



INDONESIA
OCEAN JUSTICE
INITIATIVE



**Pesisir
Lestari**



FISHERS AND OCEAN JUSTICE:

**A Study on the Implementation
of the Fishers Protection Law
and the Coastal Areas and Small Islands
Management Law in Seven Locations
in Indonesia**

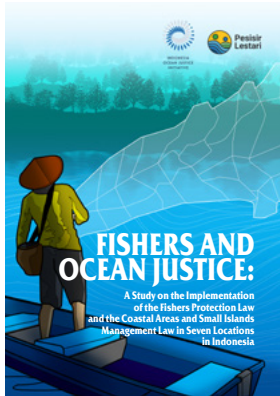
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Lestari**

October 2022



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Foreword

The Minister of Marine Affairs and Fisheries of The Republic of Indonesia

Law No. 7 of 2016 on the Protection and Empowerment of Fishers, Fish Farmers, and Salt Farmers and Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands which was then amended by Law No. 1 of 2014 are strong legal foundations for the protection and empowerment of small-scale fishermen.

For the past 7 years, the two laws have brought positive changes and impacts. The national and local dynamics related to the implementation of these laws are interesting to be portrayed and discussed in order to improve the legal instruments and the implementation.



The protection and empowerment of small-scale fishermen have been a priority in all our policies. Following an evaluation and comprehensive assessment of the existing challenges and opportunities, the Ministry has prepared a Blue Economy roadmap that consists of five main programs to protect the health ocean and its carrying capacity for the livelihoods of future generations, and create prosperity for the fishers and coastal communities today.

First, expanding the marine protected areas to a target of 30% of the entire Indonesian ocean in 2045 to produce oxygen, serve as carbon sequester, and spawn fish.

Second, regulating capture fisheries to be more measured through a quota-based approach in 6 fishing zones. One of the main goals of this policy is to provide maximum protection for small-scale fishermen. This policy also leans toward the development of the local economy that is evenly distributed and an integrated part of the national economic development and sustainable ecosystem management.

Third, developing environmentally friendly aquaculture onshore and offshore. Aquaculture is an important sector that can contribute to addressing population growth and protein demand. The aquaculture sector will be focused on shrimp, crabs, lobsters, and seaweeds as main products, as well as other economically valuable fishes based on the local wisdom to contribute to poverty eradication.

Fourth, protecting the coastal areas and small islands from any uncontrolled economic activities that can cause degradation.

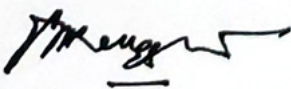
Fifth, the “Bulan Cinta Laut” program is a commitment of Indonesia to protect the ocean from plastic pollution. One of the main activities is to do ocean clean up in all parts of Indonesia. Local fishermen and industrial fishers will be asked to refrain from fishing activities for one month and do clean-up instead.

I welcome and appreciate the study conducted by Indonesia Ocean Justice Initiative and Yayasan Pesisir Laut.

The government cannot walk alone in managing the marine and fisheries sector. Synergy and collaboration with all relevant stakeholders are key to success. I would like to thank IOJI, Yayasan Pesisir Laut, and all parties involved in this amazing initiative and contribution.

Jakarta, 4 October 2022

The Minister of Marine Affairs and Fisheries



Ir. Sakti Wahyu Trenggono, M.M.

Foreword

Chief Executive Officer of IOJI

Since several years ago, Indonesia has started actions to implement management approaches to create a sustainable ocean economy or blue economy. Indonesia has highly valuable marine and fisheries assets. The sustainable ocean economy approach becomes even more important amid economic transformation and recovery from the COVID-19 pandemic. Since 2018, the President of the Republic of Indonesia has become a member of the High Level Panel for a Sustainable Ocean Economy (Ocean Panel), a global initiative of 17 countries in the world. Based on a study by the Ocean Panel, three principles should be implemented, effective protection, sustainable production, and equitable prosperity. In 2021, BAPPENAS has launched a Blue Economy Development Framework for Indonesia's Economic Transformation as a guide for relevant stakeholders to implement the blue economy.



Even though the sustainable ocean economy and blue economy adopt the concept of sustainable development, there is a concern that this can create injustices for the marginalized ocean-dependent people. If the sustainable ocean economy/blue economy is perceived merely for economic growth, this can create a risk of social injustices, including to small-scale fishers. Ten blue injustices are identified, which will be discussed in this report as the analytical framework. To avoid blue injustices, a sustainable ocean economy/blue economy should be complemented with blue justice, a concept that can prevent injustices in the marine and fisheries sector. Blue justice should be implemented in three scopes, recognitional, procedural, and distributional justices.

Blue justice can be perceived as a constitutional mandate. Article 33 paragraph (3) and (4) of the Constitution indicates the blue justice concept. This indication can be seen in the management of natural resources that should be oriented to people's prosperity

and at the same time, should adhere to the principles of justice and sustainability. This mandate is translated into several laws, including Law No. 7 of 2016 on the Protection and Empowerment of the Fishers, Fish Farmers, and Salt Farmers, and also Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands.

Considering the importance of ensuring that the interests of small-scale fishers are protected within the sustainable ocean economy/blue economy agenda, Indonesia Ocean Justice Initiative prepared this study, in collaboration with Yayasan Pesisir Lestari. This study is a regulatory impact assessment to see the effectiveness of the two laws. We hope this study can be useful for Ministries, Agencies, and Local Governments in their efforts of protecting and empowering small-scale fishermen in Indonesia.

Jakarta, 27 September 2022



Dr. Mas Achmad Santosa, S.H., L.LM
CEO of Indonesia Ocean Justice Initiative

Foreword

Director of Yayasan Pesisir Lestari

As one of the biggest contributors to global fisheries, Indonesia has a big opportunity to sustainably manage the marine and fisheries resources to create prosperity for the people. From this sector, small-scale fisheries become an important component of fisheries production and contributor to the job employment of coastal communities. 90% of the roughly 3.7 million fishers in Indonesia are small-scale fishermen who rely their livelihoods on fisheries and coastal resources.

The Ministry of Marine and Fisheries, in its Ministerial Regulation No. 17 of 2020 on Strategic Planning of 2020-2024, identified 9 strategic goals to support the vision of President Joko Widodo. Three of them are closely related to the livelihood of coastal communities (SS-1) and coral protection through conservation (SS-3), and zoning management (SS-6). Through those three strategic goals, the hope is to improve the prosperity index of the coastal communities and an expansion and improvement in the effectiveness of conservation management.

Coastal villages that amount to around 12,827 in Indonesia hold an important role in ocean governance to ensure food security and support the Ministry in creating prosperity. Based on this study, the main aspect of small-scale fishermen's protection is providing fishermen with access to manage the coastal resources sustainably, which can be an important factor in the prosperity of the fishermen and coastal communities.

In accordance with the result of the study, there are over 390 potential Other Effective Area-based Conservation Measures (OECM) that can improve the effectiveness and inclusivity of ocean governance in Indonesia. In practice, aligning with the *Kampung Nelayan Maju*



program by the Ministry, Yayasan Pesisir Lestari with other organizations in 12 provinces has been supporting collaborative management of coastal resources in over 60 villages with local communities, indigenous communities, village governments, local fish collectors, governments at the local level. Collaborative management has contributed to creating impacts socially, economically, politically, and ecologically including improving the income of the fishers, social gap among fishers, and decision-making at the village level, as well as decreasing destructive fishing practices.

Our hope is for this study to be an important consideration for government institutions in developing sustainable collaborative management of marine and fisheries resources. In the long term, collaborative management involving the coastal communities can contribute to the prosperity of the fishers and coastal communities, and support Indonesia to meet its ocean equity target within the High Level Panel for a Sustainable Ocean Economy framework.

Denpasar, 9 October 2022

A handwritten signature in black ink, appearing to read 'Maman', with a stylized flourish at the end.

Maman, S.S., M.DevStud

Director of Pesisir Lestari Foundation

Executive Summary

Indonesian fishers living off capture fisheries activities amount to between 2.5 to 3.7 million people. Around 90 percent of these, or 2.5 to 3.3 million, are small-scale fishers who depend directly on the small-scale fisheries sector for their livelihood.¹ The Indonesian government developed a series of laws and regulations intended to protect and empower small-scale fishers. In 2016, Law No. 7 of 2016 on the Protection and Empowerment of Fishers, Fish Farmers, and Salt Farmers was passed. Nine years earlier, Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands was issued. This legislation has undergone several changes during its implementation.

It is interesting to further explore the implementation of these two laws. It is important to understand the dynamics in the field, perceptions, and aspirations in order to craft policies and programs that more accurately address the issues on the ground. For this reason, our study is very relevant.

The methodology selected for this study was a Regulatory Impact Assessment. We embarked on a framework of shared desires to realize fishers' welfare and ocean justice. We examined how the implementations of the Coastal Areas and Small Islands Law and the Fisher Protection Law have contributed to improving the welfare of the community, particularly small-scale fishers in seven locations in Indonesia. Ocean justice explores trends in the distribution of benefits and burdens that impact fishers' access to marine wealth.² It was therefore relevant to our examination of how each party was uniquely impacted by the policies.³

The study was conducted in seven locations with selected respondents. The results of the seven studies are not intended to make generalizations and represent a more macro scope. However, it is hoped that the study in these seven locations will inspire all stakeholders to continue working and persist in producing continuous improvements.

¹ FAO, 2014; Ariansyach, 2017; FAOSTAT, 2018.

² Österblom, H., CCC Wabnitz, D. Tladi, *et al.* 2020. Towards Ocean Equity. Washington, DC: World Resources Institute. Available online at www.oceanpanel.org/how-distribute-benefits-ocean-equitably.

³ Tim Conway, *et. al.* (2002), Rights and Livelihoods Approaches: Exploring Policy Dimensions, Natural Resources Perspectives. Available online at: <https://www.files.ethz.ch/isn/91371/NRP78.pdf>.

This study focuses on five typologies of ocean injustice out of ten identified by Nathan Bennet (2021) that may occur and need to be mitigated.⁴ *First*, the inequity of tenure related to the use of marine space. *Second*, the injustice of economic benefits arising from marine development. *Third*, the disproportionately negative impact of policies on small-scale fishers. *Fourth*, injustice related to the decline in ecosystem services. *Fifth*, injustice in inclusive governance and human rights violations.

In assessing the impact of these laws on small-scale fishers, policy outcomes were divided into equity-blind⁵ and equity-activating.⁶ Equity-blind policies were identified based on indicators of limited community knowledge, opportunity and voice, as well as high vulnerability to shocks and disturbances.⁷ Meanwhile, equity-activating policies were characterized by access to knowledge, decision-making (communities centered as the main decision maker), resources and

markets; quality of opportunity; inclusive governance; and resilient communities with adaptive capacities.⁸

This study uses case studies in seven districts in Indonesia, all of which were carried out by literature review and in-depth interviews with fishers at the village level. In addition, it is combined with interviews and focus group discussions with various stakeholders at the provincial and national levels. The study was conducted from June 2021 to September 2022.

The following conclusions were drawn from this study:

1. Based on a cost-benefit analysis, the Coastal Areas and Small Islands Law and Fisher Protection Law have shown positive impacts. The two laws yield greater benefits for small-scale fishers than the costs incurred by the government. This means that it has

⁴ The ten typologies of ocean injustice that need to be mitigated to prevent what Bennet identified are: (1) Dispossession, displacement and ocean grabbing; Environmental justice concerns from pollution and waste; (3) Environmental degradation and reduction of availability of ecosystem services; (4) Undermining livelihoods of small-scale fishers; (5) Undermining access to marine resources needed for food security and well-being; (6) Inequitable distribution of economic benefits; (7) Social and cultural impacts of maritime development; (8) Marginalization of women; (9) Human and Indigenous rights abuses; and (10) Exclusion from decision-making and governance.

⁵ Even if they do not define equity-blind and equity-activating policies, Österblom *et al.* created impact indicators of equity-blind policies. For people and communities, equity-blind results in limited knowledge, opportunities, and voices; and exhibits increased susceptibility to shock and disruption. For society and the economy, equity-blind exclude norms, tax fraud, and corruption; has limited corporate responsibility and accountability; and generates unsustainable economic growth and social disruption. Österblom, H., CCC Wabnitz, D. Tladi, *et al.* 2020. Towards Ocean Equity. Washington, DC: World Resources Institute. Available online at www.oceanpanel.org/how-distribute-benefits-ocean-equitably.

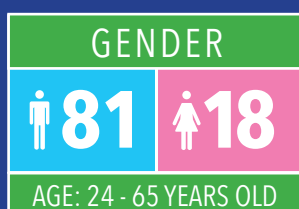
⁶ Equity-activating policies and activities for people and communities, result in access to knowledge, decisions, resources and markets; quality opportunity, and inclusive governance; and characterized by resilient communities with higher adaptive capacity. For society and the economy, equity-activating is characterized by security from loss, adequate compensation, redistribution of wealth and benefits; a transparent and accountable corporation that promotes justice; as well as sustainable growth, with public goods. *Ibid.*

⁷ *Ibid.*

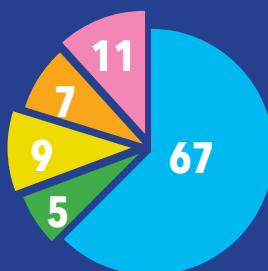
⁸ *Ibid.*

RESPONDENT PROFILES

TOTAL OF
99
PEOPLE



OCCUPATION:



Method of collecting materials:
INTERVIEWS AND FGDs



FGD



CASE STUDY LOCATIONS:



contributed to the welfare of small-scale fishers and coastal communities. The benefits, among others, are shown by the increase in fishers' incomes, which have increased from year to year from 2015-2020. At a more macro level, however, massive efforts are needed to further contribute to poverty reduction. At least 11.34% of fishers throughout Indonesia still live below the poverty line (Statistics Indonesia, 2017).

2. Almost all possible symptoms of ocean injustice and their causes⁹ have been identified in the Academic Paper of the Coastal Areas and Small Islands Law and the Fisher Protection

Law. Furthermore, better joint efforts among all relevant stakeholders are needed to overcome inequality in small-scale fishers' access to information, opportunities, and their involvement in the policy-making process.

3. The instruments in the Coastal Areas and Small Islands Law and the Fisher Protection Law aimed at realizing ocean justice need to be continuously encouraged and streamlined. Several key instruments, such as the Fisher Protection and Empowerment Plan, which is integrated into the development plan,¹⁰ as well as education, training and counseling instruments for coastal areas and small islands management, need to

be bolstered further. Several other instruments have been implemented with support from stakeholders. These instruments are coastal areas and small islands planning, participation mechanisms in coastal areas and small islands planning, licensing related to the use of coastal areas and small islands, provision of key fisheries facilities (facilities and infrastructure) for small-scale fishers, empowerment of small-scale fishers, funding and financing instruments for small-scale fishers, fisher insurance, elimination of high-cost economies, and facilitation and legal assistance.

4. Some of the instruments be attributed to the equity blind criteria, and some instruments in certain locations have met the equity activating criteria. The instruments

implemented had an impact in the case study locations. These impacts can be negative or positive, depending on local dynamics. Furthermore, comprehension, opportunity, inclusiveness, capacity and community resilience related to policies still needs to be optimized;

5. The positive impact achieved by the Coastal Areas and Small Islands Law and the Fisher Protection Law must continue to be improved to meet the principles of ocean justice. The two laws have the following impacts:

⁹ Encompasses: Inequitable conditions compared to other ocean space uses (access to information, access to influence decision making, access to dispute resolution mechanisms).

¹⁰ The Fisher Protection and Empowerment Plan has been regulated in Article 9-15 of the Law on Fisher Protections, see **Table 1**.

- a. Mechanisms for small-scale fishers to participate in the decision-making process are already available in coastal areas and small islands planning, but still need to be optimized to reduce inequality. This is especially relevant when making tenure decisions that can have implications on economic equity. More opportunities for small-scale fishers' participation will help achieve equity, balance, sustainability, and value enhancement. Socioeconomic and cultural conditions are very dependent on local dynamics. The role of stakeholders in the field, therefore, becomes increasingly central.
- b. Access of small-scale fishers and coastal communities to capital, especially through people's business loans (micro/small loans), can contribute to reducing economic inequality, and needs to be accompanied by tenure justice so that the benefits are sustainable.
- c. The availability of facilities and infrastructure, which is a small-scale fisher protection strategy, has improved. Small-scale fisher empowerment, especially training, has been conducted. These trainings have been implemented from the *bottom-up* so that the benefits obtained are more targeted and felt by small-scale fishers.
- d. The Coastal Areas and Small Islands Law has clarified utilization allocation and priority. In practice, additional mainstreaming efforts are needed to better accommodate the interests of small-scale fishers. The interests of small-scale fishers must be protected when dealing with the needs of other sectors, such as the interests of conservation organizations and tourism companies. In addition, there needs to be better guidance on how policy makers prioritize fishing areas for small-scale fishers, and respond to input from other stakeholders that threaten the interests of small-scale fishers.
- e. Only a small number of small-scale fishers are covered by insurance. Thus, a roadmap is needed to ensure all receive coverage. Efforts are needed from stakeholders so that small-scale fishers are protected from the risk of natural disasters, climate change, and pollution.
- f. Planning instruments allow for coherence among government agencies. Better synergy is needed to mitigate changes in authority or mechanisms so that small-scale fishers receive stable and consistent benefits.
- g. The definition of a small-scale fisher has become clearer. Further clarity of this definition is still needed so that small-scale fishers can increase their engagement in governance and policy-making.

These various impacts need to be optimized in order to achieve more equitable benefits in accordance with the principles of ocean justice. The principles are as follows:

1. Common interests in the sea;
2. Democratic inclusion;
3. The sea as a space for rights;
4. Sustainability and the precautionary principle;
5. Fair distribution of benefits;
6. Fair distribution of burdens; and
7. Just transition.¹¹

This study recommends continuous improvement efforts of existing policies that mainstream the principles of ocean justice in the Laws on Coastal Areas and Small Islands and Fisher Protection. The suggestions are as follows:

1. Improvement of participation mechanisms.

Improvement of participation mechanisms for small-scale fishers is intended to ensure a continuous process in fisheries resource management initiatives in the smallest community units. This initiative needs to be linked to various decision-making processes related to the realization of the benefits of protecting and empowering small-scale fishers. The government needs to provide active information to these

workers, and improve the participation process so that it is adaptive and sustainable. This mechanism needs to complement the participation mechanism in the preparation of the Coastal Areas and Small Islands Zoning Plan local ordinance and the existing development planning. The focus is so that the relevant coastal community is able to access, digest and jointly provide input that supports small-scale fisheries management initiatives among even the smallest units.

Information dissemination, discussion rooms and supporting small-scale fishers' initiatives need to occur continuously in small-scale capture fisheries communities. These communities require formal access recognition in order to effectively contribute to decision-making. The participation mechanism needs to adapt to existing local institutions/sectors, such as fisher groups, extension workers¹², villages, fisheries business development groups; with the main objective of increasing bargaining power in accessing and influencing decision-making.

The government can also encourage good practices through improving existing initiatives, such as optimizing the participation of fishers and integrating

¹¹ Chris Armstrong, "A Blue New Deal: Why We Need a New Politics for the Ocean," New Haven: Yale University Press (2022), page 95-114.

¹² Fisheries Extension Officer is a position that has the scope of duties, responsibilities, and authorities to provide assistance, learning processes, and capacity building to fishery business actors in terms of accessing market information, technology, capital, and other resources, as an effort to increase productivity, efficiency business, income and welfare, as well as raising awareness in preserving environmental functions.

information in the *Kampung Nelayan Maju*¹³ (Fisher Village Development) program. The *Kampung Nelayan Maju* Program does not necessarily solve tenure problems, because tenure security is a prerequisite for implementing the *Kampung Nelayan Maju* program in an area. For this reason, synergy and cooperation are critical.

2. Optimizing the Fisher Protection and Empowerment Plan instrument.

Planning instruments need to be implemented to correspond more closely with Article 7 to Article 15 mandates in the Fisher Protection Law. Article 161 of Government Regulation No. 27 of 2021 on the Implementation of the Maritime and Fisheries Sector has mandated fishing vessel skills training for small-scale fishers. The central government and local government are both responsible for conducting the training, and issuing Fisher Skills Certification upon successful completion. These trainings should not be limited to fishing techniques and accident prevention. Further training is needed on fisher rights education and empowerment. This needs to be considered as a requirement for successful completion of Fisher Skills Certification in the future.¹⁴

3. Determination of priority areas for small-scale fisheries.

In order to be able to allocate limited resources optimally, the Government needs to determine where existing resources can produce sustainable benefits. This should be supported by other necessary reforms to fully realize desired positive outcomes. One option that can be explored is the determination of priority and non-priority areas for small-scale fisheries. The determination may take into account several criteria, including:

- a. The number of small-scale fishers in an administrative area;
- b. The existence of capture areas, either now or historically, by considering the zoning in the Coastal Areas and Small Islands Zoning Plan or the determination of customary management areas;
- c. The carrying capacity of the environment;
- d. Regional development plans.

The Fisher Protection Act has mandated that all of these criteria be considered in the planning process of all protection and empowerment policies.¹⁵

¹³ One of the programs of the Ministry of Marine Affairs and Fisheries that started in 2021 is called “*Kampung Nelayan Maju*”. Through the Directorate General of Capture Fisheries, this effort is made to change fishing villages in Indonesia from the impression that they were poor, slum and dirty to become more advanced. The purpose of the advanced fishing village program is to create a clean, healthy and comfortable environment and to improve the quality of life of the community, especially for fishers. The program mainly focusing on infrastructure support aimed for re-structuring fishing villages by improving public facilities, providing clean water, better waste management and improving waterways.

¹⁴ To date, 4,800 fishers have participated in technical training in East of Indonesia based on Directorate General of Capture Fisheries, 21 September 2022.

¹⁵ Article 9 paragraph (2) of the Fisher Protection Law.

Priority areas are needed to avoid counterproductive policies. The allocation of limited resources for protection and empowerment of small-scale fishers can be focused on these priority areas. In priority areas, all policies, including designation and zoning, development planning and budgeting, are focused on supporting small-scale fisheries ecosystems. Local governments in priority areas need to specify indicators of success based on the target beneficiaries in their area, as identified in the Small-Scale Fisher Protection and Empowerment Plan.

In non-priority areas, development and zoning policies can have various impacts on small-scale fishers. The Small-Scale Fisher Protection and Empowerment Plan prioritizes empowerment strategies by involving small-scale fishers, NGOs and the private sector in the form of:

- a. Livelihood transition strategies;
- b. Mutual access agreement between coastal areas and small islands users (*multi-use*);
- c. Legal assistance for small fishing groups who object to the decision.

4. Synergy of insurance with risk prevention.

Several main risks facing small-scale fishers—such as pollution and climate change—require intervention at the development planning stage, control of pollution and environmental damage,

as well as climate change mitigation and adaptation. In accordance with the legal mandate, planning instruments need to consider the carrying capacity and environmental capacity needed to support sustainable fisheries. Development planning must also run in harmony with the plan for the protection and empowerment of small-scale fishers.

In parallel, government policies need to take into account the externalities that small-scale fishers have to bear for projects that pollute or damage the environment, or contribute to climate change that impacts the livelihoods of small and traditional fishers. Economic instruments, such as taxes or levies, need to be imposed progressively, targeting the largest beneficiaries. The funds raised should then be used to increase support for programs to protect and empower small-scale fishers and manage coastal areas and small islands.

As a safety net, the government needs to ensure that small-scale fishers' insurance providers realize the legal mandate in terms of scope, with the support of financing measures that need to be reviewed (for example, *earmarking* from environmental funds). The government can also optimize information and participation instruments to increase the number of conversions to self-insurance and increase small-scale fishers' understanding of benefits.■

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Preface:

Small-Scale Fishers, Coastal Communities and Ocean Justice

Since it was ratified fifteen years ago, there have been two changes to Law No. 27 of 2007 on Coastal Zone and Small Island Management.¹⁶ First, Law Number 1 of 2014¹⁷ changed the provisions related to the concession rights of coastal waters.¹⁸ The second change occurred last year, through Law Number 11 of 2020 concerning Job Creation (*UU Cipta Kerja*).¹⁹ This Law had material changes that were quite significant. It amended the Law on the Protection and Empowerment of Fishers, Fish Farmers and Salt Farmers (the Fisher Protection Law) which was promulgated through Law Number 7 of 2016. Some of the provisions of the Fisher Protection Law have been revised related to the definition of small-scale fishers and import restrictions.²⁰

The academic text of the Job Creation Law is motivated by the desire to accelerate economic growth, a general ease in

These economically-marginalized fishers must be empowered and their welfare improved in accordance with the objectives of the issuance of the Fisher Protection Law and the Coastal Areas and Small Islands Law. These two regulations emphasize the important role of coastal communities' welfare.

doing business, and expand employment opportunities.²¹ There is no specific analysis on how the amendments to Law Number 27 of 2007 (Law on Management of Coastal Zone and Small Islands) and the Law on Fisher Protection in the Job Creation Law are intertwined or affect the problems addressed in the original law.²²

¹⁶ Law No. 27 of 2007 on Management of Coastal Zone and Small Islands, State Gazette No. 84 of 2007, Additional State Gazette No. 4739.

¹⁷ Law No. 1 of 2014 on Amendments to Law Number 27 of 2007 on Management of Coastal Areas and Small Islands, State Gazette No. 2 of 2016, Additional State Gazette No. 5490.

¹⁸ Law No. 1 of 2014 abolished the granting of Coastal Waters Concession Rights (HP-3) which had previously been declared unconstitutional by the Constitutional Court; see Elucidation of Law No. 1 of 2014.

¹⁹ Article 18 of the Law No. 11 of 2020 on Job Creation.

²⁰ Article 115 of the Law No. 11 of 2020 on Job Creation.

²¹ Article 18 of the Law No. 11 of 2020 on Job Creation.

²² However, there is an analysis and evaluation of the provisions in the Coastal Areas and Small Islands Law related to basic permits. See: Academic Text of Law No. 11 of 2020, page 151-153.

The Law on the Management of Coastal Areas and Small Islands aims to protect and utilize the resources found in coastal areas and small islands by considering community participation.²³ This law was also made as a form of synergy between central and local government management of coastal areas and small islands. Meanwhile, the purpose of the Law on Fisher Protection is to increase the capacity of fishers, fish cultivators, and salt farmers by providing certainty for the continuity of their business.²⁴

Around 3.7 million Indonesians work as fishers, 90 percent of whom are small-scale fishers or depend directly on the small-scale fisheries sector.²⁵ The influence of this sector is not only important in the fishery lens, but also in a sociological framework as the foundation of community groups living along the coast and on small islands (coastal communities). Economically, the current general picture of small-scale fishers is that the community is still marginal, has limited access to global markets and credit, and some of them sell their catch locally. This condition causes small-scale fishers' income to generally fluctuate and remain minimal. This is not commensurate with the economic value of the Indonesian fishery export market, which collectively gains Rp73 trillion from 1.26 million tons of fish.

These economically-marginalized fishers must be empowered and their welfare improved in accordance with the objectives of the issuance of the Fisher Protection Law and the Coastal Areas and Small Islands Law. These two regulations emphasize the important role of coastal communities' welfare. The Indonesian government must be able to prevent practices that allow the marginalization of small-scale fishers, and which cause inequality between industrial fishers and small-scale fishers.²⁶ The small-scale fishers should not be evicted from their traditional territories, which gives rise to various socio-environmental conflicts and environmental injustices.

In 2020, the High Level Panel for a Sustainable Ocean Economy published a study on ocean equity, exploring trends in the distribution of benefits and burdens of access to marine resources.²⁷ This study can be used as a guide for the empowerment of fishers within the context of Indonesian fisheries, whose fisheries sector is dominated by small-scale fishers. This study lists several outcome indicators of a policy that is equity activating or equity blind. From this study, it can be seen that the concept of ocean justice is increasingly relevant to Indonesia's accelerating development, including in the fisheries sector, as well as in coastal locations and small islands.

²³ See Article 4 of the Law No. 27 of 2007 concerning Management of Coastal Zone and Small Islands.

²⁴ See Article 4 of the Law No. 27 of 2007 concerning Management of Coastal Zone and Small Islands.

²⁵ FAO, 2014; Ariansyach, 2017; FAOSTAT, 2018.

²⁶ Irmak Ertör. 2021. 'We are the Oceans, We are the People!': Fisher People's Struggles for Blue Justice. Available online at <https://www.researchgate.net/publication/356724404>.

²⁷ Österblom, H., CCC Wabnitz, D. Tladi *et al.* 2020. Towards Ocean Equity. Washington, DC: World Resources Institute. Available online at www.oceanpanel.org/how-distribute-benefits-ocean-equitably.

The concept of ocean justice needs to be a primary focus in the implementation of laws that specifically target the small-scale fisheries sector and coastal communities, both in the Coastal Areas and Small Islands Law and the Fisher Protection Law. With ocean justice, it is hoped that equality in fisheries management will be realized and reduce potential conflicts. To date, there has been no study that examines the impact and effectiveness of the two laws, particularly related to the concept of ocean justice. Therefore, it is very important to examine the impact of the two regulations, and see whether they are in accordance with the original objectives of the ocean justice framework.

As of this writing, the Coastal Areas and Small Islands Law has been in effect for fifteen years, and the Fisher Protection Law for almost six years. Parliament conducted policy implementation monitoring of the Coastal Areas and Small Islands Law²⁸ in 2021. The changes made still leave questions as referred to in this study, namely how the law impacts the welfare of fishers and coastal communities.

This study will answer three main questions.

1. How do laws and regulations related to the protection of small-scale fishers and coastal communities play a role in promoting ocean justice? (equity). This will elaborated on in Section 3.
2. What is the impact and effectiveness of the existing laws and regulations in providing protection and empowerment for small-scale fishers and coastal communities in Indonesia? This issue will be examined in Section 4.
3. How can policy efforts optimize the implementation of relevant laws and regulations in order to effectively protect and empower small-scale fishers and coastal communities and promote ocean justice? This issue and potential recommendations will be provided in Section 5.■

²⁸ Letter of the Secretariat General of the Republic of Indonesia DPR, [July 12, 2021]; The results of academic studies can be accessed via <https://berkas.dpr.go.id/puspanlakuu/kajian/kajian-public-158.pdf>.



2 Methodology

To answer the three main questions, this study uses a policy analysis tool called the Regulatory Impact Assessment (RIA). Methodology details can be seen in **Appendix 1**. The study begins with a historical study of how the Coastal Areas and Small Islands Law and the Fisher Protection Law take into account the symptoms and root causes related to ocean justice and any relevant regulatory instruments. Then, the study systematically assesses the positive (benefits) and negative (costs) effects of these instruments, focusing on the implementation of regulations that have been completed (*ex-post RIA*). In assessing the impact, this study uses a ocean justice framework, in which policy outcomes are divided into equity-blind and equity-activating based on indicators of understanding, opportunity, inclusiveness, and community capacity and resilience related to policies. As part of the impact assessment, this study recommends a series of policy measures with a cost benefit analysis.

Data collection was carried out through literature reviews, focus group discussions (FGD) and interviews with stakeholders at the national level, combined with case studies. There were seven districts that

This study does not assess the impact of all provisions contained in the Small-Scale Fisher Law and the Coastal Areas and Small Islands Law, but only focuses on the impact in relation to small-scale fishers that are relevant to the five typologies to mitigate possible problems of ocean injustice that are the focus of the study.

were used as locations for impact analysis case studies: Seribu Islands Regency (Pulau Pari sub-district, DKI Jakarta Province), Natuna Regency (Pulau Tiga sub-district, Riau Islands Province), Wakatobi Regency (South Kaledupa sub-district, Southeast Sulawesi Province), Alor (Northwest Alor sub-district, East Nusa Tenggara Province), Central Maluku District (Nusalaut sub-district, Maluku Province), East Lombok District (Pringgabaya sub-district, West Nusa Tenggara Province), and North

Minahasa District (West Likupang sub-district, North Sulawesi Province).

The sites chosen as the locations for the case studies were determined based on the following criteria:

- a. Regional representation to reflect the different dynamics that occur in various regions;
- b. The relevance of ocean justice issues with the five themes of ocean justice that are the priority focus of one or more legal instruments in the Coastal Areas and Small Islands Law or the Small-Scale Fisher Law; and
- c. The existence of a site organization that has assisted the community in advocating the issues in point b.

The time span of the study was from June 2021 to September 2022. The respondents of this research are fishers and small-scale fishery business actors, totaling 99 people. They consist of 67 small-scale fishers (14 of whom are also small-scale farmers), 9 middlemen (one of whom is also a farmer and one fish broker), 7 processors (one processor and middleman), 11 village officials or RT (5 of whom are also small-scale fishers), as well as 5 others. Fisher respondents consisted of 81 men and 18 women. The age range of respondents is between 24 and 65 years.

Interviews and FGDs were also conducted with 15 non-governmental organizations (NGOs) whose work intersects with small-

scale fishers. In addition, 16 government work units at the district, provincial and central levels, one private actor and one State Owned Enterprise were interviewed. Meanwhile, for the cost benefit assessment, this study used publicly accessible statistics, including Statistics Indonesia (BPS), the Financial Services Authority (OJK), and Ministry of Marine Affairs and Fisheries financial reports (see **Appendix 2**).

This research has several limitations and assumptions that will affect the results. First, this study does not assess the impact of all provisions contained in the Small-Scale Fisher Law and the Coastal Areas and Small Islands Law, but only focuses on the impact in relation to small-scale fishers that are relevant to the five typologies to mitigate possible problems of ocean injustice that are the focus of the study. Second, in the cost benefit analysis, this study uses several assumptions, which are detailed in the methodology section of **Appendix 2**.

This study is of course not meant to be interpreted in a larger scope. However, the picture obtained in the seven locations is expected to provide inspiration and insight for the parties to continue to work together and continue to improve efforts to empower fishers and realize ocean justice, now and in the future.■

3 Ocean Justice in the Fishermen Protection Law and the Coastal Areas and Small Islands Law: Opportunities and Limitations

The academic texts of the Coastal Areas and Small Islands Law and the Fishermen Protection Law have identified all the symptoms of priority ocean injustice, along with their causes. However, further efforts are needed to identify important issues, such as the possibility of information inequality, opportunity, and inclusion of small-scale fishers compared to the use of marine space by other fisheries actors.

Even though they do not use the term ocean justice, the academic texts of the two laws contain philosophies and goals that align with the concept of ocean justice that has developed globally in recent times, and encourages equity-activating policies to achieve more equitable marine development.²⁹

Some elements of ocean justice emerge quite strongly in the philosophical basis of the two laws, namely in the form of a constitutional basis regarding the control

of resources 'for the greatest prosperity of the people'.³⁰ Further, the texts identify the right of every citizen to live in physical and spiritual prosperity, to live, and to have a good and healthy living environment.³¹ They also recognize the right to get facilities and special treatment for the same opportunities and benefits in order to achieve equality and justice;³² and the right to social security which enables each individual's full self-development as a human being with dignity.³³ In this constitutional basis, the element of equitable distribution of the benefits and burdens of maritime development is extremely prominent, even though there is a greater tendency towards a rights-based approach.

This study selects five typologies for mitigating the main injustices that are most relevant to the historical discussion and existing policy instruments in the Coastal Areas and Small Islands Law and the Fishermen Protection Law.

²⁹ Österblom, H., CCC Wabnitz, D. Tladi *et al.* 2020. Towards Ocean Equity. Washington, DC: World Resources Institute. Available online at www.oceanpanel.org/how-distribute-benefits-ocean-equitably.

³⁰ Article 33 paragraph (3) of the 1945 Constitution, referred to in the Academic Text of Law No. 1 of 2014, page 36-37.

³¹ Article 28H of the 1945 Constitution, referred to in the Academic Text of Law No. 7 of 2016, page 134.

³² Academic Text of Law No. 7 of 2016, page 135. Even though it does not explicitly refer to the 1945 Constitution, this sentence is the sound of Article 24D of the 1945 Constitution.

³³ Academic Text of the Law No. 7 of 2016, page 135. Even though it does not explicitly refer to the 1945 Constitution, this sentence is the sound of Article 24 of the 1945 Constitution.

1. Tenure injustice related to the utilization of sea space.
2. The injustice of economic benefits arising from sea development.
3. The disproportionately negative impact of policies on small-scale fishers.
4. Injustice related to the decline in ecosystem services.
5. Injustice in inclusive governance and human rights violations.

These five typologies are some of the ten typologies of symptoms of injustice caused by sea development as mapped by Bennet (2021).³⁴

This research found that, even though they have been identified in academic papers (see: **Appendix 2**), the problems Coastal Areas and Small Islands Law and the Fishermen Protection Law try to address in their policy instruments still need to be implemented in the case study locations. Literature studies confirm that various improvements have been made, but improvement efforts still need to be made.

3.1. Mitigation of Possible Tenurial Injustices Associated with the Utilization of Sea Spaces

Mitigation of Possible Tenurial Injustices in Academic Papers.

Historically, the Law on the Management of Coastal Zone and Small Islands considers that the main problem in terms of management stems from the ambiguity of the maritime property regime. This ambiguity results in management confusion³⁵ and tragedy of commons.³⁶ The law passed in 2007 proposed a solution in the form of Coastal Waters Concession Rights (HP3).³⁷ On January 13, 2010, the Civil Society Coalition submitted a judicial review of the Coastal Areas and Small Islands Law to the Constitutional Court. A year later the Constitutional Court granted the request and declared the HP3 unconstitutional.³⁸ As a result, the issue of tenurial injustice was addressed in the changes to the Coastal Areas and Small Islands Law in 2014. The 2014 academic text noted that “inequality in access and

³⁴ According to Bennett, ten typologies of ocean injustice problems arising from maritime development are:

1. Dispossession, displacement and ocean grabbing;
2. Environmental justice concerns from pollution and waste;
3. Environmental degradation and reduction of availability of ecosystem services;
4. Undermining livelihoods of small-scale fishers;
5. Undermining access to marine resources needed for food security and well-being;
6. Inequitable distribution of economic benefits;
7. Social and cultural impacts of ocean development;
8. Marginalization of women;
9. Human and Indigenous rights abuses; and
10. Exclusion from decision-making and governance.

³⁵ Academic Text of the Law No. 27 of 2007, page 19, 160.

³⁶ Academic Text of the Law No. 27 of 2007, page 20.

³⁷ Law No. 27 of 2007, Articles 16 to 22.

³⁸ The provisions regarding HP3 in the Coastal Areas and Small Islands Law were reviewed at the Constitutional Court and ruled unconstitutional (Article 1 point 18, Articles 16, 17, 18, 19, 20, 21, 22, 23 paragraph (4) and paragraph (5), Article 50, 51, 60 paragraph (1), 71 and 75 of Law 27/2007). See: Constitutional Court, MK Decision No. 3/UU-VIII/2010 Dated 16 June 2011.

utilization of coastal areas and small islands will result in the goal of establishing the Coastal Areas and Small Islands Law not being achieved”.³⁹ The academic text then proposed arrangements that do not threaten to produce unequal tenure, and guarantee access to coastal communities and customary law communities.⁴⁰

On the other hand, the Fishermen Protection Law also identifies problems regarding economic inequality, which leads to less than optimal improvements in fishers’ standard of living and welfare, such as small-scale fishers having limited land ownership and control.⁴¹

Policies in law to solve problems. The Coastal Areas and Small Islands Law in 2014 reconstructed the substance of HP3, but replaced instruments for location permits and sea space management permits with special provisions for local and traditional communities.⁴² It also strengthened the recognition and protection of customary law communities and the participation of communities in coastal areas⁴³ by affirming

community involvement in the Zoning Plan for Coastal Areas and Small Islands (RZWP3K).⁴⁴ The Fishermen Protection Law responds to the issue of funding and financing instruments⁴⁵ by granting both central and regional governments authority over funding and financing facilitation,⁴⁶ financing services and credit management for micro, small and medium enterprises (MSMEs) by banking/financing institutions⁴⁷ and credit guarantees by the guarantee agency.⁴⁸

The objectives of regulations relevant to these policies are strengthening community participation and initiatives [local and traditional in coastal areas and small islands],⁴⁹ ensuring sustainable business for small-scale fishers,⁵⁰ as well as the growth and development of financing systems and institutions that serve business interests [small-scale fisheries].⁵¹

Study results. All instruments designed to solve the problem of tenurial injustice have been implemented. However, from the seven research locations, this study

³⁹ Academic Text of the Law No. 1 of 2014, page 3.

⁴⁰ In full, the text proposes regulatory principles as follows: (1) Arrangements that do not have the potential to make certain areas controlled only by groups with a stronger bargaining position; (2) Arrangements that do not make the customary law community's territory potentially disappear; (3) Arrangements that facilitate access for coastal communities and customary law communities to obtain fulfillment of their economic rights in utilizing coastal natural resources and do not consider mastery of capital and technology as barriers, and (4) Arrangements that provide legal certainty. See: Academic Text of Law No. 1 of 2014, page 57.

⁴¹ Academic Text of the Law No. 7 of 2016, page 8.

⁴² Law No. 1 of 2014, Articles 20 and 21. This provision is maintained in the Job Creation Law.

⁴³ Academic Text of Law No. 1 of 2014, page 5.

⁴⁴ Law No. 1 of 2014, Article 1 point 2 (changes to Article 14 (1), (2), and (3) of Law No. 27 of 2007).

⁴⁵ Law No. 7 of 2016, Article 60.

⁴⁶ Law No. 7 of 2016, Article 61.

⁴⁷ Law No. 7 of 2016, Article 62.

⁴⁸ Law No. 7 of 2016, Article 69.

⁴⁹ Law No. 27 of 2007, Article 4 letter c.

⁵⁰ Law No. 7 of 2016, Article 3 letter b.

⁵¹ Law No. 7 of 2016, Article 3 letter d.

found several patterns of conditions that could be perceived as tenurial injustice related to sea utilization.

In Bulutui Village (West Likupang sub-district), some fishing areas are mapped as red zones (no take zones) to support the Tourism Special Economic Zone (SEZ). The perception of small-scale fishers is that this will threaten the sustainability of their business.⁵² In fact, they have experienced an increase in their asset ownership, including land and buildings, as a result of financing instruments for small-scale fishers.⁵³ On Tiga Island, even though it is in the capture fisheries zone, small-scale fishers are threatened by the presence of foreign vessels and compete with Javanese *cantrang* vessels.⁵⁴ On Pari Island, small-scale fishers' fishing areas are subject to repeated pollution from the Jakarta's mainland, due to zoning adjacent to industry,⁵⁵ and are threatened or have been reduced due to planning or utilization for tourism activities.⁵⁶ In East Lombok, Coastal Areas and Small Islands Zoning Plan allocated space for an iron sand mine near the fishing area.⁵⁷

Even so, this study also found improvements in access to tenure, whereby small-scale fishers can still carry out their livelihoods, even though they live side by side with different coastal areas and small islands utilizations. Small-scale fishers in Alor and Wakatobi live alongside conservation areas, as respondents do not perceive conservation as a threat to their fishing areas.⁵⁸ In Negeri Akoon, indigenous peoples' management rights over their fishing areas have been recognized through the establishment of customary territories via decrees issued by Regents.⁵⁹

3.2. Mitigation of Possible Inequitable Ocean Development Economic Benefits

Mitigation of Possible Inequitable Ocean Development Economic Benefits in Academic Papers. The issue of economic inequality experienced by small-scale fishers has been captured in the academic texts of the Coastal

⁵² Interview with one middleman and one fisher in Bulutui Village, December 9-10, 2021.

⁵³ Report on the North Minahasa case study, based on interviews and observations on December 7-12, 2021.

⁵⁴ Report on the Natuna case study, based on interviews and observations on October 18-25, 2021.

⁵⁵ Interviews with 3 neighborhood (RT) officials and two fishers on Pari Island, June 9-11, 2021.

⁵⁶ Interviews with 3 neighborhood (RT) officials, one fish farmer and two fishers on Pari Island, June 9-11, 2021.

⁵⁷ Interview with the Coastal Department of the Maritime and Fisheries Office (DKP), West Nusa Tenggara Province, January 3, 2022.

⁵⁸ Case study report for Wakatobi district, January 3-31, 2022. In Wakatobi, small-scale fishermen from Darawa Village only catch and farm in the Local Use Zone.

⁵⁹ Decree of the Central Maluku Regent Number 189-135 of 2021 on Recognition of the Unity of MHA of the State of Akoon, Nusalaut District. The recognition is meant in the form of recognition of the history of the State of Akoon, the customary territory of the State of Akoon, the assets/wealth of customary objects, and the institutions or system of customary government. In addition to Negeri Akoon, there are seven decisions of the Central Maluku Regent which recognize seven customary (state) law communities in the Nusalaut sub-district. Akoon State case study report, 3-26 January 2022.



Areas and Small Islands Law and the Fishermen Protection Law. These texts note particularly high poverty rates among residents of coastal areas, along with associated socio-economic problems such as lack of education level and financial management capacity.⁶⁰ In the Coastal Areas and Small Islands Law, the uneven optimization of coastal areas and small islands resources⁶¹ and a lack of comprehension of the value of coastal area resources are considered to be the root of

the problem.⁶² In the Fisher Protection Law, structural poverty and its implications for fishers' capacity, the orientation of fisheries policies towards productivity, inequality of access to capital, facilities, infrastructure and knowledge/technology needed to develop businesses, are considered to be several factors that collectively cause small-scale fishers to remain in poverty.⁶³

Policies in law to solve problems.

The two laws respond to these problems

⁶⁰ Academic Text of the Law No. 27 of 2007, page 155; Academic Text of the Law No. 7 of 2016, page 1-3.

⁶¹ In this case, utilization refers to optimal utilization of the abundance of potential coastal resources (biological, non-biological, marine services – i.e. fisheries, mangroves, coral reefs, mining materials, non-conventional energy). Academic Text of the Law No. 27 of 2007, page 16-17.

⁶² Academic Text of the Law No. 27 of 2007, page 156.

⁶³ Academic Text of the Law No. 7 of 2016, page 2, 7-9, 13, 21-22.

⁶⁴ Planning instruments include the Strategic Plan for Coastal Zones and Small Islands (RSWP3K), Zoning Plan for Coastal Zone and Small Islands (RZWP3K), Plan for Management of Coastal Zones and Small Islands (RPWP3K) and the Action Plan for Management of Coastal Zones and Small Islands (RPWP3K). small island. See: Law no. 27 of 2007, Articles 7 to 15.

with similar instruments that need to be strengthened in relation to each other. Apart from going through the planning⁶⁴ and utilization of coastal areas and small islands, the Coastal Areas and Small Islands Law also contains provisions for education, training and outreach;⁶⁵ as well as community empowerment in the management of coastal areas and small islands.⁶⁶ Meanwhile, the Fisher Protection Law mandates a plan for the protection and empowerment of fishermen that is integrated into the development plan⁶⁷ and protection instruments. The Law's provision on fishery business infrastructure provides empowerment instruments⁶⁸ in the form of education and training, counseling and assistance, business partnerships, ease of access to science and technology, information, and fishers institutions⁶⁹ as well as funding and financing instruments.⁷⁰ Apart from that, the Fisher Protection Law also contains a provision for 'abolition of high-cost economic practices' which frees small-scale fishers from licensing fees and levies in the form of taxes and fees.⁷¹

The purpose of regulations relevant to these policies is to increase the social, economic and cultural values of the community through their participation in

decision-making processes,⁷² the availability of infrastructure and facilities needed in developing businesses,⁷³ as well as increasing the capability and capacity of fishers and [their] institutions in managing fish resources, marine resources, and carrying out business.⁷⁴

Study results. Nationally, the economic value of fishing activities has increased. At the locations of this case study, the instruments have been implemented, and improvements have been made. However, from a macro perspective, high poverty rates among fishers are still recorded in several locations in Indonesia, and there are still disparities in access to benefits. This can be seen from the poverty rates in East Lombok Regency, where the percentage of people living in poverty is still high, at 15.24%, and Wakatobi Regency, which also has a high poverty rate, at 14.31%. (This data is not specific to the fisheries sector; poverty rates are certainly influenced by several other factors).

3.3. Mitigation of Possible Inequitable Impacts [Policies] on Small-Scale Fishers

Mitigation of Possible Inequities: Policy Impacts in Academic Papers. The Fisher

⁶⁵ Law No. 27 of 2007, Articles 47 to 49.

⁶⁶ Law No. 27 of 2007, Article 63.

⁶⁷ Law No. 7 of 2016, Articles 9-15 of the Law No. 7 of 2016.

⁶⁸ Article 18-20; 21-24 the Law No. 7 of 2016.

⁶⁹ Article 9-15 of the Law No. 7 of 2016.

⁷⁰ Article 59-69 of the Law No. 7 of 2016.

⁷¹ Article 36 paragraph (1) letters (a) and (b) of the Law No. 7 of 2016.

⁷² Law No. 27 of 2007, Article 4 letter d.

⁷³ Law No. 7 of 2016, Article 3 letter a.

⁷⁴ Law No. 7 of 2016, Article 3 letter c.

Protection Law only maps out problems that arise from administrative boundaries – across countries and across provinces/districts, which trigger conflicts over fishing areas⁷⁵ and create legal problems for small-scale fishers.⁷⁶ Meanwhile, the Coastal Areas and Small Islands Law, which does not consider small-scale fishers to be a special subject,⁷⁷ does not specifically identify unjust policy impacts on small-scale fishers.

Policies in law to solve problems. The Fisher Protection Law mandates the central and regional governments to establish an ‘effective and efficient integrated permitting system’,⁷⁸ combined with a license fee waiver. In addition, the Fishers Protection Law mandates the central and regional governments to facilitate and provide legal assistance to fishers “who experience legal problems in carrying out their business according to laws and regulations”,⁷⁹ and “experience fishing problems in other countries”.⁸⁰ The purpose of regulations relevant to these policies is to provide security and safety guarantees, as well as legal assistance for small-scale fishers.⁸¹

Study Results. This study does not specifically examine respondents who

experienced legal problems in the seven case study locations, with the exception of Pari Island. Although fishers with legal problems on Pari Island receive legal assistance from the Legal Aid Institute, they must access this legal aid proactively and independently. On the other hand, eliminating high economic costs related to licensing has been implemented in almost all study areas,⁸² except for Wakatobi. However, as of this writing, small-scale fishers in Wakatobi have not experienced any legal problems related to the completion of their license documents.

3.4. Mitigation of Possible Inequities Related to Decreases in Ecosystem Services

Mitigation of Possible Inequities of Ecosystem Services in Academic Papers.

The issue of decreased ecosystem services was quite dominant in the discussion of the Coastal Areas and Small Islands Law in 2007. At that time, academic papers had identified problems of biogeophysical degradation of coastal resources that had been growing and expanding since the early 1990s. These degradation issues included the rate of destruction of

⁷⁵ *Ibid.*

⁷⁶ Academic Text of the Law No. 7 of 2016, page 8.

⁷⁷ The beneficiary subjects in the Coastal Areas and Small Islands Law are “indigenous peoples” and “local communities living in coastal areas and small islands”. Thus, small-scale fishermen are relevant to the Coastal Areas and Small Islands Law. See: Article 1 point 32, 33 and 34.

⁷⁸ Article 36 paragraph (1) (a) and Article 36 paragraph (2) of the Law No. 7 of 2016.

⁷⁹ Article 41 of the Law No. 7 of 2016.

⁸⁰ Article 42 of the Law No. 7 of 2016.

⁸¹ Law No. 7 of 2016, Article 3 letter f.

⁸² Several government representatives interviewed confirmed that making Fishing Vessel Registration Certificate/TDKP and Flag Registration for Small Boats/PAS is free of charge. Interview with the Head of the Lombok Labuhan Beach Fishing Port, January 11, 2022.



Photo: @djpt_kkp dan @ppnpengambengan.

mangroves and coral reefs, marine pollution from land, and overexploitation. This condition damages spawning grounds and fish rearing areas, reduces fry populations as well as fry and shrimp productivity.⁸³ Meanwhile, the Fisher Protection Law also maps pollution and environmental destruction of coastal resources, such as pollution due to industrial or mining waste, heavy metal pollution, destruction of corals and mangroves due to the activities of fishermen and coastal communities.⁸⁴ In addition, even though it does not discuss increased intensity of extreme weather due to climate change, the Fisher Protection Law identifies a high risk of accidents and within

the fishing profession.⁸⁵ The academic text of the Fisher Protection Law also noted weather and natural conditions that can cause fishers' fishing equipment, whether in the form of boats, boats or nets damage, rendering them unable to catch fish.⁸⁶

Policies in law to solve problems.

The Coastal Areas and Small Islands Law regulates planning and utilization of coastal areas and small islands instruments, and monitoring and control instruments. The instrument includes the institutional framework for supervision and control,⁸⁷ supervision provisions,⁸⁸ and control provisions through the coastal areas and

⁸³ Academic Text of the Law No. 27 of 2007, page 18, 19.

⁸⁴ Academic Text of the Law No. 7 of 2016, page 67.

⁸⁵ Academic Text of the Law No. 7 of 2016, page 9.

⁸⁶ *Ibid.*

⁸⁷ Law No. 27 of 2007, Article 36.

⁸⁸ Law No. 27 of 2007, Articles 37 to 39.

small islands management accreditation program⁸⁹ and maritime partners.⁹⁰ In addition, the Fishermen Protection Law regulates business certainty⁹¹ guarantees and risk guarantees with fishery insurance and life insurance.⁹²

The purpose of regulations relevant to these policies is to strengthen the participation of the community and government institutions in the management of coastal areas and small islands in order to achieve sustainability,⁹³ and to protect small-scale fishers from the risks of natural disasters, climate change and pollution.⁹⁴

Study Results. In the seven case study locations, the typology of decreasing ecosystem services found was pollution from activities on land and in the sea. On Pari Island, pollution comes from industrial activities in North Jakarta and reclamation for tourism.⁹⁵ In East Lombok, pollution comes from an increase in waste dumped by ferries around fishermen's fishing areas.⁹⁶ In Alor, the risk of going out to sea is increasing due to climate change and declining fish stocks.⁹⁷ Fisher insurance has been provided, but protection against pollution and climate risks has not been

included in the insurance program. These conditions show the importance of alternative livelihoods so that during times of famine and decreased catches, fishing households can still earn income from other businesses.

3.5. Mitigation of the Possibility of Inequity in Inclusive Governance and Violations of Human Rights

Mitigation of the Possibility of Inequity of Governance in Academic Manuscripts. The Coastal Areas and Small Islands Law identified institutional problems related to conflicts over utilization and authority. That is, the incentive to use coastal resources is not integrated and efficient. Existing challenges are related to sectoral egos and regional-central dichotomy which results in conflicts over the use of space. In 2007, legislators stated the problem was becoming more frequent and the scale of the conflicts bigger,⁹⁸ although it did not include case numbers or an analysis of trends at the time.

Meanwhile, the academic text of the Fisher Protection Law does not explicitly

⁸⁹ Law No. 27 of 2007, Article 40.

⁹⁰ Law No. 27 of 2007, Article 41.

⁹¹ Covers spatial planning, assignment of agencies, development of fishery & salt commodity marketing systems, arrangement of profit-sharing agreements/work agreements. See: Law No. 7 of 2016, Article 25.

⁹² Law No. 7 of 2016, Article 30.

⁹³ Law No. 27 of 2007, Article 4 letter c.

⁹⁴ Law No. 7 of 2016, Article 3 letter e.

⁹⁵ Interviews with three RT officials and two fishers on Pari Island, 9-11 June 2021.

⁹⁶ Representatives of the Sustainable Sea Fighting Agency (JARI) at a Workshop related to Regulatory Impact Assessment (RIA) Studies of Small-Scale Fishermen and Coastal Communities, 19 May 2022.

⁹⁷ Report case study Alor, 29-4 December 2021, page 16.

⁹⁸ Academic Text of the Law No. 27 of 2007, page 20.

mention governance issues, but notes that the definition of fishers is relatively broad and varied.⁹⁹ This has implications for those affected and subjects who are given rights in governance. In addition, the Fisher Protection Law notes the lack of coordination between the central government and regional governments in terms of the development of infrastructure for fishers.¹⁰⁰ The Law also notes the ineffectiveness of fishing institutions due to a lack of participation and efforts to harmonize institutions.¹⁰¹

Policies in law to solve problems.

The Coastal Areas and Small Islands Law tries to mitigate inequity with planning instruments, as well as confirming the duties and authorities related to each instrument and provisions for community participation. Meanwhile, the Fishermen Protection Law tries to overcome this problem by defining small-scale fishers and using a size limit of 10 GT,¹⁰² planning instruments,¹⁰³ and provisions for community participation.¹⁰⁴

The purpose of regulations relevant to these policies is to strengthen the participation of the community and

government institutions and encourage community initiatives in the management of coastal resources and small islands in order to achieve justice, balance and sustainability.¹⁰⁵ These regulations also aim to increase the capability and capacity of fishers and their institutions in managing fish resources and marine resources.¹⁰⁶

Study Results. Small-scale fishers in all the case study areas are still not able to play an active role in making decisions that affect their livelihoods. These problems are described in Section 3.1. and 3.4. Almost all of them are characterized by the lack of policy-makers' knowledge of small-scale fishers, and the lack of opportunities or mechanisms for these fishers to influence decisions. The role of local government still needs to be increased.

3.6. Review of the Coastal Areas and Small Islands Law and Fisher Protection Law

It can be seen that the law has not optimally mapped out the basic problems that are very influential in mitigating ocean injustice. Namely the unequal

⁹⁹ Among other things, NA shows different definitions in Law No. 45 of 2009 on Amendments to Law No. 31 of 2004 on Fisheries, Law No. 23 of 2014 on Regional Government, Law Number 1 of 2014 on Amendments to Law No. 27 of 2007 on Management of Coastal Areas and Small Islands, Law No. 27 of 2007 on Management of Coastal Areas and Small Islands, and Law No. 16 of 1964 on Fishery Profit Sharing.

¹⁰⁰ Academic Text of Fisher Protection Law, page 8-9.

¹⁰¹ Academic Text of Fisher Protection Law, page 9.

¹⁰² Law No. 7 of 2016, Article 1 point 4.

¹⁰³ Articles 9-15 of the Law No. 7 of 2016.

¹⁰⁴ Article 72 paragraph (1), (2) and (3).

¹⁰⁵ Law No. 27 of 2007, Article 4 letter c.

¹⁰⁶ Law No. 7 of 2016, Article 3 letter c.

condition of small-scale fishers compared to other sea space users¹⁰⁷ in making decisions that impact small-scale fishers' tenure (land) access.¹⁰⁸

For example, the two laws place the fishing areas of small-scale fishers—except for indigenous peoples¹⁰⁹—in a neutral position.¹¹⁰ That is, the laws do not give priority to tenurial security compared to the allocation of coastal areas and other small islands, such as conservation or national strategic areas.¹¹¹ Thus, although the Coastal Areas and Small Islands Law gives communities the right to gain access to areas that have been permitted for the use of other parties and proposes traditional fishing areas and customary law community areas into Coastal Areas and Small Islands Zoning Plan¹¹², the imbalance of power between various actors remains an important factor in decision making.

In addition, the academic texts of the Coastal Areas and Small Islands Law and the Fisher Protection Law do not explicitly identify that economic benefits arising from marine development are often proportionally distributed to certain actors.¹¹³ The implication is that there are no provisions in the two laws that allow for an equitable distribution of benefits derived from marine ecosystems, for example through fiscal instruments.¹¹⁴ ■

¹⁰⁷ Towards Ocean Equity explains that “Inequality arises from a number of social factors. This includes not only the various stakeholders involved and the power they can use, but also the social institutions and structures within which the economy operates”. See: Österblom, H., *et.al.*, page 9, citing *Ciplet et al.* 2015; Crona and Bodin 2010, Felipe-Lucia *et al.* 2015. Provinces that have not yet enacted Coastal Areas and Small Islands Zoning Plan are Riau Islands Province, East Kalimantan Province, Bali Province, Banten Province, Riau Province, Papua Province, and DKI Jakarta Province, see: <https://economy.business.com/read/20210119/99/1344756/kkp-baru-27-provinsi-yang-tetapkan-perda-zonasi-pesisir>.

¹⁰⁸ Josse, *et.al.* exemplifies the weak position of small-scale fishers in the COREMAP program, which it says “systematically excludes small-scale fisher organizations from decision-making processes and hinders access to traditional fishing grounds”. See: Josse, *et.al.* (2019), “Marine Spatial Planning: Resolving or entrenching conflicts over and in ocean space?”, page 8.

¹⁰⁹ Law No. 1 of 2014, Articles 20 and 21.

¹¹⁰ Law No. 27 of 2007, Article 23 to 27. Small-scale fishers are part of the “sustainable fishing and marine business and fishing industry”, along with eight other priorities, which include conservation, education and training, research and development, aquaculture, tourism, fisheries and marine business and industry sustainable fisheries, organic farming, animal husbandry, and/or state defense and security. *Ibid.*, Article 23 paragraph (2).

¹¹¹ Law No. 7 of 2016, Article 10.

¹¹² Law No. 1 of 2014, Article 1 point 17 (Amendment of Article 60 of the Law No. 27 of 2007).

¹¹³ Österblom, *et.al.*, *Op. Cit.*, page 9.

¹¹⁴ The existence of a mechanism to ensure fair distribution of benefits is one of the opportunities for action suggested in Towards Ocean Equity. *Ibid.*, page 33.



4

The Effectiveness and Impact of the Coastal Areas and Small Islands Law and the Fisher Protection Law

The instruments in the Coastal Areas and Small Islands Law and the Fisher Protection Law which are aimed at solving the problem of ocean justice still need to be optimized, both in terms of equity and quality of implementation.

Several key instruments, such as the Fisher Protection and Empowerment Plan, which is integrated in the development plan, as

well as education, training and extension services for coastal areas and small islands have not been realized in all case study locations. Several other instruments have been realized with the support of the parties, but their effectiveness and impact need to be optimized. The following is a recapitulation of the implementation of instruments related to ocean justice issues as described in Section 3:

Table 1:
Recapitulation of Policy Implementation Most Relevant to Justice

POLICY	LEGAL BASIS	IMPLEMENTATION
For Coastal Areas and Small Islands Planning.	Article 7-13 Law No. 27 of 2007; Article 14 of Law No. 1 of 2014.	As of January 2021, 27 provinces have approved the Zoning Plan for Coastal Areas and Small Islands, while 7 other provinces still discussing it. ¹¹⁵
Participation mechanism in Coastal Areas and Small Islands Planning.	Article 14, 60 of the Law No. 1 of 2014.	Normatively, the participation mechanism has been determined in Ministry of Fisheries Regulation No. 23 of 2016 ¹¹⁶ , namely with two public consultations. The study results did not find published data regarding the number of proposed traditional fishing areas or MHA areas into the Coastal Areas and Small Islands Zoning Plan.

¹¹⁵ Provinces that have not yet enacted Coastal Areas and Small Islands Zoning Plan are Riau Islands Province, East Kalimantan Province, Bali Province, Banten Province, Riau Province, Papua Province, and DKI Jakarta Province, see: <https://ekonomi.bisnis.com/read/20210119/99/1344756/kkp-baru-27-provinsi-yang-tetapkan-perda-zonasi-pesisir>.

¹¹⁶ Minister of Marine Affairs and Fisheries Regulation No. 23 of 2016 on Planning for the Management of Coastal Zone and Small Islands.

POLICY	LEGAL BASIS	IMPLEMENTATION
Location permits and water management permits in coastal areas and small islands, with access rights for the community, facilitation for local and traditional communities and recognition of customary management areas.	Article 20, 21 of the Law No. 1 of 2014.	Provisions for implementation before 2019 are based on the Coastal Areas and Small Islands Zoning Plan of each region, and those who do not yet have Coastal Areas and Small Islands Zoning Plan are based on discretion. The mechanism for determining the management area of customary law communities in the utilization of coastal areas and small islands has been determined in PermenKP No. 8 of 2018. ¹¹⁷ New licensing procedures are regulated in central norms, standards, procedures and criteria (NSPK) in 2019 along with procedures for issuing location permits and water management permits, which have changed twice so far. ¹¹⁸
Priority for the use of coastal areas and small islands.	Article 23 paragraph (2) and (3) of the Law No. 1 of 2014.	Control over priority utilization of coastal areas and small islands is carried out by Ministry of Marine Affairs and Fisheries through [technical assistance] in the preparation of Coastal Areas and Small Islands Zoning Plan, as stipulated in Ministry of Fisheries No. 23 of 2016. ¹¹⁹ The results of the study did not find any documentation of the amount of technical assistance [or facilitation] that had been carried out by the Ministry of Marine Affairs and Fisheries and the Regional Government to regulate the priority of coastal and small islands utilization.
Coastal areas and small islands education, training, counseling, community empowerment in managing coastal areas and small islands.	Articles 47-49, article 63 of the Law No. 27 of 2007.	There are no implementation regulations for coastal areas and small islands management education, training, and counseling (mandated in the form of Government Regulations). ¹²⁰ Community empowerment has been regulated in Ministry of Fisheries Regulation No. 40 of 2014. ¹²¹ The results of the study did not find any documentation of how much education, training, coastal areas and small islands counseling and community empowerment has been done by the Ministry of Marine Affairs and Fisheries and the local government. The results of the study did not find relevant budget lines.

¹¹⁷ Minister of Marine Affairs and Fisheries Regulation No. 8 of 2018 on Procedures for Designating Customary Law Community Management Areas in the Utilization of Space in Coastal Areas and Small Islands.

¹¹⁸ Minister of Marine Affairs and Fisheries Regulation No. 24 of 2019 on Procedures for Issuing Water Location Permits and Water Management Permits in Coastal Areas and Small Islands; amended by Minister of Maritime Affairs and Fisheries No. 54/PERMEN-KP/2020 of 2020 on Location Permits, Management Permits and Location Permits at Sea; amended by Ministry of Fisheries Regulation 28 of 2021 on Implementation of Marine Spatial Planning.

¹¹⁹ Minister of Marine Affairs and Fisheries Regulation No. 23 of 2016 on Planning for the Management of Coastal Zone and Small Islands.

¹²⁰ Article 47 of the Law No. 27 of 2007.

¹²¹ Minister of Marine Affairs and Fisheries Regulation No. 40/Permen-KP/2014 on Community Participation and Empowerment in the Management of Coastal Zone and Small Islands.

POLICY	LEGAL BASIS	IMPLEMENTATION
Planning for the protection and empowerment of small-scale fishermen.	Article 9-15 of the Law No. 7 of 2016.	Planning for the protection and empowerment of fishermen does not mandate further arrangements, but mandates an output in the form of a Fisher Protection and Empowerment Plan. Planning is carried out through a five-year planning mechanism (Medium Term Development Plan/Strategic Plan) and the ministry's annual plan (Government Work Plan/Work Plan).
Provision of key fisheries facilities (infrastructure and facilities), such as: subsidized fuel, refrigerated storage, boats, boat engines and fishing equipment, fishing ports and TPI (fish auction venues).	Article 18-20; 21-24 Law No. 7 of 2016.	Provision of facilities and infrastructure through government grants/aids is regulated in Ministry of Fisheries Regulation No. 2 of 2021, ¹²² replacing the previous regulations in 2016 and 2017. All provinces and districts/cities in this case study have programmed the provision of facilities and infrastructure, both from special allocation funds (DAK), APBD (local government budget) and aspiration funds. The mechanism for obtaining subsidized fuel is regulated in Ministry of Fisheries Regulation No. 29 of 2020, ¹²³ which replaces the 2015 regulations. ¹²⁴
Empowerment of small-scale fishers (education, training, extension services/facilitation, business partnerships, fishermen institutionalisation).	Article 12 paragraph (3), 43-58 of the Law No. 7 of 2016.	No implementation provisions mandated by the law, thus far no regulations that succeed Government Regulation no. 50 of 2015, ¹²⁵ or a more technical one.
Funding and financing instruments for small-scale fishermen (banking institutions, financing, guarantees).	Article 59-69 Law No. 7 of 2016.	Financing for small-scale fishers through people's business credit (small/micro loans) is regulated in Ministry of Fisheries Regulation no. 73 of 2016 ¹²⁶ and Ministry of Fisheries Regulation No. 60 of 2020, ¹²⁷ while through the Maritime and Fisheries Business Capital Management Agency (LPMUKP) in Ministry of

¹²² Minister of Marine Affairs and Fisheries Regulation No. 2 of 2021 on Distribution of Government Grants/Aids within the Ministry of Marine Affairs and Fisheries.

¹²³ Minister of Marine Affairs and Fisheries Regulation No. 29/PERMEN-KP/2020 of 2020 on Revocation of the Minister of Fisheries Regulation Number 13/PERMEN-KP/2015 on Instructions for the Implementation of Issuance of Letters of Recommendation for the Purchase of Certain Types of Fuel Oil for Capture Fisheries Businesses.

¹²⁴ Minister of Marine Affairs and Fisheries Regulation No. 13/PERMEN-KP/2015 on Guidelines for Issuance of Letters of Recommendation to Purchase Certain Types of Oil Fuel for Capture Fisheries Businesses.

¹²⁵ Government Regulation No. 50 of 2015 on Empowerment of Small-Scale Fishers and Small-Scale Fish Farmers.

¹²⁶ Minister of Marine Affairs and Fisheries Regulation No. 73 of 2016 on General Guidelines for the Implementation of People's Business Credit.

¹²⁷ Minister of Marine Affairs and Fisheries Regulation No. 60/PERMEN-KP/2020 on Technical Guidelines for Distribution of People's Business Credit in the Maritime and Fisheries Sector.

POLICY	LEGAL BASIS	IMPLEMENTATION
		Fisheries Regulation No. 3 of 2017 ¹²⁸ (amended per 2022 ¹²⁹). Realization of Fisher People's Business Credit (KUR) in 2016 amounted to 1,140 billion rupiahs and increased to 2,610 billion rupiahs in 2017.
Risk guarantees and fisherman insurance.	Article 30-35 Law No. 7 of 2016.	Risk protection guarantees have been regulated in Ministry of Fisheries Regulation No. 18 of 2016, ¹³⁰ which includes fisheries and life insurance.
Elimination of high-cost economy for small-scale fishermen.	Article 36 Law No. 7 of 2016.	Elimination of high-cost economy through the waiver of fees and levies does not require implementing regulations. In all case study areas, this provision has been implemented.
Facilitation and legal assistance for small-scale fishermen.	Article 41-42 of Law No. 7 of 2016.	In general, the provision of legal aid is regulated in Government Regulation no. 42 of 2013, ¹³¹ but there are no specific regulations regarding the facilitation and distribution of legal aid for small-scale fishers.
Mechanism of community participation for small-scale fishermen.	Article 71-72 of Law No. 7 of 2016.	Community participation in implementing the protection and empowerment of small-scale fishers is regulated in Ministry of Fisheries Regulation no. 3 of 2019. ¹³²

The study's second objective is to answer the question of how effectively current regulations provide protection and empowerment of small-scale fishers and coastal communities in Indonesia. The key policies in Table 1 were assessed for their effectiveness based on the degree to which they helped solve ocean

justice issues. In this section, the impact and effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law will be evaluated together, so that they can be seen as connected. The arrangement in Section 3 will serve as a guide for structuring the impact and effectiveness assessment.

¹²⁸ Minister of Marine Affairs and Fisheries Regulation No. 3/PERMEN-KP/2017 concerning the Organization and Work Procedures of Marine and Fisheries Business Capital Management Institutions.

¹²⁹ Minister of Marine Affairs and Fisheries Regulation No. 2 of 2022 on Amendments to the Regulation of the Minister of Marine Affairs and Fisheries Number 3/PERMEN-KP/2017 on the Organization and Work Procedure of Marine and Fisheries Business Capital Management Institutions.

¹³⁰ Minister of Marine Affairs and Fisheries Regulation Number 18/PERMEN-KP/2016 Year 2016 Risk Protection Guarantee for Fishermen, Fish Farmers, and Salt Farmers.

¹³¹ Government Regulation No. 42 of 2013 concerning Terms and Procedures for Providing Legal Aid and Distribution of Legal Aid Funds.

¹³² Minister of Marine Affairs and Fisheries Regulation No. 3/Permen-KP/2019 concerning Community Participation in the Implementation of the Protection and Empowerment of Fishermen, Fish Farmers, and Salt Farmers.

In general, the implementation of the Coastal Areas and Small Islands Law and the Fisher Protection Law in the seven study locations showed a positive economic impact, where the benefits generated outweighed the costs incurred. Benefit cost valuations carried out on the two laws in the seven study locations estimate the current net benefit value of 6,165 billion rupiahs. Further details regarding the valuation of benefits and costs can be seen in Appendix 2: Cost-Benefit Analysis Report of the Impact and Effectiveness Study of the Fisher Protection Law and the Coastal Areas and Small Islands Law (**Appendix 2**).

However, the benefits and costs of the externalities generated by both laws have not been equally distributed, as illustrated by the findings in the case study locations that complement the analysis in Section 4.1. up to 4.5. In addition, the benefits and externalities of the policies in both laws have not been accompanied by understanding, opportunity, inclusivity, and community capacity and resilience related to the policy. The only exception is for financing instruments, where the knowledge and capacity of the beneficiaries (small scale fishers) is quite high. Within the ocean justice framework, the impact of the 'equity blind' criteria, except for financing instruments in certain locations, has met the 'equity activating'

criteria. The implemented instruments had impacts in the case study locations, which were perceived dynamically depending on local contexts.

4.1. The Impact and Effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law in Improving Tenurial Justice

Space for small-scale fishers' participation has been created through a public consultation mechanism in the preparation of the Zoning Plan for Coastal Areas and Small Islands. This has been implemented in all case study locations. In three of the seven locations, namely East Nusa Tenggara¹³³, North Sulawesi¹³⁴, and West Nusa Tenggara¹³⁵, the respondents' fishing areas were zoned as capture fisheries zones in accordance with their historical function. This increased tenure security of small-scale fishers' fishing areas. In one location, customary law community units have been established.

However, some small-scale fishers and small-scale fisher business actors said that they did not know, or have yet to take advantage, of the available participation space. At six of the seven study locations, none of the respondents had been directly involved in public consultation activities

¹³³ East Nusa Tenggara Provincial Regulation No. 4 of 2017 concerning Zoning Plans for Coastal Areas and Small Islands for 2017-2037.

¹³⁴ North Sulawesi Provincial Regulation No. 1 of 2017 concerning Zoning Plans for Coastal Areas and Small Islands of North Sulawesi Province for 2017-2037.

¹³⁵ West Nusa Tenggara Provincial Regulation Number 12 of 2017 concerning Zoning Plans for Coastal Areas and Small Islands for 2017-2037.

Table 2:
Fishermen's Participation and Knowledge of Coastal Areas and Small Islands Zoning

CASE STUDY LOCATION	COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' PARTICIPATION IN DEVELOPING COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' KNOWLEDGE OF COASTAL AREAS AND SMALL ISLANDS ZONING PLAN IMPLICATIONS
Pari Island, Thousand Islands, DKI Jakarta.	Tourism (planned).	There are community representatives participating in public consultations; the other half involved themselves with hearings and wrote letters to the Ministry of Marine Affairs and Fisheries and DKI Jakarta Provincial Government.	Their knowledge varies. Several who propose traditional fishing areas have a very high level of comprehension. Others, even though they were present at the public consultation, had a low level of comprehension.
Desa Sabang Sabang Mawang Village, West Sabang Mawang, Tanjung Batang, and West Tiga Island, District Natuna, Riau Archipelago.	Capture fisheries (planned).	There was no publicly accessible Coastal Areas and Small Islands Zoning Plan document uploaded. None of the respondents knew of the Coastal Areas and Small Islands Zoning Plan document, the drafting process or the public consultations that were conducted. ¹³⁶	None of the respondents were aware of the information related to the Coastal Areas and Small Islands Zoning Plan document. ¹³⁷
Bulutui Village, Kec. West Likupang, Regency North Minahasa, North Sulawesi.	Capture fisheries, but bordering KEK Tourism.	None of the respondents knew about or participated in the formulation process or public consultations on Coastal Areas and Small Islands Zoning Plan, including matters that have direct implications for small-scale fishermen. ¹³⁸	Most of the respondents knew about the tourism zoning plan in Bulutui Village from 'socialization by the Provincial Maritime Affairs and Fisheries Office or the Tourism Office in the sub-district' ¹³⁹ (or information regarding the socialization) and partly from 'community rumors'. ¹⁴⁰ Most small-scale fisher respondents know about the 'red zones' from interactions with NGOs, ¹⁴¹ although detailed knowledge about the location and implications of red zones is limited.

¹³⁶ The Natuna case study report based on interviews and observations from October 18-25, 2021.

¹³⁷ The Natuna case study report based on interviews and observations from October 18-25, 2021.

¹³⁸ North Minahasa case study report, based on interviews and observations on December 7-12, 2021.

¹³⁹ Interview with two small-scale fishermen, one former Head of Bulutui Village and two officials of Bulutui Village, December 10, 2021.

¹⁴⁰ Interview with four small-scale fishers from Bulutui Village, December 11, 2021.

¹⁴¹ Interview with one fisher on December 11, 2021.

CASE STUDY LOCATION	COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' PARTICIPATION IN DEVELOPING COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' KNOWLEDGE OF COASTAL AREAS AND SMALL ISLANDS ZONING PLAN IMPLICATIONS
Darawa Village, Kec. South Kaledupa, Kab. Wakatobi, Southeast Sulawesi.	Conservation.	None of the respondents knew of the Coastal Areas and Small Islands Zoning Plan or the process of its preparation, and had never attended public consultations in preparing Coastal Areas and Small Islands Zoning Plan. ¹⁴²	Respondents have a fairly good understanding of national park zoning and understand that fishing and cultivation can only be carried out in the local use zone area. ¹⁴³
Labuhan Lombok Village, Kec. Pringgabaya, Kab. East Lombok, West Nusa Tenggara.	Capture fisheries.	The majority of respondents have never been involved in the formulation of Coastal Areas and Small Islands Zoning Plan or received socialization or other open discussions, both pre and post Coastal Areas and Small Islands Zoning Plan approval. ¹⁴⁴	Most of the respondents were unaware of the implications regarding the zoning plan in their fishing area. ¹⁴⁵ A small number had heard of a piece of information related to the existence of the core zone in Sumbawa waters, all from informal discussions, both with government agency staff and academics. ¹⁴⁶
Akoon Village, Kec. Nusalaut, Regency Central Maluku, Maluku.	Conservation.	Respondents were unaware of, and were not involved in the formulation of the Coastal Areas and Small Islands Zoning Plan. However, the traditional fishing areas of Akoon State small-scale fishers have been designated as customary territories through a Regent's Decree. ¹⁴⁷	Most of the respondents understand that their fishing area is under customary (country) management. However, there is a difference between the zoning desired by the state (tourism) and the zoning in Coastal Areas and Small Islands Zoning Plan (conservation). ¹⁴⁸

¹⁴² Interview with one fisher on December 11, 2021.

¹⁴³ Wakatobi case study report, January 3-31, 2022.

¹⁴⁴ Interviews with four fishermen catching on January, 3-14, 2022. *Id.*

¹⁴⁵ 4 out of 6 respondents said they had never heard of zoning; small islands, sea utilization, core zone. See: East Lombok case study report, based on interviews and observations on January 3-14, 2022.

¹⁴⁶ Sources of information were CDK staff (Oceanic Office Branch for Lombok Island) and Hamzanwadi Selong University. *Id.*

¹⁴⁷ Decree of the Central Maluku Regent Number 189-135 of 2021 concerning Recognition of the Unity of MHA Negeri Akoon, Nusalaut District. The acknowledgment is meant in the form of acknowledgment of the history of the State of Akoon, the customary territory of the State of Akoon, the assets/wealth of customary objects, and the institutions or system of customary government. In addition to Negeri Akoon, there are seven decisions of the Central Maluku Regent which recognize seven customary (state) law communities in the Nusalaut sub-district. Akoon State case study report, January 3-26, 2022.

¹⁴⁸ Akoon case study report, based on interviews and observations on January, 3-26, 2022, page 10, 22.

CASE STUDY LOCATION	COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' PARTICIPATION IN DEVELOPING COASTAL AREAS AND SMALL ISLANDS ZONING PLAN	SMALL-SCALE FISHERS' KNOWLEDGE OF COASTAL AREAS AND SMALL ISLANDS ZONING PLAN IMPLICATIONS
Lewalu Village, Kec. Southwest Alor, Regency Alor, East Nusa Tenggara.	[Conservation].	All respondents were completely unaware of the existence or formulation of the Coastal and Small Island Area Zoning Plan. ¹⁴⁹	All respondents were unaware of the implications of Coastal Areas and Small Islands Zoning Plan on their fishing areas. ¹⁵⁰

regarding Coastal Areas and Small Islands Zoning Plan. Very few small-scale fishers know their rights to propose traditional fishing areas or customary law community areas as established by the Coastal Areas and Small Islands Zoning Plan.

The case study location where small-scale fishers have utilized their participation rights as the Coastal Areas and Small Islands Zoning Plan envisioned is in Pulau Pari. Small-scale fishers proposed their traditional fishing areas to be considered in the Draft of Provincial Regulation on the Coastal Areas and Small Islands Zoning Plan (see: **Box 1**).¹⁵¹ Their involvement occurred in the context of a tenure conflict with tourism enterprises, which triggered small-scale fishers and residents who were threatened with losing their tenurial rights to organize themselves to express their aspirations.

As seen in the Pari Island case study, the available space for participation has not

optimally mitigated the issue of inequality, especially in making tenurial decisions which could have implications for the possibility of economic inequality for small-scale fishers. In the case of Pari Island, small-scale fishers face large-scale tourism. Even though they have carried out various initiatives to involve themselves, small-scale fishers do not know how policy-makers follow up on the input provided. Existing regulations are seen as not requiring decision-makers to respond to input and enable decision-makers to determine the final outcome.

Meanwhile, in terms of utilization, most of the respondents who experienced conflicts over the use of sea space did not know that they had access to rights, even though their coastal area had been granted a location permit or water management permit. In Alor, small-scale fishers experience conflict over catch areas where there are restrictions on fishing at dive points,¹⁵² a ban on going to sea in 'private tourism areas',¹⁵³ and plans for reclamation

¹⁴⁹ Alor case study report, based on interviews and observations on November 29 – December 4, 2021.

¹⁵⁰ Alor case study report, based on interviews and observations on November 29 – December 4, 2021.

¹⁵¹ Interview with RW and RT (neighborhood) officials in Pari Island on June 9-11, 2021.

¹⁵² Interviews with small-scale fisher respondents in Kabola and Ternate Island, Alor, November 29–December 4, 2021; Interview with two small-scale fishermen respond in Bulutui Village, December 10, 2021.

¹⁵³ Interview with one small-scale fisher respondent in Kadelang, December 1, 2021.

¹⁵⁴ Interview with five small-scale fisher respondents in Kabola, Alor on November 30, 2021.

BOX 1

PARI ISLAND FISHERMEN AND COASTAL AREAS AND SMALL ISLANDS ZONING PLAN PUBLIC CONSULTATIONS

Several respondents stated that numerous residents participated in discussing Coastal Areas and Small Islands Zoning Plan to defend their catchment area from exploitation by large-scale tourism businesses.¹⁵⁵ All respondents were therefore quite familiar with the terminology of Coastal Areas and Small Islands Zoning Plan, although only representatives of the Village Consultative Council (LMK), *RT*, and *RW* (neighborhoods) were invited to the draft of Coastal Areas and Small Islands Zoning Plan public consultation at the district level.¹⁵⁶ All respondents who had participated in a consultation confirmed that the Coastal Areas and Small Islands

Zoning Plan draft documents had not been provided before the consultation. In addition, consultations were perceived as one-way, whereby there was a lack of space for dialogue or sufficient time allocation to convey objections, responses, and input.¹⁵⁷ Several respondents described how they had to understand Coastal Areas and Small Islands Zoning Plan draft without any official support. Rather, they had to independently access Coastal Areas and Small Islands Zoning Plan draft through public information requests, conducting hearings with Ministry of Marine Affairs and Fisheries, and preparing and submitting maps of small-scale fishers' fishing areas for consideration into the draft of Coastal Areas and Small Islands Zoning Plan.¹⁵⁸ Respondents who were involved in this independent process had a fairly high level of comprehension regarding the substance of Coastal Areas and Small Islands Zoning Plan and its implications for the catchment area. In contrast, respondents who were invited to the public consultation were not involved in the independent process. They could not explain the contents of the Coastal Areas and Small Islands Zoning Plan and were very limited in providing input. ■

¹⁵⁵ Thousand Islands case study report, based on interviews and observations on June 9-11, 2021.

¹⁵⁶ Interview with *RW* and *RT* (neighborhood) officials in Pari Island on June 9-11, 2021.

¹⁵⁷ Interview with *RW* and *RT* (neighborhood) officials in Pari Island on June 9-11, 2021.

¹⁵⁸ Interview with *RW* and *RT* (neighborhood) officials in Pari Island on June 9-11, 2021.

to build villas¹⁵⁴ for marine tourism. In this conflict, fishers do not know whether the beneficiaries are licensed, and do not understand that even if they are, the fishers still have access rights. Small-scale fishers also do not understand that permit issuers must consider the rights of the community and traditional fishers when granting location permits.¹⁵⁹ Utilization instruments still do not play a role in managing conflicts like this. For example, in North Minahasa, restrictions on capture fisheries activities due to tourism are managed by joint adaptation between fishers and marine tourism actors. One respondent said that if there are marine tourism activities such as diving and snorkeling in the fishing area, fishers will wait for the tourism activity to finish, after which they start fishing. The reverse is also applied.¹⁶⁰

On the other hand, bank financing instruments such as the People's Business Credit (KUR) can improve tenure security for small-scale fishers through credit programs that allow them to own houses or land. However, this instrument is not directly related to tenure security in the fishing area. When the implementation of the Fisher Protection Law is not accompanied by tenure security guarantees for the management of coastal areas and small islands, the sustainability

of the economic benefits obtained by small-scale fishers is threatened and the government's investment in costs becomes counterproductive. This is evident in the case study in Bulutui Village (see Section 4.2. regarding the elaboration of financing instruments in Bulutui Village). From this example, it appears that the benefits of financing policies will be sustainable if accompanied by tenure security.

The limited impact in implementing the Coastal Areas and Small Islands Law and the Fisher Protection Law instruments above is caused, among other things, by the following effectiveness issues:

1. The existing participation space is still perceived as formalistic.

In interviews with the Provincial Maritime Affairs and Fisheries Office, bureaucrat respondents tended to perceive that public consultations could be replaced with outreach events. Consultations were held in the district capital, so that the opportunity to participate in the event was only obtained by invited subjects.¹⁶¹ It falls under the authority of Provincial Maritime Affairs and Fisheries Office officials to determine which groups of fishermen will be involved in the consultation.¹⁶² Public consultations are carried out by delivering material

¹⁵⁹ Interview with five small-scale fisher respondents in Kabola, Alor on November 30, 2021.

¹⁶⁰ Interview with one small-scale fisherman respondent in Bulutui Village, December 11, 2021.

¹⁶¹ Interview with the Head of the Coastal Office of the NTB Provincial Maritime Affairs and Fisheries Service, January 3, 2022.

¹⁶² Based on interviews with the Directorate General of Marine Spatial Planning of the Ministry of Marine Affairs and Fisheries, the determination of groups of fishermen to be involved in public consultations was carried out based on recommendations from the local government, in this case the local Office of Maritime Affairs and Fisheries Service. See: Interview with Directorate General of Marine Spatial Planning of the Ministry of Marine Affairs and Fisheries, February 14, 2022.



Photo: Cahyo Widodo, IOJI.

through presentations to which the participants can respond. Information that will be conveyed in the consultation is generally not sent or uploaded in advance to be accessible to participants, as well as input documentation. Both of these are greatly influenced by budget constraints.¹⁶³ Some inputs that were not detailed enough (for example regarding locations to be accommodated in certain zoning) were not followed up on with detailed clarifications. Rather, decisions were made primarily based on consultant recommendations.¹⁶⁴ Documentation of input is also not systematic, so that

follow-up of input or questions from KP participants is sometimes hampered by the rapid rotation of mutations or a lack of understanding of the newly appointed bureaucrats.¹⁶⁵ So far, there has been no forum for obtaining information about Coastal Areas and Small Islands Zoning Plan or providing publicly accessible input outside of public consultation.

2. Opportunities for participation have not been accompanied by education, training, Coastal Areas and Small Islands Zoning counseling.

So far, education, training and outreach

¹⁶³ Interview with the Head of the Coastal Office of the NTB Province Maritime Affairs and Fisheries Office, January 3, 2022.

¹⁶⁴ Interview with the Head of the Coastal Office of the NTB Province Maritime Affairs and Fisheries Office, January 3, 2022.

¹⁶⁵ Interview with IOJI Assessor in Wakatobi at a Workshop related to the Study of Regulatory Impact Assessment (RIA) of Small-Scale Fishers and Coastal Communities, May 18, 2022 Head of Coastal Office of the Office of Maritime Affairs and Fisheries of NTB Province, January 3, 2022.

about coastal areas and small islands management to small-scale fishers have not run optimally and sustainably. The fishers therefore do not understand what they are fighting for in Coastal Areas and Small Islands Zoning Plan and the utilization of Coastal Areas and Small Islands Zoning. Even though there was an opportunity to collectively discuss the zoning plan map printed in large size¹⁶⁶ some of the bureaucrat respondents perceived that the feedback provided by the consultation participants was limited.¹⁶⁷ This is understandable, bearing in mind that small-scale fishers' knowledge of traditional fishing grounds is not always documented and consistent with one another. Fishers need translation into scientific format and policy language. Learning from Pari Island, actors are needed who are able to bridge these rights with knowledge, documenting information, and a process of building consensus at the local level in a sustainable manner. These actors would allow small-scale fishers to participate more meaningfully and expand their space for participation.

4.2. The Impact and Effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law in Increasing Equity for the Economic Benefits of Marine Development

The economic benefits received by small-scale fishers have increased in aggregate, both with indicators of the average income of fishers,¹⁶⁸ the value of capture fisheries production,¹⁶⁹ and the realization of people's business credit (KUR) for fishers.¹⁷⁰ Indirect impact indicators, such as fishers' gross domestic income¹⁷¹ and the export value of fishery products,¹⁷² also show an increase. This increase still needs to be optimized considering the poverty rate in the fisheries sector is still quite high.

There are three key instruments that describe the contribution of policies to increasing economic benefits. *First*, the provision of fishery infrastructure for small-scale fishers, including cold storage, boats, fishing machines and gear, as well as fishing ports. *Second*, financing instruments, especially people's business credit (KUR). *Third*, empowerment

¹⁶⁶ Interview with Director General of Marine Spatial Planning of the Ministry of Marine Affairs and Fisheries, February 14, 2022.

¹⁶⁷ Interview with the Head of the Coastal Office of the NTB Province Maritime Affairs and Fisheries Office, January 3, 2022.

¹⁶⁸ The average income of fishers in 2015 was 1.93 million rupiahs and increased to 2.28 million rupiahs in 2017 after this law was passed, putting aside the pandemic years which were considered as outliers. This calculation assumes that small-scale fishers account for 65% of the total number of fishers, based on data on the number of small-scale fishers who receive assistance from fisher insurance premiums. See: Social Drive, Cost-Benefit Analysis Report on the Impact and Effectiveness Study of Small-Scale Fishers and the Coastal Areas and Small Islands Law, page 3.

¹⁶⁹ Capture fisheries production value of 110,050 billion Rupiah in 2015 increased to 111,360 billion Rupiah in 2017, *Ibid*.

¹⁷⁰ The realization of People's Business Credit for Fishermen in 2016 amounted to IDR1,140 billion and increased to 2,610 billion rupiahs in 2017, *Ibid*.

¹⁷¹ The GDP of the fishing sector in 2015 was 204,016 billion rupiahs, increasing to 226.83 billion Rupiah in 2017, *Ibid*.

¹⁷² The export value of fishery products in 2015 was USD3.95 billion and increased to USD4.52 billion in 2019, *Ibid*.

instruments, specifically increasing the ability and capacity of small-scale fishers. Notably, there is one key instrument that cannot be observed because it has not been implemented, namely the Small-Scale Fishermen Protection and Empowerment Plan.

From the perspective of ocean justice, the benefits of facilities and infrastructure and capacity building still need to be optimized so that they can meet policy indicators that result in equity-activating results. Meanwhile, people's business credit shows equity-activating results. Even though the majority of small-scale fishers understand their needs, they have limited opportunities and capacity to influence the final decision regarding the realization of infrastructure or training focus. In general, most of the respondents did not know how to ask the government to provide the necessary facilities or training. In the [three] study locations, sources of knowledge regarding how to access assistance or training were still dominated by verbal information, originating particularly from fisheries extension workers.¹⁷³

4.2.1. Facilities and Infrastructure

Small-scale fishers are entitled to receive state budget grants in the form of boats or fishing gears from the government. In accessing such grants, small-scale fishers generally depend on fishery extension officers¹⁷⁴ to help make proposals, with different levels of dependency. In one location, the role of the extension worker was very dominant to the point of making a proposal for the grants.¹⁷⁵ In another location, the extension worker facilitated the submission of proposals and assisted in monitoring the follow-up of the proposal. Small-scale fishers' knowledge is very limited regarding the follow-up of the proposals they submit.¹⁷⁶ In the event that the grant requested is an object that is difficult to use together by more than one fisher, the extension worker also assists in making decisions regarding who will own the object.¹⁷⁷

In the seven case study locations, all provinces and districts/cities have made significant investments to realize the facilities and infrastructure mandated by the Fisher Protection Law, both from special allocation funds (DAK), APBD and aspirations. The benefits of facilities and

¹⁷³ Case study report of Kab. Wakatobi, January 3-31 2022.

¹⁷⁴ Fisheries Extension Officer is a position that has the scope of duties, responsibilities, and authorities to provide assistance, learning processes, and capacity building to fishery business actors in terms of accessing market information, technology, capital, and other resources, as an effort to increase productivity, efficiency business, income and welfare, as well as raising awareness in preserving environmental functions.

¹⁷⁵ An example of this occurred in Wakatobi.

¹⁷⁶ Wakatobi case study report, January 3-31, 2022.

¹⁷⁷ Among other things, extension workers help make decisions about which personnel will receive grants/aids, such as groups submitting proposals for objects for personal use. North Minahasa case study report, based on interviews and observations on December 7-12, 2021.



infrastructure that meet the needs of small-scale fishers need to be improved so that they can be enjoyed equitably. Apart from this, infrastructure development or assistance must be accompanied by the sustainable empowerment of small-scale fishers. In general, respondents did not perceive that infrastructure contributes optimally to the development of small-scale fishing businesses, and does not effectively support economic empowerment.

The following is a brief description of some of the key facilities and infrastructure that have been realized and the perceptions of small-scale fishers who use them:

a. Cold Storage

Cold storage units that are affordable to respondents were found in Pulau Tiga District, Natuna Regency. In four locations, namely Bulutui, Alor, Wakatobi, and East Lombok, most of the respondents were aware of freezers or cool boxes that had been distributed, although very few were direct recipients.¹⁷⁸ Only in Akoon did the respondents confirm that there had never been grants/aids in the form of cool boxes or freezers.¹⁷⁹

Meanwhile, an affordable ice factory enabling a cold supply chain, is new

¹⁷⁸ The direct recipients of the cool box in Alor consisted of three small-scale fisher respondents, source: Interviews with three small-scale fisher respondents in Lewalu Village, Alor, November 30, 2021. In Bulutui Village, there was one respondent who had received a freezer from the aspiration funds prior to 2016. Source: Interview with a middleman in Bulutui Village, December 9, 2021.

¹⁷⁹ Akoon State case study report, January 3-26, 2022.

in East Lombok. The inaccessibility of ice supplies remains a challenge for small-scale fishers who receive cool boxes. In only one location, namely Bulutui, the absence of *cold storage* is compensated by the presence of small-scale refrigeration (chest freezers) owned by collectors and household ice sales, which most of the respondents manage independently.¹⁸⁰ Meanwhile, in the other four sites, local solutions in terms of ice supply were not created.

Moreover, most of the respondents in Pari Island and Akoon Village did not have refrigeration.¹⁸¹ Some respondents did not consider cold storage or ice factories necessary because local market structures allow for full absorption¹⁸² or same-day sales.¹⁸³

b. Ships, Boat Engines and Fishing Equipment

In six case study locations, respondents knew of grants in the form of boats, boat engines and fishing gear. The exception was in Negeri Akoon where the track record of receiving aid was still minimal.¹⁸⁴ A small number of respondents had directly received ship or ship engine grants from the

council's aspiration funds or DAK which were channeled through the Regency/ Provincial Maritime Affairs and Fisheries Office.¹⁸⁵ In at least one location, some respondents knew that there was boat grants sourced from the Village Budget.¹⁸⁶ Most of the respondents in all case study locations purchased their boats, engines and fishing gear independently.

In at least two locations, the distribution of grants/aids has not optimally considered livelihood diversification and local contexts. In this case, aid in Darawa Village was focused on seaweed cultivation, while small-scale fishers expressed the need to improve boats, boat engines and fishing gear.¹⁸⁷ Meanwhile in Akoon Country, aid for capture fisheries was distributed only once in the form of a boat, possibly because agriculture is the dominant livelihood.¹⁸⁸

In accordance with the results of discussions with the Directorate General of Capture Fisheries, KKP (2022), from 2015-2022, KKP has provided fishing gear grants to 57,422 units in 34 provinces. In 2022 alone, the KKP has

¹⁸⁰ Interview with two middlemen and one small-scale fisher in Bulutui Village, December 9-10, 2021.

¹⁸¹ In Negeri Akoon, no fishermen use cool boxes, while the use of freezers is decreasing because some of the freezers are damaged. Akoon State case study report, January 3-26, 2022.

¹⁸² Interviews with two small-scale fisher respondents in Akoon State, January 3-26, 2022.

¹⁸³ Interviews with two small-scale fisherman respondents on Pari Island, June 10, 2021.

¹⁸⁴ Case study report on Negeri Akoon, 3-26 January 2022.

¹⁸⁵ Interview with two small-scale fisher respondents in Bulutui Village, December 10, 2021; interview with one small scale fisher respondent in Turringan Hamlet, January 12, 2021.

¹⁸⁶ Interviews with four small-scale fisher respondents on Ternate Island, Alor, December 2, 2021.

¹⁸⁷ Wakatobi case study report, January 3-31, 2022.

¹⁸⁸ Akoon State case study report, January 3-26, 2022.

BOX 2

IMPROVING THE ECONOMY WITH PEOPLE'S BUSINESS CREDIT (KUR) FISHERMEN IN BULUTUI.

All respondents in Bulutui Village have accessed financing from banks, such as from Bank BRI, or non-banks, such as Jasa Marga.¹⁸⁹ Respondents think access to credit is now much easier and fisher-

friendly. Among other things, the existence of people's business loans without collateral, ease of collateral (such as fishing gear, boat certificates, PPKB motor), low interest, and intensive outreach in villages were done by the bank.¹⁹⁰ All respondents can explain their reasons for borrowing, the terms of the loan, and the consequences if they fail to pay. According to respondents, loans are made for business activities (except in the case of house construction). Even though there are cooperatives, respondents indicated a preference for borrowing from banks due to competitive collection and interest terms. Collectors also only play a role in providing emergency loans or grants of small value (under IDR300,000). ■

provided 9,302 fishing gear grants in 30 provinces, 131 districts/cities.¹⁹¹

c. Fishing Port and Fish Auction Site

Most of the ports were built before the enactment of the Fisher Protection Law, or were fishing ports for medium and large vessels. They are therefore excluded from observation.¹⁹² In at least two locations, namely Bulutui Village and Sabang Mawang Barat Village, port facilities were considered useful. These facilities were built with village

funds.¹⁹³ In Darawa, small-scale fishers are reluctant to depend on the port that was built because it is far from settlements and lacks facilities and buyers.¹⁹⁴ Meanwhile on Pari Island, the community's proposal through the Musrenbang to build moorings has not been realized even though it has been proposed for a long time.¹⁹⁵

In the four case study locations, namely Pari Island, Tiga Island, West Likupang, and Darawa Village, the absence of a

¹⁸⁹ North Minahasa case study report, based on interviews and observations from December 7-12, 2021.

¹⁹⁰ North Minahasa case study report, based on interviews and observations from December 7-12, 2021.

¹⁹¹ Discussion with the Coordinator of the Fishing Gear Directorate, Directorate General of Capture Fisheries, September 21, 2022.

¹⁹² Observation of Likupang fishing port on December 12, 2021, Tumumpa port in Manado on December 9, 2021.

¹⁹³ Interview with two fishers in Sabang Mawang Barat Village, Natuna, 21 October 2021; observation in Bulutui Village, December 10-11, 2021.

¹⁹⁴ Wakatobi case study report, January 3-31, 2022.

¹⁹⁵ Interview with two fishers in Pari Island, June 10, 2021.

fish auction site was compensated by the presence of collectors buying them at competitive prices.¹⁹⁶ In Negeri Akoon, small-scale sellers (papalele/mamalele) are seen as helping the distribution of fish sales from small-scale fishers at the local level,¹⁹⁷ complementing the role of external market-oriented ports. This is not the case in Alor, where small-scale fishers perceive papalele/mamalele to often buy at a bad price.¹⁹⁸ In Alor, small-scale fishermen actually expect collectors or fish auctions to open market access.¹⁹⁹

d. Affordable Access to Fuel

The price range for non-subsidized fuel per liter is IDR10,000 to IDR15,000. In only one location (Darawa Village, Wakatobi) the price of fuel can reach IDR20,000/liter when stocks are minimal.²⁰⁰ In all locations, subsidized fuel is available, however, none of the respondents are beneficiaries of subsidized fuel according to the established mechanism. Even though the majority of respondents know their right to subsidized fuel (except in Wakatobi²⁰¹), few intend to access it.

4.2.2. Financing of Small-Scale Fishermen

Out of the seven case study locations, only three locations, namely Bulutui Village, several villages in Pulau Tiga District, and Labuhan Lombok Village, have shown significant improvements in terms of access to finance. Compared to other policies, the most optimal benefits realized from this policy meet the *equity-activating indicator*, where all respondents show high understanding and are actively involved in accessing financing.

Improved access to financing has also occurred in Labuhan Lombok Village with more diverse sources of funding, namely business credit for banking people, Marine and Fishery Business Capital Management Institutions (LPMUKP), even BUMDes.²⁰² Similarly, some respondents in Sabang Mawang Village perceived that access to funds in the cooperative was beneficial.²⁰³ However, in one of the study areas where there was a BUMDes financing option, no respondents had yet taken advantage of the option for a small loan (under IDR 10 million) to BUMDes even though they knew about this option.²⁰⁴ The exact reasons for this reluctance are not known,

¹⁹⁶ Interviews with six fishers and two middlemen in Bulutui Village, December 9-10, 2021; interviews with 4 (four) small scale fishermen in Darawa Village, January 3-31, 2022.

¹⁹⁷ Akoon State case study report, January 3-26, 2022.

¹⁹⁸ Interviews with six fishers caught in Kabola, Alor, December 30, 2021, and Kadelang, Alor, December 1, 2021.

¹⁹⁹ Interviews with six fishers caught in Kabola, Alor, December 30, 2021, and Kadelang, Alor, December 1, 2021.

²⁰⁰ Wakatobi case study report, January 3-31, 2022.

²⁰¹ Wakatobi case study report, January 3-31, 2022.

²⁰² East Lombok case study report, 3-14 January 2022.

²⁰³ East Lombok case study report, 3-14 January 2022.

²⁰⁴ Interviews with three small-scale fisher respondents in Karangkapitan and Padak Hamlets, January 12, 2022.

as the process is faster than conventional banks and no collateral is required.²⁰⁵

The distribution of benefits still needs to be optimized to be equitable. On Pari Island, which is very close to Jakarta, all respondents stated that operational, maintenance or business improvement costs were obtained from business savings.²⁰⁶ In Labuhan Lombok Village,²⁰⁷ access to formal financing is still concentrated among middle-class fishermen, while low-income fishermen use private capital or borrow from collectors with the consequence of being tied to sales.²⁰⁸

Interestingly, for some small-scale fishers, borrowing from investors is their main preference. In Natuna Regency, sources of capital are still dominated by personal savings for small-medium capital (such as GPS and ship operations) and loans to collectors for large capital needs.²⁰⁹ Some respondents have accessed banking funding, but consider banking as the last preference 'if there are no other options.'²¹⁰ The preference for borrowing from collectors is due to the absence of loan or interest requirements, as well as

the flexibility of terms and the number of installments.²¹¹ The new cooperative is running well in Sabang Mawang Village, while respondents in other villages stated that the cooperative in their location was not yet optimal.²¹²

4.2.3. Capacity Building for Small-Scale Fishers

The provincial and district governments have training programs in all seven case study locations, although the frequency and reach are limited. For example, all respondents in Negeri Akoon said that there had never been any capture fisheries training held by any party, possibly because capture fisheries was not the main livelihood in Akoon.²¹³

In contrast to infrastructure, training programs are widely distributed and allow various parties to participate, including as funders. In at least three locations, the village has proactively designed training for small-scale fishers. Community-led training initiatives showed a more sustainable impact. In Bulutui, village officials implemented a fiber shipbuilding training with the APBDes, which then

²⁰⁵ Interview with Head of Village Administration, January 11, 2022.

²⁰⁶ Case study report on Pari Island, Thousand Islands, based on interviews with ten respondents and observations, June 9-11, 2021.

²⁰⁷ At least three respondents had accessed bank loans, but several respondents who had never accessed bank financing knew of fellow fishers who had. Interview with one processor and two small-scale fishers, January 20, 2020.

²⁰⁸ Seven respondents had never accessed formal financing. Of this number, two used personal capital, four people (one processor and three small-scale fishers borrowed from middlemen, and the other's source of capital is unknown. East Lombok case study report, January 3-14, 2022.

²⁰⁹ Natuna case study report, based on interviews and observations on October 18-25, 2021.

²¹⁰ Natuna case study report, based on interviews and observations on October 18-25, 2021.

²¹¹ Natuna case study report, based on interviews and observations on October 18-25, 2021.

²¹² Natuna case study report, based on interviews and observations on October 18-25, 2021.

²¹³ Akoon State case study report, January 3-26, 2022.

allowed an alumnus of the training to start a fiber shipbuilding business in the village.²¹⁴ In the capital of the Pulau Tiga sub-district, the village government held training on making fish balls for fishers' wives.²¹⁵ On Tiga Island, Sabang Mawang Barat, the village government held training on economic management, fishers' safety, and fishers' competitiveness.²¹⁶ However, at least in one location, namely Negeri Akoon, the existence of business entities that are managed at the local level does not necessarily result in training innovations that directly respond to local needs, even though small-scale fishers and local fisheries business actors confirm the need for training.²¹⁷

In addition, in at least two locations, the government is collaborating with non-governmental organizations or the private sector, such as in Wakatobi (Provincial Maritime Affairs and Fisheries Office, Wakatobi National Park Office, or fisheries extension officers collaborating with WWF and Forkani)²¹⁸ or with villages, such as in East Lombok (Provincial Maritime Affairs and Fisheries Office collaborating

with village government) to develop and implement trainings.²¹⁹

The training topics that were considered beneficial for small-scale fishers varied widely, most likely influenced by challenges and market conditions at the local level. Training that is general in nature (such as improving fishers' human resources and institutional training for fisheries groups),²²⁰ as well as those related to space (such as training on location mapping and coastal resource management)²²¹ in several places is considered useful. Marine safety training was also considered useful by small-scale fishermen in East Lombok and Alor.²²² Technical training, such as ship engine maintenance,²²³ octopus post-capture handling and processing training²²⁴ and entrepreneurship training²²⁵ were perceived as useful by respondents in certain areas.

The impact of the implementation of the Law on Coastal Areas and Small Islands and the Law on Fisher Protection has not been optimal due to, among other things, the following:

²¹⁴ Observation of fiber boat builders in Bulutui Village, 11 December 2021.

²¹⁵ Interview with two fishermen in the capital of Pulau Tiga sub-district, 22 October 2021.

²¹⁶ Interview with two fishermen on Sabang MawangWest, October 21, 2021.

²¹⁷ State-Owned Enterprises (BUMNeg) in the country of Akoon are still focusing on the business of renting tents and chairs. At least one respondent expressed hope that NGOs could assist BUMNeg's innovation so that it can be more optimal in providing benefits for the small-scale fishermen of Akoon. Country case study report of Akoon, 3-26 January, 2022.

²¹⁸ Wakatobi case study report, 3-31 January 2022.

²¹⁹ Interviews with three respondents of small-scale fishermen in Karangkapitan and Padak Hamlets, 12 January 2022.

²²⁰ Training was organized by the Provincial Maritime Affairs and Fisheries Office of Wakatobi, either by them exclusively or collaboratively with NGOs, such as WWF. See: Interview with one small-scale fisher respondent on 6 January 2022; Regency case study report. Wakatobi, 3-31 January 2022.

²²¹ *Ibid.*

²²² Interviews with three small-scale fisher respondents in Karangkapitan and Padak hamlets, January 12, 2022.

²²³ Interviews with three small-scale fisher respondents in Karangkapitan and Padak hamlets, January 12, 2022.

²²⁴ Interviews with two collectors and six fishermen in Bulutui Village, December 10-11, 2021.

²²⁵ Interview with one household member respondent in Pari Island, 10 June 2021.

1. Program design has not sufficiently considered local contexts.

Fisher protection and empowerment programs have not optimally taken into account information regarding users and market dynamics at the local level. Thus, there are still investments in infrastructure that have not been sufficiently utilized. The reasons, among

others, are that the benefits presented are not in accordance with local needs, are considered less competitive with other efforts, are not supported by other policies that allow for changes, or have not been supported by outreach education highlighting benefits. An example of this is as follows:

Table 3:
Challenges of Small-Scale Fishers in Accessing Benefits

BENEFITS PRODUCED	SMALL-SCALE FISHERS' PERCEPTION OF BENEFIT ACCESS	REMARKS
Large-scale cold storage (Natuna)	Benefits perceived as limited, cold storage not utilized optimally.	Reasons for sub-optimal usage of cold storage: (a) There are middlemen with closer cold storage facilities offering competitive prices as well as providing free ice; ²²⁶ (b) They don't understand how to sell fish to the integrated marine and fisheries center (SKPT) or access its facilities. ²²⁷
Coolbox	The benefits received are perceived positively, but in some places it has not been accompanied by the accessibility and affordability of ice. ²²⁸	Four study sites have received grants/aids in the forms of cool boxes/ice, grants/aids are submitted through a group proposal, but ownership and use is individual. ²²⁹
Ice factory	Benefit is considered limited because it is less functioning.	Provincial Maritime Affairs and Fisheries Office in Wakatobi built an ice factory in the same sub-district as the case study location, but the operation of the factory was hampered by human resource readiness issues and in the end the respondents still didn't feel the benefits. ²³⁰

²²⁶ Interviews with three small-scale fishers respondents in Sabang Mawang Village on October 20, 2021; interviews with two respondents in the sub-district capital of Tiga Island on October 22, 2021.

²²⁷ Interview with two small-scale fisherman respondents in Sabang Mawang Barat Village on October 21, 2021.

²²⁸ Given that Darawa Village is not connected to the electricity grid, cooling relies on storage in cool boxes with ice cubes produced by households, with limited production capacity for rooftop solar panels. See: Kab. Wakatobi, 3-31 January 2022; Meanwhile in Alor, cold storage or ice factory This causes cooling to depend on ice cubes which must be purchased in large quantities at relatively high prices for fishermen. In Kadelang, Alor, ice blocks are sold for a minimum of ten blocks of ice, at a price of Rp20,000.00 per block. Source: Interview with fishing rods in Kadelang, 1 December 2021.

²²⁹ The findings are based on interviews with small-scale fisher respondents and fisheries business actors in Natuna, which were confirmed by District Maritime Affairs and Fisheries Office in Natunas; Similar findings were also obtained from interviews with respondents of small-scale fishers and fisheries business actors in North Minahasa.

²³⁰ District case study report. Wakatobi, 3-31 January 2022.

BENEFITS PRODUCED	SMALL-SCALE FISHERS' PERCEPTION OF BENEFIT ACCESS	REMARKS
Ships and ship engines	The benefits received are perceived positively, but the beneficiaries are perceived as inappropriate. In certain cases, the help object is not optimal for needs.	Problems with the distribution of aid include the inaccuracy of the subject and object of the aid recipient. For example, beneficiaries are farmers or non-fishermen, ²³¹ members of non-fisher cooperatives, ²³² families and relations of officials or personnel who determine beneficiaries of grants/ aids, ²³³ or fishermen who are unable to manage the ships/ machines provided. ²³⁴ In addition, there are incidents of objects of grants/aids that do not meet the needs of fishermen, for example boats that are too heavy, ²³⁵ specifications that do not match the characteristics of the waves in the fishing area, ²³⁶ and sizes that are too large and not in accordance with local customs. ²³⁷
Ports	Views on the benefits vary.	In Darawa, small-scale fishers are reluctant to depend on the port that was built because it is far from settlements and lacks facilities and buyers. ²³⁸ In Bulutui and Sabang, port facilities were considered useful. ²³⁹
Fish auction venue (TPI)	Benefits are perceived to be limited, fish auction venue at the nearest port is not functioning.	The non-functioning TPIs in East Lombok, Wakatobi and Bulutui were due to buying and selling transactions carried out through direct contact between the seller and the buyer. ²⁴⁰
Subsidized fuel	Benefits are perceived to be limited; subsidized fuel is less accessible.	The decision to buy fuel at retailers at a higher price is influenced by the following factors: (a) The absence of SPBN; (b) Availability more practical efforts, for example fuel delivery services directly to fishermen's homes; (c) Does not have KUSUKA ²⁴¹ or other administrative requirements

²³¹ Interviews with five fishermen in Kel. Kabola, Alor, on 30 November 2021; interview with three fishing fishermen respondents in Karangkapitan Hamlet and Padak Hamlet, 12 January 2021.

²³² Interview with Head of Sabang Mawang Village, Natuna, 20 October 2021.

²³³ Interview with five fishermen in Kel. Kabola, Alor, on November 30, 2021.

²³⁴ Interview with the Head of Sabang Mawang Village, Natuna, October 20, 2021.

²³⁵ Interview with one self-help fishery extension officer and one small-scale fisherman who was triangulated by observation, Bulutui Village, December 10-11, 2021.

²³⁶ Interview with Department of Maritime Affairs and Fisheries District. Natuna, October 19, 2021.

²³⁷ Interview with the Village Head of Sabang Mawang, Natuna, October 20, 2021.

²³⁸ Wakatobi case study report, January 3-31, 2022.

²³⁹ Interview with two fishers in Sabang Mawang Barat Village, Natuna, October 21, 2021; Observation in Bulutui Village, December 10-11, 2021.

²⁴⁰ Observation at Likupang Fishing Port, 12 December 2021; East Lombok case study report, 3-14 January 2022. In East Lombok, fishermen who land fish in PPP Labuhan Lombok directly sell to skipper customers because of their patron-client ties to the buying company.

²⁴¹ KUSUKA is an identification card for fishers issued by the Ministry of Marine Affairs and Fisheries.

BENEFITS PRODUCED	SMALL-SCALE FISHERS' PERCEPTION OF BENEFIT ACCESS	REMARKS
		which are requirements for Provincial Maritime Affairs and Fisheries Office recommendations ²⁴² ; (d) Making Provincial Maritime Affairs and Fisheries Office recommendations that are less practical (such as far, long); (e) Get BBM from collectors based on a profit-sharing agreement. The margin that can be saved by accessing subsidized fuel (which is limited to a maximum amount per access) is not commensurate with the effort that must be expended to access ²⁴³ (travel costs, waiting time, and risk of running out of fuel ²⁴⁴).
Training	Perceptions of benefits vary.	Perceptions of limited benefits are influenced by: (a) Participation in training is determined by the training provider so that access to training is not yet inclusive ²⁴⁵ ; (b) No follow-up assistance after training; ²⁴⁶ (c) Reluctance to submit training proposals to Provincial Maritime Affairs and Fisheries Office because they 'often not receive a response', ²⁴⁷ 'feel already proficient', ²⁴⁸ or have received more useful training from NGOs; (d) The training design is late to adapt to changes at the local level. ²⁴⁹

The issues listed above can be primarily attributed to the ineffective coordination among relevant parties to optimally implement the policy for the protection and empowerment of fishermen. Most of the budget comes from the special allocation fund (DAK), especially for infrastructure spending. Here, the local government plays

a role in proposing, identifying and verifying potential beneficiaries.²⁵⁰

2. The mechanism at the local level has not been optimized.

Mechanisms that enable small-scale fishers to identify and proactively voice their needs in a sustainable manner have

²⁴² Interview with three respondents from village officials and small-scale fishermen, Lewalu Village, November 30, 2021.

²⁴³ Interview with three respondents from small-scale fishermen in Dusun Turringan, January 12, 2021.

²⁴⁴ *Ibid.*

²⁴⁵ Interviews with three small-scale fisherman respondents in Karangkapitan and Padak Hamlets, 12 January 2022
Interviews with four fishermen on Ternate Island, 2 December 2021; interview with one fisherman in Kadelang, December 1, 2021.

²⁴⁶ Interview with five fishermen in Kel. Kabola, 30 November 2021.

²⁴⁷ Interview with two capture fishermen in Bulutui Village, 10 December 2021.

²⁴⁸ Interview with two capture fishermen in Bulutui Village, 10 December 2021.

²⁴⁹ In Wakatobi, the training programmed by the Wakatobi Provincial Maritime Affairs and Fisheries Office which was limited to seaweed cultivation was too late to adapt to reality where farmers have diversified with octopus capture fisheries. See: Kab. Wakatobi, 3-31 January 2022.

²⁵⁰ Interview with Dr. Ir. Ridwan Mulyana, MT, Director of Licensing and Fisheries Ministry of Marine Affairs and Fisheries, 1 November 2021.

not been optimized at the local level. For example, fisheries extension officers play an important role in strengthening groups and supporting small-scale fishers in determining and advocating for their needs.²⁵¹ Even so, there is still a gap in the role of extension workers, as stated by respondents in East Lombok.²⁵² The number of existing extension officers is also often not proportional to the number of fishers and the size of the extension area. In Wakatobi, there are only 5 extension workers consisting of 2 PNS extension workers and 3 assistant extension workers. In Nusalaut there is only 1 extension agent, while in East Lombok there are only 2 extension agents.²⁵³ The number of extension workers is not proportional to the area of Wakatobi, which has 4 large islands.²⁵⁴ Fisheries extension workers in Wakatobi are also only paid IDR 400,000 per month.²⁵⁵ The problem of limited budgets at the regional level, especially regarding the empowerment of fishermen, also makes it difficult to design programs that are responsive to local needs. Several Provincial Maritime Affairs and Fisheries Offices acknowledged the lack of budget to organize fisherman empowerment

programs, among others conveyed by Provincial Maritime Affairs and Fisheries Office of East Java, Central Java, Papua, NTT, and the Riau Archipelago.²⁵⁶

3. The instrument for the protection and empowerment of small-scale fishers is not yet optimal.

This condition causes plans for the protection and empowerment of small-scale fishers to be haphazard and not well integrated. Scattered programs result in less than optimal coordination and allow for repetition or overlap. At the central level, internal and external coordination is still a challenge. For example, fishery product processing activities are also related to the Directorate of Competitiveness Management of the Ministry of Marine Affairs and Fisheries, the Ministry of MSME, and the Ministry of Industry. In addition, there are strategic matters that are beyond the reach of the KKP, such as education, health, environmental infrastructure and access to funding.²⁵⁷ Given the characteristics of the implementation of the scattered fishermen protection and empowerment instrument, the harmonization of policies, plans and programs between

²⁵¹ East Lombok case study report, 3-14 January 2022; district case study report. Wakatobi, 3-31 January 2022.

²⁵² East Lombok case study report, 3-14 January 2022.

²⁵³ Representatives of the Sustainable Sea Fighting Institute (JARI) at a Workshop related to Regulatory Impact Assessment (RIA) Studies of Small-Scale Fishermen and Coastal Communities, 19 May 2022

²⁵⁴ IOJI Assessors in Wakatobi at a Workshop related to the Regulatory Impact Assessment (RIA) Study of Small-Scale Fishermen and Coastal Communities, 19 May 2022.

²⁵⁵ IOJI Assessor in Acoon, Nusalaut at a Workshop related to the Study of Regulatory Impact Assessment (RIA) of Small-Scale Fishermen and Coastal Communities, 19 May 2022.

²⁵⁶ Focus Group Discussion with the Office Marine Affairs and Fisheries from 6 Provinces in Indonesia on September 29, 2021 online.

²⁵⁷ *Ibid.*

units within ministries and across ministries is very crucial.²⁵⁸

The planning instrument is also designed to clarify target beneficiaries,²⁵⁹ who should determine program achievement indicators. There is no definite reference for the number of small-scale fishers from the central government,²⁶⁰ while in the regions the estimation of the number of small-scale fishers is only in the form of a percentage.²⁶¹ The spread of the program and the lack of detailed target beneficiaries has resulted in less than optimal monitoring and evaluation of benefits, making it difficult to identify the benefits and costs of the policy.

In addition, plans are also designed to link fishers' protection and empowerment programs with Coastal Areas and Small Islands Zoning Plan, including community empowerment strategies to utilize Coastal Areas and Small Islands Zoning Plan.²⁶² The plan for the Protection and Empowerment of Small-scale Fishers needs to be realized, one of which is to strengthen the tenure security of fishermen's residences or fishing areas. Protection instruments in the Fisher

Protection Law, especially insurance and legal assistance, are instruments that manage downstream risk. This needs to be synergized with government policies in other sectors so as not to create other risks for fishers, such as climate change, pollution and others.

4.3. Impact and Effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law Regarding Impact [Policies] on Small-Scale Fishers

In five of the seven study locations, there has been an elimination of the high licensing fees.²⁶³ All respondents who had boat documents (Flag Registration for Small Boats/PAS and Fishing Vessel Registration Certificate/TDKP) stated that the management was free, and fishing permits were not required. Making PAS and TDKP is also relatively affordable with Samsat facilities at the port.²⁶⁴

An exception to this good practice was found in Darawa Village, where

²⁵⁸ Interview with Dr. Ir. Ridwan Mulyana, MT, Director of Licensing and Services at the Indonesian Ministry of Marine Affairs and Fisheries, November 1, 2021.

²⁵⁹ The Fishermen Protection Law requires planning to be carried out based on the number of fishermen, fish cultivators, and salt farmers. See: Article 9 number (2) letter j of Fishermen Protection Law.

²⁶⁰ Ministry of Marine Affairs and Fisheries does not have data on the exact number of small-scale fishers, while the estimated number of fishermen, which is 2.6 million, includes fishermen with various sizes of vessels. Source: Interview with Dr. Ir. Ridwan Mulyana, MT, Director of Licensing and Services of the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, November 1, 2021.

²⁶¹ Interview with the Maritime Affairs and Fisheries Service of North Sulawesi Province, December 8, 2021.

²⁶² Article 9 number (2) letter e of the Fishermen Protection Law.

²⁶³ Several government representatives interviewed confirmed that making Fishing Vessel Registration Certificate/TDKP and Flag Registration for Small Boats/PAS is free of charge. Interview with the Head of the Lombok Labuhan Beach Fishing Port, January 11, 2022.

²⁶⁴ Interview with the East Lombok Provincial Maritime Affairs and Fisheries Office, Head of Capture, January 10, 2022.

all respondents did not know or have any licensing documents, including Flag Registration for Small Boats/PAS. This is because there respondents had no access to information regarding the obligations and the manufacturing process,²⁶⁵ as well as the length of time and effort needed to arrange them in the province.²⁶⁶ Meanwhile, in Alor, small-scale fishers do not yet have a Flag Registration for Small Boats/PAS.

On the other hand, the need for legal assistance to advocate for the impact of policies on small-scale fishers is still not properly institutionalized. In at least two locations, access to legal aid still depends on the community. On Pari Island, the community was assisted by various NGOs, including Walhi Jakarta, LBH Jakarta, KNTI and Kiara, to defend their residence and fishing area within the Coastal Areas and Small Islands Zoning Plan. In Bulutui, Yapeka assists in advocating for Coastal Areas and Small Islands Zoning Plan and insurance. In Central Maluku, the NGO Baileo assisted in advocacy for the formation of customary law communities.²⁶⁷

In the other two locations, namely Natuna and Wakatobi, access to law enforcement

officers is a major problem in conflicts with large fishing fleets. The requirements for evidence in the form of photos, videos, and even coordinates for reporting to the police or the Marine and Fisheries Resources Monitoring (PSDKP) are not always possible for small-scale fishers.²⁶⁸ Reporting to the Directorate General of KKP Capture Fisheries sometimes takes a long time.²⁶⁹ In fact, in the Natuna case, the conflict with the *cantrang* ship was the result of the central government's maritime security policy.

The limited impact of implementing the instruments of the Coastal Areas and Small Islands Law and Fisher Protection Law is rooted in the failure to take into account the negative impact of central government policies on increasing the risk of small-scale fishers getting into trouble with the law, along with the financial implications.²⁷⁰ In addition, the priority locations and the amount of investment in legal aid have not adjusted to the existing mapping of potential conflicts or legal issues, which can be projected from regional development policies.

²⁶⁵ Case study report for Kab. Wakatobi, 3-31 January 2022.

²⁶⁶ Interview with Provincial Maritime Affairs and Fisheries Office of Southeast Sulawesi Province, 19 January 2022.

²⁶⁷ IOJI Assessor in Akoon, Central Maluku at a Workshop related to Regulatory Impact Assessment (RIA) Studies of Small-Scale Fishermen and Coastal Communities, 19 May 2022.

²⁶⁸ IOJI Assessor in Wakatobi on Workshop related to Regulatory Impact Assessment (RIA) Study of Small-Scale Fishermen and Coastal Communities, 19 May 2022.

²⁶⁹ *Ibid.*

²⁷⁰ Focus Group Discussion with Maritime Affairs and Fisheries Services from 6 Provinces in Indonesia on September 29 2021 online.

4.4. The Impact and Effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law in Mitigating the Possibility of a Decline in Ecosystem Services

The coastal areas and small islands management instrument has clarified the utilization of coastal areas and small islands, but their management must be optimized to accommodate and prioritize the interests of small-scale fishers. In two case study locations, small-scale fishers have to share space with activities that degrade the quality of seawater in their fishing areas. In Labuhan Lombok, fishermen share space with the fish farming activities²⁷¹ as well as coal transportation and Coal-Fired Power Plant operations.²⁷² The NTB Provincial Maritime Service also provides an example of another capture fisheries zone that will share space with tailings pipelines from copper and gold mines.²⁷³ On Pari Island, the use of coastal and small islands had a negative impact on small-scale fishers. These include the reclamation of H Island for tourism activities²⁷⁴ and the waste of crude oil spills allegedly from offshore²⁷⁵

- both of which have a direct impact on seawater quality and capture fisheries on Pari Island and the Seribu Islands.

At both locations, activities that cause pollution are still equity-blind. The aspirations of small-scale fishers who ask the government not to allow fish/shrimp/salt farming that blocks their fishing access have not been accommodated through the existing mechanism in the Coastal Areas and Small Islands Law.²⁷⁶ They also do not know how whether their concern is being considered in the licensing process.²⁷⁷ On Pari Island, in the reclamation of H Island, small-scale fishers and coastal communities did not receive any information and opportunities to participate in influencing utilization provisions. Most of the respondents knew about utilization activities after the activity started, namely after seeing the mobilization of heavy equipment.²⁷⁸

On the other hand, fisherman insurance has existed and increased in number. However, the insurance coverage does not cover the risk of natural disasters, climate change and pollution. The number of small-scale fishers who have insurance has

²⁷¹ Interviews with three small-scale fisher respondents from Karangkapitan and Padak hamlets, 12 January 2022; interview with a processing respondent in Dusun Baru on 13 January 2022; interview with Head of Village Administration in Padak Hamlet on January 11, 2022.

²⁷² Interview with three small-scale fisher respondents from Karangkapitan Hamlet and Padak Hamlet, January 12, 2022.

²⁷³ Interview with Head of Coastal Office of the Office of Maritime Affairs and Fisheries of NTB Province, January 3, 2022.

²⁷⁴ Interview with three small-scale fisher respondents on Pari Island, 9-11 June 2021.

²⁷⁵ Interviews with six respondents of small-scale fishers on Pari Island, 9-11 June 2021.

²⁷⁶ Interviews with three small-scale fisher respondents from Karangkapitan and Padak hamlets, 12 January 2022; interview with a processing respondent in Dusun Baru on 13 January 2022; interview with Head of Village Administration in Padak Hamlet on 11 January 2022.

²⁷⁷ Interview with Head of Village Administration in Padak Hamlet on 11 January 2022.

²⁷⁸ Report on the Seribu Islands case study, based on interviews and observations on 9-11 June 2021.

increased in all case study locations since 2016. This was triggered by investment in free premium incentives for the first year of insurance membership through the Fishermen Insurance Premium Assistance (BPAN) program.²⁷⁹ In five of the seven study locations, some small-scale fishers were or are still protected by fisherman insurance, but not all respondents have active fisherman insurance. There were only two locations where none of the respondents had been protected by fisherman insurance, namely Darawa Village²⁸⁰ and Negeri Akoon.²⁸¹ The insurance program available for small-scale fishers does not cover losses due to pollution or loss of assets due to climate change.²⁸²

In addition, insurance benefits that have been realized still do not fully meet the equity-activating policy indicators. Respondents stated that they had never known about socialization by insurance service providers in the village, which according to respondents' perceptions was very necessary. Almost all respondents who have received fisherman insurance cards do not understand the risks guaranteed by the insurance policy, the terms of extension, or payments or claims when the guaranteed risk occurs.²⁸³

Only in one location, namely East Lombok, did small-scale fishers show high levels of understanding. This was partly due to information from fellow fishermen who had experience in submitting claims and due to assistance from fisheries extension officers.²⁸⁴ However, even if they understand and are interested in extending insurance, the process needs to be simplified to make it affordable for fishermen.

The impact of the implementation of the Coastal Areas and Small Islands Law and Fisher Protection Law instruments above is not yet optimal due, among other things, to the following:

1. Policy externalities that have an impact on the environment are not synergized with the aim of protecting small-scale fishers.

Coastal and small islands management instruments are not designed to provide tenure security for small-scale fishers to take advantage of fishing areas from pollution, but to balance various uses. In this situation, pollution control relies entirely on environmental instruments. For example, in the event of an oil spill, the DKI Jakarta Province Food Security, Maritime Affairs and Agriculture Office confirmed that the

²⁷⁹ Interview with JASINDO, 7 February 2022.

²⁸⁰ Wakatobi case study report, 3-31 January 2022.

²⁸¹ Report on the Akoon Country case study, 3-26 January 2022.

²⁸² Interview with JASINDO, 7 February 2022.

²⁸³ Report on the Alor case study, based on interviews and observations on 30 November-3 December 2021; Natuna case study report, based on interviews and observations on 18-25 October 2021; North Minahasa case study report, based on interviews and observations on 7-12 December 2021; Case study report on Pari Island, Seribu Islands, based on interviews with ten respondents and observations, 9-11 June 2021.

²⁸⁴ East Lombok case study report, 3-14 January 2022.

requirements for using environmentally friendly technology were determined based on the Environmental Protection and Management instrument, not the coastal and small islands management. In addition, there is no specific coordination mechanism for the Maritime Service apart from participation in the EIA assessment. Location permits and management permits have not played a role in providing knowledge or opportunities for affected small-scale fishers to participate.

2. Insurance has not yet covered all fishermen due to administrative issues that have not met the requirements.

In Negeri Akoon, small-scale fishers are not registered to any insurance program because they have not owned KUSUKA²⁸⁵. Even though the small-scale fishers in Akoon do not perceive a high risk of going out to sea because the fishers' fishing area is limited to coral reefs not far from the coast,²⁸⁶ KUSUKA as an insurance requirement is still a problem for those who experience challenges with population administration/civil registration. KKP has tried to ease these requirements by only requiring the fishers to register in the satudata.kkp.go.id application without the need to print a physical KUSUKA card.

3. Small-scale Fishers' access to insurance providers is still limited.

The coverage period for Fishermen's Insurance Premium Assistance (BPAN) activities is only valid for one year. This assistance is a stimulus in the hope that fishermen can renew their insurance independently following this period. However, in West Likupang, Natuna and East Lombok, some respondents who have fisherman insurance, including those whose first year premium is paid by the government, have expired.²⁸⁷ In Labuhan Lombok and Pulau Tiga Natuna, small-scale fisher respondents chose not to extend their insurance because it was difficult to reach locations for paying premiums.²⁸⁸

The low self-renewal was confirmed by Asuransi Jasindo, one of the insurance providers, which estimated that only 30% of BPAN recipient fishermen continued their membership with independent insurance, and most of them still depended on provincial grants/aids.²⁸⁹ In addition, fishers' confusion regarding the absence of Jasindo Insurance in the field is likely due to the insurance company's communication strategy, which heavily relies on the Regency/Provincial Maritime Affairs and Fisheries Office and other elements (such as extension workers and self-supporting extension officers) in

²⁸⁵ KUSUKA is an identification card for fishers issued by the Ministry of Marine Affairs and Fisheries.

²⁸⁶ Case study report on Negeri Akoon, 3-26 January 2022.

²⁸⁷ Study report the Natuna case, based on interviews and observations on 18-25 October 2021; East Lombok case study report, 3-14 January 2022.

²⁸⁸ *Ibid.*

²⁸⁹ Interview with JASINDO, 7 February 2022.

the implementation of its services.^{290, 291} In order to raise fishers' awareness to be able to be insured independently and provide membership registration in fishermen's insurance, the Directorate General of Capture Fisheries of the KKP has carried out activities to facilitate independent fishers' insurance and old age insurance for fishers.

4.5. The Impact and Effectiveness of the Coastal Areas and Small Islands Law and the Fisher Protection Law in Ensuring Inclusive Governance and Equitable Fulfillment of Human Rights

The Fisher Protection Law makes it easier for the government to identify beneficiaries, but small-scale fishers' initiatives in managing coastal resources are still not optimally included in governance. As shown in Section 4.1. up to Section 4.4, the instruments that have been implemented are still not sufficiently understood. They also do not allow for the active participation of small-scale fishers.

The insufficient implementation of the Coastal Areas and Small Islands Law and Fisher Protection Law instruments is due, among other things, to the following:

1. Policy instruments are not optimally sensitive to local information.

Section 4.1 above recognizes that the problem lies in the power and access of small-scale fishers as an interest group in decision-making. Section 4.2 also notes that at the implementation stage, policy-making has not optimally considered information – including socio-economic information – at the local level, which is important for informing how policies can improve fishers' lives. Even though consultation activities are often carried out in policy formation, such consultations must ensure genuine forms of participation with sufficient information.

2. Regulatory changes become an obstacle for beneficiaries to understand their rights.

The definition of small-scale fishers in the Fisher Protection Law was amended in the Job Creation Law at the same time as the definition changes in other related laws.²⁹² In addition, the distribution of authority has also undergone quite significant changes, including in 2014 after the enactment of the Regional Government Law,²⁹³ and in 2020 after the enactment of the Job Creation Law.²⁹⁴ Changing regulations are one of the obstacles for beneficiaries to get certainty in understanding and

²⁹⁰ *Ibid.*

²⁹¹ KKP has also signed an MoU with BPJSTK. After small-scale fishers have obtained BPAN, fishermen can extend independent insurance with a premium of IDR 16,800/month for 2 coverage (work accident and death).

²⁹² Law No. 11 of 2020, Article 115 point 1 (Amendment to Article 1 point 4 of the Law No. 7 of 2016). Based on the Law No. 11 of 2020, small-scale fishers are people whose livelihood is fishing to fulfill their daily needs, both using fishing vessels and those who do not use fishing vessels.

²⁹³ Law No. 23 of 2014 on Regional Government, LN.2014/No. 244, TLN No. 5587.

²⁹⁴ Law No. 11 of 2020 on Job Creation.

advocating for guaranteed benefits, so socialization needs to be improved.

3. Identification of beneficiaries.

Accuracy in identifying a group as beneficiaries also influences the opportunity to participate. For example, in Negeri Akoon, Central Maluku, small-scale fishers' access to all benefits guaranteed by law is hampered because they are not classified as fishermen due to their subsistence fishing activities.²⁹⁵ Administratively, the Akoon State area is prioritized to receive agricultural production training, while the infrastructure for small-scale fishing activities does not exist.²⁹⁶ Another example is the non-uniform determination of small-scale fishers. In some areas it is set at 5 GT and below,²⁹⁷ while in other areas it is 10 GT according to the Fishermen Protection Law.²⁹⁸

4. Sub-optimal utilization of local assets and cross-sectoral policy instruments.

As explained in Section 4.2., mechanisms at the local level have not been optimally designed to systematically influence policy planning, monitoring and evaluation and decision-making. The Coastal Areas and Small Islands Law and several Coastal Areas and Small Islands Zoning Plan have

accommodated customary management rights. However, local assets such as rules, institutions, forums that already exist at the local level have not been optimized and designed in synergy with the implementation of programs in the Fisher Protection Law and the Coastal Areas and Small Islands Law. For example, the important role of indigenous and tribal peoples in resolving conflicts in their regions, such as in Wakatobi, has not been optimally considered in the design of legal aid policies for fishermen. Customary law that applies in various cases is very useful for resolving conflicts between fishermen.²⁹⁹ ■

²⁹⁵ Final Report of Akoon Country Field Research, Central Maluku, 3-26 January 2022, page 12.

²⁹⁶ *Ibid.*

²⁹⁷ Interview with Maritime Affairs and Fisheries Office of North Sulawesi Province, December 8, 2021.

²⁹⁸ Provincial Maritime Affairs and Fisheries Office of Riau Islands, Papua, and East Nusa Tenggara Provinces, during FGD with Provincial Offices, September 29, 2021.

²⁹⁹ IOJI assessor in Wakatobi at Workshop related to Fishermen Regulatory Impact Assessment (RIA) Study Small and Coastal Communities, 19 May 2022.

Weighing Benefits and Costs of Improvement Efforts: Mainstreaming Ocean Justice

The enactment of the Fisher Protection Law and the Coastal Areas and Small Islands Law has shown a positive impact on the protection of small-scale fishers and coastal communities. This is shown from the results of benefit-cost analysis on the net present value (NPV) at 7 study locations of IDR6,165 billion. This positive value indicates that the current total benefit valuation is higher than the current total cost valuation. In addition, the BC Ratio is also worth 2 or more than 1, which means that the benefits are greater than the costs. The internal rate of return (IRR) is also greater than the discount factor, which means that investment projects/regulations provide greater returns than market interest rates.

The effective distribution of benefits to small-scale fishers and coastal communities needs to be optimized. The benefits that have been felt must be accompanied by further understanding, opportunities for involvement and resilience of small-scale fishers to ensure they continue to experience these positive effects. Based on the impact and effectiveness analysis in Section 4, it is necessary to make various efforts to improve it so that the benefits can be more equitable and in accordance with the principles of ocean justice.

The improvement efforts in question do not always have to be in the form of government interventions through repealing, revising/amending, or by forming new regulations. Policy improvements can also be carried out through alternatives to regulation, for example by improving the inter-ministerial/agency coordination system, monitoring system, optimizing the functions and roles of ministries and agencies, and HR capacity building.

5.1. Improvement Efforts

In order to make the impact more equitable, interventions in small-scale fisheries need to be made in gradual and sustainable ways. In the case of capture fisheries, change interventions are very much tied to the space where small groups of fishermen carry out their livelihoods. Therefore, any change intervention that targets individuals or groups of fishermen will only provide sustainable benefits if it is accompanied by interventions that provide tenure security for small-scale fishers within their particular fishing areas. In addition, policy-makers need to pay special attention to creating opportunities for small-scale fishers to receive relevant information, influence decision-making, and access

BOX 3

EXISTING FISHERMEN EMPOWERMENT PROGRAMS AND INSTITUTIONS.

There are several institutional assets that can be optimized as channels of information and consultation spaces for small-scale fishers, both related to coastal

areas and small islands management and benefits regarding fishermen. Institutional development of key fisheries actors, facilitated by fisheries extension officers, has resulted in fisheries groups.³⁰⁰ The growth and development of joint business groups led by the Director General of Capture Fisheries has also produced business groups in various locations.³⁰¹ These assets have become a consultation room that trains small-scale fishers to make joint decisions based on information on the site, so that they have the opportunity to complement other, more formalistic participation spaces.■

resources and markets in order for impacts to be enjoyed in an equitable manner—regardless of the change intervention.

5.1.1. Improve participation mechanisms, so that they become a continuous process in fisheries resource management initiatives in the smallest community units

As explained in Section 4.1., related to coastal areas and small islands planning,

the available participation space is still felt to be too formalistic and has not been accompanied by coastal areas and small islands education, training, or counseling. As described in Section 4.2., consideration of local conditions in program design has not been optimal, and mechanisms at the local level have not been optimized either. Planning for the protection and empowerment of small-scale fishers still needs improvement.

³⁰⁰ Ministry of Marine Affairs and Fisheries Decree Number KEP.14/MEN/2012 concerning General Guidelines for Institutional Growth and Development of Main Actors in Fisheries. This Ministerial Decree aspires that every decision to develop fishing institutions is the result of deliberation from the community, whereby the government serves only as a facilitator. Technical development in the field of group business is carried out through guidance regarding: (a). Strengthening business capital; (b). Fish capture; (c). Fish farming; (d). Services and fishing industry; (e). Increasing the capacity of the community, institutions and apparatus; (f). Supervision of marine and fishery resources (conservation); (g). Construction and development of supporting infrastructure for economic, social and environmental activities; (h). Processing and marketing of results; (i). Strengthening business institutions; (j). The contribution of the main marine and fisheries actors; (k). Identification of potential areas and fishery resources in the environment; (l). Selection of the required technology; and (m). Increasing production capacity and product quality.

³⁰¹ Regulation of the Director General of PT No. 06/PER-DJPT/2019 Concerning Technical Instructions for the Growth and Development of Joint Business Groups with the Director General of Capture Fisheries. These works include KUB strengthening strategies including: Increasing the capacity of human resources, conducting KUB coaching carried out in stages from the center, provinces and districts/cities, developing business scale through product development, business diversification, increasing capital, expanding markets/ business partners, and others.

Optimizing and ensuring the linkages of these mechanisms can increase the impact of policies that are equity-activating, and in line with the principles of democratic inclusion. The government needs to change the design of information and participation mechanisms, which are currently not adaptable in nature. Once these reforms are completed, these mechanisms should become part of a continuous process of planning, monitoring and evaluation by impact recipients. This opportunity for reform already exists in the coastal areas and small islands management education, training and outreach instruments and the empowerment of small-scale fishers. The coastal areas and small islands management should be adjusted in relation to the mechanism of participation in the drafting of the Regional Regulation Coastal Areas and Small Islands Zoning Plan, the Plan for the Protection and Empowerment of Small-Scale Fishermen.

Instead of forming new institutions, participation mechanisms should be built from the bottom up, integrated with existing local/sectoral assets, such as fishers' groups, extension workers, villages, and fisheries business development groups (See: **Box 3**). Maritime Affairs and Fisheries Office at the district level needs to identify and strengthen databases on these institutional assets, with transparent

track records and involvement in formal mechanisms. Ministry of Marine Affairs and Fisheries can also promote good practices by enhancing existing initiatives, such as optimizing fishers' participation in decision-making processes and integrating information into the *Kampung Nelayan Maju*³⁰² program. Tenure security needs to become the mainstream, and a prerequisite for the implementation of the *Kampung Nelayan Maju* program in an area.

The focus on capacity building enables small-scale fishers and coastal communities to access, digest and submit joint inputs that support agreed management initiatives in the smallest units. To enable meaningful input, Ministry of Marine Affairs and Fisheries and local government need to ensure timely accessible information on the benefits that small-scale fishers can access and how. This information needs to be available in a form that small-scale fishers can easily understand. In relation to tenure benefits, information is needed that includes policy plans. If it is related to public consultation, the information regarding the documents to be consulted. Dissemination of information should consider various efforts other than outreach, for example through educational videos, knowledge platforms that can be accessed remotely (such as in the form of websites or guides), or

³⁰² One of the programs of the Ministry of Marine Affairs and Fisheries that started in 2021 is called "Advanced Fishing Village". Through the Directorate General of Capture Fisheries, this effort is made to change fishing villages in Indonesia from the impression that they were poor, slum and dirty to become more advanced. The purpose of the advanced fishing village program is to create a clean, healthy and comfortable environment and to improve the quality of life of the community, especially for fishers. The program mainly focusing on infrastructure support aimed for re-structuring fishing villages by improving public facilities, providing clean water, better waste management and improving waterways.

integration into village fund guidelines. Most importantly, this information must be accessible to anyone, anywhere, anytime, so that all beneficiaries can independently learn how to benefit from these initiatives.

Meanwhile, in locations where oral information sharing is accessible, this knowledge product is complementary and facilitates the transfer of knowledge to socialization organizers, extension workers, or other actors who interact directly with small-scale fishers. KKP also needs to consider peer sharing between fishing communities, so that empowerment can occur through the exchange of knowledge among fellow fishermen.

In order to achieve the goal of increasing the bargaining position of small-scale fishers in accessing and influencing decision-making, Ministry of Marine Affairs and Fisheries needs to clarify how the inputs generated from the deliberative process will be incorporated into decision-making processes. For example, the Ministry of Marine Affairs and Fisheries needs to clarify the factors that must be considered in finalizing the Coastal Areas and Small Islands Zoning Plan when small-scale fishers are informed that there are traditional fishing areas in other zoning plans (e.g. tourism). Procedures for KKP, Provincial and Regency Governments in responding to and considering proposals related to the realization of benefits (whether in the form of infrastructure, insurance, legal assistance or other benefits) also need to be clarified. The Law on Government Administration

has provided a reference for the CTF to consider the decision-making design in this regard.

Optimizing this transparency and participation mechanism not only widens the reach and opportunities for participation, but also has the potential to save money. Over time, KP administrators can evaluate the costs and benefits of various transparency and participation efforts, and gradually make decisions about reallocating resources to more effective mechanisms.

5.1.2. Optimizing the Fishermen Protection and Empowerment Plan instrument

As described in Section 4.2., planning instruments already exist but need to be optimized. The Fisher Protection Law has designed an instrument to ensure that the development of facilities and infrastructure and empowering fishers is part of development policy. Planning instruments are also needed to include and synergize enabling policies that are carried out in stages, but as part of a continuous policy package. This includes identifying the beneficiaries, considering the carrying capacity and capacity of the environment, and conforming to Coastal Areas and Small Islands Zoning Plan and national and regional development plans. Therefore, one of the steps that can be taken by the Ministry of Marine Affairs and Fisheries is to provide technical assistance to several regions as a pilot project for the implementation of the Fisher Protection and Empowerment Plan.

BOX 4

LIVELIHOOD APPROACHES LESSON FROM MOZAMBIQUE

The application of the livelihood approach has been carried out in Mozambique in the context of community access to various resources.³⁰³ In its report, “Making rights a reality: Participation in practice and lessons learned in Mozambique” FAO evaluates the impact of old laws and uses the results to strengthen and consolidate the implementation of new laws as instruments that can improve the protection of minority groups through effective local participation. The strategy undertaken in Mozambique for the effective implementation of regulations

related to natural resources using the livelihood approach consists of six pillars.

1. Providing information and raising awareness is carried out as an ongoing process.
2. Providing a lengthy amount of time to listen to local communities’ aspirations.
3. In regulatory negotiations, discussing all possibilities in the joint planning process.
4. Negotiations requiring real and legitimate local representation of society as a whole (including women and youth).
5. Providing clear information, prioritizing the need to increase understanding and inform the public of what is happening, and providing clear and tangible benefits.
6. Sustainability, including the elaboration and implementation of steps that will produce change as the core objective of organized local development.■

A plan for the protection and management of small-scale fisheries in an area needs to detail the long-term ambitions, goals and expected success indicators for the area. Thus, investment in infrastructure, access to funding, training and insurance can be determined according to the objectives and conditions of each region. This will also help the limited budget allocation in order to generate sustainable benefits.

Even though it has not been mandated in the Fisher Protection Law, Ministry of Marine Affairs and Fisheries and local governments need to optimize policies to implement plans with a livelihood approach. This strategy assumes that interventions must be conducted based on local realities, rather than in a top-down manner without sufficient input from the community.³⁰⁴ Through this approach,

³⁰³ Christopher Tanner, *et. al.* (2006). Making rights a reality: Participation in practice and lessons learned in Mozambique. FAO Livelihood Support Programme Working Papers.

³⁰⁴ Stephen Morse, *et. al.* (2009). Sustainable livelihood approach: A critique of theory and practice. DOI: 189.1-68. 10.1007/978-94-007-6268-8.

ideally, small-scale fishers should have the opportunity to submit input that is considered by decision-makers.³⁰⁵ Thus, information and conditions at the local level, including how elements of small-scale fishers are connected in a system, can be considered in the formulation of interventions. This is in line with the principle of common interest in the sea, where small-scale fishers' sense of ownership of policies can grow through a democratic process and active contribution. In this case, the plan needs to be linked to strengthening information and transparency as described in Section 5.1.1.

In addition, human resource development, business opportunities, improved resource management and environmental improvements need to occur simultaneously.³⁰⁶ A safeguard plan must at least contain the necessary actions to ensure the enabling conditions for market access are available. For example, the plan should include access to cooling chains, and access to competitive buyers or markets that are appropriate to the realities and socio-political context of the region. The plan also needs to identify constraints in the local context, so that solutions to these constraints are appropriate to local needs. For example, price-related interventions in Alor need to consider the existence of papalele and mamalele as incumbents, which is very different from

the context in Natuna where the role of intermediaries is still minimal so that large-scale private collectors can enter without strong resistance. Plans can also provide legitimacy for local wisdom as a small-scale fisheries management policy intervention. Information at the local level also needs to be considered in designing interventions involving collaborators from outside the area so that interventions are based on trust.

In the medium term, Ministry of Marine Affairs and Fisheries needs to monitor, evaluate and increase the scale of implementation of the Small-Scale Fishermen Protection and Empowerment Plan. Several pilot projects are sufficient modalities for the Ministry of Marine Affairs and Fisheries to formulate the NSPK as regional guidelines in preparing and implementing plans. In addition, from a budget perspective, plan implementation needs to be accompanied by budget tagging, so that benefits and costs can be monitored and evaluated on a regular basis.

Article 161 PP of 27 of 2021 concerning the Implementation of the Marine and Fisheries Sector has mandated training in manning fishing boats for small-scale fishers. This training is the responsibility of the government and regional governments, with Fisherman Proficiency Certification granted as proof of successful completion. Training should not be limited to fishing

³⁰⁵ Erika Techera (2020) Indian Ocean fisheries regulation: exploring participatory approaches to support small-scale fisheries in six States, *Journal of the Indian Ocean Region*, 16:1, 27-46, DOI: 10.1080/19480881.2020.1704979.

³⁰⁶ Hidayat, "Peningkatan Kapasitas Kelembagaan Nelayan", *Jurnal Sejarah CITRA LEKHA*, Vol. XVII, No. 1 (February 2013), page 43-58 quoting Brinkerhoff, Derick W, and Arthur A. Goldsmith, "Promoting the Sustainability of Development Institutions: A Framework for Strategy" (*World Development*, Vol. 20, 1992).



techniques and accident prevention. Education and empowerment regarding what rights fishermen are entitled to are also important. This needs to be considered as a requirement for passing the Fisherman's Proficiency Certification in the future.³⁰⁷

5.1.3. Identifying and establishing priority areas for small-scale fisheries

In order to optimally allocate limited resources, Ministry of Marine Affairs and Fisheries needs to determine where existing resources can generate sustainable benefits, supported by other necessary changes so that changes are not partial. One option that could be explored is the determination of priority and non-priority areas for small-scale fisheries. The determination may take into account several criteria, including:

- a. The number of small-scale fishers in an administrative area;
- b. The existence of fishing grounds, either now or historically, including by considering zoning in Coastal Areas and Small Islands Zoning Plan or designation of customary management areas;
- c. The carrying capacity and carrying capacity of the environment;
- d. Regional development plan. The Fisher Protection Law has already mandated that all of these criteria be considered in the plan.³⁰⁸

For non-priority areas, the Fisher Protection and Empowerment Plan prioritizes empowerment strategies involving small-scale fishers, NGOs and the private sector in the form of: (a) livelihood transition

³⁰⁷ There are currently 4.800 fishers receiving technical guidance in Eastern Indonesia. Directorate General of Capture Fisheries, September 21, 2022.

³⁰⁸ Article 9 paragraph (2) of the Fisheries Protection Law.

or diversification; (b) mutual access agreements between coastal areas and small islands users (*multi-use*); (c) legal assistance for groups of small-scale fishers who object to decisions.

a. Priority areas for small-scale fisheries.

Priority areas are needed to avoid policies that are counterproductive, so that the allocation of limited resources for protecting and empowering fishermen can be focused on these priority areas. In priority areas, all policies, including designation and zoning, development planning, and budgets, are focused on supporting small-scale fisheries ecosystems as priority sectors. Regional governments in priority areas need to detail indicators of success based on the target beneficiaries in their area stated in the Fisher Protection and Empowerment Plan.

As a first step, KKP has invited groups of small-scale fishers and village or regional government officials to propose their administrative area as pilot project priority area. As part of the pilot, KKP has developed a mechanism for reviewing and considering the feasibility of proposals to determine which areas should be given priority.

The first thing that needs to be ensured in designated priority areas for small-scale fisheries is tenure security. In this case, local governments need to

ensure tenure security guarantees beyond zoning, but also consider the recommendations of the FAO Voluntary Guidelines for Ensuring Sustainable Small-Scale Fisheries. Tenure security for small-scale fishers is not only needed in their fishing area, but also in the surrounding area.³⁰⁹ This means that the plan needs to contain a mechanism for prioritizing improving tenure security through accelerating the recognition of customary management rights, reviewing zoning plans that have the potential to pollute or damage fishing areas, and reviewing activity permits that are already contributing to pollution.

b. Non-priority areas.

If the development policy for an area is directed at sectors other than small-scale fisheries, then the plan document prioritizes empowerment strategies by involving small-scale fishers, NGOs and the private sector in the form of: (a) business diversification; (b) mutual access agreement between coastal areas and small islands users (*multi-use*); (c) legal assistance for groups of small-scale fishermen who object to the decision.

The business diversification development program can start with empowering fisherwomen (fishermen's wives) by providing technical assistance, additional skill enhancement, and an introduction to the types of businesses that can be carried out as alternative livelihoods. This is so that when there is a famine or bad weather and

³⁰⁹ FAO (2020) Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication.

they are unable to go to sea, these families can still fulfill their daily needs.

In these areas, local governments need to use protection and empowerment strategies and instruments differently than in priority areas. The main focus should be on facilitating small-scale fishers to determine post-transition goals to be achieved in the Small-Scale Fisher Protection and Empowerment Plan, bottom-up planning, and a just transition from before and after the Small-Scale Fisher Protection Empowerment Plan. To achieve this goal, the plan needs to prioritize the implementation of access to funding instruments, cross-sectoral empowerment (transition or livelihood diversification), and legal aid. As part of the transition, plans may also contain a dual-use agreement that allows shared access with other business activities, e.g. ecotourism.

The regional government, in preparing plans with small-scale fishers, needs to position itself as a facilitator so that small-scale fishers can determine their desired livelihood transition. In this case, development plans can help small-scale fishers evaluate future scenarios, but ideally do not limit the available livelihood transition options. The regional government needs to ensure that this access to funding is synergized with empowerment programs in sectors desired by the community, such as MSMEs, tourism or industry. In addition, synergy with the education sector to secure access to education for fishers' children needs special attention, to ensure that the economic

risks of the transition do not have a negative impact on access to education for children from fisher families.

Access to funding needs to provide affected small-scale fishers with an easier transition to livelihood changes and come up with diversification strategy. In this case, Regency/Provincial Maritime Affairs and Fisheries Office needs to bring together funding institutions in affected areas to get input on how available funding instruments (such as People's Business Credit/KUR) can provide incentives for small-scale fishers. Regarding education, the plan also needs to guarantee access to funding to support the education of the children of affected fishermen

Ultimately, investment in the form of legal aid primarily needs to be strengthened in this area to ensure that community groups that disagree with the utilization plan can pursue an appeal mechanism at every available stage. In addition, in the event of a conflict, legal aid can mitigate the vulnerability of fishers who are caught up in legal problems so they can be treated fairly.

5.1.4. Implement fishers' insurance in accordance with the statutory mandates and synergize risk management with upstream policies

Some major risks, such as pollution and climate change, require intervention at the upstream level. Therefore, the principles of sustainability and precautionary need to be seriously implemented, especially in small-scale fisheries priority areas.

According to the statutory mandate in the Coastal Areas and Small Islands Law, planning instruments need to consider the environmental carrying capacity and capacity needed to support sustainable fisheries. Instruments should also inform other sectoral policies in regional development planning.

In parallel, central policy needs to take into account the externalities that small-scale fishers experience from projects that pollute or damage the environment, or contribute to climate change. Policy efforts with the lowest cost for fishermen need to be published so that they can be accessed by small-scale fishers and the public.

To remain consistent with the principle of fair distribution of benefits and costs, and an equitable transition, the Ministry of Marine Affairs and Fisheries and the Ministry of Finance also need to consider economic instruments that can be imposed on actors who benefit and produce the greatest externalities for the sea. Economic instruments such as taxes or levies need to be imposed progressively, targeting the largest beneficiaries, and the funds obtained are used to increase funding support for programs to protect

and empower small-scale fishers, and to manage coastal areas and small islands. The Ministry of Marine Affairs and Fisheries can prioritize providing small-scale fishers affected by climate change access to environmental funding mechanisms managed by the Regional Environmental Management Agency (BPLHD).

As a safety net, the Ministry of Marine Affairs and Fisheries needs to ensure insurance providers realize the statutory mandate in terms of scope,³¹⁰ with the support of financing measures that need to be reviewed (such as earmarking environmental funds). To increase the number of conversions to independent insurance and improve understanding of benefits, the Ministry of Marine Affairs and Fisheries can optimize information and participation instruments, as explained in Section 5.1.1. Increasing and accelerating the conversion to independent coverage also needs to involve parties who work with the government. This means encouraging the involvement of BRI Life and BPJS in the regions, so that the sustainability of the independent insurance program can be better guaranteed.■

³¹⁰ The scope of constraints includes the age of fishers. Many fishers cannot take out insurance policies because they are constrained by the maximum age limit. Therefore, Old Age Security (JHT) should be considered as an insurance alternative for fishermen whose age has exceeded the maximum age limit for other insurances because there is no age limit in JHT. The Ministry of Marine Affairs and Fisheries has started pushing for the implementation of the JHT program by exploring cooperation with BRI. In the future, the JHT program needs to be disseminated more widely.

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the Coastal Areas and Small Islands
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