

Ring of Fire

If it is not substantially changed, Indonesia's Law No. 27 of 2007 will only lead to the commercialization of coastal fishing rights in the archipelago

Over the last few months, a controversy has been raging in Indonesia about Law No.27 of 2007, which deals with the management of coastal and small islands. As the national debate continues, the government's position seems to provide legal surety for business people in fisheries, hoping, in return, that the State will get income from the resultant activities in the small islands and coastal areas. Civil society organizations are hoping that the bad past experiences in management policies from the mining and dredging and forestry sectors will not be repeated in the management of the small islands and coastal areas of Indonesia. The promulgation of Law No. 27 was preceded by the Law of Investment, which offered, as it were, a bargain price for a coastal package offered to investors, including those from abroad. Indeed, considering the provisions in Law No. 27 that would permit the commercialization of coastal zones (classified as HP-3), the public concerns for a thorough review of the law do not seem exaggerated.

Article 16 of Law No. 27 affords the right to commercialize coastal zones for a 20-year period, which, under Article 19, can be renegotiated for an extension. This is the first time in Indonesia that the State has laid a legal foundation for the development of fisheries in coastal and small islands.

There are three fundamental areas of concern with the legislation. The first deals with the critical issue of threats from natural disasters like earthquakes and tsunamis. It is well known that the Indonesian archipelago lies on the Pacific "Ring of Fire", an area of frequent earthquakes and volcanic eruptions that encircles the basin of the

Pacific Ocean. The archipelago is also subject to shifts of the earth's tectonic plates, making Indonesia naturally vulnerable to disasters like tsunamis (as happened in Aceh and Jogjakarta) and floods and tidal waves in nearly all the coastal areas and small islands.

Any law should thus take into consideration, on a priority basis, the principle of special treatment and protection for small islands and coastal areas, keeping in mind the rights of citizens to safety of life and property, while containing losses after natural disasters. The HP-3 provision is counter-productive from the point of view of ensuring the safety of citizens and providing civilians a degree of protection.

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Handing over vulnerable coastal areas to business interests will only restrict the ability of the government to fulfill its roles and responsibilities in guaranteeing civil safety. There is no guarantee that the HP-3 licence holders will fulfill their social, economic, cultural and environmental responsibilities, going by the country's experience in other extractive sectors, such as mining and forestry.

Certification process

The second area of concern relates to the HP-3 certification process itself. The predominant poverty and relatively

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A protest meeting in front of the Marine and Fisheries Department, Jakarta, Indonesia that drew attention to the limitations of Law No. 27 of 2007, which deals with the management of coastal and small islands

low levels of education automatically render HP-3 certificates irrelevant for fisherfolk and traditional cultivators. Only well-off business authorities can handle the bureaucratic culture of the State, and fulfill the technical, operational and administrative requirements needed for HP-3 certification.

Thirdly, conflicts in fisheries are related to property rights in terms of the legal and historical aspects of access and control of resources, and whether they feature open-access, centralized management, rights-based area management, community-based management, individual quotas and/or privatization. HP-3 certification will only exacerbate conflicts related to property rights.

Given these facts and the social and geographical realities of the Indonesian archipelago, it is imperative that the government reviews legislation related to coastal areas and small islands. If, in spirit, the law is meant to protect and secure the sustainable livelihoods of fisherfolk and coastal communities, it should not throw open the coastal waters of the country to the private sector. Without these changes, Law No. 27 of 2007 will be the starting point for the massive destruction of the coastal areas and small islands in Indonesia. ❸

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