

## Criminal Action of Coral Reef Destruction on Kayoa Island, South Halmahera Regency



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**ABSTRACT:** This study aims to find out what factors make people commit criminal acts of destroying coral reefs on the island of Kayoa and how to enforce the law against people who commit criminal acts of destruction of coral reefs on the island of Kayoa. The type of research used in this research is using empirical research methods. This method is used to identify the law, and research on the effectiveness of the law. Legal research is focused on testing the community's compliance with a legal norm with the aim of measuring the effectiveness or not of an applicable legal arrangement or material. The results of this study indicate that the factors that influence people to commit criminal acts of coral reef destruction are due to geographical, social and economic factors so that people carry out mining of coral reefs that are already in violation of applicable law. Law enforcement against people who commit criminal acts of coral reef destruction is ineffective due to the lack of socialization from the local government to the people of the island of Kayoa, the village, so that people carry out coral reef mining.

**KEYWORDS:** Action, Crime, and Coral.

### I. INTRODUCTION

The State of Indonesia which was born since the proclamation of August 17, 1945 as an independent and sovereign country, the vast territory of Indonesia from Sabang to Merauke contains small islands and large islands where each island has very large natural resources. Abundance on land and in the sea This is a gift from Allah SWT who must be grateful and be used as capital for the Indonesian nation to manage the natural wealth that exists on land and at sea to gain prosperity for Indonesian citizens..

Law No. 1 of 2014 concerning amendments to Law No. 27 of 2007 concerning the management of coastal areas and small islands in this regulation regulates the activities of planning, utilizing, monitoring and controlling in coastal areas by humans in the utilization of coastal resources and small islands to improve human welfare in advancing the Unitary State of the Republic of Indonesia. Departing from the law above, it also regulates the prohibition sanctions which are in article 35 and there is also a criminal sanction in article 73 letter a.

The prohibition sanction in article 35 which reads as follows; In the use of the Coastal Zone and Small Islands, everyone is directly or indirectly prohibited from mining coral reefs that will affect the coral reef ecosystem, taking coral reefs in conservation areas, and also using explosives, other toxic materials that indirectly damage the ecosystem. Coral reefs. The punishment in article 73 letter which says that is to be sentenced to a minimum of 2 (two) years in prison and a maximum of 10 (ten) years in prison and a criminal fine of at least Rp. 2,000,000,000.00 (Two billion rupiah) and a maximum of Rp. 10,000,000,000.00. (Ten billion rupiahs). Regarding coral reefs, in Article 9 paragraph (1) of the environmental material decision number 4 of 2001 concerning the standard criteria for coral reef damage, it is stated that the Governor/Regent/Mayor shall supervise the businesses and or activities which are estimated to result in damage to coral reefs. Causing damage to coral reefs. The province of North Maluku is one of the provinces in eastern Indonesia and North Maluku which has small islands as well as large islands and where each island has abundant natural resources. Abundance is found on land or in the ocean.

North Maluku, especially in South Halmahera Regency, which has abundant marine resources, but the people in the South Halmahera archipelago do not have awareness of the management of natural resources in the sea, the people of South Halmahera, especially in the Kayoa archipelago, where people Kayoa destroys the ecosystem around Kayoa Island where the people of Kayoa Island have indirectly done damage on the island, especially those damaged are coral reefs where the community destroys or removes reefs and the community carries out coral reef mining to make materials. The house is the foundation for building

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settlements for residents who live on the coast of Kayoa Island, which results in the impact of breeding fish in the area damaged by the community and the destruction of coral reefs will slow down. The breeding of fish in the coral reef management area that the community does not only makes fish breeding late but also makes fish on the coast away from the coast or shoreline. The destruction of coral reefs in the Kayoa Islands itself will have an impact in the future, but why don't the authorities do prevention or provide socialization to the people who do the coral reef destruction.

### **II. LITERATURE REVIEW**

#### **1. Overview of Crime**

##### **a. Definition of Crime**

Talking about the management of criminal acts must begin by looking for similarities and the nature of the crime. From the similarity of these characteristics, measures or criteria can then be found to distinguish a group of criminal acts from other groups; and from each of these groups it may be possible to reach 2 (two) more subgroups. This is a characteristic of science that systematically makes it possible for researchers to gain views on various phenomena in certain scientific fields in the field of criminal law. So the characteristics that exist in every criminal act are those that violate the law (wederrechtelijkheid, onrechtmatigheid). There is no crime without violating nature.

##### **b. Jenis-Jenis Tindak Pidana**

The types of criminal acts that classify or classify, namely according to the desired basis as well as in the crime itself, classify criminal acts or offenses into two major groups, namely in book two and book three, each into a group of crimes and violations because of that the chapters are grouped according to the targets that the Criminal Code wants to protect against these crimes.

##### **c. Elements of a crime**

According to the science of criminal law, an action can be an *een doen* or *een niet doen* or it can be a "thing to do something" or "a thing not to do something" the latter in doctrine is often referred to as *een nalaten* which means "the matter of passing something that is required (by law)". Every criminal act contained in the Criminal Code can generally be broken down into elements which we can basically divide into 2 (two) elements, namely subjective elements and objective elements.

#### **2. Marine Ecosystem Concept**

##### **a. Understanding Marine Ecosystems**

The marine ecosystem is a complex of life in the sea which includes biotic (living) and abiotic (non-living) elements. Elements of marine ecosystems such as fish, coral, algae, and anemo. While the abiotic elements include water, oxygen, sunlight, salt, sand and stones, there are several marine ecosystems that have different types of marine ecosystems as follows.

##### **b. Types of Marine Ecosystem**

Ecosystems occur because of the literature between living things and the environment in the marine area. This ecosystem must be preserved because it provides many benefits for life, such as as a place, research, as a food resource, and as a source of tourist attraction, as well as a place for cultivating coral reefs, not only for cultivating coral but also for cultivating seaweed, pearls, fish and others. There are indeed many types of this ecosystem that can be seen from the location and amount of sunlight received.

#### **3. Coral Reef Concept**

##### **a. Understanding Coral Reefs**

Coral reefs are a group of coral animals that live in symbiosis with a type of algae called zooxanthellae. Coral reefs are included in the phylum Cnidaria, class Anthozoa, consisting of two subclasses Hexacorallia "or Zoantharia" and Octocorallia, both of which are distinguished by their morphological and physiological origins. Coral colonies are formed by thousands of tiny animals called polyps. In its simplest form, this coral consists of only one polyp which has a tube-like body shape with a mouth located at the top and is surrounded by tentacles.

##### **b. Coral Reef Ecosystem**

Coral reefs are one of the home ecosystems which are very productive and too diverse, the variety of animals that live around coral reefs, coral reef ecosystems provide direct benefits to humans. It is more important for coral reefs to support the survival of the surrounding ecosystems which are also the foundation of human life. Coral reefs are indeed very unique in their social nature between marine biota and humans. This coral reef is built biologically it is a massive deposit of limestone CaCO<sub>3</sub> (calcium carbonate) which has been mainly produced by coral animals with the important addition of calcareous algae and other lime-producing organisms.

##### **c. Causes of Coral Reef Damage**

The cause of damage to coral reefs is very influential with the proliferation of various types of fish and marine animals and affects the preservation of coral reefs. But unfortunately at this time, coral reef ecosystems are threatened with extinction because many

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are damaged due to the causes of coral reef damage such as illegal coral reef harvesting, coastal development, and waste pollution.

### **4. Criminal Provisions against Coral Reef Destruction Perpetrators**

Coral reefs are one of the ecosystems associated with fisheries resources. This is in connection with the direct or indirect violation of coral reef destruction carried out by the community who committed the direct or indirect crime of coral reef destruction carried out by coastal communities. Departing from this, the criminal provisions for the perpetrators of acts of destruction of coral reefs have been regulated in Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands in which the perpetrators of criminal acts of destroying coral reefs will be subject to prohibition and sanctions. Criminal sanctions in which the prohibition is different from article 35 of the Law on the Management of Coastal Areas and Small Islands and criminal sanctions in article 73 paragraph 1.

As for the criminal act of destroying coral reef ecosystems, which is stated in Article 73 letter a, which reads as follows:  
Article 73 letter a

Sentenced to a minimum imprisonment of 2 (two) years and a maximum of 10 (ten) years and a minimum fine of Rp. 2,000,000,000.00 (two billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah). And any person who intentionally conducts coral reef mining activities or takes coral reefs in coastal areas using explosives and toxic materials or in other ways that cause damage to coral reef ecosystems as referred to in Article 35 letters a, b, letter c, and letter d.

## **III. METHOD**

### **1. Research Type**

In this paper, the author uses an empirical type of research in which the law is a social phenomenon that affects aspects of social life, namely a legal research to find out to what extent the implementation of the Law on the Management of Coastal Areas and Small Islands in the Kayoa Islands, South Halmahera. Empirical legal studies emphasize the importance of placing law in social contests, this empirical side study still departs from normative studies.

### **2. Research Location**

The research location that I took is a place or area where the research location will be carried out on Kayoa Island, South Halmahera Regency. In the context of preparing a thesis to obtain the data needed by the author, it will be held at a research site that is directly related to the community and those who do damage to coral reefs in the research location with the problem being examined.

### **3. Types and Sources of Data**

Types and sources of data are usually in research, between data obtained directly from the community and from library materials. The first is called primary data or basic data (primary data or basic data) and the second is called secondary data (secondary data). Primary data is obtained directly from the first source, namely the behavior of community members through research. Secondary data, among others, includes official documents, books, and research results in the form of diary reports and so on.

### **4. Data Collection Techniques**

**a.** Field research is the collection of data obtained directly from the research location in the form of direct interviews with the coconut villages of the Kayoa Islands, the community and the authorities, namely the South Halmahera Polirud.

**b.** Research is the study of documents by looking for things related to secondary data such as library materials including books, journals, internet, newspapers and legislation.

### **5. Data Analysis Techniques**

The data analysis technique used in this study uses descriptive quantitative data analysis techniques where when a person conducts research in the form of legal behavior (legal behavior) of society, of course it cannot make observations of all individuals in the community who want to be investigated and/or It is not possible to study the entire population.

## **IV. RESULTS AND DISCUSSION**

### **1. What are the factors that cause the community to commit criminal acts of destroying coral reefs on Kayoa Island?**

South Halmahera Regency is one of the regencies in one of the North Maluku provinces, which in South Halmahera Regency consists of several sub-districts, namely from 30 sub-districts and there are also villages within the South Halmahera district which consists of 244 villages which have been counted from 30 sub-districts. One of the sub-districts in the South Halmahera district is the South Kayoa sub-district which has a wealth of marine natural resources, but in fact there is often coral reef mining. Why this often happens in the south kayoa sub-district which is in the village of passing, the author will describe:

#### **a. Geographical**

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South Halmahera Regency consists of 30 sub-districts. The capital city of South Halmahera district is Bacan sub-district which is located on Bacan Island, the sub-district which has the furthest distance from the district capital is Gane Timur District, which is 272.6 km from Bacan sub-district. Up to seven meters above sea level (mpdl). Geographical factors in the South Kayoa Sub-district are very far from the sub-district or the capital of South Halmahera, namely Bacan sub-district which is 107.4 km from the South Kayoa sub-district which coincides with Lalin Village. houses and roads in the village where the community's actions have violated Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands which the community has violated Article 73 which regulates the criminal act of destroying coral reefs.

### **b. Social**

Polairud South Halmahera once provided socialization in the South Kayoa sub-district which coincided in Lalin Village to people who committed crimes of destroying coral reefs or removing coral reefs. However, South Halmahera Polairud did not give warnings or arrest people who were mining coral reefs. The community of Lalin Village has a need for coral reef mining or coral reefs that are taken by the community to build houses such as making house foundations and hoarding houses and rocks that are taken are not only made as house foundations and heaps, but rock extraction is also carried out in the village. Make it as a wall for residents' houses in Lalin Village and also make roads in the village piled up using 1.10 km long rocks and 4 meters wide roads where the hoarding of making village roads almost 100% of rock was proposed by the head village and also the construction of the road using the village fund budget. Where the Lalin Village Head has served as the Village Head from 2017 until now there has only been socialization from Polairud in 2019 because there are Lalin Village people doing fish bombings and from Pika Polairud socializing about the bombing and rock mining carried out by the Village community pass.

### **c. Economy**

North Maluku Province, which coincides in South Halmahera, South Kayoa Subdistrict, Lalin Village, basically the income of the fishermen of the Lalin village depends on marine resources, namely fish, not only fish, the community uses it as an economy, but the community also does coral mining and marine resources, namely fish is not only fish, the community makes it their economy, but the community also carries out coral reef mining and sand mining where the community is mining coral reefs and sand to make it their livelihood to pay for school fees for children who live in the area. in the village of Lalin where income from the sale of percubic rock is sold by rock miners at a price of Rp. 150,000 and the selling price of sand with a price of Rp. 10,000 per sack from there so that the village community goes through coral reef mining and sand mining to be used as a livelihood to be used as an economic livelihood in the village, not only coral reef mining and sand mining which is carried out in the village. Make it as an economic livelihood there are also people selling fish.

#### **1. Law Enforcement against Communities Committing Criminal Acts of Coral Reef Destruction on Kayoa Island**

The efforts of the South Halmahera Police Resort in taking action against the perpetrators of the crime of destroying coral reefs in the South Halmahera region under the auspices of the North Maluku Provincial Police are to enforce the law in the waters and maintain security and order in the waters of South Halmahera in taking action against the perpetrators of the destruction of coral reefs and other measures. Police efforts can be described as follows:

##### **a. Preventive Effort**

Preventive efforts carried out by the South Halmahera Police Water Police unit include the following:

**1.** Legal counseling, this activity is carried out in various ways and forms, for example through mass media, leaflets/pamphlets or directly holding socialization or just a regular meeting with the community to discuss the applicable law so that the community knows about the law and is expected to obey and implement it. laws or regulations that have been established, provide an understanding of the importance of preserving the sea and the ecosystems in it, as well as convey the dangers of damaging coral reefs for actors and the community, urge the entire community to immediately report to the police if there is any act of damage to coral reefs.

**2.** Conduct regular patrols and directly involve the community to play an active role and support and assist in monitoring the practice of destroying coral reefs that occur and establishing an effective and continuous joint security system under the coordination of the police.

##### **b. Repressive Effort**

Repressive measures are a last resort in preventing coral reef damage by using materials in the form of crowbars, namely by taking action against the perpetrators according to their actions and repairing them so that they are aware that their actions are unlawful and detrimental to the community, so they do not repeat it and other people will not do so considering the sanctions he bears are very heavy. This repressive measure was taken by the police to keep the community away from the factual threats that had occurred by providing firm and consistent action so as to deter the perpetrators. Departing from this repressive effort, Andri Budi Santoso in his interview explained:

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“Legal efforts in the form of repressive actions carried out by the police in this case the South Halmahera Police Water Police Unit in tackling the crime of coral reef destruction that occurred in the jurisdiction of the South Halmahera Police, namely pursuing and arresting perpetrators based on sufficient preliminary evidence suspected of being perpetrators of criminal acts of coral reef destruction”

Based on the author's interview with Danmarnir Polair, when the research was conducted, it is known that there were several efforts made by the South Halmahera Polres, including arresting and confiscation of objects or goods suspected of being related to the crime in question, carrying out search operations. If there are indications of objects or goods in the form of materials such as crowbars that are still in or stored by the perpetrator in a place, take action against the perpetrator who is feared to escape, repeat the crime and eliminate evidence, conduct an examination of the perpetrator and the witnesses who knows the occurrence of the criminal act of destroying coral reefs and applies the article that is suspected of the perpetrator of the crime of destroying coral reefs appropriately, in connection with the efforts made so that the criminal act of Damage to coral reefs that occurred in the waters of South Halmahera located in the southern Kayoa sub-district of the village through the period 2017-2021 which had been handled by the South Halmahera Polres Sat Polair is as follows:

In handling cases of coral reef destruction, it is necessary to have laws and regulations that are used as guidelines in taking action against the perpetrators of coral reef destruction. -Law No. 27 of 2007 in accordance with international provisions in the field of fisheries and accommodate the problem of coral reef destruction and can keep pace with the current technological advances. In the implementation of law enforcement at sea, this law is very important and strategic because it involves legal certainty in the sector of coastal areas and small islands. Andri Budi Santoso explained that:

“With the implementation of Law no. 27 of 2007 concerning the management of coastal areas and small islands, various legal provisions regarding the monitoring system are increasingly firm and have a bigger role, such as stopping, examining, arresting, and criminalizing perpetrators of coral reef destruction. It is also hoped that the use and application of appropriate laws and regulations can provide strict sanctions to perpetrators of coral reef destruction and provide a deterrent effect to perpetrators so that criminal acts of coral reef destruction can be eradicated and minimized”

Departing from the results of the interview above, according to the author, what has been explained by the South Halmahera Police Polairud does not correspond to what is happening with the reality on the ground that coral reefs are still being damaged until now because there is no socialization from related parties, such as: The Environment Service, Maritime Affairs and Fisheries Service and Polairud have never come to Luluin Village to provide socialization to the community on the activities carried out by the Luluin Village community against the crime of destroying coral reefs and until now, the South Halmahera Polairud party has never made any arrests. Against the perpetrators of Coral Reef Destruction located in the South Kayoa District which is located in the Luluin Village.

## **V. CLOSING**

### **1. CONCLUSION**

a. Factors that influence so that people commit criminal acts of coral reef destruction can be seen from Geographic, Social and Economic factors so that people commit criminal acts of coral reef destruction.

b. Against several obstacles by the marine and fisheries service and the South Halmahera environmental service and also the South Halmahera Polairud in the waters of the village of Luluin, namely the lack of budget for socialization and research activities against groups that commit criminal acts of destroying coral reefs and the lack of facilities and infrastructure such as lack of patrol boats to carry out surveillance in the waters of South Kayoa, South Halmahera Traffic Village.

### **2. SUGGESTION**

a. It is hoped that the law enforcers of South Halmahera, namely Polairud, will provide socialization and deterrence effects to people who carry out coral reef mining carried out by the people of Kayoa Island, Luluin Village.

b. Lack of socialization by the relevant government, in this case the relevant government, namely the Department of Marine Affairs and Fisheries and the South Halmahera Environment Service, the lack of socialization to the people of Kayoa Island, Luluin Village, where the people there carry out coral reef mining.

## **REFERENCES**

- 1) Ali, Zainuddin. 2017. Metode Penelitian Hukum. Jakarta: Sinar Grafika.
- 2) Gatot Supramono. 2011. Hukum Acara Pidana & Hukum Pidana Di Bidang Periklanan. PT Rineka Cipta. Jakarta
- 3) Prodjodikoro, Wirjono. 2012. Tindak-Tindak Pidana Tertentu Di Indonesia. Bandung: PT. Refika Aditama.
- 4) Soekanto, Soerjono. 2015. Pengantar Penelitian Hukum. Jakarta: Universitas Indonesia.

## **Criminal Action of Coral Reef Destruction on Kayoa Island, South Halmahera Regency**

- 5) Teguh Praseryo, 2012, Hukum Pidana, PT Raja Grafindo Perseda, Jakarta
- 6) Biologi Laut, Ilmu Peetahuan Tentang Biota Laut, Kasijan Romimohtarto& Sri Juawan, hlm. 321

### **LEGISLATION:**

- 1) Undang-undang No 27 tahun 2007 tentang pengelolaan wilayah pesisir dan pulau-pulau kecil.
- 2) Undang-undang No 1 Tahun 2014 tentang perubahan Undang-undang No 27 Tahun 2007 tentang pengelolaan wilayah pesisir dan pulau-pulau kecil

### **OTHER SOURCES:**

- 1) [www.kompas\\_mengenai\\_ekosistem\\_laut.com](http://www.kompas_mengenai_ekosistem_laut.com) | diakses Rabu 14 April 2021.