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

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Content

• Introduction
• Brief Facts
• Security of Customary Land Tenure
• Linkage to Financial Institution
• Linkage to Natural Resources Preservation
• Disputes
• Conclusion
Introduction

Brief Facts on Indonesia’s Custom

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

Main Question

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

- West Sumatera well-known for its customary governmental structure called *nagari*
- Dated from mid 14th century
- The basis of *nagari* governance:
  Regulation of Government of Province of West Sumatera no. 9 year 2000 on Principle of *Nagari* Governance
Security of Customary Land Tenure (1)

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

van Dijk (1954)

Security of Customary Land Tenure (2)

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

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

Linkage to Natural Resources Preservation

- This is particularly due to:
  - absence of acknowledgement of local wisdom and rights of indigenous community
  - low standard of living
  - vagueness of boundary between state’s land and community’s land
Disputes on Possesion and Utilisation of Communal Land

Classified into two:
• Acquisition of customary land by government
• Land tenure system pluralism in Indonesia

Conclusion (1)
• Land tenure system pluralism is main, hence important rationale, on re-engineering of formal land tenure system of Indonesia
• Customary land tenure system of Province of West Sumatera has been practically ignored
• Customary land tenure system contributes to sustainable development, especially before the period of governance of Dutch Colonial and after 1998 period
Conclusion (2)

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

Conclusion (3)

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