International Journal of Social Science And Human Research

ISSN(print): 2644-0679, ISSN(online): 2644-0695

Volume 04 Issue 07 July 2021

DOI: 10.47191/ijsshr/v4-i7-41, Impact factor-5.586

Page No: 1850-1863

Analysis of the Role of the Public Prosecutors on the Action of the Ship Sunning in Fishery

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Abstract: Indonesia's natural wealth in the form of very wide waters so that the potential in it in the form of a wealth of aquatic ecosystems, both the wealth of flora and fauna in it poses a threat of illegal fishing. The crime prevention is carried out through 2 (two) efforts, namely penal efforts and non-penal efforts, namely: With the enactment of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, and other related laws and regulations. And Application, namely through the process of investigation, investigation, prosecution, and court. With the new legal umbrella, it is hoped that there will be strong coordination between institutions that have the authority to enforce law in the field of fisheries in order to achieve the ideals of the world maritime axis state and create protection for Indonesia's water rich ecosystems, as well as protection for Indonesian fishermen who depend on the fishery sector for their livelihood. to protect Indonesian waters from being exploited by fishermen from other countries because Indonesia's wealth must be fully utilized for the prosperity and welfare of the Indonesian people, giving other countries because Indonesia's wealth must be fully utilized for the prosperity and welfare of the Indonesian people. In the rules governing the authority given to investigators, namely Prosecutors, Police, Military, Bakamla, Ministry of Marine Affairs and Fisheries to sink/burn foreign-flagged vessels based on court decisions with permanent legal force as regulated in Law Number 45 of 2009 concerning Fisheries. This research is a normative legal research with the Statute Approach, Case Approach and Conceptual Approach. The results of this paper explain that the sinking/burning of a foreign-flagged ship by investigators is based on a court decision, aimed at safeguarding the sovereignty of Indonesian waters.

KEYWORD: Jaksa; Ship sinking/burning; Illegal fishing.

I. PRELIMINARY

A. Background

Indonesia has many marine areas, coastal areas, and small islands that are broad and strategically meaningful as pillars of national economic development. In addition to having economic value, marine resources also have ecological value. In addition, Indonesia's geographical condition is located in a strategic geopolitical position, namely between the Pacific Ocean and the Indian Ocean, which are the most dynamic areas in the current world of politics, defense and security. The geo-economic, geo-political, and geo-strategic conditions make the marine sector an important sector in national development. Especially for fisheries, Indonesia's potential is extraordinary, Indonesia's fishery potential is so abundant that it can be expected to become a leading sector of the national economy. For this reason, this potential must be utilized optimally and sustainably.[1]

Potentially, Indonesian fisheries are the largest in the world, both capture fisheries and aquaculture. Based on the modus operandi or production method, fisheries are divided into two, namely capture fisheries and aquaculture, with a sustainable production potential of around 67 million tons/year. From this figure, the potential for sustainable production (Maximum Sustainable Yield = MSY) for marine capture fisheries is 9.3 million tons/year and capture fisheries in inland waters (lakes, rivers, reservoirs, and swamps) are around 0.9 million tons/year or total capture fisheries of 10.2 million tons/year. The remaining 56.8 million tons/year is aquaculture potential, both marine aquaculture (mariculture), brackish water aquaculture (ponds), and freshwater aquaculture (land).[2]If assessed, the potential of Indonesia's fishery resources has a value of US$ 71,935,651,400 but only US$ 17,620,302,800 or 24.5% have been extracted. Based on data from the Central Statistics Agency (BPS) processed by the Directorate General of Strengthening the

[1] David Setia Maradong, "The Great Potential of Indonesian Capture Fisheries. Public Relations of the Cabinet Secretariat of the Republic of Indonesia", <http://setkab.go.id/potensi-besar-perikanan-tangkap-indonesia> accessed on 9 December 2020.

[2] Wantimpres, "Indonesian Fisheries Potential", <https://wantimpres.go.id/id/potensi-perikanan-indonesia> accessed February 5, 2021.

Competitiveness of Marine and Fishery Products (Ditjen PDSPKP), in the January-November 2016-2017 period, the export value of fishery products rose 8.12% from USD 3.78 billion in 2016 to USD 4.09 billion in 2017.[3]

With the vastness of the territorial waters and the great potential, the greater the challenges and responsibilities of Indonesia to be able to maintain the security of its territorial waters from various threats. One of the threats in the territorial waters, especially Indonesian marine waters, is the practice of illegal fishing carried out by foreign ships. This illegal fishing practice is very detrimental to Indonesia. Illegal fishing is the biggest problem in the fishing industry in Indonesia. There have been many legal products issued by the government to regulate fishery issues, ranging from legislation to ministerial instructions, but the resulting legal products, it must be admitted, are not optimal to minimize the practice of illegal fishing in Indonesian waters.

Many fishermen from neighboring countries take Indonesia's marine wealth illegally (illegally) in Indonesian waters which often occurs in the Exclusive Economic Zone (EEZ).[4] Fishing activities carried out by fishermen of a certain country or foreign vessels in waters that are not their jurisdiction without permission from the country that has such jurisdiction are contrary to the laws and regulations of a country called illegal fishing.[5]

Illegal fishing is a fishing activity that is contrary to the laws of a country or international provisions.[6]Illegal fishing activities are very detrimental to Indonesia, including economically in the form of losing foreign exchange earning opportunities, reduced opportunities to get added value, supply of fish to domestic fish processing units (UPI), environmental damage to both aquatic ecosystems and fishery resources as a threat from illegal fishing as a threat. real, and social damage because local fishermen are unable to compete due to illegal fishing carried out by foreign vessels and fishermen who incidentally have fishing capabilities and large capacity of ships, causing conflicts between obedient and disobedient fishermen, and loss of livelihoods. Fishery work; as well as with regard to dignity and sovereignty threatened by the entry of foreign fishing vessels in Indonesian waters.[7]This fact makes the Indonesian government make the agenda of eradicating illegal fishing the main focus.

The international provisions of the 1982 United Nations Convention on the Law of the Sea which have been ratified by Law Number 17 of 1985 concerning the Ratification of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), place Indonesia as having sovereign rights to exploit, conserve, and manage fishery resources in the Indonesian Exclusive Economic Zone (ZEEI) and the high seas which is carried out based on applicable international requirements or standards. With the legalization of the Exclusive Economic Zone law within the scope of the new International Law of the Sea, Therefore, the fishery resources owned by the Indonesian people get legal protection so that they can be fully utilized for the welfare of the Indonesian people and illegal fishing violations committed by foreign fishermen and Indonesian fishermen who catch fish in a way that is prohibited by the rule of law can be dealt with firmly and measurably, so that Then the Indonesian aquatic ecosystem can continue to be sustainable and the total wealth of its aquatic ecosystem will increase so that it plays a very potential role in supporting the improvement of the welfare and prosperity of all Indonesian people who depend on the wealth of Indonesian aquatic ecosystems. Although fishery resources are used for the greater prosperity and well-being of the population,

In the agenda of eradicating illegal fishing, one of the policies implemented by the Indonesian government is the policy of sinking ships carrying out illegal fishing crimes. The policy of sinking ships is implemented with the hope of giving a deterrent effect to perpetrators of illegal fishing and also as a message of Indonesia's seriousness in the agenda of eradicating illegal fishing. The ship sinking policy implemented is based on Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries (Law No. 45 of 2009), where in article 69 paragraph 4 it is stated that:[8]

> *"In carrying out the functions of supervision and law enforcement in the field of fisheries within the fishery management area of the Republic of Indonesia, fishery investigators and/or supervisors may take special actions in the form of burning and/or sinking fishing vessels with foreign flags with sufficient evidence".*

The sinking of foreign fishing boats that illegally enter the territory of the Unitary State of the Republic of Indonesia is a function of the application of law to provide a deterrent effect to the perpetrators. The lack of firmness in law enforcement can be

[3] Ministry of Maritime Affairs and Fisheries, "Indonesian Fishery Export Value Increases 8.12 Percent", <http://news.kkp.go.id/index.php/value-eksport-perikanan-indonesia-naik-812-persen/> accessed February 5, 2021.

[4] Syafrudin, "Sinks of Ships in Illegal Fishing Cases Seen from the Execution Aspect", Presentation of Power Point Focus Group Discussion (FGD) "Sinks of Ships in Cases of Illegal Fishing Seen from Execution Aspects", Research and Development Center of the Attorney General's Office, 16 October 2015, p. 14.

[5] International Plan of Action (IPOA) – Illegal, Unreported, Unregulated (IUU). "Code of Conduct for Responsible Fisheries (CCRF)", Food and Agriculture Organization of the United Nations (FAO), 1995.

[6] Oksimana Darmawan, "Corporate Criminal Liability in Illegal Fishing in Indonesia", Judicial Journal Vol. 11 No. August 2, 2018: 171-192, p. 171.

[7] Syafrudin, "Sinks of Ships in Illegal Fishing Cases Seen from the Execution Aspect", Presentation of Power Point Focus Group Discussion (FGD) "Sinks of Ships in Cases of Illegal Fishing Seen from Execution Aspects", Research and Development Center of the Attorney General's Office, 16 October 2015, p. 9.

[8] Law Number 45 Year 2009 Article 69 Paragraph 4 concerning Amendments to Law Number 31 Year 2004 concerning Fisheries

seen from the non-orientation of law enforcement in providing a deterrent effect. Indirectly, this is a contribution from the state to the increasing prevalence of illegal fishing. This led to the formation of opinion in the community about the inability of the state to provide protection of marine resources to the Indonesian people.

In an effort to provide protection for marine resources, one of the efforts made is as carried out by the Aceh High Court which executed the sinking of two foreign ships from Malaysia in the waters of the Port of Lampulo, Banda Aceh City. The two foreign ships from Malaysia that were destroyed by drowning were evidence in a fisheries crime case that had permanent legal force (inkracht).[9]The execution of the sinking of the ship which has permanent legal force is also carried out by the Natuna District Attorney and the Karimun District Attorney. Of the 10 foreign ships that were destroyed, 8 were evidence whose cases were handled by the public prosecutor of the Natuna District Attorney, while 2 ships were evidence of cases in fisheries cases handled by the Karimun District Attorney.[10]

The destruction of the illegal fishing vessel shows the AGO's commitment to support the Indonesian government to continue to fight illegal, unreported and unregulated fishing violations in Indonesia. The destruction of illegal fishing vessels is also a form of legal certainty, which is an absolute requirement in handling fisheries crimes.

Quoted from Kompas.com from the official website of the Ministry of Maritime Affairs and Fisheries (KKP), from October 2014 until the sinking of the last ship in October 2019, a total of 556 foreign ships that had been destroyed. Of these, only 3 Chinese fishing boats were sunk. Most of the ships that were sunk came from Vietnam with 312 ships, followed by the Philippines with 91 ships, Malaysia with 87 ships, Thailand with 24 ships, and Indonesia with 26 ships. Other state-flagged vessels include 2 Papua New Guinea ships, then 1 Nigerian ship, and 1 Belize ship.[11]

In relation to the legal technicalities regarding the destruction of ships, this has been regulated in accordance with the provisions of Article 69 Paragraph (4) and Article 76A of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries (Law No. 45 of 2009) states that "In carrying out the functions as referred to in paragraph (1) fishery investigators and/or supervisors may take special actions in the form of burning and/or sinking fishing vessels with foreign flags based on sufficient preliminary evidence".[12]

In the explanation of Article 69 Paragraph (4) above, what is meant by "sufficient preliminary evidence" is preliminary evidence to suspect a criminal act in the field of fisheries by a fishing vessel with a foreign flag, for example a fishing vessel with a foreign flag does not have a Fishing Permit (SIPI).) and Fish Transporting Vessel Permit (SIKPI), as well as actually catching and/or transporting fish when entering the fishery management area of the Republic of Indonesia. This provision indicates that the special action cannot be carried out arbitrarily, but is only carried out if the fishery investigator and/or supervisor is convinced that the fishing vessel with a foreign flag has actually committed a crime in the field of fisheries.

In the perspective of international law, the legal action of the sinking of the ship does not conflict with the United Nations Convention on the Law of the Sea (UNCLOS) or what is defined as the United Nations Convention on the Law of the Sea. Based on Article 73 (3) of UNCLOS, it is stated that the subject protected in the criminal act of illegal fishing is the human, not the ship by giving fines or deportation for the perpetrators without being given imprisonment. Meanwhile, the ship can be confiscated or even sunk after going through legal procedures in force in a country.

Regarding the legal action of sinking ships in Indonesia, the Supreme Court through SEMA Number 1 of 2015 as mentioned above regulates the destruction/sink of ships, which can be carried out if caught red-handed by investigators and/or fisheries supervisors. The basis is Article 69 Paragraph (4) of Law no. 45 of 2009 which states that fisheries supervisory vessels in carrying out their supervisory and law enforcement functions in the field of fisheries within the fishery management area of the Republic of Indonesia may take special actions in the form of burning and/or sinking fishing vessels with foreign flags based on sufficient preliminary evidence. The implementation of the sinking of the ship is also equipped with the Regulation of the Minister of Maritime Affairs and Fisheries No.

In addition to what is stipulated in the Circular Letter of the Supreme Court Number 1 of 2015 concerning Evidence of Ships in Fisheries Criminal Cases, the sinking of ships is also carried out based on court decisions. The handling of illegal fishing cases through this court decision process involves the role of the Prosecutor's Office since the start of the Investigation BAP from

[9] Aceh Portal, "Kajati Aceh Executes Sinking of Foreign Ships", https://www.acehportal.com/news/kajati-aceh-laksanakan-eksekusi-penenggelaman-kapal-asing/index.html, accessed on 7 February 2021.

[10] Idris Rusadi Putra, "KKP and the Attorney General's Office Sink 10 Fish Stealing Boats in the Natuna Sea", https://www.merdeka.com/uang/kkp-dan-kejaksaan-tenggelamkan-10-kapal-pencuri-ikan-di-laut- natuna.html, accessed on 7 February 2021.

[11] Muhammad Idris, "While being a minister, how many Chinese ships did Susi sink?" <https://money.kompas.com/read/2020/01/06/160600226/selama-jadi-menteri-berapa-kapal-china-ditenggelamkan-susi?page=all> accessed February 9, 2021.

[12] Law Number 45 Year 2009 Article 69 Paragraph (4) and Article 76A concerning Amendments to Law Number 31 Year 2004 concerning Fisheries.

investigators (Fisheries PPNS, Indonesian Navy Officers, and Police Officers), continuing with pre-prosecution, prosecution and execution of court decisions that have permanent legal force. inkracht).

Regarding the prosecution of foreign vessels involved in illegal fishing, the Public Prosecutor is guided by the Letter of the Deputy Attorney General for General Crimes to the Heads of the High Prosecutor's Office throughout Indonesia Number: B-3874/E/EJP/10/2017 dated 27 October 2017 regarding the Report on Handling and Plan of Criminal Prosecution in Cases of Crime of Natural Resources Transnational. In the letter from the Deputy Attorney General for General Crimes, it is stated that the plan to prosecute cases of transnational natural resource crimes should be submitted to the Deputy Attorney General for General Crimes in stages.

The position of the Prosecutor's Office as one of the law enforcement agencies whose functions are related to judicial power has a central position in the criminal justice system. The main task of the Prosecutor's Office is to carry out prosecutions as well as be responsible for the results of the investigation. As a "dominus litis" the Prosecutor's Office formulates and controls the policies of the criminal justice system, so that the steps of investigation and prosecution are linked in one unified process.

Based on the description above, the authors feel it is necessary to conduct research on the title/theme "The role of the public prosecutor on the act of sinking ships in fisheries crimes".

B. Problem

Based on the description above, the main problems in this study are:

1. What are the factors that cause fisheries crime to occur in Indonesian territorial waters?
2. What is the role of the public prosecutor in the act of sinking ships that commit fisheries crimes in Indonesia?

II. RESEARCH METHODOLOGY

This study uses a normative legal research methodology.

Peter Mahmud Marzuki defines Legal Research as a process to find the rule of law, legal principles, and legal doctrines to be able to answer the legal issues faced, with the result to be achieved is to give prescriptions about what should be.[13]

The author decided that this paper will use 3 (three) research approaches. The research approaches used include the Statute Approach, the Case Approach and the Conceptual Approach. With this approach, the author will get information from various aspects of the issue being studied.

The type of research in this legal research is normative or doctrinal legal research. According to Terry Hutchinson as quoted by Peter Mahmud Marzuki defines that doctrinal legal research is as follows:

> *"doctrinal research: research wich provides a systematic exposition of the rules governing a particular legal category, analyzes the relationship between rules, explains areas of difficulty and, perhaps, predicts future development."*

(Doctoral research is research that provides a systematic explanation of the rules governing a particular category of law, analyzes the relationship between regulations, explains areas of difficulty and perhaps predicts future development). Normative legal research, which is another name for doctrinal legal research, is also referred to as library research or document study because this research is conducted or aimed only at written regulations or other legal materials. In essence, research is carried out by examining library materials or secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials.[14]

The type of data used by the author in this study is secondary data. Secondary data is data that is not obtained directly from the first source. Secondary data obtained from library materials which include documentary materials, scientific writings, books, and other written sources based on their binding strength are divided into:

1. Primary Legal Materials, namely basic rules, laws and regulations include:
   1) 1945 Constitution of the Republic of Indonesia.
   2) Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.
   3) Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries jo. Article 38 and Article 45 of Law Number 8 of 1981 concerning Criminal Procedure Code.
   4) Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone (ZEEI).
   5) Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea (United Nations Convention on the Law of the Sea).
   6) Circular Letter of the Supreme Court Number 1 of 2015 Evidence of Ships in Fisheries Crime Cases.
2. Secondary Legal Material

   Secondary legal materials are materials that are complementary. According to Peter Mahmud Marzuki, secondary materials are all publications on law which are not official documents. Both materials were investigated using document study techniques.

[13] Peter Mahmud Marzuki (A), Legal Research Revised Edition, 12th Printing, (Jakarta: Prenada Media Group, 2016), p. 57.
[14] *Peter Mahmud Marzuki. Op.cit. Thing. 32.*

Secondary legal materials used include law books, legal dictionaries, legal journals and court decisions related to research but not in the form of official documents.

3. Tertiary Law Material

   Tertiary legal materials are materials that provide explanations for primary and secondary legal materials.

The legal materials as described above are analyzed using 3 (three) descriptive techniques to describe legal events regarding ship sinking/burning; comparative technique to compare legal norms governing ship sinking/burning with legal norms regarding the criminal justice system; and argumentative techniques to provide researchers' arguments regarding the policy of sinking/burning ships in the future.

III. DISCUSSION

A. Analysis of the Role of the Public Prosecutor Against Ship Sinking Actions in Fisheries Crime

The practice of illegal fishing is an organized transnational crime and has caused material losses for Indonesia as well as serious ecosystem damage for Indonesia and other countries in the region. Besides being economically, socially, and ecologically harmful, this practice is an act that weakens the territorial sovereignty of a nation.[15]

The most common illegal fishing activity in the Indonesian fisheries management area is the theft of fish by foreign fishing vessels (KIA) originating from several neigh boring countries. The act of foreign fishing vessels entering Indonesian waters without a permit and exploiting the natural resources therein is a violation of Indonesian sovereignty. Based on the results of the supervision carried out, it can be concluded that illegal fishing by KIA mostly occurs in the EEZ (Zone Economic Exclusive) and also quite a lot occurs in archipelagic waters (archipelagic state).[16]

One of the countermeasures to eradicate illegal fishing practices, the President has ordered supervisory officers in the field to act decisively, if necessary, by sinking foreign vessels that steal fish in Indonesian waters. This action is one of the State's efforts to secure Indonesia's natural and marine wealth, which is the mandate of the 1945 Constitution of the Republic of Indonesia as described in Law Number 31 of 2004 concerning Fisheries jo. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.[17]

In response to the President's instructions, the Navy, the Maritime Security Agency (Bakamla), and the Ministry of Maritime Affairs and Fisheries (KKP) have carried out the execution of the sinking of foreign fishing vessels caught practicing illegal fishing in Indonesian waters. This policy is intended as a stern warning to the perpetrators of illegal fishing as well as a form of Indonesia's commitment in monitoring and enforcing the law in Indonesian marine areas, which will continue to be carried out in order to have a deterrent effect on the perpetrators. However, the act of catching foreign fishing vessels is carried out, still based on the applicable rules and regulations, as well as the fulfillment of sufficient initial evidence.[18]

In tackling criminal acts in the field of fisheries, the statutory regulations that regulate are clear, namely Law Number 45 of 2009 in Combating Fisheries Crime in Indonesian Waters which is an amendment to Law 31 of 2004 which in its renewal is to strengthen coordination between institutions. who has the authority in law enforcement in violations that often occur related to fisheries, both violations by legal subjects of Indonesian citizens and foreign nationals who violate illegal fishing activities. The process of handling cases in fisheries crimes by the Government of Indonesia through the Ministry of Fisheries and Maritime Affairs in coordination with the Navy, Civil Investigators, Bakamla, Police and the Prosecutor's Office is as follows.[19]

1. Investigation Action.

   An investigation is an event to obtain definite and clear information which is the beginning of a criminal act, an investigation can be carried out in an open manner as long as it can produce the required information. occurred in order to find the suspect (Article 1 point 2 of the Criminal Procedure Code).

2. Prosecution.

   Enforcement activities can be carried out in areas where violations occur and fish shelters and processing. The steps taken are as follows: Preparation and Implementation of Action.

3. Handling of Evidence.

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[15] Ten November Institute of Technology, Illegal Fishing and Indonesian Marine Sovereignty, (Surabaya: Sepuluh Nopember Institute of Technology, 2016), p. 1.

[16] Mangun Sosiawan, et al, Final Report Legal research on mechanisms for resolving conflicts between countries in marine resource management, (Jakarta: National Legal Development Agency, Ministry of Law and Human Rights, Republic of Indonesia, 2015), p. 52.

[17] Law Number 31 of 2004 concerning Fisheries jo. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.

[18] *Ibid.*

[19] *Ibid.*

Confiscation is carried out with a Confiscation Order in very urgent and necessary circumstances because it requires immediate action, confiscation can be carried out without the permission of the Head of the District Court but is limited to movable objects then must be notified to the competent authorities ("Chairman of the local PN").

4. Summoning.
   Summons are imposed on suspects and people who are at the scene of the crime by notifying through a notification sent a letter to the suspect or witness stating the reason for the summons and a brief description of the crime that occurred.
5. Arrest.
   Arrests are made to suspects and can also be made to ship owners.
6. Detention.
   The suspect is placed under the supervision of investigators for further processing.
7. Search.
   A search is a law enforcer who conducts an overall examination of a person or place where a criminal act has occurred which has been regulated according to the applicable legal provisions. in this Law (Article 32 of the Criminal Procedure Code).
8. Examination.
   Examination is an activity to obtain information, firmness and common perception regarding evidence and suspects related to the elements of the offense committed so that the evidence in the crime becomes clear. Examination of Suspects and Examination of Witnesses / and Expert Witnesses.
9. Completion of inspection results / files.
   Is a procedure for the last stage of a criminal offense, the activity consists of: Making a resume is a series of procedures for examining a suspect and concluding a problem and, a crime has occurred. Compilation of the contents of the case file, namely the preparation of the contents of the case file in accordance with the sequence of actions and the grouping of letters/Minutes that have been made and attached according to the evidence documents and other documents that need to be attached as stated in the Technical Instructions for Investigation, filing , which is an activity to file the contents of Case Files with the composition and conditions of certain sealing bindings, submission of Case Files, namely; which will be submitted to the prosecutor.

More specifically in this analysis, prosecutors in their duties and authorities in investigating, prosecuting and carrying out court decisions are explained in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as follows.

Article 73 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries:[20]

1) Investigation of criminal acts in the field of fisheries in the fishery management area of the Republic of Indonesia shall be carried out by Investigators of Fisheries Civil Servants, Investigators of Indonesian Navy Officers, and/or Investigators of the Indonesian National Police.
2) Apart from TNI AL investigators, Fisheries Civil Servant Investigators are authorized to conduct investigations into criminal acts in the field of fisheries that occur in ZEEI.
3) Investigations into criminal acts in the field of fisheries that occur in fishing ports are prioritized to be carried out by Fisheries Civil Servant Investigators.
4) Investigators as referred to in paragraph (1) can coordinate in handling investigations of criminal acts in the fishery sector.
5) In order to coordinate in handling criminal acts in the field of fisheries as referred to in paragraph (4), the Minister shall establish a coordination forum.

Article 73A of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries;[21]
The investigator as referred to in Article 73 has the authority to:

a. receive a report or complaint from a person regarding the existence of a criminal act in the field of fisheries;
b. summon and examine suspects and/or witnesses for their statements to be heard;
c. bring and present a person as a suspect and/or witness to have his/her testimony heard;
d. search fishery facilities and infrastructure suspected of being used in or being a place to commit criminal acts in the field of fisheries;
e. stop, examine, arrest, carry, and/or detain ships and/or people suspected of committing criminal acts in the field of fisheries;
f. check the completeness and validity of fishery business documents;
g. photographing suspects and/or evidence of criminal acts in the field of fisheries;
h. bring in the necessary experts in relation to criminal acts in the field of fisheries;
i. make and sign the minutes of examination;
j. confiscate the evidence used and/or the proceeds of a criminal act;

[20] Law Number 45 Year 2009 Article 73 concerning Amendments to Law Number 31 Year 2004 concerning Fisheries.
[21] Law Number 45 Year 2009 Article 73A concerning Amendments to Law Number 31 Year 2004 concerning Fisheries.

k. terminate the investigation; and
l. take other actions that according to law can be accounted for.

Article 73B of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries:[22]

1) The investigator as referred to in Article 73 shall notify the public prosecutor of the commencement of the investigation no later than 7 (seven) days after the discovery of a criminal act in the fishery sector.
2) For the purposes of the investigation, the investigator may detain a suspect for a maximum of 20 (twenty) days.
3) (2) The period as referred to in paragraph (2), if necessary for the purposes of an unfinished examination, may be extended by the public prosecutor for a maximum of 10 (ten) days.
4) The provisions as referred to in paragraphs (2) and (3) do not rule out the possibility of the suspect being released from detention before the end of the detention period, if the purpose of the examination has been fulfilled.
5) After the 30 (thirty) days, the investigator must have released the suspect from detention for the sake of law.
6) The investigator as referred to in Article 73A shall submit the results of the investigation to the public prosecutor no later than 30 (thirty) days after the notification of the commencement of the investigation.

Article 75 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries:[23]

1) Prosecution of criminal acts in the field of fisheries shall be carried out by a public prosecutor appointed by the Attorney General.
2) Public prosecutors in cases of criminal acts in the field of fisheries as referred to in paragraph (1) must meet the following requirements:
   a. experience as a public prosecutor at least 2 (two) years;
   b. have attended technical education and training in the field of fisheries; and
   c. capable and have high moral integrity while carrying out their duties.

Article 76 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries:[24]

1) The public prosecutor after receiving the results of the investigation from the investigator is obliged to notify the results of his research to the investigator within 5 (five) days from the date of receipt of the investigation dossier.
2) In the event that the results of the investigation submitted are incomplete, the public prosecutor must return the case file to the investigator accompanied by instructions on matters that must be completed.
3) Within a maximum period of 10 (ten) days from the date of receipt of the file, the investigator must re-submit the case file to the public prosecutor.
4) An investigation is deemed to have been completed if within 5 (five) days the public prosecutor does not return the results of the investigation or if prior to the expiration of the time limit there has been a notification about it from the public prosecutor to the investigator.
5) In the event that the public prosecutor declares that the results of the investigation are complete within a maximum period of 10 (ten) days from the date of receipt of the documents from the investigators being declared complete, the public prosecutor must delegate the case to the fisheries court
6) For the purpose of prosecution, the public prosecutor is authorized to make detention or further detention for 10 (ten) days.
7) The period as referred to in paragraph (6), if necessary for the purpose of an unfinished examination, may be extended by the head of the competent district court for a maximum of 10 (ten) days.
8) The provisions as referred to in paragraphs (6) and (7) do not rule out the possibility of a suspect being released from detention before the end of the detention period if the purpose of the examination has been fulfilled. The public prosecutor submits the case file to the head of the competent district court no later than 30 (thirty) days from the date on which the file from the investigator is declared complete.

Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries explains that prosecutors have the authority to investigate together with Fisheries Civil Servant Investigators, Navy Officers Investigators, and/or Indonesian National Police Investigators, because under the provisions of the Law, This law has the aim of strengthening coordination between institutions that have law enforcement authorities related to violations in the fisheries sector, so investigations can be carried out jointly based on public complaints about violations or the results of actions by law enforcers.Then the results of the investigation will be reported to the public prosecutor for further study and a decision will be made on the prosecution until it will be submitted to the court for processing within the scope of the judiciary to prove the violation committed until a final decision is issued (with permanent legal force).[25]

[22] Law Number 45 of 2009 Article 73B concerning Amendments to Law Number 31 of 2004 concerning Fisheries.
[23] Law Number 45 of 2009 Article 75 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.
[24] Law Number 45 of 2009 Article 76 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.
[25] Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. Explanation of the Authority of Investigation and Prosecution.

Referring to Law Number 31 of 2004 concerning Fisheries, Article 69 paragraph (1) and paragraph (4) jo. Article 76A jis. Article 38 in conjunction with Article 45 of Law Number 8 of 1981 (KUHAP), "The policy of sinking foreign-flagged fishing vessels (foreign fishing vessels) perpetrators of the crime of illegal fishing", is basically a term used for special actions in the form of destroying evidence in the form of foreign-flagged fishing vessels used to commit fishing crimes (illegal fishing). Destruction can be done by:

a. burned;
b. blown up;
c. Drowning, by means, among others:
    1) Leaked on the walls;
    2) Opened the sea tap; or
d. Banned.

The government in eradicating the crime of illegal fishing implements a policy of burning/drowning against foreign-flagged illegal fishing vessels only based on sufficient preliminary evidence which is currently believed to be a solution to get out of the problem. The policy is carried out based on Article 69 paragraph (4) of Law 45/2009 which stipulates that "in carrying out the functions as referred to in paragraph (1) fishery investigators and/or supervisors may take special actions in the form of burning and/or sinking fishing vessels with foreign flags based on sufficient preliminary evidence. This means that even though there are no dangerous factors in the capture of vessels for illegal fishing,[26]

B. Factors Causing Fisheries Crimes That Occur in Indonesian Territory Waters

1. Factors of Awareness, Obedience and Legal Effectiveness

As stated by Achmad Ali in his book that he agrees with what was stated by Krabbe which states that legal awareness is actually awareness or values contained in humans, about existing laws or about laws that are expected to exist. Then Achmad Ali added that legal awareness would be even more complete, if it was added with elements of community values, about what functions the law should carry out in society, as stated by Paul Scholten with the statement that legal awareness possessed by community members, not guarantee thatThe community members will obey a rule of law or legislation.[27]

Likewise, the main reason put forward by all fisheries supervisors is that the occurrence of illegal fishing is due to awareness and legal compliance factors. As analogous to Achmad Ali in his book on Revealing Legal Theory, it is the driver who violates the red light. In this study, the researcher uses an example from the results of the study, namely a fisherman who knows that the prohibition of bombing at sea is a violation of the law, and also realizes that only the fisheries supervisor, Bakamla, and Polair have the authority to arrest him. That person. With this legal awareness, it is not necessarily illegal fishing. When the person does not see that there is an officer unit (Satgas) for marine and fisheries security, so that person because of his desire to get more results, then he bombed fish without thinking about the consequences. Legal compliance is also affected because of the person behind the perpetrator.

2. Low Economic Factor

The State of Indonesia is a country that can be classified as a welfare state which has the obligation to organize general welfare, namely realizing social justice for all Indonesian people as stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely the state protects the entire nation and the entire nation. spilled blood of Indonesia and to promote public welfare, educate the nation's life, and participate in maintaining world peace. In this paragraph it is stated that the state of Indonesia was established to promote the general welfare. This formulation contains an affirmation to the government to provide for the welfare of all the people, which also means that the state is obliged to eradicate poverty.[28]

The welfare of the people, which is an aspiration for all nations in the world, often cannot be realized even though there are rules or regulations that guide the creation of justice and social welfare. Poverty is a problem faced by humans wherever and whenever there is an economic gap. Poverty is also a problem that is often faced by developing countries in general, including one of the problems faced by Indonesia. Various kinds of policies that emerged as a result of the reforms also caused changes in the political, economic and government fields in Indonesia. Various strategies that have been carried out by the government in alleviating poverty need serious responses to trigger national economic growth.

Indonesia's fisheries potential is an economic potential that can be utilized for the future of the nation, as the backbone of national development. Optimal utilization is directed at the utilization of fish resources by Pay attention to the existing carrying capacity and its sustainability to improve people's welfare, increase revenue from foreign exchange, provide expansion and employment opportunities, increase productivity, added value and competitiveness of fishery products as well as ensure the sustainability of fish resources, fish cultivation land and spatial planning. This means that the utilization of fishery resources must be

[26] Haryanto, H., & Setiyono, J. POLICY OF DRAWING OF FOREIGN SHIP ABOUT ILLEGAL FISHING BY THE INDONESIAN GOVERNMENT IN THE PERSPECTIVE OF INTERNATIONAL CRIMINAL LAW. LAW REFORM, 13 (1), 70-85, p. 74.
[27] *Achmad Ali, 2012, Op.cit, Jakarta, p. 299.*
[28] The fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia concerning the Purpose of the State.

balanced with its carrying capacity, so that it is expected to provide continuous benefits. One of them is carried out by controlling the fishery business in the economic sector which is compared to the legal sector through regulation in fishery management.[29]

The relationship between the economic sector and law are two interrelated and mutually influencing sectors. Sumantoro revealed that economic law is a set of norms that regulate the relationship of economic activity, which is substantially influenced by the economic system used by the country concerned (liberalistic, socialistic, or mixed).[30]Indonesia's uncertain economic conditions make the demands of life also greater and the provision of jobs is lacking, causing the demands of people's lives to also increase. They also need a large income to support the individual economy in order to live properly.

This is in line with what has happened in the case of illegal fishing in Indonesian waters, whether carried out by Indonesian fishermen or foreign fishermen due to the low welfare level of fishermen so that they have the idea of getting more income from catches in quick or instant ways even though they violate the law. order and laws and regulations to violate the territorial waters of other countries. There is a statement that the low level of welfare of the community or fishermen affects other things related to economic conditions in the Indonesian fishery sector.

3. Low Education Factor

In addition to economic factors, educational factors are also the cause of criminal acts in the fisheries sector. Fishermen tend not to know what a fishery is and what the Fisheries Act is. Fishermen also do not know the impact of doing illegal fishing.

The Superintendent of Marine and Fisheries Resources revealed that the crime of illegal fishing was caused by the lack of knowledge and education of fishermen. Fishermen's knowledge of today's technology is also still very lacking. Social assistance, which is a modern tool, is rarely used by the community because most fishermen are still technologically illiterate. The bomb which is Illegal fishing gear is still categorized as a traditional tool that is often used by fishermen or illegal fishing actors. The ease of obtaining bomb raw materials is also one of the factors that encourage many people to commit these crimes.[31]

From the decision data obtained from the District Court of the Selayar Islands Regency, the perpetrators who committed fisheries crimes only had an education level equivalent to Junior High School (SMP) and Elementary School (SD). This is illustrated so that it can be concluded that the perpetrators of illegal fishing have a relatively low education.

4. Lack of Coordination between Agencies

In the application of rules and regulations, several agencies in the field of fisheries in Indonesia are still running independently in handling fisheries crime cases. Coordination and synergy between agencies has not been achieved optimally. Finally, friction often occurs between agencies and institutions that play a role in handling fisheries crime. This often creates a dilemma for several agencies that play a role in the fisheries sector. Whereas according to the mandate in the Fisheries Law, those who must play an active role in monitoring and preventing and investigating illegal fishing in Indonesia are Bakamla, TNI AL, Satpolair, and Supervisors of the Ministry of Maritime Affairs and Fisheries.[32]

The existence of an investigative agency with an equal position and the same authority in the investigation of criminal acts in the field of fisheries allows for overlapping investigations. Fisheries civil servant investigators who are authorized to conduct investigations in the fishery management area of the Republic of Indonesia shall receive the widest part of the territory, including the Indonesian Exclusive Economic Zone (ZEEI) and Indonesian waters, as well as fishing ports. Meanwhile, Polri investigators get the narrowest part of the area, namely the Indonesian waters. Based on the agreement on the division of the criminal investigation area above, in the Indonesian waters, the three investigators (PPNS, TNI-AL investigators, and Polri investigators) can investigate criminal acts in the fisheries sector. Meanwhile at ZEEI, TNI-AL investigators and Fisheries PPNS can investigate criminal acts in the field of fisheries. This is where the conflict of authority of the investigating agency can occur.[33]

It is said to be a conflict of authority because the three agencies are equally authorized to handle the same case and run independently without any system integration in its implementation, meaning that they are both authorized to carry out investigations and are equally authorized to file the Official Report.Examination (BAP) and submit it to the Public Prosecutor (JPU) without a clear division of authority and without a definite work mechanism. This conflict of authority is not only negative, but the conflict of authority is positive (equal authority).[34]

C. Analysis of Authority Theory, Public Policy Theory and Legal System Theory Related to the Role of Public Prosecutors in the Sinking of Ships Committing Fisheries Crimes in Indonesia

A theory is a set of interrelated parts or variables, definitions, and propositions that present a systematic view of phenomena by determining the relationships between variables, by determining the relationships between variables, with the aim of explaining

[29] I Nyoman Nurjaya, et al, Natural Resource Management to Ensure Prosperity, (Jakarta: People, National Legal Development Agency of the Ministry of Law and Human Rights, 2015), p. 158.
[30] Achmad Ali, Revealing the Veil of the Law, (Bogor: Ghalia Indonesia, 2008), p. 58.
[31] Syaiful Asri, Interview, Coordinator of Marine and Fishery Resources Supervision of Selayar Islands Regency, 10 March 2021.
[32] *Anto Noer Fajar, Op. Cit. December 25, 2016.*
[33] *Marhaein Ria Simbo, op.cit. Thing. 113.*
[34] *Ibid.*

natural phenomena.[35] Labovitz and Hagedorn define theory as the idea of "theoretical thinking" which they define as "determining" how and why variables and relational statements relate to one another.

As for in this discussion, three theories will be studied in relation to the role of the Public Prosecutor in the act of sinking ships that commit fisheries crimes in Indonesia.

1) Authority Theory

Authority or authority has a very important position in the study of administrative law. But not only that, the study of other legal fields is equally important, criminal, civil, and military. The importance of this authority is why FAM Stroink and JG Steenbeek stated: "Het Begrip bevoegdheid is dan ook een kembegrip in he staats-en administratief recht".[36]From this statement it can be concluded that authority is a core concept of administrative law. The term authority is equivalent to "authority" in English and "bevoegdheid" in Dutch. "Authority" in Black's Law Dictionary is defined as Legal Power; a right to command or to act; the right and power of public officers to require obedience to their orders legally issued in the scope of their public duties.[37] Authority or authority itself is the legal power as well as the right to command or act, the right or legal power of public officials to comply with the rule of law within the scope of carrying out public obligations.

Authority is what is called formal power, power that comes from the power granted by law, while authority is only about an "onderdeel" or only certain parts of authority. Within the authority there are rechtsbe voegdheden powers. Authority is the scope of public legal action, the scope ofgovernment authority, not only includes the authority to make government decisions (bestuur), but includes authority in the context of carrying out tasks, and giving authority and the distribution of the main authority stipulated in the legislation. Juridically, the notion of authority is the ability given by legislation to cause legal consequences.[38]

From the various definitions of authority as mentioned above, it can be concluded that authority has a different meaning from authority or competence. Authority is a formal power that comes from the law, while the authority itself is a specification of authority which means whoever here is a legal subject who is given authority by law, then the legal subject is authorized to do something within the authority because of the law's orders law.

Investigations at sea almost always take place in cases where a criminal act is caught red-handed. Therefore, the authority for law enforcement at sea given by the provisions of laws and regulations includes the authority to investigate, so that if a violation or crime is found at sea, action can be taken immediately for follow-up. The Criminal Procedure Code (KUHAP) distinguishes between legal actions called investigations and criminal acts investigation, even though the investigation is not a stand-alone function and is separate from the investigation function. Article 1 of the Criminal Procedure Code formulates an investigation as a series of investigations in terms of and according to the method regulated in the Criminal Procedure Code to seek and collect evidence, which with this evidence makes clear about the criminal act that occurred and in order to find the suspect. The definition of investigation at sea because of the nature of the situation and because of the conditions at sea itself is not possible after a crime has been committed.

In Handling Criminal Acts in the field of Fisheries. In particular, an investigation is a series of actions by an investigator to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated in the law.Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. The definition of an investigation is an activity of collecting accurate data so that it becomes clear that a violation event occurred in order to find the suspect (Article 1 point 2 of the Criminal Procedure Code). In Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. Then it is linked to an analysis of the theory of authority according to Law Number 45 of 2009 the authority to investigate criminal acts in the field of fisheries in the fishery management area of the Republic of Indonesia is carried out by Investigators of Fisheries Civil Servants, Investigators of Indonesian Navy Officers, and/or Investigators of the State Police of the Republic of Indonesia.[39] The authority for prosecuting criminal acts in the field of fisheries is carried out by a public prosecutor who is determined by the Attorney General, which then the results of the prosecution will be transferred to the court on charges determined by the public prosecutor to be studied by the court which will then be tried to prove the criminal act committed. Made up to the point of an inkrah legal decision (permanent legal force.

2) Public Policy Theory

Public policy is whatever government chooses to do or not to do (whatever government chooses to do or not to do).[40]
Carl Friedrich, argues:[41]

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[35] Definition of Theory. https://id.wikipedia.org/wiki/Theory. Accessed on March 13, 2021. At 08:55 WIB.
[36] Nur Basuki Winanrno, Abuse of Authority and Criminal Acts of Corruption, (Yogyakarta: laksbang mediatama, 2008), p. 65.
[37] *Ibid.*
[38] Indroharto, General Principles of Good Governance, in Paulus Efendie Lotulung, Association of Papers on General Principles of Good Governance, (Bandung: Citra Aditya Bakti, 1994), p. 65.
[39] Wikipedia, Maritime Security Agency of the Republic of Indonesia, http://id.wikipedia.org/wiki/ Badan_Seamanan_Laut_Republik_Indonesia. Accessed on March 17, 2021. At 09:45 WIB.
[40] Riant Nugroho. Public Policy: Formulation, Implementation and Evaluation. (Jakarta: Elex Media Komputindo, 2009), p. 86.
[41] Leo Augustine. Fundamentals of Public Policy, (Bandung: Alfabeta, 2008), p. 7.

"Policy is a series of actions or activities proposed by a person, group or government in a certain environment where there are obstacles and possibilities where the policy is proposed to be useful in overcoming them to achieve the intended goal."

Policy in the sense of legislation has a number of forms, for Indonesia we see three types of public policies, namely those made by the legislature, executive and legislative together with the executive (and vice versa).[42]In general, it can be said that the highest public policies in Indonesia are made by the legislature, namely the constitution (UU 45) and the provisions of the MPR RI; such as the basic principles of the trias politica political theory taught by Montesquiue in the 17th century French Enlightenment.

There are four main activities related to Public Policy, namely:[43]

1. Policy formulation
2. Policy implementation
3. Policy evaluation
4. Policy revision, which is a re-formulation of the policy.

Policy implementation in principle is a way for a policy to achieve its goals, nothing more and nothing less. To implement public policy, there are two choices of steps, namely directly implementing it in the form of a program or through a program formulation of derivative policies or derivatives of such public policies.[44]

The analysis of public policies carried out regarding the prevention of fisheries crime, namely through legislative policies in the form of the birth of a new law governing fisheries, are:Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. Which brought a new public policy direction in the form of strengthening coordination between agencies that have authority in law enforcement of fisheries crime, and in its development at that time a new executive policy emerged based on the decision of the judiciary in law enforcement, Susi Pudjiastuti as Minister of Maritime Affairs and Fisheries in dated May 5, 2019 stated that as many as 13 ships have been sunk in Pontianak of which there are 51 cases that have permanent legal status and there are still 90 cases in the appeal and cassation process which if they have permanent legal force then 90 ships will be sunk.

3) Legal System Theory

In the Big Indonesian Dictionary, the system has the following meanings: (1) a set of elements that are regularly interrelated to form a totality; (2) an orderly arrangement of views, theories, principles, etc.; and (3) method. While the law is difficult to give an understanding or definition that can cover "the entire meaning of the law" because it covers a very broad and abstract field, therefore legal experts provide different definitions of law according to their respective points of view as the opinion of Immanuel Kant "Noch suche". die Juristen eine Definition zu ihrem Begriffe von Recht" (no legal expert can define law). However,[45]

According to Sudikno Mertukusumo:[46]

"The legal system is a unit consisting of elements that interact with each other and work together to achieve the goals of the unity."

The legal system is defined as all legal elements that are interrelated or interact, so that if one element does not function, then all of these elements cannot work properly. Hans Kelsen said that the legal system is a system of norms.[47]That is a standard of behavior that can be in the form of orders, prohibitions, and permissibility. Kelsen emphasized that a norm system is said to be valid if it is obtained from a higher norm above it, which then reaches a level where the norm cannot be obtained from another higher norm, this is called the basic norm or grund norm.[48]

To strengthen the implementation of the legal system, it must be supported by the elements that support it. The system elements consist of:[49]

1. The system is always created and managed by a group of humans, or a combination of groups of humans, machines and facilities, but can also consist of a combination of human groups, a set of guidelines and data processing tools.
2. Summary of the whole section (sub-subsystem) that can be broken down into subsystems, and so on.
3. Interrelated one sub-system with other sub-systems.
4. Having self-adjustment as an ability that is automatically able to adjust to its environment. There are also control and self-regulation mechanisms for self-regulation.

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[42] Riant Nugroho. Public Policy: Formulation, Implementation and Evaluation. (Jakarta: Elex Media Komputindo, 2009), p. 145.
[43] Riant Nugroho. Public Policy: Formulation, Implementation and Evaluation. (Jakarta: Elex Media Komputindo, 2009), p. 145.
[44] Riant Nugroho. Public Policy: Formulation, Implementation and Evaluation. (Jakarta: Elex Media Komputindo, 2009), p. 494.
[45] Mochtar Kusumaatmadja, Legal Development in the Context of National Development. (Bandung: Binacipta Publisher, 1986), p. 11.
[46] http://www.pengertianpakar.com/2014/10/pengertian-sistem- Hukummenurut-para-pakar.html. Accessed on March 25, 2021. At 21:00 WIB.
[47] Hans Kelsen, General Theory of Law and the State, (Bandung: Nusa Media, 2008), p. 159.
[48] *Ibid, p. 161.*
[49] http://tabir_Hukum.blogspot.co.id/2016/11/definisi-sistem-law-dan-elemen-elemennya.html. Accessed on March 28, 2021. At 22:00 WIB.

5. Having a clear goal (directed) and to achieve that goal, it must be able to transform every input and change that occurs outside itself, so the system is often also called a transformer.

Lawrence W. Friedman argues that the effectiveness of law enforcement depends on the legal system which includes three components or sub-systems, namely the legal structure (structure of law), legal substance (substance of the law) and legal culture (legal culture). In simple terms, Friedmann's theory is indeed difficult to refute the truth. However, it is not realized that Friedman's theory is actually based on his sociological perspective (sociological jurisprudence). What he wants to describe with the theory of the three sub-systems of structure, substance, and legal culture is none other than that the basis of all aspects of the legal system is legal culture.[50]

From the theory of the legal system, it is analyzed with the role of the public prosecutor in the act of sinking ships that commit fisheries crimes in Indonesia, judging from the legal rules of Law Number 45 of 2009 concerning Fisheries, it can be said that the system is a unity between sub-systems that cannot be separated. from one another, the role of the public prosecutor in the investigation, prosecution, to the execution of drownings with other relevant agencies cannot be separated from one another. Starting from the process of law formation, the passage of the rule of law, law enforcement on sanctions regulated by law, all of them are related as a legal system. Like what Lawrence W. Friedman said, a system consisting of legal structure, legal substance, and legal culture are all related.

IV. CLOSING

A. Conclusion

From the description of the problem formulation and the description of the discussion above, the conclusions in this thesis are described as follows;

1. The factors causing the occurrence of fisheries crime in Indonesia can be classified into internal factors which refer to the perpetrators of not understanding the prohibited acts and limited self-quality who do not have other skills, external factors are more to the poor economic conditions, legal factors, namely law enforcement. law that puts forward a persuasive approach and finally non-legal factors, namely the issue of a limited budget so that supervision does not run optimally.
2. Criminal policy in fisheries crime in Indonesia is carried out through 2 (two) efforts, namely penal efforts and non-penal efforts. The penalization effort has two stages:
   a. Formulation, with the enactment of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, and other related laws and regulations.
   b. Application, namely through the process of investigation, investigation, prosecution, and court. With the new legal umbrella, it is hoped that there will be strong coordination between institutions that have the authority to enforce law in the fisheries sector in order to achieve the ideals of the world maritime axis state and create protection for Indonesia's water rich ecosystems, as well as protection for Indonesian fishermen who depend on the fishery sector for their livelihood. to protect Indonesian waters from being exploited by fishermen from other countries because Indonesia's wealth must be fully utilized for the prosperity and welfare of the Indonesian people.

Meanwhile, non-penal efforts carried out by Indonesia are in the form of supervision (in this case patrols) by Polair and the Indonesian Navy, Bakamla. Maximum supervision must be carried out in relation to Indonesian waters and the entire Indonesian EEZ so that all Indonesian waters are not exploited by foreign fishermen and the implementation of the policy of sinking ships for illegal fishing perpetrators should be continued in order to show evidence of Indonesia's seriousness in maintaining its sovereignty so as to provide a deterrent effect for violators. and interfere with the sovereignty of Indonesian waters.

B. Suggestion

The suggestions that can be submitted include:

1. For Investigators (Civil Fisheries Civil Servants, Indonesian Navy Officers, and/or Indonesian National Police Investigators) to be able to carry out supervision and law enforcement regarding fisheries crimes properly in order to protect Indonesia's natural resources in the field of fisheries.
2. For judges, it is necessary to be advised in making a fair decision and see if the sentence is appropriate or not and how beneficial it is for the community and for the state.
3. For the Government, it is necessary to increase warnings to other countries regarding criminal acts in fisheries in Indonesia through international relations. In addition, it is necessary to make an agreement as a follow-up to the inhibiting provisions, namely Article 102 which states that the provisions on imprisonment in Law Number 31 of 2004 jo. Law Number 45 of 2009 does not apply to criminal acts in the field of fisheries that occur in the Fisheries Management Area of the Republic of Indonesia

[50] Lawrence W. Friedman, American Law: An Introduction. (New York: WW Norton and Co, 1984), p. 5

as referred to in Article 5 paragraph (1) letter b, unless there is an agreement between the Government of the Republic of Indonesia and the government of the country concerned.

4. The need for coordination of all authorized agencies so as to produce collaboration in handling fisheries crime includes collaboration in improving human resources both in handling and monitoring efforts as well as efforts in increasing existing resources in Indonesian society, improving operational support facilities and infrastructure, and the need for better supervision. integrated, both internal supervision and supervision of fisheries criminal acts. In addition, the application of sanctions must be carried out optimally and based on applicable laws without any intervention from outside parties so that it can provide a deterrent effect for perpetrators.

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