

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



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Introduction

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



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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: 70,000 ha, opened between 1902-1942



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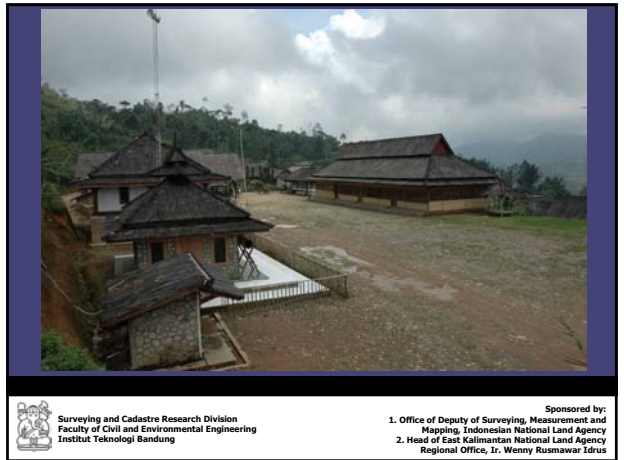
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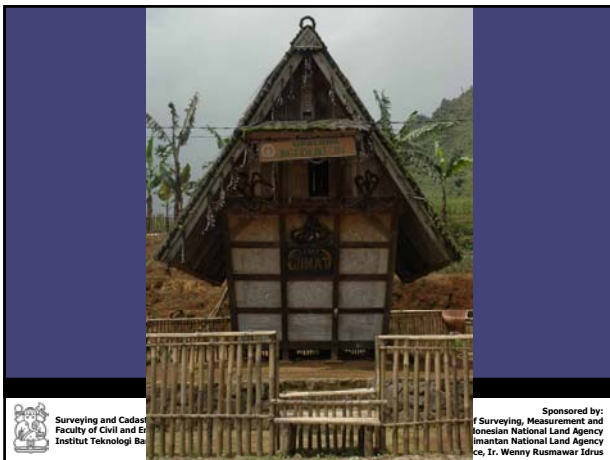
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Kasepuhan Ciptagelar

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



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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 authorised to State
- Land Registration: German/Swiss system (Land Book)



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Indonesian Land Tenure System

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



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Analysis

- Land tenure system of Kasepuhan Ciptagelar 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



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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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