



# Juridical Review of Illegal Fishing Perpetrators: Analysis of Law Number 45 Year 2009

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## Abstract

Illegal fishing comes from the word illegal which means illegal or unofficial. The term illegal fishing is popularly used by law enforcement officers and related agencies for criminal acts in the fisheries sector. From this it can be seen that the term illegal fishing is also used in official events by state institutions. The breadth of Indonesia's seas and the many fisheries potentials owned by Indonesia make foreign ships steal marine wealth, especially fisheries in Indonesian territory, which is also called illegal fishing activities. Many types of illegal fishing carried out by foreign vessels in Indonesian waters do not have SIUP, do not have SIPI, do not have SIKPI, falsify permits, and use hazardous materials to catch fish. The purpose of this research is (1) to find out the types of illegal fishing activities carried out by foreign ships in Indonesian waters (2) to find out the obstacles and efforts made by the government in enforcing illegal fishing actions. The research method used in this research is descriptive analytical with a normative juridical approach. Data collection techniques are carried out through literature review to obtain secondary data and qualitative data analysis or analyze problems from the point of view according to the provisions of applicable laws or regulations. The results of the research stated that the government's efforts to enforce the law on illegal fishing with the issuance of Presidential Decree no. 115 of 2015 is the latest breakthrough by the Jokowi-Jusuf government. In this Presidential Decree, it is clear that the problem of illegal fishing is an acute problem. The sinking of fishing boats for illegal fishing has only received great attention in recent years, which is evidence that law enforcers are implementing tougher and stricter laws as well as being a means of threat to prevent potential fish thieves from committing crimes in the fisheries sector.

**Keywords:** Illegal fishing, foreign ships, Indonesian waters

## A. Introduction

As one of the countries that has the widest marine wealth on earth, Indonesia is often called the Maritime State, this is because most of its territory consists of the sea. According to the records of the Indonesian Forum for the Environment (WALHI), Indonesia is the largest archipelagic country in the world, which has 17,480 islands with a coastline of 95,181 km. Based on the 1982 Law of the Sea Convention (UNCLOS), Indonesia has sovereignty over an area of 3.2 million km<sup>2</sup> of waters consisting of 2.9 million km<sup>2</sup> of archipelagic waters and 0.3 million km<sup>2</sup> of territorial sea. In addition, Indonesia also has the exclusive right to utilize marine resources covering an area of 2.7 km<sup>2</sup> in the waters of the Exclusive Economic Zone (EEZ). The coastal area is inhabited by no less than 140 million people or 60% of the Indonesian population who live within a radius of 50 km from the coastline. Administratively, approximately 42 cities and 181 districts are located on the coast, and there are 47 coastal cities ranging

from Sabang to Jayapura as service centers for socio-economic activities (Muhammad, 2008).

Economically, the results of marine resources have contributed to the formation of the national Gross Domestic Product (GDP) by 22% in 2014. Even though Indonesia's territory reaches 5,193,253 km<sup>2</sup>, which consists of 1,890,754 km<sup>2</sup> of land and 3,302,498 km<sup>2</sup> is ocean. (Seminar Indonesia 2014-2019, Maritime Axis for Welfare and Justice, Rokmin Dahuri, Menara Batavia, Thursday 14 August 2014). Biophysically, the coastal area in Indonesia is the center of the world's tropical marine biodiversity because almost 30% of the world's mangrove forests and coral reefs are in Indonesia, from the data above it gives an illustration that the waters in Indonesia, both in the form of sea and inland waters in the form of lakes are potential assets of the Indonesian nation that have not been managed optimally. The problem of illegal fishing (illegal fishing), is still rife in Indonesian waters. The ability to carry out supervision and control is considered limited, because the capabilities of the supervision facilities and infrastructure that we have are not sufficiently supportive for supervisory tasks.

The term illegal fishing is popularly used by law enforcement officers and related agencies to refer to criminal acts in the field of fisheries. Supervision of Marine and Fishery Resources, limits the term illegal fishing, namely the meaning of illegal, unreported, and unregulated (IUU) fishing which can literally be interpreted as illegal fishing activities, fishery activities that are not regulated by existing regulations, or their activities. not reported to any available fisheries management institution or agency. After the concept of illegal fishing made by the authorized institution is synchronized with the concept of fisheries according to Law Number 31 of 2004 concerning fisheries jo. Law Number 45 of 2009, it can be seen that all forms of criminal acts, both crimes and violations in the fisheries law can be referred to as illegal fishing crimes. The vastness of Indonesia's oceans actually brings good benefits and benefits to the Indonesian people, because one of the functions of the sea is as a source of natural wealth. The natural resources contained in the sea are very abundant, so they can be used or utilized for the welfare of the Indonesian people. The natural wealth in the sea includes water areas and the seabed area and the land below it (Solihin, 2008).

The potential that Indonesia has is an opportunity and economic potential that can be utilized for the advancement of the Indonesian economy, as well as the backbone of national development. However, on the other hand, this potential or situation actually causes illegal fishing in Indonesian territory to occur (illegal fishing). In addition, Indonesia's cross position, which is located between two continents (Asia and Australia) and two oceans (Pacific and Indian), is the cause of Indonesia's territory being prone to illegal fishing practices. The areas that are vulnerable points are located in the Arafuru Sea, Natuna Sea, north of North Sulawesi (Pacific Ocean), Makassar Strait, and West Sumatra (Indian Ocean). For this reason, various illegal fishing actions can basically be overcome by the provisions of strong national regulations, and in this case Indonesia is quite advanced in designing its national regulations, but the implementation and enforcement of the law in the field still really needs attention.

The cause of the increasing number of foreign fishers entering Indonesian waters lately is the decline in fish resource stocks in a number of neighboring countries such as Malaysia, Thailand, Vietnam, and the Philippines. And at the same time, the fishery potential of a number of fishing areas in the Indonesian Exclusive Economic Zone (EEZ)

is currently not being utilized optimally, plus the presence of military back-ups in every fishing vessel operation of neighboring countries is another reason that makes foreign fishing boats are getting bolder. On the other hand, the number of surveillance days in Indonesia's EEZ is still minimal. From the various data and facts that have been known about the many practices of illegal fishing actors in several Indonesian waters, it can be seen that in fact Indonesian law has great enthusiasm in eradicating illegal fishing or commonly known as illegal fishing which is carried out by several countries. neighbors, but behind it all, excessive care is needed from all levels of society and the government to continue to protect and respect various water areas that exist in all parts of the Indonesian state (Supramono, 2011; Achmad, 2021).

As for several previous studies that researchers used as reference material and references in the process of compiling this research, including Indonesia's maritime diplomacy against illegal fishing activities (illegal fishing) by Chinese fishermen in Zeei, the waters of the Natuna Islands, this research was compiled by Ela riska using With a qualitative approach and Swot analysis method, the results of this previous study explain that maritime diplomacy efforts against illegal fishing cases by Chinese fishermen in the ZEEI of the Natuna Islands can be played by the maritime forces and the government. As for maritime diplomacy that can be implemented, among others, in the form of cooperative maritime diplomacy and persuasive maritime diplomacy.

Then the second study entitled illegal fishing in Indonesian waters and the problems and efforts to catch it bilaterally in the area, this study was compiled by Simela Victor using a qualitative approach and descriptive method, the results of this previous study explain that illegal fishing that occurs in Indonesian waters This is a serious problem that must be addressed not only by Indonesia but also through bilateral cooperation. Bilateral cooperation, especially with neighboring countries in the region where fishermen often enter and catch fish illegally in Indonesian waters, needs to be built and developed to deal with these illegal transnational activities. Although there have been forms of bilateral cooperation between Indonesia and several neighboring countries in securing border waters, this has not been able to optimally address the problem of illegal fishing (Setyadi, 2014).

And the last research entitled law enforcement and sinking of foreign ships (study of criminal cases of illegal fishing perpetrators), this research was compiled by Teddy nurcahyawan and Leonardo Saptra by using a qualitative approach and the theory of financing. Those who carry out illegal fishing in Indonesian waters are law enforcement by the government to stop this practice while maintaining the sovereignty of the Republic of Indonesia. The regulation of drowning is regulated in the Fisheries Law through the mechanism of sinking ships in 2 (two) ways, namely direct drowning in the middle of the sea based on Article 69 Paragraph (4) of the Law. Fisheries and charter Mutual agreement between the Directorate General, PSDKP Polri, TNI AL and Polri if the ship carries out a dangerous maneuver and/or the captain/ABK resists acts of violence and through court approval efforts (Article 76 A of the Fisheries Law) and courts that already have legal force.

Basically, various illegal fishing activities (illegal fishing) by foreign fishermen in Indonesian waters, it can be said that they do not stand alone, but are suspected to be part of a cross-country network that operates systematically and sustainably. This illegal activity is carried out to gain economic benefits, and the potential for profit is

very open to be obtained in Indonesian waters which have very large fishery resources, this means that illegal fishing activities that occur in Indonesian waters are carried out by foreign fishermen from various fields. state, can be interpreted as a transnational crime because its activities and networks are cross-border, while the actors involved and their various activities can be snared by a law that is contained in Law no. 31 of 2004 concerning fisheries jo. UU no. 45 of 2009 where in the process the contents of the Law include a definition or concept of fishery which contains a broad understanding beyond national boundaries, it can be ascertained that illegal fishing is included in the category that has been mentioned in the Law no. 31 of 2004. So from the description and elaboration of the background above, the researcher is interested in studying more deeply about the types of illegal fishing activities carried out by foreign ships in Indonesian waters and how the government's role in tackling illegal fishing is and what efforts are being made by the government in enforcing the law. illegal fishing (Riska, 2017).

## **B. Method**

This research is descriptive analytical, which is an explanatory research and has the aim of obtaining a complete picture of the legal situation that applies in the place or regarding juridical phenomena and legal events in the community, as well as certain groups, besides that the researcher also uses an approach normative juridical, which is a method that focuses on library data or secondary data through a statute approach, namely research on applicable legal products. The data collection is done by using a general literature study and reviewing legislation through journals, articles, and field studies. Meanwhile, the legal materials used in this research include the 1945 Constitution of the Republic of Indonesia, the Fourth Amendment, Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries and Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management (Subadi, 2006).

## **C. Result and Discussion**

### **1. Types of Illegal Fishing Activities that are often carried out by foreign ships around Indonesian waters**

The Unitary State of the Republic of Indonesia is an archipelagic state, most of which consists of a very wide area of water (sea), with a very large and diverse fishery potential. The potential for fisheries is an economic potential that can be utilized for the future of the nation, as the backbone of national development. Among the many illegal economic problems, the practice of illegal fishing or IUU (Illegal, Unregulated and Unreported fishing practices) by fishermen using foreign fishing vessels is the most detrimental to the state. The theft of fish by foreign fishing vessels from Indonesian seas is estimated at 1 million tons/year (Rp 30 trillion/year) which has been going on since the mid-1980s. In addition to the loss of state money, the theft of fish by foreign fishermen also kills the chances of Indonesian fishermen to get 1 million tons of fish every year. Moreover, the volume of fish that much also reduces the supply of fresh fish (raw materials) for the national fishery product processing industry as

well as various related industries and services. Thus, imports of fish both in volume and value have continued to increase significantly in the last 5 years (Jaelani, 2014).

The illegal fishing activities by foreign fishermen also damage the sustainability of Indonesian marine fish stocks, because they usually catch fish with technologies that are not environmentally friendly. It is very important to observe that if you continue to allow illegal fishing, then territorial sovereignty can be undermined, therefore, there must be a strategic and significant effort in order to tackle illegal fishing activities in the marine waters of the Republic of Indonesia. The discourse on illegal fishing emerged together within the framework of IUU (Illegal, Unreported and Unregulated) fishing practices during the CCAMLR (Commission for Conservation of Atlantic Marine Living Resources) forum on 27 October – 7 November 1997. At that time, the discussion about losses due to fishing practices carried out by non-CCAMLR member countries. From this forum, the issue of illegal fishing became a major issue at the global level by FAO with a strong reason, that currently the world's fish reserves are showing a declining trend and one of the factors is the practice of illegal fishing. In 1996 alone, of the world's 14 major fishing grounds, nine of them were overfished, while five fishing grounds could still be developed. Indonesian marine waters, including those that can still be developed. On the other hand, with the increase in the world's population, the demand for fishery products continues to increase, this global fact makes Indonesia's marine areas the target of foreign fishermen.

IUU fishing can be categorized into three groups: (1) illegal fishing, namely fishing activities illegally in territorial waters or the EEZ of a country, or without a permit from that country; (2) Unregulated fishing, namely fishing activities in territorial waters or the EEZ of a country who do not comply with the applicable rules in that country; and (3) Unreported fishing, namely fishing activities in territorial waters or the EEZ of a country which are not reported either their operations or data on ships and their catches. The biggest practice in IUU fishing according to Bray (2000) is basically poaching or fishing by other countries without permission from the country concerned, or in other words illegal fishing by foreign parties (Widyatmodjo & Pujiyono, 2016).

Illegal fishing in Indonesian waters can occur in the West and East. Illegal fishing activities that often occur in Indonesian waters are theft of fish by foreign fishing vessels originating from several neighboring countries. It is estimated that most of these occur in the Exclusive Economic Zone (EEZ) and in archipelagic waters. In practice, the involvement of foreign parties in fishing theft can be classified into two, namely (1) semi-legal theft, namely the theft of fish by foreign vessels by utilizing a legal boat catching permit owned by local entrepreneurs, by using a local flagged ship or flag. other countries. This practice is still categorized as illegal fishing, because in addition to catching fish in waters that are not their rights, these illegal fishing actors not infrequently also directly send their catch without going through the process of landing fish in a legal area. This practice is often referred to as the practice of borrowing a flag then (2) Pure theft is illegal, namely the fishing process carried out by foreign fishermen and the foreign ship uses its own flag to catch fish in our territory. This activity is quite large, based on an estimate of around 1 million tons per year with a number of ships of around 3000 vessels. The ships came from Thailand, Vietnam, Malaysia, Taiwan, South Korea, and several other countries.

There are several types of illegal activities that are often carried out, including fishing without a Fishery Business License (SIUP) and a Fishing Permit (SIPI) as well as a Fish Transport Ship Permit (SIKPI), having permits but violating the provisions as stipulated (regional violations). fishing, fishing gear violations, violations of base compliance), document falsification/manipulation (documents for procurement, registration, and ship licensing), transshipment at sea, not activating transmitters (especially for ships that are required to install transmitters), destructive fishing (destructive fishing) using chemicals, and many others and the last one is operating foreign fishing vessels (Jamilah & Disemadi, 2020).

Basically all companies regardless of form (individual, firm, limited partnership, limited liability company, or limited liability company) are required to have a business license in accordance with their line of business. For a fishery business, the company concerned is required to have a fishery business permit. Because the permit is in the form of a letter, it is better known as SIUP (Fishing Business Permit). It is known above that the officials authorized to issue SIUP are the Director General of Capture Fisheries of the Ministry of KP, the Governor, the Regent/Mayor in accordance with their respective authorities. The obligation to have a SIUP is regulated in Article 26 Paragraph 1 of the Fisheries Law which states that everyone who carries out a fishery business in the field of catching, cultivating, transporting, processing, and marketing fish in the fishery management area of the Republic of Indonesia is required to have a SIUP.

Besides having a SIUP, a company whose business is in the field of fisheries in order to be able to catch fish is required to have a SIPI. Having SIUP but not having SIPI results in fishing companies being unable to catch fish in the fisheries management area. SIPI is an inseparable part of SIUP. Violation of the SIPI provisions is a criminal offense regulated in Article 93 of the Fisheries Law, where in the process the provisions read that anyone who owns and/or operates fishing vessels with Indonesian flags catches fish in the management area. fishery of the Republic of Indonesia and/or in the Lepad sea, which does not have SIPI as referred to in Article 1, shall be punished with imprisonment for a maximum of 6 (six) years and a fine of a maximum of Rp. 2,000,000,000.00 (two billion rupiah). The permits used for the fishery sector, namely SIUP, SIPI, and SIKPI are very important in the interests of their business continuity. The management of the three permits must follow the producer and meet the conditions set, so that to take care of these permits, an entrepreneur in addition to taking a relatively long time, also incurs significant costs and energy (Mamonto, 2020).

Every foreign ship operating in the Indonesian fisheries management area has its own regulations for criminal penalties. In principle, every fishing vessel with a foreign flag is still required to have SIPI and use certain fishing gear, so if these rules are not implemented properly, the Indonesian government has prepared several provisions as regulated in Article 38 and Article 97 of the Fisheries Law. As one of the largest archipelagic countries in the world, Indonesia which has a sea area of about 3.1 million square kilometers and a beach length of more than 95 thousand kilometers, annually suffers losses of more than 30 trillion due to theft of fish carried out in various Indonesian waters. Indonesia's participation as a party to this agreement is expected not only to strengthen national law and prevent loss of wealth, but the most important

thing is to maintain the sovereignty of the Republic of Indonesia (Rikzan, & Susiatiningsih, 2018).

## **2. Barriers to Overcoming Illegal Fishing and What Efforts Are Governments Doing in Enforcing Laws for Illegal Fishing Barriers to Overcoming Illegal Fishing**

Our country's concern in eradicating criminal acts in the field of fisheries (illegal fishing) is not only making regulations in the form of laws and regulations and policies, but also participating with other countries together in carrying out movements against these crimes. In 2009 the Republic of Indonesia signed the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unreported Fishing (PSM Agreement), Indonesia together with 9 (nine) members of the Food and Agriculture Organization, often abbreviated as FAO (organization for food). and agriculture of the United Nations) became a pioneer in making up for the vacuum of international law regarding the eradication of illegal fishing. The nine countries that signed the agreement besides Indonesia are Angola, Brazil, Chile, the European Union, Iceland, Norway, Samoa, the United States, and Uruguay. This also complements Indonesia's membership as a party to the 1982 UNCLOS and the 1995 UN Fish Stock Agreement. The signing of the agreement is part of the implementation of the constitutional mandate to protect Indonesia's natural resource wealth, particularly marine resources, as well as complement the strengthening of the national legal regime, particularly the law of the sea. Apart from that, this step is a manifestation of Indonesia's concern for global efforts to eradicate illegal fishing through strengthening cooperation between port countries (Fernandes, 2017).

However, the government's holy intention seems difficult to realize. This is because problems in marine areas related to illegal fishing are very complex, such as overlapping laws and regulations accompanied by conflicts of authority or sectoral egos between state institutions in playing their roles. Apart from that, there is another thing that is even more heartbreaking and embarrassing, namely the playing of the law by several individuals from each state institution who are actually selling this nation. Therefore, is the government able to solve the tangled thread of illegal fishing? The case of illegal fishing itself is an old story that has never been completed because from the past the story has always been the same, namely the demand for fish thieves to carry out illegal activities. Ironically, the request was accepted discreetly and even openly, as long as it was in accordance with the rates required by the officers and law enforcement officers.

The complexity of the problem of illegal fishing in Indonesia is basically caused by two first things, the overlapping of laws and regulations that lead to the uncertainty of which state institution is authorized to manage the problem of illegal fishing. Besides causing conflicts of interest between state institutions in managing their respective plots. This lack of clarity also creates legal loopholes for naughty parties to play with the law. The state institutions involved in eradicating illegal fishing, including those whose officers are suspected of playing the law, include the Ministry of Maritime Affairs and Fisheries, the Department of Transportation, Syahbandar, Directorate of Migration, Ministry of Manpower and Transmigration, Indonesian Navy, Water Police, and Customs. Both infrastructure facilities in conducting surveillance and law enforcement at sea are very weak, both in terms of technology and human resources.

It is undeniable that the vastness of Indonesia's oceans requires adequate monitoring facilities and infrastructure. However, the weakness of facilities and infrastructure is not the only factor that must be blamed, considering that based on the results of the investigation, the rise of illegal fishing activities is more due to the legal games of individuals in each of the state institutions involved (Muzwardi, 2016).

Based on the results of an investigation by the capital's media regarding the issue of illegal fishing, when broken down based on legal actions and games, there are three groups of state institutions. The first group whose officers played games with the complete licensing process for vessels and fishing gear, including the Department of Maritime Affairs and Fisheries (DKP), the Sea Transportation Service, and the harbormaster. The mode that is usually used by foreigners working with local businessmen to trick the officers is to change the appearance of the ship to resemble a local ship, after that it is repainted and modified and given a local name. Ironically, the agreement between foreign businessmen and local entrepreneurs received the approval of the authorities related to the licensing process.

In the midst of rampant illegal fishing activities, the Indonesian government is demanded (by the international community) to eradicate illegal fishing in accordance with the International Plan of Action (IPOA) which is one of the results of the FAO Ministerial Meeting in Fisheries in 1999. The IPOA was implemented by the Government of Indonesia through the National Plan of Action (NPOA) in resolving various obstacles to the Indonesian government in tackling illegal fishing, some important points include (1) it is still necessary to develop a joint commitment to eradicate illegal fishing, so that legal aspects that can affect the operational success of the system can be resolved immediately (2) Institutions coordinate to avoid the practice of overlapping respective authorities and policies, decreasing authority over the law (3) Weak supervision in terms of limited facilities and supervision, inadequate supervisory human resources, especially in terms of quantity as and incomplete legislation in the field of fisheries (Herdiana, 2012).

The undeveloped supervisory agency and the imperfect application of the MCS system, especially regarding fisheries investigations, require the fisheries court to be even more selective in quelling various crimes committed by foreign vessels around Indonesian waters. This is because law enforcement officers (prosecutors, judges) who have been handling criminal cases in the field of fisheries technically still do not understand fishery problems, causing many cases of criminal acts in the field of fisheries that occur only to obtain very clear decisions. very light when compared to the deeds that have been done.

Law Number 45 of 2009 concerning Fisheries mandates that law enforcement in the field of fisheries is carried out by an integrated criminal justice system in the field of fisheries, namely through fisheries supervision, fishery investigators, fishery public prosecutors and fisheries courts, thus the principle of justice is simple, fast and low cost. can be realized quickly. . In addition, Law Number 45 of 2009 concerning Fisheries also contains rules regarding procedural law as a special provision (Lex Specialist) of Law Number 8 of 1981 concerning the Criminal Procedure Code in carrying out the duties and powers of investigators, prosecution and examination in court. So with the implementation of these rules, the Indonesian government is expected to immediately fix the overlapping laws and regulations in the Indonesian marine area, thus asking the

ministers to resolve the overlapping laws and regulations regarding maritime affairs within six months. Furthermore, equipping facilities and infrastructure in conducting supervision and law enforcement, and finally fixing and cleaning up unscrupulous officers and law enforcement officers who often play with the law. Indonesia is a country that has many beaches considering Indonesia's status as an archipelagic country. This of course resulted in Indonesia also being exposed to the problem of illegal fishing. The areas that are vulnerable points are located in the Arafuru Sea, Natuna Sea, north of North Sulawesi (Pacific Ocean), Makassar Strait, and West Sumatra (Indian Ocean) (Mahabror & Hidayat, 2018).

Based on law number 45 of 2009 concerning fisheries, that waters that are within the sovereignty of the Unitary State of the Republic of Indonesia and the Indonesian Exclusive Economic Zone as well as the high seas contain potential fish resources and as land for fish cultivation are a blessing from God Almighty which is mandated to the nation. Indonesia, which has a philosophy of life of Pancasila and the 1945 Constitution of the Republic of Indonesia, by taking into account the existing carrying capacity and its sustainability to be utilized as much as possible for the welfare and prosperity of the Indonesian people. The issuance of Presidential Regulation Number 115 of 2015 concerning the Task Force for the Eradication of Illegal Fishing (illegal fishing) is a new breakthrough issued by the Indonesian government, then followed by several other new regulations, especially in law enforcement in the field of Maritime Affairs and Fisheries. In this regulation, it is clear that the problem of illegal fishing is one of the acute problems that requires cooperation and coordination between ministries, state institutions and other agencies.

Based on these considerations, it appears that the government views the criminal act of illegal fishing as requiring extraordinary law enforcement because in addition to harming the country's economy from the fisheries sector it is also a form of protecting the country's sovereign territory at sea. the authority of the Ministry of Maritime Affairs and Fisheries, including the Ministry of Finance, Ministry of Foreign Affairs, Ministry of Transportation, Navy, Indonesian National Police, Indonesian Attorney General's Office, Bankamal, PPATK and BIN (Efritadewi & Jefrizal, 2017).

Basically the Indonesian government has also issued a new regulation to prevent cases of illegal fishing in various Indonesian waters, the rule is in the form of sinking every foreign ship that is proven to have violated and committed a crime, especially in the practice of illegal fishing. deterrent for all foreign ships committing crimes in all Indonesian seas, although there are pros and cons regarding the government's instructions to sink foreign ships that do illegal fishing around Indonesian sea areas, these instructions aim to show the firmness and authority of the Indonesian government in protecting territory and natural products it has, as well as protecting its sovereignty, creates a deterrent effect, secures the sea from foreign plunder, as well as a concrete action of efforts to translate the vision of the maritime axis that is being intensified by the government. government in the past year, especially with regard to full sovereignty in the Indonesian Archipelago Sea (Tombokan, 2021).

## D. Conclusion

From the research conducted through analysis, and identification of problems regarding the juridical review of the perpetrators of illegal fishing in various Indonesian waters, the researchers can draw several conclusions including, several types of illegal activities that are often carried out by foreign ships in Indonesian marine waters, including: is fishing without a fishery business license (SIUP) and fishing license (SIPI) as well as a fish transport ship permit (SIKPI), then falsification/manipulation of documents (procurement documents, registration, and ship licensing), due to the act of falsifying documents Any letter can be criminally prosecuted under the provisions of Article 263 Paragraph (1) of the Criminal Code for people who falsify, while for people who use fake letters are prosecuted in Article 263 Paragraph (2) of the Criminal Code with a maximum prison sentence of four years.

As for some of the obstacles the Indonesian government has in tackling illegal fishing, namely the overlapping of laws and regulations that lead to the uncertainty of which state institutions are authorized to take care of illegal fishing issues, infrastructure facilities in conducting supervision and law enforcement at sea are very weak, both in terms of technology and human resources, and lastly, it is still necessary to develop a joint commitment to combating illegal fishing, so that legal aspects that can affect the operational success of the system can be resolved immediately. For this reason, the Indonesian government needs to fix the overlapping laws and regulations in the Indonesian marine area, then fix and clean up unscrupulous officers and law enforcement officers who often play with the law. Even though the laws and regulations are reformed and the facilities and infrastructure are complete, without being followed by mental reforms and cleaning up of officers and law enforcement officers, it is impossible for the problem of illegal fishing to be resolved.

## References

- Abdul Kadir Muhammad, *Hukum dan Penelitian Hukum*, CV.Mandar Maju, Bandung, 2008.
- Achmad, W. (2021). Citizen and Netizen Society: The Meaning of Social Change From a Technology Point of View. *Jurnal Mantik*, 5(3), 1564-1570.
- Akhmad Solihin, *Politik Hukum Kelautan dan perikanan: Isu, Permasalahan, dan Telaah Kritis Kebijakan*, Nuansa Aulia, Bandung, 2010.
- Bahder johan Nasution, *Metode Penelitian Hukum*, CV . Mandar , Bandung, Maju, 2008.
- Efritadewi, A., & Jefrizal, W. (2017). Peneggelaman Kapal Illegal Fishing di Wilayah Indonesia Dalam Perspektif Hukum Internasional. *Jurnal Selat*, 4(2), 260-272.
- Fernandes, I. (2017). Tinjauan Yuridis Illegal Fishing Di Indonesia Berdasarkan Undang-Undang Perikanan. *Jurnal Hukum Respublica*, 17(1), 189-209.
- Gatot Supramono, *Hukum Acara Pidana & Hukum Pidana di Bidang Perikanan*, Rineka Cipta, Jakarta, 2011.
- Herdiana, T. G. (2012). *KERJASAMA INDONESIA-AUSTRALIA DALAM PENANGANAN ILLEGAL FISHING* (Doctoral dissertation, University of Muhammadiyah Malang).
- Iqbal, M. (2012). Illegal Fishing sebagai Kejahatan Korporasi Suatu terobosan Hukum pidana dalam mengadili kejahatan. *Jurnal Hukum dan Peradilan*, 1(3), 417-434.
- Jaelani, A. Q. (2014). Illegal Unreported and Unregulated (IUU) Fishing: Upaya Mencegah dan Memberantas Illegal Fishing dalam Membangun Poros Maritim Indonesia. *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 3(1).
- Jamilah, A., & Disemadi, H. S. (2020). Penegakan Hukum Illegal Fishing dalam Perspektif UNCLOS 1982. *Mulawarman Law Review*, 29-46.

- Mahabror, D., & Hidayat, J. J. (2018). Analisis Kerugian Ekonomi Akibat Illegal Fishing di Zona Ekonomi Eksklusif Perairan Natuna. In *Prosiding Seminar Nasional Kelautan dan Perikanan IV* (pp. 263-270).
- Mamonto, E. (2020). Kerjasama Indonesia dan Australia dalam Bidang Keamanan untuk Menangani Kasus Illegal Fishing di Perbatasan Kedua Negara. *WANUA: Jurnal Hubungan Internasional*, 5(1), 64-72.
- Muzwardi, A. (2016). Analisa Pengelolaan Manajemen Perbatasan (Studi Kasus: Illegal Fishing Di Perairan Natuna).". In *Prosiding Seminar Bersama* (p. 94).
- Naim, A. (2010). Pengawasan sumberdaya perikanan dalam penanganan illegal fishing di perairan Provinsi Maluku Utara. *Agrikan: Jurnal Agribisnis Perikanan*, 3(2), 1-14.
- Rikzan, M. A., & Susiatiningsih, H. (2018). Kerjasama Indonesia dan Thailand dalam menangani kasus illegal, unreported, and unregulated (IUU) fishing di Indonesia. *Journal of International Relations*, 4(4), 635-642.
- Riska, E. (2017). Diplomasi Maritim Indonesia Terhadap Aktivitas Penangkapan Ikan Ilegal (Illegal Fishing) oleh Nelayan China di ZEE Perairan Kepulauan Natuna. *Jurnal Diplomasi Pertahanan*, 3(2).
- Setyadi, I. Y. (2014). Upaya negara Indonesia dalam menangani masalah illegal fishing di Zona Ekonomi Eksklusif Indonesia. *Jurnal Universitas Atma Jaya Yogyakarta*, 1-15.
- Subadi, T. (2006). Metode penelitian kualitatif.
- Tombokan, R. C. (2021). PROSEDUR PENEGAKAN HUKUM TERHADAP KEJAHATAN ILLEGAL FISHING DI PERAIRAN INDONESIA BERDASARKAN UNDANG-UNDANG NOMOR 45 TAHUN 2009 TENTANG PERIKANAN. *LEX CRIMEN*, 10(4).
- Widyatmodjo, R. S., & Pujiyono, P. (2016). Penegakan Hukum terhadap Tindak Pidana Pencurian Ikan (Illegal Fishing) di Wilayah Zona Ekonomi Eksklusif (Studi Kasus: Putusan Pengadilan Negeri Ambon Nomor 01/pid. sus/prk/2015/pn. amb). *Diponegoro Law Journal*, 5(3), 1-14.
- Wijayanti, P. T., Wahyuniarti, D. P. S., & Fitriyono, R. A. (2021). Tindak Pidana Illegal Fishing di Perairan Natuna Dalam Perspektif Kriminologi. *Aksiologi: Jurnal Pendidikan dan Ilmu Sosial*, 2(1), 16-23.