

# **The Existence of Indigenous Law Communities Rights Based on Laws and Regulations: Studies in the Legal Territory of West Papua**

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**Abstract:** This study examines and analyzes the existence of indigenous law community rights in West Papua based on applicable laws and regulations. This study uses two types of research, namely normative research and empirical research. This study uses qualitative analysis techniques. The results show that the existence of indigenous law communities' rights in West Papua has been accommodated in laws and regulations. Furthermore, the policies formed by the Government to the Regional Government already contain the values of rehabilitating constitutional rights for indigenous law communities. However, the implementation is still not optimally carried out by the Government and Regional Governments. So that indigenous law communities are still gradually enjoying and utilizing their indigenous rights. Therefore, it is recommended that the Government and Regional Governments will be more optimal, consistent, and consistent in protecting indigenous law communities' rights in West Papua.

**Keywords:** Indigenous Law Communities; Indigenous Rights; Indigenous Territory.

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Date of Submission: 15-09-2022

Date of Acceptance: 30-09-2022

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## **I. INTRODUCTION**

West Papua Province socio-culturally within the framework of the Indonesian nation's culture is a national unity with the Papua Province (Sulistiyono, 2018). Territorially, Papua as part of Indonesia is different from Papua New Guinea. Philosophically in the community's acknowledgment, the existence of these two provinces is often collectively referred to as Tanah Papua. In this case, there is an agreement or commitment, as stated in sentences "two for one and one for two." The sentence contains the meaning that there is one Special Autonomy Law for the Papua Province and West Papua Province. The sentence implies that one province with the same background and culture, namely Papua Province and West Papua Province, is for one development purpose.

When observing the development process in West Papua Province, there are still some important notes regarding problems that need to be resolved. This condition can be seen from the participation and involvement of indigenous law communities to support the sustainable development process in West Papua. The existence of complex problems that can interfere with the smooth development of development is one of them regarding indigenous rights. Indigenous rights are powers indigenously contained in the system of indigenous law communities based on certain territories that are part of the local population (Pellock, 2021). In this case, an authority allows the community to take advantage of the natural resources (including land) in the territory for their survival.

In terms of understanding the conditions of the life of the Papuans (indigenous communities of Doberai and Bomberai Papua), we should be able to see from the aspect of the oldest institutions to regulate the life of the local community as homo culturalists (Marlina & Mulyono, 2022). These institutions cover the kinship system, language kinship, folklore, marriage typology, and other norms or indigenous laws, such as traditional political aspects, to control land rights.

The various laws and regulations that have been issued, implicitly and explicitly, have regulated the legal protection of indigenous land in West Papua in the context of prosperity. However, the obstacles to implementing these laws and regulations cannot be denied that there are aspects such as limited human resources for the indigenous community in West Papua (Suharyo, 2019). In addition, facilities and infrastructure that are still very minimal are a common phenomenon that is still difficult to overcome. Furthermore, there are

obstacles to the socialization of these laws and regulations and the seriousness of the Regional Government, the Papuan People's Assembly, and the Papua Regional House of Representatives. In this case, it also hinders the implementation of these laws and regulations where there is no harmonization of perceptions among related parties, especially the unilateral use of indigenous land from these parties.

Based on the description above, this study examines and analyzes the existence of indigenous law community rights in West Papua based on applicable laws and regulations.

## **II. METHOD**

This study uses two types of research: normative and empirical. Normative legal research is legal research that includes research on legal principles, research on legal systematics, research on legal history, and research on comparative law (Qamar & Rezah, 2020). Meanwhile, empirical legal research looks at law in its social context (Sampara & Husen, 2016), especially related to the indigenous law community's rights. This research was conducted in the territory of indigenous law in West Papua Province. This study's participants were government executives, legislatures, and community leaders selected by purposive sampling. The types and sources of data used in this study are as follows:

1. Primary Data is data obtained directly from informants based on sample determination;
2. Secondary Data is data obtained from searching legal literature, including laws and regulations, references, legal scientific journals, legal encyclopedias, and texts or official publications.

Primary data was collected through direct interviews with six informants. Meanwhile, secondary data was collected using library research techniques on primary, secondary, and tertiary legal materials. The data obtained in this study were then analyzed qualitatively to conclude the existence of the indigenous law community's rights in West Papua based on applicable laws and regulations.

## **III. RESULTS AND DISCUSSION**

### **A. Indigenous Law Communities Rights in West Papua based on Laws and Regulations**

Recognition and respect for indigenous law communities and their traditional rights, as based on Article 18B section (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), regulates that:

*"The state recognizes and respects entities of the adat (indigenous) law communities along with their traditional rights as long as these remain in existence and are in accordance with the development of community and the principles of the Unitary State of the Republic of Indonesia, are regulated by law."*

This constitutional basis is also accompanied by the condition that:

1. as long as these remain in existence;
2. according to the development of community;
3. according to the principles of the Unitary State of the Republic of Indonesia; and
4. regulated by law.

These indigenous law communities are not only recognized but respected in the sense that indigenous communities have equal rights to life. In addition, indigenous law is the basis of the Law of the Republic of Indonesia Number 5 of 1960 on Basic Agrarian Principles (hereinafter referred to as Law No. 5 of 1960).

Recognition and respect, as regulated in Article 18B section (2) of the 1945 Constitution, actually contains demands for the renewal of the unity of indigenous law communities under their role as a subsystem of the advanced and modern Unitary State of the Republic of Indonesia. Furthermore, recognized traditional rights must be upheld. These traditional rights include indigenous rights, rights to obtain benefits or enjoyment from land and water, forest products, and others in the vicinity. Recognition and respect are not meant to be rights that cannot be touched or regulated. The state or government has the authority to regulate these traditional rights for the most significant possible benefit of mutual prosperity without harming the interests of indigenous law communities that directly relate to these traditional rights.

Indigenous law community's rights which are laws that live in communities, need to be regulated in laws and regulations. Moreover, the 1945 Constitution provides guidelines for that. Policies and instruments are needed to protect and empower indigenous law communities without uprooting their existence from their original socio-cultural roots. This thought shows the existence of the formulation of indigenous law as part of the 1945 Constitution.

Indigenous law community's rights as collective rights to all natural resources in their territory, commonly known as indigenous rights, are rights relating to the management and utilization of natural resources (Redi et al., 2017). In contrast to western law, the primary purpose is to protect individual interests, while community interests are only considered if there is a violation of community interests. The mandate contained in the fundamental law by West Papua is implemented by regulating the recognition and protection of the indigenous law community's rights in various laws and regulations. The central and local governments have not appropriately implemented this mandate. The difficulty is due to the plurality of indigenous laws that apply in

Indonesia. In this case, the basic ideas and principles guiding indigenous law produce more concrete laws in the community.

The implication of the unavailability of these laws and regulations in the field is that there are often protracted problems between the Government and indigenous law communities (Sulistrudin, 2014). All parties certainly do not want a violent social conflict due to unfair treatment from outside parties on the rights to indigenous land, which indigenous law communities have controlled for generations.

If there is a transfer of rights from indigenous land to the business world, it should still benefit the indigenous law communities. This aspiration by indigenous law can be accommodated by national law because indigenous law is a living law, namely a law that reflects the ideals of justice in the community. In this regard, as part of efforts to protect human rights, the provincial and district governments need to issue regional regulations on the protection and empowerment of indigenous law communities in addition to the laws and government regulations. The laws and regulations favor indigenous law communities' interests, dignity, and worth as culture within the citizens. There is a potential that outsiders have not widely understood, that indigenous law communities have a unique cultural system, traditional rights, potential diversity, and resources in national development (Ridwan, 2018). It is necessary to study and analyze the current laws and regulations, whether they are still relevant or not, in the spirit of Reformation. Therefore, every development of laws and regulations must always try to get a place in the indigenous law system.

Although the implementation of several laws and regulations that regulate the recognition, protection, and existence of indigenous law communities, there are still various problems. In this case, especially for indigenous law communities categorized as still disadvantaged, such as the indigenous communities in West Papua, where they have not fully obtained their constitutional rights. The following are some laws and regulations that regulate indigenous law communities.

### **1. Law of the Republic of Indonesia Number 5 of 1960 on Basic Agrarian Principles**

Article 2 section (4) of Law No. 5 of 1960, regulates that:

*"The authority to implement the State's right of control referred to above may be delegated, as required, and provided that it is not contrary to the national interest, to Autonomous Regions and to indigenous law communities under the provisions of Government Regulation."*

Article 3 section (4) of Law No. 5 of 1960, regulates that:

*"In view of the provisions of articles 1 and 2, the implementation of the indigenous rights and other similar rights of indigenous law communities, as long as such communities in reality still exist, must be such that it is consistent with the national interest and the State's interest and must not contradict the other Laws and regulations of higher levels."*

Furthermore, indigenous law communities are declared to exist still if they meet the following criteria:

- a. There are specific characteristics are the subject of indigenous rights.
- b. The existence of territory with specific boundaries is an object of indigenous rights.
- c. There is specific authority to take the following actions:
  - 1) Regulating and organizing the use and maintenance of land;
  - 2) Regulating and determining the legal relationship between people and land; and
  - 3) Regulating and establishing legal relations between people and legal actions relating to land.

The above provisions have not yet been implemented under the mandate of the 1945 Constitution. Law No. 5 of 1960 only facilitated the activities and interests of certain parties or groups. So that the provision is not beneficial for the indigenous communities, as happened to the indigenous law communities in West Papua.

### **2. Law of the Republic of Indonesia Number 5 of 1990 on Conservation of Natural Resources and Their Ecosystems**

Law No. 5 of 1990 does not mention indigenous law communities but regulates the participation of the people. In this case, based on Article 37 of Law No. 5 of 1990 regulates that:

- (1) The participation of the people in the conservation of natural resources and their ecosystems is directed and driven by the Government through various activities that are efficient and effective.
- (2) In developing the participation of the people as referred to in section (1), the Government fosters and increases awareness of the conservation of natural resources and their ecosystems among the people through education and counseling.
- (3) Further provisions as referred to in section (1) and section (2) shall be regulated by a Government Regulation.

### **3. Law of the Republic of Indonesia Number 39 of 1999 on Human Rights**

Article 6 of Law No. 39 of 1999, regulates that:

- (1) In order to uphold human rights, the differences and needs of indigenous law communities must be taken into consideration and protected by the law, communities, and the Government.

(2) The cultural identity of indigenous law communities, including indigenous land rights, must be protected, in accordance with the development of the times.

In reality, implementing the above provisions is still difficult to say was successful. There are many new laws whose establishment results in the loss of indigenous law. In this case, the new law regulates things regulated in indigenous law. Whereas Law No. 39 of 1999 states that the West Papua Indigenous Law is protected by law. However, the law itself eliminates indigenous law.

#### **4. Law of the Republic of Indonesia Number 19 of 2004 on Forestry**

Article 4 section (3) of Law No. 19 of 2004, regulates that:

*“Forest control by the State shall continue to pay attention to indigenous law communities rights, as long as in reality they still exist and are recognized for their existence, and do not conflict with national interests.”*

The above provisions consistently follow Article 3 of Law No. 5 of 1960. Furthermore, the authority of state forests in indigenous territories is given to indigenous law communities. In this case, based on Article 5 of Law No. 19 of 2004 regulates that:

(1) Forests based on their status consist of:

- a. state forest; and
- b. titled forest.

(2) State forest as referred to in section (1) point a, can be in the form of indigenous forest.

(3) The government stipulates forest status as referred to in section (1) and section (2), and indigenous forest is determined as long as the indigenous law communities concerned still exist and their existence is recognized.

(4) If in its development the indigenous law communities concerned no longer exist, then the rights to manage indigenous forests return to the Government.

From the above provisions, forests must be managed and organized, protected, and used sustainably for the welfare of the Indonesian community, both current and future generations. As one of the determinants of life support systems, forests have greatly benefited humanity. Therefore, the forest must be preserved.

#### **5. Law of the Republic of Indonesia Number 20 of 2003 on the National Education System**

Article 5 section (3) of Law No. 20 of 2003, regulates that:

*“Citizens in remote or less-developed areas and remote indigenous communities have a right to receive special service education.”*

Furthermore, Article 32 section (2) of Law No. 20 of 2003 regulates that:

*“Special service education is education for students in remote or less-developed areas, remote indigenous communities, and or experiencing natural disasters, social disasters, and economically disadvantaged.”*

From the above provisions, it can be understood that the Government has committed to ensuring education for indigenous communities that are still remote. The condition of educational facilities in Indonesia is still very alarming. Many schools are still not feasible and do not support the teaching and learning process. Such conditions still exist in several municipalities in Indonesia. Even in the municipality, the condition is still concerning, especially with the state of education for indigenous communities in remote areas.

#### **6. Law of the Republic of Indonesia Number 7 of 2020 on the Constitutional Court**

Article 51 section (1) point b of Law No. 7 of 2020, regulates that:

*“Petitioners are parties who consider their constitutional rights and or authorities to be impaired by the enactment of the law, namely indigenous law communities, as long as they are still alive and in accordance with community development and the principles of the Republic of Indonesia as regulated by law.”*

Based on the above provisions, if the indigenous law communities feel that their rights have been violated due to enacting a new law, they can apply to the Constitutional Court. In this case, they can apply for annulment of laws that violate the indigenous law community's rights. The law should protect indigenous law communities as regulated in Law No. 39 of 1999, not even eliminate it.

#### **7. Law of the Republic of Indonesia Number 9 of 2015 on Local Government**

Article 1 point 43 of Law No. 9 of 2015, explains that:

*“Village is a village and indigenous village or called by other names, hereinafter called the Village, is the unity of the law community who have territorial boundaries that are authorized to set up and take care of Government Affairs, the interests of local communities based on community initiatives, the right of the origin, and or traditional rights recognized and respected in the system of Government of the Republic of Indonesia.”*

Article 29 section (5) of Law No. 9 of 2015, regulates that:

*“Strategy accelerated development of the region referred to in section (4) shall include the priorities and management of natural resources in the sea, the acceleration of economic development, social and cultural development, human resource development, development of indigenous law related to marine management, and community participation in the development of Provinces that Archipelago Characteristics.”*

Article 31 section (2) point f of Law No. 9 of 2015, regulates that:

*“Regional arrangement as referred to in section (1) is intended to maintain the uniqueness of customs, traditions, and culture of the region.”*

Article 36 section (1) point d of Law No. 9 of 2015, regulates that:

*“The basic requirements for regional capacity as referred to in Article 34 section (3) are based on socio-political, indigenous, and traditional parameters.”*

This law results in many regional regulations regulating and recognizing the existence of indigenous law communities.

#### **8. Law of the Republic of Indonesia Number 1 of 2014 on Coastal Territory and Small Archipelago Management**

Article 21 section (1) of Law No. 1 of 2014, regulates that:

*“Utilization of space and resources of Coastal Waters and small archipelago waters in the Indigenous Law Communities territory by Indigenous Law Communities becomes the authority of the local Indigenous Law Communities.”*

From the above provisions, the recognition of the existence of indigenous law communities is also applied to conservation areas. Conservation areas have the characteristics of being an ecosystem unit that is organized to protect one of the territories regulated by certain indigenous people. For example, *sasi*, *mane ‘e*, *panglima laot*, *awig-awig*, and or other terms based on certain indigenous. In carrying out activities for managing coastal and small archipelago resources, the community must be based on applicable indigenous laws and not conflict with laws and regulations.

Recognition of the rights of indigenous communities, traditional communities, and local wisdom is used as a reference in the sustainable coastal territory and small archipelago management. Settlement of disputes related to coastal territory and small archipelago management, as based on Article 64 section (1) of Law No. 1 of 2014, regulates that:

*“Dispute resolution in coastal territory and small archipelago management is pursued through courts and/or out of court.”*

Based on the above provisions, the parties can settle disputes out of court through consultation, expert judgment, negotiation, mediation, conciliation, arbitration, or local wisdom customs. Furthermore, the above provisions recognize that disputes that arise can be resolved using indigenous law.

#### **9. Law of the Republic of Indonesia Number 32 of 2009 on Environmental Protection and Management**

Indigenous law communities have their own role in Indonesia's environmental protection and management efforts. In this case, based on Article 63 section (1) point t of Law No. 32 of 2009, regulates that:

*“In environmental protection and management, the Government has the duty and authority to establish policies regarding procedures for recognizing the existence of indigenous law communities, local wisdom, and indigenous law communities rights related to environmental protection and management.”*

**Table 1. Existence of Indigenous Law Community Rights on Applicable Laws and Regulations**

No.	Laws and Regulations	Provision	Norm Type		
			Instruction	Prohibition	Policy
1.	Law No. 5 of 1960	Article 2 (4); Article 3 (4)	No	No	Yes
2.	Law No. 5 of 1990	Article 37	No	No	Yes
3.	Law No. 39 of 1999	Article 6	Yes	No	No
4.	Law No. 19 of 2004	Article 4 (3); Article 5	No	No	Yes
5.	Law No. 20 of 2003	Article 5 (3); Article 32 (2)	No	No	Yes
6.	Law No. 7 of 2020	Article 51 (1) point b	Yes	No	No
7.	Law No. 9 of 2015	Article 1 (43); Article 29 (5); Article 31 (2) point f; Article 36 (1) point d	No	No	Yes
8.	Law No. 1 of 2014	Article 21 (1); Article 64 (1)	Yes	No	No
9.	Law No. 32 of 2009	Article 63 (1) point t	No	Yes	No

Source: Results of Secondary Data Analysis, 2022.

Table 1 above describes that although articles that recognize and accommodate the rights of indigenous law communities have been included, the implementation is still not optimal by the central government and local governments. Several regions have tried to rehabilitate indigenous community rights by establishing regional

and head regulations. However, many regions still have not tried to recognize and protect the rights of indigenous communities as mandated in Article 18B section (2) of the 1945 Constitution.

## **B. Synchronization of Government and Local Government Regulations Related to Indigenous Law Communities Rights in West Papua**

Until 2019, the Regional Government in managing indigenous law communities refers to existing laws and regulations while still accommodating territories based on indigenous community traditions known for generations as their ancestral heritage. The Regional Government's commitment to empowering indigenous law communities is realized by establishing Regulation of the Special Region Number 9 of 2019 on Guidelines for Recognition, Protection, Empowerment of Indigenous Law Communities and Indigenous Territory in West Papua Province (hereinafter referred to as Regulation of the Special Region No. 9 of 2019). This Regulation of the Special Region regulates models and strategies for empowering indigenous communities and institutions so that indigenous peoples can achieve a more prosperous standard of living (Uamang et al., 2018). However, the provisions in the Regulation of the Special Region have not been appropriately implemented. This condition certainly has an impact on the legal system adopted so far. In this case, the implementation focuses more on legal products that favor the authorities' interests than the interests of the people. In addition, legal products prioritize the dominance of the interests of the Regional Government itself.

Indigenous land is a land environment controlled by a group of people, usually called indigenous law communities. Indigenous rights are the rights of indigenous law communities that control a land environment, including the supply environment and expansion for the benefit of the communities and all indigenous peoples. The objects of indigenous rights include land, water, beaches, plants (trees), and wild animals. Indigenous land is not easily transferred to other parties. The transfer must comply with the provisions of the indigenous law communities. Legal certainty will be achieved if the regulations issued meet the requirements (Sugianto, 2017).

This requirement is made none other than to maintain the sustainability of the indigenous lands that exist in the indigenous law alliance. Indigenous life and indigenous land are part of community life in maintaining the survival of indigenous law communities (Salim, 2016). With this land, indigenous law communities can try to support their families. The continuation of human life cannot continue without the existence of land in which to work and live. In this regard, indigenous land is the property that needs to be preserved to continue providing benefits for the survival of indigenous law communities.

In practice, regulation of the Special Region No. 9 of 2019 is not optimal. The information gathered relating to the implementation of the Regulation of the Special Region is still focused on exploiting the existence of indigenous law communities as objects to obtain specific support. Instead, indigenous law communities should be seen as a component that needs to be developed into a more significant force. Good local government administration is one whose policies are consistent with applicable law. A good country is a country that implements the constitution consistently.

Recognizing indigenous territories and indigenous law communities in a territory generally takes years (Yunus & Muddin, 2019). The recognition procedure begins with the issuance of regulations on the procedures for recognizing and protecting indigenous communities by Regency or Municipal governments. Then the Regent/Mayor forms an indigenous community committee to identify indigenous law communities in their territory. Furthermore, to verify, validate, and provide recommendations to the Regent/Mayor to establish indigenous law communities. As in West Papua Province, this lengthy process has been shortened by establishing Regulation of the Governor of West Papua Number 25 of 2021 on Determination Procedure for Recognition of Indigenous Law Communities and Indigenous Territory (hereinafter referred to as Regulation of the Governor of West Papua No. 25 of 2021). With this establishment, the Regency/Municipal in West Papua no longer needs to make rules regarding procedures for recognizing and protecting indigenous communities. Samsudin Anggiluli said that:<sup>1</sup>

*“The community and the local government welcome the socialization of Regulation of the Governor of West Papua No. 25 of 2021. In general, the community agrees on the planning of mapping its territory as one of the bases for the recognition of Indigenous Law Communities. Several territory mappings are going well, but some are still not being processed. The local government has budgeted IDR 1.5 billion, and the budget was given to the indigenous council to map the territory, but the mapping activity failed. The budget is expected to bring changes to Indigenous Law Communities, but it is not used optimally.”*

Anton Dombret said that:<sup>2</sup>

*“The youth who represent the Arfak indigenous community and the Doreri indigenous community who inhabit the City of Manokwari believe that in addition to recognizing the territory on the mainland, the Government*

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<sup>1</sup>Interview Results with the Regent of South Sorong Regency. Samsudin Anggiluli, on June 9, 2022.

<sup>2</sup>Interview Results with the Community Figure of South Sorong Regency. Anton Dombret, on June 10, 2022.

also needs to clarify the coastal territory. In this case, several indigenous communities in West Papua rely heavily on the sea as a livelihood, such as communities on the coast of Manokwari to Teluk Wondama. The community hopes this Regulation of the Governor will also accommodate coastal communities.”

Dance Yulian Flassy said that:<sup>3</sup>

*“With the recognition of these indigenous territories, investment into their regions can still enter while respecting indigenous law communities' rights and protecting the environment. Indigenous communities hope to be able to manage and get good results. The hope is to manage and get profits for the next 20 years. In addition, they also hope that the Government will immediately impose territory and indigenous land boundaries in West Papua.”*

Filemon Ulimpa said that:<sup>4</sup>

*“Regional Governments should be able to focus more on the process of recognizing indigenous territories. This request is because special autonomy funds have been spent on development. Meanwhile, attention to the determination of indigenous territories is still lacking. As a result, conflicts often occur between indigenous communities and investors who enter their territory. Not to mention the conflict between indigenous communities whose territories border each other. The community hopes that with this Regulation of the Governor, the Regional Government will focus. Meanwhile, the development process should be postponed first and focus on indigenous communities.”*

Martinus Maga said that:<sup>5</sup>

*“Recognition of territory and indigenous law communities in West Papua should be focused on the local government level. The policy avoids wasting budget funds due to special autonomy, which tends to be used solely for development aspects. Meanwhile, the issue of indigenous rights has not been optimally resolved. This effort is made to avoid conflicts between indigenous law communities and investors in West Papua.”*

Jevries N. Kewetare said that:<sup>6</sup>

*“Through Regulation of the Governor of West Papua No. 25 of 2021, it is hoped that investments will continue to be established and sustainable and create a healthy economic climate by upholding fundamental rights, respecting indigenous rights, and preserving the environment. Indigenous communities have high hopes to be involved optimally and get economic, political, and cultural benefits within a predetermined period. In addition, the indigenous community also hopes for the Regional Government to coordinate with the Central Government so that it will immediately impose territory and indigenous land boundaries in West Papua.”*

The implementation of indigenous law tends to weaken due to the more substantial influence from outside. For example, indigenous land as the common property of indigenous law communities experiences the transfer of use rights to investors, thereby reducing the assets of indigenous law communities. Various conditions are perceived as obstacles in implementing legal recognition of indigenous law communities, namely:

1. Law No. 19 of 2004 adheres to state domination, where all forests that cannot be proven as forests of property rights become state forests. Indigenous Rights are not ownership, so Indigenous rights over the land become the object of the dispute with the Department of Forestry.
2. Presidential Regulation No. 36 of 2005 adheres to the public interest, where indigenous rights are prepared to be abolished by the release by giving compensation if the land is used for the public interest. The form of compensation for indigenous rights land is in the form of building public facilities or other forms beneficial for local indigenous law communities.

In order to optimize the empowerment of indigenous law communities in West Papua, especially the recognition of the existence of indigenous law communities, based on Article 3 of Regulation of the Special Region No. 9 of 2019, regulates the purpose of this Regulation of the Special Region is:

- a. Provide legal certainty for the existence of Papua indigenous law communities along with their indigenous rights, traditional rights, and indigenous territories;
- b. Protect rights and strengthen Papuan indigenous law communities' access to land, water, and natural resources;

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<sup>3</sup>Interview Results with the Regional Secretary of South Sorong Regency. Dance Yulian Flassy, on June 8, 2022.

<sup>4</sup>Interview Results with the Community Figure from Kwakeik Hamlet of Sorong Regency. Filemon Ulimpa, On June 7, 20.

<sup>5</sup>Interview results with chair of the regional house of representatives of South Sorong Regency, period 2019-2022. Martinus Maga, On June 8, 2022.

<sup>6</sup>Interview Results with Deputy Chair of the Regional House of Representatives of South Sorong Regency, Period 2019-2022. Jevries N. Kelatare, On June 8, 2022.

- c. Protect in the context of respecting the exercise of authority in indigenous rights, traditional rights, and territorial indigenous law communities;
- d. Building the capacity of indigenous law communities in exercising the authority of indigenous rights, traditional rights, and indigenous territories.
- e. Improving the welfare of Papua indigenous law communities;
- f. Realizing development policies in the regions that recognize, respect, and protect Papuan indigenous law communities' rights; and
- g. Realizing dispute resolution based on recognition and respect for Papuan indigenous law communities and their indigenous law.

Provincial and Regency Government decisions will continue to proliferate in accordance with the current spirit of decentralization. National Policy should provide direction for Provincial and Regency/Municipal policies. If the directive was not yet available on December 31, 2000, then the Regional Government can arrange it according to the conditions of their respective regions. Regional Government policies in the context of empowering indigenous law communities as regulated in several decisions and enactments of the Regional Government. In this case, the existence and position of Papuan indigenous law communities are based on Article 6 of Regulation of the Special Region no. 9 of 2019, which regulates that:

- (1) As referred to in Article 5, Indigenous law communities are domiciled as legal subjects.
- (2) As referred to in section (1), the legal subjects consist of indigenous communities, sub-tribes, kerets, and clans in the indigenous territory of Doberay and the indigenous territory of Bomberay.
- (3) As referred to in section (2), in their position as legal subjects, indigenous law communities have the authority to carry out legal actions related to land and natural resources in their indigenous territory.
- (4) As referred to in section (3), legal actions related to the rights may take the form of a legal entity or other forms recognized by laws and regulations.

From the series of descriptions above, it can be understood that the existence of Government policies for Local Government is still in favor of indigenous law communities. In this case, the Government has made efforts to rehabilitate the constitutional rights of indigenous law communities so that indigenous peoples gradually feel the benefits in their indigenous territories. However, some local government administrators still do not pay attention to the existence of indigenous law communities.

#### **IV. CONCLUSIONS AND SUGGESTIONS**

Based on the description of the results and discussion, it can be concluded that the existence of indigenous law communities' rights in West Papua has been accommodated in laws and regulations. Furthermore, the policies formed by the Government to the Regional Government already contain the values of rehabilitating constitutional rights for indigenous law communities. However, the implementation is still not optimally carried out by the Government and Regional Governments. So that indigenous law communities are still gradually enjoying and utilizing their indigenous rights. Based on these conclusions, it is hoped that the Government and Regional Governments will be more optimal, consistent, and consistent in protecting indigenous law communities' rights in West Papua.

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