

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective



Bobie Michel Mathius Huwae¹, Hermi², Debby Hermelina³, Nur Khalimatus Sa'diyah⁴

^{1,2,3,4} Faculty of Law, Wijaya Kusuma Surabaya University

ABSTRACT: Article entitled Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters in a Criminological Perspective, with a problem formulation of how to enforce the law in cases of illegal fishing based on Law Number 45 of 2009 concerning Fisheries, and how to deal with the crime of illegal fishing from a criminological perspective. Using a conceptual approach, which is a type of research method by examining library data or secondary data sources. The conclusion is that various efforts have been made by the government to prevent and eradicate perpetrators of illegal fishing, including monitoring and protecting EEZ waters, taking firm legal action, increasing the competence and empowerment of traditional fishermen, monitoring marine areas and so on. etc. In the criminal act of illegal fishing, enforcement or countermeasures that have been carried out are by giving a summons or warning to the perpetrators of illegal fishing by then burning or sinking the ship if they violate the provisions with sufficient initial evidence.

KEYWORDS: Illegal Fishing; Indonesia Exclusive Economic Zone; Criminology Perspective

I. INTRODUCTION

The Unitary State of the Republic of Indonesia (NKRI) is the largest country in the Southeast Asia region, where 1/3 (one third) of its territory is land and 2/3 (two thirds) of its territory is water or ocean. The geographical location of the State of Indonesia is in a very strategic position, because it is located between 2 (two) continents and 2 (two) oceans with a mid-cross position which is a world trade route, both from the Pacific and East Asia regions to the Middle East, Africa and Europe and vice versa. These geographical conditions provide easy distribution flows in any direction in various regions of the world. Therefore, the development of maritime-based industries will open up enormous economic opportunities for investors in various sectors, especially in the fisheries sector.¹

The Unitary State of the Republic of Indonesia (NKRI) is an archipelagic country with a coastline of more than 95,000 (ninety five thousand) km² and has more than 17,504 (seventeen thousand five hundred and four) islands. This situation certainly makes Indonesia one of the countries that has a fairly high wealth of aquatic resources with a fairly high level of aquatic resources with a variety of biological resources. The diversity of Indonesia's aquatic resources includes fish resources and coral reef resources. The coral reefs owned by the State of Indonesia cover an area of approximately 7000 (seven thousand) km² with 480 (four hundred and eighty) types of coral that have been successfully described and have a fish diversity of around 1,650 (one thousand six hundred and fifty) types of fish species.²

Indonesia is one of the countries that has enormous fisheries resources in the world. Based on data from the Ministry of Maritime Affairs and Fisheries, Indonesia's fisheries resources are estimated to reach 12.01 million tons per year with a JTB of 8.6 million tons per year.³ As a country in the form of an archipelago which has very wide seas and as a means to meet the needs of the people, especially those who live in coastal areas. Nearly 17,000 thousand islands stretch from Sabang to Merauke, making Indonesia known as an archipelagic country and a maritime country. With this huge potential sea area, it contains marine resources and fisheries resources that have great potential to become the foundation of economic development based on natural resources. One of the problems from the past until now in Indonesian sea waters is the behavior of Indonesian citizens and citizens of other countries related to the problem of illegal fishing practices.

¹ Frans E. Lidkadjja & Daniel F. Bassie, *Hukum Laut Dan Undang-Undang Perikanan*, Ghalia Indonesia, Jakarta, 1985, p. 21.

² Marhaeni Ria Siombo, *Hukum Perikanan Nasional dan Internasional*, PT. Gramedia Pustaka Utama, Jakarta, 2010, p. 1.

³ KKP Perbarui Data Estimasi Potensi Ikan, *Totalnya 12, 01 Juta Ton per Tahun*, <https://kkp.go.id/djpt/artikel/39646-kkp-perbarui-data-estimasi-potensi-ikantotalnya-12-01-juta-ton-per-tahun>, diakses tanggal 13 Desember 2023.

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

Even though Indonesia has the potential for very abundant fishery resources, this potential cannot be utilized optimally due to the widespread occurrence of illegal fishing by foreign fishermen and local fishermen in Indonesian waters. Article 1 number 3 Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 37/ PERMEN-KP/ 2017 concerning Standard Operational Procedures for Law Enforcement Task Force for the Eradication of Illegal Fishing, illegal fishing is a fishing activity that carried out illegally or fisheries activities carried out contrary to the provisions of laws and regulations in the fisheries sector. Apart from that, the state's authority regarding Illegal Fishing is regulated in Article 69 paragraph (4) of Law Number 45 of 2009 concerning Fisheries provisions, which determines the authority in the form of investigation or supervision in the fisheries sector, special steps can be taken, namely sinking or burning fishing vessels wearing foreign flags after preliminary evidence was obtained.” Based on the provisions of Article 73 of UNCLOS 1982, coastal States, in exercising their sovereign rights, can board ships, inspect, arrest and carry out court proceedings, as necessary to ensure compliance with the laws and regulations they have established in accordance with the provisions of this Convention. Captured vessels and their crews must be immediately released after being given appropriate bail. However, currently there are legal problems in the Indonesian Exclusive Economic Zone outside of exploration, exploitation and processing of biological resources. Especially organized and international illegal arrests.⁴

Basically, crime in the fisheries sector is not only in the form of illegal fishing, but unreported fishing and unregulated fishing are also included in the category of crimes in the fisheries sector. It can be said that cases of illegal fishing in Indonesia are still not getting enough attention from the Indonesian Government. In fact, the crime of illegal fishing in the Exclusive Economic Zone (EEZ) of Indonesia has resulted in significant losses for the State of Indonesia.⁵

Fisheries Supervisors of the Directorate General of Marine and Fisheries Resources Supervision (PSDKP-KKP) recorded that from 2015 to 2020, they had legally processed 849 (eight hundred and forty-nine) cases of Fisheries Activity Registration Certificates (TPKP), of which there were 700 (seven hundred) cases have permanent legal force (inkracht). The rest is in the legal process, which includes investigations, trials, as well as appeals and cassation. Meanwhile, from 2020 to 2021, the Ministry of Maritime Affairs and Fisheries (KKP) has arrested 172 (one hundred and seventy two) illegal fishing vessels, of which 12 (twelve) vessels are foreign-owned vessels.⁶

Based on cases and data on vessels carrying out illegal fishing, it shows that the phenomenon of illegal fishing still occurs, whether carried out by local fishing vessels or fishing vessels from foreign countries. Enforcement in the fisheries sector is very important and strategic in order to support fisheries development that is controlled and in accordance with the principles of fisheries management. Apart from that, even though the Indonesian government has issued regulations related to fisheries, especially the issue of illegal fishing, if the supervision and law enforcement carried out by the government both at the center and in the regions against perpetrators of illegal fishing are still weak, this will result in the perpetrators not being able to never deterred.

II. FORMULATION OF THE PROBLEM

Based on the description above, the above research is based on the following problem formulation: First, how is law enforcement against illegal fishing cases based on Law Number 45 of 2009 concerning Fisheries? Second, how is the crime of illegal fishing handled from a criminological perspective?

III. RESEARCH METHODS

This research uses a conceptual approach, which is a type of research method by examining library or secondary data. Peter Mahmud believes that normative legal research is a way to discover legal rules, legal principles and legal doctrines to get an answer to a legal issue at hand.⁷ When conducting normative legal research, the data sources used are often only secondary data sources, namely books, journals, literature, statutory regulations, court decisions, legal theories and opinions of legal experts.⁸

IV. DISCUSSION

Law Enforcement against Illegal Fishing Cases Based on Law Number 45 of 2009 Concerning Fisheries

Literally, illegal fishing comes from English and consists of 2 (two) words, namely Illegal and Fishing. Illegal means invalid, prohibited, or contrary to the law. Meanwhile, fish means fish or meat and fishing means fishing as a livelihood or place to catch fish. Illegal fishing is an action that ignores national jurisdiction and international agreements governing the management of

⁴ M. Amin Hanaf, *Penegakan Hukum Tindak Pidana Illegal Fishing pada Zona Ekonomi Eksklusif Perairan Indonesia*, Hukum Ransidental Universitas Muhammadiyah Maluku Utara, Maluku, p. 568.

⁵ Hasjim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut*, Binacipta, Bandung, 1979, p. 3.

⁶ Selama Pandemi, *Kerugian Negara Akibat Illegal Fishing Capai Rp. 30 Triliun*, <https://kumparan.com/hipontianak/selama-pandemi-kerugian-negara-akibat-illegal-fishing-capai-rp-30-triliun-1vXP9oN7Hy4/3>, diakses tanggal 13 Desember 2023.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi, Cet. 13, Kencana, Jakarta, 2017, p. 55.

⁸ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Tinjauan Singkat*, Rajawali Pers, Jakarta, 2006, p. 13.

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

marine resources, namely fisheries. The impact of illegal fishing activities is very damaging to the environment, marine animals and other habitats originating from the sea.⁹

Based on the views or understanding above, it can be understood that Indonesia is a country blessed with abundant and diverse marine resources. One of these resources is in the fisheries sector. Fisheries resources are resources that can be exploited and have the potential to be used as the main driver of the national economy.¹⁰ This is based on the fact that:¹¹

1. Indonesia has very large fisheries resources in terms of quality, quantity and species diversity;
2. The interconnectedness of the fisheries sector with other sectors;
3. Fishing industry based on national resources (national resources based industries);
4. Indonesia has a high comparative advantage in the fisheries sector as reflected in the existing resource potential.

Fisheries resources are an important sector that contributes to economic growth and welfare of the people of Indonesia, especially small fishermen, small fish farmers and business actors in the fisheries sector.¹² Fisheries resources in Indonesia are regulated in Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries. The fisheries law has been in effect in Indonesia for approximately 19 (nineteen) years and in line with developments over time and the need for legal regulation regarding fisheries, the fisheries law has undergone 2 (two) changes and changes, where the first change became Law Number 31 of 2004 concerning Fisheries and the second amendment to Law Number 45 of 2009 concerning Fisheries which is in effect until now.¹³

In general, fish can be defined as cold-blooded living creatures that have spines, gills and fins and are very dependent on water as a place to live. Fish are included in the group of vertebrates or vertebrates which have the largest number of around 25,000 (twenty five thousand) recorded species.¹⁴ Article 1 Number 4 of Law Number 45 of 2009 concerning Fisheries defines fish as all types of organisms whose entire or part of their life cycle is in the aquatic environment. Meanwhile, the types of fish according to Article 1 Numbers 2 and 3 of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number PER. 15/MEN/2009 concerning Fish Types and Restocking Areas and Cultivation-Based Fish Catching is divided into 2 (two), namely:

1. Types of native fish, are fish and/or other fish resources originating from the natural world of the State of Indonesia which are recognized and/or known to originate from the natural land or sea of the State of Indonesia and originate or live in certain areas and/or have different ecosystems in the waters. Indonesian country.
2. Types of fish that do not originate from the natural world of the State of Indonesia, are fish that are not native and/or originate from the natural land and sea of the State of Indonesia which are recognized as fish that originate or are the result of breeding from outside the fisheries management area of the Unitary State of the Republic of Indonesia, not including species genetically engineered fish.

Fisheries Management Areas (WPP) owned by the Republic of Indonesia according to Article 5 paragraph (1) of Law Number 45 of 2009 concerning Fisheries, include:

1. Indonesian National Waters;
2. Indonesian Exclusive Economic Zone (ZEEI); And
3. Reservoirs, lakes, rivers, swamps and other bodies of water that can be used as well as fish cultivation land that has potential in the territory of the Republic of Indonesia.

Article 29 paragraph (1) and paragraph (2) of the Fisheries Law regulates that fisheries business activities carried out in the Fisheries Management Area of the Republic of Indonesia (WPPNRI) may only be carried out by citizens of the Republic of Indonesia or legal entities of the Republic of Indonesia. However, this can be excluded for foreign persons or legal entities carrying out fishing business activities in the Indonesian Exclusive Economic Zone (ZEEI), as long as it is still related to the obligations of the Indonesian State based on legal provisions applicable international law or international convention.

Fishing activities are activities carried out to obtain a number of catches in the form of various types of fishery resources in order to meet the demand for food sources by using various types of fishing equipment and fishing aids. When carrying out fishing activities, each type of fishing gear used differs from one another according to the target, method and fishing area.¹⁵

Based on the fishing tools mentioned above, not all of them may be used in carrying out fishing activities in the Fisheries Management Area of the Republic of Indonesia because the implementation of the prohibition is carried out in order to maintain the preservation and sustainability of fisheries resources in the State of Indonesia, in accordance with the contents of Article 9 paragraph (1) of Law Number 45 of 2009 concerning Fisheries, namely: "Every person is prohibited from owning, controlling,

⁹ John M. Echols dan Hassan Shadily, *Kamus Inggris Indonesia*, Gramedia Pustaka Utama, Jakarta, 2002, p. 311.

¹⁰ Andi Iqbal Burhanuddin, dkk, *Membangun Sumber Daya Kelautan Indonesia*, PT. Percetakan IPB, Bogor, 2013, p. 308.

¹¹ Bernhard Limbong, *Poros Maritim*, Margaretha Pustaka, Jakarta Selatan, 2015, p. 113.

¹² Tridovo Kusumastanto, *Revitalisasi Perikanan dan Kelautan Secara Berkelanjutan*, Institut Pertanian Bogor, Bogor, 2006, p. 2.

¹³ Tribawono Djoko, *Hukum Perikanan Indonesia*, PT. Citra Aditya Bakti, Bandung, 2002, p. 5.

¹⁴ *Ibid.*

¹⁵ Lendi Rizal, *Jenis-Jenis Alat Tangkap Ikan Di Indonesia*, Universitas Maritim Raja Ali Haji, Tanjungpinang, 2019, p. 4.

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

carrying, and/or using fishing equipment and/or fishing aids that disturb and damage the sustainability of fish resources on board fishing in the fisheries management area of the Republic of Indonesia."

Fisheries management consists of 2 (two) syllables, namely management and fisheries. Management has a basic word in the form of "manage" which means to control, organize, and manage or run. Meanwhile, fisheries has a basic word in the form of "fish" which means all types of organisms whose whole or part of their life cycle is in the aquatic environment.¹⁶ In Article 1 Number 7 of Law Number 45 of 2009 concerning Fisheries, it defines fisheries management as follows: "All efforts include integrated processes in gathering information, analysis, consultation planning, decision making, allocation of fish resources, implementation and law enforcement from laws and regulations in the fisheries sector carried out by the government or other authorities which are directed at achieving sustainable productivity of aquatic biological resources and the agreed goals." Fisheries management is carried out with the aim of achieving optimal and sustainable benefits, as well as ensuring the sustainability of fisheries resources in Indonesia.¹⁷

Article 1 Numbers 16, 17, 18, and Article 11 of Law Number 45 of 2009 concerning fisheries, require all fishing business actors who use fishing vessels measuring over 5 GT (Gross Tonnage) to have licensing documents. fishery. The licensing documents include:

1. Fisheries Business License (SIUP), which is a written permit that every fishing company must have to carry out fishing business activities using the production facilities listed in the permit and is valid for 30 (thirty) years and can be extended again.
2. Fishing Permit (SIPI), namely a written permit that every fishing vessel must have to carry out fishing activities which is an inseparable part of the Fisheries Business License (SIUP). The validity period of a Fishing Permit (SIPI) is 1 (one) year and can be extended again.
3. Fish Transporting Vessel Permit (SIKPI), namely a written permit that every fishing vessel must have to carry out fish transport activities. The validity period of the Fish Transporting Vessel License (SIKPI) is the same as the validity period of the Fisheries Catching License (SIPI), namely for 1 (one) year and can be extended.
4. Fishing Vessel Registration Certificate (TDKP) Article 1 Number 21 Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 58/PERMEN-KP/2020 concerning Capture Fisheries Businesses, namely written evidence stating that the fishing vessel is owned by the fisherman. small. The Fishing Vessel Registration Certificate (TDKP) has a validity period, namely as long as small fishermen carry out fishing.

According to Divera Wicaksono, illegal fishing is a fishing activity that is not equipped with a Fishing Permit (SIPI), using a fake Fishing Permit (SIPI), the contents of the permit document do not match the vessel and type of fishing gear, catching fish of the same type and size which is prohibited.¹⁸ Apart from the definition of illegal fishing put forward by several experts above, in marine laws and regulations relating to the fisheries sector, the category of criminal acts is divided into "crimes" and "violations". However, in both crimes and violations there is no term illegal fishing. The Unitary State of the Republic of Indonesia regulates fisheries resources in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. However, regarding illegal fishing, Law Number 45 of 2009 concerning Fisheries does not explicitly state the definition of illegal fishing. Article 1 Number 5 of Law Number 45 of 2009 concerning Fisheries states that fishing is an activity to obtain fish in waters that are not cultivated using any equipment or method, including activities that use ships to load, transport, store, cool, handle, process, and/or preserve it. There are several types of illegal fishing activities that often occur in the waters of the State of Indonesia which can generally be grouped into 4 (four) groups, namely:¹⁹

1. Fishing using prohibited fishing gear;
2. Catching fish species that are not in accordance with the permit or are prohibited;
3. Fishing without a permit;
4. Fishing using fake permits.

In principle, law enforcement must be able to provide benefits or have utility for society, but apart from that, society also expects law enforcement to achieve justice. However, in reality, what is considered useful (sociologically) does not necessarily provide a sense of justice for society, and vice versa, what is considered fair (philosophically), is not necessarily useful for society. Basically, society only wants legal certainty, namely a guarantee that when a law is implemented or applied, those who are entitled according to the law can obtain their rights and the decision can be implemented effectively.²⁰ The application of legal sanctions for illegal fishing in Indonesia can take the form of criminal sanctions and administrative sanctions. Criminal sanctions for perpetrators of illegal fishing in Indonesia, especially in Gunungkidul Regency, are regulated in Article 84 to Article 104 of

¹⁶ Supramono Gatot, *Hukum Acara Pidana dan Hukum Pidana di Bidang Perikanan*. PT. Rineka Cipta, Jakarta, 2011, p. 15.

¹⁷ Anwar Chairul, *Zona Ekonomi Eksklusif di Dalam Hukum Internasional*. Sinar Grafika, Jakarta, 1995, p. 109.

¹⁸ Arif Johan Tunggal, *Pengantar Hukum Laut*, Harvarindo, Jakarta, 2013, p. 25.

¹⁹ Nunung Mahmudah, *Pertanggungjawaban Pidana Korporasi di Wilayah Perairan Indonesia*, Sinar Grafika, Jakarta, 2015, p. 81.

²⁰ H. Salim HS, *Perkembangan Teori Dalam Ilmu Hukum*, Raja Grafindo Persada, Jakarta, 2010, p. 24.

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries. Meanwhile, the imposition of administrative sanctions is regulated in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 31 of 2021 concerning the Imposition of Administrative Sanctions in the Maritime Affairs and Fisheries Sector, in Article 2 of the Ministerial Regulation, the form of administrative sanctions in taking action against perpetrators of illegal fishing can be imposed for violations of the following provisions:

1. Business licensing in the marine and fisheries sector;
2. Utilization of marine space;
3. Obligations of SPKP providers and users; And
4. Implementation of imports of fisheries commodities and salt commodities.

Regarding fisheries courts, Article 71 and Article 71 A of Law Number 45 of 2009 concerning Fisheries regulate the authority and position of fisheries courts as follows:

Article 71 paragraph:

- (1) with this Law a fisheries court is established which has the authority to examine, try and decide on criminal acts in the fisheries sector.
- (2) The fisheries court as intended in paragraph (1) is within the General Court.
- (3) For the first time, the fisheries court as intended in paragraph (1) was established at the North Jakarta, Medan, Pontianak, Bitung and Tual District Courts.
- (4) The jurisdiction of the fisheries court as referred to in paragraph (3) is in accordance with the jurisdiction of the relevant district court.
- (5) The fisheries court as intended in paragraph (3) shall have carried out its duties and functions no later than 2 (two) years from the date this Law comes into force.
- (6) The establishment of a fisheries court as intended in paragraph (1) is carried out in stages in accordance with the needs determined by Presidential Decree.

Article 71 A

"The fisheries court has the authority to examine, try and decide cases of criminal acts in the fisheries sector that occur in the fisheries management area of the Republic of Indonesia, whether committed by Indonesian citizens or foreign citizens."

Overcoming the Crime of Illegal Fishing in a Criminological Perspective

Criminological research is very necessary in the framework of forming criminal law (criminalization) to be able to formulate an act so that it becomes an act that is prohibited by criminal law, including the following:²¹

- a. This act is a crime that is detrimental to society or is undesirable to society. Crime can be defined as attacking or harming the legal public interest (be it individuals, society or state law).
- b. Also paying attention to the "readiness" of law enforcement officials to implement criminal law, both regarding qualitative readiness regarding the professionalism of the apparatus, and from a quantitative perspective, namely the balance of the quantity of the apparatus so that negligence does not occur.
- c. Cost and benefit principle, where expenditures from making a criminal regulation must be considered in accordance with the purpose of formation, the availability of adequate costs for law enforcement in the future.

In Indonesia, provisions in the fisheries sector are one of the legal umbrellas used to overcome illegal fishing practices that occur. One thing that must be taken into account is that the authority to carry out investigations will encourage corruption, collusion and nepotism which will result in the resolution process of illegal fishing problems not being able to provide a deterrent effect on people who commit criminal acts. This law is part of administrative law. Because it is an administrative rule contained in Article 26 paragraph (1) of the Fisheries Law which means that if you carry out business in the fisheries sector, such as catching, transporting, cultivating, processing and marketing fish in state fisheries areas, you are required to have a Fisheries Business License (SIUP). Then Article 26 paragraph (2) of the Fisheries Law states that it is mandatory to have a SIUP and the obligation to have a SIUP is not required for small fish farmers and small fishermen. Then, Article 27 paragraph (1) of the Fisheries Law explains that those who own and operate fishing vessels using the Indonesian flag to catch fish in national fisheries areas and in high seas areas are required to have a Fishing Permit (SIPI). Furthermore, Article 27 paragraph (2) of the Fisheries Law regulates that those who own and operate vessels for fishing using the flag of another country which are used to catch fish in the State's fisheries area are required to have a SIPI. Apart from that, in Article 28 paragraph (1) of the Fisheries Law for those who own and can operate vessels to transport fish in management areas. These administrative provisions are contained in the Law on Fisheries and contain criminal threats which are included in the provisions of penal policy (criminal law), regulations regarding criminal law contained in Fisheries Law No. 31 of 2004 which are found in Chapter XV starting from Article 84 to Article 105. Penal policy itself is an activity to manifest criminal provisions that are appropriate to certain conditions at a good time and also for the

²¹ Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana*, Nusa Media, Bandung, 2010, p. 27-28.

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

future. In short, it can be explained that the criminal act of illegal fishing is an action in the fisheries sector in which there are provisions regarding prohibitions and orders, if the prohibitions and orders are not obeyed (violated) then those who commit them, whether corporations or individuals, will be threatened with criminal penalties (cumulative criminal stelsel).). So the handling of illegal fishing criminal cases must be carried out with penal measures and is also required to be carried out simultaneously with non-penal measures. In the opinion of G.P. Hoefnagel, quoted in a book written by Barda Nawawi Arief, stated that several steps to overcome criminal and non-penal crimes can be taken through the following steps:²²

1. Application of criminal law (Criminal Law Application);
2. Prevention without punishment;
3. By making people's way of thinking influenced by punishment and crimes committed through the media.

Policies in steps to overcome crime are included in the essence of integral social defense efforts (protection of society) and efforts to obtain social welfare (social welfare).²³ So criminal politics has the main goal of protecting society in order to produce social welfare so that criminal politics is integral to social politics. In the criminal act of illegal fishing, enforcement or countermeasures that have been carried out are by giving a summons or warning to the perpetrators of illegal fishing by then burning or sinking the ship if they violate the provisions with sufficient initial evidence. It is hoped that this will have a significant effect on mem's rights traditional fishing so that you can get fish that have a high weight, and can produce abundant marine products and increase Indonesia's economic income through fisheries resources. However, one has to look at the international law that applies to policies in implementing this national law. The problems that the country faces are related to foreign countries that own foreign ships, which can give rise to controversy from the parties concerned. Indonesia is a country that has ratified international maritime agreements or the United Nations Convention in the Law of the Sea (UNCLOS). Basically, it has authority and sovereignty in instilling the supremacy of law related to interests or affairs in domestic waters where it borders other countries. Everything will always have consequences, good or bad. Likewise, this illegal fishing incident has had various impacts on Indonesia. Of course, actions carried out illegally will produce consequences which are certainly not good either. With this illegal fishing, the catch will be sold outside Indonesia at a much higher price than it should be, there will be a scarcity of fish that can be bought and sold again in Indonesia, there will be an overdemand event, where the price or demand for fish is high, but not balanced by an adequate supply of fish, especially demand for types of fish in the sea. The low supply of fish in the sea means that various fishermen will hunt for fish wherever they can get it, even legally or illegally, by exploiting all loopholes to continue catching fish, including in Indonesia. As previously mentioned, the scarcity of fish in Indonesian waters can also cause and influence fishing businesses. Excessive fishing can result in the extinction of Indonesia's marine resources. Fishing that does not know the season and is carried out continuously will only worsen overdemand. Therefore, the supply has decreased in their home country causing ships from foreign countries to have efforts so that they must be able to maintain a supply of fish for their consumption. Apart from the loss in fish supply in Indonesian waters, the loss that can be felt is that Indonesia's image in the international arena is damaged, this is because Indonesia is considered by the international community to be incapable of managing the country's fisheries system properly. For Indonesia, this is a loss that is not a material loss, but this is related to the country's self-image. The territorial waters owned by Indonesia are so vast but they are wasted by not processing them properly. This will certainly get a bad label in the eyes of the world, especially considering the potential contained in it, it is not something that can be considered a joke. Potential that continues to be eroded without management for the future will backfire on the nation itself. It can be concluded that the losses that can be felt or experienced by Indonesia do not only include material values. There are various aspects of losses experienced by the nation due to illegal fishing activities.

V. CLOSING

Conclusion

Law enforcement against illegal fishing based on Law Number 45 of 2009 concerning Fisheries in Indonesia which is carried out by the Government through its law enforcement agencies is carried out in a repressive manner (enforcement) accompanied by criminal sanctions and administrative sanctions. The provision of criminal sanctions against perpetrators of illegal fishing can be proven by several cases that have occurred in Indonesia. Furthermore, the application of administrative sanctions against perpetrators of illegal fishing in Indonesia can be said to be rarely carried out because based on the research above, it can be seen that the Indonesian Government, in taking action against violations related to the issue of completeness of fisheries documents, immediately applies criminal sanctions. Apart from that, the large number of incomplete permits held by fishermen does not entirely come from the fishermen themselves, but rather the supporting facilities and processing of permits can still be said to be quite inadequate. Indonesia is a meeting point for various oceans which allows foreign fishermen to have easy access in and out, this of course really supports the activities of those who want to do illegal things in Indonesian waters. Moreover, this is exacerbated by the level of security in Indonesia which is not implemented properly. The regulatory provisions that have been

²² Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, PT. Citra Aditya Bakti, Bandung, 2005, p. 42.

²³ *Ibid.*

Overcoming the Crime of Illegal Fishing in the Exclusive Economic Zone of Indonesian Waters from a Criminological Perspective

made with the aim of managing the country's marine resources, are often not balanced with clear law enforcement or the application of sanctions, and the problem of theft is ultimately neglected. It is not surprising that illegal foreign fishermen believe that fishing in Indonesian sea areas is not prohibited. This can be an evaluation for the government in the management and implementation of regulations which have not been able to prevent illegal fishing, especially the weak enforcement of applicable laws. Inappropriate management from the government.

Suggestion

Suggestions for the Indonesian Government in enforcing the law against illegal fishing related to vessel permits are to first confirm with the fishermen concerned by asking about the reasons for not having the permit. If the lack of ownership is based on the fact that it is currently in the processing stage, the sanction that needs to be imposed on the fisherman is simply in the form of an administrative sanction, namely a verbal or written warning. And to increase the discipline of fishing communities in Indonesia regarding licensing issues, the Government should provide a Harbormaster and Port Authority Office (KSOP) in its area so that processing permits for fishing communities can be made easier. Apart from that, there is a need to increase socialization and training related to online-based licensing processing, the implementation of which in the field is still not able to run optimally and efficiently. Natural wealth and the potential in the field of natural resources contained therein, should not be wasted potential just because of our current ignorance. Our current indifference will have a big impact on the days ahead. Law enforcement and sanctions for violators must continue to operate properly. The Indonesian government needs to strengthen security in Indonesia's territorial waters, so that no more foreign fishermen have the opportunity to carry out illegal fishing in the country's waters. Apart from the important role of government, one of the smallest steps we as citizens can take is to become aware of the importance of keeping the marine environment healthy. Also monitor current events so that no cases of illegal fishing disappear without clarity.

REFERENCES

- 1) Andi Iqbal Burhanuddin, dkk, *Membangun Sumber Daya Kelautan Indonesia*, PT. Percetakan IPB, Bogor, 2013.
- 2) Anwar Chairul, *Zona Ekonomi Eksklusif di Dalam Hukum Internasional*, Sinar Grafika, Jakarta, 1995.
- 3) Arif Johan Tunggal, *Pengantar Hukum Laut*, Harvarindo, Jakarta, 2013.
- 4) Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, PT. Citra Aditya Bakti, Bandung, 2005.
- 5) Bernhard Limbong, *Poros Maritim*, Margaretha Pustaka, Jakarta Selatan, 2015.
- 6) Frans E. Lidkadja & Daniel F. Bassie, *Hukum Laut Dan Undang-Undang Perikanan*, Ghalia Indonesia, Jakarta, 1985.
- 7) H. Salim HS, *Perkembangan Teori Dalam Ilmu Hukum*, Raja Grafindo Persada, Jakarta, 2010.
- 8) Hasjim Djalal, *Perjuangan Indonesia Di Bidang Hukum Laut*, Binacipta, Bandung, 1979.
- 9) John M. Echols dan Hassan Shadily, *Kamus Inggris Indonesia*, Gramedia Pustaka Utama, Jakarta, 2002.
- 10) Lendi Rizal, *Jenis-Jenis Alat Tangkap Ikan Di Indonesia*, Universitas Maritim Raja Ali Haji, Tanjungpinang, 2019.
- 11) M. Amin Hanaf, *Penegakan Hukum Tindak Pidana Illegal Fishing pada Zona Ekonomi Eksklusif Perairan Indonesia*, Hukum Ransidental Universitas Muhammadiyah Maluku Utara, Maluku.
- 12) Marhaeni Ria Siombo, *Hukum Perikanan Nasional dan Internasional*, PT. Gramedia Pustaka Utama, Jakarta, 2010.
- 13) Nunung Mahmudah, *Pertanggungjawaban Pidana Korporasi di Wilayah Perairan Indonesia*, Sinar Grafika, Jakarta, 2015.
- 14) Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi, Cet. 13, Kencana, Jakarta, 2017.
- 15) Supramono Gatot, *Hukum Acara Pidana dan Hukum Pidana di Bidang Perikanan*. PT. Rineka Cipta, Jakarta, 2011.
- 16) Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Tinjauan Singkat*, Rajawali Pers, Jakarta, 2006.
- 17) Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana*, Nusa Media, Bandung, 2010.
- 18) Tribawono Djoko, *Hukum Perikanan Indonesia*, PT. Citra Aditya Bakti, Bandung, 2002.
- 19) Tridovo Kusumastanto, *Revitalisasi Perikanan dan Kelautan Secara Berkelanjutan*, Institut Pertanian Bogor, Bogor, 2006.
- 20) KKP Perbarui Data Estimasi Potensi Ikan, *Totalnya 12, 01 Juta Toh per Tahun*, <https://kkp.go.id/djpt/artikel/39646-kkp-perbarui-data-estimasi-potensi-ikantotalnya-12-01-juta-ton-per-tahun>.
- 21) Selama Pandemi, *Kerugian Negara Akibat Illegal Fishing Capai Rp. 30 Triliun*, <https://kumparan.com/hipontianak/selama-pandemi-kerugian-negara-akibat-illegal-fishing-capai-rp-30-triliun-1vXP9oN7Hy4/3>.



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.