


Recognition of Customary Land Rights Based of *Krik Slammat*

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Article Info	Abstract
<p>Keywords: Recognition; Customary land; <i>Krik Slammat</i>.</p>	<p>Introduction: The recognition of customary land rights based on local values has undergone several shifts in value, giving rise to state doubts about its existence.</p> <p>Purposes of the Research: Therefore, this research aimed to examine the recognition of customary land rights of the Pusu customary community in Sumbawa based on the value of 'krik slammat'.</p> <p>Methods of the Research: This non-doctrinal research was conducted using a sociological approach to investigate the formation and functioning of the law. This method also discovers the philosophical values embodied in empirical law by objectifying the values that live in society, in this context the objectification of values is carried out with the concept of recognizing norms that live in society.</p> <p>Results of the Research: The results showed that, first, the recognition of land rights of the Pusu community was conducted with 'rpulung' based on the value of 'krik slammat' containing elements of religion, democracy, and justice. Second, in 'krik slammat', which serves as a philosophical foundation in the formation of the law, hence, 'pulung' is born in the form of norms.</p>

1. INTRODUCTION

The land is often symbolized as a mother as evidence of its strong relationship with humans. Due to this strong bond, humans recognize their origin and will return to the land. The dynamics of their life and relationship to the land began to change, including increased land-related conflicts due to the economic value. Therefore, legal relations between land and humans should be regulated to create happiness or benefit. The concept of human happiness was formulated by classical philosophers such as Aristotle with the formulation of justice as moral and ethical. This ethical theory cannot survive because it is considered shackled by destiny, fear of gods, and religious myths.

In the Middle Ages, Jeremy Betham offered the concept of happiness or well-being. This is the theory of utilitarianism, which focuses on the 'outcome', such as happiness for many people as possible. Furthermore, the concept of happiness was refuted by the minority because Betham measured the maximization in the majority¹. The minority in question are

¹ Nurainun Mangunsong, "HAM Beragama Dalam Perspektif Filsafat Ilmu Hukum, Asy-Syir'ah : Jurnal Ilmu Syari'ah dan Hukum Volume 45 Nomor II 2011. p 1542-1563.

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workers, poor people, and the customary community. They tend to be neglected and are far from being happy.

The law is ideally formed for the community's happiness, but it still encounters problems, such as the lack of understanding of lawmakers about legal products made, as stated in the regional regulation of Sumbawa Regency on the Recognition and Protection of the community. This regulation was 'rejected' by the factions in the Regional Parliament because there was no community in Sumbawa other than LATS (*Tana' Samawa* customary institutions)².

The community with LATS is two different subjects. Customary community is alliances formed due to geological and territorial laws based on their law, while LATS is a manifestation of the Sumbawa sultanate as stated in the Regional Regulation Number 9 of 2015 concerning the *Tana' Samawa* Institution. The de-recognition of land rights also occurs because negative stereotypes, such as old-fashioned, left behind, poor, stupid, and *desa bao*, are developing against the customary community³.

Consequently, there is a reluctance in the formation of policies to recognize the rights of the community. The battle between the concepts⁴ of recognition by the state (legality) and the community (legitimacy) is still a debate in several circles. For example, the rejection of the community recognition and their land by the regional Parliament of Sumbawa Regency and how to protect the land rights of the Pusu community are often debated. Pusu community existed before Indonesia's independence, and they have a personal relationship with their land. Their legal formation is based on values believed, practiced, and attached to the souls, hence, they become the soul of the law or *Volkgeist*, as named by Vin Savigny. For example, *krik slamat*, interpreted as 'blessing or salvation,' is the basis for the formation and ideals of customary law through '*rpulung*' (consultation) to produce '*pulung*' (customary law norms) related to the recognition of their land. Customary laws that grow and develop in the Pusu community are based on the philosophy of tau samawa⁵ '*adat barenti ko syara'*, *syara' barenti ko kitabullah*' with the boundaries being the provisions in the book of Allah.

2. METHOD

This non-doctrinal or empirical legal research⁶ was conducted to examine the formation and operation of law in the community. According to Roscou Pound, empirical research is not focused on the text of norms but on practice in the community⁷ to prove the truth of the natural world or can be perceived by the five senses⁸. The approaches used are

² Zen Zainuddin, "Ranperda Pengakuan Dan Perlindungan Masyarakat Adat Di Tolak," *Samawarea.Com*, last modified 2017, <https://www.samawarea.com/2017/04/06/ranperda-pengakuan-dan-perlindungan-masyarakat-adat-ditolak/>. Accessed on July 16, 2022

³ "*Desa Bao* is interpreted by people who are poor, old-fashioned, and stupid, even though the real meaning is people who live in the mountains" (n.d.).

⁴ "SiuSue Mark, Ben Belton, Breaking with the Past? The Politics of Land Restitution and the Limits to Restitutive Justice in Myanmar, *Land Use Policy*, Volume 94, 2020, 104503, ISSN 0264-8377, <https://doi.org/10.1016/j.landusepol.2020.104503>."

⁵ "Tau Samawa Adalah Masyarakat Sumbawa.," n.d.

⁶ Soetandyo, *Hukum, Paradigma, Metode Dan Dinamika Masalahnya*, Huma (Jakarta, 2002).

⁷ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* Volume 8, no. 8 (2021): 2463-2478.

⁸ Mukhti Fajar and Yulianto Achmad, "Dualisme Penelitian Hukum Normatif Dan Empiris" Vol 8, no. 1 (2015): 27.

sociological and conceptual. Therefore, this research aims to examine the recognition of customary land rights of the Pusu customary community, Sumbawa, and to analyze the value of *krik slamat* as the basis for forming legal ideals.

3. RESULTS AND DISCUSSION

3.1 Recognition of Customary Land Rights of the Pusu Customary Community

Theoretically, recognition consists of declarative and constitutive recognitions. A state has rights and obligations when it fulfills statehood requirements with respect to the community and territory. This kind of recognition is often called declarative recognition⁹. J.G Starke stated that 'the state or power of a new government already exists before recognition which is only a formal agreement about that fact'¹⁰. Meanwhile, in the constitutive aspect, 'a state requires recognition from another state that has fulfilled the requirements'¹¹. In this context, the recognition was based on how to respect, protect, and restore customary land rights of the Pusu customary community according to the local value of *krik slamat*.

The recognition of customary land rights is a topic that continues to be debated by many groups, including activists. There is an increase in its related conflict, as recorded in the end-year notes of the Customary Community Alliance of the Archipelago (CCSS). It reported 13 cases of confiscation of customary territories with an area of 251,000 hectares and 103,717 victims.¹² The recognition is the Regional Regulations, and Head Decrees stipulated in Law Number 5 of 1990 concerning Agrarian Principles Jo. Law No. 41 of 1999 concerning Forestry Jo. Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Customary Community is strengthened by the Constitutional Court Number: 35/PUU-X/2012. There are 158 regional legal products in Indonesia, consisting of 11 Provincial, 1 Governor, 57 Regional, 2 Regents, and 87 Regent Decree Regulations spread over 23 Provinces and 65 Regencies.¹³ This does not include the West Nusa Tenggara Provincial Regulation, which was recently enacted. Regional regulations are considered very effective in resolving land disputes¹⁴. However, this is in contrast to Sumbawa Regency, which threatens the existence of Regional Regulations regarding customary community and their land rights. The regulation on recognition of land rights has been established by the Regent of Sumbawa decree concerning *Lar* land (the land where traditional grazing lands are). On the other hand, local values were not accommodated in the regulations for managing *Lar* land in Sumbawa¹⁵. The customary land of the Pusu customary community is different from West Sumatra, which has been registered to ensure legal certainty¹⁶.

⁹ M Novianto and Hantoro, *Negara dan Masyarakat Adat, Penetapan Kesatuan Masyarakat Hukum Adat Sebagai Bentuk Pengakuan Negara Dan Implikasinya*, , Pusat Penelitian Badan Keahlian DPR RI, vol. 11, 2018.

¹⁰ Ibid.

¹¹ Ibid.

¹² Aliansi Masyarakat Nusantara, "Catatan Akhir Tahun Aliansi Masyarakat Adat Nusantara (AMAN," AMAN, last modified 2021, [https://www.aman.or.id/files/organization-document/57108 Catatan Akhir Tahun AMAN, 2021 Fix \(1\).pdf](https://www.aman.or.id/files/organization-document/57108%20Catatan%20Akhir%20Tahun%20AMAN,%202021%20Fix%20(1).pdf) accessed on July 15, 202 p. 30.

¹³ Ibid.

¹⁴ R Verawati, W V R Salshadilla, and Sholahuddin Al-Fatih, "Kewenangan Dan Peran Peraturan Daerah Dalam Menyelesaikan Sengketa Agraria," *Jurnal Penelitian Hukum Volume* 19, no. 2 (2020): 127–128.

¹⁵ Lahmuddin Zuhri, "Tata Kelola Tanah Lar Di Kabupaten Sumbawa," *Jurnal Notariil* 2, no. 2 (2017): 160–173, <https://core.ac.uk/download/pdf/268200587.pdf>.

¹⁶ A. Yoma Amanda Putri and Djauhari Djauhari, "The Registration Of 'Ulayat' Land In West Sumatra: Between The Legal Certainty And The Social Justice," *Jurnal Akta* 5, no. 3 (2018): 585.

Law Number 5 of 1960 concerning Agrarian Principles calls it *ulayat* rights. In various regions in Indonesia, customary lands are referred to by different names, including *paer* in Lombok, *padukuhan* in Talonang, *wewenkon* in Java, *prabumian* in Bali, and *lar lamat* in Sumbawa. Experts also differ in customary lands, such as '*beshhikkingrecht*', lordship rights, and ancient rights by Van Vollenhoven¹⁷, Supomo¹⁸, and Iman Sudiyat, respectively.¹⁹

Recognition is 'recognizing the right of the origin'.²⁰ Customary land, one of the rights of origin of the Pusu community, has economic and spiritual values. Maria Sumardjono indicated its existence by the presence of the community, customary lands, and the authority to connect the community with their lands.²¹ Furthermore, the lands are divided into three forms²², namely *tana' tue ria*, *tana' balo tolo*, and *tana' jompong*. *Tana' tue ria* is a traditional forest used by the Pusu community for hunting, taking medicines, and sourcing traditional house tools, ritual places, and springs. *Tana' balo tolo* is a traditional land inherited from the ancestors. This large amount of land was inherited because the Pusu community moved to other areas in Sumbawa after being afflicted by three residential fires. Meanwhile, *Tana' jompong* is a former land for settlement. The community is created from several *jompangs* that united to form their institutions and government, hence, the others became communal land. Additionally, Pusu customary land has been mapped using a participatory approach to determine the boundaries and area. This Participatory Mapping is presented to the State, giving the existence of customary land a recognition²³.

Recognition is an act of respect, protection and restoration of rights to achieve equality. Gobar Rona explained that all these acts are known as human rights.²⁴ Recognition of customary land rights of the Pusu community with '*rpulung*' aims to respect and protect the lands. *Rpulung* is a deliberation for consensus among the communities led by a leader called *ine adat* to obtain decisions. *Ine adat* in other areas, such as in Rejang Regency, is called '*jenang kutai*'²⁵ because they possess wisdom and maturity in making decisions. This is a institution where the authority is obtained based on deliberations that should be maintained because the value of *krik slamat* identifies that authority comes from God.²⁶ It institution has a role in preventing conflict, conflict handling, and post-conflict management.²⁷ *Rpulung* is

¹⁷Boedi Harsono, *Hukum Agraria Indonesia. Sejarah Pembentukan Undang-Undang Pokok Agrarian, Isi Dan Pelaksanaannya*, Jakarta. Universitas Trisakti., 2018 p 186.

¹⁸ Iman Sudiyat. *Hukum Adat: Sketsa Asas* (Yogyakarta: Liberty Press, 1981) p2.

¹⁹ Ibid.

²⁰ Novianto and Hantoro, *Negara Dan Masyarakat Adat, op.cit ... p. 11 . .*

²¹ Esmi Warassih, "RECOGNITION OF ADAT FOREST AND PLANTATION CONCESSIONS IN INDONESIA," *Kanun Jurnal Ilmu Hukum* 19, Volume 19 no. 2 (2017): 254.

²² "Interview with Suparman as *Ine Adat* of the Pusu Customary Community, on July 27, 2019," n.d.

²³ Ståle Angen Rye, Nanang Indra Kurniawan, Claiming Indigenous Rights through Participatory Mapping and the Making of Citizenship, *Political Geography*, Volume 61, 2017, Pages 148-159, ISSN 0962-6298, <https://doi.org/10.1016/j.polgeo.2017.08.008>.

²⁴ Dicky Eko Prasetyo, *PERLINDUNGAN HUKUM MASYARAKAT SEDULUR SIKEP MENGENAI PENCANTUMAN PENGHAYAT KEPERCAYAAN DI KTP ELEKTRONIK*, Universitas Negeri Surabaya (Surabaya, 2019).

²⁵ Ellyani, E., Dimiyati, K., Absori, A., Wardiono, K., & Budiono, A. (2020). Psychological Analysis of Jenang Kutei Judges in Delivering a Verdict of Matai Bilai and Cuci Kampong (Purification Ritual) in Rejang Lebong Regency, Bengkulu Province, Indonesia. *J* p. 1217-1221 DOI Number: 10.37506/v20/i1/2020/mlu/194468.

²⁶ Lahmuddin Zuhri, "Nilai Lokal Krik Selamat Sebagai Asas Dalam Pembangunan Hukum," *Rechtidee*, Vol. 11. N, no. Juni (2016): 1-6.

²⁷ I Putu Agus Arya Dauh, I Ketut Sukadana, and I Made Minggu Widyantara, "Peran Pranata Adat Dalam Pencegahan Konflik Antara Kelompok Masyarakat Adat," *Jurnal Preferensi Hukum* VOI 1, no. 1 (2020): 133-138.

conducted according to the principles that 1) the customary community recognizes land as a place of return, 2) the members have the right to express opinions, 3) *buwat* rights on customary land are divided equally, 4) the result is a mutual agreement, and 5) no one should be harmed. These are based on the local value of *krik slamat*. Therefore, the recognition of customary land rights of the Pusu community contains elements of religious, democratic, and justice values. These decisions become law. This follows the report by Ter Haar²⁸, which stated that the law is decisions made by officials with authority and influence that apply spontaneously and wholeheartedly.

Respect for the Pusu community's customary land is shown by recognizing that the land is a place to return, specifically by completing traditional ceremonies such as the *buke tanah* ceremony²⁹. This ritual is performed at the beginning of land clearing for farming. The place is in the mosque where the community prays together, expecting the harvest will be successful. Afterward, they eat together. The next is the *sedeka bao jeremi* ritual which is a form of gratitude for agricultural products. This ritual is performed in the fields by eating their farm produce together, entertained with tambourine music. It is because customary land is a place of return and should be thoroughly guarded to the sky and the earth's core according to the principle of '*cujus est solum ejus est usque ad caelum et ad inferos*'³⁰ and with traditional rituals³¹.

Satjipto Raharjo stated that legal protection aims to protect the community rights in law³². Recognition in the form of protecting the lands is regulated by laws that have evolved within the community. The arrangements are regulated in relation to the *buwat* rights of the community that manages the lands. The *buwat* rights aim to manage the community over the land by paying rent in the form of agricultural products. Furthermore, regulating the land in the Pusu community has been going on for a long time and has been passed down over generations, originating from magical and socio-cultural values³³. *Buwat rights* are the same as *paer* and voting rights in Lombok and Aceh or the general term for usufructuary rights. Finally, protection is conducted vertically and horizontally like *adigium 'cujus est solum'*.³⁴

3.2 The Value of *Krik Slamata* as the Basis for Customary Law Formation in Recognition of Customary Land Rights of the Pusu Community

Customary law lives over generations (living law), hence, the rights and obligations are not formed and created but are innate values from cultural values and wisdom, which are the foundation for the customary community.³⁵ It is not universally applicable in any

²⁸ Suroono, *Pengantar Dan Azaz-Azaz Hukum Adat, Gunung Agung, Jakarta*, 2010. p 15.

²⁹ Supriyadi, *Profil Dan Tata Ruang Masyarakat Adat Pusu, Lombok* (Lombok: Bania Publishing, 2020. hlm, 30.

³⁰ Herman Sangobeng, *Filosofis, Asas, Ajaran, Teori Hukum Pertanahan, Dan Agrarian* (Yogyakarta: STPN Press, 2012, p, 13.

³¹ Nugroho, S. S., Absori, A., Harun, H., & Setiahadi, R. (2019). Customary Law Harmonization Norma Interaction and Legal State in the Management of Natural Resources Conservation, DOI:10.4108/eai.8-12-2018.2283961.

³² Satjipto Raharjo, Ilmu Hukum, and P.T.Citra Aditya Bakti Bandung, "No Title," 2000 p. 54.

³³ "Achmadi, K. D., & Absori, A. B. (2020). Cultural Implications of Dayak Tomun Indigenous Peoples in the Management Land Rights: A Case Study of Lamandau, Central Kalimantan, Indonesia. *Humanities*, (4)," (n.d.): 530-536 <https://doi.org/10.18510/hssr.2020.8452>.

³⁴ *Ibid*, p, 254.

³⁵ Zakaria Saxon and Ahmad Murtadho Sholahuddin Al-Fatih, "STUDY OF THE VALUE OF CULTURE AND LOCAL WISDOM IN THE Jurnal Hukum Replik," *Jurnal Hukum Replik* Volume 9, no. 1 (2021): 84-98.

area, as elopement in Malaysia is also a problem. Otherwise, Lombok has various interesting customs and habits.³⁶ The growth and development of customary law adhere to a magical religious style. This law manifests the psyche through works, ideas, and reason³⁷. Before religion became known, the community was very sure of animism as a spiritual soul and a source of values adopted in social life. After these dynamics, the customary community in Indonesia adopted Islam as their religion, making it the normative framework by which its members lived their daily lives.

As subjects of customary lands, the community has a natural relationship between 'magical, religious, communal, concrete, and cash'. According to Otje Salman Soemadinigrat,³⁸ these features represent the general characteristics of the community. One of the features related to the value of *krik slamat* is magical religion. The feature emanates from the philosophy of '*adat barenti ko syara*', *syara*' *barenti ko Kitabullah*' which contains spiritual values. This philosophy implies that when custom is contrary to religion, it becomes inapplicable. Therefore, it should follow religious values in the text and implementation.³⁹ The manifestation and legitimacy of a community's cultural existence is the application of its values.⁴⁰

The value of *krik slamat* is interpreted as an 'abundance of grace and safety'.⁴¹ This becomes the basis for forming the customary law of the Pusu community in relation to customary land. Furthermore, the value includes *rpulung* as a method to form customary law. *Pulung* is a norm, while *krik slamat* is the purpose of customary law. This pattern is a manifestation of values that contain ethical wisdom.⁴²

Philosophical research on the value of *krik slamat* is conducted by observing the existence and practice of law⁴³ and examining certain basic principles.⁴⁴ These matters can be examined from the point of view of philosophy with an ontological and epistemological perspective.⁴⁵ The value of *krik slamat* comes from the wisdom of the Pusu community by making religion (Islam) a belief and custom as a way of life. From the epistemological perspective, it is the integration of spirituality between the nature of religious and customary truth, which in the science of *kalam* is the integration between revelation and reason.

³⁶ Roslina C H E Soh, "A Study of Elopement among Muslims in Malaysia and Island of Lombok, Indonesia," *Jurnal Undang-undang dan Masyarakat* Volume 5, no. 1 (2019): 104-114.

³⁷ Jayanuarto, R., et.al. (2019). Psychological Analysis of Customary Law as the Spirit for Indigenous People of Bengkulu City Indonesia. *Indian Journal of Public Health Research & Development*, 10(9). DOI Number: 10.5958/0976-5506.2019.02553.1.).

³⁸ Otje Salman Soemadinigrat, *Rekonseptualisasi Hukum Adat Kontemporer, Bandung Alumni* (Bandung, 2011, p. 29-33.

³⁹ Idrus Abdullah, "PENYELESAIAN SENGKETA BISNIS DI LUAR PENGADILAN ANTAR WARGA SUKU SASAK DI PULAU LOMBOK," *Jurnal Hukum & Pembangunan* 40, no. 2 (June 3, 2010): 290, DOI: <http://dx.doi.org/10.21143/jhp.vol40.no2.219> , p. 5.

⁴⁰ Rasid Yunus, *Nilai-Nilai Kearifan Lokal (Local Genius) Sebagai Penguat Karakter Bangsa, Deepublish Publisher* (Yogyakarta, 2011), p. 2.

⁴¹ Sanapiah S Faisal, *Budaya Kerja Masyarakat Pertani Sumbawa; Kajian Strukturasionistik: Kasus Petani Sumbawa* (Surabaya: Disertasi Program pascasarjana Universitas Airlangga., 1999, hlm.94.

⁴² Jayanuarto, et.all, op.cit...."

⁴³ R M Dworkin, *Filsafat Hukum : Suatu Pengantar* Yogyakarta: Merkid Press, 2007, hlm. ix.

⁴⁴ Teguh Prasetyo Abdul Halil Barkatullah, *Studi Pemikiran Ahli Hukum Sepanjang Zaman* (Yogyakarta: Pustaka Pelajar, 2007, p. 17.

⁴⁵ Juhaya S Praja, *Teori Hukum Dan Aplikasinya* (Bandung: Pustaka Setia, 2011, p. 18.

Land tenure based on customary law has higher wisdom and can bring prosperity and justice to the community.⁴⁶ Recognizing customary land rights of the Pusu community with '*rpulung*' bring respect and protection. *Rpulung* is a consensus deliberation led by a leader to obtain decisions. This deliberation is performed with the principle that 1) customary community realize that land is a place of return (religious) 2), they have the right to express opinions (democratic), 3) *buwat* rights to customary land are divided equally (justice), 4) the result of the agreement is mutual (peace), and 5) no one should be harmed.

Pulung is a customary decision in the form of concrete norms containing imperatives, commands, and prohibitions. Similarly, Ter Haar⁴⁷, famously known for his decision theory, stated that customary law is decisions made spontaneously and wholeheartedly by officials with authority and influence. An example of *pulung* is the customary law of the Pusu community related to land management. The existence of *buwat* rights in customary forests is usually marked with several signs, including⁴⁸:

- a. *Gatek*, namely cutting the branches of trees at the farming location
- b. *Rantas*, namely the start of a pilot project to clear the forest for farming or gardening
- c. *Lemat kayu*, namely making machete marks on large trees as a sign that the forest will be used for farming

The law aims to achieve certainty, benefit, and justice.⁴⁹ The value of *krik selamat* is the legal goal of the Pusu community in expecting for safety and happiness in the hereafter. Furthermore, the formation of the customary law is observed from the philosophy, method, legal norms, and purpose based on spiritual values that align with Islamic teachings. In the community, the value of *krik selamat* is the basis for the formation of customary law as the Qur'an guides that every human action should be based on the value of 'blessing and salvation' in the hereafter. Blessing is something that cannot be measured, as it is eternal and unpredictable.⁵⁰ By following the example of the Messenger, adhering to the *sunnah*, and avoiding His prohibitions, Allah SWT will bestow blessings. This follows the word of Allah SWT, which stated that "We would have overwhelmed them with blessings from heaven and earth" (Qs: Al-A'raf/76/:96).

The formation of customary law through *rpulung* aims to reach an agreement, according to the Qur'an guides, that every human action consults in making decisions on a case. This follows the word of Allah SWT, which stated that 'who respond to their Lord, establish prayer, conduct their affairs by mutual consultation, and donate from what We have provided for them' (Qs Al-Shura/42:38).

The customary law aims to achieve happiness in the world and hereafter. It follows the Qur'an, which states that every human being is happy in this world and hereafter. The ultimate goal of every command of Allah SWT is true happiness (*la'allakum tuflihun*). The word *la'allakum tuflihun* has appeared 11 times in the Qur'an, as mentioned in Q.S Al-

⁴⁶ NFN Syahyuti, "Nilai-Nilai Kearifan Pada Konsep Penguasaan Tanah Menurut Hukum Adat Di Indonesia," *Forum penelitian Agro Ekonomi* Volume 24, no. 1 (2016): 14.

⁴⁷ Suroono, *Pengantar Dan Azaz-Azaz Hukum Adat, Gunung Agung, Jakarta*, p. 15.

⁴⁸ "Interview with Suparman as *Ine Adat* of the Pusu customary community, on July 27, 2019."

⁴⁹ Ahmad Ali, *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence): Termasuk Interpretasi Undang-Undang (Legisprudence)* (Jakarta: Kenca Perdana Media Group, 2010, p.212.

⁵⁰ Quraish Shihab, "Tafsir Al-Misbah Jus Ke-4, Jakarta, Lentera Hati, 2017, p. 197.

Baqarah: 189, Q.S Ali Imran: 130, 200. There is a close relationship between customary law and Islamic law, where the boundaries of customary law are as stipulated in Islam, based on the philosophy, the method of establishing customary law, the purpose of customary law based on the value of *krik slamat*, and the value of *krik slamat* which rests on the philosophy of '*adat barenti ko syara, 'syara' barenti ko Kitabullah*'. According to Soerjono Soekanto, this relationship is accommodative.⁵¹ Theoretically, Pusu customary law adheres to the *receptio in complexiu* theory, which stated that everyone applies their religious law. For example, Islamic law applies to Muslims and other religions. In this case, customary land rights and law are recognized by the Pusu community based on Islamic law. Figures such as Solomon Keyzer argued that Islamic law applies in Indonesia.⁵² Van De Berg, an advisor to the East Indies government, stated that this law applies to Muslims because they have embraced Islam despite the deviations⁵³. Islamic law was enacted during the VOC era with the existence of Islamic civil law, hence, it became the basis for dispute resolution for Muslims in Indonesia. The inheritance and Islamic marriage law with the '*relusie Der Inderche regering*' regulation known as the *confedium freijher*⁵⁴ initially applied to Muslims. The fuqaha influence the characteristics of Islamic law, hence, they tend to be dynamic in determining the solution to problems⁵⁵. Similarly, the customary law of the Pusu community adopts Islamic law as manifested in solving problems with mediation by *ine adat*. In the study of *maqosid al-syariah*, the value of *krik slamat* is used for conflict resolution⁵⁶. Therefore, recognizing customary land rights can guarantee the protection and fulfillment of the community's rights. The theory of *receptio in complexiu* is opposed by the theory of *receptie* by Snouck and Van Vollenhoven, which stated that Islamic law could be enforced when accepted by the existing law⁵⁷. In this case, Hazairin refuted the *Receptio a contrario* theory which reported that customary law originates from the Qur'an and *al-hadith* ⁵⁸.

4. CONCLUSION

Recognition of customary land rights of the Pusu community is conducted through *rapulung*. This includes arranging and managing customary land through deliberation between the leaders (*ine adat*) and the community. *Rpulung* is performed with the principle that 1) the customary community realizes that a land is a place of return, 2) the members have the right to express opinions, 3) *buwat* rights to customary land are divided equally, 4) the result of the agreement is mutual, and 5) no one can be harmed. According to the five principles, *rpulung* is based on the value of '*krik slamat*', which contains elements of religion, democracy, and justice. The value of *krik slamat* is the philosophical basis for forming customary law in the Pusu community regarding the recognition of land rights. It contains the meaning of 'blessing, safety, and happiness'. Furthermore, one of the elements of the value of *krik slamat* is *rpulung* which means deliberation and consensus in determining the

⁵¹ Soerjono Soekanto, "Hubungan Hukum Adat Dengan Hukum Islam," *Jurnal Hukum & Pembangunan* 17, no. 2 (June 19, 2017): 152, <http://jhp.ui.ac.id/index.php/home/article/view/1300>.

⁵² Sajuti Thalib, *Receptio a Contrario*, Cetakan Ke-III (Jakarta: Bima Kasara, 1985, p. 15.

⁵³ Ibid.

⁵⁴ Ahmad Khumaidi Ja'far, "Teori-Teori Pemberlakuan Hukum Islam Di Indonesia," *Asas* 4, no. 2 (2012): 102-110, <http://ejournal.radenintan.ac.id/index.php/asas/article/view/1679>.

⁵⁵ Farihan Aulia and Sholahuddin Al-Fatih, "Perbandingan Sistem Hukum Common Law, Civil Law Dan Islamic Law Dalam Perspektif Sejarah Dan Karakteristik Berpikir," *Jurnal Ilmiah Hukum LEGALITY* 25, no. 1 (2018): 98.

⁵⁶ Khairy Juanda and Lahmuddin Zuhri, "KRITIK SALAMAT : MAQOSID AL-SYARIAH DALAM NILAI LOKAL (Urf '), " *Komunike Vol viii*, no. 1 (2016): 98-111.

⁵⁷ Syahrizal Abbas, *Mediasi Dalam Hukum Syari'ah, Hukum Adat Dan Hukum Nasional*, Kecana, 2010, p. 5.

⁵⁸ Hazairin, *Hukum Kekeluargaan Indonesia* Bina Aksara, 1982, Hal. 53.

law of the customary community, including recognition of the land rights to produce *pulung* in the form of norms that are enforced. The goal of customary law itself is happiness. The value of *krik slamat* comes from the Sumbawa community's philosophy of '*adat barenti ko syara*,' *syara*' *barenti ko Kitabullah*' which means custom based on the book of Allah. In conclusion, it is adopted from Islamic law by embracing Islam as a belief, custom, and way of life of the Pusu customary community.

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