



DYNAMICS OF LOCAL GOVERNMENT POLICIES IN PROVIDING RECOGNITION AND PROTECTION OF CUSTOMARY LAW COMMUNITIES IN MALUKU

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Submitted: 12-06-2023; Accepted: 29-08-2023

DOI: <http://dx.doi.org/10.30641/dejure.2023.V23.283-298>

ABSTRACT

The problem of protecting and recognizing the rights of Customary Law Communities in Indonesia, including in Maluku, from the perspective of local government policies, is still being underestimated, even though Article 18 B paragraph (2) of the constitution has given recognition and respect to the unity of Customary Law Communities and their traditional rights, However is it that to get recognition of the status of customary villages in several *negeri* in the districts of Maluku and disputes over the *mata rumah parentah* still occur frequently. This study raises issues regarding legal protection and problems regarding the recognition of the rights of Customary Law Communities in districts/cities in Maluku by using statutory, conceptual approaches and case studies of court decisions relating to the rights of Customary Law Communities. Based on the results of the study it was found that the Provincial Government had issued a policy to provide customary law protection in Maluku which became the basis for establishing customary villages in Ambon City and Tual City, however, there are still regencies that have not provided recognition in the form of regional regulations for establishing customary villages, such as in West Seram Regency and Central Maluku Regency due to weak local government commitment and juridical problems.

Keywords: Policy; Customary Law Communities; Regional Government; Recognition and Protection

1. INTRODUCTION

Since the enactment of Law No. 6 of 2014 concerning Villages and Law 23 of 2014 concerning Regional Government in 2014, the existence of the Customary Law Communities is in a dilemmatic position. This is because there are various problems and legal uncertainties faced in obtaining recognition from the Regional Government (*Pemda*), including in areas in Maluku. Even though constitutionally, the State of Indonesia in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia has given recognition and respect for the Unity of the Customary Law Communities and their traditional rights. In fact, the Village Law and Regional Government Law have subsequently mandated the central government, district/city and provincial government to carry out the arrangement of Customary Law Communities unity and stipulation Customary Village Laws. The Regional Government also mandates the Provincial Government to carry out regional management, including maintaining the unique customs, traditions, and culture of the region.¹

However, in practice, the existence of the Village Law and the Regional Government Law do not necessarily provide guarantees, certainty, and legal protection for the existence of district customary law in Maluku because until now there are still many districts/cities in Maluku such as Central Maluku Regency, Buru Regency and South Buru Regency, West Seram Regency, East Seram Regency, Aru Islands, Southeast Maluku Regency, and Tual City have not stipulated regional regulations and regional head decisions regarding the recognition of customary villages and *petuanan* (customary land) as Customary Law Communities². Based on

1 Made Oka Cahyadi Wiguna, "Pemikiran Hukum Progresif Untuk Perlindungan Hukum Dan Kesejahteraan Masyarakat Hukum Adat," *Jurnal Konstitusi* 18, no. 1 (2021): 112–37.

2 Benni Ardinal and Idham Idham, "Analisis Yuridis Penguasaan Tanah Masyarakat Hukum Adat," *ARBITER: Jurnal Ilmiah Magister Hukum* 3, no. 1 (2021): 57–67.

the search results, Ambon City through Regional Regulation No. 9 of 2017 concerning Official Determination in Ambon City, has determined 22 villages as customary villages or *negeri*.

Likewise in Buru Regency and South Buru Regency, there are 8 (eight) customary lands on Buru Island including Petuanan Liliyaly, Petuanan Tagalisa, Petuanan Kaiely, and Petuanan Leisela. With the recognition yet to be legalized through the Regent's decision, this has resulted in petuanan and community land disputes as happened in Petuanan Negeri Liliyaly who was in a dispute over 37,155 hectares of land with the Lawalata family at the Buru District Court in the case of Regional Regulation No.10/Pdt.G/2021 in 2021.

Another legal problem is that the Village Law and the Regional Government Law do not accommodate the recognition of customary law alliances or customary land areas which cross villages and even sub-districts in terms of territory so customary land areas become neglected without recognition. In fact, the power of king or customary village head is only limited to one village. Meanwhile, the power of Raja Petuanan covers across villages and even districts and regencies. Apart from that, there are still many traditional villages that do not yet have a definitive king.³ Maluku Governor Murad Ismail at the opening of the Work Meeting for the Acceleration of Distribution and Management of Village Funds in 2020 at the Ambon Islamic Center Building on February 25 2020 said that as many as 562 village heads in Maluku still had unofficial status or some of them were not yet definitive as Kings in Traditional Villages or 50 percent of the total 1,198 villages in Maluku.

To confirm the authenticity of this research, the researcher has conducted a search of previous studies that discussed the problems in this study. Research that is relevant to this research includes the following; first, research conducted by Yuliana Primawardani with the title "*Perlindungan Hak Masyarakat Hukum Adat dalam Melakukan Aktivitas Ekonomi, Sosial, dan Budaya di Provinsi Maluku*" (Protection of the Rights of Customary Law Communities in Carrying Out Economic, Social and Cultural Activities in Maluku Province). In this research, Yuliana found many violations experienced by the people in Maluku regarding their rights to customary forests, land, and other natural resources.⁴

Second, research conducted by Helza Nova Lita, et al., in 2013, entitled "*Perlindungan Hukum Masyarakat Hukum Adat di Wilayah Pertambangan*" (Legal Protection for Customary Law Communities in Mining Areas). Based on the results of this study, it was stated that in addition to the state having acknowledged the existence of Customary Law Communities, the government, especially local governments, also has the responsibility to supervise the management of mining⁵ in the Customary Law Communities areas. Third, research conducted by Besse Sugiswati entitled "*Perlindungan Hukum Terhadap Eksistensi Masyarakat Hukum Adat di Indonesia*" (Legal Protection for the Existence of Customary Law Communities in Indonesia). The results of the research showed that state regulations have given legal authority to local governments to recognize Customary Law Communities. It is necessary to issue regulations to prevent conflicts.

Based on comparisons with previous studies, the researcher can state that this research is different from the previous studies. The focus of the study in this research is to find legal solutions and the readiness of the local government to respond to the Village Law and the Regional Government Law to recognize and protect the existence of customary law communities in Maluku and to analyze and evaluate how the factors hinder the government's recognition of customary law in Central Maluku Regency, West Seram Regency, and Buru Regency and Maluku Province as a whole including sanctions and legal certainty. In addition, the specificity of this research will give birth to a concept or model of recognition of customary land and just legal protection which is analyzed in the legal system approach both in terms of substance, structure, and legal culture which has not been done in previous research.

3 Sulaiman Sulaiman, Muhammad Adli, and Teuku Muttaqin Mansur, "Ketidakteraturan Hukum Pengakuan Dan Perlindungan Masyarakat Hukum Adat Di Indonesia," *Law Reform* 15, no. 1 (2019): 12–24.

4 Septya Hanung Surya Dewi, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha, "Kedudukan Dan Perlindungan Masyarakat Hukum Adat Dalam Mendiarni Hutan Adat," *Legislatif*, 2020, 79–92.

5 Mutia Evi Kristhy et al., "Pengakuan Dan Perlindungan Hukum Terhadap Hak-Hak Tradisional Masyarakat Hukum Adat Dayak Ma'anyan Di Kecamatan Awang Kabupaten Barito Timur," *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 27–43.

The discussion of this research is divided into three parts: First, what are the dynamics of the policy for recognizing and protecting customary law communities in Maluku? Second, why are there still several districts in Maluku Province that have not provided recognition and protection for customary law communities? Third, what is the ideal concept of recognition and protection of just customary law communities in Maluku Province?

2. METHOD

The legal research method used in this research is normative legal research which focuses its research on legal norms which are building norms in which there are values, principles, and statutory regulations (such as the Constitution, laws, government regulations, ministerial regulations, regional regulations, and regional head regulations), court verdicts, agreements and doctrines. The laws referred to in this study are the principles regulated in the 1945 Constitution of the Republic of Indonesia, the Village Law, the Regional Government Law, the Maluku Province Regional Regulations, the Regency/Municipal Regional Regulations in Maluku to the Governor Regulations, and/or Regent and Mayors Regulations in Central Maluku Regency, West Seram Regency, Tual City, and Ambon City, including the decisions of the regional heads.

This research is a type of socio-legal research (empirical juridical), using a normative approach in analyzing data, namely legal concepts from experts, issued regulations or policies used as a starting point or approach in conducting legal analysis such as Salmond's and Satjipto Rahartjo's Legal Protection Theories. The concept of R. La Porta's form of legal protection and the concepts of recognition and regulation of customary law in various applicable statutory regulations. Data collection was first carried out through a literature study by studying the literature on statutory regulations and other references related to research studies.⁶ Second, review of regional regulatory legal documents, and third through free direct interviews with informants related to the object of the research study. Data analysis is an activity in research in the form of conducting a study or study of data, information obtained using the concept of variables derived from existing theories is carried out in a qualitative descriptive manner

3. FINDINGS AND DISCUSSION

3.1 Dynamics of Policy on the Recognition and Protection of Customary Law Communities in Maluku

Elementary problems in the recognition of Customary Law Communities (MHA) in local government often occur because of differences in understanding and concern for each local government in the province as well as between the provincial government and regency/city regional governments in issuing policies on structuring customary villages.⁷ On the other hand, if we pay close attention to the provisions of Article 116 of the Village Law, it explicitly orders the Regency/Municipal Regional Government to stipulate regional regulations regarding the designation of Villages and Customary Villages no later than 1 (one) year after Law No. 6 of 2014 concerning Villages was promulgated, while the village law was promulgated on 15 January 2014⁸. This means that the determination of customary villages throughout Indonesia including Maluku Province should have been carried out before 15 January 2015, one year after the village law was promulgated. And there are no sanctions that regulate the delay in establishing a customary village.

Based on a search of legal documents and the results of interviews conducted, it was found that eleven regencies/cities in Maluku province, not a single regency/city implemented the provisions of Article 116 of Law Number 6 of 2014 concerning Villages because between 2014 and 2015 there were no regulations areas in 11 regencies/cities in Maluku which issued regarding Designation of Customary Villages.

6 Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).

7 Delsiana Lali Kaka, "Politik Hukum Pengaturan Masyarakat Hukum Adat (Studi Putusan Mahkamah Konstitusi)," 2021.

8 Achmad Asfi Burhanudin, "Eksistensi Hukum Adat Di Era Modernisasi," *Salimiya: Jurnal Studi Ilmu Keagamaan Islam* 2, no. 4 (2021): 96–113.

Likewise, from the results of the researchers' search of regional regulations related to Villages or Customary Villages in Maluku, it was found that several districts have not made adjustments to their regional regulations with the Village Law, such as in Central Maluku Regency which still uses Regional Regulation Number 1 of 2006 concerning the State which still refers to Law Number 32 of 2004 concerning Regional Government. Even though this Law has been amended several times so that the Regional Regulation in this Country can be said to be no longer valid based on Article 409 of Law No. 23 of 2014 concerning Regional Government, West Seram Regency has also not made a regional regulation on the determination of customary villages.

Based on the results of an interview with Ruly Sosal, a member of the House of Regional Representatives (DPRD) for West Seram Regency, "that the regional government has promulgated a number of regional regulations, namely the Regional Regulation of West Seram Regency No.13 of 2019 concerning *Negeri* and Regional Regulation of West Seram Regency No. 11 of 2019 concerning Villages, while the Draft Regional Regulation for the West Seram Regency Regional Regulation concerning the designation of *Negeri* (Customary Village) has been postponed pending proposals from the Regional Government

Jimmy Salenussa as the King of Morekau Village in his interview stated that "the community has not felt the impact of the designation of the customary village, the Regional Regulation on *Negeri* already exists but the designation of customary village of *Negeri* does not yet exist. Actually, in December 2021 there was an identification team. The result was that 80 Customary Villages, including Morekau, would be designated as customary villages, but some neighboring customary villages refused. There are still many customary villages that reject the designation of their neighboring customary villages as Customary Villages, for example, Negeri Kamariang rejects Negeri Seriawan customary village, and also Negeri Kairatu and Negeri Huamual rejects Negeri Lokki as customary village. In fact, this team has been around for a long time since 2017, on September 2021 verification there were 31 items that one of the customary villages here is the traditional ruler in kita Morekau, so Eti is the traditional ruler in Morekau".

In addition to the problem of the low compliance of the local government in Maluku in implementing Article 116 of the Village Law to stipulate a Regional Regulation concerning the Designation of Villages and Customary Villages. Based on the search for regulations, other juridical problems were also found, where the absence of sanctions for violating the norms of Article 116 of the Village Law.⁹ In fact, if one looks at it verbally, the provisions of the norm in Article 116 paragraphs (2) and (3) of the Village Law provide a minimum limit of 1 year at the most, the local government stipulates a Regional Regulation concerning the designation of villages and customary villages in their territory. Likewise, Article 117 of the Village Law also requires that the administration of the existing village administration must comply with the provisions of the Village Law.

Delegatively, the provisions of Article 7 of the Village Law expressly grant authority to the Government, Provincial Regional Governments, and Regency/City Governments to carry out the structuring of Villages in their respective regional areas where one of the scopes of village structuring is the determination of customary law communities unity and customary villages. Based on the juridical interpretation or originality of the legislators, it is explained that the structuring of Customary Villages includes two things, namely the arrangement of customary law community unity through the establishment of regional regulations and the structuring of Customary Villages through the designation of Customary Villages through regional regulations.

Furthermore, the clause in Article 7 paragraph (1) of the Village Law above has an imperative weakness because there is the word "can" namely the Government, Provincial Regional Governments, and Regency/City Regional Governments can carry out Village structuring.¹⁰ This means that as far as the structuring of the village is concerned, including the formation, deletion, merger, change of status and designation of customary villages and arrangement of customary law community unity are only "legal options" which are optional, not binding or oblige the local government to carry out village structuring.

9 Muhammad Dahlan, "Rekognisi Hak Masyarakat Hukum Adat Dalam Konstitusi," *Undang: Jurnal Hukum* 1, no. 2 (2018): 187–217.

10 Zidane Tumbel, "Perlindungan Hukum Terhadap Hak-Hak Budaya Masyarakat Adat Dalam Perspektif Hukum Hak Asasi Manusia," *Lex Et Societatis* 8, no. 1 (2020).

If it is related to the 4 regencies/cities that are the focus of this research, based on searching Ambon city regional regulations documents, 23 Customary Villages have been established through Ambon City Regional Regulation Number 9 of 2017 concerning Designation of Customary Villages in Ambon City, promulgated on 30 March 2017, *Negeri* itself is a legal term popular custom is used as another name for Customary Village. Meanwhile, Central Maluku Regency, West Seram Regency, and Buru Regency have not yet enacted a regional regulation regarding the designation of Customary Villages in their respective regions. West Seram Regency itself has instead set the status of the customary village to become an administrative Village. Thus, local governments have different responses in implementing the legal norms in Article 7 of the Village Law.

It is different if the word “can” is replaced with “mandatory” or must, the local government is obliged to provide recognition and guarantee for the existence of customary villages and customary laws as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia. On the other hand, if you look at the provisions of Article 116 of the Village Law, it expressly orders the Regency/City Regional Government to establish regional regulations on the determination of Villages and Customary Villages no later than 1 (one) year after Law Number 6 of 2014 concerning Villages is promulgated. However, villages that existed before the enactment of the Village Law are still considered to exist and are recognized as Villages, while the village law was promulgated on 15 January 2014. This means that the designation of customary villages throughout Indonesia including Maluku Province should have been carried out before 15 January 2015, one year after the village law was promulgated.

3.2 Regional Government Policy of Maluku Province in Recognition of the Rights of Customary Law Communities

Constitutionally, the mechanism for recognizing the rights of Customary Law Communities in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia is clear because it is regulated in the constitution and its implementation is through a village law, namely Law of the Republic of Indonesia No. 6 of 2014 concerning Villages. The Village Law has regulated the concept of recognition and protection apart from establishing customary villages and customary authorities as well as establishing customary law community unity as villages from the government and provincial governments. The development of regulations or policies that have been taken by both the Maluku Provincial government and the regency and city regional governments will be determined from the legal policies or legislative products produced between the regional government and the DPRD, in the context of customary law it will be measured to what extent the availability of regulations in providing guarantees, recognition, protection and determination of customary law communities and customary villages in Maluku province.

Empirically, the government, based on the results of searching documents at the Legal Section of the Maluku Provincial Government, found 3 (three) Regional Regulations that had been issued by the Maluku Provincial Government as long as they were related to customary law, as follows:

1. Maluku Province Regional Regulation Number 16 of 2019 concerning the Structuring of Customary Villages
2. Maluku Province Regional Regulation Number 08 of 2011 concerning Handover of Provincial Government Assistance Tasks to Customary Village/Administrative Customary Village/Village or Other Names.
3. Regional Regulation of the Province of Maluku Number 14 of 2005 concerning the Re-Designation of Customary Village as a Customary Law Community Unity within the Maluku Provincial Administration Area.

It is understood that the regional government of the Maluku province has had a strong initiative and commitment to protect and maintain the existence of customary law community unity in Maluku, this initiative was carried out after changes in national policy through Law Number 5 of 1979 concerning Village Government which standardized village administration throughout Indonesia so that it had an impact on changes in the development of the Customary Law Community in Maluku.

With the existence of Regional Regulation 14 of 2005 issued by the Maluku provincial government, it became a legal umbrella for regencies/cities in Maluku to stipulate regional regulations in the regions, this

can be seen by the inclusion of Regional Regulation 14 of 2005 in the preamble, considering that as the legal basis for the stipulation of regional regulations on customary villages and customary land areas in various regions. Central Maluku Regency in 2012 stipulated Central Maluku Regional Regulation No. 10 of 2012 concerning the Re-establishment of Samasuru Negeri as Customary law community unity within the Central Maluku Regency Region where a customary village that has experienced a merger into one customary village or a hamlet is returned to its status as it was before the change occurred.

Regional Regulation 14 of 2005 re-recognizes the Negeri as a customary village, this is emphasized in Articles 3 and 4 that the Customary law community unity, which previously due to community developments and legislation, changed their name to Desa (Village) or Kelurahan (Sub-district), were re-established as the Negeri or what is referred to as other names based on local customs and culture. Article 4 reads: As a unity of the customary law community of the Negeri or what is referred to by another name, its existence is recognized in regencies and cities within the territory of the Maluku Provincial Government. Second, after the entry into force of Law No. 6 Than 2014 concerning Villages, the Regional Government of the Maluku Province passed the Maluku Province Regional Regulation Number 16 of 2019 concerning the Structuring of Customary Villages, this Regional Regulation was stipulated on 13 November 2019 by the Governor of Maluku Murad Ismail and enacted to Regional Gazette of 2019 number 158.

The reason for the regional government issuing the Regional Regulation can be seen in the elucidation section of this Regional Regulation that with the enactment of Law Number 6 of 2014, and Maluku Province Regional Regulation Number 14 of 2005, it is hoped that the customary law community unity along with the traditional government apparatus¹¹ in Maluku will be able to obtain legal legality through regulatory policies in the field of local legislation with various adjustments based on positive legal provisions that can assist the smooth running of regional government in Maluku Province. Thus the revitalization of the Customary Law Community unity, both structurally and functionally, is intended to be able to spur community participation in accelerating the development process and regional economic growth.¹² This Regional Regulation mandates the regional government to carry out the structuring of customary villages as stipulated in Article 5 that the Regional Government carries out the arrangement of customary law community unity and is determined to become a Customary Village. The designation of customary village along with the authority it has is carried out based on statutory regulations. Furthermore, in Article 6 it is emphasized that the Regional Government can change the status of a village to become a Customary Village. Provisions regarding the procedures for changing the status of a village to become a customary village are in accordance with the provisions of statutory regulations.

Furthermore, Regional Regulation 16 of 2019 also reinforces the authority of regional governments as stipulated in Article 8 that the Regional Government's Authority in administering Customary Village Government includes: a. determination of institutional arrangement; b. position filling; and c. term of office of the Customary Village Head based on customary law. The arrangement and administration of Customary Village governance are carried out in accordance with: a. rights of origin and customary law; b. community development; and c. not conflict with the principle of administration of the Customary Village Government in the principles of the Unitary State of the Republic of Indonesia.

Based on the policy of the Maluku Provincial government, several regency/city governments in Maluku have issued regency/city regulations such as Ambon City, West Seram Regency, Central Maluku Regency, and Tual City. Likewise, the Ambon City Government has established Regional Regulation No. 8 of 2017 concerning Negeri, in the Regional Regulations it has regulated several provisions related to customary law and provides recognition of customary law community unity through "Negeri" customary institutional arrangements. The customary village within the regional territory is a customary law community unity- formed based on history and origin, local customary law, and is recognized in the system of government of the Unitary State of the Republic of Indonesia. In preamble considering that this Regional Regulation has made Maluku Province Regional Regulation No. 14 of 2015 as the legal basis.

11 Jenny Kristiana Matuankotta, "Pengakuan Dan Perlindungan Hukum Terhadap Eksistensi Pemerintahan Adat," *Sasi* 26, no. 2 (2020): 188–200.

12 Elisabeth Nurhaini Butarbutar, "Perlindungan Hukum Terhadap Prinsip Dalihan Natolu Sebagai Hak Konstitusional Masyarakat Hukum Adat Batak Toba," *Jurnal Konstitusi* 16, no. 3 (2019).

If it is related to the Ambon City Regional Regulation with the theory of legal protection according to Philipus M. Hadjon,¹³ who emphasized that law is essentially a means of integration and coordination of the many interests that exist in society and the government as a representative in regulating the interests of society. So substantively the regional government of Ambon City has provided customary law protection by integrating and coordinating existing legal institutions and other customary rights in a regulatory system or becoming part of the legal institutions of government that apply in the Ambon City area.

Based on the results of document searches and interviews with the Legal Expert Staff of the Ambon City Government, the Ambon City Regional Regulation Number 9 of 2017 concerning the Designation of Negeri in Ambon City (hereinafter referred to as the Regional Regulation of Ambon City Government) stipulated on 27 March 2017. He stated that “where in the Regional Regulations for the Designation of Negeri of Ambon City, 22 Customary Villages have been designated as “Negeri” such as Negeri Laha, Negeri Tawiri, Negeri Hative Besar, Negeri Rumah Tiga, Negeri Passo, Negeri Halong, Negeri Soya, Negeri Hutumuri, Negeri Naku, Negeri Hukuria, Negeri Kilang, Negeri Nusaniwe, Negeri Latuhalat to Negeri Batumerah”.

The designation of Customary Villages in Ambon City by itself has provided legal certainty and real recognition of the existence of Customary Villages in Ambon City as stated in Article 2 of the Regional Regulation on Designation of Negeri of Ambon City where the Designation of Customary Villages aims, among other things, to provide recognition and respect for the Negeri within the Ambon City area. So that it can be understood that the existence of the customary law unit and the identity of the customary law community in Ambon City has been accommodated and acknowledged for its existence and guaranteed through regional regulatory policy namely Ambon City Regional Regulation No. 8 of 2017 concerning Negeri and its arrangements are in line with Law no. 6 of 2014 concerning Villages.

The second city studied is Tual City, a city that has cultural roots and a very distinctive custom order, institutionalized both in community values and regional government such as customary law community unity in the implementation of a customary government system known as Ratshap and Ohoi or Finuayang existed before the formation of the Unitary State of the Republic of Indonesia. Based on the results of the document search in the Village Government Section, the Regional Government of Tual City has stipulated 5 (five) Regional Regulations related to custom, each of these Regional Regulations is:

1. Tual City Regional Regulation Number 03 of 2020 concerning the Determination of Ratshap, Ohoi, and/or Finua
2. Tual City Regional Regulation Number 04 of 2020 concerning Ratshap, Ohoi, and/or Finua
3. Tual City Regional Regulation Number 05 of 2020 concerning the Election of Ohoi and/or Finua Heads
4. Tual City Regional Regulation Number 06 of 2020 concerning Ohoi Saniri Agency and/or Finua Saniri Agency
5. Tual City Regional Regulation Number 04 of 2021 concerning Changes in the Status of a Village to a Customary Village.

Ratschap, Ohoi, and Finua are designations for the customary law community in Tual City. Ratshap as a unit of the customary law community is formed based on history and origins, functioning to regulate and decide customary law issues within Ohoi and/or Finua within their territory. Based on the Tual City Regional Regulation Number 03 of 2020 concerning the Determination of Ratshap, Ohoi, and/or Finua, the Regional Government of Tual City has granted recognition of the customary law community unity in Tual City and Southeast Maluku and designated the Ratshap and ohoi or Finua Communities as Customary Law Communities. In Article 3 it is stated that With this Regional Regulation, the Regional Government of Tual City determines the existence of the Ratshap and ohoi or Finua Community as the Larwul Ngabal Customary Law Community because they have fulfilled the criteria, namely having a customary territory, customary law, assets, historical objects, and customary institutions that have been determined based on the provisions of the applicable statutory regulations.

13 Annisa Justisia Tirtakoesoemah and Muhammad Rusli Arafat, “Penerapan Teori Perlindungan Hukum Terhadap Hak Cipta Atas Penyiaran,” *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 18, no. 1 (2020).

Based on the results of an interview with the legal division of Tual City, he stated that “Ratshap’s position has coordinating authority, just like Ratshap Tual accommodates 3 ohoi. Separately, King Ratshap was different from the village head (ohoi). Uniquely, there was also the head of the ohoi as well as the king like Uitahet as well as the acting head of the ohoi, the king could not participate in the election because the king gave recommendations to the head of the ohoi. As for Ratshap, which is stipulated in the Tual City Regional Regulation No. 3 of 2020 namely Ratshap Tual (Lor Lim), Ratshap Ohoitahit (Ur Siuw), Ratshap Dullah (Ur Siuw), Ratshap Yarbadang (Lor Lim), Ratshap Tam (Lor Lobay), Ratshap Kilmas Region (Ur Siuw), Ratshap Kilsoin Region (Lor Lim). Each Ratshap oversees several Ohoi as listed in the table below:

1. Table of Determination of Ratshap and Distribution of Ohoi in Tual City

No	Ratshap	Ohoi
1	Ratshap Tual (Lor Lim)	1. Ohoi Yamtel (Ohoi Orang Kai) 2. Ohoi Ohoiel (Ohoi Orang Kai) 3. Ohoi Yamru (Ohoi Orang Kai)
2	Ratshap Ohoitahit (Ur Siuw)	1. Ohoi Tual (Ohoi Rat) 2. Ohoi Taar (Ohoi Orang Kai) 3. Ohoi Mangon (Ohoi Soa) 4. Ohoi Dumar (Ohoi Soa) 5. Ohoi Fair (Ohoi Soa) 6. Ohoi Ut (Ohoi Soa)
3	Ratshap Ohoitahit (Ur Siuw)	1. Ohoi Ohoitahit (Ohoi Rat) 2. Ohoi Ohoitel (Ohoi Orang Kai) 3. Ohoi Watran (Ohoi Soa) 4. Ohoi Lairkamor (Ohoi Soa).
4	Ratshap Dullah (Ur Siuw)	1. Ohoi Dullah (Ohoi Rat) 2. Ohoi Fiditan (Ohoi Orang Kai) 3. Ohoi Dullah Laut (Ohoi Orang Kai) 4. Ohoi ngadi (Ohoi Orang Kai) 5. Ohoi Lebetawi (Ohoi Orang Kai) 6. Ohoi Tamedan (Ohoi Orang Kai) 7. Ohoi Langgiar (Ohoi Orang Kai) 8. Ohoi Duroa (Ohoi Soa).
5	Ratshap Yarbadang (Lor Lim)	1. Ohoi Yamtel (Ohoi Orang Kai) 2. Ohoi Ohoiel (Ohoi Orang Kai) 3. Ohoi Yamru (Ohoi Orang Kai).
6	Ratshap Tam (Lor Lobay)	1. Ohoi Tam Ngurhir (Ohoi Rat) 2. Ohoi Tam Ohoitom (Ohoi Soa).
7	Ratshap Kilmas (Ur Siuw)	1. Finua Finualen (Finua Rat) 2. Finua Kaimear (Finua Orang Kai) 3. Finua Lokwirin (Finua Orang Kai) 4. Finua Tubyal (Finua Orang Kai) 5. Finua Sermaf (Finua Orang Kai).

Source: Article 4 paragraph (2) Tual City Regional Regulation No. 4 of 2020 concerning Ratshap, Ohoi And/Or Finua

According to A. Yani Renuat, the determination of the Customary Village in Tual City has been carried out through the Tual City Regional Regulation No. 4 of 2021 concerning Changes in the Status of a Village to a Customary Village, in Article 2 it is stated that with this Regional Regulation, all villages in Tual City have their status changed to become Customary Villages called Ohoi and/or Finua, including: 1. Tual Village

becomes Ohoi Rat Tual; 2. Taar Village becomes Ohoi Orang Kai Taar; 3. Ohoitahit Village becomes Ohoi Rat Ohoitahit; 4. Ohoitel Village becomes Ohoi People Kai Ohoitel; 5. Dullah village becomes Ohoi Rat Dullah; 6. Fiditan Village becomes Ohoi Orang Kai Fiditan; 7. Dullah Laut Village becomes Ohoi Orang Kai Dullah Laut; 8. Ngadi village becomes Ohoi Kai Ngadi people; 9. Lebetawi Village becomes Ohoi Orang Kai Lebetawi; 10. Tamedan Village becomes Ohoi Orang Kai Tamedan; 11. Tayando Langgiar Village becomes Ohoi Orang Kai Langgiar; 12. Tayando Yamtel Village becomes Ohoi Orang Kai Yamtel; 13. Tayando Ohoiel Village becomes Ohoi People Kai Ohoiel; 14. Tayando Yamru Village becomes Ohoi Orang Kai Yamru; 15. Tam Ngurhir Village becomes Ohoi Rat Tam Ngurhir; 16. Finualen Village becomes Finua Rat Finualen; 17. Kaimear Village becomes Finua Orang Kai Kaimear; 18. Lokwirin Village becomes Finua Orang Kai Lokwirin; 19. Tubyal Village becomes Finua Orang Kai Tubyal; 20. Sermaf Village becomes Finua Orang Kai Sermaf; 21. Rumoin Village becomes Finua Rat Rumoin; 22. Kanara Village becomes Finua Orang Kai Kanara; 23. Warkar Village becomes Finua Orang Kai Warkar; 24. Yapas Village becomes Finua Orang Kai Yapas; 25. Hirit Village becomes Finua Orang Kai Hirit; 26. Niela Village becomes Finua Orang Kai Mangur Niela; and 27. Tiflen Village becomes Finua Orang Kai Mangur Tiflen. Thus the City of Tual has also given recognition and protection of the rights of Customary Law Communities in its territory.

3.3 The Ideal Concept of Recognition and Protection of Customary Villages (Negeri) in Maluku Province

Constitutionally, the mechanism for recognizing the rights of Customary Law Communities in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia is clear because it is regulated in the constitution and its implementation is through a village law, namely Law of the Republic of Indonesia No. 6 of 2014 concerning Villages. The Village Law has regulated the concept of recognition and protection apart from the designation of customary villages and customary authorities as well as the arrangement of customary law community unity as villages from the government and the provincial government. The government has guidance and supervision authority in the form of facilitating and conducting research in the context of determining customary law community unity as villages as stipulated in Article 113 letter l which reads:

“The guidance and supervision carried out by the Government as referred to in Article 112 paragraph (1) include: (l). facilitating and conducting research in the framework of determining the customary law community unity as a village”

The Provincial Government is also given the authority to stipulate provincial regional regulations to regulate customary villages as stipulated in Article 109 of the Village Law which reads:

“The institutional structure, filling of positions, and term of office of the Customary Village Head based on customary law are stipulated in a Provincial regional regulation”.

While the Regency/City Government is given the authority to stipulate regional regulations regarding customary villages, this is regulated in the provisions of Article 116 paragraph (2) and paragraph (3) of the Village Law which read:

- (1) Regency/city Regional Governments stipulate regional regulations regarding the designation of Customary Villages and villages in their territory.
- (2) Determination of Villages and Customary Villages as referred to in paragraph (2) is no longer than 1 (one) year since this Law was promulgated

In addition to the authorities above, the government, Provincial Governments, and Regency/City Regional Governments can carry out village management as stipulated in Article 7 of the Village Law, village management includes the establishment, deletion, merger, change of status and designation of villages. The designation of a village in the elucidation of the Village Law is the stipulation of a customary law community unity and an existing customary village for the first time by a regency/city to become a customary village with a regency/city regional regulation.

Based on the legal constructions in some of the provisions above, it can be understood the legal concept of authority delegated by law to the government, provincial regional government, and regency/city regional government it is associated with the problems of designation of customary villages and disputes over mata rumah parentah and legal protection arrangements in the government system area in Maluku province. Substantively, it is illustrated that although the Village Law has given authority to regional governments to

determine customary villages with the requirements as stipulated in Article 97 of the Village Law and the Village Law has also given authority or autonomous rights to either regulate or manage Customary Villages to carry out their authority based on origin rights such as regulation and implementation of government based on original composition, regulation, and management of customary land or customary territories however based on the results of research in Central Maluku Regency, West Seram Regency, and Ambon City disputes over the determination of governance structure based on origin rights and problems in the designation of customary villages is a factor that hinders the substantive fulfillment of protection.

Based on the results of the analysis in the previous discussion, it is illustrated or found that there are factors that cause problematic disputes in determining the structure of government based on origin rights and problems in determining Customary Villages including:

- a. There was a claim for the truth of *matarumah parenata* in one customary village / *negeri* which created a dispute over the determination of the governance structure of a Customary Village based on origin rights which cannot be resolved internally within the customary village governance system, these conditions have resulted in stagnation in the administration of customary village governance and the protracted appointment of customary village heads for many years.
- b. The ineffectiveness of the involvement and decision-making mechanisms of the Village Consultative Council or *Saniri* in resolving disputes and the determination of *matarumah parentah* as king or customary village head.
- c. Normatively, there is no procedure or mechanism for dispute settlement facilities regarding the determination of a Customary Village head candidate based on lineage who has the right to become a king or customary village head, either involving the local government or through an administrative appeal mechanism or dispute resolution through a court institution.
- d. From a legal political point of view, the political will of the local government and the district DPRD of West Seram Regency and Central Maluku Regency is weak to establish a regional regulation regarding the establishment of a customary village, in addition to the weak commitment of the local government to mediate or carry out the function of guidance and supervision to resolve disputes over the *matarumah parentah* or lineage rights who are entitled to become the head of the customary village/king.

Based on the existence of inhibiting factors for the protection of the rights of Customary Law Communities in the local government system, it creates legal uncertainty and legal injustice because conceptually, the customary law community unity and its traditional rights have received constitutional guarantees and have been regulated in the Village Law, but empirically the concept of symbolic protection in the Village Law through the establishment of customary villages and the attribution of power to regulate and administer customary village authorities based on origin rights cannot be realized optimally because juridically the concept of mechanisms for supervising and fostering local government both in the Village Law and Regional Regulations which says Customary Villages in Maluku Province is quite weak.

Because the concept of fostering and supervising the government, provincial regional government, and regency/city regional government in Articles 122-115 of the Village Law is only limited to facilitating and conducting research in the framework of determining Customary Villages and establishing customary villages, this authority needs to be expanded and more solutive in nature such as adding authority to local governments to resolve customary disputes or disputes over the governance system based on origin rights such as disputes over the *mata rumah parentah*.

So based on the research analysis on the availability of local government policies in Central Maluku and the problems of customary law and the inhibiting factors for the establishment of customary villages and *matarumah parentah*, the concept of protecting the rights of customary law community in this study can be formulated as follows:

a. The Concept of Expanding the Authority of the Regent/Mayor

Such an expansion of authority is in line with the concept of law and order in Law 23 of 2014 concerning Regional Government (hereinafter referred to as the "Regional Government Law") where one of the duties and obligations of regional heads is to maintain public order and peace. The succession or replacement of the

king through the appointment of the king or customary village head is a legal event for the Customary Law Community which needs to be maintained by the regional government and at the same time to ensure that the procession for changing and determining the king is in accordance with applicable customary law and has been carried out democratically according to the principles recognition.

Likewise, based on Article 65 paragraph (2) of the Regional Government Law, regional heads have the authority to, among other things, make regional head decisions and take certain actions in urgent situations that are urgently needed by the region and/or the community. The phrase Community here certainly must be understood not only for urban and rural communities but also for the Customary Law Community who are also members of the local community itself.

Based on the results of the research, it shows that there are customary law communities in a number of Customary Villages in the West Seram Regency, Central Maluku Regency and Ambon City came to the DPRD and local government, such as the Batumerah Negeri Customary Law Community from the Hatalah matarumah of Ambon City and the Soahuku Customary Law Community from the Ruhupessy matarumah of Central Maluku Regency to provide solutions and mediate the customary disputes they faced, meaning that when there is a claim of truth regarding the matarumah parentah, a more neutral and objective state/government organ is needed to decide on the dispute by relying on objective principles and truth.

The need for the involvement of regional heads in resolving disputes over matarumah parentah is also in accordance with the legal spirit that is built in the attributive authority of the Regent/Mayor in resolving disputes over the results of the Village Head election, in the provisions of Article 37 paragraph (6) of the Village Law which reads:

“In the event of a dispute over the results of the Village Head election, the Regent/Mayor is obliged to resolve the dispute within the period referred to in paragraph (5)”.

The provisions of the norms of Article 37 paragraph (6) of the Village Law negate that the Village Law has actually implemented the concept of a model of disputes in the community through regional heads but has not yet been applied to disputes over Customary Village heads. However, it is necessary to stipulate a clear and objective mechanism for the settlement of matarumah disputes by the regent/mayor in both the Village Law and Regional Regulations to avoid abuse of authority and ensure the fulfillment of the principles of legal certainty and justice for the rights of Customary Law Communities.

b. The concept of Protection, Facilitation, Research, and Determination of Customary Villages

Prior to the enactment of Law No. 6 of 2014 concerning Villages, the concept of fostering and supervising the local government on the existence of Customary Law Communities is only limited to facilitating customary law communities, customary values, and customary institutions. This concept was later adopted by local governments in their regional policies, as in Central Maluku Regency as outlined in Regional Regulation No. 1 of 2006 concerning Country in Article 58 which states:

“Provincial government development as referred to in Article 56 paragraph (1) includes: facilitating the existence of customary law community unity, customary values, customary institutions and their traditional rights in the implementation of Negeri/Administrative Negeri Government. The same concept for the district government as stipulated in Article 59 letter k”.

Birth of Law No. 6 of 2014 concerning Villages, there has been a change in the paradigm of guidance and supervision, there has been a shift in the role of guidance and supervision of the wider Regional Government towards the existence of customary law which not only carries out the function of facilitating the existence of customary law community unity in the implementation of negeri administration but also conducts research in the context of determining customary law community unity as a Village and establishes a customary village through regional regulations. The authority to determine customary villages and research in the framework of determining customary law community unity as villages is a new concept of legal protection in the Village Law to implement the principle of recognition in Article 18 B paragraph 2 of the 1945 Constitution of the Republic of Indonesia so that there are legal policies that better guarantee legal certainty for customary law communities along with their traditional rights.

Based on this authority, the regional governments of Tual City and Ambon City have provided protection for Customary Villages through designation of customary villages, as in Ambon City, the Regional Government has stipulated the Ambon City Regional Regulation Number 9 of 2017 concerning the Determination of Negeri in Ambon City (hereinafter referred to as the Regional Regulation on Determination of Negeri in Ambon City) on 27 March 2017, where in the Regional Regulation on the Determination of Negeri in Ambon City, 22 Customary Villages or as “Negeri” have been designated. Whereas in Tual City, the Regional Government has stipulated Tual City Regulation Number 04 of 2021 concerning Changes in Village Status to Customary Village and Tual City Regional Regulation Number 03 of 2020 regarding the Determination of Ratshap, Ohoi, and/or Finua and Tual City Regional Regulation Number 04 of 2020 regarding Ratshap, Ohoi and/or Finua who give position to the Ratshap and ohoi or Finua communities as customary law communities in their position as legal subjects of the Ratshap and ohoi or Finua communities.

Central Maluku Regency and West Seram Regency until the end of 2022 have yet to stipulate a customary village within their legal territory even though the Village Law has provided an affirmation in article 116 which in essence emphasizes that the regency/city regional government stipulates a Regional Regulation concerning the determination of Villages and Customary Villages at most within 1 (one) year since Law No. 6 of 2014 concerning Villages took effect on 15 January 2014. This means that it has been 7 (seven) years that the two districts have not yet implemented the Village Law, as a result, the protection of the rights of customary law community unity has not materialized.

Observing this empirical reality, it is necessary to carry out legal breakthroughs to find solutions and strategies so that regions that have not yet enacted customary village regulations can determine customary village regulations, even if necessary, the local government will be sanctioned by the central government for non-compliance with the provision of the statutory regulations that are detrimental to the interests of the customary law communities. The designation of a customary village is necessary in addition to creating legal certainty for customary law communities as well as protecting their customary legal rights, such as the right to occupy village government positions based on origin rights. Several villages that experienced disputes over the determination of *matarumah parentah* in Maluku regarding the settlement of *matarumah parentah* disputes were processed within the Saniri agency or the Village Consultative Body.

Supposedly, since the Regency/City Regional Government has decided on a Customary Village, matters related to the *matarumah parentah* have been researched by the local government in accordance with the authority granted by the Village Law and has determined the *matarumah parentah* who has the right to become the head of Customary Village/king has also been stipulated in the regional regulations for determination of customary village, this is intended to prevent outsiders from forcing themselves to become kings without going through research, identification, and verification of the requirements for customary law identity and this is also intended to provide legal certainty for descendants who have the right to become kings. Because legally, Article 96 of the Village Law stipulates that the Government, Provincial Governments, and Regency/City Regional Governments carry out the arrangement of customary law community unity and are determined to become customary villages. Furthermore, Article 97 Paragraph (1) of the Village Law reads:

The designation of a Customary Village as referred to in Article 96 of the Village Law fulfills the following requirements:

- a. Customary Law Communities and their traditional rights are actually still alive, whether territorial, genealogical, or functional;
- b. The customary law of community unity and its traditional rights are deemed in accordance with the development of society;
- c. The customary law of community unity and its traditional rights are in accordance with the principles of the Unitary State of the Republic of Indonesia.

From the construction of articles 96 and 97 of the Village Law above it is clear that these are facultative norms that are complementary in nature and whose nature of enactment depends on the existence of other conditions or commonly known in legal language, namely the language construction of conditional clauses, so that the determination of customary villages first conducted studies and research on the conditions that must be met. The procedure for identifying the recognition and protection of Customary Law Communities has been

regulated in the Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Customary Law Communities. Article 2 of the Village Law states that Governors and Regents/Mayors carry out the recognition and protection of customary law communities. Furthermore, Article 3 paragraph (1) of the Village Law reads in recognizing and protecting Customary Law Communities, the regent/mayor shall form a Regency/Municipal Customary Law Community Committee. The stages of recognition and protection of customary law communities are carried out through the following stages:

- a. Identification of Customary Law Communities
- b. Verification and validation of Customary Law Communities; and
- c. Determination of Customary Law Communities

In Article 5 of the Village Law it is stated that the Regent/Mayor through the Sub-District Head or other designations shall carry out the identification as referred to in Article 3 letter a by involving customary law communities or community groups in paragraph (2). The identification as referred to in paragraph (1) is carried out by observing:

- a. History of Customary Law Communities;
- b. Customary Territory;
- c. Customary law;
- d. Customary assets and/or objects;
- e. Institutions/customary government systems

Furthermore, the Minister of Home Affairs Regulation Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions also stipulates that the identification results are verified and validated by the regency/city Customary Law Community Committee and the results are announced to the Customary Law Community within 1 (one) month, then the regency/city Customary Law Community Committee submits recommendations to the Regent/Mayor based on the results of the verification and validation, the Regent/Mayor shall determine the recognition and protection of Customary Law Communities with a Regional Head Decree.

In the event that the Customary Law Community objects to the results of the verification and validation, the customary law community can submit objections to the Committee, the Committee verifies and re-validates the community's objection which can only be conducted 1 (one) time. In the event that the Customary Law Community objects to the Decision of the Regional Head the Customary Law Community may submit an objection to the State Administrative Court. The district head/mayor reports the determination of the recognition and protection of customary law communities to the Governor and the Governor reports the determination of the recognition and protection of the regency/city customary law community in his territory to the Minister through the Directorate General of Community and Village Empowerment as material for policy making.

With the decision of the regional head regarding the determination of the recognition and protection of Customary Law Communities which is carried out in a transparent and participatory way, such as the stages stipulated in the Minister of Home Affairs Regulation Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions, the problems of designation of customary villages and disputes over the Matarumah parentah can be overcome and minimized, in addition, from the point of view of legal certainty and principles fairness in recognition of designation of and protection of Customary Law Communities through regional head decisions is more guaranteed and has long-term legal certainty.

4. CONCLUSION

In general, the Provincial Governments and Regency/city Governments in Maluku have given recognition of Customary Law Communities through local regulatory policies in accordance with Law No. 6 of 2014 concerning Villages. However, there are differences in responding to the arrangement and designation of customary villages. Ambon City and Tual City have firmly determined the status of changing the village to become a customary village. In addition, both Tual City and Buru Regency have recognized the existence of an alliance or customary law community unity that is currently in effect such as Ratshap, Ohoi as a customary government system that has legal status and authority to administer customary law in their respective petuanan

territories. The existence of customary law community unity in Maluku still leaves a number of problems, such as the delay in establishing customary villages in West Seram Regency and Central Maluku Regency. It requires the active involvement of local government in resolving the problems of customary law communities in the regions. The Provincial Government of Maluku and the Central Government need to provide more intensive guidance and supervision and provide coaching sanctions to regions that have not implemented structuring of customary village and arrangement of customary law community unity.

REFERENCES

- Ali, Zainuddin. *Metode Penelitian Hukum*. Sinar Grafika, 2021.
- Ardinal, Benni, and Idham Idham. "Analisis Yuridis Penguasaan Tanah Masyarakat Hukum Adat." *ARBITER: Jurnal Ilmiah Magister Hukum* 3, no. 1 (2021): 57–67.
- Burhanudin, Achmad Asfi. "Eksistensi Hukum Adat Di Era Modernisasi." *Salimiya: Jurnal Studi Ilmu Keagamaan Islam* 2, no. 4 (2021): 96–113.
- Butarbutar, Elisabeth Nurhaini. "Perlindungan Hukum Terhadap Prinsip Dalihan Natolu Sebagai Hak Konstitusional Masyarakat Adat Batak Toba." *Jurnal Konstitusi* 16, no. 3 (2019).
- Dahlan, Muhammad. "Rekognisi Hak Masyarakat Hukum Adat Dalam Konstitusi." *Undang: Jurnal Hukum* 1, no. 2 (2018): 187–217.
- Dewi, Septya Hanung Surya, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha. "Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiarni Hutan Adat." *Legislatif*, 2020, 79–92.
- Kaka, Delsiana Lali. "Politik Hukum Pengaturan Masyarakat Hukum Adat (Studi Putusan Mahkamah Konstitusi)," 2021.
- Kristhy, Mutia Evi, Thea Farina, Sangking Mahar, and Kiki Kristanto. "Pengakuan Dan Perlindungan Hukum Terhadap Hak-Hak Tradisional Masyarakat Hukum Adat Dayak Ma'anyan Di Kecamatan Awang Kabupaten Barito Timur." *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 27–43.
- Matuankotta, Jenny Kristiana. "Pengakuan Dan Perlindungan Hukum Terhadap Eksistensi Pemerintahan Adat." *Sasi* 26, no. 2 (2020): 188–200.
- Sulaiman, Sulaiman, Muhammad Adli, and Teuku Muttaqin Mansur. "Ketidakteraturan Hukum Pengakuan Dan Perlindungan Masyarakat Hukum Adat Di Indonesia." *Law Reform* 15, no. 1 (2019): 12–24.
- Tirtakoesoemah, Annisa Justisia, and Muhammad Rusli Arafat. "Penerapan Teori Perlindungan Hukum Terhadap Hak Cipta Atas Penyiaran." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 18, no. 1 (2020).
- Tumbel, Zidane. "Perlindungan Hukum Terhadap Hak-Hak Budaya Masyarakat Adat Dalam Perspektif Hukum Hak Asasi Manusia." *Lex Et Societatis* 8, no. 1 (2020).
- Wiguna, Made Oka Cahyadi. "Pemikiran Hukum Progresif Untuk Perlindungan Hukum Dan Kesejahteraan Masyarakat Hukum Adat." *Jurnal Konstitusi* 18, no. 1 (2021): 112–37.

Peraturan Perundang-undangan:

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

Undang-Undang Nomor 6 Tahun 2014 tentang Desa

Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja

Peraturan Daerah Provinsi Maluku Nomor 16 Tahun 2019 tentang Penataan Desa Adat

Peraturan Daerah Provinsi Maluku Nomor 08 Tahun 2011 tentang Penyerahan Urusan Tugas Pembantuan Pemerintah Provinsi Kepada Negeri/Negeri Aministratif/ Desa atau Nama Lain.

Peraturan Daerah Provinsi Maluku Nomor 14 Tahun 2005 tentang Penetapan Kembali Negeri Sebagai Kesatuan Masyarakat Hukum Adat dalam Wilayah Pemerintahan Provinsi Maluku.

Peraturan Daerah Kota Tual Nomor 03 Tahun 2020 tentang Penetapan Ratshap, Ohoi dan/Atau Finua
Peraturan Daerah Kota Tual Nomor 04 Tahun 2020 tentang Ratshap, Ohoi dan/Atau Finua
Peraturan Daerah Kota Tual Nomor 05 Tahun 2020 tentang Pemilihan Kepala Ohoi Dan/Atau Finua
Peraturan Daerah Kota Tual Nomor 06 Tahun 2020 tentang Badan Saniri Ohoi Dan/Atau Badan Saniri Finua
Peraturan Daerah Kota Tual Nomor 04 Tahun 2021 tentang Perubahan Status Desa Menjadi Desa Adat.
Peraturan Daerah Kabupaten Seram Bagian Barat Nomor 13 Tahun 2019 tentang Negeri
Peraturan Daerah Kabupaten Seram Bagian Barat Nomor 11 Tahun 2019 tentang Desa

