

OPTIMIZING ILLEGAL FISHING MANAGEMENT EFFORT THROUGH CRIMINAL LAW POLICY IN THE FISHERY SECTOR BASED ON PANCASILA JUSTICE

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ABSTRACT

Illegal fishing is an illegal activity that violates Indonesian regulations on fishing. It is easy for foreign ships to enter Indonesian territory with discrepancies in the numbers at sea and in the recorded permits. Various cases of illegal fishing have been recorded, ranging from catching fish using trawlers, which are caught using large-loaded vessels. As a result, overfishing occurs. or overfishing in most Indonesian waters. The purpose of this study is to formulate the prevention of illegal fishing through criminal law policies in the field of fisheries based on the values of Pancasila. The research method used is non-doctrinal. This research is qualitative research with primary and secondary data used. The technique of collecting data is done through literature study and field focus group discussions, interviews and questionnaires. The data collected was analyzed through descriptive analysis. The results of the study found that optimizing efforts to tackle illegal fishing, needed some efforts to improve the criminal law policy in the field of fisheries, including formulating and developing action sanctions, the use of criminal law in overcoming illegal fishing raises several problems at the application and execution level. action sanctions can be a solution to these problems. The formulation of action sanctions in overcoming illegal fishing can refer to Article 103 of the RKUHP, namely counseling, rehabilitation, job training, treatment in institutions, and repairs due to criminal acts. Prioritizing administrative sanctions on the Fisheries Law, Categorizing criminal sanctions, and eliminating confinement.

Keywords: Illegal fishing; law; criminal; justice;

BACKGROUND

Illegal fishing known as Illegal, Unregulated, Unreported Fishing does not only occur in Indonesia, several countries in the Asia Pacific region admit that illegal fishing is an enemy that must be eradicated for sustainable fisheries. Data on ships captured by warships, their errors vary widely, including transfers without permission, fake documents, catching fish with prohibited nets, using explosives, crew members who do not have permits/documents and violations of facilities, especially immigration and foreign workers who do not have a work permit.

In addition, some basic problems in illegal fishing include legal uncertainty and ambiguity, unclear licensing bureaucracy and legal uncertainty characterized by several things such as different understandings of existing rules, inconsistencies in application, discrimination in law enforcement for ships. violating foreign laws, collusion between local entrepreneurs, foreign businessmen and the judiciary. Judicial proceedings against violators are slow, protracted, and corrupt.¹

In the Law of the Republic of Indonesia Number 9 of 1985 and Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, it is very clear that illegal fishing is subject to imprisonment and a fine commensurate with the violation committed. Imprisonment sanctions and fines are not applied properly. Another ambiguity is the penalties/sanctions against the licensing bureaucracy and supervisors as well as law enforcement officers at sea who intentionally collect fees outside the provisions or pass violators in ways that are not in accordance with the rule of law.

Therefore, Law Enforcers such as KKP Employees, Water Police and the Navy are expected to maximally protect our seas from fishing theft and other crimes. The establishment of the Ad Hoc Fisheries Court is also expected to be able to answer the problem of the crime of fishing theft which is reflected in the decisions made, both crimes committed by Indonesian citizens and those committed by foreign nationals and from these decisions, it is hoped that there will be a deterrent effect for the perpetrators. perpetrators of illegal fishing.

Of the many fields of law, it can be said that criminal law ranks first, which not only gets the spotlight, but also has tremendous criticism compared to other fields of law. The field of criminal law is the easiest field of law to be used as an indicator, whether the legal reforms carried out in Indonesia have been going well or not? Criminal law does not only talk about Court Decisions on the Handling of Criminal Cases, but also covers all processes and the Criminal Justice System. The judicial process begins with an investigation carried out by the Police and culminates in the imposition of a crime and then ends with the execution of the sentence itself by the Penitentiary. All these criminal processes are currently receiving a lot of attention from the public because their performance or the behavior of their officers are far from what is expected.

The problem of fisheries, and then also developed into marine issues, administratively the government is stated in the authority of the Ministry of Maritime Affairs and Fisheries (KKP), so complex. Like the flow of water, it's simple about fish, for example: Marine advertisements. Starting from the upstream, the catch, the technology, the natural factors, the regulatory authority, the fishing area or the sea, and basically very broad. Complex and from the sub-problems that gave birth to the following sub-problems to a more technical one.

Not to mention the view from a social perspective, a technical perspective and or a more in-depth perspective. From a simple description, or from a technical point of view in relation to the management of the fisheries sector in relation to foreign countries, as another example. Based on data from the Ministry of Maritime Affairs and Fisheries (KKP), from January to mid-

¹ *Ibid.*

September 2017, 107 illegal fishing vessels have been arrested, consisting of 68 KIA (Foreign Fishing Vessels) with a Vietnamese flag, 4 with a Philippine flag, and 9 with a Malaysian flag. Meanwhile, 26 other ships have Indonesian flags. Arrests certainly do not stop at that action. Next is how the solution going forward.²

From a legal perspective, and more narrowly in terms of law enforcement, fisheries industry crimes that are carried out cross-border and well-organized will have the potential to weaken the law and state sovereignty. This crime not only threatens food sustainability, but also has a negative impact on the economy, damages the environment, and undermines human rights.³ Things that certainly become so serious in the mode and handling.

That the problem of law enforcement against fisheries crime, especially those that are transnational in nature often have occurred comprehensively and widely. Starting from fishing planning also related to Insurance, Ship Ownership and Licensing, to Corruption in obtaining Permits. Including document falsification, tax evasion, money laundering, mixed with human trafficking and illegal drugs and so on. The point is related to broad and complex problems.

These crimes also involve many parties who are domiciled in various countries. An example of a famous fishing theft is the FV Viking Ship. This arrest is an illegal fishing practice and violates the sovereignty of a country. This ship has 25 flags, so the ship can change flags at any time. They also easily falsify registration and licensing documents. For this reason, various parties must find solutions to the limitations that the laws and regulations sometimes have.⁴

Because it is a transnational or international crime, illegal fishing⁵ is a common problem, especially for countries that have marine areas. As a kind of finding a common understanding, an international symposium on fisheries crime was held. This important symposium is a follow-up meeting from the previous symposiums that have been held in Yogyakarta (October 2016) and Cape Town, South Africa (September 2015).

Some of the topics discussed in the symposium included global challenges in dealing with fisheries crime. Including cases of economic crime in the fisheries sector, cases of organized transnational, human trafficking in the fishing industry, as well as capacity building programs and the role of intergovernmental institutions in helping countries combat fisheries crime.⁶

Presidential Regulation Number 3 of 2017 concerning the Action Plan for the Acceleration of National Fisheries Industry Development as the legal basis is not hampered by various obstacles, especially bureaucracy and coordination which actually do not need or can be eliminated. dedicated to fisheries and marine issues.

On a practical level, the implementation of the Presidential Regulation is a reference for the central and regional governments in planning, implementing and evaluating the implementation of the Fisheries Industrialization Action Plan.

Substantially, the regulation on fisheries issues in Presidential Regulation Number 3 of 2017 contains 5 programs and 27 activities as well as giving mandates and assignments to 20 Ministries, Geospatial Information Agency, Indonesian National Army (TNI) and Indonesian Police (Polri) as well as the Provincial Government to synergize with each other in implementing the national fishery industrialization action plan. Technically, the obstacle that must be immediately found a solution is related to the existence of sectoral egos between ministries. Indications of administrative obstacles are indicated by weak coordination, among

² About this see the book: *The Sea, the Future of the Nation*, sovereignty, sustainability, welfare. Published by the Ministry of Maritime Affairs and Fisheries. 2018 printed on Gramedia Pustaka Utama, it describes the efforts and hard work that has been carried out by KKP so that encouraging results can be realized, both at national and international levels. This is done in a persuasive or explicit manner, both in regulations and in consistent implementation. This book invites Indonesian people to love the sea. Among them also explained about the capture of fishing vessels of thieves in Indonesian seas.

³ See : <https://news.detik.com/berita/3164251/ditenggelamkan-ini-List-dosa-kapal-Viking-di-laut-Indonesia>. The FV Viking was blown up in Pangandaran, West Java. The large ship will be used as a monument to the fight against illegal fishing. The blasting of the ship took place at around 12.30 WIB, Monday, 4/3/2016 witnessed by officials. The ship was sunk in half. Part of the body will be displayed as a monument to the eradication of illegal fishing. The 1,322 GT vessel is a ship without a nationality that has been carrying out illegal fishing activities in various parts of the world for a long time. By the Regional Fisheries Management Organization (RFMO) of the Southern Antarctic Ocean named the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), this ship is categorized as an illegal fishing vessel.

⁴ Ibid. The explosion of the fishing boat, MV Viking Lagos, in Pangandaran, is an even monumental example. The explosion used explosives of about 300 pounds. Before the fishing boat thief wanted by Interpol was caught by the Indonesian Navy in the Riau waters area. At that time, the Viking Lagos ship thought that Indonesian waters would be safe as a hiding place from Interpol's pursuit. They also think that Indonesia does not have a special detection tool to identify vessels that carry out illegal fishing. The MV Viking Lagos ship has changed its name dozens of times and changed its flag dozens of times while at sea. Their move was an effort to trick the Law Enforcers of the sea in the various countries they visited.

⁵ <https://worldoceanreview.com/en/wor-2/fisheries/illegal-fishing/> ILEGAL FISHING refers to fishing activities conducted by foreign vessels without permission in waters under the jurisdiction of another state, or which contravene its fisheries law and regulations in some other manner – for example, by disregarding fishing times or the existence of the state's protected areas. For example, some IUU vessels operate in waters under the jurisdiction of West African states. As these countries generally cannot afford to establish effective fisheries control structures, the IUU vessels are able, in many cases, to operate with impunity.

⁶ Look at: <https://kumparan.com/@kumparanbisnis/berharap-dari-simposium-kejahatan-perikanan-di-copenhagen-1539603750274202590>. That the crime of fisheries crime is still happening and efforts to overcome it continue to be echoed in international forums. Three international symposiums on fisheries crime have been held. I hope that at the 4th symposium, there will be a clearer formulation in tackling this fisheries crime together. The 4th International Symposium on Fisheries Crime will take place for 3 days at UN City, Copenhagen, Denmark, from Monday (15/10/2018) to Wednesday (17/10/2018). The Indonesian government took part in this symposium as an effort to fight against fisheries crime together. In the symposium initiated by Norway, many issues related to fisheries crimes were discussed. Among other things regarding new policies to overcome fisheries crime, elaborating the impacts of fisheries crime, how the 'shadow economy' affects fisheries crime and law enforcement of fisheries crime, how to overcome corruption in fisheries, and what methods will be taken in the future. to tackle fisheries crime.

others, the absence of a Government Regulation regarding the legal basis that more accurately regulates this matter.⁷ Thus, it is interesting to study in depth how to optimize efforts to overcome illegal fishing through criminal law policies in the field of fisheries based on the value of Pancasila justice.

RESEARCH METHOD

The research method used is non-doctrinal.⁸ This research is a qualitative research, the type of data used is primary and secondary data. The technique of collecting data is through literature study and field focus group discussions, interviews and questionnaires). The data collected was analyzed through descriptive analysis.⁹

RESEARCH RESULTS AND DISCUSSION

The Criminal Procedure Code covers all criminal procedural procedures, starting from the process of investigation and investigation, prosecution to examination in court and execution of judge's decisions (execution). The Criminal Procedure Code regulates how the state through its tools implements its right to convict and impose a criminal, so it contains a criminal procedure. The position of the Criminal Procedure Code as *lex generalis* which regulates matters that have not been regulated in the Fisheries Law as *lex specialis*. So, as long as it has not been regulated in the Fisheries Law, the general regulations contained in the Criminal Procedure Code will still apply.

In the Criminal Procedure Code, the judge of the district court who hears cases for the purpose of examination is authorized to issue a detention order for a maximum of 90 (ninety) days. After 90 (ninety) days, even though the case has not been decided, the defendant must be released from detention by law. In the Fisheries Law for the purpose of examination, a judge in a court session has the authority to determine detention for 30 (thirty) days.

In the Criminal Procedure Code, judges of high courts who hear cases for the purpose of examining appeals are authorized to issue a detention order for a maximum of 90 (ninety) days. After 90 (ninety) days, even though the case has not been decided, the defendant must be released from detention by law. In the Fisheries Law, for the purpose of examination, a judge at a high court trial has the authority to determine detention for 30 (thirty) days.

In the Criminal Procedure Code, judges of the Supreme Court who hear cases for the purpose of examining a cassation are authorized to issue a detention order for a maximum of 110 (one hundred and ten) days. After a period of 110 (one hundred and ten) days even though the case has not been decided, the accused must have been released from detention by law. In the Fisheries Law for the purpose of examination, judges at the Supreme Court have the authority to determine detention for 30 (thirty) days.

The issue of the investigator's authority is very important, if it is related to law enforcement, because law enforcers are confirmed to have the authority to carry out an investigation of a case that occurred at sea until the investigator himself submits the case file to the District Attorney as a public prosecutor. In order not to cause misunderstandings between law enforcers, the application of this authority needs to be jointly realized, that law enforcers are not solely looking for their own interests, but the pattern of actions and behavior patterns of each law enforcement officer must have the principle that the law throughout the territory of the Republic of Indonesia in the unitary state of the Republic of Indonesia must be upheld. The law clearly provides legal certainty for every violation at sea, so efforts to create a sense of justice must be upheld without reducing the authority of each law enforcement officer in Indonesian waters, as investigators for fisheries crimes, especially illegal fishing. This is to avoid overlapping authorities and sectoral mindsets of each apparatus.

Provisions regarding investigations of fisheries crimes are regulated in Article 73 of Law Number 45 of 2009 Amendments to Law Number 31 of 2004 concerning Fisheries, which consist of Investigators of Fisheries Civil Servants, Investigators of Indonesian Navy Officers, and State Police Officers of the Republic of Indonesia. . It should be noted that with the existence of three investigative institutions and three officials who are authorized to appoint, namely the investigators of the Indonesian Navy Officers who are appointed by the TNI Commander, the National Police investigators are appointed by the National Police Chief and the Fisheries PPNS is appointed based on the proposal of the relevant ministry to be appointed by the Minister of Law and Human Rights.

The detention process in the Criminal Procedure Code at the investigator stage is only valid for a maximum of 20 (twenty) days. This period, if necessary, for the purposes of an unfinished examination, may be extended by the competent public prosecutor for a maximum of 40 (forty) days. After the 60 (sixty) days, the investigator must have released the suspect from detention for the sake of law.

At the stage of the public prosecutor, detention is only valid for a maximum of 20 (twenty) days. This period of time, if necessary, for the purposes of an unfinished examination, may be extended by the head of the competent district court for a maximum of 30 (thirty) days. After the 50 (fifty) days, the public prosecutor must have released the suspect from detention for the sake of law.

District court judges are also authorized to issue a detention order for a maximum of 30 (thirty) days. This period of time, if necessary for the purposes of an unfinished examination, may be extended by the chairman of the district court concerned for a maximum of 60 (sixty) days. After 90 (ninety) days, even though the case has not been decided, the defendant must be released from detention by law.

⁷ At the time of writing this book, three Draft Government Regulations (RPP) that regulate Spatial Planning and Development of Coastal and Marine Areas are in process. Sea and RPP on National Marine Spatial Planning.

⁸ Mukti Fajar. *Dualism of Normative and Empirical Legal Research*. Yogyakarta: Student Library. 2010.

⁹ Anis Mashdurohatun, Gunarto & Oktavianto Setyo Nugroho Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, JPH: Jurnal Pembaharuan Hukum, Volume 8, Number 3, December 2021.

The judge of the high court who hears the case for the purpose of examining the appeal is also authorized to issue a detention order for a maximum of 30 (thirty) days. This period of time, if necessary for the purposes of an unfinished examination, may be extended by the head of the high court concerned for a maximum of 60 (sixty) days. After 90 (ninety) days, even though the case has not been decided, the defendant must be released from detention by law.

Judges of the Supreme Court who hear cases for the purpose of examining a cassation are also authorized to issue a detention order for a maximum of 50 (fifty) days. This period of time, if necessary for the purposes of an unfinished examination, may be extended by the Chief Justice of the Supreme Court for a maximum of 60 (sixty) days. After a period of 110 (one hundred and ten) days even though the case has not been decided, the accused must have been released from detention by law.

In the procedural law of the Fisheries Law, a detention order is given by an investigator to a suspect for a maximum of 20 (twenty) days. After the 30 (thirty) days, the investigator must have released the suspect from detention for the sake of law.

A detention order is given by the public prosecutor for a maximum of 10 (ten) days and if the detention is still needed for the purpose of an unfinished examination, the detention may be extended by the head of the competent district court for a maximum of 10 (ten) days. After the 20 (twenty) days, the public prosecutor must have released the suspect from detention for the sake of law.

For the purpose of examination in the trial of the fishery court, the judge is authorized to determine detention for 20 (twenty) days. If detention is still needed for the purpose of an unfinished examination, the detention may be extended for a maximum of 10 (ten) days.

For the purpose of examination, the judge in the trial of the high court has the authority to determine detention for 20 (twenty) days. If detention is still needed for the purpose of an unfinished examination, the detention may be extended for a maximum of 10 (ten) days.

For the purpose of examination, the judge at the trial of the Supreme Court has the authority to determine detention for 20 (twenty) days. If detention is still needed for the purposes of an unfinished examination, the detention may be extended for a maximum of 10 (ten) days.

However, in the provisions of the procedural law, the Fisheries Law follows the principle of *lex specialist derogate lex generalis* which means that special legal rules will override general legal rules. So it can be concluded that when there is a rule that is not regulated in the Fisheries Act, the Criminal Procedure Code is used. So in this provision it is clear that violations of fish committed in Indonesian waters are still using the procedural law of the Fisheries Act.

The position of the Criminal Procedure Code as *lex generalis* which regulates matters that have not been regulated in the Fisheries Law as *lex specialis*. So, as long as it has not been regulated in the Fisheries Law, the general regulations contained in the Criminal Procedure Code will still apply. The application of the Criminal Procedure Code begins with an investigation. In the event that the investigation has begun, the investigator shall immediately notify the prosecutor of this matter (a SPDP is made). For the purposes of investigation, investigators do the following: arrest, detention, search and confiscation.

The provision of criminal sanctions is an important instrument in the enforcement of criminal law as a representation of the values of a norm in regulating people's lives.¹⁰ In essence, criminal law cannot be placed as the main instrument (*primum remedium*) in regulating society, but as the final instrument (*ultimum remedium*).¹¹ Therefore, the use of criminal law is not a must in tackling crime.¹² According to H.G De Bunt, criminal law can be the main instrument (*primum remedium*) if it causes huge victims and losses.¹³ However, in its development, criminal law is used as a *primum remedium*, this can be seen from most of the laws that prioritize criminal sanctions as a means of law enforcement,¹⁴ one of which is the Fisheries Law.

Fishing in the Exclusive Economic Zone must comply with the regulations set by the Indonesian government. One of these rules is by obtaining a permit to fish in the Exclusive Economic Zone area. However, many foreign fishermen or foreign ships make arrests without obtaining a permit.

The case of a foreign ship that does not have a permit occurs in the Indonesian Exclusive Economic Zone in the Natuna sea area, the Riau archipelago. On September 17, 2011 the Fishery Monitoring Vessel (KP) ORCA 02, the Directorate General of Marine Resources Supervision (PSDKP) has caught a foreign vessel belonging to the Vietnamese state which is currently catching fish in the Natuna area. The fisheries supervisory vessel ORCA 2 has found a violation, namely the Vietnamese state vessel does not have a license to fish in the Indonesian Exclusive Economic Zone area of Natuna waters.¹⁵

The ships that were captured by the Directorate General of Marine Resources Supervision (PSDKP) during January-September 2017 were 107 illegal vessels consisting of 68 foreign vessels with Vietnamese flags, 4 foreign vessels with Philippine flags and 9 Malaysian flags. The arrests were made because they did not have a permit to fish in the Indonesian exclusive economic zone in the Natuna waters.

These cases were then processed by the Fisheries Civil Service Investigator (PPNS) of Batam PSDKP Base on suspicion of a fisheries crime as regulated in Law Number 31 of 2004 as amended by Law Number 45 of 2009 concerning Fisheries Crimes with threats maximum imprisonment of 6 years and a maximum fine of 20 billion.¹⁶ The criminal act of illegal fishing in the Exclusive Economic Zone of the Natuna waters is not only focused on fisheries crimes regulated in the Fisheries Law but also a

¹⁰ Titis Anindyajati, Irfan Nur Rachman, and Anak Agung Dian Onita, "Constitutionality of Criminal Sanction Norms as the *Ultimum remedium* in Formation of Legislation," Journal of the Constitution 12, No. 4 (2015): 872-892, doi: <https://doi.org/10.31078/jk12410>, p. 876.

¹¹ Salman Luthan, "Ad Criteria Of Criminalization," Jurnal Ius Quia Iustum 16, No. 1 (2009), p. 2.

¹² Pratiwi Ayu Sri Daulat, "The Urgency of Using Criminal Sanctions in the Context of Combating Crime," Journal of Law and Community Dynamics 16, No. 1 (2018): 79-86, doi: <http://dx.doi.org/10.36356/hdm.v16i1>, p. 82.

¹³ Romli Atmasasmita, *Globalisasi dan Kejahatan Bisnis* (Jakarta: Kencana Prenada Media, 2010), pg. 192.

¹⁴ *Ibid.*, pg. 877.

¹⁵ WebsiteKompas; https://nasional.kompas.com/read/2017/09/23/05245851/indonesia-kembali_tangkap-dua-kapal-ikan-asing-ilegal-di-laut-natuna

¹⁶ *ibid*

violation of Law Number 5 of 1983 concerning the Exclusive Economic Zone, and in economic losses. The state's control of fishery resources in the Indonesian EEZ can be seen in terms of economic crimes in the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning Investigation, Prosecution and Justice for Economic Crimes.

Law enforcement against violations of IUU fishing in the EEZ has its own efforts, this is because apart from the interests of the coastal state, there are also the interests of the flag state. Therefore, if viewed from international law regarding law enforcement against IUU fishing in the EEZ, then in accordance with Article 73 paragraph (1) of UNCLOS 1982 it is explained that if a foreign ship does not comply with the fisheries laws and regulations of the coastal state in the EEZ, the coastal state can board, inspect, catch and carry out judicial proceedings against such foreign vessels, as necessary to ensure compliance with the laws and regulations stipulated in accordance with the provisions of UNCLOS 1982. Therefore, the coastal state can impose its national laws and regulations on violations committed by foreign fishing vessels conduct IUU Fishing in its Exclusive Economic Zone. Meanwhile, in carrying out its authority in accordance with Article 73 paragraph (1) of UNCLOS 1982, the coastal state is equipped with provisions in Article 111 UNCLOS 1982 which authorizes the coastal state to carry out hot pursuit of foreign fishing vessels based on sufficient preliminary evidence that the vessel has violated the laws and regulations of the coastal state. It is explained in Article 73 paragraph (3) of UNCLOS 1982 that the punishment given to foreign fishing vessels may not include imprisonment, if there is no agreement between the countries concerned. Then the captured ship and crew must be released immediately (prompt release) after providing a reasonable bond or other form of guarantee to the coastal state in accordance with Article 73 paragraph (2) of UNCLOS 1982. In the case of the arrest or detention of fishing vessels Foreign coastal States must immediately notify the flag state of the vessel, through appropriate channels, of the action taken and of any penalties subsequently imposed by the coastal state on the foreign fishing vessel (Article 73 paragraph (4) UNCLOS 1982).

Regarding the immediate release (prompt release) after the proper security deposit is given to the ship and its crew, this has been regulated in Article 292 of UNCLOS 1982. In that article it is stated that the coastal state that catches a foreign fishing vessel must immediately release the ship or its crew after being given the money. proper guarantee. However, in practice, there is no provision for the amount of the security deposit that regulates both UNCLOS 1982 itself and national legislation. The determination of the security deposit is based on the agreement of the parties only, this is explicitly stated in Article 292 of the 1982 UNCLOS. Therefore, discrepancies often occur because the amount of the security deposit set by the coastal state is too large, while other parties feel that the security deposit is too large so that the country refuses to pay the security deposit. This is what causes the length of detention carried out by the coastal state against the vessel and the crew of the foreign fishing vessel, it is due to the failure to reach an agreement regarding the security deposit imposed by the national court of the coastal state. This happens because there is no stipulation of the amount of the security deposit in the national legislation of the coastal state. To anticipate this from happening, Article 292 of UNCLOS 1982 recommends that it be submitted to The International Tribunal for the Law of the Sea (ITLOS) or the International Court of Law of the Sea. Henceforth, the amount of the security deposit will be determined, so that the coastal state that holds it must release it immediately after the deposit is submitted. As for setting a proper security deposit, it is implied through the ITLOS decision in the case of the Volga ship (between Russia and Australia) that the amount of the eligibility deposit is the same as the value of the ship, fuel, lubricants and fishing equipment.

In addition to international law that regulates law enforcement against IUU Fishing in the Exclusive Economic Zone, in Indonesia itself it is also regulated regarding law enforcement against IUU Fishing. In relation to national law enforcement regarding IUU Fishing, it has been contained in Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone in Article 13, namely: "In the context of exercising sovereign rights, other rights, jurisdictions and obligations as referred to in Article 4 paragraph (1), the authorized law enforcement apparatus of the Republic of Indonesia, may take law enforcement actions in accordance with the Criminal Procedure Code (KUHP), with the following exceptions:

1. Arrest of ships and/or people suspected of violating the Indonesian EEZ includes actions to stop the ship until the ship and/or people are handed over at the port where the case can be further processed;
2. The delivery of the ship and/or people must be carried out as quickly as possible and may not exceed a period of 7 (seven) days, unless there is a force majeure situation;
3. For the purpose of detention, the criminal acts regulated in Article 16 and Article 17 are included in the category of criminal acts as meant by Article 21 paragraph (4) letter b of the Criminal Procedure Code."

Criminal sanctions are expressly formulated in Articles 84 to 101 of the Fisheries Law, with a maximum penalty of 10 years and a fine of up to Rp. 20,000,000,000.00 (twenty billion rupiah).

This shows that criminal sanctions are no longer as *ultimum remedium*, but as *primum remedium*. The existence of criminal sanctions in overcoming illegal fishing is very urgent, considering that criminal sanctions are currently considered the most effective legal instrument for the government to tackle crime,¹⁷ one of which is illegal fishing. As the minutes of the working meeting to discuss the Fisheries Bill between the government and Commission IV of the DPR RI, the function of criminal law is as a *primum remedium* in tackling illegal fishing as an effort to protect fishery potential which is the main source of income for people living on the coastline. In addition to its potential, there are various issues that threaten the sustainability of fishery potential, including overfishing, marine pollution, coastal habitat degradation and fishing theft.¹⁸ In addition, the use of criminal law is intended to provide a deterrent effect to perpetrators, especially foreign nationals who commit illegal fishing in the Indonesian Fisheries Management Area (WPP RI).¹⁹ This is necessary because the practice of illegal fishing does not only cause harm to the state, but also threatens the interests of local fishermen, the industrial climate, the national fishery business, threatens the potential for fish availability, to a massive decline in fish stocks.²⁰

¹⁷ Titis Anindyajati, Irfan Nur Rachman, dan Anak Agung Dian Onita, loc.cit.

¹⁸ Indonesia, Academic Paper on the Draft Law Number 45 of 2009 concerning Fisheries, p. 2.

¹⁹ Minutes of Working Meeting of Commission IV DPR RI with the Government in the Discussion of the Bill on Fisheries, Monday 28 September 2009, p. 6.

²⁰ ibid

Furthermore, illegal fishing actors commit their crimes in various ways, such as illegal fishing grounds, document falsification, manipulation of ship data and so on. Therefore, stronger and stricter sanctions are needed against illegal fishing perpetrators.²¹ In addition, the diversity of fishing businesses has the potential to have an unfavorable impact on fishery resources. Various problems that arise include the use of fish resources that do not pay attention to sustainability by using destructive fishing gear. Thus, illegal fishing is a serious problem that must be addressed immediately because it is very dangerous to the preservation of fish resources and the national economy.²² Therefore, the philosophical basis for the function of criminal law as a *primum remedium* is to ensure continuity between the utilization of fishery resources and the sustainability of fishery resources.²³

Indonesia is not the only country that prioritizes criminal sanctions in tackling illegal fishing. Several countries have firm policies in tackling illegal fishing. In France, perpetrators of illegal fishing are punishable by a maximum imprisonment of 2 years and a fine of €375,000.²⁴ In the Netherlands, perpetrators of illegal fishing are punishable by imprisonment from 3 months to 6 years and a fine of up to €82,000.²⁵ In the UK, there are several regulations that regulate sanctions for illegal fishing actors. For example, in The Sea Fish (Conservation) Act 1967, sanctions for illegal fishing are in the form of a fine of £5,000 to £50,000. Furthermore, under the financial administrative penalty (FAP), perpetrators of illegal fishing in the UK can be fined up to £10,000 which must be paid within 28 days.²⁶

The function of criminal law as a *primum remedium* in overcoming illegal fishing is an effort to prevent crime through penal means, which focuses on repressive efforts or eradication. Thus, at each stage, the policy of overcoming illegal fishing must pay attention to the objectives of social policies, namely social welfare (community welfare) and social defense (protecting society from crime) which are oriented towards justice and public welfare.²⁷ As stated by the representative of the Golkar Party faction, H. Bomer Pasaribu in a working meeting to discuss the Fisheries Bill between Commission IV of the DPR RI and the government, that the main focus of the amendment to the Fisheries Law is welfare and justice. This is what underlies the application of strict criminal sanctions for perpetrators of illegal fishing in Indonesia.²⁸

Based on the description above, the function of criminal law as a *primum remedium* is a deviation from the nature of the function of criminal law, namely as a "last medicine" or *ultimum remedium*. However, in its development, the function of criminal law as the main drug or *primum remedium* has become urgent. Like the prevention of illegal fishing, criminal sanctions as a *primum remedium* are an effective means to overcome illegal fishing which causes three-dimensional losses, namely the state economy, the environment, and society.

Illegal fishing is not only detrimental to the state and fishing businesses, but also threatens the sustainability of Indonesia's fishery resources.²⁹ Therefore, strict law enforcement efforts are needed to support the controlled and sustainable use of fishery resources.³⁰ At the application and execution level, the choice of Indonesian legal politics to place criminal law as the main instrument (*primum remedium*) in overcoming illegal fishing raises several implications, both juridical implications and non-juridical implications.

The Fisheries Law adopts a cumulative punishment system, namely the application of imprisonment and fines simultaneously. Furthermore, the Fisheries Law does not contain a mechanism for the execution of criminal penalties. Thus, if the fine is not paid, it will be replaced with imprisonment as stipulated in Article 30 of the Criminal Code. In other words, every decision of the fishery court judge will lead to the deprivation of liberty, either imprisonment or confinement. These procedural weaknesses are compounded by positivistic law enforcement, judges at the fisheries court rarely make legal breakthroughs. The function of criminal law as the *primum remedium* in tackling illegal fishing causes judges to tend to use criminal sanctions as the basis for deciding cases of illegal fishing, so that in its implementation, the decisions of the judges of the fisheries court are generally in the form of punishment, as is the case with the decision of the fisheries court at the Ranai District Court whose jurisdiction is prone to illegal fishing. , namely the Natuna Islands and Anambas which are bordered by several neighboring countries such as Malaysia and Vietnam.

All cases of illegal fishing were sentenced to a fine accompanied by imprisonment as a substitute punishment. Thus, the judge's decision contradicts international legal instruments, namely the 1982 United Nations Convention on the Law of the Sea (UNCLOS), as well as national legal instruments, namely Supreme Court Circular No. 3 of 2015 concerning the Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber. 2015 as Guidelines for the Implementation of Court Duties. Basically, UNCLOS 1982 only prohibits the imposition of imprisonment on perpetrators of illegal fishing in the

²¹ *ibid*

²² Ketut Darmika, "Law Enforcement of Fishery Crimes by Warships of the Republic of Indonesia (KRI) in the Perspective of Law Number 45 of 2009 concerning Fisheries," *Journal of Law and Justice* 4, No. 3 (2015): 485-500, doi: 10.25216/JHP.4.3.2015.485-500., p. 485.

²³ Mohamad Rifki, "The *Primum remedium* Administration of Administrative Sanctions in Fisheries Management (An Effort to Give a Deterrent Effect to Corporations Violating Provisions in the Fisheries Sector)," *Journal of Legal Essence* 1, No. 1 (2019): 51-69, <https://doi.org/10.35586/esensi.Hukum.v1i1.7.>, p. 52.

²⁴ Elisabeth Durol dan Sandrine Polti, *The Control and Enforcement of Fisheries in France* (London: Clientearth, 2017), p. 14.

²⁵ Amandine Van Den Berghe, *The Control and Enforcement of Fisheries in Netherlands* (London: Clientearth, 2017), pp. 11-12.

²⁶ Sarah Gregerson, Sandy Luk, Catherine Weller, and Pamela Torres., *The Control and Enforcement of Fisheries in England* (London: Clientearth, 2017), p.10.

²⁷ Barda Nawawi Arief, *Problems with Law Enforcement and Criminal Law Policy in Combating Crime* (Jakarta: Prenada Media Group, 2008), p. 78.

²⁸ Minutes of the Working Meeting of Commission IV DPR RI with the Government in the Discussion of the Bill on Fisheries, *op.cit.*, p. 15.

²⁹ Maria Maya Lestari, "Enforcement of Fisheries Criminal Law in Indonesia Case Study Medan District Court," *Journal of Legal Studies* 4, No. 2 (2013): 271-295, doi: <http://dx.doi.org/10.30652/jih.v3i2.1822.>, p. 272.

³⁰ Aisyah Lalilyah et al., *Final Report on Legal Analysis and Evaluation in the Context of Eradicating Illegal Fishing Activities (IUU Fishing)* (Jakarta: Center for Analysis and Evaluation of National Laws, National Legal Development Agency, 2016), p. 21.

ZEEI.³¹ As the provisions of Article 73 paragraph (3) UNCLOS stipulates that: "Coastal state penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the Contrary by the state concerned, or any other form of corporal punishment."

When interpreted, imprisonment means imprisonment and corporal means physical. Thus, confinement is the same as prison, because based on its form and nature, confinement is a punishment related to placing the body in a certain place. The UNCLOS provisions were adopted by Article 102 of the Fisheries Law which states that: "The provisions of imprisonment in this law do not apply to criminal acts in the field of fisheries that occur in the Indonesian fishery management area as referred to in Article 5 paragraph (1) letter b, unless there has been an agreement between the government of the Republic of Indonesia and the government of the country concerned."

The provisions of Article 5 paragraph (1) letter b of the Fisheries Law stipulates that the fishery management area of the Republic of Indonesia for fish catching and/or fish cultivation covers the Indonesian exclusive economic zone (ZEEI). Thus, based on the Circular Letter of the Supreme Court Number 3 of 2015,³² convicted perpetrators of illegal fishing in ZEEI can only be sentenced to a fine without being accompanied by imprisonment.³³ In addition, if one examines the function of criminal law as the *primum remedium* in combating illegal fishing as stipulated in the Fisheries Law, it does not have a clear measure of determining the criteria for criminal sanctions. For example, the provisions of Article 84 paragraph (3) and paragraph (4) of the Fisheries Law stipulate that fishery business actors who carry out fishery business using chemicals and explosives that threaten environmental sustainability are threatened with imprisonment for 1-5 years and a fine of Rp. . 2,000,000,000 (two billion rupiah). The sanctions are disproportionate if applied to small fishermen, most of whom still use traditional fishing gear, which often do not comply with standards. As the decision of the fisheries judge at the Ranai District Court in case Number 11/Pid.Sus-PRK/2020/PN.Ran. In his ruling, the judge sentenced the defendant Samsir Bin Alm Hasan to 6 months in prison and a fine of Rp. 50,000,000 subsidiary 2 months in prison. This sentence is quite severe for the defendant Samsir Bin Alm Hasan as a small fisherman who only uses pouncing boats and traditional fishing gear to catch fish. However, the threat of sanctions for small fishermen is equated with sanctions for fishery business actors, so the criminal sanctions are too severe when compared to the income of traditional fishermen.³⁴

Furthermore, the use of criminal sanctions with the general maximum system in the Fisheries Law is also considered not to fulfill the sense of justice for fishermen with small boats, while the potential damage caused is not the same as for fishermen operating large vessels. As is known, small fishermen also cannot be separated from criminal provisions that can ensnare them. The function of criminal law as a *primum remedium* in tackling illegal fishing makes local fishermen more vulnerable to being punished, compared to perpetrators who are foreign nationals.³⁵ This is because the use of criminal sanctions for illegal fishing actors who are foreign nationals is limited by international legal instruments. Thus, the shift in criminal law policy from *ultimum remedium* to *primum remedium* has not provided a sense of justice for local fishermen, especially small fishermen.³⁶

Based on the description above, in order to optimize efforts to tackle illegal fishing, several efforts are needed to improve the criminal law policy in the field of fisheries, including:

1. Formulating action sanctions in its development, the use of criminal law in overcoming illegal fishing raises several problems at the level of application and execution. The use of imprisonment in criminal law policies is currently considered ineffective because it can only ensnare local fishermen, especially small fishermen and does not reach out to illegal fishing actors who are foreign nationals.³⁷ Furthermore, the policy of using fines is also considered ineffective even though the nominal is quite large. This is because there is no policy that regulates the execution mechanism for the fine.³⁸ Therefore, action sanctions can be a solution to these problems. The formulation of action sanctions in overcoming illegal fishing can refer to Article 103 of the RKUHP, namely counseling, rehabilitation, job training, treatment in institutions, and repairs due to criminal acts.
2. Prioritizing administrative sanctions. The Fisheries Law has regulated administrative sanctions in Article 35A paragraph (3) and Article 41 paragraph (4). However, the stipulations in the two articles are only limited to the authority of the fishery permit giver to admonish, freeze, and revoke the permits that have been granted. The two articles do not further regulate the mechanism for state equipment in granting permits and the mechanism for imposing administrative sanctions on violators. Therefore, administrative sanctions in the Fisheries Law need to be reaffirmed, considering that the use of criminal law in combating illegal fishing is limited by international and national legal instruments. As in France, illegal fishing actors are subject to administrative sanctions in the form of suspension or withdrawal of licenses, as well as suspension or withdrawal of authorization to exploit marine resources or aquaculture installations.³⁹

³¹ Tatik Sunatri et al., *Optimizing the Execution of Penalty Executions Related to Article 102 of Law Number 31 of 2004 concerning Fisheries* (Jakarta: Miswar, 2017), p. 5.

³² Indonesia, "Supreme Court Circular Number 3 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of 2015 as Guidelines for the Implementation of Duties for the Court," number 3 (2015) states that in cases of illegal fishing in the ZEEI area, the defendant can only be subject to a criminal offense. fine without being sentenced to imprisonment in lieu of a fine.

³³ Tatik Sunatri et al., *op.cit.*, p. 3.

³⁴ Indonesia, *Academic Paper on the Draft Law Number 45 of 2009 concerning Fisheries*, p. 134.

³⁵ Hendi Santosa, *Illegal Fishing: Optimizing Criminal Law Enforcement Policies as Primum remedium*,

³⁶ Blake D. Ratner, Bjorn Asgard, dan Edward H. Allison, "Fishing for Justice: Human Rights, Development, and Fisheries Sector Reform," *Global Environmental Change* 27, (2014):120-130, doi:<https://doi.org/10.1016/j.gloenvcha.2014.05.006>, p. 120.

³⁷ doi:<https://doi.org/10.1016/j.gloenvcha.2014.05.006>, p. 120. 44 Maroni, *Legal Politics of Crime in the Fisheries Sector* (Bandar Lampung: Aura, 2019), p. 101.

³⁸ *Ibid.*, p. 102.

³⁸ *Ibid.*, p. 102.

³⁹ Elisabeth Druel dan Sandrine Polti, *op.cit.*, p. 9.

3. Categorization of criminal sanctions, as described above, the use of criminal sanctions with the general maximum system in the current Fisheries Law is disproportionate, causing injustice to local fishermen, especially small fishermen. Therefore, it is necessary to categorize the application of criminal sanctions against illegal fishing actors based on the size of the vessel and the type of violation committed. The proposed levels of criminal sanctions for perpetrators of illegal fishing, namely: fishermen with boats measuring >5GT-10GT, in the case of violations of the use of fishing gear that is not in accordance with SIPI; a. Fishermen with vessels measuring >10GT-30GT, in the case of violations of the use of fishing gear that is not in accordance with SIPI; b. Fishermen with vessels measuring >30GT-60GT, in the case of violations of the use of fishing gear that is not in accordance with SIPI; c. Fishermen with vessels measuring >60 GT, in the case of violations of the use of fishing gear that are not in accordance with SIPI.⁴⁰ In addition, regarding the categorization of criminal fines in tackling illegal fishing, Indonesia can refer to Poland's policy as a material consideration in its formulation. In Poland, the use of a fine is carried out taking into account the size of the vessel and the capacity of the perpetrator, namely the operator of a fishing vessel with a total length equal to or more than 10 meters is subject to a minimum fine of 500 zł and a maximum of 50 times his salary:
 - a. Fishing vessel operators with a total length of less than 10 meters are subject to a minimum fine of 500 zł and not exceeding 10 times their salary;
 - b. Fishing vessel operators with a total length of less than 10 meters are subject to a minimum fine of 500 zł and not exceeding 10 times their salary;
 - c. Master fishing vessels with a total length of less than 10 meters are subject to a minimum fine of 500 zł and not exceeding 10 times their salary.⁴¹
4. Eliminating confinement, in addition to being contrary to Article 73 paragraph (3) of UNCLOS, substitute punishment in the form of confinement is not commensurate with the material losses experienced by Indonesia due to illegal fishing. In addition, the absence of a policy that regulates the mechanism of execution of the criminal fine provides an opportunity for the perpetrator not to pay the fine, so that the fine that is not paid will be a state loss and must be accounted for by the prosecutor as the executor.⁴² In addition, fines that are not paid will become state receivables and become arrears by the prosecutor's office in reporting non-tax state revenues (PNBP) and will not cause a deterrent effect.⁴³

The use of criminal sanctions in overcoming illegal fishing is still needed. It's just that the use of other alternative sanctions must be prioritized, considering that the function of criminal law as a *primum remedium* is limited by international legal instruments and national legal instruments. In addition, the function of criminal law as a *primum remedium* raises new problems in terms of application and execution. Thus, the function of criminal law in overcoming illegal fishing is only used as a last resort (*ultimum remedium*). Meanwhile, other alternative sanctions, such as action sanctions and administrative sanctions are used as the main instrument (*primum remedium*). This is in line with Sudarto's opinion which states that criminal law is the last remedy, if other legal sanctions are deemed ineffective.⁴⁴ In addition, restoring the function of criminal law as the *ultimum remedium* in tackling illegal fishing can be the right choice. This is because the Fisheries Law is a deregulative instrument, meaning that the most important thing is how to utilize fishery resources as much as possible and tackle illegal fishing as effectively as possible. Therefore, alternative sanctions should be emphasized in overcoming illegal fishing with considerations of efficiency.⁴⁵

The implications of the function of criminal law as a *primum remedium* in overcoming illegal fishing, namely judges tend to use criminal sanctions as the basis for deciding cases of illegal fishing, causing contradictions between judge decisions and international legal instruments (UNCLOS 1982), not fulfilling a sense of justice for small fishermen and local fishermen. more vulnerable to punishment.

CONCLUSION

Optimizing efforts to tackle illegal fishing, it is necessary to make some efforts to improve criminal law policies in the field of fisheries, including formulating and developing action sanctions in its development, the use of criminal law in overcoming illegal fishing raises several problems at the level of application and execution. action sanctions can be a solution to these problems. The formulation of action sanctions in overcoming illegal fishing can refer to Article 103 of the Revision of Criminal Procedure Code (RKUHP), namely counseling, rehabilitation, job training, treatment in institutions, and repairs due to criminal acts. Prioritizing administrative sanctions on the Fisheries Law, administrative sanctions in the Fisheries Law need to be reaffirmed, considering that the use of criminal law in combating illegal fishing is limited by international and national legal instruments. As in France, illegal fishing actors are subject to administrative sanctions in the form of suspension or withdrawal of licenses, as well as suspension or withdrawal of authorization to exploit marine resources or aquaculture installations. The categorization of criminal sanctions, as described above, the use of criminal sanctions with the general maximum system in the current Fisheries Law is disproportionate, causing injustice to local fishermen, especially small fishermen. Therefore, it is necessary to categorize the application of criminal sanctions against illegal fishing actors based on the size of the vessel and the type of violation committed. Eliminating confinement, in addition to being contrary to Article 73 paragraph (3) of UNCLOS, substitute punishment in the form of confinement is not commensurate with the material losses experienced by Indonesia due to illegal fishing. In addition, the absence of a policy that regulates the mechanism of execution of the criminal fine provides an opportunity for the perpetrator not to pay the fine, so that the fine that is not paid will be a state loss and must be accounted for by the prosecutor as the executor. In

⁴⁰ Indonesia, Academic Paper on the Draft Law Number 45 of 2009 concerning Fisheries, p. 135.

⁴¹ Anna Szczodrowska, *The Control and Enforcement of Fisheries in Poland* (London: Clientearth, 2016), p. 10.

⁴² Bapan Ifan, *Illegal Fishing: Optimizing Criminal Law Enforcement Policies as Primum remedium*,

⁴³ Tatik Sunatri et al., op.cit., p. 115.

⁴⁴ Sudarto, *Criminal Law I* (Semarang: Sudarto Foundation, 1990), p. 13.

⁴⁵ Aisyah Lailiyah et al., op.cit., pg. 5.

addition, fines that are not paid will become state receivables and become arrears by the prosecutor's office in reporting non-tax state revenues (PNBP) and will not cause a deterrent effect.

BIBLIOGRAPHY

- Aisyah Laliliyah et al., Final Report on Legal Analysis and Evaluation in the Context of Eradicating Illegal Fishing Activities (IUU Fishing) (Jakarta: Center for Analysis and Evaluation of National Laws, National Legal Development Agency, 2016),
- Amandine Van Den Berghe, The Control and Enforcement of Fisheries in Netherlands (London: Clientearth, 2017).
- Anis Mashdurohaturun, Gunarto & Oktavianto Setyo Nugroho Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, JPH: Jurnal Pembaharuan Hukum, Volume 8, Number 3, December 2021.
- Anna Szczodrowska, The Control and Enforcement of Fisheries in Poland (London: Clientearth, 2016)
- At the time of writing this book, three Draft Government Regulations (RPP) that regulate Spatial Planning and Development of Coastal and Marine Areas are in process. Sea and RPP on National Marine Spatial Planning.
- Bapan Ifan, Illegal Fishing: Optimizing Criminal Law Enforcement Policies as *Primum remedium*,
- Barda Nawawi Arief, Problems with Law Enforcement and Criminal Law Policy in Combating Crime (Jakarta: Prenada Media Group, 2008).
- Blake D. Ratner, Bjorn Asgard, dan Edward H. Allison, "Fishing for Justice: Human Rights, Development, and Fisheries Sector Reform," Global Environmental Change 27, (2014):120-130, doi:<https://doi.org/10.1016/j.gloenvcha.2014.05.006>, p. 120. 44 Maroni, Legal Politics of Crime in the Fisheries Sector (Bandar Lampung: Aura, 2019).
- Elisabeth Druel dan Sandrine Polti, The Control and Enforcement of Fisheries in France (London: Clientearth, 2017).
- Hendi Santosa, Illegal Fishing: Optimizing Criminal Law Enforcement Policies as *Primum remedium*,
<https://kumparan.com/@kumparanbisnis/berharap-dari-simposium-kejahatan-perikanan-di-copenhagen>
<https://news.detik.com/berita/3164251/ditenggelamkan-ini-List-dosa-kapal-Viking-di-laut-Indonesia>
<https://worldoceanreview.com/en/wor-2/fisheries/illegal-fishing>
- Indonesia, "Supreme Court Circular Number 3 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of 2015 as Guidelines for the Implementation of Duties for the Court," number 3 (2015) states that in cases of illegal fishing in the ZEEI area, the defendant can only be subject to a criminal offense. fine without being sentenced to imprisonment in lieu of a fine.
- Indonesia, Academic Paper on the Draft Law Number 45 of 2009 concerning Fisheries.
- Indonesia, Academic Paper on the Draft Law Number 45 of 2009 concerning Fisheries.
- Ketut Darmika, "Law Enforcement of Fishery Crimes by Warships of the Republic of Indonesia (KRI) in the Perspective of Law Number 45 of 2009 concerning Fisheries," Journal of Law and Justice 4, No. 3 (2015): 485-500, doi: 10.25216/JHP.4.3.2015.485-500.
- Maria Maya Lestari, "Enforcement of Fisheries Criminal Law in Indonesia Case Study Medan District Court," Journal of Legal Studies 4, No. 2 (2013): 271-295, doi: <http://dx.doi.org/10.30652/jih.v3i2.1822>.
- Minutes of the Working Meeting of Commission IV DPR RI with the Government in the Discussion of the Bill on Fisheries.
- Minutes of Working Meeting of Commission IV DPR RI with the Government in the Discussion of the Bill on Fisheries, Monday 28 September 2009
- Mohamad Rifki, "The *Primum remedium* Administration of Administrative Sanctions in Fisheries Management (An Effort to Give a Deterrent Effect to Corporations Violating Provisions in the Fisheries Sector)," Journal of Legal Essence 1, No. 1 (2019): 51-69, <https://doi.org/10.35586/esensi Hukum>.
- Mukti Fajar. Dualism of Normative and Empirical Legal Research. Yogyakarta: Student Library, 2010.
- Pratiwi Ayu Sri Daulat, "The Urgency of Using Criminal Sanctions in the Context of Combating Crime," Journal of Law and Community Dynamics 16, No. 1 (2018): 79-86, doi: <http://dx.doi.org/10.36356/hdm.v16i1>.
- Romli Atmasasmita, Globalisasi dan Kejahatan Bisnis (Jakarta: Kencana Prenada Media, 2010).
- Salman Luthan, "Ad Criteria Of Criminalization," Jurnal Ius Quia Iustum 16, No. 1 (2009).
- Sarah Gregerson, Sandy Luk, Catherine Weller, and Pamela Torres., The Control and Enforcement of Fisheries in England (London: Clientearth, 2017).
- Tatik Sunatri et al., Optimizing the Execution of Penalty Executions Related to Article 102 of Law Number 31 of 2004 concerning Fisheries (Jakarta: Miswar, 2017),
- The book: The Sea, the Future of the Nation, sovereignty, sustainability, welfare. Published by the Ministry of Maritime Affairs and Fisheries. 2018.
- Titus Anindyajati, Irfan Nur Rachman, and Anak Agung Dian Onita, "Constitutionality of Criminal Sanction Norms as the *Ultimum remedium* in Formation of Legislation," Journal of the Constitution 12, No. 4 (2015): 872-892, doi: <https://doi.org/10.31078/jk12410>.
- Titus Anindyajati, Irfan Nur Rachman, dan Anak Agung Dian Onita, loc.cit.
- WebsiteKompas;https://nasional.kompas.com/read/2017/09/23/05245851/indonesia-kembali_tangkap-dua-kapal-ikan-asing-illegal-di-laut-natuna

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