

LAW ENFORCEMENT AGAINST FOREIGN FISHERMEN PERPETRATORS OF ILLEGAL FISHING CRIMES IN INDONESIA

Ardiyansah^{1*}, Tofik Yanuar Chandra², Mohamad Ismed³

¹ Master of Law Graduate Program, Universitas Jayabaya

^{2,3} Faculty of Law, Universitas Jayabaya

E-mail: ¹⁾ ghaziassabil@gmail.com

Abstract

This study aims to analyze the legal provisions regarding the criminal act of illegal fishing in Indonesian laws and regulations and to analyze law enforcement against foreign fishermen who are perpetrators of illegal fishing in Indonesian marine areas. This research is a normative legal research by using the Statute Approach, Conceptual Approach, Comparative Approach and Case Approach. The data analysis method is done by descriptive analytical, which is to describe the results of research with data as complete and detailed as possible in handling illegal fishing crimes in Indonesian marine areas. The results of this study indicate that the legal provisions regarding the criminal act of illegal fishing in Indonesian laws and regulations are regulated in Law Number 45 of 2009 Amendment to Law Number 31 of 2004 concerning Fisheries, where if a suspect foreign citizen (WNA) is arrested, but the state of Indonesia does not yet have an agreement with the country from which the foreigner is from.

Keywords: Criminal Act, Foreign Fishermen, Illegal Fishing, Law Enforcement

1. INTRODUCTION

The vulnerability of Indonesian seas to illegal fishing, besides the fact that the sea region contains a large potential for fishery resources, is also due to the geographical position of the Indonesian sea, which is in border seas or nearby to international seas and oceans, resulting in a high vulnerable to the entry of foreign fishermen and illegal fishing (Iswardhana, 2020). Fishermen are people whose livelihood is fishing (Sitohang, 2016). The scope of criminal activities governed by The Constitution article of Indonesia No. 45 of 2009 relating to Fisheries does not include corporate crimes, participation crimes, or criminal omissions. Essentially, the criminal crime of negligence or (omission) is perpetrated by those with authority over the issue of combatting illegal fishing (Gunarto, 2008). The subjects or actors who are specifically governed by the criminal fisheries rules can only be actors who directly engage in illegal fishing or fishing vessels that tranship illegally (Oktoza, 2015). Meanwhile, businesses, government officials, civil servants, TNI/POLRI, and ship owners are only some of the intellectual actors involved in illegal fishing that have been left untouched by the legislation on fisheries crime (Rudiansyah, 2016).

In Indonesia, illegal fishing is hampered by a lack in legal products and a poorly enforced mentality towards law enforcement at sea. On the other hand, with the passage of Law No. 45 of 2009 concerning Fisheries, there is now a chance that laws can be enforced out at sea. In this Fisheries Law, the penalties for illegal fishing are fairly severe. For instance, the legislation requires every fishing vessel to hold a fishing license (refers to

SIPI). The manager and owner of Indonesian-flagged vessels who violate this rule can be condemned to six years in prison and a fine of 2 billion IDR.

To address the issue of illegal fishing, the government must come up with a strategy that includes regional and international cooperation, especially with neighboring countries (Bentham, 1970; Tobing & Rios, 1998). By increasing this role, there are 2 (two) benefits obtained at the same time (Rifai & Nadjib, 2007). The first advantage is that Indonesia can request that other nations impose sanctions on fishing boats that are caught illegally in Indonesian territory. It is possible to minimize attempts by foreign ships that steal fish by enacting a regional anti-illegal fishing policy. For instance, this has been done through the Joint Commission Sub Committee on Fisheries Cooperation between Indonesia, Thailand, and the Philippines to debate fisheries-related issues including the delineation of international borders. This cooperation can also be used to lower MCS operating expenses so that joint operations for VMS can be carried out.

Based on the description above, this study seeks to analyze the legal provisions regarding the criminal act of illegal fishing in Indonesian laws and regulations and to analyze law enforcement against foreign fishermen who are perpetrators of illegal fishing in Indonesia.

2. RESEARCH METHOD

The research used is normative juridical, which puts the law as a building system of norms. The research approach is the Statute Approach, the Conceptual Approach, the Comparative Approach and the Case Approach. The data analysis method as mentioned is descriptive analytical, which is to describe the results of research with data as complete and detailed as possible in handling illegal fishing crimes in Indonesian marine areas.

3. RESULT AND DISCUSSION

3.1. Research Results

The following are examples of instances involving illegal fishing in Indonesian territorial sea:

Table 1 Illegal Fishing Cases in Indonesia

NO	Verdict	Defendant	Decision
1	No 12/Pid.Sus-PRK/2020/ PN Tpg.	Do Thanh Nhan	The defendant committed the crime of jointly owning and/or operating a fishing vessel with a foreign flag to catch fish in the Indonesian Exclusive Economic Zone (IEEZ) that does not have a SIPI (Fishing Permit) as referred to in Article 93 Paragraph (2) in conjunction with Article 27 Paragraph (2) Jo Article 102 of Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries Jo Article 55 paragraph (1) to 1 of the Criminal Code”

2	No. 11/Pid.Sus-PRK/2019/PN.Bit.	Warlito Luna Abella	The defendant Warlito Luna Abella has been proven legally and convincingly guilty of committing a crime: "Operating a foreign-flagged fishing vessel in the Indonesian Exclusive Economic Zone (IEEZ), which does not have a Fishing Permit (SIPI)"
3	No. 128/Pid.Sus-PRK/2018/PN.Wno.	Herianto Bin Edi Sujarwanto	The Defendant Herianto Bin Edi Sujarwanto was legally and convincingly proven guilty of committing a criminal act of Arresting Lobster (PANULIRUS SPP), Which Carapace Length Is Below 8 CM Or Weight Below 200 GRAM Per Head By Small Fishermen

3.2. Discussion

3.2.1. Legal provisions regarding the criminal act of illegal fishing in Indonesian laws and regulations

There are several other central government agencies involved in law enforcement activities at sea. These institutions are the Office of the State Minister for the Environment (KLH), Ministry of Transportation (DEPHUB), Directorate General of Immigration-Ministry of Law and Human Rights, Directorate General of Customs-Ministry of Finance, Navy (TNI AL), Indonesian National Police (POLAIRUD). In an effort to improve coordination of surveillance and law enforcement activities in Indonesian marine areas, including the EEZ, a national coordinating agency has been established. The Maritime Security Coordinating Board (BAKORKAMLA) was established based on a Joint Decree (SKB) between the Minister of Defense, Minister of Information, Minister of Justice, and the Attorney General in 1972. Membership of this coordinating body consists of representatives from the Navy, National Police, Customs, Ministry of Justice and Attorney General (Friedman, 2001).

There are several tasks of the marine patrol in relation to law enforcement against the laws and regulations in force in Indonesian territory (Nonet & Selznick, 2017). There are at least two tasks assigned to the marine patrol task force within the coastal or territorial areas of Indonesia. The first task of marine patrols is monitoring, supervising, and reconnaissance/observation of activities such as criminal acts committed by illegal fishing vessels by foreign fishermen.

The next task carried out by POLAIRUD for coastal areas is monitoring, supervision, and reconnaissance/observation for conservation and protection of marine biodiversity. In addition to this, marine patrols are also carried out in the Indonesian Exclusive Economic Zone (IEEZ), and sea that bordering neighboring countries. This patrol aims to maintain national sovereignty and control other prohibited activities, such as smuggling, piracy, illegal fishing activities.

In the territorial sea, the jurisdiction of that state applies and each state has jurisdiction over crimes committed in its territory or territory. However, there are also certain exceptions in its implementation, so that this principle is applied based on developments and needs in addressing strategic issues both globally, regionally and nationally. Discussing the existence

of legal regulations, means also discussing the existence of a legal regulation in its implementation in the community. Implementation here means how the regulation can be implemented according to its original designation and can solve the problems regulated in it and can also provide protection in the future so that related problems do not occur again.

The existence of legal regulations regarding the protection of the sea from illegal fishing by foreign fishermen specially made by the government or other legal regulations issued by the central government that apply in the Indonesian territorial sea can be said to be quite good, but their implementation has not been proven. This is because there are no cases that can be resolved by these legal regulations, this is because there have been no cases of marine pollution originating from shipping activities that have occurred. Hence, the legal regulations against these crimes are very detailed and can protect the Indonesian marine areas in general.

Indonesian territorial sea, which can be said to be quite wide, hence should receive more attention from all elements of society, especially from the government. This is also due to the fact that as a country whose marine wealth is very large, it must be an example for other countries in protecting marine areas from various sources of pollution and criminal acts, as well as ensuring the security of shipping traffic. For the Indonesian continental shelf, it includes the seabed and the land carrying water outside the territorial seas of the Republic of Indonesia as regulated in Law Number 4/Prp/1960, namely the area beyond 12 nautical miles with a depth of up to 200 meters or more where still may be held exploration and exploitation of natural resources.

- 1) Increase Indonesia's area of approximately 1.5 million square miles.
- 2) Increasing the intensification of preventive and repressive surveillance of marine areas against territorial violations in the sense of theft of the products of living natural resources, especially fish and abuse of the concessions granted
- 3) Striving to get an expansion of capabilities in supporting the natural potential that must be cultivated and balanced with the situation.
- 4) Strive to prevent activities that cause marine pollution and even affect marine ecosystems.

The authority over the environmental area here does not mean that the region legalizes aspects of environmental destruction and exploits all natural resources for the sake of increasing regional original income. But it also has the authority to preserve the environment in order to maintain the current natural resources that can still be enjoyed by the next generation. The issue of authority over Indonesia's territorial sea is very complicated, because in addition to its authority, it is also owned by several parties and is still under the authority of various parties. However, the authority in the field of pollution is still the authority of the environmental agency (BLH). The issue of authority over marine areas in Indonesia is very complicated, because in addition to the authority is also owned by several parties and is still the authority of the province. However, the authority in the field of pollution is still the authority of the environmental agency (BLH). (Situmorang, 1987).

Realizing its shortcomings, the National Police Headquarters POLAIRUD should have collaborated from the beginning with several related parties. Because this marine security issue is a problem that is difficult to detect, apart from being located in a marine area and requires experts in this field to handle marine problems. The authority of the POLAIRUD at

the National Police Headquarters is very strong because it is supported by the police law and other regulations under it.

3.2.2. Law enforcement against foreign fishermen who are perpetrators of illegal fishing in Indonesian marine areas

Law enforcement at sea by the state through its apparatus is essentially the implementation of the enforcement of sovereignty itself because the authority and ability to implement law enforcement is basically based on state sovereignty and is at the same time an embodiment of sovereignty (Sondakh, 2004). In the implementation of law enforcement at sea, it is distinguished between law enforcement functions relating to certain crimes at sea, and law enforcement functions relating to general crimes that occur at sea (Sondakh, 2004). The implementation of law enforcement at sea related to certain criminal acts listed in certain laws and regulations is a special provision of criminal procedural law (*lex specialis*) (Sondakh, 2004).

Referring to this provision, it can be concluded that in relation to the function of law enforcement in handling general crimes (which are listed in the Criminal Code) that occur at sea, law enforcement officers at sea have the authority to act as initial investigators which will then be resolved in relation to law enforcement functions. In the handling of certain criminal acts, including certain articles in the Criminal Code, law enforcement officers for general crimes have the authority to act as initial investigators, which are then completed by law enforcement officers at sea who have the authority in accordance with certain laws and regulations.

Judging from the field of activity, the implementation of law enforcement at sea can be divided sequentially, namely the police field and the judicial field (investigation). In the field of police, day-to-day sea operations (sea security) are carried out through controlling/supervising the compliance with national laws and regulations. If in the sea operation a violation of national law is found, the case is resolved through an investigation which is an activity in the judicial sector. In a judicial sense, law enforcement is defined as a process of activity in resolving a case that arises as a result of a violation at sea of applicable legal provisions, both international law and national law.

Based on the above understanding, the implementation of law enforcement at sea are activities that include supervision, termination of ships including boarding and inspection (investigation and inspection), and investigation if there is a criminal act, while further settlement is carried out on land (Sulaiman, 2013). The ability of law enforcement officers at sea in various government agencies, especially in understanding the relevant laws and regulations, is stated to be quite adequate, because each agency has increased the ability of its law enforcement officers who are tasked with enforcing the law at sea.

Facts were found in Decision No. 12/Pid.Sus-PRK/2020/PN Tpg which was carried out by the defendant Do Thanh Nhan, a Vietnamese citizen in the Natuna sea, which is the Fisheries Management Area of the Republic of Indonesia by using fishing gear in the form of a trawler drawn. using 1 (one) ship (single trawler). Trawl nets are a type of active fishing gear that is pulled by one ship because there are fishing gear on board in the form of nets, winches, towing ropes whose function is to pull nets.

In principle, nets that form pockets, which are used to catch schools of fish in the middle and at the bottom of the sea, the upper part of the mouth of the net is equipped with buoys

and other ballast, the bottom of the net (Ground Rope) uses an iron chain as a shock and ballast, so that the existing fish at the bottom will be surprised and swim into the mouth of the net when the net is pulled by the ship, the net is lowered into the sea the tow rope is held for a moment while the ship is moving slowly so that both sides of the net wing open, then the main tow rope is slowly stretched to a certain depth. After the appropriate depth the ship moves at full speed which is about 2-3 miles at the time of pulling the trawl net. The role of the defendant is in charge of driving the ship, determining the location of the catch,

The defendant has been indicted by the Public Prosecutor with an alternative indictment, so that the Panel of Judges by taking into account the legal facts mentioned above directly chooses an alternative charge to choose the first indictment as regulated and is threatened with a criminal offense Article 93 paragraph (2) Jo Article 27 paragraph (2) Jo Article 102 of Indonesian Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries in conjunction with Article 55 paragraph (1) to 1 of the Criminal Code, which contains the following elements:

- 1) Each person
- 2) Those who own and/or operate foreign-flagged fishing vessels.
- 3) Doing fishing
- 4) In the Fisheries Management Area of the Republic of Indonesia
- 5) Does not have a Fishing Permit (SIPI).
- 6) Those who commit, order to do, and who participate in committing criminal acts

Based on the facts at the trial, the Panel of Judges decided that the defendant was sentenced to a fine of 200.000.000 IDR (two hundred million rupiah) as referred to in Article 93 paragraph (2) in conjunction with Article 27 paragraph (2) in conjunction with Article 102 of Law No.45 of 2009 concerning Amendments to Law No.31 of 2004 concerning Fisheries. Article 55 paragraph (1) to 1 of the Criminal Code.

The results of the next study are in Decision No. PN No. 11/Pid.Sus-PRK/2019/PN.Bit with the defendant named Warlito Luna Abella, a citizen of the Philippines. The defendant along with the crew (ABK) witnesses ERWIN Bertolme Sumaday and Monching Luna Abella and Matronilio Abella used the M/BCA ship. AIRA departed from Saeg Calumpang Philippines to Indonesian marine areas by traveling for 2 (two) days and 1 (one) night and arriving at FADs on Monday, August 19, 2019 at 10:00 WITA, then the defendant Warlito Luna Abella together with witnesses Erwin Bertolme Sumaday and Monching Luna Abella and Matronilio Abella immediately carried out activities fishery business by catching fish for 2 (two) days using handline fishing gear, and managed to get 1 (one) tuna. In the suspicion of carrying out such fishing or fishing activities, the M/BCA vessel. AIRA does not have a Fisheries Business License (SIUP) a licensing document from the Indonesian government to carry out fishing or fishing activities in Indonesian marine areas, so the ship is escorted to the Bitung PSDKP base dock for further processing. The Panel of Judges will consider the elements of the second indictment in Article 93 paragraph (2), in conjunction with Article 102 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as follows: so the ship was escorted to the Bitung PSDKP base dock for further processing. The Panel of Judges will consider the elements of the second indictment in Article 93 paragraph (2), in conjunction with Article 102 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as

follows: so that the ship was escorted to the Bitung PSDKP base dock for further processing. The Panel of Judges will consider the elements of the second indictment in Article 93 paragraph (2), in conjunction with Article 102 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as follows:

- 1) The “Everyone” Element
- 2) The element of “owning and/or operating fishing vessels with foreign flags catching fish in the Indonesian Exclusive Economic Zone (IEEZ)”
- 3) Element “does not have a Fishing Permit (SIPI)”

Based on the facts in the trial, the Panel of Judges decided the defendant with a fine of 400.000.000 IDR (four hundred million rupiah) Subsidiary of 10 (ten) months in prison as referred to in Article 93 paragraph (2) in conjunction with Article 27 paragraph (2) jo. Article 102 of Law of the Republic of Indonesia No. 45 of 2009 concerning Amendments to Law of the Republic of Indonesia No. 31 of 2004 concerning Fisheries.

The results of further research are contained in the District Court Decision No. 128/Pid.Sus-PRK/2018/PN.Wno with the defendant Herianto Bin Edi Sujarwanto an Indonesian citizen. The defendant, who is a fisherman, came and looked for fish in the waters using a lobster catching net, and after catching 64 lobsters with a carapace size of under 8 cm and a weight of under 200 grams, the defendant put them in a cardboard box and planned to sell them to collectors at Timang Beach, Gunung Kidul.

On the way to Timang Beach, the defendant who was riding a black Kawazaki Ninja motorbike with a number plat of B-3071-SCD while crossing the road in Banagung Hamlet, Tileng Village, Girisubo District, Gunung Kidul, was stopped by the Yogyakarta Marine Police officer, witness Anton Sujarwo, S.H. and witness Sulismianto who are investigating the crime of illegal fishing and suspect that the defendant is carrying lobsters that weigh less than 200 grams.

The officers then measured the length of the carapace and weighed the lobster's weight, and it was later discovered that the 64 lobsters that were brought by the defendant had a carapace length of under 8 cm and a weight of under 200 grams, so the officers then secured the defendant and the evidence. Article 2 Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 56/PERMEN-KP/2016 concerning the prohibition of catching and/or releasing lobsters (*Panulirus spp*), crabs (*Scylla spp*) and crabs (*portunus spp*) from the territory of the Republic of Indonesia, catching and/or release of Lobster (*Panulirus spp*), in accordance with the Harmonized System Code 0306.21.10.00 or 0306.21.20.00,

The defendant has been indicted by the Public Prosecutor with a single charge of violating Article 100 C Jo Article 7 paragraph (2) letter j of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries in conjunction with Article 2 letter b of the Regulation of the Minister of Marine Affairs and Fisheries RI Number 56/PERMEN-KP/2016 concerning Prohibition of Catching and/or Releasing Lobster (*Panulirus spp*), Crab (*Scylla spp*) and Crab (*portunus spp*) from the Territory of the Republic of Indonesia with the following elements:

- 1) Everyone's Element
- 2) Elements conducting business and/or fishery management activities must comply with the provisions as referred to in paragraph (1) regarding the minimum size or weight of fish species that may be caught.
- 3) The element of catching and/or releasing Lobster (*Panulirus spp*), with the Harmonized System Code 0306.21.10.00 or 0306.21.20.00, from the territory of the Republic of Indonesia can only be carried out with a carapace length of more than 8 cm or a weight of over 200 grams per head.
- 4) Small-scale Fisherman Element

Based on the facts in the trial, the Panel of Judges sentenced the defendant to a fine of 1.000.000,00 IDR (one million rupiah), Subsidiary 3 (three) months in prison as referred to in Article 100 C in conjunction with Article 7 paragraph (2) letter j of Law Number 45 Year 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries in conjunction with Article 2 letter b of the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 56/PERMEN-KP/2016 concerning the Prohibition of Catching and/or Releasing Lobster (*Panulirus spp*), Crab (*Scylla spp*) and crabs (*portunus spp*) from the sea territory of the Republic of Indonesia.

In 3 (three) decisions with 2 defendants foreign nationals and 1 decision with defendants being Indonesian citizens, it was revealed from the results of the study that it was contained in PN Decision No. 12/Pid.Sus-PRK/2020/PN Tpg committed by defendant Do Thanh Nhan, a Vietnamese citizen, was sentenced to a fine of 200.000.000 IDR (two hundred million rupiah) as referred to in Article 93 paragraph (2) in conjunction with Article 27 paragraph (2) in conjunction with Article 102 of Law No.45 of 2009 concerning Amendments to Law No.31 of 2004 concerning Fisheries. Article 55 paragraph (1) to 1 of the Criminal Code.

In the District Court Decision No. 11/Pid.Sus-PRK/2019/PN.Bit with the defendant Warlito Luna Abella, a Filipino citizen, he was sentenced to a fine of 400.000.000 IDR - (four hundred million rupiah). The next case in the District Court Decision No. 128/Pid.Sus-PRK/2018/PN.Wno with the defendant Herianto Bin Edi Sujarwanto, an Indonesian citizen, was sentenced to a fine of 1.000.000,00 IDR (one million rupiah).

From some of the cases mentioned above, it can be analyzed that law enforcement against Illegal Fishing in Indonesia has not firmly regulated the application of criminal sanctions. In this case, only fines (administration) were imposed on the perpetrators, especially foreign fishermen who entered the territory of the Republic of Indonesia, whose actions violated the provisions of the integrity zone in Indonesia and the criminal sanctions should also be heavier than Illegal Fishing with the defendant being an Indonesian citizen.

Associated with the theory of law enforcement by Soerjono Soekanto who asserts that the factors that influence law enforcement include:

- 1) The legal factor itself

These factors include the product of legislation which according to Soerjono Soekanto is a disturbance to law enforcement originating from the legislation, there may be three things, namely:

- a) Not following the principles of enactment of the law
- b) There are no implementing regulations that are urgently needed to implement the Law

- c) The ambiguity of the meaning of words in the Act results in confusion in their interpretation.

As the author has described above, there are several Articles that have obstacles in their application, namely:

- a) As Article 101 of the Fisheries Law, although corporations are recognized as perpetrators of criminal acts, corporations cannot be held criminally responsible. As a result, only the perpetrators of fisheries crimes in the field will be punished. Thus, so that corporations can be convicted of committing a fishery crime, the formulation of this Article 101 must be changed;
- b) Article 102 of the Fisheries Law, law enforcers cannot impose corporal punishment for foreign fishermen, who commit fisheries crimes in the Indonesian Exclusive Economic Zone (IEEZ), unless there is an agreement with the State. Of course, as long as there is no agreement with the said State, the implementation of this Article can weaken law enforcement against fisheries crime. While judging from the perpetrators of fishing in the Indonesian Exclusive Economic Zone (IEEZ) of West Kalimantan, the majority are Vietnamese citizens who until this research was carried out there was no MoU with the Government of the Republic of Indonesia in the field of fisheries.
- c) Likewise, with the court mechanism in absentia as mandated in Article 72 of the Fisheries Law, clearer regulations are needed to regulate it. Therefore, if there are various problems in the product of legislation, it is better to make changes in the material of the legislation. Or a regulation is made as the implementation of the articles in the law.

2) Law enforcement factors

These factors are the parties that form and apply the law. From the description that the author stated above, the policy of leadership in the Prosecutor's Office as one of the sub-systems in the criminal justice system, so that the fisheries crime case, the plan for which the lawsuit is submitted to the Attorney General's Office, turns out to make case handling becomes less efficient. Moreover, the time limit for resolving fisheries crime cases is only 30 days. Although the policy of conveying the sequence will still be used, an efficient system should be made.

3) Factors of facilities or facilities that support law enforcement

Another obstacle that the author describes based on the results of his research, namely regarding the storage of evidence in the form of ships. The Public Prosecutor did not have the means to store the ship, so the ship was finally entrusted to the navy at the port. The custody of the ship, of course, requires significant maintenance costs so that the ship remains in good condition. So that it can be useful if it is auctioned.

4) Community factors

The factor is the environment in which the law applies or is applied. Communities can influence law enforcement through their opinions about the law. If they do not realize that disobedience to the law affects their lives, their disobedience continues. On the other hand, the community can also react to the

violations committed by their fellow Indonesians. Even so, Indonesian people still lack the level of awareness about the importance of conserving natural resources. They always assume that the fish in the sea will never run out.

5) Cultural factors.

People still lack awareness of nature conservation, lack of awareness to preserve nature is something that is believed by the community so that it is internalized into the community. For this reason, it is necessary to change the opinion that is believed by this community so that it can turn into a culture that loves the environment and has a high awareness of preserving its natural wealth and protecting it from interference from various parties both from within the country and from foreigners.

Regarding the above-described analysis of the development of fisheries crime, the absence of coordination and oversight in law enforcement, as well as the lack of integration between investigators' work mechanisms, would not achieve positive outcomes. Such circumstances have the potential to result in conflict between law enforcers, which could impede or complicate the process of enforcing the legislation against unlawful fishing. Even though there are regulations governing illegal fishing, still other citizens believe that government enforcement against it is relatively weak or ineffective.

4. CONCLUSION

The legal provisions regarding the criminal act of illegal fishing in Indonesian laws and regulations are governed by Law Number 45 of 2009 Amendments to Law Number 31 of 2004 Concerning Fisheries, which states that if a suspected foreign citizen (foreigner) is arrested, but the Indonesian state does not have an agreement with the foreigner's country, the suspect cannot be detained, including during the investigation process and as clarified in Article 73 of Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea (UNCLOS) concerning the Law of the Sea that it is not permissible for the regulation of the coastal state to carry out prison sentences or corporal punishment to foreign fishermen.

Law enforcement against foreign fishermen who are perpetrators of illegal fishing in Indonesian marine areas is by coordinating with other institutions such as the Navy, Bakamla, KPLP and so on to supervise illegal fishing crimes committed by foreign fishermen in Indonesian territory. POLAIRUD carries out joint patrols (PATKOR), implementation of the Letter of Operation Eligibility (SLO) for ships, inspects fishing vessel licensing documents, optimizes the implementation of MCS (Monitoring, Controlling, Surveillance) in supervision by improving supervision facilities and infrastructure, as well as carrying out data collection on marine resources.

REFERENCES

- Bentham, J. (1970). *An Introduction to the Principles of Morals and Legislation* (1789), ed. by J. H Burns and HLA Hart, London.
- Friedman, L. M. (2001). *Hukum Amerika Sebuah Pengantar. Diterjemahkan Oleh Wishnu Basuki. Jakarta: Tatanusa.*
- Gunarto, M. P. (2008). *Kriminalisasi dan Penalisasi Dalam Rangka Fungsionalisasi Perda Pajak dan Retribusi.* Program Pascasarjana Universitas Diponegoro.
- Iswardhana, M. R. (2020). *Pendidikan Pancasila dan Kewarganegaraan: Merajut Kebinekaan dalam Menghadapi Tantangan Revolusi Industri.* PT Kanisius.
- Nonet, P., & Selznick, P. (2017). *Law & society in transition.* Routledge.
- Oktoza, R. (2015). *Kebijakan Hukum Pidana Dalam menanggulangi Kejahatan Ilegal Fishing DI Zona Eksklusif Indonesia.* Universitas Islam Indonesia.
- Rifai, B., & Nadjib, M. (2007). *Pengembangan potensi ekonomi perikanan tangkap.*
- Rudiansyah, B. (2016). Peran aparaturnegara dalam penanganan kegiatan perikanan yang tidak sah di Perairan Raja Ampat. *POLITIK*, 11(2).
- Sitohang, J. (2016). Masalah Perbatasan Wilayah Laut Indonesia di Laut Arafura dan Laut Timor. *Jurnal Penelitian Politik*, 7(1), 14.
- Situmorang, V. (1987). *Sketsa asas hukum laut.* Bina Aksara.
- Sondakh, B. K. (2004). Pengamanan wilayah laut Indonesia. *Jurnal Hukum Internasional, Fakultas Hukum Universitas Indonesia, Jakarta.*
- Sulaiman, K. F. (2013). *Sistem bikameral dalam spektrum lembaga parlemen Indonesia.* UII Press bekerjasama dengan LEAD Indonesia Institute, Legal Empowerment and for Indonesia Institute.
- Tobing, R. L., & Rios, S. (1998). Penegakan Kedaulatan dan Penegakan Hukum di Ruang Udara. *Jurnal Penelitian Hukum De Jure, Asosiasi Peneliti Hukum Indonesia*, 1(02).

