

# LAW ENFORCEMENT FOR FOREIGN SHIPPING PERFORMING ILLEGAL FISHING

Ferry Akbar<sup>1</sup>

Evita Isretno Israhadi<sup>2</sup>

Boy Nurdin<sup>3</sup>

<sup>1,2,3</sup>Borobudur University, Indonesia

\*e-mail: [capt\\_fya@yahoo.com](mailto:capt_fya@yahoo.com)<sup>1</sup>, [evita\\_isretno@borobudur.ac.id](mailto:evita_isretno@borobudur.ac.id)<sup>2</sup>

[Drboynurdin\\_ppslaw@yahoo.com](mailto:Drboynurdin_ppslaw@yahoo.com)<sup>3</sup>

\*Correspondence: [capt\\_fya@yahoo.com](mailto:capt_fya@yahoo.com)<sup>1</sup>

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**Abstract:** Illegal fishing on foreign vessels has a very bad impact on all traditional fishermen. And this will make coastal fishermen feel the impact of illegal fishing by foreign vessels. Apart from that, this will also have an impact on consumers who like to consume fish because fishermen are not found to be able to feel the results produced by the country where fishermen were born and grew up. If viewed from a macro perspective, this will make the prices obtained from Indonesian marine products higher. It is clear that currently, the international community is starting to pay attention to Indonesia's fishery area. In law enforcement in the field of fisheries, a criminal justice system is established that includes a more structured process and problem-handling system. However, criminal acts of illegal fishing by foreign fishing vessels still occur, both by Indonesian citizens and by foreign nationals. This type of research is normative research. The approach used is a statutory approach (statute approach) and a conceptual approach (conceptual approach). The source of data used is secondary data. Data analysis was carried out in a qualitative descriptive manner. Concluding is carried out using the deductive method, namely concluding from general to specific, especially those related to the research topic, namely law enforcement against Illegal Fishing. This research resulted in findings Illegal fishing will have a very bad impact on all traditional fishermen. And this will make coastal fishermen feel the impact of illegal fishing by foreign vessels. In addition, this will also have an impact on consumers who like to consume fish because they are not caught in experiencing the results produced by the country where they were born and grew up. If viewed from a macro perspective, this will make the prices obtained from Indonesian marine products higher. Saving fish in a country is considered a national obligation that must be cultivated by the country. This is why a law was issued dealing with illegal fishing. If the permit is misused, the permit will also be revoked and violators will be given prison terms and large fines. This is expected to deter violators and perpetrators of illegal fishing.

**Keywords:** Law Enforcement, Foreign Shipping Ships, Illegal Fishing

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## INTRODUCTION

The law that is currently being enforced in Indonesia needs to be implemented as a whole to know that all problems that arise in the field can be handled properly following the laws that have been implemented. In addition, Indonesia has issued a national law that gives privileges to the regions. fisheries in managing their fishing system. This is written in the 2004 Law Number 31. This Law can be used as a reference by the apparatus in giving authority. Because of this law, all parties related to illegal fishing can be given appropriate punishment under the law [1]. The potential possessed by the Indonesian sea certainly makes many parties in Indonesian territory feel tempted to share in the results. However, even foreign nationals are tempted by the potential and wealth of the sea Indonesia has. The marine wealth that we have is in the form of a very diverse marine biota. This is what many foreign citizens and countries are eyeing. Thus, there is a lot of illegal fishing or illegal fishing in the Indonesian seas.

This illegal fishing will have a very bad impact on all traditional fishermen. And this will make coastal fishermen feel the impact of illegal fishing by foreign vessels. In addition, this will also have an impact on consumers who like to consume fish because they are not caught in experiencing the results produced by the country where they were born and grew up. When viewed from a macro perspective, this will make the prices obtained from Indonesian marine products higher in price [2]. Currently, the international community is starting to pay attention to Indonesia's

fishery area. In law enforcement in the fisheries sector, a criminal justice system has been established which includes a more structured process and problem-handling system. However, criminal acts of illegal fishing by foreign fishing boats still occur, whether committed by Indonesian citizens or by foreign nationals. However, in practice, law enforcement concerning violations of the provisions of Article 92 to Article 94 of Law no. 45 of 2009 still raises various problems, especially regarding the interpretation in the application of criminal decisions in lieu of fines [3].

Conflicts of interest between state institutions in managing their respective plots and illegal fishing by foreign fishing vessels are unclear to which Indonesian state institutions due to overlapped laws and regulations. Parties who engage in crimes involving illegal fishing by foreign fishing vessels benefit from legal loopholes created by this lack of clarity [4]. The Unitary State of the Republic of Indonesia's sovereignty in the Exclusive Economic Zone of Indonesia is jeopardized by foreign fishing vessels engaging in illegal fishing. Regulations or formulations pertaining to criminal procedural law and fishing crime are included in Law No. 45 of 2009, which amends Law No. 31 of 2004 regarding Fisheries. Policies that address illegal fishing by foreign fishing vessels serve as the foundation for policies' implementation.

As a nation that has ratified the United Nations Convention on the Law of the Sea (UNCLOS), Indonesia has the power and sovereignty to enforce domestic laws in territorial waters bordering other nations. However, Indonesia must

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harmonize its domestic law with international law in order to enforce the law. According to, the coastal state is required to immediately officially notify the flag state of the actions taken and any imposed penalties when a foreign ship is arrested or detained through the appropriate channels UNCLOS 1982, article 73 paragraph 4 [5].

From a formal legal standpoint, Indonesia's laws regarding fisheries crimes are outlined in Law No. 31 of 2004 has extended it. 45 of 2009. According to Article 103 of the Fisheries Law, there are two categories of fisheries crimes: crimes in the fisheries sector and criminal acts of violations in the fisheries sector. Unlawful fishing by unfamiliar fishing vessels is exceptionally unfavorable to the state and customary anglers. Since traditional fishermen are Indonesians, this fish theft affects coastal communities as well. Additionally, consumers who are unable to enjoy marine products in their own country suffer as a result. On a macro level, stolen Indonesian fish are processed with expert equipment, raising their international selling prices [6].

The fishing crime in the Indonesian Exclusive Economic Zone (ZEEI) has been regulated in the Fisheries Law which can be seen in Articles 84 to 104. This is regulated from outside the KHUP to neutralize the position of the crime which will cause misunderstandings so that it is considered deviant. This is done to manage the fishery and money will make the community and the state lose. Severe penalties are given to give a deterrent effect to perpetrators who violate fisheries regulations. This can be interpreted as saving the environment from

illegal fishing. The imposition of penalties on illegal fishing has not touched the real perpetrators which are an organization [7]. In fact, with the large number of state losses arising from illegal fishing, the main perpetrators can be held criminally responsible. Because so far, the legal process that has prosecuted the captains has only fined a small nominal cannot compensate for the state's losses. The large amount cannot be paid because the captain does not have the money to pay and the penalty is added to the confinement.

It is not easy to conduct investigations into organizations that are primarily responsible for illegal fishing. It is guarded by the nation's government. However, if the Indonesian state has a solid legal foundation that is supported by a multi-door approach between laws like the Company Law, the EEZ Law, the Tax Law, the Criminal Code, and UNCLOS, the authorities can assist in locating organizations that can be held criminally responsible in order to compensate the state for its losses. The government's actions to sink or burn foreign ships are only a first step toward ending illegal fishing at this time, but the loss problem cannot be solved [8].

## **MATERIALS AND METHODS**

This is known as normative research. The methodology utilized is a legal methodology (resolution approach) and a reasonable methodology (calculated approach). Secondary data are used as the data source. Descriptive qualitative data analysis was used [9]. The deductive method is used to come to a conclusion,

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which means going from general to specific, especially those that are related to the research topic, which is fighting illegal fishing. If the empirical data obtained is in the form of a collection of words rather than a series of numbers and cannot be categorized, qualitative data analysis is performed. Observation interviews, document instances, and tape recordings are all methods of data collection [10]. In subjective examination, the consequences of interview records, information decrease, investigation, information translation, and triangulation are commonly handled first prior to being utilized.

## **RESULTS AND DISCUSSION**

### **Law Enforcement for Foreign Ships Conducting Illegal Fishing**

Within the provisions of the main punishment, there are additional penalties that are not included in the Fisheries Law. It is said to be principal because the judge gives a penalty in the form of a fine or even a prison sentence. Meanwhile, additional punishment is given if the judge adds Article 10 in the Criminal Code to lawbreakers. If this Law is added, what is included in the main punishment, namely the sentence imposed on the defendant, is the death penalty, imprisonment, imprisonment, and payment of fines. While additional means revoking all permit, rights related to the type of case, forcibly taking goods that are considered stolen goods, to other sentence decisions approved by the judge to be carried out. In the field of fisheries itself, the punishment applied is in the form of proof of violation with the payment of a fine [11]. This is often known as cumulative. It is said to be cumulative

because these two things are carried out simultaneously for the offenders. If this violation occurs, the judge must impose the two penalties. The judge cannot drop one or the other, because of this the judge cannot choose between sentences. Judges are expected to give long prison sentences to deter violators from committing violations. In addition, the judge must also oblige the violators to pay large fines to the state. This happened because the violators also stole state property. So, he should get the punishment he deserves.

This has been explained by Law Number 45 of 2009 which was revised from the previous Law Number 31 of 2004 concerning fisheries. Saving fish in a country is considered a national obligation that must be cultivated by the country. This is why a law was issued dealing with illegal fishing. If the permit is misused, the permit will also be revoked and violators will be given prison terms and large fines. This is expected to deter violators and perpetrators of illegal fishing. The Law on Fisheries issued in 2009 at Number 45 explains that perpetrators can be given prison terms if they commit trouble and violate Article 16 paragraph 1 which has been explained regarding the boundaries of the exclusion zone in Indonesia [5]. The perpetrators will be subject to sanctions up to prison confinement if they violate the articles stipulated by law, and subject to large payment fines for lying and not complying with the law. In addition, he will be given a warning for the revocation of permits in the field of fisheries.

The discussion of the role of international law in international relations in relation to the eradication of illegal

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fishing in Indonesian waters has frequently become a very important and familiar issue, particularly in this era of globalization, which operates as a system and international law is an autonomous legal system. international politics in conjunction with other provisions of international law aimed at satisfying the requirements of the international community, including an actual state [7]. In Indonesian waters, foreign fishermen frequently commit fish theft. They do this in order to make purchases and sales outside of Indonesia and reap double profits. Local fishermen will lose productivity and harm the marine ecosystems that the state and its residents have cultivated, putting the state at risk. It is frequently discovered that ships from Thailand, Vietnam, the Philippines, and Malaysia have committed theft.

As part of its efforts to enforce the law against illegal fishing, the Indonesian Ministry of Maritime Affairs and Fisheries has a policy of sinking foreign fishing boats in Indonesian waters. The policy demonstrates the government's determination to end illegal fishing in Indonesian waters in this instance. The Indonesian government has made significant efforts to eradicate illegal fishing, as evidenced by Law No. 45 of 2009, which made changes to Law No. Specifically, in accordance with Law No. According to Law No. 31 of 2004 on Fisheries, fishery surveillance vessels are authorized to carry out law enforcement and supervision in waters that are within the territorial waters of Indonesia, conduct investigations, and/or take special actions such as burning or sinking foreign-flagged fishing vessels if there is sufficient

preliminary evidence [11]. Article 76 of the Fisheries Law states that fishing-related items and tools can be taken away or destroyed with a judge's approval. It is anticipated that the decisive action of sinking foreign vessels that engage in illegal fishing in Indonesian waters will shape the government's efforts to maintain sovereignty in Indonesian waters. This activity plans to shield regional sway and regular assets possessed by the public authority [8].

### **Barriers to Law Enforcement for Foreign Ships Conducting Illegal Fishing**

As a maritime nation with abundant natural resource potential, Indonesia requires a legal framework that regulates all marine resource-related fields. The Juanda Declaration of December 13, 1957, established Indonesian sovereignty as an archipelagic nation in accordance with Law No.4/PRP/1960 concerning Indonesian Waters. Based on the provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), Indonesia was obligated to complete its rights and responsibilities in managing marine resources, which were ratified into Law No. 17 in 1985. The arrangement of maritime boundaries, which included inland waters, the territorial sea, additional zones, exclusive economic zones, and continental shelves, was completed by UNCLOS 1982, among other things [12]. In order to safeguard Indonesian waters and prevent illegal fishing in Indonesia, Indonesian laws and regulations already have a number of legal bases, including:

- a. Territorial Sea and Maritime Environment Act 1939 (*Territorial Zee*

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- en Maritme Kringen Ordonantie*, Stbl. 1939 No. 442)
- b. Law No. 17 of 1985 pertaining to the Republic of Indonesia's ratification of the UN Convention on the Law of the Sea
  - c. Law No. 5 of 1983 on the Indonesian Exclusive Economic Zone of the Republic of Indonesia.
  - d. The Shipping Law, Law No. 17 of 2008, of the Republic of Indonesia.
  - e. Law No. 32 of 2014 on Maritime Affairs of the Republic of Indonesia

Given this, Indonesia has made legal policies regarding illegal marine activities that can threaten underwater ecosystems and marine biota. The fishing industry is governed by Law No. 45 of 2009, which made changes to Law No. 31 of 2004 regarding the fishing industry (the Fisheries Law) Article 1 number 1 of the Fisheries Law states that "fisheries" refers to "all activities related to the management and utilization of fish resources and the environment," beginning with pre-production and continuing through production, management, and marketing within a single fishery business system. Fisheries crimes cannot be separated from the Indonesian seas because they are a unit where fishing crimes are committed at sea which is a maritime or marine area in Indonesia [11]. The high economic value of fish makes many fisheries crimes occur, in this case, fisheries crimes occur not only as criminal acts committed by foreign vessels but also criminal acts committed by Indonesian-flagged vessels using various methods to obtain fish easily and Lots. Like catching fish using bombs or chemicals that can make fish rise to the surface of the

sea, this method is often done to increase the number of catches. However, the method used has a detrimental effect on the sustainability of marine ecosystems and fish, which is contrary to the principles of environmental law, namely environmental sustainability which can damage ecosystems and cause losses to the state and also other fishermen who look for fish according to the tools and processes permitted [5].

Criminal sanctions for perpetrators of illegal fish theft have been listed in Law no. 45 of 2009 where criminal sanctions can be imprisonment and fines imposed on perpetrators of fish theft. Where in this case the criminal sanctions listed in Law no. 45 of 2009 apply not only to Indonesian citizens but foreign nationals who commit fish theft in Indonesian seas. Law no. 45 of 2009 concerning Fisheries article 85 states "*Any person who deliberately owns, controls, carries, or uses fishing equipment or fishing aids that disturb and damage the sustainability of fish resources on fishing vessels in the Indonesian fisheries management area. as referred to in Article 9 shall be punished with imprisonment for a maximum of five years and a fine for a maximum of Rp. 2,000,000,000.00. Every person who owns or operates a fishing vessel with a foreign flag catches fish without SIPI as referred to in Article 27 paragraph (2), shall be punished with a maximum imprisonment of six years and a maximum fine of Rp. 20,000,000,000.00*". Therefore, it has been explained in the preceding criminal provisions that anyone who violates a rule on the territory of the Unitary

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State of the Republic of Indonesia may be subject to criminal sanctions [8].

## CONCLUSION

Illegal fishing will have a very bad impact on all traditional fishermen. And this will make coastal fishermen feel the impact of illegal fishing by foreign vessels. In addition, this will also have an impact on consumers who like to consume fish because they are not caught in experiencing the results produced by the country where they were born and grew up. If viewed from a macro perspective, this will make the prices obtained from Indonesian marine products higher.

Saving fish in a country is considered a national obligation that must be cultivated by a country. This is why a law was issued dealing with illegal fishing. If the permit is misused, the permit will also be revoked and violators will be given prison terms and large fines. This is expected to deter violators and perpetrators of illegal fishing.

Efforts to uphold sovereignty and safeguard Indonesian territorial waters by enforcing the law and eradicating illegal fishing. This is evident from a number of regulations and laws as the legal foundation for Indonesia's efforts to eradicate illegal fishing. It is trusted that it can advance the administration of Indonesia's plentiful marine abundance to understand the government assistance and thriving individuals.

## SUGESSTION

When foreign vessels engage in illegal fishing in Indonesian waters, strict action should be taken by sinking them,

aiming to protect territorial sovereignty and natural products they own, and it is hoped that this will create a deterrent effect and form the government's efforts to uphold sovereignty in Indonesian waters.

The government as the organizer of law must be able to control every activity that arises in the field so that it can be handled properly in accordance with the laws that have been implemented. In addition, Indonesia has issued a national law that gives privileges to the regions. fisheries in managing their fishing system.

The problem of unreported and unregulated illegal fishing must be addressed immediately because it will harm the economy, food supply, environment, and social security. Give severe penalties to provide a deterrent effect for perpetrators who violate fisheries regulations.

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