

## Policy Advocacy Strategy for Protecting the Existence of Communal Land Ownership in Investment Activities

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### Abstract

Transformation of communal land ownership rights is prone to conflict. When the nagari community surrenders their communal land to the investor, the nagari receives a fee or bungo for the use of their communal land in the form of a smallholding plantation. Smallholding plantation which should still be communal land managed by nagari if it originates from nagari communal land, but in reality smallholding plantation can be sold and or transferred its ownership to communities outside the nagari. Many losses arising from the transfer of the ownership. On the other hand, the government does not yet have regulations that can prevent and overcome problems as a result of the transfer of communal land ownership. The local government does not yet have a policy that can maintain the existence of communal land ownership rights when the communal land is used for investment activities. For this reason, an effort is needed to change, influence, and urge local governments to play an active role in maintaining the existence of communal land ownership through the formulation and implementation of policies to protect the existence of communal land ownership. In public policy terminology, the effort to take action is referred to as policy advocacy. Efforts to do ad-vocation for this policy are carried out systematically and organized that can be done by individuals, groups, or an organization. As an applied research with a qualitative descriptive method, all data obtained in the field are coded and analyzed. The analysis results produce a conclusion that the advocacy strategy can be started by changing the perception of public problems by pointing out how public issues are perceived by the community, then defining the problem by pointing to the limitation of the problem by the public itself, and finally by mobilizing support for the entry of public issues / problems into government agenda. It is hoped that with this policy advocacy strategy, the problem of the existence of land ownership for investment after the transformation of communal land ownership can be overcome.

**Keywords:** *policy advocacy strategy, ownership, transformation, communal land*

### Introduction

One of the valuable assets owned by indigenous people in West Sumatra Province is communal land. In principle, communal land consists of three types of communal rights namely sub-clan, clan, and nagari communal land (Pador, 2002). In principle, there is no absolute division between the sub-clan, clan, and nagari communal right. However, some people are of the view that the communal land of clans and sub-clan are owned by all members of a clan and sub-clan. Whereas nagari communal land is shared by all the clan leaders in a nagari (Hanida, Rozidateno Putri, 2015). Management and utilization of communal land is aimed at the interests, needs, and for the prosperity of all the community of the nagari. Along with the development and progress in the development process, a lot of communal land is managed through an investment mechanism. Communal land management carried out by this investment mechanism can provide added value. This is because the communal land surrendered to

the investor tends to be broader and generally has not been managed and is the only potential land to be developed.

The tendency of the communal land handed over to the investor is used as plantation land. Solok Selatan Regency is an area that is much targeted by plantation investors. (Hanida, Rozidateno Putri, 2017) explained that one of the causes of Solok Selatan Regency could be the target of investors because of the characteristics of the large communal land and relatively small population and the potential of plantations and mining owned by this area. The distribution location for plantation investment activities in Solok Selatan Regency occurs in the eastern region. If communal land is given to investors who are doing plantation business, then the investors will get a Cultivation Right. This is in accordance with several policies in force including Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (Articles 28-34), Law Number 18 of 2004 concerning Plantations (Articles 11-17), Government Regulation Number 40 year 1996 concerning Cultivation Right, Building Right, and Right of Usage over Land (Article 2-18), and Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 7 of 2017 concerning the Arrangement and Procedure for Establishing Cultivation Rights.

When the period of use of the Cultivation Right has ended, the ownership status of the land will no longer be communal land but instead becomes state land. The change in the status of communal land to state land is of concern to the indigenous people of West Sumatra because the status of communal land as land whose ownership is communally will be lost (Cahyaningrum, 2012). Then for the nagari who hand over their communal land to the investor to be managed as plantation land, the nagari will get a smallholdings plantation as a bungo or fee. However, for the status and ownership rights of this smallholding can be turned into personal rights. This means that smallholdings plantations can no longer be managed by sub-clan, clan, or nagari. As a result, smallholdings can be sold and transferred ownership to communities outside the nagari. Transforming or transferring the ownership status of smallholdings plantation from the nagari community to communities outside the nagari can lead to conflict. Conflict can be caused the results of the use of smallholdings plantation will no longer be enjoyed by the nagari community. Whereas the ownership status of the smallholdings plantation should remain the communal land managed by the sub-clan, clan, or nagari so that the results of the management of the smallholdings plantation can be utilized to fulfill the needs of the nagari community.

(Hanida, Rozidateno Putri, 2016) explained that in Solok Selatan Regency there had been a bad practice of utilizing communal land in investment activities which led to conflicts within the community. This case occurred in Nagari Abai and Nagari Talao. Conflict within the community occur because the community has sold the smallholdings that they get as fees or bungo to other parties who are outside of their possession. Another conflict occurred in Lubuk Batuang and in the some of nagari around the plantation area of PT. RAP. Internal conflicts in the community occur because of improper distribution of money from the sale of smallholdings plantation to the company. On the other side, the Government of Solok Selatan Regency also does not yet have regulations that can prevent and overcome the problems caused by the transfer of communal land ownership. Solok Selatan Regency does not have a policy that can maintain the existence of communal land ownership which is intended for investment activities. The implication is that the use of communal land that is actually used for the interests of the nagari and for the prosperity of all community of the nagari will certainly be difficult to achieve.

## **Method**

This study aims to find a Policy Advocacy Strategy for Protecting the Existence of Communal Land Ownership in Investment Activities in Solok Selatan Regency with using a qualitative approach.

Qualitative research according to (Corbin, 1990) is "qualitatif research we mean any kind of research that produces finding not arrived at by means of statistical procedures or other means quantification". Data collection was carried out using the Rural Rapid Appraisal (RRA) model where data was collected by interview, Focus Group Discussion (FGD), and documents. Interviews in this study were conducted with people at the Office of Investment and One Stop Service of West Sumatra Province, Development Planning Agency of Solok Selatan Regency, the Office of Investment and One Stop Service of Solok Selatan Regency, West Sumatra National Land Agency, Nagari Government, the institution of Nagari Indigenous, Institutions Non-Governmental Organizations (NGOs) and other related parties related to this research topic.

## Results and Discussion

In an effort to change, influence, and urge that local governments can play an active role in maintaining the existence of communal land ownership through the formulation and implementation of a policy on protecting the existence of communal land ownership. In public policy terminology, the effort to take action is referred to as policy advocacy. Efforts to advocate for this policy are carried out systematically and organized which can be done by individuals, groups, or an organization. Policy advocacy is an organized and systematic effort aimed at urging and influencing the occurrence of changes in public policies gradually through all channels and instruments of democracy representing political and legislative processes contained in the prevailing system (Topatimasang, 2007) in (Puspitasari, 2010).

Actually, if the existence of communal land ownership for investment activities can be maintained, it will be able to have a positive impact on the nagari community. Management and utilization of benefit of smallholdings plantation which are used as bungo or fee for the nagari can accelerate the process of development of nagari community. (Hanida, Rozidateno Putri, 2015) explained that of the total investment activities in Solok Selatan Regency, there were only two cases of best practice in the use of communal land for investment. Both cases occurred in Nagari Sungai Kunyit and Nagari Lubuk Malako. The success of these two nagari is inseparable from the efforts made by the nagari community to maintain the existence of their communal land. The management and utilization of smallholdings plantations in Nagari Sungai Kunyit are given based on their respective clans. Whereas in Nagari Lubuk Malako the management of smallholdings plantation was handed over to the nagari government and made it into the village treasury land or tanah kas desa.

In the use of communal land for investment activity, it requires an effort to protect the existence of communal land ownership in investment activities. This can be done through a policy advocacy process. One of the objectives and benefits that can be obtained from the policy advocacy process in the matter of the existence of communal land ownership is to protect ownership rights over communal land, protect assets and resources owned by the nagari community. Therefore, this study tries to explain how policy advocacy strategies can be used to protect the existence of communal land ownership in investment activities. The method used in this research is descriptive qualitative research method. All data obtained in the field is coded and analyzed to produce an in-depth study.

For nagari who hand over their communal land to the investor to be managed as plantation land, the nagari will get a bungo or fee in the form of a smallholdings plantation. However, for the status and ownership rights of this smallholding can be turned into personal rights. This means that smallholdings plantations can no longer be managed by sub-clan, clan or nagari. So that smallholdings plantations can be sold and transferred ownership to communities outside the nagari. Transforming or transferring the ownership status of smallholdings plantation from the nagari community to communities outside the nagari can lead to conflict. This is because the results of the use of smallholdings plantation will no longer be enjoyed by the nagari community. The case of the sale of smallholdings plantation to outsiders has occurred in Solok Selatan Regency. The sale of these smallholdings took place in Nagari Abai and

Nagari Talao. As a result of the sale of smallholdings plantation to outsiders of the nagari is a conflict within the nagari community (Hanida, Rozidateno Putri, 2016).

In the Regional Regulation of the Province of West Sumatra Number 6 of 2008 concerning Communal Land, it has been explained that communal land is an area of inherited land along with the natural resources therein and obtained therein by inheritance is the right of indigenous peoples in West Sumatra Province (Article 1 paragraph 7). Mastery and management of communal land in principle are divided into three types, namely nagari, clan, and sub-clan communal land. The function of communal land is used as a source of capital and economic resources for the community. To carry out the management and arrangement of the communal land is based on the traditional proverb which reads "nan bancah jadikan sawah, nan lereang jadikan parak, ka rimbo babungo kayu, ka sawah babungo padi". The meaning of this traditional proverb wants to explain how to manage the communal land optimally.

Communal land ownership will be given or passed down to generations of children based on the female line (matrilineal). Meanwhile, for the authority in the management of communal land, it is left to the clan leader or niniak mamak in each clan and sub-clan in the nagari. The problem of the loss of the existence of smallholdings plantation as communal land needs to be addressed immediately. An action and effort is needed that is able to change, influence and urge the local government to take an active role in maintaining the existence of communal land ownership. This effort can be done through making and implementing a policy of protection for the existence of communal land ownership. Actions to influence, change, support, and urge the government to be willing to accommodate the interests of a group into a public policy are called the policy advocacy process. (Topatimasang, 2007) in (Puspitasari, 2010) explained that policy advocacy is an organized and systematic effort aimed at urging and influencing the occurrence of gradual changes in public policy through all channels and instruments of democracy representative of political processes and the legislature contained in the applicable system.

The process of developing a strategy for policy advocacy certainly cannot be separated from the public policy process. Therefore, we need an identification and systematic and systemic way to advocate for policies in protecting the existence of communal land ownership in investment activities. The first step that needs to be done is to map the roles of each of the actors involved in the management of communal land in investment activities.

## Conclusions

Policy advocacy for the protection of communal land ownership rights in investment activities can be done to actors who hold status as key stakeholders. One of the roles that can be performed by the Local Government is to facilitate and surrender to the community to regulate the use of the bungo or fee. So at this point the local government can be influenced and urged to provide direction and recommendations to the community and the nagari government to maintain the existence of the smallholdings plantation as a communal land whose ownership is communal. Then it recommends the management and utilization of the smallholdings plantation be used for the common interest in order to accelerate the development of the nagari. The output of this policy advocacy is that local governments can formulate policies on protecting the existence of ownership of smallholdings plantations as communal land in investment activities.

Each stakeholder can also be influenced and urged to be able to coordinate massively in the context of protecting communal land ownership rights in this investment activity. The goal is that the policy advocacy process can be integrated and not partial. Indeed in the context of policy, the Government of West Sumatra Province has sought to maintain the existence of communal land. This effort was carried out through the establishment and implementation of the Regional Regulation of West Sumatra Province Number 6 of 2008 concerning Communal Land and Its Utilization. Then to regulate the use of communal land to investment activities, the Government of West Sumatra Province has also established a technical policy in the form of the Governor Regulation of West Sumatra Number 21 of 2012

concerning Guidelines and Procedures for Utilizing Communal Land for Investment. One of the provisions in this regulation is the Restoration of Communal Land (Article 21). However, the target of this communal land restoration policy is not for smallholdings plantations and cultivation right.

For the mechanism of control over power in providing protection for the existence of communal land ownership in investment activities in Solok Selatan Regency, it must be done in a comprehensive and integrated manner. This is done so that the monitoring process can be carried out systemically and optimally through the involvement of all stakeholders. This control mechanism can be carried out at the nagari government level with the control device in the form of Nagari Regulations concerning the management and use of communal land for the interests of the nagari community. Then supervision can be carried out at the regency government level. The control device used is the regency policy regarding the use of smallholdings plantations as communal land used for the benefit of the community. In addition, it can also be through the regency's regional policy on the recovery of communal land, this policy can be in the form of a Regency Regulation. Finally, control can also be exercised at the provincial government level with the means of control in the form of provincial regional policies on communal land.

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