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Criminal Sanctions for Coral Reef Destroyers Tomia Island Study, Wakatobi Regency

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ABSTRACT

In general, damage to coral reefs in the Tomia Wakatobi area is caused by human activities, including fishing methods using explosives, disposal of plastic waste which causes pollution of the marine environment and other fishing methods that are not environmentally friendly which cause coral damage. This research uses empirical normative law research methods, which are legal research conducted by researching library materials or secondary data, normative legal research is also called doctrinal legal research. Peter Mahmud explained that normative legal research is a process to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced. In this type of legal research, law is often conceptualized as what is written in legislation or regulations. The law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate. The result of this study is that the regulation of sanctions for perpetrators of coral destruction is regulated in laws, including the Republic of Indonesia Law Number 31 of 2004 concerning Fisheries, which is specifically regulated in Article 84 paragraph (1) and Law no. 27 of 2007 concerning the management of coastal areas and small islands, in article 35 letters a, b, c, and d everyone is directly or indirectly prohibited from mining coral reefs that cause damage to coral reef ecosystems, taking coral reefs in conservation areas. The inhibiting factors in preventing coral destruction are the lack of public awareness and lack of supervision.

Keywords: Criminal Sanctions; Coral Reef Destruction; Wakatobi Regency

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INTRODUCTION

Indonesia is a country with a very large number of islands, has a wide variety of very large natural resources. The sea is a very large resource in terms of generating benefits for the country in general and society in particular. Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia expressly stipulates that the state has control over the management of natural resources. Therefore, the state is required by law to use this right of control for the welfare of the people. The reflection of the state that upholds the welfare of its people as stated in the article must be accompanied

by the availability of legal instruments that favor the lives of all the people. (Andriyawan, 2021)

Indonesia is famous for its beauty and natural wealth under the sea. There are various ecosystems that grow in the Indonesian sea, which can attract tourists to explore the underwater paradise. Indonesia has a very strategic geographical location, so it has the potential to have abundant natural resources that can be utilized to improve the welfare and develop the economy of the Indonesian people (Iyan, 2007).

Technological advances are often cited as one of the causes of damage to the marine environment, for example in the field of fisheries. Along with the development of an increasingly modern era, technology in the field of management and fishing is also increasingly modern. However, the use of modern equipment also has a negative impact on the Indonesian marine environment. For example, the extinction of certain fish species, the destruction of coral reefs which are a place of protection and breeding for marine ecosystems (Torano 2021).

As a country that has a large sea area, Indonesia is very rich in natural resources under the sea. With potential resources, especially large marine fisheries, both in terms of quantity and diversity. Considering that Indonesia's marine area is larger than the land area, making coastal and marine resources has the potential to be very important, because this area is where the interaction between terrestrial ecosystems and marine ecosystems is very dynamic and influential, this area is very intensively used for human activities such as : central government, settlements, industry, ports, agriculture and tourism. It can also be used for development in various fields such as social, economic, cultural, and environmental (Adilah, 2017: 1).

In general, damage to coral reefs in the Tomia Wakatobi area is caused by human activities, including fishing methods using explosives, disposal of plastic waste which causes pollution of the marine environment and other fishing methods that are not environmentally friendly which cause coral damage.

From the explanation above, the authors are interested in conducting this research by focusing on the problem of how criminal law provides sanctions for perpetrators of coral reef destruction and inhibiting factors in preventing coral destruction in the Tomia area, Wakatobi Regency.

How does criminal law regulate the imposition of sanctions for perpetrators of coral destruction in the Tomia area, Wakatobi Regency, Inhibiting factors in preventing coral destruction in the Tomia area, Wakatobi Regency.

METHODS

In this writing the researcher uses the method of Empirical Normative Legal Research, namely Normative Legal Research is a legal research conducted by examining library materials or secondary data (Mamudji 2003). Normative legal research is also known as doctrinal legal research. Peter Mahmud Marzuki (2010) explains that normative legal research is a process to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced.

In this type of legal research, law is often conceptualized as what is written in legislation or the law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate (Asikin, 2006). This study aims to determine and analyze the provision of criminal sanctions for perpetrators of coral

destruction and inhibiting factors in preventing coral damage in the Tomia area, Wakatobi Regency.

RESULTS AND DISCUSSION

Sanctions for Coral Destruction Perpetrators

Coral reef ecosystems are a source of livelihood for some people living in coastal areas. Considering the condition of coral reefs in Indonesian waters, it is a concern for the government and coastal communities, because a fact shows that the area of coral reefs in Indonesia from year to year continues to decline and the resulting damage. Damage to coral reefs is influenced by several factors, such as human actions that are intentionally carried out to seek their own benefits and weak law enforcement and Indonesian government policies that have not fully shown their attention in managing the environmental quality of coastal and marine areas, especially for coral reef ecosystems.

In Law No. 31 of 2004 concerning Fisheries, there is an article that regulates Fishery Management which can cause damage to coral reef ecosystems, namely Article 8 paragraph (1) which reads "Everyone is prohibited from catching fish and/or cultivating fish with using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can harm and/or endanger the sustainability of fish resources and/or the environment in the fishery management area of the Republic of Indonesia.

The criminal provisions are contained in Article 84 paragraph (1) of the Republic of Indonesia Law no. 31 of 2004 concerning Fisheries, which reads "Any person who intentionally in the fishery management area of the Republic of Indonesia catches fish and/or cultivates fish using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that are may harm and/or endanger the preservation of fish resources and/or the environment as referred to in Article 8 paragraph (1), shall be punished with imprisonment for a maximum of 6 (six) years and a fine of a maximum of Rp. 1,200,000,000.00 (one billion two hundred million rupiah) (Asward Asmat, 2022).

From the description above, the author sees that the enforcement of criminal law against perpetrators of coral destruction is clear in Law Number 31 of 2004 concerning Fisheries, which is regulated in Article 8 paragraph (1), namely imprisonment of 6 (six) years and a fine of Rp. 1,200,000.000.00 (one billion two hundred million rupiah).

In another law, namely the management of coastal areas and small islands which are regulated in Law no. 27 of 2007 explains the prohibition on damaging coral reefs, this can be seen in Article 35 letters a, b, c, and d. Article 35 states that in the utilization of coastal areas and small islands, every person is directly or indirectly prohibited from mining coral reefs that cause damage to coral reef ecosystems, taking coral reefs in conservation areas, using explosives, toxic materials, and/or other materials. others that damage the coral reef ecosystem, and use other tools, methods, and methods that damage the coral reef ecosystem.

The criminal sanctions in this law can be seen in Article 73 paragraph 1 letter a, namely, they are sentenced to a minimum imprisonment of 2 (two) years and a maximum of 10 (ten) years and a minimum fine of Rp. 2,000,000,000.00 (two billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah) for each person who intentionally conducts coral reef mining activities, takes coral reefs in a

conservation area, uses explosives and toxic materials, and/or other methods causing damage to the coral reef ecosystem as referred to in Article 35 letter a, letter b, letter c, and letter d.

In the description above, the author sees that the criminal sanctions regulated in Law no. 27 of 2007 the management of coastal areas and small islands has clearly and clearly provided criminal sanctions for perpetrators who intentionally carry out coral reef mining activities, take coral reefs in conservation areas, use explosives and toxic materials, and/or other means that cause damage to reef ecosystems. coral.

Inhibiting Factors in Preventing Coral Destruction in Tomia Area, Wakatobi Regency

Coral reefs are a group of organisms that live on the bottom of shallow sea waters, especially in the tropics. Although corals are found almost all over the world, both in polar and temperate waters, only in the tropics can reefs thrive. Therefore the formation of coral reefs is used to limit the tropical ocean environment (Kordik K, 2020).

Coral reefs have several benefits, including: as a place to live for fish that are needed by humans for food, such as grouper fish, baronang fish, yellow tail fish, and others. As a fortress to protect the coast from damage caused by waves or sea waves. As a place to travel (Iyam, 2007).

As the largest archipelagic country, Indonesia has more than 5.1 million hectares of coral reefs. However, almost 65 percent of coral reefs in Indonesia are threatened due to overfishing or fishing in destructive ways that do not pay attention to environmental rules. According to Najdib Prasyad, Head of the Wakatobi Fisheries Service, Southeast Sulawesi, many activities damage coral reefs and threaten livelihoods in villages: bomb fishing, sand mining and coral reefs (- 2014).

If coral reefs are lost, fish will also be lost," said Nadjib. "We have nothing but coral reefs. So we have to take good care of it because this is the only source of our regional development (- 2014).

According to the author, the Inhibiting Factors in Preventing Coral Destruction are:

1. Lack of public awareness

The role of the community is very important in terms of conserving and preventing damage to coral reefs, the community is the frontline which will determine which coral reefs will always be protected. Environmentally friendly fishing will make coral reefs always safe.

2. Lack of supervision

Supervision is one way to suppress the occurrence of criminal acts of environmental destruction, including coral destruction. The government and relevant law enforcers must always carry out surveillance so that acts of coral destruction do not occur.

CONCLUSION

Regulations The imposition of sanctions for perpetrators of coral destruction is regulated in laws, including the Republic of Indonesia Law Number 31 of 2004

concerning Fisheries, which is specifically regulated in Article 84 paragraph (1). The criminal provisions read "Anyone who intentionally in the Indonesian fishery management area catches fish and/or cultivates fish by using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can harm and/or harm, or endanger the preservation of fish resources and/or the environment as referred to in Article 8 paragraph (1), shall be sentenced to a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 1,200,000,000.00 (one billion two hundred million rupiah) and Law no. 27 of 2007 concerning the management of coastal areas and small islands, in article 35 letters a, b, c, and d everyone is directly or indirectly prohibited from mining coral reefs that cause damage to coral reef ecosystems, taking coral reefs in conservation areas. The inhibiting factors in preventing coral destruction are the lack of public awareness and lack of supervision.

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