



URGENCY OF BANNING BOTOR BUYANG IN KWANGKAI TRADITIONAL CEREMONY OF DAYAK TUNJUNG BERNUAQ CUSTOMARY COMMUNITY KUTAI KARTAEGARA EAST KALIMANTAN

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Abstract:

One of the indigenous communities that still maintains its traditions and cultural values is the Dayak Tunjung Benuaq tribe, located in Kutai Kartanegara Regency, East Kalimantan. One of the customary values that still applies and is maintained in this indigenous community is a ceremony known as the Kwangkai Traditional Ceremony, which is held routinely every year. The Kwangkai traditional ceremony is a traditional ceremony, one of which is to preserve the customary values and culture of the Dayak Tunjung Benuaq tribe. The Kwangkai traditional ceremony is actually a sacred ritual that aims to maintain the cultural values of the Dayak Tunjung Benuaq indigenous community. Botor Buyang is a game activity carried out during the Kwangkai traditional ceremony in the indigenous tribe as a sacred ritual to honor the ancestral spirits of the Tunjung Benuaq indigenous people, Kutai Kartanegara, East Kalimantan. Initially, Botor buyang was considered an inseparable part of the Kwangkai traditional ceremony. However, because Botor Buyang contains elements of gambling, namely there is an element of luck, Botor Buyang is considered gambling. Therefore, Botor Buyang must be prohibited because it harms the sacred values of the indigenous people and is not in accordance with the values of community life. To carry out this prohibition, a Regional Regulation must be formed on traditional activities, including the Kwangkai traditional ceremony by including a prohibition on gambling in any form, so that the police and other law enforcers have a legal basis in prohibiting and prosecuting perpetrators of gambling in the traditional ceremony.

Keywords:

ceremony, Dayak, traditional

1. Introduction

One of the indigenous communities that still maintains its traditions and cultural values is the Dayak Tunjung Benuaq tribe, located in Kutai Kartanegara Regency, East Kalimantan. One of the customary values that still applies and is maintained in this indigenous community is a ceremony known as the Kwangkai Traditional Ceremony, which is held routinely every year. The Kwangkai traditional ceremony is a traditional ceremony, one of which is to preserve the customary values and culture of the Dayak Tunjung Benuaq tribe. The Kwangkai traditional ceremony is actually a sacred ritual that aims to maintain the cultural values of the Dayak Tunjung Benuaq indigenous community.

One of the activities in the Kwangkai traditional ceremony that from a positive legal perspective is interesting to conduct a legal review or study of the Botor Buyang tradition, which often involves residents from outside the village holding the Kwangkai traditional ceremony. (1) In the implementation of the Kwangkai traditional ceremony, which is attached to the Botor Buyang activity, it often causes disturbances in public order and security, leading to criminal acts, such as fights, drunkenness, and so on. The impact caused by the Botor Buyang activity is certainly not desired

by the community or the security forces. The existence of Botor Buyang in the Kwangkai traditional ceremony also causes controversy, between those who agree that the activity should still be carried out on the grounds that it is an activity that is attached to the Kwangkai activity that has been passed down from generation to generation, but some people say that Botor Buyang must be banned, because it violates the sanctity of the noble values of the Dayak Tunjung Benuaq indigenous community. The urgency of banning Botor Buyang activities in the Kwangkai traditional ceremony in the Dayak Tunjung Benuaq indigenous tribe, Kutai Kartanegara, East Kalimantan.

2. Research Method

This research is a normative legal research.(2)

3. The Controversy of the Botor Buyang Tradition in the Kwangkai Traditional Ceremony as a Tradition of Preserving Cultural Values

The Kwangkai ceremony is a traditional tradition that is passed down from generation to generation as an effort to preserve the cultural values of the Dayak Tunjung Benuaq indigenous people, East Kalimantan, especially in Kutai Kartanegara Regency. In the Kwangkai ceremony, there are positive and negative sides, giving rise to pros and cons in society. The positive side is that the Kwangkai ceremony is a tradition of preserving the noble values ancestors, while the negative side is that the ceremony is followed by the Botor Buyang tradition, which is suspected of being accompanied by activities that are legally prohibited, namely activities that contain elements of gambling. The form of gambling that is often carried out by indigenous peoples in the Kwangkai ceremony with the Botor Buyang tradition, includes cockfighting with spurs. Even in the Riek Liau area, the Botor Buyang activity in the Wara Ritual procession is identified with gambling activities by the people in North Barito Regency.(3)

This opinion is also confirmed by some indigenous people, who say that the Botor Buyang game is not a gambling activity, because there is no element of profit or loss, all the results of the game are donated to the family who held the event, because the event requires a fairly large budget. In the game, no one benefits, in fact no party feels disadvantaged because the gambling activity is only a tradition of the Dayak indigenous people to collect money to help cover the costs used to organize Botor Buyang and Saung Salakang. In fact, according to most people, the Botor Buyang activity is only based on the desire to enliven traditional ceremonies.(4)

In contrast to the opinion of some indigenous people regarding the activities of Botor Buyang and Saung Salakang, which are part of traditional ceremonies, the Kutai Kartanegara Police, East Kalimantan, consider these activities to be a form of gambling. This is proven by the frequent involvement of police officers to stop the activities of Botor Buyang and Saung Salakang, which are attached to traditional ceremonies, such as the Kwangkai ceremony in Kutai Kartanegara, East Kalimantan. The form of police attention to the activities of Botor Buyang and Saung Salakang which are considered gambling prohibited by law, is the several persuasive efforts of the police officers with the leaders of the Dayak indigenous community. As stated by the Chairman of the Kutai Kartanegara DPRD, the Samarinda Police and Kutai Kartanegara Police, in a meeting with the DPRD and Dayak traditional leaders throughout East Kalimantan, said that this meeting was the second meeting attended by a team from the police, attended by representatives of the Kutai Kartanegara (Kukar) Police and Samarinda Police and representatives of traditional leaders related to the Botor Buyang traditional activity which is viewed as gambling".

In the meeting, Baharudin Demmu said that Botor Buyang is a game where players bet to determine a choice from several choices, the correct choice and becomes the winner, and the losing player will hand over his bet to the winner. Based on these concrete facts, in theory the Botor Buyang game fulfills the elements of a criminal act of gambling, because there is an element of luck, the losing party hands over his bet to the winning party and the winner gets his bet. According to one of the Dayak traditional leaders, Botor Buyang and Salakang are part of a traditional ritual that cannot be ignored. Furthermore, it was said that Botor Buyang is not gambling that is held with the intention of winning, so it contains elements of luck, but is just an ordinary game.(5)

Recently, the Botor Buyang game has been questioned again by the Police, even the Police have appealed for the Botor Buyang traditional activity to be stopped, because it is considered a gambling activity that violates the law stipulated in Article 303 of the Criminal Code, which is essentially a crime, because it offers or provides an opportunity to gamble. On the other hand, Bahrudin Demmu said that the Dayak indigenous community still considers that Botor Buyang, which contains elements of gambling, is still considered a Dayak tradition which is part

of traditional activities passed down from generation to generation. Even the Dayak traditional leaders have held a large Dayak Customary meeting throughout East Kalimantan. In the large meeting, it was decided that Botor Buyang is part of a traditional ritual that cannot be separated, but the police have not yet considered this decision as a valid legal umbrella to eliminate interference from security forces.⁽⁶⁾

Regarding the controversy over the Botor Buyang traditional activity as a form of gambling, the Kutai Kartanegara DPRD noted that based on the results of the Hearing Meeting (RDP) that had been held, the Botor Buyang traditional ritual cannot be separated from the customs of the Dayak Tribe. However, what needs to be emphasized is that any activity if there is a legal umbrella, of course there is no prohibition. Meanwhile, Botor Buyang is considered to be disturbing the community, because there is an element of gambling in it. Furthermore, Commission I of the East Kalimantan DPRD is trying to review the decision of the results of the grand deliberation and will be correlated with the Regional Regulation (Perda) on the Protection of Indigenous Peoples, which will then be coordinated so that it can be strengthened by the Governor's Regulation (Pergub)".

4. Dynamics of Dayak Indigenous People's Views of Botor Buyang as a Gambling Game

Dayak indigenous community has also begun to realize that Botor Buyang, which is a part of their customary activities, cannot be separated from government intervention, with all its consequences, especially related to the legal system used to maintain public order and security. The legal system is related to crowd permits, because Kwangkai traditional ceremony activities are public crowd activities that require licensing systems to control community activities that have the potential to cause disturbances to security and order. In addition, the licensing system also functions to guarantee legal certainty regarding law enforcement by law enforcement officers related to regulating community activities that involve many people and have the potential to cause disturbances to security and order, even though it is only a traditional tradition passed down from their ancestors. In its development, the Botor Buyang game has been considered an activity that violates the sanctity of the Kwangkai traditional event, which is actually a ritual of worship to ancestral spirits and worship of supernatural powers believed in by the indigenous community, which is full of magical religious values.⁽⁷⁾

5. Prevention of Botor Buyang Through Permits in the Kwangkai Ceremony

To prevent the Botor Buyang game in the Kwangkai traditional ceremony, it can be done by using a licensing instrument. With licensing, the Kwangkai traditional ritual activities can be attached to requirements including a prohibition on carrying out activities that contain elements of gambling, such as the Botor Buyang game, which used to be part of the traditional ceremony activities, but is now a criminal act. If the permit requirements for the Kwangkai traditional ceremony activities are attached to a prohibition on games that contain elements of gambling, it will make it very easy for the authorities, in this case law enforcement officers (police) to enforce the law, if in the Kwangkai traditional ceremony activities, it turns out that Botor Buyang is included, then law enforcement officers can take repressive action against the organizers and perpetrators of the Botor Buyang game. So far, the Kwangkai traditional ceremony activities have never included the Botor Buyang game as part of the traditional ritual activities, in other words, the permit for the Kwangkai traditional ritual activities does not include the Botor Buyang game which contains elements of gambling, but gambling is always present at every Kwangkai traditional activity of the Dayak Tunjung Benuaq tribe, as if they were uninvited guests, the participants in the Botor Buyang game came by themselves without an invitation or notification.

6. Urgency of Regional Regulation Prohibiting Botor Buyang in Kwangkay Traditional Ceremony

According to Article 30 paragraph (4) of the 1945 Republic of Indonesia Constitution, the police have attributive authority in law enforcement in order to maintain public security and order, protect, serve and serve the community, of course have duties and responsibilities towards the security and public order situation, have considered that gambling in the traditional community environment is considered a criminal act, because gambling is prohibited by law, namely Article 303 of the Criminal Code.

In his statement, one of the representatives of the indigenous community said that one of the agendas of the Dayak Customary Council (DAD) of South Kalimantan is to restore the purity of the Dayak Custom of South Kalimantan, including eliminating gambling at traditional ceremonies. Of course, this statement is interesting and is a statement of

attitude that should be appreciated, considering that gambling is an act that is prohibited in various aspects of life, especially in modern civilization.(8)

The aruh adat ceremony is a sacred ritual of the Dayak indigenous people as a form of gratitude to the Creator and also an offering to the spirits of the ancestors, who have given safety and life. The aruh adat ceremony also aims to always be given safety and protected from all kinds of dangers and disasters to the indigenous people. However, in its development, the aruh adat ritual, its purity cannot be maintained, as a result of the influence of modern civilization. One of the influences of modern civilization on the aruh adat ceremony is gambling, such as dice games, cockfighting, drinking parties, and even drug use, which of course tarnish the purity of the Dayak tribal ritual. However, there are still some indigenous people, even traditional leaders in this case certain damang and traditional heads, who consider that gambling with all its bad consequences and influences is still claimed as an inseparable part of traditional ceremonies.

The existence of Regional Regulation Number 4 of 2016 has provided a legal basis for the prohibition of gambling in traditional rituals in Hilir Sungai Tengah Regency. In addition, it also provides a legal basis for the police, TNI, and local governments to take firm action against violators of the Regional Regulation, especially in relation to the implementation of gambling during traditional rituals. Firm action against anyone who gambles and wherever gambling is carried out, including in the customary law community area, is in accordance with the Instruction of the Chief of the Republic of Indonesia Police (Kapolri), when providing direction regarding the handling of security and public order situations via video conference to all ranks, from the Headquarters level to the regional police throughout Indonesia.

7. Conclusion

Botor Buyang is a game activity carried out during the Kwangkai traditional ceremony in the indigenous tribe as a sacred ritual to honor the ancestral spirits of the Tunjung Benuaq indigenous people, Kutai Kartasagara, East Kalimantan. Initially, Botor buyang was considered an inseparable part of the Kwangkai traditional ceremony. However, because Botor Buyang contains elements of gambling, namely there is an element of luck, Botor Buyang is considered gambling. Therefore, Botor Buyang must be prohibited because it harms the sacred values of the indigenous people and is not in accordance with the values of community life. To carry out this prohibition, a Regional Regulation must be formed on traditional activities, including the Kwangkai traditional ceremony by including a prohibition on gambling in any form, so that the police and other law enforcers have a legal basis in prohibiting and prosecuting perpetrators of gambling in the traditional ceremony.

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