Legal protection of marine resources and fishery in the border area

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Abstract. Marine and fishery resources in Indonesia, especially in the border area of North Borneo Province, basically come from the marine and fisheries sector which can be developed properly so that it can help the region to achieve economic, social and political goals. The development of the marine and fisheries sectors can also contribute to economic integrity, through increasing the production, industrial, service and self-sufficiency sectors in the maritime and border areas of Indonesia, especially in the province of North Borneo. This research uses a normative type of research using a statutory approach, a conceptual approach and a case approach. The results showed that the implementation of the principle of legal protection of marine and maritime resources in the border region of North Borneo was not optimal due to sectoral supervision, there were still supervisors who misused their duties and authority, limited funding, and legal witnesses in the form of criminal administrative sanctions did not deter the perpetrators. Therefore, another legal instrument is needed to ensnare criminals against marine and fishery resources in the border area of North Borneo Province.

1. Introduction
North Borneo Province is a province in Indonesia which is in the northern part Borneo island. This province is directly adjacent to neighboring countries Malaysia, namely the State Sabah and Sarawak. The center of North Borneo government is currently in the sub-district Tanjung Selor, together with the central government of Bulungan Regency [1]. North Borneo is the youngest province in Indonesia which was officially legalized to be a province located in the northern part of Borneo Island, on March October 25th 2012 based on Law Number 20 of 2012. Geographically, this province is directly adjacent to neighboring countries, namely Malaysia, the state of Sabah in the north and the province of East Borneo in the south [2].

North Borneo is known as the smallest area of Indonesia which is rich in natural resources. Both in renewable and non-renewable natural resources as well as in the form of natural capital (natural resources stock), such as watersheds, lakes, protected areas, coastal areas or in the form of commodities such as wood, rattan, minerals and natural gas, fish and others. The small islands in North Borneo Province are located in Nunukan, Bulungan, Tana Tidung and Tarakan City Districts. The number of small islands in North Borneo Province is 161 islands with a total area of 3,597 km². The largest islands are Tarakan Island (249 km²), Sebatik Island (245 km²), Nunukan Island (233 km²), and Tanah Merah Island (352 km²). While the length of the coastline of this province is 3,955 km, 908 km (23%) are inland coastlines and 3,047 km (77%) are archipelagic coastlines. The configuration of the islands is so many, it turns out that most of them are small islands whose number is estimated to be more than a few
islands [3]. As an archipelagic country, most of whose territory consists of the sea, Indonesia has a large and diverse fishery potential.

Fishery potential is an economic potential that can be used as a prime mover for national development [4]. As for one of the investment sectors that have the opportunity to grow well in North Borneo, are fisheries and maritime affairs. Based on the records of the Marine and Fisheries Service of North Borneo Province, the potential of fisheries and marine resources covers several sub-sectors. Fisheries such as aquaculture, seaweed cultivation and fish catches. The fishery potential, which in the previous year contributed the largest export value from Borneo, should be further enhanced. For this reason, there needs to be legal protection in the implementation of maximum management. ProtectionThe management and utilization of marine and fishery resources as well as coastal areas and small islands of North Borneo Province requires sustainability, considering that the area has a wide variety of resources that allow multiple use. Management must be integrated and sustainable because it has strategic values, namely the rich and diverse potential of natural resources and environmental services. The large number of natural resources and the variety of available potentials motivates stakeholders to optimize in a rational and responsible manner.

In general, marine resources (those in coastal and oceanic areas) can be divided into four groups, namely (1) renewable resources, (2) non-renewable or non-renewable resources, (3) marine energy, and (4) marine environmental services [5]. There needs to be a unity of insight into the management and utilization of marine and fisheries resources in Indonesia, especially in the border area of North Borneo, through rational and integrated planning between sectors and stakeholders, embodied in a zoning plan that determines the direction of resource use for each planning unit accompanied by stipulation of the spatial structure and pattern in the planning area which contains activities that may and may not be carried out as well as activities that can only be carried out after obtaining a permit. As well as imposing sanctions for violations committed in their use. Human dependence on the sea is increasing. The sea as a source of life has a large enough potential to meet the needs of human life.

Illegal fishing activities in the marine waters of North Borneo are prone to occur, looking at the data for 2018, the Tarakan Marine and Fishery Resources Monitoring Station succeeded in uncovering six cases of illegal fishing by foreign vessels. Of the six cases, one Malaysian-flagged ship was caught doing illegal fishing in Indonesian waters. Until 2020 there are still rampant cases of illegal fishing in the marine waters of North Borneo, this is evidenced by the North Borneo Regional Police of Water and Air arresting foreign citizens of the Philippines, in sebatik waters, nunukan [6]. The data above clearly shows that there are problems that must be sought immediately for solutions to provide protection for marine and fishery natural resources in the province of North Borneo.

2. Methods
This research is a normative legal research which uses a statute approach which examines the laws and regulations concerning fisheries resource management and the authority of the North Borneo provincial government in the protection of fishery resources. Furthermore, in this study a case approach is also used, which examines cases related to issues, as well as a conceptual approach to provide an ideal concept in the protection of marine and fisheries resources in the border area of North Borneo Province.

3. Protection of fishery resources by the government
Law Number 45 of 2009 concerning Fisheries is deemed not able to fully anticipate technological developments and legal needs in the context of managing and exploiting potential fish resources. So, it is necessary to make changes to several substances, both regarding aspects of management, bureaucracy, and legal aspects. Indonesia as an archipelagic country, most of whose territory consists of the sea, has enormous and diverse fishery potential. The potential of fisheries is an economic potential that can be utilized for the future of the nation, as the backbone of national development. Optimal utilization is directed at the utilization of fish resources by taking into account the existing carrying capacity and its preservation to improve people's welfare, improve the standard of living of small fishermen and small fish cultivators, increase revenue from foreign exchange, provide expansion and
employment opportunities, increase productivity, added value and competitiveness of fishery products and ensure the sustainability of fish resources, fish cultivation land and spatial planning. This means that the utilization of fishery resources must be balanced with it carrying capacity, so that it is expected to provide continuous benefits. One of them is done by controlling fisheries business through fisheries management arrangements. This means that the utilization of fishery resources must be balanced with it carrying capacity, so that it is expected to provide continuous benefits. One of them is done by controlling fisheries business through fisheries management arrangements. This means that the utilization of fishery resources must be balanced with it carrying capacity, so that it is expected to provide continuous benefits. One of them is done by controlling fisheries business through fisheries management arrangements.

The United Nations Convention on the Law of the Sea, 1982, which was ratified by Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea 1982, places Indonesia as having sovereign rights to carry out utilization, conservation, and management of fish resources in the Indonesian Exclusive Economic Zone and the high seas which is carried out based on applicable international requirements or standards. Therefore, a legal basis for fish resource management is needed that is able to accommodate all aspects of fish resource management and anticipates the development of legal and technological needs. The presence of the Fisheries Law is expected to be able to anticipate as well as a solution to enormous changes in the fisheries sector.

On the other hand, there are several issues in fisheries development that need the attention of all parties, including the government, society and other parties related to fisheries development. These issues include the symptoms of overfishing, illegal fishing and other illegal fishing actions which not only cause losses to the state, but also threaten the interests of fishermen and cultivators, the industrial climate and national fisheries business. These problems must be resolved in earnest, so that law enforcement in the fisheries sector is very important and strategic in order to support controlled and sustainable fisheries development.

Positive laws governing these areas still tend to be used to facilitate the interests of certain groups in control and utilization of resources [7]. The existence of legal certainty is an absolutely necessary condition in the handling of criminal acts in the fisheries sector. Weaknesses in the aspect of fisheries management include the absence of a coordination mechanism between agencies related to fisheries management. Meanwhile, in the bureaucratic aspect, there are conflicts of interest in fisheries management. Weaknesses in the legal aspect include the problem of law enforcement, the formulation of sanctions, and the jurisdiction or relative competence of district courts against criminal acts in the field of fisheries that occur outside the jurisdiction of the district court. Seeing several weaknesses contained in the Fisheries Law, it is deemed necessary to protect marine and fishery resources, which include: First, regarding supervision and law enforcement concerning the issue of coordination mechanisms between investigating agencies in handling investigations of criminal acts in the fishery sector, application of sanctions (criminal or fine), procedural law, especially regarding the determination of time limits for case examination, and facilities in law enforcement in the fisheries sector, including the possibility of implementing legal action in the form of sinking foreign ships operating in the fisheries management area of the Republic of Indonesia. Second, fisheries management issues include fisheries ports, conservation, licensing, and portability. Third, it is necessary to expand the jurisdiction of the fisheries court to cover the entire fisheries management area of the Republic of Indonesia. and facilities for law enforcement in the field of fisheries, including the possibility of implementing legal action in the form of sinking foreign vessels operating in the fisheries management area of the Republic of Indonesia. Second, fisheries management issues include fisheries ports, conservation, licensing, and portability. Third, it is necessary to expand the jurisdiction of the fisheries court to cover the entire fisheries management area of the Republic of Indonesia, and facilities for law enforcement in the fisheries sector, including the possibility of implementing legal action in the form of sinking foreign vessels operating in the fisheries management area of the Republic of Indonesia.
Third, it is necessary to expand the jurisdiction of the fisheries court so that it covers the entire fisheries management area of the Republic of Indonesia [8].

The principles used in fisheries management in North Borneo Province at the regulatory level have shown a desire to exploit natural fisheries resources optimally while maintaining the preservation of fishery resources so that they can be enjoyed by future generations. In order to support the enforcement of regulations on fisheries resource management, law enforcement efforts are needed. In the context of environmental management, environmental law enforcement is recognized as very important [9]. Good law is law that can be accepted by society without enforcement (coercion) but as a necessity [10].

In order for fisheries management to be achieved as expected, it is inseparable from efforts to enforce laws in the environmental sector by taking into account several factors, including: the law itself, law enforcement, law enforcement facilities and facilities, society, and culture [11]. Based on the foregoing, legal arrangements in fisheries management should reflect a balance between sectors with a holistic approach, increase understanding of government officials and the community, and develop preventive and repressive measures so that sustainable fisheries resource management can be realized [12]. With regard to fisheries management in the province of North Borneo, efforts to protect fishery resources that are preventive will be carried out by the regional government through licensing through the Office of Marine Affairs and Fisheries of North Borneo formulated a Governor Regulation which will regulate the granting of water location permits and water management permits in coastal areas and small islands as support for regional regulations on zoning space for coastal areas and small islands published in 2018 [8].

For ships with a size above 30 Gross Tons, before the ship's departure to carry out the voyage, the Fisheries Service will re-check the fishing equipment on the ship, if it is appropriate, a sailing permit is given by officers from the fisheries service Meanwhile, for ships whose size is below 30 Gross Ton, the supervision can be carried out directly, this is because this ship sails not far from the coast. If there is the use of fishing equipment that is prohibited by statutory regulations by vessels below 30 tonnes, the action taken by officers is still at the level of socializing to the fishermen that the equipment used is against the law and can endanger the preservation of the marine environment. In terms of supervision, the Ministry of Marine Affairs and Fisheries has established a work unit for monitoring marine and fishery resources. This work unit aims to improve the quality of supervision and control of marine and fishery resources in a systematic and integrated manner so that management takes place in an orderly manner and increases the appreciation and participation of the community in monitoring fishery resources. This work unit is in charge of conducting checks upon ship arrival and ship departure. Upon arrival, the fisheries supervisor checks the fish caught and the fishing gear used and the suitability of the tools used and the catch. This work unit aims to improve the quality of supervision and control of marine and fishery resources in a systematic and integrated manner so that management takes place in an orderly manner and increases the appreciation and participation of the community in monitoring fishery resources. Upon arrival, the fisheries supervisor checks the fish caught and the fishing gear used and the suitability of the tools used and the catch. This work unit is in charge of conducting checks upon ship arrival and ship departure. Upon arrival, the fisheries supervisor checks the fish caught and the fishing gear used and the suitability of the tools used and the catch.

At the time of departure the fisheries supervisor is obliged to check the suitability of the Fishing Permit, Fish Transport Ship Permit, Fishery Product Levies, coded stickers, Transmitter Installation Certificate (SKAT VMS), annual pass. and measuring letter, suitability of fishing gear, suitability of physical vessels, suitability of quantity and type of catch. If the results of the inspection are in accordance with the new provisions issued an Operation Acceptable Letter and Sailing Approval Letter, so that the ship may depart to look for fish. In practice this cannot be done for all vessels in the port because the number of fisheries supervisory personnel is limited while the number of fishing vessels is very large.
Due to limited fisheries supervision personnel, the regional government through the Marine and Fisheries Service has formed a Community Monitoring Group to assist with supervision. The fisheries office will later conduct an assessment of the activities carried out by the supervisory community group for making reports, following up on the results of supervision such as expelling fishermen using prohibited fishing gear.

4. Conclusion
Protection of natural fisheries and marine resources provided by international law is contained in articles 55-75 which regulate the Exclusive Economic Zone. In the national law there are several laws and regional regulations governing the utilization and management of fishery resources which can be concluded that they have protected fishery resources well. However, in the implementation of supervision to carry out laws and regulations, there are obstacles, especially in terms of fisheries supervisory personnel, patrol boats and the budget for conducting marine fisheries. So, it is hoped that our natural marine wealth can be protected from illegal fishing activities.

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