



The Tenure Pattern of the Baduy Customary Law Community as A Role Model for Maintaining Customary Rights to Land

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Abstract. The lifestyle of the Baduy customary law community is largely shaped by rules and norms that play a crucial role in their social life, fostering homogeneity in behavior and socio-economic practices. These customs help strengthen their community's resilience and ensure a continuous and stable way of life. The rules and norms are encapsulated in customary law, which serves as a protective framework for all residents, guiding them in adhering to their rights and obligations. The Baduy Customary Law Community has successfully maintained the integrity of its ancestral land, known as Tanah Ulayat. This achievement exemplifies effective protection and management of customary land, which the state should emulate to safeguard the lands of other customary law communities. The Baduy's adherence to customary land tenure practices, upheld for generations, serves as a model amid the prevalent issues of land grabbing by various parties and the state for different interests and purposes.

Keywords: Customary Law, Resilience, Land Tenure.

1 Introduction

There have been signs of disparity in land tenure and ownership ever since the UUPA was passed. It is difficult to establish common ground when comparing the availability of land, a finite natural resource, to the population growth and diverse ways in which their requirements for land are being met. Put differently, not everyone has had equal access to the acquisition and use of land for the fulfillment of fundamental human needs because, among other reasons, there exist disparities in the availability of wealth and political influence.

The challenge that emerges is how precisely the concept of the greatest prosperity of the people—which forms the foundation of the UUPA—is understood and appropriately translated in various policies that pertain to or support the land sector. It appears that contemplating fundamental issues is a better course of action than merely enumerating the many flaws in the UUPA's implementing rules. However, more than that, consideration must be given to the caliber of the policies created as well as the number of rules that are still required.

Presumably this sociologically, will be further complicated by the issuance of various deregulation and bureaucratization policies in the land sector to welcome the era of free trade. Awareness of the importance of reforming in various fields in an effort to find a way out of the economic crisis, as well as horizontal land disputes that began to be felt at the end of 1977, has encouraged thinking towards policy reform in the land sector [1]. Such dynamic developments, whether desired or not, lead to the need for conceptual thinking in order to fill and anticipate the development of land law responsibly.

The important position of land in society, especially indigenous peoples, shows the appreciation of indigenous peoples in interpreting land. Even in defending the land must be defended even to death, no matter the spilled blood caused by it. This shows that every inch of land is shrouded in the dignity and honor of its owner. Land according to the peasant community is a matter of life and death (survival) interests, self-esteem, existence, ideology and values.

Today's land conflict arises from a huge demand for land for government projects, such as infrastructure development and private enterprise projects. Some government policies and attitudes in development that are solely oriented towards pursuing economic needs using a government-based development paradigm through the support of repressive legal instruments are the cause of damage and pollution of natural resources that will systematically destroy the culture of indigenous peoples whose lives are very dependent on the land [2].

Due to the inherited and unbroken external and internal relationship between the customary law community and the territory in question, certain customary law peoples are endowed with the authority to use natural resources, including land, within those areas for the purpose of their survival and means of subsistence. This authority is known as customary rights [3].

The lines that become boundaries and guidelines for life are interrelated in a strand of life events, between humans and nature and their contents. This is the character of the Baduy customary law community, which has one uniqueness in traditional traditions they are different from other inland tribes in Indonesia. The word "Baduy" was used to refer to the community by outsiders, beginning with the label applied by Dutch academics who appeared to associate them with the Bedouin Arab population, who lead a nomadic lifestyle. The existence of Mount Baduy and the Baduy River in the region's northern portion provides still another explanation. They themselves choose to identify as "Kanekas people" or *urang Kanekas* in accordance with the name of their town, such as *Urang Cibeo*, or the name of their province. When tourists visit the Baduy area, the locals there are happy to have them. Cross-cultural dialogue is fostered during interactions between visitors and the Baduyan people so that both groups can learn about one another's cultures. Intercultural communication includes contact between individuals with various cultural origins [4].

The livelihood of the Baduy Tribe in general only utilizes nature but without damaging it. Its fertile and abundant nature makes it easier for the Baduy customary law community to produce daily needs. The Baduy people, who follow traditional law, often plants rice, corn, and tubers as their results. Nonetheless, the Baduy Tribe does not cultivate its lands using buffalo or cows in farming methods. To protect their natural state, four-legged animals other than dogs are not allowed to enter Kanekes Village. The Baduy

Tribe's natural preservation method is also highly relevant to the construction of their customary bamboo and wood homes. It can be seen from the contour structure of the soil that is still sloping and not excavated in order to maintain the nature that has given them life.

Regarding the defense of the customary rights of the Baduy customary law community, Regional Regulation Number 32 of 2001 was released by the Lebak Regency Government and the Lebak DPRD in 2001. Their village is usually if not located in a valley, located on a gentle mountain slope near a water source in the form of a lake or large river or spring such as a small river. Looking at the water sources of the population, the villages are divided into two patterns, namely villages near Cinyusu (springs) and villages near rivers (wahangan, waluran). Such village patterns are the general pattern of rural settlements in Indonesia. The water source was used for bathing, drinking water, washing and other necessities of life [5].

Land holds a special place in customary law since it is the only kind of property that, no matter what happens, will always return to its previous state and occasionally even make more money economically. The 1945 Constitution stipulates that the country's strategic location makes it important for the state to manage the land, water, and natural resources within it, and to use them for the maximum benefit of the populace. Customary law is a manifestation of a cognate of ancestral mandates from tribal groups that have lived for generations, to continue to be a guide in determining life attitudes. The lines that become boundaries and guidelines for life are intertwined in a strand of life events, between humans and nature and its contents. Things like this are the character of the Baduy community, which has a unique tradition, different from other inland tribes in Indonesia.

2 Method

This study employs the grounded theory research method, which is an empirical approach to legal research. The method's purpose is to generate hypotheses based on concepts, and others to distinguish between hypotheses by comparing research findings and observing subsequent events to determine how to solve the problem [6].

The sampling method used in this study is the purpose sampling method to be researched and studied cases directed to indigenous peoples who are the focus of research along with related systems and resources. The cases studied and studied are cases through research into the behavior of indigenous peoples in a tiered manner and/or the snowball effect when necessary [7].

In every research activity, research objects or targets are needed using data collection instruments, which are in the form of questionnaires supported by interview techniques. In terms of researchers developing interview techniques as stated by Burhan Bungin who stated: Data collection is carried out by participant observation methods, in-depth interviews, focused group discussions, photography and documentation.

3 Result and Discussion

The Baduy customary law community is a Sundanese community group living in Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province (Local Government of Lebak Regency, 2001). The residential circumstances in Baduy Township are extremely basic, and there are no official education, health, or transportation amenities, nor is there any asphalt or power. Its residents are forbidden by custom to embrace modernism and progress. To reach the location of the settlement, it can only be reached on foot through a path without hardening. The Baduy customary law community occupies an area of 5,101.8 hectares in the form of customary rights granted by the government Jaro Dainah in [8].

The pattern of life of the Baduy customary law community is largely determined by rules and norms that play an important role in the process of their social life, which forms the homogeneity of behavior and socio-economic of the community. The wisdom is that they are able to strengthen the fortress of life of descendants, establish a continuous and dominant life order Rahdi, Citizen of Kampung Gajeboh, Interview 26 September 2020. These rules and norms are described in a customary law, which acts as a protective tool for all citizens so as to be able to lead all citizens to legal order, to be able to comply with their rights and obligations Idi, Warga Kampung Gajeboh, Wawancara 26 September 2020.

Currently, there are clear differences in the lives of the customary law communities of Baduy Luar and Baduy Dalam. Changes in community status have occurred in the lives of the Baduy customary law community. Initially, all Baduy customary law communities had to participate in *asceticism* to protect the nature of their environment; currently only Baduy Dalam has *ascetic duties*, Baduy Luar customary law communities only participate in guarding and helping *the hermitage of the* Baduy Dalam people Arsyad, Warga Ciboleger Interview Date 29 September 2020.

The Baduy Luar customary law community began to be allowed to find land cultivated outside the Baduy area by renting land, sharing production, or buying land from outside communities Rahdi, a resident of Kampung Gajeboh. Loc.cit. To increase their income on their land outside Baduy, it is allowed to plant several types of plantation crops such as cloves, coffee, cocoa, and rubber which in the Baduy area are prohibited. The relationship that is built because of the “business” of renting and buying and selling fields, forms a sufficient interaction between the Baduy customary law community and the outside community Mursalim, Warga Kampung Kaduketug Induk, Wawancara Tanggal 28 September 2020. This interaction has an impact on changing the behavior and lifestyle of the Baduy customary law community.

The Baduy Luar customary law community has started wearing factory-made clothes, mattresses, glasses, plates, spoons, flip-flops, *blue jeans*, soap, toothbrushes, flashlights, and patromax; in fact, quite a lot of Baduy customary law people have used cell phones. The ban on the use of cameras and *video cameras* only applies to the indigenous people of Baduy Dalam; while in Baduy Luar TV stations often expose their lives. Some communities in Baduy Luar already trade in their respective villages. In terms of land ownership, which originally all the land belonged to custom, specifically in Baduy

Luar has become private property and can be sold among Baduy people Uncal, Warga Kampung Gajeboh. Loc cit.

The Baduy customary law community's social and cultural dynamics influence how woods, land, and the environment are managed. The decreasing amount of agricultural land owned by each family due to population growth has long been a source of worry for traditional authorities. The Baduy Luar customary law community who no longer have agricultural land within the Baduy area is required to cultivate land outside the area, while the Baduy Dalam customary law community has begun to shorten the fallow period of their land. The traditional leader of Baduy always reminds all his residents not to open forest land into agricultural land. Deliberation on the ban on forest clearing is always delivered every three months which is attended by all Baduy village heads. The regular meeting was followed by an inspection of all Baduy forest area boundaries to see the condition of the forest and remind all Baduy residents about the boundaries of the forest area.

The increasing population also increases the need for carpentry wood to make houses. One house for the Baduy family requires an average of 300 wooden poles (10 cm x 10 cm x 3 m), 150 wooden boards (10 cm x 2.5 cm x 3 m), 30 pieces of bamboo cubicles (2.7 m x 3 m), 600. Kirai leaf roof sheet, and 30 bamboo sticks for the floor (*palupuh*). Materials for making roofs, cubicles, and floors are not a problem because the amount is abundant and easy to cultivate. The need for carpentry wood is a problem in making houses. Initially, carpentry wood needs can be obtained from his fields that have been *farmed* for more than 10 years. Fields that are *cultivated* for more than 10 years will produce types of wood that can be used for poles such as harp wood, kihiang, and so on. Idi. The people of Kampung Gajeboh. Loc.cit

However, with the change in *fallow* period to 5 years, these types of wood are not yet suitable to be used as poles. To overcome this, the customary rules that originally prohibited planting wood plants in the fields gradually began to loosen. In the last fifteen years, the Baduy Luar customary law community has been allowed to plant wood plants in their fields. The types of wood plants planted by the Baduy Luar customary law community in their fields include sengon, mahogany, African wood, sungkai, aren, and mindi. The woody plants will be cut down at the end of the fallow period. Some of the timber from the logging is used alone and some are sold to outside communities.

In terms of conservation, planting types of wood plants while waiting for the *fallow period* can increase soil fertility and at the same time protect the soil and land from erosion; while from an economic point of view it will increase farmers' income and at the same time overcome the problem of wood shortage. Currently, all land managed by the Baduy Luar customary law community is planted with timber plants whose planting is carried out simultaneously when planting rice. For Baduy Dalam, the cultivation of woody plants in the fields is still prohibited; It's just that people are allowed to take wood in the forest with a diameter limit that can be cut no more than 20 cm.

The Sundanese who reside apart from the general population in Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province are referred to as the Sundanese Baduy community. Other names for them include Kanekes people or Rawayan people. In compliance with Lebak Regency Regional Regulation No. 13 of 1990 and Lebak Regency Regional Regulation No. 32 of 2001 concerning Protection of the Customary

Rights of the Baduy Customary Law Community, the government granted the Baduy customary law community the right to cultivate their land and environment over a total area of 5,101.8 hectares.

For the Baduy customary law community, the granting of customary rights is like recognition given by the Kingdom of Banten in the past, where they have the right to regulate their living order in all matters and once a year pay tribute to the ruler. The top authorities of Cikeusik Village, Cibeo Village, and Cikartawana Village are known as the puuns, and they have the authority over the Baduy customary law community. This unit of puuns is known as the *trias politica*. In the Baduy customary law community village, the system of customary law structure plays a crucial role in safeguarding the interests of all residents within the community and in the preservation of their natural surroundings. Village Chief Kanekes, Jaro Dainah.

The Baduy customary law community does not know the education system or formal schools. Adat forbids its citizens to go to school. They contend that if Baduy people attend school, they will become more intelligent, and intelligent people will only damage the environment in order to get it to alter all established regulations. The education obtained by the Baduy customary law community is mostly carried out through speeches delivered by their parents, especially about great-grandparents *karuhun* (ancestral prohibitions) about how to use the nature of their environment *Uncal*. Warga Gajeboh.

Rice cultivation on dry ground is the primary source of income for the Baduy customary law group. Recently, their farming methods have evolved to include a five-year fallow period, allowing the land to rest and recover. In addition to farming, they engage in various side activities such as making bamboo handicrafts (including *asepan*, *boboko*, and *nyiru*), creating *koja* (bags made from bark), hunting, and foraging in the forest for rattan, *pete*, *ranji*, fruits, and honey. They also build roofs from *kirai* leaves and craft agricultural tools like *cleavers* and *kored*. These activities are typically done during the off-season or in their free time (Interview with Agus Bule in Ciboleger, conducted on September 25, 2020).

The primary livelihood activities of the Baduy customary law community mostly involve managing land for agricultural use (*ngahuma*) and maintaining forests for environmental preservation. As a result, there are three categories of land usage in Baduy: fixed forests, agricultural, and residential property. Both cleared land and land utilized for farming and gardening are considered agricultural land. For example, protected woods (*leuweung kolot/titipan*) and *kampong* protection forests (over time protection forests) surrounding holy springs or mountains (Mt. Baduy, Jatake, Cikadu, Bulangit, and Pagelaran) are examples of fixed forests. This permanent forest is a forest that will always be maintained.

The Baduy customary law community complies very well with applicable laws when it comes to using their environment. Examples of such laws include: (1) it is forbidden to alter the waterway, such as by creating fish ponds, controlling drainage, or establishing irrigation; rice farming is prohibited; (2) it is forbidden to alter the land's shape, such as by excavating the ground to create wells, leveling the land for settlement, or hoeing the land for agricultural purposes. Comparatively speaking, the homes of the Baduy customary law community are similar; the poles are made of wood, the walls

are made of woven bamboo (bilik), the roof is made of kirai leaves (hateup), and the floor is made of bamboo (palupuh). (3) It is forbidden to enter the entrustment forest (leuweung titipan) in order to cut down trees, open fields, or take other forest products. According to Baduy customary law, land usage is divided into two primary categories: cultivation areas (agricultural and residential lands) and environmental protection areas (overtime forests and entrustment woods). Environmental protection zones cannot be used for any kind of activity; Chemical technology is prohibited in four ways: (1) using fertilizers, pesticides, kerosene, bathing with soap, brushing teeth with paste, and poisoning fish; (5) planting crops for plantation cultivation, such as coffee, cocoa, cloves, oil palm, etc.; and (6) keeping livestock with four legs, such as goats, cows, and buffaloes. Mursyid inside [9].

The rules and prohibitions adopted by the Baduy customary law community seem to be impossible in the general public. But this is the reality of the Baduy customary law community, which is not 200 km from the capital city of Jakarta. The meaning of these prohibitions can be felt by the general public today, ranging from dams with floods, rice fields with pests, deforestation with exploitation of natural resources in them, fertilizers and insecticides with pollution, coffee and palm oil with forest clearance, and so on. The wisdom that needs to be taken from the behavior of the Baduy customary law community is simplicity and greed, love the environment, do not change the existing nature just because it is for a momentary pleasure.

The agricultural system in Indonesia and in some agricultural countries in the world has very rarely used the farming system, because with the increasing level of population growth, land empowerment is becoming increasingly ineffective and tends to be environmentally unfriendly. The Kanekes claim that their agricultural method is in line with their worldview and beliefs, which forbid major alterations to the natural order as doing so would result in imbalances in both the micro and macrocosm.

Because they plant in accordance with the existing nature, rice and other plants are arranged according to the slopes there, and terracing is not done, the farming technique does not alter the shape of the environment. Its irrigation system just utilizes the rain that is already falling, not technological irrigation. Because of the belief that altering the direction of river water flow or springs for agricultural purposes will change the shape of nature and possibly cause natural imbalances, it is forbidden to use river water and other spring sources to irrigate rice fields or other fields.

Fertilization and agricultural care are all organic, no chemical elements are used in managing the farm. Land for farming is chosen that has a lot of humus which is usually characterized by the many leaves scattered in the field. The longer the land is not used as a field, the more humus will be in the area and the more fertile. The rice crop is kept in a communal lubung at the periphery of the hamlet. There, superior seeds are kept for planting the next year in addition to rice for a year's supply.

The granary is securely shut to keep animals and vermin away from the rice. Rice granaries cannot be opened without the consent of local authorities involved in the project. The need for rice for daily life, as well as for ceremonies has been planned together so that no family lacks or excess rice supply at home. In terms of agricultural land use as well as residential houses, the Kanekes community does not recognize the concept of individual ownership, everything is group property (communal – communal), the land

there is customary land that is used together, and of course through a regulatory process. In the Kanekes area, there is no system of buying and selling or renting land, what exists is plant ownership. Crops belong to the person who planted while the land remains customary; With this system, adat can control land and its designation. The land that can be used as agricultural land is used in turns by the families there.

The rich biological abundance of Kanekes villages is indicative of the good quality of the environmental conditions there. Kanekes is home to a wide variety of plant and animal species that are unique to the area. The Indonesian government protects some creatures that reside there because they are considered uncommon and wild. Because of their independence, society and the environment interact with each other extremely closely and depend on one other.

The relatively far from modern civilization and the traditional life maintained by the Kanekes community caused them to have distinctive characteristics. The traditional way of life that is loaded with values of tolerance between the socio-cultural, natural, and transcendental environment in the life of the Baduy customary law community is actually a very modern concept; Future orientation as manifested in the rice basin management mechanism is one of the modern criteria; Environmental damage as an indicator of the building community is also well translated by this community in its environmental arrangement.

Protection of the environment is intended to maintain their lives to remain intact and can meet their own needs. Their perspectives on environmental sustainability are similar to those of sustainable development, in that they believe that alterations to the environment or harm to the environment will endanger their source of existence, leading to destitution and various forms of hunger. The Kanekes believe that environmental degradation would lead to their extinction, thus they oppose and even attack outsiders—including the government—who try to enact changes in the area [10].

The guiding principles and way of life in Kanekes serve as the primary tools for managing the environment there; they see themselves as part of the environmental dimension in its entirety. The warnings and messages from their ancestors, which are regarded as a component of belief, indicate that they are the ones chosen to protect the environment, particularly the village of Kanekes, which is one of the centers of nature. These warnings and commissions are so deeply ingrained in the hearts and minds of all Kanekes people that they have a positive impact on all of their subsequent actions. They contend that any harm to the center of the earth would result in natural disasters elsewhere. The Kanekes community, especially its leaders, must be extremely disciplined in protecting the environment in order to prevent harm or natural catastrophes in other areas.

One way to protect nature for future generations is to follow the guideline not to alter any component of the natural world. To preserve customary law and continue to be a part of the outside world, government and customary structures coexist. The Kanekes community's sustainability is largely dependent on the economic principles that are used, which state that all operations should be directed toward meeting basic requirements including clothes, food, and shelter. Non-primary wants are defined as only satisfying emotions or desires that lead to the depletion of natural resources and the perpetuation of social injustice.

Land tenure in the Baduy customary law community complies with Lebak Regent Regional Regulation No. 32 of 2001 on the community's protection of customary rights. It is confirmed in the Regional Regulation's Articles 2 and 4:

Article 2:

The customary rights of the Baduy community are limited to lands in the area of Kanekes Village, Leuwidamar District, Lebak Regency which are measured according to the reconstruction map and stated in the Minutes as the basis for determining the Regent's Decree.

Article 4:

All land allotments for the customary rights of the Baduy Community are fully handed over to the Baduy Community.

According to the article, it is evident that the Baduy customary law community's customary land has been acknowledged by the regional government for its existence. In addition, the community has complete control over the distribution of customary land. The Regional Regulation's presence provides the Baduy customary law community with a legal foundation that acknowledges the existence and advantages of their customary land.

To maintain the integrity of customary land, the Baduy customary law community holds customary provisions that must be carried out by the community. The customary provisions regarding land ownership in the territory of the Baduy customary law community are as follows:

1. Land for the Baduy Luar customary law community cannot be traded either to the Baduy customary law community itself, let alone to people outside Baduy.
2. Inner Baduy residents are only allowed to cultivate land in the Inner Baduy area, while Outer Baduy residents can own land outside the Baduy customary land area.
3. Ulayat Land the Baduy customary law community is only intended for the Baduy customary law community. People outside Baduy are not allowed to use customary land, let alone own land around the Ulayat Land of the Baduy customary law community.

For the Baduy customary law community, there is currently a marriage between members of the customary law community and people outside the customary law community members. For example, the inner Baduy are married to outsiders or the outer Baduy are married to people outside the customary law community. This phenomenon has occurred a lot in the Baduy customary law community. As a result of this phenomenon, the consequences that must be borne by members of the customary law community who do this are:

a. Loss of inheritance rights to land

A member of the inner Baduy customary law community who marries a member of the outer Baduy customary law community, then the inheritance rights of the inner Baduy customary law community member will be lost where he is no longer allowed to own inheritance property in the form of land located in the inner Baduy area. In addition, with the loss of inheritance rights, the person is no longer allowed to cultivate or manage land in the inner baduy area. For members of the inner Baduy customary law community and become members of the outer Baduy customary law community. Likewise, members of the outer Baduy customary law community are married to outsiders who

are not members of the outer Baduy customary law community. For residents of the outer Baduy customary law community, it will automatically be excluded from the customary law community and hereinafter referred to as the Baduy People who are not members of the Baduy customary law community.

b. Loss of ownership of buildings on customary land

Another consequence of marriage with an outsider of a member of the customary law community is the loss of ownership of the building on customary land. Buildings in the form of houses and Leuit (Rice Barns) that were previously owned automatically no longer belong to him. Ownership of the building on the customary land was handed over to other family members who were still members of the Baduy customary law community.

From this explanation, it can be concluded that customary rights are actually rights rather than legal alliances over their territory, including everything (wealth) that is on it. It is guarded by all members of the fellowship community by obeying the rules. Likewise, about its utilization. From this customary right also individual right derive, of course, also with all its arrangements. Thus, it can be established that customary rights fence, permeate and overshadow existing rights, which arise and develop among the members of the alliance concerning land. The existence of the above regulation has also had an impact on not reducing customary land owned by the Baduy customary law community and avoiding the erosion of the vast area of customary land due to the ownership of outsiders from members of the Baduy customary law community.

4 Conclusion

The Baduy Customary Law Community has until now succeeded in maintaining the integrity of its customary land. Customary provisions concerning land ownership in the territory of the Ulayat Land of the Baduy customary law community Land for the Baduy Luar customary law community cannot be traded either to the Baduy customary law community itself let alone to communities outside Baduy, Inner Baduy residents are only allowed to cultivate land in the Inner Baduy area, while Outer Baduy residents can own land outside the Baduy customary land area and Ulayat Land The Baduy customary law community is only intended for Baduy customary law community. People outside Baduy are not allowed to use customary land, let alone own land around Ulayat Land. The Baduy customary law community has succeeded in maintaining the integrity of its customary territory. This is an achievement that must be used as an example by the state in providing protection for customary land belonging to customary law communities. Customary rules carried out by the Baduy customary law community for generations over land tenure are role models for customary land tenure patterns in the midst of the hustle and bustle of customary land grabbing carried out by other parties and the state for various reasons and interests.

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