

# Reinforcement of the Papuan Traditional Communal Rights for the Control of Land and Natural Resources

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## ABSTRACT

The ulayat rights of Papuan customary law communities over control of land and natural resources are rights granted by laws and regulations with a number of special powers. This study aims to analyze and provide a conception of strengthening the customary rights of the Papuan customary law community to control over land and natural resources. This research method uses a normative-juridical legal research type, which refers to the legal norms of legislation (statute approach), as well as legal theories and principles as supporters. This research is descriptive analytical, using qualitative analysis methods. The results of this study indicate that although the regulation of the customary rights of the Papuan customary law community has been in place for a long time, there are some basic things that need to be considered. Several regulations in the Perdasus do not represent the Papua Special Autonomy Law and tend to be contradictory. These provisions raise a number of problems for the Papuan indigenous peoples with regard to land ownership and the use of natural resources.

**Keywords:** Customary Law, Customary Law Community, Customary Rights of Papua

## 1. Introduction

Indonesia is not only known as a maritime country, but also as an agrarian one in terms of its geographical structure, which is rich in natural resources. Article 33 paragraph (3) of the Constitution of the Republic of Indonesia of 1945, states that, "The earth, water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". This article essentially provides not only for the assertion of Indonesia's sovereignty over its territory, but also as for the implementation of the Indonesian state's authority to ensure protection of natural resources, as well as the citizens of the country.

The wealth of the Indonesian nation is also evident in the diversity of Indonesian cultures consisting of various ethnic groups with their respective local wisdom.<sup>1</sup> The existence and position of ethnic groups in Indonesia, whether consisting of law communities or customary law communities, are recognized and protected<sup>2</sup>, as mentioned in Article 18B paragraph (2), namely, "The State recognizes and respects customary law communities and their traditional rights as long as they exist, and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law".

One of the existing ethnic groups in Indonesia is the customary law community of Papua / West Papua, amounting to more than 200 indigenous tribes, living in seven Indigenous Areas of Papua namely Mamta Region, Saireri Region, Domberai Region, Bomberai Region, Meepago Region, Lapago Region and Ha Area Anim.<sup>3</sup> Article 1 (sub-paragraph p) of Law No. 21/2001 (Gov. Regulations No. 1/2008), and Law No. 35/2008 (hereinafter referred to as the Papua Special Autonomy Law), state that "indigenous peoples are indigenous Papuans who live in the territory and are bound and subject to certain customs, with a high sense of solidarity among its members". Furthermore, some specific issues governing the Papuan indigenous peoples are further regulated in the Papua Special Regional Regulation (Perdasus)<sup>4</sup>.

Basically, a customary law community of Papua in its daily life uses products of forests and rivers<sup>5</sup>, which are considered to be indigenous territories. Control over a certain area, which is the environment of its citizens, includes the right to use the land and all its contents, and is referred to as customary rights<sup>6</sup>. In Article 43 Paragraph (1) of the Papua Special Autonomy Law,

<sup>1</sup> Iskandar J. (2017). Etnobiologi dan keragaman budaya di Indonesia. *Umbara*, 1(1). DOI: <https://doi.org/10.24198/umbara.v1i1.9602>.

<sup>2</sup> Sari, N. L. A. (2020). Pengakuan dan Perlindungan Hukum terhadap Masyarakat Hukum Adat (dalam Perspektif Negara Hukum). *GANEC SWARA*, 14(1), 439-445. DOI: <https://doi.org/10.35327/gara.v14i1.119>.

<sup>3</sup> Deda, A. J., & Mofu, S.S. (2014). Masyarakat hukum adat dan hak ulayat di Provinsi Papua Barat sebagai orang asli Papua ditinjau dari sisi adat dan budaya: Sebuah kajian etnografi kekinian. *Jurnal administrasi publik*, 11(2). [Electronic resource] URL: <https://journal.unpar.ac.id/index.php/JAP/article/view/1495> (date of access: 25.06.2021).

<sup>4</sup> Rakia A.S.R. (2021). Kewenangan Khusus Majelis Rakyat Papua Terhadap Pembentukan Perdasus. *JUSTISI*, 7(1), 14-25. DOI: <https://doi.org/10.33506/js.v7i1.1168>.

<sup>5</sup> H. Hermanto Suaib M.M. (2017). *Suku Moi: nilai-nilai kearifan lokal dan modal sosial dalam pemberdayaan masyarakat*. Tangerang Selatan : An1mage, p. 68.

<sup>6</sup> Prasetyo, A. B. (2010). H Hak Ulayat Sebagai Hak Konstitusional (Suatu Kajian Yuridis Empiris). *Masalah-Masalah Hukum*, 39(2), 147-152. DOI: 10.14710/mmh.39.2.2010.147-152.

the rights of indigenous Papuans are not only recognized, respected, and protected but also developed. The development of the rights of indigenous and tribal peoples in Papua and West Papua aims to maintain their existence and prosperity.

The Papua Special Autonomy Law provides for the development of the rights of indigenous Papuan communities within the framework of the special autonomy policy, giving legitimacy to Papuans in terms of control and management of land and natural resources. However, in practice, several problems are found related to overlapping regulations regarding these issues. On the one hand, control is exercised by the state, and on the other hand it is given to indigenous and tribal peoples based on customary rights.

Some of the cases include, for example, the case in Boven Digoel regarding the logging and development of oil palm concession plantations by the MJR company; the land concession case in Boven Digoel district between the government and the MSM, TKU and UNT companies; the concession permit cases in Boven Digoel Regency between the government and the IAL company, and in Mappi Regency between the government and the BMM, MSB and HSS companies.<sup>7</sup> In practice when a customary area is made a concession area by the state, this can ultimately reduce the access of indigenous peoples to managing such areas based on customary rights. Sometimes a permit is also issued to a third party without involving all the relevant indigenous peoples<sup>8</sup>, which results in land disputes. This is caused by differences in attitudes and interests related to land and/or the use of natural resources, either between fellow indigenous peoples and communities, or between customary law communities and the government.

The State of Indonesia in its Constitution as stipulated in Article 18B paragraph (2) declares respect for rights and recognition of the existence of indigenous peoples. This means that the existence of indigenous and tribal peoples is not only recognized, but also developed and strengthened<sup>9</sup>. The need to strengthen the rights of the local population of Papua is of particular importance in the context of recent regional controversies that tend to reduce the confidence of indigenous Papuans in being protected by the country. The task of strengthening the customary rights of the indigenous population of Papua arises not only due to the fact that the Indonesian Constitution provides appropriate guarantees, but also in order to strengthen the confidence of the Papuan population in the Indonesian state.

## 2. Research Methods

In this study a normative-legal method is used that combines the study of legislative norms (statutory approach) with using legal theory and principles as supportive sources. This research is descriptive and analytical, based on qualitative analysis methods.

## 3. Findings and Discussion

### 3.1. Customary Rights to Land of Papua Customary Law Communities

Article 43 Paragraph (3) of the Special Autonomy Law of Papua, states that the exercise of customary rights as long as they exist, with respect to control of the former communal land obtained legally according to statutory regulations, is carried out by the customary authority of the relevant customary community according to the provisions of the local customary law. The right to control the land includes the customary rights of the customary law community and/or the individual rights of the members of the customary law community.

Article 1 of Papua Perdasus No 23/2008, interprets customary community's land rights as a partnership right owned by a certain customary law community over a certain area which is the environment of its citizens including the right to use the land and all its contents in accordance with statutory regulations. At the same time the individual rights of customary law community members over land are the individual rights owned by such members over a certain area which constitutes their living environment including the right to use land and all its contents in accordance with statutory regulations.

The Papua Regional Government is obliged to recognize the existence of customary communities' rights and / or the individual rights of indigenous people over land. Recognition of the customary community's rights is based on the results of research, which involves several parties, namely:

- a. customary law experts;
- b. representatives of customary institutions/ customary elders or customary authorities authorized for customary rights and / or individual rights of citizens of the relevant customary law community;

<sup>7</sup> Greenpeace. (2021). Stop Baku Tipu: Sisi Gelap Perizinan di Tanah Papua. Amsterdam: [Electronic resource] Greenpeace International, p.84-134. URL: [https://issuu.com/greenpeaceinternational/docs/stop\\_baku\\_tipu\\_sisi\\_gelap\\_perizinan\\_tanah\\_papua](https://issuu.com/greenpeaceinternational/docs/stop_baku_tipu_sisi_gelap_perizinan_tanah_papua) (date of access: 25.06.2021).

<sup>8</sup> Sagrim, Moscow, Sumule, A. I., & Ilyai, D. A. Kehadiran Perusahaan Dan Potensi Konflik Agraria Dalam Pemanfaatan Hutan Sagu Alam Di Wilayah Imekko Kabupaten Sorong Selatan Papua Barat-Indonesia (The Presence of Sago Company and The Potential of Agrarian Conflict in The Natural Sago Concession of Imekko at Sorong Selatan Regency, West Papua Indonesia). *Jurnal Manusia dan Lingkungan*, 26(2), 62-73. DOI :<https://doi.org/10.22146/jml.27147>.

<sup>9</sup> Dahlan M. (2018). Rekognisi Hak Masyarakat Hukum Adat dalam Konstitusi. *Undang: Jurnal Hukum*, 1(2), 187-217. DOI <https://doi.org/10.22437/ujh.1.2.187-217>.

- c. non-governmental organizations;
- d. officials of the National Land Agency of the Republic of Indonesia;
- e. officials of the Legal Section of the Regent / Mayor's Office;
- f. officials of forestry and mining agencies; and
- g. officials of other relevant agencies.

The results of the study are then reported to a Regent / Mayor and /or Governor for further determination, whether a particular indigenous community in Papua still exists.

If based on the regulation of the Regent/Mayor and / or Governor it is stated that it still exists, then the customary law community and/or individual members of the customary law community concerned are authorized to carry out management based on customary rights. The management includes:

- a. carrying out the management of customary communities' rights and/or individual rights of customary community members to the land in accordance with customary law in force in the relevant indigenous peoples;
- b. holding consultations with third parties outside the customary law community members who need land for various purposes; and
- c. right to transfer some or all of the customary rights to the residents to be controlled by each citizen as an individual right.

The management of customary communities' rights and / or the rights of indigenous people to land, must not conflict with statutory provisions. In addition, Article 9 of Papua Province Perdasus No. 23/2008 states that the authority to manage customary rights of customary communities and/ or individual rights of indigenous people to land do not apply, in cases provided for by a Special Regional Regulation, to land plots belonging to individuals or legal entities that own such plots in accordance with current legislation.

As mentioned in Article 8 of Perdasus No 23/2008, the management of customary communities' rights and/or individual rights of members of customary communities to land, includes following powers:

- a. to carry out the management of customary communities' rights and/or the individual rights of customary community members to land in accordance with customary law in force in the relevant indigenous peoples;
- b. to hold consultations with third parties outside the customary law community members who need land for various purposes; and
- c. to transfer some or all of the customary rights to the residents to be controlled by each citizen as an individual right.

If the waiver of all or part of customary community or individual customary rights to land is exercised in favor of third parties other than customary law communities for different purposes, then in accordance with Article 8 paragraph (1) subparagraph b, such waiver is subject to the provision of appropriate compensation, the amount of which shall be determined by joint agreement. Customary land rights can also be transferred for temporary use and management by a third party under a lease or an income distribution agreement, or in another agreed form.

In the Law of the Republic of Indonesia No 5/1960 concerning Basic Regulations on Agrarian Principles (UUPA), there are actually no provisions that specifically regulate management rights. In the explanation of the UUPA, it is only stated that: "The state can give such land to a person or legal entity in accordance with the permitted use of the land plot and the needs of this person, for example, with the right of ownership, the right of commercial use, the right to build, the right to use, or provide land for management to a governing body (Department, Bureau, or Autonomous Region) to be used for the exercise of their respective duties".

The right to land management was only provided for in the Regulation of the Minister of Agrarian Affairs of the Republic of Indonesia No 9/1965 regarding the exercise of State ownership rights to land and the implementation of subsequent policies.

When concluding land agreements, the general rules concerning the validity of contracts must be taken into account, in accordance with Article 1320 of the Civil Code of the Republic of Indonesia. An agreement is considered valid if it simultaneously meets the following conditions: (i) the intention of the parties to bind themselves with the terms of the agreement, (ii) the parties have the rights to enter into such an agreement, (iii) the availability of certain goods, more precisely, goods that can be sold and can be the subject of such an agreement, (iv) there is a valid reason for entering into an agreement.

### **Use of natural resources by customary law communities of Papua**

In Article 64 of the Papua Special Autonomy Law, it is stated that the Government of the Papua Province is obliged to carry out comprehensive environmental management taking into account spatial planning, the need to protect living natural resources, non-living natural resources, artificial resources, conservation of living natural resources and their ecosystems, cultural reserves, biodiversity in the context of the climate change, and taking into account the rights of indigenous peoples and to the maximum extent the welfare of the population. This means that the Government of the Papua Province must play an active role in environmental management, including paying attention to the welfare and rights of indigenous peoples in the use of natural resources.

Managing natural resources, both by the provincial and district / city governments, is carried out on regular basis in several stages such as planning, implementation, supervision, and evaluation. This is intended to improve the quality of the use of natural resources and respect the rights of indigenous and tribal peoples. Based on Article 10 paragraph (3) of Papua

Province Perdasus No 22/2008, the type of management of natural resources is chosen in accordance with the provisions of the legislation concerning management of natural resources. In addition, the management and use of natural resources must be based on the provincial spatial plan and Regency/City spatial plan.

As for the use of natural resources by indigenous and tribal peoples, it is carried out by a representative of the customary authority. Customary authority in Papua Province, according to Perdasus No 22/2008, is a member of a customary law community authorized to head such a community in conducting social, economic, political, legal and cultural relations with other parties based on the relevant customary law provisions. Furthermore, as stipulated in Article 5 of the Perdasus of the Papua Province No 22/2008, the rights of the customary authorities are as follows:

- a. to represent a customary community in conducting legal relations in using and transferring customary community rights to another party; and
- b. to make decisions on the use of natural resources based on discussions of community or tribe members.

According to Article 6 of Perdasus of the Papua Province No 22/2008, the obligations of the customary authorities are:

- a. to safeguard and maintain the boundaries of customary land areas bound for the use of natural resources;
- b. to implement cooperation agreements on the use of natural resources based on the approval of indigenous and tribal peoples; and
- c. to implement the agreements specified above in accordance with the provisions of customary law and receive the approval of community members in writing.

Based on Article 12 of Papua Province Perdasus No. 22/2008, indigenous and tribal peoples have the right to use natural resources in the course of business activities. Such activities can be carried out individually or in groups. Use of the natural resources carried out by individuals must aim to meet the economic needs of the household in accordance with the relevant customary law provisions. Whereas according to Article 13 of the Papua Province Perdasus No 22/2008, joint use of natural resources must be carried out through the creation of a business organization belonging to the community of customary law.

### 3.2. Reinforcement of the Customary Rights of the Papuan Customary Community

The control of land and the use of natural resources by the customary law community of Papua and individual indigenous people have been regulated by various legal acts. However, there are some basic things that need to be considered so that the existence of indigenous and tribal peoples as outlined in the Indonesian Constitution was not only the subject of the declaration, but also got comprehensive implementation in practice. In the same way, the provisions of the Constitution are not only declarative, but also require implementation. There are several things that need to be considered with regard to the customary rights of indigenous Papuan communities and individual indigenous people relating to the rights to customary land<sup>10</sup>, < Perdasus No. 23/2008 on the Customary Rights of Indigenous Law Communities and Individual Rights of Indigenous Law Community Members to Land.> as well as the use of natural resources<sup>11</sup>.< Perdasus No. 22/2008 on Protection and Management of Natural Resources of the Papuan Indigenous Law Community.>

First. One of the important elements in the establishment of special autonomy for the Papua Province is the establishment of the Papuan People's Assembly (MRP). This assembly is a cultural representative body of the Papuan Indigenous People (OAP) with a number of authorities related to the protection of OAP rights, based on respect for customs and culture, empowering women, and strengthening religious harmony. This means that the MRP institution is designed to represent the interests of the peoples of Papua. However, in the Perdasus there are no provisions governing the involvement of the MRP in cases related to indigenous population, in particular regarding customary land rights and the use of natural resources.

As a result, all issues related to the use of land and natural resources are resolved at the Government's level based on the provisions of Perdasus. The involvement of the Council in resolving issues related to the use of land and natural resources is limited precisely because it is not authorized to do so according to Perdasus. However, when interpreting the provisions of the Law on Special Autonomy of Papua, which has greater force than Perdasus, one can obviously come to the conclusion that the Council has the authority to protect the rights of the traditional population, especially in relation to the indigenous peoples of Papua.

Second, in Article 9 of the Perdasus No 23/2008 on the customary rights of indigenous law communities and individual rights of indigenous law community members to land, it is stated that: "The authority to manage the customary rights of customary law communities and/or individual rights of indigenous population to land as referred to in Article 8 does not apply to land plots which at the time of the implementation of this Special Regional Regulation already belonged to individuals or legal entities with certain land rights in accordance with statutory regulations."

The essence of this provision is that the rights of individuals and legal entities that are not representatives of the indigenous population of Papua cannot be challenged due to the fact that they already own the land on the basis of certificates obtained in accordance with previously adopted legislation.

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In Papua, there are many cases of land disputes between ordinary citizens or investors and indigenous Papuans<sup>12</sup>. The background of the problem is that the Papuan indigenous people say that the land used for construction by ordinary citizens or investors, although legally owned, in fact belongs to them. Of course, residents or investors who have valid land certificates cannot be sued because of the provisions of Article 9 of Perdasus No 23/2008.

Several questions arise. For example: who issues certificates confirming the rights to land for such citizens or investors; what should be the approach to the land rights of the indigenous peoples of Papua who own it without any certificates? One of the reasons for this situation may be the fact that part of the territory of the traditional indigenous population is uninhabited. Within the framework of law enforcement practice in Indonesia, the term "abandoned land" automatically means that this land belongs to the state. However, according to information from the Head of the Boven Digoel District Forestry Service (KADISHUT), there is actually no abandoned land in Papua<sup>13</sup>. Ownership of land and natural resources of the Papuan people cannot always be proven with a certificate of ownership, because the Papuan people tend to identify their territory based on natural boundaries such as rocks, trees, or mountains<sup>14</sup>.

Third. In Article 6 of the Perdasus of Papua Province No 22/2008, there is a provision that states that "customary authorities are obliged to maintain the boundaries of customary land plots intended for use of natural resources". This provision is understood as customary community ownership of land. This means that customary rulers are obliged to protect areas and forests for the use of natural resources. In a case that occurred in Jair District, Boven Digoel district, a Korindo Group company originating from Korea, burned 57,000 hectares of forest land belonging to the indigenous Mandobo Tribe because it was considered uninhabited<sup>15</sup>. This of course violates the provisions of the Papua Province Perdasus No. 22/2008, because even though indigenous people's lands are given to third parties, Papuan indigenous people do not lose their rights and obligations to preserve their territory in the context of using natural resources.

The tragedy of this land burning occurred because the company or a third party who received the permit were only required to fulfill state administration requirements, but were not required to comply with the requirements of customary law applicable in Papua. This is important because companies or third parties are mostly (or almost entirely) from outside Papua, so they tend not to think that customary law in Papua must be respected based on Papuan rituals or customs.

Fourth, based on Article 13 paragraph (1) of the Perdasus of Papua Province No 22/2008, the joint use of natural resources must be carried out by establishing a business entity belonging to the customary law community, the type of which is adjusted to the legislation. This means that there is only one option for indigenous people in the use of natural resources, namely through business entities. This approach does not take into account the socio-cultural characteristics of the indigenous population of Papua. The establishment of a business entity in Indonesia is carried out within the framework of a modern legal mechanism in accordance with the requirements of the relevant law. The question is, what is the legal instrument for establishing a business entity that is in line with the Special Autonomy Law, especially for the Papuan indigenous people who live by customs and local wisdom? The Papuan indigenous people are used to buying and selling using traditional mechanisms, so they tend not to be too familiar with the mechanism for establishing business entities related to land and the use of natural resources.

Fifth, when exercising their powers to control the use of land and natural resources, traditional communities adhere to the norms of customary law, while both communities themselves and their individual members are usually considered not subjects, but objects of rights. Thus, legal relations with customary communities and individual members of the community arise solely in connection with the use of land and natural resources, in other cases they are treated as objects of legal reality, while the task of developing human resources within communities in order to expand their commercial activities does not arise.

It should be noted that the Papua Special Autonomy Law was adopted in order to provide special powers not only for the purpose of managing the territory, but also for the development of human resources and ensuring the interests of the local population in Papua and West Papua. The indigenous peoples of the Papua should be considered as a community or as subjects of law with all their peculiarities. It is necessary to strengthen the rights of the indigenous population so that traditional communities and individual representatives of the indigenous population could develop in terms of welfare and sovereignty over their customary territories.

Additionally, this will also contribute to the decentralization of the regional governments of Papua and Western Papua, which are given special powers.

In relation to strengthening the Papuan customary law community and Papuan indigenous people, there are several things that can be done. First, Perdasus No. 22/2008 must be reviewed so that it gets in accordance with the substance of the Special Autonomy Law as the legal basis for implementing Special Autonomy in Papua. As already mentioned, the

<sup>12</sup> Sobolim, D. & Terrajana, S. (2019, September 15). Ini sebab banyak terjadi sengketa tanah di Papua. [Electronic resource] Diakses dari :<https://jubi.co.id/ini-sebab-banyak-terjadi-sengketa-tanah-di-papua/> (date of access: 25.06.2021).

<sup>13</sup> Ank. (2016, Oktober). Kadishut Boven Digoel: Di Papua Tidak Ada Tanah Terlantar. [Electronic resource] URL: <https://pusaka.or.id/2016/10/kadishut-boven-digoel-di-papua-tidak-ada-tanah-terlantar/> (date of access: 25.06.2021).

<sup>14</sup> Indriane, N. (2019, December). Sirih-Pinang: Pendekatan Kearifan Lokal Sebagai Resolusi Konflik Non-Kekerasan (Konflik Perluasan Lahan Kelapa Sawit Milik Tanah Adat Suku Iwaro, Sorong Selatan). In *Seminar Series in Humanities and Social Sciences* (No. 1). DOI : <https://doi.org/10.3405/ssihss.v0i1.7482>.

<sup>15</sup> Amindoni, A. & Henschke, R. (2021, November 12). Papua: Investigasi ungkap perusahaan Korsel 'sengaja' membakar lahan untuk perluasan lahan sawit. [Electronic resource] URL: <https://www.bbc.com/indonesia/indonesia-54720759> (date of access: 25.06.2021).



MRP, which is the representative body of OAP, especially with regard to the protection of indigenous people, must be given firm authority to resolve the problems experienced by the indigenous people of Papua. It should also seek to be a mediator between the government and companies or third parties.

Second, it is also necessary to establish at the legislative level the obligation of companies or third parties to comply with the requirements of customary law applicable to the indigenous population of Papua in addition to the state regulatory requirements. The traditional population of Papua follows their own legal customs, so if a third party complies with the requirements of Papua customary law when developing or using land or natural resources, then there will be fewer potential conflicts with the local population, since members of customary communities will be aware that they are respected and their customs are recognized. In addition, it is necessary to strictly observe the regulations concerning sanctions for violation of the rights and customs of local communities based on customary law. This will not only reduce the likelihood of conflict, but also help to increase the confidence of the indigenous peoples of Papua in entering into agreements with companies or third parties.

Third. Perdasus No. 22/2008 should provide for the possibility of concluding agreements between traditional communities and companies or third parties regulated by customary law and traditions of Papua. Such a provision will not contradict Article 1320 of the Civil Code, which provides for discretionary powers for the parties when concluding agreements. In the logic of Article 1320 of the Criminal Code, it is believed that the "rules" for the parties to a transaction are contained in the agreement itself. If, in certain cases, the activities of commercial organizations for the use of land and natural resources should be conducted on the basis of modern regulatory requirements, then the regional Government should on the regular basis assist such organizations in understanding the requirements and customs of the local traditional communities of Papua. This is necessary so that the local indigenous population can become a reliable and trustworthy partner in the use of natural resources.

Fourth. The customary law communities of Papua, individually or in groups, within the framework of transactions on the use of land and natural resources should be considered as subjects of relations. In other words, traditional communities and individual representatives of the indigenous population should "be masters in their country." This applies to the conditions and special powers of the Papua region, the legitimacy of which is provided by the legislature. Within the framework of building legal relations with customary communities and individual representatives of the indigenous population, attention should be paid to the social conditions and traditions that are preserved in the Papuan traditional culture.

## 4. Conclusions

Since the territory of Papua has received special powers by law, the main expected goal is that every aspect of the development of the territory of Papua can be implemented taking into account local characteristics and time needs. Based on the above, it can be concluded that there still are certain unresolved issues that hinder the development and existence of customary law communities in Papua. In terms of regulation, some of the provisions in the Perdasus should be revised in order to bring them into compliance with the requirements of the time. Reinforcement of the customary rights of the customary law communities of Papua is currently becoming particularly relevant, given the decline in the level of trust of the Papuan people in the state.

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