

# ASSESSING FISHERY LEGISLATION FOR GENDER EQUALITY AND EMPOWERMENT IN FISHERY COMMUNITIES IN INDONESIA

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## *Abstract*

*The research objective was to analyze the problem of fisherwomen empowerment and gender equality based on legal reviews in Indonesia. The research method used is normative legal studies. The results of the study found that there are discriminatory implications in Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Farmers, and Salt Farmers or commonly referred to as the PEF Act (Protection and Empowerment of Fishermen) which is not in line with the empowerment of fisherwomen and is in conflict with gender equality. The findings make it clear that fisherwomen, unlike other economic actors in the fishing industry, are the most overlooked group rooted in socio-cultural prejudice. The PEF Act does not specifically recognize or even mandate any form of affirmative action for fisherwomen to gain equal access to protection and empowerment programs. This causes fisherwomen who have been culturally forcibly placed in households and away from the fishing industry. But instead, the PEF Act dwarfed the position of women as a mere secondary role in fishery households instead of the main breadwinner. Therefore, this study suggests that the government should make a strict amendment to the PEF Act. Namely recognizing gender equality in the role of fisherwomen and followed by reforming gender mainstreaming in the fisheries bureaucracy to accommodate fisherwomen's rights to access community empowerment programs for fishing communities.*

**Keywords:** Gender Equality; Women's Empowerment; Community Empowerment; Indonesian Fisherwomen

## **1. Introduction**

The Fishery is an important issue in the welfare of the Indonesian people because at least 34 million people depend on the fisheries sector, especially in developing countries.<sup>1</sup> Their role is very big because 70 percent of the contribution of world fishery production comes from them. In 2010, it is estimated that humans consumed 128 million tonnes of fish and in the last decade fish was consumed by 4.3 billion people. By 2021 it is estimated that 172 million people will consume fish and this industry will be the fastest-growing industry.<sup>2</sup> Indonesia has around 2.7

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<sup>1</sup> S. Fitrianggraeni, "Building Business, Enriching Lives: An Indonesian Initiative to Empower Women in the Fishing Commu-Nities," *WMU Journal of Maritime Affairs* 18, no. 4 (2019): 595–616, doi:10.1007/s13437-019-00181-z.

<sup>2</sup> Food and Agriculture Organization, "The State of Food and Agriculture 2016," 2016.

million fishermen. However, as many as 95.6% are traditional fishermen and operate around the coast or several kilometers from offshore.<sup>3</sup>

The Indonesian government has enacted Law no. 45/2009 concerning Amendments to Law no. 31/2004 on Fisheries. However, this policy does not include an equalization policy aimed at small-scale fisheries which control more than 50% of the Indonesian fishery industry. According to the Voluntary Guidelines for Securing Sustainable Small Scale Fisheries issued by the Food and Agriculture Association (FAO), in the context of food security and poverty alleviation explicitly states the state's obligation to treat fisherwomen, including salt farmers and farmers, with special privileges and guaranteed rights. The guarantee includes adequate housing, basic safe and hygienic sanitation, savings and investment credit, free from sexual harassment and violence, technological developments, and so on, with reference to the Convention on the Elimination of All Discrimination Against Women (CEDAW). If fisherwomen are not guaranteed their rights and their existence is not supported, it can be assumed that the largest group of poor people must come from this group.<sup>4</sup> Thus, the government must pay special attention to fisherwomen and change the very masculine definition of fishermen. If this is not done, the achievement of the SDGs in promoting gender equality and women's empowerment can be said to fail, especially on essential issues such as poverty alleviation, food security, fisheries development and sustainable marine resources.

In 2016, the DPR and the government issued laws and regulations which are expected to accommodate the welfare of Indonesian fisheries, namely Law Number 7 of 2016 about the Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers or commonly referred to as PEF (Protection and Empowerment for Fishermen Act. This law is actually very positive because it is intended to protect small fishermen because it mandates the government to provide financial protection to fishermen in the form of insurance in case of low harvests during the harvest season. However, the implementation of this policy is actually in chaos due to mismanagement, corruption and unnecessary bureaucratic processes. For this reason, it is very

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<sup>3</sup> N. Tran and [et.al], "Indonesian Aquaculture Futures: An Analysis of Fish Supply and Demand in Indonesia to 2030 and Role of Aquaculture Using the AsiaFish Model," *Marine Policy* 79, no. 1 (2019): 25–32, doi:10.1016/j.marpol.2017.02.002.

<sup>4</sup> Sudarso Sudarso, P.E. Keban, and Mas'udah Mas'udah, "Gender, Religion and Patriarchy: The Educational Discrimination of Coastal Madurese Women," *Journal of International Women's Studies* 20, no. 9 (2019): 1–12.

important to build a framework for preventing corruption in the public sector<sup>5</sup> and through legal education to the public<sup>6</sup>. This can have an impact on fishing villages, especially fisherwomen.<sup>7</sup>

As seen in the opening of the PEF Act, one of the responsibilities of the state as a constitutional mandate is to realize social justice for all Indonesian people. In the Elucidation of the Law, it is stated that the position of fishermen, fish raisers and salt farmers who have contributed to development, especially the economic development of coastal and rural communities.<sup>8</sup> The legislators are very aware of the potential of fishermen who are threatened by various circumstances, such as the availability of fuel oil, illegal fishing, overfishing, climate change and weather. The same thing is also a threat to fish cultivators, such as disease, pollution, availability of broodstock, seeds, and affordable feed prices. Salt farmers face climate and price problems, coastal use conflicts, changing seasons, environmental quality, and land tenure security. Fishermen, fish raisers and salt farmers are faced with poverty, limited facilities and infrastructure, access to finance and financing. This condition has a direct impact on their respective family members. The study states that the initial desire to position government policies is basically very important for building business, building capacity, and enriching lives. It is important to have an organized strategy by policymakers to overcome the unequal distribution of income in Indonesia. Policies must pay attention to the joint movement between global growth, income inequality, and the Human Development Index.<sup>9</sup> The trick is to provide protection and empowerment of fishermen, cultivators and salt farmers. Unfortunately, in this law there is a concept of gender bias from small fishing households.<sup>10</sup>

The discourse on fisherwomen is very minimal and not taken into account because the definition of fishermen tends to be defined as those who catch fish, while women play a major role as fish cleaner for consumption at home or selling in the market. Sometimes they do not receive wages in a household business. Even if they catch fish in the sea, they are considered to

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<sup>5</sup> Abidin Abidin, T. Suryanto, and P. Utami, "Beyond Muamalah Principles in Digital Payment Education and Its Impacts on Corruption Prevention in Indonesian Public Sectors," *Journal of Social Studies Education Research* 11, no. 3 (2020): 46–64.

<sup>6</sup> I. K. Seregig and [et.al], "Preventing the Acts of Corruption through Legal Com-Munity Education," *Journal of Social Studies Education Research* 9, no. 2 (2018): 138–59, doi:10.17499/jsser.65190.

<sup>7</sup> R. V. P. Hartanto, "Feminist Perspective towards the Legal Theory on Fisher-Women ' s Legal Entity," *Fiat Justisia* 13, no. 4 (2019): 345–60, doi:10.25041/fiatjustisia.v13no4.1737.

<sup>8</sup> M. K. Ariadno and F. Amelina, "An Evaluation of the Indonesian Law and Policy on Small-Scale Fisheries," *Journal of Sustainable Development Law and Policy* 7, no. 2 (2016): 48–64, doi:10.4314/jsdpl.v7i2.3.

<sup>9</sup> M. Haseeb and [et.al], "Nexus Between Globalization, Income Inequality and Human Development in Indonesian Economy: Evidence from Application of Partial and Multiple Wavelet Coherence.," *Journal of Chemical Information and Modeling* 147 (2020): 723–745.

<sup>10</sup> M. Kitada, L. CarballoPiñeiro, and M.Q. Meija, "Empowering Women in the Maritime Community," *WMU Journal of Maritime Affairs* 18 (2019): 525–30, doi:10.1007/s13437-019-00188-6.

only accompany their husbands. Fisherwomen are also thought to be engaging in destructive fishing methods and possibly contributing to local declines in interval marine resources and habitat. In fact, fisherwomen also contribute to household livelihoods.<sup>11</sup> These fishermen's perception makes women not taken into account in the fisheries sector.<sup>12</sup> The contribution of fisherwomen is considered non-existent and this has a negative impact on fisherwomen because they do not get access to credit, processing technology, cold storage facilities and training organized by the government.<sup>13</sup>

The Indonesian civil society organization that focuses on fishermen welfare, KIARA, noted that at least 5.6 million people are involved in fishing activities. These activities include fishing, processing and marketing of catches. However, 70% or 3.9 million people of the total workforce are women.<sup>14</sup> This is because fisherwomen have a very vital role in the fisheries economic chain, from pre-production to marketing. When women are only considered as complement, volunteers, or accessories in the fishing community, the support and protection guaranteed in the PEF Act becomes inaccessible to these fisherwomen.

In a more specific subsection, fisherwomen also experience social exclusion in a role. The existence and activities are often neglected as an important part of the stakeholders, both from a regulatory and policy perspective. In fact, fisherwomen also play a part in facing the trap of wider social exclusion, which has an impact on their survival. This contribution is in the form of an important role for fisherwomen in the daily work chain of fishermen.<sup>15</sup> Especially for fishermen who produce fish on a small scale. The role of women fishermen after going to sea is related to processing, marketing fish and processed fishery products, their existence is often not counted, because the masculinity of working as fishermen is perceived only for men. This perception arises based on a culture of division of labor that involves gender.<sup>16</sup> The separation of

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<sup>11</sup> M. Hauzer, P. Dearden, and G. Murray, "The Fisherwomen of Ngazidja Island, Comoros: Fisheries Livelihoods, Impacts, and Implications for Management," *Fisheries Research* 140, no. December 2018 (2018), doi:10.1016/j.fishres.2012.12.001.

<sup>12</sup> R. Fitriana and N. Stacey, "The Role of Women in the Fishery Sector of Pantar Island, Indonesia," *Asian Fisheries Science* 25, no. Special Issue (2012): 159–75.

<sup>13</sup> A.N. Alami, "The Gender-Based Fishery Resource Management in Fishermen's Households in Natuna and Talaud Islands Regencies," in *Gender-Based Natural Resource Management in Indonesian Marine Borders* (Yogyakarta: Pital, 2015), 87–126.

<sup>14</sup> Kiara, "Pengelolaan Pesisir," 2020.

<sup>15</sup> H. M. Munthe and B. Hafi, "Pemberdayaan Gender Pada Tokoh Adat Untuk Mendukung Peran Perempuan Dalam Pembangunan Desa," *Journal of Education, Humaniora and Social Sciences* 1, no. 2 (2018): 60–65, doi:10.34007/jehss.v1i2.14.

<sup>16</sup> W. Malau, "Pengaruhutamaan Gender Dalam Program Pembangunan," *Jupiis: Jurnal Pendidikan Ilmu-Ilmu Sosial* 6, no. 2 (2015): 125, doi:10.24114/jupiis.v6i2.2292.

jobs between men and women raises the assumption that fishermen are only men and women as a complement.<sup>17</sup>

This problem shows that despite the state's efforts to improve the welfare of small-scale aquaculture communities, fisherwomen are still left behind or do not deserve this assistance. The role of women in the aquaculture sector has become more significant than ever in recent findings.<sup>18</sup> In Indonesia, it is recorded that around 42% of the workforce in aquaculture villages are women.<sup>19</sup> This number is even more than half of the total workforce if the secondary sector of cultivation, namely the pre-harvest and post-harvest processes, is counted.<sup>20</sup>

This is a very concerning condition because fisherwomen issues can play a critical role in achieving environmental goals; therefore, there are no special provisions or mechanisms that must be taken into consideration in addressing these issues. Gender-specific fisheries policies have unclear outcomes, as their goal is to promote progress, not to alleviate gender inequality. In this perspective, women's involvement in development is to help reduce poverty in fishing communities comes from an instrumental value perspective rather than working to provide equal opportunity and self-improvement to those people.<sup>21</sup> Thus, the intentions of social justice are defeated, and, in some cases, strengthened; and, at worst, serving to exacerbate inequality.

This article discussed on the problem of whether or not the PEF Act recognizes, and thus empowers, the role of fisherwomen and further promotes gender equality in the fishery community in Indonesia. We focused on how women, and hopefully the principle of gender equality, represented in legal instruments that govern the empowerment of small-scale fisheries. This includes the PEF Act and its derivative instruments, such as government regulations and ministerial regulations (of Marine Affairs and Fisheries).

## **2. Methods**

This study uses a normative legal analysis method for Indonesian laws and regulations, namely Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish

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<sup>17</sup> A. Lentisco and R.U., "A Review of Women's Access to Fish in Small-Scale Fisheries," 2015.

<sup>18</sup> N. Weeratunge and [et.al], "Small-scale Fisheries through the Wellbeing Lens," *Fish and Fisheries* 15, no. 2 (2014): 255–79, doi:10.1111/faf.12016; N. Weeratunge, K.A. Anyder, and C.P.Sze, "Gleaner, Fisher, Trader, Processor: Understanding Gendered Employment in Fisheries and Aquaculture," *Fish and Fisheries* 11, no. 4 (2010): 405–20, doi:10.1111/j.1467-2979.2010.00368.x.

<sup>19</sup> S. Harper and [et.al], "Women and Fisheries: Contribution to Food Security and Local Economies," *Marine Policy* 39, no. 56–63 (2013).

<sup>20</sup> Food and Agriculture Organization, "The State of Food and Agriculture 2016."

<sup>21</sup> B. Ginting and H. Siregar, "The Woman Participation in Community Empowerment Programs to Alleviate Fishermen Poverty in Indonesia," *International Journal of Management* 11, no. 3 (2020): 316–324, doi:10.34218/IJM.11.3.2020.034.

Farmers and Salt Farmers or known as the PEF Act. Normative legal research is research that includes legal principles, legal systematic, the level of legal synchronization, legal history, and comparative law.<sup>22</sup> In this study, the focus of research is on the principles of law and the level of legal synchronization. The focus of the analysis is whether this policy is inclusive of fisherwomen in the policy promise for protection and empowerment, socially, legally and economically, in the fishing industry. The nature of this article's legal analysis is prescriptive and normative. To do this, this article uses secondary data in the form of two main sources; Primary sources of law are laws, rules, regulations, and case law and secondary sources of law are legal reviews, journals, guidelines, and legal opinions.

### **3. Results and Discussion**

#### **3.1. The Position of Small-Scale Fisheries in Indonesian's Maritime Economy**

According to Law no. 45/2009 concerning Fisheries or the 2009 Fisheries Law, these small-scale fishermen are not regulated or prohibited from fishing in any Indonesian waters and are exempt from various permits and taxes, they are only required to report existence to local competent authorities. Small fishermen who make up the majority in the fishing industry will in turn experience intense competition if the industry is left unregulated and there are no accountability measures. Thus, the problems and problems of small-scale fisheries' development in Indonesia are becoming increasingly complex. Most of the fishermen, fish breeders and salt farmers in Indonesia are classified as poor, and they have limited facilities, infrastructure, access to finance and financing. This is why it is so important to achieve social justice in order to reform the fisheries sector. Literature reveals that fisheries reform can overcome human rights problems and the realization of social justice to achieve the welfare of fishing communities.<sup>23</sup>

It is critical that we protect and empower all the people involved in fishing, including families that carry out marketing and processing as well as those involved in fish marketing and processing. Previously, the legislation governing Maritime Affairs and Fisheries was deficient in protecting and encouraging fishermen, fish raisers, and salt farmers.<sup>24</sup> So that the existing

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<sup>22</sup> T. A. Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (2016): 201–7, doi:10.1016/j.sbspro.2016.05.006.

<sup>23</sup> B. D. Ratner, B. Asgard, and E.H. Allison, "Fishing for Justice: Human Rights, Development, and Fisheries Sector Reform," *Global Environmental Change* 27 (2014): 120–30.

<sup>24</sup> U. Muawanah and [et.al], "Review of National Laws and Regulation in Indonesia in Relation to an Ecosystem Approach to Fisheries Management," *Marine Policy* 91, no. August (2018): 150–160, doi:10.1016/j.marpol.2018.01.027.

regulations do not guarantee legal certainty and justice for fishermen, fish raisers and salt farmers.<sup>25</sup>

The management regime of marine and fisheries resources in Indonesia can be classified into three types, namely: government-based management regime (state ownership regime), private-based regime (private ownership regime) and community (communal property rights).<sup>26</sup> In an institutional context, property rights (private, public/state, communal) are an important social institution for economic growth and protection of natural resources. In practice, in the interests of economic development, private property rights are more dominant than communal property rights, which aim to give a society more exclusive rights, which contain legally enforced social conventions, norms, rules and procedures governing utilization. Therefore, institutions in the context of decentralized and autonomous management of marine and fisheries resources must be seen as a form of joint management at the global, national, regional and local levels.<sup>27</sup> Especially at the local level, the existence of fisherwomen as part of small fishermen is a form of strengthening community participation and independence in managing marine and fishery resources.<sup>28</sup>

The PEF Act categorizes fishermen into four groups: a) small fishermen, who carry out fishing for a living and do not use fishing vessels or use those with a maximum size of 10 gross tonnes; b) traditional fishermen, those whose fishing practices are recognized as part of custom and local wisdom or adat and are granted traditional fishing rights (as recognized in UNCLOS); c) fishery workers, unskilled laborers in the fishing industry, and; d) commercial fishermen, those who own fishing vessels and actively participate in commercial fishing.

The number of small fishing fleets is closely related to the target achievement of fisheries management goals, where small fishermen are subject to exclusive regulations. One of the objectives of fisheries management according to the 2009 Fisheries Law is to improve the standard of living of small fishermen and small fish breeders, and ensure sustainability. For this reason, at a macro level, development policies must be able to make optimal use of the sea. This policy

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<sup>25</sup> L. D. Nugroho and A. Pawestri, "Legal Politic of Fishermen Empowerment in Indonesia," in *International Conference on Social Sciences 3rd* (Atlantis Press, 2020), 675–79, doi:10.2991/assehr.k.201014.146.

<sup>26</sup> I. Kusumawati and H.W. Huang, "Key Factors for Successful Management of Marine Protected Areas: A Comparison of Stakeholders' Perception of Two MPAs in Wehisland, Sabang, Aceh, Indonesia," *Marine Policy* 51 (2015): 465–475, doi:10.1016/j.marpol.2014.09.029.

<sup>27</sup> J. Clifton, "Prospects for Co-Management in Indonesia's Marine Protected Areas," *Marine Policy* 27, no. 5 (2003): 389–395, doi:10.1016/S0308-597X(03)00026-5.

<sup>28</sup> M. Williams, "Expanding the Horizons: Connecting Gender and Fisheries to the Political Economy," *Maritime Studies* 18, no. 3 (2019): 399–407; M. J. Williams, "Why Look at Fisheries through a Gender Lens?," *Development* 51, no. 2 (2008): 180–85.

direction is also supported through Law Number 17 of 2007 concerning the National Long-Term Development Plan 2005-2025 which emphasizes that marine natural resources must be utilized optimally, but not forgetting their sustainability and preservation.<sup>29</sup> Macro Policy Sustainable marine and fisheries development requires integrated development in every sector.

In order to ensure the sustainability of small-scale fisheries in Indonesia, there are at least four legal umbrellas that are the basis for improving fishermen's welfare.<sup>30</sup> First, the Fisheries Law which accommodates the freedom of small fishermen not to have a Fishery Business Permit (SIUP), a Fishing Permit (SIPI), and a Fishing Vessel Permit. (SIKPI), are not subject to fisheries retribution, and there are government obligations to empower small fishermen in the form of credit, education, training, counseling and development schemes. Second is Law no. 27/2007 concerning Management of Coastal Areas and Small Islands and its amendments through Law Number 1 of 2014 (or commonly known as the MCASI Law) which accommodates granting rights to communities to propose traditional fishing areas into the Coastal and Small Area Zoning Plan Island (RZWP3K). Third, Law No 32/2014 concerning Marine (Ocean Law) which accommodates the need for expansion of employment in the fishing industry to improve fishermen's welfare. Fourth, the PEF Act which has accommodated all efforts to assist fishermen in overcoming difficulties in running a fishery business 32/2014 concerning Marine (Ocean Law) which accommodates the need for expansion of employment in the fishing industry to improve fishermen's welfare. Fourth, the PEF Act which has accommodated all efforts to assist fishermen in over-coming difficulties in running a fishery business 32/2014 concerning Marine (Ocean Law) which accommodates the need for expansion of employment in the fishing industry to improve fisher-men's welfare. Fifth, the PEF Act which has accommodated all efforts to assist fishermen in overcoming difficulties in running a fishery business.

The Ministry of Marine Affairs and Fisheries as a competent authority in the field of fisheries has also issued at least two implementing regulations for the PEF Act. First, Regulation of the Minister of Marine Affairs and Fisheries Number 18 of 2016 concerning Guarantee of Risk Protection for Fishermen, Fish Farmers and Salt Farmers which regulates the implementation of risk protection guarantees in the form of guarantees. Second, Regulation of the Minister of Marine Affairs and Fisheries Number 3 of 2019 concerning Community Participation in the Implementation of Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers which regulates the efforts that can be made by the community to contribute to

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<sup>29</sup> Hartanto, "Feminist Perspective towards the Legal Theory on Fisher-Women 's Legal Entity."

<sup>30</sup> Ariadno and Amelina, "An Evaluation of the Indonesian Law and Policy on Small-Scale Fisheries."



protection. And empowerment in planning, implementation, funding and financing, as well as supervision. However, this ministerial regulation did not work well because it had to be supported first by the enactment of government regulations and executive orders as implied in the Indonesian legal taxonomy (Law No. 12/2011). Therefore, without a higher regulation from the government and the president governing the supervision of planning and implementation of protection and empowerment as well as providing subsidies for small fishermen, the implementation of the PEF Act will not be optimal.

### **3.2. Forms of Protection and Empowerment of Small-Scale Fisheries in the PEF Act**

The aims of the PEF act are: to develop a business, increasing the capacity and capacity of fishermen and fish raisers, increasing productivity of businesses that are independent, modern and advance, as well as mitigating natural disasters, and developing environmental sustainability. With this intention, the PEF Act is also on specific issues. Consideration of the fishermen must be ex-tended to include their well-being. The fundamental goal of fishery protection cannot be reduced to fishery regulation. Should all regulatory processes be looked at as a whole, these aspects: (a) planning; (b) protection mechanisms; (c) financial institutions; (d) supervision; (e) and (f) community participation.<sup>31</sup>

The position of fishermen is very tight, coupled with cultural pressures. There are four problems<sup>32</sup>: First, mastery of production tools and simple fishing gears. Small fishermen can only actively exploit limited capture fishery resources. Second, fisherwomen's access to business capital is limited. Both politically and culturally, the position of small fishermen has been confined by social and economic constraints. Third, the development of production technology that is difficult to develop with limited capital and investment. This condition has implications for four things that the government must resolve immediately.<sup>33</sup> First, solve the structural and cultural poverty problems of coastal communities by empowering existing fisherwomen. Strengthening access to fisheries resource utilization for fisherwomen to help the family economy. Third, ease of market access, including protection and normalization of fishery

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<sup>31</sup> M. de la Torre-Castro, "Inclusive Management through Gender Consideration in Small-Scale Fisheries: The Why and the How," *Frontiers in Marine Science* 6 (2019): 156.

<sup>32</sup> A. Satria, *Pengkajian Hukum Tentang Perlindungan Nelayan Tradisional Dalam Pengelolaan Sumber Daya Kelautan* (Jakarta: Badan Pembinaan Hukum Nasional, 2012).

<sup>33</sup> Sulaiman Sulaiman et al., "Pembangunan Hukum Perlindungan Nelayan Tradisional Di Aceh Dalam Kaitan Pemanfaatan Sumber Daya Perikanan Secara Berkeadilan Di Aceh," *Jurnal Media Hukum* 21, no. 2 (2014): 309–321; A. N. Alami and S.N.I. Raharjo, "Recognizing Indonesian Fisherwomen's Roles in Fishery Resource Management: Profile, Policy, and Strategy for Economic Empowerment," *Journal of the Indian Ocean Region* 13, no. 1 (2017): 40–53, doi:10.1080/19480881.2016.1275329.

resource prices for small fishermen. Fourth, access to small fishermen, including small fishermen, in carrying out sustainable fisheries' management.

The empowerment program mandated by the PEF Act is carried out through the implementation of empowerment strategies, namely education and training; counseling and assistance; business partnerships; easy access to science, technology and information; institutional strengthening depends on the industry. For example, fishermen empowerment programs include: 1) insurance assistance; 2) protection and compensation for work-related injuries; 3) state / regional financial assistance in the form of loans or cash, and; 4) levies obtained from fishermen will go to the regional treasury and be used for the construction or repair of fish auctions and the provision of social funds to compensate for losses during the rare season. On the other hand, Fish Farmers and Salt Farmers are more like agricultural farmers, who in Indonesia already have a strong communal culture that protects and empowers local fish farming and salt cultivation. Apart from that, the PEF Act mandates direct government assistance in the industry through programs such as, 1) mandatory registration for assistance; 2) compulsory learning of aquaculture business ethics through certification; 3) financial assistance either as a loan or an amount of money; 4) procurement of technological aids for advanced cultivation (namely geomembranes and geoisolators), and; 5) Establishment of government-approved groups between aquaculture businesses to help each other.

There are also special programs for fish cultivators such as: 1) the use of antibacterial drugs and vaccines; 2) monitoring the use of drugs in fish farming<sup>34</sup>; and the application of nanoparticles in fish medicine.<sup>35</sup> In Indonesia, drugs that can be used must have been licensed/legalized by the Ministry; 2) guidance for fish cultivators who are caught using illegal drugs; 3) provide training such as sending fish cultivators for apprenticeships. As for salt farmers, the programs include, 1) conducting a salt business partnership, namely by establishing a partnership between a salt co-operative and a salt refining company; 2) expanding marketing between provinces; 3) disseminating information related to business developments, such as information on technology applications; 4) provide training such as calculating business analysis so that it can be seen how much profit is obtained.

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<sup>34</sup> P. Smith, M.P. Hilney, and O.B. Samuelsen, "Bacterial Resistance to Antimicrobial Agents Used in Fish Farming: A Critical Evaluation of Method and Meaning," *Annual Review of Fish Diseases* 4, no. C (1994): 273–313, doi:10.1016/0959-8030(94)90032-9.

<sup>35</sup> M. Shaalan, M. El Mahdy, and M. El Matbouli, "Recent Progress in Applications of Nanoparticles in Fish Medicine: A Review," *Nanomedicine: Nanotechnology, Biology and Medicine* 12, no. 3 (2016): 701–10.

Under the PEF Act, fishermen are required to be registered with a card called KUSUKA as one of the absolute conditions for accessing the facilities and facilities provided by the PEF Act (i.e. insurance, training, financial assistance, etc.). Regarding access to the right to protection from risks in the form of fishery insurance and insurance premium payment assistance from the government, in accordance with Article 12 of the Regulation of the Minister of Marine Affairs and Fisheries No. 18/2016 regulates fishery insurance requirements, fishermen need a fishing card or KUSUKA card as one of the absolute conditions to access this right. However, the PEF Act does not recognize the existence of fisherwomen because this regulation only recognizes fishing as men's work. This makes it difficult for fisherwomen to obtain KUSUKA cards, so they cannot access the right to facilities or the right to guarantee protection from risks in the form of fishery insurance.

In order to provide integrated, coordinated, and targeted protection and empowerment efforts, the PEF Act requires the government and local governments to prepare plans for the protection and empowerment of fishermen, fish cultivators, and salt farmers at the national, provincial, and district/city levels. This plan will be an integral part of the national development plan, regional development plan, national budget plan, and regional budget plan. Protection and empowerment efforts are carried out referring to the protection and empowerment plan that has been prepared. Unfortunately, until now, plans for the protection and empowerment of fishermen, fish cultivators, and salt farmers have not been published either at the national, provincial, and district/city levels. The PEF Act also ordered the formation of four implementing regulations, namely a government regulation on monitoring the planning and implementation of protection and empowerment, a presidential regulation on the provision of subsidies, and two ministerial regulations on risk protection mechanisms and community participation in protection and empowerment. Implementing regulations that have been formed are only at the level of ministerial regulations, while government regulations and presidential regulations have not yet been formed.

The issuance of implementing regulations and plans for the protection and empowerment of fishermen, fish cultivators, and salt farmers which are the main keys in the implementation of protection and empowerment shows that the PEF Act has not been implemented optimally. One of the ministerial regulations that have been issued is The Ministerial Regulation of Marine Affairs and Fisheries (Permen KKP) No. 3/PERMEN-KP/2019 on the Community Participation in the Protection and Empowerment of Fishermen, Fish Cultivators, and Salt Farmers. This

Permen KKP regulates the efforts that can be made by the community to contribute to protection and empowerment at the planning, implementation, funding and financing stages, as well as supervision. However, one important thing that is not emphasized in this Permen KKP is the importance of fishermen's participation in preparing plans for the protection and empowerment of fishermen, fish cultivators, and salt farmers at the national, provincial, and district/city levels. The Article 5 of Permen KKP No. 3 of 2019 only stipulates that the community can participate in the preparation of plans by providing suggestions and input and participating in deliberation. There should be an obligation for the government to involve fishermen as the intended subject of the protection and empowerment plan at the preparation stage.

### **3.3. Gender Inclusivity Issues in the PEF Act**

The main gender problem in the PEF Act is the very minimum, if not at all, assertion of the role of fisherwomen. There is only one paragraph that even mention the word "women" which is in Article 45. The Article 45 of PEF Act stipulates that the government should "... give attention to the involvement and role of women in fisherman's household, fish cultivator's household, and Salt Farmer household." This article basically diminished the role of women as a "secondary role" the fishery household economy instead of as the main breadwinner. Therefore, Fisherwomen have not fully obtained the right position as fishermen, because according to the government's viewpoint, fisheries are only carried out by men in a professionally manner. Although fisherwomen play a role in the economic value chain of fisheries, even as the main breadwinner for a household, the position of fisherwomen has not been fully recognized by the state. The implication of this lack of recognition is that they cannot get fisheries insurance in the event of an accident and damage. On the other hand, the recognition of fisherwomen as fisheries professionals should have broad inclusive implications in the context of protecting fishermen in Indonesia without exception, especially in terms of gender. But unfortunately it is very difficult for fisherwomen to access business capital from the government. Fisherwomen also experience patriarchal and structural cultural pressures related to gender equality. This happens because the majority of fisherwomen come from poor families, so that gender equality is difficult to achieve.<sup>36</sup>

The formulation of Article 45 in the PEF Act fulfills the requirements as an article formulation that implies *de jure* discrimination, because it explicitly places women in the

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<sup>36</sup> Sudarso, Keban, and Mas'udah, "Gender, Religion and Patriarchy: The Educational Discrimination of Coastal Madurese Women."

domestic sphere and does not take into account the public space for women. The existence of the formulation of this article also causes difficulties experienced by fisherwomen in accessing the right to facilities and the right to guarantee protection from risks. The existence of this article causes the emergence of actions that cause obstacles to fisherwomen in accessing fishermen's rights in law so that this article can also be said to contain direct discrimination. Therefore, the formulation of Article 45 in the PEF Act must be changed so that fisherwomen are not only entitled to empowerment, but also have the right to protection of fishermen. And have clear recognition of the public sphere. In addition, it is hoped that at least a Ministerial Regulation can be issued regarding the recognition of the legal status of fisherwomen, so that fisherwomen can be included as legal subjects and their existence and rights are recognized.<sup>37</sup>

The role of the Central Government, or specifically the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia to the Regional Marine and Fisheries Service, is related to the campaign and implementation of the PEF Act. Then, the Central Government needs to carry out regular monitoring of the implementation of rights in the PEF Act on coastal communities, in particular the rights to facilities and the right to guarantee protection from risks, so that these rights can be implemented evenly and on target, especially for fisherwomen.

The effort to include women in fisheries management is thought to help drive gender equality, it is in fact possible for aspects of a formal framework to develop a foothold in sectors that have not historically included these principles to enable progress in the future. It's speculated that the choice of language is strategic around "inclusion" rather than gender equality in fisheries regulations. This gradualism lets us build positive acceptance of these principles while overcoming opposition, and getting support from local fisheries. For all intents and purposes, empowering gender does depoliticize gender and the power dynamics. In this approach, gender equity is always judged based on other outcomes, such as greater conservation or increased productivity.<sup>38</sup>

The advocates for women's empowerment and gender equality has four approaches. If the gender equality goals are to be met, the fisheries sector needs a fresh appraisal to realize that

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<sup>37</sup> N. Stacey and [et.al], "Enhancing Coastal Livelihoods in Indonesia: An Evaluation of Recent Initiatives on Gender, Women and Sustainable Livelihoods in Small-Scale Fisheries," *Maritime Studies* 18, no. 3 (2019): 359–371, doi:10.1007/s40152-019-00142-5.

<sup>38</sup> D. Koralagama, J. Gupta, and N. Pouw, "Inclusive Development from a Gender Perspective in Small Scale Fisheries," *Current Opinion in Environmental Sustainability* 24, no. November (2017): 1–6, doi:10.1016/j.cosust.2016.09.002.

'gender' is more than just a women's issue.<sup>39</sup> Men and women cannot exist in equal in an alternative narrative framework where gender is treated as a social construction. Instead, gender relations must be seen as interactive in order to recognize how the freedom and rights that men and women have are different. This needs to be done to recognize men as important actors in problem identification as well as well as problem-framing users. Application of sex-dissegregated data and gender-inclusive facilitation techniques may fall below the lower threshold. But in order to avoid gender considerations, gender needs to be taken into account from the start of the project.

A second major concern is that the sector puts emphasis on the instrumental, rather than the intrinsic, value of gender equality proper training to Sustainable Development Goal 5 on Gender Equality as well as the existing commitment to Life below water goals In order for a radical change in gender-environment relations to take place, these normative values must be renegotiated. As such, the focus of government agencies on gender should be questioned. The issue in this sector is less about gender equality than the lack of importance on an almost singular focus on intrinsic values.

The gender equality in the equal involvement of men and women in decision-making is addressed by SDG 5, which can be articulated as more relevant to the work of Goal 5 in the fisheries sector. The new perspective necessitates reevaluating the organization's core gender ideology. Therefore, the most important dominant concern about gender in government must be challenged. This industry must emphasise instrumental values instead of pursuing equal opportunity for men and women. Balancing commitments to SD 5th gender equality and life under the water, such a significant change necessitates the revision of the group's ideals of gender-environment relations in the short term. For this reason, the primary reason, the reasons why government officials have an interest in gender must be probed applied notions of gender and environment As a result, the primary concern of government actors should be questioned normative gender/environmental ideals.

We also argue that addressing three important components include (a) relationally inequitable fisheries, (b) multilateral and industry-based fisheries governance, and (c) working with multilateral and structural state actors.<sup>40</sup> Multi-level governance has increasingly been used

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<sup>39</sup> S. Lawless and [et.al], "Gender Equality Is Diluted in Commitments Made to Small-Scale Fisheries," *World Development* 140 (2021): 105348, doi:10.1016/j.worlddev.2020.105348.

<sup>40</sup> E. H Allison and [et.al], "Rights-based Fisheries Governance: From Fishing Rights to Human Rights," *Fish and Fisheries* 13, no. 1 (2012): 14–29, doi:10.1111/j.1467-2979.2011.00405.x.

as a way to identify appropriate solutions to complex socio-ecological problems. Our examination of gendered issues at different levels of governance (specifically the individual and community) has shown areas of concern, and additionally has highlighted challenges of integration with regard to gender. Many current views remain unused because of a lack of engagement in the domestic, communal, and social environments. Finally, gender-oriented and multi-level fisheries strategies must collaborate with local women to implement and enhance livelihoods, while growing or forming new partnerships.<sup>41</sup> This process can help to gradually transfer capacity and expertise to the fisheries sector.

#### **4. Conclusions**

The Law Number 7 of 2016 concerning Protection and Empowerment of Fishermen, Fish Farmers and Salt Farmers or commonly referred to as the PEF (Protection and Empowerment for Fishermen) Act is expected to accommodate the welfare of all stakeholders and workers in the fishing industry, especially those of the poor, regardless of gender because the law does not specify it. However, there are considerable legal problems that can interfere with the welfare of fisherwomen in Indonesia. Fisherwomen's rights in the form of rights to facilities and rights to guarantee protection from risks as regulated in the PEF Act cannot be accessed by fisherwomen. Regarding the right to facilities, the PEF Act does not specifically regulate the technical requirements and procedures for accessing these rights. Fisherwomen have not fully obtained the right position as fishermen, because according to the government's viewpoint, fisheries are only carried out by men in a professional manner. Therefore, the PEF Act implies *de jure* discrimination because it explicitly places fisherwomen away from the fishing industry and does not take into account the public market space for them. This indicates that the PEF Act still perceives and governs women in fishery communities in the traditional patriarchal social setting where they are considered “secondary” to the household economy despite the factual efforts fisherwomen have done which often caused by the lack of a breadwinner from their male spouse or relatives.

These problems stem from how minute and seemingly ingenuous the PEF Act on recognizing fisherwomen into its law. The PEF Act only mentioned the word “women” once in article 45 which instructs governments to “give attention to women in fishery households”, thus the ingenuous tone of the law. This side-eyed gesture is exacerbated by the complete absence of

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<sup>41</sup> A. M. Song, J.P. Johnsen, and H. Morrison, “Reconstructing Governability: How Fisheries Are Made Governable,” *Fish and Fisheries* 19, no. 2 (2018): 377–389, doi:10.1111/faf.12262.

further mentions of women in its derivative regulations, i.e. the ministerial regulation concerning community participation in the protection and empowerment of fishermen. This proves that the principles of gender equality is practically non-existent in the PEF Act and its derivative regulations.

There are four recommendations that we aim at promoting, if not achieving, gender equality for the livelihoods of fisherwomen in the fishing industry. First, the amendment of a strict article in the PEF Act which recognizes gender equality and the role of fisherwomen. Second, the balance of commitment to gender equality in economic and social issues, especially in terms of organizational norms in the fisheries industry which are very male-dominated. Third, overcoming structural and relational inequalities in the treatment of fisherwomen in the bureaucracy, especially in their access to the KUSUKA card and the mandated facilities and benefits as follows. And fourth, the government must be actively involved in gender development and develop partnerships with established fisherwomen groups.

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