is related to the use of forest products, pastures and traditional villages; b). to grant certain rights to certain subjects on individual lands with the knowledge of the tribal chief as well as making customary rituals in the form of Ibu katak lia hasara or requests for permission; and c). to regulate and determine legal relationships and legal actions relating to land, such as: buying and selling, inheritance and others which is to provide legitimacy of buying and selling in the arrangement of property right certificate in the form of a certificate of land acquisition or the origin of land acquisition. Meanwhile, in managing inheritance, the Fukun's task is to ensure the origin of the inherited land and the recipient of the inheritance based on the customary law adopted by the Matabesi customary community.

Keywords: Ulayat Rights, Controlling Rights, *Fukun* (Tribe Chief)

INTRODUCTION

Recognition of customary law communities is regulated in the 1945 Constitution Article 18B paragraph 2, which states that: The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated in the law."

The term *Ulayat* land is stipulated in the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 5 of 1999 concerning Guidelines for the Settlement of Problems with the *Ulayat* Rights of Indigenous Peoples Article 1. In this rule, *Ulayat* land is seen as land on which there is *Ulayat* Rights of a certain indigenous community. While, the customary law community is a group of people who are bound by legal order and have the same place of residence.

Article 2 paragraph (2) of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 5 of 1999 concerning Guidelines for the Settlement of Problems with Customary Rights of Indigenous Peoples Law, provides an explanation of the meaning of "as long as in reality it still exists", according to him, the existence of customary rights is recognized (existed) if fulfill several elements, namely: a). there is a group of people who still bounded by their customary law order as joint citizens of a certain legal alliance, who recognized and applied the provisions of the alliance in their daily life; b). there are certain *Ulayat* lands which is the living environment of the members of the legal alliance and the place where they take their daily necessities of life, and; c). there is a customary law order regarding the management, controlling and using of *Ulayat* land that is valid and adhered to by the citizens of the legal alliance.

Referring to the recognition of *Ulayat* lands in the several laws and regulations articles mentioned, traditional institutions as one of the social institutions have the legitimacy to regulate, protect customary lands, and maintain customary forests and tribal lands for the benefit and preservation of customs.

Along with social changes and modernization, the existence of *Ulayat* rights has also influenced, so that the implementation of Article 3 of the LoGA needs to be evaluated. These also influence Matabesi tribal community as one of the oldest tribes in Belu Regency. It is naturally also influenced by new cultures which often not reflect their noble culture. This influence also triggers changes on the level of existence of customary law communities in their customary law. Even, as result of the influence of the new culture, customary laws that are binding on customary law communities are often ignored/violated.

PROBLEM STATEMENT

Based on the background, it needs to be studied and analyzed relating to: How is the existence of the *Ulayat* rights of the Matabesi tribe and how far is the authority of the *fukun* (tribal chief) as the right holder control over tribal land in the customary village of Matabesi tribe. The purpose of this study was to determine the existence of the *Ulayat* rights of the Matabesi tribe and the extent of the authority of the *fukun* (tribal chief) as the holder of the right to control over tribal land in the customary village of the Matabesi tribe. The method used in this research is sociological juridical using descriptive analytical analysis which respondents as resource persons in this reserarch. The types and data source used in this research consisted of primary data obtained directly from sources in the field through research and secondary data consisting of primary legal materials. They are related laws and

regulations, secondary legal materials, namely books, papers and research results and tertiary legal materials are the Indonesian Language Dictionary and online sources.

THEORETICAL PERSPECTIVE

Ulayat Rights and Customary Law Community

Ulayat rights (tribal land) is the name given by legal experts and the concrete legal relationship between customary law communities and the land within their territory which is called *Ulayat* land.¹

The definition of *Ulayat* rights (tribal land) is not officially found in the LoGA. The explanation in Article 3 is only stated about *Ulayat* rights term and similar rights which in the customary law literature is called *beschikkingrecht*.

The existence (existence) of *Ulayat* rights (tribal land) is confirmed in the provisions of article 2 paragraph (2) the Minister of State Regulation for Agrarian Affairs and the National Land Agrarian Head No. 5 of 1999 concerning guidelines for resolving customary rights problem of customary law communities where it is stated that the customary right of indigenous people is considered exist if:

- a. There is a group of people who bounded by their customary law order as joint citizens of a certain legal alliance, who recognized and applied the provisions of the alliance in their daily lives.
- b. There is a certain *Ulayat* land which is the living environment of the alliance members and the place where they take their daily necessities.
- c. There is a customary law order regarding the management, controlling and using of customary land that is valid and adhered by the citizens of the legal alliance.

Characteristics of Land Mastership Rights and Authorities According to Customary Law

Generally, at least there are four main characteristics of land mastery according to customary law, namely the absence of absolute ownership, inclusive control, prohibition of buying and selling land (even for land that has been personally controlled), and more respect for humans and their work than land.² These four characteristics are inter-related, which is based on the basic paradigm that land is a unique resource in compare to other economic resources. BeDue to the limitation of land, it must be used fairly, and it have been able to provide welfare for all people on earth. For this reason, land should not be used as a free market commodity.

1. The First Nature, Land Cannot Be Absolute

The distinctive nature of land tenure according to customary law which states that land cannot be owned absolutely is found in many ethnic groups in Indonesia. It is regulated to what extent individual rights are limited. Each member of the tribe (fellowship) is given the right to work on customary land (or *Ulayat* land) in his/her territory by being given a permit is called "right to choose". If a piece of land in the alliance territory worked by one of its citizens continuously, then the relationship of him/her and the land is getting stronger. But, if the land is abandoned one day, the relationship is tenuous with the land. On the opposite, the relationship between the land and the alliance became even closer. Furthermore, if the cultivated land is left as a bush, the land is considered as abandoned. Then, one's relationship with the land is cut off. It is seen here that a person never really has absolute control over a piece of land. Even though a piece of land has been opened and worked by someone, the legal alliance's interference with the land is existed. This interference becomes large when individual rights are depleted. On the other hand, this interference diminishes in proportion to the increase in individual rights. From this explanation, it can be concluded that the *Ulayat* right is actually the right of a legal alliance over its territory, including everything (wealth) that is on it.

2. Second Nature, Inclusive Land Mastership

The absence of absolute ownership can be interpreted as inclusiveness in mastership. In this sense, aside the entire tribal land can be controlled by all tribe members, for of course with certain procedures; even outsider of the tribe can take advantage of it. It means that another ethnic group member have a chance to cultivate of another ethnic group's land. The right should fulfill certain obligations, such giving a sum of money as well as tributes and gifts. The essence of this obligation is not actually the economic value of the gift, but is merely a form of mere legal recognition, that someone volunteered to cultivate a part of land which is the *Ulayat* of a particular tribal community.

3. Third Nature, Land may not be traded

Land may not be traded unless the building on it. Thus, if one of the members of the alliance no longer needs the land, the village will have it back. When one controls a piece of land, one can freely cultivate and manage it. However, if it abandoned, it will return to the legal partnership, and cannot be sold to other parties. The head of the legal alliance, called the customary holder or village head, will then regulate its utilization or give it to other residents in need.

4. The Fourth Nature, Humans and Their Work Are More Valuable Than Land

Indirectly, the three characteristics of control above imply that the nature of human aspect, its works and results are the most valuable than the land issue. This can be seen from the high appreciation for the work given by humans on a piece of land. In the previous section it has been explained that in some customary laws it is clearly stated that a person can control land as long as he is still working on it productively. If he leaves it, the land is separated from him, and returns to being a communal land.

The legal community is a permanent organized group that has its own power and wealth in the form of visible and invisible objects.³ Thus, *Ulayat* right shows the existence of a legal relationship between the legal community and its territory. The legal relationship referred to according to Maria S.W. Sumardjono, is a relationship of control, not a relationship of ownership as

¹ Harsono, B, 1994, Indonesian Agrarian Law, History of the Basic Agrarian Laws Formation, Content and Implementation, vol. I. National Land. The Jakarta Bridge, p. 215.

² Ibid, p. 19

³ Ter Haar BZN, 1979, Principles and Structure of Customary Law, Pradya Paramita, Jakarta, p. 4

is the case in the concept of the relationship between the state and land according to Article 33 paragraph (3) of the 1945 Constitution. The control right attached to customary law communities over *Ulayat* land (tribal land) contains the authority to:

1. Regulating and organizing land use (for settlement, cultivation, etc.) and land maintenance.
2. Regulating and determining the legal relationship between people and land (granting certain rights for certain subjects).
3. Regulating and establishing legal relations between people and legal actions relating to land such as: buying and selling, inheritance and others.⁴

ANALYSIS AND DISCUSSION

The Existence of Customary (Ulayat) Rights of the Matabesi Traditional Village

The existence of ulayat rights (tribal land) in the provisions of article 2 paragraph (2) the Minister of State for Agrarian Affairs Regulation and Head of the National Land Agrarian no. 5 of 1999 concerning guidelines for resolving the problem of customary rights of customary law communities where it is stated that the customary rights of indigenous peoples are considered to still exist if:

1. There is a group of people bounded by their customary law order as joint citizens of a certain legal alliance, who recognize and apply the provisions of the alliance in their daily lives. Groups of people who feel bound in a common house/traditional house can occur because:
 - a. The same residence of different tribes; and
 - b. Derived from heredity or genealogy.

The Matabesi tribe itself comes from the words *Mak ta* and *Besi* (literal meaning; people who cut iron / something strong) which means people who serve as executor / judge / mediator / strategist. So that, Matabesi has the title *Makerek Badaen*, this term was given by the oldest tribe, namely the Lawalu tribe, which made Matabesi closely attached to an important position of decision-making or policy in the royal order (Ke-Nai-an) warlords. How famous Matabesi is that he is often dubbed by other terms such as "*Manu Sesu Rai – Manu Lia Manas* (the famous Judge).⁵

In accordance with the narrative of *Mako'an* Hendrikus Manek (customary priest), a summary of the migration journey of the Matabesi Tribe can be described as follows:

The ancestors of the Matabesi tribe came from Sinamuti Malacca which began with the journey of three ancestors known as "*as na'in tolu besi nain tolu-ubu nain tolu bei nain tolu*". The three ancestors of the brothers were: *Nai Laka Besi, Nai Mali Besi, and Nai Bei Luan*.

Through the first stopover in *Larantuka Baboe*, these three ancestors sequentially moved to *Mutis Ormai* (South Middle East Regency/TTU), *Weto Maubesi* (Timor Leste), returned to *Malaka* and continued to *Suai* (Timor Leste) returned to *Wesei Wehali* (Belu-Malaka Regency), and migrated continued until it landed in *Lakaan-Lahurus* (Belu). From Lakaan, they continued towards *Toro* (West Atambua). It was in Toro that they met the 2 big and oldest tribes, namely the *Lawalu* and *Makluli Fahi* tribes.

By the mandate of the two major tribes, the Matabesi Tribe was given a *Ulayat* with the title *Makerek Badaen* along with 3 sacred rock hills namely *Sumeta, Ro'o Fau* and *Kaku'a* as a noble fortress (*Batak Bot Tolu-Tuik Bot Tolu*) which will then become *Manaran* proof of the existence of the Tribe. Matabesi as *Mauk Mai Tan – Mauk Tur Hein* (Past owner/Landlord). The three Rock Hill will become *Manaran* who acts as a *Foho* or *Sacred Vessel* for the Creator.

Matabesi traditional village is inhabited by 12 tribes who come from the same lineage or genealogy. The 12 tribes in the Matabesi traditional village consist of:

1. Uma Isberan or Uma Kakaluk as the center or oldest of the twelve tribes,
2. Uma Bot;
3. Uma Bei Hale Uma Bot;
4. Uma Bei Hale Kiik;
5. Uma Bei Bere;
6. Uma Matabesi Kiik;
7. Uma Ba'a;
8. Uma Mahein Lulik;
9. Uma Meo;
10. Uma Manehat;
11. Uma Mane Ikun dan
12. Uma Lokes.

Each tribe is required to have a traditional house but only six (6) tribes built traditional houses which can be seen physically. Meanwhile, the remaining six (6) tribal houses had not built because they had to go through several traditional rituals which require enormous time, cost and energy.

The traditional houses that have been built in the Matabesi traditional village are:

1. Uma Bai Ati, the main house of iron
2. Uma Bai Ale, a house for clothing/food or a house for welfare
3. Uma Bei Bere, the guardian traditional house of the western region (Meo)
4. Uma Ba'a, the traditional house of the southern guard (Meo)
5. Uma Meo, the traditional house of the city guard
6. Uma Matabesi Kiik, the traditional house of fortune-tellers

⁴ Sumardjono, M.S.W, *Ulayat* Rights and Their Recognition by the Basic Agrarian Law. Compass. Jakarta 13 May.

⁵ Reinnamah, Darius Go (2019-09-27). "Matabesi Traditional Village: An Original Village That Still Maintains Traditions". DAILY VOYAGERS, retrieved 2021-11-13.

The number of indigenous groups who inhabit the Matabesi traditional village is approximately 60 families (± 200 people) while others have mingled and settled outside the Matabesi Village, such as in the city of Atambua and its surroundings outside the area.

The community in the Matabesi traditional village also has customary institutions whose purpose is to mobilize traditional institutions for the creation of security and order in society and the creation of shared prosperity. The organizational structure contains a flow of orders and coordination that identifies the job positions that each tribe must be responsible for for various activities and their communication with members within the tribe and other members of the tribe. The institutions and authorities of the Matabesi traditional village can be seen in the following table:

Table 1 Institutional Duties and Functions

No	Status/ Position	Task/Function
1	<i>Kapitan/King</i>	The meaning of the word <i>ka-pi-tan</i> ⁶ : 1. A title (designation) of regional head, the same level as the sub-district head in the areas of East Nusa Tenggara and Maluku during the reign of the king; 2. The head of the Chinese population group (during the Dutch government); 3. The Army Chief In the Matabesi tribe, <i>Kapitan</i> means a king-level leader whose job is to lead the community and bring the community to prosperity. <i>Kapitan</i> oversees several traditional villages, the Matabesi traditional village is included in the Lidak Kingdom.
2	<i>Fukun</i>	A tribal chief / <i>Fukun</i> must be responsible for all spiritual and physical affairs, both internal and external, including: 1. Maintaining inheritance and <i>Ulayat</i> rights over productive assets of the tribe; 2. Organizing traditional religious ceremonies; 3. Regulating the customary affairs of marriage, birth, death, feast, etc.; 4. Maintaining unity, harmony, peace, justice and mutual cooperation for tribal members; 5. Resolving any tribal disputes peacefully and kinship; and 6. Participating in fostering and maintaining the norms and rules of customs.
3	<i>Mako'an</i>	The role of a <i>Mako'an</i> (customary priest) is to say a prayer in the form of a mantra to a 'higher power': <i>Nai Lulik Waik-Nai Manas Waik</i> . This traditional priest also gives legitimacy to every traditional ceremony he leads by giving prayers and incantations to higher powers.
4	<i>Matas</i>	The role of a <i>matas</i> is as a peace judge whose task is to resolve disputes between existing residents or tribes. Completion at the <i>matas</i> level is the last level if it cannot be completed in the family environment, and the tribal environment concerned. If, <i>Matas</i> cannot solve the problem, it will be forwarded to <i>Fukun</i> to solve it.
5	<i>Makleat</i>	The tasks carried out by a <i>Makleat</i> are as follows: first, a <i>Makleat</i> needs to know the natural wealth that has become prohibited or the natural wealth of the Matabesi indigenous people. Second, <i>Makleat</i> has an obligation to exercise maximum control over natural resources. The three <i>Makleats</i> have full rights to exercise control in several places including: first, in all the 'tribal gardens'. Second, in private community-owned gardens. Third, controlling the animals from hunters and thieves. <i>Makleat</i> also has the authority to act against people who violate the rules. <i>Makleat</i> has the right to sue people who violate the rules in the customary court or sue the adat elders (<i>Matas</i>) who serve as juridical bodies.
6	<i>Meo</i>	<i>Meo</i> means warlord, which at this time <i>Meo's</i> job is to maintain the security of the village.
7	<i>Ulukman Ailais</i>	<i>Ulukman Ailais'</i> duties and functions are as a liaison or public relations officer both inside and outside. One of his duties is to share announcements or information issued by the King or <i>Fukun</i> .
8	<i>Bilota</i>	In certain traditional events, the task or function of <i>Bilota</i> is to act as a liaison or spokesperson.

Source: Primary Data

2. There is a certain *Ulayat* land which is the living environment of the members of the alliance and a place to take their daily necessities.

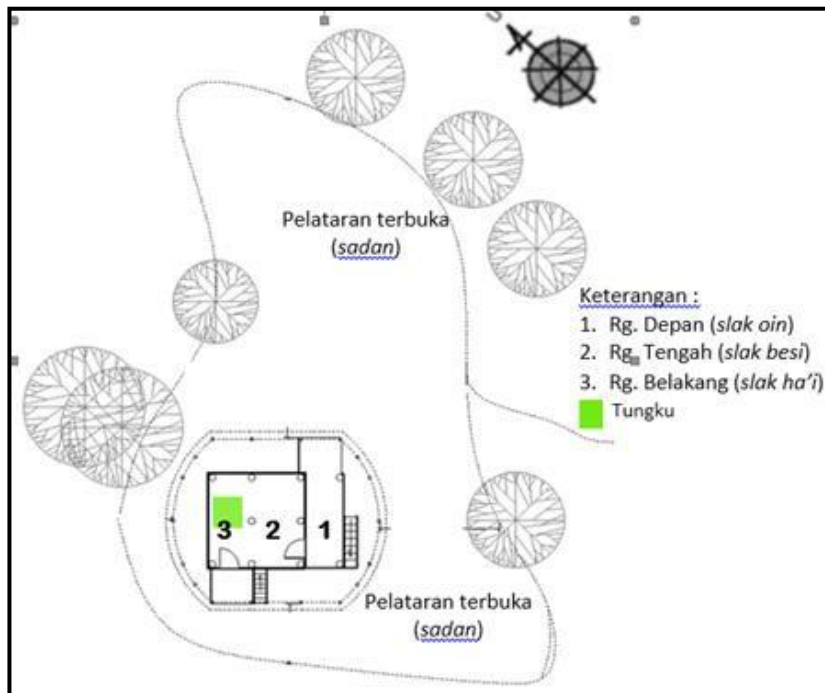
The Head of the Matabesi Tribe (*Fukun*), Wendelinus Manek as well as the Head of the Matabesi Traditional Institute stated that the Matabesi area is ± 1800 Ha which is divided into:

1. Owned Land, in addition to having a certificate, there is also proprietary land that has been distributed and worked on for generations which has not been proven by ownership rights in the form of a certificate with a total area of $\pm 700-800$ Ha) which consists of:
 - a. Settlement,
 - b. Gardens/fields and
 - c. Ricefield.
2. Communal (*Ulayat*) land, a land jointly controlled by the Matabesi tribe members as the living environment for the members of the alliance and a place to take their daily necessities, consisting of:

⁶ <https://kbbi.web.id/kapitan>

- a. Customary Forest covering an area of \pm 1000 Ha;
- b. Pastures covering an area of \pm 60 Ha; and
- c. Matabesi Traditional Village which covers an area of \pm 15 Ha

Figure 1 Spatial Planning of the Matabesi Traditional Village



The picture above shows an outdoor space (open courtyard/ *Sadan*), this space is located at the front of the residence and around the residential environment, which is called *Sadan taulu*⁷, an open courtyard located in front of the traditional settlement of the Matabesi Tribe. *Sadan taulu* has a profane and sacred nature, functioning as a place for a welcoming ceremony. The total area outside the Matabesi traditional village is \pm 15 hectares.

3. There is a customary law order regarding the management, control and use of *Ulayat* land that is valid and adhered to by the citizens of the legal alliance.

In the Matabesi customary law community, there is a customary law order regarding the management, control and use of customary land that is valid and adhered to by the citizens of the legal alliance. For indigenous peoples who wish to use, pick or take forest products, they must obtain permission and approval from *Makleat* as the guardian of customary property, as well as for the use of grazing fields so that *makleats* can monitor animals spared into pastures. The sanctions are given if anyone violates these rules, are:

- a. Mild sanctions (*Ku'u tilun huit hasan*) in the form of pinching the ears and cheeks, for example fighting,
- b. Moderate sanctions (*Tote mean mutin kiuk nolanan, heren nokowa*) feed many people (village communities) such as theft, adultery, abuse, etc.,
- c. Severe sanctions (*Tate koin ukun*) mistakes that are made repeatedly, involving the family to give sanctions.

In addition to sanctions given directly by *Fukun*, there are sanctions that are believed by indigenous peoples to override those who violate the rules or legal norms, namely, they will get bad luck or curses in the form of accidents or other calamities from the almighty.

The norms that become noble values in the Matabesi tribal people include⁸:

- a. *Neter Taek* (mutual respect);
- b. *Notar no Kbadan* (immoral acts);
- c. *Ukun Badu* (obedient to Laws and Regulations);
- d. *Hadomi no Hadosan* (love one another); and
- e. *Hadinan no Haklaran* (mutual respect).

For people outside the Matabesi tribe who want to manage or work on the land, they must go through a ritual (*Ibu katak lia hasara*) or request permission from *Fukun* to cultivate land, both individually owned land and communal or *Ulayat* land in the form of betel nut and make a 200 m long embankment. The ritual *Ibu katak lia hasara* is followed by offerings to the rulers of nature (*Hale ka Kasum*) in the form of: silver money (*Betaka tomak*), betel nut (*Lata takan*) and animals in the form of chickens or pigs.

⁷ Debri A. Amabi and Thomas K. Dima, *Gewang Journal* Vol. 2 No. April 1, 2020, p. 14

⁸ https://id.wikipedia.org/wiki/Desa_Adat_Matabesi, accessed on 2021-11-14

For people outside the Matabesi tribe who want to own property rights or control land in the Matabesi tribe, they must meet the requirements, namely; has been working continuously, getting permission from *Fukun* to carry out tributes in the form of: betel nut and sopi (alcohol).

The Authority of the *Fukun* (the Tribe Chief) as the Right Holder control over Tribal Land

The control rights attached to customary law communities over *Ulayat* land (tribal lands) contain the authority to⁹:

1. Regulating and organizing land use (for settlement, cultivation, etc.) and land maintenancing.
Based on the results of an interview with *Fukun* Matabesi, Mr. Wendelinus Manek said that the authority related to regulating and implementing land use no longer exists, this is because ulayat land has been divided evenly among tribal members. The authority possessed by the existing *Fukun* is related to the use of forest products by tribal members, this is needed to maintain and preserve the customary forests they have. Specifically regarding settlements, *Fukun's* authority is to regulate the construction of tribal traditional houses at the location of the traditional village which is carried out with traditional rituals.
2. Regulating and determining the legal relationship between people and land (granting certain rights to certain subjects).
Individual members of the association are not obliged to provide certain goods for land clearing individually. It is different if those who wish to clear land come from outside members of the association, then the outside members of the association are required to give a kind of gift known as loit benas (money to sharpen a machete), the amount of which is determined based on the area of land to be cleared (per Ha IDR 50,000) and if the land that has been cleared and cultivated has produced various types of crop products, it is also to provide crop yields according to the agreement known as tatam uuut¹⁰.
Meanwhile, people outside the Matabesi tribe who want to take care of or cultivate the land must go through a ritual (*Ibu katak lia hasara*) or request permission from *Fukun* to cultivate land, both individually owned land and communal or communal land, in the form of betel nut and make a 200m long embankment. The Ritual of *Ibu Katak Lia Hasara* is followed by offerings to the rulers of nature (*Hale ka Kasum*) in the form of silver coins (*Betaka tomak*), betel nut (*Lata takan*) and sacrificial animals in the form of chickens or pigs.
3. Regulating and establishing legal relations between people and legal actions relating to land such as: buying and selling, inheritance and others.
For outsider of the Matabesi tribe and within the tribe who want to own property rights or control land in the Matabesi tribe, they must meet the requirements, namely; has been working continuously, getting permission from *Fukun* to carry out tributes in the form of: betel nut and sopi (alcohol).
However, because *Ulayat* land has been completely divided, *Fukun's* authority is to provide legitimacy for buying and selling in the management of property rights certificates in the form of a certificate of land acquisition or the origin of land acquisition. Meanwhile, in managing inheritance, the *Fukun's* task is to ensure the origin of the inherited land and the recipient of the inheritance based on the customary law adopted by the Matabesi customary community.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The conclusion of this paper is:

The Existence of Customary (*Ulayat*) Rights of the Matabesi Traditional Village:

- a. There are tribal chiefs or *Fukun* and their tribal members, totaling 12 tribes and 12 traditional houses located in the Matabesi traditional village consisting of; Uma Isberan or Uma Kakaluk as the center or parent of the twelve tribes, Uma Bot; Uma Bei Hale Uma Bot, Uma Bei Hale Kiik, Uma Bei Bere, Uma Matabesi Kiik, Uma Ba'a, Uma Mahein Lulik, Uma Meo, Uma Manehat, Uma Mane Ikun and Uma Lokes.
- b. There is *Ulayat* land, although the land cannot be divided, it can be used together in the form of: customary forests, grazing fields and traditional villages.
- c. There is customary law even though the ritual is not carried out on *Ulayat* land but is carried out on privately owned land that has been distributed and passed down hereditary.

The Authority of the *Fukun* (Chief of the Tribe) as the Holder of the Right to Control over Tribal Land:

- a. The authority to organize land use is no longer existed due to *Ulayat* lands have been divided among members of their respective tribes. *Fukun's* authority is related to the use of forest products, pastures and traditional villages.
- b. The authority to grant certain rights to certain subjects is exercised on individual lands with the knowledge of the tribal chief as well as making customary rituals in the form of *Ibu Katak Lia Hasara* or requests for permission.
- c. The authority to regulate and determine legal relations and legal actions related to land such as: buying and selling, inheritance and others is to provide legitimacy for buying and selling in the management of certificates of property rights in the form of a certificate of land acquisition or the origin of land acquisition. Meanwhile, in managing inheritance, the *Fukun's* task is to ensure the origin of the inherited land and the recipient of the inheritance based on the customary law adopted by the Matabesi customary community.

Recommendation

Based on the research findings, the following are recommended:

- a. For indigenous peoples to preserve the culture and customs existed in the Matabesi traditional village, so the existence of *Ulayat* rights and the existence of *Fukun* are maintained.

⁹ Sumardjono, M.S.W, ibid

¹⁰ Umbu Lily Pekuwali dan Darius Mauritsius, International Journal of Business, Economics and Law, Vol. 23, Issue 1 (December) ISSN 2289-1552, p. 213

- b. There is a need for legitimacy of customary institutions by local government in the form of regional regulations to avoid conflicts among indigenous peoples.

REFERENCES

- Debri A. Amabi and Thomas K. Dima, *Gewang Journal* Vol. 2 No. April 1, 2020.
- Harsono, B, 1994, *Indonesian Agrarian Law, History of the Formation of Basic Agrarian Laws, Content and Implementation*, Vol. I. National Land. The Jakarta Bridge.
- Syahyuti, *Values of Wisdom in the Concept of Land Tenure according to Customary Law in Indonesia, Journal of the Agro-Economic Research Forum*. Vol. 24 No. 1, July 2006.
- Ter Haar BZN, 1979, *Principles and Structure of Customary Law*, Pradya Paramita, Jakarta.
- Sumardjono, MSW, *Customary Rights and Their Recognition by the Basic Agrarian Law*. Compass. Jakarta 13 May.
- Reinmah, Darius Go (2019-09-27). "Matabesi Traditional Village: An Original Village That Still Maintains Traditions". DAILY VOYAGERS, Retrieved 2021-11-13.
- <https://kbbi.web.id/kapitan>
- https://id.wikipedia.org/wiki/Desa_Adat_Matabesi, accessed on 2021-11-14
- Umbu Lily Pekuwali and Darius Mauritsius, *International Journal of Business, Economics and Law, Vol. 23, Issue 1 (December) ISSN 2289-1552*.

Regulations:

- 1945 Constitution
- Civil Code Law No. 5 of 1960 concerning *Agrarian Principles*
- Government Regulation Number 24 of 1997 concerning *Land Registration*
- Presidential Regulation Number 10 of 2006 concerning *the National Land Agency*.

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