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Registration of Pusako Land as Customary Property through Complete Systematic Land Registration in West Sumatra

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Abstract:	<p>To provide legal certainty for land rights, the government violated land registration throughout Indonesia, including in West Sumatra. One of the targets of the land registration activity is customary land, which has been obtained by the community according to customary law for generations, known as pusako land, both pusako tinggi and pusako rendah. According to Minangkabau Customary Law, these two heritage lands are customary tribes and/or tribes as common land. In line with other regions, in West Sumatra, this customary land registration has been going on since 1961 based on Government Regulation No. 10/1961 on Land Registration. Although the government has also issued Regulation No. 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961, so far, the results of land registration in this area are still not encouraging. This study wants to answer the problem of why pusako land registration is not effective and what are the alternatives. Based on the results of the study, this is because most people still do not consider the importance of land certificates as proof of rights obtained through land registration. After all, land is jointly owned in West Sumatra. The results showed that this phenomenon can cause disputes between tribes or tribes triggered by customary land boundary conflicts. There are government efforts to accelerate customary land registration in West Sumatra through the Complete Systematic Land Registration Program which is expected to assist the customary land arrangement process to provide legal certainty and prevent land disputes from arising in this area.</p>

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Registration of *Pusako* Land as Customary Property through Complete Systematic Land Registration in West Sumatra

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Abstract

To provide legal certainty for land rights, the government violated land registration throughout Indonesia, including in West Sumatra. One of the targets of the land registration activity is customary land, which has been obtained by the community according to customary law for generations, known as *pusako* land, both *pusako tinggi* and *pusako randah*. According to *Minangkabau* Customary Law, these two *heritage* lands are customary tribes and/or tribes as **common land**. In line with other regions, in West Sumatra, this customary land registration has been going on since 1961 based on Government Regulation No. 10/1961 on Land Registration. Although the government has also issued Regulation No. 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961, so far, the results of land registration in this area are still not encouraging. This study wants to answer the problem of **why *pusako* land registration is not effective** and what are **the alternatives**. Based on the results of the study, this is because **most people still do not consider the importance of land certificates as proof of rights** obtained through land registration. **After all, land is jointly owned in West Sumatra**. The results showed that this phenomenon **can cause disputes between tribes or tribes** triggered by **customary land boundary conflicts**. There are government efforts to accelerate customary land registration in West Sumatra through the **Complete Systematic Land Registration Program** which is expected to assist the customary land arrangement process to provide **legal certainty and prevent land disputes** from arising in this area.

Keywords: Tanah *Pusako*, Customary Land, Land Registration, Legal Certainty, *Minangkabau* Customary Law

Introduction

Physical control of land by the owner is an important act to prove his ownership of the land concerned. However, ownership of land as a permanent property in material law is not subject to the *principle of bezitter*¹ as much as ownership of movable objects. Therefore, the **physical control of the land alone is not strong enough to prove ownership** of a piece of land. Ownership of land **must be proven juridically** so that the landowner does not worry about leaving his land physically because land as a permanent object cannot be moved following the physical movement of the owner. In agrarian law, proof of juridical control over a piece of land is called a **certificate** of land rights as proof of rights (Christiana Sri Murni, (2022)). In the certificate, it is stated that the holder of the right to the plot of land contained in the letter of measurement

¹ Normatively, this *principle of bezitter* is contained in Article 1977 of the Civil Code (Civil Code) as follows: Whoever controls movable property that is not in the form of interest or receivables that do not have to be paid on design, is considered to be its full owner.

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3 or drawing of the situation is the Fulan. To obtain a certificate of title, the land parcel concerned
4 must be registered with the land office.
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6 In this context, every landowner needs a certificate of land rights that is proof of his
7 rights. For this reason, every landowner should want his land to be registered to obtain legal
8 certainty. However, this assumption does not fully apply to the people of West Sumatra. Most
9 *Minangkabau* people in this area still do not consider that land certificates are important to be
10 proof of ownership of customary land rights. Some cases of customary land that have been
11 certified show facts that are contrary to the principle of legal certainty of land rights. Customary
12 land cases that go to court are mostly certified land, causing anomalies in land law practice in
13 West Sumatra. Various efforts continue to be made by the Government to increase the
14 acceleration of land registration throughout Indonesia. In 1961 the government issued
15 Government Regulation No. 10/1961 on Land Registration. Because it had little impact on
16 accelerating land registration, in 1997 the government issued Government Regulation No.
17 24/1997 on Land Registration as a replacement for Government Regulation No. 10/1961. In
18 line with that, the Minister of Agrarian Affairs/Head of National Land Agency issued the
19 Regulation of the Minister of Agrarian Affairs No. 3/1997 on Provisions for the
20 Implementation of Government Regulation No. 24/1997 on Land Registration.
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23 Unlike Government Regulation No. 10/1961 which only recognizes one model of land
24 registration, namely sporadically, Government Regulation No. 24/1997 also introduces a
25 systematic registration method that is expected to accelerate the land registration process.
26 Systematic land registration is a land registration activity for the first time carried out
27 simultaneously which includes all land registration objects that have not been registered in the
28 area or part of a village/kelurahan (Article 1 No. 10 of Government Regulation No. 24/1997).
29 Thus, in systematic land registration, the land registration initiative comes from the
30 government, which is different from sporadic land registration at the will of rights apprentices.
31 Because the initiative comes from the government, it is common for land registration to be
32 systematically subsidized by the government. Various facilities are provided to facilitate the
33 implementation of land registration. Not only that, the government then also issued the Minister
34 of Agrarian Affairs and Spatial Planning No. 12/2017 on the Acceleration of Complete
35 Systematic Land Registration or *Pendaftaran Tanah Sistematis Lengkap* (PTSL). Article 1
36 point 2 of the Minister of ATR/Head of BPN No. 12/2017 specifies that PTSL is the first Land
37 Registration program carried out simultaneously for all land registration objects throughout
38 Indonesia in one village/district which includes collecting and determining the correctness of
39 physical and juridical data for land registration requirements (Christiana Sri Murni, (2022)).
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42 The background of the issuance of this Regulation is to provide legal certainty guarantees
43 and legal protection of community land rights fairly and equitably, as well as encourage
44 economic growth of the state in general and the people's economy in particular. Legal certainty
45 on land rights is expected to support the economic improvement of the people who hold their
46 rights because their land can not only be used as a place to live and do business but can also be
47 an economy that can add value to them. Land registration can indeed provide benefits for its
48 rights holders both juridically and socially, as well as economically (Boedi Harsono, 2008). In
49 applying for land registration, the applicant community at PTSL does not need to come to the
50 local Land Office because it is assisted by an adjudication committee and/or task force (Satgas)
51 formed to collect physical data and juridical data on land plots (Christiana Sri Murni, (2022)).
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3 The registration process period is also accelerated so there is no need to wait long. Then, the
4 cost of the registration process that should be borne by the applicant is subsidized by the
5 State/Regional Budget (APBN/APBD) and other budgets sought by the government.
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7 PTSL is also intended to support the implementation of the agrarian reform program
8 which is one of the Government Programs. The Agrarian Reform Program must be able to
9 realize justice in land tenure and ownership and provide support and convenience for every
10 landowner in cultivating or utilizing their land as a source of income for the welfare of the
11 people. For this reason, the Agrarian Reform Program includes both *fair* distribution of land
12 (asset reform or land reform) and protection for farmers or holders of land rights so that they
13 can easily and earnestly cultivate their land (*access reform*). In West Sumatra, the objectives
14 of the land registration program, including PTSL, in providing legal certainty for land rights in
15 reality cannot always be realized. This experience makes the enthusiasm of community
16 members holding land rights decrease or not increase, sometimes on the contrary some
17 community members do not support the implementation of land registration.
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20 Part of the land registration process for pusako land is a trigger for disputes. Land
21 registration disputes can occur both in preparation for land registration and the registration
22 process, as well as after land registration i.e. after a certificate of land title has been issued.
23 *First*, the land registration process occurs at the stage of preparing for land registration. The
24 main activity at the preparation stage for pusako land registration is the preparation of a
25 statement of physical control of the land. In land administration practice, this affidavit is
26 commonly known as sporadic. This statement is very necessary and decisive in the land
27 registration process because pusako land is customary land that does not have written proof or
28 basis of rights so it is difficult to prove the basis of land tenure as a land registration for the
29 first time. In Government Regulation No. 24/1997 on Land Registration, this type of land rights
30 for pusako land is included in the old types of rights that do not have written proof of tenure
31 and ownership. Respect for such rights is an implementation of the recognition of customary
32 law in Indonesian Agrarian Law (Article 5 of the Basic Agrarian Law or UUPA). This sporadic
33 is made by a tribe or tribe that will register its pusako land. Before such a registration, the name
34 of the person to be written on the certificate of land, who is the mother of the head of the heir;
35 and other matters related to the parcel of Pusako land to be registered are agreed on. Then the
36 letter of unanimity of the tribe is signed by all members of the clan.
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39 *Second* is land registration disputes arising in the land registration process. Land
40 registration disputes at this stage arise at the time of the announcement of juridical data and
41 physical data on land registration before land certificates are issued. According to Government
42 Regulation No. 24/1997, this announcement was made for 60 days at places known to the local
43 community, namely the Land Office, Subdistrict Office, Village Head Office/Walinagari, and
44 so on. This is intended to ensure the correctness of physical and juridical data on land
45 registration, so as not to harm the rights or interests of others. Land registration disputes at this
46 stage arise if other parties raise objections to the ongoing land registration process. Dispute
47 resolution at this stage has been regulated in Government Regulation No. 24/1997 and Agrarian
48 Minister Regulation No. 3/1997 on the Implementation of Government Regulation No.
49 24/1997 on Land Registration. Therefore, this type of land registration disputes at this stage
50 are handled by the head of Land Office. Pusako land disputes in West Sumatra usually occur
51 after land certificate is issued. Because disputes like this occur after the land registration
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process is complete, the dispute resolution follows the civil procedure law in general.

Research Methods

The problem-solving of this paper is formulated based on the results of empirical *legal research*, namely law implementation research that aims to see the compatibility between legal norms and their implementation (Soerjono Soekanto, 1982). In addition, this study is also intended to see the compatibility between laws and regulations with the conditions of the legal culture of the community. The results of this study are present descriptive-analytical that is juridical. That is, the conclusion obtained is a legal answer to a research question or problem. The location of the study is the West Sumatra Province area better known as the *Minangkabau* people. Because the object of this research is *pusako* land, customary land according to *Minangkabau* Customary Law, the location of this research is focused on districts/cities in West Sumatra that have *pusako* land. Because *pusako* land is found in all *Minangkabau* customary areas, both in the the location of this research is determined *purposively* based on the intensity of the implementation of the PTSL program in West Sumatra. There are 3 districts/cities where the research is located, namely (1) Padang City as a representative of urban areas which is also the provincial capital; (2) Sijunjung Regency as a representative of districts that receive a large enough PTSL implementation target; and (3) Pesisir Selatan Regency.

Theoretical and Conceptual Framework

a. Customary Land, *Pusako* Land, and Individual Land as PTSL Objects

Tanah *pusako* is land shared for generations in the matrilineal line based on *Minangkabau* custom (Narvis, 1984). This *pusako* land consists of *pusako tinggi* and *pusako randah*. In practice, the *Minangkabau* people usually call these two *pusako* lands tribal customary land. The definition of customary rights according to the conception of agrarian law is not always the same as the understanding of customary land according to the *Minangkabau* community (Maria S.W. Sumardjono, 2015). According to Van Vollenhoven (1926), customary rights are traditional communal rights of customary law communities in Indonesia to control and manage certain areas for the survival of community members. Every member of the community concerned has the right to freely cultivate and utilize the land and natural resources within their area. Outsiders have no right except with the permission of the society itself. In the history of Indonesian agrarian law, the mention of customary rights is a translation of the Dutch term *beschikkingsrecht* which is technically juridical in the UUPA only as a "generic" name from other names with similar meanings found in various regions in Indonesia.

According to Ter Haar (1981), customary law communities in Indonesia refer to customary rights in various terms and contexts; (1) as property called *patuanan* (Ambon); (2) as a food producing area called *panyampeto* (Kalimantan); (3) as a fenced field called *pawatasan* (Kalimantan), *wewengkon* (Java), and *prabumian* (Bali); (4) as a forbidden land for others called *tatabuan* (*Bolaang Mangondow*); (5) Furthermore, in general, there are also the terms *torluk* (Angkola), *limpo* (South Sulawesi), *nuru* (Buru), *payar* (Bali), *paer* (Lombok) and *ulayat* (*Minangkabau*). In order not to confuse, in this paper the term used to refer to customary land according to *Minangkabau* Customary Law is *pusako* land, and not customary land. Explaining the process of customary rights becoming a source of ownership

rights over land, Iman Sudiyat (1981) argues that the condition of land in Java, that gradually gogolan/pekulen rice fields in Java became owned fields through six types of individual rights: (1) property rights, real rights (*inlandsbezitsrecht*); (2) the right of suffrage, the right of *kinacek*, the right of preceding (*voorkeursrecht*); (3) the right to enjoy the proceeds (*genotrecht*); (4) Right of Use (*Gebruiksrecht*) and *Right to Work* (*Ontginningsrecht*); (5) Job Reward Rights (*Ambtelijk Profijt Recht*) and (6) Purchase Authority Rights (*Naastingsrecht*).

According to Sudiyat (1981), if a citizen with the permission of the head of the alliance opens a customary (ancient) land of rights, then he places boundary signs (*sawen*) in the form of yellow janur or buffalo head and congratulates according to local custom. This act gives birth to a legal relationship between the opener and his land so that he has the right to cultivate and collect the proceeds without interference from others. But he must not abandon the land, because in principle the land must be utilized. The right to enjoy this fruit is only valid once the harvest, but even if he leaves the land afterward, he still has the right to choose to work next. After that, if the land is allowed to thicken again, then the land returns to the fellowship as a customary right. The right to enjoy these results can gradually turn into property rights if the land is cultivated continuously, planted with fruit plants or perennials, or used as rice fields. Property rights are the strongest rights among existing individual rights. The right of office is the right of a village civil servant to the land of the office in the form of the right to enjoy the results while holding a certain position. The right of purchase authority is the right to take precedence to be able to buy a piece of land at the same price.

The shift of customary land ownership to individuals also occurred in *Minangkabau*. This shift only occurs in the customary rights of *nagari* (village) but does not necessarily occur on tribal customary land (*tanah pusako*), unless agreements are made to share the land between community members (Kurnia Warman, 1998). For "Nagari children" who do not have processed land, they can apply to the Nagari authority for permission to cultivate part of the customary land of Nagari. If permission is granted and the grantee makes good use of the land, they can be given property rights. The Land Office in West Sumatra has recognized this process through the granting of rights rather than the conversion of rights. *Minangkabau* customary law also recognizes the existence of individual rights, although its position is not as popular as tribal land (*tanah pusako*). Nasroen (1971) argues that under the provisions, heirlooms should not be sold or lost. This indicates the existence of rights to land other than *pusako* (clan property rights) such as individual property rights. According to Nasroen, individual rights are only temporary, and eventually also return to communal property. Individual rights in *Minangkabau* are generally livelihood assets (joint property in marriage), but after the owner dies, the livelihood property will return to *pusako*. The change from search property to common property is a consequence of the unusual tendency of the *Minangkabau* people to divide land or inheritance. If the property goes down to the nephew, it will become a common property for all nephews. Likewise, if the children who receive the inheritance of their parents, do not divide the land, they add more heirlooms for their children and wives (Nasroen, M., 1971).

Based on the description above, it can be concluded that customary land as an object of land registration through PTSL in *Minangkabau*, West Sumatra, in general, there are 2 types, namely land jointly owned or belonging to tribes or tribes held by each tribe or tribe, more popularly known as *pusako* land, both high *pusako* and *rendah pusako*. The existence of land belonging to these people does not depend on customary land (*nagari*) but is determined by the

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3 existence of the clan or tribe concerned and land owned by individuals either from searching
4 property within the family or from the act of clearing customary land (nagari) through a process
5 determined by local customary law. Even though there are customary property rights as
6 mentioned above, customary rights still apply, and their authority is limited by the content of
7 customary property rights. For land that is within the customary territory that has not been or
8 is not owned by custom, customary rights apply directly, namely Nagari customary land or
9 land directly controlled by Nagari (Hilaire Tegnau, 2015).

14 **b. Land Registration for Legal Certainty**

15 Land registration is a series of activities carried out by the Government continuously and
16 regularly, including the collection, processing, bookkeeping, and presentation and maintenance
17 of physical data and juridical data, in the form of maps and lists, regarding land parcels and flat
18 units, including the provision of certificates of proof of their rights to land parcels that already
19 have ownership rights to apartment units and certain rights that encumber them (Article 1 No.
20 1 Government Regulation No. 24/1997). Land registration aims to provide legal certainty and
21 legal protection to holders of rights to a plot of land, apartment units, and other registered rights
22 to easily prove themselves as the holder of the rights concerned, to provide information to
23 interested parties including the Government to easily obtain the necessary data in conducting
24 legal actions regarding land parcels and apartment units that have been registered, for the
25 orderly implementation of land administration, and to achieve orderly land administration. To
26 achieve orderly land administration, every piece of land and unit of flats including the transfer,
27 encumbrance, and elimination of rights to land parcels and property rights to units of flats must
28 be registered (Article 3 and Article 4 of Government Regulation No. 24/1997).

29 Based on these provisions, it can be seen that the main purpose of land registration is to
30 provide legal certainty and legal protection to land rights holders. This legal certainty and
31 protection is guaranteed by the existence of a certificate of land rights. Legal certainty is one
32 of the main goals next to justice and expediency. As a concept, legal certainty has been
33 discussed since the beginning of the development of legal philosophy and theory. This
34 discourse came to the fore in line with the teaching of the legal mind (*idee des recht*) developed
35 by Radbruch (Sudikno Mertokusumo, 1996). According to Radbruch, the ideal law must
36 contain 3 aspects at once proportionally, including (1) aspects of justice (*Gerechtigkeit*), (2)
37 aspects of legal certainty (*Rechtssicherheit*), and (3) aspects of expediency (*Zweckmasigkeit*).
38 The three ideals of the law must support each other in providing order and equality to the
39 community. Justice certainly cannot be realized if society is rowdy or insecure. Security in
40 society can be realized by providing legal certainty.

51 **c. Complete Systematic Land Registration Program (PTSL)**

52 Article 1 point 2 of the Minister of ATR/Head of BPN No. 12/2017 says that Complete
53 Systematic Land Registration, hereinafter abbreviated as PTSL, is the first Land Registration
54 activity carried out simultaneously for all Land Registration objects throughout the territory of
55 the Republic of Indonesia in one village/district which includes collecting and determining data
56 accuracy for land registration purposes. This PTSL policy is intended to guarantee legal
57 certainty and legal protection of community land rights fairly and equitably, as well as
58 encourage economic growth of the state in general and the people's economy in particular. The
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3 purpose of the PTSL program is to accelerate the provision of legal certainty and legal
4 protection of community Land Rights in a certain, simple, fast, smooth, safe, fair, equitable
5 open, and accountable manner, to improve the welfare and prosperity of the community and
6 the state economy, as well as reduce and prevent land disputes and conflicts (Article 2
7 paragraph 2) of the Minister of ATR / Head of BPN No. 12 of 2017).
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10 Conceptually, PTSL is a development of Systematic Land Registration as the first land
11 registration as referred to in Government Regulation No. 24/1997. Systematic land registration
12 has not been fruitful even though the initiative comes from the government, and is carried out
13 with various facilities (incentives). Therefore, the target of PTSL is to cover all land parcels in
14 Indonesia. PTSL is carried out for all objects of land registration throughout the territory of the
15 Republic of Indonesia, covering all land parcels without exception, both land parcels that do
16 not yet have land rights and land rights plots, whether they are Government / Regional
17 Government asset land, State-Owned Enterprise / Regional Owned Enterprise land, village
18 land, State Land, customary law community land, forest areas, land objects of land reform,
19 transmigration land, and other land plots.
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23 Based on Article 3 section 4 of the Minister of National Land Agency Regulation No.
24 12/2017, PTSL is carried out through 10 stages consisting of planning and preparation,
25 determination of the location of PTSL activities, establishment and determination of the PTSL
26 adjudication committee, counseling, collection of physical and juridical data of land plots, land
27 inspection, announcement of physical data and juridical data of land plots and proof of rights,
28 issuance of decisions granting or acknowledging land rights, bookkeeping and issuance of land
29 rights certificates, and submission of land rights certificates. Article 3 section 6 of this
30 Regulation specifies that the implementation of PTSL can be carried out through special PTSL
31 programs and budgets. In addition, PTSL financing can also be in the form of a combination
32 of PTSL programs with other programs and/or activities, namely: (a) National Agrarian
33 Program/Agrarian Regional Program (PRONA/PRODA), (b) Cross-Sectoral Program, (c)
34 Activities from Village Funds, (d) Non-governmental mass activities, (e) Mass certification
35 programs or activities for land redistribution for land reform, land consolidation, and
36 transmigration, or (f) Other mass activities, a combination of some or all activities.
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43 ***Pusako* Land Registration for Legal Certainty of Land Rights in West Sumatra**

44 Registration of *pusako* land in West Sumatra has been going on since 1961 based on
45 Government Regulation No. 10/1961 on Land Registration. Government Regulation No.
46 61/1961 is the first government regulation regulating land registration since the enactment of
47 Law No. 5/1960 (UUPA) as a momentum for the birth of the National Agrarian Law. This
48 activity was carried out to provide legal certainty for customary land rights in West Sumatra.
49 As is known that most of the freehold land in West Sumatra is *pusako* land, *both high* *pusako*
50 and *pusako rendah*. *Pusako tinggi* is a type of land of unknown origin by its current owner.
51 They only take the inheritance land for granted from generation to generation along matrilineal
52 lines, without questioning the origin of their rights. According to customary law in force in
53 West Sumatra, the status of high *pusako rendah* is determined by the level of descent (*ranji*) of
54 the tribe concerned. Tanah *pusako rendah* is *pusako* land that has been owned for generations
55 for at least 3 to 5 generations. This means that the ownership of the *pusako* land by the owner
56 has now been passed down for 3 to 5 levels of the genealogy of the tribe/tribe (*ranji*) concerned.
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Meanwhile, *pusako randah* land is land owned by tribes for generations but has not reached 3 generations. This inheritance land can come from the land of the parents' search which is not divided by children or heirs according to their portion. Because it is not divided, the joint property in this marriage is still managed by the daughter matrilineally. Sons usually do not claim a share of property in the form of land as inheritance, because a *Minangkabau* man who has performed a marriage lives in his wife's heirloom land matrilocally.

Registration of *pusako* land in general in West Sumatra has been slow. Various efforts have been made to accelerate the implementation of land registration, ranging from the National Agrarian Program to PTSL. Many issues prevent the acceleration of *pusako* land registration in West Sumatra including:

1. The lack of interest of tribe that owns the *pusako* land in land certification. Public awareness of the importance of land registration or certificates as evidence of juridical control over a piece of land is still low. This is because factually the existence of *pusako* land has never been left by the owner as a whole. If some members of the community leave or migrate, they are not worried that their heritage will be taken by others. Because *pusako* land is generally not commercialized by the owner's tribe, such as the object of liability as collateral for debt, they do not feel the need for a certificate. So far, the community does not feel hampered in the use of their land even though they do not have a certificate. To cultivate agricultural land on *pusako* land they can still do without juridical obstacles, to build a house as a place to live they are also familiar with obstacles, even to build boarding houses for rent so far they can do without certificates. In the construction of these boarding houses, some people have received credit assistance without making their land an object of dependence (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
2. It tends to be difficult to get the approval of *ninik mamak* (clan leaders) who generally tend to object to land registration for fear that it would weaken their power in the control of heirloom land. Especially if the certificate of inheritance land is made in the name of members of their people according to the division of management and utilization of the land (*ganggam banutuak*). They consider that registered *pusako* land or *pusako* land that already has a certificate becomes "wild", because it can be separated from the power of *ninik mamak*. Lest the heirloom land concerned be sold by the nephew listed on the certificate through the land deed making official without the consent of clan leaders (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
3. Another obstacle in registering *pusako* land is the difficulty of obtaining approval from the chairman of the Nagari Customary Council or *Kerapatan Adat Nagari* (KAN) as a recognized customary institution. The tendency of KAN administrators to charge a certain amount of fees to owners, the amount of which is not expressly determined. Because the control and ownership of *pusako* land is not primarily oriented towards commercial purposes, but for the needs of life in social relations, the payment in the registration process is a burden in itself. The existence of informal levies in the process of registering *pusako* at the customary level of affairs indicates that the registration of *pusako* land is intended for commercial purposes. There is an assumption that if the *pusako* land has been registered and has a certificate, the land will be sold by the owner. The sale of *pusako* land is considered something commercially profitable so it is appropriate that the person concerned is subject to customary fees. As a result, tribes that do not intend to

- commercialize their heritage land, generally do not want to register their land (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
4. Certified land can also increase costs or other obligations of rights holders, such as tax payments. The community considers certified land to pay more land and building tax (PBB) than uncertified heritage land. Then the process of inheritance and distribution of heritage land that has been certified is very burdensome for the tribe or tribe concerned because it is burdened with many costs both taxes and PNBPN. So, land registration does not provide more certainty and benefits to rights holders, instead, the fact that registration of *pusako* land makes the right-holding tribe pay greater obligations (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
 5. The occurrence of anomalies in customary land disputes in West Sumatra, that certified *pusako* land tends to cause disputes among community members, or between *mamak* and nephews. This condition is the reason for some people not register their land. This dispute can occur as a result of the lack of accuracy in the implementation of land registration. For example, *pusako* land is registered in the name of the head heir *mamak* personally, without mentioning her position as the head heir *mamak*. The name of the head of the heir listed on the certificate is the official (personal) name listed on the relevant identity card. The certificate of land was then brought and stored by the mother of the head of the heir in the house where he lived with his family. Because the certificate lists the name of the father, the children as heirs of the mother of the head heir consider the inheritance land of his fathers as the private property of his parents. This, of course, triggers disputes between children (heirs) and nephews (clans), so that land certificates trigger the breakdown of social relations between families in the *Minangkabau* kinship system (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).
 6. Land registration is considered the cause of the abolition of *pusako* land as customary land in West Sumatra. With the registration of *pusako* land, there is an impression that the land is no longer owned by the tribe. This happens because the land certificate states that the right to the land is not tribal *pusako* land but property rights from the name listed in the certificate. Thus, the community considers that land registration of *pusako* land can erase the existence of *pusako* land itself (Ilhamsyah, 2018; Rika Dirma, 2018; and Junaidi, 2018).

This assumption is not true as long as the *pusako* land is registered in the name of the tribe, not in the name of an individual member of the tribe/tribe concerned. On the contrary, registration of *pusako* land can provide legal certainty on the ownership status of *pusako* land for the tribe that owns it. If the *pusako* land is not registered, then legal certainty over the land is only given customarily based on physical control from generation to generation according to the matrilineal line. *Pusako* land that has been registered will get stronger legal certainty. In addition to still receiving protection according to customary law, registered *pusako* land will receive protection and legal certainty from state law. Legal certainty over registered *pusako* land is given by public power on behalf of the public as well. Therefore, land that has been registered and has a certificate as proof of rights has power based on the principle of publicity, namely the guarantee of certainty of land rights given publicly by the state, and gets legal protection from the state if other parties control the land without the permission of the owner or his proxy. Such tenure can even be punished under Law No. 51/prp/1960 on the Prohibition of Land Tenure Without the Owner's Permission.

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7. It is difficult to obtain agreement from all members of the clan who are entitled to heirloom land. If a tribe wants to register its *pusako* land, the main requirement is the agreement or unanimity of all members of the tribe. These tribal agreements are not as easy to obtain in a very limited time as in quick land registrations such as PTSL. Some members of the clan do not live in the village or even migrate abroad which is difficult to contact. As members of the tribe listed in the ranji or silsila, their descendants must agree to the registration of *pusako* land. Just one person who has not agreed or has not signed can interfere with the process because the requirements have not been fully met. If this is ignored, there will be vulnerabilities in the land registration process, and the potential for disputes in the future. The emergence of disputes in land registration can backfire on the land registration activity itself, and create the impression that land registration as a trigger for disputes arises, thus being counterproductive on the ground.

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Therefore, in the process of land registration through PTSL in West Sumatra, it tends that if a dispute occurs, the process is stopped indefinitely. The land registration process is transferred to other land parcel objects where there is no dispute. This means that land registration disputes in PTSL are not sought to be resolved through separate means, but are left entirely to the will of the parties. Administratively, the registration of disputed PTSL land will be recorded as one of the government's performance criteria, namely the K2 category for disputed land plots. Although there was a dispute in the land registration process and the PTSL process was stopped, programmatically it was still recorded as reportable performance. Thus, the implementation of land registration through PTSL is not held hostage by disputes that occur in the land registration process. So far, land registration disputes have become an obstacle in land registration in West Sumatra. Land registration disputes are not easily resolved by the Head of the Land Office per his authority according to Government Regulation No. 24/1997, namely mediation. Therefore, in resolving customary land registration disputes, BPN requested assistance from the KAN given its authority over land disputes. If the settlement of land registration disputes is submitted to KAN, then the settlement must follow the customary law procedures that apply *the salingka nagari* principle. In such dispute resolution practices, there is no time limit so it tends to slow down the time of land registration, and even that is not necessarily successful. Therefore, such a dispute resolution mechanism is rather risky to use in the implementation of PTSL which has very limited time.

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Based on the description above, it seems that the purpose of land registration to provide legal certainty to land rights holders is not fully realized. On the contrary, land registration can trigger various problems over *pusako* land that can trigger disputes. If it turns out that land registration triggers land disputes, both in the process and post-process, it means that legal certainty over land becomes weak. The land registration system applied to communal or jointly owned lands such as *pusako* land in West Sumatra, does not seem to be possible with an individual land registration approach. If individual registration is forced to apply to *heirloom* land that is jointly owned and passed down in the matrilineal line, it becomes contradictory to the purpose of land registration to provide legal certainty.

57 **Pusako Land Registration Through Complete Systematic Land Registration Program in** 58 **West Sumatra** 59 60

The PTSL program was started in 2016 in line with the government's flagship program, namely for people's economic empowerment through the acceleration of complete land registration throughout Indonesia. This program is intended to encourage the guarantee of certainty and legal protection for the community in land ownership fairly and equitably. In addition, this program is also intended to support overall economic growth both for the country and for the people. To support the acceleration of land registration, the scope of the PTSL program is expanded, and emphasized its object district per district by covering all land parcels to achieve the goals of the program. Article 2 of Regulation of ATR/BPN No. 12/2017 says that the scope of this Ministerial Regulation is the acceleration of the implementation of the PTSL program which is carried out village by village in the district by covering all land parcels throughout Indonesia. The regulation also says that the purpose of the PTSL program is to guarantee legal certainty and legal protection of community members' land rights in a certain, simple, fast, smooth, safe, fair, equitable, open, and accountable manner, to improve the welfare and prosperity of the community and the country's economy, as well as to reduce/prevent land conflicts.

Because the object of PTSL is all land parcels, this program applies to all land statuses in their respective regions. As stated above *pusako land is a piece of land that dominates the status of land in West Sumatra, therefore PTSL in this area certainly makes pusako land the main object*. In addition to dominating the status of land parcels, making *pusako land the main target of PTSL is also because some of these pusako lands have not been registered*. Meanwhile, other parcels of land that are not *heirloom land* are likely to have been registered by their owners on their conscience. By registering the land, it means that the person concerned has received guarantees of certainty and legal protection from the State. The government has set high targets for the implementation of PTSL in West Sumatra, but the realization still seems to be unsatisfactory. Until November 2018, the target has not been achieved, especially until the issuance of a certificate (K1). The following table illustrates the performance achievements of PTSL implementation in West Sumatra as of November 21, 2018.

Table 1: Progress of Complete Systematic Land Registration Activities of National Land Agency's Regional Office of West Sumatra Province, November 21, 2018

No	Kab/City	Target PBT	Target SHAT	Survey	Pemetaan	Pul-dadis	Cashing	Potensi K1	K1	K2	K3	K4	Qty	R
1	Pariaman City	150	50	169	154	155	155	0	50	0	105	0	155	103,33
2	Plain	1.150	650	1.569	1.176	1.163	1.161	72	650	0	509	0	1159	100,78
3	Solok City	4.727	50	5.266	4.777	4.761	4.761	0	50	0	4680	0	4730	100,06
4	Pasaman	2.050	1.050	2.153	2.051	2.051	2.051	0	1049	1	1001	0	2051	100,05
5	Hill-high City	496	196	485	501	506	505	24	196	0	300	0	496	100,00
6	Padang Panjang	150	50	150	150	150	150	0	50	0	100	0	150	100,00
7	Payakumbuh	850	350	850	851	850	850	25	350	0	500	0	850	100,00
8	Mentawai Island	2.150	1.500	2.150	2.150	2.150	2.150	60	1500	0	650	0	2150	100,00
9	South Solok	3.200	1.200	3.200	3.200	3.199	3.199	38	1139	0	2060	0	3199	99,97
10	Pariaman Field	2.300	1.300	2.223	2.349	2.313	2.300	80	203	0	2060	0	2263	98,39
11	South	4.650	2.650	4.574	4.540	4.507	4.505	349	2364	1	2017	0	4382	94,24

	Coast													
12	Sawah-lunto City	350	150	348	350	322	322	10	123	0	199	0	322	92,00
13	Sijunjung	11.447	10.947	13.845	11.157	9.949	9.947	381	1688	0	8251	0	9939	86,83
14	Agam	1.750	950	1.595	1.702	1.644	1.552	135	817	0	702	0	1519	86,80
15	West Pasaman	7.350	3.350	6.670	6.556	6.155	6.144	559	3011	0	3127	86	6224	84,68
16	Solok	10.600	10.400	9.682	10.407	9.679	9.622	887	2228	0	6566	62	8856	83,55
17	Limapuluh City	2.007	1.307	1.841	1.784	1.699	1.691	144	874	0	717	0	1591	79,27
18	Padang City	11.400	10.400	6.687	6.672	6.131	6.103	461	1806	0	4088	0	5894	51,70
19	Dharmasraya	7.800	3.800	4.440	3.642	3.793	3.780	157	2630	0	1047	0	3677	47,14
	Total	74.577	50.350	67.897	64.169	61.177	60.948	3.382	20.778	2	38.679	148	59.607	79,93 %

Source: Regional Office of West Sumatra Land Agency (ptsl.atrbpn.go.id).

Overall, the realization of PTSL in West Sumatra has indeed reached 79.93% (59,607 fields from 74,577 targeted fields), but only 41% reached the certificate issuance stage (K1) (20,778 fields from 50,350 targeted fields). This means that with all the facilities provided free of charge, even after visiting their respective locations, land registration in West Sumatra is still not a concern for the community. Based on these data, it seems that the obstacles in land registration as stated above have not been able to be unraveled in the implementation of PTSL. Public awareness of the importance of land registration as legal certainty for their land has not been fully awakened. The government still needs to provide a breakthrough from the technical aspects of land registration so that the concerns of the community, especially *ninik mamak* as customary stakeholders, about the abolition of pusako land through titling could be a threat to their authority. The division of pusako land parcels into several parcels according to each member of the tribe, to increase the number of certificates, is counterproductive to the acceleration of land registration based on its area. In terms of the number of land parcels certified, this method may be appropriate, but based on the percentage of pusako land area that has been registered, it is reduced.

Based on these conditions, related to the registration requirements, the policies taken by the government in registering land through PTSL are not much different from conventional land registration. The main requirement for the registration of pusako land must still be unanimity or racial agreement. This policy can be seen for example in the implementation of PTSL in Sijunjung Regency. According to Ilhamsyah, Head of the Sijunjung Regency Land Office, in an interview in Muaro, on October 31, 2018, registration of pusako land through PTSL is still mandatory for a racial agreement made by the mother of the head of the heir and all members of the clan. The statement letter or agreement must be known by *ninik mamak ampek jinih people* (four types), namely pangulu, manti, malin, and dubalang adat. These statements and restrictions are confirmed by KAN and known to the local Walinagari. The agreement is equipped with a ranji or genealogy of the tribe to see the position of each member of the tribe who participated in challenging the letter of agreement. This policy is not in line with the Minister of National Land Agency Regulation No. 12/2017 which provides basis of rights pertaining to land registration by prescribing that the basis of rights for PTSL is only sporadic and that land is physically controlled in good faith by the concerned parties.

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3 According to Ilhamsyah, as long its policies continue to accommodate customary law
4 provisions as applicable, PTSL can be relatively successful in Sijunjung. If the PTSL rights
5 pedestal is only a sporadic sheet, maybe this program will not work because it has met
6 resistance from customary law communities, so it is counterproductive to the program's
7 objectives. According to the data in Table 1 above, the PTSL target in Sijunjung Regency has
8 reached more than 86% of the 11,447 parcels set. The same is true in Pesisir Selatan Regency.
9 In PTSL implementation in *Nagari Lakitan Timur* in Lengayang District, the provisions
10 regarding the mandatory agreement of the people in registering *pusako* land also applies. In an
11 interview on November 20, 2018, Rika Dirma, Secretary of Nagari, and Nopemi Darasiska,
12 Head of Welfare and Service Section in *Nagari Lakitan Timur* in Kotorawang claimed that the
13 clan agreement is the main requirement for the registration of *pusako* land. In this Nagari home
14 to the *Caniago* tribe, until such an agreement is reached, many *pusako* lands cannot become
15 the object of PTSL implementation. The same is true in Padang City. According to Junaidi,
16 Head of the Padang City Land Office, in an interview on November 22, 2018, Padang City is
17 targeted at 11,400 plots of land for PTSL 2018. Up until the writing of this paper, only 60%
18 has been processed. Even for targets that come to the issuance of new rights certificates only
19 20%. The realized PTSL objects are almost entirely heirloom land, which is 90%, only 10% is
20 family-owned land based on traditional underhand buying and selling.

21 From what precedes, it can be concluded that awareness of the importance of land
22 registration as a guarantee of legal certainty of land rights has grown in communities in West
23 Sumatra as long as the status of land as private property. Meanwhile, for the status of *pusako*
24 land that is jointly owned by the tribe, the awareness of the importance of land certificates has
25 not fully arisen. This condition is not caused because West Sumatrans do not attach importance
26 to certificates, but are worried about the abolition of *pusako* land after it is registered.
27 Therefore, as long as land registration, including PTSL, has not been able to guarantee the
28 existence of *pusako* land, during that time the process of registering *pusako* land is likely to
29 still not produce satisfactory results. Based on the description above, the success of PTSL
30 implementation of *pusako* land in West Sumatra is determined by several things as follows:

- 31 1. Support from *ninik mamak* traditional stakeholders. Because *pusako land is customary* joint
32 property under the control of *mamak* head heir and *ninik mamak*, the implementation of
33 land registration, including PTSL, is largely determined by the support of customary actors.
34 It is impossible to register *pusako land* without the involvement of *ninik mamak* traditional
35 stakeholders. *Ninik mamak's* involvement in land registration started from the beginning,
36 especially in the procurement of rights pedestal, namely the statement of physical control
37 of land. This statement must be supported by the agreement or unanimity of the people
38 concerned and the *Ranji* of the people concerned which is also made, justified, and
39 approved by the *ninik mamak* based on their respective positions. There are *ninik mamak*
40 who are positioned at the tribal level, namely the head of inheritance, at the tribal level as
41 a tribal religious leader or *pangulu*, and at the Nagari level through KAN, all of whom are
42 involved in the land registration process.

43 Related to the above, the relationship between the government and KAN must be harmonious
44 and establish good cooperation in the implementation of PTSL. Experience in implementing
45 PTSL in *Nagari Lakitan Timur*, South Pesisir Regency has proven this. East Lakitan is a part
46 of Nagari Lakitan, but the expansion is only for the Nagari government and does not apply to
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its customs. Therefore, KAN in this location remains one, namely KAN Lakitan. As illustrated from an interview with Rika Dirma, Secretary of Nagari, on November 20, there seems to be a lack of coordination between the Nagari government and KAN in the implementation of PTSL. The KAN party is of the position that the service related to the approval of the rights and ranji of the people in KAN is not related to the service in the Nagari government. If there is no charge in the mayor's office, it cannot be applied in KAN, because the affairs in KAN are customary not government affairs. In practice to date, the signing of documents related to land registration in KAN is still charged. This is one of the obstacles to PTSL's activities on pusako land in Nagari Lakitan Timur. Finally, PTSL is directed to private or family land derived from buying and selling.

2. Support from their respective local government officials. Because the land location of PTSL objects in West Sumatra is determined based on the Nagari area per Nagari or kelurahan per kelurahan within the regency/city area, the implementation of PTSL needs support from local government officials. Local government support is not only needed at the site determination stage but also in the implementation of programs in the field. The implementation of PTSL in Sijunjung Regency, for example, is not only carried out directly by the local BPN but also partly carried out by the local government per its authority. According to Ilhamsyah, Head of the Land Office, in Sijunjung there are three types of PTSL implemented by local governments, namely, Small and Medium Enterprises PTSL implemented by the Cooperative Office as the leading sector, PTSL Agricultural Land implemented by the Agriculture Office as the *leading sector*, and Transmigration *PTSL implemented by the* Transmigration Office. This means that the involvement of local governments in PTSL greatly determines the success of this program. Good cooperation between the local government and BPN is the main prerequisite for the running of PTSL in the area concerned.
3. Third-party support through cooperation in the implementation of PTSL. Because PTSL requires a lot of technical personnel, third-party support in the implementation of PTSL is also needed. This can also be seen in Sijunjung Regency. The involvement of third parties through tenders carried out by the central government also greatly determines the implementation of PTSL. In Sijunjung, the implementation of PTSL by third parties is known as PTSL KJSKB. Based on data from the local Land Office through Ilhamsyah, Head of Office, interviewed on October 31, 2017, the implementation of PTSL with KJSKPB is precisely what dominates the implementation of PTSL in this area. Of the 12 Nagari PTSL locations in Sijunjung, 8 Nagari (67%) of them are carried out through KJSKB. This is certainly understandable considering the target imposed by the government in implementing PTSL.
4. PTSL is largely determined by the readiness of implementing officials, including in Nagari. At the national level, the implementation of PTSL is also largely determined by the readiness of the local government. The commitment of the Nagari government support is needed in the implementation of PTSL. In addition, the involvement of Nagari is also more tangible, especially in making rights pedestals as the basis for registering pusako land. The determination of the subject and object of PTSL is carried out at the Nagari level, so the Nagari government can be said to be the spearhead of PTSL in West Sumatra. Based on the experience of Nagari Lakitan Timur as the location of PTSL, it can be seen how

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3 important the position of the Nagari government is in PTSL. According to information from
4 Rika Dirma, Secretary of Nagari, interview on November 20, 2018, the implementation of
5 PTSL in East Lakitan was not planned from the beginning. At first, the location of PTSL
6 was in Lengayang District Nagari Kambang Timur, but because it was not ready, at the
7 initiative of the mayor together with the Nagari officials, East Lakitan proposed to the
8 Regency as the location of PTSL which is mainly determined by the attitude of the mayor
9 and the readiness of the government apparatus.

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13 5. The cost burden is borne by the community in the land registration process. Although not
14 a major factor, the cost component remains important in the implementation of land
15 registration. The government may be able to make a policy to waive all fees for land
16 registration, but the policy does not necessarily apply at the level of indigenous peoples.
17 Giving in customary affairs seems to have become common in the community, especially
18 in the management of papers related to land. If the applicant can be free of charge at the
19 racial and tribal level, it does not necessarily apply to the Nagari level through KAN, which
20 occurs in Nagari Lakitan Timur as outlined above. This makes PTSL seem to be stuck
21 because it is waiting for the process of making rights pedestals at the customary level. As
22 a result, the implementation of PTSL is more directed to land that does not require KAN's
23 signature, namely privately owned land such as in East Lakitan. This is certainly contrary
24 to the purpose of PTSL in West Sumatra which is more targeting pusako land. Perhaps that
25 is one of the causes of the small target of pusako land in the implementation of PTSL in
26 this Nagari. Of the 88 plots of land certified through PTSL in Nagari, only 4 plots are *clan*
27 *pusako* land, the rest are privately owned land based on buying and selling.
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32 6. Availability of measuring officers and field technical personnel. Because PTSL is carried
33 out massively in a short time, the implementation of PTSL requires sufficient personnel or
34 measuring officers and skilled technical personnel. The shortage of officers is felt in the
35 implementation of PTSL in the field such as in Nagari Lakitan Timur, South Pesisir
36 Regency. To anticipate this, the Nagari government provides assistance personnel whose
37 task is mainly to assist with technical measurements in the field, including inviting
38 landowners commensurate with PTSL objects to be present during measurements. The
39 number of surveyors available at the land office tends to be inadequate when compared to
40 the large number of land registration objects.

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44 With various problems faced in the field in general, the implementation of PTSL in
45 West Sumatra is relatively safe and smooth, although the target has not been achieved as a
46 whole. Based on information from respondents, in general, people are enthusiastic about the
47 program except the *ninik mamak* who are still worried about the abolition of tribal pusako land.
48 In the event of a dispute, PTSL does not force the running of the program for the object. Pusako
49 land containing disputes in the implementation of PTSL is suspended and removed from the
50 target until the issuance of the certificate. So that PTSL does not deal with the parties who
51 dispute over the land of the object of registration. The *ninik mamak* are worried that the
52 technical implementation of PTSL does not fully matched the character of pusako land
53 ownership in West Sumatra. If the registration technique can guarantee that the certificate does
54 not abolish pusako land, then it is likely that the *mamak ninik* will also support this program.
55 This means that the registration of pusako land through PTSL must still be registered on behalf
56 of the tribe so that the certificate does not change the subject of the holder of the right to the
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3 pusako land from the clan/tribe to a member of the clan. If PTSL encourages the
4 implementation of pusako land registration on behalf of the clan, not on behalf of individuals,
5 this program will likely have the support of all *mamak ninik* in the tribe/tribe.
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7 Such a policy is indeed contrary to the wishes of most citizens as members of the tribe.
8 Individual community members are certainly more inclined to register heirloom land as their
9 private property because they already live more focused on their nuclear families. Meanwhile,
10 *ninik mamak* in managing the tribe is not oriented to the nuclear families but to the extended
11 family. *Ninik mamak's* concern about certificates made in the name of individual members of
12 the clan need not be exaggerated as long as the name listed on the certificate is the name of the
13 niece of a female member of the tribe. By mentioning that the owner of the land is a woman,
14 its existence as a *pusako* land remains unchanged because it will also be passed down
15 matrilineally to the next generation.
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19 In the implementation of land registration in West Sumatra, there is a tendency for the
20 name listed as the right holder in the land certificate to be a woman's name. This not only
21 applies to pusako land but is also applied to the registration of family-owned land as a result
22 of joint searches. This condition still applies today, as in the location of this study. In Nagari
23 Lakitan Timur, for example, of the 84 privately owned plots of land that are the object of PTSL,
24 almost all of them are registered in the names of women (Rika Dirma, 2018). In addition to
25 providing more assurance to women in building families, this attitude is also to anticipate the
26 emergence of disputes between children and nephews after the man dies. Such lands are usually
27 not divided by heirs but are still used by female heirs only. So that over time this privately
28 owned land can become a randah heirloom land for the family concerned.
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33 **Impact of Certificate Law on the Status of *Pusako* Land as Customary Joint Property in** 34 **West Sumatra** 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60

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3 In the latest and factual terms, the registration of land that gives birth to a certificate does
4 not change the status of ownership of the land parcel, much less will it change the subject of
5 the right holder. Land registration is intended to strengthen the rights of the owner to the parcel
6 of land. So the concern that certificates could erase the status of *pusako* land in this context is
7 unwarranted. The status of *pusako* land as a common property remains, and so does its
8 management which is controlled and managed by members of the clan as usual. As a common
9 land, even though it has been certified, the rights to the inheritance land are still based on the
10 agreement of all clan members, not only on behalf of some members. So the existence of a
11 certificate legally does not change the ownership status of heirloom land. Changes in the
12 ownership status of *pusako* land by tribes occur because of agreements or legal deeds from clan
13 members about their joint *pusako* land. Clan agreement about the status of their *pusako* land
14 can occur in the registration process so that the land certificate that comes out seems to change
15 the status of the *pusako* to land belonging to each family and so on. This condition occurs in
16 the implementation of PTSL in West Sumatra in various forms of tribal agreements that can
17 affect the subject of land ownership rights. Because the government or BPN only administrates
18 community property rights, on whose behalf the *pusako* land is registered also depends on the
19 wishes of the tribe as the owner of the *pusako* land. Concerning the name of the right holder
20 listed on the certificate, several possibilities can be raised as follows:

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27 1. Certificate of heirloom land in the name of the people.

28 If a clan agrees that a certificate of land rights is made on behalf of the clan, BPN will issue
29 the certificate on behalf of the clan. In this condition, the integrity of the *pusako* land and
30 its people is maintained and is not affected by land registration. This method is the most
31 appropriate choice to maintain the status of *pusako* land as a land belonging to the people.
32 In its implementation, this choice is not always easy, because technically the name of the
33 right holder on the certificate is written based on the applicant's identity card (KTP). The
34 population administration system issues ID cards according to the real name of the personal
35 person who owns the ID card. The inclusion of customary or racial titles on the KTP must
36 be based on a court determination, which of course makes it difficult for the community.

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40 2. Certificate of heirloom land in the name of the mother of the head of the heir and the name
41 of the clan member.

42 Some of the *pusako* lands are registered in the name of the mother of the head of the heir
43 and followed by the names of female members according to the agreement of the people.
44 Thus, the name of the right holder listed on the certificate is not singular because it consists
45 of several people including the name of the mother of the head of the heir. This method is
46 also effective in maintaining the integrity of the *pusako* land and its people because all the
47 names that are entitled to participate are written on the certificate. In practice, this method
48 is commonly pursued because it is easiest to agree upon by the clan. After all, all members
49 of the clan enter into certificates. So none of the people objected unless some members
50 were not consulted by the mother of the head of the heir. Administratively, this method can
51 also be applied because the mother of the head of the heir and each member of his clan who
52 is included in the certificate can use their identification cards.

53 Although in general, this method can maintain the integrity of *pusako* land, in its
54 development it can cause legal problems that are not easily resolved:
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- a. If the name of a male member is included in the certificate, including the mother of the head of the heir, the death of the potential to cause a dispute between the son of the man and his matrilineal nephew. With the inclusion of the man's name as the father of the heir (his son), the son can think that his father owns the land as stated in the certificate.
 - b. To maintain the up-to-date data, the land registration law requires the return of the name of the certificate in the event of the death of the right holder. The change of the name of the deceased person in the certificate may not necessarily be agreed easily. This can trigger new disputes over *pusako* land.
3. Certificate of heirloom land in the personal name of the mother of the head of the heir. To maintain the integrity of the people and avoid the technical difficulties of land administration as mentioned above, some communities register their *pusako* land in the name of the clan leader only. This method is simpler because only one person's name is listed on the certificate. If the mother of the head of the heir dies, it is also not so difficult to manage the name change because only one person. The legal consequence that needs to be watched out for in this case is the emergence of assumptions from the children (heirs) of the mother of the head of the heir that the land belongs to his father. Therefore, the custom applied in the community is that the certificate of heirloom land is still kept in *the traditional house* known as rumah gadang and controlled by one of the oldest women (*induak*) in the clan.
4. Certificate of heirloom land in the name of the women of each family in the race. All members of the clan may agree that their inheritance land is divided according to the *paruik / jurai* (stomach / jurai) in the race. This division is usually carried out based on the division of *pusako* land utilization based on *ganggam bauntuak* (handheld beruntuk), which is the division of *pusako* land utilization according to the lungs / jurai in a race. Most of the wishes of the members of the clan follow this method of division, at the time of registration of the land as well as the distribution of heirloom land. Because *pusako* land in *Minangkabau* is owned by women, the certificate of *pusako* land that has been divided according to *the bauntuak ganggam* is usually made in the name of women as mothers or *induak*. However, even the method of registering land does not receive the support of *ninik mamak*. In practice, PTSL cannot lead to a particular form of the above possibilities. Almost the same as the previous condition, that BPN as the organizer of land affairs is only waiting for the agreement of the tribe concerned.

Conclusion

48 Pusako land registration in West Sumatra is generally still slow, so **legal certainty over**
49 **land is still not fully realized**. This is due to several obstacles in registering *pusako* land,
50 including (1) the community or *pusako* land owners **not feeling the importance** of the existence
51 of land certificates, (2) it is difficult to reach a clan/tribe agreement for the registration of
52 *pusako* land, (3) it is difficult to get approval from KAN, (4) there is an assumption that land
53 certificates can **increase land-related costs** such as taxes, (4) certificates can **trigger land**
54 **disputes**, (6) the certificate can remove the status of the *pusako* land, and (7) some members
55 of the clan are not in place so that it is **difficult to obtain signatures** for the approval of the
56 registration of the *pusako* land.
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The implementation of *pusako* land registration through PTSL in West Sumatra generally runs in accordance with Regulation of ATR / BPN No. 12 of 2017. However, the PTSL process is still slow because this program has not been able to overcome the inhibiting factors of land registration as stated above. As long as **land registration, including PTSL, has not been able to guarantee the existence of *pusako* land after being certified**, during that time the *pusako* land registration process will still not produce satisfactory results. The implementation of PTSL seems to be **output-oriented according to the target number of parcels that have been set**. Disputed plots of land tend to be "abandoned" unattended even though they are still reported.

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In principle, **land certificates do not change the ownership status** of *pusako* land as common land based on customary law. So the **certificate does not cause certain legal consequences** for the *pusako* land but provides certainty for the ownership of the *pusako* land itself. What results in a change in the ownership status of *pusako* land in land registration is the **attitude or agreement of the tribe itself** on the *pusako* land when the registration process is running. If they agree that the *pusako* land is divided according to *paruik/jurai* before being registered, then the *pusako* land is certified in the name of *paruik/jurai*. As a result of the law, the *pusako* land becomes a *pusako randah* for each *jurai*, but **customarily the land is still a *pusako* land controlled by the mother of the head of the heir**. The condition that needs to be watched out for is **if the heirloom land is registered in the personal name** of the heir mother or male member of the clan. Such a certificate can **administratively change the status of the heirloom land to the private property** of the mother of the heir head or male members of the clan. This is prone to **causing disputes between the children (heirs)** of the mother of the head of the heir and his people. To maintain the integrity of the clan and its heritage, the name of **the right holder mentioned in the certificate** for and on behalf of the clan **should be the name of the customary title of the mother of the head** of the heir of the tribe. This method also facilitates the process of maintaining land registration data if the right holder dies.

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Author contributions

All authors listed have made a substantial, direct, and intellectual contribution to the work and approved it for publication.

Ethics statement

The researchers obtained the necessary ethics approval from their institution. The participants provided written informed consent to participate in this study.

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Disclosure Statement

The authors report there are no competing interests to declare.

Data Availability Statement

Data set associated with this study is publicly available.

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For Peer Review Only

- Minor revisions & proof-reading necessary to eliminate typos
- All first mentions of abbreviated words need to be expanded for clarity e.g., Badan Pertanahan Nasional (BPN)
- Inconsistencies of citation style e.g., the use of () & typos throughout References section
- Only 1 footnote exists throughout the manuscript, the rest are bodynotes. It might be better to use either footnotes or bodynotes only.
- The research methodology, more precisely the data collection and analysis method of the dataset presented in the table as well as the interviews, needs more elaboration within the Research Methodology section