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Legal Aspect of the Population, Fisheries and Coastal Area In Indonesia*

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1. INTRODUCTION

Population, term referring to the total human inhabitants of a specified area, such as a city, country, or continent, at a given time. Population study as a discipline is known as demography. It is concerned with the size, composition, and distribution of populations; their patterns of change over time through births, deaths, and migration; and the determinants and consequences of such changes. Population studies yield knowledge important for planning, particularly by governments, in fields such as health, education, housing, social security, employment, and environmental preservation. Such studies also provide information needed to formulate government population policies, which seek to modify demographic trends in order to achieve economic and social objectives.¹

According to Cambridge International Dictionary of English Guides you to the Meaning, *Population* is, “all the people living in a particular country area or place”.² In The Pocket Oxford

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¹ (Microsoft Encarta Encyclopedia Deluxe 2004 - © 1993-2003 Microsoft Corporation. All rights reserved).

² Cambridge International Dictionary of English Guides you to the Meaning, Cambridge University Press, 1995, p. 1096.

Dictionary, Population is, "inhabitants, the number of them".³ With specific meaning, Central Bureau of Statistic says that, *Population includes all residents in the entire geographical territory of the Republic of Indonesia, who have stayed for six months or longer, and those who intend to stay even though their length of stay were less than six months.*⁴ In the Act No. 10/1992, *Population means persons in their dimensions as private individuals, family members, members of society, citizens, and collectivities of quantities which reside in one place within the boundaries of the territory of the state at a particular time.*⁵

Indonesia, Republic of, island republic of Southeast Asia, constituting most of the Malay Archipelago. Indonesia is the world's fourth most populous country after China, India, and the United States. More than half the people live on Java, where Jakarta, Indonesia's capital and largest city, is located. Although the islands are home to more than 100 ethnic groups, most Indonesians are of mixed Malay origins and practice Islam. Several of Indonesia's islands hosted powerful trading kingdoms between the 5th and 16th centuries ... The Dutch took control of the islands in the early 1600s and for three centuries profited from Indonesia's economy, largely at the expense of the local population. Dutch authority over the islands peaked in the early 20th century before growing Indonesian nationalism led to an armed struggle and the declaration of the Republic of Indonesia in 1945.

The country enjoyed tremendous economic growth in the 1980s and much of the 1990s, partly due to Indonesia's abundant natural resources and increases

in the manufacturing and services sectors. As a result, Indonesia's middle class grew considerably, but poverty remained widespread. Indonesia plunged into an economic crisis in 1997 that led to significant political changes, including the resignation of President Suharto, who had been in office for more than 30 years. Democratic elections held in 1999 installed a new government.⁶

2. THEORIES OF POPULATION AND DEVELOPMENT

Theoretically, there are some important topics if we are talking about population and development, namely: the conflicting role of population growth in the development process; the optimum population, and a model of the low-equilibrium trap. This paper will try to explain about these important aspect interrelation or interconnection with the problem of population and development in Indonesia.

a. the conflicting role of population growth in the development process;

There are two opinions about population growth and development process that are: pessimistic opinion and optimistic opinion. The representative of the pessimistic school of population economists, Enke remarks that "*the economic danger of rapid population growth lies in the consequent inability of a country both to increase its stock of capital and to improve its state of art rapidly enough for its per capita income not to be less than it otherwise would be. If the rate of technological innovation*

³ F.G.Fowler and H.W.Fowler, *The Pocket Oxford Dictionary*, Oxford At The Clarendon Press, 1969, p. 627.

⁴ <http://www.bps.go.id>.

⁵ Act No. 10/1992 Concerning Population Development and Welfare Family.

⁶ Act No. 10/1992 Concerning Population Development and Welfare Family.

cannot be forced, and is not advanced by faster population growth, a rapid proportionate growth in population can cause an actual reduction in income per capita. Rapid population growth inhibits an increase in capital per worker, especially if associated with high crude birth rates that make for a young age distribution".⁷

Hoover and Coale, in a study of population growth and development based on Indian experience, also remarks: *"while greater numbers in the labor force add to the total product, faster growth of the labor force implies a lower output per worker than slower growth. The reason for this result is that with a faster growing labor force more capital must be directed to provide tools and equipment for the extra workers so that they will be productive as the existing labor force, and thus less will be available, for increasing output per worker".⁸*

The effect of population growth on savings is also a good deal more theoretically complex than the above argument suggests. The traditional argument is that population growth reduces the community's savings ratio by leading to a high dependency ratio of children who consume but do not produce. Ignoring the fact that many young children do, in fact, work in developing countries, the implication of the argument would seem to be that a reduction in population growth would increase the savings ratio by raising the age structure of the population. The question of an output response from population pressure comes back to the

point made earlier of the possibility of a positive relation between population growth and total productivity growth. The argument that a slow-down of population growth would raise the savings ratio assumes that the factors that determine output are independent of the number of dependents for whom provision has to be made.⁹

Verdoon's Law, suggests a positive relation between population growth and the growth of output per unit labor, especially in the manufacturing sector, assuming some growth in the labor force as population expands. There are some explanations:¹⁰

1. an economy with a faster rate of growth of employment and output may be able to learn more quickly and hence raise its rate of technical progress;
2. if there are internal and external economies of scale in production, increased employment and output will lead to a faster rate of growth of labor productivity;
3. There were likely to be economies of scale in the use of capital. Capital requirements, in most cases, do not increase in the same proportion as population.

But not all population economists are pessimistic about the influence of population growth on living standards. The optimistic opinion as, Clark argues that *"a classification of the developing countries shows that those with the highest rates of population growth have the highest rate of increase of production*

⁷ See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS; Also see Michael P. Todaro, 1985. "Economic Development in the Third World", Third Edition, Longman - New York & London.

⁸ See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS; Also see Michael P. Todaro. "Economic Development in the Third World", Third Edition, Longman - New York & London., 1985.

⁹ Ibid.

¹⁰ Ibid.

per head, and that historically periods of population growth usually precede and provoke economic growth".¹¹

Easterlin suggests that *population pressure can favorably affect individual motivation and lead to changes in production techniques which overcome the consequences of population pressure. In this connection it has been argued by Boserup, that a major stimulus to the "green revolution" has come from the pressure of population on food supply. Easterlin also claims that the young structure of a country makes it more amenable to change, more receptive to new ideas, more willing to shift resources from low-productivity to high-productivity sectors, and so on, all of which may raise income per head. In Hirschman's model, population growth increases the supply of potential decision-makers, expands markets and leads to development via shortages.*¹²

The potentially conflicting role of population growth in the development process is highlighted by the difference in attitude towards population increase between the developing countries themselves. In many advanced countries population growth is welcomed, and actively encouraged by generous family-allowance provisions (e.g. France) and liberal immigration policies (e.g. Canada). In the developing countries there is a view, held within and outside, that population growth and abundant supplies of labor are serious obstacles to development, but it is not unanimously held. In a UN inquiry into the attitudes of countries towards population growth, several

countries cited the strain on invisible resources that population growth imposes, but other countries did not mention economic drawbacks at all, and pointed to positive advantages of population expansion. Malaysia, for example, mentioned the possibility of substantial external economies of scale in the long run. The Cameroons expressed the view that a lower population growth rate would not contain the pressure to urbanization and industrialization, which it regarded as an essential ingredient of economic development. Venezuela stressed human resources as the most valuable asset of a country, while Liberia expressed concern over adequate supplies of labor to industry if population growth was curtailed. Among the more developed countries, Ireland and Czechoslovakia both regarded their populations as too low, and detrimental to development. Australia emphasized the importance of population growth for enlarging domestic markets on which her expanding export industries are based.¹³

But the British reply sums up well the conflict of opinion: there is nothing either in experience or in economic theory to indicate that a rapidly growing population makes it easier or more difficult to keep the rate of growth of the national product ahead of that of international comparison, seems to show that there is no pronounced relationship between the rate of productivity growth and the annual increase in the supply of labor. Whether the rate of growth of national product keeps ahead of that of population depends largely on the balance of other factors.¹⁴

¹¹ See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS; Also see Michael P. Todaro. "Economic Development in the Third World", Third Edition, Longman - New York & London., 1985.

¹² Ibid.

¹³ See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS; Also see Michael P. Todaro. "Economic Development in the Third World", Third Edition, Longman - New York & London., 1985.

¹⁴ Ibid.

All that has really been said so far is that population growth presents a paradox. On the one hand increases in population may reduce living standards owing to the adverse effect of population growth on savings and capital per head. On the other hand increases in population and that labor force can raise living standards through learning, specialization and scale economies which larger numbers, wider markets and a higher volume of output make possible. The debate as to whether population growth is a stimulus or an impediment to the growth of living standards is largely question of whether the relation between positive or negative. If the relationship is negative, then population growth is an impediment to rising living standards, and the growth of output itself may also be impaired. If the relationship is positive then the effect of population growth on the growth of output and output per head is unambiguously favorable.¹⁵

Beside that, there are two scientist or scholar give opinion about the conflicting role of population growth in the development process, namely: S. Enke and Julian Simon. Enke concluded "resources used to retard population growth can contribute perhaps one hundred times more to higher incomes per head than resources used to accelerate output growth. He comments, It is staggering to encounter such ratio when comparing different economic policies. General amazement could be reduced if it is noticed that this particular ratio is crucially dependent on the values taken for the initial levels of population and income". One weakness of the approach is that while Enke concedes that substantial bonuses may have to be paid to encourage the adoption of birth control

practices, he does not recalculate the basic numerical example to take account of these additional expenditures. The excuse is that bonuses are simply transfer payments, but transfer payments have alternatives investment uses. The serious objection to the whole approach is that it treats changes in population and income as independent whereas they are interdependent. When population growth is reduced, output growth will also be reduced directly if the marginal product of labor is positive, and also indirectly if productivity growth in the economy falls as the population growth rate falls.¹⁶

Enke also undertake traditional cost-benefit analysis to estimate the rate of return to expenditure on birth control programs. The benefit of a birth prevented is measured by the discounted value of the saved consumption. Also, the most suspect feature of Enke's produce is that the whole of a child's consumption up to the age 15 is treated as a reduction in society's saving whereas, in fact, the child may work, the family to which it belongs may reduce their consumption other things, or the family itself may work harder and produce more to support the child. When these considerations are taken into account, the net gain in saving or saved consumption from the prevention of a birth may be very much less. Also are forgotten the positive externalities that people may confer on one another. Who can say what the long run consequences of saving birth will be with such intangible considerations involved? The analysis would suggest, that the social optimum would be achieved when consumption per head fell zero, yielding maximum savings but all the cost of national suicide.¹⁷

¹⁵See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS; Also see Michael P. Todaro. "Economic Development in the Third World", Third Edition, Longman - New York & London., 1985.

¹⁶Ibid.

¹⁷See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS.

Simon's thesis is that "the ultimate resource is people skilled, spirited and hopeful people-who will exert their wills and imaginations for their own benefit, and so, inevitably, for the benefit of us all". He finds that the initial effects of population increase on per capita income are negative, but that in the longer term the positive feedback effects that results from the stimulus of population growth to technological progress and other factors which improve the rate of growth of productivity outweigh the negative effects. An overall judgement on population growth, and whether it is beneficial or not, depends very much on a weighing the balance between the present and the future. Whether the positive long-run benefits of population growth are considered to outweigh the short-run negative effects depends on the discount rate and the time period taken, the more beneficial population growth appears and the shorter the period considered and the more benefits are discounted the less beneficial population growth appears. In his stimulation model of the relationship between population growth and per capita income in advanced countries, Simon attempts to capture the effect of additional children on such factors as the savings ratio; labor supplied by the parents; scale economies and technical progress. In his stimulation model for developing countries Simon considers the following important feedback mechanisms: the stimulus to new methods in agriculture; the supply response of families; the provision of social infrastructure; scale economies and demand induced investment. Let us briefly consider some of these factors. A society under pressure from the

population growth may be expected to respond by finding new and more efficient ways of meeting given needs. In agriculture, the Malthusian view would be that improvements simply induce more population. But Simon argues that growth also has a large positive effect on agricultural saving, which tends to be overlooked because a large fraction is non-monetized. Population pressure provides a stimulus to develop social infrastructure, transport and communication facilities. Simon argues "if there is a single key element in economic development other than culture and institutions and psychological make-up, that single key element is transportation together with communications".¹⁸

The great difference between the results of Simon and the results of Enke (and also Hoover and Coale) is that the beneficial feedback effects of population on output mentioned above are omitted from the later analysis. A complete analysis of the relationship between population and living standard must have due regard to the long term benefits that population expansion can confer on societies, as well as the short-term costs.¹⁹

b. The Optimum Population.

What is the optimum population? According to Thirwall,²⁰ The term of "optimum population" is used in several different senses, but four, particularly, are commonly employed.

1. It is some times used to refer to the size of population, which maximized the average product or income per head.
2. Approach to the concept of optimum population adopts the creation of total welfare maximization.

¹⁸ See A.P. Thirwall, "Growth and Development, with Special Reference to Developing Countries". 1989. Fourth Edition, ELBS.

¹⁹ Ibid.

²⁰ Ibid.

3. Definition of optimum population refers to the level of population beyond which the average product in an economy falls below the level of production necessary for subsistence on the assumption that the total product is equally shared. In this case, the term optimum simply refers to the maximum population that can be supported with existing resources, and is the point of Malthusian equilibrium.
4. Sense in which the term “optimum population is sometimes used, which to describe a state of affairs where a country’s population is so large that increases in it can only detrimental to a country’s long-run growth prospects but also to growth in the short run, implying zero or negative marginal product”.

c. A Model of the Low Level Equilibrium Trap.

More than 175 years ago, the Reverend Thomas Malthus²¹ put forward a theory of the relationship between population growth and economic development that still survives today. Writing in 1798 in his *Essay on the Principle of Population*, and drawing on the concept of diminishing returns, Malthus postulated a universal tendency for the population of a country, unless checked by dwindling food supplies, to grow at geometric rate, doubling every 30-40 years. At the same time, because of diminishing returns to the fixed factor, land, food supplies could only expand roughly at an arithmetical rate. In fact, as each member of the population would have less land to work,

his marginal contribution to food production would actually start decline. Since the growth in food supplies could not keep pace with the burgeoning population, per capita incomes (defined in an agrarian society simply as per capita food production) would have a tendency to fall so low as to lead to a stable population existing barely at or slightly above the subsistence level. Malthus therefore contended that the only way to avoid this condition of chronic low level of living or “absolute poverty” was for people to engage in “moral restraint” and limit the numbers of their progeny. Thus, one might regard Malthus as the father of the modern birth control movement. Modern economists have given a name to the Malthusian idea of a population inexorably forced to live at subsistence levels of income. They have called it the “Low-level–equilibrium Population Trap” or more simply, the “Malthusian Population Trap”.

According to Thirwall, models of the low-level equilibrium trap attempt to integrate population and development theory by recognizing the interdependence between population growth, per capita income, and national income growth.²²

²¹See A.P. Thirwall, “Growth and Development, with Special Reference to Developing Countries”. 1989. Fourth Edition, ELBS.

²²See A.P. Thirwall, “Growth and Development, with Special Reference to Developing Countries”. 1989. Fourth Edition, ELBS.

3. POPULATION OF INDONESIA FROM DIFFERENT SOURCES AND SEVERAL SCENARIO OF POPULATION GROWTH

Table (1)
Size of Population (Million) of Indonesia (1980-2000)

Island	1980a)	1990a)	1995a)	2000a)	Area (km)b)
Java	91.3	107.6	114.7	121.5	132.187
Sumatera	28.0	36.5	40.8	45.6	473.606
Kalimantan	6.7	9.1	10.5	12.0	539.460
Sulawesi	10.4	12.5	13.7	15.0	189.216
Other	11.1	13.7	15.0	16.3	496.486
Indonesia	147.5	179.4	194.7	210.4	1.830.955

Source: a) Indonesia in Figure 1997, Central Bureau of Statistic
b) Agenda 21 Indonesia.

Figure (1)
Size of Population (Million) of Indonesia (1980-2000)

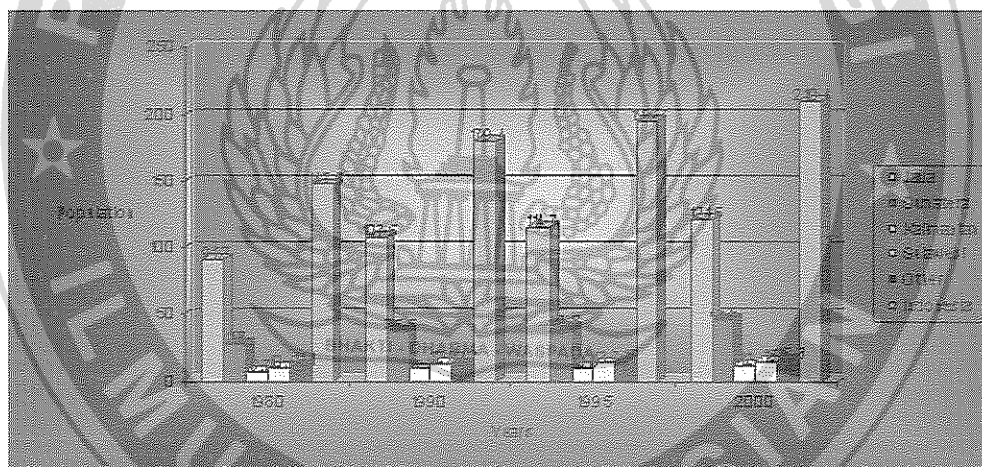


Table (1) and figure (1) shows that the largest size of population was in Java which in 1980 was 91.3 million, while the smallest size of population in Kalimantan

was 6.7 million. In 2000 the size of population in Java increased to be 121.5 million, while in Kalimantan increased to be 12 million.²³

Table (2)
Population of Indonesia from Different Sources (in Million)²⁴

Source	1990	2000	2010	2020
Demographic University of Indonesia	180.384	194.800	235.841	254.214
Central Bureau of Statistic	178.233	206.513	233.019	257.059

Source: Agenda 21 Indonesia.

²³Moh. Taufik Makarao, An Analysis Population Policies and Programs in Indonesia, Working Paper in Cairo Demographic Center, 1998-1999.

²⁴Ministry of Environment and United Nations Development Program., March 1997. Agenda 21 Indonesia.

Figure (2)
Population of Indonesia from Different Sources (in Million)

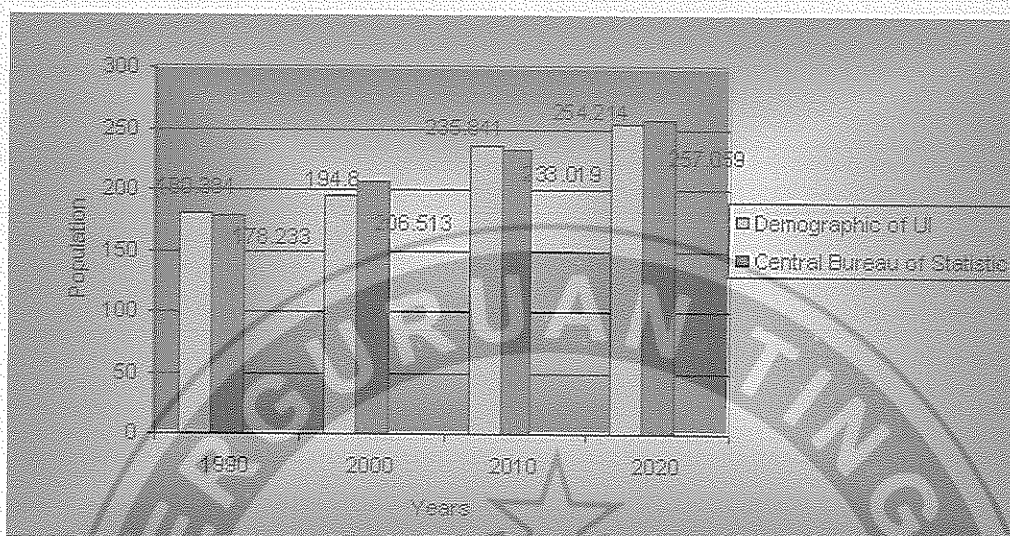


Table (2) and figure (2) shows population of Indonesia from different sources which, according to Demographic University of Indonesia the population of Indonesia in 1990 was 180.384.000, and in 2020 will be 254.214.000. meanwhile according to Central Bureau of Statistic

population of Indonesia in 1990 was 178.233.000 and in 2020 will be 257.059.000. "Based on projection of Central Bureau of Statistic, this means that the population will increase about 70 million in 30 years. (1990-2020)".²⁵

Table (3)
Several Scenario of Population Growth in Indonesia from 1995-2025 (In percent)

Year	Scenario			
	Selected	First	Second	Third
1995	1.66	1.80	1.64	1.47
2000	1.47	1.52	1.44	1.24
2005	1.23	1.42	1.21	1.00
2010	1.07	1.18	0.97	0.74
2015	0.88	0.95	0.72	0.47
2020	0.68	0.74	0.47	0.20
2025	0.56	0.53	0.24	0.06

Source: Agenda 21 Indonesia.

Table (3) and Figure (3) shows that in selected scenario the population growth in 1995 was 1.66 percent, and in the year 2025 will be 0.56 percent, meanwhile in the third scenario the population growth

in 1995 was 1.47 percent, and in the year 2025 will be 0.06 percent. In 2006 according to Haryono Soyono²⁶ (former Ministry of Population and Coordinator Board of National Family Planning, the

²⁵Ministry of Environment and United Nations Development Program., March 1997. Agenda 21 Indonesia. Also see, Moh. Taufik Makarao, An Analysis Population Policies and Programs in Indonesia, Working Paper in Cairo Demographic Center, 1998-1999.

²⁶Kompas, Sabtu, 25 November 2006.

population growth of Indonesia is about 1.4 percent. From the data above, this population growth almost same with the first scenario.

4. LEGAL ASPECT OF THE POPULATION, FISHERIES, AND COASTAL AREAS

In the legal aspect, population has been regulated in the Broad Lines of State Policy. For example in the Broad Lines of State Policy 1978 says that *the population included as one from some basic capital. .."With the population is very big, if can be developed and mobilized as an effective employee will be a capital of development and very profitable for development effort in all sectors.*²⁷

More detail the Broad Lines of State Policy 1978 says that, *in the population and family planning sector:*²⁸

- 1) Increasing and improvement the quality health service
- 2) Improvement health of community with preventive and curative method, also with to make near health service to the community with to add health community center.

In the Broad Lines of State Policy 1993, population also as one from some basic capital. *"With population is very big as productive and potential human resources for national development.*²⁹ More detail the Broad Lines of State Policy says about population: *(a) the aim of Population policy is to increase the quality of population as the main actor of national development so that to have work spirit, ethic, and believe to the God and to have humanity dignity. To manage population also aim to increase quality*

of life, intelligence, skill, health degree and welfare, and to create job opportunity, also equality of development and income. Development of population quality which included psychics and physical quality also to service toward population must be increasing with give attention to harmonious, matching, and balancing among population with natural support and environmental support so that potential of the population can be developing optimize. Quality and mobility population must be control so that to become development strength of the nation effectively. (b) Controlling population growth must be done for decrease total fertility rate via family planning action, to decrease total death rate especially children death below five years old by health service program and to increase welfare of mother and children. To control quantity of population must be done with correlation with total determination, structure, and composition, also growth and distribution of the population that ideally. Mobility and distribution of the population must be attended to capability natural support and must be correlation with space rule, by transmigration, to increase facilities for economic growth at the distribution area, also to give incentive to employee so that can to make greedy education people for stay in the new area. (c) Information, education, and training about population, including family planning and welfare family must be increasing so that to cover all community level especially young generation also non government organization (NGO's), Administration and register and statistic of the population continue improved so

²⁷Indonesian State Secretary, Material of Training, Ideology of Pancasila, Constitution 1945, the Broad Lins State Policy, 1978.

²⁸Ibid.

²⁹BP-7 Pusat, 1993. Constitution 1945, Ideology Pancasila, (Decree MPR No. II/MPR/1978, the Board Lines of State Policy, Decree MPR No. II/MPR/1993.

that to become primary data sources to support development planning in all sector, province and district, also to support prediction of population growth. That effort must be supported by good facilities including at all districts. (d) With increasing population size of old people and farther life expectancy as effect of the development, so they, who have experience, skill, and wise, need to get opportunity to make role in development. Population welfare of old people which can not get opportunities in development needs specific attention from government and community.³⁰

Act 10/1992 CHAPTER II regulated PRINCIPLES, DIRECTIONS AND OBJECTIVES. Article 2 says that, *the management of efforts for population development and development welfare families shall be based on the principles of balanced, beneficial and continuously developing life to create the complete Indonesian person.* Article 3 says that, *Population development shall be directed towards controlling the size of the population, development of population quality as well as guiding population mobility as human resources potentials so that they will become strengths of national development and national resilience as well as being able to provide the optimal benefit to the population and to raise the human dignity in all dimensions of the population. Development welfare families shall be directed towards the development of family quality through family planning efforts in the framework of inculcating the norm of the small, welfare family.*³¹

Article 4 says that, "Population development is intended to create

harmony, proportion and balance among population size, quality and distribution with the environment. Development of happy and prosperous families is intended to develop family quality in order to foster a greater sense of security, peacefulness and optimism about the future in achieving physical welfare and spiritual happiness".³²

Concerning Fisheries and Coastal Areas, "the Republic of Indonesia, which consists of approximately 17,000 islands, is located between 6 degrees north and 11 degrees south latitude, and from 95 to 141 east longitudes. The Indonesian archipelago lies between Asia and Australia. It is bounded by the South China Sea in the north, the Pacific Ocean in the north and east, and the Indian ocean in the south and west. There are five major islands: Sumatra in the west; Java in the south; Kalimantan straddling the equator; Sulawesi, which resembles the letter "K"; and Irian Jaya bordering Papua New Guinea on the west. Two remaining groups of islands are Maluku and Nusa Tenggara, running from Sulawesi to Irian Jaya in the North and from Bali to Timor in the south. Other islands are small and mostly uninhabited. More than 80 percent of Indonesia's territory is covered with water; the land area is about 1.9 million square kilometers. The large number of islands and their dispersion over a wide area has given rise to a diverse culture and hundreds of ethnic groups, each with its own language. This is the basis of the national motto, "Unity in Diversity".³³

In Indonesia's fifth Five Years Development Plan, many of the development activities take place in coastal areas. Population growth, export

³⁰BP-7 Pusat, 1993. Constitution 1945, Ideology Pancasila, (Decree MPR No. II/MPR/1978, the Board Lines of State Policy, Decree MPR No. II/MPR/1993.

³¹Act No. 10/1992 Concerning Population Development and Welfare Family.

³²Ibid.

³³(Microsoft Encarta Encyclopedia Deluxe 2004 - © 1993-2003 Microsoft Corporation. All rights reserved).

demand, and per capita consumption all increased the use of coastal and marine resources. In 1992 fish production 3.5 million tons, ...it is predicted that by 2000, this will increase to 4.25 million tons, and by the year 2020 to 6.04 million tons.³⁴

In the legal aspect, in Indonesia has been Act No. 31/2004. Specifically in this Act to regulate about Fisheries Court and Sanction. In Chapter XIII regulated about Fisheries Court. In article 71 says that, (1) with this Act, established fisheries court which have authority to examination, to judge and to make decision fisheries crime. (2) Fisheries court under control district court. (3) For the first time fisheries court established in North Jakarta, Medan, Pontianak, Bitung and Tual District Court. ...³⁵

In Chapter XIV regulated about Investigation, Prosecution, and Process of fisheries court. Section One to regulate Investigation. In article 72 says that, (1) Activity of Investigation in the fisheries crime based on positive process law, except there is another regulation. Investigation activity of fisheries crime by Fisheries Civil Servant, Mariner, and Police of Indonesia. (2) Investigator above can be done coordination. For coordination in the fisheries crime, ministry can establish coordination forum. The authority of investigator: (a) to receive report or accusation/information from someone about fisheries crime; (b) to call and to check suspected and/or witness; (c) To bring and to put in the front someone as suspected and/or witness for his/her argumentation. (d) To search fisheries facilities which has been done in or to become place to do fisheries crime. (e)

To stop, to check, to bring or to catch ships or people as suspected fisheries crime. (f) To check facilities and validities fisheries document. (g) To portrait suspected and/or material evidence fisheries crime. (h) To invite expert in correlation with fisheries crime. (i) To make and To sign checking letter. (j) To take toward material evidence which done and/or crime result. (k) To stop investigation. (l) To do another action according to the law...³⁶ (6) For interest of investigation, the investigator can to arrest in the jail the suspected for 20 days, and can be added 10 days...³⁷

Section two, to regulate Prosecution. In article 74 says that, The Activity of Prosecution in the case of fisheries crime based on positive process law except there are another act. Article 75 to explain, (1) prosecution to fisheries crime held by prosecutor which given authority by General Attorney. (2) The Prosecutor must be: (a) to have experience to become prosecutor minimum 5 years; (b) has been follow technical education and training in fisheries sector. (c) Capable and to have high morality to do duties. (6) For prosecution activity, prosecutor to have authority to arrest for 10 days. (7) If the check up the case is not finish yet can be continue the arrest by Chief of district court for 10 days.³⁸

Section three to manage The Process in the Court. Article 77 to declare, The activity of the process in the court in the fisheries crime based on positive process law, except regulated with another act. Article 78 to explain, (1) Judge in the fisheries court namely, judge's carrier and judge's ad hoc. (2) The composition of

³⁴Ministry of Environment and United Nations Development Program., March 1997. Agenda 21 Indonesia.

³⁵Act No. 31/2004 Concerning Fisheries.

³⁶Act No. 31/2004 Concerning Fisheries.

³⁷Ibid.

³⁸Ibid.

judge 's committee namely, 2(two) ad hoc judge and 1(one) carrier judge. (3) Carrier judge decreed based on decision of Chief of Supreme Court. (4) Ad hoc judge decreed and stop down by President based on suggestion Chief of Supreme Court. Article 79 says that, The process in the court can be done without suspected. The statement article 80, (1) *in 30 (thirty) days since the case received from prosecutor, the judge must be make decision....* Article 81 says that, (1) *for the interest of the process the judge can be arrest to the jail for 20 (twenty) days, (2) and can be added for 10 (ten) days by chief of district court.*³⁹

Article 82 to explain, (1) if decision of district court continued to the Appeal Court, *(in the province level-author)*, that case must be decision in 30 (thirty) days since that case received by Appeal Court. (2) The judge in the appeal court can be arrest in the jail for 20 (twenty) days. (3) And can be added for 10 (ten) days..... Article 83 to say that, (1) if decision of appeal court continued to the Supreme Court in 30 (thirty) days must be examined and decided since the case received by Supreme Court. (2) The judge in Supreme Court to have authority to arrest form 20 (twenty) days. (3) This can be added for 10 (ten) days.⁴⁰

Chapter XV to regulate about Sanction or punishment. In the article 84 says that, (1) *every people intentionally to catch fish and/or plantation of fish to use chemistry's material, biology's material, bomb's material, instrument and/or method, and/or building which can be injure and/or to dangerous continuous natural of fish and/or environment can be punishment to prison maximum 6(six) years and to pay money*

*not much than Rp. 1.200.000.000,00 (one billion two hundred million rupiahs). (2) Captain or chief of fish ship, expert of catch fish and clerk of ship intentionally in Indonesian fisheries area to catch fish to use chemistry's material biology's material, bomb's material, instrument and/or method, and/or building which can be injure and/or to dangerous continuous natural of fish and/or environment can be punishment to prison maximum 10 (ten) years and to pay money not much than Rp. 2.000.000.000,00 (two billion rupiahs). (4) The owner of fish plantation company, the substitute of the owner of fish plantation company, and/or who to be responsible of fish plantation company intentionally to do plantation in Indonesian fisheries area to use chemistry's material biology's material, bomb's material, instrument and/or method, and/or building which can be injure and/or to dangerous continuous natural of fish and/or environment can be punishment to prison maximum 10 (ten) years, and to pay money maximum Rp. 2.000.000.000,00 (two billion rupiahs).*⁴¹

Article 85 to explain, "every people intentionally in Indonesian fisheries area to have, to bring, to control, and/or to use instrument of catching fish, and/or instrument add of catching fish, is not relevant with standard, ... can be punishment to prison maximum 5 (five) years and to pay money maximum Rp. 2.000.000.000,00 (two billion rupiahs)". The statement of article 86, (1) "every people intentionally in Indonesian fisheries area to make pollution and/or to make degradation natural of fish and/or environment can be punishment to prison maximum 10 (ten) years, and to

³⁹ Ibid.

⁴⁰ Act No. 31/2004 Concerning Fisheries.

⁴¹ Ibid.

pay money maximum Rp. 2.000.000.000,00 (two billion rupiahs). (2) every people intentionally in Indonesian fisheries area to do plantation which can make dangerous fish's natural and/or environment of fish's natural and/or human health can be punishment to prison maximum 6(six) years and to pay money maximum Rp. 1.500.000.000,00 (one billion, five hundred million rupiahs). (3) every people intentionally in Indonesian fisheries area to do fish plantation from the result of genetic modification which can be dangerous natural of fish and/or environment of fish's natural and/or human health can be punishment to prison maximum 6(six) years and to pay money maximum Rp. 1.500.000.000,00 (one billion, five hundred billion rupiahs). (4) ... to use medicinecan be punishment to prison maximum 6(six) years and to pay money maximum Rp. 1.500.000.000,00 (one billion, five hundred billion rupiahs).⁴²

Article 87 to explorer, "(1) every people intentionally in Indonesian fisheries area to make degradation plasma germ of life which correlation with natural's fish can be punishment to prison maximum 2 (two) years and to pay money maximum Rp. 1.000.000.000,00 (one billion rupiahs). (2)because careless can be punishment to prison maximum 1 (one) years and to pay money maximum Rp. 500.000.000,00 (five hundreds million rupiahs). According to article 88, every people intentionally to carry in, to carry out, to held, to circulate, and/or to cultivate fish that to loss community, fish plantation, natural of fish and/or environment of natural of fish, to enter and/or to go out to Indonesian fisheries area can be punishment to prison not later than 6(six) years and to pay money

not much than Rp. 1.500.000.000,00 (one billion, five hundred billion rupiahs). Article 89 says that, every people that to handle and to manufacture fish is not relevant with feasibility to manufacture fish, quality guarantee system and fish result safety can be punishment to prison not later than 1(one) years and to pay money not much than Rp. 800.000.000,00 (eight hundred billion rupiahs).⁴³

Article 90 to explain, *every people intentionally to carry in or to carry out fish and/or fisheries result from Indonesian area without health certificate for human consumption can be punishment to prison not later than 1(one) years and to pay money not much than Rp. 800.000.000,00 (eight hundred billion rupiahs). "Avery people intentionally to use full material, add material, material helper and/or instrument that to dangerous human health and/or environment in to handle and to manufacture fish, can be punishment to prison not later than 6(six) month and to pay money not much than Rp. 1.500.000.000,00 (one billion, five hundred million rupiahs)"-(Article 91). "Every people intentionally in Indonesian fisheries area to do business in the sector catching, plantation, transportation, manufacture, and marketing of fish, without permission letter of company, can be punishment to prison not later than 8(eight) month and to pay money not much than Rp. 1.500.000.000,00 (one billion, five hundred million rupiahs)"-(Article 92).*⁴⁴

Meanwhile article 93 to explain, (1) every people that have and/or to operate ship for catching fish with Indonesian flag to do catching fish without *Indonesia shipping permission letter* can

⁴² Act No. 31/2004 Concerning Fisheries.

⁴³ Ibid.

⁴⁴ Act No. 31/2004 Concerning Fisheries.

be punishment to prison maximum 6(six) month and to pay money maximum Rp. 2.000.000.000,00 (two billion rupiahs)” (2) ...to operate ship for catching fish with abroad flag can be punishment to prison maximum 6(six) month and to pay money maximum Rp. 20.000.000.000,00 (twenty billion rupiahs)”. Article 94 says that, ... to have and/or to operate fish transportation without Transportation Ship Permission Letter can be punishment to prison maximum 6(six) month and to pay money maximum Rp. 1.500.000.000,00 (one billion five hundred million rupiahs). Article 95 to explorer, every people to build, to import, or to modification fisheries ship without agreement before can be punishment to prison maximum 1(one) year and to pay money maximum Rp. 600.000.000,00 (six hundred million rupiahs). Article 96: every people to operate fisheries ship without registration as a Indonesian fisheries ship, can be punishment to prison maximum 1(one) year and to pay money maximum Rp. 800.000.000,00 (eight hundred million rupiahs).⁴⁵

Article 97, (1) Captain that to operate ship of catching fish to use abroad flag without permission of catching fish in Indonesian fisheries area is not to keep instrument of fish catching in the hold of ship can be punishment to pay money not much than Rp. 500.000.000,00 (five hundred million rupiahs). (2) Captain that to operate ship of catching fish to use abroad flag has been fish catching permission in 1 (one) model of instrument to catch fish based on Zone Economic Exclusive (ZEE), to bring instrument to catch fish else can be punishment to pay money not much than Rp. 1.000.000.000,00 (one billion rupiahs).Article 98 says that, Captain that

sailing without permission letter fisheries ship from customs can be punishment to prison not later than 1(one) year and to pay money not much than Rp. 200.000.000,00 (two hundred million rupiahs)” Article 99 to explain, every people to do fisheries research in Indonesian area without permission from Indonesian government can be punishment to prison not later than 1(one) year and to pay money not much than Rp. 1.000.000.000,00 (one billion rupiahs)⁴⁶

5. CONCLUSION AND RECOMMENDATION

a. Conclusion

1. In Indonesia there are correlation between theories of population and development with legal aspect of the population. In the optimistic opinion says that “a classification of the developing countries shows that those with the highest rates of population growth have the highest rate of increase of production per head, and that historically periods of population growth usually precede and provoke economic growth”. “Population pressure can favorable affect individual motivation and lead to changes in production techniques which over come the consequences of population pressure”. In the Broad Lines of State Policy says that the population included as one from some basic capital. With the population is very big, if can be developed and mobilized as an effective employee will be a capital of development and very profitable for development effort in all sectors.

⁴⁵ Ibid.

⁴⁶ Act No. 31/2004 Concerning Fisheries.

2. Meanwhile in the pessimistic opinion says that, the economic danger of rapid population growth lies in the consequent inability of a country both to increase its stock of capital and to improve its state of art rapidly enough for its per capita income not to be less than it otherwise would be. If the rate of technological innovation cannot be forced, and is not advanced by faster population growth, a rapid proportionate growth in population can cause an actual reduction in income per capita. Rapid population growth inhibits an increase in capital pr worker, especially if associated with high crude birth rates that make for a young age distribution. In the Broad Lines of State Policy says that controlling population growth must be done for decrease total fertility rate via family planning action, to decrease total death rate especially children death below five years old by health service program and to increase welfare of mother and children. To control quantity of population must be done with correlation with total determination, structure, and composition, also growth and distribution of the population that ideally. Mobility and distribution of the population must be attended to capability natural support and must be correlation with space rule, by transmigration, to increase facilities for economic growth at the distribution area, also to give incentive to employee so that can to make greedy education people for stay in the new area.
3. Based on data projection of population growth above the government of Indonesia failure to decrease population growth, even the

population growth tend to increase. In the legal aspect, there are some Act about population, fisheries and coastal areas. The Act and regulation which to manage the population, fisheries and coastal area namely, The Broad Lines of State Policy 1978, 1993, the Act No. 10/1992, and the Act No. 31/2004.

b. Recommendation

1. With the population is very big, the government of Indonesia must be to work hard to mobilize the population to become productive and profitable in all sector of development.
2. The government must be improving the population growth with to give more attention to family planning, transmigration, and other activities that correlation with effort to decrease population growth. The government of Indonesia must be giving enough budgets for these activities. Even the government of Indonesia must be established one Ministry of Population and Family Welfare which can be handles the problem of the population.
3. Although the regulation to population, fisheries and coastal areas is enough, but the solution for population, fisheries and coastal areas not only with law, but another aspect also must to give attention. The problem of population, fisheries and coastal areas correlation with economic, education, health, housing, social security, employment, and environmental preservation, etc. For this reason the government of Indonesia must be handle all sector to improve the situation of population, fisheries and coastal areas.

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