

The Harmonization of Maritime Law (UU No. 32 of 2014) for Indonesia's Sovereignty in Marine Resource Management Facing UN Policy about Area beyond National Jurisdiction

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Abstract— Republic of Indonesia lies in the geographical position of 6° N-11 ° S and 95 ° E-141 ° E is flanked by the Pacific Ocean and the Indian Ocean, as well as the continent of Asia and Australia. Bodies Archipelagic lays at the meeting point of the communication lines between the Pacific and Indian Oceans as well as Asia and the Australian Continent. The existence of climate variations by interaction current path two oceans (Indian and Pacific) and two continents (Asia and Australia) makes seascape Indonesia has rich biodiversities. Marine management world entered a new historical stage. The United Nations (UN) has started drafting a new international legal instrument that would regulate the conservation and sustainable use of marine biological diversity in the Areas of Beyond National Jurisdiction (ABNJ) have great economic value, especially as a source of new discoveries medical world. On that, Indonesia sees the need to joint arrangements for the conservation and management of one of the natural resources. Indonesia has a jurisdiction where the seabed and the land under it is under the authority of Indonesia, but the water column the status of international waters. This becomes important because of marine biodiversity is well located on the seabed and in the water of a water column, so it needs a clear regulation of the international community about the condition UU No. 32 of 2014 on the marine endorsed as a basic orientation of Indonesian marine management. Indonesia has limitations in the use and management of marine resources in the territorial sea. Plan of use and management policies ABNJ by the United Nations may have negative impacts for the sovereignty of the Indonesian. Therefore it is necessary to set up a regulatory harmonization in the preparation of the National Law and the Law of Marine and it implementation to align with ABNJ concept. And to develop a road map for utilization of maritime space in the Indonesian jurisdiction directly adjacent to ABNJ.

Keywords— *Maritime Law, Marine Resource Management, Areas of Beyond National Jurisdiction (ABNJ)*

I. INTRODUCTION

The long history of maritime in *Nusantara-Indonesia* proves that respected other Nations by becoming a center of excellence in the field of maritime, culture and civilization since the days of the Kingdom of *Sriwijaya* (683-1030), the Kingdom of *Singosari* (1275), the *Majapahit* Kingdom (1293-1478) to the Kingdom of *Demak* (1475-1548).

In fact Republic Indonesia, it lies in the geographical position 6 ° N-11 ° S and 95 ° E-141 ° E is flanked by the Pacific Ocean and the Indian Ocean, as well as Asia and Australia Continents. With the enactment of the United Nations Convention on the law of the Sea 1982 which was ratified by UU No. 17 / 1985, the vast sea of Indonesia increased by approximately 8.5 million being square kilometers. In addition, UNCLOS has opened a new chapter towards the determination of territorial boundaries as well as the authorities of the jurisdictional sea, where in the relations of the Republic of Indonesia as the "Archipelago" (Archipelagic State) have a legal limit the region and authorities jurisdiction over inland waters (internal waters), the waters of the archipelago (Archipelagic waters), the territorial sea (Territorial Sea), exclusive economic Zone, the free sea (High Sea) as well as the continental shelf and

obviously the international seabed. UNCLOS 1982 also provides advantages for national development that is by increasing the extent of national jurisdiction as well as waters means increasing the area that can be optimized utilization of natural resources contained therein.

Indonesia is also one of the country's Islands (archipelagic state) in Asia and second in the world to have 17,506 Islands large and small, as well as an area of more than 7.7 million km². Its area reached 2/3 its part over 5.8 million km², with a coastline of more than 81,000 km² and an exclusive economic zone (EEZ) as wide as 200 miles. The waters of the archipelagic state this right in the meeting point of the lines of communication between the Pacific Ocean and India as well as Asia and Australia Continents, link the interests of the big countries and the developed world in the West and the East, the North and the South.

Besides, Indonesia also known as a country that is rich in natural resources and biodiversity are high, both renewable natural resources (renewable resources) and un-renewable resources, economic potential that contained in sea waters and coastal Indonesia, among others, in the form of fisheries, good catch or aquaculture, marine biotechnology industry, marine mining industry, namely petroleum, minerals and energy; marine tourism, sea transport and other sea resources. But unfortunately the competitive advantages can

be utilized by the nation of Indonesia to its full potential to improve the well-being of its people. As with other developing countries in the world, Indonesia is also still facing constraints in the management, conservation and protection of marine areas and their ecosystems and natural resources.

Government era in 2014-2019, intense first period of Joko Widodo, carry out development in order to realize the Indonesia as the country's maritime with the vision of becoming the world's Maritime Axis. The momentum of the rise of Asian powers was arrested by Indonesia to get back The Maritime Power Country. The determination of development programs implemented in marine based Nawacita and the five pillars of development Marine Indonesia.¹

However, we see that the people of Indonesia have yet to be fully felt the significant role of maritime potential. Likewise, on the other hand the leading Indonesia not only relates to the waters and natural resources and the beauty contained in it, but the most important is the scope of meaning territorial Union of sea and outlying islands as a whole and not separate.²

The U.N. policy that is being discussed so that countries that have territorial sea waters outside the area to organize a national jurisdiction (the Area Beyond National Jurisdiction) should be immediately addressed by the Government of Indonesia is far-distant day. As a preventive action to reduce or avoid the onset of collide or conflict caused by the less perfect planning and not integrated the preparation of regulations concerning marine resources. So need to attempt harmonization and synchronization rules, the determination of the fundamental, review products law or legislation that is not in accordance with the national spirit, as well as the need to build a national policy marine sector-oriented.

Enforcement of maritime sovereignty is derived from the concept of Insight Nusantara as the Foundation of the concept of geopolitical Indonesia based on Pancasila and the Indonesia's Constitution 1945 (UUD 1945). To be able to maintain identity, integrity and survival and growth in the struggle to make a national goals.

II. STATEMENT OF PROBLEMS

The fundamental concept of the space of validity of sovereignty as the state's supreme power is limited by the country's territory, so the state has the highest power within its territory. Without certain territories and borders a country cannot be considered as an international legal subject. The understanding of the country here cannot be separated from the concept of the country as a geographical unity accompanied by its respective sovereignty and jurisdiction. Thus, the territory of the country becomes the most fundamental concept in the management of the sea territory.

¹ Ade Sopandi, *Fondasi Negara Maritim, Yayasan Pustaka Nasution, Jakarta, 2018.*

² Syachril Abd Madjid, *Implementasi Undang – Undang Nomor 17 Tahun 2008 Tentang Pelayaran Terhadap Nelayan Desa Batu Merah, Ambon, 2011*

Indonesia as an island nation should implement management that reflects maritime culture and prioritizes the building policies related to the management of the Marine region. The sea as a separator between islands requires optimal cost and effort as well as its own threats to Indonesia's unity and sovereignty. During this time the development of marine potential has not been used as a backbone in national development. As a result of society is still fixed in the agrarian continental culture. Therefore, the marine resource management has not been optimally managed for Indonesia's prosperity.

Urgency of the need for marine Law has been felt since the enactment of *UU No, 22 / 1999* about regional autonomy. In article 3 it is stated that the autonomy of regional areas of the province, as referred to in article 2 paragraph (1), consists of land area and sea territory as far as twelve nautical miles measured from the coastline towards the offshore sea and or towards the water Islands. The impact is a unilateral claim in the management of the sea territory, so that the Indonesian sea seems to be a separate territory. *UU No. 32/2014* on Marine Law was passed as the basis of orientation of Indonesian maritime management. Indonesia is limited in the utilization and management of marine resources in the territorial sea region. Utilization and management of ABNJ can cause a negative impact on the sovereignty of the unitary Republic of Indonesia. Therefore, it is necessary to harmonize in the preparation of regulations and implementation in order to align with the concept of ABNJ. As well as arranging a roadmap for the utilization of marine space in Indonesia's jurisdiction that borders directly with ABNJ. Based on the above, the author takes a problem about: How does the harmonization of maritime Law to enforced sovereignty in marine resource management in Indonesia facing ABNJ policy?

III. RESULT AND DISCUSSION

A. INDONESIAN STRUGGLE TO REALIZE IDEALS AS THE WORLD MARITIME AXIS

The journey of legal politics in the management of the sea territory has been through the long history of Indonesia to realize the ideals of success as a maritime country capable of managing the marine independently through the three main pillars of the youth Oath, proclamation Independence of RI and declaration Djuanda 1957 is not easy to do. In the reign of Sukarno, Indonesia has declared Nusantara insights.³ Nusantara's insight into the territory of the sea is a completeness with land, air, seabed and existing land under it, as well as all the wealth contained therein that cannot be separated. In the Suharto era, Indonesia sought international recognition of the state of Nusantara, which subsequently gained international recognition in the UNCLOS 82.⁴

³ Darmawan, *Menyibak Gelombang Menuju Negara Maritim, Kajian Strategis Mewujudkan Poros Maritim Dunia, Yayasan Pustaka Obor Indonesia, Jakarta, 2018*

⁴ Munsil Lampe, *Pemanfaatan Sumber Daya Taka (Varasi Perilaku Nelayan Pulau-Pulau Sembilan Sinjai, Sulawesi Selatan) Program Studi Antropologi, Pasca Sarjana Universitas Gajah Mada, 2001.*

In the reign of BJ. Habibie returned Indonesia to declare the vision of maritime development in the Bunaken declaration. The essence of the declaration is the understanding that the seas are opportunities, challenges and hopes for the future of Indonesian unity. Continued in the Government of Abdurrahman Wahid through the commitment of marine development with the establishment of the Department of Maritime and Fisheries and the development of the Indonesian Maritime Council then became the Indonesian Marine Council. Furthermore, in the Government of Susilo Bambang Yudhoyono was declared UU No. 32 of 2014 about the Marine Law. Continued in the government, which is determined not to have the sea and make Indonesia as the world maritime axis. Strengthened by the issuance of Perpres No. 16 of 2017 as a starting point to fulfill Indonesia's determination as the World Maritime Axis.

Indonesia is geopolitically known as *Wawasan Nusantara* which is a corridor in the vision of national development of short, medium and long term to achieve national goals and ideals. Indonesia holds a strategic position on cruise and sea transport Lines (SLOC and SLOTS). Moreover, among the 7 World Strategic Straits (Choke Points), 4 of them are in the territory of Indonesia's sovereignty namely Slat Malaka, Sunda Strait, Straits of Makassar and Strait of Lombok. Thus Indonesia has a potential collective power in the form of choke points in the control of sea traffic lines that pass through SLOC and SLOT (*Alfred Thayer Mahan*).

B. LEGAL ARRANGEMENTS OF INDONESIAN MARITIME RESOURCE MANAGEMENT

1. Indonesian Marine Resources Arrangement

Handling of the question on the management of the resources contained in the territory of the land in the possession of a country is eventually handed over to and determined by the national policies of each country, especially in relation to the arrangements, supervision and enforcement. Every country is entitled and responsible for the utilization of marine resources in its jurisdiction, including the protection and preservation of its environment, as set forth in UNCLOS 1982.

Almost two-thirds of the Earth's surface is an area covered with water, whether it is ocean, sea, lake or river, while the land is only one third of the planet. The surface area of planet Earth is approximately 510 million km², from that amount 361 million km² or 70.8% covered by sea column.⁵ Broadly, marine resources are divided into three groups: (1) resources can be recovered (renewable resources), (2) resources cannot be recovered (non-renewable resources), and (3) environmental services.⁶

Included in the group of resources can be recovered, among others, are:

- a. Sea fisheries, both aquaculture fisheries and captured fisheries Coral reef
- b. Mangrove Forest;

- c. Sea-grass and seaweed.
- d. Bioactive ingredients (bioactive substances)

Human ways of powering the maritime resources have not yet been efficient and often damage their sustainability. Signs of environmental damage have been seen in various marine regions of the world, although it has not been as severe as the damage that occurred on land.

The symptoms of pollution, overfishing (the fishing rate beyond its recovery ability), and the physical degradation of coastal and marine main habitat (such as the destruction of mangrove forests, coral reefs) in some of the world's marine regions have reached a level that can be The sustainable capacity of marine ecosystems to support human life.

On March 21, 1980, the government issued an announcement of the Government of the Republic of Indonesia on the Indonesian Exclusive Economic Zone (ZEEI). This Government announcement is obviously not a legal product, but rather reflects the political policy of the Indonesian Government intended to anticipate the arrangement of ZEE in the UNCLOS 1982. Then the Government increased the status of government announcement about ZEEI to be a law, namely LAW No. 5 of 1983 on the exclusive economic zone of Indonesia. Although Indonesia at the time did not ratify UNCLOS, but in principle the provisions of ZEE in the Convention have been taken into law on ZEE Indonesia. The arrangement of ZEE is not solely about the fishery's resources but, as stated in article 4 paragraph (1) (a), includes:

Sovereign rights to conduct exploration and exploitation, management and conservation of biological and non-biological resources from the bottom of the sea and land underneath and water on it and other activities for the exploration and exploitation of the zone economy such as power generation from water, currents and wind

Utilization or management of natural resources, both in the land and the waters, seas and oceans that are subject to the national jurisdiction of the Republic of Indonesia, is an integral part of national development in order to realize a fair and prosperous society as mandated in the opening of the Indonesia Constitution 1945.

The 4th paragraph of the National Constitution of the Republic of Indonesia states: "*..... to form an Indonesian government that protects all Indonesians and all over Indonesia's blood and to promote the general welfare, educate the nation's life and conduct world order based on Independence, eternal peace and social justice.....*"

The Government gave greater attention to the maritime sector, in 1999 was formed a new government agency that specifically offered the maritime issues, namely the Ministry of Maritime and Fisheries (formerly the Department of Marine, then changed to the Ministry of Marine Exploration and fisheries) in 1999. This policy seems to reflect a serious attempt by the government to pay more

⁵ Anugerah Nontji, *Laut Nusantara*, Edisi Ke-3, Penerbit Djambatan, Jakarta, 2002

⁶ Rokhmin Dahuri, *Sumber Daya Wilayah Pesisir Dan Lautan Secara Terpadu*, Gramedia Pustaka Utama, Jakarta, 2000

attention to the maritime issues that for some time is impressed to be ignored.⁷

Another issue that has a fairly basic influence is the effective effectiveness of regional autonomy, which began with the issuance of law No. 22 of 1999, this law has now been replaced by UU 32 / 2004 about Local government. In this legislation, the region is authorized to regulate the utilization of maritime resources in its territory. Article 18 of Law No. 32/2004, expressly grants to the region the authority of resource management in the marine region which covers the authority to 12 miles from the coastline to the offshore sea to the provincial region and a third of the sea boundary , or 4 miles, for District/City, which includes the authority of the point of view from the stakeholder configuration (stakeholders), these developments will actually only add to the burden of the marine sector, which had previously been loaded with various of important sectors.⁸

However, the presence of new actors who will be involved in the utilization of marine natural resources will create a consequence that is not small meaning for this sector. From the aspect of the arrangement, a number of national legislative regulations (issued by the center) are now still not expected to support the creation of local regulations on the management of maritime resources The national legislation that exists today is generally sectors and centralistic.

2. Government Authority on Marine Resource Management

As an organization, the implementation of regional governance aims to facilitate the wheel mechanism of activities of national government organizations, where the implementation of Government wheel executor at the central level to the national level is with the method of delegation of authority from the central level to the regional level, the theoretical is delegative or mandatory.⁹

Realization of government authority distribution concept as it can be traced to chapter IV government affairs, article 9 to article 36 ACT No. 23 year 2014 on local government, the regulation confirms that the business The government consists of (i) the business of Absolute rule, (ii) The affairs of the Concurrent Government, and (iii) General governmental affairs, and in this case the absolute affairs of government is a government affair that is fully authorized by the central government.

From the description of article 9 referred to above, it can be understood also that the local government has limited authority on the affairs of the *concruen* distributed from the center to the region and is distributive, divided into mandatory government affairs and affairs Government options where. Technically, maritime management is a mandatory local government affairs which is further divided into the level of government (central, provincial and Regency/city) According to the territorial waters, where at a distance of 0–12 miles is authority of province government, while the distance above 12

miles is the authority of the central government, as for the authority of the Regency/city government to the sea only centered on the issuance of licensing as mentioned in the shrimp—the invitation of the district government.

Based on the paradigm of regional governance to its authority in the sea, the identification of asymmetric concept by its terminological dimension must be understood as a special authorization transfer which is only given to the region In order to maintain the existence of the regional, and must be interpreted as a part in understanding the administrative distribution of government administration, not the political objectives on the national scale, but in the context of the regional itself.

Decentralization of governance administration becomes a solution to various regional issues. Especially in the aspect of economic development that is deemed to not benefit the people of the region based on governance in centralistic way. The centralistic concept of governance is likely to give rise to the uniformity of governance in the region, not based on their respective regions.

3. National and International Legal Frameworks

- 1) UNCLOS 1982 (articles 192, 194(1), 194(5), 197, 204, 206)
- 2) Convention on Biological Diversity (Article 1 on Objective and Article 4 on Jurisdictional Scope) and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits
- 3) UU No. 24 of 2000 concerning International Treaties
- 4) UU No. 32 of 2014 concerning Marine
- 5) UU No. 31 of 2004 on concerning Fisheries
- 6) PP No. 60 of 2007 on Fish Resource Conservation
- 7) PP No. 30 of 2008 on Fisheries Research and Development
- 8) PP No. 32 of 2019 on Marine Spatial Planning.

C. AREA BEYOND NATIONAL JURISDICTION (ABNJ)

1. The Existence Concept about ABNJ

The marine Area outside of the national jurisdiction (ABNJ), commonly called the offshore Sea, is a marine region in which no one nation has responsibility for management. In all, this makes 40 percent of the surface of our planet, consisting of 64 percent of the sea surface and nearly 95 percent of the volume. The waters of the Indian Ocean and the Pacific have the world's largest maritime biodiversity such as tuna, shark, and other large pelagic. The sustainable management of maritime biodiversity is very important not only for the welfare of the people in the region, but also to the international community seeking to preserve the economic resources of global value. Biodiversity beyond national jurisdiction, also known as Biodiversity Beyond National Jurisdiction (BBNJ).

Urgent action is required to improve the management of ABNJ and strengthen the protection of related ecosystems. In this way, we can prevent adverse impacts on marine biodiversity, socio-economic welfare and food security for the millions of people whose lives depend on the marine. . Indonesia sees the significance of the setting of BBNJ referring to Indonesia's geographical condition where some of

⁷ Pembentukan Departemen ini dilandasi oleh Keputusan Presiden Nomor 147 Tahun 1999 tanggal 1 Desember 1999.

⁸ Rokhmin Dahuri, *Sumber Daya Wilayah Pesisir Dan Lautan Secara Terpadu*, Gramedia Pustaka Utama, Jakarta, 2000

⁹ H. Mustamin DG. Matutu dkk, *Mandat, Delegasi, Attribusi dan Implementasinya di Indonesia*, (Yogyakarta: UII Press, 1999)

the waters of the exclusive economic zone and Indonesia's continental shelf are adjacent or directly bordered by international waters which are Area of the substance BBNJ.

Indonesia is bordered by international waters in the Indian Ocean to the west of Sumatra island, south of Java Island, south of the Nusa Tenggara Archipelago, and in the Pacific Ocean to the north of Papua Island. Indonesia's direct interest is also because Indonesia has also gained recognition from the international community via the United Nations Commission on the Limit of the Continental Shelf (UNCLOS) regarding Indonesia's continental shelf outside 200 nautical miles sea, covering an area of 4209 km², located in the west of Aceh.

The UN Convention on the Law of the Sea (UNCLOS) provides the international legal regime governing the sea. It creates an obligation to preserve the marine environment, but does not provide specific mechanisms or processes to preserve marine biodiversity in ABNJ. Other legal instruments address part of the problem of ABNJ, such as marine resource exploitation, waste poisoning disposal, illegal fishing, and others.

2. Indonesia's Interest in the ABNJ

Referring that Indonesia has a jurisdiction where the seabed and land below it are under the authority of Indonesia, but the water column is the status of international waters. This becomes important because the marine biodiversity is located both on the seabed and in the water column of a waterway, so it needs a clear arrangement of the international world on the condition. Factual conditions suggest that the biodiversity in the ocean, whether on the ocean floor, or in the field

Sea water, as one entity, certainly very possible marine biodiversity that is located in the international waters will affect the marine biodiversity located within the marine biodiversity. Waters of the jurisdiction of Indonesia. On the basis of these things, the government of Indonesia has an interest in relation to the sovereignty of the State and will continue to commit to actively engage and demonstrate its leadership in every phase of the preparation of the marine legal instruments International related ABNJ.

The Indonesian government interests in maintaining the country's sovereignty such as:¹⁰

- a. Indonesia borders ABNJ in 4 Indian Ocean areas west of Sumatra Island, south of Java Island, south of NTB and NTT and in the Pacific Ocean north of Papua. ZEE and Indonesia's continental Shelf are directly adjacent to the offshore Sea and the international seabed which is the geographical scope of ABNJ.
- b. The management of BBNJ will directly influence the biodiversity and marine environment of Indonesia as a unitary *NKRI* Indonesia has a continuous shelf beyond 200 nautical miles that has been awarded the recommendation of the Commission on the Limits on the Continental Shelf (CLCS) in the west of Aceh, there is a horizontal limit on which the continental shelf outside Indonesia's 200 nm bordering ABNJ is the loose sea on it which the continental shelf outside Indonesia's 200 nm bordering ABNJ is the loose sea on it.

As an island country that develops its potential to become a maritime country, Indonesia has the benefit of taking advantage of the management of BBNJ, the development of research and exploitation of Indonesian maritime in the future has always reached ABNJ. The Indonesian Government issued a recommendation about the substance Biodiversity Beyond National Jurisdiction (BBNJ) as follows:¹¹

- 1) The main issue that will be discussed at IGC BBNJ session year 2019 namely: Marine Genetic Resources; Area-Based Management Tools, including Marine Protected Areas; Environmental Impact Assessments (EIA); Capacity building and transfer of marine technology; and Cross cutting issues.
- 2) In general, coastal countries, including Indonesia, have limited resource utilization in the Area as well as in High Seas. Utilization in 2 areas is suspected to cause negative impact on the region Its jurisdiction. Therefore, the preparation of the joint utilization of BBNJ requires strong diplomacy and data on the results of high quality marine research.
- 3) Need to be considered related to fishery activities, conservation Area as well as the direction of spatial harvesting in the jurisdiction in the Marine spatial plan in the Indonesian sea bordering on BBNJ.

The Marine space management in the Areas Beyond National Jurisdiction (ABNJ) refers to Article 6 of UU 32 / 2014 about Marine:

- 1) The territory of the sea consists of the territorial waters and jurisdiction as well as the offshore and the international sea seabed areas;
- 2) The unitary State of the Republic of Indonesia reserves the right to do the management and utilization of natural and marine environment in the marine region as intended in paragraph (1);
- 3) The management and utilization as intended in paragraph (2) shall be implemented in accordance with the provisions of international laws and regulations.

Article 11 Marine Act

- a. The unitary State of the Republic of Indonesia reserves the right to conserve and manage biological resources in the offshore Sea (v. 1).
- b. Conservation and management of biological resources as referred to in paragraph (1) shall be carried out under the provisions of international law and Regulation (v. 4).

D. HARMONIZATION OF ABNJ AGAINST NATIONAL LAW

The harmonization of legislation which is a series of ongoing processes. From the process of thinking, designing, forming, creating, drafting, and/or normalization the wishes of the people based on the ideal values and empirical into the form of legal regulations written to be the cornerstone of legal action in Governance, development, civic, individual behavior to achieve legal objectives, country objectives, social objectives, and individual objectives.¹² Indonesian interests to maintain the sovereignty of the homeland but still respecting the

¹¹ *Ibid.*

¹² *Ibid.*

¹⁰ Seminar documents of BBNJ, Hotel Le Meridien Jakarta 2019

concept of the sea as a shared property that is poured in ABNJ it is necessary to internalize the concept of ABNJ into the national law, as follows:¹³

- 1) Ratification Agreement under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction throughout Law of Marine or Perpres 16/2017
- 2) Ratification by law refers to article 10, Act No. 24 of 2000 on international treaties
- 3) Ratification of international treaties is conducted by law when it relates to:
 - a. Political problems, peace, defense, and state security;
 - b. Changes in territory or boundaries of the territory of the Republic of Indonesia;
 - c. Sovereignty or sovereign rights of the State;
 - d. Human rights and environment;
 - e. Establishment of new law rules (Sui Generis)

In the context of the national law Pancasila¹⁴ on the arrangement of the Law of the Sea resources, it can substantially be interpreted from the philosophical aspects, (*groundslag*). The basis of the establishment of Pancasila, namely in the outline of a unity and Unity in the context of the provisions without unifying the difference or separating the difference space. So the basis of thinking "the third *Sila*" is a fact diversity a difference that should not be separated, but must be united in the unity of single Bhineka Ika, while the basis of thinking "fifth *Sila*" concerning the fact of the diversity of characterize community, geographical diversity, and diversity of natural resources, so that the existence of the Community and natural resources arrangement must lead to the achievement of social justice, which is a single, social justice in the context of natural resources, should be distributed evenly in the territory of Indonesia according to its religious conditions. In other words, in juridical perspective, the constitutional setting of natural resource law should be based on geographical fact, the implementation based on the concept and development of political center to the region should consider the geopolitical aspects of the region, and Normative implementations should provide continental economic priorities for continental-based areas, and to grant maritime economic priorities, for the regions based on the Maritime Values and Principle. This reality is in line with the basic paradigm of virtue, i.e. the people precedence, which is ruled precedence, and in this area with the wider potential of marine resources must be precedence.

IV. CONCLUSION

The paper highlights and concludes that the problems that are still faced in the utilization and management of maritime resources and maintaining the sovereignty of the sea is that during this natural resources and marine environmental services in the law of the Marine laws are still seen Assets and responsibilities of each region as a sector. Whereas the

¹³ Daman, Rozikin, Pancasila Dasar Falsafah Negara, Rajawali Pers, Jakarta, 1992

¹⁴ Mochtar Kusumaatmadja, Bunga Rampai Hukum Laut, Binacipta, Jakarta, 1985.

Constitution 1945 confirms that the natural resource is an asset of the nation that is subject to state authority. It means that the spirit of unity to maximize the potential of marine environmental resources and services is managed in a unified environment for the sake and prosperity and sovereignty of all Indonesian people.

In the future coastal and sea areas will be an alternative object of utilization and development that is potential for the people of the world because the lack of land therefore the management of coastal and sea areas must be laid out and managed in a directed, fair, and well-planned manner with regard to various aspects of democratization and human rights, in line with the arrangement and enforcement of law in the development of coastal and marine areas should be concerned In a thoroughly and integrative context, especially with the national development Vision paradigm that focuses on the management of marine resources. Decentralization of marine region management is time optimized. However, there is still a policy at the national level to ensure the sovereignty of Indonesia's territorial waters, especially in the region and outlying islands.

Author suggests that the efforts to harmonize marine law with the concept of ABNJ of the United Nations need to have a concept of maritime policy (Maritime Policy) that will provide direction for utilization and preservation and national marine protection that can be Provide a clear and understandable direction and guidance and, to be accepted by all stakeholders both among government institutions and the community as a whole and is not considered detrimental to institutions, stakeholders, sectors, districts/cities and communities in the region.

Need to form national maritime policy which must be designed with the most to be able to develop sustainable utilization pattern, and implement the Principles of maritime management, as well as to meet the United Nations policy on ABNJ. It is necessary to have blueprints on the comprehensive, cohesive and consistent marine resource management which is used as a common reference in marine resource management which also serves to preserve the territorial sovereignty of The Indonesian sea.

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