

ABSTRACT

HAK ULAYAT IN INDONESIAN LAND LAW

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Development programs subsequently require extensive land to support them. The increasing needs of land affect the land tenure form. *Hak Ulayat* which are previously owned by the customary communities begin to be taken over by the government to sustain the development programs. They have no longer absolute authorities towards their *Hak Ulayat*. Although they have *hak ulayat* to control, manage, and utilize their lands, the government has stronger authorities than customary community in formal jurisdiction. This paper aimed to integrate the state's power and people's rights to land in order to create collective welfare. It is important to synergize national potentials, particularly lands, for the development. It is a fact that lands in Indonesia are controlled not only by the state and individuals but also by groups of people. The right of certain community to control land is called *hak ulayat*. The major problem is that *hak ulayat* is frequently ignored by the government when the customary lands are used for the development. The ignorance is based on the absolute right of the state's power to control the land. Normatively, this policy may threat and destruct the existence of *hak ulayat*, which indicates the absolute land ownership of the customary communities. The finding of this study indicated that this condition raised deep tension between the state's power and *adat* communities, particularly in utilizing the land. Therefore, it is necessary to integrate the state's power and *hak ulayat* in controlling and utilizing the lands for the collective welfare. The management of national potential such as land towards the greatest benefit for the greatest number of people is stated in 1945 Constitution, article 33 and 18B. Article 18B clearly explains that the government recognised the existence of the *adat* people including *hak ulayat*, while article 33 describes that land, water and other natural resources in the national territory are controlled and utilised by the state for the greatest benefit for the greatest number of people.

Key words: State's Power, Hak Ulayat to Land, the Greatest Benefit for the Greatest Number of People

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