

Legal Policy Management of Coastal Areas and Small Islands in Indonesia

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Legal Policy Management of Coastal Areas and Small Islands in Indonesia

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Abstract. Lingga Regency has 531 large and small islands spread throughout an area of 45,508 km² that is made up of 2,235 km² of land and 43,273 km² of ocean. The potential of several tiny islands' natural and marine resources is yet untapped. Regarding the Management of Coastal Areas and Small Islands, currently governed by Law No. 1 of 2014 and Law No. 27 of 2007, (UU PWP3K). The issue is framed as follows: How is the PWP3K Law being implemented, and what challenges is the Lingga Regency government facing?. In this study, a statutory approach is combined with the research of a normative legal. The secondary data and The data was analyzed using analytical and descriptive methods. The research determined that the PWP3K Law's implementation had not gone smoothly because the Province of Riau Island, which serves as the legal guardrail for the Government of Lingga Regency in controlling coastal areas and small islands, had not yet issued a regional regulation on the Zoning Plan for Coastal Areas and Small Islands. Despite the fact that the majority of the population is employed as fisherman and the region itself falls under the category of Coastal and Small Island regions, the government of Lingga Regency now gives agriculture and agro-industry development programs priority. The Law No. 23 of 2014 about Regional Government, which restricts the jurisdiction of the Provincial and Regency/Municipal Governments in terms of managing the ocean, the coast, and small islands, is another challenge that the Government of Lingga Regency must overcome. To give Regency/City Governments back control over managing marine areas, coastal areas, and small islands, the House of Representatives and the President must amend and harmonize Law No. 23 of 2014 on Regional Government, Law No. 1 of 2014 on Amendments to Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, and Law No. 11 of 2020 on Job Creation.

Keywords: Management, Coastal Areas, Small Island, Lingga Regency

1. Introduction

Indonesia is required to be a constitutional state (Rechtsstaat) with a republic with the status of a unitary state per Article 1 paragraph (3) of the Constitution of 1945. In a unitary state, the original power rests with the central government, and through the transfer of some of the powers that are expressly determined and handed over to the regions.[1] Each country does not always require the transfer of authority to the regions, such as Singapore and Brunei Darussalam. This happens because the territory

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of Singapore or Brunei is relatively small, so that the country does not require the devolution of power to the regions. This is different from Indonesia, which has a large area and population.[2]

Indonesia has a total land area of 1,910,931.32 km² with an ocean area of 3,544,743.9 km². This area makes Indonesia the biggest archipelagic state in the world with 17,508 small and large islands, both inhabited and uninhabited, and makes Indonesia a country with abundant marine wealth. Natural resource development and management must be done appropriately in accordance with their respective portions so that excessive exploitation does not occur.

The area with a large population makes Indonesia need two levels of regional division, covering the Province and Regency/City areas. As a result of this division, Indonesia has 34 provinces ¹⁷ and more than 500 regencies/cities from 5 major islands in Indonesia.[3] One of the provinces in Indonesia is the Province of Riau Island. Based on Law Number 25 of 2002, this province was established with an area of 252,601 km², 95% of the area is the ocean which is composed of 2,408 islands, with the remaining 5% is land area.

The Provincial government of the Riau Islands establishes districts/cities based on regional potential, economic capacity, socio-cultural and socio-political conditions, area, population, and other considerations to enhance services of the government, economic development, and community development. At the beginning of its formation, 5 regencies/cities were formed but now they are divided into 7 regencies/cities and one of them is Lingga Regency.

Lingga Regency is a division as well as the ²³ former territory of the Lingga ex-kawedanan which was formed into a district with Law No. 31 of 2003 concerning the Establishment of Lingga Regency. The location of Lingga Regency is very strategic because it is close to Batam and Bintan and directly adjacent to Jambi and Bangka Belitung Provinces. According to the legislation, Lingga Regency has 2,235.51 km² area and a sea area of 45,508.00 km². In addition, it includes a 43,273.15 km² ocean with 531 big and tiny islands. There are still a lot of little islands that are deserted, undeveloped, and whose natural and marine resources have not been fully used.

The residents of Lingga Regency have long relied on the coastal area as one of their primary sources of food and a source of livelihood since it is rich in a variety of natural resources. Meanwhile, the mineral wealth found in the Lingga Regency area has been widely utilized and used to support economic development. Apart from being a resource provider, coastal areas also have other functions and uses such as [4]: a. Transportation and Port b. Industrial Area c. Agribusiness and Agroindustry d. Recreation and Tourism e. Residential Areas and Waste Disposal.

Utilization of coastal areas is currently very intensively carried out to fit the development needs of the state, region, and society. However, not all of the utilization and development is carried out through legal studies, proper and lengthy environmental assessments of resources in coastal areas, resulting in environmental damage and a decrease in the quality of natural resources.[3]

Large populations on small islands may have access to natural and marine resources that have already been processed and used by the neighborhood. However, the use of the resources has not been ideal. In order to prevent undue exploitation, such resources must be used wisely according to their assigned percentages.[5] One example of exploitation that occurred was quartz sand mining and bauxite mining in the Lingga Regency area losing several small islands. In addition, small isolated islands are often used as places for smuggling, illegal dumping of waste, which ultimately destroys the ecology of small islands so that they are damaged and cannot be used.[6]

The management principle of the state's right³ is first established in the laws and regulations of the Republic of Indonesia in Article 33 paragraph (3) of the Constitution from 1945. This regulation suggests that earth, water, and the natural resources belong to the government. The government is responsible controlling and using for the people prosperity. Because tiny islands are essentially under the state's authority, the state manages that power by issuing permissions to third parties, including people and private businesses. Listed below are the rules and regulations that govern how these islands¹² are managed: Law No. 1 of 2014 on Amendments to Law No. 27 of 2007, Law No. 32 of 2014, Government Regulation No. 62 of 2010, Law No. 27 of 2007, and Law No. 1 of 2014 on Amendments to Law No. 32 of 2014. [7]

The wealth of natural resources in Lingga Regency is quite large, these small islands have a good ecosystem due to the presence of coral reefs, sea grass, sea weeds and so on. Marine biological resources in the Lingga Regency area also have variety and significant economic value potential. Because the development resources have not been processed and utilized, it causes the welfare level of the local community to be low and far behind compared to the people in the developed islands. Additionally, because¹² these small islands typically lack transportation services, development on them has not been carried out to its full potential.[8]

Additionally, as larger detrimental effects may endanger small islands and coastal regions, regional policies controlling the management of coastal areas are important if no regulation and management of the area is carried out such as environmental degradation, uncertainty of investment locations, and conflicts between office holders.[9]

2. Problems

The problem that has to be solved in this study is how Law Number 1 of 2014¹ about Amendments to Law Number 27 of 2007 is being implemented and the challenges it has encountered in Lingga Regency.

3. Method

In this study, a statutory approach is combined with the research of a normative legal. The secondary data employed consisting of Law No. 31 of 2003, Law No. 26 of 2007, Law No. 27 of 2007, Law No. 1 of 2014 on Amendments to Law No. 27 of 2007, Law No. 23 of 2014, Law No. 32 of 2014, Law No. 11 of 2020, Law No. 6 of 2023, Law No. 62 of 2010, Minister of Marine Affairs and Fisheries Regulation No. Per.16/M²/2008, Regional Regulation of Lingga Regency Number 2 of 2013 and Minister of Marine Affairs and Fisheries No. 23/PERMEN-KP/2016, as well as related books, journals, and laws and regulations.

The data was analyzed using analytical and descriptive methods. The analysis process begins with data gathering, then moves on to systematic selection and categorization, before the author performs interpretation. The author then makes comparisons with theories and ideas taken from scientific literature, journals, relevant laws and regulations, as well as professional legal advice. The research location is in Lingga Island Regency, Riau Archipelago Province.

4. Discussion

4.1. ¹ Lingga Regency's implementation of Law Number 1 of 2014 about amendments to Law Number 27 of 2007 on management of coastal areas and small islands

Zoning plans are described in Article 1 Paragraph (14) of the PWP3K Law as plans specifying the structure and spatial organization of the planning area, as well as the manner in which resources are used by each planning unit. Additionally, these plans include actions that must have the appropriate licenses in order to be carried out and those that may be carried out but not others, this declares that the zoning plan follows Law No. 32 of 2014 respecting the Marine's (Marine Law) requirement of Article 43 paragraph (1) letter b.

Article 2 of the PWP3K Law outlines the regulations and administration of coastal regions and small islands. The shifting regions between land and sea ecosystems influenced by changes on both land and water are included in the scope of the Coastal Zones and Small Islands Regulation. These areas extend from the subdistrict's administrative territory to the sea up to twelve nautical miles offshore.

The PWP3K Law requires the ³⁰ province government and/or district/city administrations to use the resources in coastal areas and small islands (Article 9 paragraph (1) of the PWP3K Law). By making arrangements related to RZWP3K, it will have an impact in several ways, for example, it can be a reference when creating regional long and medium-term development plans, utilize WP3K as a guide to ensure a balanced development in those plans, and can also be used as a basis for controlling the exploiting of space in structuring coastal areas and small islands, and the rules

regarding the Provincial and/or Regency/City Spatial Planning (RTRW) must be aligned and in line with the RZWP3K rules.[10]

RZWP3K planning is the authority of the Provincial and Regency Governments as stipulated in Article 14, but in the Regional Government Law Attachment Y the division of maritime and fisheries authority affairs (Marine, Coastal and Small Islands) District/City Regional Governments have no authority, whereas in fact the one who knows the potential of resources and the specificity of the region is the local government. The regulation on RZWP3K is very important in order to protect resources and the environment without leaving the local wisdom, and to develop potential areas to become centers of production, distribution, and service activities.[11]

In Article 9 of the PWP3K Law, the Provincial and Regency/City Governments are required to form a Regional Regulation regarding the RZWP3K and must be harmonized with the Regional Regulation concerning the Provincial or Regency/City RTRW, but after the Regional Government Law is issued, the Regency/City authority over Marine, Coastal and Small Islands is abolished, as stated in the Regional Government Law Article 14 paragraph (1) The Central and Provincial Governments are responsible for implementing government affairs in the forestry, marine, energy, and mineral resource fields. As a result, there is now less room for the general application of regional autonomy. It strongly restricts the Regency/City Government's ability to manage and maximize the potential in its jurisdiction, i.e., the substance of the term "regulate and manage government matters themselves." in Article 18 paragraph (2) of the Constitution of 1945 has been lost or obscured.

The Regional Government Law has provided clarity that it is important to decentralize some of the authorities employed by the regional government itself to promote and improve the welfare of the regional community, but at this time several changes to the rules have emerged, one of which is the existence of Law No. 6 of 2023 on Job Creation retracting some regional authorities (Province and Regency/City) to the center.

¹⁹ The limitation of the authority of the Provinces and Regencies/Cities is not only in the Job Creation Law. It already exists in the Regional Government Law. This is shown in the Matrix for the Division of Concurrent Government Affairs between the Central and Provincial Governments, and District/City Regions, one of which is the Division of Maritime Affairs and Fisheries. The Maritime Affairs and Fisheries Sector is divided into several Sub Affairs, which include: a. Sub Affairs of marine, coastal and small islands. b. ¹⁸ Affairs of catch fishery. c. Sub Affairs of aquaculture d. Sub Affairs for supervision of marine and fishery resources. e. Sub Affairs of processing and marketing. f. Sub Affairs for fish quarantine, quality control, and security of fishery products. g. Sub Affairs for the development of marine and fisheries community human resources.

In the sub-affairs of marine, coastal and small islands, the authority is only with the Central and Provincial Governments. Regency areas are not given authority even though the one who knows the potential of resources and regional specifics is

the local government. In the case of licensing for the management of the Regency/City government only as a provider of recommendations or proposals, the nature of the recommendation or proposal may or may not be used.[12]

The government is required to offer education, training, and counseling on the management of coastal regions and small islands under Article 47 of the PWP3K Law to enhance the growth of human resources in the PWP3K sector. The Government of Lingga Regency in its mission which is accordance with the Regional Medium-Term Development Plan is committed to developing and increasing marine resource business and productivity through small, medium, and large businesses, improving the welfare of actors and managers of marine resource businesses through small, medium, and large businesses, improve the welfare of farmers and fishermen through strengthening the linkage of large, medium, and small scale agro-industry. The vision and mission of the Government of Lingga Regency is in line with the mandate of the PWP3K Law and the Regional Government Law aiming to improve community ²welfare through empowering coastal communities themselves. However, in practice the vision and mission of the Government of Lingga Regency has not been implemented optimally, the majority of the population of Lingga Regency is employed as a fisherman, hence the government of Lingga Regency emphasizes agricultural/agroindustry development projects even if the expansion of the marine and fishing sectors demands special attention. This is demonstrated by the lack of a fish auction location.[13]

4.2. Obstacles to the ¹³Lingga Regency government's implementation of Law 1 of 2014 amending Law 27 of 2007 regarding management of coastal areas and small islands

The Regulation of the Minister of Maritime Affairs and Fisheries Num ²⁹PER.16/MEN/2008 in Article 1 Paragraph (2) indicates that the execution of the management of coastal areas and small islands has been regulated. To promote the welfare of the community, tiny islands are processing for planning, exploiting, monitoring, and managing the ¹⁰eral government and regional governments, small islands and coastal resources between sectors, land and marine ecosystems, and research and management. Additionally, planning for the management is described in Article 1 Paragraph 3 as a process of gathering the stages of activities involving various elements of interest therein, for the utilization and distribution of already available with the goal of enhancing social welfare in a local setting within a set time frame.

The goal of managing coastal areas and small islands is to ²⁸ake the best use of the resources already present while adhering to the management principles set forth in Article 3 of the PWP3K Law, namely continuity, consistency, coherence, partnership, legal certainty, equity, community participation, transparency, decentralization, accountability, and justice.

The growth and management of tiny islands and coastal regions pay attention to the quality of the people living, including indigenous peoples and local communities, in addition to sustainability and resource use.[14] Article 1 Paragraph

(31) of the PWP3K Law defines community empowerment as an attempt to give facilities, encouragement, or aid to the community and traditional fishers. The goal is to choose the most sustainable way to use. In reality, though, the community and the government vie with one another over the use of coastal resources.

RZV²⁴K is a mandate from 3 (three) laws, which include the Marine Law in Article 43, Law No. 1 of 2014 on Amendments to the PWP3K Law in Article 7, and the Regional Government Law in Appendix Y regarding the authority of the province in the management of marine space. In the f¹⁶ing process of the Regional Regulation RZWP3K, it does not only involve the Ministry of Home Affairs but also the Ministry of Agrarian Affairs and Spatial Planning²² the Ministry of National Planning and Development, the Coordinating Ministry for M⁶time Affairs and the Ministry of Maritime Affairs and Fisheries. Constraints in the management of coastal areas and small islands in Lingga Regency are due to the absence of a Riau Islands Provincial Regulation regarding RZWP3K as mandated by the PWP3K Law, even though the Zoning Regulation is an important instrument in implementing management, development and construction. For t³⁴ technical preparation of the Regional Regulation on RZWP3K, it is contained in the Minister of Maritime Affairs and Fisheries Number 23/PERMEN-KP/2016 Articles 23-33.

Besides the issue of the absence of a Zoning Regulation (RZWP3K), other obstacles faced by the Government of Lingga Regency in implementing Law no. 1 of 2014 in Lingga Regency is a regulation or rule, limiting the authority of Regency/City Areas to marine areas since the ratification of the Regional Government Law. The Provincial Government's authority is only limited to registration and issuance of permits in accordance with the attachment matrix Y of Law No. 23 of 2014. Fishermen can no longer get support in the form of fishing equipment from Regency/Municipal governments. It is under the Province's administration. The Lingga Regency Government, however, appears careless with parts of the remaining legal authority, such as catch fisheries and aquaculture. In the Lingga Regency RTRW Regional Regulation, the Regency Government Lingga still retains the power to establish a Fish Auction Place. Although it has been claimed that there is a fish landing base, this has not been put into operation since the law was approved in 2013.

Admi²⁶ration of coastal regions and small islands with regional autonomy is impacted by Law No. 23 of 2014, which repealed Law No. 32 of 2004. The Regional Government Law's Article 27 paragraph (1) specifies that Provincial Regions have the power control²⁷ maritime resources on their area. This article nullifies Section 1 of Article 18 of Law No. 32 of 2004. The Provincial Government and Regency/City Government are referred to as the Regions in Law No. 32 of 2004's explanatory section. As a result, the Regency/jurisdiction City's to manage maritime resources is immediately revoked per Article 27 paragraph 1 of the Regional Government Law. [15]

The only resources for which marine treasures are explored, exploited, protected, and managed are ones other than oil and gas. The so³²ignificant alteration to Law No. 23 of 2014's Article 27 paragraph (2) is this one. On the other hand, oil and gas are controlled by the national government. Maximum twelve nautical miles, measured from the base line out to sea or out to the waters around an island. For the

purpose of managing resources in the maritime region, those are within the province's responsibility (Article 27 paragraph 3 of Law No. 23 of 2014). Contrary to Law No. 32 of 2004, Article 18 paragraph (4) specifies that the jurisdiction managing resources in the maritime area as indicated in paragraph (3) is limited to a maximum of twelve nautical miles measured from the shoreline toward the high seas and/or toward archipelagic waters. The authority granted to the Provincial Government is strengthened by this clause. Accordingly, the Provincial Government has jurisdiction beginning at the shoreline and extending out to 12 nautical miles in accordance with Article 27 paragraph 3 of Law No. 23 of 2014.

The Provincial Government is given power in the interim by the Central Government. Its nature is archipelagic. According to Law No. 23 of 2014's Article 28 Paragraph 2, the Central Government delegated the execution of its authority in the maritime sector to the provinces with archipelagic features. If the Provincial Government, which has island-specific norms, standards, processes, and criteria, has adhered with them, the new assignment may be carried out. Law No. 23 of 2014 requires regulation in the form of a government regulation for norms, standards, processes, and criteria. Therefore, even after the passage¹⁰ of Law No. 23 of 2014, there are still issues with regards to the administration of coastal resources and small³³ nds, as well as the distribution of duties and responsibilities between the Provincial Government and Regency/City Government.⁷

In its development, Law No. 11 of 2020 concerning Job Creation, this Law also changes¹¹ several provisions of Law No. 27 of 2007 and Law No. 1 of 2014 on PWP3K, the Job Creation Law removes the provisions of Article 1 points 17, 18 and 18A of the PWP3K Law regarding Detailed Zoning Plans, Location Permits and Management Permits. Management Permit is¹¹ replaced with Business Licensing through an electronic system. Additionally, the Job Creation Law modifies the elements of Article 7 of the PWP3K Law, which eliminates WP3K management plans in the geographic areas associated with Strategic Plans. RZKSN and RZKSNT, whose complete administration is decided by the Central Government, replace Management Plans and Management Action Plans, leaving only the Zoning Plan. As stated in the PWP3K Law prior to the Job Creation Law, RZWP3K must be incorporated into the Provincial RTRW to ensure that there is no unique Regional Regulation that governs the Zoning Plan (marine spatial planning). This is furthered by the repeal of Articles 8 through 14 of the PWP3K Law, which called for the City and Provincial governments to specify Perda RZWP3K in line with Article 9 paragraph 5 of the PWP3K Law.

With the enactment of the Job Creation Act, the authority of Regency/City Regional Governments is increasingly limited⁹ in managing their regions and expanding the intervention and involvement of the Central Government in the implementation of government affairs that should be given to Regional Governments, this will lock creativity and development of regional potential according to diversity, the uniqueness and distinctiveness of each region as a constitutional right of the Regency/City Government (Article 18A paragraph (1) of the Constitution of 1945), whose function is to extend access and public service lines so that the targets and objectives of granting regional autonomy mandated by the constitution cannot be achieved or implemented.

5. Conclusion

The lack of a regional regulation on RZWP3K of the Riau Islands Province, which will later serve as a reference in how the government of Lingga Regency implements regional development coastal areas and small islands, is the reason why Law No. 1 of 2014 on Amendments to Law No. 27 of 2007 is not being implemented properly in Lingga Regency. Programs for the growth of the agro-industry are now given top priority by the Lingga Regency government, notwithstanding the fact that changes in the maritime and fishing industries should get more specific attention. Since fishermen make up the majority of the population in Lingga Regency. The region of the Lingga Regency itself falls under the heading of Coastal and Small Island Regions, both in terms of conditions geographical and social conditions of the people. Another obstacle faced by the Lingga Regency Government in managing marine and coastal areas is the limitation on the authority of the Regency/City Government in terms of managing the sea, coast and small islands as regulated in the Regional Government Law, this is different from the previous Regional Government Law (UU No. 32 of 2004) which still gives authority to the Regency/City Government. This is contradictory to the provisions in Article 14 of the PWP3K Law which states that the RZWP3K Planning is the authority of the Provincial and Regency/City Governments. In addition, with the enactment of the Job Creation Law, the authority of Regency/Municipal Governments is increasingly limited in managing their region including in managing marine, coastal and small islands areas and shifting to the Central Government.

The Regional Government of the Riau Islands Province should immediately stipulate the regional regulation draft (Ranperda) of RZWP3K and integrate it with the Regional Regulation on RTRW, so that there is a legal umbrella for the Regional Government of Lingga Regency in managing coastal areas and small islands. In the future, the Government of Lingga Regency also needs to prioritize development in the marine and coastal sector. To give Regency/City Governments back control over managing marine areas, coastal areas, and small islands, the House Representatives and the President must amend and harmonize Law No. 23 of 2014 on Regional Government, Law No. 1 of 2014 on Amendments to Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, and Law No. 6 of 2023 on Job Creation.

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