

BAJO'S 'LIVING LAW' ON ENVIRONMENTAL PRESERVATION TO SUPPORT ECONOMIC IMPROVEMENT

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ABSTRACT

The Bajo tribe is unique in terms of settlements in shallow water areas, this has the potential to become a tourist attraction that can help improve the economy of the Bajo community. The Bajo tourist attraction requires a sustainable environment, and the Bajo community has a living law that is in accordance with this. Based on these conditions, this article discusses related; (1) Living law of the Bajo tribal community regarding the protection of coastal areas; (2) Protection of economic potential in coastal areas based on the living law of the Bajo tribe. This is juridical-normative research, with conceptual approach and statute approach. The results of the study stated that; (1) The living law of the Bajo community includes; Malo Daya; Tibah Pindah; Palibu; Pongka; Sakai; and Lamma; (2) Environmental protection is important to provide a tourist attraction that can improve the community's economy, so that living laws that are in accordance with environmental protection was necessary to maintain.

Keywords: *Economic Improvement; Environment Preservation; Living Law.*

INTRODUCTION

Indonesia is a plural country in terms of culture, language and ethnicity, and it is reflected in the motto "Bhinneka Tunggal Ika", which implied that although Indonesia is diverse, it is integrated in unity.¹ There are more than 500 ethnic groups in Indonesia, with a diversity of cultures, languages, religions, sciences, kinship, social, economic, and political systems that are practiced at the local level.² Indonesia is not only multi-ethnic (Javanese, Batak, Bugis, Acehnese, Flores, Balinese, and so on), but also an arena of multi-ethnic influence (India, Chinese, Dutch, Portuguese, Hinduism, Buddhism, Confucianism, Islam, Christianity, capitalism, and etc).³ Indonesia's pluralism could be seen from the facts: spread over an archipelago consisting of 13,667 islands (though not entirely inhabited), divided into 358 ethnic groups and 200 sub-ethnics, embraced various religions and beliefs according to statistics: Islam 88.1 %, Christians and Catholics 7.89%, Hindus 2.5%, Buddhists 1% and others 1% (provided there are also residents who adhere to beliefs which are not included in the official religion of the government, but on their identity cards call themselves adherents). Official religion of the government, and a cultural history of a mixture of various cultural influences, ranging from the original Indonesian culture, Hinduism, Islam, Christianity, and also the modern West.⁴

This pluralism has an impact on the diversity of values contained in Indonesian society. Culture gives the value of life in humans,⁵ so that could mean differences in values that are recognized as true. The existence of values which are alive, trusted and obeyed by the community is the 'living law' of the community itself, or the law that lives in society.⁶ The term 'living law' was introduced by Eugen Ehrlich, an Austrian expert in the field of law, who was one of the originators of the discipline of sociology of law.⁷

¹ Gina Lestari, "Bhinneka Tunggal Ika: Khasanah Multikultural Indonesia di tengah Kehidupan Sara", *Jurnal Pendidikan Pancasila dan Kewarganegaraan*, Volume 28 No. 1, 2018, hlm. 31-37

² Irwan Abdullah, "Politik Bhinneka Tunggal Ika dalam Keberagaman Budaya Indonesia", *Jurnal Masyarakat dan Budaya*, Volume 5, No. 1, 2003.

³ Gina Lestari, *Op. Cit.*

⁴ Ana Indrahandayaningsih, "Kajian Filosofis Terhadap Multikulturalisme Indonesia", *Humanika*, No. 15, 2012.

⁵ Rustono Farady Marta, Jean Sierjames Rieuwpassa, "Identifikasi Nilai Kemajemukan Indonesia sebagai Identitas Bangsa dalam Iklan Mixagrip Versi Keragaman Budaya", *Jurnal Kajian Komunikasi*, Volume 6 No. 1, 2018, hlm. 49.

⁶ Mason C. Hoadley, "The Leiden Legacy: Concepts of Law in Indonesia (Review)", *Journal of Social Issues in Southeast Asia*, Volume 21, No. 1, 2006.

⁷ The Editors of encyclopedia Britannica, "Eugen Ehrlich Australian Legal Scholar", <https://www.britannica.com/biography/Eugen-Ehrlich>.

Every society has a legal order that regulates how-to-live in society, this is called ‘living law’. Ethnic pluralism also means pluralism to the ‘living law’ that exists in society. The ‘living law’ is born from the social life of the community which is materially practiced continuously and then the community obeys it based on moral duty, not because of the coercion of the sovereign.⁸ It could be sourced from customs/traditions, religion, or other things, so it is a wrong view if there are in traditional societies that do not have rules on behaviour called law.⁹

The Bajo tribe has ‘living law’ that apply in its society. They are one settled in coastal areas, with the majority of their member working as fishermen. Human activities in meeting the needs of life and socio-economic life must be supported by the availability of adequate natural resources.¹⁰ Marine areas, islands and coastal areas become a source of livelihood as well as a place to live.

The Bajo tribe are generally known to live in watery areas, both beaches, coasts, and shallow sea areas, it even seems that the Bajo tribe is easier to live in water areas rather than on land like other tribes.¹¹ Their life was close to the sea, making them have their own characteristics. When viewed from an economic perspective, they are including to the economically weak group.¹² They have always lived in the sea, coast and small islands, most of them have worked as fishermen for generations.¹³ Their settlements are unique, attractive to tourists, so that apart from being sourced from marine products, they also earn income from the tourism sector.¹⁴ The tourism sector has the potential to improve the economy of the Bajo’s community. Tourism sector must display its own

⁸ Sofyan Hadi, “Hukum Positif dan The Living Law (Eksistensi dan Keberlakuannya dalam Masyarakat)”, *DiH Jurnal Ilmu Hukum*, Volume 13, No. 26, 2017, hlm. 259-266.

⁹ Ibid.

¹⁰ Ramli Utina, “Kecerdasan Ekologis Dalam Kearifan Lokal Masyarakat Bajo Desa Torosiaje Provinsi Gorontalo”, *Prosiding Konferensi dan Seminar Nasional Pusat Studi Lingkungan Hidup Indonesia ke 21*, Volume 5, 2012, hlm. 14-20.

¹¹ Nurmala Prasodjo, Nuraini W Hamzah, Awaluddin; Pandjaitan, “Respon Komunitas Nelayan Terhadap Modernisasi Perikanan (Studi Kasus Nelayan Suku Bajo Di Desa Lagasa, Kabupaten Muna, Propinsi Sulawesi Tenggara)”, *Sodality: Jurnal Transdisiplin Sosiologi, Komunikasi dan Ekologi Manusia*, Volume 2, No. 2, 2008, hlm. 191-208.

¹² Wiwin Kobi, “Kajian Geografi Ekonomi: Studi Kasus Kondisi Sosial Ekonomi Masyarakat Suku Bajo Di Popayato, Gorontalo”, *Jambura Geo Education Journal*, Volume 1, No. 1, 2020, hlm. 16-25.

¹³ Nurmala K. Prasodjo, *Op. Cit.*

¹⁴ Wiwin Kobi, *Op. Cit.*

uniqueness to attract tourists,¹⁵ the uniqueness of the Bajo tribe is in the condition of the settlement located in shallow sea waters. This could have a domino effect on improving the economy of the Bajo's community, to support the tourism sector, it is necessary to preserve nature in the settlement areas of the Bajo's people.

The Bajo's people have knowledge about the environment in which they live. Their traditional knowledge, unique fishing traditions, knowledge of astrology, as a direction, and when the season is going to sea, so that the surrounding community is close to nature.¹⁶ The ability to know natural phenomena through traditional knowledge (local wisdom) has a unique opportunity to continue to be developed so that it could be maintained and obeyed.¹⁷ The knowledge is traditionally carried out by the local community repeatedly, so that it becomes a habit that is carried out by the community. This habit was initially carried out by people to meet their daily activities with limited facilities and infrastructure. The behavior of the Bajo's people is then carried out continuously, so that it becomes a habit that is adhered to and carried from generation to generation, so that it becomes part of public awareness that is obeyed by people in the region. This behavior pattern of the includes taboos aimed at preserving coastal areas, and they are obeyed, even though it is not written in national regulations.

Law should be considered as an expression of cultural values according to Soerjono Soekanto.¹⁸ The values that are lived and obeyed by the Bajo's people are 'living law', because they are a representation of the feelings that exist in the community. The Bajo's people live by obeying the 'living law' in accordance with the value of environmental conservation. Although living law applies in society, it was an unwritten rule, so it could be lost over time. Those explanations became the background of this article titled **"Bajo's 'Living Law' on Environmental Preservation to Support Bajo Community Economic Improvement"**. In this article, there are two main questions, they are (1) How is the living law in the Bajo tribal community on the protection of coastal

¹⁵ Victoria Lelu Sabon, dkk, "Strategi Peningkatan Kinerja Sektor Pariwisata Indonesia Pada Asean Economic Community", *Esensi: Jurnal Bisnis dan Manajemen*, Volume 8, No. 2, 2018, hlm. 163-176.

¹⁶ Fenty U Puluhulawa, "Local Value in Management of Fish Resource and Development of Law (Studies of Bajo Tribe in Gorontalo)", *Hassanudin Law Review*, Volume 1, No. 3, 2015, hlm. 350-356.

¹⁷ Ibid.

¹⁸ Hendra Wahanu Prabandani, "Pembangunan Hukum Berbasis Kearifan Lokal", *Hukum dan Kearifan Lokal*, Volume 1, No. 17, 2011, hlm. 29-33.

area; (2) How is the protection of the economic potential in the coastal area based on the living law of the Bajo tribal community?

I. METHOD OF RESEARCH

This is juridical-normative research, and use conceptual approach and state approach. The conceptual was necessary to analyze the concept of living law. The statute approach was necessary to analyze the living law of Bajo, and the positive law which recognizes the living law.

II. RESULT AND DISCUSSION

a. The Concept of ‘Living Law’, Eugen Ehrlich

Ehrlich suggested that law as stated in court decisions should be distinguished from law in the sense of social behavior (*lebendes recht*), which could be seen by observing human behavior in society; This was especially evident in organized activity, using the methods of the most progressive sociologists of its time: observation, generalization, and organization of findings into a consistent system, followed by the application of the results to real cases.¹⁹ He believed that the law was "regulating"²⁰ human behavior, in interacting groups of people, no matter how small or complex.²¹ ‘Living law’ means the law that actually exists and applies in a society, it could be in the form of written law or unwritten law. Every society lives with values that are considered ideal, and the existence of these ideal values is different between each community group.

Ehrlich assumes that the actual behavior of the people is controlled and guided by various leading philosophies, and these philosophical values are equated with ‘living law’.²² ‘Living law’ is different from law in written form, which is enforced by the government, it stems from actual behavior of people, not from officially recognized theories put forward in scientific treaties,²³ rather, it exists in the community in the form

¹⁹ NS Timasheff, “Ehrlich, Eugen”, International Encyclopedia of Social Sciences, <https://www.encyclopedia.com/social-sciences/applied-and-social-sciences-magazines/ehrich-eugen>.

²⁰ Law is "an ordering" of human behavior, in any group of interacting people, no matter how small or how complicated.

²¹ Leopold Pospisil, *Anthropology of Law A Comparative Theory*, United States of America: Harper and Row, 1971.

²² Ibid.

²³ Ibid.

of philosophical values that are believed and adhered to by the community, so that its validity is reflected in customs and customary law.

The validity of 'living law' tends to be dynamic, that is, it could change from time to time according to the conditions of its community. Good (official) law was based on the 'living law' that exists in that society, Von Savigny's believed because law is a historical phenomenon, so that the existence of each law is different, depending on the place and time, and must be seen as the embodiment of the soul or spirit of a nation.²⁴ Adherents of the historical school deny that the law was made, but found in society.²⁵

According to Ehrlich, legal developments are not contained in the law, nor in legal science, nor in court decisions, but in society itself.²⁶ 'Living law' dominates people's lives although it is not always reduced to formal and legal propositions, it reflects the values of society.²⁷ Law enforcers who only start from the substance of formal legal norms contained in the law (law in book's), would tend to injure people's sense of justice. The emphasis here should also be on the living law.

"The living law...derived from current custom within society and in particular, from the norm-creating activities of the numerous grouping in which numerous of society were involved".²⁸ There is always a 'gap' or distance between 'living law' and applicable official law, so it is the duty of legislators to study, acknowledge the existence and extent of the gap between 'living law' and official law.²⁹ 'Living law' must be seen outside the statute book, reported decisions, texts, and legal time, so that the correct legal order, consistent with the social habits of citizens, could be achieved.³⁰

According to Nelken, Ehrlich's concept of 'living law' aims to help understand how normative patterns emerge from social life, whether they are then supported by the state, legislature, court or administrator, research shows that there is considerable interdependence between official law (official law) and legal live not only in the country

²⁴ Hayatul Ismi, "Pengakuan Dan Perlindungan Hukum Hak Masyarakat Adat Atas Tanah Ulayat Dalam Upaya Pembaharuan Hukum Nasional", *Jurnal Ilmu Hukum*, Volume 3, No. 2, 2012.

²⁵ Sukirno, "Revitalisasi Dan Aktualisasi Hukum Adat Sebagai Sumber Hukum Pidana Positif", *Diponegoro Law Review*, Vol. 2, No. 2, 2018, hlm. 141-153.

²⁶ Achmad Ali, *Menguak Tabir Hukum*, Bogor: Ghalia Indonesia, 2008.

²⁷ L. B. Curzon, *Jurisprudence*, Great Britain: Macdonald & Evans Ltd, 1979.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ James F. O'day, "Ehrlich's Living Law Revisited-Further Vindication for a Prophet without Honor", *Case Western Reserve Law Review*, Volume 18, No. 1, 1966, hlm. 210-231.

but also in the international environment.³¹ ‘Living law’ dominates life itself even though it has not been proposed in a legal proposition. The sources of our knowledge of this law are, first, modern legal documents; second, direct observation of life, commerce, customs and use, and all associations, not only those recognized by law but also of those neglected and bypassed, even of those not approved.³²

‘Living law’ reveals how humans relate their activities, keeping such concepts in mind, in their association with one another. Ehrlich argues that ‘living law’ should be found to some extent in legal documents governing legal relations but more fully in the way people behave in their associations and activities.³³ ‘Living law’ states that it is not enough to be aware that the law lives and develops, but there must be an awareness that the law is part of human life.³⁴ Acts that violate the feeling of justice and propriety that live in society or living law, thus causing disturbances to the peace and balance of the community concerned, therefore, to restore peace and balance, reactions occur as a form of disturbance with the intent as a form of eliminating or neutralizing a side condition resulting from a violation. ‘Living law’ is different from law which is enforced by the courts.

Ehrlich expressed that "The living law is not the part of the content of the document that the courts recognize as binding when they decide a legal controversy, but only that part which the parties actually observe in life".³⁵ ‘Living law’ is a rule that is used in ongoing life relationships, could be sourced from customs and/or habits, but not only limited to customary law, but values, behavior patterns and even official law that applies in society is also ‘living law’.

The legislative process or the formation of official law should not conflict with ‘living law’ or customary law prevailing in the community. The formation of official laws which are not accommodate the principles of customary law,³⁶ would impact discrepancy with the spirit of the nation (*volksgeist*).³⁷ The conflict between official law, ‘living law’ and

³¹ David Nelken” Eugen Ehrlich, Living Law, and Plural Legalities”, *Theoretical and Inquiries in Law*, Volume 9, No. 2, 2008, hlm. 443-471.

³² Ibid.

³³ James F. O’day, *Op. Cit.*

³⁴ Brian Z Tamanaha, “A Vision of Social-Legal Change: Rescuing Ehrlich from “Living Law”, *Law and Social Inquiry*, Volume 36, No. 1, 2011, hlm. 297-3187.

³⁵ Ibid.

³⁶ This customary law principle is often equated with the living law

³⁷ Jawahir Thontowi, *Masyarakat Hukum Adat dalam Cengkraman Positivisme*, Yogyakarta: Buana Grafika, 2018.

volksgeist would be difficult at the implementation level, because it is difficult to enforce law which has contrary values to ideal values of its society.

b. Bajo's Community

The Bajo's people as one of the tribes that live in Indonesia are unique, living in coastal areas and most of their members work as fishermen for generations. In Indonesia, there are several ethnic groups who still apply maritime cultural patterns in every aspect of their lives. The Bajo tribe used to live nomadic lives on ships, they live and move on ships called '*soppe*' in groups in each family, ships for the Bajo are like houses.³⁸ Bajo's people live freely wandering in the vast ocean so they are often known as sea nomads.³⁹ In some literature, the Bajo is even identified with various nicknames, including 'boat man' or 'sea gypsy'.⁴⁰

At first, the Bajo's people settled near the coast only during certain seasons when the water was calm, while repairing boats and fishing equipment, they carried out social activities such as weddings, circumcision, burials, and other ceremonies,⁴¹ over time, the coastal became a permanent place for the Bajo people to live. The distribution of the Bajo tribe in Indonesia could be found in; Togean Islands, Pulau Siatu, Bomba Island, Kuling Island and several other areas in Central Sulawesi; along Bone Bay, South Sulawesi; the Konawe and Kolaka coasts in Southeast Sulawesi; West Manggarai Regency to East Flores in East Nusa Tenggara; Komodo Island, and Rinca to Lembata; Adonara Island, Solor Island, Alor Island, and Timor; on Medang Island, Lombok in West Nusa Tenggara; in Sumbawa; in the areas of Kangean, Sumenep, Sapeken, Pegerungan Besar, Pegerungan Kecil, Paliat; Boalemo and Pohuwato Regencies, in Gorontalo Province; Bajo tribes are also scattered in several parts of Thailand and the Philippines.⁴² The Bajo tribe bame widely spread caused by the habit of living sedentary.⁴³ This shows that the Bajo Tribe

³⁸ Dinis Cahyaningrum, "Community Empowerment Based Local Wisdom In Tourism Of Bajo Community , Wakatobi", *International Journal of Scientific & Technologu Research*, Vollume 6, No. 11, 2017, hlm. 196-201.

³⁹ Ellen Suryanegara, Suprajaka and Irmadi Nahib, "Perubahan Sosial Pada Kehidupan Suku Bajo: Studi Kasus Di Kepulauan Wakatobi, Sulawesi Tenggara", *Majalah Ilmiah Globe*, Vol. 17, No. 1, 2015, hlm. 67-78

⁴⁰ Ibid.

⁴¹ Dinis Cahyaningrum, *Op. Cit.*

⁴² Fenty U Puluhulawa, Mira Mirnawati (ed), *Hukum Dan Adat Suku Bajo*, Gorontalo: Ideas Publishing, 2018.

⁴³ Ibid.

are excellent sea nomads and have been proven to have roamed the archipelago since time immemorial.⁴⁴

The spread of the Bajo tribal community, one of which is in Gorontalo is caused by the development of an increasing population from time to time as well as the dynamics of regional expansion as a result of the granting of authority to the regions through decentralization.⁴⁵ The Bajo people base their knowledge on cultural values and traditions that have been passed down from generation to generation. In accordance with the area where the Bajo people live in coastal areas or sea waters, the majority of knowledge and cultural values adopted by the Bajo people are related to the sea. Based on the results of the study, 83.11% of the family heads of the Bajo tribe make a living as fishermen, the rest work as State Civil Apparatus (ASN), traders, laborers, and others.⁴⁶

c. Bajo's 'Living Law'

'Living law' is a law that lives and applies in society even though it is not tangible as a formal law and its enforcement is not forced by law enforcement. It could take the form of customary law, or habits in people's behavior patterns. 'Living law' has the ability to influence social behavior and everyday life more effectively than official law,⁴⁷ so that official law should not conflict and be in accordance with 'living law' in order to implement it in the community. A good official law is a law that is created based on the 'living law' that exists in that society.

The Bajo's people are known as people who live in coastal areas and shallow sea waters, in their daily life has a pattern of behavior based on prevailing values. Bajo seeing themselves as part of nature so that living in harmony with their natural environment is a necessity.⁴⁸ Therefore, in the life of the Bajo's people live values that are considered to be in harmony with nature. Values that are in harmony with the mini nature are values that are in harmony with conserving and maintaining the contamination of nature. The Bajo has strong interactions since the time of their ancestors, the Bajo people have a level

⁴⁴ Ellen Suryanegaran dkk, *Op. Cit.*

⁴⁵ Fenty Puluhulawa, "Local Value in Management of Fish Resource and Development of Law (Studies of Bajo Tribe in Gorontalo)", *Op. Cit.*

⁴⁶ *Ibid.*

⁴⁷ Rustamjon Urinboyev and Måns Svensson, "Living Law, Legal Pluralism, and Corruption in Post-Soviet Uzbekistan", *Journal of Legal Pluralism and Unofficial Law*, Volume 45, No. 3, 2013, hlm. 372-390.

⁴⁸ Muhammad Obie, "Perubahan Sosial Pada Komunitas Suku Bajo Di Pesisir Teluk Tomini", *Al-Tahrir*, Volume 16, No. 1, 2016, hlm. 153-174.

of trust, social values, feel the same fate as other Bajo's people, also has strong customary norms in regulating social life in the Bajo Community. Departing from the simple understanding that coastal and marine resources are part of the life of the Bajo Tribe, there has been a harmonious relationship between the Bajo Tribe and their natural environment.⁴⁹ These norms are upheld and become local wisdom that other communities do not have.⁵⁰ These norms are passed down from generation to generation and are trusted and adhered to by members of the Bajo.

Bajo's culture includes various rules resulting from experience and spirituality with their lives that depend entirely on nature. The Bajo community as a coastal community, the Bajo tribe has a hard, firm, and open character, because all of their lives are dealing with the sea, the characteristics of their social, cultural and economic life are strongly influenced by their view of the forces of nature that surround daily life.⁵¹ The proximity of the Bajo people to the sea and the coast allows them to have a variety of local knowledge about natural phenomena.⁵² Although the development of science is increasingly advanced, local knowledge about natural phenomena owned by the Bajo's people is still a reference. Attitudes, behaviors and traditions that are ecologically sound in Bajo tribal still being maintained by the community to this day. They believed that the tradition carried out by the Bajo community is an ancestral heritage that has value for environmental sustainability. As explained earlier, that living law dominates people's lives into legal propositions and is a reflection of the values that live in society.⁵³ Relevant to the theory above, the norms applied in the Bajo are 'living laws' which are live in society. 'Living law' is an actual social norm that regulates people's lives in all aspects, it is also an inner order of associations.⁵⁴

The 'living law' of the Bajo is manifested in the customary rituals carried out by the Bajo. The following are the customary rituals of the Bajo people, namely; Malo Daya; Tibah Pindahg; Palibu; Pongka; Sakai; and Lamma.⁵⁵ Malo Daya is the habit of catching

⁴⁹ Ibid.

⁵⁰ Dinis Cahyaningrum, *Op. Cit.*

⁵¹ Yohanes Kristiawan Artanto, "Bapongka, Sistem Budaya Suku Bajo Dalam Menjaga Kelestarian Sumber Daya Pesisir", *Sabda : Jurnal Kajian Kebudayaan*, Vol. 12, No. 1, 2018, hlm. 52-69.

⁵² Ibid.

⁵³ L.B Curzon, *Op. cit.*

⁵⁴ Ehrlich dalam Steven Vago, *Law and Society*, United States of America: Prentice-Hall, Inc. 1981.

⁵⁵ Fenty Puluhulawa, "Local Value in Management of Fish Resource and Development of Law (Studies of Bajo Tribe in Gorontalo)", *Op. Cit.*

fish by calling the fish to gather; Tibah Pindah is a habit of presenting offerings in the hope of obtaining a lot of sustenance; Palibu, making a living in the local sea for a short period of time; Pongka, namely fishing with a long enough period of up to several weeks or several months; Sakai, namely fishing in a period of several months or several years; and Lamma is the process of catching fish by sailing using motor boats carrying goods to be traded abroad.⁵⁶ According to Ramli Utina, there are 3 groups of traditions in the Bajo community, namely; palilibu, bapongka, and sasakai.⁵⁷ Palilibu, is the custom of going to sea using a *soppe* type boat driven by oars, this fishing activity takes only one or two days and then returns to the settlement to sell the catch and some of it is enjoyed with the family. ‘*Bapongka*’ or also called ‘*babangi*’ is a fishing activity for several weeks and even months by using a large boat measuring approximately 4 x 2 m called *Leppa* or *Sopek*, often involving the family (wife and children) and some even giving birth to children on the boat. and what is important to observe during *Bapongka* is the taboo, *Sasakai*, which is the habit of going to sea using several boats to go to sea for several months with an inter-island roaming area.⁵⁸

During the group undergoing *mamia kadialo* (going to sea) there are taboos that may be carried out by both the bereaved family and those who are at sea. The taboos include, among others, being prohibited from dumping into sea waters such as; sea cucumber washing water, wood charcoal or kitchen ashes, cigarette butts and ashes, chili water, ginger and orange juice, as well as a ban on washing cooking utensils (pans) in sea waters. Washing water and these materials should be collected and then disposed of on land. There is also a taboo on eating turtle meat, if this is violated it could bring havoc, storm disasters, disturbances of evil spirits and even those who go to sea do not get anything. Turtles are believed to help a lot of humans who experience accident or disaster, therefore these animals should not be killed, this belief is called turtle tilowan food.⁵⁹ The Bajo’s people (the older generation) still believe in certain coral clusters as the abode of the spirits of their ancestors. Parents forbid their family members to catch fish and other biota around the coral clusters, unless they must first perform certain rituals by preparing dishes

⁵⁶ Ibid.

⁵⁷ Ramli Utina, *Op. Cit.*

⁵⁸ Roy Harun, *Kearifan Lokal Masyarakat Bajo Dalam Melestarikan Lingkungan Pesisir di Desa Torosiaje Kecamatan Popayato Kabupaten Pohuwato*, Tesis Universitas Negeri Gorontalo, 2011.

⁵⁹Fenty Puluwulawa, “Local Value in Management of Fish Resource and Development of Law (Studies of Bajo Tribe in Gorontalo)”, *Op. Cit.*

for their ancestors. The ‘living law’ of the Bajo also does not allow fishing activities during the spawning period. The period of fish laying eggs is known as *Tilowan Daya* food. At that time the Bajo agreed to provide space for the fish to lay eggs which was agreed with the traditional leaders.⁶⁰

Ecological intelligence in this local tradition (*mamia kadialo*) includes; there is a prohibition on disposing of waste into marine waters which caused marine pollution and disrupt the life of biota. Throwing kitchen ashes, cigarette ash, chili water, ginger water into the water could kill jellyfish. Washing water for frying pans and cooking utensils contains charcoal and soot which could cause cloudy water, which could interfere with the life of seagrass and coral reefs. Abstinence in undergoing *Mami kadialo* is an effort to utilize marine resources within a certain period of time. The prohibition for the population to kill turtles, and to approach certain coral reefs contains the value of animal conservation in order to support the existence of marine and coastal waters ecosystems. The values of the Bajo people who become ‘living law’ are values that are in accordance with the value of environmental conservation. The implementation of the living law preserves the environment, especially the coastal and marine environment. The Bajo’s people who live in coastal areas and marine areas has a significant role in preserving the coastal and marine areas. If this ‘living law’ is still adhered to by the Bajo people, then environmental sustainability in coastal and marine areas would also be maintained. The existence of Bajo’s living law based on the belief in the supernatural. Violation of the living law will result in punishment in the form of disaster and illness.

d. Protection of Economic Potential in Coastal Areas based on the Bajo’s Living Law

Biodiversity is a natural resource that must be protected and conserved because of its benefits for human life.⁶¹ Considering Indonesia as an archipelago nation and has tropical climate contribute Indonesia to have great potential in the field of Marine.⁶²

⁶⁰ Fenty Puluhulawa, *Hukum dan Adat Suku Bajo, Op. Cit.*

⁶¹ Fenty Puluhulawa, Amanda Adelina Harun, “Biodiversity protection from the impact of illegal gold mining for sustainability”, IOP Conference Series: Earth and Environmental Science, Vol. 159, 2020, hlm. 1

⁶² Fenty Puluhulawa, Amanda Adelina Harun, “Implementation Article 33 Paragraph (3) of UUD NRI 1945 in Law of Coastal Areas and Small Island Management”, *JL Pol'y & Globalization*, Vol. 62, 2017, hlm. 33.

In the Bajo community, the values that are appropriate for preserving the marine and coastal areas are still alive and become 'living law'. These values are still believed and implemented by the Bajo's people. The norms contained in the Bajo community are local knowledge of the community. In the life of the Bajo people, the philosophy of life that "God has given us this world with all its contents, we as humans think about how to manage it" is upheld as the basis of life and is a source of motivation for the struggle for life from time immemorial to the present day.⁶³ The interaction between the Bajo people and people who living on land has the potential to cause the adoption of cultural patterns by the Bajo,⁶⁴ which has the potential to shift these values and in the long term these values could be lost. The values in the Bajo community that are reflected in these habits are positive values that could help preserve the environment.

Bajo has weak economic level,⁶⁵ including the ability to finance education.⁶⁶ The source of income for the Bajo's people came from fisheries activity and tourism. Tourism has the potential to improve the economy of the Bajo community. The tourism sector could cause multiplier effect on the Bajo's economy. The tourism sector could open a variety of jobs, ranging from providers of boat transportation services, restaurants, lodging, and others. This is expected to improve the economic condition of the Bajo's people, who tend to have a lower economic level than some other areas in Gorontalo.⁶⁷

A tourist location must have a characteristic or uniqueness that is an attraction,⁶⁸ and the uniqueness of the Bajo is their habitation which located in shallow waters. The tourism sector needs to be supported by the preservation of natural resources in order to remain

⁶³ Fenty Puluhulawa, "Local Value in Management of Fish Resource and Development of Law (Studies of Bajo Tribe in Gorontalo)", *Op. Cit.*

⁶⁴ Ucock Heriady Ridwan dan Sri Rum Giyarsih, "Kualitas Lingkungan Permukiman Masyarakat Suku Bajo Di Daerah Yang Berkarakter Pinggiran Kota Dan Daerah Berkarakter Pedesaan Di Kabupaten Muna", *Jurnal Pembangunan Wilayah & Kota*, Vol. 8, No. 1, 2017, hlm. 118-125.

⁶⁵ Muhammad Obie, "Exploitation of coastal and marine resources along Tomini Bay: Livelihood base versus concession rights", *Masyarakat, Kebudayaan, dan Politik*, Vol. 31, No. 2, 2018, hlm. 36-45.

⁶⁶ Andi Muhammad Ikhsan, "Pendidikan Formal Anak Dalam Perspektif Nelayan Suku Bajo di Kampung Bajo", *La Geografia*, Vol. 18, No. 3, 2020, hlm. 269-288.

⁶⁷ Dhea M. Damisi, dkk, "Analisis Faktor-Faktor Kekumuhan Kawasan Permukiman Pesisir Tradisional (Studi Kasus: Desa Bajo Kecamatan Tilamuta, Kabupaten Boalemo Provinsi Gorontalo)", *Sabua*, Vol. 6, Np. 1, 2014, hlm. 163-172.

⁶⁸ Selfi Budi Helpiastuti, "Pengembangan Destinasi Pariwisata Kreatif Melalui Pasar Lumpur (Analisis Wacana Grand Opening "Pasar Lumpur" Kawasan Wisata Lumpur, Kecamatan Ledokombo, Kabupaten Jember)", *Journal of Tourism and Creativity*, Vol. 2, No. 1, 2018, hlm. 13-23.

attractive.⁶⁹ The consequence of making Bajo as tourist location, the Bajo's people must maintain the preservation of the coastal environment, so that tourism services could become a source of community life.⁷⁰ Tourism development in the Bajo settlement area could have a positive impact, namely, improving the Bajo's economy due to tourist visits to environmental sustainability as asset.⁷¹

The purpose of improving the economy of the Bajo through tourism could provide a multiplier effect on the community, by creating new jobs for the surrounding community and increasing the economy.⁷² Good environmental conditions are one of the factors that support tourism attractiveness, so it must be preserved. The Bajo's people as described above have a 'living law' that is appropriate to preserve the environment. Law must be considered as an expression of cultural values, according to Soerjono Soekanto,⁷³ so that the law is a concretization of the cultural values of society. According to Satjipto Rahardjo, that the sources of law are divided into 2, namely legal sources of law and legal sources of social nature.⁷⁴ The source of this social law is the same as the 'living law' concept of Eugen Ehrlich. In the legal system in Indonesia, the recognition of local values has been stated in the Indonesian constitution that Article 18B 1945 paragraph 2 which basically states that it would recognize and respect customary law community units along with traditional rights and values that apply in society as long as these values the law is still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia regulated by law. Furthermore, in various provisions relating to environmental legal issues regulated in Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter referred to as UUPPLH). In UUPPLH the provisions also stipulate that environmental protection and management must take into account local values prevailing in the community. UUPPLH

⁶⁹ Vincentia Reni Vitasurya, "Adaptive Homestay Sebagai Bentuk Partisipasi Masyarakat Untuk Melestarikan Desa Wisata Pentingsari – Yogyakarta", *ATRIUM Jurnal Arsitektur*, Vol. 2, No. 1, 2020, hlm. 17-30.

⁷⁰ Fadhliyah H Dai, dan Ramoend Manahung, "Kearifan Lokal Masyarakat Suku Bajo Studi Etnografi Nilai-Nilai Pendidikan Agama Islam dan Budi Pekerti Pada Praktek Ritual Keagamaan di Desa Bajo Kecamatan Tilmuta", *Pendidikan Islam dan Budi Pekerti*, Vol. 1, No. 1, 2020, hlm. 41-57.

⁷¹ Vincentia Reni Vitasurya, "SAWITRI (Sampah Wisata Pentingsari): Model Pengelolaan Sampah Aktivitas Wisata Desa Pentingsari, Yogyakarta", *Jurnal Arsitektur KOMPOSISI*, Volume 10, No. 5, 2017, hlm. 315-326.

⁷² Enni Sari Siregar, "Dampak Industri Pariwisata Terhadap Kerusakan Lingkungan (Studi Kasus Wisata Sibio-bio, Aek Sabaon, Kabupaten Tapanuli Selatan)", *Jurnal Education and Development Institut Pendidikan Tapanuli Selatan*, Vol.ume 7, No. 1, 2019, hlm. 8-12.

⁷³ Hendra Wahanu Prabadani, *Op. Cit.*

⁷⁴ Achmad Ali, *Op. Cit.*

explains that maintaining environmental functions and controlling incident pollution and environmental damage is everyone's duty (Article 67). Therefore, the values that live in society which is a form of environmental protection and management need to be maintained. In the field of fisheries, Law no. 45 of 2009 concerning Fisheries in Article 6 paragraph (2) that fisheries management for the benefit of fisheries and fish empowerment must take into account customary law and or local knowledge and community participation.

Some of the regulations quoted above show the state's recognition of local values in the community system. The Bajo people have various local values that are adhered to as 'living law' in accordance with the value of preserving the environment, but because the 'living law' is not in the form of written regulations, it could be lost along with the times. To maintain the validity of the living law, state intervention is required by making the 'living law' official law that could be enforced. To generate the living law of the Bajo people, formal regulations (positive law) are needed whose substance is in accordance with the values of the living law. The implementation of positive law could be effective if it is in line with the living law in the society.⁷⁵ Also to maintain the living law of Bajo people, government should not make formal regulation which is in contradiction with the living law. Also to maintain the living law of Bajo people, government should not make formal regulation which is in contradictive with the living law. Legal culture is related to the effectiveness of implementing rules, laws that do not conflict with legal culture can be easily accepted and implemented by the community.⁷⁶

III. CONCLUSION

The Bajo tribal community is one of the tribes in Indonesia who live in coastal areas and in marine areas. The Bajo people have a 'living law' that is in accordance with the values of maintaining the sustainability of the coastal and marine environmental areas. The Bajo's 'living law' prohibits the disposal of garbage and household waste into the sea, prohibits killing turtles (*turtle tilowan food*), prohibits damage to corals and fishing

⁷⁵ Suliantoro in Wempy Setyabudi Hernowo, et. al., "Peran Sociological Jurisprudence Dalam Menciptakan Keefektivitasan Hukum Melalui Living Law", *Legalitas: Jurnal Hukum*, Vol. 13, No. 1, 2021, hlm. 45.

⁷⁶ Fenty Puluhulawa, Moh. Rusdiyanto Puluhulawa, Amanda Adelina Harun, "Legal Culture of Local Community in Plastic Waste Management", *KnE Social Sciences*, 2022, hlm. 189

activities near coral reefs. The Bajo's people also have a prohibition on going to sea during the spawning period of fish (*food tilowan power*). The majority of the Bajo's 'living law' are in accordance with the preservation of coastal and marine areas.

Tourism is one of the potentials that could improve the economic condition of the Bajo people. The tourism sector requires sustainable environmental conditions as a tourist attraction. The living law as referred to in point 1 could support the preservation of coastal and marine areas. Currently the living law is still valid, but it is feared that it would disappear over time. It is necessary for the government to not formulate the positive law which is in contradiction with the living law, also to formulate positive law which contain the living law of Bajo. Also to maintain the living law of Bajo people, government should not make formal regulation which is in contradiction with the living law.

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