



## The Ambiguity of Minangkabau Tribal Asset Management in *Amlak Shirkah* for Migrant Tribe Members from the Perspective *Fiqh Muamalah*

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**Kata Kunci:** Harta Bersama/*shirkah*; Manajemen Hak; Tanah Adat; Migran; Minangkabau

### Abstract:

This study discusses the ownership system and management of joint assets for clan members who are abroad. According to the Minangkabau Matrilineal tradition, each clan member has the right to own and manage joint assets, but the rights of migrants as one of its members are still unclear in terms of joint ownership boundaries and tend to be objects of dispute. This research is a qualitative with a phenomenological approach in the realm of Minangkabau customs, especially the Tigo Balai Nagari. Primary data sources from members of the tribe who have the right to hold customary land, as well as to the tribal grandfather/mamak who controls customary land. Secondary sources are the nagari community around the village where the object of research is. This Article uses in-depth interviews with interview guidelines, while the key instrument is the researcher himself. Then we use observation techniques to guide data acquisition. Data validity technique by triangulation of sources. Qualitative descriptive data analysis technique. The results found that clan members who are abroad still have ownership rights to the joint property as long as they are still members of the clan or tribe, while regarding the management rights only to their sisters who are in their hometowns. The conclusion is that joint ownership in the Minangkabau customary perspective has the same right to manage the joint property. In terms of fiqh muamalah, *shirkah* property only applies to management and can be transferred, especially in the management only in the name of the migrant clan member.

### Abstrak:

Penelitian ini membahas tentang sistem kepemilikan serta pengelolaan harta bersama bagi anggota klan yang berada di perantauan. Secara adat Matrilineal Minangkabau, setiap anggota klan memiliki hak untuk memiliki dan mengelola harta bersama namun hak perantau sebagai salah satu anggotanya masih belum ditemui titik terangnya secara batas kepemilikan bersama dan cenderung menjadi objek yang dipertikaian. Artikel ini adalah penelitian kualitatif dengan pendekatan fenomenologi di ranah adat Minangkabau, khususnya Nagari Tigo Balai. Sumber data primer dari anggota kaum suku yang memiliki hak pemegang tanah ulayat, serta kepada datuk/mamak suku di Nagari. Sumber sekunder berupa masyarakat nagari di sekitar perkampungan di tempat objek penelitian. Teknik pengambilan data menggunakan wawancara mendalam dengan alat pedoman wawancara, sedangkan instrument kunci adalah peneliti sendiri. Kemudian

	<p>menggunakan teknik observasi dalam memandu perolehan data. Teknik keabsahan data secara triangulasi sumber. Teknik analisis data secara deskriptif kualitatif. Hasil yang ditemukan bahwa para anggota klan yang berada di perantauan tetap memiliki hak milik terhadap harta bersama tersebut sepanjang mereka masih menjadi anggota klan atau suku, sedangkan mengenai hak pengelolaannya hanya pada saudaranya yang berada di kampung halaman. Kesimpulannya bahwa kepemilikan bersama dalam prespektif adat Minangkabau sama-sama berhak untuk mengolah harta bersama tersebut. Secara fikih muamalah, harta <i>shirkah</i> hanya berlaku pada pengelolaan saja serta dapat dipindahtanggankan khususnya pada pengelolaannya saja atas nama perantau.</p>
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## A. Introduction

Ownership and management of joint assets for clan members who are abroad has become a phenomenon for exercising their rights. In terms of ownership, migrants have ownership rights, but these rights are often ignored and even become a serious problem. Customary land is in the form of rice fields, fields, paraks, gardens, tabek which are inherited property from ancestors. The land belongs to all matrilineal family members and can be passed on to the next generation. The availability of land leads to people working on it. Land to be productive as a source of livelihood for their descendants.<sup>1</sup> Joint property (*shirkah*) will have legal implications relating to its management, especially when one of the clan members is away from home, and will also provide legal aspects regarding the management of property where each member is not in their hometown.

So far, existing (previous) studies have not responded to the curatorial aspects of the management of customary property ownership for migrants. because the tendency of existing writings is to look at customary property from the perspective of customary law. This study examines fundamental issues in the relationship between customary land and the owner in joint property. The tendency of existing studies can be mapped in the form of; first, disputes over customary land ownership.<sup>2</sup> Second, overlapping changes in customary

<sup>1</sup> David Anafo, Anthonia Ayamga, and Paul Bata Domanban, "Custom, Modernity, and Stability of Land Rights in Ghana: An Empirico-Legal Review", *Cogent Social Sciences*, 9.1 (2023), <https://doi.org/10.1080/23311886.2023.2209366>.

<sup>2</sup> A. M. Azima et al., "Boundry and Customary Land Ownership Dispute in Sarawak", *Mediterranean Journal of Social Sciences*, 6.4S3 (2015): 17–25, <https://doi.org/10.5901/mjss.2015.v6n4s3p17>; Wondale Temesgen Tedla and Kasahun Desyalew Mekonen, "Inheritance-Induced Familial Disputes in North-West Ethiopia: The Role of Legal-Policy Gaps and Aggravating Socio-Economic Dynamics", *Humanities and Social Sciences Communications*, 10.1 (2023): 1–10, <https://doi.org/10.1057/s41599-023-01558-5>; Shukui Tan and Najib Abdi Hassen, "Examining the Choice of Land Conflict Resolution Mechanisms: The Case between the Harshin and Yocaale Woredas of the Somali Region of Ethiopia", *Journal of Environmental-Management*, 342 (2023), <https://doi.org/10.1016/j.jenvman.2023.118250>.

land ownership.<sup>3</sup> All of them are land conflict resolution.<sup>4</sup> From these three trends, it appears that issues of customary property management for migrating kemenakan are not discussed thoroughly.

The purpose of this paper complements the shortcomings of existing (previous) studies that do not thoroughly analyze how customary land management towards the meaning of shared ownership. Especially the meaning of ownership for them/their children and grandchildren who are overseas. On the other hand, in general, they have customary property rights. In this case, the author chose Nagari Tigo Balai because it is one of the areas in Minangkabau that has migrants but also has rights to customary land (joint property) in their tribal families. In line with this, three questions arise: First, communal property is obtained by people who settle in their hometown, even though other owners cannot use it. Secondly, the birth of Minangkabau customary property rights for members of the kaum. This property right transfers personal possession in the midst of united ownership in the tribe. The third answer above provides an in-depth understanding as a basis for action among the adat. This discussion is important to study considering the extent of property rights in heirlooms owned by personal members of the clan.

This research is assumed to be based on the argument that the customary land of indigenous peoples is collective in nature.<sup>5</sup> Therefore, every member of the community has the right to manage and utilize it.<sup>6</sup> Members of the kaum have the same orientation towards communal life in the goals that are committed to the value of using customary land. Customary land is oriented towards efficiency with the aim of the common prosperity of all

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<sup>3</sup> Sarah Walker et al., "Overlapping Land Rights and Deforestation in Uganda: 20 Years of Evidence", *Global Environmental Change*, 82.May (2023), <https://doi.org/10.1016/j.gloenvcha.2023.102701>; Ratan Gurung et al., "The Transition of Sokshing (Leaf Litter Forest) Property Rights and Management: A Case Study of Punakha and Wangdue District, Bhutan", *SSRN Electronic Journal*, 13.January (2023): 100767, <https://doi.org/10.2139/ssrn.4341820>; A. Mutolib, Y. Yonariza, and A. Rahmat, "Abnormality in Optimal Forest Management by Indigenous People in Deforestation", *Global Journal of Environmental Science and Management*, 10.1 (2024): 405–18, <https://doi.org/10.22034/gjesm.2024.01.25>; Lucky Kabanga and Many M Mooya, "Compensation Assessment Practices in Expropriation of Customary Land: Evidence from Malawi", *Land Use Policy*, 134 (2023), <https://doi.org/10.1016/j.landusepol.2023.106931>.

<sup>4</sup> Mukhrizal Effendi et al., "Model for Ulayat Land Conflict Resolution in North Sumatra, Indonesia", *International Journal of Sustainable Development and Planning*, 18.7 (2023): 2177–82, <https://doi.org/10.18280/ijstdp.180721>; Kamaruddin et al., "Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law", *Samarah*, 7.2 (2023): 1077–96, <https://doi.org/10.22373/sjhk.v7i2.13183>.

<sup>5</sup> Ilham Yudha Putra et al., "Heritage Land Pawn Agreement in Nagari Koto Tangah, West Sumatera Province, Indonesia", *International Journal of Multicultural and Multireligious Understanding*, 6.3 (2019): 720, <https://doi.org/10.18415/ijmmu.v6i3.866>.

<sup>6</sup> A. L. Rahmi and A. Gunawan, "Home Garden Concept of Rumah Gadang Based on Minangkabau Culture", *IOP Conference Series: Earth and Environmental Science*, 501.1 (2020), <https://doi.org/10.1088/1755-1315/501/1/012022>.

members of the community both in the village and in the village. The adoption of economic behavior requires the readiness of supporting customary law rules. Economic behavior also requires an egalitarian social structure of Minangkabau society to ensure equality of benefit acquisition. At the same time, the values prevailing in the community need to be adjusted to the needs of the adoption of economic behavior. Thus, a successful adoption of economic behavior requires social engineering in a society.

In the perspective of Islamic law, communal property is categorized as *musytaraq* property.<sup>7</sup> According to Wahbah Zuhayliy, if there are problems in the ownership and management of joint property, especially in relation to the land of the company, then the land must be divided and given stakes to determine the boundaries of ownership and control of the land, known as *qismah*.<sup>8</sup> In the perspective of Minangkabau customary law, dividing customary land in the form of ownership is one of the despicable behaviors.<sup>9</sup> because it can divide brotherhood and kinship relations between members of the *kaum*. Joint/union ownership is customarily defined as ownership of the utilization of the land. Migrants who cannot manage it from the utilization of the land show that they do not take rights in its management.

## B. Method

This article is qualitative with a phenomenological approach. This method concerns customary areas that carry out their customs when managing land when owned. The place is in Kenagaraian Tigo Balai, part of the area of the Minangkabau indigenous people who have customary territories, customary land of the local indigenous people. Primary data sources are clan members who obtain customary land processing rights, such as the children of the niece/children of Pr.'s siblings who are united, nine people from snowball sampling, then the tribal chief and tribal chief as many as three people, because they are respected figures in the Minangkabau customary system and they are also tasked with supervising the actions of their nephews. Secondary sources come from community stories, *engku* (e), *datuk* (dt), *pangulu* outside the tribe, *mamak-mamak* outside the tribe. The sampling technique was snowball sampling, following the flow of information. The researcher as a key instrument, looking for information/data in accordance with the problem of the relationship between

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<sup>7</sup> Wahbah al-Zuhayliy, *Al Fiqh Al Islâmiy Wa Adillatuhu* (Dar al Fikri, 1985).

<sup>8</sup> Wahbah al-Zuhayliy, *Al Fiqh Al Islâmiy Wa Adillatuhu*.

<sup>9</sup> A. A Navis, *Alam Takambang Jadi Guru* (Grafiti Press, 1984).

customary land and its owner in its management. Researchers meet directly and indirectly when requesting additional data/information. Data collection techniques were carried out in this study by means of interviews. Interview tools using interview guidelines and observation. Interviews meet directly with people who cultivate customary land and people have the right to manage it. Observation is carried out when the customary land is worked on and controlled by the owner. Researchers believe that people involved in this phenomenon have reasons that can be used to draw conclusions. The technique of analyzing data by means of descriptive qualitative with the stages of collecting data, after that reducing which data is appropriate to take. then the data is displayed in a description and then the data is analyzed. For data validity by means of triangulation techniques. interviews are validated by interviews, interviews by observation.

### C. Result

The study of common property is only in use, when they cannot use the land of *ganggam bauntuak* due to migration, then the use is delegated to the person who settles, therefore the right to use it is neglected. The study explains the rights of people who migrate to the union land/common property that are neglected by the migrants. The results of the study show that the holder of the customary land rights of *baganggam bauntuk* indicates that the customary land is part of his ownership, but his ownership is limited to utilizing it when he is able to manage it. The results of the study show that the holders of customary land rights (joint property or *shirkah* “ganggam bauntuak” property who are in the diaspora do not have the right to manage the inheritance property by clan members but do not have the right to utilize it. In accordance with the understanding in the perspective of *fiqh muamalah*, for diaspora, the status of joint property is categorized in the form of *milku naqish*, namely that in substance the property is still owned by him, but its utilization is handed over to his sister in the village.<sup>10</sup> This study contributes to the understanding of common property on communal land by women who migrate in taking advantage of it when he is able.

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<sup>10</sup> Wahbah Zuhayliy, *Fiqh Islam Wa Adillatahu* (Darul Fikr, 1984).

## D. Analysis and Discussion

### 1. Joint Property/*Shirkah* from *Ganggam Bauntuak* Land

Ulayat land is customary land in West Sumatra, which is a piece of land owned by a tribe, which the tribe can only use, cannot be traded, and also not mortgaged. The existence of Ulayat land can provide an overview of a tribe that occupies it and the size of the customary area.<sup>11</sup> From a cultural and customary perspective, communities are entitled to ownership of their customary land. With this perspective, it is believed that there is a concrete relationship between the land they occupy and the clan. This relationship has religious-magical ties.<sup>12</sup> This bond gives rise to a common right to the communal land, to use it and cultivate it, to take the products obtained and to catch the game that lives in the area.

Cultural diversity is a wealth owned by the people of Indonesia and is an asset owned by the nation.<sup>13</sup> Minangkabau custom recognizes communal land is called *pusako*, it is an asset that is passed down from generation to generation which means it is used to fulfill the rights and needs of its kemen and under the supervision of the *mamak kapalo warib*.<sup>14</sup> Ownership of communal land in Minangkabau is categorized as joint property.<sup>15</sup>

In the context of customary law in Indonesia, especially for indigenous peoples in Minangkabau, customary land is communal. It is understood that every member of the clan that oversees the customary land has the right to own and utilize the customary land. Customary land becomes a valuable asset for the sustainability of the next generation. Customary land is an inheritance of ancestral origins and is instructed to maintain the continuity of its derivatives. The land is collectively owned by the descendants, in the sense that the land becomes the authority in turn from one generation to the next. The land

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<sup>11</sup> Ikhwan Ikhwan, Eri Barlian, and Nurhasan Syah, "Remote Sensing Based Modeling of Land Use Change on Ulayat Customary Land in Tilatang Kamang Sumatera Barat", *TEM Journal*, 12.3 (2023): 1559–65, <https://doi.org/10.18421/tem123-37>.

<sup>12</sup> Gilbert Adytia Rohi, I Ketut Kasta Arya Wijaya, and Luh Putu Suryani, "Perlindungan Hukum Terhadap Hak Milik Atas Tanah Ulayat Desa Adat (Studi Kasus Di Kecamatan Umalulu Kabupaten Sumba Timur)", *Jurnal Preferensi Hukum*, 4.1 (2023): 18–22, <http://publikasi.undana.ac.id/index.php/jap/article/view/a619>.

<sup>13</sup> Deni Miharja, "Keberagaman Masyarakat Adat Cikondang Dalam Menghadapi Modernisasi", *Islam Realitas: Journal of Islamic & Social Studies*, 1.1 (2015): 95–101, [http://ejournal.iainbukittinggi.ac.id/index.php/Islam\\_realitas/article/view/11](http://ejournal.iainbukittinggi.ac.id/index.php/Islam_realitas/article/view/11).

<sup>14</sup> Fatmi S.R., "Permohonan Tanah Ulayat Di Minangkabau Menjadi Tanah Hak Milik", *Lentera Hukum*, 5.3 (2018).

<sup>15</sup> Rohi, Wijaya, and Suryani, "Perlindungan Hukum Terhadap Hak Milik Atas Tanah Ulayat Desa Adat (Studi Kasus Di Kecamatan Umalulu Kabupaten Sumba Timur)".



becomes the common land of the tribe.<sup>16</sup> Land matters to them because it is not only an economic resource but also a social, cultural and political right.<sup>17</sup>

In the Islamic perspective, customary land is categorized as joint property or *shirkah* and this can be categorized as *shirkah amlak*. *Shirkah amlak* is an association of two or more people who share property from previous ancestors from generation to generation. property is passed down from generation to generation automatically by the matrilineal tribe. This joint property right can be controlled jointly for use. These settings can be used interchangeably.<sup>18</sup>

## 2. Control of Customary Land

The customary law system in customary land tenure is based on customary land ownership rights.<sup>19</sup> Collective land tenure continues from generation to generation. The legal relationship between indigenous peoples and their customary land gives rise to rights for indigenous peoples. Among the rights of indigenous peoples is the right to manage and use customary land.<sup>20</sup> Hak ulayat is the authority according to customary law possessed by customary law communities. The boundaries of the customary territory are the living environment of its citizens to take advantage of natural resources, including land, arising from uninterrupted hereditary external and internal relationships between the customary law community and the area concerned. Indigenous peoples have the right to acquire, utilize, control, land or rights relating to the beneficial use of vegetation.

As a recognized indigenous community if it meets the requirements, namely; first, there is a group of indigenous people; second, there are customary institutions that regulate aspects of the lives of its citizens; third, inhabiting a certain area; fourth, there is a legal

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<sup>16</sup> Hesty Wahyuni, Dian Aries Mujiburohman, and Sri Kistiyah, "Penanganan Sengketa Penguasaan Tanah Hak Adat Melalui Peradilan Adat Sumatera Barat", *Tunas Agraria*, 4.3 (2021): 352–69, <https://doi.org/10.31292/jta.v4i3.150>.

<sup>17</sup> A. K. Syafiq et al., "Customary Land Ownership Rights Need: Land Change Model Application", *Mediterranean Journal of Social Sciences*, 6.4S3 (2015): 94–101, <https://doi.org/10.5901/mjss.2015.v6n4s3p94>; Malin Olofsson, "Expanding Commodity Frontiers and the Emergence of Customary Land Markets: A Case Study of Tree-Crop Farming in Venda, South Africa", *Land Use Policy*, 101.October 2020 (2021): 105203, <https://doi.org/10.1016/j.landusepol.2020.105203>.

<sup>18</sup> M Faizal, "Syirkah Prinsip Bagi Hasil Pada Pembiayaan Di Bank Syariah", ... *Banking: Jurnal Pemikiran Dan Pengembangan* ..., 2017 <https://ejournal.stebisigm.ac.id/index.php/isbank/article/view/32>.

<sup>19</sup> Yanto Sufriadi, "Konsep Hak Kepemilikan Berdasarkan Hukum Adat Dan Hukum Islam", *Syiar Hukum : Jurnal Ilmu Hukum*, 18.2 (2021): 1–24, <https://doi.org/10.29313/shjih.v19i1.7008>.

<sup>20</sup> Hayatul Ismi and Ulfa Hasanah, "Legal Protection For Indigenous Kuala Mahato In Indigenous Land Utilization Of Palm Oil Plantations", *RGSA – Revista de Gestão Social e Ambiental*, 2023: 1–9, <https://doi.org/10.24857/rgsa.v17n2-011>.

system that regulates the behavior of its members; fifth, communal property is found as the common property of the clan.<sup>21</sup> The existence of customary rights is accompanied by a relationship between land and indigenous peoples, hence the existence of communal property which is an asset of indigenous peoples.<sup>22</sup> The authority of indigenous peoples has the right to control the land of their territory for generations.

### 3. Ownership Rights

According to the Minangkabau indigenous people, communal land is classified into two types: communal land, tribal land<sup>23</sup> and pangulu has the obligation to maintain the management and regulate the utilization of communal land. In the Minangkabau perspective, communal property is classified into two forms, namely; high pusako property and low pusako property.<sup>24</sup> High heirlooms are owned and utilized by the clan, especially the female descendants. In this case, the land, rice fields, gadang houses are under her ownership,<sup>25</sup> but the holder of the power of attorney is owned by the mamak kapalo warih.<sup>26,27</sup> (In Minangkabau customary law, penghulu and mamak kapalo waris are responsible for controlling the management and access of their customary land.<sup>28</sup>

The main problem in determining customary land in Indonesian indigenous communities is that there is no authentic evidence as a certificate of ownership and property rights are proven by natural stakes.<sup>29</sup> This has resulted in the emergence of dispossession of customary rights. The ownership of customary property originates from the way the heirs

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<sup>21</sup> Stivani Marantika Poro, Ali Imron, and wika Yudha Shanty, "Perlindungan Hukum Hak Tradisional Masyarakat Hukum Adat Terhadap Tindakan Individualisasi Tanah Ulayat Untuk Tujuan Komersial", *Bhirawa Law Journal Volume*, 2.1 (2021).

<sup>22</sup> Maryati Bachtiar, "Peranan Lembaga Adat Melayu Riau Dalam Penyelesaian Konflik Tanah Ulayat Di Provinsi Riau", *Jurnal Hukum Respublica*, 16.2 (2018): 298–312, <https://doi.org/10.31849/respublica.v16i2.1442>.

<sup>23</sup> Faisal, "Peran Kerapatan Adat Nagari (KAN) Dalam Menyelesaikan Sengketa Tanah Ulayat", *JCH (Jurnal Cendekia Hukum)*, 6.2 (2021).

<sup>24</sup> Sukma A.I, "Pengelolaan Harta Pusaka Tinggi Di Minangkabau: Studi Kasus Di Kubang Putih, Kec Banuhampu, Kab. Agam", *Al-Ahwal*, 14.1 (2021).

<sup>25</sup> A.M Ilusia, "Penerapan Sistem Matrilineal Terhadap Pembagian Harta Waris", *Nuansa Konotarian*, 1.1 (2015).

<sup>26</sup> Iza Hanifuddin, "Posisi Perempuan Dalam Sistem Ulayat Menurut Adat Matrilineal Dan Syarak", *JURIS (Jurnal Ilmiah Syariah)*, 10.2 (2011) <https://ejournal.uinmybatusangkar.ac.id/ojs/index.php/Juris/article/view/927>.

<sup>27</sup> S.R, "Permohonan Tanah Ulayat Di Minangkabau Menjadi Tanah Hak Milik".

<sup>28</sup> Samuel B. Bittir and Baslyd B. Nara, "The Role of Customary Land Secretariats in Promoting Good Local Land Governance in Ghana", *Land Use Policy*, 50 (2016): 528–36, <https://doi.org/10.1016/j.landusepol.2015.10.024>.

<sup>29</sup> Hari Sutra Disemadi and Suryasan Lau, "Bezitter Yang Beritikad Baik Dalam Memperoleh Hak Milik Atas Tanah Melalui Acquisitive Verjaring", *Jatisswara*, 36.2 (2021): 193–204, <https://doi.org/10.29303/jtsw.v36i2.307>.



get information about the status of their land ownership. Generally in Indonesia, information about the status of ownership of customary land comes from oral sources that are passed down from generation to generation.<sup>30</sup> The core of the customary land issue is the harmony between the customary ownership system and the prevailing positive law.<sup>31</sup> This aims to provide clarity, certainty and security of land ownership for landowners.<sup>32</sup>

In the Fiqh perspective, a person is allowed to transfer his ownership rights to other people, both in terms of material things in the form of buying and selling and debt and those that are not material in nature, namely guardianship of young children. The causes of transfer of ownership in the Islamic perspective are classified into three types, namely through transactions, transfer of debt, and death of a person.<sup>33</sup> In this study, joint property is owned jointly between nephews in the village and nephews abroad, and the migrants hand over their tasharruf rights to their sisters in their hometown. Inheritance property is categorized as *shirkah amlak* property because the property is owned and utilized together, not owned and managed according to a particular individual.

Certain rights or non-property rights are classified into various types, they are;<sup>34</sup> First, the special right is the right to perform specified activities to earn an agreed income; second, the control right is the right to make strategic decisions for all events and contingencies that are not granted to non-owners; third, the right to income is the right to all income from property that is not promised to other entities in a single exchange. While the non-owners are paid an agreed amount for their R&D activities, the owners bear the consequences (responsibility) of receiving income or losses from any innovations created on top of the payments promised to the non-owners.<sup>35</sup>

In the perspective of Minangkabau customs, migrating has become a tradition so it is not surprising to find some clan members who have settled in other provinces or even in other countries, while some others still live in their hometowns. For clan members who live in their hometowns, they rely on their ancestral land as a source of their daily income, while

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<sup>30</sup> Azima et al., "Boundry and Customary Land Ownership Dispute in Sarawak".

<sup>31</sup> Charity Bazaabadire Lankono, David Forkuor, and Festus Atribawuni Asaaga, "Examining the Impact of Customary Land Secretariats on Decentralised Land Governance in Ghana: Evidence from Stakeholders in Northern Ghana", *Land Use Policy*, 130.March (2023): 106665, <https://doi.org/10.1016/j.landusepol.2023.106665>.

<sup>32</sup> Lankono, Forkuor, and Asaaga, "Examining the Impact of Customary Land Secretariats on Decentralised Land Governance in Ghana: Evidence from Stakeholders in Northern Ghana".

<sup>33</sup> Zuhayliy, *Fiqh Islam Wa Adillatahu*.

<sup>34</sup> Catherine Magelssen, "Allocation of Property Rights and Technological Innovation within Firms", *Strategic Management Journal*, 41.4 (2020): 758–87, <https://doi.org/10.1002/smj.3103>.

<sup>35</sup> Magelssen, "Allocation of Property Rights and Technological Innovation within Firms".

for migrants they pursue their respective businesses where they live. And therefore it is considered logical if the migrants allow their rights to manage the ancestral property, unless they really do not want to migrate anymore and spend their lives in their hometowns

**Family Event I,** Ur has two children (An and M). An has three daughters (Ul, Si, and Ja), and M only has one daughters (N). The property left behind was 2 paraks and 1 paddy field. because of that, An and M got communal land by dividing 1 parak for An, and 1 parak for N. while there was only 1 paddy field, so it was rotated (interview Sa, one of the family members of I).

Ranji Ul with his brothers Si and Ja. Ul has three sisters. Ul is in her hometown, while Si and Ja are overseas. Ul developed to have three children Pr as well, namely (Pi, Ga, and Li). This is Ul obtained customary land in the form of parak 1 field and rice fields 1 tumpak in rotation with the mother's siblings. during Ul's lifetime who tried to farm sugar cane and produce saka from parak which is 1 field of rice fields. Parak 1 tumpak part of UL and rotating rice fields are only controlled by Ul. Ul's siblings, namely Si and Ja (their position is migrating and there are no children) do not get the right to acquire the management of tribal land. then Ul died 14 years ago (2008), Si and Ja have also died. Ul who developed with 3 children Pr (Pi, Ga, and Li).

Ul's three children are Pr, one who lives in the village, two are overseas. During the death of Ul, there was no discussion of land for children who were overseas. but the land was controlled / controlled by the child in the village (Li) for the life of his own family. This means that Pi and Ga who migrate do not get the right to acquire the management of their tribal land in the form of communal land that is berganggam, even though the property is 1 *tumpak*. When Ul died there was no discussion about the management of the inheritance land for the children who had migrated. When there was no lawsuit from his children back home regarding the management of the inheritance, it was understood that they agreed to relinquish their authority in managing the land. According to custom, communal property is passed down matrilineally to the next generation of daughters. According to Islamic jurisprudence, *shirkah* property (joint property) has full authority by all daughters. Property received to be owned together is included in *shirkah* amlak property, where the law of its use is through joint permission. However, migrants always leave their own rights of use .

**Tabel 1.** Management of Pusako Baganggam

No	Daughter	Circumstances	Type of Assets	Description
1	First daughter	Migrate	1 Parak	Ignoring
2	Second daughter	Migrate	1 Sawah Bergilir	Ignoring
3	Third daughter	Stay in hometown		managing

Data processed by researchers August 2023

The younger daughter lives in the village, and there are three sisters. It was seen that the younger daughter looked after the tribal property by taking care of it and managing it.

Family Event II. brothers Ti and Za own 1 parak and 1 paddy field. Za has a son Janh, while Ti has no children. Janh has 4 children; As, Si, Mi, and De. When Za died, the land rotated between Ti and Janh. After Janh died, Ti took control of the baganggam land based on the grandmother's line. Meanwhile, Janh's four children all migrated. After that when one of Janh's children returned home, and lived in the village, namely Si. Land tenure by Ti. Then Ti died, it became Si who controlled the ownership of parak 1 land and 1 field of rice fields. Si's siblings are As, Mi, and De, the three of them live overseas and they do not have the right to acquire the management of their tribal land from the union property (Interview S, Member of the union siblings who live in the village).

As for ownership when it occurs if there is a deliberation by ninik mamak, since then ownership begins to apply, because this deliberation is the highest deliberation. At the time of Ti's death, the overseas people were not present to discuss inheritance related to customary land, it's just that the Mamak allocated 1 parak and 1 rice field for Si who was in the village, even though there were relatives of Pr's relatives overseas (Interview e.dt. PalimoTurian).

**Tabel 2.** Management of Pusako Baganggam

No	Daughter	circumstances	Type of Assets	Description
1	First daughter	Migrate	1 Parak	Ignoring
2	Second daughter	Stay in hometown	1 Sawah	managing
3	Third daughter	Migrate		Ignoring
4	Fourth daughter	Migrate		Ignoring

Data processed by researchers August 2023

Migrating daughters do not manage land from customary land inheritance that has the status of *ganggam bauntuk*. The *ganggam bauntuk* communal land is managed by members of the tribe who live in their hometown. This land is managed by daughters because of the matrilineal cultural heritage factor. It can be seen that the results of the *parak* do not change hands, but are owned by all children from all maternal lines of one grandmother. There is no separation between Pr's children and boys because all can utilize the land. The land is not divided, it is only for the common good by being managed by members of the tribe.

The property rights of people who are overseas are from communal land, the obligation of their relatives who are in the village to mention how their share of land is used. If the land is only one field, or a small field, then the management is rotated, but if the land is piled up, then the management rights are distributed.<sup>36</sup>

The submission of each girl's rights whether later in the deliberation is distributed per lump if it can be distributed, or rotated if the land is difficult to share. All daughters are present plus their Mamak and Datuak. Land ownership by members of their clan must be known by their Mamak and Datuak/Pangulunya. This goal is so that no disputes occur in the future. Likewise, the results of the deliberation are the highest decision. The decision in customary circles lies with the Datuk (Interview e.dt. Palimo Andaleh).

It depends on the family's deliberation in discussing Pr's existing relatives, whether it is divided, rotated, or the rights are released and handed over to his relatives who are in the hometown. Sometimes it is only controlled by the villagers (brothers who are in the village), while the overseas people do not get the management rights, but when the overseas people return home, or need funds for a party or other, as a courtesy, the people in the village when the rice is ripe give some of the rice to the overseas people. This is the same as *raso pareso*.<sup>37</sup>

Even though people who live overseas have the right to own the land, they have the right to manage it, but they cannot afford to manage it or cultivate it, so they are considered to be left alone in managing it. However, if those who are overseas return home and live to make a living in their hometown, then the land is given the right to cultivate it. If the land is small, then it is distributed, if the land is large then it is distributed.

The land that can be packaged by the *kemenakan* children is the land that has been allocated each part of the *ninik* flow. If A's *kemekan* is through her *ninik* S, then only that

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<sup>36</sup> Interview dt. Batuah Panjang

<sup>37</sup> Interview dt. Palimo Turian

land is productive for farming. And each of the kemenakan children is busy doing their daily work on their own land. As Ahmac Mukhtar said, the risk of nagari children migrating makes customary land neglected and unmanageable.

Land that is neglected and not managed by tribal children, because tribal children have seen comfortable with what has been given a plot of land / sagangamgan land for their search / baladang business. Customary land that is beyond the reach of nagari children in processing is only neglected. And it does not become a central centre that will be used as a source of livelihood by each of them. This is because the nagari child has been patterned that what he manages is limited to the land that has been allocated to him, therefore there is no mention of how to have the potential of the nagari child in developing the nagari customary land itself..

Ownership of rights to joint property can be released, meaning that there is a release of management rights (ibra”) without any release of ownership rights to communal property. The release of rights in this study is in the form of a release/pentasharrufan (release in the utilization of property) on land or objects that are united in the form of inherited land. In this study it was found that customary property is only managed for clan members who still live in their hometowns, second, there is a joint ownership right intended for each clan member in Minangkabau; third, the benefits of managing customary land for clan members.

This finding differs from the previous finding that communal land ownership for union members consists of three bases. Firstly, disputes over customary land ownership<sup>38</sup>; Secondly, overlapping changes in customary land ownership;<sup>39</sup> Third, land conflict resolution.<sup>40</sup> The third is still unclear, showing that the ownership of communal land in the commune is not controlled only personally with the concomitant authorisation of others to own it. Rather, communal property is formed to encompass all members of the commune both in the present and in the future by successors.

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<sup>38</sup> Azima et al., “Boundry and Customary Land Ownership Dispute in Sarawak”; Tedla and Mekonen, “Inheritance-Induced Familial Disputes in North-West Ethiopia: The Role of Legal-Policy Gaps and Aggravating Socio-Economic Dynamics”; Tan and Hassen, “Examining the Choice of Land Conflict Resolution Mechanisms: The Case between the Harshin and Yocaale Woredas of the Somali Region of Ethiopia”.

<sup>39</sup> Walker et al., “Overlapping Land Rights and Deforestation in Uganda: 20 Years of Evidence”; Gurung et al., “The Transition of Sokshing (Leaf Litter Forest) Property Rights and Management: A Case Study of Punakha and Wangdue District, Bhutan”; Mutolib, Yonariza, and Rahmat, “Abnormality in Optimal Forest Management by Indigenous People in Deforestation”; Kabanga and Mooya, “Compensation Assessment Practices in Expropriation of Customary Land: Evidence from Malawi”.

<sup>40</sup> Effendi et al., “Model for Ulayat Land Conflict Resolution in North Sumatra, Indonesia”; Kamaruddin et al., “Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law”.

Ownership of customary land that is baganggam on the grandmother's line, continues to the mother to own it and become her property which has been designated for control both for processing, and utilising it. The process of transferring ownership of heirloom property from grandmother to mother, from mother to daughter Pr when the holder of the property right has died.<sup>41</sup> Communal land is already owned by the customary law community, therefore the land has a communal owner.<sup>42</sup> This property is based on not being able to move, either sold or mortgaged, so the baganggam customary land remains intact and is inherited, it's just that the pleasure of taking advantage of the land becomes the individual part of each member of the kaum. Ownership may not necessarily be cultivated enjoyed and utilised by each member of the tribe.

The management of joint/union land is not subject to prior registration as in the UUPA. The communal/union tribal land in the tribe is only known and held by the highest party, namely the tribal Datuk/tribal Penghulu.<sup>43</sup> Ownership is limited to her belonging to members of her tribe. This is due to the Kaum land that cannot be owned individually because it is materially not intended, but in the processing of new all members of the tribe who are women can enjoy. If a member is far from their tribal land due to migrating outside their hometown, then the member cannot reach out in processing. If they burden others to process it by way of profit sharing when it is their turn or their share is obtained, but if the opportunity does not exist the processing is held by the daughter who lives in the hometown. In addition, *baganggam* customary land only provides a limit on processing, not meaning that it has true ownership. In terms of muamalah jurisprudence, the rights of a union to joint property indicate that each party has the authority to control and manage it, thus the custom is to allocate it matrilineally so that all children and grandchildren can enjoy the inherited property.<sup>44</sup>

Ownership of communal land by the tribe whose land is ganggam bauntuak allows their people to cultivate it. It is also a sign to the people that the land belongs to them. As for the processing, it can be ensured to the people who can do it. Therefore, it is necessary

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<sup>41</sup> Feronika Feronika, Azmi Fendri, and Yulia Mirwati, "Pelaksanaan Pendaftaran Tanah Ulayat Kaum Melalui Program Pendaftaran Tanah Sistematis Lengkap Di Kecamatan Bungus Teluk Kabung", *Al Hurriyah : Jurnal Hukum Islam*, 4.2 (2019): 140, <https://doi.org/10.30983/alhurriyah.v4i2.1631>.

<sup>42</sup> Prihatini Purwaningsih, Latifah Ratnawaty, and Zulmi Hendri, "Proses Pelaksanaan Pendaftaran Hak Ulayat Masyarakat Hukum Adat Minangkabau", *Yustisi*, 4.1 (2017): 80–111.

<sup>43</sup> M. Yazid Fathoni, "The Legality of Transfer of Land Rights Ownership Based on Adat Law in Indonesia Positive Law", *Jurnal Ius Kajian Hukum Dan Keadilan*, 8.1 (2020): 190–205, <http://dx.doi.org/10.29303/ius.v8i1.882>.

<sup>44</sup> Zuhayliy, *Fiqh Islam Wa Adillatuhu*.



to direct a policy in driving the level of community attention in protecting the position of community ownership of the communal land they hold.

## **E. Conclusion**

The holder of the customary land title *baganggam bauntuk* signifies that the customary land is part of his ownership. The holder cannot make individual ownership intact so that he can do anything to transfer it. His ownership is limited to utilizing it when he is able to manage it. The management rights of members who migrate do not exist because land is a source of life for people who live in their hometowns, but there are still some who ask for the rights to use it by employing other people. This research contributes to the understanding that joint/union ownership of communal land does not mean full ownership and any authority over the land. As a result of this union property, the land is preserved until the next generation. This research is limited to the object of joint property in the tribe, the members of the tribe do not have the opportunity and are not able to manage it. This research can be

## **F. Conflict of Interest Statement**

The author declares that there is no conflict of interest that can affect the neutrality or integrity of the publication of this article. This article is written based on a completely independent study and analysis; No external or commercial parties have provided input or been involved in the writing or publishing process of this article.

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## **H. Reference**

- A. A Navis, *Alam Takambang Jadi Guru* (Grafiti Press, 1984)
- A.I, Sukma, "Pengelolaan Harta Pusaka Tinggi Di Minangkabau: Studi Kasus Di Kubang Putih, Kec Banuhampu, Kab. Agam", *Al-Ahwal*, 14.1 (2021)

- Anafo, David, Anthonia Ayamga, and Paul Bata Domanban, "Custom, Modernity, and Stability of Land Rights in Ghana: An Empirico-Legal Review", *Cogent Social Sciences*, 9.1 (2023), <https://doi.org/10.1080/23311886.2023.2209366>
- Azima, A. M., S. Sivapalan, R. Zaimah, S. Suhana, and H. Mohd Yusof, "Boundry and Customary Land Ownership Dispute in Sarawak", *Mediterranean Journal of Social Sciences*, 6.4S3 (2015): 17–25, <https://doi.org/10.5901/mjss.2015.v6n4s3p17>
- Bachtiar, Maryati, "Peranan Lembaga Adat Melayu Riau Dalam Penyelesaian Konflik Tanah Ulayat Di Provinsi Riau", *Jurnal Hukum Respublica*, 16.2 (2018): 298–312, <https://doi.org/10.31849/respublica.v16i2.1442>
- Biitir, Samuel B., and Baslyd B. Nara, "The Role of Customary Land Secretariats in Promoting Good Local Land Governance in Ghana", *Land Use Policy*, 50 (2016): 528–36, <https://doi.org/10.1016/j.landusepol.2015.10.024>
- Disemadi, Hari Sutra, and Suryasan Lau, "Bezitter Yang Beritikad Baik Dalam Memperoleh Hak Milik Atas Tanah Melalui Acquisitive Verjaring", *Jatistwara*, 36.2 (2021): 193–204, <https://doi.org/10.29303/jtsw.v36i2.307>
- Effendi, Mukhrizal, M. Arif Nasution, Ramadhan Hamdani Harahap, and Muryanto Amin, "Model for Ulayat Land Conflict Resolution in North Sumatra, Indonesia", *International Journal of Sustainable Development and Planning*, 18.7 (2023): 2177–82, <https://doi.org/10.18280/ijstdp.180721>
- Faisal, "Peran Kerapatan Adat Nagari (KAN) Dalam Menyelesaikan Sengketa Tanah Ulayat", *JCH (Jurnal Cendekia Hukum)*, 6.2 (2021)
- Faizal, M., "Shirkah Prinsip Bagi Hasil Pada Pembiayaan Di Bank Syariah", ... *Banking: Jurnal Pemikiran Dan Pengembangan* ..., 2017 <https://ejournal.stebisigm.ac.id/index.php/isbank/article/view/32>
- Fathoni, M. Yazid, "The Legality of Transfer of Land Rights Ownership Based on Adat Law in Indonesia Positive Law", *Jurnal Ius Kajian Hukum Dan Keadilan*, 8.1 (2020): 190–205, <http://dx.doi.org/10.29303/ius.v8i1.882>
- Feronika, Feronika, Azmi Fendri, and Yulia Mirwati, "Pelaksanaan Pendaftaran Tanah Ulayat Kaum Melalui Program Pendaftaran Tanah Sistematis Lengkap Di Kecamatan Bungus Teluk Kabung", *Al Hurriyah: Jurnal Hukum Islam*, 4.2 (2019): 140, <https://doi.org/10.30983/alhurriyah.v4i2.1631>
- Gurung, Ratan, Kazuhiro Harada, Nabin Kumar Dahal, Sudha Adhikari, and Om Katel,

- “The Transition of Sokshing (Leaf Litter Forest) Property Rights and Management: A Case Study of Punakha and Wangdue District, Bhutan”, *SSRN Electronic Journal*, 13.January (2023): 100767, <https://doi.org/10.2139/ssrn.4341820>
- Hanifuddin, Iza, “Posisi Perempuan Dalam Sistem Ulayat Menurut Adat Matrilineal Dan Syarak”, *JURIS (Jurnal Ilmiah Syariah)*, 10.2 (2011) <https://ejournal.uinmybatusangkar.ac.id/ojs/index.php/Juris/article/view/927>
- Ikhwan, Ikhwan, Eri Barlian, and Nurhasan Syah, “Remote Sensing Based Modeling of Land Use Change on Ulayat Customary Land in Tilitang Kamang Sumatera Barat”, *TEM Journal*, 12.3 (2023): 1559–65, <https://doi.org/10.18421/tem123-37>
- Ilusia, A.M, “Penerapan Sistem Matrilineal Terhadap Pembagian Harta Waris”, *Nuansa Konotarian*, 1.1 (2015)
- Ismi, Hayatul, and Ulfia Hasanah, “Legal Protection For Indigenous Kuala Mahato In Indigenous Land Utilization Of Palm Oil Plantations”, *RGSA – Revista de Gestão Social e Ambiental*, (2023): 1–9, <https://doi.org/10.24857/rgsa.v17n2-011>
- Kabanga, Lucky, and Manya M Mooya, “Compensation Assessment Practices in Expropriation of Customary Land: Evidence from Malawi”, *Land Use Policy*, 134 (2023), <https://doi.org/10.1016/j.landusepol.2023.106931>
- Kamaruddin, Iswandi, Andi Yaqub, Layyin Mahfiana, and Muh Akbar, “Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law”, *Samarah*, 7.2 (2023): 1077–96, <https://doi.org/10.22373/sjhk.v7i2.13183>
- Lankono, Charity Bazaabadire, David Forkuor, and Festus Atribawuni Asaaga, “Examining the Impact of Customary Land Secretariats on Decentralised Land Governance in Ghana: Evidence from Stakeholders in Northern Ghana”, *Land Use Policy*, 130.March (2023): 106665, <https://doi.org/10.1016/j.landusepol.2023.106665>
- Magelssen, Catherine, “Allocation of Property Rights and Technological Innovation within Firms”, *Strategic Management Journal*, 41.4 (2020): 758–87, <https://doi.org/10.1002/smj.3103>
- Miharja, Deni, “Keberagaman Masyarakat Adat Cikondang Dalam Menghadapi Modernisasi”, *Islam Realitas: Journal of Islamic & Social Studies*, 1.1 (2015): 95–101 [http://ejournal.iainbukittinggi.ac.id/index.php/Islam\\_realitas/article/view/11](http://ejournal.iainbukittinggi.ac.id/index.php/Islam_realitas/article/view/11)
- Mutolib, A., Y. Yonariza, and A. Rahmat, “Abnormality in Optimal Forest Management by

- Indigenous People in Deforestation”, *Global Journal of Environmental Science and Management*, 10.1 (2024): 405–18, <https://doi.org/10.22034/gjesm.2024.01.25>
- Olofsson, Malin, “Expanding Commodity Frontiers and the Emergence of Customary Land Markets: A Case Study of Tree-Crop Farming in Venda, South Africa”, *Land Use Policy*, 101.October 2020 (2021): 105203, <https://doi.org/10.1016/j.landusepol.2020.105203>
- Porro, Stivani Marantika, Ali Imron, and wika Yudha Shanty, “Perlindungan Hukum Hak Tradisional Masyarakat Hukum Adat Terhadap Tindakan Individualisasi Tanah Ulayat Untuk Tujuan Komersial”, *Bhirawa Law Journal Volume*, 2.1 (2021)
- Purwaningsih, Prihatini, Latifah Ratnawaty, and Zulmi Hendri, “Proses Pelaksanaan Pendaftaran Hak Ulayat Masyarakat Hukum Adat Minangkabau”, *Yustisi*, 4.1 (2017): 80–111
- Putra, Ilham Yudha, Kurniawarman Kurniawarman, Irzal Rias, and Putri Gemala Sari, “Heritage Land Pawn Agreement in Nagari Koto Tengah, West Sumatera Province, Indonesia”, *International Journal of Multicultural and Multireligious Understanding*, 6.3 (2019): 720, <https://doi.org/10.18415/ijmmu.v6i3.866>
- Rahmi, A. L., and A. Gunawan, “Home Garden Concept of Rumah Gadang Based on Minangkabau Culture”, *IOP Conference Series: Earth and Environmental Science*, 501.1 (2020), <https://doi.org/10.1088/1755-1315/501/1/012022>
- Rohi, Gilbert Adytia, I Ketut Kasta Arya Wijaya, and Luh Putu Suryani, “Perlindungan Hukum Terhadap Hak Milik Atas Tanah Ulayat Desa Adat (Studi Kasus Di Kecamatan Umalulu Kabupaten Sumba Timur)”, *Jurnal Preferensi Hukum*, 4.1 (2023): 18–22 <http://publikasi.undana.ac.id/index.php/jap/article/view/a619>
- S.R, Fatmi, “Permohonan Tanah Ulayat Di Minangkabau Menjadi Tanah Hak Milik”, *Lentera Hukum*, 5.3 (2018)
- Sufriadi, Yanto, “Konsep Hak Kepemilikan Berdasarkan Hukum Adat Dan Hukum Islam”, *Syar Hukum: Jurnal Ilmu Hukum*, 18.2 (2021): 1–24, <https://doi.org/10.29313/shjih.v19i1.7008>
- Syafiq, A. K., A. M. Azima, Awang Abd Hair, M. S. Sarmila, and Mohd Fuad Mat Jali, “Customary Land Ownership Rights Need: Land Change Model Application”, *Mediterranean Journal of Social Sciences*, 6.4S3 (2015): 94–101, <https://doi.org/10.5901/mjss.2015.v6n4s3p94>

- Tan, Shukui, and Najib Abdi Hassen, “Examining the Choice of Land Conflict Resolution Mechanisms: The Case between the Harshin and Yocaale Woredas of the Somali Region of Ethiopia”, *Journal of Environmental-Management*, 342 (2023), <https://doi.org/10.1016/j.jenvman.2023.118250>
- Tedla, Wondale Temesgen, and Kasahun Desyalew Mekonen, “Inheritance-Induced Familial Disputes in North-West Ethiopia: The Role of Legal-Policy Gaps and Aggravating Socio-Economic Dynamics”, *Humanities and Social Sciences Communications*, 10.1 (2023): 1–10, <https://doi.org/10.1057/s41599-023-01558-5>
- Wahyuni, Hesty, Dian Aries Mujiburohman, and Sri Kistiyah, “Penanganan Sengketa Penguasaan Tanah Hak Adat Melalui Peradilan Adat Sumatera Barat”, *Tunas Agraria*, 4.3 (2021): 352–69, <https://doi.org/10.31292/jta.v4i3.150>
- Walker, Sarah, Jennifer Alix-Garcia, Anne Bartlett, Jamon Van Den Hoek, Hannah K. Friedrich, Paulo J. Murillo-Sandoval, and others, “Overlapping Land Rights and Deforestation in Uganda: 20 Years of Evidence”, *Global Environmental Change*, 82.May (2023), <https://doi.org/10.1016/j.gloenvcha.2023.102701>
- Zuhayliy, Wahbah, *Al-Fiqh Al-Islami Wa Adillatuhu* (Darul Fikr, 1984)

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## J. Research instruments

1. How is the mother's family kinship system?
2. Who are her children (mother's siblings), how many are her sisters?
3. Are there any of her siblings who do not live in the village? How many are there and how many are there in the diaspora?
4. What are the assets that the mother has acquired in the village?
5. How is the life of people in the village and in the diaspora?
6. Is there a division of high inheritance assets by the mother, if so, how is it divided?
7. Who manages the high inheritance assets (*ganggam bauntuak*)
8. How do you manage your mother's assets if you also have sisters?
9. How many people (mother's siblings) live in the hometown
10. How is the communication relationship between the mother and siblings in managing the assets in the hometown
11. Are there any of the mother's siblings who ask for their share, or how do they ask regarding joint assets
12. Do you feel like you are not getting your rights, what did you receive?
13. When you first got/managed the assets, what was the attitude of the mother's siblings abroad, were there any special discussions regarding high inheritance assets.