

Criminal Law Enforcement Barriers Against Illegal Fishing Offenders in Indonesian Marine Waters

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Abstract

Indonesia is an archipelagic state with abundant marine resources and one of the world's most strategic maritime jurisdictions. However, this potential is accompanied by persistent threats from illegal, unreported, and unregulated (*IUU*) fishing. Illegal fishing not only causes substantial economic losses to the state, but also damages marine ecosystems, weakens the welfare of traditional fishers, and challenges state sovereignty over marine resources. Although Indonesian fisheries law provides criminal sanctions against offenders, law enforcement in practice remains constrained by overlapping institutional authority, limited patrol fleets and surveillance technology, budgetary limitations, broad maritime jurisdiction, and the difficulty of reaching corporate beneficiaries behind fishing crimes. This study aims to analyze the criminal law enforcement barriers against illegal fishing offenders in Indonesian marine waters and formulate strategic legal solutions to strengthen the protection of Indonesia's marine sovereignty. This research uses normative legal research with statutory, conceptual, and institutional approaches. The findings show that the main barriers are not merely normative, but structural and operational. Therefore, legal reform must be directed toward harmonizing maritime law enforcement authority, strengthening an integrated coast guard model, modernizing surveillance through vessel monitoring systems and satellite-based technology, and applying a follow-the-money approach to reach corporate actors and beneficial owners. This study concludes that effective eradication of illegal fishing requires an integrated criminal law enforcement model that combines institutional coordination, technological surveillance, economic sanctions, and corporate accountability.

Keywords: Criminal Law Enforcement; Illegal Fishing; IUU Fishing; Maritime Sovereignty; Indonesian Waters.

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Introduction

Indonesia's geographical character as an archipelagic state makes the sea an essential element of national identity, economic development, and state sovereignty. The marine area is not merely a transportation route or a natural resource zone, but also a strategic space where the state exercises authority, safeguards territorial integrity, and protects the welfare of coastal communities. The fisheries sector contributes to food security, employment, foreign exchange, and the livelihoods of millions of people in coastal regions. At the same time, the vastness of Indonesia's maritime jurisdiction creates substantial challenges for supervision and criminal law enforcement.

Illegal, unreported, and unregulated fishing, commonly referred to as IUU fishing, remains one of the most serious threats to Indonesia's marine governance. This practice includes fishing without permits, using prohibited fishing gear, manipulating vessel documents, conducting transshipment without authorization, entering Indonesian waters illegally, and exploiting fish resources beyond regulatory limits. In legal terms, illegal fishing is not simply an administrative violation. It is a fisheries crime that can involve organized networks, foreign vessels, corporate actors, forged documents, corrupt intermediaries, and cross-border economic interests. Thus, illegal fishing should be viewed as a multidimensional crime involving economic, ecological, social, and sovereignty-related consequences [1].

The destructive impact of illegal fishing is significant. Economically, the state loses potential revenue from fisheries levies, taxes, and lawful fishery production. Ecologically, illegal fishing frequently relies on non-selective or destructive methods that damage fish stocks, coral reefs, and marine biodiversity. Socially, it undermines the livelihood of traditional fishers, who must compete with better equipped illegal vessels. From the perspective of sovereignty, illegal fishing by foreign vessels constitutes a direct challenge to Indonesia's authority to regulate and protect its marine resources. Therefore, criminal law enforcement against illegal fishing must be understood not only as an ordinary law enforcement issue, but also as part of the protection of maritime sovereignty and ecological justice.

Indonesia has developed a relatively strong legal framework to address fisheries crimes. Law Number 31 of 2004 concerning Fisheries, as amended by Law Number 45 of 2009, provides criminal provisions for illegal fishing activities, including fishing without a license, using prohibited fishing gear, and falsifying fisheries documents [2]. The Fisheries Law also gives authority to various law enforcement bodies, including civil servant investigators in fisheries, the Indonesian National Police, and the Indonesian Navy. In addition, Law Number 32 of 2014 concerning Marine Affairs strengthens the legal basis for marine governance and the role of maritime security institutions [3]. However, the existence of legal provisions does not automatically guarantee effective enforcement.

In practice, criminal law enforcement against illegal fishing continues to face serious obstacles. The first obstacle is the overlapping authority among institutions that operate at sea. Several institutions, such as the Ministry of Marine Affairs and Fisheries, the Navy, the Water Police, the Maritime Security Agency, Customs, and other agencies, may have authority depending on the type of violation, location, and legal basis. This multi-agency arrangement often results in sectoral ego, inconsistent coordination, and inefficiency in investigation and prosecution. The second obstacle is the lack of adequate patrol vessels, modern surveillance technology, and operational budgets. The third obstacle lies in the social and economic conditions of coastal communities, where some fishers may become involved in illegal practices due to poverty, low legal awareness, or dependence on financiers and middlemen.

The problem becomes more complex when illegal fishing involves corporate actors. In many cases, law enforcement focuses on ship captains and crew members, while the beneficial owners, financiers, or corporations behind illegal fishing activities remain difficult to reach. This indicates that criminal law enforcement still tends to be offender-based at the operational level rather than oriented toward tracing economic benefits and organizational structures. For this reason, the use of a follow-the-money approach, corporate criminal liability, and asset recovery mechanisms is increasingly important in fisheries crime enforcement [4].

Based on the foregoing background, this study formulates two main research problems. First, what are the barriers to criminal law enforcement against illegal fishing offenders in Indonesian marine waters? Second, what legal and institutional measures can be taken to overcome those barriers in order to protect Indonesia's marine sovereignty and fisheries resources? These questions are important because illegal fishing is not only a matter of catching offenders at sea, but also a matter of building an integrated legal system that can prevent, detect, investigate, prosecute, and deter fisheries crimes effectively.

This research uses the theory of law enforcement developed by Soerjono Soekanto as the primary analytical framework. According to this theory, law enforcement is influenced by the substance of law, law enforcement officials, facilities and infrastructure, society, and legal culture [5]. This framework is relevant because illegal fishing enforcement problems cannot be explained solely by statutory weaknesses. They also involve institutional structure, human resources, budget, technology, public participation, and the culture of compliance within maritime communities. In addition, this study uses the concept of fisheries crime as a special criminal law regime and connects it with the idea of state sovereignty over natural resources.

Research Methodology

This research uses normative legal research, also known as doctrinal legal research. This method is appropriate because the study focuses on legal norms, statutory provisions, institutional authority, and conceptual legal reconstruction related to criminal law enforcement against illegal fishing. Normative legal research does not merely describe legal rules, but also evaluates whether existing legal norms are coherent, effective, and capable of addressing the legal problems under study [6].

The approaches used in this study are the statutory approach and the conceptual approach. The statutory approach is applied by examining laws and regulations related to fisheries crimes, maritime governance, criminal procedure, and institutional authority at sea. The main legal materials include Law Number 31 of 2004 concerning Fisheries, Law Number 45 of 2009 concerning the amendment to the Fisheries Law, Law Number 32 of 2014 concerning Marine Affairs, the Criminal Code, the Criminal Procedure Code, and related regulations on maritime security and fisheries supervision. The conceptual approach is used to analyze concepts such as criminal law enforcement, illegal fishing, integrated maritime security, corporate accountability, and the follow-the-money approach.

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutes and regulations relevant to fisheries crimes and maritime law enforcement. Secondary legal materials include books, legal journals, research reports, and scientific articles related to criminal law enforcement, fisheries crime, and maritime governance. Tertiary materials, such as legal dictionaries and encyclopedias, are used to clarify relevant terminology. Legal materials are collected through library research by tracing and reviewing literature, legal instruments, and scientific writings relevant to the research problems.

The analysis is conducted qualitatively using descriptive-analytical and prescriptive methods. The descriptive-analytical method is used to explain the existing legal framework and to identify law enforcement barriers in practice. The prescriptive method is used to formulate legal and institutional solutions for improving criminal law enforcement against illegal fishing offenders. Through this method, the study aims not only to identify problems, but also to offer a model of reform that is normatively justified and practically applicable.

Results 1. Barriers to Criminal Law Enforcement Against Illegal Fishing Offenders in Indonesian Marine Waters

The first barrier lies in the substance of law, particularly the overlapping authority among maritime law enforcement institutions. The Fisheries Law authorizes fisheries civil servant investigators, police investigators, and Navy officers to investigate fisheries crimes [2]. On the one hand, the plurality of authorized institutions can be understood as an attempt to strengthen

enforcement coverage. On the other hand, it creates coordination problems when institutional mandates are not clearly integrated. Each institution may rely on its own operational procedures, command structure, budget, and intelligence network. As a result, enforcement may become fragmented, and the handling of cases may be delayed by jurisdictional debates.

The overlapping authority also affects the chain of criminal procedure. A case that begins as a fisheries violation may involve immigration, customs, environmental, labor, or corporate law dimensions. Without a clear integrated mechanism, the investigation may stop at the easiest target, namely the captain or crew. This weakens deterrence because the true economic actors behind the illegal fishing operation may remain untouched. In this sense, the barrier is not merely that many agencies exist, but that the system has not yet fully developed a unified operational command for maritime crime enforcement.

The second barrier concerns law enforcement officials and institutional capacity. Indonesia's sea area is vast, while the number of investigators, fisheries supervisors, patrol officers, and prosecutors with specialization in fisheries crime remains limited. The enforcement of illegal fishing requires not only general criminal law knowledge, but also technical understanding of fishing licenses, fishing gear, vessel documentation, transshipment methods, fishery zones, and vessel monitoring technology. Without adequate specialization, investigators may face difficulty in proving the elements of fisheries crimes, particularly when offenders use sophisticated methods such as document manipulation, vessel identity changes, and ownership layering.

The third barrier concerns facilities and infrastructure. Effective fisheries crime enforcement depends heavily on patrol vessels, fuel availability, radar, satellite surveillance, vessel monitoring systems, and rapid information exchange. The cost of sea patrol operations is high, while the area that must be monitored is extensive. In several cases, illegal vessels may have better speed, navigation systems, and operational networks than state patrol vessels. This asymmetry makes law enforcement reactive rather than preventive. Patrols often occur after violations are detected, while a large number of illegal activities remain hidden in remote waters or are disguised through transshipment at sea.

The fourth barrier relates to budgetary limitations. Law enforcement at sea is more expensive than law enforcement on land because it requires vessels, fuel, maintenance, crew, equipment, and coordination across regions. Limited budgets reduce patrol frequency, weaken maintenance, and restrict the use of advanced technologies. As a result, law enforcement institutions may be forced to prioritize certain zones and leave other vulnerable areas insufficiently monitored. This creates enforcement gaps that can be exploited by illegal fishing networks.

The fifth barrier concerns community and legal culture. Some coastal communities may become involved in illegal fishing due to economic pressure, lack of access to lawful fishing equipment, dependence on financiers, or weak legal awareness. In certain areas, destructive fishing practices such as the use of explosives, poisons, or prohibited gear persist because they are viewed as economically profitable despite their ecological harm. Therefore, criminal law enforcement cannot rely solely on punishment. It must be accompanied by community education, alternative livelihoods, and the strengthening of compliance culture in coastal communities.

The sixth barrier is the difficulty of reaching corporate actors and beneficial owners. Illegal fishing is often organized through layered ownership structures, foreign flags, forged documents, and nominee arrangements. The ship captain and crew are often only operational actors, while the financial gains are enjoyed by corporations or financiers. If law enforcement stops at arresting crew members, the economic structure of the crime remains intact. This weakens the deterrent effect of criminal law and allows illegal fishing networks to reorganize.

The seventh barrier relates to proof and case construction. Fisheries crimes often require technical evidence such as vessel tracks, fishing gear examination, licensing documents, satellite data, logbooks, and expert testimony. If these forms of evidence are not collected systematically, prosecution may be weakened. Moreover, when evidence is located at sea or

involves foreign vessels, the process of securing and preserving evidence becomes more difficult. Therefore, law enforcement requires a stronger evidence management system supported by technology and inter-agency cooperation.

These barriers demonstrate that illegal fishing enforcement is not merely a matter of increasing punishment. Criminal sanctions will not be effective if institutional coordination remains weak, if surveillance technology is inadequate, and if the economic beneficiaries of illegal fishing remain beyond the reach of prosecution. Accordingly, the solution must be integrated, combining legal harmonization, institutional reform, technological modernization, community participation, and corporate accountability.

2. Legal and Institutional Measures to Overcome Law Enforcement Barriers

The first strategic measure is the harmonization of maritime law enforcement authority. Indonesia needs a clearer coordination model to prevent overlapping mandates among institutions operating at sea. One possible solution is to strengthen a single agency multi-task model by optimizing the role of the Maritime Security Agency as an Indonesian coast guard. This does not necessarily eliminate the role of existing institutions, but it establishes a clear coordination framework, a unified command system, and standardized operational procedures. With a stronger coast guard model, patrols, intelligence, pursuit, detention, and evidence handling can be carried out more effectively [7].

The second measure is the modernization of surveillance technology. Traditional patrol-based enforcement is insufficient given the vastness of Indonesian waters. Therefore, the government must strengthen the use of vessel monitoring systems, automatic identification systems, satellite imagery, maritime drones, coastal radar, and integrated data platforms. Technology allows law enforcement agencies to detect suspicious vessel movement, unauthorized transshipment, license violations, and entry into prohibited areas. A technology-based approach can also reduce operational costs by directing patrol vessels to high-risk targets rather than conducting random patrols.

The third measure is the implementation of an integrated maritime data system. Information regarding fishing permits, vessel ownership, vessel movement, crew identity, catch landing, and prior violations should be integrated in a single national database accessible to relevant enforcement agencies. Such integration is crucial because illegal fishing often exploits data fragmentation. When one institution does not have access to another institution's data, offenders may manipulate documents or move between jurisdictions. An integrated system would support evidence collection, risk profiling, and faster decision-making.

The fourth measure is strengthening the follow-the-money approach. Criminal law enforcement against illegal fishing should not focus only on physical vessels and crews. Investigators must also trace financial flows, corporate ownership, beneficial owners, and the distribution of profits. Where illegal fishing generates proceeds of crime, the application of anti-money laundering mechanisms can strengthen enforcement by targeting assets and financial networks [8]. This approach is important because the economic motive is the core driver of illegal fishing. If the financial benefits are confiscated, the deterrent effect becomes stronger.

The fifth measure is the expansion of corporate criminal liability. Fisheries crimes may be committed by corporations through their managers, agents, or affiliated vessels. Therefore, criminal liability should be directed not only at individual perpetrators but also at corporations that benefit from illegal fishing. Corporate sanctions may include fines, license revocation, asset confiscation, publication of judgments, suspension of operations, and restitution for ecological damage. This approach is consistent with the development of modern criminal law, which recognizes that organized economic crimes often operate through corporate structures [9].

The sixth measure is strengthening the role of prosecutors and courts in fisheries cases. Investigators may successfully arrest vessels, but the case will not produce deterrence if prosecution and adjudication are weak. Prosecutors must be equipped with technical

understanding of fisheries crimes, corporate liability, and electronic evidence. Judges also need adequate comprehension of the ecological, economic, and sovereignty dimensions of illegal fishing. Specialized training and guidelines for fisheries crime cases would improve consistency and quality of law enforcement.

The seventh measure is community-based prevention. Coastal communities should not be treated solely as objects of enforcement. They must be involved as partners in surveillance and compliance. Community reporting systems, legal education, support for sustainable fishing gear, and economic assistance can reduce local participation in illegal fishing. A compliance culture will be stronger when legal rules are supported by social legitimacy and economic alternatives. This is consistent with the view that law enforcement is influenced not only by legal substance and institutions but also by society and legal culture [5].

The eighth measure is international cooperation. Illegal fishing often involves foreign vessels, foreign crews, cross-border markets, and transnational supply chains. Indonesia therefore needs cooperation with neighboring countries, regional fisheries management organizations, and international enforcement networks. Information exchange, joint patrols, mutual legal assistance, and port state measures are important tools for preventing offenders from escaping accountability by moving across jurisdictions. Illegal fishing must be addressed as a transnational maritime crime rather than as a purely domestic violation [1].

Based on these measures, the ideal model of criminal law enforcement against illegal fishing is an integrated maritime criminal justice model. This model combines a clear command structure, technological surveillance, professional investigation, corporate accountability, asset recovery, community participation, and international cooperation. Such a model shifts enforcement from reactive arrest toward preventive, intelligence-led, and economically targeted enforcement. This is necessary to ensure that criminal law protects not only legal order but also marine sustainability, fisher welfare, and national sovereignty.

Conclusion

1. Criminal law enforcement against illegal fishing offenders in Indonesian marine waters remains suboptimal due to several interrelated barriers. These barriers include overlapping institutional authority, limited personnel and specialized capacity, inadequate patrol fleets and surveillance technology, budget constraints, weak legal culture in some coastal communities, difficulties in proving complex fisheries crimes, and the inability of enforcement to consistently reach corporate beneficiaries and beneficial owners. These barriers show that the problem is not merely the absence of criminal sanctions, but the weakness of the enforcement system that supports their implementation.
2. To overcome these barriers, Indonesia needs to strengthen an integrated maritime law enforcement model. Legal reform should be directed toward harmonizing institutional authority, strengthening a single agency multi-task or coast guard coordination model, modernizing surveillance technology, integrating maritime data, applying the follow-the-money approach, expanding corporate criminal liability, improving the capacity of prosecutors and courts, and involving coastal communities in prevention. Effective law enforcement against illegal fishing must combine criminal sanctions with institutional coordination, technology, economic deterrence, and public participation. In this way, criminal law can function not only as a punitive instrument but also as a strategic tool for protecting marine resources, ecological sustainability, fisher welfare, and Indonesia's maritime sovereignty.

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