

LAW ENFORCEMENT CRIMINAL ACTS IN FISHERIES

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FISHING CRIME CONTROL ON THE USE OF EXPLOSIVE IN LEMON ISLAND, MANOKWARI, WEST PAPUA

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Abstract

Eradication of illegal fishing activities related to violations of the use of destructive fishing equipment such as explosives has not yet shown encouraging signs, this incident actually does not need to happen, if government officials and the police can respond to the problem. The motives of fishermen fishing with explosives, namely fishing activities are the livelihoods of fishing communities to fulfill basic needs, mental attitudes and personalities of fishermen who prefer to catch fish in a short time, Efforts to overcome the use of explosives in fishing on Manokwari Lemon Island, West Papua Province, namely by strictly enforcing the law against the perpetrators, providing knowledge to the fishing community about the impact of using explosives in fishing and cooperating with other relevant agencies such as the Manokwari Regency Fisheries Service.

Keywords: countermeasures, explosives, fisheries crime, Manokwari.

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1 I. Introduction

Indonesia is a country that has a stretch of coastline with a length of 81,000 km, thus making the Indonesian sea and coastal areas of Indonesia have abundant marine resources and natural resources, such as fish, mangrove coral reefs and so on. Sea waters are vast and rich in species and fishing potential where in the field of fishing is 6.4 million tons/year and general fisheries potential is 305,650 tons/year and marine potential is approximately 4 billion USD/year.¹ The fisheries sector which has a fairly rich potential invites many foreign and local fishermen to carry out fisheries resource utilization activities in Indonesian waters.²

Indonesia's wealth is utilized by a group of Indonesian people who live in the coastal area, which in general depends on the source of life from the marine and fisheries sector or what is also called fishermen. The vast territorial waters in addition to providing hopes and benefits, but also bring consequences and several problems, among others, many do not comply with national and international laws that apply in waters such as Illegal Fishing. Deviations in the business of utilizing marine resources will cause problems for the preservation of existing natural resources. The rise of irregularities in the business of exploiting fisheries resources in Indonesian waters has an impact on the deterioration of national and regional economies and the increasing social problems in the Indonesian fisheries community.³

Some coastal areas in Indonesia have quite high potential and strategic fishing areas so that inevitably the main livelihood for the people who live mainly in coastal areas is by fishing.⁴ Illegal fishing in the Indonesian war zone is increasingly prevalent, the perpetrators use large ships and fishing equipment that damage the environment. On average every year the Ministry of Maritime Affairs and Fisheries (KKP) captures as many as 135 ships.⁵ Some of the deviations that often occur include fishing using explosives and toxic

¹ Supridi and Alimudin, *Hukum Perikanan di Indonesia*, Jakarta: Sinar Grafika, 2001, p. 2; Sea is one of the sources of wealth of a country, because it saves natural resources very much, be it fish, seaweed, rocks, coral, and others. One of the lucky countries by the grace of the god associated with the marine area is Indonesia, see Abd. Asis, *et al.*, *Strategic policy of the Government of Indonesia In the Field of Maritime and Fisheries Affairs*, International Journal of Scientific and Research Publications, Volume 6, Issue 12, December 2016, p. 238

² Marlina and Faisal, *Aspek Hukum Peran Masyarakat dalam Mencegah Tindak Pidana Perikanan*, Jakarta: Sofimedia 2013, p. 2

³ Suhana, 2006, *IUU Fishing dan Kerentanan Sosial Nelayan*, Suara Karya Online, 6 July 2006. downloaded on Friday, October 26, 2018, at 8:25 p.m.

⁴ Abd. Asis, *et al.*, *Hak-Kewajiban Nelayan dan Kelompok Nelayan Menurut UU RI Nomor 7 Tahun 2016*, Jurnal Hukum "Justitia" Vol. V No. 1 September 2017, p. 53

⁵ Doddy Risky, 2014. *KKP ungkap 135 Kasus Illegal Fishing per tahun*, Warta Malang.com 18 September 2017. downloaded on Friday 26 2018, at 19:15 p.m.

materials, and the use of fishing gear that is not suitable, for example, trawlers with sizes of net mesh that are too small and especially those carried out in catching areas that are prone to quality problems, preservation of biological resources.¹

According to the 2018 KKP data, there are several criminal cases in fisheries in Indonesia, including 17 cases without permission, 39 cases without permits and illegal fishing gear, 13 cases of incomplete documents, 5 cases of fishing ground, 2 cases of fishing gear not having permission.² Activities that are generally carried out by fishermen in making arrests are by prohibited fishing gear or bombs using peladok materials because this method is the easiest and easily made by many people.³

The waters of Lemon Island Manokwari itself have the same case, where nearly half of the 45,000 hectares of coral reefs and other habitats were damaged by the use of fish bombs in conducting fish searches. One of them in Manokwari Regency has the potential of fish resources reaching 164,604 tons per year, with the number of catches allowed reaching 131,683 tons, while the utilization rate in 2018 reaches 19,399 tons, but the business of utilizing these resources still uses deviant methods such as catching fish using the method of bombardment still carried out by traditional fishermen, this can be seen from the Data of the Manokwari Regency Marine and Fisheries Service stating that 65% of the total 400 hectares of nature the sea has been damaged by fishing activities using explosives.⁴

The capture of reef fish using explosives can have adverse consequences for fish that will be captured as well as for the corals found in the fishing locations. The use of explosives in fishing around the coral reefs creates very large side effects. In addition to the destruction of coral reefs around the blasting site it can also cause the death of other biota that are not the target of arrest.

In the last 10 years the exploitation and exploration of fishery products in Indonesia has shown a very significant increase. State losses due to illegal fishing or illegal fishing are very large data from the World Food Agency or FAO records Indonesia's losses per year due to illegal fishing of Rp. 30 trillion. This number is considered quite small by the KKP Minister, Susi Pudjiastuti. According to Susi, state losses due to illegal fishing per year can actually reach more than US \$ 20 billion or around Rp.300 trillion, so that, over the past 10 years, the state's total losses reached Rp.3,000 trillion. The cause of the loss is the number of illegal foreign vessels that catch fish in the Indonesian sea and the use of explosive devices (fish bombs) by fishermen. The number of foreign vessels is more than 1,000 units, and those that do not have permits range from 3-5 times. The number of catches of one vessel reaches 600-800 tons per year.⁵

Montesquieu states that a good form of legislation must provide the prevention of crime rather than punishment.⁶ In eradicating illegal fishing in addition to following the procedural law stipulated in the Law No. 8 Year 1981 concerning Criminal Procedure Law (KUHP), Law Number 31 Year 2004 concerning Fisheries as amended by Law No. 45 Year 2009 (Fisheries Law) also contains separate procedural law as a special provision (*lex specialis*). Some special provisions stipulated in the Fisheries Law, including the granting of investigative authority to investigators of civil servants (abbreviated as PPNS) fisheries, officers of the Indonesian Navy (abbreviated TNI AL), and State Police officers of the Republic of Indonesia, and the establishment of fisheries courts.

The investigation into the eradication of criminal acts in the field of fisheries owned by the Police, PPNS and the Navy (Article 73 paragraph (1) of the Republic of Indonesia Fisheries Law Year 2009) still raises problems. The number of institutions that are authorized to eradicate criminal acts in the fisheries sector have not made effective enforcement of criminal acts in the fisheries sector, so the Marine Security Agency (abbreviated

¹ Dian Saptarini, *et.al.*, *Pengelolaan Sumber Daya Kelautan dan Wilayah Pesisir*, Collaboration between the Ministry of Education and Culture (Research and Community Service Development) with the Ministry of Environment (Center for Environmental Studies), Jakarta, 1996, p. 3

² Kelompok Kerja Penyelaras Data Kelautan dan Perikanan 2011, *Kelautan dan Perikanan dalam angka 2011*, Kementerian Kelautan dan Perikanan, Jakarta, p. 67

³ Marlina and Faisal, 2013, *Op.Cit.*, p. 28

⁴ http://23w.portalkbr.com/berita/nasional/2666650_5486.html downloaded on Friday, October 28, 2018, at 8:21 p.m.

⁵ "Susi: "Illegal Fishing" Rugikan Negara Rp 300 Triliun Per Tahun", <http://finance.detik.com/read/2014/12/01/152125/2764211/4/menteri-susi-kerugian-akibat-illegalfishing-tp-240-triliun>, accessed on January 15, 2015.

⁶ Muhadar dan Audyna Mayasari Muin, *Kriminologi (Suatu Pengantar)*, Makassar: Pusat Kajian Media dan Sumber Belajar, LKPP Universitas Hasanuddin, 2016, p. 3; see also A.S. Alam, 2010, *Pengantar Kriminologi*, Makassar: Pustaka Refleksi Books, p. 10-11

as Bakamla) was established under Presidential Regulation No. 178 Year 2014 as a substitute for the Marine Security Coordination Agency (25) (abbreviated as Bakorkamla). Finally, the Illegal Fishing Eradication Task Force was formed with the 2014 **Minister of Maritime Affairs and Fisheries Regulation**.

Related to the fisheries court institution (Article 71 of the Fisheries Act), the establishment of a fisheries court in the general court environment is intended to improve the efficiency and effectiveness of law enforcement against criminal acts in the fisheries sector. Currently 10 fisheries courts have been formed, but criminal cases in the field of fisheries handled by seven fisheries courts that have been active during the period 2007 to 2013 are still very few.

Similarly, the problem of applying sanctions to criminal acts in the fisheries sector. Sanctions for sinking ships, for example, in the Fisheries Law are not accompanied by procedures for implementing them. In addition, the imposition of criminal acts on crimes in the fisheries sector has not caused a deterrent effect. Regulation of administrative sanctions is very lacking. The ineffectiveness of law enforcement against criminal acts in the fisheries sector also has a large impact on the fishing industry. Criminal acts in the fisheries sector cause losses directly or indirectly, in the form of material or immaterial losses, from economic, ecological and social aspects.

The investigation was carried out by 3 institutions, namely the Indonesian Navy, Fisheries PPNS, and the Police. The authority of the joint investigation is basically well mapped, the authority is distinguished based on the scope of the authority area, namely 0-12 nautical miles for police investigators, the IEEZ area which is more than 200 miles for Indonesian Navy AL Investigators, and all Indonesian territorial waters for Fisheries PPNS.

In addition, the mechanism of cooperation between the 3 agencies has been established through an MoU between the KKP and the Indonesian Police and the Navy. However, the implementation of this mechanism has not yet reached the regional level. For this reason, it is necessary to establish a forum that carries out the coordinating function of institutions that carry out investigations into fisheries crimes or appoint one of the institutions conducting the investigation as coordinators. In addition, investigations into criminal offenses in the fisheries sector are often hampered by provisions concerning foreign skipper who fishing on EEZ, cannot be detained. This often causes the captain who becomes an examinee to flee so that the investigation process becomes hampered. In addition to the captain, crew members who were arrested during the crime in the field of fisheries were also secured and placed in a place that was not a place of detention. Until now, in the 2 regions that were the object of research there was no adequate special place for prisoners.

These activities are included in criminal acts as stipulated in Law Number 45 Year 2009 concerning Article 9 Fisheries, namely "every person is prohibited from possessing, controlling, carrying and using fishing gear and/or fishing aids that interfere with the sustainability of fish resources on fishing vessels fish in the fisheries management area of the Republic of Indonesia".¹ So far the eradication of illegal fishing activities related to violations of the use of destructive fishing equipment such as explosives has not yet shown encouraging signs, this event actually does not need to happen, if the government or police apparatus can respond responsibly to the problem. These problems must be resolved seriously by the government and law enforcement so as to support the development of fisheries in a controlled and sustainable manner. The Manokwari government itself has tried to deal with various potential pollution and destruction of coastal areas, but there are still violations of these regulations, indicating that law enforcement related to fisheries issues in Manokwari District is still not optimal.

At this stage the role of law, especially criminal law, is urgently needed to become a media of control and prevention of actions that can disrupt the stability of management and the preservation of fish resources and their environment. The existence of legal certainty is a condition that is absolutely necessary in handling criminal acts in the fisheries sector. The success in implementing law enforcement is the achievement of legal norms that are obeyed by the community and carried out by law enforcers, so that law enforcement is said to be successful.

These problems include threatening the preservation of national and regional fish stocks and damage to marine ecosystems and also encouraging the loss of fisheries resource chains.² Based on the explanation, the

¹ Article 9 See Law Number 45 Year 2009 concerning Amendments to Law No. 31 Year 2004 concerning Fisheries

² Riza Damanik, et.al., *Menjala 15 terakhir (Sebuah Fakta Krisis di Laut Indonesia)*, Walhi, Jakarta 2008, p. 67; including among them are plastic waste, *Nowadays, people are unwittingly destroying the marine environment through waste discharged into the sea. Garbage from food, beverage, and daily life needs to cause a lot of garbage, unfortunately, a lot of*

problem that will be discussed in this paper is what is the motive of the perpetrators of fishing using explosives? and how is the handling of fisheries crime using explosives by law enforcement officers in Manokwari?

II. Research Method

This type of research is socio-juridical using a statute approach and a case approach.⁷ The data used are primary data and secondary data collected through interviews and documentation studies. The collected data is then analyzed qualitatively then described so that the problems discussed, and the solutions offered can be clearly illustrated in this paper.

III. Results and Discussion

A. Motives of Actors of Fishing Crimes Using Explosives

Located in the world coral triangle area, the Indonesian sea is rich in a variety of marine biota such as fish and coral reefs. Not surprisingly, Indonesia is one of the largest fish producers in the world, including for reef fish species. As a strategic commodity, reef fishing is one of the most cultivated by our fishermen.² The motives of the perpetrators of committing fishing crimes using explosives. In his statement, Yan Piterson explained that “the motives of the perpetrators of criminal acts of fishing using explosives, namely by using explosives the perpetrators get fish quickly (instant) and in large quantities compared to using fishing rods, takes a long time and earning very little”.³ The same thing was also conveyed by Dedi Ariana as Head of the Fishing and Fish Cultivation Division who explained that “the motives of fishermen to catch fish using explosives are because they (fishermen) want the results of fishing in a young and fast way and yield a lot and availability of raw materials for making explosives (fish bombs)”.⁴

Based on the two statements above, according to the researchers there are several motives for fishermen to catch fish with explosives, namely:

- 1) Fishing activities are the livelihood of fishing communities to fulfill basic needs.
- 2) The mental attitude and personality of fishermen who prefer to catch fish in a short time.
- 3) Fishermen who are generally traditional people who do not know about good fishing methods and the dangers of using explosives in fishing for aquatic ecosystems and themselves.
- 4) Sanctions given to the perpetrators of the use of explosives cannot provide a deterrent effect and the process of examining the perpetrators of prolonged use of explosives encourages fishermen to catch fish using explosives.

B. Data on Handling Crime of Fisheries Using Explosives by Law Enforcement Officials in Manokwari

Data on cases of fisheries crimes against the use of explosives handled by the Manokwari Water and Air Police Unit West Papua Regional Police from 2014 to 2018, as in table 1 below:⁵

Table 1

garbage is not well managed, with practical thinking and prioritization of convenience, plastic-based waste is then thrown into the ocean and pollute the marine environment. This if left unchecked, the survival of fish and other marine biota will be disrupted, and existing marine resources will not be able to meet the needs of future generations, lihat Kadarudin, State Commitment to Fights Sea Pollution by Plastic Waste in United Nations Convention on Climate Change, Jurnal Ilmu Hukum “The Juris” Vol. II No. 1 June 2018, p. 1

¹ Peter Mahmud Marzuki, 2005, Penelitian Hukum, Prenadamedia Group Jakarta, p. 35

² Abd. Asis, et al., *Persoalan Hukum Nelayan dan Kelompok Nelayan di Kabupaten Takalar*, Jurnal Ilmu Hukum “The Juris” Vol. II No. 2 December 2018, p. 179; see also Munawir, Menilai Kepatuhan Nelayan Kabupaten Takalar dalam Perbaikan Perikanan Karang, WWF Indonesia, 2017, accessed at <https://www.wwf.or.id/?54362/Evaluating-the-Fishermens-Level-of-Compliance-in-Takalar-Regency-in-Coral-Fishery-Improvement>

³ Research interview at the Manokwari Air and Water Police Unit Office, April 10, 2019.

⁴ Research interview at Manokwari District Fisheries Service Office, March 2019

⁵ Research at the Manokwari Air and Water Police Unit Office, March 2019.

No.	Case Data	Settlement		Amount handled
		Report	Completed	
1.	Year 2014	1	1	1
2.	Year 2015	0	0	0
3.	Year 2016	0	0	0
4.	Year 2017	2	2	2
5.	Year 2018	0	0	0
Total		3	3	3

Data on fishing crime cases against the use of explosives handled by the Manokwari Regency PPNS from the Maritime and Fisheries Office from 2018, as in table 2 below:¹

Table 2

No.	Case Data	Settlement		Amount handled
		Report	Completed	
1.	Year 2014	0	0	0
2.	Year 2015	0	0	0
3.	Year 2016	0	0	0
4.	Year 2017	0	0	0
5.	Year 2018	0	0	0
Total		0	0	0

Data on fisheries crime cases against the use of explosives handled by the Manokwari District Prosecutor's Office in 2014 until 2018, as in table 3 below:²

¹ Research at Manokwari District Fisheries Service Office, March 2019.

² Research at Manokwari District Prosecutor's Office, March 2019.

Tabel 3

No.	Case Data	Settlement		Amount handled
		Report	Completed	
1.	Year 2014	0	0	0
2.	Year 2015	0	0	0
3.	Year 2016	0	0	0
4.	Year 2017	6 months	3 months	2 case
5.	Year 2018	0	0	0
Total		2	2	2

Handling illegal fishing cases such as the use of explosives in fishing is not an easy job, requires special handling patterns. One of them provides knowledge and understanding of the impacts caused by fish bombing activities. Based on interviews with Aipda Yan Piterson as the Head of the Gakkum Unit of the Aquatic and Air Police Unit of Manokwari Regional Police on 10 April 2019, explained that “fishing cases handled by the Manokwari Police and Water Police Unit in the past 5 years who use explosives (fish bombs) there are 3 cases, namely the year in 2014, there are 1 case and in 2017, there are 2 cases”.¹

Different things delivered by Andi St. Cherdjariah as the head of the General Criminal Section (Pidum) at the Manokwari District Attorney explained that “cases of fishing using explosives handled by the Manokwari District Attorney in the last 5 years were as many as 2 cases in 2017”.² The same was conveyed by Faisal Munawir Kossah as the Primary Justice of the Primary of Manokwari District Court who stated that “cases of fishing using explosives handled by the Manokwari District Court in the last 5 years were as many as 2 cases”.³

Based on the 3 information, it was shown that there were not enough cases of criminal acts of fishing using explosives on Lemon Island Manokwari, but this had to be overcome. The handling of illegal fishing cases must be arranged in a planned, systematic and structured manner. Because such violations occur because of the many aspects of the limitations of traditional coastal fishermen. Like, the limitations of education, understanding, skills, to the problem of the limitations of equipment that is still manual fishing gear.

Researchers in an interview with Kanit Gakkum of the Satpol Waters and Air of Manokwari Regional Police regarding the mode of fishing for explosives, explained that “the mode of perpetrators in fishing using explosives is that the perpetrators assemble explosives in the form of sulfur filled in wasp oil bottles and then it grows in the form of leather from a fire wood match after it grows and burns and is thrown into the water and explodes causing fish around the blast to die like being hit by a strom and sinking to the bottom of the sea, after which the perpetrators pick up by diving”.⁴

Fishing activities using explosives indirectly result in large losses to the state. So that the government through the Water and Air Police Unit of the Manokwari Regional Police of West Papua Regional Police has compiled a program of supervision and control of marine and fisheries resources, especially the use of explosives in fishing in the waters of West Papua Province. This effort is also expected to eradicate the use of explosives in fishing and can minimize the number of violations that occur. To conduct direct supervision in the field of fishing vessels that make fishing using explosives carried out using patrol vessels belonging to the Directorate of Water Police of the West Papua Regional Police.

¹ Research interview at the Manokwari Air and Water Police Unit Office, April 10, 2019.

² Research at Manokwari District Prosecutor's Office, April 10, 2019.

³ *Ibid.*

⁴ Research interview at the Manokwari Air and Water Police Unit Office, April 10, 2019.

According to Yan Piterson in conducting surveillance, the Satpol Airud of the Manokwari Regional Police of West Papua Regional Police did not work alone but worked with relevant agencies such as the West Papua Province Fisheries Service, Manokwari Regency Marine and Fisheries Service and the Navy in West Papua Province. The collaboration of the Satpol Airud of the Manokwari Regional Police of West Papua Regional Police with various other relevant agencies is useful for establishing stability in the supervision of marine services. This is important in order to achieve common understanding and increase synergy between related institutions.

The Manokwari Regional Air and Water Police Unit Office, West Papua Regional Police have a very important duty to maintain the security of the waters of West Papua Province from the practice of illegal fishing such as fishing using explosives. In carrying out surveillance to eradicate the use of explosives in fishing by fishermen, the Satpol Airud of the Manokwari Regional Police of West Papua Regional Police carried out routine patrols using Water Police patrol vessels. The monitoring activities carried out by the Manokwari Regional Air and Water Police Unit Office, Regional Police of West Papua are carried out at all times and on an ongoing basis in order to maintain the territorial waters in West Papua Province in particular the practice of using explosives in fishing which has had a considerable impact on the country.

Then the researcher asked about the initial process of handling criminal acts of fishing with explosives by the Manokwari Regional Air and Water Police Unit Office. West Papua Regional Police, Kanit Gakkum explained that "the initial process of handling fishing crimes using explosives handled by the Manokwari Regional Air and Water Police Unit Office was after Pol Airud units received reports from the community, then headed to the scene, then immediately secured the perpetrators and all evidence related to the crime, after which the officer records the coordinates of the scene using GPS, then the Airud Satpol officer brings the suspects and all the evidence to the Sat Polairud Office to carry out further legal proceedings".¹

Furthermore, the researcher asked about the names of the suspects in the crime of fishing using explosives handled by the Manokwari Regional Air and Water Police Unit Office, Yan Piterson explained that "for the 2014 case the suspects were in the name of Philemon Korwa and in 2017 the suspects were Yusak Manggaprouw, Nurdin, Petrus Wandauw, Feri Wandauw and Erick".²

What evidence is possessed by the Manokwari Regional Air and Water Police Unit Office in determining suspects, namely:³

- 1) Witness testimony, that is, from a number of witnesses, there is a correspondence between witnesses and one another.
- 2) Expert information, namely expert information as outlined in the Minutes of Examination in this case fishing experts at the Faculty of Science and Marine of the State University of Papua, Fanny F.C, Simatauw.
- 3) Instructions, in the form of evidence consisting of a boat and its engine, caught fish, net nets, diving goggles, and compressors.
- 4) Letter, in the form of an Official Document resulting from laboratory inspection of evidence of fish
- 5) Description of the defendant, that the suspects/defendants confessed all their actions because they were intentionally carried out.

The same thing was conveyed by Andi St. Cherdjarah as the head of the General Criminal Section of the Manokwari District Prosecutor's Office regarding the evidence used in assigning suspects. Beside the article applied by the Manokwari District Attorney, namely Article 84 paragraph (1) Jo Article 8 paragraph 24 Law No. 31 Year 2004 concerning Fisheries as amended by Law No. 4 Year 2009 concerning Fisheries jo article 55 paragraph (1) to 1e of the Penal Code.

¹ Research interview at the Manokwari Air and Water Police Unit Office, April 10, 2019.

² *Ibid.*

³ *Ibid.*

Whereas in handling cases of fisheries crime, the Public Prosecutor specifically appointed is required. The Public Prosecutor appointed to handle cases of fisheries crime, as stipulated in Article 75 of Law No. 31 Year 2004 and amended by Law No. 45 Year 2009, i.e.:

- 1) Defined by the Indonesian Attorney General;
- 2) At least 2 years of experience as a public prosecutor;
- 3) Has participated in technical training in the field of fisheries;
- 4) Competent and have high moral integrity while carrying out their duties.

The substance stipulated in Law No. 45 Year 2009 concerning fisheries crime, among others:

1. Related to supervision and law enforcement, namely:
 - a) Coordination mechanism between investigating agencies in investigating Fisheries Crimes (Bakorkamla);
 - b) Application of sanctions (corporal punishment or fines);
 - c) Criminal Procedure Law (limit the deadline for settlement of cases);
 - d) The possibility of sinking foreign-flagged vessels.
2. Related to fisheries management, including:
 - a) Port of fishing;
 - b) Conservation;
 - c) Licensing;
 - d) Shahbandar.
3. Related to the expansion of the jurisdiction of the fisheries court. Mechanism for handling fisheries crime:
 - a) The Investigator notifies the commencement of the investigation to the Public Prosecutor (SPDP) no later than 7 days after the discovery of a criminal offense in the fishery sector;
 - b) Acceptance of case files (stage one), namely that;
 - c) Investigation of crimes cases in the field of Fisheries in the Republic of Indonesia fisheries management area carried out by Fisheries PPNS, Indonesian Navy Investigators and or Police Investigators;
 - d) For *Locus Delicti* in the IEEZ region, the Public Prosecutor only received case files that were investigated by the fisheries PPNS (PSDKP) and investigators of the Indonesian Navy officers and crimes case files. Fisheries with *locus delicti* at IEEZ are investigated by police investigators, prosecutors to provide instructions for re-investigation by authorized investigators according to article 73 paragraph (2) of Law Number 45 Year 2009, namely Fisheries PPNS investigators (PSDKP) or Indonesian Navy investigators;
 - e) Research on case files (prosecution) by prosecutors must conduct formal requirements research, which includes the identity of the suspect, arrest, detention, search, confiscation of evidence, evidence list, and research on material requirements, including elements of the article allegedly related to the region (IEEZ or outside IEEZ) where specifically for the EEZ region must be punctuated with Article 102 of Law Number 45 Year 2009, *tempus* and *locus delicti* (related to absolute and relative competencies), the role of each suspect, testimony of witnesses and experts;
 - f) The maximum time limit for research on case files of 5 days from the date of receipt of the case file as a result of an investigation is considered to have been completed if within a period of 5 days, the Prosecutor does not return the case file to the investigator;
 - g) Within a maximum period of 10 days from the date of receipt of the case file, the investigator must return the case file to the Prosecutor;

- h) Prosecutors delegate case files to the Chairperson of the Court no later than 30 days from the date the case file is declared complete by the Prosecutor (P-21);

Time of detention in cases in the fisheries sector:

1. Investigation (Article 73 paragraph 4 of Law Number 45 Year 2009)

Investigators can detain suspects for a maximum of 20 days. Maximum extension of prosecutors is 10 days. After 30 days, the investigator must remove the suspect from detention.

2. Prosecution (Article 76 paragraph 6 of Law Number 45 Year 2009)

Prosecutors can detain suspects for a maximum of 10 days. The extension by the Chairperson of the District Court is a maximum of 10 days.

Technical Guidelines for handling Fisheries Crime cases, among others are:

1. Letter of the Attorney General of the Republic of Indonesia Number: B-093/A/Ft.2/12/2008 dated December 24, 2008 concerning Control and Acceleration of Claims on Fisheries Crimes;
2. Letter of Jampidsus Number: B-27/F/Ft.2/01/2010 dated January 8, 2010 concerning Delegation of Authority for the Prosecution of TP Cases. Fishery;
3. Jampidsus Letter Number: B-434/F/Ft.2/03/2010 dated March 3, 2010 concerning Delegation of Authority for the Prosecution of TP Case Matters. Fishery;
4. Jampidsus Letter Number: B-735/F/Ft.2/04/2010 dated April 5, 2010 concerning Understanding and Application of Law Number 45 Year 2009 concerning Amendments to Law Number 31 Year 2004 concerning Fisheries.

Handling at the prosecution stage:

The Public Prosecutor is not permitted to make a single indictment, so that it is formulated on charges of subsidiarity or alternatives. Proof is carried out optimally against charges with the toughest legal threats:

1. In the case of a case that occurred (*Locus Delicti*) in the IEEZ area, the application of the criminal case was a fine (not a corporal punishment) as stipulated in the provisions of Article 102, therefore it must be juncted by Article 102 of Law Number 45 Year 2009;
2. Report on the handling of Fisheries Crime cases made in stages to the Indonesian Attorney General cq the Deputy Attorney General for Special Crimes;
3. Technical Guidelines for handling Fisheries Crime cases, in the case of conducting a hearing without the presence of the defendant, namely referring to the Young Prosecutor's Letter Special Criminal Field Number: B-621/F/Fek.2/11/1992 concerning Session *in Absentia*.

Handling regarding evidence of Fisheries Crime:

1. Objects or tools used or produced from fishing crimes can be confiscated for the state or destroyed after obtaining the approval of the Head of the District Court;
2. Evidence of the results Fisheries Crimes which are easily damaged or require high maintenance costs, can be auctioned with the approval of the Head of the District Court;
3. Evidence of the results of Fisheries Crimes which are easily damaged in the form of fish species are first set aside in the interests of proof in the Court.

4. Objects or tools seized for the country from the results of Fisheries Crimes can be auctioned for the state;
5. The auction is carried out by the Office of Management of State Assets and Auctions (KPKNL) after previously being submitted beforehand to the Coaching section;
6. The money from the auction resulting from the seizure of Fisheries Crime is deposited into the state treasury as a Non-Tax State Revenue (PNBP);

As stipulated in Article 76 letter c paragraph 5 of Law Number 45 Year 2009, objects or tools seized from fishery crime in the form of fishing vessels can be submitted to joint business groups of fishermen and/or fisheries corporations, but given the absence of PP regarding the implementation of the Law Number 45 Year 2009, the provisions in practice cannot be implemented effectively.

Regarding the handling guidelines on evidence, namely the Decree of the Attorney General of the Republic of Indonesia Number: KEP-112/JA/10/1989 concerning the Mechanism of Receiving, Storing and Arranging Evidence.

Based on the results of an interview with Yan Piterson, The Air and Water Police Unit of Manokwari Resort Police illustrates that there are several efforts made in overcoming the use of explosives in fishing in West Papua Province, the authors explain as follows:

- a) Firmly enforce the law in applying piana sanctions against perpetrators of fishing offenses using explosives.

In handling cases of using explosives in fishing, legislation is needed which is followed by guidelines in dealing with the perpetrators of the use of explosives in fishing. Based on the United Nations Convention on the Law of the Sea 1982 the Indonesian government has modified the Law No. 17 Year 1985, then the Indonesian government has also issued Law No. 45 Year 2009 concerning Fisheries this is intended so that the perpetrators of the use of materials in fishing can be dealt with in accordance with the rules.

Moeljatno's formulation indicates that criminal law is a set of rules governing 3 elements, namely the rule of crime, criminal liability and the verbal process of law enforcement if a crime occurs. This element shows the relationship between material criminal law and formal criminal law, which means that violations of the material criminal law will have no meaning without the establishment of formal criminal law (criminal procedure law). Similarly, the formal criminal law cannot function without violating the norms of material criminal law (criminal acts).¹

The Indonesian government makes Law No. 45 Year 2009 concerning Fisheries in accordance with international provisions in the field of fisheries and accommodates the problem of illegal fishing, especially the problem of the use of explosives in fishing and can balance the development of technological progress that is developing at this time. In implementing law enforcement at sea this Law is very important and strategic because it involves legal certainty in the fisheries sector.

The Air and Water Police Unit of Manokwari Res Police prioritizes implementing Law No. 45 Year 2009 concerning Fisheries because with the enactment of Law No. 45 Year 2009 concerning Fisheries, various legal provisions regarding supervision are increasingly assertive and large in role, such as stopping, examine, capture, carry and hold. In addition, the handling of violations or criminal acts is also clearly regulated by the law.

Several other constraints regarding the length of the detention period of investigators implemented Emergency Law Number 12 Year 1951. Emergency Law Number 12 Year 1951 was used because the investigators considered it younger and more profitable for investigators because formally the investigation process still referred to the Criminal Procedure Code and materially the criminal threat was far higher. Investigators also apply Law Number 12 Year 1992 concerning Plant Cultivation Systems if fishing communities that catch fish with explosives use explosives made from materials in the form of fertilizers which are laboratories and juridically not explosives.

¹ Andi Sofyan and Nur Azisa, *Hukum Pidana*, Makassar: Pustaka Pena Press, 2016, p. 3

The Air and Water Police Unit of Manokwari Resort Police hopes that the use and application of appropriate legislation can provide a firm verdict to the perpetrators of abuse of explosives in fishing. And can provide a deterrent effect to the perpetrators so they can eradicate and minimize the use of explosives in fishing in West Papua Province.

- b) Providing knowledge to the fishermen community about the impact of using explosives in fishing and increasing concern for the marine environment.

Indonesia is known to have a vast potential of natural resources such as marine ecosystems, but has experienced a decline in the quantity and quality of its ecology. Ecosystem degradation occurs, the area and important species on the coral reef are diminishing. The increasing conversion of socio-economic utilities on the coast and islands has affected the condition of the ecosystem. If you look at the trend of population growth and the increasingly limited livelihoods of coastal residents and islands, you can imagine the impact on the environmental ecosystem of the waters of West Papua Province. It cannot be denied that there are still very many uses of fish bombs used to catch fish. This action can indeed facilitate fishing but can damage the environment such as coral ecosystems.

The Air and Water Police Unit of Manokwari Resort Police, West Papua Regional Police went down directly and gave direct instructions to the community about the importance of the community to increase environmental awareness. The community is provided by utilizing Indonesian waters to catch fish in the right way without damaging the environment.

The fishing community is also provided with ways to catch fish using tools that do not damage the marine ecosystem and without using any detachment material the Air and Water Police Unit of Manokwari Resort Police of West Papua Regional Police also provides knowledge of the adverse effects and dangers of using explosives to catch fish that can have adverse effects on marine ecosystems and can damage the reefs which in the long run results in reduced numbers of fish in the waters, as well as the dangers of explosives for the safety of fishermen which if used without knowledge of explosives can endanger the lives of fishermen who are fishing.

As it is known that explosives used by fishermen are made by the people themselves without knowing the level and composition of the materials used in making explosives, this can have a negative effect on fishermen, catch fish and marine ecosystem if there is an error in the explosive's maker.

With this direction, it is hoped that the fishing communities on the coast can maintain and preserve the marine environment in West Papua Province. As well as the fishermen can find out about the impacts and dangers of using explosives in fishing for marine ecosystems and for the fishermen themselves. That way the fishermen who used to use explosives to catch fish would switch and start fishing with good equipment and methods that did not damage the aquatic environment and would not endanger the fishermen when fishing.

- c) Cooperating with other related agencies and directly involving the community to play a role in supporting supervision of the practice of abuse of explosives in fishing.

In the process of eradicating cases of explosives abuse in fishing, The Air and Water Police Unit of Manokwari Resort Police worked together and coordinated with other government agencies and fishing communities directly to play a direct role in supporting supervision of illegal fishing practices, especially the use of explosives in fishing, community participation is considered very necessary because in this case the community, especially the groups of fishermen who are dealing directly with fishing boats which are indicated to make fishing using explosives.

Strategies involving the role of the community are a priority, because with direct participation the community is expected to have a sense of responsibility as well as the resources of kelutan and fisheries found in the waters of West Papua Province.

The Air and Water Police Unit of Manokwari Resort Police in collaboration with other agencies, namely the Director General of Supervision and Control of Marine and Fisheries Resources has developed a community-based supervision system (*Siswamas*) through the establishment of Community Monitoring Groups (*Pokmaswas*). Previously, community involvement in efforts to supervise Marine and Fisheries Resources has been carried out for a long time, but to optimize the people of the Ministry of Maritime Affairs and Fisheries to organize their institutions so that they become *Pokwasmas*.

This *Pokwasmas* is a supervisor at the field level consisting of community leaders, religious leaders, traditional leaders, NGOs, fishermen, and other marine and fisheries communities. The performance of the *Pokwasmas* is merely reporting all violations in the West Papua Province, especially illegal fishing violations such as the use of explosives in fishing. If alleged violations occur, *pokasmas* must report to the apparatus of The Air and Water Police Unit of Manokwari Resort Police or the nearest supervisors.

This increase in surveillance efforts in the province of West Papua is expected to have a positive impact on the productivity of the fisheries business, so this monitoring effort is also expected to minimize and eradicate violations of the use of explosives in fishing for fishermen in West Papua Province.

Based on interviews with Dedi Ariana as Head of the Fishing and Fish Aquaculture Division, in his statement he explained that the efforts made by the Manokwari Regency Marine and Fisheries Service were to provide information on the importance of sustainable fisheries management and aid and training in the use of environmentally friendly fishing gear. In addition, routine and periodic outreach activities were carried out by the Manokwari District Marine and Fisheries Service to each District in the Regency and the socialization material was concerned with supervision and management of fisheries. Furthermore, the concrete steps taken by the Manokwari Regency Marine and Fisheries Service to overcome fishing by using explosives are conducting counseling, monitoring, and evaluating catches.

IV. Conclusion

The motives of fishermen fishing with explosives, namely fishing activities are the livelihoods of fishing communities to fulfill basic needs, mental attitudes and personalities of fishermen who prefer to catch fish in a short time, fishermen who are generally traditional people who do not know about fishing the good and the danger of using explosives in fishing for aquatic ecosystems and oneself, and the sanctions given to the perpetrators of the use of explosives cannot provide a deterrent effect and the process of examining protesters using protracted explosives encourages fishermen to fish using materials explosives. Efforts to combat the use of explosives in fishing on Lemon Island in Manokwari, West Papua Province, namely by enforcing the law firmly against the perpetrators, providing knowledge to the fishing community about the impact of using explosives in fishing and cooperating with other relevant agencies.

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