# Establishment of Indonesian Maritime Power: Regulation of Transnational Organized Crime on Illegal, Unreported, and Unregulated (IIU) Fishing

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## Abstract

*Globally the fisheries sector's sustainability and food security are threatened by the growth of illegal, unreported, and unregulated (IUU) fishing practices, depleting almost 85 percent of global fishery resources and contributing to global warming and huge financial losses to countries that rely on sea. Despite having fisheries regulations, Indonesia has not been able to prevent and eradicate illegal fishing in Indonesia. As a result, it is still exploring ways to formulate legal policies pertinent to eradicating IIU Fishing as a Transnational Organized Crime (TOC). The purpose of this study was to describe a critical set of rules governing how Indonesia defined fisheries crime. Using a statutory approach to analyze the regulation policies made by official bodies, this the data was collected by investigating primary and seconder legal material. The findings of this study indicated that while Indonesia did have a series of laws addressing fisheries, the country still lacked specific regulations addressing IIU Fishing as a TOC. Consequently, its maritime power remains vulnerable, due to these regulatory constraints. The study recommends that, as a maritime country, Indonesia should urgently improve its sea control system and fortify a sound regulatory framework to*

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*ward off all threats to its maritime resource.*

Keywords: IIU Fishing; Indonesia; maritime power; TOC.

## Introduction

Over 800 million people in developing countries rely on fisheries for their livelihood, either directly or indirectly (Chapsos & Hamilton, 2019). In 2014, international trade in fisheries products totaled USD $148 billion (Pauly & Zeller, 2017). The State of World Fisheries and Aquaculture (SOFIA) estimates that global fish production would reach 196 million tons in 2025, with 52% coming from aquaculture and 48% from capture fisheries (Fao, 2012). The fisheries sector is critical for global food security, poverty alleviation, and human well-being. The fisheries sector is also a significant source of revenue for developing countries and contributes significantly to global food and nutrition security.

Currently, the fisheries sector's sustainability and food security are threatened by the growth of illegal, unreported, and unregulated (IUU) fishing practices (Okafor-Yarwood, 2019). IUU fishing depletes 85 percent of global fishery resources and contributes to global warming. IUU fishing's economic impact has resulted in direct losses for countries that rely on the sea (Gjerde et al., 2013). According to the Food Agriculture Organization (FAO), IUU fishing accounts for approximately 15% to 30% of global catches each year. It is estimated that between approximately 23.5 billion pounds of fish are lost illegally each year, while the social consequences include conflicts between legal and illegal fishermen, which can exacerbate tensions in bilateral diplomatic relations (Doumbouya et al., 2017).

Indonesia is one of the developing countries in Asia that suffers losses as a result of IUU fishing. Indonesia plays a critical geopolitical role due to its location between the continents of Asia and Australia, as well as between the Pacific and Indian oceans, establishing Indonesia as the world's maritime power in the context of global trade (the global supply chain system) that connects the Asia-Pacific region to Australia. This is in accordance with the geographic benefit as the world's largest archipelagic country, consisting of 17,504 islands and 5.8 million $km^2$ of marine waters, divided into a 0.3 million $km^2$ territorial sea, 2.95 million $km^2$ archipelagic waters, and 2.55 million $km^2$ of the Indonesian Exclusive Economic Zone (ZEEI). Indonesia's marine fisheries have a sustainable potential of 12.54 million tons per year spread across Indonesian territorial waters and ZEEI waters. Around 8,500 species of fish, 555 species of seaweed, and 950 species of coral reef biota inhabit the Indonesian sea. Sea-based fisheries support 37% of the world's fish species, including tuna, shrimp, lobster, reef fish, various types of ornamental fish, shellfish, and seaweed (Rijal, 2019).

IUU fishing practices in the Republic of Indonesia (such as fish theft and transshipment in the middle of the sea, smuggling of lobster seeds, and the use of environmentally unfriendly fishing gear, including fish bombing by Indonesian fishing vessels or foreign fisheries ships) have resulted in social, environmental, and economic losses (Coleman & Williams, 2002). IUU fishing is a violation of state sovereignty that costs Indonesia approximately $20 billion per year in economic losses and threatens more than 75% of coral reefs. IUU fishing also disrupts the livelihood of small fishermen by significantly reducing the stock available to them

(Indrawati, 2015). According to the Central Statistics Agency, the number of traditional fishermen has decreased from 1.6 million to 864,000 families between 2003 and 2013. There are 0.9 million poor people who work as fishermen, accounting for 18% of the country's population of 47.3 million (Erceg, 2006).

Indonesia, the world's second largest producer of fish, is actually outside the top ten exporters of fish due to IUU fishing activities (Food and Agriculture Organization of the United Nations: Fisheries Department, 2000). From 2014 to 2017, fisheries supervisors handled 58 marine and fisheries crimes. In 2015, there were 198 cases, in 2016, there were 237 cases, and in 2017, there were 149 cases. Between October 2014 and July 2017, the CTF sank 317 fishing thief vessels, the majority of which originated in Vietnam (142 vessels), the Philippines (70 vessels), and Malaysia (70 vessels) (Putri et al., 2018). According to the findings of document analysis and field inspections conducted on 1,132 vessels in 17 regions, all companies and vessels violated fisheries and related regulations. The violations were classified as follows: employing foreign crew members and captains (67%), failing to land fish in fishing ports (29%), human trafficking and forced labor (10%), using illegal fuel (23%), catching fish outside the fishing area (47%), disabling the vessel monitoring system (73%), using prohibited fishing gear (2%), transporting goods to and from Indonesian territory without passing through customs (37%), and transshipping goods (17%) (Stefanus & Vervaele, 2021).

The aforementioned conditions imply that the State's ambition of building a marine power faces significant obstacles. As a matter of legislation, the growth of Indonesia's national marine power is contingent not only on the country's natural resources, but also on the implementation of proper rules. After performing numerous literature reviews on IIU Fishing in Indonesia, it has become apparent that one of the most problematic aspects of IIU Fishing is its connection to transnational organized crime. Indeed, IIU fishing has been regulated in Indonesia, yet IIU fishing and Transnational Organized Crime (TOC) continue to occur. This raises problems regarding existing legislation, including the extent to which the Indonesian government regulates IIU Fishing associated with TOC. Fundamental to the development of the Indonesian maritime power is the consideration of the international law, which contains three concepts relating to the occurrence of IUU fishing and TOC, which are IUU fishing as a TOC, fishery crime as a TOC, and criminal activity in the fishery sector.

This study felt the necessity of conducting a research to determine the most appropriate concept for dealing with the phenomenon of IUU fishing and TOC in international law on the basis of the legal certainty principle. The concept of fisheries crime can then be mainstreamed by the Indonesian government in order to garner international recognition. Additionally, it was also felt necessary to examine why the relationship between IUU fishing and TOC needs to be regulated in international law, as some countries continue to argue that the issue is not regulated. The practice of IUU fishing has become a gateway for other transnational and organized crimes, as it is frequently associated with other crimes, such as human trafficking. There is still academic debate in international law about the concepts or terminology that will be used to combat the growth of IUU fishing practices that are transnational in scope and associated with other crimes.

The purpose of this study was therefore to examine Indonesia's legal stance on TOC in IIU Fishing. The theoretical framework utilized was Kusumaatmaja's philosophy of law and development (Kusumaatmadja, 2002). Kusumaatmadja (2002) believed that law and development offers the foundation for the function of law as a "means of community renewal" (law as a tool of social engineering) (Pound, 1997), and law as a system important for the nation of Indonesia, which is to construct its maritime power. Law in the sense of rules is anticipated to guide human activities in the direction sought by development and renewal. Consequently, it is required to give facilities in the form of firm legal regulations that must be consistent with the actual condition of the society. It is not sufficient for the law to merely maintain order in people's lives in order for it to contribute to development; it must also be able to direct change and development so that it occurs in an orderly and orderly manner. Thus, the law can be an instrument or a means of development. This theory is consistent with Kusuma-Atmadja (1991) which also emphasized that developmental law promotes the need for national legal development, which includes, among other things, legal reform in all areas of life, including the economy. Kusumaatmadja (2002) theory thus provides the basic argument that the law should be the solid foundation for the building of national maritime power

The rise of IUU fishing in Indonesia has harmed the community's welfare, particularly fishermen, and thus runs counter to Indonesia's national development goals of establishing a just and prosperous society based on Pancasila (State Ideology) and the 1945 Indonesian Constitution. Combating IUU fishing is a national priority. According to those facts, IUU fishing activities are frequently followed by TOC, necessitating the international community, including Indonesia, to establish a strong legal framework to address them, at least to criticize the existing law, in frame of establishing Indonesian maritime power. In relation to the data above, this study examined how IIU regulations were implemented in Indonesia. This paper followed the statute approach framework (Octavian, 2019).

## Literature Review

- *IIU Fishing as Transnational Organized Crime*

IUU fishing has developed into a complex issue as a result of IUU fishing actors' involvement in a kind of transnational organized crime (TOC), promoting other crimes like human trafficking, people smuggling, corruption, and money laundering (Le Gallic, 2008). These offenses take place on board of IUU fishing vessels and throughout the fishing industry. According to a report by the United Nations Office on Drugs and Crime (hereinafter referred to as UNODC), the fishing industry is not only involved in environmental crimes, but also in transnational crimes such as human trafficking, people smuggling, illicit drug, corruption, and piracy (Bueger & Edmunds, 2020). The fundamental finding of UNODC's research was that there were criminal acts in the fishing industry related to TOC in the form of fish catches being laundered through fraudulent capture documentation, fishermen being trafficked for forced labor on fishing vessels, and fishing vessels being used to transport illegal drugs (De Coning & Witbooi, 2015).

The term IUU fishing was first used at the sixteenth session of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) in 1997. The

commission discussed fisheries issues that conflicted with conservation measures and organizational management. The issue of IUU fishing was one of the Commission's major challenges in the Convention Area, which significantly exceeded reported catch (Edeson, 2001). The origins of the term IUU fishing can also be linked with the 1994 United Nations General Assembly debate (Schmidt, 2005). The UNGA had showed concern over the unauthorized and unregulated fishing in zones subject to national jurisdictions. At the 49th session of the UNGA, countries were urged to ensure that no fishing vessel should operate under the flag of another country unless authorized by the competent authorities in that country. In 1999, the UNGA made a formal reference to IUU fishing. The UN Secretary General identified IUU fishing as one of the issues confronting the world's fisheries. It was accepted that IUU fishing was frequently conducted by fishing vessels registered with a country or entity that was not a member of the RFMO, in violation of the organization's rules. It was also noticed that IUU fishing was conducted by vessels that were formally registered in an RMFO member country but were also registered in a non-member country in order to avoid compliance with fisheries conservation and management requirements (Edeson, 2001).

As a result of the connection between IUU fishing and TOC, the concept of IUU fishing as TOC has emerged. Today, IUU fishing operates differently than it did in the 1990s. Numerous nongovernmental organizations (NGOs) such as Green Peace, the World Wildlife Fund (WWF), and the Environmental Justice Foundation (EJF) refer to IUU fishing as pirate fishing. In 1998, two management experts, Kuperan and Sutinnen, coined the term "Blue Water Crime" to refer to the illegal fishing practice. This term referred to illegal, unreported, and unregulated fishing. Thus, blue water crime was accepted as a maritime crime, specifically IUU fishing (Beseng, 2021). According to various reports, IUU fishing perpetrators also committed other crimes and TOCs in various parts of the world, including Africa, Asia, and Europe. UNODC published a report on the importance of TOC in the fishing industry in 2011. According to the report, there is a connection between organized crime and illegal fishing (Stefanus & Vervaele, 2021) and it recognized small-scale (artisanal), commercial, and industrial fishing as all types of fishing.

Along with the concept of fisheries crime, the concept of crimes in the fishing industry is well-known. Fisheries crime is a relatively new and developing type of crime that poses a threat to not only the marine environment's security, but also to the sustainability of marine resources. The International Crime Police Organization first proposed this concept in 2013 and it was considered a new and emerging crime. There is no widely accepted definition of fisheries crime at the moment. According to the UNODC, fisheries crime is an imprecise legal concept that encompasses a variety of illegal activities in the fishing industry (Palma et al., 2010). This concept of fisheries crime was also incorporated into the Jakarta Concord, the outcome of the Indian Ocean Rim Association's (IORA) March 7, 2017 Summit. This concord examined the relationship between IUU fishing and TOC, but departed from prior research in several ways. The concord's primary objective and novelty was to demonstrate that the concept of crime in the fishery sector was an appropriate concept under international law for addressing the emergence of links between IUU fishing and TOC. The accord argued that the concept of IUU fishing as a TOC and fisheries crime as a TOC should be reexamined because it will create legal complications.

UNODC also used the term "illegal fishing" solely to refer to unreported and unregulated activities that fall under administrative law. UNODC discovered a link between fisheries and complex transnational criminal acts, including: (a) fishermen are trafficked for the purpose of working on fishing vessels, they are subjected to torture; (b) the fishing industry is involved in child trafficking; and (c) organized crime groups are involved in crimes against marine resources, threatening endangered species such as abalone, rock lobster, and reef fish including protected species like the Napoleon wrasse (Isaacs & Witbooi, 2019). Additionally, the Environmental Justice Foundation (EJF) and Green Peace conducted a research in West Africa, sub-Antarctic waters, Samoa, and Thailand. The crew on board suspected of IUU fishing endured physical and mental torture, were murdered, forced to work without sleep or food, were not compensated, and became victims of human trafficking (Le Gallic, 2008). EJF also conducted research in Thailand in 2013 and discovered instances of human trafficking, exploitation, and human rights violations in the Thai fishing industry. They were tortured, forced to work 20 hours a day, detained, and threatened physically on ships and in ports. The majority of the victims were Burmese. In general, workers in Thailand are exploited through fraud, counterfeiting, and kidnapping (Wilhelm et al., 2020).

Initially, criminality was not emphasized in the context of IUU fishing. Countries were urged to develop policies to combat IUU fishing in light of the International Plan of Action (IPOA). The IOPA-IUU was a joint voluntary instrument that applied to all states and entities and to all fishermen. Countries are expected to cooperate in preventing, suppressing, and combating IUU fishing. The international community's efforts to regulate maritime issues through the third United Nations Conference on the Law of the Sea resulted in the United Nations Convention on the Law of the Sea (UNCLOS), which was signed in Montego Bay, Jamaica on December 10, 1982 by 117 (one hundred and seventeen) countries, including Indonesia. UNCLOS 1982 is an international convention that governs various countries' rights and obligations when conducting various activities in various marine zones (Oegroseno, 2017). UNCLOS 1982 regulates the law of the sea regimes as defined in the UNCLOS articles. Due to the division of this regime, different powers exist in a sea for coastal states to enforce the law.

According to UNCLOS Article 3, each country has the right to define its territorial sea up to a maximum of 12 nautical miles measured from a predetermined baseline (Valencia, 2003). Under this sea area regime, the state is responsible for establishing and enforcing domestic law. Outside of its territorial sea, in a lane called an additional zone, the coastal state can conduct necessary checks to prevent violations of customs, fiscal, immigration, and sanitary laws and regulations. According to UNCLOS Article 33, the contiguous zone encompasses the sea up to 24 nautical miles from the baseline used to determine the territorial sea's breadth (Alexopoulos, 2006). The Exclusive Economic Zone (hereinafter referred to as EEZ) is defined as an area outside the territorial sea with a maximum width of 200 miles measured from the baseline used to define the territorial sea. In the EEZ, the regime is identical to that of an additional zone, except that sovereign rights are limited to countries with beaches.

The previous research has demonstrated that there are still gaps in the application of international fisheries law in Indonesian domestic law, as Indonesia is not yet a

member of the Regional Fisheries Management Organization and institutional authority for combating IUU fishing overlaps (Sodik, 2007). The current study is an attempt to throw more light on this issue and suggest suitable solutions.

## Research Method

This paper adopted the normative legal research technique. In order to obtain the expected scientific truth, the statutory *approach* was utilized to find *ratio legis* and ontological basis of the importance of a regulation being made so that it was easier to provide a juridical basis for a regulation both in the international and national scope of Indonesia. The statutory approach was applied by reviewing all regulations related to *IUU fishing* and crimes in the field of fisheries in international law and national law. The results of the study were an argument for solving the problems at hand . With the help of previous writings, the study built a research framework to examine the urgency of regulating crime in the fisheries sector and by seeking justification for the regulation based on a juridical basis.

The main objective of this study was to critically evaluate the rule of law, doctrine, concept, and legislation in the context of IUU fishing. The initial step taken was to conduct an inventory of international and national legal sources that regulated *IUU fishing*, *fisheries crime* and *crime in the fishery sector*. This step was used to find terminology that was acceptable to the international community. Furthermore, to strengthen national fisheries law by adjusting the development of *IUU fishing* related to TOC as a normative-positivistic legal system as an ideal model.

Data was collected by investigating primary legal materials and secondary legal materials. Primary legal materials consisted of statutory regulations both international and national that have permanent legal force (such as: (1) the 1945 Constitution of the Republic of Indonesia; (2) the Criminal Code; (3) Law Number 5 of 1983 concerning the EEZ (4) Law Number 31 of 2004 concerning Fisheries (5) Law Number 32 of 2014 concerning the Sea (6) *United Nations Convention on the Law of the Sea 1982*; (7) *Code of Conduct for Responsible Fisheries 1995* (8) *United Nations Convention Against Transnational Organized Crime 2000*; and (9) *International Plan of Action to Deter and Eliminate IUU Fishing 200)*. Secondary legal materials in this study included various materials that were closely related to primary legal materials in the form of text books, research reports, scientific journals and internet sites that were relevant to *IUU fishing*, TOC and the politics of fisheries law.

## Result and Discussion

- *IIU Fishing in Indonesia*

In 2012, fishing produced 72,016,061,009 tons of fish, crustaceans, soft animals, other animals, and aquatic plants in Indonesian seas. The rise of IUU fishing activities in Indonesian seas was becoming a cause of increasing concern. According to data from the Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia, state, losses due to illegal fishing exceed 300 trillion rupiahs per year, or 25% of total losses as determined by Indonesia's total potential for fishing (Kurniaty, 2018). The officers who were tasked with monitoring the Indonesian seas, showed a weak reactive

attitude. This was one of the factors contributing to the rampant cases of illegal fishing that occurred in Indonesian waters, despite the fact that Indonesia had numerous laws and regulations of fisheries and marine affairs.

Table 1: Data on Illegal Fishing Cases in Indonesia in the Last Five Years

| No | Year | Illegal Fishing Cases |
|---|---|---|
| 1 | January- December, 2017 | 130 |
| 2 | January- December, 2018 | 125 |
| 3 | January-June 2019 | 38 |
| 4 | October 2019-October 2020 | 74 |
| 5 | January-October 2021 | 146 |

Table 1 presents the excerpt from a larger collection of information on illegal fishing in Indonesia. Although the data is not exhaustive, it demonstrates that illegal fishing in Indonesia remained extremely high for a period of time. This data only includes vessels apprehended for illegal fishing. Meanwhile, the number of vessels engaged in illegal fishing but not apprehended greatly exceeds the figure in the table. Until June 2020, a total of 49 illegal fishing boats were seized and prosecuted in the State Fisheries Management Area of the Republic of Indonesia including WPPRI 571, WPPRI 711, WPPRI 712, and WPPRI 716 areas. According to the data, Vietnamese and Malaysian flagged vessels were engaged in a variety of illegal fishing activities, including up to 16 illegal fishing vessels and 9 illegal fishing vessels respectively. The Malaysian-flagged illegal fishing vessels were operating in the WPPRI 571 area, which includes the Malacca Strait and the Andaman Sea, as well as in the WPPRI 711 area (via the Karimata Strait, Natuna Sea, and South China). A total of 25 illegal fishing vessels wee successfully captured in WPPRI 571 and 711 areas.

The Indonesian-flagged vessels engaged in illegal fishing activities amounted to up to 14 ships in the WPPRI 712 area (covering the Java Sea waters). In the WPPRI 716 area, illegal fishing vessels flying Philippine and Taiwanese flags were operating, covering the waters of the Sulawesi Sea and the northern part of Halmahera Island. This included as many as nine Philippine-flagged vessels and one Taiwan-flagged vessel (Kurnia, 2021). Since October 2019, the Ministry of Maritime Affairs and Fisheries (KKP) had seized 74 illegal fishing vessels, 27 of which were Vietnamese-flagged. The majority of Vietnamese vessels were apprehended in WPP 711 area or the North Natuna Sea.

Throughout 2021, the Surveillance and Control of Marine and Fishery Resources (PSDKP) patrol team from various WPPRIs had paralyzed 146 IUU fishing boats. The 166 Vietnamese crew members repatriated came from a variety of locations, including 17 from Tanjung Pinang Central Rudenim, 26 from Natuna PSDKP Satwas, 6 from Ranai Immigration Office, 61 from Pontianak PSDKP Station, 1 from Pontianak Immigration Office, 53 from Batam PSDKP Base, and 2 from Tarempa Immigration Office. This was the second repatriation of 166 crew members in three months. It is known that 200 crew members from Vietnam were repatriated from Hang Nadim Airport in Batam at the end of September 2021 and 132 crew members from Vietnam were dispersed across several UPT PSDKP (Tienh et al., 2021).

### *B. Indonesian Legal Policy toward IIU Fishing*

Indonesia ratified the United Nations Convention on the Law of the Sea by enacting Law No. 17 of 1985 on Ratification of the United Nations Convention on the Law of the Sea. UNCLOS 1982, which did not regulate IUU fishing specifically, but it played a significant role in the field of maritime law and the use of biological resources in the EEZ and the high seas. The Minister of Maritime Affairs and Fisheries (KP) of Indonesia implemented strategic policies such as a moratorium on ex-foreign vessels, which was based on Minister of Marine Affairs and Fisheries Regulation Number 56 of 2014 concerning the Temporary Suspension of Capture Business Permits in the Republic of Indonesia's Fisheries Management Area, or Moratorium of Ministry Regulation (Reza et al., 2019). It also analyzed and evaluated ex-foreign ships in accordance with the Moratorium Regulation.

Due to the complexity and transnational nature of IUU fishing, stronger measures were required to combat it. One way to address this was to shift the paradigm so that IUU fishing, which was administrative in nature, was reclassified as TOC. Siwale (2016) believed that IUU fishing can be regulated under international law as a TOC but until 2015, the Indonesian government had not adopted the concept of fisheries crime (Taufik, 2015). The Indonesian government introduced the concept of Transnational Organized Fisheries Crime (TOFC) at the Commission on Crime Prevention and Criminal Justice's (CCPCJ) 25th session in Vienna, Austria, in 2016.

Normatively, the legal basis for fisheries management was set out in Article 33 paragraph (3) of the Indonesian Constitution, which regulates: "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." As stated in Article 33 paragraphs 2 and 3 of the 1945 Constitution, the Right to Control the State (HMN) is actually related to the goal of establishing the Republic of Indonesia, which is to create a just and prosperous society. This means that the state is responsible for ensuring the people's justice and prosperity, and as such, the state is given authority over critical branches of production that affect the livelihoods of many people, as well as authority over the earth, water, and the natural resources contained therein that are used to the maximum extent possible—the great prosperity of the people (Dimyati et al., 2021).

In the context of lower (than constitution) level regulation, Indonesian fisheries law began in 1983 with the enactment of Law No. 5 of 1983 concerning the EEZ. This law regulated the Republic of Indonesia's sovereignty over its territorial waters and defined the EEZ, later called Indonesia Economic Exclusive Zone of Indonesia or ZEEI. The ZEEI was a lane that extended beyond borders of the Indonesian territorial sea, as defined by applicable law, and included the seabed, subsoil, and water above it, with an outermost limit of two hundred nautical miles measured from the Indonesian baseline. After nearly two decades, due to the development of problems in fisheries, the amendment was made on the grounds that the previous law was unable to address all aspects of fish resource management and was incapable of anticipating the development of legal requirements and technological advancements in the context of fish resource management.

The new law (Number 31 of 2004) defined fishery as "all activities associated with the management and utilization of fish resources." This Law contained two categories of criminal provisions: crimes and violations. The crimes included regulations

namely: (1) every person or legal entity is prohibited from catching and cultivating fish using materials and/or tools that may endanger the preservation of fish resources and the environment; (2) every person or legal entity is prohibited from committing acts that result in pollution and damage to fish resources and/or the environment; (3) whoever engages in the fishing territory of the Republic of Indonesia carries out a fishery business in the field of catching fish without a permit.

Meanwhile, violations occurred, but were not limited to, anyone who conducted a fishery business in the field of catching fish without a permit within the Republic of Indonesia's fishery territory. The violations of the provisions of Article 4 specifically related to (a) fishing gear; (b) fishery technical requirements that must be met by fishing vessels without prejudice to the provisions of the applicable laws and regulations regarding shipping safety; (c) the number of fish that can be caught and the types and sizes of fish that cannot be caught; (d) area, path and time or season of fishing; (e) prevention of pollution and damage, rehabilitation and improvement of fish resources and their environment; (f) stocking of new types of fish; (g) fish farming and its protection; (h) prevention and eradication of pests and diseases of fish; (i) other matters deemed necessary to achieve the objectives of fish resource management.

Fisheries management was given a new legal framework, provided in the Law Number 31 of 2004 Concerning Fisheries. This law was enacted to address technological advancements that were not addressed by Law No. 9 of 1985. The term "fishery" got a broader definition in Law No. 31 of 2004 than in the previous Law. Fisheries were defined as "all activities associated with the management and utilization of fish resources and their environment, ranging from pre-production to production, processing, and marketing, that are conducted within a fishery business system." Given that Law No. 31 of 2004 on Fisheries was unable to fully anticipate technological advancements and legal requirements in the context of managing and utilizing fish resource potential, Law No. 45 of 2009 on Amendments to Law No. 31 of 2004 on Fisheries was enacted. This law did not repeal the existing laws, but it amended them to reflect technological advancements and to ensure that they continued to meet legal requirements. Several substances were affected by these changes, including management, bureaucracy, and legal aspects (Sari & Muslimah, 2020).

The Fisheries Law No. 31 of 2004 was classified as the primary legislation that reflected the legal politics of eradicating IUU Fishing. It was said to be primary because it encompassed the problem of fishery resources in Indonesian waters from philosophical, legal, and sociological perspectives. The consideration and general explanation of this Law implied that because the fishery sector played a critical and strategic role in the development of the national economy, fish resource management should be carried out as efficiently as possible while maintaining justice and equity in their utilization by prioritizing the expansion of job opportunities and improvement of living standards for fishermen, fish raisers, and/or parties associated with fishery activities. The establishment of a fisheries court was the regulatory breakthrough in Law 31 of 2004. According to Article 71 of this Law, a fishery court had the responsibility and authority to investigate, prosecute, and decide on criminal acts involving fisheries.

The Fisheries Court is presided over by a panel of judges comprised of one career

District Court judge and two ad-hoc judges. The first fisheries courts were opened in 2007 in five districts: North Jakarta, Medan, Tual, Bitung, and Pontianak. Following this, a Presidential Decree Number 15 of 2010 dated 17 June 2010 established a Fisheries Court at the Tanjung Pinang and Ranai District Courts. Another Presidential Decree Number 6 of 2014 dated 6 February 2014 established a Fisheries Court at the District Courts of Ambon, Sorong, and Merauke, bringing the total to ten fisheries courts.

Fisheries Law No. 31 of 2004 contributed several articles to Law No. 45 of 2009 to regulate criminal acts in the field of fisheries. These articles were categorized as both violations and crimes. A few of these articles included (a) violating the provisions of Article 7 paragraph (2) of Law No. 31 of 2004 on Fisheries; (b) intentionally committing acts in the Republic of Indonesia's fishery management area that harmed the germplasm associated with fish resources, as defined in Article 14 paragraph (4) of Law Number 31 of 2004 on Fisheries; (c) failure to act in the Republic of Indonesia's fishery management area resulting in the destruction of germplasm associated with fish resources, as defined in Article 14 paragraph (4) of Law Number 31 of 2004 on Fisheries; (d) handling and processing fish that did not comply with and did not adhere to the eligibility requirements for fish processing, quality assurance systems, and the safety of fishery products set forth in Article 20 paragraph (3) of Law No. 31 of 2004 Concerning Fisheries; (e) intentionally importing or exporting fish and/or fishery products from and/or to the Republic of Indonesia's territory that did not bear a health certificate for human consumption, as defined in Article 21 of Law No. 31 of 2004 on Fisheries; (f) constructing, importing, or modifying fishing vessels without first obtaining prior approval, as defined in Article 35 paragraph (1) of the 2004 Fisheries Law; (g) operate fishing vessels in the Republic of Indonesia's fishery management area that were not registered as Indonesian fishing vessels as defined in Article 36 paragraph (1) of the Fisheries Law No. 31 of 2004.

A few other articles included : (h) operating fishing vessels flying foreign flags that lacked fishing licenses and did not keep fishing gear in the hold while in the Indonesian fishery management area, as specified in Article 38 paragraph (1) of Law Number 31 of 2004 concerning Fisheries; (i) operating fishing vessels flying foreign flags that already possessed a fishing license with 1 (one) type of specific fishing gear in a specific area of the ZEEI carrying additional fishing gear, as defined in Article 38 paragraph (2) of Law Number 31 of 2004 concerning Fisheries; (j) operating fishing vessels flying foreign flags that already had a fishing permit and did not keep fishing gear in the hold as long as they were outside the permitted fishing area in the Indonesian Fish Cultivation Territory, as defined in Article 38 paragraph (3) of Law No. 31 of 2004 on Fisheries; (k) sailing did not possess a fishing boat sailing permit issued by the harbormaster, as required by Article 42 paragraph (2) of the Fisheries Law No. 31 of 2004; and (l) conducting fishery research in the Republic of Indonesia's fishery management area without a permit from the government, as defined in Article 55 paragraph (1) of Law Number 31 of 2004 on Fisheries. It was also a violation of the stipulated provisions, as defined in Article 7 paragraph (2) of Law Number 31 of 2004 on Fisheries.

Therefore, at the national level, Indonesia's efforts to combat IUU fishing were guided by Law No. 45 of 2009, which amended Law No. 31 of 2004 concerning

Fisheries. However, there were still some gaps in its provisions relating to Indonesia's efforts to secure international recognition of TOC in the field of fisheries though the Fisheries Act distinguished between crimes and offenses. Articles 85 to 101 of the Fisheries Law regulated this type of crime. The core of this fishery offense was divided into three categories: pollution, resource destruction, and fish catching with explosives; resource management; and fishing business without a permit. The Fisheries Law regulated only crimes against the marine environment, not other fisheries-related offenses. Concerning the threat of punishment, the Fisheries Law already included the threat of a very severe sentence, ranging from two to ten years in prison, but did not regulate the minimum sentence imposed, allowing the judge to impose a light sentence that was not proportionate to the state's losses.

The President established the Illegal Fish Prevention and Eradication Task Force (hereinafter abbreviated as Satgas 115) to strengthen law enforcement against IUU fishing perpetrators through Presidential Regulation No. 115/2015. The task force's mission was to develop and carry out law enforcement operations aimed at effectively and efficiently eradicating illegal fishing in marine areas under Indonesian jurisdiction through the efficient use of operational personnel and equipment, including ships, aircraft, and other technology owned by the a number of bodies including Ministry of Maritime Affairs and Fisheries, the Indonesian National Navy, the Indonesian National Police, the Republic of Indonesia's Attorney General's Office, the Maritime Security Agency, the Special Task Force for Upstream Oil and Gas Business Activities, and PT Pertamina, among other institutions.

Satgas 115 was assigned the responsibility to form a joint team led by the Sector Commander at sea and conduct law enforcement operations based on intelligence data to eradicate illegal fishing. The Commander of Satgas 115 was directed in the performance of his duties by the Coordinating Minister for Political, Legal, and Security Affairs; the Coordinating Minister for Economic Affairs; the Coordinating Minister for Human Development and Culture; the Coordinating Minister for Maritime Affairs; the Commander of the Indonesian National Armed Forces; the Head of the Indonesian National Police; and the Attorney General of the Republic of Indonesia.

By this time, the Indonesian government had accepted illegal fishing as a TOC and one of the new and emerging crimes being fought at the United Nations for recognition. Additionally, the government mainstreamed international forums dealing with transnational organized fisheries crime (TOFC). The fight for TOFC recognition became complicated by the fact that numerous international agreements, both in the field of international law of the sea and fisheries and in the field of international criminal law, had failed to include the two types of crimes mentioned above as transnational crimes. As a result, law enforcement in fisheries crimes was not limited to fisheries law, but also incorporated maritime law. The preamble to Law No. 32/2014 on the Marines stated that their management must be consistent with the country's national development interests. Indonesia's marine management must reflect the country's declaration of national sovereignty, which must be upheld, and its sustainability must not be abused to satisfy economic needs controlled by certain parties.

Recognizing the fragility of the national maritime power, Indonesia hosted international meeting related to maritime security. Until 2017, Indonesia had led the

3rd Regional Conference on the Establishment of a Regional Cooperation Agreement against Crimes Related to Fisheries on 18-19 September 2017. This conference was attended by 14 delegates, namely one delegate representing the European Union, 10 delegates representing countries; Australia, Indonesia, Myanmar, Philippines, Papua New Guinea, People's Republic of China, Singapore, Thailand, United States of America, Vietnam and three international organizations namely UNODC, INTERPOL and FAO. Indonesia hoped that there could be an instrument of cooperation to deal with the problem of fisheries crime because without this instrument, Indonesia would face various obstacles, where various efforts at the national level did not have sustainability at the Asia Pacific level.

## Conclusion and Implications

Indonesia has attempted to strengthen fisheries law in order to combat TOC in the fisheries sector, for example, by amending the Fisheries Law to include provisions on the classification of fisheries crimes, sanction formulation, and the establishment of a fishery court. In the Fisheries Law, the category of fisheries crime is divided into two subcategories: fisheries crimes and fisheries sector crimes. Fisheries crimes are those that violate the Fisheries Law, whereas fisheries sector crimes encompass all crimes committed in the fisheries sector.

Preventing and eradicating illegal fishing as a means of establishing a maritime power is a long-awaited breakthrough. This is evident in Indonesia, which already has a number of laws and regulations establishing the legal framework for preventing and eradicating illegal fishing. However, illegal fishing continues to occur in large numbers in Indonesia. The regulation of TOC in the field of fisheries is consistent with the Indonesian constitution's development principles. The regulation of TOC in the field of fisheries is philosophically based on the values contained in Pancasila and is governed by Indonesian national law. It is founded on the state objectives stated in the fourth paragraph of the Preamble to the 1945 Constitution, as well as in Article 33 paragraph (3) of the 1945 Constitution.

Future research on Illegal, Unreported, and Unregulated (IIU) Fishing can examine how IIU Fishing cases in Indonesia can be decided in accordance with existing regulations. It is essential to determine the extent to which legal development success contributes to social and state development. In addition, this study has critiqued the construction of Indonesian law by suggesting that IIU Fishing regulations must be clarified and emphasized in the form of applicable policies. This applicable policy cannot be divorced from the legal doctrine that strictly regulates IIU Fishing, so there is no gap between legal rule and government policy.

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