



The Legal Status of the Customary Law of the Doreri Tribe in the Manokwari Regency within the Statehood of the Republic of Indonesia

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Abstract

The Customary Village is designated by the Regional Regulation of the District/City, which serves as the juridical basis for the recognition of customary law by the community. However, currently, only 2 (two) regencies in the West Papua Province have legitimized this by enacting a Regional Regulation. Based on this gap, this research aims to analyze the legal status of the customary law of the Doreri tribe in Manokwari Regency within the statehood of the Republic of Indonesia. The research method used is socio legal research. The results indicate that, at present, the legal status of the customary law of the Doreri tribe is not in accordance with the 1945 Constitution of the Republic of Indonesia and Law No. 6 of 2014 concerning Villages. Therefore, the customary law of the Doreri tribe lacks a strong juridical foundation because the Doreri tribe only has an association, namely the Empowerment Body for Doreri Community and Youth, with a deed issued by a Notary. This cannot serve as a strong legal basis as it is not recognized as a customary village or a unit of recognized customary law community but only as a legally sanctioned association. Therefore, it is expected that in the future, the Local Government of Manokwari Regency, especially the Regional People's Representative Council (DPRD) of the Regency, will propose a Regional Regulation (Raperda) regarding the recognition of the customary law community of the Doreri tribe.

Keywords: *Legality; Doreri Customary Community; Regional Regulation*

Introduction

Indonesia is one of the countries that employs a Mixed Legal System. This aligns with the writings of Warih Anjari, where Indonesia, as an Eastern country, still strongly adheres to traditional Eastern customs, which are highly sensitive to actions that contradict the moral, religious, and ethical values of society (Anjari, 2017: 329). Although nowadays many are aware of the diverse differences in legal systems, allowing us to observe various legal systems in the world, such as (Ali, 2009:71): *Civil Law* is applied in continental Europe and in all countries that have been colonized by European nations; *Common Law* is applied in the United States, England, and all countries that use the English language (*Commonwealth*); *Customary Law* is applied in some African countries, India, and China; *Muslim Law* is

applied in all Muslim countries, especially in the Middle East; *Mixed system*, one of which is in Indonesia, where a legal system combining Islamic law, customary law, and legislation is applied.

Pancasila, as the foundation of the Indonesian state, fundamentally encompasses the rules of Customary Law, in addition to Islamic Law and National Law, serving as the enduring basis of the state. In the context of the implementation of Pancasila within the customary legal community, indigenous legal communities have not been placed on an equal footing. According to legal regulations, the existence of indigenous legal communities is already protected both constitutionally and through various legal provisions (Bo'a, 2018: 31). Customary law is one of the sources of national law (Sinaga, 2019:6). However, in practical terms, as a source of national law in Indonesia, the existence of customary law is increasingly marginalized, partly because of the perception that customary law is highly traditional and unable to keep up with the developments of the times (globalization and technology) (Abubakar, 2013b:328).

If there is a community inhabiting a territory in the archipelago, then binding themselves into a nation and subsequently forming this country, namely the Unitary State of the Republic of Indonesia (NKRI), in this case, they have indirectly made a choice as a welfare state. This is in accordance with the Preamble of the 1945 Constitution which contains the Fourth Paragraph stating that:

“Then, in order to establish a Government of the State of Indonesia that protects all the people of Indonesia and the entire homeland of Indonesia, and to advance the common welfare, enlighten the life of the nation, and participate in implementing a world order based on freedom, eternal peace, and social justice, the Independence of the Indonesian Nation is formulated in a Basic Law of the State of Indonesia, which is structured in a form of the Republic of Indonesia with the sovereignty of the people based on the One Almighty God, just and civilized humanity, the unity of Indonesia, and democracy led by the wisdom of deliberation/representation, and to realize social justice for all the people of Indonesia.”

In the preamble of the 1945 Constitution above, there are two important aspects in nation-building with the choice of a prosperous state. *First*, related to the goals of the state, namely to protect the nation and its territory, to prosper the people, to enlighten the life of the nation, and to participate in achieving world order based on freedom, eternal peace, and social justice.

Secondly, based on Constitutional Court Decision Number: 35/PUU-X/2012 regarding the Judicial Review of Law Number 41 of 1999 concerning Forestry against the 1945 Constitution of the Republic of Indonesia, in accordance with the state's foundation, namely Pancasila consisting of Belief in the One and Only God, Just and Civilized Humanity, Unity of Indonesia, and Democracy guided by the wisdom of deliberation/representation, as well as realizing social justice for all the people of Indonesia. Referring to these goals and the foundation of the state, the state strives to achieve prosperity by organizing the state (Soemarsono, 2017: 306).

Such is the meaning of the general welfare, aiming to improve the lives of all the people of Indonesia. The people who have affirmed themselves as part of the Indonesian Nation, as stated within article 36A of the 1945 Constitution states that, "The State Emblem is the Garuda Pancasila with the motto *Bhinneka Tunggal Ika*," reflecting the diversity of the people from various backgrounds and groups, encompassing different ethnicities, customs, and religions. Despite their varied origins, traditions, and beliefs, they willingly unite to pledge themselves as one nation, dedicated to building an independent state that protects and improves their well-being. The people, hailing from different ethnicities and groups, bring with them a multitude of customs, cultural practices, and religions that have existed since before the formation of the Republic of Indonesia. Moreover, these diverse elements are respected and acknowledged in their existence and traditional rights as constitutional rights, especially after amendments to the 1945 Constitution.

The protection and recognition of the rights of customary law communities are crucial, as traditional recognition of customary law communities existed even before the establishment of the Republic of Indonesia. However, in the course of development, all traditional rights must align with the spirit and principles of the Republic of Indonesia through all normative requirements in legislation. The presence of customary law seems to be marginalized due to the prevailing notion that customary law cannot address issues in modern society, laden with technological advancements. In reality, customary law is more relevant in resolving horizontal conflicts that arise within communities in a particular region (Abubakar, 2013a: 327).

Based on population projection data by district/city for the period 2010-2020, Papua Barat, a region consisting of 9 sub-districts, 9 urban villages, and 164 villages, with a population of 179,384 people and a land area of 3,186.28 km², presents various aspects of complexity and unique challenges. Despite facing lingering issues, the special autonomy status of Papua Barat deserves positive appreciation (Nursalam, 2011:48).

In this research, the focus of the author is on examining the legality of indigenous communities in the Manokwari Regency of West Papua. The province of West Papua itself comprises 12 regencies and 1 city. Based on the author's investigation so far, legal recognition of customary law in West Papua has only been established through the Regional Regulation of Teluk Bintuni Regency Number 1 of 2019 concerning the Recognition and Protection of Indigenous Communities in Teluk Bintuni Regency, and the Regional Regulation of Sorong Regency Number 10 of 2017 concerning the Protection and Recognition of Indigenous Communities in Sorong Regency.

The author identifies 80 indigenous communities in West Papua. However, in terms of legal recognition, it is based on Law Number 6 of 2014 concerning Villages, specifically in Article 98(1), which states that Customary Villages are designated by Regional Regulations of Regencies/Cities. Furthermore, in Article 99(1), it is mentioned that the merging of Customary Villages can be initiated and agreed upon between Customary Villages. Therefore, the implementation of Article 98(1) and Article 99(1) has been observed in only 2 (two) regencies so far, which have legitimized this through the formation of regional regulations.

A national publication addressing a similar theme to this research has been conducted by Elwi Danil in his study. Specifically, he discusses the constitutionality of applying customary law in criminal case resolutions (Danil, 2012:591). Furthermore, the research conducted by Ida Bagus Alit Yoga Maheswara, Made Gede Arthadana, and Komang Indra Apsaridewi discusses the aspects of the legality of criminal law in conjunction with customary law (Maheswara, & Arthadana, 2020:47). Another national research that addresses the legality of indigenous community land ownership according to agrarian law is conducted by Reggina Renata Tanuramba (Tanuramba, 2019: 28).

An international journal discussing the legality of customary law was conducted by David Otieno Ngira in his research titled *"Plural-legalities and the clash between customary law and 'child rights talk' among rural communities in Kenya."* The research specifically delves into customary law and children's rights (Ngira, 2022:29). Furthermore, the research conducted by Frederick Schauer in his study titled *"The Jurisprudence of Custom"* (Schauer, 2012:528). Another research discussing the principle of legality and its connection to customary law in international criminal law was conducted by Abbas Barzegarzadeh, Mahmood Jalali Karveh, and Leila Raisi (Barzegarzadeh et al., 2016:394).

Based on the exposition regarding the background and comparison with previous research above, the author is interested in conducting research entitled: "The Legality of Customary Law of the Doreri Tribe in Manokwari Regency within the Statehood of the Republic of Indonesia." Manokwari Regency itself serves as the capital of West Papua Province, and among the 6 (six) tribes within Manokwari Regency (Suharyo, 2019:453), The Doreri tribe itself is the largest among the others. Therefore, it is

highly interesting to examine it from a legal and community perspective. This research will specifically address the factual existence of customary law among the Doreri tribe in Manokwari Regency and discuss the legality of customary law among the Doreri tribe in Manokwari Regency within the statehood of the Republic of Indonesia.

Method

This research employs the *Sociological Legal Research* Method. The research specification is descriptive-analytical, and the types of data used are primary and secondary data. The data collection technique utilized is triangulation.

Results and Discussion

1. The Factual Existence of Customary Law of the Doreri Tribe in Manokwari Regency

Manokwari Regency serves as the capital of West Papua Province, with a population of approximately 173,020 people, according to data from the Central Statistics Agency (BPS) of Manokwari Regency. The regency covers an area of about 14,250.94 km² and is comprised of 9 sub-districts, 9 urban villages, and 151 villages. Its northern boundary is adjacent to the Pacific Ocean, the southern boundary borders Pegunungan Selatan Regency, the western boundary borders Tambrauw Regency, and the eastern boundary is adjacent to the Pacific Ocean.

In this province, there are 12 (twelve) regencies and 1 (one) city, namely: Fakfak Regency, Kaimana Regency, Manokwari Regency, South Manokwari Regency, Maybrat Regency, Pegunungan Arfak Regency, Raja Ampat Regency, Sorong Regency, Tambrauw Regency, Teluk Bintuni Regency, Teluk Wandama Regency, South Sorong Regency, and the city of Sorong.

Initially, the Provincial Government of West Papua, local governments of regencies/cities, cultural institutions such as the Majelis Rakyat Papua, Indigenous Peoples Institutions (LMA), Dewan Adat Papua (DPA) Region III *Mnu Kwar*, and even religious institutions, did not have data on the number of ethnic groups in West Papua Province. In other words, encompassing the 12 regencies and 1 city, there was no *database* on the number of ethnic groups in West Papua Province.

Then, in March of the previous year 2020, Adolof Ronsumbre, a lecturer in the Department of Anthropology at the Faculty of Literature and Culture at the University of Papua, completed his book titled "Encyclopedia of Ethnic Groups in West Papua Province." Various research results from both the author and various parties, as well as reports and written documents from regional governments and corporations, were integrated into a single work conducted from 2012 to 2019. The writing process of the book faced numerous challenges, but ultimately, with the publication of this book, it became a valuable resource for identifying the number of ethnic groups in West Papua Province. The book mentions that there are approximately 80 indigenous ethnic groups throughout the entire West Papua Province.

A brief history of the Doreri tribe is as follows: before the arrival of missionary representatives or the introduction of the Gospel to Papua (Irian Jaya) on February 5, 1855, on Mananswari Island, now called Mansinam, and under the influence of the Dutch East Indies government with the appointment of Van Horst on November 8, 1898, as a controller by Residen Horst from Ternate, as stated in Dutch East Indies Government Gazette Number 62 and the Decree of the Governor-General on February 5, 1898, Number 19, there were inhabitants in Manokwari referred to as the Numfor Doreri tribe.

2. The Legality of Customary Law of the Doreri Tribe in Manokwari Regency within the Statehood of the Republic of Indonesia

Furthermore, regarding the legality of the Doreri tribe itself, the researcher obtained interview results from Gaad Hendrik Rumfabe, who is the Chief of the Doreri Tribe. He has long believed that the legality of the customary law community is seen through the registration of a legal entity created by a Notary and approved by the Ministry of Law and Human Rights (Kemenkumham). The name of the organization or association itself is the Empowerment Body for the Doreri Community and Youth (Badan Pemberdayaan Masyarakat dan Pemuda Doreri - BPMPD)(Gilang Ramadhan, 2023). However, as we know, a notary is not authorized to legally establish a customary village. This can be seen in Article 15, paragraph (1) and paragraph (2) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, which states:

Article 15, paragraph (1): A notary is authorized to create an authentic deed concerning all actions, agreements, and determinations required by laws and regulations and/or desired by the parties concerned to be stated in the authentic deed, ensuring the certainty of the deed's creation date, preserving the deed, providing grosses, copies, and excerpts of the deed, all as long as the creation of the deed is not assigned or exempted to another official or person designated by the law.

Article 15, paragraph (2): In addition to the authority as stipulated in paragraph (1), a notary also has the authority to: authenticate signatures and determine the certainty of the date of an underhand letter by registering it in a special book; record underhand letters by registering them in a special book; make copies of original underhand letters in the form of copies containing the descriptions as written and depicted in the respective letters; authenticate the conformity of photocopies with their original letters; provide legal counseling related to the making of deeds; create auction minute deeds.

The applicability of customary law in Indonesia is not because it is established by the state, as establishment is necessary when customary law is a new legal system that did not exist before. However, it should be emphasized that the existence of customary law in the archipelago predates the establishment of the Republic. Customary law in Indonesia prioritizes the interests of the community as a whole (communal) rather than individual interests(Haulussy, Najamuddin, & Idris, 2020: 5192). Based on the 1945 Constitution, especially in Article 18B paragraph (2), it is stated that, "The state recognizes and respects the unity of customary law communities along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia regulated by law." The provisions of Article 18B paragraph (2) of the 1945 Constitution above can be understood to contain the following elements: The state acknowledges and respects customary law. This means that the state not only recognizes the validity of customary law but also plays an active role in the process of developing customary law. For example, it involves revitalizing traditional legal institutions that have long faded due to the dominance of our legal system and state system in the past. The state acknowledges the existence of customary law communities and their traditional rights. This implies that the state is obligated to encourage and, if necessary, actively participate in empowering customary law communities as an essential part of the nation's components. It also involves respecting and preserving all distinctive characteristics as part of the nation's assets: The development of law and empowerment of traditional institutions should have a positive impact so that they can function actively as a filter to counteract any negative impacts of globalization. Customary law communities preserve and exercise their traditional rights while remaining aware of their existence within the framework of the Unitary State of the Republic of Indonesia.

Additionally, in Article 6 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, it is stated that "In the context of enforcing human rights, differences and needs within customary law communities must also be considered and protected by law, society, and the Government." This is in line with the opinions of Moh. Kusnardi and Harmaily Ibrahim, who explain that Indonesian law contains

similarities with the concept of a *Rechtsstaat*, but the most suitable legal state in Indonesia is, of course, a legal state characterized by Pancasila (Kusnardi, 2010:92). The concept of a legal state cannot be separated from discussions about the protection of human rights (HAM). The formulation, respect, and recognition of human rights norms that are *universal, non-discriminatory, and impartial* have taken place in a very lengthy historical process. In this context, it is related to customary law communities.

Law Number 6 of 2014 concerning Villages, in Article 98 (1), states that Customary Villages are designated by Regional Regulations of Regencies/Cities. From this article, we can understand that the recognition of customary law communities can be formalized administratively through the establishment of Regional Regulations (Perda). Therefore, from a juridical perspective, a customary law community can be officially acknowledged.

Furthermore, in Article 99 (1), it is mentioned that the merger of Customary Villages can be done based on the initiative and agreement among Customary Villages. This means that we can observe the implementation of Article 98 paragraph (1) and Article 99 paragraph (1), where only two districts in the Papua Region have so far legitimized this process by establishing regional regulations. This article also provides an option for a customary law community that wishes to join or unite under a Regional Regulation (Perda), provided there is an agreement among the Customary Villages.

Customary law is one of the sources of national law (Diala, 2017:145). In general, customary law is the law that has existed and evolved within a customary law community for a long time, based on the values inherent in that community. Observing the changes in society brought about by globalization and modernity, which can be considered a logical consequence of technological, informational, and transportation advancements, there is a tendency to abandon certain venerable aspects of their culture. The values introduced through globalization and modernity are adopted and used without proper filtering. People may prefer resolving issues in court, even though it implies a significant waste of time and high legal costs compared to resolving disputes through *ninik-mamak* deliberations, which can be done in a familial manner and at a lower cost.

This shift is also evident in the fading kinship systems. While in the past, the family was the primary priority in all matters, it has now shifted towards prioritizing material wealth. In recent years, family fractures are often found to be more caused by property-related issues.

Therefore, the rulers of this country, especially local governments, are expected to provide broader space for the community, particularly village governments, to preserve and maintain the cultural assets and customary law that have been believed and practiced for centuries. This is necessary to ensure that our fears of the effects of globalization are not fully accepted, but are also filtered through customary values. Of course, this should coexist peacefully with national laws. According to Satjipto Raharjo, there are four conditions for the existence of customary law: as long as it is still alive, in line with the development of society, in accordance with the principles of the Unitary State of the Republic of Indonesia (NKRI), and regulated by law.

The selection of the village is more based on sociological and administrative considerations. Sociological considerations are primarily due to the fact that the village is a concrete form of the interacting society itself, where a system of social control and customary law is still effective, particularly starting from the village. Administrative considerations are emphasized because the village is the forefront of governance and, naturally, serves as the front line for the establishment and implementation of laws at the local level. The village is viewed as a territory with its own legal community unit.

However, most importantly, the village, and all local communities in Indonesia, possess strong local wisdom that embodies the spirit of self-sufficiency, balance, and sustainability in managing natural and human resources. Therefore, providing ample space for village institutions and communities to

implement their customary laws and practices is a more appropriate way to respond to and rectify social, cultural, economic, and political damages in the village.

With the enactment of Law Number 6 of 2014 concerning Villages, it is emphasized that indigenous communities, as autonomous legal communities, are regulated in Article 1 number 1 and Article 19. Article 1 defines that a Village is an indigenous village or known by another name, hereinafter referred to as a village, which is a legal community unit with defined boundaries authorized to manage and govern local government affairs based on community initiatives, ancestral rights, and/or recognized and respected traditional rights within the governance system of the Unitary State of the Republic of Indonesia. Meanwhile, Article 19 outlines the authority of the village, including: a. authority based on ancestral rights; b. local authority at the village level; c. authority delegated by the government, provincial government, or district/city government in accordance with the provisions of laws and regulations.

Since the enactment of Law Number 6 of 2014 concerning Villages, it has provided clarity on the status and legal certainty of villages within the Constitutional system of the Republic of Indonesia, aiming to achieve justice for all the people of Indonesia. The existence of this law also encourages initiatives, movements, and the participation of rural communities in developing the potential and assets of villages for mutual prosperity.

The development of villages, as stated in Article 78 of Law Number 6 of 2014, aims to improve the welfare of rural communities, enhance the quality of life, and alleviate poverty by fulfilling basic needs, developing village infrastructure, promoting local economic potential, and ensuring sustainable utilization of natural resources and the environment.

The village development encompasses planning, implementation, and supervision stages. As stipulated in Law Number 6 of 2014, community involvement is emphasized in every phase of development, starting from the planning stage (Article 80), implementation stage (Article 81), and monitoring and supervision (Article 82). In other words, the enactment of this law further strengthens participatory development practices.

Law Number 6 of 2014 concerning Villages has significantly brought changes to the dynamics of the Indonesian State. The Village Law explicitly provides clarity on the village's status within the governance system of the Republic of Indonesia. This clarity of status is of crucial importance as it grants more autonomy to the village to develop its local potential, provide easier access to public services for the community, ultimately leading to widespread prosperity for its people. The regulation of villages aims to (Dewanto, 2015:35): Recognizing and respecting villages that have existed with their diversity both before and after the establishment of the Unitary State of the Republic of Indonesia. Providing clarity on the status and legal certainty of villages within the State system of the Republic of Indonesia to achieve justice for the entire Indonesian people. Preserving and advancing the customs, traditions, and culture of village communities. Encouraging initiatives, movements, and participation from village communities for the development of village potentials and assets for collective well-being. Establishing professional, efficient, effective, open, and accountable village governments. Enhancing public services for village residents to accelerate the realization of common welfare. Improving the social and cultural resilience of village communities to create a village society capable of maintaining social unity as part of national resilience. Advancing the economy of village communities and addressing national development disparities. Strengthening village communities as subjects of development.

The Village Law (UU Desa) can also be considered concrete evidence of the state's commitment to respecting customary law communities through the regulation of customary villages. A customary village differs from a village without the label "customary." A customary village is a legal community that is still alive and does not contradict the interests and principles of the Unitary State of the Republic of

Indonesia (NKRI). The regulation of customary villages in the Village Law also provides juridical protection for the existence of customary law within a customary legal community. In empirical reality, various problems often arise when Indonesian customary law communities confront positive law. In such cases, customary law communities are often in a vulnerable position.

A customary village, in principle, is an inheritance of local community governance organizations that are preserved through generations, acknowledged, and advocated for by leaders and the community of the customary village to function in developing the welfare and socio-cultural identity of the local community. A customary village holds the ancestral rights of the village since its inception as an original community within society. It is a legal community unit with a historical territory and cultural identity formed based on territorial grounds, authorized to regulate and manage the interests of the village community based on ancestral rights (Bhakti, 2017:52).

Customary law has been recognized and upheld by the constitution of the Indonesian nation (Maladi, 2011:427). In essence, the unity of indigenous law communities is formed based on three fundamental principles: genealogical, territorial, and/or a combination of genealogical with territorial. The law regulates the unity of indigenous law communities, which is a combination of genealogical and territorial aspects. In this regard, the state recognizes and respects the unity of indigenous law communities along with their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia (Usman, 2014:28)

A traditional village is a community that highly respects its ancestors and firmly adheres to its customs and traditions. In general, a traditional village is a community that believes fulfilling the legacy of its ancestors, consisting of life values, norms, aspirations, and ideals, is a duty, necessity, and source of pride. Following ancestral traditions means preserving the harmony of the community, whereas violating traditions can disrupt community harmony (Ilmar, 2018:102).

Traditional villages, containing traditional communities, tend to be closed and suspicious of foreign cultural elements, as they are seen as potentially disrupting the harmonious relationships among community members. Violations of existing values and norms elicit strong reactions from community members due to the robust social control within the community. Traditional communities often exhibit a primordial attitude, so any transgressions against traditions may result in sanctions, including expulsion. Sanctions in traditional communities are not only physical punishments but also carry emotional consequences due to the strong interdependence among community members. In general, the characteristics of traditional communities include: The number of its members is relatively small, fostering strong interpersonal relationships among community members. The community is homogenous in terms of ancestry, traditions, and possibly livelihoods. It has established rules that bind its members and are adhered to. They tend to be closed-minded and suspicious of foreign cultural elements. Social life tends to be static (slow to progress). Social mobility is relatively low because they are content with what they already have. They have a strong emotional connection to the natural environment of their place of origin (birth), considering nature as something mighty and inevitable, leading humans to submit to it. Their religious attitude is very strong, with a deep commitment to their beliefs (religion).

Talking about the contemporary era is certainly related to the phenomenon of globalization that is sweeping Indonesia. Globalization can be understood as changes in the economic and social fields combined with the formation of unique regional and global interconnections that are more extensive and intensive than in previous periods. It challenges and reshapes political communities, specifically modern states. Globalization has opened up networks of interaction among individuals, groups, and between countries, bringing political, economic, social, and cultural implications along with science and

technology (PEST) at different levels and intensities. Indonesia, undoubtedly, cannot escape the massive influence of globalization, evident in how people tend to prefer using foreign products and cultures.

Adat village, in principle, is an inheritance of the local community's governance organization, preserved from generation to generation, continually recognized and advocated by leaders and the community of the adat village to function in developing the welfare and socio-cultural identity locally (Diamantina, 2016:37). Based on the four criteria for the recognition of customary law communities mentioned above, we can understand that the customary law of the Doreri tribe can meet the criteria as a customary law community. With the advancement of future technology and the ongoing changes in the times, it does not make the customary law of the Doreri tribe fade away or disappear from its existence, especially if it is documented or enshrined in Regional Regulations (Perda).

Conclusion

Based on the research, it is concluded that the Doreri tribe is a tribe that has existed since the mid-15th century. In its development up to the present, the Doreri tribe has formed an association (legal entity), namely the Community Empowerment and Youth Development Body of Doreri (BMPD). In this case, the formed association has been legalized through the process with a Notary Public and the Ministry of Law and Human Rights.

If analyzed in this research, the existence of the customary law of the Doreri tribe has been recognized as a customary law community that has long existed. However, administratively, the customary law community, especially the Doreri tribe in Manokwari Regency, has not been officially documented as mandated by Law Number 6 of 2014 concerning Villages. Article 98 paragraph (1) of the law states that Customary Villages are determined by regional regulations.

Therefore, the legal status of the customary law of the Doreri tribe does not yet have a juridical basis in accordance with the 1945 Constitution of the Republic of Indonesia and the Village Law. Consequently, in the future, the Doreri tribe can be proposed to be recognized as a customary law community through regulations in the form of Regional Regulations (Perda), allowing the customary law of the Doreri tribe to maintain its existence based on the 1945 Constitution and the Village Law.

Therefore, it is expected that in the future, the Regional Government of Manokwari Regency, especially the Regional People's Representative Council (DPRD) of the Regency, will propose a Regional Regulation (Raperda) regarding the recognition of the customary law community of the Doreri tribe. If other tribes wish to legitimize their customary law through a Regency Regulation (Perda), it can be done based on mutual agreements between the tribes.

References

- Abubakar, Lastuti. (2013). Revitalisasi Hukum Adat sebagai Sumber Hukum dalam membangun Sistem Hukum Indonesia. *Jurnal Dinamika Hukum*, Vol.13,(No2), pp.319–331. <http://dx.doi.org/10.20884/1.jdh.2013.13.2.213>.
- Anjari, Warih. (2017). Eksistensi Delik Adat Dan Implementasi Asas Legalitas Hukum Pidana Materiil Indonesia. *Masalah-Masalah Hukum*, Vol.46,(No4), pp.328–335. <https://doi.org/10.14710/mmh.46.4.2017.328-335>.
- Barzegarzadeh, Abbas., Karveh, Mahmud Jalali., & Rais, Leila. (2016). Principle of Legality and Its Relation with Customary Law in International Criminal Law. *Mediterranean Journal of Social*, Vol.7(No4), pp.390–399. <https://doi.org/10.5901/mjss.2015.v6n5p398>.

- Bhakti, Indira Swasti Gama, and Gunawan, Tri Agus. (2020). Upaya Preventif Aparat Desa dalam Penanggulangan Kasus Kekerasan dalam Rumah Tangga. *Journal of Public Administration and Local Governance*, Vol.4,(No1),pp. 49–64. <https://doi.org/10.31002/jpalg.v3i2.1980>.
- Bo'a, Fais Yonas. (2018). Pancasila sebagai Sumber Hukum dalam Sistem Hukum Nasional. *Jurnal Konstitusi*, Vol.15,(No1), pp.27–49. <https://doi.org/https://doi.org/10.31078/jk1512>.
- Danil, Elwi. (2012). Konstitusionalitas Penerapan Hukum Adat dalam Penyelesaian Perkara Pidana. *Jurnal Konstitusi*, Vol.9,(No3), pp.583–594. <https://doi.org/https://doi.org/10.31078/jk938>.
- Dewanto, Wahyu, and Retnowati, Sofia. (2015). Intervensi Kebersyukuran dan Kesejahteraan Penyandang Disabilitas Fisik. *Gadjah Mada Journal Of Professional Psychology*, Vol.1,(No1),pp. 30–45. <https://doi.org/10.22146/gamajpp.7359>.
- Diala, Anthony C. (2017). The concept of living customary law: a critique. *The Journal of Legal Pluralism and Unofficial Law*, Vol.49,(Vol.2),pp. 143–165. <https://doi.org/https://doi.org/10.1080/07329113.2017.1331301>.
- Diamantina, Amalia. (2016). UU No. 6 Tahun 2014 tentang Desa Sebagai Manifestasi Penegakan Pasal 18B Ayat (2) UUD NRI Tahun 1945. *Masalah-Masalah Hukum*, Vol.45,(No1),pp. 30–43. <https://doi.org/10.14710/mmh.45.1.2016.33-40>.
- Haulussy, Rais Rahman., Najamuddin., Idris, Rabihatun, & Agustang, Andi Dody May Putra. (2020). The Sustainability Of The Sasi Lola Tradition And Customary Law (Case Study In Masawoy Maluku, Indonesia). *International Journal of Scientific & Technology Research*, Vol.9,(No2),pp. 5190–5197. <https://doi.org>.
- Maheswara, Ida Bagus Alit Yoga., Arthadana, Made Gede., & Apsaridewi, Komang Indra (2020). Aspek Legalitas Hukum Pidana Dengan Hukum Adat. *Jurnal Hukum Dan Kebudayaan*, Vol.1,(No.2), pp.44–59. <https://doi.org/https://ejournal.unhi.ac.id/index.php/hkb/article/view/1086>.
- Maladi, Yanis. (2011). Eksistensi Hukum Adat Dalam Konstitusi Negara Pasca Amandemen. *Jurnal Mimbar Hukum*, Vol.41,(No.3),pp. 421–439. <https://doi.org/http://dx.doi.org/10.21143/jhp.vol41.no3.254>.
- Ngira, David Otieno. (2022). Plural-legalities and the clash between customary law and ‘child rights talk’ among rural communities in Kenya. *Journal of Eastern African Studies*, Vol.16,(No.1),pp. 25–46. <https://doi.org/https://doi.org/10.1080/17531055.2022.2070301>.
- Schauer, Frederick. (2012). The Jurisprudence of Custom. *Tex International Law Journal*, Vol.48,(No2),pp. 520–531.
- Sinaga, Erlina. (2019). Politik Legislasi Hukum Tidak Tertulis Dalam Pembangunan Hukum Nasional. *Jurnal RechtsVinding*, Vol. 8,(No1), 1–20. <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v8i1.306>
- Soemarsono, Maleha. (2017). Negara Hukum Indonesia Ditinjau Dari Sudut Teori Tujuan Negara. *Jurnal Hukum Dan Pembangunan*, Vol.37,(No2), pp.300–322. <http://jhp.ui.ac.id/index.php/home/article/view/1480>
- Suharyo. (2019). Perlindungan Hukum Pertanahan Adat di Papua Dalam Negara Kesejahteraan. *RechtsVinding*, Vol. 8,(No.3),pp. 451–472. <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v8i3.330>

Tanuramba, Reggina Renata. (2019). Legalitas Kepemilikan Masyarakat Adat Atas Tanah Ulayat Menurut Hukum Agraria. *Lex Privatum*, Vol.7,(No5), pp.25–33. <https://doi.org/https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/26985>

Usman, Atang Hermawan. (2014). Kesadaran Hukum Masyarakat Dan Pemerintah Sebagai Faktor Tegaknya Negara Hukum di Indonesia. *Jurnal Wawasan Yuridika*, Vol.30,(No.1),pp 26–53. <http://ejournal.sthb.ac.id/index.php/jwy/article/view/74>

BOOKS

Ali, Achmad. (2009). *Menguak Teori Hukum dan Teori Peradilan*. Jakarta: Kencana Prenada Media Group.

Ilmar, Aminuddin. (2018). *Hukum Tata Pemerintahan* (3rd ed.). Jakarta: Prenadamedia Group.

Moh. Kusnardi, H. I. (2010). *Pengantar Hukum Tata Negara Indonesia* (5th ed.). Jakarta: Pusat Studi Hukum Tata Negara Fakultas Hukum Indonesia.

Nursalam, Hilman. (2011). *Kesejahteraan Yang Tersandera: Implementasi Desentralisasi Fiskal dan Otonomi Khusus di Papua*. Yogyakarta: Sonjana.

Interview

Ramadhan, Gilang. (2020). *Hasil Wawancara dengan Bapak Gaad Hendrik Rumfabe sebagai Kepala Suku Besar Doreri*.

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