

Legal Restoration Eradication of Illegal Fishing Towards Sovereignty at Sea

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Abstract –There is one courage from the Minister of Marine Affairs and Fisheries from the beginning of the inauguration, ie sinking a boat that catches fish illegally. Until now, the Indonesian Ministry of Marine Affairs and Fisheries has drowned more than 350 ships of various sizes committing illegal fishing crimes in Indonesian sovereign territory. Using the socio-legal approach, this paper wishes to offer legal refinement in order to give a firm legality of illegal fishing eradication through the ship's sinking. Illegal fishing crime in Indonesian waters, believed to have caused losses for this country is estimated at more 40 billion rupias a year. This condition is even believed to be an obstacle in accelerating Indonesia as a prosperous country. It is for this reason that the sinking of the ship is seen as the representative of the face of courage in defending sovereignty. Drowning of ships is considered strategic in order to combat illegal fishing, especially by raising the fear of outside fishermen who stole fish in Indonesian waters. For some, the sinking of vessels could incur substantial losses, especially the opportunities of countries that should be able to utilize ships through foreclosures for the country. Some people believe that the foreclosure could be used by black entrepreneurs who cooperate with unscrupulous law enforcement officers. This opportunity is to be covered by the Ministry of Marine Affairs and Fisheries. However, that does not mean the drowning has passed the various legal tests. The government is very important to link shipbuilding with four interrelated components, namely ecological sustainability, socio-cultural-economic sustainability, sustainable marine law communities, and institutional sustainability. Restored law, related to the legality of vessel execution, should be able to address ecological recovery targets, not to cause socio-cultural-economic problems, friendly to indigenous peoples, and to think about the institutional context.

Keywords–*legal restoration; eradication of illegal fishing; sovereignty at sea.*

I. INTRODUCTION

There are a number of things that occur in fisheries that cause disruption of fisheries resources for certain countries, namely theft of fish and illegal fishing, as well as overfishing. Overfishing is the main of problem

in global fisheries. Fishing access affects social and environmental impacts. [1]

In Indonesia, fisheries problems are very serious. In the last 40 years, many fish populations in Indonesian waters have been depleted. One of the causes is the theft of fish in Indonesian waters. Security issues in enforcing fisheries regulations are one of the things that are still constrained. One way to overcome the Indonesian government's limited ability to enforce fisheries regulations and control the movement of fishing vessels to other countries' waters is to establish a regional regulation regime that builds and expands fisheries development. [1]

In this regard, decentralization is considered as an alternative to make fisheries management better, because decentralization appears as a means to improve efficiency and fairness in development activities and service delivery. The evolution of decentralization of fisheries management policies in Indonesia shows that decentralization was gradually developed from deconcentration and delegation to the form of devolution. After the Reformation period, the form of devolution decentralization was implemented because the promulgation by act number 22,1999 concerning Regional Autonomy, where the local government has obtained a number of new authorities regarding the management of marine fisheries. [3]

In fact the situation does not change optimally. According to FAO (Food and Agriculture Organizations), global fish catches are already over exploited. Various effects of the conditions above, on the diversity of fisheries. The number of fish species in Indonesia is estimated at 4000-6000 species, with the potential for new species reaching 400-600 species.

In addition, various types of molluscs (shrimp, shellfish, squid, etc.), reach 116 thousand species. Coral reefs are threatened worldwide by population growth, tourism development, and the use of poisons and dynamite in fishing in areas adjacent to coral reefs. This also applies in Indonesia. [4]

Actually, globally, sustainable fisheries practices are agreed upon based on responsible fisheries management, with the limitations specified in the Code of

Conduct for Resonible Fisheries (CCRF) which was agreed in 1995 in Rome. With this consensus, there should be a commitment and enthusiasm of all parties to sustainable fisheries. The form of this commitment is through the pattern and process of utilizing environmentally friendly fisheries resources.

The study conducted by Esmi Warassih and his colleagues found that there is a practice of using fisheries resources that are not environmentally friendly. Some people are more concerned with income alone, but care for the awareness that fisheries resources are entrusted to future generations. [5]

Facing all of the above problems, there is one thing that has been carried out by the Minister of Maritime Affairs and Fisheries. Since being sworn in, there has been one courage of the Minister of Maritime Affairs and Fisheries, namely to sink illegal fishing vessels. The Indonesian Ministry of Maritime Affairs and Fisheries has sunk over 350 ships of various sizes that commit illegal fishing in Indonesia's sovereignty. Illegal fishing crime in Indonesian waters, believed to have caused losses to the country is estimated at more than Rp. 40 trillion per year. This condition is even believed to be an obstacle in accelerating Indonesia as a prosperous country. This paper would like to see the relation between efforts to sink ships and efforts to maintain sovereignty.

II. DISCUSSION

The existence of fishermen globally contributes greatly to nations based on coastal and fisheries.¹ One of them is economic income for the community, both directly and in their freedom related to the use of fisheries resources. Fishery products from fishermen are used by most people. [6]

The dominant view in the academic and policy arena is increasing where the main contribution of capture fisheries to development must come from the capacity of communities to maximize economic rents of fisheries resources. [7] However, fishermen face a number of problems related to fisheries management patterns. [8] The biggest potential of the marine and fisheries sector in Indonesia is capture fisheries. Nationally, in Indonesia there are 7.87 million fishermen, who inhabit 3,216 villages. [9]

One of the serious things is the conflict of fisheries resources that have occurred, which causes access rights and resource seizures to occur. This is because management has not been maximized. Even though there is an increasing commitment from the Government, in reality not all policies are running optimally. In this case it is necessary to plan and implement a management system, requiring the development of new legal, administrative and institutional arrangements at the national and community level to complement contemporary political, economic, social and cultural structures. [10]

Ratner and Allison contrast three perspectives on governance reform that are alternately focused on wealth, rights and resilience, and argue that - far from being incompatible - this perspective is useful in anticipating each other, and together can help guide policy responses. [11]

A number of experts say that fisheries management is due to the existence of the law and its law enforcement is not yet optimal. Conflicts often occur because of laws that do not regulate intact and completely. Conflicts between sectors in regulating legal issues also occur widely, not least in the management of fisheries resources. Another thing is the conflict related to decentralization while at the same time the government still draws authority to the center. Law is seen as a problem in fisheries management in Indonesia. [12]

Facing such an atmosphere, the role of leadership is very important in solving this problem. The success of fisheries management is largely determined by how leadership in the fisheries sector in solving various problems that arise [13]. The above conditions confirm that policy prescriptions are very important in overcoming the global crisis in fisheries.

The leadership of a more effective and motivated fisheries sector in the context of fisheries governance determines how optimal access to fisheries management. Facing these conditions, Allison offers fisheries governance in a broader human rights perspective increasing opportunities to achieve human development outcomes and sustainability of resources in fisheries. [14]

Development outcomes are closely related to general welfare. In this context, the concept of 'well-being' is a tool to achieve this integration, thus revealing and better assessing complex social and economic problems in the context of fisheries governance. Social welfare is applied to critically review global body literature that discusses the social, economic and political dimensions of fishing communities, who seek to understand the relevance and value added of the application of welfare concepts in fisheries. [15]

Realizing this, the Minister of Maritime Affairs and Fisheries, has a bold policy in terms of sinking ships. The sinking of the ship is considered strategic in order to eradicate illegal fishing, especially by raising the fear of outside fishermen who steal fish in Indonesian waters. For some parties, the sinking of a ship can cause huge losses, especially the opportunity of the country that should be able to use the ship through confiscation for the country.

Some people consider that seizure is actually possible to be exploited by black entrepreneurs who collaborate with unscrupulous law enforcers. This opportunity is to be covered by the Ministry of Maritime Affairs and Fisheries. However, this does not mean that the sinking has passed various legal tests. There are legal weaknesses that must be covered by the extinction of the ship so far. The government is very important to link ship deployment with four interrelated components, namely ecological continuity, socio-cultural-economic

sustainability, sustainability of marine customary law communities, and institutional sustainability.

The restored law, related to the legality of extending the ship, must be able to answer ecological recovery targets, not cause socio-cultural-economic problems, be friendly to indigenous people, and think about institutional context. More and more research reveals that law is a problem and a barrier in the process of achieving welfare in the broadest sense. Laws that are oriented towards ecological recovery are at the same time friendly to society, due to various interests which are also regulated by law.

The government's attention to certain strata is very important in the expected environmental achievement process. Government alignments must not be the same for all groups of people, because in reality there are certain fisherman strata that must receive attention.[16]

Facing these conditions, adaptive capacity policies are considered very important by the government. Adaptive capacity attributes include assets, social flexibility and organizational attributes, and learning. The main way to build this aspect of fisheries is to reduce many potential environmental and social threats that increase the vulnerability of fisheries.[17]

The last note is that one thing that should not be forgotten about the characteristic features of fisheries waters is high dependence on ecosystems. Various living media interact and influence each other. Damage to an ecosystem will affect other ecosystems.[18]

This awareness will be greatly assisted for all parties to have a high commitment to sustainable use of fisheries resources. Commitment is realized not only by the use of environmentally friendly fishing gear, but not by unlawful use and illegal fishing.

The aim of fisheries management is ultimately the welfare of the community and fishermen. This goal is achieved through preparing the capacity of fishermen in managing fisheries, as well as the government's capacity to carry out more macro fisheries management.

III. CONCLUSION

Optimal fisheries management will have implications for fishermen's welfare. One of the causes of fishermen's disruption is fisheries crime. The thing that has been done by the marine minister has been to sink ships that commit fisheries crimes. The sinking of the ship is considered strategic in order to eradicate illegal fishing, especially by raising the fear of outside fishermen who steal fish in Indonesian waters. However, some parties consider the sinking of the ship to cause harm because it can be confiscated for the country. Some people consider that seizure is actually possible to be exploited by black entrepreneurs who collaborate with unscrupulous law enforcers. This opportunity is to be covered by the Ministry of Maritime Affairs and Fisheries. However, this does not mean that the sinking has passed various legal tests. There is a legal delicacy that must be covered by the

extinction of the ship so far. The restored law, related to the legality of extending the ship, must be able to answer ecological recovery targets, not cause socio-cultural-economic problems, be friendly to indigenous people, and think about institutional context.

REFERENCES

- [1] R. Crilly A. Esteban, *Small versus Large-Scale, Multi-fleet Fisheries: The case for economic, social and environmental access criteria in European fisheries*, Marine Policy, Vol. 37 Januari 2013, p. 20-27.
- [2] Michael Heazle & John G. Butcher, *Fisheries depletion and the state in Indonesia: Towards a regional regulatory regime*, Marine Policy, Vol. 31 Issue 3 (2007), pp. 276-286
- [3] Arif Satria & Yoshiaki Matsuda, *Decentralization of fisheries management in Indonesia*, Marine Policy, Vol. 28, Issue 5 (2004), pp. 437-450.
- [4] Gina Elliott et al, *Community Participation in Marine Protected Area Management: Wakatobi National Park, Sulawesi, Indonesia*, Coastal Management, Vol. 29 Issue 4, 2001, p. 295-316.
- [5] Esmi Warassih, "Ilmu Hukum yang Kontemplatif", dalam *Penelitian Hukum Interdisipliner, Sebuah Pengantar Menuju Sosio-Legal*, Thafa Media, Yogyakarta, 2016.
- [6] John Kurien, "Ecosystem Approaches to Fisheries and Local Implementation", Paper *Biodiversity Marine and Coastal Areas*, International Collective Support of Fishworkers (ICSF), Guangzhou, December 9-13, 2013.
- [7] Christophe Béné, et al, *Not by Rent Alone: Analysing the Pro-Poor Functions of Small-Scale Fisheries in Developing Countries*. *Development Policy Review*, 28, 2010, p. 325-358.
- [8] Edward H. Allison, et al, *Rights-based fisheries governance: from fishing rights to human rights*, Fish and Fisheries, 13, 2012, p. 14-29.
- [9] Badan Pusat Statistik, *Survei Sosial Ekonomi*, (Jakarta: BPS, 2014).
- [10] Robert S. Pomeroy, *Community-based and Co-Management Institutions for Sustainable Coastal Fisheries Management in Southeast Asia*, Ocean & Coastal Management, Vol. 27, Issue 3, 1995, p. 143-162.
- [11] Blake D. Ratner & Edward H. Allison, *Wealth, Rights, and Resilience: An Agenda for Governance Reform in Small-scale Fisheries*, *Development Policy Review*, 30, 2012, p. 371-398.
- [12] Jason M. Patlis, *The role of law and legal institutions in determining the sustainability of integrated coastal management projects in Indonesia*, Ocean & Coastal Management, Vol. 48, Issues 3-6, 2005, p. 450-467.
- [13] Nicolás L. Gutiérrez, et al, *Leadership, social capital and incentives promote successful fisheries*, Nature Feb 17, 2011, p. 386-9.
- [14] Edward H. Allison, et al, *Rights-based fisheries governance: from fishing rights to human rights*. Fish and Fisheries, 13, 2012, p. 14-29.
- [15] Nireka Weeratunge et al, *Small-scale fisheries through the wellbeing lens*. Fish Fish, 15, 2014, p. 255-279.
- [16] M. Fabinyi, et al, *Managing inequality or managing stocks? An ethnographic perspective on the governance of small-scale fisheries*, Fish Fish, 16, 2015, p. 471-485
- [17] JMcClanahan, et al, *Managing fisheries for human and food security*, Fish Fish, 16, 2015, p. 78-103
- [18] Elena M. Finkbeiner, *The role of diversification in dynamic small-scale fisheries: Lessons from Baja California Sur, Mexico*, Global Environmental Change, Vol. 32, 2015., p. 139-152.
- [19] Brian Z. Tamanaha, *Realistic Socio-Legal Theory: Pragmatism and A Social Theory of Law*, Clarendon Press, Oxford, 1997.
- [20] Elizabeth McLeod et al, *Sasi and Marine Conservation in Raja Ampat, Indonesia*, Coastal Management, Vol. 37 Issue 6, 2009, p. 656-676.
- [21] Esmi Warassih, Sulaiman, Derita Prapti Rahayu, *Sustainable Fishery Campaign by Small-Scale Fishers: A Case Study on Law Protection on Small-Scale Fishers in Morodemak Village, Demak District, Central Java Province, Indonesia*, Environmental Justice, Vol. 11 No. 3, 2018, p. 114-117.

- [22] Neil L. Andrew, et al, *Diagnosis and management of small-scale fisheries in developing countries*, Fish and Fisheries, 8, 2007, p. 227–240.
- [23]]Satjipto Rahardjo, *Lapisan-lapisan dalam Studi Hukum*, Bayumedia, Malang, 2009.