

Legal Aspects of the Construction of *the Liang Patane* Cemetery in North Toraja

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Abstract:

Legal Aspects of the Patane Cemetery Development which are made such as a house building made of wood or in the form of a permanent building, as a building either made of wood or permanently made on land owned by *Tongkonan* or privately owned land in terms of permitting, what are the rules that must be met in its construction according to national law, as well as how the customary law rules in the construction of *the Liang Patane cemetery*. The research method used in this study is the Empirical Juridical Law research method using historical, legal and sociological approaches. Data processing by collecting all data, both primary and secondary data, is then presented with a qualitative descriptive analysis method. The results of the study show that in terms of positive law, both National law and Regional Regulation, there is no rule that regulates knowing this in the National Law which is regulated only the provision of land for cemeteries, North Toraja Regional Regulations There is no regulation on this matter either in spatial planning regulations or regulations related to buildings. In terms of customary law, the construction of the Liang Patane Cemetery is regulated by various aspects ranging from the development plan for the placement of the Development Site and its work, apart from the development side of customary law also provides protection for the building itself which protects from destruction and theft as well as activities around the cemetery.

Keywords: *Patane Cemetery, Legal Aspects, Customary Law*

1. Introduction

North Toraja Regency was designated as an autonomous region based on Law No. 28 of 2008 concerning the Establishment of North Toraja Regency in South Sulawesi.

The area of North Toraja regency is dominated by the Toraja tribe, this Toraja tribe initially inhabited an area called 'Tondok lepongan bulan, tana matari' allo which means a land that is round like the moon/sun.

Dr. C. Cyrut, an anthropologist, in his research said that the Toraja people were the result of an acculturation process between the local people who inhabited the South Sulawesi plain and immigrants from Tongkin Bay (mainland China). The acculturation process between the two communities began with the docking of a large number of Indo Chinese immigrants around the upper reaches of the River, which is estimated to be in the Endrekang area (Rura Bamba Puang) then the immigrants built settlements in the area¹.

The Toraja community has long been known as a society that is thick with traditions, customs by adhering to the teachings of the ancestral religion, namely *Alukta* (*aluk todolo*), although some of the Toraja people today have mostly embraced Christianity and Islam, but the values and habits derived from the teachings of *Alukta* are still carried out in daily life with various adjustments but are firmly rooted in the teachings of the ancestors such as

¹ Frans B Palebangan, (2004) *Aluk Adat dan Adat Toraja*, PT. Sulo. 67-68

the deceased The world before the ceremony is not considered dead but is considered as *a to makula'* (sick person) who is still fed, talked to and so on. In *Aluk Todolo's* understanding, when someone dies, it will not be buried immediately, but stored for some time as desired by the family. The bodies that were stored were placed at home until the day of the burial ceremony.

The funeral ceremony in toraja can last several days depending on the type of ritual carried out which is based on the social status of the deceased. In Toraja, there are four social strata called *Tana'* (Caste), namely² :

1. *Tana' bulawan* (High Noble caste)
2. *Tana' Bassi* (Kasta Bangsawan Menengah)
3. *Tana' Karurung* (Independent People's Caste)
4. *Tana' Kua-kua* (Proper Slave Caste)

The implementation of the death ceremony is targeted at the classification of social strata mentioned above, the length of time and type of death ceremony carried out depends on the social strata and the number of pigs and buffaloes sacrificed in the ceremony.

The death ceremony in Toraja is known as *Rambu Rolo'*. The term *aluk rambu solo'* is built from three words, namely *aluk* (trust), *rambu* (smoke or light), and *solo'* (descent). Thus, *aluk rambu solo'* can be interpreted as a ceremony that is carried out when the sun begins to go down (set). Another name for this ceremony is *aluk rampe matampu'*. *Aluk* means belief or rule, *rampe* means one side or part, and *matampu'* means west. So, the meaning of *aluk rampe matampu'* is a ceremony that is carried out to the west of the house or *Tongkonan*.

In the belief of the Toraja Society, life and death are two worlds that are close to each other, the world after death is called *Puya/puyo*. So that between life in the world and life in the spirit world, it only switches to the path of a person's death and changes its status completely after the death ceremony is carried out by the family of the deceased with a death ceremony ritual that is adjusted to the social status and economic condition of the deceased. Because the life in the spirit world will be subordinated and the spirits of the animals that are sacrificed and will also become treasures in the spirit world, the more buffalo animals that are sacrificed with complete rituals, the faster the spirit of the deceased will turn into a return *to membali puang* (god) who will return to be a protector and blessing for his family who is still in the world.

According to the customary rules of royal funerals, there are funeral procedures that vary based on the number of buffaloes sacrificed during the funeral ceremony and the highest is with a minimum number of 24 buffaloes which is called the *Rapasan* Ceremony, this ceremony has several more levels such as *Rapasan Sundun*, *Rapasan Sapu Randanan* and so on, in addition to the number of buffaloes sacrificed also determines the length of the ceremony to be carried out.

In the old custom of the Toraja people, burying bodies is carried out in stone caves or rock cliffs, there are even those who carve stones to be used as burial pits, the position of the grave also indicates the social strata of the deceased, the higher the place in the rock cliff or cave indicates the social position in the community and plays an important role in

² L.T. Tangdilintin, (1981) Toraja and Its Culture. Copyright © 2019 Tana Toraja. All Rights Reserved.

community life and customary government such as *Parengge*, *Ma'dika*, *Sokkong Bayu*, as well as the role in his authority in the local area.

The burial (graveyard) in the city has long been lost to the development of the times and the changes of society. The development of Liang (graveyard) in the Toraja society has three times and processes respectively:

1. The Liang Era of *Erong* Cave which lasted until the 17th century
2. The Liang *Pa'Paa'* (Sculpted Liang) era which replaced the era of the liang erong, and is still famous today
3. The era of *Liang Patane* which began at the beginning of the 18th century in a place where there was no Stone Mountain to make *Liaan Pa' Paa'* whose development was increasingly visible since the introduction of buildings made of walls and concrete³

The implementation of the current Toraja funeral which is carried out has overcome many shifts and progress following the times, the old tradition of burying bodies in caves and cliffs has begun to decrease due to limited capacity and complexity in carrying out funerals due to the terrain and the risks are great. The change can be seen by the many *pa' paa'* stone graves that use large stones that are hollowed out with chisels and then used as Tongkonan family burials or private funerals. In addition to *pa' paa'* stones, when we are in toraja, there are many buildings in the form of tiny houses that line the roadside or in the stone burial area even in strategic places, with various shapes and models. If you first see it, people will think it's whose house? These buildings are the form of graves in the current taraja which are built for the burial of one family or one *Tongkonan* called *Patane* and commonly also called *Banua Tang merambu* (smokeless house/house without kitchen).

The construction of the *Patane* cemetery is carried out because it is more practical and can be built in a place that is easy to reach and made in such a way according to the economic ability of the person who made it, sometimes the appearance of the *patane* cemetery is more luxurious than the houses of residents in the area where the cemetery was made, because the owner of the *patane* cemetery is a person with good economic ability.

The construction of the *Patane* cemetery in North Toraja is developing so rapidly, the construction location is made according to the wishes of the maker, on the side of the road or in the garden or near the settlement. What is interesting in this study is the legal aspect of *Patane* Development in Indonesian national law and how the customary law aspect of the *Patane Liang* (cemetery) as a building that functions as a cemetery.

2. Method

The method used in this study is an empirical juridical research method, with a legislative-legislative, historical and sociological approach. The data used are primary data collected through interviews with informants and secondary data obtained from literature materials recorded in several books and articles. Data processing uses qualitative descriptive analysis methods.

³ Ibid .188

3. Results and Discussion

3.1 Legal aspects of the construction of Patane Cemetery

In North Toraja, cemeteries are different from other areas in Indonesia, if in other areas the cemetery land is prepared by the local government as a public facility, but in North Toraja the cemetery is based on the genealogical and territorial unity of a customary area or *Tongkonan*, because based on the customary law that applies in Toraja, the funeral of a deceased person is not arbitrarily carried out or buried in any place without any attachment genealogical-territorial of a person to the location of the tomb. If someone is put in the wrong place in the burial or grave, customary sanctions will await the family of the deceased who entered the wrong burial. The burial in North Toraja is an heirloom cemetery and family inheritance, so if a person dies, there is no place to bury him, especially not to be buried or buried in a burial that is not his right or inheritance.⁴

The need for land for burial has been regulated by the Indonesian government regarding the arrangement of land provision for burial places, the basic consideration of the need for the provision of land for burial in is deep because of the increase in development activities as a result of population growth and improvement of environmental quality so that more land is needed, therefore efforts must be made so that every land use is carried out more productively and efficiently. That in relation to that, the use of land for burial places must pay attention to religious and socio-cultural aspects, as well as the principles of land use and utilization⁵.

Until now, the provision of land for public cemeteries in North Toraja prepared by the local government is only found in Rantepao City, namely the Buntu Lepong Public Cemetery which is opposite the Heroes Cemetery, The cemeteries in North Toraja are family cemeteries prepared by *Tongkonan* or prepared personally by each family in the form of the Patane Cemetery which is built on their own land or *Tongkonan* land with the permission of the extended family *Tongkonan* which owns land The location where the *Patane* cemetery will be built.

There is one trend and habit of the Toraja tribe that wherever they die they will be tried to be under Return by their kinship Return to Toraja to be buried, almost every day the group of pick-up bodies from outside North Toraja Regency enters under the bodies of Toraja people who go to migrate or domicile outside the North Toraja area Return in a state as *to makula'* (people who have died but are still considered sick until the funeral ceremony is carried out) This is something that adds to the burden of land needs for funerals in North Toraja. Meanwhile, the public cemetery prepared by the North Toraja Regional Government is only one location, namely in Buntu Lepong which is not so large.

The location of old cemeteries in the form of Goa, *Liang*, stone cliffs and *Pa'paa' Batu* has less capacity and because many are already full and are currently turning into tourist attraction locations such as Londa Cemetery, Kalimbuang Bori', Marante Tondon, are getting denser so that the community also needs other alternatives to bury their families both domiciled in the North Toraja area and those who come from outside North Toraja by making a *Patane* cemetery building in the location that is the *tongkonan* area or purchased specifically to build the Patane cemetery.

⁴ Ibid, 189

⁵ Government Regulation of the Republic of Indonesia No. 9 of 1987 concerning the provision of land use for burial grounds

With the expansion of the construction of the *Patane* grave, it requires an active arrangement from the government to arrange the use of land for the construction of the *Patane* grave.

In the North Toraja Regional Regulation on Buildings, a building is a physical form of the results of construction work that is integrated with its location, partially or entirely above and/or in the soil and/or water, which functions as a place for humans to carry out their activities, whether for residence or residence, religious activities, business activities, social, cultural activities, or special ⁶activities. In the regulation, there is no regulation at all regarding buildings used for funeral functions, the regulations in the regional regulations that regulate the Function and Calcification of Buildings are regulated as follows⁷:

1. Building function is a stipulation regarding the fulfillment of technical requirements for buildings reviewed in terms of building layout and environment as well as their reliability and in accordance with the location designation regulated in the Spatial and Regional Plan (RTRW) and/or the Building and Environmental Plan (RTBL).
2. The functions of the building include:
 - a. Building buildings have residential functions, with the main function as a place for humans to live;
 - b. Buildings with religious functions with the main function as a place for humans to worship;
 - c. Buildings with business functions with the main function as a place for humans to carry out business activities;
 - d. Buildings with social and cultural functions with the main function as a place for humans to carry out social and cultural activities;
 - e. Special function buildings with the main function as a place for humans to carry out activities that have a high level of confidentiality and/or a high level of risk of danger;
 - f. Building more than one function

Further regarding the determination of the function of the building to be made is proposed by the building owner broker in the form of a technical plan for the building in accordance with the designation of the location regulated in the RTRW and/or RTBL and the requirements required in accordance with the function of the building⁸. Thus, it is the owner who determines what the building is made for and what it is used for. Salmawati⁹ revealed that during her tenure in the One-Stop Integrated Service serving the management of building development applications, only one person applied for a building permit for the function of a cemetery (*Patane*) but the officer was not confused to issue a building permit for the function because in regional regulations there is no regulation regarding the construction of buildings for funeral functions.

Outside the area of the city of Rantepao there is no cemetery/cemetery location prepared by the North Toraja regional government, in other regulations that regulate the recognition and protection of customary law communities, cemetery land in each area is land owned by

⁶ North Toraja Regional Regulation Number 1 of 2013 concerning Building article 1 point 11

⁷ Article 5 of North Toraja Regional Regulation Number 1 of 2013 concerning Buildings

⁸ Ibid chapter 7

⁹ Salmawati, North Toraja PTSP Officer, interview May 7, 2025

the Joint Customary Law Community,¹⁰ thus that the use of land or cemetery land is regulated and used by indigenous peoples, so that it is not free to be used to bury people who do not have a genealogical attachment to the Tongkonan Owner of the Cemetery Area. If there is no connection, it should not be buried in the traditional cemetery. If there is a person who puts the body in a burial place that is not his burial, then the family who buries it will be punished with the punishment of *dipasala liang* (blamed for entering the grave) whose punishment is *dipakalao* (taking his property) the amount of which is determined by the customary council where *the burial* is located.¹¹

3.2 The provisions of Toraja customary law on the construction of the Patane Liang (cemetery).

Life and death and death in the view of the Toraja culture is the transition from the realm of real life to the supernatural lam called *Puya*. According to the belief of *aluk Todolo*, every person who dies must be ceremonied for his death or burial so that the spirit can travel to the afterlife well. So that the spirit can fulfill its obligations as a spirit or *to return Puang* who pays attention to the movements and gives blessings to the human descendants. With the view of life of the Toraja community which is sourced from the ancestral beliefs, the Toraja people whose families died are treated well, before the end of the funeral ceremony they are still considered *to makula'* (sick people) and are still given food every day, talked to and even complained about.

The respect of the Toraja people for the family of the deceased is shown from the beginning of death to the funeral of the deceased family. When the funeral ritual is carried out, one will not hesitate to carry out the death ceremony by sacrificing a lot of property to carry out the funeral ceremony which is based on the number of the social class and the number of pigs and buffaloes sacrificed in the ritual.

In addition to the number of sacrificial animals sacrificed, the family also prepared a special place where the family would be buried. In ancient times, burials were carried out in caves, on cliffs, even after the 17th century began to build *Liang Pa' Paa'* (Hat's Grave) which is also still practiced today. The next development is the construction of special places that are shaped like houses made of wood or concrete buildings made specifically for Funerals. This building is called *Liang Patane* (Patane Cemetery). The construction of *the Patane Liang* (tombs made in the form of houses) began to be in demand in the 1960s, beginning with the construction of the Patane Pongmasangka Tomb in Pangli and the Patane Pong Maramba Tomb in Ba'tan. The Tomb of Patane Pong Masangka is made of wood which in its construction is planned to only store temporary bodies, while the Tomb of Patane Pong

¹⁰ Article 14 of North Toraja Regional Regulation number 1 of 2019 concerning the Recognition and Protection of the Rights of Indigenous Peoples

¹¹ L.T. Lintin, Op cit, 192

Maramba is indeed made permanent by his extended family as well as for other families who died later.¹²

The construction of the *Liang Patane* is not done arbitrarily, the construction of the cemetery, both *Liang Pa' paa'*, *Liang Patane* is bound by customary rules, as well as other life problems that have provisions and rules that bind the *Liang* both in terms of its manufacture and in terms of its use which is called *Ada' Liang* (Cemetery and Cemetery Rules)

In the construction of *Liang Pa' Paa'* and *Liang Patane* according to the belief in customary law, it must follow the rules such as in the construction of the Tongkonan House, which is every process by holding rituals to honor and be grateful for the work by holding sacrifices, namely by cutting chickens or pigs. The customary rules that govern the process of building *Liang Pa' Paa'* and *Liang Patane* are as follows:¹³

1. *Manglempo* is the process of determining a place to make Liang by offering one chicken
2. *Manda'ta/Ma'Pakande To matua* is a ritual of testimony to the ancestors of the plan to make the burial by appointing one tongkonan as a partner from the burial by sacrificing one chicken or one pig
3. *Mangonto'* is starting using the equipment that will be used to make Liang with the offering of 1 chicken
4. *Massindung* is an event to start making a room in a burrow by sacrificing 1 chicken
5. *Ma' Guali* is the process of installing herb wood that will support and form a room/room in the burrow by cutting 1 chicken
6. *Massa'bu* is an ordination ceremony to give thanks for the completion of the burial, in this process the entire family concerned participates in holding the ceremony by sacrificing 1 pig.

In addition to the provisions of customary law regarding the process of *Liang* Construction, when the liang was first used in ancient times, there was a rite that was carried out, namely by providing *Pa' lilli' liang* (*pa'lilli'* = base, *Liang* = grave) that is, by burying one corpse as a burial ground which is generally taken from the corpse of one of the descendants of the servant of the one who has the liang or taken from the family which is ceremonied in the rite *in silli'* (Funeral ceremony which only sacrifices 1 pig which is immediately cooked and eaten until it is finished and cannot be eaten with rice then the body is under the cemetery with a procession preceded by the torch)¹⁴ or as high as the funeral ritual is in *the pasang bongi*

The applicable aspects of customary law related to the patane burial are that the construction of the patane burial should not be built in an area that does not belong to or

¹² Pasolang Pasapan, Interview December 21, 2024

¹³ L.T. Tangdilintin, op cit 190-191

¹⁴ Paseru Sound, Op Cit 87

does not have a genealogical attachment to the area from one tongkonan, in other words it should not be built on land that is not his right or property.

In the event that a person commits a crime or customary criminal act at the funeral location or against the burial, customary criminal law applies. Customary criminal law related to crimes committed against tombs in toraja are:

1. It is forbidden to put a body in a burial that does not belong to him without the consent of the party who owns the burial, this customary criminal act is punished by a punishment called in the burial burial, the punishment for the family in this burial is dipakalao (confiscation of their property) and the amount of property taken is determined by the customary council where the burial is located and usually the fine is in the form of several buffaloes or several plots of rice fields then the corpse of the family who is found guilty With the burial mound in the burial mound, the body was removed from the burial
2. It is forbidden to steal objects in the burrow, or around the burrow, this criminal act is called *the pelokoi burang* (stealing property contained in the burrow) the punishment given to the perpetrator of this crime is confiscation/confiscation of all the rice fields and buffalo by the owner of the burrow, another punishment before that is that the perpetrator can be sold or used as *a ransom* (slaves) by those who have a burial even by the perpetrator's family can be punished by being killed.

In 2024, there will be theft and demolition of the *Liang Patane* in Lembang Salu, Sopai District, North Toraja. The incident went viral on Social Media because the video recorded by the perpetrator was spread on social media so that 5 teenagers who committed the crime were arrested by the police and sentenced to customary sanctions in accordance with applicable customary law. The five teenagers were then tried in a customary manner and sentenced to customary sanctions in the form of cutting pigs in each of the Patane Liang that they dismantled to take the goods and money in the *Liang Patane*. The five teenagers dismantled 3 *Liang Patane*, the Customary Decree and the family of the owner of *Liang Patane* in the Lembang Salu customary trial decided that the three were proven to have committed demolition and theft in *Liang Patane*, so they were sanctioned by the custom by cutting 1 pig in each Liang Patane that they dismantled, because the location of Liang Patane is far away, the implementation of customary punishment is carried out for 1 day each in each location where they carry out the dismantling of *Liang Patane*¹⁵. This customary sanction is carried out in accordance with an agreement between the victim's family, the perpetrator, customary institutions, the Lembang government, and the police. After carrying out customary sanctions, the five perpetrators were given further guidance so as not to commit similar acts in the future.

Toraja customary law regarding the burial of the grave cannot be opened arbitrarily after a person's funeral is carried out, it is not allowed to take items around the grave, clean and open the grave without the dead being put into the grave or there are no ritual activities

¹⁵ <https://kareba-toraja.com/5-pelaku-pembongkaran-dan-pencurian-patane-di-sopai-jalani-sanksi-adat/>

such as cleaning the body known as *the ma' nene'* ritual. Because in *Aluk Todolo's* belief, when a person opens or does activities around the burrow without ritual or not at the permitted time, especially when the rice plant is in process, starting from the planting season until the harvest arrives will result in crop failure, there will be pest attacks such as caterpillars or rats that attack the plant blindly.¹⁶

4. Conclusion

The construction of the Liang Patane Cemetery in North Toraja, does not have specific rules either in national law or in the applicable regional regulations in North Toraja, in the National Law through the Government Regulation that regulates the provision of land for funeral purposes it is regulated that the need is prepared by the local government, these provisions have been fulfilled by the North Toraja Regional Government by providing land in Rantepao City in the Buntu Lepong area, The availability of land for cemeteries in northern toraja was prepared by Tongkonan Because for the Toraja people the cemetery is a heritage and heritage that must be kept sacred so that there are no other people who use the Tongkonan tomb without rights because there is no genealogical relationship with the tongkonan owner of the Grave Grave. The location of the cemetery was also prepared by individuals who allocated their land by building the Liang Patane Cemetery.

In terms of Customary Law, the construction of the Liang Patane Cemetery has strict rules, the arrangement provides protection and certainty for the development and protection in the future and no one commits a slit act against the grave, whether it is the stone pit or the Liang Pa' Paa' building and also the Liang Patane Cemetery building. Customary law strictly regulates the construction of Liang Patane, the rules are full of rituals starting from the plan to the start of the construction to the use of the building as Banua Tang Merambu (House Without Smoke/Kitchen) because the building of the Liang Kuburan is a house after a relative dies and there is a perfect place of separation between the living and those who have died because all the rituals have been carried out by the family with The hope that the family who has died on the journey of his soul to the Lam Baka called Puya will go well until his soul becomes To Membali Puang (god) and always pay attention and give blessings to his deity who is still in the world.

Criminal sanctions for those who commit crimes or violate customary laws related to grave burrows are very harsh, in the old days the punishment of those who committed the act of *the Liang leader* (stealing in the grave) would receive strict sanctions by confiscating all their property, (rice fields and buffaloes), used as a *kaunan* (Slave), in *Balukan* (sold) by the owner of *Liang*. However, at this time the similar punishment is no longer enforced. The current customary punishment for those who commit crimes and violations in the Grave *Liang* or *Liang Pa' Paa'* and *Liang Patane* will be punished with the *punishment of mangrambu langi'* (punished with the Pig at the location of the Liang where the crime was committed and the meat is eaten there should not be returned home) as a fine and as a ritual to restore the original condition as a sin removal and purification of the village from the act of violating custom.

¹⁶ Yunus Ada', Interview 20 December 2024

References

- Paseno, Seru, *Aluk Todolo Toaraja: Today's Funeral Ceremony is still sacred*, (Salatiga, Widya Sari Press, 2004)
- Palebangan, Frans B., *Aluk, Customs, and Toraja Customs*, (Rantepao, PT. Sulo, 2007)
- Tandilintin, L.T. *Toraja and Its Culture*, (Rantepao, Lepongan Bulan Foundation. 1981)
- Government Regulation Number 9 of 1987 concerning the Provision and Use of Land for the Purpose of Burial Grounds
- North Toraja Regional Regulation Number 1 of 2013 concerning Buildings
- North Toraja Regional Government Regulation Number 1 of 2019 concerning the Protection and Recognition of Customary Law Communities
- North Toraja Regional Regulation Number 3 of 2023 concerning the Medium-Term Development Plan of North Toraja Regency for 2021-2026