

Interpretation of Regional Regulation No. 1 of 2021 on the Recognition and Protection of Indigenous and Tribal Peoples of the Truk Pintuni Regency

Anjaneya Prasad V, Pradeep Babu KV, Abey Abraham*

Faculty of Law, Sahid University, Jakarta, Indonesia

*Correspondence Author, Abraham.ab@gmail.com

Abstract: *As mandated by the 1945 Constitution of the Republic of Indonesia, the State recognizes, respects and protects the unity of the customary law communities and their traditional rights for as long as they remain in existence and through recognition and protection of indigenous and tribal peoples in accordance with the development of the people and the principles of the United Republic of Indonesia. With the enactment of the Regional Regulations on the Recognition and Protection of Indigenous Peoples in the Bintuni Bay Area, the Government automatically recognized the right to life and traditional customs that had existed for generations and could be exercised in corridors that complied with general norms. Bintuni Law School and the Law Department of West Papua carry out socialisation activities in Bintuni Bay Regency 1, 2021 Recognition and protection of Bintuni Bay Regency Customary Law Community so that indigenous peoples know that their rights are protected by the government in the form of regional regulations so that there will be legal certainty for whoever leads in the future.*

Keywords: Customary law community; Legal protection; Regional regulation.

1. INTRODUCTION

Customary institutionalization is an element of an indigenous community existence because it is an important point of indigenous peoples that existed long before the founding of the Republic of Indonesia, efforts to restore the position of indigenous peoples as public legal entities that are part of the government reappeared in Law no. 6 of 2014 concerning villages. Recognition and protection of the rights of indigenous peoples in Papua is one of the political steps that must be undertaken by the Papua provincial government in the context of carrying out the mandate of the 1945 Constitution in the context of fulfilling human rights and obligations that must be carried out by the State.

Teluk Bintuni Regency (Bintuni Bay Regency) is a regency of West Papua Province of Indonesia. It covers an area of 20,840.83, comprising administrative districts on both sides of Bintuni Bay, a gulf which separates the Bird's Hea; Peninsula and Bomberai Peninsula which form the main constituents of the province; The regency has seven tribes including Kuri tribe; Wamesa people; The Irorutu tribe; Sebyar tribe; Simuri tribe; Sough, and; Moskona tribe. The seven tribes have traditional rules which have been used to regulate their daily life. Recognition and protection over the rights of indigenous Papuans is an urgent need so that they can enjoy their inherent rights and are sourced from their political, economic, social and cultural structures, religious traditions, history, outlook on life, and customary law. Then a Regional Regulation is needed that regulates the Recognition and Protection of Customary Law Communities.

In accordance with the mandate of the 1945 Constitution of the Republic of Indonesia that the State recognizes and respects and protects the unity of customary law communities and their traditional rights as long as they are alive and in accordance with the development of the people and the principles of the Republic of Indonesia. Through recognition and protection of indigenous and tribal peoples, on the other hand based on Decision of the Constitutional Court Case Number 35/PUU-X/2012 concerning Testing of Law Number 41 of 1999 concerning Forestry, in the framework of ensuring the existence of a just legal certainty towards the Customary Law Community and rights traditionally can be regulated in a Regional Regulation. Therefore, the existence of the Customary Law Community in the Bintuni Bay Regency still exists and is part of the community component that must be recognized and respected by the State. With the issuance of a Regional Regulation on the Recognition and Protection of Indigenous Peoples in the Regency of Bintuni Bay Number 1 of 2021 concerning Recognition and

Protection of Indigenous Peoples in the District of Bintuni Bay, it is necessary to conduct socialization to the customary law community in the Regency of Bintuni Regency.

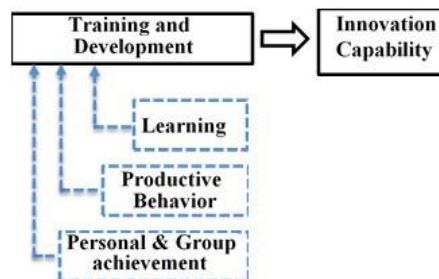
The enabler of the innovation is the innovation capability [14] within an organization which aids to have a sufficient and sound innovation management system, may be sector or industry specific, if not firm specific. Most importantly, innovation capability is the criteria that brings sustained competitive advantage to organizations [15]. Innovation capability is defined as the skills and knowledge added to effectively absorb, master and improve existing technologies and to create new ones [16]. Researchers [16] defines that innovation capability is proposed as a higher-order integration capability [16] [17] that is, the ability to mold and manage multiple capabilities. Organizations possessing this innovation capability have the ability to integrate key capabilities and resources of their firm to successfully stimulate innovation [16].

2. METHODS

The method used is the tutorial class, transferring knowledge and may be used as a part of a learning process. More interactive and specific than a book or a lecture, a tutorial seeks to teach by example and supply the information to complete a certain task. The tutors gave an explanation to the indigenous people, students of the Bintuni School of Law. In its implementation, this activity is carried out to provide socialization to participants on the Recognition and Protection of Indigenous Peoples.

The target in this activity is the Bintuni Bay indigenous people students of the STIE Bintuni Faculty of Law as a tertiary institution in the Law in the area of activity because it is hoped that in the future there will be a change of mindset about indigenous peoples in knowing the Regional Regulation of Recognition and Protection.

This activity took place on Saturday-Sunday, February 22- 23, 2020, at STIE Bintuni. In addition to the instructor's support, this community service activity was also accompanied by the Head of the West Papua Province Legal Bureau, as well as the Chair of the STIE Bintuni Bay Law Department. Because indigenous peoples have unequal educational levels, the activities do not start with pre-test and post-test but instead directly conducted counseling and discussion.



3. RESULTS AND DISCUSSION

In carrying out this activity, the Implementers collaborated with the Bintuni Law School of Law and West Papua Province Law Bureau.

The form of the activity was carried out in the form of a discussion that was guided by the moderator of the Head of the STIE Bintuni Department. This class tutorial was attended by 48 participants and came from indigenous community leaders, traditional leaders and students.



One week before the activity begins, the organizer with STIE Bintuni is coordinating with the West Papua Province Law Bureau as the jurisdiction of the activity, things are done in the form of administrative requirements, materials to be provided to participants, as well as implementation accommodation, The organizer then visits the location, STIE BINTUNI, to provide guidance / socialization on the regulation on the recognition and protection of indigenous and tribal peoples in the Bay of Bintuni Regency and the forms of its implementation.

The socialization is carried out by giving lectures on topics that have been prepared, followed by question and answer session. In the question and answer session opened, things happened as expected, the questions raised by the participants on average showed their lack of knowledge about the Regional Regulation. From a number of questions raised, it was also understood, that the participants did not understand the regulation because it had not been socialized, which basically required cooperation from all parties, not only the government but also the community, especially indigenous peoples, but more importantly starting from themselves.

During the session, the tutors were able to obtain information, that there were some participants who knew that the regulation had been issued by the local government but had not been socialized so that the implementation of the regulation was not optimally effective in reaching the target, this showed that the information absorbed by them through the media was not good and fast because the average indigenous people are people who are not yet familiar with communicating with officials in this case government officials.



Question and answer session explores participants' knowledge, information / material presented to participants in the socialization of the Regional Regulation on Recognition and Protection of Indigenous Peoples in the Regency of Bintuni Bay including 1). Traditional rights which are communal or individual rights which are inherent in indigenous peoples, originating from their social and cultural systems, especially rights to land, territories and natural resources, 2). Customary law which is an unwritten rule or norm that lives in the Customary Law Community, regulates, is binding and maintained, and has sanctions, 3). Customary institution is a set of organizational and / or customary government institutions that grow and develop together with the history of customary law communities to regulate and resolve various life problems in accordance with applicable customary law. the existence of customary law communities consisting of land, water, and waters along with all natural resources contained therein which are determined by certain limits, whose control, management and use are carried out according to customary law,4) Customary territory, hereinafter referred to as ulayat rights, is the living space

which is the place of existence of customary law communities consisting of land, water, and waters along with all the natural resources contained therein which are determined by certain limits, which are mastery, management and its use is carried out according to customary law,5) Customary land which is parcels of land contained in customary territories whose types and arrangements are determined based on customary law, 6). Customary forest which is a forest area and all forest resources within the territory of customary law communities, 7) Mapping of customary territories is used for a process of translating landscapes into cartographic forms based on the history of origin and governance of a customary area in accordance with the knowledge system and practices that apply within the relevant adat law community.8). Local wisdom is ideas, values, and views that are wise, traditional knowledge, full of wisdom, good values that live and develop in an indigenous community and are adhered to by members of their community. Traditional justice which is a judicial institution that lives in the daily practice of customary law communities and functions to resolve customary disputes based on customary law and / or new mutually agreed norms;9). The Customary Law Community Consultative Body, is a body that is formed and jointly established by tribal customary institutions whose membership comes from the representatives of each customary law community and has the duty to facilitate and mediate conflict resolution among fellow customary law communities and between customary law communities and parties others outside the customary law community and / or to deliberate on the interests of the customary law community and their achievements.

The rights of indigenous peoples themselves include a). customary rights; b). clan rights to land and natural resources and their use, c). the right to obtain compensation from outside use of natural resources, d). the right to obtain benefit sharing from natural resources, genetic resources and traditional knowledge by outsiders, e). the right to take care of oneself, f). the right to exercise customary law and justice, g). the right to spirituality and culture, and h). other rights regulated in statutory regulations. while the obligations of indigenous peoples include: a). obey and implement the values and norms of customary law, b). obey and implement agreements that have been made with other parties, and e). other obligations stipulated in the legislation.

Recognition and protection of indigenous and tribal peoples aims to: a). provide legal certainty regarding the existence, customary territories, customary forests and the rights of indigenous peoples, b). strengthen access, participation and improve the welfare of indigenous and tribal peoples towards their land, water and natural resources through customary institutions, c). realize the management of indigenous territories in a fair, useful and sustainable manner based on customary law; d). managing customary institutions and traditional leadership, e). realize democratic social life and respect each other and recognize social and cultural differences, f). realize development policies that recognize and protect the rights of indigenous and tribal peoples in the bay bintuni district, and g). realizing dispute resolution based on the recognition and protection of the rights of indigenous peoples and their customary law.



From the explanation of the implementation of these community service activities, the Bintuni Regional Regulations has been socialized as well as indigenous peoples have begun to understand that their existence, rights and obligations are protected by the law so that their activities in life can use their rules made and believed to be hereditary by continuing to refer to social norms in general

Table 1: Summary of Correlation Analysis

	Variable	T & D	Learning	PB	P/G Ac
Correlation value	IC	0.811*	0.674*	0.510*	0.866*
St.Sig. (p value)		0.000	0.000	0.000	0.000

*indicates statistical significance at the 5% level (2-tailed)

Table 2: Summary of Regression Analysis

	<i>Variable</i>	<i>T & D</i>	<i>Learning</i>	<i>PB</i>	<i>P/G Ac</i>
B value	<i>IC</i>	0.658*	0.455*	0.260*	0.750*
St.Sig. (p value)		0.000	0.000	0.000	0.000
R ² value = 0.514					
*indicates statistical significance at the 5% level (2-tailed)					

4. CONCLUSION

Recognition of indigenous and tribal peoples in the regional regulatory framework as a place to carry out social empowerment or community empowerment to manage and protect their customary territories. Communities as the subject of development, especially indigenous and tribal peoples must certainly pay attention to their rights in each development process, bearing in mind their involvement and role as well as those in development, it is necessary that the Regional Government recognizes, protects and empowers existing traditional institutions for generations and/or forms new institutions in the Customary Law Community according to local customary law based on adat agreements.

It was evident that less number of researches have been done on innovations, and hardly few researches are available in Sri Lankan apparel industry. Thus, the researcher suggests this subject area for future researchers as a beneficial area to further explore. Due to limitations the researcher has focused on three elements of training and development which direct innovation capability of employees. Hence, the researcher suggested to continue the present study with more elements in different set ups. Other than that the researcher suggested to conduct a deep study regarding the creativity and the role of HRD on innovative based culture which may build a new concept or a model to the existing literature. And it will strengthen the function of HR more and more.

The customary law community settlement area in Teluk Bintuni Regency can be designated as a Customary Village in accordance with statutory provisions and provide legal certainty regarding the existence, customary territories, customary forests and customary law community rights; strengthen access, participation and improve welfare

ACKNOWLEDGEMENT

I would like to express my highest appreciation to those who have provided assistance for this activity to (1). Head of the West Papua Province Legal Bureau. (2) Chairperson of the Law Department of STIE Bintuni, all of whom have provided assistance in the form of licensing activities at STIE Bintuni, and (3) Head of Institute for research and community services Sahid University who has provided facilities to carry out this activity.

REFERENCES

- [1] Boedi Harsono, Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya, Jilid 1, Hukum Tanah Nasional, Djambatan, Cetakan Kelima, Jakarta, 1994
- [2] Peraturan Daerah Kabupaten Teluk Bintuni Nomor 1 Tahun 2021 Tentang Pengakuan Dan Perlindungan Masyarakat Hukum Adat Di Kabupaten Teluk Bintuni
- [3] Stefanus Laksanto Utomo, 2011, Penguasaan Tanah Masyarakat Adat (Studi Budaya Hukum Masyarakat Samin Di Desa Baturejo, Kecamatan Sukolilo Kabupaten Pati Provinsi Jawa Tengah). Disertasi Program Doktor Ilmu Hukum Universitas Diponegoro
- [4] Undang-Undang Negara Republik Indonesia Tahun 1945.
- [5] T. Davila, M. J. Epstein, R. Shelton, Making Innovation Work: How to Manage it, Measure It and Profit from It.
- [6] New Jersey: Pearson Education, 2006
- [7] J. Fagenberg, Innovation, Technology and the Global Knowledge Economy: Challenges for Future Growth,
- [8] University of Oslo, Copenhagen, 2006
- [9] M.C.J. Caniels, H. Romjin, "Does Innovation matter for LDCs?" Discussion and New Agenda, CAS Workshop, Oslo, Norway, 2007, Available: <http://www.citeseerx.ist.psu.edu>
- [10] The Global Innovation Index 2017: Innovation Feeding the World, Ithaca, Fontainebleau, and Geneva, Cornell University, INSEAD, and WIPO, 2017, Available: <http://creativecommons.org/licenses/by-nc-nd/3.0/igo/>
- [11] Industry Export earnings: Central Bank report, Central Bank of Sri Lanka, 2017

-
- [12] W.A. Wijewardena, 2015, Available: http://www.apbsrilanka.org/articales/27_ann_2015/3_27th_W.A.Wijewardena.pdf
- [13] Daily Mirror, 2018 March, Available: <http://www.dailymirror.lk>