



## Issues and Solutions of Legal Protection for Marine Mammals in Indonesia

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### Abstract

The government has tried to protect marine mammals through Marine Protected Areas (MPA) contained in laws and regulations. However, the lack of conservation areas specifically designed for marine mammals and several counterproductive laws have created problems in efforts to protect marine mammals. This research was carried out using normative legal research methods through literature studies that examined mainly secondary data. Several issues related to the extinction of marine mammals arise due to the lack of protected areas specifically designed for marine mammals, overlapping management institutions, and centralization of power, which makes efforts to manage marine areas complex and challenging to recognize the existence of indigenous peoples. The government can implement several solutions related to this problem, including expanding the conservation areas specifically designed for marine mammals, clarifying and synchronizing any regulations governing institutional authority, and recognizing the existence of indigenous peoples and their traditions.

**Keywords:** legal protection, marine mammals, legal regime

## I. Introduction

The vast territorial waters of Indonesia have abundant marine and fishery natural resource potential. One of them is marine mammals, which are a unique resource for Indonesia. Currently, Indonesia has at least 35 marine mammals, including the orders *Cetacea* and *Sirenia*.<sup>1</sup> In Indonesia, many marine mammals are found in the eastern seas, which tend to have depths, such as the Savu Sea, Arafuru Sea, Sulawesi Sea, Komodo Island Waters, Raja Ampat Waters, and other Seas in the Sahul Shelf. In addition, marine mammals are also found in relatively shallow waters, such as the North and South waters of Java, Sumatra, and Kalimantan.<sup>2</sup>

<sup>1</sup> Directorate General of Marine Spatial Management, Konservasi Perairan sebagai Upaya Menjaga Potensi Kelautan dan Perikanan Indonesia, cited from the internet: <https://kkp.go.id/djprl/artikel/21045-konservasi-perairan-sebagai-upaya-menjaga-potensi-kelautan-dan-perikanan-indonesia>; accessed on October 3, 2022.

<sup>2</sup> Makassar Coastal and Marine Resources Management Agency, Paus, cited from the internet: <https://kkp.go.id/djprl/bpsplmakassar/page/1858-paus>; accessed on September 11, 2022.

The Indonesian government has made many efforts to protect marine mammals. Establishing a Marine Protected Area (MPA) is a significant effort the Indonesian government is undertaking.<sup>3</sup> The Ministry of Marine Affairs and Fisheries (MMAF) of the Republic of Indonesia, through the Decree of the Minister of Marine Affairs and Fisheries Number 79/KEPMEN-KP/2018, has established a National Action Plan (NAP) for Marine Mammal Conservation to achieve increased protection for marine mammals in Indonesia. The NAP for Marine Mammal Conservation consists of strategies, activities, indicators, outputs, locations, timing, responsible persons, and work units in the implementation of marine mammal conservation efforts in Indonesia.

However, the implementation of these MPAs has not been fully effective because there are still very few MPAs specifically designed for marine mammals. The Indonesian government also regulates the protection of marine mammals in several laws and regulations, both directly and indirectly (see Table 1). However, there are still several laws and regulations that are counterproductive to efforts to protect marine mammals, thus creating problems that hinder efforts to protect marine mammals in Indonesia.

**Table 1.** The Regulations That Considered Counterproductive to Marine Mammals Protection.

<b>Law and Regulations</b>	<b>Information Related to Marine Mammals Protection</b>	<b>Note</b>
Law No. 1 of 2014	Provides provisions that protected areas that have been established through statutory regulations prior to the enactment of this law become the authority of MMAF.	Causing overlapping authority in MPA management.
Presidential Decree No. 102 of 2001	Regulate the duties and functions of the MMAF in the management of the MPA	Causing overlapping authority in MPA management.
Law No. 41 of 1999, Law No. 5 of 1990, Law No. 5 of 1994, Government Regulation Number 68 of 1998, Presidential Decree Number 102 of 2002 and Presidential Decree Number 43 of 1978.	Granted authority to the Ministry of Environment and Forestry (MEF) to manage seven national parks.	Causing overlapping authority in MPA management.
Law Number 23 of 2014	Centralization of management authority for marine and coastal areas.	Revoking the authority of Regency/Municipal Governments in the management of sea and coastal areas.
Law Number 27 of 2007 (Amended by Law Number 1 of 2014)	Indigenous Peoples can obtain rights to use and manage marine resources if they have been recognized according to law.	With the recognition process, the customary traditions of the community that can support efforts to protect

<sup>3</sup> Adrian Nugraha, "Legal Analysis of Current Indonesia's Marine Protected Areas Development", *Sriwijaya Law Review* Volume 5, (2021), 15.

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marine mammals  
cannot be regulated.

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Source: Author Analyze

These laws and regulations are considered counterproductive because they raise several problems that will hinder efforts to protect marine mammals in Indonesia. Previous research conducted by Adrian Nugraha, Febrian, and Robert Lihtong Chen in "Progress and Legal Framework Issues in the Establishment and Control of Indonesian Marine Protected Areas" discussed the impact of the implementation of the new local government law on marine and coastal management.<sup>4</sup> Then, research conducted by Rosmini, Zainuddin, and Syifa Nur Aini in "Legal Protection of Mahakam Dolphins Through Water Conservation Areas in Kutai Kartanegara Regency" discusses the role of local government in providing legal protection for Mahakam dolphins through marine protected areas in Kutai Kartanegara Regency.<sup>5</sup> Furthermore, Yulia, Baso Madiong, Hasni, and Sobirin conducted research in "Legal Protection of Portunus Pelagicus: An International Fisheries Law Perspective in the Republic of Indonesia's Fisheries Management Area 713".<sup>6</sup> This paper discusses administrative sanctions for non-compliance and emphasizes the shared responsibility of government and community in resource protection, which can apply to marine mammal conservation.

However, this research will specifically discuss the problems that occur in efforts to protect marine mammals in Indonesia. The novelty of this article lies in its legal gaps, policy overlaps, and enforcement challenges within Indonesia's existing marine conservation framework. In addition, it will discuss solutions that the Indonesian government can implement to tackle these problems.

## II. Research Problems

1. What are the issues in protecting Indonesia's marine mammals?
2. How are the solutions to solving the issues in protecting Indonesia's marine mammals?

## III. Research Methods

This type of research is normative legal research. Normative Legal Research is legal research that is carried out by analyzing library materials or studying documents. The approach used in this study is an approach to Indonesia's laws and regulations. The legal materials for this research consist of primary legal materials, including laws and regulations; secondary legal materials include all forms of legal research materials, which further explain primary legal from previous research. The method of collecting legal materials used in this research is the method of collecting legal literature by reading, studying, and understanding the legal research materials related to research. Furthermore, the legal material will be analyzed using a descriptive-analytical method by explaining the results of understanding the readings and legal findings related to the research. Finally, the conclusions in this study use the deductive method of thinking, namely drawing conclusions from general to specific things.

## IV. Results And discussion

### A. The Issues in Protecting Indonesia's Marine Mammals

#### 1. Lack of Specially Designated Marine Protected Areas for Marine Mammals.

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<sup>4</sup> Adrian Nugraha, Febrian and Robert Lihtong Chen, "Legal Protection of Mahakam Dolphins Through Water Conservation Areas in Kutai Kartanegara Regency", *Environmental Policy and Law*, Volume 51 No. 3, (2021), 204.

<sup>5</sup> Rosmini, Zainuddin, and Syifa, and Nur Aini, "Progress and Legal Framework Issues in the Establishment and Control of Marine Protected Areas", *Substantive Justice International Journal of Law*, Volume 5 No. 1, (2022), 1.

<sup>6</sup> Yulia, Baso Madiong, Hasni, and Sobirin, "Legal Protection of Portunus Pelagicus: An International Fisheries Law Perspective in the Republic of Indonesia's Fisheries Management Area 713", *International Journal of Law and Politics Studies*, Volume 6 No. 1, (2024), 15.

Currently, more than 28 million hectares of marine protected areas, or MPAs, have been designated by the Indonesian government. (See Table 2).

**Table 2.** Indonesia's conservation area in 2021 (in ha)

No	Authority	Wide	Amount	Management Unit
<b>A. Ministerial Decree</b>		<b>18.449.185,30</b>	<b>109</b>	
1	National Conservation Area	5.341.023,02	10	Technical Implementation Unit for National Marine Protected Areas
2	Ministry of Environment and Forestry (MEF)	4.557.443,30	10	MEF
3	Regional Conservation Area	4.722.898,04	30	Regional Technical Implementation Unit
		1.323.012,51	27	Branch Office
		2.503.808,43	21	Representative Office
<b>B. Reserve area</b>		<b>9.967.068,75</b>	<b>21</b>	
1.	Regional Conservation Area	9.967.068,75	302	Not yet managed
Total		28.416.254,05	411	

Source: Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, 2019

Among the 411 MPAs in Indonesia, only three MPAs are deliberately designed for marine mammals, namely the conservation areas of the Sawu Sea, Ay and Rhun Islands, and the Romang Islands. Even though the expansion of MPAs in Indonesia always increases yearly, there are still very few MPAs specifically for marine mammals. The incident of stranded marine mammals and the sudden appearance of marine mammals in several areas should be a concern for the Indonesian government to expand the conservation area.

**Table 3.** Cases of Stranded Marine Mammals in Indonesia (2022 - January 2023)

No.	Species	Location
1.	Bryde's Whale	Pantai Mungu, Kabupaten Badung, Bali
2.	Dugong	Pantai Dungun, Desa Belungkur, Kabupaten Lingga, Kepulauan Riau
3.	Sperm Whale	Morotai Selatan, Maluku Utara
4.	Melon-headed Whale	Pulau Kapas, Kabupaten Alor, NTT
5.	Sperm Whale	Pantai Tabiung, Sumbawa Barat, NTB
6.	Shark Whale	Tapal Kuda, Jember Lumajang, Jawa Timur

7.	Blue Whale	Desa Bagang, Alor, NTT
8.	Sperm Whale	Ketapang, Banyuwangi
9.	Sei Whale	Tanjung Simora, Papua Barat
10.	Shark Whale	Pantai Nyamplong, Jember, Jawa Timur
11.	Dolphin	Pantai Sasak Nagari, Sumatera Barat
12.	Shark Whale	Pantai Kincia, Sumatera Barat
13.	Dugong (Baby)	Pantai Kelilo'o, NTT
14.	Short-finned Pilot Whale	Desa Cio Gerong, Maluku Utara
15.	Sperm Whale	Pantai Wadumadi, NTT
16.	Baleen Whale	Desa Dharma, Jawa Timur
17.	Dugong	Pulau Morotai, Maluku Utara
18.	Bryde's Whale	Tabanan, Bali
19.	Dugong (Mother)	Pantai Sanur, Bali
20.	Bryde's Whale	Dusun Pemalikan, NTB
21.	Dolphin	Desa Riangbaring, NTT
22.	Dugong	Desa Passimarannu, Sulawesi Selatan
23.	Sperm Whale	Pantai Panfolok, NTT

Source: *Mongabay – Situs Berita Lingkungan*

From these data, all the conditions of stranded marine mammals were dead until they rotted. Of the 23 cases, 6 cases occurred in Nusa Tenggara Timur, 4 cases in Jawa Timur, 3 cases each in Bali and Maluku Utara, 2 cases each in Nusa Tenggara Barat and Sumatra Barat and 1 case each in Sulawesi Selatan, Papua Barat and Kepulauan Riau. Based on the number of cases of stranded marine mammals in each province, only 6 cases were included in a specially designed conservation area for marine mammals, which is Nusa Tenggara Timur with the Sawu Sea conservation area.<sup>7</sup> Meanwhile, the other 17 cases were not in a specially designated conservation area for marine mammals. The Ay and Rhun Island focused in Maluku Barat Daya and the Romang Islands KKD focused in Maluku Tengah. This shows that the Indonesian government has not established many marine conservation areas specifically designed for marine mammals.

The lack of MPAs specifically for marine mammals in Indonesia reflects gaps in regulating and implementing marine biodiversity protection laws. Although Indonesia has various regulations related to marine conservation, such as Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and Ecosystems, no policy specifically establishes conservation areas that focus on protecting marine mammals such as whales, dolphins, and dugongs. Currently, existing conservation areas are more aimed at protecting coral reefs, sustainable fisheries, and marine ecosystems in general, without considering the specific needs of marine mammals,<sup>8</sup> such as migration routes and critical habitats for breeding. The absence of special MPAs makes marine mammals more vulnerable to threats such as illegal hunting, marine pollution, ship traffic, and unregulated tourism exploitation.

<sup>7</sup> Luh De Suriyani, Dua Paus Terdampar di Bali selama Pekan Ini, cited from the internet: <https://www.mongabay.co.id/2023/04/06/dua-paus-terdampar-di-bali-selama-pekan-ini/>; accessed on May 03, 2023.

<sup>8</sup> Alan White et al, "Marine Protected Area Networks in Indonesia: Progress, Lessons and a Network Design Case Study Covering Six Eastern Provinces", *Coastal Management*, Volume 49 No. 6, (2021), 577.

From a legal perspective, more specific policy and regulatory updates are needed to accommodate marine mammal protection more effectively. The government can establish ecosystem-based MPAs that take into account marine mammal migration patterns and important areas such as feeding and breeding grounds. In addition, synchronization between national laws and international agreements, such as the Convention on Migratory Species (CMS) and the Convention on Biological Diversity (CBD), needs to be strengthened so that conservation policies in Indonesia are in line with global standards. Implementing these specific protected areas must also be supported by community participation, strict supervision, and strict regulations on industries that threaten marine mammals' survival, such as capture fisheries and the maritime industry. With more specific and science-based policies, Indonesia can strengthen marine mammal protection while sustaining the marine ecosystem's balance.

## **2. Issues in the Institutional Arrangement of Marine Protected Area Managers**

Article 78A Law no. 1 of 2014 concerning the Management of Coastal Areas and Small Islands provides that protected areas that have been established through laws and regulations prior to the enactment of this law become the authority of the Ministry of Marine Affairs and Fisheries (MMAF). The eleventh part of Presidential Decree No. 102 of 2001 regulates the duties and functions of the MMAF in managing MPAs, including responsibility for marine parks. Before KKP was formed, authority over the management of several MPAs was given to the Ministry of Environment and Forestry (MEF) which was regulated in several laws and regulations, including Law no. 41 of 1999, Law No. 5 of 1990, Law no. 5 of 1994, Government Regulation no. 68 of 1998, Presidential Decree No. 102 of 2002 and Presidential Decree No. 43 of 1978.

The issue of authority over MPA management arose when MEF rejected MMAF's request to transfer seven national parks to MMAF.<sup>9</sup> The seven national parks include Kepulauan Seribu, Karimun Jawa, Taka Bone Rate, Wakatobi, Togian, Bunaken dan taman laut nasional Teluk Cendrawasih. MMAF considers that the request for the transfer of the seven national parks should have been carried out, given the duties and functions and authorities that have been given to MMAF in accordance with applicable laws and regulations. Likewise, the MEF considers that as long as the laws and regulations that give it the authority to manage the area have not been repealed, then the management of the national marine park must remain under its authority.

Problems related to overlapping jurisdictions, unclear mandates and inadequate institutional mechanisms can affect commitment to implementing MPA management. As a result, there is a failure of coordination between governments and has an impact on policy making.<sup>10</sup> The fragmented management system in coastal and marine management is caused by the absence of a strong unifying institutional structure in Indonesia. This leads to weak governance, lack of consultation with stakeholders, and becomes a negative factor in the implementation of integrated coastal management.

This overlapping jurisdiction weakens coordination, stakeholder participation, and law enforcement, ultimately negatively impacting the effectiveness of marine and coastal conservation. To address these legal issues, Indonesia needs to formulate an integrated and clear regulatory framework for determining the division of tasks between the MMAF and the MoEF so that the MMAF's management can run harmoniously and coordinate.

## **3. Centralization of the Indonesian Legal Framework**

On September 30, 2014, the Indonesian government passed Law No. 23 of 2014, replacing Law No. 32 of 2004 concerning the Regional Government. The passing of this Law has had a major impact on the decentralization system in Indonesia, especially in the management of

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<sup>9</sup> Alina Mustaidah and Ratna Nuraini, "Kemenhut Tolak Serahkan Tujuh Taman Laut", quoted from the internet: <https://www.beritasatu.com/news/33561/kemenhut-tolak-serahkan-tujuh-taman-laut>. Accessed on February 25, 2023.

<sup>10</sup> Yoram Z. Haftel and Tobias Lenz, "Measuring Institutional Overlap in Global Governance", *The Review of International Organizations*, Volume 7, (2022), 324.

marine and coastal areas.<sup>11</sup> Law No. 23 of 2014 brought changes by withdrawing the authority that had so far been in the Regency/City Government to be taken over by the Provincial Government and the Central Government. These changes include:

- a. County/City Governments no longer manage 4 territorial sea miles, including exploring, exploiting, preserving and managing marine and coastal resources.
- b. County/City Governments no longer have authority in MPA management.
- c. County/City Governments no longer have the authority to formulate and propose programs for the management of marine and coastal areas.

These alterations have a complex impact on County/City Governments, especially in efforts to protect marine mammals. The issue of centralized authority will hinder the success of conservation efforts, especially in managing MPAs formed when the County/City Government was still given authority. In addition, this change also led to a lack of community participation. Added to this is the problem with the procedure for recognizing indigenous peoples, which must go through the recommendation of the County/City Government. Even though many traditional community traditions can help protect marine mammals in Indonesia. County/City Governments will also find it difficult to determine regional regulations specifically to resolve community conflicts in coastal areas. Therefore, Indonesia must decentralize certain regulatory authorities by integrating regional governments, indigenous communities, and scientific stakeholders into the decision-making process.

#### **4. Issue of Recognizing Traditional Management That Can Protect Marine Mammals**

Recognition of Indigenous Peoples on the coast and small islands is outlined in Article 6 of Law No. 31 of 2004 concerning Fisheries, which states that the management of fisheries for the benefit of fishing and fish farming must consider customary law and/or local wisdom and pay attention to community participation. Law No. 27 of 2007 regulates the definition of rights to use waters in the form of coastal exploitation and rights to manage natural resources according to customary law, further developed in Law No. 1 of 2014. However, article 16 - 22 of Law No.1 of 2014 stated that only Indigenous People recognized according to law can obtain rights to use and manage sea and coastal areas.

Although arrangements regarding the recognition of Indigenous Peoples have been developed, it should be noted that Indigenous Peoples can participate in the utilization and management of marine and coastal resources if they have been legally recognized as Indigenous Peoples by laws and regulations. The procedure for recognizing Indigenous peoples is stated in the Regulation of the Minister of Home Affairs No. 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples. This regulation obliges people to go through several stages to be recognized as indigenous and tribal peoples in Indonesia.

Indigenous Peoples have a close relationship with efforts to protect marine mammals in Indonesia because there are indigenous traditions. Indigenous Peoples can support efforts to protect marine mammals, like the Lewa tradition carried out by indigenous peoples in Lamalera, Lembata, and Nusa Tenggara Timur.<sup>12</sup> In this tradition, there is the principle of legal exceptions in Lamalera customary law, such as not being allowed to hunt whales and marine mammals, which are in the category of extinction. In addition, there is the *Sasi* tradition, which prohibits using certain natural resources without a permit for a certain period that economically benefits the community.<sup>13</sup> In this case, *Sasi* is a tradition of local people living on Papua's coast that closes a certain area so that its contents cannot be taken within a certain period.

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<sup>11</sup> Rahmat Datau and Hairan, "Aspek Hukum Dalam Pengelolaan Wilayah Pesisir Dalam Perspektif Otonomi Daerah", *Gorontalo Law Review*, Volume 2 No.2, (2019), 83 - 87.

<sup>12</sup> Muhammad Nuha Maulana Pasya and Fina Amalia Pasya, "Tradisi Lewa di Lembata Dalam Perspektif Kebijakan Konservasi Dan Ancamannya Terhadap Ekosistem Laut", *DiH: Jurnal Ilmu Hukum*, Volume 18 No. 2, (2022), 187.

<sup>13</sup> Nadia Putri Rachma Persada, Fachruddin M. Mangunjaya and Imran SL Tobing, "Sasi Sebagai Budaya Konservasi Sumber Daya Alam di Kepulauan Maluku", *Jurnal Ilmu Budaya*, Volume 41 No. 59, (2018), 6872.

The existence of government recognition of indigenous peoples in accordance with statutory regulations raises the question of whether to be called indigenous peoples need to get recognition. It is necessary to regulate customary law communities that do not delegitimize customary law communities. Indigenous peoples can increasingly erode their existence if they are not given proper arrangements.

## **B. The Solution to Solving the Issues in Protecting Indonesia's Marine Mammals**

### **1. Expanding Specially Designated Conservation Areas for Marine Mammals**

The Ministry of Marine Affairs and Fisheries has made a national action plan, which is contained in the Decree of the Minister of Maritime Affairs and Fisheries Number 79/KEPMEN-KP/2018. The strategic plan aims to protect dugongs and cetaceans with the status of an aquatic conservation area. Until now, the conservation areas specially planned for marine mammals have been the Sawu Sea, the Ay and Rhun Islands, and the Romang Islands. Other conservation areas that have been determined are mostly focused on coral reefs and seagrass beds with one to three types of marine mammals, such as one example of the Pieh Island conservation area with the target of coral reef, turtle, and dolphin conservation.

Marine mammals, as a highly migratory group of animals, will certainly move from one sea area to another. Thus, expanding the conservation area specifically designed for marine mammals is necessary. This expansion effort can be started by ratifying the Convention on the Conservation of Migratory Species of Wild Animals (CMS). The CMS provides a legal basis for internationally coordinated conservation measures in all migration areas.<sup>14</sup> Not only that, but CMS can also assist Indonesia in the management and research of marine mammals and facilitate regional cooperation with Australia and other countries that have conducted extensive studies on marine mammals, including species that are the target of hunting.

### **2. Transfer of Management Institution in accordance with the Mandate of the Applicable Law**

The implementation of Law No. 1 of 2014 concerning Amendments to Law No. 27 of 2007 concerning the management of coastal zones and small islands has an impact on institutions in the management of aquatic conservation. According to Article 78A of Law No. 1 of 2014, it is stated that conservation areas in the coastal zone and small islands established through statutory regulations before this Law came into effect are under the authority of the Minister. The Minister referred to in this Law is the Minister of Maritime Affairs and Fisheries. In the explanation section, it is stated that what is meant by "conservation areas in coastal areas and small islands" includes Nature Reserve Areas and Nature Conservation Areas located in coastal areas and small islands in the form of National Parks/Marine National Parks, Sanctuaries Marine Wildlife, Marine Nature Reserve, Marine Tourism Park, and Marine Nature Reserve.

Based on Article 78A of Law No. 1 of 2014, it is appropriate to transfer the institutional management of the seven Marine and Archipelagic National Parks (See Issues No. 2). However, until now, the seven Marine and Archipelagic National Parks are still managed by the Ministry of Environment and Forestry. It is feared that the tug-of-war between institutional interests in the management of the Marine and Archipelagic National Park will lead to ineffectiveness in its management, so a transfer of management institutions is required according to the law's mandate.

### **3. Legislative Process to Amend Local Government Laws**

The Indonesian government needs to carry out a legislative process to amend Law no. 23 of 2014 concerning Local Government.<sup>15</sup> The Indonesian government needs to carry out a legislative process to amend Law No. 23 of 2014 concerning Local Government. The relevance of

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<sup>14</sup> Achmad Sahri, et al., "A Critical Review of Marine Mammal Governance and Protection in Indonesia", *Marine Policy* 117, (2020), 14 - 15.

<sup>15</sup> Adrian Nugraha, Febrian dan Robert Lihtong Chen, *Op Cit.*, 204.

the proposed amendment to Law No. 23 of 2014 with efforts to protect marine mammals is a consideration of the impact that can hinder efforts to protect marine mammals in Indonesia. This law will reduce community participation in MPA management due to the difficulty in accessing government services. Long and complicated procedures must be carried out in the provincial capital but must still go through the County/City Government, for example, the procedure for recognizing indigenous peoples.

Law Number 23 of 2014 was formed to empower the Provincial Government and expect an effective coordination flow. However, this does not solve problems in marine and coastal areas because this Law does not consider the geographical relationship between the Provincial Government and the County/City Government. For example, due to the lack of understanding and knowledge of the local community in dealing with stranded marine mammals, many marine mammals died after efforts to re-release them, and even marine mammal deaths were used for consumption by the local community. With the transfer of the authority to manage natural resources from the county/city government to the provincial government, the responsibility and obligation to carry out guidance and supervision is automatically transferred to the authority of the provincial government. This burden will be difficult for the Provincial Government due to various factors such as limited human resources and funding problems.<sup>16</sup> Moreover, coaching activities and supervision of the implementation of its activities are carried out regularly.

Alterations to Law No. 23 of 2014 related to the management of marine natural resources are very important, because this regulation also has an impact on efforts to protect marine mammals so that changes are needed. First, changing several articles related to MPA management authority, management authority must re-involve the County/City Government as in Law no. 32 of 2004. Second, clarifying the authority of each government starting from the Central Government, Provincial Governments and County/City Governments. Bearing in mind that affairs in the management of marine resources in the sea and coastal areas are concurrent matters, in which all governments must be involved.<sup>17, 18</sup> Third, Recognizing the existence of Indigenous Peoples and their traditional activities that have the potential to help protect marine mammals, which the County/City Government directly supervises.

#### **4. Establishing Laws and Regulations That Do Not Delegitimize Indigenous Peoples**

Recognition of the existence of indigenous peoples in Indonesia already has the highest legal basis, regulated in Article 18B paragraph 2 of the 1945 Constitution, that "The state recognizes and respects indigenous people communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law." In coastal areas and small islands, recognition of indigenous peoples has also been regulated in Law No. 31 of 2004, Law No. 27 of 2007, and Law No. 1 of 2014. However, it must pass through stages to be recognized as an indigenous people and obtain rights in its territory.

Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples is a counterproductive effort to Article 18B paragraph 2 of the 1945 Constitution. Because to become a legal community, it doesn't matter to go through long stages. The Indonesian government only needs to make laws and regulations that recognize the existence of indigenous peoples. In making these laws and regulations, the Indonesian government must pay attention to its rights as citizens, traditional rights, and rights and authorities in managing natural resources in accordance with applicable laws and regulations. In the framework of empowering indigenous people, attention must be paid to the

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<sup>16</sup> Yanis Rinaldi, "Kewenangan Kabupaten/Kota Dalam Pengelolaan Sumber Daya Alam di Aceh Paska Lahirnya UU Nomor 23 Tahun 2014", in *Proceedings of the National Seminar: Protection of Natural Resources*, Universitas Hasannudin, (2017), 54.

<sup>17</sup> Mawardi Khairi, "Kewenangan Pemerintah Daerah Provinsi dalam pemberian Izin Pengelolaan Perairan di Wilayah Pesisir dan Pulau - Pulau Kecil", *Jatiswara*, Volume 35 No. 3, (2020), 268.

<sup>18</sup> Sri Wahyu Handayani, eds. "Village Land Administration as an effort to Prevent Agrarian Disputes/Conflicts", *Kosmik hukum*, Volume 23 No.1, (2023). 4

local community's culture. Management of marine and coastal areas must involve community participation and consists of planning, implementing, monitoring, and evaluating.<sup>19</sup> Considering the potential of traditional community traditions that can support efforts to protect marine mammals, laws and regulations governing marine resource management can provide local governments the authority to supervise the activities of indigenous peoples.

## V. Conclusion

As an archipelagic country with very wide territorial waters, Indonesia is obligated to protect its natural resources. One of them is marine mammals, which are a unique resource for Indonesia. Currently, Indonesia has at least 35 marine mammals, including the orders Cetacea and Sirenia. Current Indonesian laws and regulations provide a good legal basis for protecting and managing marine mammals in Indonesia. However, several laws and regulations still have the potential to hinder efforts to manage and protect marine mammals. In addition, the Indonesian government's conservation efforts undertaken for mammals have not been fully effective.

Thus, in efforts to protect marine mammals, there are still several problems that could result in the extinction of these animals. These problems include the lack of conservation areas specifically designed for marine mammals, overlapping institutions managing MPAs, centralization of power, which makes efforts to manage marine areas difficult, and the lack of indigenous community-based marine mammal protection management.

The government must start paying attention to the sustainability of marine mammal protection in Indonesia. It can be done by expanding conservation areas specifically designed for marine mammals by adopting coordinated conservation efforts by CMS. Then, the government can amend existing regulations to provide clearer mandates in the management of MPAs to reduce overlap between institutions. Amendments to these regulations could also give back local government authority and clarify the authority of each government structure in managing marine and coastal areas. In addition, to increase community participation, the government must recognize the existence of indigenous peoples and their traditions in the context of preserving marine mammals.

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<sup>19</sup> Berliant Pratiwi, Sunarno and Izzy Al Kautsar, "The Ideal Concept of Integrated-Based Ngrenehan Coastal Management for Community Welfare (*Integrated Coastal Zone Management Approach*", *Kosmik Hukum*, Volume 22 No. 3, (2022), 184.

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