

Types of Leadership and the Customary Courts in the Papua's Customary Communities

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Abstract

The community is viewed as the class of the community orderly and immutably and has its own board and property either material or immaterial wealth. The concept of the customary communities generally in Indonesia as stipulated also applies in Papua's community. There are 4 (four) types of leadership in the Papua's Community System they are 1) Charismatic Male Leadership Type; 2) King Leadership Type ; 3) Chieftains/ Clan Leadership Type; and 4) Mixing Leadership Type. In terms of the customary court in Papua, the customary courts for the customary communities in Papua is influenced by the social, cultural and ecological factors. It is also affected the system of the leadership as mentioned previously. Currently, the customary communities in Papua is using the courts in resolving the disputes and it calls the court as "sidang adat" or "urusan adat". It has already practiced the procedure of the disputes (customary) disputes through the consultation led by the elders of the community. The elders become the customary judge who appear and grow naturally.

Keywords: Leadership, Customary Court, Papua's Customary Community

1. Introduction

There will always be found a social life in Indonesian community in which people behave as the unified people spiritually and physically in all level of the community. The classes of the community have the fixed and immutable sequences and they feel their life in the community as a normal thing according to the nature. None of them ever think to disperse their community. The community has their own board and property which owned personally, worldly, and mystically.¹ Therefore, the community is viewed as the class of the community orderly and immutably and has its own board and property either material or immaterial wealth.²

Basically, in one customary community, the class of the it can be seen in various perspectives including types of its leadership and court community. Those perspectives play an important role to arrange and control the community to be in right path. Leadership and court issues in the customary community will become patron of the people in the community. They will keep and obey the community due to the leader and implementation the rules of the community by the customary leaders.

The concept of the customary communities generally in Indonesia as stipulated also applies in Papua's community. According to Johz Mansoben, the types of leadership in the Papua's Community System are segregated into 4 (four) types of it, as following: 1) Charismatic Male Leadership Type; 2) King Leadership Type ; 3) Chieftains/ Clan Leadership Type; and 4) Mixing Leadership Type.³ Those type's styles in the Papua's Community System is used to explain the existence of the customary communities of Papua. Thus, it gives the view of customary law system and the effect of the customary leader to arrange and manage its own communities.

In the context of the customary courts in the customary communities of Papua itself, the legal argumentation is based on the Law No. 14 of 1970, changed into the Law No. 35 of 1999 on Amendment of the Law No. 14 of 1970 on Basic Provision of Judicial Power. Recently, the previous Law has been not enacted and changed with the Law No. 4 of 2004 on the Judicial Power. The Article 2 of the Law No. 4 of 2004 determines that the implementation of the judicial power is done by the Supreme Court and Judicial Bodies which underneath the General Courts, the Religious Courts, the Military Courts, the Administrative Courts, and the Constitutional Courts. The Article 3 paragraph (1) then states that all of the courts in Indonesian territory is the country's judiciary and is set by the law. The Article 5 paragraph (1) affirms that the court adjudicates according to the law and does not discriminate people.⁴

The substance of the provisions of the legislation as mentioned above is intended to cover all the possibility or the revival of autonomous judicial among the indigenous of people in Indonesia. The legal consequence of the legal disputes that occur within the indigenous communities must be resolved through the

¹ Soerojo Wignjodipoera, *Introduction and Principles of Customary Law*, Mt. Agung, Jakarta, 1995., p. 77.

² Ibid. p. 78

³ Johz Mansoben, *Diversity Leadership System in the Province of Irian Jaya*, in Yulfita Raharjo (ed.), Proceedings of Irian Jaya Building Society, the Center for Population and Employment Indonesian Institute of Sciences (PPT-LIPI), Jakarta, 1995, p. 71.

⁴ See Hendrik Herman J. Krisifu, *The Customary Court in the Customary Community of Papua in Indonesia Judicature System*, Logoz Publishing, Bandung, 2014, pp.7-8.

judicial body of the country. Even though, the reality shows that there is remedies and any attempt to eliminate the judicial customary practices around the indigenous people in Indonesia. However, it is not easy to remove and replace the role of customary justice to the judicial system.¹

The customary judicial history in Papua shows that the customary court is not the new thing in it. It is because long time ago before the enacted of the Special Autonomy Law, the customary judicial practice has existed on variety of ethnic groups and the indigenous people. The customary judicial practice used to solve the civil disputes, such as marital disputes, ran-away with the girl, land disputes, and other disputes. In the criminal cases, it is covering such crimes like murder and fights between villages. In terms of the settlement of civil disputes and criminal cases, sanctions from both civil and criminal issues are always the customary fine in form of money, animals, and/or in practice the payment conducted by providing women. They believe that the customary institute can simply and quickly resolve the disputes in the community.²

Therefore, practices in the customary court in Papua is also applying in various regions in Indonesia. The reality shows the existance of the customary courts for solving the problems is needed and it has long been existed firmly and institutionally. Indeed, the form of it shows recognition of the existence of the customary court in the customary community. Therefore, the focus of this paper is to describe the type of leadership and the judicial customary court in Papua. Those issues are to give the over view of how the type of leadership applied to the indigenus people in papua and how the customary courts provide legal certainty and jusctice for the people to create the equality before the law.

2. Types of Leadership of the Customary Communities of Papua

2.1.Charismatic Male Leadership Type

The type of charismatic male leadership is found in most Papuans especially for people who are living in the remote area and on the top of the mountain started from the Birdshead in the west to the border area of Papua New Guinea in the east. This type of people with it is people in Meybrat, Me, Dani, Asmat, and Muyu.³

Paniai customary law communities is also belong to type of the Charismatic Male Leadership Type or *big men* or *Tonowi*. The general characteristics of this type in the community is the position of the leader gained through the achievement. The source of power of this leadership style is from the ability of the leader to have a good economic (richman), having a good diplomacy skills and public speaking, having the courage to lead the war, having a great and sturdy body, and having a generous nature. The other characteristic of this type is all the authority is run by the true leader of the single autonomous.⁴

Someone who can get the status of *Tonowi* (rich, influential and authoritative) and does not have power to regulate the society. Absolute and abitrarily of the *Tonowi* power is highly criticized by the society. A *Tonowi* admired and respected othe people but is not the one that stated as the super power. The power of each person is highly valuated and respected. This becomes evident in the village deliberations. In any case matters, a personal opinion is freely get the place. Every individual, man or woman, react or not, can tell the argument. The final decision will be in the parties arguments. The decision is not based on *Tonowi* but the *Tonowi* is heard and respected. Each person has the freedon to express the oppinion. This thing is still visible today.⁵

A *Tonowi* is an important person that influence people in the village, in units or social unity, but he is not the head of costums administration. He is never given the authority to regulate all things and *Tonowi* is aware of this kind of thing. The leadership and the living is set togethther by consensus and each person plays role according to their status in the family and in the society. Thus, in the settlement of disputes, a *Tonowi* will not always act as the judge or the main character that will be lead the issues. But he acted as the people who will solve the disputes out of the court, through the provision of pigs, the payment to help people who get the penalized.⁶

In that way, *Tonowi* will become famous and get the self-esteem raised. He also creates the social ties that will raise *Tonowi*'s position to higher. So that he will be more respected and appreciated. The view of Me communities which is closely related to wealth in which the wealth can not be used by its owner. It must be distributed to other people who need help. Therefore, the *Tonowi* should have *Ba Epi* personality - means generous. A richman who doesnt have *Ba Epi* personality will not be recognized as the leader of the community.⁷

¹ Ibid.p. 7.

² Ibid.p.8.

³ Joshz Mansoben, op.cit. p.71.

⁴ Ibid. see also Koentjaraningrat, *Irian Jaya: Building a Pluralistic Society*, Djambatan Publishing, Jakarta, 1994 p. 385.

⁵ See Agus Sumule, (ed), *Looking for Middle Way Special Autonomy*, Gramedia Pustaka Utama Jakarta, 2003, p. 194.

⁶ Ibid.p.195.

⁷ Joshz Mansoben, op.cit. p.78.

2.2. King Leadership Type

This type of leadership is found in region which become the cultural transition area from west coast of Chief Bird to the coastal areas of West Mimika on the east of Southern Papua. The ethnic groups either directly or indirectly supporting the system is the residents of Raja Ampat Island which consist of Moi ethnic, Ma'ya, Matbat, Beser, Biak Kawe, and Amber, Kalabra (on the south coast of Chief Bird), the Nanwatan (along the northern coast of Gulf of Berau), the Iha (in the Peninsula Onin Region), the Molar (between mount Good and Bomberai plateau), the Irarutu (in Arguni), the Kowiai (on the Adi Island, Namatota, and Kaimana), the Mirasi (in coastal area located between Tanjung Mai-mai in the west and the Etena Gulf in the east) and the Mimika (in area of Kapia and West Mimika).¹

The royal customary government system is one of the centre of confederate traditional kingdom, which govern as the constitutional organization and consist of several villages led by king.² Naming for the king is *Fun Kapitla* or *Fun Kalana* which abbreviated to be *Fun*. *Fun* means lordship, glorified or exalted. Thus, *Kapitla* or *Kalana* is used as the alliance identity and the form of government adopted.

Literally, *Kapitla* comes from Mayan³, which consist of two words, *Kapit* and *Tola*. *Kapit* means pinching or taking and *Tola* means slowly or little by little. *Kapitla* means that the leader takes the smallest part among the largest and the largest part need to be given for the society. The smallest part is for themselves. Philosophically, this two words can be interpreted as a necessity of the leader to prioritize the society.

The customary law of the federal government in Raja Ampat made up of 4 (four) regions. Three of them use *Kalana* and only one uses *Kapitla* for their head of government. The difference between these two words caused by differences of the birthplace of the founder of the alliances, such as Wagi, Salawat and Umsool come from South of Wageo Auyaidi bay; while Sailolof derived from Mayalibit bay and use *Kapitla* for their head of government.⁴

2.3 Chieftains/ Clan Leadership Type

This type of leadership is supported by ethnics which located in Northeast Papua, Jayapura. The people who support this type of leadership come from Sentani (in and around Sentani Lake), the Tobati (Yos Sudarso bay or formerly bay Humbolt), the Genyem or Nimboran (in Grime river where located in the west of Sentani Lake), the Tabla (in Tanah Merah gulf and west Cycloop mountain), the Skow (on north coast west border province of Papua and Papua New Guinea). The *Arso* and *Waris* (in upstream Tami) and Denta which located in the north coast between east of Muris village and west of Denta village.⁵

The government system for the customary communities of Sentani is a Chieftains/Clan Leadership Type or *Ondoafi*. The basic character of this system is based on seniority. The willingness and power that given from body with a clear division; the source is based on ancestry and religion; the power manifested by the control of land, water and living resources; the leader of this community serves as the leader of the religious ceremony.⁶

The people who serve the position as *ondoafi* have a huge and wide authority which covers most of the aspects such as religion, economy, social welfare, security and justice.⁷ In the religious field, *ondoafi* needs to supervise and maintain their habitual life and the rituals of the villages, such as lead the customary ceremony of head-payment. *Ondoafi* is obliged to enable the indigenous' life through the oversight of politeness among the society and do the supervision on the traditional ceremonies around their authority.⁸

In an economic field, it is reflected by its role as the one who hold the inheritance rights of property of the village including : 1) the heirlooms, such as stone bracelet or Ebha, beads or Nokhom and Hawa and the stone axes. These objects are the prestige object that is solely owned by *Ondoafi* and should not be owned by other community members. Thus, those objects gave a certain status to its owner; 2) the natural resources.

¹ Ibid.p.72.

² See MS. Mayalibit, *Description of Alliance of Customary Law in Raja Ampat*, Faculty of Law, University Cenderawasih, Jayapura, 2003, p. 13.

³ Maya languages is including Austronesian language group. Villages using the Mayan language in Salawati island is Samate, Kalobo and Sailolof. In the village Sailolof, the Mayan language is better known by the name Palata language. Based on data obtained from the Raja Ampat archipelago population who speak Maya and not Maya, all of the respondents admitted that the Mayan language Samate is considered better than other. Likewise, additional information from Dr. A.C.. van der Leeden about the opinion of Maya speakers in Misaol and Waegoe, that the Mayan language in Samate is better. Thus the Maya language Samate is recognized as the standard Mayan language. See Christ Fautngil, *The Linguistic Language in Salawati Island*, in E.K.M. Masinambow and Paul Haenan (ed.), *Culture and Development of Irian Jaya*, LIPI-RUL, Jakarta, 1994, p. 452.

⁴ Joshz Mansoben, op.cit. pp.89-90.

⁵ Ibid.p.90.

⁶ Ibid.p.102.

⁷ Ibid.p.107.

⁸ Ibid.

Ondoafi authorized to permit a search, use or exploit the natural resources that exist for the welfare of its people. As well as to supervise the exploitation of the natural resources.¹

Ondoafi's authority in the social field reflects in several things, such as: 1) rights to accept half of dowry property of any girls in the village who married in the village. The property is usually used for the society. An example of it is if there are members of the community fined for the particular offense against the members from the other village, then *Ondoafi* will help the person to pay the fined by using the village's cash. It is also the same as paying the dowry of the boy from its village who married with the girl who come from another village; 2) the rights to get the greatest result from hunting and fishing, also the harvested. This thing we call as "tali ondofolo, waya ondofolo", ondofolo means not only see its own village, but also see outside of its village. The results obtained will be distributed to the citizen who are under its control.

In the field of security and public order, *ondoafi* have the authority to act inside and outside. The inside authority of *ondoafi* is to act inside is the right and duty to maintain the security and the society order by giving reprimand, punish the person and even to eliminate the person from the community that violate the provisions of the custom and harm for the public safety. Further, act outside is the rights to declare war with other village.²

Ondoafi's authority in the field of justice are reflected by its own position as a judge to resolve the problem occur among its society. *Ondoafi*'s authority is huge, wide and sum up in a phrase. Ondofolo yo longgo, oboisolo-ro isolu. This phrase means: ondofolo is a banyan tree which protect the society and every welfare needs to return to the village back and the deaths will be the responsibility of *Ondoafi*.³

2.4 Mixing Leadership Type

This type is supported by the residents of Teluk Cendrawasih. The ethnic supporters are Biak (in Schouten Islands, and in the Noemfoor Doreh bay, Manokwari), the Waropen (on the east coast of Teluk Cenderawasih) and the Wandamen (the western shore of the Gulf of Cenderawasih).⁴

This type of leadership is determined by some factors creating the trait. First, there are some opinion that it is contained mainly by the low level of society. Second, it is effected by time and place. Those criteria to be achieved always change according to the circumstances. For example, the criteria for leader is based on the descent. It means that the leader position comes from the founder of the villages. In this case, this type of leadership applies inheritance by descent.

On the contrary, when the situation of people who have difficulty in surviving, for example a prolonged dry season or danger of being attacked by enemies or the residents are having decadence due to the process of acculturation, the criteria of leadership is no longer based on the descent but it is based on the ability in terms of financial supporting. In this situation, some individual appear in front of the community to lead its community to dealing with this situation. Of course, in some cases succeed and in other case fail. How to deal with this situation as showing will decide whether he will recognize as the leader.⁵

3. The Customary Court in Papua

3.1 Customary Judge

The customary courts for the customary communities in Papua is influenced by the social, cultural and ecological factors. It is also affected the system of the leadership as mentioned previously. Currently, the customary communities in Papua is using the courts in resolving the disputes and it calls the court as "*sidang adat*" or "*urusan adat*".

It can be seen in this situation that the courts function is not only the institution which established in Papua, but also founded in Bali – called as "*awig awig*". This court also still exists. Every customary village in Bali has its rules to bind its people in which those rules basically give limitation to some powers and obligation. *Awig-awig* is the rules setting all of the aspects of society's intercommunication in order to create safe atmosphere, peace and harmony. The violation of *awig-awig* will get the sanction or customary reaction as fine or the people will make a cleansing ritual.⁶

In the practice of the Papua Customary Court, each of the customary communities has the same mechanism in terms of settling the disputes and of course there is also the differences amongst them. The similarities and differences of settling the disputes are strongly influenced by initial cultural contact (social and cultural) and the ecological conditions.

From the generation to the generation of the indigenous people of Papua, it has already practiced the

¹ Ibid.p.108.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.p.124.

⁶ see Nyoman Serikat Putra Jaya, *Relevance of Customary Criminal Law in Reforming National Criminal Law*, Citra Aditya Bakti, 2005, p. 163.

procedure of the disputes (customary) disputes through the consultation led by the elders of the community. The elders become the customary judge who appear and grow naturally. They have actually a bunch of customary law knowledge. They also have a charismatic, honest, wise behavior in order to get the recognition from the public about their role and responsibility to handle the disputes. The existence of a wisely judge is considered and highly respected by the indigenous communities. There is no time restriction of the customary judge. It depends on the physical strenght. Therefore, they will be entrusted as the customary judge as long as they are strong physically.

As can be seen in the traditional villages in Bali, the customary court has still practiced in the community. The customary court is done by the head of the village, the elders of the village, and the special level of people of the village in the meetings.¹ *Awig awig* village book reverses to the head of the customary village (called as *Bandesā*) to act and be appointed as the peaceful living judge. The implementation of it is done in *Sangkepan Krama*, which be accompanied by *Perbekel* and others *Prajuru*². The *prajuru* will act as the judicial institution in order to give a decision for the criminal offense either through the courts (litigation) or not by courts (non litigation).³

Besides having the customary judge, the customary communities in Papua has the consensus place as a place of “*sidang adat*”. As practiced in Kampung Sailolof, the “*Rat Hadat*” or the traditional council will do *Tafayulope Tasidang Parkare* (*Ta/Tafayus* means meeting; *Tasidang* means a discussion in meeting; and *Parkare* is cases). So that, *Rat Hadat* can be the place for meeting to solve the cases. *Rat hadat* is the consultative institution which serves as the agency to negotiate and decide consensually all the wisdom related to the interest of the kongdom that has not been implemented. In addition, *rat hadat* aims as the one who responsible for its *fun/* king. This council also serves as the judge who decided the offender to pay the fine or *geras*.⁴

Me tribal communities in Paniai implement the customary trial on the yard of the man as *Emā Owa* (*ema* means right; and *owa* means house) or a right house. These people assume that everything which has decided in *Emā Owa* is correct and it should be obeyed. In Me’s tradition, it has known traditionally the separatarion or *honay* between men and women. So that, the place for solving the problems is the men’s yard. Whereas, in the traditional governance system in Sentani, each of *Ondoafi* has their own customary houses/*para-para adat* or *Obe Onggo*. *Obe onggo* aims as the customary place for doing the discussion and also as the place to serve the customary trial. All of the disputes can be solved in *para-para adat* because there is “*Reikane Akhaolom*” an honour and dignity of *ondoafi*. So that, all of the members of the community are afraid to come and have the disputes in that place.

The historically records show that traditionally Biak people have an institution called *kainkain karkara mnu*. *Kainkain karkara mnu* is the village council in which the council is exist in every place in Biak. *Kainkain karkara mnu* is resulted from *kainkain* means “sit and discuss”; and *karkara* means “talking and thinking to take decision for the disputes that is useful for people”; and *Mnu* means “village”. Conceptually, *karkara Mnu* is a place to discuss and speak, to solve the problems which are important, and to be useful for the society’s development. The important things are discussed on these institution such as discussing plan to make the boat for fishing, opening the new garden, planning to pay dowry, building a house, and resolving the disputes. *Kainkain karkara mnu* can be seen as a place for democratic mechanism for the people in Biak, which has known for centuries.⁵ By seen the trial place which described above, it can be said similarities in a session on general court as stipulated in the Criminal Code on Article 230 paragraph (1), which asserts that the trial was held in the court house in the court room. Indeed, the courtroom at the district court has been devoted to the trial, the costum trial doesnt have a sure place for the indigenous people.

3.2 Types of Solved Disputes

The Customary courts in Papua generally solves the different types of customary disputes both civil and criminal cases. People of Customary law divide types of disputes in 2 (two) categories namely big and small cases. The category of big dispute is murder, land boundaries, and adultery. While the category of small disputes is carried off girls, thief, and others.

Based on the categories of disputes/ lawsuits, an informant in Pania explains that the types of disputes/ lawsuits most widely settled by customary courts are small category (case) such as household problem and carried off somebody’s daughter. The type of dispute in one year could reach 100 (one hundred cases). While disputes/ lawsuits with major categories such as murder during the 2006 to 2007 occurred 1 (one) case and 20

¹ see I Wayan Surpra, *Regarding of Pakraman Village and Customary of Bali*, Pustaka Bali Post, Denpasar, 2006, p. 128 .

² Ibid. p. 129.

³ Nyoman Serikat Putra Jaya, op.cit. p. 164.

⁴ Joshz Mansoben, op.cit. pp.253-254.

⁵ See.Samuel A. Patty, et.al., *Customary and Ceremony of Marriage in Irian Jaya*, Department Education and Culture Research Center of Cultural History, Inventory Project and Regional Cultural Documentation, 1979 – 1980, Jayapura, p. 164.

(twenty) for robbing cases. Similarly, the indigenous people of Biak states that the most common disputes/lawsuits is *wos bien* or female matters. Killing matters or *mamun* is only 2 (two) cases in 2005/2006 while the land dispute is a dispute that began only since the early 1980s.

In addition, the indigenous people of Biak, there are several types of actions that have lost its legal violations value, such as *myam-fyadadier* or "prejudiced / jealous" or "suspicious"; *pyangguai* or "call girl with a wave of the hand"; *pyannier* or "pinch a girl!"; and *imsiek* or "call girl with a whistle or flirt", and *isarsar* or "mock someone with the intention of making a joke". The loss of traditional sanctions of these acts because it was no longer appropriate to the times.

From point of view of the Me indigenous law in Paniai, murder is prohibited except murdering because of tribal warfare and fornication. Therefore, murder beside war and fornication shall be settled peacefully between the involved parties. Through the peaceful settlement, there is rarely physical retaliation to violence. In terms of certain death considering of magical act, it must be proved also magically with payment of the head after a long- happened case.¹ While the killing take place during the tribal wars, it must be solved according to the law of tribal warfare. Recently, the murders occurred among the indigenous peoples Paniai generally occurs due to the influence of liquor.²

It is compared with the disputes in the indigenous peoples of Bali, which is differed between the case of indigenous and non-indigenous. The case of indigenous and non-indigenous means an event violation *delict* customary at the same violation of *delict* law / legislation, which is divided into: 1) those indigenous cases in Bali are *Tri Hita Karana* (*Parhyangan, Pawongan, Palemahan*), in which of the solution to the customary duly completed by the Customary agency (court indigenous such *Raad van Kerta* and district courts in advance. Completion of the indigenous issues are already decided by the customary will be carried out of efforts of the customary form of *Tridanda* namely *Jiwandanda* or *Sangaskaradanda*; 2) the non-indigenous case is a matter beyond the traditional issues such as violations of the Criminal Code *delict* or *delict* in other laws and regulations as a basis to be decided by the court; and 3) the case of the mixture between one customary case and other customary case. Likewise in the imposition of sanctions, they are also being penalized more than one. Those are one aspect of criminal sanctions based on the Criminal Code and customary sanctions.³

In the field of balance restoration in dealing with the happening customary cases, there are a variety of sanctions variations according to how small or big the problems and abuses committed by the concerned people, so that there is a balance in the life of the indigenous population. In practice, the Applications of sanctions to restore balance through *Tridanda* sanctions are: *Jiwandanda, Arthadanda* and *Sangaskaradanda*. In executing judgment on indigenous issues in particular in accordance with the entry or handling procedures and customary settlement. But according to the logical thought, it would be naturally if all customary matters and all the implementation should be resolved of grounding *catur dresta* for the first time.

3.3 The Role of Customary Court in Papua

The customary court is one of the local wisdom of the indigenous peoples in Papua. It has demonstrated the function a long before the enactment of special autonomy for Papua Province. Practically, the customary court has been applied by the indigenous people in Papua to resolve disputes among them either in one customary territory or in other customary areas. The history of the court in Papua shows that since the days of Dutch rule in Papua, the customary courts have acknowledged its existence in resolving customary disputes. Mansoben mentioned that in 1947, the Dutch government in Biak has revived *Kainkain Karkara byak* to help the wheels of government at the village level of the Dutch government. It allows the indigenous people to continue applying the customary court according to customary law to resolve the dispute, as long as they do not give it the Gubernur Justice.

In the resolution of the dispute, the parties are always pushing for completion as soon as possible. So, there is an initiative of the parties to the peaceful-solved conflict and of course it will be assisted by traditional leaders and their large families. This initiative shows the responsibility of all members of the indigenous people to establish order in the lives of indigenous peoples. Establishment of togetherness is a concrete manifestation of the influence of love that is taught for Christian which has been accepted by the indigenous people before the government has recognized indigenous peoples and state law. As it known from historical records, the spread of religion in Papua is influenced by the life of indigenous peoples and customary law in Papua in which the religion spread has been started since the first contact between indigenous peoples and the propagator of religion. Islam was in parts of head of bird of Papuan in the 15th century, Protestants in the northern Papua on February 5, 1855 and the Catholic in southern Papua in August 14, 1905.

To understand the objective conditions of Papua, the customary court has legally played an effective

¹ Agus Sumule, op.cit. p.196.

² Ibid.

³ I Wayan Surpha, *The Existence of Customary Village and Official Village in Bali*, Pustaka Bali Post, 2004, p. 53.

role in assisting law enforcement and government to create order in society, especially in border areas that are far from the centers of government service. In fact, most areas in Papua are not yet covered by the law enforcement officers (police). The indigenous peoples placed great trust to the customary court because it is able to resolve disputes that they encounter in peace, dignity and gives a sense of justice. Trust is strongly attached because of the indigenous people understand that the customary law is close to them. The customary court can resolve both civil and criminal disputes. If compared with the legal and judicial system of the country is very formalistic and far away from the understanding and knowledging of the indigenous people about the law itself. They are unfamiliar with the country's judiciary due to they live far away from the city, unnecessary expense, unknown of law enforcement officers, and misunderstanding of the language used. There are many other considerations of the indigenous people not to settle their disputes to state courts.

4. Conclusion

It can be concluded from discussing above that there are 4 (four) types of leadership in the Papua's Community System they are 1) Charismatic Male Leadership Type; 2) King Leadership Type ; 3) Chieftains/ Clan Leadership Type; and 4) Mixing Leadership Type. In terms of the customary court in Papua, the customary courts for the customary communities in Papua is influenced by the social, cultural and ecological factors. It is also affected the system of the leadership as mentioned previously. Currently, the customary communities in Papua is using the courts in resolving the disputes and it calls the court as "sidang adat" or "urusan adat". It has already practiced the procedure of the disputes (customary) disputes through the consultation led by the elders of the community. The elders become the customary judge who appear and grow naturally. In line with in, the Customary courts in Papua generally solves the different types of customary disputes both civil and criminal cases. People of Customary law divide types of disputes in 2 (two) categories namely big and small cases. The category of big dispute is murder, land boundaries, and adultery. While the category of small disputes is carried off girls, thief, and others.

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