

Larvul Ngabal Law as A Regulation in Marine Resources Management In Kei Islands, Southeast Maluku Regency

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Abstract

Introduction: *Hawear Customary Law has long been known in Southeast Maluku and has a role which is important in organizing life, especially for traditional law communities. Hawear contains meaning prohibition to take natural resources on land or in the sea, which is based on several important and basic arguments. The principle that is the basis for the actual existence of Hawear's is the principle of sustainable management of natural resources. Wise thinking that develops wisely. This local area is also based on the economic aspects of the country's community and the villages and villages located in the area small islands.*

Purposes of the Research: *To find out and analyze Hawear's existence in protecting and preserving marine genetic resources in Southeast Maluku Regency.*

Methods of the Research: *The approach method used in this research is sociological juridical which is a descriptive qualitative analysis study. This research seeks to describe what occurs in the Kei Indigenous Community in Southeast Maluku Regency, it is related to resource management coastal and marine power. The data collection techniques used in this research are: Interview, questionnaire and literature study.*

Results of the Research: *The existence or existence of law Larvul Ngabal Currently, it is increasingly existing, this can be seen from the increasingly advanced society of Southeast Maluku and have the same feelings in a group, where they stay in one place because they come from from the same genealogy or descent. They have their own customary laws that regulate them regarding rights and obligations regarding material and immaterial goods. They also have social institutions, traditional leadership, and traditional justice recognized by the group. Larvul Nabalas a form of rule which the people of Southeast Maluku use in managing their marine resources is expected to remain the same obeyed so that it becomes a law in the management of resources both at sea and on land so that they are maintained natural sustainability. This is also in line with the protection of indigenous communities which has been recognized in Article 18B paragraph (2) and Article 28I paragraph (3) in the Indonesian Constitution The Constitution of the Republic Indonesia in 1945 (1945 Constitution of the Republic of Indonesia). This means that the state has recognized and respected rights indigenous communities, including the Law Society Larvul Ngabal.*

Keywords: *Larvul Ngabal; Arrangement; Management; Marine Resources.*

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INTRODUCTION

Hawear Customary Law has long been known in Southeast Maluku and has an important role in organizing the lives of customary law communities, especially. Hawear means a prohibition on taking natural resources on land or at sea, which is based on several important and fundamental arguments. The principle on which Hawear's law is based is actually the principle of sustainable management of natural resources. This locally

developed wise thinking is also based on the economic aspects of state and village communities and villages, which are located on small islands. Indigenous people who live on small islands are quite large in number compared to the available natural resources. So it can be said that this is not enough to meet the basic needs of indigenous peoples, for a certain period of time. Therefore, the idea was born to create legal regulations that could regulate and organize all the potential of natural resources so that they could be used wisely.

The natural resources on land referred to are, for example, young coconuts, pineapples, durian, langsung, sago leaves, nayang leaves or enau. The natural resources in the sea include fish, marine life, coral reefs, beach sand, rocks, and so on. The fact that occurred in the Kei Islands, Southeast Maluku, Hawear is not only related to natural resources, but has been expanded to include regulations related to humans and other objects. Some examples that can be put forward include; Hawear is applied to prohibit crossing roads and bridges, Hawear certain buildings which are considered problematic and therefore cannot be used. Hawear is also applied to protect girls, so that they are not taken away by their male boyfriends (elope) and so on. So Hawear law actually contains a deep and broad meaning, so that if it is internalized and implemented properly, as part of the traditional legal instruments of the Maluku community, it will definitely have benefits for the lives of the people in general.

The Indonesian sea has abundant resource wealth. However, the management and regulations governing the use of marine resources are considered to still be of little benefit to the country. So efforts are needed from various parties to collaborate in optimal and directed use of marine resources. The law is expected to be able to overcome various problems that arise related to marine resources, especially marine genetic resources. The law must be able to provide protection for intellectual works so that it can encourage society to develop its creative powers in the fields of science, technology, art and literature, which ultimately leads to the goal of successful legal protection of marine genetic resources.

Therefore, to protect Marine Genetic Resources (SDGL) includes all marine ecosystems (both fauna and vegetation biota) in the sea and coast that carry hereditary traits, of which the species is a part. Hawear customary law contains certain sanctions. The sanctions in the Hawear law are not as severe as national or state laws, but at least they can provide a deterrent effect from a customary perspective. So indigenous peoples who know and understand and obey customs and customary law will definitely submit and obey customary law, namely Hawear law. If members of a legal community comply with customary law rules or norms, of course members of other communities or community groups will automatically comply as well. Based on the background above, the research team is interested in studying in more depth the "Implementation of Hawear as Customary Law in Protecting and Preserving Marine Genetic Resources in Southeast Maluku Regency." Based on the background above, the problem formulation in this research is: How does Hawear exist as customary law in protecting and preserving marine genetic resources in Southeast Maluku Regency?

LITERATURE REVIEW

Sasi Larvul Ngabal Abdul Wahhab Khallaf's concept of customary law analyzes the process of forming cultural structures as an open, dialectical process. In this way, each individual and group can play an active role in formulating the culture they will create.

Every component of society, both from the upper and lower middle classes, has a role in forming a custom or tradition.¹ Emil Durkheim groups society into two levels, namely mechanical solidarity society and organic solidarity society. These two groups form patterns in social life which become basic values in human culture.² Society is formed because of the same ideals, vision and mission. Equality makes a society that was originally diverse into one. A society that has the same ideals, vision and mission is what Durkheim called mechanical solidarity. Awareness This is a collective awareness that is growing in the very heterogeneous society of Maluku.

In the midst of the very heterogeneous life of the Kei community, there are preserved the values of the ancestors which became the naughty origins of the Larvul Ngabal traditional law. Several tribes have joined together to form a value system that is used to live together, where each community group formulates their own culture. Culture or customs is a perspective, lifestyle in a community group. Lothar Schreiner in Roberth Souhaly defines custom as a standard attitude to life, a habit that is transformed into something that is common in a community group that is practiced from generation to generation, then becomes a norm that is collectively accepted in its implementation.³ One of the laws that has developed among Maluku society is the Larvul Ngabal customary law. Larvul Ngabal customary law has the value of protection and preservation regarding the protection and management of the environment. Koetjaraningrat in Muhammad Yusuf, et al. clearly defines custom as a face of culture that functions as a basic norm that regulates and controls behavior in a community group.

The phenomenon of customary law that occurs among Maluku society is what Von Savigny and Eungen Ehrlich call "The Living Law",⁴ namely law that does not depend on state authority. Koetjaraningrat in Muhammad Yusuf, et al clearly define custom as the face of culture functions as a basic norm that regulates, controls internal behavior a community group.⁵ The phenomenon of customary law that occurs among Maluku society is called Von Savigny and Eungen Ehrlich as "The Living Law", namely the law that does not depend on state authority.⁶

METHODS OF THE RESEARCH

The approach method used in this research is sociological juridical which is a descriptive qualitative analysis study. This research seeks to describe what happened In the Kei Indigenous Community in Southeast Maluku Regency, the relationship is with the management of coastal and marine resources. The data collection techniques used in this research are: Interviews, questionnaires and literature study.

RESULTS AND DISCUSSION

¹ Casparina Yulita, Warawarin Hafied, and Cangara Muhadar, "Makna Komunikasi Simbolik Hukum Adat Sasi dalam Pelestarian Alam Laut di Kabupaten Maluku Tenggara (Symbolic Communication Meaning of Sasi Customary Law in Marine Nature Conservation in Southeast Maluku Regency)," *Jurnal Komunikasi KAREBA* 6, no. 1 (2017): p. 1-19.

² Tiwery, "Larvul Ngabal dan Ain Ni Ain Sebagai Pemersatu Kemajemukan di Kepulauan Kei Maluku Tenggara."

³ Souhaly, "Sasi Adat: Kajian Terhadap Pelaksanaan Sasi Adat dan Implikasinya

⁴ Asyhari Abta, *Fiqh Lingkungan* (Jakarta: Gema Insani Press, 2006)

⁵ Yusuf et al., "Persepsi Hukum Adat Larvul Ngabal pada Masyarakat Kei Perantauan di Kota Jayapura Provinsi Papua"

⁶ *Ibid.* p. 23-24.

The existence of Hawear as customary law in protecting and preserving marine resources in Southeast Maluku Regency The Hawear Customary Law Community is a group of people who have the same feelings as a group, living in one place because of genealogy or geological factors. They have their own customary laws that regulate rights and obligations regarding material and immaterial goods. They also have social institutions, traditional leadership, and traditional justice recognized by the group. Protection of indigenous peoples is regulated in Article 18B paragraph (2) and Article 28I paragraph (3) in the Indonesian Constitution, the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This means that the state has recognized and respected the rights of indigenous peoples, including the Hawear Traditional Law Community.

A. Understanding Larvul Ngabal Customary Law

The term customary law in Arabic is known as (الحكم) and (العادة), some call it in Dutch the term "Adatrecht" which means orders, provisions and customs. Customary law is a rule of human custom in living in society.⁷ Holleman and Logeman interpret customary law as norms of shared life that must be obeyed and respected by all citizens in living together. Customary law contains heavy and light social sanctions.⁸ Meanwhile, Koentjaraningrat said that custom is the highest and most abstract value system. This is because cultural values are concepts that exist in people's minds which are considered valuable, valuable and important so that they can function as guidelines that provide direction and orientation to people's lives.⁹

Larvul Ngabal or Larwul Ngabal customary law originates from three separate words, each of which has a meaning. Larvul comes from the word "Lar" which means "Blood" and the word "Vul" means "Red". Meanwhile, Ngabal comes from the word "Nga" which means "spear" and "Bal" which means "Bali".¹⁰ Larvul Ngabal customary law is one of the laws that developed among Maluku society. Sasi customary law is also used by people who live abroad.¹¹ Sasi customary law is not only used by the people of Maluku, but is also used by most communities in the Papua region. Even though there are some differences, the principle is the same¹². People in Maluku have efforts to conserve natural resources in the form of local wisdom, known as "Sasi".¹³ Sasi is a prohibition on taking or utilizing natural resources that are placed with symbols within a certain period of time. The sasi symbol can usually be found with a coconut leaf symbol woven and placed on leafless wood. Apart from that, it can also be found like laying red cloth. The sasi symbol is placed by the traditional head, then traditional rituals are carried out to honor the ancestors.¹⁴

The laying of the sasi is carried out periodically. The period of sasi is between 3 months, 6 months and 1 year, some even reach 2 years which is adjusted to the type of Natural Resources (SDA) which is regulated according to needs and the prevailing season. 38

⁷ Hilman Hadikusuma, *Pengantar Ilmu Hukum Adat Indonesia*, Cet. III. (Bandung: Mandar Maju, 2014). p. 1-9.

⁸ *Ibid.* p. 15

⁹ Koentjaraningrat, *Pengantar Ilmu Antropologi*, Cet. 9. (Jakarta: Penerbit Rineka Cipta, 2009). p. 153.

¹⁰ Muhamad Yusuf et al., "Persepsi Hukum Adat Larvul Ngabal Pada Masyarakat Kei Perantauan di Kota Jayapura Provinsi Papua" *POROS ONIM: Jurnal Sosial Keagamaan*, 2 (1) 2021: 20-36.

¹¹ *Ibid.* h. 23

¹² Imran SL Tobing Nadia Putri Rachma Persada, Fachrudin M. Mangunjaya, "Sasi Sebagai Budaya Konservasi Sumber Daya Alam di Kepulauan Maluku," *Jurnal Ilmu dan Budaya* 41, no. 59 (2018): h. 69-9

¹³ *Ibid.* h. 71 5

¹⁴ Roberth Souhaly, "Sasi Adat: Kajian Terhadap Pelaksanaan Sasi Adat dan Implikasinya" *KENOSIS: Jurnal Kajian Teologi*, vol 2, no. 2 (2016): h. 192-205

Implementation of sasi is carried out by the traditional head (customary institution) , or mosque, and church.¹⁵ Sasi If seen from a practical perspective, sasi is divided into two, namely land sasi and sea sasi:¹⁶ Land Sasi, includes plantation (perk) or forest products, for example: wooden trees, rattan, tubers, coconut trees, sago trees, birds. rare birds, nutmeg and cloves, as well as plants that are considered economically valuable. Meanwhile, Sea Sasi includes marine products, for example: sand, sea cucumbers, bia lola, pearls, seaweed and fish. On the other hand, sasi is also applied to buildings whose permits are deemed problematic. Apart from that, in society it is also known as sasi for girls, this type of sasi serves to prevent girls from being taken away (elope) by men.¹⁷

B. Punderstanding Sasi According To Experts

Sasi is a prohibition on the use of natural resources on land and at sea where sasi symbols are placed within a certain period of time which is intended for the economic interests of the community. Sasi is a community tradition in Maluku, to maintain certain potential results.¹⁸ If sasi is implemented, then the community is prohibited from picking certain fruits on land and taking certain products from the sea for a period of time determined by the village government. ¹⁹Rahail in Melissa Justine Renjaan, et al states that sasi is the most obvious manifestation of the Larvul Ngabal customary law . Sasi is a legal rule based on the preservation and balance of the relationship between nature and humans.²⁰

According to Robert Souhaly, sasi and traditional sasi have different meanings. Traditional sasi are symbols placed on natural resources, objects or places that the community considers to have sacred value. Meanwhile, sasi is the time period or grace period given to process natural resources.²¹

C. Various Larvul Ngabal Customary Laws

In general, Larvul Ngabal customary law can be divided into three parts, namely as follows:²²

1. The first part contains general philosophy:

- a) Rat nesno, umasenba, the king orders, the guard executes;
- b) Lem yauwarsa, yauwaro, decisions and sanctions are only based on truth and justice;
- c) Uudentauknaatvunad, the head rests on the nape of our neck;
- d) Leladainfomahiling, the neck must be respected and elevated;
- e) Uil hit enwilrumud, the skin from the earth wraps our body;
- f) Lar nakmodnarumud, blood is enclosed in the body;
- g) Rek fokilmutun, marriage should be in its place so that it remains holy and pure;
- h) Morfainfomahiling, A place for women to be respected, glorified;

¹⁵ Suf et al., "Persepsi Hukum Adat Larvul Ngabal Pada Masyarakat Kei Perantauan di Kota Jayapura Provinsi Papua." p. 7

¹⁶ Souhaly, "Sasi Adat: Kajian Terhadap Pelaksanaan Sasi Adat Dan Implikasinya.

¹⁷ La Ode Angga, "Sasi Sebagai Kearifan Lokal Dalam Mencegah Menularnya Covid-19 Di Provinsi Maluku." p. 5

¹⁸ Zulfikar Judge and Marissa Nurizka, "Peranan Hukum Adat Sasi Laut dalam Melindungi Kelestarian Lingkungan Di Desa Eti Kecamatan Seram Barat Kabupaten Seram Bagian Barat," *Lex Jurnalica* 6, No. 1 (2008): p. 1-

¹⁹ Melissa Justine Renjaan, Hartuti Purnaweni, and Didi Dwi Anggoro, "Studi Kearifan Lokal Sasi Kelapa Pada Masyarakat Adat di Desa Ngilngof Kabupaten Maluku Tenggara," *Jurnal Ilmu Lingkungan* 12, no. 2 (2013): p. 23

²⁰ Souhaly, "Sasi Adat: Kajian terhadap Pelaksanaan Sasi Adat dan Implikasinya." p. 193- 194

²¹ *Ibid.* p. 11.

²² *Ibid*

- i) Hira nifoini, it did fo it did, what belongs to people is still theirs, what is ours is still ours.
- j) Loor tel sa, yaingreng infit fatel, unlawful acts are concretely regulated according to law.

The second part consists of Nevnev law (law regarding human rights to life), Hanilit law (law regarding decency/morals). Then the Hawear Balwirin law (law regarding ownership rights).²³ Nevnev Law is a law that regulates sanctions against criminal acts. Nevnev's Law consists of seven articles, known as Sasa Sorfit Nevnev's Law, namely:²⁴

- 1) Mu'ur Nar-Hebang Haung, the prohibition on discussing other people's weaknesses and strengths in front of him, as well as planning crimes against other people.
 - 2) Skut Fngahir-Suban Med, prohibition to hate, envy, and curse others;
 - 3) Rasung Smu-Rudang Dad, prohibition against poisoning others with poison and killing others with witchcraft; d) Kev Bangil, prohibition on hitting others;
 - 4) Tev Ahai, Fan-Sung, Tavat, prohibition to throw, spear, archery, stab, and stab others;
 - 5) Fedan Na-Tetat Vanga, prohibition against killing, cutting and shackling others;
 - 6) Tivak, LudukFoVavain, prohibition on burying or drowning others alive.
2. Hanilit law is a law that regulates the pattern of relationships or interactions between men and women regarding morality and social ethics. Hanilit Law consists of seven articles, known as Sasa Sorfit Hanilit Law, namely:

- a) Sis, Af, prohibition on whistling, hissing and teasing women;
- b) Kifuk Mat Ko, prohibition to play points with women;
- c) Kis Kafir, Tamar U, prohibition on pinching, picking on women, and swinging bows when walking with women;
- d) A lebak, Humak Voan, prohibition on hugging and kissing women;
- e) Tod Es, the prohibition on grabbing women by force and raping them;
- f) Marvuan Fa Ivun, prohibition on impregnating women outside of marriage;
- g) Manu'u Marai, prohibition on eloping and taking other people's wives.

Hawear Balwarin Law is a law that regulates individual or group ownership rights. The Hawear Balwirin Law consists of seven articles, known as the Sasa Sorfit Hawear Balwarin Law, namely:²⁵

- a) Varyatad Sa, prohibition on wanting other people's things;
- b) Tafbor, prohibition on stealing other people's property;
- c) It Kulik Afa Borbor, prohibition on keeping stolen goods;
- d) It Ba Maren, It Dad Afa Waid, prohibition on attending other people's activities without taking part in work;
- e) It Leik Hira Ni Afa, Tef En Tna Il, prohibition on finding one's goods without returning them;
- f) It Lavur Hira Ni Afa, prohibition against damaging other people's property rights;
- g) Taha Kuuk Umat Lian RirWelmat, prohibition on holding debts owed to others that must be paid.

²³ *Ibid*

²⁴ *Ibid*

²⁵ *Ibid*

CONCLUSION

The results obtained from the research above are The existence or existence of law *Larvul Ngabal* Currently it is increasingly existing, this can be seen from the people of Southeast Maluku who are increasingly advanced and have the same feelings as a group, where they live in one place because they come from the same genealogy or descent. They have their own customary laws that regulate rights and obligations regarding material and immaterial goods. They also have social institutions, traditional leadership, and traditional justice recognized by the group. *Larvul Nabal* As a form of rule used by the people of Southeast Maluku in managing marine resources, they are expected to continue to obey them so that they become laws in managing resources both at sea and on land so that natural sustainability is maintained. This is also in line with the protection of indigenous communities which has been recognized in Article 18B paragraph (2) and Article 28I paragraph (3) in the Indonesian Constitution, the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This means that the state has recognized and respected the rights of indigenous peoples, including the Law Society *Larvul Ngabal*.

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Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest,

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