

STATE AUTHORIZATION TO FISHERY RESOURCES IN INDONESIA: MANAGEMENT AND CONSERVATION EFFORT

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Abstract

The purpose of this study is to discover the essence of state control over fishery resources in Indonesia and the management of exclusive economic zones, as well as conservation efforts undertaken by Indonesia in relation to fishery resources owned. This research is normative legal research, using a legal and conceptual approach. The data used are secondary data in the form of primary legal material and secondary legal materials. The results of the study indicate that the essence of state authorization over fishery resources in Indonesia contains the authority to regulate, manage and supervise the management or management of fishery resources, and contains the obligation to utilize the maximum prosperity of the people. Management of the exclusive economic zone and conservation efforts undertaken by Indonesia in relation to its fishery resources, Indonesia has full sovereignty over the territorial sea and the natural resources contained therein, to exclusive economic zones, only sovereign rights are given the involvement of stakeholders in the joint management of water conservation areas is very important in supporting the implementation of good management.

Keywords: state authorization, fishery resources, management, conservation

I. Introduction

In the regional context, Indonesia's position is geographically very strategic. Indonesia between the crosses of the continents of Asia and Australia, the Indian and the Pacific Ocean. Indonesia is the biggest archipelago country in the world.¹ Indonesia is one of the largest countries in the world with a total area of 5.193.250 km² (covering land and sea). This places Indonesia as the 7th largest country in the world after Russia, Canada, the United States, China, Brazil and Australia. Compared to the vastness of Asian countries, Indonesia is ranked 2nd. And when compared with the countries in Southeast Asia, Indonesia has established itself as the largest country in Southeast Asia. In addition to establishing itself as one of the largest countries in the world, Indonesia also places itself as the world's largest archipelagic country. Because Indonesia is an archipelagic country, the territory of Indonesia consists of land and sea.²

One third of Indonesia is land and two thirds of Indonesia is an ocean. The land area of Indonesia is 1,919,440 km² which places Indonesia as the 15th largest country in the world. Indonesia stretches along 3,977 miles from the Indian Ocean to the Pacific Ocean. This makes Indonesia has a vast ocean of about 3,273,810 km². The oceans of Indonesia have a boundary under international maritime law, namely by using sea territorial along 12 nautical miles as well as an exclusive economic zone along 200 nautical miles.³

Illegal, unreported and unregulated fishing (IUU fishing) practices have an adverse impact on the economy, ecology, sovereignty and social problems for Indonesia. According to FAO data, the economic losses experienced by Indonesia due to IUU Fishing range from Rp. 30 trillion per year. According to Suhana⁴ direct economic losses result in reduced fishing contribution to GDP, reduced employment/loss in the fisheries sector, reduced state revenues from exports, reduced state revenues from the tax sector, absence of multi player effects from fishing industry activities. From the ecological aspect of IUU fishing, it has a negative impact on the destruction of fishery ecosystems due to overfishing that causes unsustainable fisheries development (sustainable fishers).⁵ From the ecological aspect of IUU fishing, it has a negative impact on the destruction of fishery ecosystems due to overfishing that causes unsustainable fisheries development (sustainable fishers). The social

¹ "Momentum Membangun Kejayaan Maritim", *Majala Gatra*, Edition 41; Year XX, August 2014, p. 148-158

² *Invonesia, Luas Wilayah Negara Indonesia*, See <http://www.invonesia.com/luas-wilayah-negara-indonesia.html>

³ *Ibid.*

⁴ Suhana, 2011, *Ekonomi Politik Kebijakan Kelautan Indonesia: Gagasan-Gagasan Politik-Pembangunan Negara Kepulauan Dan Reformasi Kelembagaan Yang Berbasis Kearifan Lokal*, In-Trans Publising, Malang, p. 76-77

⁵ Akhmad Solihin, 2010, *Politik Hukum Kelautan dan Perikanan: Isu, Permasalahan dan Telaah Kritis Permasalahan*, Nuansa Aulia, Bandung, p. 44-45

impact of IUU fishing is the conflict between traditional Indonesian fishermen and foreign fishermen.¹ The sovereignty of the state can be violated because foreign fishermen enter Indonesian territorial waters without permission and committing criminal acts of fish theft.²

At the international level, it is acknowledged that the world's capture fisheries activities continue to increase very rapidly, which impact on the occurrence of overfishing in some parts of the world's waters.³ This phenomenon is also followed by the increasing practice of IUU Fishing that threatens the sustainability of fish resources and the environment. This condition encourages member countries of the Food and Agriculture Organization (FAO) to formulate a reference that can be applied by countries in the world on the management and development of an orderly, responsible, and sustainable fishery. Among others, through the Code of Conduct for Responsible Fisheries (CCRF) agreed in 1995.

However, in its development, the implementation of CCRF is considered not enough as an instrument in the management of fishery resources including the prevention and handling of IUU Fishing. Therefore, the member countries of FAO have formulated and agreed international action to combat IUU Fishing as outlined in International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU Fishing) in 2001. IPOA-IUU Fishing is a global action plan in order to prevent the destruction of fishery resources and rebuild fishery resources that have been or are almost extinct, so that the food needs sourced from fisheries for current and future generations can still be guaranteed availability. IPOA-IUU Fishing must be followed up by every country, including Indonesia by preparing action plan of prevention and handling of IUU Fishing at national level.⁴

IUU fishing practice in Indonesian fishery area has been going on since the mid 1980s, but until now there has been no effective solution in eradication. According to Akhmad Solihin the root of the problem that caused the unresolved problem of IUU fishing in Indonesia, firstly, the overlapping of legislation has an impact on the uncertainty of which state institutions are authorized to solve the problem of IUU fishing and the lack of coordination among state institutions.⁵ Second, facilities and infrastructure to enforce the law at sea are very weak both in terms of technology and human resources.⁶

IUU Fishing practice not only on ecological and economic issues but also issues of state sovereignty in the field of fishery resources.⁷ The rise of IUU fishing practices creates a more complex problem when it is raised on a more philosophical level, that is, the issue of positioning the state's exception over fishery resources. State sovereignty in both internal and external sense.⁸ Internal sovereignty is the highest sovereignty possessed by the state to regulate, implement and enforce legislation relating to fishery resources in the territory of state jurisdiction. External sovereignty refers to the sovereignty of the state to demonstrate its existence as the subject of international law both in relation to the state and other international law subjects with regard to fisheries.

The rise in the practice of IUU fishing actually touches how the state provides legal protection to fishery resources as a form of the embodiment of state sovereignty that must be resolved conceptually as well as on state policy. At the conceptual and constitutional level, the preamble of the 1945 Constitution of the Republic of Indonesia has placed the state as the protector and guardian of all the blood of Indonesia, but in practice the state is not fully present as a protector and fishery of fishery resources. The state even tends to let fishery resources looted and controlled by foreign fishermen and national fishermen illegally. At the level of policy to date there has been no clear policy formulation issued by the government that can solve the problem of IUU fishing in Indonesia to be thorough.

The unfinished eradication of IUU fishing in the territorial waters of Indonesia is due to the different concepts of the settlement approach. The first concept considers that the approach to eradication of IUU fishing

¹ Suhana, *Op.Cit.*, p. 77

² Rokhmin Dahuri, *Op.Cit.*, p. 2

³ Munadjat Danusaputro, 1982, *Hukum Lingkungan Buku III Regional*, Rosda Offset, Bandung, p. 53

⁴ KKP terbitkan Kepmen penanggulangan IUU fishing, Pusat Data Statistik dan Informasi Kementerian Kelautan dan Perikanan, KKP Press Release May 30, 2013, p. 1

⁵ Arief Hidayat and FX Adji Samekto, 2007, *Kajian Kritis Penegakan Hukum Lingkungan di Era Otonomi Daerah*, BPUD, Semarang, p. 11

⁶ Akhmad Solihin, 2010, *Op.Cit.*, p. 45

⁷ Yudha Bhakti Ardhiwisastra, 1994, *Kedaulatan Negara di Forum Pengadilan Asing*, Alumni, Bandung, p. 67

⁸ Jimly Asshidique, 2006, *Pengantar Hukum Tata Negara*, Konstitusi Press, Jakarta, p. 75

is done through the approach of law enforcement solely (legal approach). While other concepts, the view that an effective approach to solve the problem of IUU fishing is by using a non-legal approach, that is technology.¹

The concept of a legitimate legal approach to solve the eradication of IUU fishing in Indonesian waters should make the legal approach the foundation of the policy. The legal approach is more to the legal system approach as proposed by Lawrence Friedman where legal reform is built with a system approach through the establishment of legal substance, structure and legal culture. To support legal reform, the establishment of legislation is the answer to the condition of the absence of law. The Government of Indonesia has undertaken policies by establishing regulations in the field of fisheries through the ratification of international treaties and establishing national laws. Since 1985 the Indonesian government has ratified the 1982 marine law convention through Law of the Republic of Indonesia Number 17 Year 1985 which regulates matters related to the conservation and preservation of fishery resources for preventing the practice of IUU fishing.²

Indonesia also adopted various provisions contained in the IPOA-IUU Fishing in preparing a national action plan for the eradication of IUU fishing.³ At the national level Indonesia has enacted Law of the Republic of Indonesia Number 31 Year 2004 on Fisheries which was then amended through Law of the Republic of Indonesia Number 45 Year 2009 on Amendment to Law of the Republic of Indonesia Number 31 Year 2004 regarding Fisheries. However, the issue of legal susceptibility remains a problem because of the lack of criminal sanctions in punishing perpetrators of IUU fishing and the absence of a special law that comprehensively regulates the eradication of IUU fishing.⁴

In the structural aspects of IUU fishing eradication carried out through the establishment of a separate law enforcement system. Through Law of the Republic of Indonesia Number 45 Year 2009 on Amendment to Law of Republic of Indonesia Number 31 Year 2004 regarding Fishery regulated law enforcement mechanism in fishery field where civil servant investigator (PPNS), Police and Indonesian National Army Navy (TNI-AL) as investigators, then formed a fishery court as a special court established to prosecute fishery cases. This court has been established in various regions. However, in the effort to eradicate IUU fishing both investigators and courts still have issues related to the eradication of IUU fishing. Law enforcers in the field of IUU fishing in addition to still facing the classic problem of lack of coordination between institutions also face serious issues related to the occurrence of law enforcement mafia is still a lot of law enforcement officers who do not really do law enforcement duties.⁵

At the fishery court level facing the problem of low verdict of fishery court in deciding criminal case of fishery. In a seminar commemorating 30 years of the 1982 Sea Law Convention at Padjadjaran University in 2012, marine law expert Etty R. Agoes complained about the low verdicts imposed by the fishery court as in the case of Wan Jainuddin Check, a Malaysian citizen, who was tried in a fishery court in Tanjung Pinang District Court was sentenced to five months in prison. As well as the verdict against Aling Samehe, Filipino citizen was sentenced to a fine of 30 million by a fishery court in PN Bitung of 100 million charged by prosecutors. In the case of Wahab Coang, Indonesians on trial for fishing in Raja Ampat use chemicals, sentenced to PN Sorong. According to Etty R. Agoes, the low sanctions imposed in the case of illegal fishing in Indonesia received criticism from the international community, especially the European Union, urged Indonesia to increase the threat of written criminal sanctions.

In the cultural aspects since the establishment of the ministry of fisheries and marine has begun to build public awareness of the importance of conservation of fishery resources through various programs such as minabahari, the movement of love to eat, fish and others. But until now the old culture of society has not been able to change so that foreign fishermen and national fishermen still use methods and ways of fishing that tend to damage the fishery ecosystem.

On the other hand, a technology-based approach requires that IUU fishing eradication should use a technology approach as an answer to eradicate IUU fishing in Indonesia. The technological approach has been clearly expressed by President Joko Widodo when delivering the presidential election campaign in July 2014.

¹ Andi Hamzah, 1997, *Penegakkan Hukum Lingkungan*, CV. Sapta Artha Jaya, Jakarta, p. 151

² Etty R. Agoes, 1991, *Konvensi Hukum laut, 1982: Masalah Pengaturan Hak Lintas Kapal Asing*, CV. Abardin, p. 44

³ Ida Bagus Wyasa Putra, 2003, *Hukum Lingkungan Internasional: Perspektif Bisnis Internasional*, Refika Aditama, Bandung, p. 22

⁴ Dikdik Momamad Sodik, 2011, *Hukum Laut Internasional dan Pengaturannya di Indonesia*, Refika Aditama, Bandung, p. 164

⁵ Akhmad Solihin, *Op.Cit.*, p. 44

President Jokowi said that in order to eradicate IUU fishing in Indonesia, it needs reliable technology so that it can detect, monitor and crack down on IUU fishing. Procurement of reliable ships and modern armaments such as drawn can be the answer to eradicate IUU fishing practices in Indonesian fishery areas.

The problems of the world of maritime and fishery in general according to the Law of the Republic of Indonesia Number 17 Year 2007 on Long-Term Development Plan 2005-2025 has been acknowledged still many problems faced so as to cause marine resources have not been utilized optimally. Based on the attachment of Law of the Republic of Indonesia Number 17 Year 2007 on Long Term Development Plan 2005-2025 there are several things, among others, firstly, the absence of maritime boundary arrangement, secondly, the existence of conflict in the utilization of space at sea, third, the absence of security guarantee and safety at sea, fourthly, the existence of regional autonomy causes no understanding of the same to the management of marine resources, the fifth, the limited ability of human resources in managing marine resources, and sixth, the absence of support for research and science and marine technology. Based on the explanation, then the problem discussed in this paper is how the essence of state authorization over fishery resources in Indonesia? and how the management of the exclusive economic zones and conservation efforts undertaken by Indonesia relates to its own fishery resources?

II. Research Method

This research is normative legal research,¹ using a legal and conceptual approach.² The data used are secondary data in the form of primary legal material (international legal instrument), and secondary legal materials (books, journals, research reports, and printed and online media news) through literature study. The collected legal materials are then analysed qualitatively, then presented descriptively in order to answer the problems in this paper.

III. Results and Discussion

The Essence of State Authorization of Fishery Resources in Indonesia

The world has recognized that Indonesia is the largest archipelagic country in the world where it consists of 17,508 islands with a coastline of about 81,000 km.³ Indonesia has an area of 5.8 million km² of ocean or about 70% of the total territorial area of Indonesia. With this large potential, but Indonesia has not been able to show independence as a maritime nation. The indication is very clear, to this day the people of Indonesia who work as fishermen still live below the poverty line. Should be with the potential of marine wealth, is able to make this nation prosperous. This is evidence of the failure of our government in managing the marine and fisheries sector. At the same time indicating the government's attention to this sector is still underestimated. The Indonesian government is considered not optimal in using it for the benefit of the national and its own people. Furthermore, the Indonesian government buys fish from foreign companies at the market price level. Moreover, the Indonesian government must issue cost recovery to replace all operational costs incurred by foreign companies during the exploration and exploitation of fishery resources. Though the sea is the source of life in the world. The ocean forms a climate, a source of food for the world, and cleans the air we breathe. The sea is vital to economic life, and it is home to about 90% of global trade, where submarine cables are located, and provides one-third of traditional hydrocarbon sources as well as renewable energy such as waves, wind and tidal energy.

In accordance with the provisions of Chapter XIV on the National Economy and Social Welfare, in this case that the natural wealth contained in the Indonesian Land is controlled by the state for the welfare of the people.⁴ State authorization rights have the authority to regulate, manage, and oversee the management or management of fishery resources, and contain the obligation to utilize them to the greatest possible prosperity of the people. In the exploitation of fishery resources, the government may exercise its own and/or appoint the contractor (business entity) if necessary to carry out works that are not or can not be self-administered by the

¹ Soerjono Soekanto and Sri Mamudji, 2011, *Penelitian Hukum Normatif*. Jakarta: Rajawali Pers. p. 14.

² Peter Mahmud Marzuki, 2010, *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group. p. 96.

³ Result of identification of islands and Based on result of survey of Basic Point which have been done DISHIDROS (Hydrographic and Oceanographic Service) of Navy, there are 17,508 islands all over Indonesia. The inventory of 7353 named islands and 10,155 islands have not been named throughout the unity of the Republic of Indonesia. Of the 7353 named islands, there are 183 base points located in 92 outer islands directly adjacent to neighboring countries, 12 of them need special attention, because they are located on the outer border. O.C. Kaligis, 2003, *Sengketa Sipadan-Ligitan: Mengapa Kita Kalah*. O.C Kaligis & Associates: Jakarta, p. 8

⁴ Article 33 paragraph (3) of the 1945 Constitution of the State of the Republic of Indonesia

government agency. On the foundation that Indonesia can turn the bow to Indonesia's social justice and fair and civilized.¹ This is the essence of the right to control natural resources by the state, including fishery resources.

In the history of the Exclusive Economic Zone, originally the chain-developing countries have long felt that the freedom of the sea that the great maritime nations are poised is merely to defend the interests of those countries. Freedom of speech at sea is just an elegant way to grant all rights to countries that have fleets and technology without regard to the interests of coastal developing countries. It is this injustice that encourages developing countries to make demands and overhaul the old laws of the sea.

Under United Nations Convention on the Law of The Sea (UNCLOS) 1982, Indonesia is an archipelagic country with a vast sea, of approximately 5.6 million km² with coastlines of 81,000 km, the rich resource potential, especially the abundant fisheries. However, as we know, having a vast sea territory must coincide with good oversight as well, the lack of maintenance of Indonesian waters makes it easy for various threats and disputes over borders with other emerging countries, as we often hear is Illegal Fishing in the Exclusive Economic Zone. The latest is the event in Natuna with China, between KP Hiu 11 with a foreign ship from China KM Kway Fei 10078 allegedly located in the Exclusive Economic Zone of Indonesia and illegal fishing in the area of Indonesian Exclusive Economic Zone.

UNCLOS 1982 states that the Exclusive Economic Zone is the outer and the territorial sea, subject to the special legal regime as defined in this section which includes the rights and jurisdiction of the coastal state and the rights and freedoms of other States which is determined in accordance with this Convention. Then the restriction almost with the provisions of the aforementioned article is the limitations granted by Article 2 of Law no. 5 of 1983, which stipulates that: "The Exclusive Economic Zone of Indonesia is an outward lane and adjacent to the Indonesian seas as defined under applicable law on Indonesian waters which covers the seabed, subsoil and above water with the outer limit of 200 (two hundred) nautical miles measured from the basin of the Indonesian territorial sea."² Various efforts or other activities have also been undertaken by Indonesia in the framework of development and management of border areas.³

Management of Exclusive Economic Zones and Conservation Efforts

The concept of the Exclusive Economic Zone as well as the concept of the continental shelf first came from the Proclamation of the President of the United States Harry S. Truman in 1945. The rationale of the conception of the concept is the desire of the United States to utilize natural resources outside its territory but still adjacent to the territorial sea.⁴ A country can not claim a sea region unilaterally. The marine areas of a country are determined and determined by mutual agreement between two or more countries. The legal basis used by countries to establish maritime boundaries is the UN decision in the 1958 Geneva Sea Law which was renewed by the UN Convention on the Law of the Sea III of 1982.⁵

The Exclusive Economic Zone is an area outside and adjacent to the territorial sea, subject to a special legal regime established under the rights and jurisdiction of the coastal state and the rights and freedoms of other countries (Art. 55 UNCLOS 1982). Indonesia has ratified UNCLOS 1982 through Law of the Republic of Indonesia Number 17 Year 1985. According to Article 2 of Law of the Republic of Indonesia Number 5 Year 1983 concerning the Exclusive Economic Zone of Indonesia which is meant by the Exclusive Economic Zone of Indonesia is the outer lane and borders the Indonesian seas as established under applicable law on Indonesian waters covering the seabed, subsoil and above water with the outer limit of 200 nautical miles measured from the baselines of the Indonesian territory. Article 3 of Law Number 5 Year 1983 states that if Exclusive Economic Zone Indonesia overlaps with Exclusive Economic Zone countries whose beaches are facing each other or side by side with Indonesia then the boundary of Exclusive Economic Zone between Indonesia and the country is determined with the agreement between Indonesia and the country.

¹ M. Hatta Taliwang and Salamuddin Daeng, 2011, *Indonesiaku Tergadai*, Institute Ekonomi Politik Soekarno Hatta, Jakarta, p. 4-5

² See http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

³ Suprayoga Hadi, 2009, Buletin Tata Ruang Edisi 3: *Program Pembangunan Kawasan*, Sekretariat Tim Teknis BKTRN, Jakarta, p. 7

⁴ I Made Padek Diantha, 2002, *Zona Ekonomi Eksklusif*. Mandar Maju, Bandung, p. 1. At that time President Truman had yet to determine the criteria for what he called the "continental shelf" not to affect the status of water on the continental shelf as the high seas. Dikdik Mohammad Sodik, 2014, *Hukum Laut Internasional*, Refika Aditama, Bandung, p. 108

⁵ Wawan Fachrudin, 2007, *Sekuritisasi Maritim dan Wilayah Perbatasan*, Institute For Global Justice, Jakarta, p. 16

With the receipt of the conception of an exclusive economic zone, there are two legal regimes in the waters on the 200-mile continental shelf, namely the exclusive economic zone waters 200 miles from the territorial sea and the waters over the continental shelf beyond 200 miles as high seas. It can be concluded that the waters on the 200-mile continental shelf that coincide with the exclusive economic zone are the exclusive economic zone waters. In these waters the coastal State has sovereign rights for the purpose of exploration and exploitation of its natural wealth in its waters, seabed and subsoil covering both biological and non-biological riches as well as minerals. While the waters remain a loose sea that can be traversed by ships from all countries. In the waters on the continental shelf beyond 200 miles in accordance with its status as loose sea, then the regulation is subject to the regime of the open sea which can be enjoyed by all countries both on its voyage as well as the sources of biological and non-biological natural resources including mineral resources in these waters.

If the coastal state has full sovereignty over the territorial sea and the natural resources contained therein, against the exclusive economic zone, only sovereign rights are granted to the coastal state for exploration, exploitation, conservation and management of natural, biological and non-biological resources, of waters on the seabed and from the seabed and underlying land and in respect of other activities for the purpose of exploration and economic exploitation in the zone, such as energy production from water, currents and wind (Article 56, UNCLOS 1982). Article 4 of Law of the Republic of Indonesia Number 5 Year 1983 on the Exclusive Economic Zone of Indonesia states that in the Indonesian Exclusive Economic Zone, the Republic of Indonesia has and operates:

- a. Sovereign rights to explore and exploit, manage and conserve biological and non-biological natural resources from the seabed and below ground and water above and other activities for the economic exploration and exploitation of such zones, such as power generation from water, currents and wind.
- b. Jurisdiction relating to: (1) Manufacture and use of artificial islands, installations and other buildings; (2) Scientific research on maritime; and (3) Protection and preservation of the marine environment.
- c. Other rights and other obligations under the applicable Convention of the Sea Law.

The maximum limit on the Exclusive Economic Zone width of 200 nautical miles suggests that not every coastal state should have Exclusive Economic Zone and only a coastal state that has a width of more than 24 miles of sea territory that allows to have Exclusive Economic Zone.¹ At Exclusive Economic Zone Indonesia, the freedom of international shipping and aviation and the freedom of submarine cables and pipelines are recognized in accordance with applicable international maritime law principles.

At the beginning of the archipelago concept formation has become the plan of the Indonesian government to be brought to the international forum.² The conservation of fish resources has been understood as the protection, conservation and utilization of fish resources, including ecosystems, species and genetics to ensure their availability, availability and sustainability while maintaining and enhancing the value and diversity of fish resources. It is clear that conservation is not just protection, but also equally conserves and utilizes sustainable resources that are ultimately of course for the welfare of society. Efforts Conservation of fish resources conducted at ecosystem level, type and genetic.

Establishment of aquatic conservation area is one of ecosystem conservation efforts that can be done on all types of ecosystem, that is to one or several important ecosystem types to be conserved based on ecological, socio-cultural and economic criteria. The Water Conservation Area is defined as a protected water area, managed by a zoning system, to realize the sustainable management of fish resources and the environment.

Keywords of water conservation area management are managed by zoning system with the aim of sustainable fisheries. There are at least 4 (four) zone divisions that can be developed within the Water Conservation Area (Kawasan Konservasi Perairan/KKP), the core zone, the sustainable fisheries zone, utilization zones and other zones. Through zoning arrangements and the development of decentralization in conservation area management, this is the fulfillment of the rights for the community, especially fishermen. Concerns will reduce the access of fishermen who allegedly many parties felt very unlikely. In fact, the traditional rights of the community are highly recognized in the management of conservation areas. Communities are given space for fisheries in conservation areas (sustainable fisheries zones, utilization zones and other zones), for example for

¹ Syafrinaldi, 2009, *Hukum Laut Internasional*, UIR Press, Pekanbaru, p. 19

² Ida Kurnia, 2009, *Pengaturan Sumber Daya Perikanan di Zona Ekonomi Eksklusif (ZEE) Indonesia*, *Mimbar Hukum* Volume 26 No. 2, June 2014, p. 209

cultivation and eco-friendly fishing and marine tourism and so on. These patterns in the context of priority (centralized) conservation have not been widely practiced.

Current conservation has become a demand and need that must be met as harmonization of the economic needs of society and the desire to continue to preserve the resources that exist for the future. Data directorate of Conservation and Marine National Park (KTNL) states that until May 2009 recorded an area of 13.5 million hectares of marine conservation areas in Indonesia. This amount exceeds the target of conservation area, as the commitment of the Indonesian government submitted is 10 million hectares of conservation area in 2010. Of the total area of DKP initiate and facilitate + 8.1 million hectares, while the initiation of Ministry of Forestry + 5.4 million hectares. The area of 8.1 million hectares consists of a 3.5-million-hectare seawater national marine park and 35 locations of marine protected areas (KKLD) which covers an area of 4.6 million hectares. Basically, the extent of conservation area itself is not the main target. Future target is to manage the conservation area effectively to support sustainable fisheries management for community welfare.

Marine conservation areas individually or network is the main tool in protecting marine biodiversity. However, the agreement on how much habitat should be protected marine biodiversity in ensuring ecological connectivity has not been broken. In Indonesia, it is expected that at least 10 percent of the area of marine conservation area should be the core zone for the absolute protection of fish resources habitat. Furthermore, with consistent management for several years is expected to support the catch of fish outside the conservation area increased by 40 percent.

The management of the conservation area shall be managed by the Government or local government in accordance with its authority. In this case can involve the community through partnerships between organizational units of managers with community groups and/or indigenous peoples, non-governmental organizations, corporations, research institutes, and universities. Thus, conservation area management is not only done by the central government, but also by provincial and district governments according to their authority. At the central level, DKP has established a Technical Implementation Unit, the Center for Conservation of Waters (Balai Kawasan Konservasi Perairan/BKKPN) located in Kupang and Loka Water Conservation Area (Loka Kawasan Konservasi Perairan/LKKPN) in Pekan Baru. While in the regions, to manage the KKLD, can also be formed UPT area or even can be improved using the pattern of management of the Regional Public Service Agency (Badan Layanan Umum Daerah/BLUD) if indeed the conservation activities in the area is promising so it needs to be managed professionally.

Government of Indonesia through Ministerial Regulation no. 47/2016 About Estimating Potential of Fish Resources In Fishery Management Areas of the Republic of Indonesia states that most of the fish stocks in Indonesia have been overfished.¹ As an effort to follow up the development of marine conservation areas (sea) carried out the strengthening of management and ecological linkages between conservation areas in the form of conservation area network. Networking is a link between marine conservation areas (Kawasan Konservasi Laut/KKL) that present the resilience of species and their habitats to achieve ecosystem balance through joint management. Networks between marine conservation areas have an important role in maintaining biodiversity in the region. Some of the reasons for creating a network among the KKP are for: (1) describes, safeguards and maintains biodiversity; (2) provide a model for the utilization of watershed areas that support local ecosystems; (3) protecting or protecting protected marine biota from various threats; (4) To maintain the potential of marine fishery resources, and (5) efforts to expand and improve the resilience of marine conservation areas. Connectivity is the key word for the development of water conservation area network. The existence of bioecological linkages is a basic consideration for managing a number of marine conservation areas in a joint management system to realize a water conservation area that is resilient to threats and can function effectively to support sustainable fisheries.

Water conservation area network as Government Regulation Number 60 Year 2007 concerning Conservation of Fish Resources, Article 19 stated that in the management of marine conservation area can be formed network of marine conservation area, local, national, regional, and global. The KKP network is formed based on biophysical linkages between marine conservation areas along with scientific evidence covering aspects of oceanography, limnology, fisheries bioecology, and environmental stability. Water conservation area network at local and national level implemented through cooperation between organizational unit of managers while at regional and global level implemented through cooperation between countries. What is meant by the KKP network at the regional level is a water conservation area contained in an ecoregion expanse covering two or

¹ Estradivari, et.al., 2017, Kawasan Konservasi Perairan: Investasi Cerdas untuk Perlindungan Keanekaragaman Hayati Laut dan Membangun Perikanan Indonesia. WWF, Jakarta, p. 2

more neighboring countries and having ecosystem linkages. While the network of marine conservation areas at the global level is a watershed conservation area contained in a stretch of several different ecoregions but has a global ecosystem linkage and includes several countries.

Until now the existence of marine conservation area (sea) has not been integrated between marine conservation area one with other water conservation area. Basically, among the several KKP there is a very strong network linkage both in ecological and management aspects. Preparation of linkage of marine conservation area network based on two basic criteria namely; (1) Ecological Criteria; This criterion indicates that between water conservation area with one another there is linkage in ecological (Ekoregion), this (network) is physical and biological. (2) Management Criteria; This criterion indicates that between water conservation area with one another there is a relationship in terms of management. The form of management network in the form of joint management system to the aquatic conservation area.

Some of the waters conservation areas in Indonesia are linked to each other.¹ In the management of marine conservation areas together several criteria to consider are: The involvement of stakeholders in the joint management of water conservation areas is very important in supporting the implementation of good management. Each stakeholder has roles and duties in the management. In addition, in an effort to manage aquatic conservation area, an agency/management agency will be required to prepare programs and work activities, budget proposal, activity management, monitoring and evaluation of programs and activities, problem solving and information delivery. In addition, the task is to involve other stakeholders in the management of marine conservation areas.

Approximately 147 million people currently live in coastal areas of Indonesia, including 20 million fishermen in it, live under threatened conditions of food shortages and ecological disasters due to the lack of government attention to their fate, as well as the usual land development policies. Coastal and coastal areas are also increasingly vulnerable to tsunami waves, salinity and sea level rise, since the invasion of reclamation projects for the development of industrial parks, commerce and luxury settlements. This resulted in damage and reduced mangrove forests. The rise of mangrove forest conversion activities for coastal aquaculture and coastal reclamation activities that have occurred continuously in the last 25 years, making up less than 1.9 million hectares of remaining area. Of the four coastal reclamation projects in Padang, West Sumatra, Jakarta, Makassar and Manado, more than 5,000 hectares of mangrove ecosystem areas, seagrass, and coral reefs are under threat. Today, more than 10 massive coastal reclamation projects occur in Indonesia. In the last 15 years, coastal and marine Indonesia has become the practice of fish theft by 10 countries. They are Thailand, Philipina, Taiwan, Korea, Panama, China, Vietnam, Malaysia, Cambodia, and Myanmar. The theft eliminates about 30-50 percent of the total national capture fisheries annually.

About 90 percent of our shrimp production supplies foreign needs, 37 percent for the United States, 27 percent for Japan, 15 percent for Europe. Meanwhile, the farm is also monopolized by foreigners. In Lampung, about 60 percent of the productive livestock of aquaculture is controlled by a multinational corporation Charon Phokpand, which also controls 50 percent of the total national shrimp exports. Since the beginning, aquaculture development in Indonesia has involved the debt of Asia Development Bank (ADB) and World Bank. If averaged, the contribution of foreign debt in this sector reached Rp 39.5 billion per year, from 1983-2013. Extraction activities on land are also the cause of the sea crisis, one of which is mining of metals, coal and oil and gas. Not only to bring the results of sedimentation to the estuary of the mining industry also dispose of toxic waste directly into the sea, thus affecting the lives of fishermen.

IV. Conclusion

The essence of state control over fishery resources in Indonesia contains the authority to regulate, manage and oversee the management or management of fishery resources, and contains an obligation to utilize them as much as possible to the welfare of the people. In the exploitation of fishery resources, the government may exercise its own and/or appoint the contractor (business entity) if necessary to carry out works that are not or can not be self-administered by the government agency.

Management of the exclusive economic zone and conservation efforts undertaken by Indonesia in relation to its fishery resources, Indonesia has full sovereignty over the territorial sea and the natural resources contained therein, to exclusive economic zones shall be granted sovereign rights to coastal states for the purpose

¹ Direktorat Konservasi Kawasan dan Jenis Ikan, 2013, Profil Jejaring Kawasan Konservasi Perairan di Indonesia, Direktorat Jenderal Kelautan, Pesisir, dan Pulau- Pulau Kecil, Kementerian Kelautan dan Perikanan, Jakarta, p. 2

of exploration, exploitation, conservation and management of natural, biological and non-biological resources, of waters on the seabed and from the seabed and underlying land and in respect of other activities for the purpose of exploration and economic exploitation in the zone, such as energy production from water, currents and angina. The involvement of stakeholders in joint management of watershed conservation area is very important in supporting the implementation of good management, in the effort to manage the waters conservation area required an agency/agency/management agency that will arrange programs and work activities, budget proposal, activity management, monitoring and evaluation of programs and activities, problem solving and information delivery.

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