



***Makan Meting* activities by the people of Rote Ndao as an environmental crime**

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Abstract. The traditional custom of *Makan Meting*, which includes indigenous groups collecting fish on Rote Island's coast, poses potential violations of environmental criminal law. The study intends to investigate this practice in light of environmental law enforcement theory in order to determine liability for environmental offenses. The purpose of the research is to explore the concept of *Makan Meting*, a tradition of harvesting fish using traditional methods in Rote, by the indigenous people of Rote from the aspect of environmental criminal law based on empirical legal research method. The research revealed that the act of *Makan Meting* is classified as an act against environmental criminal law (Article 98 paragraph (1) of the standard criteria for coral reef damage) in conjunction with Law Number 27 of 2007 on the Management of Coastal Areas and Small Island Islands Article 35 letters a, b, c, and d on the prohibition of damaging coral reefs. Enforcement of environmental criminal law as *ultimum remedium* in Article 100 paragraph (2) of Law Number 32 of 2009 on Environmental Protection is multi-interpretative if compared to coastal law/fisheries law (Law Number 31 of 2004 on Fisheries) which can implement criminal sanctions related to the prohibition of damaging coral reefs using Alternative Dispute Resolutions patterns that are more effective.

Key Words: *Makan Meting*, criminal environmental law, unlawful act.

Introduction. The tradition of harvesting fish (*Makan Meting*) on the coast of Rote Island, East Nusa Tenggara Province, which has 8 inhabited islands and 99 uninhabited islands, has become a culture for the coastal communities of Rote Island. According to the Rote customary law of *Papa'dak* there is a prohibition to capture marine mammals protected by law on the coast of Rote Island and there has been a customary agreement to protect the coast of Rote Island, but the indigenous people of Rote remain in the habit of harvesting marine fish by disassembling coral reefs as a hiding place for fish around mangrove areas and seagrass beds (Government of Rote Ndao Regency 2021). The types of fish they harvest include crabs, octopus, fish, squid, shellfish, and so on to fulfill their daily needs (Pello 2015).

According to Law Number 27 of 2007 on the Management of Coastal Areas and Small Islands Article 35, it is prohibited to damage coral reefs directly or indirectly on the coast of small islands because it will damage the coastal ecosystem. Similarly, the indigenous community on Rote Island in 2017 has an agreement from the customary law functionaries in Central Rote Sub-district to protect coastal life, but the activity of *Makan Meting* ignored the customary agreement and made it meaningless when the community harvests fish in a way that is against the customary agreement. This action can be punished by Fisheries Law Number 31 of 2004 as amended by Law Number 45 of 2009 on Amendments to Law Number 31 of 2009 on Fisheries. According to Article 1 point 5 of the law, fishing is the activity of capturing fish in waters that are not in a condition of cultivation with any tool or method, including activities that use vessels to load, transport, store, cool, handle, process, and/or preserve them. This provision refers to people who catch fish, namely fishermen and small-scale fishers. In the research location, people who do *Makan Meting* are not classified as small fishermen but people who live on the coast who always harvest *Makan Meting*, which is different from the activities of small fishermen. Therefore, the provisions of the current fisheries law cannot be applied to coastal communities. Article 35 letter (d) of the Coastal Areas and Small Islands Management Law states that "using equipment, methods, and other methods

that can damage the coral reef ecosystem". The activity of *Makan Meting* as regulated in that article on how to harvest fish shows the act of catching fish using the method of disassembling the coral reef to catch fish hiding around it. This action is not in accordance with and prohibited by the framework of environmental laws and sectoral environment laws as people living on the coast use methods and equipment to catch fish by destroying coral reefs. Such actions are not environmentally friendly because they damage coral reefs, and it could be considered as environmental crime. Environmental crime is defined as any illegal acts that harm the environment (Environmental Investigation Agencies 2008).

Based on the explanation above, the research reviews the culture of *Makan Meting* in terms of acts against environmental criminal law and the form of liability for environmental criminal law using the theory of environmental law enforcement. This research is conducted to elaborate on whether the practice of *Makan Meting* by the indigenous community of Rote Ndae violates Indonesian environmental law.

Material and Method. This research uses empirical legal research that examines positive legal provisions by systematically explaining the implementation of legal rules and examining the relationship between legal provisions in the context of the concept of norms. The approach method used in this research is a statutory approach and a case approach. The data obtained in this study were analyzed descriptively and qualitatively. (Marzuki 2005; Susanti & Efendi 2014). The descriptive research method constitutes an approach used to investigate the current state of a group of individuals, an object, a set of conditions, a thought system, or a class of events. The primary objective of this form of research is to produce a systematic, factual, and accurate depiction, description, or portrayal of the facts, characteristics, and interrelationships among the phenomena under investigation (Nazir 1988). This research is legal research specifically conducted in the field of environmental law to elaborate on whether the practice of *Makan Meting* by the indigenous community of Rote Ndao violates Indonesian environmental law or not.

Results and Discussion

The definition of *Makan Meting*. The term *Makan Meting* in the Rote Termanu tribe, the word *makan* has a lexical meaning that means harvesting (*ta'a* or *u'a*) or collecting/searching/finding food in the growing land in the coastal sea during low tide. The word *meting* means a place or coastal sea area where there are coral reefs or mangrove forests where fish live at low tide. The definition of *Makan Meting* is the activity of harvesting food supplies in the form of fish and other marine life on the coast during low tide (Figure 1). It does not have the same meaning as the activity of eating food (*mu'a*). In brief, *Makan Meting* is catching fish and other marine life at low tide by using crowbars or sharp-tipped sticks or machetes or knives to dig out coral reefs and then catching fish (cut or speared) and other marine life that are breeding to be used as food (Marzuki 2005).



Figure 1. *Makan Meting* in Rote in 2021 (original photo).

Hoholok/Papa'dak, the customary law in coastal marine management. Indigenous people of Rote are bound by local customary law (*hoholok/papa'dak*) as a form of awareness of living together as a society (Soekanto 1985). The term

hoholok/Papa'dak refers to the entirety of customary rules that arise from the awareness of the Rote community regarding the importance of legal provisions and customary institutions, including customary rules and their sanctions, which are orally regulated in connection with the behavioral attitudes of the indigenous community to ensure a safe and orderly life. *Hoholok/papa'dak* is established by indigenous functionaries in the field of indigenous governance (the function of indigenous functionaries is to manage the indigenous community fellowship (*manesio-manesio*)). This fellowship is a form of organization or platform established by communities with customary legal systems which typically consists of various stakeholders from indigenous communities, including traditional leaders, community figures, and members of the indigenous group. This fellowship aims to strengthen and protect the rights and interests of indigenous communities. It functions as a means of coordination, discussion, and decision-making on various issues related to indigenous life, such as land rights, cultural rights, environmental protection, and participation in public policy-making). The indigenous functionary in the field of law is called *mane dombe/dope*, which functions to resolve community legal issues (community issues related to criminal and civil aspects). Those who take care of agriculture and livestock management are the function of *mane kila oe*. In the modern era of government, *manesio* is still involved in the organization of government in the villages on Rote Island. *Hoholok/papadak* is implemented by the *manesio* in the kingdom (*Nusak*) in Rote to regulate community life with the aim of preventing conflicts between Rote ethnic fellowships. These include conflicts between farmers, ranchers, handling conflict over theft of plantation and rice fields, preventing damage to water sources, managing agricultural products, and building ethics and values of fellowship, including maintaining harmonious relationships between indigenous peoples and coastal marine resources. In Figure 2 below, it can be seen how Manesio arranged an agreement to protect the coastal waters of Rote Island.



Figure 2. *Manesio* agreement to protect Rote Island's coastal waters (original photo).

Makan Meting as local wisdom is a habit practiced by the people of Rote Ndao that has a negative impact on coral reefs although there are still positive aspects of this activity, such as the tradition of eating *lawar* fish (raw fish mixed with *tuak* vinegar, Chili, salt, basil leaves, and sliced shallots) which should be maintained to fulfill the nutrition of the indigenous people of Rote Ndao. However, on the other hand, the way fish are harvested needs to be changed through the enforcement of environmental criminal law because such actions are against the legal provisions prohibiting damage to coral reefs. In these conditions, according to Copoch and Wilson in Machmud (2012), environmental criminal law needs to be upheld in order to maintain the environmental quality of coastal marine waters because there is a real threat from *Makan Meting* to environmental resources as well as legal provisions. In connection with the protection of criminal law against the environment and maintaining the local wisdom of *Makan Meting*, according to I Made Widnyana, certain adjustments in traditional values that are not in accordance with the current development need to be made so that they can adapt to ecological values (Widnyana 1992). The steps that can be taken to achieve this are through the transformation of the way of thinking of indigenous leaders as reformers and maintaining the repressive system as an effort to improve traditional values that are really needed to

mitigate the defects that occur in the tradition of *Makan Meting*. This is important because the goal of fisheries conservation is to conserve fish resources and improve the welfare of the indigenous people of Rote.

The concept of *Makan Meting (Ha'dak Ta'a Meti)*. The concept of *Makan Meting* embodies the idea of community access to food in the coastal waters to fulfill the need for fish as food (ECOSOC rights) (Hadiprayitno 2010) and contains local wisdom values related to the rights to fisheries resources practiced by coastal communities on Rote Island. This activity involves adults (men and women) as well as children who live on the coast and even communities outside the coast of Rote Island. According to Law Number 27 of 2007 Article 1 point 23, the definition of a community is a community consisting of Indigenous Peoples and Local Communities living in Coastal Areas and Small Islands. In summary, according to Law Number 27 of 2007, the boundaries of the community are those who live on the coast, especially fishermen. The law should regulate all community activities around the coastal area that practice some traditional livelihoods such as *Makan Meting*. The custom of *Makan Meting* can be divided into the following stages: first, the preparation stage (*taoelak/ha'i memak*). In the preparation stage, the community invites each other to go to sea (*la'o teu ta'a meti*), which involves the parents and their children going to the sea at low tide. Equipment used when *Makan Meting* are long iron (*rama*) with sharp edges, a crowbar (*danggerae*), a machete/kalewang (*fela*), a curved knife (*dope/dombe*), and also a hammer (*hamar*), along with a container such as a medium-sized bucket to store the fish. Figure 3 presents one of the equipments, a long iron (*rama*) used in *Makan Meting*.



Figure 3. *Makan Meting* by people of Rote Ndao (original photo).

In the past, people still used traditional equipment made from palm leaves, namely *haik (kokondak)*, and *sosorok*, this tool was made in the shape of a bucket which was used to store the results of fishing. However, with the development of the times these traditional tools are no longer used (interview with chief of the village in sub-district Central Rote). This change occurred because the availability of raw materials for making the equipment was very limited, on the other hand, there were many options for modern equipment with the same function, so traditional equipment was abandoned. Second, fishing Stage (*sangga i'ak*). The stage of entering the water area is usually done in the early morning or late afternoon depending on the low tide (*humu i'ak*) by bringing with them long iron tools (*rama*), crowbar (*denggerae*), kalewang (*fela*), knife (*dombe*) and other tools. Furthermore, the community began to flip/scratch/pry (*edo henin/doi henin*) coral reefs using crowbars to search for fish, octopus (*pa'do*), and crabs hiding on coral mounds. A long iron (*rama*) is used to stab fish (*mbau i'ak*) or other marine life. Third, Stage of Catch Management (*dode I'akkar*). The captured fish is processed into family menus such as *lawar* fish, grilled fish, or fried fish. This stage reveals that the rote people process fishery products to exercise their right to food as a fulfillment of family members' protein (food rights/ECOSOC rights).

Makan Meting as an environmental criminal offense. The results of research by the Sawu Marine Park Institute, namely the National Marine Conservation Agency (BKPN Kupang) show that the distribution of coral reefs in Rote Ndao Regency is 29,490.41 ha

(Sawu Marine Park Institute 2022). On the east coast of Rote Ndao, the percentage of coral reef damage is high due to high waves during the western season, coral reef damage is also caused by the activities of people living on the coast of the sea who cultivate seaweed and *Makan Meting* activities such as looking for crustaceans (lobsters, crabs, shrimps, and the like), molluscs (shellfish), fish, and other items for food needs at low tide. According to several legal provisions applicable in the field of environment, environmental crimes are regulated as follows.

Environmental Law Enforcement related to the implementation of *Makan Meting*:

1. Law Number 32 of 2009 on Environmental Protection and Management

Law enforcement against violators of environmental laws (including fisheries crimes) is quite difficult because the formulation of formal and material law, especially the application of material crime, prioritizes the *ultimum remedium* principle, requiring environmental criminal law enforcers to wait and prioritize administrative law enforcement measures (Pasalbessi 2016). In addition, the environmental criminal provisions stipulated in chapter XV consist of articles 98 - 120, except for article 100 which regulates environmental criminal offenses for business actors who take advantage of the Indonesian environment unlawfully. In summary, the penalties in Article 100 of the Environmental Protection and Management Law are as follows:

(1) "Any person who violates environmental quality standards(...)"

(2) "Criminal offense as referred to in paragraph (1) may only be imposed if the administrative sanction that has been sentenced is not respected(...)"

Based on the quotation of the article above, concerning *Makan Meting*, especially in the second stage, namely fishing activities, the actions of the community can be considered a criminal offense because it fulfills the elements of environmental criminal law as an environmental crime. The actions of the indigenous community has violated the standard criteria for environmental damage. This article threatens anyone who damages the coastal environment with its emphasis on environmental quality standards as part of environmental pollution. Meanwhile, *Makan Meting* is an act of damaging coral reefs, the measuring tool is the standard criteria for coral reef damage. In addition, this legal provision is targeted at economic actors who come into contact with activities in coastal areas and marine waters. To stop the destructive activities of *Makan Meting* activities, a legal settlement process beyond the current environmental law system is needed, such as environmental criminal mediation to apply environmental criminal provisions. People who are bound by a legal system have legal rules that contain prohibitions and sanctions for adherence to the laws that apply to them (Zaidan 2016).

2. Law Number 27 of 2007 on the Management of Coastal Areas and Small Islands

The objectives of coastal and small island management are to: protect, conserve, rehabilitate, utilize, and enrich coastal and small island resources and ecological systems sustainably. In the law on coastal management and small islands, it has been regulated that the acts that are considered criminal offenses include acts of damaging the coastal areas and acts of destroying coral reefs in coastal areas.

The purpose of environmental criminal law is as a basis for interaction with the environment, a tool of control, and a tool of a community order (Machmud 2012). The act of coral reef destruction is formulated in Article 35 letter d of the Law on the Management of Coastal Areas and Small Islands stipulates that: "in the exploitation of coastal areas and small islands, every person is directly or indirectly prohibited from using equipment, procedures, and other methods that can damage coral reef ecosystems". Article 35 letter d contains the elements of the act of coral reef destruction, namely:

a. There are human actions;

b. Using equipment, procedures, and methods that can damage the coral reef ecosystem;

c. Causing changes to the physical characteristics of coral reefs from having an important role in the marine ecosystem to becoming damaged and not functioning properly.

The activity of *Makan Meting* has met all the criteria set in the article mentioned above as an environmental criminal offense for the implementation of this activity

involves the act of destroying the coral reef that supports the marine ecosystem by using long iron tools (*rama*), crowbar (*denggerae*), *kalewang* (*fela*), and knife (*dombe*) to pry the coral reef to catch the fish and other marine life.

Destruction of the coastal marine environment is considered a criminal act because the act of destroying coral reefs/mangrove forests/seagrass beds results in damage to the coral reef ecosystem and fish resources because they can no longer be used as following their original function. There are actions that endanger and threaten the marine environment ecosystem from time to time, for instance, the use of chemically toxic material to catch fish and the use of hand-made bombs by traditional fishermen to catch fish which also destroy the coral reefs.

Criminal liability for perpetrators of Makan Meting as a violation of environmental criminal law. Discussing criminal liability for the perpetrators of *Makan Meting* as an unlawful act requires the integration of environmental criminal law and fisheries law and coastal law (specific environmental law) as well as criminal procedural law as an ultimum remedium. This is supported by Pasalbessi (2016) who argues that: criminal justice requires an integrated principle in substance and structure to achieve legal justice for subjects of environmental law (fisheries). The hope of achieving fisheries environmental justice through formal law is necessary as expected by Reksodiputro who stated that: there has been legal injustice in the prosecution of a grandmother stealing chocolate fruit, killing a leopard in a farmer's garden, cutting down 1 oak tree on forestry land and even punishing farmers who have the expertise to cultivate plant seeds (Reksodiputro 1987). On the other hand, law enforcers have allowed the indigenous people of Rote to maintain their activities of *Makan Meting*, which is destructive to coral reefs and even destroys the early life of fish and other marine life that live in the coral reef ecosystem.

It is true that the decision of the judge of the Sorong Papua Court against Dr. Suhanda on the charges of Prosecutor Hutapea that taking one cendrawasi bird from its native habitat will disrupt the entire life of the cendrawasi bird flock in its habitat (Rangkuti 2005). The same should apply to the perpetrators of *Makan Meting*, based on Siahaan M's opinion that environmental law violations that are not in accordance with the principles of environmental conservation must be prosecuted under environmental criminal law to make the perpetrators aware of their wrongdoing and even respect the components of the environment as the main support for human life (Siahaan 2016). Gadamer in Susanti's paper requires efforts to comprehend the meaning of legal texts in the formulation of norms combined with understanding the phenomenological facts of law (legal hermeneutic) not limited to what the norm maker wants but the resolution of the case must be completed. However, the Law on Environmental Protection and Management specifically Article 100 paragraph (1) punishes everyone for violating wastewater quality standards, emission quality standards, and disturbance quality standards. Meanwhile, in paragraph (2) the criminal offense as referred to in paragraph (1) can only be imposed if the administrative sanctions that have been issued are not respected or the violation is more than one time.

The provisions of environmental criminal law in protecting marine ecosystems first prioritize the provision of administrative sanctions which are then followed by the imposition of criminal sanctions against perpetrators of coral reef destruction. In addition, the application of sanctions against perpetrators of coral reef destruction also needs to consider the values that live in the Rote Ndao community. In the concept of *Makan Meting* in local tradition, the application of customary criminal sanctions is imposed based on the decision of indigenous functionaries on the prohibition of damaging coastal waters. At the stage of implementing *Makan Meting* when the community prepares equipment, then enters coastal sea waters to hunt fish. The technique of finding and catching fish (*humu i'ak*) uses equipment such as long iron (*rama*), crowbar (*denggerae*), *kalewang* (*fela*), knife (*dombe*), and other tools. When assessed based on environmental crimes that imply a non-compliant use of the environment, the implementation of *Makan Meting* is an action that damages coral reefs because it catches fish by turning over coral reefs, scraping/picking out (*edo henin/doi henin*) corals using crowbars and knives (*dombe*), or

using hammers (*hamar*) to destroy hard corals with the aim of finding and catching octopus (*pa'do*). A long iron (*rama*) is used to stab fish (rote *thie* language: *mbau i'ak*) or other marine animals. Noting the implementation of *Makan Meting* in relation to the provisions of Article 35 d of Law number 27 of 2001 on the Management of Coastal Areas and Small Islands, every person who exploits coastal areas and small islands, directly or indirectly, is prohibited from using equipment, procedures and other methods that damage coral reef ecosystems.

In connection with the provisions of the Management of Coastal Areas and Small Islands Law, the judge in deciding the issue of *Makan Meting* related to proving the elements in the unlawful act required by the Management of Coastal Areas and Small Islands law will experience difficulties related to justice in the field of food rights because the spirit of the Management of Coastal Areas and Small Islands law of environmental criminal law is more directed to small fishermen who catch fish using boats and large fishermen (having a Fishing License). This emerges in Law of the Republic of Indonesia Number 11 of 2019 on the Second Amendment to Law Number 31 of 2004 on Fisheries Article 1 point 10 which stipulates that a fisherman is a person whose livelihood is fishing. in point 11 it is stated that a small fisherman is a person whose livelihood is fishing to meet the needs of daily life, both those who do not use fishing vessels and those who use fishing vessels with a cumulative size of 10 (ten) gross tons (GT) at most.

Criminal responsibility according to the fisheries law in terms of punishment cannot be directed to the perpetrators of *Makan Meting* but to large fishermen and small fishermen whose criteria have fishing boats. The perpetrators of *Makan Meting* are coastal communities who do not own boats and do not work daily to catch fish as fishermen in general. When compared with Law Number 27 of 2007 on Management of Coastal Areas and Small Islands Article 1 point 32 which stipulates that the community is a community consisting of Indigenous Peoples and Local Communities who live in Coastal Areas and Small Islands. In short, the perpetrators of *Makan Meting* are consistent with the concept of perpetrators in Article 1 point 32 of Law number 27 of 2007.

Based on the stage 2 of *Makan Meting*, there has indeed been an act against the fisheries law and a person/indigenous community of Rote can be prosecuted or held accountable for environmental crimes. However, according to the provisions of the fisheries criminal law, the administrative requirements (fishing license) are prioritized. At the same time, the activity of *Makan Meting* is different from the prohibition of destroying the fisheries ecosystem stipulated in the law. Thus, the unlawful act as a reason for claiming environmental criminal liability in terms of the unlawful nature of the crime committed is weak. And from the point of view of accountability, only a person who is capable of being liable can be held liable for his actions while the perpetrators of *Makan Meting* in a large number of perpetrators (Wahyuni 2007). According to Van Hamel, criminal responsibility is a normal state of psychic and skill that brings three kinds of abilities, namely ability to understand the meaning and real consequences of one's own actions, ability to understand that the actions are contrary to the public order, and ability to determine the will to act. The principle of liability in criminal law is that there is no punishment if there is no fault (*geen straf zonder schuld; actus non facit reum nisi mensit rea*). This principle is not found in written law but an unwritten law. In relation to the issue of criminal liability, it cannot be separated from criminal offenses. Although the definition of a criminal offense does not include the issue of criminal liability. A criminal offense only refers to the prohibition of an act. Criminal acts do not stand apart, they are only meaningful when there is criminal liability, this means that every person who commits a criminal act does not automatically have to be convicted. To be convicted, there must be criminal responsibility. Criminal responsibility is born with the continuation of the accusation (*Verwijtbaarheid*) which is objective to the act declared as a criminal offense based on the applicable criminal law and subjectively to the perpetrator who meets the requirements to be subject to punishment for the act.

Criminal liability itself is the continuation of an objective accusation that is declared as a criminal offense and subjectively to someone who is eligible to be punished for the act. The basis for the existence of a criminal offense is the principle of legality, while the basis for criminalizing the perpetrator is the principle of fault. This means that the

perpetrator of a criminal offense can only be punished if he/she has a fault in committing the criminal offense. When a person is said to have a fault is a matter that concerns the issue of criminal liability. A person has an in fault when at the time of committing a criminal offense, from a societal point of view, it can be condemned because of the nature of the act as happened in the stage 2 activities of *Makan Meting*, it's just that the applicable legal norms are different from the perpetrators (in *Makan Meting*, unlawful acts are committed in groups as a community, not just one person), but the prohibited acts are consistent between the actions of *Makan Meting* and the prohibited acts in the environmental law, coastal law, fisheries law. Regarding environmental criminal liability, Indonesian criminal law adopts the principle of fault (culpability principle). Because the Criminal Code is the basis for the enactment of criminal law in Indonesia, all principles/provisions that apply in the Criminal Code automatically also apply to all criminal regulations that exist outside the Criminal Code. One of the regulations containing criminal aspects is Law No. 27 of 2007, in which the criminal liability system of this law is automatically based on the principle of fault (culpability principle). This can be seen in the formulation of criminal offenses, all of which include elements of intent or negligence. By including the element of intentionality/ negligence, it can be said that criminal liability in this coastal management law adopts the principle of liability based on fault. So in principle, it adopts the principle of fault or the principle of culpability.

The act of catching fish by destroying coral reefs when linked to the provisions of Article 73 paragraph (1) letter (a) of the Law on the Management of Coastal Areas and Small Islands which states that: "Shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and fined at least Rp2,000,000,000.00 (two billion rupiahs/131,848.28 USD) and a maximum of Rp10,000,000,000.00 (ten billion rupiahs/659,241.41 USD) any person who intentionally: a. Conducts activities to mine coral reefs, take coral reefs in conservation areas using explosives and toxic materials, and or other methods that result in damage to the coral reef ecosystem..."

When examining the objective elements of this article, lawmakers prohibit anyone from deliberately conducting coral reef mining activities and taking coral reefs in conservation areas that result in damage to the coral reef ecosystem. In the *Makan Meting* activity, it was found that the coral reefs were damaged because the fish were taken, not because the coral reefs were taken from the marine ecosystem. Thus, this article is incomplete in providing legal protection for coral reef conservation efforts.

The elements contained in the article are as follows:

1. Individual, according to the Law on the management of coastal areas and small islands, is an individual or a legal or non-legal entity.
2. Who does not comply with the Law on the management of coastal areas and small islands for the implementation of coral reef protection as referred to in Article 73 paragraph (1) letter a.

Regarding the principle of local wisdom, the emphasis on noble values that still remain in the community's way of life can still be maintained as long as it is still in accordance with current demands that emphasize awareness of a sustainable marine environment. The way of harvesting fish in the tradition of *Makan Meting* has experienced a shift in meaning because there is an awareness of the benefits of coral reefs and an understanding of the meaning of preserving coral reefs will be useful for the survival of fish. On the other hand, it is also realized that the availability of fish resources at harvest time is relatively small. The value of the availability of fish resources strengthens along with the support of the precautionary principle related to planning and management of environmental resources (early vigilance) and preventive principles that emphasize costs and benefits related to threats to the sustainability of fisheries resources (Alder & Wilkinson 1999). Concretely, this is reflected in the agreement of the *maneholo* of Rote Island in September 2017 to preserve coastal waters.

From the sentence in the article above, what is meant by the implementation of coral reef protection has been contained in Article 35 letter (a) to (d) which are coral reef protection actions as referred to in Article 73 paragraph (1) letter (a) of the Coastal Zone and Small Islands Management Law which reads as follows:

- a. Mining coral reefs that cause damage to the coral reef ecosystem.

- b. Taking coral reefs in conservation areas.
- c. Using explosives, poisonous materials, and or other materials that damage the coral reef ecosystem.
- d. Using equipment, means, and other methods that damage the coral reef ecosystem.

Not all problems must be resolved through trials or courts. As previously stated that the indigenous people of Rote when doing *Makan Meting* and were caught doing damage to the coral reef ecosystem, then the enforcement of environmental criminal law can use Alternative Dispute Resolution by using the mediation method. The basis of action is the protection and management of coastal areas, especially the protection of coral reefs need to be granted special attention by the local government, based on The 1994 Convention on the Conservation And Management of Pollock Resources in the Central Bering Sea (The Donut Hole Agreement of 1994), protection of countries owning coral reefs as affirmed in Article 3 of the agreement stated that local and central governments/countries that own coral reef areas need to be protected (Schiffman 2008). The actualization of the legal idea needs to consider the pattern of dispute resolution outside the trial/court, time & costs can be relatively saved, also the most important thing is that the settlement is carried out peacefully. This idea is in accordance with the value of local wisdom on the island of Rote that *mane dombe* did when solving problems in *Nusak Rote*. This indigenous custom can be adopted with a penal mediation model, which is often referred to as mediation in criminal cases or mediation in penal matters. In connection with this idea, according to Zaidan (2016) and Machmud (2012), environmental criminal law policy is needed through various discretions of law enforcement officials or through a consensus/peace mechanism or forgiveness institutions that exist in the community (family consensus; village consensus; customary consensus, etc.). The practice of resolving criminal cases outside the court so far has no formal legal basis, so it often happens that a case has been informally resolved amicably (even through the mechanism of customary law).

Conclusions. The legal arrangements related to environmental criminal law enforcement against the perpetrators of *Makan Meting* are less effective against the rote indigenous people because of the incompatibility of arrangements regarding legal subjects. In terms of the act of damaging the environment, there is an element of a criminal offense in the form of coral reef destruction. The activity of *Makan Meting* as local wisdom of the indigenous people of Rote needs to be maintained to fulfill the right to food of the indigenous people of Rote, but the way of harvesting the fish needs to be changed. Violations of customary agreements (*hoholok/papa'dak*) need to be enforced and combined with positive law using Alternative Dispute Resolution (ADR) patterns.

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