



Juridical Analysis of Legal Protection for Coastal Areas and Small Islands (Research Study in Anambas Islands Regency)

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Abstract: *Legal protection of coastal areas and small islands to realize individual and community happiness in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. Legal protection of coastal areas and small islands in the Anambas Archipelago Regency, in its implementation, is related to legal material regarding permit conflicts management and control, conflicts over spatial planning and zoning, multiple interpretations of legal sanctions for the same crime, conflicts over water conservation institutions, multiple interpretations of authority for investigation and investigation by Civil Servant Investigators. In the aspect of legal services, there is no standard procedure for applying for and issuing location permits and coastal area management permits, and there is no foreign investment arrangement and permit facilitation. In the aspect of legal culture, there are still violations of permits or the ecosystem of coastal areas by the community*

Key Words: *Legal Protection, Coastal Areas and Small Islands, and Anambas Islands Regency.*

1. INTRODUCTION:

The legal protection of coastal areas and small islands is intended to carry out orders to protect Indonesia as the Unitary State of the Republic of Indonesia and Indonesia as a state of law.¹ The legal protection of coastal areas and small islands is intended to improve people's welfare through economic management in accordance with Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia: Earth and water and the natural resources contained therein are controlled by the state and used for as much as -great prosperity of the people. As well as paragraph (4): The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity. Article 1 paragraphs (1) and (3), Article 33 paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia are implemented by Law Number 27 of 2007 as amended by Law Number 1 of 2014 concerning Amendment to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands.

Law Number 23 of 2014 concerning Regional Government, is a substitute for Law Number 32 of 2004 which has an impact on regional autonomy in the management of coastal and small islands. Article 27 paragraph (1) of Law Number 23 of 2014: Provinces are given the authority to manage marine resources in their territory. This article invalidates Article 18 paragraph (1) of Law Number 32 of 2004: Regions that have marine areas are given the authority to manage resources in marine areas. Article 27 paragraph (1) of Law Number 23 of 2014 revokes the authority of the Regency/City in managing marine resources.

In the Strategic Plan Document of the Department of Fisheries, Agriculture and Food of the Anambas Islands Regency 2016-2021 the Strategy for Achieving the Goals and Targets, namely:

1. Increase the production and productivity of capture fisheries and aquaculture in an environmentally friendly manner and;
2. Developing downstream fisheries sector.

In the management of coastal areas and small islands there are three main issues:²

1. Issues of biophysical degradation of the coastal environment, namely corals, fish stocks, coastal erosion, pollution, sedimentation and siltation;

¹ Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia: The State of Indonesia is a Unitary State in the form of a Republic and paragraph (3): The State of Indonesia is a constitutional state.

² Luky Adrianto, *Laporan Analisis dan Evaluasi Hukum tentang Pengelolaan Wilayah Pesisir dan Pulau-pulau Kecil*, Pusat Perencanaan Pembangunan Hukum Nasional, Badan Pembinaan Hukum Nasional, Jakarta, 2015, p 3.



2. The issue of conflict of use and authority in coastal areas, thereby reducing the effectiveness of sustainable coastal management;

3. Legal uncertainty often occurs because of the ambiguity of ownership and control of coastal resources.

The problems of legal protection of coastal areas and small islands in the Anambas Islands Regency based on initial findings are as follows:

1. Regional authorities in the context of regional autonomy have not been comprehensively understood by the stakeholders, so that each region and every sector arises a different understanding and interpretation in the utilization and management of coastal areas and small islands;

2. Utilization and management of coastal areas and small islands tends to be sectoral in nature, resulting in overlapping policies;

3. Utilization and management of coastal areas and small islands has not been fully regulated by laws and regulations, so that regions have difficulty setting policies, so that it can lead to land grabs with the government and cause legal and social conflicts in the community.

4. Utilization and management of resources in coastal areas and small islands due to interactions between humans, the environment and the actions of other parties causing damage.

From this description, it is necessary to carry out legal protection of coastal areas and small islands in the Anambas Islands to protect coastal areas and small islands, protect community members from utilizing and managing coastal areas and small islands so that legal conflicts and social conflicts do not occur. protect the use and management of coastal areas and small islands in a sustainable manner.

2. RESEARCH METHODOLOGY :

In particular, according to the type, nature, and purpose of the specification, Soerjono Soekanto's legal research is divided into normative legal research and sociological or empirical legal research. This research is a normative legal research, supported by sociological/empirical research, using secondary data sources from library research in order to obtain a theoretical basis in the form of opinions or writings of experts, and also to obtain information both in the form of formal provisions and data through official texts. Secondary data is in the form of legal materials, both primary, secondary, and tertiary legal materials.

3. RESEARCH RESULTS AND DISCUSSION :

Anambas Islands Regency has a Regional Regulation Number 6 of 2016, which contains regulations for controlling pollution and improving the quality of the environment. The Strategic Plan of the Department of Fisheries, Agriculture and Food of the Anambas Islands Regency 2016-2021 contains strategies for achieving goals and targets, namely: 1) Increasing production and productivity of capture fisheries and aquaculture in an environmentally friendly manner and 2) Developing downstream fisheries sector.

Explanation of legal protection of coastal areas and small islands as stipulated in the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (1) : The State of Indonesia is a unitary state in the form of a republic and paragraph (3) : The State of Indonesia is a state of law. In Article 33 paragraph (3): Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Paragraph (4) : The national economy is organized based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity, since it was formed, and/or implemented in a paradigmatic manner in accordance with the basic principles of Bentham's teachings. that the purpose of legislation is to realize individual and community happiness. The suitability is especially in the objectives to provide subsistence (to provide a living) and to provide abundance (to provide a living with abundant food).

Against Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone, Law Number 17 of 1985 concerning Ratification of UNCLOS, Law Number 6 of 1996 concerning Indonesian Waters, Law Number 31 of 2004 amended by Law Number 5 of 2009 concerning Fisheries and Law Number 32 of 2014 concerning Marine Affairs, since it was formed, and/or implemented in a paradigmatic manner according to the basic principle of Bentham's teachings that the purpose of legislation is to realize individual and community happiness.

In line with this, since the enactment of Law No. 27 of 2007, regarding the implementation has not been carried out properly by the state and government. In fact, if analyzed in depth on the paradigmatic construction order as written



explicitly in legal considerations and/or considerations in the context of enacting Law Number 1 of 2014 it is very meaningful which is very philosophical and fundamental.³

There are four aspects of the study of the implementation of legal protection for coastal areas and small islands including:

1. Legal Material Aspects
 - a. There is a conflict between Law Number 1 of 2014 regarding Management Permits and Concession Permits.
 - b. There is a conflict between Law Number 26 of 2007 concerning Spatial Planning and Law Number 1 of 2014 regarding WP3K Management related to regional spatial planning (RTRW) and zoning plans for coastal areas and small islands (RZWPPK).
 - c. There are multiple interpretations between Law Number 31 of 2004 concerning Fisheries and Law Number 27 of 2007 in conjunction with Law Number 1 of 2014 regarding different criminal sanctions for the same crime.
2. Institutional Aspect
 - a. There was a conflict of water conservation institutions.
 - b. Investigation and Investigation Authority.
3. Aspects of Legal Services
 - a. There is no standard procedure in applying for and issuing location permits and coastal area management permits.
 - b. There is no Foreign Investment Arrangement in Small Island.
 - c. Licensing Facilitation.
4. Legal Culture Aspects

In the implementation of the management and control of coastal areas and small islands when viewed from the aspect of legal culture, it was found that there were still violations of permits or violations of coastal ecosystems which were still intensely carried out by the community. Handling this matter is not enough through law enforcement, but requires public awareness through intensive socialization of legal protection for coastal areas and small islands in the Anambas Islands Regency.

Various factors that hinder the legal protection of coastal areas and small islands can be explained based on juridical factors and non-juridical factors. Legally inhibiting factors include:

1. Legal material factors, which consist of:
 - a. There is no synchronization of Maritime Tourism permits in Coastal Areas between the Ministry of Forestry and the Ministry of Maritime Affairs and Fisheries.
 - b. The preparation of the RZWP-3-K in the Regional Regulation as a rule regarding the RTRW at sea has resulted in inefficient and ineffective preparation of regional regulations because the preparation of the Perda for the RTRW and RZWP-3-K is not equated.
 - c. The change in the authority of local governments after the ratification of Law Number 23 of 2014 which revoked Law Number 32 of 2004 had an impact on regional autonomy in the management of coastal and small islands.
 - d. There are multiple interpretations related to criminal sanctions for the same crime.
2. Institutional factors.

Institutionally, the inhibiting factors and obstacles found are:

 - a. There is a conflict of water conservation institutions;
 - b. The occurrence of multiple interpretations of the authority of investigation and investigation.
3. Legal service factor
In the factor of legal services, inhibiting factors and obstacles were found, including:
 - a. There are no foreign investment arrangements in small islands;
 - b. Does not yet have a Standard Operating Procedure (SOP) for Implementation;
 - c. There is no permit facilitation yet.

The inhibiting factors for the legal protection of coastal areas and small islands in the Anambas Islands Regency in a non-juridical manner include:

1. Cultural factors
The cultural attitude of the community to obey and have legal awareness is still very low. In addition to minimal socialization, cultural factors are low to comply with the rule of law.
2. Safety factor.

³ Idham. *Dimensi Paradigma Politik Hukum Pelaksanaan Konsolidasi Tanah di Wilayah Pesisir dan Pulau-pulau Kecil Guna Meningkatkan Pertumbuhan Ekonomi Masyarakat*, Alumni, Bandung. 2018, p 4.



The coastal areas and small islands in the Anambas Archipelago Regency are threatened with sustainability due to the destruction of the ecosystem due to sand, stone mining and overexploitation.

3. Economic factors.

Barriers and obstacles to legal protection of coastal areas and small islands are influenced by economic factors where people can violate or face legal sanctions because exploitation in areas is not allowed and is still carried out due to compulsion and economic limitations

A solution is needed to the factors that hinder the legal protection of coastal areas and small islands, namely:

1. Solutions for preventing legal protection of coastal areas and small islands for legal material factors are carried out by:
 - a. Revision/amendment to Government Regulation Number 36 of 2010 concerning Natural Tourism Exploitation in Wildlife Sanctuaries, National Parks, Grand Forest Parks and Nature Tourism Parks in accordance with Law Number 27 of 2007 as amended by Law Number 1 of 2014 regarding permits management and concession permits in the context of realizing justice and legal certainty;
 - b. Synchronization and harmonization between Law Number 27 of 2007 as amended by Law Number 1 of 2014 with Law Number 26 of 2007 concerning Spatial Planning related to zoning plans for coastal areas and small islands in order to improve the RTRWN which integrates spatial planning comprehensive national space between sea and land space;
 - c. Revision of Law Number 27 of 2007 as amended by Law Number 1 of 2014 related to the division of authority for the management of coastal areas and small islands in accordance with Law Number 23 of 2014. The arrangement of detailed spatial plans in a Regional Regulation as referred to Article 24 of the Spatial Planning Law needs to be integrated with the provisions of Article 9 paragraph (5) of Law Number 27 of 2007 in conjunction with Law Number 1 of 2014 Zoning Plans for Coastal Areas and Small Islands are also stipulated through Regional Regulations, When the RTRW or RZWP3K of the Regional Government are both valid for 20 (twenty) years and can be reviewed at least every 5 (five) years, Article 9 paragraph (2) of Law Number 27 of 2014 regulates that the RZWP3K must be harmonized, harmonized and balanced with the RTRW of the provincial government or the district/city government, this emphasizes that there should be no need to create two legal formats different laws (two regional regulations).
 - d. Changes in criminal sanctions in the Fisheries Law adjust to the Coastal Law and strengthen the capacity of judges in terms of making decisions regarding damage to coastal ecosystems.
2. The solution to the barrier to legal protection for coastal areas and small islands for institutional and apparatus factors is carried out by shifting the management of conservation areas from the Ministry of Forestry and Environment to the Ministry of Maritime Affairs and Fisheries, so that the organization can run effectively, not to be drawn into conflicts of authority.
3. Solutions for preventing legal protection for coastal areas and small islands for legal service factors are carried out by:
 - a. Immediately stipulate further arrangements related to location permits and management permits which include requirements, procedures for granting, revocation, period, extent, and expiration of location permits and management permits as well as further arrangements related to foreign investment in coastal areas and small islands, especially related to transfer of shares and land area;
 - b. To further regulate the government's obligation to facilitate the management of permits by the community, and determine the sanctions if these obligations are not implemented.
4. Solutions to prevent legal protection of coastal areas and small islands for cultural factors by establishing laws and regulations related to the management of coastal areas and small islands in order to continue to accommodate community aspirations, specificity and local wisdom as well as cultural factors of the Anambas Islands Regency community that the people are fishermen and their lives make a living and make a living from these sources.

Because of the hereditary cultural factors, the community has been looking for a source of livelihood from coastal areas and small islands as fishermen, as stone and sand miners and often nothing is done by the community to damage the preservation of sustainable environmental functions.
5. Solutions for preventing legal protection of coastal areas and small islands for security factors by increasing public participation widely to guard coastal areas and small islands from foreign control and guarding against illegal fishing, exploitation and mining by other countries against wealth nature of the coastal areas and small islands in the Anambas Archipelago Regency.
6. Solutions for preventing legal protection for coastal areas and small islands for economic factors due to limited income and income of fishing communities, due to conflicts over the capture zone between traditional fishermen and bagan fishermen, as well as seizure and competition with foreign fishermen who steal fish in border areas



Indonesia uses large and modern ships. This needs to be given a solution and answered by the local government. In addition, the fishermen hope to get supplies of fuel oil for them to be able to go to the sea to look for fish, squid, shrimp and various other marine resources to meet the needs of their family life.

Another thing that becomes a solution to deal with obstacles and constraints from economic factors that are handled by the Department of Fisheries, Livestock and Food of the Anambas Islands Regency is that only coaching cannot budget to provide assistance in other forms, for example helping with chart equipment needs such as lights and others, or fuel and fuel assistance. other. This is as stated by Sukirman, the Finance Section of the East Coast Village, Siantan District that if using village funds it can help fishermen according to the proposal submitted to the village government. there is fiber, wire bubu, yesterday we from the village fund have distributed the aid, now it has been disbursed there are four groups that have been given assistance from the village fund.⁴

The economic situation and condition of the people of the Anambas Islands Regency, who are mostly fishermen, are currently threatened with their livelihoods, even their lives due to competing and dealing with large ships and tankers as well as the difficulty of supplying fuel oil so that they rarely go to sea, it can be ascertained that the lives of fishermen are far from prosperous and happy. So that the legal protection of coastal areas and small islands is intended as a protection for humans, residents or fishing communities in particular with such economic conditions being a real inhibiting factor and obstacle.

4. CONCLUSION :

Legal protection of coastal areas and small islands to realize individual and community happiness by implementing legal objectives in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. Legal protection of coastal areas and small islands in the Anambas Archipelago Regency, in its implementation is related to material laws regarding conflicts over management and control permits, conflicts in spatial planning and zoning, multiple interpretations of legal sanctions for the same crime. In the institutional aspect, there is a conflict of water conservation institutions, multiple interpretations of the authority in investigations and investigations carried out by Civil Servant Investigators (PPNS). In the aspect of legal services, there is no standard procedure in applying for and issuing location permits and coastal area management permits, there is no foreign investment arrangement in small islands and there is no licensing facilitation. In the aspect of legal culture, there are still violations of permits or violations of coastal ecosystems which are still intensely carried out by the community. In this study, it is recommended, among others: (1) Legal material factors: a. Revision/amendment to Government Regulation Number 36 of 2010 to adjust Law Number 1 of 2014 regarding management permits and concession permits in the context of realizing justice and legal certainty; b. Synchronization and harmonization of Law Number 1 of 2014 with Law Number 26 of 2007 regarding the zoning plan for coastal areas and small islands in order to improve the RTRW which integrates national spatial planning comprehensively between sea and land spaces; c. Revision of Law Number 1 of 2014 regarding the division of authority for the management of coastal areas and small islands is in accordance with Law Number 23 of 2014 concerning the regulation of detailed spatial plans in a Regional Regulation. d. Changes in criminal sanctions in the fisheries law adjust to the coastal law; e. Strengthening the capacity of judges in making decisions regarding damage to coastal ecosystems. (2) In terms of institutional and apparatus factors with the transfer of conservation area management from the Ministry of Forestry and the Environment to the Ministry of Maritime Affairs and Fisheries, so that the organization can run effectively, it does not become entangled in conflicts of authority. (3) In terms of legal services, solutions are needed: a. To stipulate arrangements related to location permits and management permits, including requirements, procedures for granting, revocation, period, extent, and expiration of location permits and management permits as well as further arrangements related to foreign investment in coastal areas and small islands, especially related to the transfer of shares and land area; b. Regulate the government's obligation to facilitate the management of permits by the community, and the determination of sanctions if these obligations are not carried out. (4) On the cultural factor with the stipulation of laws and regulations in order to accommodate the aspirations, specificity and local wisdom as well as the cultural factors of the Anambas Islands Regency community whose people are fishermen and live in coastal areas and small islands by earning a living and making a living from these sources. (5). For the security factor, it is necessary to coordinate the solution of the regional government with the ministries/agencies and institutions of defense and security of the marine, coastal and small islands areas to safeguard and defend the sovereignty of the territory of the Unitary State of the Republic of Indonesia and to safeguard the soul and body of Indonesian citizens. (5) On economic factors, solutions for assistance, empowerment and support for community strengthening are needed in obtaining jobs, obtaining livelihoods and development in the economic field oriented towards efforts to improve the welfare of communities in coastal areas

⁴ Direct interview at the salted squid processing site.



and small islands. (6) Anambas Islands Regency Regional Regulation is needed as a legal umbrella in the legal protection of coastal areas and small islands in order to realize legal goals for individual and community happiness.

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