

Juridical Analysis of Marine Ecotourism Development by Fisherman Community

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ABSTRACT

Fishermen are still a profession for the majority of people who live in coastal areas and small islands. Fishermen who are classified as small fishermen, they are still hostage to a situation of poverty that is already multidimensional. One of the factors that encourages small fishermen cannot separate from the poverty is the COVID-19 pandemic, which causes small fishermen to not go to sea and rely on debt for their livelihood. The cost of people's purchasing power decreases for fishery products, causing small fishermen to not have the capital to go back to sea. If the condition of the COVID-19 pandemic does not gradually improve which causes the fishery supply chain to be hampered, it will have an impact on the welfare of small fishermen. One of the government's efforts to eradicate poverty for small fishermen is the establishment of marine ecotourism through the regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia concerning Marine Tourism Villages. In the development of marine ecotourism which placed in coastal villages, it is necessary to pay attention to the Tourism Law, the Law on Conservation of Biological Natural Resources, the Law on Coastal Areas and Small Islands and their amendments, the Regional Government Law and its amendments, and Village Law. The five regulations become the legal provision for the fishing community to participate in the development of marine ecotourism. The regulation on the Management of Coastal Areas and Small Islands regulates marine governance so that it can be utilized effectively and efficiently and provides opportunities for small and traditional fishermen to be able to take advantage of their welfare. Meanwhile, the Regional Government Law and the Village Law regulate the authority of local and village governments in the development of regional ecotourism in their regions. While the direction of public policy in the development of marine ecotourism is contained in the regulation of the minister of marine and fisheries regarding marine tourism villages where the regulation regulates areas that can be designated marine ecotourism, namely coastal villages. When the area has been designated as a marine tourism village, it will be moved and developed by the fishing community which incidentally is the community around the coast so that it will encourage the welfare of the fishing community.

Keywords: Ecotourism, Marine, Community, Fisherman.

1. INTRODUCTION

Fishermen are one of the professions that are mostly undertaken by people who live in coastal areas. The portrait of the life of small fishermen in Indonesia is still stigmatized in a poverty. Poverty of small fishermen is a multidimensional poverty that involves structural and cultural aspects.[1] Several programs of government, both the central government and local governments, are a stimulus for small fishermen to be able to develop towards prosperity. The programs that have been realized by the Government are the coastal economic empowerment program (PEMP), the fisherman insurance premium subsidy program in the first year, and assistance with fishing gear/boat tools for small and traditional fishermen.

The COVID-19 pandemic, which has lasted for two years since 2020, has had a significant impact on small fishermen. These small fishermen are the group that faces the most vulnerable conditions due to the opportunities to diversify their livelihoods are very limited. In accordance with the news release from lipi.go.id, it was explained that during this pandemic situation many small fishermen did not go to sea and ended up relying on debt to survive and access resources because the life of small fishermen is calculated daily.[2] If fishermen cannot sell their fish because of the declining purchasing power of the community, it can affect in the absence of fishermen's capital to go to sea. If the condition of the COVID-19 pandemic does not gradually improve which causes the

fishery supply chain to be hampered, it will have an impact on the welfare of small fishermen.

In the sector of fishery, the COVID-19 pandemic has affected the sustainability of fishery product production and marketing activities. The supply chain of fishery commodities has decreased export demand in Indonesia by 10-20 percent due to export restrictions from the United States and China.[3] The policy of limiting community activities also has an impact on the closure of restaurants and the closure of several areas so that fishermen do not get good prices in selling their catch. If fishermen cannot sell their fish because of the declining purchasing power of the community, it will cause the absence of fishermen's capital to go to sea. If the condition of the COVID-19 pandemic does not gradually improve which causes the fishery supply chain to be hampered, it will have an impact on the welfare of small fishermen.

In an effort to prosper the small fishermen, the government encourages small fishermen to join groups. The groups in the field of fisheries are processing and marketing groups, tourism awareness groups, small fish cultivators, and joint business groups.

Processing and marketing groups are groups formed with the intent and aim of being an initiative in diversifying fishery products such as crispy anchovies, shrimp crackers, and various processed products made from fish and others.[4] The tourism awareness group is one component in society that has an important role and contribution in the development of tourism in the area.[5] Tourism awareness groups in coastal areas have members of fishermen who have an understanding of the potential of the area so that they can explore to become tourism objects. The small fish cultivator group is a group of members of inland fishery fishermen who cultivate ornamental and consumption fish. A joint business group is a business entity formed by small fishermen based on the results of an agreement or deliberation of all members based on a common desire to work jointly and be held accountable for increasing the income of members. As stated by Aprilina Pawestri et al, "the fishermen empowerment program carried out by the government is a state obligation to fulfil the fishermen's rights so that the fishermen prosper". [6]

The aim of forming these groups is to realize the independence of small fishermen to improve welfare, quality, and a better life. These fisheries sector groups are expected to be productive so then it can provide additional value for small fishermen. Moreover, the existence of these groups in the field of fisheries is expected to facilitate small fishermen's access to technology, capital, production and marketing infrastructure. These fisheries sector groups are expected to exploit the potential of resources and the area in which they live.

One of the policies of the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia is to establish a marine tourism village as stated in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 93/PERMEN-KP/2020 concerning Marine Tourism Villages. According to Musaddun et al., they describe those coastal areas have other potential in the form of uniqueness and natural beauty that can become a tourist attraction so that tourism can be developed and have a positive impact on the regional economy. This is in accordance with the purpose of the establishment of this marine tourism village which is to prosper the people of coastal areas and small islands who in fact work as small fishermen by utilizing marine and fishery resources. The development of a marine tourism village located on the coast aims to provide added economic value for coastal communities, especially small fishermen.

The development of this marine tourism village is synergized with ecotourism in coastal areas and small islands and it is hoped that the active participation of coastal communities who work as fishermen. The participation of the fishing community is facilitated in a tourism awareness group and a business group with fishermen. The participation of tourism-aware groups and business groups with fishermen must synergize with the village government as the party that has the authority to manage the village area. This becomes a problem considering that the tourism awareness groups and business groups with fishermen are only limited to associations that do not have the authority to manage coastal areas whose locations are under the authority of the village government.

Dealing with the background has been described, the legal issue of this article is the direction of public policy for the development of marine ecotourism in Indonesia based on small fishing communities as an effort to alleviate poverty. From these legal issues, 2 (two) problem formulations consist of:

1. How is the regulation in the development of marine ecotourism in Indonesia?
2. How is legal politic in the management of marine ecotourism based on fishing communities?

2. RESEARCH METHOD

To answer the issues in this article, a normative juridical research method will be used to examine the policy direction of marine ecotourism development by fishing communities through a statutory approach to find out the regulations related to regulations that become the legal umbrella in the development of marine ecotourism and the direction of public policies related to marine ecotourism. empowering fishing communities to manage ecotourism in their area.

3. RESULT AND DISCUSSION

1) Regulations for the Development of Marine Ecotourism in Indonesia

Marine ecotourism is an attraction along with the exotic and beautiful coastal areas of Indonesia which are very charming. New ecotourism is one of the easiest and cheapest choices for people to enjoy the beauty of nature. According to Ernik Yuliana, "marine ecotourism is a form of tourism that is responsible for the preservation/conservation of nature, provides economic benefits, and maintains cultural integrity for the local community".[8] Fandeli and Mukhlison assert that "ecotourism is a conservation movement by the community".[9] Thus, marine ecotourism does not only utilize coastal areas and marine waters for tourism, but is also responsible for preserving the marine environment, local culture, and contributing to the economy of coastal communities who in fact are fishermen. The thing that distinguishes nature tourism is usually its location in coastal areas and sea waters.

The regulations that become the legal provision in the development of marine ecotourism in Indonesia, it includes

- a. Law No. 10 of 2009 concerning Tourism;
- b. Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and Their Ecosystems;
- c. Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands and its amendments
- d. Law Number 23 of 2014 concerning Regional Government and its amendments.
- e. Law Number 6 of 2014 concerning Villages.

The Tourism Law outlines public policies in the development of the tourism sector by noticing the diversity, uniqueness, and uniqueness of culture and nature which aims to provide benefits to the people's welfare by empowering local communities. The management of tourism affairs is carried out by the government and/or local government. One of the authorities of local governments based on Article 30 of the Tourism Law is to determine district/city tourism destinations.

Based on the provisions of the Tourism Law, it is clear that the one who has the authority to determine the location as a tourism object is the local district/city government. In other words, the village government is not authorized to determine the location that will be used as a tourism object.

The provisions of the Law on Conservation of Biological Natural Resources and their Ecosystems are also a legal provision in the development of marine ecotourism because marine ecotourism is closely related

to the utilization of coastal and marine ecosystems. Therefore, with the regulation of the Law on Conservation of Biological Natural Resources and their Ecosystems, it is expected to provide an obligation for the preservation of coastal areas and waters so that they are not only explored for economic purposes.

The regulation on the Management of Coastal Areas and Small Islands and its amendments regulates the planned and integrated management of coastal resources and small islands. This arrangement is expected that the sustainability of coastal resources and small islands can be maintained considering that almost 60% or around 150 million Indonesians live in coastal areas.[10]

The Regulation of the Regional Government Law and its amendments and the Village Law regulates regional and village government institutions. In terms of the development of marine ecotourism, the two regulations are closely related to the existence of provincial and village local governments that have the authority to manage coastal and marine areas based on the law.

Thus, regulations related to the development of marine ecotourism are related to the six regulations and their amendments. The five regulations become the legal provision for the fishing community to participate in the development of marine ecotourism. The regulation on the Management of Coastal Areas and Small Islands regulates marine governance so that it can be utilized effectively and efficiently and provides opportunities for small and traditional fishermen to be able to take advantage of their welfare. Meanwhile, the Regional Government Law and the Village Law regulate the authority of local and village governments in the development of regional ecotourism in their regions.

2) Legal Politics in the Management of Marine Ecotourism Based on Fisherman Communities

Legal politics is a term adopted from the legal term of Dutch as *rechtspolitiek*. *Rechtspolitiek* is a combination of the word *rechts* which is translated into Indonesian as law and the word *politiek* which in Indonesian is translated as policy (policy). From the etymology described above, it means that legal politics is a legal policy which has the meaning of a series of concepts and principles that are the basis for implementing leadership work plans through legal instruments. Padmono Wahajo defines legal politics as "policies of state administrators that are fundamental in determining the direction, form and content of the law to be formed and about what criteria are used to forbid something".[11] It is in line with Teuku Mohammad Radhie who conveyed that legal politics is "a statement of the will of the state authorities regarding the laws that apply in their territory both now and in the future".[12] From the description of the etymology and opinions of the experts stated above, what

is meant by legal politics is the basic policy of implementing the aspired state which is realized in legal instruments in the form of regulations.

As stated by Lucky Dafira Nugroho and Aprilina Pawesteri that “the fishermen empowerment strategy is form of legal politics of fishermen empowerment in Indonesia in the future where the direction will make it easier for fishermen regarding access to capital and access to marketing as well as providing assistance for technological development and institutional strengthening of fishermen”. [13] In terms of developing marine ecotourism in Indonesia, the legal instrument that forms the basis is contained in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 93/PERMEN-KP/2020 concerning Marine Tourism Villages. The program for establishing marine ecotourism in villages is a program from the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia based on the Regulation of the Minister of Maritime Affairs and Fisheries. The background of the program is to encourage the welfare of the people who live in coastal areas and small islands through the development of marine tourism by utilizing marine and fishery resources. In the development of marine ecotourism, it is related to village development. Therefore, the development of marine tourism is carried out by considering aspects of the interests of local communities and local wisdom as well as preserving the environment and improving the economy.

Based on the background of the marine ecotourism development program which placed in a village area, it prioritizes the empowerment of people living in coastal areas who work as fishermen and their families. Community empowerment is a form of community participation in the management of the environment and marine and fishery resources.

This empowerment of fishing communities can be undertaken through supplier and marketer groups, tourism awareness groups, and business groups with fishermen. These fisheries sector groups can be referred to as fishing communities. This group of suppliers and marketers of fishery products can be part of the development of marine ecotourism by selling products from marine and fishery activities. Tourism awareness groups as a driving force in the construction of marine ecotourism infrastructure development while preserving maritime customs and maritime culture. Meanwhile, business groups with fishermen are the driving force in efforts to diversify businesses through marine ecotourism in their area which is expected to increase added value in the lives of small fishermen.

The direction of public policy in the regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia concerning Marine Tourism Villages attempts to designate certain areas as marine ecotourism. Areas that can be designated as marine

tourism villages which are marine ecotourism are coastal villages and fishing ports. The criteria for coastal villages that can be determined by regulation are (a) the potential for natural tourism, artificial tourism, and/or traditional tourism, (b) the potential for tourist visits, and (c) community groups with livelihoods of fishermen, fish cultivators, salt farmers, and/or tourism managers. Further, this coastal village also has (a) marine business potential that can be integrated with marine tourism activities, (b) located around conservation areas, (c) there are customary law communities, (d) there are conservation driving communities/tourism management institutions / ecotourism community, (e) the existence of basic facilities, and (f) policy support from the central government, district/city local governments, and village governments and related stakeholders.

A coastal village to be designated as a marine tourism village, it must be proposed and determined by the Directorate General of Capture Fisheries, Ministry of Marine Affairs and Fisheries of the Republic of Indonesia. Once determined, it will be moved and developed by the fishing community which includes tourism awareness groups, supplier and marketer groups, and business groups with fishermen. In the regulation of the ministerial regulation on marine tourism villages, it is stated that funding for the development of marine ecotourism is financed by the state revenue and expenditure budget, regional revenue and expenditure budget, and other legal and non-binding sources.

Thus, the direction of public policy in the development of marine ecotourism in Indonesia is regulated in the regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia concerning Marine Tourism Villages. The regulation regulates areas that can be designated for marine ecotourism, namely coastal villages with several criteria listed in Article 7 of the Regulation of the Minister of Marine Affairs and Fisheries concerning Marine Tourism Villages. When the area has been designated as a marine tourism village, it will be moved and developed by the fishing community which incidentally is the community around the coast so that it will encourage the welfare of the fishing community. Matters related to funding for the development of marine ecotourism, those will be assisted through both central and regional government budgets as well as legal and non-binding third party donations.

4. CONCLUSION

The conclusion indicated that regulations related to the development of marine ecotourism were related to the six regulations and their changes. The five regulations have been legal provision for the fishing community to participate in the development of marine ecotourism. The regulation on the Management of Coastal Areas and Small Islands regulates marine governance so that it can be utilized effectively and efficiently and provides

opportunities for small and traditional fishermen to be able to take advantage of their welfare. Meanwhile, the Regional Government Law and the Village Law regulate the authority of local and village governments in the development of regional ecotourism in their regions. Whereas, the direction of public policy in the development of marine ecotourism is contained in the regulation of the minister of marine and fisheries regarding marine tourism villages where the regulation regulates areas that can be designated marine ecotourism, namely coastal villages. When the area has been designated as a marine tourism village, it will be moved and developed by the fishing community which incidentally is the community around the coast so that it will encourage the welfare of the fishing community.

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