



LEGAL ISSUES ON THE IMPLEMENTATION OF THE BLUE ECONOMY IN INDONESIA

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Abstract: *The purpose of this study is to determine the legal regulation arrangements concerning the blue economy and solutions to overcome obstacles to the implementation of the blue economy, in this case, are B3 and dumping. This research is normative juridical research, using a descriptive method with a qualitative approach. The data source used in this study is secondary legal material, which will examine positive legal norms. The conclusion that can be stated is that there is no harmonization between articles in one law and harmonization between laws governing environmental management. The solution to overcome obstacles to implementing the blue economy is first to harmonize related legislation. Second, strict legal action and sanctions from the government if there are violations related to marine affairs. Third, the existence of joint patrols between related institutions in the country and patrols between countries.*

Keywords: *Dumping, B3 Waste, Harmonization, Legislation.*

Abstrak: *Tujuan dari penelitian ini adalah untuk mengetahui pengaturan regulasi hukum dalam kaitannya dengan ekonomi biru serta solusi untuk mengatasi hambatan pelaksanaan ekonomi biru dalam hal ini adalah B3 dan dumping. Penelitian ini adalah penelitian yuridis normatif, menggunakan metode deskriptif dengan pendekatan kualitatif. Sumber data yang digunakan dalam penelitian ini adalah bahan hukum sekunder, yang akan mengkaji norma hukum positif. Kesimpulan yang dapat dikemukakan tidak adanya harmonisasi antar pasal dalam satu undang-undang serta harmonisasi antar perundang-undangan yang mengatur pengelolaan lingkungan. Solusi untuk mengatasi hambatan pelaksanaan ekonomi biru adalah, pertama, harmonisasi perundang-undangan terkait. Kedua, tindakan serta sanksi hukum yang tegas dari pemerintah apabila ada pelanggaran-pelanggaran yang terkait dengan kelautan. Ketiga, adanya patroli bersama baik antar lembaga terkait yang ada di dalam negeri dan patrol antar negara.*

Kata Kunci: *Dumping; Limbah B3; Harmonisasi; Perundang-undangan.*

A. Introduction

Almost two-thirds of the territory of the Republic of Indonesia is the ocean. (Arifin & Satria, 2020) According to Article 1 number 1 of Law Number 32 of 2014 concerning the Ocean, what is meant by the sea is the water space on the earth that connects the land with land and other natural forms, which are geographical and ecological units along with all related elements, and which laws and regulations and international law determine boundaries and systems. As a country with a vast sea area (Dahuri, 2001) that contains extensive marine natural resources, the state must maintain and maintain the integrity and sustainability of the ocean area from various threats and

pollution. The state must manage these marine natural resources to improve the nation's economy and use it as much as possible for the prosperity of the people. (Junef, 2019)

Blue Economy is a development based on the economic value of environmental resources. It creates added value in the supply chain to accelerate economic growth, improve people's welfare, and maintain the environmental sustainability. (Yashinta, 2021) The blue economy is an opportunity for the Republic of Indonesia to realize sustainable development in coastal and marine areas. Furthermore, Mario M. Cabral, Ph.D. in the International Webinar Towards A New Era In The Legal Order After Pandemic: Maritime Security Partnerships are the Key for Ocean Safety & Blue Economy Development in East Asian Seas Region organized by the University of 17 Agustus 1945 Semarang, said that¹: There are nine potential BE development in the East Asian Seas (By PEMSEA):

- 1) Fisheries & aquaculture;
- 2) Port, shipping & marine transport;
- 3) Tourism, resorts & coastal development;
- 4) Oil & gas;
- 5) Coastal manufacturing;
- 6) Seabed mining;
- 7) Renewable energy;
- 8) Marine biotechnology; and
- 9) Marine technology & environmental services.

Indonesia's marine and coastal areas have potential, as mentioned by Mario M. Cabral, Ph.D. The potentials include (Yashinta, 2021) fisheries, marine product processing industry, marine logistics, trade, shipbuilding industry, marine tourism, biotechnology, renewable energy, management of water resources, human resources, including education and research, as well as the other sectors that are directly and indirectly related.

Blue economy has been proposed in the Medium Term Development Plan for the Marine and Fisheries sector from 2013 to 2025. Blue Economy, as a mainstream of national development, integrates land and sea-based economic development sustainably. (Saefuddin, 2015) The blue economy concept is very appropriate to be applied in Indonesia, and this is because Indonesia has a vast sea area, as well as a very long coastline. The state and geographical location of Indonesia have abundant economic potential. If the management of natural resources is managed with an appropriate and consistent blue economy concept, then this sector will create jobs and improve people's welfare. Apart from this, it will also increase the carrying capacity, environmental quality and sustainability of the coastal and marine environment.

One of the obstacles in implementing development based on the blue economy is pollution due to development that only aims at the economic sector without considering environmental interests in the mainland. Environmental pollution, according to Article 1 number 14 of Law Number 32 of 2009 concerning Environmental Protection and Management, is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that they exceed the environmental quality standards which have been set. In line with the above understanding, Philip Kristanto said that (Kristanto, 2013) what is meant by water

¹ Paper presented by Mario M. Cabral, Ph.D. at the International Webinar "Towards a New Era in the Legal Order after Pandemic: Maritime Security Partnerships are Key for Ocean Safety and Blue Economy Development", University of 17 Agustus 1945 Semarang, 2021.

pollution is the entry or inclusion of living things, substances, energy, and/or other components into the water by human activities or natural processes so that water quality becomes no longer function as intended.

Waste dumped into the sea will result in various losses. For example, the case of hazardous and toxic (B3) waste disposal in the Turi Beach Nongsa area of Batam. The black and pungent-smelling waste spill was seen spreading over a radius of 500 meters. The manager of Turi Beach Nongsa said that 180 sacks of waste had been collected in two days. Because of this waste, many foreign tourists choose to leave the tourist area more quickly. (Romus Panca, 2019)

Kendari Bay, Southeast Sulawesi, is experiencing mercury pollution and hazardous and toxic waste (B3). This condition has a broad impact, from damage to mangroves, polluted marine biota to the abrasion of the Kendari Bay Coast. Human life is threatened as a result of this pollution. (Kamarudin, 2017) Cases of pollution in marine waters are becoming increasingly massive; in addition to pollution cases, many cases are smuggling hazardous and toxic waste materials into Indonesian territory. Pollution is a significant problem in the management and utilization of marine natural resources.

Based on the background above, this article will try to explain how to regulate legal regulations concerning the blue economy and how to find solutions to overcome obstacles to the implementation of the blue economy.

B. Research Method

This research is normative juridical research. Normative juridical research will examine positive legal norms in the form of laws and regulations (I Made Pasek Diantha, 2016). In the context of this study, the study will be directed at dumping issues, ocean pollution and the blue economy. This study uses a descriptive method with a qualitative approach and also a case approach. Sources of data used in this study are primary data and secondary data, primary data is data taken directly from the field, and secondary data includes primary legal materials (pre-existing legal materials), secondary legal materials (legal materials obtained based on a literature review) and tertiary legal materials (legal materials in the form of KBBI and legal dictionaries).

C. Discussion

Prof. Gunter Pauli first put forward the concept of the blue economy in his book entitled *The Blue Economy, 10 Years, 100 Innovations, 100 Million Jobs*, which describes the potential benefits of his theory for environmental protection of the world community, conservation of natural resources, industrial cost reduction initiatives by shifting to green, clean, recycled or renewable energy consumption. The principles contained in the blue economy can be a golden key in national development planning. The concrete steps of implementing the "blue economy" are divided into three, namely: "First is a matter of a clearer understanding of the value of marine ecosystems. Second, by more effectively linking marine ecosystems with food security, this is related to food sustainability with economic and social development strategy," while the third approach is to transition the economy in economic potential involving markets, industry, and communities towards a more equitable pattern of development. (Ilma, 2016)

The definition of a blue economy according to the Elucidation of Article 14 Paragraph (1) - Law Number 32 of 2014 concerning marine affairs is an approach to improve sustainable marine management and conservation of the sea and coastal

resources and their ecosystems in the context of realizing economic growth with principles including community involvement, resource efficiency, minimizing waste, and adding multiple revenues. The blue economy is an economic development that emphasizes improving people's welfare and social equity, and at the same time, being able to reduce environmental risks and ecological scarcity. (Siti Nur Azzura, 2021)

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The blue economy is regulated in Article 14 paragraph (1) of Law Number 32 of 2014 concerning marine affairs that the Government and Regional Governments following their authority carry out Marine Management for the greatest prosperity of the people through the utilization and exploitation of Marine Resources using the blue economy principle. Paragraph (2) Utilization of Marine Resources in paragraph (1) may include a. fishery; b. energy and Mineral Resources; c. coastal resources and small islands; and d. unconventional resources. (3) The exploitation of Marine Resources as referred to in paragraph (1) may be in the form of a. Marine industry; b. Marine tourism; c. Sea transportation; and d. sea building.

The purpose of the blue economy is to manage marine natural resources sustainably for the welfare and prosperity of the community by paying attention to environmental sustainability. This will be difficult to achieve as long as the legal regulations governing marine affairs or environmental protection and management are lacking or even not in favor of implementing the blue economy. (Rudyanto, 2004)

In terms of waste disposal, the legal rules regarding this matter allow the disposal of B3 waste (waste of hazardous and toxic materials) into the sea, even though the requirements for this matter are regulated. Article 47 A paragraph (2) letter p of Law Number 11 of 2020 concerning Job Creation regulates licensing for business use at sea, which is granted for dumping activities. The definition of dumping according to Article 1 number 24 of Law Number 32 of 2009 concerning Environmental Protection and Management states that: Dumping (disposal) is the activity of disposing of, placing, and/or importing waste and/or materials in the amount, concentration, time and specific locations with certain requirements to certain environmental media. Furthermore, the definition of dumping according to the Regulation of the Minister of Environment and Forestry Number P.12/MENLHK/SETJEN/KUM.1/4/2018 concerning the Requirements and Procedures for Dumping (Disposal) of Waste Into the Sea, is the activity of disposing of, placing, and/or entering waste and/or materials in a certain amount, concentration, time and location with specific requirements to the sea.

Regarding the management of hazardous and toxic materials and waste of hazardous and toxic materials in Article 58 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that everyone who imports into the territory of the Unitary State of the Republic of Indonesia produces,

transports, circulates, stores, utilizes, processes and/or hoards B3 are obligated to manage B3. Seeing the phrase "everyone who imports into the territory of the Unitary State of the Republic of Indonesia," here it can be interpreted that Law Number 32 of 2009 concerning Environmental Protection and Management provides an opportunity for someone to import, produce, transport, distribute, store, utilize, process, and/or stockpiling Hazardous and Toxic Waste (B3) on the condition that B3 management must be carried out. (Utami & Syafrudin, 2018)

Furthermore, Article 69 of Law Number 32 of 2009 concerning Environmental Protection and Management regulates the prohibition.

- a. regulates the prohibition of actions that result in environmental pollution and/or destruction;
- b. regulates the prohibition of importing B3, which is prohibited according to laws and regulations into the Territory of the Republic of Indonesia;
- c. regulates the prohibition of importing waste into the Territory of the Republic of Indonesia;
- d. regulates the prohibition of importing B3 waste into the Territory of the Republic of Indonesia;
- e. regulates the prohibition of disposing of waste into environmental media;
- f. regulates the prohibition of disposing of B3 and B3 waste into environmental media

The crime of dumping is regulated in Article 104 of Law Number 32 of 2009 concerning Environmental Protection and Management. Anyone who dumps into the environmental media without a permit, as referred to in Article 60, shall be punished with imprisonment for a maximum of 3 years and a fine of three billion rupiahs. Article 60 regulates the prohibition for everyone in dumping waste and/or materials without a permit. Regarding the act of importing waste into the territory of the Indonesian state as referred to in Article 69 letter c, the punishment is a minimum of 4 years and a maximum of 12 years and a minimum fine of 4 billion and a maximum of 12 billion. (Arfa, 2019)

Comparing Article 47 A paragraph (2) letter p of Law Number 11 of 2020 concerning Job Creation to allow dumping activities, this can be seen by granting a business permit for utilization at sea for dumping activities. Furthermore, Article 58 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management allows everyone to enter B3 into the territory of the State of Indonesia. This means that dumping activities in the sea area are allowed, and importing B3 into the territory of the State of Indonesia is also allowed. This causes a lot of pollution in marine waters. It is unavoidable that dumping activities are needed to dispose of B3 waste resulting from industrial activity or drilling activity either on land or at sea and is a necessity. Even so, it must be strictly regulated and closely monitored, and violators must be subject to sanctions to create a deterrent effect.

Article 69 letter c to letter f of Law Number 32 of 2009 concerning Environmental Protection and Management prohibits anyone from taking actions that result in environmental pollution and/or destruction, importing B3 into the territory of the State of Indonesia, disposing of environmental media waste, as well as disposing of B3 and B3 waste into environmental media. Article 69, compared with Article 47 paragraph (2) of Law Number 11 of 2020 concerning Job Creation, is very contradictory. In this case, there is no harmonization between laws, so there is no guarantee of legal certainty.

Article 69 letter c to letter f with Article 58 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management is also not harmonized with Article 58 paragraph (1) of Law Number 32 of 2009 concerning Protection and Management of the environment. In one law, namely Law Number 32 of 2009, some articles contradict each other. Article 69 regulates the prohibition, and the prohibition is annulled by the existence of Article 58 and Article 60 in the same law. Article 60 regulates the prohibition for everyone in dumping waste and/or materials without a permit. The prohibition in Article 60 becomes permissible if there is a permit.

There is disharmony in Articles governing B3 waste and dumping in Law Number 32 of 2009 concerning Environmental Protection and Management, and Law Number 32 of 2014 concerning Marine Affairs and Law Number 11 of 2020 concerning Job Creation which leads to legal uncertainty. Article 69 of Law Number 32 of 2009 concerning Environmental Protection and Management should provide an exception, namely allowing it with certain conditions. This is because there are many marine natural resources in the Indonesian territory, such as oil, natural gas, etc. So that when mining must produce waste, which then appears dumping activities.

B3 smuggling into the territory of Indonesia and dumping carried out in the territory of Indonesia, even though the B3 waste is from outside the territory of the State of Indonesia, often occurs. In the decade of 2019, the Directorate General of Law Enforcement (Ditjen Gakkum) of the Ministry of Environment and Forestry (KLHK) revealed the smuggling of waste contaminated with hazardous and toxic materials (B3) without a permit by PT Advance Recycle Technology (ART). The perpetrators of the hazardous waste smuggling are two Singaporean citizens. In the decade of 2021, Customs failed to smuggle medical waste from Malaysia.

Seeing the various smuggling and dumping of B3 from abroad makes the future of the Indonesian sea bleak. This is a factor that hinders the implementation of the blue economy, and it is a problem that cannot be taken lightly. In the future, it is necessary to have related laws, also to regulate joint patrols both between domestic agencies or bilateral and multilateral patrols.

D. Closing

As an archipelagic country, Indonesia has a vast sea area with marine economic potential that can continue to develop. The economic potential can be managed with the principles of the blue economy. Development Marine economic potential must be integrated with the development of land areas. Although Indonesia has opportunities in managing the blue economy potential, many factors cause obstacles to the implementation of the blue economy. These factors are dumping and smuggling of B3. While the solution to overcome these obstacles is in the formulation of policies, there must be harmonization between articles in one law and harmonization between laws governing the same problem. Next is strict legal action and sanctions from the government if there are violations related to marine affairs. In addition to this, it is also necessary to have joint patrols between related institutions in the country and patrols between countries.

Based on the discussion above, the author suggests that the government managing marine natural resources must pay attention to the people's interests, especially coastal people. The preparation of regulations must pay attention to harmonization and the need for patrols between domestic and international agencies to suppress pollution cases at sea in implementing the blue economy. In addition, the author also gives suggestions to

the community so that there is integration in terms of actions with related institutions to realize the successful implementation of the blue economy. Communities must unite to protect rivers, coasts and seas from pollution.

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