

# *Implementation of The Values Sasi Customary Law in the Formation of Regional Regulations on Environmental Sector*

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**Abstract-Sasi is one of the customary laws that is still adhered to by all communities in the Maluku islands. However, the main value contained in sasi is more to emphasize the existence of a certain legal right or legal concern over something or material. The benefit value from sasi which is often practiced by the people in Maluku is usually, Sasi is made to protect and preserve nature, one of Sasi's love for coconut trees which is the natural production of copra oil in slaughtered communities and also sea sasi which protects the sea from environmental damage from fishing. unlawfully. This research, the empirical or non-doctrinal juridical methods intended as an effort to approach the problem under study have a connection with the rule of law that develops in society. To obtain the scientific truth that is expected, in this study an empirical approach is used as well as using qualitative analysis. The result show that local wisdom owned by the Kei Archipelago community needs to be used as a model in the formation of laws and regulations in the region in the field of the natural environment to protect and preserve the environment in the area. out of the noble values of the law sasi.**

**Keywords-Sasi, Customary Law, Regional Regulation**

## I. INTRODUCTION

Sasi Law, which is a local legal system that contains prohibitions and compulsion to extract or extract potential natural resources of a certain type for a short period of time [9]. Sasi is a tradition of customary law that applies in most of people's lives in the Maluku islands. Sasi as the identity of the archipelagic community in Maluku is very identical to the customary law regulations which are highly valued and adhered to by their existence in indigenous communities in Maluku. If this sasi is violated, the community members concerned will be subject to sanctions or penalties in accordance with the rules decided in the local adat council. As the nation's identity, the existence of customary law must have characteristics and characteristics that are in accordance with the nation's philosophy and

culture. Sudarto stressed that, "it is not wrong, if to some extent it can be said that the criminal law of a nation can be an indication of the nation's civilization.

Customary law is the most important part in carrying out the legal function that regulates the relationship of a leader in controlling the behavior of indigenous peoples, with the aim of achieving peace, harmony and justice in a community. Larvul Ngabal Law, where the implementation of sasi law is carried out culturally, is also seen as customary institutions as a framework for regulating social order by looking at all forms of violations of norms, ethics and customs that apply are considered as forms of violation of sasi. So sasi's position in these areas is not only limited to the aspect of protecting nature and the environment of natural resource management. But also, interpreted as a form of public regulation and criminal regulation on aspects of community life in an area. As Sasi implemetasi in the area of the Maluku islands in general there are rules of public relations such as the prohibition of abusive, the prohibition of making trouble or riotous, the ban on damaging the environment and others where sanctions or restrictions are generally imposed by custom.

The 1945 Constitution of the Republic of Indonesia and its amendments have provided a constitutional basis for the administration of regions in Indonesia. As the executor of the constitutional basis, the government units under the central government, namely the provincial and district /city regions, have mandatory and optional functions. Based on Amendments to the Constitution of the Republic of Indonesia in 1945, Article 18B, among others, states that the state recognizes and respects the units of indigenous peoples and their traditional rights. Although on the one hand Article 18B in the 1945 Constitution of the Republic of Indonesia is the result of the amendment, it can be considered as an entry point for the obligation to give birth to a law on village autonomy and / or the existence of indigenous peoples.

Therefore, the local government is given the authority given in Law 23 of 2014 to have an

important role in making and producing environment-based regional regulations to maintain the preservation and benefit of nature that can be useful for the people in Maluku. The problem we are facing right now is how we can make laws and regulations including regional regulations that reflect the will of the people, the need for a sense of justice and legal certainty for the community. The preparation of regional legal products, especially Regional Regulations, must meet three aspects, namely: juridical, philosophical and sociological aspects [5]. With the role of customary laws and regulations and regional government laws, it should be able to optimize the efforts of local governments to make regional regulations in the environmental field that are based on the customary law.

## II. RESEARCH METHOD

In accordance with the law examined in this study, the empirical or non-doctrinal juridical methods intended as an effort to approach the problem under study have a connection with the rule of law that develops in society. To obtain the scientific truth that is expected, in this study an empirical approach is used as well as using qualitative analysis. The qualitative approach explains that research is used through a natural setting to interpret the events that occur and can involve various methods needed in the study. The qualitative analysis model used is by examining the performance of regional heads as a result of direct regional head elections that are the object of research and then projected to the standards of legal norms / laws and regulations that apply ideals which are expected to be further interpreted based on theory (*theoretical interpretation*) and then generalizations are drawn as formulations that are ideal (*ius constitutum*).

This research takes place in the Maluku Kei Archipelago, where in the Kei Archipelago there are two regional administrations namely Southeast Maluku Regency and Tual City. In conducting this research using primary data and secondary data. Primary data is data obtained through direct data sources, especially those related to the field under study which are directly related to aspects of community behavior, perceptions, attitudes and executive and legislative policies in designing the formation of regional regulations that have links with the research principal. While secondary data is additional data needed to support this research. Secondary data can be in the form of journals, reports on the results of previous studies and publications of other scientific works that are related to the issues raised in the research.

## III. FINDINGS AND DISCUSSION

The theory of the unitary state is used to distinguish the division of power in a physical form from a federation of states. In this case the thoughts of CF Strong are expressed regarding the unitary state [3]. It is said that the unitary state is a state organized under a central government. That is, any power held by the various districts within the territory managed as a whole by the central government must be exercised according to the government policy. Central power is the highest power over all states without any legal restrictions that give special powers to its parts. "*Unitarism*" in the political sense is defined by Dicey as "the exercise of the habits of the highest legislative authority by a central power". Meanwhile, according to Apeldoorn, quoted by the Drafting Team of "Autonomy or Federalism", a state is called a unitary state if power is only held by the central government, while the provinces receive power from the central government, and the provinces do not have independent rights [7]. The policy of regional autonomy and the decentralization of authority not only involves the transfer of authority from the top down, but in principle also needs to be realized on the basis of initiative from below to encourage the growth of the independence of the regional government itself as a factor determining the success of the regional autonomy policy.

The existence of local regulations is the granting of authority to the regions in managing and managing their own households. This is because there are parts of regional functions other than regulated in the law and must be regulated further by using regional regulations. Regarding the authority to the regions to form regional regulations, it has been emphasized in Law number 23 of 2014 concerning regional governments. The Regional House of Representatives together with the regional head formulates and designs regional regulations. With the regulations contained in the law, the local government should be able to formulate local government regulations that concern the interests of indigenous peoples in the Maluku Islands based on their local wisdom.

Historically *sasi* in Maluku has existed since time immemorial and is a joint commitment both by the community and by traditional leaders, community leaders and religious leaders. This is based on the awareness that without the environment they cannot live properly, so *sasi* must be maintained by generations.

For the Kei Islands community, customary law is a legacy from the ancestors who must be kept, respected and obeyed in their daily life. Larvul Ngabal Law is a customary law which is adopted by

the local community. *Larvul Ngabal* is a blend of customary laws that have been adhered to by the Kei Islands community for a long time (*hukum dolo*) including: *Nevnev Law*, *Hanalit Law*, and *Huwear Balwirin Law*.

a) *Nevnev's Law* is a law that regulates violations of crime, crime problems. In this law there are seven prohibitions, known as: *Sasa Sorfit Nevnev Law*, namely:

1. *Mu'ur nar – Hebang haung*, prohibition of discussing the weaknesses and strengths of others before him, and planning crimes against others.
2. *Skut fngahir - Suban med*, prohibition of hating and jealous of others and cursing others.
3. *Rasung smu - Rudang dad*, is prohibited from poisoning others with poison and killing others using magic.
4. *Kev bangil*, ban on hitting others.
5. *Tev ahai, Fan-sung, tavat*, ban on throwing, spearing, archery, stabbing, stabbing fellow.
6. *Fedan na - Tetat vanga*, prohibition to kill, cut, and decapitate others.
7. *Tivak, luduk fo vavain*, prohibition of burying, drowning others alive.

b) *Hanalit Law*, which is the law that regulates the social relations between men and women. This law gives attention to the aspects of morality and ethics. There are seven restrictions on this law, which are called: *Sasa Sorfit Hanalit law*, namely:

1. *Sis, af*, ban on whistling, hissing and teasing women.
2. *Kifuk mat ko*, a ban on flirting with women.
3. *Kis Kafir, Temar U*, ban on pinching, prying women, and swinging bows when walking with women.
4. *A lebak, human voan*, prohibition of hugging and kissing women.
5. *Tod es, a ban on attracting women by force and raping*
6. *Marvuan fa ivun*, prohibition of impregnating women out of wedlock
7. *Manu'u Marai*, the prohibition of carrying out elopement, and depriving people of their wives

c) *awear Balwarin Law*, is a law that regulates the ownership rights of a person or group. In this law there are seven prohibitions, called *Sa Sorfit Hawear Balwarin Laws*, namely:

1. *Varyatad sa*, prohibition of wanting other people's things.
2. *Tafbor*, prohibition on stealing.
3. *It kulik afa borbor*, prohibition of storing stolen goods.
4. *It ba mar mar, it dad afa waid*, prohibition

from attending other people's activities without working.

5. *It leik hira ni afa, tef en tna il*, prohibition of finding fellow goods without returning them.
6. *It lavur hira ni afa*, a prohibition on damaging the property of others.
7. *Taha kuuk umat lian rir welmat*, a prohibition on holding one's debts that must be paid [8].

Based on several previous studies that examined the existing *sasi* law in the Maluku Islands, then the local government should be able to make a regional regulation that focuses on environmental problems in a region. Because the legal regulations made by the central government have not yet been fully implemented by certain regions. For example in the Kei Islands, *Sasi* customary law is highly respected and obeyed by most of its people. So it needs to be made a study of a local regulation that contains the values of customary law in an area. The law of *Sasi* in the Kei Islands is identical to the various problem solving that occur in the area, therefore a special study and study is needed in formulating regional regulations in the field of environment that draws on the values of the *Sasi* customary law.

The management of the environment must be based on the preservation of a harmonious and balanced environmental capability to support sustainable development for the improvement of human welfare. Whereas the goal of environmental management is the creation of harmonious relations between humans and the environment as part of the objectives of Indonesian human development as a whole, the controlled use of natural resources wisely, the realization of Indonesian people as environmental coaches, and the implementation of environmentally sound development for the benefit of present and future generations.

Meanwhile, according to Law Number 32 of 2009 concerning environmental management is an integrated effort to preserve environmental functions which include policies on the arrangement, utilization, development, maintenance, recovery, supervision, and control of the environment.

In Number 26 of 2007 concerning Spatial Planning it is stated: Regulations on environmental protection and utilization are well regulated, as stated below: Whereas according to law No. 23 of 1997 concerning environmental management is an integrated effort to preserve environmental functions which include policies on the arrangement, utilization, development, maintenance, recovery, supervision and control of the environment.

In Number 26 of 2007 concerning Spatial Planning it is stated: Regulations on environmental

protection and utilization are well regulated, as stated below:

Article 3 The arrangement of spatial planning is aimed at realizing national territory space that is safe, comfortable, productive, and sustainable based on the Archipelago's Insight and National Resilience by:

1. The realization of harmony between the natural environment and the artificial environment;
2. Realization of integration in the use of natural resources and artificial resources by taking into account human resources; and
3. The realization of the protection of spatial functions and prevention of negative impacts on the environment due to spatial use.

Article 6 paragraph (1b) Spatial planning is carried out with due regard to: the potential of natural resources, human resources, and artificial resources; economic, social, cultural, political, legal, security and environmental conditions, as well as science and technology as a whole;

Bertha said that various community efforts to manage and influence the environment had been carried out by those who were utilized to meet the needs of the local community [2]. So that later legal products made by the local government can run optimally, although later there will be weaknesses in its implementation. But at least these regional regulations can protect and protect nature from environmental damage caused by human activity.

#### IV. CONCLUSION

Based on this research study, it can be concluded that the customary law which is one of the local wisdom found in the Kei islands can be used as a model in the formation of local regulations in the environmental field, because with the local wisdom model, the people in Kei island also have the responsibility of maintaining the good name of the law of sasi. Because in essence the customary law of sasi strongly upholds the values of environmental preservation and must not treat nature according to the will of humans themselves. In the design and formation of these environment-based regional regulations, in addition to reviewing and examining the law, there is also a need for participation from all elements of indigenous peoples from the highest level to the bottom layer.

#### REFERENCES

- [1] A. Abdullah., "Desentralisasi & Undang-undang Otonomi Daerah di Era Reformasi. *Jurnal Hukum* Vol. 3 No. 1 Januari 2010. UII, Yogyakarta;
- [2] I N. Beratha, *Desa, Masyarakat Desa, & Pembangunan Desa*, Ghalia Indonesia, Jakarta, 1982;
- [3] C. F. Strong, *Konstitusi Politik Modern: Studi*

Perbandingan tentang Sejarah & Bentuk-Bentuk Konstitusi Dunia, Terjemahan SPA Teamwork, Nusamedia, Bandung, cetakan Kedua, 2008;

- [4] I G. A. K. R. Handayani., *Pembentukan Peraturan Daerah Berbasis Lingkungan Dalam Rangka Mewujudkan Praktik-Praktik Good Governance Di Daerah*, Jurnal Yustisia Vol. 02, No. 1, April 2013;
- [5] I G. A. K. R. Handayani., *Formulasi Legislative Drafting yang Ideal dalam Rangka Mewujudkan Negara Hukum yang Demokratis & Menjunjung Nilai-Nilai Lingkungan*, Jurnal Hukum *Ius Quia Iustum* Vol. 22, No. 3, Juli 2015, UII, Yogyakarta
- [6] S. Sundari. Rangkuti, *Hukum Lingkungan & dan Kebijakan Lingkungan Nasional*, Edisi ketiga, Airlangga University Press, 2005;
- [7] Tim Penyusun Buku, *Otonomi atau Federalisme, Dampaknya Terhadap Perekonomian*, Pustaka Sinar Harapan, Harian Suara Pembaharuan, Jakarta, 2000;
- [8] T.W. Yudit. *Larvul Ngabal & Ain Ni Ain sebagai Pemersatu Kemajemukan di Kepulauan Kei Maluku Tenggara*, Sodality: Jurnal Sosiologi Pedesaan | Vol 6 No 1 April 2018, ITB, Bandung;
- [9] W. Pattinama, & M, Pattipeilohy. " *Upacara sasi ikan lombo di negeri Haruku*" Kementrian Kebudayaan & Pariwisata Balai Kajian Sejarah & Nilai Tradisional, Ambon, 2003.