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Vol. 12 No. 1 (2020): Volume 12, Nomor 1, Tahun 2020



Published: 2020-11-21

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Jl. Prof. drg. Surya Sumantri, M.P.H. No. 65, Gedung B, Lantai 10
Bandung - 40164, Jawa Barat, Indonesia
Telp: +62 22 - 201 2186 | 200 3450, ext. 7272/7373
Fax: +62 22 - 201 5154

The Equation on the Justice for Fisherman: The Urgency to Protect Fishermen and Marine Resources in Indonesia

Dian Narwastuty, Arman Tjoneng, Novalita Sidabutar

Faculty of Law, Maranatha Christian University

diannarwastuty@gmail.com; armantjoneng@yahoo.com

Submitted: 2020-09-18; Reviewed: 2020-11-03; Accepted: 2020-11-20

ABSTRACT

Indonesia's territory has a lot of wealth in assets of marine resources and human resources. This wealth has become both challenge and grace for the Government of Indonesia to manage it. Nowadays, Indonesian marine is expected to be more developed, but in contrary, a lot of interest that should be regulating in the sea. The main questions that arouse are: how should government give an equation for Indonesian fisherman and how should the government put marine resources' protection to supply the equation for natural resources. These questions will solve by a normative juridical study on the protection of natural resources and the resources of Indonesian fisherman. The study uses a descriptive analytical method for a number of regulations that apply in marine trade law and employment law. This research is also complemented by a literature approach in the form of Indonesian legal literature and marine journals to address the issues raised in this paper. The findings in practice prove that the government should give more attention for the fisherman's welfare and protection related to fish catching. The objective protection for Indonesian marine resources is from regulated all the regulation to develop Indonesia economic from Maritime sector. It is all needed to make a new system in legal protection for Fisherman and Marine Resources in Indonesia.

Keywords: *Equation; Indonesian Fishermen; Indonesian Marine; Legal, Protection.*

INTRODUCTION

Indonesia have so many regulations concerning in sea's protection. Although the regulation are many, there still things have not been able to reflect the rules of joint use of international sea areas, especially in border areas. This can be seen from various problems. These problems include: the unclear distribution of resource rights in marine areas, various unclear sea boundary issues with neighboring countries, problems of theft of marine life, illegal, unreported, and unregulated fishing, where many of the proceeds of crime are brought and fully utilized by foreign countries and other problems related to the sea area.

The problems mentioned above have not yet aroused much attention from researchers in Indonesia. The fisheries court is a special court based on Law Number 31 of 2004 concerning Fisheries, hereinafter referred to as the Fisheries Law. There are various obstacles in the exercise of the powers mandated by this Law. The Fisheries Law stipulates the authority to examine, try and decide criminal cases in the fisheries sector that occur in the fisheries management area of the Republic of Indonesia, whether committed by Indonesian citizens or foreign nationals. In practice, the authority to examine cases of handling fish theft often overlaps. This paper tries to summarize the problems faced in the enactment of the Fisheries Law.

Therefore, the Writers Team is interested in researching and writing about it. Natural resources which are located in the vicinity of boundary areas of the sea (trans boundary natural resources) or often referred to as cross-border natural resources; can be classified as a trans boundary natural resource which is located under the seabed which extends from the boundary on the two sides of the continental shelf, so that these natural resources can be exploited from the other party's continental shelf either partially or completely. Specifically, in Indonesia, there are many such areas.

DISCUSSION

This research use the method or approaching of a normative legal research method that examines positive law in Maritime Regime and Its enforcement compared to library materials regarding the problems that showed in this research.¹ Secondary materials used are book materials on maritime law and diplomatic and consular law. Based on history, the division of the sea has occurred since the 15th century where there was an agreement between Spain and the Portuguese which has great power in the very influential maritime field.² Each

¹Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: Rajawali, 2001, p. 15

² Butcher, JG. Becoming and archipelagic state: the Djuanda Declaration of 1957 and the "struggle to gain international recognition of the archipelagic principle, in Cribb, R. and Ford, M. 2009 *Indonesia beyond the water's edge - Managing an archipelagic state*, Indonesian Update Series, RSPAS Australian National University, ISEAS, Singapore, 2009. p.28-48

country is claiming its authority over the surrounding seabed, water's border, and sea including Indonesia. Indonesia claimed power over the sea around the Indonesian islands based on as the Djuanda Declaration.

The result of the claiming actions, there is sporadic phenomenon of marine area claims that occurred at that time. The United Nations considers there is a need for regulation of control over the sea. Therefore, the United Nations held the United Nations Conference on the Law of the Sea which produced the United Nations Convention on the Law of the Sea 1958. In its development, the convention was perfected through the 1982 United Nations Conference on the Law of the Sea convention (hereinafter referred to as UNCLOS 1982) which has been ratified by more than 160 countries. Indonesia has ratified the convention through Law No. 17 of 1985.

The approach used is the statute approach by addressing all legislation and regulations that relate to the legal issues being addressed. This approach will be elaborated with conceptual Approach (Conceptual Approach) that moves from the views and doctrines that develop in law. The researcher's focus point in this research is the problem discuss with Law Number 17 1985 concerning Ratification of the United Nations Convention on the Law of the Sea (hereinafter referred to as UNCLOS), Law Number 5 of 1990 concerning Nature Conservation, Law Number 37 of 1999 concerning Foreign Relations, Law Number 17 of 2019 concerning Water resources. All of the Regulations referred in this paper are to examine the issues surrounding protecting the natural resources in the Indonesian sea borders and the right way to protect the fisherman of Indonesia. The data used are secondary data obtained from literature studies and primary data obtained by conducting interviews with respondents and litigation institutions.

The Maritime Law in Indonesia's to Protect Natural in its Water Borders

The sea, especially the territorial ocean has special characteristics in each of its layers for humans. As for as the law of the sea; law of the sea were a series of regulations that accommodating the behavior of people as members of the community. This law aims to establish order among parties of the community. The sea is a vast expanse of water between various continents and islands in the world.³ Because Indonesia's territory consists of 60% of the territorial waters/ or oceans, the Writer Team also explained the condition of the Indonesian archipelago.

The results of identification of islands in Indonesia that have been successfully carried out; the islands that have been inventoried are 7353 named islands and 10,155 unnamed islands throughout the Republic of Indonesia. Of the 7353 islands named, there are 67 islands

³ Wirjono Prodjodikoro, Law of the Sea For Indonesia, Jakarta : Sumur Bandung , 1984, p.8

directly adjacent to neighboring countries; 11 of them need special attention, because they are located on the outer islands.

The Eleventh of outermost islands in Indonesia are Sekatung Island and Natuna Island in Riau Islands Province, Marore Island and Miangas Island in North Sulawesi Province, Fani Island and Fanildo Island and Behala Island in Papua Province, Rondo Island in Nanggroe Aceh Darussalam (NAD), Behala Island in Province North Sumatra, Nipa Island in Riau Province and Batek Island in East Nusa Tenggara Province (NTT).⁴

In fact, Indonesia has a territory directly adjacent to neighboring countries, or a territory that is not directly bordered as is the case with the People's Republic of China (PRC). There is a difference of views between the State of Indonesia and the countries mentioned above regarding water boundaries. These differences in views have led to disputes with the countries mentioned above. The cases in the waters of the Natuna Islands in mid-January 2020 had proved to us.

Understanding Maritime Law in general can be interpreted as: law relating everything that is related. Maritime law is in terms of the terms Shipping, *Scheepvaartrecht*, sea-transport law. The equivalent term is not appropriate because the scope of understanding of Maritime Law is more diverse than the terminology of shipping or sea transportation law. Understanding Maritime Law according to Black's particularly relates to commerce and navigation, to ships and shipping, to seamen, to the transportation of persons and property by sea, a Blacked to marine affairs generally. The law relating to harbors, ships and seamen. And important branch of the commercial law of maritime nations; divided into a variety of departments, such as those about harbors, property of ships, duties and rights of masters and seamen, contracts of freightment, average, salvage, etc.

Understanding Maritime Law can state things that are the focus point of maritime law. The focus point is in the interest of whom the maritime law was created. Thus, this kind of law which focuses on issues around trade, navigation at sea and everything that covers it accommodates the mindset of the Utilitarians.⁵ Utilitarian prioritize the actual interests of each individual, so that the state "only" is an embodiment of the actual interests of each of its citizens. This is what causes a lot of distortion problems with law enforcement. So by that, it can be understood that as result of law enforcement based on actual interests is the justification of actions that are international in nature are sensitive to claims that are empirical / require proof.

Based on the above understanding, the scope of Maritime Law includes:

1. Matters relating to ships,
2. Matters concerning the seaport of these ships,

⁴ O.C. Kaligis & Associates, *Sipadan-Ligitan Dispute :Why We Lose*, Jakarta, 2003, P.8

⁵ Fernando R. Teson, *A Philosophy of International Law*, United States America: Westview Press , 1998, p.50-51

3. Matters about shipbuilding (shipping industry)
4. The aspects of civil law and public law from the things mentioned above.⁶

The main functions of maritime law are formulated in the issuance of the ESCAP (Economic and Social Commission for Asia and the Pacific), Bangkok, Guidelines for Maritime Legislation:

1. Maritime Law provides the legal framework for maritime transport, i.e. the carrying out of a state's foreign trade,
2. Maritime Law implements the basic objectives of a state as a port state and coastal state,
3. Maritime Law may serve the achievement of certain economic purposes.⁷

While in other parts, the law of the sea can be interpreted as aspects regarding the use and sources of marine resources. In the ESCAP Guidelines for Maritime Legislation, it is formulated that: The law of the sea encompasses all aspects of the uses and resources of oceans, the Maritime Law constitutes that specialized branch of the law which governs maritime transport and sea-borne international trade. Since the birth of the United Nations International Convention on the Law of the Sea (United Nations Convention on the Law of the Sea) in 1958 and 1982, the framework for regulating International Sea Law covers the following matters:

1. The spatial boundaries of all marine spaces and legal regimes concerning national sovereignty or jurisdiction over oceanic spatial areas which connect to the coast, access to the ocean,
2. Shipping, protection and preservation of the environment against pollution,
3. Exploitation of biological and vegetable resources and their preservation, scientific research on maritime,
4. Seabed mining,
5. Settlement of disputes.⁸

The Sea Law Convention also details various legal regimes regarding freedom of sailing in the open sea, including in the EEZ and for seagoing in territorial seas through international straits and archipelago waters. In this arrangement, the coastal state has the authority to make laws and regulations regarding sea traffic in the area for shipping safety

⁶ Joko Susanto, *In Compilation Book : Kemaritiman Indonesia, Problem Dasar Strategi Maritim Indonesia*, Malang : CV. Cita Intrans Selaras, 2015, p 26-28

⁷ M. Husseyn Umar, *Hukum Maritim dan Masalah-Masalah Pelayaran di Indonesia*, Buku I, Jakarta : Fikahati Aneska, 2015, p. 5

⁸ M. Husseyn Umar, 2015, *Ibid*, p. 6

and regulate shipping traffic, protect facilities and navigation aids, preserve the environment and control pollution.

On February 25, 1992, the government of the People's Republic of China (PRC) announced the Law of the Territorial Sea and its Additional Zone, where the Natuna Islands were included in its Territorial Jurisdiction. Chinese interests in the South China Sea region extend to the fisheries area of the Natuna Islands. This is evident from the capture of KM. Kway Fey with the Chinese flag and eight crew members from the Bamboo Curtain country by the Indonesian Ministry of Maritime Affairs and Fisheries (KKP). This polemic was exacerbated when the ships did not merely enter Indonesian sovereignty but also illegally caught fish with the protection of a coast guard.

The Prosecution of Illegal Fishing in Indonesia

Territorial sovereignty of a country includes three dimensions, namely land, air and sea. Sovereignty over land includes land surface land and also land under land to an unlimited depth.⁹ Sovereignty over airspace includes airspace which is located above the surface of the land area and which is located above the territorial waters of a country. Whereas in the sea area, a country's territorial sovereignty includes the zone of inland waters, territorial waters and territorial seas. The territorial sovereignty of a country is also regulated in Article 2 of UNCLOS 1982. The explanation of the convention explains that the basic concept of space for sovereignty as the highest authority of a state is limited by the territory of that State, so that the state has the highest power within its territory. Mochtar Kusumaatmadja stated that a consequence of understanding sovereignty in this limited sense, besides independence also understood equality. That is, besides the sovereign states, each of them is independent; they are also of the same rank as the others. Mochtar Kusumaatmadja stated that independence and equality are forms of the realization and implementation of the definition of sovereignty in a reasonable sense.¹⁰

The importance of sea areas in relations between nations also makes the importance of international sea law important. The purpose of this law is to regulate the dual use of the sea as a highway and as a source of wealth and energy. In addition, the law of the sea also regulates competition between countries in seeking and using the wealth provided by the sea, especially between developed and developing countries. But this regulation is not enough to process the prosecution in illegal fishing.

The administration of fisheries courts is included in law enforcement in the field of special courts as regulated in Law Number 45 of 2009 concerning Amendments to Law

⁹ Humas BNPP, "ini alasan Perundingan Batas Maritim Indonesia dengan 10 Negara belum selesai", <http://bnppp.go.id/index.php/berita/beritadetail/ini-alasan-perundingan-batas-maritim-indonesia-dengan-10-negara-belum-selesai>", diakses tanggal 12 April 2020, pukul 12.00 wib

¹⁰ Mochtar Kusumaatmadja, *Bunga Rampai Hukum Laut*, Jakarta : Bina Cipta, 1978, p.151-15

Number 31 of 2004 concerning Fisheries. This law instructs the establishment of a fishery court which has the authority to examine, try and decide criminal acts in the field of fisheries that are within the general court in accordance with the jurisdiction of the district court concerned.

Problems of overfishing, physical degradation of coastal habitats, illegal fishing and illegal disposal of waste are still rampant at this time. The government considers that the previous Fisheries Law has not been able to anticipate technological developments and legal needs in the fisheries sector. The government then strengthened maritime economic development by promulgating a new Fisheries Law. The government also emphasizes strengthening law enforcement in the field of fisheries and a clear mechanism for monitoring fisheries use.¹¹

Some of the weaknesses that can be seen in the Fisheries Law are: **The first** weakness is the safeguarding of establishing fisheries courts. this got the public spotlight. Criminal law expert Indriyanto Seno Adji has criticized the establishment of a fishery court, who believes that the formation of a special court will only cause confusion and inconsistency on the principle of unification and violate the systematization of judicial institutions that recognize the Supreme Court as top judicial. Apart from that in the regulation and implementation of investigations, there are no provisions regulating the coordination mechanism between investigating agencies.¹² However, the formation of fisheries courts is basically based on the spirit of overcoming the crisis of the powerlessness of the existing judicial institutions in addressing various legal issues related to law enforcement violations in the fisheries sector. This can be seen as The Special Criminal Law No. 271/Pid.sus/2017/PT PBR. In the Judges Consideration part, there some point that state there is too much court in Indonesia, thus to do sue about the illegal fishing it had to be done in fisheries courts that is not familiar to the offender.

The second weakness is the overlapping authority within the institutions that handle fisheries violations and crimes. In the context of law enforcement in the field of fisheries, there are several institutions that have the authority to deal with law violations in the Indonesian sea territory, whose authority still overlaps with one another. Some of these institutions include the Indonesian Navy, the Ministry of Marine Affairs and Fisheries, the Police, the Directorate General of Immigration, the Directorate General of Customs and Excise, the Attorney General's Office, the Directorate General of Sea Transportation (Fleet PLP / KPLP), and the Ministry of Forestry.

¹¹ Deskripsi Konsepsi dari DPR dalam pengusulan Perubahan Kedua Undang-Undang Nomor 31 Tahun 2004 dalam Program Legislasi Nasional 2015-2019 lihat <http://dpr.go.id/prolegnas/deskripsi-konsepsi/id/93>, diakses tanggal 10 Oktober 2020 pukul 10:59 wib.

¹² *Ibid.*

The overlapping authority of law enforcement and judicial processes is one of the problems in implementing the Fisheries Law. Several legal issues that affect the effectiveness of the implementation of supervision and law enforcement, among others, are related to the overlap of authority between law enforcement agencies, drafting of regulations that do not pay attention to aspects of harmonization, obscure / vague norming, have not fully adopted the principle of corporate responsibility, formulation of criminal provisions that are not in line with the principles of the formation of good laws and regulations, as well as the existence of self-regulation carried out by the judiciary, it is often counterproductive and creates new problems.¹³

The Enforcement on Maritime Regime, the Difficulties Inside

Law was born from international customary sources. This international custom was born from the same actions and carried out continuously on the basis of the same needs at sea. International customs are also common habits that are accepted as law. Be warned that international customs as a source of law do not exist as a source of law is closely related to international treaties. This relationship is a reciprocal relationship.

International agreements are agreements that are held between members of the community of nations and aim to have certain legal consequences. Legal sources of sea law were the result of the 1958 UN conference in Geneva. The conference, which was held from February 24 to April 27, 1958, was called the UN Conference I on the Law of the Sea, successfully agreeing on four conventions, as follows:

1. Convention on the Territorial Sea and the Contiguous Zone entered into force on September 10, 1964;
2. Convention on the High Seas came into force on 30 September 1962;
3. Convention on Fishing and Conservation of the Living Resources of the High Seas (Convention on Fisheries and Protection of Open Sea Biological Resources), entered into force on March 20, 1966;
4. Convention on the Continental Shelf came into force on June 10, 1964.

In other regions, there are sea areas which must be regulated with different uses. These parts are the Exclusive Economic Zone, the territorial Sea and other parts. The Exclusive Economic Zone is a new arrangement established by UNCLOS 1982. Long before the birth of this regulation, the outer boundary of the territorial sea was considered as the boundary between the part of the sea towards the land where full sovereignty of the coastal state applies, and the part of the sea outward from that boundary where the freedom applies in the high

¹³ Tim BPHN, 2015, *Laporan Akhir Tim Analisis dan Evaluasi Hukum Bidang Perikanan*, Op. Cit, hlm. 42.

seas. The arrangement of the Exclusive Economic Zone can be considered as the result of a revolution that has changed in such a way the arrangement of the sea.

In general, it can be defined what is meant by the Exclusive Economic Zone, namely "the part of the water (sea) located outside of and bordering a territorial sea as wide as 200 (two hundred) nautical miles measured from the baseline where the width of the territorial sea is measured". The width of the Exclusive Economic Zone for each coastal country is 200 miles as affirmed in Article 57 of UNCLOS 1982 which reads "the exclusive economic zone shall not extend beyond 200 nautical miles from the baseline from the breadth of territorial sea is measured" may exceed 200 nautical miles from the base line from which the territorial sea width is measured".

Article 55 of UNCLOS 1982 confirms that the Exclusive Economic Zone as waters (sea) located outside and adjacent to the territorial sea, subject to the special legal regime (special legal regime) stipulated in this Chapter is based on where the rights and jurisdiction of coastal states, rights the rights, as well as other national freedoms, are governed by the relevant provisions of this convention. This particular legal regime appears in the specificity of the law applicable to the EEZ as an integration which includes:

1. sovereign rights, jurisdiction and obligations of coastal states;
2. the rights and freedoms of other countries;
3. freedom of the high seas; and
4. the rules of international law as specified in the convention.¹⁴

The provisions of Article 71 of the Fisheries Law were later amended in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, which reads as follows:

1. With this law a fishery court is established which has the authority to examine, try and decide criminal acts in the fishery sector.
2. The fishery court as meant in paragraph (1) is a special court within the general court.
3. Fishery courts as referred to in paragraph (1) will be established at the North Jakarta, Medan, Pontianak, Bitung, and Tual District Courts.
4. The fishery court as meant in paragraph (1) is domiciled at a district court.
5. The establishment of a fishery court is then carried out in stages according to the needs stipulated by a Presidential Decree.

¹⁴ M. Yunus, in Compilation Book : Kemaritiman Indonesia, *Problem Dasar Strategi Maritim Indonesia; Nusantara : Negara Maritim, Petani, atau Sekadar Sebaran Pulau?*, Malang : CV. Cita Intrans Selaras, 2015, hlm. 70-71

This provision regarding fisheries courts is also enhanced by affirming the jurisdiction of the jurisdiction of the fisheries court by inserting one article between Article 71 and Article 72, namely Article 71A, which reads: "Fishery court has the authority to examine, try and decide criminal cases in the fisheries sector that occur. in the fisheries management area of the Republic of Indonesia, whether conducted by Indonesian citizens or foreign nationals. So by that, it can be conclude that every person has an equal right to sue.

The Best Way to Improving The Protection for Indonesian's Fisherman

The Southeast Asian region has increasingly become the target of "ghost ships" that are rumored to be sailing with hundreds or even thousands of tons of cargo that suddenly disappear with cargo worth hundreds of millions of US dollars.¹⁵ The "ghost ships" disappeared or were declared sinking even though they had sold their cargo and diverted it to other ships in international waters or at other ports. These ships with certain methods, methods of cheating, certain modes of operation change a ship's identity to a new identity (generally to countries of flag of convenience, such as Panama, Liberia, Honduras, etc.). Crimes related to such shipping have increased in the past 10 years.

Several types of fraud that can occur / involve crime / fraud a number of crime cases that occurred in the Natuna Sea in the past decade, several crimes / fraud can be described as follows:

1. Fraudulent using of documents. This activity is a crime / fraud manipulation of transport documents / arrangements, invoices, insurance polls, certificates of origin, quality certificates of goods, falsification of these letters, or original letters which are then filled with false data).¹⁶ Supervision of the granting of permits for foreign fishing vessels which often falsifies the identity of letters for sailing and letters for fishing.

Acting Director (Acting) Director General of Maritime and Fisheries Resources Supervision (PSDKP) Nilanto Perbowo explained, in the Natuna waters, captured KIA often used state flags in Southeast Asia or Asia.¹⁷ From the arrests made by the SHIP 04 Fishing Supervision Boat (KP) in the waters of the North Natuna Sea, 60% of KIA cases were found to have used fake permits, or incomplete shipping documents and ship permits. . MCHs that were captured by these officers also did

¹⁵ I Made Andi Arsana, "Causes Of Disputes Between Indonesia and Vietnam On The South China Sea", Tempo, 21 May 2019, <https://Kolom.tempo.co/read/1207615/akar-perseteruan-indonesia-vs-Vietnam-di-laut-China-selatan/full&view=ok>, diakses 19 Maret 202, pukul 15.20 wib.

¹⁶ Nunung Mahmudah, *Illegal Fishing, Pertanggungjawaban Pidana Korporasi di Wilayah Perairan Indonesia*, Jakarta: Sinar Grafika, 2015, p. 94

¹⁷ kkp.go.id, January,20,2020, "KKP Bebaskan Nelayan Indonesia yang tertangkap Aparat Malaysia";, downloaded on June 7, 2020, 13.00 WIB

not have valid documents from the Government of Indonesia for fishing in the Fisheries Management Area of the Republic of Indonesia (WPP-RI).

2. Fraud in ship charter, (including fraudulent use of the proper charter time. Where the ship user (charterer) manipulates the charter time intentionally and fraudulently so that the ship owner still has to fulfill delivery obligations, while the charterer has not perform its obligations.¹⁸
3. Fraud related to ship or cargo insurance, including the intentional action of burning or sinking the ship.¹⁹
4. Other frauds, including fraud related to activities at the port.²⁰
5. Natuna sea area is very rich in biological wealth in the form of fish with various types, the oil content is quite promising, and also the treasure of shipwrecks, but the monitoring system is still very weak.

To oversee the islands and Archipelago in Indonesia, quite a lot of funds are needed. These funds include, among other things, used for patrol costs, fuel costs, from patrol vehicles and other costs. However, during the last period there was a reduction in costs for the budgets referred to above.²¹ Furthermore, Executive Director of the Maritime Study Center for Humanity Abdul Halim gave a response to the re-emergence of the practice of fish theft by foreign fishing vessels (KIA) in the North Natuna Sea.²² Halim said, one of the things that was considered to be very significant in influencing the protection of the North Natuna Sea region, was because the Ministry of Maritime Affairs and Fisheries (KKP) in the 2018-2019 fiscal year had reduced the budget for supervision of marine and fishery resources (PSDKP) at the Directorate General PSDKP.

He stated that the decrease in budget allocation had an impact on the decreasing number of monitoring days at sea, from 145 days to 84 days in a year.²³

So by that, there are some ways to promoting the protection for Indonesian's fisherman. There are:

1. Postponing the decline in the surveillance budget at sea by the CTF.

¹⁸ Wiwoho Soedjono, *Hukum Perkapalan dan Pengangkutan Laut*, Jakarta : Bina Aksara, 1982, p.138-142

¹⁹ Wiwoho Soedjono, 1982, *Ibid*, p. 87-88

²⁰ Baharuddin Lopa, *Hukum Laut, Pelayaran, dan Perniagaan*, Bandung: Penerbit Alumni, 1982, p.194-195.

²¹ Aditya Mardiatuti, "Indonesia reported 16.056 islands with name to UN", Detik News, 5 Mei 2018, <https://News.detik.com/berita/d-4005694/Indonesia-laporkan-16056-pulau-bernama-ke-pbb>, diakses tanggal 5 maret 2020, pukul 14.30 wib.

²² Jay Fajar, "Laut Natuna Masih Disukai Kapal Asing Penangkap Ikan Ilegal,. Kenapa?" ,www.mongabay.co.id, May 18, 2018, downloaded on June, 6, 2020, 15.00 Wib

²³ Mariah Gipty, "Direktur CSMH Ungkap Faktor Kapal Asing leluasa Masuk Indonesia, Bandingkan Anggaran 2018 dan 2019", <https://wow.tribunnews.com>, December, 31, 2019, downloaded on June, 6, 2020, 15.00 Wib

By postponing the decline of surveillance budget will also affected decreasing the number of days of supervision dropped dramatically, from 60 days in 2017 to 24 days in 2019 only. The budget reduction for PSDKP is considered to be one of the main sources of weakened oversight in Indonesia's sea areas, especially those directly adjacent to neighboring countries such as North Sulawesi, North Maluku, Riau Islands, and others.

2. Suing all of the parties that are involved in illegal fishing.

This is in line with the statement by the expert of Sea Law Expert at the Faculty of Engineering, Gadjah Mada University Yogyakarta, I Made Andi Arsana.²⁴ He stated because legal action was limited to the captain of the ship, it was not enough to make a deterrent effect for the ship owner's company. In addition, law enforcement against illegal fishing must touch on fishing theft practices at the border such as double flagging, shutting down the VMS (vessel monitoring system), and transshipment (transfer of ships) in the middle of the sea.²⁵ He explained that the operation modus of stealing fish using small MCH-MCHs if acted using the provisions of Law No.7 / 2016 concerning the Protection and Empowerment of Fishers, Fish Farmers and Salt Farmers; Smaller vessels under 10 GT are categorized as small fishing vessels. With this status, the size of the ship owner then receives various facilities from the KKP. The CTF also freed up permission to conduct fishing. Thus, at the time of taking action illegal fishing conducted by Small Fishing Vessels is "released" / not acted on. In fact, the small MCHs were axes for larger MCHs waiting in the middle of the sea.

3. Blocking the Fishers from Vietnam, China who deliberately involve their country's coastguards to secure the fishing vessels of the two countries while sailing in the exclusive economic zone (EEZ) area of Indonesia. This condition has taken place in recent weeks and has provoked Indonesia to maintain all its sovereignty in the territorial waters.

The Natuna Islands region of Riau has long been a busy area traversed by fishing vessels from around the world. The situation has not changed, despite political tensions in recent years in the region and involving East Asian countries with Southeast Asia.²⁶ Within this year, one of the Southeast Asian countries, Vietnam,

²⁴ I made Andi Arsana, *Batas Maritim Antarnegara, Sebuah Tinjauan Teknis dan Yuridis*, Yogyakarta : UGM Press, 2007, p.144-145

²⁵ Indonesia Ministry Of Foreign Affairs, "Indonesia and Vietnams Urge The ZEE Delimitation Settlement and Maritime Partnership Improvement", Ministry Of Foreign Affairs Of The Republic Indonesia, 31 July 2019, <https://kemlu.go.id/portal/en/read/497/berita/Indonesia-and-vietnam-urge-the-zee-delimitation-settlement-and-maritime-partnership-improvement>, diakses tanggal 22 Maret 2020, pukul 13.00 wib

²⁶ R. Kurniaty, Ikaningtyas & P.A. Ruslijanto, 2018, "Analysis On Traditional Fishing Grounds In Indoensia's Natuna Waters Under International Law", IOP Conference Series : Earth and Environmental Science, 137,2018, 012039, p.1

even more aggressively catches fish in waters that fall into the exclusive International Economic Zone (EEZ). Not surprisingly, during 2019 the Ministry of Maritime Affairs and Fisheries (KKP) claimed to have found 13 patrol vessels in the country that were on guard or were always in those waters.²⁷ For Indonesian Destructive Fishing Watch (DFW) National Coordinator Moh Abdi Suhufan, the vigilance of the 13 Vietnamese patrol boats is aimed at keeping fishing activities carried out by their fishermen to continue to run well.²⁸ The ships consist of fishing patrol boats and coast guard vessels and focus on safeguards in the border areas between countries.²⁹ That was done by Vietnam, because it was not yet clear of the exclusive economic zone boundaries of the two countries (Indonesia and Vietnam), so that it became a gap and justification Vietnam to expand fishing territory in the North Natuna Sea.³⁰

Table 1 Table Of Dispute's Settlement in Trial

Year	Punishment	Suspect of Cases
20011-2015	50	10.632
2016-2019	16	30.673

Source : abstracted from Interview with KKP Indonesia , April 2019

CONCLUSION

The conclusion that we can afford from text above is:

1. Bringing the strength of the marine fleet to support security in the Natuna Sea and other waters.
2. Establish clear agreements / treaties regarding the boundaries of territorial waters with neighboring countries.

As explained above, one of the problems in the Natuna Sea is that there are unclear sea boundary issues.³¹ Unclear boundaries will create obstacles for the interests of the state

²⁷ Damos Dumoli Agusman & Gulardi Nurbintoro, "hardwork Continues to settle Maritime Border", The Jakarta Post, 13 December 2018, Academia, opinion, <https://www.thejakartapost.com/academica/2018/12/13/hard-work-continues-to-settle-maritime-borders.html>. Diakses 28 maret 2020, pukul 14.00 wib

²⁸ Jay Fajar, "Ulah Vietnam Ini Mengintimidasi Indonesia di Laut Natuna Utara", www.mongabay.co.id, September 6, 2019, downloaded on June 9, 2020, 10.30 WIB.

²⁹ Brian Taylor Sumner, "Territorial Disputes at the International Court Of Justice, 53 Duke Law Journal 1779-1812, 2004, available at <https://scholarship.law.duke.edu/dlj/vol53/iss6/> diakses 30 mei 2020, pukul 15.00 wib.

³⁰ Dave McRae, "Indon esia's South China Sea Diplomacy: A Foreign Policy Liberal Turn?", Journal OF Contemporary. 2019. Diakses 20 mei 2020, pukul 15.00 WIB.

³¹ Ahmad Naufal Dzulfaroh, "Become Favorite Place for IUU Fishing, What Are the Potential Of Natuna Water?", Kompas, 3 Januari 2020, <https://www.kompas.com/tren/read/2020/01/03/200922665/jadi-tempat-favorit-kapal-asing-pencuri-ikan-apa-saja-potensi-perairan-?page=all>, diakses tanggal 5 januari 2020, pukul 17.00 wib.

(in this case the coastal state) and the people protected by claims of authority over the sea which includes the sea, coast, coast and all their wealth. With the establishment of bilateral agreements between countries that border directly on their territorial waters, actions will be minimized in violation / crime against other countries' territories.

3. Extending the authority of the Fisheries Court so that it does not only cover criminal acts in the fishery sector as regulated in the Fisheries Law. When a non-fishery crime is found; fisheries courts do not have the authority to handle non-fishery cases and require that these non-fishery cases be handled by the general court. To deal with this, it is necessary to expand the jurisdiction of the Fishery Courts to also handle co-crimes that occur and are found along with fisheries crimes.

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