



**SURAT TUGAS
ASISTEN PELAKSANAAN
PENGABDIAN KEPADA MASYARAKAT
PERIODE I TAHUN ANGGARAN 2023
NOMOR : 041-ST-PKMR-KLPPM/UNTAR/IV/2023**

Atas nama Lembaga Penelitian dan Pengabdian kepada Masyarakat Universitas Tarumanagara (LPPM Untar) dengan ini memberikan tugas kepada asisten pelaksanaan pengabdian kepada masyarakat (PKM) di bawah ini:

No.	Nama Mahasiswa	NIM	Fakultas/Prodi
1.	Balraj Kaur	205210221	Fakultas Hukum
2.	Sheren Agapena Hosaya Liunda	205210209	Fakultas Hukum
3.	Gracia Kamarov	205190138	Fakultas Hukum

Asisten pelaksanaan pengabdian kepada masyarakat sebagaimana disebutkan di atas bertugas untuk membantu penyelenggaraan pengabdian kepada masyarakat sebagai berikut:

1. Ketua Pengusul : Dr. Benny Djaja, S.H., S.E., M.M., M.Hum
2. Judul PKM : Penyuluhan Hukum Tentang Resiko Pernikahan Dini Bagi Santri/Wati Pesantren Modern Daarul Muttaqien 1 Sepatan Cadas - Kabupaten Tangerang
3. Fakultas : Fakultas Hukum

Adapun tugas yang harus diselesaikan oleh asisten PKM meliputi:

- a. membantu pelaksanaan PKM; dan
- b. membantu penyusunan luaran PKM.

Demikian surat tugas ini dibuat agar dapat dilaksanakan dengan sebaik-baiknya.

Jakarta, 05 April 2023
Ketua LPPM Untar



Ir. Jap Tji Beng, M.M.Si., M.Psi., Ph.D., P.E., M.ASCE.

Lembaga

- Pembelajaran
- Kemahasiswaan dan Alumni
- Penelitian & Pengabdian Kepada Masyarakat
- Penjaminan Mutu dan Sumber Daya
- Sistem Informasi dan Database

Fakultas

- Ekonomi dan Bisnis
- Hukum
- Teknik
- Kedokteran
- Psikologi
- Teknologi Informasi
- Seni Rupa dan Desain
- Ilmu Komunikasi
- Program Pascasarjana



**PERJANJIAN PELAKSANAAN
PENGABDIAN KEPADA MASYARAKAT SKEMA REGULER
PERIODE I TAHUN ANGGARAN 2023
NOMOR: 0159-Int-KLPPM/UNTAR/IV/2023**

Pada hari ini Seniin tanggal 03 bulan April tahun 2023 yang bertanda tangan dibawah ini:

1. Nama : Ir. Jap Tji Beng, MMSI., M.Psi., Ph.D., P.E., M.ASCE
Jabatan : Ketua Lembaga Penelitian dan Pengabdian kepada Masyarakat selanjutnya disebut **Pihak Pertama**
2. Nama : Dr. Benny Djaja, S.H., S.E., M.M., M.Hum
NIDN/NIDK : 0322086307
Jabatan : Dosen Tetap
Bertindak untuk diri sendiri dan atas nama anggota pelaksana pengabdian:
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 - b. Nama dan NIM : Sheren Agapena Hosaya Liunda [205210209]
 - c. Nama dan NIM : Gracia Kamarov [205190138]selanjutnya disebut **Pihak Kedua**

Pihak Pertama dan **Pihak Kedua** sepakat mengadakan Perjanjian Pelaksanaan Pengabdian kepada Masyarakat Skema Reguler Periode I Tahun 2023 Nomor : 0159-Int-KLPPM/UNTAR/IV/2023 sebagai berikut:

Pasal 1

- (1). **Pihak Pertama** menugaskan **Pihak Kedua** untuk melaksanakan Pengabdian "**Penyuluhan Hukum Tentang Resiko Pernikahan Dini Bagi Santri/Wati Pesantren Modern Daarul Muttaqien 1 Sepatan Cadas - Kabupaten Tangerang**"
- (2). Besaran biaya yang diberikan kepada **Pihak Kedua** sebesar Rp 8.000.000,- (Delapan juta rupiah), diberikan dalam 2 (dua) tahap masing-masing sebesar 50%. Tahap I diberikan setelah penandatanganan Perjanjian ini dan Tahap II diberikan setelah **Pihak Kedua** mengumpulkan **luaran wajib berupa artikel dalam jurnal nasional dan luaran tambahan, laporan akhir, laporan keuangan dan poster.**

Pasal 2

- (1) **Pihak Kedua** diwajibkan mengikuti kegiatan monitoring dan evaluasi sesuai dengan jadwal yang ditetapkan oleh **Pihak Pertama**.
- (2) Apabila terjadi perselisihan menyangkut pelaksanaan Pengabdian kepada Masyarakat ini, kedua belah pihak sepakat untuk menyelesaikannya secara musyawarah. Demikian Perjanjian ini dibuat dan untuk dilaksanakan dengan tanggungjawab.

Pihak Pertama

Ir. Jap Tji Beng, MMSI., M.Psi.,
Ph.D., P.E., M.ASCE

Pihak Kedua

Dr. Benny Djaja, S.H., S.E., M.M.,
M.Hum



UNTAR
Universitas Tarumanagara



UNTAR untuk INDONESIA

No: 0159-Int-KLPPM/UNTAR/IV/2023

SERTIFIKAT

DIBERIKAN KEPADA

Dr. Benny Djaja, S.H., S.E., M.M., M.Hum.

sebagai

KETUA TIM

Program Kegiatan Pengabdian kepada Masyarakat (PKM) Universitas Tarumanagara
Skema Reguler, dengan judul:

**Penyuluhan Hukum Tentang Resiko Pernikahan Dini Bagi Santri/Wati Pesantren
Modern Daarul Muttaqien 1 Sepatan Cadas - Kabupaten Tangerang**

yang telah dilaksanakan pada
Januari – Juni 2023

Ketua Lembaga Penelitian dan Pengabdian kepada Masyarakat



Ir. Jap Tji Beng, MMSI., M.Psi., Ph.D., P.E., M.ASCE

**LAPORAN AKHIR
PENGABDIAN KEPADA MASYARAKAT YANG DIAJUKAN
KE LEMBAGA PENELITIAN DAN PENGABDIAN KEPADA MASYARAKAT**



**PENYULUHAN HUKUM TENTANG RESIKO PERNIKAHAN DINI BAGI SANTRI/WATI
PESANTREN MODERN DAARUL MUTTAQIEN 1 SEPATAN CADAS - KABUPATEN
TANGERANG**

Disusun oleh:

Ketua Tim

Dr. Benny Djaja, S.H., S.E., M.M., M.Hum. /0322086307

Nama Mahasiswa:

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Gracia Kamarov /205190138

**FAKULTAS HUKUM
UNIVERSITAS TARUMANAGARA
JAKARTA
2023**

HALAMAN PENGESAHAN
LAPORAN AKHIR PENGABDIAN KEPADA MASYARAKAT
Periode I Tahun 2023

1. Judul :Penyuluhan Hukum Tentang Resiko Pernikahan Dini Bagi Santri/Wati Pesantren Modern Daarul Muttaqien 1 Sepatan Cadas - Kabupaten Tangerang
2. Nama Mitra PKM : Pondok Pesantren Daarul Muttaqien 1
3. Ketua Tim PKM
- a. Nama dan gelar : Dr. Benny Djaja, S.H., S.E., M.M., M.Hum
 - b. NIDN : 0322086307
 - c. Jabatan/gol. : Lector / 3C
 - d. Program studi : Ilmu Hukum
 - e. Fakultas : Hukum
 - f. Bidang keahlian : Kenotariatan
 - g. Alamat kantor :
 - h. Nomor HP/Telepon : 0899 999 0513
4. Anggota Tim PKM (Mahasiswa) : Mahasiswa 3 orang
- a. Nama mahasiswa dan NIM : Balraj Kaur / NIM 205210221
 - b. Nama mahasiswa dan NIM : Sheren Agapena Hosaya Liunda / NIM 205210209
 - c. Nama mahasiswa dan NIM : Gracia Kamarov / NIM 205190138
5. Lokasi Kegiatan Mitra :
- a. Wilayah mitra : Sepatan
 - b. Kabupaten/kota : Kabupaten Tangerang
 - c. Provinsi : Banten
 - d. Jarak PT ke lokasi mitra : 60 km
6. a. Luaran Wajib : Publikasi Ilmiah dan Jurnal ber ISSN dan Publikasi Media Masa
- b. Luaran Tambahan : Opini Untar (PINTAR)
7. Jangka Waktu Pelaksanaan : Periode I (10 Februari - Maret 2023)
8. Biaya yang disetujui LPPM : Rp 8.000.000;

Jakarta, Juni 2023

Menyetujui,
Ketua LPPM

Ketua



Ir. Jap Tji Beng, MMSI., M.Psi., Ph.D.
M.Hum
NIK : 10381047

Dr Benny Djaja, S.H ., S.E., M.M.,
NIDN: 0322086307

DAFTAR ISI

Halaman Sampul	
Halaman Pengesahan	
A. Laporan Akhir Pengabdian Kepada Masyarakat	
Daftar Isi	iii
Ringkasan.....	iv
Daftar Gambar	v
Daftar Lampiran.....	vi
BAB 1 PENDAHULUAN	1
1.1 Analisis Situasi.....	1
1.2 Permasalahan Mitra.....	5
1.3 Uraian Hasil Penelitian dan PKM Terkait.....	5
BAB II SOLUSI PERMASALAHAN DAN LUARAN.....	15
2.1 Solusi Permasalahan.....	15
2.2 Luaran Kegiatan PKM	15
BAB III METODE PELAKSANAAN	16
3.1 Langkah-Langkah/Tahapan Pelaksanaan	16
3.2 Partisipasi Mitra dalam Kegiatan PKM.....	16
3.3 Kepakaran dan Pembagian Tugas TIM.....	16
BAB IV HASIL DAN LUARAN YANG DI CAPAI.....	17
BAB V. KESIMPULAN DAN SARAN	19
DAFTAR PUSTAKA	20
Lampiran	
1. Materi yang disampaikan pada saat kegiatan PKM	
2. Foto-foto pada saat pelaksanaan kegiatan	
3. Luaran wajib	
4. Luaran tambahan	

RINGKASAN LAPORAN AKHIR

Pernikahan dini bagi santri/wati. Pernikahan dini mungkin sudah tidak asing di telinga kita, bahkan Indonesia sendiri menempati peringkat ke-10 jumlah perkawinan dini tertinggi di dunia. Sedangkan, perlu diketahui bahwa pernikahan dini memiliki banyak resiko terutama bagi anak perempuan. Kurangnya pemahaman mengenai resiko pernikahan dini ini menyebabkan angka pernikahan dini di Indonesia masih tetap tinggi hingga saat ini. Oleh sebab itu, dibutuhkan penyuluhan kepada setiap belahan masyarakat. Penyuluhan ini mengangkat tema “**Penyuluhan Hukum Tentang Resiko Pernikahan Dini Bagi Santri/Wati Pesantren Modern Daarul Muttaqien 1 Sepatan Cadas - Kabupaten Tangerang**” yang merupakan bentuk pengabdian kepada masyarakat dengan memberikan pemahaman kepada santri/wati di Pondok Pesantren Modern Daarul Muttaqien 1 di Kabupaten Tangerang mengenai resiko pernikahan dini. Pengabdian masyarakat ini dibagi ke dalam 3 (tiga) tahap, yaitu tahap persiapan berupa pengajuan proposal dan pembuatan materi, tahap pelaksanaan kegiatan berupa pemaparan materi dan tanya jawab, serta tahap akhir berupa penyusunan dan penyampaian laporan kegiatan. Pengabdian Masyarakat ini dilaksanakan secara langsung di Pondok Pesantren Modern Daarul Muttaqien 1 di Kabupaten Tangerang. Kegiatan Pengabdian Masyarakat ini dilakukan pada tanggal 27 Februari 2023 dengan dihadiri 40 peserta. Materi yang disampaikan saat penyuluhan adalah pemahaman mengenai pernikahan dini, dampak positif dan negatif dari pernikahan dini, pernikahan yang sah secara hukum, dan Taaruf, serta meningkatkan pemahaman dari tujuan pernikahan. Luaran yang dihasilkan dari penyuluhan ini dipublikasikan pada *International Conference on Economics, Business, Social, and Humanities (ICEBSH) 2023* pada tanggal 12, April 2023 serta dipublikasikan juga di Opini Untar (PINTAR UNTAR).

Kata Kunci : Perkawinan, Perkawinan Dini , Taaruf.

DAFTAR GAMBAR

Gambar 1. Ponpes Modern Daarul Muttaqien 1

Gambar 2. Publikasi Kegiatan

DAFTAR LAMPIRAN

Lampiran 1 Materi yang disampaikan pada kegiatan PKM

Lampiran 2 Foto-foto kegiatan

Lampiran 3 Luaran wajib

Lampiran 4 Luaran Tambahan

BAB 1

PENDAHULUAN

1.1 Analisis Situasi

Manusia merupakan makhluk ciptaan Tuhan yang paling sempurna. Dalam kehidupannya, manusia memiliki berbagai macam kebutuhan yang harus dipenuhi, Maslow berpendapat manusia memiliki 5 (lima) tingkatan kebutuhan, yaitu:

1. *The physiological needs* (kebutuhan fisiologis)
2. *The safety needs* (kebutuhan akan rasa aman)
3. *The belongingness and love needs* (kebutuhan akan rasa kasih sayang)
4. *The esteem needs* (kebutuhan akan harga diri)¹

Salah satu kebutuhan manusia berdasarkan pendapat Maslow adalah kebutuhan fisiologis, dimana kebutuhan fisiologis merupakan kebutuhan dasar yang dimiliki oleh manusia, seperti makan dan minum. Salah satu kebutuhan dasar yang dimiliki manusia adalah kebutuhan untuk menyalurkan nafsu seksnya. Indonesia merupakan Negara yang menentang seks bebas karena bertentangan dengan budaya bangsa Indonesia.

Berdasarkan survei Demografi dan Kesehatan Indonesia (SDKI) pada tahun 2017, diketahui bahwa sekitar 2% remaja wanita dengan rentang usia 15-24 tahun dan 8% remaja pria dengan rentang usia yang sama telah melakukan hubungan seksual sebelum menikah, yang bahkan 11% diantaranya mengalami kehamilan di luar nikah.² Seperti yang telah diketahui juga, bahwa seks bebas memiliki banyak resiko. Salah satu resiko seks bebas adalah bisa tertular penyakit menular seksual (PMS) dan terjadi kehamilan yang tidak diinginkan. Kecenderungan remaja terjebak dalam seks bebas terutama yang mengalami kehamilan di luar nikah, membuat maraknya pernikahan dini akibat “kecelakaan” tersebut.

Pernikahan atau perkawinan merupakan ikatan lahir batin antara seorang pria dengan seorang wanita sebagai suami istri dengan tujuan membentuk keluarga (rumah tangga) yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa.³ Pada

¹ Tengku Erwinsyahbana, “Sistem Hukum Perkawinan Pada Negara Hukum Berdasarkan Pancasila”, Jurnal Ilmu Hukum, Edisi No. 2 Tahun 2012, hal. 2

² Novrizaldi, “Seks Bebas Bertentangan Dengan Budaya Bangsa Indonesia”, <https://www.kemenkopmk.go.id/seks-bebas-bertentangan-dengan-budaya-bangsa-indonesia>, 4 November 2020, hal. 2

³ Indonesia, *Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Lembaran Negara Republik Indonesia Tahun 1974 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 3019)*, Pasal 1.

hakikatnya, setiap manusia pasti ingin mempunyai pasangan hidup untuk hidup dan tinggal bersama sebagai suami istri dalam ikatan janji pernikahan. Berdasarkan Data Badan Pusat Statistik (BPS) pada tahun 2021, telah terjadi 1,74 juta pernikahan di Indonesia, dimana Jawa Barat menempati posisi pertama dengan jumlah 346.484 pernikahan, disusul Jawa timur dengan 298.543 pernikahan. Tingginya angka pernikahan di Indonesia tentunya tidak lepas dari pengaruh sosial, dimana pada umumnya kebanyakan orang tua cenderung memaksa anaknya yang masih lajang untuk segera menikah.

Pengaturan mengenai pernikahan sendiri diatur dalam Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (UU Perkawinan). Menurut C.S.T. Kansil, terdapat asas-asas dalam UU Perkawinan, yaitu:

1. Tujuan Perkawinan
2. Sahnya Perkawinan
3. Asas Monogami
4. Prinsip Perkawinan
5. Mempersukar Terjadinya Perceraian
6. Hak dan Kedudukan Istri

Indonesia merupakan negara yang memiliki keberagaman agama di dalamnya, tercatat ada 6 (enam) Agama, yaitu Islam, Kristen Protestan, Katolik, Hindu, Budha, dan Konghucu. Islam menempati posisi pertama dengan penganut jumlah pemeluk agama terbanyak. Berdasarkan data Direktorat Jenderal Kependudukan dan Pencatatan Sipil (Dukcapil) Kementerian Dalam Negeri, Indonesia memiliki 273,87 juta jiwa dengan berbagai macam pemeluk agama. Dilanjutkan dengan survei demografi, tercatat 86,93% atau 238,09 juta jiwa penduduk Indonesia beragama islam, disusul dengan pemeluk agama kristen sebanyak 20,45 juta jiwa atau 7,47%. Pada posisi ketiga, terdapat agama katolik dengan pemeluk sebanyak 8,43 juta jiwa atau 3,08%, disusul dengan agama hindu, buddha dan konghucu pada posisi terbawah.⁴

Selain mengenal asas-asas tersebut, dalam agama islam dikenal sebuah tradisi untuk mencegah hal-hal yang tidak diinginkan, yaitu taaruf. Taaruf merupakan proses

⁴ Viva Budy Kusnandar, "Sebanyak 86,93% Penduduk Indonesia Beragama Islam pada 31 Desember 2021", <https://databoks.katadata.co.id/datapublish/2022/02/12/sebanyak-8693-penduduk-indonesia-beragama-islam-pada-31-desember-2021>, 12 Februari 2022, hal. 1

penjodohan yang biasa dilakukan oleh pihak Agama Islam. Dimana selama proses taaruf, kedua belah pihak akan dikenalkan sebelum nantinya mereka akan menikah.⁵ Taaruf termasuk hal yang cukup lazim di Indonesia, kondisi ini dibuktikan dengan tersedianya situs taaruf online yang telah diikuti 36.538 pria dan wanita muslim di Indonesia dan 160 lebih diantaranya sudah memasuki jenjang pernikahan.⁶

Berkembangnya tradisi ta'aruf di Indonesia juga ditandai dengan terjadinya beberapa kasus. Contoh kasus pernikahan dini atau ta'aruf yang terjadi di masyarakat adalah seperti pernikahan yang dilakukan oleh Arman Fauzan yang pada saat itu masih berusia 18 Tahun dan Risa Melani berusia 17 Tahun. Selain itu terdapat juga contoh lain Pernikahan dini, seperti yang terjadi di Desa Kalumpang Kecamatan Mantangai Kabupaten Kapuas, Kalimantan Tengah. Dimana terdapat calon pengantin yang masih remaja dan masih di bawah umur. Pengantin pria baru menginjak usia 17 Tahun dan hanya tamatan SD, ia bekerja sebagai petambang emas illegal. Sedangkan usia calon pengantin wanita baru menginjak usia 15 Tahun dan putus sekolah kelas 2 SD. Selain permasalahan di atas terdapat juga permasalahan pernikahan Ta'aruf karena suaminya yang ternyata penyuka sesama jenis berdasarkan putusan Pengadilan Agama Tangerang dengan Nomor 795/Pdt.G/2020/PA.Tng.

Perkawinan yang terjadi dan tidak dilandasi cinta dan keimanan, seperti perkawinan yang terjadi untuk menutupi penyimpangan orientasi seksual yang dikenal dengan homoseksual masih merupakan hal yang tabu di masyarakat. Perkawinan dianggap sah apabila syarat-syarat perkawinan telah dipenuhi sebagaimana ditentukan oleh hukum perkawinan dan Kompilasi Hukum Islam. Tetapi apabila perkawinan yang telah berlangsung tidak memenuhi syarat perkawinan maka perkawinan tersebut tidak sah dan perkawinannya batal demi Hukum sebagaimana diatur dalam BAB XI Kompilasi Hukum Islam.⁷ Kompilasi Hukum Islam, mengatur tentang pembatalan perkawinan. Perkawinan suami istri dapat dibatalkan oleh Pengadilan Agama apabila ternyata perkawinan tersebut

⁵ Arika Zulfitri Karim, Dinie Ratri D, "Dari Ta'aruf Hingga Menikah: Eksplorasi Pengalaman Penemuan Makna Cinta Dengan *Interpretative Phenomenological Analysis*", Jurnal Empati, Edisi No. 1 Tahun 2015, hal. 44

⁶ Anonim, <https://taarufonline.id/>, 8 Februari 2023.

⁷ Abdul Rahman Ghozali, *Fiqh Munakahat*, (Jakarta: Kencana Prenada Media Group, Cet.3,2008), hlm.141.

diketahui tidak memenuhi rukun dan syarat perkawinan yang telah ditentukan.⁸ Batalnya suatu perkawinan dan berkekuatan Hukum tetap saat diputus oleh Pengadilan Agama.

Pondok pesantren Daarul Muttaqien 1 resmi berdiri pada 3 Juli 1989 itu dan didirikan oleh Drs. KH Ahmad Shonhaji Chalili. Perkembangan pesantrennya terus bertambah, dari mulanya 3000 meter kini menjadi 7000 meter, terletak di Jl Raya Mauk, Km 7 Cadas Sepatan Tangerang, Banten.



Gambar 1 Tempat Lokasi Mitra

Sumber: Google 2023

Salah satu program pengabdian yang dilakukan adalah dalam bentuk penyuluhan Hukum. Penyuluhan Hukum ini merupakan wadah pembekalan oleh dosen dan pembinaan mahasiswa untuk menyalurkan keilmuan yang dimiliki dalam mengamalkan profesionalisme disiplin ilmu dalam kehidupan masyarakat. Manfaat lain dari kegiatan pengabdian masyarakat ini adalah memperluas pengetahuan Hukum, khususnya tentang perkawinan tanpa pacaran atau dikenal dengan istilah lain perkawinan Ta'aruf dan LGBT.

Pada dasarnya, Indonesia menganut asas fiksi yang berarti bahwa setiap masyarakat Indonesia mengetahui hukum yang sedang berlaku di Indonesia. Masyarakat Jawa dikenal masih menjaga budaya dan tradisi yang diturunkan oleh para leluhur, termasuk dalam pelaksanaan pernikahan. Salah satu hal dalam sebuah pernikahan adat Jawa adalah tahapan memilih pasangan yang sesuai dengan filosofi bibit, bebet, dan bobot. Namun faktanya masih banyak masyarakat yang belum mengetahui mengenai usia minimum untuk melangsungkan perkawinan atau pernikahan ta'aruf hanya dikarenakan beberapa alasan

⁸ KHI (Kompilasi Hukum Islam), (Bandung: Citra Umbara, 2007), Cet. I, Hlm. 253.

yang tidak dipertimbangkan dengan benar. Oleh karena hal itu, penulis tertarik untuk membahas lebih mendalam dengan penulisan yang berjudul “PENYULUHAN HUKUM TENTANG RESIKO PERNIKAHAN DINI BAGI SANTRI/WATI PESANTREN MODERN DAARUL MUTTAQIEN 1 SEPATAN CADAS - KABUPATEN TANGERANG”. Diselenggarakan oleh Dosen dan Mahasiswa Fakultas Hukum Universitas Tarumanagara Tahun ajaran 2023 bersama dengan Ponpes Daarul Muttaqien 1.

1.2 Permasalahan Mitra

Mengacu pada analisis situasi, permasalahan mitra mencakup hal-hal sebagai berikut:

- a. Keterbatasan pemahaman mengenai perkawinan menurut Undang- Undang No 16 Tahun 2019 juncto Undang-Undang No. 1 Tahun 1974 tentang Perkawinan
- b. Urgensi mengenai pemahaman pernikahan dini dan pernikahan melalui proses ta'aruf.

1.3 Uraian Hasil Penelitian dan PKM Terkait

Perkawinan adalah ikatan lahir batin antara seorang pria dengan seorang wanita sebagai suami istri dengan tujuan membentuk keluarga (rumah tangga) yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa. Perkawinan dianggap sah apabila dilakukan berdasarkan Hukum masing-masing agamanya dan kepercayaannya sebagaimana disebut dalam Pasal 2 ayat (1) UU No 1 Tahun 1974.

UU No. 1 Tahun 1974 tentang Perkawinan, khususnya Pasal 6 dan 7, mengatur syarat-syarat melangsungkan perkawinan. Perkawinan harus didasarkan atas persetujuan kedua calon mempelai. Untuk melangsungkan perkawinan seorang yang belum mencapai umur 21 (dua puluh satu) tahun harus mendapat izin kedua orang tua.

Dalam hal salah seorang dari kedua orang tua telah meninggal dunia atau dalam keadaan tidak mampu menyatakan kehendaknya, maka izin dimaksud cukup diperoleh dari orang tua yang masih hidup atau dari orang tua yang mampu menyatakan kehendaknya. Dalam hal kedua orang tua telah meninggal dunia atau dalam keadaan tidak mampu untuk menyatakan kehendaknya, maka izin diperoleh dari wali, orang yang

memelihara atau keluarga yang mempunyai hubungan darah dalam garis keturunan lurus ke atas selama mereka masih hidup dan dalam keadaan dapat menyatakan kehendaknya. Dalam hal ada perbedaan pendapat antara atau salah seorang atau lebih di antara mereka tidak menyatakan pendapatnya, maka Pengadilan dalam daerah Hukum tempat tinggal orang yang akan melangsungkan perkawinan atas permintaan orang tersebut dapat memberikan izin.

Perkawinan hanya diperbolehkan jika pihak laki-laki telah mencapai usia 19 (sembilan belas) tahun dan pihak wanita telah mencapai usia 19 (sembilan belas) tahun. Dalam hal terjadi penyimpangan dari syarat usia, dapat meminta dispensasi kepada Pengadilan Agama bagi yang beragama Islam dan Pengadilan Negeri bagi yang bukan Islam. Permohonan dispensasi diajukan ke pengadilan sesuai dengan wilayah tempat tinggal pemohon. Pemberian dispensasi oleh Pengadilan wajib mendengarkan pendapat kedua calon mempelai yang akan melangsungkan perkawinan dan aturan syarat nikah Bab 2 UU No 16 Tahun 2019 tentang perubahan atas UU No. 1 Tahun 1974 tentang Perkawinan berlaku sepanjang hukum masing-masing agama dan kepercayaan yang bersangkutan tidak menentukan lain.

Perkawinan di bawah umur atau perkawinan dini adalah perkawinan yang dilakukan oleh seorang laki-laki dan seorang perempuan yang belum cukup umur dan belum cukup umur untuk menikah baik secara sah maupun psikis. Pernikahan dini atau pernikahan di bawah umur di Indonesia bukanlah hal yang baru dan akrab di telinga tidak hanya di desa-desa tetapi juga di kota-kota besar.

Pernikahan dibawah umur terjadi karena dapat dipengaruhi oleh beberapa faktor seperti faktor pendidikan, pengetahuan, agama, tingkat pendidikan orang tua, ekonomi keluarga, kebudayaan, dan pergaulan bebas. Contoh pernikahan di bawah umur seperti pernikahan yang terjadi di Bantaeng, Sulawesi Selatan. Usia kedua pengantin yang ketika itu pengantin pria masih berusia 15 tahun dan pengantin wanita berusia 14 tahun. Alasan pernikahan dini dan ta'aruf tersebut terjadi karena pengantin wanita takut tidur sendirian setelah ibunya meninggal dunia dan tidak ada yang membiayai hidupnya. Pernikahan keduanya sebetulnya tak direstu KUA karena masih dibawah usia yang ditentukan. Namun, keduanya mengajukan banding ke Pengadilan Agama, alhasil KUA tak bisa berbuat apa-apa.

Pernikahan dibawah umur yang terjadi di atas merupakan fenomena yang semakin meluas. Pernikahan dini juga disebabkan oleh turunnya tingkat pendidikan sebagaimana tercatat di Kementerian Pendidikan dan Kebudayaan (Kemendikbud).

Di Lombok pernikahan dini masih cukup tinggi terjadi. Terkait dengan fenomena pernikahan di bawah umur yang terjadi di masyarakat Nusa Tenggara Barat, Gubernur NTB mengeluarkan kebijakan melalui surat edaran gubernur NTB tentang pendewasaan usia perkawinan yang bertujuan untuk meminimalisir para pelaku nikah dini khususnya di wilayah Provinsi Nusa Tenggara Barat.

Pernikahan dini merupakan pernikahan yang dilangsungkan saat remaja, belum atau baru saja berakhir. Menurut WHO, batas usia remaja adalah 12-24 tahun. Departemen Kesehatan membatasi usia remaja pada rentang usia sekitar 10-19 tahun, Sedangkan menurut Direktorat Remaja dan Perlindungan Hak Reproduksi BKKBN, usia remaja dengan batasan umur 10-21 tahun.⁹

Pernikahan dini selain menimbulkan persoalan pada masalah kehidupan keluarga kelak juga sangat berpengaruh pada kesehatan fisik perempuan itu sendiri. Akibat dari terjadinya pernikahan pada usia dini lebih tampak nyata pada remaja putri dibandingkan remaja laki-laki. Seperti terjadinya abortus atau keguguran, karena memang secara fisiologis organ reproduksi seperti rahim remaja belum cukup sempurna.

Di beberapa daerah, dominasi orang tua biasanya masih kuat menentukan perkawinan anak, dalam hal ini remaja putri. Alasan terjadinya pernikahan dini adalah pergaulan bebas seperti hamil di luar nikah dan sebab-sebabnya ekonomi. Wanita muda yang menikah dini seringkali dipaksa keluar dari sekolah tanpa pendidikan atau putus sekolah, status sosial yang lebih rendah di keluarga, suami kurang memiliki kendali atas reproduksi sebagai akibat dari kesehatan perempuan muda yang melakukan pernikahan dini terpengaruh karena tubuh terlalu muda untuk hamil dan persalinan, sehingga resiko kematian ibu dapat terjadi baik pada masa kehamilan, melahirkan dan melahirkan. Penting untuk diketahui bahwa kehamilan kurang dari Usia 17 tahun meningkatkan risiko komplikasi medis, baik pada ibu maupun anak. Kehamilan pada usia yang sangat muda berkorelasi dengan kematian dan rasa sakit ibu. Disebutkan bahwa anak perempuan

⁹ Muhyi, J. a.,*Jangan Sembarang Menikah Dini*. (Depok: PT. Lingkar Pena Kreativa.2006), hal. 12.

berusia 10-14 tahun berisiko lima kali lebih banyak meninggal saat hamil atau melahirkan dibandingkan kelompok umur 20-24 tahun, sedangkan risiko ini berlipat ganda pada kelompok usia 15-19 tahun.

Pernikahan dibawah umur berdampak besar bagi kesehatan, pendidikan dan psikologis. Adapun faktor penyebab terjadinya pernikahan usia dini yaitu sebagai berikut:

a. Sosial

Faktor sosial dalam hal ini adalah pengaruh lingkungan yaitu pengaruh pergaulan, seperti lingkungan dimana banyak yang tidak sekolah dan juga teman asosiasi bahwa banyak yang menikah dini. Seperti yang kita ketahui bahwa lingkungan memiliki peran penting dalam pengembangan individu, dan dalam hal-hal teori ini umumnya menunjukkan kebenaran. Dalam lingkungan sosial atau Dalam lingkungan masyarakat terjadi interaksi individu satu dengan yang lainnya. Sehingga keadaan masyarakat akan memiliki pengaruh tertentu pengembangan individu. Namun, hubungan antara individu dan lingkungan, ada hubungan timbal balik. Menurut para pelaku pernikahan dini faktor-faktor penyebab terjadinya pernikahan dini antara lain pengaruh lingkungan. Mereka menikah karena keinginan sendiri dan disebabkan lingkungan. Seperti teman-teman bermain yang sebaya dengan mereka beberapa diantaranya sudah menikah, sehingga ketika bertemu dengan orang yang menurut mereka bertanggung jawab dan siap menikah mereka memutuskan untuk juga menikah. Faktor lingkungan dan pergaulan lainnya bukan saja karena bergaul dengan sesama teman perempuan tapi juga dengan teman-teman cowok yang tidak sekolah. Pada malamnya yang cowok sering datang midang (ngapel) ke rumah mereka, dan mengajak menikah, dan atas dasar suka dan cinta kepada cowok tersebut akhirnya memutuskan untuk menikah. Dan sebagian remaja putri sebenarnya ada faktor iri melihat teman mereka yang pacaran atau yang menikah cepat-cepat, perasaan seperti itu yang membuat remaja putri tidak berpikir panjang ketika memutuskan menikah.¹⁰

b. Pendidikan

¹⁰ Bimo Walgito, Pengantar Psikologi Umum, (Yogyakarta: Andi, 1989), 55-56

Faktor selanjutnya yang menyebabkan pernikahan dini adalah karena pendidikan. Dalam hal ini pelaku pernikahan dini menikah karena putus sekolah, sehingga karena tidak ada pekerjaan dan tidak ada kegiatan karena mereka memilih untuk menikah. Selain itu, ada beberapa informan juga mengatakan bahwa orang tua tidak memberikan pandangan mereka tentang sekolah. Masalah ini banyak terjadi terutama jika orang tua juga berpendidikan rendah dan bersama ekonomi kurang. Perkawinan alternatif merupakan pilihan bagi anak-anak yang pengangguran yang tidak bekerja, dan tidak bersekolah. Tingkat yang sangat rendah pendidikan atau pengetahuan orang tua, anak-anak dan masyarakat mempengaruhi pola berpikir mereka mengerti dan memahami arti dari tujuan acara tersebut pernikahan. Hal inilah yang menyebabkan kecenderungan untuk menikahkan anak-anak mereka yang masih di bawah umur.

- c. Faktor berikutnya adalah faktor ekonomi. Kondisi ekonomi rendah membuat pelaku pernikahan dini memutuskan untuk menikah. Tidak ada biaya sekolah menjadi alasan mereka putus sekolah. Kata beberapa informan bahwa dia menikah karena dia tidak bersekolah sehingga tidak ada yang membuatnya sibuk. Beberapa informan mengatakan mereka tidak sekolah karena tidak punya uang untuk melanjutkan pendidikan. Walaupun mereka sebenarnya juga ingin tetap sekolah tapi kondisi perekonomian orang tua yang sangat memprihatinkan, mereka tidak mampu untuk menyekolahkan anak-anaknya. Sehingga orang tua lebih senang jika mereka pergi bekerja membantu mereka di sawah daripada bersekolah, dan dari pada hidup dengan kondisi bersekolah tidak, hidup senang juga tidak, akhirnya memutuskan untuk menikah. Selain karena tidak ada biaya sekolah, harapan akan terjadinya perubahan ekonomi yang lebih baik dengan menikah menjadi alasan terjadinya pernikahan dini. Ada beberapa informan memutuskan menikah karena faktor tidak ada kesibukan yang diakibatkan tidak melanjutkan sekolah karena tidak ada biaya sekolah, selain itu karena orang tuanya kurang memberikan pandangan untuk sekolah sehingga ia berharap dengan menikah dapat menyebabkan terjadinya perubahan ekonomi menjadi lebih baik dan ingin meningkatkan ekonomi mereka. Dengan menikah kondisi kehidupan diharapkan menjadi semakin baik. Anak perempuan oleh sebagian orang tua dianggap aset, sehingga ketika ada yang melamar orang tua berharap dapat meringankan beban

keluarga, bahkan mengangkat derajat keluarga. Apalagi dengan kondisi tradisi masyarakat Sasak Lombok dalam proses pernikahan dimana terjadi tawar-menawar pemberian uang ke pihak perempuan oleh pihak laki-laki. Hal ini sering dimanfaatkan oleh keluarga untuk mendapatkan uang yang banyak dari pihak keluarga laki-laki, karena jika tidak maka keluarga perempuan tidak akan memberikan hak wali mereka untuk menikahkan anak perempuannya.

Dampak negatif yang ditimbulkan dari adanya perkawinan dini sebagai berikut:

- a. Dari segi psikologis yang kurang matang sehingga dapat mempengaruhi cara pola asuh anak yang kurang maksimal dikarenakan diasuh oleh orang tua pasangan usia muda.
- b. Dari segi sosial dapat menyebabkan proses pengembangan diri berkurang untuk melanjutkan pendidikan ke jenjang yang lebih tinggi.
- c. Dari segi kesehatan secara fisik pada perempuan yang sistem reproduksi yang belum matang sehingga meningkatkan angka kematian pada bayi dan ibu. Selain itu dampak negatif yang timbul seperti rentan terjadinya KDRT dan kegagalan dalam berumah tangga.

Pasal 8 UU Perkawinan, Perkawinan dilarang antara dua orang berdasarkan:

1. Berhubungan darah dalam garis keturunan lurus ke bawah atau ke atas;
2. Berhubungan darah dalam garis keturunan menyamping yaitu antara saudara, antara seorang dengan saudara orang tua dan antara seorang dengan saudara neneknya;
3. Berhubungan semenda, yaitu mertua, anak tiri menantu dan ibu/bapak tiri;
4. Berhubungan sepersusuan, yaitu orang tua susuan, anak susuan, saudara susuan dan bibi/paman susuan;
5. Berhubungan saudara dengan istri atau sebagai bibi atau kemenakan dari istri, dalam hal seorang suami beristri lebih dari seorang;
6. Mempunyai hubungan yang oleh agamanya atau peraturan lain yang berlaku, dilarang kawin. Misalkan masih terikat perkawinan atau perkawinan antar saudara sepupu yang dilarang dalam Hukum adat tertentu.

Secara bahasa, Ta'aruf bermakna “berkenalan” atau “saling mengenal”. Berasal dari kata bahasa Arab “ta'aruf”.¹¹ Mengenal ini bukan hanya terbatas pada mengenal nama saja. Dalam Islam, ta'aruf adalah sebuah proses untuk mengenal seseorang secara dekat, baik teman atau sahabat. Dalam konteks pernikahan, ta'aruf adalah upaya untuk mengenali pasangan hidup sebelum menikah.

Menurut Ari Pusparini ta'aruf adalah proses perkenalan yang bertujuan untuk mewujudkan suatu pernikahan. Bukan sekedar ingin kenal dan coba-coba siapa tau berjodoh, namun ta'aruf menjadi mulia karena niatnya suci dan juga mulia. Ta'aruf juga menjaga kesucian hubungan di atas nilai-nilai ilahiah (keTuhanan). Menjaga kehormatan diri dan juga pasangan. Tidak pula dilakukan di sembarang tempat tanpa aturan yang jelas. Ta'aruf juga melibatkan orang-orang terpercaya yang akan memberikan arahan dan kenyamanan.¹²

Menurut Hidayat, ta'aruf adalah suatu bentuk komunikasi timbal balik antara pria dan wanita untuk saling memperkenalkan diri dan saling mengenal dalam hal-hal yang berkaitan dengan masalah pernikahan.

Menurut Imtichanah, ta'aruf berasal dari bahasa arab yang artinya saling mengenal. Berkenalan disini masih mempunyai makna universal mencakup semua kategori yang ada kaitannya dengan perkenalan misalnya perkenalan untuk berteman, bersaudara dan lain sebagainya. Secara spesifik, ta'aruf diartikan sebagai berkenalan dalam rangka mengetahui secara lebih mendalam tentang calon suami atau istri tanpa melalui proses pacaran.¹³

Ta'aruf adalah proses perkenalan yang bertujuan untuk mewujudkan pernikahan. Tidak cukup ingin kenal. Bukan pula coba-coba siapa tahu berjodoh. Ta'aruf menjadi mulia karena niatnya yang suci. Fenomena ta'aruf yang didenotasikan suatu ritual pranikah adalah sebagai berikut:

¹¹ Eliyyil Akbar, “Ta'aruf dalam Khitbah Perspektif Syafi'i dan Ja'fari”. Musâwa, Edisi. 14, No. 1 (Januari 2015), hal. 56

¹² Ari Pusparini, *Agar Ta'aruf Cinta Berbuah Pahala*, (Yogyakarta: Pro-U Media, 2013), hal.19

¹³ Leyla Imtichanah, *Ta'aruf (Proses Perjodohan Sesuai Syari'at Islam)*. (Jakarta: PT Elex Media Komputindo, 2012), hal. 3.

- a. Saling tukar menukar data diri sebagai perkenalan pertama, bahkan dengan bertukar foto masing-masing.
- b. berjumpa pertama kali atau “melihat”. “melihat” inilah yang sebenarnya sesuai sunnah Nabi Muhammad SAW, sebab Beliau ketika salah seorang menyatakan akan menikah dengan si fulanah, beliau bertanya apakah sudah pernah melihat fulanah tersebut? Kemudian Beliau menganjurkan sahabat tersebut untuk melihatnya, dengan alasan: “karena melihat membuat engkau lebih terdorong untuk menikahinya”.
- c. Proses dilanjutkan dengan “hubungan” dengan maksud memperjelas perkenalan, yaitu mungkin dengan surat menyurat, sms atau telepon atau pertemuan lain dengan komposisi yang sama.
- d. Selanjutnya kedua pihak mulai melibatkan orang tua,
- e. Jika sudah bicara teknis artinya sudah dalam proses menuju pernikahan.

Contoh kasus pernikahan yang melewati proses Ta’aruf, berdasarkan putusan Pengadilan Agama Tangerang dengan Nomor 795/Pdt.G/2020/PA.Tng. Berawal dari diajukannya surat gugatan oleh Penggugat pada tanggal 21 April 2020, Dalam surat gugatannya memaparkan bahwa antara Penggugat dan Tergugat telah melangsungkan perkawinan. Keduanya melakukan perkawinan pada tanggal 5 Januari 2020 dan telah dicatat oleh Pegawai Pencatat Nikah Kantor Urusan Agama Kecamatan, dengan Kutipan Akta Nikah yang bernomor 0025/025/I/2020 pada tanggal 5 Januari 2020. penggugat menyatakan bahwa pernikahannya antara penggugat dan tergugat adalah pernikahan ta’aruf. Setelah akad dan resepsi atau lebih tepatnya pada malam pertama, tergugat sama sekali tidak menggauli tergugat. Sampai pada hari ke empat setelah pernikahan pun, tergugat tidak menyentuh sama sekali istrinya (penggugat). Pada hari ke lima setelah pernikahan, tergugat berusaha keras untuk menggauli penggugat dengan cara bermain sendiri dengan alat kelaminnya dan seketika yang terjadi tiba-tiba tergugat mengeluarkan air mani dengan sendirinya sehingga terjadi hubungan suami istri. Pada saat itu, penggugat sudah mempunyai firasat bahwa tergugat tidak normal.¹⁴

Penggugat sering mendapatkan tergugat bertingkah dan berperilaku layaknya perempuan. Setiap kali penggugat hendak memeluk tergugat, tergugat selalu risih dan

¹⁴ Salinan Putusan Nomor 795/Pdt.G/2020/PA.Tng, hlm. 2

menjauh. Pada hari ke enam setelah pernikahan, tergugat mencoba menggauli penggugat, namun saat melakukan hubungan intim, tergugat selalu menutup mata seakan-akan terpaksa dan tidak nyaman. Penggugat juga merasa dirinya ketika berhubungan tidak pernah dibelai layaknya suami yang cinta istrinya. Selama bersama dan selama honeymoon, tergugat sama sekali tidak tertarik terhadap istrinya (tergugat) padahal tergugat sudah memancing untuk mendapatkan perhatian tergugat. Atas dasar hal-hal tersebut, penggugat merasa bahwa suaminya dalam hal ini tergugat adalah seorang homoseksual. Atas dasar firasatnya, penggugat mencari tahu dengan bertanya kepada rekan kerja tergugat. Rekan kerja tergugat mengatakan bahwa tergugat adalah seorang homoseksual dan berada di dalam komunitas Gay dan juga memberikan beberapa foto tergugat yang menunjukkan 90% tergugat adalah homoseksual. Pada malam hari, penggugat memberanikan diri bertanya kepada tergugat perihal orientasi seksnya, dan seketika tergugat berteriak keras sambil memukul dadanya dan berkata, “Iya saya homoseksual puas kamu”. Tergugat juga mengakui bahwa dirinya mengidap HIV-Aids karena narkoba sebelum menikah dengan penggugat, namun penggugat tidak percaya, atas dasar homoseksualnya lah yang membuat ia mengidap penyakit tersebut. Puncak keretakan rumah tangga penggugat dengan tergugat terjadi pada 24 Maret 2020, sehingga penggugat dan tergugat sudah tidak lagi tinggal bersama, dan tergugat pergi meninggalkan penggugat.¹⁵

Adanya dalil-dalil dan alasan-alasan diatas, maka diajukan cerai gugat kepada Bapak Ketua Pengadilan Agama Tangerang. Penggugat meminta kepada Majelis Hakim untuk menjatuhkan putusan sebagai berikut:

I. Primair

1. Mengabulkan gugatan Penggugat;
2. Menyatakan hubungan perkawinan antara Penggugat dengan Tergugat putus karena perceraian;
3. Membebaskan biaya perkara kepada Penggugat;

II. Subsider: Atau, Apabila Majelis Hakim berpendapat lain, mohon putusan yang seadil-adilnya (*ex Aquo et bono*);

¹⁵ Salinan Putusan Nomor 795/Pdt.G/2020/PA.Tng, hlm. 5

Berdasarkan kasus tersebut Hakim memiliki pertimbangan dalam memutus perkara yaitu:

- Hakim menimbang bahwa berdasarkan Pasal 19 huruf Peraturan Pemerintah Republik Indonesia Nomor 9 Tahun 1975 jo. Pasal 116 huruf f KHI ditegaskan bahwa perceraian dapat terjadi karena alasan suami istri terus menerus terjadi perselisihan dan tidak ada harapan untuk rukun.
- Hakim menimbang bahwa gugatan penggugat telah cukup alasan untuk melakukan perceraian sebagaimana yang diatur dalam Pasal 39 Ayat (2) Undang-Undang Nomor 1 Tahun 1974 jo. Pasal 19 huruf (f) Peraturan Pemerintah Nomor 9 Tahun 1975 jo. Pasal 116 huruf (f) Kompilasi Hukum Islam, sehingga gugatan penggugat patut untuk dikabulkan.

Hasil Putusan setelah Hakim melihat dan mendengar apa yang terjadi di persidangan dan menimbang berdasarkan bukti-bukti dan fakta-fakta yang ada, maka Pengadilan Agama Tangerang memutus gugatan ini sebagai berikut:

1. Menyatakan Tergugat yang telah dipanggil secara resmi dan patut untuk meghadap di persidangan; tidak hadir;
2. Mengabulkan gugatan penggugat dengan verstek;
3. Menjatuhkan talak 1 (satu) ba'in sughra Tergugat (TERGUGAT) terhadap Penggugat (PENGGUGAT);

BAB 2

SOLUSI PERMASALAHAN DAN LUARAN

2.1 Solusi Permasalahan

Berikut merupakan langkah-langkah yang dilakukan dalam rangka memberi solusi terhadap masalah yang dihadapi:

- a) Memberikan penyuluhan hukum mengenai perkawinan menurut Undang- Undang No. 16 Tahun 2019 juncto Undang-Undang No. 1 Tahun 1974 khususnya tentang perkawinan dini dan perkawinan melalui proses Ta'aruf.
- b) Mendatangi Pondok Pesantren Baitul Daarul Muttaqien pada hari yang sudah ditentukan atau disepakati bersama.

2.1 Rencana Luaran Kegiatan (pilih minimal satu untuk luaran wajib dan satu untuk luaran tambahan)

No	Jenis Luaran	Keterangan
Luaran Wajib		
1	Publikasi ilmiah pada jurnal ber ISSN	Sudah submit
2	Prosiding dalam Temu ilmiah	Tidak ada
Luaran Tambahan (wajib ada)		
1	Publikasi di jurnal Internasional	Tidak ada
2	Publikasi di media massa	Sudah submit
3	Hak Kekayaan Intelektual (HKI)	Tidak ada
4	Teknologi Tepat Guna (TTG)	Tidak ada
5	Model/purwarupa/karya desain	Tidak ada
6	Buku ber ISBN	Tidak ada

BAB 3

METODE PELAKSANAAN

3.1 Langkah- langkah/ Tahapan pelaksanaan

a. Tahapan persiapan

Tahap persiapan yang dilakukan untuk melaksanakan kegiatan pengabdian kepada masyarakat ini meliputi:

- 1) Pembuatan proposal dan menyelesaikan administrasi perizinan pada mitra yang akan dilibatkan pada pelaksanaan kegiatan.
- 2) Pembuatan modul presentasi oleh pembicara.

b. Tahap Pelaksanaan Kegiatan

Kegiatan dilaksanakan sebanyak satu kali di Ponpes Baitul Daarul Muttaqien Sepatan Cadas, Kabupaten Tangerang, Indonesia. Kegiatan ini akan dibagi dalam dua tahap yaitu:

- 1) Tahap pertama berupa pengisian materi oleh pembicara mengenai perkawinan
- 2) Tahap kedua tanya jawab berkaitan dengan materi perkawinan yang telah di paparkan

c. Tahap akhir

Tahap akhir terdiri dari pembuatan hasil laporan kegiatan dan pengumpulan hasil kegiatan

3.2 Partisipasi mitra dalam kegiatan PKM

Mitra dalam kegiatan PKM ini berpartisipasi dengan mengumpulkan santri yang ingin mendalami pengetahuan hukum mengenai perkawinan serta menyediakan tempat untuk menyampaikan materi.

3.3 Uraian kepakaran dan tugas masing-masing anggota tim

Ketua tim bertugas memberikan materi mengenai perkawinan. Sementara anggota tim bertugas untuk mengurus administrasi serta membantu operasional kegiatan.

BAB 4

HASIL DAN LUARAN YANG DICAPAI

4.1 Data Mitra

Pondok Pesantren Daarul Muttaqien Jalan Raya Mauk No. 7, RT.001 RW. 01, Kelurahan Sepatan Cadas, Kabupaten Tangerang, Kota Banten. Dalam hal ini Bapak Arifin Rusdi sebagai Pimpinan Pondok Pesantren Daarul Muttaqien untuk bekerjasama dengan tim PKM dalam kegiatan penyuluhan hukum yang bertema “PENYULUHAN HUKUM TENTANG RESIKO PERNIKAHAN DINI BAGI SANTRI/WATI PESANTREN MODERN DAARUL MUTTAQIEN 1 SEPATAN CADAS - KABUPATEN TANGERANG” di Ponpes Daarul Muttaqien Tangerang -Indonesia.

4.2 Analisis Kegiatan

Kegiatan Pengabdian pada Masyarakat ini di mulai dari tahap persiapan yakni membuat proposal dan mengurus administrasi perizinan pada mitra pelaksanaan kegiatan, setelah itu tim menyiapkan modul atau bahan yang digunakan pada saat pelaksanaan kegiatan. Pelaksanaan kegiatan ini telah dipublikasikan lewat Jurnal Ilmiah ber-ISSN dan publikasi media massa terutama kepada peserta di Ponpes Daarul Muttaqien, Kabupaten Tangerang dan dilaksanakan secara langsung di Aula Pondok Pesantren Daarul Muttaqien.



Gambar 2. Publikasi Kegiatan

Dalam Pelaksanaan Kegiatan ini pada tanggal 27 Februari 2023 dihadiri sebanyak 60 orang, susunan ini terdiri dalam:

1. Salam pembuka dan kata sambutan oleh bapak Faisal Amir M.Pd. Selaku Pimpinan Pondok Pesantren Daarul Muttaqien Tangerang.
2. Pembukaan dan pemahaman materi tentang pemahaman perkawinan, perkawinan dini dan perkawinan secara ta'aruf sebagai alternative pemahaman dan bekal kepada para guru untuk dipaparkan lagi kepada siswa-siswi di Pondok Pesantren Daarul Muttaqien oleh pembicara Dr Benny Djaja, S.H., S.E., M.M., M.Hum. beserta anggota tim pembicaranya yaitu Balraj Kaur, Sheren Agapena Hosaya Liunda dan Gracia Kamarov.
3. Sesi Tanya jawab Antara Pembicara dan Peserta seminar dan Penutupan acara oleh bapak Dr. Benny Djaja, S.H., S.E., M.M., M.Hum. dan bapak Faisal Amir M.Pd.
4. Tahap akhir dari kegiatan ini adalah Pembuatan dan pengumpulan hasil laporan yang akan diserahkan kepada lembaga penelitian dan Pengabdian Kepada Masyarakat Universitas Tarumanagara Jakarta dalam bentuk seminar penyuluhan hukum mengenai Perkawinan yang dilaksanakan secara langsung di Aula Pondok Pesantren Daarul Muttaqien Kabupaten Tangerang dalam materi kegiatan ini. Peserta memperoleh pendalaman materi mengenai dampak positif dan negatif perkawinan, perkawinan dini dan perkawinan secara taaruf, selain itu para peserta juga aktif bertanya kepada pembicara seputar permasalahan yang sedang dihadapi atau dialami oleh peserta, sehingga peserta lainnya dapat mendalami dan mengerti langkah-langkah yang harus diambil apabila mengalami kejadian serupa. Pertemuan diakhiri dengan pembagian konsumsi makan siang kepada peserta dan pengurus Pondok Pesantren. Berikut terlampir publikasi yang dilakukan untuk kegiatan seminar penyuluhan hukum yang diadakan di Pondok Pesantren Daarul Muttaqien Tangerang.

BAB 5

KESIMPULAN DAN SARAN

5.1 Kesimpulan

Perkawinan ialah ikatan lahir batin antara seorang pria dan wanita sebagai suami istri dengan tujuan membentuk keluarga (rumah tangga yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa). Perkawinan dianggap sah apabila dilakukan berdasarkan hukum masing-masing agamanya yang diatur di pasal 2 Undang-Undang Nomor 1 Tahun 1974. Dan perkawinan itu harus dicatat menurut peraturan Perundang-Undangan yaitu Pasal 2 Ayat (2) Nomor 1 Tahun 1974. Menurut Undang-Undang Pasal 7 Nomor 16 Tahun 2019 atas perubahan Undang-Undang Nomor 1 Tahun 1974 bahwa batas minimal usia seorang pria dan wanita dapat melangsungkan perkawinan pada umur 19 tahun. Perkawinan dini atau perkawinan di bawah umur adalah perkawinan yang dilakukan sebelum kedua mempelai mencapai minimal usia yang ditetapkan oleh Undang-Undang, serta beragam alasan mengapa pernikahan dini dilakukan, yaitu takut hamil diluar nikah, menghindari zina dan sex bebas, mengurangi beban keluarga. Pernikahan dini juga membawa dampak negatif mulai dari segi psikologis, segi sosial, segi kesehatan dan rentan terjadinya Kekerasan Dalam Rumah Tangga (KDRT) dan kegagalan dalam berumah tangga.

Perkawinan menurut proses ta'aruf adalah suatu proses pengenalan antara seorang wanita dan laki-laki untuk mengetahui akhlak, sifat dari calon mempelai melalui seorang perantara (murrabi) yang bertujuan untuk melangkah ke jenjang pernikahan. Akan tetapi efek dari proses pengenalan singkat tersebut, menyebabkan banyak pasangan ta'aruf memilih untuk berpisah. Pengabdian masyarakat yang diadakan di Ponpes Daarul Muttaqien mengusung tema yakni hukum perkawinan guna meningkatkan pemahaman guru ngaji ponpes Daarul Muttaqien, agar para guru ngaji yang ikut serta dapat memberikan saran dan pengarahan terhadap masyarakat yang belum paham benar tentang perkawinan sehingga semakin banyak masyarakat tidak mengalami hal yang tidak diinginkan.

5.2 Saran

Masyarakat sekitar seharusnya sering mendapatkan pengabdian penyuluhan hukum guna memberikan ilmu terkait dampak buruk dari pernikahan dibawah umur yang berkaitan dengan pernikahan ta'aruf, yang menyebabkan masa depan para pihak yaitu anak dibawah umur yang melakukan pernikahan dini menjadi hancur serta merugikan. Dan sudah sepatutnya orang tua juga diberikan ilmu pengetahuan tentang dampak dari pernikahan dini dan pernikahan ta'aruf ini.

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LAMPIRAN-LAMPIRAN

LAMPIRAN-LAMPIRAN

LAMPIRAN

Lampiran 1

Materi yang disampaikan ke Mitra

PKM PONDOK PESANTREN

UNIVERSITAS
TARUMANAGARA

**PENYULUHAN HUKUM TENTANG RESIKO PERNIKAHAN DINI
BAGI SANTRI/WATI PESANTREN MODERN DAARUL
MUTTAQIEN 1 SEPATAN CADAS – KABUPATEN TANGERANG**

OLEH :

Ketua:
Dr.Benny Djaja, S.H.,S.E.,M.H.,M.Hum.,M.Kn.

Anggota Tim:
Gracia Kamarov 205190138
Sheren Agapena Hosaya Liunda 205210209
Balraj kaur 205210221

CONTENT

- 1** APA ITU PERKAWINAN
- 2** PERNIKAHAN DINI
- 3** PERKAWINAN MELALUI PROSES TA'ARUF





PERKAWINAN

Diatur dalam

Undang-Undang Nomor 1 Tahun 1974

Pasal 1

Perkawinan ialah ikatan lahir batin antara seorang pria dengan seorang wanita sebagai suami isteri dengan tujuan membentuk keluarga (**rumah tangga**) yang bahagia dan kekal berdasarkan Ketuhanan Yang Maha Esa.



Bagaimana pernikahan dapat dikatakan "sah" ?

Pasal 2 ayat (1)

Perkawinan dianggap sah apabila dilakukan berdasarkan Hukum masing-masing agamanya dan kepercayaannya.



UNSUR-UNSUR PERKAWINAN

- 1 Ikatan Lahir Batin
- 2 Hanya Terjadi Antara Laki-Laki & Perempuan
- 3 Membentuk Keluarga yang Bahagia & Kekal
- 4 Berdasarkan Ketuhanan Yang Maha Esa



BATAS USIA PERKAWINAN

Diatur dalam

Undang-Undang Nomor 1 Tahun 1974
Pasal 7 ayat (1)

- Laki-Laki harus berumur minimal 19 tahun
- Perempuan harus berumur minimal 16 tahun



‘Bagaimana kalau masih di bawah ketentuan minimal umur tersebut?’

Pihak orang tua harus meminta *dispensasi* kepada Pengadilan atau Pejabat lain.

PENCATATAN PERKAWINAN

Undang-Undang Nomor 1 Tahun 1974
Pasal 2 ayat (2)

Tiap-tiap perkawinan dicatat menurut
peraturan perundang-undangan yang berlaku

Tujuan Pencatatan Perkawinan

Sebagai alat bukti perkawinan dan bentuk
kepastian hukum

Pencatatan Perkawinan Menurut Agama Islam

KANTOR URUSAN AGAMA (KUA)

Pencatatan Perkawinan Bagi Agama Selain Islam

KANTOR CATATAN SIPIL (KCS)



PERKAWINAN DINI

Pengertian

Perkawinan yang dilakukan sebelum kedua mempelai mencapai minimal usia sesuai undang-undang



Minimal usia 19 tahun



Minimal usia 16 tahun

Berdasarkan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan

Berarti kalo perempuan di bawah 16 tahun gaboleh menikah ya?

Namun, setelah disahkannya Undang-Undang terbaru, yaitu Undang-Undang Nomor 16 Tahun 2019. Batas usia perkawinan pria dan wanita adalah 19 tahun

BERDASARKAN DATA BADAN PERADILAN AGAMA (BADILAG) PADA TAHUN 2021, TERCATAT ADA 61.449 KASUS PERKAWINAN DINI

Trend perkawinan dini melonjak lantaran pandemi Covid-19 yang membuat banyak keluarga mengalami masalah ekonomi dan memilih untuk menikahkan anaknya yang masih di bawah umur.

Pernikahan pelajar SMP di Bantaeng

Sepasang remaja asal Bantaeng, Sulawesi Selatan, FA dan SY menikah di hadapan penghulu KUA pada April 2018. Saat menikah, FA yang berusia 14 tahun dan SY, 15 tahun, masih berstatus pelajar SMP.

Berdasarkan penjelasan tantenya, sang perempuan yang disebut sebagai siswa berprestasi tersebut tidak hamil dan tidak dijodohkan.

Remaja tersebut ingi menikah lantaran takut tidur sendiri di rumah setelah ibunya meninggal, sementara ayahnya selalu pergi ke luar kota untuk bekerja.

11 Siswa SMP di Bone Menikah karena Kelamaan Tak Sekolah

CHN Indonesia

News 07 Apr 2021 16:05 WIB

Berikan



Kontras: Bupati Bone mengaku kecewa setelah menemukan bahwa ada 11 siswa SMP di daerahnya recently menikah karena terlambat tidak mengikuti pendidikan sekolah. (SMP: media. id/rii-mengajar-banawa)

Jakarta, CHN Indonesia -- Bupati Bone Bolango Provinsi Gorontalo Hamim Pou mengungkapkan ada 11 pelajar sekolah menengah pertama (SMP) di daerah itu

MENGAPA PERKAWINAN DINI TERJADI?



Perkawinan dini dipengaruhi oleh banyak faktor

1 Pendidikan

Kematangan seseorang dalam mengambil keputusan dipengaruhi oleh tingkat pendidikan seseorang. Orang tua juga berperan besar dalam keputusan yang diambil oleh anaknya dan hal ini sangat erat kaitannya dengan kelangsungan perkawinan dini

Orang tua banyak yang masih mempunyai pikiran bahwa dengan menikahkan anaknya maka akan mengurangi beban ekonomi keluarga. Hal ini erat kaitannya dengan status ekonomi keluarga

2 Biososial

Faktor biososial meliputi umur menstruasi pertama. Menstruasi menandakan bahwa perempuan sudah berada pada masa subur dan rawan hamil di luar nikah.

Orang tua yang cenderung khawatir dengan anaknya yang bisa saja hamil di luar nikah, akan dengan segera menjodohkan anaknya. Sehingga terjadi perkawinan dini

3 Lingkungan

Lingkungan memiliki peran yang tidak kalah penting. Masyarakat yang tinggal di lingkungan yang cenderung masih tradisional akan menganggap perkawinan sebagai Kewajiban Sosial.



DAMPAK-DAMPAK PERKAWINAN DINI

Perkawinan dini memiliki banyak resiko, khususnya bagi perempuan

Selama 2011 - 2020, sebanyak 14,2 juta anak perempuan di seluruh dunia menjadi pengantin anak setiap tahunnya

ANAK PEREMPUAN DENGAN RENTANG USIA 10 - 14 TAHUN BERISIKO LIMA KALI LEBIH LEBIH BESAR UNTUK MENINGGAL PADA SAAT PERSALINAN DIBANDINGKAN PEREMPUAN USIA 20 - 24 TAHUN

SECARA GLOBAL KEMATIAN AKIBAT KEHAMILAN PERKAWINAN DINI MERUPAKAN PENYEBAB UTAMA KEMATIAN ANAK PEREMPUAN USIA 15 - 19 TAHUN

RESIKO KOMPLIKASI

- 1 KEMATIAN IBU & BAYI
- 2 PENDARAHAN PERSALINAN
- 3 BERAT BADAN BAYI LAHIR RENDAH (BBLR)

DAMPAK BIOLOGIS & PSIKOLOGIS PERKAWINAN DINI

SECARA BIOLOGIS PADA MASA REMAJA TERJADI PROSES AWAL KEMATANGAN ORGAN REPRODUKSI MANUSIA, DAMPAKNYA APABILA DI USIA REMAJA INI TERJADI KEHAMILAN MAKA AKAN BANYAK RESIKO KESEHATAN YANG AKAN DIHADAPI SEPERTI ABORTUS, ANEMIA, KURANG GIZI, PREEKLAMSI DAN EKLAMSI. SEDANGKAN PADA SAAT PERSALINAN DAPAT MENIMBULKAN, PERSALINAN LAMA, KETUBAN PECAH DINI, KETIDAKSEIMBANGAN KEPALA BAYI DENGAN LEBAR PANGGUL, PERSALINAN PREMATURE, BERAT BADAN BAYI LAHIR RENDAH DAN PERDARAHAN YANG DAPAT MENGANCAM KESELAMATAN JIWA IBU MAUPUN BAYINYA.

DARI SEGI PSIKOLOGIS, WAJAR BILA BANYAK YANG MERASA KHAWATIR BAHWA PERNIKAHAN DINI AKAN MENGHAMBAT STUDI DAN RENTAN KONFLIK YANG BERJUNG PERCERAIAN, KARENA KEKURANGSIAPAN MENTAL KEDUA PASANGAN YANG BELUM DEWASA. KECEMASAN DALAM MENGHADAPI MASALAH - MASALAH YANG TIMBUL DALAM KELUARGA MEMBUAT PASANGAN REMAJA MUDAH MENGALAMI GONCANGAN JIWA YANG DAPAT MENGAKIBATKAN STRESS DAN DEPRESI, BILA KEADAAN INI TIDAK MENDAPATKAN PERHATIAN DAN PENANGANAN DENGAN BAIK AKAN TERJADI GONCANGAN JIWA YANG LEBIH BERAT LAGI BAHKAN BISA MENJADI GILA



PENGERTIAN PERNIKAHAN TA'ARUF

Ta'aruf berasal dari bahasa Arab **عرف**, artinya mengetahui atau mengenal. Ta'aruf adalah suatu proses pengenalan satu sama lain untuk mengetahui lebih dalam mengenai akhlak, sifat dari calon suami atau istri ataupun tentang agama melalui perantara {murrabi} yang bertujuan untuk melangkah ke jenjang pernikahan.



02

SYARIAT ISLAM DAN TATA CARA TA'ARUF

PROSES 1

PERKENALAN

Pertukaran informasi antara calon suami dan istri yang biasanya berbentuk biodata atau proposal melalui perantara ta'aruf atau yang disebut murrabi.

PROSES 2

PERTEMUAN

Pertemuan individu dalam ta'aruf dibatasi hanya 2-3 kali dalam jangka waktu 1-2 jam selama 3-4 bulan. Apabila merasa tidak cocok, calon suami dan calon istri dapat mengakhiri proses ta'aruf.

PROSES 3

PERNIKAHAN

Jika keduanya merasa cocok dapat dilanjutkan pada tahap pertemuan keluarga, khitbah, dan menikah

03

CONTOH KASUS

BERDASARKAN PUTUSAN PENGADILAN AGAMA TANGERANG DENGAN NOMOR 795/Pdt.G/2020/PA.Tng. PENGGUGAT MENYATAKAN BAHWA PERNIKAHANNYA ANTARA PENGGUGAT DAN TERGUGAT ADALAH PERNIKAHAN TA'ARUF. SETELAH AKAD DAN RESEPSI ATAU LEBIH TEPATNYA PADA MALAM PERTAMA, TERGUGAT SAMA SEKALI TIDAK MENGGAULI TERGUGAT. SAMPAI PADA HARI KE EMPAT SETELAH PERNIKAHAN PUN, TERGUGAT TIDAK MENYENTUH SAMA SEKALI ISTRINYA (PENGGUGAT). PADA HARI KE LIMA SETELAH PERNIKAHAN, TERGUGAT BERUSAHA KERAS UNTUK MENGGAULI PENGGUGAT DENGAN CARA BERMAIN SENDIRI DENGAN ALAT KELAMINNYA DAN SEKETIKA YANG TERJADI TIBA-TIBA TERGUGAT MENGELUARKAN AIR MANI DENGAN SENDIRINYA SEHINGGA TERJADI HUBUNGAN SUAMI ISTRI. PADA SAAT ITU, PENGGUGAT SUDAH MEMPUYAI FIRASAT BAHWA TERGUGAT TIDAK NORMAL. PENGGUGAT SERING MENDAPATKAN TERGUGAT BERTINGKAH DAN BERPERILAKU LAYAKNYA PEREMPUAN. SETIAP KALI PENGGUGAT HENDAK MEMELUK TERGUGAT, TERGUGAT SELALU RISIH DAN MENJAUH. PADA HARI KE ENAM SETELAH PERNIKAHAN, TERGUGAT MENCOBA MENGGAULI PENGGUGAT, NAMUN SAAT MELAKUKAN HUBUNGAN INTIM, TERGUGAT SELALU MENUTUP MATA SEAKAN-AKAN TERPAKSA DAN TIDAK NYAMAN. MERASA BAHWA SUAMINYA DALAM HAL INI TERGUGAT ADALAH SEORANG HOMOSEKSUAL. ATAS DASAR FIRASATNYA, PENGGUGAT Mencari tahu dengan bertanya kepada rekan kerja tergugat. Rekan kerja tergugat mengatakan bahwa tergugat adalah seorang homoseksual dan memberikan beberapa foto tergugat yang menunjukkan 90% tergugat adalah homoseksual. Pada malam hari, penggugat memberanikan diri bertanya kepada tergugat perihal orientasi seksnya, dan seketika tergugat berkata, "Iya saya homoseksual puas kamu". Tergugat juga mengakui bahwa dirinya mengidap HIV-Aids karena narkoba sebelum menikah dengan penggugat. Puncak keretakan rumah tangga penggugat dengan tergugat terjadi pada 24 Maret 2020, sehingga penggugat dan tergugat sudah tidak lagi tinggal bersama, dan tergugat pergi meninggalkan penggugat.

*Thank
You*

Lampiran 2
Foto-foto





Lampiran 3.
Luaran wajib



LETTER OF ACCEPTANCE

Jakarta, April 08th, 2023
Number: 023 – ICEBSH / EXT / UNTAR / IV / 2023

Attention to: **Benny Djaja, Sheren Agapena Hosaya Liunda, Balraj Kaur, and Gracia Kamarov**
The Author(s) of Paper ID: **031-ICEBSH**

Paper Title: **LEGAL COUNSELING ON TA'ARUF AND EARLY MARRIAGE IN DAARUL MUTTAQIEN 1 ISLAMIC BOARDING SCHOOL IN TANGERANG REGENCY**

On this occasion, we are pleased to inform you that your Paper Submission is **ACCEPTED** for presentation in the **International Conference on Economics, Business, Social, and Humanities (ICEBSH) 2023**, which will be held online on April 12th, 2023, using a video conference platform. This Paper will be electronically published in the International Journal by Universitas Tarumanagara, after being reviewed and approved by our Scientific Committee.

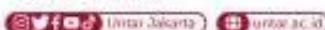
Thank you very much for your attention and cooperation.

Jakarta, April 08th, 2023



Dr. Miharni Tjokrosaputro, S.E., M.M.
The ICEBSH 2023 - Conference Chair

Jl. Lejen S. Panjan No. 1, Jakarta Barat 11440
P: 021 - 5995 8744 (Hukum)
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Lembaga

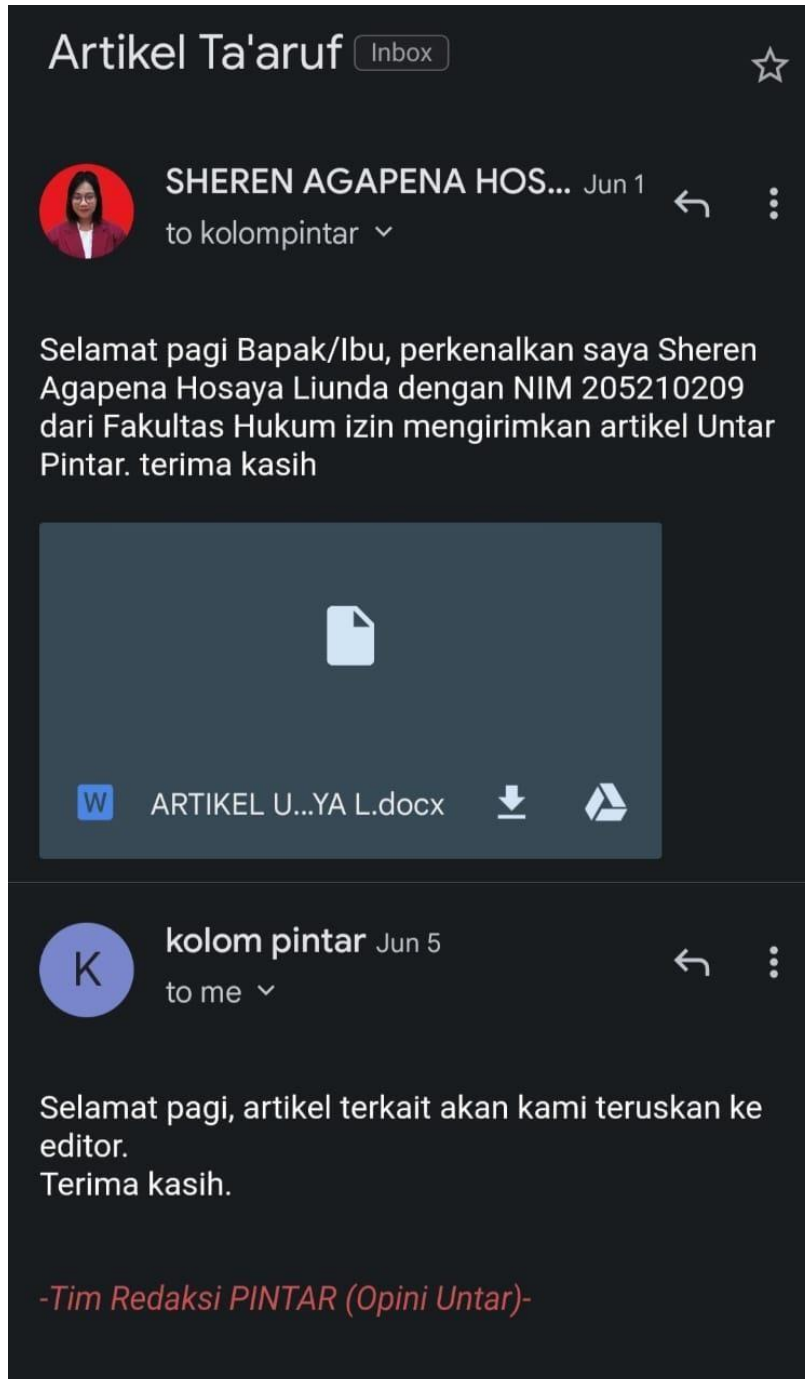
- Pembelajaran
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- Penjaminan Mutu dan Sumber Daya
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- Hukum
- Teknik
- Kedokteran
- Psikologi
- Teknologi Informasi
- Seni Rupa dan Desain
- Ilmu Komunikasi
- Program Pasca sarjana

Lampiran 4.

Luaran tambahan (dapat lebih dari satu)



Ms_BP_7103B: Invitation to Review a Book Chapter entitled LAND RESOURCE CHARACTERIZATION, SOIL RESOURCE MAPPING FOR FARM LEVEL LAND USE PLANNING – A CASE STUDY IN UPPER GANGETIC PLAINS Kotak Masuk x

Editor-BPI peer.review@bookpi.org lewat eendgrid.net
kepada saya

4 Des 2023, 12:25 ☆ 😊 ↶ ⋮

Terjemahkan ke Indonesia x

Subject: **Ms_BP_7103B: Invitation to Review a Book Chapter entitled LAND RESOURCE CHARACTERIZATION, SOIL RESOURCE MAPPING FOR FARM LEVEL LAND USE PLANNING – A CASE STUDY IN UPPER GANGETIC PLAINS**

Note: If you have already accepted or declined our invitation, you are politely requested to ignore this mail.

Dear Colleague,

I am approaching you with the peer-review request for the below-mentioned Book Chapter.

Title: **LAND RESOURCE CHARACTERIZATION, SOIL RESOURCE MAPPING FOR FARM LEVEL LAND USE PLANNING – A CASE STUDY IN UPPER GANGETIC PLAINS**

I would be grateful if you would kindly find some time to review the above-mentioned Book Chapter and send your valuable comments within (08 Dec'2023).

The Book Chapter and Review Forms are available below. Please download the files to your computer to start the review.

<https://review.oanacademicpress.com/7103b>

Password- Jfoiofjewf(9k)nkdfdPP

If you cannot download these files and if you require the files as E-mail attachments kindly let us know.

2. Benefits for Reviewers

2.1 Certificate of peer reviewing: After completion of a timely quality peer review, we'll be pleased to provide you with an official Certificate of peer reviewing (signed Scan copy).

2.2 Nomination for "Reviewer of the Month": After completion of a timely quality peer review, you will be nominated for the "Reviewer of the Month" competition. Winners of the competition will get the prestigious "Reviewer of the Month" certificate (signed Scan copy).

2.3 DOI reference for reviewer credit: If the Book Chapter is accepted for publication by the editor after peer review, then your name will be included in the published Book Chapter as a reviewer. Then you can officially write the DOI number of the book Chapter and the title of the book Chapter in your CV as part of your reviewer credit.

2.4 Annual Peer Reviewers' Hall of Fame (APR-HF): Extraordinary reviewers will be included in the "Annual Peer Reviewers' Hall of Fame". Photographs and short biographies of selected reviewers will be published in APR-HF. This is an internationally circulated book Chapter with print and online ISBNs and DOI numbers. APR-HF book Chapter is promoted by Digital news channels, social media, scientific blogs, YouTube channels, digital press releases, etc. (Link: <http://www.scholarshof.com>)

3. *Very politely we are requesting you to inform us by email within the next 48 hours if you agree to accept our review invitation.* If we don't receive your email, we'll move on next alternative reviewers. We hope as part of the academic community you'll appreciate our efforts to complete quality peer reviews within the stipulated period. *Comments received after the Peer Review Report Submission Deadline and without initial acknowledgement may not be utilized.*

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Research Article

LAND RESOURCE CHARACTERIZATION, SOIL RESOURCE MAPPING FOR FARM LEVEL LAND USE PLANNING – A CASE STUDY IN UPPER GANGETIC PLAINS

Abstract: Land resource characterization and detailed inventorization of soil resources for farm planning was carried out in block level in Haryana as a case study in upper Gangetic plains. Satellite data (IRS-P6, LISS-IV) interpretation in conjunction with legacy data and cadastral maps was undertaken using latest techniques identified broad physiographic units and generated base map for soil survey. Eleven soil series along with eighteen mapping units were identified as phases of soils series in six broad physiographic units. Soil-physiographic relationship was established during detailed soil resource mapping. Soils occur on old alluvial plain are very deep, well drained to moderately well drained, calcareous, loam/clay loam and classified as Fine loamy, Typic Haplustepts /Typic Haplustalfs, while on old alluvial plain with high water table (Salt affected soils) are very deep, imperfectly to poorly drained, calcareous, clay loam, saline-sodic in nature (Fine loamy, Natric Haplustepts/ Typic Halaquepts). Soils on very gently sloping reclaimed sand dunes are sandy/loamy sand, excessively to somewhat drained (Typic Ustipsamments). Soils were characterized, classified for their constraints/potentials and suitability for different uses were identified. The majority of soils are moderately alkaline, slightly saline, high in lime content, and low to medium in available nutrients. Salinity/sodicity, drainage, erosion and low fertility are the major constraints in the region. Resource database generated were interpreted and integrated in Geographical Information System (GIS) for several thematic information viz., landform, land use/land cover, soils, drainage, particle size, and soil salinity/sodicity. Suitable land use options were suggested for each parcel of land by considering its constraints/potentialities. Village level site-specific database was generated for farm planning which could be easily applicable for land use and management strategies in similar area of upper Gangetic plain.

Keywords: land resource characterization, soil resource mapping, Farm planning

Introduction

The land resources of the Upper Gangetic plain particularly in Haryana state are under severe strain due to competing demands of various land uses and increasing population pressure. The ever-increasing food requirement demands optimum utilization of land resources. The challenge before us is not only to increase the productivity per unit area but also to reduce the severity of degradation [1]. The situation needs immediate attention and correction. The problems and issues are site-specific and can be addressed effectively by having a thorough knowledge of the situation, and evolving location-specific solution [2]. This calls for detailed site-specific database on various land resources of the state in a specified period of time. The information available at present for most of the land resources is at smaller scale and not site or location specific. The site-specific farm level information on soil and other land resources can easily identify the constraints and potentials. This will help in evolving a rational, site-specific and viable land use options suitable for each and every farm and managing the scarce resources in a sustainable manner [3,4]. It will also help most of the developmental activities at district/state level. In central Haryana, the agrarian front is faced with multitudes of problems like water logging, salinity/sodicity, low fertility, mono-cropping system, fragmentations, declining factor productivity. [5,6] and soil erosion for the past few decades [7]. There has been an alarming rise in the water table during past two decades in some parts, and decline of water table reported in some other parts of the state [8]. The causative factors for the above problems exist at the grassroots level. The soil information of some districts of Haryana is available on small scale (1:50, 000) which do not seem to be effective for devising suitable land use plan for micro-level variations and the information on

detailed scale (1:12,500) is almost non-existent. Keeping this in view, the present study was undertaken to generate the detailed database of existing land resources and mapping of soils by using remote sensing and GIS techniques, to identify the problems and potentials of the area for various uses and to suggest sustainable land use options suitable for each and every land holding for achieving sustainable crop production, management and conservation of vital natural resources.

Materials and Methods

Study area

The case study was carried out as a representative site of upper Gangetic alluvial plain in Lakhan Majra block, Tahsil & district Rohtak, Haryana. It is bounded by districts Sonapat in North, Jind in North-west; tahsil Maham in west and is situated 15 km away from district head quarters Rohtak. General topography is inland drainage basin (Saucer shape topography) [8]. Sand dunes and reclaimed sand dunes are present in some parts of study area. The climate is semi-arid sub-tropical with dry summer and cold winters. Mean annual rainfall is 528 mm and maximum rainfall is recorded between the months of July to September brought by south west monsoon. Maximum temperature ranges between 40 to 45°C and minimum 3 to 6°C. The mean annual temperature is 24.5°C. The estimated mean annual summer temperature (MAST) is 29°C and mean annual winter temperature (MAWT) is 15°C. The relative humidity remains low up to 60 % during summer months but during rainy season it is recorded as high as up to >90%. The length of growing period (LGP), which indicates the availability of water for plant growth, is about three months in a year [Fig-1]. It starts from the end of July (33rd week) and continues up to the end of October (46th week).

However, the probability of getting the mean rainfall is only about 40 percent. Therefore, LGP remains less than 120 days in five out of 10 years in the area.

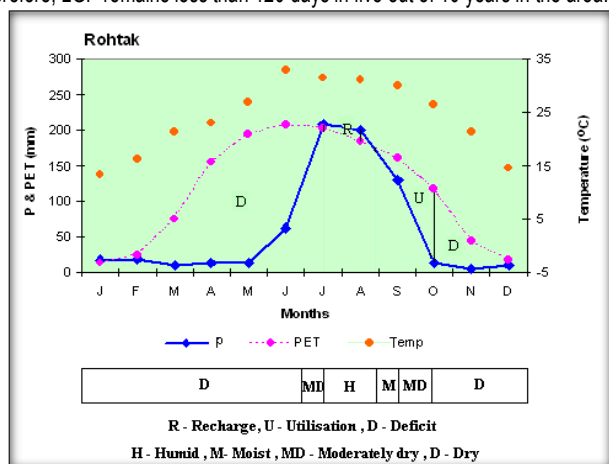


Fig-1 Water balance diagram, Lakhan Majra, Haryana

Methodology

Resource characterization for farm level planning was carried out by detailed characterization and mapping of all the existing land resources. Crops and cropping pattern data were collected from statistical departments [5] and village records. Soil resource characterisation and mapping was carried out by adopting the latest available procedures [10,11] by conducting detailed soil survey on 1:12,500 scale by using base maps prepared from Survey of India toposheets, cadastral maps (1:2640 and 1:4000 scale), demarcating field boundaries, Khasara/field numbers and interpretation of remote sensing data. The LANDSAT-LISS-IV, IRS-P6 satellite data was interpreted visually as well as digital analysis in conjunction with ground truth for identification of landform and land use using photo-interpretation key. Physiographic units were delineated. Google-earth data was also used for identification of landforms and land use. After ground truth, soil survey work was carried out by studying representative pedons (soil profiles) in different physiographic units for morphological properties, and horizon-wise soil samples were collected from representative soil profiles for laboratory characterization. Soils were grouped into different soil series and mapped as phases of soil series [12]. Soil samples were analyzed for physico-chemical properties by following standard procedures [13-15]. The soils were classified according to Soil Taxonomy [16]. On the basis of landform analysis, field surveys and laboratory studies, the soil resource map of Lakhan Majra Block was prepared on 1:12,500 scale. The soils were classified under different land capability as per standard procedures [17, 18]. The soil and climatic data were assessed to work out the suitability of soils for dominant crops grown in the area following a parametric approach [19]. The soil and other maps thus prepared were digitized using the ARC-GIS Software. Each mapping unit has been evaluated and interpreted for land capability, suitability for land use, fertility status of soils and generated information were integrated for suggesting optimum land use options for each parcel of land and maps were generated under GIS environment.

Results

Resource Characterization

Geologically the study area is tract of Indo-Gangetic alluvial plain ranging from Pleistocene to Recent in age with gentle slopes [20]. The general direction of the slope is from south west to north east and from north-west to south east. The elevation ranges from 219 to 228 m above mean sea level (MSL) [8]. The area is a part of inland drainage basin. Because of gently sloping to nearly level topography the drain water from higher elevation creates flood problems in the lower areas during rainy season. However, in order to avoid floods, drains have been dug out in these areas.

Physiography

The general physiography of the Block is nearly level to gently sloping old alluvial plain and gently sloping aeolian deposits (Sand dunes) in some localized areas.

The major physiographic units delineated are undulating sand dunes; very gently sloping reclaimed sand dunes; very gently sloping to nearly level upland plain; nearly level old alluvial plain; level old alluvial plain with high water table (saline patches); level old alluvial plain with concave relief (low-lying). The physiography map of the block is shown in the [Fig-2].

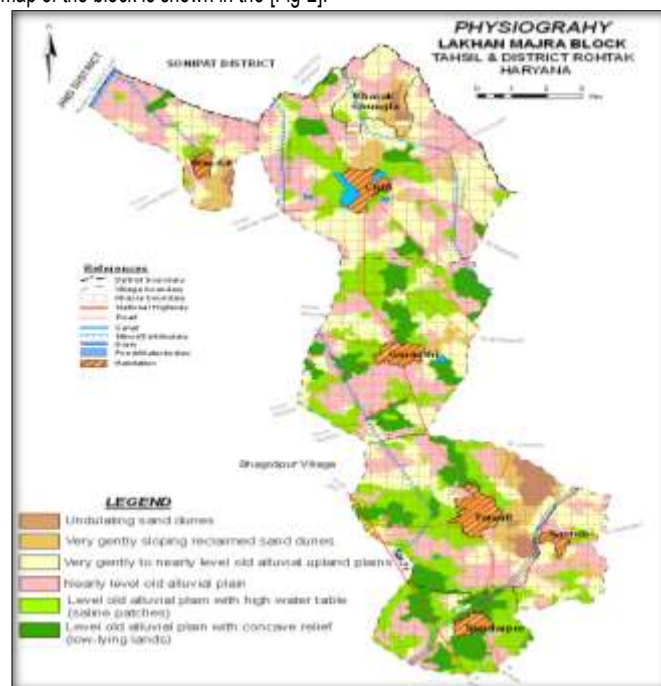


Fig-2 Physiography map

Land use / Land cover

Major land use has been identified after interpretation of remote sensing data coupled with field checks. About 89.6 % area is under intensive cultivation and about 8.3% area is under miscellaneous use while negligible area is under pasture/scrub lands. At present, no fallow lands occur in the study area while the cultivation of single cropping is also observed in the scraped/ stabilized sand dune areas. Some patches of dunes have been put under social forestry plantation. The natural vegetation is sparse, comprising few tree species, shrubs and herbs. The 2.2 % area is under cultivable wasteland mostly covered by bushy salt affected lands or sandy patches. The entire area is under cultivation of double cropping under assured irrigation. The net area sown is 6430 hectare (86.8 %),

Crops and cropping pattern

Rice-wheat/mustard, rice/pulses-sugarcane, pearl millet/pulses-wheat are the dominant cropping systems of the Block. Wheat, mustard and sugarcane are main *rabi* crops sown in the area while, paddy, pigeonpea, bajra, and sorghum are main *Kharif* crops. Vegetables like cauliflower, cabbage, bottle guards, lady finger, and tomato are grown in patches. Fodder crops and barley are also sown in patches. Few orchards of guava, amla (Gooseberry) and ber (*Zizyus*) are also found in packets. In upland areas of study area sorghum, pearl millet and cotton are the main crops.

Soil resources

Detailed soil resource inventory of the block was carried out and in total eleven soil series were identified and mapped into 18 mapping units as phases of soil series [Fig-3]. Soils occurring on undulating sand dunes are sandy, excessively drained and classified as Typic Ustipsamments. Loamy sand, somewhat excessively drained soils occur on very gently sloping reclaimed sand dunes (Typic Ustipsamments). These soils are neutral in reaction with low cation exchange capacity (CEC), and organic carbon [Table-1]. Very deep, well drained, calcareous, sandy loam soils (Coarse loamy, Typic Calcustepts/Typic Haplustepts) occur on old alluvial upland plain while soils on nearly level old alluvial plain are very deep, well drained to moderately well drained, calcareous, loam/clay loam and classified as Fine loamy, Typic Haplustepts/Typic Haplustafts. These soils are good in nutrient status.

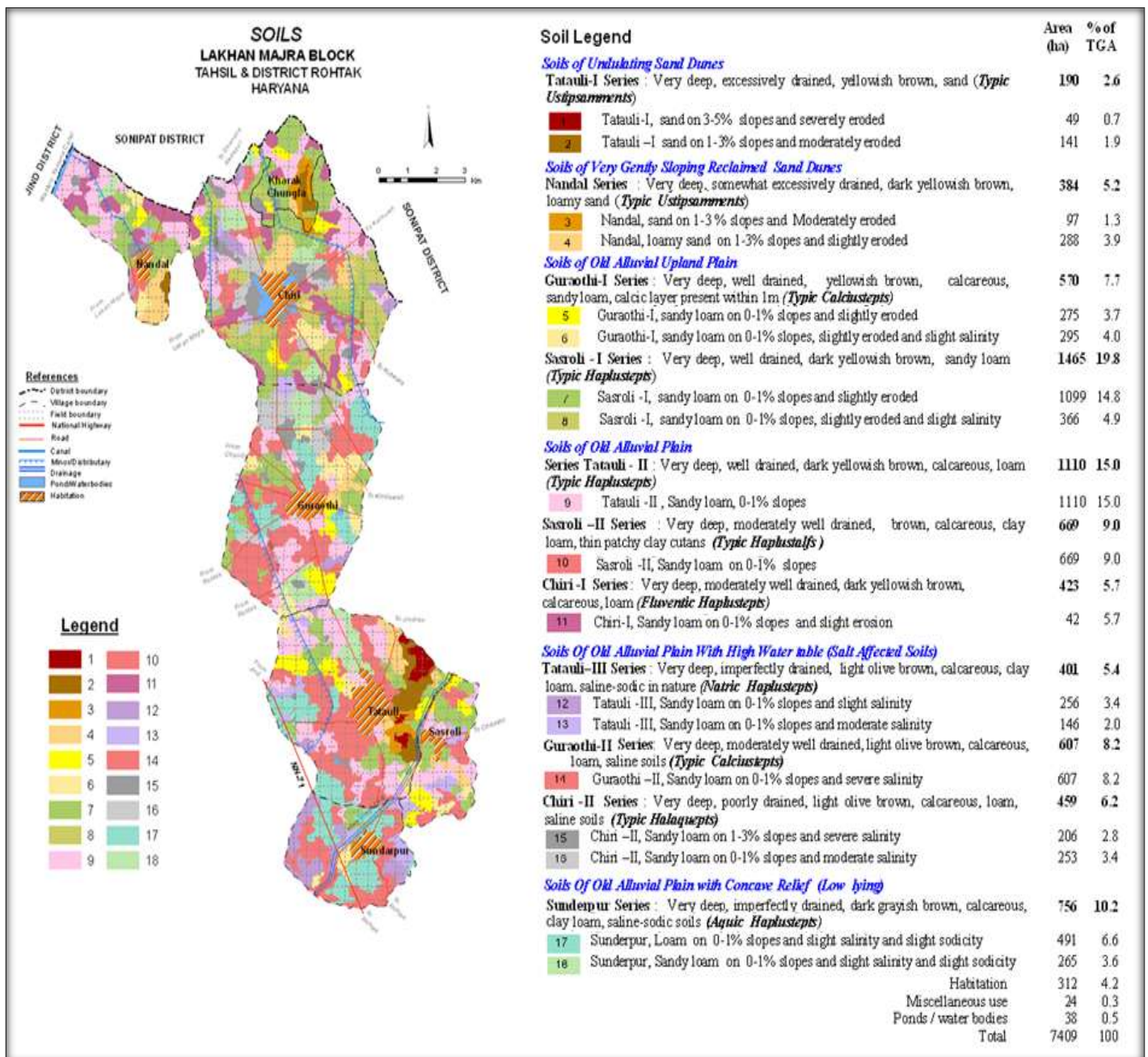


Fig-3 Soil map of Lakhan Majra Block, Tahsil & District Rohtak, Haryana



Waterlogged soils in the study area



Salt affected soils in the study area

Soils of old alluvial plain with high water table (Salt affected soils) are very deep, imperfectly drained, calcareous, clay loam, saline-sodic in nature (Fine loamy, Natric Haplustepts) and very deep, poorly drained, calcareous, loam, saline soils (Fine loamy, Typic Halaquepts). These soils have gleyed color or characteristics associated with wetness such as mottling and Fe-Mn nodules, very strongly alkaline (pH >9) and moderate to strongly saline/sodic in nature. These soils have low permeability but high available water capacity, low in organic carbon as well as CEC. Soils of old alluvial plain with concave relief (low lying lands) are very deep, imperfectly drained, dark grayish brown, clay loam in texture and strongly alkaline (pH 8.9) and classified as Aquic Haplustepts. The lime nodules and Fe-Mn nodules are present in the soil control section due to stagnation of water and low permeability. These soils have gleyed colours or characteristics associated with wetness such as mottling and Fe-Mn nodules and are affected by slight salinity and sodicity. The available water capacity is high but low to medium in organic carbon and CEC.

Soil Degradation

The soil resource data and its interpretation indicated that about 8 % area has moderate to severe problem of soil erosion which is confined to undulating sand dunes and reclaimed sand dune areas respectively and need intensive reclamation measures like scrapping, land shaping, land leveling, bunding etc., to check soil erosion . Nearly 5.4 and 18.4% area are very strongly and strongly alkaline in nature whereas nearly 14% of TGA is affected by strong salinity and 5.4 % is moderately saline/moderately sodic. Saline groundwater is mainly responsible for development of salinity/sodicity by increasing salt concentration within the root zone through capillary rise during dry climate. These areas need addition of amendments like FYM and green manures to improve physical condition of soils. Soils of nearly 22 % of TGA are suffering from imperfect to poor drainage conditions. About 10.2 % area is affected by seasonal water logging due to presence of low-lying lands and some areas are also affected by fluctuating water table or persistence of high water table.

Land capability classification

The soil resource data have been interpreted for land capability classes. The land capability classification is an interpretative grouping of different soils mainly on the basis of inherent soil characteristics, external land features and environment factors. According to USDA, [17, 18] land capability classification (LCC) land is divided into eight classes from I to VIII and the classes may further be divided into subclasses depending on the number and severity of limitations. These limitations include erosion (e), wetness (w), soil root zone (s) and climate (c). The land capability grouping, their description and extent of occurrence are presented in [Table-2] and [Fig-4]. Nearly 50 % lands are grouped into class II, 32 % lands into class III, 13 % lands into class IV and 1 % into class VI. Soil salinity/sodicity, drainage and erosion are the major problems of the soil. The land capability classification serves as an important tool in land-use planning to show the relative suitability for soils for cultivation of crops, horticulture, pastures, forestry in addition to focusing the problems which need preventive measures [21-23].

Land Suitability

Land suitability analysis revealed that soils of old alluvial plains (30% area) are best suitable for agri-horti/floriculture with crops like wheat, potato, oilseeds, pulses [22, 23]. About 13 % lands (saline-sodic soils) suited for agri-pasture, paddy may be rotated with salt tolerant crops like barley, oat, mustard and forage crops. Nearly, 6 % area is marginally suitable lands (strongly saline) are best suited for silvi-pasture and salt tolerant tree species [21]. The salt affected wastelands may be the best option for non-agricultural uses and 10 % area under low-lying lands and in the vicinity of canals is suitable for Agri-floriculture. Rice-based cropping system is encouraged in these areas with oilseed, vegetable and floriculture in *rabi* seasons on residual moisture. Undulating sand dune areas (3%) may be stabilized by putting under silvi-pasture/horti-pasture. The reclaimed sand dune (5%) areas may be preferred to agro-forestry. Crops like *Kharif* pulses, oilseeds, vegetables and fodder crops can be grown. The viable and sustainable land use options were demarcated in [Fig-5].

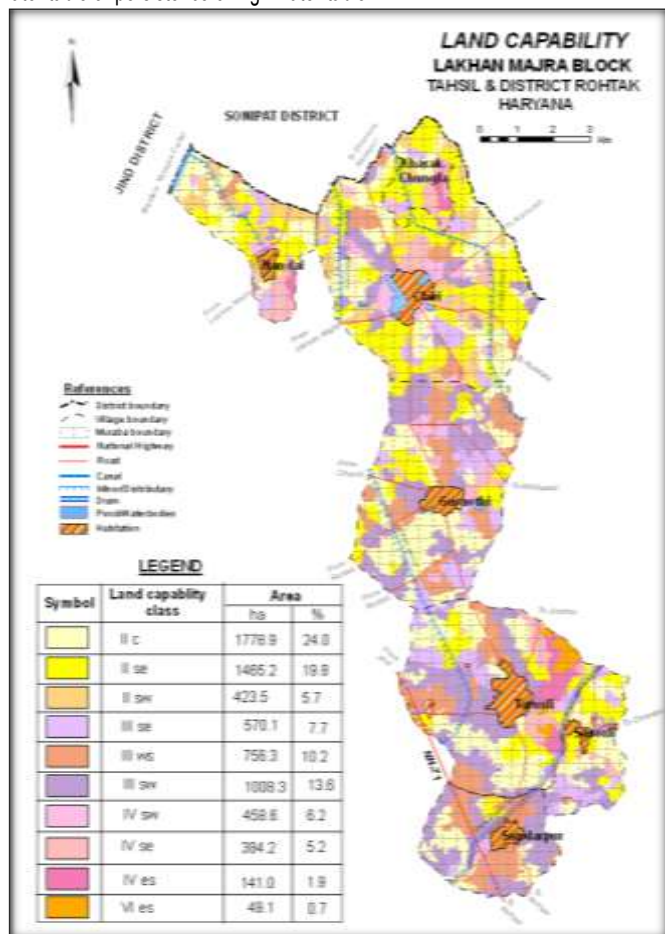


Fig-4 Land capability map

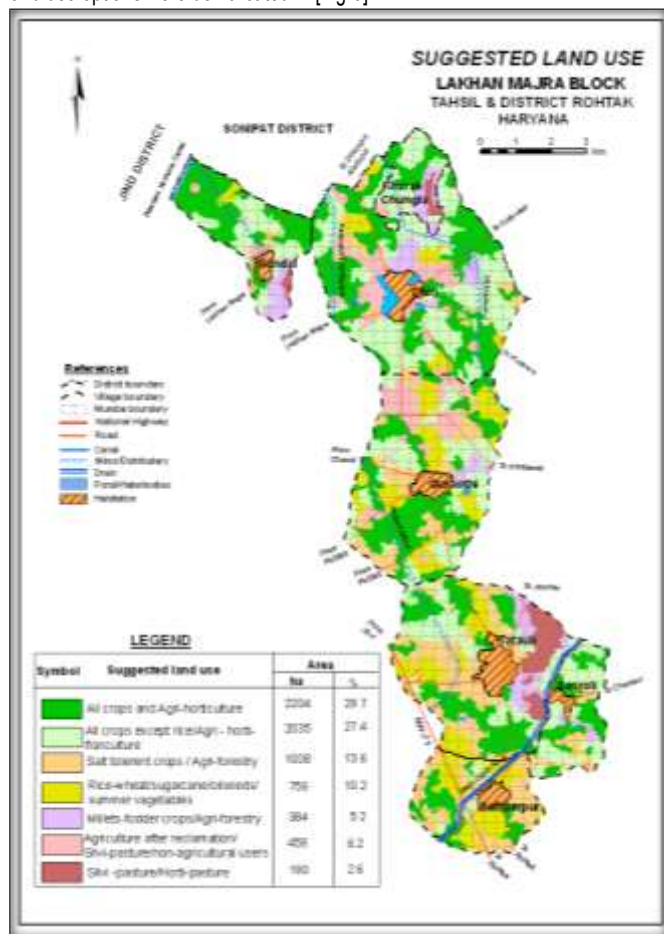


Fig-5 Suggested land use map

Table-2 Land capability classification, area and extent

Land capability sub class	Description	Soil Units	Area ha (%)
IIc	Very good cultivable lands. All climatically adapted crops can be grown under irrigation	9, 10	1779(24.0)
IIse	Good cultivable lands include coarse loamy soils with slight erosion and low moisture and nutrient retentivity	7, 8	1465(19.8)
IIsw	Good cultivable lands include fine loamy soils with moderate problem of drainage and salinity	11	424(5.7)
IIIse	Moderately good cultivable lands include coarse loamy soils with slight erosion, presence of calcic layer, low moisture and nutrients retentivity	5, 6	570(7.7)
IIIws	Moderately good cultivable lands include fine loamy soils but crop choice is restricted due to waterlogging and stagnation of water in rainy season and slight problem of salinity/sodicity	17, 18	756(10.2)
IIIsw	Moderately good cultivable lands with fine loamy soils, imperfect drainage and moderate salinity/sodicity. Need drainage and gypsum application	12, 13, 14	1008(13.6)
IVsw	Fairly good lands with fine loamy soils. Soils have severe problem of drainage, strong salinity and need reclamation measures for cultivation of crops	15, 16	459(6.2)
IVse	Fairly good cultivable lands include sandy soils with problem of high permeability, very low AWC, low fertility and slight to moderate erosion	3, 4	384(5.2)
IVes	Fairly good lands with sandy soils having problem of moderate erosion, and droughtiness. Marginally suitable for crop cultivation and can be done only after leveling. Suitable for horti–pasture /agro- forestry	2	141(1.9)
Vles	Land unsuitable for arable farming including sandy soils with problem of severe erosion. Suitable for social forestry/ pasture /grazing	1	49(0.7)

Table-3 Physico-chemical properties of soils

Layers	Particle size distribution (%)			Textu- ralclass	Calcareous ess	Organic Carbon (%)	pH (1:2.5 H ₂ O)	EC* (dSm ⁻¹)	CEC* Cmol(p+)-kg ⁻¹	ESP* (%)	BS *(%)
	Sand (0.05-2.0mm)	Silt (0.02-0.05mm)	Clay (<0.02mm)								
Soils on sand dunes											
<i>(Tatauli - I –sandy, Typic Ustipsamments)</i>											
Surface	89.0	5.5	5.5	s	-	0.08	7.5	0.32	4.0	2	85
Sub-surface	92.80	4.43	2.8	s	-	0.04	7.3	0.24	1.7	4	86
Soils on reclaimed sand dunes											
<i>(NandalSeries -sandy, Typic Ustipsamments)</i>											
Surface	84.6	10.5	5.0	ls	-	0.11	7.3	1.10	3.2	4	92
Sub-surface	84.0	8.8	7.3	ls	-	0.11	7.6	0.74	3.8	3	90
Soils on old alluvial upland plain											
<i>(Sasroli- I series - Coarse-loamy, Typic Haplustepts)</i>											
Surface	68.1	16.9	15.0	sl	4.7	0.38	8.5	0.99	7.5	12	91
Sub-surface	65.4	18.4	15.2	sl	5.6	0.11	8.5	1.04	8.8	10	92
Soils on nearly level old alluvial plain											
<i>(Tatauli – II series –Fine-loamy, Typic Haplustepts)</i>											
Surface	58.5	29.1	12.5	sl	3.2	0.38	8.0	1.44	6.7	6	88
Sub-surface	44.0	39.6	16.4	l	7.4	0.18	8.6	0.97	11.6	11	87
<i>(Sasroli – II series –Fine-loamy, Typic Haplustalfs)</i>											
Surface	55.5	25.8	18.7	sl	5.5	0.49	8.3	0.94	10.5	8	85
Sub-surface	31.3	37.5	31.2	cl	4.6	0.15	8.1	0.55	17.8	12	85
Soils on old alluvial plain with high water table (salt affected soils)											
<i>Tatauli – III series –Fine-loamy, NatricHaplustepts</i>											
Surface	54.55	31.70	13.75	sl	1.38	0.62	7.7	2.15	8.3	5	87
Sub-surface	35.56	34.06	30.38	cl	10.71	0.23	9.1	2.28	12.7	23	93
<i>Chiri – II - TypicHalaquepts</i>											
Surface	55.8	29.2	15.0	sl	7.38	0.23	8.2	4.9	8.3	9	91
Sub-surface	40.9	40.1	19.0	l/sl	16.15	0.11	8.6	3.9	9.0	14	92
Soils on concave relief (low-lying lands)											
<i>Sunderpurseries –Fine-loamy, Aquic Haplustepts</i>											
Surface	43.60	35.90	20.50	l	5.50	0.41	8.8	1.12	13.7	9	85
Sub-surface	32.16	33.04	34.8	cl	6.20	0.18	8.9	1.46	17.9	18	92

Where, Textural class: s-sand, ls- loamy sand, sl – sandy loam, cl- clay loam, l- loam.

*eEC- Electrical conductivity, CEC – Cation exchange capacity, ESP – Exchangeable sodium Percentage, BS- Base saturation

Land resources such as climate, present land use, soils and physiography etc. through remote sensing and GIS in combination with cadastral maps and Google Earth data helped to make an inventory of soil resources and assess their potentials for land use. The database thus generated for each village can be stored, processed and integrated in GIS environment for generation of interpretative information. It will be helpful for providing the exact nature and severity of water logging/salination in the irrigated areas, and also provide the required site-specific database for farm level planning to manage natural resources [3, 23]. The basic information generated in this study can effectively be used as input for management and planning of natural resources at micro level planning and land use decision options to the farmers and its governing institutions.

Application of research: Land resources characterization and its assessment

provided their detailed site-specific problems & potentials. The detailed characterization of soils and mapping is helpful for providing the exact nature and severity of problems like erosion, salinization and water logging for its management. It also provides the site-specific database for farm planning to manage natural resources. The basic information generated in this study can effectively be used as input for management and planning of natural resources at micro level planning and land use decision options to the farmers and its governing institutions.

Research Category: Land resource characterization, Soil resource mapping

Sample Collection: in regular project activity.

Ethical approval: This article does not contain any studies with human participants or animals performed by any of the authors.

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Registration of Pusako Land as Customary Property through Complete Systematic Land Registration in West Sumatra

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Classifications:	Dispute Resolution, Land Law, Regulation
Abstract:	<p>To provide legal certainty for land rights, the government violated land registration throughout Indonesia, including in West Sumatra. One of the targets of the land registration activity is customary land, which has been obtained by the community according to customary law for generations, known as pusako land, both pusako tinggi and pusako randah. According to Minangkabau Customary Law, these two heritage lands are customary tribes and/or tribes as common land. In line with other regions, in West Sumatra, this customary land registration has been going on since 1961 based on Government Regulation No. 10/1961 on Land Registration. Although the government has also issued Regulation No. 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961, so far, the results of land registration in this area are still not encouraging. This study wants to answer the problem of why pusako land registration is not effective and what are the alternatives. Based on the results of the study, this is because most people still do not consider the importance of land certificates as proof of rights obtained through land registration. After all, land is jointly owned in West Sumatra. The results showed that this phenomenon can cause disputes between tribes or tribes triggered by customary land boundary conflicts. There are government efforts to accelerate customary land registration in West Sumatra through the Complete Systematic Land Registration Program which is expected to assist the customary land arrangement process to provide legal certainty and prevent land disputes from arising in this area.</p>

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Registration of *Pusako* Land as Customary Property through Complete Systematic Land Registration in West Sumatra

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Abstract

To provide legal certainty for land rights, the government violated land registration throughout Indonesia, including in West Sumatra. One of the targets of the land registration activity is customary land, which has been obtained by the community according to customary law for generations, known as *pusako* land, both *pusako tinggi* and *pusako randah*. According to *Minangkabau* Customary Law, these two *heritage* lands are customary tribes and/or tribes as **common land**. In line with other regions, in West Sumatra, this customary land registration has been going on since 1961 based on Government Regulation No. 10/1961 on Land Registration. Although the government has also issued Regulation No. 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961, so far, the results of land registration in this area are still not encouraging. This study wants to answer the problem of **why *pusako* land registration is not effective** and what are **the alternatives**. Based on the results of the study, this is because **most people still do not consider the importance of land certificates as proof of rights** obtained through land registration. **After all, land is jointly owned in West Sumatra**. The results showed that this phenomenon **can cause disputes between tribes or tribes** triggered by **customary land boundary conflicts**. There are government efforts to accelerate customary land registration in West Sumatra through the **Complete Systematic Land Registration Program** which is expected to assist the customary land arrangement process to provide **legal certainty and prevent land disputes** from arising in this area.

Keywords: Tanah *Pusako*, Customary Land, Land Registration, Legal Certainty, *Minangkabau* Customary Law

Introduction

Physical control of land by the owner is an important act to prove his ownership of the land concerned. However, ownership of land as a permanent property in material law is not subject to the *principle of bezitter*¹ as much as ownership of movable objects. Therefore, the **physical control of the land alone is not strong enough to prove ownership** of a piece of land. Ownership of land **must be proven juridically** so that the landowner does not worry about leaving his land physically because land as a permanent object cannot be moved following the physical movement of the owner. In agrarian law, proof of juridical control over a piece of land is called a **certificate** of land rights as proof of rights (Christiana Sri Murni, (2022)). In the certificate, it is stated that the holder of the right to the plot of land contained in the letter of measurement

¹ Normatively, this *principle of bezitter* is contained in Article 1977 of the Civil Code (Civil Code) as follows: Whoever controls movable property that is not in the form of interest or receivables that do not have to be paid on design, is considered to be its full owner.

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3 or drawing of the situation is the Fulan. To obtain a certificate of title, the land parcel concerned
4 must be registered with the land office.
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6 In this context, every landowner needs a certificate of land rights that is proof of his
7 rights. For this reason, every landowner should want his land to be registered to obtain legal
8 certainty. However, this assumption does not fully apply to the people of West Sumatra. Most
9 *Minangkabau* people in this area still do not consider that land certificates are important to be
10 proof of ownership of customary land rights. Some cases of customary land that have been
11 certified show facts that are contrary to the principle of legal certainty of land rights. Customary
12 land cases that go to court are mostly certified land, causing anomalies in land law practice in
13 West Sumatra. Various efforts continue to be made by the Government to increase the
14 acceleration of land registration throughout Indonesia. In 1961 the government issued
15 Government Regulation No. 10/1961 on Land Registration. Because it had little impact on
16 accelerating land registration, in 1997 the government issued Government Regulation No.
17 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961. In
18 line with that, the Minister of Agrarian Affairs/Head of National Land Agency issued the
19 Regulation of the Minister of Agrarian Affairs No. 3/1997 on Provisions for the
20 Implementation of Government Regulation No. 24/1997 on Land Registration.
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23 Unlike Government Regulation No. 10/1961 which only recognizes one model of land
24 registration, namely sporadically, Government Regulation No. 24/1997 also introduces a
25 systematic registration method that is expected to accelerate the land registration process.
26 Systematic land registration is a land registration activity for the first time carried out
27 simultaneously which includes all land registration objects that have not been registered in the
28 area or part of a village/kelurahan (Article 1 No. 10 of Government Regulation No. 24/1997).
29 Thus, in systematic land registration, the land registration initiative comes from the
30 government, which is different from sporadic land registration at the will of rights apprentices.
31 Because the initiative comes from the government, it is common for land registration to be
32 systematically subsidized by the government. Various facilities are provided to facilitate the
33 implementation of land registration. Not only that, the government then also issued the Minister
34 of Agrarian Affairs and Spatial Planning No. 12/2017 on the Acceleration of Complete
35 Systematic Land Registration or *Pendaftaran Tanah Sistematis Lengkap* (PTSL). Article 1
36 point 2 of the Minister of ATR/Head of BPN No. 12/2017 specifies that PTSL is the first Land
37 Registration program carried out simultaneously for all land registration objects throughout
38 Indonesia in one village/district which includes collecting and determining the correctness of
39 physical and juridical data for land registration requirements (Christiana Sri Murni, (2022).
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42 The background of the issuance of this Regulation is to provide legal certainty guarantees
43 and legal protection of community land rights fairly and equitably, as well as encourage
44 economic growth of the state in general and the people's economy in particular. Legal certainty
45 on land rights is expected to support the economic improvement of the people who hold their
46 rights because their land can not only be used as a place to live and do business but can also be
47 an economy that can add value to them. Land registration can indeed provide benefits for its
48 rights holders both juridically and socially, as well as economically (Boedi Harsono, 2008). In
49 applying for land registration, the applicant community at PTSL does not need to come to the
50 local Land Office because it is assisted by an adjudication committee and/or task force (Satgas)
51 formed to collect physical data and juridical data on land plots (Christiana Sri Murni, (2022).
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3 The registration process period is also accelerated so there is no need to wait long. Then, the
4 cost of the registration process that should be borne by the applicant is subsidized by the
5 State/Regional Budget (APBN/APBD) and other budgets sought by the government.
6

7 PTSL is also intended to support the implementation of the agrarian reform program
8 which is one of the Government Programs. The Agrarian Reform Program must be able to
9 realize justice in land tenure and ownership and provide support and convenience for every
10 landowner in cultivating or utilizing their land as a source of income for the welfare of the
11 people. For this reason, the Agrarian Reform Program includes both *fair* distribution of land
12 (asset reform or land reform) and protection for farmers or holders of land rights so that they
13 can easily and earnestly cultivate their land (*access reform*). In West Sumatra, the objectives
14 of the land registration program, including PTSL, in providing legal certainty for land rights in
15 reality cannot always be realized. This experience makes the enthusiasm of community
16 members holding land rights decrease or not increase, sometimes on the contrary some
17 community members do not support the implementation of land registration.
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20 Part of the land registration process for pusako land is a trigger for disputes. Land
21 registration disputes can occur both in preparation for land registration and the registration
22 process, as well as after land registration i.e. after a certificate of land title has been issued.
23 *First*, the land registration process occurs at the stage of preparing for land registration. The
24 main activity at the preparation stage for pusako land registration is the preparation of a
25 statement of physical control of the land. In land administration practice, this affidavit is
26 commonly known as sporadic. This statement is very necessary and decisive in the land
27 registration process because pusako land is customary land that does not have written proof or
28 basis of rights so it is difficult to prove the basis of land tenure as a land registration for the
29 first time. In Government Regulation No. 24/1997 on Land Registration, this type of land rights
30 for pusako land is included in the old types of rights that do not have written proof of tenure
31 and ownership. Respect for such rights is an implementation of the recognition of customary
32 law in Indonesian Agrarian Law (Article 5 of the Basic Agrarian Law or UUPA). This sporadic
33 is made by a tribe or tribe that will register its pusako land. Before such a registration, the name
34 of the person to be written on the certificate of land, who is the mother of the head of the heir;
35 and other matters related to the parcel of Pusako land to be registered are agreed on. Then the
36 letter of unanimity of the tribe is signed by all members of the clan.
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39 *Second* is land registration disputes arising in the land registration process. Land
40 registration disputes at this stage arise at the time of the announcement of juridical data and
41 physical data on land registration before land certificates are issued. According to Government
42 Regulation No. 24/1997, this announcement was made for 60 days at places known to the local
43 community, namely the Land Office, Subdistrict Office, Village Head Office/Walinagari, and
44 so on. This is intended to ensure the correctness of physical and juridical data on land
45 registration, so as not to harm the rights or interests of others. Land registration disputes at this
46 stage arise if other parties raise objections to the ongoing land registration process. Dispute
47 resolution at this stage has been regulated in Government Regulation No. 24/1997 and Agrarian
48 Minister Regulation No. 3/1997 on the Implementation of Government Regulation No.
49 24/1997 on Land Registration. Therefore, this type of land registration disputes at this stage
50 are handled by the head of Land Office. Pusako land disputes in West Sumatra usually occur
51 after land certificate is issued. Because disputes like this occur after the land registration
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process is complete, the dispute resolution follows the civil procedure law in general.

Research Methods

The problem-solving of this paper is formulated based on the results of empirical *legal research*, namely law implementation research that aims to see the compatibility between legal norms and their implementation (Soerjono Soekanto, 1982). In addition, this study is also intended to see the compatibility between laws and regulations with the conditions of the legal culture of the community. The results of this study are present descriptive-analytical that is juridical. That is, the conclusion obtained is a legal answer to a research question or problem. The location of the study is the West Sumatra Province area better known as the *Minangkabau* people. Because the object of this research is *pusako* land, customary land according to *Minangkabau* Customary Law, the location of this research is focused on districts/cities in West Sumatra that have *pusako* land. Because *pusako* land is found in all *Minangkabau* customary areas, both in the the location of this research is determined *purposively* based on the intensity of the implementation of the PTSL program in West Sumatra. There are 3 districts/cities where the research is located, namely (1) Padang City as a representative of urban areas which is also the provincial capital; (2) Sijunjung Regency as a representative of districts that receive a large enough PTSL implementation target; and (3) Pesisir Selatan Regency.

Theoretical and Conceptual Framework

a. Customary Land, *Pusako* Land, and Individual Land as PTSL Objects

Tanah *pusako* is land shared for generations in the matrilineal line based on *Minangkabau* custom (Narvis, 1984). This *pusako* land consists of *pusako tinggi* and *pusako randah*. In practice, the *Minangkabau* people usually call these two *pusako* lands tribal customary land. The definition of customary rights according to the conception of agrarian law is not always the same as the understanding of customary land according to the *Minangkabau* community (Maria S.W. Sumardjono, 2015). According to Van Vollenhoven (1926), customary rights are traditional communal rights of customary law communities in Indonesia to control and manage certain areas for the survival of community members. Every member of the community concerned has the right to freely cultivate and utilize the land and natural resources within their area. Outsiders have no right except with the permission of the society itself. In the history of Indonesian agrarian law, the mention of customary rights is a translation of the Dutch term *beschikkingsrecht* which is technically juridical in the UUPA only as a "generic" name from other names with similar meanings found in various regions in Indonesia.

According to Ter Haar (1981), customary law communities in Indonesia refer to customary rights in various terms and contexts; (1) as property called *patuanan* (Ambon); (2) as a food producing area called *panyampeto* (Kalimantan); (3) as a fenced field called *pawatasan* (Kalimantan), *wewengkon* (Java), and *prabumian* (Bali); (4) as a forbidden land for others called *tatabuan* (*Bolaang Mangondow*); (5) Furthermore, in general, there are also the terms *torluk* (Angkola), *limpo* (South Sulawesi), *nuru* (Buru), *payar* (Bali), *paer* (Lombok) and *ulayat* (*Minangkabau*). In order not to confuse, in this paper the term used to refer to customary land according to *Minangkabau* Customary Law is *pusako* land, and not customary land. Explaining the process of customary rights becoming a source of ownership

rights over land, Iman Sudiyat (1981) argues that the condition of land in Java, that gradually gogolan/pekulen rice fields in Java became owned fields through six types of individual rights: (1) property rights, real rights (*inlandsbezitsrecht*); (2) the right of suffrage, the right of *kinacek*, the right of preceding (*voorkeursrecht*); (3) the right to enjoy the proceeds (*genotrecht*); (4) Right of Use (*Gebruiksrecht*) and *Right to Work* (*Ontginningsrecht*); (5) Job Reward Rights (*Ambtelijk Profijt Recht*) and (6) Purchase Authority Rights (*Naastingsrecht*).

According to Sudiyat (1981), if a citizen with the permission of the head of the alliance opens a customary (ancient) land of rights, then he places boundary signs (*sawen*) in the form of yellow janur or buffalo head and congratulates according to local custom. This act gives birth to a legal relationship between the opener and his land so that he has the right to cultivate and collect the proceeds without interference from others. But he must not abandon the land, because in principle the land must be utilized. The right to enjoy this fruit is only valid once the harvest, but even if he leaves the land afterward, he still has the right to choose to work next. After that, if the land is allowed to thicken again, then the land returns to the fellowship as a customary right. The right to enjoy these results can gradually turn into property rights if the land is cultivated continuously, planted with fruit plants or perennials, or used as rice fields. Property rights are the strongest rights among existing individual rights. The right of office is the right of a village civil servant to the land of the office in the form of the right to enjoy the results while holding a certain position. The right of purchase authority is the right to take precedence to be able to buy a piece of land at the same price.

The shift of customary land ownership to individuals also occurred in *Minangkabau*. This shift only occurs in the customary rights of *nagari* (village) but does not necessarily occur on tribal customary land (*tanah pusako*), unless agreements are made to share the land between community members (Kurnia Warman, 1998). For "Nagari children" who do not have processed land, they can apply to the Nagari authority for permission to cultivate part of the customary land of Nagari. If permission is granted and the grantee makes good use of the land, they can be given property rights. The Land Office in West Sumatra has recognized this process through the granting of rights rather than the conversion of rights. *Minangkabau* customary law also recognizes the existence of individual rights, although its position is not as popular as tribal land (*tanah pusako*). Nasroen (1971) argues that under the provisions, heirlooms should not be sold or lost. This indicates the existence of rights to land other than *pusako* (clan property rights) such as individual property rights. According to Nasroen, individual rights are only temporary, and eventually also return to communal property. Individual rights in *Minangkabau* are generally livelihood assets (joint property in marriage), but after the owner dies, the livelihood property will return to *pusako*. The change from search property to common property is a consequence of the unusual tendency of the *Minangkabau* people to divide land or inheritance. If the property goes down to the nephew, it will become a common property for all nephews. Likewise, if the children who receive the inheritance of their parents, do not divide the land, they add more heirlooms for their children and wives (Nasroen, M., 1971).

Based on the description above, it can be concluded that customary land as an object of land registration through PTSL in *Minangkabau*, West Sumatra, in general, there are 2 types, namely land jointly owned or belonging to tribes or tribes held by each tribe or tribe, more popularly known as *pusako* land, both high *pusako* and *rendah pusako*. The existence of land belonging to these people does not depend on customary land (*nagari*) but is determined by the

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3 existence of the clan or tribe concerned and land owned by individuals either from searching
4 property within the family or from the act of clearing customary land (nagari) through a process
5 determined by local customary law. Even though there are customary property rights as
6 mentioned above, customary rights still apply, and their authority is limited by the content of
7 customary property rights. For land that is within the customary territory that has not been or
8 is not owned by custom, customary rights apply directly, namely Nagari customary land or
9 land directly controlled by Nagari (Hilaire Tegnan, 2015).

14 **b. Land Registration for Legal Certainty**

15 Land registration is a series of activities carried out by the Government continuously and
16 regularly, including the collection, processing, bookkeeping, and presentation and maintenance
17 of physical data and juridical data, in the form of maps and lists, regarding land parcels and flat
18 units, including the provision of certificates of proof of their rights to land parcels that already
19 have ownership rights to apartment units and certain rights that encumber them (Article 1 No.
20 1 Government Regulation No. 24/1997). Land registration aims to provide legal certainty and
21 legal protection to holders of rights to a plot of land, apartment units, and other registered rights
22 to easily prove themselves as the holder of the rights concerned, to provide information to
23 interested parties including the Government to easily obtain the necessary data in conducting
24 legal actions regarding land parcels and apartment units that have been registered, for the
25 orderly implementation of land administration, and to achieve orderly land administration. To
26 achieve orderly land administration, every piece of land and unit of flats including the transfer,
27 encumbrance, and elimination of rights to land parcels and property rights to units of flats must
28 be registered (Article 3 and Article 4 of Government Regulation No. 24/1997).

29 Based on these provisions, it can be seen that the main purpose of land registration is to
30 provide legal certainty and legal protection to land rights holders. This legal certainty and
31 protection is guaranteed by the existence of a certificate of land rights. Legal certainty is one
32 of the main goals next to justice and expediency. As a concept, legal certainty has been
33 discussed since the beginning of the development of legal philosophy and theory. This
34 discourse came to the fore in line with the teaching of the legal mind (*idee des recht*) developed
35 by Radbruch (Sudikno Mertokusumo, 1996). According to Radbruch, the ideal law must
36 contain 3 aspects at once proportionally, including (1) aspects of justice (*Gerechtigkeit*), (2)
37 aspects of legal certainty (*Rechtssicherheit*), and (3) aspects of expediency (*Zweckmasigkeit*).
38 The three ideals of the law must support each other in providing order and equality to the
39 community. Justice certainly cannot be realized if society is rowdy or insecure. Security in
40 society can be realized by providing legal certainty.

51 **c. Complete Systematic Land Registration Program (PTSL)**

52 Article 1 point 2 of the Minister of ATR/Head of BPN No. 12/2017 says that Complete
53 Systematic Land Registration, hereinafter abbreviated as PTSL, is the first Land Registration
54 activity carried out simultaneously for all Land Registration objects throughout the territory of
55 the Republic of Indonesia in one village/district which includes collecting and determining data
56 accuracy for land registration purposes. This PTSL policy is intended to guarantee legal
57 certainty and legal protection of community land rights fairly and equitably, as well as
58 encourage economic growth of the state in general and the people's economy in particular. The
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3 purpose of the PTSL program is to accelerate the provision of legal certainty and legal
4 protection of community Land Rights in a certain, simple, fast, smooth, safe, fair, equitable
5 open, and accountable manner, to improve the welfare and prosperity of the community and
6 the state economy, as well as reduce and prevent land disputes and conflicts (Article 2
7 paragraph 2) of the Minister of ATR / Head of BPN No. 12 of 2017).
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10 Conceptually, PTSL is a development of Systematic Land Registration as the first land
11 registration as referred to in Government Regulation No. 24/1997. Systematic land registration
12 has not been fruitful even though the initiative comes from the government, and is carried out
13 with various facilities (incentives). Therefore, the target of PTSL is to cover all land parcels in
14 Indonesia. PTSL is carried out for all objects of land registration throughout the territory of the
15 Republic of Indonesia, covering all land parcels without exception, both land parcels that do
16 not yet have land rights and land rights plots, whether they are Government / Regional
17 Government asset land, State-Owned Enterprise / Regional Owned Enterprise land, village
18 land, State Land, customary law community land, forest areas, land objects of land reform,
19 transmigration land, and other land plots.
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23 Based on Article 3 section 4 of the Minister of National Land Agency Regulation No.
24 12/2017, PTSL is carried out through 10 stages consisting of planning and preparation,
25 determination of the location of PTSL activities, establishment and determination of the PTSL
26 adjudication committee, counseling, collection of physical and juridical data of land plots, land
27 inspection, announcement of physical data and juridical data of land plots and proof of rights,
28 issuance of decisions granting or acknowledging land rights, bookkeeping and issuance of land
29 rights certificates, and submission of land rights certificates. Article 3 section 6 of this
30 Regulation specifies that the implementation of PTSL can be carried out through special PTSL
31 programs and budgets. In addition, PTSL financing can also be in the form of a combination
32 of PTSL programs with other programs and/or activities, namely: (a) National Agrarian
33 Program/Agrarian Regional Program (PRONA/PRODA), (b) Cross-Sectoral Program, (c)
34 Activities from Village Funds, (d) Non-governmental mass activities, (e) Mass certification
35 programs or activities for land redistribution for land reform, land consolidation, and
36 transmigration, or (f) Other mass activities, a combination of some or all activities.
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43 ***Pusako* Land Registration for Legal Certainty of Land Rights in West Sumatra**

44 Registration of *pusako* land in West Sumatra has been going on since 1961 based on
45 Government Regulation No. 10/1961 on Land Registration. Government Regulation No.
46 61/1961 is the first government regulation regulating land registration since the enactment of
47 Law No. 5/1960 (UUPA) as a momentum for the birth of the National Agrarian Law. This
48 activity was carried out to provide legal certainty for customary land rights in West Sumatra.
49 As is known that most of the freehold land in West Sumatra is *pusako* land, *both high* *pusako*
50 and *pusako rendah*. *Pusako tinggi* is a type of land of unknown origin by its current owner.
51 They only take the inheritance land for granted from generation to generation along matrilineal
52 lines, without questioning the origin of their rights. According to customary law in force in
53 West Sumatra, the status of high *pusako rendah* is determined by the level of descent (*ranji*) of
54 the tribe concerned. Tanah *pusako rendah* is *pusako* land that has been owned for generations
55 for at least 3 to 5 generations. This means that the ownership of the *pusako* land by the owner
56 has now been passed down for 3 to 5 levels of the genealogy of the tribe/tribe (*ranji*) concerned.
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Meanwhile, *pusako randah* land is land owned by tribes for generations but has not reached 3 generations. This inheritance land can come from the land of the parents' search which is not divided by children or heirs according to their portion. Because it is not divided, the joint property in this marriage is still managed by the daughter matrilineally. Sons usually do not claim a share of property in the form of land as inheritance, because a *Minangkabau* man who has performed a marriage lives in his wife's heirloom land matrilocally.

Registration of *pusako* land in general in West Sumatra has been slow. Various efforts have been made to accelerate the implementation of land registration, ranging from the National Agrarian Program to PTSL. Many issues prevent the acceleration of *pusako* land registration in West Sumatra including:

1. The lack of interest of tribe that owns the *pusako* land in land certification. Public awareness of the importance of land registration or certificates as evidence of juridical control over a piece of land is still low. This is because factually the existence of *pusako* land has never been left by the owner as a whole. If some members of the community leave or migrate, they are not worried that their heritage will be taken by others. Because *pusako* land is generally not commercialized by the owner's tribe, such as the object of liability as collateral for debt, they do not feel the need for a certificate. So far, the community does not feel hampered in the use of their land even though they do not have a certificate. To cultivate agricultural land on *pusako* land they can still do without juridical obstacles, to build a house as a place to live they are also familiar with obstacles, even to build boarding houses for rent so far they can do without certificates. In the construction of these boarding houses, some people have received credit assistance without making their land an object of dependence (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
2. It tends to be difficult to get the approval of *ninik mamak* (clan leaders) who generally tend to object to land registration for fear that it would weaken their power in the control of heirloom land. Especially if the certificate of inheritance land is made in the name of members of their people according to the division of management and utilization of the land (*ganggam banutuak*). They consider that registered *pusako* land or *pusako* land that already has a certificate becomes "wild", because it can be separated from the power of *ninik mamak*. Lest the heirloom land concerned be sold by the nephew listed on the certificate through the land deed making official without the consent of clan leaders (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
3. Another obstacle in registering *pusako* land is the difficulty of obtaining approval from the chairman of the Nagari Customary Council or *Kerapatan Adat Nagari* (KAN) as a recognized customary institution. The tendency of KAN administrators to charge a certain amount of fees to owners, the amount of which is not expressly determined. Because the control and ownership of *pusako* land is not primarily oriented towards commercial purposes, but for the needs of life in social relations, the payment in the registration process is a burden in itself. The existence of informal levies in the process of registering *pusako* at the customary level of affairs indicates that the registration of *pusako* land is intended for commercial purposes. There is an assumption that if the *pusako* land has been registered and has a certificate, the land will be sold by the owner. The sale of *pusako* land is considered something commercially profitable so it is appropriate that the person concerned is subject to customary fees. As a result, tribes that do not intend to

- commercialize their heritage land, generally do not want to register their land (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
4. Certified land can also increase costs or other obligations of rights holders, such as tax payments. The community considers certified land to pay more land and building tax (PBB) than uncertified heritage land. Then the process of inheritance and distribution of heritage land that has been certified is very burdensome for the tribe or tribe concerned because it is burdened with many costs both taxes and PNBPN. So, land registration does not provide more certainty and benefits to rights holders, instead, the fact that registration of *pusako* land makes the right-holding tribe pay greater obligations (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
 5. The occurrence of anomalies in customary land disputes in West Sumatra, that certified *pusako* land tends to cause disputes among community members, or between *mamak* and nephews. This condition is the reason for some people not register their land. This dispute can occur as a result of the lack of accuracy in the implementation of land registration. For example, *pusako* land is registered in the name of the head heir *mamak* personally, without mentioning her position as the head heir *mamak*. The name of the head of the heir listed on the certificate is the official (personal) name listed on the relevant identity card. The certificate of land was then brought and stored by the mother of the head of the heir in the house where he lived with his family. Because the certificate lists the name of the father, the children as heirs of the mother of the head heir consider the inheritance land of his fathers as the private property of his parents. This, of course, triggers disputes between children (heirs) and nephews (clans), so that land certificates trigger the breakdown of social relations between families in the *Minangkabau* kinship system (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
 6. Land registration is considered the cause of the abolition of *pusako* land as customary land in West Sumatra. With the registration of *pusako* land, there is an impression that the land is no longer owned by the tribe. This happens because the land certificate states that the right to the land is not tribal *pusako* land but property rights from the name listed in the certificate. Thus, the community considers that land registration of *pusako* land can erase the existence of *pusako* land itself (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).

This assumption is not true as long as the *pusako* land is registered in the name of the tribe, not in the name of an individual member of the tribe/tribe concerned. On the contrary, registration of *pusako* land can provide legal certainty on the ownership status of *pusako* land for the tribe that owns it. If the *pusako* land is not registered, then legal certainty over the land is only given customarily based on physical control from generation to generation according to the matrilineal line. *Pusako* land that has been registered will get stronger legal certainty. In addition to still receiving protection according to customary law, registered *pusako* land will receive protection and legal certainty from state law. Legal certainty over registered *pusako* land is given by public power on behalf of the public as well. Therefore, land that has been registered and has a certificate as proof of rights has power based on the principle of publicity, namely the guarantee of certainty of land rights given publicly by the state, and gets legal protection from the state if other parties control the land without the permission of the owner or his proxy. Such tenure can even be punished under Law No. 51/prp/1960 on the Prohibition of Land Tenure Without the Owner's Permission.

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7. It is difficult to obtain agreement from all members of the clan who are entitled to heirloom land. If a tribe wants to register its *pusako* land, the main requirement is the agreement or unanimity of all members of the tribe. These tribal agreements are not as easy to obtain in a very limited time as in quick land registrations such as PTSL. Some members of the clan do not live in the village or even migrate abroad which is difficult to contact. As members of the tribe listed in the ranji or silsila, their descendants must agree to the registration of *pusako* land. Just one person who has not agreed or has not signed can interfere with the process because the requirements have not been fully met. If this is ignored, there will be vulnerabilities in the land registration process, and the potential for disputes in the future. The emergence of disputes in land registration can backfire on the land registration activity itself, and create the impression that land registration as a trigger for disputes arises, thus being counterproductive on the ground.

Therefore, in the process of land registration through PTSL in West Sumatra, it tends that if a dispute occurs, the process is stopped indefinitely. The land registration process is transferred to other land parcel objects where there is no dispute. This means that land registration disputes in PTSL are not sought to be resolved through separate means, but are left entirely to the will of the parties. Administratively, the registration of disputed PTSL land will be recorded as one of the government's performance criteria, namely the K2 category for disputed land plots. Although there was a dispute in the land registration process and the PTSL process was stopped, programmatically it was still recorded as reportable performance. Thus, the implementation of land registration through PTSL is not held hostage by disputes that occur in the land registration process. So far, land registration disputes have become an obstacle in land registration in West Sumatra. Land registration disputes are not easily resolved by the Head of the Land Office per his authority according to Government Regulation No. 24/1997, namely mediation. Therefore, in resolving customary land registration disputes, BPN requested assistance from the KAN given its authority over land disputes. If the settlement of land registration disputes is submitted to KAN, then the settlement must follow the customary law procedures that apply *the salingka nagari* principle. In such dispute resolution practices, there is no time limit so it tends to slow down the time of land registration, and even that is not necessarily successful. Therefore, such a dispute resolution mechanism is rather risky to use in the implementation of PTSL which has very limited time.

Based on the description above, it seems that the purpose of land registration to provide legal certainty to land rights holders is not fully realized. On the contrary, land registration can trigger various problems over *pusako* land that can trigger disputes. If it turns out that land registration triggers land disputes, both in the process and post-process, it means that legal certainty over land becomes weak. The land registration system applied to communal or jointly owned lands such as *pusako* land in West Sumatra, does not seem to be possible with an individual land registration approach. If individual registration is forced to apply to *heirloom* land that is jointly owned and passed down in the matrilineal line, it becomes contradictory to the purpose of land registration to provide legal certainty.

Pusako Land Registration Through Complete Systematic Land Registration Program in West Sumatra

The PTSL program was started in 2016 in line with the government's flagship program, namely for people's economic empowerment through the acceleration of complete land registration throughout Indonesia. This program is intended to encourage the guarantee of certainty and legal protection for the community in land ownership fairly and equitably. In addition, this program is also intended to support overall economic growth both for the country and for the people. To support the acceleration of land registration, the scope of the PTSL program is expanded, and emphasized its object district per district by covering all land parcels to achieve the goals of the program. Article 2 of Regulation of ATR/BPN No. 12/2017 says that the scope of this Ministerial Regulation is the acceleration of the implementation of the PTSL program which is carried out village by village in the district by covering all land parcels throughout Indonesia. The regulation also says that the purpose of the PTSL program is to guarantee legal certainty and legal protection of community members' land rights in a certain, simple, fast, smooth, safe, fair, equitable, open, and accountable manner, to improve the welfare and prosperity of the community and the country's economy, as well as to reduce/prevent land conflicts.

Because the object of PTSL is all land parcels, this program applies to all land statuses in their respective regions. As stated above *pusako land is a piece of land that dominates the status of land in West Sumatra, therefore PTSL in this area certainly makes pusako land the main object*. In addition to dominating the status of land parcels, making *pusako land the main target of PTSL is also because some of these pusako lands have not been registered*. Meanwhile, other parcels of land that are not *heirloom land* are likely to have been registered by their owners on their conscience. By registering the land, it means that the person concerned has received guarantees of certainty and legal protection from the State. The government has set high targets for the implementation of PTSL in West Sumatra, but the realization still seems to be unsatisfactory. Until November 2018, the target has not been achieved, especially until the issuance of a certificate (K1). The following table illustrates the performance achievements of PTSL implementation in West Sumatra as of November 21, 2018.

Table 1: Progress of Complete Systematic Land Registration Activities of National Land Agency's Regional Office of West Sumatra Province, November 21, 2018

No	Kab/City	Target PBT	Target SHAT	Survey	Pemetaan	Pul-dadis	Cashing	Potensi K1	K1	K2	K3	K4	Qty	R
1	Pariaman City	150	50	169	154	155	155	0	50	0	105	0	155	103,33
2	Plain	1.150	650	1.569	1.176	1.163	1.161	72	650	0	509	0	1159	100,78
3	Solok City	4.727	50	5.266	4.777	4.761	4.761	0	50	0	4680	0	4730	100,06
4	Pasaman	2.050	1.050	2.153	2.051	2.051	2.051	0	1049	1	1001	0	2051	100,05
5	Hill-high City	496	196	485	501	506	505	24	196	0	300	0	496	100,00
6	Padang Panjang	150	50	150	150	150	150	0	50	0	100	0	150	100,00
7	Payakumbuh	850	350	850	851	850	850	25	350	0	500	0	850	100,00
8	Mentawai Island	2.150	1.500	2.150	2.150	2.150	2.150	60	1500	0	650	0	2150	100,00
9	South Solok	3.200	1.200	3.200	3.200	3.199	3.199	38	1139	0	2060	0	3199	99,97
10	Pariaman Field	2.300	1.300	2.223	2.349	2.313	2.300	80	203	0	2060	0	2263	98,39
11	South	4.650	2.650	4.574	4.540	4.507	4.505	349	2364	1	2017	0	4382	94,24

	Coast													
12	Sawah-lunto City	350	150	348	350	322	322	10	123	0	199	0	322	92,00
13	Sijunjung	11.447	10.947	13.845	11.157	9.949	9.947	381	1688	0	8251	0	9939	86,83
14	Agam	1.750	950	1.595	1.702	1.644	1.552	135	817	0	702	0	1519	86,80
15	West Pasaman	7.350	3.350	6.670	6.556	6.155	6.144	559	3011	0	3127	86	6224	84,68
16	Solok	10.600	10.400	9.682	10.407	9.679	9.622	887	2228	0	6566	62	8856	83,55
17	Limapuluh City	2.007	1.307	1.841	1.784	1.699	1.691	144	874	0	717	0	1591	79,27
18	Padang City	11.400	10.400	6.687	6.672	6.131	6.103	461	1806	0	4088	0	5894	51,70
19	Dharmasraya	7.800	3.800	4.440	3.642	3.793	3.780	157	2630	0	1047	0	3677	47,14
	Total	74.577	50.350	67.897	64.169	61.177	60.948	3.382	20.778	2	38.679	148	59.607	79,93 %

Source: Regional Office of West Sumatra Land Agency (ptsl.atrbpn.go.id).

Overall, the realization of PTSL in West Sumatra has indeed reached 79.93% (59,607 fields from 74,577 targeted fields), but only 41% reached the certificate issuance stage (K1) (20,778 fields from 50,350 targeted fields). This means that with all the facilities provided free of charge, even after visiting their respective locations, land registration in West Sumatra is still not a concern for the community. Based on these data, it seems that the obstacles in land registration as stated above have not been able to be unraveled in the implementation of PTSL. Public awareness of the importance of land registration as legal certainty for their land has not been fully awakened. The government still needs to provide a breakthrough from the technical aspects of land registration so that the concerns of the community, especially *ninik mamak* as customary stakeholders, about the abolition of pusako land through titling could be a threat to their authority. The division of pusako land parcels into several parcels according to each member of the tribe, to increase the number of certificates, is counterproductive to the acceleration of land registration based on its area. In terms of the number of land parcels certified, this method may be appropriate, but based on the percentage of pusako land area that has been registered, it is reduced.

Based on these conditions, related to the registration requirements, the policies taken by the government in registering land through PTSL are not much different from conventional land registration. The main requirement for the registration of pusako land must still be unanimity or racial agreement. This policy can be seen for example in the implementation of PTSL in Sijunjung Regency. According to Ilhamsyah, Head of the Sijunjung Regency Land Office, in an interview in Muaro, on October 31, 2018, registration of pusako land through PTSL is still mandatory for a racial agreement made by the mother of the head of the heir and all members of the clan. The statement letter or agreement must be known by *ninik mamak ampek jinih people* (four types), namely pangulu, manti, malin, and dubalang adat. These statements and restrictions are confirmed by KAN and known to the local Walinagari. The agreement is equipped with a ranji or genealogy of the tribe to see the position of each member of the tribe who participated in challenging the letter of agreement. This policy is not in line with the Minister of National Land Agency Regulation No. 12/2017 which provides basis of rights pertaining to land registration by prescribing that the basis of rights for PTSL is only sporadic and that land is physically controlled in good faith by the concerned parties.

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According to Ilhamsyah, as long its policies continue to accommodate customary law provisions as applicable, PTSL can be relatively successful in Sijunjung. If the PTSL rights pedestal is only a sporadic sheet, maybe this program will not work because it has met resistance from customary law communities, so it is counterproductive to the program's objectives. According to the data in Table 1 above, the PTSL target in Sijunjung Regency has reached more than 86% of the 11,447 parcels set. The same is true in Pesisir Selatan Regency. In PTSL implementation in *Nagari Lakitan Timur* in Lengayang District, the provisions regarding the mandatory agreement of the people in registering *pusako* land also applies. In an interview on November 20, 2018, Rika Dirma, Secretary of Nagari, and Nopemi Darasiska, Head of Welfare and Service Section in *Nagari Lakitan Timur* in Kotorawang claimed that the clan agreement is the main requirement for the registration of *pusako* land. In this Nagari home to the *Caniago* tribe, until such an agreement is reached, many *pusako* lands cannot become the object of PTSL implementation. The same is true in Padang City. According to Junaidi, Head of the Padang City Land Office, in an interview on November 22, 2018, Padang City is targeted at 11,400 plots of land for PTSL 2018. Up until the writing of this paper, only 60% has been processed. Even for targets that come to the issuance of new rights certificates only 20%. The realized PTSL objects are almost entirely heirloom land, which is 90%, only 10% is family-owned land based on traditional underhand buying and selling.

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From what precedes, it can be concluded that awareness of the importance of land registration as a guarantee of legal certainty of land rights has grown in communities in West Sumatra as long as the status of land as private property. Meanwhile, for the status of *pusako* land that is jointly owned by the tribe, the awareness of the importance of land certificates has not fully arisen. This condition is not caused because West Sumatrans do not attach importance to certificates, but are worried about the abolition of *pusako* land after it is registered. Therefore, as long as land registration, including PTSL, has not been able to guarantee the existence of *pusako* land, during that time the process of registering *pusako* land is likely to still not produce satisfactory results. Based on the description above, the success of PTSL implementation of *pusako* land in West Sumatra is determined by several things as follows:

1. Support from *ninik mamak* traditional stakeholders. Because *pusako land is customary* joint property under the control of *mamak* head heir and *ninik mamak*, the implementation of land registration, including PTSL, is largely determined by the support of customary actors. It is impossible to register *pusako land* without the involvement of *ninik mamak* traditional stakeholders. *Ninik mamak's* involvement in land registration started from the beginning, especially in the procurement of rights pedestal, namely the statement of physical control of land. This statement must be supported by the agreement or unanimity of the people concerned and the *Ranji* of the people concerned which is also made, justified, and approved by the *ninik mamak* based on their respective positions. There are *ninik mamak* who are positioned at the tribal level, namely the head of inheritance, at the tribal level as a tribal religious leader or *pangulu*, and at the Nagari level through KAN, all of whom are involved in the land registration process.

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Related to the above, the relationship between the government and KAN must be harmonious and establish good cooperation in the implementation of PTSL. Experience in implementing PTSL in *Nagari Lakitan Timur*, South Pesisir Regency has proven this. East Lakitan is a part of Nagari Lakitan, but the expansion is only for the Nagari government and does not apply to

its customs. Therefore, KAN in this location remains one, namely KAN Lakitan. As illustrated from an interview with Rika Dirma, Secretary of Nagari, on November 20, there seems to be a lack of coordination between the Nagari government and KAN in the implementation of PTSL. The KAN party is of the position that the service related to the approval of the rights and ranji of the people in KAN is not related to the service in the Nagari government. If there is no charge in the mayor's office, it cannot be applied in KAN, because the affairs in KAN are customary not government affairs. In practice to date, the signing of documents related to land registration in KAN is still charged. This is one of the obstacles to PTSL's activities on pusako land in Nagari Lakitan Timur. Finally, PTSL is directed to private or family land derived from buying and selling.

2. Support from their respective local government officials. Because the land location of PTSL objects in West Sumatra is determined based on the Nagari area per Nagari or kelurahan per kelurahan within the regency/city area, the implementation of PTSL needs support from local government officials. Local government support is not only needed at the site determination stage but also in the implementation of programs in the field. The implementation of PTSL in Sijunjung Regency, for example, is not only carried out directly by the local BPN but also partly carried out by the local government per its authority. According to Ilhamsyah, Head of the Land Office, in Sijunjung there are three types of PTSL implemented by local governments, namely, Small and Medium Enterprises PTSL implemented by the Cooperative Office as the leading sector, PTSL Agricultural Land implemented by the Agriculture Office as the *leading sector*, and Transmigration *PTSL implemented by the* Transmigration Office. This means that the involvement of local governments in PTSL greatly determines the success of this program. Good cooperation between the local government and BPN is the main prerequisite for the running of PTSL in the area concerned.
3. Third-party support through cooperation in the implementation of PTSL. Because PTSL requires a lot of technical personnel, third-party support in the implementation of PTSL is also needed. This can also be seen in Sijunjung Regency. The involvement of third parties through tenders carried out by the central government also greatly determines the implementation of PTSL. In Sijunjung, the implementation of PTSL by third parties is known as PTSL KJSKB. Based on data from the local Land Office through Ilhamsyah, Head of Office, interviewed on October 31, 2017, the implementation of PTSL with KJSKPB is precisely what dominates the implementation of PTSL in this area. Of the 12 Nagari PTSL locations in Sijunjung, 8 Nagari (67%) of them are carried out through KJSKB. This is certainly understandable considering the target imposed by the government in implementing PTSL.
4. PTSL is largely determined by the readiness of implementing officials, including in Nagari. At the national level, the implementation of PTSL is also largely determined by the readiness of the local government. The commitment of the Nagari government support is needed in the implementation of PTSL. In addition, the involvement of Nagari is also more tangible, especially in making rights pedestals as the basis for registering pusako land. The determination of the subject and object of PTSL is carried out at the Nagari level, so the Nagari government can be said to be the spearhead of PTSL in West Sumatra. Based on the experience of Nagari Lakitan Timur as the location of PTSL, it can be seen how

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3 important the position of the Nagari government is in PTSL. According to information from
4 Rika Dirma, Secretary of Nagari, interview on November 20, 2018, the implementation of
5 PTSL in East Lakitan was not planned from the beginning. At first, the location of PTSL
6 was in Lengayang District Nagari Kambang Timur, but because it was not ready, at the
7 initiative of the mayor together with the Nagari officials, East Lakitan proposed to the
8 Regency as the location of PTSL which is mainly determined by the attitude of the mayor
9 and the readiness of the government apparatus.

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13 5. The cost burden is borne by the community in the land registration process. Although not
14 a major factor, the cost component remains important in the implementation of land
15 registration. The government may be able to make a policy to waive all fees for land
16 registration, but the policy does not necessarily apply at the level of indigenous peoples.
17 Giving in customary affairs seems to have become common in the community, especially
18 in the management of papers related to land. If the applicant can be free of charge at the
19 racial and tribal level, it does not necessarily apply to the Nagari level through KAN, which
20 occurs in Nagari Lakitan Timur as outlined above. This makes PTSL seem to be stuck
21 because it is waiting for the process of making rights pedestals at the customary level. As
22 a result, the implementation of PTSL is more directed to land that does not require KAN's
23 signature, namely privately owned land such as in East Lakitan. This is certainly contrary
24 to the purpose of PTSL in West Sumatra which is more targeting pusako land. Perhaps that
25 is one of the causes of the small target of pusako land in the implementation of PTSL in
26 this Nagari. Of the 88 plots of land certified through PTSL in Nagari, only 4 plots are *clan*
27 *pusako* land, the rest are privately owned land based on buying and selling.
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32 6. Availability of measuring officers and field technical personnel. Because PTSL is carried
33 out massively in a short time, the implementation of PTSL requires sufficient personnel or
34 measuring officers and skilled technical personnel. The shortage of officers is felt in the
35 implementation of PTSL in the field such as in Nagari Lakitan Timur, South Pesisir
36 Regency. To anticipate this, the Nagari government provides assistance personnel whose
37 task is mainly to assist with technical measurements in the field, including inviting
38 landowners commensurate with PTSL objects to be present during measurements. The
39 number of surveyors available at the land office tends to be inadequate when compared to
40 the large number of land registration objects.

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44 With various problems faced in the field in general, the implementation of PTSL in
45 West Sumatra is relatively safe and smooth, although the target has not been achieved as a
46 whole. Based on information from respondents, in general, people are enthusiastic about the
47 program except the *ninik mamak* who are still worried about the abolition of tribal pusako land.
48 In the event of a dispute, PTSL does not force the running of the program for the object. Pusako
49 land containing disputes in the implementation of PTSL is suspended and removed from the
50 target until the issuance of the certificate. So that PTSL does not deal with the parties who
51 dispute over the land of the object of registration. The *ninik mamak* are worried that the
52 technical implementation of PTSL does not fully matched the character of pusako land
53 ownership in West Sumatra. If the registration technique can guarantee that the certificate does
54 not abolish pusako land, then it is likely that the *mamak ninik* will also support this program.
55 This means that the registration of pusako land through PTSL must still be registered on behalf
56 of the tribe so that the certificate does not change the subject of the holder of the right to the
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3 pusako land from the clan/tribe to a member of the clan. If PTSL encourages the
4 implementation of pusako land registration on behalf of the clan, not on behalf of individuals,
5 this program will likely have the support of all *mamak ninik* in the tribe/tribe.
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7 Such a policy is indeed contrary to the wishes of most citizens as members of the tribe.
8 Individual community members are certainly more inclined to register heirloom land as their
9 private property because they already live more focused on their nuclear families. Meanwhile,
10 *ninik mamak* in managing the tribe is not oriented to the nuclear families but to the extended
11 family. *Ninik mamak's* concern about certificates made in the name of individual members of
12 the clan need not be exaggerated as long as the name listed on the certificate is the name of the
13 niece of a female member of the tribe. By mentioning that the owner of the land is a woman,
14 its existence as a *pusako* land remains unchanged because it will also be passed down
15 matrilineally to the next generation.
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19 In the implementation of land registration in West Sumatra, there is a tendency for the
20 name listed as the right holder in the land certificate to be a woman's name. This not only
21 applies to pusako land but is also applied to the registration of family-owned land as a result
22 of joint searches. This condition still applies today, as in the location of this study. In Nagari
23 Lakitan Timur, for example, of the 84 privately owned plots of land that are the object of PTSL,
24 almost all of them are registered in the names of women (Rika Dirma, 2018). In addition to
25 providing more assurance to women in building families, this attitude is also to anticipate the
26 emergence of disputes between children and nephews after the man dies. Such lands are usually
27 not divided by heirs but are still used by female heirs only. So that over time this privately
28 owned land can become a randah heirloom land for the family concerned.
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34 **Impact of Certificate Law on the Status of *Pusako* Land as Customary Joint Property in** 35 **West Sumatra**

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3 In the latest and factual terms, the registration of land that gives birth to a certificate does
4 not change the status of ownership of the land parcel, much less will it change the subject of
5 the right holder. Land registration is intended to strengthen the rights of the owner to the parcel
6 of land. So the concern that certificates could erase the status of *pusako* land in this context is
7 unwarranted. The status of *pusako* land as a common property remains, and so does its
8 management which is controlled and managed by members of the clan as usual. As a common
9 land, even though it has been certified, the rights to the inheritance land are still based on the
10 agreement of all clan members, not only on behalf of some members. So the existence of a
11 certificate legally does not change the ownership status of heirloom land. Changes in the
12 ownership status of *pusako* land by tribes occur because of agreements or legal deeds from clan
13 members about their joint *pusako* land. Clan agreement about the status of their *pusako* land
14 can occur in the registration process so that the land certificate that comes out seems to change
15 the status of the *pusako* to land belonging to each family and so on. This condition occurs in
16 the implementation of PTSL in West Sumatra in various forms of tribal agreements that can
17 affect the subject of land ownership rights. Because the government or BPN only administrates
18 community property rights, on whose behalf the *pusako* land is registered also depends on the
19 wishes of the tribe as the owner of the *pusako* land. Concerning the name of the right holder
20 listed on the certificate, several possibilities can be raised as follows:

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27 1. Certificate of heirloom land in the name of the people.

28 If a clan agrees that a certificate of land rights is made on behalf of the clan, BPN will issue
29 the certificate on behalf of the clan. In this condition, the integrity of the *pusako* land and
30 its people is maintained and is not affected by land registration. This method is the most
31 appropriate choice to maintain the status of *pusako* land as a land belonging to the people.
32 In its implementation, this choice is not always easy, because technically the name of the
33 right holder on the certificate is written based on the applicant's identity card (KTP). The
34 population administration system issues ID cards according to the real name of the personal
35 person who owns the ID card. The inclusion of customary or racial titles on the KTP must
36 be based on a court determination, which of course makes it difficult for the community.

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40 2. Certificate of heirloom land in the name of the mother of the head of the heir and the name
41 of the clan member.

42 Some of the *pusako* lands are registered in the name of the mother of the head of the heir
43 and followed by the names of female members according to the agreement of the people.
44 Thus, the name of the right holder listed on the certificate is not singular because it consists
45 of several people including the name of the mother of the head of the heir. This method is
46 also effective in maintaining the integrity of the *pusako* land and its people because all the
47 names that are entitled to participate are written on the certificate. In practice, this method
48 is commonly pursued because it is easiest to agree upon by the clan. After all, all members
49 of the clan enter into certificates. So none of the people objected unless some members
50 were not consulted by the mother of the head of the heir. Administratively, this method can
51 also be applied because the mother of the head of the heir and each member of his clan who
52 is included in the certificate can use their identification cards.

53 Although in general, this method can maintain the integrity of *pusako* land, in its
54 development it can cause legal problems that are not easily resolved:
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- a. If the name of a male member is included in the certificate, including the mother of the head of the heir, the death of the potential to cause a dispute between the son of the man and his matrilineal nephew. With the inclusion of the man's name as the father of the heir (his son), the son can think that his father owns the land as stated in the certificate.
 - b. To maintain the up-to-date data, the land registration law requires the return of the name of the certificate in the event of the death of the right holder. The change of the name of the deceased person in the certificate may not necessarily be agreed easily. This can trigger new disputes over *pusako* land.
3. Certificate of heirloom land in the personal name of the mother of the head of the heir. To maintain the integrity of the people and avoid the technical difficulties of land administration as mentioned above, some communities register their *pusako* land in the name of the clan leader only. This method is simpler because only one person's name is listed on the certificate. If the mother of the head of the heir dies, it is also not so difficult to manage the name change because only one person. The legal consequence that needs to be watched out for in this case is the emergence of assumptions from the children (heirs) of the mother of the head of the heir that the land belongs to his father. Therefore, the custom applied in the community is that the certificate of heirloom land is still kept in *the traditional house* known as rumah gadang and controlled by one of the oldest women (*induak*) in the clan.
4. Certificate of heirloom land in the name of the women of each family in the race. All members of the clan may agree that their inheritance land is divided according to the *paruik / jurai* (stomach / jurai) in the race. This division is usually carried out based on the division of *pusako* land utilization based on *ganggam bauntuak* (handheld beruntung), which is the division of *pusako* land utilization according to the lungs / jurai in a race. Most of the wishes of the members of the clan follow this method of division, at the time of registration of the land as well as the distribution of heirloom land. Because *pusako* land in *Minangkabau* is owned by women, the certificate of *pusako* land that has been divided according to *the bauntuak ganggam* is usually made in the name of women as mothers or *induak*. However, even the method of registering land does not receive the support of *ninik mamak*. In practice, PTSL cannot lead to a particular form of the above possibilities. Almost the same as the previous condition, that BPN as the organizer of land affairs is only waiting for the agreement of the tribe concerned.

Conclusion

48 Pusako land registration in West Sumatra is generally still slow, so **legal certainty over**
49 **land is still not fully realized**. This is due to several obstacles in registering *pusako* land,
50 including (1) the community or *pusako* land owners **not feeling the importance** of the existence
51 of land certificates, (2) it is difficult to reach a clan/tribe agreement for the registration of
52 *pusako* land, (3) it is difficult to get approval from KAN, (4) there is an assumption that land
53 certificates can **increase land-related costs** such as taxes, (4) certificates can **trigger land**
54 **disputes**, (6) the certificate can remove the status of the *pusako* land, and (7) some members
55 of the clan are not in place so that it is **difficult to obtain signatures** for the approval of the
56 registration of the *pusako* land.
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The implementation of *pusako* land registration through PTSL in West Sumatra generally runs in accordance with Regulation of ATR / BPN No. 12 of 2017. However, the PTSL process is still slow because this program has not been able to overcome the inhibiting factors of land registration as stated above. As long as **land registration, including PTSL, has not been able to guarantee the existence of *pusako* land after being certified**, during that time the *pusako* land registration process will still not produce satisfactory results. The implementation of PTSL seems to be **output-oriented according to the target number of parcels that have been set**. Disputed plots of land tend to be "abandoned" unattended even though they are still reported.

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In principle, **land certificates do not change the ownership status** of *pusako* land as common land based on customary law. So the **certificate does not cause certain legal consequences** for the *pusako* land but provides certainty for the ownership of the *pusako* land itself. What results in a change in the ownership status of *pusako* land in land registration is the **attitude or agreement of the tribe itself** on the *pusako* land when the registration process is running. If they agree that the *pusako* land is divided according to *paruik/jurai* before being registered, then the *pusako* land is certified in the name of *paruik/jurai*. As a result of the law, the *pusako* land becomes a *pusako randah* for each *jurai*, but **customarily the land is still a *pusako* land controlled by the mother of the head of the heir**. The condition that needs to be watched out for is **if the heirloom land is registered in the personal name** of the heir mother or male member of the clan. Such a certificate can **administratively change the status of the heirloom land to the private property** of the mother of the heir head or male members of the clan. This is prone to **causing disputes between the children (heirs)** of the mother of the head of the heir and his people. To maintain the integrity of the clan and its heritage, the name of **the right holder mentioned in the certificate** for and on behalf of the clan **should be the name of the customary title of the mother of the head** of the heir of the tribe. This method also facilitates the process of maintaining land registration data if the right holder dies.

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Author contributions

All authors listed have made a substantial, direct, and intellectual contribution to the work and approved it for publication.

Ethics statement

The researchers obtained the necessary ethics approval from their institution. The participants provided written informed consent to participate in this study.

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