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Legal Certainty of Ownership and Transfer of Rights to Alternate Rice Field Land in Kerinci Regency

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Abstract: The Kerinci indigenous people apply a system of land tenure of alternate rice fields that are inherited matrilineally. However, this system faces obstacles in legal certainty, especially related to the transfer of rights and land registration. This study aims to analyze the pattern of control, legal certainty, and dispute resolution mechanism in the system. The method used is empirical juridical with an analytical descriptive approach. The results show that although the rotational rice field system is still in effect, the absence of ownership certificates hinders legal certainty, while dispute resolution still relies on customary institutions. Harmonization of customary law and agrarian law is needed to improve legal protection for the Kerinci indigenous people.

Keyword: Legal Certainty, Transfer of Land Rights, Rice Fields.

INTRODUCTION

Land has an important role in people's lives, especially in social, economic, and cultural contexts. The Kerinci customary law community applies a rotational rice field land tenure system, which is a land inheritance mechanism that is given to female heirs and managed alternately in a community. This system is rooted in customary law that is still in force today, reflecting the value of togetherness and balance in natural resource management (Yulia, 2016: 3).

In practice, the rotational rice field system faces various legal challenges, especially in terms of certainty of rights and transfer of ownership. Land that is inherited from generation to generation is not officially registered in the national land administration system, so the ownership status becomes unclear. This can cause legal uncertainty for the heirs and cause potential disputes in the future (Idris, 2018: 254).

The absence of land registration in the rotational rice field system also makes it difficult to implement the national land policy, which emphasizes the importance of land registration to ensure legal certainty. Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) stipulates that land registration aims to provide legal protection for land owners through proof of lawful ownership (Law No. 5 of 1960, Article 19). However, in the Kerinci

customary law community, many customary lands have not been registered, so land rights are often only recognized customarily without formal legal protection (Prima, 2022: 3).

The sustainability of the rotational rice field system without legal certainty can cause legal problems in the future. One example is land disputes between heirs caused by different interpretations of land tenure and transfer rights. These disputes are generally resolved through customary institutions, but in some cases, the dispute continues into the realm of state law, creating complexity in settlement (Busroh, 2017: 3).

In the context of the national legal system, legal certainty is a fundamental principle in regulating land rights. According to Mertokusumo (2012: 126), legal certainty must provide protection for individual rights with clear and predictable rules. Therefore, land registration for customary land, including rice fields, is an important step in ensuring ownership rights and preventing prolonged disputes.

Harmonization between customary law and national agrarian law is needed so that the land tenure system in indigenous communities can continue to run without contradicting state regulations. The government needs to pay more attention to customary land by providing a registration mechanism that is in accordance with the characteristics of customary land, as stipulated in the Regulation of the Minister of ATR/Head of BPN Number 14 of 2024 concerning the Implementation of Land Administration and Land Registration of Customary Rights of Customary Law Communities. With policies that favor indigenous peoples, it is hoped that legal certainty over rotational rice fields can be guaranteed (ATR/BPN, 2024: Article 5).

Based on these problems, this study aims to analyze the system of control and transfer of rights to alternate rice fields in the Kerinci indigenous people, examine the aspects of legal certainty, and examine the dispute resolution mechanism used. The results of this research are expected to contribute to the development of a more inclusive national agrarian law for the rights of customary law communities.

METHOD

This study uses an empirical juridical approach with an analytical descriptive nature. The empirical juridical approach is a research method that examines law as a social behavior that lives in society, so that it does not only focus on written legal norms, but also how the law is applied in daily life (Diantha, 2016: 129). The analytical descriptive nature is used to describe and analyze the legal phenomena that occur in the control and transfer of rights to rice fields in the Kerinci customary law community. With this method, research can provide a deeper understanding of how customary law and national law interact in practice.

This research was conducted in Kerinci Regency as the main location because this area still implements the rotational rice field system in its customary law community. Kerinci Regency is part of Jambi Province which has cultural characteristics that are closely related to Minangkabau customs, including in the aspects of land ownership and inheritance (Jauhari & Eka Putra, 2012: 238). The focus of the research is directed at how the system of ownership and transfer of rights to land for rotational rice fields is still ongoing, as well as how the community faces the problem of legal certainty due to the lack of land registration.

Data collection was carried out through literature studies and interviews. The literature study aims to obtain secondary data from various sources, including laws and regulations, reference books, scientific journals, and previous research related to agrarian law and customary law (Sunggono, 2016: 38). Meanwhile, primary data was collected through interviews with the Kerinci indigenous people as owners and managers of alternate rice fields, the Customary Density Institute as the party that regulates and resolves customary land disputes, and the National Land Agency (BPN) of Kerinci Regency which is responsible for land administration and land registration in the area.

After the data is collected, the analysis is carried out with a qualitative approach to interpret and understand the legal patterns that apply in the rotational rice field system.

Qualitative analysis is used to connect empirical data with relevant legal theories, so that a comprehensive conclusion can be obtained regarding how legal certainty in the rotational rice field land tenure system can be improved (Sugiyono, 2013: 128). With this method, it is hoped that the results of the research can contribute to the development of agrarian law and the protection of the rights of customary law communities in Indonesia.

RESULTS AND DISCUSSION

Ownership and Transfer of Rights to Land for Alternate Rice Fields

Land has a very important role in the lives of indigenous peoples, both as a source of livelihood and as a symbol of the sustainability of traditions. In the Kerinci indigenous people, the system of land tenure of rice fields is still part of the inheritance practice that has been passed down from generation to generation. This system is rooted in customary law that adheres to the matrilineal kinship system, where the ownership and management rights of rice fields are inherited through the maternal lineage (Rafisrul & Ajisman, 2015: 44).

In the rotational rice field inheritance system, rice fields are not permanently divided to each female heir, but are managed alternately based on family agreements and applicable customary law. This aims to maintain the integrity of the heritage land and ensure that all heirs get a fair opportunity in the use of the land (Idris, 2018: 249). Each female heir will get a turn to cultivate the rice fields for a certain period of time, usually one planting season, before the turn passes to another heir.

This rotation mechanism is supervised by the head of the tribe or traditional leader called a tengganai. The tengganai is tasked with ensuring that this system runs well and that there are no disputes between the heirs. If a problem arises, such as a dispute regarding the turn of management or crop yields, then the resolution is carried out through family deliberation led by customary stakeholders (Jauhari & Eka Putra, 2012: 141).

The sustainability of the rotational rice field system in the Kerinci indigenous community is inseparable from the main principles in customary law, namely togetherness and balance. Customary law not only regulates land tenure rights, but also contains social values that maintain harmony in the community. Therefore, rotational rice field land should not be sold to parties outside the family, except in certain circumstances agreed upon by all members of the tribe (Prima, 2022: 3).

In some cases, rotational rice paddy land can be mortgaged to fellow family members if there is an urgent need, such as economic needs or education costs. However, this mortgage must be approved by all female heirs and remain under the supervision of the mortgage. If at any time the pawnholder is unable to manage his rice fields or wants to return his rights, then the rice fields will be returned to the heirs who are entitled to the rotation system that has been agreed upon (Hasan, 2020: 649).

The system of inheritance of rotational rice fields also faces various challenges, especially in terms of legal certainty. One of the main problems is the absence of a valid land ownership certificate under state law, because this land ownership is only recognized in the customary law system. This makes it difficult for rotational rice paddy land to be registered in the national land administration, because its ownership is collective and cannot be proven individually (Prima, 2022: 5).

The existence of Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) which regulates land ownership emphasizes the importance of legal certainty through land registration. However, in practice, the rotational rice field system that is still in force in Kerinci is not in accordance with the land registration mechanism that requires a clear owner as a legal subject. Therefore, rotational rice field land is often not registered in the state land administration system (ATR/BPN, 2024: Article 5).

In addition, the increase in the number of heirs from generation to generation has led to an increasing number of parties involved in the rice field rotation system. This has the potential

to cause conflicts if there is no clear regulation regarding the mechanism of rotation distribution and crop management. In some cases, disputes regarding the control of land in the alternate rice fields have reached the realm of the courts because they cannot be resolved through customary mechanisms (Busroh, 2017: 5).

Social and economic dynamics also affect the sustainability of the rotational rice system. Many young generations choose to migrate and no longer cultivate heritage rice fields, so rice field management often shifts to relatives who still live in their hometowns. As a result, in some cases, there is inequality in the rotation system because only a few heirs actively manage the rice fields (Dasa Prima, 2022: 7).

To overcome these problems, a more inclusive legal approach to customary land ownership systems such as rice fields is needed. One solution that can be applied is land registration with a communal rights scheme, where rice field land is registered in the name of a tribe or extended family, not a specific individual. This has been regulated in the Regulation of the Minister of ATR/Head of BPN Number 14 of 2024 concerning the Implementation of Land Administration and Land Registration for Customary Rights of Customary Law Communities (ATR/BPN, 2024: Article 8).

Another step that can be taken is to increase the role of customary institutions in drafting internal regulations that are more adaptive to changing times. Customary institutions can collaborate with local governments and the National Land Agency (BPN) in finding solutions that can accommodate the interests of indigenous peoples while meeting national legal standards (Mertokusumo, 2012: 128).

With the strengthening of customary law supported by state regulations, it is hoped that the rotational rice field system can still function as a fair and sustainable land tenure mechanism for the Kerinci indigenous people. This will also help prevent potential disputes in the future and provide legal certainty for heirs in managing their land (Sugiyono, 2013: 130).

Based on the description above, the system of control and transfer of rights to rice fields has its own uniqueness in the Kerinci customary law community. Despite facing various legal and administrative challenges, this system is maintained because it contains strong customary values. Therefore, there needs to be a synergy between customary law and national agrarian law so that legal certainty in the rotational rice field system can be guaranteed without eliminating the essence of tradition that has been going on for generations.

Legal Certainty in the Ownership of Rice Field Land in Lieu

Legal certainty is one of the fundamental principles in the agrarian legal system which aims to guarantee individual rights to land legally and avoid potential disputes. In the Kerinci indigenous people, the system of land tenure of the rotating rice fields that are inherited collectively faces great challenges in terms of legal certainty. The absence of a certificate of ownership of the land of the alternate rice fields causes uncertainty regarding the subject and object of the law, thus making it difficult to protect the legal for the heirs (Mertokusumo, 2012: 126).

In practice, rotational rice paddy land is inherited from generation to generation without any official legal documents proving individual ownership. This is due to the collective inheritance system where land remains part of a high inheritance jointly managed by female heirs in a race. As a result, the status of land ownership under state law is unclear, even though in customary law the land tenure is recognized and respected by the local community (Idris, 2018: 254).

The unclear ownership of rice field land has implications for difficulties in land registration. Based on Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), land registration aims to provide legal certainty and protection of land rights for its owners. However, in the case of customary land that is collectively inherited, no

single individual can apply for an ownership certificate without the agreement of all heirs (ATR/BPN, 2024: Article 5).

In addition, rotational rice paddy land also cannot be sold or transferred to parties outside the tribe without mutual consent. This further complicates land registration efforts because in the national legal system, the registration process requires clarity regarding who acts as the right holder. On the other hand, customary law still maintains the principle that the land is an ancestral heritage that must be managed jointly by female descendants in a tribe (Prima, 2022: 3).

The absence of ownership certificates also has an impact on the economic aspects of the community. Land that does not have a certificate cannot be used as collateral to access credit or loans from formal financial institutions. This hinders indigenous peoples from using their land productively for economic purposes, due to limited access to agricultural business capital (Hasan, 2020: 649).

From the perspective of land administration, one of the main obstacles in the registration of rotational rice field land is the absence of a mechanism that specifically accommodates the collective inheritance system in the national agrarian law. Government Regulation Number 24 of 1997 concerning Land Registration focuses more on individual ownership or legal entities, so it is not fully aligned with the customary land ownership system such as rotational rice fields that are communal (Sugiyono, 2013: 128).

In some cases, this legal uncertainty has led to disputes among heirs who disagree regarding their rights to the land. Disputes often occur when there are parties who feel that their rights have been violated or when there is a change in the land management system due to external factors, such as marriage, migration, or changes in the local government's land policy (Busroh, 2017: 5).

The settlement of rice field land disputes is usually carried out through a customary mechanism, where the Customary Density Institution plays a role as a mediator in resolving conflicts. However, decisions resulting from customary deliberations often do not have binding legal force in the national legal system, so in some cases, disputes continue to litigation in court (Jauhari & Eka Putra, 2012: 141).

To overcome the problem of legal certainty in the rotational rice field system, a more adaptive legal approach to the customary land ownership system is needed. One solution is through a land registration scheme with communal rights, where land owned collectively can be registered in the name of a specific indigenous group or group, not an individual. This has been regulated in the Regulation of the Minister of ATR/Head of BPN Number 14 of 2024 concerning the Implementation of Land Administration and Land Registration for Customary Rights of Customary Law Communities (ATR/BPN, 2024: Article 8).

The implementation of communal rights registration can provide legal certainty for indigenous peoples without eliminating the long-held principle of collective ownership. With the legal recognition of customary lands, indigenous peoples can obtain better legal protection, as well as gain access to various government programs related to land management and agriculture (Mertokusumo, 2012: 130).

In addition, the government needs to socialize and assist indigenous peoples in the land registration process. Many indigenous peoples still do not understand the benefits of land registration, so they tend to be reluctant to carry out the process. With a community-based and participatory approach, it is hoped that land registration can be carried out without contradicting long-standing customary values (Prima, 2022: 7).

The importance of legal certainty in the rotational rice field system must also be a concern in regional development policies. Local governments, together with the Customary Density Institute and the National Land Agency, can design regulations that allow for more structured management of customary land, including in terms of the transfer of rights and the distribution of crop yields (Idris, 2018: 256).

Based on the description above, legal uncertainty in the rotational rice field system is a problem that needs to be solved immediately. Through the scheme of registering communal rights and strengthening the role of customary institutions, it is hoped that this system can continue without causing disputes in the future. Harmonization between customary law and national law is an important step in ensuring that rotational rice fields can continue to function as productive assets for the Kerinci indigenous people without losing their traditional aspects.

Dispute Resolution of Alternate Rotation Rice Field Land

Land disputes are a problem that often arises in the community, including in the management of rotational rice fields in Kerinci Regency. In the matrilineal inheritance system applied by the Kerinci indigenous people, rice fields are inherited collectively to female heirs without any individual division of rights. However, as the number of heirs increases from generation to generation, there are often differences of opinion regarding the right to control, the turn of management, and the harvest obtained. As a result, disputes over alternate rice field land are inevitable and require a settlement mechanism in accordance with customary law and national law (Idris, 2018: 251).

In the Kerinci indigenous people, the settlement of disputes over alternate rice field land is generally carried out through the Customary Density Institution. This institution has an important role in maintaining social harmony and maintaining the customary law system that has been inherited from generation to generation. The Customary Density Institution functions as a deliberative forum for the parties to the dispute and acts as a mediator in resolving conflicts of ownership and management of rotational rice fields (Jauhari & Eka Putra, 2012: 143).

Dispute resolution through the Customary Density Institution is carried out by prioritizing the principle of consensus and deliberation. The parties to the dispute will be called to explain their problems in front of the traditional leaders. This process aims to explore the root of the problem and find a solution that is acceptable to all parties. Decisions taken are based on mutual agreement and refer to customary law norms that have been in force for generations (Hasan, 2020: 652).

Traditional leaders, such as *tengganai* (tribal leaders) and *ninik mamak* (traditional leaders), have a major role in dispute mediation. They not only act as intermediaries who reconcile the parties to the dispute, but also as enforcers of customary law values. In practice, decisions taken by the Customary Density Institute must consider various aspects, such as the history of land ownership, kinship relationships, and the principles of justice that apply in indigenous peoples (Prima, 2022: 4).

The decision resulting in the settlement of the dispute over the alternate rice field land is final and binding for the parties. This is because customary law has high social power in the Kerinci community. Although it does not have formal legal force in the national legal system, decisions made by the Customary Density Institution are generally respected and obeyed by the community. Settlement through customary mechanisms is also considered more effective than settlement through the judicial channel, because it prioritizes family relationships and avoids prolonged conflicts (Busroh, 2017: 6).

However, in some cases, there are parties who do not accept the decision of the Customary Density Institution and choose to take the land dispute to court. This usually happens when one of the parties feels aggrieved or dissatisfied with the mediation results. In such situations, the courts will review the dispute using a national law approach, which is often not fully aligned with customary law principles. This discrepancy can cause legal uncertainty for indigenous peoples who still adhere to the rotational rice field system (Mertokusumo, 2012: 130).

When rotational rice field land disputes are brought to the realm of formal law, the settlement process becomes more complex because it requires legally valid proof of ownership. The absence of a land ownership certificate is often the main obstacle in proving land rights. In national agrarian law, legal certainty of land ownership is highly dependent on valid

administrative evidence, such as land certificates issued by the National Land Agency (ATR/BPN, 2024: Article 5).

To reduce the potential for disputes and provide legal certainty for indigenous peoples, it is necessary to have legal recognition of the dispute resolution mechanism carried out by the Customary Density Institution. One of the efforts that can be made is to integrate customary decisions in the national legal system through mediation schemes recognized by the courts. Thus, decisions taken in customary deliberations can have stronger legal force and can be used as a basis for consideration in formal dispute resolution (Sugiyono, 2013: 129).

In addition, the government needs to provide support for the registration of rotational rice fields with a communal rights scheme. With the collective registration of land on behalf of indigenous peoples or communities, the status of land ownership can be clearer and recognized in the national legal system. This will also help reduce potential disputes that arise due to unclear ownership rights and land management turns (Prima, 2022: 7).

Strengthening the role of the Customary Density Institution in resolving land disputes must also be accompanied by increasing the capacity of customary leaders in understanding the national legal aspects. This is important so that the decisions taken can be in harmony with the principles of justice recognized in the national legal system, thereby reducing the possibility of disputes continuing into the realm of formal justice (Idris, 2018: 257).

Based on the description above, the settlement of rotational rice field land disputes in the Kerinci indigenous community is still highly dependent on the customary law mechanism run by the Customary Density Institute. The role of traditional leaders as mediators is very important in maintaining social stability and resolving conflicts peacefully. However, the challenge of integrating customary law with national law is still the main obstacle in providing legal certainty for indigenous peoples. Therefore, strategic steps are needed to strengthen the position of customary law in the national land system, so that existing dispute resolution mechanisms can be more effective and legally recognized.

CONCLUSION

The system of land tenure of rice fields in the Kerinci indigenous people continues to this day as part of a hereditary tradition. This mechanism allows land to be managed collectively by female heirs in a race, without the division of ownership rights individually. This system reflects the values of togetherness and justice in customary law, where each heir has the right to cultivate the rice fields according to the agreed turn.

Although this system is still maintained, its sustainability faces various challenges, especially in the aspect of legal certainty. The absence of a certificate of ownership leads to ambiguity in land tenure, which can lead to potential disputes between heirs. The lack of land registration also has an impact on the difficulty of proving land rights in the national legal system, so that indigenous peoples experience obstacles in accessing more formal legal protection.

One of the main obstacles in the transfer of rights to rice field land is the nature of its collective inheritance. The national legal system, which prioritizes individual ownership, has not been able to fully accommodate this customary heritage mechanism. As a result, rotational rice fields are often not officially registered due to the lack of clarity regarding the legal rights holders.

In resolving disputes over alternate rice fields, the Customary Density Institute plays an important role as a deliberative forum that maintains harmony in the community. This custom-based dispute resolution mechanism prioritizes the principles of consensus and deliberation, so that it is able to reduce conflicts before continuing to formal legal channels. However, in some cases, decisions taken by customary institutions do not have binding legal force in the country's judicial system, so sometimes disputes continue in court.

Taking into account the various problems that arise, concrete efforts are needed to ensure the sustainability of the rotational rice field land tenure system without ignoring the aspect of legal certainty. The synergy between customary law and national agrarian law is an important step to provide stronger legal protection for the Kerinci indigenous people.

To overcome the problem of legal certainty in the land tenure system of rotational rice fields, efforts are needed to encourage land registration in a more inclusive manner. The registration process can be carried out under a communal rights scheme, where the land remains collectively owned but has legal protection. With the registration, land rights will be clearer, so that it can reduce the potential for disputes in the future.

In addition, harmonization is needed between customary law and national agrarian law in the management of customary land. The government needs to accommodate collective inheritance mechanisms such as the rotational rice field system in land regulations, so that indigenous peoples can still maintain their traditions without sacrificing legal certainty. The integration of customary law in land policy can also increase the legitimacy of decisions taken by the Customary Density Institution in resolving land disputes.

Strengthening the role of the government in assisting and socializing the law to indigenous peoples is also an important step. Education programs on the importance of land registration and legal mechanisms that can be taken in protecting land rights need to be more encouraged. With a community-based approach, it is hoped that indigenous peoples can better understand the benefits of land registration without feeling that their traditions are threatened.

Through these efforts, the system of land tenure of rotational rice fields can continue with stronger legal support. With legal certainty, indigenous peoples can not only maintain their traditions, but also obtain clearer and fairer legal protection in the management of their heritage lands.

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