



Reconstructing the Authority to Investigate Illegal Fishing Crimes as an Effort to Realize Legal Certainty

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Abstract—This study proposes a reconstruction of the authority to investigate illegal fishing offenses in accordance with an integrated criminal justice system in order to achieve legal certainty, as well as to determine and analyze the current implementation of that authority. The nature of this investigation is non-doctrinal. A systematic examination of data in accordance with statutory regulations utilizing qualitative methods. As indicated by the research findings, there is an immediate need for a reorganization of the oversight process regarding criminal activities associated with illegal fishing. Presently, the responsibility for conducting such investigations rests with the Ministry of Maritime Affairs and Fisheries, the Police, and other institutions endowed with such authority. The Indonesian criminal justice subsystem does not encompass this particular institution. Law enforcement, overlapping authority, and issues of legal certainty pertaining to investigations into unlawful fishing offenses are some of the new complications that arise as a result.

Keywords—Investigation; Illegal Fishing, Criminal Justice.

I. INTRODUCTION

The Unitary State of the Republic of Indonesia (NKRI), more commonly referred to as Indonesia, occupies a geostrategic position positioned between two continents—Asia and Australia—and two enormous civilizations: the eastern civilization of Indonesia and the western civilization of Australia. In addition, Indonesia's location between the Pacific and Indian oceans, a geostrategic advantage, places it along a heavily traveled international shipping lane. The social order of nations worldwide may be affected positively or negatively by such circumstances in Indonesia. One of the potential benefits is incorporating the Indonesian Archipelagic Sea Lane (ALKI) into the process of international commercial traffic.[1]

However, if precautions are not taken, this strategic location could become a liability, including the entrance of transnational criminals and the potential depletion of marine resources due to our inadequate capacity to detect and respond to threats—administration of law at sea. As the steward of fisheries resources, the Ministry of Maritime Affairs and Fisheries (KKP), an agency of the government, continues to refine the most suitable implementation method. More specifically, the allocation of Indonesia's territorial waters was initially planned into nine (9) Fisheries Management Areas (WPP) but was subsequently expanded to eleven (11) WPPs.[2]

The classification of this division adheres to the regulation issued by the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 18/PERMEN-KP/2014 regarding Fisheries Management Areas of the Republic of Indonesia. This regulation is based on the location from which the captured fish is collected at the port. Despite efforts to complicate monitoring, monitoring will remain a more straightforward task for fisheries management so long as the necessary technological capacity and human resources are available to determine the fishery's potential in each fishing area.[3]

The information provided will be pertinent to the fishing permits that the seafarers will be issued. Thus, the utilization of fish resources will be regulated to prevent exploitation and even unsustainable

fishing practices. Enhanced monitoring capabilities will be provided for vessels engaged in illicit, unreported, and unregulated fishing (IUU fishing). The annual financial burden on Indonesia due to fish larceny activities associated with IUU fishing amounts to approximately \$1.4 billion US dollars. Significant losses include damage to the marine ecosystem and fishery resources (if fishing equipment is not environmentally benign and unsuitable for its intended purpose). Fishing piracy has emerged as a critical concern within global fisheries management.[4]

Due to the globalization of this issue, the Food and Agriculture Organization (FAO) issued an International Plan of Action containing guidelines to prevent and eradicate extremely harmful activities. Law enforcement is conducted using a multi-agency, single-task system or a system comprised of numerous institutions with a single function. The logical outcome of this system is partiality in law enforcement, duplication of authority, a legal void, and the absence of jurisdiction over specific offenses by law enforcement officials due to zoning divisions derived from maritime law.[5]

Even though it is universally acknowledged that illicit fishing is fundamentally a crime associated with fisheries, Critical crimes that are frequently associated with illegal fishing activities include those involving the shipping industry, human trafficking, narcotics and illegal drug smuggling, weapon smuggling, and crimes against oil and natural gas, among others. The issue of criminal activities in the fishing industry is the recycling of funds. A law enforcement system at sea that employs a multi-agency single task for illegal fishing offenses, which are frequently correlated with other criminal activities, renders enforcement ineffective.

II. LITERATURE REVIEW

A. *Geopolitical Context and Urgency of Investigative Authority*

The strategic geopolitical position of Indonesia, as an archipelagic nation at the intersection of Asia and Australia, significantly impacts its policies regarding marine security and fisheries.[6] The country's distinctive geographical location makes it vulnerable to intricate maritime operations and illicit fishing issues, requiring a solid investigative body to protect its marine resources.

The necessity of reinstating investigative authority for fishing theft offenses becomes apparent when considering Indonesia's vast coasts and dependence on fisheries for food security and economic viability. Engaging in illegal fishing directly endangers marine ecology and fisheries resources.[3] Therefore, implementing appropriate investigative procedures to prevent depletion and maintain sustainable fisheries is of utmost importance.

A robust investigative authority is crucial for protecting marine resources and asserting Indonesia's sovereignty over its maritime territory. Indonesia's advantageous position on global shipping routes renders it vulnerable to transnational criminal activities, underscoring the imperative for proactive steps to combat threats and safeguard the security and sovereignty of Indonesian waterways.

B. *Fisheries Regulations and Legal Framework*

Partitioning Fishery Management Zones (WPP) in Indonesia is an essential element of the legal framework regulating the country's fisheries. This strategy provides a systematic method for controlling and supervising fishing activities throughout the varied archipelago by designating designated areas for fisheries management.[2] Every designated WPP establishes specific zones for fisheries management, enabling effective monitoring and control procedures to guarantee the sustainable usage of marine resources.

Within the broader regulatory framework governing Indonesian fisheries, the allocation of WPPs plays a crucial role in combating violations associated with fish theft. This legislative framework establishes the basis for conducting investigations and legal action against individuals involved in criminal activities within the specified fisheries management areas. The aim is to have a thorough understanding of the legislative regulations that regulate the investigation procedure specifically for offenses related to fish theft. This analysis rigorously evaluates the laws, rules, and practices related to fishing theft within the designated Water Protection Zones (WPPs).

The objective of analyzing the legislative framework of investigating fish theft charges is to identify deficiencies or loopholes that impede efficient law enforcement.[7] This entails assessing the lucidity, consistency, and efficacy of existing legislative procedures in tackling the difficulties presented by fish theft. By identifying these deficiencies, authorities can strive to correct and improve the legal framework to bolster the investigation and prosecution of crimes associated with fishing theft. Establishing WPP subdivisions provides a geographic foundation for the legal structure, strengthening Indonesia's dedication to preventing fish theft and assuring responsible fisheries management practices.

C. *Relations with Maritime Crime and International Cooperation*

Relations with Maritime Crime and International Cooperation examines the complex correlation between fishing theft and other illicit activities at sea. Examining this association underscores the intricate character of the issue, underlining that fishing theft frequently intertwines with unlawful operations at sea, such as illegal shipping and trafficking. Acknowledging these interconnected relationships is essential to formulate comprehensive approaches to address maritime crimes and comprehend its cross-border aspects successfully.

The attention then turns to the possibilities of worldwide coordinated endeavors in combatting fishing theft offenses.[8] The analysis examines the potential of international cooperation to support Indonesia in tackling these difficulties, considering the barriers and possibilities linked to cross-border collaboration. Due to the cross-border character of maritime crimes, effective countermeasures frequently require coordinated endeavors by nations and international organizations

An analysis of worldwide cooperative efforts involves the examination of multiple facets, such as the exchange of information, combined patrols, and synchronized operations aimed at countering illicit activity in maritime domains. Additionally, it considers the legal frameworks and political considerations necessary to promote international collaboration to combat maritime crimes in a comprehensive manner effectively. Gaining a comprehensive understanding of the difficulties and potential advantages of working together across different countries is crucial for developing effective plans beyond national borders and addressing the worldwide aspects of fishing theft and associated crimes.

D. Economic and Environmental Impacts and Implications for Legal Certainty

Economic and Environmental Impacts and Implications for Legal Certainty emphasizes the critical need to address the consequences of fishing theft offenses on the economy and the environment. Unlawful fishing methods can disturb people's means of making a living, unsettle markets, and result in substantial economic damages. Concurrently, these transgressions lead to the depletion of fish stocks, damage of habitats, and disruption of ecosystem equilibrium, presenting enduring risks to marine resources and biodiversity.

The study of "Implications for Legal Certainty" in the Indonesian fishing sector entails analyzing the impact of trust and reliability in the legal framework. The primary objective is to investigate jurisdiction to improve legal certainty and establish a more reliable and foreseeable legal structure. This encompasses initiatives to enhance law enforcement, expedite investigative procedures, and guarantee equitable and uniform implementation of legal remedies against fish theft violations.

It is crucial to tackle the economic and environmental consequences of fishing theft while prioritizing establishing clear legal guidelines. Indonesia aims to reduce negative economic and environmental impacts by enhancing investigative power and ensuring legislative clarity. This will contribute to developing a sustainable and safe fishing industry that benefits all parties involved.

III. METHOD

This library research uses a comprehensive approach to examine the difficulties presented by illegal, unreported, and unregulated (IUU) fishing in Indonesia. Indonesia's Archipelagic Sea Lane (ALKI) is strategically located between Asia and Australia, and it plays a crucial role in world economic traffic because of its geostrategic importance. The study examines the current regulatory framework for Fisheries Management Areas (WPP) and assesses its efficacy in mitigating the over-exploitation of marine resources. Furthermore, it examines the global initiatives spearheaded by the Food and Agriculture Organization (FAO) to address illegal, unreported, and unregulated (IUU) fishing while assessing worldwide economic and environmental impacts. The report rigorously examines Indonesia's existing multi-agency law enforcement strategy, pinpointing its strengths and limitations in tackling IUU fishing and its links to broader criminal undertakings. The process includes examining documents, studying specific cases, interviews with influential individuals involved, and comparing successful models from other countries. The anticipated results encompass a sophisticated comprehension of the difficulties, suggestions for enhanced governance and enforcement of fisheries, and ramifications for worldwide endeavors in countering illicit practices within the fishing sector. The report recommends using a thorough and unified approach to tackle the complex problems related to illegal fishing in Indonesian waters.

IV. RESULT AND DISCUSSION

Implementing the following legal enhancements promptly is critical for operationalizing the criminal justice system during investigations of illegal fishing crimes and for achieving an integrated criminal justice system: To achieve the concept of an integrated criminal justice system as embraced by Indonesia, the initial step towards enhancing legal regulations on investigative institutions or bodies is

the establishment of a distinct legal and regulatory policy concerning such entities. This policy should offer explicit guidance on the operational mechanisms and organizational framework of autonomous and integrated investigative institutions or bodies.[9]

By establishing a special law on investigative institutions or bodies, the legislative body must ensure that it aligns with the Integrated Criminal Justice System principles and functions as a subsystem within the criminal law enforcement process. This entails verifying the organizational structure, including criteria for appointing officials and designating the head or individual responsible for the investigative agency or institution. A law should emphasize that only one high-ranking official possesses the authority to appoint investigating officials, although multiple officials can be appointed. Proposals from diverse agencies, departments, or affiliated officials may inform appointments made by a single high-ranking official.[10]

Additionally, endeavors should be directed towards enhancing the disjointed operational protocols or processes of investigative agencies that have previously been operational in Indonesia in alignment with the principles of integrated management. This is because, should Indonesia decide to implement an integrated criminal justice system, each subsystem's operational protocols or processes must conform to integration. As part of these enhancement initiatives, the existing investigation system will no longer be one-way. Inconsistencies or misalignment between the Criminal Procedure Code, which serves as the legal framework or foundation for the investigation process, and other criminal laws and regulations beyond its purview (KUHP), which contain unique provisions, have contributed to the absence of a unidirectional investigation process mechanism therefore far, including mechanisms for coordinating the efforts of police, KKP, and Navy investigators and regulating illicit procedures at work.[11]

Differing criminal data from not being centralized in a single institution and from the investigation process itself may result from the investigation process involving police investigators, KKP investigators, and Indonesian Navy officer investigators who fail to adhere to this one-door system in practice while investigating illegal fishing, which is ultimately obstructive to the law enforcement process due to the absence of a monitoring system and lacks transparency. Furthermore, reforms must be implemented concerning the provisions governing the presence of multiple investigating officers who possess the authority to conduct investigations and serve as investigation coordinators in criminal cases. These modifications should be made with the transition from a one-door to a one-door investigation mechanism. They were trawling illegally. As is common knowledge, the presence of three investigating officers who share the same jurisdiction and function as investigation coordinators for a specific category of criminal activity may lead to divergent policy positions, varying interpretations during the investigation process, and concurring authority for each party involved. Maintain the belief that they possess equivalent jurisdiction to conduct inquiries.[12]

Despite being bound by the Criminal Procedure Code, which serves as the foundation for criminal procedure law in Indonesia, and statutory regulations beyond the Code governing illegal fishing, endeavors to rectify issues stemming from substantial factors or statutory policies governing the investigation of such crimes in Indonesia may serve as a point of reference for investigating officers as they carry out their responsibilities. Developing particular statutory policies that govern the operational procedures, mechanisms, and organizational structure of independent investigative agencies and institutions is an integral component of the integrated criminal justice system implemented by Indonesia. As a result, criminogenic factors have been introduced into investigative activities. This endeavor is a component of the broader initiative to enhance integrated investigations' mechanisms and work procedures.[13]

The passage underscores the urgency of implementing legal enhancements to streamline the criminal justice system during investigations of illegal fishing crimes and to realize an integrated criminal justice system in Indonesia. The initial pivotal measure entails formulating a precise legal and regulatory framework for investigating agencies.[5] This policy should offer clear and specific instructions about these institutions' operating processes and organizational structure, ensuring that they align with the principles of the Integrated Criminal Justice System.

Moreover, it stresses the importance of implementing specific legislation for investigative organizations, guaranteeing compliance with the Integrated Criminal Justice System principles, and operating as a subordinate system within the broader framework of criminal law enforcement. This encompasses providing a comprehensive description of the organizational framework, the specific requirements for selecting officials, and the process of designating the leader of the investigative agency. Emphasizing the significance of a consolidated appointment procedure, supervised by a solitary senior official, is highlighted to mitigate discrepancies.

The upcoming priority is to improve investigating agencies' operating protocols to conform to integrated management concepts. The existing unidirectional investigation system is considered

insufficient, and measures are required to resolve discrepancies between the Criminal Procedure Code and other legislations, such as KUHP, which result in a deficiency of consistent investigative procedures.

An important issue is the lack of a centralized institution and monitoring mechanism, resulting in inconsistencies in criminal data.[14] Proposed reforms aim to shift from a fragmented one-door system to a cohesive investigating framework. The difficulty is in the presence of many investigating officials, each possessing concurring authority. This highlights the want for adjustments to guarantee uniformity and openness.

Although constrained by the Criminal Procedure Code and other statutory rules, it is widely recognized that addressing problems associated with investigating illegal fishing activities is crucial. Creating precise statutory regulations that regulate investigative agencies' operational methods, techniques, and organizational structure is crucial for improving the effectiveness of integrated investigations within Indonesia's integrated criminal justice system.

V. CONCLUSION

The Integrated Criminal Justice System approach to reconstructing the authority to investigate criminal acts of illegal fishing entails returning the investigative authority to its original jurisdiction through a single door, namely by adhering to the Criminal Procedure Code. In accordance with Article 6 of Law No. 8 of 1981 concerning Criminal Procedure Law, police officers and PPNS are authorized to conduct investigations into criminal acts of illegal fishing. Consequently, there is no authority overlap, as the police are the only institution within the criminal justice subsystem with the jurisdiction to investigate illicit fishing-related crimes. Additionally, as a means of eradicating the criminal activity of illegal fishing, police institutions and authorities must be fortified with more advanced apparatus in accordance with recent developments.

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