

## Open Policy in The Regulation of Lobster Seed Exports in Indonesia: Sustainable Development Vis A Vis Economic Development

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### ABSTRACT

Delegation of authority to determine lobster seed export policy to the minister through the Fisheries Law Creates Open policy authority for the Minister of Marine Affairs and Fisheries. During the 2015-2022 period, there were 6 (six) significant changes to the regulation of Marine Affairs and Fisheries regarding the permissibility of lobster seed exports. This condition raises questions about legal certainty for fishermen and lobster cultivators in Indonesia. This study is conducted to provide recommendations for the formulation of lobster seed export regulations that can be utilized by policymakers in the future. The method used in this study is normative juridical research, employing statutory, comparative, and historical approaches. The results of this study indicate that the determination of policies regarding lobster seed exports should not be delegated to the Minister in the form of Ministerial Regulations of Marine Affairs and Fisheries. Based on the sustainable development approach and the national economic development approach, a policy prohibiting lobster seed exports has more positive impacts compared to the legalization of lobster seed exports, particularly regarding the sustainability of lobster resources with high economic value rather than the export of lobster seeds for improving the welfare of fishermen in Indonesia.

**Keywords:** economic development; export; lobster seed; open policy; sustainable development.

### INTRODUCTION

At the end of 2020, Indonesia was profoundly impacted by the indictment of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia by the Corruption Eradication Commission on allegations of corruption concerning lobster seed export practices. Public discourse, however, was not limited to the criminal charges but extended to the broader implications of the open policy governing lobster seed exports. This policy was encapsulated in the Ministerial Regulation of Marine Affairs and Fisheries (hereinafter referred to as “**MAF Regulation**”) No. 12/PERMEN-KP/2020, promulgated by Minister Edhy Prabowo on May 14, 2020, a mere seven months after his appointment as Minister, succeeding Minister Susi Pudjiastuti.

The rationale for permitting lobster seed exports, as articulated in the preamble of PERMEN KP 12/2020, primarily revolved around fostering investment and enhancing foreign exchange revenues. These objectives are ostensibly aligned with the overarching vision of President Joko Widodo’s *Nawacita* agenda, which prioritizes investment development and the augmentation of national foreign exchange reserves as key policy objectives. The issue arises when the authority to determine lobster seed export policy is delegated to the Minister, leading to an open-ended policy that depends on the perspective of the Minister leading the Ministry of Marine Affairs and Fisheries.

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The open policy in determining lobster seed exports by the Minister originates from the authority granted under Article 7 letter (s) of Law No. 31 of 2004 on Fisheries, as amended by Law No. 45 of 2009 (hereinafter referred to as the Fisheries Law). This provision stipulates that the Minister has the authority to determine the types of fish prohibited from being traded, imported, or exported to and from the territory of the Republic of Indonesia. Based on this authority, the Minister is empowered to independently regulate which types of fish may or may not be exported beyond Indonesia's borders.

In the past seven years, there have been significant changes regarding the lobster seed export policies established by the Minister of Marine Affairs and Fisheries. Between 2015 and 2024, there has been a noticeable shift in Indonesia's lobster seed export policies. Analyzing the preambles of the Ministerial Regulations issued by the Ministry of Marine Affairs and Fisheries from 2015 to 2024 reveals two main streams of thought underpinning lobster seed export policies. First, the prohibition of lobster seed exports is justified by the need to preserve lobster populations through a sustainable development approach. Second, the promotion of investment and the increase of national foreign exchange revenues are pursued through an economic development approach. The specifics of these policies are outlined in the table below:

**Table 1. Shifts in Lobster Seed Export Policies in the Indonesia's MAF Regulations**

Year	Minister of Marine Affairs and Fisheries	Policy Determination	Legal Basis	Considerations
2015	Susi Pudjiastuti	Prohibition on Catching Lobsters in Spawning Condition	MAF Regulation No. 1/PERMEN-KP/2015	Decrease in lobster population
2016	Susi Pudjiastuti	Prohibition on Selling Lobster Seeds	MAF Regulation No. 56/PERMEN-KP/2016	Preservation and availability of lobster resources.
2020	Edhy Prabowo	Prohibition on Lobster Seed Exports	MAF Regulation No. 12/PERMEN-KP/2020	Investment development and foreign exchange increase
2021	Sakti Wahyu Trenggono	Prohibition on Lobster Seed Exports	MAF Regulation No. 17 of 2021	Investment development and foreign exchange increase
2022	Sakti Wahyu Trenggono	Prohibition on Lobster Seed Exports	MAF Regulation No. 16 of 2022	Meeting the needs for lobster farming within the territory of the Republic of Indonesia
2024	Sakti Wahyu Trenggono	Permitting Lobster Seed Exports by Foreign Investors	MAF Regulation No. 7 of 2024	Ensuring the sustainability of fishery resources, improving the welfare of fishermen,

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Whose Countries Have Signed Agreements with the Government of Indonesia	business actors, and communities, accelerating technology transfer in farming, investment development, optimizing non-tax state revenue, increasing foreign exchange, and fostering lobster farming development
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The two streams of thought in determining the lobster seed export policy dynamically follow the beliefs and convictions of the Ministers who have held the position of Minister of Marine Affairs and Fisheries regarding lobster seed exports. This situation creates instability and impacts the optimal implementation of the two streams of thought-sustainable development or investment development and the increase of national foreign exchange in the utilization of lobster seeds in Indonesia. Meanwhile, the main pillar of a rule-of-law state is legal certainty, as mandated in the Constitution of Indonesia. Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUDNRI 1945) mandates the management of natural resources, including marine resources, to ensure the welfare of the Indonesian people. In the process of managing these resources, it must be grounded in the philosophy of a rule-of-law state, as declared by Indonesia in Article 1, paragraph (3) of the UUDNRI 1945, stating that Indonesia is a state based on law. The consequence of this declaration is that Indonesia must uphold legal certainty. Normatively, legal certainty is based on the clear and logical formulation of regulations that do not cause doubts or uncertainties.<sup>1</sup> According to James E. Anderson, policy is a series of relatively stable actions with a goal followed by an actor or a group of actors in addressing a problem or issue of concern.<sup>2</sup> This article attempts to outline the advantages and disadvantages of the lobster seed export policy in Indonesia and provide recommendations for the formulation of lobster seed export regulations that can be used by policymakers in making decisions in the future.

## METHOD

This research uses a normative juridical research method, which emphasizes the use of library research and secondary data as the primary materials for the study. The research is conducted using a legal regulatory approach, a comparative approach, and a historical approach.

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<sup>1</sup> Ilham Fauzi, et al, "Kewenangan Dinas Perikanan dan Kelautan Kabupaten Asahan dalam Pelarangan Penggunaan Alat Tangkap Trawl Berdasarkan Peraturan Menteri Kelautan dan Perikanan Nomor 71 Tahun 2016 tentang Jalur Penangkapan Ikan dan Penempatan Alat Penangkapan Ikan di Wilayah Pengelolaan Perikanan Negara Republik Indonesia", *EduYustisia Jurnal Edukasi Hukum*, Vol 1, No 2, 2022, p. 12.

<sup>2</sup> Adam A. Anyebe, "An Overview of Approaches to the Study of Public Policy", *International Journal of Political Science (IJPS)*, Vol 4, No 1, 2018, p. 8.

## DISCUSSION

### Open Policy on Lobster Seed Export in the MAF Regulation

It is evident that Indonesia's legal policy is currently directed towards promoting national economic growth and improving societal welfare. This aim is reflected in the enactment of regulations designed to facilitate investment inflows, such as the Job Creation Law and legislation governing business licensing and ease of doing business. Law serves as a regulatory instrument to advance policies aimed at accelerating economic growth. The practice of open policy in Indonesia, particularly concerning the determination of lobster seed export regulations as stipulated in the Ministerial Regulations of Maritime Affairs and Fisheries, can be understood as a measure to provide flexibility in the management of lobster seed resources. As outlined in the preceding discussion, this open policy originates from the delegation of authority provided under Article 7(s) of the Fisheries Law. This provision grants extensive powers to the minister to determine policies concerning fishery resources that may be exported from Indonesian territory, without requiring approval from other governmental institutions. This delegation of authority has resulted in the issuance of 6 (six) ministerial regulations over the span of 7 (seven) years. However, the frequent regulatory changes have created significant legal uncertainty in the governance of lobster seed exports, undermining the stability required for effective policy implementation. This situation highlights the challenges of balancing regulatory flexibility with the principle of legal certainty, which is fundamental in ensuring sustainable development and equitable economic benefits in the utilization of lobster seed resources.

Lina Holmgren states that the state's authority and responsibility to manage natural resources grant the power to create new regulations or amend existing ones to determine the fate of those resources. Thus, it will lead to policy variations that involve the participation of both state and non-state actors.<sup>3</sup> Based on this view, changes in policies regarding the management of environmental resources are influenced not only by state policies but also by the role of non-state actors.

The open policy delegated for regulation through a Ministerial Regulation inevitably raises questions regarding whether such an open policy can appropriately be established within the framework of a Ministerial Regulation. In this context, it is necessary to examine the position and regulatory content of Ministerial Regulations within Indonesia's legal framework. The delegation of broad authority to the Minister to determine the permissibility of lobster seed exports under the Fisheries Law grants the Minister discretion in choosing the regulatory form,<sup>4</sup> thereby empowering the Minister to establish policies on lobster seed exports.

Under Indonesian legislation as governed by Law Number 12 of 2011, as amended most recently by Law Number 13 of 2022 on the Formation of Laws and Regulations (hereinafter referred to as the "**P3 Law**"), Ministerial Regulations are recognized as a form of legislation, as stipulated in

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<sup>3</sup> Lina Holmgren, "Protected Area Governance in Sweden: New Modes of Governance or business as usual?, Local Environment", *The International Journal of Justice and Sustainability*, Vol. 22, No. 1, 2017, p. 3.

<sup>4</sup> Ni'matul Huda, "Kedudukan dan Materi Muatan Peraturan Menteri Dalam Perspektif Sistem Presidensial", *Jurnal Hukum Ius Quia Iustum*, Vol 28, No 3, 2021, p. 565.

Article 8(1). In terms of hierarchy, however, Ministerial Regulations are not included in the formal legislative hierarchy, which is limited to the 1945 Constitution of the Republic of Indonesia, Laws/Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/Municipal Regional Regulations. Nevertheless, Article 8(2) of the P3 Law establishes that Ministerial Regulations are acknowledged and hold binding legal force as long as they are mandated by higher legislation or issued based on authority.

Based on the provisions of Article 8(2) of the Law on the Formation of Laws and Regulations, it can be concluded that a Ministerial Regulation is a regulation issued by a Minister pursuant to the mandate of higher-level legislation or based on the Minister's authority. This implies that there are two legal conditions for a Ministerial Regulation to be binding: it must be a delegation from higher<sup>5</sup> legislation or an exercise of the Minister's authority. Ministerial Regulations are therefore delegated regulations,<sup>6</sup> not attributed regulations, meaning that a Minister can only issue a Ministerial Regulation if there is a delegation of regulatory authority from higher legislation.<sup>7</sup> This requirement, when viewed through the lens of the *stufenbau theory* (hierarchical legal structure) proposed by Hans Kelsen and refined by Hans Nawiasky into the *theorie von stufenaufbau der rechtsordnung*, places Ministerial Regulations within the category of implementing regulations (*verordnung*).<sup>8</sup>

Ni'matul Huda states that there are limitations on the substance of Ministerial Regulations, which include:<sup>9</sup>

1. The scope of regulation is limited to the field of state administration, encompassing both instrumental and protective functions.
2. The scope of regulation is confined to the areas that fall within the duties, authority, and responsibilities of the respective Minister.
3. It must not contradict higher-level laws and regulations or the general principles of proper governance.

Furthermore, Hendra Kurnia Putra asserts that the ideal substance of a Ministerial Regulation should adhere to the following principles:

1. It must not create new powers for the respective ministry.
2. It must not impose obligations or grant authorities on the public through its substantive provisions.
3. It should be limited to administrative or operational technicalities, following the residual value theory, which merely implements existing provisions.

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<sup>5</sup> Pratisto Ilham Pranoto dan Gayatri Dyah Suprobowati, "Kedudukan Peraturan Menteri Dalam Sistem Peraturan Perundang-Undangan Indonesia", *Sovereignty: Jurnal Demokrasi dan Ketahanan Nasional*, Vol 1, No 3, 2022, p. 394.

<sup>6</sup> Moh. Amar Khoerul Umam, Fitriani A. Sjarif, "Pengaturan Pemberian Persetujuan Presiden Terhadap Rancangan Peraturan Menteri Berdasarkan Teori Peraturan Perundang-Undangan", *PAKAR (Pakuan Law Review)*, Vol 7, No 2, 2021, p. 528.

<sup>7</sup> Irfan Ardyan Nusanto, "Analisis Terhadap Dualitas Peraturan Menteri dalam Sistem Peraturan Perundang-Undangan", *Volkgeist*, Vol 4, No 1, 2021, p. 55.

<sup>8</sup> Muhammad Fikri Hanafi dan Sunny Ummul Firdaus, "Implementasi Teori Hans Nawiasky Dalam Peraturan Perundang-Undangan di Indonesia", *Sovereignty: Jurnal Demokrasi dan Ketahanan Nasional*, Vol 1, No 1, 2022, p. 83.

<sup>9</sup> *Op. Cit.*, Ni'matul Huda, p. 567.

4. It must not intersect with, conflict with, or exceed the interests and authority of other ministries.<sup>10</sup>

Based on Article 17 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), the position of a Minister is as an aide to the President. Furthermore, Article 7 of Law No. 39 of 2008 on State Ministries stipulates that ministries are tasked with handling specific governmental affairs to assist the President in administering the government. Accordingly, the provisions contained in Ministerial Regulations should serve as the technical implementation of policies determined by the President.<sup>11</sup> Bagir Manan argues that the UUD NRI 1945 envisions a strong and stable government, achieved through the principle of a single executive system rather than a collegial one. Under this system, governance and control rest in the hands of one authority, namely the President.<sup>12</sup>

Policy related to the management of natural resources must therefore be made by the President, not by a Minister. Similarly, the determination of whether the export of lobster seeds is permissible, which constitutes a crucial normative issue in the regulation of marine resources, should be a decision made by the President. Regulations concerning natural resources should be treated with greater importance than other matters, as they involve not only the right of every individual to access these resources but also the sustainability of these resources for future generations.<sup>13</sup>

In fact, the best practice regarding the primary authority in the determination of natural resource management policies in Indonesia has already been established in Law No. 4 of 2009 on Mineral and Coal, as amended by Law No. 3 of 2020. Article 5, paragraph (1) of this law stipulates that, for national interests, the Central Government, after consulting with the People's Representative Council of the Republic of Indonesia (DPR RI), shall establish national policies for the prioritization of minerals and/or coal for domestic purposes. This provision places strategic policies for the management of minerals and coal under the authority of the Central Government, with consultation with the DPR, including matters related to the sale/export of minerals and coal. This is crucial, as the impact of the sale of these natural resources is not only felt by the current generation but will also affect future generations.

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<sup>10</sup> Hendra Kurnia Putra, *Penguatan Pembentukan Peraturan Menteri dalam Sistem Peraturan Perundang-Undangan di Indonesia*, Disertasi Doktor, Universitas Brawijaya, Malang: 2019, p. 145.

<sup>11</sup> *Op. Cit.*, Ni'matul Huda, p. 568.

<sup>12</sup> Suhariyono, *Pembentukan Peraturan Perundang-Undangan yang Baik Pedoman Praktis*, Papas Sinar Sinanti, Jakarta: 2022, p. 99.

<sup>13</sup> Herdiansyah Hamzah, "Legal Policy of Legislation in the Field of Natural Resources in Indonesia", *Hasanuddin Law Review*, Vol 2, No 1, 2016, p. 110.

### Sustainable Development Review in Lobster Seed Export

Sustainable development is an international agenda that has been agreed upon by the global community through United Nations General Assembly Resolution No. A/RES/70/1 of 2015. Sustainable development is defined as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.<sup>14</sup> There are 17 target goals within the global sustainable development agenda, one of which is to conserve and sustainably use ocean resources for sustainable development, known as SDG 14 (Life Below Water). One of the targets of SDG 14 is to effectively regulate fisheries and end overfishing, illegal, unreported, and unregulated fishing, as well as destructive fishing practices, and to implement science-based management plans to restore fish stocks as quickly as possible, at least to levels that can produce maximum sustainable yields, as determined by their biological characteristics (referred to by the author as blue legislation). According to the schedule, the SDG 14 agenda was supposed to be completed by 2020.<sup>15</sup>

In practice, no country has yet been able to fully achieve SDG 14, particularly concerning the effective regulation related to the protection of marine resources.<sup>16</sup> This condition indicates that, at present, the management of marine resources is still human-centric. The management of marine resources in various countries continues to prioritize human interests rather than the interests of the sea itself. One example is the regulation of lobster seed exports. Oliver C. Ruppel states that natural resources form the foundation of all life on Earth. All living creatures depend on natural resources (natural resources ensure the continuity of food, water, and energy supplies) and, therefore, they are subject to various laws and policies.<sup>17</sup>

Lobster is one of the resources that is limited in quantity. It falls under the category of genetic resource (*plasma nutfah*) whose sustainability cannot yet be engineered by humans. The export of lobster seeds can lead to a significant decline in lobster populations.<sup>18</sup> The policy of banning the export of lobster seeds is effective in maintaining the sustainability of lobsters until they reach a size suitable for export and consumption. The decline following the opening of lobster seed exports serves as a warning for the sustainability of lobsters themselves. The ban on lobster seed exports during the tenure of Minister Susi Pudjiastuti was an effort to protect lobster seeds until they reached adulthood, ultimately opening up opportunities to increase the competitiveness of Indonesia's lobster exports, which have historically lagged behind Vietnam.<sup>19</sup> Vietnam has often benefited from receiving lobster seed supplies from Indonesia. Vietnam's export volume stands at 1,000 tons per

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<sup>14</sup> Inka Milewski dan Ruth E. Smith, "Sustainable Aquaculture in Canada: Lost in Translation", *Marine Policy*, Vol 107, 2019, p. 1.

<sup>15</sup> United Nations General Assembly Resolution No. A/RES/70/1 of 2015

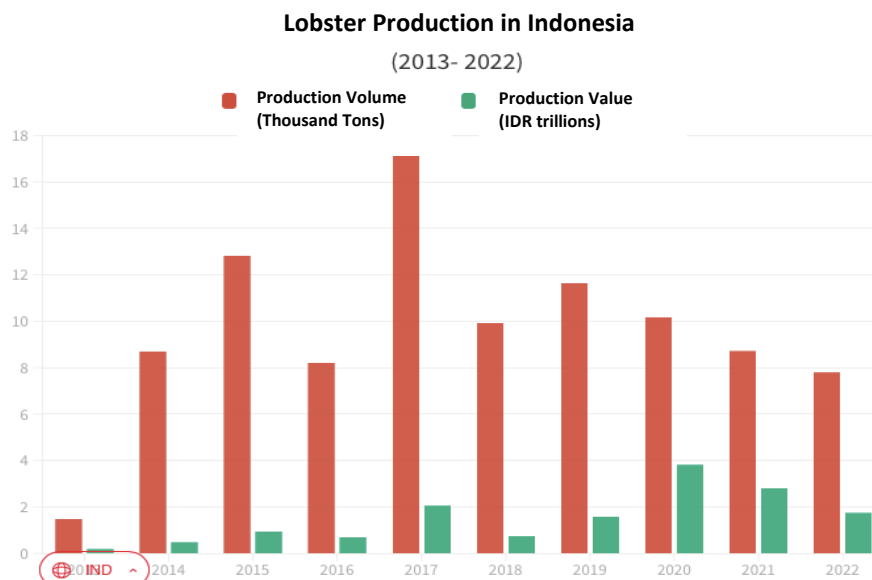
<sup>16</sup> M. Andiamahfazafy, dkk, "Sustainable development goal 14: To what degree have we achieved the 2020 targets for our oceans?", *Ocean and Coastal Management*", *Elsevier*, Vol 227, 2022, p. 5.

<sup>17</sup> Oliver C Ruppel dan Ruda Murray, "A Comparative Constitutional Analysis of Natural Resources Protection, Graz Law Working Paper Series", *UNIGRAZ*, No 07, 2023, p. 2.

<sup>18</sup> Sherlly Rossa, et al, "Kegagalan Pasar di Balik Ekspor Benih Lobster di Indonesia", *Jurnal PolGov*, Vol. 3, No. 1, 2021, p. 9.

<sup>19</sup> Kartika Sulastri, "Klasifikasi Naïve Bayes pada Analisis Sentimen atas Penolakan dibukanya Larangan Ekspor Benih Lobster", *Jurnal Rist Inovasi Bidang Informatika dan Pendidikan Informatika (KERNEL)*, Vol. 1, No. 2, Desember 2020, p. 69.

year, while Indonesia can only export 300 tons per year.<sup>20</sup> Data shows that lobster production increased during the ban on lobster seed exports, but tended to decrease when the export of lobster seeds was allowed again, as illustrated in the graph below:



Source: DataIndonesia.id

In addition to its impact on the sustainability of lobsters in Indonesian waters, the export of lobster seeds also affects the environment itself. Lobsters inhabit coral reefs, and Indonesia's marine areas are predominantly characterized by coral reefs. This natural condition provides lobsters with the ideal habitat for survival. However, if lobster seeds are collected by fishermen (without going through aquaculture processes) using environmentally harmful tools and methods, it can lead to the destruction of coral reefs. Damage to coral reefs will negatively impact the sustainability of other marine species that rely on coral reefs for habitat.<sup>21</sup>

The policy outlined in Minister of Marine Affairs and Fisheries Regulation No. 12 of 2020, which opens the possibility of exporting lobster seeds again, also impacts 11 Fishery Management Areas (WPP) in Indonesia, with 4 WPPs categorized as fully exploited and 7 WPPs categorized as over-exploited. This goes against the principles of sustainable development.<sup>22</sup> The management of marine resources to improve the economy of local communities must still take into account the environmental carrying capacity of the area. Ignoring this will lead to the decline of ecological

<sup>20</sup> Wayan Rudi Pranata, "Oprasi Tangkap Tangan KPK terhadap Kementerian Kelautan dan Perikanan Edhy Prabowo terkait Kasus Korupsi Ekspor Benih Lobster", *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan*, Vol 3, No 1, 2021, p. 46.

<sup>21</sup> *Ibid.*

<sup>22</sup> Adelia Widya Pramesti, et al, "Analisis Kebijakan Ekspor Benih Lobster Berdasarkan Prinsip Pembangunan Berkelanjutan", *DIMENSI*, Vol 10, No 3, 2021, p. 601

functions and environmental services, which in turn will negatively affect economic activities in the future.<sup>23</sup>

As member of the United Nations and having ratified and established the implementation of sustainable development goals through Presidential Regulation No. 59 of 2017 on the Implementation of Sustainable Development Goals, Indonesia must take concrete efforts in the protection of marine resources, including lobster sustainability. The practice of capturing and exporting lobster seeds moves further away from achieving the targets set in SDG Goal 14.5. The government's policy to ban the export of lobster seeds is an implementation of SDG Goal 14.5, using a nesting logic approach—ensuring the use of lobsters aligns with the environmental carrying capacity while maximizing their benefits through enhanced aquaculture capacity to guarantee the availability of lobster feed for both the domestic market and global demand.<sup>24</sup>

### **Economic Development Review in the Export of Lobster Seed**

The development of law is inherently linked to economic progress, and conversely, the two cannot be viewed in isolation. Legal theories have incorporated numerous economic concepts, and for a nation, the formulation and regulation of the rule of law significantly influence its economic performance.<sup>25</sup> The concept of *Rechtstaat*, as proposed by Friedmann, embodies the ongoing interaction between state-created laws and the economic development of society.<sup>26</sup> Posner's Pareto Improvement theory underscores that the objective of legal regulation is to contribute valuable inputs to justice and social welfare.<sup>27</sup>

Posner's teachings have had a significant impact on the development of law, particularly in both developing and developed countries. In these countries, once internal political configurations are stabilized, the enhancement and stability of the national economy become the central objectives of governance. Law is used as a tool to support policies aimed at improving the nation's economy, a practice that is common in contemporary governance.

Indonesia, as a developing country, is influenced by Posner's teachings, particularly in its adoption of the welfare state concept, as outlined in at least two provisions of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). These provisions include Article 23, paragraph (1), which mandates that the State Budget (*Anggaran Pendapatan dan Belanja Negara/APBN*) is implemented for the greatest prosperity of the people, and Article 33, paragraph (3), which states that natural resources shall be managed for the greatest prosperity of the people. One of the implementations of these principles is the regulation concerning the export of lobster seed.

The justification for the policy on the export of lobster seed, as set forth in Minister of Marine Affairs and Fisheries Regulation No. 12 of 2020, stems from the development of investment and the

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<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> Fajar Sugianto, et al, "Increasing Economic Performance Through the Rule of Law in Indonesia: Law and Economic Perspective", *Atlantis Press*, Vol. 140, 2020, p. 92.

<sup>26</sup> *Ibid.*, p. 3.

<sup>27</sup> Agus Saiful Abib, et al, "Model Penyelesaian Sengketa Penanaman Modal Asing Berbasis Keadilan", *HUMANI (Hukum dan Masyarakat Madani)*, Vol 10, No 2, 2020, p. 171.

increase in foreign exchange earnings, as stated in the preamble of the regulation. The formation of this regulation was based on the government's policy to help improve the economy of fishermen, who had lost their livelihoods due to the ban on lobster seed exports. At that time, Indonesian fishermen had relied on the capture and sale of lobster seed as their primary source of income.<sup>28</sup>

Minister Edhy Prabowo stated that the legalization of lobster seed exports is intended to invigorate the aquaculture sector.<sup>29</sup> Lobster farmers in Indonesia prefer to directly sell the seeds they capture, rather than engaging in cultivation, due to lower risks, quicker income streams, and significantly lower taxes.<sup>30</sup> Since 2012, the demand for lobster seeds from international markets has increased both in terms of quantity and frequency, driving up the price per lobster seed.<sup>31</sup> Naturally, without undergoing the cultivation process, Indonesia has managed to collect an average of more than 600,000 lobster seeds per year from 2008 to 2012, with a relatively stable market value ranging from IDR 2,500 to IDR 5,500 per seed. The highest value for lobster seeds was recorded during the 2013-2014 period, with the capture of 3,000,000 seeds per year. Due to high market demand, the price per seed reached IDR 18,000.<sup>32</sup> As the market value of lobster seeds continued to rise, it ultimately fostered a culture of selling lobster seeds among fishermen.

The culture of capturing and selling lobster seeds, when viewed from an economic development perspective, indeed has wide-ranging impacts on the economy, particularly for fishermen. However, in the long run, the disruption of lobster sustainability creates a "tragedy of the commons", where, ultimately, fishermen lose their livelihoods due to the depletion of lobster populations in the sea. From an economic development perspective, both for the community and the country, the policy of banning lobster seed exports makes far more sense. The export ban has, based on data, been effective in increasing lobster production in Indonesia. This increase in production can then be utilized for export to various countries, yielding higher value. The revenue from lobster exports in Indonesia increased from USD 14.85 million in 2016 to USD 28.45 million in 2018. This stands in stark contrast to Vietnam, which saw a decrease in lobster export revenues from USD 6.77 million in 2016 to USD 4.25 million in 2018 due to their reliance on lobster seed exports from Indonesia. The following table provides a clearer comparison:<sup>33</sup>

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<sup>28</sup> *Op. Cit.*, Sherlly Rossa, et al, p. 3.

<sup>29</sup> *Op. Cit.*, Wayan Rudi, p. 42.

<sup>30</sup> Adzraa Saffa Andira, et al, "Diplomasi Ekonomi Indonesia Terhadap Vietnam melalui Kerjasama Ekspor Benih Lobster pada tahun 2020-2021", *Jurnal Sentris, Special Edition: Diplomacy*, 2021. p. 128.

<sup>31</sup> Eddy Trisno Pongbatto, et al, "Potensi dan Tantangan Lombok Sebagai Pusat Budidaya Lobster", *Indonesian Journal of Geography*, Vol. 2, No. 1, 2024, p. 4.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

Table 2. Comparison of Lobster Export Values between Indonesia and Vietnam in 2016-2018

Year	Export Value (in USD)	
	Indonesia	Vietnam
2016	14,85 million	6,77 million
2017	17,32 million	6,12 million
2018	28,45 million	4,24 million

Based on the data, it is clear that if the policy on lobster seed exports is based on an economic approach, particularly national economic development, the choice to ban the export of lobster seeds becomes the better approach, especially in the long term. From the perspective of the fishermen's economy, the existence of lobster aquaculture not only ensures the sustainability of their income but also has the potential to improve their economic status. This aligns with the concept of blue justice, which prioritizes fairness in the utilization of marine resources. The blue justice concept opposes the capitalization of marine resource exploitation, emphasizing the rights of fishermen and the sustainability of marine resource conservation.<sup>34</sup>

## CLOSING

The determination of policies regarding lobster exports should not be left to the Minister through a Ministerial Regulation on Marine Affairs and Fisheries. Instead, it should be a Presidential policy, after consultation with the People's Representative Council, in the form of a law, given the impact that such a policy has on both environmental sustainable development and the economy of the society. Based on the approach of sustainable development and national economic development, the policy to ban lobster seed exports has a more positive impact than the legalization of such exports.

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<sup>34</sup> Sigrid Engen, et al, "Blue Justice: A survey for eliciting perceptions of environmental justice among coastal planners' and small-scale fishers in Northern-Norway", *PLOS ONE*, 2021, p. 2.

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