

Law Enforcement Against Illegal Fishing Crimes in Maluku Waters

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Abstract

Introduction: The waters of Maluku are often the main target of Illegal Fishing crimes. The problem in this writing is what factors cause the development of illegal fishing crimes in Maluku waters and how to enforce the law against illegal fishing crimes that occur in Maluku waters.

Purposes of the Research: The purpose of this writing is to study and analyze the factors that cause and enforce the law against illegal fishing crimes in Maluku waters.

Methods of the Research: The research method used is empirical juridical, the data sources used are primary data and secondary data. Data collection techniques through observation, interviews and literature studies. Qualitative data analysis techniques.

Findings of the Research: The results of the study show that the Factors Influencing the Development of Illegal Fishing Crimes in Maluku Waters are upwelling conditions around the Banda Sea and the sea; the geographical location of the Maluku Islands which has an impact on the vulnerability of control and connectivity; coral reef ecosystems, mangroves and seagrass beds that are still good in Maluku waters; lack of human resources for law enforcement officers and fishermen; lack of supporting facilities/facilities; lack of budget; lack of supervision; weak regulations; and lack of community participation. Law Enforcement against Illegal Fishing Crimes in Maluku Waters is influenced by legal factors/statutes; law enforcement officers; supporting facilities/facilities; society and culture.

Keywords: Law Enforcement; Crime; Illegal Fishing.

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INTRODUCTION

The existence of the Fisheries Law not only regulates administrative governance in the fisheries sector, but also serves as a legal umbrella for the law enforcement process in the fisheries sector. For example, Article 93, Article 94, and Article 94A regulate criminal sanctions for perpetrators of illegal fishing. The criminal sanctions that can be given are imprisonment for 5-7 years and a fine of IDR 1.5 billion - IDR 20 billion. The existence of the Fisheries Law as an administrative penal law.

According to Barda Nawawi Arief, administrative criminal law is a manifestation of the policy of using criminal law as a means to enforce or implement administrative law.¹ As an administrative penal law, the criminal sanctions contained in the Fisheries Law are the *Ultimum Remedium* in the law enforcement process. Criminal sanctions are the final effort to impose sanctions or punishments on perpetrators of fisheries crimes including illegal fishing crimes in Indonesia. The demand for fish increases from year to year, forcing people to look for alternative fishing areas, even violating existing regulations. Indonesian people's

¹ Barda Nawawi Arief, *Kapita Selekta Hukum Pidana*, (Bandung: Citra Aditya Bakti, 2003), p. 15

consumption of marine commodities in the form of fish has increased from 2012 to 2017. In 2012, the amount of fish consumption by Indonesian people was 33.86 kg/capita/year. In 2013, it increased to 35.21 kg/capita/year. In 2014, it became 38.14 kg/capita/year. In 2015, it continued to increase to 41.11 kg/capita/year. In 2016 it became 43.94 kg/capita/year until 2017 the amount of fish consumption by Indonesian people was 47.34 kg/capita/year.² The increasing level of fish consumption forces people to expand their fishing areas, and it is not uncommon for people to fish illegally around conservation areas which are clearly prohibited.³

One of the areas that is often a favorite fishing area for Indonesian and foreign fishing vessels is the Maluku waters. In fact, the Maluku waters are often the main target of Illegal Fishing crimes. The Arafura Sea, located in the eastern part of Indonesia (Maluku), is part of WPP-NRI 718 which is rich in fish resources of high economic value. Therefore, this area has always been an attraction for industrial-scale fishing vessels to fish both legally and illegally. For example, the IOJI (Indonesia Ocean Justice Initiative) report detected the movement of two foreign-flagged fishing vessels (KIA Russia and KIA China) moving into the Arafura Sea waters to catch fish and transfer fish in the middle of the sea (Transshipment) in mid-June 2024.⁴

The Ministry of Maritime Affairs and Fisheries also stopped the actions of five Indonesian fishing vessels (KII) that violated the rules in WPPNRI 714 Tolo Bay and Banda Sea Waters and in the Makasar Strait. Three of the vessels are suspected of violating the Fishing Area (DPI), while the other two vessels are suspected of fishing without business permit documents and using prohibited fishing gear.⁵ Based on the description above, the author is interested in conducting research entitled: Law Enforcement Against Illegal Fishing Crimes in Maluku Waters.

METHODS OF THE RESEARCH

This type of research is empirical juridical, namely examining the applicable legal provisions and what actually happens in society.⁶ Empirical juridical research is a study conducted on the actual conditions or real conditions that occur in society with the intention of knowing and finding the facts and data needed, after that the data needed has been collected then leads to problem identification which ultimately leads to problem solving.⁷ So in this study, we want to study and find out the factors that influence the development of illegal fishing crimes in Maluku waters and law enforcement against illegal fishing crimes in Maluku waters. Data sources used in this study are primary data and secondary data. Primary data is data obtained directly from the first source related to the problems to be discussed by conducting structured interviews with both law enforcement officers and the community who know or are directly involved in illegal fishing practices in Maluku waters,

² Kementerian Kelautan dan Perikanan, *Laut Masa Depan Bangsa: Kedaulatan, Keberlanjutan, Kesejahteraan*, (Jakarta: Buku Kompas, 2018), p. 79-80

³ Yanti Amelia Lewerissa, et al, "Criminal Policy on Destructive Fishing Activities in Serutbar, Indonesia", *Jambura Law Review* 15, no 2 (2023): p. 236

⁴ IOJI, Deteksi dan Analisis Dugaan Praktik Penangkapan Ikan secara Ilegal di Wilayah Perairan dan Yurisdiksi Indonesia, 11 Juni 2024, <https://oceanjusticeinitiative.org/2024/06/11/deteksi-dan-analisis-dugaan-praktik-penangkapan-ikan-secara-ilegal-di-wilayah-perairan-dan-yurisdiksi-indonesia/>

⁵ Menpan RB, Amankan enam kapal ikan, KKP perketat pengawasan di daerah rawan illegal fishing, <https://www.menpan.go.id/site/berita-terkini/berita-daerah/amankan-enam-kapal-ikan-kkp-perketat-pengawasan-di-wilayah-rawan-illegal-fishing>.

⁶ Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktek*, (Jakarta: Rineka Cipta, 2012), p. 126

⁷ Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta: Sinar Grafika, 2002), p. 15

such as fishermen and crew. While secondary data is obtained by conducting library research on the research materials used which include primary legal materials, secondary legal materials and tertiary legal materials. Primary data is collected through field studies in the form of observations and interviews. While collecting secondary data is done through library studies. Furthermore, the collected data is processed using narratives or tables and then analyzed qualitatively.

RESULTS AND DISCUSSION

A. Overview of Illegal Fishing in Maluku Waters

IUU fishing practices in the Arafura Sea have been going on since 1979. The intensity of IUU fishing in the 1970s is thought to be much greater than the current situation. However, this does not mean that IUU fishing is no longer significant. The number of fish thefts in the Arafura Sea is still quite large.⁸ The upwelling phenomenon in the Banda and Arafura Seas, which is included in the type of alternating upwelling, causes this area to be rich in potential fishery resources and is often a fishing zone. Upwelling in the Banda Sea from 2003 to 2019 was fluctuating, there was an increase in April to a peak in August, then a decrease in upwelling in September to October.⁹ Upwelling in the Arafura and Banda Seas occurs in the East Season, namely from May to September, the rising water mass comes from a depth of 125-300 meters.¹⁰ Upwelling conditions cause an increase in the number of fish coming around these waters because of the high chlorophyll content. so that in April to August the Maluku waters are busy with fishing vessels, both local and foreign.

The Ministry of Marine Affairs and Fisheries estimates that of the 7, 000 fishing operation permits in Indonesian waters, 70% of them consist of foreign vessels. Therefore, the estimated loss can reach IDR 16 trillion/year, in the form of losses due to loss of fees, labor skill contributions, fishing results contributions and losses due to indirect fuel subsidies.¹¹ Thus, illegal fishing has a negative impact on the Indonesian economy in addition to the problem of stolen fishery resources if using dangerous fishing gear, it will also have an impact on the surrounding environment and the issue of Indonesian state sovereignty which is entered by foreign fishing vessels without permission or against the law. Based on data on the handling of illegal fishing cases by the Sub Directorate of Legal Development of the Directorate of Water and Air Police of the Maluku Regional Police (Subdit Gakkum Ditpolairud Polda Maluku) in 2019-2024, illegal fishing cases handled from year to year have decreased. However, in reality, various local and national mass media still report on illegal fishing cases that are rampant in Maluku waters. The following is data on case handling by the Gakkum Sub-Directorate of the Water Police Directorate of the Regional Police:

Table 1. Handling of Illegal Fishing Cases by the Gakkum Sub-Directorate of the Water Police Directorate of the Maluku Regional Police in 2019 - 2024

Number of Cases					
2019	2020	2021	2022	2023	2024
1	1	2	1	-	1

⁸ Victor Nikijuluw, *Blue water Crime*, (Jakarta: Pustaka Cidesindo, 2008), p. 74
⁹ Galih Tristianto et al, "Studi Variabilitas Upwelling di Laut Banda", *Indonesian Journal of Oceanography* 3, no 1 (2021), p. 4
¹⁰ A Nontji, *Laut Nusantara*, (Jakarta: Djambatan, 2005), p. 34
¹¹ Akhmad Fauzi, *Kebijakan Perikanan dan Kelautan, Isu, Sintesis dan Gagasan*, (Jakarta: Gramedia Pustaka Utama, 2005), p. 132-133

Source: Subdit Gakkum Ditpolairud Polda Maluku, processed by the Author

Based on the data above, illegal fishing cases that occurred around the waters of Maluku handled by the Ditpolairud Polda Maluku did not experience a significant increase. In 2019 there was only 1 case, in 2020 only 1 case, in 2021 it increased to 2 cases, in 2022 there was only 1 case, in 2023 no cases were handled and in 2024, there was only 1 case. Based on the results of the author's interview with investigators from the Gakkum Subdit Ditpolairud Polda Maluku, since 2019, illegal fishing cases in Maluku have decreased. In 2021 it increased to 2 cases due to the Covid-19 pandemic which had an impact on weak supervision and community participation so that the cases that occurred increased. Furthermore, in the following years only 1 case occurred. The same thing was also conveyed by investigators at the Ambon Marine and Fisheries Resources Supervision (PSDKP) station, that the number of illegal fishing cases entering 2020 experienced a very significant decline. PSDKP Ambon only handled 5 fisheries crimes in 2021. The increase in 5 cases was due to the Covid-19 pandemic that hit Indonesia and its surroundings, providing opportunities for perpetrators to carry out illegal fishing practices. Meanwhile, in the following years, there were no fisheries crimes handled by the Ambon PSDKP station.

In fact, in several mass media reports, illegal fishing practices in Maluku waters are still occurring. As reported by the national media Kompas.com, related to the case of fish theft by two foreign vessels that was revealed in mid-April 2024 around the Arafura Sea waters. The entry of two illegal foreign vessels into the Fisheries Management Area (WPP NRI) 718 Arafura Sea is suspected to have been going on for several months. KM MUS is suspected of supplying subsidized diesel fuel to foreign ships RZ 03 and RZ 05 in the middle of the sea. On KM MUS, diesel was found stored in the fish holds. From the results of the examination of the ship's manual records in the steering room, the transported diesel was recorded as 870 drums or 150 tons of diesel fuel, some of which had been supplied to the two foreign ships.¹² At the end of 2024, precisely in November, national media Kompas.com again reported cases of illegal fishing around the waters of Maluku. Specifically in the Fisheries Management Area (WPP) 718, covering the Arafura Sea, Aru Sea, and Timor Sea, there were 29 Indonesian Fishing Vessels (KII) and 1 Foreign Fishing Vessel (KIA) that were arrested by the PSDKP (Marine and Fisheries Resources Supervision) of the Ministry of Marine Affairs and Fisheries (KKP). The Arafura Sea is still one of the favorite areas for illegal fishing perpetrators. This is because based on the Decree of the Minister of Marine Affairs and Fisheries Number 19 of 2022 concerning the Estimation of Fish Resource Potential, WPP 718 has a fishery potential of more than 2 million tons of fishery products. In addition, the position of WPP 718 borders the waters of Australia, Papua New Guinea and Timor Leste, so there are many entry/exit points for foreign vessels.¹³ Early March 2025, the Ministry of Marine Affairs and Fisheries secured 10 fishing vessels and a transport vessel (still being hunted) on suspicion of illegal transshipment in the Arafura waters. The ten vessels were KM MJ 98 measuring 98 gross tons (GT), KM MAS (82 GT), KM HP 3 (153 GT), KM U II (97 GT), KM FN (150 GT), KM SM 8 (96 GT), KM LB (58 GT), KM SM IX (97 GT), KM MJ 8 (59 GT), and KM BSR (124 GT). Meanwhile, one transport vessel with the initials KM MS 7A is still being pursued. The illegal transshipment involving 10 fishing vessels

¹² BM Lukita Grahadyarini, Eksploitasi dua kapak asing di arafura massif dan sistimatis, <https://www.kompas.id/baca/ekonomi/2024/04/18/eksploitasi-dua-kapak-asing-di-arafura-masih-dan-sistimatis>.

¹³ Raynard Kristian Bonanio Pardede, Ratusan Kapal Ikan Ilegal Dibekukan KKP di Laut Arafura, <https://www.kompas.id/artikel/ratusan-kapal-ikan-ilegal-dibekuk-kkp-laut-arafura-dipantau-ekstra>.

further emphasizes the marine wealth in the Arafura waters and its location close to the open sea.¹⁴

Local media Maluku Ekspres.com, in mid-April 2025 reported the rampant illegal fishing practices in the Tanimbar Islands region, which has become a serious concern for the SDKP Supervisory Unit. The Tanimbar Islands are often used as transit locations by ships involved in illegal fishing. This condition can slow down the economic growth of local communities and damage the marine ecosystem that is a source of livelihood for fishermen. The sea sasi system that applies in villages in Tanimbar as a form of local wisdom is now under threat. Fishery products such as sea cucumbers from Tanimbar are starting to be suspected of being the result of illegal fishing, so that destination countries for export reject their products.¹⁵ From various national and local media reports, it is clear that illegal fishing practices are still rampant in the waters of Maluku and its surroundings. The number of illegal fishing cases in the waters of Maluku is still high and does not even reach the investigation stage as the initial stage of the criminal justice mechanism, and the numbers of unrecorded illegal fishing cases are known as dark numbers (not visible/not recorded) in criminal statistics.

B. Law Enforcement of Illegal Fishing in Maluku Waters

1. Causal Factors

There are various factors that influence the crime of illegal fishing to continue to develop and occur frequently in Maluku waters, namely: a) Upwelling Conditions in the Banda Sea and Arafura Sea. As previously explained, the sea conditions around the Banda Sea and Arafura Sea are very different from other seas in Indonesia. At certain times, there is an increase in chlorophyll levels in seawater in the Banda Sea and Arafura Sea, so that this condition causes an increase in the number of fish coming around areas with high chlorophyll content. Ironically, at that time, many Indonesian fishing vessels and foreign vessels carried out fishing activities in the Banda Sea and Arafura Sea; b) Coral reef, mangrove and seagrass ecosystems are still very good in the waters of Maluku and its surroundings. The 3 (three) ecosystems that greatly support the productivity of marine biota are coral reefs, mangroves and seagrass. Seagrass plays an important role in coastal water ecosystems. Seagrass has ecological functions including as a shelter (nursery ground), a place to find food (feeding ground), and as a spawning ground for various types of marine biota such as fish, shrimp, shellfish, and so on. In addition, seagrass is also food for green turtles and dugongs. Physically, seagrass also functions as a barrier to coastal abrasion, and as a sediment anchor.¹⁶ Meanwhile, coral reefs function as temporary or permanent residences, foraging, spawning, care, and shelter for various species of marine biota, as well as a place where global biological, chemical and physical cycles take place. Coral reefs have high biological productivity, as a source of food, medicine, and construction materials. Data from 2017 shows that the area of coral reefs in the Maluku Province is 439,110 ha or 34,911 km². This fact strengthens the position of Maluku Province which is in the world's Coral

¹⁴ M Ambari, Perairan Arafura Terus Jadi Ladang Tangkap Ikan Ilegal, <https://www.mongabay.co.id/2025/03/10/perairan-arafura-terus-jadi-ladang-tangkap-ikan-ilegal/>.

¹⁵ PSDKP Tegas Tangani Ilegal Fishing di Tanimbar : Lindungi nelayan Lokal, Tekakan Aturan, <https://malukuekspres.com/psdkp-tegas-tangani-ilegal-fishing-di-tanimbar-lindungi-nelayan-lokal-tegakan-aturan/daerah/>.

¹⁶ Arielo Sahalessy et al, "Struktur Komunitas Lamun dan Bentuk-bentuk Pemanfaatan Ekosistem Lamun di Negeri Amahai Kabupaten Maluku Tengah", *TRITON: Jurnal Manajemen Sumberdaya Perairan* 19, no 1 (2023), p. 65

Triangle.¹⁷ Meanwhile, the existence of mangrove communities in coastal areas also has very important benefits and roles for the aquatic environment and associated aquatic organisms and especially for coastal communities around it.¹⁸ With the condition of coral reefs, mangroves and seagrass beds that are still very good around the waters of Maluku, it contributes to increasing the productivity of marine biota including the abundant number of fish. So that makes the waters of Maluku one of the important fishing ground destinations; c) The geographical location of Maluku Province as an Archipelago Province that has thousands of islands so that the vulnerability of control and connectivity is a very important factor. Maluku has an island region so it is called the Thousand Island Province. From the northern tip to the southern tip, it consists of 4 large islands and 1,336 small islands, even very small ones. The four large islands include Seram Island (18,625 km²), Buru Island (9,000 km²), Yamdena Island (5,085 km²), and Wetar Island (3,624 km²). The characteristics of the Maluku region, whose sea area is larger than the land, whose population is not too dense and spread across small islands, experience limitations in productive economic activities due to inadequate distribution networks and limited economic development patterns in the Maluku community.¹⁹ The large number of islands makes the vulnerability of control and connectivity one of the factors causing illegal fishing to still occur around the Maluku waters; d) The limited sea fleet is not comparable to the area of Maluku Province. Maluku is known as the "Thousand Island Province" because it consists of more than 1,400 large and small islands spread across the waters of Maluku. Maluku has an area of around 712,480 km², with most of it being ocean (93%) and the rest land (7%).²⁰ With a sea area of 93%, Maluku Waters should be equipped with a sea fleet that is comparable to the area of its ocean. Both in terms of ship size and the number of fleets themselves. However, on the contrary, such vast waters are only supported by a very minimal number of sea fleets so that illegal fishing activities continue to occur due to the lack of adequate means/modes of transportation to carry out control and supervision in this vast sea. The Indonesian Navy (TNI AL) and the Maritime Security Coordinating Agency (BAKAMLA) are the Law Enforcement Officers responsible as mandated by the Law to carry out these tasks, because they have ship facilities as the main means to carry out patrols in the waters. The waters in question are inland waters, archipelagic waters, territorial seas, additional zones up to Indonesia's exclusive economic zone. However, this law enforcement task cannot be carried out optimally due to limited sea fleets; e) Limited Human Resources (HR) of law enforcement officers and limited HR of fishing communities. The lack of HR of law enforcement officers who master criminal acts in the fisheries sector so that it affects the law enforcement process, as well as the lack of HR of fishing communities, for example in terms of the use of more modern fishing gear and fishing vessels, makes fishermen less competitive with fishing vessels from abroad; f) Lack of budget. The problem of limited budget in the management and utilization of fishery resources in eastern Indonesia and limited budget in meeting the demand for a fleet of patrol vessels are certainly inhibiting factors and make illegal fishing continue to be rampant in Maluku waters; g) Lack of supervision. Budget limitations that impact on limited infrastructure facilities also impact the supervision process that will be carried out by law enforcement; h) Weak regulation. In

¹⁷ Dicky Sahetapy et al, "Status Terumbu Karang di Perairan Pesisir Negeri Hukurila", *TRITON: Jurnal Manajemen Sumberdaya Perairan* 17, no. 1 (2021), p. 35 - 45

¹⁸ Mauuren Tuapatinaya et al, "Kondisi Komunitas Mangrove di Pesisir Pantai Namaea Negeri Pulauw, Kabupaten Maluku Tengah", *TRITON: Jurnal Manajemen Sumberdaya Perairan* 20, no 1 (2024): 44- 53

¹⁹ La Aldin et al, "Problematika Penetapan Provinsi Kepulauan Maluku Sebagai Provinsi Kepulauan", *Jurnal Akuntansi Manajemen Pariwisata dan Pembelajaran Konseling* 2, no. 1 (2024).

²⁰ Dinas Kelautan dan Perikanan Provinsi Maluku, Tentang Maluku, <https://dkp.malukuprov.go.id/about/tentang-maluku>.

the Fisheries Law as a legal umbrella for law enforcement against illegal fishing practices, it does not explicitly and clearly formulate corporations as legal subjects that can be held criminally responsible and it is not clearly and firmly regulated if the fine cannot be paid, then what punishment will be replaced. So there is a legal loophole that provides space for illegal fishing perpetrators to continue to act; i) Lack of public awareness to participate. The causal factor of illegal fishing practices still occurring around Maluku waters is due to the lack of public legal awareness that illegal fishing is an unlawful act and if violated can be subject to criminal penalties. The community is less active in the supervision process or protecting the surrounding environment from illegal fishing practices themselves.

From the various factors above, it can be grouped into 4 large groups of factors that influence the development of illegal fishing crimes in Maluku waters. First, environmental/natural factors that include upwelling conditions around the Banda Sea and Arafura Sea at certain times so that the number of marine biota increases very high during the upwelling conditions; the coral reef ecosystem, mangroves and seagrass beds are very good in the Maluku archipelago and the geographical conditions of Maluku as an archipelago (many small islands) so that it becomes an entry and exit point for illegal fishing perpetrators. Second, educational factors that include the lack of human resources for law enforcement officers and the lack of human resources for fishing communities. Third, the ineffective legal system factor that includes the lack of budget and infrastructure affects the lack of supervision systems and law enforcement processes. And fourth, cultural/community factors that include the lack of community participation to be directly involved in the process of preventing and overcoming illegal fishing.

2. Law Enforcement

Soerjono Soekanto put forward 5 (five) important factors that influence the law enforcement process. These factors include:²¹ 1) Law/statutes; 2) Law enforcement officers; 3) Supporting facilities/infrastructure; 4) Society; 5) Culture. If the five factors above that influence law enforcement are linked to the law enforcement process in cases of illegal fishing that are rampant in the Maluku Islands region, then it can be explained as follows: 1) Legal/statutory factors: The Fisheries Law as a legal umbrella in the process of enforcing criminal acts in the fisheries sector, was formed by the government with the approval of the Indonesian House of Representatives. Its formation is expected to have a positive impact on the law enforcement process. However, in the law or legal basis itself there are still various weaknesses. For example, the absence of a corporation as a legal subject that can be held criminally responsible and the absence of a formulation of an article that regulates if the fine cannot be paid, so that it will still refer to the formulation of Article 30 of the Criminal Code when the fine is not paid, it will be replaced with imprisonment. This is very detrimental to the law enforcement process because it will be difficult to restore the losses that have been suffered due to illegal fishing practices; 2) Law enforcement officers: Law enforcers are role models in society, who should have certain abilities to accommodate the aspirations of the community. Law enforcers must be sensitive to problems that occur around them based on an awareness that the problem is related to law enforcement itself; 3) Supporting facilities/infrastructure: The certainty of handling a case always depends on the input of resources provided in the programs for preventing and eradicating illegal fishing crimes. It is better to complete the facilities and infrastructure in law enforcement by adopting the

²¹ Soerjono Soekanto, *Faktor-faktor yang Mempengaruhi Penegakan Hukum*, (Jakarta: Rajawali Press, 2010), p. 35

following way of thinking: (1) what is missing must be provided with a new one (2) what is damaged or wrong must be repaired or corrected. (3) what is lacking must be added (4) what is stuck must be launched (5) what is backward or declining must be advanced and improved. The vast area of the Maluku archipelago (the sea area is larger than the land area) means that the process of enforcing the law on illegal fishing that occurs in the waters of Maluku must be equipped with very adequate supporting facilities/facilities so that the law enforcement process can run smoothly. Addition of sea fleets, addition of facilities supported by sophisticated technology so that they are not less competitive with foreign fleets that use sophisticated technology when carrying out illegal fishing practices; 4) Society: Law enforcement comes from society and aims to achieve peace within society itself. Society can directly influence law enforcement. This can be seen from the public's opinion regarding the law. So there is a great tendency in society to interpret the law as an officer, in this case the law enforcer itself. There are also certain groups in society who interpret the law as a legal system or written positive law. In every criminal act or effort in the context of law enforcement, not all of them are accepted by society as a good attitude, sometimes obedience to the law is carried out by only highlighting negative sanctions in the form of punishment or criminal penalties if violated. This only raises fear in society towards law enforcers alone or their officers alone; 5) Culture: Culture or legal system basically includes the values that underlie the law that applies to law enforcers and justice seekers. Values that are abstract conceptions of what is considered good should be followed and what is considered bad should be avoided. Regarding cultural factors, there are pairs of values that influence the law, namely: 1) Values of order and values of tranquility 2) Physical values and spiritual values (morality). Related to the enforcement of the law on illegal fishing practices in Maluku waters, coastal communities and traditional fishermen play an important role in assisting the law enforcement process. So that there is a need for legal awareness in the community regarding the importance of combating illegal fishing practices and making efforts to prevent this illegal fishing. The legal culture of the community must be developed in order to prevent and overcome illegal fishing activities in Maluku waters.

Joseph Goldstein divides criminal law enforcement into 3 parts, namely:²² a) Total enforcement, namely the scope of criminal law enforcement as formulated by substantive criminal law (substantive law of crime). Total criminal law enforcement is impossible because law enforcers are strictly limited by criminal procedure law which includes, among other things, rules on arrest, detention, search, confiscation and preliminary examination. In addition, it is possible that substantive criminal law itself provides limitations. For example, a complaint is required first as a requirement for prosecution in complaint-based crimes (*klacht delicten*). This limited scope is called the area of no enforcement; b) Full enforcement, after the scope of total criminal law enforcement is reduced by the area of no enforcement in this law enforcement, law enforcers are expected to enforce the law to the maximum; c) Actual enforcement, according to Joseph Goldstein, full enforcement is considered not a realistic expectation, because there are limitations in the form of time, personnel, investigative tools, funds and so on, all of which result in the need for discretion and the rest is what is called actual enforcement. Criminal law enforcement against illegal fishing practices in Maluku waters if using the total enforcement concept which refers to comprehensive criminal law enforcement, where all violations of criminal law listed in substantive criminal law (Fisheries Law) must be prosecuted in accordance with the

²² Shant Dellyana, *Konsep Penegakan Hukum*, (Yogyakarta: Liberty, 1988), p. 39

established penalties. This total enforcement is considered ideal, but is not realistic in practice due to limited resources and time. Moreover, considering the span of control and connectivity in Maluku as an archipelago, then of course it becomes an inhibiting factor that fosters illegal fishing practices that still occur. Furthermore, full enforcement takes into account limitations such as resources (time, personnel, budget, investigative tools), so that not all violations of criminal law can be prosecuted with the same sanctions. In practice, actual enforcement often involves the use of discretion by law enforcement officers, because not all violations can be handled effectively with limited resources. Thus, criminal law enforcement against illegal fishing practices in Maluku waters when viewed from the concept of full enforcement, is greatly influenced by various factors that become limitations to action such as limited human resources of law enforcement officers and limited human resources of fishermen and the span of control as an island province so that it has a great impact on the law enforcement process which ultimately due to these various limitations, discretion can occur in enforcing criminal law against illegal fishing cases themselves. This is what is called actual enforcement.

CONCLUSION

Factors Affecting the Development of Illegal Fishing Crimes in Maluku Waters are upwelling conditions around the Banda Sea and the sea; the geographical location of the Maluku Islands which has an impact on the vulnerability of control and connectivity; the ecosystem of coral reefs, mangroves and seagrass beds which are still good in Maluku waters; lack of human resources for law enforcement officers and fishermen; lack of supporting facilities/infrastructure; lack of budget; lack of supervision; weak regulations; and lack of community participation. Law Enforcement against Illegal Fishing Crimes in Maluku Waters is influenced by legal factors/statutes; law enforcement officers; supporting facilities/infrastructure; society and culture. The factors causing illegal fishing must be addressed properly, so that it can reduce and even prevent illegal fishing in Maluku waters. Law enforcement against illegal fishing practices in Maluku waters is not only the task of law enforcement officers but is our shared responsibility.

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