

## Implications of the Decision of the Regent of North Tapanuli Number 6 of 2022 on the Provision of Land Services to the Community

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**Abstract:** *Challenges in establishing customary forests in Indonesia are caused by complicated bureaucracy, lack of synchronization between central and local bureaucracy, and the politics of citizen struggle using the identity of indigenous peoples. In the face of changes to Areal Penggunaan Lain (APL), there needs to be a careful approach and close collaboration between the local government, the central government, and indigenous peoples to achieve a balance between economic development, environmental preservation, and the rights of indigenous peoples. The research specification used in this research is descriptive analytical, which seeks to describe or describe events and events without conducting hypotheses and statistical calculations. Also normative juridical, namely research based on Ministerial regulations, books, and decrees of the Regent of North Tapanuli. The central and local governments have taken significant steps in recognizing and protecting the traditional and cultural rights of indigenous peoples. Changes in the Areal Penggunaan Lain (APL) can have serious impacts, requiring a cautious approach and close collaboration to maintain a balance between economic development, environmental preservation and the rights of indigenous peoples. Suggestions are made that local and central governments improve collaboration, concretely empower indigenous peoples, and integrate sustainable measures in policies to achieve a sustainable balance.*

**Keywords:** *Decision, North Tapanuli Regent, Service, Community*

**Abstrak:** Tantangan dalam penetapan hutan adat di Indonesia disebabkan oleh birokrasi yang rumit, kurangnya sinkronisasi antara birokrasi pusat dan daerah, serta politik perjuangan warga negara dengan menggunakan identitas masyarakat adat. Dalam menghadapi perubahan Areal Penggunaan Lain (APL), perlu adanya pendekatan hati-hati dan kolaborasi yang erat antara pemerintah daerah, pusat, dan masyarakat adat untuk mencapai keseimbangan antara pembangunan ekonomi, pelestarian lingkungan, dan hak-hak masyarakat adat. Spesifikasi penelitian yang digunakan dalam penelitian ini adalah deskriptif analitis, yaitu berusaha menggambarkan atau mendeskripsikan peristiwa dan kejadian tanpa melakukan hipotesa dan perhitungan secara statistik. Juga secara yuridis normatif yaitu penelitian yang berlandaskan pada peraturan Menteri, Buku-Buku, dan Surat Keputusan Bupati Tapanuli Utara. Pemerintah pusat dan daerah telah mengambil langkah signifikan dalam mengakui dan melindungi hak-hak tradisional serta budaya masyarakat adat. Perubahan dalam Areal Penggunaan Lain (APL) dapat menimbulkan dampak serius, memerlukan pendekatan hati-hati dan kolaborasi erat untuk menjaga keseimbangan antara pembangunan ekonomi, pelestarian lingkungan, dan hak-hak masyarakat adat. Saran diberikan agar pemerintah daerah dan pusat meningkatkan kolaborasi, memberdayakan masyarakat adat secara konkret, dan mengintegrasikan langkah-langkah berkelanjutan dalam kebijakan untuk mencapai keseimbangan yang berkelanjutan.

**Kata Kunci:** Keputusan, Bupati Tapanuli Utara, Pelayanan, Masyarakat.

## **INTRODUCTION**

Complex bureaucracy still hampers the establishment of customary forests in a number of regions in Indonesia. Indigenous peoples fighting for customary land are often constrained by unsynchronised central and regional bureaucracy. Therefore, a more efficient regulation as a legal umbrella for the establishment of customary forests such as the Indigenous Peoples Bill is expected to be passed soon. The existence of indigenous peoples in Indonesia is accommodated through the 1945 Constitution Article 18 B paragraph (2), which states that the State recognises and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law.

The politics of citizen struggle using the identity of indigenous peoples in defending their living space is carried out by the indigenous people of Bius Huta Ginjang, North Tapanuli, Muara District, North Sumatra. The context of the indigenous people's struggle is related to claims of ownership of customary territories by the Forestry Service. The customary area is designated as a protected forest, so the community thinks that they no longer have access to their customary territory. This situation is understood by indigenous peoples as a form of deprivation of living space. Mutual claims of ownership of the living space became a protracted contestation based on the forest map in the Huta Ginjang area that legitimised the claim.

Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022 on the Determination of the Status of Ginjang Customary Forest in the Area of the Huta Ginjang Customary Law Community covering an Area of Approximately 340 (Three Hundred Forty) Hectares in Huta Ginjang Village, Muara District, North Tapanuli Regency, North Sumatra Province.

Meanwhile, Decree of the Regent of North Tapanuli No. 06 of 2022 on the Recognition and Protection of the Customary Law Community of Huta Ginjang, Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, stipulates that the Customary Territory of the Customary Law Community of Huta Ginjang, Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, covers an area of 648.06 Ha.

With the difference in the determination of the area of the Huta Ginjang Customary Law Community which is determined based on the Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342 / MENLHK-PSKL / PKTH / PSL.1 /1/2022 is approximately 340 (Three Hundred Forty) Hectares, while the Decree of the Regent of North Tapanuli Number 06 of 2022 concerning the Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara District, North Tapanuli

Regency stipulates that the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara District, North Tapanuli Regency is 648, 06 Ha. With the Decree of the Regent of North Tapanuli Number 06 of 2022, there are areas that have been determined by the Minister of Environment and Forestry of the Republic of Indonesia as Other Use Areas to become the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Sub-district, North Tapanuli Regency. This situation results in obstacles for the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency as an institution given the authority to regulate land to provide services for issuing rights over the existing Other Use Areas in Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency because of the difference in determination.

In addition, environmental protection and the principles of sustainability are also important concerns, because changes in other use areas can affect ecosystems and natural resources in the area. Therefore, regulating other use areas requires a thoughtful approach, involving dialogue and cooperation between the government, customary law communities, and related parties, to achieve sustainability and justice in natural resource management.

Indigenous peoples with local wisdom try to defend their customary territories from the onslaught of government policies. This condition can then also create a form of struggle or resistance from indigenous peoples to defend customary territories. Opportunities for the struggle of indigenous peoples specifically regarding customary rights through the Constitutional Court Decision Number 35 of 2012. In its decision the Court. The Constitutional Court granted an amendment to Article 1 point 6 of Law Number 41 of 1999 which states that customary forests are forests located in the territory of indigenous peoples. In other words, the consequence of this decision is that there are three nomenclatures of forest status in Indonesia, namely state forests, rights forests and customary forests.

One of them is the Bius Huta Ginjang indigenous community, North Tapanuli, Muara District, North Sumatra, which views land as an identity and asset that has inherited value from generation to generation. Each Bius clan has its own land area called *partalian*, and the division and control of land is carried out by considering customary rules and inter-clan land area integration. Before the colonial period, the village was inhabited by people from three areas, namely Aritonang, Lumban Tumbur and Sitanggor. This area was occupied by the Ompusunggu, Rajagukguk and Simaremare clans from Aritonang. Raja Parbaringin, who was the elder of each clan, had the right to perform the task of land division.

As an indigenous community, the people of Huta Ginjang still practice clear rules related to natural resource governance. Although the village is administratively divided into

four hamlets according to government regulations, in the pattern of daily social interaction, residents still refer to the designation 'huta.'

The governance of customary land ownership in Huta Ginjang Village follows the general pattern in the Toba Batak region. The right to inherit rice fields and farms is given to sons, while daughters receive rights through gifts (silehon-lehon) not as inheritance. Boys have the right to manjae, both in the ownership and control of objects and in social, customary and governmental relations.

The Bius Huta Ginjang indigenous community feels a threat to their living space due to government claims over customary rights. In addition, uncertainty and the perception that the Bupati did not support the community in defending customary rights led to boredom. This condition encourages the community to unite in the Indigenous Community as a responsive step in maintaining sustainability, creating justice, and responding to claims that can threaten their identity and survival.

Based on the above background, the author is interested in reviewing more deeply about What is the Impact of Land Services to the community after the birth of North Tapanuli Regent Decree Number 6 of 2022?

## **THEORETICAL REVIEW**

The purpose of theory is very clear, which is to generalise knowledge and explain the relationship between social phenomena and the meaning of the observations made. A theory in addition to functioning to explain facts, must also be able to predict or prove facts. In addition to having a purpose, of course the theory also has several functions, among others:

- a. Theory provides patterns for data interpretation
- b. Theory connects one study with other studies
- c. Theory provides a framework in which concepts acquire special significance.

The theory used in this journal is Legal Certainty Theory (Middle-Ranged Theory). The definition of Legal Certainty is Legal Certainty Theory contains 2 (two) meanings, namely first the existence of general rules that make individuals know what actions may or may not be done, and second in the form of legal security for individuals from government arbitrariness because with the existence of general legal rules that individuals can know what the State can impose or do to individuals. Legal certainty is not only in the form of articles in the law but also the consistency in the judge's decision between one judge's decision and another judge's decision for a similar case that has been decided.

Legal certainty is *Scherkeit des Rechts selbst* or legal certainty itself. The state as a legal system is certain, so that in order to ensure legal certainty, legal principles apply. In the life of society there are various kinds of norms that directly or indirectly affect the way a person behaves or acts. In his book entitled *General theory of law and state*, Hans Kelsen expressed the existence of two norm systems, namely a static norm system (nomostatic) and a dynamic norm system (nomodynamic).

Law and certainty are two things that are very difficult to separate. Law exists for certainty, the existence of certainty also makes the law more obeyed. To realise certainty, the law must be created first before the actions regulated in the law are carried out, so that people know what they can and cannot do and know the consequences if they act contrary to or against the law. Certainty means 'provision; determination' while if the word 'certainty' is combined with the word 'law' then it becomes legal certainty, which is defined as a legal device of a country that is able to guarantee the rights and obligations of every citizen. Law contains certainty when the law can cause human behaviour, both individuals, groups, and organisations to be bound and within the corridors that have been outlined by the rule of law itself. This certainty value must be present in every law made so that it can provide a sense of justice and create order.

Certainty is a form of characteristic that cannot be separated from the law, especially those that are positive law or legislation or written law. Law without certainty value will lose meaning because it can no longer be used as a behavioural guide for everyone. Certainty contains several meanings, including clarity, does not cause multiple interpretations, does not cause contradictions, and can be implemented. The law must apply firmly in society, containing openness so that anyone can understand the meaning of a legal provision. One law with another should not be contradictory so that it does not become a source of doubt.

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be carried out in a good way. Legal certainty requires efforts to regulate the law in legislation made by authorised and authoritative parties, so that these rules have a juridical aspect that can guarantee the certainty that the law functions as a rule that must be obeyed. Truth and justice cannot be separated from the nature and purpose of law. Law in the sense of truth and justice is an aspired concept. It means a state of law when combined with these two concepts. It is only through a just and righteous legal system that society can live peacefully towards physical and mental prosperity.

## **RESEARCH METHODS**

The legal research method is a scientific activity based on certain methods, systematics, and thoughts, which aims to study one or several certain legal symptoms by analysing them, then an in-depth examination of the legal facts is also carried out to then try to find a solution to the problems that arise in the symptoms concerned. For this reason, a research is carried out which includes methods in research. Research methods are needed to find out how to obtain data and information from an object under study. The method is defined as the logic of scientific research, the study of research procedures and techniques. Research is a series of scientific activities and therefore uses scientific methods to explore and solve problems, or to break down the truth of existing facts.

The research specification used in this research is descriptive analytical, which is trying to describe or describe events and events without making hypotheses and statistical calculations. The data in this study were collected using the research method of library research with data sources in researchers obtaining data sources indirectly through intermediary media, consisting of primary legal materials, namely legal materials that are authoritative, meaning that they have authority and binding legal materials consisting of:

- a) Norms or basic principles, namely the Preamble of the 1945 Constitution of the Republic of Indonesia.
- b) Basic Rules:
  - (1) Body of the 1945 Constitution
- c) Legislation:
  - (1) Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles
  - (2) Law No. 39 of 1999 on Human Rights
  - (3) Law No. 41 of 1999 on Forestry
  - (4) Decree of the Minister of Environment and Forestry Number: SK.342/MENLHK PSKL/PKTH/PSL.1/1/2022
  - (5) Decree of the Regent of North Tapanuli Number 06 of 2022 on the Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency
- d) Uncodified legal materials, such as customary law.
- e) Jurisprudence.
- f) Tracts
- g) Legal materials from the colonial era that are still valid today such as the Criminal Code, Criminal Procedure Code and other laws and regulations.

In this journal, the author uses primary legal materials sourced from: Constitution of the Republic of Indonesia Year 1945, Civil Code, Criminal Law, Law Number 5 Year 1960 Basic Agrarian Principles. Secondary legal materials, namely, legal materials that provide explanations of primary legal materials such as books, research results or works from legal circles and draft laws. Tertiary legal materials are all publications on law and materials that provide guidance and explanations of primary and secondary legal materials such as the Big Indonesian Dictionary (KBBI), legal dictionaries, legal journals, encyclopedias, comments on court decisions and through internet searches. The results of seminars, workshops, symposiums, scientific papers, and other articles regarding land disputes and in the form of articles and scientific journals.

The data obtained will be presented systematically, the data needed in this research are secondary data and primary data. Secondary data is data obtained by researchers from library research and documents, which are the results of research and processing of others, which are already available in the form of books or documents usually provided in libraries, or private property. Meanwhile, what is meant by primary data is data obtained directly from the community. Furthermore, it will be analysed juridically qualitative normative with descriptive and prescriptive description. The determination of this method of analysis is based on the idea that this research does not only intend to reveal or describe the data as it is, but also seeks to provide argumentation.

Data analysis is carried out after a collection of materials, then later to make a grouping then the data obtained is processed to find out whether the data obtained can answer the problems in the study. The data analysis used in this research is qualitative analysis. Qualitative analysis is discussing the results of research described comprehensively, by trying to see the factors behind certain programmes, cultures and policies, such as the selection of principles, theories, norms, doctrines and articles contained in the Law that are relevant to the issues to be discussed in this study. This research is descriptive analysis, descriptive analysis is research that aims to describe in detail, systematically and thoroughly about everything related to this research problem and also normative juridical research, namely research based on Ministerial regulations, books, and decrees of the Regent of North Tapanuli.

## **RESULTS AND DISCUSSION**

### **A. The birth of the Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022**

The establishment of Hutan Adat status involves the government's formal recognition of the importance of the area in the context of the lives and cultures of local indigenous peoples. By establishing Hutan Adat status, the government recognises that the area has high ecological, cultural and social value, which needs to be maintained and preserved. As Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945) states: 'The State recognises and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.'

Thus, the unity of customary law communities in customary law areas, recognised ulayat rights to their land. As one of them, the Government through the Minister of Environment and Forestry has issued a decree regarding the determination of customary forest status in one area of North Tapanuli Regency, North Sumatra Province. This is contained in the Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022 concerning the Determination of the Status of Ginjang Customary Forest in the Territory of the Huta Ginjang Customary Law Community covering an area of approximately 340 (Three Hundred Forty) Hectares in Huta Ginjang Village, Muara District, North Tapanuli Regency, North Sumatra Province.

The Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022 mandates that in the weighing section that in order to ensure the protection and legal certainty of the existence of customary law communities' ulayat rights in North Tapanuli Regency, the Government of North Tapanuli Regency has stipulated the Regional Regulation of North Tapanuli Regency Number 4 of 2021 concerning Recognition and Protection of Customary Law Communities. The existence of this regional regulation shows the commitment of the local government in providing a strong legal basis to protect the rights of customary law communities, including their customary rights.

After the decision of the Constitutional Court Number: 35/PUU-X/2012 which cancelled the provisions of Article 1 point 6 of Law Number: 41/1999, concerning Forestry, which originally stated that customary forests are state forests located in the territory of indigenous peoples, customary forests are forests located in the territory of indigenous peoples.



Forest tenure by the state continues to pay attention to the rights of customary law communities, as long as the reality still exists and is recognised and does not conflict with national interests.

Customary forests are not only a form of natural resource conservation, but also a form of respect for the rights of indigenous peoples in the management and utilisation of natural resources in their territories. This includes traditional rights that have existed in indigenous governance for many years.

Indigenous peoples' rights are rights that are inherent to indigenous peoples. They are part of the existence of indigenous peoples. In the United Nations declaration on the rights of indigenous peoples passed by the UN general assembly in its 61st session at UN headquarters in New York on 13 September 2007, article 1 explains that indigenous peoples have the right to the full enjoyment, collectively or individually, of all human rights and fundamental freedoms recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

With this status designation, indigenous peoples are granted the authority and responsibility to safeguard, manage and utilise the natural resources within Hutan Adat in accordance with their traditional values and governance. Furthermore, the important role of related parties, including local governments, conservation organisations, and the general public, in implementing the Hutan Adat policy is also crucial. Collaboration between the government, indigenous communities, and other relevant parties is necessary to achieve the goal of conservation and sustainable management.

Concrete steps that may be taken after the determination of Hutan Adat status include the development of sustainable management plans, enforcement of relevant laws, community education, and periodic monitoring and evaluation of the policy implementation. These all aim to maintain a balance between nature conservation and the needs of indigenous communities.

## **B. Birth of North Tapanuli Regent Decree Number 06 Year 2022**

The recognition and protection of customary law communities in Huta Ginjang, Huta Ginjang Village, Muara Sub-district, North Tapanuli Regency signifies the commitment of the local government to preserve and respect the traditional rights and culture of local communities. The issuance of North Tapanuli Regent Decree No. 06 of 2022 on the Recognition and Protection of the Huta Ginjang Customary Law Community, Huta Ginjang Village, Muara Sub-district, North Tapanuli Regency, which recognises the customary law community in Huta Ginjang, may include the affirmation of customary rights to land and natural resources in their territory. In this context, customary law communities may be given a

more active role in natural resource management, including participation in decision-making processes related to land and forest use.

The recognition and protection of customary law communities in Huta Ginjang, Huta Ginjang Village, Muara Sub-district, North Tapanuli District is an important step in preserving their traditional and cultural rights. Based on the Bupati Decree of North Tapanuli, this recognition may include the following aspects:

a. Recognition of Customary Rights

The recognition of customary rights for the Huta Ginjang indigenous community has a wide-ranging impact on their lives. First of all, it involves affirming the rights that indigenous peoples have to the land and natural resources in the Huta Ginjang area. This clarity not only strengthens their traditional rights, but also provides a strong legal foundation to protect land ownership and use in accordance with their traditional governance. With this recognition, the Huta Ginjang indigenous community can overcome challenges related to land claims from external parties or the pressures of environmental change. The recognition of customary rights also provides legitimacy to natural resource management practices that have been carried out for generations by indigenous peoples. It strengthens their cultural identity, as land is often considered an integral part of indigenous peoples' cultural heritage and spiritual life.

In addition, this recognition provides a strong basis for various environmental protection and conservation policies and programs involving the Huta Ginjang indigenous community. By understanding and respecting customary rights, the government and relevant agencies can design more effective and sustainable policies, in line with indigenous peoples' traditional nature management practices.

It is also important to note that the recognition of customary rights is not just about granting legal rights, but can also open up opportunities for collaboration between the government, indigenous peoples and the private sector in sustainable development. Through partnerships based on the recognition of customary rights, a model of natural resource management that is resilient and supports shared prosperity can be created. Thus, the recognition of customary rights is not only legal, but also has significant social, cultural and economic impacts for the Huta Ginjang indigenous community and can be a foothold for sustainable development in the region.

b. Community Participation in Natural Resource Management

The participation of the Huta Ginjang indigenous community in natural resource management has far-reaching and positive implications for their well-being and

environmental sustainability. First of all, this active participation creates an inclusive form of local governance, where decisions related to land, forest and natural resource management are directly involved by indigenous community members. This allows for more representative decision-making, taking into account local values, needs and knowledge.

Community participation in natural resource management can also lead to more sustainable and resilient solutions. By engaging local knowledge and traditional wisdom, the Huta Gintang indigenous community can make a valuable contribution in maintaining the ecosystem and minimizing negative impacts on the environment. The sustainability of traditional practices and local culture is the main focus, so that natural resources are preserved for future generations. In addition, community participation can create opportunities for local economic development. With active involvement in natural resource management, communities can design economically sustainable utilization strategies. This could include the development of small businesses, agro-tourism, or other economic activities that support the sustainability and well-being of local communities.

This participation can also create stronger social ties between community members. Collaboration in natural resource management can strengthen solidarity and interdependence, build trust between citizens, and increase collective capabilities in facing environmental or social challenges. Thus, the participation of the Huta Gintang indigenous community in natural resource management not only brings aspects of environmental sustainability, but also forms the foundation for sustainable development and overall community welfare.

#### c. Preservation of Culture and Tradition

The preservation of the culture and traditions of the Huta Gintang indigenous people as a result of the recognition of their rights has significant implications for maintaining a rich and diverse cultural heritage. This recognition can create a foundation for cultural preservation policies that involve the active participation of the community and support from the local government.

Measures to preserve culture and traditions can involve various initiatives that support the sustainability of their cultural heritage. Local governments can play an important role in supporting cultural activities, such as festivals or educational programs designed to preserve and promote the rich culture of the Huta Gintang indigenous community.

Cultural festivals can be an important platform to celebrate and share the unique aspects of Huta Gintang culture. By supporting these cultural activities, local governments can

create spaces for creative expression, knowledge exchange, and build awareness among the wider community about the uniqueness of the culture.

Education programs aimed at preserving culture and traditions may include initiatives such as training traditional craftsmen, organizing traditional arts workshops, or formal education programs that incorporate elements of local culture into the curriculum. Local governments can act as facilitators and organizers to support these activities, so that the younger generation can actively engage and inherit cultural values. Furthermore, local government support can include infrastructure development to support cultural activities, such as cultural centers or traditional performance venues. This could create a viable and affordable space for the Huta Ginjang indigenous community to carry out their cultural activities. Thus, through local government support in preserving culture and traditions, the Huta Ginjang indigenous community can feel a positive impact on their cultural identity. This preservation is not only important for the sustainability of local culture, but can also be a source of pride and attraction for the community, tourists, and future generations.

### **C. Implications of the Treatment of the Regent's Decree in the field for Other Use Areas (APL)**

The treatment of the Regent Decree of North Tapanuli Regent Decree No. 06 of 2022 on the Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Sub-district, North Tapanuli Regency, in relation to the facts on the ground on the Other Use Areas (APL) creates a number of significant implications that require attention. The decision may affect land regulation and allocation, bringing impacts on customary rights and land ownership by indigenous peoples or related parties. These implications are closely linked to changes in agriculture, plantations, or other land uses to the extent that they affect land law. In addition, environmental and conservation impacts must also be considered, as changes in land use can impact biodiversity and the balance of local ecosystems.

The implication on the welfare of local communities is an important aspect, where the policy may support or challenge the fulfillment of their economic needs. Possible land use conflicts may also arise as a result, creating disputes between different parties who have different interests related to the land.

The following are some of the implications arising from the Regent Decree of North Tapanuli Regent Decree No. 06 of 2022 on the Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, among others:

a. Effect on Land

Changes in land ownership and use can create uncertainty for indigenous peoples regarding livelihoods and the sustainability of agricultural or plantation businesses that have been passed down through generations. In addition, the impact can also be felt on the economic well-being of local communities, as these sectors are often the backbone of the local economy. It is therefore important to carefully consider land implications in policies involving changes in land status or customary rights, with the aim of achieving a balance between the interests of indigenous peoples, environmental sustainability and local economic development.

Decisions related to indigenous peoples and environmental policies can have significant impacts on land in the region. If such policies involve changes to land status or customary rights, this may affect land ownership and utilization by indigenous peoples or related parties.

The influence on land is increasingly felt, especially on Areal Penggunaan Lain (APL). Areal Penggunaan Lain (APL) should be an area that is determined based on the Decree of the Minister of Forestry on the Designation of Forest Areas and Provincial Waters or based on the Tata Guna Hutan Kesepakatan (TGHK) to be non-forest areas based on Article 4 of the Presidential Regulation of the Republic of Indonesia Number 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning, The Ministry of Agrarian Affairs and Spatial Planning (ATR) has the task of organizing government affairs in the fields of agrarian/land and spatial planning to assist the President in organizing the state government. The Ministry of Agrarian Affairs and Spatial Planning / National Land Agency as an institution given the authority to regulate land is hindered from providing services for the issuance of rights over the Other Use Areas in Huta Ginjang Village, Muara District, North Tapanuli Regency because the issuance of North Tapanuli Regent Decree Number 06 of 2022 concerning Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara District, North Tapanuli Regency stipulates that the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara District, North Tapanuli Regency is 648, 06 Ha resulted in an area that had been designated by the Minister of Environment and Forestry of the Republic of Indonesia as an Area for Other Uses to become the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency.

b. Environmental Impact and Conservation

Changes in Areal Penggunaan Lain (APL) associated with the Bupati's decision have significant impacts on the environment and conservation. In this context, the implications for APL may be closely related to environmental impacts involving changes in land use. Such changes may affect biodiversity in the area, given that each land use has specific impacts on local flora and fauna. In addition, these changes may also affect water availability, as some land uses may impact water flow patterns and groundwater quality.

Impacts on conservation are also a major concern, given that any changes in APL could threaten the sustainability of local ecosystems. Local ecosystem conditions, including soil, water, and vegetation, may undergo changes that can be detrimental to biodiversity and affect the ecosystem as a whole. Therefore, land use change needs to be carefully considered in the context of environmental preservation and natural resource conservation.

Through an in-depth understanding of the environmental and conservation impacts of APL changes, policies can be designed that consider sustainability, minimize negative impacts, and possibly integrate conservation practices. In this way, a balance can be maintained between economic development, community needs and environmental protection within a holistic policy framework.

## **CONCLUSIONS AND SUGGESTIONS**

A. Land Influence

Decree of the Minister of Environment and Forestry of the Republic of Indonesia Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022 concerning the Determination of the Status of Ginjang Customary Forest in the Area of the Huta Ginjang Customary Law Community covering an Area of Approximately 340 (Three Hundred Forty) Hectares in Huta Ginjang Village, Muara District, North Tapanuli Regency, North Sumatra Province. Meanwhile, the Decree of the Regent of North Tapanuli Number 06 of 2022 concerning the Recognition and Protection of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency stipulates that the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency covers an area of 648, 06 hectares. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency as an institution given the authority to regulate land is hindered from providing services for the issuance of rights over the existing Other Use Areas in Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency because the issuance of North Tapanuli Regent Decree Number 06 of 2022

concerning the Recognition and Protection of the Huta Gijang Customary Law Community of Huta Gijang Village, Muara Subdistrict, North Tapanuli Regency establishes the Customary Territory of the Huta Gijang Customary Law Community of Huta Gijang Village, Muara Subdistrict, North Tapanuli Regency covering an area of 648, 06 hectares resulting in an area that has been determined by the Minister of Environment and Forestry of the Republic of Indonesia as an Area for Other Uses to become the Customary Territory of the Huta Gijang Customary Law Community of Huta Gijang Village, Muara Subdistrict, North Tapanuli Regency.

#### B. Environmental Impact

Based on the two decisions related to the Huta Gijang indigenous community, namely the Decree of the Minister of Environment and Forestry Number: SK.342/MENLHK-PSKL/PKTH/PSL.1/1/2022 and the Decree of the Regent of North Tapanuli Number 06 of 2022, illustrates an important milestone in recognizing and protecting the traditional rights and culture of indigenous peoples. The determination of Hutan Adat status by the central government through a Ministerial Decree reflects an appreciation of the ecological, cultural and social values of the area, in line with the principles of the Unitary State of the Republic of Indonesia and respect for the rights of customary law communities in accordance with the 1945 Constitution. In this case, the recognition of customary rights is directed at providing legal clarity, protecting land ownership, and supporting the sustainability of cultural heritage. On the other hand, the North Tapanuli Regent's Decree signifies the local government's commitment to empowering customary law communities in the management of natural resources in their territories. Through the recognition of ulayat rights and active participation, indigenous communities have a central role in decision-making regarding land and forest use, creating a strong legal foundation and providing a foundation for environmental sustainability and the preservation of culture and traditions. Nonetheless, changes in Areal Penggunaan Lain (APL) associated with Bupati Decrees can have serious impacts on land, the environment and the welfare of local communities.

The implementation of this policy therefore requires a cautious approach and close collaboration between the government, indigenous peoples and relevant parties to achieve a balance between diverse interests. Concrete measures, such as wise regulation of other use areas, protection of land, and continuous environmental monitoring, are crucial in maintaining harmony between economic development, environmental conservation, and the rights of indigenous peoples.

## **ADVICE**

It is recommended that local and central governments increase collaboration and intensive communication with the Huta Ginjang indigenous community in designing and implementing policies related to natural resource management and customary rights. Local governments need to ensure that the recognition of customary rights is not only formal, but also followed by concrete steps to empower indigenous peoples in decision-making related to land and forest use. In addition, concrete efforts are needed to maintain a balance between environmental conservation and local economic needs through the regulation of Areal Penggunaan Lain (APL). The central government can provide guidance and technical support to local governments in the implementation of this policy, ensuring that indigenous peoples' rights are consistently recognized and protected. Sustainable measures, such as the development of sustainable management plans, regular environmental monitoring, and community education, should be integrated in the policy to ensure environmental sustainability and the welfare of indigenous peoples. Through a holistic and participatory approach, local and central governments can create a natural resource management model that is equitable, sustainable, and in accordance with the values and traditional governance of the Huta Ginjang indigenous community.

The Decree of the Regent of North Tapanuli Number 06 of 2022 on the Recognition and Protection of the Customary Law Community of Huta Ginjang, Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, establishing the Customary Territory of the Customary Law Community of Huta Ginjang, Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, covering an area of 648, 06 hectares resulting in an area that has been determined by the Minister of Environment and Forestry of the Republic of Indonesia as an Area for Other Uses to become the Customary Territory of the Huta Ginjang Customary Law Community of Huta Ginjang Village, Muara Subdistrict, North Tapanuli Regency, so that it is immediately harmonized by examining the Decree of the Regent of North Tapanuli Number 06 of 2022 so as not to cause confusion.

It is recommended that the central and regional governments place reliable human resources in the drafting section of the Regulation/Decree so that the products produced do not cause confusion because the rules differ from one another.



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