

The Application of Local Law in Marine Environment Conservation

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Abstract— Local law formulates the rules as a life guide to behave in life in the community of indigenous village area, especially in preserving marine environment in Bali. This paper analyzes the provisions of local law, in the form of *awig-awig* (customary law) which regulates the conservation of the marine environment, especially the beauty of the panorama of the sea. The method used is interviewing indigenous village officials (customary leaders) and village heads. The result shows that the existence of local law, through the application of *Awig-awig* (customary law) is very effective in preserving the marine environment. As the people obey and obey the local law. Therefore the implications of the marine environment remain preserved its sustainability in attracting the tourists.

Keywords— local law, marine environment conservation

I. INTRODUCTION

The sea is a natural resource, hereinafter referred to as natural resources, as a source for the livelihood of mankind as a complement to the livelihood of every human being. Today with the rapid grow of development sometimes ignore the environmental sustainability of both the land and sea environment. Indonesia as an archipelagic country, the territorial of the sea becomes the standing border of the islands. In addition, the existence of the sea and its environment which is the Natural Resources, its existence is also used as a tourist destination, especially marine tourism[1].

The famous of potential natural resources and marine tourism attractions of the country of Indonesia has received much recognition from the world community. As an archipelagic country and a maritime country, at present the potential of Indonesian tourism almost has more than 17,504 islands, which newly registered to UN agencies with the number of 13,466 islands. The length of the beach is 91,181 km with 5.8 million km² or 75% of Indonesian territory is sea area. The existence of this, affecting the total of Indonesian marine economic potential is US 1.2 trillion/year. From the marine tourism sector in Indonesia is able to absorb approximately 40 million people or about 1/3 of the total workforce of Indonesia. So Indonesia has the greatest marine tourism potential in the world[2].

Bali Island as a tourist destination has been famous throughout the world. The area has many objects and natural attractions are unique that is differ with other regions in Indonesia. The natural panorama that is supported by the social and cultural uniqueness of its people makes Bali

always invaded by domestic and foreign tourists. The coastal area of northern part has many marine biodiversity. Therefore, ecotourism activities in the form of cultivation and conservation of marine and coastal environments occur in areas of villages that have coastal areas.

In keeping the marine environment, is an important activity of maintaining the environment as well as possible. In relation to that, villagers of indigenous villages in Bali are aware of its territorial borders with the sea, are obliged and take an active role in guarding the irresponsible attitude and behavior of the people (*krama*) under the pretext of covering the economic and survival needs. Concrete form in preserving the marine environment contained in *awig-awig* or *pararem* (customary law) made in written form. The provision has been formulated the rules as a life guide to behave in life in the community. I Wayan Surpha provided the definition of *awig-awig* (customary law) that is in the form of "something that regulates the governance of social intercourse in the community to realize the order of life in the community." [3] *Awig-awig* (customary law) of indigenous village is the whole law that regulates the way of life for indigenous villagers along with their sanction and implementing rules. In addition, *Awig-awig* (customary law) also serves to integrate the citizens in unity that live together in tandem and arms. *Awig-awig* indigenous villages are a reflection of the soul of the society, which is religious. The basis in the application of the *awig-awig* (customary law) indigenous village philosophy is *Tri Hita Karana* (three sources of welfare).

While the importance of *Awig-awig* (customary law) is the binding of the unity of villagers to ensure cohesiveness and unity in unifying the common goal of realizing a safe, orderly, and prosperous life in the traditional village area. *Awig-awig* (customary law) of Indigenous village in the form of positive (written) is not apart from the issuance of Bali Provincial Regulation No. 03 of 2001 on *Pakraman* Village. The presence of *Awig-awig* (customary law) is expected to function as a regulator and control of citizens. In the era of globalization which is marked by the rapid development of science and technology, brings adverse impact on the culture of community law and the wisdom of legal functionaries in implementing the law. Whereas, the existence of customary law is expected to be as its own identity. Customary Law embodies a real legal feeling of the people, and continues to grow in the same way as the people themselves [4].

In applying *awig-awig* (customary law), in the midst of the era of all regulations imposed on society to govern life in the framework of the state, all rules are always measured from the underlying legal umbrella. In this connection, of course, it is based on the benefits of peace still remain in the community. On the other hand, there is also a rule of life that is lowered down by the ruler as imposed, though it is against with the feelings of the law of the recipient or may not accept as something legitimate. Under such conditions the law will be ineffective. Ease of Use

II. CONCEPTUAL FRAMEWORK

A. *The Concept of Marine Environment Conservation*

Optimal utilization of marine potency, does not mean a very important factor for the value of the development of a sustainable marine area, that is an efforts to repair the damaged areas. The sustainable development in question should be able to provide the benefits of social economic and benefits to the conservation of the environment. This is very dependent on the participation of local communities in maintaining the sustainability of the area[5]. The development of marine tourism area is a form of tourism area management that seeks to provide benefits, especially for protection and conservation and utilization of potential and environmental services of marine resources.

Furthermore, Darsoprajitno mentions in undertaking approach with marine tourism, consists of: a) the development of marine area is more directed and used towards the development effort of friendly environment of tourism area. b) the development of marine tourism areas need to address the environmental awareness factor of environmental impact to be very important, especially from uncontrolled tourist visit to maintain the sustainability of environmental quality/natural resources of tropical tourism in particular and guarantee sustainable economic development[6].

B. *The Concept of Indigenous Village (Pakraman)*

Indigenous villages in Bali are customary law community units with special features which cannot be found in other types of customary law communities. This special feature is related to the Hindu philosophical foundation that animates the life of indigenous people in Bali, known as the Tri Hita Karana philosophy which etymologically means three (tri) causes (karana) of happiness (hita), Ida Sanghyang Jagatkarana (God the Creator), bhuana (universe), and manusa (human). With the belief of Hindus in Bali, prosperity will be achieved if there is harmony of the relationship between the elements of Tri Hita Karana. In the adaptation of village life, the philosophy of Tri Hita Karana is embodied in the three elements of traditional village forming, they are::

1. *Parahyangan* that is the heaven of the village (Kahyangan Tiga which include: Desa Tempel or Bale Agung, Puseh Tempel and Dalem Tempel) as a place of mutual worship of God Almighty
2. *Palemahan*, as a place of residence and a place of livelihood as a projection of a bhuana (universe) that is subject to the rule of Bale Agung's territorial law,

3. *Pawonganis* the citizens (residents) of *Pakraman* village called *kramadesa* (villagers) as a whole life of the village community.

C. *The Concept of Awig-Awig (Customary Law)*

Awig-awig (customary law) is all provisions made by kramadesaadat (the villagers), used as a guide in implementing *Tri Hita Karana*. Awig-awig (customary law) regulates in general the rights and obligations of the *Pakraman* village community which contains suggestions, prohibitions, as well as tough and forceful sanctions. An Awig-awig (customary law) contains the names of densely populated villages, customary village boundaries, legal basis and purpose, membership terms, also containing additional/transitional rules. Since Awig-awig (customary law) regulates basic /general provisions, then as a condition of its implementation which can be used to execute a decision is also established in the form of *Perarem*. *Awig-awig* and *Perarem* have a magical religious character. Because it is adhered to by indigenous villagers. With the basic *Awig-awig* (customary law) of indigenous villages are managed or regulated in order to realize the purpose of life, namely ensuring a sense of security, orderly, serene, and prosperous.

The Awig-awig (customary law) terminology comes from the word "wig" which means damaged then having the prefix "a" which means no. Thus Awig-awig (customary law) means not corrupted or something to be good. This conception is poured into the rules either written or unwritten. Thus, it raises an understanding that AwigAwig (customary law) is the regulation of living together for the *kramadesa* (villagers) in its adat (indigenous) village, to realize a safe, peaceful, orderly and prosperous life in the traditional village. Its existence has the function of organizing and controlling the behavior of citizens in the association of life in order to achieve order and tranquility of the community.

III. METHODS

The method which is applied in this research is qualitative research design, using empiric juridical approach. The data obtained were obtained through interviews, which were conducted with indigenous village officials (customary leaders) and *Perbekel* (The head of The Village chosen by government). This study aims to obtain implications for the effectiveness of *awig-awig*(customary law) implementation related to marine environment conservation.

IV. DISCUSSION

A. *The Application of Awig-awig (Customary Law) in Marine Environment Conservation.*

The authority to formulate its own rules is an authority which derives from the form of power (original). The born of the authority because of the innate nature that was brought in since the agreement of the existence of the community and admitted as a form of unity of law society which takes care of its own interest (autonomy). Such matters can be classified into the respective affairs of each community, and the affairs of the common interest in the community. All these affairs are delegated to the indigenous village which then becomes his affair. Regarding the matters that are the responsibility of the customary community/ village, it is

regulated in the customary village provisions called *Awig-awig* (customary law).

The existence of village areas located on the coast is also part of the governance of each indigenous village/*Pakraman* village in Bali. Thus every customary/*Pakraman* village is generally obliged to guard against its marine environment. In fulfilling this obligation, each customary/indigenous village in each of its *awig-awig* (customary law) regulates the provisions on the preservation of the marine environment and the hygiene area in general to the citizens / *karma* and other communities. Arrangement of provisions on the substance made through the village (village meeting) and its existence is adhered to and adhered to by local residents voluntarily. In order for its wellapplication, it is seen from the structure and culture, the existence of the equipment of village leaders (administrators) and village apparatus that implement and supervise the *awig-awig* (customary law) provision is undertaken steadily and consistently.

B. The Effectivity of Awig-Awig (Customary Law)

We often find that in society, the laws that have been made are ineffective. According to SyamsudinPasamai, the issue of legal effectiveness has a close relationship with the problems of implementation, execution and law enforcement in the community for the achievement of legal objectives [7]. The formation of *Awig-awig* (customary law) as the real rules governing the relationship between the villagers regulates the various arrangements of customs and behavior in the social life that are considered appropriate and regulates the rights and obligations of customary village members and administrators (*prajuru*). *Awig-awig* provides every person the right when performing its obligations and obtaining customary sanctions if it is violated.

The application of customary sanctions is basically aimed at arranging for the managing village forest to be effective. The basic idea of the necessity of indigenous villages in the management of village forest areas, there is indeed a rationale for implementing customary sanctions. Although there are several stakeholders outside the indigenous/customary village with regard to forest management, but basically indigenous/customary villages, the provision of *Awig-awig*(customary law) which is made is the authority of indigenous village autonomy. In this context the application of customary sanctions can be seen as an interstate rule agreed upon by the villagers in *paruman* (meeting of villagers (*musyawarah*)).

The ideal of a good law is a law that is in accordance with living law which lives in the society which is certainly a reflection of the values prevailing in that society. Thus, the legal norms on the autonomy possessed by *Pakraman* village must conform to the growing needs of Balinese society, and not contradict with the philosophy of Balinese culture, as stated by Unger, "The Ideals of Law is rooted in the particular social life"[8] The effectiveness of Law means to examine the rules of law that must meet the requirements of juridical, sociological and philosophical:[9] These three conditions are described as follows:

a. The rule of law applies philosophically, ie in accordance with the ideals of law as the highest positive value.

- b. The rule of law applies sociologically, if the rule is effective, it means that the rule can be enforced by the authorities even if it is not accepted by the community (The theory of power), or the rule is valid because of the recognition of the community.
- c. The rule of law is applicable juridically, if its determination is based on higher-level or established rules on the basis of which it has been established.

Furthermore Wayan P. Windia said, that almost no *Pakraman*(customary) village which is existwithout making/writing of its own *Awig-awig* (customary law). Even in legalization at once is done through "*pasupati*" (balinese legalization ceremony). Furthermore the meaning of *pasupati* is meant a ceremony which according to Hinduism in the form of; *pangulap*, *pangurip*, and *pemelaspas*. Thus the content of *Awig-awig* (customary law) increasingly gives a magical religious. Though basically the *Awig-awig* has its binding force since the villagers agreed to implement the contents of the *awig-awig* in question. But with the existence of *pasupati* activity and endorsement by Regent/Mayor give more strength and belief for indigenous villagers.

Through this arrangement, the level of damage to the marine environment caused by the act of individual as villagers (*krama*) of indigenous villages can be minimized. Similarly, the cleanliness of the region is always maintained, which makes the tourists will feel comfortable. The next existence of the surrounding community will be able to earn a fortune because it can serve the needs of the tourists.

V. CONCLUSION

Referring to the above explanation, it can be concluded that through the application of *awig-awig* on a every indigenous village that regulates the conservation of the marine environment will be able to maintain the marine environment. Because the arrangement of *awig-awig* (customary law) makes community/residents to obey and comply it.

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