

## AUTHORITY OF SOCIETY ASSOCIATIONS (CHAIRMAN OF TRIBE) AS THE RIGHT HOLDER THE LAND OF THE TRIBE IN WEST KUPANG DISTRICT, KUPANG REGENCY

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### ABSTRACT

*In their mind according to customary law, members of the customary law community have a legal relationship with the territorial land and its contents; This relationship is technically known as *beschikking recht* or *ulayat rights*. The authority to regulate its use by the customary law community is devolved to the customary leaders. Analogous to this, in the concept of the right to control by the State, the State obtains the authority to control land granted by all the people (nation) with the aim of protecting and maintaining the interests of the community. Thus, customary rights indicate a legal relationship between the legal community and their land. According to Maria S.W. Sumardjono, is a relationship of control, not a relationship of ownership as is the case in the relationship between the state and land according to Article 33 paragraph (3) of the 1945 Constitution. The right to control inherent in customary law communities over *ulayat land* (tribal land) contains the authority to: 1). Regulate and carry out land use (for settlement, farming, etc.) and land maintenance, 2). Regulate and determine the legal relationship between people and land (giving certain rights to certain subjects) and 3). Regulate and determine legal relationships between people and legal actions relating to land such as: buying and selling, inheritance and others. This is interesting to discuss further regarding the authority of the Indigenous Law Community Association (Tribe Chief) as the Right to Control Tribe Land in West Kupang District, Kupang Regency.*

*Keywords:* authority, tribal chief, right to control, tribal land

### INTRODUCTION

Before the colonial era, all land was customary land. Its breadth covers the entire archipelago. Land is a common property that is used collectively and communally by respective ethnic groups and tribes.

During the reign of the Dutch East Indies, state land was also known as well as customary land. The existence of customary land (tribal land and individual land) at that time did not receive legal protection from the colonial government. At that time the Dutch East Indies Government implemented the Dutch East Indies Government Administration Land Law as outlined in the *Agrarische Wet* with its implementing regulations through *Agrarische Besluit*. In this last provision, the principle of State property rights known as the *Verklaring Domein* is treated. This principle is stated in Article 1 *Agrarische Besluit* which stipulates that all land which other parties cannot prove to be their eigendom rights, is the domain (property) of the State<sup>1</sup>.

Implicitly, this principle still provides an opportunity for individuals to have ownership rights over land, but with a tough condition, namely that it must be proven legally. This could not have happened because the agrarian law applicable to indigenous people at that time was customary law which did not rely on written evidence as proof of ownership of land rights. Moreover, at that time, the land registration carried out by the Dutch East Indies government which aimed to guarantee legal certainty was western land rights (*eigendom, erfpaat, opstal* etc.), while customary land was registered only for tax determination (*landrente*), not for legal certainty, over land as well as western rights. The *Domein* principle as described above is deemed as not respecting, even "raping" the people's rights to land which are based on customary law.

According to Imam Sudiyat, the existence of this provision means that the land on which there is property rights to the land of the sons (so not eigendom) is also *domein* lands, called *Onvrij lands domein*, state-owned with burdens, state-owned not free. On the other hand, there are *vrij lands domein*, belonging to a free state, which means that on the land other people do not have eigendom rights, according to BW, agrarian eigendom rights according to Article 517 IS, or land ownership rights according to customary law<sup>2</sup>.

In their mind according to customary law, members of the customary law community have a legal relationship with the territorial land and its contents; This relationship is technically known as *beschikkingrecht* or *ulayat rights*. The authority to regulate its use by the customary law community is devolved to the customary leaders. Analogous to this, in the concept of the right to control by the State, the State obtains the authority to control land granted by all the people (nation) with the aim of protecting and maintaining the interests of the community.

In East Nusa Tenggara, the term *ulayat rights* is not known, but terms such as *Kabisu land* in Sumba, *Wungu land* in East Flores, *Lingko land* in Manggarai, *Leo land* in Rote, *Kanaf land* in Dawan part of Timor, *Fukun land* in Tetun part of Timor, *Udu* in Sabu, *Bapang* in Alor, and *Ngeng Ngerang* in Sikka have the same meaning and content as customary land. However, the popular term is *tribal land* (*ulayat rights*).

<sup>1</sup> Harsono Boedi, 2003, Indonesian Agrarian Law, History of the Establishment of the LoGA, Contents and its implementation, Jakarta, Djambatan, p. 42

<sup>2</sup> Imam Sudiyat, 1981, Customary Law, Yogyakarta, Publisher Liberty, Cet 2, p. 21

## PROBLEM STATEMENT

The problems discussed in this paper are; The existence of customary law communities and the authority of the chiefs as holders of control over tribal land. Meanwhile, the purpose of this study is to determine the existence of customary law communities and the authority of the chiefs as holders of rights to control over tribal lands. The method used in this study is sociological juridical using descriptive qualitative analysis using respondents as sources in this study. Types and sources of data used in this research consist of primary data obtained directly from sources in the field through research and secondary data consisting of primary legal materials, namely related laws and regulations, secondary legal materials, namely books, tertiary papers and research results and legal materials are the Big Indonesian Dictionary and online information.

## THEORETICAL PERSPECTIVE

### Concept of Authority

Conceptually, the term authority or authority is often equated with the Dutch term "*bevoegdheid*" (which means authority or power).

Authority is a very important part of Governance Law (Administrative Law), because the new government can carry out its duties on the basis of the authority it gets. The legitimacy of government actions is measured based on the authorities regulated in the legislation. Regarding authority, it can be seen from the State Constitution which gives legitimacy to Public Bodies and State Institutions in carrying out their duties. Authority is the ability to act provided by the applicable law to conduct legal relationships and acts<sup>3</sup>.

Hassan Shadhily translates authority as the right or power to give orders or act to influence the actions of others, so that something is done as desired<sup>4</sup>. Hassan Shadhily further clarified the translation of authority by providing an understanding of "delegation of authority". Delegation of authority is the process of transferring authority from a leader (manager) to his subordinates (subordinates) which is accompanied by the emergence of responsibility for carrying out certain tasks<sup>5</sup>. The process of delegation of authority is carried out through the following steps:

1. Determine the subordinate's duties
2. Transfer of authority itself
3. The emergence of an obligation to perform a predetermined task.

An explanation of the concept of authority can also be seen through an analysis of the source of authority and the concept of justifying the acts of government power. The theory of sources of authority includes attribution, delegation, and mandate<sup>6</sup>.

Furthermore, H.D. van Wijk / Willem Konijnenbelt formulate and distinguish the following types of authority:

- a. Attribution / *Attributie*: *toekening van een bestuursbevoegdheid door een weigever aan een bestuursorgaan*;
- b. Delegation / *Delegatie*: *overdracht van een bevoegdheid van het ene bestuursorgaan aan een ander*;
- c. Mandate / *Mandate*: *een bestuursorgaan laat zijn bevoegdheid namens hem uitoefenen door een ander*<sup>7</sup>.

Philipus M. Hadjon said that:

"Every government action is required to be based on legitimate authority. This authority is obtained through three sources, namely attribution, delegation and mandate. The authority of attribution is usually defined by the division of state power by the constitution, while the authority of delegation and mandate is the authority that comes from "delegation"<sup>8</sup>.

The authority of the government (BPN) to register land rights in order to guarantee legal certainty is an authority obtained by means of attribution which is normatively regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997 concerning Land Registration and Presidential Regulation Number 10 of 2006 concerning the National Land Agency.

The concept of authority described above can be concluded that the ability to act is given by the applicable law to carry out legal relations and actions in the form of attribution, delegation and mandate.

### Customary Rights and Authority of Customary Law Communities

Ulayat rights (tribal land) is the name given by legal experts and the concrete legal relationship between customary law communities and land within their territory is called ulayat land<sup>9</sup>.

The definition of ulayat (tribal land) is not officially found in the UUPA. In article 3 and its explanation it is only stated that what is meant by the term ulayat rights and similar rights is what in the literature of customary law is called *beschikkingrecht*.

Sudikno Mertokusumo defines the right to control (meaning ulayat rights) as the right of the village to within the boundaries of the territory control the land according to his will, for the benefit of village members or for the benefit of people outside the village with compensation payments<sup>10</sup>.

<sup>3</sup> SF. Marbun, 1997, *State Administrative Courts and Administrative Efforts in Indonesia*, Yogyakarta, Liberty, p. 154.

<sup>4</sup> Dictionary Compilation Team-Center for Language Development and Development, 1989, *Big Indonesian Dictionary*, Jakarta, Balai Pustaka, p. 1170

<sup>5</sup> Ibid, p. 172

<sup>6</sup> Ibid.

<sup>7</sup> H.D. van Wijk/ Willem Konijnenbelt, 1988, *Hoofdstukken van Administratief Recht, Culemborg*, Uitgeverij LEMMA BV, p. 56.

<sup>8</sup> Philipus M. Hadjon, 1994, *Normative Functions of Administrative Law in Achieving Clean Government*, Speech for acceptance of the position of Professor in Law at the Faculty of Law, Airlangga University, Surabaya, p. 7

<sup>9</sup> Harsono, B, 1994, *Indonesian Agrarian Law, History of the Formation of the Basic Agrarian Law, Content and Implementation*, volume I. National Land. Jakarta, Dj Jembatan p. 215.

<sup>10</sup> Mertokusumo, S. 1987, *Agrarian Laws*. Second edition, first printing. Yogyakarta, Liberty. p. 11

Furthermore, Iman Sudiyat, who refers to ulayat rights as ancient rights as Djojodigoeno, states that what is meant by ancient rights are: rights that belong to a tribe (clan / gens / stam), a village union (*dorpenbond*) or usually by a village alone to control the entire land in its territory<sup>11</sup>.

From the description above, it is known that the subject of ulayat rights is customary law communities, either single or regional association, but it is not an individual right and is also the right of a family<sup>12</sup>. The legal community is an organized group that is permanent, has its own power and its own wealth in the form of visible and invisible objects<sup>13</sup>. Thus, customary rights indicate a legal relationship between the legal community and their territorial land. According to Maria S.W. Sumardjono, is a control relationship, not a property relationship as in the concept of the relationship between the state and land according to Article 33 paragraph (3) of the 1945 Constitution. The right to control inherent in customary law communities over ulayat (tribal land) contains the authority to:

1. Regulating and implementing land use (for settlement, farming, etc.) and land maintenance.
2. Regulate and determine the legal relationship between people and land (giving certain rights to certain subjects).
3. Regulate and determine legal relationships between people and legal actions relating to land such as: buying and selling, inheritance and others<sup>14</sup>.

Furthermore Cornelis Van Vollenhoven mentioned 6 signs of customary rights, namely:

1. The legal community concerned and its members can freely use the illegal land contained in its territory, such as clearing land, establishing settlements.
2. People outside the legal community may only use the land with an issue from the legal community, without permission is considered an offense.
3. Recognition is also imposed on the land for the legal community concerned, but recognition from outside the legal community is always charged.
4. Indigenous and tribal peoples are responsible for certain crimes that occur in areas where the perpetrators cannot be prosecuted or known.
5. Customary law communities may not transfer customary rights permanently.
6. Indigenous and tribal peoples still have the authority to interfere with the land that has been cultivated<sup>15</sup>.

Based on the explanation above, it can be concluded that a community can be said to be a customary law community must meet the requirements, namely; the existence of a customary law community, the existence of land and the authority of the customary law community.

## ANALYSIS AND DISCUSSION

### 1. The existence of the Indigenous Law Community Association

The number of villages in West Kupang District is 12 villages. Kuanheum Village is one of the villages that is still strong and has strong customary rights, while the other 11 villages have started to fade away and almost no ulayat rights have been found because they have become property rights or land ownership controlled by individuals which is marked with proof of ownership in the form of a certificate.

The area of Kuanheum Village is 2,146 Ha or 21.46 Km<sup>2</sup>, none of which is used for agricultural business in the field of rice fields. This is because the village of Kuanheum is a stretch of dry land and rocks. Therefore, most of the 1,194 ha or 11, 94 km<sup>2</sup> are used for agricultural business in the form of fields and gardens.

Initially there were two tribes (Naibilik and Naikofa) which first controlled the Kuanheum area and the remaining tribes were the branches or sub-tribes of the previous two tribes. Until now, the number of customary law community alliances in Kuanheum Village is 12 tribes with an area of 21.46 km<sup>2</sup> or 14.33%. With the Chairman of the Customary Institution named Albertus Lanus from the Nai Bila Tribe.

Table 1. Tribes and Chieftains in Kuanheum Village

No	Tribal Name	Tribal Chief ( <i>pah tuaf</i> )
1	Naimeto	Zet Sinu
2	Naikofa	Marten Kofan
3	Nai Mau	Stefanus Poli
4	Nai Nusa	Julianus Neskoda
5	Nai Bila	Albertus Lanus
6	Nai Laka	Ibrahim Neslaka
7	Saketo	Marten Nomate
8	Nai Fau	Habel Meto
9	Nai Tano	Nikanol Tano
10	Bai Neo	Eduar Bai Neo
11	Nai Buan	Robin Selef
12	Amtiran	Markus Amtiran

<sup>11</sup> Sudiyat Iman, 1985, *Introduction to Customary Law Principles*, Yogyakarta, Liberty, p. 2

<sup>12</sup> Maria S. W. Sumardjono, 2007, *Land Policy between Regulation and Implementation*, Jakarta, Kompas Book Publisher, p. P. 5

<sup>13</sup> Ter Haar BZN, 1979, *Principles and Composition of Customary Law*, Jakarta, Pradya Paramita, p. 4

<sup>14</sup> Sumardjono, M.S.W, *Customary Rights and Its Recognition by the Basic Agrarian Law*. Jakarta, Compass, May 13th.

<sup>15</sup> Ibid, 2007, *Land Policy between Regulation and Implementation*, Jakarta, Kompas Book Publisher, p. 6

Source: Primary Data

According to the Head of the Kuanheum Village Customary Institution, Albertus Lanus, stated that the tribe that has the largest area is the Bai Neo Tribe with an area of 436 Ha or 4.36 Km<sup>2</sup> while the other 11 tribes do not reach 200 Ha.

Judging from the criteria for determining the presence/ absence of customary rights (*mnuke*) described by Maria S.W Sumardjono as already quoted, it can be concluded that ulayat rights (*mnuke*) still exist which are indicated by:

1. There is a Chairman of the Customary Institution named Albertus Lanus from the Nai Bila Tribe and 12 tribal leaders (*pah Tuaf*) who have the authority to regulate and administer the allotment and use of the communal land for the interests and welfare of its members
2. There are areas with territorial boundaries that are still in the form of natural boundaries between one tribe and another, while the total area is 2,146 Ha or 21, 46 Km<sup>2</sup>.
3. There are 12 tribes and tribal chiefs (*pah Tuaf*) with tribal members as supporters of the rights and obligations of the *mnukenya*.

The existence of tribes with their respective ancestors was strengthened by the information of the resource person from the Village Head of Kuanheum Edmundus Finit that in each village there is a tribal leader who heads the tribe and its alliance area with tribal members who control the communal area of customary law with boundaries clear and recognized by the legal community which has direct borders or not.

## 2. The Authority of the Chief of the Tribe as Holder of Ownership of Tribal Land

According to Maria S.W. Sumardjono, the legal relationship between a legal community and their territorial land is a relationship of control, not a relationship of ownership as is the case in the concept of the relationship between the state and land according to Article 33 paragraph (3) of the 1945 Constitution. The right to control inherent in customary law communities over ulayat land (tribal land) it contains the authority to:

### Regulate and carry out land use (for settlement, farming, etc.) and land maintenance.

The authority mentioned above was further stated by the resource person, the Head of the Nai Bila Tribe, as well as the Chair of the Kuanheum Village Customary Institution, Albertus Lanus, that this authority began when there was a request and / or notification from members of the association, either in groups or individually to clear land. On the leadership of *pah Tuaf*, represented by *Atoin amaf*, performs a traditional ceremony to mark the forest/ land which is followed up by clearing the land.

Table 2. Land Use and Its Size in Kuanheum Village

No	Utilization	Village Area (Ha)
1	Yard / village	161
2	Field / garden / huma	1.194
3	Livestock / pasture grazing	323
4	Planted trees / community forests	19
5	While not being attempted	279
6	State forest	46
7	Etc	124
<b>Total</b>		<b>2.146</b>

Source: Kuanheum Village Office 2020

The land use as described in table 2 above is the accumulated sum of the 12 indigenous peoples in Kuanheum Village. The amount of land that has not been cultivated is 279 hectares spread across 12 tribes, this amount is the authority of the tribal head to regulate and implement land use.

Land clearing is carried out in areas according to the type of use (settlement/ settlement and for farming, see table 2 above) and the authority to maintain land is the authority of all members of the association to protect and protect from destructive actions of the fellowship land from other parties.

Tribes and tribal leaders have the same authority in regulating and administering the designation and use of the land that is controlled for the sake of mutual interests and welfare. As the highest tenure right in the customary law community, all individual rights controlled and owned at the research location are directly or indirectly derived from the right of the association (*mnuke*). However, not all respondents control land with ownership rights. There are also those who are limited only as cultivators (*a meput*) on the fellowship land (*mnuke*), either as members or not members of the fellowship.

Ownership through the individualization process or only as a cultivator (*a meput*) by members of the association (except outside members of the association) has the same authority as other members of the association to use existing tribal land, both for farming and for grazing livestock and for collecting the results (from forest and water) and have the same obligation to maintain the integrity and comfort of the rights of the association from interference by other parties.

Historically, this method of obtaining land by inheritance was obtained through land clearing, not only because they were members of an alliance, but also because they contributed to helping previous tribes drive out the indigenous tribes by means of war.

From the explanation above, it can be concluded that the function of the chief of the tribe (*pah tuaf*) to regulate and implement land use (for settlement, farming, etc.) and land maintenance still exists and is carried out by *pah tuaf* according to his authority.

### **Regulate and determine the legal relationship between people and land (giving certain rights to certain subjects).**

The authority to regulate and determine the legal relationship between people and land by determining certain conditions to become the subject of rights to the land of the partnership either by members or outside members of the partnership. The results of an interview with the Chief of the Nai Meto tribe *pah Tuaf* Zet Sinu stated that for members of the association who wish to control land with property rights, they are required to work on it for 4 consecutive seasons (4 years), while members of the outside of the association with rights to cultivate (*loit m'nahat*), is obliged to provide something both at the beginning of land clearing and after obtaining the results of planting. This is reflected in the transfer of individual rights or communion land to another person or to a legal entity wishing to obtain rights to the land by holding a deliberation under the leadership of the *pah Tua*. The act of transferring (buying and selling) individual rights or fellowship rights has never occurred with an outsider. On the other hand, the *mmuke* gives authority to all members of the customary law association to use *ulayat* land, both for farming and for grazing livestock and for collecting products (forests and water).

*Pah Tuaf* not only gives authority, but puts obligations to the members of the association, namely to respect the head of the legal partnership, even though the rights that are controlled individually have been released from the head of the legal community. This means that the authority of the association is respected by the members of the association in carrying out legal actions related to the land under control. On the other hand, fellowship members are obliged to respect the interests of other landowners. In this case, the parties in the legal union area are obliged to respect each other's interests, not allowed to disturb land that has been or has been controlled by other members. Actions to disturb the order and comfort of the members of the association committed by other members are acts of violating the norms of the prevailing customary law. The consequence can be that the land remains with the members who are declared entitled or will be taken by the elder and return to the partnership land. Furthermore, each member is obliged to obey and respect the provisions in customary law relating to land clearing, utilization and maintenance of land that will be and/or have been controlled by members individually or on collective land. Finally, every member of the association who has controlled and owns land rights is also obliged to work continuously.

The meaning of continuous which is mentioned according to *Pah Tuaf* cannot be applied rigidly because natural conditions are not very supportive. Because it depends on the level of soil fertility and the most important thing is according to the old age, the member concerned has worked for 4 consecutive years, after which he may be left for a period of 1 (one) to 3 (three) years to restore his fertility.

The reality in the field shows that there are respondents who have and / or are leaving the land they control, but the land rights have not been lost or have been revoked as a customary official who has the authority to do so. This is possible as long as in order to restore soil fertility.

Land rights controlled under customary law cannot be canceled. This means that according to local customary law, there is no provision to terminate the legal relationship between a member as the subject of rights and the land under control, unless the member concerned leaves his legal partnership without notification to the *pah tuaf* or because the marriage of the member concerned merges himself into another legal partnership.

From the explanation above, it can be concluded that the authority of the *pah tuaf* to regulate and determine the legal relationship between people and land that occurs is related to the granting of property rights and it must meet the requirements to work on it continuously for 4 seasons (4 years) in a row, and grant rights. Cultivation (*loit m'nahat*) for members outside the partnership, are required to give something good both at the beginning of land clearing and after obtaining the results of the planting, called *loit benas* (*parang money*), while the right to cultivate for members of the partnership is carried out only with notification and *pah tuaf*.

### **Regulate and determine legal relationships between people and legal actions relating to land such as: buying and selling, inheritance and others.**

Land clearing is carried out jointly or individually by notifying the tribal leader (*Pah Tuaf*) in advance. With the old custom leader (*Atoin Amaf*) together with the religious leader (*Ana Mnes*) held a traditional ceremony (*oen oef ma Sisi*) as a condition of the legality of the land clearing ceremony on the communion land (*mmuke*), which in its implementation was symbolized by animal and food offerings. It is in this sacred moment that the tribal chiefs who hold the custom very solemnly utter a customary pledge called the *fef bela han bela* of defending and defending to maintain and preserve the territory of the fellowship and try to avoid any actions that can damage and disturb it.

Individual members of the association are not obliged to provide certain goods for land clearing individually. It is different if those who wish to clear land come from outside members of the association, then the outside members of the association are required to give a kind of gift known as *loit benas* (money to sharpen a machete), the amount of which is determined based on the area of land to be cleared (per Ha IDR 50,000 ) and if the land that has been cleared and cultivated has produced various types of crop products, it is also obliged to provide crop yields according to the agreement known as *tatam uut*.

The status of an outside member of the partnership as a cultivator is determined for 3 (three) years and after that it can be extended for the same period of time by first paying new *loit benas* credit and so on until the person concerned is no longer cultivating the land.

Furthermore, according to the information from the informant (*pah Tuaf*), for members outside the partnership, the land they cultivate cannot be converted into property, even though the land they cultivate is continuously worked on. However, if the outside members of the fellowship marry members of the fellowship, they can only obtain homestead land with the status of ownership rights, while for agricultural land, they are still only as cultivators, but are still required to provide crops (*tatam uut*) with the intention of reducing the tax burden and as a thank you to the legal community. If the cultivator no longer gives his harvest based on the agreement for two consecutive years, his cultivated land will be withdrawn with a prior warning. It is different for members of the association; their cultivated land can be converted into ownership if the person concerned works on the land continuously for 4 (four) harvest seasons (4 years). After that period, for a period of 1 (one) to 3 (three) years it is permissible not

to work on it as long as it is intended to restore the soil fertility. The right to land remains attached to the member concerned, unless with his will to release the right to the land with the knowledge of the *pah tuaf* or leave his tribe, or commit certain violations, the land rights will return to tribal land.

According to the informant (*pah Tuaf*), the provision of members outside of the partnership mentioned above, in addition to being a sign of binding, is also a form of recognition by members of outside the partnership regarding the power of the customary law association over the land it has cleared and utilized.

The implementation of land clearing, after the procedure mentioned above, is continued by tying palm leaves to a large tree or by heaping large stones on every corner of the land to be cleared. After that, cleaning is done by cutting small and large logs to be burned after the wood dries. Clearing the land is done by clearing the bushes on it.

After clearing the land that has been cleared in groups, with the leadership of *atoin amaf*, the lands are distributed to group members as well as marking boundaries. The marking of the boundaries of land that has been cleared (opened) is carried out by planting a wooden barrier (fence) or fencing it with rocks. With the completion of the fencing of the cleared land, the right to open land (*na'bol non*) was born.

Cultivation of land that has been controlled depends on the level of fertility. If the land has decreased its fertility level, it is abandoned for a period of 1 (one) to 3 (three) years to restore its fertility. As a substitute, new land clearing was carried out either in groups or individually.

In the research location, there are still known shifting cultivation. Even so, the rights to land that were once controlled and processed are not lost (erased). Even though it was carried out by means of shifting cultivation, the legal union never claimed the land that had been cleared and cultivated as being abandoned. Because the land with the opener still has a legal relationship with the land that has been cleared and other members are not allowed to disturb it.

The fact described above is formally considered to be an act of neglecting land, however, such a reality has become a common practice and has gone on and on and is obeyed by members of the local customary law community.

From the description above, it can be concluded that the right to control over land, not only includes vacant lands which are the right of an association, but also includes lands that are already owned individually. Furthermore, it is said that the *pah tuaf* with the assistance of *Atoin amaf* has the authority to:

1. to regulate and organize the designation and use of land (for settlements, farming and others), supplies (construction of settlements and others) and land maintenance.
2. regulating and determining the legal relationship between people and land (giving certain rights to certain subjects).
3. regulate and determine legal relations between people and legal actions relating to land (refusing and or giving permission for any transfer of land rights by members of the association).

From the description above, it can be concluded that the function of regulating and determining legal relations between people and legal actions relating to land in the form of rights to control over land by tribal chiefs (*pah tuaf*) does not only cover vacant lands which are rights of partnership, but also includes lands that are already individually owned within their customary jurisdiction. In its implementation, the transfer (sale and purchase) of individual rights or fellowship rights has never occurred with outsiders, if this occurs then the tribal leader (*pah tuaf*) must hold deliberations with all members of the tribe to get an agreement. Meanwhile, the inheritance rights are obtained from the descendants of the respective tribes and the right of ownership or tribal inheritance and inheritance of property rights.

## CONCLUSION

Based on the findings of the researchers, it is concluded as follows:

1. The existence of customary rights (*mmuke*) in Kuanheum Village, West Kupang District, Kupang Regency, which is indicated by:
  - a. There is a Chair of a Customary Institution and a tribal leader (*pah Tuaf*) who has the authority to regulate and organize the allotment and use of the communal land for the interests and welfare of its members,
  - b. There are areas with clear boundaries and vast territories (although still in the form of natural boundaries) between one tribal area and another and
  - c. There are tribal members who support the rights and obligations of the *mmuke*.
2. The Authority of the Chief of the Tribe as Holder of Ownership of Tribal Land
  - a. Regulate and organize the designation and use of land (for settlements, farming and others), supplies (creation of settlements and others) and land maintenance.
  - b. Regulate and determine the legal relationship between people and land (giving certain rights to certain subjects).
  - c. Regulate and determine legal relationships between people and legal actions relating to land (refusing and or giving permission for any transfer of land rights by members of the association).

## RECOMMENDATION

1. There needs to be recognition from the government, especially the regional government, about the existence of customary rights that still exist so that the authority of the indigenous peoples association is also maintained.
2. The authority of the chief as the holder of the right to control over tribal land must be properly utilized according to its function for the benefit of the whole community, especially members of the tribe.

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