


Ambiguity in Supreme Court Decisions on Ambon's Customary Land: The 1814 Dati Register and the Challenge of Evidentiary Systems

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Abstract

Introduction: Ownership of recognized land in Ambon, particularly in the Dati (locally recognized land), is granted by the state to individuals who have rendered services to the state and possess strong legal rights that can be passed on to the rights holder's descendants. Generally, land in the Ambon region is customary land (tanah dati) subject to and controlled by the right of ownership (beschikkingsrecht) of the village or village concerned.

Purposes of the Research: To examine the factors that led to the Supreme Court of the Republic of Indonesia's decisions being enforced using outdated evidence and how to influence the reconstruction of ambiguity regarding the justice of Supreme Court decisions enforced based on the 1814 Dati Register, which contains a failed evidentiary system.

Methods of the Research: Sociolegal research, a combination of doctrinal and empirical legal research methods.

Results Main Findings of the Research: The weaknesses of Supreme Court decisions enforced using outdated evidence are: The 1814 Dati Register was not intended as proof of land ownership under modern law, but rather as an administrative tool for colonial tax purposes; The 1814 Dati Register Letter is old, incomplete and often does not correspond to the actual conditions of existing customary land, thus causing uncertainty and disputes; the existence of differences in interpretation of customary law and national law in courts causes the decisions of the Supreme Court of the Republic of Indonesia often do not reflect substantive justice for indigenous peoples; and this failure has implications for obstacles to customary land registration at the National Land Agency and the potential for prolonged conflict between indigenous peoples and other parties, and the abolition of the dati institution as outlined in the decision on June 1, 1923, contains the meaning of changes in the customary land ownership system in Ambon, especially the change from the concept of dati-doesoen (land dati) to poesaka-doesoen. make it in academic English.

Keywords: Ambiguity Reconstruction; Data Register; Justice; Evidence System.

Submitted: 2025-10-20

Revised: 2026-03-22

Accepted: 2026-03-24

Published: 2026-03-31

How To Cite: Ronald Saija, Marselo Valentino Geovani Pariela, Triska Demmatacco, and Muchtar Anshary Hamid Labetubun. "Ambiguity in Supreme Court Decisions on Ambon's Customary Land: The 1814 Dati Register and the Challenge of Evidentiary Systems." *Batulis Civil Law Review* 7 no. 1 (2026): 11-23. <https://doi.org/10.47268/ballrev.v7i1.3469>

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INTRODUCTION

Indonesian society is a pluralistic society. The most important reality within a pluralistic society is the diversity of characters within each region, in this case, customary law communities. The presence of customary law communities is accompanied by customary law community rights, such as rights to their natural resources and the right to manage assets that are fully within the hands of the customary law communities themselves.¹ The rights of a legal association to land around its environment, known as ulayat rights or

¹ Ronald Z Titahelu, *Aneka Masalah Masyarakat Hukum Adat Dalam Pembangunan* (Yogyakarta: Deepublish, 2014), p. 207.

petuanan, are the highest rights to land owned by a legal association (village/state, tribe), the implementation of which is regulated by the head of the association (Village Head/Father King or Chief of the Tribe) concerned.² In customary law, the highest land ownership rights are customary rights, which contain both private and public legal elements. The subjects of customary rights are the customary law community (marga), who act as customary law community officials authorized to manage, regulate, and direct the control, maintenance, and use of these lands.

Recognition of customary law is regulated in the provisions of Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUDNRI 1945), which states that the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law. The main principle underlying this law is that the earth, water and space including the natural resources contained therein are at the highest level controlled by the State as an organization of power for all the people (Article 2 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Provisions (hereinafter referred to as UUPA).

In the provisions of Article 1 number (1) of Ministerial Regulation Number 10 of 2016 concerning Procedures for Determining Communal Rights to Land of Customary Law Communities and Communities Residing in Certain Areas, it is stated that communal rights to land are "communal ownership rights to the land of a customary law community, or communal ownership rights to land granted to communities residing in certain areas."³ Legal reform essentially entails systemic reform, involving legal cultural components in its operation. This legal reform itself demands a renewal of legal awareness, from unwritten customary law to written law.⁴ Ownership of Dati land in Ambon whose existence is recognized is given by the state to people who have served the State and whose rights are very strong and can definitely be passed on to the descendants of the rights holder. Generally, land in the Ambon area is customary land (dati land) which is subject to and controlled by the petuanan rights (beschikkingsrecht) of the village or country concerned. This customary land is called ulayat land and is classified as non-liberal state land (niet vriclandsdomein). Control over customary lands by petuanan rights is not just for control, but also for orderly use.⁵ Various forms of legal relations over land in the form of land control rights give the rights holder authority over the land that is being claimed, however, it is not permissible to act arbitrarily towards the land because in addition to the authority that he has, the rights holder also has certain obligations and must pay attention to the prohibitions that apply to him.⁶

In practice, customary land disputes (especially Dati land) covering the Urimessing, Hative Besar, Hutumuri, Soya and Ambon District Courts in Ambon City have always graced the face of the General Court since the enactment of the Amendment to the 1945 Constitution of the Republic of Indonesia in Article 18B paragraph (2). In this case, there is

² G. Kartasapoetra et al., *Hukum Tanah: Jaminan UUPA Bagi Keberhasilan Pendayagunaan Tanah* (Jakarta: Rineka Cipta, 2010), p. 88.

³ Eddy Ruchiyat, *Politik Pertanahan: Sebelum Dan Sesudah Berlakunya UUPA (U.U. No. 5 Tahun 1960)* (Bandung: Alumni, 1995), p. 37-38.

⁴ Aminuddin Salle, *Hukum Pengadaan Tanah Untuk Kepentingan Umum* (Yogyakarta: Kreasi Total Media, 2007), p. 111.

⁵ Ziwat Effendi, *Hukum Adat Ambon Lease* (Jakarta: Pradnya Paramita, 1987).

⁶ Arie Sukanti Hutagalung, *Tebaran Pemikiran Seputar Masalah Hukum Tanah* (Jakarta: Lembaga Pemberdayaan Hukum Indonesia, 2005).

state recognition of the rights of Indigenous peoples specifically in Ambon City, so that the owners of the dati lands always defend their rights at the first level (Ambon District Court) up to the level of Judicial Review at the Supreme Court of the Republic of Indonesia (hereinafter referred to as MARI) both in civil lawsuits over the dati land. All efforts made by the owners of the Dati lands of the customary countries who try to defend their rights from other parties who interfere. In reality, the owners of the Dati lands in Ambon City have never converted their rights at the National Land Agency of Ambon City or the National Land Agency of Maluku Province. Furthermore, the gap is: What are the factors that cause the decision of the Supreme Court of the Republic of Indonesia to be executed with expired evidence?, and How to influence the reconstruction of ambiguity regarding the justice of the decision of the Supreme Court of the Republic of Indonesia which was executed on the basis of the 1814 Register of Data which contains a failure of the evidentiary system? Based on the above, there are various problems concerning the decline in the status of ownership rights over customary land with the emergence of ambiguity in the Supreme Court of the Republic of Indonesia's Decision which will be executed regarding the ownership of Customary Land Rights based on the 1814 Customary Land Registration Letter which has always been a focus of justice for justice seekers, including customary land in the Urimessing area, customary land in the Soya area, customary land in the Hutumuri area, customary land in the Hative Besar area and the Ambon District Court.

METHODS OF THE RESEARCH

The type of research used is sociolegal research, namely a combination of doctrinal legal research methods and empirical legal research methods.⁷ Doctrinal research is intended to conduct library research by identifying laws and regulations and collecting other data related to the problem being studied. Empirical research is intended to identify the form of Justice Reconstruction for the Supreme Court Decision of the Republic of Indonesia that was executed for Dati Land Owners related to the failure of the expired proof system on Ambon Island.

RESULTS AND DISCUSSION

A. Weakness of the Execution Decision with Expired Documentary Evidence

Land is a vital object that is often debated and fought over everywhere. Meanwhile, in Ambonese society, land is recognized as customary land controlled by villages or states, or as a form of customary land. This land refers to land owned by clans and sub-clans or associations, as well as land owned by individuals, with proof of ownership, namely a certificate, as the legal basis for this right.

According to F. Valentijn, the term Dati is hofdienst, where in the months of the honggi voyage, each household (huisgezin) was required to hand over a man for approximately one month to the VOC company to carry out honggi duties without wages or at their own expense.⁸ Valentijn's opinion is also the same as the understanding of the land of Dati on Buru Island, namely people who carry out tasks for the interests of the kings as the leaders

⁷ Sulistyowati Irianto, *Memperkenalkan Studi Sosiolegal Dan Implementasi Metodologisnya, Dalam Sulistyowaty Dan Sidharta (Eds), Metode Penelitian Hukum Konstelasi Dan Refleksi, Hlm 177. Lihat Juga Dalam Sulistyowati Irianto Dalam Buku Yang Sama, Praktik Hukum: Perspektif Sosiole* (Jakarta: Yayasan Obor, 2009), p. 308.

⁸ Francois Valentijn's, *Oud En Nieuw Oost-Indien* (Amsterdam: Gerard Onder de Linden, Dordrecht, 1862), p. 184.

of the government of the country concerned and for the honggi, which work is done without receiving wages. Furthermore, according to Mr. F.D. Holleman Dati are relatives (Families) who carry out tasks for the Honggi and Quarto.⁹ The relationship between Dati and traditional tax systems can be understood from the history and practice of tax collection during the kingdom era and traditional Indonesian society. Dati, in a traditional context, refers to obligations or duties that individuals must fulfill towards a ruler or society. One form of this obligation is to hand over a portion of production, money, or work as a form of contribution or "tax" to the ruler or authorized institution. In traditional tax systems, taxes often take the form of tribute, namely the gift of agricultural produce, goods, or services to the king or ruler as a sign of respect and obligation.

This traditional tax system was the precursor to the modern tax system. During kingdoms like Majapahit and Mataram, taxes were collected in the form of agricultural produce, tribute, and other levies, which were used to support security, governance, and development in the region. These taxes served not only as a source of income but also as a symbol of the people's obedience to their rulers. The 1814 Dati Register, which is a legacy of the Dutch Colonial Government, is prone to both internal and external conflicts, which is caused by the boundaries of the Dati Customary Land being determined by natural boundaries, without any area or location, therefore the position of the Head of the Customary Association (King / Village Head) is as the highest leader in regulating the control and utilization of the Dati Customary Land within his Petuanan Territory where the Dati customary lands lie, so that the Control, Utilization and Ownership of the Dati Customary Lands in Teluk Ambon District do not have Legal Certainty. Although the UUPA has provided a national legal framework that regulates land rights, including the conversion and legalization of land rights, in reality the people in the region still use the 1814 Dati Register as the main benchmark because it is considered more appropriate to their customs and traditions. This shows the existence of tension or legal dualism between national law and customary law in the management and recognition of land rights.

In five state governments, namely Naku, Urimessing, Hutumuri, Hative Besar, and Soya, although the Basic Agrarian Law (UUPA) formally regulates the management and legalization of land rights, its implementation regarding customary rights faces various challenges. Indigenous communities in these areas continue to use the 1814 Register as the basis for recognizing legal land ownership because it is considered more in line with their customs and traditions than land certificates regulated by the UUPA. This indicates a legal dualism between local customary law and national law governing land. According to Zadrack Gaspersz, Head of the Naku State Government, the 1814 Register is a document evidence of the Dutch colonial legacy that is used as proof of ownership of customary lands for the community that owns the land, thus being used as proof of legal ownership of customary lands. Kevin Pieris, Secretary of Hative Besar State, responded similarly that the 1814 Register is a document evidence of the Dutch colonial legacy that still serves as the basis for ownership of customary lands by the community in Hative Besar. A similar response was given by Melky Soplanit as Secretary of State of Soya, emphasizing that the 1814 register is a document evidence of the legacy of the Dutch colonial era which is used as proof of ownership of customary lands for the communities that own the land, thus being

⁹ F. D. Holleman, *Het Adat-Grondenrecht van Ambon En de Oeliasers* (Delft: W.D. Meinema, 1923), p. 65.

used as proof of legal ownership of customary land. According to Secretary of State Soya, this Decision provides legal certainty for indigenous landowners, safeguards their inheritance rights and control of their customary land, and stops illegal claims or baseless disputes that can threaten the social and cultural resilience of indigenous communities. The recognition of the Register as evidence officially encourages the resolution of customary land disputes with a legal approach that accommodates traditional values and state law, while reducing uncertainty and protracted conflict. In every land dispute, community members usually always use the register of 1814 as one of the proofs of legal customary land ownership that has validity over the customary land, and is used as documentary evidence in the Ambon District Court. Furthermore, it was emphasized by Fredy B. Waas as the Head of the Hutumuri State Government, acknowledging that the 1814 dati register is a document evidence that is one of the proofs of land ownership in the Hutumuri state. According to the Head of the Hutumuri State Government, the Dati Register is often used as a basis for consideration by judges at various levels of court, starting from the District Court, the High Court, to the Supreme Court, indicating that this document is still very relevant and has legitimacy in the Indonesian judicial system regarding customary land. In this case, the 1814 dati register is always used as written evidence in the Ambon District Court to show the right to land ownership in terms of proof of letters that have elements of legal certainty, even though the letter is very old or expired. In this case, it differs from the opinion of Edwin Semalelaway as the Head of Government Affairs of the Urimessing state that evidence of customary land ownership or Dati land using the 1814 dati register, sometimes cannot be stated as valid evidence in the Ambon District Court (see figure No. 4). The 1814 land registration certificate is not a valid proof of ownership of customary land in Urimessing, as it is merely a tax certificate, not a valid proof of ownership of customary land. In this regard, the latest Supreme Court of the Republic of Indonesia decision reaffirms the validity and legal force of the 1814 land registration certificate as valid evidence for proving customary land ownership. An example is the final and binding decision in a case involving the heirs of Jozias Alfons in Urimessing, where the customary land ownership claim based on the land registration certificate was legally recognized and the judicial review efforts of other parties claiming rights to the land were rejected. Despite being strengthened by the latest decision, the use of the 1814 land registration certificate still faces challenges such as outdated and incomplete documents, so it needs to be reconstructed and synergized with modern land registration and evidence systems for optimal substantive justice.

In this case, the 1814 Register of Land is a colonial legacy document that originally served as a tax record for land cultivation, rather than as a modern land ownership certificate. In practice, the recognition of customary rights in the UUPA has not been optimal because implementing regulations governing the verification and protection of customary rights for indigenous peoples have only been partially implemented. Local governments often lack the capacity or willingness to implement these regulations, resulting in legal uncertainty and potential conflict between indigenous peoples and other parties, including the government or investors. It is important to note that the UUPA provides space for the recognition of customary rights as long as they still exist and do not conflict with national interests. However, the implementation of the law in the field in the five countries remains heavily influenced by local customs represented by the Register of Land, so that in practice

there is an integration or reciprocity between UUPA regulations and customary law prevailing in local communities.

The fact that the people of Naku, Urimesing, Hutumuri, Hative Besar, and Soya use the 1814 Register Dati as the basis for customary land ownership rights hinders the implementation of land conversion according to the provisions of the Basic Agrarian Law. This situation is now exacerbated by the inconsistency in the use of the term and legal status of "Dusun Dati" which in 1923 through Dutch colonial policy was directed to be removed and replaced with "Dusun Pusaka" in order to eliminate tax status and reflect a different form of ownership. However, in practice, Dusun Dati on customary land still remains valid in fact as a customary land area maintained by the indigenous community, thus creating a situation of contradiction and ambiguity. There are several factors that cause the decision of the Supreme Court of the Republic of Indonesia to be executed with outdated evidence, namely: a). The 1814 Register Dati is not intended as proof of land ownership according to modern law, but rather as an administrative tool for colonial tax purposes; b). The 1814 Land Registration Letter is old, incomplete, and often does not reflect the actual conditions of existing customary land, thus causing uncertainty and disputes; c). The existence of differences in interpretation of customary law and national law in courts causes the decisions of the Supreme Court of the Republic of Indonesia often to reflect less substantive justice for indigenous peoples; and d). This failure has implications for obstacles to customary land registration at the National Land Agency and the potential for prolonged conflict between indigenous peoples and other parties. Thus, this problem reflects the overlap, contradiction, and unclear legal status of customary land in Ambon, which requires reconstruction of the evidentiary system and harmonization between customary law and state law in order to provide fair legal protection for indigenous peoples.

B. Reconstruction of the Ambiguity of the 1814 Data Register

The dati institution in Ambon is a traditional land tenure system that is collective and passed down through generations within a particular family line or clan. Historically, the dati institution played a central role in maintaining social relations among community members, where land is viewed not only as an economic asset but also as a symbol of kinship and cultural heritage that must be preserved for future generations. This system regulates the sustainable use of natural resources, based on the principle of patrilineal kinship, so that land rights are inherited through the male line. In this system, dati land is initially granted to individuals who perform specific tasks within the community without remuneration as compensation for their service, and then these land rights are collectively inherited by the heirs. This arrangement not only regulates land ownership rights but also establishes social obligations and governance that are respected by all dati members, including sanctions for violations. Dati land is also attached to the hamlet and is viewed as a collective inheritance closely linked to the identity and social structure of the indigenous Ambonese community.

Furthermore, dati land ownership is not an individual civil ownership like the Western concept of property rights, but rather a right of control and use inherent in certain kinship groups recognized under local customary law. These land rights are closely linked to the continuity and socio-cultural stability of the Ambonese people, who still uphold customary values and the principle of sustainability in managing their environment. The Ambon

Resident's decision on June 1, 1923, issued based on the opinion of the Ambon Council (Raad van Ambon), to abolish the *dati* institution and return the customary land system to the *poesaka-doesoen* system, has important social and legal backgrounds. Previously, the *dati* institution regulated land ownership communally and hereditarily within a particular family line or clan. However, this system was deemed incompatible with the Dutch colonial administration, which began to demand formal registration and regulation of land ownership. In this regard, the 1923 Ambon Resident Decree, which abolished the *dati* institution and returned the customary land tenure system to the *poesaka-doesoen* system, was also implemented in several villages, such as Naku, Hutumuri, Soya, Urimessing, and Hative Besar, with the aim of accommodating customary recognition while providing formal legality through land registration by the village council. In Urimessing, for example, recognition of customary land ownership in the form of *poesaka-doesoen* was formally recorded in the *dati* register in 1923 upon the request of the indigenous population and the direction of the village leader. With this system, customary land, while still recognized socio-culturally as a collective heritage inherent in kinship groups, also had administrative registration recognized by the colonial government. This allowed for the modern administration of customary land without eliminating the customary values that bind the community. Soya, a region with a kingdom and strong customary structures, also followed a similar principle, where customary land management and supervision were carried out through customary recognition and administrative order for the sake of clarity of ownership rights and socio-cultural continuity. In general, these countries use a system of customary recognition accommodated within a colonial legal framework that requires formal registration and legality so that land management is more controlled and regulated systematically.

However, in Ambon, the colonial government chose an administrative approach through a Resident's Decree, rather than formal legislation. This 1923 Ambon Resident's Decree was a specific policy aimed at accommodating the long-standing customary land tenure system, namely through the recognition of customary land in the form of *poesaka-doesoen*, while providing formal legality through registration by the village council. This decree served as a tool to regulate and administer customary land without eradicating the strong customary system rooted in Ambonese society. This approach was adopted to maintain social stability and avoid conflicts that could arise if customary systems were directly replaced by rigid colonial legal systems. With this administrative mechanism, the colonial government provided space for the preservation of customary norms and social structures while introducing a more systematic and organized method of land recording and management for government administration purposes.

In short, the Resident Decree in Ambon was a pragmatic solution that recognized and respected the power of local customary law while adapting it to the needs of modern land management by the colonial government, without creating the sharp clashes that might have arisen with strict legal regulations like those in Java. This decree aimed to accommodate customary recognition of land ownership (*poesaka-doesoen*) while providing formal legality through registration by the village council. Thus, customary land remained traditionally recognized in its socio-cultural aspects, but could also be managed through modern administrative means. This was a response to the colonial government's need for more systematic land management without completely eradicating the customary

ties that bound communities. Therefore, the Ambon Resident's Decree on June 1, 1923, issued based on the opinion of the Ambon Council (Raad van Ambon) to abolish the dati institution and return the customary land system to the poesaka-doesoen form, has an important social and legal background as a form of reconstruction to create a counter situation and ambiguity in the future. Things that need to be reconstructed regarding the ambiguity of the 1814 Dati register, namely:

1) The Abolition of the Dati Institution. Dati-doesoen (land) was changed to poesaka-doesoen for the heads of dati and their heirs on June 1, 1923. The abolition of the dati institution, as outlined in the decree of June 1, 1923, signified a change in the customary land ownership system in Ambon, specifically the change from the concept of dati-doesoen (land) to poesaka-doesoen. Specifically, the dati institution is a communal customary land ownership system governed by the heads of dati within a particular family or clan lineage. Dati land is land controlled collectively by this group and not owned by individuals. This change meant that recognition of these ownership rights remained based on custom, but the land recording and management system became more structured and formal, providing legal and administrative certainty. Thus, the abolition of the dati institution did not eliminate customary rights, but changed the customary land management mechanism to better suit the needs of modern colonial administration, with clearer recognition of the rights of heads of dati and their heirs. With the abolition of the dati institution, these lands were transformed into poesaka-doesoen, which are formally recognized inherited customary lands that can be registered by the state council. This does not mean the elimination of customary rights, but rather provides legal certainty and a more structured administration of customary lands, especially for dati heads and their heirs. In this case, the status of Poesaka-doesoen is held by the family and their descendants, not only by the male members but also by the female members of the family;

2) Original Land Owners. The individuals entitled to the land on that date were recognized as the original owners of the land and the plants on it, as if the land were pure heirlooms. This ownership right is hereditary and protected by customary norms as an asset of high social, cultural, and economic value. With this recognition, the original owners of customary land received formal legitimacy and legal protection so that their rights would not be disturbed or revoked, with full respect for the traditional value as an heirloom asset. This recognition ensured that customary rights to the land and its resources were preserved and considered sacred inheritance by the indigenous people of Ambonese and recognized by the colonial government through official registration mechanisms; 3) Third Party Rights Remain Recognized. Any existing mortgage, lease, or other concession rights previously established remain valid. These third-party rights may include mortgages, leases, or other concession rights established or agreed upon before the change in customary land status. This means, for example, that if a customary owner previously pledged their land as collateral for a mortgage or leased it to another party, the contract or agreement remains valid and continues despite changes in procedures and the formal status of the land. This demonstrates that recognition of indigenous customary rights does not invalidate or exempt other parties holding legal rights to the land. Both the colonial and customary governments sought to maintain the continuity of legal relations and ownership to prevent new conflicts. This policy provides legal certainty and protection of the rights of all parties, both indigenous customary owners and other legitimate rights holders of customary land, while

maintaining justice and social stability in land management; 4) Customary Inheritance Law Remains in Effect. The customary inheritance distribution procedures remain unchanged without the consent of all legal owners. The distribution of inheritance of customary land and other inherited assets continues to follow the customary legal procedures and provisions that have been passed down through generations in Ambonese society. This inheritance process is collective and based on a strong kinship system, such as the patrilineal system, in which sons and sometimes daughters have inheritance rights according to customary tradition. Updates to customary inheritance procedures or regulations can only be made with the agreement or consent of all legal owners of the inheritance. This means full respect for the collective will of the heirs, ensuring that changes occur through deliberation and fairness, rather than based on unilateral decisions by external parties, including the colonial or modern governments;

5) Land Transactions Must Be Written and Notarized. Land sales, mortgages, grants, or leases must be conducted in writing before the district council (city) and in accordance with applicable law. The statement "Land transactions must be written and notarized. Land sales, mortgages, grants, or leases must be conducted in writing before the district council (city) and in accordance with applicable law" refers to the formal provision that requires all legal actions related to the transfer or assignment of customary land rights to be conducted in writing and authorized by the local customary institution, the district council. This means that if someone wishes to sell, mortgage, grant, or lease their customary land, the transaction must not only be conducted verbally or informally between parties, but must be documented in a written document as official evidence. This procedure aims to provide legal certainty, prevent future disputes and conflicts over land ownership, and protect the rights of all parties involved. With this recording and authorization, customary land transactions become transparent and have clear legal force, recognized by customary law as well as by both colonial and modern governments. This mechanism combines the traditional principle of respect for customary law with formal administrative and legal requirements to ensure the orderly, fair, and legitimate management and transfer of customary land rights. Transactions must be in writing (a written deed) and conducted before a village council, which acts as a customary authority and supervisor, ensuring that procedures and the rights of all parties are met in accordance with customary law and applicable regulations. This aims to provide legal certainty, avoid disputes, and prevent unauthorized land transactions that are detrimental to one party;

6) Women Are Protected. Women who become village heads do not lose their land rights due to marriage and can pass them on to their children. The meaning of the statement "Women who become village heads do not lose their land rights due to marriage and can pass them on to their children" is that even in the customary system of Ambonese society which is generally patrilineal, women who hold the position of village head are still protected in their customary land ownership rights. Traditionally, customary land rights are often closely linked to social position and kinship authority, which are generally inherited through the male line. However, in this context, it is recognized that if a woman becomes a village head – that is, the leader and manager of customary land within a family or clan – then she does not lose those rights simply because of marriage (for example, marrying a man from outside the same clan or custom). Furthermore, female village heads have the full right to pass on customary land to their children without any detrimental legal

or customary barriers. Thus, customary land ownership rights remain legally vested in the woman and can be passed on to the next generation, both daughters and sons, in accordance with applicable customary laws. This demonstrates the protection of women in customary land ownership, granting them equal status in land inheritance, and is crucial for the continued enjoyment of customary rights without gender-based discrimination;

7) Military Members and Migrants. Those who leave their country (for example, due to military service) retain their land rights and can inherit it. The meaning of the statement "Military members and migrants who leave their country (for example, due to military service) retain their land rights and can inherit it" is that even if someone has to leave their hometown or their traditional country for reasons of military duty or because they become a migrant (merantau), their customary rights to the land they own are not lost or forfeited. This means that physical presence or permanent residence in their country of origin is not an absolute requirement for maintaining ownership rights to customary land. People who leave their country for military service, for example, are still recognized as owners of customary land in their country. Furthermore, these land rights can be inherited by their children or heirs, so that land ownership continues to be passed down from generation to generation even though the person concerned is no longer present or living in their country of origin. This is important to maintain the continuity of customary rights and to avoid the loss of rights simply because migrants or military members must leave their traditional territory for certain purposes. Thus, ownership and inheritance rights remain guaranteed, maintaining social ties and land ownership within the Ambon indigenous community. The meaning of the statement that military personnel and migrants who leave their negorij (customary land), for example due to military service, retain their land rights and can inherit them is that a person's physical presence does not constitute a condition for losing customary land ownership rights. Even if they leave their home country for military duty or migration, their customary land rights are still recognized by the community and local customary law. In addition, these land rights can be passed on to their children or heirs through generations. In other words, relocation or assignment outside the customary land does not erase or cancel the customary land rights held by the individual. This provides protection so that customary rights are maintained and the continuity of land ownership is maintained, maintaining social stability and the customary rights of the Ambon community, especially for those who must leave their home country due to certain responsibilities such as military service or migration;

8) Abandoned Land (Disappeared). Land that is no longer managed will return to the ownership of the state (traditional village). The meaning of the statement "Abandoned land (disappeared). Land that is no longer managed will return to the ownership of the state (traditional village)" is that if the customary land of a family, clan, or customary group is no longer managed, used, or managed by the owner or their heirs, whether male or female, for a certain period of time, then the land does not lose its status as customary land, but rather the right to control it returns to the state or customary village concerned. In this context, "not managed" can mean that the land is no longer cultivated, cared for, or used for traditional activities such as farming, planting, or other activities that are traditionally the function of the land. When the owner or customary group no longer carries out their obligations to manage the land, their control rights are considered lost and the land returns to the collective wealth and management of the state or customary village. This aims to

maintain the sustainability of collective customary land management by the customary community and prevent the land from becoming neglected or taken over by outside parties without the control of the customary community. With this mechanism, customary land remains protected as a collective asset and can be re-managed by the customary village or village and given to other members of the customary community who are still actively carrying out their functions and obligations. Abandoned and unmanaged customary land will return to the customary village as the original manager and owner in the customary system, ensuring the continuity of management and preservation of customary land within the community. The meaning of the statement "Abandoned land (disappeared). Land that is no longer managed will return to the ownership of the customary village (customary village)" is that when customary land is no longer managed or used by the owner (male or female) or customary group entitled to the land, then the right to control the land is considered lost and the land will return to the collective ownership of the customary village or village. In the Ambon customary system, customary land does not simply belong to an individual or family in absolute terms, but is shared property managed by customary groups. If the land is abandoned without management or use for a certain period of time, then the land is considered to have "disappeared" from the control of its owner and automatically returns to the control of the customary village as a legal and social entity that regulates and manages the land for the common good. This ensures that customary land remains protected, is not neglected, and can continue to be used collectively by indigenous communities. This policy also encourages active and responsible management of customary land by rights holders and prevents land neglect that could harm the interests of indigenous communities as a whole;

9) Doesoen Raja. Land that was previously the land of the king or head of the country will be granted written use rights by the country council. The meaning of the statement "Dosoen raja. Land that was previously the land of the king or head of the country will be granted written use rights by the country council" is that land that was previously owned or used by the king or head of the country as part of his ownership or power, after the new customary land system arrangements, the use rights to the land will be granted officially and recorded in writing by the country council (village or country customary council). In other words, the land doesoen raja that was previously the property or power of the king is not immediately taken over by the country collectively, but is granted legally recorded use rights to certain individuals or groups according to the decision of the country council. The granting of these use rights confirms that the legality of land use is based on customary governance and formal administration by local traditional institutions. The status of doesoen raja cannot be granted and/or sold by the king to other parties within the royal family, but only the king's use rights during his term as king of the country. Therefore, the granting of gifts and/or sale by the king to other parties within the king's family on the basis of the king's will is null and void or annulled;

10) Official Land Registration and Maps. To avoid confusion and conflict, every landowner has the right to obtain an official declaration from the village council that includes: the owner's name, the land boundaries, and a map signed by the city council. The official declaration is a document issued by the negorij council (village or village customary institution) that contains the identity of the landowner, clear land boundaries, and an official map that depicts the location and boundaries in detail. This map is signed by the city council

as a form of validation and approval. This document is crucial to avoid disputes and conflicts that may arise from overlapping claims or unclear land boundaries. With a legal declaration and official map recognized by customary law and administration, customary land rights are clear and protected by law and custom. This is a form of customary land rights protection that combines customary norms with modern administrative needs so that land management can be carried out in an orderly and accountable manner, facilitating dispute resolution and providing certainty to all parties involved.

Based on the above description, the Ambon Resident's Decree of June 1, 1923, provided a direct reconstruction by the Dutch colonial government on the status of *doesoen* Dati, converted into *Pusaka Doesoen*, which was required to be implemented in the customary social structure of the Ambonese people. The 1923 Ambon Resident's Decree did not create a new law, but rather claimed to be a restoration of customary law disturbed by the existence of the *dati* institution. The *dati* institution, which had previously regulated communal land ownership, was considered to have disrupted the existing original customary legal order. Therefore, the decree attempted to restore the customary land ownership system to its original form, namely *poesaka-doesoen*, which was more in line with the values and customary social structure of the Ambonese people. In other words, this decision restores and reaffirms traditional customary law that existed before the *dati* institution developed, rather than introducing new rules unfamiliar to the community. This approach emphasizes the importance of recognizing and respecting local laws and customs, while also accommodating modern administrative needs through formal registration by the land council.

This demonstrates that colonial policy was adaptive, striving to maintain a balance between preserving customary law and implementing the administrative arrangements necessary for more orderly land management. This restoration was also crucial for maintaining the social stability and cultural identity of the Ambonese people, who relied heavily on customary law as the foundation of their lives. In this way, the elimination of the *dati* institution as a traditional communal land tenure system does not mean the complete elimination of customary rights, but rather the transformation of the tenure system into one that combines traditional principles and modern colonial administration. This aims to reduce conflict and provide legal certainty in land management, as well as maintain social and cultural ties among indigenous communities in Naku, Hutumuri, Soya, Urimesing, and Hative Besar. Thus, the 1814 *dati* registration certificate is not proof of ownership of *Dati*/customary land in Ambon, but rather a tax certificate for land cultivated by community members on the *Dati* land. Therefore, the abolition of the *dati* institution as outlined in the decree on June 1, 1923, signified a change in the customary land ownership system in Ambon, specifically the change from the concept of *dati-doesoen* (land of *dati*) to *poesaka-doesoen*. In detail, the *dati* institution is a communal customary land ownership system and is regulated by the head of the *dati* within a particular family or clan lineage. *Dati* land is land controlled collectively by this group and not owned by individuals.

CONCLUSION

The weakness of the Supreme Court of the Republic of Indonesia's decision was executed by using outdated evidence, namely: the 1814 Register of Land was not intended as proof of land ownership under modern law, but rather as an administrative tool for colonial tax

purposes; the 1814 Register of Land was old, incomplete and often did not correspond to the actual conditions of existing customary land, thus causing uncertainty and disputes; the existence of differences in interpretation of customary law and national law in courts caused the Supreme Court of the Republic of Indonesia's decisions often to reflect less substantive justice for indigenous peoples; and this failure had implications for obstacles to customary land registration at the National Land Agency as well as the potential for prolonged conflict between indigenous peoples and other parties, and the 1814 Register of Land was not proof of ownership of rights to customary land/land in Ambon, but rather as a tax letter for land cultivated by community members on the said land. Therefore, the abolition of the *dati* institution as outlined in the decision on June 1, 1923, meant a change in the customary land ownership system in Ambon, particularly a change from the concept of *dati-doesoen* (land of *dati*) to *poesaka-doesoen*

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Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

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