

Legal Protection for Kajang Indigenous Society in Bulukumba Regency South Sulawesi

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Abstract--The problems that examined in this research were (1) to find out and to discover form of legal protection for indigenous society interests in perspective of Kajang customary law, (2) to find out and to discover form of legal protection for individual interests in perspective of Kajang customary law, and (3) to find out and to discover determinant factor in legal protection for Kajang indigenous society. 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 result of the research showed that (1) Basic legal protection for Kajang indigenous society in perspective of Kajang customary law namely "*Pasang Ri Kajang*" with principle of legal protection was "*Tallasa kamase-masea*", facilitate of legal protection was "*a'borong*", and ritual custom were in form of *tunu panroli*, *tunra*, and *tunu pasau*. (2) The form of legal protection for Kajang indigenous society interests in perspective of Kajang customary law were *pa'nganroang*, *a'nganro ri sapo*, *ru'matan* (give offerings to ancestors spirit), and *tapakkoro*'. The form of legal protection for individual interests in perspective of Kajang customary law were *a'borong*, *tunu panroli*, *tunu pasau*, and *tunra*. (3) The determinant factors in legal protection for individual and Kajang indigenous society namely (a) *pasang ri kajang* and life principle of *kamase-masea*.

Keywords-- Legal protection

I. INTRODUCTION

The idea of legal state based on principles of democracy and social justice in Indonesian, is an idea that seems to be based on perception from founders Republic of Indonesia towards history that faced by Indonesia under the rule of feudal kings who are very

oppressive. Similarly, the experience of colonization by Japan that oppressed nations and sucking the resources in Indonesia also became motivating factor towards awareness of the founders Republic of Indonesia about the need to build legal State based on the principle of democracy and social justice in a society united Indonesian nation.

In relation to the principle of democratic constitutional state, Tumpa argues that "the principle of Indonesian constitutional state is a legal state aspired by the founders of the nation, it also reaffirmed in third amendment of 1945 Constitution of the Republic of Indonesia and it set forth in Article 1 Paragraph 3 (Lectures in front of Doctor Study Program Students at Hasanuddin University, on 2010).

The principles of legal state are contained in 1945 Constitution of the Republic of Indonesia. Nusantara [1]. Argues that "a legal state can be realized if it meets several requirements, among others: a) the existence of a state government system based on people sovereignty, b) and the existence of *check and balances* system between executive, legislative and judicial institutions, c) the existence role of community members to supervise the making and the implementation of wisdom that was done by the Government, d) the actions of the government should be based on hukum positif (positive law), e) the existence of free and independent judiciary, f) the existence of guarantee towards human rights and g) the existence of an economic system that can guarantee an equitable distribution of resources that necessary for the prosperity of the citizens. These elements clarify the status and the function of the law in the state that is used as guide in government administration and as a tools to achieve goal and purpose of the state[2].

In relation to legal protection, 1945 Constitution of the Republic of Indonesia has guaranteed the protection of the rights of citizens, for example Article 28 D Paragraph (1), that is everyone has the right to get fair recognition, assurance, protection, and legal certainty and also equal treatment in law[3].

Article 28 G Paragraph (1) stated that everyone has the right to get personal protection, family, honor, dignity and property under his control and also sense of secure and protection from the threat to do or not to do something which is called human right. Article 28 I (2) that is every person has the right to be free from discriminative treatment on any basis and every person has the right to get protection from discriminative treatment. Article 28 I (3) namely cultural identity and the rights of traditional society are respected along with the times and civilization. Article 28 I (4) namely protection, progress, enforcement and fulfillment of citizens' rights are the responsibility of the State, especially the government. Article 28 I (5) that is to establish and to protect human rights in accordance with the principle of a democratic State, hence the implementation of human rights is guaranteed, regulated and set forth in Constitution.

Kajang indigenous community are spiritually led by *Ammatoa* and they guided on *pasang* that is sublime messages given from generation to generation from *To Manurung* (the first man in this world who descended from the sky). *Ammatoa* assisted by a number of customary devices, namely *ada' limayya* and *karaeng tallua*. *Ada' Limayya* is one of customary devices whose status is appointed by *karaeng tallua*. The members consist of five persons with separate tasks, such as (1) *galla pantama* works as a holder of glory and he also as a judge that representing *Ammatoa* in judging and deciding cases or disputes, 2) *galla kajang*, works as a ritual leader who representing *Ammatoa*, (3) *galla puto* works as spokesman who representing *ammatoa*, (4) *galla lombo'* works to control agriculture, and (5) *galla meleleng*, works to control fisheries (Sambu, 2016, pp.84-87).

Ammatoa is indigenous minority groups that lived in highlands of South Sulawesi with population approximately about 4.600 people who embraced Islam, but they still implement their traditional practice by ethnographers who are categorize as *animistic*. Because it is not in accordance with Islamic teachings, they mix it with ancient teachings (belief) that they believe, namely *patuntung* (Darmopoetra, 2014, pp.5 & Akib, 2003, pp.42). The word of *patuntung* is konjo dialect derived from word of "tuntung" which prefix is "pa" same with prefix "pe", in Indonesian which means "guide" or "student". So *patuntung* is someone who is studying *pangisengang* (knowledge) comes from *pasang ri kajang* that contains messages, guidelines or instructions that are adhered, followed, obeyed and practiced for happiness.

Based on explanations above, the researcher interested to examine about how does legal protection form for the interests of Kajang indigenous people

and individual in perspective of Kajang customary law and also what are determinant factors in legal protection for Kajang indigenous people?[4]

II. RESEARCH METHODS

his 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 in giving legal protection; (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. Legal Protection for Indigenous People Interest in Perspective of Kajang Customary Law

Basic of Legal Protection in Perspective of The high position of *pasang* for Kajang indigenous people has existed since Mula Tau as human ancestor and also as "vice" of *Tu Rie A'ra'na* on the earth and it get additions from generation to generation through people who get a guidance from *Tu Rie A'ra'na*, so that the content of *pasang* was none other than God idea "*Tu Rie A'ra'na*" and it conveyed to the man through his choices. *Pasang* on its position has a

function as value system, then it creates role (attitude and behaviour) Kajang indigenous people in facing their environment. Whereas if *pasang* has function as belief value system, then it will shape the mental of Kajang indigenous people to supernatural powers that are outside themselves, and the procedure of treating it and shaping their beliefs (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017).

Thus, the function of *pasang* becomes a measurement of whether something is "good" or "bad", or whether something is "allowed" or "not allowed" or whether something is going to "target" or "refuse" [5]. The choice of the oppositions will be determined by the community through recommendations of *pasang* values. The implementation of *pasang* was based on spirit of *kamase-masea*, that is self-surrender to *Tu Rie A'ra'na* (world and afterlife purpose) without showing the willing of community (self-surrender to *Tu Rie A'ra'na*).

1) The Principle of Legal Protection in Perspective of Kajang Customary Law

The life principle of *kamase-masea* as manifestation of their simplicity makes Kajang indigenous people identical with a term of *tallasa 'kamase-masea* or modest life (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017). *Tallasa' kamase-masea* in *pasang* became the principle of kajang indigenous life. They follow this principle and they do not expect more than their needs even though community resources strongly support them to life luxury. They prefer to keep the sources to be conserved and not to be exploited for individual needs. The indigenous community of Kajang established an institution to run *pasang* with full of mandate. Their supreme leader acts as a government executive in indigenous land who called as *Ammatoa*.

2) Legal Protection Facilities for Indigenous People in Perspective of Kajang Customary Law

a) *A'borong* as a container to solve all problems that occur in indigenous people of Kajang. It as customary justice recognized in Regional Regulation Number 9 Year 2015 about Inauguration, Recognition of Rights, Protection of Rights for Indigenous People *Ammatoa Kajang*. *A'borong* as a container or joint forum which attended by customary leaders and public figure. It is one way in handling, examining and deciding all problems that occur in indigenous community.

- b) *Tunu Panrali*, is customary ritual which is burning a crowbar and saying magical words to find or determine a perpetrator of the problem that occur in community. Each person asked to hold the burnt crowbar and if the one who holding it burns or blister on his hands, then he is the perpetrator.
- c) *Tunra* is a vow for parties that involved with the problem to give truthful explanation.
- d) *Tunu Passau* is conducted as the last way to solve the problem if: (1) the perpetrator did not attend *a'barong* ceremony; and (2) there is no evidence which consider hurt someone (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017).

3) Handling Legal Protection in Perspective of Customary Law

a) Ammatoa as Guard of *Pasang*

In attempt to provide legal protection for indigenous people at Kajang, then Ammatoa as indigenous stakeholders asked their society to believe *pasang ri kajang* which outline consists of three interrelated things namely: (1) *pasang* as life guidance with God (*Tu Rie A'ra'na*); (2) *pasang* as life guidance for human relationships with fellow human beings; and (3) *pasang* as life guidance in relation with the nature.

b) Ammatoa as Interpreter/*Pasang* Translator in Providing Legal Protection for Kajang Indigenous People

In order to provide protection for Kajang indigenous people, Ammatoa having a relationship with *Tu Rie A'ra'na* through *pa'nganroang* and inner approach or *tapakkoro'* (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017).

B. The Form of Legal Protection for Individual Interest In Perspective Of Kajang Customary Law

The indigenous people of Kajang uphold customary law. *Pasang* became their life guidance and as a rule that must be obeyed by the community. That was stated by the head of Tana Toa Village that "*punna rie tau anre mamminahang ri atoranga iamintu pasang berarti nulammanraki kampong na ammaraki ada*'. *Ahambangi kamponga punna rie tau allengkasa lalang mae ri kawasang jari injomi gunanna andingingni*." This means if there is a society not follow the custom or rule about *Pasang ri Kajang*, it means he will break the environment and custom. As consequence, the heat will hit that area, for example, if there is someone steal something in Kajang area, then Kajang society will carry out a

traditional ceremony called Andingini or cooling the nature (interview, on September, 25th, 2017).

Therefore, they believe that if there is an action or attitude that break *pasang*, it will bring disaster to the community environment and at the same time, it will affect human life like long dry season which makes the community failed in harvesting their rice, as it stated by Salam, Head of Tana Toa village, that: “Akodii lamung-lamunga, tala anjarii parea, anre ere, tala maingi battu bosia. Jari anggerangi kakodiang mae ounna rie tau anre namminahang ri pasanga ka marie ngasemo ri pasanga.” (This means the plant will be damaged, crops failures, prolonged drought, rain will not come down. (Interview, on September, 25th, 2017). Therefore, the person who break *pasang* will affect to the society, because all have been set in *pasang ri kajang*.

In daily life according to Ammatoa, there are some individual interest that must get protection according to Kajang customary law, such us murder, insult (kanai), women's issues (*bahine*), such as *silariang*, *pakatianang*, *massa bahine* and *sipa' ruarua*, seizure of inheritance and land turn, it means the land belongs together among brothers with use rights status. This is what should be captured where management system is every planting season, usually there is a brother or family that exceed the time of planting, whereas his time was over (interview, on September, 25th, 2017).

All forms of treatment above that occurred in Kajang Ammatoa customary area processed according to Kajang customary law as stated by Ammatoa that: “Injo pasanga ri Kajang nungjaria aturan tau lalanga ri embayya nu nabahas ngasemo injo lalang kunjo ri pasanga iamintu: (1) ajaran na parenta; (2) laranga; (3) ramalan, jari iangngase pak lengkasanga nu lalanga mae ri embayya memang harus ni selesaikan lalang mae ri ada'a ka gitte lalang mae nu rie pammarentata” (means *pasang ri Kajang* became the rule of Kajang indigenous community about: (1) doctrine and command; (2) prohibition, and (3) prophecy, so all cases violation of individual interest like steal must be solved based on customary law) (Interview, on September, 25th, 2017).

In fact, indigenous people belief is very high with any problems against individual interests to solve problems based on law mechanisms that decided by Ammatoa as indigenous stakeholders[6].

Related to violation cases of customary law, the criminal case rarely happen in this areas, meanwhile the most case is land case. If there is a case occur in community, then the customary law is first apply and afterwards the cas will be given to the police as stated by Ammatoa: “Gitte tau lalanga mae ri embayya nu riek aturan tersendiri, punna rie tau ak lengkasa

nipassalai. Nasaba rie memang aturanna, maingpi nipakmaing lalang mae ri ada'a nampa biasa nierangi ansulu ri polisia atau hukum negara” (means Kajang Indigenous communities have their own rules to solve all customary violations. If any member of the community commits a crime like steal, then he will be punished based on the rules, and if the problem has been solved by customary law, then the case will be given to the police to apply hukum positif (positive law) (Interview, on September, 25th, 2017).

C. The Determinant Factors in Legal Protection for Kajang Indigenous People

In attempt to provide legal protection for Kajang indigenous people, either in terms of legal protection for individual or community, it is not apart from determinant and obstacle factors. The determinant factors in legal protection, namely:

1) *Pasang* as System Value

Pasang as system value, *kamase-masea* becomes an indicator to measure something, whether it is good or bad, right or wrong. For Kajang indigenous people who has strong commitment on *pasang*, so it used as basic in behaving. Because *pasang* has been arranged and it has existed since *Mula Tau/ Tomanurung* as the vice of *Tu Rie A'ra'na* on the earth and it got slave from generation to generation through the people who got direction from *Tu Rie A'ra'na*.

Pasang as system value creating attitudes and community behavior in facing their environment. On the other hand, *pasang* as belief system has the power of punishment or sanction which is sacred, so that *pasang* creates mental attitude of the community against magical powers outside themselves and the procedure how to treat it, and also shape their belief on themselves[7].

The value of *pasang* is based on the spirit of *kamase-masea*, which is the attitude of surrender to *Tu Rie A'ra'na* with all good things for the world and afterlife purpose “Inne linoa pammiri-marianji, Ahera' pammantanggang kara'kang” (this world just for a while, the next day is eternal life) (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017).

2) *Kamase-masea* as a Strategy in Providing Protection

The life of *kamase-masea* for Ammatoa community in giving protection to maintain the survival of their community and in preserving the values that they make as life guidance.

The way of life of *kamase-masea* is chosen as ideal life, it very suitable to describe *pasang* values and to reach the highest position[8]. They belief that they are united with *Tu Rie A'ra'na*.

That is why we have to learn first if we want to do something, whether it against with the spirit of *kamase-masea* or not. To answer that, Kajang indigenous people waiting for the signal from *Tu Rie A'ra'na*, whether he gives prosperity to the country (Interview with Salam, Head of Tana Toa Village, on September, 25th, 2017).

IV. CONCLUSION

Based on results analysis and discussion of this research, the researcher draw conclusion as follows:

1. The basis of legal protection for Kajang indigenous people in perspective of Kajang Customary Law was "*Pasang Ri Kajang*" which the principle of legal protection was "*Tallasa Kamase-masea*", the legal protection facilities was *a'borong*, and custom ritual were *tunro panroli*, *tunra* and *tunu pasau*.
2. The form of legal protection for Kajang indigenous people interest in perspective of Kajang customary law were *pa'nganroang*, *a'nganro ri sapo*, *ru'matan* (give offerings to ancestor spirits), and *tapakkoro'*. Meanwhile, the forms of legal protection for individual interest in perspective of Kajang customary law were (1) *A'borong*, (2) Customary ritual (*Tunu Panroli*), 3. *Tunu Pasau*, and 4. *Tunra*.

The determinant factors in legal protection for individual and indigenous people of Kajang namely (a) *pasang ri kajang* as system value and (b) life principle of *kamase-masea*.

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