

Legal Principles in Utilizing Fish Resources in the ZEEI to Make Indonesia a World Maritime Axis

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Abstract. Indonesia's vast territorial waters offer great natural potential for the country's growth. By paying attention to the carrying capacity and sustainability of marine resources, national development aims to utilize marine resources and the national seabed as well as the function of national sea areas, including the Exclusive Economic Zone, in a harmonious and balanced manner. It will improve human welfare and expand business opportunities and employment. Normative legal research is a type of research used in legal writing and focuses on legal norms. In anticipation of the implementation of the 1982 UN Convention on the Law of the Sea, the Indonesian Government has issued several laws and regulations governing the use of exclusive economic zones, including Law No. 5 of 1983 concerning ZEEI; PP No. 15 of 1984 concerning Management of Biological Natural Resources in ZEEI; UU no. 41 of 2004 concerning Fisheries. In terms of utilizing ZEEI, namely determining the number of permitted catches (JTB) based on considerations and recommendations from the National Commission, it is necessary to review the size of the JTB determined. Anticipating the development of fishing in Indonesia's exclusive economic zone, the Government needs to anticipate the implementation of IUU Fishing.

Keywords: Legal Principles, Exclusive Economic Zone, Fisheries

1 Introduction

In the 1945 Constitution, the word "benefit" can be seen in that the homeland and all the wealth contained therein are controlled by the state and utilized as much as possible for the prosperity and welfare of the people, in this case, fishermen. So far, it seems that the vast natural wealth has not been utilized optimally for the welfare and prosperity of all the people. It can be seen that the sea and all the riches it contains are invaluable resources that need to be utilized and conserved at the same time. No less than 240 million tons of fish, half or 120 million tons of which can be taken every year without threatening its sustainability.[1]

Indonesia's vast territorial waters offer great natural potential for the country's growth. By paying attention to the carrying capacity and sustainability of marine resources, national development aims to utilize marine resources and the national seabed as well as the function of national sea areas, including the Exclusive Economic Zone, in a harmonious and balanced manner. This will improve human welfare and expand business opportunities and employment.

The amount of fisheries resources owned by the Indonesian nation has increased with the ratification of the Exclusive Economic Zone legal regime within the scope of International

Maritime Law and has a very potential role in supporting the increase in welfare and well-being of all people in particular. Indonesian fishermen.

Indonesia, as one of the 10 largest fish-producing countries in the world, actually still has greater opportunities to develop its fisheries business because Indonesia's sustainable potential reaches 6.6 million tons, while only 2.6 million tons have been exploited, so there are no less than 4 million tons more that have not been utilized. On the other hand, Indonesia needs fish to meet domestic needs and exports to earn foreign exchange.[2] An example is the marine fisheries resources in the Natuna Islands. This region has a yield of up to 1 million tons/year. Total utilization is only 36% and only 4.3% of that 36% is utilized by Natuna Regency.

Aside from that, it is realized that Indonesia is an oceanic country with a restrictive financial zone covering an area of around 2,692,762 KM². Taking into account the degree of Indonesia's Selective Monetary Zone, seaside nations should have the option to oversee and use it while as yet keeping away from different issues that can happen there. The Indonesian government has sovereign (selective) privileges to use all organic and non-natural assets in the Elite Monetary Zone to make due, screen, and safeguard them. Different nations wishing to use assets in the Indonesian Selective Monetary Zone should initially acquire consent from the Indonesian government.[3]

The Indonesian Exclusive Economic Zone (ZEEI), which is regulated by Law Number 5 of 1983 concerning ZEEI in the framework of the Implementation of UNCLOS 1982, has enormous natural resource wealth for national development and state welfare, both natural and non-biological. On the other hand, because of the enormous potential of ZEEI, it can result in illegal exploration and exploitation which can damage the marine environment in the Exclusive Economic Zone and damage the nation's economic prospects.

2 Method

Normative legal research is a type of research used in legal writing and focuses on positive legal norms in the form of statutory regulations, official records, or minutes in the making of statutory regulations (primary legal materials) as the main research material and books, opinions of experts, the public, mass media, scientific journals and magazines (secondary legal materials) as supporting data.

The approach to this research is statutory. This writing is intended to understand and comprehensively analyze the hierarchy of statutory regulations and the principles of statutory regulations. The statutory approach is carried out by reviewing all relevant laws and regulations.

3 Results and Discussion

3.1 Provisions of the 1982 Law of the Sea Convention concerning Biological Natural Resources and the Participation of Foreign Parties in the Utilization of Exclusive Economic Zone Fishery Resources and Indonesian National Regulations.

Based on the sovereign rights of coastal states, it is determined by Part V KHL 1982 that coastal states:

- a. Determine JTB and ensure that the survival of biological natural resources is maintained and is not endangered by excessive exploitation (overfishing).

- b. Determining the domestic catch capacity in the EEZ.
- c. Striving for optimum utilization of biological natural resources from the EEZ.
- d. In connection with the matters mentioned in points a, b, and c above, if the coastal country does not have the fishing capacity for the entire JTB, the coastal country will allow other countries to carry out fishing.

According to Article 62 of the 1982 KHL, coastal countries must allow foreign parties to take excess fish if they are unable to process the entire JTB catch in the EEZ. It is controlled by a contract or other arrangement by procedures established by the laws and regulations of the coastal state. Therefore, it is the coastal state that determines whether or not foreign involvement in fishing in the EEZ is permitted.

Coastal state regulations, which can consider the importance of the biological natural resources involved for the coastal state's national economic interests, significantly control access to fishery surpluses for foreign parties.

Foreign parties are obliged to comply with the steps taken by coastal state regulations to protect the marine environment to carry out fishing in the EEZ. These laws cover procedures for issuing permits, paying fees, receiving payment by other means, establishing fair compensation agreements, and possibly transferring equipment and technology to fishing companies in coastal states. This also includes regulations regarding the determination of fish species that can be caught as well as catch quotas and permitted fishing seasons. Apart from that, determining the age and size of fish that may be caught as well as information that must be provided by fishing vessels, and regulations from the coastal state on fishing vessels for training purposes. The coastal state can also regulate the discharge to land of all or part of the fish catch at the coastal state's ports as well as requirements regarding joint ventures or other forms of cooperation arrangements, training, and transfer of fisheries technology and law enforcement procedures.

3.1.1 Law Number 5 of 1983 concerning ZEEI

As indicated by the pertinent regulation administering Indonesian waters, the Indonesian Exclusive Economic Zone is a region situated outside and lining the Indonesian regional ocean. This region incorporates the seabed, the land beneath it, and the waters above it, with a greatest distance of 200 (200) nautical miles estimated from the ocean benchmark. Indonesian region. (Article 2)

In the Indonesian Exclusive Monetary Zone, the Republic of Indonesia has and carries out:

- a. Sovereign freedoms to complete investigation and double-dealing, the executives and preservation of organic and non-organic regular assets from the seabed and land underneath it as well as the water above it and different exercises for investigation and monetary abuse of the zone, for example, producing power from water, flows, and wind;
- b. Jurisdiction related to:
 - 1) creation and utilization of fake islands, establishments, and different structures;
 - 2) scientific research on marine matters;
 - 3) protection and preservation of the marine environment;
- c. Other privileges and commitments in view of the relevant Law of the Ocean Show (Direct pursuit).

In the Indonesian Selective Monetary Zone, opportunity of global transportation and trips as well as opportunity of establishment of undersea links and lines are perceived by the pertinent standards of worldwide oceanic regulation

3.1.2 Law Number 41 of 2004 concerning Fisheries

In the thought of letter a, it is said that the waters which are under the power and purview of the Unitary Condition of the Republic of Indonesia and the Indonesian Selective Monetary Zone, as well as the high oceans in view of worldwide guidelines, contain fish assets and potential fish development land, which is a gift from God All-powerful who shared with the Indonesian country which has the Pancasila reasoning of life and the 1945 Constitution, to be used however much as could reasonably be expected for the government assistance and success of the Indonesian public.

In letter b, it is expressed that with regards to executing public advancement in view of the Archipelago Understanding, fish asset the executives should be done as well as could be expected in light of equity and value in its usage by focusing on extending work open doors and working on the way of life for anglers, fish ranchers, and additionally parties connected with fisheries exercises, as well as encouraging the maintainability of fish assets and the climate.

Article 3 reads: Fisheries management is carried out with the aim of:

- a. improving the standard of living of small fishermen and small fish cultivation;
- b. Increasing state revenues and foreign exchange;
- c. Encourage expansion and employment opportunities;
- d. Increasing the availability and consumption of fish protein sources;
- e. Optimizing fish resource management;
- f. Increasing efficiency, quality, added worth, and intensity;
- g. Increasing the accessibility of unrefined components for the fish handling industry;
- h. Achieve ideal use of fish assets, fish development land, and fish asset climate; Also,
- i. Ensure the maintainability of fish assets, fish development land, and spatial preparation.

RI fisheries management areas for fishing and/or fish cultivation include:

- a. Indonesian waters;
- b. ZEEI; And
- c. Rivers, lakes, repositories, swamps, and different waterways that can be developed as well as potential fish development regions in the Republic of Indonesia.

According to Article 5 paragraph (1)(2), Indonesian fisheries management is carried out by generally applicable laws and regulations, requirements, and/or international standards. Just residents of the Republic of Indonesia or Indonesian lawful elements are allowed to complete fishing organizations in Indonesian fisheries the board regions.

Fisheries arrangements, access plans, or different arrangements between the Public authority of the Republic of Indonesia and the public authority of the

vessel's banner state should be made before the issuance of fisheries licenses to operate to unfamiliar people as well as legitimate elements working in the ZEEI. The commitment of the public authority of the boat's banner country to be liable for the consistence of people or legitimate elements of the boat's banner country with fisheries arrangements should be expressed in the fisheries understanding made between the Indonesian Government and the public authority of the boat's banner country. as expected in passage (1).

Guidelines overseeing the giving of fishing licenses to operate to unfamiliar people and additionally associations working in ZEEI, fisheries arrangements, access game plans, or different arrangements between the Public authority of the Republic of Indonesia and the Public authority of the vessel's banner not entirely set in stone by the Public authority. (Article 30 sections (1), (2), and (3)).

Each fishing vessel working in the fisheries the board region of the Republic of Indonesia is expected to have a SIPI. In light of Article 31 Passages (1) and (2), each fishing vessel used to ship fish in the fisheries the executives region of the Republic of Indonesia should be furnished with a SIKPI.

3.2 Fish Resource Management

Before the issuance of regulations specifically regulating sovereign rights in maritime law, especially those related to biological resources (including fish resources), the history of national legal regulations relating to Indonesian maritime affairs and fisheries had already been thoroughly prepared. The chronology of the regulation of fisheries resources began in 1957 when Indonesia published a Government Announcement regarding the National Water Areas of the Republic of Indonesia. This was subsequently moved up to Regulation Number 4 Prp of 1960 concerning Indonesian Waters, which changed alongside its turn of events, including the sanction of Regulation Number 6 of 1996 concerning Indonesian Waters.

Government Announcement regarding the National Water Areas of the Republic of Indonesia, dated 13 December 1957 by Prime Minister H. Djuanda,[4] which was later regularly alluded to as the Djuanda Announcement of 13 December 1957, and Regulation Number 4 Prp of 1960 concerning Indonesian Waters,[5] which has now been changed by Regulation Number 6 of 1996 concerning Indonesian Waters.[6] These two regulations need to receive attention, because these regulations contain 2 (two) main things related to the Indonesian EEZ: In the first place, specifically the presence of power with land and ocean regions being one unit, so it can make it more straightforward to keep up with the security of the Indonesian state, both with regards to the respectability of the Indonesian state, as well as the insurance of the regular assets contained in that, including fisheries assets. Second, the guideline above is the start of the development of the ward of the Republic of Indonesia and the ocean region which has a width of 200 miles as estimated from the pattern used to quantify the width of the regional ocean.

The Djuanda Declaration, 13 December 1957, means that Indonesia's territory has expanded and what is more important is that with the regulations outlined in the Declaration of 13 December 1957, Indonesia's territory has become a unified whole and can protect the wealth contained within it. Thus, the Djuanda Declaration of 13 December 1957 was the forerunner to the birth of the concept of "archipelago" which was clearly and concretely a symbol of the unity and unity of the Indonesian nation which at that time had fulfilled the needs of the Indonesian nation.[7] As indicated by Mochtar

Kusumaatmadja, a few contemplations provoked the Public authority of the Republic of Indonesia to give the Djuanda Statement, on 13 December 1957, as follows: [7]

- a. The geological state of Indonesia as an archipelagic nation comprising of thousands of islands has its qualities and examples and requires guideline.
- b. For the regional respectability of the Republic of Indonesia, all islands and the oceans situated between them should be considered as a component of a brought together entirety.
- c. The assurance of regional ocean limits which are the tradition of the pioneer government as contained in Article 1 (1) Territoriale Zee en Maritieme Kringen Ordonnantie 1939, isn't in that frame of mind of the wellbeing and security of the Republic of Indonesia.
- d. Every sovereign country has the right to take measures and ensure safety for itself.

From the start, the Indonesian government intended to present the concept of the archipelago in international forums. To ensure the implementation of a concept that contains territorial integrity, including protecting Indonesian state assets, Indonesia's unilateral (unilateral) actions to realize the newly recognized concept of national waters are intended to require international regulation. However, major maritime countries had not supported Indonesia's plan at the time of the first UN Conference on the Law of the Sea, making it impossible to adopt any legislation at the Geneva-based UN Conference on Maritime Law held in February. 1958.

Efforts to preserve fish resources continue to be fought for by Indonesia,[8] Efforts to reserve fish resources do not only stop in areas that fall within the sovereignty of the Indonesian state, but these efforts continue to be fought for in areas outside the sovereignty of the Indonesian state. This action is continuously fought for, because this struggle has logical consequences, meaning that the water areas are interconnected and continuous, besides that, fish are a living resource and are always moving so they influence each other, both in terms of preservation and conservation aspects. In 1980, Indonesia issued a Government Announcement on March 21, 1980, concerning Indonesia's EEZ. The Public authority's declaration of 21 Walk 1980 concerning Indonesia's EEZ was the underlying guideline utilized as the reason for extending the purview of the Republic of Indonesia over ocean regions that were 200 miles wide estimated from the baselines of the Indonesian regional ocean. As indicated by Koesnadi Hardjasoemantri, with the Declaration of the Public authority of the Republic of Indonesia in regards to the Indonesian EEZ on Walk 21, 1980, Indonesia has expanded its normal asset ward by 2.7 million KM² beyond the 3.1 million km² covered by archipelago waters.[9]

As a result, the EEZ concept has received strong support in national practice, which is proof that the international community needs to manage the fish resources contained in its EEZ. The readiness of the international community to agree on an EEZ with a width of 200 nautical miles from the baseline, as well as countries taking unilateral action and countries agreeing to be bound by UNCLOS III, has enabled coastal countries to maximize their potential. This includes fish resources. For Indonesia, the most important thing is how to utilize the existing potential to meet the needs of its people and implement existing regulations related to the utilization of available surplus²³, including preparing a set of regulations to realize optimum utilization under the available carrying capacity,

as well as determining the boundaries of Indonesia's EEZ with the neighboring countries where EEZ maritime borders overlap.

3.3 Number of Fish Catches Allowed in ZEEI

The regulation of determining the amount of allowable catch (total allowable catch) also known by the abbreviation JTB, is mandated by the United Nations Convention on the Law of the Sea (UNCLOS) 1982. It is stated in Article 61 paragraph (1) UNCLOS 1982, "Coastal states must determine the amount of catch of biological resources that can be allowed within their exclusive economic zone". The issuance of this article certainly is to avoid symptoms of overfishing.

Article 7 passage 7.1.8 of the 1995 Overarching set of principles for Mindful Fisheries (CCRF) contains arrangements in regards to the assurance of JTB to make an economical degree of the board. That's what it expresses "Nations ought to do whatever it takes to forestall or wipe out fishing over fishing limit and ought to guarantee that the degree of fishing exertion is similar with the supportable utilization of fish assets for the purpose of guaranteeing the adequacy of c Moreover, assuming fishing surpasses limit, a mechanism should be implemented to limit capacity to a level consistent with sustainable exploitation of fishery resources, ensuring that fishers work in favorable economic conditions and encouraging ethical fishing. Such mechanisms should include monitoring of fishing fleet capacity (Article 7 paragraph 7.6.3 CCRF 1995).

In the meantime, with regards to public regulation, worldwide arrangements in regards to the commitments of every country to decide the JTB were at first taken on in Regulation No. 5 of 1983 concerning the Indonesian Selective Monetary Zone, in particular in Article 5 passage (3). It is expressed that "Without bias to the arrangements of Article 4 section (2), investigation and double-dealing of organic regular assets in specific regions in the Indonesian Restrictive Monetary Zone by people or legitimate elements or legislatures of outside nations can be allowed assuming the catch sum is allowed by the Public authority of the Republic of Indonesia for this sort surpasses Indonesia's capacity to use it."

Besides, the JTB arrangements in Regulation no. 5 of 1983 are likewise managed in its subsidiary guidelines, to be specific Unofficial law (PP) no. 15 of 1984 concerning the Administration of Natural Assets in the Indonesian Elite Financial Zone. In Article 4 section (1) it is expressed that "The Priest of Farming decides how much catch that is permitted by the kind or gathering of sorts of natural normal assets to a limited extent or the entirety of the Indonesian Selective Financial Zone". What's more, in Article 4 section (2) it is expressed that "The assurance of the allowed get sum as planned in passage (1) depends on information from research, reviews, assessments as well as the consequences of fishing exercises".

The seriousness of the Indonesian Government regarding the obligation to determine the JTB is also stated in Article 4 point (3) of Law No. 9 of 1985 concerning Fisheries. And, it is also stated in Article 7 paragraph (1) letter c of Fisheries Law no. 31 of 2004 concerning Fisheries which revises Law no. 9 of 1985 concerning Fisheries. Meanwhile, in Article 7 paragraph (3) it is stated that "the Minister determines the potential and amount of permitted catch as referred to in paragraph (1) letters b and letter c after considering recommendations from the National Commission which reviews fish resources." The National Commission as intended in Article 7 paragraph (3) was formed

by the Minister and consists of experts in their fields who come from related institutions (Article 7 paragraph (4)).

Regarding the amount of potential and JTB in ZEEI based on species groups, it is regulated by Decree (SK) of the Minister of Agriculture Number 473a/Kpts/IK.250/6/1985 concerning Determination of the Number of Permissible Catches in ZEEI. These species groups are pelagic fish, tuna, skipjack tuna, and demersal fish.

- a. Pelagic Fish 1,285,900 tons/year
- b. Tuna fish 83,435 tons/year
- c. Skipjack tuna 93,760 tons/year
- d. Demersal fish 647,500 tons/year

To utilize the JTB for each group of fish species in the Indonesian Exclusive Economic Zone, the number of fishing units permitted must be based on the productivity of each fishing unit taking into account the JTB of each species group. This of course aims to avoid overfishing for all fish species in general, and certain species in particular. In addition, this provision mandates that the JTB be adjusted at any time to data from results, research, surveys, evaluations, and/or results of fishing activities. Thus, it is hoped that the presence of the National Commission will be able to review the JTB amount determined in 1985.

4 Closing

The usage of fisheries assets in Indonesia's EEZ depends on the government assistance of individuals of seaside nations, focusing on the variables that encompass and impact the presence of fish resources is significant. In this manner, the administrative structure that frames the reason for its utilization should be clear. The government assistance of the Indonesian public is an issue here. Taking into account that the fish assets contained in the Indonesian EEZ have public and worldwide aspects and are quite certain in the usage of overabundance fishery assets in the Indonesian EEZ, this condition should be tended to right away. Furthermore, this field of movement is moderately of worry to many gatherings in view of its situation as a crucial object of public business however there are access freedoms for unfamiliar gatherings. The Public authority Guideline on Preservation of Fish Assets can be said to certainly stand out to the public authority that the administration did so far has shown administrative irregularities, particularly guidelines with respect to the usage of fish assets in Indonesia's EEZ. It is obviously expressed in Regulation Number 5 of 1983 and Unofficial law Number 15 of 1984 that ideal usage is advanced, went before by research on the accessibility of conveying limit, so the use of fish assets for individuals' government assistance isn't dismissed.

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