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Environmental Health Law Enforcement Based on Minahasa Local Wisdom

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Abstract

Environmental health law enforcement is the key to realizing the quality of the environmental health of the community. The quality of life of the Minahasa people or *Tou Minahasa* has been maintained since long ago according to the principle of *Sitou Timou Timou Tou*. Also related to environmental health. Carried out to maintain the quality of life of the Minahasa people until now as local wisdom of *persalan jaian*. How does law enforcement have implications for community compliance in maintaining environmental health? By using normative research methods, the research was conducted focusing on the environmental health law system that is implemented. While the research sample is Mapalus in maintaining the environment in Betelen Village, Tombatu 1 and Tombatu 2 in the area of Bukit Kasih Kanonang 2 in the area of Sineleyan Tomohon Springs. The results of the study show that the method of law enforcement is taken through coaching carried out by traditional leaders to build individual awareness. Law enforcement is also applied with customary sanctions where perpetrators of environmental pollution will be ostracized from the indigenous people in their village. The conclusion in the local wisdom of Minahasa, the community voluntarily obeys without coercion to comply with Environmental Health laws, the community voluntarily works to maintain environmental health sources such as springs, and drains, voluntarily accepts Bhakti work prints and so on.

Keywords: Community, environmental health laws, local wisdom, Mapalus, Minahasa

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1. Introduction

Minahasa has local wisdom that has long been applied to maintain environmental health starting in the village of Walak and the district. This local wisdom is called Mapalus in the form of community service and other activities. Environmental cleaning activities, cleaning water channels, and making Pagar fountains have been passed down from one generation to another until now. Studying customary law as unwritten law, customary law is a name to state the *Volksrecht* (people's law) of Indonesia which is not codified. Customary law for the Indonesian nation is a national treasure, in its purest form. Customary

law has indeed existed in the life of the Indonesian nation before the Dutch studied and explored it at leading universities in Europe. Minahasa has local wisdom that has long been applied to maintain environmental health starting in the village of Walak and the district. This local wisdom is called Mapalus in the form of community service and other activities.

Environmental cleaning activities clean water channels make *pagar fountains* and are passed down from one generation to another until now. Studying customary law as unwritten law. Customary law is a name to state the Volksrecht (people's law) of Indonesia which is not codified. Customary law for the Indonesian nation is a national treasure, in its purest form. Customary law has indeed existed in the life of the Indonesian nation before the Dutch studied and explored it at leading universities in Europe. Customary law is customary law and religious law of institutions and customs as formulated in Snouck Hurgronje, an Islamic religious expert, sees that the laws in force in Indonesia, namely religious regulations of institutions and customs referred to in Article 75 of the Regeling Reglemen Customary law is mostly unwritten, This environmental problem has become a global issue that is being debated by nations in this world. Global environmental issues are environmental problems and the impacts caused by these environmental problems have a broad impact on the world.

Developed countries have claimed that developing countries in their national development process have done more environmental damage, due to the limitations of their human resources in managing the environment with more environmentally friendly modern technology. Environmental health laws are important for humans to maintain and protect because the quality of the environment is decreasing. The decreasing quality of the environment has threatened the survival of human life and other living things, as well as increasing global warming which causes climate change and this will worsen the decline in environmental quality. For this reason, it is necessary to carry out serious and consistent environmental protection and management by all stakeholders. Not many parties have paid attention to constitutional studies that touch on environmental issues.

The debate between developed and developing countries, in addition to having raised a deep concern for environmental sustainability, actually is actually a meeting point between developed and developing countries that they believe and have mutual interests, that the natural resources that exist today if not maintained will one day be damaged 1, How is the Mapalus local wisdom model applied to maintain 1, how is the enforcement of the law its implications for community compliance in maintaining environmental health, the way the Minahasa customary law community does mutual assistance. With the Mapalus method, this applies in all fields including environmental health. Customary law is mostly not written, although some are also recorded in regional scripts, some are even written down with an unsystematic cam, but only as a guideline, not absolutely must be implemented, except for those that are God's commands. So customary law is generally not codified like Western (European) law, which is arranged regularly in a book called a law book. Environmental management in the Indonesian legal system has been regulated in Law Number 32 of 2009 Concerning Environmental Protection and Management - State Gazette of the Republic of Indonesia 2009 Number 140 - Supplement to the State Gazette of the Republic of Indonesia Number 5059. (Hereinafter abbreviated as UUPPLH). According to this Law, the environment is a unity of space with all objects, power, conditions, and living things, including humans and their behaviour, which affect nature itself, the continuity of life, and the welfare of humans and other living things.

2. Literature Review

The search for customary law from a scientific perspective begins etymologically, namely, the term customary law is a translation of the Dutch language, "adatrecht". This term was first used by Snouck Hurgronye, in his book De Atjehers 2 volumes published in 1893-1894, and Het Gajoland, in 1893. Then the term "customary law" was also used by Cornelis Van Vollenhoven in his books such as: "Het Adatrecht Van Nederlandch Indie" Volume I ski Volume III and "De Ondekking van het Adatrecht" in 1928 Customary law as a name for that related to Volksrecht (people's law) of Indonesia which is a national treasure. Customary law forms a customary society, namely a unified human being who is organized, settled in a certain area, has rulers and has tangible or intangible wealth (Bushar Muhamad, 1985).

In principle, customary law includes behaviour and actions that should be treated and maintained in society. (Ferry Aris Suranta, 2012; Delgado et al., 2024) Normative Indonesian customary law generally shows a traditional, religious character. Various customary law literature identifies the existence of unwritten norms that regulate the lives of the people called legal associations in Indonesia, in essence since ancient times, pre-Hindu times were influenced by Hindu culture, then developed influenced by Islamic and Christian culture. Customary law is a living law that grows and develops together in the life of society and is respected and obeyed. Customary law is an unwritten rule that lives in society in a region and remains alive as long as society still obeys it. (Sisca Lis Sulistiani, 2001). Customary law is an unwritten law that arises from local traditions and cultures, in principle customary law is a reflection of the personality of a nation. (Dewi Sulastri, 2015; Girma, 2024) Article 18 of the 1945 Constitution Amendment in 2000 repositioned customary law the same as other positive laws and respected the existence of indigenous peoples and customary rights.

Customary practices in society that grew into customary law continue to be maintained to this day in the form of local wisdom (indigenous people). Customary law forms an indigenous society called a legal association, namely a unity of community order as a mixture of genealogical and territorial order. (Ter Haar BZN, 2012) The character of customary law as the local wisdom of the Indonesian nation is a characteristic of native Indonesian law. That is why customary law is a law that is inseparable from the lives of the Indonesian people. By studying customary law we study Indonesian Legal Culture (Sondakh J, 2021; Srivastava & Mishra, 2019).

Various customary law literature identifies the existence of unwritten norms that regulate the lives of the people called legal associations in Indonesia. In essence, customary law has existed since ancient times, pre-Hindu, Hindu, then developed influenced by Islamic and Christian cultures. Customary law is a living law that grows and develops together in the lives of society. Customary law is an unwritten rule that lives in a society in an area and remains alive as long as the community still obeys it (Sisca Lis Sulistiani, 2001; Suwija et al., 2019).

Customary law arises from local traditions and cultures, in principle, customary law is a reflection of the personality of a nation. (Dewi Sulastri, 2015; Suryasa, 2019) Article 18 of the 1945 Constitution Amendment in 2000 repositions customary law the same as other positive laws and respects the existence of indigenous peoples and customary rights. Customary practices in society that have grown into customary law continue to be maintained to this day in the form of local wisdom (indigenous people). Customary law forms a customary society called a legal community, namely a unity of community order as a mixture of genealogical and territorial order. (Ter Haar BZN, 2012) The character of customary law as the local wisdom of the Indonesian nation is a characteristic of indigenous Indonesian law. That is why customary law is a law that is inseparable from the lives of Indonesian society. By studying customary law we study Indonesian legal culture (Sondakh J, 2023) customary law forms a society called a legal community that is cohesive with the life and customs built by ancestors. Customary society is intended as a group of people who have ancestral origins (hereditary) in a certain geographic area. The state recognizes and respects the unity of the legal community of the 1945 Constitution, article 18 b paragraph (2) the rules of human behaviour in society as referred to above are customary rules.

Mapalus practised in Minahasa forms a legal culture (Haliim, 2018). Related to environmental management and preservation since long ago. Environmental health legal arrangement policies have been carried out since long ago such as the arrangement of water sources, in villages Since the Toar and Lumimuut era, there has been Minahasa customary law which is manifested in Mapalus, *maando* and passed down from generation to generation. To maintain and enforce Minahasa customary law, there are Tonaas and *walak umbanua*, certain people who have the task of determining, implementing, maintaining customs and treating certain rules of behaviour, in a certain way (Graafland, 1991; Adekunle, 2024; Suardana et al., 2022) In Minahasa, there are *tonas toas* which are related to control over the environment such as Tonaas nm Banua Tonaas un Tasik Tonaas un Katanaan Tonaas Un Talun and so on. For technical arrangements in villages since ancient times in Minahasa, it has been known as Manti air, *mntri katanaan mantri kasupu* regulates the use of land boundaries related to the use of plants called *tawaang*. Until now,

Minahasa is known as meweteng, village officials who are given the authority to control the environment. The determinations stated by these legal officers can be called customary law. In the modern era, customary law is often called local wisdom or Indigenous people, but in Indonesia, in principle, both local wisdom and customary law must be recognized and respected by anyone, the same as the state giving recognition and respect to customary rights in laws and regulations in Indonesia (Mariane Irene, 2014).

The structure of the Minahasa indigenous community starts from large ethnic groups such as *Tountemboan, Tombulu, Tonsea,* Toulourm and *Tounsawang.* The small ethnic indigenous communities of Ratahan, Ponosakan, Bantik, Dusun, Jaga Kampung, Walak, Desa Jaga and I have their traditions and customs. Internationally, the term indigenous people is known as indigenous people. This definition follows the *United Nation declarion on the Right of Indigenous Peoples* 2007 (Karoba S, 2007; Abrighach, 2024; Bung, 2024) The Minahasa Indigenous community has produced many traditions that are preserved from generation to generation, namely Mapalus or working together (Turang Tresye, 2012; Pratama & Putri, 2022; Werdistira & Purnama, 2020) in society. The Minahasa indigenous community group has customs and habits that are born from tradition and are carried out from one generation to another. This has developed slowly over the years and helps in maintaining a harmonious society such as the principle of the Minahasa people *Sitou Timou Tumou Tou*, humans only live if they give life to others. This is what is called Tou Minahasa or Minahasa people (Sondakhh A.J, 2004). These concepts are products of indigenous communities that are embodied in Minahasan law and culture that have been passed down from generation to generation.

The Mapalus method applies in all fields including environmental health. Customary law is mostly not written, although some are recorded in regional scripts, some are even written down in an unsystematic manner, but only as a guideline and not absolutely must be implemented, except for those that are God's commands. So customary law is generally not codified like Western (European) law, which is arranged regularly in a book called a statute book. Environmental management in the Indonesian legal system has been regulated in Law Number 32 of 2009 concerning Environmental Protection and Management - State Gazette of the Republic of Indonesia 2009 Number 140 - Supplement to the State Gazette of the Republic of Indonesia Number 5059. (Hereinafter abbreviated as UUPPLH). According to this Law, the environment is a unity of space with all objects, power, conditions, and living things, including humans and their behaviour, which affect nature itself, the continuity of life, and the welfare of humans and other living things.

3. Research Method

This research is a legal, normative research because legal science has a special character (it is a sui generis discipline). The nature of legal research is always focused on rules, which is a study to analyze laws and regulations, both written and unwritten. Research on environmental health law is carried out through two approaches, namely the approach through Minahasa customary law and the approach to written regulations related to Environmental Health Law. In the analysis, a statute approach is used, namely examining in detail the laws and regulations, which are related to Customary Law and a concept approach, namely examining concepts related to Mapalus and Samks.

Legal materials to achieve the research objectives following the method used, namely the normative legal research method, legal materials needed to be studied such as a) primary legal materials, such as the 1945 Constitution, Law No. 23 of 2014, b) books containing theories of Customary Agreements and Textbooks on Indigenous People as well as books about Minahasa. Legal materials as supporting materials in addition to materials related to the theory of decentralization and health and education services.

Table 1

Legal materials in the form of regional government policies

Types of Legal Materials	Legal Material Source
1. Primary Legal Materials	
a. Mapalus Custom Environment	Field survey
b. Village government policy aspects	Sample LMD Village Government
c. Regional Regulations	Minahasa Local Government and DPRD
d. Community and customary case handling systems	Minutes
e. Customary Punishment System	Head of Mapalus Group
Secondary legal materials	
a. Regulations, PERDA PERDES Mapalus	Legal Section of Setwilda
b. Number of Mapalus Houses	Village Head Office

The research was conducted in Tombatu District, Minahasa Tenggara Regency. Sample villages were selected randomly, namely Betelen Village, Tombatu I and II Silian Village, and Lobu Village. These villages were chosen because the Mapalus tradition in House Construction is very strong and is adhered to by all members of the group.

Methods of Collecting Legal Materials. The collection of legal materials is carried out in several ways, including:

- l. Identification of legal materials by interviewing techniques specifically in the form of unstructured questions and answers with respondents who are positioned as key informants who are considered to have knowledge, understanding and/or experience in regional government. The equipment used in this interview activity is to use a list of questions (questionnaires) as an interview guide.
- 2. Observation, namely the collection of legal materials carried out by the technique of directly observing the activities carried out by respondents in running the regional government system. Observations are carried out in addition to the Village Government as a sample
- 3. Documentation study or Literature Study. Namely the technique of collecting legal materials carried out by studying journals, reports, and various documentation or written manuscripts that are related to the legal system in Mapalus.

Analysis of Legal Materials. After the collection of legal materials and legal materials, the most important stage in this study is to analyze the legal materials and information obtained. The analysis of legal materials is carried out in four stages:

- 1. The first stage is a literature review on aspects of legislation and the implementation of legislation in the fields of government and health and education services, especially in the application to certain cases.
- 2. The second stage is a qualitative analysis of the principles of law and the principles of governance concerning policies for attracting and protecting investors.
- 3. The third stage is a policy analysis using prospective techniques by analyzing; the relationship between the legal system in the model of the Regional Autonomy government system, especially in the role and performance of the regional government in implementing the functions and objectives of law in the fields of health and education services.
- 4. The fourth stage is to identify the elements or principles of law that must be used as a reference by the regional government in implementing the law in the fields of health and education services to create a climate.

Discussions

Enforcement of Environmental Health Laws in Minahasa

Law enforcement related to violations of environmental health laws is mostly carried out through guidance by traditional elders. The stages of guidance are A. social interaction that occurs in a society that encourages individuals to carry out values that apply in groups or communities. The second is the suggestion, which is the process of giving views from traditional figures or attitudes from a person to others from the outside without criticism. Third is identification, which encourages someone to become an identity speaking with or the same as others both physically and mentally. Fourth is sympathy, which is an individual's interest in the behaviour of individuals, especially other traditional figures, which encourages groups to understand other parties to work together. Sometimes, this is based on the interests of individuals as actors in the interaction. This means that social life can be realized in various forms of association. For example, shaking hands, greeting, talking to other people, to debates that occur in society are examples of social interaction. In such symptoms, we witness one form of social life. The factors that influence social interaction that occurs in society are Imitation, which encourages individuals to compete or values that apply in a group or society.

Factors Affecting Social Interaction in environmental health law are the main factors in the occurrence of social activities, so sometimes it is based on the interests of individuals as actors in the interaction. Here are some factors that underlie the ongoing social interaction. The first factor, the imitation factor, has an important role in the process of social interaction, the positive thing about imitation can make someone obey the applicable rules. According to Gabriel Trade, this social life is the result of imitation factors alone. The second factor is the suggestion factor, which means there is a good psychic influence that comes from other people and is generally accepted without criticism. The next factor is the identification factor, in psychology this can be in the form of an urge to be the same, the same as another individual, both inwardly and outwardly. The other factor is the sympathetic factor, namely the feeling of attraction of one individual to another individual which is based on not a rational logical attitude but on feelings.

Environmental health laws are obeyed because there is social contact, the word "contact" is derived from the Latin cum which means together and tangere which means to touch. So where contact means together touching. Sociologically, social contact does not always occur through interaction or physical contact because people can make social contact with other parties without touching each other, for example talking on the phone or e-mail. Therefore, physical contact is not an absolute requirement for contact to occur. b. Communication is the sending and receiving of messages or news, between two or more people so that the intended message can be understood. The most important thing in communication is the activity of interpreting each other's behaviour (talk, physical movements, attitudes) and the feelings conveyed. Social interaction is a major factor in social life, where social interaction is also a common form of a social process. Gilin states that social interaction is a dynamic social relationship that concerns the relationship between people, individuals, between groups of people and between individuals and groups of people. Where social interaction can occur when two people meet, greet each other, shake hands, and talk to each other, these are forms of social interaction of social cohesion in a social environment, namely, they are treated bound by a set of rules that apply in the environment according to their position or status or role. An example is the home environment of a person who is the head of the family in a family, the father is used to making breakfast for his wife, and then his children respect whatever the father says. The father also acts as the head of the family who has a role to represent the family to deal with outside parties. Three keywords of social devices:

The first is social values and norms, second, is the behavioural patterns that are enforced which become general procedures. Third, is the relationship system, namely the role of an individual in society. Values and norms regulate what is and is not allowed to be done. Values and norms become a reference or guide for society to comply with applicable laws so that deviations do not occur. Institutions Function to provide a guide in carrying out social control (social control) sanctions for violations of these social norms are a means for each community to carry out social control. For example, in a hamlet there are a couple of lovers who do indecent things, then the couple will be sanctioned for their actions. This is done by the traditional leader so that other people do not do the same thing. With the existence of reciprocal

relations between communities, social institutions in community life can be a preventive effort to prevent conflict in society.

The law is present: Preventive social control means an effort before there is a disturbance in society. Example: counselling on the dangers of drugs in schools so that students avoid the dangers of drugs. With the counselling carried out, Repressive social control means control after the incident. Law and Society According to *Auguste Comte*, sociology is a science that studies humans as creatures who always live together with others. Humans as social beings are humans who live with other humans. Humans will need humans other than themselves. Reciprocal relationships between communities will give rise to rights and obligations between individuals, groups and groups, and one community with another community. Law as a rule regulates patterns of community behavior. Factors that cause society to obey the law: The interests of society are protected by law. People will obey the law, including environmental health laws.

4. Conclusion

- 1) The Environmental Health development system has been difficult to build since long ago in Minahasa by the *Toaas Walian* and the *Walak*, Environmental Health Law begins with the protection of clean springs in the village. The construction of the Gutter Fountains was also carried out in a Mapalus manner. In Mapalus, the community was built to be aware of a clean environment, that's how the people of Minahasa have been accustomed to living clean and healthy since long ago. Minahasa customary law was built and protects environmental health according to tradition since long ago. The habit in Minahasa is called *kasende*. namely eating together at the dining table as a family to maintain each other's health, it has been a habit in every family since long ago, when eating they must wash their hands, thus each family's culture of living clean has been organized since long ago. The entry of the Dutch into Minahasa increasingly brought a clean and tidy culture, neat village officials, and military teachers, were accustomed to living cleanly, especially when eating with Dutch people. Since long ago in Minahasa they were accustomed to eating with spoons and forks and were accustomed to sitting at a round table, this is a symbol of compliance with environmental health laws.
- 2) The strength of environmental health law in Minahasa lies in the recognition and obedience of the community to traditional figures such as *Tonaaas Waliaan* and *kuntua* up to *meweteng*, these are the customary law instruments in Minahasa. They supervise the implementation of customary norms and guide community members to comply with Environmental Health Law. The Minahasa community complies with environmental health law through Minahasa traditional figures spread across villages such as *Tonaas Walian* and *Meweteng*
- 3) The environmental health law enforcement model in Minahasa which prioritizes coaching and social interaction is indeed somewhat different and unique. Here the role of customary figures is very important in implementing the law as a force to change negative deviant behavior. to positive behaviour that complies with environmental health law principles. That is why compliance and conscientious legal awareness are very important.

Suggestions

- 1) The environmental health law system based on local wisdom Mapalus should continue to be developed in Minahasa because it is easier and less complicated, Environmental Health Law begins with the protection of clean springs in the village. The construction of the Gutter Fountains was also carried out in a Mapalus manner. In Mapalus, the community is built to be aware of a clean environment that is how the people in Minahasa have been accustomed to living clean and healthy since long ago. Minahasa customary law
- 2) Supervision carried out by traditional leaders should continue to be developed to form positive environmental health law obedience behaviour that is aware for the community to obey the law. Supervision in the perspective of guidance is handed over to each traditional leader who has good intentions. This is so that cases can be resolved quickly and provide benefits to each object of the environmental health law that is in dispute.
- 3) Law enforcement that is oriented towards guidance by handling cases of environmental health law that are violated will create legal certainty in resolving cases, for this reason, it is better to facilitate the execution of each decision made by traditional leaders must be directed towards behavioural

development that makes it easier for the parties to implement the decisions of traditional leaders in villages regarding violations of Environmental Health Law.

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