
RESEARCH ARTICLE

Juridical Review of the Authority of Local Governments in Management of Coastal Areas and Small Islands

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ABSTRACT

The purpose of this research is to examine the authority of local governments in managing coastal areas and small islands and how the legal sanctions for violations of the management of the Coastal Zone and Small Islands. Coastal areas and small islands are part of natural resources controlled by the state and need to be preserved so that they can be used for the prosperity of the people. In this study, the method used is normative juridical, namely research that examines norms in positive law. The results of this study are the authority of the local government in managing coastal areas and small islands are regulated in Law No. 1 of 2014 concerning amendments to Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands, which include: planning, utilization, monitoring, and controlling activities for human interaction in utilizing coastal resources and small islands as well as natural processes in a sustainable manner in an effort to improve community welfare and maintain the territorial integrity of Indonesia.

KEYWORDS

Juridical Review, Government Authority, Coastal Area Management

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1. Introduction

In the development of the management of coastal areas and small islands as natural resources, the state should regulate them. The State regulates the regulation and management of natural resources managed by the State and foreigners in the territory of Indonesia's sovereignty. The regulation is through licensing by state agencies, and its management must not ignore the rights of the community, including the customary law community in the area around the natural resources. Indonesian population living in coastal areas and small islands. Small islands have great development potential because they are supported by the economic aspect, with the existence of typical tropical ecosystems that have high biological productivity, including coral reefs, sea grass, and mangrove forests. In addition to the renewable potential of their ecosystem, small islands also have non-renewable potentials, such as mining and marine energy, as well as environmental services of high economic value for ongoing tourism, conservation and various types of uses.¹

In integrated area management, it can be explained with several understandings:²

1. A management process that considers the interrelationships between development activities (humans) contained in coastal areas and the natural environment (ecosystems) that are potentially affected by these activities

¹ S H Rina Yulianti, *PERLINDUNGAN HUKUM BAGI HAK MASYARAKAT ATAS SUMBER DAYA PESISIR* (SCOPINDO MEDIA PUSTAKA, 2022).

² Arif Satria, *Pengantar Sosiologi Masyarakat Pesisir* (Yayasan Pustaka Obor Indonesia, 2015).

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2. A process of preparing and making rational decisions regarding the sustainable use of coastal areas and all the natural resources contained therein,
3. A continuous and dynamic process in the preparation and making of decisions regarding the sustainable use of coastal areas and all the natural resources contained therein,
4. A continuous and dynamic process that unites and harmonizes the interests of various stakeholders (government, private sector, local communities and NGOs) and scientific interests with development management in formulating and implementing an integrated plan to develop and protect coastal ecosystems and all the natural resources contained therein for the prosperity of mankind in a just and sustainable manner.

In this context, integration contains three dimensions, namely sectoral, field of science and ecological linkages. Sectoral integration means that there is a need for coordination of tasks, authorities and responsibilities between sectors or government agencies within certain levels of government (horizontal integration) and between levels of government from the village, sub-district, district, and provincial to the central level (vertical integration). The integration of scientific fields requires that management should be carried out on an interdisciplinary basis. Ecological linkages must be considered because coastal areas consist of various kinds of ecosystems that influence each other. Management of coastal areas can also be interpreted as an evolutionary and continuous process to achieve sustainable development, which includes comprehensive assessment, goal setting, planning and management of coastal systems and resources, taking into account traditional, cultural and historical policy perspectives as well as paying attention to conflicts of interest and their utilization. In addition, there is also an understanding that states that coastal area management is a process that combines all aspects of physical, biological and human life in coastal areas within a management framework.³

The concept of Integrated Coastal Zone Management, namely the management of coastal areas in an integrated manner by paying attention to all related aspects on the coast, which include economic, social, environmental and technological aspects. Through the application of this concept, it is hoped that various problems that have arisen recently in the management of coastal areas can be overcome. The management of coastal areas in Indonesia has been regulated by law, namely Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands. In General, Provisions, point 1 of this Law states that the management of Coastal Zone and Small Islands is a process of planning, utilization, supervision, and control of Coastal Resources and Small Islands between sectors, between the Government and Regional Governments, between land and sea ecosystems, and between science and management to improve people's welfare. Although the word integrated is not clearly stated, this law adheres to the concept of integrated coastal area management as Article 2 mentions principles, one of which is the principle of integration.⁴

According to the explanation of Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, it is stated that the principle of integration is developed by:⁵

1. Integrating policies and planning in various government sectors horizontally and vertically between the government and local governments,
2. Integration between terrestrial and marine ecosystems, using scientific and technological input to assist the decision-making process in Coastal Zone Management

Meanwhile, small islands, according to Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, are islands with an area smaller than or equal to 2,000 km² (two thousand square kilometers) and the unity of the ecosystem. The potential contained in small islands in Indonesia has made small islands one of the priorities for the development of the marine and fisheries sector.¹⁴ The development in the marine and fishery sector, which has been carried out for the past 15 years, has had a considerable impact significant for the Indonesian marine and fisheries community, carried out under the coordination of the Ministry of Maritime Affairs and Fisheries (KKP).⁶

The KKP was established in 1999 during the administration of President Abdurrahman Wahid with Presidential Decree No. 355/M of 1999 dated October 26, 1999, has a nomenclature of the Department of Marine Exploration,¹⁶ and recently established its organization and work procedures by Presidential Regulation of the Republic of Indonesia Number 63 2015 concerning the Ministry

³ Sudarto Sudarto and Ade Novit, "PENGATURAN PENGELOLAAN WILAYAH PESISIR DAN PULAUPULAU KECIL YANG INTEGRATIF DAN PARTISIPATIF," in *Prosiding Seminar Hukum Dan Publikasi Nasional (Serumpun)*, vol. 1, 2021, 128–45.

⁴ Amiruddin A Dajaan Imami, "Hukum Penataan Ruang Kawasan Pesisir: Harmonisasi Dalam Pembangunan Berkelanjutan," *Bandung: Logoz Publishing*, 2014.

⁵ Lihat dalam Undang-undang Nomor 27 Tahun 2007 tentang Pengelolaan Wilayah Pesisir dan Pulau-pulau Kecil.

⁶ Muhamad Ikbal et al., "Urgency Pengelolaan Potensi Bahari Berdasarkan Undang-Undang Nomer 27 Tahun 2007 Tentang Pengelolaan Wilayah Pesisir Dan Pulau-Pulau Kecil," *Jurnal Kajian Ilmiah* 21, no. 4 (2021): 427–32.

of Maritime Affairs and Fisheries, has the task of carrying out government affairs in the marine and fisheries sector to assist the President in administering state government. The KKP formulates the objectives of marine and fisheries development, one of which is: the realization of sustainable management of marine and fishery resources, which is marked by: the realization of sustainable management of area conservation, increasing the economic value of small islands, and an increase in the area of Indonesian waters supervised by the KKP supervisory apparatus.⁷

In order to implement the goal of increasing the economic value of small islands, KKP is encouraging investment in small islands. settlements, plantations, mining businesses, transportation, and ports. Opportunities are opened for both domestic and foreign investment.⁸

The regulation of coastal area management Law Number 27 of 2007. The scope of regulation of this Law consists of three parts, namely planning, management, and supervision and control, with the following description; Planning is carried out through an integrated Coastal Management approach which integrates various plans prepared by sectors and regions so that there is harmony and mutual strengthening of their use. Integrated Management of Coastal Zones and Small Islands is an approach that provides direction for the sustainable use of Coastal and Small Islands Resources by integrating various development plans from various levels of government, between terrestrial and marine ecosystems, as well as between science and management. Planning for the Management of Coastal Zone and Small Islands is carried out in order to harmonize the interests of economic development with the preservation of Coastal Resources and Small Islands and pay attention to the characteristics and uniqueness of the area.⁹

Integrated planning is a gradual and programmed effort to optimally utilize Coastal Resources and Small Islands in order to generate sustainable economic benefits for the prosperity of the community. The gradual plan is accompanied by efforts to control the impact of sectoral development that may arise and maintain the sustainability of its resources. Coastal Zones and Small Islands Planning is divided into four stages: (i) strategic plan; (ii) zoning plans; (iii) management plan; and (iv) action plans.¹⁰

Management of Coastal Zones and Small Islands includes the following regulatory policy stages:¹¹

1. Utilization and exploitation of coastal waters and small islands are carried out through the granting of utilization permits and Coastal Waters Concession Rights (HP-3). Utilization permits are granted in accordance with the laws and regulations and the respective authorities of the relevant agencies.
2. The Right to Concession of Coastal Waters (HP-3) is granted in aquaculture waters or waters for general use, except for those that have been regulated separately.
3. Management of Coastal Areas and Small Islands starts from planning, utilization, implementation, control, supervision, recognition of rights and community empowerment, authority, institutions to conflict prevention and resolution.
4. The management of small islands is carried out in one island group or cluster by taking into account the ecological linkages, economic linkages, and socio-cultural linkages in one ecoregion, with the main island or other islands as centres of economic growth.

The relatively rich Coastal Resources and Small Islands are often the center of economic growth, and the population is densely populated. However, most of the population is relatively poor, and this poverty triggers pressure on Coastal Resources and Small Islands which are their source of livelihood. If ignored, it will have implications for increasing damage to coastal ecosystems and small islands. In addition, there is still a tendency for industrialization and economic development in the Coastal Zone, and Small Islands often marginalize the local population. Therefore, community empowerment norms are needed. Coastal areas and small islands that are vulnerable to change need to be protected through management so that they can be utilized to meet the needs of people's lives and livelihoods. Therefore, a policy is needed in its management so that it can balance the level of utilization of

⁷ Lita Dharmayuni, "Opini Disclaimer: Di Mana Auditor Internal? Studi Kasus Kementerian Kelautan Dan Perikanan Republik Indonesia," *Eksos* 17, no. 1 (2021): 1–12.

⁸ Haris Retno Susmiyati and Rahmawati Al Hidayah, "Klinik Hukum Peningkatan Partisipasi Masyarakat Dalam Penyusunan Rencana Zonasi Wilayah Pesisir Dan Pulau-Pulau Kecil," *Dinamisia: Jurnal Pengabdian Kepada Masyarakat* 5, no. 4 (2021).

⁹ Vernanda Yuniar Ulenaung, "Implementasi Penataan Ruang Dalam Peraturan Daerah Rencana Tata Ruang Wilayah (RTRW) Menurut Undang-Undang Nomor 26 Tahun 2007," *Lex Administratum* 7, no. 2 (2020).

¹⁰ Azmi Fendri, "Pengaturan Kewenangan Pemerintah Dan Pemerintah Daerah Dalam Pemanfaatan Sumber Daya Mineral Dan Batubara" (Universitas Brawijaya, 2011).

¹¹ Oloan Sitorus and Eri Khaeruman, "Pengaturan Penguasaan Tanah Di Wilayah Perairan Pesisir Dan Pulau-Pulau Kecil," *BHUMI: Jurnal Agraria Dan Pertanahan* 7, no. 1 (2021): 68–78.

Coastal Resources and Small Islands for economic interests without compromising the needs of future generations through the development of Conservation Areas and Coastal Borders.¹²

Supervision and control are carried out to: 1. identify deviations from the implementation of strategic plans, zoning plans, management plans, and the implications of these deviations on changes in the quality of coastal ecosystems; 2. encourage the utilization of resources in the Coastal Zone and Small Islands in accordance with the coastal area management plan; 3. to impose sanctions on violators, either in the form of administrative sanctions such as cancellation of permits or revocation of rights, civil sanctions such as the imposition of fines or compensation; as well as criminal sanctions in the form of detention or imprisonment.¹³

In order to implement the goal of increasing the economic value of small islands, KKP is encouraging investment in small islands, settlements, plantations, mining businesses, transportation, and ports. Opportunities are open for both domestic and foreign investment. 19 The PMA policy in small islands in Indonesia is stated in Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands (hereinafter written Law Number 1 of 2014), that FDI in small islands is not prohibited but is accompanied by a number of conditions. Article 26A paragraph (1) of Law Number 1 of 2014 explains that the use of small islands and the surrounding waters in the context of PMA must obtain permission from the Minister of Maritime Affairs and Fisheries. Paragraph (2) emphasizes that PMA that will utilize small islands and the waters around them must prioritize the national interest. Permits issued by the Minister of Maritime Affairs and Fisheries can only be granted after obtaining a recommendation from the Regent/Mayor. In order to develop FDI in small islands, KKP, through one of its technical directorates, namely the Directorate for Utilization of Small Islands, the Directorate General of Marine Spatial Management, do a lot of socialization and holds business forums to bring together stakeholders in the business of using small islands.¹⁴

2. Research Method

This research uses normative legal research, which is legal research that puts the law as a building system of norms. The norm system that is built is about principles, norms, rules from laws and regulations, court decisions, agreements, and doctrines (teachings).¹⁵ using a normative juridical approach, namely doctrinal legal research that refers to legal norms, this study emphasizes secondary sources of material, both in the form of regulations and legal theories, in addition to examining theoretical legal rules scientific and can be used to analyze the problems discussed.¹⁶

3. Results And Discussion

Within the Government's authority in the Management of Coastal Areas and Small Islands, planning is carried out through an integrated Coastal Management approach (*Integrated Coastal Management*) which integrates various plans prepared by sectors and regions so that there is harmony and mutual strengthening of their utilization. Integrated Management of Coastal Zones and Small Islands is an approach that provides direction for the sustainable use of Coastal and Small Islands Resources by integrating various development plans from various levels of government, between terrestrial and marine ecosystems, as well as between science and management.¹⁷

Planning for the Management of Coastal Zone and Small Islands is carried out in order to harmonize the interests of economic development with the preservation of Coastal Resources and Small Islands and pay attention to the characteristics and uniqueness of the area. Integrated planning is a gradual and programmed effort to optimally utilize Coastal Resources and Small Islands in order to generate sustainable economic benefits for the prosperity of the community. The gradual plan is accompanied by efforts to control the impact of sectoral development that may arise and maintain the sustainability of its resources. Coastal Zones and Small Islands Planning is divided into four stages: (i) strategic plan; (ii) zoning plans; (iii) management plan; and (iv) action plans.¹⁸

In accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, regional governments are authorized to regulate and manage their own government affairs according to the principles of autonomy and assistance tasks. The granting of broad autonomy to regions is directed at accelerating the realization of community welfare through service improvement,

¹² Ferry Riawan, Krisnadi Nasution, and Sri Setyadji, "Wujud Penatagunaan Tanah Dalam Reforma Agraria Yang Berkeadilan Dan Berkelanjutan," *Jurnal Akrab Juara* 4, no. 5 (2019): 15–26.

¹³ Hasan Basri, "Pengelolaan, Pengawasan Kawasan Pesisir Dan Laut Di Indonesia," *REUSAM: Jurnal Ilmu Hukum* 8, no. 2 (2021): 1–27.

¹⁴ Edwin Basmar et al., *Ekonomi Bisnis Indonesia* (Yayasan Kita Menulis, 2021).

¹⁵ S H Bachtiar, *Mendesain Penelitian Hukum* (Deepublish, 2021).

¹⁶ Bambang Sunggono, "Metode Penelitian Hukum," *Jakarta: Raja Grafindo Persada*, 2003.

¹⁷ Tim Penyusun Pedoman Rencana Zonasi Kawasan dan Pesisir Dan Laut, "Pedoman Penyusunan Rencana Zonasi" (Departemen Kelautan Dan Perikanan, Direktorat Jendral Kelautan, Pesisir, dan ..., 2007).

¹⁸ Sudarto and Novit, "PENGATURAN PENGELOLAAN WILAYAH PESISIR DAN PULAUPULAU KECIL YANG INTEGRATIF DAN PARTISIPATIF."

empowerment and community participation. In addition, through broad autonomy, regions are expected to be able to increase competitiveness by taking into account the principles of democracy, equity, justice, privileges and specialties, as well as regional potential and diversity in the system of the Unitary State of the Republic of Indonesia. This form of autonomy, the 1945 Constitution, contains (regulates) territorial autonomy as referred to in Chapter VI, Article 18, Article 18A and Article 18B. Meanwhile, the government unit that carries out the law in the field of regional autonomy according to the law is referred to as the regional government law. This territorial-based autonomy is implemented in the management of coastal areas and small islands, including national marine areas. Regions that have marine areas and small islands are given the authority to manage and plan the utilization of their resources.¹⁹

Regions get profit sharing for the management of natural resources under the bottom and/or on the seabed in accordance with the laws and regulations. The principle of real autonomy is a principle that handles government affairs; it is carried out based on tasks, authorities and obligations that actually already exist and have the potential to grow, live and develop in accordance with the potential and uniqueness of the region. Thus the content and type of autonomy for each region are not always the same as for other regions. As for what is meant by responsible autonomy, autonomy in its implementation must be in line with the aims and purposes of granting autonomy, which is basically to empower the regions, including improving the welfare of the people, which is the main part of national goals. The implementation of decentralization requires the division of government affairs between the Government and regional governments. Government affairs consist of government affairs which are fully under the authority of the Government, and government affairs, which are managed jointly between levels and structures of government or concurrently. Government affairs that can be managed jointly between levels and structures of government or concurrently are government affairs other than government affairs which are wholly the affairs of the government.²⁰

In this case, the authority of the provincial government to use the principle of autonomy as broadly as possible in the sense that the regions are given the authority to administer and regulate all government affairs outside those that are government affairs as stipulated in this Law. Regions have the authority to make regional policies to provide services and increase participation, initiatives, and community empowerment aimed at improving people's welfare. In accordance with the contents of Article 10 Paragraph 4 of the Law on Regional Government, in carrying out government affairs, the Government, in this case, the central government, can carry out its own affairs or may delegate part of government affairs to Government officials or representatives of the Government in the regions or may assign them to regional governments and/ or village government.²¹

The authority of the provincial government itself can be further divided into a mandatory authority and optional authority. Mandatory affairs under the authority of the provincial government are affairs on a provincial scale which include:

- a. development planning and control;
- b. planning, utilization, and supervision of spatial planning;
- c. implementation of public order and public order;
- d. provision of public facilities and infrastructure;
- e. handling of the health sector;
- f. implementation of education and allocation of potential human resources;
- g. overcoming social problems across districts/cities;
- h. services in the field of manpower across districts/cities;
- i. facilitation of the development of cooperatives, small and medium enterprises, including across districts/cities;
- j. environmental control;
- k. land services, including across districts/cities;
- l. population services, and civil registration;
- m. government general administration services;
- n. investment administration services, including across districts/cities;
- o. the implementation of other basic services that have not been able to be implemented by the regency/municipality; and
- p. other mandatory matters mandated by legislation.

¹⁹ Suharyo Suharyo, "Problematika Penegakan Hukum Penataan Ruang Dalam Pelaksanaan Otonomi Daerah," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 2 (2017): 171–82.

²⁰ Robert J Kodoatie and Roestam Sjarief, *Tata Ruang Air* (Penerbit Andi, 2010).

²¹ Achmad Fauzi, "Otonomi Daerah Dalam Kerangka Mewujudkan Penyelenggaraan Pemerintahan Daerah Yang Baik," *Jurnal Spektrum Hukum* 16, no. 1 (2019): 119–36.

Provincial government affairs that are optional include government affairs that actually exist and have the potential to improve the welfare of the community in accordance with the conditions, characteristics, and superior potential of the region concerned. A clearer and more detailed arrangement regarding the authority of the provincial government is contained in Article 13, paragraph 1 of the Government Regulation on the Division of Government Affairs, explaining that the mandatory affairs under the authority of the provincial government are affairs on a provincial scale which include:²²

- a. development planning and control;
- b. planning, utilization, and supervision of spatial planning;
- c. implementation of public order and public order;
- d. provision of public facilities and infrastructure;
- e. handling of the health sector;
- f. implementation of education and allocation of potential human resources;
- g. overcoming social problems across districts/cities;
- h. services in the field of manpower across districts/cities;
- i. facilitation of the development of cooperatives, small and medium enterprises, including across districts/cities;
- j. environmental control;
- k. land services, including across districts/cities;
- l. population services, and civil registration;
- m. government general administration services;
- n. investment administration services, including across districts/cities;
- o. the implementation of other basic services that have not been able to be implemented by the regency/municipality; and
- p. other mandatory matters mandated by legislation.

Provincial government affairs that are optional include government affairs that actually exist and have the potential to improve the welfare of the community in accordance with the conditions, characteristics, and superior potential of the region concerned. When viewed from the point of view of the boundaries of the management of coastal areas and small islands that are given by law to a province, the regional government is the authority. According to Law Number 32 of 2004 concerning Regional Government, the regional authorities regulated in this law are specifically regarding the authority in the field of resource management in the marine area as referred to in Chapter III of the Division of Government Affairs, as follows:²³

Article 18

- 1) Regions that have marine areas are given the authority to manage resources in marine areas;
- 2) Regions get profit sharing on the management of natural resources under the bottom and/or on the seabed in accordance with the laws and regulations;
- 3) The regional authority to manage resources in the marine area, as referred to in paragraph (1), includes: a. exploration, exploitation, conservation, and management of marine wealth; b. administrative arrangements; c. spatial arrangement; d. law enforcement on regulations issued by the regions or whose authorities have been delegated by the Government; e. participate in security maintenance; and f. participate in the defense of the sovereignty of the State;
- 4) The authority to manage resources in the sea area, as referred to in paragraph (3), is a maximum of 12 (twelve) nautical miles measured from the coastline towards the high seas and/or towards the archipelagic waters for the province and 1/3 (one third) of the territory provincial authority for districts/cities;
- 5) If the sea area between 2 (two) provinces is less than 24 (twenty four) miles, the authority to manage resources. In the sea area, the distance is divided equally or measured according to the principle of the centerline of the area between the 2 (two) provinces, and for the regency/city, it gets 1/3 (one third) of the area of authority of the said province;
- 6) The provisions, as referred to in paragraphs (4) and (5), do not apply to fishing by small fishermen.
- 7) The implementation of the provisions, as referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (5), shall be further regulated in the laws and regulations.

²²Lihat dalam Pengaturan lebih jelas dan terperinci mengenai kewenangan pemerintah Provinsi terdapat di dalam Pasal 13 ayat 1 Peraturan Pemerintah tentang Pembagian Urusan Pemerintahan

²³ Undang-Undang Nomor 32 tahun 2004 tentang Pemerintahan Daerah Adapun kewenangan daerah yang diatur dalam undang-undang ini adalah khusus mengenai kewenangan dibidang pengelolaan sumber daya di wilayah laut sebagaimana yang dimaksud dalam Bab III Pembagian Urusan Pemerintahan.

The granting of authority to manage coastal areas is only limited to the management of certain natural resources or almost the same as "sovereignty rights", not in the context of full control as in those owned by a country. Because in article 18 point 6 of Law 32 of 2004, it is stated that all water management provisions do not apply to fishing by small fishermen. What is meant by small fishermen, according to this article, are Indonesian traditional community fishermen who use traditional fishing materials and tools, and are not subject to a business license and are free from taxes, and are free to catch fish in all fisheries management within the territory of the Republic of Indonesia.²⁴

In addition, in the management of its territorial waters, each part of the government's authority must pay attention to national and international interests such as national and international shipping lanes (ALKI), submarine pipelines and cables, and several obligations to us as a consequence of the world's recognition of the principle of an archipelagic state as stated above. determined by UNCLOS 1982. Elucidation of Article 18, point 6 of the Regional Government Law. Even though in these coastal waters, our country has full rights (sovereignty) over all existing marine space, according to the UNCLOS provisions, according to Joko Subagyo, it still has obligations, including:²⁵

1. Respect existing international agreements;
2. Respect other legitimate activities of neighboring countries directly side by side;
3. Respect traditional fishing rights;
4. Respect and pay attention to submarine cables that exist in certain parts of inland waters that were formerly the free sea.

So with the rights and obligations of an archipelagic country, like it or not, every policy issued by the central and regional governments must pay attention to these international provisions. While in authority based on Law Number 27 of 2007 concerning PWPPPK. If the regional government law only discusses the authority of the province in the territorial waters, it is different from the law on the management of coastal areas and small islands. As a legal umbrella for the management of coastal areas and small islands, including their territorial waters, this UUPPPPK regulates various matters such as utilization and protection, including the limits of provincial authority starting from the coastal land to the small islands and surrounding waters. Among other things, Chapter IX regarding Authority, explains:²⁶

Elucidation of Article 2 "In its implementation, while the landward direction is determined according to the boundary sub-district for provincial authority."

Article 4:

- 1) The management of the Coastal Zone and Small Islands at the provincial level is carried out in an integrated manner which is coordinated by the office in charge of Marine Affairs and Fisheries.
- 2) The types of coordinated activities, as referred to in paragraph (1), include:
 - a. evaluation of each proposed activity plan for each autonomous agency or agency in accordance with the integrated Provincial Management of Coastal Zone and Small Islands;
 - b. planning for each regional agency, between districts/cities, and the business world;
 - c. provincial scale accreditation program;
 - d. recommendation for activity permit in accordance with the authority of vertical agency in the region, autonomous service, or regional agency;
 - e. Implementation of providing data and information for the Management of Coastal Zone and Small Islands in the province.
- 3) The implementation of the activities, as referred to in paragraph (2), shall be regulated by the governor.

In addition to the above authorities, in the Planning chapter, the provincial government, including the Regency/City, plays a major role in every planning process starting from the Strategic Plan for Coastal Areas and Small Islands, hereinafter referred to as RSWP-3-K; Zoning Plan for Coastal Zone and Small Islands, hereinafter referred to as RZWP-3-K; Management Plan for Coastal Zone and Small Islands, hereinafter referred to as RPWP-3-K; and the Action Plan for the Management of Coastal Zone and Small Islands, hereinafter referred to as RAPWP-3-K.²⁷ Authority based on Government Regulation Number 62 of 2010 concerning Utilization of

²⁴ S H KOESRIANTI, *KEDAULATAN NEGARA: Menurut Hukum Internasional* (Airlangga University Press, 2021).

²⁵ Riyan Bahari Kaunang, "PENEGAKAN HUKUM DI WILAYAH ZONA EKONOMI EKSKLUSIF INDONESIA (PERAIRAN NATUNA UTARA) SEBAGAI KAWASAN KLAIM LAUT CHINA SELATAN," *LEX ADMINISTRATUM* 10, no. 1 (2022).

²⁶ Zainul Akmal, "Tinjauan Yuridis Filosofis Eksistensi Kearifan Lokal," *JOELS: Journal of Election and Leadership* 2, no. 2 (2021).

²⁷ Basri, "Pengelolaan, Pengawasan Kawasan Pesisir Dan Laut Di Indonesia."

Outermost Small Islands (PPKT). This government regulation does not regulate the authority in a certain chapter title, but in certain articles, there are regulations regarding the authority of the regional government, in this case, the province, namely:²⁸

Article 14 (1)

- 1) In the context of supervising and controlling the utilization of PPKT, the Government and regional governments, in accordance with their respective authorities, carry out monitoring, field observations, and/or evaluation of the planning and implementation.
- 2) Supervision and control of the use of PPKT are carried out by certain civil servants who handle the management of coastal areas and small islands in accordance with the nature of their work.
- 3) Certain civil servant officials, as referred to in paragraph (2), are authorized to: a. conduct patrols/surveillance in the PPKT area; and b. receive reports concerning environmental destruction at PPKT.
- 4) The community can participate in monitoring the use of PPKT.

Based on Government Regulation Number 64 of 2010 concerning Disaster Mitigation in Coastal Areas and Small Islands, although there are specific regulations regarding provincial authority in disaster mitigation, several articles discuss the authority, including:²⁹

Article 6

- 1) The government and local governments, in preparing the planning for the management of coastal areas and small islands, must include disaster mitigation.
- 2) Disaster mitigation is part of a disaster management plan.

Article 18 paragraph (2):

The provincial government carries out disaster mitigation in coastal areas and small islands within the authority and across districts/cities.

Authority Based on the Regulation of the Minister of Marine Affairs and Fisheries Number PER.17/MEN/2008 concerning Conservation Areas in Coastal Areas and Small Islands. This ministerial regulation specifically regulates the division of provincial authority over conservation areas in Chapter IV regarding the Management Authority of KKP3K and KKM, which is explained in the following article:

Article 24 letter b The authority to manage KKP3K is exercised by:

- a. government for national conservation areas;
- b. provincial government for provincial conservation areas; and
- c. district/city government for district/city conservation areas.

Article 25, paragraph 2 Management authority by the provincial government as referred to in Article 24 letter b, includes:

- a. Waters and/or coastal areas and small islands, which are the authority of provincial management in accordance with statutory regulations;
- b. Water conservation areas and/or coastal areas and small islands that are within the area of inter-regency/municipal management authority.

Article 26 Paragraph 2: The authority to manage KKM for maritime cultural protection areas is carried out by:

- a. provincial government for provincial conservation areas; and
- b. district/city government for district/city conservation areas.

Article 27 Paragraph 2: The authority to manage maritime cultural protection areas by the provincial government, as referred to in Article 26 paragraph (2) letter a, includes:

- a. sea waters no more than 12 nautical miles measured from the coastline towards the high seas and/or towards archipelagic waters for the province and 1/3 of the province's authority area for the district/city;
- b. maritime culture protection area, which is within the area of cross-regency/city management authority.

Article 28 Management Authority of KKP3K, as referred to in Article 24 and/or KKM, as referred to in Article 26, is exercised by the conservation area management unit.

²⁸ Peraturan Pemerintah Nomor 62 Tahun 2010 tentang Pemanfaatan Pulau-Pulau Kecil Terluar (PPKT).

²⁹ Peraturan Pemerintah Nomor 64 Tahun 2010 tentang Mitigasi Bencana di Wilayah Pesisir dan Pulau-Pulau Kecil.

Minister of Maritime Affairs and Fisheries Regulation Number PER., 18/MEN/2008 concerning Accreditation of Coastal Zone and Small Islands Management Programs, Based on this ministerial regulation, although it does not discuss authority in the chapter title, there are several articles that touch on provincial authority, among others: Article 1 paragraph 12 "Program for the Management of Coastal Zone and Small Islands, hereinafter referred to as the PWP-3-K program, is an activity carried out by the community, individuals/legal entities, government, regional government, in supporting the integration and sustainability of natural resources, coastal areas and small islands." Article 5, paragraph 2 Delegation of the implementation of accreditation by the government to the provincial government as referred to in paragraph (1), provided that the PWP-3-K program is carried out on a. area above 4 (four) miles up to 12 (twelve) nautical miles; b. the coastal area up to 4 (four) nautical miles which is an area of more than 1 (one) regency/city.³⁰

Minister of Marine Affairs and Fisheries Regulation Number PER.20/MEN/2008 concerning the Utilization of Small Islands and Surrounding Waters.³¹

Article 5

- 1) Individuals who are Indonesian citizens and legal entities established under Indonesian law in utilizing small islands and the surrounding waters are required to submit an application to the governor or regent/mayor in accordance with their respective authorities by attaching: a. type of business plan; b. area of land use; and c. area of water to be used.
- 2) Based on the application as referred to in paragraph (1), the governor or regent/mayor, in accordance with their respective authorities, gives approval or rejection of the use of small islands and the surrounding waters.
- 3) If the application for the utilization of small islands and the surrounding waters is approved, the governor or regent/mayor, in accordance with their authority, shall determine the utilization approval as outlined in the official report.
- 4) If the application for utilization of small islands and the surrounding waters is rejected, the governor or regent/mayor, in accordance with their respective authorities, shall determine the refusal accompanied by valid reasons.

Article 10

- 1) The guidance and supervision of the implementation of the utilization of small islands and the waters around them are carried out by the Minister, governors and regents/mayors in accordance with their respective responsibilities and authorities.
- 2) The guidance and supervision of the utilization of small islands and the waters around them, as referred to in paragraph (1), includes:
 - a. giving directions, inputs and considerations in the utilization of small islands and the waters around them;
 - b. assistance with the maintenance of facilities and infrastructure;
 - c. monitoring and evaluation of the implementation of the plans that have been prepared;
 - d. increasing awareness about the importance of sustainable use of small islands and the surrounding waters; and
 - e. Reporting on the implementation of the utilization of small islands and the surrounding waters is carried out periodically and in stages at least 1 (one) time in 1 (one) year in accordance with its interests.

Minister of Maritime Affairs and Fisheries Number PER.14/MEN/2009 concerning Maritime Partners.³²

Article 4

- 1) Mitra Bahari is a cooperation forum between the Government, regional governments, universities, non-governmental organizations, professional organizations, community leaders, and/or the business world to support capacity building of stakeholders in the management of coastal areas and small islands.
- 2) Maritime Partners, as referred to in paragraph (1), can be formed at the Center and the Regions.
- 3) Regional Maritime Partners, as referred to in paragraph (2), consist of Provincial Maritime Partners and Regency/City Maritime Partners.

³⁰ Hendra Yusran Siry, "In Search of Appropriate Approaches to Coastal Zone Management in Indonesia," *Ocean & Coastal Management* 54, no. 6 (2011): 469–77.

³¹ Peraturan Menteri Kelautan dan Perikanan Nomor PER.20/MEN/2008 tentang Pemanfaatan Pulau-Pulau Kecil dan Perairan

³² Nurul Fajri Chikmawati and Evie Rachmawati Nur Ariyanti, "Kemitraan Bahari Dalam Pemanfaatan Sumberdaya Pesisir Di Indonesia," *ADIL: Jurnal Hukum* 8, no. 1 (2017): 27–68. Lihat dalam Menteri Kelautan dan Perikanan Nomor PER.14/MEN/2009 tentang Mitra Bahari.

Article 6

- 1) The formation of Provincial Maritime Partners is determined by the Governor.
- 2) The membership composition of the Provincial Maritime Partners, as referred to in paragraph (1), consists of representatives of local universities as chairman with membership consisting of relevant agencies, representatives of Non-Governmental Organizations, representatives of professional organizations, community leaders and/or representatives of the business world.
- 3) The composition of the membership of the Provincial Maritime Partners, as referred to in paragraph (2), is adjusted to the focus of its activities.
- 4) Provincial Maritime Partners, as referred to in paragraph (1), have the task of
 - a. prepare and prepare a master plan for the Provincial Maritime Partners;
 - b. prepare and prepare a work plan for the implementation of the Provincial Maritime Partners activities;
 - c. conduct a field study in order to determine the activities of the Provincial Maritime Partners;
 - d. implement implementation provisions/guidelines, a guideline for the implementation of Central Maritime Partners activities, and prepare technical guidelines for the implementation of Provincial Maritime Partners;
 - e. submit periodic reports on the progress of the Provincial Maritime Partners to the Governor with a copy to the Central Maritime Partners;
 - f. coordinate with relevant agencies in collecting data and information on coastal areas and small islands;
 - g. assisting the development of provincial partnership networks.

When viewed from the point of view of the management boundaries that are given by law to districts/cities, their authorities include: According to Law No. 32 of 2004 concerning Regional Government. The power in the sea area, as referred to in Chapter III of the Division of Government Affairs, explains the following: Article 14 (1) Mandatory affairs under the authority of the regional government for regencies/municipalities are affairs on a regency/municipal scale including:

- a. development planning and control;
- b. planning, utilization, and supervision of spatial planning;
- c. implementation of public order and public order;
- d. provision of public facilities and infrastructure;
- e. handling of the health sector;
- f. education administration;
- g. overcoming social problems;
- h. employment services;
- i. facilitation of cooperative development, small and medium enterprises;
- j. environmental control;
- k. land services;
- l. population services, and civil registration;
- m. government general administration services;
- n. investment administration services;
- o. provision of other basic services; and
- p. other mandatory matters mandated by legislation.

District/city government affairs that are optional include government affairs that actually exist and have the potential to improve the welfare of the community in accordance with the conditions, characteristics, and superior potential of the area concerned.³³

Article 18:

- 1) Areas that have marine areas are given the authority to manage resources in marine areas
- 2) Regions get profit sharing for the management of natural resources under the bottom and/or on the seabed in accordance with the laws and regulations.
- 3) The regional authority to manage resources in the marine area, as referred to in paragraph (1), includes:
 - a. exploration, exploitation, conservation, and management of marine wealth;
 - b. administrative arrangements;

³³ Yelli Meivi Dapu, "Implikasi UU N0. 23 Tahun 2014 Terhadap Kewenangan Urusan Pemerintahan Daerah Di Bidang Kelautan Dan Perikanan," *Lex Et Societatis* 4, no. 8 (2016).

- c. spatial arrangement;
 - d. law enforcement on regulations issued by the regions or whose authorities have been delegated by the Government;
 - e. participate in security maintenance; and
 - f. participate in the defense of national sovereignty.
- 4) The authority to manage resources in the marine area, as referred to in paragraph (3), is a maximum of 12 (twelve) nautical miles measured from the coastline towards the high seas and/or towards the archipelagic waters for the province and 1/3 (one third) of the territory provincial authority for districts/cities.
 - 5) If the sea area between 2 (two) provinces is less than 24 (twenty four) miles, the authority to manage resources. In the sea area, the distance is divided equally or measured according to the principle of the centerline of the area between the 2 (two) provinces, and for the district/city, it gets 1/3 (one third) of the area of authority of the province in question.
 - 6) The provisions, as referred to in paragraphs (4) and (5), do not apply to fishing by small fishermen.
 - 7) The implementation of the provisions, as referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (5), shall be further regulated in the laws and regulations.

Authority based on Law Number 27 of 2007 concerning PWPPPK.³⁴

Article 55

- 1) The management of the Coastal Zone and Small Islands at the district/city level is carried out in an integrated manner coordinated by the service in charge of marine and fisheries.
- 2) The types of coordinated activities, as referred to in paragraph (1), include:
 - a. assessment of each proposed activity plan of each stakeholder in accordance with the integrated Management of Coastal Zone and Small Islands;
 - b. planning between agencies, the business world, and the community;
 - c. regency/city scale accreditation program;
 - d. recommendation for activity permits in accordance with the authority of each autonomous agency or regional agency; and
 - e. provision of data and information for the Management of Coastal Zone and Small Islands on a regency/city scale.
- 3) The implementation of activities, as referred to in paragraph (2), shall be regulated by the regent/mayor. Other optional district/city government affairs are not included in the Chapter. IX The authority of the UUPWPPPK includes government affairs that actually exist and have the potential to improve the welfare of the community in accordance with the conditions, characteristics, and superior potential of the area concerned. Therefore, the Regency/City Regional Government is required by the UUPWPPPK to prepare a detailed Zoning Plan for each particular Coastal Zone and Small Islands within its territory. In terms of this planning, districts/cities play an important role in managing coastal areas and small islands where if you read in depth, planning starts from the district/city level as the spearhead in the management of coastal areas.

Authority based on Government Regulation Number 62 of 2010 concerning Utilization of Outermost Small Islands (PPKT).³⁵ This government regulation does not regulate the authority in a certain chapter title, but in certain articles, there are regulations regarding the authority of the district/city as an element of the regional government, namely: Article 14 216 Article 7 paragraph 5 of the UUPWPPPK.

- 1) In the context of supervising and controlling the utilization of PPKT, the Government and regional governments, in accordance with their respective authorities, carry out monitoring, field observations, and/or evaluation of the planning and implementation.
- 2) Supervision and control of the use of PPKT are carried out by certain civil servants who handle the management of coastal areas and small islands in accordance with the nature of their work.
- 3) Certain civil servant officials, as referred to in paragraph (2), are authorized to: a. conduct patrols/surveillance in the PPKT area; and b. receive reports concerning environmental destruction at PPKT.
- 4) The community can participate in monitoring the use of PPKT.

³⁴ Undang-undang Nomor 27 tahun 2007 tentang PWPPPK.

³⁵ Peraturan Pemerintah Nomor 62 Tahun 2010 tentang Pemanfaatan Pulau-Pulau Kecil Terluar (PPKT).

Based on Government Regulation Number 64 of 2010 concerning Disaster Mitigation in Coastal Areas and Small Islands, Although there is no specific regulation regarding the authority of districts/cities in disaster mitigation, there are several articles that discuss the authority of local governments, including Article 6 (1) The government and local governments in preparing the planning for the management of coastal areas and small islands are obligated to include disaster mitigation. (2) Disaster mitigation is part of the disaster management plan. Article 18, paragraph 3 District/city governments carry out disaster mitigation in coastal areas and small islands within the district/city authority.³⁶

Authority Based on the Regulation of the Minister of Marine Affairs and Fisheries Number PER.17/MEN/2008 concerning Conservation Areas in Coastal Areas and Small Islands. Article 25 paragraph 3 The management authority by the district/city government, as referred to in Article 24 letter c, includes:³⁷

- a. sea waters one third of the provincial management authority area;
- b. brackish waters, fresh waters, and/or coastal areas and small islands that are within their jurisdiction.

Article 26:

- 1) The authority to manage KKM for maritime customary protection areas is carried out by the district/city government for district/city conservation areas
- 2) The authority to manage KKM for maritime cultural protection areas is carried out by:
 - a. provincial government for provincial conservation areas; and
 - b. district/city government for district/city conservation areas.

Article 27:

The authority to manage maritime customary protection areas in coastal areas and small islands by the district/city government, as referred to in Article 26 paragraph (1), covers land and waters in one or several villages or sub-districts within the district administrative area /city.

- 3) The authority to manage maritime cultural protection areas by the district/city government, as referred to in Article 26 paragraph (2) letter b, includes:
 - a. sea waters one third of the provincial management authority area;
 - b. brackish waters, fresh waters, and/or coastal areas and small islands that are within their jurisdiction.

Minister of Maritime Affairs and Fisheries Regulation Number PER., 18/MEN/2008 concerning Accreditation of Coastal Zone and Small Islands Management Programs, Based on this ministerial regulation, although it does not discuss authority in the chapter title, there are several articles that touch on provincial authority, among others: Article 5 paragraph 3: Delegation of the implementation of accreditation by the government to the district/city government as referred to in paragraph (1) provided that the PWP-3-K program is carried out on a. sub-district or village administrative area; b. coastal areas up to 4 (four) nautical miles.³⁸ Minister of Marine Affairs and Fisheries Regulation Number PER.20/MEN/2008 concerning the Utilization of Small Islands and Surrounding Waters. The authority of the district/city can be found in the articles:

Article 5:

- 1) Individuals who are Indonesian citizens and legal entities established under Indonesian law in utilizing small islands and the surrounding waters are required to submit an application to the governor or regent/mayor in accordance with their respective authorities by attaching:
 - a. type of business plan;
 - b. area of land use; and
 - c. area of water to be used.
- 2) Based on the application as referred to in paragraph (1), the governor or regent/mayor, in accordance with their respective authorities, gives approval or rejection of the use of small islands and the surrounding waters.
- 3) If the application for the utilization of small islands and the surrounding waters is approved, the governor or regent/mayor, in accordance with their authority, shall determine the utilization approval as outlined in the official report.

³⁶ Peraturan Pemerintah Republik Indonesia Nomor, "Tahun 2010 Tentang Mitigasi Bencana Di Wilayah Pesisir Dan Pulau-Pulau Kecil," 64AD.

³⁷ Peraturan Menteri Kelautan dan Perikanan Nomor PER.17/MEN/2008 tentang Kawasan Konservasi di Wilayah Pesisir dan Pulau-Pulau Kecil

³⁸ Peraturan Menteri Kelautan dan Perikanan Nomor PER.18/MEN/2008 tentang Akreditasi Terhadap Program Pengelolaan Wilayah Pesisir dan Pulau-pulau Kecil

- 4) If the application for utilization of small islands and the surrounding waters is rejected, the governor or regent/mayor, in accordance with their respective authorities, shall determine the refusal accompanied by valid reasons.

Article 10

- 1) The guidance and supervision of the implementation of the utilization of small islands and the waters around them are carried out by the Minister, governors and regents/mayors in accordance with their respective responsibilities and authorities.
- 2) The guidance and supervision of the utilization of small islands and the waters around them, as referred to in paragraph (1), includes:
 - a. giving directions, inputs and considerations in the utilization of small islands and the waters around them;
 - b. assistance with the maintenance of facilities and infrastructure;
 - c. monitoring and evaluation of the implementation of the plans that have been prepared;
 - d. increasing awareness about the importance of sustainable use of small islands and the surrounding waters; and
 - e. Reporting on the implementation of the utilization of small islands and the surrounding waters is carried out periodically and in stages at least 1 (one) time in 1 (one) year in accordance with its interests.

Minister of Marine Affairs and Fisheries Regulation Number PER.14/MEN/2009 concerning Maritime Partners. The authority of the district/city can be found in the articles:³⁹

Article 4:

- 1) Mitra Bahari is a cooperation forum between the Government, regional governments, universities, non-governmental organizations, professional organizations, community leaders, and/or the business world to support capacity building of stakeholders in the management of coastal areas and small islands.
- 2) Maritime Partners, as referred to in paragraph (1), can be formed at the Center and the Regions.
- 3) Regional Maritime Partners, as referred to in paragraph (2), consist of Provincial Maritime Partners and Regency/City Maritime Partners.

Article 7:

- 1) The establishment of Regency/City Maritime Partners is determined by the Regent/Mayor.
- 2) The membership composition of Regency/Municipal Maritime Partners, as referred to in paragraph (1), consists of representatives of local universities as chairpersons with membership consisting of relevant agencies, representatives of Non-Governmental Organizations, representatives of professional organizations, community leaders and/or representatives of the business world.
- 3) The membership composition of the Regency/City Maritime Partners, as referred to in paragraph (2), is adjusted to the focus of its activities.
- 4) Regency/Municipal Maritime Partners, as referred to in paragraph (1), have the following duties:
 - a. prepare and prepare a master plan for Regency/City Maritime Partners;
 - b. carry out the work plan for the implementation of the Regency/City Maritime Partners activities;
 - c. conduct a field study in the framework of the proposed activities of Regency/City Maritime Partners
 - d. implement the provisions/implementation instructions, guidelines for implementing the activities of the Central Maritime Partners, and technical instructions for the implementation of the Provincial Maritime Partners;
 - e. coordinate with relevant agencies in collecting data and information on coastal areas and small islands;
 - f. assisting the development of partnership networks in districts/cities.

³⁹ Peraturan Menteri Kelautan dan Perikanan Nomor PER.14/MEN/2009 tentang Mitra Bahari

4. Conclusion

Based on the two main points of the discussion above in this paper, the conclusions are as follows:

1. The authority of the Regional Government in Managing Coastal Areas and Small Islands is regulated in Law no. 1 of 2014 concerning the Management of Coastal Areas and Small Islands, namely the management of coastal areas and small islands, including planning, utilization, monitoring, and controlling activities for human interaction in utilizing coastal resources and small islands as well as natural processes naturally in an effort to improve community welfare and maintain the integrity of the Unitary State of the Republic of Indonesia.
2. Legal sanctions imposed for violating the management of coastal areas and small islands are, for example, sand mining which has a negative impact on the environment which can threaten the marine coastal ecosystem and surrounding small islands and can also have an impact on the surrounding community. The sanctions are administrative sanctions in the form of a written warning, temporary suspension activities, closure of locations, revocation of permits, cancellation of permits, and/or administrative fines.
3. Based on the results of the study, the authors conclude that the provisions of rights such as material rights and permits are the same, meaning that all rights require permission, in the application for permission will give birth to new rights. The use of rights has been recognized as having rights at the beginning but not yet tangible because they must be fulfilled with permits, while in the application for permits, after the requirements for these permits have been submitted, the permits have become important because the rights have been obtained, in addition to the use of permits more lenient. The most important thing is the substance of the form of the permit. The IP-3 concept does not require customary law communities in the use of coastal resources and small islands to have IP-3. However, IP-3 still provides great opportunities and facilitates capital owners to control the sea coast and small islands. The existence of communities in coastal areas and small islands is still a weak party for the existence of these corporations.

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