Alignment of Customary Law and Positive Law of Indonesian: An Effort to Enhance Maritime Security

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Abstract: The sea is a potential region in support of life and the life of the nation or the world community. It is not impossible it will be a major of problems and violations coming from the sea. It is a fact that the surveillance area of the sea is relatively more difficult compared to other regions on lands. Indonesian government realizes that the overall supervision by the Central Government through its stakeholders against sea border area where less meet the expectations in an effort to maintain the security of the coastal region of itself from the exploitation of outside parties. Sea area safeguards if need to be given a chance to the people of the coastal areas customary law itself is supported by the ACT also gives the space itself, as the community's customary law must have a stronger sense of belonging towards the sea. Thus, it will make room for the customary law community around itself to participate gets the opportunity of controlling its own security in the region of the sea borders with foreign countries hand in hand with the implementation of positive law in the province of Riau Islands. Methods undertaken for this study is a descriptive Qualitative approach method. From the results of the study found that it was the existence of the rules contained in the ACT granting the associated chance it, but from what was found, the situation is that only indigenous peoples formed a group of fellow, but the support provided by the Government is very minimal. Thus, it can be concluded that the occurrence of the alignment have not been good in keeping an eye on the border region between the indigenous peoples and government stakeholders who represent the implementation of positive law.

Keywords: Indigenous Peoples, Governments, Security, Alignment, Seashore

1. Introduction

The equation of perception in law enforcement at sea is a condition that is important in enter fellow law enforcement officers, in order not to give rise to various interpretations in the face of a problem. Avoid further precedentt that benefit on behalf of offenders, and otherwise less beneficial for the Government or State, even assuming the existence of a weak escape law enforcement officers in the marine issue heaved.

In Indonesia, which is the country that has a fair extensive coastal areas, realize that the overall supervision by the Central Government through its stakeholders against sea border area where less meet the expectations in an effort to maintain the security of the coastal region of itself from the exploitation of outside parties. Sea area safeguards if need to be given a chance to the people of the coastal areas customary law itself is supported by the ACT also gives the space itself, as the community's customary law must have a stronger sense of belonging towards the sea. This research aims to make room for the customary law community about to participate given its own security escort opportunity in an area of the sea borders with foreign countries hand in hand with the implementation of positive law in Indonesia. That with this research have the urgency to affirm the presence and participation of tribal customary law community sea areas around the sea border to participate do safeguard against its territory seashore of other countries to the implementation of the law on the plus.

Based upon the author's hypothesis is that during this surveillance against security of sea border which is done by the Government through the stakeholders have not been successful, as evidenced by the large number of ships still illegal and the practice of illegal fishing in the region of

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the sea border. So the author concludes that research is necessary, to give the role of customary law as well as communities that are located in the area around the sea border for action planning, implementation and supervision of security in its own way with remain protected by law as a Government product an effort to promote maritime security to the border itself.

2. The Method

This study will use a descriptive qualitative approach method. This research was carried out in the province of Riau Islands in *Belakang Padang* districts in Batam in an area that borders directly with other countries of the region within three months. Data collection techniques used in this research are as follows:

a. Research Libraries (library research) that utilize the library as a means of gathering data, by studying the books as reference material related to this research.

b. field research (Field Work Research), activities that the author did with street dealing directly with the object examined in field include:

   1) observation, namely hold direct observation, the situation regarding the State and condition of the research object to get the data needed to compile the research.

   2) Interview, that held a debriefing with the respondent in order to get the information directly.

   3) documentation, taking a data through documents, photographs, archive or letters as needed.

Based on the formulation of the problem and research objectives then analyses the data used is an interactive model. As developed by Miles and a. Michael Huberman (2007:20), through the following stages:

a. data collection, first data or raw data collected in one study.

b. the reduction/simplification of data namely, the process of selecting, focus, simplify, and make abstraction, change the raw data is collected into a note that has been sorted or checked.

c. presentation of the data is done by way of describing data in a simple, detailed, interactive intact and used as a foothold to determine next steps. When the researcher was able to draw conclusions from the data that there are researchers still need to do a search again before drawing conclusions.

d. gaining conclusion/verification is the final step that includes the awarding of the meaning of the data has been simplified and presented in the presentation of data by way of noting the regularity, the patterns logically and methodological explanation of configuration enables predictable, causal relationships through empirical laws.

3. Results and Discussion

From research conducted, qualitative results can be obtained from secondary and primary data that showing:

Table 1. Data Crime by country Fishing Vessels (2015).

Nationality	Vietnam	Thailand	Malaysia	Myanmar	Indonesia	Total
						

Number of Vessels	**46**	**4**	**11**	**0**	**4**	**65**
Number of Crew	**358**	**43**	**12**	**11**	**71**	**495**

Source: Department of Marine and fisheries of the Riau Islands province

Secondary Data from the above we can see that, in Indonesia, especially in the Riau Islands province still lots going criminal offence fisheries conducted by foreign vessels with boatman form Foreign Countries anyway. The existence of related Stakeholders such as Bakamla, TNI-AL, PolAir, and the Department of marine and Fisheries itself proved less, given the limited human resources *Sumbar,* during this Department of Marine and Fisheries ofhis own party have complained of problems financing a less effective financing related to surveillance and security activities. Similar with it, the indigenous peoples themselves who are in the border region who have formed the Group supervisor in this case was *Pokmaswas*, had the same view that they are less supported by the Government. They just formed to enforce the Fisheries ACT mandate, but not very minimal support is provided to them. In terms of rules we can see that the Act and the customs system in material already aligned. This means that the ACT is applied in Riau Islands against security threats from both the coastal region within the country or from abroad, the law already trial for it, but it's only against the local wisdom of life in its related implementation of catching fish in the sea rather than in terms of security to create a maritime force as we would expect in this research.

Other than through rules, Riau Islands themselves are also already have a PSDKP Base located in Batam city of Riau Islands. Observation of the results of the research there, where foreign vessels caught in the region of riau Islands province, where the ships are conducting illegal fishing when arrested. From a variety of data above, we can see that the condition of the maritime security Indonesia yet to be said either. There's been an effort to involve the local indigenous communities through *Pokmaswas*. But from what the author wants in this case is not just a participation by following the rules of the Government who have been there, but it is expected that if the Government tried to adopt the customs of the values contained in the life of the community, we can see, precisely with the holding of own *Pokmaswas* yet the effective to is able to run by the indigenous peoples themselves.

4. Conclusion

That based on the purpose of the research is the existence of spaces for participation of customary law community about to participate given its own security escort opportunity in an area of the sea borders with foreign countries hand in hand with the implementation of the positive law of Indonesia. That the intent of that goal, in fact already reflected only by the presence of *Pokmaswas,* yet ineffective implementation and lack of Government support, as well as the level ofknowledge of indigenous peoples who still limited in ways that modern Government thus hampered in running the program.

Opportunity was expected later on is how the system of indigenous peoples that was adopted by the Government to be able to upgrade the sea of Indonesia. The adoption of this course also should still be supported with the Government itself and ACT as the protector of the surveillance activity itself. Thus, Community law will work and keep an eye on in ways they have the legal right in the ACT.

5. References

[1] Ashshofa, S.H., Burhan. 2007. *Metode Penelitian Hukum.* Jakarta: Rineka Cipta.

[2] Hadikusuma, S.H., Prof. H. Hilman. 2014. *Pengantar Ilmu Hukum Ada tIndonesia Edisi Revisi.* Bandung: CV. Mandar Maju.

[3] Satria, Arif. 2015. *Politik Kelautandan Perikanan: Catatan Perjalanan Kebijakan Era SBY hingga Jokowi.* Jakarta: Yayasan Pustaka Obor Indonesia.

[4] Subagyo, S.H., P. Joko. 2013. *Hukum Laut Indonesia.* Jakarta: Rineka Cipta.

[5] Undang-Undang No.6 Tahun 1996 Tentang Perairan Indonesia.

[6] Undang-Undang No.1 Tahun 2014 Tentang Perubahan Atas Undang-Undang No.27 Tahun 2007 Tentang Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil.

[7] Undang-Undang No.32 Tahun 2014 Tentang Kelautan.

[8] Pos Kupang. 7 Maret 2012.*Perbatasan Wilayah Menurut Hukum Internasional.*Diaksesdari http://kupang.tribunnews.com/2012/03/07/perbatasan-wilayah-menurut-hukum-internasional.Accessed on: 09 October 2016.