

RESEARCH ARTICLE

Indigenous People, Local Belief, and Its Protection in Indonesia: Case of Asmat Tribe Belief

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Abstract

Indonesia is a country consisting of many islands and many various tribes, language, customs or what we often call culture. The cultural diversity found in Indonesia is a proof that Indonesia is a country rich in culture. We cannot deny that regional culture is a first factor in the establishment of a more global culture, which we usually call national culture. So, on the basis of that all forms of a regional culture will greatly affect the national culture, and national culture come from regional culture, will greatly affect the local culture. Culture is a very valuable wealth because in addition to the characteristic of a region also be a symbol of the personality of a nation or region. Because culture is a wealth and characteristic of a region, so maintaining, preserving, and preserving culture is an obligation of every individual, in other words culture is a wealth that must be maintained and preserved by each tribe. In this discussion is expected to know about the customary law in the tribe Asmat by looking at various aspects. This paper is intended to analyze the local belief in Indonesia especially Asmat Tribe Belief and the legal protection. The paper analyzes the legal framework for the protection of local beliefs in Indonesia

Keywords: *Customary Law; Asmat Tribe; Local Belief*

1. INTRODUCTION

Legal words are familiar to our ears because in everywhere we live we certainly meet law in social life, surely, we will be bound by the laws that exist in our own region. Then do you

know what legal understanding is like? Laws are written regulations made by the government through its institutions. It is a legal understanding in the view of constitutionality. Not only that which is called law, but also there are still many laws that developed in society in an area whose form is not written that is customary law. Customary law is a law of the most and diverse, especially if we calculate the existing customary law in our country Indonesia. Customary law is a legal system known in the social life environment in Indonesia and other Asian countries such as Japan, India, and China. Customary law is the original law of the Indonesian nation. The source is the unwritten rules of law that grow and develop and be maintained with the legal consciousness of the people. Because are rules not written. And then customary law can adapt and elastic. Besides, it is also known that the customary law community is a group of people who are bound by the customary law order as a citizen together with a legal partnership because of the similarity of residence or based on descent (Sudarman, 1984; Saragih, 1984; Koentjaraningrat, et.al., 1993; Rahardjo, 2007).

Many people know the Asmat tribe then they do not know what is there. Asmat is a tribe in Papua. Asmat tribe known for its craft makes woodcarving. There are two inhabitants who live in the asmat tribe, inhabitants living in the interior and residents who live on the coast. They have a different way of life. Coastal populations are sourced again into two parts: the Bisman tribe is located near the river and the Simai is on the Nin River. Asmat tribe is the largest and most famous tribe in Irian Jaya, Indonesia. Their livelihoods are famous when making woodcarvings. Some ornaments / motifs are often and become the main theme conducted by the tribe Asmat is taking the theme of their ancestral tribe, commonly called *mbis*. But not only that or found other ornaments / motifs that resemble a boat or *wuramon*, which they regard as a vehicle carrying their ancestors in the realm of death. The Asmat tribe created wood helping to incorporate the spirits of their ancestors (Abubakar, 2013' Soerjo, 1984).

There are many conflicts between the Asmat villages. The most terrible is the way the tribe of Asmat killed his enemy. When the enemy kills, the corpse is brought to the chamber, then cut and distributed to the whole population

to eat together. They sing the song of death and beheaded. his brain wrapped by sago leaf and baked then eaten. now usually in one village inhabited approximately 100 to 1000 people. Every village has a single house and many family homes. Bujang house used for traditional ceremonies and religious ceremonies. Family homes are inhabited by two to three families, which have their own bathroom and kitchen. Asmat tribe has a very simple way to dress themselves. They only need red ground to produce a red color. to produce the white color they make from clamshell that has been mashed (Saptomo, 2010; Saleo, 2014); Asyhari, 2000).

While the black color they produce from smoothed wood charcoal. How to use was quite simple, just by mixing the material with a little water, the dye it can be used to color the body. In addition to culture, villagers *syuru* also very good at making carvings such Asmat tribe generally. Carving for the Asmat tribe can be a link between the present and the life of the ancestors. in each carving resembles the image and appreciation of their ancestors laden with the greatness of the tribe Asmat.

When viewed from the terminology, there are two opinions on the origin of this word *adat*. On the one hand there is the claim that custom is taken from the Arabic meaning habits. Meanwhile, according to Prof. Amura, this term is derived from Sanskrit because according to him Minangkabau people have used this term approximately 2000 years ago. According to custom comes from two words, *a* and *dato*. *A* means no and *dato* means something material. In addition to the above, there is also much debate from some experts on the definition of customary law, among others, from Van Dijk, Soejono Soekanto, Ter Haar, Sheikh Jalaluddin, and many others.

2. THEORETICAL FRAMEWORK

According to Van Dijk, Less precise when customary law is defined as customary law. According to custom law is a complex rule of law arising out of habit means that so long people can behave in a certain way so that the birth of a regulation accepted and also desired by the community. Thus, according to Van Dijk, customary law and customary law have differences.

Furthermore, according to Soejono Soekanto, customary law is essentially a customary law, but a habit that has a legal

effect (*das sein das sollen*). In contrast to the custom (in the ordinary sense), the custom, which is the application of customary law, is the deeds done repeatedly in the same form to (*Rechtsvaardige Ordening Der Samenleving*).

Ter Haar, famous for his theory of *Beslissingenleer* (theory of decisions), reveals that customary law encompasses all regulations that are incarnate in the decisions of law officials with authority and influence, and in practice, and obeyed wholeheartedly by those governed by the decree. Such a decision may be a dispute, but also taken on the basis of harmony and deliberation. In his writings Ter Haar also states that customary law can arise from the decision of citizens.

Sheikh Jalaluddin, explains that customary law is firstly a connection between the first rope and then, on the side or the absence seen from things done repeatedly. Customary law lies not in the event but on what is not written behind the event, while the unwritten is the provision of the necessity that lies behind the facts that epitomize an event with another event ([Anggoto, 2017](#); [Rahardjo, 2007](#); [Syafa'at, 2008](#)).

3. METHOD

This research is non empirical research, meaning that, the study only examines the case based on the research reports, and analyze based on online and offline medias. The study analyze the legal protection for local belief in Indonesia especially for Asmat Tribe, in the context of Indonesian customary law.

4. RESULT AND DISCUSSION

A. *The Concept of Religious-Magic for Local Belief in Indonesia*

There are many custom law styles in Indonesia. Customary law that existed in the tribe Asmat included in the pattern of *RELIGIUS-MAGIS* which means According to traditional Indonesian beliefs, every society is covered by supernatural powers that must be maintained so that people remain safe happy. There is no restriction between the world of birth and the unseen world and there is no separation between the various fields of life, such as human life, nature, ancestral spirits, and the lives of other beings. The existence of worship especially on the spirits of the ancestors as a

protector of customs needed for the happiness of society. Any activities or common actions such as clearing the land, building houses, planting and other important events are always held religious ceremonies aimed at the purpose and purpose of getting blessing and no obstacles and always work well (Steny, 2006).

The basic system belief tribe of the Asmat, Asmat tribe believes that he as the god of the mystical world that places the sun sink every sick. They believe that his ancestors once landed down on earth are precisely on a mountain. In addition, Asmat people also believe that in its territory there are three kinds of spirits that each have an evil character but dead, good, and evil. According to the myth of the Asmat who lived in the Gulf of Flamingo, the god was named *Fumuripitis*. Asmat people believe that in the environment where human beings are also silent various kinds of spirits that they share in 3 groups, namely:

- 1) *Yi - ow* or spirits of a good ancestor especially for the offspring.
- 2) *Osbofans* or evil spirits are considered occupants of certain kinds.
- 3) *Dambin - Ow* or an unclean demon (Steny, 2006; Bawu & Sugiono, 2009; Rizal, 2010).

The life of the Asmat is filled with ceremonies. The great ceremony involves the whole village community, which is always related to the ancestor spirits of honor as follows:

- 1) *Mbimbubu* (pole maker)
- 2) *Yentpokmbu* (yew house creation and inauguration)
- 3) *Tsyimbu* (manufacture and inauguration of a dimple boat)
- 4) *Yamasy pokumbu* (shield ceremony)
- 5) *Mbipokumbu* (Mask Ceremony)

This tribe believes that before entering heaven, the spirits of the dead will disturb humans. Disorders can be disease, disaster, even war. So, in order to save humans and redeem the spirits, those who are still living make sculptures and staged parties like party bus statues (*Bioskokombi*), masquerade parties, party boats, and parties of sago worms.

Spirits dan Magical powers: The spirit of Satan. Asmat people live very connected once with the natural surroundings. They have the belief that spirits, djinn, spirits, all of which are called demons, inhabits nature. These demons are classified into two categories:

- 1) The Asmat as a devil that can threaten the life and soul of a person believes Satan that endangers Satan's life that endangers life. Like the devil of a pregnant woman who has died or a demon that lives in a banyan tree, a spirit that carries disease and disaster (Osboan).
- 2) The Asmat community as a devil that does not endanger the life and soul of a person considers Satan that does not endanger the life of Satan in this category; it's just frightening and disturbing. In addition, Asmat people also know a spirit that is good, especially for the offspring, which comes from the ancestral spirits called yi-ow.

Magical power and Wizardly. The Asmat people also believed in the existence of magical powers, which were mostly in the form of taboo. Many things that is abstinent in carrying out daily activities, such as in terms of collection of foodstuffs such as sago, fishing, and hunting animals (Sumarto, 2017; Syaputra & Nasution, 2020; Pamungkas, 2018). This magical power can also be used to find lost items, stolen goods or show the thief the goods. There are also those who use this magical power to master nature and bring in wind, lightning, rain, and typhoons (Alting, 20011 & Patitinggi, 2003).

B. Legal Basis of the Validity of Customary Law

In the 1945 Constitution, none of the articles governing customary law. Therefore, the rules for the re-enactment of customary law are in the Transitional Rules of the 1945 Constitution Article II, which reads: "All State bodies and existing regulations still apply immediately, as long as there is no new one according to this Constitution". The Transitional Rules of Article II become the legal basis for the enactment of customary law. In the 1950 Constitution Article 104 states that all court decisions must contain the reasons and in the case of punishment to mention the rules of the Law and the customary rules on which the punishment is based. However, the 1950 Constitution does not exist yet, so it returns to the Transitional Rules of the 1945 Constitution (Thontowi, 2015; Suharyo, 2019). In Article 131 paragraph 2 sub b. I.S. states that for indigenous and alien Indonesian legal groups apply their customary law, but if their social interests need it, then the legislators can determine for them:

- 1) European law
- 2) European law that has been changed.
- 3) The law of several common classes and
- 4) The new law is a law that is a synthesis between their customs and laws of European law.

Article 131 is addressed to its law, not to judges who resolve disputes between Europe and the Earth Son. Article 131 Paragraph (6) states that in case of a dispute before the codification takes place it is their customary law, provided that when dealing with Europe then the applicable is European law. In Law No. 19 of 1964 article 23 paragraph (1) states that all judgments in addition to the court must contain the grounds and reasons for the ruling also must also contain certain articles of the relevant regulations or sources of unwritten law as the basis for judgment. Law No. 19 of 1964 is referred into Law No. 14 of 1970 on the Principles of Judicial Power because in Law no. 19 are implicit in the presence of too great a presidential intervention in the judicial power. In the General Elucidation section of Law No. 14 of 1970 mentioned that the meaning of the unwritten law is customary law. In Law no. Article 27 (1) affirms that judges as law enforcement and justice shall explore, follow and understand the legal values living in the community (Hitokdana, Handayani, Winarno, & Pradnyawan, 2018). From the above description can be drawn a conclusion that the basis of the enactment of customary law in Indonesia are:

- 1) Presidential Decree 5 July 1959, which became the basis of the re-enactment of the 1945 Constitution.
- 2) Transitional Rules Article II of the 1945 Constitution
- 3) Article 24 of the 1945 Constitution on power judiciary
- 4) Article 7 (1) of Law no. 14/1970 on the Principles of Judicial Power.

C. The Characteristic of Asmat Tribe in Indonesian Customary Law

The characteristics and customs of the Asmat tribe. The Asmat tribe is a tribe that in habits one of Papua's most famous regions in creating unique wood carvings. It turns out that not only that unique and interesting thing from the Asmat tribe, but there are also many other things that can be learned from this Asmat tribe. The characteristics of the

Asmat tribe. Asmat tribe has several typical characteristics, among others:

- 1) When viewed physically, the Asmat people have a tall, big and sturdy body with dark skin and hair. The shape of hair is generally curly and has a sharp nose.
- 2) The livelihoods of the Asmat tribe in general are fields such as yams, carrots, corn or sago planting. It also raises chickens and pigs. Often at one time the Asmat people hunt animals in the forest with the result is a wild boar, a bird or a chicken. Sometimes also fishing and looking for shrimp.
- 3) Asmat people usually decorate their bodies with red, black and white. The red color is derived from the red, black soil of charcoal and white from the shells that are destroyed.

Some Asmat customs, Asmat tribe like other tribes also has their own customs, such as:

- 1) Birth

At the time of birth there is nothing special like the rest of the tribe. New-borns are only cleansed with a bamboo cord called a nil.

- 2) Marriage

In a wedding ceremony, the ritual is very simple. An Asmat man who wants to marry a woman must "buy it" by offering dowries in the form of antique plates and money that is the value equated with Johnson's boat. This boat is usually used for fishing. If a man gives a dowry that is less than the price of Johnson's ship, then he is still allowed to marry, just must keep paying the remaining debt of the dowry.

- 3) Dead

The customary ritual of the Asmat's death may be to make most people shudder when the deceased is the chief. The bodies of heads of tribes will be mummified and displayed in front of traditional houses. But if ordinary people who died will be buried as usual. The death ceremony is accompanied by weeping and singing in Asmat. In the past, one member of the deceased's family would be cut off one finger. But now the habit has begun to be abandoned.

- 4) Government system

The Asmat tribe has a highly regarded tribal chief and chief. All the duties of the head of the tribe must be in

accordance with the agreement of the people, so the relationship between the chief and the community is quite harmonious. If the chieftain dies, then the leadership is left to another family clan that is respected by the citizens. Leadership can also be handed over to those who succeed in winning the war.

5) War

Asmat tribe uses weapons of bow and arrow. In the past there was an agreement that the winner of the war would bring the dead enemy to the village and then the corpse would be cut and eaten together. His head will be decorated. The Asmat believe that their power will increase if they eat enemy flesh. But now the practice is no longer there. That is some description of the Asmat tribe who inhabit Papua region, in fact there are still many data owned by Asmat tribe. However, this paper is limited only to customary law, perhaps there have been some other data that may support the sentence sequence of this paper.

5. CONCLUSION

A wide variety of cultures and customary laws owned by tribal groups in Indonesia. It is all a regional culture as well as cultural and customary law of national property that is clearly preserved. One tribe Asmat, Asmat tribe is a tribe who inhabit the Papua region. Asmat tribe has several cultures and customary laws from various aspects of life, among others: about birth, war, death, government system, and belief system. For example, from the belief system, the Asmat tribe still adheres to animism and dynamism. But after the entry of foreign groups like the missionary group, now the tribe of Asmat many also follow the religion of Islam and Christian. Cultural area is the main factor of the establishment of national culture, and then everything that happens in local culture will greatly affect the national culture. On that basis, we all have an obligation to maintain, preserve and preserve the culture of either local culture or regional culture and national culture, because culture is part of the nation's personality. So keep it well and preserve it in earnest so as not to have or move the cultural hand to the tribe, nation or other countries.

6. DECLARATION OF CONFLICTING INTERESTS

The Author declares that there is no potential conflict of interest in the research, authorship, and/or publication of this article.

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9. REFERENCES

- Abubakar, L. (2013). Revitalisasi Hukum Adat Sebagai Sumber Hukum dalam Membangun Sistem Hukum Indonesia, *Jurnal Dinamika Hukum* 13(2), 319-331.
- Alting, H. (2011). Penguasaan Tanah Masyarakat Hukum Adat (Suatu Kajian terhadap Masyarakat Hukum Adat Ternate). *Jurnal Dinamika Hukum*, 11(1), 87-98.
- Anggoro, T. (2017). Kajian Hukum Masyarakat Hukum Adat dan HAM dalam Lingkup Negara Kesatuan Republik Indonesia. *Jurnal Hukum & Pembangunan*, 36(4), 487-498.
- Asyhari, M. (2000). Pemberdayaan Hak-Hak Rakyat atas Tanah. *Jurnal Hukum Ius Quia Iustum*, 7(13), 107-118.
- Bauw, L., & Sugiono, B. (2009). Pengaturan Hak Masyarakat Hukum Adat di Papua dalam Pemanfaatan Sumber Daya Alam. *Jurnal Konstitusi*, 1(1), 104-132.
- Colbran, N. (2010). Realities and challenges in realising freedom of religion or belief in Indonesia. *The International Journal of Human Rights*, 14(5), 678-704.
- Hitokdana, S., Handayani, I. G. A. K. R., Winarno, D. W., & Pradnyawan, S. W. A. (2018). The implementation of special autonomy in the Papua Province in public health policies in order to strengthen the unified Republic of Indonesia. *Health Notions*, 2(11), 1110-1116.
- Koentjaraningrat, K. et.al. (1993). *Membangun Masyarakat Terasing di dalam Masyarakat Terasing di Indonesia*. Jakarta: Gramedia Pustaka Utama.
- Pamungkas, C. (2018). Building Social Resilience on Asmat People: Social and Cultural Perspective. *Kapata Arkeologi*, 14(1), 111-122.
- Patittingi, F. (2003). Peranan Hukum Adat Dalam Pembinaan Hukum Nasional dalam Era

- Globalisasi. *Majalah Ilmu Hukum Amanna Gappa*, 11(13).
- Rahadjo, S. (2007). *Biarkan Hukum Mengalir: Catatan Kritis Tentang Pergulatan Manusia dan Hukum*. Jakarta: Penerbit Kompas.
- Rahadjo, S. (2010). *Penegakan Hukum Progresif*. Jakarta: Kompas.
- Rizal, J. (2010). Perkembangan Hukum Adat Sebagai Living Law Dalam Masyarakat. *Jurnal Ilmu Hukum Amanna Gappa*, 16(1).
- Saleo, A. (2014). Pengakuan Masyarakat adat Tentang Hak Ulayat. *Lex Privatum*, 2(1).
- Saptomo, A. (2010). *Hukum & Kearifan Lokal-Revitalisasi Hukum Adat Nusantara*. Jakarta: Grasindo.
- Saragih, D. (1984). *Pengantar Hukum Adat Indonesia Edisi II*. Bandung: TARSITO.
- Soerjo, W. (1984). *Pengantar dan Asas-asas Hukum Adat*. Jakarta: P.T. Gunung Agung.
- Steny, B. (2006). Plurasisme Hukum: Antara PERDA Pengakuan Masyarakat Adat dan Otonomi Hukum Lokal. *Jurnal Pembaruan Desa dan Agraria*, 3(3).
- Sudarman, D. (1984). *Asmat: Menyingkap Budaya Suku Pedalaman Irian Jaya*. Jakarta: Sinar Harapan.
- Suharyo, S. S. (2019). Perlindungan Hukum Pertanahan Adat di Papua dalam Negara Kesejahteraan. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 8(3).
- Sumarto, S. (2017). Constitutional protection of religious freedom and belief for indigenous peoples in Indonesia. *International Journal of Business, Economics and Law*, 12(4), 44-50.
- Syafa'at, R. (2008). Kearifan Lokal dalam Masyarakat Adat di Indonesia. *Jurnal Publica*, 4(1).
- Syaputra, M. Y. A., & Nasution, M. (2020). Legal Protection of the Constitutional Rights of the Indigenous Faith Believers in Indonesia. *Pertanika Journal of Social Sciences & Humanities*, 28(2).
- Thontowi, J. (2015). Pengaturan masyarakat hukum adat dan implementasi perlindungan hak-hak tradisionalnya. *Pandecta Research Law Journal*, 10(1).
- Undang-Undang Dasar Republik Indonesia Tahun 1945
Undang-Undang Dasar Sementara 1950
Undang-Undang Nomor 14 Tahun 1970 tentang Ketentuan-ketentuan Pokok Kekuasaan Kehakiman (Lembaran

Negara Tahun 1970 Nomor 74, Tambahan Lembaran
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*Culture is the
arts elevated to a
set of beliefs*

Thomas Wolfe

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