

## REGISTRATION OF LOCAL GOVERNMENT ASSET IN WEST SUMATRA THAT DERIVED FROM COMMUNAL LAND

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### ABSTRACT

*Registration of land assets of Local Government is very important to do. It aims in addition to securing local government assets, inventory assets of the local government to provide clarity and legal status of local government assets as well as to provide legal certainty. West Sumatra Province with an area of 42,297.30 km<sup>2</sup> or equal to 2.21% of the total area of Indonesia.<sup>1</sup> The land type in West Sumatra is state land, land rights and communal land. Communal land is the most dominant land types with stratified kind that is communal villages, tribes and peoples.<sup>2</sup> In the Government Regulation Number 24 Year 2005 about Government Accounting Standards, one of government financial reporting unit is permanent asset, land, so that the local government asset inventory got very serious attention. The most fundamental issue is the certification of government assets in the form of communal land, which is not included in the object of certification of land according to Government Regulation Number 24 Year 1997. This research used normative method, as supporting data conducted field research by using purposive sampling method, the data collection tool by interview. The results of this research found that the registration of the local government assets that taken from communal land has changed the communal concepts into individual concepts, and contrary to the concept, values, norms and interests.*

**Keyword:** *certification, local government assets, communal land.*

### 1. Introduction

Land is the earth's surface<sup>3</sup>, which in use includes also some bodies lay beneath the earth and in part of the space above it.<sup>4</sup> Law mentions two types of individual and communal rights.<sup>5</sup> The customary or communal concept is an undivided joint ownership.<sup>6</sup> The domination of land for various needs can be categorized in the physical and juridical, and also have private aspect and public aspect. In order to provide legal certainty regarding land rights, land registration<sup>7</sup> should be done regardless of individual rights and communal rights, and implemented by Government Regulation<sup>8</sup> by publishing evidence in the form of certificates. Government agencies, both central and local levels is one of the rights holder / subject of land rights that are public. Each land rights contains a series of authority,

<sup>1</sup> [https://www.humanitarianresponse.info/system/files/documents/Files/Sumbar\\_dikunjungi\\_27-05-2016\\_jam14.00\\_wib](https://www.humanitarianresponse.info/system/files/documents/Files/Sumbar_dikunjungi_27-05-2016_jam14.00_wib).

<sup>2</sup> Yulia Mirwati, 2015, Konflik Tanah Ulayat, Universitas Andalas Pres, Padang, p.29.

<sup>3</sup> Undang-undang Pokok Agraria (UUPA) Pasal 4 ayat (1).

<sup>4</sup> Boedi Harsono, 1999, *Hukum Agraria Indonesia-Sejarah Pembentukan UUPA*, Djabatan, Jakarta, p.265.

<sup>5</sup> Pasal 16 UUPA ayat (1) jenis hak individual, berupa hak milik, hak guna usaha, hak guna bangunan, hak pakai publik dan privat, sedangkan di dalam Pasal 3 UUPA diakui jenis komunal berupa tanah ulayat (Pasal 3 UUPA).

<sup>6</sup> Yulia Mirwati, op.cit p.35.

<sup>7</sup> Pasal 19 UUPA.

<sup>8</sup> PP Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah.

obligations, or restrictions for the rights holder to do something about the land. Something that may be, required or forbidden to done, which is the content of those rights. It becomes the criteria or benchmark for distinguishing between the rights of tenure are public and private. The government agency is given authority over land tenure is public to the prohibition act as a subject of private law.

Government agencies in implementing the governance required to inventory the assets,<sup>9</sup> clearly, perform data collection, recording, and reporting the results of data collection of Local Governments assets. This things in West Sumatera is supported by legislation to conduct inventory assets nicely.<sup>10</sup> The Government assets that has been inventoried spread in 19 regencies,<sup>11</sup> where the province of West Sumatera with 42.297.30 km<sup>2</sup> or equal to 2.21% of the total area of Indonesia.<sup>12</sup> In each of these areas have been established Agency / Office / Department to implement the affairs and authorities which generally called Work Units (SKPD). Work Units in Property Management Area (BMD) is a user, means that it can dominate the Property Management Area as long as it used for implementation of duties and functions.<sup>13</sup> If Property Management Area is not used anymore to support duties and functions, then Working Units must hand in the Property Management Area to the head of Region through administrator of Property Management Area (Regional Secretary) and if it is not used anymore by the Local Government, the land return into land controlled by the state. Related to Property Management Area in form of land obey to laws and regulations relating to land.

In West Sumatera there are special types of rights that is communal land, which the existence was recognized by Article 3 of the Agrarian Act.<sup>14</sup> Communal Rights is a type of private and public rights in concept of communal authorization. Communal rights (rights of indigenous people) is a human right even United Nations Declaration on the Rights of indigenous Peoples adopted by the General Assembly of the United Nations on 13 September 2007 mentioned affirmation relationship between indigenous peoples with their traditional rights, including communal land, as the basic rights that must be recognized, respected, protected and fulfilled universally.<sup>15</sup> The regulation of communal rights are also can be found in the Regulation Minister of Agrarian Number 5 Year 1999, then West Sumatera successfully issued Local Regulation Number 6 Year 2008 On the Communal Land and Utilization. Utilization of communal land in West Sumatera associated with matrilineal system. Although communal rights was recognized but still not included in land registration object to provide legal certainty. Although the large and existence of communal land can not be determined certainty but for the concerns of local government of West Sumatera, rights holders of communal land either voluntarily or with "*siliah jariah*" / giving the compensation to the indigineous people, grant (hibah)

<sup>9</sup> UU Nomor 32 Tahun 2004 Tentang Pemerintah Daerah (Pemda)

<sup>10</sup> Peraturan Gubernur Sumatera Barat No.37 tahun 2012 tentang Rincian Tugas Pokok, Fungsi dan Tata Kerja sekretariat Daerah Provinsi Sumatera Barat

<sup>11</sup> [https://id.wikipedia.org/wiki/Daftar\\_kabupaten\\_dan\\_kota\\_di\\_Sumatera\\_Barat](https://id.wikipedia.org/wiki/Daftar_kabupaten_dan_kota_di_Sumatera_Barat), dikunjungi tanggal 27 -05-2016 jam 07 WIB.

<sup>12</sup> [https://www.humanitarianresponse.info/system/files/documents/Files/Sumatra\\_Barat.dikunjungi\\_27-05-2016\\_jam14.00 WIB](https://www.humanitarianresponse.info/system/files/documents/Files/Sumatra_Barat.dikunjungi_27-05-2016_jam14.00_WIB).

<sup>13</sup> PP No.6 Tahun 2006 dan Permendagri No.17 Tahun 2007

<sup>14</sup> Pasal 3 UUPA menyebutkan :Dengan mengingat ketentuan-ketentuan dalam pasal 1 dan 2 pelaksanaan hak ulayat dan hak-hak yang serupa itu dari masyarakat-masyarakat hukum adat, sepanjang menurut kenyataannya masih ada, harus sedemikian rupa sehingga sesuai dengan kepentingan nasional dan Negara, yang berdasarkan atas persatuan bangsa serta tidak boleh bertentangan dengan undang-undang dan peraturan-peraturan lain yang lebih tinggi.

<sup>15</sup> Pasal 26 ayat (3) Deklarasi PBB tentang Hak-hak Masyarakat adat secara tegas menyebutkan: Negara patut memberikan pengakuan dan perlindungan hak hukum atas tanah, wilayah dan sumberdaya masyarakat adat. Pengakuan seperti ini akan dilakukan dengan menghargai adat, tradisi dan sistem pemanfaatan tanah dari masyarakat adat terkait.

with the customary terms, discharge their communal rights to the needs of government interest. Certification of government assets derived from communal land is also based on Article 14 jo 15 Agrarian Act using Procurement Land Act.<sup>16</sup>

## 2. Problem formulation.

Based on the description above, the problem is how the implementation of the certification, obstacles encountered, and the solutions pursued in certification assets of Local Government derived from communal land in West Sumatra.

## 3. Land Certification

Land registration is a series of activities that undertaken by the Government continuously, continuous and regular, covering the collection, processing, accounting, and presentation as well as the maintenance of physical data and juridical data, in the form of maps and lists, on plots and apartment units, included granting the proof of entitlement of receipt for field plot of land that already have existing rights and ownership rights of the apartment units as well as certain rights over it.<sup>17</sup> The object of land registration is,<sup>18</sup> property rights, right to cultivate, building rights, using rights, management rights, right to religious use, right apartment units and state land, specifically for state land the certification is not issued, but the communal land does not include in the object of land registration. Land certification is one of purpose of the Agrarian Act,<sup>19</sup> to provide legal certainty of land rights. Land registration includes: a. measurement of land mapping and bookkeeping; b. registration of rights to land and transition of these rights; c. Giving the certificate of proof of rights, as evidentiary.<sup>20</sup> Certificate is proof of land rights.<sup>21</sup> Registration is the right way to provide a description and identification of land which is continuous recording (continuous recording of land rights).<sup>22</sup> Data in Land Registration Office (National Land Agency / BPN) are divided into 2 (two) parts;<sup>23</sup> 1. Juridical Data Group, which collects data on the name of land right, whom the holder, transitional and will be deducted if there is, everything is gathered in the Land Book, 2. Physical Data Group is collecting data about the land position, length / width of the land and the boundaries of land, everything was compiled in Measure Letter. Implementation of land registration was done by the National Land Agency with the principle of adat law, clear, tangible and bright,<sup>24</sup> using Agrarian Ministerial Regulation / Head of National Land Agency Number 3 Year 1997 jo Government Regulation Number 24 Year 1997. From all the land registration requirements, communal land does not include the registration object. This leads to the existence of communal land remains ambiguous.

<sup>16</sup> UU Nomor 2 Tahun 2012 Tentang Pengadaan Tanah Untuk Kepentingan Umum.

<sup>17</sup> Pasal 1 butir (1) PP 24 Tahun 1997 Tentang Pendaftaran Tanah..

<sup>18</sup> Pasal 9 PP No.24 Tahun 1997 Tentang Pendaftaran Tanah

<sup>19</sup> Penjelsan umum I, tujuan UUPA alinial ke 4 yakni ... pokoknya tujuan Undang-Undang Pokok Agraria ialah... meletakkan dasar-dasar untuk memberikan kepastian hukum mengenai hak-hak atas tanah bagi rakyat seluruhnya.

<sup>20</sup> Bachtiar Effendi, 1993, *Pendaftaran Tanah di Indonesia*, Raja Wali, Jakarta , p. 14

<sup>21</sup> Pasal 1 ayat (20) PP No.24 Tahun 1997 Tentang Pendaftaran Tanah.

<sup>22</sup> Parlindungan,AP, 1999 , *Pendaftaran Tanah Di Indonesia*, penerbit CV. Mandar Maju, Bandung, p.18

<sup>23</sup> Boedi Harsono, 1998. *Hukum Agraria Indonesia. Himpunan Peraturan Hukum-hukum Tanah*.Djambatan, Jakarta, p.155.

<sup>24</sup> Yulia Mirwati, 2016, Makalah dalam Pendaftaran Tanah Aset Pemerintah di Kabupaten Solok, Koto Baru Solok. Sumbar, p..10.

#### 4. Local Government Assets

The appearance of Local Government Act,<sup>25</sup> Financial Balance Between Central and Regional Government Act,<sup>26</sup> State Finance Act,<sup>27</sup> State Treasury Act,<sup>28</sup> Government Regulation on Government Authority and Provincial Authority as Autonomous Region,<sup>29</sup> and Government Regulation On Division of Government Affairs between the Government, Provincial Government, and the Government of Regency / City<sup>30</sup> has consequences that the Local Governments have the authority to regulate and manage the government affair and public interests in accordance with the legislations.<sup>31</sup> Asset / property region is one important element in the framework of government administration and service to the society.<sup>32</sup> So that, the Local Governments are required to manage the wealth of region in professional, transparent, accountable, efficient, and effective starting from planning, distribution, and utilization and supervision.<sup>33</sup> For management of real property in form of land, there must be a proof of ownership in form of land certificate in accordance with the type of rights reserved to him. Government assets such as land must be certified on behalf of the Local Government. One of the most difficult asset in management is land asset because there are many varieties with the usage status that also various, resulting a lot of interest in over the land,<sup>34</sup> furthermore there are land assets that held by governments and formerly there are land assets that have been owned by the Dutch East Indies Government, besides that also not easy to discover the proof of ownership.<sup>35</sup>

Before the appearance of Agrarian Act, Government Regulation Number 8 Year 1953 On Tenure Land-State Rights have been determined exclusively on the lands of the Autonomous Region. Agrarian Act actually adopting the Government Regulation in Article 2 (4) Agrarian Act. Although explicitly, right to control the public, including local governments are already reflected in the formulation of the Usage Rights in Agrarian Act, which asserted that an unspecified period of time, and dedicated to the particular legal / public legal entity, and the certification was done free of charge without income for state. In Article 1 Agrarian Minister Regulation Number 1 Year 1966 states that, "Usage rights that obtained from Departments, Directorates, and the Autonomous Regions, and Management Rights must be registered through the provision of land registration. Then in Article 49 Paragraph (1) of Law Number 1 Year 2004 On State Treasury states that "Goods belonging to the country / region in form of land controlled by the Central Government / Regions should be certified on behalf of the Indonesian Government / local authorities concerned.

<sup>25</sup> UU Nomor. 32 Tahun 2004 (UU No. 32 Tahun 2004) tentang Pemerintahan Daerah

<sup>26</sup> UU Nomor 33 Tahun 2004 (UU No.33 Tahun 2004) tentang Perimbangan Keuangan Antara Pusat dan Pemerintahan Daerah

<sup>27</sup> UU Nomor 17 Tahun 2003 (UU No. 17 Tahun 2003) tentang Keuangan Negara

<sup>28</sup> UU Nomor 1 Tahun 2004 (UU No.1 Tahun 2004) tentang Perbendaharaan Negara

<sup>29</sup> PP Nomor 25 Tahun 2000 (PP No.25 Tahun 2000) tentang Kewenangan Pemerintah dan Kewenangan Provinsi sebagai Daerah Otonom

<sup>30</sup> PP Nomor 38 Tahun 2007 (PP No. 38 Tahun 2007) tentang Pembagian Urusan Pemerintahan antara Pemerintah, Pemerintahan Daerah Provinsi, dan Pemerintahan Daerah Kabupaten/Kota,

<sup>31</sup> Pemerintahan daerah menyelenggarakan urusan pemerintahan yang menjadi kewenangannya berdasarkan asas otonomi dan tugas pembantuan, kecuali urusan pemerintahan yang oleh Undang-Undang ditentukan menjadi urusan Pemerintah,

<sup>32</sup> M. Yusuf. 2010. *Delapan langkah Pengelolaan Aset Daerah Menuju Pengelolaan Keuangan Daerah Terbaik*. Salemba Empat, Jakarta, p.11.

<sup>33</sup> Chabib Soleh dan Heru Rochmansjah. 2010. *Pengelolaan Keuangan dan Aset Daerah; Sebuah Pendekatan Struktural Menuju Tata Kelola Pemerintahan Yang Baik*. Cetakan Edisi Kedua. Fokusmedia, Bandung, p.167.

<sup>34</sup> Op.cit, p.11.

<sup>35</sup> Op.cit, p.17.

## 5. Certification of Government Assets

In Agrarian Act not explicitly stated the types of rights that can be given to the Government and Local Government, but in Government Regulation Number 8 Year 1953 on Land Tenure Land-State has the right to control and use. This provision was adopted by Article 2 (4) Agrarian Act that the right of state control can be delegated to the autonomous region by Government Regulation. Then Government Regulation Number 40 Year 1996 was issued, which confirms that for Central Government and Local Governments should be granted a special using right and special management rights, and given the right evidence in form of certificate, which is done with the process of land acquisition for public purposes (Land Procurement Act). Procurement of land to the government whether used alone, or used by the efforts of certain state companies and region companies and village company based State Company Act.<sup>36</sup> In general explanation of Agrarian Act<sup>37</sup> said that: "State power over lands which not belong to the certain specific rights (individuals, private legal entities / public) will be more comprehensive and full.

Communal rights whose the existence was recognized in Agrarian Act but with certain restrictions, nevertheless in public interest, state interests, social, and for the interest of society then communal rights is subject to various regulations on land procurement, land acquisition even revocation of land rights.<sup>38</sup>

## 6. Metode research.

This study uses empirical juridical and normative methods. Empirical juridical based on field research<sup>39</sup> and normative conducted by study of books, laws and legislation, journals and also called the doctrinal legal research, with the collection of secondary data in the library<sup>40</sup> or private property.<sup>41</sup> Legal materials collected through literature review covering the primary legal materials, secondary and tertiary legal materials,<sup>42</sup> such as encyclopedias, dictionaries, legal magazines and others<sup>43</sup>. This research is descriptive, the research aims to portray the certification of government land assets derived from communal land. Data collection tools used were depth interview. Besides, it also used the survey method involved observations limited (moderate participant) on the implementation activities of land certification of government assets derived from communal land. Besides, it also used the study of documents<sup>44</sup> and interviews with informants related. Location of study in the province of West Sumatra because in this province the communal rights still exist, sampling was done purposively. The population of study is the whole or a set of objects with the same characteristics.<sup>45</sup> The research population of certification local government assets in form of communal land. The sample is a smaller part of the population.<sup>46</sup> The way to take the sampling was

<sup>36</sup> UU Nomor 19 Tahun 2003, Tentang Badan Usaha Milik Negara.

<sup>37</sup> Penjelasan Umum UUPA angka II butir ke 2 alinial terakhir yang menyebutkan bahwa untuk memberikan hak pakai atau memberikannya dalam pengelolaannya kepada sesuatu Badan Penguasa (Departemen, Jawatan atau Daerah Swatantra) untuk dipergunakan bagi pelaksanaan tugasnya masing-masing.

<sup>38</sup> UU Nomor 20 Tahun 1961 Tentang Pencabutan Hak Atas Tanah.

<sup>39</sup> Sutrisnio Hadi, 1989, *Metodelogi Research jilid 1*, Percetakan Andi Offset, Yogyakarta, p.70.

<sup>40</sup> Suratman, 2012, *Metode Penelitian Hukum*, Alfabeta, Bandung, p.51.

<sup>41</sup> Hilman Hadikusuma, 1995, *Metode Pembuatan Kertas Kerja atau Skripsi Ilmu Hukum*, Mandar Maju, Bandung, p.61.

<sup>42</sup> Peter mahmud Marzuki, *Penelitian Hukum*, Cet. VI, Kencana, Jakarta, p.35.

<sup>43</sup> Nico Ngani, *Metodologi Penelitian dan Penulisan Hukum*, Pustaka Yustisia, Yogyakarta, p.78.

<sup>44</sup> Studi dokumen merupakan satu alat pengumpulan data yang dilakukan melalui data tertulis dengan mempergunakan *content analysis*, lihat lebih lanjut Sorjono Soekanto, 1986, *Pengantar Penelitian Hukum*, Jakarta: UI Pres, p.21.

<sup>45</sup> Sutrisnio Hadi, 1989, *Metodelogi Research jilid*, penerbit Andi Offset, Yogyakarta, p.70.

<sup>46</sup> Ibid, p.40

done by purposive sampling with selection based on specific objectives. The Research Design was done gradually and analysis data was done qualitative or quantitative. Analysis is defined as a process of decomposition systematically and consistently against certain symptoms.<sup>47</sup> The analysis means an analysis to the primary and secondary data. Keeping in research is the study of law, the analysis of legal materials was done with normative analysis<sup>48</sup> of the various provisions of existing laws, especially related to certification of local government assets derived from communal land was done qualitatively.<sup>49</sup>

## 7. Results and Discussion

### a. Ulayat land registration Communal Land.

The recapitulation in National Land Agency of West Sumatera shows that the plots of land that have been registered until 2015, only 672.983 plots of land, with an area of 1055692.37 ha, with the details of property rights, the right to cultivate, building rights, using rights, management rights, property rights of apartment unit and waqf land. It can be seen from this number that the using rights both private and public with a number of 5901 plots of land with an area of 292707.94 ha, and management right with a number of 55 plots of land with an area of 775.87 ha. This amount has not yet separated Local Governments land that have certificate of using rights and management rights, not seen any evidence of rights in form of communal rights certificates, in case in West Sumatera the status of land was dominated by communal rights, both in form of communal rights clan, tribe or village. If compared with the overall area of West Sumatra 42.297.30 km<sup>2</sup>, in which there is communal land and others land rights, and that have been registered 1055692.37 ha, without knew how many communal lands which had been moved into another type of land rights, such as for government with using rights and management rights. Data from the field of communal land was uncharted. Nevertheless there is still communal lands which have been registered but the status of the land changed into individual land rights eliminate the communal concept. The necessary of Local Government in West Sumatra of land make the people of communal land through consultation and agreement with precede the government program that requires lands derived from communal land, it turns out indigeneous people of West Sumatra provide their communal land voluntarily. By a government program, the needs of land granted by procurement land, land acquisition and relinquishment of rights to land.

Procurement of land requirements of local governments started first was communal land, then by proving the delegation of land by society land either voluntarily or "*silliah jariah*" by provide compensation or *reconisi*, although not with the definitive measure, unscale very clearly, but after delegated to Local Governments, and are used by local governments and people did not prevent to certificate into using rights or management right. Today's problem is the land for Local Government of West Sumatera and working units, many have not certificate, and for certification requires certain rights, such as delegation letters voluntarily from indigeneous people, letter of land grant of indigeneous people and or delegation letter of submission to *silliah jariah* and others need time to do

<sup>47</sup> Soerjono Soekanto, 1986, *Pengantar Penelitian Hukum*, UI Pres, Jakarta, p.63.

<sup>48</sup> Analisa normatif merupakan inti dari analisis hukum, dimana tugas analisis hukum ini adalah menganalisis pengertian hukum, asas hukum kaedah hukum, sistem hukum dan berbagai konsep yuridis. Dengan demikian dalam analisis normatif ini titik tolaknya tidak lepas dari ketentuan yuridis berdasarkan konsep hukum murni Hans Kelsen, lihat lebih lanjut dalam buku; Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayu Media, Malang, Publishing, 2008, p.311.

<sup>49</sup> Konsep Analisis kualitatif adalah menggunakan bahan-bahan yang tidak semata bersifat normatif tapi juga terkait dengan konsep-konsep hukum, filsafat dan bidang-bidang lain yang di luar norma hukum, lihat lebih lanjut dalam buku; C.F.G.Sunaryati Hartono, *Penelitian Hukum di Indonesia Pada Akhir Abad ke 20*, Bandung: Alumni 1994, p.166.

it, or make proving of physical and juridical of land required the local governments. Is the delegation of indigineous people carried out lawfully, whether it has been represented by the *mamak kepala waris*, *mamak kepala suku*, or set of *mamak* in the villages ? Is that fulfill the principle of publicity? In indigenouse people of Minangkabau called "*Bagalanggan mato rang banyak*". If all of this was done then under the customary law is valid, and the control and use of land has moved to local governments for public use. This lands that was listed in the assets of local government, and the certificate of land right must be made. Today the necessary of local government of land have to make planning, related to planning of spatial and city, and then disseminated to the public, then after the land become into state land then the government manage the certification rights based on Government Regulation Number 24, 1997. The legal basis of the needs of land local government is Article 2,6,14,15 Agrarian Act, namely the interests of government. After the certification requirements are fulfilled, then through working units the land was certificated on behalf local government.

b. Land Procurement for The Needs of Local Government Land that derived from Communal Land.

Although the communal land does not include the object of registration of land, and the field and wide never inventarized by National Land Agency, but because the needs of land for local government has to do with the land procurement process (Law Number 2 Year 2012), without exception land procurement derived from communal land included in the regulation of land procurement. The procedures for land procurement was done by setting the location for land requirements for governments first, after that the program should be disseminated to the public, if it faced with land rights, it must be released first to state land with compensation, as well as the communal land, after that then government filed certification rights to National Land Agency and finally the National Land Agency through the process of land registration issue a certificate of right to local government in form of a special using rights, and in form of a special management rights. These rights should be inventarized as government assets and reported in accordance with applicable regulations. Both types of land rights of local governments are rights of public, and must comply with the duties, functions and authority of local government and working units. Although the communal land also apply similarity of rights over other land for land procurement, but over land rights derived from communal land, which voluntarily delegated without any payment if made subject to certain conditions, for example if it is no longer used by the government then the land back into its original communal land, even people, tribes, and villages. But what happened after the land was used as a local government land, although with the requirements for use, but if it is not used then it will return into the communal land. This causes the communal rights with the delegation of rights to the public interest by granting the new rights, the communal rights lost, because in order for government needs any rights should be given, even if not to the land rights will be replaced by Law Number 20 Year 1961 (Deprivation of Right Act).

Thus it can be said that the research of certification of government land assets derived from communal land has not been mapped properly in West Sumatera and the total assets of local governments derived from communal land are not found. But in every regency and town, the land assets that required by the local government one of its kind is the communal land. It can viewed that recapitulation of land that has been registered in West Sumatera, but it does not look communal land, but the land with the types of property rights, the right to cultivate, building rights, using rights and management right, the total number of 672 983 fields with a 1055692.37 ha. If compared with land area of West Sumatera it seems that too little land has been registered, it also shows that the registration of land in West Sumatera has not been effective.

## **8. Conclusion and Future Recommendation**

From the above findings it can be concluded as follows:

1. The implementation of certification of the local government assets derived from communal land by using the provisions of land acquisition, and planning the needs of land by local government, although the communal land does not have legal certainty because it is not included as one of the rights that are registered but communal land included for land acquisition, even in West Sumatera was done by indigenous peoples voluntarily.
2. In certification of local government of land assets derived from communal land, both the peoples, tribes, and villages actually did not have significant obstacles, only the right base for physical authority that has not been found, and communal rights have no legal certainty and clarity of wide-scale and field.
3. The solution that adopted in certification of local government assets that derived from communal by a persuasive approach to the indigineous people, either by involving traditional leaders, leaders of indigineous people, and religious leaders, and also witnesses that still alive, who know the delegation of communal rights to the formerly local governments.

### **Suggestion**

The Government suggested to establish legal protection regarding communal land in order of Indonesian law, to provide space and legal certainty regarding to communal land so that communal rights have legal certainty.



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