

Establishing Land Rights: The Vital Role of Indigenous Community Institutions in Controlling Land Ownership Certificates

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ABSTRAK

Permasalahan yang ada saat ini terkait hak kepemilikan tanah berkisar pada seringnya keluhan masyarakat mengenai keaslian dokumen pelepasan tanah adat dan beberapa oknum masyarakat adat yang sengaja menjual tanah ulayat yang bukan miliknya. Oleh karena itu, perlu dianalisis peran Lembaga Masyarakat Adat (ICI) dalam mengatasi permasalahan kepemilikan tanah. Penelitian ini bersifat kualitatif, dengan subjek penelitian adalah anggota ICI Desa dan masyarakat adat yang ada di desa tersebut. Metode pengumpulan data yang digunakan meliputi observasi, wawancara, dan dokumentasi. Setelah memperoleh data melalui observasi, wawancara, dan pengumpulan dokumen, maka data tersebut akan melalui serangkaian tahapan analisis yang sistematis. Tahapan tersebut meliputi reduksi data, penyajian data, dan penarikan kesimpulan berdasarkan informasi yang diperoleh dari informan atau narasumber terkait peran Lembaga Komunitas Adat (ICI) dalam mendukung penerbitan sertifikat kepemilikan tanah. Lembaga Komunitas Adat (ICI) Desa mempunyai tiga peran utama yaitu Peran Interpersonal, Peran Informasional, dan Peran Pengambilan Keputusan. ICI berfungsi sebagai jembatan antara masyarakat adat, pemerintah, dan masyarakat umum, dengan tujuan memastikan kebijakan masyarakat adat yang adil dan pro-masyarakat adat. Untuk meningkatkan efektivitasnya, komunikasi dan kolaborasi antara ICI, pemerintah, dan masyarakat perlu diperkuat. Selain itu, harus ada pendidikan dan peningkatan kesadaran masyarakat adat mengenai hak kepemilikan tanah adat mereka.

ABSTRACT

The current issues related to land ownership rights revolve around the frequent complaints from the community about the authenticity of customary land release documents and some individuals within the indigenous community deliberately selling communal land that does not belong to them. Hence, it is necessary to analyze the role of the Indigenous Community Institution (ICI) in addressing land ownership issues. This research is qualitative in nature, with the research subjects being members of the ICI of Village and the indigenous community present in the village. The data collection methods used include observation, interviews, and documentation. After obtaining data through observation, interviews, and document collection, this data will go through a systematic series of analysis stages. These stages include data reduction, data presentation, and drawing conclusions based on information obtained from informants or sources related to the role of the Indigenous Community Institution (ICI) in supporting the issuance of land ownership certificates. The Indigenous Community Institution (ICI) of Village has three main roles, namely the Interpersonal Role, the Informational Role, and the Decision-Making Role. The ICI serves as a bridge between the indigenous community, the government, and the general public, with the aim of ensuring fair and pro-indigenous community policies. To enhance its effectiveness, communication and collaboration between the ICI, the government, and the community need to be strengthened. Additionally, there should be education and awareness-raising among the indigenous community regarding their customary land ownership rights.

1. INTRODUCTION

Merauke Regency consists of 20 districts and shares direct borders with Papua New Guinea (Muchlis & Nurcholis, 2018; Wambrauw et al., 2022). Located in the province of Papua, Merauke Regency's

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geographical coordinates range from 1370 to 1410 East Longitude and 50 to 90 South Latitude. The total land area of Merauke Regency is approximately 46,791.63 km², with an additional 5,089.71 km² of water areas. The coastline of this regency stretches for about 350 km, and its vast river network spans around 770 km. Merauke Regency also boasts 99,974 hectares of mangrove forests and a swampy area covering 1,425,000 hectares, as per data from the Department of Marine and Fisheries in 2011 (Laratmase et al., 2019; Mote & Pengaribuan, 2021; Pramudya et al., 2023). According to the Merauke Data Center for the year 2021, the population of Merauke Regency totals 231,696, consisting of various ethnic groups. The indigenous population of Merauke consists of the Marind Anim ethnic group. The Marind Anim tribe, living in the vast lowlands of southern Papua, covers an area from the Muli Strait (Marianne Strait) to the border between Indonesia and Papua New Guinea. Some of these communities are also scattered around the river basins of Buraka, Bian, Eli, Kumbe, and Maro. Wasur Village, located within the jurisdiction of Merauke District and Rimba Jaya Subdistrict, is a part of their ancestral land. However, to accurately map their customary land, its boundaries start from Wasur Village and extend to the border of Yanggandur Village. This aligns with the natural boundaries that have been passed down by their traditional ancestors. The validity of this customary land is ensured through a process that involves the Indigenous Community Institution (ICI) of Wasur Village, which brings forth competent indigenous witnesses to determine the boundaries of this customary land.

Customary Institutions, as social entities, whether officially established or naturally evolved within the history of a particular community or customary law, have jurisdiction over territory and property rights in accordance with the prevailing customary law. Customary community institutions have authority in addressing issues (Butt & Murharjanti, 2022; Laturette et al., 2021). In addition to the Indigenous Community Institution (ICI), they maintain customary norms and rules to create security, peace, harmony, and prosperity for their residents (Daku et al., 2023; Poudel, 2019; Sri, 2017). This authority is vested in traditional elders or representatives of tradition. The purpose of these customary institutions is to facilitate discussions between customary communities and the government (Sujianto et al., 2019; Wirazilmustaan et al., 2020). However, modernity often brings profound changes to the values, norms, and mindsets of communities. In this process, customary institutions may not align with these changes, risking losing support or legitimacy from communities increasingly exposed to the dynamics of modernity (Hahury et al., 2019; Lau et al., 2020). Therefore, the role of the Indigenous Community Institution (ICI) in Wasur Village is crucial in assisting the government and acting as a partner in efforts to empower, preserve, and develop customary traditions as a recognition of the cultural values of the community.

However, there are several identified problems, one of which is land ownership issues that often occur in the city of Merauke, sourced from data obtained from the Merauke Police Department. Previous study state over the past six years, there have been 77 cases of land disputes recorded as follows: in 2014, there were 12 cases; in 2015, there were 8 cases; in 2016, there were 13 cases; in 2017, there were 8 cases; in 2018, there were 11 cases; and in 2019, there were 25 cases (Purnama et al., 2021). One of the areas contributing to these cases is Wayur Village. In this village, residents often complain about the authenticity of customary land release documents. These documents should be issued by the Indigenous Community Institution (ICI) of Wasur Village but are often forged by others, including counterfeit signatures of legitimate customary landowners and witnesses from the clans. Another phenomenon is that some individuals within the indigenous community intentionally sell communal land that does not belong to them, and the ICI of Wasur Village issues land release documents without verifying the location of the intended land. As a result, conflicts and disputes over land ownership frequently arise, with each party striving to maintain land ownership status, which can hinder the land ownership process effectively (Dewi et al., 2020; Laturette et al., 2021). Based on this issue, the research that needs to be conducted is an examination of the role of the Indigenous Community Institution in addressing land ownership issues.

Several studies related to the role of the Indigenous Community Institution (ICI) include research indicating that it serves as a mediation institution for resolving issues such as land disputes, which previously required police assistance. Some research results suggest that the role of Customary Institutions is to collect and channel community aspirations, which have not been fully implemented (Natalia, 2019; Naufal & Pujiyono, 2021). Other research findings indicate that Customary Institutions significantly influence the preservation of the cultural heritage of indigenous communities in the village (Sonia & Sarwoprasodjo, 2020). Furthermore, research suggests that community institutions contribute to improving the quality of life in the community (Syafri et al., 2021). However, there is also research indicating that the role of the Indigenous Community Institution in resolving customary land disputes in Merauke City is not optimal yet (Purnama et al., 2021). Based on these insights, it can be said that the presence of the Indigenous Community Institution plays a vital role in the lives of the community, assisting in conveying aspirations, facilitating discussions, and helping to resolve land disputes.

This research stands out from previous studies by its specific focus on the role played by the Indigenous Community Institution (ICI) in addressing land disputes. It is committed to delving deeper and considering the impact and contributions brought by the ICI in resolving land disputes, which is a very relevant issue in the context of Wasur Village. Furthermore, the choice of research location is highly tailored to the need for a more specific investigation. In Wasur Village, there are pressing issues related to authorizations granted by certain individuals within the indigenous community who intentionally sell communal land that should not be their ownership. Interestingly, the ICI of Wasur Village is also involved in issuing land release documents without verifying the location of the intended land. The impact of this situation is the emergence of recurring conflicts and roadblocks related to land ownership, ultimately hindering the land ownership process effectively. Therefore, this research will comprehensively analyze all these aspects, aiming to provide a better understanding of the ICI's role in resolving land disputes and offering clearer insights into the dynamics and issues occurring in Wasur Village regarding customary land ownership problems.

2. METHODS

This research will employ a qualitative research method with a descriptive approach. The descriptive research approach is characterized by providing a sequential overview of scientific information derived from research subjects or objects (Sugiyono, 2015). In the context of this research, the descriptive approach will be used to collect and analyse in-depth data about the role of the Indigenous Community Institution (ICI) in resolving land disputes in Asur Village. This method will enable the researcher to provide a more detailed and systematic portrayal of how the ICI operates in the context of land preservation, as well as its impact on the indigenous community and landowners. Through this approach, the research aims to generate a deep understanding of the land environment dynamics in Asur Village, as well as the contributions made by the ICI in addressing them. Data will be collected through various techniques such as interviews, observations, and document analysis to allow for the development of a comprehensive and scientifically grounded overview of the research topic. The primary research subjects are the ICI of Wasur Village, which will be the focal point in understanding how they carry out their responsibilities regarding the regulation and control of customary land ownership. Additionally, this research will also consider other individuals and landowners in the village as additional research subjects, particularly if they play significant roles in the relevant land issues. This can include indigenous community members in Wasur Village who have claims to customary land involved in preservation, individuals or groups intentionally selling communal land that doesn't belong to them, and the Indigenous Community Institution (ICI) in Wasur Village involved in settling these disputes. Furthermore, this research may also encompass the general community or other relevant parties with connections to land preservation issues in the area. With a focus on Wasur Village, the research will examine the role of the ICI and the existing land environment dynamics, providing deeper insights into how issues of customary land ownership are faced and resolved in the region.

In this regard, the researcher will collect data through observation, interviews, and documentation. In this research, the researcher will actively participate in meetings, discussions, or other activities organized by the Indigenous Community Institution (ICI) in Wasur Village. Through observation, the researcher will record behaviors, interactions, and processes within the ICI and how they address customary land ownership issues. Interviews in this research conduct with members of the ICI of Wasur Village and related individuals such as customary landowners. Documentation in this research, the researcher will examine various documents that can provide historical and legal context important for understanding how the ICI is involved in controlling land ownership certificates in Wasur Village.

After the data is obtained through observation, interviews, and document collection, the data will go through a systematic series of analysis stages. These stages include data reduction, data presentation, and drawing conclusions (Rijali, 2019) based on information obtained from informants or sources related to the role of the Indigenous Community Institution (ICI) in supporting the issuance of land ownership certificates, particularly in the ICI of Wasur Village, Merauke District. Throughout the entire analysis process, it is important to maintain objectivity and accuracy to ensure that the research findings accurately represent the data obtained. The conclusions derived from this research will be a significant contribution to further understanding the role of the ICI in regulating customary land ownership in Wasur Village, Merauke District.

3. RESULTS AND DISCUSSIONS

Results

The research findings have shown that Indigenous Community Institutions (ICI) play a central role in the lives of indigenous communities in Indonesia. This concept is well-documented within the legal

framework, such as Law Number 6 of 2014 concerning Villages and Ministry of Home Affairs Regulation Number 5 of 2007 concerning Guidelines for the Organization of Community Institutions. According to these laws, Indigenous Community Institutions are community organizations that grow and develop within indigenous communities with jurisdiction over customary law and rights to wealth within that customary law. They have the right and authority to regulate, manage, and resolve various issues related to customs and customary law.

The presence of Indigenous Community Institutions reflects not only a rich cultural and customary heritage but also has a significant impact on maintaining the integrity and sustainability of the environment. Understanding the roles is a key aspect of understanding how Indigenous Community Institutions operate within indigenous communities. This understanding includes understanding of the obligations, rights, attitudes, feelings, and expectations associated with the roles played by individuals or institutions within the community. In the context of Indigenous Community Institutions, understanding roles means that they must perform customary and traditional functions in line with the established values and norms within the indigenous community. They must also collaborate with village governments and serve as partners in preserving and developing customary traditions as an essential part of the identity and aspirations of indigenous communities.

For example, the role of Indigenous Community Institutions may involve regulating the ownership of customary land, which is a vital asset in the culture and life of indigenous communities in Indonesia. With a strong understanding of their roles, Indigenous Community Institutions can uphold the integrity of the environment and carry out their customary functions effectively, contributing to the preservation of culture and the environment in their customary lands. Thus, understanding roles and the existence of Indigenous Community Institutions are essential aspects in safeguarding the survival of indigenous communities and ensuring sustainable natural resource management. This concept holds deep significance in the context of environmental protection and the preservation of indigenous cultural heritage in Indonesia.

Understanding roles in the context of an institution, such as the Indigenous Community Institution (ICI), is crucial for fulfilling responsibilities and meeting expectations in alignment with those roles. One critical aspect of the role of LMA is related to the issuance of land ownership certificates, which provide significant guarantees for the rights of indigenous communities. The roles of the Indigenous Community Institution (LMA) in Kampung Wasur can be categorized into three main dimensions as show in [Table 1](#).

Table 1. The roles of the Indigenous Community Institution (LMA)

No.	Dimension	Meaning
1	Interpersonal Role	The role of LMA in Kampung Wasur goes beyond being leaders who provide guidance to indigenous communities. They also serve as respected figures and mediators in resolving issues related to land ownership. Especially in the context of indigenous communities with strong kinship systems, the role of LMA as community leaders and intermediaries between indigenous communities, the government, and the general public must be carried out with great care
2	Informational Role	The role of LMA in Kampung Wasur related to information encompasses a broader dimension than just issuing land release certificates. They also function as receivers and collectors of as much information as possible related to land ownership status. This includes emerging social issues, events related to land status, and credible sources of information
3	Decisional Role	The role of LMA in Kampung Wasur as decision-makers in issuing land release certificates is crucial in ensuring that decisions are based on accurate and reliable information regarding the transfer of indigenous land to individual ownership

Base on [Table 1](#), in this context, LMA Kampung Wasur needs to perform their roles with integrity and transparency. They should conduct thorough evaluations of claims to indigenous land ownership, involve indigenous communities in the decision-making process, and ensure that land release certificates are issued in compliance with customary law and applicable regulations. In summary, based on the information provided, there are three roles of LMA in Kampung Wasur: Interpersonal Role, Informational Role, and Decisional Role. These roles collectively contribute to the effective management of indigenous land ownership and the preservation of indigenous rights and customs.

Discussion

The interpersonal role as role of the Indigenous Community Institution (Lembaga Masyarakat Adat or LMA) in Kampung Wasur extends beyond that of leaders providing guidance to indigenous communities. They also serve as respected figures and mediators in resolving various issues related to indigenous land

ownership. In the midst of an indigenous community with a strong partnership system, the role of LMA as community leaders and intermediaries between the indigenous community, the government, and the general public must be carried out with great care and wisdom. The presence of LMA as community leaders is key to maintaining unity within the indigenous community. They are figures respected and respected by all members of the indigenous community, and the decisions or actions they take have a significant impact on the unity and stability of the village (Wirantari, 2020; Wu & Nian, 2021). LMA must ensure that all decisions they make always prioritize the interests of the indigenous community as a whole, and they must operate within the framework of long-established customary values. As intermediaries between the indigenous community, the government, and the general public, the role of LMA also requires them to have strong communication skills (Haddad, 2023; Herman, 2022). Interpersonal communication is not just about providing information or influencing behavior but also about listening, understanding, delving deeper, and contextualizing for change (Laksana & Fadhillah, 2021; Prasetyo et al., 2022). With good communication skills, they can ensure that the voice of the indigenous community is heard in the policy-making and decision-making processes related to land ownership. The essence of the role of LMA in Kampung Wasur in the Interpersonal Role is to ensure that every step they take will always prioritize and respect customary values while ensuring that their actions do not harm any party. This will ensure that the indigenous community retains control over their ancestral land and preserves their culture and environment effectively.

The informational role as role of the Indigenous Community Institution (ICI) in Kampung Wasur is not limited to issuing customary land release certificates. They also play a crucial role in gathering and providing information related to land ownership status. LMA serves as information keepers that encapsulate emerging social issues, events related to land status, and are reliable and accountable sources of information (Iskandar et al., 2023; Jan Slikkerve, 2019). The information successfully collected by ICI Kampung Wasur was then carefully analyzed and disseminated back to the community as part of their role in providing accurate information. This process is often carried out through open letters addressed to the indigenous community, government and the general public. These open letters can be distributed through various media, including print, electronic, and online platforms. The primary goal of these efforts is to ensure that every customary land release certificate issued is based on accurate and valid information, thereby serving as a strong basis for land ownership certificates. Therefore, the role of the Indigenous Community Institution becomes crucial in maintaining the integrity of information related to land status. Furthermore, ICI Kampung Wasur also demonstrates openness to the use of technology in information development. They recognize that with the help of technology, information can be obtained more accurately and quickly. This not only enhances the effectiveness of their role but also improves the efficiency in managing information related to land status. In other words, the presence of technology facilitates and enhances the performance of an institution (Agyabeng-Mensah et al., 2019; Tashtoush, 2021), in this case, ICI. Therefore, the role of ICI Kampung Wasur in providing information related to land status becomes increasingly crucial and modern.

The decisional role as role of the Indigenous Community Institution (ICI) in Kampung Wasur as decision-makers in issuing customary land release certificates is crucial to ensure that decisions are based on accurate information regarding the transfer of customary land to individuals. In other words, ICI has full authority to make decisions while preserving customs and culture. Furthermore, ICI can also provide opinions on the actions taken by the local government, and they have the authority to halt an activity if it is deemed inconsistent with customary law (Novia, 2022; Yusuf & Effendi, 2021). In this condition, the government authorities cannot override decisions made by the customary institutions (Nawir, 2019; Nurohman & Gunawan, 2019). It is well-known that the existence of customary institutions binds all decisions made by village governments to the prevailing customs and culture (Muskiabah et al., 2020; Sahyudin & Karsadi, 2019; Yusuf & Effendi, 2021). These statements actually illustrate that an institution, whether it is a customary institution, a government institution, or a company, will have a positive impact on its sustainability if it operates holistically with customs and culture (Golob & Podnar, 2019; Iglesias et al., 2020; Vallaster et al., 2023). The decision-making process by ICI must consider essential aspects such as consultations with the indigenous community, the application of customary law principles, and a deep understanding of the land rights of the concerned customary land. In this context, ICI Kampung Wasur needs to perform their role with integrity and transparency. They must conduct a thorough evaluation of claims to customary land ownership, involve the indigenous community in the decision-making process, and ensure that customary land release certificates are issued in compliance with customary law and regulations. Furthermore, ICI should have a robust monitoring and enforcement mechanism to ensure that customary land is not transferred without valid permission. This will help protect the continuity of customary land ownership rights and prevent land encroachment or speculation that could harm the indigenous community. By careful and principled decision-making, the Kampung Wasur LMA can play a

crucial role in safeguarding and ensuring the ownership of customary land rights while promoting their cultural heritage and customs fairly and sustainably.

The statements above provide an overview that the role of the Indigenous Community Institution (ICI) in determining policies related to customary land release certificates, which serve as the basis for land ownership certificates, is crucial and requires effective implementation. ICI Kampung Wasur must be able to express their opinions firmly and efficiently as intermediaries between the indigenous community, the government, and the general public. The goal is to ensure that every policy produced is fair, does not harm any party, and always prioritizes the interests of the indigenous community. Furthermore, ICI Kampung Wasur must remain open to the changes of the times while preserving and respecting their customary values, traditions and culture. Constraints related to the lack of incoming and outgoing information flow must be promptly addressed, as this can hinder the role of the LMA in resolving customary land issues and the land ownership certificate issuance process. To encourage the role of ICI Kampung Wasur to move in a positive direction, sustainable cooperation is required between ICI, the government, and the general public in providing accurate information about the legitimate status of customary land ownership. The awareness of the indigenous community not to sell customary land that does not belong to them is also a key factor. ICI Kampung Wasur must demonstrate firmness in taking action against those intentionally selling customary land that is not their ulayat rights, thus preserving the integrity and desires of the land rights of the community.

In order to strengthen the role of the Indigenous Community Institution (ICI) of Kampung Wasur and ensure the protection of their customary land rights and cultural heritage, several recommendations can be implemented. Firstly, the ICI needs to establish closer partnerships with local governments, legal institutions, and relevant organizations to gather more comprehensive information and secure robust legal support. Additionally, providing training to ICI members and indigenous communities on land ownership rights, legal processes, and negotiation tactics will enhance their capacity. Leveraging information technology to expedite the flow of information and communication is also crucial. Educational campaigns for indigenous communities about the importance of preserving their customary lands should be conducted, accompanied by vigilant monitoring and stringent enforcement against violations of customary land sales. Transparency in fund utilization and active participation of indigenous communities in decision-making regarding customary land should be emphasized. Furthermore, collaboration with non-governmental organizations (NGOs) and international organizations that advocate for indigenous rights is essential. The implementation of these recommendations will strengthen the role of the ICI of Kampung Wasur in safeguarding their rights and promoting their cultural heritage and customary land, thus becoming a vital force in ensuring the fulfillment of their customary and land-related aspirations.

4. CONCLUSION

The Indigenous Community Institution (ICI) of Kampung Wasur plays three main roles: the Interpersonal Role, the Informational Role, and the Decisional Role. The ICI serves as a bridge between indigenous communities, the government, and the general public with the aim of ensuring fair and pro-indigenous policies. To enhance its effectiveness, there is a need to strengthen communication and collaboration among the ICI, the government, and the community. This can be achieved through raising awareness among indigenous communities about their land ownership rights and imposing strict sanctions against violations of customary land sales. To reinforce the role of the Indigenous Community Institution (ICI) of Kampung Wasur and ensure the protection of their customary land rights and cultural heritage, several recommendations can be implemented. The implementation of recommendations will fortify the role of the ICI of Kampung Wasur in safeguarding their rights and promoting their cultural heritage and customary land, thus becoming a vital force in ensuring the fulfillment of their customary and land-related aspirations. With these measures in place, the ICI of Kampung Wasur can better preserve the integrity of their customary lands and protect the interests of indigenous communities.

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