

The Utilization of Fish Landing Port For Fishing Fleet/Fish Transporting Fleet Based on Fishery Law

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ABSTRACT

The problem raised in this study is fish landing ports in Bengkulu city are not used by fishers as they have to according to Fishery Law. Fishers choose to land their catch to their own dockings which make it hardly for officers to record data of the catch which is very important in deciding what to do in maintaining fishery sustainability or in another word to keep their business in fishery long lasts. This study aims to (1) inventory regulations related to the utilization of PPI to see the law in books regarding the requirement to land the catch on PPI; (2) evaluate the constrains that make the law is not effective in the society. The method used is normative juridical, legal resources were collected by documentation study. Then, observation and in-depth interview were conducted by involving informants consisted of fishers and apparatus handling the compliance of this matter, decided by *purposive sampling*. After that, all the data collected were analyzed with qualitative method and legal interpretation as well. The result shows, *first*, rules regulating PPI utilization in Bengkulu city is set out in District Regulation No. 11 Year 2011 on Specific Licenses Retribution requiring the owner of the fleets (as a compulsory retribution) to have a business license. Violation of this will subject to administrative and criminal sanction. *Second*, the law is ineffective because of lack of supervisor of fishery; legal structures that don't have enough legal education resulting in disobedience always be understandable and unpunishable as it should be; culture to disobey the law raised from low law enforcement and lack of knowledge from fishers reflected in data showing only 10 % of owners having licenses. From the results it is strongly suggested that *first*, government should educate apparatus legal education and fishers as well as the main stake holder in fishery business which can be held with socializations on the importance of fish landing port to sustain their business; then assure that the sanction for those who disobey have to be enforced.

Key words: Fish landing ports, legal education, law enforcement, sustainable.

INTRODUCTION

Indonesia as an archipelagic nation is one of the countries with the largest number of islands (17,508 islands) and of 81,000 km coastline and about 3.1 million km² extensive sea, or 62% of the territory. The vast ocean water is rich in the types and potential of fisheries, where the common fisheries potential of 305 660 tons/year as well as the potential of marine approximately 4 billion USD/year.¹ In 2011, production of Indonesian catching fish production was increase significantly, from 5,039,446 tonnes in 2010 to 5,345,729 tons in 2011. By contrast, in Bengkulu it fell from 44.241 tons in 2010 to 39.860 tons in 2011.²

Not only been experienced by Indonesia, and by the smallest nations such as the Marshall Islands, Kiribati and Tuvalu, offshore marine resources represent almost the sole opportunity for substantial economic development,³ it's even also felt by big countries such as France and Spain where they precisely learned from Philippines.⁴ The world's fisheries are perceived to be in crisis, leading to livelihood and nutritional insecurity in fisheries-dependent areas of

¹ Supriadi dan Alimudin, 2011, *Fishery Law in Indonesia*, Jakarta : Sinar Grafika, P. 2

² Retrieved from http://www.bps.go.id/tab_sub/view.php?tabel=1&daftar=1&id_subyek=56¬ab=5 at Friday, April 12 2013

³ Michael Lodge, "New Approaches to Fisheries Enforcement," *Review of European Community & International Environmental Law*, 1993, Vol.2 p.277-284. <doi:10.1111/j.1467-9388.1993.tb00124.x>

⁴ Hazel O. Arceo and others, "Moving beyond a Top-down Fisheries Management Approach in the Northwestern Mediterranean: Some Lessons from the Philippines," *Marine Policy*, 39 (2013), 29–42.

developing countries.⁵ In fisheries, Indonesia became the second largest fishing nation after China.⁶ Unless accompanied by a sustainable management the increasing intensity of fishing will lead to the extinction of the fish.⁷ Consequently, responsible management becomes one of the key answers to the challenges of sustainable fisheries development.⁸

With of 387.6 km² coastal sea area, no wonder if Bengkulu people tend to choose fishing for a living. This trend is even increased due to the price of fish has increased as well.⁹ Fishermen Bengkulu also varies from small to modern categories. Recognizing the fact that many Indonesian people living on coastal areas and into fishing, to accelerate the growth of coastal areas and coastal resources optimally, Government improves facilities in the field of fisheries by building a fishing port which is expected to become a hub of business activities in the fisheries system.

Juridically, fishing port is defined as a place consisting of land and surrounding waters with certain limits as a system of government activities and business activities, used as a fishing boat rests, anchored and/or unloading fish that equipped with the safety of shipping and activities supporting fisheries. It is noted that fish landing is an early stage of a series of activities carried out before the fish finally distributed. Fish landing is an activity of unloading the fish caught from fishing fleets and/or fish carrier fleet at ports listed in fishing license and fish transporting license, both processing and non-processing.¹⁰

As stated in Fishery Law, fish landing has to be done at fish landing port which is pointed in fishing licence or fish transporting license.¹¹ This article contains element of coercion, it can be seen from the presence of administrative sanctions-warning, suspension, or revocation of a license if it is not implemented. The nature of force is an element of the law in order to achieve its goal of order and justice. The law also aims to protect or restrict a person's interests by allocating a power to him for acting in the interests of the power. The allocation is practiced in a measured scope of power.¹²

Fishing activity in Bengkulu city is concentrated in Pulau Baai port, which is located approximately 20 km south of the capital city of Bengkulu. The port is a major port as a supporter of economy in the region supported hiterland areas along the western coast of Sumatra. In addition to Pulu Baai, there are two other fish landing ports are Pasar Baru and Tapak Padri.¹³ In this article, the term used is fishing fleet/fishing transport fleet because fishing fleet can be operated as fish carrier fleet and it is allowed under Act No. 45 Year 2009. Both types of fleets are also burdened with the same obligations in terms of landing fish. Fishing fleets landing on Pulau Baai varied ranging from fishing boats weighing up to 10 GT until 30 GT.

This article does not use the term fisherman boats because this term is not contained in the Fisheries Act. Fisherman is interpreted as anyone whose livelihoods are fishing, so the term is too general to be used in this study. Furthermore, the obligation of fish landings in the port is charged to owners of fishing fleets and fleets transporting fish, not the fishermen.

If connected with law in books, both the fishing fleet and fish carrier fleets owner is subject to the same obligations, that they need to land the fish on the port which has been set in SIPI and/or SIKPI. However, if observed, in the region adjacent to PPI Pasar Baru are small fishing fleets anchored on the shore and on the land side there is outside the PPI we can see fish selling activity.¹⁴ Besides, local fishermen land their fish at their own dock and fish traders buy fish directly to the fleet.¹⁵

What have been done by local fishermen, unload the fish not at fish landing port, hasn't arose a conflict. However, their practice make it difficult to keep tabs on the amount of fish caught, what type of fish caught, while the data is necessary for the supervision and control of the fisheries source in order to avoid over fishing and illegal fishing.

⁵ Edward H. Allison, "Big Laws, Small Catches: Global Ocean Governance and the Fisheries Crisis," *Journal of International Development*, 13 (2001), 933–950 <doi:10.1002/jid.834>.

⁶ *Ibid.*

⁷ Daniel Pauly and others, "Towards Sustainability in World Fisheries.," *Nature*, 418 (2002), 689–695.

⁸ Lucky Adrianto, *Op Cit.*

⁹ Interviewed with Ipan, at Koperasi LEPP Bina Masyarakat, Pasar Bengkulu, Tuesday, April 12 2013.

¹⁰ Article 1 point 11 Act No.45 Year 2009 on the amandemend of Act No. 31 Year 2004 on Fisheries.

¹¹ In capture fisheries bussiness, fishing fleet owner has to have three documents- SIUP, SIPI and SIKPI that are related one each other.

¹² Sapiro Rahardjo, 1986, *Law Science*, Bandung: Alumni, P. 36-39.

¹³ Ocean Fishing Port of Bengkulu is Pulau Baai

¹⁴ Surveyed at Fish Landing Port Pasar Baru and around it, Sunday, March 24 2013.

¹⁵ Retrieved from <http://www.bisnis-sumatra.com/index.php/2013/02/kondisi-tempat-pelelangan-ikan-bengkulu-buruk/>, Tuesday, March 26 2013

Illegal and unreported fishing contributes to over exploitation of fish stocks and is a hindrance to the recovery of fish populations and ecosystems,¹⁶ will directly affect the degradation of fish resources Bengkulu City.¹⁷

Because of the difference between law in books and law in practice, it is believed that this study is important to conduct in order to inventory regulations related to the utilization of port and to evaluate the constrains that make the law is not effective in the society.

METHOD

This study used juridical normative method with statute approach. The main legal source is in the form of legislation. Interviewed will be conducted with informant from formal legal officers (whose duties and functions related to the fishing port) to complement legal resource. Besides, observation in *das sein* held at Pulau Baai port by interviewing the owner of the fishing fleets (purposive). Administrative or legal apparatus that includes a formal leader institution leader Marine and Fisheries Agency and the Head Pulau Baai port were asked for information as well. Required legal materials were collected by literature studies conducted with both on line and off line. After that, they were analyzed by using grammatical, historical and authentic interpretation. Interpretation of the results were compared to each other to find the answer of the problems.

RESULT AND DISCUSSION

Definition and Classification of Fishing Fleet

Fishing fleet is a unit of fish capture that has important role for fishermen, both for transportation mean from *fishing base* to *fishing ground* and as a place to collect the fish. It has features in some aspects as velocity (speed), maneuverability, seaworthy, navigable area, stoutness of hull structure, engine propulsion, fishing equipment that is different from other common fleets.¹⁸ Development of fishing fleets is very diverse, starts from traditional with only based on the knowledge of heredity, to modern that have taken advantage from technological advances.¹⁹

Furthermore, shapes and types of fishing fleet are different because of differences in purpose of fishing effort, target species in fishing effort and water conditions. Therefore, the classification of fleets fishing boats also vary both by means of ship propulsion, fleet size, fleet function, group type fishing gears, and according to the scale of fishing effort.²⁰

FAO classifies selective fisheries for some countries classify fisheries in Indonesia in two main categories, namely: small-scale fisheries; using a machine outside <10 HP or <6 GT with 1 lane area (4 miles) of coastline, and is using the machine outside <50 HP or <25 GT with 2 lines operating area (4 miles - 8 miles), and (2) which is a large-scale fisheries fishing industry, using the machine in <200 HP or 100 GT area operasi.3 lines and 4 (8 miles-12 miles and / or> 12 miles).

According to the definition of fishing boats set out in Article 1 point 9 of Fisheries Law, the fishing fleets can be a ship, boat or other floating device that is used to fishing, support the fishing operations, fish breeding, transportation of fish, fish processing, training fishery, research/ exploratory fisheries.

¹⁶ David J. Agnew and others, "Estimating the Worldwide Extent of Illegal Fishing," *PLoS ONE*, 4 (2009).

¹⁷ There are certain species that set as protected fish so forbidden to catch. See Report Facilitation Fish Species Conservation Area. Department of Marine and Fisheries, City of Bengkulu, (Fish Species Protection Workshop, Year 2011.

¹⁸ Ayodhya retrieved from <http://repository.ipb.ac.id/bitstream/handle/123456789/58207/BAB%20I%20Pendahuluan.pdf?sequence=2> , Sunday, March 7 2013

¹⁹ Fyson, retrieved from <http://repository.ipb.ac.id/bitstream/handle/123456789/58207/BAB%20II%20Pendahuluan.pdf?sequence=> , Sunday, March 7, 2013

²⁰ Retrieved from <http://repository.ipb.ac.id/bitstream/handle/123456789/55110/BAB%20II%20Tinjauan%20Pustaka.pdf?sequence=4> , Sunday March 7, 2013

Definition of Fishing Port

According to Lobis, the fishing port is a blend region between land and sea, used as the base of fishing activities, has various facilities start from the fish landed until they are distributed.²¹ Detailed of Aspects of the fishing harbor according to the Directorate General of Fisheries are:²²

- a. Production: Fishing port as a place for fishermen to carry out its production activities, ranging from supplies to meet the needs of fish in the sea until unloading their catch.
- b. Processing: fishing port provide the means necessary to process their catch.
- c. Marketing: fishing harbor is the center point of initial collection and marketing of their catch.

From Article 1 point 3 Fisheries Law, it can be noted that the port is used as the governmental activities and business activities fishery. This means the fisheries business activities should remain regulated, supervised, controlled and monitored so that it becomes sustainable fisheries. Thus, the port is expected to be a control of number and type of fish caught, but it can prevent the fishing protected fish, that is the philosophy of why the fishermen have to be landed the port.

Regulations on Utilization of Fish Landing Port (PPI) in City of Bengkulu

a. Fisheries Law

Act No. 31 year 2004 stated that Governments organize and conduct training management of fishing ports. Furthermore, Article 48 regulates any person who benefit directly from the resources of fish and the environment in and outside of the fishing ground are charged of fishery retribution and include in non-tax revenues, but small fishermen are not subject to this. The results of the retribution will be used for fisheries development and conservation of fisheries and environmental.

b. Regulation of Ministry of Marine and Fishery Affairs No. 8 Year 2012 on Fishery Harbor

It consists of regulation on fishing port classification; management of fishing ports; requirements and / or technical standards in the planning, development, operation, management, and supervision of fishing ports; working area and the operation of the fishing port and inland waters covering certain parts of the working area and the operation became fishing ports. This of course means to optimize the potential of the existing fishing in waters where the national long-term development of Indonesia in the field of marine geared to improve the welfare of poor families in coastal areas through developing small-scale productive economic activity that is able to provide employment opportunities to the wider poor families.

c. District Regulation of Bengkulu Province No. 2 Year 2012 on Spatial Plan of Bengkulu Province 2012-2032

In this regulation is said that the regulation over fishing port of Bengkulu province refers to spatial planning in order not to collide with each other across sectors, with due regard to sustainability and environmental capacity, and vulnerability to disaster areas. Article 54 states that the structure of one embodiment of a sustainable space is to make improvements to Ocean fishing ports; and Article 57 paragraph (4) establishes the development of fisheries areas is done through the improvement of infrastructure in the fishing port city of Bengkulu, North Bengkulu, Mukomuko district, Seluma District, South Bengkulu District, Kaur, and Central of Bengkulu. Of this regulation can be seen that Bengkulu Local Government has set a plan to make improvements to PPI Baai Island into Ocean Fishery Port.

d. District Regulation of Bengkulu Province No.10 Year 2011 on Retribution of Services

Charges for services are district retribution as a payment of services or of special licenses provided by local government to adhere to the principle of commercial as it can basically also be provided by the private sector.²³ One of them is the fishing harbor services levy. This levy is a payment for services provided by the fishing harbor, is owned and / or managed by the local government. This levy is included in the harbor service, including other facilities in the fishing port are provided, owned and / or managed by the local government. In the case of port, DKP as a working unit that serves as treasurer of the receipt of income levy, while Revenue is coordinator levy harbor.²⁴ If the compulsory levy doesn't pay on time or pay less than it should be, the administrative sanctions of 2 % (two percent) interest per month of the levy payable or less paid and charged with using STRD should be fulfill by him. Amount of port land rent is a IDR 40.000 meters per year, while the port warehouse rent is IDR 2.500.000 , - per year.

e. District Regulation of Bengkulu Province No. 11 Year 2011 on Specific Licensing Retribution

²¹Lubis retrieved from

<http://repository.ipb.ac.id/bitstream/handle/123456789/58363/BAB%20II%20TINJAUAN%20PUSTAKA.pdf?sequence=3>

²² Ibid

²³ Article 1

²⁴ Article 23

Retribution on specific retribution is a district retribution as a payment for services or certain special permits provided and / or administered by District Government for the benefit of private persons or entities. These licenses are given in order to develop, set, control, and supervise of activities, use of space, use of natural resources, goods, infrastructure, facilities, or certain facilities in order to protect the public interest and environment. One type of it is retribution on fisheries business which is the payment for granting license to an individual or entity to perform activities of fishing business and fish breeding. Compulsory levies in this retribution are individuals or entities pursuant to legislation.

Of the legislation that has been mentioned in the use of PPI Pulau Baai, fishing fleet owners as the direct benefit taker of fisheries sources have an obligation to pay a fee for licensing of fishing business. District regulation No.11 Year 2012 on Specific Licensing Retribution regulate that anyone or body doing business both catching and aquaculture fisheries must have licenses, except fishermen and fishing fleets under 5GT. The arrangement of the license is at Department of Marine and Fishery Affairs Province for fleets weighing 30 – 60 GT, and at Departement of Marine and Fishery Affairs City for fleets weighing less than 30GT. Sanctions for fleets owners who do not pay on time or less pay is the payment of interest of 2 % per month of the levy payable or paid or charged.²⁵

Implementation of Article 41 of Fishery Law

a. Technical and Operational Criteria Fishery Port

In order to be optimally utilized fishing port must have the technical and operational criteria as stipulated in PERMENKP No. 8 Year 2012 on Fisheries Harbor. PPI Pulau Baai port facilities, breakwater on the right side is not in a good condition. Local pier is broken by earthquake.²⁶

b. Obligation to Land the Fish at Fish Landing Port

Article 41 paragraph (2) of fishery law set out that every fishing fleets and fish transport fleets shall land the fish catch in the fishing port set in SIPI and/or SIKPI. Article 41 A states Every person who owns and / or operates fishing fleets and / or fish transporting fleets that does not load and unload the fish caught in the fishery port will be subject to administrative sanctions such as warnings, license suspension, or revocation of license. The significance of this requirement is that there is a fishing port and the operation of government functions to support activities related to the management and utilization of fish resources and the environment ranging from pre-production, production, management to marketing.

Permen KP No. 8 Year 2012 on Fishery Port explained that the function of government to the fishing port is a function to carry out the arrangement, guidance, control, monitoring and safety and operational safety of fishing boats in the fishing port. Among these functions, the function implementation and monitoring of fish resources is the most crucial government functions relating to the order and discipline of the ship.

c. Control on Fish Landing

From the definition of control by Prayudi,²⁷ M. Manulang,²⁸ and Saiful Anwar,²⁹ knownn that control is intended to support the smooth implementation of activities that can be realized efficiency, effectiveness, and appropriate according to plan and in line with it, to prevent early mistakes in the implementation. The results of monitoring can also be used as the basis for refinement routine plan and subsequent plans.

In the field of fisheries, surveillance has an important role and must be considered because the fish resources (SDI) despite marine renewable natural resources should be managed and utilized rationally, optimally, efficiently, and responsibly to utilize all the functions and benefits of a balanced manner so that it can be capital for sustainable development. Results or income derived from the utilization of fish resources are reinvested to develop the recovery efforts, rehabilitation, and provisioning for the benefit of present and future generations, in order to be optimally utilized for the welfare of the nation.

In accordance with the function and role of the PPI, port manager is required to be able to optimize the management of the facilities available for the benefit of continuity of fishing activities and also be able to adjust the capacity of existing facilities. With the development of fishery production, with services provided, it is expected to increase various aspects of business fishing activities, whether conducted by the fishermen and fish management.

²⁵ Article 26

²⁶ Retrieved from

<http://regionalinvestment.bkpm.go.id/newsipid/userfiles/daerah/1703/attachment/Company%20Profile%20Pelabuhan%20Bengkulu.pdf>

²⁷ Prayudi, *State Administration Law*, Ghalia Indonesia, Jakarta, 1981, P 80

²⁸ M. Manullang, *Basics of Management*, Ghalia Indonesia, Jakarta, 1995, P.18.

²⁹ Saiful Anwar, *The principles of State Administration Law*, Glora Madani Press, 2004, P.127

Based on Fishery Law, control of the fish landing provided in Article 66 of Fisheries Law regulating fisheries supervisor assigned to oversee the orderly implementation of the provisions of the legislation in the field of fisheries. Supervisory fisheries referred in Article 66 is the civil servants who works in the field of fisheries are appointed by the minister or a designated official. Supervisory fisheries as referred to in paragraph (1) may be educated to be civil servants Investigators Fisheries. Supervisory fisheries as referred to in paragraph (2) can be defined as the functional supervisor of fisheries officers. The scope of the regulatory region of the fishery under Article 66 B, while the supervisory authority of the fisheries regulated in Article 66 C.

District regulation of Bengkulu Province No.07 Year 2008 on Organization and Administration of District Offices of Bengkulu Province states that in the fisheries sector, the central government through the co-administration can assign tasks to local government. In Bengkulu province the body is Department of Marine and Fisheries which duty is assisting the Governor in carrying out their duties affairs of regional autonomy in the area of marine and fisheries. The scope of the task DKP is all the effort and planning, processing, evaluation and preparation of technical policies and services in the field of marine affairs and fisheries, technical guidance and coordination in the field of marine and fisheries agencies and the scope of cross-district / city, functional position coaching group, coaching Technical Implementation Unit of the Department, namely the port.

In District Regulation of Bengkulu Province No. 11 Year 2011 on Specific Licensing Retribution, the Governor or the competent authority verify compliance of the fulfillment of a levy in order to implement this regulation.³⁰ The owner have to show the fleets being examined and or lend books and records and other related documents, and give opportunity to the designated officer to enter the place or room that may be necessary and provide assistance in order to smooth the examination.³¹

Fishing fleets owner who do not meet the obligation to pay the retribution and cause financial losses is considered do a violation that punishable imprisonment for a maximum of 3 (three) months or a fine not exceeding three (3) times the amount of levy payable.

- d. Governor Regulation on Establishment of Organization, Job Description and Functions of technical implementation unit at the Office and Board (UPTD) of Bengkulu Province

One of UPTD Bengkulu province is The Hall of Fishery Port. The Head of the hall duty is to carry out the management and maintenance of fishing ports, providing port services, implementation services and facilities. From the three regulations we see that Government gives the duty to control to the district government. The district followed it up by setting District Regulation No. 7 Year. In the field of fishing ports, the Governor issued the regulation over it. It is clear that in controlling the fish landing, the supervisor from DKP in coordination with the Head of the Port to monitor the activities of unloading by fishing fleets/fish transporting fleet.

- e. Fish landing at Pulau Baai Fishery Port

Landing the fish is a must for fishing fleets/fis transporting fleets. Fishing fleets that load and unload the fish is not only form Bengkulu but also from outside Bengkulu such as from Padang and Sibolga, weighing from 4 to 98 GT GT.

Data from PSDKP unit Bengkulu on departure and arrival of fishing fleets from July 2013 to September 2013 shows that fishing fleets anchored at the port were 90% weighing under 30GT. Furthermore, from the same source is also known from the total of 241 fishing fleets only 2.9% had licenses. Comparing with the previous data, the fishing fleets that were supposed to land at the PPI should be more than that, but the data shows only 70% of the fishing fleets landed there.

There are several reasons of why fishing fleets choose to land and unload on their dock. First, due to the PPI facility defunct, second there is not quite large area. However enumerators of DKP still try to get data on outcomes and types of catches though their reluctance is often seen to be recorded. Head of PSDKP unit explained that the control is difficult because the number of supervisors is fewer (only 4 persons) than the number of fishing fleets going in and out of the port.³² While Head of the hall fishing port stated that controlling is not a part of his job, but data from supervisor from DKP will be used as report resource.

CONCLUSION

Rules regulating fish landing port utilization in Bengkulu city is set out in District Regulation No. 11 Year 2011 on Specific Licenses Retribution requiring the owner of the fleets (as a compulsory retribution) to have a business license. Violation of this will subject to administrative and criminal sanction. *Second*, the law is ineffective because of lack of supervisor of fishery; legal structures that don't have enough legal education resulting in disobedience always be

³⁰ Article 30 paragraph (1)

³¹ Article 30 paragraph (2)

³² Interviewed in PSDKP unit Pulau Baai, Friday October 11 2013.

understandable and unpunishable as it should be; culture to disobey the law rose from low law enforcement and lack of knowledge from fishers reflected in data showing only 10 % of owners having licenses. From the results it is strongly suggested that government should educate apparatus legal education and fishers as well, as the main stake holder in fishery business by holding socializations on the importance of PPI to sustain their business. Then, assure that the sanction for those who disobey have to be enforced.

RECOMMENDATION

1. DKP increase the number of fisheries inspectors
2. DKP increase administratif surveillance and sanctions in the form of a written warning, revocation of permission to ship owners that do not land the catch in PPI Baai Island.
3. DKP disseminate these rules to the ship owners through counseling forum.
4. Bengkulu Regional Government made a special regulation governing the landing of fish at fish landing ports for ship owners.

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