

# Community Empowerment and Conservation of Adat Nusantara Indonesia

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## Abstract

The normative research on Indigenous Peoples Empowerment and Indigenous Preservation of the Nusantara-Indonesia Nation gives an understanding that the Creator of the Universe created the universe and its contents, both visible, and invisible. Man is created most perfect by having a creature or reason, taste or mind and initiative or work. Humans have developed nations and tribes of nations with their respective customs and cultures in each indigenous community. Nusantara-Indonesia nation is a large nation consisting of hundreds of tribes and tens of thousands of indigenous peoples with their respective customs. The problem is how the existence of the Nusantara-Indonesia Nation, legal protection and empowerment of tribes and indigenous peoples and the preservation of adat-culture in every indigenous community and each tribe in Nusantara-Indonesia.

**Keywords:** Nations, Tribes, Indigenous Peoples, Indigenous Peoples Empowerment and Indigenous Preservation.

## A. Existence of Nusantara-Indonesia.

The Unitary State of the Unitary Republic of Indonesia based on Pancasila and the 1945 Constitution, is a country derived from a Nation or "Nation State". As a Nation State, the State of Indonesia has a long history of history which in the history books is called the Nusantara-Indonesia Nation.

The history and civilization of the Nusantara-Indonesia by several writers begins about one million years BC. This can be seen, among other things, at "Indonesia in World History" in Children's Illustrated Encyclopedia of Darling Kinderley English published by The Best Seller Book and Encyclopedia of History and Culture of the World. The authors may relate this to the discovery of human fossils Homo Erectus (Asia) and Pitecanthropus (Java) between 2 million - 4 million BC to Homo Florensis (Liangbua Manggrai Flores 13,000 years ago).

Historian of Indonesia wrote civilization Nation of Indonesia from the early prehistoric phase of human life that is Kala Plestosen lasted approximately 3 million - a thousand years ago. The historical phase also relates to the discovery of human fossils from Homo Habilis Africa to three million BC.

Herawati Hudayo from the Aijkman Molecular Biology Institute explained about the diversity and at the same time the human origins of Indonesia to the teachers of the "School of Diversity Teachers" held by Yayasan Cahaya Guru. Herwati Hudoyo describes four waves of migration of Indonesian human origins. The first waves migrated from Africa and arrived in Papua about fifty thousand years ago. Genetic traces of Papua is found in most areas of Papua, Maluku, Nusa Tenggara to the Bugis and Bajo.

The second wave occurred in the ice age 11 thousand - 6 thousand years ago, also from Africa but long lived in mainland Asia. This is when it is estimated that the entry of Austro-asiatic speakers is found in Java, Sundanese, Dayak, Malay, Batak, Karo, Toraja and Manggarai Flores.

The third wave was marked by the arrival of Austronesian speakers from Taiwan at 5 thousand - 4 thousand years ago. The group is mainly found in almost all ethnic groups in Indonesia from the East to the West.

The fourth wave occurred in the era of history along with intensive trade diantar continent. From the East line came Chinese sailors, from the western path came sailors from India, Arab and Europe.

Each wave of migration brings the knowledge and culture that its tracks are still being seen today: the Honai homes in Papua and Timor similar to those in Africa are also variations of motifs and weaving techniques in Indonesia which, if sorted, are rooted in tradition in mainland Asia.

In addition to the distinctive features of each ethnic there are actually several examples of inter-ethnic cultural mixing, such as Austronesian languages which focus most of the Indonesian people today. Also the tradition of chewing betel and areca nut found from Papua to Aceh.

The migration of the fourth wave brings with it the distinction of identity, especially the bringing of new religions (Hinduism ± 800 BC, Buddhism ± early AD, Islam abd 13 AD, Catholic and Protestant Christians of the 16th century AD).

Nusantara-Indonesia is a nation that has the oldest civilization. As Arisyo Santos, a geologist and physicist from Brasilia, wrote in his book "Atlantis, the Lost Continent, Finally Found" (1997) says that the beginning of the world civilization was Atlantis and the lost Atlantis turned out to be Indonesia. The same is also expressed by Stephen Oppenheimer of Oxford University England in his book "Eden In the East" (1998) or heaven in the east. The lost and mythical Atlantis was first discovered by the Greek philosopher Plato (427-347 BC) in his book

"Criteas" and Timaeus. It is mentioned by Plato that there was an early civilization called the continent of Atlantis.

The continent is then lost sinking slowly due to a series of disasters including earthquakes. By Prof. Arisyo Santos said that the disappearance / sinking of the continent of Atlantis due to the massive tsunami that occurred about 12 thousand BC and the tsunami occurred 100 times estimated Tsunami of Aceh in 2004. By Stephen Oppenheimer correlate the incident with what is written in the Bible about the Prophet Noah stranded / rescued with his boat.

After the sinking of the continent of Atlantis there are remains of the archipelago that became archipelago of Indonesia-Indonesia. In the history books about 2 thousand (4,000 years ago) came tribes from South Asia to archipelago archipelago-followed by the entry of civilization / Hinduism (800 BC) and civilization / Buddhism Early Christians so that stand up the kingdom -The Hindu Buddhist kingdom of the 2nd century until the 15th century AD such as: Salakanegara Kingdom, Tarumanegara Kingdom, Kendan Kingdom, Kingdom of Sunda, Kawali Kingdom and Pajajaran Kingdom in West Java, Kingdom of Kalinga, Kingdom of Earth Sambara, Earth Kingdom Mataram in Central Java, Mamenang, Jenggala Kingdom, Kadiri Kingdom, Tumapel Singosari Kingdom, Majapahit Kingdom in East Java, Sriwijaya Kingdom in South Sumatra and Kutai Kingdom in East Kalimantan. Then around the 13th century AD Civilizations enter the archipelago-through Chinese, Gujarati and Persian merchants . While traders from Yemen (South Arabia) just entered the 18th century AD Christian Catholic civilization entered the archipelago-the late 16th century through Portuguese and Dutch merchants.

Regarding the name of the nation-can be traced from the history of the kingdoms of Sriwijaya (century VII - XIII century) where in 1006 the kingdom of Sriwijaya managed to conquer the Malay kingdom in the Malacca peninsula and finally the kingdom of Sriwijaya managed to control the entire archipelago-including the Malacca Peninsula. Year 1006 is the beginning of the history of the archipelago-and on December 13 is celebrated as the Day of the Archipelago. December 13, 2006 The Unitary State of the Republic of Indonesia commemorates the 1000 years of the archipelago.

Almost simultaneously with the collapse of Sriwijaya kingdom was born Majapahit kingdom (1293-1518). Majapahit region is the forerunner of the territory of the Unitary State of the Republic of Indonesia. Unity of the archipelago-revealed in the Palapa vow pledged in 1331 by Maha Patih Majapahit, Gajah Mada. He vowed to unite the archipelago-under Majapahit. The oath reads: "Seagrass huwus defeated the archipelago, isun amukti palapa", which means "when it was submerged throughout the archipelago-then I enjoy the fruit palapa".

Along with the collapse of the kingdom of Majapahit was born the kingdom of Islam 16-18 century that begins the kingdom of Demak with the first King Raden Fatah (Djim Boen) which is one of the son of King Brawijaya V with daughter Cempa who grew up in Palembang. Then the late 16th century came traders from Europe to the archipelago-through Portuguese and Dutch merchants so that Dutch power was born in 3 phases of VOC 1602-1800, East Asia / Britain 1800-1816 and Dutch East Indies 1816-1942.

During the period of Dutch East Indies rule in the archipelago - became one of the Dutch kingdom province called the Dutch East Indies (Nederlands Indie). In the Dutch colonial period from the beginning of the 17th century until the end of 1945 Japanese occupation, the mention of the Indonesian archipelago-or the archipelago-along with the noble values of the nation or the socio-cultural values of the nation were drowned in the colonial situation. The Dutch colonists called the colonies of the Nusantara / Negara Nusantara -with the Dutch East Indies colonies (Nederlands Indie).

The name "Nusantara" sank with the entry of European explorers and merchants, who later established Trade Union VOC 1602. European explorers named the islands of Southeast Asia under the name "Indies" or the Indies archipelago, Indian Archipelago, or the East Indies (Oost Indie ), East Indies, Indies Orientalis). During the Dutch colonial period (1816-1942), the name of the Dutch kingdom's province was "Nerdelanseh Indie" or "Dutch Hinida". And the period of Japanese occupation (1942-1945) used the name "To-Indo" or "East Indies".

Regarding the term "Indonesia" for the first time was discovered by a British ethnologist named James Richadson Logan in 1850 in earth sciences. Twelve years later 1862 the term "Indonesia" was used by an Englishman named Maxwell in his essay entitled "The Island of Indonesia" or the Indonesian archipelago. The Indonesian term became more popular when a German ethnologist named Adolf Bastian used the Indonesian term in 1884 in his ethnological work.

Actually the word "Indonesia" comes from the Latin word "Indus" means the Indies and the Greek word "nesos" meaning the island. In ancient Javanese, Indonesia is known as "Nusantara" from the word Nusa (island) and between. So the archipelago means a series of islands. The name Indonesia was politically first used as the name of a youth association or student studying in the Netherlands under the name "Perhimpunan Indonesia" 1908.

The embryo of the name of the Second Youth Congress in Jakarta in 1928 used the Indonesian term in relation to national unity. The Youth Congress on 28 October 1928 resulted in the Youth Pledge which contained the name of Indonesia. The Indonesian term is officially used as the name of our State on 17 August 1945 with the Proclamation of Indonesian Independence.

Resistance for the resistance has been done against the Dutch colonizers until the birth of the National Awakening May 20, 1908 and the statement of Youth Pledge October 28, 1928 which in its original pronunciation reads as follows:

"First, our poetry and poetry of Indonesia affiliates the blood of satoe, the land of Indonesia; Secondly, our poetry and poetry of Indonesia stands for the nation of the satoe, the Indonesian nation; Thirdly, we are poetra and poetri Indonesia mendjoendjoeng language persatoean, Indonesian ".

During the Japanese occupation period 1942-1945, the name Nusantara-Indonesia used the name "To-Indo" or "East Indies". Finally, when the Japanese position suffered in World War II, the founding fathers of the Indonesian nation established the Preparatory Agency for the Preparation of Indonesian Independence (BPUPKI) which later became the Preparatory Committee for Indonesian Independence (PPKI) which was the representative representation of all Indonesian people and through Soekarno-Hatta proclaimed Indonesian Independence on August 17, 1945 and on the following day of August 18, 1945 PPKI passed the 1945 Constitution, electing the President and Vice President.

## **B. Legal Protection for the Ethnic Peoples and Indigenous Peoples**

Nusantara Indonesia nation is a nation consisting of ethnic groups and each tribe consists of indigenous peoples. The term "tribe" is derived from the Java language that is "cyclical" or "foot". So in Javanese the term "ethnicity" is the same as "foot of the nation". This means that the Nusantara-Indonesia Nation consists of "Legs of the Nation-foot of the nation" and each leg of the nation consists of indigenous peoples-indigenous peoples.

Here I quote the list of ethnic tribes in Indonesia based on data 27 Provinces, 1995, and compare with the data in Encyclopedia of bansa tribe in Indonesia.

1. Bali: (4): Bali, Loloan, Nyama Selam, Trunyan.
2. Bengkulu: (9): Bengkulu, Enggano, Kaur, Lernbak, Muko-Muko, Pekal, Rejang, Serawai, Suban.
3. D.I. Aceh / NAD: (11): Aceh, Alas, Aneuk Iamee; Gayo, Gayo-Lut, Gayo Luwes, Gayo Serbejadi, Kluet, Simeulu, Singkil, Tamiang,
4. DIY: (1): Yogyakarta.
5. DKI: (1): Betawi
6. Irian Jaya: (109): Aero, Airo Sumaghaghe, Airoran, Ambai, Amberboken, Amungme, Anu, Arfak, Asmat, Auyu, Ayfat, Baso, "Baudi, Berik, Bgu, Biak, Borto, Buruai, Citak, Damal, Dani, Dem, Demisa, Demta, Dera, Edopi, Eipomek, Ekagi, Ekari, Emumu, Eritai, Fau, Foau, Gebe, Gresi, Hattam, Humboldt, Hupla, Inanwatan, Irarutu, isirawa, Iwur, Jaban, Jair, Kaburi, Kaeti, Kais, Kalabra, Kamberau, Kamoro, Kapauku, Kapaur, Karon; Kasuweri, Kaygir, Kembrano, Kentuk, Ketengban, Kimaghama, Kimyal, Kokoda, Kmnai, Korowai, Kupol, Kurudu, Kwerba, Kwesten, Lani, Maden, Mairasi, Mandobo, Maniwa, Mansim, Manhuke, Marind Anuim, Maiyakh, Mey Brat, Mimika, Moire, Mombum, Moni, Mooi, Mosena, Murop, Muyu, Nduga, Ngnalik, Ngnalum, Nimboran, Palamul, Palata, Pisa, Sailolof, Samarokena, Sapran, Sawung, Sawuy, Sentani, Silimo, Tabati, Tehid, Timorini, Uruwai, Waipam, Waipu, Wamesa, Wanggom, Wano, Waris, Waropen, Wodani, Yahray, Wali, Yapen, Yaqay, Yei.
7. Jambi: (6): Anak Dalam, Batin, Jambi, Kerinci, Pengkulu, Move.
8. West Java: (5): Baduy, Banten, Cirebon, Dragon, Sunda.
9. Central Java: (5): Bagelen, Banyumas, Jawa, Nagarigung, Samin.
10. East Java: (6): Bawean, Java, Madura, Surabaya, Tengger, Osing.
11. Kalimantan Barat: ( 71): Babak, Badat, Barai, Bangau, Bukat, Cempedek, Dalam, Darat, Darok, Desa, Dusun, Embaloh, Empayuh, Engkarong, Ensanang, Entungau, Galik, Gun, Iban, Jangkang, Kalis, Kantuk, Kayan, Kayanatan, Kede, Kendayan, Keramai, Klemantan, Kopak, Koyon, Lara, Limbai, Maloh, Mayau, Mentebak, Menyangka, Menyanya, Merau, Mualang, Muara, Muduh, Muluk, Ngabang, Ngalampa, Ngamukit, Nganayatn, Panu, Pengkedang, Pompang, Pontianak, Pos, Puntii, Randuk, Ribun, Sambas, Sanggau, Sani, Seberuang, Sekajang, Selayang, Selimpat, Senangkan, Senunang, Sisang, Sintan, Suhaid, Sungkung, Suruh, Tabuas, Taman, Tingui.
12. Kalimantan Selatan: (10): Abai, Bakumpai, Banjar, Beaki, Berangas, Bukit, Dusun Deyah, Harakit, Pagatan, Pitap.
13. Kalimantan Tengah: (10): Bantian, Bawo, Lawangan, Maanyan, Ngaju, Ot Danum, Paku, Punan, Siang, Tamuan.
14. Kalimantan Timur: (29): Auheng, Baka, Bakung, Basap, Benuaq, Berau, BerusurBem, Bulungan, Busang, Dayak, Huang Tering, Jalan, Kenyah, Kulit, Kutai, Long Gelat, Long Paka, Modang, Oheng, Pasir, Penihing, Saq, Seputan, Tidung, Timai, Tou, Tukung, Tunjung.
15. Lampung: (1): Lampung.
16. Maluku: (43): Alune, Ambon, Aru, Bahar, Bacan, Banda, Buli, Buru, Galela, Gane, Gebe, Halmahera, Haruku, Jailolo, Kei, Kisar, Laloda, Leti, Lumoli, Maha, Makian, Mare, Memalu, Moa, Modole, Morotai, Nuaulu, Pagu, Patani, Pelauw, Rana, Sahu, Sawai, Seram, Tanimbar, Temate, Tidore, Tobaru, Tobelo,

Togutil, Wai Apu, Wai Loa, Weda.

17. Nusa Tenggara Barat: (9): Bayan, Bima, Dompu, Donggo, Kore, Mata, Mbojo, Sasak, Sumbawa.
18. Nusa Tenggara Timur: (48): Abui, Alor, Anas, Atanfui, Atoni, Babui, Bajawa, Bakifan, Belagar, Boti, Dawan, Deing, Ende, Faun, Flores, Hanifeto, Helong, Kahola, Karera, Kawel, Kedang, Kemak, Kemang, Kolana, Kramang, Krowe Muhang, Kui, Labala, Lamaholot, Lemma, Lio, Manggarai, Marae, Maung, Mela, Modo, Muhang, Nagekeo, Ngada, Moenleni, Riung, Rongga, Rote, Sahu, Sikka, Sumba, Teton.
19. Riau:(9): Akit, Hutan, Kuala, Kubu, Laut, Lingga, Riau, Sakai, Talang Mamak.
20. Sulawesi Selatan: (13): Abung Bunga Mayang, Bentong, Bugis, Daya, Duri, Luwu, Makassar, Mandar, Massenrengpulu, Selayar, Toala, Toraja, Towala-wala.
21. Sulawesi Tengah: (25): Bada, Bajau, Balaesang, Balantak, Banggai, Bungku, Buol, Dampelas, Dando, Kaili, Muna, Mekongga, Mori, Napu, Pamona, Pipikoro, Saluan, Sea-sea, Tajio.
22. Sulawesi Tenggara: (9): Buton, Cina, To Laiwui, To Laki, To Landawe, To Mapute, Moronene, Orang Butung, Orang Lajolo, Orang Muna, Toli-Toli, Tomia, Tomini, Wakatobi, Wawoni.
23. Sulawesi Utara: (20): Bantik, Bintauna, Bolaang Itang, Bolaang Mongondow, Bolaang Uki, Borgo, Gorontalo, Kaidipang, Minahasa, Mongondow, Polahi, Ponosakan, Ratahan, Sangir, Talaud, Tombulu, Tonsawang, Tonsea, Tontemboan, Toulour.
24. Sumatra Barat: (2): Mentawai, Minangkabau.
25. Sumatra Selatan: (29): Ameng Sewang, Anak Dalam, Bangka, Belitung, Enim, Kayu Agung, Kikim, Kisam, Komering, La.hat, Lematang, Lintang, KLom, Mapur, Meranjat, Musi, Musi Banyuasin, Musi Sekayu, Ogan, Palembang, Pasemah, Pdamaran, Pegagan, Rambang Senuling, Ranau, Rawas, Saling, Sekak, Semendo.
26. Sumatra Utara: (14): Angkola, Asahan, Batak, -Dairi, Karo, Langkat, Mandailing, Nias, Pakpak, Psisir Natal, Siladang, Sumalungun, Toba, Ulu Muara Sipongi.
27. Timor Timur: (2): Ilimano, Timor Timur.

Nusantara-Indonesia is a nation located on two continents of Asia and Australia and in two oceans namely Indian Ocean and Pacific Ocean. According to Sri Hartini, currently registered 17,504 islands, 1211 languages, 1340 tribes, with various customs, cultures and religions.

The issue of legal protection includes the empowerment of tribal peoples and indigenous peoples as well as the preservation of adat, the highest International Instrument is the United Nations (UN). Related to this, several efforts have been made by the UN as an effort to recognition, preservation, empowerment of existence and diverse cultural, intellectual and biological. Indigenous communities are:

1. Determination of August 9 as International Indigenous Day through Resolution No. 49/214 issued by the UN General Assembly on 9 August 1982. In addition, 1993 was adopted by the United Nations as the International Indigenous Peoples year, and 1995-2000 as the decade Indigenous Peoples International.
2. The establishment of the Indigenous Population Working Group of 1982, which is under the Commission of Human Rights
3. Drafting the UN Declaration on the Rights of Indigenous Peoples (Draft UN Declaration on Right of Indigenous Peoples). This draft was adopted by the United Nations General Assembly in 1993. The Declaration provides for strong protection and recognition of the rights and freedoms of indigenous peoples, such as the right to cultural and identity protection, including language, indigenous religion, ulayat land titles and resources nature, and the right to self-regulate.
4. Establish a permanent forum in the United Nations for indigenous communities. This permanent forum serves to provide witnesses concerning the issues facing the community = indigenous communities around the world.
5. The specialized agencies of the United Nations also pay attention to the problems facing the community = indigenous communities around the world:
  - a. ILO (International Labor Organization) is an organization under the United Nations which first takes into consideration the rights and interests of Indigenous Peoples. This organization after publishing a book entitled Indigenous Peoples in 1953, published the ILO Convention No. 107 and Convention No. 169 of 1989. Both of these conventions have not been ratified by the Government of Indonesia.
  - b. WHO (World Health Organization) in 1998 WHO approved the Decade of Indigenous Communities and called on all its members to take positive steps to improve the health of Indigenous Peoples, in consultation with the Indigenous Communities concerned with WHO assistance.
  - c. UNESCO (United Nations Educational, Scientific, and Cultural). Unesco conducts many activities related to Indigenous Peoples, especially in education and culture. In 1998, UNESCO hosted an International Symposium which discussed among other sacred sites located in the Indigenous Peoples territories.

Some issues related to the protection of the rights and empowerment of Indigenous Peoples or Indigenous Communities are as follows:

1. Protection of Human Rights. This issue has been introduced in 1966 since the UN General Assembly signed the International Covenant on Civil and Political Rights on 16 December 1966.
2. The right to fully regulate the internal affairs of the Community (Rights of Internal Self Determination)
3. Ulayat Land Rights or Territory
4. Intellectual and Cultural Rights
5. Biodiversity
6. Right to Education and Self-Development.

The Government of Indonesia has guaranteed the recognition, protection, preservation and empowerment of indigenous or tribal peoples in national legislation. Various national legislation instruments governing indigenous communities such as

1. In the 1945 Constitution (amendment proceedings) Article 18 b of paragraph 2, clearly affirmed recognition and respect for indigenous peoples, including their identity and trademark rights. Meanwhile, in article 28, verse 3, it is asserted that the cultural identity and rights of traditional society are respected in harmony with the development of the era and civilization.
2. The Decree of the People's Consultative Assembly Number XVII / MPR / 1998 on Human Rights, particularly in article 41 of the Human Rights Charter, affirms the cultural identity of traditional societies, including customary land rights, protected in harmony with the times.
3. Decree of MPR Number XI / MPR / 2001 concerning Agrarian Reform and Natural Resource Reform, Article 4 which reads: "Agrarian Reform and Natural Resource Management shall be carried out with the principles of recognizing, respecting and protecting the rights of indigenous and tribal peoples of the nation's culture on Agrarian Resources / Natural Resources.
4. Law No. 39/1999 on Human Rights, especially article 6, paragraph 1, confirms that in the context of the Enforcement of Human Rights, civilizations and needs within Indigenous and tribal peoples shall be observed and protected by law, society and government.
5. Law No. 41/1999 on forestry, especially article 1 point 6, which states that forests within the territories of customary law communities are state forests, this verse clearly indicates the recognition of customary law community territories. In addition to Article 4, paragraph 3, the boundary that must be obeyed by the forestry authorities to keep in mind the rights of indigenous and tribal peoples.
6. Law Number 32 Year 2004, which in essence focuses more on affirmation of the rights of indigenous and tribal peoples in managing their political system and government in accordance with the provisions of local customary law.
7. Law No. 16 of 2014 on the village
8. Some other rules of law:
  - a. Law No. 5 of 1960 on Basic Agrarian Law.
  - b. Law Number 24 of 1992 on Spatial Planning.
  - c. Law No. 23 of 1997 on Environmental Management
  - d. Law Number 10 of 2004 on Amendment to the Laws of Regulations that have been amended by Law No. 12 of 2011.
  - e. Presidential Decree No. 111 of 1999 on Remote Indigenous Communities.

### **C. Indigenous Peoples Empowerment and Indigenous Preservation.**

In this Sub-discussion it is necessary to explain some terms / terminology related to Indigenous peoples, namely:

1. Indigenous Peoples with the same meaning as Indigenous Peoples (Indigenius Peoples). According to the Alliance of Indigenous Peoples of the Archipelago (AMAN) at the first congress of 1999 is "Communities living on the basis of ancestral origins over an adat territory, which has Sovereignty over land and natural wealth, socio-cultural life regulated by customary law and Customary Institutions that have sustained the life of their people ". This understanding is followed by the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 77 of 2013 on Guidelines for the Development of Trusted Agencies of God Almighty and Customary Institutions, as outlined in article 1 point 7.

According to Wicipto Setiadi, said that as an archipelagic country, Indonesia has a community group of 20,000 groups. Of these numbers newly registered by the National Commission. Human Rights as many as 6300 groups in the region of Sumatra, 1000 groups in the area of Bali. Directorate of Remote Empowerment Directorate General of Social Empowerment Ministry of Social Affairs Republic of Indonesia recorded the distribution of Remote Indigenous Communities (KAT) Nasional in 2004 as many as 1192164 people consisting of 267550 heads of households and was in 2811 locations.

2. The legal community is a collection of people who are interconnected with each other and establish their own law in their own society and are subject to the law itself.

- In sociology books, society is divided into several terms / terminology:
- a. Society Paguyuban (Gemeinschaft) is a society whose relationships between members very closely.
  - b. Patembayan community (Gemeinschaft) community whose relationship between its members is not so close but the relationship because there is a profit and loss.
  - c. The genelogical society is a society that is formed by blood relations from generation to generation.
  - d. Territorial society is a society formed based on shared residence.
  - e. Primitive society and modern society
  - f. Villagers and urban communities.
3. Indigenous People Society, following the definition of "Legal Society" I wrote above, the customary law community is a group of people who mutually make contact with each other and set custom or custom law as the rule of law that governs life together.

Hazairin said that indigenous and tribal peoples are civic units which have complete access to stand alone which has a unity of law, a unity of authority and an environmental unity based on the common right of land and water for all its members.

Meanwhile, according to Surojo Wignjodipuro, customary law community as a group of unity that has a regular order and eternal, has its own management and own wealth, both material wealth and material wealth.

After conducting the study from the perspective of human rights and various international legal instruments in 2005 the commissioner of customary law communities composed a position paper, which formulated the meaning of "Indigenous People Society" or other similar terms such as "Indigenous Peoples" or traditional societies or "The Indigenous Peoples" in this position paper is a homogeneous anthropological community and continuously inhabits a particular territory, has historical and mystical connections to their past history, feels itself and is seen by the broader side of a common ancestor and have a unique identity and power that they want to preserve and preserve for the next historical period, and have no dominant position in existing political structures and systems.

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1. Indigenous Peoples with the same meaning as Indigenous Peoples (Indigenius Peoples). According to the Alliance of Indigenous Peoples of the Archipelago (AMAN) at the first congress of 1999 is "Communities living on the basis of ancestral origins over an adat territory, which has Sovereignty over land and natural wealth, socio-cultural life regulated by customary law and Customary Institutions that have sustained the life of their people ". This understanding is followed by the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 77 of 2013 on Guidelines for the Development of Trusted Agencies of God Almighty and Customary Institutions, as outlined in article 1 point 7.

According to Wicipto Setiadi, said that as an archipelagic country, Indonesia has a community group of 20,000 groups. Of these numbers newly registered by the National Commission. Human Rights as many as 6300 groups in the region of Sumatra, 1000 groups in the area of Bali. Directorate of Remote Empowerment Directorate General of Social Empowerment Ministry of Social Affairs Republic of Indonesia recorded the distribution of Remote Indigenous Communities (KAT) Nasional in 2004 as many as 1192164 people consisting of 267550 heads of households and was in 2811 locations.

2. The legal community is a collection of people who are interconnected with each other and establish their own law in their own society and are subject to the law itself.

In sociology books, society is divided into several terms / terminology:

- a. Society Paguyuban (Gemeinschaft) is a society whose relationships between members very closely.
- b. Patembayan community (Gemeinschaft) community whose relationship between its members is not so close but the relationship because there is a profit and loss.
- c. The genological society is a society that is formed by blood relations from generation to generation.
- d. Territorial society is a society formed based on shared residence.
- e. Primitive society and modern society
- f. Villagers and urban communities.

3. Indigenous People Society, following the definition of "Legal Society" I wrote above, the customary law community is a group of people who mutually make contact with each other and set custom or custom law as the rule of law that governs life together.

Hazairin said that indigenous and tribal peoples are civic units which have complete access to stand alone which has a unity of law, a unity of authority and an environmental unity based on the common right of land and water for all its members.

Meanwhile, according to Surojo Wignjodipuro, customary law community as a group of unity that has a regular order and eternal, has its own management and own wealth, both material wealth and material wealth.

After conducting the study from the perspective of human rights and various international legal instruments in 2005 the commissioner of customary law communities composed a position paper, which formulated the meaning of "Indigenous People Society" or other similar terms such as "Indigenous Peoples" or traditional societies or "The Indigenous Peoples" in this position paper is a homogeneous anthropological community and continuously inhabits a particular territory, has historical and mystical connections to their past history, feels itself and is seen by the broader side of a common ancestor and have a unique identity and power that they want to preserve and preserve for the next historical period, and have no dominant position in existing political structures and systems.

4. Customs and Customary Law

"Adat" or custom is a tradition or custom or native culture of the Indonesian archipelago which is a guideline to organize a common life and regulate human behavior in society. The values of adat include belief in the Creator of the Universe, language and script, art, technology and others.

Adat applies to a particular person, in a certain place, at a certain time, and under certain circumstances. Peter J. Burns who wrote the dissertation of The Leiden Legacy Concepts of Law of Indonesia, custom which precedes all laws or I can say Adat is the beginning of all laws. Adat is the

indigenous culture of Nusantara-Indonesia, in addition to foreign cultural values brought by guests entering Indonesia-Nusantara, such as the values of religion / belief in God Almighty, among others: Hinduism ( $\pm$  800SM), religion Buddhism ( $\pm$  400 BC), Islamic religion ( $\pm$  1300 BC), Christianity, Catholicism and Protestant Christianity ( $\pm$  1500 BC). Likewise, other foreign cultural values enter the archipelago-Indonesia such as language and script, art, technology and others.

The term customary law was first used by Snouch Hurgronje (1893) in his book "De Atjehers". The term Adatrecht was also made by Van Vollen Hoeven in his book "Het Adatrecht" Van Nederlands Indie (Dutch Indies Indigenous Law), Also Ter Haar and Indonesian Legal Experts.

The empowerment of indigenous peoples and indigenous preservation in Indonesia is closely linked to the recognition and legal protection of indigenous peoples.

The national legislation of the Republic of Indonesia provides a set of conditionalities on the recognition of indigenous and tribal peoples, namely 1) throughout life; 2) according to the development of society; 3) in accordance with the principle of the Unitary State of the Republic of Indonesia. Against these conditionalities, Prof. Natabaya explained the opinion of the Constitutional Court in 2007 as follows.

1. The Constitutional Court is of the opinion that a union of indigenous and tribal peoples can be said to be de facto living (actual existence) whether territorial, genealogical, or at least element (I) group feeling; (II) Presence of customary government institutions; (III) The existence of customary property and / or objects; and (IV) The existence of customary law norms. Especially in the territorial community territorial law is also territorial elements (V) There is a certain region.
2. The Constitutional Court is of the opinion that the unity of indigenous and tribal peoples is viewed in accordance with the development of society when the adat law community is recognized as a reflection of the development of values considered ideal in today's ideal society, both in general law or sectoral, such as, the agrarian, forestry, fishery and other fields as well as in local regulations, as well as the supplementation of traditional rights are recognized by the concerned citizens and the wider community, and not contrary to human rights.
3. The Court also believes that a unity of indigenous and tribal peoples shall be in accordance with the principle of the Unitary State of Reproductive of Indonesia if the unity of the customary law community does not interfere with the existence of the Unitary State of the Republic of Indonesia as a political unity and legal unity ie its existence does not threaten the sovereignty and integrity of the State Unity of the Republic of Indonesia and the substance of legal norms are in accordance and do not conflict with laws and regulations.

Some of the criticisms that often arise in various discourses of indigenous or tribal communities, among others;

- a. For decades indigenous communities in Indonesia have been the most disadvantaged by development policies. Even the existence of indigenous communities has not yet been accommodated in the formulation of national policies.
- b. The categorization and dissemination of indigenous communities is unilaterally carried out, for example by alienating communities, remote indigenous peoples, primitive societies, and so forth. Therefore one of the demands of the indigenous congress of 1999 was to eliminate indigenous communities of a disadvantage.
- c. There is a desirable contradiction in national legislation, for example; Article 28b paragraph 2 of the 1945 Constitution has guaranteed the existence of indigenous communities, but article 33 of the 1945 Constitution can still be interpreted and gives the possibility to the government to master important aspects in the ownership structure of customary communities such as ulayat land.
- d. The government has not yet seriously and optimally designed a legal umbrella that thoroughly addresses the existence, protection and preservation of indigenous peoples.

The empowerment of indigenous peoples should be in accordance with the basic tasks of the state:

1. Obligation to respect (obligation to respect)
2. Obligation to protect (obligation to protect)
3. Obligation to facilitate (obligation to facilities)
4. Obligation to fulfill (obligation to fulfill)

In other words, the state has a fundamental obligation to respect, protect, facilitate and meet the needs of indigenous communities that are part of the nation state of Indonesia

In the empowerment of indigenous peoples and adat practitioners, the Indonesian government through various relevant Ministries and Ministries has made various efforts in recognizing, preserving the empowerment of indigenous communities. The various departments and government agencies concerned are:

1. Ministry of Environment
2. State Ministry for the Development of Underdeveloped Regions
3. State Ministry of Research and Technology



4. Directorate of Remote Indigenous Community Development, Ministry of Social Affairs
5. Ministry of Forestry
6. National Land Agency
7. Ministry of Marine Affairs and Fisheries
8. Ministry of Religious Affairs
9. Ministry of Energy and Mineral Resources
10. Ministry of Law and Human Rights
11. Ministry of Health
12. Ministry of Culture and Tourism
13. Ministry of Communication and Informatics
14. Ministry of Manpower and Transmigration

As a social unity, the Indigenous community has the following basic characteristics:

1. The existence of a Geneological bond (heredity)
2. The existence of regional awareness as a territorial area
3. The existence of a social identity manifested in the interaction
4. The existence of norms, morals, values and rules
5. Have customary rules both written and / or unwritten
6. The existence of a leadership system
7. There is potential for interaction

## F. Conclusion and Hope

As described in depen,

1. The existence of the Nusantara-Indonesia nation can historically be drawn from 1000000 BC (BC = BC / Before Christ), the existence of the sinking continent of Atlantis 10000 BC, the migration of Indonesian human origins from the first migration 50000 BC from Africa, the second migration of 10000 SM from Greater Asia, the third migration of 5000 BC from Taiwan and the fourth migration along with the spread of Hindu, Buddhist, Islamic, Catholic and Protestant religions.
2. Vision and Mission Nusantara-Indonesia occurred during the heyday of Sriwijaya Kingdom in 1006 who succeeded in conquering the Malay kingdom in the Malacca Peninsula and Majapahit Kingdom's Glory abag 14 with the Palapa Oath from Patih Gajah Mada in 1331 who wanted to unite the nation of Nusantara. Vision Nusantara at that time was "Nusantara the Gemah Ripah Loh Jinawi, Tata tentrem Kertaraharja" or Nusantara kayaraya, cheap sandangpangan, safe, peaceful and peaceful order. The vision is reinforced by the spirit of the Proclamation of Independence 17-8-1945. After Indonesia Merdeka, the vision of the Nusantara-Indonesia is "Unitary State of the Republic of Indonesia, Unity of Diversity based on Pancasila and the 1945 Constitution". While the mission of Indonesia is to realize what is contained in the fourth paragraph of the 1945 Constitution, namely:
  - a. Protect the whole Indonesian nation and the entire Indonesian blood spill
  - b. Promote public welfare.
  - c. Enrich the life of a nation
  - d. Implementing a world order based on freedom, eternal peace and social justice...and so on.
3. From the historical background, the existence of the Nusantara-Indonesia Nation is a diverse, pluralistic nation, Berbhineka of religion and belief, ethnicity, ethnicity, language, color, with their respective cultural customs and bound in one State to the Unitary State of the Republic Indonesia, which are single people based on Pancasila and the 1945 Constitution.
4. Already the world's attention, from the United Nations and the United Nations in the world in giving recognition, preservation of the protection of rights and empowerment of Indigenous peoples through the instruments of International Law and National Law respectively. The State of Indonesia has regulated in various laws and regulations as has been mentioned in the future.
5. Which is still the agenda of the state of Indonesia are the following things.
  - a. Ratification of ILO Convention 169 of 1989 on Right of Indigenous Peoples and Tribal Society
  - b. Harmonization of national law relating to indigenous peoples
  - c. Regulations on the existence of Regional Regulations in recognizing, protecting, empowering indigenous peoples and preserving Adat
6. The empowerment of Indigenous Peoples and the preservation of Adat, in addition to the responsibility of the state / government but also the responsibility of Indigenous peoples themselves in deceiving themselves and preserving their respective customs.
7. The empowerment of indigenous peoples and the preservation of adat as a logical consequence for Indigenous peoples to host their own country.

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