

Measuring Necessity of Re-engineering of Indonesian Land Tenure System by Customary Land Tenure System: The Case of Province of West Sumatera, Indonesia

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Introduction

Brief Facts on Indonesia's Custom

- Ensuring sustainable development
- Custom utilised as fundamental consideration on foundation of formal land tenure system of Indonesia
- Not practically adopted in formal land tenure system of Indonesia



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Introduction

Main Question

Is it necessary to re-engineer formal land tenure system by custom?



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Brief Fact

- West Sumatera well-known for its customary governmental structure called *nagari*
- Dated from mid 14th century
- The basis of *nagari* governance :
Regulation of Government of Province of West Sumatera no. 9 year 2000 on Principle of *Nagari* Governance

Security of Customary Land Tenure (1)

Possession and utilisation of communal land could be applied both in indigenous community in question and other communities

van Dijk (1954)



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Security of Customary Land Tenure (2)

- Communal right allows member of customary alliance to benefit from communal land and everything attached to it
- these individual rights are in anyways bounded by means of socio-cultural value of communal land
- Customary alliance's chief has full authority to allocate communal land for public purposes



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Linkage to Financial Institution

- *Nagari* has 15 sources of income.
- Not necessarily provide land certificate for accessing credits from local banks, as long as *kepala nagari* (the chief) approves credit application and guarantees sustainability of member of his/her *nagari* regarding the credit application.
- However, the absence of land certificate of estate land has become obstacle on issuance of most types of soft loan



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Linkage to Natural Resources Preservation

- Government of Municipality of Sijunjung (2007): participation on natural resources preservation is low
- This is particularly due to :
 - absence of acknowledgement of local wisdom and rights of indigenous community
 - low standard of living
 - vagueness of boundary between state's land and community's land



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Disputes on Possession and Utilisation of Communal Land

Classified into two:

- Acquisition of customary land by government
- Land tenure system pluralism in Indonesia



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Conclusion (1)

- Land tenure system pluralism is main, hence important rationale, on re-engineering of formal land tenure system of Indonesia
- Customary land tenure system of Province of West Sumatera has been practically ignored
- Customary land tenure system contributes to sustainable development, especially before the period of governance of Dutch Colonial and after 1998 period



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Conclusion (2)

- Indistinct state of customary land in formal land tenure system of Indonesia
- No evidence yet on linkage between customary land tenure arrangement and natural resources preservation



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Conclusion (3)

- Province of West Sumatera provides a good example for initiating the re-engineering of formal land tenure system of Indonesia based on custom



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