

The Concept of Customary Forest Management in Indonesia:

A Case in Bengkalis, Indonesia

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Abstract—Customary forest is a new history in forest management in Indonesia. Since the beginning, Indonesia has established the protection and management of forest areas, especially those relating to the rights of indigenous peoples, which has its own problems where indigenous peoples must struggle to balance the policies of State regulations in the field of forestry and natural resource management. Long before Indonesian Independence, indigenous people's units were recognized along with their traditional rights as long as they were still alive and in accordance with the development of the community. The history of Grandfather King Admiral in the Sea is widely known by the people of Indonesia where his tomb is now in the Bukit Batu area, precisely in the village of Sukajadi. In the past Datuk Laksmana Raja in the Sea had a wide enough territory even the King had full control over his territorial territory including in matters of management of rights to land or forest products, but after the formation of the Unitary Republic of Indonesia and the transfer of sovereignty in the State these conditions changed the structure and governance structure of the State including the recognition of Indigenous Rights. Then what is the condition or status of the recognition of rights to customary forests in the Datuk Laksmana Raja in the Sea and how is the form of management of customary areas / territories carried out at the present time. This study uses a sociological legal research method in which the data collected at the research location is processed and analyzed with sentences linked to the theories the researcher presents. From the results of the study it can be concluded that the recognition of Indigenous forests in the Territory of the Raja Datuk Laksamana Raja in the Sea is based on the historical approach inherent as a power during the time of the Raja or Datuk Laksamana in power whose management is then continued by his descendants. current customary forest management in the Datuk Laksamana Raja in the Sea region is very partial and has not been followed by clear tools as the mechanism for determining customary forests by the state so that the status of these customary forest rights creates uncertainty in the community.

Keywords: *customary forest, Datuk Laksamana*

I. INTRODUCTION

Customary forest is a new history in forest management in Indonesia. Since the beginning, Indonesia has established the

protection and management of forest areas, especially those related to the rights of indigenous peoples, which has its own problems where indigenous peoples must struggle to balance the policies of the State regulations in the field of forestry and natural resource management. Long before Indonesian Independence, indigenous peoples' units were recognized along with their traditional rights as long as they were still alive and in accordance with the development of the community.

The real impact of the issuance of the Constitutional Court Decree Number 35 / puu-X / 2012 is that customary forests are no longer a state forest area, but are also included in the right forest group (forest areas that have been encumbered with rights, such as community forests). The Constitutional Court's decision was seen by Simarmata from the perspective of doctrine that it still left a number of blurring related to the procedure of establishing customary forests, rights to land and customary forests and governmental authority over customary forests [1].

There should be no overlap between state authority and the authority of indigenous peoples' rights regarding forests. With regard to state forests, the state has full authority to regulate and decide the supply, designation, use, management and legal relations that occur in state forest areas. With regard to customary forests, state authority is limited to the extent of the content and authority of customary rights. The state only has indirect authority over customary forests. It is not possible for private forests to be in state forest areas, or vice versa, state forests within rights forest areas, and customary forests in state forests so that the status and location of customary forests are clear in relation to the recognition and protection of customary law community units guaranteed by Article 18B. paragraph (2) of the 1945 Constitution. Therefore, forests based on their status are divided into two, namely state forests and private forests. The right forest is distinguished between customary forest and private forest / legal entity. The three forest statuses are at the highest level wholly controlled by the state according to the construction derived from Article 33 paragraph (3) of the 1945 Constitution.

Customary forests are in fact in the area of customary rights. In the area of customary rights, there are parts of land

that are not forested can be in the form of grazing fields, graves that serve to meet public needs, and land owned individually functions to meet the needs of individuals. The existence of individual rights is not absolute, at any time their rights are thinning and thickening. If it wears off and disappears, it eventually returns to be shared. The relationship between individual rights and customary rights is flexible. The right to manage customary forests rests with the customary law community, but if in development there is no longer any customary law community concerned, then the customary forest management rights fall to the Government. Customary rights are limited to what extent is the content of individual rights, while state authority is limited to the extent of the content and authority of customary rights [2].

In many realities the life of customary forest management is understood to be very diverse by community groups, this is because the recognition of customary rights is still viewed in a juridical perspective only thereby eliminating the essence of the interests of the indigenous peoples concerned. As the existence of the location of customary forest which is still unclear status is managed by the descendants of the progenitor Raja at sea located in the Bengkalis area. In the context of managing forest areas in these areas, they still tend to be individual and are not followed by other legal instruments as a condition for the formation of indigenous peoples [3].

With a diverse approach model in understanding the concept of customary forests in the midst of community life the author tries to conduct a study related to the Concept of Customary Forest Management in Indonesia, a case in Bengkalis, Indonesia.

II. RESEARCH METHODS

Data collection techniques that researchers use are divided into 2 (two), namely interviews and literature studies. Interview is a structured interview where the interviewer has prepared a list of questions to be conveyed to the respondent. Literature study is a data collection tool that is carried out through written data using content analysis based on literature that has a correlation with the problem being studied.

III. RESULTS AND DISCUSSION

A. Approach to the Recognition of Indigenous Territories in the Datuk Admiral Raja in the Sea Area

Basically the customary law community unit is formed based on three basic principles, namely genealogical, territorial, and / or a combination of genealogical and territorial [4]. What is regulated in the Law is the customary law community unit which is a combination of genealogists and territories. In this connection, the state recognizes and respects the unity of traditional law communities and their traditional rights as long as they are still alive and in accordance with the development of the community and the principles of the Unitary State of the Republic of Indonesia. The implementation of the customary law community unit already exists and lives in the territory of the Unitary Republic of Indonesia, such as forest / *nagori* in North Sumatra, *gampong* in Aceh, *nagari* in Minangkabau, clan in southern Sumatra, *tuh*

or *pekon* in Lampung, *pakraman* village / village *adat* in Bali, *lembang* in Toraja, *banua* and women in Kalimantan, and the country in Maluku.

Some of the main features of indigenous and tribal peoples are that they are a group of people, have separate wealth apart from individual wealth, have certain territorial boundaries, and have certain authority, thus customary rights indicate legal relations between the legal community (subject rights) and certain lands / territories (right object). The customary rights contain the authority to [5]:

- Arranging and organizing the use of land (for settlements, farming, etc.), inventory (making new settlements / rice fields, etc.) and maintaining land;
- Regulate and determine legal relations between people and land (giving certain rights to certain subjects);
- Arranging and establishing legal relations between people and legal actions relating to land (buying and selling, inheritance, etc.). The determining criteria for the existence of customary rights consist of three elements, namely: the existence of certain customary law communities, the existence of certain customary rights which are the environment and place to take the necessities of life of the customary law community, and the existence of customary legal arrangements regarding the management, control and use of land customary rights which are applicable and obeyed by the customary law community.

Indigenous and tribal peoples are also given a place for the protection of the forest that is their territory, namely customary forests. This is confirmed in Government Regulation No. 45 of 2004 concerning Forest Protection, Article 8 paragraph (4). The protection of forest areas by indigenous peoples is carried out based on the traditional wisdom prevailing in the indigenous peoples concerned with assistance from the government, provincial government, and district / city government [6].

The perspective of the recognition of customary forests is very dependent on the viewpoint of indigenous peoples in fighting for what is their right to an *adat* area or territory. That the recognition of Indigenous forests in the Territory of the Datuk Admiral Raja Raja in the Sea in the Bengkalis region at this time is based on the historical approach inherent in a power which during the time of the King or Datuk Admiral was in power over its territorial territory and then its management was continued by its descendants. because the concept of mastery of the king and at the same time has the authority to regulate all areas under his control, then automatically after the inheritance of the Admiral's Datuk areas that were once included in his colony were unilaterally claimed by hereditary experts as areas controlled by the descendants and not permitted to the local community to processing or taking forest products that are around the community residence. Therefore, unilateral claims that justify the status of rights to forest areas continue to be intensified by expert progenitor Datuk descent so that the condition of the forest has never been processed or touched at all by the local community [7].

Efforts to get recognition from the Regional Government on the status of the forest area have been repeatedly carried out by experts from the descendants of the Admiral Datuk descendants in various ways both socially and personally or in a group approach, namely by establishing the Badja Gaskat Cooperative and then to obtain certainty about the status of the land they claim it as customary land and in order to get permission to use forest or wood products finally around 2005 on behalf of the Cooperative Chairperson sent a letter addressed to the Head of the Forestry and Plantation Service in Bengkalis Regency but in fact from the Forestry and Plantation Service's response that related to the Timber Utilization Permit still in the stage of completing the approval letter in principle from the Governor of Riau, which until now has never been issued.

So what has been fought for the status of customary rights over forest areas by some groups of heirs of the Admiral Laksamana Raja in the Sea at this time has not yet reached the recognition of the local government to get juridical legitimacy so that the management of these forest areas raises uncertainty about the status of their rights.

Myrna Safitri in her writing *Dividing the Land: Legal Gaps in the Recognition of Customary Land in Indonesian Forest Areas*, shows that there are three main factors that cause delays in the recognition of customary forests in Indonesia, particularly after the Constitutional Court Ruling 35. These three factors consist of: i) inconsistencies in national law related to the legal umbrella of recognition of indigenous peoples and their territories; ii) the survival of the mindset among forestry bureaucrats who perceive that the 'forest area' is only state forest; and iii) strong political-economic motivation among local governments to prioritize the allocation of land for large-scale investment rather than the recognition of indigenous territories [8]. In addition, Arizona et al., in the 2017 Regional Legal Products on Customary Law Communities identified three models of customary forest recognition that became important lessons in encouraging customary forest recognition, namely: i) recognition of customary forests originating from non-forest areas; ii) recognition of customary forests originating from (state) forest areas; and iii) recognition through reserves to serve as customary forests [9]. The two writings basically look at the various success factors and obstacles from the discretion of establishing customary forests in Indonesia. However, the two writings have not shown in detail the dynamics and contestation in the regularization process that is also played by civil society networks in creating changes in: i) the determination of customary forests; and ii) forest area management in Indonesia.

B. The Concept of Customary Forest Management in the Territory of the Raja Datuk Admiral in the Sea

Forests are a source of life for humans, and forests are considered as a determinant of the life support system and at the same time as a source of prosperity for the people, there are still many people who depend their lives on the forest and its products. Forests become an important area in the management of natural resources, because natural resource management activities often cause environmental damage, especially forest damage.

Forests have a vital function for humanity as well as economic support for certain traditional societies. The type of forest that has been determined by the state in accordance with its purpose is intended by the state to maintain the sustainability of development which will ultimately be felt by the community at large. Just as the community understands the concept of managing customary forest / customary land in an area, it has also raised many issues regarding the status of the land or forest area claimed by community groups acting in the name of *adat*. As happened in the Bukit Batu sub-district, Bengkalis Regency, precisely in the village of Sukajadi where the customary forest area claimed by a community group representing the heirs of the Raja Laksamana descendant of the Sea in the Sea has been represented by several generations which incidentally also some of the members of the community are not domiciled in forest area or land that they refer to as customary land. According to the perceptions of a number of descendants of the progenitor Raja Laksamana Raja in the sea, the land or area they claim is a relic of their grandfather known as the King who ruled the rocky hills and beyond before giving up the King's authority to the Republic of Indonesia. Then the customary rights are hereditary used as an asset for the needs and interests of the descendants of the king and partly in cooperation with the company [10].

A complete understanding of customary rights requires an understanding of community structures, including patterns of clarity of power about "who" (figures who trust the community) who try to determine "what matters" (legal and legal relations regarding land area). and, in "what forums" decisions about the exercise of authority are made. Thus, mistakes can be avoided to be agreed with an incompetent party to decide something.

The current management of customary forests in the Datuk Laksamana Raja in the Sea region is very partial and has not yet been received with a device clearly related to the determination of customary forests by the state making the status of customary forest rights considered appropriate in the community.

IV. CONCLUSION

From the results of the study it can be concluded that the recognition of Indigenous forests in the Territory of Datuk Laksamana Raja in the Sea is based on the historical approach inherent as a power in the time of Datuk Laksamana or Raja in power which is then continued by the heirs of his descendants. current customary forest management in the Datuk Laksamana Raja in the Sea region as a concrete case that occurs is very partial in nature and has not been followed by clear tools as a mechanism for the determination of customary forests that need to be legalized by the state so that the status of customary forest rights creates uncertainty in the community.

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