

A SOCIOLOGICAL STUDY OF LAW ON *KE'DDI*: ITS IMPLEMENTATION AND IMPACT

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ABSTRACT

The aimed of study was to know about Ke'ddi in the implementation and impact from the perspective of legal sociology. This research is empirical research examining laws that are conceptualized as real behavior in society. These societal behaviors are constructed by sociologists as living law. The results showed that Ke'ddi should have been discussed before the husband's body was buried, but in reality ke'ddi was also discussed after the body was buried based on certain considerations. Widows who are already in Ke'ddi, by itself she returns to her original family, unless otherwise specified in the family's decision. Ke'ddi is done for certain reasons but whatever the reason, some parts of the stage of implementation of Ke'ddi violate the rules of marriage law, violate human rights, therefore as Uku Rai Hawu, Ke'ddi is still carried out with due regard to balance so that no rights are violated both the rights of the Wife/Widow/Mother and the rights of children and still maintain a harmonious relationship between the family of the wife and the family of the deceased husband.

KEYWORDS: Ke'ddi, implemnetation, impact, sociology of law, Sabu

1. INTRODUCTION

Since the man had a family they have arranged himself and his family members according to their habits. This habitual behavior applies continuously so that it is a fixed habitual behavior. The fixed behavior gives rise to personal habits, then imitated others into the habits of that person, then between one person and the other in society do the habit then everyone from the unity of that society does the habit so that it becomes a custom. So customs are the customs of the people, the groups of people that apply to all members of society so that they become customary law (Hilman, 2014). Customary law applies in an indigenous people, indigenous peoples are referred to by the term "traditional people" or "the indigeneous people." Meanwhile, indigenous peoples are human communities that comply with regulations or laws that regulate human behavior in relation to each other in the form of a whole of habits and decency that really live because they are believed and adhered to and if violated the perpetrators get sanctions from indigenous rulers (Utomo, 2017a).

Various regions in Indonesia have customary law as living law (Hoadley, 2006) even the development of the legal system in Indonesia tends to choose civil law and common law system (Abubakar, 2013), the common law system recognizes customary law as a source of law used in deciding a case (David, 2008). The legal system is part of the culture of a legal society not born of an arbitrary act (arbitrary act of a legislator) but is constructed and can be found in the psyche of society. Law hypothetically according to Freeman (2001) can be said to be derived from habit and subsequently made through a legal activity (juristic activity). Movements at the international level have inspired the emergence of indigenous peoples' movements in Indonesia, especially post-reform (Davidson & Henley 2008).

Customary Law is upheld and respected to this day, including the Sabu area. Sabu is an island located in East Nusa Tenggara Province. Fox (1996) mentions historically the Portuguese who first called this island "Savo". The name has generally been accepted as the name of the island, although the local Indonesians still use two different names namely "Sabu" and "Sawu." However, the language "Sawu" does not use /s/ nor /v/so the inhabitants of "Sawu" themselves call this island "Rai Hawu" which means *Hawu* Island. So this name is the real name of the ancestors who first occupied this island and is not a foreign name. The name used by the locals was different from the name used internationally so James decided to use the form that was first used, namely "Savu" in the English publication.

The Sabu Raijua Regency Government (2019) mentioned Sabu Island also known as "*Sawu*" or "*Savu*." The inhabitants of this island themselves call their island "*Rai Hawu*" which means the Land of *Hawu* and the Sabu people themselves call themselves "*Do Hawu*". The official name used by the local government is Sabu. In relation to the *Sabu* customary law that applies according to Kaho (2005a) reveals, every human being has his own place and his role in the family in society and in the universe in accordance with the law of harmony. The law of harmony is usually spelled out or institutionalized through an institution called *Uku Rai* or *Customs* that serves as a regulator of discipline in every attitude of human behavior and deeds in social life and in relation to nature. In the *Sabu* people's view the customs of Sabu (*Uku Rai Hawu*) are the same as religious sharia, customary law is the same as religious law. *Uku Rai Hawu* is a whole of the norms/rules or rules that live in society that although not written but obeyed and upheld and whoever violates them will be subject to sanctions. There are two kinds of sanctions that will be imposed, namely sanctions from traditional elders and sanctions from gods or *Deo Ama* and the ancestors. According to the *Sabu* people *Uku Rai Hawu* received from *Deo Ama* and the ancestors who were obliged to be obeyed and upheld from generation to generation. Kaho (2005b) states *Uku Rai Hawu* was founded by *Deo Rai* (Landlord)

Do Hawu (*Sabu* people) have great respect for the ceremonies, in honor of the spirits of the ancestors and the worship of *lehulur* which is a reflection of their values, they keep the philosophy and traditions of nature (Rohi, 2014). One of the provisions of customs (*Uku Rai*) that is respected to be carried out to date is "*Ke'ddi*" for wives who are left for dead by their husbands. The widow who was already in *Ke'ddi*, she naturally returned to her original family.

There are several things that are consequences for the Widow who is in *Ke'ddi*, namely: 1). The widow who in *Ke'ddi* cannot return to her husband's family unless there are agreements in the family talks; 2). The widow who was in *Ke'ddi* returned to her husband's family because she was asked by her children, she had to keep the good name of her husband's family while He was there, because if He made a mistake or He was treated improperly then her family would take home forcibly; 3). Children who ask their Mother to return to them shall be solely responsible for their mother, if the mother dies returned to her mother's family for burial, unless otherwise specified in the family conversation; 4). The Widow whom *Ke'ddi* was not asked for her opinion in the Family talks; 5). If in his marriage there is property produced as joint property then even that property must not be controlled, enjoyed by him because the common property will belong to the children who are in the supervision of the husband's family. Unless He lives with his children then He can also enjoy the treasure; 6). The widow who in *Ke'ddi* returned to her family only brought "*Kepepe*" a place made of woven lontar leaves that were round or rectangular in shape measuring 30x30 cm or 40x40 cm, which contained a yarn spinning device (*manyeruwangu*), a cotton seed breaking device and, *Rai Lere* (if any) i.e. property in the form of land (hereditary heritage) given by parents. But if He had a daughter then *Rai Lere* was left for his daughter; and 7). The widow who in *Ke'ddi* returned to her original family no longer uses her husband's surname, although socially people still know and greet her by using her husband's surname behind her name.

2. METHOD

This research is an empirical study that examines the law which is conceptualized as actual behavior, as an unwritten social symptom experienced by everyone in a social life relationship. Empirical legal research explores patterns of behavior that live in society as juridical symptoms through the expression of *actual behavior* experienced by society (Muhamad, 2004). This research is an empirical research with the *type of Sociology of Law* constructing law not as a system of norms in the form of laws and regulations but law is constructed as *ajeg* and institutionalized community behavior and gaining social legitimacy (Saifullah, 2018).

It is these behaviors of society that sociologists construct as living law. At first glance, this phenomenon can be categorized as customary law. This opinion is not wrong but it would be better said to be a customary law because it will give a broader understanding and not be perceived to the behavior of traditional people only but also to all behaviors in modern society (Fajar & Achmad, 2010).

This research was conducted on The behaviors of *Do Hawu* in Liliba Village, Oebobo District, Kupang City. Even though they live outside Sabu Island, they still maintain and carry out *Uku Rai Hawu*.

The data used are primary data and secondary data. Primary data is data obtained by researchers directly from respondents by means of unstructured interviews that make it easier for researchers to be creative (Arikunto, 2002). Respondents have been planned and determined after the researcher made a visit to ensure, the social situation and readiness to be a respondent based on the experience of 8 people, who were classified:

1. Respondents who have experience in *ke'ddi*, 2 people
2. Respondents whose mothers were in *ke'ddi*, 2 people
3. Respondents whose grandmothers were in *ke'ddi*, 2 people and
4. The respondents who were *Mone Li* (spokesperson) of the Widow's family who were in *ke'ddi*, 1 person and from the family of the deceased husband, 1 person

Secondary data is collected by researchers searching, searching, reading, various library materials offline and online. The collected data are analyzed qualitatively. A qualitative data analyst is a form of analyst by interpreting and describing data through words in a narrative with scientific logic.

3. RESULTS AND DISCUSSION

3.1 *Ke'ddi* and its meaning

Ke'ddi in Sabu language means "to wake up or go home" to the lap of the original family (Kaho, 2005c), *bale la'ammu*, meaning to return to the original house.¹ In *Uku Rai Hawu* if a woman marries a man legally and her husband *ma'de* (dies) whether *ma'de netta* (die sweetly) i.e. dies quietly or reasonably or *ma'de harro* (salty death) i.e. dies by suicide or accident, the wife's family has the right to ask for their daughter back (Kaho, 2005d).

3.2 Reasons for *Ke'ddi* to be done

Ke'ddi is done with reasons including: 1). Is the revered *Uku Rai Hawu*, 2). Husband dies, 3). Protecting their daughters from the arbitrary actions of the family of the deceased, and 4). To prevent their daughter from committing acts of disgrace (Kaho 2005e) According to LDL, the essence of ²*Ke'ddi* is the young Widow in *Ke'ddi* because she still has the opportunity to marry and build a new family.

3.3 Implementation of *Ke'ddi*

According to Mena (2011), LE GH apabila a husband died then the wife of the deceased in ³⁴*Ke'ddi*, the stages of implementation include:

Preparatory Stage:

1. In the Family of the Wife of the Deceased

- A. Family conversation. The family held a meeting to determine who would be *Mone Li* (spokesperson) and matters related to *Ke'ddi*. This conversation took place before the husband's body was buried.
- B. The parties involved are the siblings, brothers both biological and cousin, brothers of the father, and brother of the mother (*Make Mone*).

2. In the Family of the Deceased Husband.

- A. Family conversation. The family held a meeting to determine who would be *Mone Li* (spokesperson), various possibilities that occurred during the implementation of *Ke'ddi*.
- B. The parties involved are the biological father, the brother of the father and mother and the brother of the deceased.

In addition, those who were also present at the meeting between the two families were the wife of the deceased and their children. Implementation stage:

- A. The meeting of the two families. At a predetermined time the two families met in order to carry out *ke'ddi*. *Ke'ddi* was performed in the evening before the body was buried.
- B. The content of the conversation. The family of the deceased's wife conveyed their intention of doing *Ke'ddi*. In response to this intention, the first opportunity is given to children to express opinions. The opinions of children vary depending on their age. An adult child *who* understands and understands customary law usually only asks for consideration to pay attention to his younger siblings. Meanwhile, young children, of course, they object to their mothers in *Ke'ddi*. After the children argued the next opportunity was given to the family of the deceased. In general they refused on the grounds that the deceased was their son-in-law and the living was their son and also the reason for the child (if the child was still breastfeeding) but the family of the deceased was aware that nevertheless the wife of the deceased should be in *Ke'ddi* because it was a customary law (*Uku Rai Hawu*) which had been obeyed for generations. The widow who was in *Ke'ddi* was not asked for consent because *Ke'ddi* was obligatory.
- C. The decision if the family of the deceased and the children agree to *Ke'ddi* then the Widow/mother, returns to her original family.

1. If the Widow's side agrees to the children's request for the mother to remain

¹ Interview with T LT and JL, March 03, 2020

² Interview dated 05 April 2020

³ Interview date February 16, 2020

⁴ Interview, date February 18, 2020

living with them, then the family of the deceased must allow him to live in the house of the deceased but consequently he lived not as part of the family of the deceased, because he was already in *Ke'ddi*. Nevertheless the children and family of the deceased husband are obliged to pay attention to and respect him.

2. If in his marriage there is common property then the property is left for his children.

- A. Execution of decisions. The decision was made on the 3rd or 5th night or a day agreed upon after her husband's body was buried.
- B. The stage of implementation of *ke'ddi* like this is not standard, meaning that it can be changed according to the conditions at that time, for example *ke'ddi* should be discussed before the body is buried, but sometimes the family considers the "*sadness*" experienced by the Wife / children then *ke'ddi* is carried out after the husband's body is buried as experienced by DBL.⁵
- C. Then the parties involved in the conversation can be substituted for example in the family of the wife of the deceased there is a conversation to determine who is involved, according to the author that is where it is possible to have substitutions.

1.4. Legal Consequences of *Ke'ddi*

3.4.1 *Consequences for Wives/Mothers*

For a wife whose marriage was broken up due to the death of her husband she was obliged in *Ke'ddi* whether after being in *Ke'ddi* she still lived with the children in her late husband's family or not it depended on the decision of the family and the pleadings of her children. If it is not decided otherwise, the mother will lose the obligation to maintain and educate her children as stated in the Law of the Republic of Indonesia Number 1 of 1974 article 45 reads: 1). Both parents are obliged to maintain and educate their children as well as possible, and 2). The parental obligation referred to in subsection (1) of this section shall apply until the child is married or can stand alone which obligations apply continuing even if the marriage between the two parents breaks up.

According to the Law of the Republic of Indonesia Number 1 of 1974 article 38: Marriage can be broken due to:
a. *Death*, b. Divorce and c. by decision of the Court.

3.4.2 *Consequences for children*

Children lose parental custody. If it is not decided otherwise, the children lose the right to be raised and cared for by their own parents. Law of the Republic of Indonesia Number 23 of 2002 as amended by Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection article 1 number 11 states that: "foster power" is the power of parents to nurture, educate, nurture, foster, protect, and cultivate children in accordance with their religion and their abilities, talents, and interests. Of course, what is meant by parents is the father and/or biological mother, or the father and/or stepmother, or the adoptive father and/or mother (vide article 1 number 4). In accordance with the provisions of this Act if the mother is still there then the custody power lies in the hands of the mother.

Alimentation obligations, if it is not decided otherwise, the mother of the children who are in *Ke'ddi* and return to their original family then the children lose the opportunity to carry out their obligations to respect and obey parents, especially adult children, will lose the obligation of *Alimentation* (Shadily, 1987), *Alimentation* (Latin: *Alimentatio*) is the giving of a living based on family relationships, parents are obliged to give alimentation to children and vice versa children to parents who do not have a living. The Civil Code, Article 298 reads: "Each child of any age is also obliged to have honor and freshness towards his father and mother..., against children who have grown up apply the provisions contained in the third part of this chapter". The point is that Article 321 states: "each child is obliged to give a living, to both his parents and the blood families in the line upwards, if they are in a state of poverty".

The same is regulated in the Law of the Republic of Indonesia Number 1 of 1974 pasal 46 reads: 1). Children are obliged to respect their parents and obey their good will, and 2). If the child has grown up, he is obliged to maintain according to his ability, parents and family in a straight line upwards if they need his help.

3.4.3 *Consequences for marital property*

Common property is property acquired during marriage. Common property is controlled by husband and wife (Muhamad, 2000). The utilization of common property is based on the provisions of the Law of the Republic of Indonesia Number 1 of 1974 Article 36 paragraph 1 reads: "regarding joint property, the husband or wife may act with the consent of both parties." This provision requires that the use of common property requires the consent of the husband and wife. If so, then if the husband is dead, the utilization is regulated by the wife. In

⁵Interview with DBL April 17 2020

Uku Rai Hawu the common property consists of movable objects and immovable objects (Mena 2011). When his wife was in *Ke'ddi*, He came home with nothing but to bring "*Kepepe*". The joint property produced with her husband belonged to her children. According to Kaho (2005f) that: Whenever the husband dies then his property is designated for his children as heirs. If the children were immature the property was taken care of by their mother with the supervision of her late husband's brother.

This is an injustice for the Widow/Mother because to manage and manage her property is still supervised by the family of her late husband even on the grounds of the interests of immature children. The interests of the widow or mother were ignored, even though in order to get all of it she had taken great pains with her husband. Constitution of the Republic of Indonesia of 1945 Article 28H paragraph (4): "Everyone has the right to have private property rights and these property rights must not be arbitrarily taken over by anyone". Law Number 4 of 1984 concerning ratification of the convention on the elimination of all forms of discrimination against women (*Convention on the Elimination of All Forms of Discrimination Against Women*) Article 1 reads: "for the purposes of the current convention the term discrimination against women means any discrimination, exclusion, or restriction made on the basis of sex that has the influence or purpose of reducing or abolishing recognition, the enjoyment or exercise of human rights and fundamental freedoms in the political sphere of civil socio-cultural economy or anything else against women regardless of their marital status on the basis of equality between men and women."

According to the author Widow who in *Ke'ddi* should not be treated differently from her children, if the child is considered then it should be divided into two parts so that the child and her mother are not displaced in their lives as written in Article 51 paragraph 3 of the Human Rights Law: After the breakup of marriage, a woman has the same rights as her ex-husband on all matters relating to common property without prejudice to the rights of the child, in accordance with laws and regulations.

Inherited property is property that comes from the husband /wife who is brought into his marriage. Regarding inherited property, in Article 36 paragraph 2 of the Law of the Republic of Indonesia Number 1 of 1974 it is stated that regarding the inherited property, each husband and wife have the full right to carry out legal actions regarding their property. According to CK,⁶ in general, the property brought into the marriage has been used for the common good so that when the Widow was in *Ke'ddi* her family did not question the inherited property, except for *Rai Lere*.

3.5 *Ke'ddi* A Violation of Human Rights

In various literature the term human rights is a translation of *droit de l'homme* (French), *human rights* (English) and *mensenrechten* (Dutch). In other literature, the term basic rights is used which is a translation of *basic right* (English) and *grondrechten* (Dutch). Some people refer to it with fundamental rights as a translation of *fundamental right* (English), *fundamentele rechten* (Netherlands), (Nasution, 2011).

There is also used the term *natural right* (English), *rechten van den mens* (Netherlands). Meanwhile, in Indonesian literature, the terms human rights, natural rights and basic rights are used (Hadjon, 1987). From these various terms, the author uses the term Human Rights abbreviated as Human Rights as a translation of *human rights* which are rights that have received recognition both at the national and international levels.

The (classic) definition of Human Rights that is often cited is: *A human right by definition is a universal moral right, something which all men, everywhere at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he (she) is human* (Cranston, 1973).

Human rights are rights that man has solely because he is a human being. Mankind has it not because it was given to him by society or based on positive law but solely on the basis of his dignity as a human being (Donnelly, 2003). Although everyone is born with different skin colors, genders, languages, cultures and nationalities, they still have these rights, this is the universal nature of these rights and is *inalienable*. Smith *et.al* (2009) argue that no matter how bad the treatment a person has experienced, or no matter how cruel one's treatment is, one cannot stop being a human being and therefore he retains those rights, in other words those rights are inherent in him as a human being.

Human rights are a conception of recognition of human dignity and dignity that is naturally inherent in every

⁶Interview dated April 20, 2020

human being without differences in nation, race, religion, and gender (Irsan, 2009). Meanwhile, Law Number 39 of 1999 concerning Human Rights article 1 point 1 stipulates that "Human Rights are a set of rights inherent in the nature and existence of man as a being of God and are His grace that must be respected, upheld and protected by the state, law, government and everyone for the sake of honor and protection of human dignity and dignity".

Human rights according to Barker *et.al* (2006) have an *inherent* characteristic, people have human rights because they are human beings. *Universal*, human rights apply to all people regardless of status, ethnicity, gender, or other differences. *Undeniably*, human rights cannot be revoked or surrendered. *Indivisibly*, everyone deserves all rights whether it is civil, political, economic, social and cultural rights. *Interdependent*, the connoisseurship of one of the rights is influenced by the connoisseurship of other rights.

UUHAM (Human Rights Law) regulates 10 (ten) basic rights, namely: The right to life, the right to have a family and continue offspring, the right to develop oneself, the right to obtain justice, the right to personal freedom, the right to a sense of security, the right to welfare, the right to participate in government, women's rights, and the right of children.

Observing the concept of human rights, the characteristics of human rights and the 10 (ten) basic rights regulated in the UUHAM, a number of problems will arise, especially about the meaning and application of human rights universality. Is it true that everyone has it and everyone respects, does it? Because the discussion and application of human rights is not limited to all human beings having it but how to fulfill these rights by all human beings. As stated by Chan (1995) that human rights have a universal character (for all people, time and place) and must be carried out by all human beings according to Prajarto (2003).

1. Human rights violations

Amnesty International's statement (in 1994 and 1998) that no country is free from human rights problems and violations. However, this claim, which is actually more accurately referred to as a criticism of Amnesty International, should not create conditions for the existence of human rights violations (Kunto & Prajarto, 2005). In Indonesia, article 1 point 6 of the Human Rights Law stipulates that "Violation of human rights is any act of a person or group of people including state officials whether intentionally or unintentionally, or negligence that unlawfully reduces, obstructs, limits, or revokes the human rights of a person or group of people who are guaranteed by this law and do not obtain or are feared that they will not obtain a fair and correct legal settlement, based on the applicable legal mechanisms.

2. Ke'ddi Mon Women's Rights to argue

Constitution of the Republic of Indonesia of 1945 Chapter XA with the Title of Human Rights: Article 28E paragraph (3): Everyone has the right to freedom of association, assembly, and expression of opinion. From this provision it is clear that the right to issue an opinion is a constitutional right. In relation to this study according to db1, the woman/widow who *was told* that she was not asked for her opinion with regard to anything whether it was about her next life, the property acquired during her life with her late husband or about her children. According to him, this has a great impact on his life physically, psychically, socio-culturally, economically and legally.⁷

This condition occurs because often the family is considered as a place of institutionalization of female inferiority and male superiority because traditionally those who are considered worthy of being the head of the family are men. The traditional family structure creates a different division of rights, obligations, time and values to each family member. Where the head of the family (male) occupies the top position (Georgina, 1999). According to the author, this has an impact when there is a change in the family structure where women have the opportunity to be at the top of at least related to their rights and obligations to their survival and their children encounter obstacles, so that they cannot be realized.

3. Ke'ddi Mis a Parent's Human Rights

UUHAM p. 51 paragraph 2 reads: "After the breakup of a marriage, a woman has the same rights and responsibilities as her ex-husband for all matters relating to her children, taking into account the best interests of her children." This rule is clearly imposed on wives whose marriages break up due to divorce, the author argues that in this article it is implied that if the marriage breaks up due to the death of either the husband or wife then the surviving parents have full responsibility. The wife/widow who is in *Ke'ddi* as a living parent has a

⁷Interview dated April 17, 2020.

responsibility for all things related to her children such as love, living expenses, education, and fostering a good future for the child. That means separating mother and child as a violation of human rights.

4. Ke'ddi Violates Children's Human Rights

In the implementation of *ke'ddi* the rights of children who are violated, it is stated in the articles in the UUHAM as follows:

- Article 52: (1) Every child has the right to the protection of parents, family, society, and the state.
 (2) The rights of the child are human rights and for his benefit the rights of the child it is recognized and protected by law even from the moment in the womb.
- Article 56: (1) Every child has the right to know who his parents are, raised and nurtured by his own parents.
 (2) In the event that the child's parents are unable to raise and maintain properly and in accordance with this Law, then the child is by being cared for and appointed as a child by another person in accordance with the provisions of the laws and regulations.
- Article 57: (1) Every child has the right to be raised, nurtured, cared for, educated, directed and guided in his life by his parents or guardians until he is an adult in accordance with the provisions of laws and regulations.
 (2) Every child is entitled to an adoptive parent or guardian based on a court decision if both parents have died or due to valid causes are unable to carry out their obligations as parents.
 (3) The adoptive parent or guardian as contemplated in paragraph 2 shall perform the obligations of being a real parent.
- Article 59: (1) Every child has the right not to be separated from his parents contrary to the child's own will, unless there are valid reasons and rules of law that indicate that the separation is in the best interest of the child.
 (2) In the circumstances referred to in paragraph (1), the right of the child to meet in person and have permanent personal contact with his parents remains guaranteed by law.

From these provisions it is clearly seen that the child is entitled to: 1). Protected by parents, 2). Raised and cared for by his own parents; 3). Nurtured, cared for, educated, directed and guided in his life by his parents, 4). Not separated from his parents, and 5). Meet in person and have regular personal contact with his parents.

The implementation of *Ke'ddi* which results in the separation of the child from the mother is clearly a violation of human rights because the rights of the child are impossible to fulfill. From these various violations, the author chooses to support Nasution's (2011) opinion that rendering is necessary to everyone his own. It must be left to every man what he is entitled to. According to the author this is the essence of respect, respect and enforcement of human rights.

5. Perpetrators of Human Rights Violations in the Implementation of *Ke'ddi*

For people or groups of indigenous peoples who carry out *Ke'ddi* contrary to the UUHAM, of course they or they are perpetrators of human rights violations. Because all Indonesian citizens have an obligation under Article 67 that: "Everyone in the territory of the Republic of Indonesia must comply with laws and regulations, unwritten laws, and international law regarding human rights that have been accepted by the Republic of Indonesia." Article 69 reads: (1) Everyone must respect the human rights of others, morals, ethics, and the rules of life in society, nation and state. (2) Any human right that gives rise to a basic obligation and responsibility to respect the human rights of others reciprocally and it is the duty of the Government to respect, protect, and enforce and demonstrate it and Article 70 which reads: "In exercising its rights and obligations everyone shall be subject to the restrictions established by law with a view to guaranteeing recognition and respect for the rights and freedoms of others and to meet just demands in accordance with considerations of morals, security, and public order in a democratic society.

Things like the one described above show that *Do Hawu* who carried out *Ke'ddi* ignored the real problem of denied human rights values. And the slightest violation of human rights must be viewed as a mistake that needs to be addressed. This means that none of the violations related to human rights can be tolerated. Because this kind of neglect if left unchecked will increase little by little and will even lead to lawlessness.

3.6 Does *Ke'ddi* Remain in Preserve?

Van Vollen Hoven in his book "*Adatrecht*" reveals that customary law at a time that has been somewhat

different in content, customary law shows development. Customary law is evolving and advancing, customary law decisions give rise to customary law (Utomo, 2017b).

Ke'ddi preserved or not there are two opinions:

1. Opinions that agree

In the context of fostering or forming national laws, you cannot ignore the customary laws that exist in society. Customary Law is an important source for obtaining materials because customary law has principles or values that are universal and institutionalized. Customary law serves as a guideline and oversight. As a guideline customary law serves as a guide in behaving, acting, doing in society. Meanwhile, as a customary law supervision through customary officers, they will supervise all behaviors of community members in accordance with applicable customary law. If there is a violation, it will be subject to sanctions to restore balance (Utomo, 2017c).

Ke'ddi is a *Uku Rai Hawu* that must be preserved by *Do Hawu* (Sabu people) everywhere whether living on Sabu Island or outside Sabu Island for the reason that:

- A. There are values that have been passed down from the ancestors, for example, the Widow who is *in ke'ddi* is still young, so there is still an opportunity for her to get married and build a family.
- B. Preventing the Widow from committing despicable acts in the family of her late husband. Preventing her from being socially sanctioned because if He commits despicable acts He will be harassed with the name *Ke'pie* (dog fleas) attached to the family of the deceased husband.

2. Opinions that agree with the balance in mind

Djojonegoro mentioned that customary law has a nature, static, dynamic and plastic meaning: 1). Static: customary law always exists in society, 2). Dynamic: Because customary law can keep up with the development of society, and 3). Plastic / flexible: the flexibility of customary law according to the needs and will of the community (Utomo, 2017d). Based on the results of researched impact from *Ke'ddi* is very large in terms of physical, psychic, economic, socio-cultural, legal for women and children, wisdom is needed para *Deo Rai* and *Do Hawuto* review the implementation of *Ke'ddi*.

According to LE, GH, LDL, ARR, DBL⁸ : 1). *Do Hawu* (Sabu people): have opened themselves up to accept change and have also built a common life with other tribes, 2). *Do Hawu* (Sabu people) are already religious, 2). There is already a positive law in force in Indonesia that binds *Do Hawu* (Orang Sabu) as an Indonesian citizen. So that *Ke'ddi* is still implemented but with certain considerations especially those related to the impact caused.

3.7 Opportunities towards Social Transformation

Fighting social injustice throughout the history of humanity has always been an interesting and important theme, including injustice in the implementation of *Ke'ddi*. Agreeing with Djojonegoro and Respondents LE, GH, LDL, ARR, DBL, CK, LE that there is no community that does not have customary law, it is dynamic and flexible with the existence of a new generation in the customary law community, the customary law follows developments and is used according to the needs and will of the community. Based on the results of the study, not only women but men *Do Hawu* wants transformation to create relationships between each other that are fundamentally new, better and fairer.

Towards a fundamentally new, better and fairer life change of society is not easy because there will be a reaction from the community as the author stated above about whether *Ke'ddi* needs to be preserved raises 2 opinions, therefore an achievement strategy is needed because lest injustice, violations of Human Rights in implementing *Ke'ddi* are considered as not a problem, ignored. Strategies that the author offers:

1. From *Do Hawu Women* to *Do Hawu Women*

Ke'ddi is only for women, therefore the first women are built awareness (knowledge, understanding) of both women on the island of Sabu and those outside the island of Sabu to know, and understand *Ke'ddi*, so that she can become an *agent of change*. Giving consideration to his fellow man, to his family, to the *Deo Rai* who upheld *Uku Rai* and to the Government. Because the results of the study showed that no woman had taken legal action even though she was harmed in the implementation of *Ke'ddi* (interviews with LE and LDL). The trick is to conduct discussions, seminars, workshops with interesting and educational themes. So that Sabu Women will later become a facilitator who provides various information and consultation facilities.⁹

⁸Interview date February 16, February 18, 5 April 2020, dated April 17, 2020

⁹Interview deLE and LDL 16th 16th PebruAri 2020 then 5 April 2020

2. Building Cooperation between Sabu Women, Women's Organizations/NGOs, Government

Fighting for the improvement of women's position and condition is not the same as the struggle of women against men because the issue of injustice does not come from men *an sich*. Therefore, according to the author, the wise choice is to build cooperation, all components of society can synergize so that the struggle for changes in the position and condition of women can be successful.

4. CONCLUSION

The implementation of *Uku Rai Hawu* which has a positive impact is certainly preserved because it is the preservation of noble values. If it has an impact on violations of rights, it needs to be reviewed. The impact of *Ke'ddi* is very large in terms of physical, psychic, economic, socio-cultural, legal for women and children therefore it requires the commitment of the Government, *para Deo Rai, Do Hawu* to carry out *Ke'ddi* with due regard to balance. Socialization and implementation of various legal products in Indonesia still encounter obstacles. Socialization constraints can come from the government or from the community. From the government, for example, small socialization funds, limited officials/ officers, topography, climate and others. Constraints from the community such as customs. Implementation Constraints, for example, are due to the rules, the law enforcement officials, the facilities used and the legal awareness of the community itself. People's legal awareness is low because they prefer to submit to their customs rather than positive laws that apply nationally. The implementation of RI Law number 1 of 1974 concerning Marriage, RI Law number 39 of 1999 concerning Human Rights, RI Law number 23 of 2002 as amended by Law Number 35 of 2014 concerning Child Protection, clashes with *Uku Rai Hawu*.

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