

***Ulayat* Land and Agrarian Reform Policy in West Sumatra**

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ARTICLE INFO	ABSTRACT
<p>Keywords: <i>Ulayat</i> land, Nagari Customary Density (KAN), land redistribution, Nagari Timpeh</p> <p>Date log: Received: March 23, 2022 Accepted: April 5, 2022 Published: April 8, 2022</p> <p>To cite this article: Ihsan, A. Salim, M.N. (2022). Tanah <i>Ulayat</i> dan Kebijakan Reforma Agraria di Sumatera Barat, <i>Marcapada: Jurnal Kebijakan Pertanahan</i>, 1(2), 155–171. DOI: https://doi.org/10.31292/mj.v1i2.17</p>	<p>One of the objects of Agrarian Reform in West Sumatra is the <i>Ulayat</i> Land. The practice is carried out by changing the status of <i>Ulayat</i> Land to state land through the mechanism of release by <i>Niniak Mamak</i>. <i>Ulayat</i> Land is a plot of heritage land and its natural resources obtained from generations as regulated by local governments both in designation and utilization. This study aims to explain why <i>Ulayat</i> Land is used as a Land Object of Agrarian Reform (TORA) in West Sumatra and why the mechanism of giving is individually and not collectively. With qualitative methods, this study analyzes the process and mechanism of assigning TORA Objects sourced from <i>Ulayat</i> Land to their redistribution. This study found that the determination of <i>Ulayat</i> Land to be state land which was then distributed to the Domo Tribe as one of the solutions offered by the Dharmasraya Regency Land Office and approved by the Nagari Customary Density (KAN). This policy is considered the best solution to save the <i>Ulayat</i> Land of the Domo Tribe, West Sumatra. The author concludes, to keep <i>Ulayat</i> Land maintained, the redistribution mechanism can be used to save <i>Ulayat</i> Land because all control is still under indigenous institutions (KAN). Even <i>de jure</i>, these lands have been redistributed to members of indigenous communities.</p>

A. Introduction

Agrarian reform (RA) in the narrow sense is defined as land redistribution with the aim of reducing inequality of land ownership and realizing community justice and welfare. Ideally, the RA policy program is a form of state siding with the weak, especially peasant and/or landless farmers (Alfons & Khasanah, 2021; Salim & Utami, 2019). The implementation of land redistribution is Government Regulation Number 224 of 1961 by distributing lands controlled by the state and has been affirmed to be the object of land reform, especially agricultural land (Alfaris, 2016; Asri Alvionita et al., 2018; Putra, 2019). Indonesia has been running the practice of land reform (currently known as Agrarian Reform/RA) since 1961 by distributing state land from various "models", both land controlled directly by the state, maximum surplus land, *absentee* land, and other state lands. Meanwhile, the redistribution of indigenous land, *Ulayat* Land, and other communal land has never been carried out in the initial period in the RA. Even today, the redistribution of *Ulayat* Land, as in this study, is very rarely implemented. In West Sumatra, the existence of *Ulayat* Land is still very dominant. The land redistribution model is not the same as other provinces due to the existence of *Ulayat* Land status factors (Warman & Andora, 2015). The difference is the process of determining the object and its subject, although technically and administratively it is not much different. This study confirms that the

land redistribution program in West Sumatra stipulates that Agrarian Reform Land (TORA) that is distributed to the community is sourced from *Ulayat* Land, not from the state land (Wulandari et al., 2020).

The basis or guideline for making *Ulayat* Land designated as TORA is the Decree of the Minister of Agriculture and Agrarian Number SK. 30/Ka/1962 regarding the affirmation of land to be distributed to the community in the context of implementing the RA. As referred to in Article 1 letter d of Government Regulation Number 224 of 1961, one of the objects of the RA was land directly controlled by the state which was then asserted by the minister. In this context, *Ulayat* Land is included in a scheme that can be used as a TORA by first releasing it to the state. *Ulayat* Land as an RA object in West Sumatra is very likely to happen because it dominates the existing land status. However, according to West Sumatra Regulation Number 16 of 2008 concerning *Ulayat* Land, not all *Ulayat* Land can be converted into state land. There are certain criteria that accommodate the interests of local indigenous peoples. However, there has not been expressly regulated related to the mechanism of utilization and ownership of *Ulayat* Land which is the object of TORA to then be redistributed to the community. Redistribution of land has consequences for the ownership status individually, even though the characteristics of land ownership are communal (Citrawan, 2021; Manaf, 2009; Nugraha et al., 2020).

Based on the Decree of the Head of the Regional Office of the National Land Agency of West Sumatra Province Number 01/Png/13/2016, a redistribution of $\pm 1,500$ Ha of *Ulayat* Land has been carried out to the Domo Tribe, in Nagari Timpeh, Dharmasraya Regency, West Sumatra. Historically, *Ulayat* Land is an indigenous forest area belonging to the Domo Tribe that has not been managed, only utilized for its wood for daily needs. Meanwhile, traditionally, the status of the land is part of the existence of the customary law community. The existence of the customary law community which then gave birth to *Ulayat* Land and was used by its group for generations as a shared property of the community. This means that the land plot has *Ulayat* rights of the people who inhabit them (Sembiring, 2018). This land is then intended to be fully distributed to the community. However, redistribution will be given individually, instead of communally, due to redistribution carried out before the issuance of Presidential Regulation Number 86 of 2018. The granting is individual, even though the status of *Ulayat* Land to be contributed is communal. They are contradictory. Uniquely, this policy was born at the request of the community. One of the reasons is that conflicts arise with other parties.

Ideally, the existence of *Ulayat* Land has a purpose for the welfare of the tribe. Therefore, tribal interests are a priority. In historical records, the community who still have established systems and structures and have full sovereignty over their territories also have full authority to regulate and organize and manage relations among their citizens (Sembiring, 2018), especially regulating legal relations and land plot management. Therefore, the idea of redistribution of *Ulayat* Land belonging to the tribe will have the consequence of shifting the meaning of the management. On the other hand, the majority of communities do not want land given individually (redistribution) with the aim of maintaining their communal ties. This is actually contrary to the principles of customary ownership that developed in the local community. Based on the experience in many areas, the strengthening of individualization of *Ulayat* Lands has the potential to lose these lands (Platteau, 1996; Sirait, 2017).

In the context of *Ulayat* Land designated as TORA, this study would like to further question why the *Ulayat* Land is made the object of TORA and how the process and mechanism of the land is released to the state and then redistributed to members of its community. The main problem will be explained in more detail starting with exploring the types of *Ulayat* Land in West Sumatra. What types

of *Ulayat* Land can be released as state land and which cannot be released as stipulated in the West Sumatra Regional Regulation Number 16 of 2008 concerning *Ulayat* Land. Furthermore, the subject of redistribution is the Domo Tribe as one of the tribes that inhabit Nagari Timpeh. They are led by a tribal chief, and are members of the institutional structure of KAN Nagari Timpeh.

The authors need to examine how far the results of research on redistribution of *Ulayat* Land have been carried out by researchers. Based on the findings of the literature, there is still few research regarding the redistribution of *Ulayat* Land because it is not a "core business" of land redistribution conducted by the Ministry of ATR/BPN. From several studies, including Syaferli (2016) which explains that the release of *Ulayat* Land into state land must be with a release letter approved by the KAN especially for *Ulayat Nagari* Land and the approval of the Ruler of the tribe for Ulayat Tribe Land. Meanwhile Dwijananti (2020) sees great potential in land redistribution in Senama Nenek Village, Riau whose TORA objects come from *Ulayat* Land, although the customary system in Senama Nenek is significantly different from Nagari Timpeh. This study has similarities, but the object and subject as well as the process of selecting the recipient subject are different. Another similar study was conducted by Wardhana in Papua. However, customary land ownership in Papua is more often interpreted as state land, so that the treatment of indigenous peoples' land is different (Wardhana, 2020). In terms of policy, several other studies on land redistribution are quite much examined with the model of granting rights individually (Alfons & Khasanah, 2021, Dempo et al., 2021; Kurniawati et al., 2019; Ramdani, 2020). Meanwhile, redistribution with non-individual ownership has not become a model of state policy, only after the issuance of Presidential Decree Number 86 of 2018, land redistribution with joint ownership is carried out in several places. In the presidential decree, land redistribution has been regulated with shared ownership, not communally, because both contain different concepts of ownership (Warman, 2017).

Studies related to the redistribution of *Ulayat* Land in Nagari Timpeh, West Sumatra are still an interesting and a new issue. Because in addition to the object, the problems and policies proposed by the indigenous peoples have various considerations. The policy choice is made after considering various things, including the advantages and disadvantages. This is also the cause in making the decision to release *Ulayat* Land has involved all members of the Domo Tribe by being facilitated by KAN.

B. Research Methods

This research used qualitative methods with descriptive and historical analysis (Darmalaksana, 2020; Fadli, 2021). Data collection was carried out by field observations, interviews with related parties, and document studies concerning the determination of the location of TORA in Nagari Timpeh and the BPN Regional Office to understand the flow of the determination of *Ulayat* Land rights to become TORA. The interviews were conducted with several parties, including Head of Land Management Division of West Sumatra BPN Regional Office, Head of Land Reform and Land Consolidation Section, Head of Land Management Section, Head of Land Legal Relations Section, Dharmasraya Regency Land Office, Head of the Nagari Timpeh Customary Density, and *Niniak Mamak* of the Nagari Timpeh which is *Niniak Mamak* of Domo Tribe. The data obtained in the field were then analyzed (Creswell, 2016) to understand the problem of why *Ulayat* Land is the object of TORA and why they release it to the state to then be distributed to the community.

This study was conducted in Timpeh District, Dharmasraya Regency, the location of the TORA object from the land of the Domo Tribe, West Sumatra. The following is an image of the research location which is the object of land redistribution in Nagari Timpeh.

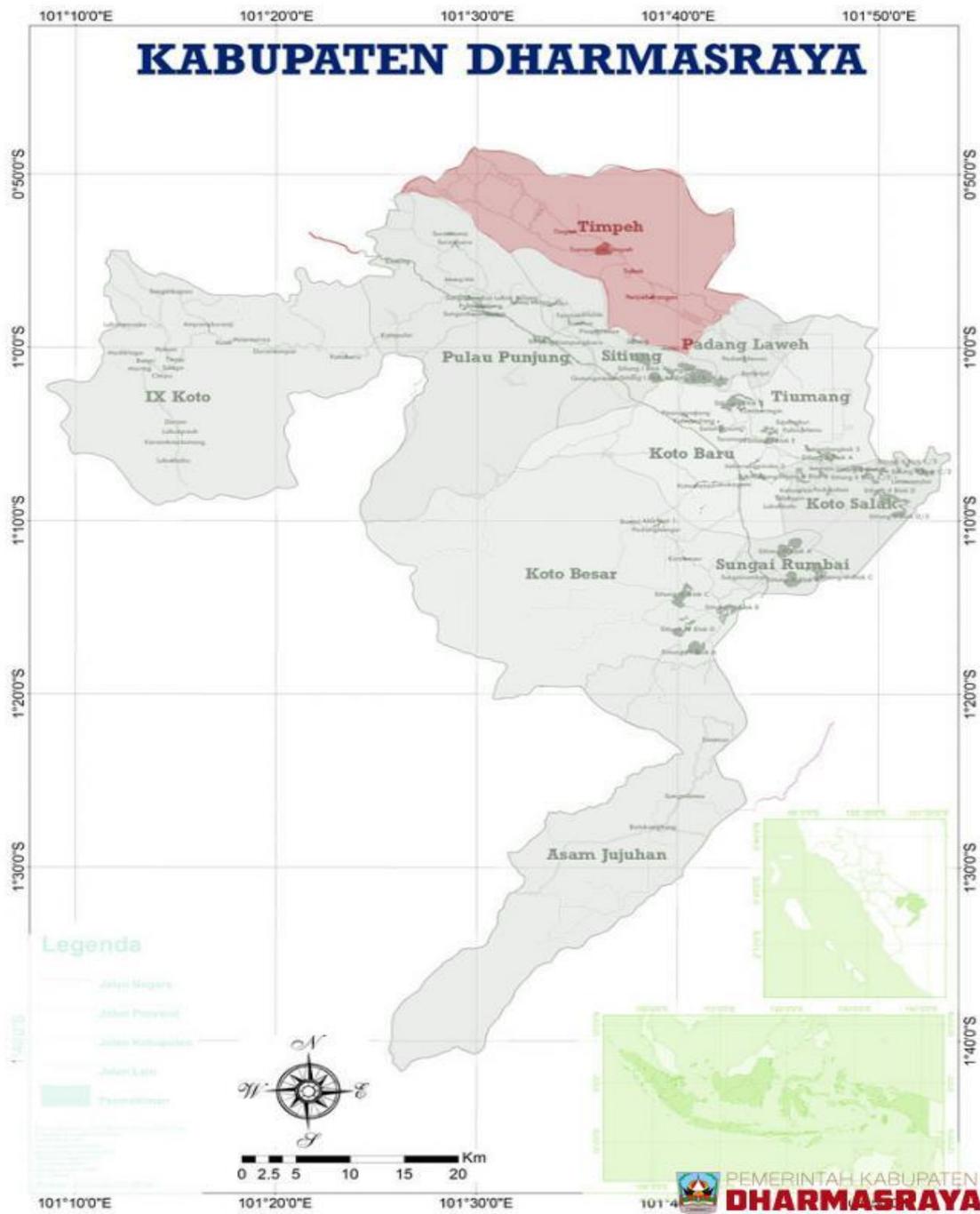


Figure 1. Research Location, Timpeh District, Dharmasraya Regency
 Source: www.dharmasrayakab.go.id

C. Agrarian Reform Policy with Objects of Ulayat Land

The Domo Tribe has an area of ±1,500 hectares in Nagari Timpeh which has the status of *Ulayat* Land. Before being redistributed, the land had not been managed by members of the Domo community. Based on the decision of the KAN deliberation, the rights to the land were registered with the Dharmasraya Regency Land Office through land redistribution activities. The decision to register the *Ulayat* Land rights aims to obtain legal certainty and avoid greater conflict because the land is located between the boundaries of West Sumatra Province and Riau Province. Another reason is the inequality of land ownership in the Nagari Timpeh community, and many members of the community need land for livelihood. According to *Niniak Mamak* of Nagari Timpeh, in addition to resolving the conflict, the purpose of distributing land to the Domo community is so that there will be no more

inequality and all members of the community can own land to support their survival. The need for land to develop agriculture is also the basis for the decision to approve the *Ulayat* Land redistribution policy.

1. *Ulayat* Land as TORA and its Existence in Nagari Timpeh

In West Sumatra, there is a concept of regional and community management that becomes a unit under the *Wali Nagari*. *Nagari* is a genetic and historical Customary Law Community Unit, has boundaries within a certain area (social-territorial), is the smallest unit of the West Sumatra regional government, and has its own assets (Nurdin, 2017). They have the authority to choose their leaders by deliberation and to regulate and manage *the interests* of the local community based on philosophy, *Basandi Syara*, *Syara Basandi Kitabullah*, and based on local origins and customs. *Nagari* is a settlement unit recognized by custom and has a territory along with its boundaries and has its own political structure and apparatus/employees (Utama, 2017). In addition, some of the equipment that must be fulfilled by a settlement to become a *Nagari* include the existence of traditional halls, mosques, and supported by rice field areas. *Nagari* is led by a *Wali Nagari*, and in carrying out his government, formerly the *Wali Nagari* was assisted by several *Wali jorong*, but now assisted by the *Nagari* secretary (*setnag*) and several civil servants whose number depends on the needs of the *nagari* government. *Wali Nagari* is elected by *Nagari* children (*Nagari* residents) democratically by direct election for a 6-year term and can then be re-elected for another term (Rika Valentina & Ekha Putera, 2013).

Wali Nagari as the system of government has regulated all the lives of its people, including agrarian issues, especially *Ulayat* Land. In West Sumatra, customary land ownership is the most dominant. Therefore, the administration (registration of land rights) is much more complicated than in other areas. This is because the system of land administration in Indonesia is better known as the administration of non-communal individual rights. Even though, over time, there are changes in indigenous peoples. *Ulayat* Land is also part of commodities and commonly in buying and selling involving third parties, especially tribal lands. This phenomenon caused the *Ulayat* Land to become a right for individuals (Wulandari et al., 2020).

The same thing happened in *Nagari* Timpeh, the majority of the land was controlled by indigenous peoples (tribal lands) and only a small amount of state land, except for forest areas. According to the Head of the land reform Section, Regional Office BPN West Sumatra, in Dharmasraya Regency it is very difficult to find land that has the status of state land. This is the consideration of why *Ulayat* Land is designated as TORA. Most of the land in Dharmasraya is *Ulayat* Land. This is because in the past, Dharmasraya was one of the areas that became the selection of the transmigration program, therefore the existing state land was used for this purpose. In 1980, around 4,000 ha of land in the former *Erpacht 191* in Timpeh Sub-District was utilized for the location of transmigration and the results of the program became a new administrative area at the village level in Timpeh Sub-District, namely *Nagari* Taratak Tinggi (interview results, 2021).

The practice of land redistribution carried out in *Nagari* Timpeh illustrates the lack of land with state land status, while the TORA designation requires extensive land. Therefore, the state land used for the TORA location is obtained from *Ulayat* Land on the agreement of indigenous peoples. The approval from *Niniak Mamak* is needed to release *Ulayat* Land into state land. During the land redistribution process, *Niniak Mamak* must make a statement about the release of their *Ulayat* rights. It is the only way that the land can be distributed to the community. After being released, a field

inspection was carried out to collect and obtain information from the *Wali* of *Nagari* Timpeh and customary holders in *Nagari* Timpeh. This review is in order to ensure the request of *Niniak Mamak* who wants the *Ulayat* Land to be used as TORA to be redistributed.

The head of the West Sumatra land reform section explained that the selection of *Ulayat* Land as TORA was carried out on the basis of the request of *Niniak Mamak*, Chief of the Domo Tribe. The Ministry of ATR/BPN did not force *Niniak Mamak* to hand over their land to be designated as TORA. The Ministry of ATR/BPN welcomes for helping the achievement of the redistribution program in that year (2016). In fact, in the same year, there was a free land management program (Prona). However, it had limitations, because it could only be done for *Ulayat Kaum* Land and the Prona quota given for Kabupten Dharmasraya was only 1,000 plots.

Based on *Niniak Mamak's* request, BPN Regional Office West Sumatra approved and coordinated with the *Nagari* Customary Density (KAN) Timpeh as an institution representing *Niniak Mamak* of the Domo Tribe. KAN is a Minangkabau customary institution at the *Nagari* level which serves as a guardian and preserver of Minangkabau customs and culture. In the customary structure, KAN's institutional members are "Tungku Tigo Jarangan". *Tungku Tigo Jarangan* is a representative of the *Nagari* future, consisting of scholars, intellectuals, and *Niniak Mamak* or tribal leaders in the *Nagari* (Aromatica et al., 2018; Budi Astuti & M. Kolopaking, 2009; Hidayat et al., 2017). Important decisions that will be taken are always discussed between the *Wali Nagari* and *Tungku Tigo Sajarangan* at the traditional hall through KAN. In Article 5 of the Regional Regulation of the Province of West Sumatra Number 7 of 2018, *Nagari* institutions consist of KAN, *Nagari* Government, and the *Nagari* Customary Court (Bukhari, 2021; Safitri et al., 2018). The institution of KAN is only occupied by *Niniak Mamak* in *Nagari*. Although there are several *Nagari* whose membership of KAN consists of representatives of *Tali Tigo Sapilin*, in general KAN is a *Niniak Mamak* institution within a *Nagari*.

According to Chairman of KAN Timpeh, H. Hasan Basri Dt. Rajo Mudo, at the same time acts as the Head of the Domo Tribe. There are three types of *Ulayat* Land in *Nagari* Timpeh based on its position and function:

1. *Ulayat Nagari* Land

The *Ulayat Nagari* land is allocated for the benefit of the community in the *Nagari*. In *Nagari* Timpeh, the *Ulayat Nagari* Land is designated for social and economic activities for the community, places of worship, markets, schools, and the *Wali Nagari's* Office as well as the *Nagari* Customary Density Office. Where all the rulers and regulators are managed by KAN.

2. *Ulayat Suku* Land

The *Ulayat Suku* land is designated for tribal members. In *Nagari* Timpeh there are 2 tribes, namely the Domo Tribe and the Piliang Tribe. Each tribe has a tribal chief. In its control and regulation, *Ulayat Suku* land is managed by the tribal head with the principle of deliberation and consensus in decision making. To find out the boundaries between one tribal land with another usually use natural boundaries such as rivers and hills. There is no definite mapped limit, due to limited funds and human resources owned by the *Nagari* Timpeh community. The use and utilization of the land for plantation and agricultural land.

3. *Ulayat Kaum* Land

Ulayat Kaum land is designated for community. Each member of the community is led by a *Mamak Kepala Waris*, and the provision and utilization are in the hands of the *Mamak Kepala Waris*. *Ulayat Kaum* Land is *Ganggam Bauntuak*, which has been designated according to the characteristics of each member of the community.

Based on the explanation of H. Hasan Basri Dt. Rajo Mudo states that from the three types of *Ulayat* Land, all the appropriations and benefits are managed by each at the level of *Nagari*, tribe, and community. *Ulayat Suku* Land in *Nagari* Timpeh is in fact still widespread in the form of indigenous forests, which have not been fully utilized for the function of the *Ulayat* Land (Interview, July 25, 2021). The following table is a brief overview of the process of releasing *Ulayat* Land to become state land.

Table 1. Types of *Ulayat* Land and How It Is Released to become State Land

No	Type of <i>Ulayat</i> Land	Release to become State Land (Statement Letter)
1.	<i>Ulayat Suku</i> Land	Released by the chief along with the tribal customary holders
2.	<i>Ulayat Kaum</i> Land	Released by <i>Mamak Kepala Waris</i> of the heir and his community
3.	<i>Ulayat Rajo</i> Land	Released by the eldest male heir to the <i>rajo</i>

Source: BPN West Sumatra Province Regional Office

2. Release and Determination of *Ulayat* Land of Domo Tribe as TORA

a. The Conflict of the Domo Tribe with the Ibul Village Community

According to Chairman KAN Timpeh, the beginning of the *Ulayat* Land conflict between the Malay Tribe and the Ibul Village community, Riau occurred two years before redistribution. The problem began on March 15, 2014. Several young people from the Domo Tribe took forest products (wood) in their *Ulayat* Land area, but were prevented by several people from Ibul Village Community, Kuantan Singingi Regency, Riau. Ibul village is bordered by the *Ulayat* Land of the Domo Tribe, Dharmasraya Regency, West Sumatra. In this incident, there was persecution against the Domo youth and they confiscated some tools to collect wood. The Ibul Village people said that the forest area that was entered by Domo Tribe youth was part of their village area. Therefore, the *Nagari* Timpeh community had no right to take anything from the forest.

Furthermore, the community of Ibul Village often prevent the people of *Nagari* Timpeh from taking forest products from the area, but usually only obstruction and expulsion, rarely persecution. The persecution caused the anger of the traditional leaders of the Domo Tribe. They were looking for ways to prevent conflicts like this from happening again and not to let the contested area fall into the hands of the community of Ibul Village. The customary advisor believes that the land in question is *ulayat* land belonging to the Domo Tribe. In several meetings, the customary holders looked for ways to prevent a bigger conflict from occurring because many people did not accept the mistreatment of their friends by the community of Ibul Village. The incident was later reported by the Niniak Mamak of the Domo Tribe to the Timpeh Sector Police and in the process 7 suspects were determined.

After the arrest, the police held mediation with both parties, which is between the *Nagari* Timpeh community and the Ibul Village community. The mediation was attended by traditional officials and village officials from both parties. In this case the Timpeh community was represented by *Niniak Mamak* of the Domo Tribe and *Wali* of *Nagari* Timpeh, and the Ibul Village community was represented by the Ibul Village Head village and their customary holder. This mediation resulted in peace between the two parties with an agreement that the people of Ibul Village would not take preventive action against the *Nagari* Timpeh community who wanted to take forest products in an area of ±1,500 hectares located on the border between the two villages (Interview with the KAN chairman, 25 June 2021).

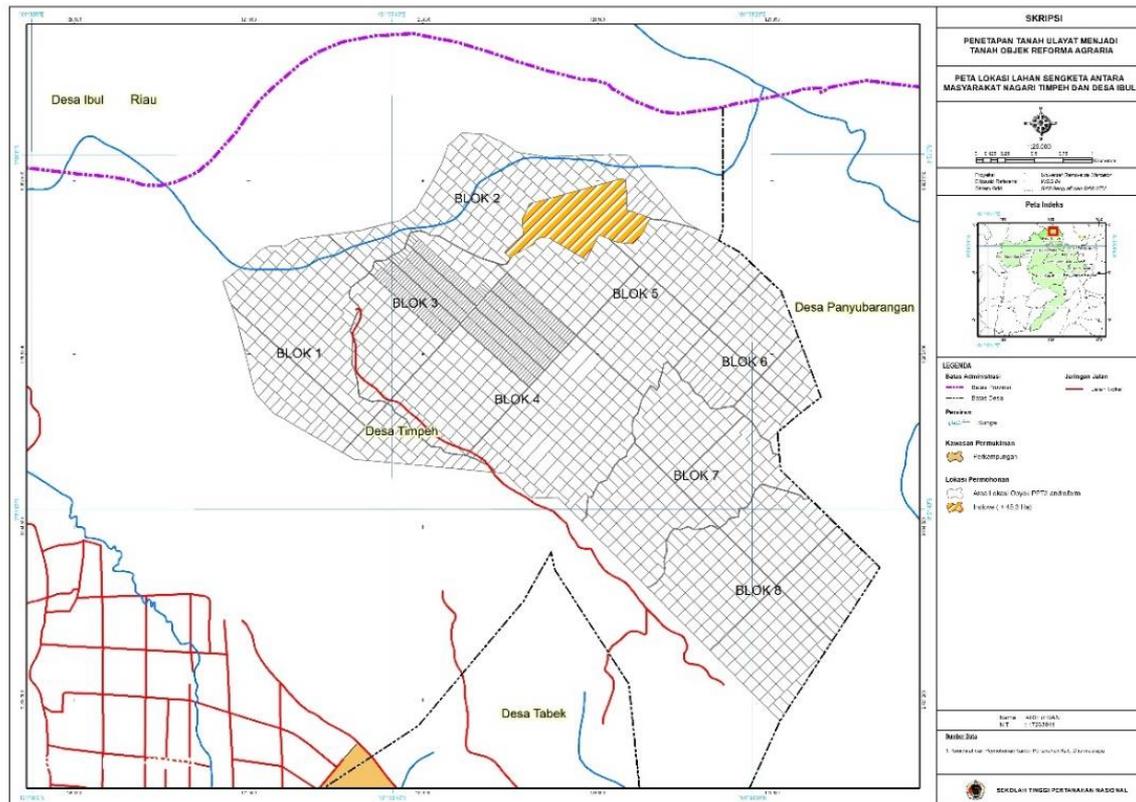


Figure 2. Map of TORA Land Based on Map of Administrative Boundaries
Source: Primary Data, 2021

b. The desire to develop Agricultural Land

The development of agricultural land is urgently needed because the Domo community lacks land for farming. Therefore, the only inheritance of their ancestors that exists and can be utilized is the *Ulayat* Land that belongs to them. So far, the use of the land is considered not optimal because the forest is only used for wood. Therefore, the land is planned to be maximized into oil palm plantation land. The condition and contours of the soil are considered suitable for palm oil cultivation. In addition, the increasing population of the Domo Tribe in *Nagari* is one of the factors of the desire to develop the land into agricultural and plantation land to be able to support the economy of the *Nagari* Timpeh community, especially the land owners, which is Domo Tribe (Interview with KAN, June 25, 2021).

c. Inequality of Socio-Economic Conditions

According to the KAN Chairman, there is an inequality of land ownership and land tenure between the indigenous people of *Nagari* Timpeh and immigrants who reside in *Nagari* Timpeh. This is due to the large number of people selling their land to immigrants, especially plantation land whose status is a land of *Ulayat* community because their land is *Ganggam Bauntuak*, which is the land of *Ulayat* community that has been assigned designation, use, and management to each member of community. This most often occurred in the period between 1990 and 2000. The consumptive behavior owned by some local people who sacrificed agricultural land to meet non-primary needs. It was realized that this condition had an effect on the socio-economic inequality of the indigenous Domo Tribe. Therefore, the proposed *Ulayat* Land was redistributed to the Domo Tribe to reduce inequality with the immigrant community (Interview with KAN, June 25, 2021). It is hoped that the

proposal to redistribute land by the Chief of the Domo Tribe over an area of \pm 1,500 hectares to raise the economic strata of his people, namely by providing land for plantations.

d. The Decision of *Niniak Mamak* of Domo Tribe of *Nagari* Timpeh

As one of the institutions dealing with customary land in *Nagari* Timpeh, the *Nagari* Customary Density has the responsibility to resolve *Ulayat* Land issues, including resolving issues related to *Ulayat* Land, both fellow members and non-members (Azra et al., 2017; Wahyuni et al., 2021). In the same case, KAN was also part of the process of resolving the land issue of the Domo Tribe with the community of Ibul Village, Riau. The chief of the Domo Tribe explained that *Niniak Mamak* and members of the *Nagari* Timpeh Customary Density held a meeting on December 29, 2014 to resolve the land dispute between the Domo community and the Ibul Village community. After the resolution of the conflict, *Niniak Mamak* argued that there must be legal certainty regarding the status of land located between the boundaries of West Sumatra Province and Riau Province. Traditionally, the area is included in the *Ulayat* Land of the Domo Tribe, West Sumatra, and not part of Riau Province. To solve this problem so that in the future the same problem does not arise, then a solution needs to be found, which is the certainty of the right to the land. The idea then continued with the plan to register the land, but that was not possible, because the *Ulayat* Land was very large. Finally, *Niniak Mamak* agreed to consult with the Land Office of Dharmasraya Regency to discuss the steps to be taken regarding the certainty of land rights for the Domo Tribe.

The idea of registering the land was then followed by consultation with the Dharmasraya Regency Land Office on January 9, 2015. The results of the consultation concluded that the Dharmasraya Regency Land Office suggested the *Ulayat* Land be registered for its rights through the Land Redistribution Program scheme. With redistribution, all land can be given to members of the Domo Tribe with subject rights determined by indigenous peoples. The agreement was then realized by the Ministry of ATR/BPN with the Land Redistribution program scheme in 2016 with one condition, *Niniak Mamak* as a representative of KAN must relinquish their customary land status to the state because the land redistribution program can be carried out if the land is state land.

After consultation with the Dharmasraya Regency Land Office, *Niniak Mamak* of the Domo Tribe conducted consensus deliberations to make a decision. By considering the pros and cons of releasing the status of *Ulayat* Land into state land, even if it is only temporary, it turns out to have legal consequences, which is that the land will be redistributed individually. This is a problem for *Niniak Mamak* because his customary ties are decreasing. In fact, land is considered effective for controlling its citizens because the customary system in the context of *Ulayat* Land applies communal rights, which are protected by law in terms of arrangements according to local customs (Warman & Andora, 2015; Yaqub et al., 2021).

In practice, the Domo traditional holders, KAN, and *Wali Nagari* did not immediately agree to the proposal from the Dharmasraya Regency Land Office, a deliberation must be carried out which was facilitated by KAN. They need several meetings to discuss the issue. The following is a description of the process and the decision of the Domo Tribe to release *Ulayat* Land into state land to be distributed to its members. The process of making the decision has been carried out three times in customary deliberations involving all state administrators, facilitated by KAN.

1) 1st Meeting

After the meeting with the Dharmasraya Regency Land Office, the customary deliberations were held to discuss the proposal of the Dharmasraya Regency Land Office to release *Ulayat* Land into state

land for redistribution. In fact, the land office has convinced the community. Only the administrative process will be carried out because redistribution requires state land, while the proposed land is *Ulayat* Land. At the first consultation in early February 2015, which was attended by customary stakeholders and the Timpeh sub-district head, it was agreed to release *Ulayat* Land. However, KAN gave consideration to the loss of customary rights attached to the land, so it is necessary to think about how to resolve this condition. KAN then proposed to provide requirements after the land was distributed to members of the tribe, a cooperative *Nagari* business unit must be formed that will manage the land resulting from the redistribution of each member of the Domo Tribe. The cooperative will be supervised and managed directly by the customary holders of the Domo Tribe. Thus, members of the clan cannot arbitrarily sell the land if later a certificate of land rights has been issued individually. At the meeting the community members agreed to follow the advice given by KAN, and at the end of the meeting, KAN decided to collect the names (subjects) of potential recipients of the land redistribution program and the participants must be members of the Domo Tribe. Finally, in the first meeting, all parties agreed to release *Ulayat* Land into state land to be redistributed to all members of the Domo community.

2) 2nd Meeting

The second deliberation was the collection of a list of names of prospective recipients of the land redistribution program to be held in *Nagari* Timpeh. In the deliberation, it was proposed that the number of recipients of the program is 400 families who come from the tribe, with an estimated number of plots of around 1,500 plots on an area of 1,500 hectares. The *Niniak Mamak* Party conducts research on the subjects of prospective recipients and checks the list of participants' names. It is agreed that all recipients must be from the Domo Tribe, while other tribes are not allowed to obtain rights to the land. This is to avoid internal conflicts in the Domo Tribe. In these deliberations, other members of the tribe community also proposed that after the measurement not all land should be used as agricultural land. 100 hectares should be left for residential areas, given the growing number of members of the community. In the future, if the population density of *Nagari* Timpeh grows, a new land is prepared that is ready to be used as a village for members of the tribe.

3) 3rd Meeting

The last deliberation meeting, *Niniak Mamak* of Domo Tribe began to prepare a document on the release of *Ulayat* rights to become state land. Previously on December 7, 2015, representatives of *Niniak Mamak* of the Domo Tribe with section Chief of land reform of the Dharmasraya Land Office conducted a discussion to the Regional Office of the National Land Agency of West Sumatra Province. The meeting with the Head of the Land Regulation and Arrangement Division with the Head of the land reform Section of the BPN Regional Office of West Sumatra Province discussed the documents and administrative requirements that *Niniak Mamak* had to prepare. The agreement was then obtained which required *Niniak Mamak* to make a statement letter containing the release of *Ulayat* rights they had to be handed over and released into state land as stipulated in Article 1 point 4 of Government Regulation Number 224 of 1961. The statement letter must be known by the chairman of KAN and customary holders from the Domo *Nagari* Timpeh tribe. During this meeting, KAN sat down with the traditional leaders of the Domo Tribe: Tribal chief, *Monti Suku*, *Dubalang Suku*, *Malin*, *Bundo Kandung*, and *Cadiak Pandai*.

The meeting resulted in a decision with the issuance of a statement on February 15, 2016 containing the relinquishment of customary rights signed by the Head of the *Nagari* Customary

Density, Domo Tribal leaders, *Wali Nagari* of Timpeh, and the Subdistrict head of Timpeh. With the signing of the statement letter, legally and by customary law the 1,600 hectares of land is no longer customary property rights. The following figure is a Letter of release of *Ulayat* Land owned by the Domo Tribe in the form of an statement as follows:

**SURAT PERNYATAAN
PELEPASAN TANAH ULAYAT / NINIK MAMAK SUKU MELAYU DOMO TIMPEH**

Pada hari ini Senin tanggal Lima belas Febuari tahun dua ribu enam belas, yang betanda tangan di bawah ini Ninik Mamak Suku Melayu Domo Timpeh :

NO	NAMA	JABATAN DALAM SUKU	TANDA TANGAN
1.	H.Hasan Basri Dt.Rajo Mudo	Penghulu SUKU	1
2.	Suhalmi	Monti Suku	2
3.	Tarmidi	Dubalang Suku	3
4.	Edi	Malin	4
5.	Ramalta	Bundo Kandung	5.
6.	Fahmi	Cadiak Pandai	6

Kami selaku Penghulu suku Melayu Domo Timpeh beserta kaum tersebut diatas untuk pengurusan Sertifikat Redistribusi Nagari Timpeh yang dalam surat ini bertindak untuk dan atas nama Kaum Suku Melayo Domo Timpeh, melepaskan tanah ulayat Suku dan segala kepentingan atas tanah tersebut kepada Negara seluas 1.500 Ha,. Untuk selanjutnya memberikan kesempatan kepada para petani Penggarap untuk mendapatkan Hak Milik atas tanah tersebut dengan ini kami lampirkan nama – nama pemohon.

Diketahui oleh :



Mengetahui Oleh :



Figure 2. Statement Letter of Release of Domo Tribal Land, Timpeh
Source: BPN West Sumatra Province Regional Office

Figure 3 is a map image (thick black box) that is the object of the location of *Ulayat* Land released by the community and will soon be redistributed to the Domo Tribe. The image clearly shows the boundary between West Sumatra and Riau (top). The previous claim submitted by the Ibul Village community is unfounded because the *Ulayat* Land of the Domo Tribe is clearly within the territory of West Sumatra Province.

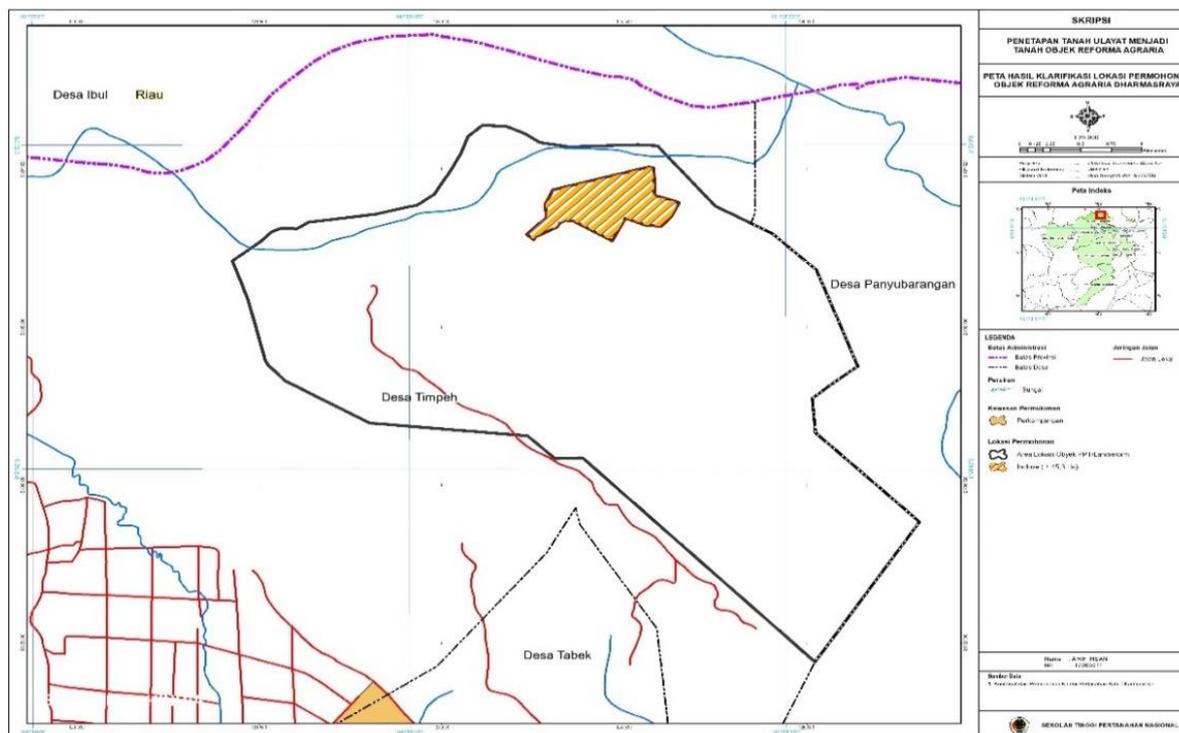


Figure 3. Figure Situation Map and Location Indication
Source: BPN West Sumatra Province Regional Office

3. The release of the Domo Tribal Land to become State Land

The initial stages and process of releasing customary land have been completed and proceed to the next stage. The stage is to complete the document as an administrative requirement in accordance with the applicable provisions, namely: Several documents needed to carry out land redistribution are: (1) Minutes of Field Research; (2) Letter of Head of Land Office of Dharmasraya Regency; (3) Land of History; (4) Minutes of the Land Consideration Committee; (5) Certificate outside the forest area; (6) Map of the circumference of the land; (7) Situation Map and Location Instructions; (8) Land Use Map; (9) List of Cultivator Farmers; (10) Land Office Data Processing Minutes; (11) Statement of release of control of Customary Property Rights Land; (12) Letter of the Head of Land Office on The Proposal of State Land Becomes the object of Land reform.¹

¹ The full data is as follows: (1) *Berita Acara Peneliti Lapang Tanggal 5 Mei 2016*; (2) *Surat Kepala Kantor Pertanahan Kabupaten Dharmasraya No. 570/13.10.400/V/BPN-2016 Tanggal 12 Mei 2016 hal Usulan Tanah Negara Menjadi Land reform*; (3) *Riwayat Tanah No. 527.3/13.10.40/V/BPN-216 Tanggal 9 Mei 2016*; (4) *Berita Acara Panitia Pertimbangan Land reform No. 130/04/Pem-2016 Tanggal 25 April 2016*; (5) *Surat Keterangan di luar kawasan hutan dari Dinas Kehutanan Kabupaten Dharmasraya No. 522.3/327/Hutbun-Intag/IV/2016 Tanggal 19 April 2016*; (6) *Peta Keliling No. 01/06.13.200/SPP/IV/2016 Tanggal 1 April 2016*; (7) *Peta Situasi dan Petunjuk Lokasi Tanggal 22 April 2016*; (8) *Peta Penggunaan Tanah Tanggal 22 April 2016*; (9) *Daftar Petani Penggarap Tanggal 21 April 2016*; (10) *Risalah Pengolahan Data Kantor Pertanahan Kabupaten Dharmasraya Tanggal 11 Mei 2016*; (11) *Surat Pernyataan pelepasan penguasaan Tanah Hak Milik Adat Tanggal 15 Februari 2016*; (12) *Surat Kepala Kantor Pertanahan Kabupaten Dharmasraya No. 570/13.10.400/V/BPN-2016 Tanggal 12 Mei 2016 hal Usulan Tanah Negara Menjadi Land reform*.

All of the document requirements explain that the status of land that is designated as the object of the RA is still land originating from customary land. This proves all the requirements for submitting land redistribution activities in a complete administrative manner. The BPN Regional Office of West Sumatra Province received a letter of release from KAN Timpeh, then administrative redistribution activities had legal provisions in accordance with Government Regulation Number 224 of 1961. According to the Head of the Land Legal Relations section of Kantah, Dharmasraya Regency, the determination of the rights to be granted in this redistribution activity is property rights, and individual rights. According to national law, there are no more customary rights in the land that is the object of land redistribution. Moreover, all members of the Domo Tribe will get their respective rights according to the results of the meeting of the Tribe Leaders with the tribe members. After releasing the *Ulayat* Land into state land, there are no communal rights attached to the land over the community. According to the technical instructions for the implementation of land redistribution, this land is treated the same as any other state land, and every member of the tribe legally has private ownership rights to the land resulting from the redistribution (Interview, 26 July 2021). However, if it is based on the guidelines of Government Regulation 224 of 1961 on the subject of recipients, it can cause other problems because some recipient subjects of redistribution are not necessarily in accordance with the regulations. This has never been discussed further by the local BPN due to the fact that land redistribution can be questioned, especially regarding the subject of the recipient. Do all recipients meet the requirements as stipulated in the PP above, especially Article 8? A crucial question that needs to be proven in the research of the local Land reform Consideration Committee.

One of the weaknesses of the existing legal system is the unavailability of shared ownership for land resulting from redistribution, especially related to *Ulayat* Land. The redistribution of *Ulayat* Land has its own characteristics because the previous status of the land was communal land. So that when the government intervened to solve the problem, the land was deprived of its communal rights and turned into individual rights (Astuti & McGregor, 2017; Poro et al., 2021; Sirait, 2017). In fact, if it is reflected, it is impossible to find an agreement in the meeting of the community to hand over land to the state because there are concerns that they can no longer control the land. Land is considered to be quite effective if the ownership is still in communal form. However, if it is already a property right, it is much easier for the owner to release it to a third party. Even though in the agreement established by the decision of the customary deliberation, the recipient of the redistribution cannot simply transfer/sell the land. In fact, based on the experience of other tribes, it is very easy to transfer land to another party through buying and selling.

In fact, in such situations, policy alternatives are still possible if the application of the law can be more responsive. Sitorus (2016) proposed that in the case of the indigenous people of Maluku, the customary land registration system which still has strong communal ownership, only needs to register without giving individual rights certificates. Meanwhile, for land that has been owned or individualized prior to the registration process, it can be given individually for its rights including the certificate. This is based on the statement. In fact, redistribution can be given to the community with the proposed scheme. But this is different in the field because to carry out this requires a breakthrough and the courage of the Ministry of ATR/BPN to take this policy. Perhaps the main consideration is the issue of the subject of rights because KAN cannot be the subject of rights. This is different from the Balinese traditional community and the Druwe desa, where the customary institution (Pakraman Village) has a legal basis as the subject of rights (Sastrawan et al., 2018). In this context, a legal breakthrough is actually needed. As Simarmata (2018) reminded, the main problem is applying the law for customary land which is difficult to define in each region. Each community are unique and different, so it is relatively difficult for the state to make a policy that is generally accepted. However, he emphasized

that it was necessary to implement a law that was responsive to these issues so that the protection of the community/small farmers, indigenous peoples, and their ulayat lands could be realized (Rineksi, 2022).

Furthermore, regarding the protection of indigenous peoples and common (non-communal) rights, Articles 1, 9 12, and 14 of Presidential Regulation Number 86 of 2018 concerning Agrarian Reform, opens the space that redistribution with a collective ownership scheme can be granted, even though the derivative regulation of the presidential regulation does not yet exist, but the legal basis is secured (Salim, 2020; Salim & Utami, 2019). Unfortunately, the redistribution in *Nagari* Timpeh took place before the issuance of the presidential regulation. Consequently, after the redistribution, there are still concerns that these lands will be transferred to other parties as is the case in other areas such as Cilacap (Setiaji & Saleh, 2014). The land certificates resulting from redistribution are given in the name of the individual and then easily transferred to third parties. Anticipating these conditions requires a responsive policy and legal breakthrough, so that the interests of all parties are protected.

D. Conclusion

Agrarian reform is a manifestation of the presence of the state in regulating land ownership and land tenure in Indonesia. The many inequalities in land ownership and land tenure that occur in all regions make RA very necessary to reduce this inequality, one of the programs in RA is Land Redistribution. The appointment of *Ulayat* Land as TORA in *Nagari* Timpeh, Dharmasraya Regency is due to several internal and external factors that occur in the Domo community, Timpeh. Some of these factors are related to land disputes between the Domo Tribe and Ibul Village community, Kuantan Singingi Regency, Riau. In addition, the inequality of land ownership between immigrants and indigenous people is a consideration. *Niniak Mamak* proposes that *Ulayat* Land be distributed to members of their communities, so that their agricultural and plantation land can sustain their economic life. Unfortunately, the redistribution of land to the community is given individually. This raises the concern of all members of the indigenous community about the loss of the land due to buying and selling to third parties. However, the policy of distributing the land to members of the Domo community is considered important and appropriate. The community will learn to be responsible and independent in managing the land and fully realize that the sustainability of its economic livelihood depends on the existence of land ownership. By maintaining the land in its management, it will further improve the welfare of his family life while maintaining the communal bonds of his customary society that still exists as an Indonesian local wealth.

This study still has many shortcomings because the findings highlighted in this study are still very limited. In the future, there are many things that can still be done in-depth studies related to the post-redistribution of land to the Domo Tribe. The concerns about land transfer after redistribution must be proven by conducting in-depth studies and surveys, as well as *Niniak Mamak's* hopes of redistribution to improve the economy and welfare of the Domo Tribe. The extent to which redistribution has an impact on land recipients, or does not have a serious impact on the economy of local indigenous people. It is possible to conduct studies related to overlapping laws in regulating the subject of rights to land redistribution, especially between Government Regulation Number 224 of 1961 and Presidential Regulation Number 86 of 2018. The crucial question arises, who is actually entitled to receive land redistribution? A legal product and another legal product is different. This challenge is an important note for further studies because it is not regulated adequately, especially regarding the redistribution of customary land which has the basic nature of being a communal right and then turned into an individual right.

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