

The Existence of Customary Law as the Local Wisdom of the Kampung Kuta Customary Law Community in Protecting and Managing the Environment

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Abstract. We can understand the local wisdom that exists in a community as noble cultural values that usance to regulate the order of people's lives wisely. This wisdom is not only in the form of cultural norms and worth, but also all elements of life in it since becoming representations of the way of life. Likewise, the unique cultural life of the indigenous law community of Kuta village is a community that still firmly holds and carries out traditions with the supervision of Duncan and its traditional leaders. This study aims to look into the values of local wisdom of the indigenous people of Kuta village that have been institutionalized until now, especially traits in protecting and managing the environment. The approach method in this research is empirical juridical or legal research and can also be called field research. This research seeks to identify the laws that exist in society. The concept of legal pluralism no longer develops in the realm of the dichotomy between state legal systems. At this stage of development, legal pluralism emphasizes the interaction and co-existence of various legal systems that affect the work of norms and legal processes in society. In the customary law community of Kuta Village in Karangpaningal Village, Tambaksari District, Ciamis Regency, which is represented in the tradition of building residential houses, enforcing prohibition forests, respect for sacred places, and trust in their ancestors.

Keywords: Local Wisdom, Kuta Village Customary Law Community, Protection and Management, Environment.

1. Introduction

The development of faster and harder growth led to the oblivion of the background of the birth of the law. For a moment we look back at the history of legal development in the world, especially in Indonesia, that can be ascertained that the law was born, lived, grew, and developed in a society that has strong views and ideologies as a source of foothold for unwritten regulations. However, it grows and develops and is maintained as a custom from ancestors through its ancestors. These habits are lived continuously from generation to generation. Habits become traditions in life, and society, both as individuals and groups, so the customs of a specified group are created.[1] In the development of national law, the role of customary law was important. Because the domestic law to be formed, is

based on the applicable customary law. Customary law is an unwritten and dynamic law that can adapt itself to the development of human civilization itself. Law strongly influenced by non-legal factors such as values, attitudes, and views of society are commonly referred to as legal culture/ culture. The existence of this legal culture/culture is what causes differences in law enforcement between one society and another.

Customary law contains very traditional properties. That the regulation of customary law is generally by the people is considered to have originated from the legendary ancestors (only found from the stories of the parents). Customary law is subject to change. Change is made not by abolishing and replacing those regulations with others abruptly because such an act would be contrary to the nature of religious customs. But change happened through the influence of one-on-one events. Customary law regulations must be well-worn and required by customary leaders (especially by customary chiefs) in certain situations of daily life and events, often with unknown consequences for changes, changes in customary regulations, and often people thinking that the old rules remain in force for new circumstances.[2]

Indigenous peoples are a unit of society in an autonomous customary territory, where they regulate their living systems independently, such as legal, political, economic, and so on. Indigenous peoples are also defined as an indigenous community unit that was born or formed by the community itself, not formed by other forces, for example, the unity of the village with the Village Community Resilience Institute.[3]

Satjipto Rahardjo stated that nowadays we cannot put positive law in the face of customary law because customary law has been summarized as national law and this positive law is built from this wealth. Customary law is a wealth to build national law but that does not mean that customary law is maintained in terms of its integrity in national law. This will emerge as the national law of Indonesia its own. In this case, a question arises about the existence of customary law in Indonesian positive law. In its development, only part of customary law can be used in our positive legal environment, while the rest is taken from other elements of the law. In addition to those contained in the 1945 NRI Constitution, elements of customary law can also be absorbed in jurisprudence or court decisions. There is a temporary opinion among scholars of customary law that says that customary law only has legal value when it is born through jurisprudence because, with this determination, accepted rules obtain legal sanctions to be maintained through the courts.[4]

Local wisdom is the legacy of our ancestors in the value system of life that is integrated with the form of religion, culture, and customs. In its development, the community adapts to its environment by developing wisdom in the form of knowledge or intention, and equipment, combined with customary norms, cultural values, and activities to manage the environment to meet their living needs. If we look at the evolution of man's relationship with nature in the past, a harmonious relationship formed called pan cosmism humans strive to live in harmony with nature. In the view of man at that time, nature was great and sacred therefore it had to be maintained so that there was no damage to nature and had negative repercussions for the man himself. In realizing the idea, man creates pamali-pamali or ethics of how to act and behave towards nature.

Most ethnicities in the country have these rules referred to as environmental wisdom. Local people who live in balance side by side with nature have hereditary inherited knowledge about how to meet the needs of life without destroying nature. The traditional wisdom of their respective regions is one of the cultural heritages that exist in Indonesian society had been carried out for generations by the community group concerned, explaining that from the environmental side the existence of traditional local wisdom is very beneficial because it is directly or indirectly in maintaining the environment and preventing environmental damage. Local wisdom as a collective product of the community functioned to prevent human pride and greed in exploiting natural resources without destroying the sustainability of life. Improving the quality of environmental management requires the ethical commitment of local communities with stakeholders in adaptive behavior utilizing natural resources supported by pro-environment development policies.[5]

In traditional villages, there is always pamali (a kind of law or rules of the game) in the form of recommendations and prohibitions that must be obeyed by all residents. Generally, it is intended to maintain harmony or harmony, both harmony between fellow citizens and with the surrounding nature.

Their laws seem very simple, not complicated, and can be implemented and implemented. The tangible manifestation of the application of local wisdom observed in the customary law community of Kuta Village has a protected forest (Leuweung Gede) covering an area of 40 hectares which is known to be still in a very maintained condition. Kuta Village, located in Karangpaningal Village, Tambaksari District, Ciamis Regency, is steadfast in maintaining hundreds of years of ancestral traditions that frame the lives of its people.

The tradition that is still held by the residents of Kuta Village is the observance of maintaining the forest functions as a source of water and landscape for the village, customary rules imposed for those who enter the sacred forest area. Leuweung Gede can only be entered every Monday and Friday. Those who enter must not wear jewelry, footwear, black-and-black clothing, and uniforms of civil servants and their positions. It is not allowed to spit and take anything in the forest. This local wisdom led them to win the Kalpataru award in 2002 for their achievements in preserving protected forests (Leuweung Gede). Local wisdom as a foundation does not mean that must exclude policymakers (rulers). But what needs to be sharp is the synergy between the local community and the ruler. The government's attention to Indonesia's current environmental conditions has made good progress. The birth of Law Number 32 of 2009 as a refinement of Law Number 23 of 1997 is an extension of article 33 of the 1945 NRI Constitution deserves appreciation. Here it can be seen that there is good faith from policyholders who contribute and care about environmental problems that are increasingly concerning.

2. Problem Formulation

- 2.1. What are the values of local wisdom of the indigenous people of kampung Kuta?
- 2.2. How is the representation of the local wisdom values of the indigenous people of Kampung Kuta that have been institutionalized to date, especially local wisdom in protecting and managing the environment?

3. Research Methods

This research uses a type of empirical juridical research called field research, which examines applicable legal provisions and what happens in reality in society. Or in other words, it is a study carried out on the actual situation or actual circumstances that occur in civilization intending to know and find the facts and data needed after the required data is collected.[6] In empirical juridical research, the intended juridical is the law seen as the norm or *das sollen*), because in carrying out the analysis in this study using legal materials (both written and unwritten rule or both primary, secondary, and tertiary legal materials. While empirical is to see the law as a social, cultural reality or *das sein* because the data used primary data obtained directly from the research location.[7]

4. Results Of Research And Discussion

4.1. Local Wisdom Values of the Kuta Village Customary Law Community

The existence of this customary law has been officially recognized by the state of its existence but its use is limited. Referring to article 18B paragraph 2 of the 1945 NRI Constitution states “The State recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are alive and by the development of society and the principles of the Unitary State of the Republic of Indonesia is regulated in law” that means that the state recognizes the existence of customary law as well as its constitutional rights in the Indonesian legal system. In addition, regulated in Article 3 of Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles. “The exercise of customary rights and similar rights of indigenous peoples, so long as in reality still exist, must be such that they are under the national and State interests, which are based on the unity of the nation and must not conflict with other higher laws and regulations.”

Local wisdom consists of two words: wisdom is the same as wisdom, and local means local. In general, local wisdom can be understood as local ideas that are wise, full of wisdom, and of good value, which is embedded and followed by members of the community. In the discipline of anthropology is known the term local genius. Local genius was the first term introduced by Quaritch Wales. Anthropologists discuss at length this notion of local genius. Among others, Haryati Soebadio said that local genius is

also cultural identity, the identity / cultural personality of the nation that causes the public to be able to absorb and process foreign cultures according to their dispositions and abilities. Local wisdom has noble values that apply to the living system of the community to protect and manage the environment sustainably. What is meant by the "principle of local wisdom" is that in the protection and management of the environment, it must pay attention to the noble values that apply to the living system of the community.[8]

Kampung Kuta is one of the eight traditional villages in West Java. Kuta Village is located in Karangpaningal Village, Tambaksari District, Ciamis Regency. This village is about 45 kilometers from the city center of Ciamis. This village is about 45 kilometers from the city center of Ciamis. Kampung Kuta consists of 2 RW and 4 RT with a land area of 97 ha bordered by Cibodas Hamlet to the north, Margamulya Hamlet to the west, and the south and east with the Cijolang River also the border of the West Java region with Central Java. The people of Kuta Village have a traditional house in the form of a stage roofed with rumbia and ijuk. The indigenous people of Kampung Kuta still adhere to the mandate of their ancestors, namely in preserving traditional houses, preserving protected forests, palm tree areas, springs, clean culture, and cooperation culture. Kampung Kuta is famous for its cultural references because it was recorded as the winner of the Kalpataru National level in 2002 for the Environmental Rescue category during President Megawati's tenure.[9] The local wisdom of the Kuta Village customary law community is still sustainable and maintained by the local community. This situation is because the people of Kuta Village still adhere to the mandate beliefs of their ancestors (karuhun). The mandates of these ancestors that are still maintained by the people of Kuta Village include:

- a. The house must be stilted and roofed with rumbia or ijuk (not permanent)
- b. The shape of the house is square and should not be sikon
- c. Deceased residents prohibited from being buried in Kuta Village
- d. Entertainment is prohibited from performing puppet art
- e. It is forbidden to visit sacred places other than Mondays and Fridays
- f. Entering encroached places (in protected forests) is prohibited to wear official attire or government uniform
- g. The color of the clothes should not be all black
- h. Traditional ceremonies that are usually held every year, namely:
 - 1) Nyuguh, held every Month of Mulud
 - 2) Hajat Bumi, held every time the kapat
 - 3) Babarit, held every time there is a natural event such as an earthquake
- i. Maintain and maintain sacred places
- j. Maintaining and preserving palm trees as the main source of livelihood
- k. Kuta people make palm sugar
- l. Maintaining spring water sources through the maintenance of perennial plants

4.2. Representation of local wisdom values of the Kuta Village Customary Law Community has been institutionalized until now, especially local wisdom in protecting and managing the environment

Representation is understood as a process or product of the meaning of a sign and can also be a process of changing abstract ideological concepts into concrete forms. The value of something depends on the way the individual presents it. Through representation, meaning is produced and exchanged between members of society. So it can be said that representation in a nutshell is one way to produce meaning. Hall revealed that representation is one of the important practices that produce culture, therefore the concept of culture has a central role in a process of representation.[10] Barker mentioned that through a process of representation, the world can be socially constructed and presented to us and by us in a certain meaning, so this representation then becomes the main study in cultural studies that focuses more on how the process of meaning representation itself. This representation must be accepted from the active and creative role of how a person interprets his world.[11]

Indigenous peoples are indigenous peoples of Indonesia. They existed long before the Dutch set foot on the archipelago. Based on a study conducted by a Dutch jurist, Ter Haar, the communion of indigenous peoples is the association of people's lives in one group. They interact with each other for a very long

time so they give birth to a guideline for how to behave in communities.[12, p. hlm 31] The guidelines contain regulations that have sanctions and are binding on indigenous peoples. It is legal and referred to as customary law.[13]

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) has guaranteed the existence of units of indigenous peoples and their traditional rights as long as they are alive and under the development of society and the principles of the Unitary State of the Republic of Indonesia as stated in Article 18B paragraph 2 of the 1945 NRI Constitution, even though it has not been explicitly explained regarding indigenous peoples. The picture of the indigenous peoples of the past is likely to have changed in the present. Indigenous peoples with customary rights in various places, especially in urban have begun to thin out and some no longer exist. Furthermore, Indigenous peoples are wealthy but not inanimate objects because there are humans in them. The state needs to protect, respect, and fulfill the rights of the human beings who have managed it. Indigenous peoples have contributed to the relay of information from generation to generation so that civilization is built.

Philosophically, recognition and respect for indigenous peoples also mean that the state must also recognize and respect the existence of indigenous peoples. The customary law that exists, lives, grows, and develops in Indonesia is dynamic and by the values of Pancasila. The preamble to the 1945 NRI Constitution contains points of mind that animate the national legal system consisting of elements of written law, unwritten law (customary law), and religious law. Customary law was a form of Indonesian folk culture that incarnates real and lively legal feelings among the people and reflects the personality of the Indonesian people and nation.[14]

The designation of the existence of indigenous peoples, in this case, is recognized in several rules, one of which is in Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles. In Article 3 paragraph 1 of the UUPA reads: "because of the provisions of Article 1 and Article 2, the exercise of such customary rights and rights, of indigenous peoples insofar as they still exist, must be under national and state interests based on national unity and must not conflict with higher laws and regulations."

The article not only indicates recognition, but rather a restriction on such recognition. On the one hand, the existence of indigenous peoples is recognized, but indigenous peoples are also restricted, the sentence implies that the existence of indigenous peoples may one-day experience extinction, so that at some point the existence of indigenous peoples is not legally recognized for their existence. With the legitimacy of the rules that regulate and protect the rights of indigenous peoples to forest management, indigenous peoples are directly involved in managing, utilizing and maintaining, and preserving forests and their ecosystems.

The recognition of customary forests as part of customary law communities, contained in the Constitutional Court Decision Number 35/PUU-X/2012, emphasized that customary forests are not state forests but rather, customary forests that have been owned by customary law communities for generations as long as they can be proven their existence bring great hope for indigenous peoples to get guaranteed legal protection of customary forests that have been designated as state forests. In addition, the Constitutional Court also affirmed that indigenous peoples are the owners of rights to customary forest areas. The Constitutional Court views that the recognition of the existence of indigenous peoples through local regulations is still relevant and unconstitutional as long as there is no indigenous people's law.

Legal norms made by individuals, namely executive power in the management of forest areas have constitutionally valid authority. Hans Kelsen, a legal positivist, puts it, that a state that has "legal" provisions is imagined as a person. The individuals are representations of the organs of the state that make up the law. An individual who becomes an organ of the state only means that actions he has committed have beneficial to the state, that is, to be a reference to the unity of legal provisions. If a norm of legal provisions is created by the legislation of other norms, then the individual who creates the law is an organ of the legal provisions, that is, the organ of the state. Thus, the individual in the public domain is decisive in every policy they will make, including wisdom in the management of natural resources and the environment of state forest areas and customary forests by indigenous peoples.

Indigenous peoples have a relationship between forest natural resource ecosystems, local wisdom, and environmental protection. In the context of the application of the principles of ecocracy to the strengthening of the constitutional rights of indigenous peoples as living law over the management of

customary forests in a constitutional juridical manner gains ground, and several local regulations that recognize the existence of customary law communities as the living rule, to manage customary forests based on local wisdom they have as the participation of indigenous peoples in the protection and environmental management of forest natural resources. Local wisdom is a conceptual idea that lives in society, grows and develops continuously in the consciousness of society, and functions in regulating people's lives from those related to sacred to profane or worldly life.[15] Local wisdom to create or preserve the environment based on beliefs or traditions (taboos, pamali, traditional ceremonies, etc.) shows that the relationship between indigenous peoples and the surrounding ecosystem is complicated and multi-dimensional.[16] Various types of natural resource management systems in Indonesia based on traditional wisdom are very diverse. However, in practice, not all local communities have this traditional wisdom.

Each has different characteristics derived from its understanding of the surrounding nature and adapting it to the practice of managing natural resources in various types of environmental conditions. The form that we can see, for example, how local communities manage forests. Therefore, the use of forests is not based on exploitative desires but rather based on efforts to maintain the balance and sustainability of forest resources. The protected forest (Leuweung Gede) according to the Kuta community is a protected forest area (customary forest or sacred forest) that is sacred by the community and the ancestors (ancestors) of Kuta Village. Kuta customary forest is an area of ±40 hectares and is located in the south of Kampung Kuta. A sacred forest is a natural forest that is still intact and guaranteed authenticity.

Forest management is carried out by the Kuta community by respecting the traditions of their ancestors so that the integrity and sustainability of the forest are maintained. People are prohibited from taking wood, branches, plants, and animals from the forest, even if the tree has fallen or the animal has died. Trees that have fallen were allowed to merge with the soil and become organic fertilizer for surviving plants. Customary forests are considered sacred and have religious value, people make pilgrimages to sacred forests accompanied or guided by Kuncen (caretaker/guide of protected forests). Pilgrimages were made to ask for life safety, blessings, domestic harmony, light mates, good at school, advanced efforts (successful work), avoiding danger, recovery from illness, and peace of life. Society is prohibited or taboo to make pilgrimages with bad intentions. Pilgrimage to the sacred forest can only be done on Mondays and Fridays from 08.00-16.00 WIB. Those who make a pilgrimage to the forest must comply with the prohibitions, namely, it is forbidden to wear jewelry and footwear (shoes/sandals), not to wear black clothes and government uniforms (safari), not to spit and throw away (small/large). People who make pilgrimages are prohibited from disturbing the flora and fauna (plants and animals) contained in the forest and are not allowed to take them. This shows that the ancestors of Kampung Kuta appreciated the existence of flora and fauna contained in the forest.

Monitoring and supervision of the implementation of customary rules are also carried out by all Kuta people. The community will notify the Duncan or traditional administrator if anyone violates the custom, then a warning and reprimand will be given by the Duncan or traditional administrator. If the violation is deemed important, then a ceremony will be conducted led by Kuncen in the customary forest to apologize to the ancestors/karuhun. The conditions that occur in Kuta Village show that the community has realized that forests have multipurpose value, namely having environmental protective functions and other uses, such as regulating water systems, protecting soil fertility, preventing floods and erosion, religious values, and habitats for animals, which is appropriate. Their customary forest management is carried out to maintain tree sustainability by allowing trees to grow and develop naturally. Forest resources are natural resources needed to protect Kuta Village from landslide hazards. The rules that apply to customary forests are the environmental wisdom of the Kuta community highly upholds the values of cleanliness and sustainability of the surrounding natural resources. This shows the maintenance of a good reciprocal relationship between nature and man so that the harmony and balance of nature become a mirror of these customary rules.[17]

The customary regulation regarding the protection of sacred forests is the manifestation of the ancestors' awareness that customary forests are a buffer area for the Kuta area. The location of the customary forest directly adjacent to the Cijolang river causes the customary forest to function to protect Kuta Village from the danger of landslides and water erosion due to the flow of the Cijolang river. Reduced crops in the forest due to felling trees and deforestation can cause critical land when the soil on the edge of the

river will be easily eroded by river currents which can cause landslides. The destruction of forests will also cause rainwater not to absorb into the soil and flow into rivers, causing water reserves in the soil to decrease.

Kuta people's compliance with customary rules that maintain and protect sacred forests is a form of their awareness to continue their ancestral heritage in maintaining forest sustainability. What the Kuta community has done is a concern and a form of participation in protecting natural resources and the environment. The Kutai community has played a role in controlling forest destruction and destroying forests so that they can maintain the function of the forest as a life support system for the region's ecosystem. The practices of utilizing natural resources carried out by the Kutai community have paid attention to the carrying capacity of their environment. The existence of customary forests has maintained the balance of water, air, and biota systems. Kuta's forest management has also protected and conserved other biodiversity. The integration of customary rules and environmental wisdom in people's lives has caused the preservation of the Kuta Village forest to continue maintained until now. Customary forest management is a form of protection carried out by the ancestors of Kuta Village for its area because it is directly adjacent to the Cijolang River. The efforts made by the Kuta Community in managing and preserving these natural resources are also contained and listed in the sustainable development action plan which are programs that will be carried out by the government as an improvement of the previous implementation.

5. Conclusion

In academic studies, the moral values of indigenous peoples are seen as a constituent of local wisdom (local genius/ local traditional wisdom). Local wisdom is a noble value that applies in the living system of the community too, among others, to protect and manage the environment sustainably. Until now, there are still many who underestimate the skills possessed by local people in cultivating nature. This is evident by the fact that few in the world of science know these local systems. The tangible manifestation of the application of local wisdom can be observed in the indigenous community of Kampung Kuta which has a protected forest covering an area of 40 héktar that known to be still in a very maintained condition. Kuta Village, located in Karangpaningal Village, Tambaksari District, Ciamis Regency, is steadfast in maintaining hundreds of years of ancestral traditions that frame the lives of its people.

The tradition that is still held by the residents of Kuta Village is the adherence to maintaining the forest that functions as a source of water and natural roof for the village, and the customary rules are imposed for them who enter the sacred forest area. The environmental wisdom of Kampung Kuta can be seen from the obedience and obedience of its people in carrying out ancestral traditions. Contemplating local wisdom does not mean going back in time or becoming a traditional society again, but looking for the pearls of the ancestors and making them on a handle every step forward. In other words, local wisdom can function as a "nourisher" of noble values that prevail in the order of people's lives to protect and manage the environment.

The interaction of local people with nature is like two sides of a coin, which cannot be separated from each other. Indigenous peoples view their environment as not just giving profits or providing income (benefits). But they see nature as one with themselves, they realize that when nature or the environment is damaged, the place where they live will be disturbed. So they will try their best to preserve nature or the environment. This means that there is a great sense of responsibility in them to maintain the balance of their environment.

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