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# APPROVAL ON THE SUITABILITY OF THE USE OF MARINE SPACE FOR THE PLACEMENT OF PLANTING *BAGAN* BY TRADITIONAL FISHERMAN IN THE COASTAL OF KAPEDI VILLAGE

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## ABSTRACT

Apart from working as fishermen, the coastal community in Kapedi Village also catch fish by planting *bagan* in coastal waters. *Bagan* is very effective as a fishing tool. The fish caught using this *bagan* are of good quality and are not physically damage so that they can compete in traditional markets. Besides that, catching fish using a *bagan* is not too risky for the safety of the fishermen. Almost all of the fishermen from Kapedi Village stopped fishing by boat and switched to planting *bagan* on the surface of the coastal waters. The purpose of this study was to determine the practice of controlling coastal waters by traditional fishermen who plant *bagan* fishing gear and to assess the suitability of these traditional fishing activities based on existing regulations. To achieve the objectives of this study, empirical juridical research methods have been used with a fact approach. The results of the study show that the traditional fisherman planting *bagan* in Kapedi Village is one of the subjects who can take advantage of sea space, therefore they are required to have Sea Space Utilization Activity Conformity (Kesesuaian Pemanfaatan Ruang Laut) issued by the Ministry of Maritime Affairs and Fisheries. All *bagan* planting activities on the surface of coastal waters are required to have a Sea Space Utilization Activity Conformity (KPRL) Form of Sea Space Utilization Activity Suitability for fishermen in Kapedi Village based on Government Regulation Number 21 year 2021 in the form of facilitation by the Regional Government.

**Keywords:** *Obligation, Suitability, Space, Ocean, Facilities*

## 1. INTRODUCTION

Indonesia is the largest archipelagic country in the world with 17,504 islands [1] and emphasized in Article 25 Letter (A) of the 1945 Constitution of the Republic of Indonesia which states that "The Unitary State of the Republic of Indonesia is an archipelagic State with archipelago characteristics with territories and boundaries and rights stipulated by law". The land of Indonesia consists of several small to large islands.

The natural wealth of marine and coastal resources owned by Indonesia is very large, including fishery resources, biological resources such as mangroves, coral reefs, seagrass beds and

mineral resources such as oil and natural gas including other mining materials that have high economic value. [2]

The development and management of coastal and marine areas in Indonesia including the protection of the rights of coastal communities is not only the responsibility of the central government, but this authority has been delegated to local government.

Referring to Article 33 paragraph (3) of the 1945 Constitution concerning processing of natural resources. It can be concluded that there are several elements that form the basis of State control and exploitation of natural resources, namely elements;

[3] 1. Natural resources are controlled by the State, especially the branches of production which affect the lives of many people. 2. The branches of production are controlled by all, for all, under the leadership or ownership of community members. 3. It is used for the greatest prosperity of the people, not for the prosperity of individuals. it is necessary for the State to pay attention to the activities carried out by coastal communities, in which in fulfilling their lives, the majority of coastal communities' livelihoods are by utilizing the marine wealth that is around them, as carried out by coastal communities in Kapedi Village, Bluto District, Sumenep Madura Regency. The majority of the people in Kapedi Village work as fishermen and traders of fish they catch themselves.

Apart from working as fishermen, the coastal community in Kapedi Village also catch fish by making fishing *bagan* in coastal waters. *Bagan* is a hut-like frame made of bamboo and is intended as a tool for catching fish. The coastal community in Kapedi Village, Bluto District, Sumenep Regency used to call it *pagen*. *Bagan* is very effective as a fishing tool, so the catch of fish using the chart is of good quality so that it can compete in traditional markets. In addition, catching fish using a *bagan* is not too risky for the safety of fishermen. rainy season storm. This is at risk of sinking the fishermen's boats and even the lives of the fishermen.

The culture of planting *bagan* on the surface of coastal waters to catch fish is increasingly practiced by traditional fishermen in Kapedi Village. Fishermen in Kapedi Village exercise control over the coastal area by making planting *bagan* as a form of business in making a living. Even though as a citizen of Indonesia you have the right to enjoy natural resources, there are restrictions made by the state so that sustainability is maintained. The state has regulated mechanisms for natural resource management by both individuals and legal entities. Specifically for coastal and marine resources, based on the Job Creation Law Number 6 of 2023 (UU Cipta Kerja) and Government Regulation Number 21 of 2021 stipulates that management must comply with marine space utilization activities (KPRL). Thus fishermen in Kapedi Village as part of the subjects involved in the management of sea space must comply with the rules set by the government.

### **1.1. Problem Formulation**

1. What is the status of rights to the placement of planting *bagan* by traditional fishermen in the waters of Kapedi Village?
2. Is the placement of planting charts in the coastal waters of Kapedi Village not in conflict with the provisions on the use of sea space in Government Regulation Number 21 of 2021?

### **1.2 Research Objectives**

The aim of this research is:

1. To find out how the status of the right to control over the *bagan* by fishermen in the coastal waters of Kapedi Village.
2. To explain the suitability of space utilization activities for placing planting plans with the provisions in Government Regulation Number 21 of 2021?

### **1.3 Research Methods**

Study type which will be used in this research is non-doctrinal legal studies (*socio legal research*) with a factual approach to identify and clarify findings of non-legal material by looking at legal aspects of social interaction in the traditional fishing community in Kapedi Village.

## **2. RESULTS AND DISCUSSION**

### **2.1. Status of Right to Placement of Planting Bagan By Traditional Fishermen in Kapedi Village Waters**

Kapedi fishermen are a group of people who live on the south coast of Madura Island, Kapedi Village, the administrative area of Bluto District, Sumenep Regency. Sumenep Regency is one of the Regencies in East Java Province, Indonesia. Most of the Kapedi community work as fishermen, in fishing activities the majority of fishermen in Kapedi Village use planting *Bagan*. Planting *Bagan* are fishing gear built in coastal areas as a means of fishing that are owned and controlled by individuals and not groups. The use of these *bagan* has become a hereditary activity. This happens because fishing activities using planting materials are considered safer and do not have to require a lot of workers.

The making and planting of *bagan* carried out by traditional fishermen in Kapedi Village is intended as an effort to fulfill their daily needs. Therefore, this community is included in the criteria as a traditional fisherman. The main fishing gear for fishing nets is made of bamboo and nets,

arranged into a rectangular arrangement of bamboo which is stuck and stands above the water. In the middle of the building, a net is installed so that the planting bagan does not shift or move from its initial position. Planting bagan are settled in a place with a long period of time.

The main element of the bagan is the use of lights, in order to attract the formation of fish that have positive phototactic properties. Basically, the arrangement of the bagan consists of two parts, namely the bagan house and the bagan leaf. The workings of the planting bagan are carried out at night by exploiting the nature of fish which are sensitive to light stimuli. By using a petromax light that is deliberately installed in the planting bagan, it will stimulate fish to approach the direction of the light, so fishermen can more easily catch fish.

Interview with Mr. Romzi Arifin, one of the bagan owners who lives in Nyanlong Hamlet, Kapedi Village, that fishing by setting up planting bagan in coastal areas has been his main job since his grandfather.[4] Adnan, Head of Kapedi Village, confirmed in 2019 that traditional fishermen in his village have been cultivating bagan for generations and there are no permits or special requirements to be able to control these waters [5]

Article 1 paragraph 35 of Law Number 1 of 2014 stipulates that "*traditional community is a traditional fishing community whose traditional rights are still recognized in carrying out fishing activities or other legal activities in certain areas within archipelagic waters in accordance with the rules of international law of the sea.*"

Several criteria for traditional fishermen, namely:<sup>[4]</sup>

- a. The fishermen concerned have traditionally caught fish in certain waters for generations
- b. Using tools that are selective and not prohibited and determined by the area.
- c. It must be done by an individual and not in the form of a company.

From the several criteria for fishermen above, fishermen in Kapedi Village are included in traditional fishermen, this is because fishing activities are carried out only to meet the needs of daily life and the fishing gear used is still classified as traditional fishing gear, such as making bagan, boats and fishing rods.

The fishing gear for fishing bagan is one of the types of fishing gear commonly used to catch fish by traditional fishermen in Kapedi Village, to be precise in the waters of the Madura Strait, NLP zone 3507-02, Sumenep Regency, using a 5 gross

ton (GT) boat as a means of transporting fish. catch. Planting bagan fishing gear is included in the type of lift net fishing gear, there are several types of fishing gear that belong to the type of lift net fishing gear, namely anco (*portable lift nets*), boat lift nets (*boat-operated lift nets*), and planting bagan or planting bagan (*shore-operated lift nets*).

Poriginally 27 verses 4 regulation of the Minister of Maritime Affairs and Fisheries Number 71 Year 2016 regulates the use of planting bagan or step bagan. In the article it states that the size of the planting bagan structure is less than 10 meters long and less than 10 meters wide, while the mesh size is  $\geq 1$  mm and the fishing aids must use a lamp whose power must be less than 2000 watts. Operationa of fishing gear to this planting bagan assigned to lines A1 and B1 based on regulation of the Minister of Maritime Affairs and Fisheries Number 71 Year2 016 Which have meaning :

- a. A1 : covers coastal waters up to 2 (two) nautical miles measured from sea level at the lowest.
- b. B1 : includes coastal waters beyond 2 (two) nautical miles up to 4 (four) nautical miles.

Thus the Fishermen of the Kapedi Village cropping bagan based on existing provisions are part of the subject with the criteria of a traditional community who can have the right to utilize sea space and meet standards for using fishing gear that are not prohibited.

## **2.2 Placement of Planting Bagan by Traditional Fishermen of Kapedi Village in the Conformity of Marine Spatial Utilization Activities**

Prior to the entry into force of the Job Creation Law Number 6 of 2023 in article 16 of Law Number 27 year 2007 as amended by Law Number 1 of 2014 it requires everyone who uses coastal space to have a location permit. However, it is an exception for the Customary Law Community who have customary/ulayat rights to the sea, while for traditional communities who meet the criteria of traditional fishermen or small fishermen, licensing is facilitated by the state.

After the entry into force of the Job Creation Law, the location permit changed to the Sea Space Utilization Conformity Agreement (PKPRL). It is still the same as the old provisions regarding the suitability of the use of sea space specifically for traditional fishermen facilitated by the state.

The Approval of Conformity for the Utilization of Sea Space becomes the basic license in the framework of the obligation to have a business permit. This basic provision is regulated in Article 16 of the Job Creation Law Paragraph (1) that everyone who makes use of the space from coastal waters as referred to in paragraph (1) must fulfill a business permit related to the utilization of the sea from the Central Government.

This provision clearly stipulates that all utilization of coastal space must have approval for the Conformity of Utilization of Sea Space. The consequence of the issuance of the KPRL ultimately obliges the holder to pay income to the state which is called Non-Tax State Revenue (PNBP). Of course this will burden traditional fishermen whose fishing activities are only enough to meet their daily needs. In order not to be burdensome, the implementing regulations for the Job Creation Law, namely Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning, provide provisions regarding the facilitation of KPRLs by the state. This provision is regulated in Article 175 PP Number 21 of 2021 that Facilitation of Approval of Conformity of Spatial Utilization Activities as referred to in Article 67 letter f in Coastal Waters, waters areas, and jurisdictional areas is granted by the Central Government to Traditional Communities and Local Communities that carry out Sea Spatial Utilization to meet the needs of daily life. Meanwhile, Paragraph (4) stipulates that.

The Traditional Communities and the Local Communities who have facilitated the Agreement on the Conformity of Activities for the Utilization of Sea Space as referred to in paragraph (1) are issued by the regent/mayor.

Fishermen in Kapedi Village who are currently using sea space to catch fish using a bagan are also required to have approval for Activity Conformity' Utilization of Sea Space. However, this approval must be facilitated by the District Head of Sumenep Regency based on the results of the identification proposed by the Head of Village through the Camat.

### 3. CONCLUSION

Fishermen in Kapedi Village are classified as part of the traditional community. Traditional fishermen who depend on natural resources to meet their needs also have the same rights to use and manage sea space.

The placement of the planting bagan by Kapedi fishermen does not fulfill the provisions in Law PP Number 21 of 2021, because the Regent as the head of the Sumenep Regency regional area has not facilitated them to obtain Approval for the Conformity of Utilization of Marine Space.

### 4. RECOMMENDATIONS

It is time to identify the control of the coastal space carried out by the traditional fishermen of Kapedi Village for the following purposes: 1) Ensuring planting chart fishing gearfishermen have complied with the standards in force, 2) Proposed facilitation of approval for conformity of sea space utilization activities.

### AUTHORS' CONTRIBUTIONS

**Rina Yulianti**, contributed to the design of fieldwork and correspondence

**Safi**, contribute to the collection of legal data and analysis of legal data.

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### REFERENCES

- [1] Ramlan, "the legal concept of fisheries governance" press equivalent, march 2015, page 1
- [2] Rokhimin Dahuri, "management of coastal and oceanic areas in line with the implementation of regional autonomy", *Journal of Coastal Area Management*, Vol. 17 No. 2 April-June 200, hlm 140
- [3] Ahmad Redi, *Hukum Sumber Daya Alam Dalam Sektor Kehutanan*, Sinar Grafika Jakarta: 2015, hlm, 7
- [4] The result of interview conduct with Romzi Arifin in Kapedi Village on March 28, 2018
- [5] Closed interview conducted with fisherman and village government in January, 2019
- [6] Wilen, J. E. (1979). Fisherman behavior and the design of efficient fisheries regulation programs. *Journal of the Fisheries Board of Canada*, 36(7), 855-858.

[7] Maani, K. D., Firnaldi, A., & Fajri, H. (2018). Fisherman empowerment and poverty in Pesisir Selatan regency. In MATEC Web of Conferences (Vol. 229, p. 01004). EDP Sciences.

[8] Douvère, F. (2008). The importance of marine spatial planning in advancing ecosystem-based sea use management. *Marine policy*, 32(5), 762-771.

[9] Walters, B. B. (2007). Competing use of marine space in a modernizing fishery: salmon farming meets lobster fishing on the Bay of Fundy. *The Canadian Geographer/Le Géographe canadien*, 51(2), 139-159.

[10] Santos, C. F., Domingos, T., Ferreira, M. A., Orbach, M., & Andrade, F. (2014). How sustainable is sustainable marine spatial planning? Part I—Linking the concepts. *Marine Policy*, 49, 59-65.