

The Existence of Criminal Fines in Law Enforcement of Illegal Fishing Crimes

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ABSTRACT

Indonesia now deals with the issue of illegal fishing on a regular basis. The Fisheries Law includes fines as one of its penalties for anyone who engage in unlawful fishing. Applying sanctions to those who engage in illicit fishing may boost state income. However, in actuality, the imposition of penalties has brought up fresh issues with implementation. Therefore, the purpose of this research is to read and evaluate the presence of criminal penalties in Indonesian law enforcement as well as the design of criminal fines in the Fisheries Law. This study employs statutory and case-based methodologies in a descriptive manner that is consistent with normative legal research. The study's findings indicate that Articles 84 to 101 of the Fisheries Law are where penalties are defined. The imposition of sanctions for those found guilty of unlawful fishing creates additional issues. Judges continue to often penalize anyone found guilty of unlawful fishing, nevertheless. This requirement puts more strain on prisons and produces accounts receivable for the prosecutor's office, the condition's executor.

INTRODUCTION

Indonesia, which has 17,480 islands and a coastline of 95,181 km², is the world's biggest archipelago. According to the 1982 Law of the Sea Convention (UNCLOS), 9.2 million km² of archipelagic seas and 0.3 million km² of territorial waters make up the 3.2 million km² of waters over which Indonesia has authority (Kharisma, 2019). Due to this circumstance, Indonesia is a nation with an abundance of marine and fisheries resources. One area that has the potential to enhance human wellbeing is fishing (Situmorang et al., 2016). The fish resources of Indonesia have a sustainable potential of 6,520,100 tons annually (Jaelani & Basuki, 2014). In terms of the economy, the fishing industry aids in the expansion of the GDP. The fishing industry's GDP increased by 29.39% from the prior year to Rp 62.24 trillion in the second quarter of 2019 (Ulya, 2019). When compared to Indonesia's sea area, which totals 3,302,498 km², the GDP of the fishing industry is still very tiny. Additionally, the gap in the quality of life in coastal towns has not yet been closed by this enormous fishing resource. According to statistics, 5,254,400 individuals in coastal regions live in appalling circumstances (Kharisma, 2019).

The tremendous potential of Indonesia's fisheries resources has implications for breaches in fish resource exploration by both domestic and international fishermen. This is due to the fact that Indonesian waterways cover a relatively large area, making them very susceptible to many forms of exploitation, including the practice of illicit fishing. According to statistics and information provided by the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia, 317 illicit fishing vessels, including both foreign and domestic vessels, were sunk between 2015 and 2017. This situation demonstrates that the issues with fisheries have reached a breaking point. The increase in incidents of illicit fishing by huge ships using more advanced equipment demonstrates the need for more oversight and protection of Indonesian waterways (Darmawan, 2018). These incidents often happen without any significant government attempts to find them. Illegal fishermen have not been discouraged due to ineffective management and law enforcement against them.

Indonesia often struggles with the issue of illegal fishing at the moment. The national fishing industry, the interests of fishermen and fish breeders, and the industrial environment are all threatened by this move, which is bad for the nation. Fish productivity in Indonesian seas is declining as a result of fishing operations. Illegal fishing is any activity in fisheries that is not controlled and for which no reports are made to the appropriate fisheries agency (Illegal, Unreported, Unregulated Fishing). Without the consent of that country, fishing by foreign nationals or ships flying a foreign flag inside its territorial waters or under its authority is a grave violation of both domestic laws and treaties.

By making illegal fishing a crime, the Indonesian government is able to combat criminal activity in the fishing industry (Maroni, 2019b). Law Number 31 of 2004, as revised by Law Number 45 of 2009 respecting Fisheries, sets up the criminalization policy (from now on referred to as the Fisheries Law). The Fisheries Law has consequences for anyone who engage in unlawful fishing,

including jail time and fines. However, in practice, harmful infractions are nonetheless often committed and keep spreading as if there were no embarrassment or fear associated with breaking the law while fishing (Jegesson P. Situmorang, 2016). Both negative and good ideas are sparked by this occurrence. Negatively, illicit fishing does in fact endanger the long-term viability of Indonesia's fisheries resources.

Enforcement of the law against those who engage in unlawful fishing may increase governmental income. This is a result of punishing those who engage in unlawful fishing with fines and other legal action. Although the nominal sum is relatively high, the usage of penalties is likewise seen to be unsuccessful. This is so because there is no policy that governs how the fine will be applied. Due to this circumstance, the implementation of penalties imposed for unlawful fishing crimes is subpar. The Fisheries Law's notional fine amount, which may exceed Rp 20 billion, is unusually large. The nominal punishment is particularly costly for local fisherman, the majority of whom are from the lower class, thus they would rather serve a replacement term (jail) than pay a fine.

Additionally, because imprisonment cannot be imposed along with criminal fines against foreign nationals who engage in illegal fishing, it is possible for offenders to avoid paying fines, which results in a state loss that must be accounted for by the Attorney General's Office in its capacity as executor. Additionally, outstanding penalties will be reported by the Attorney as state receivables and arrears in PNBPN (Sunatri, 2017). There is also an imbalance between very large penalties and rather light alternative punishments. The "paper tiger" phenomenon, which is textually strong but useless in actuality, was born as a result of this circumstance. This has an effect on the fine's non-implementation, resulting in additional issues and undesirable outcomes (Nur raharsi et al., 2019).

The concept that the criminal sanctions for fishing violations were irrationally formulated and hence unsuccessful in their application originated from the explanation above. The UNCLOS, which forbids the use of punishments for the loss of liberty for foreign nationals who participate in unlawful fishing, is one of the international legal instruments that legislators have disregarded. Such circumstances incentivize offenders to avoid paying penalties, particularly in instances when offenders cannot be imprisoned. Legislators have also disregarded actual data, focusing exclusively on large-scale offenders of illegal fishing because they believe that it is a lucrative crime. However, the people accused of unlawful fishing who have been in court are really only lower-class fisherman who simply gather fish to meet their own requirements. The creators of the Fisheries Law thus did not formulate the penalties and criminal punishments as intended, so the legal goals from the perspective of justice and expediency are not met and are primarily concerned with aspects of textual legal clarity. This advantage for law enforcement is an unmistakable sign of the effectiveness of law enforcement in Indonesia. According to the utilitarian school, law enforcement must have aims based on particular advantages (theory of benefits or the idea of objectives). Legal action should have the following goals: certain practical reasons (Hasaziduhu Moho,

2019). It should not just punish the illegal activity of the offenders, either via imprisonment or financial penalties (Bakhri, 2009).

The problem of applying fines to criminal sanctions in illegal fishing has had a long and complicated impact and has given rise to new issues, so there is a need for real solutions and solutions, according to the description above, which is why the authors are interested in studying and conducting this research. The formulation of penalties in the Fisheries Law will always be a text devoid of context, hence this study needs to garner attention. Therefore, the issue that will be covered in this research is how the Fisheries Law formulates penalties. and how are penalties used in Indonesian law enforcement to combat illicit fishing?

LITERATURE REVIEW

a. Criminal Law Enforcement Theory

In essence, law enforcement represents ideals or concepts that include justice and truth, and it is everyone's responsibility, not only that of traditionally recognized law enforcers. In contrast, the government is in charge of public law (Hukum, 1988). According to Lawrence Meir Friedman, from the perspective of the legal system, law enforcement is reliant on three (three) factors: the legal substance, the legal structure/institutions, and the legal culture. It can be explained in more detail as follows (Wahyudi, 2012):

- 1) Legal Substance: This is what Lawrence Meir Friedman refers to as a "robust mechanism" that decides whether or not the law may be put into practice. The product created by those working in the legal system, such as the judgments they render and the fresh regulations they create, is sometimes referred to as the substance. Not merely the rules laid down in law books, but also the living law, is significant.
- 2) Legal Institution/Legal Structure: According to Lawrence Meir Friedman's theory, this is a structural system that controls how well the law is applied. The Police, Attorney General's Office, Courts, and Criminal Executing Agency make up the legal framework established by Law Number 8 of 1981. (Lapas).
- 3) Legal Culture: According to Lawrence M. Friedman, legal culture refers to a person's views, attitudes, thoughts, and expectations towards the law and the legal system. Legal culture is the prevailing societal mindset and influences that shape how people utilize, disregard, or abuse the law. Legal awareness in society is intimately correlated with legal culture. A better legal culture will be developed and the community's attitude toward the law may alter the greater its level of legal knowledge. Simply put, the degree of public compliance with the law is a sign of how well the legislation is working.

The criminal justice system may also be seen from the perspective of the criminal justice system's enforcement or punishment, which is best articulated as follows:

- 1) The entire system (laws and regulations) that governs how criminal law is enforced or concretely operationalized so that a person is subject to criminal (legal) sanctions.

2) The entire system (laws and regulations) that governs how criminal law is operationalized so that a person is subject to criminal (legal) sanctions (Arief, 2005).

This implies that, in this sense, the Criminal Code and any special provisions outside of it together make up a single criminal/criminal law system with general supervision and specific authority. unique regulations). The Criminal Code's Book I contains general guidelines, whereas Books II and III, as well as individual statutes outside of the Criminal Code, offer more detailed guidelines. The following examples will show how the above description works:

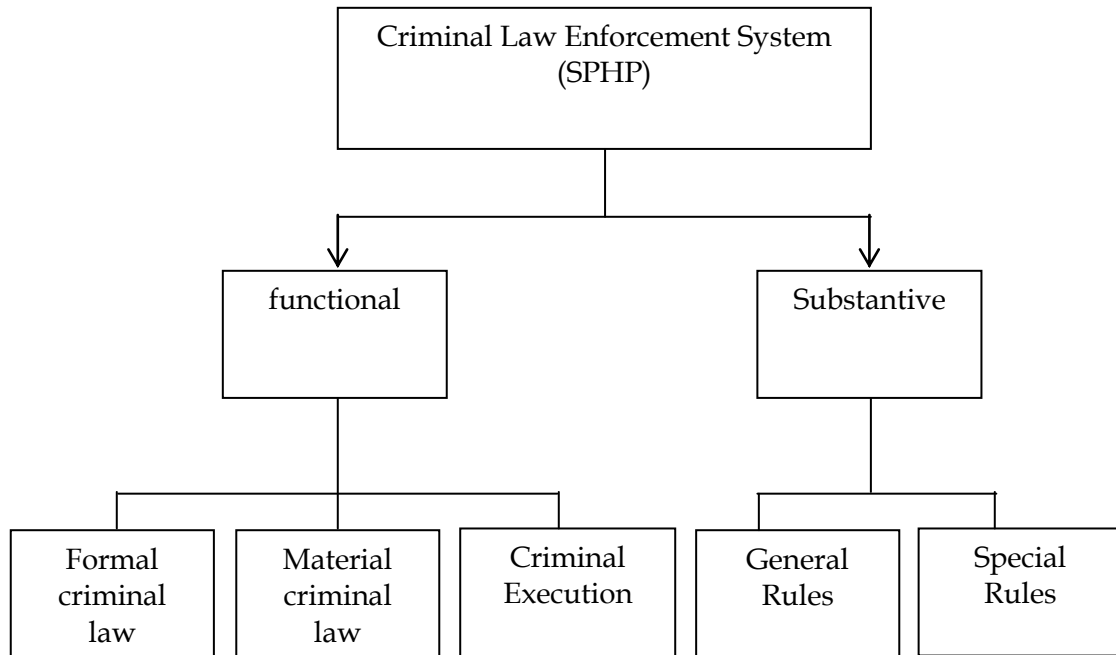


Figure 1. Criminal law enforcement system

b. Illegal Fishing

Illegal, which meaning unofficially or illegally, is where the term "illegal fishing" derives from. Fishing is a noun that simply means "fishing." It comes from the word "fish" in English and may also mean "take" or "reach." (Mahmudah, 2015). Fishing, according to Law Number 45 of 2009 concerning Fisheries, is defined as any activity used to catch fish in waterways that are not farmed, including operations using ships to load, transport, store, chill, handle, process, and preserve the fish. All fishing practices that are against Law Number 45 of 2009 and other legitimate rules and regulations are considered illegal. Criminal provisions are found in Chapter XV of Law No. 31 of 2004 governing Fisheries, from Articles 84 to 105.

Law No. 31 of 2004 concerning Fisheries has yet to provide a solution to these issues since it is now unable to foresee technical advancements and regulatory requirements in managing and using prospective fish resources. As a result, modifications must be made to a number of things that have to do with management, bureaucracy, and legal issues.

These guidelines already exist, but not everyone will abide by them, and infractions of these regulations often happen. Criminal threats, which are a

practice in criminal law, are included in Law No. 45 of 2009 about Amendments to Law No. 31 of 2004 concerning Fisheries in order to reinforce and comply with the adoption of these administrative requirements (penal policy). The purpose of the disciplinary policy is to enforce fair and lawful rules in the circumstances that exist now and in the future. The government passed Law No. 45 of 2009 about Amendments to Law No. 31 of 2004 Concerning Fisheries, which incorporates criminal threats, in this respect. A policy measure includes using criminal law penalties to manage and regulate society via legislation. Increasing the role of fishery supervisors and community involvement in efforts to efficiently and effectively oversee fisheries are important to ensure optimum and sustainable management of fish resources.

In actuality, there are two categories of foreign parties that are involved in fish theft: First, a semi-legal heist, or the stealing of fish by foreign boats flying their own or another nation's flags while utilizing valid fishing licenses held by local business owners. This method is nevertheless considered illegal fishing because, in addition to fishing in areas where they have no legal authority to do so, illegal fishermen sometimes convey their catch immediately without first landing the fish in a designated region. "Borrowing the flag" is a common term used to describe this action (flag of convenience). The second is outright theft, namely the act of foreign fishermen and foreign boats fishing in Indonesian waters under their flags (Anwar, 2014).

Local fishermen and businesspeople also engage in illegal fishing techniques, in addition to foreign parties. Unfair fishing practices by fishermen and local business owners can be divided into three (three) groups, namely:

- 1) Indonesian-flagged fishing vessels, former foreign fishing vessels, whose documents are fake or even lack permit documents;
- 2) Indonesian Fishing Vessel (KII) with asphalt or "original but fake" documents (the official issuing the document is not authorized, or the paper is fake); and
- 3) An Indonesian fishing boat without any documents at all means that the vessel is not legally allowed to fish (Suhardi, 2013).

METHODOLOGY

This study is a descriptive example of normative legal study. The information utilized is secondary data, comprising primary, secondary, and tertiary legal sources pertaining to the investigation of the presence of penalties in Indonesian law enforcement for unlawful fishing and the drafting of fines in the Fisheries Law. A statutory approach (statute approach) and a case approach are used in the approach technique to solve research difficulties (case approach). A literature review was employed as the method for gathering data, after which the information was qualitatively examined.

RESEARCH RESULT

A criminal act is a criminal conduct that has been specified as a prohibited provision. To what degree the lawmakers have appropriately constructed law enforcement based on legal politics exercised in accordance with the desire of justice may be observed by studying the formation of criminal actions (Nur

raharsi et al., 2019). It's difficult to create criminal penalties that adhere to legislative requirements (Candra, 2013). Criminal penalties are not just painful because they imprison the offenders. However, the sentencing procedure is essentially a reflection of the morals, values, and philosophical beliefs that characterized human society at the time (Napitupulu, 2019). As a result, all discussions of the criminal justice system must take into account three perspectives: sociological, intellectual, and criminological (Adji, 2011). Punishment, which is a crucial component of criminal law, is the climax of responsibility from a person who has been found guilty of a crime. A criminal law without punishment, according to Andrew Ashworth, "would essentially be a declaratory system pleading guilty without any legal repercussions accompanying the form of that guilt." (Ashworth, 1991). Therefore, a criminal statute without criminal penalties is equivalent to convicting someone without holding them accountable for their actions. Due to the significant impact this perception of guilt has on punishment and the administration of the legal system. Punishment is an expression of rebuke if a mistake is seen to be something that needs to be criticized (Huda, 2011).

Fines are one sort of punishment in the criminal justice system generally. If a person's right to freedom is the goal of jail and confinement and their soul is the goal of the death sentence, then a fine is nothing more than the offender's property. The property being discussed here is in the form of money, not things of any type, including moveable and immovable property. A statute in the area of administrative law that carries criminal penalties is Law Number 45 of 2009 about Amendments to Law Number 31 of 2004 concerning Fisheries (the Fisheries Law). Criminal penalties are specifically outlined in the law. Articles 84 through 101 include the provisions for criminal penalties. As for the provision of fines up to IDR 20,000,000,000.00 (twenty billion rupiah).

Particularly in the area of criminal law theory, several conceptions of punishment and all of its variants have advanced significantly. Nevertheless, moving from Herbert L. Packer's view that the primary goals of punishment are retribution and crime prevention (preventive). Fines for criminal sanctions and penalties for administrative sanctions are the two different sorts of fines. The idea behind it is the same. In particular, the penalty is the same. The manner in which the fine is imposed, the recipient of the payment, and the repercussions if the fine is not paid by the offender are different (Nur raharsi et al., 2019).

Although the use of fines poses new issues, courts often sentence both foreigners and Indonesians who engage in illegal fishing, as ruled by the judge at the Special Fisheries Court at the Medan District Court as follows:

Table 1. Decision of the Fisheries Court

No	Case Number	Defendant	Penalty
1	20/Pid.Sus-PRK/2018/PN Mdn	AUNG NAIN WIN (Myanmar)	The criminal against the defendant is, therefore, a fine of Rp. 1,500,000,000.- (one billion five hundred million rupiahs) The defendant's punishment is, therefore, imprisonment for 1 (one) year and 2 (two) months, a fine of Rp. 100,000,000.- (One Hundred Million Rupiah) provided that if the fine is not paid, it is replaced by imprisonment for 2 (two) months
2	22/Pid.Sus-PRK/2018/PN Mdn	HARIS SUBERI (Indonesia)	The defendants were sentenced to imprisonment for 11 (eleven) months each and a fine of Rp. 100,000,000.- (one hundred million rupiah) if the fine is not paid is replaced by imprisonment for 2 (two) months
3	21/Pid.Sus-PRK/2018/PN Mdn	WARYONO , HENDRI, AWI, SAHYUNAN, TAUFIK HIDAYAT,KHUSNUL MULUK, RUDI HARTONO, dan DARMON SIBARANI (Indonesia)	Imprisonment for 1 (one) year or a fine of Rp. 250,000,000 (two hundred and fifty million rupiahs)
4	18/Pid.Sus-Prk/2018/PN Mdn	DENI ANTONI DALIMUNTHE ALS DENI (Indonesia)	A fine of Rp. 1,500,000,000 (one and a half billion rupiah) provided that if the fine is not paid, it is replaced by imprisonment for 4 (four) months)
5	6/Pid.Sus-Prk/2018/PN Mdn	SUTHAT MAOMODI (Thailand)	Imprisonment for 2 (two) years and 8 (eight) months and a fine of Rp. 1,500,000,000.- (one billion five hundred million rupiah) with the condition that if the fine is not paid, it must be replaced with imprisonment for 5 (five) months
6	4/Pid.Sus-Prk/2018/PN Mdn	RUDI HARTONO ALS TIKUS (Indonesia)	A fine of Rp.40,000,000.- (forty million rupiah) provided that if the fine is not paid, it is replaced by imprisonment for 2 (two) months
7	2/Pid.Sus-Prk/2018/PN Mdn	IRWAN (Indonesia)	Imprisonment for 1 (one) year or a fine of Rp. 150,000,000,- (one hundred and fifty million rupiah)
8	13/Pid.Sus-Prk/2018/PN Mdn	RAHMADANI (Indonesia)	Imprisonment each for .2. (two) years and a fine of Rp. 1,000,000,000, - (one billion rupiahs) each and stipulates that if the fine mentioned above is not paid, it will be replaced with imprisonment for 1 (one month
9	9/Pid.Sus-Prk/2018/PN Mdn	ZULHAM (Indonesia)	Imprisonment for 1 (one) year or a fine of Rp. 150,000,000,- (one hundred and fifty million rupiah)
10	14/Pid.Sus-PRK/2018/PN Mdn	JUHARI Als. ATAN (Indonesia)	

Source: Directory of Medan District Court Decisions

DISCUSSION

The Indonesian government's Fisheries Law is a legal and political creation that is crucial to combating fisheries-related crimes (illegal fishing) (Khairi, 2016). It is hoped that this legal product will be able to foresee and, at the same time, address significant changes in the field of fisheries, including those related to the availability of fish resources, the environmental sustainability of fish resources, and the development of fisheries management techniques that are more effective, efficient, and cutting-edge. Given the high amount of penalties under the Fisheries Law, the majority of those found guilty of unlawful fishing elect to serve alternative terms rather than pay fines (prison). While the provisions of Article 73 paragraph (3) UNCLOS and SEMA No. 03/BUA.6/HS/SP/XII/2015 concerning Enforcement of the Formulation of the Results of the Supreme Court Chambers' Plenary Meeting prohibit the use of criminal sanctions in place of fines for foreign nationals who engage in illegal fishing. According to the SEMA, which serves as a court's implementation guideline, anyone guilty of engaging in unlawful fishing may only be fined without also being imprisoned as a punishment. Such circumstances incentivize offenders to avoid paying penalties, particularly in instances when offenders cannot be imprisoned (Sunatri, 2017).

Despite the nominal sum being fairly high, F fines are seen to be ineffectual. This is so because there is no policy that governs how the fine will be applied (Maroni, 2019). Due to this circumstance, the implementation of penalties imposed for unlawful fishing crimes is subpar. The Fisheries Law's notional fine amount, which may exceed Rp 20 billion, is unusually large (Siahaan, 2017). The nominal punishment is particularly costly for local fisherman, the majority of whom are from the lower class, thus they would rather serve a replacement term (jail) than pay a fine. For correctional facilities, this issue is unquestionably a hardship. The number of new prisoners and the number of convicts who are produced are not equal. New prisoners make up a far larger proportion than those who have completed their sentences and been released (Angkasa, 2010).

Additionally, because imprisonment cannot be imposed along with criminal fines against foreign nationals who engage in illegal fishing, it is possible for offenders to avoid paying fines, which results in a state loss that must be accounted for by the Attorney General's Office in its capacity as executor. Additionally, outstanding penalties will be reported by the Attorney as state receivables and arrears in PNBPN (Sunatri, 2017).

According to Article 102 of the Fisheries Law, unless there has been an agreement between the governments of the Republic of Indonesia and the concerned country, criminal acts in the fishery sector that take place in the fishery management area of the Republic of Indonesia as mentioned in Article 5 paragraph (1) letter b are exempt from the provisions regarding imprisonment in this Law. The Republic of Indonesia's fisheries management area for fishing and fish farming in the ZEEI region is described in Article 5 Paragraph 1 Letter B. Additionally, according to Article 102, convicted individuals cannot get a jail

term. Therefore, they can only be given a fine if a jail term may be substituted for it. In particular, from the time the case is first handled until it has permanent legal force against the perpetrators, this clause encourages offenders to shirk their duties to fulfill the obligations to pay the aforementioned penalties and may quit their responsibilities simply like that. Detention is not a permitted type of coercive action. This creates an issue since the public prosecutor's capacity to have the accused pay the criminal fine that was imposed on him does not follow his success in making the case for his indictment. The Attorney General's right to seize the convicted person's assets (execution confiscation) in order to pay the fine is another example of coercive methods that neither the Criminal Code nor other legislation have ever prohibited. With such authority, the prosecutor's office may merely ask the convicted person whether they want to pay a fine, even when they are aware of the convicted person's substantial wealth and high asset worth (Supramono, 2011).

Of course, the provisions of Article 102 of the Fisheries Law add to Indonesia's difficulties as an archipelagic nation because one result of globalization is the proliferation of crimes with increasingly varied methods of commission that do not respect national borders (borderless), including fisheries crimes that are currently taking place in territorial waters. The main country that illicit fishing criminals continue to target is Indonesia. This is because Indonesia's sea has the potential to be rich and is a key producer of fisheries and aquaculture. But violators of the laws against unlawful fishing have ways to get around paying penalties according to Article 102 of the Fisheries Law. Because the penalties levied are so high and the ships have been destroyed or confiscated by the government, ZEEI's criminals are now refusing to pay them. Even while the imposition of a fee cannot be accompanied with a replacement penalty such as detention, such circumstances encourage offenders not to fulfill their commitments to pay the penalties mentioned and might release them from their responsibilities. Even if penalties are one of the ways that states get non-tax revenue (PNBP). Non-tax state revenue is defined in Law Number 20 of 1997 regarding PNBP Article 1 Point 1 as all central government money that is not derived from tax revenue. Natural resources (SDA), the government's portion of BUMN income, and other state non-tax revenues are also included in PNBP.

Meanwhile, it is found that one of the sources of PNBP for the Attorney General's Office is the collection of penalties based on the appendix to Law Number 20 of 1997 about Non-Tax State Revenue. Therefore, the Attorney General's Office is required to account for PNBP when penalties are received as part of criminal punishments for fisheries violations. So that the unpaid fines will still be recorded as state receivables that are past due at the Attorney General's Office in the PNBP reporting if the imposition of fines for offenders of fisheries crimes in the ZEEI area is not accompanied by a substitution penalty or a subsidiary penalty of fines in the form of imprisonment (Sunatri, 2017).

As stated in Article 2 paragraph (1) letter e of Law Number 20 of 1997 concerning Non-Tax State Revenue, in accordance with the government's attempts to grow PNBP via revenues based on court judgments and originating

from the imposition of administrative penalties. The execution of money instead of special criminal cases, civil and general criminal, fines for fines, and others are sources of PNPB at the executor's institution (prosecutor's office). As a result of court rulings, paying the state's criminal fines for illegal fishing will be a possible source of PNPB, which is not trivial given Indonesia's substantial proportion of illegal fisheries. The Attorney General's Office of PNPB receivables reportedly totaled Rp. 15.7 trillion, according to the Supreme Audit Agency's (BPK) declaration on the 2015 Central Government Financial Statements .

CONCLUSIONS AND RECOMMENDATIONS

Articles 84 to 101 of Law No. 45 of 2009 Concerning Amendments to Law No. 31 of 2004 Concerning Fisheries establish fines (Fisheries Law). The law's maximum punishments range from Rp. 20,000,000,000 to Rp. 100,000,000 as nominal penalties (twenty billion rupiahs). Fines issued by fisheries courts on unlawful fishing offenders cannot be carried out or carried out. In other words, the punishments that are being threatened are onerous for those who have been found guilty, particularly for the majority of lower-class local fishermen who engage in illegal fishing. As a result, many would rather serve time in jail than pay penalties. For correctional facilities, this issue is unquestionably a hardship.

However, since penalties for unlawful fishing by foreign nationals cannot be followed by incarceration, it gives offenders a chance to avoid paying the fine because unpaid fines constitute a state loss and must be accounted for by the Attorney General's Office as the executor. Additionally, outstanding penalties will be reported by the Attorney's Office as Non-Tax State Income arrears and state receivables (PNBP). As a consequence, the PNPB sector's contribution to state income decreased.

If only a criminal fine is imposed, it will be ineffective against being prosecuted because an alternative penalty does not accompany the imposition of a fine for a fine if the fine is not charged, does not provide a deterrent effect against suffering. Therefore, for public prosecutors, criminal charges include imprisonment instead of fines that are not paid by the defense. In order to ensure that the intended consequences of punishment are met—especially when fines are not paid but imprisonment is nonetheless imposed to have a deterrent effect. The government and legislature should also reexamine how Article 102 of the Law on Fisheries Numbers is interpreted from a comprehensive perspective.

ADVANCED RESEARCH

This research only examines fines for illegal fishing perpetrators and has not examined imprisonment. Therefore, further researchers can research the problems of applying confinement, especially for illegal fishing perpetrators who are foreign nationals. This additional research was necessary because according to UNCLOS 1982 and Article 102 of the Fisheries Law, foreign nationals who engage in illegal fishing cannot be subject to criminal deprivation of liberty unless there is a bilateral agreement with the country concerned.

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