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Potential of Bayan Indigenous Peoples in Obtaining Customary Forest Management Rights in North Lombok Regency

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ABSTRACT

In Bayan Village, West Nusa Tenggara, there are four customary forest areas that have the potential to be developed through the Customary Forest scheme. This scheme is part of the Social Forestry Program which provides access and forest management rights to indigenous communities. The four forests are currently being managed by the indigenous peoples but have not yet been granted the status of customary forest. The aim of this study is to evaluate the potential of the Bayan indigenous community to acquire forest management rights under the Customary Forest scheme. The research employed a normative-empirical approach. The results indicate that the Bayan indigenous peoples meets all the criteria in the Government Regulation No. 23 of 2021 on the Implementation of Forestry and the Ministry of Environment and Forestry Regulation No. 9 of 2021 on Social Forestry Management. The Bayan indigenous peoples is eligible to be designated as a Customary Law Community by the Regent of North Lombok and to obtain Customary Forest management rights from the Ministry of Environment and Forestry. This potential is supported by two factors: (1) the potential for forest and tourism development; and (2) the potential for well-maintained local wisdom

INTRODUCTION

About 62.97% of Indonesia's land area is covered by forests [1]. Therefore, it is crucial for Indonesia to establish a sustainable forest management concept. This forest management concept is based on the country's underlying ideology that the state controls the land, water, and natural resources contained within, using them for the benefit of the people [2]. Two key components of this ideology are: i) the state controls the natural resources in Indonesia, ii) the state controls the natural resources in Indonesia for the benefit of the people [3]. This means that the state controls the natural resources in Indonesia for the use and welfare of the people [4].

Since 1970, the government has granted forest utilization licenses to private companies [5]. However, forest management by these companies has caused numerous problems [6], including a struggle over forest areas between indigenous peoples and companies receiving forest management licenses. Communities who use forest products around them have been criminalized, and companies receiving forest management licenses have imposed restrictions. Other issues include the deterioration of local knowledge values and environmental disasters caused by unrestricted use of the forest [7].

These issues are a form of injustice to the communities that are geographically located around the forest and have historically protected the forest with their local knowledge but are excluded from access rights to the forest [8].

On the other hand, indigenous peoples are legal subjects who need legal protection [9]. Article 18B of the 1945 Constitution states that “the State recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are 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”. Article 28, paragraph (3) of the 1945 Constitution acknowledges the respect for cultural identity and community rights in accordance with the development of society and civilization.

Based on sociological and legal principles, the government has initiated a social forestry program that includes the Customary Forest system. Customary Forests is a scheme within the Social Forestry program that grants access and management rights to communities governed by Masyarakat Hukum Adat (MHA), also known as “customary law community”. This program aims to promote economic development among indigenous peoples while also ensuring the sustainability of forests [10]. The program was established in 2016 through Minister of Environment and Forestry Regulation No. 83/2016 on Social Forestry and is ongoing as part of the Directorate General of Social Forestry and Environmental Partnership's Strategic Plan 2020-2024.

Four customary forest areas in Bayan Village, West Nusa Tenggara have been identified as possible locations for development under this program. These forests are currently managed and controlled by indigenous peoples, but they do not possess the status of Customary Forest. Conversely, Regional Regulation No. 6 of 2020 has been enacted by the North Lombok District Government. The regulation aims to legally recognize and protect customary law community as a means of determining the status of Customary Forests.

This study evaluates the potential of the Bayan indigenous peoples to obtain forest management rights under the Customary Forest scheme. Bayan was chosen as the research location for two main reasons. First, the community is located in close proximity to four selected forest areas. Second, the Bayan indigenous peoples has a comprehensive understanding of local forest management practices. Several factors underscore the significance of integrating the four forest zones into social forestry initiatives. First, it serves to advocate for the legal recognition of the Bayan Indigenous Community and their traditional land rights. Second, the livelihoods of the local community are deeply intertwined with these forest areas; their engagement in the social forestry program could enhance the economic benefits derived from these resources. Third, indigenous knowledge plays a critical role in

ensuring the preservation of the forests. The social forestry program represents a governmental effort to acknowledge and incentivize community involvement in forest conservation, thereby fostering a healthier environment for the broader public.

The literature review indicates that studies of the Bayan customary forest highlight the legal anthropology approach. Two relevant studies are Arief Rahman and Arba's research, "The Existence of Local Institutions in the Management of Customary Forests in Bayan Village, North Lombok Regency" [11] and Edi Muhamad Jayadi and Soemarno's research, "Analysis of Awig-Awig Transformation in Customary Forest Management (Case Study on Wetu Telu Community in Bayan Area, North Lombok)" [12]. The studies provide valuable insight into the management of customary forests in the region.

METHODS

The normative-empirical method was used to conduct this research. It was selected to investigate legislation governing the legal foundation, criteria, and processes for identifying customary forests. The laws examined in this study include the 1945 Constitution, Constitutional Court Decision No. 35/2012 concerning customary forests, Law No. 6 of 2023 regarding the Regulations in Lieu of Law No. 2 of 2022 on Job Creation, Government Regulation No. 23 of 2021 on Forestry Implementation, Minister of Environment and Forestry Regulation No. 9 of 2021 on Social Forestry Management, and North Lombok Regency Regional Regulation No. 6 of 2020 on the Recognition and Protection of Customary Law Community. The empirical study aims to evaluate the capacity of the Bayan indigenous community to obtain forest management rights through the Customary Forest program. The method involved observations and interviews of traditional leaders, village officials, and the community, as well as the Indigenous Peoples Alliance of the Archipelago of North Lombok Regency. The results have been properly recorded and documented. The study employed purposive sampling to select both the research location and respondents, guided by specific criteria [13] The research location was determined based on its significant area, with the Bayan region being

selected for its designation as the largest customary forest area in North Lombok Regency. Respondents were chosen for their key roles or in-depth understanding of the socio-cultural context of the research site. The primary informants included the customary leader of the indigenous peoples (Pemangku), representatives from the Village Government, members of the Bayan indigenous community, and members of AMAN (Aliansi Masyarakat Adat). Data analysis was conducted using a descriptive qualitative approach, which involves data reduction, narrative presentation, and the formulation of conclusions.

RESULTS AND DISCUSSION

Customary Forest Law Overview

Customary Forest is among the five social forestry programs overseen by the Republic of Indonesia's Ministry of Environment and Forestry. Besides Customary Forest, the other four programs are Village Forest, Community Forest, Community Plantation Forest, and Partnership Forest. Customary law community are in charge of Customary Forest and its management as part of the social forestry program. Village Forest is a social forestry program that allows village institutions to oversee forests. Community Forest is a social forestry initiative in which community groups utilize forests for empowerment. Community Plantation Forest is a forest management program that allows communities to build plantations and improve forest quality and potential using a silviculture system. Partnership Forest is another social forestry program in which forest management is entrusted to holders of business licenses for utilizing forest areas or agreements for forest area use with partners [14].

The Customary Forest program was launched in 2016 under the Ministry of Environment and Forestry Regulation No. 83/2016 on Social Forestry, operating according to the Constitutional Court Decision No. 35/2012 on customary forests. Currently, the program is integrated into the Strategic Plan of the General Directorate of Social Forestry and Environmental Partnership for 2020-2024. The legal foundation of the program is derived from multiple sources, notably Article 33 of the 1945

Constitution, which grants the state control over land, water, and natural resources to promote the people greatest good. Additionally, the program complies with Constitutional Court Decision No. 35 of 2012 regarding customary forests, Law No. 6 of 2023 which specifies regulations that replace Law No. 2 of 2022 on Job Creation, and two derived regulations, namely Government Regulation No. 23 of 2021 on Forestry Implementation, and Minister of Environment and Forestry Regulation No. 9 of 2021 on Social Forestry Management. Through Regulation No. 9 of 2021 issued by the Minister of the Environment, the Ministry has implemented technical regulations for the management of social forestry, including those managed by customary law community under the Customary Forest scheme. The customary forest scheme delegates forest management to customary law community [15].

According to Regional Regulation, a customary law community can manage customary forests within state forest territory. However, if the customary law community is located outside the state forest area, it must be stipulated by a Regional Regulation or a Decree of the Governor/Regent/Mayor. There are specific criteria to qualify indigenous peoples for participation in indigenous forest management:

- 1) indigenous peoples are still in the form of traditional community (paguyuban),
- 2) there must be a management institution like the customary ruling apparatus,
- 3) a clear boundary of the customary area,
- 4) legal institutions and devices, particularly customary sanctions, and
- 5) indigenous individuals from the neighboring forest area continue to collect forest products for their daily necessities [16].

In order to obtain the Customary Forest title, the customary leader (Pemangku) of the indigenous peoples that has been certified as an customary law community must submit an application to the Minister of Environment and Forestry (Article 66).

Confirmation of Customary Forest status is contingent on fulfilling the following criteria (Article 65). The designated area is located within customary territory. The forested area has distinct boundaries and is maintained utilizing the local wisdom of the indigenous peoples. Wood products come from either within the state forest or outside of it. Indigenous peoples collect wood products in the surrounding forested area to meet their daily requirements. The application will be verified by the Director General of Social Forestry through the creation of an integrated team. The team will evaluate the application of customary law community, ensuring the existence of the applicant and the validity of application documents to establish customary forest status, as well as determining the location and function of the prospective customary forest, and evaluating the land cover condition. The assessment will identify potential customary forest in both provincial and district/city spatial plans. Additionally, it will determine if the proposed area is eligible for customary forest designation.

Upon receiving the Customary Forest designation (Article 92), customary law community holds various rights, there are:

- 1) The foremost right to use the forest area according to the community's customary law requirements;
- 2) the customary law community is entitled to use environmental services;
- 3) They have the right to collect or use timber forest products;
- 4) customary law community have the right to collect or use non-timber forest products;
- 5) customary law community can engage in forest management activities that comply with applicable customary laws and do not conflict with laws and regulations;
- 6) customary law community have the right to receive empowerment that aims to improve their welfare [16].

The Potential of the Bayan Indigenous Peoples to Acquire Forest Management Rights Under the Customary Forest Scheme

Primary Potential of the Bayan Indigenous peoples. There are two primary potentials for the Bayan indigenous peoples to obtain forest management rights through the customary forest scheme:

- 1) the potential of forest and forest tourism development, and
- 2) the potential of local wisdom.

These local conditions facilitate efforts to secure forest management rights through the customary forest scheme.

Bayan village has four magnificent forest areas near the Bayan indigenous peoples (Bangket Bayan, Mandala, Tiurarangan, and Pangempokan). The Bangket Bayan customary forest is the largest and primary area among these regions. Muhajir states that this forest has eight (8) springs including the Bangket Bayan spring, Lokoq Pok spring, Lekong Seleot spring, Biru Bombong spring, Lokoq Bual spring, Lokoq Santek spring, Lokoq Sangga spring, and Lokoq Ploq spring [17]. This forest covers approximately 57.4 hectares of land [18]. The Mandala Forest, situated in the Mandala village area,

is a wooded region that boasts nine springs, each with its unique name: Mandala, Lokoq Java, Tiu Rare, Teruna Shower, Olor Baro, Baroq Toq, Lokoq Pangsor, Olor Ampel Duri, and Lokoq Tripas. These springs discharge at least 150 liters of water per second. The average discharge is 500 liters per second. The Bangket Bayan forest covers approximately 57.4 hectares of land. The forest spans about 10.3 hectares of land [17]. The final two forests include the Tiurarangan forest, covering approximately 8.6 hectares, and the Pangempokan customary forest, covering around 6.6 hectares [18].

It should be noted that the forests mentioned above have a significant impact on local ecosystems. These regions are ideal for ecotourism because of their abundant forest resources. Besides having many springs that provide clean water to the surrounding communities, these forests are also home to a variety of wildlife. Some species inhabiting these forests include *Bungarus candidus*, *Eutropis multifasciata*, *Zosterops palpebrosus*, *Trimeresurus albolabris*, *Amaurornis phoenicurus*, *Apis trigona*, *Halcyon cyanoventris*, *Otus jolandae*, *Hystrix*, and *Pholidota*. In addition, the natural landscape of the forest, together with the adjacent rice fields, makes it a remarkable place to visit.



Figure 1. The Photograph of Mandala Forest (a) and Bangket Bayan Forest (b)

The local wisdom potential of the Bayan indigenous peoples in relation to the forest consists of the customary governance apparatus, the traditional rules (awik-awik) of the customary forest, and the rituals and stories of the indigenous peoples. Firstly, we will discuss the customary ruling system. There are three sets of customary leaders who are directly related to the forest: Pemangku, Pembekel, and Ina-nai. Pemangku is responsible for presiding over customary deliberations. Pembekel assists the Pemangku in monitoring the forest and reporting violations of customary forest regulations. Ina-nai is responsible for leading water ceremonies.

Regarding customary forest awik-awik, there are several provisions outlined in the Bayan Village Documents. These include [17]:

- (1) Forbidding the harvesting, uprooting, cutting down, hunting, or burning of dead trees/wood in customary forest areas,
- (2) Barring the grazing of livestock in or near the periphery of customary forest areas to prevent potential harm to local wildlife and flora,
- (3) Prohibiting the pollution of water sources in the area.
- (4) The watersheds in and around customary forest areas that could endanger living things in the river must not be polluted.
- (5) Both individuals and groups using water are required to pay dues, known as “sawinih”, to the managers of the customary forest and spring.
- (6) The sanction for violating the awik-awik of the customary forest is to offer/pay one buffalo, one

quintal of rice and 244 beans, 40 coconuts, brown sugar, one sack of rice, one chicken, and 4 bundles of firewood.

If the sanctions are not obeyed, the religious leader (Pengulu/Kiayi Adat) does not provide instructions for carrying out thanksgiving or salvation ceremonies, such as the rice cutting ceremony, ceremonies to celebrate the birth of a child, marriage, or other important events (selamat sambilulu) and others. Additionally, the community has been ostracized, alienated, and not recognized as indigenous. [17]

The last local wisdom is the rituals and stories of local wisdom of indigenous peoples. Stories of indigenous peoples related to nature. One example is the selamatan air or selamatan olor ceremony, conducted annually in the middle of the forest by performing traditional rituals. It is necessary to note that these events hold significant cultural value for

the indigenous peoples. Every three years, water salvation is carried out by sacrificing buffaloes in this ceremony. This ceremony aims to preserve balance among indigenous peoples, God, each other, and the natural environment [19]. In addition, the local wisdom story of the Mandala Forest explains that its name comes from the Sasak word "Ma" meaning "gift" or "word". The term "Mandalah" is interpreted as "granting power, strength, and trust from the creator". "Mandala" also refers to an ancient story of one of the springs that served as a bathing place for angels. According to legend, the Mandala took the shawl of an angel residing in the Mandala forest, thereby preventing the angel from returning to the sky. Subsequently, the Mandala appeared and offered to return the shawl, on the condition that the angel becomes the Mandala's wife. In the end, the two became husband and wife, and it was believed that they continued to reside in the forest.



Figure 2. Traditional Ceremony at the Bayan Village

Testing Criteria for Obtaining Forest Management Rights under the Customary Forest Scheme. Customary Forest management is carried out by the customary law community. The term

"customary law community" denotes an indigenous community officially recognized as such by the local government. Recognition of a customary law community must satisfy the requirements laid out by

Government Regulation No. 23 of 2021 and Minister of Environment and Forestry Regulation No. 9 of 2021. The application for customary forest designation is subsequently submitted to the Ministry of Environment and Forestry. The customary law community are the legal entities of

this application. The results of the validation test with the Bayan indigenous peoples regarding the criteria for the recognition and confirmation of customary law community and the establishment of customary forest are presented in Tables 1 and 2.

Table 1. The Validation Test Result of the Bayan Customary Law Community

No.	Criteria for Customary Law Community	Condition of Bayan indigenous peoples
1	Customary law community are still in the form of <i>paguyuban</i>	The indigenous peoples of Bayan village live in a genealogically-based Bayan customary association.
2	There is a management institution in the form of its customary ruling apparatus	The Bayan customary leaders consist of: <i>Pemangku</i> , <i>Pembekel</i> , and <i>Ina Nai</i> with their respective duties.
3	There are clear boundaries of <i>Adat</i> territory	The boundaries of customary territories are still in the process of being identified because the boundaries of Bayan customary territory intersect with Kayangan customary territory.
4	There are legal institutions and tools, especially customary sanctions that are still adhered to.	<i>Awik-awik</i> is still adhered to and very strictly sanctioned.
5	Customary law community still collect forest products in the surrounding forest area to fulfill their daily needs.	Forest utilization is generally limited to drinking water sources. However, individuals may be permitted to gather medicinal plants from customary forests or " <i>Pawang</i> " with the permission of the " <i>Pemangku</i> ".

Table 1 shows that the Bayan indigenous peoples meet all the criteria to qualify as a customary law community. However, it is necessary to further examine the boundaries of customary territories between the Kayangan and Bayan

territories with the involvement of traditional leaders and the local community. The results of the feasibility test for establishing customary forest are presented in Table 2.

Table 2. The Result's Testing of the Criteria for Establishing Bayan Customary Forest

No.	Criteria of Customary Forest	Condition of Bayan forest
1	Located within the <i>Adat</i> territory	The four Bayan customary forests (Bangket Bayan, Mandala, Tiurarangan, Pengempokan) are within the Bayan customary territory.
2	A forested area with clear boundaries and managed according to the Local Wisdom of the customary law community concerned.	The forests in the four Bayan customary forest areas are forested areas that are guarded and managed by the Bayan indigenous peoples. Negative note: on the edge of the Pengempokan forest area, there is a plot that has been granted a certificate of ownership by the <i>National Land Agency (BPN)</i> .
3	Originating from the state forest area or outside the state forest area	The four forest areas in Bayan Village are outside the state forest area [20].
4	The activities to collect forest products by customary law community in the surrounding forest area to fulfill their daily needs.	Forest utilization is generally limited to drinking water sources. However, individuals may be permitted to gather medicinal plants from customary forests or “ <i>Pawang</i> ” with the permission of the “ <i>Pemangku</i> ”.

The four Bayan customary forest satisfy the criteria for being labeled as Customary Forests (Table 2). The resolution of the boundary issue regarding the Pengempokan customary forest is essential, particularly concerning a parcel of land at the forest's periphery that has been awarded a certificate of ownership. Therefore, the Bayan indigenous peoples is in compliance with all legal requirements for both the confirmation of the customary forest community and the establishment of the customary forest.

The Director General of Social Forestry and Environmental Partnership (PSKL) mentioned in a YouTube broadcast that 37.6% of the 25,856 villages surrounding forested areas in Indonesia are poor and lack food security [21]. This situation represents a developmental irony in the country. The social forestry program is a response to these challenges. The government program states that forest management should promote the welfare of forest communities (economic function) and ensure the sustainability of forests (ecological function) [22]. This complies with the new development paradigm of sustainable development. In the environment-forestry sector, this development paradigm has been evolving since the Our Common Future document was published in 1987 by the

World Commission on Environment and Development (WCED). This document introduced the concept of sustainable development. This document aims to promote development that considers the well-being of current and future generations [23]. Many countries have focused on this objective, with particular attention given to the recognition and protection of indigenous peoples and their rights [24].

CONCLUSION

In this study, the eligibility of the Bayan Indigenous Peoples to be designated as a Customary law Community for the application of Customary Forest was evaluated. The results indicate that the Bayan Indigenous Peoples meets all the requirements of Government Regulation No. 23 of 2021 on the Implementation of Forestry and Minister of Environment and Forestry Regulation No. 9 of 2021 on Social Forestry Management. Thus, the Bayan indigenous peoples is qualified to be recognized as a Customary Law Community by the Regent of North Lombok and eligible to receive a Customary Forest designation from the Ministry of Environment and Forestry.

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