

The Ideal Concept of Criminal Responsibility for Perpetrators of Illegal Fishing in Indonesian Waters

Satria¹⁾ & Andri Winjaya Laksana²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Email: official.satriaa@gmail.com

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Email: andri.w@unissula.ac.id

Abstract. *Enforcing maritime and fisheries law in Indonesian waters is essential for a country with vast maritime territory. For example, law enforcement in the fisheries sector is extremely difficult, yet crucial and strategic in supporting controlled fisheries development in accordance with the principles of fisheries management, ensuring sustainable fisheries development. The purpose of this study is to examine and analyze the forms of criminal liability for perpetrators of illegal fishing in Indonesian waters, and to examine and analyze the ideal concept of criminal liability for perpetrators of illegal fishing in Indonesian waters in the future. This legal research uses an empirical legal research approach. Criminal liability for illegal fishing needs to be strengthened because the practice of fish theft by foreign vessels continues to harm the state and fishermen, while law enforcement tends to only ensnare captains and crew, not ship owners or corporations, even though the Fisheries Law provides for severe criminal penalties. Going forward, Indonesia needs a model capable of prosecuting intellectual actors and economic networks through expanding the scope of criminal offenses, strict corporate accountability, substantial financial sanctions, impoverishment of perpetrators, and asset confiscation, supported by surveillance technologies such as VMS, satellites, electronic logbooks, as well as strengthening the PPNS (National Fisheries Supervisory Agency), fisheries courts, rapid administrative sanctions, catch traceability, and international cooperation. With progressive regulatory reform and the adoption of best practices from Australia, Norway, and Japan, the illegal fishing law enforcement system can become more effective and equitable.*

Keywords: *Criminal; Fishing; Illegal; Liability.*

1. Introduction

Indonesia, as an archipelagic country with extensive water areas, faces serious challenges in managing and protecting its marine natural resources. *Illegal fishing* or fishing *illegal* is one of the main problems threatening the sustainability of marine ecosystems and the well-being of coastal communities. In facing this challenge, the Indonesian government has implemented various marine policies aimed at addressing marine activities. *illegal fishing* and strengthen surveillance in Indonesian waters.

Illegal fishing is a transnational crime of increasing concern. Such crimes frequently occur in Indonesia's maritime borders, particularly in disputed waters. Furthermore, the rise in illegal fishing in Indonesia is driven by abundant marine resources that are inaccessible to local fishermen due to limited technology, limited-range vessels, and sub-modern fishing gear. Furthermore, a major factor contributing to illegal fishing is the lack of border security, which makes perpetrators feel comfortable in Indonesian waters. According to *Food and Agricultural Organization* (According to the FAO (Food and Agriculture Organization of the United Nations), the criteria for illegal fishing can be defined as data that is inconsistent, fishing using stateless vessels, fishing in the convention areas of regional fish management organizations, and fishing activities that are not regulated by the state and cannot be easily monitored and accounted for. These five categories are the types of illegal fishing recognized by FAO member countries.

According to the FAO 2024 report, total capture fisheries and aquaculture production reached a historic high of 223.2 million tons in 2022. This production consisted of 185.4 million tons of aquatic animals and 37.8 million tons of algae. This production increased by 4.4 percent from 2020. Sixty-two percent of this production came from marine waters, and the remaining 38 percent from inland (freshwater) waters. This is the first time in history that global aquatic animal production from the aquaculture sector (51%) has exceeded capture fisheries (49%). The species produced are still dominated by finfish (63%), algae (17%), mollusks (11%), crustaceans (8%), and other species (1%).

Indonesia's fisheries potential is very abundant, but in practice, the potential for abundant fish resources cannot be utilized optimally due to Illegal, Unreported and Unregulated Fishing (IUU Fishing).⁴ In addition, IUU Fishing actions are also carried out without regard to the country's territorial boundaries because cases often occur.

Foreign-flagged fishing vessels are illegally fishing within Indonesia's sovereign territory, specifically the Indonesian Exclusive Economic Zone (EEZ). The direct impact of illegal fishing is felt not only by traditional fishermen, who in this

case, are less prosperous, but also on a broader scale, impacting the country's economy.

Illegal, Unreported and Unregulated Fishing (IUU Fishing) has a negative impact on Indonesia in the economic, ecological and social fields.⁵ The losses caused by IUU Fishing are not only calculated based on the value of Indonesia's stolen marine resources. IUU Fishing has a very broad impact.

Some of the impacts of IUU fishing, namely: Reduced Non-Tax State Revenue (PNBP); Loss of foreign exchange; Reduced opportunities for added value from the domestic processing industry; Reduced job opportunities for local fishermen; Causing local fishermen to lose competition so that their livelihoods are reduced; Threats to the sustainability of fish resources because the catch is not detected, both in type, size and quantity; Damage to the ecosystem and marine biological resources due to the use of fishing gear and materials that are dangerous and not environmentally friendly.

IUU Fishing is a fisheries crime and is a form of transnational crime (*transnational crime*) because its elements involve more than one country, namely the planning, preparation and consequences of the crime involve more than one country. This is also regulated in Article 3 of the Convention *United Nations Convention against Transnational Organized Crime*(UNTOC) which emphasizes the elements of transnational crime.⁸ IUU Fishing practices can be interpreted as illegal fishing activities, where the fishing activities are carried out by a particular country or foreign vessel in waters that are not within its jurisdiction without permission from the country that has the right to fish.

The Indonesian Fisheries Agency (PSDKP) recorded that 191 illegal foreign fishing vessels were apprehended between 2020 and 2025. The majority were from Vietnam, the Philippines, and Malaysia. They operated in WPPNRI 711 (Natuna Sea), 718 (Arafura Sea), and 716 (Sulawesi Waters), areas rich in demersal fish, shrimp, and other high-value seafood. IUU fishing practices not only involve foreign vessels but also involve Indonesian-flagged vessels that violate permits and manipulate fisheries. *Log book*, using prohibited fishing gear, or not activating *Vessel Monitoring System* (VMS). A research by *Indonesia Ocean Justice Initiatives* shows that more than 30% of domestic industrial fishing vessels do not comply with electronic reporting obligations *e-logbook*. The Directorate of Violation Handling of the Directorate General of PSDKP noted that from 2020 to May 2025, 715 Indonesian fishing vessels had been prosecuted. Although the majority were given administrative sanctions, the pattern of violations cannot be underestimated, as the schemes are increasingly complex. The IUU Fishing modus operandi in the WPP-NRI is also increasingly sophisticated, including: Falsification of fishing permit documents, including flagging (*flag of convenience*)

); Avoiding surveillance by turning off the ship's transmitter; and Loading and unloading in the middle of the sea (*transhipment*) which is the practice of embezzling the catch.

The figures outlined above are certainly not mere figures, but rather a warning that without cross-agency collaboration, modern surveillance technology, and the courage to enforce maritime law, these data will remain mere useless records. Yet, data should serve as a beacon for action and change toward improvement.

Enforcing maritime and fisheries law in Indonesian waters is essential for a nation with vast maritime territory. For example, law enforcement in the fisheries sector is extremely difficult, yet crucial and strategic in supporting controlled fisheries development in accordance with fisheries management principles, ensuring sustainable fisheries development.

Article 69 of the Republic of Indonesia Law No. 45 of 2009 states that fisheries investigators or supervisors can take special action to burn and/or sink fishing vessels foreign-flagged vessels based on sufficient preliminary evidence. The sinking of the perpetrator's ship *Illegal fishing* is a special action that can be carried out by Indonesian Fisheries Surveillance Vessels. The Fisheries Law states that Fisheries Surveillance Vessels can stop, inspect, take, and detain vessels suspected or reasonably suspected of committing violations in Indonesian fisheries management areas to the nearest port for further processing. Handling of fisheries crimes is carried out systematically by law enforcement within the Criminal Justice System (CJS), where the Fisheries Civil Servant Investigators (PPNS) carry out investigations up to the stage of handing over to the Public Prosecutor (P21).

In a person's responsibility under criminal law, there must be an opportunity for the perpetrator to explain why he did what he did, so it can be said that a fair process did not occur (*due process*) in holding perpetrators of crimes accountable. In turn, this would conflict with the principles of justice. Thus, the law is seen as failing to provide valuable input to social life if it does not provide an opportunity for perpetrators of crimes to explain why they could not have avoided committing the crime.

The concept of crime requires accountability for the negative impacts that arise from a form of crime. Criminal liability is the consequence a person experiences for committing an act that violates criminal law or an act that was intentionally committed against the law. Therefore, the perpetrator must accept punishment as a form of accountability for their actions.

However, a person is criminally responsible if 2 (two) things are fulfilled, namely: (1) There is an objective element, namely an act that is against the law or there must be an unlawful element, and; (2) There is a subjective

element, there is an element of error in the form of intent and/or negligence on the part of the perpetrator, so that the unlawful act can be held responsible for him.¹³In addition, in determining criminal responsibility for fisheries / IUU Fishing, the elements of the crime of fisheries / IUU Fishing must also be fulfilled.

2. Research Methods

This legal research uses an empirical legal research approach. Empirical legal research, that is, legal research that uses legal principles and principles to review, observe, and analyze problems in the research, as well as reviewing the implementation of the law in practice.

3. Results and Discussion

3.1. Forms of Criminal Responsibility for Perpetrators *Illegal fishing* In Indonesian Waters

Indonesia is a maritime nation, with a portion of its territory consisting of thousands of islands from Sabang to Merauke. This geographical location provides added value for Indonesia. Indonesia must be active in various international cooperation in maritime matters, including regarding maritime law. As we know, Indonesia as a maritime nation has an area of approximately 6 million km², which is three times larger than the Indonesian mainland. Therefore, it can be said that our nation possesses a vast amount of marine wealth. And how many marine resources can be utilized by the Indonesian people to meet their daily needs, so that the majority of Indonesians depend on these marine products for their livelihoods, namely as fishermen.

Crimes that commonly occur in Indonesian waters are fisheries crimes, namely illegal fishing activities, fishing activities that are not regulated by applicable regulations, activities that are not reported to an available or authorized fisheries institution or agency. This fisheries crime that most often occurs in Indonesian fisheries management areas is fish theft by foreign fishing vessels originating from several neighboring countries such as Thailand, the Philippines, and Vietnam, although it is difficult to map and estimate fisheries crimes that occur in Indonesian waters.

Illegal fishing Illegal fishing can be defined as illegal fishing activities carried out by a particular country or foreign vessels in waters outside its jurisdiction without permission from the country having jurisdiction, or in violation of that country's laws and regulations Currently, illegal fishing in Indonesia is quite concerning.

The factors causing fish theft in Indonesian waters are inseparable from the global strategic environment, particularly the condition of fisheries in other countries with maritime borders, and the fisheries system in Indonesia itself. *illegal fishing* This was carried out by foreign fishermen from neighboring countries in the region who entered Indonesian waters illegally.

Law enforcement efforts against fish theft in the Indonesian fisheries management area are closely linked to legal regulations and law enforcement institutions, while legal development itself is an integral component of national development. One cause of fish theft in the Indonesian fisheries management area is weak oversight due to weak moral integrity.

The legal process has so far only affected the crew without any attempt to identify the true perpetrators, namely the corporations behind it all. This has caused significant losses to the state, fishermen, and coastal communities. This is evident in the fact that legal officials' understanding of the crime of illegal fishing is still very limited.

However, in recent years, Indonesia has begun to take decisive action by sinking, blowing up, or burning the vessels of perpetrators. *illegal fishing* This government action has drawn both pros and cons among the Indonesian public. The goal is simply to strengthen law enforcement in Indonesian waters and demonstrate to the world that it's not so easy to continue stealing fish from our country.

This shows us how the handling of cases is *illegal fishing* in Indonesia is very concerning. In fact, the paralysis of law enforcement in the fisheries sector has resulted in significant losses for the state. Criminal liability for perpetrators in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as a means to realize environmental policy will be greatly influenced by many factors, one of which is the formulation of the legal principles themselves. Therefore, all regulations regarding the crime of illegal fishing contained in Law 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries can provide a deterrent effect on perpetrators of criminal acts of fishing violations, especially perpetrators who in this case commit *illegal fishing* which causes a lot of losses for the country and damages the ecosystem.

Indonesian positive law, through the Fisheries Law, clearly stipulates the legal obligations of vessel owners and operators to ensure compliance with fisheries regulations. Article 93 of Law Number 45 of 2009 states that anyone who owns and/or operates a fishing vessel without a Fishing Permit (SIPI) can be subject to a maximum of six years' imprisonment and a maximum fine of IDR 2 billion for Indonesian-flagged vessels, and a fine of up to IDR 20 billion for foreign-

flagged vessels.

This provision should provide a strong basis for law enforcement, which places vessel owners as the primary subjects in fisheries cases. However, in practice, the defendants brought to trial are almost always limited to the captain. This is because fisheries investigators rarely use Article 55 of the Criminal Code to implicate vessel owners or corporations as participating parties.

This is due to the challenges in proving corporate criminal liability, which requires a special approach to demonstrate the link between individual actions and corporate interests. Furthermore, the application of criminal sanctions to corporations is often considered to have little deterrent effect, so that law enforcement tends to focus on individual perpetrators in the field. On the other hand, Article 42 Paragraph (3) of Law No. 45 of 2009 explicitly stipulates the obligation of every fishing vessel to have a Sailing Permit before conducting fishing operations. Captains who do not fulfill this obligation may be subject to criminal sanctions, as stipulated in Article 98, namely a maximum imprisonment of one year and a maximum fine of IDR 200 million.

These provisions are often used as the primary basis for prosecution of captains. Meanwhile, ship owners, as the parties with administrative and strategic responsibilities, are often overlooked by the legal process. This gap demonstrates that, although norms are available in the Fisheries Law, their implementation has not fully addressed the demands for substantive justice. A progressive legal approach offers an alternative to address this asymmetry. This approach prioritizes law enforcement that adheres not solely to the text of the law but also takes into account social realities and the structure of the crime, so that criminal accountability is directed at those who benefit most from the violation.

The implementation of the Fisheries Law must be carried out comprehensively, so that the principles of justice and sustainability can truly be realized, as regulated in Article 2 of Law No. 45 of 2009. Improvement measures should be directed at strengthening the role of Civil Servant Investigators (PPNS) for Fisheries, optimizing the function of the fisheries court, and increasing synergy between law enforcement agencies.

In this way, ship owners and corporations will no longer escape the law, substantive justice in the fisheries sector can be achieved, and protection for vulnerable parties, such as captains and crew, can be maximized.

Within this framework, the existence of *political will* So it is very important to encourage a real will and synergy between law enforcement officials, so that the fisheries criminal justice system can work effectively, comprehensively,

and fairly. Criminal accountability for perpetrators *illegal fishing* in Indonesian waters is an important part of efforts to maintain national sovereignty, the preservation of marine ecosystems, and the sustainability of fish resources as a national strategic asset. *Illegal fishing* Illegal fishing is not only understood as illegal fishing activities, but also encompasses destructive practices such as the use of explosives, poisons, prohibited fishing gear, and violations of territorial boundaries by foreign vessels. Therefore, law enforcement against this crime must be carried out comprehensively through complementary criminal, administrative, and civil legal instruments.

Criminal responsibility basically leads to an understanding of punishment for perpetrators of criminal acts. A crime is an act that can be subject to criminal punishment, where the act refers to the perpetrator and the consequences that are threatened with punishment, then he must also bear the consequences of the act in the form of punishment. In other words, criminal responsibility is intended to determine whether or not a person (in this case the suspect or defendant) is held accountable for a crime that has occurred.

Criminal liability for perpetrators of illegal fishing or *illegal fishing* In the fisheries law, the provisions are formulated cumulatively. The cumulative sanction for those who engage in illegal fishing is a fine, which is quite heavy compared to other criminal provisions. The purpose of this sanction is to provide a deterrent effect for the perpetrators, except for violations formulated in Article 97 and Article 100, which only formulate a fine. In cases categorized as other crimes, namely Article 87 paragraph (1) which is formulated The criminal penalty is 2 (two) years imprisonment and a fine of IDR 1,000,000,000. This formulation does not seem to differentiate between violations and crimes, because violations are generally punishable by imprisonment or a lesser penalty than crimes. The most severe legal threat is 10 years in prison for perpetrators who catch fish using chemicals, biological materials, explosives, tools and/or methods, and/or structures that can harm and/or endanger the sustainability of fish resources or the environment, and with a maximum fine of 2,000,000,000,- (two billion rupiah) based on Article 84 of Law No. 45 of 2009 concerning Fisheries and the lowest penalty threat is 1 year in prison for perpetrators who do not have a sailing permit as referred to in Article 42 paragraph (3) and a maximum fine of 200,000,000,- (two hundred million rupiah) as stated in Article 98 of Law No. 45 of 2009 concerning Fisheries.

The main basis for law enforcement against *illegal fishing* This is contained in Law Number 45 of 2009 concerning Fisheries, which serves as the national legal umbrella. This law stipulates that any person or corporation that fishes without a permit or violates permit provisions can be subject to criminal

sanctions, including imprisonment, fines, and even confiscation of vessels and fishing gear. The criminal provisions in this law encompass both crimes and violations, allowing law enforcement to respond proportionately to the seriousness of the act.

Criminal liability for the perpetrator *illegal fishing* emphasizes the fulfillment of the elements of the crime, which consist of the act, the consequences, and the perpetrator's capacity to take responsibility. In the context of fisheries crimes, the principle of *lex specialis derogat legi generali* causes the provisions of the Fisheries Law to override the general rules contained in the Criminal Code. This provides legal certainty and emphasizes that fisheries crimes have special characteristics that require specific legal instruments.

The form of criminal responsibility also refers to the concept of fault in criminal law, which includes elements of intent and negligence. Many perpetrators *illegal fishing* carrying out his actions consciously with the aim of gaining economic gain through unlawful means, so that the element of intent is more dominant. However, in some cases, errors can arise from negligence resulting from non-compliance with standards fishing operations or weak supervision by the ship owner over the captain and crew.

Perpetrator *illegal fishing* can originate from individuals, groups, or corporations. The Fisheries Law allows for corporate criminal liability if the vessels, fishing gear, and operational activities are under the control of a legal entity. In such cases, criminal sanctions can be imposed on the management, directors, or corporation as a legal entity, with penalties ranging from large fines, revocation of permits, to confiscation of the proceeds of crime. This corporate liability is highly relevant considering the many activities *illegal fishing* done in an organized manner.

Law enforcement against *illegal fishing* The purpose of destructive fishing is not only to punish perpetrators but also to prevent damage to marine ecosystems. The use of bombs and poison, for example, is a serious crime that damages coral reefs, destroys marine habitats, and reduces fish populations. Therefore, judges often impose heavy criminal penalties in cases involving destructive fishing, as the actions threaten the sustainability of Indonesia's natural resources.

Criminal liability also includes the seizure of vessels used as instruments of crime. This seizure is carried out to remove the means used by perpetrators to commit crimes, thereby preventing them from repeating their actions. Seized vessels can be auctioned off by the state, sunk, or transferred to government interests. This policy aligns with the national commitment to safeguarding territorial waters and strengthening the deterrent effect.

In the case of foreign vessels, criminal liability involves the sovereignty of the

state in maritime areas. Foreign vessels that enter Indonesia's Exclusive Economic Zone without permission and engage in fishing are subject to criminal penalties under national law. The captain and crew are subject to sanctions, while the vessel itself can be seized by the state as evidence of a violation of Indonesian jurisdiction. This aligns with the provisions of UNCLOS 1982, which grants coastal states the right to enforce laws in the EEZ.

The factor of criminal responsibility cannot be separated from the evidentiary process. Prosecutors must prove that the perpetrator engaged in illegal fishing or used prohibited fishing gear. Furthermore, physical evidence such as fishing gear, ship logbooks, GPS tracking, and laboratory tests are crucial elements of the evidence. The success of the evidence determines whether the elements of the crime are met, allowing the perpetrator to be held accountable.

In addition, fisheries investigators have broad authority to handle *illegal fishing*, including conducting patrols, ship inspections, arrests, and confiscation. This authority is granted to ensure that criminal acts can be stopped immediately before they cause greater harm. Investigators can come from the Ministry of Maritime Affairs and Fisheries, the Indonesian Navy, the Indonesian National Police, or Bakamla, working in integrated coordination.

Criminal liability also includes the use of substantial fines as a form of economic punishment. The Fisheries Law allows judges to impose fines of up to billions of rupiah, depending on the severity of the offense. These fines are effective against corporations because they carry a significant financial burden and can disrupt the funding chain of their activities *illegal fishing*.

Meanwhile, criminal liability must also consider the aspect of protecting local fishermen. *Illegal fishing* This harms traditional fishermen by depriving them of fish resources that are rightfully theirs. Strict law enforcement protects small-scale fishermen who depend on the sea for their daily livelihoods, making social justice an integral part of the criminal justice system.

The presence of large ships and advanced technology in *illegal fishing* demands an adaptive legal approach. Law enforcement should not only prosecute perpetrators on the ground, but also the intellectuals who control operations from behind closed doors. This accountability is crucial for dismantling transnational fisheries crime networks, ensuring effective eradication efforts.

Application of criminal liability to *illegal fishing* refers to the principle of proportionality. Judges consider the degree of culpability, the impact, and the perpetrator's motive. If the perpetrator uses explosives that cause

ecosystem damage, the penalty is usually harsher than for a normal permit violation.

Criminal sanctions against perpetrators *illegal fishing* It is also preventive. Imprisonment and fines are expected to deter perpetrators and others who intend to commit similar acts. Thus, criminal law serves as a behavioral control instrument to minimize the potential damage to natural resources.

In a restorative context, criminal liability can be accompanied by environmental restoration. This restoration includes marine ecosystem rehabilitation, coral reef restoration, and fish seed release to repair damage caused by the incident. *illegal fishing*. Although this mechanism is not always applied in all cases, the idea of environmental restoration is starting to gain attention in national legal systems.

Criminal liability also emphasizes the importance of international cooperation. Because *illegal fishing* often involves foreign vessels and cross-border networks, so Indonesia needs to strengthen coordination with other countries neighbors and international organizations to build more effective surveillance systems. This cooperation includes data exchange, joint operations, and harmonization of fisheries regulations.

Criminalization efforts against *illegal fishing* This aligns with the sustainable development agenda, particularly SDG 14 on the conservation and sustainable use of marine resources. Criminal law enforcement is one of the state's instruments to ensure the ocean remains productive for future generations.

Furthermore, criminal accountability also involves an integrated approach between the central and regional governments. Regional governments play a role in licensing and overseeing small-scale fisheries, so coordination with law enforcement is crucial to closing loopholes for violations.

Enforcement of criminal law against *illegal fishing* This needs to be continuously strengthened through increased officer capacity, modernization of surveillance technology, and regulatory reform. Challenges such as Indonesia's vast maritime territory and limited patrol facilities must be addressed through policy innovation and consistent law enforcement.

3.2. The Ideal Concept of Criminal Responsibility for Perpetrators *Illegal fishing* In Indonesian Waters in the Future

Indonesia is an archipelagic country as explained in the 1945 Constitution Article 25 A "The Unitary State of the Republic of Indonesia is an archipelagic country characterized by an archipelago with its territory and boundaries and rights determined by law". There is recognition by the international community that the territorial sea boundary is only 3 nautical miles wide

from the lowest tidal coastline. The Juanda Declaration which was issued on December 13 1957 emphasized that Indonesia is a unified archipelago. The sea is no longer a divider but a uniter of the Indonesian nation.

Indonesia is the largest archipelagic country in the world with a total sea area of 3.25 million km² and 2.55 million km². Indonesia has an Exclusive Economic Zone (EEZ) (UNCLOS 1982) and 17,480 islands with a coastline of 95,181 km. Indonesia's archipelagic status also has a positive impact, positioning Indonesia in a very strategic position for economic, social, and cultural activities. The fact that Indonesia is on the equator, located between two continents (Asia and Australia) and two oceans (the Indian and Pacific), and a country that become a crossing point for foreign ships as a form of economic activity.

The recognition by the United Nations as an archipelagic nation further solidifies Indonesia's position as a maritime nation. Indonesia's unique maritime status as an archipelagic nation serves a vital role in national integration, national and international maritime transportation, natural resource deposits, defense and security, and services, research, and environmental sustainability. All Indonesians share a common interest in the sea, namely the realization of safe and controlled maritime conditions to ensure territorial integrity and national interests.

Rapid technological advancements, the increasing scarcity of raw materials and energy on land, and the growing demand for these materials have caused the world's attention to shift to the oceans. Ocean regions have indeed become a focal point for several industrialized nations in recent years. The exploitation of ocean resources will expand in the future.

The consequence of an archipelagic country filled with thousands of islands and bordered by various vast oceans and international waters, is the existence of marine potential rich in marine products, but at the same time there are potential regional threats. Indonesia's very vast maritime territory and the potential of marine products that are so present certainly invite many problems and challenges. Indonesia's seas have great economic potential, but have not or cannot be optimized to become a real economic power, the situation is ironic, because of the potential economic resources that have not been explored and exploited by the nation itself.

As an archipelagic nation with significant fisheries potential, Indonesia should prioritize the fisheries sector for development. Fisheries also have the potential to become a major driver (*prime mover*) Indonesian economy. Empirically, the development of the fisheries sector has received little attention so that its contribution and utilization in the economy remains small.

Fisheries development aims to increase the income of fishermen (fish farmers)

by increasing productivity, expanding employment opportunities, and creating business opportunities. Considering that fishing activities are highly dependent on nature and the availability of resources in a given body of water, this can lead to fluctuations very clear fisheries business activities. Ultimately, this will affect the activities of fishermen (fish farmers) in their businesses.

Law enforcement in fisheries crimes is certainly not easy. Several factors hinder the enforcement of fisheries law in Indonesia, including legal constraints, regulations, law enforcement officials, the public, and the government. Some of the factors hindering the enforcement of fisheries crimes include:

1) Law enforcement objects are difficult for the law to penetrate.

The object in question is the actor involved in the activity *illegal fishing* namely the perpetrator is the mastermind behind the activity. Especially in this case, it is a State Official, a Law Enforcement Officer or a Civil Servant who is not specifically regulated in the Fisheries Law. The application of Article 56 paragraph (1) of the Criminal Code which qualifies the perpetrator of a crime as a person who commits, orders, and participates in and carries out the criminal act can also be applied to crimes *illegal fishing* which involves many parties.

2) Weak Coordination Between Law Enforcement Agencies

Weak coordination between law enforcement agencies can lead to overlapping authorities and policies, making it highly susceptible to conflicts of interest. Uncoordinated law enforcement is one of the obstacles to crime prevention. *illegal fishing* The judicial process, from investigation to trial, requires significant costs, a lengthy legal process, and adequate facilities and infrastructure, requiring specialized expertise to handle the case.

3) Problem of Proof

Regarding the issue of proof adopted by Indonesian criminal law, the negative system is a combination of the free and positive systems. The proof process *illegal fishing* an expert is needed to explain the condition of the sea and the impacts caused by activities *illegal fishing* and this process certainly takes a lot of time and money, so that in proving to ensnare the perpetrators behind this fisheries crime incident is also very difficult because often those who are made defendants and suspects in fisheries crimes are only those who are found at the scene, for example the Captain, ABK, and others, even though behind that there are still several individuals who can be made suspects or defendants.

4) Formulation of Criminal Sanctions

The formulation of criminal sanctions contained in Law No. 45 of 2009 concerning Fisheries has a heavier criminal fine compared to other criminal provisions, apparently it has not been able to provide a deterrent effect for perpetrators of fisheries crimes. The regulation of sanctions in Law No. 45 of 2009 concerning Fisheries does not have a regulation regarding the minimum limit or lowest limit of criminal sanctions so that sanctions are often imposed on perpetrators of illegal fishing or *illegal fishing* is unable to provide a deterrent effect for every perpetrator, in addition, in this Law there is no formulation of criminal sanctions that can be given or imposed on corporate perpetrators as well as additional sanctions for perpetrators of criminal acts of omission.

5) Subjects and Perpetrators of Criminal Acts

The subjects or perpetrators regulated in the fisheries criminal provisions can only be applied to perpetrators who directly carry out illegal fishing or fishing vessels that carry out illegal transhipment. The provisions in the Fisheries Law do not touch other perpetrators, including intellectual perpetrators related to *illegal fishing* as a whole, such as corporations, state officials, civil servants, TNI/POLRI, and/or ship owners.

6) Lack of Insight and Integrity of Law Enforcement Officers

The insight and integrity of law enforcement officers, especially regarding mastery of material and formal law, this is due to the rapid development of increasingly modern society, telecommunications and technology so that many new crimes emerge with new and diverse types and modus operandi, including crimes *illegal fishing*.

7) Lack of Facilities and Infrastructure.

The facilities and infrastructure in question are ships for law enforcement officers in the fisheries sector to carry out pursuits and checks on perpetrators. *illegal fishing*, the perpetrators *illegal fishing* must use large and sophisticated ships so that the authorities must balance the strength of the ship to make it easier to catch the perpetrators. *illegal fishing* in Indonesian waters.

The ideal concept of criminal responsibility for the perpetrator *illegal fishing* In the future, it must be designed to be more progressive, comprehensive, and adaptive to the dynamics of modern fisheries crimes. *Illegal fishing* As technology advances and global market demand grow increasingly sophisticated, traditional legal approaches are no longer sufficient.

Indonesia needs a criminal accountability model that not only prosecutes perpetrators but also targets intellectual actors, corporate networks, and

transnational entities that control illegal operations.

The state's firmness in safeguarding its waters is the primary foundation for creating this ideal concept. Future criminal accountability must focus on mechanisms capable of structurally breaking the chain of crime. Law enforcement should not only target ship captains or crew as perpetrators on the ground, but should also target ship owners, financiers, fishing company operators, and buyers who are part of the illegal fish distribution chain. This approach has a broader deterrent effect because it targets the actors who profit the most. Regulations must also prioritize corporate accountability. Many activities *illegal fishing* This is carried out through corporations that exploit loopholes in regulations, licensing, and weak oversight.

Therefore, regulations are needed that allow for stricter prosecution of corporations, including fines of billions of rupiah, permit revocation, asset confiscation, and even a ban on operating in Indonesian waters. Strengthening corporate accountability will limit the scope of operation of fisheries crime networks that use legal entities as a front.

The future approach must strengthen the use of technology as part of proving criminal liability. Satellite-based ship monitoring systems, technology *Artificial Intelligence* Detecting vessel movement patterns, and integrating electronic logbook data can be powerful evidence in court. This makes it easier for investigators to prove the vessel's location, its route, and even any illegal fishing activity.

To ensure effective criminal accountability, Indonesia needs cross-institutional harmonization. Investigators from the Ministry of Maritime Affairs and Fisheries, the National Police, the Indonesian Navy, and Bakamla (Law and Security Agency) must work within an integrated oversight system capable of responding quickly to illegal activities. *illegal fishing* In the future, a one-stop shop mechanism for the investigation process could be a solution to prevent the overlapping authority that often occurs.

Future criminal liability must also prioritize environmental economic principles. *illegal fishing* not only detrimental Not only is it financially damaging, but it also has long-term ecological impacts. Therefore, criminal penalties must consider the value of ecological losses as a basis for imposing sanctions. This approach can have a stronger deterrent effect because environmental losses are typically much greater than material losses.

This ideal concept also requires strengthening sanctions in the form of environmental restoration. *illegal fishing* Those proven to have damaged ecosystems may be required to fund coral reef rehabilitation, fish restocking, or other marine conservation programs. This accountability model integrates retributive, preventive, and restorative elements within a single, equitable

legal framework.

In addition to criminal enforcement, the ideal future concept requires an integration of criminal and administrative sanctions. Repeated permit violations, the use of prohibited fishing gear, or activities outside the fishing zone could be immediately subject to severe administrative sanctions such as permit suspension, fishing gear confiscation, or administrative fines. This integration accelerates the law enforcement process and increases state responsiveness. Future criminal accountability should also strengthen the role of coastal communities. Traditional fishers are the ones most disadvantaged by *illegal fishing* so that their involvement in oversight can increase the effectiveness of law enforcement. Speedy trial models or community-based reporting can be used to expand state oversight.

In addition to strengthening national regulations, Indonesia must strengthen international cooperation. *Illegal fishing* is a transnational crime that cannot be eradicated with a military approach *domestic-only*. Bilateral and multilateral agreements governing the exchange of ship data, tracking of ship owners, and extradition of perpetrators can strengthen criminal accountability globally.

The reformulation requires a mechanism to impoverish perpetrators of fisheries crimes. This approach is in accordance with the principle *follow the money* which targets criminal assets, company accounts, and even the vessels used. By destroying the perpetrators' financial base, their activities *illegal fishing* can be suppressed significantly.

The criminalization approach must take into account the speed of the legal process. Many perpetrators *illegal fishing* is a foreign ship that requires swift handling to avoid high costs during the ship detention process. A fast track court or maritime court specifically handles cases *illegal fishing* can be a long-term solution.

Criminal accountability also requires a publication-based deterrence system. States can publish lists of vessels or companies involved in *illegal fishing*. This model has proven effective in suppressing organized crime practices.

To develop an ideal concept, Indonesia needs to strengthen scientific evidence. Damage to marine ecosystems must be proven through biological and oceanographic studies conducted by independent institutions. The presence of scientific evidence allows for rational and measured punishment.

Going forward, criminal accountability must integrate aspects of social justice. Affected local fishermen are entitled to compensation or empowerment programs from the state. This demonstrates that eradication *illegal fishing*. It also aims to protect the rights of coastal communities to live. Furthermore, Indonesia needs regulations that emphasize the responsibility of actors in the

fish distribution chain.

Many fish catches are *illegal fishing* entering the domestic market due to weak catch certification. A strict traceability system could close this gap and clarify the criminal liability of those involved.

To strengthen the effectiveness of criminal accountability in the future, Indonesia needs to comprehensively update its Fisheries Law. This update should include more progressive sanctions, technology-based evidentiary mechanisms, stronger authority for law enforcement, and stronger corporate regulations. With a modern legal framework, eradication of illegal fishing will be much easier. *illegal fishing* can run more effectively. In law enforcement *illegal fishing* Internationally, Indonesia can learn from three countries that have strong maritime surveillance systems. First, Australia with *Australian Fisheries Management Authority* (AFMA) which integrates technology, satellite surveillance, and law enforcement based on *science*.³³ Australia uses *Vessel Monitoring System*(VMS) is strict and has very strict corporate accountability rules.

Second, Norway has a traceability and law enforcement system that spans the entire fish supply chain. Norway ensures that every catch can be traced, eliminating the opportunity for illegal fish markets.³⁵ Third, Japan has a law enforcement model that focuses on a combination of strict supervision, fisherman education, and large financial sanctions against perpetrators.

4. Conclusion

Criminal accountability for illegal fishing perpetrators in Indonesia remains weak because law enforcement tends to focus on captains and crew members, while ship owners, financiers, and corporations, as the main actors, often escape prosecution due to obstacles in providing evidence, inter-agency coordination, and limited maritime surveillance facilities. While the Fisheries Law provides for severe criminal penalties in the form of imprisonment, billions of rupiah in fines, vessel confiscation, and corporate liability as *lex specialis*, its implementation has been inconsistent and has little deterrent effect. The ideal concept for the future demands criminalization that penetrates the criminal masterminds by expanding the scope of criminal offenses, strengthening the framework of corporate accountability, raising the minimum standard for sanctions and fines, maximizing asset confiscation, and integrating swift administrative sanctions. The effectiveness of maritime surveillance must be strengthened through technologies such as VMS, satellites, and electronic logbooks, reinforced by synergy between the Ministry of Maritime Affairs and Fisheries (KKP), the Indonesian National Police (Polri), the Indonesian Navy (TNI AL), Bakamla (Bakamla), the Civil Servant Officer (PPNS), and the fisheries court. Lessons learned from Australia, Norway,

and Japan demonstrate the importance of a science-based approach, traceability, and supply chain control, coupled with coastal community empowerment and international cooperation. With more modern regulatory reformulation and oversight, criminal accountability for illegal fishing can be more assertive, fair, and effective in safeguarding Indonesia's maritime sovereignty.

5. References

Journals:

Adha, Adha. "Pertanggung jawaban Penahanan Kapal Laut Dalam Yuridiksi Laut Di Indonesia." *DE JURE Critical Laws Journal* 6, no. 1 (2025): hlm. 59-76.

Al Attas, S. Muchtadin. "Konstruksi Pertanggung jawaban Pidana Penjabat Kepala Desa dalam Tindak Pidana Pemilihan." *Journal de Facto* 12, no. 1 (2025): hlm. 32-45.

Amin, Muhammad Nur, Liza Deshaini, and Sudarna Sudarna. "Penanggulangan Tindak Pidana Illegal Fishing di Indonesia." *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum sumpah Pemuda* 29, no. 4 (2023): hlm. 142-151.

Andriani, Agustini. "Pertanggungjawaban Pidana Bagi Korban Kejahatan Begal yang Melakukan Pembelaan Diri Secara Darurat." *Ta'zir: Jurnal Hukum Pidana* 6, no. 1 (2022): hlm. 1-13.

Bagas, Djandika Bagaskara. "Upaya Indonesia dalam Mempertahankan Kekuatan Maritim terhadap Kedaulatan Negara Studi Kasus Illegal Fishing Perairan Indonesia." *Jurnal Ilmu Hubungan Internasional LINO* 4, no. 1 (2024): hlm. 53-67.

Bormasa, Adolof, John Dirk Pasalbessy, and Erwin Ubwarin. "Penegakan hukum di wilayah laut pada wilayah perbatasan negara." *PATTIMURA Legal Journal* 1, no. 1 (2022): hlm. 30-43.

Hasibuan, Fauzan Irgi. "Penegakan Hukum Terhadap Pelaku Tindak Pidana Illegal Fishing di Wilayah Kerja Kejaksaan Negeri Serdang Bedagai." *Iuris Studia: Jurnal Kajian Hukum* 2, no. 2 (2021): hlm. 173-182.

Irawan, Andrie, and Yulio Iqbal Cahyo Arsetyo. "Optimalisasi Penegakan Hukum Pidana Illegal Fishing Pada Perairan Indonesia." *JURNAL HUKUM DAS SOLLEN* 9, no. 2 (2023): hlm. 780-809.

Kila, Ferdinandus, I. Nyoman Gede Sugiarktha, and Ni Made Puspasutari Ujianti. "Pertanggungjawaban pidana tanpa sifat melawan hukum dalam

perspektif pembaharuan hukum pidana." *Jurnal Konstruksi Hukum* 4, no. 1 (2023): hlm. 28-34.

Konstantopoulou, Zoya, and Patrick Mikalef. "Enhancing Traceability in the Norwegian Fish Supply Chain: Blockchain Adoption." In *Conference on e-Business, e-Services and e-Society*, hlm. 383-393.

Kurnia, Ida. "Law Enforcement Against Illegal Fishing in Natuna Waters During the Covid-19 Pandemic." *Res Nullius Law Journal* 3, no. 2 (2021): hlm. 178-196.

Maradong, D.S. (2016). *Potensi Besar Perikanan Tangkap Indonesia. Analis Perekonomian pada Asisten Deputi Bidang Kelautan dan Perikanan*. Deputi Bidang Kemaritiman, Sekretariat Kabinet. dapat diakses secara online di web resmi sebagai berikut <https://setkab.go.id/potensi-besar-perikanan-tangkap-indonesia/>

Mega Jaya, B.P., Danial, Sitamala. A. (2019). "State Exclusivity of Fisheries Resources on Exclusive Economic Zone in Efforts to Support the Fisheries Availability as a Means of Increasing Food Security for the State". *Atlantis Press*. Vol 9. hlm. 213.

Milanisti, Zidane Sheva, and Bayangsari Wedhatami. "Analisis Yuridis Kewenangan TNI AL dalam Penegakan Hukum di Bidang Perikanan Menurut Undang-Undang Nomor 45 Tahun 2009 dalam Perspektif HAN." *Bookchapter Hukum dan Lingkungan* 1 (2025): hlm. 1855-1880.

Nia Putriyana dan Shintiya Dwi Puspita, "Tanggungjawabhukum Dalam Konteks Perbuatan Melawan Hukum Terhadap Tindak Pidana Korupsi", *Arena Hukum*, Volume 7, Nomor 3, Desember 2014, hlm. 432.

Nofiasari, Wida, and Inggar Saputra. "Volume 12 Nomor 2 Juni 2024: Strategi komunikasi literasi maritim kepada masyarakat untuk menguatkan keberadaan indonesia sebagai negara kepulauan." *Indonesian Maritime Journal* 12, no. 2 (2024): hlm. 64-82.

Ogier, Emily M., David C. Smith, Sian Breen, Caleb Gardner, Daniel J. Gaughan, Harry K. Gorfine, Alistair J. Hobday et al. "Initial impacts of the COVID-19 pandemic on Australian fisheries production, research organisations and assessment: shocks, responses and implications for decision support and resilience." *Reviews in Fish Biology and Fisheries* 33, no. 2 (2023): hlm. 513-534.

Pratama, Allan Putra, Belinda Agni Helena Dewi, Muhammad Adam Arifda Putra Ruwi, and Aris Kusumawati. "Meningkatkan Potensi Perikanan Maritim Indonesia dengan Aplikasi Fishery." *Lomba Karya Tulis Ilmiah* 3, no. 1 (2022): hlm. 103-114.

Pratiwi, Yulita Dwi, Dimas Eri Saputra, Daniel Kevin Octovianus Tallo, and Erza Tania Dewanti. "Politik hukum penetapan wilayah pengelolaan perikanan dan penangkapan ikan terukur dalam pembangunan sumber daya perikanan berkelanjutan." *Bina Hukum Lingkungan* 6, no. 3 (2022): hlm. 362-385.

Raflenchyo, Muhammad, Eddy Rifai, and Dona Raisa Monica. "Pertanggungjawaban Pidana Pelaku Tindak Pidana Penganiayaan yang Mengakibatkan Kematian." *ULIL ALBAB: Jurnal Ilmiah Multidisplin* 2, no. 2 (2023): hlm. 433-441.

Ramadhani, Azzahra Alifa. "Potensi keunggulan kompetitif sumber daya kelautan Indonesia." *Jurnal Ekonomi Sakti (Jes)* 12, no. 3 (2023): hlm. 291-296.

Shafira, Maya, Firganefi Firganefi, Diah Gustiniati, and Mashuril Anwar. "Illegal Fishing: Optimalisasi Kebijakan Penegakan Hukum Pidana sebagai Primum Remedium." *Jurnal Wawasan Yuridika* 5, no. 1 (2021): hlm. 40-59.

Shanthi, T. S., L. Dheepanbalaji, R. Priya, VD Ambeth Kumar, Abhishek Kumar, P. Sindhu, and Ankit Kumar. "Illegal fishing, anomalous vessel behavior detection through automatic identification system." *Materials Today: Proceedings* 62 (2022): hlm. 4685-4690.

Sitorus, Andi Putra, and Dearma Sinaga. "Politik Hukum Perlindungan Nelayan Tradisional Terhadap Illegal Fishing." *Ilmu Hukum Prima (IHP)* 5, no. 1 (2022): hlm. 72-81.

Surbakti, Joi Alfreddi. "Identifikasi alat penangkapan ikan ramah lingkungan di wilayah perairan Kabupaten Sabu Raijua." *Jurnal Vokasi Ilmu-Ilmu Perikanan (JVIP)* 1, no. 2 (2022): hlm. 56-52.

Books:

Ronny Hanitijo Soemitro, Metodologi Penelitian Hukum dan Jurimetri, Ghalia Indonesia, Jakarta, 1990, hlm. 33.

Fitri Wahyuni, *Dasar-Dasar Hukum Pidana di Indonesia*, PT Nusantara Persada Utama, Tangerang Selatan, 2017, hlm. 59-60.

Tampubolon, Bona Jevon, Raden Roro Kamilia Hana Putri, and Abqary Faraz Darmawan. "Praktik *Illegal fishing* di Perairan Indonesia Sebagai Transnational Organized Crime (Studi Kasus Kapal Run Zeng di Laut Arafura)." *Jurnal Hukum Statuta* 4, no. 1 (2024): hlm. 50-62.

TIMES Indonesia, *Era Baru Transformasi Biru*, <https://timesindonesia.co.id/kopi-times/506490/era-baru-transformasi-biru>

Triyani, Triyani, A. Adang Supriyadi, Lukman Yudho, and Panji Suwarno. "Pengembangan Model Deteksi Ancaman Maritim Berbasis AI: Kerangka Keamanan Prediktif untuk Penangkapan Ikan Ilegal dan Pembajakan di Laut Natuna." *Jurnal Locus Penelitian dan Pengabdian* 4, no. 7 (2025): hlm. 4605-4622.

United Nations Convention against Transnational Organized Crime (UNTOC) adalah konvensi internasional yang dibentuk PBB pada 15 November 2000 di Palermo, Italia. Konvensi ini diadopsi oleh Majelis Umum PBB melalui resolusi No. 55/25 tentang penanggulangan kejahatan transnasional yang terorganisir Selanjutnya disebut UNTOC 2000

Vita, Farida Rahma. "Perbuatan Melawan Hukum Dalam Investasi Asing Di Sektor Perikanan Di Indonesia." *Jurnal Dharma Agung* 32, no. 5 (2024): hlm. 428-437.

Yunitasari, D. (2020). "Penegakan Hukum Di Wilayah Laut Indonesia Terhadap Kapal Asing yang Melakukan *Illegal fishing* Mengacu Pada Konvensi United Nations Convention on Law of The Sea 1982", *Jurnal Pendidikan Kewarganegaraan Undiksha* Vol. 8 No. 1, Februari, 2020, hlm. 61-77

Zamili, Putri Awin Susanti. "Kewenangan Tni Angkatan Laut Dalam Melakukan Penyidikan Tindak Pidana Illegal Fishing (Studi Di Pangkalan Tni Al Nias)." *Jurnal Panah Hukum* 1, no. 2 (2022): hlm. 191-203.