

## **TYPES OF ENVIRONMENTAL DESTRUCTION CRIMES AND FORMS OF SANCTIONS ACCORDING TO *ADATDALIHAN NA TOLU***

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**Abstract:**

In the last few years, there has been widespread environmental destruction, such as: dumping rubbish into rivers, lakes, seas, public roads. Indonesia produced up to 65 million tons of waste in 2016, increasing to 67 tons in 2017 and others. The series of environmental crimes above emerged because they were influenced by the lack of empowerment of local wisdom in preventing environmental damage as mandated by the 1945 Constitution, Article 18B and Article 70 paragraph (1) of Law no. 32 of 2009. The research uses empirical legal research methods with a normative juridical approach and a socio-legal approach. The results of the research show that the types of sanctions imposed on perpetrators of environmental damage are: Dibondarkon, Sappal Dila, Dipaorot sian Huta, Dipaorot sian Marga, Diapaulak Salipi Natartar.

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### **INTRODUCTION**

#### **Background**

The current environmental damage has reached a very worrying stage, the rate of environmental damage is far greater than the efforts made to restore it. Data from the Ministry of Environment and Forestry shows that Indonesia produced up to 65 million tons of waste in 2016, and increased to 67 tons in 2017, around 2.5 million hectares of coral reefs, only 6.39% were in very good condition, 23.40% were in good condition, 35.06% were in fair condition and 35.15% were in poor condition. Then there were forest fires covering an area of 3,403,000 hectares (ha) between 2015 and 2018 in Indonesia; and others.

The above series of environmental destruction crimes occur because apart from the lack of firmness, fairness and usefulness of existing legal regulatory materials regarding environmental protection, it is also caused by the lack of empowering the potential of indigenous communities in the field of environmental protection, both formally and non-formally.

Even though Article 18B and Article 32 of the 1945 Constitution have ordered that

all levels of society, including indigenous communities, be empowered to carry out environmental protection . Then Article 70 paragraph (1) Law no. 32 of 2009 concerning Environmental Protection and Management states that the community has the same and broadest rights and opportunities to play an active role in environmental protection and management. Article 237 paragraph (1) Law no. 23 of 2014 concerning Regional Government expressly states that the principles for the formation and content of the Regional Regulations are guided by the provisions of statutory regulations and legal principles that grow and develop in society as long as they do not conflict with the principles of the Unitary State of the Republic of Indonesia. Article 31 paragraph (2), point "f" states that the Regional Arrangement as referred to in paragraph (1) is aimed at maintaining the uniqueness of regional customs, traditions and culture.

Abdul Aziz Nasihuddin believes that the functionalization of local wisdom principles in environmental management can enrich the principles of national environmental management because these principles originate from the legal ideals of society, causing voluntary legal arrangements.

Maridi stated that local wisdom is noble values that apply in community life to, among other things, protect and manage the environment sustainably. Environmental protection and management activities must pay attention to the noble values that apply in community life. Erman Syarif stated that local wisdom is important to preserve with the aim of maintaining environmental balance and sustainability. The development of local wisdom cannot be separated from the influence of human behavior on the environment.

Marhaeni Ria Siombo in her research concluded that nationally, forms of local wisdom need to receive serious attention from the central government in strengthening environmental law and its law enforcement. In Law no. 32 of 2009 concerning Environmental Protection and Management has included the notion of local wisdom. Therefore, it needs to be clarified in the form of implementing regulations, so that local wisdom can be accommodated and actualized in statutory regulations at the implementation level.

Based on several research results conducted by the researchers above, it shows that the majority of indigenous peoples have their own rules for protecting the environment. It's just that the material and types of sanctions are not yet widely accommodated in national legislation in the field of environmental protection.

There are so many tribes and indigenous communities spread throughout Indonesia, it turns out that there are indigenous communities that have their own traditional models or values in protecting the environment. with its local wisdom, such as environmental protection regulations through *the Tumbaga Holing Letter* found in the Batak community. According to the rules contained therein, there are three elements in the Batak traditional community which have their own main duties in carrying out environmental protection, namely: *Mora* ( all families originating from the parents-in-law), *Kahanggi* (all families related by blood from the parents-in-law). father), and *Anak Boru* (all of the son-in-law's family).

This scientific article focuses on 2 (two) main areas of discussion, namely the model of environmental protection through the *Tumbaga Holing Letter* , the stages of deliberation in carrying out environmental protection through the *Tumbaga Holing Letter* and types of environmental damage crimes and the forms of sanctions according to the *Tumbaga Letter. Holing* .

### **Formulation of the problem**

Based on the background above, several problem formulations can be taken that are answered through this research:

1. What are the types of environmental damage crimes and the forms of sanctions according to the *Tumbaga Holing Letter* ?

### **RESEARCH METHODS**

The research method used is an empirical legal research method, because empirical legal research is research about the laws that exist in society, which are applied or carried out by members of society.

The approach used is an anthropological approach, namely a science that studies dispute patterns and their resolution in simple societies, as well as societies that are experiencing a process of development and development and a socio-legal approach or an empirical juridical approach, namely a legal reality *approach* . society by studying social phenomena in society whose legal aspects are visible. This research also carries out an inventory and analysis of all statutory and regulatory instruments related to research studies.

**DISCUSSION**

**1. Types of crimes involving environmental destruction and forms of sanctions**

Community compliance with the rules contained in laws and regulations relating to the environment cannot be separated from the material containing justice, certainty and usefulness of the law, it is also influenced by the existence of strict sanctions and has a deterrent effect not only for the perpetrator but also the nature of the deterrent effect it can have. impact on the perpetrator's family. Several types of crimes involving environmental destruction and the forms of sanctions are presented in the following table:

**Table 1. Types of Environmental Destruction Crimes**

Types of Crimes of Environmental Destruction According to the Tumbaga Holing Letter	Types of Sanctions for Perpetrators of Environmental Destruction						
	<i>Dipaingot</i>	<i>Dondoni</i>	<i>Sappal Dila</i>	<i>Dibondarkon</i>	<i>Dipaor ot sian Huta</i>	<i>Sian dipaorot Clan</i>	<i>Dipaulak Salipi Natartar</i>
<i>Mangambukko n roppak tu trunk aek</i> (throw rubbish into the river)	X	x					
<i>Mangarasuni tanoman</i> (poisoning plants)		x					
<i>Manuba ihan in aek</i> (poisons fish in rivers, waterways, ponds and brackish areas)	X	x					
<i>Many oil burkons in aek dohot in tano</i> (spill cooking oil, gasoline, oil) in water and on the ground)	X						
<i>Manaba hayu di topi ni aek</i>		x	x				

(cutting down trees on the river bank)				
<i>Manaba hayu giot digadis</i> (cutting down trees for sale)		X		
<i>Manaba haruaya</i> <i>parsilaungan</i> (cutting a banyan tree, because it serves as a shelter from the hot sun and rain)	X			
<i>Manaba hayu naso margatti</i> (Cutting down trees, without replacement)			X	X
<i>Mangarimba kobun dohot saba di harangan ni mount dohot tor</i> (opening gardens and rice fields by cutting down forests around mountains and hills)		X		
<i>Mangarabi harangan ni saba, kobun dohot huta</i> (cutting down forests around rice fields, gardens and villages)			X	X
				X

*Source: Interview results with Mara Doli Parsahatan Held Sutan Daulat Nalobi (South Tapanuli Traditional Figure), 13 May 2021.*

The data in table 5 above shows that *the Tumbaga Holing Letter* has various forms of sanctions imposed on perpetrators of environmental destruction crimes. All of the types of sanctions above are moral sanctions that have a deterrent effect on the perpetrators, so that indigenous peoples try to avoid various types of crimes that destroy the environment. The types of sanctions above are much more severe for the Batak indigenous people than the sanctions regulated in applicable law in Indonesia. Some of the sanctions referred to are as follows:

***Dipaingot*** Sanctions (providing verbal and written warnings and advice witnessed by *Harajaon, Hatobangon and Dalihan na Tolu* representatives ). This type of sanction is given to perpetrators of crimes who are committing crimes for the first time and the consequences of their crimes have not yet disturbed the broader public interest and have not fallen into the category of disturbing people's lives.

***Didondoni*** sanctions (sanctions in the form of fines according to the results of deliberations between *Harajaon, Hatobangon* and representatives of *Dalihan na Tolu* ). This type of sanction is given to perpetrators who have already damaged the environment and who have already been given sanctions in the form of *Dipaingot* . There are several types of sanctions *for Didondoni* , namely: 1) a fine equal to the estimated loss from his actions in destroying the environment. This kind of fine is imposed on people who cut down trees beyond basic needs; 2) a fine of 2 (two) times the amount taken, to people who throw rubbish into rivers, poison plants and catch fish by poisoning them; 3) a fine of 3 (three) times, for people who throw wood or plastic waste into rivers, poison plants which can cause the death of livestock, catch fish by poisoning them and cut down trees for the purpose of buying and selling.

***Sappal Dila*** sanction is a sanction in the form of a person's obligation to slaughter a goat or buffalo or ox with the intention of inviting people from their village to eat. During the event, the party receiving the sanctions was given the opportunity to apologize in front of the community present. This kind of sanction is quite a heavy sanction, because apart from spending money to buy food, he is also required to apologize openly in front of the public.

***Dibondarkon*** sanctions are sanctions in the form of not involving a person in all types of traditional activities, both *Siriaon* (joyful traditional activities) and *Siluluton* (mourning traditional activities). Such sanctions are very severe sanctions, because of

their existence, they are treated as if they no longer exist. Usually, people who receive this type of sanction will not last long.

***Dipaorot Sian Huta*** sanctions are sanctions in the form of expelling someone from one village to go to another village. This sanction is given to people who cut down wood without planting replacement seeds. This kind of sanction is a very heavy sanction because they are forced to leave the village where they were born. This sanction can be revoked, if within 3 years, he does not commit any acts of forest destruction.

***Dipaorot Sian Marga*** sanctions are sanctions in the form of excommunicating someone from their *clan* . Such sanctions are very heavy sanctions, because they are forced not to use their proud *surname* . This sanction was imposed with the aim of making the perpetrator feel ashamed of the removal of *the Marga* which had been his pride for so long. Removing *a surname* is the same as removing someone from their family tree. This form of sanction is very severe for the Batak indigenous people, even more severe than the sanction of imprisonment.

***Dipaulak Salipi Natartar*** sanction is a sanction in the form of returning the land that the king had given him. Such a sanction is a very heavy sanction, because he has to return the land he has used to earn his living.

All forms of sanctions mentioned above are forms of moral sanctions, which are not only felt by the perpetrator, but also felt by his family. Meanwhile, the types of sanctions for criminal acts regulated in Law Number 32 of 2009, namely administrative sanctions, written warnings, freezing of environmental permits, compensation, environmental restoration, fines, imprisonment, confiscation of profits, closure of all or part of the business premises, doing what was neglected without rights and placement of companies under guardianship. The community prefers to submit environmental crime cases to the *Dalihan na Tolu Traditional Council* , because the majority of cases submitted can be resolved well, wisely, fairly and judiciously. A more complete explanation can be seen in the following table:

**Table 6. Number of environmental crime cases filed and decided by the Traditional Council and District Court in North Sumatra in 2019-2020.**

Research sites	Year	
	2019 Judicial Place	2020 Judicial Place

	Traditional Assembly <i>Dalihan na Tolu</i>		District Court		Traditional Assembly <i>Dalihan na Tolu</i>		District Court	
	Number of Environmental Crime Cases	Number of Decided Cases	Number of Environmental Crime Cases	Number of Decided Cases	Number of Environmental Crime Cases	Number of Decided Cases	Number of Environmental Crime Cases	Number of Decided Cases
Mandailing Natal Regency	4	3	8	3	2	2	10	6
South Tapanuli Regency	3	2	11	5	6	5	7	2
North Padang Lawas Regency	2	2	7	4	1	1	13	7
North Tapanuli Regency	3	3	5	2	4	4	15	9
Samosir Regency	2	1	9	5	3	2	8	4
Pakpak Dairi Regency	1	1	5	1	1	2	5	3
Karo Regency	3	2	6	3	3	3	9	6
<b>Amount</b>	<b>18</b>	<b>14</b>	<b>51</b>	<b>23</b>	<b>20</b>	<b>19</b>	<b>67</b>	<b>37</b>
	<b>(100%)</b>		<b>(100%)</b>		<b>(100%)</b>		<b>(100%)</b>	

Source: Primary data obtained from the *Dalihan na Tolu* traditional council and the District Court in each research location.

The data in table 6 above shows that the number of environmental crime cases submitted to the *Dalihan na Tolu Traditional Council* in 2019 was 18 cases and 14 cases



were resolved, namely 77.8%. Meanwhile, the number of environmental crime cases submitted to the District Court in 2019 there were 51 cases and 23 cases were resolved, namely 45.9%. This data shows that the number of cases resolved in the *Dalihan na Tolu traditional council* is greater than the number of cases resolved in the District Court. This kind of condition occurs due to the following factors: 1) the high level of public trust in the judiciary in the *Dalihan na Tolu Traditional Council* ; 2) the party deciding the case is a person who is respected and respected in customary terms; 3) the community as a whole is responsible for monitoring the results of decisions issued by the *Dalihan na Tolu Traditional Council* ; 4) the results of the decisions produced by the *Dalihan na Tolu Traditional Council* are considered to bring more justice and legal benefits to society.

Several countries have made efforts to protect the environment through legal approaches. Lihong Zhang stated that today, under the influence of European experiences, China is carrying out a huge number of legal measures to realize the systematic coordination between environmental protection and energy application.

Several countries in the world have utilized customary law to protect the environment. Elena Gladun & Olga V. Zakharova argue that Russian environmental legislation is not effective for transitioning toward sustainable development. The main obstacle is ignoring traditional environmental values, which are not properly incorporated into laws and regulations. However, rich Russian traditions and culture imply a big potential to develop environmental legislation in accordance with sustainable principles.

Regional governments as places where the majority of indigenous people live have a very important role in protecting the environment. A. Dan Tarlock believes that local governments have been regulated to a minor role in the formulation and implementation of pollution control policy. In contrast, local governments have a major role to play in biodiversity protection.

I Putu Sastra Wibawa believes that the legal politics of laws related to the environment in Indonesia experienced two periodizations, namely, the New Order period with the enactment of Law no. 4 of 1982 and Law no. 23 of 1997, where authoritarian politics with its orthodox legal character applies, and the reform order with the enactment of Law no. 32 of 2009, where democratic politics applies with a responsive legal character. With the enactment of Law no. 32 of 2009, which has a responsive legal character with a democratic government regime, can be a gateway to Indonesia towards

'ecocracy' (an environment-based state) with community participation and no centralized authority in the central government and the existence of sustainable environmental principles.

Nationally, forms of local wisdom need to receive serious attention from the central government in strengthening environmental law and law enforcement. In Law no. 32 of 2009 concerning Environmental Protection and Management has included the notion of local wisdom. Humans are part of the environment. Humans are based on inherited unwritten norms in regulating their behavior to manage the environment. The norm in question is the local wisdom of a region.

After deeper analysis, it turns out that the sanctions regulated in the *Dalihan na Tolu* custom are much more severe than the sanctions for environmental damage and forest destruction regulated in statutory regulations. Therefore, the existence of indigenous peoples and their local wisdom is very necessary in protecting the environment in the future, so that cases of environmental destruction in Indonesia can be prevented, at least the number of cases can be reduced.

Nikmah Fitriah believes that the results of the comparison of environmental pollution and damage criteria, the version of Law no. 23 of 1999 with Law no. 32 of 2009 produces a difference in determining a criminal act. Version of Law no. 23 of 1999, criminal acts of pollution and environmental damage fall into the category of material offenses, so that in the process of proof two things are required, namely, it must be proven that the act was carried out by a responsible perpetrator and it must also be proven that the act caused consequences that are prohibited by law. Meanwhile, the version of Law no. 32 of 2009, criminal acts of environmental pollution and destruction are included in the category of formal offenses, so it only needs to be proven that an act is prohibited.

Allah strictly forbids destroying this earth, both on land and at sea, because the impact of exploiting nature without protecting the existing ecosystem can not only cause disasters that are detrimental to humans, but the impact of this damage will have an impact on the environment.

## **2. Procedures for implementing mediation in resolving environmental disputes through *Tutur institutions* in the Batak community.**

Despite how sacred and majestic the environment is in Batak society, it cannot be denied that it is also possible for disputes and problems to occur in the environmental

sector. If an environmental dispute occurs that cannot be avoided, the Batak people resolve it through mediation as regulated in the *Tutur regulations* . The implementation of mediation in every environmental dispute resolution must go through the following procedures:

- a. If there is an environmental dispute originating from a husband, then the person who will resolve the case first is the representative of *the Tutur* contained in *Anak Boru* ;

Table 1. Types of *Speech* Contained in *Anak Boru*

No	<i>Said the Husband ( Child Boru's Party )</i>	<i>Said the Wife ( Mora's Party )</i>
1	Aya (father)	Amang Boru (wife's father-in-law)
2	Uma (mother)	Ambou (wife's mother-in-law)
3	Ompung Halaklai (grandfather)	Ompung Halaklai (grandfather)
4	Ompung Daboru (grandmother)	Ompung Daboru (grandmother)
5	Dudes)	Halak Bayo (husband's older brother)
6	Angkang (older brother)	Eda (husband's older sister)
7	Anggi Halaklai (younger brother)	Halak Bayo (husband's younger brother)
8	Anggi Daboru (little sister)	Eda (husband's younger sister)
9	Uda (uncle)	Amang Boru
10	Nanguda (aunt)	Ambou
11	Pahoppu Halaklai and his descendants down (son's grandsons)	Pahoppu Halaklai
12	Pahoppu Daboru (son's granddaughter)	Pahoppu Daboru
13	All Communities Who Are Married to Their Husbands	<i>Kahanggi</i>

- b. If there is an environmental dispute originating from the wife, then the person who resolves the dispute is the representative of *the Tutur* contained in *the Mora* ;

Table 2. Types of *Speech* Contained in *Mora*

No	<i>Said the Wife ( Mora's Party )</i>	<i>Said the Husband ( Child Boru's Party )</i>
1	Aya (father)	Bones (husband's father-in-law)
2	Uma (mother)	Nantulang (husband's daughter-in-law)
3	Ompung Halaklai (grandfather)	Ompung Halaklai (grandfather)
4	Ompung Daboru (grandmother)	Ompung Daboru (grandmother)
5	Dudes)	Tunggane (wife's brother)
6	Angkang (older brother)	Ompung Bayo (wife's older brother)
7	Anggi Halaklai (younger brother)	Tunggane (wife's younger brother)
8	Anggi Daboru (little sister)	Ompung Bayo (wife's younger sister)

9	Uda (uncle)	Bones (wife's uncle)
10	Nanguda (aunt)	Nantulang (wife's aunt)
11	Pahoppu Halaklai and his descendants down (son's grandsons)	Pahoppu Halaklai and his descendants down (son's grandsons)
12	Pahoppu Daboru (son's granddaughter)	Pahoppu Daboru (son's granddaughter)
13	All Communities Who Are Married to Their Husbands	<i>Mora</i>

- c. If the dispute cannot be resolved through the mediation model as above, then the resolution is carried out through *the speech* contained in *the mora* with *the speech* contained in *Anak Boru* simultaneously involving *Kahanggi* from both parties;
- d. If with this third model the dispute cannot be resolved, then it can be resolved by inviting:
  1. *Speech* contained in *Mora* ;
  2. *The speech* contained in *Anak Boru* ;
  3. *The speech* contained in *Kahanggi* ;
  4. *Harajaon* (one person represents the descendants of the King or is called *Bona Bulu*);
  5. *Hatobangon* (one of the traditional leaders/community leaders);
  6. *Rich People* (*people who are experts in the Dalihan na Tolu* traditional field );
  7. *Ompu ni Kotuk* ;
  8. *Goruk -Goruk Hapinis* .

The explanation above is the stages of implementing mediation that apply in the Batak traditional community. More details can be seen in the following table:

Table 3. Procedures, models and parties who act as mediators in resolving environmental disputes in the Batak community

<b>Rules for Settlement of Environmental Disputes</b>	<b>Dispute Resolution Procedures</b>	<b>Dispute Resolution Model</b>	<b>Party Who Becomes a Mediator</b>	<b>The Competent Authority Appoints the Mediator</b>
<i>Speech</i> contained in <i>the Dalihan na Tolu Adat</i>	Environmental disputes originating from a husband	<i>Tahi Ungut-ungut</i> (deliberation between	<i>Speech</i> contained in <i>Anak Boru</i> (a. Understanding customs, b.	Husband's Family

		husband and wife's families)	Understanding problems)	
	Environmental disputes originating from the wife's side	<i>Tahi Ungut-ungut</i> (deliberation between husband and wife's families)	<i>Speech</i> contained in <i>Mora</i> (a. Understanding customs, b. Understanding problems)	Wife's family
	If the dispute has not been resolved on the 1st and 2nd models	<i>Tahi Dalihan na Tolu</i> (deliberation involving <i>mora</i> , <i>kahanggi</i> and <i>anak boru</i> )	<i>Speech</i> contained in <i>Anak Boru</i> and <i>Mora</i> (a. Understanding customs, b. Understanding problems)	Husband and wife family
	If the dispute has not been resolved on the 3rd model	<i>Tahi Haruaya Mardomu Bulung</i> (deliberations involving kings between regions)	<i>Speech</i> contained in <i>Anak Boru</i> ; <i>Speech</i> contained in <i>Mora</i> ; <i>Speech</i> contained in <i>Kahanggi</i> ; 4. <i>Harajaon</i> Party ; 5. <i>Hatobangon</i> party	Apart from the husband and wife's families, the <i>Harajaon</i> and <i>Hatobangon</i> parties were also involved

The table above shows that the model for resolving environmental disputes in the Batak community is different from the model for resolving environmental disputes that applies in Indonesian law. Some of the differences can be seen in the following table:

Table 4. Procedures, models and parties who act as mediators in resolving environmental disputes through *Tutur institutions* in the Batak community and statutory regulations

<b>Rules for Settlement of Environmental Disputes</b>	<b>Dispute Resolution Model</b>	<b>Party Who Becomes a Mediator</b>	<b>The Competent Authority Appoints the Mediator</b>
Speech Institutions	<i>Tahi Ungut-ungut</i> (deliberation between husband and wife's families) <i>Tahi Dalihan na Tolu</i> (deliberation involving <i>mora</i> ,	1. <i>Speech</i> contained in <i>Anak Boru</i> (son-in-law's family); 2. <i>Speech</i> contained in <i>Mora</i> (in-law's family);	Apart from the husband and wife's families, the <i>Harajaon</i> and <i>Hatobangon</i> parties were also involved

	kahanggi and anak boru) Tahi Haruaya Mardomu Bulung (deliberations involving kings between regions)	3. Speech contained in Kahanggi (blood family); 4. The harajaon (descendants of the king); 5. Hatobangon party (the elders in the adaptation).	
KHI	Deliberation between fellow mediators	Delegations from the husband and wife's families with the supervision of the judge	Judge
Civil Code. Prdt	Deliberation between fellow mediators	Appointed judge	Judge
Supreme Court Directive No. 1/2008	Deliberation between fellow mediators	Apart from the judges there were 10 from outside	Judge

In each procedure, there are several operational flows in resolving every environmental dispute, including divorce lawsuits. Some of the operational flows referred to are:

Table 5. Flow of Environmental Dispute Resolution at the Family Level

No	Environmental Dispute Resolution Procedures	Type of activity	Executor
1	Acceptance of reporting at family level	There are reports of environmental disputes from the wife's side	Husband's parents ( <i>Boru Child's Family</i> )
2	Acceptance of reporting at family level	There was a report of an environmental dispute from the husband's side	Wife's parents ( <i>Mora Family</i> )
3	Deliberation at the respective parent/family level	Each parent always blames their own child, without blaming their daughter-in-law, even if they think it is their daughter-in-law's fault. This is done in order to maintain the integrity of the child's household in the future.	Husband's parents or wife's parents

Table 6. Flow of Environmental Dispute Resolution at the Indigenous Community Level

No	Environmental Dispute Resolution Procedures	Type of activity	Executor/Terminator
1	Acceptance of reporting at the indigenous community level	<p>There are reports from the public that there are environmental disputes that need to be resolved;</p> <p>There were reports from the parents of the parties to the dispute;</p> <p>There are reports from the parties to the dispute;</p> <p>There were reports from family representatives on both sides of the dispute;</p>	<p><i>Harajaon</i> (king's descendants) ;</p> <p><i>Hatobangon</i> (elder people according to custom) ;</p>
2	Calling the parents of both parties	Calling the parents of both parties to the lawsuit to find out the problem	<p><i>Harajaon</i> (king's descendants) ;</p> <p><i>Hatobangon</i></p> <p><i>Hatobangon</i> (elder people according to custom) ;</p> <p>Representatives of the <i>Dalihan na Tolu Community</i> .</p>
3	Calling husband and wife separately	<p>Interviewing husbands and wives to find out the root causes of environmental disputes;</p> <p>Providing advice in order to resolve the problems faced;</p> <p>Providing alternative options that must be taken from the offer given;</p> <p>Provides spiritual cleansing.</p>	<p><i>Harajaon</i> (king's descendants) ;</p> <p><i>Hatobangon</i> (elder people according to custom) ;</p> <p>Representatives of the <i>Dalihan na Tolu Community</i> .</p>
4	Summoning the parties to the dispute simultaneously	<p>Listen to statements from the parties to the dispute in turn before the traditional council;</p> <p>Listen to information from parents on both parties to the dispute;</p> <p>Listen to information and opinions from parties who have participated in resolving the dispute;</p> <p>Carry out mediation or peace between the parties to the dispute;</p> <p>Provide a period of time to think again before making the choice offered by the Traditional Council.</p>	<p><i>Harajaon</i> (king's descendants) ;</p> <p><i>Hatobangon</i> (elder people according to custom) ;</p> <p>Representatives of the <i>Dalihan na Tolu Community</i> .</p>

5	Deliberation in the Batak Traditional Council	Listen to each other's statements before the Traditional Council; Request final opinions from each party to the dispute; Provide a clear picture of the benefits of peacemaking; Provide a clear picture of the legal consequences arising from the absence of a peace agreement; Provide an interval of 2 hours for final considerations between the parties to the dispute	<i>Harajaon</i> (king's descendants) ; <i>Hatobangon</i> (elder people according to custom) ; Representatives of the <i>Dalihan na Tolu Community</i> .
6	Review of the evidence	Conduct a review of existing evidence	<i>Harajaon</i> (king's descendants) ; 2. <i>Hatobangon</i> (a person who is an elder according to tradition) ; Representatives of the <i>Dalihan na Tolu Community</i>
7	Final verdict	Peace Termination of legal relations	<i>Harajaon</i> (king's descendants) ; 2. <i>Hatobangon</i> (a person who is an elder according to tradition) ; Representatives of the <i>Dalihan na Tolu Community</i> ; Rich people become prosecutors like prosecutors. <i>Namora na Toras</i> positions itself as a defender.

To strengthen this decision, *ingots are usually given* from the winning party. Giving *ingots* is intended to:

- a. So that those who receive these *ingots* are expected to remember more about the results of their own decisions;
- b. The person who gets these *ingots* will tell the results of the decision to his close family, with the intention that if he forgets there will still be someone who remembers him;
- c. So that the results of a decision are more valuable;
- d. So that there is a sense of accountability from those who hear the decision;



- e. So that there is appreciation for the efforts of all parties who resolve the case;
- f. Show gratitude to parties who helped resolve a case.

Usually *hatobangon* and kings will not make decisions that are unilaterally beneficial, even to their own family. They risk their honor more than other interests. That is why their decisions are more often honest and fair. As a result, indigenous peoples obey and carry out all the decisions they make.

The realization of the implementation of the decisions of the *hatobangon*, *harajaon*, and representatives of the *Dalihan na Tolu indigenous community* in environmental disputes usually takes the following steps:

- a. The results of the deliberation decisions made in the Traditional Council are announced to the entire community, especially to the community where both parties to the dispute live;
- b. The implementation and realization of the decision is supervised and controlled directly by the entire local community, with awareness and full sense of responsibility;
- c. After all the results of the decision have been implemented properly, the dispute is considered to have been resolved and the status and rank of the disputing parties in the customary view returns to their normal status and position;
- d. If there is denial or disobedience to the results of the decision of the Traditional Council, then *Harajaon*, *Hatobangon* and representatives of *the Dalihan na Tolu community will be warned and given warnings* ;
- e. If, after being given a warning, it turns out that it is still not implemented or heeded, then the community simultaneously orders the person concerned to leave the village immediately and look for another village as a place to live.

Apart from utilizing the mediation procedures above, the Batak people also use 2 (two) approaches in resolving every dispute, including resolving environmental disputes, namely:

- a. An approach based on the philosophy of the Batak people. The philosophical content that has prevailed in Batak society so far is: "*Somba mar Mora, Elek mar Anak Boru, Manat-manat mar Kahanggi*". The meaning of this philosophy can be explained and detailed through the following information:

Table 7. Batak Community Philosophy in Resolving Disputes

<b>Philosophy</b>	<b>Understanding</b>
<i>Somba mar Mora</i>	a. Honor b. Maintaining Honor c. Politeness d. Support
<i>Elek mar Anak Boru</i>	a. Taking Heart; b. Seduce; c. Taking care not to be offended; d. Loving
<i>Manat-Manat mar Kahanggi</i>	a. Be careful b. Not just any c. c. Maintaining Feelings

*Mora* has the highest position in the Muslim Batak community in Southern Tapanuli. They are always respected, their words always contain prayers and advice for their *boru children* and they are always seated in a place of honor at every traditional event, including in resolving various problems and disputes in the community. In tradition, *mora* must be respected properly and if it is not cared for and respected, it is like challenging the sun, so that as a result the eyes can become dark and one cannot see direction. All behavior in front of *the mora* must be polite and courteous with full respect. You are not allowed to pass in front of him carelessly, even if you are forced to, you must bow while paying respects in accordance with the applicable customary rules. As far as possible, orders must not be denied, but must be carried out.

*Boru children* are required to be able to know and at the same time be able to carry out their work with full responsibility, without having to wait for *Mora* 's orders and commands. He understands that his place is in the back or kitchen at every party. Because he is responsible for preparing all the necessities needed for each traditional event. *Anak Boru* are the parties who are asked for help and assistance in carrying out traditional work, they are the ones who organize and take care of *Siriaon* and *Siluluton* , both light and heavy, they are tireless and always try to ensure that the implementation runs well and smoothly.

b. An approach based on the moral message contained in *Tutur* . *The speech* contained in the Batak traditional community has several moral messages that family and social life must be built on the basis of:

1. *Marsihaholongan* (love each other);
2. *Marsipagodakkon* (raising each other/lifting each other up);
3. *Marsihapadean* (doing good to one another);
4. *Marsibegean* (listening to each other), *Marsilehenan* (giving to each other);
5. *Marsipagabean* (make each other happy), *Marsipangiboan* (give each other mercy);
6. *Marsitohelpnan* (helping each other), *Marsilehenan* (giving each other);
7. *Marsihargaan* (mutual respect);
8. *Marsipaingotan* (remind each other).

The eight moral messages above are very powerful tools in creating harmony in the family, society and nation. Even more than that, various types of disputes can be reduced and resolved through the moral messages above.

The high level of public trust in the results of the decisions produced by the *Tutur institution* is based on the following:

- a. The results of the decisions issued through the *Tutur institution* are considered fairer, more beneficial and more certain because the results of the decisions are in accordance with the legal ideals and legal feelings of the community;
- b. The implementation of the decision is supervised by the entire indigenous community;
- c. The parties who act as judges/deciders in resolving environmental disputes are apart from the elements of *harajaon*, *hatobangon* as people who are respected and respected, there are also elements of representatives of the *Dalihan na Tolu* indigenous community who act on behalf of the families in dispute.

Through this *speech*, people will not be able to speak carelessly, let alone act recklessly in front of other people. Because each of them understands their kinship and descendants with each other. As a concrete example, this is:

- a. people of the same clan are considered to be of one descent, very close kinship and blood ties, even though they have different religions and beliefs. In the sense of the word, people from the same clan are considered as siblings or close relatives who should not be insulted, disturbed, let alone made enemies of;
- b. Anyone who marries the daughter of the Batak traditional community, even if she comes from another tribe, automatically the man who marries her immediately joins the family of the *Dalihan na Tolu traditional community*, namely as *Anak Boru* (the son-in-law's family). On the other hand, for members of the Batak traditional

- community who marry a daughter from another tribe, their parents and all siblings will automatically join the family circle of the Batak traditional community, that is, they will be in the *Mora position* (all of the in-laws' family);
- c. Giving someone the name *harajaon* is a form of respect for *Tutur* , because *Tutur* is a symbol of respect and glorification of humans. So, as much as possible, one should not call others by their real names. Even if you are forced to call someone by their name, it is only permissible for parents to their children, older people to their younger siblings and people their own age.

### **3. Deliberation system in resolving environmental disputes through *Tutur institutions***

In the principles of Batak society, to carry out work or to decide on matters and problems in society, both large and small, especially those involving customs and religion, can be resolved through deliberation.

Not all disputes that arise in Batak society must be resolved in customary deliberations. However, only disputes that have disturbed customary interests must be resolved through customary deliberation. Many types of disputes arise in society that require resolution through customary deliberation. However, among the many existing disputes, it turns out that disputes in the environmental sector are also often resolved through customary deliberations.

The Batak people are very serious about responding to and resolving every dispute that arises in the environmental sector. Because if environmental disputes are left without being resolved seriously, then the problems that arise are not only related to problems between husband and wife, but can spread to family problems for both parties, and can even spread into conflicts between tribes and villages.

Meanwhile, the deliberation system for resolving environmental disputes through *Tutur institutions* is carried out at several levels according to the status of the people participating in a deliberation:

- a. *Tahi Ungut-ungut* (family deliberation). *Tahi Ungut-ungut* is also called *Martahi Tot* or *Tahi Unung-unung ni Sibahue* . At this level deliberations are carried out between husband and wife. If the problem cannot be resolved between husband and wife, then the deliberation is attended by the husband's parents and siblings, if the problem

originates from the husband. And if the problem originates from the wife, then the deliberation will be attended by the wife's parents and siblings. And if the problem has not been resolved in this way, then the deliberation continues with the parents and siblings of both parties attending simultaneously. All of these methods are called *Tahi Ungut-ungut* . The presence of parents in participating in the *Ungut-ungut deliberation* is determined by the type of dispute and the source of the dispute;

- b. *Tahi Dalihan na Tolu* or also known as *Martahi Sabagas* . At this level, deliberations are held between *Mora*, *K ahanggi*, and *Anak Boru* . This deliberation is carried out, if the dispute discussed at the first level has not been resolved, then the settlement continues in deliberations at the second level. Generally, disputes discussed at this level can be resolved well;
- c. *Tahi Godang Parsahutaon* (Large deliberation in a village). Deliberations at this level were attended by apart from husband/wife, representatives from the *Dalihan na Tolu* group , also attended by: *Raja Pamusuk or Raja Panusunan Bulung* , traditional leaders, *Harajaon, Hatobangon, Pisang Rahut, Ompu ni Kotuk, the Rich Man* ;
- d. *Tahi Godang Haruaya Mardomu Bulung* (Large deliberation between villages or *Luat* which are directly adjacent). Deliberations at this level were attended by apart from husband/wife, representatives from the *Dalihan na Tolu group* , traditional leaders, *Harajaon, Hatobangon, Pisang Rahut, Orang Kaya*, also attended by *Ompu Nikotuk, Hatobangon, Raja Panusunan Bulung* and *Raja Torbing Balok* .

The four levels of deliberation above are hierarchical levels that must be passed sequentially. If a dispute occurs in the environmental sector, it must first be resolved in a first level deliberation. If deliberation at this level is deemed to have resolved the problem, then there is no need for further deliberation to continue at the next level. However, if the problem or dispute has not been resolved in deliberations at the first level, then it will continue to deliberations at the second level, and if the problem or dispute has not been resolved, then it will continue at deliberations at the fourth level. More details can be seen in the table below:

Table 27. Deliberation levels and participants

No	Levels of Deliberation	Deliberation Participants	Information
1		1. Husband and wife	

	<i>Tahi Ungut-ungut</i> (family deliberation). <i>Tahi Ungut-ungut</i> is also called <i>Martahi Tot</i> or <i>Tahi Unung-unung ni Sibahue</i>	The husband and wife are attended by the husband's parents and siblings, if the problem originates from the husband	
		The husband and wife are attended by the wife's parents and siblings, if the problem originates from the wife	
		The husband and wife are attended by parents and siblings of both parties simultaneously	
2	<i>Tahi Dalihan na Tolu</i> or also known as <i>Martahi Sabagas</i>	The husband and wife were attended by <i>Mora</i> , <i>K ahanggi</i> , and <i>Anak Boru</i>	
3	<i>Tahi Godang Parsahutaon</i>	The husband and wife, representatives of the <i>Dalihan na Tolu group</i> , were also attended by: <i>harajaon</i> ( <i>Raja Pamusuk</i> or <i>Raja Panusunan Bulung</i> ) , <i>Hatobangon</i> ( <i>Pisang Rahut</i> , <i>Ompu ni Kotuk</i> , <i>Rich Man</i> )	
4	<i>Tahi Godang Haruaya Mardomu Bulung</i>	The husband and wife, representatives of the <i>Dalihan na Tolu group</i> , were also attended by: <i>harajaon</i> ( <i>Raja Pamusuk</i> or <i>Raja Panusunan Bulung</i> ) , <i>Hatobangon</i> ( <i>Pisang Rahut</i> , <i>Ompu ni Kotuk</i> , <i>the Rich Man</i> ) and <i>King Torbing Balok</i>	

There are 2 (two) types of customary activities that require deliberation within the Batak Muslim community in Southern Tapanuli through the platform *Dalihan na Tolu* , namely:

- a. Activities of a *Siriaon* and *Siluluton nature* ;
- b. Dispute Resolution in Society.

The majority of Batak people believe in resolving environmental disputes through the concept of *speech* rather than resolving them through court, because they consider decisions that are made based on the results of deliberation to bring more justice, benefit and legal certainty. This condition is influenced by several things:

- a. Dispute resolution through deliberation is a solution that has long been maintained since the time of our ancestors;
- b. The parties who act as decision makers are people who are respected and respected because they come from the lineage of kings, traditional leaders and representatives of the *Dalihan na Tolu family* ;

- c. Dispute resolution based on deliberation has very strict requirements and procedures, so that the root of the problem can be identified. After that, an appropriate decision will be given to the parties, witnessed by the entire community;
- d. Sanctions imposed as a result of deliberations are moral sanctions that do not exclude civil sanctions such as compensation, fines, revocation of rights, termination of environmental relations and others.

#### **4. Cultural Customs of the Muslim Batak Community in Southern Tapanuli**

The Muslim Batak community in Southern Tapanuli is a society that has a variety of customs and cultures that have very high value, especially in managing various aspects of life in society, including in regulating the implementation of marriages and at the same time models for their resolution in the midst of society . Some of the cultural customs of the Muslim Batak community in Southern Tapanuli are:

##### ***Dalihan na Tolu***

Kinship relations are created due to blood relations and marriage relations which are regulated in the *Dalihan na Tolu kinship system* . If Sutan Managor held Patuan Daulat Baginda Nalobi stated that the social structure of Batak society consisted of 3 groups called *Dalihan na Tolu* . This means directly three furnaces. Three pillar stove. It is considered stable and strong enough to place pans or other cooking utensils on it.

In another sense, to build life, three groups need to support each other, namely: *kahangi*, *anak boru* and *mora* . Gultom Rajamarpodang says *Dalihan* means "furnace". *Na* means "one", *Tolu* means "three". So *Dalihan na Tolu* means " a stove with three legs", namely three stones that are used as a base or support for a cooking pot. So what is meant by *Dalihan na Tolu* is a social customary institution which is a unity of the entire community which has its own customary rules in regulating various aspects of life which can be used as a tool in overcoming various conflicts of rights and obligations. Jailani Sitohang believes that *Dalihan na Tolu* is the most basic aspect of Batak people's life. Likewise with the structure of Batak society, it turns out that it has three elements like *Dalihan na Tolu* which cooperate with each other in various matters, including cooperation in the field of religion. The elements of *the Dalihan na Tolu* community in question are:

1. *Mora* , namely all the family that comes from the in-laws. This means that if someone has a daughter and then marries someone else, then the position of the woman's father

is as *mora* . Meanwhile, the position of a boy who takes his daughter is as *a boru child* in front of his *mora* . Sutan Managor believes that *Mora* is another *clan group* that gives *boru* to other parties. In another sense, *Mora* is the brother of *theparumaen* (daughter-in-law), wife and mother. *Mora* is a group of relatives who give *Boru children* to be married to *Boru's children* . M. Zen Harahap believes that *mora* has the highest position in *Dalihan na Tolu society* . They are always respected, their words always contain prayers and advice for their children *and* they are always seated in a place of honor at every traditional event. The position of *the mora* is that of a guide and advisor ( *pangidoan poda* ) for the success of a party event. In tradition, *mora* must be respected properly and if it is not cared for and respected, it is like challenging the sun, so that as a result the eyes can become dark and one cannot see direction. According to the *paradaton*, the moral side is the place to ask for blessings and good luck, and they are the ones who give blessing prayers for traditional ceremonies, they are the *dongan tumahi* (friends asking for advice). *Mora* is likened to *mata ni ari so takgakon, liung so tukkiron, dap-dap so dahopon, panggobak tondi dohot agen ni anak boruna* . *Mora in the Dalihan na Tolu* indigenous community has several types, namely:

- a. *Mora Mataniari* is a family group that for generations has been the group where *Boru* (wife) was taken by the *Kahanggi group* . *Mora Mataniari* is a family group where the *Kahanggi group*, since their grandmother, has taken *Boru (wife)* from the *Mora* family . Every traditional ceremony, *mora* this *mataniari* can attend and act as *Harajaon* ;
  - b. *Mora Ulu Bondar* ( *Pangalapan Boru*) is a family group that has given *Boru* to *Kahanggi* and therefore the children of *Kahanggi's side* can then have the right to take *Boru* from this *Mora Ulu Bondar group*;
  - c. *Mora Pambuatan Boru* is *Mora* as a family group that is the first time *Kahanggi* has taken *Boru* to *Mora* .
2. *Kahanggi* are all families or descendants who have blood relations on the father's side and do not include blood relations on the mother's side. All people who are members of the father's family, whether in a descending position, such as children, grandchildren and so on or in an upward lineage position, such as father, grandfather and so on or in a lateral lineage, such as siblings, uncles and others. *Kahanggi* is also called *dongan sabutuha* (friend from the same place of birth). Sutan Managor Holds Patuan Sovereign



Majesty Nalobi believes that *the Kahanggi* are members of a family or clan group. *The Kahanggi* are also a group of relatives from the same clan. Other terms related to *kahanggi* ni are: *saama saina, marangkang maranggi, saama, saompu, saparamaan, saparompuan, sabona* or *sahaturunan* . Included in the *kahangi* group are *kahangi pareban* , namely relatives whose wives come from the same family as the *kahangi wife's family* . *Kahanggi* and *kahangi pareban* in the traditional siding are in one camp, one group of relatives. In traditional siding, these bandages are also called *hombar Suhut* if they are of different clans.

3. *Boru's children* , namely all the families of the in-laws. This means that the family comes from the person who takes someone's *B oru* (daughter/daughter) without exception. Usually, *Anak Boru's* family has a *surname* that varies depending on *the surname* of the son-in-law or person who takes someone's daughter. Sometimes *Boru children* can even have different religions from *their Mora* . *Anak Boru* is also interpreted as another group of *clans* who take someone's daughter, sister and father's female sibling. *Boru children* are also referred to as a group of relatives who take wives from *Mora relatives* . This group of relatives who took the boru were very loyal to the wife's family, namely her *Mora* . Social status. Such as rank, position, will not affect the duties as a *Boru Child* in traditional work and kinship relationships. The oldest of *Anak Boru's relatives* are given official titles in customary terms as *Orang Kaya* and *Bandaharo* . Nicknames for *Anak Boru* include:
  - a. *Nagogo Manjujung* ( *Children of Boru* always try to uphold *Mora's honor and dignity* ) ;
  - b. *Na Juljul tu Jolo* ( *Children of Boru* are always ahead paving the way, removing all obstacles in the way of *Mora's* path) ;
  - c. *Na Torjak tu Pudi* ( *Child Boru* as support and support from behind *Mora*. If *Mora* experiences difficulties, then *Anak Boru immediately plays the role of appearing behind to help, so that Mora's* dreams are achieved and successful) ;
  - d. *Tungkot din a Landit* ( *Child Boru* can function as a tong on any slippery road to support the body so it doesn't fall) ;
  - e. *Sulu-sulu din a Golap* ( *Children of Boru* as a lamp in the midst of darkness for *Moranya* . If *Mora* is in trouble as if she is in darkness, has lost her direction, then *Anak Boru* can function as a lamp so that she doesn't lose her way .;

- f. *Si Tamba na Hurang* ( *Son of Boru* can cover all *Moranya's shortcomings* ) ;
- g. *Si Horus na Lobi*;
- h. *Piri-piri Manyoging* (If the *mora* is offended , *Anak Boru* will not dare to scold his *mora* but will still maintain his *mora's honor* ) ;
- i. *Dapdap so da Hopon* (a *Dapdap* tree that cannot be held because it has lots of thorns. This means that a *Mora* cannot be careless about *the Boru child* because it can bring danger to *the Mora* itself) ;
- j. *Goruk-goruk Hapinis* (Locks, bars or fences that keep people from entering a protected place. This means that *Anak Boru* has the function of guarding *Moranya* so that she is not disturbed by other people. *Hapini* is a type of strong wood that depicts the strength and toughness of *Anak Boru* in protect *Moranya* ) ;
- k. *Bungkulan Tonga-tonga* ( *Child Boru* functions as a unifier and peacemaker for all *Moranya* . *Anak Boru* must not take sides, he must prove his love for all *Moranya* without favoritism) ;
- l. *Banana Raut* is also called *Si Buat Bere* . *Pisang Raut* comes from *kara Pisang ra* , which means wherever he is told, he never dodges it.

## CONCLUSION

Implementation of environmental protection can no longer be relied on solely on applicable laws and regulations, but must also be combined with existing local wisdom, such as through the *Tumbaga Holing Letter*, because by using local customary law, it will be more obeyed, respected and practiced because it is appropriate. legal ideals ( *rechtidea* ) and legal feelings ( *rechtgevoool* ) of society, so that environmental destruction does not occur again in the future, at least the number of cases can be minimized. The Batak indigenous community has been protecting the environment through the *Tumbaga Holing Letter* , the rules of which are contained in *Patik* , *Dalihan na Tolu* Traditional Philosophy (which contains: *Mora do Sisuan Bulu* , *Kahanggi do Panjagoan ni Hatubuon* , *Anak Boru do Pagodakkon Hatubuon* ) and are contained in *Genus* . Meanwhile, the types of sanctions imposed on perpetrators of environmental damage are: *Dibondarkon* (not involved in traditional activities), *Sappal Dila* (inviting people to eat in the village), *Dipaorot sian Huta* (expelled from the village), *Dipaorot sian Marga* (expelled from *the Marga* ), *Diapaulak Salipi Natartar* (returning customary

land).

### **Suggestion**

It is hoped that the provincial government, district/city government together with the Regional People's Representative Council of North Sumatra Province will immediately adopt Batak traditional local wisdom material in the field of environmental protection, so that the material is more adhered to, adhered to and practiced in society, especially in the Sumatra Province region. , generally in all provinces in Indonesia, because the material comes from the legal ideals and legal feelings of the community.

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