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論文題目 : Impacts of Constitutional Court's Judicial Determination 35 in 2012 on Customary Forests in Outer Small Islands of Indonesia  
(インドネシアにおける 2012 年憲法裁判所の司法決定 35 が外小島の慣習林に与えた影響)

区 分 : 甲

### 論 文 内 容 の 要 旨

Forest has a vital role in local people's livelihood, and many customary communities have existed inside and surrounding the forests for generations in many tropical countries. However, their existence is often marginalized in the long colonial history and development challenges. As one of the ex-colonized countries, Indonesia inherited many norms and institutions of colonial patterns. One of them is the forest land management system. In this context, the fall of the Suharto regime in 1998 and the Constitutional Court Determination (CCD) in 2012 are essential milestones to restore the rights of customary communities.

The state accommodates the spirit of customary community revivalism through various agrarian reform programs and social forestry. The new concept of collaborative forest management schemes covers not only the management of state forest areas but also forest areas managed by customary communities. With their local wisdom, the customary communities are often more successful when the state authorizes to manage their lands communally.

This study focused on customary forest (CF) management in Indonesia after the CCD 2012, particularly in the Outer small islands (i.e., East Nusa Tenggara province). Outer small islands in Indonesia are often identified not only with remote access and poverty but also multi-ethnicity, hidden endemic species, and high vulnerability of natural resources. Therefore, the analysis of territorialization and legal pluralism, which is a common phenomenon on customary lands, are two important concepts in this study; besides, how the customary community struggle in getting recognition from the government is also an important research question for discussion in this dissertation.

This dissertation consists of six chapters. Chapter I figures out a general introduction to the current issues of the CF. It also highlights the recognition of the CF in Indonesia through the CCD, which is a milestone of CF recognition in Indonesia. The description of the methodology, including the study site, is also explained in this chapter. Afterward, Chapter II explores more literature and current research related to the CF, particularly in Indonesia. Through the reviews, this chapter provides an overview of the current research status composed of four topics: (1) institutional dynamics, actor, supporter, and inhibitor, (2) contestation, conflict, and land crisis, (3) contribution to livelihood, ecology, and local knowledge, (4) REDD+ and others. Chapter III and Chapter IV draw the three case studies in the East Nusa Tenggara Province. Chapter III is devoted to exploring territorialization and legal pluralism as essential aspects of land tenure system establishment. The analysis showed that the customary legal system coexisted with the national legal system and worked well for sustainable forest management in the Mutis area. This hybrid system ensures extracting stable NTFPs, grazing activities, and preventing forest fires. However, increased pressure on forests due to future population growth appears to impact

the traditional system. Legal pluralism is essential to manage forest resources sustainably and harmonize society between state and people, especially in places where local customs and laws are still maintained well.

Chapter IV discusses the CF and the local community's struggle to gain recognition. The findings showed that there are different responses of customary communities related to the institutional development towards CCD. Assisted by indigeneity NGO, Nua Wologai proposes their forest as CF, and Baranusa proposes their area as a customary area. However, Mollo did not desire to obtain the legal status of their customary forests (*suf*) as long as their access to the forest is guaranteed. In addition, two main obstacles there are in the development of the customary forests in the ENT province: (1) complicated political process in the district government and (2) the competition of CF program with other central government programs. This chapter also revealed that the role of indigeneity NGOs is very important in negotiating and advocating customary forest recognition. Chapter V discusses the finding on customary forest development comprehensively. This section integrates the key findings provided in each chapter and discusses some factors that need to be considered by customary communities on their CF proposal. Chapter VI summarizes the relationship between the recognition of CF with the main goal of the process. It concludes that the most important thing for the customary community is access to livelihoods while keeping the forest sustain as a livelihood asset. It is in accordance with the initial idea of the concept of social forestry (SF), where CF becomes a part of the SF program, which aims to improve the local people's livelihood. All stakeholders must have the same goals from this CF acknowledgment program, which is a sustainable forest and prosperous society.