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Penal Policy for Handling Illegal Fishing in Indonesian Exclusive Economic Zone based on Pancasila

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ABSTRACT

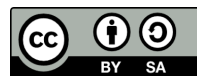
This study discusses the policy of handling fisheries crime in Indonesia which does not run optimally between regulations and law enforcement. By using the normative juridical method by combining normative qualitative analysis and literature studies, in finding and formulating legal arguments in enforcing the law regarding the handling of fisheries crimes. The discussion of this article only focuses on regulations regarding law enforcement of fisheries crimes which have problems ranging from overlapping laws and regulations to conflicts between agencies that handle this problem, as well as criminal sanctions in the form of fines that are applied to perpetrators of illegal fishing. foreign flags are very low and there is no body confinement so that it does not cause a deterrent effect for the perpetrators. So, it is necessary to make changes related to the handling of fisheries crime into a more effective form of regulation, because government policies have an important role in resolving illegal fishing legal issues in order to reduce the impact of state losses.

Through policy reformulation starting from changes to laws and regulations, implementing regulations to the handling system, it can reduce the practice of illegal fishing in Indonesia

KEYWORDS

Penal Policy, Regulation Reform, Illegal Fishing, Law Enforcement

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1 INTRODUCTION

The Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia has sovereignty and jurisdiction over Indonesian territorial waters, as well as the authority to regulate all matters within its sovereign territory, including managing fisheries for the welfare of the people. Fisheries have an important and strategic role in the development of the national economy, especially in increasing the expansion of employment opportunities, income distribution, and improving the standard of living of the nation in general, small fishermen, small fish cultivators, and business actors in the fishery sector while maintaining the environment, sustainability, and availability of fish resources.¹

The potential of marine wealth in the Indonesian Exclusive Economic Zone (hereinafter referred to as ZEEI) in the form of fishery biological resources is estimated at 6,167,940 tons/year. This potential is the main capital for the realization of a just and prosperous society within the framework of the Unitary State of the Republic of Indonesia. Marine wealth, especially fisheries, consists of 7000 species of

¹ Soemarmi, Amiek, et al. "Konsep Negara Kepulauan dalam Upaya Perlindungan Wilayah Pengelolaan Perikanan Indonesia." *Masalah-Masalah Hukum* 48, No. 3 (2019): 241-248; Suman, Ali, et al. "Potensi dan tingkat pemanfaatan sumber daya ikan di wilayah pengelolaan perikanan Negara Republik Indonesia (WPP NRI) Tahun 2015 serta Opsi Pengelolaannya." *Jurnal Kebijakan Perikanan Indonesia* 8, No. 2 (2017): 97-100.

fish in the world, 2000 of which are found in Indonesian waters², which causes also prone to criminal acts of fisheries (hereinafter abbreviated as TPP)³. The combination of the territorial sea, continental shelf and exclusive economic zone causes Indonesia's maritime boundaries to be wider when measured from the shoreline. The extent of Indonesia's seas is under the authority of the state in regulating the law of the sea, it is different if it crosses this limit then the law of the sea follows international

² Lasabuda, Ridwan. "Pembangunan wilayah pesisir dan lautan dalam perspektif Negara Kepulauan Republik Indonesia." *Jurnal Ilmiah Platax* 1, No. 2 (2013): 92-101. The development potential in coastal and oceanic areas broadly consists of three groups: (1) renewable resources, (2) non-renewable resources, and 3) environmental services. The question is how much utilization has been extracted from the three groups of resources. Even if the utilization can be optimized. will be very beneficial for the increase in gross domestic product and people's welfare. *See also* Katiandagho, Febrianto Gabriello Owen. "Aspek Hukum Pengelolaan Pembangunan Wilayah Pesisir Dan Pulau-Pulau Kecil Terluar Menurut Undang-Undang Nomor 1 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 27 Tahun 2007 Tentang Pengelolaan Wilayah Pesisir dan Pulau-Pulau Kecil." *LEX ET SOCIETATIS* 8, No. 1 (2020); Jamal, Fikri. "Peran Pemerintah Daerah dalam Pengelolaan Wilayah Pesisir." *Rechtsregel: Jurnal Ilmu Hukum* 2, No. 1 (2019); Saputra, Syifa, et al. *Pengelolaan Wilayah Pesisir yang Terpadu untuk Ketahanan Nasional*. (Jakarta: Yayasan Kita Menulis, 2020); Nengsih, Neng Suryanti. "Penerapan Indikator Pembangunan Berkelanjutan di Daerah Pesisir dalam Keanekaragaman Hayati Laut Untuk Mensejahterakan Masyarakat." *Jurnal Ilmu Sosial dan Ilmu Politik* 1, No. 2 (2020): 151-162; Suman, Ali. "Stok sumberdaya ikan demersal laut dalam di perairan ZEEI Samudera Hindia sebelah Selatan Jawa." *Majalah Ilmiah Biologi BIOSFERA: A Scientific Journal* 28, No. 1 (2011): 1-8.

³ Fisheries crime is any act that is punishable by punishment as a criminal act, or a violation of the law contained in the Law of the Republic of Indonesia in the field of Fisheries. Efforts to overcome illegal fishing have been carried out by issuing Law no. 31 of 2004 concerning Fisheries (Law on Fisheries) dated October 6, 2004 which principally regulates fisheries management to increase prosperity and justice for the maximum utilization for the benefit of the nation and state while taking into account the principles of conservation of fish resources and their environment as well as the sustainability of fisheries development. national. Addition to the description of criminal means in this law is carried out by first establishing fisheries courts in five district courts, namely North Jakarta, Medan, Pontianak, Bitung and Tual no later than 6 October 2006, but based on Government Regulation in Lieu of Law no. 2 of 2006 the establishment of a fishery court has been postponed until 6 October 2007 at the latest. Now the fishery court has been in existence for more than a year. As a policy in tackling illegal fishing which will become the basis for application and execution policies, the Fisheries Law has contained regulations/formulations both regarding criminal procedural law and fisheries crime. The procedural law in the investigation, prosecution and trial at the fisheries court is carried out according to the Criminal Procedure Code unless specifically stipulated in the Fisheries Law. Fisheries crime has also gained legitimacy in Chapter XV, namely in Article 84 to Article 105 of the Fisheries Law. *See also* Situmorang, Jegesson P., and Ameik Soemarmi Pujiyono. "Pertanggungjawaban pidana korporasi dalam menanggulangi tindak pidana perikanan." *Diponegoro Law Journal* 5, No. 3 (2016): 1-17; Rifai, Eddy, and Khaidir Anwar. "Politik Hukum Penanggulangan Tindak Pidana Perikanan." *Jurnal Media Hukum* 21, No. 2 (2014): 279-292; Sagita, Afrianto. "Optimalisasi Pengadilan Perikanan dalam Penegakan Hukum Tindak Pidana Perikanan Di Perairan Indonesia." *Jurnal Hukum dan Peradilan* 6, No. 2 (2017): 213-232.

law considering that the area is international sea waters.⁴

The statement is based on the Montevideo Declaration⁵, in which it emphasizes that geographically, economically, and socially, there is a very close relationship between land and people who live on land and is justified by giving priority to residents or residents who occupy the area with the aim is to take advantage of the wealth and natural resources of the sea close to the coastal area. The situation experienced by the Indonesian people assumes that the land and sea areas surrounding and surrounding the islands in Indonesia are a part of the life of the Indonesian people.⁶ However, current developments often cause problems related to

⁴ Hardianto, Danang, and Paramita Prananingtyas. "Aspek Hukum Penanaman Modal Perikanan Tangkap Terpadu Zona Ekonomi Eksklusif Indonesia (ZEEI) Berdasarkan Permen KP No. 30 Tahun 2012." *Law Reform* 11, No. 2 (2015): 172-187; Kamal, Mohammad Maulidan. "Penegakan Hukum Pencurian Ikan di Wilayah Zona Ekonomi Eksklusif Indonesia (ZEEI)." *Jurist-Diction* 1, No. 2 (2018): 609-626; Irianto, Bambang S. "Penegakan Hukum di Zona Ekonomi Eksklusif Indonesia (Zeei) Dalam Rangka Kepentingan Nasional Indonesia di Bidang Kelautan." *Jurnal Justiciabelen* 4, No. 2 (2022): 26-43.

⁵ According to Article 1 of the 1933 Montevideo Convention concerning the Rights and Duties of States (Montevideo Convention in Rights and Duties of States) signed by the United States and several Latin American countries, that: The state as an international person must have the following qualifications: a permanent population, a defined territory, Government, and capacity to enter into relations with other states. The territory based on the letter b of the Montevideo Convention above is absolute for the formation of a state because with the existence of a territory a state can exercise sovereignty and power. Territory is a space that includes land, sea, and airspace. Airspace includes space in accordance with the boundaries of land and sea areas. Land area is an area that has clear boundaries to be a state territory. While the sea area is an area of water close to the coast. *See also* Hioureas, Christina, and Alejandra Torres Camprubí. "Legal and Political Considerations on the Disappearance of States due to Sea Level Rise." In *New Knowledge and Changing Circumstances in the Law of the Sea*. (Leiden: Brill Nijhoff, 2020), pp. 407-426; Lupinacci, Julio César. "The legal status of the exclusive economic zone in the 1982 convention on the Law of the Sea." In *The Exclusive Economic Zone*. (London: Routledge, 2019), pp. 75-121; Khisni, Akhmad, and Maghdalena Febriani. "Review of Law Enforcement against Illegal Fishing in Indonesia's Exclusive Economic Zone." *KnE Social Sciences* (2021): 205-215.

⁶ Frans E. Likadja. *Bunga Rampai Hukum Internasional*. (Bandung: Bina Cipta, 1998). It is also further explained that The Djuanda Declaration, which was initiated on December 13, 1957 by the Prime Minister of Indonesia at that time, Djuanda Kartawidjaja, was a declaration declaring to the world that the Indonesian seas included the seas around, between and within the Indonesian archipelago as one unitary territory of the Republic of Indonesia. Prior to the Djuanda declaration, the territory of the Republic of Indonesia referred to the 1939 Dutch East Indies Ordinance, namely *Teritoriale Zeeën en Maritieme Kringen Ordonantie 1939* (TZMKO 1939). In this rule of the Dutch East Indies era, the islands in the archipelago were separated by the sea around them and each island only had a sea around it as far as 3 miles from the coastline. This means that foreign ships can freely navigate the sea that separates the islands. The Djuanda Declaration stated that Indonesia adhered to the principles of an archipelagic state, which at that time received great opposition from several countries, so that the seas between islands were also the territory of the Republic of Indonesia and were not free areas. The Djuanda Declaration was then formalized into Law No. 4/PRP/1960 concerning Indonesian Waters. As a result, the territory of the Republic of Indonesia doubled 2.5

this.

Today, illegal fishing often occurs in the territory of the Republic of Indonesia. Illegal fishing is part of the TPP, this form of crime is not easy to solve, especially the perpetrators come from foreign countries without having the right to enter the waters of other countries to catch fish illegally. Based on data from the Indonesian Navy Legal Service, foreign vessels have been arrested and legally processed fishing within Indonesian territory with the following description:

Table 1. Indonesian Navy Arrests on Foreign Fishing Vessels

No	Year Catch	Number of Ships	Violated Article	Location Incident	Information
1	2016	37	Article 93 paragraph (2) in conjunction with Article 27 (2) Law no. 45 Year 2009 Regarding Amendments to Law No. 31 Year 2004 on Fisheries	ZEEI	Without a permit document
2	2017	52	natural resources	natural resources	natural resources
3	2018	84	natural resources	natural resources	natural resources
4	2019	66	natural resources	natural resources	natural resources
5	2020	65	natural resources	natural resources	natural resources

Source: Report on Capture of Law Enforcement Operations at the Indonesian Navy's Operations Command Center

Based on the table above, it shows that the TPP from 2016 to 2019 experienced a significant increase in the ZEEI, but in 2019 and 2020 it decreased slightly. In January 2020, TPP was carried out by foreign fishing vessels so that three Indonesian warships namely KRI Karel Satsuit Tubun-356, KRI Usman Harun-359, KRI Jhon Lie-358 carried out a convoy to expel 30 Chinese-flagged foreign fishing vessels that were still in the territorial waters. the Natuna Sea until it leaves the ZEEI. This also shows

times from 2,027,087 km² to 5,193,250 km² with the exception of Irian Jaya, which, although it was an Indonesian territory, at that time had not been recognized internationally. *See also* Nurhidayati, Nida. "Dari Deklarasi Djuanda ke Wawasan Nusantara: Peranan Mochtar Kusumaatmadja dalam Mencapai Kedaulatan Wilayah Laut Indonesia, 1957-1982." *SUSURGALUR* 9, No. 1 (2021): 37-54.

that the TPP carried out by foreign fishing vessels in the ZEEI is still happening. This condition certainly raises problems, whether the existing policy formulations for handling TPP are not effective enough in eradicating TPP in the ZEEI.

The State of Indonesia has also ratified international legal regulations regarding the law of the sea called the United Nations Convention on the Law of the Sea (UNCLOS) through Law Number 17 of 1985. UNCLOS regulates matters concerning the jurisdictional boundaries of a country's maritime territory with other countries, including regulate the authority of a coastal state in its EEZ.⁷ As a consequence of the 1982 ratification of UNCLOS, the provisions for the implementation of fishing at sea, especially in the ZEEI, refer to the provisions of the International Law of the Sea (UNCLOS). In the provisions of Article 73 of UNCLOS 1982 it is stated that if a foreign ship does not comply with the laws and regulations of the coastal state in terms of conservation of fishery resources, the coastal state can arrest the vessel, but must be released immediately with a reasonable bond given to the coastal state. Punishment against foreign ships also may not be in the form of corporal punishment, namely imprisonment, unless there is an agreement between the countries concerned. The weakness in law enforcement is also influenced by the position in the ZEEI, namely that Indonesia only has sovereign rights and not sovereignty.⁸

However, in reality, the forced retrieval of captured vessels is not the best solution in reducing illegal fishing in Indonesian territory by foreign fishing vessels. Departing from this problem, it is necessary to reformulate changes to the Fisheries Law, especially the substance of law enforcement regarding the issue of the application of sanctions (criminals or fines) for fisheries crimes in order to accelerate law enforcement against fisheries crimes by foreign fishing vessels in the ZEEI in order to harmonize the provisions of the legislation. invitation with its implementation in law enforcement of fisheries crime in ZEEI with policies or politics of criminal law. The problems that occur show that the rules contained in the UUP are not complete. Incomplete rules mean there are parts. Based on the description above, the author provides a formulation of the problem related to this, including:

- 1) How is the handling of fisheries crime in the Indonesian Exclusive Economic Zone at this time?

⁷ Widyatmodjo, Ruth Shella, and Purwoto Pujiyono. "Penegakan Hukum terhadap Tindak Pidana Pencurian Ikan (Illegal Fishing) di Wilayah Zona Ekonomi Eksklusif (Studi Kasus: Putusan Pengadilan Negeri Ambon Nomor 01/Pid.Sus/prk/2015/PN.AMB)." *Diponegoro Law Journal* 5, No. 3 (2016): 1-14.

⁸ Mochtar Kusumaatmaja. *Hukum Laut Internasional*. (Bandung: Bina Cipta, 1986).

- 2) What is a good and effective form of regulatory change in providing a deterrent effect on foreign fishing vessels based on Pancasila?

2 METHOD

This research uses normative juridical research methods, normative juridical research is legal research conducted by examining library materials, which include legal principles, legal norms. In analyzing the problem, the researcher uses a normative qualitative analysis method, this form of analysis is based on secondary data in the form of theory, meaning and substance from various literatures, laws and regulations. Qualitative analysis is carried out by interpreting the data collected from the literature study with the aim of solving research problems. In addition, using the socio-legal approach. Socio-legal studies are studies in legal science that are no longer based on the positivism paradigm (seeing facts as they are) but begin to see certain characteristics of social behavior with the help of other sciences.⁹

3 RESULT AND DISCUSSION

A. Handling of Fisheries Crimes in Indonesia

Collected in the data on the handling of fisheries crime cases in the territory of Indonesia which have been handled by Fisheries Civil Service Investigators (PPNS) in 2015 to 2020 experienced significant changes. There were 501 cases with details in 2015 of 198 cases, 21% (43 cases) were handled in the ZEEI area, in 2016 of 237 cases there were 53% (142 cases), in 2017 of 197 cases there were 28% (56 cases), in 2017 2018 of 193 cases there were 59% (114 cases), in 2019 of 151 cases there were 64% (98 cases), and currently until October 2020 of 127 cases there are 37% (48 cases) handled in the ZEEI area .

Actions that have been taken by the government in dealing with fisheries

⁹ Fx. Adji Samekto, *Justice Not for All, Kritik terhadap Hukum Modern dalam perspektif Studi Hukum Kritis*. (Yogyakarta: Genta Press, 2008). It is further explained that socio legal is a legal research approach that uses the help of social sciences. Because it comes from interdisciplinary science, socio-legal studies are now a trend among legal scholars. The methodology itself is carried out by applying a social scientific perspective to legal studies. These include legal sociology, legal anthropology, legal history, psychology and law, judicial political science studies, comparative science, and other sciences. Namely by peeling and solving the normative framework of a problem first. See Riles, Annelise. "Comparative law and socio-legal studies." *The Oxford Handbook of Comparative Law*. (Oxford: Oxford University Press, 2006); Feenan, Dermot. *Exploring the 'Socio' of Socio-Legal Studies*. (London: Palgrave, 2013); Hunter, Caroline, et al. *Exploring the 'legal' in Socio-legal Studies*. (London: Springer, 2019).

crimes include the form of defending state sovereignty, based on the 1993 Montevideo convention, a state is formed by permanent residents as citizens, territorial areas, sovereign government, and the ability to establish relations with other countries besides the state. need to be recognized de facto and de jure. Fisheries crime by foreign countries is a violation of territorial areas, in the context of territorial areas including land, sea and air areas. This means that a country has full power to regulate and utilize everything contained in it for the prosperity of its citizens. It is natural when other parties exploit resources for the benefit of their country.

Therefore, the Indonesian state through article 103 of the Criminal Code (KUHP) states that special criminal acts require a certain regulation to regulate them, it is not surprising that in dealing with fisheries crimes, this nation forms regulations in its hierarchy regarding handling fisheries crimes. Beginning with Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone (EEZ) and Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries to other implementing regulations established by the relevant institutions.

Fisheries crime in the International Plan of Action to Prevent, Deter and Eliminate, Unreported and Unregulated Fishing (IPOA-IUU Fishing) is divided into 3 categories including Illegal Fishing, fishing activities in the exclusive zone of a country without having a permit from that country; Unregulated Fishing, fishing activities without heeding applicable regulations; and Unreported Fishing, is fishing activity without providing a report in the form of fishing operations and catches in the area where a permit for fishing is obtained.

The cause in Indonesia is prone to this action based on the increasing demand for fish in the market while the supply of fish decreases because the ability of natural resources in the territorial waters of other countries is not fulfilled, thus encouraging countries around Indonesia to carry out in Indonesian waters because of the abundance of natural resources. The abundance of Indonesia's natural resources can be accessed through KKP Statistics if you pay attention to the number of allowable catches that can reach thousands of tons, it is natural that the potential of Indonesian waters is of interest to many countries, especially neighboring countries.¹⁰

Based on the applicable regulations, on the other hand, it also pays attention to all matters relating to potential and losses as a reference for policy making in overcoming fisheries crime. Fisheries Number 57/permen-KP/2014 is one of the efforts to eradicate Illegal Fishing in addition to the Minister of Marine Affairs and

¹⁰ Data can be obtained through the Statistics website of the Ministry of Maritime Affairs and Fisheries of Indonesia via the link: statistic.kkp.go.id/home.php?m=prod_ikan_prov&i=2#panel-footer

Fisheries Regulation Number 58/permen-KP/2014 specifically establishing regulations regarding state civil apparatus that support the eradication of fisheries crime. The formation of regulations as a basis for action and giving the civil apparatus the authority to deal with this problem, of course produces results.

Through Law Number 8 of 1981 concerning the Criminal Procedure Code, it is more specific to explain the unit that deals with fisheries issues.¹¹ For the purpose of detention, the criminal acts regulated in Article 16 and Article 17 are included in the category of criminal acts as referred to in Article 21 paragraph (4) letter b of Law Number 8 of 1981, law enforcement officers in the field of investigation in the Indonesian Exclusive Economic Zone are Indonesian National Armed Forces Navy officer appointed by the Commander of the Armed Forces of the Republic of Indonesia. The public prosecutor is a prosecutor in a district court. Meanwhile, the court authorized to adjudicate violations of the provisions of this law is a district court whose jurisdiction covers the port where the detention of ships and/or people as referred to in Article 13 letter a. Applications to release ships and/or persons

¹¹ Simangunsong, Yuheni Tarida Kendal, Ummi Kalsum, and Zul Akli. "Illegal Fishing dari Perspektif Kitab Undang-Undang Hukum Acara Pidana (Kuhap)." *REUSAM: Jurnal Ilmu Hukum* 9, No. 1 (2021); Lestari, Maria Maya. "Penegakan Hukum Pidana Perikanan di Indonesia Studi Kasus Pengadilan Negeri Medan." *Jurnal Ilmu Hukum* 4, No. 2 (2014): 271-295. One form of controversial law enforcement that has been applied by Indonesia is the sinking of illegal fishing boats. Crimes related to the policy of sinking ships are fishing vessels with foreign flags without being equipped with a Fishing Permit (SIPI) and a Fish Transporting Vessel Permit (SIKPI), as well as being proven to have stolen and/or brought fish in Indonesian WPP illegally. This is in accordance with Article 27 paragraph (2) of the Fisheries Law, which states that every person who owns and or operates a fishing vessel with a foreign flag used to fish in WPP Indonesia is required to have SIPI. Article 27 paragraph (2) is strengthened by the provision of sanctions in Article 93 paragraph (2), which explains that any owner and or operator of a fishing vessel with a foreign flag without SIPI can be sentenced to a maximum imprisonment of 6 years and a maximum fine of 20 billion rupiahs. *See also* Adam, Sherly. "Koordinasi Kelembagaan dalam Penanggulangan Kapal Hasil Tindak Pidana di Bidang Perikanan." *Sasi* 26, No. 1 (2020): 128-142; Nasirin, Chairun, and Dedy Hermawan. "Kontroversi Implementasi Kebijakan Penanggulangan Kapal Dalam Rangka Pemberantasan Illegal Fishing di Indonesia." *Spirit Publik* 12, No. 1 (2017): 9-24; Efritadewi, Ayu, and Wan Jefrizal. "Penanggulangan Kapal Illegal Fishing di Wilayah Indonesia Dalam Perspektif Hukum Internasional." *Jurnal Selat* 4, No. 2 (2017): 260-272; Nurcahyawan, Teddy, and Leonardo Saputra. "Penegakan Hukum dan Penanggulangan Kapal Asing (Studi Kasus Tindak Pidana Pelaku Illegal Fishing)." *Era Hukum-Jurnal Ilmiah Ilmu Hukum* 15, No. 2 (2017); Saputra, Guntur Dirga. "Eksekusi Pembakaran/Penanggulangan Kapal Tindak Pidana Illegal Fishing Berbendera Asing Dalam Perspektif Sistem Peradilan Pidana." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9, No. 4 (2020): 752-766; Lewerissa, Yanti Amelia. "Impersonating Fishermen: Illegal Fishing and the Entry of Illegal Immigrants as Transnational Crime." *JILS (Journal of Indonesian Legal Studies)* 3, No. 2 (2018): 273-290; Tarigan, Muhammad Insan. "Implementation of Countermeasures Effort of Illegal Fishing in Indonesia (Case Study on Sinking the FV Viking Vessel)." *Journal of Indonesian Legal Studies* 3, No. 1 (2018): 131-146.

arrested for being accused of violating this law or the statutory regulations issued under this law, may be made at any time before a decision is made by the competent district court. as referred to in paragraph (1), can be granted if the applicant has submitted an appropriate amount of security deposit, the determination of which is carried out by the competent district court.

Along with its development, the problem of fisheries crime is broadly seen through court decisions divided into two different opinions, such as:

Table 2. Decision That Does Not Impress Confinement in Lieu of Fines

Verdict Number	Panel of Judges	Core Considerations
471 K/Pid.Sus/2013	– Artidjo Alkostar – Surya Jaya – Sri Murwahyuni	Basically, the Panel of Judges of Cassation only thinks that Judex Facti has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the Judex Facti decision. The Panel of Judges Judex Facti was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,

Verdict Number	Panel of Judges	Core Considerations
99 K/Pid.Sus/2014	– Timur P. Manurung – Andi Samsan Nganro – Eddy Army	Basically, the Panel of Judges of Cassation only thinks that <i>Judex Facti</i> has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the <i>Judex Facti</i> decision. The Panel of Judges <i>Judex Facti</i> was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,
131 K/Pid.Sus/2014	– Surya Jaya – Syarifuddin – Desnayeti	Basically, the Panel of Judges of Cassation only thinks that <i>Judex Facti</i> has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the <i>Judex Facti</i> decision. The Panel of Judges <i>Judex Facti</i> was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of

Verdict Number	Panel of Judges	Core Considerations
		UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,
158 K/Pid.Sus/2014	– Salman Luthan – Andi Samsan Nganro – Syarifuddin	Basically, the Panel of Judges of Cassation only thinks that <i>Judex Facti</i> has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the <i>Judex Facti</i> decision. The Panel of Judges <i>Judex Facti</i> was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement

Verdict Number	Panel of Judges	Core Considerations
		between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,
168 K/Pid.Sus/2014	– Sri Murwahyuni – Margono – Eddy Army	Basically, the Panel of Judges of Cassation only thinks that <i>Judex Facti</i> has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the <i>Judex Facti</i> decision. The Panel of Judges <i>Judex Facti</i> was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,
170 K/Pid.Sus/2014	– Salman Luthan – Sumardijatmo	Basically, the Panel of Judges of Cassation only thinks that <i>Judex</i>

Verdict Number	Panel of Judges	Core Considerations
	– Margono	Facti has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the Judex Facti decision. The Panel of Judges Judex Facti was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex specialis</i> of Article 30 Paragraph (2) of the Criminal Code,
618 K/Pid.Sus/2014	– Zaharuddin Utama – Surya Jaya – Suhadi	The Panel of Judges of Cassation is of the opinion that in accordance with the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004, the fine imposed may not be accompanied by any form of corporal punishment, so that the fine imposed cannot be followed by a substitute imprisonment.
845 K/Pid.Sus/2014	– Artidjo Alkostar – Suhadi	The Panel of Judges is of the opinion that based on Article 102 of Law Number 31 of 2004

Verdict Number	Panel of Judges	Core Considerations
	– Maruap Dohmatiga Pasaribu	concerning Fisheries jo. Article 73 of the United Nations Convention on the Law of the Sea (UNCLOS) which was ratified by Law No. 17 of 1985, cannot be imposed with a substitute imprisonment. In addition, the Fisheries Law is <i>lex specialis</i> of the Criminal Code and does not regulate penalties or substitute penalties, so that what applies is the provisions in the Fisheries Law.
1355 K/Pid.Sus/2014	– Artidjo Alkostar – Surya Jaya – Sri Murwahyuni	Basically, the Panel of Judges of Cassation only thinks that <i>Judex Facti</i> has applied the law correctly, which means that the Panel of Judges of Cassation agrees with the rule of law in the <i>Judex Facti</i> decision. The Panel of Judges <i>Judex Facti</i> was of the opinion that because the Defendant's actions occurred in the EEZ area, then the provisions of Article 73 of UNCLOS and Article 102 of Law 31/2004 concerning Fisheries shall apply, in which these provisions do not allow imposing corporal punishment on the Defendant, unless there has been a prior agreement between the Government of the Republic of Indonesia. and the Government of the country concerned. In this regard, there is no agreement between the Government of Indonesia and the Government of Vietnam regarding this matter. The Panel of Judges is of the view that Article 73 of UNCLOS and Article 102 of Law 31/2004 are <i>lex</i>

Verdict Number	Panel of Judges	Core Considerations
		specialis of Article 30 Paragraph (2) of the Criminal Code,
1426 K/Pid.Sus/2014	– Artidjo Alkostar – Suhadi – Sri Murwahyuni	The Panel of Judges is of the opinion that based on Article 102 of Law Number 31 of 2004 concerning Fisheries jo. Article 73 of the United Nations Convention on the Law of the Sea (UNCLOS) which was ratified by Law No. 17 of 1985, against the accused, cannot be sentenced to substitute imprisonment
40 K/Pid.Sus/2015	– Salman Luthan – Sumardijatmo – Margono	The Panel of Judges stated that imprisonment in lieu of a fine cannot be imposed because according to Article 73 paragraph (3) of UNCLOS 1982 which was ratified by Law Number 17 of 1985, violations of laws and regulations in the ZEEI may not include criminal prosecution unless there is an agreement between Indonesia and the EEZ. Defendant's country of origin
1206 K/Pid.Sus/2015	– Surya Jaya – Margono – Suhadi	The panel of judges of Cassation is of the opinion that Article 102 jo. Article 5 paragraph (1) letter b of Law Number 31 of 2004, stipulates that the provisions regarding imprisonment do not apply to fisheries crimes that occur in the Indonesian Fisheries territory within the ZEEI territory, which imprisonment in the provisions of Article 102 must be interpreted as imprisonment. in accordance with Article 73 paragraph (3) of UNCLOS, namely imprisonment, including confinement may not be applied to violations that occur

Verdict Number	Panel of Judges	Core Considerations
		within the ZEEI territory, unless there is a bilateral agreement between the Government of Indonesia and the government of the country concerned (the country of the perpetrator), but in the a quo case it turns out that there is no bilateral agreement between the Government of Indonesia and the Government of Thailand as the defendant's country of origin

From the tables above, we can see that there have been differences of opinion among the Supreme Court Justices regarding the imposition of imprisonment in lieu of a fine. In decisions that contain imprisonment in lieu of fines, in general, the Supreme Court Justices are of the opinion that neither the Fisheries Law nor UNCLOS prohibits law enforcement from imposing confinement as a substitute for fines. What is prohibited in the Fisheries Law and UNCLOS is the imposition of corporal punishment or imprisonment, while imprisonment or imprisonment in lieu of a fine is not prohibited at all. In addition, the inclusion of a substitute imprisonment sentence will be a way out if the defendant is unable or unwilling to pay the fine imposed, so that the substitute imprisonment sentence is considered to facilitate the execution of this decision itself.

What is interesting about the decisions above are the legal opinions of the members of the panel of judges, Artidjo Alkostar, Surya Jaya, and Sri Murwahyuni. In decision No. 471 K/Pid.Sus/2013 dated June 13, 2013, the Supreme Court Justices argued that the fine imposed should not be accompanied by a corporal punishment, so it would not be followed by a substitute imprisonment. In subsequent decisions, namely in decisions Number 174 K/Pid.Sus/2014 dated June 16, 2014, and 1330 K/Pid.Sus/2014 dated December 15, 2014, the Supreme Court Justices changed their view by imposing imprisonment in lieu of a fine. However, in the decision Number 1355 K/Pid.Sus/2014 dated March 4, 2015, the Supreme Court Justices returned to their previous view by not imposing imprisonment in lieu of a fine. Although in this decision there is a dissenting opinion from Supreme Court Justice Surya Jaya, who is of the opinion that imprisonment in lieu of a fine can be imposed for the same reasons as other Supreme Court Justices who hold this opinion, in the end, because the

majority vote in the Panel was of the opinion that imprisonment substitute for a fine cannot be imposed, then the decision does not impose a penalty of imprisonment in lieu of a fine. Finally, in the decision Number 608 K/Pid.Sus/2013 dated May 6, 2015, the Supreme Court Justices returned to the view that imprisonment could be imposed in lieu of a fine.¹²

Regarding Supreme Court Justice Surya Jaya, this Supreme Court Justice is the most consistent judge in his opinion that imprisonment in lieu of a fine can be imposed on foreign nationals who are perpetrators of fisheries crimes who commit acts in the EEZ area. Although initially, in decision Number 471 K/Pid.Sus/2013, he was of the opinion that imprisonment in lieu of a fine could not be imposed, but in subsequent decisions, he consistently argued that imprisonment in lieu of a fine could be imposed. Even in decisions No. 131 K/Pid.Sus/2014, 618 K/Pid.Sus/2014, 1355 K/Pid.Sus/2014, and 1206 K/Pid.Sus/2015, although the majority of the Supreme Court Justices in the panel argued that imprisonment in lieu of a fine cannot be applied and finally decided that way, but he remained consistent with his views,

Then, what is the view of the Supreme Court, institutionally, regarding the imposition of imprisonment in lieu of this fine? In the event "Improving the Technical Capability (Refreshing Coach) of Fisheries Judges in 2015" which was held by the Supreme Court in collaboration with the Ministry of Maritime Affairs and Fisheries (KKP) through the Directorate General of Empowerment of Marine and Fishery Resources (PSDKP) in order to increase competence for adjudicators hoc fisheries court, December 1-4, 2015 in Bandung, this has become one of the points of discussion. The results of the formulation of the discussion are (a) only fines are imposed on defendants in fisheries cases in the ZEEI territory; (b) a fine sentence cannot be replaced (a subsidiary) with imprisonment; (c) deviates from the provisions of letters a and b above, if the two countries have entered into a bilateral agreement; and (d) this provision is in line with the provisions of Article 73 paragraph (3) of UNCLOS which has been ratified by Law Number 17 of 1985.

From this formulation, because it is the result of a discussion formulation from an event held jointly between the Supreme Court and the KKP, The author considers that the Supreme Court and the KKP have the same view that foreign nationals who are perpetrators of fisheries crimes in the EEZ can only be sentenced to fines without

¹² For further reading and comparison, please *also see* Prayoga, Sandi Yudha. "Penegakan Hukum Tindak Pidana Penangkapan Ikan Secara Ilegal oleh Kapal Berbendera Asing Pada Wilayah Perairan Zona Ekonomi Eksklusif Indonesia." *JLR-Jurnal Legal Reasoning* 3, No. 1 (2020): 49-64; Liliansa, Dita. "The Necessity of Indonesia's Measures to Sink Vessels for IUU Fishing in the Exclusive Economic Zone." *Asian Journal of International Law* 10, No. 1 (2020): 125-157.

being accompanied by imprisonment in lieu of fines as long as there is no bilateral agreement between the Government of Indonesia and the Government of the country of origin of the perpetrators. If a prison sentence in lieu of a fine is imposed, then this is contrary to Article 73 Paragraph (3) of UNCLOS.

The Supreme Court itself has tried to unite the views of the judges regarding the imposition of imprisonment in lieu of a fine by formulating this in one of the results of the plenary meeting of the criminal chamber contained in the Circular Letter of the Supreme Court Number 3 of 2015 concerning the Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of the Year. 2015 As Guidelines for the Implementation of Duties for the Court (SEMA 3/2015) dated December 29, 2015. In point 3, it is stated that "In the case of illegal fishing in the ZEEI area, the Defendant can only be subject to a fine without being sentenced to imprisonment in lieu of a fine".

Unfortunately, only 8 days after SEMA was born, namely on January 6, 2016, the Supreme Court again imposed imprisonment in lieu of a fine in its decision Number 495 K/Pid.Sus/2015. However, more than 1 month after this decision was handed down, on February 23, 2016, the Supreme Court again decided that imprisonment in lieu of a fine cannot be imposed, as stated in the SEMA mentioned above. Through decision Number 1206 K/Pid.Sus/2015. So far, only these 2 decisions (which discuss the imposition of imprisonment in lieu of this fine) have been rendered after the issuance of SEMA 3/2015. This incident shows that there are still differences in the views of the Supreme Court Justices in the imposition of imprisonment in lieu of a fine, which causes inconsistencies in the decisions of the Supreme Court Justices, even though they have tried to resolve it with the SEMA above. as stated in the SEMA mentioned above.

B. The Penal Policy on Illegal Fishing Case: A Restorative Justice Approach

Law enforcement regarding fisheries crime has developed over time, through codification, ratification and the formation of regulations from the Indonesian state itself carried out in order to achieve prosperity for all Indonesian people. It is undeniable that this development experienced many contradictions, especially in determining the maritime boundaries of the Indonesian state, as a former colony, the determination of state boundaries experienced different perspectives. Especially in Southeast Asian countries, most of them have maps of the results of foreign countries' control which are used as benchmarks to form national boundaries. So that

the struggle of the Indonesian people did not just stop when the proclamation was read on August 17, 1945, but it became the beginning of Indonesia's struggle for sovereignty.

Prior to the Djauanda Declaration, Indonesia's territorial boundaries were based on the 1939 Dutch East Indies Ordinance, namely *Teritoriale Zeeën en Maritieme Kringen Ordonantie* 1939 (TZMKO 1939). However, this legal provision is very prone to conflict that threatens the security and integrity of the Republic of Indonesia. The size of Indonesia's sovereign rights and territorial sovereignty based on the Dutch East Indies Ordinance has not been able to guarantee the integrity of the Indonesian territory where previously the Indonesian sea area as a Dutch heritage was only a 3-mile-wide sea lane from the coastline at low tide that encircled each island - these limits are based on distance. shoot from the Dutch Cannon at that time. In total, the total area of Indonesia's sea area at that time was less than one million square km. whereas in reality the state of Indonesia, which is an archipelago surrounded by sea, stretches from the east to the west for 6,400 km. The outermost line that surrounds the territory of Indonesia is approximately 81,000 kilometers long, with this geographical landscape the area of Indonesia is 1.937 million square kilometers of land, and 3.1 million kilometers of sea territory, and the sea area of the Exclusive Economic Zone (EEZ) is 2.7 million. square kilometers, outside of the area the status is international waters or the high seas.

From a legal point of view, the provisions regarding the very narrow width of the territorial sea are based on the *Territoriale Zee en Maritieme Kringen Ordonantie*, 1939 (Ordinance on the Territorial Sea and Maritime Environment, 1939), a legal product of the Dutch East Indies era which was later passed on and adopted by Indonesia when it just became independent. However, in reality, such a large area is very vulnerable to the security and integrity of the Republic of Indonesia - free to be navigated or entered by foreign ships that can carry out activities that can harm or threaten the security and sovereignty of the state.

In 1957, continuing the struggle for the sovereignty of the territory of the Republic of Indonesia, the Djauanda Declaration was held, which stated that: all waters around, between, and connecting islands or parts of islands that are part of the land area of the Republic of Indonesia, regardless of the extent or width, are part of the territory of the Republic of Indonesia and thus are part of national waters located within the territory of the Republic of Indonesia. under the absolute sovereignty of the Republic of Indonesia. With the issuance of the declaration, it means that the 1939 Ordinance which is a colonial legacy is no longer valid. Juanda's

declaration was then ratified through Law No. 4/PRP/Year 1960 concerning Indonesian Waters. By using the 'archipelagic principle' as the basis for Indonesian maritime law, Indonesia will become an archipelagic state or 'archipelagic state' which is a radical experiment in the history of the law of the sea and constitutional law in the world.

The Indonesian nation declares itself as a state of law and has the ideology of Pancasila, the use of law based on Pancasila has become a common thing in order to create justice for all Indonesian people. Justice based on Pancasila must be realized, translated, and realized into Indonesian legal norms in order to realize justice that provides protection of rights and obligations for all Indonesian people in the form of laws and regulations. Legal reform in Indonesia is very much needed because there are still many new problems that cannot be reached by law. Law is always present in people's lives to provide certainty, justice and benefits. In the current reform era, Pancasila is seen as part of the past experience which is considered bad. As a political concept, Pancasila in the New Order era was once used as ideological legitimacy in justifying the New Order state with all its goals. This problem then made Pancasila forgotten. So, it is very difficult to avoid if there is a discrediting of Pancasila today.

Laws based on Pancasila are expected to be able to present various kinds of efforts, both through panels and non-panels, the goal is justice. Pancasila values that must be contained in the handling of Illegal Fishing include:

- 1) The value of divinity, managing natural resources contained in the earth, water and outer space in Indonesia cannot be separated from the value of divinity, because having faith is the main thing that must be owned by Indonesian citizens. The abundance of natural resources is a blessing from God Almighty.
- 2) Human values, fisheries management in Indonesia must also pay attention to local cultural wisdom throughout Indonesia. As a country that is abundant in culture, of course it is impossible to be separated from the elements of state life. Harmonization steps between elements both vertically and horizontally are needed to ensure that there is no personal interest in making policies.
- 3) Value of Unity and Unity, sanctions in accordance with the ability so that the goal of equal distribution of legal products is achieved to the maximum. Legal products produced by both the government and the courts in dealing with fisheries crimes are expected to see financial capabilities, and other perspectives for the sake of justice and do not discriminate against ethnicity, religion, and others.
- 4) The value of democracy, in the life of the nation and state, no one is able to live

alone without the help of others. So, with the view that giving democratic values to legal products is very necessary as long as upholding the principle of expediency. The central government and local governments synergize with the community to create togetherness, not only managing existing natural resources but also providing a sense of shared ownership until finally a sense of wanting to protect them arises.

- 5) Value of Social Justice, legal products based on this value are expected to provide benefits to others among the government and local residents around the area where illegal fishing occurs.

Criminal Law Policy in Handling Fisheries Crimes Based on Pancasila Justice Values, through the renewal of laws and regulations in the field of fisheries, both laws and regulations in the form of laws, government regulations and other implementing regulations. The purpose of the reform is to support the enforcement of criminal law in the field of fisheries and improve the welfare of fishing communities as well as improve coordination of law enforcement and increase productive economic efforts for fishermen so that they can increase their production results, improve community welfare so that they can compete competitively with fishing communities in ASEAN.

For fishermen in Indonesia, Indonesia in giving sanctions if they commit a violation, it should not be retaliatory (*retributive*) but restorative (*remedial*). This sanction reformulation is in line with the application of restorative justice in law enforcement. The criminal law system adopted by various countries that have adopted the basic concept of a restorative approach and various resolutions of corporate criminal cases through approaches in legal practice in Indonesia today, it can be said that the concept of a restorative approach has great potential to be juxtaposed into the criminal justice system. as an alternative option in dealing with corporate crime in Indonesia.

This view is in line with the UN's appeal in the Bangkok Declaration of 2005 which recommended that every country use the concepts of a restorative approach as part of the criminal justice system, so that any settlement of criminal acts can be pursued through a concept that respects the rights of victims more and is easier to commit. the process of rehabilitating criminals while looking for alternatives to prosecution by avoiding the effects of imprisonment which are still used in the criminal justice system in general.

The concept of a restorative approach, the purpose of solving a crime is to restore the situation to its original condition. The main principle of resolving criminal

acts through a restorative approach is how to find efforts that can resolve various conflicts ethically and appropriately, encouraging someone to be able to make an agreement as a form of affirmation of compromise values that can create healing communication, so that all forms of damage and loss that occurs as a result of the occurrence of a crime can be restored to its original condition.

The restorative approach in the criminal law system in Indonesia is also a mandate for the implementation of the principles contained in criminal law, including the application of the philosophy adopted in the purpose of punishment in the perspective of Pancasila, which is oriented towards principles, recognizing humans as creatures of God Almighty so that sentencing cannot be contradictory. with any religious beliefs held by the Indonesian people so that punishment must be directed to the awareness of the faith of the perpetrators of the crime.

The main principle of resolving criminal acts through a restorative approach is a settlement that is not just a tool to encourage someone to compromise on the creation of an agreement, but the approach must be able to penetrate the hearts and minds of the parties involved in the settlement process in understanding the meaning and purpose of doing so. a remedy and the sanction stipulated is a sanction that is remedial and preventive in nature.

General views on the restorative approach are as follows: The purpose of justice must be interpreted as restoration of the situation and compensation for the losses suffered by the victim; the purpose of recovery and compensation is part of a comprehensive repair process for all relationships that have been damaged, including to prevent similar crimes from happening again; the definition of a criminal act is not only a violation of the law against the state, but is also interpreted as an act that damages the relationship between individuals, individuals, and communities as well as individuals; a criminal act is an act that causes harm to the victim which must be recovered; the burden of proof and settlement of criminal acts is not solely the burden of the state, but is the burden of the individual and society; the settlement of criminal acts must be resolved in a fair and balanced manner through a forum for discussion and constructive dialogue for the parties involved. Especially victims and perpetrators who have expressed remorse or their respective families; The recovery process aims to resolve conflicts and prevent criminal acts that can be committed through a series of options for meetings between families or the community and government representatives that are adapted to the complexity of the problem and other practical resolution processes.

4 CONCLUSION

This study concluded and highlighted that Law Number 45 of 2009 concerning Fisheries mandates that law enforcement in the field of fisheries is carried out by an integrated criminal justice system in the field of fisheries, namely through fisheries supervision, fishery investigators, fishery public prosecutors and fisheries courts. This is because law enforcement officers (prosecutors, judges) who have been handling criminal cases in the fisheries sector are law enforcement officers who also handle general criminal cases, and in general, these law enforcement officers technically do not understand the problems involved. fishery problems so that many cases of criminal acts in the field of fisheries that occur only get very, very light decisions when compared to the actions that have been carried out. Besides that, also contains rules regarding procedural law as a special provision (Lex Specialist) of Law Number 8 of 1981 concerning the Criminal Procedure Code in carrying out the duties and authorities of investigators, prosecution and examination in court. Thus, the principle of a simple, fast and low-cost trial can be realized. One of the factors that determine the success or failure of criminal law enforcement through penal means is the law enforcement factor itself in this case the investigator who is a law enforcement agency who first finds out for himself, receives a report or complaint about an event that is reasonably suspected to be a criminal act. The formulation of regulations regarding criminal acts of fisheries in the Indonesian Exclusive Economic Zone (ZEEI) is unfair because it uses international conventions so that it cannot specifically see the ability if this violation is carried out by small fishermen. So that providing Pancasila values in every policy is very much needed, especially Pancasila in its formulation which contains the values and norms of Indonesian ancestors.

5 DECLARATION OF CONFLICTING INTERESTS

Author declares that there is no conflicting interest in this research and publication.

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*The only ones to profit from
illegal, unreported and
unregulated fishing are the
owners of the fishing fleets who
remain hidden behind veils of
corporate secrecy.*

Achim Steiner