

## DAYAK NGO RESPONSES TO NATIONAL LEGAL AND POLICY FRAMEWORKS AFFECTING ADAT GOVERNANCE IN INDONESIA \*

S. Masiun \*\*

**“If the state does not recognize us, we will not recognize it”.**  
**(Indigenous Peoples Declaration, Jakarta, 1999)**

### I. INTRODUCTION

Within the explanation of Article 18 Part II of Indonesian Constitution 1945 stated “Within the Indonesian territory found more or less 250 *Zelfbesturende Landschappen* and *Volksgemeenschappen* such as *Desa* in Java and Bali, *Negeri* in Minangkabau, *Dusun* and *Marga* in Palembang and so on. Those territories possess their own indigenous structures, therefore, they can be considered as special territories. The Republic of Indonesia respects the territories and any state’s regulations related to the territories will take into account their original rights”.

Indonesian Constitution 1945, recognizes the existence of the traditional political entity derive from cultural system of various indigenous peoples in Indonesia. It is not merely within the scope of their indigenous institutions but also their structural aspects of organizations, mechanisms, laws and rights and obligations within the institutional system of the indigenous peoples. Furthermore, as the indigenous territories can be considered as special territories, the attention from the state should be special as well. It should include implicitly the recognition on the autonomy of the territories. Indigenous peoples, who have specified institutions, rights, obligations different from mainstream groups within the country, the outside regulations, will be irrelevant to be implemented. When a regulation from outside the community will be implemented, it should be under license of the community themselves or at least negotiated to the community from the specified territories (Zakaria, *Suara Pembaruan Agraria*, 1997).

It is clear that the foundingfathers of Indonesia were aware of that Indonesia is a pluralistic nation which composes of hundreds of indigenous peoples entire the country. It is understandably that the slogan of the nation is *Bhinneka Tunggal Ika* or unity in diversity.

The Dayak people of Borneo governed themselves for thousands of years prior to the Dutch colonial period. They developed sophisticated systems of sylviculture, and land use adapted to the tropical forests and rivers in their environment. They created unique crop varieties and complex oral literatures. They also have a long tradition of participating in far-flung trade networks while, at the same time, defending their territories against intruders. The New Order

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\*\* Director of Lembaga Bela Banua Talino, Pontianak, West Kalimantan, Indonesia.

Indonesian neocolonial government has pressed the most recent assault on Dayak territories directly through oil palm and timber concessions and industrial timber plantations and indirectly through denying the legitimacy of Dayak self-governance and culture. In 1979, the central Indonesian government imposed appointed leaders to replace traditional (adat) leaders. These appointed adat leaders represent the lowest level of central government administration. The current governance crisis in Indonesia offers new opportunities for decentralization by re-empowering Dayak self-governance.

West Kalimantan which is of 146,807 square kilometers, allocates 3,272,703 hectares for palm oil plantation, 4,552,496 hectares of 9,204,425 hectares of forest for timber concessionaires and 1,209,515 hectares for industrial timber plantation Hutan tanaman industri or HTI). According to Japan International Cooperation Agency (JICA), only maximally 1,000,000 hectares are available for palm oil plantation. By having 1,000,000 hectares of palm oil plantation, there will be 57-1,500 million tones of dirt erosion and 386 tones of fertilized soil layer will be eradicated per year, 145,000 liters of insecticide per year spent and 5,900 liters of other chemical materials. Nowadays, 460,000 hectares have been cleared for palm oil plantation, the effect of the plantations is concretely suffering people by smoke happening in 1994, 1997 and perhaps this year. The causes of the smoke are palm oil plantations and industrial timber plantations land clearing. They burn their areas for saving more money and labor to lower their expenses. It has a serious impact to ecology and ecosystem of nature in West Kalimantan.

In 1981, the Dayak organization, Yayasan Karya Sosial Pancur Kasih (Pancur Kasih) arose to support Dayak communities. Pancur Kasih and its affiliates, including Lembaga Bela Banua Talino (LBBT) and Institut Dayakologi, are dedicated to the preservation of the Dayak territories and the continued evolution of Dayak institutions, language and culture. The activities of the organizations range from credit unions, schools, scholarship funds, legal empowerment and assistance, policy advocacy, marketing cooperatives, oral literature documentation and publications. These wide-ranging activities support one clear goal—to empower the Dayak communities to take control of their own futures by building on traditional Dayak values and institutions.

Pancur Kasih has been supporting adat resilience through mapping, facilitated discussions of environmental issues and encouraging local discussions. Pancur Kasih has also worked to build “self-confidence through credit unions, schools, and workshops. Institut Dayakologi has been promoting the revitalization of traditional Dayak values upon which decision-making is based. Institut Dayakologi documents Dayak culture and uses multiple media to bring Dayak communities together to promote solidarity. LBBT has been encouraging the development of new lateral alliances between adat communities, as well as providing Indonesian legal information to communities. Together these activities support the resilience of the Dayak.

## **II. Dayak Adat and Indonesian Governance Institutions**

### **A. Dayak Adat Governance Institutions**

Dayak adat institutions in West Kalimantan vary in names. In some aspects, they have sameness’ in terms of authorities. In this paper, the author will give some examples of Dayak adat governance in West Kalimantan.

## 1. Mayau Dayak Adat Governance

The first is Mayau Dayak adat Governance. A group of Dayak living in a small territory in Bonti, Sanggau district is called Mayau Dayak. They have been in this area since the 18<sup>th</sup> century moved from Sungkung, an up-land in Sambas district. The first village built at that time was named *Tamputn Romun*. Now, the Mayau consists of seven villages: Kadak, Kolompu, Upe, Lanong, Entiop, Enkayuk and Kotip. (Mayau Dayak, 1988).

Before 1979, the adat governance of Mayau Dayak, the highest rank of adat governance was called *Temenggung*. It had authority entire the Mayau territory. Mayau Dayak territory consists of seven villages. A *temenggung* authorized for above six *tail* adat fines. The second rank was called *domong*. The authority of a *domong* was within a village for *adat* fines which range from 3-6 *tail*. Under *domong* was *kebayan*. *Kebayan* was responsible for *adat* fines range from 1-2 *tail*. The fourth<sup>1</sup> rank is *pengurus*. A *pengurus* deals with light fines (*robanyu lopet sampai dengan samos paben beras*) that is a plate full of rice. *Pengurus* exists until now.<sup>1</sup>

## 2. Jawan Dayak Adat Governance

The second is *Jawan Dayak adat* governance. This group lives along the Menterap river, the Sekadau Hulu subdistrict of Sanggau district. Total population of the Jawan Dayak is about 4,000 people. It consists of 14 villages. For the *Jawan Dayak*, adat governance consists of *Temenggung* as the highest rank, the second is *Damong* and lowest is *kepala adat*.<sup>2</sup>

## 3. Iban Dayak Adat Governance

The third example is *Iban Dayak adat* governance. *Iban Dayak* which is the origin community in the Northern part of Kapuas Hulu district having more or less the same as the previous ones. The highest rank *adat* institution is *Temeggung*. A *temeggung* has authority for at least two villages in some places authorizes for two to seven villages. After *temenggung*, the second rank is *pateh*. There are two *patehs*. The first is *pateh* who is responsible for a village then the second is the *pateh* the one who is mobile responsible more than one village. This *pateh* is the assistant of *temenggung*. The last rank of Iban adat governance is *Tuai Rumah*. A *Tuai Rumah* is responsible for a long house. Most Iban Dayaks are living in long houses<sup>3</sup>

## 4. Kanayatn Dayak Adat Governance

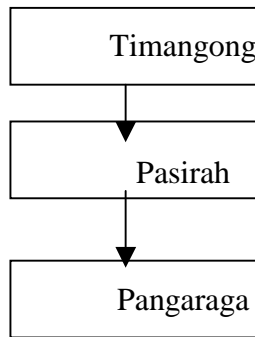
Kanayatn Dayak, even the implementation of Village Governing N0. 5 1979, the existence of the adat governance is relatively good. It is because of the their custom is very well functioned and applied by all people within the community. As what explained above, Dayak adat institutions are various in names but having more or less the same authorities. For the Kanayatn Dayak adat institutions, the diagram below shows the hierarchy:

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<sup>1</sup> PPSDAK Pancur Kasih in 1997 facilitated a documentation of Mayau Dayak Adat Institutions recorded adat governance of the community before Village Governing Law N0. 5 1979 implemented

<sup>2</sup> CO Process Documentation, V. Vermy, LBBT, 1998

<sup>3</sup> CO Process Documentation, Agatha Anida, LBBT, 1998

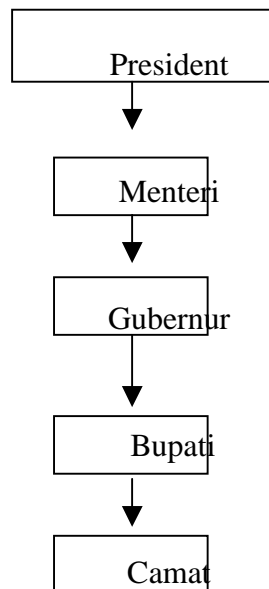


*Timangong* is the highest rank of Kanayatn adat institution. A *timangong* has an authority for a binua, an adat territory consisting of five to seven villages. The second rank under *timangong* is *Pasirah*. A *pasirah* has an authority for a village level. While the lowest rank of the hierarchy is *Pangaraga*. A *pangaraga* has an authority for a subvillage consisting of thirty or forty households.<sup>4</sup>

## B. Indonesian Governance Institutions

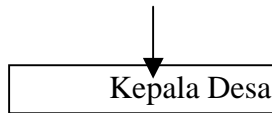
Indonesia was proclaimed on August 17, 1945 in Jakarta by Soekarno and Mohammad Hatta. Indonesia is unitary state. This is a huge country consists of 26 provinces and 13.677 islands. After undergoing unstable political climate from 1945 until 1965, then, Indonesia after New Oder in power, proclaimed itself to implement Pancasila and Indonesian Constitution 1945 consistently.

According to Indonesian Constitution 1945, President is the chief of state as well as the chief of government. The Indonesian governance institutions consist of the following structure:




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<sup>4</sup> The author interviewed Maniamas Miden S, Timangong of Binua Talaga, Sengah Temila subdistrict, Pontianak district, August 1999 in Pontianak.



President is the highest rank of Indonesian governance institution. A president is elected by *Majelis Permusyawaratan Rakyat (MPR)* or House of Representatives<sup>5</sup>. A president, according to Indonesian Constitution 1945, is the chief of state and chief of government. A president is also the highest military commander. It is apparently that that a president in Indonesia is the most powerful institution.

*Menteri* is a president assistant. A *menteri* is elected fully by president. *Menteri* is the chief of a department or state minister. Indonesia, now, has thirty seven ministers consisting of 30 departmental ministries, three state ministries and four coordinating ministries. A departmental ministry has branches up to district or even at subdistrict levels for instance, Department of Education and Culture. Mostly the departments only up to district level.

*Gubernur* is the chief of provincial government. During New Order regime, according to Local Government Law N0. 5 1974, a Gubernur elected by provincial parliament after the candidates selected and agreed by Minister of Internal Affairs. Usually the candidates were three even according to the law, it was possible to nominate five candidates. The period of a *Gubernur administration* is five years. After five years, a *Gubernur* may be elected for one more five years. After ten years of ruling, a *Gubernur* cannot be elected anymore. Now, the Law N0. 5 1974 has been changed into Law N0. 22 1999. Within the Law, it will be elected a Gubernur and a deputy Gubernur by provincial parliament. They are a couple.

*Bupati* is the third rank in Indonesian governance institution. A bupati election was also regulated in Law N0. 5 1974, now is changed into Law N0. 22 1999. A *Bupati* is the chief of a district. Formerly, the mechanism of electing a *bupati* was the same as a *Gubernur* election. It was regulated in Local Government Law N0. 5 1974. A *bupati* was selected by the district parliament and agreed by Minister of Internal Affairs. In the most cases in West Kalimantan, a bupati is the one is recommended by Minister of Internal Affairs and military. After Law N0. 22 1999 implemented, it seems to be more democratic. Aspirations from below are organised and each candidate should perform their vision when they are elected bupati. The same as Gubernur procedure, the bupati and its deputy are a package for the election.

*Camat* is the chief of a subdistrict. A *camat* is appointed by *bupati*. There is no limit period of a *camat*. Someone can be appointed *camat* for many years as long as he is good of relationship with *bupati*. A *camat* position is a strange one within the Indonesian governance. Appointing a *camat* does not go through any democratic mechanism.

*Kepala Desa* is the chief of a *desa*. A *desa* consists of five to seven villages, after being regrouped, according to the Village Law N0. 5 1979. A *kepala desa* is elected directly by villagers. Before the election, a candidate of *kepala desa* has to have a special investigative analysis to know whether they involved in the communist movement in 1965, or they are doing things against government policies, etc. A *kepala desa* can govern the village for eight years.

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<sup>5</sup> See Indonesian Constitution 1945 Article 6 point 2

After eight years, he may be elected again. Now, Law NO. 5 1979 has been changed into Law NO. 22 1999. This is the worst law destroying adat governance institutions of indigenous peoples entire of the Archipelago.

### **C. Dayak System of Natural Resources Management**

It has been thousands of years the Dayak system of managing natural resources existing in Borneo/Kalimantan. Long before the Malay Sultanates, Dutch and Japan colonial regimes and finally, Indonesian government, the Dayak systems have been playing a determinant role in sustaining the nature of Borneo. The practices of the Dayaks in managing natural resources existing until now, proving that their ways are sustainable and friendly to nature.

To know better the systems of groups of Dayaks of West Kalimantan in managing natural resources, the author will elaborate two examples of Dayak system of managing resources.

#### **Iban Dayak**

To know clearly how this group of Dayak manages resources, let us see their indigenous spatial management of resources below:

They call their territory as *Bengkah Pemansang Manua*. Within the *bengkah pemansang manua*, they allocate the areas for:

1. *Rumah panjai*, the resident areas of the Iban community
2. *Taba'*, the specified area for building a longhouse of the Iban Dayak
3. *Temawai*, the ex of the Iban longhouse. It is divided into two: ex of a longhouse and the ex of temporary houses of the Iban. A *temawai* is dominated by fruit trees.
4. *Damun*, the ex of *ladang* (dried rice field) which is grouped into five:
  - a. *pengerang tuai*, the ex of *ladang* after 15-20 years
  - b. *pengerang*, the ex of *ladang* after 10 – 15 years
  - c. *temuda'*, the of *ladang* after 3 – 5 years
  - d. *Dijab*, the ex of *ladang* after 2 years
  - e. *Kerukoh*, the ex of *ladang* after 1 year
5. *Tanah mali*, is sacred grounds. Any tree is not allowed to cut. This is the place for adat rituals that they call as *Pase' Manua*.
6. *Pendam*, a cemetery
7. *Rarong*, a cemetery for Iban heroes to those who are respected within the Iban community
8. *Pendam anak*, a cemetery for children
9. *Pulau*, an individual forest reserve
10. *Rimak manua*, a village-owned forest, also for hunting area, medicine, taking materials for houses, etc.
11. *Redas*, a area for vegetables
12. *Tapang manyi*, trees for honey
13. *Tanah kerapa*, a swamp area for wet paddy rice field
14. *Tanah endor nampok*, the area for hermit
15. *Umai, ladang*, dried rice fields  
(Putussibau Workshop, 1999)

## Kayaan Mendalaam Dayak

For the Kayaan Mendalaam Dayak, their system of natural resources management is as follows:

1. *Talun*, the ex of *ladang* areas. It is after 5 – 10 years. For more than 10 years they call as *talun aya'*. It has been secondary forest usually.
  2. *Lapu'un*, the areas of fruit trees. Also called *temawai* (Iban). Usually the ex of the Kayaan Mendalaam resident areas.
  3. *Liaang*, a cemetery area for the Kayaan Mendalaam. For those who did not die within the village, their bodies were changed by statues, clothes and their area is called *pawa'*.
  4. *Busaang*, the forest owned by Mendalam community.
  5. *Tanaa'umaa'*, areas of the Kayaan Mendalaam residence.
  6. *Kebun karep*, rubber garden areas.
  7. *Ba'ee*, ex of young *ladang*.
  8. *Ba'ee lako*, ex of *ladang* of a year.
  9. *Ba'ee sepitang*, the of *ladang* from 2-5 years before *talun*.
  10. *Tanaa' luma'*, specified of the territory for paddy.
  11. *Tuaan avaang*, tengkawang trees area.
  12. *Tuaan lung*, reserved forest.
  13. *Tuaan rebok*, a resin forest.
  14. *Tuan buaa'*, forests full of fruit trees.
  15. *Tanaa' luma' peka'*, swamp areas for wet paddy fields.
  16. *Tuaan usaang kaka*, special forest for hunting, housing materials, medicine, and daily needs.
  17. *Hunge pujun*, rivers where people looking for fishes. Not allowed to use any local and chemical materials for catching fishes.
  18. *Bawaang*, lakes where people can fish.
  19. *Tanaa' pulu*, sacred grounds. Not allowed for rice fields nor cutting the trees.
  20. *Tanaa' jakah*, areas which can be used for any purposes.
  21. *Tuaan nanga'*, swamp areas for sagos.
  22. *Hunge tapha*, areas of rivers usually for *tapah* fish.
  23. *Hunge pejawan*, special parts of rivers for biawan fish.
  24. *Levho' belida'*, deep parts of rivers for habitats of *belida'* fish.
- (Putussibau Workshop, 1999).

Two examples above, have reflected the systems practiced by the Dayak of West Kalimantan on natural resources management. There are some variations. It depends on the local specified ecosystem. 95% of the Dayak natural resources management system is more or less the same.

Natural resources management systems of the Dayak are practiced integratedly from day to day. The examples above refer to the whole practice of a group of a Dayak community in managing resources. It is clear that there is no so called by government as sleeping land (*lahan tidur*) or dismanaged land (*tanah terlantar*). Every single part of the territory is managed by the Dayak. Capitalistic development will consider the Dayak practice as not productive, primitive and out of date. It needs wisdoms of mainstream communities to understand the practice of managing resources of the Dayaks. It has been practiced for generations, for thousands of years.

Before forest concessionaires entered West Kalimantan in 1970s, before palm oil and timber plantation projects cleared huge areas in 1980s and 1990s, smoke disasters never happen, forest fires never destroy badly as huge as now after what called as development (pembangunan) exploits natural resources carelessly only for the benefit of few people. Indigenous peoples, are the friends of nature. They live in the forests. Natural resources are their lives. It is impossible, they destroy their own life as what always government says indigenous peoples as forest destroyers, moving farmers, isolated community, etc.

#### **D. Role of Adat Laws and Structures on Natural Resources Management**

All Dayaks in West Kalimantan have their own laws and structures. Natural resources systems management are regulated in the adat law. Adat laws are enforced by the adat leaders governance. The violations on the natural resources management and landuses will be fined using adat law. All members of the community are responsible for the enforcement of the adat law. Formally, the adat leaders who are responsible to fine whoever violates the law. The fines decided to be given to the violators, depend upon the degrees of violations conducted by someone. For Kanayatn Dayak for instance, the *pangaragas*, *pasirahs* and *timangongs* are those who are responsible for the fines against the people who violate the rules.

In terms of Kanayatn Dayak, when to start farming, burning, planting are under authority of *tuha tahutn*, a leader of farming tradition. Including here are the rituals should be conducted by all community before they start farming season. His role is to keep the tradition of farming including all rituals of farming being conducted properly. If this is not conducted properly, the crops of farming will not be as satisfied as most people hope. They also have rules for fruit season.

Adat and adat laws have differences. Adat is also a tradition. It does not have sanctions. Adat law has sanctions. When somebody violates a rule, they will be fined. The violations of adat is only moral sanction.

In order to protect natural resources, besides the adat law that is now implemented, towards new threats, a community can get together to make **a conservation agreement**. The agreement will bind all members of community to obey and to those who break the agreement or rule, they will be fined without any need to process through court. The violation against this rule is considered as *salah basa* or he must be fined according to the fines agreed in the agreement. The kind of agreement has been adopted in Tapang Sambas, Desa Dayak of Sanggau district. This agreement is fully on protecting natural resources from any destructive action of people internal and external people will be subject to the agreement. The same thing also made in Kotup, mayau Dayak of Sanggau district, and many other villages facilitated by YKSPK. Moreover, in Pendau, Simpang Dayak of Simpang Hulu in Ketapang district, they have made adat swear to protect their natural resources within their territory, after various efforts conducted cannot stop some people from within and outside to take their logs from their territories. After adat swear conducted, their territory is saved from destructive actions.

#### **E. Adat Justice System**



Indigenous peoples have their own adat justice system. Long before the Dutch colonial government came to Indonesia, people within the territory that later called Indonesia, have been familiar with laws. Muslim people are familiar with *Islam Laws* while indigenous peoples have their own laws called adat laws. After the Dutch introduced their laws which is now called European Continental Laws or Western Laws. Indonesian government is totally influenced by Dutch laws introduced to its colony which is very colonialistic.

For the Dayak groups of West Kalimantan, where adat laws are still strong, they have difficulties of understanding national laws which are regressive and colonialistic.

According to Dayak adat laws, when one violates a rule, for instance, someone who the rights violated, will meet the violator to clarify why he does it. Between them will argue among themselves. If the case cannot be solved by themselves, they will take the case to the lower adat leader. They have to prepare for proofs and witnesses and also defenders. They have to negotiate with the leader, when they want to have adat court. Adat court usually conducted in the house of the one is considered a violator or can also be conducted at the house of the leader. At the day of the court, before adat court is started, adat leader will explain the rule every body at the meeting must obey. The violation of the rule will be fined according to adat laws as well.

During the court conducted, every party will be given the time to tell the chronology of the case. The leader will facilitate the process. After the chronology, the next is clarification and argumentation. Both parties must be able to show their proofs in terms of witnesses, history of the case or authentic proofs. The leader who acts as the judge will ask argumentations, clarifications and proofs to both parties. From the argumentations and proofs shown by the parties in conflict, the judge will decide who wins and who loses. The loss party must pay for the fine.

The court can be conducted many times. Every party is given their opportunity to do their best to prove that they are right. All the process is conducted openly before all villagers.

When both parties cannot accept argumentations from each other and the decision cannot be taken, after all efforts and processes have been going through, still both parties cannot come to a decision, there are final efforts.

The first is *staying under water*. Before two people get under water represent their party, a ritual will be conducted. The ritual is conducted to tell the Lord and universe that they are looking for the truth. They are asking for the Lord and any creatures of the universe to show the truth by helping the one is true and rejecting the liar. There are witnesses and judges at the process. The judges will say to the people gather around that who first gets up, he is loss. The acceptance for the decision will be no more argument. This way oftenly used by Desa Dayak and some other Dayak groups in West Kalimantan.

The second is *fighting cocks*. Each party is represented by a cock. Before the cocks fight, a ritual must be conducted, more or less the same as under water staying system. The cock represents the true party will win in fighting. This system is familiar in Iban community.

The third is putting hands under hot water. The hand which does not get blistered is the win party. More or less ritual as conducted for under water staying and cocks fighting systems. This system is also familiar in Iban community.

*The fourth is adat oath (swear).* Adat oath usually avoided as it has a very serious and long effect to the loss. It depends on the oath itself. If the oath is the loss will die in three days. It will happen or the loss will suffer for seven generations it will occur. Both parties expressing their oath in front of the adat leaders. A ritual also conducted before the oath.

In the context of defending and protecting natural resources management system of indigenous peoples, the existence of adat justice system is very important. The weakening of adat justice system which enforced by adat structures, will directly influence the quality of resilience of Dayak indigenous natural resources management. Therefore, the keeping of resilient capacity of natural resources management of indigenous peoples should totally involve the resilience of adat governance institutions. When adat structures are weak, it absolutely weakens the resilience of natural resources management of the Dayak holistically.

### **III. Indonesian Legal Problems: Threats of the Dayak Adat Governance on Natural Resources Management**

It has been elaborated above that, Indonesian Constitution 1945, recognizes indigenous territorial, institutional and legal authorities of indigenous peoples of Indonesia as described in the explanation of Article 18. Fifteen years after independence, Central Indonesian Government introduced Basic Agrarian Law NO. 5 1960. This law firstly marginalizes the rights of the indigenous peoples of Indonesia. Seven years after, after Soeharto in power, in 1967, his administration introduced Basic Forestry Law NO. 5 1967. This law enables domestic and international investors to exploit forestry sector in Indonesia. In 1968, Soeharto administration issued Mines Law NO. 11 1968. Furthermore, in 1979, again, Soeharto administration imposed Village Governing Law NO. 5 1979 and Spatial Law NO. 24 1992 and Ministry of Internal Affairs NO. 3 1997 on the Empowerment, Sustainability and Development of Customs, People's Tradition at the Local Government Level.

It has been recognized that the resilience of the Dayak system is shown by the institutions owned by the Dayaks in sustaining natural resources. Institution is a determinant factor towards resiliencing of one system. Without having strong institutions, an adaptive management of natural resources cannot be achieved. The threats faced by the Dayak people building strong institutional resilience on natural resources management are as follows:

#### **a. Basic Agrarian Law NO. 5 1960**

The first law marginalising the indigenous peoples in Indonesia, particularly the Dayak in Kalimantan is Agrarian Basic Law NO. 5 1960. This law starts bringing the paradigm of national interests for development. It recognizes the rights of indigenous peoples as long as they are still

existing and not against national interests<sup>6</sup>. State has the total right to control land<sup>7</sup>. After New Order came to power, national interests have been interpreted as government interests and government interests mean the interests of elite group in power around Soeharto.

It also introduces land title. Article 19 of the law states that in order to guarantee legal accuracy by government, there will be conducted land titles all over of Indonesian Republik territory which includes measuring, mapping and land book-keeping and giving certificates for land ownership's. The implication of this policy is that the Dayaks are not familiar with it. They have their own law, adat law which is well understood that regulates the ownership's on lands even it is an unwritten law. Even it is an unwritten law, in terms of legal accuracy, for the Dayaks it is not a problem nor for outsiders when they have respect over adat law.

The reasons indigenous peoples rights on land must be adapted to national interest that as nation-tribes and indigenous peoples are not independent anymore that they are Indonesians so that the rights based on collective rights over their lands prior to independence were absolute (unconditional) under the authority of adat leaders or indigenous peoples the supreme decision makers within their administration directly turn to central government as the supreme administration, as the legal holder of state territory (Soetikno, 1990:49-50).

Within the explanation of Basic Agrarian Law NO. 5 1960 stated that it is not allowed, when based on their collective rights hampering utilization right license (hak guna usaha) to private sectors while the utilization rights for private sectors are very important for larger interests of people. Yet, it is not allowed based on their rights rejecting forest clears hugely and regularly for big projects for food increase and transmigrations. The experiences show that indigenous rights have slowed down development programs. (General Explanation Part II/3-W of Law NO. 5 1960).

Above explanation clearly tells us that the marginalization indigenous peoples rights is on purposely designed by central government. Law NO.5 1960 later became the basic argumentation for other laws to not respecting the indigenous peoples rights on natural resources control and management.

#### **b. Basic Forestry Law NO. 5 1967**

The first year of New Order under Soeharto administration, he issued Basic Forestry Law NO. 5 1967. On Article 2 Law NO. 5 1967, stated that state forest is the area of forest and the forest over the non owned lands. The implication of this law for the Dayak people is that this law does not recognize the adat forests of the Dayaks. The adat forests are categorized as state forests. State forests are all forests within unwound lands. The forests on the land indigenous territory through use right or utilization right, its status is state forest. (Explanation of Article 2 Law NO. 5 1967).

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<sup>6</sup> Article 5 Agrarian Basic Law NO. 5 1960 stated that Agrarian Law of Indonesia on earth, water and sky is adat law, as long as it is not against national interests and state, which based on nation unity with Indonesian socialism and any regulations stated in this law by considering religious aspects.

<sup>7</sup> See also article 2 and 4 of Agrarian Basic Law NO. 5 1960.

As the result of this policy, indigenous peoples forests were given to forest concessionaires. Therefore, the conflicts between indigenous peoples and logging companies started exploding. In West Kalimantan conflicts between the Dayaks and logging companies started in 1970s. The Dayaks have to fight against the forest concessionaires and government in particular, the Department of Forestry that gives forests cutting-licensing to forest concessionaires.

Forest concessions introduced by Soeharto administration aimed to generate economic growth in Indonesia. Forest concessions at first given to influential generals, later generals gave their concessions to some conglomerates. In West Kalimantan, forest concessions started in 1968. Until 1990s, there were 75 forest concessionaires operating. Forest areas in West Kalimantan is 9,204,425 hectares. In 1999, there still 37 forest concessionaires which exploiting over 4,552,496 hectares. (Kantor Wilayah Departemen Kehutanan dan Perkebunan, 1999). Only very small scale of forests in West Kalimantan still left. But in eight to ten years, the forests of West Kalimantan will be gone.

This fact shows that the existence of indigenous peoples is not recognized. It is in contradictory with the Indonesian Constitution 1945 Article 18. According to Law NO. 5 1967, indigenous peoples only have the rights to take benefits from forest but not to own and control forests within their territories. It is clear that there is a conflict between Law NO. 5 1967 and adat law owned by indigenous peoples. According to adat law, they have fully ownership and control over their forests. It is understandably that conflicts between indigenous peoples and logging companies and later timber plantations get worst the latest years.

#### **c. Mines Law NO. 11 1968**

New Order under Soeharto, had promoted natural resources as much as possible. None of natural resources not being exploited, mines is one of them. Exploiting mines, in particular gold, has been a tradition. The Dayaks' way of taking gold is very friendly to nature. Dayak traditional way of taking gold, after mines digged intensively, is not popular anymore. It is considered out of date and not productive. While, modern ways of taking gold (and other mines), are very destructive. It pollutes the nature, rivers, ground and air. This law has made the control of the Dayaks over their territory loss. State has full control over mines all over the country.

#### **d. Village Administration Law NO. 5 1979.**

Village Governing Law NO. 5 1979 is the most destructive law against the indigenous peoples in Indonesia. This law did not recognize the roles of adat leaders in communities. Adat governance totally rejected. The system of village government is uniformed all over of Indonesia, following the Java system. *kepala desa* (headman) is structurally under *camat* and officially one of the centralist government structure. It has made every *kepala desa* is under control of the upper position within the Indonesian governance structure.

The idea of Law NO. 5 1979 is totally dedicated to domination of central government and development. It is also the implementation of integralistic state of Indonesia as stated at point b saying that as characteristic of Indonesia as a unitary state of Republic of Indonesia so that status of village administration as far as it is uniformed, by considering adat which is still existing to empower village government to more invite people's participation in development and implementing village administration which is wider and effective. (Consideration, point b, Law NO. 5 1979).

The implementation of the law is by regrouping the indigenous villages into one developing village. Under this law, local government regrouped five to seven villages into one developing village (*desa pengembangan*). Desa or developing village, is formed by considering the width, number population, and other conditions. (Article 2, Law NO. 5 1979).

As the result, the name of a desa is rather strange. For some *desas*, they just abbreviate the first letter of the name of the indigenous village, or still using the old one, and mostly depends on the *camat*. When the *camat* is a Batak, he named the *desa* using a place in North Sumatra for instance Desa Rantau Prapat in Embaloh Hulu, Kapuas Hulu district. It is the name of a district in North Sumatra.

The implication of the uniformization of the village administration, following the Java system, all over of Indonesia indigenous peoples use the term: *kepala desa, kepala dusun, ketua RW and Ketua RT*. It is totally Java structure exported to outer Java. Desa administration only consists of Kepala Desa and Desa Assembly (Lembaga Musyawarah Desa). A kepala desa is assisted by Desa Secretary, Kepala Dusun (smaller village headman). It is clear that this Law does not recognize the role of adat leaders and adat structures. This Law totally introduced a new system for the indigenous peoples outer Java. Moreover, somebody who wanted to be a kepala desa must at least graduated from Secondary school. This condition did not give opportunity for the adat leaders to be kepala desa. As the result, a kepala desa is a young man who graduated from secondary school but knew nothing about adat law, rituals, traditional wisdoms, natural resources management. (Article 3 and 4 Law NO.5 1979).

This policy had made the merged villages lose their autonomy over their own territory. The villages were subordinated to the Developing Village, where the center of the villages located. In West Kalimantan, the distance among the villages range from two or three kilometers up to eight to ten kilometers. The communication between the villagers and their *kepala desa* is very limited. Not all the villagers were familiar with their chief (*Kepala desa*).

The result of the structural position, uniformistic and limited communication between *kepala desa* and his people happening, the village administration run untransparently. No control from the community. In the most cases, when the community controlled him and asked him to verify things within the village to which the villagers dissatisfied, the *Kepala desa* said that their boss is the *camat* and the *bupati* not the villagers, even the villagers elected him. It is understandably, within this situation, corruption, collusion and nepotism were growing rapidly. It is the situation that New Order government built. Most conflicts at the village level derive from this situation.

After 20 years Law NO. 5 1979 implementation, all adat institutions of Dayak in West Kalimantan weakening. Dayak leadership positions extinguished. Their reliance towards their adat law become lower and many adat leaders coopted. Adat leaders are not independent anymore nor at the side of the villagers. Only very credible adat leaders keep on defending adat rules. Since the Dayak institutions destroyed by the law, the capitalistic economy through forest concessions and palm oil plantations promoted, natural resources in West Kalimantan started exploited carelessly. In 1999, LBBT, YKSPK, West Kalimantan Indigenous Peoples' Alliance conducted six workshops in all districts in West Kalimantan. We can conclude that approximately 70% adat structures in West Kalimantan is damaged. Kapuas Hulu district, the most eastern part of West Kalimantan, their adat structures and laws still function well. The

second is Pontianak district. While other districts: Sanggau, Sambas, Ketapang and Sintang, adat structures only function 30-50%.

**e. Spatial Law N0. 24 1992**

Spatial Law N0. 24 1992, actually, is a better legal product organized by State Minister of Environment. It is closely related to the integrity of Mr. Emil Salim, Indonesian State Minister of Environment at that time. In terms of building Dayak adat institutional governance resilience, its contribution is not significant as the participation of people in determining the provincial, district, subdistrict up to village (*desa*) is through formal government structure. At the village level, for instance, the only recognized organization is *kepala desa* (Village headman) even the reality, the role of adat chief in all levels are functional in the community. The approach is truly formal and top-down.

**f. Ministry of Internal Affairs Regulation N0. 3 1997 on the Empowerment, Sustainability and Development of Customs, People's Tradition and Adat Institution at The Local Government Level.**

This regulation has two implications to the Dayaks in West Kalimantan. The first is, de jure implication, the indigenous peoples customs, traditions and structures are recognized. This fact, for a long time, has not been recognized in most Indonesian laws and regulations. But the recognition is still in the government view.

The second implication is, this regulation introduces new structure of the Dayaks in West Kalimantan by building Adat Council in every district and subdistrict entire of West Kalimantan. At the provincial level, is built Adat Assembly (Majelis Adat)<sup>8</sup>. This regulation tends to put aside the existence of the origin of adat institutions (Article 8) owned by the Dayaks people. In fact, now, the councils are the government means of intervention to the adat affairs and has put the real adat leaders as the subordinators. In the former from, the highest rank of the adat institution is *temenggung*, but now, Subdistrict and district councils and Adat Assembly at the provincial level, have been their superiors. The result is, the adat leaders are not independent anymore. The intervention of adat councils is very strong. Most of the adat councils members are those who are in government, businessmen, in fact they have very limited understandings on adat, adat law. This people try to use the adat council and issue for their own interests. Legalization of palm oil plantations, forest concessionaires are made by the councils. Only few of the councils are at the side of the indigenous people.

**IV. Dayak NGO Responses**

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<sup>8</sup> In West Kalimantan, Local Government facilitates the establishment Adat Assembly at the Provincial Level and Adat Councils in every district and subdistrict. Mostly politicians are involved in the organizations

Seeing the reality that the indigenous people are in bad position, NGOs concerned on the Dayaks, Pancur Kasih, Institut Dayakologi and Lembaga Bela Banua Talino, facilitate empowerment effort prioritizing for them. In this paper, the author will focus on what LBBT does in this empowerment process.

#### **a. Community Organising**

The core program of LBBT is community organizing. Therefore, most LBBT energy is focused on it. LBBT works integrately with other NGOs, the members of Pancur Kasih Consortium of the Dayak Peoples Empowerment. LBBT, now, focuses its work in three districts in West Kalimantan: Sanggau, Sambas and Kapuas Hulu. We facilitate five areas in those districts. It does not mean that LBBT does not facilitate other three districts. LBBT involves in the facilitation of the other districts through cases handling and co-operation with churches and communities within the areas.

Within the Community Organising activity, we live in the communities, analyse bad laws, conducting social analysis, legal and human rights trainings, adat structures revitalization, gender trainings, etc. We try to integrate political, social, economical and cultural aspects of people in the community organising process. Our role is merely as a facilitator so that the subject of this empowerment effort is the communities themselves.

#### **a. Revitalising adat structures**

Adat structures are very crucial to build sustainable natural resources management within the indigenous peoples territories. The function of adat law in managing natural resources is very closely related to the adat structures existence. When adat structures are weak or coopted, the community must be weak and less collective resilience. In the context of West Kalimantan, where adat structures weak and coopted, within these areas palm oil plantations easily take people's land. That is why, before a plantations coming to an area, the first thing they will do is influencing adat structures.

Therefore, LBBT in their work, put emphasize on the empowerment of adat structures. But this work is not easily done because we have to face resistance from the coopted groups in the society that get benefits from this situation, and also resistance from government. After Village Administration Law N0. 5 1979 implemented, the quality of adat structures of the Dayaks are decreased systematically and rapidly. From 1979-1999, twenty years, adat structures destroyed, it has made the adat law dysfunctional properly, adat figures are coopted so that they tend to use adat law for their own interests. Most communities members face leadership crises in their villages.

The role of LBBT is initiating the dialogs on every problems they have and linking the problems to the realities they are facing. Through the dialogs, indigenous peoples meetings, social analysis meetings, where people try to criticize anything. Then they can see the root of their problems and start thinking where and how to start doing things to solve their problems independently. They make agenda by themselves. The first thing they usually do is reinforce their laws. At the same time, they also have to know Indonesian laws in order not to be lied by outsiders. To upright the

adat law, they need to empower their adat leaders so that their law can be functional effectively. Of course it takes a lot of time and energy. The problems faced are very complicated that is why, the process is slow and take more patient. The revitalization of adat structures should be parallelly along with the other efforts. From the experience, it will be better if we can facilitate altogether political, economical, social and cultural aspects of a community. The empowerment of adat structures is more dealing with their political aspect.

#### **b. Advocating Against Bad Laws**

Above mentioned laws are the laws, we mainly discuss deeply in the organizing process. There are three main aims of discussing the laws. The first is to socialize how laws justify authoritarian regime in Indonesia. Laws are at the side of elite businessmen and politicians. The second is observing how the laws have affected indigenous peoples by seeing the realities around them in the daily lives. Comparing before and after the laws implemented is very important. The third is what they should do to fight against the laws. Internally, what efforts they should decide to take so that they will not undergo further victimized.

Towards bad laws, LBBT, through Policy Review and Reform Division, cooperating with other NGOs in Indonesia conducting policies advocacy. To reform agrarian policies in Indonesia, LBBT involves in Agrarian Reform Consortium (KPA). This Consortium consists of more than 300 NGOs and individuals who are struggling for agrarian reform in Indonesia. To promote human rights protection, in cooperation with human rights based-NGOs, LBBT involves in human rights trainings, handling human rights cases and campaigning for human rights protection through requesting Indonesian Parliament (DPR) to ratify International Conventions on political and civil rights, social, economic and cultural rights. Main partner of LBBT is Lembaga Studi dan Advokasi Masyarakat (ELSAM) in Jakarta, Indonesian Legal Aid Foundation (YLBHI) and their branches.

For forestry sector, LBBT collaborates with national and local NGOs, to promote indigenous peoples rights on forest sector. LBBT involved actively in drafting and revising Forestry Law Draft proposed by government to Parliament that now has become Forestry Law N0 41 1999. This law draft is completely bad and pro status quo. At the national level, we co-operated with Walhi, ELSAM, Telapak Indonesia, FKMM (Community Forestry Communication Forum). FKMM proposed an alternative draft of Forestry Resources Management Law to DPR. At the local level, LBBT and other concerned NGOs, form Green Robe to socialize the government version of forestry law draft, initiating dialogs with local parliament (DPRD Tingkat I) and governor. Some demonstrations conducted to raise critical public opinion on that draft. We also conducted talk-shows on radios, speaking to press to raise public opinions on various issues.

To change Local Administration Law N0. 5 1974 and Village Administration Law N0. 5 1979, LBBT and other NGOs locally and nationally involved in a research to prove that the laws are negatively affected the local people and indigenous peoples. After the research conducted, campaigned and talked to press and members of parliaments: local and national parliaments. After reform, where aspirations are allowed to expressed openly, this effort becomes allies. Both laws not have been changed into Local Administration Law N0. 22 1999. Theoretically, more autonomy for district level and more respect to indigenous peoples rights.



### **c. Legal and Human Rights Assistance**

Legal assistance for LBBT's view is legal empowerment. LBBT avoids as long as possible going to court as judiciary institutions in Indonesia are not the places to get justice. In this case, what we do is having legal trainings for the communities who are facing cases in particular, what we call as structural and public dimensional cases. LBBT does not deal with individual cases except, that individual case is having a structural implication that means state versus civil society.

Legal empowerment on natural resources cases, mostly in relation to the fight against forest concessionaires, palm oil plantations, industrial timber plantations, mines companies. Within these cases, usually military involves. Within the legal trainings, we facilitate the discussion on indigenous peoples rights, land rights, human rights, rights to natural resources and environment, criminal law, etc. Through these activities, we show videos, sharing experiences, case study, role play on how to talk to companies, government, how to face military etc. After this process finished, then the villagers can have more perspectives and plan things to defend their rights. Our experiences so far making us sure that, such trainings are very useful for the villagers so that they can have more bargaining position.

In handling a case, we are not working by ourselves. We work together with other NGOs locally and nationally. At the local level, besides NGOS, we also work together with student organizations based in Pontianak. Many times we have to facilitate villagers to go to Jakarta and meet government officers. In this case, networking among NGOs is very important. In Jakarta, the villagers facilitated by Jakarta based-NGOs.

### **d. ILO Convention 169 Ratification Campaign**

The fact that the rights of indigenous peoples respect is very weak in Indonesia, while at the international level, the respect is better, LBBT using ILO Convention 169 to promote them. Indonesian government based on Its constitution 1945 article 18 should be respected the rights of indigenous peoples. According to Indonesian law system, an international instrument, will be officially available when it is ratified by Parliament (DPR-RI). As long as the instrument is not ratified, any international laws can not be forced to be available<sup>10</sup>

The campaign of the Convention is for three goals (1) socialisation that at the international level, the rights of indigenous peoples are respected (2) ILO Convention 169 as the tool of empowerment of the indigenous peoples, Dayaks in particular that they have to strengthen themselves by seeing the trend outside of Indonesia (3) insisting that, one day, the government of Indonesia will respect the rights of indigenous peoples and ratify the Convention.

With some NGOs, we have dialoged the Convention the Minister of Manpower under whom the authority of ratifying the Convention will be authorized. So far, the follow up from the government is still obscure to ratify the Convention. The campaigns for the ratification have

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<sup>10</sup> LBBT and ELSAM, translated Indonesian version of ILO Convention 169. This book has been distributed to indigenous peoples in Indonesia through LBBT and ELSAM networks.

been voiced by many NGOs, IPOs and individuals. It seems that Indonesian government still sees that the ratification of the Convention is not their priority.

#### **e. International Policies Formulation**

Indonesian NGOs realize that, international pressures can be effective and respected by Indonesian government. Therefore, Indonesian NGOs, specially, LBBT involves in formulating some international policies on indigenous peoples. There two policies at least, where LBBT involves actively. The first is Asian Development Bank Policy on Indigenous Peoples and the second is European Union policy on indigenous peoples.

We enthusiastically involve in international networks to change or form policies. In the context of Indonesia, we consider, if we cannot influence the government internally, we better use international channels.

#### **f. Organizing West Kalimantan Indigenous Peoples Alliance and Archipelago Indigenous Peoples Alliance**

After empowerment process conducted for many years by various organizations in Indonesia, the next struggle is uniting and synergizing all efforts to the recognition and respect efforts of indigenous peoples existence in Indonesia. The process towards recognition and respect of indigenous peoples are long. NGOs concerned on indigenous peoples formed Indigenous Peoples Advocacy Network (Japhama) in 1993. From 1993-1999, many indigenous peoples based organizations built and more active in organizing, networking and advocacy. Baileo Maluku works for indigenous peoples in Maluku. Lemasa for Amungme community in Irian Jaya, Yayasan Tanah Merdeka in Central Sulawesi, LBBT in West Kalimantan, Lembaga Bina Benua Puti Jaji in East Kalimantan. Yayasan Citra Mandiri works for Mentawai People in West Sumatra and many other organizations dedicated to the indigenous peoples in the archipelago.

The next struggle, in West Kalimantan, Consortium of Dayak Peoples Empowerment facilitates the establishment of West Kalimantan Indigenous Peoples Alliance in 1998. We realize that the movement of indigenous peoples in West Kalimantan should be strong coming from below. The process of building the Alliance was initiated in 1997. Reform also helped us to facilitate the Alliance. The first establishment of the Alliance was marked by demonstration to provincial government in Pontianak in August 1998. One of the demands was to stop the implementation of Village Administration Law NO. 5 1979 and Local Administration Law NO. 5 1974.

This Alliance then organized the Archipelago Indigenous Peoples Congress from 17-23 March, 1999 in Jakarta. The other organizing organizations are: Baileo Mauluk, Bio-FORUM, INFID, Mines Advocacy Network (JATAM), East Nusa Tenggara Indigenous Peoples Movement Network (JAGAT), Participatory Mapping Network (JKPP), Indigenous Peoples Advocacy Network (JAPHAMA), Marines and Coastal Network (Jaring PELA), Consortium of Agrarian Reform (KPA), Support Consortium for Community Forest System Management (KPSHK), Consortium for Indigenous Peoples Empowerment of Irian Jaya (KONPENMA) and Indonesian Forum for Environment (Walhi). The output of congress, indigenous peoples representatives

established Archipelago Indigenous Peoples Alliance (AMAN). Indigenous peoples in Indonesia now is stronger after congress and the establishment of AMAN.

Three months after the congress, State Minister of Agrarian and National Chief of Land Administration, Hasan Basri Durin issued Regulation NO. 5 1999 on Adat Land Dispute Handling. This regulation recognizes the rights of indigenous peoples on adat land. The rights of indigenous peoples on land will be determined by local regulation.

#### **g. Lobbying Parties**

After reform, there are possibilities for us to lobby parties to have concern on indigenous peoples. We try to lobby only parties that we consider that they may have concern on indigenous peoples where the activists are mostly the indigenous peoples. There are two parties showing their enthusiasm for the issue: Love Democracy Christian Party (PDKB) and Unity in Diversity Party (PBI).

In the future, LBBT and other NGOs in West Kalimantan will initiate legislative training for local parliament members. We want that the parliament members are sensitive catching aspirations of indigenous peoples. Moreover, there is an autonomy at the district level after Local Administration Law NO. 22 1999. We will involve deeply in drafting local policies on natural resources at the district level.

#### **h. NGO Concern Center**

To solve refugees after ethnic unrest 1999, LBBT and other NGOs in West Kalimantan formed NGO Concern Center. This Center focuses on helping the victims of the unrest. We organize donation from funding groups, individuals and other parties. This Center works together with students groups working at the refugee camps.

#### **i. Socialization of Administration Law NO. 22 1999 and State Minister of Agrarian Decree NO. 5 1999**

In 1999, LBBT, PPSDAK, PPSHK and IPs Alliance (AMA), conducted workshops in six districts of West Kalimantan. The workshops were the socialization of Administration Law NO. 22 1999 and Agrarian State Minister Decree NO. 5 1999. We have to socialize these two new policies as they are relevant contain the respect indigenous peoples rights.

Administration Law NO. 22 1999 recognizes the adat structures and territorial rights of indigenous peoples while Agrarian State Minister Decree NO. 5 1999 recognizes the land rights of indigenous peoples. The socialization of the laws took three months from October to December 1999. The workshops also helped by Catholic church. Indigenous peoples enthusiastically attended the workshops in each district. This is the first indigenous peoples workshop conducted in all district of West Kalimantan. Through the workshop we want to raise bottom-up initiatives of policy changing especially at the district level, where after the autonomy era, every district is authorized to formulate their own policies. We want to use the opportunity

to organize people's initiative of legal drafting the district policies on natural resources management and protection.

#### **j. District Parliament Facilitation**

After the district workshops, we then organized a parliament members training for Sanggau district. This is the first ever district parliament members training in Indonesia. There are 45 parliament members attended the training for 5 days. The training was focused on the concept of autonomy, the rights of parliament members, analyse district potencies, forming vision of district development, budgeting and drafting district policies.

The facilitators of the training are from Agrarian Reform Consortium, Latin, Telapak Indonesia and experts. The training is fruitful for the members as they get more perspectives on what and how they should play their roles. As the follow up of the training, we establish a *political officer office* in Sanggau to more facilitate the parliament performance in controlling the executives and guarding the people's interests.

### **V. Conclusion**

Adat institutions are determinant factors in defending the rights of the Dayak people on natural resources management. Indonesia legal and policies framework have marginalized the rights of the Dayaks in West Kalimantan significantly. The coming of forest concessionaires, timber plantations and palm oil plantations are backed up by some regulations and policies which then have weakened adat governance within the Dayak society. Dayak natural resources management system will be sustainable if their adat institutions are functional. Government intervention on adat institutions is very far as the result, adat institutions are coopted and the roles of adat leaders are weakening.

Efforts have been being conducted to revitalize Dayak adat institutions by Dayak base NGOs in West Kalimantan to keep the indigenous peoples system of natural resources management resilience. After the efforts conducted, we can observe the success indicators as follows:

1. Critical awareness of the Dayaks are improve in the facilitated areas. It is shown by the resistance of villagers on the land acquisitions, logging exploitation on adat forest, palm oil companies, timber plantation, mines rejections.
2. More people and villages can defend their territories from various projects and natural resources exploitation supported by community leaders within the adat structures. It refers to stronger institutional resilience of the community.
3. More and more demands from indigenous peoples asking the government to withdraw bad laws that do not respect the rights of indigenous peoples.
4. Some bad laws have been pulled out after years of advocacy for examples: Basic Forestry Law N0. 5 1967 was changed into Law N0. 41 1999. Local Administration Law N0. 5 1974 and Village Administration Law N0. 5 1979 were replaced by Law N0. 22 1999 and the issue of Agrarian State Minister N0.5 1999. Those laws have given more respect to

indigenous peoples rights especially on natural resources management and adat structures.

5. Our facilitation is welcomed by various parties for instance: the facilitation of Parliament members.
6. Indigenous peoples empowerment model in West Kalimantan has inspired other groups of indigenous peoples in other parts of the archipelago to learn, share and train.

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## BIBLIOGRAPHY

Abdurrahman, H, Ketentuan-Ketentuan Pokok tentang Masalah Agraria, Kehutanan, Pertambangan, Transmigrasi, Pengairan, dan Lingkungan Hidup, Penerbit Alumni, Bandung, 1992.

Atok, Kristianus, at. Al, Peran Masyarakat Dalam Tata Ruang, Pembinaan Pengelolaan Sumber Daya Alam Kemasyarakatan yayasan Karya Sosial Pancur Kasih, 1998.

Kanwil Dephutbun, Laporan Tahunan, Kantor Wilayah Perkebunan dan Kahutanan Kalimantan Barat, 1999.

Konsorsium Pemberdayaan Masyarakat Adat Pancur Kasih, Laporan Lokakarya Masyarakat Adat Menyambut Millennium Baru, 1999

Konvensi ILO 169 (Translated Ed.), LBBT-ELSAM, 1996

Laporan Kegiatan CO, LBBT, 1998

Peraturan Menteri Dalam Negeri N0. 3 Tahun 1997 Tentang Pemberdayaan dan Pelestarian Serta Pengembangan Adat Istiadat, Kebiasaan Masyarakat, dan Lembaga Adat di Daerah

Peraturan Menteri Agraria/Kepala BPN N0. 5 Tahun 1999 Tentang Penyelesaian Sengketa Hak Ulayat dan Hak Serupa Itu

Konsorsium Pembaruan Agrarian, Suara Pembaruan Agraria, Jurnal Konsorsium Pembaruan Agraria, No. 3 Tahun 1997

Undang-undang Dasar 1945

Undang-undang N0. 5 tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria

Undang-undang N0. 5 Tahun 1967 tentang Undang-undang Pokok Kehutanan

Undang-undang N0. 11 Tahun 1968 Tentang Pokok-Pokok Pertambangan

Undang-undang N0. 5 Tahun 1979 Tentang Pemerintahan Desa

Undang-undang N0. 24 Tahun 1992 Tentang Penataan Ruang

Widjaya, A.W., Pemerintahan Desa dan Administrasi Desa Menurut Undang-undang Nomor 5 Tahun 1979 (Sebuah Tinjauan), PT. Raja Grafindo Persada, Jakarta, 1993.

\*\*\*