

# Law Enforcement over Illegal Fishing to Protect Coral Reefs During the Covid-19 Pandemic in Buton

Indah Kusuma Dewi,<sup>1\*</sup> Hardin,<sup>2</sup> Asdin<sup>3</sup>

<sup>1</sup> Faculty of Law, Universitas Muhammadiyah Buton, Baubau, Southeast Sulawesi, 93712, Indonesia

<sup>2</sup> Faculty of Agriculture, Universitas Muhammadiyah Buton, Baubau, Southeast Sulawesi, 93712, Indonesia

<sup>3</sup> Faculty of Law, Universitas Muhammadiyah Buton, Baubau, Southeast Sulawesi, 93712, Indonesia

\*Corresponding author: [indah.kusuma@umbuton.ac.id](mailto:indah.kusuma@umbuton.ac.id)

Article	Abstract
<p><b>Keywords:</b> Coral Reef Protection; Covid-19 Pandemic; Illegal Fishing Law Enforcement</p> <p><b>Article History</b> Received: Sep 19, 2021; Reviewed: Sep 22, 2021; Accepted: Mar 11, 2022; Published: Mar 13, 2022</p>	<p>The purpose of this study was to determine the role and obstacles faced by Fishery Civil Servant Investigators (FCSI) in the prevention and handling of Fisheries Crimes in the Buton Regency. With empirical legal methods, research data were obtained from direct interviews, showing that in 2018 there were two cases of destructive fishing using the fish bombing method, three cases in 2019, namely one case of fish bombing, and two cases of exploitation of protected marine habitats, while in 2020 and 2021, there were two cases of fish bombing each. The results showed that Fisheries FCSI's role constitutes prevention and prosecution for fisheries crime involving the destruction of ships that do not have permits for fishing vessels with sizes above 5 GT, exploitation of protected fish habitats, and fishing vessels failing to demonstrate proper seaworthiness. Fisheries crime cases that occur are fishing practices that involve the destruction of fish resources and aquatic habitats such as fish bombing, fish anesthesia, and the use of cyanide poison. Law enforcement during the covid-19 pandemic over these cases is carried out online at the witness examination stage or at a stage that involves the investigation of the suspect through a video conference interview. Provided that there is a Summoning Letter, based on Article 112 of the Criminal Procedure Code, the obstacles experienced by the Fisheries FCSI are influenced by internal factors in the form of lack of quality and quantity of supervision facilities and infrastructure, human resources, budget, and poor handling of evidence. Meanwhile, external factors involve the lack of public awareness to prevent the occurrence of fisheries crime, the lack of supporting facilities and infrastructure for the Supervisory Community Group, and weak coordination between law enforcement institutions.</p>



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## INTRODUCTION

Indonesia is one of the countries that has very large fishery resources in the world. However, the above fishery potential cannot be utilized optimally by the Indonesian people, because of the widespread practice of illegal fishing carried out by foreign fishermen in Indonesian waters (Aditya & Al-Fatih, 2017). The government does not handle the problem of fishing professionally by making the problem complex and complicated so this condition is used by fishermen from other countries to carry out activities that violate the provisions of laws and regulations (Matompo, 2018). Indonesia is an archipelago with a waters area that is larger than the land area. The vast area of these waters certainly produces abundant marine wealth for Indonesia (Baiquni et al., 2020)

The crime of fishing that occurred in Buton Regency, Southeast Sulawesi Province based on data from the Buton Marine and Fishery Resources Supervision Unit in recent years, namely in 2018 there were two cases of destructive fishing in the form of fish bombing, followed by three cases of destructive fishing in 2019, including one case of fish bombing and two cases of exploitation of protected marine habitats, while in 2020 and 2021, there were two cases of fish bombing each. In this case, the Civil Servant Fisheries Investigator (FCSI) is only authorized to investigate criminal acts in the fisheries sector which are then followed up by the prosecutor's office. In Buton Regency, fishing crimes often occur in several locations, namely the waters of Kamelanta, Barangka, Boneatiro, Tumada, Wasuamba and Wabula as well as other locations that have wide waters.

Illegal fishing is not only detrimental to the state and fisheries businesses, but also threatens the sustainability of Indonesia's fishery resources. Therefore, strict law enforcement efforts are needed to support the controlled and sustainable use of fishery resources (Shafira et al., 2021). The implementation of the Fisheries Law is followed up with a Government Regulation (Puspoayu et al., 2021). The policy covers various aspects of fisheries, such as provisions for food safety production, provisions for vessels and fishing gear, water pollution, complemented by sanctions related to illegal fishing (Fernandes, 2017). The essence of environmental law enforcement lies in preventive and repressive efforts in tackling the threat of the sustainability of fish resources. Marine fishery resources can be sustainable if the environment is not disturbed, not polluted or not damaging (Adwani, 2020).

The Maritime Affairs and Fisheries Service, other agencies that have the task of dealing with illegal fishing are the Indonesian Navy, the Riau Islands Regional Police Water Police Unit, the Ministry of Maritime Affairs and Fisheries (MMAF) and Customs and Excise (Putri, 2020). The authority of the Maritime Affairs and Fisheries

Service allows the supervision, investigation and investigation in the area of 0-12 nautical miles on ships measuring 30 Gross Tonnage (GT) and below to take place (Irianto et al., 2021). The Department of Maritime Affairs and Fisheries continues to coordinate with relevant agencies, and the coordination goes without a hitch. In carrying out its duties the Marine and Fisheries Service refers to Law Number 23 of 2014 concerning Regional Government, Law Number 45 of 2009 concerning Fisheries, Law Number 32 of 2014 concerning Marine Affairs, Law Number 27 of 2007 concerning Regional Development of Coastal Areas and Small Islands, and Law Number 1 of 2014 concerning the Development of Coastal Areas and Small Islands (Wasrizal, 2020).

In the field of investigating fisheries crimes, Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries (Fishing Law) designs institutional authority based on the multi-institutional concept (Hikmah, 2013). Investigation of fisheries crimes in the fisheries management area of the Republic of Indonesia shall be carried out by Investigators of the Fisheries Civil Servant, Investigators of the Indonesian Navy (TNI-AL), and/or Investigators of the Indonesian National Police (Polri). Fisheries crime whose locus delicti occurs in the Exclusive Economic Zone (EEZ) of Indonesia, the investigation authority belongs to the Navy investigators and Fisheries Civil Servant Investigators of Fisheries Crimes, while if the locus delicti is at a fishing port, the priority is to be carried out by Civil Servant Investigators in Fisheries (Taufika, 2020). Each of the investigators above is independent, but in terms of handling fisheries crime cases, the investigators carry out a coordination. The institutional coordination relationship between the investigators is carried out by establishing a coordination forum formed by the minister of fisheries and marine affairs (Siwu, 2019). Suka'arsana states that based on Law Number 45 of 2009 it is hoped that the law enforcement process, especially in the criminal act of illegal fishing, can be realized (Kamal, 2018).

A fishery crime is punishable under Fisheries Law (Law No. 45 of 2009 concerning Fisheries), and those who commit a fishery crime are subject to criminal penalties (Nurcahyawan & Saputra, 2017). A criminal liability against perpetrators of illegal fishing or illegal fishing in the fisheries law is formulated cumulatively. The cumulative sanctions imposed on perpetrators committing illegal fishing involve hefty fines. The purpose of this sanction is to provide a deterrent effect for the perpetrators (Rahayu et al., 2019).

Pandemic corona virus disease 2019 is pneumonia that hit the world today (Erdianti & Hidayah, 2020; Wijaya & Herwastoeti, 2022). Indonesia and other countries are currently affected by the Covid-19 pandemic, in which the Covid-19 attack is multi-dimensional, the impact affects many aspects, not only health aspects but also the economic, social and political aspects in Indonesia (Hakim, 2021). The Director General of the World Health Organization (WHO) has sent a letter to the

President of the Republic of Indonesia dated March 10 to raise questions regarding the global pandemic from the perspective of Indonesia's readiness (Muqorobin & Arief, 2020).

The implementation of law enforcement against criminal acts, especially the case of IUU Fishing has been carried out by FCSI (Ardhani, 2021), but in reality, the function of law enforcement is often constrained due to coordination problems between agencies and lack of communication between law enforcement agencies (Supriyono & Prakasa, 2021). Similarities between agencies in terms of perceptions and mechanisms of investigation and prosecution of fisheries crimes need to be equated to increase the effectiveness of countermeasures against IUU Fishing (Arthatiani, 2014).

This research is a special legal discussion that continues from previous research with a more specific scope of problems in Buton Regency. This research will examine the role of Fisheries Civil Servant Investigators in the prevention and handling of Fisheries Crimes in Buton Regency. Illegal fishing which is the focus of this research involves destructive fishing activities, and is one of the cases of fisheries crime that is rife in Buton Regency. Destructive fishing practices carried out by fishing communities are solely to gain large profits quickly, without paying attention to the negative impact on aquatic ecosystems, especially coral reefs, as well as the obstacles faced by Fisheries Civil Servant Investigators in their prevention and handling of Fishery Crimes in Buton Regency.

The problem that often occurs in the Buton waters is the use of marine and fishery resources by destructive fishing methods, which is one part of illegal fishing, namely fishing activities carried out by the community/fishermen by destroying fish resources and their ecosystems such as fish bombing, the use of cyanide poison, anesthesia and the use of fishing gear such as trawling and exploitation of protected marine habitats. Based on data from the Pasarwajo Marine and Fishery Resources Supervision Unit in 2021, there are two cases of fish development carried out by fishermen in Watuoge waters, Tumada Village, Kapontori District, where one case is under investigation by the Fisheries Supervisor and the other is handled by the Water Police Unit.

Based on these data, the marine police unit also has a role in carrying out security duties in territorial waters. Therefore, to ensure legal certainty, a specific law enforcement method is needed with a clear division of authority so that each agency carries out its authority in accordance with the established mechanism. So, from the description above, this paper will give novelty and contribution on this topic by discussing the division of authority of the two institutions in their role in law enforcement in the territorial sea and the Indonesian Exclusive Economic Zone from the political aspect of law. This paper consists of 4 parts of discussions, where the first part will explain fisheries crime in Buton; the second part will discuss countermeasures, prevention and handling of fishery crimes (illegal fishing) in Buton; and the third part

will discuss law enforcement of fisheries crimes during the Covid-19 Pandemic in Buton. The last part discusses obstacles faced by fisheries civil servant investigators (ppns) against fisheries crimes in Buton

## METHOD

This is empirical legal research conducted by examining the law in reality or based on facts obtained objectively from field observation in the form of data, information, and opinions based on legal identification and legal effectiveness through interviews with competent parties related to researched problem (Dewi et al., 2019). The research location in question is a place or area where the research will be carried out. Based on the title, the researchers set the research location at the Fish Landing Base (FLB) Pasarwajo, Buton Regency, specifically at the Office of the Marine and Fisheries Resources Monitoring Unit (MFRMU) Pasarwajo and the Fisheries Service of Buton Regency. In this paper, a quantitative data analysis system is used by combining secondary data obtained from literature studies, namely by collecting data from laws and regulations, scientific books, internet and expert opinions with primary data obtained from the results of the research. Interviews and documents were conducted and collected directly from the research location and then analyzed quantitatively using a normative approach (I K Dewi and Y.A. Subiyanto, 2020).

## RESULTS AND DISCUSSION

### 1. Overview of Fishery Crime Practices in Buton

The rise in fisheries crime cases or better known as illegal, unreported and unregulated (IUU) Fishing in Indonesia, especially in coastal areas, has led to an increase in stock of fish resources and damage to marine ecosystems and aquatic habitats. Seeing these conditions, the Government of Indonesia has developed a Fisheries Monitoring, Controlling, Surveillance (MCS) system as an effort to manage fishery resources to overcome cases of illegal, unreported, and unregulated fishing (henceforth referred to as IUU Fishing). The implementation of the MCS is carried out by the Ministry of Maritime Affairs and Fisheries supported by the Navy and the Water Police.

The Marine and Fishery Resources Supervision Work Unit (henceforth referred to as MFRSWU) is a technical implementing unit/unit related to the operational implementation of marine and fishery resource supervision where each PSDKP Satker is within the scope of the Marine and Fishery Resources Supervision Base, Marine Resources Monitoring Station and Fisheries, Marine and Fishery Resources Monitoring Post and Marine and Fishery Resources Monitoring Unit. The MFRSWU consists of Fisheries Supervisors and Fisheries Civil Servant Investigators. In general, we can see the authority possessed by the Fisheries Supervisor and PPNS in the field of Fisheries in Article 66 C paragraph (1), and Article 73 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries.

Illegal fishing which is the focus of this research is destructive fishing, i.e. fishing activities in destructive ways, and is one of the cases of fisheries crime that is rife in Buton Regency. The practice of destructive fishing is carried out by fishing communities solely to reap large profits in a fast/instant way, without considering the negative impact on aquatic ecosystems, especially coral reefs. Based on the results of research conducted, the main cause/reason for the practice of destructive fishing in Buton Regency is due to several factors:

- a. Generally, the perpetrators come from outside the Buton Regency area;
- b. There is still circulation of ammonium nitrate as a raw material for making fish bombs;
- c. Cyanide as a fish poison/anesthetic can be obtained easily in the market;
- d. High market demand that triggers instant fish catching;
- e. The court's verdict against the perpetrators over destructive fishing and possession of explosives in fish bombing gives very low deterrent effects;
- f. Some fishermen are not quite skillful in using fishing gear, thus encouraging them to find an easier way to catch fish using bombs and fish poison/anesthesia;
- g. The perpetrators do not understand the negative impact of destructive fishing on human health and safety, as well as the preservation of fish resources and their habitats.

Based on the results of an interview with Tahiruddin, the Coordinator of the Marine and Fisheries Resources Monitoring Unit (MFRMU) Pasarwajo, Buton Regency explained that in the middle of 2019, the MFRMU Pasarwajo together with members of the Indonesian National Navy Post (TNI-AL) Baubau managed to secure and arrest 3 (three) perpetrators of fish bombing that occurred in the waters of Watuoge, Tumada Village, Kapontori District. It is suspected that the perpetrators often carried out fish bombing activities in these waters and the suspects had planned their actions but their action was first caught by officers, leading to arrest. The case was handled by the Fisheries Civil Service Investigator and then transferred to the Pasarwajo District Attorney and has been sentenced by the Pasarwajo District Court (Decision Number 114/Pid.B/LH/2019.PN.Psw).

According to the provisions of Article 71A of Law Number 45 of 2009 concerning Fisheries, it is stated that the Fisheries Court has the authority to examine, hear, and decide cases of criminal acts in the field of fisheries that occur in the fishery management area of the Republic of Indonesia. However, the fisheries crime case that occurred in Buton Regency was tried by the Pasarwajo District Court and was not tried by the Fisheries Court (Ad Hoc) in Bitung, due to a great distance between the regions, and this process requires a large amount of money. However, if viewed from the provisions of Article 71 of Law Number 45 of 2009, it is stated that the Fisheries Court is a special court that is within the general court environment and is domiciled in a

district court. Based on these provisions, the District Court or general court is also authorized to hear and decide criminal cases in the field of fisheries.

In addition to destructive fishing practices, there are still some fishing communities who hunt for Napoleon fish, such as what happened in the waters of Boneatiro Village, Kapontori District and Wasuamba Village, Lasalimu District. As it is known that the Napoleon fish species is one of the protected and endangered species (species) of fish, based on the Decree of the Minister of Marine Affairs and Fisheries Number 37 of 2013 concerning the Determination of the Limited Protection Status of Napoleon Fish.

Table 1 explains that the problem of illegal fishing is a violation that occurs in Buton Regency, including the problem of destructive fishing, namely fishing activities that damage aquatic habitats and ecosystems, according to the Decree of the Minister of Maritime Affairs and Fisheries Number 114/KEPMEN-KP/ SJ/2019 concerning the National Action Plan for Supervision over and Solutions to Destructive Fishing Activities in 2019-2023, along with its derivatives, Regulation of the Director General of Marine and Fishery Resources Supervision Number 5/PER-DJPSDKP/2020 concerning Technical Guidelines for Supervision of Destructive Fishing Activities.

Table 1. Types of Fisheries Crimes in Buton

Number	Type of Illegal Fishing
1.	Catching fish using explosives and chemicals/poisons
2.	Indication of violation of the tonnage of the ship that is not in accordance with the physical condition of the ship
3.	Not have licensing documents (SIUP & SIPI) for ships with sizes above 5 GT
4.	Not registering fishing vessels for vessels with sizes below 5 GT
5.	Fishing with protected/endangered species
6.	Use of fishing gear that harms fishermen

Source: Buton Fisheries Service, 2021

Regarding the issue of licensing, the Regulation of the Minister of Maritime Affairs and Fisheries Number 30/PERMEN-KP/2012 concerning Capture Fisheries Business in article 14 paragraph (4) implies that the Regent or Mayor is obliged to register fishing vessels measuring under 5 (five) GT domiciled in the administrative area. Abdul Rahman Saleh, Head of the Harbormaster Fisheries Port of Pasarwajo as well as Head of Capture Fisheries Development Division of the Fisheries Service of Buton Regency, in his interview, said that there are still indications of ship tonnage violations, namely the documents reported are not in accordance with the ship's physical conditions. In this case there is usually a decrease in the tonnage of the ship recorded on the ship's document compared to its physical condition. This is done by

fishery business actors to save the cost of obtaining permits, because in accordance with the Regulation of the Minister of Marine Affairs and Fisheries Number 30/PERMEN-KP/2012 Article 14 paragraph (2), it is stated that the minister authorizes the Directorate General to issue and/or extend Trading Business Permit (TBP), Fishing Permit (FP), and/or Fish Transporting Vessel Permit (FTVP) to Indonesian persons or legal entities that use oversize ships above 30 GT and are required to submit ship documents to the central government through the Ministry of Maritime Affairs and Fisheries. In fact, it is still found that several fishing vessels measuring 20-30 GT do not have permits because the costs incurred are quite large and the required documents are complete.

Therefore, in terms of the role, the Fisheries Civil Servant Investigator (FCSI) is responsible to enforce the law against fisheries crimes in Buton Regency. In an effort to enforce the law on fisheries crime, the MFRMU Pasarwajo Unit in the Buton Regency has several important roles, including monitoring, controlling, supervising, guiding or coaching, coordinating and investigating or taking action.

## **2. Countermeasures, Prevention and Handling of Fishery Crimes (Illegal Fishing) in Buton**

Seeing the real conditions from the description above, the efforts to overcome, prevent, and handle destructive fishing in Buton Regency to bring about security for the management of marine and fishery resources in an orderly, responsible and sustainable manner, the Fisheries Civil Servant Investigator (FCSI) for Fisheries and Fisheries Supervisors carry out efforts or actions as follows:

### **a. Pre-emptive Efforts (Coping)**

Countermeasures against illegal fishing activities are carried out through pre-emptive efforts made by (FCSI) and Fisheries Supervisors to detect early conditions or early prevention through educational activities with the aim of influencing the factors causing fisheries crime, among others, conducting socialization, holding campaigns and counseling in every fishing village or coastal area in Buton Regency.

### **b. Preventive Measures (Prevention)**

Efforts to prevent illegal fishing activities in Buton Regency by FCSI and Fisheries Supervisors are carried out through preventive efforts, involving all actions or activities carried out by FCSI and Fisheries Supervisors to prevent the occurrence of criminal acts of fishing, either those committed by foreign or local fishermen to increase the intensity and quality of patrols, supervision and security, improve cross-sectoral coordination and clarify duties and authorities with other agencies that are also authorized to handle fishing criminal acts so that there is no overlapping authority between the relevant agencies such as the Indonesian Navy (TNI AL) and the Department of Marine Affairs and Fisheries, as well as using advanced technology facilities in monitoring and supervision, and increasing supervision in

fish shelters and fishing ports or coastal community activity centers. Several efforts to prevent illegal fishing in Buton Regency, include:

- 1) getting the community involved in the supervision of marine and fishery resources through the establishment of CSG (Community Supervisory Groups), consisting of fishermen, stakeholders, community leaders, religious leaders, traditional leaders and other maritime communities;
- 2) conducting intense surveillance patrols by law enforcers both at sea and on land;
- 3) operational control of ship compliance in the fishing port in the form of permits, fish caught and the seaworthiness of fishing vessels;
- 4) Obedience in the management of permits for ships that have not been licensed and the validity period of the permit has expired.

c. Repressive Efforts (Repression)

Pre-emptive and preventive actions are better efforts, but they do not rule out the occurrence of criminal acts of fisheries to deceive the fisheries supervisory apparatus, FCSI, the Police and the Navy and others by covertly carrying out fishing activities in the fishery management area of the Republic of Indonesia, especially in Buton Regency. Meanwhile, law enforcement efforts are carried out in a repressive manner, namely law enforcement efforts in the form of acting against perpetrators suspected of committing criminal acts of fishing, by improving the quality of investigations and case settlements up to the Public Prosecutor and being tried in a transparent manner, implementing and improving coordination between FCSI and the Public Prosecutor in handling the case. Good coordination will certainly give good results, especially in this case so that cases of criminal acts of fishing can be resolved and for perpetrators to receive punishments or sanctions that are judged based on the losses incurred and provide a deterrent effect for perpetrators and an example for the community or other parties. To provide a foothold on which law enforcement officials may act against illegal fishing, Law Number 31 of 2004 as amended by Law Number 45 of 2009 concerning Fisheries is quite firm to impose sanctions on destructive fishing crimes in Buton Regency.

On this basis, the Fisheries Civil Servant Investigator has the authority to notify or directly convey the results of the investigation to the public prosecutor without going through the Police Investigator. Furthermore, in carrying out its duties and authorities, the Directorate General of Supervision of Marine Resources and Fisheries of the Ministry of Marine Affairs and Fisheries stipulated the Decree of the Director General of Number 372/DJ-PSDKP/2011 dated December 29, 2011 concerning Technical Guidelines for Investigation into Fisheries Crimes. These technical guidelines serve as guidelines for FCSI to carry out investigations starting from preliminary examinations, as well as acceptance and research of fisheries crime cases. In addition, it is also a guide in carrying out the investigation process which includes an Assignment Order, Investigation Warrant, Notification of Investigation

Commencement, Summons, Arrest, Detention, Search, Confiscation, Examination, and in Absentia. The handling of fisheries crimes and the flow of the investigation process can be seen in Figure 4 and 5.

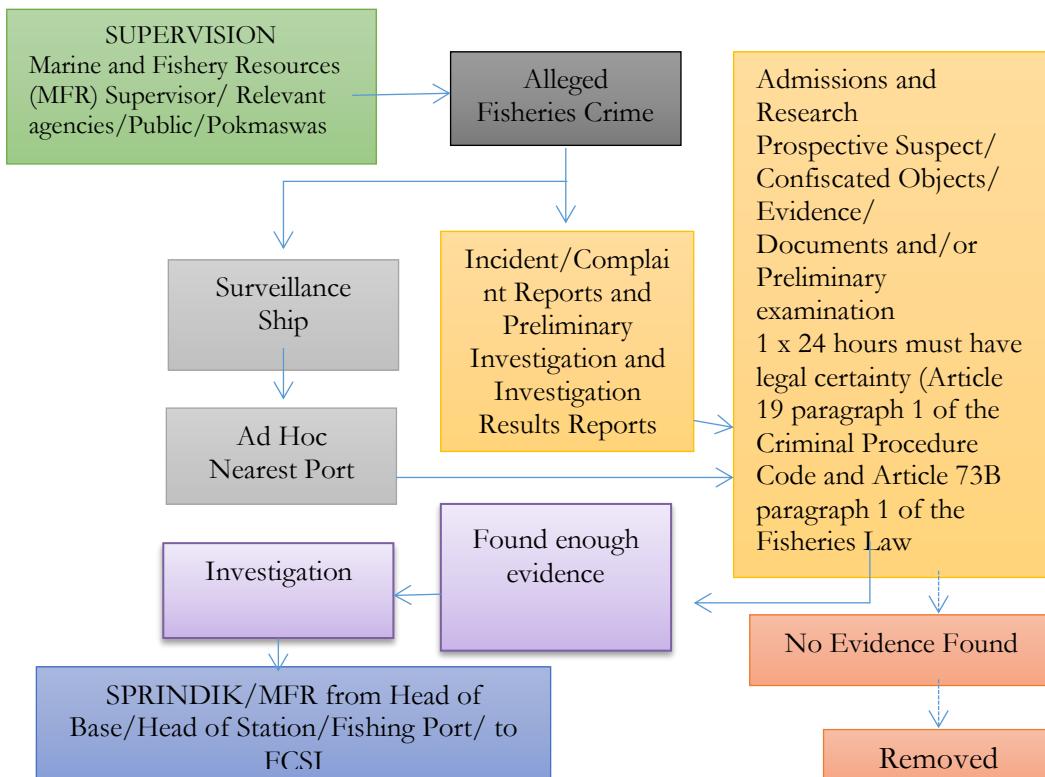


Figure 4. Flow of Fisheries Crime Investigation

Figure 4 shows the technical instructions for investigating fisheries crimes that regulate the preliminary examination activities of the Fisheries Civil Servant Investigator (FCSI) as well as the investigation activities carried out by the police and the prosecutor's office.

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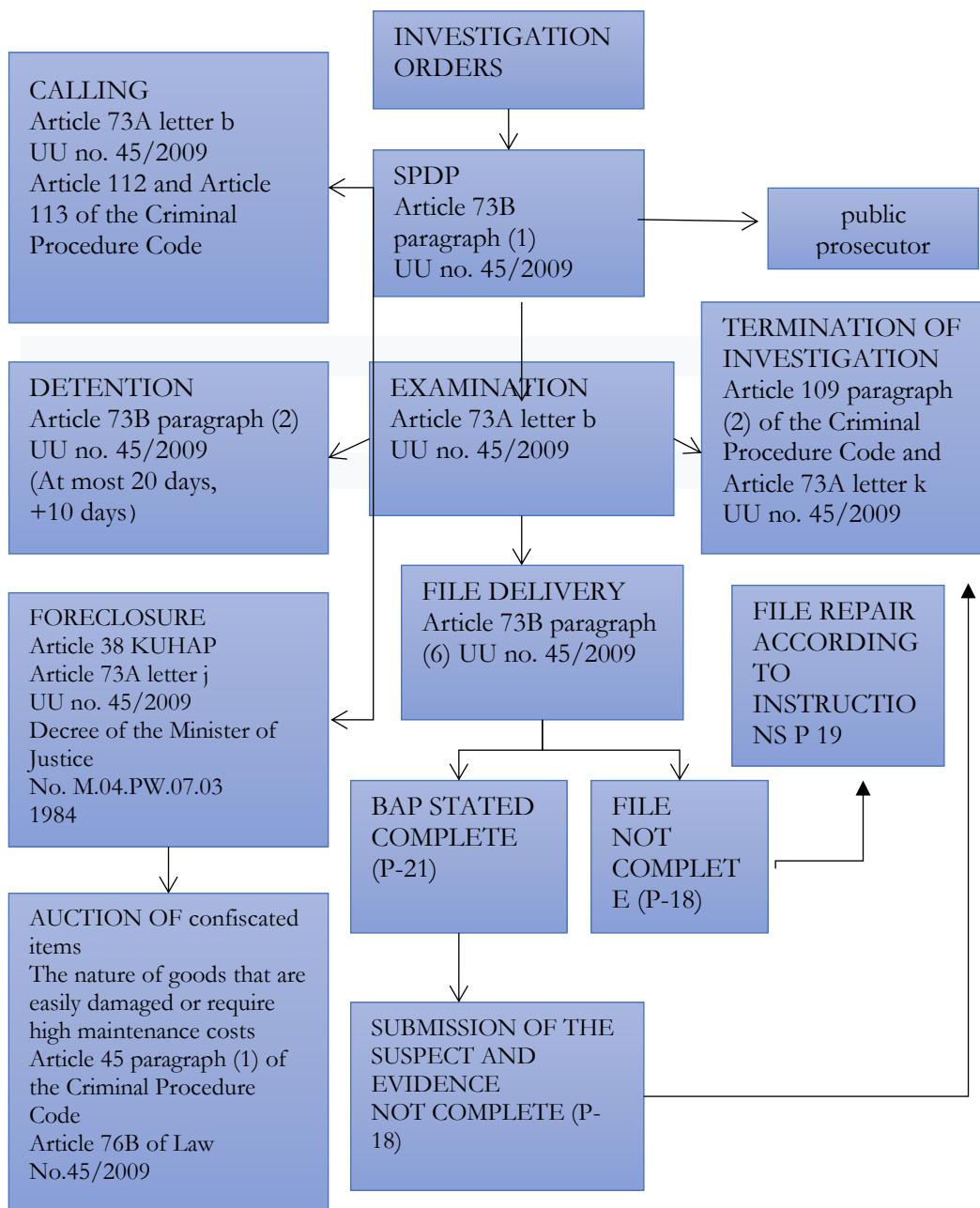


Figure 5. Flow of Fisheries Crime Investigation

Figure 5 shows the flow of the investigation process from the issuance of the Investigation Order (Sprindik) to the submission of the suspect and evidence to the Public Prosecutor. The Fisheries Civil Service is always based on statutory regulations; every action of the FCSI is carried out to ensure the enforcement of law and justice; every FCSI investigator prioritizes the public interest over personal and/or group

interests; accountability, ie each FCSI can be held accountable for their actions juridically, administratively and technically; every action of the FCSI pays attention to the principle of openness and is informative for related parties; in the process of investigation, each FCSI is obliged to uphold the effectiveness and efficiency in carrying out investigations as regulated in this regulation; and every FCSI has excellent capabilities and skills in carrying out investigative tasks.

### **3. Law Enforcement of Fisheries Crimes during the Covid-19 Pandemic in Buton**

Law enforcement of fisheries crime during the Covid-19 Pandemic by Fisheries PPNS investigators is carried out online, namely at the stage of examining witnesses or suspects through video conference interviews but on condition that there must be a Summoning Letter, where the Summoning Letter must be in accordance with the grace period outlined in Article 112 The Criminal Procedure Code, then an Investigation Report is issued in accordance with Article 75 of the Criminal Procedure Code (interview with the Fisheries Supervisor of Buton Regency).

The impact of the Covid-19 pandemic situation related to the illegal fishing investigation process is certainly very impactful for investigators in conducting investigations. Fishery Civil Servant Investigators will certainly interact with suspects and/or witnesses who could potentially transmit the Covid-19 virus or be transmitted by suspects, and with the policy of the Ministry of Law and Human Rights and the Attorney General, namely delaying the transfer of suspects and evidence (phase II submission), as well as the limited time for the investigation period and the period of detention of the suspect. However, if illegal fishing is found during the pandemic, the investigation process by the Fisheries Civil Service Investigator will still be carried out and enforced in any situation, by implementing health guidelines to prevent transmission and spread of Covid-19, including providing temporary shelters for suspects or witnesses who are directly supervised by the Fisheries Supervisor. Furthermore, an online investigation or teleconference examination is carried out by the Fisheries PPNS. This refers to the Letter of the Deputy Attorney General for General Crimes (Jampidum) Number 1271/E/EJP/03/2020 dated March 24, 2020 regarding the Handling of General Crime Cases during the Covid 19 emergency response. However, so far there has been no technical guidance from high leadership The Ministry of Maritime Affairs and Fisheries related to handling fisheries crimes during the Covid-19 emergency response which became a reference for Fisheries Civil Servant Investigators.

When compared to the investigation process during the Covid-19 pandemic and during non-Covid-19 time, according to Tahiruddin and Mukmin, the investigation process during the Covid-19 pandemic is considered quite effective and efficient because investigators only use internet network technology such as online

investigations or teleconferences to examine suspects or witnesses. This investigation process is simpler, faster and requires low costs, and the suspects or witnesses are placed in places that have electronic facilities while still complying with health guidelines. This is in line with what is set forth in Article 113 of the Criminal Procedure Code stating "if the suspect or witness who is summoned gives a proper reason for not being able to come, then the investigator comes to the residence of the suspect/witness". The Criminal Procedure Code clearly allows witnesses/suspects to be examined outside the investigator's office. So, in terms of the examination via teleconference, it is possible for witnesses/suspects to be not physically present. Even investigators hope that online investigations or teleconferences can be carried out in any situations, such as Covid-19 pandemic (RA et al., 2020).

The supporting factors referred to are the existence of a set of rules (norms) that regulate the law enforcement of fisheries crime: 1) Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries; 2) Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands and other implementing regulations such as Government Regulation Number 54 of 2005 concerning Fisheries Business; 3) Regulation of the Minister of Maritime Affairs and Fisheries Number PER.13/MEN/2005 concerning the Coordination Forum for the Handling of Crime in the Fisheries Sector; 4) Minister of Marine Affairs and Fisheries Regulation Number PER.30/MEN/2012 concerning Capture Fisheries Business at WPPRI; 5) Regulation of the Minister of Marine Affairs and Fisheries Number 12/PERMEN-KP/2013 concerning Supervision of Management of Coastal Areas and Small Islands; 6) Minister of Maritime Affairs and Fisheries Regulation Number 17/PERMEN-KP/2014 concerning the Implementation of Fisheries Supervisory Duties.

Law enforcement agencies in Buton Regency consist of the Pasarwajo MFR Supervision Unit, Buton Regency Work Area, Pasarwajo Resort Police, Pasarwajo District Attorney and Pasarwajo District Court. Meanwhile, cross-regional law enforcement agencies but still within the Buton Islands area involve the Class II B Baubau Penitentiary and the Baubau Navy Post.

#### **4. Obstacles Faced by Fisheries Civil Servant Investigators (PPNS) Against Fisheries Crimes in Buton**

##### **a. Internal Barriers**

###### **1) Facilities and Infrastructure**

Facilities and infrastructure are certainly necessary to realize a more effective law enforcement for fisheries crime. In carrying out the tasks carried out by Fisheries Supervisors and Fisheries Civil Servant Investigators in Buton Regency, there are still problems such as the lack of supervision facilities and infrastructure, especially fisheries supervisory patrol boats. Mukmin, one of the personnel of

the Pasarwajo Marine and Fisheries Resources Supervision Unit, in his interview said that there were two supervisory patrol boats owned by the Marine and Fisheries Service of Southeast Sulawesi Province, 1 (one) unit was in a damaged condition and could not operate and the other unit only conducted patrols in the waters of Kendari, South Konawe, Konawe Islands and Muna waters. For the Marine and Fishery Resources Supervision Unit, Pasarwajo has 1 (one) unit of a supervising speed boat which is an asset of the Buton Regency Government. This speed boat was given as a grant by the Provincial Government according. However, these facilities are in a state of disrepair and are not maintained, presenting an obstacle to enforcing the law on fisheries crime in Buton Regency. The recapitulation of the number of fishing patrol boats that are still operating can be seen in table 2 below.

Table 2. Recapitulation of the Number of Fishery Supervisory Patrol Vessels operating in the Southeast Sulawesi region

No	agency	Fishery Supervisory Patrol Vessel
1	Department of Marine Affairs and Fisheries of Southeast Sulawesi Province	1 unit
2	Marine Resources and Peripheral Monitoring Unit Kendari	1 unit
3	Marine Resources and Peripheral Monitoring Unit Kolaka	1 unit
4	Marine Resources and Peripheral Monitoring Unit Wakatobi	1 unit
5	Marine Resources and Peripheral Monitoring Unit Buton Utara	-
6	Marine Resources and Peripheral Monitoring Unit Baubau	-
7	Marine Resources and Peripheral Monitoring Unit Pasarwajo	-
Quantity		4 units

Source: Marine and Fishery Resources Supervisory Unit Pasarwajo, 2021

Table 2 above shows that the number of facilities owned by fisheries supervisors in the form of patrol boats is very low to enforce the law in fisheries, so that it becomes one of the main obstacles to preventing and dealing with fisheries crimes in Buton Regency. In conducting surveillance patrols, the Pasarwajo Marine and Fishery Resources Supervisory Unit only uses boats/speedboats borrowed from Pokmaswas or local fishermen if they receive a report from the community regarding an alleged illegal fishing crime. In fact, it is not uncommon for the Pasarwajo Marine and Fishery Resources Supervisory Unit to conduct land patrols or reconnaissance with personnel from the Baubau City TNI AL Post Members.

## 2). Human Resources

Another obstacle in eradicating fisheries crime in Buton Regency, the Pasarwajo Marine and Fishery Resources Supervisory Unit has a shortage of human resources in implementing the MCS policy. This can be seen from the number of existing human resources in the Table below:

Table 3. Total Personnel of Pasarwajo Marine and Fishery Resources Supervisory Unit

Number	Position	Quantity
1.	Fisheries Civil Servant Investigator Working area of Southeast Sulawesi Province	2 persons
2.	Fisheries Supervisor/Police for coastal areas and small islands Working area of Buton Regency	2 persons
3.	Administrative staff	1 person

Source: Pasarwajo MFR Supervisory Unit, Year 2021

Table 3 shows that according to the author's observations, the number (quantity) of fishery supervisory personnel is not proportional to the span of control and the extent of the surveillance area, like in the distance between the waters of Wabula District and the waters of Kapontori District. Tahiruddin, Coordinator of the Pasarwajo Marine and Fishery Resources Supervision Unit, in his interview said that currently there were two personnel in Fisheries Civil Service Investigators serving in the Kendari Marine and Fishery Resources Supervision Unit, while in Buton Regency there were 2 (two) personnel, but their status is inactive due to shifting duties to other agencies. So, the investigation carried out by FCSI from the Marine and Fishery Resources Supervisory Unit Pasarwajo Kendari and the FCSI work area covers the entire Southeast Sulawesi Province. Special abilities possessed by fishery case investigators are needed because fisheries crime cases fall into a special category and are not general crimes. According to the provisions in Article 66A paragraph (2) of Law Number 45 of 2009, not all fisheries supervisors serve as FCSI. The limited number of FCSI certainly hampers the investigation process, which has a limited period. This is due to the shorter and faster process of investigating fisheries crime cases when compared to general criminal cases.

Table 4. Data Recap of Illegal Fishing Cases handled by Fisheries Civil Servant Investigators in Buton Regency

No	Case Type	2016	2017	2018	2019	2020	2021	Amount
1	Destructive Fishing with Bombs/Towels	-	-	2	1	2	2	7

2	Destructive Fishing with Cyanide Poison/Anesthesia	1	2	-	-	-	-	3
3	Destructive Fishing with Trawl (tiger trawl)	-	-	-	-	-	-	-
4	Ships without SIUP/SIPI documents (Ships above 5 GT)	5	6	-	-	4	-	15
5	Exploitation of protected/endangered marine habitats	2	-	-	2	-	-	4
6	Ships without a Registration Certificate (vessels under 5 GT)	-	-	-	-	-	-	-

Source: Pasarwajo MFR Supervisory Unit, Year 2021

Table 4 shows that fisheries crime cases handled by Fisheries Civil Servant Investigators, including fish bombing/explosion constituting 7 cases, three of which have been *in crabt* and 4 cases are in the stage of further examination. For destructive fishing cases using anesthetics/poisons, there were 3 cases and only administrative sanctions were imposed in the form of fines. Furthermore, there were 15 cases of illegal fishing vessels that did not have SIUP and SIPI documents, consisting of 9 units of Purse Seine vessels and 6 units of Pole and Line vessels, where these cases were still being given guidance to manage documents, as well as cases of exploitation of protected marine habitats. (napoleon fish cultivation) as many as 4 cases but only given guidance to be released back into the waters/habitat. Meanwhile, other illegal fishing cases have not been found.

### 3) Handling of Evidence

Evidence in the form of ships, machines, ship documents, fish, fishing aids and tools confiscated in a fisheries crime, especially "fish" as evidence needs to be considered, where the evidence has the nature of being quickly damaged or decaying, so it must be treated with care. Meanwhile, evidence in the form of ships, machines and confiscated fishing gear becomes an obstacle at the investigator level. For example, based on information from Herianus Easter, Fishery Civil Servant Investigator and Head of the Kendari Marine and Fishery Resources Supervisory Unit that the evidence must be brought/entrusted to the Bitung Marine and Fishery Resources Supervision Base during the investigation. It becomes a burden for investigators who have to deal with the costs first. Furthermore, there should be no auction of evidence at the investigator level, so that the auction process can be carried out after a court decision is made. This

is an obstacle because the investigation process until the court decision can be lengthy and damage the condition of the evidence so that it requires maintenance costs until the auction process is complete. In addition, case fees during the investigation process can be disbursed if the case has reached P-21 based on the Decree of the Attorney General of the Republic of Indonesia No. 518/A/J.A/11/2001 dated November 1, 2001 regarding the Amendment to the Decree of the Attorney General of the Republic of Indonesia No. 132/JA/11/1994 concerning the Administration of Criminal Cases at the P21 stage notifying that the results of the investigation are complete. Meanwhile, other evidence, such as materials or other supporting equipment in a fishery crime, are confiscated by the State and can be destroyed after a court decision is made.

4) Budget

Limitations related to the budget problem of the Pasarwajo Marine and Fishery Resources Supervisory Unit, Buton Regency, are a very technical obstacle because the Pasarwajo Marine and Fishery Resources Supervisory Unit is one of the units/work areas of the Bitung Marine and Fishery Resources Supervisory Base Satker, so that in implementing the policy The budget is sourced from the Bitung Marine and Fishery Resources Supervisory Base as the Technical Implementation Unit of the Ministry of Marine Affairs and Fisheries. According to the Coordinator of the Pasarwajo Marine and Fisheries Resources Supervisory Unit, request for adding personnel and operating costs, as well as providing supervision facilities has been arranged but hampered by the policy of refocusing budgets and activities to deal with Covid-19.

b. External Barriers

1) Lack of Public Awareness to Prevent the Occurrence of Fishery Crimes.

Mukmin, a representative of the Marine and Fishery Resources Supervisory Unit of Pasarwajo said that the obstacles to building public awareness to prevent illegal fishing include:

- a) Disobedience of the fishing community to the rules (norms);
- b) Lack of insight among fishing communities about the dangers or impacts of destructive fishing;
- c) The fishing technology used has not been maximized, so that fishing communities tend to abuse prohibited or destructive fishing gear;
- d) Lack of assistance from the government such as the provision of environmentally friendly fishing facilities and infrastructure;
- e) Economic motive reasons;
- f) It is a tradition.

2) Lack of Supporting Facilities and Infrastructure for Monitoring Community Groups (Pokmaswas)

The existence of Pokmaswas is considered effective enough to reduce the intensity of illegal fishing activities, so that it is necessary to strengthen it in order to support Pokmaswas institutional activities through increasing performance and maximum operating range such as providing transportation facilities that have a larger GT capacity than the facilities owned by destructive fishing actors. For example, when the Pasarwajo Marine and Fishery Resources Supervision Unit Team together with Pokmaswas ambushed the perpetrators of the fish bombing on Pulau Panjang (Bangka waters) and when the team approached, suddenly the machine malfunctioned and ran slowly, and when the machine returned to normal the perpetrator fled by using an outboard engine so that it was not possible to chase the perpetrators because the Pokmaswas boat only used a ketinting engine.

### 3) Weak Coordination between Law Enforcement Institutions in the Fisheries Sector

In order to realize the success rate of eradicating criminal acts that occurred in WPPRI, a coordination forum for handling criminal acts in the Fisheries Sector was established through the Minister of Maritime Affairs and Fisheries Regulation Number PER.13/MEN/2005 concerning the Coordination Forum for the Handling of Criminal Acts in the Fisheries Sector, as has been experienced twice. However, in its implementation there is still no visible synergy between institutions. Such a situation is seen in the implementation of operations that are more often carried out individually by each institution. This will affect the pattern of the operating area. So, the lack of coordination tends to cause problems in handling operations, such as differences in perception, overlapping authorities due to sectoral egos owned by the Marine and Fisheries Resources Supervisory Unit, the Police, and the Indonesian Navy (TNI AL) which can result in conflicts of interest between law enforcement.

## CONCLUSION

This study results in several conclusions:

1. The role of Fisheries Civil Servant Investigators (FCSI) and Fisheries Supervisors in preventing and handling illegal fishing as well as other criminal practices in fisheries in Buton Regency fishery management area consists of the following:
  - a) The efforts involve overcoming, preventing and acting;
  - b) The practices of fisheries crime involve destructive fishing activities, ships without a fishery business license (FBL) as a permit and a fishing license (FL) for ships with sizes above 5 gross tons (GT), and cases of exploitation of protected and endangered fish species habitats/species;

- c) The cases of illegal fishing that are still rife involve the practice of catching fish by destroying fish resources and aquatic habitats (destructive fishing) such as bombing fish and anaesthetizing fish or using cyanide poison;
- d) Law enforcement during the Covid-19 pandemic is carried out online, namely at the stage of examining witnesses or suspects through video conference interviews but on condition that there must be a Summoning Letter, where the Summons must be in accordance with the grace period outlined in Article 112 of the Criminal Procedure Code, followed by the issuance of an Investigation Report in accordance with Article 75 of the Criminal Procedure Code.

2. Barriers experienced by Fisheries Civil Servant Investigators against fisheries crimes in Buton Regency are influenced by internal and external factors. Internal factors faced are the lack of quality and quantity of supervision facilities and infrastructure, human resources, budget problems and handling of evidence. On the other hand, the external factors involve several obstacles such as the lack of public awareness to prevent the occurrence of fisheries crime, the lack of quantity of supporting facilities and infrastructure for the Supervisory Community Group (SCG) and the weak coordination between law enforcement institutions.

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## REFERENCES

Aditya, Z. F., & Al-Fatih, S. (2017). Perlindungan Hukum Terhadap Ikan Hiu Dan Ikan Pari Untuk Menjaga Keseimbangan Ekosistem Laut Indonesia. *LEGALITY: Jurnal Ilmiah Hukum*, 24(2), 224. <https://doi.org/10.22219/jihl.v24i2.4273>

Adwani, S. (2020). Improvement of Structural Coordination in Illegal Fishing Law Enforcement in Aceh. *Kanun: Jurnal Ilmu Hukum*, 22(3), 531–546. <https://doi.org/10.24815/kanun.v22i3.18031>

Ardhani, I. (2021). Indonesia and The Criminalization of Illegal, Unregulated, and Unreported Fishing in The Global Level. *Jurnal Hubungan Internasional*, 9(2), 165–177. <https://doi.org/10.18196/jhi.v9i2.10374>

Arthatiani, F. Y. (2014). The Role of Fisheries Civil Servant Investigators (PPNS Perikanan) in The Law Process of IUU Fishing in Indonesia. *Widyariset*, 17(1), 1–12.

Baiquni, M. I., Nadiyya, A. N., & Rosida, H. R. (2020). Law Enforcement on Illegal

Fishing Practices in Indonesia as a Protection of Indonesian Waters. *Journal of Judicial Review*, 22(1), 89–97.

Dewi, I. K., Hardin, Ermawati, Ismail, Karim, Susilawati, S., Haedar, & Raf, N. (2019). Implementation of environmental management policies on the impact of illegal sand mining. *IOP Conference Series: Earth and Environmental Science*, 343(1). <https://doi.org/10.1088/1755-1315/343/1/012129>

Erdianti, R. N., & Hidayah, N. P. (2020). Study at Home During the Covid-19 Pandemic as a Legal Protection for Children's Rights in Indonesia. *Legality: Jurnal Ilmiah Hukum*, 28(2), 245–258. <https://doi.org/10.22219/ljih.v28i2.12491>

Fernandes, I. (2017). Tinjauan Yuridis Illegal Fishing di Indonesia Berdasarkan Undang-Undang Perikanan. *Jurnal Hukum Respublica*, 17(1), 189–209. <https://doi.org/10.31849/respublica.v17i1.1456>

Hakim, H. M. I. el. (2021). Pemantapan Dimensi Etika dan Asas sebagai Penguatan Sistem Hukum Lingkungan di Indonesia. *Audito Comparative Law Journal*, 2(3), 155–169. <https://doi.org/10.22219/aclj.v2i3.18041>

Hikmah, M. (2013). Illegal Fishing in Indonesia from The National and The International Law Perspective. *Indonesian Journal of International Law*, 11(1), 60–88. <https://doi.org/10.17304/ijil.vol11.1.267>

I K Dewi and Y.A. Subiyanto. (2020). Juridical Review of the Performance of the State Civil Apparatus According to Law Number 5 of 2014 in the Kokalukuna District of Baubau City. *Gerechtigkeit Law Journal*, 1(1), 1–8. <https://doi.org/10.35326/gerechtigkeit.v1i1.534>

Irianto, B. S., Warka, M., & Yudianto, O. (2021). Law Enforcement in Indonesia's Exclusive Economic Zone in the Framework of Indonesia's National Interest in the Marine Sector. *International Journal of Multicultural and Multireligious Understanding*, 8(9), 167–171.

Kamal, M. M. (2018). Penegakan Hukum Terhadap Tindak Pidana Pencurian Ikan di Wilayah Zona Ekonomi Eksklusif Indonesia (ZEEI). *Jurist-Diction Law Journal*, 1(2), 629–626. <https://doi.org/http://dx.doi.org/10.20473/jd.v1i2.11012>

Matompo, O. S. (2018). Penanganan Praktik Pencurian Ikan Illegal di Perairan Indonesia. *Jurnal Ilmiah Hukum LEGALITY*, 26(1), 130–141. <https://doi.org/10.22219/jihl.v26i1.6619>

Muqorobin, M. K., & Arief, B. N. (2020). Kebijakan Formulasi Pidana Mati dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi pada Masa Pandemi Corona Virus Disease 2019 (COVID-19) Berdasarkan Perspektif Pembaharuan Hukum Pidana. *Jurnal Pembangunan Hukum Indonesia*, 2(3), 387–398. <https://doi.org/10.14710/jphi.v2i3.387-398>

Nurcahyawan, T., & Saputra, L. (2017). Penegakan Hukum Dan Penenggelaman Kapal Asing (Studi Kasus Tindak Pidana Pelaku Illegal Fishing). *Era Hukum Jurnal Ilmiah Ilmu Hukum*, 2(1), 344–383.

Puspoayu, E. S., Nurani, B., Trityas, E. W., Sari, M. I., Siti, M. C. G., & Muzayyanah, A. Q. (2021). Tinjauan Yuridis Penenggelaman Kapal Asing Menurut Undang-Undang Nomor 45 Tahun 2009 Tentang Perikanan. *Indonesian Law Reform Journal (ILREJ)*, 1(1), 1–10. <https://doi.org/10.22219/ilrej.v1i1.16119>

Putri, M. N. (2020). Law Enforcement Against Illegal Fishing Involving Other Countries. *Logika: Journal of Multidisciplinary Studies*, 11(1), 44–51.

https://doi.org/10.25134/logika.v11i01.2418

RA, M. S., Hamdika, Y., & Al-Fatih, S. (2020). The Impact of COVID-19 Through the Lens of Islamic Law: An Indonesian Case. *Lentera Hukum*, 7(3), 267–278. <https://doi.org/10.19184/ejlh.v7i3.18983>

Rahayu, K. I., Mangku, D. G. S., & Yuliartini, N. P. R. (2019). Pertanggungjawaban Pidana Terhadap Pelaku Penangkapan Ikan Secara Ilegal (Illegal Fishing) Ditinjau Dari Undang-Undang No 45 Tahun 2009 Tentang Perikanan. *Jurnal Komunitas Yustisia*, 2(2), 145–155.

Shafira, M., Firganefi, F., Maulani, G. D., & Anwar, M. (2021). Illegal Fishing: Optimalisasi Kebijakan Penegakan Hukum Pidana sebagai Primum Remedium. *Jurnal Warasan Yuridika*, 5(1), 40–59. <https://doi.org/10.25072/jwy.v5i1.391>

Siwu, R. F. Y. (2019). Pencegahan dan Pemberantasan Illegal Fishing Menurut Peraturan Presiden Nomor 115 Tahun 2015. *Lex Et Societatis*, VII(1), 121–128. <https://doi.org/10.35796/les.v7i1.22855>

Supriyono, S., & Prakasa, S. U. W. (2021). Juridical Review of Illegal Fishing in Indonesia as Transnational Crime. *Law Research Review Quarterly*, 7(2), 167–182. <https://doi.org/10.15294/lrrq.v7i2.45056>

Taufika, R. (2020). Latent Securitisation of Illegal, Unreported and Unregulated (IUU) Fishing in Indonesia. *Global: Jurnal Politik International*, 22(1), 1–10. <https://doi.org/10.7454/global.v22i1.488>

Wasrizal. (2020). Penegakan Hukum Terhadap Pencurian Ikan (Illegal Fishing) di Wilayah Perbatasan Provinsi Kepulauan Riau. *Journal of Law and Policy Transformation*, 5(1), 190–218. <https://doi.org/10.37253/jlpt.v5i1.576>

Wijaya, H., & Herwastoeti. (2022). Criminal & Civil Liability Related to Misuse of Illegal Fintech Customer Data During The Covid-19 Pandemic. *Audito Comparative Law Journal (ACLJ)*, 3(1), 1–9. <https://doi.org/10.22219/aclj.v3i1.19873>