

SHIP SINKING POLICY: A LEGAL CHOICE TO ERADICATE ILLEGAL FISHING IN INDONESIA

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Article Info	Abstract
<p>Keywords: Policy, Ship Sinking, Illegal Fishing</p> <p>DOI: 10.25041/lajil.v4i2.2670</p>	<p>Illegal fishing is a serious problem and is detrimental to Indonesia. In overcoming these problem, the Indonesian government has taken several policies including the sinking of ships that do illegal fishing. But this policy raises pros and cons. This article discusses government policies against illegal fishing and ship sinking as an effort to eradicate illegal fishing in Indonesian waters. This article is a normative legal research with a statutory approach. The data was obtained from searching relevant national and international legal materials and analyzed descriptively. The results showed that the government policies related to illegal fishing were carried out in several ways, namely: Formation of Task Force 115, Indonesian Marine Policy, Transshipment Policy and Ship Sinking Policy. The implementation of this policy is very dependent on the legal choice of the minister who is in office. The Ship Sinking Policy is considered as a concrete and decisive action that is far more important and effective than other actions. In addition, the policy of sinking ships is carried out based on sufficient preliminary evidence to avoid conflicts with other countries.</p>

A. Introduction

Indonesia is a unitary state with islands stretching from Sabang to Merauke and has a large sea¹. With the wide coverage of Indonesia's marine area, the international community also

¹ Efridadewi and Jefrizal, 'Penenggelaman Kapal Illegal Fishing di Wilayah Indonesia Dalam Perspektif Hukum Internasional'.

recognizes Indonesia as an archipelagic country defined in UNCLOS 1982. Indonesia's status as a maritime country can be proven by the fact that around 70% of Indonesia's territory is sea². As an archipelagic country, Indonesia has a wider ocean area than its land area. The diversity of flora and fauna in the Indonesian seas is a source of life for the people of Indonesia, especially for those who live on the coast.

So far, the wealth of marine resources has contributed greatly to development in Indonesia in the context of realizing people's welfare³. The high potential of Indonesia's sea certainly makes various parties want to take advantage of it. Not only Indonesian citizens, but foreigners also want to take advantage of Indonesia's marine wealth. This natural wealth is what triggers other countries to also take advantage of it by violating the law.

One of the biggest threats in protecting Indonesian waters today is illegal fishing. Illegal fishing is a fishing activity carried out by foreign people or ships in the waters of a country without a valid permit from the country concerned. This illegal fishing activity is carried out by ships flying the flag of a country that is a member of a regional fishery management organization, but does not operate in accordance with the provisions that have been applied in accordance with international law.

Illegal fishing activities carried out in Indonesian waters are carried out with the aim of gaining economic benefits. The opportunity to get these benefits is very large in Indonesia because it has very large fishery resources. Illegal fishing activities that occur in Indonesian waters carried out by foreign fishermen can be interpreted as transnational crimes. Because illegal fishing activities are transnational in nature, the actors involved have networks that extend beyond national borders. This illegal fishing activity is a serious problem for Indonesia.

The rise of illegal fishing activities that occur in Indonesian waters is increasingly worrying, based on data from the World Food Agency or FAO, the loss experienced by Indonesia per year due to illegal fishing is IDR 30 trillion. According to Susi, the number is still relatively small. State losses due to illegal fishing per year can actually reach more than 20 billion US dollars or around Rp. 300 trillion so that in the last ten years, the total state losses have reached Rp. 3000 trillion⁴. One of these losses is the impact of foreign vessels catching fish in Indonesia.

The Ministry of Marine Affairs and Fisheries has an important role in making policies regarding illegal fishing. One of these policies is the sinking of foreign and ex-foreign ships as a real effort in implementing Law no. 45 of 2009 concerning Fisheries⁵. The existence of Law no. 45 of 2009 concerning Fisheries is the basis for deciding legal issues related to illegal fishing. The Fisheries Law adopts several provisions from international law on marine affairs, one of which is UNCLOS 1982 and Indonesia has ratified UNCLOS through Law No. 17 of 1985.

The policy of sinking ships is an effort to eradicate illegal fishing activities and provide a deterrent effect against violations that can harm the country. However, The novelty of this article is the sinking ships in Indonesian waters has brought pros and cons from several circles.

² Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

³ Banjarani, 'Illegal Fishing Dalam Kajian Hukum Nasional Dan Hukum Internasional'.

⁴ Munawaroh, 'PENERAPAN SANKSI PENENGGELAMAN KAPAL ASING PELAKU ILLEGAL FISHING OLEH PEMERINTAH INDONESIA (PERSPEKTIF HUKUM INTERNASIONAL)'.

⁵ Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

Many parties support the policy, but not a few also reject the policy. Therefore, this paper will examine government policies against illegal fishing and ship sinking as an effort to eradicate illegal fishing in Indonesian waters. The method used in this study is normative legal research. Normative legal research is legal research conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. These materials are arranged systematically, studied, then a conclusion is drawn in relation to the problem under study.

B. Discussion

1. Indonesian Government Policy on Illegal Fishing

The practice of illegal fishing is very troubling to the Indonesian government because it causes losses both directly and indirectly. Therefore, a government policy is needed in order to eradicate illegal fishing in Indonesian waters. The government's policy towards illegal fishing is aimed at eradicating illegal fishing as well as supervising the management of the utilization of Indonesia's marine resources. There are various policies made by the government. Starting from the making of new rules to the policy of sinking ships that carry out illegal fishing.

Based on the literal meaning, illegal fishing is fishing or fishing activities carried out illegally. In Law No. 45 of 2009 concerning Fisheries, the definition of fishing is an activity to obtain fish in waters that are not in a state of being cultivated by any means or means, including activities that use ships to load, transport, store, cool, handle, process, and /or preserve it⁶. So that illegal fishing is any activity to get fish that violates the provisions of the Fisheries Law.

In international settings, the definition of illegal fishing is contained in the IPOA (International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing), namely that what is meant by illegal fishing is fishing activities carried out by a country or foreign ship in its waters⁷. which is not under its jurisdiction or the activity is contrary to the existing laws and regulations. The fishing is carried out by a ship with the flag of one of the countries that joins as a member of a regional fishery management organization, and fishing is in contravention of the laws of a country or international provisions. So in essence, illegal fishing is fishing activities that are illegal or contrary to the provisions of the national law of the country concerned and international law⁸.

The act of sinking ships by the Ministry of Maritime Affairs and Fisheries (KKP) in the context of eradicating illegal fishing is the implementation of a top-down model policy. The keywords of this implementation model are command, change, control and compliance⁹. This implementation model occurs in the policy of sinking ships, instructions are given directly from the President and then forwarded by the Ministry of Marine Affairs and Fisheries by ordering Task Force 115 to take firm action. The instructions given are followed by strict control. This tight control has the aim of preventing things that deviate from the instructions in the operationalization process.

⁶ Susanto, J., & Masyhar, A. Susanto, J., & Masyhar, A., 'Law Enforcement on Fisheries Crime After the Enactment of Law Number 45 of 2009: A Normative Analysis | Journal of Law and Legal Reform'.

⁷ Borit and Olsen, 'Evaluation Framework for Regulatory Requirements Related to Data Recording and Traceability Designed to Prevent Illegal, Unreported and Unregulated Fishing'.

⁸ Hikmah, 'Illegal Fishing in Indonesia from the National and the International Law Perspectives'.

⁹ Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

Under the leadership of President Joko Widodo, the government continues to make several efforts to eradicate illegal fishing. One of the ways is by establishing a Task Force for the Eradication of Illegal Fishing (later called Task Force 115) through Presidential Regulation Number 115 of 2015¹⁰. Task Force 115 has the task of carrying out Law Enforcement Operations in order to eradicate Illegal Fishing. To be able to carry out this task, Task Force 115 through the existing elements has the authority.

The authority of Task Force 115 is to carry out the functions of data and information collection and analysis, prevention, prosecution, and justice, namely: 1) determining operational targets in the context of eradicating illegal fishing; 2) coordinate the process of collecting data and information with related institutions; 3) establish and order elements of Task Force 115 to carry out the eradication of illegal fishing in areas that have been determined by Task Force 115; 4) carry out command and control over the elements of Task Force 115. The elements of Task Force 115 consist of the Ministry of Marine Affairs and Fisheries, the Navy, the Police, the Marine Security Agency and the Attorney General's Office of the Republic of Indonesia.

Through the elements of Task Force 115, it is hoped that all existing legal instruments can be optimized. So that law enforcement against illegal fishing becomes effective and efficient. The fact is that crime in the field of fisheries is closely related to other crimes that are transnational in nature. In order to create uniformity in implementation, Standard Operating Procedures for Task Force 115 have been prepared.

Illegal fishing does not only have an impact on the economic sector, but also has an impact on the lives of fishermen, one of the causes of poverty for local fishermen is illegal fishing. In terms of the environment, there is damage that causes the ecosystem and marine life to be disturbed. This occurs due to the use of fishing gear on a large scale that is not in accordance with sea conditions.

In order to deal with illegal fishing, the Indonesian government has made several policies to deal with the practice of illegal fishing. One of the policies during the Joko Widodo administration was the issuance of Presidential Regulation No. 16 of 2017 concerning Indonesian Marine Policy. This policy was issued with the consideration that Indonesia has a large territorial waters with abundant potential resources. With the abundance of resources in it, it needs to be managed optimally and sustainably. The management of marine resources is carried out in order to realize Indonesia's ideals as a World maritime Axis and efforts to provide benefits for the welfare of the community.

Indonesia's maritime policy is a general guideline for marine policy and steps for its implementation through ministry programs and activities designed to accelerate the implementation of the World Maritime Axis. Based on this Presidential Regulation, Indonesia's maritime policy consists of the National Policy Document and the Indonesian Marine Policy Action Plan. The National Document of Indonesian Maritime Policy will serve as a guideline for government ministries/agencies in planning, implementing and evaluating development in the marine sector. In addition, it is also a reference for the community to participate in carrying out development in the marine sector.

¹⁰ Tombakan, 'PROSEDUR PENEGAKAN HUKUM TERHADAP KEJAHATAN ILLEGAL FISHING DI PERAIRAN INDONESIA BERDASARKAN UNDANG-UNDANG NOMOR 45 TAHUN 2009 TENTANG PERIKANAN'.

The Ministry of Maritime Affairs and Fisheries as the ministry related to Indonesia's marine area policy also made a policy in the form of a transshipment ban.¹¹ The policy regarding the prohibition of transshipment is contained in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia No. 56 of 2015 concerning Temporary Suspension of Capture Fisheries Business Licensing in the State Fisheries Management Area of the Republic of Indonesia and Ministerial Regulation No. 57 of 2015 concerning Capture Fisheries Business in the State Fisheries Management Area of the Republic of Indonesia¹². This moratorium policy is an effort to control the rampant illegal fishing in Indonesian waters.

This prohibition encourages ships to first dock at Indonesian ports before carrying out export activities. When at the port, the ships have to pay various Non-Tax State Revenues (PNBP) to levies and others. For more details, Minister of Marine Affairs and Fisheries Regulation No. 57 of 2014 especially in Article 37 paragraphs 5, 6 and 9 which regulates the prohibition of transshipment as follows:

Paragraph 5 reads "Every ship transporting fish made in foreign countries is given 2 (two) base ports and for ships transporting fish made abroad for export purposes is given 1 (one) base port". Paragraph 6 reads "Every fishing vessel and fish-carrying vessel are obligated to land the caught fish at the base port as stated in SIPI and SIKPI". Paragraph 9 reads "Every ship that does not land the fish caught at the base port as referred to in paragraph (2), paragraph (3), paragraph (4), paragraph (5), and paragraph (6) will be given a sanction of revocation of SIPI or SIKPI.

Some of the reasons the government implements the Transshipment Policy are as follows:

- a. Indonesia ranks second in the world because it has the longest coastal area, but its marine exports are number five in the world. So it should be if the results of marine fisheries are maximized again.
- b. To avoid fraudulent transport ships that do not land their cargo at the port.
- c. With this policy, it is hoped that the arrangement of the sea will be even better, so that it can reduce the number of fish exports that are not recorded by the government
- d. Overall, the transshipment ban will not interfere with the export of fishery products. Although there is a possibility of reducing marine catches, the potential for fish farming is greater.
- e. There are foreign ships that do transshipment, such as China, Thailand, and the Philippines.
- f. The policy regarding the prohibition of transshipment is also considered to be in line with the KKP policy to agree on an initiative from the Ministry of Trade in achieving the target of increasing exports of marine products.

In addition, related to the handling of illegal fishing, the Ministry of Maritime Affairs and Fisheries issued six main policies¹³. First, by opening all fishing boat data on the internet

¹¹ Putri, 'Kebijakan Pemerintah Indonesia dalam Menangani Illegal Fishing di Indonesia'.

¹² Almuzzamil, 'KEBIJAKAN PEMERINTAH INDONESIA DALAM MENANGGULANGI ILLEGAL FISHING PADA TAHUN 2014-2015'.

¹³ Putri, 'Kebijakan Pemerintah Indonesia dalam Menangani Illegal Fishing di Indonesia'.

so that it can be accessed by everyone, it is related to whether the ship has an official permit or not. Second, the activities of loading and unloading in the middle of the sea (transshipment) are prohibited and strictly monitored. Third, the activities of handling illegal fishing are more directed to prevention efforts and policies that create a deterrent effect for perpetrators. By being caught and burned in cooperation with the security forces at sea. Fourth, fishing vessels that do not install a vessel monitoring system (VMS) vessel movement monitoring device within a period of 1 X 24 hours will be subject to immediate action. Fifth, KKP also made efforts to sink ships in accordance with Law No. 45 of Article 69. Sixth, all of this refers to the FAO code of conduct for responsible and sustainable fisheries. In addition, the policy taken by the government is to sink ships. This policy is an instruction given directly by the President and then forwarded by the KKP minister by ordering Task Force 115 to take firm action. The instructions given are followed by strict control. This tight control has the aim of preventing things that deviate from the instructions in the operationalization process.

The policy in the context of preserving the waters and fisheries areas is the stipulation of Regulation of the Minister of Maritime Affairs and Fisheries NKP No. 1 of 2015 namely eradicating the capture of three fishery species that are considered important, namely Lobster (*Panulirus spp*), Crab (*Scylla, spp*), and Rajungan (*Portunus palengicus, spp*)¹⁴. In the ministerial regulation, there is an article that regulates the restrictions on catching lobster, crab, and crab for consumption and trading. Where everyone is prohibited from catching the 3 species when in a state of laying eggs with the minimum size that has been set. Data up to July 2017, the failure to smuggle crab and lobster resources is considered to be able to save the state losses of IDR 509.68 billion¹⁵. With this policy, smugglers from various countries have a deterrent effect.

Through several related agencies, it is hoped that they can play an active role in the interests of territorial waters and fisheries management. Relevant agencies are expected to share responsibility and authority in the management of water areas and fisheries. Fishery management institutions based on WPPNRI are aimed at increasing efficiency, optimizing and coordinating the implementation of fishery management in WPPNRI.

2. Ship Sinking in the Context of Eradicating Illegal Fishing

The potential in Indonesia's vast territorial waters is an economic capital that can be utilized to support national development¹⁶. The greatest potential in Indonesian waters is fisheries. Fisheries have an important role in the development of the national economy, especially in improving the standard of living for small fishermen. Among various problems related to marine affairs, the practice of illegal fishing by foreign vessels is one of the practices that is most detrimental to many countries. The forms of illegal fishing practices that occur in Indonesia include fishing without a permit, catching fish using fake licenses, catching fish using prohibited equipment, and catching prohibited types of fish.

Archipelago countries that have the potential for large fishery resources are an attraction for foreign fishing vessels to fish illegally. One of the factors that cause illegal fishing is the increasing world fish demand, but on the other hand the world fish supply has decreased,

¹⁴ Ardhani, 'Arah Kebijakan Pemerintah Mengenai Illegal Unreported Unregulated (IUU) Fishing di Indonesia'.

¹⁵ Ardhani.

¹⁶ Rahman, 'PENENGGELAMAN KAPAL SEBAGAI USAHA MEMBERANTAS PRAKTIK ILLEGAL FISHING'.

and there is an excess demand. As a result of the technological sophistication of other countries that have experienced a fish crisis at sea, they have expanded their fishing activities to other countries¹⁷. Indonesia is one of the destination countries for the expansion, because it is considered to still have a lot of fish in its waters.

Based on data from the Ministry of Maritime Affairs and Fisheries, there are 14 fishing ground zones in the world, currently, there are still 2 (two) zones that still have potential, one of which is Indonesian waters¹⁸. Because there is still potential in Indonesian waters, it triggers foreign fishermen to carry out illegal fishing in Indonesian waters. As a result of illegal fishing, Indonesia has suffered enormous losses. The fish trade in Indonesia has decreased when compared to several other ASEAN countries. In fact, Indonesia is one of the largest fish producers in the world.

To protect Indonesia's wealth from rogue foreign fishermen, the government enforces the sinking of foreign vessels that illegally catch fish in Indonesian waters in accordance with the rules contained in Law Number 45 of 2009 concerning Fisheries¹⁹. The imposition of sanctions by sinking ships is one of the country's efforts to eradicate illegal fishing activities. The sinking of ships in Indonesia is nothing new. The sinking of this ship already existed during the SBY administration²⁰. The decision to sink the ship is considered useful for fighting for state sovereignty.

The Ministry of Maritime Affairs and Fisheries in fighting for sovereignty sets a vision of sovereignty, which is to build sovereignty that is able to support economic independence in the management of marine and fishery resources²¹. The vision is then carried out into a mission in the form of a policy to build sovereignty that is able to support economic independence in the management of marine and fishery resources. To be able to realize this mission, several strategies have been formulated, one of which is to eradicate illegal fishing.

In relation to illegal fishing practices that occur in territorial waters, the involvement of foreign parties in fishing theft can be classified into two, namely semi-legal theft which is the theft of fish carried out by foreign vessels using a legal fishing permit owned by local entrepreneurs, with local-flagged vessels or even illegal fishing. other country's flag. This practice can be categorized as illegal fishing because it catches fish in waters that are not their right and sends the catch without going through the process of landing fish in legal areas. This practice is usually known as the practice of "borrowing flags" or Flag of Convenience (FOC). Second, pure illegal fishing theft is an arrest made by foreign fishermen using their own flag in the territorial waters of another country²². In fact, illegal fishing is not only carried out by foreign fishermen but also by local fishermen and entrepreneurs.

¹⁷ Efridadewi and Jefrizal, 'Penenggelaman Kapal Illegal Fishing di Wilayah Indonesia Dalam Perspektif Hukum Internasional'.

¹⁸ Efridadewi and Jefrizal.

¹⁹ Nurdin, Ikaningtyas, and Kurniaty, 'The Implementation of Vessel-Sinking Policy as an Effort to Protect Indonesian Fishery Resources and Territorial Waters'.

²⁰ Thontowi, 'Pembakaran Dan Penenggelaman Kapal Nelayan Asing Dalam Perspektif Hukum Laut Nasional Dan Internasional'.

²¹ Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

²² Munawaroh, 'PENERAPAN SANKSI PENENGGELAMAN KAPAL ASING PELAKU ILLEGAL FISHING OLEH PEMERINTAH INDONESIA (PERSPEKTIF HUKUM INTERNASIONAL)'.

The Fisheries Law stipulates that everyone who conducts and markets fish in the Fisheries Management Area of the Republic of Indonesia (WPRI) and in ZEEI is required to have a Fishery Business License (SIUP), a Fishing Permit (SIPI), and a Fish Transporting Vessel Permit. (SIKPI). It turned out that many foreign ships did not meet these requirements, in this case most of the ships did not have the complete documents. In fact, many also have letters that turn out to be fake. Therefore, the Fisheries Law regulates the prohibition of forgery of letters by using fake SIUP, SIPI, and SIKPI²³. Every fishing vessel that carries out fishing activities is required to have a Sailing Approval Letter issued by the harbormaster at the fishing port and a fishery vessel operating certificate from the fishery supervisor issued by the fishery supervisor after the administrative requirements and technical feasibility have been fulfilled.

The perpetrators of illegal fishing will be examined and then tried in court and then sentenced if proven guilty. Perpetrators who are proven guilty will be subject to administrative sanctions, imprisonment, or pay fines. In addition, in Law no. 45 of 2009 concerning Fisheries is strictly regulated regarding the imposition of sanctions in the form of burning or sinking foreign vessels that carry out illegal fishing activities in Indonesian waters. It is contained in Article 69 paragraph (4) which states that in carrying out the function as fishery investigators and or supervisors, fishery investigators and or supervisors may take special actions in the form of burning and or sinking ships with foreign flags based on sufficient preliminary evidence. examined then tried in court and then sentenced if proven guilty. Perpetrators who are proven guilty will be subject to administrative sanctions, imprisonment, or pay fines. In addition, in Law no. 45 of 2009 concerning Fisheries is strictly regulated regarding the imposition of sanctions in the form of burning or sinking foreign vessels that carry out illegal fishing activities in Indonesian waters. Article 69 paragraph (4) states that in carrying out the function as a fishery investigator and/or supervisor, a fishery investigator and/or supervisor may take special actions in the form of burning and or sinking a ship with a foreign flag based on sufficient preliminary evidence.

The implementation of the ship sinking policy by the KKP is marked by several phenomena of activity, namely first, the certainty of laws and regulations, presidential decrees, and the provisions of law enforcement agencies that legitimize the implementation of the ship sinking policy²⁴. A number of ships that have been sunk have legal grounds such as presidential instructions and court decisions. The sinking of ships based on presidential instructions can be seen in the case of the sinking of 16 ships that were caught and then sunk without going through a court process. This is as stated by the Minister of KKP, Susi Pudjiastuti, as follows: "Yesterday I received an order from the President, now the process of sinking the ship is final, we will not do it again, so it doesn't cost money, time and others"²⁵.

All acts of sinking vessels carrying out illegal fishing are carried out based on Article 69 of Law No. 45 of 2009 concerning Fisheries, amendments to Law No. 31 of 2004 concerning Fisheries, namely in carrying out the functions referred to in paragraph 1, fishery investigators and/or supervisors can take special actions in the form of burning and /or sinking of the ship with sufficient evidence.

²³ Munawaroh.

²⁴ Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

²⁵ Nasirin and Hermawan.

Second, implementing instructional patterns and coordinating the sinking of illegal fishing boats. This policy of sinking the ship is carried out with an instructional pattern from the President to the Ministry of Marine Affairs and Fisheries. The implementation of the ship sinking policy also coordinates with other agencies, such as the Ministry of Politics, Law and Security, the Ministry of Foreign Affairs, embassies of other countries in Indonesia, the Navy, and others.

Third, the implementation of the ship sinking policy is carried out with high commitment. So that the implementation of the policy is consistent, firm, and sustainable. The existence of a strong commitment can encourage the implementation of policies in real terms and produce clear results. Although the policy of sinking ships received threats from inside or outside the country, these actions were still implemented.

The enforcement of the law of the sea, as reported by Minister Susi, that in 2016 78 vessels were arrested and about 236 fishing boats were sunk. It is planned that in 2017, about 92 ships will be burned. About 51 ships have been terminated, and final and there are about 41 are waiting for the final. In carrying out the burning and sinking of illegal fishing vessels, it was carried out after a transparent and accountable process of investigation, investigation and examination was carried out in courts in the field of fisheries²⁶. Several law enforcement institutions involved were the Navy, Water Police, Police, Marine Security Agency (BAKAMULA), PSDKP, KKP. When viewed from the point of view of law enforcement politics, the sinking of foreign-flagged ships is a manifestation of firmness and willingness to fight for national interests in order to create public welfare.

Since the start of the policy of sinking vessels carrying out illegal fishing in the era of Minister of Marine Affairs and Fisheries Susi Pudjiastuti in 2015 to 2016 it has had a positive impact on the Indonesian economy, especially in the marine and fisheries sector. The national fisheries sector shows positive results. In 2015, the growth of Gross Domestic Product (GDP) in the fisheries sector increased from 7.35 percent in 2014, to 8.37 percent. Fishery production also increased from 20.40 million tons to 23.99 million tons.

This policy of sinking ships raises pros and cons²⁷. For some law enforcement officers they do not agree with the policy of sinking ships. Former Deputy Chief of Police, Commissioner General Badroedin Haiti, and Coordinating Minister for Political, Legal and Security Affairs Tedjo Edy Parjianto agreed that the act of sinking ships cannot be done arbitrarily²⁸. The process of imposing sanctions on the sinking of ships at sea must comply with legal procedures applicable at sea according to international legal agreements. There shall be an advance warning procedure by giving fire to the water on the starboard side and the ship, in accordance with the ship's pursuit arrangements. In Chapter III of UNCLOS, the fight hot pursuit, the instant pursuit of a foreign ship can be carried out if the competent authorities and the coastal state have strong enough reasons to pursue a ship that violates the territorial waters of a country.

²⁶ Thontowi, 'Pembakaran Dan Penenggelaman Kapal Nelayan Asing Dalam Perspektif Hukum Laut Nasional Dan Internasional'.

²⁷ Raharjo et al., 'The Sinking Ship Policy to the Perpetrator of Illegal, Unregulated and Unreported Fishing in Criminal Law Perspective'.

²⁸ Thontowi, 'Pembakaran Dan Penenggelaman Kapal Nelayan Asing Dalam Perspektif Hukum Laut Nasional Dan Internasional'.

This disapproval was once raised by the Navy staff, who said that the sinking and burning of foreign fishing vessels was not economically profitable. Because the bullets used by the Indonesian Navy to shoot and burn the ships were detrimental. Moreover, if the policy is still sectoral in nature, the expected results will not be optimal.

The act of sinking ships by the KKP in the context of eradicating illegal fishing is the implementation of a top-down model policy. The keywords of this implementation model are command, change, control and compliance²⁹. This implementation model occurs in the policy of sinking ships, instructions are given directly from the President and then forwarded by the Ministry of Marine Affairs and Fisheries by ordering Task Force 115 to take firm action. The instructions given are followed by strict control. This tight control has the aim of preventing things that deviate from the instructions in the operationalization process.

The model for implementing the ship sinking policy by the CTF is in line with the views of Ripley and Franklin. They state in their thesis that the successful implementation of a policy is determined by three aspects: the level of bureaucratic compliance with the bureaucracy, smooth routine activities, and policy alignment and desired impact. These three things describe the implementation of a top-down model of public policy which is determined by the power and coercion factor from the center with a clear mandate from the laws and regulations³⁰.

In the era of President Joko Widodo, the Minister of Maritime Affairs and Fisheries, Susi Pudjiastuti, the practice of burning and sinking fishing boats with foreign flags tended to increase³¹. Some parties admit that these actions have proven effective and become shock therapy. Fishing vessels with foreign flags have decreased in number entering the territorial waters of Indonesia. It is suspected that there are perceptions and concerns from foreign and domestic fishermen. Then each state government whose fishing boats became victims of burning and sinking gave various responses. Neighboring countries that often do illegal fishing are Vietnam 96 ships, the Philippines 59 ships, Malaysia 38 ships, Thailand, Taiwan, China, and South Korea.

The sinking of ships carried out by the Ministry of Maritime Affairs and Fisheries (KKP) without going through a trial is the authority of the state based on Article 69 Paragraph (4) of Law No. paragraph (1) fishery investigators and/or supervisors may take special actions in the form of burning or sinking fishing vessels with foreign flags based on sufficient preliminary evidence³². The sinking of the ship is a strong warning for illegal fishing actors as well as Indonesia's commitment to monitoring and enforcing the law in the territorial waters. KKP is very serious in reorganizing fisheries management with the aim that the sustainability of Indonesian waters can be more guaranteed and in the end can improve the welfare of fishermen.

²⁹ Nasirin and Hermawan, 'Kontroversi Implementasi Kebijakan Penenggelaman Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia'.

³⁰ Nasirin and Hermawan.

³¹ Thontowi, 'Pembakaran Dan Penenggelaman Kapal Nelayan Asing Dalam Perspektif Hukum Laut Nasional Dan Internasional'.

³² Tombokan, 'PROSEDUR PENEGAKAN HUKUM TERHADAP KEJAHATAN ILLEGAL FISHING DI PERAIRAN INDONESIA BERDASARKAN UNDANG-UNDANG NOMOR 45 TAHUN 2009 TENTANG PERIKANAN'.

The firm action of sinking the ship is predicted to be effective and create a deterrent effect, because the ship is the main tool for the perpetrators of theft. When the ship and its equipment are sunk, the thief will think again to repeat the theft of fish in Indonesian waters. The act of sinking this ship in international diplomacy is also considered effective. This action is considered as a concrete and decisive action that is far more important and effective than other actions.

C. Conclusion

From the discussion above, it can be concluded that the act of illegal fishing is an act of catching fish illegally or illegally. Regulations regarding illegal fishing have been regulated in national and international regulations. The Indonesian government itself has made various policies, including by establishing a Task Force for the Eradication of Illegal Fishing (Satgas 115) through Presidential Regulation No. 115 of 2015. Task Force 115 has the task of carrying out Law Enforcement Operations in order to eradicate Illegal Fishing. Other policies in the form of Presidential Regulation no. 16 of 2017 concerning the Indonesian Maritime Policy and the transshipment prohibition policy.

In addition, related to the handling of illegal fishing, the KKP also issued a policy in the form of burning and sinking ships based on Article 69 Paragraph (4) of Law No. 45 of 2009 Amendments to Law No. 31 of 2004 concerning Fisheries. Despite the pros and cons, the sinking of this ship can have a deterrent effect for illegal fishing actors and is more effective in overcoming fish theft in Indonesian waters.

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