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**| RESEARCH ARTICLE**

**Indonesia's Environmental Policy Regarding the Eradication of Illegal Fishing in the Indonesian Exclusive Economic Zone in the South China Sea in 2017**

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**| ABSTRACT**

Indonesia is an archipelagic country where 2/3 of its territory is marine waters. It provides marine and fish resources. The potential for fishing is 6.4 million tons and cultivating 1,223,437 ha. It is due to the actions of irresponsible individuals who practice illegal fishing. It is usually illegal, unreported, and unregulated (IUU) fishing. The government needs to improve and increase the efforts to monitor and control fisheries crime. It has drained many fish resources in Indonesian waters by foreign and national fishing vessels. This research focuses on government agencies' policies and coordination systems in eradicating illegal fishing in the Indonesian Exclusive Economic Zone, especially in the South China Sea, and the practice of illegal fishing in the Indonesian Exclusive Economic Zone, especially in the South China Sea, challenging to overcome, and what are the weaknesses. This research employed a qualitative method. It is in writings, which can be seen in books, journals, or mass media. It is also presented in words and writings from whose complete approach. In short, its data is descriptive. Research shows results. In eradicating illegal fishing, Indonesia has relatively good legal instruments.

**| KEYWORDS**

Government Policy, Eradication of Illegal Fishing

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**1. Introduction**

Geographically, Indonesia is an archipelagic country where 2/3 of its territory is marine waters. It provides marine and fish resources. Thus, Indonesian waters have enormous potential for marine wealth. The potential for fishing of 6.4 million tons and cultivating 1,223,437 ha. If calculated, the marine potential reaches approximately US \$ 4 billion per year (Siombo, 2010). This condition shows that Indonesia's marine and fisheries have enormous potential. It must become a strategic issue for the government. Marine marginalization has created the complexity of the nation's problems, from the economic downturn, rampant illegal fishing, political insecurity to the threat of the integrity of the Archipelagic State of the Indonesian Republic (Fauzi, 2005).

In general, Indonesia's marine and fisheries leave many problems yearly. However, the complexity of these problems has not been resolved. So far, the Ministry of Maritime Affairs and Fisheries (MMAF) role as the locomotive of Indonesia's marine and fisheries development has not been optimal. Weak data reflect it on Indonesian fisheries, poverty of fishing communities, weak national fishing fleet, rampant illegal fishing, and weak law enforcement. The problem of illegal fishing and weak law enforcement that has resulted in economic losses due to violations of IUU fishing as reported by FAO reached Rp. 30 trillion per year. Besides harming the state economically, it also harms traditional fishers because they use trawler-type fishing gear, which causes damage to the marine environment (Solihin, 2010).

Since 1992, the Food and Agriculture Organization (FAO) has initiated responsible fisheries management. One of them is by eradicating the practice of illegal fishing. Amid a world fighting fisheries crime, the Ministry of Maritime Affairs and Fisheries named the Department of Marine Exploration to the Ministry of Marine Affairs and Fisheries of the United Indonesia Cabinet Volume II is

very concerned with eradicating fisheries crime. Still, these efforts have experienced a very significant decline ("Hari. Kompas," 2010).

Two things cause the complexity of the illegal fishing problem. First, the overlapping of laws and regulations leads to the uncertainty of which state institution is authorized in illegal fishing. The next is the poor infrastructure in supervision and weak enforcement of laws at sea, both in technology and human resources (Solihin, 2010).

Tempo Magazine investigates illegal fishing. It showed that there are three groups of state institutions in legal actions. The first group whose elements manipulated the complete process of licensing vessels and fishing gear, including the Department of Maritime Affairs and Fisheries (MMAF), the Sea Transportation Service, and the harbormaster. The second group, whose officers played with the labor licensing process, included the Directorate of Immigration and the Ministry of Manpower. The third group whose officers play tricks on the law enforcement process, including the Navy, Water Police, Customs and Excise, and the Directorate General of Supervision and Control of Marine and Fishery Resources (Dirjen P2SDKP) ("Maj. Tempo," 2010).

One of the vulnerable EEZ areas to illegal fishing practices in the South China Sea is at point area. It is one of the most strategic maritime areas. It covers Singapore and the Straits of Malacca to the Taiwan Strait with approximately 3.5 million square kilometres. Geographically, it is located to the south of the People's Republic of China (PRC) and Taiwan, to the west of the Philippines, to the northwest of the Sabah and Sarawak Seas (Malaysia), and Brunei. It is also to the north of Indonesia, the northeast of the Malay Peninsula (Malaysia) and Singapore, and the east of Vietnam. Briefly, countries and territories bordering the South China Sea are the People's Republic of China, Taiwan, the Philippines, Malaysia, Brunei, Indonesia, Singapore, and Vietnam.

Indonesia is also under threat from marine resources in the South China Sea. Indonesia, China, and Taiwan are still involved in territorial disputes in the waters to the northeast of the Natuna Islands. It is not only threatening the state's economic loss but also threatening the sovereignty of the Republic of Indonesia ("Mag. Tempo," 2010). So, the government should realize the importance of serious efforts to eradicate the practice of fisheries crime in Indonesian waters and the threat to the sovereignty of the Republic of Indonesia. It is necessary to improve and increase efforts to monitor and control fisheries crimes that have drained many fish resources in Indonesian waters by foreign ships and national fishing vessels. In addition, the Ministry of Maritime Affairs and Fisheries needs to formulate comprehensive steps in eradicating illegal fishing practices.

New research is worth doing if it touches at least one of these two traits: urgent and interesting (Siregar et al., 2021, p. 51). This research focuses on government agencies' policies and coordination systems in eradicating illegal fishing in the Indonesian Exclusive Economic Zone, especially in the South China Sea, and the practice of illegal fishing in the Indonesian Exclusive Economic Zone, especially in the South China Sea, challenging to overcome, and what are the weaknesses.

## 2. Literature Reviews

The definition of illegal fishing in the existing laws and regulations is not explicitly defined. However, the terminology of illegal fishing can be seen from its linguistic meaning. The word "illegal fishing" comes from English. It consists of two words, "illegal" and "fish." In The Contemporary English Indonesian Dictionary, "illegal" means illicit, prohibited, or against the law.

Moreover, "fish" is defined as the aquatic animal or the flesh of fish. Besides, "fishing" is defined as fishing as a livelihood or a place to catch fish. Based on this linguistic understanding, it can be said that illegal fishing means catching fish or unlawful fishing activities (Salim, 2001).

In the terminology of international law of the sea, illegal fishing is obtained from the words illegal, unreported, and unregulated (IUU) fishing. Briefly, it is often abbreviated as illegal fishing. It is defined as unlawful fishing activities, fishery activities that are not regulated by applicable regulations. Their activities are not reported to a legitimate fisheries management institution or agency (Siombo, 2010).

The practice of illegal fishing has become an international issue since the 1980s. In 1982 the International Conference on Responsible Fishing held in Cancun, Mexico, proclaimed the Cancun Declaration. It asked FAO to develop a Code of Conduct for Responsible Fisheries, which FAO recommended in 1995. The FAO Fisheries Committee has recently agreed on the International Plan of Action on Illegal, Unreported, and Unregulated (IUU) Fishing, regulating illegal practices. It involves illegal fishing, misreported, under-reported, and unregulated fishing practices that threaten the sustainability of global fish stock (Diantha, 2002).

An exclusive Economic Zone is an area outside and adjacent to the territorial sea, subject to special law stipulated by the United Nations Convention on the Law of the Sea (UNCLOS) 1982. It was based on the rights and jurisdiction of the coastal state and the rights and freedoms of other states governed by the relevant provisions of this Convention. The width of the EEZ must not exceed 200 nautical miles from the baseline from which the breadth of the territorial sea is measured (Syafrinaldi, 2009). It is also defined

as a strip located outside and bordering the territorial sea of a coastal state with a width of 200 nautical miles from the baseline of the territorial sea to explore and exploit its natural resources, both living and non-living in the waters, on the seabed and land in the sea below (Diantha, 2002).

In the EEZ, the coastal state has the exclusive right to develop and to manage and regulate the development, operation, and use of: a. artificial island; b. installations and buildings for the purposes as specified in Article 56 of the KHL, and other economic purposes; c. installations and structures that may interfere with the exercise of the coastal state's rights within the zone. The coastal state has exclusive jurisdiction over such artificial islands, installations, and structures, including customs, fiscal, health, safety, and immigration laws and regulations (Diantha, 2002).

Indonesia has ratified CLOS through Law no. 17 of 1985. According to Article 2 of Law no. 5 of 1983 concerning the Indonesian Exclusive Economic Zone, it is a lane outside and bordering the Indonesian territorial sea as stipulated under the applicable law concerning Indonesian waters. It includes the seabed, the land below it, and the water above it with an outer limit of 200 (two hundred) nautical miles measured from the baseline of the Indonesian territorial sea. Article 3 of the Law also states that if the Indonesian EEZ overlaps with the EEZ of countries whose coasts are opposite or adjacent to Indonesia. Their agreement will determine the EEZ boundary between Indonesia and that state (Syafrinaldi, 2009). Also, there are few international agreements regarding the Indonesian Exclusive Economic Zone based on the CLOS. Indonesia has only established an EEZ Agreement with Australia.

Geopolitics derives from two words; geo and politics. According to Preston E. James, geography is spatial planning, the system occupying a space on the earth's surface. Thus, it deals with the interrelation between humans and the environment in which they live. Meanwhile, politics is always related to power or government. In the study of International Relations, geopolitics is a study that looks at problems/international relations from a spatial or geocentric point of view (Rosenau, Boyd, dan Thompson, 1976).

Therefore, geopolitics is a study that examines the geography, history, and social science problems regarding international politics. It examines a geographical area's strategic and political meaning, including its location, area, and natural resources. It has four building elements: geographical conditions, politics and strategy, reciprocal relations between geography and politics, and elements of wisdom (Rosenau, Boyd, dan Thompson, 1976).

There are two groups of countries, the 'determinist' and the 'possibility.' Determinism means that everything political depends on the state of the earth's geography. A *determinist country* is a country that is between two giant countries/superpowers so that, directly or indirectly. It is affected by the foreign policy of the two giant countries. The existence of two giant countries is not the only factor that affects the state. Other factors are ideological, political, social, cultural, and military. However, because of the magnitude of the power of the two great countries, their existence is a dominant influenced factor of the state (Hoffmen, 1983).

### **3. Research Methods**

This study used a qualitative method. According to Kirk and Miller, qualitative research is a particular tradition in social knowledge that depends on human observations in its area and relates to these people in their language and terminology (Moleong, 2003). This method is a research procedure that produces descriptive data in written or spoken words from people. The observed behaviour is also directed at the background and the individual holistically (whole) (Salim, 2001).

According to Moleong, the qualitative method is used for several reasons. First, it is more adaptable when dealing with multiple realities. Second, it presents a direct relationship between the researcher and the respondent. Third, it is more sensitive and can adapt to many sharpening mutual influences and the patterns of values encountered (Moleong, 2003).

In this study, the author used a descriptive-analytical research design. It describes the facts that occur in the field in specific situations or conditions. Besides, the descriptive definition can be interpreted as "a method in researching group status, human, a certain object. It is a condition that is not set. It is a system of thought or an event that occurs in the present that involves an agency or organization, be it government or private" (Hariwijaya, 2007). This research is descriptive because it describes in detail certain social phenomena. Descriptive research aims to describe a phenomenon or a description of a phenomenon separately.

The data used and analyzed in this study was secondary. The data collection is done by documentation or library techniques (library research). The data collection technique used is based on two things. First, descriptive research finds facts with the proper interpretation to write a description, systematic picture or painting, factual, and accurate about the facts, properties, and relationships between the phenomena under investigation. Second, library research is a methodology that emphasizes the library as an object of study. Thus, the data collection of the research is focused on library data that has to do with research (Moleong, 2003).

Getting a complete picture is based on literature studies and in-depth interviews. Data analysis was done until the end of data collection. It was started by organizing the data so that the data that has been collected is complete. When there is a lack of data, the interview is reconducted. Therefore, the data generated from the literature and field studies were grouped. The data obtained from in-depth interviews were grouped and analyzed using qualitative techniques. It was by analyzing the unmeasurable data. In data analysis, the interviews and the results of literature reviews were compared, then evaluated. Furthermore, it was written using the descriptive-analytical method.

#### 4. Results and Discussions

The fisheries policy regarding eradicating illegal fishing is based on Law no. 31 of 2004 concerning Fisheries and revised by Law no. 45 of 2009. It was formed to accommodate technological developments and globalization. It also affects the availability of fish resources, environmental sustainability, fish management methods, and fish cultivation. The fishery law enforcement includes investigation, prosecution, and examination in court.

Legislation and policies related to eradicating illegal fishing are sufficient, so the weakness in eradicating illegal fishing lies in the execution and implementation of existing rules and policies. The results of this study indicate that two main factors are the weakness of policy implementation. They are the poor supervision system and the weakness of prosecution and law enforcement against the perpetrators of illegal fishing.

From several interviews and literature studies conducted, it is generally confirmed that the surveillance system in eradicating illegal fishing is the main weakness in the South China Sea. There are some main factors of the supervision weakness. They involve Indonesian waters, the problem of the supervision fleet, and the aspect of b

The main factor of the poor control is the lack of supervisory fishing vessels. It worsens due to the lack of budget support for screen operation days per year. The Navy and the National Police, who are given the task of the Act to supervise fisheries, also do not exert their powers intensively to supervise illegal fishing. It is because the operational budget is also limited. The surveillance system is not well-integrated. Meanwhile, the Integrated Surveillance System (IIS) concept designed by the Directorate General of PSDKP is a load of nonsense.

However, in the same context, the existence of the Indonesian Navy in supporting the eradication of illegal fishing in the Indonesian EEZ of the South China Sea has been optimal and effective. In the framework of the supervision system in the Indonesian EEZ of the South China Sea, there is a transparent coordination system among the Indonesian Navy, KKP, Indonesian National Police, and related agencies, which are members of the Badan Koordinasi Keamanan Laut (Bakorkamla) regularly. In addition, conditions that do not support each other with the supervision system are related to licensing policies and regulations, especially policies on fishing permits for ex-foreign ships and many foreign crew members. Therefore, there must be an emphasis on an integrated and systematic monitoring system, the intensity of the supervision, and coordination. KKP has strengthened institution supervision in the fishery industrialization and the high level of vulnerability and fisheries violations area.

Meanwhile, in 2011, a supervisory office was established. It was an administrative center and controlled activities throughout the South China Sea, including Indonesia's EEZ. In addition, Pontianak PSDKP Station is in charge of border areas. Thus, Pontianak PSDKP Station is an ad-hock place for captured vessels and their investigation process.

The field supervisory officers often take advantage of this momentum. It is to seek financial gain. Every time the perpetrators of a crime are caught, much money must be spent. Hence, the problem does not litigate.

Moral law enforcement is complicated to resolve because it involves the character and morals of both parties. In other words, illegal fishing practices will continue over time if there is always a need. It means that as long as there is a mutually beneficial relationship between entrepreneurs and officials, these criminal practices will continue to occur in the South China Sea. Legally, disclosure of this case is difficult because as long as the entrepreneurs are interested in continuing their business, they will not dismantle the bribery syndicates that occur. Moreover, it is difficult to collect evidence in terms of these violations. However, it must be disclosed as a reference for academics as an improvement material. It is in the prosecution and law enforcement of the perpetrators of the crime of illegal fishing.

The results of this study are also further strengthened by the results of an investigation by Tempo Magazine in 2010. It was related to the play of law enforcement. All agencies directly related to eradicating illegal fishing carried out legal games to get benefits in the form of "bribes." These agencies have a variety of modes to increase the wealth of unscrupulous officers. It is because every ship caught is required to pay. The minimum is tens of millions of rupiah. Sometimes, it is hundreds of millions of rupiah. It is different, based on the official permit price ("Mag. Tempo," 2010).

There is a "structural crime" in eradicating illegal fishing. Structural crime is done by eliminating fishermen's access to marine wealth. State officials commit this situation through legitimate state instruments to produce pro-investment policy products. This investment development practice further robs the wealth of coastal and marine resources from fishing families (ocean-grabbing).

From the various weaknesses in implementing policies to eradicate illegal fishing practices in the South China Sea, it is difficult to ensure the enforcement of illegal fishing eradication. Therefore, it takes the power holders' strong political will (political commitment). In addition, it takes firmness from the holders of power. Amid many supervision and law enforcement limitations, firm and courageous leadership is needed to arrest illegal ships in the South China Sea. The investigation process should end in court. Indonesia's EEZ in the South China Sea is vulnerable to conflicts among countries. It is also the front line of defence and national security. In addition to eradicating illegal fishing, surveillance in the South China Sea protects against threats. It supports Indonesia remains respected and feared and can maintain sovereignty independently.

By considering the dual effects caused by illegal fishing, this study finds several strategic steps in eradicating illegal fishing practices. They are categorized into two strategies, the internal and the external strategy.

The internal strategy consists of three strategies. They are first is improving the capture fisheries licensing system and mechanism. Second is the development and strengthening of surveillance (law enforcement) at sea. The third is improving the legal system and fisheries justice. Meanwhile, the external strategy is related to the importance of regional and international cooperation, especially those related to neighbouring countries. Second, by joining Indonesia in international fisheries organizations, Indonesia has indirectly stopped "non-member fishing." Hence, Indonesian fishery products are relatively acceptable to the international market.

In the past, the reluctance of the Indonesian government to join regional or international fishery organizations was mainly due to the obligation to pay a membership fee. However, when the global trend of eradicating illegal fishing practices continues to increase, prevention efforts through international organizations are needed gradually.

The paradigm deals with a legal and economical approach. In the legal aspect, several international regulations must be considered and referenced by the government. The international world has legally binding laws, United Nations Convention on the Law of the Sea 1982. Besides, the not legally binding laws are the Code of Conduct for Responsible Fisheries (CCRF) 1995 and the International Plan of Action (IPOA) to prevent, deter and eliminate IUU Fishing. FAO has also urged its member countries to incorporate this IPOA IUU fishing into a National Plan of Action (NPOA).

Reform of legislation in comprehensive eradication of IUU fishing spearheads eradicating IUU fishing. However, the problem is poor national legislation. One aspect that has not received any regulatory attention in Indonesia is the occurrence of ghost fishing. It occurs because fishing fleets let some parts of the fishing gear they operate. It sometimes disconnects and is carried away by ocean currents or stranded on the seabed.

Economically, to overcome IUU fishing is to strengthen the national fishing fleet. It is by modernizing the fleet of small fishing "ants" that usually operate around the coast. The solid national fishing fleet in ZEEI becomes a competitor. It even becomes an informant when IUU fishing practices occur. Second, the modernization of the national fishing fleet can be done by providing capital assistance policies.

Geopolitically, the Indonesian EEZ of the South China Sea is essential. Geopolitics is used to explain the physical environment's political behaviour and military capabilities. It is a discourse that is essentially always changing. According to the constellations of the times, it is reduced, increased, or changed following entirely different concepts in the present and future. It can be said that Indonesia's geopolitical strategy is based on national maritime policy.

On the other hand, maritime security is one of the central topics in the South China Sea region. It is because this issue will affect the regional economy. The South China Sea is one of the most vulnerable waters globally. The straits of Hormuz and the South China Sea are called the most dangerous area. It is vulnerable to foreign intervention in the region's stability. Maritime security problems due to illegal fishing are a national threat that must be handled highly. Maritime awareness is also needed from all maritime stakeholders. It is undeniable that several weaknesses need to be addressed regarding maritime awareness, confidence-building measures, and maritime security management. Indonesia shows that the water area (70%) is larger than the land (30%). However, the maritime awareness is not adequate and develops evenly among the community. It leads Indonesia to have insufficient maritime culture and local wisdom with a maritime perspective, even the national maritime policy. The development of confidence-building measures is partially done. Therefore, some parties doubt the government's commitment to dealing with illegal fishing practices.

## 5. Conclusion

In eradicating illegal fishing, Indonesia has a relatively good set of laws. It includes Law no. 31 of 2004 concerning Fisheries, revised into Law no. 45 of 2009, then strengthened by Ministerial Regulation No. 17 of 2006. Later, it was updated through Government Regulation No.5 of 2008. However, illegal fishing in Indonesia's EEZ of the South China Sea is rampant and difficult to eradicate. Thus, the weakness of the policy of eradicating illegal fishing is not the poor of existing regulations. Still, the weakness that occurs in the implementation of the policy. There are two weaknesses in eradicating illegal fishing. They are the poor supervision system for eradicating illegal fishing and weak enforcement and law enforcement against any violations.

The government and other fisheries and marine stakeholders must cooperate to eradicate the illegal practice. It becomes the responsibility of all agencies in Indonesian waters. It is because it needs all cooperation in eradicating illegal fishing. It prioritizes state sovereignty by involving the Ministry of Maritime Affairs and Fisheries, the Ministry of Defense, the Indonesian Military/Indonesian National Police, relevant agencies such as the Ministry of Foreign Affairs, the Ministry of Home Affairs, the provincial and district governments.

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