




Legal Protection of the Pamurbaya Community's Yasan Rights: A Study of Mangrove Conservation and Fish Farmers

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Abstract. This research aims to analyze the legal aspects concerning the community in the East Coast of Surabaya (Pamurbaya) area that controls land based on evidence of Petok D documents or Yasan Rights amidst the policy establishing the Mangrove Conservation Area and Green Open Space (RTH). The method used in conducting the research employs a normative juridical approach through document study and analysis of national land regulations as well as regional spatial planning. The research results indicate that Petok D or Yasan Rights do not possess legal force as evidence of land rights according to Law Number 5 of 1960 on Basic Agrarian Principles (UUPA). Although there are asset legalization programs such as Complete Systematic Land Registration (PTSL) and regulations based on UUPA, their application is limited if the area has been designated as a conservation zone. Therefore, an affirmative policy is required in the form of recognition of existing settlements, granting of limited management rights, and community participation in conservation partnership schemes as a form of just legal protection.

Keywords: Yasan Rights, Mangrove Conservation Area, Legal Protection.

1 Introduction

Nature constitutes a fundamental component in the development of human needs, both on land and at sea. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) serves as the foundational legal basis for state control over natural resources, asserting that the nation's land, waters, and mineral wealth are to be administered by the state and directed toward the greatest possible prosperity of the Indonesian people: a provision that fundamentally underscores the state's obligation to ensure resource utilization remains oriented toward public welfare [1]. Forests, as the lungs of the Earth that are often exploited by humans, are part of these terrestrial natural resources and therefore must be protected, preserved, and properly managed. Flora and fauna, as living organisms, interact and thrive together as an ecosystem within these forests.

As a country located along the equator, Indonesia possesses tropical rainforests [1]. However, among its diverse natural resources, Indonesia also has mangrove forests that

commonly grow in coastal areas. Mangrove forests play a vital role in preventing coastal abrasion and serve as habitats for various marine biota [2]. These ecosystems are utilized by coastal communities as a source of livelihood and economic support. Therefore, the relationship between mangrove forests and coastal communities cannot be separated from economic, environmental, and social dimensions.

Geographically, the City of Surabaya encompasses the East Coast Conservation Area of Surabaya (Pantai Timur Surabaya/Pamurbaya). This area includes the Mangrove Protected Area (Kawasan Lindung Mangrove/KLM), which hosts a wide variety of species such as mangrove trees, marine organisms, birds, and numerous animals and microorganisms that inhabit the ecosystem. Pursuant to Article 1 point 99 of Surabaya City Regional Regulation Number 3 of 2025 concerning Spatial Planning (RTRW), a Mangrove Ecosystem Area is legally defined as an integrated ecological unit encompassing mangrove vegetation alongside associated fauna and microorganisms that thrive along coastal stretches, particularly within tidal areas, lagoons, and sheltered estuaries with muddy or sandy substrates, serving the overarching purpose of sustaining environmental balance. Under this regulation, such areas are officially designated as Green Open Space (Ruang Terbuka Hijau/RTH).

The existence of the Mangrove Protected Area plays an essential role in supporting the local economy of Surabaya, particularly the Pamurbaya community. However, within this area, there are lands that have long been possessed, utilized, and occupied by individuals or local communities for residential and commercial purposes, even before the area was designated as a Mangrove Protected Area. In coastal regions, mangrove forests are crucial ecosystems because they protect the coast from sea waves, erosion, and seawater intrusion. Therefore, the Indonesian government bears a significant responsibility to protect mangrove ecosystems.

Under the constitutional order of the Republic of Indonesia, Articles 27 to 34 of the 1945 Constitution delineate the fundamental rights and duties incumbent upon every Indonesian citizen. Specifically, Article 27 paragraph (2) enshrines the right of each citizen to secure employment and attain a livelihood befitting human dignity, thereby constituting a constitutionally protected entitlement within the social, national, and state dimensions of Indonesian life.

Within this constitutional framework, coastal communities, defined as socially cohesive groups permanently domiciled in coastal regions and characterized by culturally distinctive identities shaped by dependence on coastal natural resources, are accorded equal legal recognition. The statutory definition provided under Article 1 point 32 of Law Number 27 of 2007 as amended by Law Number 1 of 2014 concerning Coastal Area and Small Island Management encompasses both indigenous peoples and local communities residing in such territories. As Indonesian citizens, these communities are therefore vested with identical constitutional rights and protections.

The constitutional recognition of indigenous and local community rights is further elaborated in Article 18B paragraph (2) of the 1945 Constitution, which obliges the state to acknowledge and safeguard the existence of indigenous community units alongside their hereditary rights, on the condition that such rights remain functional and harmonious with prevailing social conditions and the foundational principles of the Unitary State of the Republic of Indonesia, as prescribed by law. This constitutional

clause signifies that the protection afforded to indigenous rights is not static but continues to develop in tandem with evolving societal norms and values.

However, in practice, residents of Pamurbaya have expressed grievances that they cannot obtain land certificates due to the area's designation as a conservation zone. This situation has reduced land value and negatively affected local economic conditions. Despite the significant environmental benefits of mangrove conservation, it often intersects with issues of land ownership rights, particularly those of long established coastal inhabitants.

In Indonesia, such conflicts have become increasingly relevant as more mangrove areas are designated as conservation zones, while many local communities depend on coastal natural resources for their livelihoods. Therefore, it is crucial to further examine the relationship between mangrove conservation and community land tenure (Yasan Rights), and how fair and sustainable management can be achieved through approaches that involve local communities in decision making processes regarding land and natural resource governance. Developing inclusive and community based policies is key to maintaining the balance between environmental conservation and the socio economic sustainability of local communities.

Accordingly, this study seeks to explore the challenges, opportunities, and solutions to address the tensions between mangrove conservation and community land tenure, with the aim of achieving sustainable and inclusive coastal management. For communities lacking formal land ownership documentation, the pursuit of legal certainty and state accountability represents a legitimate expectation rooted in the State's fundamental obligations. This circumstance informs the three core questions addressed in this research: (1) Does the State ensure the protection of community land tenure rights, specifically Yasan Rights, in the context of the establishment of the East Coast Surabaya Conservation Area (Pamurbaya) under Law Number 5 of 1960 on Basic Agrarian Principles (UUPA)? (2) How is legal protection for communities affected by the Pamurbaya Conservation Area upheld in accordance with Article 18B paragraph (2) of the 1945 Constitution? (3) What legal implications does the designation of the Mangrove Protected Area (KLM) hold for the Pamurbaya community?

2 Method

The present study is grounded in a normative legal research design utilizing a literature-based methodology to scrutinize the legal standing and protection of the Pamurbaya community in relation to land tenure under Yasan Rights or Petok D status, particularly in the face of prevailing conservation area designation policies. Primary legal sources, encompassing Law Number 5 of 1960 concerning Basic Agrarian Law (UUPA) and Surabaya City Regional Regulation Number 3 of 2025 on the City Spatial Plan (RTRW), are supplemented by secondary scholarly materials pertaining to Yasan Rights and mangrove ecosystem conservation. The analytical process is conducted through a descriptive-analytical lens that seeks to establish meaningful connections between formal legal provisions and the socioeconomic realities experienced by coastal communities, thereby exposing the systemic tensions faced by the Pamurbaya

community between their land tenure claims and imposed conservation mandates, and ultimately advancing policy recommendations oriented toward greater legal inclusivity and equity.

3 Results and Discussion

3.1 Yasan Land Rights in the Indonesian Agrarian System and Their Relation to Mangrove Conservation

Yasan Rights constitutes a traditional form of land tenure evidence widely recognized among indigenous and local communities in Indonesia, with particular prevalence in coastal regions. Its legal foundation is rooted in Article 5 of Law Number 5 of 1960 on Basic Agrarian Principles (UUPA), which accommodates customary land rights within the national agrarian framework [3]. This entitlement emerges from longstanding communal practices of land management and utilization passed down across generations, notwithstanding the absence of formal registration within the national land administration system administered by the National Land Agency (BPN). In this regard, Yasan Rights serves as both a juridical and customary foundation upon which local communities assert their occupancy and productive use of coastal territories, encompassing mangrove ecosystems and designated green open spaces (RTH).

In East Java, Yasan Rights is commonly referred to as Petok D or Letter D, which serves as proof of land tax payment rather than a formal land title [3], [4]. Yasan Rights derives from communal land utilization and management, often acknowledged by customary law or local government policies. However, this right frequently conflicts with conservation-oriented land use policies that restrict economic activities such as agriculture, aquaculture, or development. The inconsistency between conservation regulations and Yasan Rights often leads to land use disputes and tenure conflicts.

It is important to note that Yasan Rights or Petok D issued before 1960 held the same legal standing as a Certificate of Ownership. However, with the enactment of the Basic Agrarian Law in 1960, particularly Article 2, Yasan Rights or Petok D issued after the enactment of the UUPA no longer constitutes valid evidence of ownership. Instead, it merely serves as administrative proof of land possession, thereby holding a weaker legal status than an SHM. Most land in the Eastern Coast of Surabaya (Pamurbaya) is state owned, formed from coastal sedimentation and mangrove wetlands [5]. Community landholdings in this area are largely based on Petok D, which originates from administrative letters issued by local village offices. Despite being used as a basis for land transactions and property taxation, Petok D does not have legal force as absolute ownership proof comparable to an SHM.

This condition creates legal vulnerability, particularly when zoning changes or conservation designations occur. Local residents often believe Petok D equals an SHM, and due to limited administrative literacy, they are easily manipulated by unscrupulous actors. Land transactions using Petok D are commonly executed without notarial involvement or compliance with spatial planning regulations, leading to conflicts between residents and the city government especially during eviction or demolition of

buildings located in conservation areas. Under Law No. 26 of 2007 on Spatial Planning, land located within conservation zones or ecological green belts cannot be granted ownership rights (SHM). The highest possible legal title is the Right to Build (Sertifikat Hak Guna Bangunan/SHGB), which only grants limited use and management rights [6]. In Pamurbaya, the issuance of SHGBs has caused spatial and legal uncertainty, as some lands originally owned under SHGB were later purchased by the municipal government and converted into Green Open Spaces (RTH). Thus, SHGB functions merely as a temporary usage right over state land, not full ownership. This situation highlights an ongoing conflict between environmental conservation and economic interests. Although Pamurbaya has been designated as a Mangrove Conservation Area under the city's Spatial Plan (RTRW), the issuance of SHGBs has paradoxically facilitated developments that threaten the mangrove ecosystem.

3.2 Legal Protection for Pamurbaya Communities in Relation to Mangrove Conservation

The community's possession of *Petok D* represents long standing de facto land occupation, though not de jure ownership under the UUPA. This raises questions regarding the form of legal protection available to communities who have historically and socially managed the land without formal land certificates [7], [8].

The conditional nature of Yasan Rights recognition under Indonesian constitutional law is firmly established through Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution (UUD NRI 1945), both of which mandate state recognition and protection of indigenous and local coastal community units and their associated customary land rights. The constitutional validity of Yasan Rights is, however, not absolute, its legal enforceability is rendered contingent upon two principal conditions: the continued vitality of the customary community asserting such rights, and the compatibility of those rights with the overarching norms of the national legal order and prevailing human rights principles.

The Constitutional Court Decision No. 3/PUU-VII/2010 further affirms that within coastal and small island areas, traditional community rights, individual rights, and fishermen's customary rights are recognized, along with the preservation of local wisdom [9], [10]. Therefore, constitutional protection for coastal communities extends to safeguarding their human and constitutional rights as guaranteed under the 1945 Constitution.

For communities whose land tenure remains undocumented by formal certification, the Complete Systematic Land Registration Program (PTSL) offers a legally recognized mechanism for obtaining official land status. Established under Article 7 paragraph (3) point (b) of Ministerial Regulation of ATR/BPN Number 6 of 2018, this program is designed to accommodate the registration of previously unregistered land parcels, including those classified under customary, state, and conservation land categories. Through PTSL, holders of *Petok D* may apply for conversion of their land status into SHM or SHGB, depending on zoning and spatial designations. However, legal protection is not automatic lands located in restricted zones such as coastal buffers, conservation areas, or green belts remain ineligible for certification [11], [12],

[13]. In Pamurbaya, this has caused social and legal tensions, as long established communities face eviction risks without adequate compensation. To ensure equitable protection, a multidimensional legal approach is necessary: beyond land certification, regional policies must acknowledge existing settlements, impose moratoriums on eviction, and establish conservation partnership models that allow residents to stay while maintaining ecological sustainability.

3.3 Legal Implications of Mangrove Conservation Zoning for Pamurbaya Communities

Land ownership based solely on *Petok D* creates significant normative legal implications. Under Article 19(2) of the UUPA, *Petok D* is not recognized as valid evidence of ownership. Only land certificates issued by BPN provide legal certainty. Consequently, *Petok D* holders lack legal standing in disputes, face potential eviction, and cannot use the land for legal or financial purposes, such as credit guarantees or lawful inheritance.

Under Articles 23 and 26 of the UUPA, any land transfer must be formalized through a notarial deed before the PPAT and registered with BPN. Hence, land held under *Petok D* does not constitute a full civil law object. Additionally, according to Article 14(1)(h) of Law No. 26 of 2007 on Spatial Planning, coastal buffer zones and conservation areas cannot be privately owned. Therefore, lands within such zones cannot be legalized under SHM or SHGB, and applications for certification will be denied [14]. This legal reality underscores the asymmetry of legal access between local residents and capital owners. While private corporations can easily obtain SHGBs over state lands, local communities face administrative, financial, and institutional barriers. Such inequality contradicts the social justice principle in Article 33 (3) of the 1945 Constitution, perpetuating legal and social marginalization of the poor. In litigation, *Petok D* holders often lose legal standing, as courts require formal proof of ownership [15]. Although some Supreme Court precedents recognize long term possession in good faith, such rulings remain case specific and lack general applicability. Without progressive legal and policy interventions, communities holding *Petok D* or *Yasan Rights* will remain legally vulnerable and risk losing lands they have managed for generations.

4 Conclusion

Within the East Javanese legal tradition, *Yasan Rights* is commonly referred to as *Petok D*: a document whose legal character is strictly administrative in nature, serving exclusively as evidence of land tax payment obligations rather than as formal proof of proprietary land rights. Under the agrarian legal order established by Law Number 5 of 1960 concerning Basic Agrarian Law (UUPA), both *Petok D* and *Yasan Rights* have been effectively divested of their juridical potency as foundations for asserting absolute land ownership claims, rendering them legally insufficient as standalone instruments of title within the current national land registration system. This legal limitation places

coastal communities particularly those residing along the Eastern Coast of Surabaya (Pamurbaya) in a vulnerable legal position, especially when the area is designated as a Mangrove Conservation Area or Green Open Space by the government.

The legal character of Petok D or Yasan Rights is essentially confined to conferring social recognition upon the hereditary occupation of land, without generating sufficiently robust juridical protection against ownership disputes: a limitation that becomes particularly acute in the context of development initiatives and spatial conservation designations. Notwithstanding the formalization objectives pursued through the PTSL program and the UUPA framework, the conversion of such customary tenure into legally recognized ownership cannot be effectuated where the relevant land parcels fall within ecologically designated conservation areas, given that private land ownership within such zones is categorically proscribed by law. Consequently, even though Pamurbaya residents have occupied and cultivated these lands for decades, they continue to face the risk of eviction without compensation.

Within the Pamurbaya coastal context, the granting of Building Use Rights Certificates (HGB) has compounded existing legal inequities and deepened concerns of ecological injustice. By its legal nature, HGB constitutes a limited real right that authorizes the certificate holder to use and develop land for designated purposes, while explicitly withholding the conferral of absolute ownership rights over the underlying land. Moreover, access to Building Use Rights Certificates titles is often dominated by capital owners and developers who possess greater administrative and financial means, thereby marginalizing local communities with limited legal awareness and access to land registration mechanisms.

Therefore, it is necessary to re-evaluate coastal land policies to ensure that the pursuit of conservation and investment does not override the rights and welfare of local communities who have historically inhabited and managed these lands. As part of the state's constitutional responsibility, the government must provide fair and inclusive policy solutions, including: the recognition of existing settlements, the provision of fair compensation for lands converted into conservation zones, and the implementation of partnership based mangrove conservation programs that involve community participation. Such measures would allow environmental conservation efforts to coexist harmoniously with the social and economic sustainability of coastal communities, ensuring both ecological balance and social justice in the implementation of Indonesia's agrarian and spatial planning laws.

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