

Prevention of Illegal Fishing Crime in the Perspective of Criminal Policy

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Abstract:

Introduction: The aim of this study is to define the factors that cause the big number in illegal fishing done by foreign vessels in Aceh water territory. This study also aims to find out the preventive actions of illegal fishing from the perspective of criminal policy in Aceh water territory.

Research Methodology: This research used the empirical juridic approach. The data used in this research was primary and secondary data. Data collection was conducted by library research and also field study. Those data were then analyzed through some steps which were data selection, data clarification, and data systemizing. The data that had been analyzed were presented in the form of elaboration which was interpreted or comprehended to get the discussion and qualitative analysis. The conclusion was then drawn at the end of the process.

Discussion: The result of this study has shown that the factors that cause the big number of illegal fishing done by the foreign fishing vessel in Aceh water territory Aceh was due to the huge area of Aceh waters that can not thoroughly be covered by the Indonesia Navy both in Indonesian Defence Force (TNI) or Indonesian National Police (POLRI) and the related agencies in handling this matter (Ministry of Marine Affairs and Fisheries / Marine and Fisheries Resources Surveillance). Other results are the lack of ability from supervisor personal and weak coordination among all concerned agencies.

Conclusion: The related agencies, especially in law enforcement, are expected to implement the regulation about confiscated foreign vessels, so that crew of the vessels will be deterrent to commit the same crime. Moreover, the agencies are expected to improve their human resource competencies to solve the crime of illegal fishing committed by foreign vessels professionally and effectively. It is then to be expected that the aim of the criminal court system to prevent this crime will be met.

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I. INTRODUCTION

Indonesia is an archipelago state consisting of many islands located on the huge sea. The data about the Republic of Indonesia Area show that Indonesia consists of around 17.504 islands, and the number that has been standardized and submitted to the United Nations is 16.056 islands. With the area of land of 1.900.000 km² and the water-covered areas reaching 6.400.000 km² (including the Exclusive Economic Zone and Indonesian continental shelf) or about 81% of Indonesian total areas. Indonesian coastline length reaches 108.000 km² which is the longest coastline in the world.^[1]

Aceh is an area that is prone to illegal fishing. This is due to Aceh strategic sea location and Aceh also has great potential of marine natural resources both biological and non-biological. Data has shown that Aceh area is 57.365,65 Km², surrounded by the Indian Ocean on its west and south part, and Malaka Strait and the Andaman Sea on its north and east part with the coastline length of 2.666,27 km. While the area of waters reaches 295.370 km² which covers the territorial area of waters and islands of 56.563 km², and its Exclusive Economic Zone at 238.807 km². The sustainable potential reaches 272,7 thousand ton/year which can be proved in the statement told by the secretary of *Panglima Laot* of Aceh Province that the number of fishing vessels is 16.701 units and the number of fishermen is 64.466 people.^[2]

Undoubtedly, with the great potential and area of waters in Aceh Province, Illegal Fishing by foreign vessels on Aceh waters are frequently committed which is shown below. This is a breach of Law No. 31 of 2004 about fishing which is amended to be Law No. 45 of 2009 about fishing.

^[1]Center for Hydrography and Oceanography of Indonesian Navy by Official National Data Record of Republic of Indonesia Area on Friday, Agust 10, 2018 that has published the National Data Resource.

^[2]*I b i d.*

Table 1.1: The Number of *Illegal Fishing Crime* by Foreign Vessels on Aceh Waters from 2016 to 2019

No	Year	Vessels Name	Country	Weight	Name and Nationality of Criminal	Remarks
1.	2016	KM PKFB 1035	Malaysia	GT 64,70	Chayut Phonarie Thailand	LP/41/II/2016/ Ditpolair Baharkam Article 92 Jo Article 102 and Article 93 paragraph (2) Jo Article 102 and Article 85 Jo Article 102 and Article 98 Jo 102
		KM KHF 1959	Malaysia	GT 64,74	Rungnakom Mnakam Thailand	Lp/47/II/2016/ Ditpolair* Baharkam**
		KM PKFB 669	Malaysia	GT 67,20	Montree Sama Ae/Thailand	LP/64/III/2016/ Ditpolair Baharkam
		KM PKFB 992	Malaysia	GT 54,92	Nai Kyaw Win, Nai Ong Janu, Aung Mio Thu/ Myanmar	LP/88/IV/2016/ Ditpolair Baharkam
		KM PKFB (U) 1639	Malaysia	GT 26,13	Chaipon/ Thailand	LP/109/V/2016/ Ditpolair Baharkam
		KM PKFB 939	Malaysia	GT 65,18	Samad Ruengder/ Thailand	LP/161/IX/2016/ Ditpolair Baharkam
2.	2017	KM PKFB 1488	Malaysia	GT 64,99	Sakon/ Thailand	LP/16/II/2017/Ditpolair Baharkam Polri
		KM KHF 1742	Malaysia	GT 64,39	Nai Hun Tun Myanmar	LP/45/IV/2017/Ditpolair Baharkam Polri
		KM KHF 1821	Malaysia	GT 63,19	Yan Naing Myanmar	LP/16/V/2017/Ditpolair Baharkam Polri
3.	2018	KM.PKFB 1099	Malaysia	GT 49,69	Tin Oo. als Nai Som Rot Myanmar	LP/26/I/2018/ Ditpolair Baharkam Polri
		KM.PKFB 1108	Malaysia	GT 52,20	Yout Saeoueng Myanmar	LP/25/I/2018/ Ditpolair Baharkam Polri
		KM.KHF 315	Malaysia	GT 67,58	Naing Lin Myanmar	LP/124/IX/2018 Ditpolair Baharkam Polri
4.	2019	KM.KHF 2598	Malaysia	64,19 GT	Winai Buntichit/ Thailand	No. 05/LAN.1-HIU12/PW.413/II/2019
		KM. KHF 1786	Malaysia	64,45 GT	Samroeng Thupthianthong/ Thailand	No.08/LAN.1-HIU12/PW.413/VI/2019

Source: Aceh Directorate of Water and Air Police* (*Ditpolair*) and Lampulo Marine and Fisheries Resources Surveillance, 2019.

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From all the obstacles (either it is the general issues or ones involving legal process) mentioned above, that means the policy that the researcher wants to suggest is that the criminal policy. Based on the elaboration above, the researcher is interested in studying this problem as the topic for his research entitled “**Prevention of Illegal Fishing Crime in the Perspective of Criminal Policy**”. Moreover, the research problem of this research is why the legal investigation of criminal action of illegal fishing are still not effective in Aceh Province.

II. RESEARCH METHODOLOGY

The method used in this research is juridical empirical by doing a comprehensive study through observation and on-site-interview^[1] at the research location, especially at Aceh Directorate of Water and Air Police, Water and Air Police Unit in the Working Unit of Aceh Police Department, and any related agencies to illegal fishing criminal like *panglima laot* and his crew. To support the research analysis, the interview was conducted normatively by reviewing the valid legal resources which are related to efforts in overcoming illegal fishing crime done by foreign fishing vessels. They are books, articles, and journals found both on the internet and in Legislation.

In empirical research method used in this study, the respondents and informants are elaborated as follow: ^[2]**Respondent(s)** in this study are 3 (three) Investigation Staff of Aceh Directorate of Water and Air Police, 3 (three) criminals who committed the illegal fishing, 2 (two) prosecutors at Regional Court of Langsa, and 2 (two) judges from the same Court. **Informant(s)** in this study are Director of Aceh Directorate of Water and Air Police, 2 *Panglima Laot(s)*, Staff at Langsa and Lampulo Marine and Fisheries Resources Surveillance(PSDKP), and naval basestaff.

III. RESEARCH RESULT AND DISCUSSION

Few factors that become the causes of illegal fishing committed by foreign fishing vessels in Aceh waters are wide are of Aceh waters which makes the supervision of the water became more challenging and not easy, the limited ability and resource of waters supervision of Aceh Waters both in facilities and infrastructure, the non-effective or weak law enforcement in preventing illegal fishing both in law enforcement agencies and the agencies that issue a permit of fishing matters. It can be seen on how illegal fishing is being handled not as strict as it should be. It can also be seen on the weak regulation to control foreign fishing vessels that allows even more foreign fishing vessels on the jurisdiction of Indonesian waters, especially Aceh. Moreover, the fact of the incapability of fishermen resource in the technology used for fishing in most of Indonesia fishing vessels are still considered simple, not to mention the small size of the vessel that can only reach limited area and limited amount of time.^[3]

Generally, the law enforcement on the illegal fishing crime comes up with some obstacles, they are: **General obstacle** is in the Legal Substances which are the Law Enforcement Officers, legal facilities and means, and public awareness. **Obstacle in the legal process** is in the investigation process, Prosecution Process and other obstacles (general obstacles and obstacles in all the legal process)

The result of this study has shown that the cause of huge numbers in illegal fishing crime are huge are of Aceh waters that can not thoroughly be covered by the Indonesia Navy both of Indonesian National Armed Forces (TNI) or Indonesian National Police (POLRI) and the related agencies in handling this matter (Ministry of Marine Affairs and Fisheries / Marine and Fisheries Resources Surveillance). Other results are the lack of the ability from supervisor personal and the weak coordination among all concerned agencies. The efforts are done to overcome illegal fishing matter in criminal policy perspective was conducted in two ways. First, it is Criminal Law Means which are from the arresting of the crime, investigation, court trial process, to impose the deterrent effect for others, sentencing the criminals that commit the illegal fishing by using foreign fishing vessels, to sinking the foreign fishing vessels that commit illegal fishing. Second, it is the Non-legal Means which is supervising public by holding activities to strengthen fishermen community in avoiding illegal fishing as well as improving routine by coordinating with concerned agencies (Indonesian Navy Force, Indonesian Police Department/ Aceh Directorate of Water and Air Police, Water and Air Police Unit in the Working Unit of Aceh Police Department Polri, and staff at Ministry of Marine Affairs and Fisheries / Marine and Fisheries Resources Surveillance (KKP/PSDKP). This is also supported by starting cooperation with Trilateral Coordinates Patrol of Malsindo (Malaysia, Singapura dan Indonesia).

IV. CONCLUSION

The related agencies, especially in law enforcement, are suggested to impose the regulation strictly to confiscated foreign vessels, so that other foreign vessels will be deterrent to commit the same crime. The related agencies are also suggested to improve the ability and competence of the human resources, so that in the process of solving this case and enforcing the law to this crime of illegal fishing can be conducted professionally and effectively. In the end, it is expected that by doing these suggestions, the aim of the integrated criminal justice system in overcoming crime in the fishing can be met. Moreover, the related agencies are also expected to hold maritime education for society to raise awareness about the Indonesian sea resources potential that can be developed and help to improve the economic condition that does not prosper the community yet.

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