

CHAPTER ONE

INTRODUCTION

A. Background

As the largest archipelago country in the world with more than 17,000 islands stretching along the equator with an ocean area of 75% of total areas as well as high marine biodiversity and coastal communities, Indonesia needs to ensure that the implementation of policies regarding marine area is in accordance with the needs of the community.¹ It also considers maintaining the preservation of conservation areas and sustainable use of marine resources in a better way.

A marine conservation area or what so-called a Marine Protected Area (MPA) is an area declared as territorial waters including flora, fauna, cultural features that are legally protected.² As a common property, marine resources has enormous benefits for life and the surrounding community. The damage that occurs in the marine territory also greatly impact all living things on earth. Therefore, to ensure that the potential resources in the marine area are maintained, institutions play an important role in this matter.³

¹ Widia Edoorita, 2019, "Keberlanjutan Pembangunan Sumber Daya Perikanan Berbasis Penegakan Hukum dalam Penggunaan Alat Tangkap Perikanan", *Riau Law Journal*, Vol. 3, No. 2, p.209.

² Clarke Beverley, Ruth Thurstan, Katherine Yates, 2016, "Stakeholder Perceptions of a Coastal Marine Protected Area", *Journal of Coastal Research*, Special Issue Vol. 1, No. 75: Proceedings of the 14th International Coastal Symposium, p.622.

³ Måns Nilsson, 2017, *Important Interactions Among the Sustainable Development Goals under Review at the High-Level Political Forum 2017*, Sweden: Stockholm Environment Institute, p.31.

Marine Protected Area in Indonesia is known as *Kawasan Konservasi Perairan (KKP)*.⁴ According to the Government Regulation Number 60 of 2007 concerning the Conservation of Fish Resources, *KKP* is defined as protected territorial water managed by a zoning system to realize sustainable management of fish resources and the environment.⁵ As a system of regulations in the Marine Protected Area established by an institution that applies comprehensively and legally binding regulations have an important role as an order or guidance for achieving the goals of sustainable development in Indonesia.

In line with the development of laws and policies in the field of Marine Protected Area in Indonesia, it requires Indonesia to adopt International legal provisions concerning Conservation and Sustainable Use of Marine Resources. By adopting several principles of International Standards of Behavior such as the Code of Conduct for Responsible Fisheries (CCRF)⁶ without prejudice to national identity and legal provisions and policies in Indonesia, harmonization of legal processes and policies internationally can be carried out within Indonesian territorial waters.

One of the agreements issued at the 70th United Nations Assembly, namely the Sustainable Development Goals (SDGs), is an advanced

⁴ Didik Santoso, 2017, "Model Pengelolaan Perikanan Tangkap Berbasis Kawasan Konservasi Perairan (KKP) Untuk Meningkatkan Hasil Tangkapan Nelayan-Suatu Pendekatan Teoritis", *Jurnal Biologi Tropis*, Vol. 17, No. 2, p.35.

⁵ Government Regulation Number 60 of 2007 concerning Conservation of Fish Resources.

⁶ Muhammad Insan Tarigan, 2015, "Upaya Konservasi Indonesia atas Sumber daya Ikan di Laut Lepas", *FIAT JUSTISIA: Jurnal Ilmu Hukum*, Vol. 9, No. 4, p.568.

program of the Millennium Development Goals (MDGs) agreed by 193 United Nations member countries in September 2015.⁷ The fundamental difference between the MDGs and the SDGs is that in the process, the implementation of the MDGs places great responsibility on the development targets for developing and least developed countries, without giving a balanced role to developed countries. Meanwhile, the SDGs are universal in providing a balanced role for developed countries, developing countries, and least developed countries in order to fully contribute to their involvement in the development process.⁸ Thus, each country plays a role and has the same responsibility in achieving the SDGs.

In the previous agenda, namely in the MDGs framework, the environment was only mentioned under one goal (goal 7) is Ensuring Environmental Sustainability. Meanwhile, this agenda further strengthens the central role of environmental factors and makes the environment the basis for all development results.⁹ In July 2012, the UN Secretary-General appointed President Susilo Bambang Yudhoyono as co-chair of the High-Level Panel of Eminent Persons (HLPEP) with David Cameron (PM UK) and Ellen Johnson Sirleaf (President of Liberia). In the development agenda prepared by this forum, it is expected that it will become an open, inclusive channel and involve various parties in formulating input related to the post-

⁷ UN Document, *Transforming our World: The 2030 Agenda for Sustainable Development*, p.3.

⁸ Sekar Panuluh, Meila Riskia Fitri, 2016, "Perkembangan Pelaksanaan Sustainable Development Goals (SDGs) di Indonesia", *International NGO Forum on Indonesian Development*, Briefing Paper 02, p.4-5.

⁹ Badan Pusat Statistik, 2014, *Kajian Indikator Sustainable Development Goals (SDGs)*, Jakarta: Badan Pusat Statistik, p.3.

2015 development agenda.¹⁰

The Sustainable Development Goals are the global action plan agreed upon by world leaders, including Indonesia, which aims to deliver a new era of sustainable development based on the principle of ‘No One Left Behind’ which is targeted to be achieved by 2030. In this research, the author will be focusing on discussing the 14th goal of the SDGs which centered on fisheries, including coastal forest¹¹. The targets set in SDG14 consist of marine spatial planning and sustainable management of marine areas, fishing within safe biological boundaries, and eradicating Illegal, Unreported, Unregulated (IUU) fishing, increasing marine conservation areas and sustainable use, as well as support and protection for the fishermen.¹² The efforts made to achieve these targets are described in the policies, programs, and activities that will be conducted by the government and non-governmental organizations.

Effective management of marine, coastal, and conservation areas in accordance with economic principles can guarantee the efficient use of natural resources, as an effective source to support other uses in an environmentally friendly manner, and it can generate economic benefits for local communities. Conservation has become demands and needs that must be met as a harmonization of the community’s economic needs and the desire to continue conserving the existing resources for the future

¹⁰ Badan Pusat Statistik, *Op. Cit*, p.4.

¹¹ Friess, et al, 2019, *Sustainable Development Goals: Their Impacts on Forests and People*, United Kingdom: Cambridge University Press, p.445.

¹² Måns Nilsson, *Op. Cit*, p.4.

generation. Nowadays, the main problem faced in the management of fisheries resources is economic policies that lead to the exploitation of fishery resources, resulting in weak management and law enforcement institutions. In addition, both in the central government and in regional governments the application of sustainable development principles into government systems, organizations and work programs are still not running well.¹³

Since the enactment of the Law Number 31 of 2004 concerning Fisheries as amended by the Law Number 45 of 2009, the Law Number 32 of 2004 concerning Regional Government, and the Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands as amended by Law Number 1 of 2014, the management of conservation areas are entering a new era. In terms of the authority to manage conservation areas, it is no longer belongs to the central government but has been partially decentralized to become the responsibility of the regional government as regulated in this law. Management of Marine Protected Areas is regulated by a zoning system, one of the zoning system is a sustainable fisheries zone. It has never been known and regulated in the previous conservation area management regulations.¹⁴

In the fourth amendment, the provisions of Article 33 paragraph (4)

¹³ Imam Subekti, 2010, "Implikasi Pengelolaan Sumberdaya Perikanan Laut di Indonesia Berlandaskan Code of Conduct for Responsible Fisheries (CCRF)", *QISTIE*, Vol. 4, No. 1, p.40.

¹⁴ Direktorat Jenderal Pengelolaan Ruang Laut Kementerian Kelautan dan Perikanan, "Konservasi Untuk Kesejahteraan", available at <http://kkji.kp3k.kkp.go.id/index.php/beritabar/267-14th-konservasi-untuk-kesejahteraan>, accessed on October 14th 2020 at 09:20 PM.

of the 1945 Constitution stated that:¹⁵

“The National Economy is carried out based on Economic Democracy with the principles of togetherness, efficiency with justice, sustainability, environmental insight, independence, and by maintaining a balance between progress and national economic unity.”

In line with the provisions of the 1945 Constitution, all national development policies must be implemented based on the environmental perspective and sustainability. However, the reality that we face today is not in accordance with what is described in the constitution. As we can see, many problems are facing Indonesia today. Sources of foodstuffs, oil, and gas, and other benefits obtained from the sea have faced serious problems resulting from marine pollution, overfishing, overexploitation of marine resources, misuse of conserving of protected areas, and others.¹⁶ Therefore, the utilization and management of marine and fisheries resources should regard the sustainable use aspects as stated in the 14th SDG.

The 14th Sustainable Development Goals is targeted to effectively increase sustainable management and protect the coastal and marine ecosystems as well as the resources that address threats such as pollution and ocean acidification.¹⁷ The knowledge-based management plan is expected to restore fish stocks appropriately in the shortest possible time, at least to a level that can produce maximum sustainable yields for their

¹⁵ The 1945 Constitution Article 33 paragraph (4).

¹⁶ Ria Tri Vinata, 2017, “Power of Sharing Sumber Daya Kelautan Republik Indonesia”, *Legality: Jurnal Ilmiah Hukum*, Vol. 24, No. 2, p.217.

¹⁷ Friess, et al, *Op. Cit*, p.446.

biological characteristics. With the implementation of SDG14, it is to be expected that the improvement of marine habitats can also raise educational awareness of the challenges faced in the marine environment.

Sustainable management of marine resources cannot be separated from its conservation function. Conservation is believed to be an important effort that can save the availability of potential resources for the present and future generations. The target of conservation is reducing pollution in marine areas and protecting marine areas, while sustainable use of marine resources will center on sustainable fishing and target increasing economic benefits.¹⁸ Therefore, the right legal and policy framework must be formulated to utilize and conserve biological resources in marine waters.

Based on the background that has been mentioned above, it is necessary to conduct research on the direction of policy or legal politics from the existing legal framework, namely the Presidential Decree Number 59 of 2017 concerning the Implementation of Achieving the Sustainable Development Goals, as well as the forms of initiatives that have been carried out by the Government in the context of conservation and sustainable use of marine resources to realize sustainable development in Indonesia. With the existence of this regulation, it can be used as a legal basis for the implementation of the 14th SDG as evidence of the Indonesian Government's political commitment to achieving Sustainable Development Goals.

¹⁸ Direktorat Jenderal Pengelolaan Ruang Laut Kementerian Kelautan dan Perikanan, *Loc. Cit.*

In this research, the discussion is a progress from research that has been conducted by Sekar Panuluh and Meila Riskia Fitria (2016) on the Development of SDGs Implementation in Indonesia. In general, the research discusses the development and progress of the SDGs implementation in Indonesia during one year which includes the drafting of the legal framework for the implementation of the SDGs in Indonesia. However, this research is different from prior research. The discussion will be focusing on the preparation of the legal framework especially for the 14th SDG related to the sustainable use of marine resources and legal protection of mangrove conservations. Furthermore, the author elaborate on the Government's initiatives in responding to the implementation of the 14th SDG in Indonesia.

B. The Problem Statements

1. How is the legal framework and government policies related to Conservation and Sustainable Use of Marine Resources?
2. Are the legal framework and government policies related to the Conservation and Sustainable Use of Marine Resources appropriate and effective in realizing the 14th Sustainable Development Goals in Indonesia?

C. Objectives of Research

1. To find out the legal framework and government policies related to Conservation and Sustainable Use of Marine Resources in Indonesia.

2. To analyze the appropriacy and effectiveness of the legal framework and government policies related to the Conservation and Sustainable Use of Marine Resources in realizing Sustainable Development Goals 14 in Indonesia.
3. To Propose some preventive actions to respond the implementation of the 14th Sustainable Development Goals in Indonesia.

D. Benefits of Research

1. Theoretical Benefits

The study is beneficial for the development of legal science in Administrative Law by discussing on the regulatory framework and the Government policies or initiatives regarding conservation and sustainable use of marine resources, particularly on the issue of fisheries and mangrove conservation.

2. Practical Benefit

The study can be used to propose the government to take decisive actions to respond on the implementation of the 14th SDG in Indonesia.