

Legal Protection for Coastal and Marine Activities from Pollution of the Marine Environment

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ABSTRACT

Indonesia has potential coastal and marine resources. Community, Private sector and local government should manage and develop them. There are various activities along the coast in North Sumatera Province. This research focused on *Serdang Bedagai* District and Medan City. As local assets and tourism destination, the local government should ensure the sustainability of the coastal and marine resources. However, there are threats for the coastal and marine resources, namely marine pollutions. This research discusses two problems: (a) How vulnerable the coastal and marine activities are to marine pollution? (b) Is there a regulation concerning legal protection for those coastal activities? This research consists of the literature review and field research. The author interviewed the local government, coastal business manager, and community. As results, (a) None of the informant worried about the marine pollution, especially due to the sea traffic; (b) There is none regulation concerning the protection of coastal and marine activities from marine pollution. As recommendation, local and provincial department should draft a regulation concerning legal protection for coastal and marine activities in *Serdang Bedagai* due to the increased number of ship traffic after the operation of the *Kuala Tanjung* Port in North Sumatra Province.

Keywords: *coastal and marine activities, marine pollution, legal protection*

I. INTRODUCTION

Indonesia is an archipelago country with 17,504 islands. These islands are 3,351 million km² of territorial sea area (inland waters, islands and territorial sea) and approximately 2,936 million km² of open seas including the Exclusive Economic Zone (ZEE) and continental shelf. It places Indonesia as the second longest coastline after Canada, which has 99,093 km. [1] This condition makes Indonesia known as a maritime country. Furthermore, it has potential marine and coastal resources. North Sumatera is a province with the sea area about 110,000 km² and 1,300 km coastline. [2] According to Article 25 A of the fourth amendment to the 1945 Constitution, states that "the Unitary State of the Republic of Indonesia is an archipelago characterized by an archipelago with territories and boundaries and its rights are determined by law". [3] As the largest archipelago country in the world, Indonesia is potential to become the World Maritime Axis according to Law Number 32 of 2014 Article 5 (1) which states, "Indonesia is an archipelago country which is entirely composed of islands including large and small islands. It constitutes as a regional, political, economic, socio-

cultural and historical unity that territorial boundaries are drawn from the archipelagic baselines. [3]

Law No 17/2007 in the appendix section on the Vision and Mission of the National Development Year 2005 - 2025 states the Indonesian vision for development are becoming Independent, Advanced, Fair and Prosperous. The seventh mission of national development 2005-2025 states to realize Indonesia as an independent, developed, strong and nationally based archipelago country. [4] For this reason, the potential of marine resources must be managed optimally and sustainably to realize the ideals of Indonesia as the World Maritime Axis especially to achieve the prosperity for Indonesian people. Based on this, on February 20, 2017, there is Presidential Regulation No. 16 of 2017 concerning Indonesian Maritime Policy which will be revised every five years. [3]

Based on a specific study concerning the earth surface of North Sumatra as the third-largest city in Indonesia. It was determined that the land area was divided into three regions. There is a western region with undulating terrain, the central region with the uneven ground to hilly state, and the eastern region with a relatively flat state. *Serdang Bedagai* District is located

in the eastern region, so it is categorized as a low land with an altitude 45 meters below sea level similar to Medan.[5]

As stated above, Indonesia has potential coastal and marine resources which are needed to develop. Various efforts to utilize sea resources have been made. However, there are still many utilization efforts that deviate from the applicable provisions. Thus, the sea is no longer able to sustain the effects because it has exceeded the carrying capacity, and the sea becomes polluted. Indonesia legalized a Law No. 23/2014 concerning local governments. This law provides an explanation of the affairs division in the field of marine affairs and fisheries, which are Marine, Coastal and Small Islands. It clearly states that Management of marine area up to 12 miles, excluded oil and gas and included Empowerment of coastal communities and small islands, are under the supervision of provincial governments.

This regulation is the basic rule for the North Sumatra provincial government to legalize the North Sumatra provincial regulation No. 2/2017 concerns the spatial plan for the North Sumatra province in 2017-2037. This regulation defines the Provincial Spatial Planning (PSP) as a general spatial plan from the provincial area. It is the elaboration of the National Spatial Planning (NSP) which contains provincial objectives, policies, spatial planning strategies; the spatial structure plan of the province; plan pattern of provincial land; the establishment of provincial strategic areas; provincial land use directives; and controlling the direction of provincial land utilization in the central, provincial and district/city governments. [3]

This research discusses two problems: (a) how is the coastal and marine activities affected by marine pollution; (b) is there a regulation concerning legal protection for those coastal activities either in Provincial or district level?

II. METHODOLOGY

This research applied the literature review and field research. The researcher interviewed local government, coastal business manager, and community. There was a guideline interview for informants in Medan and Serdang Bedagai districts to have their opinion on the protection for coastal activities of the sea pollution.

III. RESULTS AND DISCUSSION

This paper is a way to disseminate information of the research findings entitled "Legal Protection of Coastal Activities against Pollution of the Marine Environment in Medan City and Serdang Bedagai". It is important due to two reasons. First, Indonesia is a country known as a maritime country since three-quarters of its territory is

water. Secondly, according to the Central Statistics Agency, the case number of water pollution is increased every year. This pollution is caused by various things such as tourism activities in the coastal area. Article 1 paragraph 2 of Law Number 27 the Year 2007 concerning Management of Coastal Areas and Small Islands states that the discussion of the sea also means discussing the surrounding land. Coastal areas are transitional areas between terrestrial and marine ecosystems which are affected by changes in the land and sea. Thus, the coast is an area that starts from the lowest point of the sea at low tide to the land until the farthest of the waves extend. [5]

Furthermore, Article 1 paragraph 14 of Law Number 32 the Year 2009 concerning the Environmental Law states environmental pollution as the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that it exceeds specified environmental quality standards. This paper will discuss the different aspects of legal protection for coastal activities that may be affected by sea pollution that occurs, such as oil spills from ships or tankers passing in the waters.

Daily activities in residential areas can be affected by pollution that occurs in the sea. Natural disasters as natural events without human intervention that have a major impact on the human population are also included as a source of pollution that can harm coastal activities. Based on the 2018 Indonesian Environmental Statistics, water and soil pollution that occurred in 2018 is very high when compared to the pollution data in 2014. Meanwhile, the number of air pollution case is decreased year by year. [1]

A. Coastal Activity And Pollution Risk

The hazard supervision of environmental destruction and pollution in the marine tourism area is an important aspect. Not only in maintaining but also in preserving marine tourism as a national asset. It contributes to national development in the form of employment and other economic activities (multiplier effects) and foreign exchange income for the country. The occurrence of environmental destruction and pollution of marine tourism objects in Indonesia shows that the mechanism of supervision and monitoring by the government and regional governments are not effective. [6]

It is important to protect coastal activities from pollution in Indonesia because of five reasons: (1) beach activities are mostly related to marine tourism as a tourism destination. (2) Beach activities are revenue for Indonesia as Non-oil and gas resources. (3) Some coastal activities are the income sources for local coastal community (4) lack of legal protection for coastal activities from pollution, specifically the compensation.

(5) Lack of coordination between law enforcement agencies in handling marine pollution cases.

Protection of coastal activities means an effort from the government to protect coastal activities affected by marine pollution. It does not only due to the decrease of sea aesthetic value but also to protect the business and communities whose activities are disrupted. Therefore, it is very important to protect coastal activities from pollution. Beach activities are inseparable from tourism. Tourism is a dynamic activity that involves many people and various fields of business.

In the national development plan, tourism has a significant contribution to the country's revenue from non-oil and gas. It also plays an important role in expanding employment, encouraging regional development, increasing the welfare and prosperity of the people. [7] There are some coastal tourist destinations in Medan which are Belawan Harbor, Belawan Gabion, Siba Island Resort and Theme Park, Ocean Pacific (Olo Beach), Kampung Nelayan, Floating Restaurant, and Marina Restaurant. The existence of coastal tourism in the city of Medan is considered potentially affected by pollution due to its position in the bay. The pollution is from household waste. For this reason, there is an association called *Nelayan Bubu Cinta Lingkungan*. This group deals with household waste and other waste in order to ensure the waste would not interfere with the fishermen activities.

A similar situation occurs in Serdang Bedagai District; there are some beaches, namely *Pantai Cermin*, *Pondok Permai*, *Sialang Buah*, *Pantai Kelang*, *Bali Lestari*, *Kuala Puteri*, *Cemara Kembar* and, *Mutiara Beach*. These beaches are extending outward over 55 km. The existence of these beaches supports local revenue. The Serdang Bedagai Tourism Office stated that the 12 beaches are managed by private parties and located in 3 sub-districts, namely (a) *Pantai Cermin*, (b) *Perbaungan* and (c) *Teluk Mengkudu*. There is another beach which is not productive anymore, namely *Tanjung Beringin* beach.

Serdang Bedagai District is a strategic area in the region because it has an island, *Berhala* Island. This island is within the ship traffic area in the entrance of *Belawan* Port, Medan. According to the Serdang Bedagai Tourism Office, the sea area between *Berhala* Island and *Tanjung Beringin* is not a traffic lane for large vessels, and there are only fishing boats which have less risk as a pollutant. In the local government point of view, it is different than *Bintan* district or *Batam City*, in *Kepulauan Riau* Province, which is the busy shipping lane.

Another thing which is important for this research is the status of *Berhala* Island as the outermost island of Indonesia and a tourist destination. The *Sergai* district Tourism Office stated that there is a Navy Post which authorized to conduct sea surveillance in several districts

including *Berhala* Island. It is due to the status of *Berhala* Island that it is under supervision of the ministry of defense and security. In 2006, *Serdang Bedagai* district legalized District Regulation No. 12/2006 concerning the Management of *Berhala* Island as the Eco-Tourism. Unfortunately, although there is a valuable island, the local government does not have any concerns on environmental pollution which endangered its beach tourism because the location is not in the large vessels or tanker shipping lane.

Actually, there is a concern about sea pollution which will affect beach tourism in *Medan* and *Serdang Bedagai* district, especially the entrepreneur who manages lodging, restaurants and other activities in the beach. The fact that pollution has never happened in both districts should not make the government unaware of sea pollution. According to an informant who managed a *Wong Rame* Beach, there are many kinds as sea pollutant, such as cattle waste from pigs or other livestock. Moreover, the condition of the sea is shallow, so large ships do not pass through this area. Therefore, sea pollution is not as bad as happened in *Bintan* district in the *Kepulauan Riau* and *Bali* Provinces which are adjacent to the Indonesian Ocean.

The new sea pollution risk arises because of the operating of the new *Kuala Tanjung* Port. The operation of this port has a consequence for the increase of vessels and tanker traffic. It could cause pollution because the ship will carry out pollutant and dump it into the sea, including oil spills. For this reason, the entrepreneurs of beach tourism expect the government to draft the form of compensation, its payment procedures and the mechanism for submitting compensation. This is important as a form of government responsibility. Today, the local Government instructs the entrepreneur to have licenses, follow the tourism business standards and so on. It is time for the government to protect the beach tourism by providing compensation if there is sea pollution affected the business.

B. Legal Arrangements for Protection of Coastal Tourism

Basically, the legal protection provided by Law No. 10/2009 concerning tourism. Specifically, there is a provision regulates the rights of tourism managers/entrepreneurs, including obtaining equal opportunities in doing business in the tourism sector; forming and becoming a member of a tourism association; get legal protection in doing business, and obtain facilities in accordance with statutory provisions.

In addition, this Law emphasizes the protection of tourist attractions, including beaches. This can be seen from the seriousness of the sanction in article 64 which stipulates that anyone who intentionally and unlawfully damages the physical attraction of tourism is sentenced

to a maximum imprisonment of 7 (seven) years and a maximum fine of IDR. 10,000,000,000.00 (ten billion rupiah).

Whereas the legal protection provided in the event of pollution at sea is through Presidential Decree Number 109/ 2006 concerning Emergency Management of Oil Spill at sea Article 12 regulates the responsibility for pollution prevention costs charged to each ship owner/operator, highest leader, oil and gas operator or highest responsible offshore oil exploitation activities or leaders / those responsible for other activities, which due to their activities resulting in oil spills at sea, are solely responsible for the costs of (a) handling oil spills at sea; (b) mitigating environmental impacts due to oil spills at sea; (c) community losses due to oil spills at sea; and (d) environmental damage due to oil spills at sea.

One thing that must be a common concern regarding legal protection for coastal tourism that is affected by marine pollution is the absence of compensation for coastal tourism management. The compensation is a must for the effect of sea pollution on coastal tourism. As conveyed by entrepreneurs and the community. The community, in particular, is a group of people who live or carry out beach activities, hoping the government can provide minimal compensation for the replacement of local communities' houses.

Today, sea pollution occurs and affects business and communities during the rainy season. At that time, flooding occurs in mountainous areas so that the Serdang Bedagai sea area will receive waste such as water hyacinth, monitor lizard and dead crocodiles, wood and trash coming from another mountain. There is no government action, and only the entrepreneurs and community do the cleaning. The absence of regulation regarding the provision of compensation for coastal activities affected by pollution of the marine environment will certainly also has an impact on Tourism. Furthermore, the need for regulation on compensation is expected to support the objectives of tourism as mentioned in Article 4 of Law No. 10/2009 concerning Tourism which aims to: (a) Increase economic growth, (b) Improve people's welfare, (c) eradicate poverty, (d). Overcoming unemployment, (e) preserving nature, environment, and resources, (f) Promoting culture, (g) Promoting the image of the nation, (h) Fostering a sense of love for the motherland, (i) strengthening national identity and unity and (j) strengthen the friendship between nations.

IV. CONCLUSIONS AND RECOMMENDATION

As results, (a) No informant is worried of the marine pollution, especially that is caused by the sea traffic; (b) there is no regulation concerning the protection of coastal and marine activities from marine pollution except the regulation concerning tourism. As

recommendation, local and provincial department should draft a regulation concerning legal protection for coastal and marine activities in *Serdang Bedagai* due to the increased number of ship traffic after the operation of the *Kuala Tanjung* port in North Sumatra Province.

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