

COOPERATIONAL AGREEMENT ON THE COLLECTION OF PINE RESIN BY A NAGARI-OWNED BUSINESS ENTITY (Case Study in Nagari Saruaso)

¹Nailul Fadhilah Irni, ²Dr. Zefrizal Nurdin, ³Dr. Hengki Andora
¹Master Of Notary Student, ²Master Of Law Lecture, ³Master Of Law Lecture
Faculty Of Law, Andalas University, Padang, West Sumatera, Indonesia
Email – irninaul@gmail.com

Abstract: *Apart from being interpreted as an economic source, land is also something sacred and contains complete value for MHA, so its existence must be maintained. The rights of MHA are not only limited to land, but also those above it, in this case the forest. In West Sumatra, customary law and positive law were found to accommodate the use of forests, especially in Nagari Saruaso. There are 2 (two) claims to the pine forest in Nagari Saruaso, according to the community according to customary law the forest belongs to them, but legally the forest is under the management authority of the Bukit Barisan KHPL.*

Key Words: *Cooperation Agreement, Forest Utilization, Communal Land.*

1. INTRODUCTION:

Soil is one of the important things in the current era of technology and industry. This is because of the usefulness and benefits of land that can meet the needs of living things and also as a very useful asset or wealth. In Article 2 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as the LoGA) and General Elucidation II on the Basics of the National Agrarian Law paragraph (2) paragraph 3 (three) of the UUPA it is explained that the state does not have rights property of the earth, water, and space, including the natural resources contained therein. The state is only an organization of power for all the people. Act as the governing body, so that the state is a state institution mandated by the people in managing the earth, water and natural resources contained therein in order to realize the greatest prosperity of the people.

2. THEORITICAL FRAMEWORK:

a. Theory of Legal Protection

In the opinion of Lili Rasjidi and B. Arief Sidharta that the protection of certain interests in an interest can only be done by limiting the interests of other parties.[1]

b. Theory of Legal Effectiveness

According to Soleman B. Taneko, the study of legal effectiveness is an activity that shows a general problem formulation strategy, namely a comparison between legal reality and legal ideals, specifically the level between *law in action* and *law in theory*. (*law in theory*) or in other words this activity will show the relationship between *law in the book and law in action*. [2]

c. Legal Theory of Agreement

Agreement is a legal act that involves one or more people who bind themselves to one or more other people.[3]

3. LITERATURE REVIEW:

Maria SW Sumardjono is of the opinion that in the concept of national land law, the discussion of ulayat rights is not only about the land, but also includes all its contents, including forest (ulayat).[4] In principle, forest utilization is only used for family needs or meeting the needs of daily life and not for commercial activities. If the relevant MHA members want to take forest products, such as timber for commercial activities, in addition to having to report and ask for permission to the nagari, they must also fulfill the obligation to pay fees such as taxes (*bungo*). According to Sudikno Mertokusumo, an agreement is a legal relationship between two or more parties based on an agreement to cause legal consequences.[5]

4. METHOD:

The method used in this research is the empirical juridical method, namely the procedure used to solve research

h is the empirical juridical method, namely the procedure used to solve research problems by analyzing the extent to which a regulation or legislation or law is currently in effect effectively.[6]

5. DISCUSSION:

Land is not only interpreted as an economic resource, but also as something sacred, must be protected and contain complete value. As customary law communities value land. West Sumatra is one of the areas where the existence of the customary law community (hereinafter referred to as MHA) and their customary law is still sustainable. This can be seen from the existence of customary institutions that were formed based on the Regional Regulation of the Province of West Sumatra Number 6 of 2008 concerning Ulayat Land and Its Utilization (hereinafter referred to as the West Sumatra Regional Regulation 6/2008). In this regard, there is a phenomenon where people in Nagari Saruaso use the forest, in this case the collection of pine resin without the permission of the authorities. The community claims that the forest is in their ulayat nagari land. The community also does not want to release the land to be managed by other parties.

6. ANALYSIS:

A. Legal Status of Forests Where People Collect Pine Sap In Nagari Saruaso

The effectiveness of regulations regarding the recognition of ulayat rights depends on the local government's initiative to conduct research as a basis for determining the existence of MHA and their traditional rights. This needs to be done so that customary forests get legal recognition. However, until now, for the pine forest in Nagari Saruaso where the community collects the sap, there is no local regulation that states the legal status of the forest is customary forest. And the community's claim to the customary forest is still a claim under Minangkabau customary law. Meanwhile, based on positive law in Indonesia, the pine forest is a production forest and is included in the Bukit Barisan KPHL Management area.

B. Mechanism of Forest Utilization in Collecting the Pine Sap in Nagari Saruaso

Based on the theory of legal effectiveness which examines a comparison between legal reality and legal ideals or in other words *law in the book and law in action*, in terms of problems in Nagari Saruaso, it can be seen that the presence of law in regulating customary forests since the UUK was ratified until now is getting better. It's just that the success rate of the regulation in Nagari Saruaso has not been fully effective and poses a dilemma in its implementation in the field. This is because there are several overlapping rules as described above. Then, the existing rules have not been accompanied by the implementation of the related parties. Such as the formation of a nagari regulation to provide legal recognition to MHA and nagari ulayat land in Nagari Saruaso.

7. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- The legal status of the forest where the community collects pine rubber in Nagari Saruaso is based on the community's claim that it is a customary forest because it grows on nagari customary land controlled by Nagari Saruaso. Meanwhile, based on the Manuscript Cooperation Agreement by Bumrag Suravase, the forest is a production forest under the authority of KPHL Bukit Barisan.
- The mechanism of forest utilization in the collection of pine rubber in Nagari Sauraso is by entering into a cooperation agreement. So that there is a legal relationship between Bumrag Suravase and KPHL Bukit Barisan, based on the Text of the Cooperation Agreement which is the legal basis for the fulfillment of rights and obligations for the parties, in accordance with the directive of Permen LHK 49/2017.
- The implementation of the cooperation agreement for the collection of pine rubber by Bumrag Suravase is done based on the Manuscript Working Agreement. However, during its implementation there are some obstacles, such as juridically, the legal recognition of the status of customary forests to the Nagari Saruaso forest.

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