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**RESEARCH ARTICLE**

## Synergy of Management of Coastal Areas and Small Islands Authority Perspective

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**ABSTRACT**

This study aims to analyze the synergy in the management of coastal areas and small islands from an authority perspective. Coastal areas and small islands are areas that have enormous potential for improving people's welfare, especially coastal communities. This area, apart from having a conservation function, also has another very important function for the provision of marine goods and services. This great potential needs to be managed across sectors so that all functions can be utilized properly and sustainably. For this reason, the government issued Law no. 27 of 2007 concerning the Management of Coastal Areas and Small Islands, which was later revised by Law no. 1 of 2014 on the grounds that the *Integrated Coastal Management*, which is marked by the absence of renewal of unequal control and exploitation and the existence of a lack of synchronization with other laws and regulations. This law emphasizes the investment aspect and is more in favor of the business world so that there is no room for the community, especially traditional fishing communities and indigenous peoples, to propose management plans for coastal areas and small islands. With the revision, it is hoped that the rights of traditional communities, especially economic rights, are generally accommodated in the planning, utilization and monitoring process, as well as supervision related to the management of WP3K.

**KEYWORDS**

Management, Coastal, Small Islands

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**1. Introduction**

Indonesia is the largest archipelagic country in the world, consisting of 17,499 islands from Sabang to Merauke. The total area of Indonesia is 7.81 million km<sup>2</sup> which consists of 2.01 million km<sup>2</sup> of land, 3.25 million km<sup>2</sup> of ocean, and 2.55 million km<sup>2</sup> of the Exclusive Economic Zone (EEZ). Considering that Indonesia's marine area is wider than the land area, coastal and marine resources have very important potential because coastal and marine areas provide a variety of natural resources, both biological and non-biological, of high economic and ecological value. Coastal areas have high economic value, but their sustainability is threatened. With this unique potential and economic value, coastal areas are also faced with high threats, so coastal areas should be handled specifically so that these areas can be managed sustainably.<sup>1</sup>

In order to ensure the sustainability of these resources, their management must be carried out in a planned and integrated manner and provide great benefits to all stakeholders, especially coastal communities. Currently, there is Law no. 27 of 2007 concerning the Management of Coastal Areas and Small Islands as amended by Law no. 1 of 2014, which in Article 1 point 2 of the Law defines coastal areas as transitional areas between land and sea ecosystems that are affected by changes on land and sea. Article 2 states that the scope of regulation of coastal areas and small islands includes transition areas between land and sea ecosystems that are affected by changes on land and sea, landward covers sub-district administrative areas and seaward as far as 12 (twelve) nautical

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<sup>1</sup> Sharif Iqbal, *Aviation Politics and the Challenges of Island States* (Deepublish, 2018).

miles measured from the shoreline. Thus, marine space is measured from the coastline towards the high seas and/or towards the archipelagic waters.<sup>2</sup>

There are problems faced in the management of this coastal area, among others; the first is the issue of biophysical degradation of the coastal environment (coral, fish stocks, coastal erosion, pollution, sedimentation and filtration, the second is the issue of conflicts of use and authority in coastal areas so as to reduce the effectiveness of sustainable coastal management, and thirdly, legal uncertainty often occurs due to ambiguity of ownership and control) coastal resources Interaction between humans who use coastal resources with their environment and the consequences of actions of other parties, such as coral damage, mangrove deforestation, dredging of sea sand by fishermen, divers, communities, HPH and big businessmen.<sup>3</sup>

The fundamental problem is the ineffective management of coastal resources for allocating and using resources in a sustainable manner. If we consider the various problems that arise in the use and management of coastal areas, it can be concluded several things as follows:<sup>4</sup>

1. Utilization and management of coastal areas have not been regulated by laws and regulations, so the regions have difficulty in establishing a policy.
2. Coastal utilization and management tend to be sectoral in nature, so sometimes policies overlap with each other.
3. The use and management of the coast have not paid attention to the concept of the coastal area as an ecosystem unit that is not limited by the administrative area of government, so this can lead to conflicts of interest between regions.
4. The regional authorities in the context of regional autonomy have not been comprehensively understood by the stakeholders, so in each region and every sector, various understandings and different interpretations arise in the utilization and management of coastal areas.

In Law no. 27 of 2007 concerning the Management of Coastal Areas and Small Islands as amended by Law no. 1 of 2014, but in its implementation there are still obstacles, for example related to institutions in the management of national parks which according to article 78 A of Law No. 1 of 2014 has mandated that conservation areas in coastal areas and small islands include nature reserves and nature conservation areas located in coastal areas and small islands in the form of National Parks/National Marine Parks, Wildlife Sanctuaries, etc. are handed over to the Ministry of Forestry to the Ministry of Marine Affairs and Fisheries, but in practice they are still managed by PHKA (KLHK); there is also a conflict between Law no. 26 of 2007 concerning Spatial Planning with Law no. 27 in conjunction with Law No.1 of 2014 regarding the Regional Spatial Planning (RTRW) and the Zoning Plan for Coastal and Small Islands (RZWPPK) where in Article 24 paragraph (1) of Law no. 26 of 2007 concerning Spatial Planning explains that the detailed spatial planning as referred to in Article 14 paragraph (3) letter b is stipulated by a regional regulation. The spatial layout referred to includes land space, sea space, and air space, including space within the earth.<sup>5</sup>

Meanwhile, in Article 9 paragraph (5) of Law no. 27 of 2007, in conjunction with Law no. 1 of 2014, Zoning Plans for Coastal Areas and Small Islands are also stipulated through Regional Regulations. The term of the RTRW or RZWP-3-K is valid for 20 (twenty) years and can be reviewed at least every 5 (five) year; article 9 paragraph (2) of Law No. 27 of 2014 stipulates that the RZWP-3-K also must be submitted, harmonized, and balanced with the RTRW of the provincial government or district/city government, this confirms that both should not need to be made with two different legal formats (two Perda). RTRW and RZWPPK regulate relatively the same thing, but at the technical level, they must issue two different Regional Regulations. Although it does not cause legal problems, it will cause a budget burden.<sup>6</sup>

In addition, the ratification of Law no. 23 of 2014 concerning Regional Government which is a substitute for Law no. 32 of 2004, has an impact on regional autonomy in the management of coastal and small islands. Article 27, paragraph (1) of Law no. 23 of 2014 states that Provincial Regions are given the authority to manage marine resources in their territory. This article invalidates

<sup>2</sup> Herman Hermit, *Discussion of the Spatial Planning Law (Law No. 26 of 2007): Equipped with problems in urban spatial planning and spatial planning in several other countries* (Mandar Maju, 2008).

<sup>3</sup> Regional and Coastal And Marine Zoning Plan Drafting Team, "Guidelines for Zoning Plan Preparation" (Department of Marine Affairs and Fisheries, Directorate General of Marine, Coastal, and ..., 2007).

<sup>4</sup> Department of Marine Affairs and R I Fisheries, "General Guidelines for Coastal Management Planning," *Department of Marine Affairs and Fisheries: Jakarta*, 2002.

<sup>5</sup> RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF Indonesia, "Law of the Republic of Indonesia Number 27 of 2007," *Management of Coastal Areas and Small Islands Chapter 1* (2007).

<sup>6</sup> Amiruddin A Dajaan Imami, "The Law of Spatial Planning in Coastal Areas: Harmonization in Sustainable Development," *Bandung: Logoz Publishing*, 2014.

Article 18, paragraph 1 of Law no. 32 of 2004, which states that regions that have marine areas are given the authority to manage resources in marine areas. Thus, directly Article 27 paragraph (1) of Law no. 23 of 2014 revoked the authority of the Regency/City in managing marine resources.<sup>7</sup>

On the basis of the above problems, the National Legal Development Agency of the Ministry of Law and Human Rights deems it necessary to carry out legal analysis and evaluation activities regarding the Management of Coastal Areas and Small Islands. This is also in line with the current government's *nawacita* to strengthen the maritime sector, of which the management of coastal areas and small islands is one of them. This Legal Analysis and Evaluation is directed at four aspects of the legal system, in accordance with the approach in the National Legal Development Planning (PPHN), namely:<sup>8</sup>

- a. The material field is directed to produce 4 (four) choices of action decisions, namely:
  - 1) the law is maintained;
  - 2) revised law;
  - 3) the law is repealed; and
  - 4) the formation of the law, from these recommendations, an action plan is then made in the form of an action plan.
- b. Institutional and Apparatus aspects will provide recommendations for managing and improving institutions and apparatus,
- c. Aspects of legal services will see how the role of services that have been carried out and encourage service changes, and
- d. The legal culture of the community sees the community's response to the rules and encourages the law to be better responded to by the community.

This activity is carried out by identifying problems in the legal system, conducting legal analysis, and producing appropriate recommendations on these problems. With this activity, it is hoped that it can contribute to national development, especially in the field of law, so as to provide a direction for the development of a legal system that is in harmony and harmony with the constitution and national legal politics. In particular, this legal analysis and evaluation activity, apart from being material in the preparation of the National Law Development Planning, can also be used for the Drafting of the Academic Draft of the Bill and the Preparation of the National Legislation Program.<sup>9</sup>

From the perspective of sustainable development (*sustainable development*), a development in a certain area (district, province, country, regional area, or the world) can take place sustainably if the total human demand for natural resources and services *environmental services (environmental services)* do not exceed the ability of a development area ecosystem to provide (produce) these natural resources and environmental services within a certain period of time. Environmental problems will arise if human demand for certain natural resources or environmental services exceeds the ability of the regional ecosystem to provide natural resources or environmental services.<sup>10</sup>

The high demand for natural resources is also often caused by population poverty. Until now, most of the coastal communities are still in poverty. The phenomenon of poverty will lead to a compulsion to exploit coastal and marine resources in ways that are not environmentally friendly, such as the use of explosives and poisons or pesticides, by looking at the sustainability of existing natural resources. Erosion and sedimentation, as well as floods and droughts, are natural phenomena (events). Therefore, erosion events in one location and sedimentation in other locations are only caused by natural dynamics; usually, natural systems (*ecosystems*) will form a new balance that will not cause environmental damage and serious losses to human life. Likewise, the phenomenon of floods and droughts. However, when erosion and sedimentation, as well as flooding and drought, are exacerbated by human activities, such as deforestation, carrying out agricultural and settlement activities (*villa*) on land with a slope of more than 40 degrees, carrying out agricultural activities along watersheds without proper soil conservation efforts adequate, and *coastal engineering and construction* without heeding *hydro-oceanographic*, erosion and sedimentation events as well as floods and droughts can be detrimental.<sup>11</sup>

In the management of coastal marine resources and small islands, which are developing rapidly, conflicts often arise between various interested parties. From the search results, there are 21 laws and 6 international provisions, both ratified and only as a

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<sup>7</sup> Indonesia, "Law of the Republic of Indonesia Number 27 of 2007."

<sup>8</sup> CENTER FOR ANALYSIS D A N NATIONAL LEGAL EVALUATION, NATIONAL LEGAL DEVELOPMENT AGENCY, and MINISTRY OF LAW D A N H A M RI, "Final Report on Legal Analysis and Evaluation in the Context of Eradicating Wild Fisheries Activities (IUU Fishing)," 2016.

<sup>9</sup> NASIONAL, NASIONAL, and RI.

<sup>10</sup> Ukan S Abdullah, *Sustainable Development in Indonesia: At the Crossroads* (Gramedia Main Library, 2016).

<sup>11</sup> MUKHAMAD FREDY Arianto, "The Potential of Coastal Areas in Indonesia," *Journal of Geography* 10, no. 1 (2020): 204–15.

reference (*soft law*). These laws and regulations mandate 14 development sectors in regulating the utilization of coastal marine resources and small islands, either directly or indirectly. The fourteen sectors include land, mining, industry, transportation, fisheries, tourism, agriculture, forestry, conservation, spatial planning, public works, defense, finance and local government. Based on these sectoral regulations, there is a conflict of interest between institutions in managing coastal marine resources and small islands. In fact, along with the era of regional autonomy, there is a tendency for regional governments to make regional regulations based on their interests in increasing regional original income (PAD).<sup>12</sup>

Therefore, it is feared that this will create legal uncertainty in development in coastal areas and small islands, which can lead to damage to resources and the environment. Legal issues related to the management of the sea coast and small islands, namely: conflicts between laws, conflicts between laws and customary law, and legal vacuums. These problems lead to legal uncertainty, conflicts of authority and utilization, as well as bio-geophysical damage to coastal resources. These conditions need attention in the management of coastal areas and small islands so that the development of an environmentally sound community can run well.<sup>13</sup>

## 2. Research Methods

The approach method used in this research is a normative juridical approach, which is an approach to the relationship between juridical factors (positive law) and normative factors (legal principles) by way of legislation relating to the law of the coastal<sup>14</sup> area and other matters, other things that become obstacles in the synergy of marine area development.<sup>15</sup> Next, analyze the laws and regulations to find out the extent to which the principles and laws and regulations can be applied to overcome existing obstacles.<sup>16</sup>

## 3. Discussion

### 1. Policy for the Management of Development of Coastal Zone and Small Islands.

The policy is the principles that govern actions that are directed towards certain goals. Policies are always *problem oriented* and *action oriented*. Thus, it can be stated that policy is a regulation or stipulation that regulates ways of acting that are made in a planned and consistent manner to solve existing problems and achieve a predetermined goal.<sup>18</sup> As a state of law, regulations regarding coastal area management require instruments of non-discriminatory law as a legal umbrella and policy basis that was not found in the legislation prior to the birth of Law Number 27 of 2007 concerning the management of coastal areas and small islands which was amended into Law Number 1 of 2014.<sup>17</sup>

The implication of the enactment of the law on coastal areas and small islands is the existence of a development paradigm from land-based resources to marine resources, changes in development budget allocation policies taking into account the parameters of the area of marine waters, changes in the development approach in accordance with the biogeophysical characteristics of coastal areas and small islands, bonds for the government, business world, and the community for disaster mitigation in coastal areas and small islands, making coastal boundaries and converting coastal areas for protection, biodiversity preservation, human protection from disasters, preservation of coastal socio-cultural values.<sup>19</sup> However, the enactment of Law Number 27 of 2007 concerning Coastal Areas in the process of enacting the law is considered less guaranteeing the sustainability of community welfare in coastal areas in managing and developing the area.<sup>18</sup>

The purpose of managing the coast is to protect and utilize coastal resources with the participation of communities, institutions, and the government in an effort to increase economic, cultural and social values in resource utilization. The planning and arrangement of coastal areas in Indonesia have been determined in such a way through various document products that have been determined. Policy The policy on the product of coastal management provisions aims to control and control the activities of utilizing coastal resources.<sup>20</sup> In the management of coastal areas, many sectors and other parties who have an interest in coastal area development make coastal area management complex so that some policies overlap and even often collide, which can have an impact on enormous losses that are felt by the community, especially the local community.<sup>19</sup>

<sup>12</sup> Rudy Sunarja Rivai and Iwan Setiadjie Anugrah, "The Concept and Implementation of Sustainable Agricultural Development in Indonesia," 2011.

<sup>13</sup> Mohammad Mahrus Ali, Zaka Firma Aditya, and Abdul Basid Fuadi, "Protection of the Constitutional Rights of Coastal Communities: The Urgency of Harmonization of Integrated Coastal Management Regulations Coastal Communities Protection Of," n.d.

<sup>14</sup> Bambang Sunggono, "Legal Research Methods," *Jakarta: Raja Grafindo Persada*, 2003.

<sup>15</sup> Muhammad Syamsudin, "Operationalization of Legal Research," 2007.

<sup>16</sup> W Friedmann, "Legal Theory. Terj. Muhammad Arifin," *Legal Theory and Philosophy: Philosophical Idealism And The Problem Of Justice*, n.a.

<sup>17</sup> Mashuril Anwar and Maya Shafira, "Harmonization of Lampung Coastal Environmental Management Policy in Community-Based Management Regime," *Indonesian Journal of Environmental Law* 6, no. 2 (2020): 266–87.

<sup>18</sup> Rivai and Anugrah, "The Concept and Implementation of Sustainable Agricultural Development in Indonesia."

<sup>19</sup> Imami, "The Law of Spatial Planning of Coastal Areas: Harmonization in Sustainable Development."

With the issuance of Law Number 1 of 2014, there is recognition and respect for customary law community units and traditional rights in accordance with the principles of the Unitary State of the Republic of Indonesia, which recognizes and respects local communities and traditional communities living in coastal areas and small islands. Based on this thought, the objectives of the policy on the management of coastal areas and small islands, as stated in Article 4 of Law Number 27 of 2007, which has been Amended to Law Number 1 of 2014 concerning Management of Coastal Areas and Small Islands, are;<sup>20</sup>

- a. Protect, observe, rehabilitate, utilize, and enrich coastal resources and small islands and their ecological systems in a sustainable manner;
- b. Creating harmony and synergy between the government and local governments in the management of coastal resources and small islands;
- c. Strengthening the participation of the community and government institutions as well as encouraging community initiatives in the management of coastal resources and small islands in order to achieve justice, balance, and sustainability; and
- d. Increasing the social, economic, and cultural values of the community through community participation in the utilization of coastal resources and small islands.

In addition to the policy objectives for the management of coastal areas and small islands that have been regulated in the coastal area law, the policy principles determined by the government are the principles of sustainability that are applied to the management of development in coastal areas and small islands, namely;<sup>21</sup>

- a. Utilization of resources does not exceed the ability to regenerate biological resources or the rate of innovation in substitution of non-living coastal resources;
- b. Utilization of coastal resources today must not sacrifice the quality and quantity of the needs of future generations for coastal resources; and;
- c. Utilization of resources whose impact is unknown must be carried out carefully and supported by adequate scientific research.

Law Number 1 of 2014, concerning Amendments to Law Number 27 of 2007, has a Relation to Law Number 9 of 2015 concerning Regional Government. This law is a clear path for sustainable management as mandated in Law No. 1 of 2014, where the policy regarding regional autonomy is to bring policies closer to the region or the local community. Therefore, in principle, with regional autonomy, local governments and communities are required to be more innovative and have the creativity to always encourage the regional economy and not damage the potential of local natural resources.<sup>22</sup>

In addition to the law on local government, there are several laws related to the management of coastal areas and small islands that underlie policies in managing and developing coastal areas and small islands, namely;<sup>23</sup>

1. Law Number 32 of 2009 concerning Environmental Protection and Management. This law determines the objectives of environmental protection and management, namely protecting the Territory of the Unitary State of the Republic of Indonesia from environmental pollution and/or damage, guaranteeing safety, health and human life, guaranteeing the survival of living things and ecosystem preservation, and preserving environmental functions achieve harmony, harmony and balance in the environment, ensure the fulfillment of justice for present and future generations, guarantee the fulfillment and protection of the right to the environment as part of human rights, control the wise use of natural resources, realize sustainable development, and anticipate global environmental issues.
2. Law Number 5 of 1960 concerning Basic Provisions on Agrarian Principles (UUPA) In the UUPA, it regulates the right to govern by the state over the earth, air, space, and the natural resources contained therein. In addition, it also regulates customary rights, land rights, and air rights.

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<sup>20</sup> Febrianto Gabriello Owen Katiandagho, "LEGAL ASPECTS OF THE MANAGEMENT OF THE DEVELOPMENT OF COASTAL AREAS AND OUTER SMALL ISLANDS ACCORDING TO LAW NUMBER 1 OF 2014 CONCERNING AMENDMENTS TO LAW NUMBER 27 OF 2007 CONCERNING THE MANAGEMENT OF COASTAL AREAS AND SMALL ISLANDS," *LEX AND SOCIETATIS* 8, no. 1 (2020).

<sup>21</sup> Aris Subagiyo, Wawargita Permata Wijayanti, and Dwi Maulidatuz Zakiyah, *Management of coastal areas and small islands* (Universitas Brawijaya Press, 2017).

<sup>22</sup> Katiandagho, "LEGAL ASPECTS OF THE MANAGEMENT OF THE DEVELOPMENT OF COASTAL AREAS AND OUTER SMALL ISLANDS ACCORDING TO LAW NUMBER 1 OF 2014 CONCERNING AMENDMENTS TO LAW NUMBER 27 OF 2007 CONCERNING THE MANAGEMENT OF COASTAL AREAS AND SMALL ISLANDS."

<sup>23</sup> Subagiyo, Wijayanti, and Zakiyah, *Management of coastal areas and small islands*.

3. Law Number 5 of 1990 concerning Conservation of Biological Resources and Their Ecosystems Conservation of living natural resources and their ecosystems strives to realize the preservation of living natural resources and the balance of ecosystems so as to support the improvement of community welfare and human life.
4. Law Number 4 of 2009 concerning Mineral and Coal Mining This law seems to focus more on attention to exploitation than sustainability. In the law, there is an article on environmental protection from mining activities.
5. Law No. 26 of 2007 concerning spatial planning The establishment of spatial planning law is based on the principles of space for all interests, efficient and effective, harmonious, balanced and managed and the principles of openness, equality, welfare and legal protection. Spatial planning law, which covers land, sea and air spatial planning, makes this law very important in the management of coastal areas and small islands.
6. Law Number 18 of 2003 concerning Forestry Article 6 paragraph 1 states that the policies made by the government in the context of preventing forest destruction are in the form of cross-sectoral coordination in preventing and eradicating forest destruction, fulfilling the need for forest security apparatus resources, incentives for the parties who are instrumental in preserving the forest, the map of the designation of the forest area and or geographical coordinates as the juridical basis for the boundary of the forest area, and the fulfillment of the need for facilities and infrastructure for the prevention and eradication of forest destruction.
7. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. In this law, the government implements complete and targeted natural resource management by conserving natural resources together for the environment and the welfare of Indonesia. The authority given to the government regarding fish resources is still running in a centralized spirit. h. Law Number 6 of 1996 concerning Water. This law provides arrangements such as regulating the air, determining where the air is above or below the land surface and does not include water in the sea.
8. Law Number 10 of 2009 concerning Tourism This law serves tourism to meet the physical, spiritual and intellectual needs of every tourist with recreation and travel as well as increase state income to realize people's welfare and aim to increase economic growth, improve people's welfare, eliminate poverty, to overcome unemployment, preserving the natural environment and resources, advancing culture, elevating the nation's image, fostering a sense of love for the homeland, strengthening national identity and unity and strengthening friendship between nations.
9. Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators and Salt Farmers This law is closely related to management in coastal areas in order to provide certainty for fishermen in carrying out sustainable businesses.

Various small island management initiatives must be viewed in terms of meeting the needs of human life and the interests of broader national economic and geopolitical development that meet the principles of sustainable development. The principles of managing small islands that must be carried out by the government, provincial government, district/city governments and the business/private sector are: the existence of small islands must be maintained in accordance with the characteristics and functions it has, is efficient and economically optimal, just and can socially culturally acceptable, and ecologically does not exceed the carrying capacity of the environment.<sup>24</sup>

## 2. Development Management Strategy in Coastal Areas and Small Islands

Law Number 1 of 2014, concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, states several processes in managing coastal areas and small islands, which include planning, utilization, supervision, and control activities on human interaction in utilizing coastal resources and small islands as well as natural processes in a sustainable manner in an effort to improve people's welfare and maintain the integrity of the Unitary State of the Republic of Indonesia.<sup>25</sup>

Based on the general explanation of Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, it is stated that planning is carried out through an integrated approach to managing coastal areas and small islands or known as Integrated Coastal Zone Management, which integrates various planning compiled by various related sectors and in accordance with the duties and authorities of the central and regional governments so that harmony and strengthening in utilization occurs.<sup>7</sup> The planning stage is regulated in Chapter IV, starting from Article 7 to Article 15. Based on Article 7, planning for the management

<sup>24</sup> Subagiyo, Wijayanti, and Zakiyah.

<sup>25</sup> Hermit, *Discussion of the Spatial Planning Law (Law No. 26 of 2007): Equipped with problems in urban spatial planning and spatial planning in several other countries.*

of coastal areas and small islands consists of various activities as follows: a. WP3K Strategic Plan (RS-WP3K); b. WP3K Zoning (RZ-WP3K); c. WP3K Management Plan (RP-WP3K); and D. WP3K Management Action Plan (RAP-WP3K).<sup>26</sup>

Experts in the field of coastal area management believe that integrated coastal zone management is the key to solving problems and conflicts in coastal areas, which are very complicated and complex. Integration in public management can be defined as simultaneous goal setting, joint information gathering, collective planning and analysis, and joint use of management tools/instruments.<sup>27</sup>

The planning stage of the Law on coastal areas and outer islands divides management planning into strategic plans for coastal areas and small islands (RSWP3K), zoning plans for coastal areas and small islands (RZWP3K), management plans for coastal areas and small islands (RPWP3K), and the action plan for the management of coastal areas and small islands (RAPWP3K). The Strategic Plan for Coastal Areas and Small Islands (RSWP3K) is an inseparable part of the long-term development plan of every regional government, which must consider the interests of the government and regional governments. The period of the local government RSWP3K is 20 years and can be reviewed at least once every five years. The coastal zone zoning plan itself is a directive for the utilization of resources in coastal areas and small islands by the provincial government and/or district/city governments.<sup>28</sup>

This plan is divorced, harmonized and balanced with the regional spatial plan (RTRW) of the provincial government or district/city government. The term of the RZWP3K is 20 years and can be reviewed every 5 years. Management plans for coastal areas and small islands must pay attention to regular and systematic reporting mechanisms to ensure the availability of accurate and accessible data and information. RPWP3K is valid for 5 years and can be reviewed at least 1 time. Meanwhile, the action plan for the management of coastal areas and small islands is carried out by directing the management plan and zoning plan in an effort to realize the strategic plan. This RAPWP3K is valid for 1 to 3 years.<sup>29</sup>

The initial stage of the planning process is to identify and define existing issues and problems, which involve damage to natural resources, conflict overuse, and pollution, where it is necessary to look at the causes and sources of these problems. Furthermore, it is also necessary to pay attention to the existing natural resources and areas regarding the potential, carrying capacity, status, level of utilization, socio-economic conditions and local culture so that when the management of coastal areas and small islands is carried out, they do not cause conflicts or other problems that can harm the community and the region and pay attention to the ability of the region for future generations. For this reason, in the process of preparing strategic plans, it is necessary to pay attention to the principles of strategic plans in optimal and sustainable resource management that can be applied, namely:<sup>30</sup>

- a. Utilization of renewable resources must pay attention to its sustainable potential (maximum sustainable yield, MSY). The occurrence of excessive use will threaten the continuity of the use of natural resources that can be recovered. Efforts that must be taken to maintain the sustainability of these natural resources are that any activities that exploit natural resources can recover must not exceed their sustainable potential. The implementation of permitted quotas must be informed, especially about the size of the sustainable potential for each type of natural resource stock;
- b. The utilization of non-renewable resources must be carried out carefully and wisely. Because resources cannot be renewed, their management must be as optimal as possible. Efforts to find alternative energy sources need to be made, such as currents, waves, differences in salinity, differences in water layer temperature, and tides. In addition, it is necessary to seek other alternative energy sources;
- c. Utilization of the potential of natural resources in accordance with the carrying capacity of the environment. Resource utilization activities can be recovered and cannot be recovered, must not turn off the recovered resource utilization activities. In other words, environmental management in relation to the exploitation of non-recoverable resources (such as mining and oil refineries) should not damage the recovered resources or even kill the activities of the recovered resources.

The strategic plan for resource management in coastal areas and small islands also needs a strategic development plan to support the development of the area through infrastructure to meet the needs of the people living in the area. Therefore, in every planning, it is necessary to use an integrated coastal management approach, with the technique that integrated coastal management

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<sup>26</sup> Anwar and Shafira, "Harmonization of Lampung Coastal Environmental Management Policies in Community-Based Management Regimes."

<sup>27</sup> Subagiyo, Wijayanti, and Zakiyah, *Management of coastal areas and small islands*.

<sup>28</sup> Regions and Seas, "Zoning Plan Drafting Guidelines."

<sup>29</sup> Ananda Prima Yurista and Dian Agung Wicaksono, "Compatibility of Coastal Areas and Small Islands Zoning Plan (RZWP3K) as an Integrative Spatial Plan," *Journal of Rechts Vinding: National Legal Development Media* 6, no. 2 (2017): 183–98.

<sup>30</sup> Subagiyo, Wijayanti, and Zakiyah, *Management of coastal areas and small islands*.

facilitates the optimization of social and economic benefits, utilization of natural resources, and environmental services in coastal areas. This integrated planning and management of coastal areas include 4 (aspects), namely:<sup>31</sup>

1. Regional/ecological integration, spatially and ecologically, the coastal area has a link between the land above (land) and the high seas. This is because the coastal area is a meeting area between land and sea. With the linkage of these areas, the management of coastal and marine areas cannot be separated from the environmental management carried out in these two areas. Various environmental impacts that affect coastal and marine areas are the result of impacts caused by development activities carried out on top lands, such as agriculture, plantations, forestry, industry, settlements and so on, as well as activities carried out on the high seas, such as offshore oil drilling activities, coast and sea transportation.
2. Sector integration, the consequence of the large and diverse natural resources in coastal and marine areas is a large number of agencies or sectors of development actors engaged in the utilization of the coast and the sea. The activities of a sector are not allowed to interfere, let alone kill the activities of other sectors. This sector integration includes horizontal integration (between sectors) and vertical integration (within one sector). Therefore, the preparation of spatial planning and development guidelines in coastal areas is very necessary to avoid conflicts between one activity and other development activities.
3. The integration of scientific disciplines coastal and marine areas have unique properties and characteristics, both the nature and characteristics of coastal ecosystems and the socio-cultural characteristics of coastal communities, so in studying coastal and marine areas, it is not only necessary to have one scientific discipline but also to support various scientific disciplines according to the characteristics of the coast and the ocean.
4. Stakeholder integration all of the above integration will be successfully implemented if it is supported by the integration of development actors and managers in coastal and marine areas (stakeholders). It is known that the actors in the development and management of natural resources in coastal areas include the government (central and regional), coastal communities, private sector/investors and also non-governmental organizations, each of which has an interest in the utilization of natural resources in coastal areas. The preparation of an integrated management plan must be able to accommodate all the interests of the actors in the development of coastal and marine resources. Therefore, development management planning must use two directions, namely a top-down and bottom-up approach.

The Regional Government is obliged to prepare all the plans mentioned above, including detailed Zoning Plans, in accordance with their respective authorities by involving the community in accordance with applicable norms, standards and guidelines. Furthermore, there is a change in the contents of Article 14 paragraph (1) which regulates the mechanism for preparing plans that the Regional Government and the Business World will carry out the proposal for the preparation of RS-WP3K, RZ-WP3K, RP-WP3K and RAP-WP3K. The absence of involvement of local communities and traditional communities living in coastal areas and small islands in the preparation of proposed plans has been in the spotlight of many parties because it is considered as a neglect of the rights of coastal communities who should be very interested parties in the management of WP3K. Then Article 14 paragraph (1) was revised in Law no. 1 of 2014, that the proposal for the preparation of the RS-WP3K, RZ-WP3K, RP-WP3K and RAP-WP3K will be carried out by the Regional Government, the Community and the Business World.<sup>32</sup>

Utilization of coastal areas and small islands, among others, is prioritized for conservation, education and training, research and development, marine cultivation, tourism, fishery and marine business, as well as the sustainable fishing industry, organic agriculture, animal husbandry and other interests in national defense and security. Utilization of coastal resources and small islands is carried out using a licensing mechanism as regulated in Chapter V Part One. Chapter V previously underwent a radical revision by removing all provisions relating to the Concession Rights of Coastal Waters (HP3) as a result of the implementation of the Constitutional Court's Decision.<sup>33</sup>

Furthermore, in Law no. 1 of 2014, it is stated that every person who uses space and part of coastal waters and uses small islands permanently is required to have a Location Permit. Article 17 of Law no. 1 of 2014 regulates the considerations for granting Location Permits, namely:

- 1) The issuance of Location Permits is adjusted to the zoning plan for coastal areas and small islands,

<sup>31</sup> Yurista and Wicaksono, "Compatibility of Coastal Areas and Small Islands Zoning Plan (RZWP3K) as an integrative spatial plan."

<sup>32</sup> Nurul Ridwan Yusuf, "Local Government Authority over Zoning management of coastal areas and small islands in North Kalimantan Province," *Borneo Law Review* 3, no. 2 (2019): 155–71.

<sup>33</sup> Subagiyo, Wijayanti, and Zakiyah, *Management of coastal areas and small islands*.



- 2) The issuance of a Location Permit must consider the preservation of coastal ecosystems and small islands, traditional fishing communities, national interests and the right of peaceful passage of foreign ships,
- 3) Location Permits are granted for a certain period and area,
- 4) Location Permits cannot be granted in core zones in conservation areas, sea lanes, harbor areas, and public beaches.

The granting of this location permit is the basis for the granting of a Management Permit. Location permits and management permits can be granted to Indonesian citizens, corporations with Indonesian legal entities and cooperatives formed by the community that meet technical, administrative and operational requirements. The Government and Regional Governments are required to facilitate the granting of Location Permits and Management Permits to Local Communities and Traditional Communities that will utilize the space and water resources of coastal areas and small islands to fulfill their daily needs. The use of space and water resources in coastal areas and small islands in the area of the Customary Law Community by the Customary Law Community is under the authority of the local Customary Law Community.<sup>34</sup>

This Management Permit is granted for salt production activities, marine biopharmacology, marine biotechnology, utilization of seawater other than energy, marine tourism, installation of underwater pipes and cables and lifting of sunken ship cargo. As for the utilization of water resources in coastal areas and small islands in the context of foreign investment, the permit will be granted by the Minister of Fisheries and Marine Affairs after obtaining a recommendation from the regent or mayor while still prioritizing the national interest. The permit is granted on condition that the applicant must be a limited liability company, can guarantee public access in an unpopulated area, there is no use by the local community, must cooperate with Indonesian participants, transfer shares in stages to Indonesian participants, must transfer technology and pay attention to the ecological, social, and economic aspects of the land area.<sup>35</sup>

Utilization of space from part of coastal waters and utilization of part of small islands that are not in accordance with the given Location Permit will be subject to administrative sanctions, which can be in the form of written warnings, temporary cessation of activities, site closures, revocation of permits, cancellation of permits and/or administrative fines. The officials authorized to grant and revoke Location Permits and Management Permits are the Minister of Maritime Affairs and Fisheries, Governors and Regents/Mayors depending on their respective areas of authority. In addition to administrative sanctions, the law also stipulates imprisonment and fines for parties who do not have Management Permits and Permits.<sup>36</sup>

Article 23, which regulates the utilization of small islands and the waters around them, is also one of the articles that have been revised, especially in paragraph (2) there are additions up to the letter (i), namely the use of small islands and the surrounding waters in the framework of the defense and national security. This addition is very appropriate considering that Indonesia is an archipelagic country and small islands have a strategic function in determining the jurisdiction of the territory of the Republic of Indonesia and state security. Furthermore, the provisions of paragraphs (4) to (7) in Article 23 have been removed because they regulate HP3. Article 30 is undergoing revisions related to changes in the core zone in the conservation area for exploitation activities which are regulated in more detail. In Chapter V on the Utilization of WP3K, apart from regulated utilization activities, other activities such as conservation, rehabilitation, reclamation and prohibitions are also regulated.<sup>37</sup>

Article 35 regulates various prohibitions for anyone who directly or indirectly carries out activities such as mining coral reefs so that they can damage ecosystems, taking coral reefs in conservation areas, carrying out various activities that can damage mangrove and seagrass ecosystems, mining sand and minerals as well as oil and gas, as well as carrying out physical development that can damage the environment and harm the surrounding community. The points of this prohibition should have been intensively disseminated to the local community so as not to be penalized as a result of their lack of access to information, especially the laws and regulations that specifically regulate activities around them.<sup>38</sup>

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<sup>34</sup> Zulkifli Aspan et al., "Licensing of Coastal Area Management as an Authority Derived From the Right to Control the State," *Al-Azhar Islamic Law Review* 1, no. 1 (2019): 9–25.

<sup>35</sup> ZAENAL ARIFIN and ADHI PUTRA SATRIA, "CRITICAL ANALYSIS OF THE MANAGEMENT OF COASTAL WATERS AND SMALL ISLANDS IN INDONESIA (Study of Coastal Water and Small Islands Management Arrangements After the Birth of Law No. 1 of 2014 and Law No. 23 of 2014)," *Ganec Swara* 14, no. 1 (2020): 521–25.

<sup>36</sup> Aspan et al., "Licensing of The Management of Coastal Areas as an Authority Derived From the Right to Control the State."

<sup>37</sup> Muhammad Darwis, "Utilization of Small Islands by Foreign Investment After Constitutional Court Decision No. 3/PUU-VIII/2010," *Journal of the Constitution* 15, no. 2 (2018): 433–54.

<sup>38</sup> Imami, "The Law of Spatial Planning of Coastal Areas: Harmonization in Sustainable Development."

The stages of supervision and control are regulated in Chapter VI from Article 36 to Article 41. Supervision and control activities in the utilization of WP3K are carried out to ensure the implementation of integrated and sustainable management of WP3K. Supervision and control are carried out by certain Civil Servant Officials who manage WP3K based on a Ministerial Regulation, which is carried out by:

- a. Conduct patrols in WP3K, and
- b. Receive reports concerning the destruction of coastal ecosystems, conservation areas, public use areas and certain national strategic areas.

Article 36, paragraph (5) requires the Central and Regional Governments to carry out monitoring, field observations, and/or evaluation of the planning and implementation. Furthermore, the public can also participate in the supervision and control of WP3K, which is carried out by submitting reports and/or complaints to the competent authorities.

In the context of controlling the utilization of WP3K, the Government is obliged to carry out accreditation of the WP3K management program. Governors, Regents/Mayors, Community Organizations or community groups may submit proposals for accreditation of the WP3K management program to the Central and Regional Governments in accordance with their respective authorities. The standards and guidelines for accreditation include:

- a. relevance of priority issues;
- b. public consultation process;
- c. positive impact on natural sustainability;
- d. impact on improving community welfare;
- e. adequate implementation capability; and
- f. support policies and programs of the Government and Local Government.

In an effort to increase the capacity of stakeholders in the management of WP3K, the law regulates the formation of Maritime Partners. Mitra Bahari is a forum for cooperation between the Government and local governments, universities, non-governmental organizations, professional organizations, community leaders and the business world. The activities of the Maritime Partners forum, according to Article 41, can be in the form of mentoring and/or counseling activities, education and training, applied research and policy recommendations. These activities are facilitated by the Government and Local Governments.

The rights and obligations of the community are specifically regulated in Article 60, which has been amended so that the number of community rights has increased to 12 rights (previously only 10). Some of the rights of the community here include the right to:

1. Gain access to parts of coastal waters that have been given location permits and management permits.
2. Propose traditional fishing areas into the RZWP3K.
3. Propose the territory of the Indigenous Law Community into the RZ-WP3K.
4. Get compensation.
5. Obtain information and benefits from WP3K management.
6. Submit reports and complaints to the competent authorities for losses that befell him related to the management of WP3K, including filing for compensation for the incident.
7. File a lawsuit to the court against various WP3K issues and get legal assistance and assistance in accordance with applicable regulations.

In addition to regulating rights, Article 60 also regulates the obligations of the community in WP3K, including:<sup>39</sup>

1. Provide information related to WP3K management.
2. Maintain, protect and preserve WP3K.
3. Submit reports on the occurrence of pollution hazards and/or environmental damage in WP3K.

In a balanced way, this Law also provides obligations to the Government and Regional Governments to recognize, respect and protect the rights of indigenous peoples, traditional communities and local wisdom on WP3K, which have been used for generations and make recognition of the rights of indigenous peoples, traditional communities and local wisdom as a reference in the management of WP3K. This article has the potential to become a paper tiger considering that it is not equipped with the

<sup>39</sup> Nurul Fajri Chikmawati, "Management of coastal areas and small islands in Indonesia (in the perspective of legal protection for the economic rights of traditional communities)," *FAIR: Journal of Law* 4, no. 2 (2013): 396–417.

mechanism and form of recognition. It should be clearly stated that recognition and protection are provided in statutory regulation. In terms of community empowerment as regulated in Article 64 paragraph (2), there has been a change by providing details of several basic needs that are really needed by the community, especially coastal communities and traditional fishermen, that the Government and Regional Governments are obliged to encourage community business activities through capacity building, provision of access to technology and information, capital, infrastructure, market guarantees and other productive economic assets.<sup>40</sup>

Law No. 7 of 2007, which was later amended by Law No. 1 of 2014, has been equipped with dispute resolution mechanisms, representation claims, investigation processes, administrative sanctions and criminal sanctions. Administrative sanctions in Article 71 of Law no. 7 of 2007 have been adjusted, and there are additional 2 (two) paragraphs. The forms of administrative sanctions in this law can be in the form of:

- a) written warning;
- b) temporary suspension of activities;
- c) local closures;
- d) license revocation;
- e) license cancellation and or;
- f) administrative fines.

The provisions of criminal sanctions in Article 75 have been adjusted to the weighting of sanctions for anyone who uses space from part of coastal waters and uses part of small islands that do not have a location permit as stipulated in Article 16 paragraph (1) shall be sentenced to imprisonment for a maximum of 3 (three) years and a maximum fine of IDR 500,000,000 (five hundred million rupiah). The previous sanctions provisions were only in the form of imprisonment for a maximum of 6 (six) months or a fine of a maximum of Rp. 300,000,000 (three hundred million rupiah). It is hoped that this sanction will have a deterrent effect. But the most What is important is the courage and firmness of the authorities to enforce the provisions of the law on WP3K to those who violate it.<sup>41</sup>

#### **4. Conclusion**

Development management strategies in coastal areas and small islands can be carried out in several processes as stated in Article 5 of Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, namely includes the process of planning, utilization, monitoring and control activities, in managing and utilizing coastal resources and small islands in a sustainable manner. Planning activities include strategic plans for coastal areas and small islands (RSWP3K), zoning plans for coastal areas and small islands (RZWP3K), management plans for coastal areas and small islands (RPWP3K), and action plans for managing coastal areas and islands. -small island (RAPWP3K). self-use activities are more for conservation, education and training, marine cultivation and for tourism. Meanwhile, supervision and control activities are carried out by monitoring, securing the field and or evaluating the planning and implementation. In addition to the processes mentioned in the law, integrated management of the development of coastal areas and small islands, environmental-based management, and community-based management are very important strategies to be carried out in the management of development in coastal areas and small islands. 2. Development management policy in coastal areas and small islands with the enactment of Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands and with the government's efforts to change it into Law Number 1 of 2014 to create recognition and respect customary community units, traditional communities living in coastal areas, in this case, provide legal certainty for coastal communities. In addition to the government's policy of making laws for coastal areas, there are also several laws that support this law, such as Law Number 9 of 2015 concerning Regional Government, Law Number 26 of 2007 concerning Spatial Planning, in addition to other policies carried out by increasing management of small islands on the border to maintain the integrity of the Unitary State of the Republic of Indonesia, and improve the synchronization of laws and regulations and law enforcement. Specifically, government policies in resource management it is carried out with centralized policies based on doctrine, general meetings, and legal pluralism.

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<sup>40</sup> Subagiyo, Wijayanti, and Zakiyah, *Management of coastal areas and small islands*.

<sup>41</sup> Shanti Dwi Kartika, "Maritime Security From The Aspects Of Regulation And Law Enforcement," *The State of Law: Building Laws For Justice And Welfare* 5, no. 2 (2016): 143–67.

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