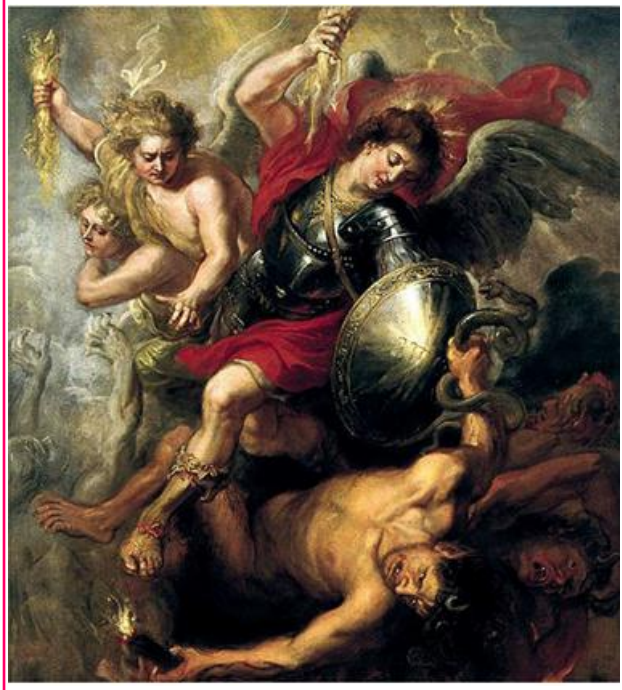
opción

Revista de Antropología, Ciencias de la Comunicación y de la Información, Filosofía, Lingüística y Semiótica, Problemas del Desarrollo, la Ciencia y la Tecnología

Año 35, 2019, Especial N° 19

Revista de Ciencias Humanas y Sociales
ISSN 1012-1587/ ISSNe: 2477-9385
Depósito Legal pp 198402ZU45



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Opción, Año 35, Especial No.19 (2019): 1694-1716
ISSN 1012-1587/ISSNe: 2477-9385

Legal protection of life environment in using a coastal fishing resource

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Abstract

This study aimed to analysis the implementation the legal protection of the environmental life into using the fishing resource owned coastal region. The result of this study indicated that the controlling and sanction still not be optimum to secure and safe legal protection for using life environment and its ecosystem in the a coastal resources. All policies have still weakly legal substances and make an overlapping and ambiguity. Hence, the larger implied many more problems and violations in the management of life environment.

Keyword: Legal protection, life environment, fishing resources.

Protección legal del medio ambiente de vida al usar un recurso de pesca costero

Resumen

Este estudio tuvo como objetivo analizar la implementación de la protección legal del entorno de vida para utilizar la región costera de propiedad de recursos pesqueros. El resultado de este estudio indicó que el control y la sanción aún no son óptimos para garantizar la protección legal del uso del entorno de vida y su ecosistema en los recursos costeros. Todas las políticas todavía tienen sustancias jurídicamente débiles y hacen una superposición y ambigüedad. Por lo tanto, más problemas e infracciones en la gestión del entorno de la vida.

Palabra clave: Protección jurídica, medio ambiente, recursos pesqueros.

Recibido: 05-12-2019•Aceptado: 10-03-2019

1. INTRODUCTION

The life that is carried out by mankind on this earth cannot be separated from two vital aspects namely law and environment. The law contains functional essences which is known as regulation and protection, both of which cannot be separated, so that the existence of law is urgent and universal to carry out the function of regulation as well as protection of all interests of lives. One aspect that requires legal presence and protection function is the environment itself. The environment becomes the main facility for humans and other living creatures to fulfill their needs (basic need) in carrying out their activities and functions, therefore the law should not be solely as stated by Santos (1995) that, "the law exists only for humans," but also serves the interests of living things and the environment. The law is essentially not singularly devoted to human interests (human being actualize) but also regulates and protects the rights, intentions and functions of environmental ecosystems along with a variety of living creatures. Legal protection for the environment is universal to carry out its duties, functions, principles and achieve its goals which always needed in a consistent, sustainable and integrated manner (comprehensive and holistic).

The initial emergence of the legal protection theory came from the theory of natural law or the flow of natural law pioneered by Plato, Aristotle (a student of Plato) and Zeno (the founder of the Stoic school) which stated that the law is derived from God which are universal and eternal, and between law and morals must not be separated. Law and morals are the reflections that internally and externally rules out the human life which are realized through law and morals. Von Thomas

Aquinas argued that natural law was a provision of reason that originates from God with purpose for good and was made by people who take care of society to be disseminated (Rahardjo, 2006). However, the existence and concept of natural law have been contradicted and rejected by most legal philosophers, even though in fact the experts who rejected it more less use the understanding of natural law that they were likely not realized it. One of the underlying reasons of the rejection by number of philosophers of law against natural law is that they still consider that the search for something absolute from natural law to be a useless act. Although there are differences in the views of the philosophers about the existence of natural law, but in other aspects also raises numbers of hope that the search for the "absolute" is a longing for human beings to the nature of justice. Natural law is a rule that "universal, eternal, and absolutely valid."

Natural law is a reflection of eternal law (lex naturalis). Long before the birth of Legal History, it turned out that the flow of natural law was not only presented as science, but also accepted as basic principles in legislations. The seriousness of humanity longing for justice, is essential and hopefully for a law that is higher than positive law. Natural law has shown that the truth of truth and justice is a concept that includes many theories. Various opinions and theories of legal philosophers have sprung up from time to time, until the 17th century. The substance of natural law has placed a principle that is universal which called human rights (Von Thomas Aquinas in Rahardjo, 2006).

Along with the development of the era, positive law which based on the legislation appears as a means of legal protection that is

conceptualized, theorized and practiced in various countries including Indonesia. Kelsen (1976) said that positive law needs to be seated as an object of study and into a legal order ranging from basic law to the most concrete or individual regulations. All regulations which part of the order are still based on basic values that contain ethical judgments. All existing regulations must be returned to these values. The legal object must be empirical and can be explained rationally. All legal regulations constitute a unified system arrangement (Rahardjo, 2009). The linkage of the principles of positive law and ethical values according to Scholten (1954) was the principle of positive law but at the same time it exceeds the positive law by referring to an ethical assessment. Legal principles can provide an ethical assessment of positive law if it is not at once outside the law. Existence of positive law hence to show, how the principle of law contains ethical values that are self evident (proof of self confidence) for those who have positive law (Rahardjo, 2006).

Applicability of Positive Law encourages the birth of various legislative policies, namely Laws or other written regulations made by executive and judicial institutions, both general and sectoral. In its development, various laws that continue to be produced by the legislative institutions tend to deviate from its goal of providing less legal certainty and justice as well as legal protection, instead on the contrary more and more problems arise both the problems that exist in the Act itself, legislative policy makers and problems in their use and implementation. Positive law with legislation and written regulations as its mainstay, in its development increasingly shows its weaknesses and inability to realize universal legal protection. This reality then led to the emergence of the

idea of a Responsive - Progressive Law that placed humans as centers of law.

Rahardjo (2009) argues that progressive law does not accept the law as an absolute and final institution, but is largely determined by its ability to serve humans. Law is an institution that continuously builds and transforms itself towards a better level of perfection. The quality of the perfection can be verified into factors of justice, prosperity, concern for the people and others. This is the essence of "law as a process, law in the making". The law does not exist for the law itself, but for humans. Santos (1995) states that, "Law is For Humans", not the other way around. The law does not exist for itself, but for something wider and bigger. So whenever there is a problem in and with the law, it is the law that is reviewed and corrected, not humans who are forced - forced to be included in the legal scheme or prioritize emancipation rather than regulation. In this connection, the World Bank (2005) argues that honesty, empathy and dedication in carrying out the law become increasingly rare and expensive. Almost everywhere humility is rampant and people and nations are increasingly unhappy. Furthermore, Rahardjo (2006) argues that confronting humans to the law encourages complex choices. But essentially the existing legal theories are rooted in these factors. The more the foundation of a theory shifts to legal factors, the more it considers the law as something absolute, autonomous and final. The more shifted to humans, the more the theory wants to give space to human factors. Examining further and carefully, both Positive Law and Progressive Law tend to be involved in conflicts of interest in making choices, whether the law must be positioned in absolute or human factors that must be positioned more as commander. Hence, both tend to take a consensus into

a legal regime. Positive legal regimes and responsive legal ideas have mastered and controlled various thoughts, paradigms, philosophies, ideologies, values principles, concepts and theories, methods and legal analysis as well as legal behavior and practices that are statusquo, secular, capitalist and liberal in law various countries including Indonesia. This fact basically has aroused the thought of some experts or legal scientists who expect the existence of a higher law than positive law as stated by Von Thomas Aquinas.

In Indonesia, which has the worldview of Pancasila, constituted with the 1945 Constitution of the Republic of Indonesia and as a legal state, tends to be trapped in the conflict between Positive Law and Progressive Law. This arousal is caused by the dominantly legal interpretation of the State based on the concept of Rechtstaats and Rule of Law, including the tendency to state the legal concept of Socialist legality and Islamic nomocracy. This certainly has broad implications for the practice of law and legal protection, including the confusing legal protection of the environment and the use of coastal fisheries resources (PHLH SDPP). It is ironic because Pancasila has been agreed as the philosophy, ideology and basis of the State, but the guidelines and practices are not the concept of the State of Pancasila Law, but the values of the teachings of liberalism, capitalism, secularism and others.

Indonesia is the largest archipelagic country in the world with 17,504 islands (Fauzi. 2005) with a territorial area of around 7.7 million km2 and it has a coastline of 95,181 km2 means that the longest in the world after Canada, the United States and Russia. 65% of the total 467 districts / cities in Indonesia are along the coast line (Maritime and

Fisheries Statistics, 2011). In 2010, Indonesia's population reached more than 237 million people (BPS. 2012), of which more than 80% lived in coastal areas (Burke et al., 2012). Moreover, Indonesia has a tropical sea environment that is very broad, beautiful and rich, which has very large biological and natural resources, which have comparative advantages for human life on it, and for the future welfare of the nation. Abundance and high diversity of marine biota causes Indonesia to be known as a "mega-biodiversity" country (Parry D.E, 1996). But the problem is that the abundance and high diversity are slowly declining due to the increase and expansion of damage and destruction of environmental ecosystems, marine and coastal fisheries resources.

Mangrove forests, coral reefs and seagrass beds, for example, which are the main support of environmental ecosystems and fisheries resources have experienced great destruction. In the 1980s there were still 936 million ha of mangrove forests but until 2013 there were only 330 million ha (or 28.8%) due to an area of 666 million ha (71.2%) had been damaged. Similarly, coral reefs which were originally 85,707 km wide now become 23,141 km (or 27%) and have suffered damage of 62,566 km (73%). The same thing also happened in seagrass meadows, which was originally 19,540 km wide and now has 6,057 km (or 31%) and has suffered damage of 13,483 km (69%). This fact shows that, within thirty years, there have been an average destruction of environmental ecosystems (LH) and coastal fisheries resources (SDPP) of 69% - 73% (Supriharyono, 2012). If the same conditions are compared or calculated, the remaining SDPP is classified as good, on average 27% - 31%, which is currently estimated to be extinct within the next fifteen years, or in 2028 it will be difficult to find mangrove forest populations, reefs coral and

seagrass beds. These conditions indicate several things: first, the environmental ecosystem of coastal areas and fishery resources are increasingly alarming if these conditions are allowed to continue. Second, legal protection for the environment of coastal areas and the use of SDPP are increasingly urgent both in order to prevent and control the destructive behavior and recovering of damaged SDPP. Third, legal protection is very important in optimizing supervision, giving sanctions and monitoring the root causes of the problem.

The government, despite have taken the initiative to lead conservation efforts, but most of Indonesia's vast marine ecosystems are still under threat. According to the World Resources Institute, in 2011 there were 139,000 km2 of protected marine areas in Indonesia, and the Government committed to increase it to 200,000 km2 by 2020 (Burke et al., 2012). But the management of coastal resources and protected areas are still a formidable challenge. The latest data of the 2012 Oseano Research Center shows that, 27.18% of Indonesia's coral was in good condition, 37.25% were in sufficient condition, and 30.45% were in bad condition (COREMAP Indonesia 2012), even Burke et al., (2012) stated that in the last half century, degradation of coral reefs in Indonesia increased from 10% to 50%. The causes of damage to coral reefs include development in coastal areas, waste disposal from various activities on land and at sea, sedimentation due to damage to upstream and watershed areas, destructive fishing using cyanide and prohibited fishing gear, coral bleaching due to climate change, and coral reef mining.

The crucial problem phenomenon faced by the world, including Indonesia today and in the coming future, is the scarcity of fish resources

in the marine and coastal areas. Worm et al., with his international research stated "The End of Fisheries", which estimates that in 2048 there will be a collapse of global fisheries (Fiorenza, M., et al, 2006). Although other researchers have criticised this, but the threat of fisheries scarcity is something that must be concerned by everyone. The world's production of saltwater fish catch has adversely affected by overfishing, which peaked in 1996. In 2011, global production only reached 78.9 million tons, lower than the 2007 production figure of 80.4 million tons (FAO 2010). The data shows that when the production of saltwater fish catches in the world is decreasing, in Indonesia the fisheries sector has increased steadily since 1950 to 2010. The Ministry of Maritime Affairs and Fisheries has targeting a production increase of 22.39 million tons in 2015, to become the largest fish producer in the world (The Jakarta Post, 2011). Indonesia's rich marine resources and access to water and islands territories that easily lead to the development of the fishing industry. Currently Indonesia is the world's third largest fishery producer, after China and Peru (FAO. 2010). The problem is, when Indonesia's fisheries production increases, which also occurs in all countries in the world, Indonesia faces a threat of a decline due to the double crisis of the degradation of the marine ecosystem and overfishing. Indonesia is the most at risk of experiencing a decline. According to research in 2012, compared to 27 other fish-producing countries, Indonesian fisheries are the most vulnerable to being destroyed based on indicators of coral reef management, fisheries situation and food security (Hughes et al., 2012).

Fisheries management areas in Indonesia have faced the symptoms of exploitation of important commodity groups, such as big pelagic, small pelagic, shrimp, and demersal fish. Ironically, small fishermen mostly

who feel the impact of the threat of fisheries scarcity and this has caused them to have to pay more for the fuel cost, because the location of the fishing is getting far away. The scarcity is also evident from the diminishing size of the fish, the decrease in the number of catches, and the loss of some species that were used to be the main catch, as happened to squid. This is further compounded by the condition of fisheries that continues to experience the classic threat of illegal fishing, illegal equipment, and foreign fishermen with large fishing vessels. Other threats are mining in coastal areas and small islands ranging from excavation processing that resulting in damage and pollution to coastal ecosystems and surrounding biological resources (KKP, 2013).

The Minister of Maritime Affairs and Fisheries (Kepmen KP) issued a decree on August 3, 2011 in the context of Kepmen KP's employee Kep. 45 / Men / 2011 concerning about potential estimation of fish resource in WPP-NRI, which estimates 6,520,100 tons / year, with utilization rates in 2011 reached 5,345,729 tons. Thus, the data on sea capture production has exceeded 82%, the maximum optimization required (maximum sustainable yield / MSY) was 80%. This was compounded by illegal activities, not involved and unregulated (Illegal, Unreported and Unregulated Fishing - IUU Fishing) which was estimated to reach 4,326 ships both locally and foreignly. Indonesia's fish potential was stolen by 25% (KKP. 2013), resulting in 208 numbers breaking the 107% figure. In general, there are several aspects of IUU Fishing, namely: catching destructive fish, catching illegal, not stepped and unregulated (IUU Fishing) fish, catching excess fish and exceeding capacity. The scarcity of the fish carries a large amount for small power. According to the Law No.45 of 2004, small fishermen are those who use fishing vessels

of up to five gross tons (GT) and depend on their daily livelihoods for fish. In 2011, the number of small fishing vessels was from 520,472 units or 89.45% of the total fishing vessels in Indonesia (KKP. 2013). In other words, small-scale fishing vessels are only able to catch around the coast 12 nautical miles. In addition, it absorbs 2,265,213 workers who are directly related to fisheries.

Indonesia faces the problem of international fishing policies (IUU) which causes overfishing. The main actors of IUU in Indonesian territorial and the Indonesian Exclusive Economic Zone (ZEEI), among others, came from Malaysia, Vietnam, China, Myanmar, Thailand and Philippines. Although the Ministry of Maritime Affairs and Fisheries has done routine patrols, the IUU Fishing is still massive in Indonesia. The vessel data examined reached about 4,326 units, both domestic and foreign.[1] The captured ships, only dozens were able to process in the court. The perpetrators were came from Indonesia (317 people), Malaysia (10 people), Vietnam (407 people), Thailand (270 people), Philippines (266 people), Laos (1 person), Cambodia (1 person), Myanmar (56 people), and China (1 person) (PSDKP - KKP. 2013. (Reflection 2012 and Outlook 2013).[2]

Regarding the fishing vessels, there are around 581,845 units which three islands with the highest number of units such Sulawesi, Sumatra and Java, totally of 1,001,667 units. While the top three fishing gears reached 75% of the total fishing gears, such 40% fishing rods, 28%

[1] PSDKP - KKP. Reflection on 2012 dan Outlook on 2013. Monitoring of Marine Resources and Fisheries

[2] PSDKP - KKP. Reflection on 2012 dan Outlook on 2013. Monitoring of Marine Resources and Fisheries

gill nets, and 7% trawl bags. Large-scale fishing gears include 32,040 purse seines, 18,451 trawling trunks and 10,125 long tuna fishing lines (tuna long line). Overfishing basically means too many ships catching not so many fish. In addition, overfishing does not also consider the type of fishing gear, fishing area and violation of fisheries rules. Meanwhile Indonesia has determined potential estimates for each fisheries management area (WPP) but did not implement well.

Indonesia as the largest archipelagic country plays a major role in voicing and providing solutions to strengthen regional and global initiatives for responsible and sustainable management of the world's marine resources, as well as the protection of biodiversity. Indonesia has a strategic bargaining position to improve fisheries resource management and lead change to build and empower regional and global initiatives in tackling, combating and eliminating IUU Fishing in the EEZ region. In connection with these problems, Greenpeace Southeast Asia (2007) conducted a global campaign to protect the oceans by shouting four main points: first, fisheries reform and law enforcement at every level of fisheries management; second, ending excessive fishing; third, proposing marine reservation in international waters, and fourth, protecting endangered species such as turtles, dugongs, whales, sharks and dolphins. A proactive role in promoting and strengthening solutions to overcoming and overcapacity, destructive fishing, mining, pollution and the impacts of climate change on the oceans are very important. This role is in line with Indonesia's constitutional spirit for active participation in creating world order (harmony and balance) based on independence, lasting peace and social justice.

Recognizing the various potential realities and dynamics of the problem of environmental ecosystems in coastal waters and the utilization of fisheries resources, the government has encouraged to establish various legal policies for legal protection both legislation and related regulations, such as Law No. 32 of the Year 2009 On Environmental Protection and Management (UUPPLH), Small Coastal and Island Islands Management Law No. 27 of 2007 jo Law No. 1 of 2014 (called UUPWP-PPK), Fisheries Law (Law No.31 of 2004 in conjunction with Law No. 45 of 2009), Law No. 19 of 2009 On the Endorsement of Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention on Persistent Organic Pollutants), Law No. 21 of 2009 On Ratification of Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 On to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Concerning the Law of the Sea dated December 10, 1982 On Conservation and Management of Limited-Aqueous Fish Stocks and Far-Stocked Fish Stocks) Law No. 26 of 2007 On Spatial Planning, Law No. 6 of 1996 On Indonesian Waters, and numbers of other laws such as Law No. 32 of 2004 jo Law No. 12 of 2008 On Regional Government, Law No. 16 of 2006 On Agricultural, Fisheries and Forestry Extension System, Law No. 16 of 1992 On Animal, Fish and Plant Quarantine, Law No. 5 of 1990 On Conservation of Biological Natural Resources and their Ecosystems, Law No. 17 of 1985 On the Ratification of the United Nations Convention on the Law of the Sea (UN Convention on the Law of the Sea), Law No. 5 of 1983 On Exclusive Economic Zone, Law No. 16 of 1964 On Fisheries Product Sharing. In addition, Presidential Regualtion No. 2 of 2006 On the Fisheries Court.

In an effort to expedite the implementation of legislation in the legal protection, the Government stipulates a number of Government Regulations (PP) such as PP No.21 of 2010 On Maritime Environmental Protection, PP. 27 of 2012 On Environmental Permit, PP No. 60 of 2007 On Conservation of Fish Resources, PP. 38 of 2007 On Division of Government Affairs between the Government, Provincial Government and Regency / City Government, PP No. 54 of 2002 On Fisheries Business, Government Regulation No.19 of 1999 On Control of Sea Pollution and / or Destruction, Government Regulation (PP) No.62 of 2010 On Utilization of Outermost PPK, Government Regulation No. 30 of 2008 On Organizing Fisheries Research and Development, PP No.24 of 2006 On Procedures for Appointment and Dismissal of Ad Hoc Judges in the Fisheries Court, PP No. 62 of 2002 On Tariffs for the types of non-tax state revenues that apply to the Ministry of Maritime Affairs and Fisheries, PP. 36 of 2002 On the Rights and Obligations of Foreign Ships in Implementing Peaceful Crossings Through Indonesian Waters, PP 15 of 2002 On Fish Quarantine, PP No.141 of 2000 On Amendments to PP No. 15 of 1990 on Fisheries Business, PP No.15 of 1984 On Management of Natural Resources in Indonesian EEZ.

Following up on various legal protection demand on the environment and the utilization of coastal fisheries resources, the President set a number of Presidential Regulations (Perpres), Presidential Decrees (Kepres) and Presidential Instruction (Inpres) such as Perpres No. 19 of 2014 On Endorsement of the Agreement on the Establishment of the Regional Secretariat of the Coral Triangle Initiative for Coral Reefs, Fisheries and Food Security, Perpres No. 81 of 2005 On the Marine Security Coordinating Board, Presidential Decree No. 14 of 2000 On

Utilization of Fisheries Ships Declared to be Seized for the State, Presidential Instruction No. 2 of 2002 On Control of Marine Sand Mining, Perpres No. 15 of 1984 On the Ratification of the Convention for the Conservation of Southern Bluefin Tuna, Presidential Decree No. 21 of 2007 On the Indonesian Maritime Council, Presidential Decree No. 174 of 1998 On the Utilization of Foreign Fish Ships Declared to be Seized for the State, and Presidential Instruction No. 2 of 1990 On Simplification of Quality Testing Procedures for Fresh Fish and Frozen Fish.

At the Ministry Level, the Ministerial Regulation (Permen) and Ministerial Decree (Kepmen) have also been applied, such as follow: Permen KP No. 18 / PERMEN-KP / 2013 On the Third Amendment to Permen KP No. Per.02 / Men / 2011 on Fishing Lines and Placement of Fishing Equipment and Fishing Equipment, Permen KP No.10 / PERMEN-KP / 2013 On Fisheries Vessel Monitoring System, Permen KP No.4 / PERMEN-KP / 2013 On Guidelines for the Development of Community-Based Fisheries Sector Businesses, Permen KP No.2 / PERMEN-KP / 2013 On Guidelines for Implementation of PNPM Marine and Fisheries, Permen KP No. PER.30 / MEN / 2012 On Capture Fisheries Business, Permen KP No. PER.18 / MEN / 2011 On the Second Amendment to Permen KP No. PER.13 / MEN / 2005 On the Criminal Handling Coordination Forum in the Field of Fisheries, Permen KP No. PER.05 / MEN / 2011 On Procedures for Settlement of State Losses in the Ministry of KP Environment, Permen KP No. PER.30 / MEN / 2010 On Management and Zoning Plans for Aquatic Conservation Areas, Permen KP No. PER.19 / MEN / 2010 On the Control of the Quality and Safety of Fishery Products, Kepmen KP No. PER.16 / MEN / 2010 On the Granting of SIPI and SIKPI Issuance Authorities for Upper Sized Fisheries Vessels

30 - 60 GT To the Governor, Permen KP No.PER.04 / MEN / 2010 On Procedures for the Use of Fish and Genetic Fish Types, Permen KP No. PER.15 / MEN / 2009 On Types of Fish and Spreading Areas and Cultivation-Based Fishing, Kepmen KP No. PER.14 / MEN / 2009 On Maritime Partners, Permen KP No. PER.11 / MEN / 2009 On the Use of Fish Net in ZEEI, Permen KP No. PER.08 / MEN / 2009 On Community Participation and Empowerment in PWP and PPK, Permen KP No. PER.05 / MEN / 2009 On Scale of Business in the Field of Fish Cultivation, Permen KP No.PER.01 / MEN / 2009 On Fisheries Management Areas, Permen KP No. PER.08 / MEN / 2008 On the Use of Gill Net in the EEZ, Kepmen KP No.10 / MEN / 2002 On General Guidelines for Integrated Coastal Management Planning (PPT), Kepmen in the Field of Marine and Fisheries Exploration No. 45 of 2000 On Fisheries Business Licensing, and various other KP and Permen.

Legal policy in the form of legislation (Law), Substitution Regulations Act (Perpu), Government Regulation (PP), Presidential Regulation (Perpres), Presidential Decree (Kepres), Ministerial Regulation (Permen), Ministerial Decree (Kepmen) which regulates the environment, maritime or marine affairs, coastal areas and small islands as well as the utilization of these fishery resources, also supported by a number of international agreements that have been ratified such as the Johannesburg 2002 Declaration on the Plan of Implementation of the World Summit on Sustainable Development, Global 21 Agenda Chapter 17 On the Guidelines for the Implementation of Integrated Coastal Management, the 2005 Bali Plan of Action, the Bunaken Declaration 1998, the Jakarta Mandate 1995. Thus the policy of environmental law protection in the

utilization of fisheries resources in Indonesia are already abundant (Sulistyono & Fernandez, 2019).

Looking further, the existence of various legal policies for the protection of environmental law in the utilization of fisheries resources on one hand is very good as an instrument or legal protection (PH) to the environmental ecosystem (LH) and utilization of coastal fisheries resources (SDPP), but on the other hand it still raises various problems such as conflicts of norms and policies as well as authority, overlapping and ambiguity in the implementation, thus the implementation is not optimal. There are even rare laws and regulations that become criminogens and vicimogens. The problems of various legal policies in the form of legislation are: first, the legal substance is still weak which causes many provisions to be difficult to implement; secondly, its implementation is not yet optimal as evidenced by the emergence of various problems in PHLH and utilization of coastal fisheries resources; third, disharmony and overlapping are still occur and ambiguous; fourth, conflict of authority, policies and norms; fifth, legislation is very easy to change. The phenomenon of problems that develops along with the enactment of various legal policies and alternation of laws and regulations (Perpu, PP, Perpres, Inpres, Permen, Kepmen), precisely increasing problems on environmental, maritime or maritime, coastal areas and resources coastal fisheries. In various coastal areas in various regions in Indonesia, including in the province of South Sulawesi tends to be more and more conversion of coastal areas to built land and business locations, destruction and function of mangrove areas [(even according to LIPI (2008)] that the estimated rate of mangrove destruction was around 200,000 hectares per year in various regions, especially in Kalimantan,

Sumatra, Sulawesi and Java) into ponds, industrial waste disposal and pollution in coastal waters, destruction of coral reefs and seagrass beds by various illegal fishing, cultivation activities, and overcapacity fishing. This implies that the legal protection of LH in the utilization of SDPP is not effective / optimal and still far from what is expected.

Based on the above description, the main issue in this study is 'the nature of environmental legal protection in the utilization of coastal fisheries resources.' On that basis which this research aims to tackle is how the nature of environmental law protection utilises the coastal fisheries resources, how legal supervision and sanctions ensure environmental protection efforts (LH) in the utilization of coastal fisheries resources (SDPP), and what factors influence the protection of environmental law in the utilization of coastal fisheries resources. Ideally, legal protection becomes essential and urgent for the LH ecosystem in coastal areas and the utilization of SDPP, as well as monitoring and sanctions which are very important to be optimized. Finally, the legal system in the form of legal substance, legal structure and legal culture (Friedmann W, 1993) need to be studied on the factors that influence the legal protection of LH in the utilization of coastal fisheries resources.

2.METHODOLOGY

Type of research in this study is a combination of normative and doctrinal legal research with empirical and nondoctrinal legal research. Normative legal research is the study of the principles of law, legal systematics, legal synchronization, legal history and comparative law

(Soekanto and Mamudji, 1994) or using existing legal bases, while the type of doctrinal research is defined as a study that analyzes the law both written in the book and the law decided by the judge through the court process (Hutchinson, 1989). Empirical and non-doctrinal types examine various empirical facts that occur in the field related to the nature of environmental law protection in the utilization of fisheries resources. While the research design employs explorative – explanative, the data can be divided into two, namely data obtained directly from the public (empirical data) and data obtained from library materials (secondary data). Primary legal material in the form of the State constitution (URI NRI 1945), the basis of the State (Pancasila) and related legislation. Secondary legal material comes from the Latoa version of Lontarak, literature (scientific books), scientific writings, the results of legal scholars' research, and scientific journals in the field of law. Tertiary legal materials in the form of legal dictionaries, environmental dictionaries, and other materials relevant to the needs in this study.

The population in this study were coastal areas in 19 districts / cities, 718,638 respondents (consist of 108,988 fishermen, 283,915 fish farmers, and 325,735 fish processors and marketers). The sampling technique was purposive sampling. Regional samples were selected from 5 coastal districts / cities as research locations, namely Palopo City, Pangkep District, Bone District, Bantaeng District and Makassar City. The selection of the research locations was based on the reasons which consider on first, the intensity of the utilization of fisheries resources in the coastal area was quite high, secondly, the damage to the environmental ecosystem and coastal fisheries resources were quite extensive. Sample of respondents from coastal communities and fishermen as many as 140

people. Data collection techniques used were questionnaires, interviews, observation, documentation. Data analysis technique was qualitative. The collected data is then processed, analyzed and constructed thoroughly, systematically by explaining the relationship between various types of data. Then all data will be selected and processed, then analyzed descriptively (Syamsudin, 2013). In addition, content analysis is also carried out by using the teaching preferences of local wisdom values, legal policies in the form of legislation and legal theories that were previously carried out by classification, decomposition, and assessment. Reviewing was done by analyzing and interpreting carefully and deeply. Eventually in drawing conclusions, the deductive method is used (from special things to general things) - inductive (from general to specific things)

3. RESULT AND DISCUSSION

The result shows that the total of 140 respondents, 92.14% of respondent stated that there is a strong impact in term of control function from the authorities in regard to the implementation of PHLH in the utilization of SDPP, 4.29% of respondents considered weak impact and 3,57% respondent said have no impact at all. These mean that the existence of control authority especially from related institutions are extremely needed for the enforcement or implementation of PHLH in utilizing of SDPP. The community mostly expects that the particular authority who responsible to control would give a good impact for PHLH in utilizing the SDPP, while 7,86% of the community assessed that control function by the authority is weak or has small impact. According to the apparatus authorities to carry out their job and supervision function,

85,71% respondent assessed that related authorities seldom and probably never apply their control function for PHLH in the utilization of SDPP, dan 14,29% of respondent stated the vice versa. It means that the frequency of the control function is still weak beacause mostly respondents say that the related authorities do not carry out their job as supposed to be or did not maximum. This problem arised because of several reasons such as minimum equipments and infrastructure, amount of employee, budget and time constrains and also minimum contribution of local community to take parts.

In term of sanction, 90.0% of respondents stated that the sanction enforcement has effect on PHLH in the utilizing the SDPP, 8.57% of respondents considered less effect and 1.43% of respondent said none. These imply that sanction enforcement is needed for PHLH in the utilizing the SDPP. Majority of the community assess that sanction will bring a good effect, while 10.0% of community thinks that the sanction has les sor even has no effect at all to the PHLH in utilizing th SDPP. Punishment for those who break the law especially in the utilization of SDPP demands a justice. In this context, 52.86% of respondents stated that respondents stated that some community members had been subjected to legal sanctions for violating, 28.57% of respondents said there is not cases at all and 18.57% of respondents said they have no information about that. It means that, some people have received sanctions for violating in the provisions of LH for the use of SDPP and some have never been received sanctions. Therefore, the application of legal sanctions has not been optimal. Violations committed both individually and groups which are mainly caused by a lack of socialization and guidance on the provisions of rules that are permitted and prohibited in certain actions.

4. CONCLUSION

The implementation of sanctions for violations of legal provisions or environmental management policies and the utilization of coastal fisheries resources requires an application of sanctions both reprimanded (written and oral), administrative sanctions, civil restitutions and criminal sanctions in order to strengthen the protection of environmental law in the utilization of fisheries resources the coast. In accordance with this, 80% of the community had been subjected to sanctions in the form of reprimand for violating environmental provisions in the utilization of fishery resources, 14.29% of respondents said that they were not aware and 5.71% of respondents said they had never. These mean that, a lot of community members have received reprimand in term environmental violation cases in the use of coastal fisheries resources, but there were also some members who have never reprimanded.

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UNIVERSIDAD DEL ZULIA

opción
Revista de Ciencias Humanas y Sociales

Año 35, Especial N° 19, 2019

Esta revista fue editada en formato digital por el personal de la Oficina de Pubñlicaciones Científicas de la Facultad Experimental de Ciencias, Universidad del Zulia.
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