

# APPLICATION OF CUSTOMARY LAW IN PRESERVING THE KARAMPUANG TRADITIONAL FOREST

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## Abstrak

The title of this research is the application of customary law in conserving the customary forest of Karampuang, Bulupoddo District. This research was conducted with the intention of knowing how to apply customary law in preserving customary forests in Karampuang, Tompobulu Village, Bulupoddo District, Sinjai Regency.

The method used in this study uses a qualitative approach. Types of case studies with data collection techniques through in-depth interviews and informants in this study are: Karampuang traditional stakeholders, Tompobulu village government, Tompobulu village indigenous peoples and the Sinjai district environmental and forestry service. The data analysis technique used in this qualitative research is an interactive analysis technique. The collected data is then reduced and the data presentation is then concluded.

Based on the results of research and discussion on the application of customary law in conserving customary forests, it has been carried out, but has not been effective because until now the status of customary forests in Karampuang is not clear, customary law and the imposition of sanctions in the preservation of customary forests in Karampuang are still weak, there are no regional regulations governing the status of Karampuang customary forests.

**Kata Kunci: Customary law; Forest management; Sustainable forest**

## PRELIMINARY

The development of world progress which is marked by rapid development in all aspects of human life is a reality. Increased specialization in various aspects of community activities is a sign of the beginning of the era of globalization. Without us realizing it, whether we like it or not, ready or not, we must cross the bridge of globalization at any cost. The bridges in question are science, technology, information and culture. As part of a local culture inherited from their ancestors, this is certainly an afterthought before being trapped in a new age community that is more than the power elite. As a traditional society, of course, in its life it cannot be separated from various things that are binding in relation to its environment. They still uphold cultural values as a way of life in everyday life which of course cannot be separated from customary rules so that local culture which is currently being tested by the presence of this globalization era must have a deterrent power that will lead people to continue to obey the rules. -customary rules (customary law).

Customary law is one form of law that applies in the life and legal culture of the people in Indonesia which is still valid today. We can see customary law until now through the existence of customary courts that are still maintained to resolve various disputes that cannot be handled by the police, courts, and community institutions. As is the case in Karampuang, to regulate the entire series of customs, it is customary law that is made by the people and will be applied to the people themselves with sanctions by the customary leader if the rules are violated. Customary law is an unwritten law, and has a basic foundation where the foundation discusses how customary law can apply in the midst of society.

The customary forest in Sinjai Regency, which is located in Karampuang, Tompobulu Village, Bulupoddo District, Sinjai Regency, which is well known and is still maintained to this day. A community of Karampuang Indigenous people applies all the principles of sustainable forest resource management. However, indigenous peoples still need efforts to revitalize local wisdom, rules and laws and strengthen institutions that support the strengthening of sustainable customary forest management.

The management of customary forests in a sustainable manner and utilizing forest products will ensure the sustainability of forest functions as a life support because the impact of environmental damage to forests is currently mostly caused by human activities themselves. Forest conservation efforts must be supported by the government, the community and one of the innovations is to maintain the sustainability of customary forests. This is proven by the fact that people who live in the traditional area of Karampuang are not allowed to cut wood in the forest area for economic purposes, let alone take actions that are considered to be able to damage and destroy the forest and its contents. The sanctions imposed on a violator include:

1. Will be fined in the form of 5 sacks of cement
2. Not served when there is an administrative need at the Village office
3. Customary officials and the village government were not present when he carried out events, such as receptions and celebrations. (Source :mogabay.co.id: May 1, 2012)

In fact, sustainable management of forest resources has become an inseparable part of the life of the indigenous community in the Karampuang area. Indigenous knowledge that has been passed down from generation to generation and in harmony with nature has actually made a very high contribution to the sustainability of forest ecosystems which are very important for biodiversity as well as life support. Based on the Constitutional Court Decision No. 35/PUU-IX/2012, it has encouraged legal reforms at the regional and national levels to recognize and protect the existence and rights of indigenous peoples. The strategic steps of the Constitutional Court's decision no. 35/PUU-X/2012, among others: 1) Continuing the inventory of local regulations related to customary law communities; 2) Accelerate the completion of the bill on the recognition and protection of indigenous peoples; 3) A working team for the preparation of a draft law on the recognition and protection of indigenous

peoples' rights has been formed; and 4) Accelerate the issuance of government regulations regarding customary forest management as the implementer of Law No. 41 of 1999.

## **THE ORETICAL BASIS**

### **Application**

Implementation is an action that is carried out both individually and in groups with a view to achieving the goals that have been formulated. Meanwhile, according to Lukman Ali (2007: 104), "application is practicing or pairing". Application can also be interpreted as implementation. While Wahab (2008:45) "Implementation is an activity that has a target program and can provide benefits to the target to be achieved and accountable".

### **Customary law**

The ongoing debate about customary law in Indonesia generally revolves around a choice between dualism, namely being advocated as a social necessity, an unavoidable recognition of the diversity of living laws, which are fundamentally assumed to occur between state law and customary law and essentially assume a relationship right between state and custom. Customary law is the values that live and develop in the community of an area. Although most customary law is unwritten, it has a strong binding power in society. There are separate sanctions from the community if they violate the rules of customary law. Jamie Davidson (2010:143).

The term 'Customary Law' was first coined by the famous orientalist from Leiden named Christian Snouck Hurgronje (1857-1936) who then used it for the first time in his book *De Atjehers* published in 1893. To a certain extent. Even the terms religious laws, institutions, and customs used in government regulations are characteristic of the many misunderstandings that underlie the birth of basic indigenous ideas, because customary law is mistakenly identified with religious law. Customary law is based more on the existence of a power tool in the form of a complement in the decisions of customary heads that apply spontaneously in society. The following are some of the experts' opinions on customary law:

1. Cornelis Van Vollen Hoven, Customary law is the overall rules of community behavior that apply and have sanctions and are codified.
2. Bellefroit HP, Customary law is the rules of life which, although not enacted by the authorities, are still respected and obeyed by the people with the belief that these regulations apply as law.
3. Hazairin, Customary law is a deposit of decency in society, namely moral rules whose truth has received general recognition in that society.

The ILO (in Keraf, 2010:361) categorizes indigenous peoples as: Indigenous peoples of Indonesia who are members of the Alliance of Indigenous Peoples of the Archipelago provides a definition: Indigenous peoples are communities that have ancestral origins for generations living in certain geographic areas, and have a distinctive economic, political, cultural and social value system,

ideology". This community still holds traditional values in their life system. The basic view of the first congress of the Indigenous Peoples of the Archipelago in 1999 stated that "indigenous peoples are communities that live based on hereditary origins on a customary territory, which has sovereignty over land, and natural wealth,

1. Indigenous tribes who have socio-cultural and economic conditions that are different from other groups of people in a country, and whose status is partly or wholly governed by customs or traditions by their own special laws or regulations.
2. Tribes who consider themselves or are considered by others as indigenous because they are descendants of the indigenous people who inhabited the country since ancient times before the entry of the colonial nation, or before the arrangement of administrative boundaries as is now in effect, try to maintain regardless regardless of their legal status-some or all of the social, economic, cultural and political characteristics and institutions they possess. In that sense, indigenous peoples are also known as having language, culture, religion, land and theories that are separate from other community groups, and lived long before the formation of the modern nation state.

In general, everyone knows the existence of customary law orally. The nature of customary law made by adapting the system to new conditions For example, the customary regulations made in Karampuang are reviewed annually during the Mappogau Sihanua Traditional Festival. In this Mappogau Sihanua traditional party, of course, the community cannot be separated from the old rules that were perfected by the traditional Stakeholders. One of the cultures that is always intertwined is that community leaders are also involved in making joint decisions in the village and in the customary area. The community has realized its dependence on the forest, so each village has rules for forest use and management as is the case in the Karampuang Customary Area, Tompo Bulu Village, Bulupoddo District which has a customary rule which is basically to prevent conflicts regarding various interests within indigenous peoples. There are rules for the use of forest resources, timber, and territorial boundaries. Muhannis (2009:44). In carrying out their traditional government, they divide into 3 major groups, namely:

1. Leader

*Tomatoas* the highest spiritual leader in the Karampuang tradition, namely Gella who positions himself as the Executive body in day-to-day government. The role of a Gella is to pay attention to the entire behavior of people's lives, if one of them has a dispute or violates customary rules, Gella will be the first person to try it. in the trial process, where Gella's role in handling a case is trying to control it by giving certain considerations.

2. Customary institutions

Customary institutions are the highest deliberation institutions and are the last door in resolving all problems in the customary area consisting of Ade Eppa who has a position as a legislature in customary government, including:

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- a. *Wide* (King), is the highest institution of Karampuang customary holders which in their daily life is called *Tomatoa* which means an elder person.
- b. *Gela*, in carrying out her duties, Gella is assisted by an *Ana Malolo* whose function is as a speaker. Gella has a role to pay attention to the whole behavior of people's lives if one of them has a dispute, then Gella is the first person to try it.
- c. *Sanro*, *Sanro*fully responsible for the health and welfare of the community. *Sanro* is the only woman in a traditional institution who has a very important role as a protector of the Karampuang indigenous community.
- d. *Teacher*, the last traditional holder is the teacher who has the duties and authorities related to the safety prayer of the Karampuang Indigenous people. and as a developer of education, both worldly (general) and final (religious) education in the community, a teacher in carrying out his duties as executor of religious education.

### 3. *Pabbatang* / speaker

A judicial institution that functions to handle cases that occur in customary areas. In carrying out a court process, people seeking justice have a complaint line consisting of: a) *Pettu Ana Malolo* namely court activities carried out by *ana malolo* which took place at the house of the litigant but may not impose decisions and sanctions but only provide consideration and peace; b) *Pettu Gella* a court run by *gella* and housed in the traditional house of *gella* and appeals to *arung*; and c) *Pettu to matoa* is a final decision where in deciding the case, *Arung* is accompanied by all the assistants, *gella*, *sanro*, and teachers to issue a decision under a customary oath and will not be contested. The Karampuang customary area is a traditional community settlement which is administratively located in Tompobulu Village which covers the entire Tompobulu Village. In the current landscape of the Karampuang customary area, rivers are the boundaries of the territory, including the Lamole river in the south, the Launre river in the west, the Bulutellue river in the east.



**Map of the Boundary Area of the Karampuang Traditional Village Landscape**

With the position and application of customary law as the embodiment of original law and a reflection of the nation's soul and sense of justice from the Indonesian people, customary law

should have a central role in legal development in Indonesia because customary law has an important position in the national justice system which essentially complements legal provisions. written law that is absorbed from unwritten law (Customary Law). The following is the position and application of customary law (<http://Wishnu.blog.ac.id> : 28 July 2009). Customary law is one of the important sources to obtain materials for the development of national law, which leads to the unification of making laws and regulations without ignoring the emergence and development of customary law and courts in legal development.

- a. Taking materials from customary law in the preparation of National Law basically means:
  - 1) The use of legal conceptions and principles from customary law to be formulated in legal norms that meet the needs of present and future society in order to build a just and prosperous society based on Pancasila and the Constitution.
  - 2) The use of customary law institutions that are modernized and adapted to the needs of the times without losing personality traits and characteristics.
  - 3) Incorporate concepts and principles of customary law into legal institutions that are used to enrich and develop National Law, so that it does not conflict with Pancasila and the 1945 Constitution.
- b. In the development of national property law, customary law is one of the elements, while in the development of family law and national inheritance law, it is the essence.
- c. With the formation of national law containing elements of customary law, the position and role of customary law has been absorbed into national law.

The application of customary law in everyday life is also often applied by the community. Even a customary holder, if he faces a case and he cannot find it in the written law, he must be able to find the law in the rules that live in society. This means that Customary Stakeholders must also understand customary law. Customary law can be said to be the civil law of the Indonesian people.

## **RESEARCH METHODS**

### **Types of Research**

This research is a qualitative research. (Moleong, 2012: 6), describes that qualitative methods are research that intends to understand phenomena about what is experienced by research subjects such as behavior, perception, motivation, action and others.

### **Data Source**

Primary data is a source of research data obtained directly from informants, (Karampuang traditional stakeholders, Tompobulu Village Government, Tompobulu Village Indigenous Peoples and the Sinjai Regency Environment and Forestry Service) relating to research problems, observations of objects, events or activities, and data on all matters relating to the application of customary law in conserving customary forests in Karampuang, Tompobulu Village, Bulupoddo sub-district: 1)

Secondary data is a source of primary data that has been further processed, either by primary data or by other parties. In this study, data can be obtained in the form of written data such as activity reports, activity reports, decision letters that can be used as supporting information in primary data analysis; 2) Informant, Informants in this study are people who are considered to be able to provide information about problems that are closely related to the object of research.

### **Data Collection Techniques**

Data is a person's information that is used as an informant derived from documents in the form of statistics or other forms, useful for research purposes (Sugiyono, 2007; 187). The data collection techniques used are: a) Observation; b) Interview; and c) Documentation.

### **Data analysis technique**

The data analysis technique used in this study is an interactive analysis technique, namely the technique is carried out as follows as quoted in Marsuki Ali (2016: 19-20), namely: a) Data reduction which includes the process of summarizing and sorting data related to the main things and focusing on the important things; b) Presentation of data which can be interpreted as the organization of data that has been reduced. In presenting this data, the researcher made efforts to develop a pattern of relationships from all existing data so that the data was easier to understand; and c) Based on the data that has been organized, the researcher gives interpretations and then draws conclusions about the patterns of regularity or deviations that exist in the phenomena studied.

## **RESULTS AND DISCUSSION**

### **Application of Customary Law in Preserving Customary Forests**

Implementation of the application of customary rules as already mentioned that an action that is carried out both individually and in groups with laws that actually live in the consciousness of the community which is reflected in patterns of action that are in accordance with the socio-cultural pattern. Customary law which is the values that live and develop in the community, although some customary law is not written but has a binding power that is feared in the area itself and sanctions are carried out by customary institutions, customary law as a community of indigenous peoples who still holds values Tradition values in the system of life that have their origins from generation to generation in a customary area. The Karampuang Indigenous Peoples take part in the state administration system by strengthening the order of local wisdom through the application of customary law, protection of the rights of indigenous peoples, and empowerment of indigenous peoples.

The system of applying customary law carried out by customary leaders in conserving Karampuang customary forest through:

#### **1. Program**

The program is a plan that is structured according to the agreed time and space. The application of customary law in the preservation of customary forests can be realized through the

local wisdom of the community because a sense of caring for ancestral traditions is one of the reasons for encouraging the Karampuang community to always be responsible for, safeguard, maintain and preserve customary forests through a program.

a) *Maddui* (Interesting)

The program in managing the Karampuang customary forest is carried out by traditional stakeholders through a tradition, namely the Maddui Tradition, this tradition is carried out as a form of activity to respect the environment from generation to generation. The Karampuang indigenous people are able to maintain Maddui traditional culture in the midst of the influence of globalization and modernization

The Karampuang indigenous people are full of enthusiasm in the maddui (pulling) procession of wood in the forest. This Maddui Tradition activity program is carried out when customs require materials for repairing traditional houses that have been programmed and planned by traditional institutions. The Maddui tradition is carried out by the Karampuang indigenous people by pulling trees from the forest because of the meaning of mutual cooperation involving all indigenous peoples. This Maddui tradition is one of the elements of the meaning of togetherness that still exists today.

b) Implementing a cutting-planting system

This program is very useful for the preservation of customary forests with a customary law system that must be carried out, a forest logging system which is then replaced by planting forests that have been cut down so that the forest is maintained. It's like a responsibility where after deforestation is done, it is replanted so that there is a replacement for the logging process. The application of customary law in protecting forests is regulated in a separate mechanism, customary forests can be accessed and used by indigenous peoples must go through customary rules, namely with the knowledge and permission of adat, take enough and are obliged to replant. Indigenous peoples of Karampuang are very protective of customary forests and even customary forests have been sacred so that people who enter the forest area to take natural medicine or other needs must be known by customary stakeholders. Of all the information explained that the application of customary law to the practice of customary law in Karampuang has developed over a long period of time. Gella who is a traditional leader also fights as an enforcer of customary law. Therefore, indigenous peoples need to know the customary rules in forest management that are carried out.

c) Participatory Mapping

The participatory mapping program carried out by the Karampuang customary institution is a mapping method that places the community as the perpetrator of mapping their territory as well as determining the planning of customary territory boundaries.

1) Customary Territory

Customary territory is the living space of an organized community unit where its use and management is carried out based on customary law, customary forest within the customary area where the arrangement is determined according to customary law. Customary areas require boundaries to ensure legal certainty as a form of implementation of the recognition, protection and management of forests in the Karampuang customary area. Karampuang customary area which is an environment inhabited by a group of indigenous peoples in sustaining their lives that have arisen from generation to generation. Therefore, administratively clear boundaries of customary territory are needed. However, in reality, administratively, the boundaries of customary forests in customary areas are not yet clear because there has been no recognition from the Sinjai Regency government.

2) Status of customary forest

The management of customary forest in Karampuang is regulated in a separate mechanism by dividing it into two forest zones, namely the Sacred forest which is a forbidden area for all types of activities except for traditional ritual activities, and the Ade' forest zone, which is a forest that can be touched and its contents taken with the permission of customary stakeholders. To preserve the customary forest, it can be realized through the Sacred forest zone and the Ade forest with a shared responsibility, a sense of care and a sense of belonging to the forest as happened in the Karampuang customary forest in the preservation of customary forest. The status of the customary forest in the traditional village of Karampuang has not yet been recognized by the local government of Sinjai Regency, but the management system has been returned to the community due to regulations from the government. The recognition of the Karampuang customary forest is still under the supervision of the State forest.

The customary rules for the preservation of the Karampuang customary forest are carried out based on the program, time of activity and form of activity as shown in the table below:

No	Program	Activity time	Forms of activity
	<i>Maddui</i> (interesting)	It is carried out when adat requires materials for repairing Adat in September before the Karampuang traditional party.	1. Traditional rituals (Mappota) are asking for permission from the ancestors 2. <i>Masselung ale</i> (exploring the forest) 3. <i>Mattanra Esso</i> (set a good time.
	Cultivation system	The cutting and planting system is carried out when there are community or	1. Before logging, it is mandatory to ask permission from the customary holders.

		customary needs that require wood.	<ol style="list-style-type: none"> <li>2. If the needs of the community are required to plant one in 10 of what is taken.</li> <li>3. If it's customary to plant/replace it, it's a lot of people.</li> </ol>
	Participatory Mapping	Conducted in 2014.	<ol style="list-style-type: none"> <li>1. Training to determine point coordinates with GPS tools.</li> <li>2. Training to draw a map of the boundaries of customary territories, the boundaries of customary forests.</li> </ol>

The program of activities carried out in Karampuang in the application of customary law to the preservation of customary forests that have been agreed upon by the Karampuang adat where the program development process regarding: Maddui, slash-and-plant systems, and participatory mapping can be seen based on the table above.

## 2. Target

One way that can be done for forest conservation is by using a selective logging system, selective logging in question is to choose old wood that has the best quality and leave trees that are still productive or young. In addition, it can also be done in a cutting system. Benefits in managing the Karampuang customary forest in a sustainable manner which has the main function as protection of the life support system to regulate water systems, maintain soil fertility so that the harvest yields abundantly for the prosperous community.



*(Photo source: Aman Sinjai)*

The condition of customary forests that are still maintained ensures the sustainability of the functions and benefits of forest resources and a positive impact on social welfare which includes watersheds for daily needs and long-term agricultural needs for the Karampuang community and the Bulupoddo Community in general. Indigenous peoples of Karampuang can benefit from the preservation of customary forests. One form of conservation of the Karampuang customary forest is protecting the forest. With the existence of sustainable forests, indigenous peoples can feel welfare. From several kThe statement explains that indigenous peoples are very involved in the

process of preserving customary forests in Karampuang because in this customary forest there is a buffer for water sources for daily life and agricultural needs.

### **3. Implementation**

The implementation of the customary forest conservation program which is an action from a plan that has been carefully prepared as a form of implementation, the implementation has basically been determined in line with the conditions in the field. In this preservation, it is necessary to have a person in charge, both individually and as a customary institutional organization. The highest law enforcement in the Karampuang customary area is called pabbatang (speaker), Pabbatang as a law does not necessarily impose sanctions on someone due to a complaint or an error. Customary law in the management of customary forests is regulated by a customary institution called Ade Eppa.

The implementation of the program which is the full responsibility of the traditional karampuang institution is carried out in the form of traditions with different times such as the Maddui Tradition (interesting), the cutting and planting system and the implementation of participatory mapping.

- a) *Maddui* (interesting). The implementation of Maddui which is carried out by traditional institutions which are carried out together with the meaning of gotong royong that has been built from generation to generation, that before the Maddui tradition began, traditional stakeholders and the community explored the customary forest to look for straight and large diameter gupasa trees which were considered suitable for cultivation. a customary requirement. One form of the implementation of customary law is sanctions regarding customary law if it is not drawn in the Maddui Tradition (interesting) which is carried out by customary stakeholders that there is no implicit law given to the community if the wood is not withdrawn in the Maddui tradition, only a condition in the symbol of togetherness .
- b) Cutting system. The implementation of customary law and the imposition of customary law sanctions if someone cuts a tree without the permission of the customary holder, then an action is taken which is called the customary sanction of Wearnga' (remind) Furthermore, the consequences of customary law in the management of customary forests will be applied to the community if they still violate it, they will be ostracized in the customary area, and expelled or revoked customary rights. The conclusion of the implementation of customary law which is the full responsibility of customary institutions in realizing the existence of Karampuang by managing customary forests in a sustainable manner and giving customary sanctions when there are people who violate customary rules.
- c) Participatory mapping. The boundaries of the customary territory of the Karampuang customary forest were previously unclear administratively so that the Karampuang custom asked the Alliance of Indigenous Peoples of the Archipelago to map the customary area as a condition for

obtaining recognition and rights to the customary territory in Indonesia, we can understand that mapping the Karampuang customary area This is a condition for obtaining recognition and protection of the rights of indigenous peoples. Participatory mapping carried out by customary institutions is very useful in defining the boundaries of customary territories and at the same time useful for resolving conflicts related to territorial boundaries. The conclusion from all the information that the implementation of this participatory mapping was carried out as an attachment to the verification of the Sinjai District Regulation regarding the recognition and protection of indigenous peoples.

### CLOSING

The application of customary law in conserving customary forests has been implemented but has not been effective because Until now the status of customary forests in Karampuang is not clear, customary law and the imposition of sanctions in the preservation of customary forests in Karampuang are still weak, and there is no regional regulation that regulates the status of Karampuang customary forests, so that customary institutions ask for assistance from the Alliance of Indigenous Peoples of the Archipelago to resolve the issue. its customary territory is used as a reference in the guidelines for the preparation of the Sinjai Regency Regional Regulation.

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