

THE ROLE OF THE WATER POLICE IN LAW ENFORCEMENT OF FISHERIES CRIMES (Research Study at the Batubara Regency Water Police)

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ABSTRACT

Criminal acts in fishing that occur in Indonesian waters, especially Batubara waters, have violated the provisions as stipulated in Law Number 45 of 2009 concerning Fisheries and Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 37/Permen-Kp/2017 Concerning Standard Operating Procedures for Law Enforcement of the Illegal Fishing Eradication Task Force. The problems in this thesis are how the legal regulations for fisheries crimes are regulated, how the criminal liability of perpetrators of fisheries crimes (illegal fishing) in Batubara waters, what are the obstacles and solutions for the Water Police in enforcing the law in Batubara waters. . Prevention efforts are pre-emptive efforts such as conducting routine patrols and conducting legal counseling, Preventive Efforts such as taking further action to prevent the occurrence of illegal fishing crimes and repressive efforts in the form of enforcement/action in accordance with applicable laws

1. Introduction

Indonesia's concept as an archipelagic state comprises thousands of islands, with a sea area of approximately 3,100,000 km². This includes 2,800,000 km² of Indonesian waters and 300,000 km² of territorial waters, plus the Indonesian Exclusive Economic Zone. The total sea area is 5,200,000 km², with a coastline of 81,000 km².

Following the enactment of the 1982 Law of the Sea Convention, Indonesia's territorial area increased to 8,193,163 km², consisting of 2,027,087 km² of land and 6,166,163 km² of ocean. Indonesia's maritime area can be broken down into 0.3 million km² of territorial waters, 2.8 million km² of Indonesian waters, and 2.7 million km² of the Indonesian Exclusive Economic Zone.

The waters within the sovereignty and jurisdiction of the Unitary State of the Republic of Indonesia, the Indonesian Exclusive Economic Zone, and the high seas, according to international regulations, contain vast fish resources and fish farming areas.

As a maritime nation, Indonesia possesses a wealth of marine resources that have not been optimally explored and exploited. The true extent of some of these resources is even unknown. Therefore, complete and accurate data are needed to ensure the oceans, as a viable alternative resource, can continue to develop.

These resources offer significant potential for management for the welfare of the people. In this era of economic crisis, which has yet to be fully resolved, this vast marine potential should be a solution. However, due to the over-focus on land-based resources, these vast marine resources have been wasted. This situation has created opportunities for other nations to exploit the seas freely, including through illegal fishing.

The potential for marine capture fisheries resources is estimated at 6,700,000 tons, with 4,400,000 tons in territorial waters and Indonesian waters, and 2,300,000 tons in the Indonesian Exclusive Economic Zone. Marine areas suitable for mariculture development cover approximately 80,900 hectares, with a potential annual production of 46,000,000 tons. Public waters cover approximately 14,000,000 hectares, consisting of lakes, with fish production ranging from 800,000 to 900,000 tons per year.

Indonesia's wealth is exploited by a group of Indonesians living in coastal areas who generally depend on the marine and fisheries sector for their livelihoods, also known as fishermen.

There are many methods commonly used by fishermen to catch fish in Indonesian waters. The multitude of fish species, each with their own characteristics, inhabiting diverse water environments, necessitates diverse fishing methods, including the use of various fishing gear. For example, pelagic fish (fish that live at the surface of waters between 0 and 200 meters) are constantly migrating, whether confined to a specific area or over long distances, such as tuna and skipjack tuna, which traverse the waters of several neighboring countries.

State losses due to illegal fishing are feared to increase, given the increasing number of fisheries violations. With the increasing number of cases of illegal fishing by both foreign and traditional fishermen, the government must take a firm stance to prevent and address these fisheries crimes.

To address these issues, the Indonesian government has enacted and enacted laws related to these issues, including Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.

Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries provides greater clarity and legal certainty regarding law enforcement for criminal acts in the fisheries sector, which includes investigation, prosecution and examination in court.

Law Number 45 of 2009, amending Law Number 31 of 2004 concerning Fisheries, has formulated criminal sanctions for several types of acts categorized as fisheries crimes.

Illegal fishing practices are not only carried out by individuals but also by many corporations. This practice is a common problem, but its handling is very difficult. Law enforcement does not deter perpetrators of fisheries crimes from committing such acts.

Many factors contribute to the prevalence of fish theft in Indonesia. One factor is the vastness and openness of Indonesian waters. With such vastness, surveillance is very limited, due to limited facilities and infrastructure.

2. Research Method

This research is descriptive analytical, that is, research that seeks to describe a legal condition/phenomenon with legality in more depth and comprehensively, regarding social status and the relationships between phenomena. The purpose of descriptive research is to produce an accurate picture of a group, describe a process or relationship, use basic information from a technical relationship with the definition of this research, and attempt to comprehensively describe the role of the water police in enforcing fisheries crimes in Batubara waters.

This type of research uses normative legal research, namely research into legal principles, supported by empirical legal data through interviews with the Head of the Batubara Water Police Unit.

3. Research Results And Discussion

Article 1 paragraph (5) of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries states that fishing is the activity of obtaining fish in waters that are not being cultivated by any means or method, including activities using vessels to load, transport, store, cool, handle, process, and/or preserve them.

According to Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 37/Permen-Kp/2017 concerning Standard Operating Procedures for Law Enforcement of the Illegal Fishing Eradication Task Force, crimes in the fisheries sector include illegal fishing and unreported fishing.

Illegal fishing is any unauthorized fishing activity or fishing activity carried out in violation of fisheries laws and regulations. Unreported fishing is the failure to report catches or reporting catches that do not correspond to the actual catch as stipulated in fisheries laws and regulations.

The term "illegal fishing" is popularly used by law enforcement officials and related agencies to describe criminal acts in the fisheries sector. Illegal fishing comes from the word "illegal," meaning unauthorized or unofficial. Fishing is a noun meaning fishery. Illegal fishing comes from the word "illegal," meaning unauthorized or unofficial. Fishing is a noun meaning fishery. The word "fish" comes from the English word "fish," meaning "to catch, to fish," "to fish," or "to fish."

The Ministry of Maritime Affairs and Fisheries defines the term "illegal fishing" for its supervision and monitoring of marine and fisheries resources. It can be literally defined as unauthorized fishing activities, fishing activities not regulated by valid laws and regulations, or activities not reported to an established fisheries management institution or agency.

Illegal fishing is fishing activity carried out in violation of existing regulations and constitutes a violation of the law. Illegal fishing in Indonesia is any form of fishing that violates Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.

Every crime inevitably results in losses that impact all sectors of life; the state, society, and the marine environment are the direct victims of illegal fishing. This detrimental impact is one of the main reasons why human actions can be classified as crimes. Illegal fishing in this case is a clear crime and should be dealt with firmly because it has caused enormous losses to all sectors of Indonesian society.

Licensing is a key component of fishing control, and therefore, all fishing activities must first obtain a permit. The granting of a fishing permit must take into account the available fish resources, the vessels, and the fishing gear used. Illegal fishing requires more serious action because it not only causes losses to the national economy but also damages Indonesia's ecology and marine resources.

The criminal provisions for violators of this article are also explicitly stated in Article 98 of Law No. 45 of 2009 concerning amendments to Law No. 31 of 2004 concerning Fisheries, which states: "A captain of a fishing vessel who does not possess a sailing permit as referred to in Article 42 paragraph (3) shall be subject to a maximum imprisonment of 1 (one) year and a maximum fine of Rp. 200,000,000 (two hundred million rupiah).

The crime of fishing (illegal fishing) using foreign-flagged vessels in Indonesian waters is a crime as referred to in Article 93 paragraph (2) of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as regulated as follows: Any person who owns and/or operates a foreign-flagged fishing vessel conducting fishing in the Indonesian Exclusive Economic Zone that does not have a SIPI as referred to in Article 27 paragraph (2), shall be punished

with a maximum imprisonment of 6 (six) years and a maximum fine of IDR 20,000,000,000.00 (twenty billion rupiah).

The lack of coordination between agencies is also one of the causes of the continued prevalence of illegal fishing. There are at least eight law enforcement agencies authorized in maritime areas, namely: the Indonesian Navy, the Indonesian National Police, the Ministry of Maritime Affairs and Fisheries (KKP) PPNS, the Ministry of Transportation PPNS, the Customs PPNS, the Immigration PPNS, the Environment PPNS, and the Ministry of Forestry PPNS.

Because each agency feels they have authority, they (especially the first five mentioned above) take action independently, and it's not uncommon for officials to collaborate with illegal fishing perpetrators. If the poor handling of illegal fishing is sharply criticized and highlighted by the public and the media, these agencies shift responsibility. Coordination is weak and ineffective in taking firm and joint action against illegal fishing perpetrators. This situation is exploited by illegal fishing perpetrators to continue operating in Indonesian waters.

Illegal fishing is also driven by the need for and demand for certain fish stocks with high economic value, particularly those consumed by visitors to expensive restaurants abroad. Illegal fishing of large pelagic fish, for example, is often carried out in Indonesia's EEZ by foreign vessels equipped with sophisticated fishing technology. These foreign vessels are even equipped with various equipment to support fish storage and processing to maintain freshness and increase its economic value when sold on the international market. This indicates that illegal fishing perpetrators are indeed paying close attention to the potential of Indonesia's marine fishery resources. Indonesia's vast maritime territory, with its limited monitoring facilities and infrastructure, does not appear to be an obstacle for illegal fishing perpetrators to continue their illegal activities in Indonesian waters.

Criminal liability is defined as the continuation of objective blameworthiness in a criminal act and subjectively meeting the requirements for punishment for that act. The principle of criminal liability is based on the principle of fault, which explicitly states that there is no crime without fault. This means that a person can only be held accountable under criminal law for committing an unlawful act if there is fault in that person.

Criminal responsibility is also known as *toerekenbaarheid*, criminal responsibility, or criminal liability. Criminal responsibility is intended to determine whether a suspect/defendant is held accountable for a crime. A crucial aspect of a crime is its responsibility for the consequences of that act. Criminal responsibility is intended to determine whether a defendant is held accountable

for a crime. If the act is found to be unlawful and the defendant is capable of being held responsible, then they can be punished.

Criminal responsibility is defined as the continuation of objective blameworthiness in a criminal act and subjectively fulfilling the requirements for being punished for that act. The basis for the existence of a crime is the principle of legality, while the basis for the perpetrator's punishment is the principle of fault. This means that the perpetrator of a crime will only be punished if they are at fault in committing the crime.

The capacity to be responsible is an inherent element of every crime, just as it is the element of unlawfulness. Therefore, if there is any doubt about a person's capacity to be responsible, the judge is obliged to investigate. If, after the investigation, doubt remains, the judge must acquit the person.

Criminal liability is implemented through punishment, which aims to prevent criminal acts by upholding legal norms to protect society, resolve conflicts that arise, restore balance, foster peace in society, socialize convicts through mentoring so they become good people, and absolve the convict of guilt.

Viewed from the perspective of the commission of a prohibited act, a person will be held accountable for those actions if the act is unlawful and there is no justification or excuse for eliminating the unlawful nature of the crime. Viewed from the perspective of capacity to be responsible, only a person capable of being responsible can be held accountable for their actions. A criminal act without fault is the principle of criminal liability. Therefore, if a person is convicted of an act as threatened, this depends on whether they committed the act at fault.

To this day, there are still many adherents to the principle of no punishment without fault, and this is inseparable from the influence of the monist school of thought on crimes, which has arguably had a significant influence on criminal law systems worldwide. Monist thought does not distinguish between the elements of an act and the elements of responsibility. Therefore, according to the influence of monist thought, *strafbaar feit* is the same as the conditions for imposing a criminal penalty, so that every crime is punishable by its actions.

The perpetrator's criminal responsibility for the act must be considered a prerequisite for fault. This means that while accountability for one's actions can be said to exist because, according to the law, it does exist. Therefore, only if there is doubt is such accountability required, accountability for one's actions is actually an element of every crime.

Criminal responsibility can only be imposed on a person who commits a crime. Fault is crucial for punishing someone. Without it, criminal responsibility would never exist, hence the principle of no punishment without fault (*geen straf zonder schuld*) is recognized in criminal law.

Perpetrators of illegal fishing in Indonesian waters must be held criminally accountable or sanctioned for their actions. In other words, law enforcement must be implemented against perpetrators of illegal fishing in Indonesian waters.

Conceptually, the essence and meaning of law enforcement lies in harmonizing the relationships between values outlined in established principles and attitudes as a series of final-stage value interpretations to create, maintain, and sustain peaceful social interactions.

In social interactions, humans inherently possess certain views regarding what is good and what is bad. These views are always manifested in specific pairs, such as the pairing of order and peace, public interest and personal interest, and so on. In law enforcement, these pairs of values need to be harmonized, for example, the pairing of order and peace. This is because the value of order is based on attachment, while the value of order is based on attachment, while the value of peace is based on freedom. In life, humans require both attachment and freedom in a harmonious form.

These harmonized pairs of values require more concrete elaboration; therefore, they are typically abstract. This more concrete elaboration occurs in the form of rules, in this case legal rules, which may contain commands, prohibitions, or permits. Most criminal law principles contain prohibitions against certain acts.

These principles then serve as guidelines or benchmarks for appropriate or proper behavior or attitudes. These behaviors and attitudes aim to create, maintain, and preserve peace. Law is the foundation of societal hope and trust, governing social interactions. Law is the embodiment or manifestation of values of trust. Therefore, law enforcement is expected to be trustworthy and uphold the authority of the law, which essentially means upholding values of trust within society.

The policies to be implemented will encompass law enforcement activities primarily aimed at improving order and legal certainty in society. To this end, the coordination system will be strengthened and the duties of law enforcement agencies will be harmonized. This will be achieved, among other things, by streamlining the functions, duties, powers, and authorities of law enforcement institutions according to their respective professional areas and based on a sound cooperative system.

4. Conclusion

Legal provisions for fisheries crimes are regulated by Law Number 31 of 2004 in conjunction with Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. Regulations for fishing permits in the

territory of the Republic of Indonesia are regulated in Article 27 paragraphs (1) and (2) of Law Number 45 of 2009 concerning Fisheries, which stipulate that every person who owns and/or operates an Indonesian- or foreign-flagged fishing vessel used for fishing in the fisheries management area of the Republic of Indonesia and/or the high seas is required to possess a SIPI.

Criminal liability for perpetrators of fisheries crimes (illegal fishing) in Batubara waters includes both criminal sanctions and fines. The regulation regarding not having a SIUP is regulated in Article 92 in conjunction with Article 26, which states that any person who intentionally conducts a fishery business in the fisheries management area of the Republic of Indonesia without a SIUP shall be punished with a maximum imprisonment of 8 (eight) years and a maximum fine of Rp. 1,500,000,000.00 (one billion five hundred million rupiah).

Obstacles for the Maritime Police in enforcing the law in Batubara waters include limited facilities and infrastructure, namely the equipment owned by perpetrators of crimes, such as illegal fishing vessels owned by foreigners, which are so advanced that it is difficult for fisheries surveillance vessels to pursue them. Weak public awareness and lack of interest in outreach or socialization programs, making it difficult for the government to find outreach participants who will then become supervisors of fisheries crimes in the field. Preventive efforts include pre-emptive efforts such as conducting routine patrols and conducting legal counseling. Preventive efforts include taking follow-up actions to prevent the occurrence of illegal fishing crimes, and repressive efforts, namely enforcement/prosecution in accordance with applicable law.

References

- Ekaputra, Muhammad dan Abdul Kahir. Sistem Pidana di Dalam KUHP dan Pengaturannya Menurut Konsep KUHP Baru. Usu Press, Medan, 2010.
- Gunadi, Ismu dan Jonaedi Efendi, Hukum Pidana, Kencana Pranadamedia Group, Jakarta, 2014.
- Hardjasoemantri, Koesnadi, Hukum Lingkungan : Konservasi Sumber Daya Alam hayati dan Ekosistemnya, Gadjah Mada University Press, Yogyakarta, 2011.
- Huda, Chairul, Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan, Prenada Media Group, Jakarta, 2018.
- Ilyas, Amir, Asas-Asas Hukum Pidana. Rangkang Education dan PuKap, 2012
- Akhyaruddin, A., Marzuki, M., & Mukidi, M. (2023). ANALISIS YURIDIS TINDAK PIDANA PENCUCIAN UANG DARI HASIL TINDAK PIDANA



NARKOTIKA (Studi Putusan Mahkamah Agung RI Nomor 250 K/Pid.Sus/2018). Jurnal Meta Hukum, 2(2), 27-38.
<https://doi.org/10.47652/jmh.v2i2.420>

Akhyar, A., Danialsyah, D., & Bukhari, B. (2023). ANALISIS YURIDIS TINDAK PIDANA PEMBUNUHAN DISERTAI PEMERKOSAAN (Analisis Putusan Nomor 271/Pid.B/2019/PN Mrb). Jurnal Meta Hukum, 2(2), 39-50.
<https://doi.org/10.47652/jmh.v2i2.421>

Simalango, D. ., Marzuki, M., & Mukidi, M. (2023). PERTANGGUNGJAWABAN PIDANA OLEH KURATOR ATAS TINDAKANNYA YANG MERUGIKAN BUNDEL PAILIT (Studi Kasus Putusan Pengadilan Negeri Jakarta Pusat Nomor 2081/Pid.B/2011/PN.Jkt.Pst). Jurnal Meta Hukum, 2(2), 51-62.
<https://doi.org/10.47652/jmh.v2i2.422>

Sianipar, E. P. U. ., Lubis, M. Y. ., & Akhyar, A. . (2023). ANALISIS YURIDIS PERTANGGUNGJAWABAN PIDANA PERMUFAKATAN JAHAT (SAMENSPANNING) DALAM KEJAHATAN NARKOTIKA YANG DILAKUKAN OLEH ANAK (Studi Putusan Nomor 57/Pid.Sus-Anak/2022/PN Lbp). Jurnal Meta Hukum, 2(2), 63-76.
<https://doi.org/10.47652/jmh.v2i2.423>

Marzuki, M., Faisal, F., & Akhyar, A. . (2023). PENEGAKAN HUKUM TERHADAP TINDAK PIDANA PEMALSUAN SURAT PERSETUJUAN BERLAYAR (Studi Putusan Nomor 249/Pid.B/2021/PN Ktp). Jurnal Meta Hukum, 2(2), 77-88. <https://doi.org/10.47652/jmh.v2i2.424>

Mustamam, M., Bachri, H. ., & Mukidi, M. (2023). IMPLEMENTASI UNDANG-UNDANG NOMOR 35 TAHUN 2009 TENTANG NARKOTIKA MELALUI FUNGSI ASESMEN DALAM UPAYA PENYELESAIAN TINDAK PIDANA PENYALAHGUNAAN NARKOTIKA (Studi Di Kepolisian Sektor Aceh Selatan). Jurnal Meta Hukum, 2(2), 89-104.
<https://doi.org/10.47652/jmh.v2i2.425>

Gulo, I. E. ., Mukidi, M., & Mustamam, M. (2023). ANALISIS YURIDIS PENERAPAN DIVERSI DALAM PERADILAN PIDANA ANAK ATAS TINDAK KEJAHATAN PIDANA PENGANIAYAAN DI INDONESIA (Studi Kasus Pengadilan Negeri Gunung Sitoli). Jurnal Meta Hukum, 2(2), 105-115.
<https://doi.org/10.47652/jmh.v2i2.426>

Affan, I., Jonizar, J., & Mukidi, M. (2023). ANALISIS YURIDIS TINDAK PIDANA MENGGUNAKAN SURAT PALSU DALAM PELEPASAN HAK PENGUASAAN DENGAN GANTI RUGI DALAM JUAL BELI TANAH (Studi Putusan Nomor 1722/Pid.B/2021/PN Lbp). Jurnal Meta Hukum, 2(2), 116-128. <https://doi.org/10.47652/jmh.v2i2.427>

Triyunda, R. ., Mustamam, M., & Danialsyah, D. (2023). PERTANGGUNGJAWABAN PIDANA AHLI WARIS YANG MENJADIKAN



HARTA WARISAN SEBAGAI JAMINAN KREDIT TANPA PERSETUJUAN AHLI WARIS (Studi Putusan Pengadilan Negeri Metro Nomor 121/Pid.B/2021/PN. Met). Jurnal Meta Hukum, 2(2), 142-154. <https://doi.org/10.47652/jmh.v2i2.429>

Montana, V. ., Lubis, M. Y. ., & Affan, I. . (2023). PENEGAKAN HUKUM TERHADAP PRAJURIT TNI YANG MELAKUKAN TINDAK PIDANA PENYALAHGUNAAN NARKOTIKA (Studi Putusan Pengadilan Militer I-02 Nomor 109-K/PM.I-02/AL/XI/2022). Jurnal Meta Hukum, 2(2), 168-181. <https://doi.org/10.47652/jmh.v2i2.431>