A Critical Analysis of Legal and Policy Initiatives on Community Based Fisheries Management in Indonesia

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Introduction

- Indonesia is an archipelagos countries consisting more than 17,508 islands, which has 81,000 kilometres of coastline and more than one million fishers.
- 99% of fisherman in Indonesia is small scale fisherman or artisanal fisherman.
- Problems in fisheries sectors in Indonesia
- Overfishing, illegal fishing, destructive fishing, and poverty of traditional or artisanal fishermen
Maps fisheries resources
Management of Fisheries in Indonesia

- Centralization (Act No 31/2004) fisheries law
- Decentralization (Act No 22/99) revised by the act No 32/2004 on autonomy law.
- Community Based Fisheries Management
Decentralization

- With the decentralization, under article 18 the law no 32/2004 concerning autonomy law states the local government has given the authority on the management of marine and coastal resources except for the sea bed which remain under central government control.

- The local regions which have marine area is given the authority to manage marine resources in their area. This authority include:
  a. Exploration, exploitation, conservation and management of marine resources
  b. Administrative function
  c. Spatial planning
  d. Law enforcement of the local regulation and central legislation
  e. Support in Security issue
  f. Support in Defence
CBFM

- Community based fisheries management play important role in solving the major problem in fisheries sector

- CBFM has many positive roles, including improving livelihood security, access equity and conflict resolution, resources conservation, and ecological sustainability.
Community Based Fisheries Management

- Article 6 (2) the act no 31/2004 on fisheries states fisheries management should consider customary law and or local knowledge and also consider community participation.
- The existing Adat law, customary institutions in Indonesia in fisheries management such as: Panglima laot, sasi, mane’e, awig-awig,
- Traditional communities is defined in act no 27/2007 on management of coastal and small islands as the traditional fisheries communities which recognizes its traditional rights to catch fish and others activities in certain areas in Indonesia archipelagic waters.
The Threat to traditional fishing rights

- HP3 (The rights to utilize marine and coastal areas) Privatization or concession regime in marine and coastal areas in the act no 27/2007 (pro rich policy)

- The coalition of NGOs brought this act for judicial review to Constitutional Court in 2010-2011 and Constitutional court gave the decision that Hp3 is in-constitutional. It contravene with the article 33 (4) 1945 Constitution which states all natural resources uses for the benefit of all citizen.

- HP3 is given for 20 years period and can be renewed for first stage a 20 year and for a second term in accordance with the law and legislation.

- Fisheries management in cluster system the Ministry of fisheries regulation no. 5/2008 article 74 which states commercial fishing on the based of cluster should consider the local fisherman.
Community Based Fisheries Management: Examples

• Panglima laot is customary institution in Aceh has duties:
  ▪ Preserving and observing traditional law of fishing
  ▪ There some days of closed season/prohibit to fish
  ▪ Sharing the fishing ground
  ▪ Its prohibited to use bomb, poison to take coral reef, ornamental fish
  ▪ Coordinating fishing in the sea
  ▪ Solving dispute which happened between members
  ▪ Organizing and holding the traditional ceremony in sea
  ▪ Protecting mangrove and trees in sea shores from illegal cutting.
  ▪ Become a mediator between fisherman and government
  ▪ Giving sanctions as law enforcer.
Community Based Fisheries Management

- Structure of Panglima Laot
  1. Panglima laot lhok
  2. Panglima laot district
- Structure Panglima laot Lhok
  1. Advisory
  2. Chairman
  3. Secretary
  4. Treasurer
- The structure of court institution of customary law
Maps Panglima laot Lhok Kruet
Community Based Fisheries Management

- AWIG-AWIG (Bali and Lombok)
  Activities:
- Establish MPA (Village) = No take Zone, buffer zone
- Enacted village regulation with the sanctions
- Coral reef transplantation/ rehabilitation
- Establish pecalang laut (coast guard)
- Apply environmental-friendly method to collect aquarium fish
Conservation

- The law No 27/2007 regulate conservation (Decentralize)
- Article 28: The aims of conservation are:
  - to conserve and protect coastal ecosystem and small island
  - Protecting migratory fish
  - Protecting sea biota habitat
  - Protecting traditional cultural sites
  - Maintenance of traditional customary law institutions *sasi*: Maluku, *mane’e panglima laot*: Aceh, *awig-awig*
- **Manage by Government (Central and local) how about local community?**
- **There is no Provision on Community Based Coastal Management (CBCM) or Co-management (NOT RECOGNIZED)**
Public Participation

A Hierarchy of Co management arrangements (Berkes, 2004)
Conflict Management

There are four types of conflict

- Class conflict between traditional and modern one;
- Orientation conflict between friendly fishing gear and destructive fishing gear uses;
- The agrarian conflict the conflict of fishing ground
- Primordial conflict, the conflict of ethnic identity of fishers. (Arif Satria, 2002)
Conclusion

• CBFM play important role in supporting sustainable fisheries management as communities of fishers can regulate access; enforce rules through community institutions and social practices to use fisheries resources sustainably.

• There are barriers to develop this community based fisheries management from the legislations. The law № 32/ 2004 on decentralization is only decentralize the power and authority to local government. It is not further decentralize the authority to local level (village level). In addition, it is argued that there is no article within the revised Fisheries Law № 31/2004 that explicitly addresses devolution to the local people as a recognition to the community based fisheries management (CBFM) system.