

Fisheries Crime Law Enforcement In Criminal Justice

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Abstract: *This study aimed to law enforcement in criminal acts in the field of fisheries in the province of Maluku study was conducted in the province of Maluku, especially Ambon, Maluku Tenggara, Fishing in the Old Court and Court Fishing in Ambon. The data collected consisted of data that is primary and which is secondary. Primary data is data obtained directly from the source data in the field (field research). Primary data were obtained using questionnaires, interviews and document study. Data were analyzed by qualitative analysis through the presentation of data in table form. The results showed in achieving law enforcement strategies in the prevention and eradication of fishing can be done in different ways: criminal policy, integrated fishing industry, improvement of the licensing system, revamping surveillance system, institutionalization of community, networking and the development of the judicial system of fisheries. This can be accomplished with the support of a third operation of the legal system that is the substance of the law, the legal structure, the legal culture in the achievement of the crime of fishery law enforcement effective, ideal and integrative.*

Keywords : *Crime Fisheries and Handling Strategy*

I. INTRODUCTION

Indonesia as an archipelagic country largely composed of sea territory, has the potential of fishery very large and diverse . Fishery potential possessed an economic potential that can be harnessed for the future of the nation, as the backbone of national development. Optimal utilization directed to the utilization of fish resources by taking into account the existing carrying capacity and sustainability to improve the welfare of the people, where many fishermen hang the life of the business activities of fisheries, animal protein needs for humans, increasing the potential of fisheries, increase revenues from foreign exchange, provide and the expansion of employment opportunities, improve productivity, added value and competitiveness of fishery products, as well as ensure the sustainability of fish resources, fish breeding area, as well as spatial.

The extent of the area and the magnitude of the potential contained can cause a variety of violations at sea which hamper fishing, some of the activities of troubled associated with law enforcement in the field of fisheries including fishing illegally (illegal fishing), fishing with the use of materials harmful to the ecosystems of the marine environment and so on (Muhadar et al, 2012) [1]

As the world's largest archipelagic country, Indonesia has the potential for very large ocean. But so far untapped potential of the sea well in improving the welfare of the nation in general and in particular foreign exchange income. Even most of the results of the use of the sea for this would "run" or "stolen" abroad by foreign fishermen who have modern equipment and operates up to Indonesian waters illegally. In this context, efforts to use the maximum Indonesian sea is not only the right but also a must.

The problem of illegal fishing by foreign vessels is actually not a new problem, and not just Indonesia's problem alone. Almost all countries have sea areas experiencing similar issues (Canada, Chile, Argentina, Pacific Counties and so on). This problem is estimated to have happened a long time in Indonesia, but there is not yet fully towards the attention given the absence of institutions / departments that deal specifically with this issue in the days of the old government. With the formation of the Department of Marine and Fisheries and the release of Decree 10 of 2003 on the licensing of foreign fishing vessels policies began to receive serious attention. But as other regulations, this Decree can not be separated from the pros and cons as well as the possibilities of negative effects that arise in its implementation (Fauzi, 2005: 134) [2].

On the other hand, there are some issues in the development of fisheries that need to get the attention of all parties, including government, community, and other parties associated with the development of fisheries. These issues, among them the symptoms of over-fishing, illegal fishing, and other actions that not only cause harm to the state, but also threaten the interests of fishermen and cultivator fish resources, climate and fisheries

industries nationwide. Those problems should be resolved in earnest therefore law enforcement in the field of fisheries to be very important and strategic in order to support the development of fisheries in a controlled and sustainable. Legal certainty is a condition that is absolutely necessary in the handling of criminal offenses in the field of fisheries.

II. RESEARCH METHODS

This study is a mix between a normative legal research (legal research) and legal research sociological (socio legal research). This study begins with an inventory of legal rules or regulations in connection with criminal offenses fisheries law enforcement.

In this study, the type of data collected consists of data that is primary and which is secondary. Primary data is data obtained directly from the source data in the field (field research). Primary data were obtained using questionnaires, interviews and document study.

The data has been collected through data collection activities can not be concluded in order to achieve the goal of his research because the data it is still the raw data and are still required effort or attempt to process them. The process is carried out by checking, examining the data that have been obtained to ascertain whether the data can be accounted for in accordance with reality. Once the data is processed and is considered sufficient then the next is presented in narrative form and may also be in the form of a table.

After the data collected is complete and has been processed by narration or table then analyzed qualitatively through the stages of conceptualization, categorization, relations and explanation.

III. RESULTS AND DISCUSSION

Enforcement of the law (law enforcement) is an attempt to enforce legal norms and also the values that are behind the norm. Law enforcement officials must understand completely the spirit of the law underlying the rule of law must be upheld and it will be related to various dynamics that occur in the process of making legislation (Sunarso, 2005: 34) [3].

In reaching law enforcement strategies in the prevention and eradication of fishing can be done in different ways: criminal policy, integrated fishing industry, improvement of the licensing system, revamping surveillance system, the institutionalization of people, networks and the development of the judicial system of fisheries. This can be accomplished with the support of a third operation of the legal system that is the substance of the law, the legal structure, the legal culture in the achievement of the crime of fishery law enforcement effective, ideal and integrative. In realizing law enforcement criminal acts in the fishery law enforcement strategies are needed to prevent and combat crime in the area of fisheries, among others:

1. Criminal Policy

Crime is one form of deviant behavior that is always there and attached to each form of society and society is never devoid of crime. According Saparinah Sadli, a deviant behavior that is a real threat or a threat to the social norms that underlie the life or social order can then give rise to tension the individual and social tensions, and is a real threat or potential for the continuity of social order (Saparinah Sadli, 1976: 56) [4]. Thus the crime in addition to the humanitarian problems it is also a social problem. Crime as a social problem seems to be not only a problem for a given society, but also the problems faced by the people in the world and it is an international phenomenon. Be regarded as an international problem not only because the number has increased, full peripheral also because the quality is considered more serious than in the past.

Therefore, in view of the increasing quantity and quality of topics in most countries it is reaffirmed in the fifth Congress of the United Nations in 1975 in Geneva, where in this congress are talking about a special topic:

- a) Changes in the shape and dimensions of crime, both national and transnational, and
- b) As a result of the economic and social effects of crime (Arief, 2010: 12) [5]

Some changes of the form of crime that is discussed in this congress include :

- a) Crime as business, namely the crime of aiming for material gain through activities in the field of business (business) or industry that is generally done in an organized and carried out by those who have accrued respected in society, including in the form of this crime, among other associated with environmental pollution, consumer protection and in the areas of banking, in addition to other crimes commonly known organized crime, white collar crime and corruption.

- b) Crime related to the results of the work Sendan cultural treasures, objects of cultural or heritage.
- c) acts of violence between individuals (interpersonal violence) congress in particular calls attention to acts of violence among teenagers.
- d) crimes associated with alcohol and drug abuse.
- e) Crimes related to migration (migration) and breakout displaced by natural disasters and war; about crime in this form, namely, problems related to passport and visa violations, falsification of documents, explore labor, prostitution and partly.
- f) acts of violence of transnational and international, commonly referred to as acts of terrorism.
- g) Crimes committed by women.
- h) crimes committed in the territorial sea.
- i) Crimes related primarily to motor vehicle traffic.

Crime prevention efforts of these international and national level has been done in various ways, but the results are not satisfactory. One crime prevention efforts is to use the criminal law to be criminal sanctions. However, even this effort is often questioned. Differences regarding the role of a criminal in the face of this crime problem has been going on since long. Control efforts using a social act criminal in someone guilty of violating criminal laws, is a social problem that has important legal dimensions (Arief, 2010: 17) [5].

The use of legal measures, including criminal, as part of efforts to combat crime (social issues) are included in the field of law enforcement policy. In addition, because the goal is to achieve the welfare of society at large, then even this criminal law enforcement policies included in social policy, that all rational effort to achieve the welfare of society. As a matter of policy issues including, the use of criminal law is not really a necessity. There is no absolute in the areas of policy, because in essence the policy issues people are faced also the problem of assessment and selection policies of the various alternatives.

Seen from the political aspect of the criminal, the use of a means of law can not be a priori or in absolute terms expressed as a necessity or otherwise declared something to be denied or abolished altogether. This means of political angles crime, the problem does not lie in whether or not willing to use criminal sanctions, but the important thing is how the lines of the policy which determines the imposition of criminal or approach to how that should be done by using the criminal penalties for anyone who violates the law.

The conception of crime prevention policies are integral to contain the consequences that any rational effort to combat crime must be a concern in formulating the means of criminal law should how legal norms and legal structures set. Starting from the policy approach that also, Sudarto argues as follows:

- a) The use of criminal law should pay attention to national development objectives, namely to realize a just and prosperous society the material and spiritual equality based on Pancasila, in connection with this the (use of) criminal law aims to tackle crime and hold measurement countermeasures against itself, for the welfare and public shelters.
- b) The act sought to be prevented or treated by the criminal law to be an act that is not desired, the act which brings loss (material and spiritual) of citizens.
- c) The use of criminal law should take into account the principle of cost and results (cost and benefit principle)
- d) The use of criminal law must also pay attention to the ability or capacity- body work of law enforcement agencies, which do not there overbelasting.

Another aspect to be considered from the aspect of policy approach is related to the values to be achieved or protected by criminal law. According Bossiouni, the objectives are achieved by the criminal is generally manifested in the social interests that contain certain values which need to be protected. These interests include:

- a) Protection of public order. The protection of citizens from crime, harm or hazards which can not be justified performed by others.
- b) Promoting re-offenders.
- c) Maintain or maintain the integrity of certain fundamental views on social justice, human dignity and individual justice.

Policy approaches and value-oriented approach should not be too visible as a dichotomy, because the policy approach should also be considered factors of value.

In connection with this, Ruslan Saleh, stated that the requirement of rationality that does not mean that ethical considerations in the criminal penal code can be left alone. Also, the terms rational is a moral requirement. So rationality factor should not be obscured by considerations that are ethical. The boundaries of ethical it must be properly and expeditiously as-meticulous formulated. Within the limits and what is ethically acceptable to be taken as the decisions are rational (Saleh, 1982: 44) [6].

Therefore, the criminal policy can not be separated completely from the problem of value, because the humanistic approach should also be noted. This is important not only because of the crime that is essentially a

humanitarian issue, but also because in fact the criminal itself contains an element of suffering that can attack the interests or the most precious value of human life.

Humanistic approach and the use of criminal sanctions in the context of crime prevention does not mean that the offense charged is an action that corresponds to the values of civilized humanity, but the main thing is there was an attempt to revive awareness of the offenders (convicted) are the values of humanity and values of social life. the condition of the area, the inner atmosphere of local communities so that through this approach by studying every phenomenon that occurs in regions of the country, and then be accommodated in the form of legislation that can address any issues in the region in the region RI state.

Formulation of the substance found in a variety of laws and regulations in Indonesia policy formulation of the law is more influenced by the owners of capital (sponsored links), the bureaucracy that has interests, directly or indirectly with sponsor messages, as well as political influence. All of this leads to confusion and legal uncertainty in practice. Thoughts on reorientation and legislative policy reform on crime prevention should be given space or space in order to restore public confidence in the law so that the law can find its identity as a law. In line with the above, based on interviews conducted by the author Aminaddin as chairman of the district court in Tual, he said that the laws that exist and are used a lot of siding with employers, in addition to handling strangers in terms of the language used, the granting of licenses that do not conform to the procedure and criminal sanctions fines apply all of which constitute obstacles encountered in combating crime in the area of fisheries. Law who finds himself as a law based on the reality that the law was able to answer every conflict is happening in society and not vice versa. Regarding such, there is so much criticism of the implementation of the law in practice, and further complement the atmosphere of the clamor of public perceptions of the law. For the sake of it is necessary to reorient, reevaluation and reform of the criminal politics.

Urgency to re-evaluate against policy legislation criminal in connection with the development of society and rising crime rates are also an input (input) for the government and parliament as legislators regarding authorized to investigate crimes in sea areas should also be considered within the framework of law enforcement cored justice. Criminal law policy (legislative policy) that have been done have never considered the sea area as the medium used to commit a crime. Thought formed and that comes is how to distribute the cake operational control and response to crimes that occurred in the sea area by giving special authority. The next problematic regarding the implementation of the law is the responsibility of each institution. Such an understanding is a view or thought that plunged this nation into the abyss of prolonged corrupt. Say so, because crime prevention should be carried from upstream to downstream to the mouth and not vice versa. Like the bath initially cleaned with soap from head to toe and not vice versa. Such philosophy considering all these nations that the crimes committed in sea areas organized in a particular business strength are able to regulate and control the bureaucratic authority became colleagues.

For ordinary people, the sea area not only can be a source of life, but with the development of modern properties and behavior of fishing communities who depend on the sea getting displaced or marginalized because the sea has been controlled by others (foreign businessmen) with a fleet or fishing vessels using advanced technology, Facing such conditions, the question arises whether the policy of crime prevention will be able to address the reality of the community? The answer lies in the political will of governments to do all policies including the policy of the criminal law in dealing or cope with any crimes including crimes in the marine areas Maluku province. Willingness of the government in the framework of crime prevention in the sea area actually is a package of government policies on the public, where government policies are institutional decisions which contains provisions that should be the goal, guidance or direction for the state apparatus in order that the activities carried out was consistent with the achievement of the goal.

Criminal policy that can be done in two (2) ways, namely by means of penal (criminal) or the enforcement of criminal law, and with the advice of non-penal, inter alia through the activities of legal education to the public about the importance of the protection of fisheries resource management and legal effect if the abuse could lead to IUU fishing practices. Criminal policy program is the responsibility of law enforcement officers to enforce the law as a punishment, but also required a means of reward for motivating people to support law enforcement. In the process of law enforcement (law enforcement), according to Law No. 45 of 2009, the application of a sanction to the offender is not just limited to criminal sanctions and also law enforcement agencies do not always have to imprison as many offenders who commit crimes IUU fishing.

2. Integrated Fisheries Industry

Integrated fishing industry, from upstream to downstream needs to be developed as one of the ways or strategies to prevent IUU fishing. That's because the perpetrators of IUU fishing vessels whose business is integrated or vertically integrated. IUU fishing is organized crime (organized crime) integrated its business such that it is an entity that is mutually supportive so as to achieve maximum efficiency and revenue can be with optimum can be Achieved, integrated roomates that IUU fisheries need to be confronted or dealt with through the legal fisheries and integrated.

Integrated fishing industry is unity or linkage between the sub-systems of production facilities and infrastructure provider, fishing activities, processing activities and marketing activities are carried out in an integrated manner or by one business entity. Integrated activities make the flow of goods, services and information between the sub-system with other sub-systems can be run smoothly and inexpensively, which in turn makes the business profitable economically.

The development of the fishing industry integrated in Indonesia could be the integration of fisheries between the provision of infrastructure and facilities for fishing, if a concerted effort with production bases are islands located in waters that had been the goal area perpetrators of IUU fishing can be developed, this course would prevent the proliferation of IUU fishing in the area or those waters.

In order to develop fisheries, especially in the field of fisheries, the Government is obliged to build infrastructure in the form of fishing ports. Fishing port serves as a means of support to enhance the production and nature as one of the working environment (Kuntoro, 2002: 16) [7].

In the current community or local residents can participate or be involved as well as the benefits of having an integrated fisheries activities established by the Indonesian people themselves in their regions, their chances to cooperate with foreign fishermen, perpetrators of IUU fishing, is limited. Symbiotic mutualism, mutual between the local population in remote areas and foreign as well as perpetrators of IUU fishing can be stopped. Through this way, space for foreign fishing, IUU actors, the more narrow that could eventually be set aside and expel the illegal from the practice of brand.

3. Improved Licensing System

Fisheries licensing system was already up and running in Indonesia. But the existing system in order to give permission or access to businesses to catch fish. For the government gives permission, licensing is a way to earn income. In the management of fishery resources, licensing is a management mechanism. Through licensing, resource utilization will be regulated, employers and fisherman set of accessibility. By karen orientation licensing system as a means of giving permission and the tools to get money then IUU fishing is very likely to occur. Logically, the number of licenses issued as much as possible because in order to earn a substantial income. Things like this tend to make possible misuse eventually permit difficulties in supervision. Crime IUU fishing offenders arrested Indonesian authorities commonly associated licensing and permits misuse. Forgery expired license, improper arrest operation permits, errors and differences in the interpretation of the letter of licensing, and the operation without a permit is a type of crime that is common IUU fishing. This crime was generally exist on the perpetrators, but there is no doubt that this can be derived from the weakness of the licensing system, including those responsible in the process of giving permission. If the system, including processes and people responsible in this permit forgery weak then the opportunities and the possibility of IUU fishing was very great.

Therefore, improvement of the licensing system is the first step and strategic in the fight against IUU. If the licensing system can really be done in accordance with the purpose of development and management of fishery resources, this becomes preventive measures IUU fishing practices which in turn will make it easier to conduct surveillance and control in the field.

4. Development of Surveillance Systems

Supervision is an important link in the fight against IUU. Without supervision and control in the field, the practice of IUU fishing will be more wild and savage. With the increasing number of activities and supervision of course, fishing practices even more. Moreover, if there is no monitoring, there will be no arrest offenders who pose a deterrent IUU fishing. The success surveillance relies heavily on two main points, namely human surveillance equipment and supervisory two things that are forming a system of monitoring. Surveillance equipment such as patrol boats is a necessity. The more patrol boats, more and more elements of supervision in the field. This is an important variable that will determine the decision done by the perpetrators of IUU fishing. Several empirical studies revealed that when a patrol boat on the field, the perpetrators generally decided against IUU fishing. So the presence of patrol boats in the field can prevent IUU fishing. This is the justification for Indonesia to improve fleet control at the same time with the intensity of its operations in the field.

Monitoring through satellite and electronic means, known as Vessel Monitoring System (VMS) is recommended internationally. Through VMS, fishing vessels can be monitored the movements and activities as far as the ships were put up and animate VMS transmitter on board. Sophisticated VMS system, the behavior of fishermen and entrepreneurs who can determine the system can operate effectively. When fishermen deliberately turn off the transmitter have been installed, the automatic activities in the ocean is not detected. Therefore, in addition to reliability monitoring system on land and the transmitter itself, it is also important that there are clear rules and sanctions for those who deliberately do not operate the transmitter VMS on board.

Other surveillance patterns that involve the community. Through this management scheme as fishermen taken into account as part of the surveillance itself. They can provide information or reports about events that happened in the area of fishing. They can also take preventive measures and evict perpetrators of IUU fishing activities from Indonesian waters.

Successful surveillance relies heavily on human resources. Any sophisticated means of monitoring, it would be meaningless if it did not have the human resources capacity and commitment to conduct surveillance properly and according to the rules. If they are supposed to work as a supervisor it is part of organized crime, IUU fishing, itself, earnestly surveillance will not mean anything. Fisheries offenders instead of feeling frightened and felt respect to the supervisor, on the contrary nominally harassing supervisory institutions, especially harassing inspectors who are in the field.

If such a situation occurs that makes the institution and the system is not effective official supervision, the role of community in supervision should take precedence. Fisherman society which is the core of the monitoring group of existing capacity needs to be strengthened and developed institutional to include also people who do have concerns non fishermen of this. In this regard also, the community in a wider spectrum involving the media and the press need to endlessly tell about this IUU fishing practices. It is hoped supervision more effective, transparent and effective tool in preventing IUU fishing practices.

To support the utilization of the fishery until the end of November 2014 the number of fishing fleet operating in WPP three mentioned above are as many as 343 units consisting of as many as 244 units permit the central and local permits as many as 99 units.

5. Institutionalization Society

Law enforcement against criminal acts fisheries not always be the rights and obligations of law enforcement. Crime in general is one of the forms of roomates organized crime. Society Institutionalization) is very important to be cultivated by setting a number of rights and obligations of the community. Community rights, among others: the right to obtain information that is easy and transparent, the right to obtain a fair service and non-discriminatory, the right to obtain security guarantees and legal protection, the right to submit the information responsibly. In addition, the public is also required obligation of providing the widest possible opportunity in the prevention and eradication of fisheries, thereby substantially supporting the mandate of law enforcement.

6. Network (network)

Efforts to prevent criminal acts fishery also takes the trust factor (personal attitudes) law enforcement that lead to the moral ethics of law enforcement, will be motivating people to participate. Social communication that exists between the law enforcement community, it will be established working relationships (network) as one of a network of information that is important to the interests of the effectiveness of law enforcement, as well as for social control, which in turn created an institution of social control.

7. Development of Fisheries Justice System

The criminal justice system to prevent and fight against IUU indeed occupy last place, but it is very important. Justice is the end of a legal process on offenders. Without justice, the legal process is meaningless. Justice that determines whether or not a person acts against the rules or applicable law. To be more effective and efficient and not be confused with cases of non-fisheries, the Indonesian government has established a special court fisheries, According to Law No. 31 of 2004, special court has been built on five (5) places, namely North Jakarta, Pontianak, Medan, Bitung and Tual. The fifth area is indeed a center of concentration of IUU fishing. Recent developments fisheries tribunal at the end of 2014 the government has established another four (4) courts fishery based in the city of Ambon, Merauke, Sorong and Ranai. Fisheries tribunal is expected to handle crime in the area of fisheries that occurred during this throughout Indonesia. Given the importance of fisheries and justice on the basis that IUU fishing activities is so wide spectrum of the region's fisheries judicial system needs to be developed further. However, the more important and essential, which means that the existing general courts throughout Indonesia can more effectively handle cases of crimes IUU fishing. If the general courts in this function effectively, which means that crimes IUU fishing can be quickly resolved and legal sanctions in accordance with applicable regulations, their impact on crime IUU fishing will be very large. Criminals by itself to stop doing wrong because kapok and deterrent. It is also an example for others not to participate in this organized crime.

In order to realize the strategy of law enforcement in criminal activities in the field of fisheries need a marine policy, the superintendent of fisheries not only the investigators but also given oversight responsibility that the Police and the Navy, the establishment of institutionalization and networks and should be set up courts of fisheries on each provinces in Indonesia in order to support the resolution of these cases can IUU. Everything

is done fishery if there is a role of government, law enforcement officers and the public in law enforcement strategies to realize the ideal offenses, effective and integrative

CONCLUSION

In reaching law enforcement strategies in the prevention and eradication of fishing can be done in different ways: criminal policy, integrated fishing industry, improvement of the licensing system, revamping surveillance system, institutionalization of community, networking and the development of the judicial system of fisheries. This can be accomplished with the support of a third operation of the legal system that is the substance of the law, the legal structure, the legal culture in the achievement of the crime of fishery law enforcement effective, ideal and integrative.

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