

Re-Sedimentation Of The Sea Over A Sea Sand Export License And Its Implications For Marine Natural Resources: A Review Of Indonesian Positive Law

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Abstract. Indonesia is an archipelago with a diversity of natural resources contained in it, the natural resources in Indonesia must of course be preserved and maintained by the Government of Indonesia through a rule, but the rules made by the Indonesian government still cause loopholes to environmental destruction, so this research will discuss two problems, namely the sea sand export permit can cause a marine environmental problem which ultimately causes disruption of marine resources and causes a sea re-sedimentation and the implementation of legal substance related to marine resources facing the threat of sea re-sedimentation due to sea sand exploration. The method used is a literature review with the result that the enforcement of the sea sand export policy can damage marine resources and intersect with the positive law of the marine environment

Keywords: Environmental Law, Marine Resources, Sedimentation.

Abstrak. Indonesia merupakan sebuah negara kepulauan dengan keberagaman sumber daya alam yang terkandung di dalamnya, sumber daya alam yang ada di Indonesia tersebut tentunya harus dilestarikan dan dijaga oleh Pemerintah Indonesia melalui sebuah aturan, akan tetapi aturan yang dibuat oleh pemerintah Indonesia masih menimbulkan celah terhadap perusakan lingkungan, maka penelitian kali ini akan membahas dua permasalahan, yakni izin ekspor pasir laut dapat menyebabkan sebuah permasalahan lingkungan laut yang akhirnya menyebabkan terganggunya sumber daya laut dan menimbulkan sebuah Re-sedimentasi laut dan implementasi substansi hukum yang berhubungan dengan sumberdaya kelautan menghadapi ancaman re-sedimentasi laut karena eksplorasi pasir laut. Metode yang digunakan adalah kajian kepustakaan dengan hasil bahwa pemberlakuan kebijakan ekspor pasir laut dapat merusak sumber daya laut dan bersinggungan dengan hukum positif kelautan.

Kata kunci: Hukum Lingkungan, Sumber Daya Laut, Sedimentasi.

INTRODUCTION

Indonesia is an archipelago that has thousands of islands from Sabang to Merauke and is surrounded by oceans that make it a rich country with various natural resources in the country itself. Because the archipelago is surrounded by oceans with abundant marine resources, Indonesia is also called a prosperous maritime country, in carrying out the mission as an amritim axis, in President Joko Widodo's Summit in 2014 there were five things that could make Indonesia successful as a maritime axis.

First, there is an effort to re-build Indonesia's maritime culture. Second, building marine food sovereignty with a focused commitment to protect and manage marine resources based on the development of the fishing industry. Third, developing connectivity based on infrastructure at sea such as the construction of sea tolls, seaports, maritime tourism, and the shipping industry. Fourth, the integration of Indonesia's partners to cooperate in the marine sector to realize maritime diplomacy. Fifth, requiring the development of maritime defense forces because Indonesia is the fulcrum of two oceans. In the five pillars above, surely the Indonesian state is serious in addressing violations that endanger marine resources which will then have an impact on Indonesia's image as a maritime axis (Presidenri.go.id, 2015).

In the practice of realizing the ideals as a maritime axis, it turns out that there is an imbalance that occurs in it, this is after the issuance of a Government Regulation (PP) Number 26 of 2023 concerning Management of Sedimentation Results in the Sea. which content in it allows the exploration of sea sand which can be done by entrepreneurs to dredge sea sand. The dredging of sea sand carried out by a company or government is used for island reclamation purposes. In terms of the environment, the exploration of sea sand is very dangerous if it continues because it is very dangerous for marine resources in the sea because sea sand mining at this time still does not pay attention to the environment (Wahyudi, 2018).

After explaining the background of the problem to examine this research, the researcher then found several problems from the research theme: First, how can a marine sand export license cause a marine environmental problem that ultimately causes disruption of marine resources and causes marine re-sedimentation?. Second, how is the implementation of legal substance related to marine resources facing the threat of marine re-sedimentation due to the exploration of sea sand?.

THEORETICAL REVIEW

Sediment

Pipkin (1997) explains that sediments are organic materials, fragments or minerals that are transported from various sources and deposited by air, wind, ice or water. It also includes materials that are deposited in water through floating materials or in the form of chemical solutions. Hambali (2016) gives the term sediment as a decomposition referring to all processes in which rocks decompose into small grains without changing their chemical substances.

Sedimentation

Sedimentation is the deposition of rock material carried by the energy of water or wind. When erosion occurs, water carries rocks, which flow into rivers and lakes, eventually reaching the sea. When its carrying capacity is reduced or exhausted, the rock settles in the watershed (Anwas, 1994). Sembiring (2014) sedimentation is sediment created by the process of erosion and washed away by the flow of water settling at the point where the flow velocity decreases or stops.

Re-Sedimentation

Re-sedimentation itself is a process of repetition of sedimentation due to disturbance or an external process carried out by humans, or by nature itself (Lavelle, 1981). an example is when at sea there is a marine exploration, there will be a process of sediment that has settled on the seabed back up to the sea surface, causing a re-sedimentation.

METHOD

In reviewing this research, the author uses a literature review research approach. Mestika (2004) explains that the literature research approach is a series of activities that collect data through literature.

RESULTS AND DISCUSSION

Environmental Impacts of Marine Sand Export Permits and Re-Sedimentation

Healthy and sustainable marine ecosystems are important for broad ecological balance. Excessive marine sedimentation can lead to decreased water quality, damage to coastal ecosystems and disruption of marine life and marine resources (Sakti, 2023). The regulation and control of marine sediment aims to prevent and control negative impacts on the marine environment and encourage the conservation of biodiversity and ecosystem functions so that Government Regulation (PP) Number 26 of 2023 concerning Management of Sedimentation

Results in the Sea is formed, which contains allowing the export of sea sand and conducting sea sand exploration which is only limited to sea sand with the type classified as sediment.

With the enactment of the sea sand export license, of course, it invites a lot of sea sand exploration activities with the aim of exporting the sea sand products. With the existence of sea sand exploration activities, it will certainly have a negative impact on the marine environment and threaten the sustainability and stability of marine resources around sea sand exploration activities, here are some negative impacts of sea sand exploration activities:

1. Marine sand exploration activities can cause an increase in seawater turbidity.

As a result of sea sand mining, of course, it will have an impact on the quality of the sea water itself, one of which is making sea sand turbid (Ernas, 2018). Turbid seawater will affect coral reefs as a place to breed, spawn, raise and become food for a large number of marine life, especially species of economic importance. If coral reefs are polluted, the marine life there will also die. Only certain types of organisms can live. Coral reefs are affected by water clarity, susceptible to damage even by human activities that produce sediment.

2. Submergence of land around marine sand exploration activities

With the exploration of sea sand, of course, it will make the high surface of the sea water itself because the surrounding land is sucked into the middle of the sea due to an increase in the height of the sea surface along with the addition of the depth of the seabed. With the attraction of land to the middle of the sea, it will certainly cause salt water from the sea to get closer to the land and cause the surrounding plants to die (Hidayat, 2020).

3. Disruption of marine ecosystem due to re-sedimentation process in the sea

Re-sedimentation itself is a process of repetition of sedimentation due to disturbance or an external process carried out by humans, or by nature itself (Lavelle, 1981). For example, when marine exploration is carried out, there will be a process of sediment that has been deposited on the seabed back up to the sea surface, causing re-sedimentation.

With the re-sedimentation, of course, it will make the sediment particles lifted back which can make the water cloudy which will then hinder the growth of biota and marine resources themselves, with water with high turbidity levels that can certainly make it difficult for marine biota to breed and even negate the existence of marine resources

such as hindering the development of fish which is the response of fishermen around marine exploration activities.

The Substance of Marine Resources Law on Marine Sand Exploration Activities

Over the past 32 years, the dredging of sea sand by ships has caused a lot of environmental and social problems, for example, the dredging of sea sand which can inhibit the growth and availability of marine fish which ultimately troubles fishermen in terms of fulfilling their sea catch, and the sinking of Nipa Island is a negative impact due to the sea sand exploration activities themselves. So, what is the legal substance discussion regarding the sea sand export license and sea sand exploration itself? Here are some explanations;

1. Sea Sand Export Permit

On May 15, 2023, President of the Republic of Indonesia Jokowi's issued a Government Regulation (PP) Number 26 of 2023 concerning the Management of Sedimentation Results in the Sea. In this regulation, the President allows and authorizes activities and parties to conduct sea sand exploration or dredging of sea sand under the pretext of controlling sea sedimentation. Regarding the control of marine sedimentation that the president has explained, there are many pros and cons that occur in the world of academia and Indonesian politics, for example, Afdillah, a Grand Peace activist at the HOTROOM event on October 9, 2023, said he did not support Government Regulation (PP) Number 26 of 2023 concerning Management of Sedimentation Results in the Sea and called for the withdrawal of Government Regulation that have the potential to damage the environment, damage existing and potential ecosystems if offshore mining is carried out and at any cost. Advanced technology will change the contours of the seabed. Socially, it can also lead to conflict between the government and the community. Another problem is that the country has lost more than 90 trillion dollars due to leaks everywhere and there are reportedly 8 states that have lost money due to sand mining (Afdillah, 2023).

Furthermore, Sakti Wahyu Trenggono, Minister of Maritime Affairs and Fisheries in MetroTV's HotRoom program on October 9, 2023, said that actually in Government Regulation (PP) Number 26 of 2023 concerning Management of Sedimentation Results in the Sea does not mention allowing exports, but regulates the taking of sedimentation sand. So Government Regulation can allow exports when domestic needs have been met, if they have not been met then it is not permitted. If it is allowed, the minister of trade issues a technical permit together with the minister of marine affairs and fisheries to supervise and there is even a special team

to take the sand and check whether the material has a higher content. This means that there is still a gap for the export of sea sand if it has met domestic needs, which is an abstraction from the implementation of the Government Regulation so that in practice it is not implemented properly because there is no specific limit on the amount of domestic needs that must be met. This was also emphasized by Slamet from Commission 4 of DPR from the PKS party who argued that Suppose the supervision is not appropriate, the ecosystem in the sea will be damaged and PNBPN (Non-Tax State Revenue) will experience leakage which causes reduced state revenue, creating new poverty.

In the conclusion of a legal event led by Hotman Paris, namely HOTROOM, stated that all parties recognize that the past sand excavation was very detrimental to the lives of fishermen and also damaged the environment. now suddenly a government regulation came out in May 2023 where the government allowed the export of sand abroad on the grounds that what was excavated was sedimentation but the fishermen said that sedimentation was on the edge of the sea in the form of mud piles of grass, please the sand was in the middle of the sea. so what was excavated was the sand of Paris (2023).

Regarding PP Number 26 of 2023, of course, a legal narrative can be taken that there is a hidden muata and not just a pretext to overcome sea sedimentation, this is because it is contained in article 9 paragraph 1 which reads “Hasil Sedimentasi di Laut yang dapat dimanfaatkan berupa: a. pasir laut; dan/atau b. material sedimen lain berupa lumpur” In letter a, it is clearly written that the utilization of exploration is not only sea sand that has become sedimentation, but sea sand in general. This can certainly lead to abstraction in the implementation and supervision of sea sand exploration activities that allow loopholes for irregularities that harm the state and benefit only a few parties. This was also emphasized by Commission VII DPR RI Bambang Patijaya on June 07, 2023 that Article 9 paragraph 1 of Government Regulation No. 26 of 2023 can be interpreted as sea sand in general, not just limited to sedimentation sand Patijaya (in Ombudsman Press Release, 2023).

2. Legal substance of Marine Sand Exploration

Sea sand exploration itself is a sea sand mining activity, sea sand mining is part of the Ministry of Energy and Mineral Resources so that the Minister of Energy and Mineral Resources is involved in these activities, but to carry out sea sand mining is entirely left to the Regions. This is in accordance with Presidential Regulation Number 55 of 2022 concerning Delegation of Business Licensing in the Mineral and Coal Mining Sector. In the PERPRES, the Regional Government can provide standard certificates and mining licenses.

The license referred to in the PERPRES is a mining business license (IUP) for domestic investment plans in rock commodities, certain metal minerals and others. However, it must meet the requirements that it must be located within one province and a maximum sea area of up to 12 nautical miles. In addition to obtaining an IUP, the PERPRES also allows the granting of a SIPB or rock mining license.

With the existence of a rock mining license (SIPB), of course the owner of the permit can carry out exploration of beach sand in the area where the permit is valid, if this is correlated with PP No. 26 of 2023, of course the results of dredging beach sand or beach sand exploration can also export beach sand abroad, instead of controlling sea sedimentation, it can be seen that there is an economic charge in the political realm which can certainly harm Indonesia.

3. Correlation between Re-sedimentation and Marine Exploration Activities from Law No. 32/2014 on Maritime Affairs

In protecting marine resources, the Indonesian government has treated a strict rule in carrying out efforts to conserve marine resources. This is evidenced by the existence of a marine law number 32 of 2014. However, the validity of the law can be crossed with the issuance of PP No. 26 of 2023 which allows the export of sea sand.

Article 22 paragraph (3) of Law No. 32/2014 reads:

“Pemerintah dan Pemerintah Daerah sesuai dengan kewenangannya bertanggung jawab mengelola dan memanfaatkan sumber daya pesisir dan pulau-pulau kecil”

The regulation states that the Government is responsible for managing and utilizing. Utilization means protecting, conserving, or rehabilitating in accordance with Article 22 paragraph (3). However, with the enactment of the sea sand export license issued by President Joko Widodo, of course, the crossing of the two rules can occur due to the stimulation of existing sea sand exploration activities. The consequences are also very impactful on the environment. This was also emphasized by Parid Ridwanuddin as the Campaign Manager of WALHI (Indonesian Forum for the Environment) that the economic value of sea sand export activities is lower than the value of preserving the environment and marine ecosystems. Riani (2012) argues that the government is trying to protect the environment by making various policies. However, sometimes the policies made by the Government have not been successful in protecting the environment, this is exemplified by the licensing of beach sand exports which can stimulate beach sand exploration activities which result in re-sedimentation which has an impact on the marine environment.

CONCLUSION AND RECOMMENDATIONS

So after some discussion above, it can be concluded that;

First, the existence of a sea sand export permit can make the environmental impact worse, this can happen because the licensing that came out based on Government Regulation No. 26 of 2023 gave rise to stimulization of sea sand exploration activities in the form of sea sand mining, this if it continues to be allowed will certainly damage the environment, especially Indonesia's marine resources. The resulting impact of sea sand exploration can certainly have a negative effect on the sea water itself so that the resources and marine biota that are there are disturbed.

Second, in the aspect of positive law regarding the marine environment. With the existence of Government Regulations regarding sea sand export permits, it could have made an intersection with the marine law itself because the rules of the marine law regulate to maintain and preserve marine resources but with the emergence of Government Regulation No. 26 of 2023 it could worsen the marine ecosystem.

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