

Policy Complexity of Agrarian Reform in Coastal Regions: An Effort to Realise Social Welfare

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Abstract

The pattern of deprivation of the living space of coastal communities is manifested in various faces, namely reclamation projects, coastal mining, marine and tourism projects. Here we can see the failure of the State in articulating the concept of agrarian reform because the idea is only understood and applied in the practice of distributing or granting land certificates. In contrast, agrarian reform must dare change the land ownership structure both on land and at sea. Reform policy agrarian will lead to a conflict in agrarian activities that are detrimental to society. This study aims to analyse the dynamics of agrarian reform policies in coastal areas of Indonesia, the complexity of agrarian reform policies in coastal areas, and how the State must continue to ensure the welfare of the people. This research is legal research with qualitative research methods and normative. The study results show that land as a source of livelihood for all living things is part of natural preservation that needs to be preserved, preserved and protected. Development that will be carried out must pay attention to balance, preservation of nature, the environment, and living things around. With the management areas on the coast through agrarian reform policies, the State has been present to manage existing resources to achieve the realisation of social welfare in which there is justice and prosperity for the people.

Keywords: agrarian reform, management of coastal areas, agrarian conflict, social welfare.

Introduction

Indonesia is an archipelagic country, most of which about 70% of its territory consists of water areas (Cribb & Ford, 2009). Geographically, the location of the Indonesian archipelago is very strategic, namely in the tropics, which is flanked by two continents (Asia and Australia), two oceans (Pacific and Indian), is the confluence of three major plates in the world (Eurasia, India-Australia and the Pacific) which makes the Indonesian archipelago (Djalante et al., 2021). Blessed with an abundant wealth of marine resources, both in the form of biological and non-biological resources and environmental services (Lampe, 2021). According to Janhidros, Indonesia's land area is

+ 2,012,402 km² and its water area is + 5,877,879 km² consisting of 17,508 islands with a coastline of 81,000 km. This physical fact makes Indonesia the largest archipelagic country globally and is recognised by the international community (Nandaniko & Manessa, 2019).

As a developing country, natural resources are an essential aspect because Indonesia's "economic base" depends on natural resources (Muta'ali et al., 2018). Result policies natural resource management potential of Indonesia's natural resources are (1) Forests. The area in Indonesia is the third-largest forest in the world. Indonesia's forest area is about 99 million hectares, stretching from western to eastern

Indonesia; (2) Ocean. Marine natural resources in the form of marine life, offshore oil mines and iron sand. Indonesia's marine fish potential reaches 6 million tons per year; (3) Petroleum (petroleum) is a viscous, brown, or greenish flammable liquid found in the top layer of the earth's crust; (4) Natural Gas. It is estimated that Indonesia's natural gas reserves are around 2.8 trillion cubic meters, and Indonesia's natural gas reserves are only 1.5% of the world's natural gas reserves; and (5) Coal. Indonesia is the fifth largest coal producing country (Yerido et al., 2016).

The land has a close and lasting relationship with humans. This is because the land is where humans stand live. As a source of life on earth, arrangements related to land ownership have been carried out for centuries starting from the colonial era to independence; various regulations implemented from time to time are carried out by the government so that peasants who need land to cultivate agriculture, who initially did not own land, can own land (Arisaputra, 2021). The coastal area is part of the land sector where people live in coastal areas. The KIARA Data and Information Center found several agrarian problems in coastal areas and small islands, including the marginalisation of coastal communities from small islands caused by the granting of Building Use Rights for investment in marine tourism development. KIARA found that the National Tourism Strategic Area project requires very high costs that the State Budget cannot accommodate. So the government then uses a foreign debt scheme to finance the project (KIARA, 2016).

The pattern of deprivation of the living space of coastal communities is manifested in various faces, namely reclamation projects, coastal mining, marine and tourism projects (Ertör, 2021). There are significant problems in interpreting and implementing agrarian reform concerning coastal and small island communities (Bedner & Arizona, 2019). Here we can see the failure of the State in articulating the concept of agrarian reform because the idea is only understood and applied in the practice of distributing or granting land certificates, whereas agrarian reform actually must dare to

change the structure of land ownership both on land and at sea.

In agrarian reform in the coastal context, the State must recognise four constitutional rights of coastal communities: the right to pass, the right to manage, the right to benefit, and the right to have a clean and healthy environment (Pratama, 2013). If these constitutional rights do not become the government's attention in carrying out agrarian reform policies in coastal areas, this will potentially cause agrarianism. Agrarian conflicts impact the lives of women fishers, and Fisherwomen face multiple injustices. Besides struggling amid agrarian conflicts, fisherwomen also struggle to recognise their profession as fishermen. Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Cultivators, and Salt Farmers has not accommodated the recognition of women fishers. The implication is that only 21,793 insurances were given to women fishers out of 1,108,852 existing fishers' insurances. There are 3.9 million fisherwomen involved in fishery production, from pre-production to post-production (Gina, 2018).

In this case, the State needs to manage the area through policies in the form of regulations to realise social welfare for people living in coastal areas to implement agrarian reform. Based on the above, this study aims to analyse the dynamics of agrarian reform policies in coastal areas of Indonesia, the complexity of agrarian reform policies in coastal areas, and how the State must continue to ensure the welfare of the people.

MATERIALS AND METHODS

This research is legal research with qualitative research methods. This research was conducted to obtain the necessary data from the object to be studied. In order for the research to meet scientific requirements, a guideline called a research method or research method is needed, namely a sequence of research implementation in searching data as a discussion material to understand the object under study, in this case, is agrarian reform policy in coastal areas in order to realise prosperity public.

Based on the problem to be studied, the approach method used in this research is normative juridical, namely legal research carried out by researching library materials or secondary data as the primary material for research by searching for regulations related to the problems discussed. The subject of the study is the law which is conceptualised as a norm or rule that applies in society and becomes a reference for everyone's behaviour so that normative legal research focuses on an inventory of positive law, legal principles and doctrines, legal findings in cases in concreto, legal systematics, level of synchronisation Law, comparative law and legal history (Khasna, 2018; Marzuki, 2017). This research also utilises literature or document studies because this research mainly analyses through literature studies, better known as studies on secondary data.

The data collection method used in this research is a literature study. This literature study was conducted in order to collect secondary data. Secondary data is data obtained by a researcher indirectly from the source (object of research) but through other sources. Researchers get ready-made data collected by other parties in various ways or methods, both commercial and non-commercial, such as textbooks, journals, magazines, newspapers, documents, regulations, laws, etc. Data analysis in this study uses qualitative analysis, namely data that is not in the form of numbers that can be obtained from recordings, observations, interviews, or written materials (laws, documents, books, and so on) in the form of verbal expressions.

RESULTS AND DISCUSSION

The Dynamics of Agrarian Reform Policy in Coastal Areas of Indonesia

Basically to manage natural resources in Indonesia refers to the control and utilisation of natural resources as regulated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, that the earth and water and the natural resources contained therein shall be controlled by the State and used for the greatest prosperity of the people. The meaning

of Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia implies that the community has the right to produce from these natural resources, which are managed by the State and the community themselves (Surono, 2018). However, in the management of natural resources in the territory of the Unitary State of the Republic of Indonesia, there is government intervention to maximise the natural resources.

Regarding land, Bagir Manan (Manan et al., 1995) formulates the scope of the notion of "controlled by the state" or state control rights as follows: (1) Control of a kind of ownership by the State, namely the State through the government, is the only holder of authority to determine the right of authority over it (earth, water, and wealth). contained therein); (2) Regulating and supervising the use and utilisation; and (3) Equity participation in the form of a state company for certain businesses. The management and control of resources by the State, as regulated in the 1945 Constitution of the Republic of Indonesia, cannot be separated from the aim of such control to realise the greatest prosperity of the people (Suparto, 2020). The connection in this case related to control by the State will realise the State's obligations in terms of (1) All forms of utilisation (earth and water), and the results obtained (natural wealth) must significantly increase the prosperity and welfare of the community; (2) Protect and guarantee all the rights of the people contained in the earth, water, and specific natural resources that can be produced directly or enjoyed directly by the people; (3) Prevent all actions from any party that will cause the people not to have the opportunity or will lose their rights to enjoy natural resources.

The allocation of agricultural resources by the government is broadly given to 3 (three) categories: (a) Government. If agrarian resources are allocated to the government itself, they can be given to central agencies in the regions in deconcentration or to regional governments in decentralisation; (b) People. If allocated to the people, it creates various tenurial reform schemes whose rights holders can be villages, customary communities, groups, or

individuals; and (c) Private. If allocated to the private sector, it will give birth to various types of agrarian concessions whose recipients are corporations.

Coastal areas and small islands are part of the resources bestowed by God Almighty on the Indonesian Nation; the national wealth controlled by the State needs to be preserved and utilised for the greatest prosperity of the people, for the present and future generations to come (Supriadi, 2016). As part of natural resources, coastal areas and small islands have the enormous and strategic potential for social, cultural, economic, environmental (ecological) development and support for national sovereignty (Dharsana et al., 2021). The need for a separate law regarding the management of coastal areas is intended to integrate various sectoral plans, overcome overlapping management and conflicts of use and authority, and provide legal certainty by developing community values and needs that are changing development efforts. Therefore, improvements to the legal regulation of coastal area management, as part of national legal development, are expected to fulfil the functions of coastal areas needed as "space" and as coastal resources to support national development in an integrated and sustainable manner.

Along the coastline, a relatively narrow coastal area has the potential for living and non-biological natural resources, artificial resources, and environmental services that are very important for people's lives. These potentials need to be managed in an integrated manner to be utilised sustainably. The coastal area is ecologically a meeting area between land and sea ecosystems. Towards the land covers the part of the land, both dry and submerged in seawater, and is still influenced by the physical properties of the sea, such as tides, waves and waves and seawater seepage. Those towards the sea include parts of marine waters affected by natural processes on lands such as sedimentation and freshwater flow from rivers and those caused by human activities such as deforestation, waste disposal, settlement expansion and agricultural intensification (Mukrimin et al., 2021).

The demographic history of the tribes and the distribution of the population on the Indonesian coast is the initial chronology of land management and control in the area. For generations, coastal communities have controlled the land, either individually or by custom. Since 1982, part of the land area of the coast and mangrove forests has been designated as a forest use agreement. Based on the Forest Use Agreement, the division of forest functions includes limited production forest, ordinary production forest, convertible production forest and other designated areas. The management of coastal cultivation areas cannot be separated from the functional status and land ownership. The granting of land rights, both individually controlled and traditionally controlled for land areas that are not affected by the tides, is easier to complete because it has been regulated by the Basic Agrarian Law and other statutory regulations.

Spatial planning for coastal and marine areas is more dynamic than spatial planning for land areas, of the three aspects that affect spatial planning, namely: (1) physical aspects; (2) social; and (3) economics. All three are relatively more dynamic in the spatial planning of coastal areas. Physical aspects of land area spatial planning almost do not change during the implementation of the spatial plan, except in the event of a natural disaster that changes drastically. On the other hand, spatial planning in coastal areas requires special attention to physical changes because coastal areas are constantly changing due to the intensification of forces on land and at sea. In addition to the effects of these natural forces, coastal areas can also change due to human actions; the reclamation and collateralisation processes are starting to occur in Indonesia. From an economic perspective, coastal areas also result in rapid changes in the value or opportunity cost of coastal land—they need port development due to the swelling flow of trade. The need for land for the development of Waterfront City due to the increasing number of people with upper middle income who demand location, the development of ponds due to the increase in demand for fish/shrimp in the world market, exploitation of coastal land into excavated mines

C due to various interests in income-generating policies, are four classic examples of economic dynamics that have a considerable impact on spatial planning in coastal areas.

Improvement and renewal of the legal arrangements for the management of coastal areas will also be used as a national legal framework, which can be the basis for realising and developing regional coordination and frameworks in the management of coastal areas, especially in coastal areas directly adjacent to neighbouring countries, by developing international law of the sea and new international environmental law (Polite, 2013). This is due to the ecological implications (linkages) between Indonesia's coastal and marine areas and neighbouring countries' coastal and marine areas, which encourages the need for regulations that have regional implications, especially in the Southeast Asian Ocean and the East Asian Ocean. The reform of the management of coastal areas, in this case, can be interpreted as the development or renewal of the legal arrangements, which include the components that make up a legal system consisting of the legal structure, legal substance and legal culture. Norms for the management of coastal areas are drawn up within the scope of planning, utilisation, management, control and supervision. Likewise, legal norms as legal substances focus on norms that have not been regulated in the existing statutory system or are more specific than the existing general arrangements. These norms will give the government, society and the private sector as stakeholders, regional, national and international interests through integrated coastal zone management (Darmawan & Lingga, 2021).

The development or renewal of the regulation of the management of Indonesian coastal areas is reflected in the objectives of the drafting of the law, namely: (a) Preparing legislation-level arrangements regarding the management of coastal areas, especially those concerning planning, utilisation, community rights and access, conflict management, conservation, mitigation disaster, coastal reclamation, rehabilitation of coastal damage and elaboration of related international conventions; (b) Building synergies and mutual strengthening

between government institutions both at the centre and in the regions related to coastal area management, to create cooperation and prevent and minimise conflicts of use and conflicts of authority between activities in coastal areas; and (c) Provide legal certainty and protection as well as improve the level of welfare of coastal communities through the establishment of arrangements that can guarantee access and rights of coastal communities and other interested communities including entrepreneurs.

Overall, during the approximately 30 years of the New Order government, no less than 35 laws and regulations regarding marine coastal natural resources have been issued. Most of the legal products are in the form of presidential Decrees and ministerial Decrees. The legal configuration of coastal and marine resources is characterised by three characteristics, namely centralism based on common property and anti-legal pluralism. The centralistic characteristic of the law on coastal and marine resources represents the political configuration of the new order, which is authoritarian and centred on the figure of President Suharto. As a result of the pattern of government that tends to be centralised in the form of policies in the field of law, the participation space for the community is completely closed; a further consequence is the neglect of customary law, which still exists.

The Draft Law on the Management of Coastal Areas explains that coastal ecosystems are dynamic ecosystems with a wealth of diverse habitats on land and at sea and interact with each other between these habitats. In addition to having great potential, coastal areas are also ecosystems most easily affected by human activities. Furthermore, Article 1 paragraph (5) of the Coastal Law states that the "Ecosystem is a community unit of plants, animals, organisms and other non-organisms and the processes that connect them in forming balance, stability, and productivity". Institutionally, indications of land regulation, specifically on small islands, can also be seen in the Presidential Regulation of the Republic of Indonesia Number 10 of 2006 concerning the Organizational Structure of the National Land Agency. Within this structure, one directorate specifically handles small islands, namely the Directorate of Coastal

Areas, Small Islands, Borders and Certain Areas, under the Deputy for Land Regulation and Arrangement. The Directorate of Coastal Areas, Small Islands, Borders and Certain Areas are based on the consideration that the land is generally managed. However, particular areas must be explicitly managed, such as coastal areas, small islands, specific areas, because it has certain characteristics. In addition to the regulation in the land sector, Law of the Republic of Indonesia Number 27 of 2007 concerning Management of Coastal Areas and Small Islands has been issued as a reference in the management of coastal areas and small islands specifically.

According to Article 1 of the Law of the Republic of Indonesia Number 27 of 2007 concerning Management of Coastal Areas and Small Islands as amended to Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands that : (1) Management of Coastal Zone and Small Islands is a process of planning, utilisation, supervision, and control of Coastal Resources and Small Islands between sectors, between the Government and Regional Governments, between land and sea ecosystems, as well as between science and technology. Furthermore, management to improve community welfare; (2) Coastal Area is a transitional area between land and sea ecosystems affected by changes on land and sea (Rahmawati, 2017).

Then according to the Decree of the Minister of Marine Affairs and Fisheries Number Kep. 10/Men/2003 concerning Guidelines for Integrated Coastal Management Planning explains that: Coastal areas are defined as a transitional area between interacting land and marine ecosystems, where towards the sea 12 miles from the coastline and one-third of the sea area for districts/cities and towards land to the administrative boundaries of the Regency/City.

In the Law of the Republic of Indonesia Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, it is known that the Right to Concession of Coastal Waters is the basis of rights in the use of coastal areas (Paselle & Apriani, 2019). Coastal Waters Concession

Rights are rights to certain parts of coastal waters for marine and fishery businesses and other businesses to utilise coastal resources and small islands covering the sea surface and water pools up to the seabed surface at the boundary certain extent. The existence of Coastal Zone Concession Rights opens up opportunities for the privatisation of coastal waters so that in its development, the provisions regarding coastal waters concession rights are tested for constitutionality (Kotijah & Ventyrina, 2020).

In managing coastal and small islands, planning aspects play an essential role as guidelines, boundaries, and the basis for actions for managing coastal and small islands. The Law of the Republic of Indonesia Number 27 of 2007 concerning Management of Coastal Areas and Small Islands prior to the amendment stipulates that the mechanism for preparing coastal and small islands management plans is carried out through proposals for preparation by the government and the business world. In this case, no norm regulates the proposal for the community's preparation of coastal management plans. The community in the law is only involved in preparing coastal and small island planning but cannot be a proposer. This is stated in Article 14 paragraph (1) of Law Number 27 of 2007, where "Proposed for the preparation of a Strategic Plan for Coastal Areas and Small Islands, Zoning Plans for Coastal Areas and Small Islands, Management Plans for Coastal Areas and Small Islands. Small Islands and Action Plans for the Management of Coastal Areas and Small Islands are carried out by the Regional Government and the business world".

Based on Article 18, Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it is stated that the provincial, district and city governments regulate and manage their government affairs according to the principle of regional autonomy. With this phrase, local governments have the authority to carry out affairs in their respective regions to implement these policies concerning statutory regulations. Several aspects discuss the coast, namely land, processes, deposits, habitats and ecosystems. In this regard, coastal areas can be divided into 2 (two) subdivisions, namely: (1) Based on morphological changes (backshore, foreshore,

inshore and offshore); and (2) Based on the type of wave process that occurs in different parts of the coastal area (swash zone, surf zone, and breaker zone, which together are in the nearshore zone).

They considered that marine and coastal areas are part of the natural resources bestowed by God Almighty and are wealth controlled by the State, which needs to be preserved and utilised for the greatest prosperity of the people, both for the present generation and for generations to come. That coastal area has a high diversity of natural resource potential and is very important for social, economic, cultural, environmental development and as a buffer for national sovereignty; therefore, they need to be managed sustainably and with a global perspective, taking into account the aspirations and participation of the community. The Nation's values are based on national legal norms; the government issued Law Number 23 of 2014, which replaced Law Number 32 of 2004 concerning Regional Government, especially those related to the authority of district/city governments over matters in the management of marine coastal areas (Damanik & Wirazilmustaan, 2021).

In addition to managing coastal areas and resources, what is no less important is the development of human resources in coastal areas. Post-reform, several policies that focus on the development and empowerment of coastal communities are regulated in at least several related laws: (1) Law of the Republic of Indonesia Number 27 of 2007 concerning Management of Coastal Areas and Small Islands jo. Law Number 1 of 2014; (2) Law of the Republic of Indonesia Number 7 of 2016; and (3) Law of the Republic of Indonesia Number 23 of 2014. In the Law on the Management of Coastal Areas and Small Islands, community empowerment is defined as an effort to provide facilities, encouragement or assistance to coastal communities to determine the best choice in utilising natural resources. The government must carry out coastal areas and small islands in a sustainable manner according to its authority. Furthermore, in the Regulation of the Minister of Maritime Affairs and Fisheries Number 40/Permen-KP/2014 concerning Community Participation and Empowerment in the

Management of Coastal Areas and Small Islands, the scope of empowerment the community includes: (a) capacity building through facilitation of education, training and counseling; (b) providing access to technology and information, among others through: dissemination of environmentally friendly science and technology, provision of environmentally friendly technology facilities and infrastructure, and development of business networks and communication systems; (c) capital, which includes, among others, a low-interest credit scheme, provision of credit interest subsidies and the use of social responsibility funds; (d) infrastructure through the provision of facilities and infrastructure; (e) market guarantees through facilitation of marketing access, facilitation of marketing facilities, development of cooperation and partnerships, provision of marketing information systems; and (f) economic other productive.

In many respects, the law still contains the spirit of decentralising the management of marine and fishery resources as part of the policy of granting autonomy to regions to manage and regulate on their initiative. The enactment of the Regional Government Law, which brings the spirit of taking back government affairs that were once delegated to the regency/city, affects the sectoral law by asking it to adapt.

Several decentralisation affairs in the coastal and small islands sector according to Law Number. 27 of 2007 are: (a) Formulating a Management plan for Coastal Zone and Small Islands which includes a Strategic Plan for Coastal Zone and Small Islands, a Zoning Plan for Coastal Zone and Small Islands, Coastal Zone and Small Islands Management Plan and Action Plan for Coastal Zone and Small Islands Management; (b) Management of data and information regarding coastal areas and small islands; (c) Utilisation of the outermost small islands; (d) Management of conservation areas in coastal areas and small islands; (e) Establishing coastal boundaries; (f) Rehabilitating coastal areas and small islands; (g) Organising an accreditation program for the Management of Coastal Zone and Small Islands; (h) Organising research and development on the

Management of Coastal Zone and Small Islands; (i) Organising disaster mitigation in coastal areas and small islands; (j) Organising community empowerment; and (k) Organising community empowerment.

The eleven affairs above are carried out by their respective authorities by the provincial or district/city governments. The provincial government has the authority to manage as long as it is a cross-district/city. The local government's authority in the Management of Coastal Zone and Small Islands includes planning, utilisation (including granting permits), conservation and protection, monitoring and evaluation, research and development, and community empowerment. There are significant differences in comparing the Local Government Law with the law on the Management of Coastal Zone and Small Islands. The law on the Management of Coastal Areas and Small Islands with a spirit gives regions (provinces and districts/cities) authority to comprehensively manage the coasts and small islands. The delegated powers include planning, utilisation (including granting permits), conservation and protection, monitoring and evaluation, research and development, and community empowerment. For planning, regions are given the authority to prepare Strategic Plans, Zoning Plans, Management Plans and Action Plans.

After the enactment of Law Number 23 of 2014 concerning Regional Government, which repealed Law Number 32 of 2004, it impacted regional autonomy in the Management of Coastal Areas and Small Islands. Article 27 Paragraph (1) of Law Number 23 of 2014 states that Provincial Regions are given the authority to manage marine resources in their territory. This article invalidates Article 18 Paragraph 1 of Law Number 32 of 2004 states that Regions owning marine areas are given the authority to manage resources in marine areas. The Regions in Law Number 32 of 2004 are the Provincial Government and Regency/Municipal Governments in the explanation section. Thus, Article 27 Paragraph (1) of Law Number 23 of 2014 directly revokes the authority of the Regency/City in the Management of Marine Resources. The authority of the Province to

manage resources in the sea area as stipulated in Article 27 Paragraph (2) of Law Number 23 of 2014 includes: (a) Exploration, exploitation, conservation, and management of marine wealth, excluding oil and gas. Earth; (b) Administrative arrangements; (c) Spatial arrangement; (d) Law enforcement on regulations issued by the regions or those delegated by the central government; (e) Help maintain security at sea; and (f) Helping to defend the country's sovereignty (Susilo, 2020).

Article 27 Paragraph (2) of Law Number 23 of 2014 has not changed significantly, except there is only an emphasis that exploration, exploitation, conservation, and management of marine wealth are only for resources other than oil and gas. In other words, oil and gas are under an authoritarian government. The authority of the Province to manage resources in the sea area is a maximum of 12 (twelve) nautical miles measured from the baseline towards the high seas and towards the archipelagic waters (Article 27, Paragraph 3 of

Law Number 23 of 2014). This article strengthens the granting of authority to the Provincial Government, where previously there was the authority of the Regency / City Government as far as 4 (four) nautical miles as stipulated in Article 18 Paragraph (4) of Law Number 32

of 2004, which states that 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 towards archipelagic waters for the Province and 1/3 (one third) of the area under the authority of the Province for regencies/municipalities. Thus, based on Article 27 Paragraph (3) of Law Number 23 of 2014, starting from the coastline to 12 nautical miles is the authority of the Provincial Government (Nugraha et al., 2021). Management of coastal areas and small islands include planning, utilisation, monitoring, and control activities on human interaction in utilising coastal and small islands' resources and natural processes sustainably to improve community welfare and maintain the integrity of the Unitary State of the Republic of Indonesia.

The Complexity of Agrarian Reform Policy in Coastal Areas: How Should the State Continue to Ensure Community Welfare?

As an archipelagic area, Indonesia's coastal is strategic and vital value. Firstly, this is due to this area as the centre of economic gravity to distribute goods and services through port activities, coastal cities, and interstellar and international shipping. Indonesia's major coastal cities and ports are all located on the coast, such as Jakarta, Surabaya, Makassar, Bitung, Batam and Medan. Second, the residential and business centres drive the economic dynamics of the people who live and have activities in the area. Almost all centres in Indonesia are located in coastal areas such as Surabaya, Gresik, Makassar, Bali and Jakarta. Some areas even reclaim this area for various purposes. Starting from the business centre, new residential areas, tourism to the expansion of ports such as the Muara Gembong area to expand the Tanjung Priok container port. However, the reclamation program rejected residents, civil society movements, intellectuals, professionals to indigenous people. Third, this area has a unique ecosystem (mangroves, coral reefs and seagrasses) habitats for marine biota, ensuring sustainable metabolism and niches Ecology.

In addition, this region also has a typology of waters (bays, estuaries, deltas, and straits) with oceanographic dynamics (currents, waves and tides) that are different from inland sea waters. Why is that? This is because this area is strongly influenced by the dynamics of the ocean and land, which are characterised by the uniqueness of the ecosystem and the life of its biota. Unfortunately, the degradation of all coastal areas of Indonesia has reached an alarming level due to destructive actions such as clearing mangrove forests, using destructive fishing gear in harvesting fish resources, and uncontrolled land conversion. Fourth, coastal areas also function as the largest landfill sites. Starting from resident waste, plastic waste, pesticides, and heavy metals end there. It is no secret that the entire coast of Indonesia has been contaminated and polluted by heavy metals such as lead (Pb), Mercury (Hg) and Cadmium (Cd). The reason is through direct discharge from the population and carried along with river water

flows that lead to the coast, for example, extractive activities in large-scale mining that dump their waste directly into the sea. As a result, coastal resources and fishery products in the region are declining. This decline automatically affects the level of welfare of people who depend on these resources, such as fishermen, fish farmers, salt farmers and small and medium business actors to coastal women.

The conception of the relationship between the State and natural resources departs from the assumption that the State is a subject of personification of all Indonesian people, not as individuals or state bodies. In this conception, the State cannot be separated from its people, so the rights of the State are community rights or imperial rights, namely the right to control land or its use. Thus, the relationship between the State and land in the concept of State Controlling Rights is a relationship that gives authority to the State as an organisation of power for the entire Indonesian people at the highest level: (1) Regulating and administering the allocation, use, supply and maintenance of earth, water, and land. Furthermore, space; (2) Determine and regulate legal relations between people and the earth, water, and space; and (3) Determine and regulate legal relations between people and legal actions related to earth, water, and space (Sari et al., 2021).

Nowadays, in line with the rapid development in various fields, especially in urban areas, the availability of land has become increasingly limited. The consequence of this condition is problems in the land sector which have recently become more frequent. Land disputes due to ownership issues between 2 (two) parties, both individuals and legal entities, actions of refusal from landowners on government project development plans, as well as complaints and disobedience due to the revocation or liberation of land tenure rights are problems in the land sector that often occur. The management of coastal areas cannot be separated from the functional status and land ownership. Whether individually controlled or traditionally controlled for land areas that are not affected by tides, the granting of land rights is easier to complete because it has been regulated by the

Basic Agrarian Law and other statutory regulations.

Another major problem is that the lands in the coastal area move in an unstable and unpredictable manner (Łabuz, 2015). This land shift can be caused by landslides or soil arising from sedimentation. In the effort to use land, there are differences of opinion. There is "land" used when it is not yet in the form of "land", but only as a shallow pool of water. There is also a plot of raised land that has been used when the nature of the soil is still not suitable for processing to become agricultural land because the salt soil is still high. Land occupation by the community does not necessarily wait until there is a form of "land" in the growth of land. Once the land appears and then begins its processing into good agricultural land, the occupation of the people on the land is usually stable. Land in the coastal area that is not encumbered by property rights is controlled by the State and used according to its designation and function for the prosperity of the people.

The control of coastal land and the management of coastal areas depend on who physically controls the coast. Generally, if a tourism business stands in a coastal area, then the entrepreneur is the one who controls and utilises it. Vice versa, if there are no tourism businesses adjacent to the coastal area or located above the coastal area, the control and utilisation are carried out by the community. Coastal or coastal areas are very vulnerable to natural changes and changes caused by human activities. In the public interest, it is possible to use coastal areas with note-taking into account the limited carrying capacity, sustainable development, maintaining ecosystems and biodiversity, and preserving environmental functions. Therefore, management is the key to whether or not the coastal area is used in the public interest.

Social justice is a principle that comes from Pancasila as the basis of the Republic of Indonesia (Prawiranegara, 1984). This principle then became the basis of the State's will to realise the determination and noble ideals of the Indonesian Nation as stated in the 4th (fourth) Preamble to the 1945 Constitution of the Republic of Indonesia, namely "protecting the

entire Indonesian nation and all of its blood spilt." Indonesia promotes public welfare, educates the Nation's life, and participates in carrying out a world order based on independence, eternal peace and social justice. According to Esping Anderson, the welfare state refers to the active role of the State in managing and organising the economy, which includes the responsibility of the State to ensure the availability of essential welfare services at a certain level for its citizens. In general, a country can be classified as a welfare state if it has 4 (four) main pillars as follows: (1) Social citizenship; (2) Full democracy; (3) Modern industrial relations systems; and (4) Rights to education and the expansion of modern mass education systems (Syamsuddin, 2020). These four pillars are possible in a welfare state because the State treats the implementation of social policies to grant social rights to its citizens. These social rights are guaranteed property rights, cannot be violated (inviolable), and are granted based on citizenship (citizenship) and not on performance or class.

A coastal agrarian reform program through social forestry is essential to revitalise this region's strategic and vital value. This is because the coastal areas in the last three decades have experienced severe degradation. The Economist (2015) report presents an index of the quality governance from 20 countries with strategic coastal areas. This report places Indonesia in 15th place (score 57), the same as Vietnam, only one notch below the Philippines (score 58). New Zealand is ranked first with the best coastal management with 86. After Indonesia and Vietnam are India (score 56), Peru (score 55), Nigeria (score 50) and Russia (score 42).

This condition indicates that Indonesia's coastal areas need coastal agrarian reform (social forestry) and environmentally friendly and sustainable ponds revitalise. Nevertheless, also restoration of coastal bio-infrastructure whose condition is quite severe. What does that mean? The government is promoting coastal agrarian reform, but the seizure of the sea, both its space and its resources, continues. So, this coastal agrarian reform should be accompanied by a massive cessation of sea seizures. From the privatisation of land, small islands and coastal

waters, reclamation, fisheries crimes (illegal, unreported, and unregulated fishing/IUUF) to converting coastal protected areas into business areas. The confiscation of coastal areas has the effect of (1) eliminating the livelihoods of the people who depend on living and depending on resources, (2) causing human rights violations on the coast such as slavery to the crew of fishing boats, (3) massive uncontrolled degradation of coastal resources (4) the rise of social conflicts due to the struggle for space for resources, and (v) the emergence of rent-seeking behaviour by officials, politicians and bureaucrats who seek quick profits without considering the destruction of coastal people's economic resources and their ecological sustainability. The coastal agrarian reform that the government is currently carrying out through social forestry is undoubtedly aimed at the welfare of the community while at the same time restoring the function of its natural metabolism. However, do not let this program be counterproductive. There is no meaning, and coastal communities have held certificates for coastal land and small islands. However, individuals/corporations claim to be their own for no reason, thereby displacing local communities under the pretext of national interests. The author hopes that this incident will not happen to Gorontalo. Is it not in this country that cases of confiscation of coastal areas and small islands are still ongoing and are like tangled threads that are complicated to resolve? We do not want what happened on the island of Bangka, North Sulawesi, to repeat itself in other parts of Indonesia. Some parties confiscate a small island, rejecting the presence of the government investigation team and law enforcement officials related to mining cases on the island.

Once complex, the agrarian reform program should not be limited to distributing certified coastal land and social forestry and should be accompanied by a firm policy to evaluate and stop all forms of seizure of marine space and its resources. Because this action impoverishes and alienates coastal communities from their habitus. The government must also evaluate various regulations that allow the confiscation process of coasts, seas, and small islands. This is

because this regulation often creates institutional conflicts at the implementation level. Moreover, overlapping rules in this country are standard. In short, through this coastal agrarian reform, the people in the region must be more prosperous. Then, the natural metabolism of both ecosystems and resources is guaranteed to be sustainable. Finally, socially it provides comfort without social conflicts such as the struggle for resource space and utilisation. Coastal agrarian reform must be accompanied by a commitment from its recipients to rehabilitate its ecosystem to recover its bio-infrastructure. Also, if successful, the value of the economic and ecological benefits will be felt by the community. Agrarian reform is not just a policy but is a constitutional order and its implementing regulations, namely the Basic Agrarian Law, in realising people's welfare (Lucas & Warren, 2003).

Realising social welfare is a necessity that is carried out by the State that runs the wheels of government; this is because the wealth of natural resources is very abundant from land to sea; because of Indonesia's rich natural resources, during the colonial period, it became an attraction for other countries to colonise Indonesia in a relay by dredging the existing natural resources. The State needs to be present to provide solutions for the people in terms of ownership and utilisation as much as possible for the benefit of the people. Because in this case, the State can play a role in providing solutions or suffering the people.

Therefore, the importance of agrarian reform policies in coastal areas by the State aims to: (1) The State carries out its duties and functions in accordance with the state constitution, namely "to protect the entire Indonesian nation and the entire homeland of Indonesia and to promote general welfare"; (2) The state guarantees equal distribution of socio-economic conditions as a whole in the community; (3) The State is present in the context of control, management and equity related to agrarian conditions for the benefit of the surrounding; (4) The State mitigates all forms of potential agrarian disputes and conflicts that harm the community; (5) The State plays a role in suppressing the decline in the quality of natural and environmental

sustainability due to human activities that do not pay attention to nature by carrying out reforestation in a sustainable manner; (5) The State plays a role in overcoming poverty, unemployment and social inequality that occurs due to excessive agrarian control; (6) The State encourages cooperation and support from all parties to jointly care for and preserve nature; and (7) The State can encourage the creation of soil productivity with the availability of food sources for present and future generations.

CONCLUSION

Spatial planning for coastal and marine areas is more dynamic than spatial planning for land areas, of the three aspects that affect spatial planning, namely: (1) physical aspects; (2) social; and (3) economics; all three are relatively more dynamic in the spatial planning of coastal areas. Improvement and renewal of the legal arrangements for the management of coastal areas will also be used as a national legal framework, which can be the basis for realising and developing regional coordination and frameworks in the management of coastal areas, especially in coastal areas directly adjacent to neighbouring countries, to the development of international law of the sea and new international environmental law. In the Law of the Republic of Indonesia Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, it is known that the Right to Concession of Coastal Waters is the basis of rights in the use of coastal areas. Coastal Waters Concession Rights are rights to certain parts of coastal waters for marine and fishery businesses and other businesses related to utilising coastal resources and small islands covering the sea surface and water pools up to the seabed surface at the boundary certain extent.

The relationship between the State and land in the concept of State Controlling Rights is a relationship that gives authority to the State as an organisation of power for the entire Indonesian people at the highest level: (1) Regulating and administering the allocation, use, supply and maintenance of earth, water, and space; (2) Determine and regulate legal relations

between people and the earth, water, and space; and (3) Determine and regulate legal relationships between people and legal actions related to earth, water, and space. Whether individually controlled or traditionally controlled for land areas that are not affected by sea tides, the granting of land rights is easier to complete because it has been regulated by the Basic Agrarian Law and other statutory regulations. Another major problem is that the lands in the coastal area move in an unstable and unpredictable manner. This land shift can be caused by landslides or soil arising from sedimentation. In the effort to use land, there are differences of opinion. Coastal agrarian reform must be accompanied by a commitment from its recipients to rehabilitate its ecosystem to restore its bio-infrastructure. Also, if successful, the value of the economic and ecological benefits will be felt by the community itself. Agrarian reform is not just a policy but is a constitutional order and its implementing regulations, namely the Basic Agrarian Law, in realising people's welfare.

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Conflict of interests

The authors declare that there is no competing interest.

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