

# Changes in Ownership and Ulayat Land Use in Lumban Rau Timur Village, Toba Samosir

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## Abstract

This study explores the historical background of the establishment and the uses of customary land in Lumban Rau Timur Village. It analyses the process and mechanism of transferring customary rights as well as factors that influence the role of the state and the market in determining the direction and change of the customary land of the Toba Batak people in Samosir Regency. Sources were collected by structured interviews, observation, and literature study. Methods and data analysis uses a descriptive qualitative research approach with a socio-historical approach. The historical background of the formation of ulayat in Lumban Rao Timur Village comes from land clearing and comes from *golat* land (land grabbing due to land conflicts). Communal land includes areas where ceremonies, graves, rice fields, livestock grazing areas, cultivated forests, expansion areas or settlement expansion, waters and forest areas, wild plants are managed and used together. Ethnic groups are inhabited by residents who have genealogical and territorial ties. According to tradition, the land should not be transferred to other parties, but over time, there has been a transformation of land ownership to other parties, both local residents who lived in and outside the village, which is intended for agriculture and non-agriculture. The transformation of ulayat land ownership is caused by socio-cultural shifts, demographic pressures, openness information and communication as well as the state penetration via government regulations on natural resources under the development programs in the areas of Lake Toba.

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## Introduction

Land is a basic human need, as long as human life always interacts and is related to land. Fruits and plants that are consumed by humans are produced on land either from rice fields, fields, plantations and forestry. Land is a place where humans carry out life processes and activities: a place to be born, raised, matured, aged and died. On land, humans build houses, places of worship and carry out various social activities. Land is needed not only while humans are still alive, but also needed after death. On the land various public facilities were built such as schools, hospitals, markets, airports,

hotels, offices, houses of worship, cemeteries and various other public facilities and public spaces. The variety of uses, benefits and functions of land in supporting the activities of human life makes the relationship between humans and land very complex, magical in nature, influencing the way of thinking, economic activity and the meaning of land (Soesangobeng, 1971, p. 51).

In a number of communities there is an understanding that land is defined not only physically, but as a "spirit object" that is closely related to the life of the community. Land and humans are like two entities that influence each other in a macro-cosmic and micro-cosmos relationship, where humans are the center who are intertwined with supernatural powers (Sitorus & Sierrad, 2006, p. 3). Soil is not only an element of production but also has socio-cultural and religious magical meanings (Vallenhoven, 2011), Bushar (1981, p. 103). In short, land is a place for humans to develop their humanity and civilization.

Land as an element of production in contemporary society has the role and function of land: (1) land is an object and property is fixed, even the value / price is getting more expensive; (2) land is a place to live for citizens, communities, clans and alliances when they are still alive and can provide livelihood, hope and glory. (Wignjodipoero (1983, p. 197). The socio-cultural meaning of land in society is recorded in a number of expressions. In Javanese society and ethnicity there is a saying: as loud as the cough is as gentle as the earth, the yen needs to be filled with starch (so that an inch of his land is defended until he dies). In the Karo Batak community and ethnicity there is a proverb: *Ija Taneh idedeh Ije pusung ndabuh* [where the ground is stepped on that is where the navel falls (the place of birth)], in the Toba Batak ethnic land is likened to *ulos na sora bad* [a cloth that will never rot] Siregar (2011, p. 1).

The proverb describes the importance of the meaning, role, function and benefits of land in people's lives, both while still alive and after death. When they die, the land is the place where the community, clan and community members are buried. In society there is a belief that the land where the community members live is the ancestral dwelling place, *danyang-danyang* and becomes the protector of the community and community members and clan members.

Thus, for the community or community members, land does not only function as an element of production in economic activity, but also has socio-cultural and religious meanings. Therefore, during the feudal period, the authority to control and own land was in the hands of the kings, where the king had political authority or public rights to regulate and determine the area and boundaries of his power and regulate the distribution of land products. Although the authority over the land is in the hands of the king, there is room for the citizens to open, cultivate and control the land with the permission of the king. Along with the development of time, the land which was opened and cultivated by the members of the alliance developed into ulayat land or customary law community.

Based on the results of Van Vallenhoven's research, in the archipelago there are 19 areas of customary rights (*beschikkingrecht*) or what Soepomo called lordship rights (Ngani, 2012, p. 51), one of which is the Batak customary law community. In various

regions in Indonesia, there are several names for referring to customary land rights: such as *wawengkon* (Java), *torluk* (Angkola), *ulayat* (Minangkabau), land clan (Lampung), *panyampeto* or *pewatasan* (Kalimantan), *limpo* (South Sulawesi), *tatabuan* (Bolaang Mangondow), *patuanan* (Ambon), *paer* (Lombok), *prebumian* or *payer* (Bali) (Hilman, 1992: 181). The results of Vallenhoven's research on the heterogeneity of ulayat rights are a real and natural portrait of Indonesia's pluralistic socio-cultural and legal conditions that continue to this day.

Legally and constitutionally, the position and status of ulayat land in laws and regulations have a very high position. Article 18b of the 1945 Constitution states: "The state recognizes and respects customary law community units 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. In the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 concerning Guidelines for the Settlement of Problems with Ulayat Rights of Customary Law Communities, ulayat land is a parcel of land on which there are ulayat rights of a certain customary law community. Customary law communities are groups of people who are bound by their customary law order as joint citizens of a legal alliance because of the similarity of residence or on the basis of descent. "Regional government is the party authorized to determine and give recognition to ulayat rights in its area through regional regulations". Ter Haar (1996) defines customary law communities as organized community groups, living in a certain area, having their own power, and having their own wealth in the form of visible and invisible objects, where the members of each unit live a normal life according to their own principles. nature and none of its members have the mind to break the bonds or break free from the bonds forever.

The ILO Convention 169 of 1989 defines indigenous peoples as peoples living in independent countries whose social, cultural and economic conditions distinguish them from other peoples in the country, and whose status is regulated, either wholly or in part by the customs and traditions of these indigenous peoples or with special laws and regulations. The Alliance of Indigenous Peoples of the Archipelago (AMAN) defines indigenous peoples as a community that has ancestral origins from generation to generation living in a certain geographical area, and has a distinctive value, ideology, political economy, culture and social system (International Labor Organization, 1989, Arizona, 2016).

Harsono (2003 pp. 185-186) defines ulayat rights as a series of authorities and obligations of a customary law community related to land located within its territory which is the main supporter of the livelihood and life of the community concerned throughout the ages. According to Harsono, the scope of ulayat rights includes all lands within the area, both those that have been occupied by someone and those who have not. The boundaries of the area of ulayat rights in a community and customary law community cannot be determined with certainty. In Harsono's view, the concept of ulayat rights implies the existence of social relations, activities and laws between legal communities as subjects of rights and the land in their territories. Hasono (2003,

pp. 185-186) identified the relationship between ulayat rights holders and customary law area units on two matters: (1) regulating and administering land use (for settlements, farming), inventory (creation of new settlements/rice fields) and land maintenance; (2) regulate and determine the legal relationship between people and land; and (3) determine the legal relationship between people and legal actions related to land (sales and purchases, inheritance).

Ter Haar (2017, p. 15), identifies community associations with ulayat rights territorially and genetically. Territorial alliances refer to community members who live in the same place and genealogical alliances because residents who hold ulayat rights have blood ties. Stakeholders of territorial and genealogical ulayat rights have the authority to manage agrarian resources in their internal and external areas. In depth, ulayat rights holders have the authority and obligation to manage resources for the welfare and interests of the participating citizens, including resolving agrarian conflicts between their citizens. Stakeholders of customary rights are also responsible for regulating and safeguarding the resources of the alliance area from interference and occupation by outsiders.

Customary rights, which live and grow in Indonesian society, have various legal systems, traditions and customs that have been developed from time to time to meet the individual needs of the cultural community and its environment. From the results of the study by Sirait et al., (2000, pp. 1-2) the management of agrarian resources carried out by stakeholders and customary rights communities shows their ability to manage cultivation forests, gardens, agricultural businesses and forests that are passed down from generation to generation in a sustainable manner. The management of agrarian resources in the area of customary rights takes various, dynamic and integrated forms that produce various benefits for the community and the environment, both economically, socio-culturally, religiously, and ecologically.

On the other hand, various customary rights that live and grow in various communities and indigenous peoples experience marginalization (Bedner and Arizona, 2019; Sirait et al., 2000; Sutarja et al., 2019; Murray, 2001). Based on the results of research conducted (Marbun, 2021; Firmando, 2021). Sembiring (2017) has experienced degradation and change into private ownership which contradicts the basic concept and function of ulayat rights in Batak culture and traditions. Starting from the description above, the researcher is interested in revealing the dynamics of customary rights on the Batak ethnic group in Samosir Regency. The choice of this theme is intended to explore data and information related to the phenomenon of the diminishing role and function of ulayat rights that take place in the Toba Batak community and ethnicity. The focus of the research is to: (1) explore the historical background of the formation of alliances and customary rights of the Batak ethnic group in Lumban Rau Timur Village, Samosir Regency, (2) analyze the process, mechanism and dynamics of the Batak ethnic customary rights in the study area and (3) analyze the influence of the inflow and outflow of ethnic Bataknese, and the effect of state and market penetration on the transformation of ulayat rights to other parties in the research location.

The study of customary rights conducted by Bedner and Arizona (2019) is general in nature by using a historical approach and reveals the development of the study of customary rights from colonial to the reform era. Studies conducted by Marbun (2021), Elfriany (2020), Elfriany (2020) and Sembiring (2017) explore the role, function and existence of customary rights from a legal perspective, while Firmando (2021a and 2021b) and Sugiyarto (2017) reveals the relation of ulayat rights with harmony and social integration in the Batak community.

In contrast to the study conducted by the researcher, this paper is intended to explore the changes and dynamics of the customary rights of the Toba Batak people in Samosir Regency. Based on this thought, the research problem was formulated as follows (1) the historical background for the establishment and uses of customary land in Lumban Rau Timur Village; (2) the process and mechanism for the transformation of customary rights to other parties; (3) the role of the state and the market in determining the direction and change of the customary lands of the Toba Batak people in Samosir Regency.

Koentjaraningkrat (1986) identifies the land ownership system in Indonesia in four forms, namely a public or communal property system with shifting use (*norowito*), a property system with rotating use (*norowitogilir*), a communal system with fixed use (*bend*), and an individual system (*foundation*). Tjondronegoro stated that the communal land ownership system was the original form of land ownership in Indonesia, and the king was the center that determined various matters related to the ownership, control and use of land (Tjondronegoro, 1984, p. 254).

The system of ownership and control of communal land in other terms is called ownership based on customary law communities or ulayat rights. In the customary law literature, it is known that there are two patterns of control and ownership of land. The rights of control and ownership of land are control by community groups called ulayat land and individual land. According to Hooker (1978, p. 118) ulayat land is a form of joint ownership of land, the thing attached to ulayat rights is the authority/power to administer and regulate the land in and out of it.

From the aspect of the parties who use it, customary land is categorized as a common pool of resources. In contrast to common pool resources such as shepherds' fields, there is a "rivalry in consumption" character, in customary lands there is supervision from fellow beneficiaries, customary holders and social sanctions. Therefore, it does not cause overuse (Saunders, 2014, pp. 636–656).

Vollenhoven (2011) and Sudiyat (1981, p. 2) analyze the characteristics of ulayat rights as follows: (1) Only legal alliances and their citizens are entitled and free to use land within their jurisdiction; (2) Outsiders who wish to use the land must first obtain permission from the legal alliance; (3) Citizens of legal alliance may take advantage of ulayat land for their personal and family interests; (4) The legal partnership is responsible for everything that happens within its territory; (5) ulayat rights may not be relinquished; (6) ulayat rights include rights that have been cultivated by individuals in the territory of the alliance.

The Food and Agriculture Organization (FAO) (2002, p. 3), defines land tenure as the relationship between humans (individuals or legal entities) relating to land based on state law or customary law. FAO considers land tenure rights as a set of rules made by the community or by the state, to regulate the behavior of citizens regarding land tenure and use. The set of regulations not only regulates the authority of the subject of the right to use, control and transfer the land attached to his right, but also the limitations and obligations of the subject of the right when exercising his authority.

The governance of land tenure and ownership in customary rights belongs to the common property category (Dagan and Heller, 2001, p. 549). Stakeholders of customary rights authority or Commoners as the subject of rights have the rights and obligations to regulate “objects of customary rights – common resources, membership and territorial boundaries, to comply with norms and values in order to achieve common goals.

The concept of land tenure formulated by FAO is in line with the principle of social function of land contained in the Basic Agrarian Law no. 5 of 1960 (Harsno, 2006, pp. 23-24). In the Basic Agrarian Law, it is stated that the control and use of land is explained that there are things that are allowed, mandatory or prohibited for the subject of land rights. In every right of control and use of land rights, including those contained in customary rights, there is an interaction of rights and obligations between legal subjects, namely the owner of land rights and other people outside the owner. The interaction between the subjects of rights related to land by Cohen (1978, pp. 154-157) and Reich (1978, p. 181) is defined as the legal relationship between people with regard to natural resources that are entitled to rights. According to Sumardjono (in Warman, 2010, p. 18) the determination of customary rights includes three things, namely: a) the existence of customary law communities that meet certain characteristics as the subject of customary rights; b) the existence of land/areas with certain boundaries as *lebensraum* which is the object of customary rights; c) the existence of the authority of the legal community to take certain actions as determined.

*Ulayat* rights or alliance rights are areas where a group of customary law communities reside, which in traditional societies are often magical-religious. In customary rights, legal communities have the right to manage agrarian resources including land according to prevailing norms, traditions and customs. Each member of the community can get a share of rights to agrarian resources (land, water, plants, trees, cultivated forest and grazing areas) with certain limitations.

The partnership regulates the boundaries of individual rights and rights for the benefit of the partnership. Individual rights and partnership rights complement, complement and are closely related. Each member of the partnership is given the right to work on customary land rights in his territory by being given a permit called the right to vote. If a piece of land in the partnership area has been worked on by a citizen continuously, then the relationship with the land is getting stronger, on the contrary, the relationship between the land and the partnership is getting more and more tenuous and over time the land will be recognized as the property of the person working on it.

The use and control of land owned by a person or entity, is not just a technical relationship, the method and form of a person or entity relating to land and agrarian resources in general. The right to use and control within the scope of customary rights has a broad meaning, namely that it is an institution that regulates the use of an item/land tenure, resource tenure, property rights which have social, economic, political and legal dimensions.

It is no exaggeration to say that the right of tenure and ownership is a social institution because it is a patterned social behavior regarding how rights and obligations to natural resources are determined and implemented. Thus, Moeliono (2000) assessing the system of land tenure and ownership is the coexistence of a state and community-based regulatory system. Land tenure and ownership rights are related to the equitable allocation and distribution of wealth to prevent the concentration of power that could lead to social conflict.

From the aspect and nature inherent in *ulayat* rights, land tenure and ownership rights can be interpreted as political institutions, because they are related to and determine the distribution, concentration of power in society. In Cohen's understanding (1978, pp. 154-157), tenure rights and ownership of land and agrarian resources are generally people-to-people relationships related to land, controlled/owned commodities and power relations between people. The right of control and ownership of a commodity such as land gives the owner the power to deal with other people who are not owners. Referring to Reich (1978, p. 181), the control and/or ownership of one's rights to objects such as land can have an impact on others/neighbors.

The right of control and ownership can become power over others, agricultural land owners can exploit tenants or peasant laborers. In this context, land tenure and ownership rights act as legal and economic institutions. From the legal aspect, the form of right or regime of tenure and ownership rights over land influences and determines the achievement of the goals and interests that are expected to be shared (Barnes, 2009, p. 10).

Economically, land tenure and ownership rights are related to the allocation and use of land for sustainable economic progress. Proper management of land and agrarian resources can contribute to community and community productivity, beauty and environmental sustainability and social cohesiveness. A good land/agrarian resource tenure and ownership system can help owners and users of agrarian resources minimize losses, and at the same time maximize profits.

The practice of adaptive tenure and ownership of customary rights is strongly indicated as a stimulus to increase the use of more productive resources, invest in maintaining or increasing property values. In modern society, the regime of land tenure and ownership is oriented towards business development, commodities and capital accumulation (Besley and Ghatak, 2010). In De Soto's understanding, an accountable system of resource control can convince people to use property rights as capital to invest by making it a collateral (De Soto, 2000). From an economic perspective, an accountable system of control and ownership of agrarian resources has

an impact on environmental sustainability, or vice versa is an indicator of government failure, and triggers population growth (Heltberg, 2002).

The system of control and ownership of ulayat rights, in line with the times, has developed and changed. The relationship of the subject of ulayat rights and the inherent nature of ulayat rights with agrarian resources or objects of ulayat rights, especially land, the pattern of control and utilization of land, underwent significant changes, namely from the system of control and communal ownership moving towards individual control and ownership. Ownership rights or ownership rights as private rights are usually conceptualized as a function of private property rights related to freedom, autonomy and preference satisfaction. The inherent nature of individual ownership requires the existence of the so-called trinity of rights essential to private, namely property control, exclusion, and alienation. The nature of such individual ownership is an "absolute" form of ownership in the practice of land ownership in Indonesia, with limited application.

In individual land ownership, there are public interests and social functions, namely the fulfillment of the basic needs of community members and supporting the realization of community welfare (Barnes, 2009, pp. 119-120). Yannacone in Barnes, (2009, p. 159) states "social property" namely "property which has become vested with the public interest to such an extent that the property itself can be considered dedicated to public use". In the ownership rights or individual ownership rights there is a "duty of stewardship" which requires the holder of the control right to use and manage the resources they have in a way that does not violate any significant value contained in these natural resources.

## Method

Study on changes in tenure and the use of ulayat land was carried out in Lumban Rau Timur Village. The selection of the village as the research location was based on the following considerations: (1) Lumban Rau Timur Village is one of the villages in Nasau Subdistrict, Toba Samosir Regency, where there is a use and utilization of ulayat land rights (2) the control and use of ulayat land rights in this village is in the process of transition and changes due to internal and external pressures.

The research method used is a qualitative descriptive approach and socio-historical. The use of a qualitative approach is intended to understand and analyze the phenomenon of changes in tenure and use of customary rights through relevant informants and documents. The use of qualitative and socio-historical approaches is intended to produce a description of the phenomenon of changes in tenure and use of people's customary rights or the behavior of informants and documents related to the causes of changes in customary land rights, processes and forms of transfer of ownership and utilization by other parties.

Creswell (2014, pp. 234-235), Creswell and Poth (2018, pp. 111-126) identify the characteristics of qualitative research: (1) research is conducted in a natural setting as a direct data source; (2) researchers as key instruments; (3) describe a particular situation or data collected in words; (4) relating to processes rather than results or



products; (5) the analysis tends to be inductive; (6) research focus on the views and experiences of participants, and how people make sense of life. In this study, matters related to the root causes of changes in customary land rights, the process and form of changes in customary rights and forms of use of customary land rights by other parties are identified, sorted, categorized as construction material or narrative.

Data collection techniques used are interviews, observation, and literature study. Interviews were conducted in an unstructured manner to explore information and facts related to the causes of changes in customary land rights, the process and form of changes in customary rights and forms of use of customary land rights by other parties. Informants interviewed are parties who understand and are involved in the process of transforming ulayat rights to other parties. The informants consisted of 4 residents of Lumban Rau Timur village, 2 village officials and 3 traditional administrators in the East Lumban Rau area. Observations are used to observe the conditions of socio-cultural life and forms of customary land use found in the research location. The document study is intended to find information and data relating to the history of customary rights and forms of control and use of customary land rights in the research location.

The interviewees were selected purposively and snowball. Such selection is related to the nature of the object of research in the form of social situations, places, actors, and activities Spardley (2006) which is not known and experienced by everyone. Thus, those who were selected as informants were those who were involved in the process of transforming ulayat rights, had real understanding and experience regarding the control and use of ulayat lands. Data analysis used a qualitative data analysis approach proposed by Creswell (2014, p. 255). Data analysis is carried out interactively and continuously until certain themes are completed and compiled. Data analysis was carried out through the following stages: data reduction, data classification according to variables and research focus, narrative construction, generalization and conclusion drawing.

### **Managing Communal Land**

The position, role and function of land and especially ulayat rights in the Batak community and ethnicity have an important role economically, politically and socio-culturally in accordance with the values, views and philosophies of Hamoraon, et al. (2009). By owning a large area of land, a Batak has the opportunity to develop offspring (hagabeon), through possession and land ownership of wealthness (*hamoraon*), by owning a large land a Batak people has honor (*hasangapon*). For the Toba Batak people, land, especially inherited land, is considered a manifestation of the body of their ancestors which must always be cared for and maintained. Because of that, parents in the Toba Batak family always socialize the importance of their homeland (*bona pasogit*).

The customary land in Lumban Rau Timur Village comes from the clearing of forest into a village. This is indicated by the name of the village Lumban Rau, which comes from the word *lumban* commensurate with *huta*, meaning village; *rau* means tree or trees, place of trees or forest. Before becoming a village, East Lumban Rau was a

caterpillar area or alliance originating from the forest clearing process carried out by the Hasibuan clan, so that the Hasibuan clan was called *sipukka huta*. Some of the remaining forest clearing is still found in the Lumbun Rau Timur village area.

The opening tradition in the Toba Batak ethnic community is spoken by Mr. Daulat Naibaho as the Raja huta/customary figure of East Lumban Rau. "The stories and collective memories our parents always tell are the *mamungka huta* and the *do nampuna tano* clan, the establishment of a village and land belonging to the clan. The expression *mamungka huta* or village opening as spoken by Daulat Naibaho, is not only found in the Lumban Rau Timur ulayat land area, but is also found in other ulayat rights circles in Indonesia. The opening of a village is one of the general characteristics and principles in the process of forming and establishing an alliance or village. It's just that the *mamungka huta* that takes place in the Lumban Rau Timur ulayat land area is specifically intended for the clan, the clan *do nampuna*.

In the ethnic Batak tradition, the founder of the huta is called the king clan (*tano* clan). Another clan that lives in the forest is called the boru clan, they do not have land rights. *Huta* was founded by a clan of kings and in every Batak *huta* there is a *huta* king, one of the founders of the *huta*. The clans of *tano* and clans of *do nampuna tano* indicate that the cleared land is not owned individually but collectively, in the context of the Toba Batak ethnicity it is called the *tano* clan. This is related to the form of ethnic Batak kinship which is patrilineal. The ulayat land areas in Lumban Rau Timur Village originating from the Mamungka Huta are the Napajulu, Sibaning and Batu Sandar forests.

The expression of the clan is *nampuna tano*, *mamungka huta*, provides an overview of the meaning and function of land for the Toba people and ethnicity. For the Toba Batak ethnic, land is a treasure that not only has a material meaning but is also an important geneological and territorial element. For the Batak ethnic, someone who is capable of *huta*, the opening and establishment of a village has meaning, he has created a village for himself and his son to become a separate community in his village.

Over time, starting with the family who opened the village, then certain clans were formed which had their own territorial areas and became the holders of power in and out of the village they founded. Thus, land plays a role and functions as a uniting tool for residents who have blood and family ties, land becomes a binder and unifies families and clans. The expressions *marga do nampuna tano* and *mamungka huta* are in line with the views on the important principles and characteristics of ulayat rights put forward by Vergouwen (2004, pp. 79-80).

An important unique characteristic of ulayat rights in Lumban Rau Timur village is the presence of *golat* land. This village's *golat* land is the ulayat land of the Naibaho clan and its descendants which is managed jointly from the results of land grabbing caused by land conflicts between the alliance/founding clan, the Hasibuan clan and the Naibaho clan. The land conflict started with the land claiming ownership by the Naibaho clan which then led to a conflict between the Hasibuan clan and the Naibaho clan, that ended with the victory of the Naibaho clan. As a result of the defeat in the conflict, the Naibho clan automatically controlled the union territory which was

previously controlled by the Hasibuan clan. The *golat* lands in Lumban Rau Timur village that came from the confiscation are Lobok Dolok Pagar Gunung, Lobu Oporibu and Lobu Andahara Pagar Gunung (Interview with Daulat Naibaho, 22-10-2020).

The object of ulayat rights found in Lumban Rau Timur Village is related to the village tradition (*huta*) of the Batak community. Huta, as a residential unit in the Batak community, is a genealogical and territorial unit. The huta people are bound by blood relations and are their descendants and ancestors, have the same clan, only a small part including the boru are of different clans. The ulayat area of the Batak community in this village includes areas where ceremonies, graves, rice fields, pasture land for cattle grazing, cultivated forest areas, land for settlement expansion or settlement expansion, water (rivers), forest land (including plants or plants) wild plants and wild animals), *tunggane huta* (shared burial place) *tapihan* (public bathing place). This customary land is managed collectively which is called ripe-ripe land). The transfer of this category of land to other parties is the shared responsibility of all villagers and is carried out carefully.

In the territory of the Batak community alliance, in addition to communal lands that are managed collectively, there are land areas that are managed and controlled individually. The land area controlled individually is the land used as the site of the house and yard, the land area where the family and its members carry out daily work activities around the house and part of the land around residential areas. Land in this category is a source and a place of livelihood as well as meeting the food needs of residents. such as rice fields and fields and which produce food needs and ceremonial purposes throughout the life cycle and as a place for certain cultivated lands which are customary lands can only be managed and cultivated by villagers.

### **Land Transformation Process**

The process of transformation or transfer of ownership of customary land that took place in the Lumban Rau Timur Village area based on information from the village head, Mr. Anton Naibaho, was carried out through various varied activities, namely in the form of gifts from parents to children or in-laws, buying and selling, exchanging, pawning, leasing, separation and division of joint assets and income in the company or inbreng. A brief description of the various processes of customary land transformation at the research site is described below.

#### ***Transformation using grants***

Based on the narrative of one of the informants named Anton Naibaho, the process of transforming ulayat land in the Batak community in this village is *pauseang*, (giving land to daughters), *ulos nasorabad*, (giving inheritance given by parents to daughters), Panjaean (inheritance given by parents to sons and *parbandaan* (giving grave land), *tuhorni boru* or *sinamot* (dowry), *pauseang* is a form of giving parents to daughters either before or after the daughter gets married. the Batak community is intended as a sign of love and memories from their parents to their daughters. Giving *pauseang* to girls in the research location is in the form of rice fields, gardens, fields and yards. Other forms

of gifts given by parents to their daughters who are categorized as *pauseang* are in the form of gold, household furniture, jewelry and land (Sinambela, 2014, p. 1).

*Nasorabad* is the giving of part of the inherited land owned by parents to daughters. The difference between *pauseang* and *ulos nasorabad* relates to the implementation of the administration. The provision of *pauseang* land is given when the woman's parents are still alive and is intended as a provision for her daughter's domestic life. Meanwhile, *ulos nasorabad* is the gift of land given to daughters from inherited land. The granting of *pauseang* and *ulos nasorabad* lands is often a matter of debate, considering that according to patrilineal lineages, daughters do not have inheritance rights from their parents' wealth, including land. Sons are entitled to the wealth and inheritance of their parents, including land, because sons are the successors of the clan. Giving *panjaean* by parents to boys is a form of traditional affirmation of sons as successors of the clan. The term *panjaean* comes from the word *manjae* which means separating from parents or forming a new family. (Interview with Rahmat Sitorus Pane October 17, 2022).

Other forms of land giving at the research site are *tano parbandaan*, *tuhorni boru*, *indahan nalas* (a gift to a newborn grandson), *tuhorni boru* or *sinamot* (dowry), *pandungoi*. *Tano parbandaan* has an important role in the *pago*, usually in the form of intact meat as a sign of gratitude for the Batak tradition related to the Batak cosmology of Bona Pasogit, (the village where people were born which provides information about where people come from, who they are, why they migrated and were then buried in their hometown).

*Tuhorni boru* or *sinamot* is the giving of a piece of land to a woman by a male party or family. This gift occurs when a man from a certain indigenous community will marry a woman from another community. *Pandungoi* is the giving of a piece of land in exchange for services. *Pandungoi* is carried out when an indigenous community has misfortune (died) and the deceased before being buried is shaken (usually in the Batak tradition, the deceased who are usually shaken are people who already have grandchildren and great-grandchildren). The gift of this piece of land as a dowry, it must be with the knowledge and approval of local traditional leaders, namely land that is donated by parents or *ulayat* land holders for funerals/cemeteries (Interview with Rahmat Sitorus Pane October 17, 2022).

Usually, the giving of *ulayat* land is accompanied by a traditional event called an *archivingan*, a joint meal attended by all family members of the grantor consisting of elements of *dalihan natolu*. In this activity, the parties negotiate the boundaries of the land to be granted. The archiving activity ends with the distribution of *pagos* (usually in the form of whole pork and/or money as a sign of gratitude) to each element of *daliha natolu*. *Pago-ago* in the form of meat is called *jambar* (a certain portion to be distributed to a number of people based on their position on the *dalihan natolu* at the event) rather than representing the indigenous people as land clans (Interview with Rahmat Sitorus Pane October 17, 2022).

### *Transformation via buying and selling*

The second form of the process of transferring ownership of customary land at the research site is through buying and selling. Based on the results of the interview with Mr. Continued Naibaho, information was obtained on the forms of buying and selling land that are common in East Lumban Rao, namely: *mangodis pate* (free sale), *dondon/sindor* (annual sale or limited sale) and *marlibe* (land swap). *Manggadis pate* is a sale and purchase of land, where the land owner surrenders his land in perpetuity to the buyer (another party) with the payment of an amount of money whose amount is determined on the basis of an agreement between the land owner and another party. (Interview with Lanjutan Naibaho, 22-10-2020).

*Dondon/sindor* is a sale and purchase of land in which the land owner submits his land to be worked on in several harvest periods to the buyer with the payment of an amount of money, the amount of which is determined on the basis of an agreement between the land owner and the buyer. After several harvest periods (usually a year) according to the agreement, the land previously handed over to the buyer is returned to the seller (original land owner). *Marlibe* (change of place of land), is the transfer of land ownership between residents by exchanging their land forever on the basis of an agreement between the two land owners.

The practice of buying and selling customary land rights in the form of free or limited sale is carried out by agreement between the seller and the buyer who is known by the customary ruler. Based on the informant's narrative, "the parties involved in the process of buying and selling land, mostly between residents who live and live in the Lumban Rau Timur Village environment. The process of controlling customary land through limited buying and selling and free buying and selling always requires the presence of witnesses from local residents and the approval of the *penghulu* or village head.

Based on information from the local village head, Daulat Naibaho, "the legality of the transfer of land through sale and purchase is determined by customary rules in the form of giving witness money called *pago-pago* and the approval of the local *ulayat* land ruler. The giving of *pagos* or witness money in the Batak community, including those found at the research site, is more of an obligation and customary right than the fulfillment of administrative requirements in buying and selling. The obligation to pay *pago-pago* for witnesses is interpreted as compensation, because the land being traded contains customary rights.

With the buying and selling process, either on a limited basis or independently, it results in the loss of the rights of communal members or parties who are witnesses. As a substitute for the loss of communal rights to land, the person or party who is a witness has the right to *pago-pago*. Meanwhile, for the buyer, the payment of *pago-pago* is interpreted as compensation or payment of customary obligations due to additional communal rights according to the customary rules of land originating from the recipient of the *pago-pago*.

The process of transferring customary land through sale and purchase is carried out in writing, usually signed by the seller and buyer, known by the head of the

partnership and also signed by the necessary witnesses. The practice of buying and selling customary land rights that took place at the research site took place both in writing and unwritten. The practice of buying and selling in writing carried out by residents can be categorized as fulfilling the buying and selling conditions regulated in civil law, namely cash, real and clear (Sumardjono, 2001, p. 6).

Buying and selling land orally is most commonly done by residents. This is related to the *ipso facto* land tenure system. Land tenure status and one's ties to land are determined by the intensity and investment in the plot of land controlled. The right to control and manage land is attached to a person if he/she continues to work on it. The stronger the intensity and the amount of investment in land, the stronger the control over the plot of land. On the other hand, the weaker the intensity and the smaller the investment in land, the weaker the strength of their customary land rights so that they can be transferred. on the parties.

From extracting information from informants, the process of transferring customary land rights is not only carried out according to formal procedures, but is accompanied by *mandegehon*, namely the activities carried out by the seller and the buyer both setting foot on the land to show the boundaries of the land and to introduce the new owner to the land. adjacent land owners. Furthermore, a meeting was held by inviting parties from the family, in which there was an element of *dalihan natolu* consisting of *hula-hula*, *dongan tubu* and *boru*. *jambar* (certain parts to be distributed to people based on their position (*dalihan natolu*) in the event) rather than representing the indigenous peoples as land clans. With a pawn, it means that ownership rights are not lost, because they can still be redeemed, if they cannot be redeemed, it can be increased to a loose pawn.

### *Transformation via pawn*

Pawning in local terms is called *dondon*, which is the transfer of control of land (fields or rice fields by means of temporary rent or by agreement (one day the land) will be redeemed by the pawnbroker. In the practice of *dondon*, a land owner pawns his land to a second party (the beneficiary). pawn) in return for receiving a certain amount of money with the agreement of both parties. Pledge recipient after paying the pledge has the right to use the land within a certain period of time until the pawners pay the specified amount at the time of the pledge agreement.

If within a specified period of time, the pawnbroker does not pay the pawned money he has received, the pawned land or rice fields can become his right of control or the property of the pawner. According to Anton Naibaho, residents in his village avoid *dondon* as much as possible, and it is carried out between parties who have close relations with close relatives, carried out in secret and often unwritten. This is done considering that donating rice fields or fields to parties who are not close relatives, is considered to be able to injure self-esteem. This is related to the tradition, a person who gives money as a mortgage for a field or field is automatically entitled to the result which is considered as interest on the debt.

An informant named Hendrik Simmangunsong said "the amount of the pawn money

depends on the value of the land, the fertility of the land and the amount of money needed by the pawner. Residents here pawn the land or fields when in a very urgent situation. If there is no urgent need, people usually prefer to rent out their land. Leasing land is safer than pawning, considering that the balance is often detrimental to the pawner and benefits the moneylender". (Interview with Hendrick Simangunsong 23 October 2020).

In the General Elucidation of the Government Regulation in Lieu of Law Number 56 of 1960 concerning Maximum and Minimum Agricultural Land, it is stated: redemption of pawned land depends on the willingness and ability of the pawner. Many pawns last for years, decades, and some are even continued by the pawnbroker's heirs and pawnbrokers, because the pawnbroker is unable to redeem the land.

"... in other areas, pawning is also known where the yield of the land is not only interest, but also installments. Such a pawn is called "selling in installments". In contrast to the ordinary mortgage, in installment sales, after a long period of time the land returns to the pawner without paying a ransom."

Regarding the process of the pawn transaction, Anton Naibaho explained, "along with the times, when parents pawn the land when the situation is urgent, nowadays it is considered as a way to solve problems. Pawnshops in our village are not like pawnshop advertisements that solve problems without problems, but on the contrary, pawns are often a source of problems. When the dondon cannot be paid off, a pate agreement will be made, which results in the release of rice fields and fields." (Interview with Anton Naibaho October 23, 2020).

### **Factors Affecting Transformation of Communal Land**

Factors that influence the process of transforming ulayat land in the research location can be distinguished into internal factors that live and exist in the community and external factors originating from the supra-village (local and central government regulations), money market penetration, widespread commoditification and growth of economic development and facilities public.

#### ***Internal factors: Worldview: Hamoraon, Hasangapon and Hagabeon***

The Toba Batak ethnicity has a world view in the form of hamoraon, (wealth), hasangapon, (honor) and hagabeon (many descendants). In accordance with this world view, every Batak person as much as possible to embody it in their socio-cultural life. Hamoraon is the basic and main capital for achieving other life goals, namely hasangapon and hagabeon. The actualization of the world view of hamoraon, hagabeon and hasangapon is carried out in various ways, one of which is ownership of property such as land.

For the Toba Batak ethnic and community, land is identified as status and power, so for them land ownership is a means of actualizing their identity. A person who owns a large land is a sign that he has wealth, by owning the wealth in question is interpreted as having power. A person who has power automatically attaches a high social status,

with the social status he bears, he becomes an honorable person (*sangap*) in society. Likewise, only with the world view of *hagabeon* (many descendants), such as having a "ticket" to enter and be part of the *Dalihan na tolu* system that ensures a harmonious life for the entire Toba Batak culture. An ethnic Toba Batak wherever located is governed by the *dalihan na tolu* system which is a guide in social activities, especially in the implementation of various traditional ceremonies. Everyone involved in traditional ceremonies is separated in position and roles through the *dalihan na tolu* system. Each Toba Batak will occupy a position in the *na tolu* pretext, namely as *hula-hula* [the giver of the wife], *dongan tubu* [brethren of the family] and *boru* [the recipient of the wife] (Simanjuntak 2009, p. 158).

In line with the patrilineal lineage, everyone and the Toba Batak family tend to have *hagabeon* [many descendants]. *Hagabeon* is the basic capital to realize *hamoraon* and *hasangapon*. With many descendants, especially having sons, an ethnic Toba Batak has a *hamoraon*, a high social status, because the continuity of his lineage and clan is maintained. For the Toba Batak, boys play a role in forming kinship groups and girls create an affinity relationship (Butarbutar, 2019, p. 498).

A Batak family head who has complete offspring (sons and daughters), is recognized, enters and becomes part of the *Dalihan na tolu* system. The position of a person depends on the activities made and the implementers of the activities. A person who has descent or clan will determine the position and kinship relationship between a person and the executor of the activity (Gultom, 1992, p. 53). The presence of a person in a traditional event is intended to carry out obligations and receive all rights that have been determined by custom *dalihan na tolu*. These obligations and rights are manifested in the form of giving and receiving "customary objects" which are symbols and become means for both parties in traditional ceremonies.

The consequences and actualization of the life goals of *hamoraon* and *hagabeon* encourage the transformation of land tenure and land conflicts that take place in sync with demographic growth and the development of the economic value of land. In line with the *hamoraon* life orientation, the Toba Batak ethnic view of land tends to be secular, the religious aspect of land values shifts from social-religious magic towards and becomes a commodity, so that control and ownership of land becomes a sign and symbol of wealth.

In line with the *hagabeon* world view with patrilineal lineages, almost all Toba Batak people view that descendants, especially sons, are a buffer and guarantee for the continuity of the *dalihan natolu* system. The Batak ethnic view of the meaning of children also tends to shift from quantitative to qualitative. Proverb: *marboro sapuluh pitu, maranak sapuluh anom* [seventeen daughters and sixteen boys are being abandoned]. Boys are not only the successors of the lineage/*marga* and play a role in traditional events, but also children are interpreted qualitatively. In relation to land, the quantitative and qualitative meaning of children has implications for the transformation of *ulayat* rights. It is related to the quantitative and qualitative meaning of children requiring land ownership as social capital and economic capital.



The orientation of life in *hamoraon* is indicated by a phenomenon: land is identified as status and power, so that land ownership becomes a means of actualizing one's identity. In relation to ulayat rights, it turns out that the world view of *hamoraon* encourages "acceleration of the transformation of ulayat land from being communal to being individual. Likewise with the life orientation of the *hagabeon*, the presence of children, especially sons as the successors of the clan and acting as a buffer for the *dalihan na telu* system. In the actualization process, the community encourages land fragmentation through various grants and the transfer of land ownership to other parties.

The orientation and way of life about the *hagabeon* in turn has implications for the wider need for land. When the land area is very large, the increase in the membership of the alliance and demographic pressures are overcome by new forest lands, but when the land has been completely divided and every corner of the mountains and forests has been claimed to be clan land or state land, the available land is divided and continues to be divided between children and grandchildren.

In the context of the Naibaho clan, for example, it has reached its 17th generation. Demographic pressures on ulayat land have an effect on changing the views of Batak youth about clans. Only a few young Batak people know the original location of their clan land (*huta*) and the clan is understood solely genealogically without any historical connection with the name of the village which is derived from *mamungka huta* (village opening) due to demographic pressures. In the context of the socio-historical conditions of the ulayat land of the Rau Timur Village, it can be stated: if at first the opening of the village (*mamungka huta*) was followed by the emergence of a "new clan" as a response to the increasingly limited natural carrying capacity due to demographic pressures, now demographic pressures on ulayat land responded to by the transfer of ulayat land which results in the fragmentation of ulayat land.

The transformation process of ulayat land transfer in Lumban Rau Timur Village is also related to the intensification of Batak ethnic and cultural interactions with the outside world since the entry of zending, Dutch colonial penetration and the enactment of national land law and economic development and policies that place the Lake Toba area as a leading tourist destination in North Sumatra.

The entry of zending and colonial penetration had a major influence on changes in the socio-cultural and economic structure of the ethnic and territorial Bataknese. Although at the beginning of the entry of zending was rejected by the ethnic Batak elite as shown by the king of Singamangaraja, but slowly the presence of zending increasingly gained a place in Batak land. The presence of zending does not have a major effect on the agrarian structure, the transfer of control and utilization of ulayat land. The influence of zending is limited to the use and utilization of land for the construction of places of worship, health and education.

This is different from the colonial penetration and European multinational companies that developed large plantation businesses on Batak land. The enactment of the agrarian law in 1870 had a major impact on the transformation of control and use of land in Batak lands, including customary lands. Although for the Nasau sub-

district, the influence of colonial penetration and Dutch and European multinational companies in general was very limited, because their operational areas were concentrated in the surrounding Deli Serdang and Langkat areas.

One of the important events of the Dutch colonial penetration in the Batak lands was the takeover of the Sihaporas customary land which had been occupied for generations by about eight generations in 1913 as a pine forest and the publication of the Sihaporas Enclave map, in 1916. only physical but followed by coercion of local residents to work in pine forests, some residents were expelled from the Sihaporas customary community who were then assigned as Dutch Colonial spies, (Simangunsong, 2020).

### ***Country and Market Penetration***

The penetration of outsiders that had a major influence on the transformation of customary land tenure in Batak lands was the issuance of various regulations related to forest governance, plantations, regional and village administrations as well as the inclusion of various development programs in the New Order era and the reform era. Juridically and constitutionally, ulayat rights get quite respectable because it is stated in the 1945 Constitution in Article 18 b of the 1945 Constitution: "The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with developments. society and the principles of the Unitary State of the Republic of Indonesia". Other laws and regulations related to customary rights include: Agrarian Law no. 5 of 1960, the Mineral and Coal Mining Law no. 4 of 2009 and No. 3 of 2020, Law no. 2 of 2012 concerning Land Acquisition for Development, for Public Interest, Plantation Law No. 18 of 2004, Forestry Law No. 41 of 1999.

In the five laws, customary rights are stated in terms and statements as: (1) "Agrarian law applicable to earth, water and space is customary law", (2) Customary Law as original Indonesian law, (3) Legal dualism land based on customary law and national law, since the enactment of UU PA No. 5 of 1960 became the national agrarian law. (4) "... the indigenous peoples, as long as they still exist, must be in such a way that they are in accordance with the national and state interests, which are based on national unity and may not conflict with laws and regulations". (5) "... in the event that the required land (for plantations) is land with customary rights of customary law communities which in reality still exists, the applicant for rights (plantation investors) is obliged to hold consultations with the customary law community holding customary rights and citizens holding rights to the land in question, to obtain an agreement regarding the surrender of the land, and the compensation.

The terms and statements contained in the five sectoral laws describe the ambiguity and ambiguity of the government's legal politics regarding ulayat rights. The existence of ulayat rights is locked with the statement "... as long as it is in fact still there, it must be in such a way ...". If this statement is related to the philosophy and principles of national law, it is positive, so there is no room for the existence of ulayat rights to survive and survive. Considering that the philosophy and principles of

positive Indonesian law are *ipso de jure*, while the philosophy, principles and existence of *ulayat* rights are based on *ipso de facto*. The application of *ipso de jure* legal philosophy and principles in positive law has implications for the integration of customary rights in national agrarian law and the position of customary law communities into a sub-ordinance of the positive legal system which results in the decay of customary rights (Davidson, et al., 2010, p. 144; Safitri, et al., 2010, p. 186).

On the other hand, various regulations on natural and agrarian resources have become the entry point for the penetration of state and market power in rural areas and communities and communities. Laws on forestry, plantations and village governance in fact strengthen the grip of state and market forces to exploit natural resources in customary rights areas. Various regulations related to natural resource and agrarian governance have resulted in the decay of local institutions related to agrarian governance, including customary rights institutions.

The process of legal subordination of customary rights that took place during the New Order era and continued in the reform era, was strengthened by the inclusion of various development policies and programs that entered rural areas in Samosir Regency. In relation to the existence of *ulayat* rights, the inclusion of economic and infrastructure development programs, the placement of the Lake Toba area as a national leading tourism followed by the penetration of market forces, resulting in changes in the physical, geographical, social, economic, cultural and political landscape of Batak land and the transfer of ownership of *ulayat* lands. in East Rau Village and the Lake Toba area in general.

Based on the narrative conveyed by one of the community leaders, Mr. Anton Naibaho, the impact of the penetration of economic power that took place in Rau Timur Village was the increasing number of traditional markets, weekly markets, promotions and offers of electronic goods on credit, ease of access to financial and banking institutions, and host -host interest money. According to him, the ease of getting fresh money from formal and non-formal financial institutions in his village was followed by an increase in the sale of land pawns and the transfer of ownership of land, including the transfer of ownership of customary land.

Next, Anton Naibaho, explained that the process of transferring ownership of *ulayat* land took place between residents in his village and other parties from outside the village. In general, the recipients of land pawns and/or land buyers are rich and influential people in the village, government employees and companies or those who work in the city. Mr. Naibaho also explained that the money obtained from the proceeds of pawning and selling was used for various purposes such as wedding parties, children's educational needs, business capital and sudden needs such as death or accidents.

External factors that have an important impact on the transformation of customary land tenure are the expansion and regional autonomy, namely Samosir island becoming an independent district. Autonomy and regional expansion make it easier and shorten the chain of control of the bureaucracy and accelerate political decision making and the implementation of economic development. Socially,

autonomy and regional expansion encourage the inclusion of state administration into the spatial and social space of society. In empirical reality, regional autonomy has an impact on the transformation of authority over ulayat land, which was previously the full right of customary holders, to the local government. Matters related to the boundaries of customary territory, scope, existence and position, rights and obligations of customary law as well as institutions and use and utilization of ulayat rights in Samosir Regency are regulated in Regional Regulation No. 1 of 2003. In this regional regulation there are also rules for the use and utilization of customary rights through the relinquishment of rights for tourism, agriculture and other purposes requiring Cultivation Rights and or Use Rights.

The influence of state and market power in the transformation of the transfer of ownership and use of customary land in the Lake Toba area has been going on since the New Order government and continued during the reform era. The process of the transfer of land ownership and the transformation of land use in the Lake Toba area began with the development of PT Indorayon on April 26, 1983, a year later, obtained a Forest Concession Right (HPH) covering an area of 150,000 hectares, which includes the *merkusi* pine forest in North Sumatra. At the beginning of the reform PT Indorayon was closed because it was considered damaging to the environment, PT Indorayon later changed its name to PT Toba Pulp Lestari, but the nature and form of the company's operations in relation to the community and the Lake Toba area have not changed significantly. By North Sumatra environmental activists and activities, the presence and continued operation of PT Toba Pulp Lestari in the Lake Toba area, not only destroys the environment but is also considered to have committed crimes against humanity, divided politics and damaged the order of Dalihan Natolu (Simamora, et al., 2021). So that there are suggestions from environmental activities so that the Government revokes the Government to immediately revoke the TPL permit. A similar proposal was submitted by the Indonesian parliamentary chairman (MPR) Bambang Soesatyo who asked the central government, particularly the Ministry of Environment and Forestry, to revoke PT Toba Pulp Lestari's land use concession permit. Given the presence of TPL for approximately 30 years of operation in Tapanuli, North Sumatra leaves deep sorrow for the Batak community.

In the New Order, the state penetrated customary rights and customary communities with the issuance of the Industrial Plantation Forest Concession Rights Scheme (HPHTI) with the Minister of Forestry Decree No.320/Kpts-II/1986. Siringgo (2011) stated that the existence of PT Toba Pulp Lestari's HTI has an impact on job creation, infrastructure development in the form of road openings and increasing government revenue. But this has to be paid dearly with the loss of about 50 thousand hectares of customary forest land in the Lake Toba area undergoing a function change into industrial forest plantations. As a result, the community has not only lost their customary land, but also lost the endemic frankincense plant which has been a source of livelihood for the community for decades.

In the reformation era, the state's penetration of ulayat rights and indigenous peoples is by placing Lake Toba as a super priority tourist destination in 2015, the

determination of the Master Plan for Priority Tourism Destinations (RIDPP) for Lake Toba, an agrarian reform program in the form of land certification and the designation of the Lake Toba area by UNESCO as a one of the world's geoparks (2 July 2020).

The determination of the Lake Toba area as a national flagship destination in 2015, was greeted with joy by the community and 6 local governments in the Lake Toba area. The central government's policy was responded to two years later by issuing Samosir Regent Decree Number 474 of 2017 concerning Determination of Criteria and Classification of Tourism Objects in Samosir. The Decree of the Regent is intended to facilitate the proper management of tourism objects. After the Samosir Regent's Decree was issued, the reality on the ground showed that many elements were involved, the ability of government and community resources at tourism objects was not ready, the management of tourist objects was not yet professional and the conditions of facilities and infrastructure were inadequate (Saputra & Ali 2020), So that the program has not been fully present and felt by the community. According to the narrative of the Village Head of Rau Timur before and after the Lake Toba program as a national flagship destination, it was stated that there was no significant difference.

According to Anton Naibaho, this is due to tourists coming to certain areas and staying at hotels whose owners are from the city and some of the hotel employees are not sons of Samosir. In Wardani and Nasution's notes (2016), the key success factors for the Lake Toba tourism development strategy are accessibility, amenities, attractions and the establishment of a Management Agency through the Tourism Authority Agency. It is not yet fully available in Samosir Island.

State penetration that has a major influence on the existence of *ulayat* rights and indigenous peoples in the Lake Toba area is agrarian reform in the form of land certification and UNESCO's designation of the Lake Toba area as one of the world's geoparks (2 July 2020). Agrarian reform is one of the flagship programs of Joko Widodo's first term of government. At the local and village levels of Rau Timur, the agrarian reform program is conducted by several residents who have taken care of land registrations derived from grants and the proceeds of buying and selling.

This phenomenon indicates that in the Rau Timur village area, it is not only the transfer of customary land ownership to other parties (outside the village) but land commodification and changes in land tenure from communal to individual ownership. This change in the form of ownership has implications for the change in the meaning and function of the land from being cultural, magical religion shifting to profane and commodity land and is commercial in nature. It is in line with the understanding and interests of the state and the market, that communal land tenure can be an obstacle to economic development and the entry of investment into the Lake Toba area. In this regard, land certification has become smooth of investment and the gateway to commoditization and commercialization of land since the President Joko Widodo in office.

The existence of customary rights in the Lake Toba area is not threatened by state and market forces at the national level but also from global forces. The determination of the Lake Toba area by UNESCO to become one of the world's geoparks on July 2,

2020) was greeted with joy by the local government and local elites who have been struggling and waiting for UNESCO's decision. In the analysis of Borrás Jr and Hall (2009), UNESCO calls the designation of the Lake Toba geopark as a global land grabbing phenomenon. The determination of the Lake Toba Geopark by UNESCO has implications for the loss of access and authority of the local population to customary lands and resources that are the source of life and support for a civilization that has lasted for decades.

The determination of the Lake Tabo geopark also triggered agrarian conflicts and social movements (Manalu, 2009) because after the Toba caldera was designated as a geopark, it was followed by infrastructure development such as the mega project The Caldera–Toba Nomadic Escape. Local residents' protests over the mega project were resolved by operating a bulldozer to drive away the demonstrators, so that dozens of indigenous women cried and struggled. As if in desperation, the mothers who took part in the demonstration were treated inhumanely, they were forced to take their clothes off—to the point that they were almost naked. The loss of access and land assets due to infrastructure development and the expansion of capitalist businesses that befell the people in the Lake Toba area also took place in West Sumatra (Narihisa, 2002), Central Sulawesi (Aragon, 2002), Central Kalimantan (Palupi, et al., 2015; Warren, 2002; Zakaria, 2002).

## Conclusions

Based on the history of its establishment, ulayat land in this village is divided into *mamungka huta* (village opening) and *golat* (land confiscated due to land conflicts). The customary lands originating from the *golat* land in the village of Lumban Rau Timur are Lobok Dolok Pagar Gunung, Lobu Oporibu and Lobu Andahara Pagar Gunung. In line with the patrilineal Batak ethnic kinship system, the opening of the village to the king's clan (*marga tano*), the establishment of the village was aimed at clan land. The clan founder of the village in Lumban Rau Timur village is the Hasibuan clan. The village areas originating from the *mamungka* forest are the Napajulu, the Sibaning and the Batu Sandar forest.

The customary land area in the research location is a residential unit inhabited by residents who have genealogical and territorial ties. The residents of Lumban Rau Timur Village are almost completely bound by blood relations and are descended from their ancestors (the same clan), only a small part including the boru whose clan is different. The village ulayat area includes the area where the ceremony is held, graves, rice fields, pasture land for cattle grazing, cultivated forest area, land for settlement expansion or settlement expansion, water (river waters), forest land (including plants or plants that grow wild animals and wild animals), *tunggane huta* [common burial place], and *tapian* [public bathing place].

The transformation process or ownership transfer of ulayat land took place in the Lumban Rau Timur Village area was carried out through various varied activities, (1) through various land grants such as *pausageang* [giving land to girls], *ulos nasorabad*, [giving inheritance given to people, parents, to daughters], *panjaean* [gifts of

inheritance given by parents to sons], *tano parbandaan*, *tuhorni boru*, *indahan nalas* [gifts to grandchildren], *tuhorni boru* or *sinamot* [dowry]; (2) various buying and selling and exchanging land such as other *mangodis pate* [free sale], *dondon/sindor* [annual sale or limited sale] and *marlibe* [land swap]; (3) pawning, leasing and pate agreements; (4) separation and distribution of joint assets and income in the company or *inbreng*.

Traditionally, customary land rights cannot be transferred to other parties, as time goes by, in fact there is a transformation of land ownership to other parties, both between local residents and residents from outside the alliance which is used for agriculture, settlements, educational facilities, places of worship.

The internal factors that drive the transformation of ulayat land are demographic pressures. The Batak ethnic view of *hamoraon*, *hagabeon* and *hasangapon*, migration in and out and the interaction of the bono *pasogit* with the homeland of life and the overseas world. External factors that have a major influence on the transformation of customary lands are the penetration of the state and the market through various regulations on forests, local government and various development programs that enter the union area. About a century ago, Ter Haar indicated that the inherent nature of customary land was "condensing or deflating and expanding" reciprocally and continuously. This condition is what happened to the customary land of the Toba Batak ethnicity in the eastern Lumban Rau village, the process from expanding to deflating.

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