Efforts to Improve Supervision of Fisheries Crimes Through the Role of the Community

Faisal Riza, Surya Perdana, Ramlan
faisalriza@umsu.ac.id

Faculty of Law, Universitas Muhamamdiyah Sumatera Utara, Indonesia

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Abstract

Supervision in the fisheries sector needs to be carried out, because potential fisheries resources which are a blessing from God Almighty can be maintained and sustainable. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, provides guidance regarding sustainable management of the fisheries sector and provides criminal threats for perpetrators who damage marine resources, however criminal acts in the fisheries sector still occur. The aim of this research is to provide legal solutions in monitoring fisheries crimes through community participation. Supervision policies in fisheries resource management are one of the data sources in this research. The stages that will be carried out are preparation and implementation of research by collecting data or field information through documents for analysis. The method in this research is normative juridical, which refers to legal norms contained in statutory regulations. Supervision of fisheries crimes has so far been carried out in a normative manner using positive law, namely the fisheries law and other policies such as regional regulations. Supervision has been carried out by the government and the community jointly and individually. Counseling activities or socialization of regulations in the fisheries sector and even taking action to punish the perpetrators have been carried out so that these criminal acts do not happen again. But in fact, various actions still occur that can damage marine resources. Therefore, it is necessary to increase the role of society in protecting and preserving the sea so that the resources contained therein can be sustainable

I. Introduction

Fisheries is an activity sector related to the management and utilization of fish resources and the environment, starting from pre-production, production, processing to marketing carried out in a fisheries business. The existing marine and fisheries resources certainly cannot be separated from the total area of waters owned by Indonesia, namely 6.4 million km^2, which is home to thousands of marine species. As a country that has abundant marine resources, the marine and fisheries industry, which is one of the main sectors driving the Indonesian economy, can certainly have a good impact on people's lives, especially the welfare of fishermen.

According to data from the Ministry of Maritime Affairs and Fisheries (KKP), the number of fishermen in Indonesia has reached 1,685,018 people and 95.6 percent of them are traditional fishermen who live around the coast and are classified as poor. A number of these fishermen have to compete with other fishermen who have more sophisticated fishing gear, bigger boats and the impacts of climate change.[1] The marine economy in Indonesia is predicted to reach USD 1,338 billion per year, so the fishing industry has the potential for very rapid growth in Indonesia. The rapid growth of the marine economy cannot be separated from the quality of Indonesian marine products which are globally competitive, especially in the Asia Pacific region where almost 70% of fisheries are in Indonesia.

Indonesian marine products such as squid, shrimp, cuttlefish, crab, tuna and various other marine products have been recognized throughout the world, making them one of the main export commodities that drive economic movement in Indonesia. Another side of Indonesia's abundant marine potential is that there are still many violations or criminal acts in its management, even though law enforcement has been carried out against perpetrators of fisheries crimes. During the first quarter of 2020, the Ministry of Maritime Affairs and Fisheries (KKP) through the Directorate General of Marine and Fisheries Resources Supervision (Ditjen PSDKP) has carried out legal proceedings against 38 marine and fisheries crimes (TPKP) in various regions.[2]

Indonesia faces many problems with fishing theft. The economic losses caused by the practice of fish theft not only result in a loss of state income of IDR 30 trillion per year, but also the loss of the opportunity for 1 million tons of fish every year to be caught by Indonesian fishermen. The Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia recorded that state losses due to fish theft reached 25% of Indonesia's total fisheries potential.[3] Until now, Indonesian waters and sea areas have the potential for crime to occur.

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[1] Dwi Tyas Pambudi. "Hari Nelayan 6 April 2021: Nelayan Tradisional dan Perubahan Iklim", *https://kumparan.com/dwityaspambudi/hari-nelayan-6-april-2021-nelayan-tradisonal-dan-perubahan-iklim-1vXI2G5Txgp/full*. (Jum'at, 27 Januari 2023. 9.33).

[2] Newswire. "Catur Wulan I 2020, KKP Proses 38 Kasus Pidana Perikanan", *https://ekonomi.bisnis.com/read/20200505/99/1236637/catur-wulan-i-2020-kkp-proses-38-kasus-pidana-perikanan*. (Selasa, 24 Januari 2023. 10.24).

[3] Mohammad Maulidan Kamal. "Penegakan Hukum Pencurian Ikan di Wilayah Zona Ekonomi Ekslusif Indonesia (ZEEI)". Jurist-Diction Vol. 1, No. 2. (November 2018), hlm. 610-611.

The actions of trawlers continue to be rampant in the waters of the Indian Ocean.[4] The use of trawls is prohibited in Indonesia, apart from destroying marine biota, trawling activities have also disrupted the activities of traditional fishermen and had a negative impact on fishermen's catches.[5] The occurrence of criminal acts in Indonesian territorial waters certainly requires a maritime security system.[6] This criminal act can cause harm to Indonesian society. Various efforts have been made to prevent the occurrence of these criminal acts, including carrying out preventive efforts through legal action based on Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries. To prevent a wider impact on the occurrence of fisheries crimes, this research focuses on examining how to improve supervision of fisheries crimes through the role of the community.

2. Research Method

This research method is normative legal research (normative juridical). Normative Legal Research (normative juridical) is a legal research method carried out by examining library materials or secondary data. Normative juridical research refers to legal norms contained in laws and regulations as well as norms existing in Islam. The aim of this research is to provide legal solutions to increase the role of the community in monitoring fisheries crimes. The stages that will be carried out are preparation and implementation of research by collecting data or field information for qualitative analysis.

[4] Amiruddin Abdullah. "Pukat Trawl Merajalela, Nelayan Aceh Resah". https://mediaindonesia.com/nusantara/473089/pukat-trawl-merajalela-nelayan-aceh-resah. (Jum'at, 27 Januari 2023. 10.01).

[5] Zulkarnaini Masry. "Pukat Trawl Masih Marak". https://www.kompas.id/baca/desk/2021/10/02/pukat-trawl-masih-marak/. (Jum'at, 27 Januari 2023. 10.31).

[6] Iwan Setiawan. "Beragam Tindak Pidana Laut dalam Hukum Pidana Indonesia", Jurnal Online Universitas Galuh, (18 Oktober 2019), hlm. 117.

3. Results and Discussion

Fishing is an activity that aims to obtain fish in waters that are not cultivated in any way, including activities that use ships to transport, load, store and cool, as well as process or preserve them. Fishing activities may not be carried out if the tools used for fishing are prohibited tools and the fishing is done illegally. Fishing may be carried out if it complies with regulations and does not have an impact on damaging the marine environment.

So that fishing does not damage the marine environment, there are things to pay attention to when fishing:[7]

1. Use fishing gear that is appropriate and permitted by the state.
2. Permitted vessels must have completed all technical requirements.
3. Notification of the maximum limit of fish caught with several examples of small fish that are not yet suitable for consumption.
4. Understand the ins and outs of the area and the right season before fishing.
5. Does not cause damage to the marine ecosystem due to fishing.
6. New species of fish may not be caught. If caught, it must be released back into the marine ecosystem.
7. Prioritize mariculture.
8. It is prohibited to throw pests into the sea that have the potential to damage fish.

Fisheries Crime

Fishing carried out by foreign fishing vessels that enter Indonesian waters illegally (illegal fishing) has increased in several years. Even though only 24 monitoring vessels can be operated, with the number of operational days being 100-180 days/year, supported by monitoring facilities which are only the Vessel Monitoring System, as well as information submitted by the Community Monitoring Group (POKMASWAS), the perpetrator vessels were successfully arrested. IUU Fishing, both Indonesian Fishing Vessels (KII) and Foreign Fishing Vessels (KIA).[8] According to Admiral Karl Schultz, commander of the U.S. The Coast Guard said that illegal, unreported and unregulated fishing is “a symptom of larger security vulnerabilities” especially for coastal states “which have limited capacity to patrol their maritime areas or arrest and prosecute criminals”. These acts usually occur together with other prohibited behavior, including the cruelty of human trafficking and forced labor, as well as the smuggling of illegal substances. According to Tabitha Mallory, a professor at the University of Washington, everyone must realize that sustainable fishing is in the long-term

[7] Elvinda Rima Harliza dan Tomy Michael. “Penegakan Hukum Illegal Fishing”. Jurnal Mimbar Keadilan. Vol. 13. No. 1. (Februari-Juli 2020), halaman 163.

[8] Simela Victor Muhamad. “Illegal Fishing Di Perairan Indonesia: Permasalahan Dan Upaya Penanganannya Secara Bilateral Di Kawasan”. Jurnal Politica, Vol. 3. No. 1. (Mei 2012), halaman 68-69.

interests of everyone on the planet.[9] According to data from the Directorate General of Marine Resources and Fisheries Supervision in 2021, 88 Indonesian fishing vessels violated the rules and 47 foreign fishing vessels stole fish, including 6 Filipino vessels, 16 Malaysian vessels and 25 Vietnamese vessels. The occurrence of this fisheries crime is due to the abundant marine potential and suboptimal supervision.

Throughout 2021, the Ministry of Maritime Affairs and Fisheries recorded 117 cases of illegal fishing occurring in Indonesian waters,[10] This is inseparable from the sustainable potential of Indonesia's marine fish resources which are estimated at 12.54 million tons per year spread across Indonesian territorial waters and the waters of the Indonesian Exclusive Economic Zone (ZEEI). Based on the Decree of the Minister of Maritime Affairs and Fisheries Number 50 of 2017 concerning Estimation of Potential, Number of Allowable Catches and Level of Utilization of Fish Resources in the Fisheries Management Area of the Republic of Indonesia, of the total potential fish resources amounting to 12.54 million tons per year, then The total allowable catch (JTB) is 10.03 million tons per year or around 80% of the sustainable potential, and only 6.98 million tons were utilized in 2019 or only 69.59% of the JTB, while the total capture fisheries production (in sea and inland waters) is 7.53 million tons.[11]

According to data from the Fish Quarantine Agency for Quality Control and Safety of Fishery Products (BKIPM) of the Ministry of Maritime Affairs and Fisheries (KKP), throughout 2019 there were 123 cases of fishery product smuggling violations. This smuggling case is dominated by the smuggling of lobster seeds (BL), egg-laying crabs and several other types of marine products. Even though there are regulations that prohibit this hunting, namely Regulation of the Minister of Maritime Affairs and Fisheries (Permen KP) Number 56 of 2016 concerning the Prohibition of Catching and/or Releasing Lobsters, Crabs and Crab from the territory of the Republic of Indonesia.

Some of these actions have been regulated as criminal acts in the Fisheries Law. Article 84 regulates that people or companies carry out fishing in a reasonable manner so that fish resources and the environment remain healthy and sustainable. Actions regulated in Article 84 are always related to the provisions of Article 8 paragraphs (1) to (4) which are regulations prohibiting the use of chemicals, biological materials, explosives or other methods for fishing that can harm or endanger fish resources and the environment..[12]

Supervision Efforts

Maritime and fisheries development has complex problems because it is linked to

[9] Share America. "Dampak Buruk Penangkapan Ikan Secara Illegal". *https://share.america.gov/id/dampak-buruk-penangkapan-ikan-secara-ilegal*. (Selasa, 31 Januari 2023. 12.30).

[10] Muhammad Syawaluddin. "117 Kasus Pencurian Ikan Terjadi di Indonesia Sepanjang 2021". https://www.medcom.id/nasional/daerah/VNngD12b-117-kasus-pencurian-ikan-terjadi-di-indonesia-sepanjang-2021. (Selasa, 31 Januari 2023. 21.00).

[11] Kementerian Kelautan dan Perikanan. *Laporan Tahunan 2020*. halaman 9.

[12] Faisal Riza, dkk. 2019. *Bentuk-Bentuk Tindak Pidana Perikanan*. Medan: Pustaka Prima, halaman 41.

many sectors and is also sensitive to interactions, especially with environmental aspects. Various fisheries management issues in Indonesia have the potential to threaten the sustainability of fish resources and the environment, the sustainability of community livelihoods in the fisheries sector, food security and economic growth originating from the use of marine and fisheries resources. Indonesia is the largest archipelagic country in the world, with a water area of 6.4 million km^2 consisting of a territorial sea area of 0.29 million km2, an area of inland waters and archipelagic waters of 3.11 million km^2, and an area of the Indonesian Exclusive Economic Zone (EEZ) 3 .00 million km2. Apart from that, it has an additional marine zone area of 0.27 million km2, a continental shelf area of 2.8 million km2, and a coastline length of 108,000 km. It certainly has very large and varied natural wealth, both in the form of renewable natural resources (fisheries, coral reefs, seagrass beds, mangrove forests, seaweed, and biotechnology products), non-renewable natural resources (oil, natural gas, tin, iron ore, bauxite, and other minerals), marine energy (such as tides, waves, wind, OTEC (Ocean Thermal Energy Conversion), as well as marine and small island environmental services for marine tourism, sea transportation, and sources of biodiversity and germ plasma).[13]

Natural wealth is one of the basic capital that must be managed optimally to improve the welfare and prosperity of the Indonesian people. Fisheries crime in Indonesia is currently still dominated by Illegal, Unreported, Unregulated Fishing. Prevention needs to be done through supervision. According to Article 66 paragraph (1) of the Fisheries Law, fisheries supervision is carried out by fisheries supervisors. The task of fisheries supervisors is to supervise the orderly implementation of the provisions of laws and regulations in the fisheries sector, so that no one else commits fisheries crimes. As a community, you can start playing a role in monitoring or preserving the sea. Article 67 of the Fisheries Law states that the public can be involved in assisting with fisheries supervision. Supervision is carried out in the context of optimal, responsible and sustainable use of marine and fisheries resources.

The crime of fisheries as an act of vanity is an act of stealing and destroying nature or the marine environment in order to gain profit by ignoring the rights of other creatures. So, supervision is needed in order to minimize the occurrence of false acts. This supervision is intended to prevent criminal acts from occurring. The community supervision system as specified in the Decree of the Minister of Maritime Affairs and Fisheries Number 58 of 2001 concerning Procedures for Implementing the Community Monitoring System in the Management and Utilization of Marine and Fisheries Resources, is as follows:

1. If the public finds suspected violations in the management and utilization of marine and fisheries resources, including suspected fisheries crimes by Indonesian Fishing Vessels (KII) or Foreign Fishing Vessels (KIA), then these findings are immediately informed to the nearest supervisory authorities from the location. incident. The supervisory officers are the PPNS Coordinator, Head of the Fisheries Port, Head of the Maritime and Fisheries Service, Satpol-Airud (or the nearest police). TNI AL, Quarantine Officers at Ports or PPNS;

[13] Kementerian Kelautan dan Perikanan. *Op. Cit.*, halaman 8.

2. Officers who receive reports from the public or community groups forward the information to PPNS and/or TNI-AL and/or Satpol-Airud and/or Fisheries Inspection Vessels;

3. Based on the report, PPNS, TNI-AL, Pol-Airud and other agencies carried out actions (stopping and inspecting) chasing and arresting Indonesian Fishing Vessels (KII) and Foreign Fishing Vessels (KIA) or other violators as suspected criminals. fisheries and other marine resources, then an inquiry and investigation process is carried out;

4. At the same time the PPNS, Fisheries Supervisor and/or (PPNS Coordinator and/or Head of Fisheries Port) forward the same information to the Regency/City Service and related provincial agencies with a copy to the Director General of Marine and Fisheries Resources Control;

5. District and/or provincial Fisheries Services coordinate with supervisory officers (TNI-AL, POLRI, PPNS) including Pangkalan Sea Port Security (KPLP) in carrying out follow-up operations for violations committed by Indonesian Fishing Vessels (KII) and Foreign Fishing Vessels (KIA) and other violators.

The development of a community-based monitoring system is coordinated by the Director General of Marine and Fisheries Resources Control and related agencies that have authority in the utilization of marine and fisheries resources. At the regional level, the community-based monitoring system is coordinated by the Head of the Maritime Affairs and Fisheries Service with members of agencies related to the management and utilization of marine and fisheries resources.

4. Conclusion

The role of the community in monitoring criminal acts in the marine fisheries sector really needs to be improved. If the community actively monitors violations of law in the fisheries sector, it will be able to prevent fisheries crimes from occurring so that marine and fisheries resources can be sustainable

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