The Initial Model of Assimilation of the Customary Land Tenure System into the Indonesian Land Tenure System: The Case of Kasepuhan Ciptagelar, Indonesia

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Introduction

Customary land:
• Preserve natural resources
• Lead to sustainable development

In Indonesia:
• Agrarian Principle Law/Basic Agrarian Law/Undang-Undang Pokok Agraria based on Customary Law

In Indonesia, on the other hand:
• Existed 23 customary regions
• Each with different customary land arrangement
• 4 types of customary land tenure: colonised communal, nomadic communal, private and aristocratic customary land tenure
• Not clear which arrangement that is adopted

Kasepuhan Ciptagelar

Brief Facts
• Moving 11 times in 1,387 years
• Live within area of National Park of Mount Halimun-Salak
• Descendant of nobles and armies of Hindu Kingdom of Sundanese Pajajaran in Pakuan, Bogor
• Lead by Abah Anom, 8th generation of leader
• Customary centre of Kasepuhan Banten Kidul
• Extent: 70,600 ha, opened between 1902-1942
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Kasepuhan Ciptagel

Land Tenure System

- Land tenure type: nomadic customary land tenure
- Land tenure super-classes: cultivation and non-cultivation
- Non-cultivation: Leuweung Titipan (entrusted forest), Leuweung Tutupan (forbidden forest) and Leuweung Garapan (production forest)
- Cultivation: customary and private land
- Customary land sub-classes: centre of cultural activities, plantations (rice, corn, etc) and dwelling

Indonesian Land Tenure System

Principle

- Land management and administration act: Basic Agrarian Law, Forestry Law, Coastal Management Act and Land and Building Taxation Act
- Basic Agrarian Law Principle 1: Land ~ Earth’s Surface
- Basic Agrarian Law Principle 2: Land is authorized to State
- Land Registration: German/Swiss system (Land Book)

Distinction w/Customary Land Tenure System

- Vertical separation: Separating management land and property
- Individualisation of land tenure: lead to deterioration of cultural value on land

Analysis

- Land tenure system of Kasepuhan Ciptagel is out of the formal system
- Conflict of interest w/ National Park
- Right of Collecting Forestry Product and Right of Opening-up Land could not be converted into Freehold and no detailed regulation for implementation
- Land has been exploited in a good manner before Indonesia exist

Lessons Learned

- Statement on the protection of customary land, in particular communal one
- Integrated management of land (or even integrated land law!)
- Identification of customary land tenure: initial proof of ownership, its conversion and integration to formal SOP on Land Registration
- Consider adoption of adverse possession principle
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