THE LAW AND INSTITUTIONAL ASPECT IN INCREASING THE EFFECTIVENESS AND EFFICIENCY OF THE COASTAL AREA MANAGEMENT[1]

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Abstract

This research is intended to identify the regulation and institution related to management of coastal area. Regarding the subject matter of this study, this research is a normative legal research. It employed several approach, i.e. conceptual approach and statutory approach.

From this research, find out that (1) the authority of coastal area management can be found in sector regulation such as tourism, environmental, land, mining, forestry regulation, etc. It consequence that many institution will take about the coastal authority, (2) From the Institutional view, the activities of cross sector, overlapping and potentially creating a conflict of authority, all of this, need the institutional system with integration and coordinating priority, (3) The institutional approach by clear authority, strong institution and good procedure, can be increased effectively by the management of sustainable coastal area.

Keywords: *Institutional Approach; Effective Management of Coastal Area*

Introduction

The study of the topic above, at least consist of 3 variables, which is: the legal aspect itself, institutional aspect, and aspect of efficiency and effectiveness in managing the coastal area. The legal aspect has a very wide range of spectrum and also could be defined from multiple points of view or perspectives. For the analysis requirements of this paper, the writer refers to the opinion of Mochtar Kusumaatmadja. He stated that basically, law is not simply about principles and norms, but it is also an institution, process, and procedure that bring law into reality. To see the relation between law and institutional, then law should be defined as authority which the definition could be found in various constitutional regulation, and institution which in this case have a function to make the content of the authority become a reality. Explicitly, institution needs an

[1] Some content in this writing had already been delivered in the Workshop of "Training of Trainers *Pengelolaan Pesisir Secara Terpadu* (Integrated Coastal Zone Planning Management (ICZPM)" on 6- 18 November 2006 at Bintang Sengigi Hotel, Mataram-Nusa Tenggara Barat

authority legitimation, the institution would not mean anything without the authority. Whereas the aspect of efficiency and effectiveness, is basically an economic aspect that is expected to become a result of the institutional based management that relies on the integration of the government institution that handles the management of coastal resources, private institution, and also public institution.

According to the logic above, in analyzing this paper, it would start by a research concerning the authority in the theoretical perspective, followed by the authority to manage the coastal resources, then the institutional study, and also integration as one of the institutional solution in increasing the efficiency and effectiveness in managing coastal areas, ended by several conclusion.

Authority Conceptualization

As a concept of public law, authority consists of at least three components, which is influence, legal basis, and legal conformity. The component of influence has a meaning that the using of authority is intended to control the action of legal subjects. The legal basis component means that the authority must always have a legal basis. The component of legal conformity shows the existence of authority standard which is legal standard (any kind of authority) and special standard (for certain type of authority).[2]

In the administrative law literature, there are two basic methods to acquire administrative authority, which is by attribution and delegation. Sometimes mandate is also placed as a method to acquire authority.

Attribution is an authority to make a decision (*besluit*) that is based directly from the constitution in the material sense. Other definition stated that attribution is a process of forming a certain authority and distributing it to certain organ. The one that could form an authority are competent organs based on the constitutional regulation. The formation and distribution of the main authority is usually defined in the constitution (UUD). The formation of administrative authority is based in the authority defined by constitutional regulation.

[2] Philipus M. Hadjon,*Tentang Wewenang*, Yuridika, nomor 5 & 6 XII September-Desember,1999, p. 2

Delegation is a transfer of authority (to create "*besluit*") by the government's official to other parties and such authority becomes the responsibility of the particular parties. The one that gives or forward the authority is called *delegans* meanwhile the acceptor is called *delegataris*. Forwarding an authority in the form of delegation must fulfill the following requirements:

a. Delegation must be definitive, which means that *delegans* cannot use the authority that is already being forwarded.
b. Delegation must base on constitutional regulation, which means delegation is only possible if the provision to conduct such action is stated in the constitutional regulation.
c. Delegation should not be given to subordinates, which means that delegation is not allowed in the relation of personnel hierarchy.
d. The obligation to give detail explanation, which means that *delegans* could request an explanation concerning the exercise of such authority.
e. The policy regulation (*beleids-regel*), which means that *delegans* should give instruction concerning the exercise of the authority.

According the requirements above, Soewoto described the characteristic of forwarding an authority or delegation which is:[3]

a. A delegation must be conducted by the competent institution;
b. A delegation will resulted in the loss of authority for the *delegans* in the determined periods;
c. *Delegaataris* must act on its own behalf and therefore a *delegataris* is responsible upon every exercise of power that arises from the delegation of such power.
d. "*Sub-delegatie*" could be conducted although it is not regulated in the law regulation.

Mandate is a forwarding of authority or power to the subordinate. *Mandataris* or the one that accept the mandate conducts the authority not on its own behalf but on the behalf

[3] Soewoto, *kekuasaan dan Tanggung Jawab Presiden Republik Indonesia* (disertasi), Fakultas Pasca Sarjana universitas Airlangga, Surabaya, 1990, p. 75.

of the mandate giver (“*mandant”*), therefore the mandate acceptor does not have an independent responsibility. The responsibility relies on the hands of the *mandants*.

The Authority in Managing Coastal Resources

As it already mentioned above, that in every concept of authority must always have a legal basis, therefore in order to understand further about the authority in managing coastal and sea resources, we need to trace the legal basis, especially the one in national constitutional regulation.

Article 33 Phrase (3) of the UUD 1945 stated that:” earth, water, and every resources contained within is the gift from God and owned by the State and used for the prosperity of the people.”

The UUD 1945 used the word “owned” to legitimize the state’s authority over natural resources and environment. Even though there are protests from various element of the society, especially NGO, concerning the terms “owned”, the people’s representative in DPR/MPR is still using the terminology “owned” in the amendment of UUD 1945. Therefore in the logistic-formal way, the terms “owned by the State” contains the meaning that state have an attributive authority to manage the earth (soil), water, and natural resources contained within. Bagir Manan defined the scope of “owned by State” is governing by way of ownership by the State, which means that State, through its (central) government is the sole authority holder to determine its own authority rights including the earth, water, and natural resources contained within. According to the definition in the Article 33 UUD 1945, what it means by water, besides water that exist in land, moreover the water in the coastal area and sea.[4]

Law Number 25 Year 2000 concerning the National Development Program (Propernas) Year 2000 – 2004) in Chapter X about the Development of Natural Resources and Environment Preservation, stated inter-alia that: “The main activity to be conducted is (1) Drafting the constitution concerning the management of natural resources as well as the regulation equipment…”. Although there are already mandates to conduct drafting of constitution concerning the natural resources, it even had repeatedly

[4] Bagir Manan, *Beberapa Catatan Atas Rancangan Undang-undang tentang Minyak dan Gas Bumi*, Diskusi Panel RUU Migas, Fakultas Hukum Universitas Padjajaran, Bandung, p. 1-2.

held an idea exposure in some region about the urgency of such constitution, the law itself has not been legislated until now.

Law Number 17 Year 1985 regulates the ratification of the United Nations Convention on the Law of the Sea (UNCLOS). The Law itself emphasize that “state have an obligation to protect and preserve marine environment” as stated in Article 192. Besides that, in Article 193 stated that: “states have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment”

In Law Number 17 Year 1985 concerning the Ratification of UNCLOS as well as in Law number 5 Year 1983 concerning Exclusive Economic Zone of Indonesia, although it gives sovereignty and authority to the Government of the Republic of Indonesia to manage the exploration and exploitation of the natural resources within the marine environment, it must always go hand in hand with the obligation to do a conservation. Normatively, the drafting of principles and/or norms in both Law shows a “contradiction”, because in one hand the law gives the authority to conduct “exploration “and “exploitation” towards the natural resources, but in other hand it urges the need to conduct “conservation”. In practicality, it is difficult to combine or unite “exploitation” with “conservation” in the strategy of the coastal area development. The effort to prioritize one of it would result in overriding the other.

In relation with the effort to conduct marine environment conservation in Indonesia, there had already a legislation on Law Number 6 Year 1996 which basically gives an authority to the Government of the Republic of Indonesia to exercise the utilization, management, conservation, and preservation of the marine environment in Indonesia. To optimize the authority given by such Law, the Law gives mandate to form a coordination body which is settled in the President’s Decision / Kepres (Article 23 Phrase (3) Law Number 6 Year 1996).

In the field of space layouts, there is the Law Number 26 Year 2007 (nullify the Law number 24 Year 1992) concerning Space Layout. There is no explicit explanation concerning the authority to manage the coastal or sea resources. Although being stated in preamble that the management of various natural resources in land, sea, and air, needs to be conducted in a coordinative and cohesive manner with the human resources and man-

made resources in the sustainable development pattern, but the matter regulated in the content of the Law of space layout, is still limited or dominated by the land space layouts. This could be understood if we take a look at the historical background. The leading sector is the Department of Infrastructure (Departemen Pekerjaan Umum), and the law of space layouts, based on the historical background, is meant to substitute the *stadvormingsordonantie* or the city forming decree, *Staatsblad* Year 1948 Number 168.

In line with the Law of space layouts, in the Law Number 23 Year 1997 concerning Management of Environment, it is also not explicitly stated the authority to manage the coastal and sea resources. Therefore, to find the legal basis of the authority to manage coastal and sea resources in Law concerning Management of Environment, it needs a method of legal interpretation. According to the provision in Chapter IV about the Authority to Manage the Environment, Article 8 (Phrase 1) stated that "*natural resources* are owned by the State and utilized only for the prosperity of the people, which *the regulation is determined by the government*."

Natural resources as mentioned in Article 8 Phrase (1) is described further in Article 9 Phrase (3) that include non-biological natural resources, conservation for man-made resources, *biological natural resources and its ecosystem conservation*, cultural sanctuary, bio-diversity, and climate change". According to the *extensive* interpretation, the conservation for biological natural resources and its ecosystem must also includes the biological natural resources that exist in land or coastal and sea.

The regulation of natural resources by the Central Government, as mentioned in Article 8 Phrase (1), has the meaning that the management of natural resources and environment is centralized. Nevertheless, there is a chance to give certain authority either by a mandate to the regional equipment or by delegation to the Local Government. Article 12 Phrase (1), stated that:" to establish integration and harmony in exercising national policy concerning the management of environment, the Government based on the constitution may: a. gives certain authority concerning the management of environment to the regional equipment (*mandate*), b. involving the role of Local Government to assist the Central Government in exercising the management of environment in regional level (*mandate*). Whereas in Article 13 Phrase (1) emphasize that: "in conducting the management of environment, Government may give some of its

affair to the Local Government to become the Local Government's own affairs" (*delegation*).

The authority to manage the sea resources could also be traced in the Law Number 5 Year 1990 concerning Biological Natural Resources and Its Ecosystem jo. Government Regulation Number 68 Year 1998 concerning the Natural Sanctuary Area and Preservation Area. The Law and Government Regulation did not mention the word "sea" but it is called "water area". Article 1 Phrase (9) Law Number 5 Year 1990, defines the natural sanctuary area as a place with certain characteristic, in land or water area which main purpose is to serve as conservation for the diversity of plants, animals, and also its ecosystem that is also functioning as a life supporting area. Furthermore in Article 1 number 13 concerning the natural preservation area, it is mentioned as a place with certain characteristic, *in land or water area* that bear the function to conserve the life supporting system, the diversity of plants, animals, and also the using of natural biological resources and its ecosystem.

The Law Number 5 Year 1990 explicitly stated that the management of natural sanctuary area and natural preservation area is the authority of the central Government. Article 16 Law Number 5 Year 1990 phrase (1) stated that:" the management of natural sanctuary area is conducted by the *Government* as an effort to conserve the diversity of plants, animal, as well as its ecosystem". The explanation of this article stated that: "the management of natural sanctuary area is the government's obligation as consequences of the state's ownership over the natural resources as mentioned in Article 33 UUD 1945". Be that as it may, in order to conduct the conservation of biological natural resources and its ecosystem, the central Government could give some of its affair in such field to the Local Government (*delegation*), and could also assign the Local Government to conduct those affairs as a supporting duty (*mandate*).

Different than the previous Law, the Law Number 31 Year 2004 concerning Fishery (substituting Law Number 9 Year 1985), regulates clearly and detailed about the authority to manage the fishery resources. However, if we examine through the aspect of the content's matter, it shows differences between Law Number 31 Year 2004 and Law Number 5 Year 1990. Law Number 5 Year 1990 is prioritizing the "conservation" aspect, while the Fishery Law is more prioritizing the "sustainable use", at least those are the

definition that could be found in the principles or norms in the Law. In other words, in Law Number 5 Year 1990, biological conservation and its ecosystem becomes the end result of the management activity, while in the Fishery Law, “conservation” is only used as a “sign” that must be obeyed in order to reach the real goal which is optimizing and productivity of fish resources, meaning that the Fishery Law is filled with economic interest. Article 1 number 7 Law Number 31 Year 2004 stated that:” Fishery management is all effort, including the integrated process in gathering information, analysis, planning, consultation, decision making, fish resources allocation, implementation and also law enforcement and constitutional regulation in the field of fishery conducted by the Government or other authority that is directed to reach the sustainable productivity of biological water area resources and aims that had been agreed”.

Related with the regional authority to manage marine resources, it is addressed in the Law Number 32 Year 2004 concerning the Local Government (State Paper of Republic of Indonesia Year 2004, Number 125, Additional State Paper of the Republic of Indonesia Number 4437). The provision in Article 18 Phrase (1) stated that: a region which has a marine area is given the authority to manage the marine resources.

The drafting of this norm contain the meaning that before the authority is given by the Central Government, region does not posses the authority to manage the sea. The authority given by the Central Government to the region is related with the marine affairs such as stated in Article 18 Law Number 32 Year 2004, basically is a form of further implementation of Article 33 UUD 1945, that stated: “earth, water, and natural resources contain within is owned by the State and used for the people’s prosperity”. Therefore, the provision in Article 18 Law Number 32 Year 2004 is a juridical ground for the existence of decentralization in the marine field, which acquired by “delegation” from central Government to the Local Government.

Different with Article 18 Law Number 32 Year 2004, the provision in Article 10 Phrase (1) Law Number 22 Year 1999, stated that: “Region has the authority to manage the national resources which is provided in their area and responsible to preserve the environment pursuant to the constitutional regulation”. The drafting of such norm contain the meaning that there are authority distribution vertically.

According to Philipus M. Hadjon, basing to the provision of UUD 1945, there are 2 patterns in distributing the power of the state, which is *distribution of power horizontally and vertically*. The distribution of State power horizontally is distributing the power of state to the State's main organ which is called State Institution, while distribution of State power vertically is distributing the power of State between the Central Government and the Local Government.[5]

The distribution of the State's power vertically based on the provision of Article 1 Phrase (1) UUD 1945 is that Indonesia is a unitary state, if it is related with Article 18 UUD 1945, then the idea of a unitary state is not centralistic. Because the UUD 1945 does not describe clearly about the exercise of decentralization principle and regional autonomy system, there are variety of ways to conduct decentralization principle and regional autonomy system in the history of Indonesian constitution. Therefore, if we look from the constitutional law or the administrative law, the norm in Article 10 Phrase (1) and (2) Law Number 22 Year 1999 shows the existence of decentralization in the marine field, and region posses the authority to manage the resources in sea area "*attributively*".

Institutional Management of the Coastal and Sea Resources

It had already mentioned above that what it means by institutional is limited to the definition of institution with direct or non-direct competence related with the management of coastal and sea resources. According to the result of inventory, institution that have a relation with the management of coastal and sea resources are: Department of Energy and Mineral Resources, Department of Transportation, State Ministry of Tourism, Art, and Culture, Department of Maritime and Fishery, Department of Forestry, Department of Foreign Affairs, Department of Defense, the Navy of Indonesian Armed Forces (TNI AL), Department of Internal Affairs, Institution of Analysis and Implementation of Technology (BPPT), Department of Law and Human Right, Department of Labor and Administration, the Ministry Office of Environment, Coordinative Minister of Economy and Finance (MENKO EKUIN), Bappenas, Police

[5] Philipus M. hadjon, *Sistem Pembagian Kekuasaan Negara*. Stadium General in Universitas Wrma Dewa Denpasar Bali, Without Year, p. 1.

(Polairud), Institution of Defense and National Security (LEMHANAS), each have their own authority, responsibility, and different range of sea territorial.

The existence of those institution shows that the responsibility or the authority of marine development involves various institution. Therefore, it is impossible to develop the marine area, in the broad definition, only by a State Institution that has limited authority such as the Department of Maritime and Fishery. If the maritime field is used as a superior sector in the national economic in order to bring prosperity for the people, then it needs a development policy that is integrates each institution and development sector.

In order to approach that, according to Tridoyo, it needs an ocean development policy as part of ocean policy that later becomes an "umbrella" in taking a public policy. The creation of this umbrella is build by institutional arrangement that reach 2 domains in a government system, which is legislative and executive. In the legislative level, with the function that they have based on the constitution, such as legislation function, budgeting function, and controlling function, this institution is expected to be able to create institutional instrument in form of constitutional regulation, whether in central level or regional level to support the ocean development policy.[6]

In building a synergized relation between institution that is related with sea, problems often occurred in the sector stage due to the different interpretation in understanding the constitutional regulation especially the one related the main duty and function or authority based on the constitutional regulation that become the ground of each sector.

In the long term perspective, like what had been mentioned before, the sector ego may caused a contra-productivity in the sustainable development of coastal and sea area. Therefore, it needs a same perspective to see the bigger goal which is national development in the ocean field as addressed in the National Development Program (Propenas). In relation to that, the issue of integration is very important as a solution to minimize the sector's arrogance that might hampers the national interest in maritime fields.

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[6] Tridoyo Kusumastanto. *Rekonstruksi kebijakan Pembangunan Kelautan,* paper was presented in "Indonesia Ocean Outlook 2004" Laut Masa Depan Bangsa", Study Centre of Coastal and Ocean Resources, Institute Pertanian Bogor, 2004, p. 13.

Integration of the Coastal and Sea Resources Management

"Integration", is the keyword that is needed as an effort to search and find a solution for various problems that is caused by the overlapping of activities, the conflict of authority between institutions, and also other complex issues. Although the word "integration" was mentioned explicitly in many constitutional regulations, but in practicality, it is difficult to implement it.

In the maritime field, the problem of integration and/or coordination becomes something urgent to be solved. There are some maritime management aspects that become a great issue which contain the aspect of economy, ecology, oceanography, service, tourism, social-culture, in which all of them needs integration as a solution to eliminate the sector's ego in some institution that deals with maritime affairs. On the other side, the factual condition shows that maritime development is still running independently. Some of the State institution that have interest upon coastal and sea area, makes a policy with sector based characteristic. It must be admitted that, in times when there are no mechanism or institutional arrangement that could synergize and combine the policy of coastal and sea area development. The impact of handling a case in developing coastal and sea area is that it often arise a conflict of interest. The settlement of coastal sand case in Riau is one example of conflict between state institutions, which is the Department of Energy and Mineral Resources, Department of Industry and Trade, and Department of Maritime and Fishery.

Table 1

No.	Main Issue	Problem	Relation between Institution
1.	Ocean Sand in Ocean Mining	-Environment destruction -Illegal exploitation -Decreasing number of work for fisherman -Conflict of interest between central government and local government -Indication of Corruption, Collusion, and Nepotism (KKN)	-Department of Energy and Mineral -Department of Maritime and Fishery -Department of Industry and Trade -TNI-AL -State Ministry of Environment
2.	Catch fishery	-Fish stealing by foreign boat -Weak supervision -Conflict between traditional	-Department of Maritime and Fishery -Polairud

		fishermen and foreign modern fishermen	
3.	Small island	-rumors of threat that 4000 island would sink in 2012 -ecosystem destruction	-Department of Maritime and Fishery -State Ministry of Environment -BPPT
4.	Maritime Tourism	-the destruction of Indonesia's coral reef which is almost 70% with the estimated loss of US$ 45 million/year -Destruction of the Mangrove Forest in every coastal area of Indonesia	-State Ministry of Tourism, Art, and Culture -Department of Maritime and Fishery -Department of Transportation -Department of Industry and Trade
5.	Fishery cultivation	-Virus that creates the death of prawns in Java	-Department of Forestry State Ministry of Environment
6.	Public harbor and fishery, and a weak National Naval Armada	-Shallow traditional harbor -harbor permits that is not decentralized -low competitive sea transport	-Department of Industry and Trade -Department of Maritime and Fishery -Department of Transportation
7.	Small island in the border	-Possibility of being detached from Indonesia -the border problem	-Department of Kimprawsi
8.	Embargo of the fishery products	-the threat of embargo to our fishery products	-Department of foreign Affairs -Department of Defense -TNI-AL -Department of Maritime and Fishery. -Department of Industry and Trade
9.	Maritime human resources	-fishermen with low knowledge and information on how to utilize ocean's resources -Indonesian seamen which is not competitive	-Department of Maritime and Fishery -Department of Transportation -Department of Kimpraswil

10.	Degradation of the coastal and sea area	-the soiled biological resources because of the heavy metal and wastes that destroy fishpond industry -beach abrasion in some area in Indonesia	-Department of Maritime and Fishery -State Ministry of Environment
11.	Maritime Security	-Fishermen feels unsecured in conducting their activity -companies feels unsecured to transport their goods by sea	-Department of Defense -Polairud -TNI-AL -Department of Maritime and Fishery
12.	Fishery products retribution	-unclear authority to obtain retribution of fishery result in the era of local autonomy	-Department of Maritime and Fishery -regency/city and provincial government
13.	Violation of human right	-the using of child labor in the maritime business	-Department of Labor and Transmigration -Department of Maritime and Fishery -Department of Law and human Right -Department of Industry and Trade
14.	-Maritime People's Work Unit (UKM)	-Chance of leakage -Management and allocation mechanism	-Department of Maritime and Fishery -Bank Indonesia, handling bank -State Ministry of cooperation and PPK

According to the study done by Tridoyo from various sources, he obtain an explanation regarding the main issue and problem in the field of ocean as well as the relation between institutions, like what is stated in the table.[7]

To integrate the coordination in order to create an effective management of coastal area, Morten Edvardsen propose 4 dimension, which are:[8]

[7] Tridoyo Kusumanto, *Ocean Policy dalam Membangun Negeri Bahari di Era Otonomi Daerah*, Gramedia Pustaka utama, Jakarta, 2003, p.16-17.

[8] Morten Edvarsden, *Coastal Zona Planning and Management in the North Sea Region Organizational Aspects*, in the littoral Journal, 2002, the Changing Coast EUROCOAST Porto Portugal, p. 11

a. Horizontal integration of policies, management arrangements, and development plans (amongst different sectors, services, and agencies);
b. Vertical integration of policies, management arrangements, and development plans (from national through to local level of government);
c. Territorial integration taking into account the interrelationship and interdependencies between terrestrial, estuarine, littoral, and offshore components of the zone;
d. The consistent integration of policies, plan, and managements strategies through time.

Specifically, Tommy Poerwaka, argue that to establish a cohesive management, each institution that is related to the management of coastal and sea area must know what activities that could and could not be combined and also how to combine it. To put it simple, Tommy argue that there are two or more activities that could be combines if it fulfills the principle of compatibility which consist of 3 types, complete compatibility, partial compatibility, and incompatibility. Complete compatibility happens when two or more activities could be exercised at the same time and same place; partial compatibility happens if two or more activities could be exercised consecutively in the same place, but in a different time; incompatibility happens when two activities could not be exercised at the same time or consecutively in the same place.[9]

In practicality, the activity that is easy to combine is services creating a plan and program together. Activities that are more difficult to combine are activities to make or draft the rule (norm creation). The most difficult activities to be combined is the implementation and rules observance. If it is being implemented in the management of coastal and sea resources, broadly speaking that the planning aspect of natural resources in sea is considered easy, organizing is more difficult, the actuating and controlling is the most difficult.

The parameter of easy and difficult is basically relative and case-by-case. Relative means that something looks easy but in fact it becomes difficult in reality, as it also in the

[9] Tommy Poerwaka, *Sistem Hukum dan Kelembagaan dalam Pengelolaan Sumberdaya Wilayah Pesisir dan Lautan,* (paper), Jakarta, 2002

contrary, case-by-case means that everything depends from the position of the case. Each stage in the process of management, it is usual to find a problem that needs to be solved. In the planning stage for instance, the increasing number of development that needs a land in the coastal area, either in places to obtain mineral natural resources or a location for other economic activities, has increased the number of conflict in utilizing the coastal space as well as the bad influence created by one activity to the other. Therefore, it needs a decent space layout planning, meaning that it is an activity to determine the location planning of various activities in the area for the utilization of the existing space and resources, optimally.

From the explanation above, it could be emphasized that through an institutional approach, by way of doing an authority and institutional arrangement, it could establish efficiency and effectiveness in managing coastal and sea area resources. The authority and institutional arrangement also needs a perfection of procedure or mechanism. This is important, recalling the fact that an accumulation of various public activities to utilize the coastal area, as a person or legal entity, is often happening. It is usual to utilize the coastal area by obtaining permission from the competent officer through the responsible institution. In such case, law in terms of authority and management of coastal area institution, should be made in such manner that it involves the economic potential that exist in coastal area. Thus, the procedure or mechanism is made as simple as it gets to abridge the society in order for them to participate in utilizing the coastal area potency. All could be done by still keeping the conservation and the coastal area conservation could be done optimally.

Conclusion

According to what already being explained above, it could be concluded that the authority of managing the coastal and sea resources is scattered in various constitutional regulation (sectored), such as tourism, environment, space layouts, land, mining, forestry, etc. The result is that the problem of coastal area is being handled by various institutions. This condition has the potential to create a conflict of authority between each institution, from the institution point of view, the activities related to each other by means of cross-sector, overlapping activities, and the increasing of those conflict of authority and

interest, oblige the institution to use integration a their main characteristic. Related to this, the management of coastal resources needs principle of law concerning authority and what legal norms are used in case of a dispute between institutions. Institutional approach through arranging authorities, institution, and procedure in managing coastal resources, is one strategic way to support the increasing of sustainable efficiency and effectiveness in managing coastal resources

References

Bagir Manan, *Bebrapa Catatan Atas Rancangan Undang-undang tentang minyak dan Gas Bumi,* RUU Migas panel discussion, Law Faculty of Universitas Padjajaran, Bandung, 1999.

Mochtar Kusumaatmadja, *Fungsi hukum dalam Pembangunan Nasional*, Criminology Institution of Universitas Padjajaran Bandung, 1976.

Morten Edvardsen, *Coastal Zone Planning and Management in the North Sea Region – Organizational Aspects*, Littoral Journal, 2002, The Changing Coast EUROCOAST – Porto Portugal.

Philipus M. Hadjon, *Tentang Wewenang*, Yuridika, Number 5&6 XII September-Desember 1999.

_____, *Sistem Pembagian Kekuasaan Negara*, Stadium General in Univarsitas Warma Dewa Denpasar Bali, without year.

Rokhimin Dahuri (et.al), *Pengelolaan Sumberdaya Wilayah Pesisir dan Lautan Secara Terpadu*, Pradya Paramitha, Jakarta, 1996.

Soewoto, *Kekuasaan dan Tanggungjawab Presiden Republik Indonesia* (dissertation), Master Program Faculty of universitas Airlangga, Surabaya, 1990.

Siti Sundari Rangkuti, *Hukum Lingkungan dan Kebijaksanaan Lingkungan Indonesia* (third edition), Airlangga University, Surabaya, 2005.

Tommy Poerwaka, *Sistem Hukum dan Kelembagaan dalam Pengelolaan Sumberdaya Wilayah Pesisir dan Lautan,* (paper), Jakarta, 2002.

_____, *Hukum dan Perundang-undangan Bidanf Kelautan dan Perikanan*, paper is delivered in the Workshop for PTN/PTS Lecturer concerning the Planning and Managing of Coastal and Sea resources as a Sustainable Effort to Support Coastal

Society, cooperation of Bagpro PKSDM DIKTI Depdiknas and Universitas Mataram,2004.

Tridoyo Kusumastanto, *Rekonstruksi Kebijakan Pembangunan Kelautan*, paper is delivered in "Indonesia Ocean Outlook 2004" Laut Masa Depan Bangsa", Centre for Coastal and Sea Resources Study, Institut Pertanian Bogor, 2004,

_____, *Ocean Policy dalam Membangun Negeri Bahari si Era Otonomi Daerah*, Gramedia Pustaka Utama, Jakarta, 2003.

_____, *Reposisi "Ocean Policy" dalam pembangunan Ekonomi Indonesia di Era Otonomi Daerah* , (Speech at the Scientific Oration as professor in the fieal of Maritime and Fishery), Institut Pertanian Bogor,2002