

Regional Government Policy in Protecting Customary Land Rights: A Case Study of the Toba Batak Indigenous Community

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ABSTRACT

This study aims to examine the mechanism of recognition and implementation challenges concerning the Indigenous Peoples of Batak Toba Samosir, particularly in the protection of customary land rights, as regulated in Regional Regulation No. 1 of 2020 of Toba Samosir Regency. This research is significant considering that the protection of collective rights of indigenous peoples is a constitutional mandate often hindered by administrative and political constraints at the local level. Employing a normative juridical approach with a qualitative design, the unit of analysis comprises Regional Regulation No. 1/2020 and related legal frameworks. Data were collected through library research involving primary legal materials (legislation), secondary sources (academic literature), and tertiary sources (legal dictionaries and encyclopedias). The findings reveal that the recognition of customary territories is based on the principles of *ripe-ripe* (communal rights) and *pangumpolan* (individual rights), yet faces technical and administrative obstacles. These include the absence of a Regent Regulation (*Perkada*) as an operational guideline, the lack of valid spatial and historical data, and limited participation of indigenous communities in the verification process. This situation leads to inconsistencies between written legal norms and field implementation. The study highlights the need for regulatory synchronization between central and local governments, as well as the urgency of formulating an inclusive and implementable *Perkada*. The originality of this research lies in its focus on the tension between formal legal structures and customary norms within Indonesia's decentralized legal system.

Keywords: Batak Toba; customary land rights; indigenous peoples; local policy.

ABSTRAK

Penelitian ini bertujuan untuk mengkaji mekanisme penetapan dan tantangan implementasi pengakuan Masyarakat Hukum Adat Batak Toba Samosir, khususnya dalam perlindungan hak atas tanah adat, berdasarkan Peraturan Daerah Kabupaten Toba Samosir Nomor 1 Tahun 2020. Studi ini penting mengingat perlindungan hak kolektif masyarakat adat merupakan amanat konstitusi yang kerap menghadapi kendala administratif dan politis di tingkat lokal. Penelitian ini menggunakan pendekatan yuridis normatif dengan desain kualitatif, dengan unit analisis berupa Peraturan Daerah No. 1 Tahun 2020 dan peraturan terkait lainnya. Data dikumpulkan melalui studi pustaka terhadap bahan hukum primer (peraturan perundang-undangan), sekunder (literatur akademik), dan tersier (kamus dan ensiklopedia hukum). Hasil penelitian menunjukkan bahwa pengakuan wilayah adat mengacu pada prinsip *ripe-ripe* (hak komunal) dan *pangumpolan* (hak individual), namun masih menghadapi hambatan teknis dan administratif. Hambatan tersebut antara lain belum adanya Peraturan Kepala Daerah (*Perkada*) sebagai pedoman implementatif, keterbatasan data spasial dan historis yang valid, serta minimnya partisipasi komunitas adat dalam proses verifikasi wilayah. Situasi ini mengakibatkan inkonsistensi antara norma hukum tertulis dan praktik pengakuan di lapangan. Implikasi dari penelitian ini menegaskan pentingnya sinkronisasi regulasi antara pusat dan daerah, serta urgensi perumusan *Perkada* sebagai dasar operasional yang konkret dan partisipatif. Orisinalitas penelitian ini terletak pada fokusnya terhadap ketegangan antara struktur hukum formal dan norma adat dalam konteks sistem hukum desentralisasi di Indonesia.

Kata kunci: Batak Toba; hak atas tanah adat; masyarakat adat; kebijakan lokal.

INTRODUCTION

Indigenous communities in Indonesia continue to face various challenges in obtaining formal recognition of their customary territories, despite the constitutional acknowledgment of their existence. The

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Constitution of the Republic of Indonesia, specifically Article 18B paragraph (2) of the 1945 Constitution, explicitly states that the state recognizes and respects *Masyarakat Hukum Adat* (MHA-customary law communities) along with their traditional rights as long as they are still alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia (Jamin et al., 2023). This recognition should provide a strong legal foundation for the government to ensure legal certainty regarding the existence of *Masyarakat Hukum Adat*. However, in practice, many customary territories remain without clear legal status or protection of their *hak ulayat* (customary land rights). According to data from the *Aliansi Masyarakat Adat Nusantara* (AMAN), the indigenous population in Indonesia is estimated at 40 to 70 million people, consisting of over 2,000 ethnic groups spread across the archipelago (Samosir, 2022; Yuniarto, 2025). This figure demonstrates that indigenous communities constitute a significant component of Indonesia's social structure and thus require equitable legal recognition and protection.

One case that illustrates this issue can be seen in the Batak Toba indigenous communities in Toba Samosir Regency (Elisabeth et al., 2024). Although the local government has issued Regional Regulation No. 1 of 2020 concerning *Hak Ulayat* of the Batak Toba *Masyarakat Hukum Adat*, its implementation continues to face various conflicts and agrarian disputes (Aji, 2021). Key issues such as overlapping claims to customary land ownership, the entry of industries without the consent of indigenous communities, and weak, undocumented territorial boundaries remain unresolved (Sinaga, 2023). Recorded conflict data covers eight disputed areas totaling hundreds of hectares, involving *marga* (clans), villages, and industrial actors. These include a land conflict involving the descendants of the Manurung clan in Lumban Julu Subdistrict over approximately 45 hectares; a *tanah ulayat* dispute in Aek Natau Jaya Village, Sionggang Selatan and Sionggang Tengah Subdistricts; and a conflict in the Sidugu Sibisa area involving roughly 380 hectares of land. Other disputes have occurred in Ajibata and Pintu Pohan Subdistricts, as well as in Lumban Binanga Village covering around 871 hectares. Additional cases include conflicts in Amborgang and Uluan Villages, and disputes between communities and the TPL (Toba Pulp Lestari) company in areas such as Jior Sisada-sada and Silosung. Furthermore, inheritance-related land disputes have emerged in several other areas (Samosir, 2017). This situation highlights the urgent need to evaluate the effectiveness of regional policies in concretely accommodating the rights of indigenous communities. The cultural framework of *Dalihan Na Tolu*, long serving as a foundation for fostering social harmony, has become an essential part of conflict resolution among indigenous communities, especially in the Batak Toba region (Erawadi & Setiadi, 2024).

Several previous studies have addressed the challenges faced by the Batak Toba *Masyarakat Hukum Adat* from various perspectives. First, research on conflict resolution principles based on customary values such as *Dalihan Natolu* (Butarbutar, 2019), while culturally valuable, has proven insufficient in responding to the complexity of contemporary *hak ulayat* conflicts. Second, Jayus (2019) explored the Batak customary inheritance system, focusing more on internal aspects of customary law without addressing its relationship with state regulations. Other studies have examined policy aspects, such as the work of Pasaribu and Simamora (2022), which evaluated legal recognition by the government toward indigenous communities. However, this study did not address the technical classification of customary territories. Marbun (2021) attempted to examine the relationship between *hak ulayat* and regional autonomy, while Sibarani (2021) focused on individual rights without considering communal ownership. Limei Pasaribu's (2011) research was even more limited, covering only a single subdistrict in Toba Samosir.

In addition, Simamora et al. (2023) investigated the implementation of Regional Regulation No. 1 of 2020, but failed to offer a comprehensive solution to the obstacles in its implementation. These gaps indicate a lack of in-depth studies that specifically examine the structure, criteria, and mechanisms for determining customary territories of the Batak Toba community based on existing regional regulations.

Given these gaps, this study aims to examine the criteria for customary territories of the Batak Toba *Masyarakat Hukum Adat* according to Toba Samosir Regency Regional Regulation No. 1 of 2020, to analyze the structure or classification of customary land under this regulation, and to investigate the mechanisms for establishing customary law communities within the scope of local regulations, along with their weaknesses. This research provides both empirical and conceptual contributions to strengthening the legal framework for indigenous recognition at the regional level.

This study argues that the existence of a regional regulation alone is insufficient to provide effective formal recognition and legal protection for indigenous communities without clear and operational technical implementing regulations. Although Regional Regulation No. 1 of 2020 offers a basic legal framework for recognizing the *hak ulayat* of the Batak Toba *Masyarakat Hukum Adat*, its implementation remains far from optimal. This shortfall results from the absence of a *Peraturan Kepala Daerah (Perkada)* as an implementing instrument, the weak validation of historical and spatial data on indigenous communities, and the limited involvement of communities in the verification process. The lack of these aspects not only creates a legal vacuum at the technical level but also widens the gap between formal legal norms and customary practices on the ground. Therefore, this paper emphasizes the need to synchronize regulations between central and regional governments, and highlights the tension between the formalistic nature of the national legal system and the contextual, collective norms of customary law as a major challenge in governing indigenous recognition in the decentralization era.

2. RESEARCH METHOD

The unit of analysis in this study is the Toba Samosir Regency Regional Regulation No. 1 of 2020 concerning *Hak Ulayat* of the Batak Toba *Masyarakat Hukum Adat*. This regulation is a local legal product that governs the recognition and protection of the Batak Toba community's customary rights and serves as the policy foundation for the local government in determining the existence of customary territories and customary law communities. This study also includes an analysis of the regulation's implementation in the context of protecting the traditional rights of *Masyarakat Hukum Adat*.

This research employs a *normative juridical* approach with a qualitative research design (D'amato, 2024). This approach is appropriate because the study primarily focuses on examining the written legal norms contained within the regional regulation, as well as assessing the implementation and effectiveness of those norms based on legal principles (Budianto, 2020). This design is relevant for evaluating legal policy issues, particularly in assessing the consistency of regional regulations with national legislation and the principles of indigenous recognition as enshrined in the Constitution.

The data sources used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include applicable laws and regulations, such as the 1945 Constitution, Law No. 5 of 1960, laws on Forestry and Spatial Planning, and Regional Regulation No. 1 of 2020. Secondary legal materials are obtained from reference books, scholarly articles, and relevant legal journals, while tertiary legal materials include legal dictionaries and encyclopedias that support the understanding of terms and concepts.

The data were collected through *library research*, by examining legal documents, academic books, journal articles, and relevant court decisions (Halim et al., 2019). The data search was conducted systematically to identify the normative provisions within the regional regulation and to compare them with national regulations and academic discourses related to the recognition of *Masyarakat Hukum Adat* rights.

The collected data were analyzed qualitatively using legal interpretation methods, particularly grammatical and systematic interpretations of the legal norms in the regional regulation. The analysis was carried out in stages, starting from the identification of normative structures, comparison with national regulations, and evaluation of the consistency and effectiveness of the norms in the context of indigenous

protection. The results of the analysis serve as the basis for formulating the study's conclusions and policy recommendations.

3. RESULTS

Criteria for Customary Territories According to Toba Samosir Regency Regional Regulation No. 1 of 2020

One of the crucial elements in recognizing indigenous communities in Toba Samosir Regency is the determination of customary territories, as stipulated in Article 13 of Regional Regulation No. 1 of 2020. This regulation formalizes the existence and rights of the Batak Toba *Masyarakat Hukum Adat*. A detailed examination of the regulation reveals that one of its key regulatory components is the establishment of criteria for customary territories. Article 13 paragraph (2) explains that the recognition of customary territories for the Batak Toba *Masyarakat Hukum Adat* in Toba Samosir is based on two main aspects: *ripe-ripe* (communal ownership rights) and *pangumpolan* (individual ownership rights).

Furthermore, Article 13 paragraph (3) emphasizes that the criteria for *tanah ulayat* (customary land) of the Batak Toba *Masyarakat Hukum Adat* are defined based on spatial order, which includes several elements such as: *huta* (residential area), *panghaisan ni manuk* (house yard), *hauma* (rice fields or farms), *parjampalan* (grazing land), *parbandaan* (cemetery), *mual* (spring), *tombak* (forest), *pangeahan* (narrow, elongated land), *harangan/tombak raja* (forest area functioning as water catchment), and other areas determined through customary mechanisms.

The term *ripe-ripe*, derived from the Batak language, refers to collective land ownership rights granted to a group, either by *marga* (clan) or by indigenous territorial unit. This land is managed and inherited collectively by all members of the indigenous community (Aspan et al., 2023). Essentially, every member has the right to jointly manage and utilize the land to support their livelihood. These two categories—*ripe-ripe* and *pangumpolan*—are generally used to fulfill the community's subsistence needs. A range of activities takes place on this land, primarily agriculture, which reflects its vital role in sustaining daily life.

The pattern of *tanah ulayat* ownership observed among the Batak people is also practiced in other regions, such as the communal land ownership system of the Minangkabau people in Padang (Irawati et al., 2024). For the Minangkabau, *tanah ulayat* is also managed communally and passed down through generations. The primary difference lies in the kinship system: the Batak adhere to a *patrilineal* (father-line) system, while the Minangkabau follow a *matrilineal* (mother-line) one (Nurdin & Tegnan, 2019). This highlights the uniqueness of the Batak *tanah ulayat* system, where paternal lineage determines clan inheritance and land rights.

To clarify the concept of customary land management in Batak society according to Article 13 paragraph (2) of Regional Regulation No. 1 of 2020, the following table 1 outlines the main elements:

Table 1. Criteria for the Recognition of Customary Territories in Batak Indigenous Communities According to Article 13 Paragraph (2) of Regional Regulation No. 1 of 2020

Regional Government Policy in Protecting Customary Land Rights: A Case Study of the Toba Batak Indigenous Community
Janpatar Simamora

Category	Local Term (Batak Language)	Type of Right	Right Holder	Main Characteristics
Communal	<i>Ripe-ripe</i>	Collective	Clan group or <i>desa adat</i>	Non-transferable; inherited across generations
Individual	<i>Pangumpolan</i>	Personal	Individual within the community	Inheritable; for personal use within communal norms

Source: Perda Kabupaten Toba Samosir Nomor 1 Tahun 2020 Tentang Hak Ulayat Masyarakat Hukum Adat Batak Toba Samosir (Bupati Toba Samosir, 2020).

In summary, the Batak Toba *Masyarakat Hukum Adat* recognizes two primary forms of land ownership: *ripe-ripe* (communal) and *pangumpolan* (individual). Both are formally acknowledged in Article 13 of Regional Regulation No. 1 of 2020. The customary territory includes components such as residential areas (*huta*), rice fields (*hauma*), cemeteries (*parbandaan*), and forests (*harangan/tombak raja*), each of which holds social and spiritual significance. In practice, these two categories are non-interchangeable: communal rights cannot be converted into individual rights, and vice versa.

Therefore, several patterns emerge from the *tanah ulayat* ownership system among the Batak Toba people. First, land ownership is highly collective, where *ripe-ripe* land is managed based on *marga* affiliation. Second, the spatial structure of customary territory is highly organized, reflecting both livelihood needs and spiritual values—for example, forests serve ecological as well as ritual functions. Third, individual ownership (*pangumpolan*) remains subject to customary norms, ensuring social cohesion. Fourth, inheritance follows the father's lineage, reinforcing the *marga*-based social structure of land ownership.

Thus, these findings show that the *tanah ulayat* system in the Batak Toba indigenous community is not merely an economic instrument, but also a vital pillar of the community's social and cultural identity. The recognition of two categories of rights—*ripe-ripe* and *pangumpolan*—reflects efforts to balance collective ownership and individual autonomy within a customary framework. However, the continued reliance on oral and hereditary customary mechanisms presents serious implications when this system confronts state law, which demands formal legal certainty. The absence of formal documentation renders *hak ulayat* vulnerable to external claims and internal conflicts.

Spatial Structure of Customary Territory According to Toba Samosir Regency Regional Regulation No. 1 of 2020

In the Batak Toba *Masyarakat Hukum Adat* community, *tanah ulayat* (customary land) is not merely a material resource but a structured living space that reflects the community's spiritual beliefs, social organization, and ecological practices. Article 13 paragraph (3) of Regional Regulation No. 1 of 2020 outlines the spatial elements that comprise this customary territory.

These elements include *huta* (central settlement), *panghaisan ni manuk* (household yard), *hauma* (agricultural land), *parjampalan* (grazing land), *parbandaan* (burial ground), *mual* (spring), *tombak* (forest), and *harangan/tombak raja* (conservation forest zone). Each of these spaces is traditionally organized to ensure both the community's survival and harmony with nature.

The *huta* functions as the physical and cultural center of the community, where houses are built, ceremonies are held, and communal decision-making takes place. *Panghaisan ni manuk* refers to the household yard, usually used for raising chickens. *Hauma* represents rice fields or farms that support household livelihoods, managed individually or collectively depending on ownership status. *Parjampalan* is designated land for grazing buffaloes, cows, horses, and other animals—typically located near the *hauma* and frequently visited before or after work in the fields.

Regional Government Policy in Protecting Customary Land Rights: A Case Study of the Toba Batak Indigenous Community
Janpatar Simamora

Mual serves as a water source for daily needs and bathing. It belongs collectively to the indigenous community and is not considered private property. Therefore, its maintenance is also a collective responsibility to ensure its continued function.

Tombak raja or *harangan* is not just forest land—it is a sacred ecological zone that functions as a water catchment area and a symbolic boundary for ancestral protection. *Parbandaan*, as burial land, is honored as a spiritual bridge between the living and the ancestors, protected from disturbance or commercial use.

These spatial elements form a holistic structure that balances daily needs, spiritual reverence, and ecological sustainability. The central placement of the *huta*, surrounded by other elements, reflects a logic of land organization rooted in values of interdependence and respect for nature.

Table 2. Criteria and Functions of Each Element in the Spatial Structure According to Article 13 Paragraph (3) of Regional Regulation No. 1 of 2020

Element	Local Term (Batak)	Function	Ownership Status	Description
Village	<i>Huta</i>	Settlement center	Communal	Social and customary life center
Household Yard	<i>Panghaisan ni manuk</i>	Household area	Individual	For domestic livestock
Farmland	<i>Hauma</i>	Agriculture/rice farming	Individual/group	Privately cultivated; part of <i>pangumpolan</i>
Grazing Land	<i>Parjampalan</i>	Pasture	Communal	Shared by <i>marga</i>
Spring	<i>Mual</i>	Water source	Communal	Sacred, not private property
Forest	<i>Tombak</i>	Wood & medicinal plants	Communal	Use governed by customary law
Cemetery	<i>Parbandaan</i>	Ancestral burial site	Communal (by lineage)	Sacred and protected

Source: Perda Kabupaten Toba Samosir Nomor 1 Tahun 2020 Tentang Hak Ulayat Masyarakat Hukum Adat Batak Toba Samosir (Bupati Toba Samosir, 2020)

In summary, the spatial structure of the Batak Toba indigenous community, as stipulated in Article 13 paragraph (3) of the Toba Samosir Regional Regulation, consists of residential areas (*huta*), agricultural lands (*hauma*), ritual sites (*parbandaan*), and ecological preservation areas (*tombak raja*). Each element plays a specific role, forming a functional spatial structure that integrates with the community's daily life and traditions.

Several important patterns emerge from this spatial data. First, customary space follows a hierarchical layout with the *huta* at the center and other elements surrounding it. Second, many land elements serve both practical and spiritual functions—for example, *parbandaan* functions as both a burial ground and a sacred space. Third, the spatial organization reflects a philosophy of harmony among humans, ancestors, and nature, especially through the preservation of *tombak raja* as a sacred ecological zone.

In practice, changes in the use of *tanah ulayat* may occur when there are strong reasons and collective agreements from the indigenous community. This usually happens when no alternatives are available and the new use serves the common good. Each spatial unit has a distinct function and cannot be interchanged—for example, residential, agricultural, water source, or burial area. In practice, some lands are communal, while others are individual. For instance, *mual*, *parjampalan*, and *tombak* are generally used communally,

while *hauma* is used individually. Some areas are also considered sacred—such as *mual* and *parbandaan*—and their use must strictly follow customary norms (Arifin et al., 2025).

In principle, the use and management of all elements within the spatial structure of *tanah ulayat* by the Batak Toba *Masyarakat Hukum Adat* must be based on the values stated in Article 16 of the Regional Regulation. These values include social values, shared economic interests, and/or development goals. In practice, the use of customary land must prioritize development in key areas such as education, health, agriculture, spirituality, burial grounds, tourism, and other public interests. If *tanah ulayat* is used for purposes such as tourism, agriculture, or other activities requiring *Hak Guna Usaha* (HGU) or *Hak Pakai*, the indigenous community may grant such usage rights for a fixed period. Once the period expires or the land is no longer in use, the rights automatically lapse, and any further use must be based on a new agreement with the indigenous community. This provision is intended to prevent the erosion or loss of the *ulayat* spatial structure due to external interests, while also serving as a protective mechanism for the cultural values embedded in the governance of customary land.

Overall, the Batak community's land-use system demonstrates that the spatial structure of customary land serves as a holistic and integrated framework for daily life. Its application is not only driven by practical needs but is also deeply rooted in the cultural values and local wisdom of the community.

Mechanism for Recognizing the Batak Toba Masyarakat Hukum Adat According to the Regional Regulation and Its Challenges

The recognition of *Masyarakat Hukum Adat* (customary law communities) constitutes a fundamental legal step in ensuring the protection of their customary rights, land, and identity. In the context of the Batak Toba community in Samosir, this recognition process is regulated by Regional Regulation No. 1 of 2020, which outlines the formal mechanism for recognizing a community as a *Masyarakat Hukum Adat*.

The mechanism for recognizing Batak *Masyarakat Hukum Adat* involves several stages as defined in Article 14. The full content of Article 14 is as follows:

1. Recognition and protection, as referred to in Article 2, shall be carried out through the following stages:
 - a. Identification of the *Masyarakat Hukum Adat*
 - b. Verification and validation of the *Masyarakat Hukum Adat*
 - c. Legal establishment of the *Masyarakat Hukum Adat*
 2. The Regent, through the District Head (*Camat*), shall conduct the identification referred to in paragraph (1)(a) by involving the *Masyarakat Hukum Adat* or community groups.
 3. This identification shall include:
 - a. Historical existence of the *Masyarakat Hukum Adat*
 - b. Customary territory
 - c. Customary law
 - d. Customary wealth and/or objects
 - e. Customary institutional/governance system
 4. The results of the identification shall be verified and validated by a Verification Committee for the *Masyarakat Hukum Adat*, formed by the Regent according to applicable laws and regulations.
 5. The results of the verification and validation shall be publicly announced to the relevant *Masyarakat Hukum Adat*.
 6. The District-level *Masyarakat Hukum Adat* Committee shall submit a recommendation to the Regent based on the verification and validation results.
 7. The Regent shall issue a decree of recognition and protection for the *Masyarakat Hukum Adat* based on the committee's recommendation.
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Regional Government Policy in Protecting Customary Land Rights: A Case Study of the Toba Batak Indigenous Community
Janpatar Simamora

To be officially recognized, a community must meet the following criteria: (1) the existence of a customary institutional structure; (2) the continued observance of customary legal norms; (3) clear territorial boundaries; and (4) historical continuity. All of these requirements must be fulfilled for the recognition process to proceed.

Each actor plays a specific role in this mechanism: local government serves as facilitator and validator; customary institutions are responsible for preparing documentation and conducting internal identification; and the indigenous community itself acts as the petitioner for recognition. The process is not merely administrative—it also involves cultural dialogue.

In practice, for example, the Lintong Indigenous Community submitted its application documents for recognition as a *Masyarakat Hukum Adat* to the Regent of Toba in 2022 (Simanjuntak, 2022). However, this effort was unsuccessful, as the Regent had not yet issued a decree of recognition for the community.

Table 3. Process and Stages of Recognition for the Batak Masyarakat Hukum Adat

Stage	Actors/Institutions Involved	Description of Activity	Legal Basis
Identification	Indigenous community, village officials	Mapping group identity and historical existence	Article 14(1)
Verification & Validation	District Head (<i>Camat</i>), special committee	Assessing historical indicators, territory, and institutional structure	Article 14(2)
Legal Establishment	Regent	Issuing a formal decree recognizing the community and land rights	Article 14(3)

Source: Perda Kabupaten Toba Samosir Nomor 1 Tahun 2020 Tentang Hak Ulayat Masyarakat Hukum Adat Batak Toba Samosir (Bupati Toba Samosir, 2020)

The initiative for recognition comes from the community itself, not from the state (a bottom-up approach). Although the process is legal and formal, it is rooted in customary law, thus creating an intersection between state legal structures and indigenous norms. The recognition criteria emphasize cultural continuity rather than mere administrative existence.

In this mechanism, the local government's role is more facilitative than determinative regarding the content of customs. Through this recognition process, both cultural preservation and legal enforcement can proceed effectively. Recognition is not just an administrative procedure; it is also an official state acknowledgment of the community's existence.

Given the process, it is clear that various actors are involved in the formation of Batak *Masyarakat Hukum Adat*, including indigenous community groups, the District Head (*Camat*), the Regent, and the appointed committee. However, the regulation outlines only general stages without clear operational technical guidelines to support implementation on the ground. This lack of clarity ultimately hinders local execution.

For instance, when multiple versions of a community's historical origin exist, each with legitimate historical justification, the recognition process becomes highly problematic. Such conditions risk triggering prolonged disputes. Hence, the local government plays a crucial role in resolving such issues. In other words, the discretion of the regional head is a key factor in ensuring legal certainty for indigenous communities. Moreover, Indonesia's Constitution already recognizes the existence of indigenous peoples as part of the

citizenry. It is therefore essential to promptly resolve the challenges facing these communities, especially regarding recognition of their *hak ulayat*, which has long been part of their way of life.

Although the recognition mechanism for the Batak Toba *Masyarakat Hukum Adat* is outlined in Toba Samosir Regency Regional Regulation No. 1 of 2020, its implementation still faces fundamental weaknesses. One major issue is the absence of more technical operational guidelines to interpret and apply these normative provisions in practice. For example, Article 13 paragraph (2) stipulates that the recognition of customary territories is based on two principles of traditional ownership: *ripe-ripe* (communal ownership rights) and *pangumpolan* (individual ownership rights). Additionally, Article 13 paragraph (3) describes the functional spatial components of customary territory, such as *huta* (village), *hauma* (farmland), *parjampalan* (grazing field), and *harangan/tombak raja* (water catchment forest). However, in reality, many indigenous communities do not have written documentation of these spaces, as *hak ulayat* is passed down orally and collectively. This complicates the legal verification process, especially when overlapping claims arise from other communities with their own historical narratives.

Moreover, although the regional head is normatively responsible for the verification process, the task is often delegated to the District Head or ad hoc committees, which frequently lack technical training and budget support. Without clear indicators for assessment—such as historical authenticity, territorial boundaries, and customary institutional structure—the validation process tends to become merely administrative rather than substantive. This situation risks increasing tensions between indigenous communities and the government, particularly if recognition decisions are perceived as biased or dismissive of field data. In such cases, the potential for horizontal conflict increases, especially if the disputed territory holds significant economic value, such as access to natural resources or tourism land.

This condition highlights the urgency of drafting official technical guidelines in the form of a *Peraturan Kepala Daerah (Perkada)* or more detailed *Regent's Decree* to ensure that the implementation of the Regional Regulation is effective and responsive to local dynamics. If left unaddressed, these weaknesses will prolong legal uncertainty and reduce indigenous recognition to a normative document with no practical effect. The presence of a strong legal document is also urgently needed, as many indigenous communities face difficulties when trying to prove their *hak ulayat* before the state. In the long term, resolving this issue requires the state to act consistently in ensuring pluralistic justice and granting legal recognition to indigenous communities as legitimate citizens of Indonesia.

On the other hand, a coordinated policy approach between central and regional governments is a strategic key to ensuring legal and social sustainability for indigenous communities. In this regard, the accelerated ratification of the *RUU Masyarakat Adat* (Indigenous Peoples Bill) at the national level will provide a strong legal umbrella binding all levels of government, and will serve as proof of the state's commitment to its constitutional mandate to protect the collective rights of indigenous peoples. Without such decisive action, the recognition of *Masyarakat Hukum Adat* remains at risk of becoming a legal gray area, constantly contested and prone to prolonged conflict—especially in the context of overlapping territorial claims.

Discussion

This study demonstrates that Toba Samosir Regency Regional Regulation No. 1 of 2020 has provided a formal legal framework for the recognition of the Batak Toba *Masyarakat Hukum Adat* (MHA), particularly regarding the criteria for customary territories and the recognition mechanism. There are two core principles in the management of *tanah ulayat* (customary land): *ripe-ripe* (communal rights) and *pangumpolan* (individual rights), as detailed in Article 13. In addition, Article 14 outlines three essential stages in the recognition mechanism: identification, verification-validation, and formal establishment by the Regent.

However, the implementation on the ground faces several challenges, including the absence of technical guidelines, reliance on oral documentation, and the limited capacity of technical implementers at the sub-district level and in special committees. The case of the Lintong indigenous community in 2022 reflects the stagnation of recognition due to weak operational governance.

These findings reveal a significant gap between local legal norms and social reality in the recognition of *hak ulayat* for the Batak Toba indigenous people. Although the mechanism has been normatively designed, its implementation is hindered by the absence of adequate human resources and technical instruments. Without technical guidance, the verification and validation process tends to proceed in an administrative, rather than substantive, manner. This aligns with the findings of Arifin et al. (Arifin et al., 2025), who assert that the dominance of legal positivism in Indonesia has led to the subordination of customary law to written legal frameworks, resulting in the recognition of indigenous communities being contingent on formal legality rather than socio-cultural existence.

When recognition relies on regional regulations or decisions by local authorities—as illustrated in the case of the Matteko indigenous community in South Sulawesi (Rompegading & Maemanah, 2021)—many communities struggle to obtain legal status due to limited access to regional legislative processes. The experience of the Batak Toba community similarly reflects this reality: despite having strong customary institutions and a preserved historical narrative, the absence of legal documentation and limited administrative support impedes their formal recognition by the state.

The recognition process often represents a form of state territorialization over customary lands rather than an affirmation of community autonomy, as criticized by Arizona et al. (2019). The legal mechanisms employed tend to reproduce state authority rather than affirm indigenous sovereignty. In the case of customary forest governance, for instance, legal forms such as regent decrees, regional regulations, or *perjanjian adat* (customary agreements), which vary across regions (Helmi et al., 2019), create legal uncertainty and fragmented recognition. This legal misalignment has also widened implementation gaps, as illustrated in the study by Permadi et al. (2025) concerning the Nusantara Capital City project, which neglected the rights of indigenous communities in affected areas. The Batak Toba communities, like other indigenous groups in Indonesia, face ideological conflict over land use, where economic development goals often clash with traditional land rights and environmental sustainability (Puryanto & Siswanto, 2024)². The struggle is not only about land ownership but also about competing worldviews: one that values economic progress and the other that emphasizes the protection of cultural heritage and ecological balance. In such conflicts, religion has played a key role in uniting communities in their resistance. For instance, in Wadas Village, religious practices such as Mujahadah have helped strengthen community solidarity against the Bener Dam project. Similar dynamics are seen in the Batak Toba communities, where religious and cultural practices contribute to their resistance against land appropriation by external forces (Ady et al., 2022).

Ultimately, the interaction between state law and customary law becomes particularly vulnerable when *hak ulayat* is supported only by oral traditions and undocumented collective practices. In such cases, the bargaining position of indigenous communities depends heavily on their informal relationships with local political actors, who often do not side with marginalized groups (Van der Muur, 2018). Thus, formal recognition is not solely a matter of legal formalism—it also involves political will and the design of inclusive institutions. To prevent criminalization and conflict resulting from the ambiguity of customary law, a declarative system and synchronization of sectoral regulations are urgently needed (Serfiyani et al., 2022).

Compared to previous studies—such as those by Irawati et al. (Irawati et al., 2024) on the Minangkabau community and by Nurdin and Tegnan (Nurdin & Tegnan, 2019) on pluralism in customary law—this study confirms the importance of historical validity and documentation as prerequisites for the

recognition of *Masyarakat Hukum Adat*. However, it contributes new insights in the context of the Batak Toba community, especially regarding how the patrilineal system of land inheritance and *marga* affiliation determine social legitimacy over *tanah ulayat*. This is a unique dimension that has not been widely addressed in other indigenous community studies.

Furthermore, this study's focus on implementation challenges at the regional level highlights broader issues, also evident in research on MHA recognition in Kalimantan, Papua, and Bali. In Kalimantan, for example, Dayak communities face the state's failure to protect their access to natural resources due to the dominance of corporate interests and weak enforcement of indigenous-oriented legal protections (Jarías, 2020; Muhdar et al., 2019). Even when the 2014 Village Law opened opportunities for recognizing *desa adat* (customary villages), implementation is often obstructed by procedural manipulation at the district level, which diminishes indigenous autonomy (Utama, 2020).

A similar situation occurs in Papua. Although Special Autonomy provides a legal avenue for recognizing indigenous rights, implementation has proven inconsistent and ineffective—particularly in ensuring *hak ulayat* for communities such as the Arfak in Manokwari (Hammar, 2018; Pelupessy, 2017). In border areas such as Merauke, neglect of infrastructure, education, and indigenous recognition reveals that protection remains largely symbolic (Kalalo et al., 2018).

In Bali, *desa pakraman* has been formally recognized as a unit of *Masyarakat Hukum Adat*, yet the implementation of this policy has been hindered by legal requirements for integration with administrative villages. This indicates that indigenous recognition remains partial and has not fully guaranteed the autonomy of local communities in managing their territories and lives (Jamin, 2020; Yusa, 2016). Across these regions, the core issue lies in the lack of legal synchronization between national and regional frameworks, as well as in the weakness of implementation instruments that should ensure the effectiveness of already substantive regulations.

In this context, research on the Batak Toba indigenous community reinforces the argument that the recognition of MHA cannot rely solely on political will or progressive regional legal products. Without administrative preparedness and concrete technical instruments—including for historical verification, territorial documentation, and recognition procedures—such regulations risk becoming symbolic and incapable of reaching indigenous communities in a meaningful way. Therefore, this study not only reaffirms previous findings but also offers deeper insight into the connection between local customary social structures (such as the Batak Toba *marga* system) and the failure of formal legal implementation.

Historically, the findings of this study indicate that the *tanah ulayat* (customary land) of the Batak Toba community serves not only as a source of livelihood but also as a pillar of collective identity passed down through generations. From the colonial period to the republican era, indigenous communities in the Lake Toba region have preserved a *marga*-based spatial system, sacred forests (*tombak raja*), and settlement spaces (*huta*) that hold deep spiritual and genealogical meanings. This system is grounded in the philosophy of *Dalihan na Tolu*, which regulates social ethics based on kinship ties. As shown in the study by Tobing and Hutabarat (2019), the architectural and spatial organization of traditional settlements such as in Hutaginjang Village illustrates the close relationship between spatial structure and the *marga* kinship system.

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Similar settlement patterns are found in Huta Siallagan, which is managed by an extended family and has become a site of customary governance-based revitalization, including in the development of culture-based tourism (Ginting et al., 2024). This cultural landscape represents a long-standing interaction between the Batak people and their environment, shaping strong ecological and cosmological governance (Utami & Andalucia, 2021). In Silalahi I, the Batak Toba community continues to practice local wisdom in protecting the Lake Toba ecosystem through sacred taboos and rituals honoring the lake, which serves as a source of spiritual and economic sustenance (Harahap & Humaizi, 2018). This system forms spatial units that are not only functional but also sacred and symbolic.

However, when the state imposes legal-formal standards based on codified law, this oral-based system comes under pressure and loses legal legitimacy. The state prioritizes administrative rationality and written legal certainty, while indigenous communities uphold symbolic relationships with the land and oral transmission of knowledge. This ideological conflict has long been studied in literature on the relationship between the state and indigenous peoples. Arifin et al. (Arifin et al., 2025) emphasize that legal positivism in Indonesia often marginalizes customary norms for not being legally codified. Permadi et al. (Permadi et al., 2025) add that large-scale development projects, such as the Nusantara Capital City (IKN), reveal the state's ongoing failure to guarantee protection of indigenous land rights during land acquisition processes.

Therefore, the clash between communal indigenous value systems and the state's legalistic approach not only reflects an epistemic conflict but also opens space for broader cultural resistance. In the Batak Toba context, this resistance takes shape through efforts to preserve *desa adat* (customary villages), revitalize traditional spatial arrangements, and defend spiritual narratives rooted in the sacredness of *tanah ulayat*. Hence, the recognition of *Masyarakat Hukum Adat* in this region cannot be separated from the acknowledgment of the accompanying spatial and ideological systems.

The critical reflection of this study reveals several serious dysfunctions in the governance of *Masyarakat Hukum Adat* (MHA) recognition. First, the enacted regional regulation becomes a source of new legal uncertainty when it is not accompanied by clear technical instruments and harmonized interagency coordination. This finding is consistent with Al-Fatih and Shahzad (2025) and Sukmariningsih (2019), who show that the lack of technical guidelines and coordination conflicts between local and central governments often hamper policy implementation. Second, when regulatory frameworks fail to guarantee local community participation and are not grounded in local wisdom, they risk lacking sociocultural legitimacy at the grassroots level (Gazali, 2024; Yuspin & Nurhayati, 2019). In the context of MHA, this further marginalizes communities with little written documentation, making them vulnerable to unilateral claims by state or private actors armed with formal legal documents.

Third, the absence of customary mediation mechanisms within the formal legal system has contributed to the rise of horizontal conflicts between indigenous communities—especially in areas with high economic value, such as tourism lands or natural resources. When the legal system fails to accommodate the diversity of customary laws, it creates an imbalance between state law and local community law, as evidenced in Widiarto et al.'s (2025) study on the distribution of authority between central and regional governments. Fourth, the lack of clarity in verification indicators for customary status opens the door to local political intervention. Recognition processes that are supposed to be inclusive instead become heavily dependent on the discretion of regional heads, which can be manipulated for electoral or economic purposes (Ambarwati et al., 2023; Hartiwiningsih et al., 2020).

This condition becomes even more complex when regulatory inconsistencies and weak institutional cohesion exacerbate legal uncertainty (De Alessi, 2014). Therefore, policy reform is urgently needed—not only to ensure substantive content in the legal texts but also to operationalize them through effective implementing instruments—so that MHA recognition becomes a participatory, transparent process that guarantees substantive justice.

In response to the dysfunctions outlined above, several policy measures must be taken to ensure that recognition of the Batak Toba *Masyarakat Hukum Adat* (MHA) is not merely symbolic but also yields structural and substantive impacts. First, the Toba Regency Government must issue official technical guidelines in the form of a *Peraturan Kepala Daerah (Perkada)* that detail indicators, methods, and implementation standards for identifying, verifying, and validating MHA. This addresses the legal uncertainty that often arises from the absence of technical instruments, as also seen in international contexts such as Panama and Honduras, where indigenous participation in mapping without adequate administrative support resulted in new power imbalances (Mollett, 2013; Smith et al., 2017).

Second, the technical capacity and budget for *camat* (district heads) and verification committees must be strengthened so that the process does not stop at the administrative level. Positive practices from Michoacán, Mexico show that technical training and cross-sectoral coordination are critical to bridging participatory conservation policy and social justice (Sosa et al., 2023). Third, community-based participatory documentation should be developed as an alternative legal form for customary territories that lack written proof. Successful experiences from Peru and Canada underscore the importance of transparency, trust, and time in building participatory documentation recognized by the state, and in strengthening dialogue between indigenous communities and government institutions (Norris, 2014; Panchyshyn & Corbett, 2022).

Fourth, synergy between national and regional policy must be reinforced through the acceleration of the Indigenous Peoples Bill (*RUU Masyarakat Adat*), which will provide a binding national legal umbrella aligned with principles of distributed governance, as already applied in Canada and New Zealand in recognizing indigenous territories through participatory mapping (Fox et al., 2016). By adopting participatory, collaborative, and trust-based principles, recognition of the Batak Toba *Masyarakat Hukum Adat* will not only stand as a legal product but also serve as a vehicle for restoring cultural identity, advancing social justice, and sustaining ecological integrity within the community.

CONCLUSION

This study demonstrates that Toba Samosir Regency Regional Regulation No. 1 of 2020 has provided a critical legal foundation for the recognition of the Batak Toba *Masyarakat Hukum Adat* (MHA), particularly in safeguarding *hak ulayat* (customary land rights) and preserving the customary sociocultural structure. The legal-formal recognition mechanism has been designed to bridge the gap between the state legal system and the indigenous community's local wisdom. However, at the implementation level, this mechanism faces serious obstacles, including the absence of technical guidelines, weak administrative capacity, and the lack of written documentation from indigenous communities—resulting in verification processes that tend to be administrative and fail to engage the substantive cultural dimension.

The primary contribution of this study lies in its in-depth analysis of the distinctive characteristics of the Batak Toba community—such as the *marga* (clan) system, customary spatial structure (*huta, hauma, parjampalan, harangan*), and the philosophy of *Dalihan Na Tolu*—which have been largely overlooked in positive law. This study also enriches the discourse on customary law by emphasizing the importance of local epistemology and participatory governance in the recognition process, and offers practical solutions in the form of integrating local policies (*Perkada*) with a national legal umbrella (the Indigenous Peoples Bill, *RUU Masyarakat Adat*).

Nonetheless, this study has certain limitations, particularly regarding field-based empirical data due to limited access and documentation from communities that have not yet received official recognition. In addition, the lack of international comparative studies means that the policy recommendations may not be fully contextualized. Future research is therefore encouraged to expand the scope to include other indigenous territories in Indonesia, deepen the understanding of local practices in community verification, and explore collaborative frameworks among the state, customary institutions, and civil society to support equitable and sustainable pluralistic governance.

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