

# THE LOCAL LAW INSTRUMENT BASED ON LOCAL WISDOM IN MALUKU, "SASI LOMPA": LAWS AND ECONOMIC IMPROVEMENT

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## ABSTRACT:

Customary law is a law system known in the social life environment in Indonesia as well as in another countries. The source of customary law is unwritten law regulations which are grown, developed, and maintained by the legal awareness of the world people. Moreover, customary law is closely related to culture.

The meaning of culture is a way of life that is found in a group of people in a community who developed, and passed down from one generation to another generation. Culture also regulates human behavior in interacting with other humans so that each person understands what the needs to be conducted.

The implementation of Sasi in Haruku village located in an island of Maluku province in the eastern part of Indonesia was studied. Here Sasi is meant according to the original language in Haruku village as "Sasi Aman Haru - Ukui". The implementation of this Sasi had been carried out since the 1600s associated with the enormous potential of nature in Haruku Village especially to protect, preserve and maintain all potential natural resources contained in the village.

The challenges faced by the Haruku villagers are economic problems so that the need for a written instrument which can actually provide absolute certainty of authority when opening and closing Sasi

Lompa in the Haruku village. Such instrument will solve the difficulties of the Haruku villagers to preserve the local wisdom that they usually known as Sasi Lompa.

**KEYWORDS:** Customary Law, Sasi Lompa, Local Wisdom, Regional Regulation.

## PURPOSE OF STUDY:

The purpose of this study is to examine the role of the Regional Government in providing legal instruments that regulate sasi on Haruku village.

## METHODOLOGY:

The research method is the procedure for how a research will be carried out. Considering this research is a legal research, the research method used is a legal research method. Legal research is a process to find the rule of law, legal principles and legal doctrines to address the legal issues at hand. Based on the description above, the authors raise the problem to be examined is How is the Role of the State Government in upholding and preserving Sasi Lompa in Haruku village? The type of Writing about The Local Law Instrument Based on Local Wisdom in Maluku, "Sasi Lompa": Laws and Economic Improvement is a Sociological Juridical study. Sociological Juridical Resea

rch is an unwritten customary law life, which has not been systematically described, factual, and accurate, regarding the characteristics, characteristics of the community, and certain factors in the Sasi Lompa

## MAIN FINDINGS:

To find out the role of the State Government in upholding and preserving Sasi Lompa in Haruku village.

## APPLICATIONS OF THIS STUDY:

This paper is about Sasi Lompa in Haruku village which is related to customary law. The discovery of various government regulations can support and preserve sasi lompa in Haruku. So it can provide economic benefits and also legal protection toward sasi in Haruku village in particular and in Province of Maluku in general.

## NOVELTY/ORIGINALITY OF THIS STUDY:

Through the writing about The Local Law Instrument Based on Local Wisdom in Maluku, "Sasi Lompa": Laws and Economic Improvement then it obtained things about the economic and social as well as customary legal arrangements that are used to regulate systems and procedures that are good for the prosperity of the community of Haruku village through sasi lompa

## INTRODUCTION

The law of a country as an equivalent and its defined as a code of conduct in regulating human beings [5-12, 24] is a coercive order. This means all of these arrangements react to certain events that are considered as undesirable because they are detrimental to society and can provide certainty towards something abstract. John Austin, quoted by [23] stated that the law is an order from those who hold the highest authority or from those who hold sovereignty. According to Austin, the law is what is charged with regulating thinking beings, which orders are carried out by thinking beings who hold and have power. In addition to legal power as described earlier besides legal power the need for legal institutionalization in the community to enforce the law as part of a series of processes that

include lawmaking, law enforcement, justice and administration of justice.

Customary law [24] is a law system known in the social life environment in Indonesia and other countries. The source of customary law is unwritten law regulations that grow, develop and are maintained with the legal awareness of the community. These regulations are unwritten and grow, so customary law has the ability to adapt and be elastic.

The term of customary law was first introduced scientifically by C. Snouck Hurgronje], then in 1893, C. Snouck Hurgronje in his book entitled "De Atjehers" mentions the term customary law as adat recht (Dutch) to name a control system social (social control) that lives in Indonesian society. This term was later developed scientifically by Cornelis van Vollenhoven who was known as an expert on Customary Law in the Dutch East Indies (before becoming Indonesia). Cornelis van Vollenhoven was the first to launch the idea of the division of customary law. According to him the area in the archipelago according to customary law can be divided into 23 following customary environments such as Aceh, Gayo and Batak, Nias and its surroundings, Minangkabau, Mentawai, South Sumatra, Enggano, Malay, Bangka and Belitung, Kalimantan (Dayak), Sangihe-Talaud, Gorontalo, Toraja, South Sulawesi (Bugis / Makassar), North Maluku, Maluku Ambon, Southeast Maluku, Papua, Nusa Tenggara and Timor, Bali and Lombok, Java and Madura (Coastal Java), Java Mataraman, and West Java (Sunda). Meanwhile, according to Gerzt, the Americans state that Indonesian people have 350 cultures, 250 languages and all beliefs and religions in the world are in Indonesia. The Indonesian government's recognition of customary law has been embodied in words which are sentences and implicit in the constitution as stipulated in the 1945 Constitution Article 18B paragraph (2).

Culture regulates so people can understand how they should act, determine their attitude when they relate to other people. According to Edward Burnett Tylor, culture is a complex whole, which contains knowledge, beliefs, arts, morals, law, customs, and other abilities that a person has as a member of society. The purpose of cultural preservation is also to carry out cultural revitalization (strengthening). Regarding cultural revitalization, A.Chaedar Alwasilah said there were three steps, namely: (1) understanding to generate awareness, (2) collective planning, and (3) cultural creativity.

The implementation of Sasi in the Haruku village originally called "Sasi Aman Haru-Ukui". Historically based on historical stories, the implementation of this sasi began in the 1600s. The implementation of this sasi is related to the enormous natural potential in Haruku village, and to protect, preserve and maintain all the potential natural resources contained in the Haruku village. The process of implementing sasi is aimed at preserving nature and its wealth both on land but also at sea. Sasi Lompa is sasi to one of the marine resources, namely sasi to lompa fish which has been forbidden by customary law to catch if the sasi has not been opened. The process of opening Sasi was marked by the beating of Tifa by Kewang as a sign of Sasi being opened, then the first nets were distributed by the King and the Reverend Sasi was opened, then only then were all the citizens free to catch lompa fish.

#### **LITERATURE REVIEW:**

Associated with writing from Damardjati Kun Marjanto in the Patrawidya journal, Vol. 16, No. 3, September 2015: 311 – 326 which more emphasizes on the cultural values contained in the sasi lompa tradition in the Haruku village, then in this paper is more focused on the value of customary law as well as economic factors and legal factors in the tradition of sasi lompa in the Haruku village.

#### **METHODOLOGY:**

The research method is the procedure for how a research will be carried out. Considering this research is a legal research, the research method used is a legal research method. Legal research is a process to find the rule of law, legal principles and legal doctrines to address the legal issues at hand.

#### **Problems**

Based on the description above, the authors raise the problem to be examined is How is the Role of the State Government in upholding and preserving Sasi Lompa in Haruku village?

#### **Purpose of Writing**

The purpose of this paper is to examine the role of the Regional Government in providing legal instruments that regulate lasi sasi on Haruku village.

#### **Types of research**

The writing about "The Local Law Instrument Based on Local Wisdom in Maluku, "Sasi Lompa": Laws and Economic Improvement " is a Sociological Juridical study. Sociological Juridical Research is an unwritten customary law life, which has not been systematically described, factual, and accurate, regarding the characteristics of the community, and certain factors in the Sasi Lompa.

#### **DISCUSSION / ANALYSIS:**

##### **Overview of Indonesian customary law**

Customary law is one form of law that still exists or exists in the lives of indigenous and tribal peoples in Indonesia. We also need to know that Customary Law is one form of law that applies in the life and legal culture of Indonesian society that is still valid today. The existence of customary law can be seen until now through the existence of customary courts and customary law instruments that are still maintained by customary law communities in Indonesia to resolve various disputes and offenses that cannot be handled by the police, courts, and correctional institutions.

Customary law is still maintained until now by customary law communities because they believe that decisions issued through customary justice for an offense tried through it can provide satisfaction with a sense of justice, and the return of balance in the lives of indigenous peoples over the spiritual shock that occurs over the application of adat offense.

The existence of customary law as one form of law that is recognized for its existence in the life and legal culture of Indonesian society is listed in the 1945 Constitution of the Republic of Indonesia or for the sake of the 1945 Constitution, namely Article 18B paragraph (2) which determines "the State recognizes and respects unity - The unit of customary law community and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Republic of Indonesia, which is regulated in law ". Explanation regarding the recognition of customary law by the State is also contained in Article 27 paragraph (1) of the Constitution which stipulates "All citizens are at the same time in law and government and must uphold the law and government with no exception", which from the formulation of these provisions can the conclusion was drawn that both civilians and government apparatuses were without exception obliged to uphold the applicable laws in the life and culture of Indonesian society both criminal law, civil law, and customary law.

Customary law as a positive law has a characteristic that is; Customary law is a law that is largely unwritten, but its values are there and apply in the lives of indigenous peoples who apply customary law. Customary law applies in a limited scope, that is, it only applies to indigenous peoples where the customary law lives or lives, and this situation allows that each customary community can have customary law that is different from one another. Further explanation on customary law can be found in the opinion expressed by Soekanto as a jurist, where he

defines customary law as "customary complexes which are largely unbilled, uncodified and forced to have sanctions, so they have legal consequences. One sub-section contained in customary law is adat law delik (adat delicten recht) or also known as customary criminal law. Understanding of the term customary criminal law can be found through Hilman Hadikusuma's opinion, which states that the term customary criminal law is a translation of the Dutch term "adat delicten recht" or "law of customary infringement", and he also states that this term is unknown among indigenous peoples. Customary criminal law, in general, contains legal rules which questions are not written but have legal consequences for anyone who violates these laws, in the area of customary law that applies.

### **The Role of Local Government in Maintaining and Preserving Local Wisdom**

The government is an organization that has the power to make and implement laws in certain areas. According to Suradinata, the government is an organization that has great power in a country, including community affairs, territorial affairs, and power affairs in order to achieve the country's goals. Inu Kencana Syafi'e (2005: 18) writes that the term government comes from the root of the command which then gets an affix (mandate). If the word command has a prefix, then the word government is nothing but an elite body or organ that does the work of regulating and managing in a country. And if the word government gets a suffix, the word government means the matter, method, deed, or affair of the ruling and legitimate body which in the basic word of command there are several elements, namely:

1. There is a governing party (the Government) and a governed party (the People).
2. The governing party has the authority and legitimacy to govern and manage the people.
3. The governed party is obliged to obey the legitimate government.

4. There is a reciprocal relationship between the governing party and the governed there is a vertical and horizontal reciprocal relationship.

According to W Sayre in Inu Kencana (2005) the government is an organization of the state, which shows and exercises power. While Wilson said that the government is an organizing force, not always related to the organization of the armed forces, but two or a group of people from many groups of people prepared by an organization to realize their goals and objectives, with things that provide information for matters general public affairs.

The administration of government in Indonesia consists of the Central Government and Regional Governments. This is stated in the fourth amendment to the 1945 Constitution of the Republic of Indonesia which states that the Republic of Indonesia is in the form of a unitary state with broad principles of regional autonomy. The territory is divided into provinces. In Chapter I of Law Number 32 of 2004 about Concerning Regional Governments, Article 1 paragraph (1) states that: The central government, hereinafter referred to as the government, is the President of the Republic of Indonesia who holds the power of government of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia. While in paragraph (2) it is stated that: Regional Government is the organizer of government affairs by the regional government of Regional People's Representative Assembly according to the principle of autonomy and assistance tasks with the broadest possible principle of autonomy in the system and principles of the Unitary State of the Republic of Indonesia as referred to in the Basic Law in 1945 Constitution of The Republic of Indonesia. Still, in Chapter, I Article 1 Paragraph (3) of Law Number 32 Year 2004 states that the Regional Government is the Governor, Regent or Mayor, and the regional

apparatus as elements of regional government administrators.

In the 1945 Constitution, the results of the amendments to Chapter VI article 18 paragraph 3 said, the provincial, regency and municipal governments have a Regional House of Representatives, whose members are elected through general elections. Furthermore, regarding the provincial, regency, and municipal governments, it is also said that the Governors, Regents, and Mayors respectively as heads of provincial, regency, and city-regional governments. In other words, the regional government is the apparatus of government in the region along with the Regional Parliament. So, the Provincial Government is the Governor and the Regional People's Representative Assembly. While the Regency / City Regional Government is the regent / mayor along with the Regency Regional People's Representative Assembly.

The Regional Government has the authority to regulate and manage its own government affairs according to the principle of autonomy and assistance tasks. The granting of broad autonomy to the regions is aimed at accelerating the realization of people's welfare through service improvement, empowerment, and the participation of the wider community. Through this broad autonomy, the regions are also expected to be able to increase their competitiveness while still paying attention to the principles of democracy, equity, justice, privileges, and the specificity and potential and diversity of the regions in the system of the Unitary State of the Republic of Indonesia.

In accordance with the mandate of Law of the Republic of Indonesia Number 32 of 2004 which has been amended by Law Number 23 of 2014 concerning Regional Government, the Regional Government in the framework of increasing the effectiveness of the implementation of regional autonomy must pay attention to the relationship between the composition of the government structure and

between regional governments, regional potential and diversity. Aspects of the relationship of authority pay attention to the specificity and diversity of the region in the system of the Unitary Republic of Indonesia. Aspects of financial relations, public services, utilization of natural resources and other resources are carried out fairly and in harmony.

In order to be able to carry out its role, the regions are given the widest possible authority accompanied by granting the rights and obligations to carry out regional autonomy in the principle of a unified system of organizing the state government. In general, regional government authority covers all affairs in the field of government, except those which are the authority of the central government. The authority of the regional government, according to Law Number 32 of 2004 which has been amended by Law Number 23 of 2014 concerning Regional Government, there are authorities which are mandatory and some are optional. Authority is mandatory, meaning that it covers all government affairs at the regional level. While the authority of choice is to cover all government affairs that actually exist and can improve the welfare of the local community in accordance with the conditions and special characteristics of each.

The Obligatory Regional Government Authority according to Law Number 32 of 2004 which has been amended by Law 23 of 2014 concerning Regional Government is stated as follows :

1. Protect the community, maintain national unity, unity and harmony, and the integrity of the Unitary State of the Republic of Indonesia;
2. Improving the quality of people's lives;
3. Developing a democratic life;
4. Realizing justice and equity;
5. Improve basic education services;
6. Providing health service facilities;

7. Providing appropriate social and public facilities,
8. Developing a social security system;
9. Arranging regional planning and spatial planning;
10. Developing productive resources in the area;
11. Preserving the environment;
12. Manage population administration;
13. Preserving social-cultural values;
14. Forming and implementing legislation in accordance with their authority; and
15. Other obligations stipulated in statutory regulations.

Indonesia as a country that has islands from small to large, and the advantages where this country consists of various kinds of diversity of indigenous peoples and has its characteristics. It is appropriate that the existence of indigenous groups scattered throughout the Indonesian archipelago and in every province should be something to be proud of, this happens because the existence of indigenous peoples is the nation's wealth and can be a source of input for the Indonesian people. Both the wealth that can generate income for the country and the source of knowledge for researchers from across the continent, which is clearly where one of the benefits of the existence of indigenous peoples as a contribution can be given to the Indonesian people. In contrast to some Asian or European countries which often have only one indigenous community and these indigenous people are usually the forerunners of such countries, such as Indian tribes in America or Aborigines in Australia, which in fact have recently been marginalized.

Indigenous peoples are a key issue of climate change. As land and sea dwellers, they are very vulnerable to the effects of climate change. Their region is often the target of large-scale industries that cause climate change. Though it has become common knowledge that their local wisdom helps

reduce climate change and inspires people to deal with the climate crisis.

### **The Opening and Closing Ceremony of Sasi Lompa**

At night a group of men and women barefoot and dressed in all black, walked around Haruku village, Central Maluku Regency. That night, those who were members of the Kewang corps (customary stakeholders) went around to read out the regulations regarding Sasi Lompa. Sasi lompa is a ban to harvest lompa fish (*Thryssa baelama*), a type of fish similar to small sardine.



In the sasi tradition, which has lasted for more than three centuries, indigenous peoples are prohibited from taking certain natural resources, until they are already harvested. Before harvesting, the lompa fish maintenance period is carried out with a traditional ceremony called "Panas Sasi" by Kewang that reminds residents to care and protect the environment around the river of Learisa Kayeli, as far as approximately 1500 meters which is a place to live and as a habitat for lompa fish.

Residents are prohibited from harassing or catching lompa fish while in the sasi location marked by special milestones, residents are also not allowed to wash kitchen utensils or throw garbage into the river. If it is violated there will be sanctions or penalties according to the provisions

in the sasi regulations, in the form of fines and caring for children.

Sasi can be interpreted as a prohibition to take the results of certain natural resources as conservation efforts in order to maintain the quality and population of natural biological resources (animal and vegetable). Basically, the implementation of sasi is also a form of customary law norms that apply on Haruku village which is also an effort to maintain community life manners which includes efforts towards equitable distribution or income from the results of surrounding natural resources to local residents. Sasi has the rules set out in a decision on the density of the Customary Council called "Saniri". On the island of Haruku the Customary Council is called by the name Saniri'a Lo'osi Aman Harukui, or "Complete Saniri Negeri Haruku". This decision on the density of the adat council delegated the authority of its implementation to the Kewang institution. While Kewang is the "Customary Institution under the Customary Council or Saniri appointed to carry out supervision of the implementation of the Sasi regulations.

### **Closing Ceremony of Sasi Lompa**

In the procession of closing ceremony of Sasi Lompa, fish seeds usually begin to be seen in groups on the coast of Haruku island between April to May. It is at this time that Sasi Lompa is declared effective or is called Tutup Sasi. Community members are prohibited to catching lompa fish, because the size of lompa fish is too small. Usually, at the age of about a month to two months after first sighting, the hordes of lompa fish start looking for estuaries to enter the river.

The task carried out by Kewang as implementing sasi is to plant sasi marks in the form of wooden stakes which are wrapped around the ends of young coconut leaves. The existence of this sign means that all regulations for lompa fish have been put into effect since then, including:



1. Lompa fish, while in the area of sasi location, must not be caught or disturbed by anyone.
2. Kitchen utensils may no longer be washed at times.
3. Marine motors may not enter Learisa Kayeli River by using or starting the engine.
4. If you need bait for fishing, lompa fish should only be caught with a hook, but still not in the river.
5. Garbage must not be disposed into the river, but at a distance of about 4 meters from the edge of the river at places determined by Kewang.



If there are people who violate this regulation will be subject to sanctions or penalties in accordance with the provisions in the rules of sasi, namely in the form of fines. If children who commit violations, will be subject to punishment beaten with rattan 5 times which indicates that the child must bear the mandate of the five soa (large clans) in Haruku village.

### Opening Ceremony of Sasi Lompa

After the protected lompa fish are big enough and ready to be harvested or caught, which is about 5-7 months after first sighting, then Kewang in a routine weekly meeting on Friday nights determines the time to open sasi which is a statement of the end of the sasi period. The decision on the day of opening the sasi is reported to the King or the Village Head to be

immediately announced to all members of the community.



The second ceremony was held, the same as the heat of the first sasi when the sasi lid started. After the ceremony, at 3:00 in the morning, Kewang continued their work by eating together and then burning a bonfire at the mouth of the Learisa Kayeli river with the aim to catch lompa fish earlier into the river in accordance with the tide calculation.



Soon, hordes of lompa fish soon flocked into the river. At that time, the community was ready to install a stretch in the estuary so that at low tide the fish could no longer go out to sea. Just as the water began to recede, the first beating was done as a sign to residents, both young and old, all preparing to head for the river. The second tifa is sounded as a sign that all residents immediately headed to the river. The third tifa then followed to beating as a sign that the King ( Raja ), the Saniri Negeri, also the Priest, had gone to the river and the people had to take their places on the edge of the river.





The village head's entourage arrived at the river and immediately distributed the first nets, followed by the priest and then all the community members were free to catch the lomba fish. Usually, sasi is opened for one to two days, then immediately closed again with the sasi ceremony again. From this open sasi process, the community gets an abundance of additional nutritional resources from consuming lomba fish, as well as a decent additional economic income, for the citizens of Haruku village when selling lomba fish products to the people on the surrounding islands.



### CONCLUSION:

The challenges faced by the community at this time especially the Haruku village communities are economic issues and a written instrument that can provide absolute certainty of the authority for when to open and close the sasi

lomba in the haruku village. This makes it even more difficult for the community to preserve the local culture that we know with Sasi Lomba. Due to the lack of understanding of local wisdom (Sasi Lomba), the community in carrying out its activities ignores cultural values which are relics that must be cared for and guarded as result tourist attractions are converted into locations or places that are damaged by actual characteristics. The government, in this case, the local government to the village government is a unified system that is inseparable from the unity of indigenous peoples and is involved so that matters that touch directly on the traditional joints themselves by it the government is required to play its role.

### LIMITATION AND STUDY FORWARD:

With the description above conclusions, it is hereby recommended to:

1. A State Regulation is needed to regulate the authority to open and close the Sasi lomba
2. Share the results of Sasi Lomba fairly to the Government and the community.
3. State Regulation in Tourism Management.

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