

Customary-Based Coastal Conservation: The Responsibility of Indigenous Law Communities in Dealing with Mining Company Activities

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Abstract

Introduction: The conservation of Indonesia's coastal environment is highly dependent on the role of customary law communities that uphold local wisdom.

Purposes of the Research: This study aims to analyze the implementation and role of the customary law community of Negeri Haya in preserving the coastal environment through the practice of Sasi in response to the mining activities of Waragonda Minerals Pratama Ltd. (WMP Ltd.).

Methods of the Research: Using normative research methods with legislative and conceptual approaches.

Findings of the Research: The results of this study found that Sasi practices are an effective customary law-based conservation system in maintaining the balance of coastal ecosystems. However, the case of WMP Ltd. shows the failure of indigenous peoples' participation in the licensing process and the disregard for customary norms, which leads to the enforcement of Sasi. These findings confirm the importance of stronger legal recognition of the rights of indigenous peoples and their participation in the management of coastal environments to achieve sustainable development.

Keywords: Indigenous Communities; Environmental Conservation; Coastal Area.

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INTRODUCTION

The state mandates in the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 State of the Republic of Indonesia Constitution) in Article 18B paragraph (2) which reads "The state recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law." The state has guaranteed the existence of customary law communities with the conditions regulated by law. The provisions in Article 18B paragraph (2) of the 1945 State of the Republic of Indonesia Constitution are strengthened by Article 28I paragraph (3) that cultural identity and traditional communities are respected in accordance with the development of the times and civilization.¹

The existence of customary law communities in coastal areas has an important role in managing coastal areas throughout Indonesia. The presence of customary law communities can help improve coastal area management and beneficial to society and also ecology. Coastal existence of customary law communities has a strategic role in coastal resource

¹ Husen Alting, *Legal Dynamics in the Recognition and Protection of Customary Law Community Rights to Land*, (Yogyakarta: LaksBang Pressindo, 2010), p. 31

management. Sustainable natural resource management is always reflected in the philosophy of life by maintaining the balance of human and natural relations. Environmental conservation practices based on customary law communities can be seen from the practices of *Panglima Laot*, *Sasi*, *Awig-Awig*, *Seke*, *Malombo*, *Romping*, *Pele-Karang*, *Lamba*, and *Kelong*.²

Recognition of customary law communities can be a guideline in protecting the existence of customary law communities. Forms of recognition of customary law communities by the state include the utilization of natural resources by customary communities and forest management. This cannot be separated from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia concerning the position of the state as a legal entity that manages the utilization of natural resources. The utilization of natural resources is utilized as much as possible for the prosperity of the people without exception.³

Law Number 32 of 2009 concerning Environmental Protection and Management, the environment is defined as a unity of space with all objects, power, conditions, and living creatures, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living creatures. As a unity of space, the environment in the ecological sense does not recognize territorial boundaries, either state territory or administrative territory. However, the environment related to management must have clear boundaries of management authority.

The life of customary law communities cannot be separated from their environment, as well as human life with other living things such as animals and plants. Humans need other living things to fulfill their life needs. So that humans and other living things are related to each other. Humans together with animals, plants and microorganisms occupy a certain space. Apart from living things, in that space there are also non-living things, such as air which consists of various gases, water in the form of vapor, liquid and solid, soil and rocks. The space occupied by a living thing together with the non-living things in it is called the living environment of that living thing.⁴

Humans and their environment are two things that depend on each other. There is a close relationship between these two systems. Humans are a complex system of living things consisting of cells in their bodies. To survive, humans interact with the environment in order to fulfill their needs. While the environment is a grand system of living things and includes humans themselves. In short, it is said that humans are included in the environmental system itself. Environmental problems in the last decade have been highlighted after the United Nations conference discussed environmental problems.⁵

This shows that environmental issues are no longer the property of a region or a country, environmental issues have become global issues. But it seems that the issue is only limited to being an issue, environmental activists are busy shouting about environmental preservation, but policy authorities who meet in international forums, only raise environmental issues according to their respective interests. The role of society as an effort for legal protection can be seen in the applicable regulations. Law Number 32 of 2009 concerning Environmental Protection and Management was enacted on October 3, 2009 and

² <https://www.mongabay.co.id/2017/09/06/peran-masyarakat-adat-di-wilayah-pesisir-sangat-penting-seperti-apa/> Accessed on April 1, 2025

³ Safrin Salam, "Legal Protection of Customary Law Communities over Customary Forests", *Novelty Law Journal* 7, no. 2 (2016), p. 211

⁴ Otto Soemarwoto, *Environmental Ecology*, (Jakarta: Bridge, 2001), p. 51-52

⁵ Soemarwoto, O, *Ecology, Environment and Development*, (Jakarta: Djambatan, 2016), p. 12.

was declared effective since it was enacted. From the name of this Law, it can be seen that there is an intention to place more emphasis on environmental protection, although in fact the word "environmental management" already contains the meaning of utilization and at the same time environmental protection.

Law Number 32 of 2009 Article 70 paragraph (1) stipulates that the community has the same rights and opportunities as widely as possible to play an active role in protecting and managing the environment. The form of the community's role is explained in paragraph (2), namely: a) social control; b) providing suggestions, opinions, proposals, objections, complaints, and/or c) delivery of information and/or reports. In the explanation of Article 70 it is stated that the provision of advice, opinions and suggestions includes in the preparation of Strategic Environmental Assessment and Environmental Impact Analysis.

Environmental Impact Analysis is a study of major and important impacts on the environment, made at the planning stage and used for decision making. Things studied in the Environmental Impact Analysis process are physical-chemical, ecological, socio-economic, socio-cultural and public health aspects as a complement to the feasibility study of a business plan or activity.⁶

The purpose of conducting Environmental Impact Analysis is to maintain the possibility and impact of a particular business plan or activity. Environmental Impact Analysis is very necessary because there must be a feasibility study in the Law or government regulations, to maintain the environment from a project operation in industrial activities or activities that can cause damage to an environment.⁷

In relation to coastal communities, Law Number 27 of 2007 concerning Coastal Area Management (Coastal Area Management Law) recognizes the rights, obligations and role of communities in coastal area management. Article 62 paragraph (1) stipulates that: "communities have equal opportunities to participate in planning, implementing and supervising the management of coastal areas and small islands." Furthermore, paragraph (2) stipulates that: "provisions regarding community participation in coastal area management will be further regulated in the Ministerial Regulation."

The role of the community as regulated in article 70 of the Environmental Protection and Management Act has been clearly illustrated, that the community has an important role in maintaining the environment, in indigenous communities, Kewang has an important role regarding supervision, for indigenous communities in Maluku, Kewang is a customary institution that has great responsibility. Kewang is known to have two forms, kewang laut and kewang darat, kewang laut has the task of guarding and preserving marine resources, as well as the task of kewang darat, guarding and preserving natural resources on land. The form of guarding it is through *Sasi*.

In Maluku Province, there is a role for indigenous people in protecting the environment through the Kewang traditional institution. The role of the Kewang Institution is basically to discipline indigenous people, and this cannot be separated from the implementation of *Sasi* as a real action to protect the environment. *Sasi* according to the understanding of indigenous people is a prohibition imposed on the children of the Nation and others not to take something related to certain natural resources, within a certain time in a certain area,

⁶ La Ode Angga, *Introduction to Environmental Science*, (Bandung: Widina, 2020), p. 129

⁷ *Ibid*, p. 133

whether in the forest, garden, and sea in order to get better results for the supply of life and welfare of the children of the Nation.⁸

One example of a company case in the Negeri Haya area, Tehoru District, Central Maluku Regency, on February 15, 2025, the Negeri Haya community implemented a customary *Sasi* against garnet sand mining activities carried out by Waragonda Minerals Pratama Ltd. (WMP Ltd.). This garnet sand is a type of mineral sand that contains many garnet grains, a silicate mineral that is usually dark red, purplish brown, or sometimes greenish. Garnet has high hardness and is commonly used in industry as an abrasive (for cutting, sanding, and sandblasting), and sometimes in jewelry. The installation of yellow coconut leaves at the company's entrance is a symbol of customary prohibition that emphasizes the temporary cessation of mining activities until the customary decision revokes it. However, WMP Ltd. ignored this customary *Sasi* and continued its mining operations. The company's actions show a lack of respect for local wisdom and the rights of indigenous peoples to manage and protect their environment. In fact, customary *Sasi* is not just a symbol, but a social mechanism that aims to maintain ecological balance and avoid worse environmental impacts. Indigenous communities, through the Saniri Haya Institution, religious leaders, and youth, unite in demanding justice and protection for their environment.

In this context, customary *Sasi* is not only a form of resistance against exploitation, but also a reflection of the government's failure to ensure a balance between economic interests and environmental sustainability. If the government continues to allow companies to ignore customary rules and ignore community rights, then greater ecological and social impacts will be difficult to avoid. In the case of Negeri Haya, *Sasi* is not only a form of environmental protection, but also resistance to industrial exploitation that does not consider the rights of indigenous peoples. This action reflects the importance of the role of indigenous peoples in maintaining ecological sustainability and preventing environmental damage that could impact future generations.

LITERATURE REVIEW

A. Customary Law Community

Etymologically, the word society comes from the language "musyarakat" which means interaction. Society can be defined simply as a group of people who socialize with each other or in scientific terms interact with each other in regular communication. Customary law society is a general term or concept used in Indonesia which refers to customary law communities that have existed since the Dutch East Indies occupation at that time. Customary society as a permanent and orderly community unit where its members are not only in a certain area, both in worldly terms as a place of life and in spiritual terms as a place of worship for ancestral spirits (territorial) as well as related to hereditary relations in marriage ties or customary ties (genealogical). Customary law society is also a translation of (*rechtsgemeenschap*) or by some literature it is called (*adatrectsgemeenschap*).⁹

According to Ter Haar, a customary law community is an orderly human entity, settled in a certain area, has rulers and has tangible wealth, where the members of the unit each experience life in society as something natural according to the laws of nature, and none of

⁸ Department of Education and Culture, Social Control in the Field of Natural Environmental Conservation (Kewang) of the Maluku Region, 1989, p. 28

⁹ Hilman Syahril Haq, *Introduction to Indonesian Customary Law*, (Bandung: Mandar Maju, 2003), p. 22

the members have thoughts of tending to break the bonds that have grown, or to free themselves from those bonds forever.¹⁰ Customary law communities that inhabit all regions of Indonesia have existed since the time of our ancestors until now. Customary law communities are also called traditional communities, defined as customary law communities that live with various customary rules that are maintained in social life in customary law communities.¹¹

The existence of customary law communities is part of Indonesia's existence as a nation. Customary law communities are an essential element of the national legal community within the scope of the Republic of Indonesia. Indonesia as a plural nation consists of hundreds of ethnic groups, languages, and customary law communities spread across thousands of large and small islands. In the distribution of large and small islands, customary law communities live which have their own legal norms. Customary law communities which are a community environment that is still simple and attached to nature are an important part of the existence of the Indonesian nation.¹²

B. Environmental Responsibility of the Company

In the concept of Social and Environmental Responsibility, companies are considered as moral agents. With or without regulation in a Law, a company must uphold morality in carrying out its business activities, the parameters of a company's success from the perspective of corporate social responsibility are prioritizing ethics, namely achieving the best results without harming other community groups and the environment.¹³ Social changes that occur due to the entry of people from outside the region who bring new customs and cultures can cause friction with local culture. Likewise, the existence of companies can disrupt the existence of the culture of traditional leaders. For this reason, if you want to open industrial activities in remote areas, you should involve studies by socio-cultural experts.¹⁴

Basically, social responsibility to the surrounding environment is owned by every individual, group and any institution. This social responsibility is an ethic and ability to always be able to do good to the social environment and the natural environment based on the rules, values and needs of every living creature. One of the pillars of community life today is the company, where the company can be a legal subject that has rights and obligations like humans in general (naturlijk person). Social responsibility to the community is a responsibility also known as Corporate Social Responsibility (CSR) which can be interpreted as a company's contribution to the environment and society as a form of company concern for stakeholders.¹⁵

According to Susanto, companies can carry out their social responsibilities by focusing their attention on three things, namely profit, environment and society. In relation to the function of corporate CSR, these three things are a unity of company activities that can be

¹⁰ Ter Haar in Riyanto, "Customary Law Regulation in Indonesia, A Review of Law Number 4 of 1999 Concerning Forestry", (Bogor: Forestry and Environmental Law Research Institute, 2004), p. 7

¹¹ Novyta Uktolseja, Development of the Land Inheritance System in Ambon City, Dissertation, Airlangga University, Surabaya, 2015, p. 1

¹² Hendra Nurtjahitjo and Fokky Fuad, *Legal Standing of Customary Law Community Unity in Litigation at the Constitutional Court*, (Jakarta: Salemba Humanika, 2010), p. 3

¹³ Budi Santoso, *Corporate Waqf: Islamic CSR Model for Sustainable Development*, (Malang: UB Press, 2011), p.11

¹⁴ La Ode Angga ed.al, "Responsibility of Manufacturers in Waste Management of Plastic Packaged Drink Products Based on Law Number 18 of 2008 Regarding Waste Management: (Case Study in Ambon City, Maluku Province)", *International Journal of Sustainable Development and Planning* 16, no. 2 (2021), p. 5.

¹⁵ Azheri Busyra, *Corporate Social Responsibility*, (Jakarta: Raja Grafindo Persada, 2012), p. 63

carried out simultaneously in accordance with the developing social conditions of society. By carrying out its social responsibilities, companies are expected not only to pursue profits, but also to be able to provide wise and prudent contributions in improving the welfare of the community around the company.¹⁶

The implementation of CSR regulations legally in Indonesia began when the government issued Law Number 25 of 2007 concerning Investment, which in Article 15 states that every Investor (individual or company, legal entity or not a legal entity) has an obligation to manage the company well in principle (good corporate governance), and carry out social responsibility (corporate social responsibility), as well as write reports related to the implementation of investments or what is commonly called capital investment which are submitted to the Investment Coordinating Board, and what is also essential is to respect the culture and traditions that exist in the community around the place where the investment business is carried out.¹⁷

In Law Number 40 of 2007 concerning Limited Liability Companies, it is stated that a company is an institution that has legal status and is a capital association, formed on the basis of its business activities including authorized capital that is cumulatively divided into share certificates, and has also passed the requirements test in accordance with the laws and implementing regulations. The company is transformed into a dominant business institution in society. The company also has a significant influence on national economic development. The company's activities have been seen to open up many real jobs, provide goods and services needed for people's lives, foster sustainable economic development, increase national technological capacity and capabilities, and can create social welfare for the community in a competitive economic system.¹⁸

The term “social and environmental responsibility” is more appropriate and comprehensive for the concept of corporate social responsibility because it contains two elements, namely social elements and environmental elements, as stated in Law No. 40 of 2007 concerning Limited Liability Companies, which is written in Article 1 Number 3, namely “Social and Environmental Responsibility is the Company's commitment to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, both for the Company itself, the local community, and society in general”. John Elkington, a writer from England, has coined the concept of “3P” (profit, people, and planet). The meaning of this concept is that every company must pay attention to the 3P concept if it wants to remain sustainable, the company must not be active if it is only to seek profit. In addition to seeking profit, contributing to society and being active in environmental sustainability is also an obligation that must be implemented.¹⁹

METHODS OF THE RESEARCH

This research is a type of normative legal research which is descriptive and analytical in nature.²⁰ Normative legal research is a research activity that uses library materials as primary data. According to Peter Mahmud Marzuki, Normative legal research is the process

¹⁶ Susanto, *Corporate Social Responsibility*. (Jakarta: The Jakarta Consulting Group, 2007), p. 42

¹⁷ *Ibid.* p. 65

¹⁸ Ade Pratiwi, “Responsibility of Private Companies to the State Based on Law Number 40 of 2007 concerning Limited Liability Companies”, *Jotica Research in Business Law* 1, no. 1 (2022), p. 1

¹⁹ Yusuf Wibisono, *Dissecting the Concept & Application of CSR*, (Gresik: Fascho Publishing, 2007), p. 6

²⁰ Asri W and Lilik Sofyan Ahmad, *Legal Writing Strategy*, (Bandung: Lubuk Agung, 2011), p. 43

of finding legal principles and their basis as answers to the problems being observed.²¹ The approaches used in this legal research are the statute approach and the conceptual approach. The legal materials used are primary and secondary legal materials.

RESULTS AND DISCUSSION

A. The Role and Authority of Customary Law Communities in Managing Coastal Environments

The existence of indigenous communities in coastal areas and small islands plays an important role in managing water areas throughout Indonesia. Their presence can help improve management and benefit the community and coastal ecology. The presence of indigenous communities is believed to have a significant impact on maintaining water areas in coastal areas and small islands throughout Indonesia. Management of marine and fisheries resources should be directed at efforts to realize sovereignty, maintain sustainable resources, and improve community welfare, including indigenous communities within them. The existence of indigenous communities, especially those living in coastal areas and small islands, is a national asset. They must receive attention, especially in efforts to maintain their ties of origin and closeness to their territory and natural resources. The existence of indigenous communities has so far received very strong recognition through the 1945 Constitution of the Republic of Indonesia Article 18 B Chapter IV Amendment 2. The law explains that, "The state recognizes and respects the unity of indigenous communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia."²²

The importance of community involvement is not just an object, but also a subject in achieving environmental sustainability. This means that the community has the right to participate and take part in environmental management, as reflected in Article 5, paragraphs 1, 2 and 3, Law Number 23 of 1997 concerning the Environment. Related to the problem of environmental pollution due to companies, it has a tremendous impact on people's lives, because it can cause environmental damage. Therefore, serious handling is needed to overcome it. So that between the government, society and the environment, a reciprocal relationship is needed that must always be developed so that it remains in a harmonious and dynamic state. To preserve this relationship, the participation of the community and the government itself is needed. This is so that there is no disruption, problems or destruction, namely pollution itself. To prevent and overcome industrial waste, the government must play an active role either through legislation or in other ways.²³

The presence of customary law communities in coastal areas is a milestone for environmental sustainability. Based on the results of the author's research, the role and authority of customary law communities in Negeri Haya in maintaining the coastal environment are in accordance with what is mandated by the Law. This is because the customary law community of Negeri Haya firmly makes efforts to protect the coastal environment due to the impact of environmental damage carried out by WMP Ltd., the protection efforts carried out by the customary law community of Negeri Haya by

²¹ Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana Prenada Group, 2007), p. 35

²² *Ibid.* p. 3

²³ Muhamad Erwin, *Environmental Law*, (Bandung: Refika Aditama, 2015), p. 37

implementing customary *Sasi* against the company where the purpose of this customary *Sasi* is to forcibly stop the company's activities.²⁴

B. Local Wisdom Practices in Coastal Area Conservation

Local wisdom is the knowledge and actions of local communities to overcome problems and meet the needs of life. The term comes from the words "local" and "wisdom," which refer to knowledge and policies that are unique and useful in a place. Local wisdom includes ideas, beliefs, norms, material aspects, regulations, and cultural knowledge. Local wisdom reflects the values, knowledge, and experiences of religion, culture, and community vision, and influences social behavior and regulations.²⁵

Local wisdom is one of the cultural heritages that lives in society (traditional) and is carried out from generation to generation by the community concerned. Local wisdom generally contains teachings to maintain and utilize natural resources (forests, land, and water) sustainably. According to Priyono, in Indonesia there are still various forms of local wisdom from customary law community groups that practice traditional methods in managing coastal resources. The issue of local wisdom in managing coastal and marine resources has become an interesting topic of discussion and is of urgent importance in relation to the rate of damage to coastal and marine ecosystems. The aspect of local wisdom in managing coastal and marine resources as a community initiative and has been developing for a long time can be an important consideration for coastal and marine area management policies. Therefore, as an archipelagic country, Indonesia should direct coastal and marine area management policies by considering the existence of local wisdom in the community.²⁶ In relation to the efforts of customary law communities through local wisdom practices in coastal area conservation, the utilization, use and management of natural resources and environmental sustainability, these customary communities with their local knowledge (indigenous knowledge), with the power to uphold their customary laws, their spiritual abilities, and the religions they adhere to, are apparently wiser than other communities. Local knowledge known as local wisdom grows and develops within the community as knowledge that is passed down from generation to generation as part of adaptation to its environment.²⁷

Environmental preservation efforts for the Maluku community have been carried out since long ago. This will be proven by one of the cultures of the Maluku community which prohibits the taking of certain potential products with or without damaging the environment. The activity of prohibiting the taking of potential products by the Maluku community is known as *Sasi*. *Sasi* is a tradition of the people of the village in Maluku, to maintain certain potential products. If *Sasi* is implemented, then the community is prohibited from picking certain plants on land and taking certain products from the sea for a period of time determined by the village government.²⁸

Coastal area management with local wisdom is used by customary law communities, for example customary law in Negeri Haya, Central Maluku Regency. The *Sasi* custom comes from Maluku culture and has been passed down since the time of our ancestors. The *Sasi*

²⁴ Interview with Manlao Pia, Negeri Haya, April 5, 2025.

²⁵ Njatrijani R, *Local Wisdom in the Cultural Perspective of Semarang City*, Echoes of Justice, Semarang, 2018, p. 16

²⁶ Tamar Mustari et al., *Local Wisdom and Optimization of Coastal Resource Management in Buton*, (West Lombok: Nashir Al-Kutub Indonesia, 2023), p. 5-6

²⁷ Djumantri H. Maman, *Space for Traditional Local Communities (Indigenous Communities) Increasingly Marginalized*, (Yogyakarta: Wacana Column, 2008), p. 2

²⁸ Frank L Cooley, *Pulpit and Throne*, (Jakarta: Pustaka Sinar Harapan, 1987), p. 248

culture has spread to the islands around Maluku and even to the West Papua region. This wisdom has become part of customary law related to the environment by enforcing a ban on the exploitation of natural resources, intended to be used for the prosperity of the people in Negeri Haya. Based on its basic word, *Sasi* comes from the word "sanction" which means prohibition. In this tradition, the prohibition in question is the prohibition of accessing natural resources on land or at sea for a certain period of time with the aim of the economic interests of the community. Another definition is a prohibition on exploiting natural resources for a certain period of time so that the sustainability of natural resources is maintained.²⁹

The implementation of the *Sasi* system is managed by a traditional institution that has the authority, this institution also has its own structure and function. There is a Saniri Negeri institution that functions to determine a decision and supervise the decisions that will be made. There is also a Manlao Chief who is the leader of a Manlao who functions to accommodate and channel the aspirations of the Manlao he leads.³⁰

Sasi is made based on community knowledge about the time or period when a resource can be harvested so as not to disrupt its life cycle and the community gets good and maximum results. The position of *Sasi* tends to be legal rather than traditional, because the purpose of using *Sasi* is how the community behaves wisely in taking and managing marine products.³¹ In its implementation, there are two important terms in *Sasi*, namely buka *Sasi* and tutup *Sasi*. Buka *Sasi* is when the community is allowed to harvest or take a resource that is being *Sasi*, while tutup *Sasi* is when the resource is prohibited from being harvested and will be protected again by *Sasi* law. *Sasi* will be opened according to the specified time, *Sasi* begins with a traditional ceremony attended by the head of the kewang, the saniri negeri and the village community. The opening of *Sasi* will be decided in a meeting attended by the kewang institution, king, saniri negeri and religious figures. This meeting is held when the time for the opening of *Sasi* is near. The opening of *Sasi* is carried out officially with direct notification by the kewang institution through one of the Marinyo by shouting while going around the village so that the community knows.

The opening of the sea *Sasi* is carried out based on two reasons, namely first, there is market demand or buyers aimed at economic needs. Second, for the needs of daily community consumption and social needs of the community such as the construction or repair of mosques or churches, village facilities and celebrations of religious holidays. The distribution of the results from the opening of the *Sasi* is given to the community, but the results given to the mosque or church, king, kewang, orphans and widows are twice as much as the general public's share.³²

The practice of local wisdom in coastal areas is very important, especially in environmental conservation. Based on the results of the author's research, the practice of local wisdom carried out by the customary law community of Negeri Haya in maintaining the environment is by implementing *Sasi*. The *Sasi* carried out by the customary law

²⁹ A. Kusumadinata, "The Role of Communication in Maintaining Local Wisdom (Case Study of Sasi in Ohoider Tawun Village, Southeast Maluku Regency)," *Jurnal Sosial Humaniora* 6, no. 1 (2015), pp. 23-32.

³⁰ Nadia Putri Rachma Persada, Fachruddin M Mangunjaya, and Imran S L Tobing., "*Sasi Sebagai Budaya Konservasi Sumber Daya Alam Di Kepulauan Maluku*," *Jurnal Ilmu Dan Budaya* 41, no. 59 (2018): 6869-6900. <https://doi.org/10.47313/jib.v41i59.453>.

³¹ Damardjati KM, Kusri T. Environmental conservation based on local wisdom. Center for Research on Education and Culture Policy, Ministry of Education and Culture, Jakarta, 2025, p. 76

³² Sofyaun A, *Analysis of sasi institutions in managing capture fisheries in East Seram sub-district*, Thesis, Department of Fisheries Resources Utilization, Bogor Agricultural University, Bogor, 2012, p. 76.

community of Negeri Haya as the aim of stopping the activities of WMP Ltd. from environmental pollution, this is because the customary law community of Negeri Haya considers that one of the last preventions from various legal settlements is to carry out customary *Sasi* as a last legal effort.³³

C. Cooperation Between Companies and Indigenous Legal Communities

Customary law communities have different values, traditions, and customs from the general public, including in terms of resolving legal issues and conflicts. Therefore, dialogue is needed between customary law communities and relevant stakeholders such as the government, companies, and the general public. In addition, customary law communities often face challenges in maintaining the sustainability of their customary territories, especially in the era of globalization and development expansion. Many customary territories are claimed by other parties, resulting in conflicts and disputes. In this case, customary law communities need to be involved in the process of resolving conflicts and making decisions related to their customary territories. Dialogue between customary law communities and stakeholders is also needed to strengthen cooperation and build trust between the two parties. In this context, open and clear dialogical communication is needed so that the expected goals and results can be achieved effectively and efficiently.

Therefore, the concept of dialogue on indigenous legal communities needs to be carefully prepared and pay attention to the perspective and needs of indigenous legal communities as one of the parties involved. There are several issues that need to be considered in the dialogue on indigenous legal communities, including: 1) First, the issue of recognizing customary law is still a complex and controversial issue in many countries, including Indonesia. This is related to the differences in views between customary law communities and the government regarding the status and authority of customary law. Customary law communities often experience discrimination and are considered to lack legitimacy in practicing their customs, even though these customs have long been part of their culture and identity; 2) Second, environmental changes and environmentally unfriendly development policies often threaten customary territories and natural resources owned by customary law communities. In many cases, the development of infrastructure projects such as power plants, mines, and large plantations in customary territories have damaged the environment and endangered the survival of customary law communities. Therefore, dialogue is needed between the government, companies, and customary law communities to find fair and sustainable solutions for all parties involved; 3) Third, conflict issues often occur between customary law communities and the general public or corporations and by the government itself, which have different interests in the customary area. The conflict can be an agrarian conflict, a conflict over rights to natural resources, or a social conflict. In this case, dialogue is needed between the two parties to find a fair and sustainable solution for all parties involved, as well as to maintain the sustainability of the customary area and the rights of the customary law community.

Therefore, the dialogue between the parties on indigenous peoples needs to pay attention to these complex and controversial issues, as well as strengthen cooperation and build trust between the two parties to achieve the desired goals. In this case, a holistic and inclusive approach is needed that takes into account the interests and perspectives of indigenous peoples as one of the parties involved. Dialogue on indigenous peoples is important and

³³ Interview with Mr. Amahoru, Negeri Haya, April 8, 2025

needs to be carried out continuously to maintain the sustainability of indigenous territories and the rights of indigenous peoples. Clear and comprehensive dialogue will greatly assist in achieving these goals. In addition, it is necessary to understand that indigenous peoples have different perspectives and needs from the general public, so there needs to be a different approach in carrying out legal tasks related to their indigenous territories. Involving indigenous peoples in the decision-making and conflict resolution process will also strengthen cooperation and build trust between the two parties. In this context, the government, companies, and the general public need to understand and appreciate the existence and role of indigenous peoples in maintaining the sustainability of the environment and life together in indigenous territories.³⁴

Based on the results of the author's research related to WMP Ltd. operating in Negeri Haya, it turns out that it is not in accordance with what is described above. The Government of Negeri Haya with several Saniri Negeri gave permission to PT. WMP to operate in Negeri Haya unilaterally without an open meeting or hearing with the customary law community of Negeri Haya to jointly consider the existence of WMP Ltd. in Negeri Haya before the permit was granted. So that when environmental damage occurs due to company activities, the customary law community of Negeri Haya demands that the company immediately stop its activities in the customary area of Negeri Haya and the customary law community of Negeri Haya also requests that the company be closed immediately. Then related to the cooperation between the company and the customary law community of Negeri Haya, in addition to the company carrying out exploitation or excavation of garnet sand on the coast of Negeri Haya, the company also carries out transactions to buy and sell the garnet sand with the community, the company buys garnet sand from the community by the sack or cubic meter. However, the buying and selling transactions are only carried out by the company with several communities, not the customary law community of Negeri Haya as a whole.³⁵

D. Legal Protection for Customary Law Communities in Environmental Conservation

The environment is something that cannot be separated from human life. This is because where a person lives, a different environment will be created and vice versa. A clean and healthy environment is certainly desired by everyone, and basically everyone has the same right to get a healthy environment. To provide legal certainty, clear laws are needed so that a person as an individual or as a business actor has clear boundaries regarding their rights and obligations in managing the environment.³⁶

Indigenous peoples in Indonesia have a very important role in maintaining cultural diversity and environmental sustainability. As a group that has inhabited the archipelago long before the colonial era, indigenous peoples not only have unique cultural richness but also a sustainable natural resource management system. However, their existence is often marginalized by development policies that prioritize the exploitation of natural resources without considering the sustainability and rights of indigenous peoples. Legal protection of the rights of indigenous peoples is very important to ensure that they can not only survive but also maintain their cultural heritage and environment.³⁷

³⁴ <https://bahteraalam.org/2023/03/03/pentingnya-dialog-tentang-perspektif-masyarakat-hukum-adat>.

³⁵ Interview with Manlao Wailissa, Haya Country, April 3, 2025

³⁶ Lilik Mulyadi, *Environmental Law*, (Jakarta: Intermasa, 2012), p. 89

³⁷ Abdurrahman, *Introduction to Indonesian Customary Law*, (Jakarta: Rineka Cipta, 2009), p. 59

Legal protection is the state's obligation to provide legal protection to every citizen. Legal protection can also be described as a function of law, both as a regulatory function and as a function of enforcing the law to achieve justice and legal benefits. Furthermore, the concept of legal protection is emphasized by Satjipto Rahardjo who emphasized that legal protection in the context of human rights is interpreted as providing protection to human rights that are harmed by others and this protection is given to the community so that they can enjoy the rights granted by law.³⁸

The country as a provider of a guarantee and certainty of customary law for customary law communities with the enactment of Law Number 5 concerning Basic Agrarian Principles of 1960 is expected to reduce disputes and provide justice for customary law communities. Customary land rights are known in customary law communities. Which consist of permanent rights which are the source of other rights, and temporary rights seen from the nature of ownership, and are classified as communal rights of customary law community members. While individual rights originate from common rights, which are marked by natural boundaries in accordance with applicable customary law.³⁹

CONCLUSION

The implementation of environmental conservation in coastal areas is a shared responsibility between the state, companies, and communities, especially indigenous communities who have historical and cultural ties to their areas. Indigenous communities have a central and strategic role in environmental conservation because they live in harmony with nature and practice local wisdom such as *Sasi*, which aims to maintain the sustainability of natural resources. The state, through various laws and regulations such as Article 18B of the 1945 Constitution and Law Number 32 of 2009, has recognized the existence and active role of indigenous communities in environmental management and protection. In the context of coastal areas, indigenous communities have customary authority and moral responsibility in maintaining the ecological balance of the sea and land. One example is the indigenous community of Negeri Haya in Maluku who implemented customary *Sasi* to fight against environmentally damaging mining activities by WMP Ltd. This shows that local wisdom-based conservation practices are still very relevant and effective. However, the implementation of this responsibility requires full support from the state and formal recognition of the rights of indigenous communities so that environmental conservation is balanced with development and company activities. The responsibility of indigenous peoples in preserving the environment from corporate activities is reflected through local wisdom practices that have been passed down from generation to generation, such as the *Sasi* system in Maluku. This system not only functions as an ecological protection mechanism, but also as a form of enforcement of customary law against the threat of environmental damage. In the context of Negeri Haya, indigenous peoples have shown an active and firm role by enforcing customary *Sasi* against WMP Ltd. activities which are considered to be damaging the coastal environment. This action reflects social resistance based on customary law which aims to maintain ecological balance and customary land rights. However, environmental preservation cannot be carried out unilaterally by indigenous peoples alone. Equal dialogue and cooperation are needed between indigenous peoples, companies, and the government. Unfortunately, in the case of WMP Ltd., the

³⁸ Rahardjo Satjipto, *Legal Problems in Indonesia*, (Bandung: Alumni, 1983), p. 23

³⁹ Sri Jekan Anggun Bandu, Merry Tjoanda and Novyta Uktolseja, "Settlement of Customary Land Transaction Disputes", *BAMETI Customary Law Review* 1, no. 1 (2023): 18-25. <https://doi.org/10.47268/bameti.v1i1.9903>.

indigenous peoples of Negeri Haya were not involved in a participatory manner from the start, thus triggering conflict and *Sasi* actions. This incident emphasizes the importance of stronger legal recognition and protection of the rights of indigenous peoples. Legal protection for indigenous peoples in environmental preservation has been regulated in various national laws and regulations, but its implementation is still weak. The state must ensure that development and corporate activities do not compromise the rights of indigenous peoples and the sustainability of the environment which is an important part of their identity and life.

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