



Law Enforcement Against Foreign Vessels Engaged In Illegal Fishing In The Waters Of Aceh Province

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ABSTRACT

In an area of 12 nautical miles, a state or region is granted the authority to manage fisheries resources and enforce law against violators in the territorial sea and Exclusive Economic Zone (EEZ). This is consistent with Law Numbers 5 and 23 of 1983 and 2014 on Regional Government amended by Law Number 9 of 2015. Law enforcement is carried out by the Marine and Fisheries Resources Management (PSDKP), Provincial Marine and Fisheries Service (DKP), Water and Air Police (Polairud), and Indonesian Navy (TNI AL) investigators. Therefore, this research aims to analyze the implementation of law enforcement against foreign vessels in illegal fishing in the waters of Aceh Province. The prevention efforts and constraints encountered during the initiatives are also explored. Furthermore, normative and empirical juridical methods are used by examining legal provisions, relevant books, and scientific works. Primary data collection is performed through interviews and the analysis is carried out using qualitative juridical methods. The results show that maritime law enforcement is conducted by Provincial DKP investigator because Regency DKP authority has been revoked. Meanwhile, surveillance activities and the law enforcement process against foreign vessels engaged in illegal fishing are coordinated among Polairud, TNI AL, and PSDKP investigators. The efforts to prevent these activities include establishing integrated investigators and improving coordination, personnel, and patrol equipment, as well as enhancing the operational budget. Constraints in the law enforcement process include ineffective surveillance and coordination among agencies with investigation authority. This is due to the extensive working area of Provincial DKP, increasing the difficulty of analyzing the entire Aceh Province. Additionally, Provincial DKP lacks sufficient personnel, budget, facilities, and infrastructure for effective surveillance.

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1. Introduction.

Coastal communities are reported to rely on sea as a source of livelihood by harnessing the wealth of fisheries resources. In the present day, various types of fishing vessels and gear have been developed. The use of fisheries resources in the modern era is based on highly advanced tools, which can have positive and negative consequences. Therefore, regulations outlined in UNCLOS 1982 (United Nations Convention on the Law of the Sea) and Law Number 23 of 2014 on Fisheries have been established to ensure that the use of fisheries resources maintains

their preservation with the marine environment. Furthermore, to ensure organized and orderly usage, a fishing permit from the Central or Regional Government is required. Considering Indonesian waters, territorial sea, inland and island waters, Exclusive Economic Zone (EEZ), and continental shelf, the sea surface, water areas, seabed, and subsoil have significant benefits or functions.² Article 5 Law Number 5 of 1983 on the Indonesian Exclusive Economic Zone (IEEZ) and Article 3 of Government Regulation Number 15 of 1984 stipulate that foreign vessels can only be allowed to fish in EEZ and fishing is

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² Yulia Wiliawati, Dkk, "Eksistensi UNCLOS 1982 Dalam Upaya Pene-gakan Hukum Laut Internasional di Perairan Negara Pantai", Jurnal Riset Ilmu Hukum, Vol. 2, No. 2 December 2022, Serang-Banten, p. 290.

prohibited without permission. This shows that foreign vessels are not allowed to fish in the territorial sea but have the right to innocent passage through the territorial sea by sailing quickly. However, many vessels illegally fish in the waters of Aceh Province. The width of a state territorial sea is determined to be 12 nautical miles, as regulated in UNCLOS 1982. Law Number 6 of 1996 on Indonesian Waters, Law Number 5 of 1983, and Law Number 23 of 2014 on the Regional Government state that the region has the authority to manage fisheries resources and enforce law against violators in an area of 12 nautical miles. This is conducted in the territorial sea and EEZ but the law enforcement has not been as effective. Article 162 of the Aceh Government Law Number 11 of 2006 specifies that Aceh has the authority to manage living natural resources in the waters, including administrative matters and fishing permits. According to this provision, any activity in the sea should have a permit.

The abundance of fisheries resources in the sea are used by national and foreign communities as well as small or large vessels with 6 or 150 gross tons. Therefore, every vessel engaged in these activities should operate based on sailing and fishing permits. Permits are highly beneficial for ensuring order, regulation, and the legitimacy of a particular action. The issuance assures the holders in conducting the business, including national and foreign vessels fishing in the sea waters. The consequences of engaging in a business without the necessary permit lead to anticipatory measures and violators may face legal sanctions, such as penalties or the nullification of permits. Therefore, a business or activity is required to obtain permits from competent officials. However, many foreign vessels fishing in the waters of Aceh Province lack proper permits and legal violations in the fishing activities. Regarding the numerous vessels without permits, the country suffers significant losses amounting to USD 4 billion annually or approximately IDR 56.13 trillion³. National vessels are fishing without permits while foreign vessels engage in these activities outside the agreements. The situations result in fishing by vessels without permits, which tend to disregard fisheries resources preservation provisions. Several vessels operate without permits but engage in fishing activities, necessitating anticipatory measures and strict law enforcement against the violators. In this context, many violators have been subjected to legal sanctions, and are still sailing without permits. The law enforcement and anticipatory measures are carried out even though the concepts are not effective.

Based on the description, the research problems can be formulated as follows:

1. How is the law enforcement against foreign vessels engaged in illegal fishing in the waters of Aceh Province?
2. What efforts are made to prevent foreign vessels from fishing without proper permits in the waters of Aceh Province?

³Mas Ahmad Santoso, Kerugian Negara akibat illegal fishing, <https://kumparan.com/kumparanbisnis/kerugian-indonesia-karena-illegal-fishing-capai-rp-56-triliun-per-tahun-1tZtgeOi9ZW/full>, accessed on 9 November 2020.

3. What are the constraints in law enforcement against foreign vessels engaged in illegal fishing in the waters of the Aceh Province?

2. Methodology.

This research uses normative and empirical methods to examine law enforcement against illegal fishing. Meanwhile, marine fisheries resources in Aceh Province are affected and the sources are categorized into secondary and primary data. Secondary data is derived from various applicable regulations related to law enforcement by agencies such as Indonesian Navy (TNI AL), Water and Air Police (Polairud), as well as Provincial and Regency/City Marine and Fisheries Service (DKP) investigators. Primary data is obtained through interviews and the analysis is carried out using qualitative juridical methods.

3. Literature Review.

Various activities, such as economic businesses, require permits. According to Bagir Manan, a permit signifies approval from authorities based on legal regulations to allow the conduct of prohibited actions or deeds.⁴ The execution of activities should agree with shared interests as stipulated in legal regulations. To achieve this agreement, activities should be grounded in permits issued by competent authorities, serving as a guide for carrying out prohibited actions. Therefore, vessel owners are required to possess a Fishing Permit (SIPI) to perform the business. This document is obligatory for every vessel engaging in fishing activities in maritime areas in the territorial sea or EEZ since the concept is an integral part of fisheries business permits.⁵ Vessels have applied for sailing and fishing permits even though some possessed the permit. The lack of permits should be examined in relation to procedural complexities or a multitude of applications. A constraint for small owners lies in the permit process, including the legal status, such as a Small Pass: a permit covering the Fishing Vessel Book, Measurement Certificate, Fishing Vessel Registration Certificate (BPKP), SIPI, and the Fisheries Business Permit (SIUP).⁶ The Central or Regional Government has the authority to regulate the permit process for vessels in its territory. In the context of the authority, vessels entering the territory for fishing should possess a permit based on the regulation.

The sovereign authority is shown in the territorial sea, representing the highest power of the state. Furthermore, this authority as vested in a state, includes the boundaries of its territory and resource wealth.⁷ The sea provides abundant fisheries

⁴Bagir Manan, Ketentuan-Ketentuan Mengenai Peraturan Penyelenggaraan Hak Kemerdekaan Berkumpul Ditinjau dari Prespektif UUD 1945, Makalah, Tidak Dipublikasikan, Jakarta, 1995, p. 8

⁵Fisheries Business Permit, <https://dmpptatim.wordpress.com/izin-usaha-perikanan/>, accessed on 9 November 2020.

⁶<https://www.mongabay.co.id/2019/04/01/kkp-dan-kemhub-sinergikan-layanan-perizinan-nelayan-kecil-bagaimana-implementasinya/>, accessed on 9 November 2020.

⁷Adwani, Fikri dan Enzus Tinianus, Hukum Laut Internasional, FH Unsyiah Press, Darussalam Banda Aceh, 2017, p. 64-65.

resources rightfully used by communities to fulfill the needs. The use of fisheries resources aims to fulfill the needs as well as improve the well-being of fishermen and general communities. As the population grows significantly and terrestrial areas become increasingly limited, communities are expected to shift economic activities to achieve livelihood interests.⁸ The use of fisheries resources necessitates policies that imply a demand for quantitative and measurable knowledge as a reference. Therefore, every action considered in the use of these resources is expected to add value to human civilization in the present and the future or for subsequent generations.⁹ In the prevention and protection of fisheries resources, cooperation has been established with various agencies, including Regency DKP, Polairud, TNI AL, and Navy Commander. However, protection, prevention, and law enforcement are primarily carried out by the Regency. Provincial DKP follows up specifically when additional support is needed, such as facilities and equipment required for surveillance, law enforcement, and personnel, including investigation teams to probe legal violations at sea.¹⁰ Coordination among relevant investigators in preventing illegal fishing should be continuous and firm, but prior warnings should be provided regarding the violation of vessels. Law enforcement actions should be carried out when these warnings are disregarded.¹¹ To ensure effective law enforcement regarding the permits of vessels, prevention policies and cooperation are crucial. These include the inclusion of DKP Civil Servant investigator and Naval Commander in Aceh, in line with local wisdom.

Provincial regions play a more dominant role and can be considered a fundamental change for regional governments. This is in line with regional autonomy where the authority of the Regency directly includes the maritime areas, specifically concerning law enforcement. The concept is related to the implementation of a regional government system stating the principles of regional autonomy.¹² In the maritime area, which is a territorial jurisdiction, law enforcement, and surveillance fundamentally fall under the responsibility of the state or region. The issue of maritime boundaries is determined by international and national maritime law, specifically those related to the violators.¹³ The practice of illegal fishing is one of the most rampant violations in Indonesian waters. Illegal fishing is carried out by foreign vessels that enter the waters and capture

fish without permission. This practice causes significant financial losses to the country every year, reaching up to IDR 240 trillion, according to former Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti.¹⁴ Prevention and law enforcement include the imposition of sanctions on individuals or legal entities and understanding the preventive nature.¹⁵ Coordination is necessary due to multiple law violations concerning fisheries¹⁶ since the variable is crucial in preventing and enforcing the law against violators. According to I Wayan Parthiana, a boundary is measured from the lines connecting the outermost points of the islands in the country concerning the determined territorial sea, which are 12 nautical miles wide as stipulated in national law.¹⁷ Therefore, coordination between law enforcement agencies determines the expected outcomes, such as achieving the sustainability and continuity of marine fisheries resources. The authority to regulate and manage governance is the power of the central and regional governments as part of autonomy. This is based on the principles of decentralization in the region, including regulating issues related to fishing in the territorial sea.¹⁸ Regional governments should monitor vessels sailing and fishing in the territorial sea to identify vessels with and without permits. In this context, law enforcement is necessary, but there should be a process of education for fishermen or fishing vessels in the maritime area.

The violations or crimes resulting from illegal fishing have affected the central and regional governments. These occur in all fishing activities, such as corruption related to obtaining fishing permits or avoiding taxes by businessmen.¹⁹ Therefore, serious efforts are needed to take appropriate and suitable measures to prevent violations. Regional governance functions to create security and order, as well as enhance the happiness of the communities. Therefore, the existence of regional government is inseparable from the goal, including various aspects of life, health, and environmental conditions.²⁰ Regions have authority over everything in the territory on land, air, or waters, to regulate and take legal actions against violators. The government is obliged to safeguard, preserve, and protect all sources of biological wealth in its maritime territory.²¹ The diversity

⁸Prpto Darsono, *Pemanfaatan Sumber Daya Laut dan Implikasinya bagi Masyarakat Nelayan*, Jurnal Oceana, Volume XXIV, Nomor 4, Balai Biologi Laut, Puslitbang Oseanologi - LIPI, Jakarta, 1999 : p. 2.

⁹Dwi Crace Rosalia Silalahi, "Analisis Perkembangan Batas Laut Indonesia di Wilayah Perairan Indonesia, Menurut Hukum Laut Indonesia maupun Hukum Laut Internasional", Jurnal Hukum Indonesia, Universitas, Vol. 2, No. 2, April 2023, p. 71.

¹⁰Adwani, Muazzin, Enzuz Tinianus, *Kewenangan Pemerintah Daerah Dalam Pengelolaan dan Pengawasan Sumber Perikanan di Wilayah Perairan Provinsi Aceh*, Laporan Penelitian Profesor, Unsyiah, 2020, p. 8.

¹¹Adwani et al., "The Coordination Between The Investigators and The Traditional Marine Leaders (Panglima Laot) in The Legal Enforcement of Fishery Criminal Offenses in The Territorial Waters of Aceh Province," *Journal Maritime Research*, Vol XVII No. 1 (2020), Poland, p. 31.

¹²Sri Rahayu Nopyandi, "Pergeseran Kewenangan Pemerintah Daerah Di Bidang Lingkungan Hidup", Jurnal Ilmu Hukum Kanun, No. 41 Edisi April 2005, Fakultas Hukum Unsyiah, p. 112.

¹³Joko Subagyo, *Hukum Laut Indonesia*, Renika Cipta, Jakarta, 2009, p. 21

¹⁴Tetty Siskha, "Pembaharuan Hukum Pidana Illegal Fishing oleh Korporasi di Zona Ekonomi Eksklusif Indonesia", Disertasi, Program Doktor Fakultas Hukum Universitas Sumatra Utara, 2023, p. 4-5.

¹⁵Supriadi, Ali Muddin, *Hukum Perikanan di Indonesia*, Sinar Grafika, 2011, Jakarta, p. 429

¹⁶Adwani at All, *Op.Cit*, p. 31

¹⁷I Wayan Parthiana, *Hukum Laut Internasional dan Hukum Laut Indonesia*, YRama Widia, Bandung, 2014, p. 278.

¹⁸Kurniawan, "Pelaksanaan Prinsip Otonomi Daerah di Indonesia Pasca Reformasi: Suatu Upaya Pemnuhan Asasi Masyarakat daerah dan Terciptanya Keutuhan Bangsa", *Jurnak Ilmu Hukum KANUN*, Fakultas Hukum Unsyiah, No. 48 of IX December 2009, p. 416.

¹⁹Garibaldi Marandita, "Penanganan Tindak Pidana Perikanan, Sub Koordinasi Kelompok Penyidikan TP Perikanan", Makalah, delivered at the National Webinar Seminar, November 4 2020, slate or p. 2.

²⁰Husni Jalil, *Hukum Pemerintah Daerah*, Syiah Kuala University Press, Darussalam Banda Aceh, 2018, p.149.

²¹Adwani et al, " Fungsi PPNS Dalam Penegakan Hukum Terhadap Penangkapan ikan Ilegal di Provinsi Aceh", Laporan Penelitian Stranas, Diayai Oleh Departemen Pendidikan dan Kebudayaan Republik Indonesia, Jakarta, 2017, p. 4.

of biological natural resources in terms of types, quantity, and uniqueness enhances the life support system. The protection of the biodiversity of natural resources and its ecosystem through the law is crucial.²² This is particularly important since illegal fishing activities are increasingly common. Fishing activities can be considered illegal when there are rules but the implementation in the field proves ineffective. Article 9 of Law Number 31 of 2004 Juncto Law Number 45 of 2009 concerning Fisheries prohibits certain activities. The possession, control, carriage, or use of fishing gear on vessels in the management area of the country includes: a. Fishing gear and tools that do not comply with the prescribed size; b. Fishing gear that does not comply with the standards set for a specific type of equipment; c. Prohibited fishing gear in the case of illegal fishing in August 2021. A total of four Vietnamese-flagged foreign vessels were apprehended by the Korpolaairud Baharkam Polri officers while stealing fish in the North Natuna Sea, which is part of EEZ, as well as incidents in other regional waters.²³ Foreign vessels have the right to peaceful passage in the territorial sea. However, this passage is considered peaceful provided the peace, order, and security of the coastal territory are not disturbed. This disturbs the tranquility of the coastal state when vessels engage in actions affecting the environment, such as illegal fishing.²⁴ Therefore, the prevention and law enforcement against violations in fishing activities are the obligations of the state and regions to achieve effective prevention.

4. Results and Discussion.

4.1. Law Enforcement Against Foreign Vessels Engaging in Illegal Fishing in the Waters of Aceh Province.

The fishing activity in the territorial sea or EEZ should be carried out based on applicable legal provisions. Each vessel is prohibited from sea without a fishing and sailing permit according to national and international maritime law, such as UNCLOS 1982. To protect and preserve marine fisheries resources, legal regulations are established in the provisions of UNCLOS 1982 and Law Number 23 of 2014 concerning Fisheries. Based on these provisions, fishing should be conducted at sea following the prevailing rules to ensure the sustainability of resources and the continued use by the communities. There are instances where vessels engage in illegal activities or violate the law. Therefore, law enforcement should be carried out against those who engage in illegal fishing activities. Proper and effective law enforcement leads to the protection and preservation of fisheries resources as stipulated in maritime and fisheries regulations. Related to natural resources abundant in the sea, Indonesia has sovereign rights to explore, exploit, conserve, and manage living and non-living resources. The protection of the

marine environment and fisheries resources, such as in the territorial sea and EEZ necessitates law enforcement.²⁵ Furthermore, enforcement of the law in IEEZ, particularly in North Natuna Sea, should be prioritized. This is an effort to realize the ideals of justice, legal certainty, and social benefits. Law enforcement is the process of making real efforts or the functioning of legal norms as guidelines for actors in traffic or legal relationships in social and state life.²⁶ In this context, duties should be performed by conducting law enforcement processes based on applicable legal procedures. Given the presence of several agencies at sea, such as investigators from DKP Civil Servant, Polairud, and TNI AL, these law enforcers need to be coordinated, working consistently to enforce the law at sea against illegal vessels. The collaboration aims to establish good cooperation and effective law enforcement for the sustainable protection of fishery resources.

The impact of illegal fishing is not only economic but can also lead to an ecological crisis in the marine environment. This causes an ecological crisis and leads to illegal activities that affect the depletion of fish stocks. Moreover, the use of fishing gear without complying with regulations can damage the ecological environment.²⁷ According to Rawan Gusmawijaya, in the enforcement of the law, coordination functions are performed. The process of apprehension is usually carried out by the authorities when there is a violation. These authorities handle the law enforcement process and coordinate with other investigators about the incident as notification.²⁸ Therefore, in efforts to capture illegal fishing vessels, coordination is carried out among investigators. The investigators from the ministry initiate pursuit and apprehension when PSDKP becomes aware of illegal fishing. The limitation lies in the number of investigators, prompting the distribution of locations based on the presence of representatives, such as Aceh, located in Lampulo.²⁹ In cases of violations of fishing law at sea, investigators typically coordinate the efforts. For instance, DKP investigators coordinate with others, specifically when there is information on illegal fishing provided by the Navy Commander (Maritime Security). Even though surveillance activities have been reduced, the monitoring facilities are limited to only one unit, with a very restricted budget and authority. This is because the jurisdiction has been assigned to investigators at the provincial level in the 0 - 12 nautical miles limit.³⁰ In the context of law enforcement at

²⁵ Tommy Hendra Purwaka, "Tinjauan Hukum Laut terhadap Wilayah Negara Kesatuan Republik Indonesia", Jurnal Mimbar Hukum, Vol. 26, Number 3, October 2014, p. 351.

²⁶ Rian Bahari Kaunang, et. al, "Penegakan Hukum di wilayah Zona Ekonomi Eksklusif Indonesia (Perairan Natuna Utara) sebagai Kawasan Klaim Laut China Selatan", Jurnal Lex Administratum, Vol. X, No. 1, Jan-March 2022, p. 136.

²⁷ Dina Andriani and Syofiati Lubis, "Implementasi Hukum di Area Zona Ekonomi Eksklusif (ZEE) Menurut Perpres no. 115 tahun 2015 tentang Illegal Fishing Perspektif Hukum laut Internasional", Jurnal Educatio (Jurnal Pendidikan Indonesia), Vo. 9. No. 2, 2023, p. 778.

²⁸ Rawan Gusmawijaya, Head of Capture Fisheries Division of DKP in North Aceh Regency, Interview on August 31, 2023.

²⁹ Herno Aldianto, Deputy Head of PSDKP Lampulo, Interview on 2 August 2023.

³⁰ Irfan, Head of Capture Fisheries Division of DKP in West Aceh Melaboh Regency, Interview on 7 August 2023.

²² M. Daud Silalahi, , Hukum Lingkungan Dalam Sistem Penegakan Hukum lingkungan Indonesia, Alumni, Bandung, 2001, p. 113.

²³ Anisa Fauziah, et al., "Pengaturan Hukum Laut Internasional terhadap Illegal Fishing di Wilayah Laut Zona Ekonomi Eksklusif", Jurnal Kertha Semaya, Vol. 11 Number 11, 2023, p. 2666

²⁴ Chairul Anwar, Horizon Baru Hukum Laut Internasional Konvensi Hukum laut Internasional, Djambatan, Jakarta 1998; 25

sea related to violations of illegal fishing, coordination or collaboration is practiced. However, the role of DKP Civil Servant Investigators at Regency/City level has diminished at sea because the authority was transferred to Provincial Investigators in Aceh based on Law Number 23 of 2014 concerning Regional Governments.³¹ Law enforcement steps are taken at sea following applicable regulations, where the authority is given to several bodies such as investigators from Provincial DKP, Polairud, TNI AL, and Central PSDKP. According to Zulfan,³² surveillance is carried out by investigators from Provincial and Central DKP, which has its representation in Aceh. Surveillance can be carried out individually by each investigator, but coordination is established to conduct the survey jointly. The investigator who successfully captures the violator continues the process, leading up to the court when violations of fishing law are discovered.

The enforcement of laws and regulations governing activities in Indonesian marine and coastal waters is carried out by several agencies collectively as guardians of the Nusantara Sea. Currently, Indonesia has 13 law enforcement agencies at sea, where 6 have patrol task forces at sea, unlike the remaining 7. The agencies with patrol task forces at sea are TNI-AL; Indonesian National Police/Maritime Police Directorate; Ministry of Transportation Directorate General of Sea Transportation; Ministry of Maritime Affairs and Fisheries Directorate General of Surveillance and Fisheries Resources Management; Ministry of Finance Directorate General of Customs and Excise; and the Indonesian Maritime Security Coordinating Board. The agencies conduct patrols related to maritime security sectorally according to the respective regulations.³³ Sea law enforcement adheres to established procedures, and the apprehension process commences with surveillance, often initiated by intelligence information from TNI AL or external sources. Routine patrols or surveillance operations are conducted, and segmented into designated sectors. Additionally, when TNI AL conducts exercises and receives information on legal violations, the investigator pursues and apprehends the violator.³⁴ In 2015, a Thai vessel fishing in EEZ was apprehended in East Aceh considering the importance of law enforcement. The apprehension was carried out by PSDKP investigators, and the vessel was subsequently brought to Kuala Langsa. Based on examination results, the vessel was confiscated, while the Captain and crew were sent home because the violation did not occur in the national waters.³⁵ A thorough examination is carried out when a foreign vessel engages in suspected illegal fishing, such as in the case of Lhokseumawe including a fishing activity without proper gear in Palkah waters.³⁶ From a juridical perspective, illegal fish-

ing by foreign fishermen in EEZ based on received information is subject to law enforcement, including pursuit and apprehension. After the violation is confirmed, the vessel can be detained for further processing. The vessel may be seized for the state, and while the crew may not be detained or imprisoned, payment of fines is adopted as a punitive measure. Illegal fishing activities by foreign fishermen are not isolated incidents but are suspected to be part of a cross-border network operating systematically and continuously. This illegal activity is carried out for economic gain, and the potential is significant in the waters, which have abundant fisheries resources. Therefore, illegal fishing activities in Indonesian waters can be interpreted as transnational crimes because the activities and networks transcend national borders.³⁷ The law enforcement process against illegal fishing at sea is carried out by authorized agencies, including investigators from DKP Civil Servants, specifically Aceh, Polairud, Central PSDKP, and TNI AL. The level of illegal fishing violations by foreign vessels has been reduced, specifically after the previous policy of the Ministry of Maritime Affairs and Fisheries regarding the sinking. This policy resulted in a deterrent effect on previously rampant foreign vessels. Despite the limited incidents of illegal fishing, law enforcement processes are carried out by the authorities. For example, the capture and legal processing of the Supersi fishing vessel in the waters of Sabang is subjected to a court system, and the purse seine trawler Mini is captured through coordination.

4.2. *Prevention Efforts for Foreign Vessels Engaging in Illegal Fishing in the Waters of Aceh Province.*

The sea harbors abundant natural resources, with fisheries resources being particularly important for the livelihoods of local, national, and international communities. Fishermen, in particular, aim to obtain these fishery resources as a primary source of income. This is achieved with large vessels following regulations, but there are instances where rules are ignored. Therefore, efforts are made to enforce the law, and this is supported by the necessary equipment and personnel. In this context, different steps are needed to address the constraints faced by law enforcement agencies at sea. A mindset that obtains solutions or realizes the intentions of existing law is important. However, efforts may be ineffective, necessitating continuous attempts to overcome obstacles. To prevent illegal fishing, actions such as training or enhancing the education of investigators need to be stated. This includes attention from local governments or DKP, as observed in Lampulo. Concerning the absence of investigators at the regency level, a request can be made to the provincial or the ministerial DKP at the central level.³⁸

In terms of fishing exploitation, countries must take conservation management actions, including consideration of catch limits and fishing effort boundaries. These actions should be

³¹Cut Ida Marya, Head of DKP in East Aceh, Interview on 1 September 2023.

³²Zulfan, Head of DKP in Sabang City, Interview on 26 July 2023.

³³Yudi Listiono, Lukman Yudho Prakoso dan Dohar Sianturi, "Membangun Kekuatan laut Indonesia Dipandang dari Pengawal laut dan Deterrence Effect Indonesia", Jurnal Strategi Pertahanan Laut, Volume 5, Nomo 1, 2019, Jakarta, p. 75.

³⁴Muhammad Akbar, Deputy Head of Naval Base in Sabang, Interview on 28 July 2023.

³⁵Hermansyah, Head of East Aceh Regency Fishing Port, Idi, Interview on 1 September 2023.

³⁶Muhammad Akbar, Deputy Head of Naval Base in Sabang, Interview on

28 July 2023.

³⁷Simela Victor Muhamad, "Illegal Fishing di Perairan Indonesia: Permasalahan dan Upaya Penanganannya secara Bilateral di Kawasan", Jurnal Politica, Volume 3, Number 1 May 2012, p. 61.

³⁸Zulfan, Head of DKP in Sabang City, Interview on 26 July 2023.

taken until accurate data is obtained to assess the long-term impact on the sustainability of fish stocks. Countries must also take emergency-based actions when the activities pose a serious threat to the sustainability of fishery resources.³⁹ The efforts to address transboundary illegal fishing activities are not easy and cannot be conducted. Bilateral cooperation between Indonesia and neighboring countries, specifically those whose fishermen trespasses, needs to be established and developed. In this context, the development of transboundary illegal fishing activities is expected to be effectively managed.⁴⁰ Preventive efforts conducted for law enforcement include the establishment of integrated investigators.⁴¹ This aids in more directed law enforcement but is also strengthened by consistent coordination among investigators. Regency DKP investigators no longer wield the authority to conduct monitoring and apprehension tasks for vessels included in illegal fishing following Law Number 23 of 2014 since these powers have been transferred to provincial DKP entities. Therefore, Provincial DKP needs to make efforts to collaborate with the regency regarding the presence or absence of illegal fishing in the sea. However, significant collaborative efforts in this situation have not yet taken place.⁴² These two investigators must collaborate to gather information in maritime areas and conduct necessary surveillance and actions to address the issue of illegal fishing at sea. Collaboration with other investigators, such as Polairud investigators and PS DKP investigators in various regions, is also important. There have been existing cooperation issues, and marine surveillance activities which are insufficient, considering the changes in authority. This includes a reduction in monitoring resources, such as Speedboat due to budget constraints.⁴³

Surveillance during fishing activities by the communities is conducted at sea using vessel monitoring system (VMS) and patrol vessels. VMS tracks various aspects of fishing vessels' activities, including departure points, locations of activities, actions at sea, the designated port for return, and potential transits to other ports. Therefore, this system becomes feasible to ascertain the specific locations where vessels either land or transship their catch.⁴⁴ In this context, a crucial step should be conducted to provide training and education for investigators, increase the numbers, and improve surveillance tools such as vessels with sufficient capacity to facilitate legal actions against maritime law violations. Additionally, there is a need for an increase in the budget to meet these requirements.

4.3. Constraints in Enforcing the Law Against Foreign Vessels Engaging in Illegal Fishing in the Waters of Aceh Province.

Natural resources needed for human life are found on land and sea in the territorial sea or EEZ. Fishing at sea should adhere to applicable legal regulations, requiring vessels to possess permits for fishing and navigation, and the activities should comply with the established requirements. Therefore, when fishing deviates from the applicable regulations, law enforcement actions are necessary. The agencies should be supported by the necessary equipment for the successful implementation of legal actions. Effective law enforcement should be improved by various factors, such as agencies, adequate equipment, personnel, budget, and authority regulations. Inadequacies can be encountered in personnel or surveillance equipment, including patrol vessels and the budget. A constraint arises due to the shortage of personnel in Regency and Provincial DKP, even though patrol vessels are available.⁴⁵ To ensure effective law enforcement, it is crucial to have adequate equipment and personnel to facilitate the implementation. In cases of illegal fishing activities, the location of the violation, such as incidents in IEEZ, may be investigated or processed by Lampulo PSDKP. The subsequent legal enforcement process may take place in another area, such as Belawan, but in the fisheries jurisdiction. Another issue relates to evidence preservation to prevent damage or loss⁴⁶ and this is perceived as a constraint in resolving maritime legal issues. Based on current regulations, the authority is significantly limited because the surveillance, investigation, and law enforcement in 12 nautical miles are under Provincial Government. Even though Regency Governments are on the front lines and are aware of the losses or environmental damage caused by violations, the province has the authority to handle, supervise, investigate, and process these legal violations. Despite the proximity of issues reported by fishermen, all matters are now handled by Provincial Government. This situation contributes to a delayed perception of distribution and handling in fishing communities since the impact is not immediately discernible.⁴⁷ Concerning the authority held in the event of fishing violations, TNI AL investigator initiates the investigation process at Naval Post, and after subsequent examinations, the case is reported to Sabang Naval Base. The subsequent steps depend on the orders and when there is an alleged violation of illegal fishing, reports are made to Naval Base. This process may occur quickly or slowly, representing a constraint related to procedural aspects in maritime law enforcement.⁴⁸

The issue of illegal fishing is also caused by the unclear maritime boundaries between Indonesia and neighboring countries, leading to conflicting claims over the ownership of waters

³⁹ Gelorya Br Pinem, "Pengelolaan Sumber Daya Alam terhadap Penangkapan Ikan oleh Negara di Laut Lepas Menurut Hukum Internasional", *Jurnal Lex Et Societatis*, Volume VII, Number 5, May 2019, p. 120

⁴⁰ Simela Victor Muhammad, Op.Cit, p. 61.

⁴¹ Adenan Sitepu, Head of the General Crime Section of the District Attorney's Office in Sabang, Interview on 27 July 2023.

⁴² Cut Ida Marya, Head of DKP in East Aceh Regency, Interview on 1 September 2023.

⁴³ Irfan, Head of the DKP Capture Fisheries Section in West Aceh Regency, Interview on August 7, 2023.

⁴⁴ Mansur Arlin Bin Ali, "Bentuk dan Mekanisme Perlindungan Hukum atas Sumber Daya Perikanan di Indonesia", *Jurnal Hermeneutika*, Volume 5, Nomor 1 February 2021, p. 6

⁴⁵ Zulfan, Head of the Sabang City Maritime and Fisheries Service, Interview on 26 July 2023.

⁴⁶ Bustami, Deputy of Lampulo Banda Aceh PSDKP, Interview on 2 August 2023.

⁴⁷ Irfan, Head of Fisheries Division at West Aceh Melaboh Regency DKP, Interview on 7 August 2023.

⁴⁸ P. Julianto, Head of Sabang Naval Post, Melaboh Representative, Interview on 8 August 2023.

at these borders.⁴⁹ The unresolved territorial boundary issue and frequent incidents of fish theft affect the speed of response to these violations since time is required to take action or coordinate law enforcement agencies. Based on the explanation, law enforcement cannot be separated from the procedural rules to be followed. This heavily relies on subsequent guidance to carry out law enforcement actions, starting from examination, investigation, and prosecution, to the court proceedings. Therefore, apprehension, examination, investigation, and court proceedings take time, resulting in the resolution of legal issues at sea being less effective. Regarding illegal fishing, a Taiwanese vessel was apprehended for alleged legal violations, and investigated by TNI AL investigator. However, a constraint in the process was the language difficulty, necessitating the preparation or search for a translator.⁵⁰ During the occurrence of illegal fishing in 2014, the law enforcement process was delayed due to a change in jurisdictional authority. The procedural steps continued but the persistent constraint was the language barrier, necessitating the inclusion of a translator. In capturing a Thai vessel, it is customary for the legal process to include the presence of a defender who accompanies and advocates for the citizens of Thailand.⁵¹ This situation is exemplified by the transfer of authority from Regency to Province, where the former no longer possesses the jurisdiction to address violations of illegal fishing at sea. This is because the authority is confined to matters within swamps and inland waters. Despite being directly engaged in issues on fishermen and foreign vessels as well as regularly receiving reports of incidents, Regency DKP is incapacitated from taking any action due to the loss of authority and the inadequacy of equipment.⁵² Based on the description, law enforcement against illegal fishing should adhere to the applicable legal provisions, following the procedures set by investigators. This is supported by various factors such as adequate patrol equipment, personnel, and budget. However, the necessary elements are found to be insufficient, hindering the effective execution of duties and serving as a factor affecting law enforcement at sea. The reality is closely related to the inadequacy of everything needed for effective law enforcement in the waters of Aceh Province.

Conclusions.

In conclusion, law enforcement against illegal fishing by vessels was reported to include surveillance, apprehension, and legal processes for the violators. Coordination was established among investigators from Provincial DKP, Polairud, TNI AL, and PSDKP of the Ministry of Maritime Affairs and Fisheries even though the concept was not fully optimized. Surveillance

was effective due to the insufficient number of personnel and equipment required, resulting in the ineffectiveness of law enforcement efforts. Relevant authorities also maximized law enforcement at sea, such as enhancing the capacity of investigators, increasing personnel, and improving coordination. However, these efforts did not yield optimal results, leading to ongoing incidents of illegal fishing. Several constraints included the vastness of maritime territories and the transfer of surveillance authority from Regency DKP to Provincial DKP. Meanwhile, the latter lacked sufficient personnel, equipment, and budget for effective surveillance, impacting the efficiency of law enforcement. Relevant investigators were expected to drive enhanced surveillance and law enforcement against foreign vessels engaging in illegal fishing. This was achieved through training, personnel augmentation, improved cooperation, specifically with Regency/City DKP, increased sea patrol vessels, and an augmentation of the necessary budget. These measures aimed to make surveillance and law enforcement more effective and optimal.

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⁴⁹Damai Magdalena dan Francisca Adelina Sinaga, "Dinamika Hukum Perikanan Indonesia", Jurnal Legislasi Indonesia, Volume 16, Number 2, June 2019, p. 256.

⁵⁰Boby Riza Nafrizal, Head of the North Aceh PSDKP working area in Lhoksemawe, Interview on 31 August 2023.

⁵¹ . Hermansyah, Head of East Aceh Regency Fishing Port, Idi, Interview on 1 September 2023.

⁵² Cut Ida Marya, Head of the East Aceh Regency Maritime and Fisheries Service, Idi, Interview on 1 September 2023.

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