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## *The Conversion of Communal Land Ownership for Economic Activity: A Study on the Resilience of Customary Law Community in Response to State Policy*

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### A B S T R A C T

Communal land, the dominant form of land ownership in West Sumatra Province, is a legal place customarily to carry out economic activities with the principle of mutual benefit, and no transfer of communal land ownership is permitted. However, current state policies in economic activity tend to change the form of communal land ownership. The legality constructed by the state has made the transfer of ownership of communal land when used for economic activity, which disrupts the system of ownership and tenure of communal land. These conditions led to the emergence of community resilience in maintaining ownership and tenure of communal land. The method used in this research is a case study in two villages/ nagari, where data collection was carried out through in-depth interviews with several elements in the nagari. Community resilience is carried out by converting communal land ownership from nagari communal land to clan or subclan communal land and vice versa. The conversion of ownership type is a form of the resilience of the community against state policies that threaten communal land ownership and tenure while at the same time maintaining a balance of social and economic benefits from the use of communal land for economic activity.

community, thus creating resilience for the customary law community to maintain their ownership and tenure system of communal land.

Land ownership in the Minangkabau, an ethnic group that inhabits the mainland of Sumatra Island in West Sumatra Province, is communal land. Minangkabau customary system does not recognize the individual ownership system. On the one hand, individual ownership also receives customary recognition (Warman, 2010), but matrilineal inheritance carried out by the Minangkabau community turns individual land into communal land. Land acquired by individuals, whether search property or gift property, eventually becomes communal land when the land is inherited according to

### A. INTRODUCTION

Communal land for the Minangkabau people is jointly owned by a territorial-based customary law community entity called the *nagari*, which is utilized for the welfare and prosperity of the *nagari* community through economic activity carried out on it. The economic activity carried out on communal land, especially those carried out by the third party, refers to state governance through several sectoral policies on economic activity on communal land. State governance threatens the ownership and tenure system of communal land, which has become customary rules for the

matrilineal inheritance (Beckmann, 2000). The communal land is closely related to the genealogical and territorial *nagari* kinship system of the Minangkabau people, where the Minangkabau people live in genealogical kinship groups called *suku* (clan), who live in a territory called *nagari*.

Communal land is a symbol of togetherness both in terms of ownership and economic impact. Communal land is owned communally by members of genealogical kinship groups. At the same time, it is hoped that it can be utilized for the benefit of the customary law community equitably and responsibly. Shared ownership and benefit are maintained through permanent ownership, whose ownership cannot be transferred to others. Based on ownership, communal land is divided into four types: *suku* (clan) communal land, *kaum* (subclan) communal land, *rajo* (*nagari* leader) communal land, and *nagari* communal land. *Suku*, *kaum*, and *rajo* communal land are owned by members of kinship groups who are inherited according to the matrilineal line. In comparison, the *nagari* communal land is outside the *suku* or *kaum* communal land, is owned by the entire *nagari* community, and is within the territory of the *nagari*. *Ninik mamak* or clan leaders become rulers of communal lands, including *suku*, *kaum*, *rajo*, and *nagari* communal land (Amran, 2017; Fatmi, 2018; Syahmunir, 2006).

In its development, communal land in West Sumatra Province has received threats from the land system, which began during the Dutch Colonial period. The land system introduced by the Dutch Colonial and continued with the enactment of the Basic Agrarian Law Number 5 of 1960 made the individual land ownership system known in West Sumatra Province (Fatmi, 2018). Even though it is considered a distortion, shifting communal land to individual land is inevitable. Likewise, for economic activity, especially for *nagari* communal land, the national land system makes communal land increasingly lost when it is made into the right of exploitation which refers to the Basic Agrarian Law Number 5 of 1960, which is then given management right by the state to corporation (Dhiaulhaq & McCarthy, 2020; Warman, 2010). Article 16 of the Basic Agrarian Law only recognizes seven types of land rights, including the right of exploitation, so when communal land is used for plantation activity, there is a process of shifting land rights through 3 processes, namely handing over land from the community to the Regent, Regent handing it over to corporation and granting the status of the right of exploitation from the state to a corporation (Warman & Andora, 2015).

The Minangkabau customary law community is powerless in the face of the threat of transfer of ownership and tenure of communal land when dealing with the national land system, mainly when communal land is used for economic activity. Land utilization, according to the Basic Agrarian Law, causes the land used by third parties to change its status from communal land to state land (Warman, 2010) because once communal land is converted to the right of exploitation, communal land becomes state property as explained in Article 28 paragraph (1) the Basic Agrarian Law where the right of exploitation is land directly controlled by the state. In many cases, the corporation's economic activity on communal land also changes ownership through land

compensation activity. These processes give rise to conflicts over the use of communal land by corporations. Many cases of communal land use for economic activity ultimately lead to conflicts between communities and corporations, with the main reasons being the grabbing of communal land and the lack of protection for community communal land (Agegnehu, 2020; Shackleton, 2020). In the plantation sector, corporations obtain communal land from the results of the handover of land from the *ninik mamak* to the government, which is then converted into the right of exploitation, a form of land rights recognized by the Basic Agrarian Law, a process that makes the community lose their ownership of communal land (Warman, 2010; Warman & Andora, 2015). Although the communities get smallholder plantations, the smallholder plantation is divided among individual owners, not following customary law.

According to Minangkabau custom, transferring ownership of communal land is not permitted. However, there is no prohibition on carrying out economic activity on communal land, where communal land must be mutually beneficial to both the third party as the manager and the owner. Payment of fees for profits when communal land is used for economic activity creates several customary proverbs, such as *bungo ameh* for mining activities, *bungo ampiang* for agricultural activities, *bungo kayu* for forestry activities, or *bungo karang* for the maritime sector, which is a manifestation of the local wisdom of the Minangkabau people in utilizing communal land for economic activity. When West Sumatra Province returned to using the *nagari* government system, there were many cases in West Sumatra Province where the *nagari* tried to regain their authority over natural resources that the government or companies currently control to regain ownership and control over the communal land (Benda-Beckmann & Benda-Beckmann, 2021).

The hard onslaught of communal land ownership ultimately gave rise to resilience in the Minangkabau customary law community to maintain communal land when it is used for economic activity, a form of social resilience that is carried out to maintain the social integrity of community when it receives disturbances that come from outside or from within (Kinseng, 2019). According to the state system, land governance has disrupted the balance of the systems of ownership and tenure of land in customary law communities because state governance does not give recognition to communal land and does not accommodate communal ownership in the management of economic activity carried out on land. Resilience is carried out to mitigate disturbances threatening communal land ownership and tenure structure from outside customary law community, from state policy.

In the customary sphere, the conversion of communal land ownership is a shift in the scope of the four types of communal land ownership. The conversion of land ownership from one status to another is common in Minangkabau custom because Minangkabau custom does not recognize individual land. One of the reasons for the conversion from *suku* communal to *nagari* communal is the extinction of a clan, as seen from the end of the matrilineal lineage of the clan (Firmansyah et al., 2007) or in several cases of *rajo* communal land in some *nagari* in the *Rantau* area which is currently recognized as *nagari*

communal land (Syahmunir, 2006). *Suku* and *kaum* communal land can also originate from *nagari* communal land, which the clan or subclan members clear, then pass down from generation to generation according to matrilineal inheritance. The initial space allotment of *nagari* communal land, which was later converted to *suku* or *kaum* communal land, was a forest area. The conversion can be seen from the classification of forests in Minangkabau, which are divided into forbidden forest (*hutan larangan*), stored forest (*hutan simpanan*), and cultivated forest (*hutan olahan*). It was this cultivated forest that was initially cleared to become parak or field, which later developed into settlements that transformed from *taratak* to *dusun*, and from *dusun* to *koto*, four types of settlement in Minangkabau, where *koto* developed into settlements already inhabited by class equipped with settlement facilities, such as traditional houses, traditional halls, and mosques (Firmansyah et al., 2007; Nelisa & Nurini, 2014).

The Minangkabau custom concept does not recognize the conversion of communal land into individual land or an activity that causes a transfer of land ownership. Still, the state's policy on economic activity on communal land currently causes the conversion of communal land into state land or individual land. In much previous literature, the explanation of this conversion has yet to be discussed more in-depth. The cases that occurred in Nagari Sungai Kuyit and Nagari Halaban show uniqueness in that the two customary law communities in the two Nagari still maintain ownership and tenure of communal land through resilience by converting the type of communal land ownership so that the social order in communal land persisted.

This paper aims to see how the customary law communities in *nagari* Halaban and *nagari* Sungai Kuyit converted the type of communal land ownership when it is used for economic activity as resilience in maintaining ownership and tenure of the communal land they own. This paper focuses on three elements, namely 1) what is the process carried out by customary law communities in the two *nagari* in converting the type of communal ownership, 2) what factors encourage customary law communities to convert communal land ownership type, and 3) the impact expected by customary law communities when converting the type of communal land ownership.

## B. METHOD

The study of converting communal land ownership type to economic activities in the Minangkabau customary law community in West Sumatra Province as resilience to outside disturbances was carried out through a case study approach. The case study approach can explain how and why customary law communities can survive to restore customary land when facing the onslaught of state policies in land management for economic activities. The conversion in ownership type of communal land is unique in the research location, so this uniqueness can be explained using a case study. The data specifications obtained can describe converts in ownership and can also be applied when the land is used for economic activities.

This case study research was conducted in two *nagari* in West Sumatra Province, namely *Nagari* Halaban in Lareh Sago Halaban district, Lima Puluh Kota Regency, and *Nagari* Sungai Kuyit in Sangir Balai Janggo district, Solok Selatan Regency. The selection of the two *nagari* represents the territorial concept according to Minangkabau custom, which is divided into Luhak and Rantau areas, where *Nagari* Halaban represents the *Luhak* area, and *Nagari* Sungai Kuyit represents the *Rantau* area. From a decision-making point of view, these two *nagari* also represent two forms of decision-making in Minangkabau society, namely hierarchical decisions in *Nagari* Sungai Kuyit because they use the Koto Piliang custom and *Nagari* Halaban whose decisions are more democratic which are found in the Bodi Caniago custom. These two *nagari* also represent two dominant economic activity sectors in West Sumatra Province, namely plantation activity in *Nagari* Sungai Kuyit and mining activity in *Nagari* Halaban. The two *nagari* also represent how customary law communities try to maintain ownership and tenure of communal land by converting the type of communal land ownership used for economic activity. *Nagari* Sungai Kuyit converted *nagari* communal land into *suku* and *kaum* communal land, while on the other hand, *Nagari* Halaban converted *suku* and *kaum* communal land into *nagari* communal land.

Figure 1. The case area in West Sumatra Province



Data collection was carried out by conducting in-depth interviews and documentation data to see how customary law communities try to maintain ownership and tenure of communal land by converting the type of communal land ownership. In-depth interviews were conducted with several elements within the customary law community, including elements of traditional leaders (*niniak mamak*), intellectuals (*cadiak pandai*), and the *nagari* government. These elements were chosen because they become actors who have a significant role in converting the type of

communal land ownership. In the six-month research period, the researcher had limitations in analyzing the respondents' memories of past events they experienced in converting to communal ownership. Of course, this influenced the research results. The researcher hopes that further research can discuss variables and influencing factors in conversion in the past and present.

## C. RESULTS AND DISCUSSION

### 1. Resilience in Maintaining Communal Land

Resilience is a term used first in ecology to describe how an ecosystem defends itself in the face of disturbance. Initially, social resilience studies were also associated with ecological resilience because humans, both individuals and social groups, adapt to environmental changes. Social resilience can be studied from two points of analysis, namely first, looking at it simultaneously with ecological resilience based on the assumption that social systems depend on one ecosystem or resource, and second looking at it from the resilience of institutions to see how institutions can survive, be sustainable and resilient in dealing with changes both from within and from outside so that social resilience can be defined as the ability of groups or communities to cope with external stresses and disturbances as a result of social, political and environmental change (Adger, 2000). In social interaction, social resilience is defined as the capacity to foster, engage in, and sustain positive relationships and to endure and recover from life stressors and social isolation (Cacioppo et al., 2011).

Social resilience research was conducted to see the community's resilience in facing external pressures by assessing factors related to the spectrum of social activities, which include the social, economic, institutional, infrastructure, and natural environment. Pressures from outside cover many aspects, such as natural disasters (Kwok et al., 2016; Yanthy et al., 2022), or policies that can disrupt existing social systems in society (Kasman et al., 2022; Maclean et al., 2014; Marshall, 2007). Attributes that are often studied to see social resilience in society are knowledge, skills, and learning; knowledge of risks and consequences; community networks; community infrastructure; people-place connections; diverse and innovative economy; engaged governance; social support; collective efficacy; and sense of community (Kwok et al., 2016; Maclean et al., 2014; Mahmoudi et al., 2022; Ross et al., 2010).

Communal lands in both *Nagari* Sungai Kuyit and Halaban have been arranged in a traditional institution where the *ninik mamak* or clan leader in the *nagari* becomes the ruler of the communal land which regulates the utilization of communal land for economic activity as shared property which is used for the common welfare. Utilizing communal land for economic activity refers to state governance with all sectoral policies that do not favor the customary law community, resulting in the loss of access to land tenure over communal land. The loss of access influences social and economic factors. Socially, the loss of communal land obscures the communal system on

land that has been maintained for a long time and economically results in the loss of the community's livelihoods.

Communal land used for economic activity is undermined by state policies that threaten the established land ownership and tenure system in the *nagari*. The method used by the *nagari* to maintain the integrity of communal land ownership is by converting the type of communal land ownership. The purpose of converting communal land ownership type is to preserve the existence of communal land, especially its function, which provides equitable benefits to the community both socially and economically. The two *nagari* converted to different types of communal land ownership following the potential and conditions of the institution that manages the communal land.

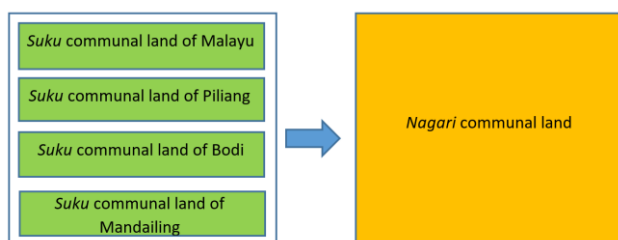
*Nagari* Halaban chose to convert communal land ownership from *suku* or *kaum* communal land to *nagari* communal land because there are some institutions in the *nagari* (the *nagari* government, the Halaban Development Foundation, and the *Kerapatan Adat Nagari* or *Nagari* Custom Association) that can be able to manage communal land and guarantee the existence of communal land and on the other hand also provide equitable economic impact on the community. This choice is based on experience when the communal land was still of the type of *suku* or *kaum* communal land, where social and economic benefits could not be sustainable to be felt by the community. In contrast to Halaban, *nagari* Sungai Kuyit converted the *nagari* communal land into *suku* communal land and *kaum* communal land to conform with the management institution. The cooperative as the manager of the smallholder plantation was intervened by the *ninik mamak* institution to share the ownership and economic benefits of the smallholder plantation among the clans and subclans in *Nagari* Sungai Kuyit. This way can overcome the pressures and threats if the smallholder plantation is divided individually like most of the smallholder plantation divisions done elsewhere.

Social resilience related to ownership and tenure of communal land in the Minangkabau ethnicity is in the *nagari* entity, where the *nagari* community becomes the owner of communal land with control held by the *ninik mamak* or clan leaders in the *nagari*. *Ninik mamak* is the leading actor in resilience against ownership and tenure system threats. The source of disturbance to the system in the community comes from state policies in state land management and sectoral policies such as plantation and mining policies contrary to local governance. What customary law communities do in maintaining the system is by converting the type of communal land ownership.

*Nagari* Halaban has mining potential in rock hills in an area of 710 ha in Jorong Ateh Laban. To manage mining potential in the rock hills area, the *ninik mamak* of *nagari* Halaban made a consensus to determine the rock hills that have the potential for mining to be used as *nagari* communal land. All clans or subclans who own land on rock hills convert their communal land ownership from *suku* or *kaum* communal land to *nagari* communal land with a note that only rock hills are used as *nagari* communal land. In contrast, the agricultural areas under or around the rock hills remain *suku* or *kaum* communal land.

The consensus of *ninik mamak* of *nagari* Halaban continued by establishing the *nagari* communal land of Halaban through a *nagari* regulation. The *ninik mamak* of *Nagari* Halaban realized the importance of legalizing the consensus through a *nagari* regulation, so the *ninik mamak* of *Nagari* Halaban coordinated with the *nagari* government of Halaban to compile and determine the *nagari* communal land through a regulation. *Ninik mamak* and the *nagari* government of Halaban finally stipulated *Nagari* Halaban Regulation Number 53 of 2012 concerning the Control and Supervision of Utilization of Halaban's *Nagari* Communal Land. The agreed *nagari* regulation legalized converting the type of communal land ownership in *Nagari* Halaban from *suku* or *kaum* communal land to *nagari* communal land. The form of conversion in the type of communal land ownership in *Nagari* Halaban can be seen in Figure 2.

Figure 2. Conversion of type of communal land ownership in *Nagari* Halaban



In contrast to *Nagari* Halaban, *Nagari* Sungai sKunyt, which handed over their communal land for oil palm plantation activity, received an allotment of 1,100 hectares of smallholder plantation, also maintained a system of ownership and tenure of communal land in smallholder plantation by converting the type of communal land ownership from *nagari* communal land to *suku* communal land and *kaum* communal land. Unlike the distribution of smallholder plantations in other places where the smallholder plantation is divided among individuals or family heads in the *nagari*, *Nagari* Sungai Kunyt divides smallholder plantations into three types of division, namely clan division, customary leader division, and family head division, which can be seen in Table 1.

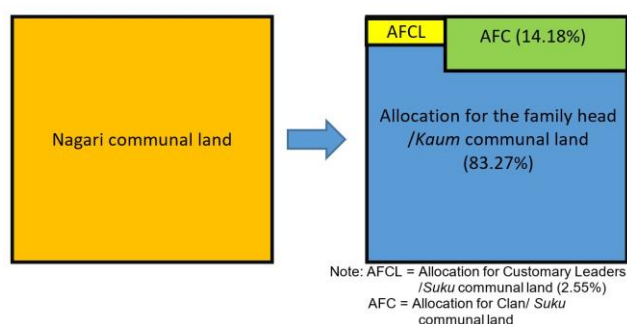
Table 1. The proportion of smallholder plantation allotments in *Nagari* Sungai Kunyt

Type of Allotment	Number of Allotments	Land Area of Allotments (Ha)	%
<i>Suku</i> / Clan allotment	13	156	14.18
Customary leaders allotment	14	28	2.55
Family head allotment	458	916	83.27

The division of Sungai Kunyt smallholder plantation, which is divided into three forms of division, has changed the pattern of communal land ownership from *nagari* communal land, which is the origin of smallholder plantation, to *suku* communal land and *kaum*

communal land to maintain the system of ownership and tenure of communal land. Distribution to clan and customary leaders has converted the form of ownership from *nagari* communal land to *suku* communal land. At the same time, the distribution to the family head is expected to convert into *kaum* communal land. The pattern of conversion of customary land ownership in the smallholder plantation of *Nagari* Sungai Kunyt can be seen in Figure 3.

Figure 3. Conversion of type of communal land ownership in *Nagari* Sungai Kunyt



## 2. Conversion of Communal Land Ownership Types in *Nagari* Halaban

*Ninik mamak* of *nagari* Halaban learned from the experience of marble mining in the 1980s, where the corporation obtained the rock hill by purchasing from one clan in *nagari* Halaban, which is located not far from the current *Wali Nagari* Halaban office. With this mechanism, neither the people who sell the rock hill nor the *nagari* community get sustainable social and economic benefits from the sale of the rock hill. The clan, subclan, or *nagari* community does not have power over the land that has been sold, so they cannot intervene with the corporation to provide income for the *nagari* and employment for the *nagari* community. The sale of rock hill to corporations results in the loss of community rights to the resources of the rocky hills. Community loses two groups of rights to resources (Schlager & Ostrom, 1992) over rock hill, namely the right to directly transfer benefits from the rock hill and the right to distribute, condition, or limit how others can obtain or transfer benefits from the rock hill. For the rights to resources over the other rock hills in *Nagari* Halaban to remain owned by the people of *Nagari* Halaban, the *ninik mamak* of *nagari* Halaban considers that one way that can be taken is to convert the type of communal land ownership from *suku* or *kaum* communal land to *nagari* communal land.

The state policy for mining activity only contains the authority to take mining materials, does not cover land rights, and refers to Law Number 4 of 2009 concerning Mineral and Coal Mining; new mining activities can be carried out after the corporation has settled land rights with the appropriate rights holders with the applicable laws and regulations; therefore the relationship between mining actors and communal land owners becomes more open and raises several choices (Warman & Andora, 2015). *Nagari* Halaban initially chose to sell the rock hill to

a corporation that the rock hill owner carried out. This action was considered detrimental to the ownership and tenure of communal land because it transferred land ownership to corporate property and did not provide sustainable economic benefits for the community. Collective awareness emerged that clan or subclan ownership and the choice to sell rock hills disrupted the communal land system in the *nagari*. The community converted the type of ownership to *nagari* communal land and changed the buying and selling pattern to a renting way.

The decision to convert the type of communal land ownership was the agreement of all *ninik mamak* in *Nagari Halaban* from the four clans in the *nagari* consisting of 11 *ninik mamak* from *suku* Malayu, 11 *ninik mamak* from *suku* Piliang, 10 *ninik mamak* from *suku* Bodi, and 8 *ninik mamak* from *suku* Mandailing. For the *ninik mamak*'s decision to have formal legal status within the framework of the state, intellectuals (*cadiak pandai*) in *nagari Halaban* encouraged *ninik mamak* to cooperate with the *nagari* government to legalize the agreement through a *nagari* regulation so that it set *Nagari Halaban Regulation* number 53 of 2012 concerning Control and Supervision of the Utilization of Halaban's *Nagari* Communal Land. Apart from stipulating the parts that fall under the *nagari* communal land in *Nagari Halaban*, the *nagari* regulation also defines the procedures that corporations must follow when carrying out mining activities in the rocky hills. The *nagari* regulation is made to strengthen further the rights of the *Nagari Halaban* community in distributing, conditioning, or limiting how other people can obtain or transfer benefits, either through exclusion, management, regulation, or regulating income. *Nagari* regulation can determine who can access, how resources can be accessed, how rights over resources can be sold or transferred, and set rules about who can get income from mining activity on rocky hills.

The role of the traditional leader (*ninik mamak*) in converting communal land ownership is agreeing to change the type of communal land ownership from *clan* or *sub-clan* to *nagari* communal land. Intellectuals (*cadiak pandai*) is an actor who drives the process of legalizing the agreement into *nagari* regulation and provides input in drafting the content of *nagari* regulation. The *nagari* government then plays an active role in drafting and enacting the *nagari* regulation. The collaboration of these three actors ultimately made the conversion of communal land in *Nagari Halaban* legal. It became a guide for all elements of society when it was used by third parties to do mining activities.

The community chooses to convert the type of land ownership to *nagari* communal land because it is easier to control *nagari* communal land than *suku* or *kaum* communal land. At the *nagari* level, the *ninik mamak* has an institution called *Kerapatan Adat Nagari*, and there is also a *nagari* government institution which is a formal institution that can be relied upon to control the course of economic activity on the rock hills starting from the negotiation stage to exploitation activity on the rock hills by corporations. When the rock hills still had the status of *suku* or *kaum* communal land, the authority to manage the rock hills belonged to the clan or subclan leader who could not be intervened in depth by the custom institution and the *nagari* government. With the designation of *nagari*

communal land, using it for economic activity can be sustainable for generations from one generation to the next. It is not interrupted between customary law communities and their customary territories. The community also does not lose rights over communal land within their *nagari* territory.

The conversion of the type of communal land ownership by the customary law community of *Nagari Halaban*, which was reinforced by being stipulated by a *nagari* regulation, was strongly influenced by the desire to defend rights to rocky hills resource because when it was still in status as *suku* or *kaum* communal land, it was difficult to protect the rights and benefits on the rock hill resources. The legality of communal land in the form of a *nagari* regulation is carried out with the intention that the utilization of communal land can improve the welfare and prosperity of the customary law community. Other parties outside the customary law communal are permitted to utilize communal land on the principle of mutual benefit, and sharing risks with the guide "*adat diisi limbago dituang*" are poured through deliberation for consensus.

The *Nagari Halaban* regulation also regulates how the resources in the rock hills can be accessed or utilized. The procedures for using *nagari* communal land are distinguished by members of the customary law community and by third parties who are not members of the customary law community. In the customary law community, members can utilize communal land with permission from *ninik mamak* as the communal land authority, whereas a third party does it. It can be in the form of a legal entity or an individual, and it is carried out based on a concession agreement between the customary law community and the third party in the form of equity participation, profit sharing, or other agreed forms. *Nagari Halaban* even has a standard operating procedure that guides corporations when they want to utilize communal land.

Through a *nagari* regulation, *Nagari Halaban* has declared that communal land can be used without any mechanism for transferring communal land ownership. When the cooperation agreement period with the third party is over, the communal land automatically returns to its owner, namely the *ninik mamak* of *Nagari Halaban*. When communal land is handed over to a third party, what happens is only the transfer of management rights, not ownership rights. When the agreement period is over, control and management rights automatically return to the customary law community.

*Nagari* regulation explains the form of cooperation in using communal land between third parties and customary law communities as a system of capital participation, profit sharing, and other agreed models. Still, the customary law community will approve, referring to the principle of communal land use where the model does not interfere with communal land ownership. Another form that is widely used today is the leasing system, where the permitted lease term is 20 years, and the agreement is subject to review every three years. The community of *Nagari Halaban* can also intervene in companies to absorb workers from *Nagari Halaban*.

From the aspect of regulation income, the *nagari* regulation generally emphasizes that the customary law community must feel the benefits of communal land in the concept of justice and responsibility. The *nagari* regulation

does not explain parties who obtain income from using communal land by third parties. However, in practice, profits are managed by the *nagari* government but utilized by three institutions in the *nagari*: the *nagari* government, *Kerapatan Adat Nagari*, and the Halaban Development Foundation. These profits are money of seriousness to invest, third-party donations, sales, and production fees. Mining companies operating in *Nagari* Halaban pay their fees to the *nagari* government. The *nagari* government shares the profits with the *nagari* government, the Halaban Development Foundation, and *Kerapatan Adat Nagari*. The income the three institutions receive is strongly influenced by the agreement with which party the corporations cooperate, whether with the *nagari* government or the Halaban Development Foundation. The amount of profit sharing from corporations that have already operated can be seen in Table 2.

Table 2. Distribution of profits from production fees and marketing fees paid by corporations producing in *Nagari* Halaban

Corporation	Profit Sharing (%)		
	<i>Nagari</i> government	<i>Kerapatan Adat Nagari</i>	the Halaban Development Foundation
PT. SCP	20	30	50
PT. AHS	60	40	-
CV. PH	20	30	50
PT. HBM	60	40	-

Socially, the conversion of communal land ownership type in *Nagari* Halaban positively impacted consolidating communal land existence because all *ninik mamak* in *Nagari* Halaban supervised it. Economically, this conversion also provides income for three *nagari* institutions: the *nagari* government, the Halaban Development Foundation, and *ninik mamak* (*Kerapatan Adat Nagari*). Specifically, the *Kerapatan Adat Nagari* institution becomes an independent institution that can work without any financial support from the *nagari* government, as is the case for most *nagari* in West Sumatra Province, because of the income from mining activity profits. In addition to institutional operation, the revenue is also used by *Kerapatan Adat Nagari* for training, assistance in developing customs and traditions in the *nagari* such as *randai* and *silat* art groups. It can also be used for social activities such as donations for uninhabitable houses. The profits that go to the Halaban Development Foundation are used to develop education in Halaban. This foundation manages several schools, whose purpose is to help educate the economically disadvantaged *nagari* community to obtain primary education.

The funds that enter into the treasury of the *nagari* government have the status of the *nagari*'s original income, which is used to finance programs and activities in the Revenue and Expenditure Budget of *Nagari* Halaban. *Nagari*'s original income can fund activities that village funds cannot accommodate. Funds that share to the *Kerapatan Adat Nagari* Halaban institution, the Halaban Development Foundation, and the *nagari* government

must be used in the form of programs and activities accompanied by a budget plan made by each institution

### 3. Conversion of Communal Land Ownership Types in *Nagari* Sungai Kunyit

*Nagari* Sungai Kunyit received a smallholder plantation of 1,100 ha as compensation for handing over the customary land of the *nagari* to two plantation companies, namely PT. IR and PT. KSI. The company developed smallholder plantations for the community following presidential instructions number 1 of 1986 concerning Plantation Development with the People's Nucleus Company Pattern. Then it strengthened in Law Number 18 of 2004 and Law Number 39 of 2014 concerning Plantations. The government directed cooperative institutions, referring to Law number 25 of 1992 concerning cooperatives, to manage smallholder plantations where the people who obtained smallholder plantations become members of the cooperative, where the practice was to divide smallholder plantations into individuals, which ultimately changed the ownership of communal land to that of the individual.

Facing various state policies that threaten the system of communal land ownership and tenure in smallholder plantations, the customary law community of *Nagari* Sungai Kunyit responded by dividing the smallholder plantation into three divisions, namely the customary leader, clan, and family head. Smallholder plantation is given to the customary leader, and the clan will convert from *nagari* communal land to *suku* communal land. At the same time, those given to the family head will convert to *kaum* communal land. Clans and customary leaders who get smallholder plantation allotments in *Nagari* Sungai Kunyit can be seen in Table 3.

Table 3. Clans and customary leaders who get smallholder plantation allotments

Clan	Customary Leaders	Note
Malayu Kampung Dalam	Tantua Rajo Sailan	<i>Nagari</i> leader
	Puti Ganto Suri	<i>Nagari</i> female leader
Malayu Sungai Bayeh	Dt. Bandaro Kayo	clan leader
Malayu Sungai Bayeh	Dt. Pangulu Rajo	clan leader
Malayu Sungai Bayeh	Dt. Rangkayo Basa	clan leader
Malayu Sigintir	Dt. Indo Mangkuto	clan leader
Malayu Sigintir	Dt. Manti Pangulu	clan leader
Malayu Rumah Andah	Dt. Rajo Bangun	clan leader
Malayu Tabiang	Dt. Sampono Rajo	clan leader
Kutanyia	Dt. Rajo Palembang	clan leader
Caniago	Dt. Pangulu Sati	clan leader
Tigo Lareh	Dt. Murun	clan leader
Tigo Lareh	Dt. Rajo Kalabian	clan leader

Panai	Dt. Pangulu Mudo	clan leader
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The distribution of smallholders to clans and customary is the conversion of *nagari* communal land into *suku* communal land because both are then turned into clan property. The clan allotment makes each clan in *Nagari* Sungai Kunyit have an asset in the form of a smallholder plantation which is a source of income for the clan whose benefits are felt by all members. The profit management of the clan allotment smallholder plantation is managed by a team formed based on clan consensus deliberations by forming a chairman, secretary, and treasurer under the supervision of the *ninik mamak* or clan leader. Clan allotment provides a source of income for the clan for carrying out customs and physical and non-physical development within the clan environment, such as renovating traditional house building, educational and health assistance for clan members, and assistance for carrying out customs such as marriage customs, death customs, or Islamic holidays. The 13 clans in *Nagari* Sungai Kunyit can routinely hold monthly meetings funded by regular social gatherings of IDR 5 million every month. From the clan's regular social gatherings, each clan has IDR 65 million, which was used for the operational costs of the clan for 13 months.

Customary leaders use the allotment of customary leaders to carry out their customary functions because it is supported by funds originating from the allotment of smallholder plantations. There are three customary leaders in the *nagari*, namely *rajo nagari* as *nagari* leader, *bundo kandung nagari* as the *nagari* female leader, and *ninik mamak* as the clan leader, and each of them gets an allotment of smallholder plantation covering an area of 2 ha which is an adoption of the system of *sawah kagadangan*. *Sawah kagadangan* is rice fields that are given to *ninik mamak*, who are a source for his operations to carry out his duties as clan leader (Sumarty, 2007). *Nagari* Sungai Kunyit is a typical *nagari* led by a *rajo*; another type is a *nagari* led by a group of *ninik mamak* or clan leaders so that the *rajo nagari* and *bundo kandung nagari* are also given smallholder plantation allotment which is a source of funds to carry out their duties as *nagari* leader and female leader in *nagari*.

Allotment of the family head will turn into *kaum* communal land through inheritance. As many as 458 family heads who received smallholder plantations will inherit their smallholder plantations according to matrilineal inheritance. In the first inheritance, when it is inherited according to matrilineal inheritance to the daughters in the family, the smallholder plantation will automatically change its status from grant land to communal land (Beckmann, 2000) and become a source of income for the family and their descendants who will later become a *kaum* or subclan. The allotment of the family head, which is expected to be converted into *kaum* communal land, currently provides additional income for the family of IDR 3 million to IDR 5 million per month, a huge value for the *nagari* communities, who do not depend on smallholder plantation because most of them work as farmers and have their land. To facilitate matrilineal inheritance for the allotment of the family head, all *ninik mamak* of *Nagari* Sungai Kunyit ban the buying and selling process in the family head allotment.

Traditional leaders (*ninik mamak*) became the sole actor in the communal land conversion process in *Nagari* Sungai Kunyit, which was supported by their collective consciousness to maintain ownership and tenure of communal land. This consciousness was ultimately also followed by intellectuals (*cadiak pandai*), the *nagari* government, and all formal and informal institutions in *nagari* to support the conversion efforts of communal land carried out by *Ninik Mamak*. The factor that prompted the *ninik mamak* in *Nagari* Sungai Kunyit not to divide the smallholder plantation into individuals was the bad experiences in West Pasaman District. Development of oil palm plantations in Pasaman Barat regency since the 1980s undermined the ownership and tenure of communal land and gave rise to many conflicts. *Ninik mamak* hopes that a similar case will not occur in *Nagari* Sungai Kunyit by modifying the arrangements for distributing smallholder plantations. At the same time, this arrangement also led to the conversion of the type of communal land ownership, where the *nagari* communal land changed into *suku* communal land and *kaum* communal land. This step is an effort to safeguard the community's rights to communal land, especially the right to distribute, condition, or limit how other people can obtain or transfer benefits (Schlager & Ostrom, 1992; Sikor et al., 2017). This effort has made it clear that clans, customary leaders, and family heads in the *Nagari* Sungai Kunyit are the ones who can access and take benefit from the smallholder plantation and prohibit others from accessing it, including through the buying and selling process. The conversion of communal land in smallholder plantations has determined that there are only three elements that derive income from smallholder plantations, namely clans, customary leaders, and native family heads in *Nagari* Sungai Kunyit.

#### 4. Balancing of Social and Economic Impacts in the Management of Communal Land

State policies, especially regulations governing plantation activities and management of smallholding plantations carried out in *Nagari* Sungai Kunyit and mining in *Nagari* Halaban, encourage the change of land ownership from communal land to individual land, which threatens the system of ownership and tenurial of communal land. To restore ownership and tenure of communal land, the customary law communities of the two *nagari* carried out resilience by converting the type of communal land ownership.

The practice of converting the type of communal land ownership when it is used for economic activities carried out by the customary law community of *Nagari* Halaban has a different pattern from that carried out by *Nagari* Sungai Kunyit. *Nagari* Halaban converted *suku* or *kaum* communal land into *nagari* communal land, while *Nagari* Sungai Kunyit converted *nagari* communal land into *suku* and *kaum* communal land. The similarity between the two is efforts to maintain the existence of communal land along with the value of benefits from communal land as a symbol of togetherness.

Differences in the choice of conversion to the type of communal land ownership are carried out to follow the pattern of economic utilization that is most likely to be



carried out by customary law communities. For the community of *Nagari* Halaban, the experience of managing rocky hills at the level of clan or subclan does not have sustainable economic benefits while accelerating the loss of community rights to communal land. Management at the clan or subclan level is impossible because building an institution to manage the profits from mining activity is difficult. Management at the *nagari* level makes it possible to maintain economic and social values simultaneously because it does not only involve the *ninik mamak* element but can also collaborate with the *nagari* government and the Halaban Development Foundation. The *nagari* government institution can be relied upon to manage profits from mining activity because the *nagari* government has sufficient human resources compared to clan or subclan, even though economic benefits do not flow directly to the customary law community but are channeled through programs and activities in the three institutions in the *nagari*.

*Nagari* Sungai Kunyit chose to convert *nagari* communal land into *suku* communal land and *kaum* communal land, following the initial motivation to obtain a source of income for members of the customary law community. The option of profit sharing from smallholder plantations directly among clans, traditional leaders, and family heads is considered more appropriate than through the existing institutions in the *nagari*, either *Kerapatan Adat Nagari* or the *nagari* government. When the *nagari* government institution in *Nagari* Halaban has become the party that manages profits from mining activity which are then distributed to elements of the *nagari* government, *Kerapatan Adat Nagari*, and the Halaban Development Foundation, the management of smallholder plantation in *Nagari* Sungai Kunyit is managed by a cooperative. The cooperative then distributes profits to the three elements that get benefit economically from the smallholder plantation.

There are differences in the conversion of communal land when used for economic activity, institutions that manage profits from communal land management, and elements that benefit from economic activity on communal land. Still, the conversion carried out by the two *nagari* has the same goal of maintaining a balance between the economic and social impacts when it is used for economic activities. On the one hand, the community can still hold the communal land. On the other hand, financial benefits can also touch all levels of the community based on a just concept. The conversion of communal lands by the two *nagari* is a form of resilience carried out by customary law communities. Still, on the other hand, it is also a form of economic activity that is inclusive and sustainable. The conversion of communal land type in *Nagari* Halaban and Sungai Kunyit is a form of customary tenure over land that has social, economic, and cultural impacts on the community when it is used for economic activities. This form cannot be carried out when the land is under other control, either by corporations or by individual rights (Scheyvens et al., 2020).

## D. CONCLUSIONS

The conversion of communal ownership types that aim to maintain ownership and tenure of communal land is an effort to strengthen the social benefits of the economic benefits obtained by the community when the state policies tend to ignore communal land ownership. *Nagari* Halaban changes *suku* or *kaum* communal land into *nagari* communal land. The choice is taken by Halaban community because there is no institution to manage the profits from economic activity on communal land at the clan or subclan level. By changing its status to *nagari* communal land, the management can be handed over to the *nagari* government institution. In contrast to *Nagari* Sungai Kunyit, which converted *nagari* communal land into *suku* communal land and *kaum* communal land, this was done because customary law communities could collaborate with cooperative institutions that manage smallholder plantations. Even though it has a different pattern of converting the types of communal land ownership, the conversion is carried out to maintain the system of ownership and tenure of communal land from threats originating from state policies on economic activity on communal land.

The conversion of communal land ownership types in the two *nagari* was not only carried out to facilitate the management of economic benefits derived from economic activity on communal lands. Still, it was also an effort to balance economic and social benefits for customary law communities in the two *nagari*. Economically, the two *nagari* get benefit from economic activity. The community of *Nagari* Halaban receives direct and indirect economic benefits. The community gets direct benefits through people who are directly involved in mining activities, such as workers in corporations, and indirect benefits that are received by the *Nagari* Halaban community from programs and activities at three *nagari* institutions, namely the *nagari* government, *Kerapatan Adat Nagari*, and the Halaban Development Foundation, whose source of funds comes from fees received by the *nagari* government from the company. The community of *Nagari* Sungai Kunyit received direct benefits from the profits from the smallholder plantation. The cooperative institution manages the smallholder plantations and distributes the profits of the smallholder plantations to the entire customary law community of Sungai Kunyit, which is divided into clans, traditional leaders, and family heads, which become income for the three elements. Communal land is seen as common property, so it is economically useful and can be felt by all levels of the community in the *nagari*.

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