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**IMPLEMENTATION OF CUSTOMARY VALUES IN
ENVIRONMENTAL MANAGEMENT IN RONGKONG AND
AMMATOAKAJANG IN SULAWESI, INDONESIA**

Kahar Lahae (a), Iyas Manggala Ayubi (b), Ade Kurniawan (c)*, Abdul Rahman (d),
Nuryadin Bayanuddin (e), Irwanto Natsir (f)
*Corresponding Author

(a) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia,
klahaefhuh84@yahoo.co.id

(b) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia,
Manggalaayubi2930@gmail.com

(c) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia, ade4011@gmail.com

(d) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia, dulaja1120@gmail.com

(e) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia, nuryadin986@gmail.com

(f) Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia, adheek47@gmail.com

Abstract

The customary law system in Indonesia was the first government which existed long before the establishment of the modern government system of the Republic of Indonesia. To protect these diverse traditions, Indonesian law constituted Article 18B Paragraph 2, 1945 in recognition of indigenous peoples, and also recognizes the customary laws that apply in this area. Generally, the indigenous people are very dependent on the existing natural conditions, and believe that, preserving nature is one way to maintain their traditions. For example, the Kajang Customary Community in Bulukumba and Rongkong Indigenous Communities in North Luwu, Sulawesi. The Kajang community upholds environmental sustainability very strongly and insert this philosophy into their life in protecting the environment. The Rongkong community also abide by their philosophy of life which maintains that natural resource management processes must be based on the principles of togetherness and mutual cooperation. These examples prompted the authors to conduct research on the implementation of these traditional values in the environmental management system based on customary norms and the application of customary sanctions against violations of the rules. It is believed that these values can enrich the principles of environmental protection and implementation in Indonesia and internationally.

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1. Introduction

The implementation of Customary Law in relation to the management and utilization of the environment is a very interesting area of study. Acknowledging that the environment is an inextricable part of human life through which the community can prosper is in accordance with article 33¹ paragraph (3) of the 1945 Constitution, which states "Earth, water, and the natural resources contained therein are used to the greatest extent possible for the prosperity of the people". Seeing how important environmental influences are to humans, the question is what must be done is to protect and preserve the environment for human survival itself. In line with this the constitutional law of Republic Indonesia No. 18B² states that "The State recognizes and respects the customary law community units and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which is regulated in law. Hence, the authors are interested in examining the implementation of Customary Values in Environmental Management, especially at Kajang Customary Community in Bulukumba and Rongkong Indigenous Community in North Luwu.

2. Problem Statement

The research into customary values in environmental management in the villages of Rongkong and AmmatoaKajang is one way to find out the pattern and traditional sanctions that are applied to solve the problems of life both in the social context and in environmental preservation, especially in the Rongkong traditional areas and Ammatoa. Learning about this can be effective in preserving the environment. Given that our current law has regulated the prevention and management of the environment, the implementation is still constrained. Thus, it would be interesting to see whether the application of customary law values be one of the solutions in the prevention and management of the environment in general and particularly in Indonesia.

3. Research Questions

Following from this discussion, the formulation of the research questions were formulated as follows:

- 3.1 what is entailed in the application of the customary law system in the management of the environment (agricultural and plantation)?
- 3.2 what is entailed is the application of customary sanctions for violations in the area of customary law?

4. Purpose of Study

- 4.1. To see how indigenous peoples apply their customary laws in environmental management (Agriculture and Plantation).

¹See the 1945 Constitution of the Unitary State of the Republic of Indonesia Article 33 Paragraph 3.

²See the 1945 Constitution of the Unitary State of the Republic of Indonesia Article 18B

4.2. To see how indigenous peoples apply customary sanctions against violations of customary law, especially in environmental management in the area of customary law.

5. Methodology

The authors used normative juridical legal research methods called legal principles, legal rules and norms that apply to obtain information about issues raised by the authors. Additionally, interviews with indigenous community leaders were conducted to obtain primary data on the beliefs regarding environmental protection and application of sanctions on perpetrators.

6. Findings

6.1. Constitution of Indonesia

The Constitutional law of the Republic Indonesia No. 18B states that "The State recognizes and respects the customary law community units and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which is regulated in law. The first governance system in Indonesia was the village government or *Desa Adat* which is the reason the Republic of Indonesia should respect the customary rights of rural people, through the existence of *Desa Adat* which was incorporated in Law No.6, 2014. *Desa Adat* is able make regulations for village as long as they do not contradict with Indonesian regulations. Law No. 6, 2014, paragraph 103 lists the authority provided under *Desa Adat* :

- a. Arrangement and implementation of Governance by original arrangement;
- b. Arrangement and management of *ulayat* or *adat* territory;
- c. Preservation of social culture values of the *Desa Adat*;
- d. Preservation of *Adat* conflict based on *Adat* Laws that apply in the village concerned in harmony with the principle of human rights and priority for conflict resolution by colloquy;
- e. The Peace court, Village court applies with the national laws;
- f. The Peace management and orderliness *Desa Adat* according to *Adat* applicable in the village concerned; and
- g. development *Adat* laws appropriate with the socio-cultural conditions of the village.

For the first time in a concrete manner, the recognition of customary law or customary rights, especially in the field of agrarian affairs was regulated in Law Number 5, 1960. In Basic Agrarian Law, it is stated that:

"By itself the new Agrarian Law must be in accordance with the legal awareness of the people at large, because the Indonesian people are mostly subject to customary law, the new agrarian law will also be based on the provisions of the customary law, as the original law, which is refined and adapted to the interests of society in a modern country in relation to the international world and adapted to Indonesian socialism."

As understood, Customary Law in its growth was also inseparable from political influence and capitalist colonial and feudal self-governing societies.³ Then, it was stated that the Agrarian Law that applies to the earth, water and space is Customary Law, as long as it does not conflict with national and state interests, which are based on national unity, with Indonesian socialism and with the regulations contained in this law (UUPA) and with other regulations, all heed the elements that rely on religious law.⁴

In the reform era, the development of the adoption of recognition, respect and protection of customary rights was reflected in several laws below:

6.1.1. Law Number 32 of 2009 concerning Environmental Protection and Management

It is mandated that in the framework of environmental protection and management, the Government has the duty and authority to stipulate policies regarding the procedures for recognizing the existence of indigenous peoples, local wisdom, and customary community rights related to environmental protection and management.⁵

6.1.2. Law Number 39 of 1999 concerning Human Rights

Article 5 Paragraph (3) of the Law on Human Rights states, Every person who belongs to a vulnerable group of people has the right to receive more treatment and protection with respect to their specificity. Furthermore Article 6 states that in the context of upholding human rights, differences and needs in indigenous and tribal peoples must be considered and protected by law, society and government. The cultural identity of indigenous peoples, including the rights to communal land is protected, in line with the times.

6.1.3. Law Number 41 of 1999 concerning Forestry

Forestry Law defines customary forests as state forests within the territory of customary law communities.⁶ Furthermore, in Article 4 paragraph (3) it is said, forest control by the State continues to pay attention to the rights of customary law communities, as long as they are still in existence and their existence is acknowledged, and does not conflict with national interests. Then in Article 5 it states, forests based on their status consist of state forests and rights forests. State forests can be in the form of customary forests. In addition, the Government has an obligation to determine the status of forests and customary forests as long as in reality the indigenous and tribal peoples concerned still exist and are recognized for their existence.

6.1.4. Law Number 7 of 2004 concerning Water Resources

Article 6 of the Law concerning Water Resources states that the exploitation of water resources is carried out by the Government and the Year or local government while still recognizing the ulayat rights

³See General Explanation of the Basic Agrarian Law.

⁴See Article 5 of the UUPA.

⁵Article 63 paragraph (1) letter t, Law Number 32 of 2009 concerning Environmental Protection and Management.

⁶See Article 1 Number 6 of Act Number 41 of 1999 concerning Forestry.

of local customary communities and rights similar to that, a plot that does not conflict with national interests and statutory regulations. Furthermore, it is said, the customary rights of customary communities over water resources as they are still recognized as long as they are still in existence and have been confirmed by local regulations.

6.1.5. Law Number 18 of 2004 concerning Plantations

The Plantation Law states, if the land needed for plantations is the customary land rights of customary law communities, which in reality still exist preceding the granting of the right of the right to the right of the applicant to hold deliberations with the customary community and the holder of the land rights to obtain agreement on submission of land and compensation.⁷

6.1.6. Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction

In a general explanation, Article 7 of this Act states that the prevention of forest destruction is carried out by the community, legal entities, and / or corporations that obtain forest utilization permits. The general public included in the explanation are indigenous peoples.⁸

In addition to the laws mentioned above, there are still many laws that recognize the existence of customary rights of indigenous peoples in Indonesia, including:

- Law Number 21 of 2001 concerning Special Autonomy for the Papua Province;
- Law Number 22 Year 2001 concerning Oil and Gas;
- Law Number 20 of 2002 concerning Electricity;
- Law Number 31 of 2004 concerning Fisheries;
- Law Number 38 of 2004 concerning Roads;

Besides various laws, it should be noted that in 1999, the Regulation of the Minister of Agrarian Affairs/Head of BPN Number 5 of 1999 was issued concerning Guidelines for the Settlement of *Ulayat* Rights in the Customary Law Community, which is a further affirmation of the recognition of customary rights as customary law communities listed in Article 3 of the BAL. This Ministerial Regulation explicitly states the criteria for the ongoing rights of indigenous peoples based on the existence of indigenous peoples, territories and their customary law. In the local dimension, respect and protection of the rights of customary law communities can be seen for example in (Soemardjono, 2009):

District Regulation of Lebak Regency Number 32 of 2001 concerning Protection of Ulayat Rights of Baduy Communities; Nunukan Regency Local Regulation Number 3 Year 2004 concerning Customary Rights of Customary Law Community; and Nunukan District Regulation No. 4 of 2004 concerning the Ulayat Rights of the Lundayeh Customary Community of Nunukan Regency.

⁷See Article 9 Paragraph (2) of Law Number 18 of 2004 concerning Plantations.

⁸See General Explanation of Article 7 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction.

6.2. Village of Rongkong

With natural conditions that are difficult to reach from the district capital, the Rongkong community is accustomed to carrying out daily activities with traditional and simple equipment. Mutual cooperation social values are very well maintained, so that daily activities can still be carried out despite not using modern machinery. This is reflected in the community's agricultural activities, where when it is harvest season, each citizen must intervene to help in the paddy fields so that the work is done faster. This is marked by the holding of traditional ceremonies with the tradition of prayers and thanksgiving events for each village community by traditional leaders (*Tomakaka*).

When clearing the area for new fields, the indigenous people of Rongkong work together, so as not to damage the environment. The Rongkong community uses terracing techniques that have been carried out for generations. The remote areas of the Rongkong community do not use chemicals to accelerate the growth of rice, so the rice obtained is organic. The land is given a respite before it is planted with new rice as they believe that the land also needs to rest in order to obtain good rice yields. During these rest times, to overcome the lack of rice, rice barns are made with a distinctive and traditional form to avoid pest attacks. When the harvest season arrives, the traditional leaders will again mark the event with thanksgiving ceremonies for the harvest. This requires each paddy field owner to provide food to be enjoyed by each resident. One of the signs that the harvest season is indicated by a traditional *tropet* made of nipah leaves which indicates that the awaited day has arrived. After all the rice has been harvested, the mothers of the Rongkong community will jointly process the rice into rice by pounding it using traditional tools that produce a rhythm as a tempo so that each pounder understands the rhythm and strength that must be given to rice. Although the organic rice produced by the Rongkong community is limited, it has been marketed to urban areas such as Masamba, Palopo, and Makassar. Obviously, the rice is relatively expensive.

The Rongkong community also cultivate plants for daily needs such as chili, pepper, coffee and some other household necessities. Sometimes the Rongkong people use the barter system more than money; usually they exchange rice for products like fish or other basic needs. Likewise, barter for the fulfillment of common basic needs is common among inter-community trading.

The Rongkong community land operates as customary land where the land clearing and planting can only be carried out with the permission of the customary head (*Tomakaka*) for mutual benefit. There are also many mountains in the area which are prohibited to the Rongkong people. For iron needs, the Rongkong people are used to doing iron smelting because the area around Rongkong is rich in iron ore, except *Poreo Hill*, which is where the hill is only intended for making weapons. It is believed that the iron produced in *Poreo Hill* is toxic.

Anyone who violates the customary provisions of the traditional leaders will be given customary sanctions in the form of fines, customary confinement, and expulsion from the traditional village or both depending on the agreement and deliberation between *adat* leaders and disadvantaged indigenous people. The challenge for the indigenous people of Rongkong today is that there are many natural resources such as iron ore, gold, uranium and large rivers with strong currents being targeted by investors to be developed. For example, the Rongkong community is strongly opposed to gold mining investors because of the consequence of pollution to the Rongkong river which is their main water source. This is coupled with the emergence of the environmental impact analysis issued for the construction of hydropower in the area for

mining purposes. The rules in Indonesia Amdal (EIA) is proposed as a condition for impact analysis given to the operation of a human activity by the government and carried out by people who are considered experts in their fields, namely academics from the university. Most of the EIAs done are not reviewed directly by related academics who only do a literature review and many cases of environmental violations where the EIA is not effective also fails to guarantee the protection of the environment. This is also a challenge for indigenous peoples in Indonesia whose existence is very dependent on nature.

6.3. Village of AmmatoaKajang

The process of sanctioning perpetrators of violations in the context of the environment and criminal acts in the Kajang area is imposed by customary law. The form of traditional Kajang tribal sanctions is generally divided into three, namely *cappababbala*, *tanggababbala*, and *pokokbabbala*.

Cappababbala is the lightest level of sanction / punishment. The perpetrators of this type of violation will be charged a fine of Rp. 6 million. Examples include offending women, fraud, and others. This is followed by the *tanggababbala* where perpetrators of this type of violation will be subject to a fine of Rp. 8 million. Examples include theft outside customary areas, beatings, molestation, and unauthorized cutting of wood in the boundary of the border (*Hutan Batas*). *PokokBabbala* is the most severe sanction where perpetrators of this type of violation will be charged a fine of Rp. 12 million, which if not paid, will incur the highest punishment which is the expulsion from the hometown of one lineage. Examples of violations of these sanctions are destroyers of forests and natural territories. As for the perpetrators whose identities are unknown, and no community wants to acknowledge their actions, there is a punishment carried out by indigenous people, called *TunuPasau* and *TunuPanru* (*BakarLinggis*), where a crowbar is heated till it becomes white hot. The suspects involved in forest destruction are asked to hold the heated crowbar. If the suspect is innocent, his hand will not be burnt, but if he is guilty, his hand will be burnt. Even if the culprit runs away and does not participate in this "trial by crowbar", the sanctions will be even more fatal, namely the stomach is enlarged.⁹

Perpetrators of serious crimes, such as robbery (*Rappa*), burning houses, or infidelity (*Panggadi*), recidivism or repeatedly violating heavy adat rules are no longer allowed to live in the *Ammatoa* traditional area, and all their needs related to *adat* are not served. They are also labeled by indigenous peoples as *Nai'Inaturik*, *Rahai Na LampaBangngi* (*monkeys and pigs*) meaning that they are no longer considered human.

Indigenous peoples maintain the existence and sanctity of the forest because when they violate the forest they are afraid of losing their source of life in the future. An interview with *GallaPantama*, who is a customary leader who takes care of the whole agricultural and plantation sector, revealed that:

"The forest is a customary area whose existence is most sacred and very much guarded by indigenous people. We here are very obedient to the rules, because the punishment is so hard there is no one inside who dares to destroy the forest. The forest in Kajang has basically been covered with magical powers termed as *passau*, or supernatural forces that overshadow the entire forest. The *galla*, which

⁹Interview with resource person of customary leader / Ammatoa Kajang tribe 13 August 2018 At 9.42 WITA.

is scattered in all directions of the wind is recognized to help protect the forest from intruders. Regarding sanctions, when a person violates and does not want to pay a fine for the violation or even absconds, the sanction will be attached to all of his descendants to seven derivatives. Examples of the most severe violations have been committed by individuals from the Head of the Environment, the Village Head and the Forestry Service of Bulukumba, where they are logging in the area claimed by *Ammatoa* as a Kajang forest area, covering an area of 174 hectares. The *adat* meeting decided to impose sanctions in the form of replanting of the forest they had cut down”

7. Conclusion

Environmental Management according to the Kajang and Rongkong customary law communities in utilization of natural resources prioritize common interests, so that the sense of justice for the whole community can be preserved in order to avoid conflict and environmental destruction due to individual interests. Communities operating according to Customary law understand that nature is the source of their lives that must be protected in order to maintain the sustainability of present and future generations. It appears that, compared to more “modern” philosophy of destroying the environment for short term profits enjoyed only by a few selfish individuals, this indigenous philosophy acknowledges the importance of preserving the environment for long term human existence. This, it is imperative to disseminate these concepts with the rest of the world so that it can trigger discussion and further thinking on how these indigenous customary laws can become pillars of environmental action and protection.

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