

COMMUNAL RIGHTS OF THE AMMATOA KAJANG CUSTOMARY LAW COMMUNITY TOWARDS INDIGENOUS FORESTS BULUKUMBA REGENCY

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ABSTRACT

Abstract: This study aims to find out the implementation of the communal rights of the Ammato Kajang customary law community in the customary forest in the Bulukumba district and to find out to what extent the communal rights of the Ammatoa Kajang customary law community are protected by law. The research method used is Normative Law research. The results showed that the implementation of the communal rights of the Ammatoa Kajang indigenous people was carried out on the authority of the Ammatoa based on "pairs of rikajang" which is a source of law to regulate all aspects of the life of the Ammatoa Kajang indigenous people who are related to God (Turiek Arakna). And the customary law of the ammatoa Kajang relies heavily on "Pasang Rikajang", this deliberation effectively resolves the problem, and the results of the deliberation become the source of the birth of the Bulukumba Regency Regional Regulation Number 9 of 2015 Concerning the Inauguration, Recognition of Rights, and Protection of the Rights of Indigenous Peoples.

Keywords: Community; Custom; Customary Forest

Introduction

The Constitution of the Republic of Indonesia Year 1945 (UUDN RI 1945) in Article 33 paragraph (3) stipulates that "the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" (Indonesia, 2002)

Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, commonly called the Basic Agrarian Law (UUPA) in Article 2, also regulates the right to control from the state, in essence, that the earth, water, and space, including the natural resources contained therein, are at the highest level controlled by the state, as an organization of power of all people. (Indonesia, 1960)

In addition to being contained in the 1945 Indonesian Constitution and agrarian law, control is also contained in forestry regulations but does not benefit customary law residents, because it does not separate customary forests and state forests (Arba, 2021).

Tana is the place where the indigenous people live, providing a livelihood for the indigenous people, where when the indigenous people die they are buried, and where the ancestors of the indigenous people live. The meaning of land for the Ammatoa Kajang customary law community is very strong in "Pasang ri Kajang" (a message of advice for the Kajang people) "jagai linoa lollong bonena kammayatoppa langi'ka, rupa tau Sisiang boronga" (take care of the world's land and its contents, sky, people and forest) (Suni, 2019).

Various standard community units in Indonesia have their territories or customary territories. Intimate communities make a living from the use of existing natural resources and are in familiar areas (AGUSTIANI, 2018). The natural resources of an ordinary law society are considered not only objects of economic profit but also an integral part of life. Indigenous peoples always maintain historical and spiritual relationships with their natural resources so that the culture owned by indigenous peoples can grow in turn. If an indigenous territory or the natural resources it contains are violated by the state or other parties, it can endanger the economic life and existence of the indigenous people themselves (Fuadi, 2020).

Siring over time, the existence of common territories or lands commonly called layout is decreasing and even almost extinct. The decline in the existence of customary law communities in customary law communities is influenced by several factors (Gunawan et al., 2022). One is that the position of customary rights is evolved by the insistence of individual interests (Guspitawaty & Santiago, 2023). Customary land is targeted for village development that marginalizes communal rights. Article 3 of the Law provides that "the exercise of customary and similar rights of indigenous peoples, so far as they exist, shall be such that they are compatible with national and state interests, based on national unity and shall not contradict other higher laws and regulations" (Kristiani, 2020)

The enactment of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency Number 9 of 2015 concerning Procedures for Determining Communal Rights to Land of Customary Law Peoples and Communities in Certain Areas, which was later amended and replaced by Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 10 of 2016 concerning Procedures for Determining Communal Rights to Land of Customary Law Peoples and Communities in Certain Areas, gave rise to a type of bar land rights, namely communal rights over land, which then affected the land rights of the old indigenous people, one of which was the Ammatoa Kajang customary law community living in Kajang District, Bulukumba Regency (Napitupulu, 2022).

The Ammatoa Kajang customary law community received legal protection from the Bulukumba Regency Government in 2015 through the Regional Regulation of Bulukumba Regency No. 9 of 2015 concerning the Confirmation, Recognition of Rights, and Protection of the Rights of the Ammatoa Kajang Customary Law People (Wahyuni & Sjaf, 2019). This regulation stipulates that customary law community rights are customary rights owned by customary law communities, or community or individual rights or rights derived from their socio-cultural systems, especially the right to manage land, land, and natural resources (Kalalo, 2018). Deliberation dispute resolution gains the support of cultural roots that are alive and respected in social traffic. However, Perl listened to the statement that suggested that the consideration of dispute resolution in traditional societies through deliberation was emphasized more to maintain group harmony and sometimes ignored the interests of the disputing parties.

The existence of the Ammatoa Kajang indigenous people's bylaw does not guarantee the protection of the communal rights of the Ammatoa Kajang indigenous people, it can be seen in the problems related to their customary forests which are slowly being taken over by private companies, namely PT. LONDON SUMATRA (LONSUM). based on pre-research conducted by the author found that through the Right to Use Business (HGU) of PT. LONSUM controls the customary territory of Ammatoa Kajang covering an area of 2,500 hectares, without going through a joint decision-making mechanism according to Ammatoa Kajang customary law, as stipulated in Article 16 paragraph 4 of the Regional Regulation of Bulukumba Regency which stipulates that "The use of communal/collective land and individual land in the customary territory of other parties can only be carried out through a joint decision-making mechanism based on customary law

Benefits of research

For researchers and readers

This research can provide knowledge and experience so that it can provide a broader understanding in life.

For Society

This research is expected to provide information to the community about the rights of the Ammatoa Kajang customary law community in Bulukumba district.

Research Method

The type of research used in this study is Empirical legal research. Empirical legal research is a research method that seeks to see the law in real articles or is said to see, examining how the law works in society, which then uses a research approach, a type of normative approach. The collection of data and information was carried out in Bulukumba Regency, Kajang District. The main source of data is the results of interviews with the Ammatoa Kajang customary law community.

Result And Discussion

Communal Rights of Ammatoa Kajang Customary Law Peoples Protected by Law

The Constitutional Court Decision no. 35/PUU-X/2012 concerning the Revision of Law No. 41 of 1999 concerning Forestry promulgated on May 16, 2013, was an important moment that opened a bar chapter in the recognition of customary law communities in this country (Saragih et al., 2023).

This ruling further clarifies how the criteria for recognition of indigenous peoples are the response of the Ministry of Forestry to the Constitutional Court ruling. 35/PUU-X/2012 by issuing a Circular Letter of the Minister of Forestry Number 1/Menhut I/2013. One of the provisions of this circular is that the recognition of customary forests must be carried out by local regulations (Nurdin, 2019). Meanwhile, by the Forestry Law, based on the Constitutional Court Decision Number 35/PUU-X/2013, forest areas consist of state forests, rights forests, and ordinary forests. The Ministry of Forestry is responsible for the creation of forest areas. Therefore, the Ministry of Forestry must actively take strategic and technical steps to fulfill its obligation to restore the rights of indigenous peoples by returning customary forests to indigenous peoples.

So far, the 331 ha forest in the Ammatoa Kajang customary law area has been recognized as a forest with limited productivity compared to conventional forests. Recognition of forests as productive forests is limited based on the Decree of the Minister of Forestry. The Bulukumba Regency Government has issued Regional Regulation Number 9 of 2015 concerning Regional Land Rights and Natural Resources.

Perda based on Forestry Law no. 41 of 1999 article 67, states that customary law communities, as long as they exist and are recognized for their existence, have the right to use forest products to meet the needs of the community concerned.

According to an interview with Ramla Anak Ammatoa (traditional leader) on January 13, 2022, admitted that the forestry tradition in the Kajang Ammatoa customary area has existed for a long time. Through local regulations, forest areas will be saved from encroachment by irresponsible people, a hope that after local regulations regulate and strengthen them, forests will be managed according to the rules in Ammatoa's most traditional zone.

In 2016 the state designated the Ammatoa Kajang customary area as a customary forest covering an area of 313.99 hectares, this determination was due to the Constitutional Court Decision Number 35 of 2012, decision abolished the State in customary forests this decision returned customary forest rights to indigenous peoples.

According to the Regional Regulation of Kabupaten Bulukumba Number 9 of 2015 Article 15 concerning the right to land, territory, and natural resources, it also contains guidelines as the basis for the right to manage natural resources, namely:

1. MHA Ammatoa Kajang has the right to land, territory, and natural resources owned or occupied by or acquired through other mechanisms.
2. Natural resources as referred to in paragraph (1) include everything that is on the surface and that is in the ground.
3. The right to land, territory, and natural resources as referred to in paragraph (1) includes the right to own, use, develop, and control based on ancestral property and/or other rights.

With the decision of the Constitutional Court in case no. Decree No. 35/PUU-X/2012 dated May 16, 2013, stipulates that ordinary forests are forests that are within the territory of customary law communities, which is one of the bases for its determination.

After the issuance of Constitutional Court Decision Number 35 / PUU. X/2012, forests by status as follows: "Customary forests are state forests that are within the territory of the Adar law community

The word "state" was abolished by the Constitutional Court so that Article 1 number 6 reads as "Customary forest is a forest that is within the territory of customary law communities'.

Ammatoa as the traditional leader of the Ammatoa Kajang community said that: the Ammatoa Kajang indigenous people settle and defend our customary territory using customary law as "Pasang Rikajang" regarding the protection or certainty of customary forest ownership we always do boring, which is to gather together to solve problems, but we often find the result that the Ammatoa Kajang indigenous people take the legal route, namely suing the court with the help of SAFE South Sulawesi (Syukur et al., 2015).

Ramlah son of the Ammatoa Traditional leader, said that: The Ammatoa Kajang customary forest covers an area of 313.99 m² which has received the Decree of the Minister of Environment and Forestry Number: SK.6746/MENLHK-PSKL/KUM.1/12/2016 concerning the Determination of Ammatoa Kajang dat Forest, so the authority of the Ammatoa Kajang indigenous people in utilizing part or all of the Ammatoa Kajang customary forest area is certainly protected by national law or customary law itself, related to solving problems with PT. Lonsum that had happened, the indigenous people of Ammatoa Kajang resolved it based on "Pasang Rikajang",

namely by calling related parties to "wholesale or gather together to discuss the matter, the indigenous people of Ammatoa Kajang also had time to file a lawsuit at the District Court of Bulukumba Regency with the assistance of ole AMAN South Sulawesi and LBH Makassar City, but the court tended to be slow to handle the case, now Alhamdulillah PT. Lonsum has returned to the Ammatoa Kajang customary territory which was mandated by PT. Lonsum .

According to the author, the rights of the Ammatoa Kajang customary law community are protected by national law, and customary law is needed by indigenous peoples because many people have personal interests that will damage the preservation of Ammatoa Kajang culture and customary forests, ammatoa Kajang customary law must be based on "Pasang Rikajang", and to strengthen the existence of Ammatoa Kajang customary forests, In 2016 the Ammatoa Kajang customary forest has been established and mapped through the Decree of the Minister of Environment and Forestry Number: SK.6746/MENLHK-PSKL/KUM.1/12/2016 concerning the Determination of Ammatoa Kajang Customary Forest covering an area of 313.99 hectares, so if there are other interests that can damage the Ammatoa Kajang customary forest area, it has violated the rules and there is a fraud that occurs between the government and interested groups to control the territory of the Ammatoa Kajang customary law community.

In such cases, law enforcement officials and local governments should respect and protect the rights of indigenous peoples, by the provisions of Article 18B Paragraph (2) of the 1945 Constitution. With the enactment of the customary law of Ammatoa Kajang and its jurisdiction, ethically speaking, local governments and law enforcement officials can exercise restraint and provide legal enforcement in force within their territory. The enforcement of customary law is also supported by several legal instruments in the plantation sector, including Article 5 and Article 56 of the Jo Law. Article 6 Paragraph (2) of Law No. 39/1999 concerning Human Rights Jo. Article 12 Paragraph (1) of Law No. 39/2014 concerning Plantations.

Implementation of the Communal Rights of the Ammatoa Kajang Customary Law Community to Customary Forests in Bulukumba District

Research related to customary law communities has been carried out several times by several people, one of whom is Muamar Alkadafi with the title of the policy of establishing the Governance of Indigenous Villages in Siak Regency, Riau Province. The government of the traditional village established by the Siak Regency government is a manifestation of this recognition, the purpose of establishing a traditional village in Siak Regency is to revive the role of traditional leaders in governance, development and service to the community.

The indigenous people of Ammatoa, by preserving their forests, seem to offer a glimmer of hope for the preservation of the natural environment. The indigenous Ammatoa people living in Bulukumba Regency, South Sulawesi manage their forest resources sustainably. This is because the relationship between indigenous peoples and their forest environment is based on a wise view of life, namely respect for the forest as a mother that must be respected and protected, which still exists and manages the traditional forest management system. method. As an existing customary law community, the Ammatoa indigenous people have not been designated as shared forests in local regulations.

Forest conservation in Kajang District, Bulukumba Regency, South Sulawesi, cannot be separated from customary law that is obeyed and maintained by the Kajang indigenous people, a variety of tides.

Through its partners, the Ammatoa Kajang customary law community understands that their existence is a component of a system that is systemically linked to the community. Turi'e A"ra"na, tide Ammatoa (first ancestor), and the land that Turi'e A"Ra"na had given to their ancestors. For the Kajang people, protecting the forest is part of Pasang's teachings, because the forest is part of Turi'e A"Ra"na's entrustment land to the ancestors of the Kajang tribe. They believe that in the forest there is a supernatural power that can prosper and at the same time bring disaster when the forest is not preserved. According to them, this power comes from the spirits of the ancestors of the Kajang people who always maintain the preservation of the forest to be free from human evil intentions. If there are people who dare to destroy the forest area, for example cutting down poons and killing the animals in it, then the spirits of the ancestors will send down curses. The curse can be in the form of a disease suffered by the person concerned or also result in the cessation of water flowing in the environment without toa Kajang.

The Ammatoa customary law community in addition to having Pasang ri Kajang also has an Ammatoa customary institution structure known as appa' pa' gentunna anaya na pa'tungkulu'na langi' (four hanging of the earth and supporting the sky) namely:

1. There is a 'that must be firm getting)
2. Karaeng who must uphold honesty (ambush)
3. (3) Sanro (shaman) who must surrender episode), and
4. The teacher must be patient sabar).

Susana's life in the Ammatoa customary law community with various taboos and email. They believe that one of the pliers that must be kept sacred is Pasang ri Kajang itself. Therefore, Pasang ri Kajang according to the beliefs of the Ammatoa indigenous community contains truths that cannot be changed. The truth contained therein prevails throughout the ages. Some taboos and restrictions that should not be done in the Ammatoa customary forest are prohibitions on cutting trees, taking rattan and rope, catching shrimp and fish, hunting animals in Borong Karama', and disturbing the bani. These prohibitions are subject to customary sanctions.

According to the author, the legal protection of the Ammatoa Kajang customary law community in exercising their rights to customary forests is very clear because the Ministry of Forestry and the Bulukumba Regency Government legally recognize the existence of the Ammatoa Kajang customary law community, but often this legal protection is not in line with what is written in the laws and regulations.

Forest Utilization

Research related to forest utilization has also been carried out by Muh. Ainun Sholeh with the research title Social Institutions of Marena Customary Forest Management in Pekalobean Village, Anggeraja District, Enrekang Regency, then the results of the research show that the institutions formed within the Marena indigenous people such as values, norms, and the pamali system more or less contribute to protecting their customary areas, especially in protecting their customary forest areas. The existence of indigenous peoples and severe sanctions against violators of customary rules have made the customary forest area of the Marena indigenous peoples sustainable and protected from damage from irresponsible elements.

The life of the indigenous people of Ammatoa Kajang is strongly influenced by the belief held namely Manuntungi Ada' which originates from "Pasang Rikajang" based on sacred messages from Turiek Akra' natal from God Almighty, which contain advice, advice for life in the world and the hereafter, which is sacred in nature and the law must be implemented.

The implementation of the rights of the indigenous people of Ammatoa Kajang, be it land, flora, fauna, and water sources within the customary area, is managed under the authority of the Ammatoa (traditional leader), the indigenous people of Ammatoa Kajang choose protection and conservation fungi in the management of their customary forest areas, for the indigenous people of Ammatoa Kajang, the forest has an important meaning.

Rules for the implementation of communal rights over customary forests such as opening up natural resources in the forest such as wood, rattan, honey, shrimp, or other plants are carried out jointly by the indigenous people of Ammatoa Kajang with the permission of Ammatoa, the indigenous people of Ammatoa Kajang use the forest for customary purposes after the natural resources in the forest are taken, then the indigenous people of Ammatoa do not take these resources for a long period, this is beneficial so that all indigenous people of Ammatoa Kajang can enjoy and maintain their customary forests.

The communal rights of the indigenous people of Ammatoa Kajang to utilize the water sources in the territory of the indigenous people of Ammatoa Kajang, first the indigenous people of Ammatoa Kajang asked permission from Ammatoa and worked together to install hoses from the water source to the settlement of the indigenous people of Ammatoa Kajang, the indigenous people of Ammatoa Kajang used the water sources alternately to maintain the family sifits among the indigenous people of Ammatoa Kajang.

The customary territory of Ammatoa Kajang covers an area of 313.99 hectares based on the decree of the Minister of Environment and Forestry of the Republic of Indonesia, which includes four villages namely Tanah Towa, Pattiroang, Bonto Baji, and Malleleng, with the condition of customary forests that are fragmented, but some are large in clusters and elongated. The relationship of rights in customary law due to the nature of customary law is as follows (Pohan, 2018):

- a. Traditional based on the will of his ancestors tau has been passed down for generations.
- b. Changing due to the influence of events and social circumstances that change one after another.
- c. Because the source is unwritten, customary law is not rigid and adaptable.

To strengthen the existence of communal rights of indigenous peoples, the Ministry of Agrarian Affairs and Spatial Planning of the Head of the National Land Agency issued Regulation Number 10 of 2016 concerning Procedures for Placing Communal Rights on Land of Customary Law Peoples and Communities in Certain Areas implementation of the rights of the indigenous people of Ammatoa Kajang in the customary forest of the indigenous people must ask permission from the Ammatoa (traditional leader) then carried out by joint means or mutual assistance and in its implementation must be by the rules issued by the Ammatoa (traditional leader), we strongly protect and protect the indigenous people of Ammatoa Kajang from various

disturbances such as recently we oversaw a case of seizure of customary forest territory by PT. Lonsum.

The Ammatoa customary forest (Boronna I Bohe) is divided into three zones, namely: The Sacred Forest (Borong Karama') is the first area of ordinary forest due to tides (basically). Masks or disturbing the flora and fauna in it are prohibited. Only Ammatoa and traditional members can enter Borong Karama if there is a traditional ceremony (Ammatoa inauguration ceremony, Panganroang).

Bong Karama is divided into eight parts, namely: Borong Parasangeng Irajaja, Borong Pa, Rasangeng llau Borg Tappalang, Borong Kunzio, Borong Karanjang, Borong Tunikeke, Tuju Erasaya and Borg Pandingyang. It is said that if someone from outside enters this zone, that person cannot leave. Even if they can get out, this person will die just like dogs, if they manage to get out, dogs can't bark anymore. Inside. Border Forest (Borong Battasaya), this forest is the second zone of Borong Karama. Between Bong Karama and Borong Battasaya is bounded by a road used by Ammatoa and indigenous members to enter Borong Karama for communal ritual ceremonies. Battasaya Massa is located in the Parasangeng Forest of Irajaja. In Borong Battasaya, the Ammatoa community in Tana Camase-masa, as well as Tana Powerya, are allowed to take wood under certain conditions.

Borong Luaraja is a freehold community forest. This forest is located around the Ke-Ammatoan public park with an area of 100 ha. From this forest, the community can meet their timber needs with the same requirements as timber harvesting in Borong Battasaya.

Based on the above, according to the author, the implementation of the communal rights of the Ammatoa Kajang customary law community to customary forests is carried out not based on the rules issued by the minister of forestry or the Bulukumba district government, but the Ammatoa Kajang indigenous people are more path to the rules issued by the Ammatoa (traditional leader) as "Pasang Rikajang", then in the implementation of the rights of the Ammatoa Kajang indigenous people must not use alt technology and take as needed for the IT customary event because it is to preserve the Ammatoa Kajang customary forest. The communal rights of the indigenous people of Ammatoa Kajang are well implemented due to the "Tide".

Conclusion

From the discussion that has been compiled by the author, several points of conclusion can be drawn, namely: The implementation of the communal rights of the Ammatoa Kajang indigenous people is carried out on the authority of Ammatoa based on the "tide of the jungle" which is the source of law that regulates all aspects of the life of the Ammatoa Kajang indigenous people related to God (Turiek Arakna).

Ammatoa Kajang customary law relies heavily on "Pasang Rikajang", this deliberation effectively solves problems, and the results of the deliberations became the source of the birth of Bulukumba Regency Regional Regulation No. 9 of 2015 concerning the Discovery, Recognition, and Protection of Community Rights in Ammatoa Kajang and the Decree of the Minister of Environment and Forestry No: SK.6746/MENLHK-PSKL/KUM.1/12/2016 concerning the definition of Ammatoa Kajang Conventional Forest

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