

Review of Criminal Law on The Practice of Cockfighting Gambling In Civil Activities In Mamasa (Case Study of Mamasa Regency)

Salma Laitupa, Fadli Yasser

Faculty of Social and Political Science, Universitas Sulawesi Barat, Majene

Correspondent Email: salmalaitupa@unsulbar.ac.id

ABSTRACT

In customary activities in the Mamasa community, we can find an activity called Rambusolo, where this activity is a customary activity in every death event in honor of those who have died. In this study the authors used a type of qualitative research by visiting the research location and conducting interviews with informants who were considered competent and knew about the cases raised. The data sources for this research are primary data sources obtained from interviews and direct observation and also secondary data sources obtained from books and other literature as well as existing journals. Rambusolo is a traditional Mamasa regency activity which is still maintained today. In this activity, several traditional rituals are carried out, such as buffalo fights, cockfights, etc. In cockfighting activities there are several activities that use money fights in the form of gambling, while our positive law clearly prohibits it strictly in the Criminal Code, articles 303 and 303 bis.

Keywords: KHUP, Mamasa Custom, Cockfighting Gambling

INTRODUCTION

Indonesia is a country that adheres to plurality in the field of law, where there are several types of law that are recognized, such as western law, religious law and customary law (Soesilo, 1995). In the life of the nation and state, people from day to day experience various changes in their daily lives, both in terms of economic, social, cultural and the rules of life that they adhere to. As we know today that state law is a rule made by rulers with the consent of the people to regulate people's lives (Soekanto, 2020). In carrying out social interactions in the midst of society, there are conditions where habits that become traditions in a community become the main thing in carrying out these interactions. Not only that, often even a tradition becomes the main benchmark in carrying out certain activities related to custom. Customary law or matters relating to custom in Indonesia existed long before positive law existed in this country. This makes the interaction of society with other individuals or even with the surrounding environment governed by customs that grow and develop in certain communities (Surojo, 1968).

Article 18b paragraph 2 of the Constitution of the Republic of Indonesia states the state recognizes and respects customary law community units along with their traditional

rights as long as they are still alive and in accordance with the development of society and the principles of the unitary state of the Republic of Indonesia which are regulated in law (Tongat, 2009). This means that the existence of customary law that grows and develops in Indonesian society is recognized and has a legal legal basis. In several communities in Indonesia, in carrying out various customary activities, they are still very strong in practicing habits that have been passed down from generation to generation from their previous predecessors. As in the Mamasa Regency, West Sulawesi, this is an area that has carried out their customary activities to this day (Widyana, 1993).

In the Mamasa customary law area, which is still within the circle of the Toraja tribe, there are various customary ritual activities such as rambutsolo' (death) which are suspected of violating state law in the process of their activities. As stated by some members of the community, during the death ritual activities or Rambusolo' there are activities such as cockfights, buffalo fights which lead to gambling or the daily language of the people is ma'dadu (Patmawati, 2021). In these activities the community carried out various activities such as cockfights and buffalo fights which were suspected of violating the provisions of the criminal law regarding gambling, where each winner in these activities received money from the results of the game. Not only that, the benefits for each participant are increased by the skill in playing the means they use. On several occasions the local security forces conducted patrols and carried out raids on cockfighting arenas which led to gambling. However, on each occasion the community argued that the activities they were carrying out were a tradition from their predecessors which continued to be preserved. Article 303 of the Criminal Code (KUHP) clearly prohibits and imposes sanctions on anyone who gambles. It is stated in the article:

- (1) By imprisonment for a maximum of ten years or a fine of up to twenty five million rupiahs, whoever is not entitled to
 - 1e. Claiming a living by deliberately holding or giving an opportunity to play gambling, or intentionally interfering in gambling establishments;
 - 2e. Deliberately holding or giving an opportunity to gamble to the public, or intentionally interfering in the company for that purpose, whether or not there is an agreement or any way to take advantage of that opportunity.
 - 3e. Also play gambling for a living
- (2) If a person commits the crime while in office, he may be dismissed from that position.
- (3) What is said to be playing gambling is that any game based on the hope of winning generally depends on luck alone, and also if the expectation is increased due to the intelligence and habits of the players. What also counts as playing gambling is betting on the results of a competition or other game, or not being held by those who are participating in that competition or playing, as well as all other bets.

From some of the descriptions above, of course the Mamasa indigenous people have a basis for carrying out customary activities which have been carried out for generations as long as their existence is still clear. local community. In several theories such as local wisdom, people have the right to carry out everything that grows and develops in

their community. In this case, the writer is interested in examining further the problems that occur in the area by raising a title "Criminal law review of the practice of cockfighting gambling in customary activities in Mamasa".

METHOD

Legal research is a know-how activity in legal science, not just know-about. As a know-how activity, legal research is conducted to solve legal issues at hand. This is where the ability to identify legal problems is needed, do legal reasoning, analyze the problems faced and then provide solutions to these problems (Marzuki, 2019). Indeed, as stated by Cohen that legal research activities are a process of finding laws that apply in social life activities. In this study, researchers used normative legal research methods supported by additional empirical methods. This method is carried out by examining legal issues that exist in the life of indigenous peoples in Mamasa.

DISCUSSION

A. Review of the criminal law on the practice of cockfighting gambling during arrival activities in Mamasa.

Mamasa Regency is one of the level II regions in West Sulawesi, Indonesia. Mamasa is a district on the peninsula of the island of Sulawesi between the mountains with beautiful nature, rich in culture and inhabited by people who yearn for harmony to live in peace, security and peace (Patmawati, 2021). The people who live in kondosapata or mamasa make it clear that their existence is embodied in their living habits which are reflected in language, customs, ceremonies, religion and social life. Mamasa is an area in West Sulawesi which has a diverse and unique culture. One of the traditions that still exists today is the rambutsolo ceremony. The traditional Rambusolo ceremony in Mamasa is a traditional ceremony which is still being carried out and supported by the community, contains many positive things that show the value of life and the meaning of decency. The traditional speech of the hairdresser; has been around for decades. Rambusolo' was originally carried out by people who adhere to animistic beliefs (aluk todolo) and after the community has embraced religion, this traditional ceremony is still carried out from generation to generation. Where the rituals held in this ceremony are a form of respect for the ancestors who have died, also to continue to give strength to all the families left behind, and kept away from all dangers and so on.

In the activities of the traditional Rambusolo ceremony, there are several rituals that are carried out, such as mak pasitanduk tedong or buffalo fighting in Indonesian, the purpose of this ritual is to provide consolation to the family left behind, unmitigated, the buffalo in this complaint has a fantastic price and until now it is still sustainable among the Mamasa community. Another activity is cockfighting, but on various occasions cockfighting is often misused by various parties to gambling, this is what makes some people eliminate this cockfighting activity, but some are still sustainable today.

1. The general concept of the Rambusolo ceremony or death

The aluk todolo religious cult believes that humans, animals and other living things have souls. The souls of deceased ancestors influence living families, relatives and their descendants. The living save the souls of their ancestors by performing sacred ceremonies with animals and sacrificed objects.

The Rambusolo' ceremony is related to death or mourning, the Rambusolo' culture is also known as "aluk rampa matampa". This was mentioned by A.T.marampa in his book: guide to tana toraja, that the rambutsolo' is performed in the afternoon. It also called aluk rampe matampa". So the traditional ceremony of the Rambusolo' is held when the sun is about to set and not in the morning. In this ceremony the most important thing is the funeral ceremony. The stages of the implementation of Rambusolo' are an event that is a religious and social dimension. What is meant in this statement is that in the Rambusolo ceremony, this cannot be separated from the values of the beliefs of the Mamasa community, specifically what is known as aluk todolo or animism.

The form of the Rambusolo ceremony which is carried out in the Mamasa area is adjusted to the social position of the people, therefore the traditional ceremony in Mamasa is divided into four levels or castes, where each level also has several forms, namely:

- a. Tentenan (lowest caste) is the lowest funeral ceremony in the Rambusolo ceremony, the number of buffalo sacrificed is only one and the person who is buried is a maximum of two nights.
- b. Balado (middle caste) is a ceremony that lasts for four nights, while three to five buffaloes are sacrificed.
- c. Marruran (high caste) is a ceremony that lasts for one to two weeks, five to ten buffaloes are sacrificed. Using red cloth on the walls of traditional houses.
- d. Mangallun (highest caste) is a ceremony performed by aristocratic society and people who have high social strata or people who have sufficient material for the traditional ceremony. Twenty-five to fifty buffaloes were sacrificed.

The Mamasa community is a customary law community that adheres to the customs of their ancestors, but what has become a phenomenon is that some of these indigenous people's activities are often raided by the police because they are suspected of committing criminal acts of gambling such as cockfighting in certain activities.

2. Rambusolo's view in relation to cockfighting by the traditional head of Mamasa Regency.

The term Rambusolo in every death event in Mamasa is a term for full of sorrow, namely how a person who has died will be held by the extended family in the form of an event, namely Rambusolo. Rambusolo itself is an event passed down from generation to generation by the Mamasa community which cannot be separated from the daily life of the Mamasa people who are still in the Toraja ethnic group.

In hairdressing activities all the extended family will come to provide comfort to those left behind, but in practice, hairdressing events are not necessarily done arbitrarily, only certain people can do it, for example parents or people who are considered influential in an area. In relation to cockfighting in the activity of the traditional head of Mamasa

Regency, Mr. Benyamin Mantasak, said "Cockfighting is an activity to enliven and entertain the families of people who have died, but people who are in Remnants are only for people who have been killed or kept in the house to be buried later." within the specified time." In this cockfighting activity it is not done haphazardly, because it must be in accordance with the time and may not exceed the allotted time, cockfighting uses a fight in the form of money or goods used by the owner of the cock. However, this must be in accordance with what is regulated, for example, it may not cause commotion in this cockfight, if anyone makes a fuss, they will be subject to customary sanctions in the form of cutting a pig or the customary mamasa term, namely "mandulang".

In the view of the traditional head of Mamasa Regency, when asked what the traditional view of cockfighting is, which is often associated with money or gambling fights, he said, "It is legal according to Mamasa's custom and culture, which has been carried out from generation to generation, how to provide comfort to the family. who have died." However, he said cockfighting activities in the series of traditional Ramososlo ceremonies must be in accordance with customary rules and should not be carried out haphazardly and must ask permission from the police as a form of appreciation to state institutions, even if there are parties who carry out activities outside of that, it means it is not their responsibility. Customs to settle when dealing with the laws of the State.

3. A criminal view of cockfighting gambling in mamasa customary activities.

In the view of criminal law as a form of positive law in this country, it refers to the Criminal Code (KUHP) article 303 and article 303 bis. This is a reference for the police in taking action on every criminal gambling case. Article 303 of the Criminal Code (KUHP) clearly prohibits and imposes sanctions on anyone who gambles. It is stated in the article

1. By imprisonment for a maximum of ten years or a fine of up to twenty five million rupiahs, whoever is not entitled to
 - 1e. Claiming a living by deliberately holding or giving an opportunity to play gambling, or intentionally interfering in gambling establishments;
 - 2e. Deliberately holding or giving an opportunity to gamble to the public, or intentionally interfering in the company for that purpose, whether or not there is an agreement or any way to take advantage of that opportunity.
 - 3e. Also play gambling for a living
2. If a person commits the crime while in office, he can be dismissed from that position.

Then in article 303 bis said

By imprisonment for a maximum of four years or a fine of up to ten million rupiah shall be punished:

- I. Whoever uses the opportunity to play gambling held in violation of the provisions of article 303;

- II. Whoever participates in gambling on a public street or near a road or in a place that can be visited by the public, unless the authorities in power have given permission to hold said gambling.
- III. If at the time of committing the offense it has not been two years since the determination of the previous sentence for the guilty person for being guilty of this offence, a maximum prison sentence of six years or a maximum fine of fifteen million rupiahs can be imposed.

What is said about playing gambling is that every game that bases the hope of winning generally depends on luck alone, and also if the hope is getting bigger because of the intelligence and habits of the players. What also counts as playing gambling is betting on the results of a competition or other game, or not being held by those who participate in that competition or playing, as well as all other bets.

In taking action against every cockfighting gambling case in the Mamasa district, the Mamasa Police are always guided by the existing positive law, namely the articles in the criminal law code, but in practice in the field law enforcement agencies are often overwhelmed in handling cockfighting gambling cases in Mamasa. . This was revealed by the head of the Criminal Investigation Unit of the Police, Mamasa Dedi Yulianto SH, MH when asked what the obstacles were in the enforcement process in the field, he said "when we received reports from residents that there was recent cockfighting gambling in the Tabang district, we immediately moving, but because the terrain was very far and mountainous, our arrival was rather slow and of course our arrival was already smelled by the residents so that when we arrived at the cockfighting location, all the evidence and the people there had dispersed." So that in the process of criminal handling of cockfighting perpetrators it cannot be processed further.

B. Ways to deal with the practice of cockfighting gambling in Mamasa.

In responding to the practice of cockfighting gambling in the Mamasa area, of course, the law enforcers (police) and all elements of society play the most role. However, in every practice of cockfighting gambling that occurs, there are pros and cons in the community who consider that this activity is justified by custom and some say it is not justified by custom. Mamasa that the activity of cockfighting in each traditional ceremony is part of a series of activities to provide consolation to the families of the deceased who are left behind, but cockfights are not held just like that, they must be in accordance with existing provisions and a certain time regulated by those who have authority .

In tackling the practice of cockfighting gambling that occurs, of course we have ways and approaches based on the results of field research and literature studies obtained by the authors as follows.

1) With a legal approach

In dealing with the cockfighting gambling case in the Mamasa Regency area, the Mamasa Police, in this case, is abusive, the Mamasa Police Criminal Investigation Unit said that we will continue to provide understanding and appeal to the public that cockfighting

gambling, even though it is covered in traditional activities, is still prohibited because it is a violation regulated in the our positive law, "we will continue to supervise and appeal to the public, and if we deem it necessary, of course we will take legal action and forceful measures in the form of arrests," said Mr.

Following are some statements from the Mamasa Police by the Criminal Investigation Unit regarding cockfighting gambling in customary activities in Mamasa:

- a. Questioner: was there resistance from the community when legal action was taken by the police in the field?
- b. Informant: yes, of course we have received resistance several times from residents who may not understand the positive legal rules for gambling, we still provide understanding to people like this by presenting traditional institutions, community leaders, the local government regarding the prohibition of gambling, especially cockfighting, so far after we give understanding finally the community understands.
- c. Questioner: during the case so far, is it in the process of being resolved using restorative justice or is there something that is being continued in court?
- d. Informant: For the last 3 years, all of them have ended, no one has continued because there are several obstacles, such as a lack of evidence and the small amount of evidence we have found, why do we always arrest the perpetrators of cockfighting, it's just that there are a number of obstacles so that the case is stopped but we still give some notes to every cockfighting gambler.
- e. Questioner: has any legal action in the field been found to involve money playing?
- f. Informant: For in Mamasa this is indeed an obstacle, the geographic situation and conditions of Mamasa are not like other areas, there are many mountains and many valleys, so before we arrived at the gambling game, on average, our arrival was already known so that the perpetrators of this gambling had already dispersed before we got there.

Based on the results of interviews with the Mamasa Police, several things can be drawn as follows:

- a. In every case of cockfighting gambling in the Mamasa district, ending in SP3 means that the case was not proceeded to the prosecutor's office due to several factors such as lack of evidence, small amount of evidence and the police choosing to provide guidance to the perpetrators of cockfighting gambling.
- b. The Mamasa Regency area is a geographical area with many hills and mountains and the condition of road access is so lacking that the efforts made by law enforcement agencies are not optimal in every action in the field.

2) Humanist approach

In an effort to eradicate cockfighting gambling in every Rampanese event, of course the role of traditional leaders is very much needed, for this reason, according to the chairman of the Mamasa customary institution, recently they have always appealed to the public that cockfighting gambling is not done arbitrarily when the Ramsolo event is carried out, it takes the right time. as well as permission from the authorities so that things don't happen as desired. This appeal is always given by the respective sub-district customary institutions in every meeting meeting to ensure that the customary activities of the Mamasa Regency do not conflict with existing state law. However, if illegal cockfighting gambling is found without a permit, in addition to being subject to state legal sanctions, customary legal sanctions apply to it, in the form of animal slaughter as a form of eliminating mistakes that have been made.

CONCLUSION

Based on the results of the research and discussion above, the authors draw the following conclusions;

The Criminal Code (KUHP) articles 303 and 303 bis strictly prohibit criminal sanctions against anyone who commits a crime of gambling in any mode, including in relation to the event that the author has mentioned above, even though cockfighting gambling is still this can be done as long as there is permission and coordination with law enforcement agencies beforehand to be supervised and monitored in accordance with applicable regulations. The activity of cockfighting gambling in relation to the traditional event for the people of Mamasa Regency is a customary activity that is still inherent in every person in the Mamasa community, but at this time there are still some people who are pro and con against this but according to the statement of the head of the traditional institution of the Regency. Mamasa stated that the activity of cockfighting in the Ramblasolo tradition was justified by custom, but it had to be in accordance with applicable regulations and a predetermined time, if someone did it carelessly then customary sanctions in the form of slaughtering livestock to gambling actors would be enforced in addition to legal criminal sanctions. The state will apply to him

In general, things that can be done to deal with indiscriminate cockfighting gambling are the active role of law enforcement agencies to continue to monitor and take legal action against any violators of indiscriminate cockfighting gambling. Another thing is active personnel from traditional leaders and other figures to continue to provide understanding to the community that state regulations must cover all aspects of life in this nation.

REFERENCES

- Andi Soyana. (2016). *Hukum pidana*. Makassar: Pustaka Pena Press.
- Fitri Wahyuni. (2017). *Dasar-dasar Hukum Pidana di Indonesia*. Jakarta: Perpustakaan Nasional.

Kitab Undang-undang Hukum pidana pasal 303 dan pasal 303bis
I Made Widnyana. (1993). *Kapita Selekta Hukum Pidana Adat*. Bandung: Eresco
I Made Widnyana. (1992). *Eksistensi Delik Adat dalam Pembangunan*. Bali: Universitas
Udayana
Patmawati, Mariana AS. (2021). *Keberadaan Adat Rambusolo' di Mamasa*. Phinisi
Integration Review
Peter Mahmud Marzuki. (2019). *Penelitian Hukum*. Surabaya: Prenamedia grub.
R. Soesilo. (1995). *Kitab Undang-Undang Hukum pidana*. Bogor: Politeia.
Soerjono Soekanto. (2020). *Hukum Aadat Indonesia*. Depok: Rajawali Pers.
Surojo Wionjodipuro. (1968). *Pengantar dan Asas-Asas Hukum Adat*. Bandung: Gunung
Agung
Tongat. (2009). *Dasar-Dasar Hukum Pidana Indonesia Dalam Perspektif Pembaharuan*.
Malang: UMM Press
Undang-Undang Dasar 1945 pasal 18b
Undang-Undang Dasar 1945 Pasal II aturan peralihan
Undang-Undang No. 7 tahun 1974 tentang penertiban perjudian
Undang-Undang No.5 tahun 1960 tentang UU pokok agraria
Yulia. (2016). *Hukum Adat*. Aceh:Unimal press.