

Criminal Sanctions Against Fisheries Crimes in the Management of Marine Resources

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Abstract

Indonesia, as an archipelagic state, possesses abundant marine resources that are central to national welfare, coastal livelihoods, and maritime sovereignty. However, the management of these resources continues to face serious threats from fisheries crimes, particularly illegal, unreported, and unregulated (IUU) fishing, destructive fishing practices, and the misuse of fishing permits. This study aims to analyze the regulation and effectiveness of criminal sanctions against fisheries crimes in Indonesia and to assess their contribution to sustainable marine resource management. The research applies normative legal research using statutory and conceptual approaches. The legal materials include the Fisheries Law, the Job Creation Law, UNCLOS 1982, legal doctrines, and relevant scholarly literature. The results indicate that criminal sanctions in fisheries law have been normatively formulated in a relatively comprehensive manner, especially for destructive fishing and fishing without permits. Nevertheless, their implementation has not fully created a deterrent effect due to overlapping authority among law enforcement institutions, disparities in court decisions, limited surveillance capacity, weak execution of fines, and the difficulty of reaching corporate actors and beneficial owners. Therefore, criminal sanctions must be strengthened through harmonization between administrative and criminal enforcement, integrated maritime law enforcement, asset recovery, corporate liability, and environmental restoration-oriented sanctions. This study argues that effective fisheries criminal law should not merely punish offenders but must also protect marine sustainability, restore ecological losses, and strengthen Indonesia's maritime governance.

Keywords : Criminal Sanctions; Fisheries Crimes; IUU Fishing; Marine Resources; Law Enforcement.

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Introduction

The marine and fisheries sector constitutes one of the strategic pillars of Indonesia's national economy and maritime sovereignty. As an archipelagic state, Indonesia has extensive marine jurisdiction and abundant fishery resources that support food security, employment, and the welfare of coastal communities.[7] Nevertheless, the same geographical condition also creates serious challenges for law enforcement, as Indonesia's vast waters are vulnerable to fisheries crimes committed by domestic and foreign actors.

Fisheries crimes are not limited to conventional fishing violations. In practice, they include fishing without permits, the use of prohibited fishing gear, destructive fishing using explosives or toxic substances, document falsification, transshipment at sea, illegal entry into Indonesian fisheries management areas, and corporate involvement in IUU fishing networks. These acts are harmful not only because they generate state economic losses, but also because they damage marine ecosystems and undermine the sustainability of fisheries resources.

The legal framework for fisheries crimes in Indonesia has been developed through Law Number 31 of 2004 concerning Fisheries as amended by Law Number 45 of 2009.[8][9] The law provides criminal sanctions, including imprisonment, fines, confiscation, and in certain contexts the sinking or destruction of vessels used in illegal fishing. The enactment of Law Number 6 of 2023 concerning Job Creation also influences the direction of fisheries governance by strengthening licensing and administrative control.[10] However, the existence of sanctions in statutory norms does not automatically guarantee effective enforcement.

The central problem of this paper is the gap between the normative firmness of fisheries criminal sanctions and their practical effectiveness. Although the Fisheries Law provides relatively severe sanctions, illegal fishing continues to occur, while law enforcement frequently focuses on vessel crews rather than corporate controllers or beneficial owners. In addition, disparities in judicial decisions, limited maritime surveillance, overlapping authority among agencies, and the weak execution of criminal fines reduce the deterrent effect of criminal sanctions.

This article argues that criminal sanctions in the fisheries sector should not be understood merely as punitive instruments. In the context of sustainable marine resource management, criminal law must also serve preventive, restorative, and regulatory functions. Criminal sanctions should be directed not only toward individual offenders but also toward the economic structures that benefit from fisheries crimes. Therefore, a more integrated approach is required, combining criminal sanctions, administrative measures, corporate liability, asset recovery, and ecological restoration.

Based on the foregoing, this study addresses two issues: first, how criminal sanctions against fisheries crimes are regulated under Indonesian law; and second, whether the current application of criminal sanctions is effective in creating deterrence and protecting marine resources. The analysis is expected to contribute to the development of fisheries criminal law and to strengthen sustainable marine governance in Indonesia.

Research Methodology

This research uses normative legal research, which focuses on the study of legal norms, doctrines, and principles contained in legislation and legal literature. Normative legal research is appropriate because the main issue discussed in this paper concerns the regulation and effectiveness of criminal sanctions in fisheries law.[4] The study does not aim to measure law enforcement empirically through fieldwork, but to analyze the consistency, function, and normative adequacy of existing legal instruments.

The approaches used are the statutory approach and the conceptual approach. The statutory approach examines laws and regulations related to fisheries crimes, including Law Number 31 of 2004 concerning Fisheries, Law Number 45 of 2009, Law Number 6 of 2023, the Criminal Code, and relevant provisions of UNCLOS 1982. The conceptual approach is used to

analyze the theories of law enforcement, punishment, deterrence, corporate criminal liability, and sustainable marine resource management.

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations and international legal instruments. Secondary legal materials include books, scientific articles, legal journals, and scholarly opinions related to fisheries law and criminal sanctions. Tertiary materials include legal dictionaries and other supporting references. All legal materials are analyzed qualitatively through descriptive-analytical and prescriptive methods in order to formulate legal recommendations.

Results

1. Regulation of Criminal Sanctions Against Fisheries Crimes under Indonesian Law The regulation of criminal sanctions in Indonesian fisheries law is principally contained in Law Number 31 of 2004 as amended by Law Number 45 of 2009. This legal framework classifies fisheries crimes based on the nature and severity of the violation. Destructive fishing, fishing without permits, falsification of documents, and violations of fishing zones are among the acts subject to criminal sanctions. The law reflects the view that fishery resources are strategic public resources that must be protected by the state.

Article 84 of the Fisheries Law criminalizes the use of materials or methods that may damage or endanger the sustainability of fish resources and the environment.[9] The use of explosives, toxic substances, electricity, or other destructive methods is treated as a serious offense because it does not only capture fish unlawfully but also destroys habitats, coral reefs, and spawning grounds. In this regard, criminal sanctions have an ecological dimension because they aim to prevent long-term damage to marine resources.

Article 93 of the Fisheries Law criminalizes the operation of fishing vessels without the required fishing permit.[9] This provision demonstrates the importance of licensing as a control mechanism in fisheries governance. Fishing permits are not merely administrative documents; they function as instruments for controlling fishing capacity, fishing zones, and the sustainability of resources. Therefore, the absence of a permit may be understood as a threat to the regulatory order of fisheries management.

The Fisheries Law also recognizes fines as an important component of criminal sanctions. However, in practice, fines often do not function optimally as economic deterrents. Fisheries crimes are frequently motivated by financial gain, yet the execution of fines remains problematic, especially when offenders are foreign nationals, vessel crews with limited financial capacity, or corporations that use layered ownership structures. This creates a gap between the economic nature of the crime and the practical capacity of criminal sanctions to recover losses.

The enactment of Law Number 6 of 2023 concerning Job Creation has also affected fisheries governance by emphasizing administrative licensing, risk-based business licensing, and administrative sanctions. This development indicates a shift in legal policy: not every fisheries violation must be resolved through criminal law. Administrative sanctions may be more appropriate for technical licensing violations, while criminal sanctions should remain reserved for serious violations that cause ecological damage, state losses, or threaten maritime sovereignty.

This distinction is important to avoid over-criminalization. Criminal law should be used as *ultimum remedium* for minor administrative violations, but as *primum remedium* for serious fisheries crimes involving environmental destruction, repeated violations, organized networks, or corporate actors. The challenge lies in harmonizing administrative enforcement and criminal prosecution so that both mechanisms do not overlap or weaken each other.

From the perspective of punishment theory, criminal sanctions in fisheries law serve several purposes. They function retributively by imposing consequences on offenders, preventively by deterring potential offenders, and protectively by safeguarding public interests and marine

ecosystems. However, their effectiveness depends on consistent enforcement, proportional sentencing, certainty of execution, and the ability to reach the main beneficiaries of the crime.

2. Effectiveness and Obstacles in the Enforcement of Fisheries Criminal Sanctions

Although criminal sanctions in fisheries law appear strong at the normative level, their implementation faces several structural obstacles. The first obstacle is overlapping authority among maritime law enforcement institutions. In Indonesian waters, enforcement may involve the Ministry of Marine Affairs and Fisheries, the Navy, the Water Police, the Maritime Security Agency, customs authorities, and port authorities. Each institution has its own legal basis, operational procedures, and institutional interests. This multi-agency model often causes coordination problems and sectoral ego.[2]

The second obstacle is the limited capacity of surveillance infrastructure. Indonesia's maritime territory is extremely wide, while patrol vessels, fuel budgets, surveillance technology, and trained personnel are limited. This imbalance allows offenders to exploit blind spots in maritime monitoring. In many cases, illegal fishing occurs in remote waters where the presence of law enforcement is weak. This condition weakens the certainty of detection, whereas deterrence depends not only on the severity of sanctions but also on the probability of being caught and punished.

The third obstacle is disparity in court decisions. Similar cases may receive significantly different penalties, especially in relation to imprisonment and fines. Disparity creates uncertainty and may reduce the deterrent effect of criminal sanctions. In fisheries crimes, judges must consider not only the formal violation but also the ecological impact, the economic loss to the state, the role of the offender, and the involvement of corporations or organized networks.

The fourth obstacle concerns the execution of fines. Fines in fisheries cases may be very large on paper, but they are often difficult to execute. When the offender is merely a crew member, the fine may be unrealistic and ultimately converted into a short substitute imprisonment. When the offense involves a foreign vessel, execution is further complicated by jurisdictional, diplomatic, and asset-tracing issues. Consequently, the economic benefit of illegal fishing may remain greater than the legal risk faced by offenders.

The fifth obstacle is the difficulty of reaching corporate actors and beneficial owners. Fisheries crimes are frequently committed through complex business structures in which crews and captains become visible offenders, while the persons who finance, direct, and benefit from illegal fishing remain outside the criminal process. This situation weakens substantive justice because criminal liability is not directed at the actors who control the crime. Therefore, corporate criminal liability and the follow-the-money approach are necessary to complement conventional prosecution.[13]

The sixth obstacle is the limited integration between criminal sanctions and environmental restoration. Illegal fishing often causes ecological damage that cannot be remedied merely through imprisonment or fines. Destructive fishing, for example, may destroy coral reefs and reduce fish stocks for years. Therefore, criminal sanctions should be combined with additional penalties, such as confiscation of profits, compensation for ecological loss, and obligations to restore damaged marine environments.

In this context, the effectiveness of fisheries criminal sanctions should be measured not only by the number of cases prosecuted, but also by their ability to deter future violations, recover state losses, dismantle criminal networks, and protect marine ecosystems. A sanction may be formally severe but substantively ineffective if it is inconsistently enforced or fails to address the economic incentives behind the crime.

To overcome these problems, Indonesia needs a more integrated maritime law enforcement model. Strengthening the role of the Maritime Security Agency as a coordinating coast guard institution may reduce overlapping authority. At the same time, the use of Vessel Monitoring Systems, satellite surveillance, automatic identification systems, and digital

licensing databases should be optimized to detect violations in real time. Technology-based enforcement would make surveillance more efficient and increase the probability of detection.

Furthermore, prosecutors and investigators should apply a follow-the-money approach in serious fisheries crimes. This approach makes it possible to identify the flow of illegal profits, beneficial owners, and corporate actors behind vessel operations. By combining fisheries law with anti-money laundering instruments, law enforcement can move beyond punishing crews and begin targeting the economic structure of illegal fishing. This is essential to create a real deterrent effect.

Finally, sentencing guidelines for fisheries crimes are needed to reduce disparity and ensure proportionality.[1] Such guidelines should require courts to consider ecological damage, economic loss, repeated violations, corporate involvement, and the scale of the offense. With clearer sentencing parameters, criminal sanctions would become more predictable, consistent, and aligned with the objectives of sustainable marine resource management.

Conclusion

1. Criminal sanctions against fisheries crimes in Indonesia have been regulated in a relatively comprehensive manner under the Fisheries Law. The law provides sanctions for destructive fishing, fishing without permits, and other violations that threaten the sustainability of marine resources. However, the effectiveness of these sanctions has not been optimal. The main obstacles include overlapping institutional authority, limited surveillance infrastructure, disparity in court decisions, weak execution of fines, and the difficulty of holding corporate actors and beneficial owners accountable.
2. The protection of marine resources requires criminal sanctions that are not only punitive but also preventive, restorative, and economically effective.[12] Therefore, the enforcement of fisheries criminal law should be strengthened through harmonization between administrative and criminal sanctions, integrated maritime law enforcement, modernization of surveillance technology, sentencing guidelines, corporate criminal liability, asset recovery, and environmental restoration. Criminal law in the fisheries sector must be directed toward sustainable marine governance, ensuring that fisheries resources remain protected for present and future generations.

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