

Strong Pillars

The fisheries and coastal resources policy of Indonesia requires a specific operational and regulatory framework to ensure the the protection of traditional small-scale fishers

Joko 'Jokowi' Widodo, the President of Indonesia, mentioned in a speech on 13 November 2014 that “the second pillar (of the Global Maritime Axis) is a commitment to maintain and manage marine resources with a focus on building marine food sovereignty through the development of the fishing industry by positioning fisherfolk as the main pillar”.

The emphasis on fisherfolk as the main pillar of food sovereignty cannot be separated from the strategic role played by small-scale traditional fishers, for several reasons. First, around 86 per cent of domestic

Small-scale fishers are defined as people who earn their livelihood in fishing, without using fishing vessels or using only those vessels under 10 gross tonnes (GT). Fish farmers have been divided into three categories: freshwater fish farmers, brackish water fish farmers and marine fish farmers.

Although women have an important role in the fishery sector, they are not acknowledged as fishers, fish farmers or as post-harvest fishery actors. Women are placed as part of the households of the fishers' family, as described in Law No. 7 of 2016. The lack of recognition of women manifests as an absence of political recognition and an absence of protection of women's special rights, such as those related to sanitation and the right to participate in fisheries management.

The freedoms granted to small-scale fishers under the Fisheries Law range from: freedom to fish in all areas of fisheries management in the Republic of Indonesia; exemption from complying with the provisions of the fishing vessel monitoring system; exemption from licensing obligations including SIUP (licence for doing business in fisheries), SIPI (licence to capture fish) and SIKPI (licence to transport fish); and (c) exemption from fishery charges. But these freedoms do not ensure secure access to, and control over, fishery resources, nor do they prevent parties from outside the small-scale fisheries subsector gaining access to the resources.

Fisheries legislation

The Government of Indonesia has specified 11 fisheries management areas, which determine utilization

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fish supply comes from small-scale fisherfolk. Second, their local wisdom shapes a conservation ethos which values wise, fair and sustainable exploitation of coastal and marine resources. Third, most Indonesian fishers—up to 90 per cent of the total fisher population—are from the small-scale traditional sector.

This article attempts to assess the fisheries and coastal resources policy, which is regulated by three principal legal regimes, namely, (i) the Fisheries Law, (ii) the Coastal and Small Island Management Law, and (iii) the Ocean Law. Later, in 2016, the Government of Indonesia published the Law on Protection and Empowerment of Fishers, Fish Farmers and Salt Farmers.

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arrangements under fisheries management plans. However, the process of formulating the fisheries management plans does not involve small-scale traditional fishers and fisheries management institutions or their representatives.

Utilization of coastal resources and small islands within 12 nautical miles from the shore is permitted under the Law on the Management of Coastal Zone and Small Islands. Coastal utilization is regulated under four coastal and small island management plans, namely, (a) RSWP-3-K / Strategic Plan for Coastal Zone and Small Islands; (b) RZWP-3-K / Zoning Plan for Coastal Areas and Small Islands; (c) RPWP-3-K / Coastal Area Management Plan and Small Islands; and (d) RAPWP-3-K / Action Plan for the Management of Coastal Areas and Small Islands. The latter Action Plan establishes spatial structures and patterns in area planning, and delineates activities that may be allowed or prohibited, including those that may be undertaken only after obtaining a licence.

Law No. 7 of 2016 provides Business Assurance Guarantees towards the livelihood spaces and

access rights of small-scale traditional fisherfolk, small-scale fish farmers, and small-scale salt farmers. The 'livelihood spaces' are defined to include fishing zones, or capture fishery zones, fishing harbours, and the habitations of small-scale fisherfolk, traditional fisherfolk, small-scale fish farmers and small-scale salt farmers. Article 25 paragraph (5) of Law No. 7 mandates the provision of livelihood spaces and access to small-scale fisherfolk, traditional fisherfolk, small-scale fish farmers and small-scale salt farmers in every spatial plan, both in relation to the land spatial planning (RTRW) and in relation to the coastal and small islands' zonation plans (RZWP3K).

The RZWP3K regulates the allocation of space within the coastal and small island zones below 12 nautical miles from shore as: (i) the general utilization area, (ii) the conservation area, (iii) certain national strategic areas, and (iv) sea lanes. The utilization of marine space within two nautical miles is prioritized for the livelihood of small-scale fisherfolk, traditional fisherfolk, small-scale fish farmers and small-scale salt farmers. However, in the general utilization area, there

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Father and son is placing traditional static fishing gear (locally called as *pasang*, *tadah arus* and *pertorosan* smiliar to stow nets) at Surabaya, East Java Province, Indonesia

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is no exclusive fishing zone for small-scale fishers. In this area, small-scale fishers face competition from other sectors like conservation, marine protected areas, tourism and even from public infrastructure.

With respect to land use for housing, any person who has occupied a piece of land in good faith (for example, after paying relevant taxes) for at least 20 years is protected by the provisions of Article 1963 and Article 1967 of the Civil Code and Article 24 paragraph (1) and paragraph (2) of Government Regulation No. 24/1997 on Land Registration. This provision recognizes the right of occupants who have occupied the land to register their land; if the occupation period has exceeded 30 years, the right to the land shall not be granted to a third party. However, there are obstacles to the registration and certification of land due to rampant corruption and the absence of provisions for the government to actively register land for fishing communities in coastal areas and small islands. The responsibility of providing land in coastal areas and small islands for habitations lies with the Ministry of Agrarian and Spatial/National Land Agency. However, the responsibility of registering fishers lies with the Ministry of Marine Affairs and Fisheries.

Small-scale fisherfolk have to compete for resources with fishing vessels above 10 GT. Slack monitoring, control and surveillance throws open to other parties access to resources. Small-scale fishers have no exclusive rights and their strategic role has not been recognized in terms of sufficient protection of their tenure rights to fishery and land resources.

Although the Law No. 7 of 2016 is basically a good legal instrument, it requires a more specific operational and regulatory framework to be truly effective. What has been stipulated in Article 25, paragraph (5) of the Law can be the foundation to ensure the protection of tenure for small-scale fisherfolk. The protection of fisherwomen warrants a specific action plan, especially since there is no comprehensive national gender-disaggregated data in fisheries. A comprehensive gender analysis of women working in the fisheries sector as fishers, fish farmers, fish processors and fish marketeers is urgently required.

Alternative measures for the protection of fishing community tenure can be done by integrating the FAO Tenure Guidelines and the FAO Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication (the SSF Guidelines) as the guidance framework for the implementation of the 2016 Law. At the level of the Association of Southeast Asian Nations (ASEAN), a regional action plan to secure small-scale fisheries needs to be developed by the Southeast Asian Fisheries Development Center (SEAFDEC). 3

For more

<http://knti.or.id/>

Traditional Fisherfolk Union of Indonesia (KNTI)

<http://extwprlegs1.fao.org/docs/pdf/ins97600.pdf>

Amendment To Law No. 31 Year 2004 Concerning Fishery