

*LEGAL ANALYSIS OF APBDES CAPACITY IN INCREASING THE
PRODUCTIVITY OF THE MARITIME ECONOMY
IN SOUTH HALMAHERA DISTRICT*

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Abstract

The role of the fisheries sector is very large in Morotai Island Regency must be utilized as much as possible for the prosperity of society. So far, many fishery products have been stolen by foreign fishing boats. By opening up investment for fishing companies, diversifying the utilization and processing of marine products as well as providing assistance to local fish entrepreneurs and providing fishing gear assistance to fishermen is one of the solutions for the development of the fisheries sector in South Halmahera Regency which can be planned for the future.

The research method used in this study is the normative legal research method as material to initiate researchers in carrying out an inventory of statutory approaches (statute approach), comparative law (comparative approach), and case studies (case approach). The characteristics of this study fully use secondary data, consisting of primary legal materials; secondary legal materials; as well as tertiary legal materials. The results of the research show that in practice, the development of maritime potential in South Halmahera Regency experiences various challenges and opportunities. Efforts to deal with these obstacles include moderating stakeholders to analyze and describe what is best for the development of maritime potential in South Halmahera Regency, North Maluku Province. It is very important to equate perceptions and common interests so that the policies that are being implemented can run well until the end. Carrying out bureaucratic reform by summarizing the administrative system, including mobile bureaucratic services, both at sea and on land by using boats/ships that are connected to services and the internet so that it makes service easier for the community. Next is to open up investment opportunities as wide as possible so that investment can come easily to the Bintan Regency area. With easy investment into then indirectly. will improve the economy of the people in South Halmahera Regency itself.

The capital aspect can be overcome by providing financial assistance to fishermen. It can be in the form of distributing people's business credit, direct investment, CSR of large companies, or through fishing cooperatives where the government provides the widest possible capital assistance in the form of capital equipment and operational equipment such as boats, boat engines, nets, bait, navigational equipment, environmentally friendly technology, fuel, and processing plants and fish auctions which result in destructive fishing.

Keywords: Legal Analysis; Capacity; APBDes; Fisheries Based; South Halmahera Regency.

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INTRODUCTION

North Maluku Province is a potential area in the fisheries sector. The Central Bureau of Statistics (BPS) notes, fisheries production marine catches in North Maluku amounted to 288.2 thousand tons in 2020. This number increased by 1.5 thousand tons compared to the previous year which amounted to 286.6 thousand tons. One of the strategic areas in North Maluku, namely especially in South Halmahera Regency. The fisheries sector has an important and strategic role in regional economic development. Especially in increasing the expansion of employment opportunities, income distribution, and improving the standard of living of the nation in general, small fishermen. Thus, fisheries are all activities related to the management and utilization of fish resources and their environment starting from pre-production, production, processing to marketing, which are carried out in a fishery business system.

In order to support the understanding of community law and the independence of the village with its own ability to meet its needs. In this context, the rationalization can be done by increasing the sources and capacity of Village Original Income (PADes) towards village fiscal independence. This fiscal independence can occur if the village is able to optimally manage and utilize village assets and encourage the extensification and diversification of PAdes sources.

APBDesa is productive if APBDesa is able to meet the achievement of development goals villages through results-oriented programs and activities that are in line with village needs, potentials and priorities, and can develop local innovations. On the other hand, village locus cannot be separated from other villages and/or certain areas, both spatially, socially, economically, basic infrastructure, and natural resources. Therefore, rural area development is an integral part of RI Law Number 6 of 2014 concerning Villages (Village Law). In this context, synergy is very important, both synergy at the village area scale or regional scale. At the village

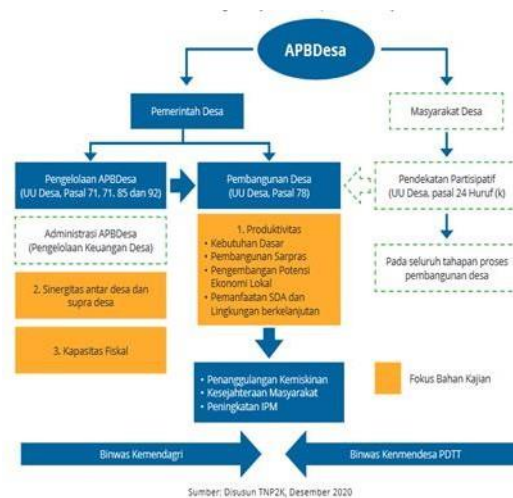
scale, synergy can occur in local villages or between villages, while at the supra-village scale, synergy can occur in regions.

This is due to productive economic ventures Local/home industry is the basis of the main source of income for most rural communities.¹ Appropriate and operational policies and solutions are urgently needed in order to encourage the contribution of village spending for these two sectors, including human resource development, to be more optimal in the second 5 years of the implementation of the Village Law².

Implementation of Law Number 6 of 2014 concerning Villages has gone through 8 years, where through this Village Law the village's fiscal capacity has increased significantly almost five (5) times. The total village income for the first period (2015-2019) reached IDR 430 trillion where the Village Fund contribution reached IDR 258 trillion. Increasing fiscal capacity in the second 5 years of implementing the Village Law is of course expected to provide a driving force for village development so that it is able to independently accelerate the achievement of its village development goals as mandated in Article 78 of the Village Law. The aim is to improve the welfare of village communities and the quality of human life in South Halmahera Regency. Based on the results of a pre-field survey conducted in order to understand the conditions in South Halmahera Regency, information was obtained about the problems faced by the community and small fishermen who had not been optimal in managing BUMDes from the income from the Village Expenditure Budget (APBDes), the solutions to be taken to solve the problems encountered.

- 1) Lack of public legal knowledge in utilizing the Village Revenue Expenditure Budget (APBDes) as an effort to Increase Maritime Economic Productivity (Fisheries) in South Halmahera Regency
- 2) Low village spending to support business development The village's productive economy, including the development of human resources as mandated by Law Number 6 of 2014 concerning Villages, needs serious attention.

The scope of socialization material as an effort maritime economic productivity (fishery) in South Halmahera Regency will be described as follows:



Taking into account the description above, this paper seeks to analyze two main problems that will be studied in this paper, namely: What is the Legal Basis APBDes Capacity in Increasing Maritime Economic Productivity in South Halmahera Regency.

RESEARCH METHODE

This empirical research uses a statutory approach (statute approach) and a case approach (case approach). As for this study, researchers used the live case study approach as an approach

¹ Lamintang and Theo Lamintang, *No Title, Hukum Panitensier Indonesia* (Jakarta: Sinar Grafika, 2012).

² Koesnadi Hardjasoemnatri, *Hukum Tata Lingkungan*, 7th edn (Yogyakarta: Gadjah Mada University Press, 1999)

to a legal event whose process is still ongoing. Thus, the authors make observations or research directly into the field in order to obtain accurate truth in the process of perfecting this writing³.

The data collection technique that researchers used in this study was through library research and field studies, namely conducting interviews. The data collection study was classified into two parts, namely primary data and secondary data, primary data obtained through field studies and secondary data sourced from library research.

The results of the field study inventory were analyzed to obtain conclusions and then analyzed using integrative and conceptual analysis methods which tend to be directed at finding, identifying, processing and analyzing legal materials to understand their meaning, significance and relevance. From the data obtained, it will be arranged systematically after being selected based on the problem and seen for its suitability with the applicable provisions then discussed theoretically combined with the reality in the field to produce conclusions

DISCUSSION

1. Legal Basis for APBDes Capacity in Increasing Maritime Economic Productivity in South Halmahera Regency

North Maluku Province occupies an important position in the preservation of marine and fishery resources at the world level and in Indonesia, because it has several main factors, including high fishery potential, water area and geographical location which is advantageous as well as vulnerable. North Maluku Province has a total area of 145,819 km² and 75% of the total area of North Maluku Province is in the form of water areas, while the land area is only 25%⁴.

This data shows that the water area of North Maluku is larger than the mainland, making marine and fishery resources in North Maluku province an important source of livelihood that must be maintained for its sustainability, especially for the majority of the local community and Indonesian society in general.

The number of large and small islands in North Maluku Province reaches 395 and has the potential for the development of marine aquaculture and capture fisheries with a fairly rich variety of fish species⁶. Next, in the same source, the results of spatial analysis in North Maluku show that the total potential area of marine aquaculture in North Maluku reaches 14,678 km², with details of the potential area for marine fish cultivation of 5243 km², the potential area for clam farming 3,512 km², and the potential area for seaweed cultivation 5923 km². The data shows that North Maluku has the potential for rich marine and fishery resources and can play an important role in supporting the sustainability of Indonesia's fishery and marine resources⁷, so that the sustainability of fishery and marine resources in North Maluku Province deserves common attention.

North Maluku as one of the archipelagic provinces which are members of the Unitary State of the Republic of Indonesia. It has 805 islands consisting of 11 major islands, namely Halmahera Island, Cibi Island, Taliabu Island, Bacan Island, Morotai Island, Ternate Island, Obi Island, Tidore Island, Makian Island, Kayoa Island and Gebe Island. The area of this province reaches 145,801.1 km², which is dominated by sea waters by 69.1 percent. This geographical condition is utilized by North Maluku residents in the capture fisheries business sector. Most of them have a livelihood as fishermen catching fish in sea waters.

³ Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2016).

⁴ A Zulham and Subaryono, *Rekomendasi Pengembangan Perikanan Tangkap Di Ternate Dan Sekitarnya* (Jakarta: Rajawali Press, 2017) <[⁵ Adami Chazawi, *Pelajaran Hukum Pidana I* \(Jakarta: Raja Grafindo Persada, 2007\).](https://kkp.go.id/An-Component/Media/Upload-Gambar-Pendukung/Sosek/Buku/Buku_perikanan_tangkap_ternate.Pdf%3E.>.</p></div><div data-bbox=)

⁶ A In, Sudrajat and E Kusnendar, 'Analisis Spasial Potensi Kawasan Budidaya Laut Di Provinsi Maluku Utara Dengan Aplikasi Data Penginderaan Jauh Dan Sistem Informasi Geografis', *Jurnal Ris. Akuakultur*, 5 (2010), 143–53.

⁷ In, Sudrajat and Kusnendar.

The rate of economic growth of a region is a comparison of the achievement of the economic performance of a region at a certain time. Positive growth indicates an increase in the economy and vice versa, negative growth indicates a declining economy. Over the past five years, South Halmahera Regency's economic growth has continued to show a positive pace. This indicates that during this time, the economy of South Halmahera Regency has continued to increase.

In general, capacity can be defined as the ability to carry out or carry out various functions, solve various existing problems, and design or find goals to be achieved⁹. Meanwhile, capacity building can be defined as an effort to develop a variety of strategies to increase the efficiency¹⁰, effectiveness and accountability of government performance. According to Grindle (1977) capacity building is intended to encompass a variety of strategies that have to do with increasing the efficiency, effectiveness, and responsiveness of government performance.¹¹

Another definition states that capacity building is an effort to increase the ability of people in developing countries to develop management skills and policies that are essential and needed to build cultural, social, political, economic and human resource structures (HR). Meanwhile capacity building is defined by Brown, et al. (2001) as a process that can improve the ability of a person, an organization or a system to achieve the goals that have been set. Another understanding of capacity building states that capacity building is generally understood as an effort to assist governments, communities or individuals in developing the expertise and skills needed to realize their goals¹².

Capacity building programs are often designed to strengthen their ability to evaluate policy options and carry out the decisions made effectively¹³. Non-economic factors determine the success of economic policies in increasing maritime economic productivity in South Halmahera Regency.

Maritime economic development is a study that studies the discussion of increasing production capacity to carry out sea development, as a medium or development arena, as a place for development to be carried out. The orientation of the language is more towards development in the waters or the sea than towards the land¹⁴.

According to Rahardjo Adisasmita, the concept of development that is more appropriate to be applied to Indonesia as an archipelagic country which has a very wide area, is the concept of archipelago economic development (Archipelagic Economy). Archipelago means archipelago. Archipelago means a unified territory consisting of land and waters, or islands and sea. So the Archipelago Economy is defined as economic development that is oriented towards the land (landward development) and towards the sea (seaward development) together¹⁵.

According to the results of a conceptual study, it can be said that the Archipelago Economy turns out to be wider than the Archipelago Economy, Marine Economy, and Maritime Economy, because of its more comprehensive approach, namely simultaneously, simultaneously, simultaneously, and proportionally, and its development targets which are

⁸ Rahardjo Adisasmita, 'Pembangunan Ekonomi Maritim', 2013 <pml.i.co.id/review-book pembangunan-ekonomi-maritim> [accessed 15 June 2023].

⁹ Aziz Syamsuddin, *Tindak Pidana Khusus* (Jakarta: Sinar Grafika, 2011).

¹⁰ Achmad Ali, *Menguak Tabir Hukum* (Jakarta: Pranamedia Grup, 2015).

¹¹ MZ Ahmad, 'International Framework of Ecosystem Approach to Fisheries: With Reference to Policy and Legislative Practices of Malaysia', in *Handbook of Research and Impacts of International Business and Political Affairs on the Global Economy*, 2016, pp. 257–84.

¹² Eko Budi, *Kebijakan Hukum Terhadap Tindak Pidana Penangkapan Ikan Secara Ilegal Di Perairan Indonesia*, 2018.

¹³ Frans Maramis, *Hukum Pidana Umum Dan Tertulis Di Indonesia* (Jakarta: Raja Grafindo Persada, 2013).

¹⁴ Djoko Tribawono, *Hukum Perikanan Indonesia* (Bandung: PT Citra Aditya Bakti, 2013).

¹⁵ Mukti Fajar and et.al, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 201)

oriented towards land as well as being oriented towards waters/seas¹⁶. The discussion of the following chapters is about the role and function of maritime economic development. Maritime economic development has a very important role, including the following:

- 1) It is a container or arena (media) for fishing activities and other sea products, which is carried out by groups of fishermen, using fishing boats, fishing motor boats, bagang, fishing nets, fishing rods (hooks) and others.
- 2) Serving sea transportation activities using ships, motorboats or motorized sailboats to transport goods and people from places of origin to places of destination, from production areas to marketing areas that are spread out.
- 3) Serving inter-island trading activities, serving the delivery of agricultural commodities in a broad sense (food crops, plantations, fisheries, livestock, and forestry) and manufactured goods from ports in production areas to ports in consumption areas.
- 4) Maritime sector development activities are very broad, covering various business sectors (i.e. inter-port shipping, inter-island (inter-regional) trade), port activities and in port areas, marine tourism activities, and so on) involving a very large workforce, very large business capital and investment.

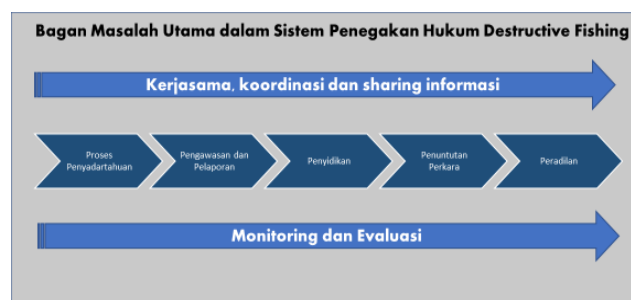
2. Policy on the Functionalization of the South Halmahera Regency Maritime and Fisheries Service in Handling Problems of Destructive Fishing

In order to support sustainable development, a criminal law policy that is restorative, anticipatory and educational is needed by regulating sanctions for actions against destructive fishing actors. Sanctions for this action lead to social, economic improvements, and repairs to damage to fish resources and their ecosystems due to destructive fishing practices. Thus, a balance between the utilization of fish resources and sustainable development can be realized¹⁷.

The formulative policy for the crime of destructive fishing referred to, as previously described based on Article 85 of the Law. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries (Fisheries Law). The results of this study indicate that the analysis of the elements and construction of punishment

Article 85 still has several weaknesses, namely corporations are only recognized as the subject of offense but cannot be subject to criminal liability, there are no sanctions for action, and there is no provision for specific minimum criminal threats.¹⁸

On that basis, it is jointly realized that destructive fishing is a complex problem and is influenced by various factors,¹⁹ including geographical conditions, availability of resources, and existing facilities and infrastructure. There are two main problems related to destructive fishing in North Maluku which will be explained in this sub-chapter, apart from that there are also casuistic problems which will also be explained after the discussion of the main problems



¹⁶ H.A Zainal Abidin Farid, *Hukum Pidana I* (Jakarta: Sinar Grafika, 2014).

¹⁷ Trisno Rahardjo, *Mediasi Pidana Dalam Sistem Peradilan Pidana* (Yogyakarta: Mata Padi Pesindo, 2011).

¹⁸ Mashuril Anwar, 'Kebijakan Hukum Pidana Dalam Penanggulangan Destructive Fishing Pada Rezim Pembangunan Berkelanjutan', *Jurnal Hukum Samudera Keadilan*, 15.2 (2020).

¹⁹ Ayu Izza Elvany, 'Kebijakan Formulatif Penanggulangan Tindak Pidana Destructive Fishing di Indonesia', *Justitia Jurnal Ilmu Hukum*, 3.2 (2019).

of destructive fishing. In summary, the main problems of destructive fishing in North Maluku can be explained through the following chart:

Based on the results of DKP North Maluku Province discussions with parties such as the public, POKMASWAS, POLAIRUD, LANTAMAL, Attorney and Fisheries Judges, the main problem of destructive fishing in North Maluku Province lies in the lack of coordination and sharing of information between the parties involved in the law enforcement system in eradicating destructive fishing. In practice, many parties do not understand the law enforcement chain involving various institutions in tackling destructive fishing²⁰. This misunderstanding causes the parties to not understand their respective roles, main tasks, functions and needs, so that the destructive fishing law enforcement chain has not run optimally. For example, in the investigative process carried out by POLAIRUD and the Public Prosecutor's Office, strong evidence is needed for the legal process, however, it is difficult to obtain solid evidence due to the misunderstanding of the public, so that the community burns or disposes of evidence of destructive fishing cases or the inability of fishery supervisors to determine bomb fish because there is no special training in this matter²¹. This happens because there is no coordination and sharing of information as well as the needs of every destructive fishing law enforcement chain. In addition, the absence of coordination and sharing of information resulted in the ineffectiveness of the efforts made by the parties (zero sum game) related to destructive fishing. so that people burn or dispose of evidence of destructive fishing cases or the inability of fishery supervisors to identify bomb-produced fish because there is no special training related to this matter.²² This happens because there is no coordination and sharing of information as well as the needs of every destructive fishing law enforcement chain.²³ In addition, the absence of coordination and sharing of information resulted in the ineffectiveness of the efforts made by the parties (zero sum game) related to destructive fishing²⁴. so that people burn or dispose of evidence of destructive fishing cases or the inability of fishery supervisors to identify bomb-produced fish because there is no special training related to this matter. This happens because there is no coordination and sharing of information as well as the needs of every destructive fishing law enforcement chain. In addition, the absence of coordination and sharing of information resulted in the ineffectiveness of the efforts made by the parties (zero sum game) related to destructive fishing²⁵.

The next big problem related to destructive fishing in North Maluku is the absence of a monitoring and evaluation mechanism for every program and activity carried out by various institutions.²⁶ An effective monitoring and evaluation mechanism includes clear goals²⁷, clear program and activity targets, measurable indicators, adequate data and information as well as ways of assessing the programs and activities being carried out. This is urgently needed to

²⁰ Mohammad Ruda Ilbaya, 'Pertanggungjawaban Atas Delik Kealpaan Yang Dilakukan Oleh Oknum Polri Yang Mengakibatkan Luka Berat' (Universitas Hasanudin Makassar, 2013).

²¹ L Darmawan, 'Apa Ancaman Sektor Kelautan Indonesia Di Tahun 2019?', *Mongabay.Co.Id*, 2019 <[ps://www.mongabay.co.id/2019/01/10/apa-ancaman-sektor-kelautan-indonesia-di-tahun-2019/](https://www.mongabay.co.id/2019/01/10/apa-ancaman-sektor-kelautan-indonesia-di-tahun-2019/)>.

²² M. Harun, 'Reformulasi Kebijakan Hukum Terhadap Penegakan Hukum Pidana Pemilu Dalam Menjaga Kedaulatan Negara', *Jurnal Rechtsvinding*, 5.1 (2016).

²³ F Munyi, *The Social and Economic Dimensions of Destructive Fishing Activities in the South Coast of Kenya*, 2009 <<https://www.oceandocs.org/bitstream/handle/1834/7801/ktf000e5.pdf?sequence=1&isAllowed=y>>.

²⁴ Wanto, 'Penanganan Kasus Tindak Pidana Illegal Fishing Dan Destructive Fishing Di Perairan Maluku Utara Meningkatkan', 2018 <<https://tribatanews.malut.polri.go.id/penanganan-kasus-tindak-pidana-illegal-fishing-dan-destructive-fishing-di-perairan-maluku-utara-meningkat/>> [accessed 25 March 2021].

²⁵ A Naim, 'Pengawasan Sumber Daya Perikanan Dalam Penanganan Illegal Fishing Di Perairan Provinsi Maluku Utara', *Jurnal Ilmiah Agribisnis Dan Perikanan*, 3.2 (2010), 1–14.

²⁶ A Radiarta, In, Sudrajat and E Kusnendar, 'Analisis Spasial Potensi Kawasan Budidaya Laut Di Provinsi Maluku Utara Dengan Aplikasi Data Penginderaan Jauh Dan Sistem Informasi Geografis', *J.Ris. Akuakultur*, 5(2010), 143–53.

²⁷ Rovi Oktoza, 'Kebijakan Hukum Pidana Dalam Menanggulangi Kejahatan Illegal Fishing di Zona Ekonomi

properly allocate financial resources, human resources and existing facilities to achieve a common goal, which is to minimize destructive fishing activities in Maluku.

The absence of a monitoring and evaluation mechanism for programs and activities to eradicate destructive fishing can result in the parties not having a clear direction and level of achievement, so that the handling of destructive fishing activities is immeasurable and continues to occur. In addition to the two main problems above, there are also casuistic problems in each chain of destructive fishing law enforcement systems, as shown in the following chart:

The above chart shows that there are key issues in each chain of destructive fishing law enforcement systems in North Maluku Province that must be addressed, including:

a. Awareness Process:

- 1) Involvement of the parties in the awareness-raising process. So far, the government has mostly carried out awareness-raising processes and programs related to the eradication of destructive fishing, especially the DKP of North Maluku Province and POLAIRUD and NGOs. In fact, the vast area of North Maluku and the difficulty of access to reaching the islands is a separate obstacle in carrying out the awareness-raising process. With limited available resources, processes and programs to raise awareness about destructive fishing have not been carried out optimally, are often not on target and are not sustainable. Therefore, it is necessary to have a certain mechanism that can accommodate the involvement of parties, especially the private sector and universities to work together in carrying out the awareness-raising process.
- 2) Communication, information, and education materials (IEC). So far, the available IEC materials have not specifically targeted the issue of destructive fishing and have only emphasized the call to protect the sea and comply with the law. KIE material also does not focus on the impact of destructive fishing on health, livelihood sustainability and preservation of marine resources for future generations. In addition, the available materials have not been made thematically and creatively and adjusted to the target audience and what media is most appropriate to reach them. In order to achieve the program target, proper monitoring and evaluation mechanisms are needed regarding this awareness activity, such as the target being targeted, what to change, where the IEC material should be placed, how much and why, and how to assess whether the awareness activity was successful or not (pre-test and post-test),

b. Monitoring / Supervision Process (Surveillance and Interdiction):

- 1) The lack of resources allocated for patrols and surveillance.

Based on FGDs conducted by DKP North Maluku Province with the parties, there are limited resources in the form of finances, the number of facilities and infrastructure that can allow routine patrols and surveillance. For example, DKP North Maluku, Central Halmahera and POLAIR acknowledged that transportation facilities such as surveillance vessels and communication facilities such as HT and HP for use in patrol and surveillance are still few in number. In addition, the amount of funds budgeted for patrols and surveillance is also limited, so the parties get around this by carrying out patrol and surveillance activities while carrying out other activities, such as if there are reports from the public that need to be followed up, then the parties use this opportunity for patrols and surveillance as well.²⁸

- 2) Change of supervisory authority.

²⁸ Ruth Shella Widyatmojo and Et.all, 'Penegakan Hukum Terhadap Tindak Pidana Pencurian Ikan (Illegal Fishing) Di Wilayah Zona Ekonomi Eksklusif (Studi Kasus: Putusan Pengadilan Negeri Ambon Nomor 1/Pid. Sus/PRK/2015/PN.AMB)', *Diponegoro Law Journal*, 5.3 (2016), 6.

Law No. 23 of 2014 which regulates the change in supervisory authority from the District Fisheries Service to the Provincial DKP has an impact on the limited contribution of the District Fisheries Service in handling destructive fishing cases. When the SDKP supervisory authority was transferred to the Provincial DKP, the consequence was that the District Fisheries Service no longer had an allocation of resources, especially funds that are normally used for handling destructive fishing cases, even though the District Fisheries Service is a government institution in the marine and fisheries sector that is closest to the locations of destructive fishing in general. This also resulted in the lengthening of communication lines and the handling of destructive fishing cases, while usually requiring immediate handling of destructive fishing cases.

3) Quantity and capacity of PPNS and Supervisors.

Quota limitations and standard requirements for undergraduate education levels to take part in PPNS and supervisor technical guidance are separate obstacles, thus affecting the number of PPNS and supervisor personnel available in North Maluku. The number of central and regional PPNS for the whole of North Maluku is only about 8 people, plus technical staff and supervisors for fishing boats only totaling 14 people and 6 people for the whole of North Maluku²⁹. In addition, there is no training along with a continuous curriculum that ensures the quality and capacity development of PPNS and supervisors. Currently, training for PPNS and supervisors is only carried out as a provision before being appointed as PPNS and supervisors³⁰.

4) Lack of cooperation between the parties.

Most of the fishing bombing cases that occurred in North Maluku were carried out neatly and involved certain persons, making it difficult to identify and disclose. The lack of commitment and cooperation of the parties related to law enforcement of destructive fishing in North Maluku can be an obstacle to uncovering cases of destructive fishing carried out by unscrupulous persons, especially if patrol and surveillance information is leaked or the perpetrators already know about it.

c. Investigation Process

1) The quantity and capacity of investigators.

So far, there have been limitations in terms of the number and quality of investigators at institutions that have investigative duties, such as PSDKP and POLAIRUD. For a fairly wide area coverage in North Maluku, the placement of the number of investigators is very important to prepare files and demands for destructive fishing cases. In addition, PSDKP investigators often have difficulty identifying fish from destructive fishing that are already being sold on the market. This is of course related to the limited capacity of investigators in terms of identifying evidence, moreover in PPNS technical guidance there is no material on how to identify fish resulting from destructive fishing.

2) Availability of evidence.

The biggest obstacle to continuing destructive fishing cases to prosecution is the availability of evidence needed to prepare for legal offenses. The majority of laws in Indonesia, including the fisheries law, focus on material offenses, where a new case can be prosecuted through an article if there are already consequences that can be seen through evidence. Thus the availability of evidence becomes very important. For example, to prove cases of bombing and sedating fish, evidence of explosives, ships and/or fish catches is needed, however, in several cases that have occurred, people have burned boats and fish caught by the perpetrators of the bomb because of emotion or the public does not know that evidence is needed in the form of fish catches and explosives.

²⁹ Naim. *SPC Live Reef Fish Information Bulletin*, 4 April 1998.

³⁰ LP Soede and M Erdmann, 'An Overview and Comparison of Destructive Fishing Practices in Indonesia',

3) Absence of expert witnesses.

In the investigation process, the presence and information of expert witnesses is needed to strengthen evidence against destructive fishing incidents. So far, the obstacles faced by the parties working in the investigation process are limited funds to obtain expert witness testimony, plus the location of the expert witness being far from the incident. For example, to corroborate the evidence of a fish bombing case that occurred on a remote island in North Maluku, human resources and financial resources are needed to send fish samples to the POLDA forensic laboratory or to fishery experts or chemists at universities in North Maluku. If there is no testimony from the expert witness, then the case does not have strong evidence.

d. Prosecution Process

1) Availability of evidence storage facilities and infrastructure.

So far, the evidence obtained has been taken and stored in the North Maluku evidence and spoils depository. However, there is no specific cold storage to store evidence of fish or marine biota resulting from destructive fishing in the storage house for evidence and spoils, so they must be deposited in cold storage at the fishing port. This will be a problem if the fishing port cold storage is full of cargo, so that the evidence is at risk of rotting and being damaged.

2) Quota limitations for prosecutors to access education and training in the field of fisheries.

Based on Law No. 31 of 2004 concerning fisheries it is stated that in order to be able to handle fisheries cases, prosecutors must have attended technical education and training in the field of fisheries. On the other hand, there is a quota limit for participating in technical education and training in the fishery sector, which is 2 people per year. This has implications for the limited number of prosecutors to handle fisheries cases.

3) Material offenses versus the creativity of the fisheries attorney.

As previously discussed, the majority of laws in Indonesia rely on material offenses that require proof of the consequences of the crime committed, including in the case of destructive fishing, especially for the installation of articles in the prosecution process. Fisheries prosecutors have difficulty attaching articles for prosecution when, for example, destructive fishing cases only have evidence in the form of elements of explosives, not strong physical evidence such as assembled bombs. So the creativity and sharpness of the prosecutor's analysis is needed in examining the results of the investigation and preparing the charges file. As is often the case, it was customary for the fisheries attorney to invoke the 1952 emergency law that allowed prosecution for possession of explosives to ensure the offender received legal consequences,

4) Period of filing and coordination.

In preparing the criminal prosecution file, it takes a lot of time, especially when it requires administrative processes and coordination with the parties. For example, it takes time for the prosecutor to examine the files delegated and to hold a pre-trial process to strengthen the case files for the prosecution of destructive fishing cases. In addition, the bureaucratic process in Indonesia is still quite lengthy in terms of assignment or delegation of tasks, so that the parties involved in the investigation process must race against time with a short investigation period (30 days).

Based on the analysis of the key issues and problems that have been discussed, there are recommendations for countermeasures for destructive fishing in North Maluku as follows:

a. Awareness Process:

1) Initiate a cooperation mechanism with the parties. In order to actively involve the parties in the awareness-raising process as well as get around the limited resources owned by the government, it is necessary to initiate a cooperation mechanism with the parties. For

example, private parties such as hotels and resorts can become partners with the government to support awareness programs in terms of finance, participation of personnel and facilities, while universities can also contribute to awareness efforts, for example in terms of strengthening the impact of destructive fishing through research dissemination, so that awareness efforts can be carried out on an ongoing basis.

- 2) Preparation of communication, information and education (IEC) materials that are targeted at the effects of destructive fishing and adapted to the targets to be targeted. For example, if you want to target the general public with a low literacy level, then it is best if the KIE material is packaged in the form of a documentary film or props related to the impact of destructive fishing on livelihoods (losses in rupiah), health hazards and impacts on future generations. In addition, KIE material related to destructive fishing can be in comic form if it targets fishermen so that it is interesting to read and brief or a talk show program related to destructive fishing can be made on the radio which is often listened to by the local community. Meanwhile, to measure the effectiveness of awareness-raising efforts, it is also necessary to think about how the monitoring and evaluation mechanism for KIE materials that have been made is to measure the extent to which awareness-raising efforts achieve goals and targets.

b. Monitoring / Supervision Process (Surveillance and Interdiction):

- 1) Initiate cooperation between the parties through various containers.

In order to overcome the limited resources owned by the government, especially in carrying out monitoring and supervision related to destructive fishing, a forum is needed that can be a place for the parties to discuss, work together as well as share resources including facilities, infrastructure, manpower and funds to optimize the implementation of monitoring/supervision activities related to destructive fishing. For example, by initiating the revitalization of the fishing crime handling forum to hold meetings with a common agenda and targets. Apart from that, a SATGAS (Task Unit) unit for eradicating destructive fishing in North Maluku could also be formed, especially in carrying out monitoring and supervision.

- 2) Increasing the capacity of PPNS and supervisors on an ongoing basis.

In order for the process of increasing the capacity of PPNS and supervisors to take place on an ongoing basis, it is necessary to design an adequate curriculum for technical guidance and training of PPNS and supervisors. Curriculum design that aims to increase the capacity of PPNS and supervisors must also be accompanied by indicators and levels of increasing their knowledge and skills. For example, continuous training can be carried out with a certain level of achievement (including refreshment) along with curriculum development to ensure that PPNS and Supervisors have the expertise needed to supervise and handle cases.

c. Investigation Process:

- 1) Increasing the number of investigator quotas and/or cross-sectoral cooperation for institutions that have TUPOKSI related to investigations.

To overcome the limited number of investigators in North Maluku, of course this can be done by increasing the number of investigators stationed in North Maluku. In addition, cross-sectoral cooperation can also be carried out for institutions that have the TUPOKSI of investigations in destructive fishing cases, including PSDKP and POLAIRUD. For example, when PSDKP has many cases to handle, POLAIRUD can assist with the investigation process, and vice versa. In addition, sharing-sessions can also be held between institutions regarding techniques that are usually used in the investigative process and how to overcome obstacles.

- 2) Special allocation for transportation costs, lab tests and testimony of expert witnesses in the investigative process. The cost component for expert witness testimony must be

accommodated as an important component that contributes to the success of the investigation process, so that the case files submitted are strong for processing to the prosecution level.

- 3) Initiation of cooperation agreements with the parties related to the need for expert witnesses and laboratory tests. With the existence of this cooperation agreement, administrative and bureaucratic processes can be minimized, so as not to exceed the relatively short investigation period.

d. Prosecution Process:

- 1) Provision of special cold storage facilities and infrastructure for storing evidence. In order to guarantee that the evidence obtained from destructive fishing cases is not rotten and damaged, cold storage is needed which is specifically dedicated to samples of fish and marine animal evidence from destructive fishing cases, either at the evidence and spoils house or at the fishing port.
- 2) Additional quota for prosecutors to access education and training in the field of fisheries or change of education and training methods to ToT. In order to overcome the limited number of fisheries attorneys who can handle fisheries cases, including destructive fishing, it is advisable to increase the quota of prosecutors to attend education and training in the field of fisheries. If from a budget perspective this is not possible, another alternative is to change the education and training method to Training of Trainees, so that prosecutors who have attended fisheries education and training can provide this training to other prosecutors.
- 3) Initiation of the establishment of a coordination forum for handling criminal acts. This can be one of the solutions where the parties, including prosecutors, can discuss and share information related to the needs of investigations, prosecutions and evidence to share tips on how to handle cases and what articles should be imposed. Apart from that, a memorandum of understanding for coordination between institutions can also be discussed so that it can cut the bureaucratic process.

e. Judicial Decision Process (Fining Law-Breaker)

- 1) Modification of the form of punishment. So far, the forms of punishment given are still limited to prison sentences, where prison sentences for some people do not have a deterrent effect. Therefore, it is necessary to modify the form of punishment other than imprisonment, for example penalties in fines and punishments in the form of social work and revocation of business licenses for entrepreneurs who carry out or participate in destructive fishing, as has been done in other countries.
- 2) Public exposure and dissemination of news on the punishment of destructive fishing actors. To create a deterrent effect for destructive fishing perpetrators, public exposure and dissemination of news on punishments for destructive fishing perpetrators can be a solution to create a deterrent effect through social sanctions in the form of shame and ostracism from society.
- 3) The punishment must also target the parties in the destructive fishing chain. A deterrent effect can also be created by not only giving punishment to small fishermen, but also to collectors and sellers of destructive fishing, providers of explosives, restaurants and shops that buy destructive fishing products, as well as entrepreneurs who lend boats to fishermen to carry out destructive fishing activities. Thus, all parties in the destructive fishing chain will receive the consequences for destructive fishing actions.

In order to strengthen the foundation for establishing a governor's regulation that accommodates RAD destructive fishing, it is necessary to estimate the benefits and costs related to this. Cost-benefit analysis is often used by the government to measure the general benefits obtained by the community, therefore, cost-benefit analysis is needed as a tool for

making public decisions by considering the welfare of the community³¹. In the following, a simple analysis is presented regarding the significance of the stipulation of a Governor Regulation which accommodates RAD destructive fishing:

Table2 Analysis of the significance of Pergub DF

Stakeholders	Positive Benefits	The “cost” that must be incurred
Fisherman	<ul style="list-style-type: none"> • Fish stock maintained • Livelihood continuity 	<ul style="list-style-type: none"> • Fish catches are reduced
General public	<ul style="list-style-type: none"> • Fish stocks for consumption are maintained • Avoid health hazards 	<ul style="list-style-type: none"> • Buy destructive fishing free fish at high prices
Office of Maritime Affairs and Fisheries of North Maluku Province	<ul style="list-style-type: none"> • Save coral rehabilitation costs • Cost-sharing of supervision and monitoring costs 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Air and Water Police	<ul style="list-style-type: none"> • SDKP supervision and monitoring effectiveness • Cost-sharing of supervision and monitoring costs 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Indonesian Navy	<ul style="list-style-type: none"> • Reducing threats to sovereignty • SDKP supervision and monitoring effectiveness • Cost-sharing of supervision and monitoring costs 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Police	<ul style="list-style-type: none"> • Achievement of indicators of performance success • Increase the speed of the investigation process 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
attorney	<ul style="list-style-type: none"> • Smooth case filing process • Increase Law Enforcement and Compliance 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub

Court	<ul style="list-style-type: none"> • The smooth running of the judicial process • Increase Law Enforcement and Compliance 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Non-governmental organization	<ul style="list-style-type: none"> • Access to preservation and sustainable use of resources • Positive relationship with stakeholders (social capital) 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Private Sector	<ul style="list-style-type: none"> • Continuity of business and investment 	<ul style="list-style-type: none"> • Participation in protecting the environment in the form of Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub
Higher Education	<ul style="list-style-type: none"> • Availability of resources for research activities 	<ul style="list-style-type: none"> • Allocation of funds, human resources and facilities for coordination and operationalization of RAD DF and Pergub

In addition to the analysis of the estimated benefits and costs above, the establishment of a North Maluku governor's regulation to accommodate the Regional Action Plan (RAD) for Destructive Fishing will support the achievement of the vision and mission for the development of the North Maluku region which has been proclaimed by the Governor of North Maluku for 2019-2024, as described below:

- 1) Vision North Maluku regional development for 2019-2024 is PROSPEROUS North Maluku. The meaning of SEJAHTERA in this vision is an increase in a better standard of living, the realization of quality economic growth and equality for all, through the sustainable use of natural resources, which is based on maritime resources (marine fisheries and tourism sector), agriculture and plantation sector, and the mining industry³². In the statement, it was stated that maritime resources, especially the marine fisheries and tourism sector, were the main focus and pillar of North Maluku's economic growth. This can only be realized if marine ecosystems, fisheries and tourism are preserved, one of which is by handling destructive fishing activities through the Stipulation of a North Maluku Governor Regulation related to the Regional Action Plan for eradicating destructive fishing activities. If destructive fishing activities are not handled properly, it will threaten the preservation of North Maluku's marine, fishery and tourism resources, so that it will also threaten the

³¹ A Sugiyono, 'Analisis Manfaat Dan Biaya Sosial', Makalah Ekonomi Publik' (Universitas Gadjah Mada, 2001).

³² Badan Perencanaan Pembangunan Daerah Pemerintah Provinsi Maluku Utara, *Rancangan Akhir: Rencana Pembangunan Jangka Menengah Daerah (RPJMD) Provinsi Maluku Utara 2019 – 2024* (Maluku Utara, 2019)

success of achieving the North Maluku Regional Development vision that has been set. On the contrary,

- 2) The stipulation of the North Maluku Governor's regulation on the Regional Action Plan for Combating Destructive Fishing is also in line and will contribute to the achievement of the 4th mission of North Maluku regional development, namely building an inclusive and quality regional economy with an orientation to added value and sustainable management of natural resources³³. In the 4th mission for the development of the North Maluku region, sustainable natural resources are the key to achieving economic development, this is certainly in line with the efforts to stipulate a governor's regulation on regional action plans for dealing with destructive fishing. Because with the stipulation of a governor's regulation on the action plan for destructive fishing areas, destructive fishing activities will decrease, so that sustainable marine, fisheries and marine resources are realized. In addition, one of the objectives of the 4th mission for the development of the North Maluku region is to increase the carrying capacity and function of the environment and protect the ecosystem³⁴. Thus, the stipulation of the governor's regulation on the regional action plan for countermeasures for destructive fishing supports the objectives of the 4th mission objective for the development of the North Maluku region, because the ultimate goal of the regional action plan is to maintain and protect the sustainability of marine ecosystems, fisheries and tourism.
- 3) The stipulation of a North Maluku governor's regulation regarding regional action plans for countermeasures for destructive fishing also contributes to one of the SDGs goals, namely to preserve and sustainably use marine and oceanic resources for sustainable development. The regional action plan for combating destructive fishing is expected to be a comprehensive instrument that can deal with destructive fishing activities, starting from the policy side, law enforcement personnel, to related programs. Thus, the determination of the PERGUB can contribute to the preservation and sustainable use of marine resources, as stipulated in the SDGs.

CONCLUSION

In practice, the development of maritime potential in South Halmahera Regency experiences various challenges and opportunities. Efforts to deal with these obstacles include moderating stakeholders to analyze and describe what is best for the development of maritime potential in South Halmahera Regency, North Maluku Province. It is very important to equate perceptions and common interests so that the policies that are being implemented can run well until the end. Carrying out bureaucratic reform by summarizing the administrative system, including mobile bureaucratic services, both at sea and on land by using boats/ships that are connected to services and the internet so that it makes service easier for the community. Next is to open up investment opportunities as wide as possible so that investment can come easily to the Bintan Regency area. With easy investment into then indirectly. will improve the economy of the people in South Halmahera Regency itself. The capital aspect can be overcome by providing financial assistance to fishermen. Can take the form of distributing people's business loans, direct investment, CSR of large companies

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