

Conference Paper

Pancasila Legal Theory in the Management of Indonesia's Marine Economic Rights in International Law

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Abstract.

The vast amount of Indonesia's marine riches that have been seized by other nations and the government's failure to manage natural wealth are two characteristics of the management of marine economic rights as long as it is not ideal. To protect Indonesia's maritime wealth, it is required to create a legal theory that can be applied as a workaround. Because the values of the Pancasila legal system have been embodied by the Indonesian people as the heart of the country, therefore it can be employed as a remedy. Since this justice and civilization require the state to correctly execute its rights and obligations and not take away the maritime resources of other countries, these principles should also be upheld by the entire nation. This research study is normative, by collecting legal theory materials including Pancasila legal theory and data on Indonesia's marine wealth.

Keywords: marine economic rights, Pancasila legal theory

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1. INTRODUCTION

Indonesia is a country rich in natural resources, especially its marine wealth. This condition was created because Indonesia is geographically the largest archipelagic country in the world. Indonesia's ocean area is large compared to its land area, ranging from 3 (three) to 1 (one). For the benefit of the populace, this system should be utilized to the fullest extent possible.. The value of Indonesia's marine wealth reaches 1.338 billion US dollars or equivalent to Rp19,986 trillion. The value of this wealth consists of 11 Indonesian marine sectors, namely; capture fisheries with a potential of 20 billion U.S. dollars, aquaculture 210 billion U.S. dollars, processing industry 100 billion U.S. dollars, biotechnology industry 180 billion U.S. dollars, energy and mineral resources including salt and BMKT 210 billion U.S. dollars. In addition, marine tourism is 60 billion U.S. dollars, ocean transportation is 30 billion U.S. dollars, maritime industry and services are

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200 billion U.S. dollars, *coastal forestry* is 8 billion U.S. dollars, small islands' territorial resources are 120 billion U.S. dollars, and unconventional resources are 200 billion U.S. dollars. [1].

The value of the wealth above cannot be enjoyed entirely by the Indonesian people. Whereas, Article 33 Paragraph 3 of the 1945 Constitution provides that: The earth, the water, and the natural resources contained within are under the jurisdiction of the state and utilised for the greatest prosperity of the people. [2] The failure of the state as a nation to enjoy all natural wealth is due to one of them is the inability of our country to manage existing natural resources. In addition to the inability of the genuine willingness factor of the country's stakeholders, it is alleged that it also contributed to creating this condition. All forms of Indonesian marine wealth that exist are sometimes only enjoyed by other countries or other parties who intentionally or unintentionally take the wealth of this nation.

With such a large sea area, there is a lot of *effort* that must be done to supervise all forms of activities in the sea area. This surveillance is a key word in securing existing marine wealth. The number of state officials in charge of supervising the sea is still lacking as well as other facilities such as surveillance ships and technological systems that are still not very sophisticated and cendrung lagging sophistication with other countries are the main obstacles in securing marine wealth. Not to mention coupled with the problem of weak control mechanisms for existing officers so that cendrung causes "cheating" play in the field. This shows that Indonesia's marine surveillance system is still weak [3]. The lives of local fishermen who are still below the poverty line [4] also add to the pile of problems in Indonesia's marine management. Indonesia, whose coastline is long stretched, should not make Indonesia a company to produce salt. But the fact is what makes us sad, Indonesia is one of the salt importing countries [5] The aforementioned issues should inspire us to evaluate the legal aspects of managing Indonesia's marine economic rights. It is time for us to use the legal theory of Pancasila to unravel the existing problems as well as as signs that can show the right direction of the road to manage Indonesia's marine economic potential. The problem in this paper is 1). What is the position of Pancasila as the philosophical basis in the management of Indonesia's marine economic rights? 2) What are the legal aspects of Indonesia's economic management that have existed so far? 3) What is the urgency of applying the legal theory of Pancasila in the management of Indonesia's marine economic rights?

2. METHODOLOGY/ MATERIALS

This study employed a normative research methodology, which uses secondary data from books and scientific journals to support the provision of information related to the research and primary data in the form of international provisions, which can be international agreements and national provisions related to marine themes. The data is then compared with the legal facts that occur in the field that are observed so that a conclusion is found about how the legal theory of Pancasila can be applied in the management of marine economic rights so as to create justice for all Indonesian people.

3. RESULTS AND DISCUSSIONS

3.1. The Position of Pancasila as the Philosophical Basis of Indonesia's Natural Resources Management in the midst of international life.

The Republic of Indonesia was founded on the principles of Pancasila. and at the same time becomes the Idiological foundation of the Indonesian Nation which is a philosophical foothold in managing state and national affairs. Pancasila was born from the brilliant thoughts of the warriors and founders of the Indonesian nation [6] It contains principles that influence how the country lives and at the same time is the result of compromise from all elements of Indonesian society [7] As the basis of state falsafah, it means that Pancasila is used as the philosophical foundation of all aspak of state life including legal aspects, meaning that in the development of Indonesian law in the future it should be used as a theoretical foundation which is hereinafter referred to as pancasila legal theory [8].

The second (second) principle, “Just and Civilized Humanity,” is the one that serves as a theoretical foundation for the utilization of natural resources, particularly marine economic rights, in the midst of the worldwide living scene. The reason for this is that using the sea, which is deeply intertwined with how nations live, creates a conflict between the coastal state, which is the owner of riches, and the ship state, which seeks to curtail that state’s rights to the sea slightly in opposition to its interests. The idea of justice is extremely clear when it comes to how the sea is used. Unincorporated nations are permitted to fish in the exclusive economic zone (EEZ) and on the high seas, subject to certain restrictions, for example with the need to obtain permission from coastal states.

These fair and civilized values are actually already universal values. Because there is no class of people on the face of this earth who do not like these values. However, in its implementation in the field, it is often influenced by many interests. In the case of Illegal Unreported and Unregulated (IUU) Fishing for example, there are flag states that deliberately support this practice of IUU Fishing to the detriment of the interests of coastal states. Although it is clear that IUU Fishing's actions are contrary to fair and civilized values. For the example, the case of a Chinese-flagged ship; The Kway Fey Incident, China deliberately placed its large ship to escort its fishing vessels into the territory of the Indonesian EEZ then carried out IUU Fishing in the EEZ area, and When the Kway Fey ship was caught by the Indonesian Supervisory Ship, the Chinese Big Ship gave an ultimatum to the Indonesian surveillance ship to release the crew of the Chinese nationality. (Noor & Princess, 2018). This act of the Chinese State is considered to have injured fair and civilized values in international living circles.

In developing countries including Indonesia, development is fundamental, not done in a patchwork manner. Indonesia is a country whose society is really building itself completely (*a society in the making*), so it requires supervision and reorganization of all the institutions it has been using, by holding firmly to the new norms of its nation such as the concept of Pancasila, Whole Person Development, Wawasan Nusantara and so on. This view is comparable to the development of legal science in a country that cannot be separated from the context of its environment, so it needs a kind of pioneering step in the form of a development in the field of basic legal science in Indonesia that mentions fundamental questions in legal life. A life that talks about the ins and outs of the rules in society.

In essence, the legal system that governs a society is an expression of the Legal Mind that the community in question accepted in opposition to numerous positive legal laws, organizations, and procedures (bureaucratic behavior of the government and citizens). The idea of the legal mind is the perception of the meaning of the law or the idea, character, creation, and cognition with reference to the law. It consists essentially of three things: fairness, utility, and legal certainty. The three components of the Legal Mind outlined above are realized through the process of disciplining citizens' behavior, which is shaped by the human mind and heart as a result of a mix of life views, religious beliefs, and societal realities. The administration of law (the creation, discovery, and implementation of law) and legal behavior in the dynamics of social life will be influenced by and motivated by the Mind of the Law, which will serve as a general principle, standards of critique (evaluation rules), and guiding general principle. The creation and comprehension of the Legal Mind will make it easier for it to be developed into diverse

systems of authority and behavior standards and for the law to be applied consistently. As a result, the legal system has to be an exact replica of the Legal Mind's ramification into different legal concepts and norms arranged in a system. Additionally, the Mind of the Law should be consulted and relied upon by Legal Science, which examines the legal system as a way of understanding and organizing the legal system. [10].

Justice and Civility in the legal theory of Pancasila. The theory of justice is one of the theories that has been widely reviewed by experts. From Aristotle, Plato, John Rawls, Thomas Hobbes, Roscoe Pound, Hans Kelsen, Gustav Radbruch and Jeremy Bentham each issued a theory of justice. Uniquely, from the theory they put out, there are different understandings even though there are also similarities. These differences in understanding show us that according to the theory they put out it is difficult to explain what justice really means. The theory exists only as an approach to understanding what the nature of justice is. In addition, the *volksgeist* differences of each of these figures affect the point of view of justice. The theory of justice according to Gustaf, for example, relies on Aristotle's theory of justice which focuses on the aspect of similarity in interpreting justice. Of course, this is different from the concept of justice adopted by the Indonesian nation with Pancasila as the soul of the nation (*volksgeist*).

In the 2nd precept of just and civilized humanity, the word adil is juxtaposed with the word civilized, where the meaning is that the justice embraced by the Indonesian nation is justice that leads to high values of civilization. Civilization comes from the word "Adab" which according to the great dictionary Indonesian meaning is: subtlety and goodness of ethics; politeness; morals. So that the understanding contained in this second precept is that all human beings in this world have the same position so that no one should treat them unfairly, their rights and obligations are protected and no one should interfere with the exercise of their rights and obligations. The implied meaning of this second precept is also to regulate how relations between the countries of the world are. No country should have a position that is high or lower than other countries concerned in the exercise of its rights and obligations as a state, All countries are regarded as residing states that can lead high in human values, chivalry and honor as fellow subjects of international law. Many examples can be given as a form of upholding justice and civilization, for example other countries are prohibited from entering the territorial sea of coastal states without the permission of coastal states. Flag country vessels are prohibited from conducting IUU fishing in the EEZ area of coastal countries. Flag State conducts surveillance and inspection of its vessels to ensure that vessels flying the country's flag do not carry out IUU Fishing activities. The aforementioned provisions are a violation of just and civilized human values.

As a country that makes the Almighty Godhead its first precept, then the existing values, norms must not contradict this precept. The state protects and guarantees every citizen to practice religion, worship according to their respective religions and beliefs (Constitution, 2016). In this context, it is very natural that religious norms will live and develop in the midst of society as a law that is *hiduo* in society (*living law*) [11]. Including in interpreting justice itself, in Islam it is very easy to understand that fair is putting something in its place. as opposed to the concept of *dzalim* (Aaron, 2013). The concept of Justice offered by Islamic Sharia is very easy to understand and it is not difficult to implement to solve existing problems. This is in contrast to the concept of justice constructed by the aforementioned philosophical figures. In the Islamic concept there is no separation between justice, expediency and legal certainty. In justice in it, there is definitely an element of expediency and legal certainty. In this perspective, the discussion of justice does not revolve around an endless loop, which seems to look between justice, expediency and legal certainty stand alone.

The second principle is that a just and civilized humanity—humanizing man in a civilized way without even slightly impairing his rights—is the foundation for the safeguarding of human rights. The concept of social justice and the concept of justice in law are two distinct concepts, and social justice serves to distinguish between them. The 1945 Constitution's Preamble's fourth paragraph also expresses a commitment to social justice. In the second precept and the fifth precept, there are values of the state's goal, namely realizing justice in the context of common life. The definition of the second precept and the fifth precept contains the meaning of justice in the form of values, which should be realized in state life. Justice in the form of the relationship between man as a citizen and the relationship between man and his God. Although there are some opinions that have the same perception between social justice and Marxism, this concept can no longer be applied at this time because the concept of social justice in Pancasila is different from Marxism in its philosophical aspects [13].

3.2. Indonesia's Marine Economic Rights: Legal Aspects of Management in the Context of International Law.

Law No. 5 of 1983 regarding Indonesia's Economic Exclusive Zones, Law No. 6 of 1996 regarding Indonesian Waters, Law No. 27 of 2007 regarding the Management of Coastal Areas and Small Islands, which was amended through Law No. 1 of 2014, and Law No. 32 of 2014 concerning Marine Affairs are just a few of the laws and regulations that govern the rights of marine economic management in Indonesia. Law No. 31 of

2004 Concerning Fisheries, which was amended by Law No. 45 of 2009, and Law No. 32 of 2009 Concerning Management and Environmental Protection are the laws that continue to address the management of economic rights but place a greater emphasis on fisheries. Based on these existing regulations, it shows us that the state has been quite serious in managing Indonesia's marine economic rights, just how to maximize its implementation in practice.

This existing National Regulation cannot be separated from regulations at the international level. At the International level many conventions are produced by the countries of the world in the form of international treaty treaties and are binding on all countries involved in the convention. Some international provisions governing marine economic rights are :

1. United Nation Convention Of The Law Of The Sea (UNCLOS) 1982.

UNCLOS 1982 is a major source in international law of the sea, one aspect of which is the regulation of the management of the marine economic rights of each country, be it a coastal country or a ship flag country. The right to fish in the high seas, the marine management rights of coastal states in the EEZ area, the rights of non-claimed states in the EEZ area of coastal states, these are all regulated in UNCLOS 1982 [14]. The Convention also provides for the rights of states in the development of science in the marine field, and the cultivation of submarine pipelines.

2. The FAO Code of Conduct for Responsible Fisheries was published in 1995.

The FAO Code of behavior is a voluntary legal framework with global behavior rules and principles to guarantee the sustainability of natural resources. It is intended for both FAO members and non-members, and it has more than 170 State parties.. The code offers a framework for managing and enhancing the fishing sector in member states and was established by FAO to ensure fish supply for future generations by enabling Member States, in particular developing Countries, to conserve and improve their fishing resources. Additionally, it mandates that flag States be in charge of any fishing boats that operate outside of their territorial waters. By issuing a permit or certificate to allow the vessel to fly its flag while fishing, this obligation is formed. [9].

3. The 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing (Port State Agreement)

In this agreement, it is stated that the flag states have primary responsibility for fighting IUU fishing and must take the appropriate legal action within their

borders. The most successful strategy to tackle IUU fishing has been proven to be in port states, where port states exercise sovereignty and adopt safeguards. According to the basic requirements outlined in the Port State Treaty, each port State reserves the right to conduct inspections on board ships that are due to enter its port jurisdiction. With several exclusions, inspections should be conducted on any vessels that are not flying their flag. The flag State of the vessel, as well as other pertinent parties, including nations under its national jurisdiction where IUU fishing activities are conducted, nations whose citizens make up the ship's mother, pertinent regional fisheries management organizations, FAO, and other pertinent international organizations, are informed of the inspection's findings. If the inspecting State discovers undeniable proof that a vessel has engaged in illegal, unreported, or unregulated (IUU) fishing, it notifies the flag State and other pertinent parties and forbids the vessel from using its ports for fish landing, transshipment, packaging, or processing, or other associated activities that are against the Port State Agreement [15].

Regulations at the national level related to the management of marine economic rights are always based on existing provisions at the international level. This confirms to us the theory of monism in the application of international law into national law.

The violation of International Law that most harms the Indonesian state in marine economic rights is *IUU Fishing*. Based on a statement put forward by the Ministry of Marine Affairs and Fisheries (KKP) in 2014, noting that state losses due to illegal fishing are estimated to be around 101 trillion rupiah per year, even the former Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti once said that Indonesian state losses caused by *illegal fishing* can reach Rp. 240 trillion per year [16]. In this position, Indonesia looks helpless in the face of the loss of indonesia's marine economic potential taken by others. Weaknesses in supervision, lack of facilities such as surveillance vessels, the number of negaga officers assigned to supervise the Indonesian seas are the causes of this loss. Legal Certainty in law enforcement in the field of IUU Fishing in the field of international law is also a major obstacle. International law should provide a clear channel and enforceable provisions in resolving existing IUU Fishing problems. Flag Countries whose vessels conduct IUU Fishing should be held directly accountable.

Indonesia has mapped coral reefs. Its area reaches 25,000 square kilometers. But coral reefs that are of excellent quality are only 5.3 percent, good conditions are 27.18 percent, quite good 37.25 percent, and less good 30.45 percent [17]. This wealth of coral reefs reflects the rich resources of marine fisheries, because the better the quality of coral reefs, the more fish species that can breed in the region. The Indonesian

government must seriously preserve coral reefs if it does not want to lose this asset of tremendous value. A lot of international aid has been poured into maintaining the fires of Indonesia's coral reefs to prevent the extinction of certain species of fish. The archipelago's oceans have about 8,500 species of fish, 555 species of seaweed and 950 coral reef biota. Indonesia's rich marine fisheries account for 37 percent of fish species worldwide. Several types of fish in Indonesia that have high economic value, such as lobster, reef fish, tuna, shrimp of various types of ornamental fish, seaweed and shellfish [18].

With the geographical condition of Indonesia, whose sea area reaches 82% with a coastline of 95181 km, Indonesia should be a salt exporting country, not even a salt importing country. The fact that Indonesia is a maritime country cannot change the fact that Indonesia is still importing salt since the year 2010. Undeniably, the value of Indonesian salt imports, which is especially dominated by industrial salt in 2011, has reached a value of 100 million US dollars (around Rp 900 billion). In 2012, BPS data showed that during the January – October period, Indonesia still imported 1.97 million tons of salt by spending the country's foreign exchange worth 96 million US dollars (around Rp 870 billion) [19] The above data show us that there is something wrong in the management of marine economic rights, which must be found a way out.

3.3. The urgency of applying Pancasila legal theory to solving problems in managing marine economic rights.

The problems raised above are very important to be resolved as soon as possible. Especially in the midst of Indonesia's economic downturn, which needs financial support to bounce back. If we look at the problems then we can conclude that it all boils down to *law enforcement (law enforcement)* over the application of existing norms. The current norms are still needed to use the Pancasila legal theory approach, to complement the existing theories. With the legal theory of Pancasila, it will provide the best solution, where the values in it are values that have lived in the midst of society.

As a theory, the legal theory of Pancasila already has an ontological, epistemological and even axiological foundation that is based on living law in society and whose primordial values are the basis of the Indonesian nation itself. Pancasila as the sacred values of *social life* and at the same time as *a volkgeist*. The axiomatic value that exists in Pancasila is scientific in the measure of the collective agreement of the Indonesian nation. The five precepts of Pancasila form a series of ideological, philosophical systems that are scientifically logical so that they become the main legal basis placed as

grundnorm and are the source of all sources of law. Pancasila values as a basis of legal principles which are the basis of a product (legal structure). The principles of Pancasila law, namely: First, the principle of divinity, mandate that there must be no legal product that contradicts, rejects or is hostile to religion or belief in God Almighty; Second, the principle of humanity means that the law must protect citizens and uphold the dignity of human dignity. Third, the principle of unity and unity or nationality mandates that Indonesian law must unite the life of the nation and respect the diversity and cultural wealth of the nation; Fourth, The principle of democracy has the meaning that the relationship between law and power, the law must be able to subdue power not the other way around. The democratic system must be based on consultative values, wisdom and wisdom; Fifth, the Principle of social justice, based on that all citizens have equal rights and obligations before the law. The combination of the twelve values and principles contained in Pancasila is a single compound unity that results in each precept cannot stand alone and its interpretation cannot be separated from other precepts, and must not contradict each other. Pancasila is a unified philosophical system that has its own ontological, epistemological, and axiological basis that is different from other philosophical systems, for example, liberalism communism, pragmatism, materialism, and other philosophical systems in the world [10].

Law Enforcement in IUU Fishing will be easy to complete if you use this Pancasila legal theory. With the values in the second (second) precept of Pancasila, namely; Just and Civilized Humanity then the consequence is that all countries in this world have equal standing, equal honor. Countries must simultaneously uphold the values of justice and civility. Justice means that the state must truly be on the corridor of its respective rights and obligations. Which is the right then no party can get in the way and which one is the obligation then no one should support it if the obligation is violated. When the country makes a *mistake*, it must get its sanctions and must account for the fault to the aggrieved country. Sanski must be clear and unequivocal in order to create justice. This is what has been judged not to exist in the law enforcement process against IUU Fishing. The Flag State always tries to avoid responsibility when there are ships that do illegal fishing, and strangely enough no party can suppress the country, even though there is already such a thing as the *International Tribunal of Law of The Sea* (ITLOS). This tribunal is an international forum in which there is a tribunal process (court) that can solve problems related to the international law of the sea [20]. But unfortunately this international institution does not have the power to enforce its decisions to be implemented by the parties to the dispute. So it seems that the ruling made by ITLOS does not have the power to use.

This condition leads to legal uncertainty that should not be allowed to occur, plus there is a phenomenon where the ship state deliberately supports or even sends the boat and its fishermen to take fish in the territory of other countries [9]. This is a reflection of the violation of the values of civilization. In the theory of the law of Pancasila, the values of civilization are highly emphasized, especially when it is associated with the first precepts of the Almighty Godhead. That our wrongdoing will all one day be accountable to God Almighty, even though none of our wrongdoings can punish them in the world but in the afterlife it will all be something to account for. Values like this are very visible in Pancasila, religiosity and chastity must always be revealed in every action. Such values should appear in the actions of the state in the world so that no country dares to take away the rights of another state, and always performs obligations related to its responsibilities as a state.

This principle of peoplehood led by *himat* / wisdom in consultative / representative must be reflected in the management of traditional Indonesian fishermen. Traditional fishermen in 2019 amounted to 2.2 million. This situation decreased when compared to the previous year around 2.7 million. This declining condition is due to traditional fishermen who have difficulty in making a living. The cause is inadequate vessels and equipment and what affects the most is the practice of IUU Fishing carried out by fishermen of other countries and corporations that already have sophisticated ships and equipment. BPS released data in the period 2000-2016, fishing households decreased from 2003 amounting to 2,144,959 in 2016 to 965,756. Then as many as 115 national fish processing companies lost money because they did not get fish supplies because the stolen fish were directly sold abroad.

As the main legal umbrella, Law No. 7 of 2016 serves to create the welfare of fishermen. The law describes how efforts to protect and empower fishermen from every stage, from the planning, implementation, funding and financing, and supervision stages are met with criminal sanctions. Protection is intended so that fishermen are able to face difficulties around the fisheries business they run. The empowerment is made so that fishermen are able to improve their ability to do fisheries business. More space is given to the community in participating in planning, implementation, funding and financing, as well as supervision.

The welfare of fishermen will be realized by the existence of sustainable management of marine economic rights. The Marine and fisheries law is used to protect fishermen. The Marine Law contains the urgency of widespread employment opportunities in the fishing industry to elevate the welfare of fishermen. Fishermen are one of the most

vulnerable groups so they should receive more protection. This has been accommodated in the Fisheries Law where small fishermen are given the freedom not to have a Fisheries Business License (SIUP), Fishing License (SIPI), and Fish Transport Vessel Permit (SIKPI), are not subject to fishery levies, and there is a government obligation to empower small fishermen in the form of credit schemes, education, training, counseling, and development. However, the Fisheries Law does not regulate traditional fishermen so that the three forms of legal protection do not apply to traditional fishermen [21].

Undang-undang No. 1 of 2014. Article 60 of Law No. 1 of 2014 are two laws governing legal protection of fishermen that give freedom to traditional fishermen to be able to make suggestions about traditional fishing areas into the RZWP-3-K. The emphasis on the importance of allocating 0-2 nautical miles of space for livelihood and access to small fishermen and traditional fishermen is contained in the Minister of Environment and Forestry Regulation No. 23 / PERMEN-KP / 2016 concerning Management Planning for Coastal Areas and Small Islands as an implementing regulation of Law No. 27 of 2007 and Law No. 1 of 2014. Law No. 7 of 2016 requires the central and local governments to be able to develop plans for the protection and empowerment of fishermen, fish farmers, and salt farmers at the national, provincial, and district/city levels. This is intended to be able to provide integrated, coordinated, and targeted protection and empowerment efforts. In the APBN and APBD, it must be reflected how fishermen manage at the planning level up to the monitoring level. Ironically, until now plans for the protection and empowerment of traditional fishermen, fish farmers, and salt farmers have not been published at the national, provincial, and district/city levels.

The establishment of four implementing regulations is a mandate of undang-undang No. 7 of 2016, namely a government regulation on supervision of planning and implementation of protection and empowerment, a presidential regulation on the provision of subsidies, and two ministerial regulations on protection mechanisms against negative impacts and community participation in protection and empowerment. What exists today is only the role of ministers, while government regulations and presidential regulations are not yet in the field. This shows that Law No. 7 of 2016 has not been implemented optimally. Among the ministerial regulations that have been issued is the Minister of Environment and Forestry Regulation No. 3 / PERMEN-KP / 2019 concerning Community Participation in the Implementation of Protection and Empowerment of Fishermen, Fish Farmers, and Salt Development, which regulates community activities by contributing to protection and empowerment both at the planning, implementation, funding and financing stages, as well as supervision. Something that has not been emphasized in this KKP Regulation is the importance of pean and fishermen in designing plans for

the protection and empowerment of fishermen, fish farmers, and salt farmers both at the national, provincial, and district/city levels. In Permen KKP No. 3 of 2019 article 5 only involves fishermen to be asked for input on suggestions, it should be charged with the obligation for the government to involve fishermen as the intended subject of the protection and empowerment plan at the preparation stage.

Undang-undang No. 45 of 2009 stipulates that only Indonesian fishermen can fish in Indonesian territory. While foreign fishermen are only allowed to buy fish catches from Indonesian fishermen. In the nature of fishing, there is an injustice because in the Indonesian sea, foreign ships have large sizes and are technologically advanced, while traditional ships used by Indonesian fishermen are small and low-tech, so that Indonesian fishermen become less competitive. Furthermore, what is meant by ex-foreign ships is foreign ships purchased by Indonesian businessmen, but their operation and ownership is still a joint venture. Foreign ships are easy to recognize because they use the flag of the country in question. But ex-foreign vessels are difficult to spot because they use the Indonesian flag but do not comply with the ship's operational rules or fulfill the obligation to enter revenue into the state treasury. Most of the foreign vessels are from Thailand, China, the Philippines, Taiwan and South Korea.

The management of the outermost small islands should also get serious attention from the government. Reflecting on the history of the case of the detachment of the islands of Sipadan and Ligitan from the territorial territory of Indonesia to the territorial territory of Malaysia was a devastating blow to Indonesia. Islands that are supposed to be assets for marine wealth must be willingly handed over to Malaysia. This can be said to be a state of steadfastness in dealing with island islands like this. The island is left unattended and not even inhabited by Indonesian citizens but by Malaysian citizens. The dispute that had occurred between Indonesia and Malaysia over the ownership of Sipadan Island and Ligitan Island led to the outcome of an International Court of Justice decision read by Chief Justice Gilbert Guillaume at the International Court of Justice Building in The Hague, Netherlands on December 17, 2002 which stated that the dispute was won by Malaysia. Geographically, Sipadan Island and Ligitan Island are islands in the Makassar Strait. The area of Sipadan Island is about 50,000 m² while the area of Ligitan Island is about 18,000 m².

This dispute case arose since 1969, starting from the discussion of the boundary of the state continental shelf between Indonesia and Malaysia in Kuala Lumpur on September 22, 1969. The result of the talks on the boundary of the country's continental shelf led to each country claiming Sipadan Island and Ligitan Island as its territory. After an agreement that the two islands were designated as the status quo, that is, they should

not be occupied, occupied or used by the two countries, in 1979 Malaysia changed its attitude and violated the status quo. In the end, Indonesia and Malaysia mutually agreed to resolve the dispute through the International Court of Justice. Through the trial of the dispute at the International Court of Justice, the Government of Indonesia has prepared lawyers of international caliber, but unfortunately not a single lawyer from Indonesia has been given the opportunity to participate. The trial process is divided into two main parts, namely the basis of claims based on Written Pleadings and Oral Pleadings. Some of Malaysia's claims are that Indonesia has abandoned the two islands, in international law there is a prescription or expiration, the right to territory can be obtained by a third party if the territory is abandoned for a certain period of time by the original owner. The outcome of the International Court of Justice decision is determined from the consideration of effectivites, whether their colonists have demonstrated their existence as owners and have committed actual administrative actions. In this case, the Malaysian colonists were considered more effectivites than the Dutch who colonized Indonesia at that time [22].

In its decision the International Court of Justice declared that also Sipadan and Ligitan belonged to Malaysia. This means that the Internesioanl Court confirmed what Malaysia denied that Indonesia was considered to have allowed Sipadan and Ligitan Islands to become poorly managed islands. Meanwhile, Malaysia with good management manages the two islands so that it also appears that in both of them are defacto signs that Malaysia is the owner of the island. This should not happen if Indonesia seriously inventory the outermost smallest islands, after which it places a population on the island, alerts existing TNI forces and makes programs to benefit the natural wealth of the two islands. The Legal Theory of Pancasila states that the state must protect the entire spillover of Indonesia, prospering all Indonesians. Protecting the entire spillover of Indonesia means protecting the entire territory of Indonesia from attempts to take over existing territories by other countries.

4. CONCLUSION AND RECOMMENDATION

Pancasila as the soul of the nation should animate every form of state management, including in managing Indonesia's marine economic rights. The values that live in the midst of Indonesian society become the content of Pancasila itself. The results obtained from the management of Indonesia's marine wealth should be enjoyed as a whole by the Indonesian people. The management of Indonesia's marine economic rights so far has not been optimally marked by the many IUU Fishing practices carried out by other

countries, the number of damaged coral trumbus, salt imports, and the quality of life of our traditional fishermen.

It is time for Indonesia to apply this Pancasila legal theory with the value of Justice and Civilization that highlights the equality of the degrees of countries in the world so that all countries can appropriately carry out their rights and obligations not to take other countries' marine wealth and always apply adab in international relations. Related legal policies must also be addressed so that they always side with the Indonesian people, especially traditional fishermen.

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