

Adat Law-Based in Developing Environment on Forest Management of Ammatoa

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Abstract—The problems that examined in this research were (1) to find out and to discover form of forest management model in Kajang District based Kajang customary law towards environment sustainability which oriented by welfare society, and (2) to find out and to discover the existence of Kajang customary law towards national law in forest management at Kajang District, Bulukumba Regency. The method of this research was qualitative descriptive approach. This research was conducted at Tana Toa Village, Kajang District, Bulukumba Regency, Province of South Sulawesi. Techniques of collecting data were observation, interview, and documentation. The results of the research showed that (1) the forest management model in Kajang District based Kajang customary law towards environment sustainability which oriented by welfare society was conducted by dividing the forest area into three categories/zones namely *borong karamaka*, *borong batasayya*, and *borong luar*. (2) The existence of Kajang customary law towards national law in forest management was the settings is very strong either in Constitution, laws, government regulations, or local regulations of Bulukumba Regency.

Keywords—*Customary Law, Forest Management.*

I. INTRODUCTION

Forest is a grace from God Almighty that should be grateful and play an important role as the main buffer for survival of human life so that an effort of forest protection, utilization and preservation planned deliberately, rationally, optimally, and responsible for prosperity of the people as it stated in 1945 Constitution of the Republic of Indonesia.

The destruction of forests in Indonesia is inevitable and nowadays it become national, regional and international issue. Forest Watch Indonesia noted that Indonesia had deforestation since 2009 until 2013 which is about 4,50 million hectares and loss of forest about 1,13 million hectares every years [1]. That caused by four factors namely: (a) ineffective spatial planning, (b) problems that related to tenure which is legal status from mastery sources, to determine who is allowed to use what resources, what manner, how long, what condition, and who has the right to transfer the rights to other parties and how, (c) inefficient and ineffective forest management, and (d) weak law enforcement and there are a lot of corruption in forestry and land sector [2].

On the other hand, the rate of deforestation still high caused by political system and corruption which consider as natural resources, especially forest, as income that can be exploited for political and personal benefit^[3]. It also explained by Badan Perencanaan Nasional^[4] analysis in 2010, stated that fundamental issues in forest management in Indonesia was caused by bad governance, inconsistent spatial planning between central and regional, unclear tenure rights, and weak capacity in forest management (including law enforcement).

While, Food and Agriculture Organization noted that since 2010 until 2015, Indonesia ranks second highest in the world which loss of forest area reaches 684.000 hectares, after Brazil in first ranks. That event caused by illegal logging activities, forest fires, forest encroachment, forest conversion into farm, forest exploitation both for settlement and industrial development [3].

An effort to overcome those problems, it is necessary to find alternative solution in context of forest management and forest conservation in order to create harmonization between nature and humans. One of the effort that can be done is to examine (local genius) of Ammatoa community at Kajang District in managing forest in Bulukumba Regency Province of South Sulawesi.

The reason is that Ammota people in Kajang are indigenous communities which is unique and it is part of Indonesian nation. It is said to be unique because they adhere on '*pasang ri kajang*' (Ammotoa cultural value system) as traditional teachings of ancestors derived from *Tu Rie 'A'ra'na* (God) through Ammatoa as the highest community leadership. Pasang is a collection of messages, advices, guidance and rules on how to build harmonious relationship with nature-human-God. Besides, pasang becomes measurement whether something is "good" or "bad" or whether something is "allowed" or "not". As for wide forest of Ammatoa Kajang community is 313,33 hectares both in Kajang dalam and Kajang luar, and it approximately 90 hectares are used for agricultural areas such as rice, corn, chocolate, and coffee (Salam, Head of Tana Toa Village, personal communication, on November 2017).

In addition, what is considered interesting and important is principle of *tallasa kamase - mase* (modest life) that it is

strongly adhere and it becomes life guidance of Ammatoa indigenous people in Kajang. The meaning of the principle of *talasse kamase-mase* is “*jagai lino lollong benona, kammayatompang langika, rupa taua siagang boronga*” (means that we have to keep the world and its contents, and also we keep the sky, human and forest). This pasang (custom message) teaches Ammatoa indigenous people in Kajang about how humans should be interact with natural environment, by utilizing the forest as necessary to maintain the balance of nature [4].

Based on explanations above, the researcher thought that it was important and interesting to conduct further research about how does forest management model in Kajang District based on Kajang customary law and how does the existence of Kajang customary law towards national law?

II. RESEARCH METHODS

This research used descriptive qualitative approach. It aimed to describe the actual situation in detail and adjusted with research problems and research objectives. This qualitative approach used because the phenomenon examined in this research needed depth description and analysis so that it aimed to find out and to know the real event in the field, particularly related to legal. This research was conducted at Tana Toa Village, Kajang District, Bulukumba Regency, Province of South Sulawesi. The village was inhabited by Kajang tribe. Administratively, Tana Toa Village is one of nine villages that located in Kajang District. Techniques of collecting data in this research were; (1) observation: the researcher directly observed Ammatoa customary behavior towards environment; (2) interview: the researcher gave some questions for each informant who is considered to have knowledge about the problems analyzed in this research. The answers were collected to get data, and (3) documentation: the researcher collected secondary data by learning documents in Government Institution and Kajang customary institutions with related to this research. Technique of Analyzing Data was qualitative research, that is the researcher collected both secondary and primary data. The researcher analyzed the data qualitatively by interpreting, describing, explaining, and arrange it systematically in accordance with research objectives.

III. RESULTS AND DISCUSSION

A. The Forest Management Model In Kajang District Based On Kajang Customary Law Towards Sustainability Of Environment Oriented To The Welfare Of Community

Ammatoa holds the principle of *pasang* in forest management. He creates forest management model for several areas in order to preserve the environment. Those areas are:

First, *borong karamaka* or sacred forest. This area is not allowed to do anything activities except customary activities or in other words, all forms of forest utilization cannot be done in this area except sacred ceremony that is Ammatoa inauguration. For Ammatoa community, *borong karamaka* is a place of supernatural powers where if it is not treated properly, it will cause a disaster. That is why no activities are

allowed in *borong karamaka* except traditional ceremony. According to Salam, Head of Tana Toa Village, stated that in *borong karamaka*, *appai passala talakulle ninganggu ilalang borong karamaka* yamintu: (1) *tabbang kayu*, (2) *tatta uhe*, (3) *tuni bani*, and (4) *rawo doang*. (This means there are four things that are prohibited to do in *karamaka* forest are, namely: (1) prohibited to cut any wood, (2) cut cane, (3) burn beehive, and (4) catch shrimp in the river that exist within customary forest area (Salam, Head of Tana Toa Village, personal communication, on November 2017).

Second, Kajang tribe created *borong batasayya* area or border forest. This forest is not too sacred like the other forests. The people of Kajang are allowed to take wood for their purposes, unless they get permission from Ammatoa.

Ammatoa will allow the wood in *borong batasayya* taken for the public use. For example, the wood will be made for building home or other public facilities. If it for other's needs, Ammatoa will not let them to cut the wood. Ammatoa made rules orally which explain some woods that can be slashed. This rule is necessary so that people do not cut the wood or tree carelessly in *batasayya borong* area. Those are; *kayu asah*, *nyatoh*, and *pangi*. The wood allow to cut should be based on community needs. They cannot cut it as much as they want to life luxury. Thus, sometimes Ammatoa asked their needs. That asking activities are fair (Ammatoa, personal communication, on November 2017).

Third, *borong luara'* area or people forest. It managed by the community. This forest is fully controlled by the community for their needs. However, all rules and mechanisms of forest management are controlled by Ammatoa, that is each Kajang residents may use wood in *borong luara'* as long as they do not exploiting the forest. They must consider the ecological balance and ecosystem of plants and animals in the forest, and also they are not allowed to destroy the forest that may disturb the balance of nature (Salam, Head of Tana Toa Village, personal communication, on November 2017).

The forest must keep it functions as buffer of nature and Ammatoa must ensure it always maintain as it function. The residents who break the rules will be given sanctions. The sanctions depends on the place of organizers; *borong karamaka*, *borong batasayya* or *borong luara'* that arranged by Ammatoa in detail and neatly.

Based on pasang, Ammatoa and Kajang residents establish sanctions rules for violators as follows:

1. *Cappa ba'bala* or minor offense is applied on violators who cut trees from cocoa or gardens of Ammatoa indigenous people. The penalty is six real or equal to six million dollars in rupiahs. Besides paying money, the offender is required to give one roll of white cloth to Ammatoa. This cloth becomes a symbol that offender had regret his action.
2. *Tangnga ba'bala* or moderate offense is a sanction for violations applied in *borong batasayya* or border forest. Taking wood or other objects without Ammatoa permission is similar with breaking *tangnga ba'bala*. People who have received permission from Ammatoa to cut the tree also will be given punishment if they cut more trees. The penalty or fine in this moderate offense is

the offenders must pay eight real or equal to eight million in rupiahs plus a roll of white cloth to Ammatoa.

3. *Poko' ba'bala* or serious offense is applied to all residents who lived in Ammatoa area. *Poko' ba'bala* is set or apply for people who commit violations in borong karamaka or sacred forest such as *tabbang kayu* (cutting trees), *tatta uhe* (cutting cane), *tuni bani* (burning beehive), and *rawo doang* (catching shrimp). The resident who commit serious violations will be punished by paying twelve real or twelve million in rupiahs plus a white cloth to Ammatoa and reversing the wood in the forest. In addition to penalties, Ammatoa also set customary sanctions. The violators will be punished by exclusion. He will be excommunicated until seven generations. This punishment is carry out because the violation is very affect the sustainability of the forest. (Salam, Head of Tana Toa Village, personal communication, on November 2017).

When Ammatoa cannot find perpetrator, he will perform a ritual of *attunu panrolik* (burning crowbar until it red because heat). The ceremony began with beating a drum in Ammatoa's home in certain rhythm. The sound of the drum will be a marker for the Ammatoa residents to gather in order to attend *attunu panrolik* ceremony.

Kajang residents or citizens who have gathered will be invited by Ammatoa to hold the hot crowbar. If there are people whose hands are blistered when holding it, then Ammatoa has found the perpetrator, the one whose hands are blistered. While the person who does not commit the offense, his hand will not feel any heat.

Usually the perpetrator will not attend *attunu panrolik* ceremony. When there are not found a man with blistered his hands, Ammatoa will hold *attunu pasauk* ceremony (burning incense). *Pasauk attunu* ceremony begins with an announcement to all citizens for a month consecutive. The goal is the perpetrator or people who know the violation will face and report to Ammatoa.

This ceremony is very heavy for the perpetrator, the curse will befall the perpetrators and his descendants. The ceremony was conducted by the Ammatoa with indigenous leaders in *borong karamaka*.

Attunu pasauk ceremony is the activity of giving punishment "in absentia". This punishment is believed and directly provided by *Turiek Arakna*, which is a calamity that happens to the perpetrator, his family, and his descendants, and the person who knows the perpetrator but does not report to Ammatoa.

According to society, giving fines for violators towards customary law is merely a method. Substantially, they never want the fines or penalties. They preferred peace and forest sustainability. Kajang residents wanted sustainable forest. Indigenous leaders wanted their society practice the established rules. Sanctions are only the prevention on violation of forest conservation or natural environment [5]–[7].

Penalties of fines and exclusion is a form of Kajang Tribe loyalty towards the forest or natural environment. The forest in Ammatoa customs area considered as indigenous forest. Therefore, it is very sacred. All the world or spiritual activity

in the form of ritual will be performed in the forest. In this context, Kajang tribe placed land or forest as a mother. Mother who gives protection to their children. So their children must devote and protect their "mother" in the form of land or forest. The symbolization of land or forest as "mother" will contain sacred and spiritual value for human. By itself, when human liken something with mother, it means they had put something very sacred.

B. *The Existence Of Kajang Customary Law Towards National Law In Forest Management At Kajang District Bulukumba Regency*

Indigenous people and their rights got a place/strong legal basis as it affirmed in 1945 Constitution of the Republic of Indonesia formulated in Article 18 B, Paragraph 2 and Article 28 I paragraph 3 of Constitution Year 1945 are changed to Year 2000.

Article 18 Paragraph 2 confirms that the state recognizes, respects units of indigenous people and their traditional rights as long as they live, and in accordance with development of society and the principles Republic of Indonesia set out in Constitution. Furthermore, Article 28 I Paragraph 3 confirms that the cultural identity and rights of traditional communities are respected in line with the times and civilization.

In Article 18 B Paragraph 2 1945 Constitution of the Republic of Indonesia was written in absolute tradition and hegemonies shows that the state has power (authority) and strength (power) to determine what happened in their country, customary laws are still effect. If we review from sociological law, in understanding the provisions above cannot be departed from willingness and constitutional order, but it from reality of the existence customary law itself. The presence of customary law cannot consider whether it will recognize or not, but it must appear. Words must appear show the authenticity of customary law where principally, it arise from the content of community itself autonomously and therefore it called authentic. That customary law is close to 'primary obligation' rather than deliberate legal state (purposeful) and therefore it close to 'secondary rules of obligation' [8].

Customary law resides and it is strongly connected with the local culture. It indicates the existence of a strong traditional emotional element of customary law. It is also a law that is full of certain values, for indigenous people, customary law intertwined with religious law for example, in terms of pasang Kajang ri with life principle of kamase-masea.

When we analyzing the formulation on Article 18 Paragraph 2 1945 Constitution of the Republic of Indonesia, at least there are four requirements existence of customary law, those are:

1. As long as he is alive, these requirements need to be investigated thoroughly and carefully, not only use quantitative benchmarks rational, but also with more empathy and participation.
2. "In accordance with the development of society". The conditions are not interpreted in terms of economics and politics, but also from the perspective of the local community.

3. "In accordance with the principle Republic of Indonesia". State Republic of Indonesia and local community are unified. They should not be confronted by a dichotomous or black and white.
4. "Set in Constitution". Indonesia is a state based on legal. If it entirely submitted to legal, then daily life will not work productively.

In TAP MPR No. IX/ MPR/2001 regarding Agrarian Reform and Natural Resources Management under Article 4 letter J, recognizing, respecting and protecting the rights of indigenous people and cultural diversity of nation over agrarian resources/natural resources

Constitution Number 23 Year 1997 concerning Protection and Environmental Management, Article 9 Paragraph 1 stated that: The government sets national policy regarding management of human being and spatial planning with regard to religious values, customs, and values that exist in society^[10].

Furthermore, Constitution Number 39 Year 1999 regarding Human Rights, Article 5 Paragraph 3 asserted that: Everyone including community reserve rights to get treatment and protection with regard to particulars. Article 6, Paragraph (1): In framework the enforcement of human rights, it cared for and protected by law, communities, and governments. Article 62 paragraph (2): The cultural identity of indigenous people including customary land rights are protected, in line with the development of times.

In Law Number 41 Year 1999 about Forestry Article 67 Paragraph (1): Indigenous people, as they still exist, they are given rights to:

1. Collect forest products to fulfil their daily needs,
2. Conduct forest management activities based on customary law and it is not contradict with Constitution.
3. Gain empowerment in order to improve their welfare.

Furthermore, Article 67 Paragraph (2) assert that: The recognition of the existence and abolition for indigenous people as referred to paragraph (1) shall be stipulated by Regional Regulation (Peraturan Daerah). This becomes the basis for Bulukumba Regional Regulation Number 9 Year 2015 about Confirmation of Rights and Protection for Indigenous People Rights' Ammatoa Kajang. Furthermore, Article 67 Paragraph (3) confirms that: Further provisions as referred to paragraph (2) shall be regulated by Government Regulation.

PMNA/Ka. BPN Number 5 Year 1999 regarding the Guidelines for troubleshooting the human rights for Kajang customary law is further confirmed by recognition of customary right as set forth in Article 53 UUPA, this regulation explicitly expresses the criteria for ongoing customary rights based on existence of indigenous people, their territories and customary law.

Regional Regulation Number 9 Year 2015 about Confirmation, Recognition of Rights and Protection of Rights for Ammatoa Kajang Indigenous People. In Article 21, Paragraphs 1 and 2, namely:

1. Ammatoa Kajang customary law community are given rights to take care themselves independently, through existing institutional customs and new institutions with agreed upon jointly to deal with external affairs relating to the existence of indigenous peoples and their rights.
2. Their rights to take care themselves as referred to Article (1) is a right that must exist in indigenous people as requirement from the implementation of their right.

Pasang as a rule that set forest management including its utilization has been strengthened in Constitution Number 41 Year 1999 about Forestry. In Article 67 Paragraphs (1) and (2) that:

1. Customary law community have right, as they still exist, they are given rights: a) to collect forest products for the fulfilment of their daily needs, b) to conduct forest management activities based on customary law and it is not contradict with Constitution, and c) to gain empowerment in order to improve their welfare.
2. Inauguration of the existence and abolition of customary law community as referred to Paragraph (1) it defined by Regional Regulation.

Indigenous forest that included in *pasang* regulates the taking of forest products on condition that if one takes a tree (cuts), they must plant two seeds of the same trees and after they obtaining permission from Ammatoa whether the seeds of the tree are worth to grow and at the same time, they are required to keep the tree ready for use by others community, then they are allowed to cut the tree. This regulation is heavily guarded because the forest is the main source of livelihood for indigenous people in Kajang and it jointly owned especially *borong batasayya* and *borong luara* area (Salam, Head of Tana Toa Village, personal communication, on November 2017).

In Bulukumba Regional Regulation Number 9 Year 2015 regarding Conservation, Rights Recognition and Rights Protection for Ammatoa Kajang Indigenous People on Article 15 confirmed that:

1. Ammatoa Kajang Indigenous People deserve to lands, territories and their own natural resources or their position from generation to generation and/or acquired through other mechanisms.
2. Natural resources as it referred to Paragraph (1) everything includes both surface and soil,
3. Rights to land territories and natural resources as it referred to Paragraph (1) include the rights to own, use, develop and control based on their position from generation to generation and/or other ways.

IV. CONCLUSION

The forest management model in Kajang District based on Kajang Customary law towards environmental sustainability oriented to the welfare of society was conducted by dividing the forest into three categories/zone

areas, namely *borong karamaka* (sacred forest), *borong batasayya* (border forest), and *borong luara* (people forest).

The existence of Kajang customary law towards national law related to forest management has been recognized, respected by the state and still applied in indigenous communities of Kajang in Bulukumba Regency, Province of South Sulawesi, as it is deemed relevant with prevailing laws and valid regulation.

ACKNOWLEDGMENT

The writer would like to express their thanks to all parties, especially for the reviewer team who have provided valuable suggestion and guidance in writing this article

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