



The Essence of Kalosara Value in Tolakinese as a Source Of Legal Awareness in Society

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ABSTRACT:- This study aimed to determine: (1) the extent of the character value contained in Kalosara in order to be reasonable regarded as a source of laws awareness of society (2) to examine the relevance of Kalosara value to the law product (Government) as a form of synergy (3) to examine the implementation of Kalosara value as a source of legal awareness in the society. This research was conducted by the empirical normative type. The primary data source through interviews to the informant, the distribution of questionnaires to the respondents, and secondary data sources was a literature review documentation (literature). The data analysis was qualitative analysis through reasoning and legal argumentation. The results of the research show that (1) kalosara as Ancestors of Tolaki in the tenth century has characters of strong value dan should be maintained, and conserved as legal awareness resource, because of the values which considered to be the most valuable for Tolaki people are unity, entity, justice, cooperation, and welfare which accommodated in the custom object of kalosara. This is as the reflection of nation spirit (volgheist) in accordance with the basic values of five principles, basis, and the objective of modern law nowadays, (2) Relevance between legal product (Regional Regulation) to accommodate the needs / rights of the people, to accommodate the Kalosara values have not developed optimally, because Kalosara value has not been legitimated as a source of law for any positive legal determination in order the synergy form has not optimally realized. (3) Generally people know and implement customary procession of Kalosara in social reality, but only to the extent of compliance with the implementation of the custom (Ritual) itself. In this context means that people do not understand and realize the real value of Kalosara as a legal source which based on legal awareness in society.

Keywords:- kalosara value, tolakinese, legal awareness

I. INTRODUCTION

A Poetic Philosophy of Tolaki people "*INAE KONA SARA IYETO PINESARA, INAE LIA SARA IYETO PINEKASARA*", means anyone who appreciates custom, anyone who appreciates the custom, they will be appreciated, but who does not appreciate the custom then it won't be appreciated. Actually recognition to the existence of customary law in Indonesia have existed before independence the republic of Indonesia and until now formally the reinforcement of the customary law is in monumental occurring in the post of new order was by doing amendments to the Constitution Republic of Indonesia in 1945, which there is a reinforcement back the existence of local law (customary law and /or local law), it is expressly regulated in article 18B (paragraph 2) Constitution of 1945 as follows;

- (1) the state recognize and respect the units of local governments that completely specialized or special arranged by the law;
- (2) the state recognize and respect unity of community law customary and the traditional right as long as is alive and accordance with society development and principle the unitary state of Indonesia which arranged in the law

Reinforcements to the existence of customary law can be found also on some products legislation, such as Law No. 5 in 1960 concerning the basic rules of Agrarian main points included that customary law as the next basis of Indonesian legal ground, Law No. 4 in 1996 about the guarantee right which recognizes the separation of ownership rights to land with attached on it horizontally (*Horizontale Scheiding*), this concept is

derived from customary law. Law No. 22 in 2004 about the principles of judicial power with the assertion that the judge has to explore, follow and understand the values in society. Next, the Law No. 32 in 2004 which give chance for possible autonomy widely.

Law Number 39 in 1999 concern to the Human Rights Article 6 expressly states:

- a) In order to enforce human rights, differences and needs of customary law society must be cared for and protected by the law, society, and government.
- b) Cultural identity of customary law communities, referred to law of land rights and be protected, go well with the era development.

Related to the existence and urgency of customary law in the dynamics of national development recent years, the Government has issued some of the relevant policies, such as:

1. Minister of Domestic Affairs Regulation No. 39 in 2007 on Guidelines for Social Organization of Cultural Facilities, the palace and the Customary institution in Preservation and Development of Regional culture,
2. Minister of Domestic Affairs Regulation No. 39 in 2007 on Guidelines for Preservation and Mining of local Customs, Culture and Social Value of people, and
3. Collective Regulation of the Domestic Affairs Minister and the Minister of Culture and Tourism No. 42 in 2009/40 in 2009 about Guidelines for Cultural Preservation.

Furthermore, the existence of customary law can also be seen by appearing the movement customary law of peoples who originated from convening Congress of Customary law Peoples of the Archipelago on March 15 to 22, 1999 by declaring that every March 17 as the Day of Resurrection and the formation of Customary law Peoples Customary law People's Alliance of the Archipelago (AMAN). The following political statement that tell promise to prepare a set of rules, regulations would regulate specifically the existence and public recognition custom, as President Susilo Bambang Yudhoyono's statement on the commemoration the international day of people custom on 9 August, 2006 [1].

In the paradigm of *Bhinneka Tunggal Ika* as the legal basis for the development of national laws, as implied in the 1945 Constitution, particularly the opening of the 1945 Constitution. Whereas in the application of formal procedures and which is fully maintenance is turned over to the local knowledge or local laws such as customs and traditions institutionalized and accepted as a whole [1]. Attached to the tradition values, then the discussion about the existence of customary law is very important, as a dynamic legal system and as the *living law* of Indonesian people, customary law contains the values that should be removed to be used in legal relationship today. *Horizontale Schijding* and *Production sharing* are derived from customary law system turned out to be a legal discourse of problem-solving today [2].

Tolakinese as a tribe in Indonesia until now its existence is factual recognized. There are at least 366 ethnic groups in Indonesia (Jaswan 1959). Among them there are 50 tribes who inhabited the island of Southeast Celebes. One of them is a "Male" tribe or commonly called "Tolaki", they settled in the area and surrounding Konawe and Kolaka region. From 366 ethnic groups, which "exist" according Hazarin (1977) [3], are only 250 ethnics since the Dutch colonial era until well into the independent Indonesian government, recognized as "Customary law People (*ZelfBerturende* and *VolksGemenschappen*), one of them is a tribe of Tolaki which has "Tolaki Customary law People", which called as the Kalosara Customary law as identity and ethnic characteristic of Tolaki [4].

Arsamid Al Ashur, stated that Tolaki people still consider Kalo as the Sacred cow and has supernatural, because the presence of this object is able to unity whether wishes/goals ,or protecting the rights for each member of Tolaki people, it's just the object that is able to unity the Tolaki people until now [5]. Nowadays, kalosara role has undergone displacement as Abdul Latif Parase Hatubi stated that there are still a lot of customary procedures only in oral form, which will end up swallowed by the period, if the cultural observer and young generation does not understand and learn it early, the future generations will lose track and ancestral culture will be extinct [6]. Similarly Abdul Rauf Sulaiman said that kalosara role has undergone displacement due to developments in science and technology, traditional leaders decision based on kalosara believed to reconcile the conflicting parties. As Muslims Su'ud [7], stated that the functional authority of the customary law of some dominant local ethnic groups in Southeast Sulawesi recently are starting intend to "degreasidan discredable" due to displacement of values and social norms in society. In addition, the application or implementation of customary law in each of the ethnic groups themselves tend to be differentiation gradually. As the result, the ideal function of customary law as normative institutions that regulate social order of life, slowly began to dim. In certain limits, these conditions have thought out the destructive effects in social life, such as the rampant of immoral laws, customs violations, and others.

From author's Preliminary observations discovered the presence of symptoms that Tolaki people still respect; implement customs tradition and customary law based on Kalosara. Yet, the mastering and understanding of the values in Kalosara has been reduced or decreased the quality. In order that the issue of the main problem on people conditions today, is there any values that of Kalosara can inspire, motivate, appearing law awareness in the society, in order the law is able to have ideal function.

Based on these descriptions, the research questions : (1). to what extent the character value contained in Kalosara in order to be reasonable regarded as a source of laws awareness of society?, (2). to what extent the relevance of Kalosara value to the law product (Government) as a form of synergy?, and (3). to what extent the implementation of Kalosara value as a source of legal awareness in the society of Tolaki people?

II. RESEARCH METHODS

This research was conducted by the empirical normative type. The primary data source through interviews to the informant, the distribution of questionnaires to the 217 respondents, and secondary data sources was a literature review documentation (literature). The data analysis was qualitative analysis through reasoning and legal argumentation.

III. RESULTS AND DISCUSSION

1. Kendari

South East Sulawesi province is located at the edge of the peninsula Sulawesi Island, with the capital city is Kendari. Kendari astronomically lies in the south of the equator between 3° 54'30"- 4° 3' 11" South latitude and range from West to East between 23' - 122° 23'-122° 39' East Longitude [8]. The land area of Kendari is located on Sulawesi island surround Kendari Bay. There is an island in the area of Kendari known as Bungkutoko Island. The wide of the Land area is 269.363 km² or 0.70 percent of the wide area of South east Sulawesi. In line with the development as trading center and seaport between islands, Kendari continues to grow into a capital regency as well as the capital of Southeast Sulawesi province, with a discharge of Law No. 13 in 1964. According to Government Regulation No. 19 in 1978 Kendari was established as an administrative city and developed into three sub-districts with an area of 187 990 km² covering District Kendari, Mandonga and Poasia [9].

2. Tolakinese

Southeast Sulawesi province colonized by four largest ethnic, one of the tribe is Tolaki, beside Wolio (Buton), Muna and Moronene tribes [9]. The population density is the number of inhabitants per square kilometer. Kadia is a town with the highest population density is of 5,184 inhabitants per km², whereas Baruga is sub district with the lowest population density of 405 persons per km². Tolakinese actually is derived from the two kingdom still siblings are Konawe and Mekongga kingdom. Those who come from the south may originate from the island of Java through Muna and Buton through entering the estuary Konawe'eha and continue to choose the location of settlements in Torea, Landono, and Besulutu. According to mythology story that develops among people Tolaki once built two kingdoms are Konawe and Mekongga, for each is built by two brothers were Larumbalangi and Wekoila. Tolaki tribes referred Mongoloid race if viewed from the characteristics of anthropological and archaeological heritage.

a. Characteristics of Kalosara Value as a Source Law awareness of Society

In the history of life Tolaki people there is a symbol of a civilization that is able to unite of various aspects of life, which is able to raise the dignity and honor those who are born of glorious values of Tolakinese ancestors was born of mind, reflected as sense creativity and intention to base on peace, welfare, togetherness, and subtlety in the community association, which they call "KALOSARA". Before the authors analyze the character of Kalosara value it is necessary to outline first the matters related to Kalosara, they are:

1. The meaning of Kalosara
2. The History of Kalosara
3. The Functions of Kalosara
4. The Using/Utilization of Kalosara

Kalosara literally consists of two words, namely Kalo and Sara. Kalo means a circular object, the circular binding way, and meetings or gathering activities in which the doers form a circle. As the circle objects Kalo made from rattan or other materials such as gold, iron, silver, thread, white cloth, roots, leaves of pandanus, bamboo, leather and buffalo skin. Osara word [9] can be interpreted as the rules about what is prohibited to be done and allowed to be done in individuals, families, communities, and state of life. From the opinion of two experts above, the authors also argued that Kalosara can be interpreted as:

1. Set of rules based on customary law of Tolaki which must be obeyed
2. Set of rules based on customary law of Tolaki are visualized in the attribute of custom objects such as a rattan circle, white cloth, and plaited mats container (*OKALO*).

Looking at the entire description of the answer to the problem of character Kalosara values, sense of values that is something as a result of philosophical thinking which is considered the most valuable, right, and wise by human beings. In their life Tolaki people also have a value that is considered the most valuable is called: (1) *Medulumepoko'aso* (the coalescence and unity), (2) *Ate putepenomoroha* (sanctity and justice), (3)

Morinimbu 'mbuundimonapambu'undawaro (wealth and prosperity). These three things which is viewed by the ancestors of Tolakinese as the goals, ideas and world views. These three cases can not be seen or touched in form, but can be perceived the benefits. When it associated with Koentjaraningrat point of view, then the precious value mentioned above is include in what it called as *culture system*, by A.Mattulada included in the category of cultural values. From the three values, *medulumepokoaso* value is at the top level (dominant/viscous) known by Tolaki people, with the reason if you see the background history of Kalosara extrinsic was influenced by the presence of small kingdoms at that time which fighting each other, then cause the desire of Wekoila to unify the small kingdoms. So that, at the time, the most valuable thing is how to create unity, peace, and cooperation.

Appearing of ideas, thoughts, concepts, which collect into the most precious values for the Tolakinese also strongly influenced by the entry of Hindu - Buddhist where one of the precepts is to know caste division, they are Brahmin, Knight, and Sudra caste. The value context in this term means that established the unity and integrity by all segments of society, whether upper class, middle, or lower class *Medulumepoko'aso* value also means the harmony establishment of family members that consists of the father mother and children. In a study of character *Kalosara* value, the writer wanted to connect Gustav Rudhbruch [10] point of view which mention the justice, expediency, and legal certainty as the three basic ideas of law or the law of three basic values which means it can be equated with legal principles. Then, the Juris call it as a legal purpose by Achmad Ali [11] classified into three conventional types, they are:

1. Ethical ideology, which assume that the principle purpose of the law is mere by to achieve the justice.
2. Utilitis Ideology, which considers that the principle purpose of the law is simply to create benefit or happiness for people.
3. Normative - dogmatic Ideology that assumes that the purpose of the law is simply to create the rule of law.

There is small difference between the opinions of the principles and purposes of the law itself. Radbruch teach the principles of priority, where the first priority is always consider to the justice, then the benefit, and the last is the rule of law. Linked to the value contained in *Kalosara*, after the writer observe, investigate, and learn, the writer provide the highest appreciation to the ancestral of Tolaki people because it turns out what are they thinking about, goals and opinion from the ancestral of Tolaki people since last fifth century until get in the twentieth century still can follow and adjust from the view of legal experts, in this context that the writer means was *Kalosara* value corresponding to the principles and purpose of the law is revealed by legal experts in the modern era today. *Kalosara* value is appropriate to the principles value of the five principles.

b. The Relevance of Kalosara Value with the Law Product (regional rules) of Kendari

Associated with the *Kalosara* value actually a philosophically all regional rules of Kendari has accommodate the unity value, justice, and prosperity. But each of those values must still be concreted.

But the writer needs to put forward that *Kalosara* as customary law of Tolaki in some sectors, as follows [6] :

1. The Land Law (*SARA INE WUTA*) .
2. The Marriage Law (*SARA INE TINA*) .
3. The Inheritance Law (*SARA INE POMBETIA'HAPO-HAPOINE ANAMATU'O or SARA INE PETIARIA*).
4. The Kinship Law (*SARA INE PEREEREHUNO TAMONO MEOHAI*)
5. Customary law Violations/Tribal offence (*SARA INE POSALAKIA or SARA INE POSUAHALAA*).
6. Procedural Law custom in the case of Procedures and Checking methods, Passing, and Administer the lawsuit of custom offence or the Civil Dispute of custom (*SAASARANO MONGGOTUHI OSARA*).

Based on the analysis of writer when assessing the relevance of *kalosara* value contained within the norms of customary law of Sara Wonua above with the existing regulations in Kendari last 3 years, it can be clarified in four points, as follow:

1. Land Affairs field (*SARA INE WUTA*)
2. Marriage field (*SARA INE TINA*).
3. Inheritance custom (*SARA INE POMBETIA'HAPO-HAPOINE ANAMATU'O or SARA INE PETIARIA*).
4. Kinship custom (*SARA INE PEREEREHUNO TAMONO MEOHAI*)

From all the rules that have really close relevance with *Kalosara* value is regional regulation of inhabitants' organization, Poverty, Green Open Space.

c. Implementation of Kalosara Value as Resources of Legal Awareness in Society

Kalosara as the life concept of Tolaki people is not merely as a mere symbol consisting of a coil of rattan, wicker tray and a white cloth, but more than that it should be a meaning which is applied in the social life of Tolaki people.

1). Knowledge of Law

After the writer shared a questionnaire in the field, then the obtained answers related to the law knowledge of Tolaki people, as follows:

Table 1. The respondent answer of the questions about their understanding of Tolaki custom object

No	The categorize answer	Numbers	%
1	Know/recognize the custom object "Kalosara"	190	87,6%
2	Don't Know/ no recognize the custom object "Kalosara"	27	12,4%
Total		217	100 %

Source: the Primary data which taken in 2012

Table 2. The respondent answer of the questions about Kalosara as law supremacy symbols of Tolaki

No	Total of respondents	Numbers	%
1	Know that Kalosara as law supremacy symbols of tolaki	150	69,1%
2	Don't Know that Kalosara as law supremacy symbols of tolaki	67	30,9%
Total		217	100%

Source: the Primary data which taken in 2012

Table 3. The respondent answer of the questions about their understanding of Kalosara equipment set

No	Total of respondents	Numbers	%
1	Know that sets of Kalosara consists of rattan coil, white cloth and plaited mats	115	53%
2	Do not know sets of Kalosara	102	47%
Total		217	100%

Source: the Primary data which taken in 2012

Table 4. The respondent answer of the questions about the history of Kalosara

No	Total of respondents	numbers	Percentage (%)
1	Know the history of Kalosara	117	53,9%
2	Do not know	100	46,1%
Total		217	100%

Source: the Primary data which taken in 2012

2). The Understanding of Law

The next step is writer performs the analysis about the law understanding of respondents to the Kalosara values by addressing some questions with the reason that writer provided in the following tables:

Table 5. Respondent understanding about the meaning of Kalosara as supremacy symbol of Tolaki customary law

No	Total of respondent	Numbers	Percentage (%)
1	Understand about:		
	a. Kalosara as sacred object	100	46,1%
	b. Kalosara as legitimation tools	40	18,4%
2	Do not understand	77	35,5%
Total		217	100%

Source: the Primary data which taken in 2012

Table 6. Respondent understanding about values contained in each set of attribute of Kalosara

No	Total of respondent	Numbers	Percentage (%)
1	Understand :		
	a. Learn from literature	40	18,43%
	b. Description of traditional leaders	90	41,47%
2	Do not understand	87	40,1%
Total		217	100%

Source: the primary data was taken in 2012

Table 7. The respondents' understanding about the law sectors in Kalosara

No	Total of respondents	Numbers	Percentage (%)
1	Understand :		
	a. Read the literature	55	25,3%
	b. Look the facts in the field	100	46,1%
2	Do not understand	62	28,6%
Total		217	100%

Source: the primary data was taken in 2012

3). The law taken

Table 8. The respondent answer of the questions about Kalosara as supremacy symbol of Tolaki customary law

No	Respondents' answer	Numbers	Percentage %
1	Agree	200	92,1 %
2	Do not agree	17	7,9 %
Total		217	100 %

Table 9. Respondents' answer about questions that Kalosara has meaning as religious magic value

No	Respondents' answer	Numbers	Percentage%
1	Agree	174	80,1%
2	Do not agree	43	19,9%
Total		217	100 %

Source: the primary data was taken in 2012

Table 10. Respondents' answer about questions that Kalosara has had displacement of value

No	Respondents' answer	Numbers	Percentage %
1	Agree	132	60,8%
2	Do not agree	85	39,2%
Total		217	100 %

Source: the primary data was taken in 2012

Table 11. Respondents' answer of questions about the important to maintain Kalosara

No	Respondents' answer	Numbers	Percentage %
1	Agree	205	94,4%
2	Do not agree	12	5,6 %
Total		217	100 %

Source: the primary data was taken in 2012

Table 12. Respondents' answer of questions if Kalosara put on regional regulation

No	Respondents' answer	Numbers	Percentage %
1	Agree	172	79,3%
2	Do not agree	45	20,7%
Total		217	100

Source: the primary data was taken in 2012

1. Legal Behavior

Examining the Legal Behavior, the writer would like to reiterate the views of Lawrence M. Friedman [12] that behavioral of law termed as *Legal Behavior* is defined as behavior that is influenced by the rules, decisions, orders, or legislation, issued by officials with the legal authority.

Next, the writer will present the results of research in the field that shows the legal behavior of Tolaki people in some criteria as follow:

Table 13. Respondents' answer of questions about pursuance form of Kalosara

No	Respondents' answer	Numbers	Percentage %
1	Maintain the existence of Kalosara	160	73,7%
2	Do not care about Kalosara	57	26,3%
Total		217	100 %

Source: the primary data was taken in 2012

Table 14. Respondents' answer of questions about the way to conserve Kalosara value

No	Respondents' answer	Numbers	Percentage
1	Read the literature which explain about tradition of tolaki	55	25,3 %
2	Conduct a research about Tolaki customary research by written	62	28,6%
3	To present Kalosara in each custom ceremony	100	46,1%
Total		217	100 %

Source: the primary data was taken in 2012

Table 15. Respondents' answer of questions about Kalosara form as supremacy symbol of Tolaki customary law

No	Respondents' answer	Numbers	Percentage %
1	Doing mediation through Kalosara	50	23,1 %
2	Giving a decision of traditional leader	32	14,7 %
3	Marriage through Kalosara ceremony	135	62,2%
Total		217	100 %

Source: the primary data was taken in 2012

IV. CONCLUSION

a. Conclusion

- The Ancestors of Tolaki in the tenth century has legitimated values which considered to be the most valuable to be used as a guide, leader for social life with a symbol of past glory (Primus Inter Pares) called **KALOSARA**, is a symbolic custom object consisting of:
 - Rattan coil, this value means unity and entity
 - White cloth, this value means fairness and sanctity.
 - Plaited mats, this value mean welfare and prosperity.

The character of kalosara value is very strong / thick and worth deserves to be maintained and preserved as a form of *volgheist* (spirit of Nation) in accordance with the basic values of five principles. **KALOSARA** is a symbol of peace, cooperation, unity, balance, welfare. This is a manifestation of the nature of customary law (Native Law) Indonesia, which consist of a communal nature, original, real mystical and magical religious and **KALOSARA** is able to follow the principle and purpose of the law was conceived by modern legal experts nowadays.
- Relevance between legal product (Government) of Kendari to accommodate the needs / rights of the people, to accommodate the **KALOSARA** values have not developed optimally, because **KALOSARA** value has not been legitimated as a source of law for any positive legal determination in order the synergy form has not optimally realized.
- Generally people know and implement customary procession of **KALOSARA** in social reality, but only to the extent of compliance with the implementation of the custom (Ritual) itself. In this context means that

people do not understand and realize the real value of **KALOSARA** as a legal source which based on legal awareness in society

b. Suggestions

1. **KALOSARA** as a symbol of the Tolaki ancestral glory in the past is also reasonably legitimized to the normative domains as a product of positive law in the form of local regulations. This is analogously with the mandate of the Constitution, the Regional Autonomy Law and Human Rights Law which mandates the reinforcement of customary law existence as one of source of law in the developing of positive law. If this can be realized, it means as a form of preservation to the local wisdom "**KALOSARA**".
2. **KALOSARA** As Cultural Products That the preservation depend on the attentive power of Customary law head (Pabitara , Putobu) which currently has generally elderly, it is expected to the local government to give attention in form of involvement the traditional head for inventory, collect the local wisdom of kalosara in written form, for example, to put in the Local lesson Curriculum (Mulok), in order that learners from elementary to middle grades has been equipped the philosophy of **KALOSARA** value.
3. The young generation ought to do various science and technology activities based on the philosophy of **KALOSARA** value. There are still many things associated with the local tribal wisdom of Tolaki which deserves to be studied.

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