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Concept of Illegal Fishing for Indonesian Regulations and UNCLOS

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Abstract

Illegal fishing is a transnational crime that needs special attention in its eradication to safeguard national sovereignty. Illegal fishing law enforcement and the protection of marine assets in Indonesia are based on the Shipping Law, Fisheries Law, Ministerial Regulations and UNCLOS. Must be protected by any actions related to opportunities for crime to occur. There is no legal protection for potential geographical indications as a communal right of the people in Indonesia. This paper adopted the normative method with data sources drawn from primary and secondary legal materials. In addition, control practices are important in the fight against illegal, unreported and unregulated (IUU) fishing. From here, the sinking of the ship became one of the control programmes. The current perspective on the problem of sinking or destroying fishing vessels is not from a legal aspect but from a standard or guideline for implementing procedures that have not been regulated, even though the Indonesian government is the subject of comparison with applicable laws.

Keywords: Illegal Fishing; National Regulation; Maritime Security.

Introduction

The illegal fishing that occurs in Indonesian waters is an important part of the eradication programme in the maritime sector of the Ministry of Maritime Affairs. The prevention and eradication of illegal fishing are intensively carried out to protect assets in Indonesian waters from the actions of foreign vessels. The policy is part of the state's fighting for and protecting Indonesia's sovereignty at sea and saving the marine potential of Indonesian waters. The eradication of illegal fishing aims to save fishery resources and ensure sustainable fisheries. It is part of protecting fishermen and the fishing industry. According to a Food and Agriculture Organization of the United Nations (FAO) article published in 2018, 'Fisheries are

one of the largest and oldest primary industries in the world, providing an estimated 59.6 million people with jobs globally.¹ The fishing industry contributes to the food supply of billions of people and is a major protein producer in developing countries.²

In practice, illegal fishing prioritises law enforcement through criminal enforcement but has been unable to solve complex problems in illegal fishing cases. At first glance, illegal fishing organised in the southern seas is a threat to foreign countries with cultural connotations, focusing on some of the main roles of leaders of illegal fishing organisations.³ The crime of illegal fishing is related to other crimes, such as human trafficking, forced labour, and crimes in the oil and gas sector, which requires a different conceptual approach from that of human trafficking. Likewise, with law enforcement issues, the model for establishing Task Force 115 has not yet provided maximum results for preventing and eradicating illegal fishing in Indonesia.⁴

Although the current progress refers to the rules for eradicating illegal, unreported and unregulated (IUU) fishing and similar regulations, there is a significant difference between current and previous knowledge. IUU fishing can occur on all scales, in domestic and international waters, causing catastrophic consequences for the fishing industry and the marine environment. This is a home task for Indonesia as a maritime country with wide waters in providing legal certainty for protecting and eradicating illegal fishing in Indonesian waters. The need for regulations, especially shipping arrangements for ships, fisheries, and the law of the sea, is a means to strengthen Indonesia's sovereignty.

One of the primary concerns of the Indonesian government is confronting the immense issues that Indonesia, by far the largest state, faces in relation to

¹ FAO, 'The Status of World Fisheries and Aquaculture 2018- Meeting the Sustainable Development Goals (Rome)' (FAO, 2018) <www.fao.org/publications> accessed 8 July 2022.

² Mary Mackay, Britta Denise Hardesty and Chris Wilcox, 'The Intersection between Illegal Fishing, Crimes at Sea, and Social Well-Being' (2020) 7 *Frontiers in Marine Science*. [589000].

³ *ibid.*[1].

⁴ Pocut Eliza, 'Laporan Akhir Analisis Dan Evaluasi Hukum Dalam Rangka Pemberantasan Kegiatan Perikanan Liar (IUU Fishing)' (Kemenkumham RI 2016).[107].

all facets of IUU fishing.⁵ The term ‘IUU fishing’ refers to operations carried out by domestic or foreign vessels that are illegal under either regional fisheries management organisation (RFMO) or coastal state rules and regulations.⁶ These activities may occur within RFMO zones or marine zones under the control of coastal governments.⁷ The Indonesian government cannot easily or effectively stop unlawful cross-border fishing operations on its own. Therefore, it is necessary to establish and expand bilateral cooperation between Indonesia and its regional neighbours, particularly between Indonesia and nations whose fishermen frequently enter Indonesian waters without authorisation.⁸

This paper is based on legal research. The approach method adopted by the researchers is a legal and comparative approach. The normative method is a research method that examines legal rules, such as laws based on normative cases. Normative legal research focuses on an inventory of positive laws, legal principles and doctrines. Furthermore, the researchers pursued legal research through several methods related to illegal fishing to find answers. This paper adopted a statutory approach and a comparative approach.

Foreign fishermen’s illegal fishing operations in Indonesian waters are not isolated but are thought to be a part of a nationwide network that is organised and sustainable.⁹ This unlawful practice is done to profit financially. Therefore, this practice might be seen as a transnational crime involving networks of foreign fishermen. For Indonesia, this unlawful cross-border activity is a major issue.¹⁰ The development of bilateral agreement cooperation between Indonesia and

⁵ Ioannis Chapsos, Juliette Koning and Math Noortmann, ‘Involving Local Fishing Communities in Policy Making: Addressing Illegal Fishing in Indonesia’ (2019) 109 *Marine Policy*. [103708].

⁶ *ibid.*[2].

⁷ Siti Awaliyah, [*et.,al.*], ‘Enforcement of Illegal Fishing Laws That Was Done by Foreign Ships in the Indonesian Sea Region, Viewed from International Sea Law’ (2020) 9 *International Journal of Criminology and Sociology*. [1164].

⁸ *ibid.*

⁹ Pujo Wahyono, ‘Transnational Crime and Security Threats in Indonesia’ (ARMY WAR COLL CARLISLE BARRACKS PA 2010).

¹⁰ Graham Euan, ‘Transnational Crime in the Fishing Industry: Asia’s Problem?’ (Nanyang Technological University 2012).

neighbouring countries and national regulation hopefully can handle illegal fishing. The researchers formulate the problem as (1) illegal fishing based on applicable national regulations and (2) combating illegal fishing based on rules.

Illegal Fishing Based on Applicable National Regulations

Indonesia is the world's largest archipelago with a total sea area of 5.8 million km², of which 0.8 million km² is territorial sea, 2.3 million km² is archipelagic sea and 2.7 million km² is the Indonesian Exclusive Economic Sea (ZEEI). Indonesia has 17,480 islands and the second-longest coastline in the world, at 95,181 km, after Russia. Geographically, Indonesia is sandwiched between the most dynamic economic and political regions of the globe, the Indian and Pacific Oceans, and two continents, Asia and Australia. This unique geographic location exposes vulnerabilities in some of the most important security dimensions. Therefore, the orientation of development that pays more attention to land areas needs to be changed, given that the sea will be a source of livelihood in the future. The development paradigm in the marine sector, which holds extraordinary natural wealth, is an assignment for the government to restore the glory of this nation as a maritime country.

Limbong states that one of Indonesia's important development assets is its marine resources, which have a large opportunity to be used as a source of new economic growth for the country. There are at least three main reasons for this opportunity. First, physically, Indonesia is the largest archipelagic country in the world, with 17,508 islands and 81,000 km of coastline, of which about 70% of the territorial area is the sea. Second, in the vast coastal and oceanic areas, there is the potential for developing various natural resources and environmental services that have not been utilised optimally. Third, as the world's population increases and development resources on land are depleted, the demand for marine products and services is expected to increase.

Looking at the potential of its natural wealth, Indonesia has abundant natural resources, especially marine resources. Without adequate integrated monitoring

capabilities, Indonesia's strategic geographical location may open up opportunities for theft and illegal use of marine resources to the detriment of the state. Illegal fishing is a problem that arises due to limited supervision. Fishing activities not governed by applicable rules and regulations and whose operations are not reported to established fisheries agencies or institutions are considered unlawful. These can occur in all forms of capture fisheries, including small-scale and industrial fisheries, fisheries in national and international jurisdictional zones, and fisheries independent of location, target species, fishing gear employed or exploitation. Illegal fishing is defined as fishing that goes against the code of ethics for responsible fishing and is done by irresponsible fishermen. Illegal fishing includes malpractice activities in using fishery resources that violate the law.

Referring to the understanding issued by the International Plan of Action (IPOA), IUU fishing was initiated by FAO in implementing the Code of Conduct for Responsible Fisheries (CCRF). The International Plan of Action-Food and Agriculture Organization of the United Nations (IPOA-FAO) divides illegal fishing into several three:¹¹

- (1) Activities carried out by national and foreign ships in the jurisdiction of the country without permission, or contrary to the country's law and regulations.
- (2) Carried out by a ship with the flag of a member country of a regional fishery organization, but its activities are contrary to the conservation and management that has been determined by the organization and the country declared by the flag or contrary to applicable international law.
- (3) Violation of national law or international obligations, including by countries that cooperate with regional fisheries management organizations.

Furthermore, there are three categories of IUU fishing:

1. Illegal fishing that takes place in another nation's territory or exclusive economic zone (EEZ) without a permit from that nation in the area in question;
2. Unreported fishing, which is defined as fishing that is not reported in the form of ship data, catches, or operations; and

¹¹ Burhan Niode, Ismail Rachman and Welly Waworundeng, 'Maritime Security in the Border Area of Indonesia-Philippines: Study in the Waters of Sangihe Islands Regency and Talaud Island Regency' (2021) 11 International Journal of Asian Social Science.[65].

3. Unregulated fishing, which is defined as fishing activity in the territory or EEZ of another country that does not conform to that country's standards.

The regulations related to illegal fishing according to international law are:¹²

- a. United Nations Convention on the Law of the Sea 1982;
- b. Food and Agriculture Organization Compliance Agreement 1993;
- c. United Nations Implementing Agreement 1995 (UNIA 1995);
- d. Code of Conduct for Responsible Fisheries 1995;
- e. International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported Unregulated Fishing 2001 (IPO on IUU Fishing 2001).

Several factors that directly or indirectly cause illegal fishing in Indonesian waters and are difficult to overcome based on the Indonesian Ministry of Maritime Affairs and Fisheries include:

- (1) A wide span of control so that supervision is not easy;
- (2) The capability of the Indonesian marine surveillance fleet remains limited;
- (3) Law enforcement is still weak, starting with the law enforcement agencies and fishery issue licensing agencies that protect illegal fishing activities. Seen in the legal decisions on illegal fishing crimes that are not firm;
- (4) Weak regulations regarding the presence of foreign fishing vessels, thus allowing the presence of such foreign vessels in the jurisdiction of Indonesian waters;
- (5) Weak capacity of fishermen's resources due to fishing fleets and mastery of technology that are still relatively simple with small vessels with small cruising power and inability to sail for long periods.

Because they contain fishery resources that have immense potential as a source of fresh economic growth and have become one of the main drivers of national development, Indonesia's expansive territorial seas and large marine resources have significant value for the country. Indonesia is the world's largest maritime and archipelagic nation, with marine waters covering about 5.8 million km² (or 75% of the country's total area), including 0.3 million km² of territorial sea waters, 2.8 million km² of archipelagic sea waters, and 2.7 million km² of sea in the ZEEI. Large fishery resources can be found in Indonesia's wide territorial waters. Because of the richness of fishery resources in Indonesian maritime waters, international parties have become interested in illicit fishing activities to use them.

¹² Halimatul Maryani and Adawiyah Nasution, 'Rekonsepsi Model Pemberantasan Illegal Fishing Di Perairan Indonesia (Analisis Perspektif Hukum Internasional)' (2019) 16 Jurnal Legislasi Indonesia.[379].

Foreign fishermen from nearby nations who unlawfully enter Indonesian waters engage in illegal fishing. These foreign fishermen harvest fish in Indonesian waters and trade them abroad to boost their income. Illegal fishing has decreased productivity and catches and harmed Indonesia's marine fisheries resources, costing the nation money. Foreign fishermen from Thailand, Vietnam, the Philippines and Malaysia routinely invade Indonesian waterways. For instance, the Natuna waters, the waters off North Sulawesi, the waters off Maluku, and the areas near the Arafura Sea are particularly vulnerable to illegal fishing. Indonesian waters are particularly vulnerable to foreign fishermen engaging in illegal fishing because they have the potential for abundant fisheries resources and their geographic location in border waters or close to international waters.

It is believed that a cross-country network conducts illegal fishing in Indonesian waters methodically and responsibly. This unlawful operation aims to make money, and Indonesian waters, which have a wealth of fishing resources, offer a high profit potential. Illegal fishing operations by foreign fishermen in Indonesian waters might be regarded as transnational crimes because their networks and activities cross borders. In Indonesia, this unlawful cross-border business is a significant problem.

The cross-border illicit fishing activities in Indonesia are difficult to stop, and the country's authorities cannot accomplish it alone. Therefore, it is also necessary to build and deepen bilateral cooperation between Indonesia and its regional neighbours, particularly between Indonesia and nations from which fishermen frequently enter Indonesian waters without authorisation. This research paper aims to reveal the issues and causes of continued illegal fishing activities in Indonesian waters and efforts to deal with them bilaterally with neighbouring countries in the region. It is expected to be useful as input for the DPR RI, especially in implementing its supervisory function on government policies related to handling illegal fishing.

The Indonesian government's legal policies in handling illegal fishing are:

- a. Undang-Undang Nomor 45 Tahun 2009 tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 2004 Tentang Perikanan;
- b. Undang-Undang Nomor 17 Tahun 2008 Tentang Pelayaran;
- c. Undang-Undang No. 5 Tahun 1983 tentang Zona Ekonomi Eksklusif Indonesia;
- d. UNCLOS.

This regulation cannot be separated from supervision, which is an important part of eradicating IUU fishing. Without supervision and control in the field, IUU practices will be increasingly wild and barbaric. The success of supervision highly depends on monitoring equipment and human supervisors. These two things form a fishery control system. Law Number 31 of 2004 concerning Fisheries imposes sanctions and fines on illegal fishing commensurate with the violations committed. Article 9 of Law Number 31 of 2004 jo. Law Number 45 of 2009 concerning Fisheries (Fishing Law) explains that 'Everyone is prohibited from owning, controlling, carrying, and/or using fishing vessels in the management area of the Unitary State of the Republic of Indonesia: a. fishing gear and/or fishing aids that are not in accordance with the specified size; b. fishing gear that does not comply with the requirements or standards set for certain types of fishing gear; c. Prohibited fishing gear'.¹³

However, the facts speak otherwise, as penalties and fines are not applied properly. Another ambiguity is the sanction of bureaucrats for licensing, supervisors and maritime security who intentionally collect fees outside the provisions or pass violators. Another obstacle to enforcing fishery law is the low participation and awareness of the community, especially the fishing community. In carrying out their fishing activities, they use hazardous materials and do not comply with the applicable laws and regulations. In addition, Indonesian entrepreneurs prefer to act as intermediaries or brokers for foreign entrepreneurs (Philippines) with a management fee system.

The policy of preventing and eradicating illegal fishing through sinking foreign vessels, which has been intensively carried out since 2015, has had a tremendous impact on sovereignty, the economy and the marine environment. Law enforcement at sea against foreign vessels and vessels that carry out illegal fishing has presented the state as the owner of sovereignty at sea. The presence of the state at sea has saved potential state income that foreign fishermen have enjoyed.

¹³ Usmawadi Amir, 'Penegakan Hukum IUU Fishing Menurut UNCLOS 1982 (Studi Kasus: Volga Case)' (2013) 12 Jurnal Opinio Juris.[74].

The eradication of illegal fishing will hopefully save fishery resources and ensure sustainable fisheries.

The prevention and eradication of illegal fishing that only prioritises law enforcement with a fisheries crime approach has been unable to solve complex problems in illegal fishing. Illegal fishing is not a single crime but part of other criminal acts related to the fishing crime, such as human trafficking, money laundering, forced labour, and crimes in the oil and gas sector, which require a different conceptual approach from the current one. Likewise, on the issue of law enforcement, the current model for establishing Task Force 115 has yet to provide the maximum results for preventing and eradicating illegal fishing in Indonesian waters.

The presence of elements of transnational crime in those of illegal fishing and fishing crime requires international cooperation to overcome them. Currently, there is no international cooperation that Indonesia can utilise to eradicate illegal fishing and fishing crime as a crime that requires international cooperation. International law has not made illegal fishing a crime with cross-border characteristics (ie transnational organised crime). Likewise, there is no coordination of preventing and eradicating illegal fishing with local governments. Moreover, there is no coordination mechanism between the regional and central governments. Therefore, a new concept is needed to fight this illegal fishing problem for each country.

Combating Illegal Fishing Based on the Rules

Reports on more governance and regulatory actions implemented to tackle the situation have reaffirmed IUU fishing's top spot on the Indonesian government's priority list.¹⁴ In addition, IUU fishing in Indonesia is commonly associated with other aspects of transnational organised crime in the fishing sector, including document fraud, forced labour, human trafficking and tax evasion. The current governance gap in Indonesia, specifically the local governments' inability, incapacity and inefficiency to act as the extension of central government policy

¹⁴ Chapsos, Koning and Noortmann (n 5).

and law enforcement in their regions, leads to several issues with IUU fishing and harsh conditions in the Indonesian archipelago's more remote areas. Indonesia's decentralisation and regional autonomy did not provide the required response.

Per the terms of article 69 paragraphs (1) and (4) of Undang-Undang No 45 of 2009 concerning Amendments to Undang-Undang No 31 of 2004 Concerning Fisheries, Tentang Perikanan 2009 and other applicable laws. Fishery supervisory vessels have the duty to carry out supervision and law enforcement in fisheries within the Republic of Indonesia's fishery management area, according to article 69 paragraph (1) of the Fisheries Law. Whereas article 69 paragraph (4) specifies that if adequate preliminary evidence is supplied, fishery investigators or supervisors may take exceptional steps, such as sinking or burning foreign-flagged fishing vessels, in the course of performing the tasks mentioned in paragraph (1).

Marine and coastal guards, in carrying out safety and security functions at sea, perform the following tasks:

- a. supervise the safety and security of shipping;
- b. supervise, prevent and control pollution at sea;
- c. supervision and control of ship traffic and activities;
- d. supervision and control of salvage operations, underwater work, and marine resource exploration and exploitation;
- e. security of Sailing-Navigation Assistance Facilities; and
- f. support with the implementation of reality activities at sea.¹⁵

In addition, the marine and coastal guards have the authority to:

- a. implement sea patrols;
- b. carrying out hot pursuits;
- c. stop checking and ships at sea; and
- d. investigate the case.¹⁶

The crucial point to remember is that sinking foreign ships must be done with appropriate preparatory proof and not randomly. Preliminary evidence to suspect a criminal act in the fisheries sector by a fishing vessel flying another flag, such as one that appears to be missing a Fishing Permit (SIPI) and a Fish Transport Vessel Permit, is what is meant by 'adequate preliminary evidence' (SIKPI). Actually,

¹⁵ UU No. 17 Tahun 2008 tentang Pelayaran, Pasal 277 ayat (1).

¹⁶ UU No. 17 Tahun 2008 tentang Pelayaran Pasal 278 ayat (1).

catch and/or transport fish when they enter the fishery management area of the Republic of Indonesia. And also to prevent, reduce and control pollution caused by passing ships.¹⁷

It is also arranged Undang-Undang Nomor 17 Tahun 2008 about shipping (the next word called law of shipping) in accordance with article 27 states ‘Untuk melakukan kegiatan angkutan di perairan orang perseorangan warga negara Indonesia atau badan usaha wajib memiliki izin usaha.’ As described in explanatory article 27. ‘Kewajiban memiliki izin usaha dalam melakukan kegiatan angkutan di perairan dimaksudkan sebagai alat pembinaan, pengendalian, dan pengawasan angkutan di perairan untuk memberikan kepastian usaha dan perlindungan hukum bagi penyedia dan pengguna jasa.’ According to this clause, the special action may not be taken randomly but only when the fishery investigator or supervisor is certain that the fishing vessel flying a foreign flag has committed a fisheries offence, as described in the Pasal 64 ayat (4) explaining the law of fisheries.

Violations in Indonesia’s territorial sea and archipelagic waters are generally related to the right of passage of foreign ships, namely the right of innocent passage and the right of archipelagic lane passage, which is a violation of the prohibitions stipulated by Indonesian laws and regulations on the matter. Meanwhile, violations in the ZEEI by foreign fishing vessels are generally illegal fishing.¹⁸ This practice often occurs in the territorial sea of Indonesia with the discovery of foreign vessels carrying out fishing activities.

As confirmed in the Supreme Court Circular Letter Number 1 of 2015 concerning Evidence of Ships in Fisheries Criminal Cases, the Head of the District Court lacks the authority to grant approval. Several conditions must be met when carrying out these special actions, including conditions in which the ship performs a manoeuvre that puts the captain and crew at risk of attack. There are also objective requirements, including the fundamentals of a foreign-flagged vessel with all foreign

¹⁷ Komar Kantaatmadja, *Bunga Rampai Hukum Lingkungan Laut Internasional* (Alumni 1982).[62].

¹⁸ Khaidir Anwar, *Hukum Laut Internasional Dalam Perkembangan* (Justice Publisher 2015).

crew members, the scene of the incident in the Indonesian fisheries management area, not having any documents from the Indonesian government, carried out with the principle of prudence and orders from the leadership. While the alternative requirements are that the old ship is supported by the fact that it has a letter and/or does not have a high economic value, the ship does not support being brought to base because it is easily damaged or dangerous, the cost of towing the ship is too high, and the ship carries goods containing infectious diseases or toxic materials and is dangerous. Before taking special actions, officers must first check the crew, take an inventory of all ship equipment and equipment, take documentation, take fish as evidence, and make official reports.

Fisheries criminal acts that can be imposed by ships with either Indonesian flags or foreign flags are regulated in the provisions of article 93 paragraph (1) and paragraph (2) jo. article 27 paragraph (1) of Law Number 31 of 2004 concerning Fisheries. This provision regulates offences that can be sufficient initial evidence to carry out executions or special actions in the form of sinking ships suspected of illegal fishing. These provisions expressly stipulate that the ship must have SIPI so that special actions for sinking the ship cannot be carried out arbitrarily. In this case, the officer or fishery supervisory vessel must carry out supervisory duties according to predetermined procedures. This is regulated in the Standard Operating Procedures (SOP) for Handling Fisheries Crimes which is an inseparable attachment to the Charter of Mutual Agreement between the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia and the Indonesian National Police and the Indonesian Navy.

Moreover, the legal technicalities of ship sinking are regulated in article 66C paragraph (1) letter K, which states that when carrying out the tasks referred to in article 66, the fishery supervisor is authorised to take special actions against fishing vessels that attempt to escape, fight or endanger the safety of the ship. fishery supervisors and/or fishing vessel crews. According to the authors, this provision does not require the approval of the Chairman of the District Court. This article introduces the provisions of article 111 of UNCLOS (United Nations

Convention on the Law of the Sea) concerning the rights of hot pursuit regarding the instantaneous pursuit of a foreign ship if the competent authorities of the coastal state have sufficient reason to think that the ship has violated statutory regulations.

Furthermore, other legal technicalities of the ship sinking, namely the act of destruction, referred to in article 76A of the Fisheries Law Regulation, which stipulates that after obtaining court approval, objects and/or tools used or produced as a result of fisheries crimes can be confiscated or destroyed. In this case, a fishing vessel involved in a fishery crime that has been legally confiscated by investigators and used as evidence, if it is to be destroyed or auctioned off, the investigator must seek approval from the head of the local district court. If the case has been transferred to the Court of First Level, Appeal and Cassation, the approval for the destruction is issued by the Chair concerned. However, if the case has been delegated to the panel, the approval for the destruction is issued by the relevant Panel of Judges.

The Criminal Code or the Criminal Code in Book II of the Criminal Code on Shipping Crimes articles 438-479 and Book III concerning Violations based on acts that according to the regulations are punishable because the Criminal Code regulates illegal fishing as more related crimes. Under article 63 paragraph 2 of the Criminal Code regarding special crimes that can be imposed on perpetrators of illegal fishing with shipping crimes. This provision certainly refers to fishery issues regulated outside the Criminal Code, namely the RI Law no. 45 of 2009 concerning Fisheries.¹⁹ Judging from Article 284, which regulates the operation of ships operating in Indonesian waters, they will be sentenced to a maximum imprisonment of five years and a maximum fine of Rp 600,000,000.

Should the case of illegal fishing and the handling of illegal vessels be delegated to the Public Prosecutor or have legal or permanent force, the authority to carry out the destruction is the Prosecutor's Office. However, in practice, other parties such as the Ministry of Maritime Affairs and Fisheries may submit proposals to carry out the sinking for several reasons, including fishing boats are easily damaged or

¹⁹ I Komang Suka'arsana, 'Penegakan Hukum Terhadap Tindak Pidana Pencurian Ikan' (2018) 1 Hukum Pidana dan Pembangunan Hukum.[3].

dangerous. The current perspective on the problem of sinking or destroying fishing vessels is not a legal aspect but in terms of standards or guidelines for implementing procedures not yet been regulated, even though the Indonesian government has sunk 152 fishing vessels that have been involved in fisheries crimes.

Thus, illegal fishing is a transnational crime requiring a lot of cooperation and strong legal rules in handling and eradicating nationally and internationally. In addition, various international conventions in the law of the sea and fisheries and various international criminal conventions have not defined illegal fishing as a transnational crime. So that the Indonesian government takes action based on the rules that have been set as part of maintaining sovereignty and protecting all wealth in Indonesian marine waters.²⁰ Internal sovereignty means that the state has legislative, executive and judicial jurisdiction over every activity in its territory.²¹

Conclusion

Illegal fishing is one transnational crime that occurs in Indonesian waters. Indonesia as a waters country protect international water with applicable national regulations. Generally illegal regulation on IUU fishing listed in UNCLOS 1982 is an international agreement regulating all forms of sea use and utilising the natural resources contained within it. The prevention of illegal fishing is also carried out by the administration, namely checking and testing ship worthiness certificates, manning fishing vessels, and ship safety on every ship operating in Indonesia, including ship sinking as a form of sanction against illegal fishing activities that are detrimental to coastal or archipelagic countries and are considered not to respect sovereignty. From this description, the enforcement of illegal fishing in Indonesia is based on several applicable rules: (a) Amendments to Law Number 31 of 2004 Concerning Fisheries, (b) Law Number 45 of 2009 and Shipping Law Number 17 of

²⁰ Teale N Phelps Bondaroff, Wietse Van Der Werf and Tuesday Reitano, 'The Illegal Fishing and Organized Crime Nexus: Illegal Fishing as Transnational Organized Crime', *The Global Initiative Against Transnational Organized Crime and The Black Fish*, vol 84 (2015).[51].

²¹ John F O'Brien, 'Responding to Rogue Regimes: From Smart Bombs to Smart Sanctions' (2001) 36 *New Eng. L. Rev.*[707].

2008, (c) Law No 5 of 1983 concerning the Indonesian Exclusive Economic Zone, and (d) UNCLOS. It is necessary to compare the law in its enforcement to adjust the sanctions applied. Therefore, the regional laws of coastal countries are required to unify the rules for the crime of illegal fishing. It is hoped that with UNCLOS each country can respect the sovereignty of other countries in carrying out international activities without violating regional laws.

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