



PANCASILA ECOLOGICAL JUSTICE PRINCIPLES IN THE REGULATION OF SUSTAINABLE AND EQUITABLE FISHERIES MANAGEMENT IN INDONESIA

Sapriani¹, Jamal Wiwoho², I Gusti Ayu Ketut Rachmi Handayani³
^{1,2,3} Faculty of Law, Universitas Sebelas Maret Surakarta, Indonesia
Email Corresponden: sapriani@student.uns.ac.id

ABSTRACT

Pancasila is the source of all law sources in Indonesia. This principle brings logical consequences to the legislature in forming laws and regulations in Indonesia which are required to be able to derive the values contained in the Pancasila precepts, including in the legislation in the fisheries sector. This study aimed to determine the existence of the principle of ecological justice of Pancasila in the regulation of sustainable and equitable fisheries management in Indonesia. This research was doctrinal research using the literature study method, with a statutory and conceptual approach. The results of the study indicated that the regulation of sustainable fisheries management has not fully implemented the principles of ecological justice of Pancasila, particularly justice in the use of fishery resources and justice for marine ecosystems. The arrangements made tend to cater only to investment interests. Despite Komnas Kajiskan's recommendation, WPPNRI is generally fully-fished and over-fished, but the Government has not shown any serious efforts to overcome this condition.

Keywords: Sustainable and Equitable, Fisheries Management, National Commission on Fisheries Resource Assessment (Komnas Kajiskan)

DOI Number: 10.14704/nq.2022.20.8.NQ44133

Neuro Quantology 2022; 20(8):1213-1223

1213

A. INTRODUCTION

Since 1850, the world's attention has shifted to healthy and sustainable fisheries management. Prior to 1850, most countries in the world (most of which were still kingdoms) considered fish to be an infinite marine resource (inexhaustibility).¹ Alfred

"free access to the living resources" which is related to the principle of "freedom of the seas." This is because on the one hand, establishing boundaries on the high seas and enforcing these boundaries is a difficult task. On the other hand, if fish and other marine resources can be harvested indefinitely, then maintaining exclusive rights to marine resources becomes unimportant. Therefore, at that time, fisheries management was not considered a top priority for the Coastal State compared to shipping and

¹Based on this concept of inexhaustibility, Hugo Grotius (known as the Father of the Law of the Sea) in 1608 introduced the principle of
eISSN 1303-5150



Marshall, an influential economic analyst at the time, stated that marine fisheries were an unlimited commons resource. He compares the fish supply to a "constant flow of natural resources" (*perennial stream*).² This viewpoint appears to justify the notion that fisheries are not privately owned resources, and that those who catch fish, like others, have the right to unlimited access to natural resources in the sea.

According to the Pancasila justice principle, future generations' natural resources should be better or at least equal to what the current generation consumes. According to John Adler and David Wilkinson, resources like oil are non-renewable, and the extinction of species or loss of land is irreversible. Efforts may be made to pass on the availability of equal or better natural resources to the next generation as a form of implementing distributive justice.³ The problem that

trade. However, in reality, not all fish are considered inexhaustible, the depletion of fish stocks in rivers or lakes (in inland water) such as salmon production along St. Lawrence has been going on for a long time. Recorded since 1278, the British Isle (The British Isle) has implemented strict rules regarding fisheries. More details can be read in Emmy Latifah, *Perkembangan Pengaturan Pengelolaan Perikanan Berkelanjutan Berdasarkan Hukum Internasional*, Jurnal Bina Mulia Hukum, Vol. 1 No. 2, 2017, h. 127. See also p. 284.

²Marshall said, "even a steam trawler just sailing can catch a lot of fish because the sea is so vast and the fish are endless." See Anthony Scott, *The Evolution of Resource Property Rights*, Oxford University Press, New York, 2008, p. 146.

³John Adler & David Wilkinson argued that human actions that destroy nature today must be replaced through the creation of artificial resources, for example, the use of petroleum today must be replaced by providing alternative energy sources that are equally good, or by providing a budget with an equivalent value applicable in the future, so that future generations will still have choices and can enjoy the same resources we consume today. See John

eISSN 1303-5150

would be discussed in this research was whether or not the principle of ecological justice of Pancasila has been implemented in the regulation of sustainable and equitable fisheries management in Indonesia.

B. RESEARCH METHOD

This research was doctrinal legal research that used the literature study method.⁴ The legal materials used were primary legal materials which included statutory regulations starting from the 1945 Constitution of the Republic of Indonesia, laws, and other laws and regulations related to research issues. Sources of legal information included secondary legal materials such as reference books, legal journals, and scientific works relevant to the research topic.

C. ANALYSIS AND DISCUSSION

1. The Principles of Sustainable and Equitable Fisheries Management Based on the Ecological Principles of Pancasila

According to Sudjito Atmoredjo, the concept of a constitutional state in Indonesia is a combination of 3 (three) elements, namely Pancasila, national law, and state goals. The three elements in the Indonesian legal state are a unified whole (holistic). Pancasila is the basis for the formation of national law, and national law as a means to achieve state goals (law as a tool of state purpose). Thus, national law has no meaning if it is not able to deliver the Indonesian people to a prosperous and happy life in the shade of God.⁵ Therefore, the national laws that will be formed by the legislative body in Indonesia, in this case,

Adler & David Wilkinson, *Environmental Law & Ethics*, Macmillan Press, London, 1999, p. 129-130.

⁴Peter Mahmud Marzuki, *Penelitian Hukum*. Jakarta: Prenadamedia Group, 2014, h. 237-240.

⁵Sudjito Atmoredjo, *Hukum Dalam Pelangi Kehidupan*, Dialektika, Cet. IV, Yogyakarta, 2018, p. 59.

www.neuroquantology.com



the DPR together with the President, must be laws that lead to the realization of the goals of the state as intended in the fourth paragraph of the Preamble to the 1945 Constitution to achieve the ideals of the state. An independent, united, sovereign, just, and prosperous Indonesia.⁶

Presenting the principles of sustainable and equitable fisheries management for a country that has oceans is a necessity. This principle is intended not only to support and ensure potential resources for national development but also to meet the needs of the current generation (intrageneration) and future generations for food (sea) (intergeneration). The principle of sustainable fisheries will create oceans with potential resources, healthy ecosystems, and sustainable fish resources. While the principle of equitable fisheries means providing equal opportunities and benefits to each generation in enjoying these resources, including justice for the ecosystem itself as an ecological justice.

In the principle of Pancasila justice, the natural resources that exist and are enjoyed by future generations should be better or at least equal to what is consumed by the current generation. In line with this view, according to Adler and Wilkinson resources such as oil are non-renewable and the extinction of species or the loss of land is irreversible. Efforts that may be made are only as much as possible to pass on the availability of equal or better natural resources to the next generation as a form

of implementing distributive justice. Related to this opinion, Adler and Wilkinson argued, that human actions that destroy nature today must be replaced through the creation of artificial resources, for example, the current use of petroleum must be replaced by providing equally good alternative energy sources, or by providing a budget of equal value that applies in the future, so that future generations will still have choices and can enjoy the same resources that we consume today.⁷

Marine and fisheries aspects have become the focus of greater attention on the SDGs than in the MDGs era. This argument is based on the realization that three-quarters of the earth's surface is water. The fisheries sector is considered very important, because:⁸

- a. It is the main source of raw materials for food production, as well as to maintain and ensure food security;
- b. It provides and creates jobs, as a means of transportation, distribution, and trade, it creates new capital (fishing vessels, nets and fishing gear, fish processing equipment, feed, etc.), as well as becomes a means of research and development of science.
- c. The establishment of international and regional fisheries organizations that aim to ensure the sustainable use of marine living resources, including addressing other environmental issues.

Specifically, the 14 SDG's agenda under the title "*Conserve and Sustainably Use the Oceans, Seas and Marine Resources for Sustainable Development*" (Conserving and sustainably utilizing marine, oceanic and maritime resources for sustainable development), consists of 7 targets (targets)

⁶Yudi Latif said that the best legacy of the founding fathers of Indonesia was "politics of hope", not "politics of fear". This republic stands on a pillar of hope: independent, united, sovereign, just, and prosperous as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia. If we lose hope, we lose our identity as the Indonesian nation. See Yudi Latif, Plenary State: *Negara Paripurna : Historitas, Rasionalitas, dan Aktualitas Pancasila*, Cet. 7th, PT. Gramedia Pustaka Utama, Jakarta, 2019, p. 56.

⁷John Alder & David Wilkinson, *Environmental Law ... Op.Cit.*, p. 129-130.

⁸Nataliya Yarkina and Nataliya Logunova, *The Concept "Blue Growth" as A Way for Sustainable Development of The Fisheries*, E3S Web of Conference, 2021, p. 2.



whose implementation is carried out through 3 strategies, and is expected to be realized within the next 15 (fifteen) years, where Marine fisheries and aquaculture are considered to make a significant contribution in implementing other SDGs agendas, due to the unique nature of marine fishery resources that are self-reproducing and can be cultivated through agricultural methods.

The embodiment of justice in fisheries management efforts contains a humanitarian spirit, as can be seen in Article 3 of the 2004 Fisheries Law which stipulates that fishery management is carried out with the following objectives:

- a. Improving the standard of living of small fishermen and small fish raisers;
- b. Increasing state revenues and foreign exchange;
- c. Encouraging expansion and employment opportunities;
- d. Increasing the availability and consumption of fish protein sources;
- e. Optimizing the management of fish resources;
- f. Increasing productivity, quality, added value, and competitiveness;
- g. Increasing the availability of raw materials for the fish processing industry;
- h. Achieving optimal utilization of fish resources, fish cultivation land, and fish resource environment; and
- i. Ensuring the sustainability of fish resources, fish cultivation materials, and spatial planning.

2. The Fisheries Management Arrangements in Indonesia

The legal politics of fisheries management in Indonesia adheres to the principle of sovereignty⁹ and jurisdiction

⁹According to James Charles Smith, in the context of resource property, sovereignty has 2 (two) meanings, namely: **first**, political sovereignty (state sovereignty), namely

over Indonesian waters. Therefore, the maritime policy at the beginning of independence was more focused on claims and strengthening sovereignty over the Territorial Sea and Exclusive Economic Zone (EEZ). Policies to manage Indonesian fisheries only emerged in the mid-1970s, through the Decree of the Minister of Agriculture No. 561/1973 which obliged all industrial ships that carry out shrimp catching (shrimping) to use all bycatch. This Decree of the Minister of Agriculture was then followed by the establishment of a set of guidelines to conserve and manage fish resources.

The determination of the direction of fisheries management policies is carried out based on the WPPNRI, which is also listed in the 2020-2024 National Medium Term Development Plan (RPJMN), especially on the Economic Resilience Development Agenda, where there is a National Priority Program on Marine and Maritime Management as a spatial basis for resource management activities. marine and fisheries. This is based on the fact that the fisheries sector contributes to national development including economic

sovereignty owned by the state which politically has the power to regulate, manage and supervise the utilization of natural resources through government agencies/agencies. In addition, the state also has the authority to grant ownership rights over these resources to individuals or business entities, which is followed by the obligation to supervise and provide protection. The second is owner sovereignty (sovereignty of the holder over the resources he controls). The power over resources granted by the state to individuals not only creates a relationship between the individual and these resources, but also the relationship between the individual and other individuals, and the relationship between the individual and the agency/organization. James Charles Smith, Property and Sovereignty in The Twenty-First Century in James Charles Smith (Ed), Property and Sovereignty: Legal and Cultural Perspectives, Routledge, New York, 2016, p. 1.



development in the form of contributions to the National Gross Domestic Product (GDP), job creation and welfare improvement, as well as food security.¹⁰ The strategies developed in realizing the 2020-2024 RPJMN in WPPNRI-based fisheries management are (1) Improving marine ecosystems and utilization of marine services; (2) marine spatial planning and coastal zoning plans; (3) Increasing the production, productivity, standardization, quality and added value of marine and fishery products; (4) Improving business facilitation, financing, business protection, and access to small-scale marine and fishery resource management; and (5) Improving human resources and maritime and marine research as well as marine and fishery databases.

The utilization of fishery resources that are balanced with their carrying capacity will create an ocean that can provide continuous benefits. Therefore, it is necessary to regulate and control fishery businesses through good fisheries management arrangements. Moreover, the President of the Republic of Indonesia, Joko Widodo, has also established a New Indonesia Vision, namely "Realizing Indonesia as a Maritime Axis"¹¹ by placing

"The Sea as the Future of the Nation". The President's vision was then actualized by the Minister of Maritime Affairs and Fisheries Susi Pudjiastuti (2014-2019 Period) through the KKP Mission into 3 (three) pillars of marine and fisheries development, namely Sovereignty, Sustainability, and Welfare. Sovereignty is defined as independence in managing and utilizing marine and fishery resources by strengthening the national capacity to enforce the law at sea to realize economic sovereignty. Meanwhile, sustainability is intended to manage and protect marine and fishery resources with environmentally friendly principles so that they can maintain the sustainability of resources. Finally, Welfare means that the management of marine and fishery resources is for the greatest prosperity of the people. The 2004 and 2009 Fisheries Laws are the legal basis and the basis for the existence of the three pillars in fisheries management. For this reason, marine development policies in the fisheries sector are directed at five things, namely:

- 1) Making capture fisheries one of the mainstays of the national economy by revitalizing the domestic fishing industry;
- 2) Rationalization, nationalization, and modernization of the capture fisheries fleet gradually to revive the domestic

¹⁰ 2015-2019 development achievements show capture fisheries production, including in 11 WPPNRIs, increased, reaching 6.9 million tons in 2017. Aquaculture production also increased to 16.1 million, which includes 5.7 million tons of cultured fish (including shrimp). and 10.4 million tons of seaweed. Furthermore, salt production in 2017 was 1.1 million tons. See Ministry of National Development Planning/Bappenas, *Rancangan Teknokratik RPJMN 2020-2024: Indonesia Berprestasi Menengah-Tinggi yang Sejahtera, Adil, dan Berkesinambungan*, 2020, p. 34.

¹¹ The greatest symbol of sovereignty that Indonesia should have is sovereignty at sea because Indonesia is an archipelagic country. So far, the sea is seen as a barrier, so development is carried out on a land-based basis. Even the

eISSN 1303-5150

centralization of resources causes development to only take place on large islands that are not well connected as if each is pursuing its economic growth. Therefore, the concept of Indonesia as the World Maritime Axis, which was initiated by President Joko Widodo, is actualized through the development of connecting inter-island transportation routes and increasing the carrying capacity of existing ports in Indonesia's coastal areas. See Caroline Paskarina, *Wacana Negara Maritim dan Reimajinasi Nasionalisme Indonesia*, Journal of Political Discourse – Scientific Journal of the Department of Political Science, Vol. 1 No. 1, 2016, p. 2-6.



- industry and take sides with domestic companies and local fishermen;
- 3) Implementation of fishery management in stages and oriented towards environmental sustainability and the realization of justice;
 - 4) Encouraging local governments to be more proactive and to optimize wisely and wisely all their potential and capabilities;
 - 5) Rehabilitation and reconstruction of areas affected by natural disasters.

Furthermore, the state's commitment to sustainable fisheries development was actualized through the amendment of the 2004 Fisheries Law with the 2009 Fisheries Law. Through the amendments, the desired fisheries management not only pays attention to the sustainability of fish resources but also adheres to the principles of sustainable development. There are additional principles/principles of fisheries management in the 2009 Fisheries Law, which originally amounted to 8 (eight) principles to 11 (eleven) principles, including the separation of "sustainable sustainability principles" into "sustainability principles" and "sustainable development principles".

The idea of realizing a healthy and sustainable ocean has long been implemented by Indonesia by adopting the Code of Conduct for Responsible Fisheries (CCRF, 1995) through Law Number 32 of 2014 concerning the Ocean as amended in the UUCK, through the development of the Blue Economy principle. This can be seen in Article 14 paragraph (1) which reads: "The Government and regional governments align with their authority shall carry out marine management for the greatest prosperity of the people through the utilization and exploitation of marine resources using the Blue economic principle." In the explanation, the blue economy principle is an approach to improve sustainable marine management

and conservation of marine and coastal resources and their ecosystems to realize economic growth with principles including community involvement, resource efficiency, minimizing waste, and multiple added value. revenue). Marine resources that become the policy of economic development include fisheries, energy and mineral resources, coastal resources, and small islands, as well as non-conventional resources. In the context of fisheries industrialization, the state is responsible for: a. maintaining the sustainability of fish resources; b. ensure conducive business for fishery development, and c. expand job opportunities to improve the standard of living of fishermen and fish cultivators.

3. The State Fisheries Management Area of the Republic of Indonesia (WPPNRI) and Utilization of Fishery Resources

Indonesia is an archipelagic state with two-thirds of its territory covered by the sea, rich biodiversity (biota) of both marine flora and fauna, and a potential resource to support national development. Mega-biodiversity and a large number of marine resources can be used to support the nation's livelihood and national development while also taking sustainability, vulnerability, and sustainability into account. One of the strategic steps in managing marine resources is to divide the marine area based on its physical and geobiological characteristics into the State Fisheries Management Area of the Republic of Indonesia (WPPNRI).

The WPPNRI map was first established through the Decree of the Minister of Agriculture Number 995/Kpts/IK 210/1999 concerning Potential Fish Resources and Allowable Amount of Catch (JTB), as an implementation of the provisions of Article 4 of Law Number 9 of 1985 concerning Fisheries. Attached to this decree are the WPP-RI Maps in 9 water locations, including 1) the waters of the Malacca Strait, 2) the



waters of the Natuna Sea and the South China Sea, 3) the waters of Java and the Sunda Strait, 4) the waters of the Makassar Strait and the Flores Sea, 5) the waters of the Banda Sea, 6) the waters of the Arafura Sea, 7) the waters of the Seram Sea and Tomini Bay, 8) the waters of the Sulawesi Sea and the Pacific Ocean, and 9) the waters of the Indian Ocean. In the early days of Indonesia's independence, the marine and fisheries sector was under the Ministry of Agriculture. In Reshuffle I, the separation of the Department of Agriculture and the Department of Exploration (later changed the nomenclature to the Department of Marine Affairs and Fisheries) was carried out in the era of President KH. Abdurrahman Wahid (1999-2001), while the change in the nomenclature of the Ministry to the Ministry began to be used during the time of President Susilo Bambang Yudhoyono (2004-2014) carried out to align with the mandate of Article 27 of Law Number 39 of 2008 concerning State Ministries in conjunction with Government Regulation Number 47 of 2009 concerning the Establishment of and the Organization of the State Ministries which mandated the conversion of all forms of Departments, the Office of the State Minister and the Office of the Coordinating Minister to become State Ministries. In line with the development of the Indonesian government, the 2004 Fisheries Law was enacted, the substance of which also regulates the issue of fisheries management areas. This provision is stated in Article 7 paragraph (1) which was later revealed in the Decree of the Minister of Marine Affairs and Fisheries Number PER.01/MEN/2009 concerning Fisheries Management Areas of the Republic of Indonesia (WPP-RI). The regulation regarding WPP in the Decree of the Minister of Agriculture Number 995/Kpts/IK 210/1999 was previously revoked and replaced by Kepmen KP KP Number PER.01/MEN/2009. In the

regulation, the determination of the WPP-RI area was increased, from 9 WPP to 11 WPP. Determination of re-delineation of WPP-RI map boundaries refers to the Decree of the Minister of Agriculture Number 995/Kpts/IK 210/1999 and the results of a study by the Marine Fisheries Research and Development Agency (Balitbang KKP) which was carried out through a bio-ecological approach, diversity of fish resources, rules marine toponyms, and morphological conditions of the seabed, as well as the development of the expansion of autonomous regions, and the development of Indonesia's maritime boundary demarcation, including paying attention to the division of sea areas based on the International Maritime Organization (IMO)¹² and the International Hydrography Organization (IHO). The division and determination of the WPP-RI area were carried out based on the physical, ecological, and oceanographic conditions of Indonesian waters, while the numbering/coding is adjusted and refers to the regional and global fishery statistical area codification system from IMO, IHO, and FAO.

Based on the codification, Indonesian waters are located in areas 57 and 71. The

¹²The International Maritime Organization (IMO) is a specialized agency of the United Nations responsible for the safety and security of shipping activities and the prevention of pollution at sea by ships. Meanwhile, the International Hydrographic Organization (IHO) is an intergovernmental organization representing the hydrographic community. This organization has observer status at the United Nations and is a recognized competent authority for hydrographic surveys (i.e. measurements to obtain images of the seabed surface etc., including measurements to determine the speed of river currents and ocean currents) and nautical charting (nautical charts are maps made for shipping purposes, it is used to determine the condition of waterways, water depths, seabed properties, coastal topography, and so on). Managed from multiple sources.



waters area 57 is in the Eastern Indian Ocean Region and area 71 is located in the western Indo-Pacific region (the Western Central Pacific). Furthermore, the WPP-RI numbering unit follows the two areas with sequential local codes from number 1 onwards starting from west to east for

regional code 57, and area 71 starting from the South China Sea, Java Sea, Makassar Strait, Banda Sea, Seram Sea, Sulawesi Sea, Pacific Ocean, and Arafuru Sea. The classification of the 11 WPPNRI areas based on the Permen KP is as shown in the following table:

Table 1.1. The Division of Fisheries Management Area of the Republic of Indonesia (WPPNRI).

Number	Waters Area	WPPNRI Code ¹³
1.	Straits of Malacca and the Andaman Sea	571
2.	Indian Ocean west of Sumatra and the Sunda Strait	572
3.	The Indian Ocean south of Java to the south of Nusa Tenggara, the Savu Sea, and the western Timor Sea	573
4.	Karimata Strait, Natuna Sea, and the South China Sea	711
5.	Java Sea Waters	712
6.	Makassar Strait Waters, Bone Bay, Flores Sea, and the Bali Sea	713
7.	Tolo Bay Waters and the Banda Sea	714
8.	Tomini Bay Waters, Maluku Sea, Halmahera Sea, Seram Sea, and Berau Bay	715
9.	Sulawesi Sea Waters and North Halmahera Island	716
10.	Cenderawasih Bay Waters and the Pacific Ocean	717
11.	Aru Sea, Arafuru Sea, and East Timor Sea	718

²¹The division and determination of the WPP-RI area are carried out based on the physical, ecological, and oceanographic conditions of Indonesian waters, while the numbering/coding is adjusted and refers to the regional and global fishery statistical area codification system from IMO, IHO, and FAO. Based on the codification, Indonesian waters are located in areas 57 and 71. The waters area 57 is in the Eastern Indian Ocean Region and area 71 is located in the western Indo-Pacific region (the Western Central Pacific). Furthermore, the WPP-RI numbering unit follows the two areas with sequential local codes from number 1 onwards starting from west to east for regional code 57, and for area 71 starting from the South China Sea, Java Sea, Makassar Strait, Banda Sea, Seram Sea, Sulawesi Sea, Pacific Ocean, and Arafuru Sea. See *Ibid.*, p. 15-17.



The definition of WPPNRI as stated in the Ministerial Decree Number 18/PERMEN-KP/2014 has no significant difference with the previous Ministerial Decree KP, except for the addition of the word "State", so that the abbreviation WPP-RI becomes WPPNRI. The function of WPPNRI in the Decree of the Minister of Marine Affairs and Fisheries is quite broad, not only as a location for catching and cultivating fisheries, but can also be used for conservation, research, and fishery development activities. Its coverage area was expanded and more detailed to include inland waters and archipelagic waters. In Article 7 of Law 32 of 2014 concerning Marine Affairs, it is stated that inland waters are all waters located on the land side of the low water line of the Indonesian coasts, including all parts of the waters located on the land side of a closing line. Meanwhile, archipelagic waters are defined as all waters located on the inside of the archipelagic baselines regardless of depth or distance from the coast. If this definition is related to mapping the location of WPPNRI, it will appear that there is a legal vacuum, because the mapping of WPPNRI in the Ministerial Regulation only regulates waters in the sea. Article 1 number 1 of Law 32 of 2014 concerning Marine jo. UUCK states: *Sea is the water space on earth that connects land with land and other natural forms, which is a geographical and ecological unit along with all related elements, and whose boundaries and systems are determined by statutory regulations and international law.* From this definition, it shows that inland waters such as rivers, reservoirs, swamps, and other puddles (other puddles, including: under or ex-excavations, lakes, and reservoirs), are categorized as archipelagic waters and inland waters that are not included in WPPNRI as stated in Minister of Marine

Affairs and Fisheries Regulation (Permen KP) Number 18/PERMEN-KP/2014.¹⁴

A slightly different definition of WPPNRI is given by Government Regulation Number 27 of 2021 concerning the Implementation of the Marine and Fisheries Sector which was previously also mentioned in the Minister of Marine Affairs and Fisheries Regulation Number 22 of 2021 concerning Plans for Preparation of Fisheries Management and Fisheries Management Institutions as stated in Article 1 point 8: *"The State Fisheries Management Area of the Republic of Indonesia, hereinafter abbreviated as WPPNRI, is a fishery management area for fish catching and fish cultivation, which includes Indonesian waters, Indonesia's exclusive economic zone, rivers, lakes, reservoirs, swamps, and other pools of water that have the potential to be cultivated in the territory of the Republic of Indonesia. The Republic of Indonesia."*

The definition of WPPNRI from the two laws and regulations above illustrates that WPPNRI is only intended for fishing and fish farming activities or in other words solely for commercial activities. Where the scope of management includes: Indonesian waters, ZEEI, rivers, lakes, reservoirs, swamps, and other puddles. This means that the only waters where to conduct research are only on the High Seas. So there are 3 (three) other functions of WPPNRI, namely the function of conservation, research, and fishery development which have been removed, although PP 27 does not explicitly mention it. So, although PP

¹⁴In Article 7 of Law 32 of 2014 concerning Marine Affairs (hereinafter referred to as the Maritime Law), it is stated that inland waters are all waters located on the land side of the low water line of Indonesian beaches, including all parts of waters located on the land side. of a closing line. Meanwhile, archipelagic waters are defined as all waters located on the inside of the archipelagic baselines regardless of depth or distance from the coast.



No. 30 of 2008 concerning the Implementation of Fisheries Research and Development is not revoked, because of this condition this PP is no longer useful.

Some of the existing changes, in PP 27 should include a statement "change" or "replace", thus creating a system of drafting laws and regulations that are systematic, orderly, and harmonious for the community. Regarding this matter, Saldi Isra stated that with the power to form regulations that are so open, the content of the Ministerial Regulations can be "wild" because it ignores the principle of the formation of laws and regulations, thus causing legal uncertainty. This is because the formation of a Ministerial Regulation does not go through a harmonization process as is the case with the formation of Government Regulations (PP) and Presidential Regulations. Therefore, both vertically and horizontally, substantively, Ministerial Regulations are very likely to present regulations that are not harmonious and out of sync with other types and hierarchies of statutory regulations, including those that contradict the Act. Harmonization is considered important for the creation of certainty and guarantee of law, order, and protection for the community.¹⁵ As Fuller said, clarity of laws is one of the most important elements of legality. Laws that are not clear and coherent will eliminate and damage the nature of the legality of the rules themselves.¹⁶

¹⁵Ridwan, *Eksistensi dan Urgensi Peraturan Menteri dalam Penyelenggaraan Pemerintahan Sistem Presidensial*, Journal of the Constitution, Vol. 18 No. 6 of 2021, p. 830. See also M. Jufri Arlinandes Chandra et.al., *Tinjauan Yuridis Pembentukan Peraturan Perundang-undangan yang Sistematis, Harmonis, dan terpadu di Indonesia*, Indonesian Legislation Journal, Vol. 19 No. 1 Year 2021, p. 6.

¹⁶ Lon L. Fuller, *The Morality of Law* (Revised Edition), New Haven and London, Yale University Press, 1969, p. 63.

D. Conclusion

Sustainable and equitable fisheries management aims to ensure food availability for current and future generations, guided by Pancasila values as the fundamental philosophy of national development. Various laws and regulations in the field of fisheries have also been directed to support the program, including in the 2020-2024 RPJMN. However, in these various instruments, it is still not optimal to implement the principles of ecological justice of Pancasila in its articles. So that healthy fishery resources have not been achieved, as well as a sense of justice for the community, especially fishermen, still needs more serious efforts to make it happen.

REFERENCES

- Anggara, Sahya, *Teori Keadilan John Rawls Kritik Terhadap Demokrasi Liberal*, JISPO Vol. 1 Edisi; Januari-Juni Tahun 2013.
- Alder, John & David Wilkinson, *Environmental Law & Ethics*, Macmillan Press, London, 1999.
- Atmoredjo, Sudjito, *Hukum Dalam Pelangi Kehidupan*, Dialektika, Cet. IV, Yogyakarta, 2018.
- Badan Pembinaan Hukum Nasional, *Laporan Akhir Tim Analisis dan Evaluasi Hukum Bidang Perikanan*, Jakarta, 2015.
- Food and Agriculture Organization (FAO), *Law and Sustainable Development Since Rio – Legal Issues and Trends in Agriculture and Natural Resources Management*, Lihat juga FAO Legislative Study 73 (Roma: FAO, 2002).
- Fuller, Lon L., *The Morality of Law* (Revised Edition), New Haven and London, Yale University Press, 1969.
- Chandra, M. Jufri Arlinandes et.al., *Tinjauan Yuridis Pembentukan Peraturan Perundang-undangan yang Sistematis, Harmonis, dan terpadu di Indonesia*, Jurnal Legislasi Indonesia, Vol. 19 No. 1 Tahun 2021.



Hasanuddin, Iqbal, *Keadilan Sosial:Telaah Filsafat Politik John Rawls*, Jurnal Refleksi, Vol. 7 No. 2 Oktober 2018, h. 198.

Kementerian PPN/Bappenas, *Rancangan Teknokratik RPJMN 2020-2024 :Indonesia Berpenghasilan Menengah-Tinggi yang Sejahtera, Adil, dan Berkesinambungan*, 2020.

Kooiman, Jan et.al (ed), *Fish for Life: Interactive Governance for Fisheries*, Amsterdam University Press, MARE Publication Series No. 3, 2005.

Latif, Yudi, *Negara Paripurna : Historitas, Rasionalitas, dan Aktualitas Pancasila*, Cet. ke-7, PT. Gramedia Pustaka Utama, Jakarta, 2019.

Latifah, Emmy, *Perkembangan Pengaturan Pengelolaan Perikanan Berkelanjutan Berdasarkan Hukum Internasional*, Jurnal Bina Mulia Hukum, Vol. 1 No. 2, 2017.

Paskarina, Caroline, *Wacana Negara Maritim dan Reimajinasi Nasionalisme Indonesia*, Jurnal Wacana Politik – Jurnal Ilmiah Departemen Ilmu Politik, Vol. 1 No. 1, 2016.

Ridwan, *Eksistensi dan Urgensi Peraturan Menteri dalam Penyelenggaraan Pemerintahan Sistem Presidensial*, Jurnal Konstitusi, Vol. 18 No. 6 Tahun 2021.

Rawls, John (terj.), *A Theory of Justice: Teori Keadilan*, Cet. III April 2019.

Smith, James Charles, *Property and Sovereignty in The Twenty-First Century* in James Charles Smith (Ed), *Property and Sovereignty: Legal and Cultural Perspectives*, Routledge, New York, 2016.

Wibisana, Andri G., *Pembangunan Berkelanjutan: Status Hukum dan Pemaknaannya*, Jurnal Hukum dan Pembangunan Tahun ke-43 No. 1, 2013.

Wibisana, Andri G, *Keadilan Dalam Satu (Intra) Generasi: Sebuah Pengantar Berdasarkan Taksonomi Keadilan Lingkungan*, Mimbar Hukum Vo. 29, Nomor 2, 2017.

Yarkina, Nataliya and Nataliya Logunova, *The Concept "Blue Growth" as A Way for Sustainable Development of The Fisheries*, E3S Web of Conference, 2021.

