

TESIS

**PENGATURAN HAK NELAYAN TRADISIONAL ATAS TINDAKAN
OCEAN GRABBING BERDASARKAN HUKUM INTERNASIONAL DAN
IMPLEMENTASINYA DI INDONESIA**



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PENGATURAN HAK NELAYAN TRADISIONAL ATAS TINDAKAN OCEAN GRABBING BERDASARKAN HUKUM INTERNASIONAL DAN IMPLEMENTASINYA DI INDONESIA

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ABSTRAK

Indonesia sebagai negara kepulauan dengan luasnya lautan yang dimiliki dan sumber daya laut yang berlimpah, perlu dieksploitasi untuk menjamin kebutuhan hidup masyarakatnya khususnya nelayan tradisional yang dijamin haknya dalam hukum internasional dan hukum nasional. Namun terdapat tindakan *ocean grabbing* yang dapat menyebabkan privatisasi sumber daya laut hingga menghambat dan merugikan nelayan tradisional. Adapun rumusan masalah yaitu 1. Bagaimana pengaturan hak nelayan tradisional atas tindakan *ocean grabbing* berdasarkan hukum internasional? 2. Bagaimana implementasi pengaturan hak nelayan tradisional atas tindakan *ocean grabbing* dalam hukum Indonesia? 3. Bagaimana upaya negara dalam memberikan perlindungan terhadap hak nelayan tradisional atas tindakan *ocean grabbing*? Metode penelitian yang digunakan adalah penelitian hukum yuridis normatif dengan pendekatan terhadap peraturan perundang-undangan, konvensi internasional, serta literatur hukum terkait. Hasil penelitian menunjukkan bahwa dalam kerangka hukum internasional, khususnya melalui UNCLOS 1982, telah terdapat pengakuan dan perlindungan terhadap hak perikanan tradisional, termasuk kewajiban negara untuk menjaga dan melestarikan lingkungan laut serta menghormati hak-hak masyarakat pesisir. Dalam kerangka hukum internasional terdapat pada ICCPR terkait dengan hak-hak nelayan tradisional sebagai individu dalam masyarakat internasional seperti hak untuk hidup dan penghidupan, hingga hak atas kepastian dan perlindungan hukum. Namun, dalam praktiknya, fenomena *ocean grabbing* yang ditandai dengan perampasan akses dan kontrol atas sumber daya laut oleh negara maupun korporasi masih menjadi ancaman nyata bagi nelayan tradisional. Di Indonesia, meskipun telah terdapat berbagai regulasi seperti Undang-Undang Nomor 7 Tahun 2016 dan kebijakan pengelolaan sumber daya laut, implementasinya belum sepenuhnya mampu melindungi hak nelayan tradisional secara efektif, terutama akibat kebijakan yang cenderung berorientasi pada investasi dan industrialisasi sektor perikanan. Oleh karena itu, diperlukan penguatan kebijakan yang berkeadilan, peningkatan partisipasi masyarakat pesisir dalam pengelolaan ruang laut, serta harmonisasi antara hukum internasional dan hukum nasional guna menjamin kepastian hukum, keadilan sosial, dan perlindungan hak-hak nelayan tradisional secara berkelanjutan.

Kata Kunci: *Ocean Grabbing*, Kepastian Hukum, Hak Nelayan Tradisional, Hukum Internasional

THE REGULATION OF TRADITIONAL FISHING RIGHTS AGAINST OCEAN GRABBING BASED ON INTERNATIONAL LAW AND IMPLEMENTATION IN INDONESIA

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Indonesia, as an archipelagic state endowed with vast maritime territory and abundant marine resources, must utilize such resources to ensure the livelihood of its population, particularly traditional fishermen whose rights are recognized under both international and national law. However, the phenomenon of ocean grabbing poses a significant challenge, as it may lead to the privatization of marine resources, thereby restricting access and causing detriment to traditional fishermen. The research questions of this study are as follows: (1) How are the rights of traditional fishers against ocean grabbing regulated under international law? (2) How are the regulations concerning the rights of traditional fishers against ocean grabbing implemented within the Indonesian legal framework? and (3) What measures has the State undertaken to provide protection for the rights of traditional fishers against ocean grabbing? The research employs a normative juridical method, utilizing statutory, international convention, and legal literature approaches. The findings indicate that within the framework of international law, particularly under the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982), there exists recognition and protection of traditional fishing rights, including the obligation of states to conserve and preserve the marine environment and to respect the rights of coastal communities. Within the framework of international law, the ICCPR recognizes the rights of traditional fishers as individuals within the international community, including the right to life and livelihood, as well as the right to legal certainty and protection under the law. Nevertheless, in practice, the phenomenon of ocean grabbing, characterized by the appropriation of access and control over marine resources by states and corporations, remains a tangible threat to traditional fishermen. In Indonesia, despite the existence of various regulations, such as Law Number 7 of 2016 and policies governing marine resource management, their implementation has not yet been fully effective in safeguarding the rights of traditional fishermen, particularly due to policy orientations that tend to prioritize investment and the industrialization of the fisheries sector. Therefore, there is a pressing need to strengthen equitable policies, enhance the participation of coastal communities in marine spatial governance, and harmonize international and national legal frameworks in order to ensure legal certainty, social justice, and the sustainable protection of the rights of traditional fishermen.

Keywords: Ocean Grabbing, Legal Certainty, The Rights of Traditional Fisheries, International Law