

## PROTECTION OF FISHERMEN AND COASTAL COMMUNITIES INTERNATIONAL LAW OF THE SEA PERSPECTIVE

FAIZAL <sup>1</sup>, LAZARUS TRI SETYAWANTA <sup>2</sup> and AMIEK SOEMAMI <sup>3</sup>

<sup>1</sup> Doctoral Program in Law, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.  
Email: faizal@students.undip.ac.id.

<sup>2,3</sup> Lecturer, Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.

### Abstract

The purpose of this study is to analyze: 1) Does the current model of protection of fishermen and coastal communities from the perspective of International Law of the Sea meet justice? 2) Is the concept of protection of fishermen and coastal communities a fair perspective of international law of the sea?. The research method used is normative juridical with a statutory approach, concept approach, and case studies. The results showed that: 1) Protection of fishermen is also marked by the approval of various international conventions or declarations, such as the *Food and Agriculture Organization of the United Nations* (FAO) has established a *Code of Conduct for Responsible Fisheries* in 1995 (CCRF). It means "rules of conduct on responsible fisheries management" which contain international guidelines and standards applicable to responsible fisheries activities. 2) The development of laws related to the protection of fishermen shall not release small-scale fishermen in market space. The existence of small fishermen or traditional fishermen should not be solely viewed as an opportunity for market share. Empowering small fishermen in relation to subsidies and restoring the lives of fishermen in various sectors of life

**Keywords:** Protection, Fishermen, Community, Coastal, Perspective, Law of the Sea, International

## INTRODUCTION

### Background

The common International Law Arrangement on the sea best known to the international community is UNCLOS. This Convention regulates the boundaries of the sea and the applicable regime, the rights of each state to the sea area, the protection and preservation of the sea, etc. The development of international codification of the law of the sea began with the holding of the International Conference on the Law of the Sea I or known as the United Nations Conference on the Law of the Sea I (UNCLOS I) in 1958, which was then continued by UNCLOS II in 1960. UNCLOS II was then continued with UNCLOS III which lasted for almost 10 years (1973-1982).

At UNCLOS III, the International Convention on the Law of the Sea or later known as the United Nations Convention on the Law of the Sea 1982 or the United Nations Convention on the Law of the Sea, abbreviated as UNCLOS 1982. There are several international provisions governing the management of coastal and marine areas, including UNCLOS, UNCED, Rio Declaration, Agenda 21, and World Ocean Conference. <sup>1</sup>

UNCLOS 1982 in article 193 provides that States have a sovereign right to exploit their natural resources in accordance with their environmental policies and in accordance with their

obligations to protect and preserve the marine environment. Article 61 also regulates the conservation of biological resources. The coastal state, having regard to the best scientific evidence available to it, shall ensure by instituting appropriate conservation and management measures so that the maintenance of biological resources in the exclusive economic zone is not jeopardized by overexploitation. Where coastal States and competent international organizations, whether subregional, regional or global, shall cooperate to this end.<sup>2</sup>

In addition, UNCLOS 1982 as a sustainable development system gives high priority to the conservation and proper management of biological resources, including coastal areas, and has developed a provision that protects marine ecosystems from destructive activities and guarantees the sustainable use of the resources contained in these areas.<sup>3</sup> Twenty years later in Rio de Janeiro, the Conference was held as a continuation of the 1992 Earth Summit Rio with a primary focus on climate change and environmental sustainability. The UNCED document specifically requests that policies, decision-making processes and institutions in the management of marine and coastal areas and small islands can be implemented in an integrated manner.<sup>4</sup>

The Rio Declaration is one of the products of the Rio Conference. This Declaration introduces a new approach to environmental management, namely through a broader, integrated and sustainable approach with the priority of addressing environmental problems, the essence of which is to enhance international cooperation.<sup>5</sup> The management of coastal areas and small islands is based on the principles of integrated coastal management, closely related to the principles of sustainable development in The Rio Declaration on Environment and Development (hereinafter referred to as the Rio Declaration 1992).<sup>6</sup> The Rio Declaration of 1992 established 21 principles with 7 main principles for sustainable development, namely: <sup>7</sup> *principles of interrelationship and integration; inter and intra-generational equity principles; principles of right to develop; environmental safeguards principles; precautionary principles; polluter pays principles; transparency principles and other process-oriented principles.*

On May 11-15 the World Ocean Conference (WOC) was held in Manado, North Sulawesi. The conference discussed global marine policy, especially in adaptation and mitigation efforts Manado Ocean Declaration (MOD) and the impact of climate change on the ocean attended by Heads of State, para and vice versa. In addition, relevant Ministers in the field of marine affairs, envoys of national strategies for the management of States, Diplomatic and Consular Representatives of friendly countries and international organizations related to the ocean, such as USAID, National Oceanic and Atmospheric Administration (NOAA), World Wide Foundation (WWF), The Nature Conservancy (TNC), Conservancy International (CI), and UNESCO.<sup>8</sup>

The Manado Ocean Declaration (MOD) consists of 14 core opening paragraphs and 21 operative points of agreement. The contents of the declaration include the commitment of participating countries to carry out long-term marine conservation, implement management of marine resources and coastal areas with an ecosystem approach, and strengthen global partnerships for environmentally sound development.<sup>9</sup>

## Problem Statement

1. Does the current model of protection of fishermen and coastal communities from the perspective of international law of the sea meet justice?
2. Is the concept of protection of fishermen and coastal communities a just International Law of the Sea perspective?

## Theoretical Framework

### 1. Grand Theory

*The Grand Theory* or the main theory on which the analysis is based in this study is the theory of legal protection. Legal protection is the obligation of the state in providing legal protection to every citizen. Legal protection can also be described as a function of law both as a function of regulating and as a function of enforcing the law to achieve justice and legal expediency. Legal protection is defined as providing protection to human rights and this protection is given to the community so that they can enjoy legal rights.<sup>10</sup>

Legal protection is the protection of the dignity, dignity and recognition of human rights based on legal provisions or collections of regulations or rules that can protect the community.<sup>11</sup> Appropriate regulations are needed in coastal area management in order to achieve legal certainty for the parties. In the formation of the rule of law, clarity is needed on the rule of law, the principle is legal certainty.<sup>12</sup>

### 2. Middle Theory

*Middle Theory* in this study uses the Hierarchy Theory of Legislation. According to Hans Kelsen, norms are tiered in layers in a hierarchical order. In this sense, the legal norms below apply and originate, and are based on higher norms, and higher norms also originate and are based on higher norms and so on until they stop at a highest norm called the Basic Norm (*Grundnorm*) and still according to Hans Kelsen is included in a dynamic norm system. Law is formed and abolished by its authorities who are authorized to form it, based on higher norms, so that lower norms (*Inferior*) can be formed based on higher norms (*superior*), in the end the law becomes tiered and multi-layered forming a Hierarchy.<sup>13</sup>

### 3. Applied Theory

*Applied Theory* in this study uses Authority Theory. The concept of authority can be seen in Dutch known as "*bevoegdheid*" which means authority or power.<sup>14</sup> Authority is the ability to perform certain legal actions in the sense of actions that cause legal consequences and include the emergence and disappearance of legal consequences.<sup>15</sup> All government actions must be based on applicable law. Thus that legitimate government action is if it is in accordance with authority. It further said that authority can only be obtained in two ways, namely attribution and delegation.<sup>16</sup>

## Research Methodology

This research is included in the type of doctrinal research, where the approach method used is normative juridical. The study method used in this study is normative legal *research*, which is a study conducted by reviewing applicable laws and regulations or applied to a particular legal problem. Normative research is often referred to as doctrinal research, which is research whose object of study is statutory documents and library materials. This research was conducted in order to obtain materials in the form of: theories, concepts, legal principles and legal regulations related to the subject matter.<sup>17</sup>

## RESEARCH RESULTS

### **The Model of Protection of Fishermen and Coastal Communities from an International Law of the Sea Perspective Now meets justice**

Juridically, the concept of community is regulated in Article 1 number 32 of Law 1 of 2014 which emphasizes that society is a community consisting of customary law communities, local communities and traditional communities living in coastal areas and small islands. The difference in concept between customary law communities emphasizes a group of people for generations living in a certain area because of ties to ancestral origins, strong relationships with land, territory, natural resources, having institutions and customary legal order. The concept of local society emphasizes a group of people who carry out daily living in accordance with customs that have been accepted as generally accepted values, but are not entirely dependent on coastal resources. The concept of traditional society is a traditional fishing community that is still recognized for its traditional rights in carrying out fishing activities or other legitimate activities in archipelagic waters in accordance with the rules of international law of the sea.<sup>18</sup>

The sea is one of the most strategic places, in a book entitled *Ocean Politics in Southeast Asia* written by Peter Polomka in 1978, his study focused on marine problems that developed in the Third International Conference on the Law of the Sea, especially developments in Southeast Asia, according to which the sea became the center of attention of nation states and transnational corporations to obtain wealth, power and prestige. The sea becomes a basic issue in interdependence between countries, as well as global stability and prosperity in the long run, because the exploitation of the ocean by some parties raises contemporary problems such as political, legal, economic, environmental and technological.<sup>19</sup> The need for international arrangements and agreements ratified by states to be part of the protection for their people in accessing the ocean for exploitation, especially coastal indigenous peoples and traditional fishermen.

Coastal and marine areas are part of environmental protection and are mandated by the constitution, as described in various laws and regulations in Indonesia. This is in line with the ratification of various international regulations, including the Stockholm Declaration of 1972<sup>20</sup> which was part of the birth of the Environmental Law Number. 4 of 1982 concerning the Basic Provisions of Environmental Management (KKLH) which was later replaced by Law Number. 23 of 1997 concerning Environmental Management and finally updated with Law Number. 32

of 2009 concerning Environmental Protection and Management Live.<sup>21</sup>

In 1982, the international community has succeeded in drafting a set of laws of the sea to regulate all forms of use of the sea and the natural resources contained therein, as outlined in the United Nations (UN) international treaty known as the United Nations Convention on the Law of the Sea (UNCLOS) 1982 or commonly known as the 1982 HUKLA Convention. The 1982 HUKLA Convention is a product of very important rights, as it reflects the efforts of the international community to codify existing international provisions. The 1982 HUKLA Convention also represents a progressive development in international law marked by the birth of new legal concepts not previously contained in the International Law of the Sea regime.<sup>22</sup> In UNCLOS 1982 the rights of traditional fishermen were recognized, so there is "special treatment" for traditional fishermen.<sup>23</sup>

The existence of UNCLOS 1982 which regulates the existence of *traditional fishing rights* makes reference to the government making arrangements in applying these rights. Traditional *Fishing Right (traditional Fishing Right)* in its development there are still differences in understanding, namely some interpret *Traditional Fishing Right* as traditional fishing rights and some interpret it with traditional rights to fisheries. Hasyim Djalal argues that the concept of traditional fishing right should be clearly distinguished from the concept of traditional right to fish. Traditional right to fish or traditional right to fisheries is exercised on the high seas based on freedom on the high seas that has been regulated in the high seas law regime. While traditional fishing rights are based on parts of the sea that are under the jurisdiction of coastal states, namely in archipelagic waters and in EEZs.<sup>24</sup>

Based on the 1982 Law of the Sea Convention, Indonesia as a coastal state in accordance with the provisions of the convention has territorial sovereignty (sovereignty) over inland waters, territorial seas and archipelagic waters.<sup>25</sup> While in the Exclusive Economic Zone (EEZ) and continental shelf areas, Indonesia has sovereign rights (sovereign right) or commonly called 'sovereignty over natural resources.'<sup>26</sup>

The Unitary State of the Republic of Indonesia (NKRI) is one of the countries recognized by the international community as an archipelagic state, as stipulated in Chapter IV of the *United Nations Convention on the Law of the Sea 1982* (UNCLOS 1982). As a large maritime country that has the potential of rich marine resources and a long stretch of coastal areas. On the one hand it is the superiority of the Indonesian nation, on the other hand it is a challenge to manage it in order to improve the welfare of the community and at the same time maintain the sovereignty of the nation and state in the midst of global competition.

The long struggle of the Indonesian nation and other archipelagic countries to realize the archipelagic state regime was finally realized with the regulation of the archipelagic state legal regime in Chapter IV of UNCLOS 1982 signed by conference participants in Montego Bay, Jamaica. UNCLOS 1982 was ratified by the Government of the Republic of Indonesia with Law Number 17 of 1985 concerning the Ratification of UNCLOS 1982. Therefore, from the aspect of national law it is also necessary to adjust all laws and regulations with UNCLOS 1982 and this is accompanied by changes to the Indonesian constitution which affirms Indonesia as

an archipelagic state (archipelago), as stipulated in Article 25A of the Constitution of the Republic of Indonesia (UUDNRI 1945), stipulating that:

*"The Unitary State of the Republic of Indonesia is an archipelagic state characterized by the archipelago with territories whose boundaries and rights are determined by law"*

Recognized by Indonesia as an archipelagic country, Indonesia's territory has become wider, namely to 8,193,250 km<sup>2</sup> consisting of 2,027,087 km<sup>2</sup> of land and 6,166,163 km<sup>2</sup> of water area.<sup>27</sup> Archipelagic States, however, are obliged to recognize the existing rights and other legitimate interests of neighboring States, such as traditional fishing rights, laying cables and pipes on the seabed, and the right of peaceful passage through archipelagic sea lanes.

International recognition of Indonesia as an archipelagic country, followed up through legal policies, namely by stipulated Law Number 32 of 2014 concerning Marine, in Article 13 of Law Number 32 of 2014 concerning Marine Affairs affirmed that the Marine Development Policy, then elaborated into the program of each sector in the development plan and management of Marine Resources. Marine Development Policy includes: management of Marine Resources; human resource development; defense, security, law enforcement, and safety at Sea; governance and institutions; improvement of well-being; marine economy; Marine space management and Marine Environment Protection; and nautical culture.

As the largest archipelagic country in the world which in its implementation is famous for its archipelago insight. Indonesia is also placed as a country with a fisherman population to be reckoned with. According to the 1982 UNCLOS, island nations will lose their traditional rights without fishermen because they can claim their traditional rights. Noteworthy, however, that international law of the sea has not comprehensively regulated fishing rights, traditionally implicitly mentioned in article 47, paragraph 6 of UNCLOS 1982, it says that:

*"If a part of the archipelagic waters of an archipelagic State lies between two directly adjoining parts of a neighboring State, the existing rights and other legitimate interests traditionally exercised by that State last in such waters, as well as all rights set forth in treaties between those States shall remain in force and shall be respected."*<sup>28</sup>

However, the rules regarding traditional fisheries rights contained in UNCLOS 1982 are very limited in Article 51 paragraph 1 of UNCLOS it is said that:

*"Without prejudice to the meaning of the provisions of article 49, archipelagic States shall respect existing treaties with other States and shall recognize the legitimate rights of traditional fisheries and other activities of neighboring States directly adjacent to certain areas within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature of the scope and extent to which the rights will be set out in bilateral agreements between them."*

However, the legal certainty of traditional fishing rights contained in UNCLOS 1982 does not simultaneously provide certainty for the concept of traditional fishing rights itself. This is evidenced by the formulation of concepts related to traditional characteristics contained in Article 47 paragraph (6) of UNCLOS 1982 as well as in the applicative arrangements contained

in Article 51 of UNCLOS 1982. While in international instruments the rules regarding traditional fisheries rights in UNCLOS are very limited, namely only in Article 51 paragraph (1) related to the formulation of the Article there are six important things that must be noted, namely: First, a distinction must be made between *traditional rights to fish* and *traditional fishing rights* Second, fishing activities must have been carried out traditionally for a long time. Third, the term "traditional" refers to the equipment used, the type of fish caught and the water area visited. Fourth, the concept of "directly bordered" refers to the notion of geographical proximity. Fifth, the term "certain areas within archipelagic waters" means that the traditional fishery rights of a neighboring country cannot be exercised in all archipelagic territorial waters. Sixth, the implementation of traditional fisheries rights must be further regulated in a bilateral agreement, meaning that the existence of traditional fisheries rights must be proven by neighboring countries that claim these rights.<sup>29</sup>

Protection of fishermen is also marked by the approval of various international conventions or declarations, such as *the Food and Agriculture Organization of the United Nations* (FAO) has established a *Code of Conduct for Responsible Fisheries* in 1995 (CCRF). It means "rules of conduct on responsible fisheries management" which contain international guidelines and standards applicable to responsible fisheries activities. The purpose of this CCRF is to ensure effective conservation and fisheries measures by taking into account environmental, biological, technical, economic, social and commercial aspects. According to Article 1 point (2) of the CCRF, the provisions of the CCRF are determined to apply globally to fishing activities both in waters in national jurisdiction and on the high seas.

This CRF applies to member states, non-member countries of the Food and Agriculture Organization of the United Nations, and fisheries companies at the sub-regional, regional and other parties interested in taking conservation measures, and management of fishery resources. The obligations of the Code of Conduct for Responsible Fisheries (CCRF) that must be fulfilled by fishermen are:

- a) Meet the requirements for proper management of fish resources.
- b) Take part in supporting conservation and management measures.
- c) Assist managers in developing cooperation and coordinating in all matters related to fisheries management and development.<sup>30</sup>

The provisions of Article 18 B paragraph (2) of the 1945 Constitution are strengthened by the provisions of article 28 I paragraph (3) of the 1945 Constitution that the cultural identity of traditional communities is respected in accordance with the development of times and civilization. In addition there are several sectoral laws that guarantee the rights of indigenous peoples. Then in the international to national scope, with the concept of the right to control the State over natural resources, the State is authorized to regulate the utilization and distribution through the instrument of the Law so that the welfare and prosperity of the people in a just manner is realized. For this reason, the desired law is a law that provides protection to community members including customary law communities in coastal areas and small islands.<sup>31</sup>

## The Concept of Protection of Fishermen and Coastal Communities A Just International Law of the Sea Perspective

Protection of traditional (customary) fishermen needs to be carried out in relation to those directly related to the existence of these traditional fishing rights, and those that are in direct contact with borders with other countries, such as the Australian government's capture of traditional fishermen of NTT people, as revealed in the writings of Ira Wati and Oentong Wahjoe, regarding the arrest of 49 Indonesian fishermen from Ndao, Flores in 2005 and 230 people were captured by Australian patrol boats in the waters off the Ashmore Coral Islands in 2007 and held in detention centres (*detention center*) Darwin, and it happened again in 2008. As it is known that traditional fishermen or coastal indigenous peoples who become fishermen have been fishing long before the formation of the Australian government, and the rights of traditional fishermen are recognized by UNCLOS 1982 which then Indonesia also has the right to fish in certain parts of Australian waters, this is stated in *memorandum of Understanding between the Government of Australia and the Government of the Republic of Indonesia Regarding of operation of Indonesia Traditional Fishermen in the area of the Australia Exclusive Fishing zone and Continental Shelf (MoU Box 1974) which in its development on March 2, 1989 agreed to make an agreement related to the implementation of the Agreed Minutes of Meeting Between Official of Indonesia and Australia on Fisheries 1989 contained in Annex.*<sup>32</sup>

Traditional fishermen or fishermen from indigenous peoples in Indonesia who live as "boat people" or nomadic indigenous peoples such as the Bajo tribe need legal protection when the Bajo people who live in waters that usually go to sea to cross the country's borders, if they cross the borders of neighboring countries, certainly violate the jurisdiction of other countries and may be arrested such as the arrest of seaweed cultivators caught by The Royal Malaysian Police at the border of Nunukan, Kalimantan<sup>34</sup> because the sea area boundary is a "pseudo" territorial boundary that does not appear to be marked, and traditional fishermen or traditional fishermen who have traditionally carried out fishing in areas that can cross other national borders, and this kind of case needs the presence of the state in protecting its citizens, so as not to be immediately arrested or expelled.

Legal protection in the context of bilateral relations between countries in the protection of indigenous peoples at sea, this is in accordance with the rules of international law of the sea that have been agreed upon by many countries, including by Indonesia and countries directly adjacent to the sea.<sup>35</sup> Until now Indonesia has made agreements regarding the protection of indigenous or traditional fishermen only with Australia to protect indigenous peoples or traditional fishermen from being immediately acted upon according to the law in the territorial sea or arrested. This treaty covers areas that have traditionally or traditionally been places to capture or exploit the sea traditionally.<sup>33</sup>

The world of Human Rights in Indonesia began a new chapter when the House of Representatives ratified the International Covenant on Economic, Social and Cultural Rights of 1976 into Law Number 11 of 2005. The ratification of this covenant brings new hope for efforts to uphold and promote human rights in Indonesia, especially for Aceh as the initiator



who encourages the international covenant to be ratified in accordance with the Helsinki Memorandum of Understanding (MoU) Part 2 point (2.1.). The expectation is of course not limited to ratification, because the ratification has implications for the Government of Aceh specifically and becomes an obligation (*bond*) to fulfill and implement in accordance with existing rules as a form of accountability (*state responsibility*).<sup>34</sup>

The implementation of the fulfillment of economic, social, and cultural rights is not the same as civil and political rights. In Ekosob rights, state (government) intervention must be positive, meaning that the state must be a regulator to fulfill the rights of citizens.<sup>35</sup> And the implementation of the fulfillment of these responsibilities is carried out in stages (*progressive realization*). In other words, this progressive responsibility is the obligation to take immediate steps forward towards the full realization of the rights guaranteed in the covenant by all adequate means or resources. Even in the covenant itself calls for the formulation of minimum standards for the fulfillment of these rights.<sup>36</sup> In addition, the rights of the Ecosob are designed to ensure the protection of individuals as well as collectively-communally based entirely on the view that everyone has the right to enjoy the right to freedom and social justice simultaneously.

Limitations regarding the classification of economic, social, and cultural rights are divided into several types of rights, including: a) The right to employment and fair and favorable working conditions; b) The right to freedom of association; c) The right to social security and social insurance; d) The right to a family and protection for children, adolescents and women; e) The right to an adequate standard of living (food, clothing, shelter); f) The right to the highest standard of health (equal opportunity for treatment and minimum security in the event of illness; g) The right to education; and h) The right to culture and benefit from science and technology.

Based on the classification of types of rights above, the state (government) as duty holders in the human rights system, is responsible for fulfilling these rights through 3 forms of obligations. First, the obligation to respect is an obligation based on action where it is the responsibility of the government to take the action or steps necessary to fulfill the right. Example: preparing a system of facilities and infrastructure that is sufficient for fishermen. Second, the obligation to protect is an obligation based on results where the government's responsibility in achieving results is related to the actions taken. Example: the responsibility that the provision of adequate facilities and infrastructure for fishermen is successful, namely increasing the number of catches. Third, the obligation *to fulfill* is an immediate obligation by which the government is able to ensure the right to a minimum subsistence livelihood to survive (*survive*) for everyone, regardless of the level of resource availability and the level of the country's economy. For example, the government guarantees that no citizen who works as a fisherman must die of starvation, and this is a minimum requirement for the right to food.<sup>37</sup>

In the 31st session of the Committee on Fisheries (COFI), the World Food Organization (FAO) successfully adopted the International Instrument for the Protection of *Small-scale Fisheries or Voluntary Guidelines on Small-scale Fisheries* (VGSSF). This is the first instrument in the world that specifically provides certainty on the obligations of each country to protect small fishermen. Indonesia is part of the countries in the world that is committed to implementing

this instrument. According to Riza Damanik (2014), as a country that has adopted ISSF (*International Seafood Sustainability Foundation*), it can be seen at two levels, national and international. At the national level, ISSF is expected to assist all parties (government and local government) in formulating policies, evaluating performance, and accelerating the country's commitment to protecting small fishermen in Indonesia. At the international level, ISSF is expected to be able to correct various inequalities in fisheries management in the world.

When the ISSF is discussed, there are at least four main issues of concern: First, related to the definition of small-scale fishermen who vary from various countries. second, related to the harmonization of the ISSF with international law, where as a country wants to include WTO (*world trade organization*) provisions in the ISSF text. Third, some countries intend to fully adopt WTO instruments in the ISSF to facilitate small-scale fishermen to international markets and this should be rejected because it endangers small fishers. Fourth, provisions for the redistribution of coastal resources, including land to small fishing families. For some countries, this provision can threaten the government's effectiveness in managing coastal areas, especially related to the issue of crime and illegal residents. With this picture, the development of laws related to fishermen protection should not release small-scale fishermen in market space. The existence of small fishermen or traditional fishermen should not be solely viewed as an opportunity for market share. Empowering small fishermen related to subsidies and restoring the lives of fishermen in various sectors of life.<sup>38</sup>

## CONCLUSION

The results showed that;

- a. Protection of fishermen is also marked by the approval of various international conventions or declarations, such as *the Food and Agriculture Organization of the United Nations* (FAO) has established a *Code of Conduct for Responsible Fisheries* in 1995 (CCRF). It means "rules of conduct on responsible fisheries management" which contain international guidelines and standards applicable to responsible fisheries activities.
- b. The development of laws related to the protection of fishermen must not release small-scale fishermen in market space. The existence of small fishermen or traditional fishermen should not be solely viewed as an opportunity for market share. Empowering small fishermen in relation to subsidies and restoring the lives of fishermen in various sectors of life

## Foot Notes

- 1) Billiana Cicin-Saint and Robert W. Knecht, , *Integrated Coastal and Ocean Management, Concept and Practices*, (Washington, D.C, Covelo: California Island Press, 1998), p. 53
- 2) See UNCLOS article 61
- 3) In, Rizal, "Implementation of the 1982 United Nations Convention on the Law of the Sea in the management of Indonesia's coastal areas: A case study of coastal area management of the Gulf of Southeast Sulawesi, Thesis, Master of Law, 2009.

- 4) Dirhamsyah, "Integrated Coastal Area Management in Indonesia", Journal of Oceanographic Research LIPI, Vol. 31, No. 1, (Jakarta, 2006), p. 25.
- 5) Dina Sunyowati, loc. Cit
- 6) Dina Sunyowati, "Marine Spatial Planning Based on Integrated Coastal Management", Journal of Law, Universitas Airlangga, Vol. 20, No. 3, (Surabaya, 2008), p. 428
- 7) Billiana Cicin-Saint and Robert W. Knecht, , Integrated Coastal and Ocean Management, Concept and Practices, (Washington, D.C, Covelo: California Island Press, 1998), p. 53
- 8) Dina Sunyowati, "Marine Governance Based on Integrated Coastal and Ocean Management for Sustainable Marine Development", Journal of Law, Universitas Airlangga, Vol. 15, No. 1, (Surabaya, 2010), p.77
- 9) Ibid.
- 10) Satjipto Rahardjo, *Legal Studies* (Bandung: Citra Aditya Bakti, 2000), p. 121.
- 11) Philip M. Hadjon, *Protection of the People for the People in Indonesia (a study of its principles, its handling by the courts within the general judiciary and the establishment of the State Administrative Court)* (Surabaya: PT. Bina Ilmu, 1987), p. 38.
- 12) Gustav Radbruch, *Legal Philosophy, in the Legal Philosophies of Lask, Radbruch and Dabin, Translated by Kurt Wilk* (Massachusetts: Harvard University Press, 1950), p. 98.
- 13) Aziz Syamsuddin, *Process and Technique of Lawmaking, First Print* (Jakarta: Sinar Grafika, 2011), p. 14.
- 14) Ridwan HR, *State Administration Law* (Jakarta: PT. Raja Grafindo Persada, 2006), p. 102.
- 15) Yudhi Setiawan, *Mixed Law Instrument (Gemeenschapelijkrecht) in Land Consolidation* (Jakarta: PT. Raja Grafindo Persada, 2009), p. 16.
- 16) Philipus M. et. Al. Hadjon, *Pengantar Hukum Administrasi Indonesia, Introduction to the Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press., 2011), p. 130.
- 17) Soerjono Soekanto and Sri Mahmudji, *Normative Legal Research, A Brief Review*. Jakarta: Raja Grafindo Persada, 2003, p. 13.
- 18) Anak Agung Istri Ari Atu Dewi, Community-Based Coastal Area Management Model: Community Based Development, Journal of Legal Research DE JURE, Vol. 18 No. 2, June 2018, 174.
- 19) Syamsumar Dam, Marine Politics, Bumi Aksara, Jakarta, 2010, pp. 1-2
- 20) The Stockholm Conference or Stockholm Declaration held in Stockholm on 5-16 June 1972 resulted in a Declaration containing 26 principles on environment and development and an Action Plan with 109 recommendations, as well as a Resolution.
- 21) Resdianto Willem, Equitable Utilization of Coastal and Marine Space, Bina Hukum Lingkungan Volume 2, Number 2, April 2018, 155-157.
- 22) Mujibussalim, Fisheries Utilization in EEZ According to the 1982 Law of the Sea Convention and Its Implementation in Indonesian Legislation, Jurnal Kanun No. 35, April Edition, (Banda Aceh: FH Unsyiah, 2013), p. 22.
- 23) See Articles 51 and 53 paragraph (3) of UNCLOS 1982 on the rights of traditional fishermen
- 24) Irawati, Oentoeng Wahjoe, State Responsibility in Protecting the Rights of Indonesian Traditional Fishermen in Australian Waters, Jurnal Mimbar: Volume XXVII, No. 1, June 2011, Bandung Islamic University, p. 13

- 25) Ibid., p. 23.
- 26) Bambang Susanto, Juridical Studies on Maritime Boundary Problems of the Sea Areas of the Republic of Indonesia, December special issue, (Jakarta: Jurnal IJIL FH UI, 2004), p. 41.
- 27) Usamawadi, 2006, Progressive Mechanism for Conflict Prevention Due to Overlapping Sea Area Claims between Indonesia and Neighboring States, Paper, Journal of Progressive Law, Volume 2 Number 2 October, Semarang, p. 99.
- 28) 1 See Article 47, paragraph 6 of the United Nations Convention of the Law of the Sea, 1982
- 29) Ida Ayu Febrina Anggasari, I Made Pasek Diantha and Made Maharta Yasa." Legal protection of Indonesian fishermen according to the provisions of UNCLOS 1982" 2014.
- 30) Nathan Samuel Victor Pesak, Review of the Law of the Sea regarding the Legal Protection of Fishermen at Bitung City Fishing Port according to Law Number 45 of 2009, Lex Privatum Vol. VIII/No. 3/Jul-Sep/2020, 157.
- 31) Mohammad Zamroni, Rachman Maulana Kafrawi, Protection of Customary Law Peoples in Coastal Areas After the Enactment of Law Number 11 of 2020 concerning Job Creation, Legal Perspectives, Vol. 21 No.2 November 2021, 251.
- 32) Irawati, Oentoeng Wahjoe, State Responsibility in Protecting the Rights of Indonesian Traditional Fishermen in Australian Waters, Jurnal Mimbar: Volume XXVII, No. 1, June 2011, Bandung Islamic University, p. 13
- 33) Rachmad Safaat, Dwi Yono, The Role of the State in Marine Resources Management Based on Local Wisdom for Equitable Welfare, Legality, Vol.25, No.1, March 2017-August 2017, 34.
- 34) Muhammad Heikal Daudy, The Realization of Sea Sovereignty in Aceh Based on Economic, Social and Cultural Rights According to the Perspective of International Law of the Sea, Journal of Ocean Law of Justice, Vol. 10 No. 1 January-June 2015, 65.
- 35) Arief Setiawan, Human Rights in the Frame of ACFTA, (Jakarta: Jurnal HAM, Komnas HAM RI, Vol. VI, 2010), p. 149.
- 36) Sri Palupi, Knowing and Understanding Ecosob Rights, (Jakarta: Paper, Institute for Ecosoc Rights, no year), no page
- 37) The Limburg Principle on the Application of Economic Rights, No.25
- 38) Sulaiman et al, Legal Development of Traditional Fishermen Protection in Aceh in Relation to Equitable Use of Fisheries Resources, Journal of Legal Media, 318.

### **Bibliography**

- 1) Anak Agung Istri Ari Atu Dewi, Community-Based Coastal Management Model: Community Based Development, Journal of Legal Research DE JURE, Vol. 18 No. 2, June 2018.
- 2) Arief Setiawan, Human Rights in the Frame of ACFTA, (Jakarta: Jurnal HAM, Komnas HAM RI, Vol. VI, 2010)
- 3) Aziz Syamsuddin, *Process and Technique of Lawmaking, First Print* (Jakarta: Sinar Grafika, 2011).
- 4) Bambang Susanto, Juridical Study of Maritime Boundary Problems of the Sea Area of the Republic of Indonesia, December Special Issue, (Jakarta: Journal of IJIL FH UI, 2004)
- 5) Billiana Cicin-Saint and Robert W. Knecht, , *Integrated Coastal and Ocean Management, Concept and Practices*, (Washington, D.C, Covelo: California Island Press, 1998),

- 6) Dina Sunyowati, "Marine Spatial Planning Based on Integrated Coastal Management", Journal of Law, Universitas Airlangga, Vol. 20, No. 3, (Surabaya, 2008)
- 7) Dina Sunyowati, "Marine Governance Based on Integrated Coastal and Ocean Management for Sustainable Marine Development", Journal of Law, Universitas Airlangga, Vol. 15, No. 1, (Surabaya, 2010)
- 8) Dirhamsyah, "Integrated Coastal Area Management in Indonesia", Journal of Oceanographic Research LIPI, Vol. 31, No. 1, (Jakarta, 2006)
- 9) Gustav Radbruch, *Legal Philosophy, in the Legal Philosophies of Lask, Radbruch and Dabin, Translated by Kurt Wilk* (Massachusetts: Harvard University Press, 1950).
- 10) Ida Ayu Febrina Anggasari, I Made Pasek Diantha and Made Maharta Yasa. "Legal protection of Indonesian fishermen according to the provisions of UNCLOS 1982" 2014.
- 11) Irawati, Oentoeng Wahjoe, State Responsibility in Protecting the Rights of Indonesian Traditional Fishermen in Australian Waters, Jurnal Mimbar: Volume XXVII, No. 1, June 2011, Bandung Islamic University
- 12) Mohammad Zamroni, Rachman Maulana Kafrawi, Protection of Customary Law Peoples in Coastal Areas After the Enactment of Law Number 11 of 2020 concerning Job Creation, Legal Perspectives, Vol. 21 No.2 November 2021, 251.
- 13) Muhammad Heikal Daudy, The Realization of Sea Sovereignty in Aceh Based on Economic, Social and Cultural Rights According to the Perspective of International Law of the Sea, Journal of Ocean Law of Justice, Vol. 10 No. 1 January-June 2015
- 14) Nathan Samuel Victor Pesak, Review of the Law of the Sea regarding the Legal Protection of Fishermen at Bitung City Fishing Port according to Law Number 45 of 2009, Lex Privatum Vol. VIII/No. 3/Jul-Sep/2020
- 15) Philipus M. et. Al. Hadjon, *Pengantar Hukum Administrasi Indonesia, Introduction to the Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press., 2011).
- 16) Philip M. Hadjon, *Protection of the People for the People in Indonesia (a study of its principles, its handling by the courts within the general judiciary and the establishment of the State Administrative Court)* (Surabaya: PT. Bina Ilmu, 1987).
- 17) Rachmad Safaat, Dwi Yono, The Role of the State in Marine Resources Management Based on Local Wisdom for Equitable Welfare, Legality, Vol.25, No.1, March 2017-August 2017
- 18) rawati, Oentoeng Wahjoe, State Responsibility in Protecting the Rights of Indonesian Traditional Fishermen in Australian Waters, Jurnal Mimbar: Volume XXVII, No. 1, June 2011, Bandung Islamic University
- 19) Resdianto Willem, Equitable Utilization of Coastal and Marine Space, Bina Hukum Ligungan Volume 2, Number 2, April 2018
- 20) Ridwan HR, *State Administration Law* (Jakarta: PT. Raja Grafindo Persada, 2006).
- 21) Rizal, "Implementation of the 1982 United Nations Convention on the Law of the Sea in the management of coastal areas of Indonesia: A case study of coastal area management of the Gulf of Southeast Sulawesi, Thesis, Master of Law, 2009.
- 22) Satjipto Rahardjo, *Legal Studies* (Bandung: Citra Aditya Bakti, 2000).
- 23) Soerjono Soekanto and Sri Mahmudji, *Normative Legal Research, A Brief Review*. Jakarta: Raja Grafindo Persada, 2003
- 24) Sri Palupi, Knowing and Understanding Ecosob Rights, (Jakarta: Paper, Institute for Ecosoc Rights, no year), no page

- 25) Sulaiman et al, Development of Law on the Protection of Traditional Fishermen in Aceh in relation to the Equitable Use of Fisheries Resources, Journal of Legal Media
- 26) Syamsumar Dam, Marine Politics, Bumi Aksara, Jakarta, 2010
- 27) ujibussalim, Fisheries Utilization in EEZ According to the 1982 Convention on the Law of the Sea and Its Implementation in Indonesian Legislation, Jurnal Kanun No. 35, April Edition, (Banda Aceh: FH Unsyiah, 2013)
- 28) Usamawadi, 2006, Progressive Mechanism for Conflict Prevention Due to Overlapping Sea Area Claims between Indonesia and Neighboring States, Paper, Journal of Progressive Law, Volume 2 Number 2 October, Semarang
- 29) Yudhi Setiawan, *Mixed Law Instrument (Gemeenschapelijkrecht) in Land Consolidation* (Jakarta: PT. Raja Grafindo Persada, 2009).