

## Baja Values Sanction as An Alternative Punishment for The Corruptors In Bima District NTB Province

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### **ABSTRACT**

Purpose of this study are to find out Baja custom value as an effort to minimalize factors that cause high number of corruption in Bima district of West Nusa Tenggara province. Furthermore to explain the implementation Baja sanction as an alternative punishment for the corruptor in Bima district of West Nusa Tenggara province. This research use socio legal method which is combine qualitative and quantitative. Result of the research are; that Baja custom sanction is very important to be implemented since the corruption crime to the district budget of revenue and expenditure is so massive, by revitalize norms of Baja custom and summarized it in an awig-awig (customary law) that applied in all villages in district of Bima of West Nusa Tenggara province. Implementation of the sanction of Baja custom as an alternative punishment for the corruptor is keeping by activate and maximize the role of the custom institution such as Majelis sara Tua. Revitalization should be planned by the district government and supported by the society.

**Keywords:** sanction; custom, baja, Bima, corruption.

### **INTRODUCTION**

Corruption which Latin word is, *corruption* from verb *corrumpere* means corrupt, broken, destabilizing, distorting, bribing. Literally, corruption is public official behavior, whether politicians as well as civil servant, perversion and illegally enrich themselves or enrich people around themselves, by abusing public authority which entrusted to them.

From a legal point of view, corruption crime in sketchy includes the following

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substances: the acts against the law, authority abusement, opportunity, or, medium, to enrich thyself, others, or corporations, harm state's finances or the economic matters of country.

In broad terms, corruption or politician corruption is legal position abusement for personal interest. All forms of government/administration is vulnerable to do corruption in practice. It has differents categories, from the lightest in the use of influence and supporting to give and take help, till the heaviest inaugurated corruption and so on. The final point of corruption is kleptocracy, which literally means that government by the thieves, where they can't pretend to be honest at all.

The corruption which appeared in politic and bureaucracy can be trivial/light or heavy, it can be organized or not. Although corruption often ease criminal cases, such as narcotics, money laundering, and prostitution, it is not restriced only on that ways. To study about this problems and its solutions, it is important to differentiate between corruption and criminality. It depends on the state or jurisdiction, whether it has different category of corruption or not.

There are many experts tries to define the corruption, the differences only from language structure and how to explain it, but essentially has the same meaning. Kartono gives limitation of corruption as the individual behavior which use authority and position to dredge personal profits, to damage public interest and state. Thus it is a tendency of misconduct and mismanagement of authority, for personal profits, mismanagement of state's wealth sources by using authority and formal power (eg. on the reasons of legal and armed forces) to enrich thyself.<sup>3</sup>

Corruption happens caused the abusement of authority and position by official or employee for personal interest to be on behalf of families, relatives, and friends. Klitgaard says an officials is said to do corruption if they receives bonus or gifts from someone in order to convince them to take a decision which has benefits for the person who give the gifts. Sometimes if people give gifts in services in return also included as corruption.<sup>4</sup>

Furthermore, Klitgaard adds that giving services in return from the third person which is accepted or requested by an official then share to the families or parties/groups or somebody who has close relationship with, may also regarded as corruption.<sup>5</sup>

There are many factors cause a corruption. Robert Klitgaard found in his research that

<sup>3</sup> Kartini Kartono. (2005). *Patologi Sosial Jilid I*. Jakarta: PT Raja Grafindo, p. 23

<sup>4</sup> Robert Kliitgaard. (1998). *Membasmi Korupsi*. Jakarta: Yayasan Obor Indonesia, p. 16

<sup>5</sup> *Ibid*, p. 18

the factors of corruption in India are moral weakness (41.3%), economic pressure (23.8%), administration structure obstacles (17.2%), social structure obstacles (7.08%).

Therefore Argyo Demartoto says <sup>6</sup>that the factors cause corruption are: (a). Colonial government remains. (b). Poverty and inequality. (c) Low salary. (d). Popular perception. (e). Nonsense regulation (f). Insufficient knowledge of the field.

From the opinion of experts above it can be concluded that the causes of corruption are as follows;

1. Low salary, imperfect of the constitution, slow administration and so on.
2. Colonial government remains
3. The mentality of the official who wants to be rich with inappropriate way, no awareness of the state, no knowledge of the the jobs being hold by the official in the government.

Measuring the corruption in statistic scale, to compare some countries, is naturally not simple, because the actors are generally hiding. International transparency, an NGO of corruption, provides three benchmarks published each year: Corruption Perceptions Index (Based on experts' opinions on how corrupt these countries are), a Global Corruption Barometer (based on a peoples' survey of their perceptions and views on corruption), and Bribery Survey, which saw how foreign firms gave bribes.<sup>7</sup>

The table below is Indonesia's Corruption Perceptions Index according to International Transparency last five years survey from 2008-2013.

Tabel 1. Indonesia's Corruption Perceptions Index yeears 2008-2013

No	Years	Indonesia's Corruption Perceptions	Rank	Countries
1	2010	2,3	144	180
2	2011	2,6	130	180
3	2012	2,8	111	180
4	2013	2,8	110	178
5	2014	3,0	100	183

Sources: Kompas, Desember 2<sup>th</sup> 2014

Indonesia's International Transparency conducted a survey with a scale of 0-10 (0 means very corrupt, 10 means very clean). The method of measuring the corruption perception index

<sup>6</sup> Argyo Demartoto.(2007). *Perilaku Korupsi di Era Otonomi Daerah, Fakta Empiris dan Strategi Pemberantasan Korupsi di Indonesia*.p. 42.

<sup>7</sup>Mubarok Mufti. (2012). *Membongkar Sindikat Penjahat Negara, Modus Operandi dan Antisipasi*. Surabaya: Reform Media Indomedia Group,p. 5

requires criteria which also indicate changes in perception of corruption between years is a change in the score of at least 0.3. Based on the corruption perception index, Indonesia is still entering the ranks of the most corrupt countries. According to International's Transparency survey, Indonesia's GPA score for 2013 is 3, only 0.2 out of the 2012 score. Changes in the score of 0.2 between 2012 and 2013 did not mean anything methodologically or it can be said there is no significant change in eradication corruption. Indonesia ranks 100th out of a total of 183 countries surveyed. Indonesia's Corruption Perception Index score (IPK) is similar to that of Argentina, Benin, Burkina Faso, Djibouti, Gabon, Madagascar, Malawi, Mexico, Sao Tome and Principe, Suriname and Tanzania. Indonesia's score is still below Singapore, Brunei, Malaysia and Thailand.<sup>8</sup>

The problem of corruption varies the way of seeing it, therefore the way of studying is also different. Corruption is not enough in terms of deductive only, but needs to be viewed from the perspective of inductive with start looking at practical problems (practical problems), also must be seen what causes the corruption. Kartono suggests controlling corruption as follows:<sup>9</sup>

1. The awareness of the citizen to have responsibility for political participation and social control, by being indifferent.
2. Emphasizing positive national aspirations, namely prioritizing national interests.
3. Leaders and officials set an example, combat and crack down on corruption.
4. Creating an honest government apparatus
5. The budget system is managed by officials who have high ethical responsibilities, coupled with an efficient control system.
6. The existence of sanctions and the power to crack down, eradicate and punish the acts of corruption.

Suradi, says that in tackling corruption, it is necessary to give embarrassment sanction for the corruptors by showing the face of the corruptors on television because they thought is going to jail is not considered as a shame anymore.<sup>10</sup>

In connection with that, it needs to breakthrough massive efforts to combat the fight against corruption, one of which is to apply custom sanctions as an alternative punishment for perpetrators of corruption. The customary sanction which, according to the author's view, is the

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<sup>8</sup> Kompas, November 11th 2013

<sup>9</sup>Kartini Kartono. *Op.Cit.* p. 34

<sup>10</sup>Suradi. (2006). *Korupsi dalam Sektor Pemerintahan dan Swasta, Mengurai Pengertian Korupsi, Pendeteksian, Pencegahannya dan etika bisnis*. Yogyakarta: Gava Media, p. 12

Baja sanction that becomes custom which is still upheld its application in Mbojo Bima Indonesia.

The pressure for punishment against corruption continues to roll. In addition the perpetrators based on legislation, corruptors should also be given social sanctions. It needs to be done to provide a deterrent effect to anyone who intends to corrupt. Several figures who have expressed this idea are Din Syamsuddin (Chairman of Muhammadiyah Central Executive), Said Aqil Siraj (Chairman of NU), Mahfud MD (Chief Justice of the Constitutional Court), and Todung Mulya Lubis (legal practitioner).

The discussion on the importance of social sanction as an alternative punishment is at the same time becomes a satire for law enforcement officers. Because law enforcement officials seem helpless when dealing with corruptors, especially corruptors in big classes. In contrast to the petty corruptor, the law enforcement officer looks very strict. As a result there is a perception in the community that the law if it is very sharp downward, but if the top is very blunt.

The alternative punishment for corruption eradication for perpetrators of corruption is a new thing that can be breached with custom sanctions Baja Mbojo Bima. The facts shows that the customary sanction for corruptors gives deterrent effect to corruptor so that it can give solution in eliminating the corruption action.

Based on the description above it can be formulated problems

1. How are the values of Baja Mbojo Bima customs to minimize the factors that cause high corruption in Bima regency of West Nusa Tenggara?
2. How is the application of Baja Sanctions as an alternative to the punishment of corrupt perpetrators in Bima regency of West Nusa Tenggara?

## **RESEARCH METHOD**

This research uses socio-legal research method. Following the socio-legal research approach, this study looks at the facts of customary Baja sanctions is described holistically. Particularly in the case of field studies, the sociolegal method is in contact with the social knowledge in order to borrow its method. This research methodology also combines qualitative and quantitative methods.

### **Data Collection Technique**

#### ***Interview***

Interview is a tool of re-checking or verification of information or explanation obtained

previously. The interview technique used in qualitative research is in-depth interview. In-depth interviews are the process of obtaining information for the purpose of research by questioning and face-to-face manner between the interviewer and the informant or the interviewee, with or without using interview guides, depending on the need. Interviewers and informants engage in a relatively long social life.

### ***FGD (Focus Group Discussion)***

FGD techniques are used to find an understanding of a group. This technique is used to reveal the meaning of a group based on the results of the discussion centered on a particular problem. FGDs will be conducted according to circumstances, group / separated (government groups, tourism business groups, indigenous groups), sex composition are also considered in the FGD.

### ***Participant observation***

Participatory observation is a data collection method used to collect research data through observation and sensing where the observer or researcher is really involved in the informant's daily life. In qualitative research, the research instrument is the researcher himself by performing live in (minimally everyday observing the courts, associating with judges, associating with court-related parties, etc.). In observation, the researcher positions itself as an open observer or to borrow Ritzer's term by 'participant as observer'.

### ***Documentation***

Some data, obtained from both primary and secondary legal materials, in the form of legislation, previous research results, as well as data obtained through media, internet and others are also required as complementary (secondary data). For literature study, conducted by reading, studying, identifying, and reviewing primary and secondary data sources in accordance with the problems.

### ***Data Analysis***

According to Strauss and Corbin, there are essentially three main components in each qualitative study. The first component is data, the second there are analytical and interpretative procedures, and the third is a verbal report. The first and second components are conceptually distinguishable, but in practice are closely related. Data obtained through observation and interviews are not free from analysis and interpretation of the researcher. Data analysis techniques, using interactive models, include: data collection, verification and falsification, data presentation, verification and falsification, data presentation. The analysis process is done

continuously, back and forth with data collection as the initial step. Although this research focuses on the questions that have been formulated, but the nature remains flexible because everything is determined by the actual situation in the field. Thus the method of analysis uses qualitative thinking patterns that are empirical-inductive.

## ANALYSIS AND DISCUSSION

### **The Customary Value of Baja Mbojo can minimize the factors causing high corruption in Bima regency of West Nusa Tenggara**

The State recognizes the existence of customary law prevailing in the community. This can be seen in Article 18 b paragraph (2) of the 1945 Constitution stipulates that "the State recognizes and respects the unity of indigenous and tribal peoples along with their traditional rights as long as it is alive and in accordance with the development of society and the principle of the Unitary State of the Republic of Indonesia regulated by Law ". Likewise, Article 32 Paragraph (1) of the 1945 Constitution states "The State advances the national culture of Indonesia amid the civilization of the world by ensuring the freedom of the people in maintaining and developing its cultural values". Furthermore, in the Act Number 23 of 2014 On Regional Government stated that any formation of local regulations relating to the village must recognize and respect the rights, origins and customs of the village. That way, we are equally perfected that the existence of customary institutions and their customary law in the midst of society is still recognized its existence. Moreover, clearly mentioned in Article 5 paragraph (3) Emergency Act Number 1 of 1951 (LN 1951 No.9) customary penal law is still recognized throughout the life. Therefore, in the MPR Decree no. V of 1960 ordered "... that the development of national law be based on customary law, in accordance with the development of the consciousness of the people of Indonesia and not hamper the creation of a just and prosperous society"

The measure of the application of customary law is the existence in the midst of its supporting community ... ", further said" as well as customs in the community of Mbojo Bima, such as Customary Law of Baja. Is this customary law still valid or has been uprooted from the roots of Mbojo culture. That is the size of the indigenous law. But from the observations of some villagers still apply the Customary Law of Baja, it is very effective in providing deterrent effect against the perpetrators of law breakers including corruption crime. However, in contemporary societies it is rarely practiced anymore, even in the wishes that live in the community of Bima still crave the customary law of Baja is re-applied as an alternative in combating crime".

Changes of the times have affected our judgment and appropriateness in everyday life. These changes have changed the meaning, the content of propriety, necessity and others. In the society who are always submissive and obedient to implement the customary law of Baja in handling cases of violation of law now there has been a shift assessment, there is a presumption that the adat Baja not in accordance with the development of modern law oriented to the protection of human rights and there are also some people who want and perceive customary Baja law as a solution to the effectiveness of legal norms in society, because indeed the fact that the law does not function optimally control the social life with the indicator is the increasing number of crime.

The last three years the intensity of criminal acts that occurred in the midst of community life is increasing. Cases of corruption, theft, adultery, liquor and fights between youth still color our days. On the one hand, law enforcement officers have made a maximum effort to suppress crime rates. On the other hand, the deterrent effect given has not had a significant correlation to the reduction of crime rates. Could the customary law of Baja be a choice ?, then how is the condition of contemporary adat institutions, can customary institutions to exist on existence and functionality?

The high level of violation of law in the community, especially the cases of thief, and immorality, the fact now is the community as if there is no fear buried in the perpetrator when violating the law. The assumption, this condition is created because the law can not perform its function as a tool of social control, which affects the destruction of the order of social order. Furthermore, if you want to improve the effectiveness of law in the society then the aspects that are seen must be in the legal system itself, namely the legal substance, legal culture and legal infrastructure, including the implementation of customary law norms promoted by its supporters. The law itself is actually in an integrated system. The law will work effectively if its support units are able to adapt to the environment in which it is read. Like a car, this car will not be able to carry passengers to the desired destination if there are units of the car is not able to perform its functions. So also with the norms, values and rules that exist in people's lives. If one of the units such as law enforcement (legal apparatus) is not capable of performing its functions, then the law integrated in one system will experience degradation.

Likewise, the legal norms prevailing in society. Bajacustomary law as part of custom law of Mbojo Bima West Nusa Tenggara which has existed and still practiced part of society of Bima is as a form of preventive action of violation of law very effective, either to make



deterrent of criminals, or to scare other people to do not infringe. If we still want this law to be enforced, then the strategic step taken is to re-integrate the customary law system into the social system of society. And of course by looking at the parts and units of customs, traditions, and values that are still alive in society. Baja Customary law may be an alternative that can be applied in social life of society. Moreover, the Baja customary law is a form of customary sanction that once lived and became an integral part of the social order. The Baja customary law is not only applied to criminal acts such as livestock theft, adultery, rape. But it could be that Baja customary law applies to cases of corruption, people who like to do illegal logging. That is, Baja customary law needs to be revitalized as far as possible and provide a deterrent effect for the perpetrators of crime.

Corruption, undeniably has become the main enemy of the entire world community. Anti-corruption constitutions, corruption eradication commissions, and even anti-corruption movements have become a distinct trend in every country. Government efforts in synergy with all elements of the community by working together to crack down on corruption practices till the roots. Revision of the rules, the implementation of reward and punishment, seminars and anti-corruption training, until bureaucratic reform in all areas has begun. The society continue to demand ever more promising changes. All the ways continue to be tried to further lower the level of corruption from time to time.

One element that can not be separated in the effort to eradicate corruption is the punishment for the corrupt itself. The form of punishment that should be applied is a punishment that can make a deterrent but not lose corrective and educational essence. We see how China is able to reduce the level of corruption in the country with the death penalty or cut the fingers for heavy corruptors and their families. This may sound sadistic, inhuman, but judging the crime that has been done corrupt, it seems to be an appropriate punishment in a communist country like China.

It doesn't mean that we will be as cruel as China to make deterrent criminals. The ideology and leadership of the Indonesian government is clearly different from China. But at least, Indonesia was able to make a breakthrough in providing punishment for proven corruptor until now less giving shock therapy. Corruption eradication commissions lunge that managed to uncover many allegations of corruption should be appreciated and maximized with a more effective alternative penalty. The improvement of penalties are required without overriding efforts to optimize enforcement and implementation through the stakeholders involved.

One of the alternatives offered is impoverishing the corruptors and their families to the initial possessions they have. That is, the authorities will seize all corruptors' property and husband or wife, including the initial assets they had before having a certain position. Including all investments, savings, and deposits on their behalf. Except for certain items that are excluded from normal foreclosures, such as disabled aids and the like. The point is to make the corruptors and their families return the stolen people's money from corruption activities and make them feel the same with the victims of their crimes. They are forced to feel financial difficulties as compensation for their actions.

This may be considered unfair, but it can still be tolerated to see how corrupt families are also free to enjoy the results of corruption. The most obvious example is seen in the alleged corruption case of Athletes' house involving Nazaruddin. Neneng, the wife of Nazaruddin, also involved and support the corruption. This case is only one of the many corruptions cases involving wives or other members of the family. This alternative punishment will lead to awareness of family officials to always monitor and not just keep silent on unnecessary wealth. Family officials can control and an extension of the government's hand to prevent the practice of corruption as early as possible. Families should always be alert, suspicious, and remind members of their family to keep clean so as not to get a punishment that has a significant impact in his life.

The idea of impoverishing these corruptors basically arises from the characteristic of the corruptors itself who admire money. Therefore the right target punishment attacks the sensitive issue to change the behavior of the corruptors. No one will survive suddenly falling into poverty while previously living in affluence even tend to be luxurious. This alternative makes the corruptor will think twice because it will also involve their beloved wife and children.

In addition, if corruptors are still allowed to have excess money will make them able to buy and even play the law. Just look at how in prison of Salemba and Medaeng cells contained facilities like five-star hotel. Not to mention the guards or prison officers who are still mentally corrupt and easily bribed. Money is the only corrupt power that must be eliminated as soon as possible. On the other hand, corruption usually involves more than one party forming colonies. The colony is connected by money and power. To break the cycle, one way that can be taken is to eliminate aspects of money that connect to each other. If the corruptors no longer have money, he will not be helped by their fellow gang because their relationship is no longer

profitable.<sup>11</sup>

Pros and cons definitely follow every new policy made by the government. However, in the name of law enforcement and for the creation of peace in the community, the government is entitled to perform various ways still in accordance with corridors and values generally accepted. This alternative punishment is relatively more pro-human rights when compared with the death penalty, life imprisonment, or hand-cut. Impoverished families can still try to improve their economy. They can still continue their lives normally after having a valuable lesson in life. The government has launched many programs for the welfare of the community such as free schools, skills training, cash assistance and business capital. There is no specific thing to worry about threatening the survival of the corruptors family.

Seeing the urgency of eradicating corruption in Indonesia, it seems this alternative worthy of study and try as an adder reference law enforcement officers. Of course, not suddenly punishment is given to all corruptors. The process of investigation, examination, and evaluation such as the status quo is still absolutely necessary to ensure justice and punishment validity. Law enforcement or law makers can make standards based on the amount of money being corrupted, the magnitude of the resulting negative effects, and other factors that can be included in consideration. Most importantly, the government has a good will to improve the quality of law for justice in the community.<sup>12</sup>

### **Corruption in West Nusa Tenggara**

The case of corruption in West Nusa Tenggara was harm the state's finances of Rp. 92.44 billion. Data from Somasi a NGOs at West Nusa Tenggara during the year 2013-2014 recorded 88 corrupt people. Data Somasi mention number Rp. 92.44 billion is twice the same case occurred in 2011. This was revealed by Coordinator of the Working Body of Somasi Lalu Ahyar Supriyadin. The Corruption Allegations case has increased significantly, in 2011 there were 25 cases of alleged corruption, while in 2012 there were 61 corruption cases. According to data from Somasi West Nusa Tenggara, the highest corruption occurred in the financial sector which collected 19 cases. The lowest cases in fisheries and marine sector with one case of alleged corruption.

The cases of corruption which handled by the Police and Attorney Office, most of the

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<sup>11</sup> Mufti Mubarak, (2012). *Membongkar Sindikat Penjahat Negara, Modus Operandi dan Antisipasi, Korupsi Presiden Sampai Kepala Desa*. Surabaya: Reform Media,

<sup>12</sup> Hadi Supeno.(2009).*Korupsi di Daerah, Kesaksian, Pengalaman, dan pengakuan*. Yogyakarta: Total Media, ,hlm. 149

corruption cases comes from the high level. There are 88 suspected corruption actors, 25 are among the most important officials of the legislature and the executive. While the subordinates are only 9 suspects. From 61 cases of corruption occurred in most institutions executive (government/agency) with the number of corruption cases are 46 cases and partly occur Regional Secretariat especially the Bureau of Finance, Social Welfare Bureau and Education Office.

Based on data from Somasi a NGOs at West Nusa Tenggara, many corruption budgets derive from the regional revenue and expenditure budget (APBD) of district/city 30 cases and 8 cases from provincial. The cases of corruption are mapped, among others, the case of Social Assistance corruption in West Lombok and Central Lombok, Special Allocation Fund (DAK) in Mataram and Bima City, Health Fund Cases in East Lombok, Grant Cases in Dompu Regency , Case of Teacher Certification in North Lombok District, BrangBiji Port Case in Sumbawa Regency and a number of other corruption cases.

So it can be said that corruption practices in the sector of financial management in the District Secretariat of the District/City that most generates the state's finances reach Rp. 58.70 billion. But in reality the value of the state losses of that size is not accompanied by the return of corruption to the maximum state treasury

In 2012, high Attorney of West Nusa Tenggara only able to restore regional losses of Rp. 3.58 billion. The return of state's finances from February to December 2012 amounts to Rp. 10 billion so it can be concluded that the performance of law enforcement apparatus, especially the Attorney General has not been maximized.

The last few years, criminalsoften appears that occur around us and the tendency of the crime action is increasing occurred massively. Social diseases such as motor vehicle theft, rape of teenagers and underage girls, adultery, drugs and liquor, fights between villages and more massive again which is the focus of the study in more structured crime corruption in all sides of our society from the top to the bottom that makes the daily news and thoughts of our society.

On one side of the apparatus especially the Police Department has worked optimally in an effort to provide a safe, orderly and peaceful atmosphere in the community as one of the efforts to prevent such crimes occurred. But on the other hand in reality, the deterrent effect on crime, such as corruption crime such as happened in Bima regency of West Nusa Tenggara province, has not give significant impact in the effort to decrease corruption number happened especially corruption of Regional Revenue Budget by executive institution or institution

## legislative

Based on the explanations above, the researcher has conducted a study on the efforts of re-effectiveness of Baja customary sanction as an alternative choice of punishment to be applied to corruption crime in Bima regency of West Nusa Tenggara. And also the focus of attention is to activate the existing customary institutions and whether these customary institutions still exist in the midst of the erosion of local institutions due to cultural shifts that occur in the life of Bima (Mbojo) today.

In this research we try to identify the model of customary sanction implementation of Baja customary law if applied in the realm of illegal acts that occurred in Bima District especially on corruption practices in this area. The result of research mentioned that the criminal acts which often happened in the last years are: theft 52.1%, gambling 22.9%, youth fights 10.4%, adultery 2.1%, liquor 2.1%, divorce 2.1%, kidnappings 2.1% and suicide 2.1%. This data shows that the intensity of crimes that occurred is still so high. The high level of violation of the punishment in the community, especially with cases of theft, and acts of immodest according to Ilyas Sarbini is as if there is no fear of being perpetrated in the perpetrator when committing a violation of the law.<sup>13</sup>

One of the functions of the law is as a tool of social control (a Tool of Social Control) is to establish the behavior that is considered from the law. In addition, to establish sanctions or actions taken by law in the event of such deviation. With the assumption of social diseases such as those mentioned above, situations such as these are created or manifested because the law can not positioning itself as a means of social control, resulting in the degradation of rules, norms in social life.

According to Ilyas Sarbini, if we want to improve the effectiveness of legal norms in society, the aspects that are seen must be in the legal system itself, namely the substance of legal, legal culture and legal infrastructure, including the implementation of customary law norms promoted by its supporters. The law itself is actually in an integrated system.

The law shall proceed effectively if its supporting units adapt to the environment in which it (Read: Law) implement. Like a car, it will not be able to carry passengers to the destination if there are units of the car is not able to perform its functions. In line with the norms, values and rules that exist in the life of society. If one of the units such as law enforcement (legal apparatus) is not capable of performing its functions, then the law integrated in one

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<sup>13</sup> Wawancara tanggal 23 November 2014 di STIH Muhammadiyah Bima

system will experience degradation. Likewise, the legal norms prevailing in society.

The Baja customary sanction as part of the customary law of Bima has existed and is still practiced in part of the community of Bima is as a form of preventive action of violation of law which is very effective, either to deter criminal offenders, or to frighten others not to commit violation. If we still want to use this law, then the strategic step taken is to re-integrate the customary law system, into the social system of society.

And certainly by looking at the parts and units of customs, traditions, and values that are still alive in society. "... Sanctions of Baja customary may be an alternative that can be applied in the social life of society ..." said Nurfarhaty, M. Si. Moreover, Baja customary Sanctions is a form of custom sanction that once lived and became an integral part of the social order. Farhaty further said, "perhaps, the Baja customary law is not only applied to criminal acts such as theft of cattle, adultery, rape. But it could be that Baja customary sanctions apply to people who like to do forest grazing and corruption crime. That is, the Baja customary sanction will be revitalized as far as possible to provide a deterrent effect for the perpetrators of crime".

Gufran, M.Si explains <sup>14</sup>who has done a research on the existence of customary institutions as an effort to re-enforce local institutions in Bima District, states that the result is very fantastic, that almost all respondents give an appreciation if the Baja customary sanction re-applied in the life of the society. From the 42 respondents or approximately 87.5% agreed to apply the Baja customary sanctions on certain criminal acts. Only 4 people were hesitant and the rest 2 people said disagree. This means that the adoption of the Baja customary system of sanctions in social systems will be easier, Gufran said. He added that it is only a matter of how the system is integrated with the social system by building the structure and function of its implementing units at the village level as the traditional bearers.

Based on the results of the research, there is no overlap between the Baja customary law and positive law. For example, arrests by police are crowded by many people, the community coming to the open fishing grounds is actually part of the Baja customary law formulation itself. However, the results of the second phase of research by the research team in each village in 5 (five) subdistricts that have been done, the community wants the cooperation between the law enforcement agencies and administrators of custom institutions in handling social problems that occur. In addition, the community requires the organization of various rules and custom sanctions later, and should engage community participatively. This process is done because it

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<sup>14</sup> Wawancara dengan Bapak Gufran, M.Si, Dosen STIH Muhammadiyah Bima, 27 November 2014

is impossible we equate customary sanctions between one village and another village. Sanctions or regulations should be derived from the agreement of the villagers, moreover those who carry out and implement the custom rules are the communities themselves. Instead, customary institutions that will perform the functions, values / norms and customary rules are only located at the village level namely custom Majelis Sara Tua.

Thus, this institution should not have a structure up to the sub-district level, because it may be that every village in the Kecamatan has different rules/customs. So it is highly impossible that norms/values, rules and sanctions are imposed when the Assembly of the Majelis Sara Tua has a multi-level structure up to the district level. The adopted sanctions will certainly be applied and implemented by customary institutions in the village. Unfortunately, the results of the research indicate that the existence of adat institutions from several villages that are used as samples of community research that knows their existence is only 33.3% owning customary institutions, 50.0% there is no customary institution, and the remaining 16% do not know.

Similar to the existence of customary institutions, the function of customary institutions in Bima district has not been able to do the function optimally. From the data obtained, only 14.6% of customary institutions are functioning. While 45% of respondents do not function and the remaining 39% do not know.

In the context of social life, people do not necessarily depend on all the social problems that occur to be the responsibility of customary institutions. The public only wants that the matters of livecircle and other social activities can be arranged and run by customary institutions. The data of the research states that the most crucial function of customary institutions is to deal with 62.5% customs matters, then customary institutions function to handle the problem of immoral/immodest 31.3%, religious norms 4.2% violation and the rest did not answer 2.1%. Thus, not all social issues are left entirely to customary institutions. Likewise, the problem of violation of law. There are sections that are the authority of indigenous peoples, and some are the duties and responsibilities of law enforcement officials.

### **Function Revitalization, Structural Review Upon Revision of Local Regulations.**

“...ake dou dohoe, aina rawi...(called what the immoral act is doing) bunera karawi ba mada, mada kutirara labo maja adeku, sinci adeku dou dohoe...” This is part of the word spoken by the perpetrators of immoral violators who punished by customs. There is a longing for a more dignified social life, preserving the essential values of tradition, keep in a deep spiritual

spirit. The question is who will run the customary institution? Is there still public trust on the figures in the village? So then will the question arise how the existence of customary institutions in the community and the structure to the village government?

According to Arief Rachman's note <sup>15</sup>from CeDES published in collaboration with Suara Mandiri Daily, the Society wants the Assembly of the Majelis Sara Tua can functioning to create a society of noble character, increase the dignity of society in strengthening identity and personality, and create a sense of security, order and peace people's lives. All these functions must necessarily be run entirely by the Assembly of the Majelis Sara Tua. The question is who are the people who will sit in the stewardship of the Majelis Sara Tua and who will perform this function.

In a study conducted by the research team, it was found that every indigenous villager had the same right to be the administrator of the Majelis Sara Tua, provided that it met several predetermined criteria. The results of the research were found that the order of criteria of the most selected respondents were: honest (37.5%), devout (35.4%), Fair (10.4%), authoritative (6.3%), wise (4, 2%), rich (4.2%) and the rest (2.1%) did not answer. This data actually shows us that people are desperate for figures that have the character of honesty, and this is the main criterion for someone who will sit in the stewardship of the Majelis Sara Tua Adat.

Structurally, the Majelis Sara Tua Adat has no structure at the sub-district level. This assembly is located only at the village level, and is only domiciled in the village, with 7 (seven) members consisting of Chairman, Secretary, Treasurer and 4 (four) members. This assembly is autonomous and independent led by the chairman of the Majelis Sara Tua and assisted by the Majelis of Sara Tua Kampo (village) which is located in villge and consists of 5 people. The empowerment of Majelis Sara Tuae are the responsibility of all indigenous peoples and Majelis Sara Tua. The question arises as to the position of village head and district government ?. The village head only encourages and helps the availability of adequate facilities and infrastructure for the implementation of the duties and functions of the Majelis Sara Tua. While the District Government facilitates and supports the provision of facilities and infrastructure for the Majelis Sara Tua.

Revitalization of customary institutions is a must. Inevitability if only done a day, two days or three months or even three years. Revitalization must be done in a planned manner by the government of Bima district and of course must be fully supported by the community, and

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<sup>15</sup> Wawancara Arif Rahman dari LSM CEDES, 24 November 2014



of course with the Majelis Sara Tua Adat "... this is forever to lay the base of civilization. Until now hopefully the values of customs that comes from the true Islamic teachings to be the backdrop of our society especially the Baja customary sanction applied to corruption problem in Bima regency of West Nusa Tenggara. Whatever has been done by the research team is a small part of the long process of restoring self-identity to further reinforce that strengthening local institutions by restoring the existence of Baja customs in Kabupaten Bima is extremely urgent.

## CONCLUSION

1. Baja customary sanctions are considered urgent or can be said to be urgent to be implemented at this time because of the massive mode of corruption of regional revenue and expenditure budget in Bima regency of West Nusa Tenggara, that is by revitalizing the Baja customary norms and summarizing it in a customary awig-awig (customary laws) in all villages in Bima regency of West Nusa Tenggara.
2. Implementation of Baja customary sanctions as an alternative punishment of corruption in Bima regency of West Nusa Tenggara by activating and increasingly making effectiveness of customary institutions such as Majelis sara Tua Adat. The revitalization of adat institutions is a must. Revitalization must be done in a planned manner by the Government of Kabupaten Bima and of course must be fully supported by the community together with the Majelis Sara Tua Adat"... this is forever to lay the base of civilization. Until now hopefully the values of customs that comes from the true Islamic teachings to be the backdrop of our society especially the Baja customary sanction applied to corruption problem in Bima regency of West Nusa Tenggara.

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