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Law Enforcement and Justice Based on Local Wisdom in Protecting the Intellectual Property Rights of Batak Toba Ulos Weaving Fabric

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ABSTRACT

Law enforcement aims to realize justice within society. However in practice, the rigid and formalistic application of positive law often fails to reflect the sense of justice living within the community Indonesia, as a pluralistic state possesses rich cultural values and tradition known as local wisdom, which play a strategic role in achieving substantive justice. Local wisdom embodies noble values such as deliberation, balance, harmony and restoration of social relations, which align with the principles of restorative justice. Indonesia is a country that consists of various tribes and cultures so that it has priceless Traditional Cultural Expressions and really needs to be protected. One form of traditional cultural expression in Indonesia is ulos cloth, which is a fabric product that is known internationally. This study aims to analyze the concept of law enforcement and justice based on local wisdom and its relevance within the Indonesia legal system. The research employs a normative juridical method using statutory, conceptual and sociological approaches. The findings indicate that integrating local wisdom into law enforcement strengthens legal legitimacy, enhances public trust in law enforcement institutions, and promotes a more humane, contextual, and socially responsive form of justice. Therefore law enforcement based on local wisdom is essential in creating a legal system that not only ensures legal certainty but also embodies the values of rooted in society. Ulos cloth is a traditional woven cloth typical of North Sumatra which is currently widely used by fashion designers as part of their creations. Ulos cloth, especially the Toba Batak ulos, has been designated as an intangible cultural heritage of Indonesia through the Decree of the Minister of Education and Culture of the Republic of Indonesia Number 270/P/2014 concerning the Determination of the 2014 Intangible Cultural Heritage of Indonesia. Apart from being regulated by this decree, traditional cultural expressions are also regulated by law. -Law Number 28 of 2014 concerning Copyright and also through Law Number 5 of 2017 concerning the Promotion of Culture which aims to advance Indonesian national culture and make Culture an investment to realize the national goals of the Indonesian nation.

Keywords: Law Enforcement, Justice, Local Wisdom Legal Protection, Ulos.

I. Introduction

Indonesia is a state governed by law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The consequence of this principle is that all aspects of social, national, and state



life must be based on law. Law functions as an instrument to create order, justice, and protection of citizens' rights. However, in practice, law enforcement often encounters various challenges that cause it not always to align with the sense of justice within society. Indonesia is a multicultural country with diverse ethnic groups, cultures, and customs. It is challenging to harmonize the state legal system with the local wisdom that develops within society. Dispute resolution mechanisms based on traditional values of indigenous communities often differ from those regulated by formal state law. Local wisdom plays a crucial role in maintaining social balance and respecting individual rights (Yetti, 2019). However, in Indonesia, the integration of local wisdom into dispute resolution remains a complex issue due to differences between formal legal procedures based on positive law and customary practices that are more flexible and deliberative in nature. In the glossary of Copyright and Related Rights, Eddy Damian defines Traditional Cultural Expressions as artistic creations that embody the characteristics of traditional heritage as part of national culture, representing shared resources that are continuously developed, maintained, and preserved by specific traditional communities or social groups over time. These expressions are characterized as "religio-magical, agrarian, and rural," evolving across generations, not based on novelty but on repetition, communally upheld, and not always aligned with industrial cultural values. Traditional Cultural Expressions play an important role for the Government of Indonesia, particularly in relation to Intellectual Property Rights (IPR). The objective of IPR to protect individual creators does not always function effectively. Developed countries often engage in misappropriation of traditional knowledge from developing countries. Misappropriation refers to the use of traditional knowledge and related biological resources by foreign parties without recognizing the rights of local communities as their rightful owners. Ulos is a traditional textile of the Batak ethnic group. The Batak people are an agrarian society inhabiting the northern part of Sumatra, the westernmost island of the Indonesian archipelago.

The Batak consist of six sub-ethnic groups: Karo, Dairi/Pakpak, Simalungun, Toba, Angkola, and Mandailing. Regional diversity and climate variations have led to specific cultural adaptations, resulting in distinct variations of ulos across regions. Despite linguistic and cultural differences, these groups are united by deep social and historical ties. Batak Toba ulos is a traditional woven cloth resembling a shawl, measuring approximately 1.8 meters in length and 1 meter in width, with fringed ends about 15 cm long. Ulos serves a dual function: as a cultural product and as a commercial product. As a cultural artifact, it is used in traditional ceremonies as a symbol of status, communication, and solidarity. As a commercial product, it is traded to meet economic needs. Ulos is traditionally woven by women using cotton or ramie threads. It represents a form of cultural preservation that strengthens the identity of the Batak Toba community. Through ulos, civic culture values are maintained through its embedded symbolic meanings. In Batak ethnic culture, ulos initially functioned as a source of warmth, but it now holds symbolic significance in various aspects of life. The Batak worldview recognizes three fundamental elements of human life: blood, breath, and heat. Blood and breath are considered divine gifts, while heat is derived from the sun, fire, and ulos. Ulos provides warmth and is associated with the concept of mangulosi, meaning the act of giving ulos or conveying spiritual warmth (tondi or soul). The tradition of weaving ulos is passed down through generations. It holds profound significance in Batak life, and traditional ceremonies cannot be conducted without it. Ulos typically features three dominant colors: red, black, and white. The weaving process follows specific traditional rules, and weavers apply both inherited knowledge and personal creativity in designing ulos patterns. Ulos weavers are generally members of Batak indigenous communities who rely on weaving as a source of livelihood. Thus, ulos can be considered both a cultural creation and a commercial commodity. Like other creative works, the value embodied in ulos and the interests of its creators require protection from exploitation by external parties.

Intellectual property protection can provide a solution by safeguarding the economic rights of ulos weavers. It must be recognized that Traditional Cultural Expressions are part of cultural heritage that can stimulate intellectual creativity and contribute to economic development. Therefore, protection is necessary against exploitation by foreign parties. However, local communities often do not prioritize economic benefits or legal protection of their knowledge, as such knowledge is traditionally regarded as communal property. One of the primary challenges in law enforcement is the tendency of law enforcement officials to adopt a

legalistic and formalistic approach. This approach prioritizes legal certainty while often neglecting substantive justice and social utility. As a result, judicial decisions may fail to reflect a sense of justice, particularly for indigenous and local communities with their own normative systems. Indonesia is widely recognized for its cultural diversity, customs, and local value systems. These values, commonly referred to as local wisdom, are the result of long-standing social interactions that sustain harmony and balance within society. Local wisdom functions not only as a moral guideline but also as an effective mechanism for conflict resolution that is socially accepted. Therefore, such knowledge should be protected by the government as part of safeguarding the interests of indigenous communities. However, the objectives of intellectual property rights (IPR) do not always align with communal knowledge systems, and misappropriation remains a persistent issue. This research employs a normative juridical method using a literature study approach, relying on secondary data such as legislation, books, scientific works, journal articles, and online sources. Fundamentally, law reflects the norms and values that exist within society, guiding mutual respect among individuals, communities, nature, and the Creator. Legal problems are often associated with the image of the law itself, as argued by Gustav Radbruch (Rony et al., 2020, p. 10), particularly regarding the tension between justice and legal certainty. Local wisdom embodies noble values that align with Aristotle's concept of humans as *zoon politicon*.

According to Hendra Wahanu (2023), consistency in law enforcement must be in line with constitutional mandates; otherwise, disorder may arise. Law enforcement and justice should correspond with national legal development and societal expectations. As emphasized by Bagir Manan (2012, p. 5), law enforcement must provide tangible protection and legal certainty. Legal communities also expect social control over legal products to ensure their effectiveness and benefits. According to Van Apeldoorn, law arises from social conflict, necessitating norms to resolve disputes. Philipus M. Hadjon (Rony et al., 2020) states that law functions as a policy instrument, a protective mechanism, and a means of regulating behavior. Furthermore, Nyoman Nurjaya, as cited by Hendra Wahanu (2023), emphasizes that national legal development must take cultural diversity into account while remaining consistent with constitutional principles. Local wisdom, as an unwritten norm, varies across regions and can coexist with positive law (Saptomo, 2010). It may also serve as a source of law that aligns with formal legal systems. Normatively, local wisdom is recognized in Article 1 point 30 of Law No. 32 of 2009 concerning Environmental Protection and Management, as well as in Article 63 paragraph (3) letter (k) regarding local government authority. Moreover, local wisdom can form part of national legal policy (Umar Said, 2017), which integrates religious and customary law. Thus, this study aims to examine the utilization of local wisdom as a source of law enforcement in achieving justice. The research addresses the following issues: (a) the urgency of local wisdom in law enforcement; and (b) the consistency of legal development in achieving justice. In the context of law enforcement, local wisdom plays a strategic role in reflecting societal values of justice, as affirmed in Article 5 paragraph (1) of Law No. 48 of 2009 on Judicial Power. Law enforcement based on local wisdom emphasizes a humane, restorative, and participatory approach, focusing not only on punishment but also on restoring social harmony. Based on the foregoing discussion, local wisdom-based law enforcement and justice constitute an important and relevant subject for academic inquiry, contributing to the development of a more just, responsive, and culturally appropriate legal system in Indonesia.

II. Literature Review and Hypothesis Development

2.1. The Concept of Law Enforcement

Law enforcement is a process aimed at realizing both written and unwritten legal norms so that they function effectively as guidelines for behavior in social life. Law enforcement is not only concerned with the application of statutory regulations but also encompasses legal values, structures, and the legal culture that exist within society. Therefore, law enforcement must be understood as a system involving various interrelated elements. In practice, law enforcement in Indonesia still tends to emphasize a normative-positivistic approach, namely the textual application of law based on statutory provisions. While this approach

provides legal certainty, it often neglects substantive justice. As a result, judicial decisions do not always reflect the sense of justice that lives within society, particularly for indigenous peoples and local communities. An ideal system of law enforcement should balance legal certainty, justice, and utility. These three objectives of law are inseparable. Legal certainty without justice leads to dissatisfaction, while justice without legal certainty may result in unpredictability and disorder. Therefore, law enforcement must be carried out contextually by considering the social and cultural values of society. In Indonesia's pluralistic context, law enforcement cannot be separated from the existence of customary law and local wisdom. Customary law, as living law within society, is recognized as one of the sources of law in the national legal system. This recognition demonstrates that law enforcement in Indonesia is not monolithic but rather pluralistic and dynamic.

2.2. The Theory of Justice

Justice is a fundamental concept in legal science with various dimensions and interpretations. In general, justice can be understood as a condition in which every individual receives their rights proportionally in accordance with applicable rules. However, in the development of legal theory, justice is not only interpreted formally but also substantively. Aristotle distinguishes justice into two forms: distributive justice and corrective justice. Distributive justice relates to the proportional allocation of rights and obligations within society, while corrective justice concerns the restoration of imbalance resulting from legal violations. Both concepts are relevant in the context of law enforcement, particularly in efforts to restore disrupted social relations. In the modern perspective, John Rawls introduced the concept of justice as fairness, emphasizing equality and justice for the least advantaged groups. Rawls' theory asserts that the legal system must be designed to provide fair protection and opportunities for all citizens. This concept aligns with the idea of substantive justice, which places human beings as the central subject of law. In Indonesia, the concept of justice cannot be separated from the values of Pancasila. Social justice for all Indonesian people, as stated in the fifth principle of Pancasila, serves as the philosophical foundation of law and governance. Pancasila justice is holistic in nature, encompassing not only legal aspects but also moral, social, and cultural dimensions. Justice based on local wisdom represents a concrete manifestation of substantive justice that takes into account the social and cultural context of society. This form of justice is not merely measured by compliance with formal rules but also by the extent to which law is able to create harmony and balance in social life.

2.3. The Concept of Local Wisdom in Law

Local wisdom refers to values, norms, and social practices that develop within society as a result of collective life experiences passed down through generations. It reflects how communities perceive problem-solving, maintain social relationships, and create order. In the legal context, local wisdom can be understood as a source of living values that function within society. Local wisdom is a set of values, norms, knowledge, and social practices that grow and develop within a particular community, are transmitted across generations, and are used as guidelines in regulating communal life, including in resolving conflicts and upholding justice. In the legal context, local wisdom encompasses customary law, community morals and ethics, traditional dispute resolution mechanisms, as well as principles of balance, harmony, and social justice. It functions as living law, which is often more respected and perceived as fair compared to formal state law. Local wisdom represents social and legal values that live and develop within society and serve as guidelines in regulating communal life. In the context of law enforcement, local wisdom plays an important role in realizing substantive justice oriented toward social harmony. Therefore, the integration of local wisdom into law enforcement is an urgent necessity in order to create a legal system that is just and rooted in national cultural values. Law enforcement itself is one of the main pillars in achieving order, justice, and legal certainty in society. However, in practice, law enforcement that relies solely on positive law often fails to address the community's sense of justice. This is because written law does not always align with the social and cultural values that exist within society.

Indonesia, as a country rich in cultural diversity and customs, possesses various forms of local wisdom that function as unwritten law. These forms of local wisdom have long been used as guidelines in resolving conflicts and maintaining social harmony. Therefore, examining the role of local wisdom in law enforcement and justice is essential to strengthening the national legal system. The existence of local wisdom in Indonesia has a constitutional basis, as stipulated in Article 18B paragraph (2) of the 1945 Constitution, which recognizes and respects indigenous communities along with their traditional rights. This recognition indicates that the state provides space for customary law and local wisdom to develop as long as they do not conflict with the principles of the unitary state and human rights. In dispute resolution practices, local wisdom often emphasizes deliberation and consensus. Dispute resolution is not solely directed toward punishment but toward restoring social relationships and balance within society. This approach is in line with the concept of restorative justice, which is increasingly recognized in modern legal systems. The integration of local wisdom into law enforcement requires openness and sensitivity from law enforcement officials toward local values. Law enforcement officials are expected not only to act as enforcers of rules but also as guardians of justice who understand the social and cultural context of society. In this way, law can function effectively and justly.

III. Research Method

3.1. Type and Approach of Research

This study employs a normative or juridical-normative legal research method. Normative legal research focuses on examining legal norms contained in legislation, court decisions, and legal doctrines or scholarly opinions. This research does not emphasize field data collection but rather the analysis of legal materials relevant to the issues under study. The approaches used in this research include the statute approach, the conceptual approach, and the sociological approach. The statute approach is conducted by reviewing various laws and regulations related to law enforcement, judicial power, and the recognition of indigenous communities and local wisdom. This approach aims to understand the formal legal basis for the application of local wisdom within the national legal system. The conceptual approach is used to examine fundamental concepts such as law enforcement, justice, substantive justice, and local wisdom. This approach is essential for constructing a strong theoretical framework in analyzing the research problem. Meanwhile, the sociological approach is used to understand how local wisdom values exist and develop within society and their relevance in the practice of law enforcement. The use of these multiple approaches is intended to enable this research to provide a comprehensive and in-depth analysis of issues related to law enforcement and justice based on local wisdom. Thus, the findings of this study are not only normative but also contextual and relevant to social realities.

3.2. Sources and Types of Legal Materials

In normative legal research, legal materials serve as the primary sources used in the analytical process. The legal materials in this study are categorized into three types: primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials consist of laws and regulations that have binding legal force. The primary legal materials used in this study include the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 on Judicial Power, and other relevant legislation related to law enforcement and the recognition of indigenous communities. Secondary legal materials are those that provide explanations or commentary on primary legal materials. These include legal textbooks, academic journals, research findings, and expert opinions relevant to the topic of law enforcement and justice based on local wisdom. Secondary materials function to enrich the analysis and provide broader theoretical perspectives. Tertiary legal materials are those that provide guidance or clarification of primary and secondary legal materials. These include legal dictionaries, legal encyclopedias, and other relevant reference sources. The use of tertiary materials aims to clarify the meanings of terms and concepts used in the research.

3.3. Techniques of Legal Material Collection

The collection of legal materials in this study is conducted through library research. This method involves exploring various written sources relevant to the research topic, including legislation, books, academic journals, and other official documents. The identification of legal materials is carried out systematically and purposefully to obtain materials that are both relevant and credible. In addition, the researcher organizes and classifies the materials based on their type and level of relevance to the research problem. This process facilitates the analysis and the development of legal arguments. Library research enables the researcher to gain an in-depth understanding of concepts, theories, and regulations related to law enforcement and local wisdom. Therefore, this study is grounded in strong theoretical and normative foundations.

3.4. Techniques of Legal Material Analysis

The analysis of legal materials in this study is conducted qualitatively. Qualitative analysis involves interpreting and examining legal materials in depth to identify meanings, principles, and relationships among concepts relevant to the research problem. The analytical process begins with the inventory of collected legal materials, followed by their classification based on research themes and sub-themes. Subsequently, the materials are analyzed using conceptual and statutory approaches to address the research questions. The results of the analysis are then presented systematically and logically in a descriptive-analytical format. Through this method, the study is expected to provide comprehensive answers to issues concerning law enforcement and justice based on local wisdom, as well as to offer constructive recommendations for the development of the legal system.

IV. Result and Discussion

4.1. Local Wisdom in the National Legal System

Local wisdom refers to a set of values, norms, knowledge, and social practices that develop within a particular community, are transmitted from generation to generation, and function as guidelines for regulating communal life, including in conflict resolution and the pursuit of justice. At present, there is no specific government regulation that explicitly addresses the legal protection of ulos cloth in North Tapanuli, North Sumatra. However, ulos constitutes part of Indonesia's cultural heritage and must be protected under Law No. 28 of 2014 on Copyright. It is also recognized as Communal Intellectual Property (CIP). This recognition provides legal protection against unauthorized commercial exploitation and ensures that the benefits remain with the cultural community to which it belongs. In Indonesia, ulos is acknowledged as part of the nation's cultural heritage, and its protection extends to traditional cultural expressions through the Provincial Government of North Sumatra as well as local governments in the Lake Toba region. Overall, the legal protection of ulos weaving in Indonesia is grounded in the national intellectual property framework and its recognition as intangible cultural heritage, supported by regional government initiatives for preservation and promotion. Although ulos is protected under copyright law, indigenous Batak communities must also play an active role in safeguarding it to secure their economic rights in its commercialization. This is reflected in the growing awareness among Batak communities to register patents, geographical indications, or other forms of intellectual property protection in order to prevent unauthorized use, particularly by foreign parties interested in the culture. The concept of living law, introduced by Eugen Ehrlich, asserts that the law that truly operates in society is not limited to legislation but also includes customs and social practices. In the Indonesian context, customary law represents a concrete manifestation of this living law. In practice, local wisdom often functions as a more effective and socially accepted mechanism for conflict resolution. Dispute resolution based on local wisdom emphasizes deliberation, consensus, and the restoration of social relationships. This

approach is not only oriented toward resolving legal disputes but also toward achieving harmony and balance within society. The integration of local wisdom into the national legal system represents a concrete effort to achieve substantive justice. Substantive justice is not measured solely by compliance with formal rules but also by the extent to which the law reflects the values of justice that exist within society. Therefore, local wisdom plays a crucial role as a source of values in law enforcement in Indonesia.

4.2. Local Wisdom in the Context of Implementation and Its Challenges

Law enforcement is not merely concerned with the application of written legal norms (legal justice), but also with achieving substantive justice—justice that is genuinely perceived as fair by society. In a pluralistic society such as Indonesia, positive law often fails to fully reflect the values, sense of justice, and social needs of local communities. Therefore, local wisdom becomes an important source of values in the law enforcement process. Academically, local wisdom is understood as values, norms, social practices, and conflict resolution mechanisms that develop over generations and gain social legitimacy. Progressive legal theory positions law as a means to achieve justice and human welfare rather than as an end in itself. Accordingly, judges and law enforcement officials are required to explore the values of justice that live within society, including local wisdom. Law enforcement that focuses solely on written norms often fails to achieve justice as perceived by society. In a pluralistic context, state law frequently remains distant from social values. Local wisdom, as a set of inherited values and practices, serves not only as a moral guideline but also as a social mechanism for conflict resolution and maintaining social balance. The theory of living law emphasizes that effective law is that which lives and is obeyed by society. Local wisdom constitutes such living law due to its strong social legitimacy. Ignoring it may result in substantive injustice, as legal rules become disconnected from social realities. Progressive legal theory further emphasizes that law must prioritize human values and justice rather than rigid adherence to legal texts. In this framework, local wisdom serves as a moral guide that makes law more responsive to human and social justice values. Legal pluralism recognizes the coexistence of multiple legal systems within society. Local wisdom forms part of non-state legal systems that possess binding social and moral authority. This perspective allows for the proportional integration of local wisdom into the national legal system. The exploration of local wisdom must be conducted systematically and scientifically through juridical-sociological, legal anthropological, and hermeneutic approaches. However, local wisdom cannot be applied absolutely; it must comply with academic and constitutional standards, including alignment with Pancasila, the 1945 Constitution, and human rights principles. Law enforcement officials play a crucial role in integrating local wisdom through discretion, penal mediation, and judicial reasoning. Substantive justice emphasizes real social impact and the restoration of relationships, making local wisdom particularly effective in achieving harmonious conflict resolution. Nevertheless, challenges remain, including differences in local values across regions, institutional limitations, and the risk of romanticizing tradition. Integration must therefore be guided by constitutional principles and supported by a shift from formalistic to contextual and humanistic approaches.

4.3. The Role of Law Enforcement Officials in Exploring Local Wisdom

Law enforcement officials play a strategic role in implementing law enforcement and justice based on local wisdom. Judges, prosecutors, and police officers are not only responsible for applying legal norms but also for ensuring justice is realized. Judges hold a particularly important role, as stipulated in Article 5 paragraph (1) of Law No. 48 of 2009 on Judicial Power, which requires judges to explore and understand the values of law and justice within society. Prosecutors and police also play key roles at the pre-adjudication stage by incorporating restorative approaches based on local wisdom. However, challenges such as limited cultural understanding and capacity among law enforcement officials necessitate increased training and cultural sensitivity to ensure proper and proportional application of local wisdom.

4.4. Application of Local Wisdom in Dispute Resolution

The application of local wisdom in dispute resolution represents a practical manifestation of restorative justice. In many indigenous communities, disputes are resolved through deliberative forums involving community leaders and stakeholders, aiming for solutions that are fair and acceptable to all parties. Customary sanctions are typically educational and restorative rather than punitive. Within the national legal system, however, the application of local wisdom must be selective and integrated, particularly excluding cases involving public interest or human rights violations.

4.5. Challenges and Obstacles in Implementing Local Wisdom–Based Law Enforcement

Despite its significant potential, the implementation of local wisdom–based law enforcement faces various challenges. Differences in local values may lead to inconsistency and legal uncertainty. Additionally, modernization and globalization threaten the sustainability of local wisdom by weakening traditional institutions. Another major obstacle is the lack of explicit regulations governing the integration of local wisdom into the law enforcement system. Although general recognition exists, comprehensive guidelines are still lacking. Therefore, clearer and more directed policies are needed to support its effective implementation.

V. Conclusion

Based on the findings of this study, it can be concluded that law enforcement cannot be separated from the social, cultural, and customary values that exist within society. Law enforcement that relies solely on the formal application of positive law often fails to achieve substantive justice, particularly in culturally diverse societies such as Indonesia. Local wisdom represents noble values that have developed within society as a result of long-standing social experience. These values embody principles of justice, balance, deliberation, and the restoration of social relationships, which are consistent with the concept of restorative justice. Therefore, local wisdom plays a strategic role in supporting the realization of law enforcement that is more humane, contextual, and just. From a juridical perspective, local wisdom has a strong basis of recognition within the national legal system, both through the 1945 Constitution of the Republic of Indonesia and other statutory regulations. This recognition provides space for law enforcement officials, particularly judges, to explore and apply the values of justice that live within society, as mandated by the Law on Judicial Power. Law enforcement based on local wisdom has proven to have advantages in dispute resolution, particularly in fostering social harmony and preventing prolonged conflict. However, its application must be carried out selectively and proportionally to ensure alignment with the principles of legal certainty, the protection of human rights, and the public interest.

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